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TO: Watchtower Bible and Tract Society of New York, Inc., Watchtower Bible and Tract Society of Pennsylvania, Inc., Christian Congregation of Jehovah's Witnesses, and Thompson Falls Congregation of Jehovah's Witnesses ("Religious Defendants"), by and through their attorney of record, Kathleen DeSoto, Garlington Lohn & Robinson PLLP, 350 Ryman St., Missoula, MT 59807.

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Defendants argue that because they *say* their information is confidential, it must be. However, Defendants do not, and cannot, provide any evidence to show that they actually *treat* this information as confidential. Indeed, the evidence shows that they do not. By using the "confidential" information as a basis to sue Max Reyes in this lawsuit, Defendants demonstrate that their claim that this information is privileged is, at best, duplicitous. The Jehovah's Witnesses rely on their privilege argument to shield their organization from liability, and at the same time disregard the allegedly privileged communications in an attempt to shift responsibility to one of their members.

Defendants' conduct and arguments undermine the entire purpose of the clergy-penitent privilege. Their arguments that they should now be able to use the privilege to withhold relevant information in this case should be denied.

Furthermore, even if the Court were to determine that the information was initially confidential, recent deposition testimony revealed that Max Reyes waived the privilege by disclosing the substance of his conversations with the Elders to numerous third-parties. Plaintiffs respectfully request that the Court grant their motion.

## **I. ARGUMENT**

This dispute is not about whether Defendants' religious beliefs deserve the same level of protection as other religions. This is about Defendants abusing the protections provided to them to perpetuate an oppressive scheme of control that they use to hide relevant information from the authorities. By mandating reports of wrongdoing to Elders, the Watchtower Defendants control

the flow of information, so they can cloak everything in secrecy by claiming clergy-penitent privilege. If Defendants' argument is accepted that every communication related to a report, investigation, and disciplinary hearing is confidential and cloaked in privilege, the effect is to practically exempt Jehovah's Witnesses from the laws of this State that are intended to protect its most vulnerable citizens. This case is a paradigm of how dangerous Defendants' system is.

**A. Max Reyes Waived the Privilege by Disclosing the Information to Third Parties**

Plaintiffs stand on their argument that the communications in dispute are not protected by the clergy-penitent privilege. However, even if the Court were to find that the privilege should apply, Max Reyes waived that privilege when he disclosed the substance of his communications with numerous third parties.

After Plaintiffs filed their motion on February 20, 2018, the parties deposed Max Reyes' wife Joni Navo Nunez on February 23, 2018 in Kalispell, Montana. Mrs. Nunez testified that in 2015, in response to Plaintiffs' allegations, Max Reyes voluntarily submitted to a lie detector test that he coordinated and paid for. (Exh. P, February 23, 2018 Deposition of Joni Navo Nunez at 7:11-8:13; 115:12-117:1). During the examination, Max Reyes purported to answer questions related to whether he sexually abused his stepchildren and step-grandchildren. (Exh. Q, Letter from Ted Pulver to Maximo Reyes summarizing the results of lie detector test.) Further, Mrs. Nunez testified that she and Max met with opposing counsel for Watchtower and Thompson Falls in their own home, where Max admitted to touching Peter, and denied Plaintiffs' allegations. (Exh. P, Joni Nunez Depo at 119:19-121:1; 123:6-124:23).

As a result of these voluntary statements concerning the same subject matter at dispute in this motion, Max Reyes impliedly waived the clergy-penitent privilege. In Montana, "[a]n implied waiver must be supported by evidence showing that defendant, by words or by conduct, has

impliedly forsaken his privilege of confidentiality with respect to the communication in question.”) *See State v. Hardman*, 2010 Mont. Dist. LEXIS 209, \*15 (citing *St. Peter & Warren, P.C. v. Purdom* 2006 MT 172, P23, 333 Mont. 9, 15, 140 P.3d 478, 482)(holding that where penitent’s admissions to his pastor with knowledge that the information would be disclosed to authorities constituted an implied waiver); *see also Church of Jesus Christ of Latter-Day Saints v. Superior Court of the State of Arizona*, 159 Ariz. 24, 29, 764 P.2d 759, 764 (Ct. App. 1988) (holding that where the penitent abuser disclosed the substance of his alleged privileged communications with law enforcement, he impliedly waived the clergy-penitent privilege).

Here, Max Reyes voluntarily disclosed the substance of his communications with the Elders to third parties knowing that such information would not be kept confidential. Indeed, the purpose of Max’s meeting with Defense counsel (who do not represent him) was “to explain how [Defendants] would be including Max in the lawsuit. . . ,” (Exh. P, Joni Nunez Depo at 121:2-10; 122:8-16). Thus, Max waived his privilege of confidentiality. *Church of Jesus Christ of Latter-Day Saints*, 159 Ariz. at 29, 764 P.2d at 764 (Ct. App. 1988) (quoting *State v. Andrews*, 187 Kan. 458, 357 P.2d 739, 744 (1961) (“Where the one making the privileged conversation tells the facts to other third parties, the privilege is waived and the minister . . . may be allowed to testify as to the communication made to him.”)).

#### **B. Jehovah’s Witnesses Did Not Treat the Information as Confidential**

Defendants argue that the conversations with Max Reyes and the Elders of the Thompson Falls Congregation are confidential under the tenets of the faith, beliefs and practices of Jehovah’s Witnesses and [are] entitled to protection. Resp. at 8. But the evidence shows that Defendants do not actually *treat* these communications as confidential.

Defendants cite the *Scott* case for the proposition that both the conversations between Max and the Elders and the resulting intra-faith communications that followed are privileged. However, *Scott* is distinguishable. In *Scott* the LDS church did not use the information they withheld as confidential to bring a lawsuit against the penitent that confessed the information. Here, Defendants have used the very “confessions” they allege are confidential as a basis to sue Max Reyes and shift the blame in this lawsuit. This undermines the entire purpose and policy behind the clergy-penitent privilege. *See Scott v. Hammock*, 870 P.2d 947, 954 (Utah 1994) (*quoting State v. Gotfrey*, 598 P.2d 1325, 1329 (Utah 1979) (noting the similarity of psychotherapist-patient and clergy-penitent privileges with respect to benefits they confer on society)):

The clergy-penitent relationship depends on a sense of complete confidentiality as much as the psychotherapist-patient privilege does. At least to some extent, admissions of wrongdoing to clerics and psychotherapists would not be made but for the belief of parishioners and patients that their confidences would not be disclosed.

In addition, in *Scott*, there was no evidence that the bishops had disclosed the substance of the communications to other church members. Here, Mrs. Nunez testified that Don Herberger, one of the Elders that conducted the judicial committee hearing, disclosed to her the substance of the conversations that took place at the judicial hearing. (Exh. P, Joni Nunez Depo at 108:9-109:25; 112:9-113:8).

Thus, the evidence shows that despite their labels, Defendants do not treat this information with the required level of confidence to justify clergy-penitent protection. Defendants completely ignore this fact in their Response.

### **C. The State of Montana Has a Compelling State Interest in the Safety of Its Citizens**

As described in Plaintiffs’ motion, the First Amendment does not preclude discovery of matters related to childhood sexual abuse. This dispute does not invoke religious doctrine and the

practice of Jehovah's Witness faith. Nevertheless, citing *Scott*, Defendants argue that "[t]he privilege should respect the privacy of communications in the intra-faith communication unless there is a compelling state interest to the contrary." Resp. at 11. Here, there is a very compelling state interest at issue: preventing religious organizations from restricting access to secular law enforcement with respect to laws protecting the most vulnerable members of society.

As described in Plaintiffs' Motion, the Watchtower Defendants have orchestrated a system of reporting that displaces secular law enforcement and keeps all allegations of wrongdoing under the church's control. Members "are taught from very young age that the very best way to handle any type of a situation is to take it to the elders, not to outside authorities," because "reporting to the police . . . opens up the entire congregation for having the congregation's name and Jehovah's name drug through the mud." (Exh. R, January 10, 2018 Deposition of Ivy McGowan-Castleberry at 48:13 – 49:9). Thus, Jehovah's Witnesses are forced to rely on the church to protect them. This case, and other child sexual abuse cases involving the Jehovah's Witnesses across the country, prove just how dangerous that system is.

Thus, the State has a compelling interest in preventing religious organizations from restricting access to law enforcement using its own self-serving set of rules that undermine the laws of the State of Montana. *See Wisconsin v. Yoder*, 406 U.S. 205, 207, 92 S. Ct. 1526, 1529 (1972) ("[a]lthough a determination of what is a "religious" belief or practice entitled to constitutional protection may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests.")

#### D. Defendants Do Not Have a Cognizable Third-Party Privacy Interest

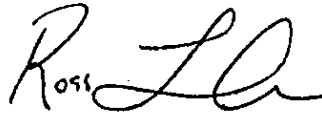
Finally, Defendants argue in the alternative that Defendants have an “undeniable right to privacy in all of the documents contained in its files.” Resp. at 13. Defendants’ argument is misguided because here, unlike in *Burns*, the Jehovah’s Witnesses are defendants in this lawsuit, not a third-party. Further, the *Burns* decision dealt with “personnel files” that the court determined through an *in camera* inspection not to be probative. *State of Mont. v. George Burns*, 253 Mont. 37, 43, 830 P.2d 1318, 1322 (1992). Here, Defendants admit that these are not personnel files. More importantly, the information contained in Defendants’ documents and files are highly relevant to Defendants’ notice of and investigation into, allegations of child abuse, their findings, and the disfellowship and reinstatement of Max Reyes. And even if Defendants did have some cognizable privacy interest—which they do not—they waived that interest when they asserted claims against Max Reyes based on that information.

#### II. CONCLUSION

For the reasons described herein, Plaintiffs respectfully request that the Court grant their motion.

DATED: This 23<sup>rd</sup> day of March, 2018

Attorney for Plaintiffs:



By: \_\_\_\_\_  
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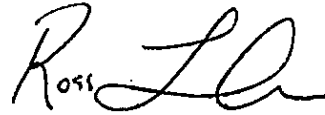
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all attorneys of record via Email on this the 23<sup>rd</sup> day of March, 2018.

A handwritten signature in black ink, appearing to read "Ross LA". The signature is written in a cursive style with a large "L" and "A".

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Ross Leonoudakis

# **EXHIBIT P**

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MONTANA TWENTIETH JUDICIAL DISTRICT COURT  
SANDERS COUNTY

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ALEXIS NUNEZ and HOLLY McGOWAN,  
Plaintiffs,

versus  
Hon. James A. Manley  
Cause No. DV 16-84

WATCHTOWER BIBLE AND TRACT SOCIETY  
OF NEW YORK, INC.; WATCHTOWER BIBLE  
AND TRACT SOCIETY OF PENNSYLVANIA, INC.;  
CHRISTIAN CONGREGATION OF JEHOVAH'S  
WITNESSES and THOMPSON FALLS CONGREGATION  
OF JEHOVAH'S WITNESSES,  
Defendants.

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DEPOSITION UPON ORAL EXAMINATION OF  
JONI NAVO NUNEZ

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BE IT REMEMBERED, that the deposition upon oral  
examination of JONI NAVO NUNEZ, appearing at the  
instance of Defendants, was taken at the office of  
Fisher Court Reporting and Videoconferencing, 14 Third  
Street East, Suite 250, Kalispell, Montana, on Friday,  
February 23, 2018, beginning at the hour of 10:00 a.m.,  
pursuant to the Montana Rules of Civil Procedure, before  
Julie DeLong, Registered Professional Reporter and  
Notary Public for the State of Montana.

Joni Navo Nunez

1 A. All right.

2 Q. Is there anything today that would inhibit  
3 your ability to testify truthfully? Are you under any  
4 medication that is affecting your memory, any other  
5 illnesses that's might affect your ability to testify  
6 truthfully?

7 A. Not to my knowledge.

8 Q. Excellent. Have you ever been deposed  
9 before?

10 A. No.

11 Q. Okay. And, so, let's just talk a few moments.  
12 I notice that you have things in front of you, and you  
13 have a manila folder and also a notebook. What's in the  
14 manila folder?

15 A. In the manila folder, I have, uhm -- I have  
16 another envelope that has the results of a lie detector  
17 test that Max took. I also have, uhm, records --

18 Q. Well, let's -- let's stop there. Max took a  
19 lie detector test. In connection with what?

20 A. Uhm, he took the -- he wanted to do this after  
21 he was made aware that Alexis, my granddaughter, had  
22 made allegations that he had sexually molested her.

23 (Nods head affirmatively)

24 Q. And do you have a time frame for when you and  
25 Max became aware of this allegation from Alexis?

**Joni Navo Nunez**

1           A.    I believe it was, uhm -- I believe it was in  
2   September of 2015.

3           Q.    And is there a date on the lie detector test  
4   results?

5           A.    I believe there is.  I'll take a look.  
6   (Viewing document)  The date here is October 8th, 2015.

7           Q.    And did anyone direct you or Max to take that  
8   lie detector test?

9           A.    No, it was totally voluntary.

10          Q.    And who took the lie detector test, the name  
11   of the agent?

12          A.    It's Pulver Investigations.  His name is Ted  
13   S. Pulver.

14          Q.    Okay.  And why I would ask is that if you  
15   would leave it on the table here?

16          A.    Uh-huh.

17          Q.    At the conclusion of our deposition, we're  
18   going to make copies.

19          A.    Okay.

20          Q.    Because, I think, Jim and I would like to take  
21   a look at it.  And then after -- you know, the document  
22   will speak for itself, so, I don't need you to tell me  
23   what the results are.

24                   MR. TAYLOR:  Jim, do you want to look at  
25   it now?

**Joni Navo Nunez**

1 meeting about it, but I don't recall specifics. I don't  
2 recall what was -- I mean, other than a decision, I  
3 don't recall.

4 Q. Did you talk with any other members of the  
5 congregation about the situation?

6 A. No, I did not.

7 Q. Except for Max.

8 A. Correct.

9 Q. In your letter of Exhibit 35, uhm, you go on  
10 to state in that same paragraph, "When Max was  
11 disfellowshipped, it was not because he admitted to any  
12 sexual misconduct. Rather, in light of the situation  
13 involving such serious allegations, the elders felt it  
14 best to err on the side of protecting the congregation."

15 Do you recall writing that?

16 A. Uhm, yes. And, like I said -- like I stated  
17 before, that was -- I was totally thinking about Holly.  
18 I was totally -- in my mind, I was -- because Holly had  
19 said -- Holly had told me that Max had even admitted it.  
20 Holly had said that. And, so, this was all in relation  
21 to Holly, is what my (shakes head negatively) -- my  
22 intent was here.

23 Uhm, and -- and it is true, there was -- there  
24 was a lot -- I mean, the elders did say, you know, we --  
25 we don't know what to think about this. We don't know,<sup>108</sup>

**Joni Navo Nunez**

1 we think it's, uhm -- they did, uhm -- there was --  
2 there was doubts there.

3 Q. So which elder told you there were doubts?

4 A. Uhm, well, Don Herberger expressed that -- you  
5 know, that they didn't know, I mean, a lot. Don  
6 Herberger for sure was one. And I can't remember,  
7 possibly Ken Riech was another one. But, you know, that  
8 there was -- there was uncertainty. They weren't sure.

9 Q. There was uncertainty about what?

10 A. About the conflicting stories that were told.  
11 And, so --

12 Q. Who told conflicting stories?

13 A. Well, what Max had said and what the children  
14 have said. There was a lot of conflicting stories. And  
15 so, it was not -- it wasn't -- they couldn't establish  
16 that it was actually a fact, so they did the best they  
17 could.

18 Q. (Nods head affirmatively) So, your  
19 understanding, based on your discussion with Don  
20 Herberger, was they had not determined that actual abuse  
21 had occurred, but, erring on the side of caution, they  
22 disfellowshipped Max.

23 A. Uhm, yes. I -- I can't remember the specific  
24 conversation, though. I can't remember. But that was  
25 my understanding.

**Joni Navo Nunez**

1 Q. (Nods head affirmatively)

2 A. Yeah. She's -- she is just -- she has  
3 numerous, numerous things. Uh-huh.

4 Q. Is she able to drive?

5 A. Yes.

6 Q. If you would just give me a moment here. I'm  
7 just going through some notes here.

8 A. Uh-huh.

9 Q. So, I just want to be clear, Ms. Navo, that  
10 Don Herberger specifically told you that there were  
11 doubts about how clear the evidence was relating to the  
12 allegations against Max.

13 A. I can't say exactly what the conversation was.  
14 It's just been too long, I can't remember that -- those  
15 details. But I know that there -- he expressed that,  
16 you know, there is (nods head affirmatively) something  
17 that -- that they didn't have all of the answers. But I  
18 can't remember the wording or exactly what he said, it's  
19 just been too long.

20 Q. But he did talk to you about what happened in  
21 the judicial proceeding.

22 A. Not everything, but...

23 Q. (Nods head affirmatively)

24 A. But, yeah, to -- generally, yes.

25 Q. Okay.



**Joni Navo Nunez**

1 A. Just generally.

2 Q. Apart from Don Herberger, did any other of the  
3 elders talk to you about the judicial proceeding  
4 involving Max in which he was disfellowshipped?

5 A. Possibly. I don't remember. (Shakes head  
6 negatively) I -- I --

7 Q. Okay.

8 A. It's possible.

9 Q. So when did you move to Mexico?

10 A. Uhm, it was about six months ago.

11 Q. Why did you move to Mexico?

12 A. We moved to Mexico because we both retired and  
13 we can make -- we can live on our retirement in Mexico.  
14 We can't live here on what we get.

15 Q. Okay. Does this lawsuit have any relationship  
16 to your decision to move there?

17 A. No. That decision was made several years ago.  
18 (Nods head affirmatively)

19 Q. And are you aware that the church has asserted  
20 claims against Max in this lawsuit?

21 A. Uhm, I'm aware that he's been included in the  
22 lawsuit, yeah.

23 Q. Seeking to hold him responsible if there is a  
24 recovery.

25 A. Yes, I've been explained -- I been told

Joni Navo Nunez

1 A. Yes. (Nods head affirmatively)

2 Q. Uhm, was it something that happened on a  
3 weekly basis?

4 A. I couldn't -- I can't say it was a weekly  
5 basis, --

6 Q. (Nods head affirmatively)

7 A. -- but there were numerous incidents.

8 Q. There were more than one?

9 A. Yes.

10 Q. Okay.

11 A. Yes.

12 Q. You brought with you the results of a lie  
13 detector test. How did that come about, having Max take  
14 a lie detector test?

15 A. If I remember right, his words were something  
16 about -- of course, it was in Spanish, but it was, like,  
17 you know, he was devastated and up -- and just  
18 blindsided by these. (Nods head affirmatively) Uhm,  
19 and he just wanted to know, he said, "What can I do?  
20 What -- I feel impotent. I just feel impotent. I can't  
21 do anything about -- what can I do?"

22 And, so, I suggested it. I said, "Well, would  
23 you be willing to take a lie detector test?" And he  
24 said, "Yes, I would."

25 Q. And who administered it?

Joni Navo Nunez

1           A.    It was administered by a professional in --  
2 let's see. I'll have to look. Pulver is the last name.  
3 Ted S. Pulver was the name.

4           Q.    Who was present when the lie detector test was  
5 administered?

6           A.    Uhm, Mr. Pulver, and then, also, a translator  
7 or an interpreter that he hired -- or that he -- or  
8 that some -- an interpreter that was available that  
9 spoke Spanish.

10          Q.    Okay. Were you present?

11          A.    No, I was not.

12          Q.    Do you know if Max was asked any questions  
13 about whether he abused Peter?

14          A.    Uhm, I don't know all of the questions. All I  
15 know are the questions that are listed here.

16          Q.    Okay. Who paid the court reporter?

17                   MR. TAYLOR: Lie detector.

18 BY MR. MOLLOY:

19          Q.    I'm sorry. (Laughing) Who paid the person  
20 that administered the lie detector?

21          A.    We did. Uh-huh.

22          Q.    Okay. And he knew that you were paying him?

23          A.    That --

24          Q.    The lie detector knew that you would pay for  
25 it?

Joni Navo Nunez

1 A. Yes. Yes.

2 MR. MOLLOY: Okay. I'm going to take a  
3 break and talk to my co-counsel. So, if we could  
4 have five minutes. I'll walk into a room down the  
5 hall or something, and then be back.

6 Hey, Ross, I'm going to give you a call.

7 (Recess taken.)

8 BY MR. MOLLOY:

9 Q. Ms. Navo, I just have a couple things to kind  
10 of make sure I'm clear on, because I think I went down a  
11 detour for a few minutes.

12 I was asking you questions about your  
13 conversations with Peter over time.

14 A. (Nods head affirmatively)

15 Q. Your son Peter.

16 A. Uh-huh.

17 Q. And I think you told me that within the last  
18 couple of weeks you talked to him, and this deposition  
19 was part of that conversation?

20 A. Uh-huh.

21 Q. Yes?

22 A. Yes.

23 Q. And, in that conversation, Peter told you that  
24 if he needs to testify in this case, or words to that  
25 effect, he will tell the truth about what happened

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Joni Navo Nunez

1 Q. It was in person?

2 A. Yes.

3 Q. Okay. You met with Peter?

4 A. I was staying with him, yes. (Nods head  
5 affirmatively)

6 Q. You were staying at his home?

7 A. Yes.

8 Q. Okay. I'm sorry, I misunderstood that.

9 A. Uh-huh.

10 Q. So, between 2004 and 2005 and this  
11 conversation a couple of weeks ago at Peter's home, have  
12 you had other conversations with him during those years  
13 about what happened between Max and him?

14 A. There may have been. I can't recall them. I  
15 can't, but possibly. I -- I don't recall.

16 Q. Okay. To this day, has Peter ever  
17 specifically told you what Max did?

18 A. No, not specifically.

19 Q. Okay. Mr. Taylor, at the beginning of the  
20 deposition, indicated that after this lawsuit was filed  
21 he came and met with you at your home?

22 A. Yes, that's correct.

23 Q. Who was there?

24 A. Uhm, he came -- well, his assistant, and then  
25 there was also an attorney from Missoula. Uhm, DeSoto?  
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**Joni Navo Nunez**

1 Q. Katie DeSoto?

2 A. Yes, was present. And Max and me.

3 Q. And tell me about that conversation, what do  
4 you recall from that conversation?

5 A. Uhm, I just recall that -- that they just  
6 asked us what -- a series of questions about, uhm --  
7 just very similar to the questions today, as far as who  
8 was related to whom. Uhm, a little bit of a time frame,  
9 timeline. Uhm, (shakes head negatively) just general  
10 questions like that, that pretty much were similar to  
11 the questions asked today. (Nods head affirmatively)

12 Q. Since that original meeting -- and that was at  
13 your home in Plains?

14 A. Yes. (Nods head affirmatively)

15 Q. Have you had other meetings -- let me take  
16 them one at a time -- with Mr. Taylor?

17 A. No.

18 Q. With Joel?

19 A. Uhm, no. (Shakes head negatively)

20 Q. Have you had other phone conversations with  
21 him, other than the one he mentioned that he spoke --  
22 two -- two phone conversations in advance of this  
23 deposition?

24 A. Yes, that is correct.

25 Q. Okay. And that's all?

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Joni Navo Nunez

1 A. Yeah.

2 Q. Okay. What do you recall about those  
3 conversations?

4 A. Well, let's see. (Indicating) The first one,  
5 I believe, was to -- to explain how they would be  
6 including Max in the lawsuit, and trying to give me some  
7 idea of -- just answer my questions -- you know, I don't  
8 know anything about this -- and what it involves. And  
9 then the second phone call was just a couple weeks ago  
10 about setting up a deposition.

11 Q. And it just had to do with setting up the  
12 deposition?

13 A. Basically, yeah.

14 Q. Okay.

15 A. Uh-huh.

16 Q. When did you prepare the chronology of events  
17 that you've --

18 A. I did that when I was aware that they were  
19 going to be visiting. So...

20 Q. (Nods head affirmatively)

21 A. The first time.

22 Q. Okay. Did you talk with Max about this  
23 deposition, before the deposition?

24 A. Yes.

25 Q. And tell me about that conversation.

**Joni Navo Nunez**

1           A.    Well, just, he's aware that that's -- you  
2 know, I told him what was being scheduled, and that --  
3 basically, what Mr. Taylor had said -- told me. So we  
4 knew what to -- that I would kind of know what to expect  
5 here.

6           Q.    Okay.

7           A.    Yeah.

8           Q.    When they explained -- when Mr. Taylor  
9 explained that they would be bringing Max into the  
10 lawsuit, what -- what was your understanding of how that  
11 would work and what the purpose was?

12          A.    Well, I didn't have much understanding, until  
13 he explained that the purpose was to, uhm, also get --  
14 basically give -- give the -- give someone to share the  
15 responsibility with, I guess. I don't know how else to  
16 put that.

17          Q.    Okay. (Nods head affirmatively)

18          A.    Uh-huh.

19          Q.    Other than the meeting that you had at your  
20 home when Katie DeSoto was present, have you had other  
21 conversations with the attorneys for the Thompson Falls  
22 congregation? That would be Katie's DeSoto's firm.

23          A.    No. (Shakes head negatively)

24          Q.    No?

25          A.    Huh-uh.



**Joni Navo Nunez**

1 Q. Okay. All right.

2 A. Huh-uh.

3 Q. Did -- did you talk with any members of the  
4 Thompson Falls congregation about this deposition?

5 A. No.

6 Q. Okay. When -- when you met at your home, you  
7 said Max was present?

8 A. Yes, he was.

9 Q. Were you interpreting for Max during that  
10 conversation?

11 A. Yes, I did.

12 Q. And were specific questions asked of him about  
13 the events?

14 A. Yes, I believe so.

15 Q. Tell me what you recall about those questions.

16 A. Oh, I don't recall the questions. I don't  
17 recall those questions, other than general questions  
18 about -- I don't recall what those questions were.

19 Q. Did any of the questions include direct  
20 questions about whether Max had abused any of your  
21 children?

22 A. Yes, I believe that there were direct  
23 questions about that.

24 Q. And what did Max say in response to those  
25 questions?

**Joni Navo Nunez**

1           A.    Uhm, he denied those accusations, that they  
2 were -- that they were wrong. He did admit to -- he did  
3 admit to touching Peter. But the other accusations he  
4 said were not correct. Were not. (Shakes head  
5 negatively)

6           Q.    Okay. Were there follow-up discussions about  
7 that, about his answers?

8           A.    Follow-up discussions with whom?

9           Q.    I mean, did the attorneys come back and say,  
10 well, Holly has alleged this, what is your response?

11          A.    (Pause) I believe Holly was discussed there,  
12 but I don't remember the specific questions. (Shakes  
13 head negatively)

14          Q.    Okay.

15          A.    Uh-huh.

16          Q.    How about Alexis, was she also --

17          A.    Yes. I know the topic was -- (nods head  
18 affirmatively) was -- was spoken of. I can't remember  
19 the exact questions or --

20          Q.    Okay.

21          A.    -- how the conversation went.

22          Q.    Okay.

23          A.    Uh-huh.

24                   MR. MOLLOY: Okay. I think I may be  
25 done.

# EXHIBIT Q

**PULVER INVESTIGATIONS**

**Bonded & Lic. #PI011038**

TED S. PULVER  
802 N. Lincoln  
Post Falls, ID 83854  
PHONE (208)773-3211  
FAX (208)773-7552

October 8, 2015

Maximo Nava  
519 Clayton Street  
Plains, MT 59859

This report is based on investigator notes,  
investigation-tape, polygraph charts, and analysis

Dear Sir:

Per your request, I conducted a polygraph test on you. The purpose of this test was to ascertain whether or not you were telling the truth when you told this examiner that you have not had sexual contact with any of your stepchildren.

According to a report that you gave my interpreter, as well as input that I received from your wife, your wife's daughter Holly has convinced her older sister Ivy, (also your wife's daughter), that her daughter Alexis had been sexually abused. Holly also stated that she was sexually abused by you. Now Ivy's daughter Alexis, 18 years old and suffering emotional problems, is claiming that you've abused her since she was four years old.

As you are aware, statements have been made by Holly that not only have you sexually touched her and had sexual contact with her and/or Alexis, but you have even confessed to those events with Holly. You deny that.

With that information in mind and your denials to these aforementioned events, I formulated an Army zone of comparison polygraph test with the following relevant questions asked:

Sacrifice Relevant

Question No. 2: Regarding if you have touched your children for sexual stimulation, do you intend to tell the full truth about that?

Answer: Yes.

MAXIMO NAVA  
October 8, 2015  
Page 2

Scored Relevant  
Question No. 5: Did you get sexually stimulated by sexual contact with children?  
Answer: No.

Scored Relevant  
Question No. 7: Did you touch any sexual area on your stepchildren for your sexual thrill?  
Answer: No.

Scored Relevant  
Question No. 10: Did you ever admit to having sex with children to Holly?  
Answer: No.

We conducted a control test with you to establish that you were testable and that the instrumentation was functional. You were indeed testable and the equipment certainly was found to be operable.

Four charts were run on you because during the first chart you moved throughout Question Nos. 7 and 10. You seemed to have a cough so we discontinued Chart One and reinstated the test on Chart Two. There was some movement again that was noted and you were counseled about that. You indicated that you had been in poor health lately. You stated that you have diabetes and prostate problems and that it was difficult for you to be able to sit. I told you that if you couldn't stay still that we would have to terminate the test. You stated that you could finish the test. It seemed as though you had difficulty sitting still, but after running four charts we had enough data to be able to complete the test.

It is the opinion of the algorithm that you had a score of +12 on a 7-point scale. That is clearly non-deceptive, so the initial scoring was no deception indicated. In order to pass a polygraph test, you need to have a +6 and you clearly had twice as much positive score.

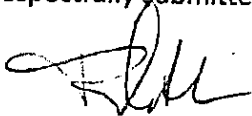
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I was a little concerned about Question No. 7. You did not fail that test, but you were in the inconclusive range. When I have an individual who moves around as much as you did during the test, I have to determine whether it was intentional or not. Both the interpreter and I determined that it was unintentional because of your maladies. We clearly had enough data to come to an opinion of non-deception. The computer shows a scoring from non-deception to passing. I would not disagree with that finding. Clearly, neither the examiner nor the computer

MAXIMO NAVA  
October 8, 2015  
Page 3

algorithm found you to be failing the test, so those reviewing our data would probably come to the opinion that you were telling the truth to the relevant questions that were asked of you.

Respectfully submitted,



TED PULVER

Nationally Certified Polygraph Examiner

Member of the Northwest Polygraph Examiners Association,

California Association of Polygraph Examiners,

American Polygraph Association, and

Idaho Polygraph Association

Past President of the Idaho Polygraph Association, 1996-1998

Certified Post Conviction Clinical Polygraph Examiner

Approved and Sponsored through the Joint Polygraph Committee on Offenders Testing, State of

Texas, Department of Defense Polygraph Institute, the American Association of Police

Polygraphists, and the American Polygraph Association

# **EXHIBIT R**

Ivy McGowan-Castleberry

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MONTANA TWENTIETH JUDICIAL DISTRICT COURT  
SANDERS COUNTY

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ALEXIS NUNEZ and HOLLY  
McGOWAN, CAUSE NO. DV 16-84

Plaintiffs,

v. Hon. James A. Manley

WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, INC.;  
WATCHTOWER BIBLE AND TRACT  
SOCIETY OF PENNSYLVANIA, INC.;  
CHRISTIAN CONGREGATION OF  
JEHOVAH'S WITNESSES; and THOMPSON  
FALLS CONGREGATION OF JEHOVAH'S  
WITNESSES,

Defendants.

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VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION OF  
IVY McGOWAN-CASTLEBERRY

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BE IT REMEMBERED, that the deposition upon  
oral examination of IVY McGOWAN-CASTLEBERRY,  
appearing at the instance of Defendants, was taken  
at Fisher Court Reporting, 2711 1st Avenue North,  
Billings, Montana, on Wednesday, January 10, 2018,  
beginning at the hour of 8:59 a.m., pursuant to  
the Montana Rules of Civil Procedure, before Candi  
R. Uselman, Court Reporter and Notary Public.

\* \* \* \* \*



Ivy McGowan-Castleberry

1 A. That was the hope.

2 Q. Okay. And Don has testified he wasn't an  
3 elder until the fall of 2008 -- or rather, 1998.  
4 So if Don wasn't an elder, what would have been  
5 your expectation?

6 A. If he wasn't an elder at that time, I --  
7 I have a hard time believing that we would have  
8 gone to him, because -- well, I guess he was a  
9 ministerial servant. I'm not sure.

10 Q. Okay. He's sure, yeah. He wasn't an  
11 elder.

12 MR. LEONOUDAKIS: Objection.

13 Q. Yeah. And so your expectation was that a  
14 religious person would help you with protection,  
15 but what about the police?

16 A. Uh-huh. What I think is really important  
17 to understand about Jehovah's Witnesses, and  
18 especially when you have been raised from infancy  
19 and been heavily indoctrinated with the ideas and  
20 the beliefs that the church, is that if you --  
21 when you take a matter like that to the police,  
22 that it opens up the entire congregation for  
23 having the congregation's name and Jehovah's name  
24 drug through the mud.

25 Q. So --

Ivy McGowan-Castleberry

1 MR. LEONOUDAKIS: Let her finish.

2 A. And so --

3 MR. LEONOUDAKIS: Go ahead.

4 A. And so you're taught from a very young  
5 age that the very best way to handle any type of a  
6 situation is to take it to the elders, not to  
7 outside authorities, not to outside providers that  
8 would be able to assist with it, but it should be  
9 handled by the elders.

10 Q. Thank you. I appreciate that, but here's  
11 the problem I have with your response, and maybe  
12 you can help me understand it. You just said that  
13 you had the expectation that Don would get you  
14 help from the authorities to protect, but if the  
15 whole goal is to keep it in the faith, how would  
16 Don ever go outside the faith to get secular -- or  
17 how could you have an expectation that he would  
18 get secular help to protect Holly if you just said  
19 that they keep it in the faith? Why would you  
20 have that expectation?

21 A. I think that when you're 22 and you're  
22 dealing with 12-year-olds and 14-year-olds, what  
23 you're hoping for is that someone of more mature  
24 status knows how to help you obtain that  
25 assistance.