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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

TRACY CAEKAERT, and CAMILLIA)
MAPLEY,)

Plaintiffs,)

vs.)

WATCHTOWER BIBLE AND)
TRACT SOCIETY OF NEW YORK,)
INC., WATCH TOWER BIBLE AND)
TRACT SOCIETY OF)
PENNSYLVANIA, and BRUCE)
MAPLEY SR.,)

Defendants.)

Cause No. CV 20-52-BLG-SPW

**DEFENDANT WATCHTOWER
BIBLE AND TRACT SOCIETY OF
NEW YORK, INC.'S RESPONSE
BRIEF TO PLAINTIFFS' MOTION
FOR NEW SCHEDULING ORDER**

WATCHTOWER BIBLE AND
TRACT SOCIETY OF NEW YORK,
INC.

Cross-Claimant,

vs.

BRUCE MAPLEY SR.,

Cross-Claim Defendant.

COMES NOW Defendant Watchtower Bible and Tract Society of New York, Inc. (hereinafter “WTNY”), by and through its attorneys, and respectfully submits its Response Brief to Plaintiffs’ Motion for New Scheduling Order (Doc. 148). By letter dated September 15, 2022, WTNY advised Plaintiffs it was generally agreeable to a request for a new scheduling order, and WTNY has no objection to the relief requested by Plaintiffs’ Motion for New Scheduling Order. However, to the extent, if any, the Court feels it is necessary for WTNY to address the specific allegations made in Plaintiffs’ Brief in Support of Motion for New Scheduling Order (Doc. 149) (hereinafter “Brief in Support”), WTNY rejects those allegations as unnecessary, unsupported, and unjustified, and offers the following in response.

WTNY served its Responses to Plaintiffs’ First Set of General Discovery on March 25, 2022, at which time it produced its Privilege Log identifying 49 documents. Plaintiffs’ counsel sent a letter dated April 13, 2022, requesting

additional information to “appropriately assess the application of the asserted privileges.” WTNY’s counsel provided a response letter dated May 2, 2022, along with a First Supplemental Privilege Log including revisions in the “Description” category as to the person or persons referenced in certain documents. Since that letter, Plaintiffs have only raised issues regarding the clergy-penitent privilege as asserted in regard to Documents 29, 37, 39, and 40. Plaintiff’s Motion to Compel Re: Waived Privilege (Doc. 132), has been fully briefed, and a hearing has been set for October 21, 2022. To date, Plaintiffs have not sought to meet and confer with WTNY about any other documents listed in the original Privilege Log, the First Supplemental Privilege Log, or the Second Supplemental Privilege Log dated September 26, 2022, which identified three additional documents.

Plaintiffs’ counsel first contacted WTNY’s counsel about a 30(b)(6) deposition by e-mail dated June 29, 2022, at which time Plaintiffs’ counsel provided a draft notice listing 9 topics, some of which included subparts. WTNY’s counsel sent a letter to Plaintiffs’ counsel dated July 21, 2022, raising concerns regarding certain of the listed topics. Counsel thereafter worked through such concerns, and Plaintiffs’ counsel sent a letter dated August 30, 2022, setting the deposition for September 27, 2022. By e-mail dated September 13, 2022, Plaintiffs’ counsel indicated the deposition would be moved to October 11, 2022, with Phillip Brumley to be deposed on October 12, 2022. Additional concerns

about the deposition were discussed during a telephone call on September 19, 2022, and an Amended Notice dated September 22, 2022, referencing the October 11 date was received in the mail by WTNY's counsel on September 27, 2022. By letter dated September 23, 2022, Plaintiffs' counsel provided the first notice of an intent to seek an additional 30(b)(6) deposition at a later date to cover certain unidentified topics. After WTNY's counsel expressed concerns in this regard, Plaintiffs' counsel sent an e-mail dated September 27, 2022, expressing uncertainty about the depositions scheduled for October and indicating "We may need to look towards Nov." Following an exchange of e-mails dated September 28 and 29, 2022, it appears the depositions will be rescheduled.

Paragraph No. 7 of Plaintiffs' Brief in Support identifies "additional concerns about Defendants' written discovery responses," although Plaintiffs' counsel has not sought to meet and confer with WTNY's counsel regarding the issues raised in Paragraph No. 8. Specifically in regard to the objection to the term "clergy" as vague, which was asserted in response to Request for Production No. 42, the Response clarified:

While Jehovah's Witnesses reject the *religious* term, clergy, as it is used in other faiths, WTNY refers Plaintiffs to documents bates-numbered WTNY000280-000301; WTNY000387-000410; WTNY000507-000560 and documents produced by co-defendant WTPA, bates numbered WTPA028758-028784; WTPA033888-033914 for purposes of establishing that elders meet the *legal* definition of clergy.

(emphasis in original). In regard to Paragraph No. 9, WTNY has advised in its First Supplemental Response to Request for Production No. 52 that it “does not and never has had access to the file the Hardin Congregation maintains at its place of worship,” and any such documents that were given to WTNY have either been produced or identified in the Privilege Log.

In total, the parties have been diligently working through discovery issues, including issues raised by WTNY regarding certain of Plaintiffs’ discovery responses. While WTNY disagrees with any insinuation that it is responsible for the need for a new scheduling order, it agrees with Plaintiffs that a new scheduling order is appropriate and does not object to the relief requested by Plaintiffs.

DATED this 4th day of October, 2022.

By: /s/ Jon A. Wilson
Jon A. Wilson
BROWN LAW FIRM, P.C.
*Attorneys for Defendant Watchtower
Bible and Tract Society of New York,
Inc.*

CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(d)(2)(E), the undersigned hereby certifies this brief complies with L.R. 7.1(d)(2)(A). According to the word-processing unit used to prepare this brief, the word count is 781 words excluding caption and certificates of service and compliance.

DATED this 4th day of October, 2022.

By: /s/ Jon A. Wilson

Jon A. Wilson

BROWN LAW FIRM, P.C.

*Attorneys for Defendants Watchtower
Bible and Tract Society of New York,
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that, on October 4th, 2022, a copy of the foregoing was served on the following person(s):

1. U.S. District Court, Billings Division
2. Robert L. Stepan/Ryan R. Shaffer/James C. Murnion
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by the following means:

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|-------------------------------|---|
| <u>1-4</u> CM/ECF | <u> </u> Fax |
| <u> </u> Hand Delivery | <u> </u> E-Mail |
| <u>5</u> U.S. Mail | <u> </u> Overnight Delivery Services |

By: /s/ Jon A. Wilson
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