

Exhibit B

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5 Attorneys for The Church Defendants

FILED

SEP 30 2005

Clerk of the Napa Superior Court
By: Sara O'Doherty
Deputy

6
7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF NAPA

10 CHARISSA W. and NICOLE D.

11 Plaintiffs,

12 v.

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

15 Defendants.

Case No.: 26-22191

Judicial Council Coordination Proceeding no.
4374

16
17 **MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER
REGARDING THE NOTICE OF
DEPOSITION RE J.R. BROWN**

18 DATE: October 12, 2005
19 TIME: 8:30 a.m.
20 DEPT: C

21 TRIAL DATE: Not yet set

RECEIVED

SEP 30 2005

COURT EXECUTIVE OFFICER

22 AND COORDINATED CASES

23 **I. STATEMENT OF FACTS**

24 Plaintiffs in the two Track I cases of *Tim W.* and *Wimberley*¹ have noticed the deposition
25 of J.R. Brown, Director of the Office of Public Information (hereafter "OPI") for defendant
26 Watchtower Bible and Tract Society of New York, Inc. (hereafter "Watchtower NY"). This
27 deposition was noticed based on a May 9, 2002 letter signed by J.R. Brown as Director of

28 ¹ A number of cases were earlier ordered coordinated under Judicial Council rules, and the Napa
County Superior Court is the court designated to oversee the coordinated cases. Thus, although
the notice of deposition at issue is for the Track I cases only, this motion is filed on the caption
for the *Charissa W.* case, which has been designated as the so-called "lead" case.

1 Watchtower NY's OPI, in response to a facsimile letter received from Betsan Powys of BBC
2 (British Broadcasting Corporation) Panorama.

3 The May 9, 2002 letter signed by Mr. Brown that was sent to Betsan Powys of BBC
4 Panorama addressed in general terms the way in which Jehovah's Witnesses handle child abuse
5 matters. It was written for the purpose of responding to a television program the BBC was
6 planning to air regarding that issue. While J.R. Brown signed the May 9, 2002 letter as the
7 Director of the OPI for Watchtower NY,² his declaration filed herewith reveals that he does not
8 have any unique, special, or superior personal knowledge regarding the topics and categories of
9 information in the letter about which plaintiffs want to inquire. In addition, his declaration
10 reveals that he does not have any personal knowledge regarding any of these coordinated cases.

11 At the same time that plaintiffs served the notice of deposition for J.R. Brown, plaintiffs
12 also served a notice of deposition for the person most knowledgeable, or "PMK," regarding
13 certain topics or categories of information addressed in the May 9, 2002 letter signed by J.R.
14 Brown. With regard to that PMK deposition notice, Watchtower NY has designated Gary
15 Breaux as the person most knowledgeable. Gary Breaux has knowledge of each of the topics or
16 categories identified in the notice of PMK deposition regarding the May 9, 2002 letter and can
17 competently and knowingly testify regarding each such topic. *See* declaration of Robert J.
18 Schnack filed herewith.

19 Defense counsel for Watchtower NY has met and conferred with one of plaintiffs'
20 attorneys prior to filing this motion for protective order, as required by California's Code of
21 Civil Procedure. Defense counsel advised plaintiffs' counsel that J.R. Brown has no personal
22 knowledge regarding these coordinated cases and that he has no unique or superior personal
23 knowledge regarding the contents of the May 9, 2002 letter. In that same conversation, defense
24 counsel advised plaintiffs' counsel that Gary Breaux has been designated by Watchtower NY as
25 the person most knowledgeable regarding the topics identified about the May 9, 2002 letter in

26 _____
27 ² The May 9, 2002 letter was written on letterhead of Watch Tower Bible and Tract Society of
28 Pennsylvania ("Watch Tower PA") because the letter was sent to the BBC in England. All
letters from the OPI sent to locations outside of the United States are placed on Watch Tower
PA letterhead.

1 the PMK deposition notice and that Watch Tower PA would produce Mr. Breaux for deposition
2 on a mutually agreeable date in October or November 2005. Despite this information, plaintiffs
3 have declined to withdraw the deposition notice for J.R. Brown's deposition.

4 It is important to note that defendant Watchtower NY is *not* attempting here to quash
5 deposition testimony regarding the topics identified in the PMK deposition notice concerning
6 the May 9, 2002 letter. Rather, defendant is seeking a protective order only regarding the
7 deposition notice for J.R. Brown. While J.R. Brown signed the letter in his capacity as the
8 Director of the OPI, he does not have any unique or superior personal knowledge of the subject
9 matter contained therein. In addition, he does not have personal knowledge of any of these
10 coordinated cases.

11 As noted, Watchtower NY is prepared to and will produce Gary Breaux for examination
12 by deposition because he has been designated by Watchtower NY as the person most
13 knowledgeable regarding the topics identified by plaintiffs in the May 9, 2002 letter. However,
14 Watchtower NY seeks to protect having to produce J.R. Brown for a deposition regarding a
15 matter of which he does not have unique or superior personal knowledge and regarding lawsuits
16 of which he has no knowledge. To allow such a deposition to proceed would cause unwarranted
17 annoyance, oppression, and undue burden or expense. *See* CCP §2023.010.

18 **II. POINTS AND AUTHORITIES**

19 **Overview of discovery rules.** California Code of Civil Procedure section 2017.010 sets
20 forth the general discovery provisions in California. In general, "any party may obtain
21 discovery regarding any matter, not privileged, that is relevant to the subject matter involved in
22 the pending action or to the determination of any motion made in that action, if the matter either
23 is itself admissible in evidence or appears reasonably calculated to lead to the discovery of
24 admissible evidence." CCP §2017.010. "The court shall limit the scope of discovery if it
25 determines that the burden, expense, or intrusiveness of the discovery clearly outweighs the
26 likelihood that the information sought will lead to the discovery of admissible evidence." CCP
27 §2017.020.

28 A court shall restrict the use and frequency of a discovery method if it determines that

1 the "discovery sought is unreasonably cumulative or duplicative, or is obtainable from some
2 other source that is more convenient, less burdensome, or less expensive." CCP
3 §2019.030(a)(1). "Misuses of the discovery process include, but are not limited to ... employing
4 a discovery method in a manner or to an extent that causes unwarranted annoyance,
5 embarrassment, or oppression, or undue burden and expense." CCP §2023.010(c).

6 California Code of Civil Procedure section 2025.010, *et seq.*, governs the taking of oral
7 depositions. Generally speaking, parties and non-parties can be deposed in California.

8 However, "[b]efore, during or after a deposition, any party, any deponent, or any other affected
9 natural person or organization may promptly move for a protective order" CCP

10 §2025.420(a). "The court, for good cause shown, may make any order that justice requires to
11 protect any party, deponent, or other natural person or organization from unwarranted
12 annoyance, embarrassment, or oppression, or undue burden and expense" CCP

13 §2025.420(b). In this case, defendants are seeking a protective order regarding the noticed
14 deposition of J.R. Brown, Director of the OPI for Watchtower NY.

15 **Discussion.** It has previously been held in the *Liberty Mutual Ins. Co.* case that before a
16 high level executive can be deposed, less intrusive discovery methods must be employed. "We
17 conclude it amounts to an abuse of discretion to withhold a protective order when a plaintiff
18 seeks to depose a corporate president, or corporate officer at the apex of the corporate hierarchy,
19 absent a reasonable indication of the officer's personal knowledge of the case and absent
20 exhaustion of less intrusive discovery methods." *Liberty Mutual Ins. Co. v. Superior Court*
21 (1992) 10 Cal.App.4th 1282, 1287, 13 Cal.Rptr.2d 363, 365. "At the outset it would seem
22 sensible to prevent a plaintiff from leap-frogging to the apex of the corporate hierarchy in the
23 first instance, without the intermediate steps of seeking discovery from lower level employees
24 more involved in everyday corporate operations. The head of a large national corporation will
25 generally not have knowledge of a specific incident or case handled several levels down the
26 corporate pyramid." *Id.*

27 Here, a letter was drafted in response to an inquiry from the British Broadcasting
28 Corporation, or BBC, regarding a scheduled BBC television segment. J.R. Brown signed the

1 letter as the Director of the OPI. That May 9, 2002 letter did not relate to these coordinated
 2 cases -- indeed, none of these coordinated cases had even then been filed. Plaintiffs now want
 3 to depose J.R. Brown regarding certain subject matter contained in the letter despite having been
 4 advised that, although Mr. Brown signed the letter, he does not have any unique or superior
 5 personal knowledge about the topics in the letter or any personal knowledge concerning these
 6 coordinated cases.

7 At the same time plaintiffs served the J.R. Brown deposition notice, they also served a
 8 PMK deposition notice for the person most knowledgeable regarding certain topics or categories
 9 of information, including topics concerning the letter signed by J.R. Brown. The validity of the
 10 PMK deposition notice is not being challenged here, and Watchtower NY has already agreed to
 11 produce Gary Breaux for deposition as the designated PMK. Gary Breaux is the person most
 12 knowledgeable about the topics regarding the May 9, 2002 letter described in plaintiffs' PMK
 13 deposition notice, and he will testify in the PMK deposition.

14 "[A]pex' depositions such as the one in this case, when conducted *before* less intrusive
 15 discovery methods are exhausted, raise a tremendous potential for discovery abuse and
 16 harassment." *Liberty Mutual*, 10 Cal.App.4th at 1287 (emphasis added). Because the issue was
 17 a case of first impression and because the California Discovery Act of 1986 had brought
 18 California into close alignment with the federal rules governing discovery, the *Liberty Mutual*
 19 court first analyzed federal cases that dealt with noticed depositions of high-level executives.

20 After review and analysis of several cases, the *Liberty Mutual* court concluded:

21 "Consistent with these federal decisions, we hold that when a
 22 plaintiff seeks to depose a corporate president or other official at
 23 the highest level of corporate management, and that official moves
 24 for a protective order to prohibit the deposition, *the trial court*
 25 *should first determine whether the plaintiff has shown good*
 26 *cause that the official has unique or superior personal*
 27 *knowledge of discoverable information.* If not, as will
 28 presumably often be the case in the instance of a large national or
 international corporation, *the trial court should issue the*
protective order and first require the plaintiff to obtain the
necessary discovery through less intrusive methods. These would
include interrogatories directed to the high-level official to
explore the state of his or her knowledge or involvement in
plaintiff's case; the deposition of lower level employees with
 appropriate knowledge and involvement in the subject matter of
 the litigation; *and the organizational deposition of the*

1 **corporation itself, which will require the corporation to produce**
2 **for deposition the most qualified officer or employee to testify on**
3 **its behalf as to the specified matters to be raised at the deposition.**
4 **(§ 2025, subd. (d)(6).) Should these avenues be exhausted, and the**
5 **plaintiff make a colorable showing of good cause that the high-**
6 **level official possesses necessary information to the case, the trial**
7 **court may then lift the protective order and allow the deposition to**
8 **proceed.”**

9 ***Id.* at 1289 (emphasis added).**

10 The *Liberty Mutual* case involved taking the deposition of the president of an insurance
11 company. The president of the company had been copied on two letters he claimed not to have
12 seen. Other than that, there was no showing the president had any involvement in the lawsuit
13 against the company. As discussed in the above excerpt, the *Liberty Mutual* court permitted
14 entry of a protective order.

15 In this case, J.R. Brown is a high-ranking official in the Office of Public Information.
16 He is the Director of the Office of Public Information and oversees staff members in that office.
17 As the person in charge of the OPI, he signed a letter regarding general issues involving sex
18 abuse that are not distinctly related to these pending coordinated cases. He signed the letter in
19 his capacity as the Director of the OPI, but he has no unique or superior personal knowledge
20 regarding the matters addressed therein. In addition, he does not have personal knowledge
21 regarding these coordinated actions filed against the Church Defendants.

22 Watchtower NY has already designated the person most knowledgeable about the topics
23 identified in the notice of PMK deposition regarding the May 9, 2002 letter, and defense counsel
24 has already advised plaintiffs’ counsel that Gary Breaux will be produced on an agreed date for
25 that PMK deposition.

26 Thus, under the reasoning and holding of *Liberty Mutual* and the underlying federal
27 cases, this motion for protective order should be granted. Then, if plaintiffs do not obtain the
28 information they apparently are seeking in Mr. Breaux’s deposition, plaintiffs can still serve
 special interrogatories regarding the extent of J.R. Brown’s knowledge. (In addition, J.R.
 Brown has filed a declaration in conjunction with this motion stating he does *not* have such
 unique or superior personal knowledge.) Therefore, if, after the deposition of designated PMK

1 Gary Breaux is completed, and if, after special interrogatories inquiring about the knowledge of
2 J.R. Brown are completed, plaintiffs can still present a colorable basis for taking Mr. Brown's
3 deposition, the court could thereafter consider lifting the protective order.

4 The federal cases relied on by the *Liberty Mutual* court include several cases in which
5 plaintiffs tried first to take the depositions of high ranking officials of large companies who did
6 not have either unique or superior personal knowledge of relevant facts or any knowledge of the
7 of the case(s) at issue. For example, “[i]n *Salter v. Upjohn Co.* (5th Cir. 1979) 593 F.2d 649, the
8 plaintiff's decedent was fatally injured from ingestion of a prescription drug manufactured by
9 Upjohn. Plaintiff attempted to depose Upjohn's president, but the trial court granted a protective
10 order. The Fifth Circuit affirmed, on the basis of Upjohn's ‘reasonable assertion[] that [the
11 president] ... did not have any direct knowledge of the facts.’ (*Id.* at p. 651.)” *Liberty Mutual* at
12 1288.

13 The *Liberty Mutual* court also relied on *Baine v. General Motors Corp.*, where the
14 plaintiff tried to depose the vice-president of General Motors in relation to a fatal injury
15 sustained by plaintiff's decedent. The court stated:

16 “[I]n *Baine v. General Motors Corp.* (M.D.Ala. 1991) 141 F.R.D.
17 332, the plaintiff attempted to depose a vice-president of General
18 Motors. Plaintiff's decedent was fatally injured by a faulty seat
19 restraint system, and the vice-president had written a memorandum
20 describing his observations of the system's performance in
21 prototype. The federal district court issued a protective order
22 against the deposition, finding that the deposition would be unduly
23 burdensome to a high-level official in the absence of any showing
24 plaintiff could not obtain the necessary information from other,
25 less intrusive avenues of discovery. The trial court required
26 plaintiff to first depose lower level engineering analysts and others
27 with knowledge of the restraint system, and to serve interrogatories
28 on the vice- president to explore whether he had superior
knowledge of the system.”

Liberty Mutual at 1289.

24 Again, given J.R. Brown's lack of unique or superior personal knowledge regarding the
25 topics in the May 9, 2002 letter and his lack of personal knowledge regarding these coordinated
26 cases, Watchtower NY respectfully requests that a protective order be issued regarding the
27 notice of deposition for J.R. Brown, at least until after Gary Breaux's PMK deposition is taken
28

1 and some other less obtrusive discovery methods are employed.

2 Finally, Code of Civil Procedure section 2017.010 provides that discovery is permissible
3 if it is relevant to the subject matter of the litigation, is admissible into evidence, or is
4 reasonably calculated to lead to the discovery of admissible evidence. See CCP §2017.010.
5 However, J.R. Brown does not have any personal knowledge regarding the facts underlying
6 these California coordinated cases. Therefore, his deposition testimony in that regard would not
7 be even remotely, much less reasonably, calculated to lead to the discovery of admissible
8 evidence.

9 If plaintiff were allowed to proceed with Mr. Brown's deposition, it would promote
10 abuse of the discovery process and harassment of the Church Defendants, particularly given that
11 a PMK has been identified and will be made available for deposition with regard to the
12 identified topics on which plaintiff is seeking to obtain discovery.

13 **III. CONCLUSION**

14 For each of the foregoing reasons, Watchtower NY seeks a protective order from this
15 court, ordering that J.R. Brown not be required to sit for deposition. Watchtower NY will
16 produce Gary Breaux for a PMK deposition and, thereafter, plaintiffs can serve written
17 interrogatories to establish the extent of J.R. Brown's personal knowledge on the PMK topics
18 concerning the May 9, 2002 letter. However, to start with the deposition of J.R. Brown, who
19 has provided a sworn declaration stating that he does not have any unique, special, or superior
20 knowledge of the identified topics in the May 9, 2002 letter and also has no knowledge of these
21 coordinated lawsuits, is burdensome, unreasonable, and not reasonably calculated to lead to the
22 discovery of admissible evidence in these coordinated cases.

23 DATED: September 29, 2005

24 BULLIVANT HOUSER BAILEY PC

25
26 By 
27 Robert J. Schnack

28 Attorneys for the Church Defendants

5033040.1

- 8 -

PROOF OF SERVICE

I am a citizen of the United States and am employed in Sacramento County, where this mailing occurs. My business address is 11335 Gold Express Drive, Suite 105, Gold River, California 95670. I am over the age of eighteen (18) and not a party to this within cause.

On September 29, 2005, the following ordinary business practice, I served the foregoing document(s) described as:

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR PROTECTIVE ORDER REGARDING THE DEPOSITION NOTICE OF J.R. BROWN

in the following manner, by placing a true copy(ies) thereof in a sealed envelope(s) addressed as follows:

<p>Attorneys for Plaintiffs BY FAX & MAIL Rudy Nolen NOLEN SAUL BRELSFORD 350 University Ave., Suite 280 Sacramento, CA 95825 Fax: 916-564-9991</p>	<p>Attorneys for defendant Harriman Craig Diamond Diamond, Baker, Phillips & Walters LLP PO Box 1147 Cedar Ridge, CA 95924 Fax: 530-272-8463</p>
<p>Attorneys for Plaintiffs BY FAX & MAIL Gregory S. Love LOVE & NORRIS 314 Main St., Ste 300 Fort Worth, TX 76102 Fax: 817-335-2912</p>	<p>BY FAX & MAIL Hartley Hampton Fibich, Hampton & Leebron Five Houston Center 1401 McKinney, Ste. 1800 Houston, TX 77010 Fax 713-751-0030</p>
<p>In Pro Per James Henderson 25 Gilmore Rd., #17 Red Bluff, CA 96080</p>	
<p>Attorneys for Defendant Carlos Vasquez William E. Bernard 1624 Santa Clara Dr., #210 Roseville, CA 95661 Fax: 916-789-7557</p>	<p>Defendant in pro per Alvin Heard Two Rivers Correctional Institute 82911 Beach Access Road Umatilla, OR 97882</p>

XXX (BY MAIL) I caused such envelope(s) with First Class postage thereon fully prepaid to be placed in the U.S. Mail in Gold River, California. I am readily familiar with my employer's normal business practice for collection and processing of correspondence and other material for mailing with the U.S. Postal Service, and that practice is that said material is deposited with the U.S. Postal Service the same day as the day of collection in the ordinary course of business.

_____ **(BY MESSENGER)** I caused such envelope(s) to be hand delivered to

_____ **(BY FEDERAL EXPRESS)** I caused such envelope(s) to be hand-delivered by an authorized Federal Express agent, this date to.

XXX (BY FACSIMILE) I caused to be transmitted the aforementioned document, via facsimile machine, to each of the above identified parties' FAX numbers

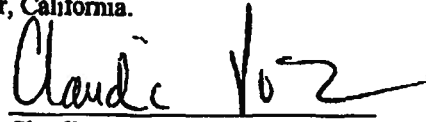
1 the hours of 9:00 a.m. and 5:00 p.m. on September 29, 2005 and received verification of each
complete transmission.

2 [X] (State) I declare under penalty of perjury under the laws of the State of California that
3 the above is true and correct.

4 [] (Federal) I declare that I am employed in the office of a member of the Bar of this Court
at whose direction the service was made.

5 Executed on September 29, 2005, at Gold River, California.

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7 By


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Claudia Pohlman

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7 E-Mail: bob.schnack@bullivant.com
8 Attorneys for The Church Defendants

FILED

SEP 30 2005

Clerk of the Napa Superior Court
By: *[Signature]*
Deputy

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF NAPA

11 CHARISSA W. and NICOLE D.

12 Plaintiffs,

13 v.

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

17 Defendants.

Case No.: 26-22191

Judicial Council Coordination Proceeding no.
4374

**DECLARATION OF ROBERT J.
SCHNACK IN SUPPORT OF MOTION
FOR PROTECTIVE ORDER
REGARDING THE DEPOSITION
NOTICE FOR J.R. BROWN**

DATE: October 12, 2005
TIME: 8:30 a.m.
DEPT: C

TRIAL DATE: Not yet set

RECEIVED

SEP 30 2005

COURT EXECUTIVE OFFICER

18 AND COORDINATED CASES
19

20 I, Robert J. Schnack, declare as follows:

21 1. I am an attorney licensed to practice law in California and Oregon, a shareholder
22 in the law firm of Bullivant Houser Bailey PC, and one of the Church Defendants' attorneys of
23 record in these coordinated actions. I am legally competent in all respects and make the
24 following statements from personal knowledge, or on information and belief where so stated.

25 2. On September 15, 2005 I received plaintiffs' notice of deposition for the
26 deposition of J.R. Brown. I am advised that Mr. Brown is the Director of the Office of Public
27 Information for Watchtower Bible and Tract Society of New York, Inc. ("Watchtower NY").
28

1 Plaintiffs' counsel have since issued a first amended deposition notice for a later date for the
2 noticed deposition of J.R. Brown. A true and correct copy of the first amended deposition notice
3 for J.R. Brown is attached hereto as Exhibit A.

4 3. On September 15, 2005, I also received a notice of deposition for the person
5 most knowledgeable, or "PMK," regarding certain topics or categories of subjects contained in a
6 May 9, 2002 letter addressed to Betsan Powys of BBC Panorama. The letter reveals that J.R.
7 Brown signed the letter in his capacity as Director of the Office of Public Information ("OPI").
8 Plaintiffs' counsel have since issued a first amended PMK deposition notice for a later date for
9 this noticed deposition. A true and correct copy of that first amended PMK deposition notice,
10 with the May 9, 2002 letter attached as Exhibit 1 to the PMK deposition notice, is attached
11 hereto as Exhibit B.

12 4. On September 20, 2005, I spoke by telephone with one of plaintiffs' attorneys,
13 Hartley Hampton, regarding the above-referenced deposition notices. I advised him that while
14 J.R. Brown had signed the May 9, 2002 letter as the Director of the OPI, I had been advised that
15 Mr. Brown does not have any unique or superior personal knowledge regarding the contents of
16 the letter. In addition, I told plaintiffs' attorney that I had been advised that Mr. Brown does not
17 have any personal knowledge regarding the California coordinated cases. I also told plaintiffs'
18 attorney that Watchtower NY had designated Gary Breaux as the person most knowledgeable
19 about the topics identified in the original PMK deposition notice regarding the May 9, 2002
20 letter and that Gary Breaux would sit for the PMK deposition on a mutually agreeable date in
21 October or November 2005. Given that Mr. Brown has no unique or superior personal
22 knowledge regarding the May 9, 2002 letter and signed only as the Director of the OPI, I asked
23 that plaintiffs withdraw the deposition notice regarding J.R. Brown. Plaintiffs have declined to
24 withdraw the notice for J.R. Brown's deposition. Therefore, Watchtower NY had no option but
25 to file the instant motion for protective order.

26 I declare under penalty of perjury under the laws of the State of California that the
27 foregoing is true and correct, except where stated on information and belief, in which case I am
28 informed and believe the information to be true and correct.

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Executed this 29th day of September, 2005 at Gold River, California.

By *RJ Schnack*
Robert J. Schnack

5033042.1

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14 Attorneys for Plaintiffs
CHARISSA W. and NICOLE D.

15
16 SUPERIOR COURT OF CALIFORNIA

17 COUNTY OF NAPA

18 CHARISSA W. and NICOLE D.,

19 Plaintiffs,

20 vs.

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

23 Defendants.

CASE NO: 26-22191

Judicial Council Coordination
Proceeding No. 4374

FIRST AMENDED NOTICE OF
TAKING DEPOSITION DUCES
TECUM

24 TO ALL PARTIES HEREIN, AND TO THEIR ATTORNEYS OF RECORD:

25 DATE: October 25, 2005

26 TIME: 1:00 p.m.

27 PLACE: New York Marriott at the Brooklyn Bridge
333 Adams Street, Brooklyn, New York

28 WITNESS: J.R. BROWN

EXHIBIT A

1 At the date, time and place specified above, the parties represented by Attorney
2 Hartley Hampton of Fibich, Hampton & Leebron, LLP, will take the deposition of the above
3 named witness before a certified shorthand reporter or before any notary public authorized
4 to administer oaths in the State of New York who is present at the specified time and date.
5 In addition, the parties intend to record the deposition by videotape as well as
6 stenographically.
7

8 The deposition will continue day to day, excepting Saturdays, Sundays and
9 holidays, until completed.
10

11 Date: September 20, 2005

NOLEN SAUL BRELSFORD



William Brelsford
Attorney for Plaintiffs

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1 CASE NAME: Charissa W., et al. v. Watchtower Bible Tract and Society of New
2 COURT: Napa County Superior Court
3 CASE NO.: 26-22191

PROOF OF SERVICE

4 I am a citizen of the United States, employed in the County of Sacramento, State
5 of California. My business address is 350 University Avenue, Suite 280, Sacramento,
6 California 95825. I am over the age of 18 years and not a party to the above-entitled
7 action.

8 On September 20, 2005, I caused the within **FIRST AMENDED NOTICE OF
9 TAKING DEPOSITION DUCES TECUM**, the original of which was produced on recycled
10 paper, to be served as follows:

11 X **MAIL** --I am readily familiar with the Nolen Saul Brelsford's practice for collection
12 and processing of correspondence for mailing with the United States Postal
13 Services. Pursuant to said practice, each document is placed in an envelope, the
14 envelope is sealed, the appropriate postage is placed thereon and the sealed
15 envelope is placed in the office mail receptacle. Each day's mail is collected and
16 deposited in a U.S. mailbox at Sacramento, California at or before the close of each
17 day's business. (CCP Section 1013a(3).)ss


18 **FACSIMILE** -- On September 20, 2005 at _____ a.m./p.m., by use of facsimile
19 machine telephone number (916) 564-9991, I served a true copy of the
20 aforementioned document(s) on the parties in said action by transmitting by
21 facsimile machine to the numbers as set forth above. The facsimile machine I used
22 complied with California Rules of Court, Rule 2003(3) and no error was reported by
23 the machine. Pursuant to California Rules of Court, Rule 2008(e), I caused the
24 machine to print a transmission record of the transmission, a copy of which is
25 attached to this Declaration.

26 Attorney for Watchtower Defendants
27 Robert J. Schnack
28 BULLIVANT HOUSER BAILEY
11335 Gold Express Drive, Suite 105
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Tommy Fibich, Esq.
Hartley Hampton, Esq.
Mike Leebron, Esq.
FIBICH, HAMPTON & LEEBRON
1401 McKinney, Suite 1800
Five Houston Center
Houston, TX 77010

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct, and that this declaration was executed on September 20,
2005, at Sacramento, California.



Susan Gilbert

1 Rudy Nolen, Esq., SBN 59808
Jonathan Saul, Esq., SBN 189271
2 William L. Brelsford, Esq.,
SBN 202839
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13 Attorneys for Plaintiffs
14 CHARISSA W. and NICOLE D.

15
16 SUPERIOR COURT OF CALIFORNIA
17 COUNTY OF NAPA

18 CHARISSA W. and NICOLE D.,
19 Plaintiffs,

20 vs.

21 WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC., et al.
22 Defendants.
23

CASE NO: 26-22191

Judicial Council Coordination
Proceeding No. 4374

FIRST AMENDED NOTICE OF
TAKING DEPOSITION DUCES
TECUM

24 TO ALL PARTIES HEREIN, AND TO THEIR ATTORNEYS OF RECORD:

25 DATE: October 25, 2005

26 TIME: 9:00 a.m.

27 PLACE: New York Marriott at the Brooklyn Bridge
333 Adams Street, Brooklyn, New York

28 WITNESS: Person Most Knowledgeable

EXHIBIT B

1 At the date, time and place specified above, the parties represented by Attorney
2 Hartley Hampton of Fibich, Hampton & Leebron, LLP, will take the deposition of the above
3 named witness before a certified shorthand reporter or before any notary public authorized
4 to administer oaths in the State of New York who is present at the specified time and date.
5 In addition, the parties intend to record the deposition by videotape as well as
6 stenographically.
7

8 NOTICE IS FURTHER GIVEN that the matters on which examination is requested
9 are as follows:

- 10 (1) Person most knowledgeable regarding information contained in May 9, 2002,
11 letter from J.R. Brown, director for the office of public information, Watch
12 Tower Bible and Tract Society of Pennsylvania, to Ms. Betsan Powys with
13 the BBC Panorama, attached as Exhibit 1 to this notice;
14
15 (2) Person most knowledgeable regarding the "records" referred to in the 11th
16 paragraph of the May 9, 2002 letter that J.R. Brown wrote to Ms. Betsan
17 Powys (attached as Exhibit 1 to this notice).
18
19 (3) Person most knowledgeable regarding the process by which the "records",
20 referred to in the 11th paragraph of the May 9, 2002 letter that J.R. Brown
21 wrote to Ms. Betsan Powys and attached as Exhibit 1 to this notice, are
22 maintained, updated and accessed.
23
24 (4) Person most knowledgeable regarding the Jehovah's Witness organization's
25 efforts to utilize the "records", referred to in the 11th paragraph of the May 9,
26 2002 letter that J.R. Brown wrote to Ms. Betsan Powys and attached as
27 Exhibit 1 to this notice, to "protect the flock from harm," as that phrase is
28 used in the 11th paragraph of such letter.

1 (5) Person most knowledgeable regarding the position of elder within the
2 Jehovah's Witness organization including, but not limited to, the appointment
3 and removal of elders, the duties, responsibilities and authority of elders, and
4 the relationship between elders and members of their congregation.

5 (6) Person most knowledgeable regarding the position of ministerial servant
6 within the Jehovah's Witness organization including, but not limited to, the
7 appointment and removal of ministerial servants, the duties, responsibilities
8 and authority of ministerial servants, and the relationship between ministerial
9 servants and members of their congregation.
10

11 (7) Person most knowledgeable regarding the role, responsibility and duties of
12 judicial committees within the Jehovah's Witness organization including the
13 process by which judicial committees are comprised and their proceedings
14 are conducted.
15

16 (8) Person most knowledgeable regarding any and all policies that the
17 Jehovah's Witness organization had for handling accusations and proof of
18 child sexual abuse from 1970 to the present.

19 (9) Person most knowledgeable regarding any and all policies that the
20 Jehovah's Witness organization had for warning congregations and their
21 members when a known child molester joined the congregation from 1970
22 to the present.
23

24 NOTICE IS FURTHER GIVEN that the Person Most Knowledgeable shall bring and
25 produce at the deposition the following:

- 26 1. Any and all drafts of the May 9, 2002 letter that J.R. Brown wrote to Ms.
27 Betsan Powys, attached as Exhibit 1 to this notice;
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2. Any other correspondence between J.R. Brown and Ms. Betsan Powrys other than J.R. Brown's May 9, 2002 letter, which is attached hereto as Exhibit 1;
3. A blank or redacted copy of any form(s) used in connection with the "records" referred to in the May 9, 2002 letter that J.R. Brown wrote to Ms. Betsan Powrys and attached hereto as Exhibit 1;
4. A blank or redacted copy of any form(s) used in connection with allegations or proof of child sexual abuse;
5. A blank or redacted copy of the form used when an elder is appointed;
6. A blank or redacted copy of the form used when an elder is removed;
7. A blank or redacted copy of the form used when a ministerial servant is appointed;
8. A blank or redacted copy of the form used when a ministerial servant is removed;
9. Any and all documents that pertain in any way to any policies that the Jehovah's Witness organization had for handling accusations and proof of child sexual abuse from 1970 to the present; and,
10. Any and all documents that pertain in any way to any policies that the Jehovah's Witness organization had for warning congregations and their members when a known child molester joined the congregation from 1970 to the present.

The deposition will continue day to day, excepting Saturdays, Sundays and holidays, until completed.

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1 Date: September 20, 2005

NOLEN SAUL BRELSFORD



William Brelsford
Attorney for Plaintiffs

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