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Electronically Filed
FIRST CIRCUIT
1CCV-20-0000390
10-MAR-2020
04:08 PM

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

N.D.,

Plaintiff,

vs.

MAKAHA, HAWAII CONGREGATION OF
JEHOVAH'S WITNESSES, a Hawaii non-
profit unincorporated religious organization,
a.k.a. MAKAHA CONGREGATION OF
JEHOVAH'S WITNESSES and KINGDOM
HALL, MAKAHA CONGREGATION OF
JEHOVAH'S WITNESSES; WATCHTOWER
BIBLE AND TRACT SOCIETY OF NEW
YORK, INC., a New York corporation;
CHRISTIAN CONGREGATION OF
JEHOVAH'S WITNESSES, a New York non-
profit corporation; KENNETH L. APANA,
Individually; and Does 1 through 100,
inclusive,

Defendants.

CIVIL NO.

(Other Non-Vehicle Tort)

**COMPLAINT, DEMAND FOR JURY
TRIAL; AND SUMMONS**

COMPLAINT

Plaintiff N.D., by and through her attorneys, DAVIS LEVIN LIVINGSTON and the LAW OFFICES OF JAMES S. ROGERS (*pro hac vice* petition pending) hereby submits this Complaint against the above-named Defendants, alleges and avers as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to Hawaii Revised Statutes (“HRS”) §§603-21.5 and 634-35 because the relevant events occurred in the City and County of Honolulu, State of Hawaii.

2. Venue is proper before this Court under HRS § 603-36.

3. The requirements set forth under HRS §657-1.8, extending the statute of limitations, have been met by Plaintiff, for whom a Certificate of Merit will be filed separately under seal.

PLAINTIFF

4. N.D. is proceeding by initials only because (1) this case involves sensitive matters that are of a personal nature, (2) Plaintiff is particularly vulnerable to the harms of disclosure, (3) identification or disclosure poses a risk of retaliation of mental, physical, reputational, and/or economic harm to the Plaintiff, (4) identification or disclosure will subject Plaintiff to intense humiliation, embarrassment, ridicule, stigmatization, scrutiny, and/or isolation due to the sexual abuse and molestation she was subjected to as a child, (5) identification or disclosure poses a risk of irreparable harm to her career, employment, reputation, and/or standing in the community, (6) identification or disclosure will aggravate, amplify, and/or exacerbate her condition, injury, and/or loss that are at issue in this litigation, (7) Defendants are not prejudiced by allowing Plaintiff to proceed using only her initials and any prejudice can be mitigated by the court, (8) her identity has

been kept confidential thus far, (9) the public interest in disclosure of Plaintiffs' identity is minimal, (10) the public has an interest in allowing Plaintiff to proceed using her initials only so that injustices, such as the one the Plaintiff has suffered, are rectified and the parties responsible for perpetrating the harm are held liable, and (11) Defendants are not prejudiced by allowing the Plaintiff to proceed using her initials as the Plaintiff's true identity will be disclosed to Defendants' counsel confidentially by way of a protective order.

PARTIES

4. Plaintiff is a resident of Snohomish County, State of Washington. During the acts and omissions alleged within this Complaint, Plaintiff was a resident of the City and County of Honolulu, State of Hawaii.

5. Upon information and belief, Defendant Makaha, Hawaii Congregation of Jehovah's Witnesses is a Hawaii non-profit unincorporated religious organization, a.k.a. Makaha Congregation of Jehovah's Witnesses and Kingdom Hall, Makaha Congregation of Jehovah's Witnesses ("Makaha Kingdom Hall") located in Waianae, Hawaii and conducts its church business operations in the State of Hawaii, including, but not limited to, Waianae, O'ahu, and other cities in the County of Honolulu. In addition, Defendant Makaha Kingdom Hall is vicariously liable under the doctrine of *respondeat superior* for the grossly negligent acts and omissions of individuals who were acting within the course and scope of their role within Makaha Kingdom Hall, and/or their actual or apparent agency with Makaha Kingdom Hall.

6. Defendant Watchtower Bible and Tract Society of New York, Inc. ("Watchtower") is a New York corporation, with its principal place of business in the State of New York. Upon information, Watchtower is authorized to conduct, and does, business in the State of Hawaii, County of Honolulu. Upon information and belief, at all times prior to April of 2001, Watchtower

organized, administered, and directed the affairs of Jehovah's Witnesses in the United States and in Hawaii. In addition, Watchtower is vicariously liable under the doctrine of *respondeat superior* for the grossly negligent acts and omissions of individuals who were acting within the course and scope of their role within Watchtower and/or Makaha Kingdom Hall, and/or their actual or apparent agency with Watchtower or Makaha Kingdom Hall.

7. Christian Congregation of Jehovah's Witnesses is a non-profit religious corporation with its principal place of business in the State of New York. Upon information and belief, in or about April of 2001, Christian Congregation of Jehovah's Witnesses assumed from Watchtower the obligation to operate the Service Department of the United States Branch of Jehovah's Witnesses, and became Watchtower's successor-in-interest. For purposes of this Complaint, Christian Congregation of Jehovah's Witnesses and Watchtower will be referred to collectively as "Watchtower."

8. At all times Defendants Makaha Kingdom Hall, Watchtower and Does 1 through 100 exercised a degree of responsibility or control over the Perpetrator's interactions with minor female congregants, including Plaintiff, in that at all times Defendants Makaha Kingdom Hall, Watchtower and Does 1 through 100 chose to confer upon Perpetrator the special status and authority of an Elder, and by choosing to cover-up Perpetrator's pedophilic attacks on minor female members of its congregation, rather than to protect its minor female congregants, including Plaintiff. Defendants Makaha Kingdom Hall, Watchtower and Does 1 through 100 decided to protect Perpetrator by failing to report Perpetrator to Child Protective Services and/or the Honolulu Police Department, by conducting an internal investigations under its own standards, by imposing minimal consequences for the commission of pedophilic attacks on minor females in the congregation, by shrouding Perpetrator's sexual abuse in confidentiality, by intimidating witnesses

into secrecy, and by forcing Plaintiff to practice her faith in the presence of the man who had sexually assaulted her on numerous occasions.

9. Upon information and belief, Defendant Kenneth L. Apana (“Perpetrator”) is an individual who, at all times relevant, was an Elder associated with, and supervised, directed and controlled by Defendants Makaha Kingdom Hall and Watchtower. While in his position of authority within Makaha Kingdom Hall and Watchtower, Perpetrator committed acts of child sexual abuse against N.D. alleged herein.

10. Defendants Does 1 through 100, inclusive, are individuals and/or businesses or corporate entities incorporated in and/or doing business in Hawaii whose true names and capacities are unknown to Plaintiff who therefore sues each defendant by such fictitious names, and who will amend the Complaint to show the true names and capacities of each such Defendant Doe when ascertained. Each such Defendant Doe is legally responsible in some manner for the events, happenings, and/or tortious and unlawful conduct that caused the injuries and damages alleged in this Complaint.

11. Each Defendant is the agent, servant, and/or employee of the other Defendants, and each Defendant was acting within the course and scope of his, her, or its authority as an agent, servant, and/or employee of the other Defendants. Defendants are individuals, corporations, partnerships, and other entities or associations which engaged in, joined in, and conspired with other wrongdoers in carrying out the tortious and unlawful activity described in this Complaint.

FACTUAL ALLEGATIONS APPLICABLE TO ALL COUNTS

12. The organizational structure of the Jehovah’s Witnesses is hierarchical in nature. The organizational head of the religion is Watchtower. Authority flows downward from Watchtower to the local level of the church, which is made up of Congregations.

13. Watchtower is the head of the Jehovah's Witness Hierarchical structure. Watchtower is directed by the Governing Body of Jehovah's Witnesses, a business or religious entity of unknown legal status (hereinafter the "Governing Body"), which is comprised of a fluctuating number of members. Watchtower exercises control of the organization and running of local congregations. Watchtower has published a series of handbooks that are distributed to Elders and are kept secret from other Jehovah's Witnesses and the public. These handbooks provide instructions to the Elders regarding the day-to-day administration of the religion such as the scheduling of congregation meetings, as well as more specific instructions regarding how to respond to allegations of wrongdoing, when to convene a judicial committee, and how to handle certain procedures.

14. Watchtower also provides periodic instructions to local Congregations through letters addressed to All Bodies of Elders. These letters have covered a broad spectrum of topics ranging from standardizing the recordkeeping practices of all Congregations, establishing procedures for ordering literature from Watchtower or remitting payments, to responding to complaints of childhood sexual abuse.

15. Watchtower researches, writes, approves, publishes and distributes its own materials for distribution to actual and prospective Jehovah's Witnesses and for recruitment purposes. Prior to 2001, Watchtower also reviewed and approved or rejected recommendations of prospective Elders of Ministerial Servants. Watchtower directly appoints Circuit and District Overseers.

16. After 2001, some of the responsibilities of Watchtower were assumed by Defendant Christian Congregation of Jehovah's Witnesses, including the appointment of Elders, the

nominating, appointing, supervising, and discipline of publishers, ministerial servants, pioneers, elders and circuit overseers. All claims relevant here occurred prior to 2001.

17. Watchtower also establishes processes for the discipline of members accused of wrongdoing, and receives and keeps records of determinations of disfellowship, or of reproof of individuals appointed by Watchtower as Ministerial Servants or Elders.

18. Above the local congregation level is the circuit. Circuits are generally comprised of 20 to 22 congregations, though this number is variable. Each circuit is staffed by a Circuit Overseer and/or a Substitute Circuit Overseer. Circuit Overseers are directly appointed by Watchtower. Circuit Overseers are sometimes referred to as Traveling Overseers because they travel from one congregation within their circuit to another. The Circuit Overseer generally visits each congregation within his circuit twice yearly. During the Circuit Overseer's visit to a congregation, the Circuit Overseer meets with the Elders of that congregation, conferences about the overall function of the congregation and problems occurring in that congregation generally, and specific issues of importance, such as allegations of child molestation by a congregant. The Circuit Overseers also participate in Field Service and observe the functioning of the congregations.

19. The Circuit Overseer meets with the Elders for the purpose of discussing the men in each congregation, and whether they meet the requirements for appointment as Ministerial Servants or Elders. Prior to 2001, the Circuit Overseer helped the Elders arrive at recommendations to Watchtower for appointments as Ministerial Servants and Elders in Congregations. Prior to 2001, the Circuit Overseer prepared a report of his time at each Congregation and submitted that to Watchtower. Watchtower has the ultimate authority as to whether a candidate is elevated to a Ministerial Servant.

20. At the local level members of the church are divided into congregations. Congregations are run on a daily basis by a Body of Elders. The number of Elders in a given congregation fluctuates depending on the size and needs of that particular congregation, as well as the number of qualified men in that congregation.

21. Elders are responsible for the daily operations and governance of the local church, in this case Makaha Kingdom Hall. The Elders are the highest authority at the congregational level and direct door-to-door preaching activities (e.g., city streets or airports) select potential candidates for becoming Ministerial Servants and Elders, organize weekly church meetings, determine whether an individual is suitable for representing the congregation and Watchtower in the community by becoming a Publisher, handle finances for the local congregation, and determine the guilt, repentance and punishment of congregation members who commit serious sins.

22. To be appointed as an Elder, a person must be a Ministerial Servant in good standing, or have served as an Elder in another congregation within the Jehovah's Witness organization. The Body of Elders of the local congregation, in concert with the Circuit Overseer, identifies potential candidates and determines whether they are suitable for an Elder, and, if they live their life in accordance with appropriate morals. Prior to 2001, once a candidate had been identified by the local authority, a recommendation was made to Watchtower, who had ultimate authority as to whether a candidate was approved and became an Elder.

23. Male baptized Publishers who meet certain requirements may be appointed as "Ministerial Servants." Ministerial Servants serve each of their congregations and aid the Elders in their responsibilities. To be appointed as a Ministerial Servant, a person must be a Publisher in good standing. The Body of Elders of the local church identifies potential candidates, and in concert with the Circuit Overseer, determines whether they are suitable, and if they live their life

in accordance with appropriate morals. Prior to 2001, once a candidate was identified by the local church, a recommendation was made to Watchtower, who had ultimate authority as to whether a candidate was approved and became a Ministerial Servant.

24. Membership in the Jehovah's Witness organization is strictly regulated and monitored. A person can attend open meetings at a congregation for years and not be a member of that congregation. When a person expresses interest in becoming a member of the Jehovah's Witness church, he or she begins a period of Bible Study with a Baptized member of the congregation. The aspirant also engages in self-study during this period of time. After months of study, a person may become an unbaptized publisher. To become an unbaptized publisher, the aspirant must make an application to the congregation's Body of Elders. Such a person must be approved by the Body of Elders, who will consider whether the aspirant exhibits sufficient knowledge of the beliefs and organization of the Jehovah's Witness church for approval as a publisher.

25. Once a person is approved as an unbaptized publisher, he or she is authorized to represent the Jehovah's Witness organization, Watchtower, and the specific congregation, in the community. An unbaptized publisher is authorized to engage in field service, which is the centerpiece of Jehovah's Witness marketing, fundraising, and recruiting activities. Field Service involves, but is not limited to, door-to-door ministry.

26. By participating in Field Service, an unbaptized publisher is authorized by his or her congregation and by Watchtower to distribute Jehovah's Witness literature within the community, to accept donations on behalf of the congregation and Watchtower, and to invite prospective members to attend open congregation meetings as a means of recruitment. The literature distributed during Field Service is written, printed, and published by Watchtower.

27. After several months of study, an unbaptized publisher may seek to become a baptized publisher. Baptism as a Jehovah's Witness is considered an ordination as a minister of the Jehovah's Witness organization. To be approved for baptism, an applicant must be tested and approved by Elders of the local congregation. During the testing, the applicant is asked a series of oral questions relating to the teachings of the Jehovah's Witness organization, as well as questions about the organizational structure of the Jehovah's Witness church, which the applicant must adequately answer prior to being approved for baptism.

28. As stated above, in order to become an Elder, one must have been a baptized publisher, then a Ministerial Servant. In addition to regulating all aspects of an Elder's participation in congregation events, Elders submit to the congregation and Watchtower's control in all other aspects of their lives. An Elder is subject to church discipline for any misdeeds that occurred in church or in the Elder's personal life.

29. Congregants are encouraged to bring problems to the Elders to be resolved rather than seek outside intervention. In practice, when a congregant makes an allegation of sexual abuse, policies of Jehovah's Witnesses and Watchtower require Elders to investigate such a claim. If there are two witnesses to the wrongdoing, or if the accused confesses his wrongdoing, a Judicial Committee within the congregation will be convened. Even in cases of child molestation, if there are not at least two eyewitnesses to the abuse and the accused denies the wrongdoing, then no action will be taken by the congregation, despite the fact that there are rarely eyewitnesses to sexual abuse.

30. If a Judicial Committee is convened, the two original Elders that investigated the wrongdoing will be joined by a third, who will hear the case and impose punishment on the wrongdoer. Possible punishment ranges from a private reproof to disfellowship. Private reproof

is a private censorship of the wrongdoer that generally results in a limitation of the wrongdoer's privileges to engage in Field Service for a short period of time. No announcement is made to the congregation when a wrongdoer is privately reprovved. Disfellowship is expulsion from the congregation. When a wrongdoer is disfellowshipped, an announcement is made to the congregation that the wrongdoer is no longer a Jehovah's Witness, but no details are given regarding the nature of the wrongdoing. A person who is disfellowshipped can seek reinstatement into the congregation by written request to the Elders.

31. In 1989, Watchtower sent a letter to all Bodies of Elders in the United States, instructing them that while many states have mandatory reporting laws, should an allegation of child abuse be made in a congregation, they were to contact Watchtower's legal department immediately.

SEXUAL ABUSE OF PLAINTIFF

32. Plaintiff was born on March 8, 1979. She was raised in a Jehovah's Witness family. From birth until adulthood, she was a member of the Makaha Kingdom Hall Congregation.

33. At the time of the sexual abuse alleged herein, Plaintiff and Perpetrator both belonged to Defendant Makaha Kingdom Hall and regularly attended Jehovah's Witness events and meetings as part of the Congregation.

34. Plaintiff is informed and believes and on that basis alleges that prior to the sexual abuse of Plaintiff, the Perpetrator had been appointed and confirmed as an Elder in the Makaha Kingdom Hall Congregation.

35. Plaintiff is informed and believes and on that basis alleges that Perpetrator was in charge of delegating all field research for Defendant Makaha Kingdom Hall.

36. Perpetrator enjoyed a position of status and authority within the Makaha Kingdom Hall Congregation. His position as church Elder conferred authority and trustworthiness which provided him with unquestioned access to Plaintiff.

37. In or about 1992, Perpetrator had a residence approximately two miles from Defendant Makaha Kingdom Hall.

38. During all relevant times herein, Plaintiff resided approximately one block away from Perpetrator's residence.

39. Perpetrator had a daughter that was of similar age to the Plaintiff. Plaintiff was friends with Perpetrator's daughter.

40. Plaintiff's parents permitted the Plaintiff to attend sleepovers at Perpetrator's home due to Perpetrator's elevated status as a church Elder in Makaha Kingdom Hall.

41. Plaintiff attended numerous sleepovers at the Perpetrator's home in 1992, when she was 12-13 years of age.

42. During these sleepovers, Perpetrator would enter the room in which Plaintiff was sleeping. He would slide his hands down her belly and place his hand on her vulva. This occurred multiple times. Perpetrator would insert his finger into the Plaintiff's vagina. This occurred numerous times.

43. In or about 1992, Plaintiff spent ten (10) days residing in the Perpetrator's home because the Plaintiff's mother was about to have a baby and Plaintiff had been exposed to chicken pox while staying at Perpetrator's home.

44. During this particular 10-day sleepover, Perpetrator committed criminal acts of sexual abuse against the Plaintiff every night, to include fondling the Plaintiff's vulva and digitally penetrating the Plaintiff's vagina.

45. Plaintiff is informed and believes and on that basis alleges that sexual abuse occurred approximately 30 times in or around 1992. To prevent further abuse, Plaintiff began to wrap herself tightly in blankets. In this way, Plaintiff believes that she may have successfully prevented additional acts of sexual abuse on several occasions.

46. Plaintiff is informed and believes and on that basis alleges that in approximately 1991 or 1992, before Plaintiff disclosed her abuse, N.M, a parent and female member of Makaha Kingdom Hall, reported to church officials at Makaha Kingdom Hall that her minor daughter L.M. had been sexually abused by Perpetrator during sleepovers at Perpetrator's home. This resulted in an internal inquiry which was done by Makaha Kingdom Hall.

47. L.M. reported Perpetrator's sexual abuse in the internal investigation performed by Makaha Kingdom Hall. Parent N.M. further reported that the Perpetrator was sexually abusing his own biological daughters.

48. Defendants refused to accept L.M.'s account of the abuse, and told N.M. and L.M. that the Jehovah's Witness Church rules required two witnesses in order to substantiate a claim of sexual abuse.

49. As part of the internal process, the Perpetrator confessed to Makaha Kingdom Hall Elders that he had sexually abused L.M.

50. Due to the sexual abuse of L.M., Perpetrator was "reproved" by the Defendants, meaning that he had been disciplined by the local church.

51. Plaintiff is informed and believes and on that basis alleges that the Perpetrator's "reproval" was a "silent reproval" meaning that no announcement was made to the congregation and Plaintiff's parents, therefore, were unaware that a punishment had been imposed.

52. After Plaintiff had suffered multiple attacks of sexual abuse, Plaintiff's mother contacted Parent N.M., because she knew that L.M. and Perpetrator's daughter were friends. N.M. told Plaintiff's mother that she could not discuss the situation because Makaha Kingdom Hall Elders had told her to keep the matter "confidential."

53. Plaintiff's mother then met one of Perpetrator's daughters and confronted her. Perpetrator's daughter also disclosed sexual abuse to her by her father, i.e., Perpetrator, and stated that it had been occurring for three years.

54. Armed with this information from Perpetrator's daughter, Plaintiff's mother called Parent N.M. again. This time Parent N.M. admitted that L.M. had been the victim of sexual abuse by Perpetrator and revealed that L.M.'s abuse had been reported to Makaha Kingdom Hall in 1991 or 1992 by Parent N.M. and L.M.

55. After learning that the Perpetrator's daughters and L.M. were both victims of sexual abuse by Perpetrator, Plaintiff's mother then confronted Plaintiff, who disclosed that Perpetrator had sexually abused her repeatedly.

56. After learning of Plaintiff's sexual abuse, Plaintiff was not permitted to attend sleepovers at Perpetrator's home.

57. Plaintiff's sexual abuse was reported to Defendant Makaha Kingdom Hall, who convened a Judicial Committee regarding the Perpetrator's sexual molestation of Plaintiff.

58. Plaintiff is informed and believes and on that basis alleges that Defendant Makaha Kingdom Hall was again told that the Perpetrator was sexually abusing his own daughter.

59. During the Judicial Committee meeting, Perpetrator admitted that he had sexually abused Plaintiff.

60. Following the Judicial Committee meeting, Perpetrator was disfellowshipped from Makaha Kingdom Hall for approximately a one-year period.

61. Defendant Makaha Kingdom Hall Elders told Plaintiff that the Church would not support her if she reported Perpetrator's conduct to local law enforcement.

62. Following the period of disfellowship, Perpetrator was required to apologize to Plaintiff, and thereafter Perpetrator was permitted to return to the Makaha Kingdom Hall church.

63. Thereafter, Plaintiff and Perpetrator attended the same church services.

64. After Perpetrator was reinstated at Makaha Kingdom Hall, two Elders from the Church conducted a "sheparding call" at Plaintiff's grandmother's house. This occurred three to six months after Plaintiff had disclosed Perpetrator's sexual abuse.

65. During this "sheparding call" Elders met with Plaintiff and members of her family and attempted to dissuade Plaintiff from reporting the sexual abuse to local law enforcement and encouraged her to "move on."

66. In or about 1991 and 1992, the Perpetrator repeatedly committed the crimes of Sexual Assault in the First Degree in violation of Section 707-730, and Sexual Assault in the Third Degree in violation of Section 707-732, H.R.S. against Plaintiff.

67. Due to the hierarchy of the Jehovah's Witness Church, and the Jehovah's Witness Church's role in her life and community, and the intimidation imposed in "sheparding call" and threats to remove her from the church, Plaintiff did not tell others about Perpetrator's sexual abuse or report Perpetrator's sexual abuse to CPS or HPD, nor did she immediately seek medical treatment or counseling.

**FIRST CLAIM FOR RELIEF
SEXUAL ASSAULT/AIDING & ABETTING SEXUAL ASSAULT**

68. Plaintiff re-alleges and incorporates all paragraphs of this Complaint as though fully alleged herein.

69. In or about 1992, Perpetrator victimized Plaintiff, a minor, by committing numerous criminal acts of sexual abuse against a minor.

70. Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 aided and abetted in Perpetrator's numerous acts of sexual abuse of a minor against Plaintiff via his status as an agent of the Church. The trust, respect, and authority engendered by Perpetrator's position as Church Elder aided and abetted Perpetrator's sexual abuse of Plaintiff.

71. Perpetrator was aided in the commission of numerous acts of sexual abuse of a minor against Plaintiff via the protection accorded him by Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100. The decisions by Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 to decline to report Perpetrator to CPS and HPD, to conduct confidential internal investigations into Perpetrator's pedophilic assaults of minor female congregants, to provide minimal consequences as a result of its investigations, and to intimidate witnesses into secrecy, aided and abetted Perpetrator's sexual abuse of Plaintiff.

72. Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100's acts and omissions were intentional, willful, wanton, oppressive, and malicious, and reflected a callous disregard of and a callous indifference to the rights and safety of Plaintiff.

73. As a direct and proximate result of Defendants' wrongful conduct, actions, inactions, and/or failures, Plaintiff has suffered and will continue to suffer pain and suffering, mental anguish, emotional distress, loss of quality of life, loss of enjoyment of life, temporary and/or partial impairment and/or disability, emotional disfigurement and/or scarring, loss of

income, economic loss, medical expenses, and other expenses, and is therefore entitled to recover special, general, and/or punitive damages in such amounts as to be shown a trial or hearing hereof.

**SECOND CLAIM FOR RELIEF
GROSS NEGLIGENCE**

74. Plaintiff re-alleges and incorporates all paragraphs of this Complaint as though fully alleged herein.

75. At all relevant times, Perpetrator held a position of authority as an agent of Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 in his role as an Elder within the Jehovah's Witness church.

76. At all relevant times, the Church had adopted a duty to protect Plaintiff from the foreseeable risk of harm of sexual abuse when it:

- (a) conferred upon Perpetrator the special status of "Elder";
- (b) learned of Perpetrator's pedophilic attacks on minor female members of its congregation;
- (c) failed to transmit reports of Perpetrator's pedophilic attacks on minor female members of its congregation to Child Protective Services and/or to the Honolulu Police Department;
- (d) conducted an internal investigation under its own investigation standards;
- (e) required only a "silent reproof" for the commission of Class A and Class C felonies;
- (f) kept the results of its internal investigation confidential;
- (g) protected Perpetrator from consequences by the criminal and civil justice systems;
- (h) instructed the members of its congregation not to reveal any information regarding Perpetrator or his pedophilic attacks on minor female congregants;
- (i) reinstated Perpetrator in the congregation;
- (j) forced Plaintiff to practice her faith in the presence of the man who had sexually assaulted her on numerous occasions, and;
- (k) dissuaded members of the congregation, including Plaintiff, from reporting Perpetrator for pedophilic attacks on minor female congregants.

77. At all relevant times, the Church owed a duty of care to Plaintiff to protect her from foreseeable risks of harm because the Church had entered a special relationship with Perpetrator as it provided him with the title, responsibilities and authority of a church Elder, a position which

caused the parents of minor female children in the congregation to view Perpetrator as a person of authority and trustworthiness, and shielded him from investigations by CPS and HPD. The special status and protection which the Church accorded Perpetrator facilitated Perpetrator's pedophilic attacks on Plaintiff.

78. At all relevant times, the Church owed a duty of care to Plaintiff because the Church undertook an investigation and adjudication of Perpetrator's pedophilic attacks on minor female congregants. The Church knew or should have known that an investigation by CPS and/or HPD and prosecution by the Office of the Prosecuting Attorney ("OPA") would reduce the risk of physical harm to its minor female congregants, including Plaintiff. The Church breached its duty to Plaintiff, because the Church's investigation and adjudication in fact created a safe harbor for Perpetrator to continue his pedophilic attacks on minor female congregants, including Plaintiff. The Church's investigation and adjudication:

- (a) shielded Perpetrator from investigation, arrest, prosecution, and consequences in the criminal justice system;
- (b) hid from the congregation the facts of Perpetrator's pedophilia, and;
- (c) silenced the members of the congregation who knew of Perpetrator's pedophilic attacks on minor female congregation members,

and thus increased the risk of harm to its minor female congregants beyond that which existed without the investigation and adjudication.

79. By attempting to dissuade Plaintiff from reporting Perpetrator's sexual abuse to law enforcement, Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 created a circumstance in which Plaintiff was far less likely to receive medical/mental health care and treatment, thus exacerbating the harm to Plaintiff.

80. Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 breached the above-listed duties of care in a manner that was intentional, willful, wanton, oppressive,

malicious, or grossly negligent and which reflect a callous disregard of and a callous indifference to the rights and safety of Plaintiff. Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100's acts and omissions have caused and continue to cause Plaintiff pain, suffering, mental anguish, emotional distress, loss of quality of life, loss of enjoyment of life, temporary and/or partial impairment and/or disability, emotional disfigurement and/or scarring, loss of income, economic loss, medical expenses, and other expenses and are therefore liable in special, general and punitive damages.

**THIRD CLAIM FOR RELIEF
HINDERING PROSECUTION**

81. At all relevant times, Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 had a duty to follow the law of the State of Hawaii, to wit, to avoid committing the offense of Hindering Prosecution in the First Degree, a violation of Section 710-1029, H.R.S. and Hindering Prosecution in the Second Degree, a violation of Section 710-1030, H.R.S.

82. Starting in about 1991 and thereafter Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 collectively committed, and aided and abetted in committing the offenses of Hindering Prosecution in the First Degree, a violation of Section 710-1029, H.R.S. and Hindering Prosecution in the Second Degree, a violation of Section 710-1030, H.R.S. by preventing or obstructing by means of intimidation, anyone from performing an act that might aid in the discovery, apprehension, prosecution or conviction of such person and by rendering assistance to Perpetrator in the cover-up of his crimes.

83. Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100's breach of the law was gross and egregious, reflecting a callous disregard of and a callous indifference to the rights and safety of Plaintiff.

84. As a direct and proximate result of Defendants' intentional and knowing commission of Hindering Prosecution in the First Degree and/or Hindering Prosecution in the Second Degree, an intentional and knowing breach of aforesaid duties, Plaintiff has suffered and will continue to suffer pain and suffering, mental anguish, emotional distress, loss of quality of life, loss of enjoyment of life, temporary and/or partial impairment and/or disability, emotional disfigurement and/or scarring, loss of income, economic loss, medical expenses, and other expenses, and is therefore entitled to recover special, general, and punitive damages.

**FOURTH CLAIM FOR RELIEF
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

85. Plaintiff re-alleges and incorporates all paragraphs of this Complaint as though fully alleged herein.

86. Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 were aware of the Perpetrator's commission of acts of sexual abuse against minor females, and yet intentionally chose to protect Perpetrator, not its minor female members of its congregation. Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 did so by declining to contact CPS and HPD with reports of sexual abuse against minor females in the congregation, by choosing instead to conduct an internal investigation under its own standards, by imposing minimal consequences for the commission of Class A and Class C felonies, by choosing not to warn of Perpetrator's pedophilic attacks on minor female members of the congregation, by failing to restrict Perpetrator's activities within the Church, by discouraging victims and witnesses from reporting Perpetrator's sexual abuse, by imposing requirements of confidentiality amongst victims and witnesses, by intimidating Plaintiff and her family from reporting Perpetrator's sexual abuse, and by forcing Plaintiff to practice her faith in the presence of the man who had sexually abused her on multiple occasions. These acts and omissions by Defendants Makaha Kingdom Hall,

Watchtower, and Does 1 through 100 in fact promoted the commission of sexual offenses against minor females, including Plaintiff, and proximately caused further acts of sexual abuse by Perpetrator. These acts and omissions by Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 were outrageous and caused extreme emotional distress to Plaintiff.

87. After being allowed back to the Makaha Kingdom Hall Church by the Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100, the Perpetrator would sit directly in front of Plaintiff during church services causing her additional distress. These actions and inactions by Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 were outrageous, and caused extreme emotional distress to Plaintiff.

88. Accordingly, the Defendants' acts and omissions, as aforesaid, were intentional, willful, wanton, oppressive, and malicious, and reflected a callous disregard of and a callous indifference to the rights and safety of Plaintiff.

89. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has suffered and will continue to suffer pain and suffering, mental anguish, emotional distress, loss of quality of life, loss of enjoyment of life, temporary and/or partial impairment and/or disability, emotional disfigurement and/or scarring, loss of income, economic loss, medical expenses, and other expenses, and are therefore entitled to recover special, general, and punitive damages in such amounts as shall be shown at a trial or hearing hereof.

FIFTH CLAIM FOR RELIEF
GROSSLY NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

90. Plaintiff re-alleges and incorporates all paragraphs of this Complaint as though fully alleged herein.

91. Defendants' wrongful conduct constitutes gross negligence infliction of emotional distress.

92. Defendants' wrongful conduct described herein was grossly negligent and done for the purpose of causing or with substantial certainty that Plaintiff would suffer humiliation, mental anguish, and emotional and physical distress. Accordingly, the Defendants' acts and omissions, as aforesaid, were intentional, willful, wanton, oppressive, and malicious, and reflected a callous disregard of and a callous indifference to the rights and safety of Plaintiff.

93. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has suffered and will continue to suffer pain and suffering, mental anguish, emotional distress, loss of quality of life, loss of enjoyment of life, temporary and/or partial impairment and/or disability, emotional disfigurement and/or scarring, loss of income, economic loss, medical expenses, and other expenses, and are therefore entitled to recover special, general, and punitive damages in such amounts as shall be shown at a trial.

**SIXTH CLAIM FOR RELIEF
GROSS NEGLIGENCE SUPERVISION OF PERPETRATOR**

94. Plaintiff re-alleges and incorporates all paragraphs of this Complaint as though fully alleged herein.

95. At all relevant times, Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 owed a duty of care to Plaintiff to exercise reasonable care in connection with the training, monitoring, and supervision of Jehovah's Witness Elders, including the Perpetrator, and the protection of Plaintiff.

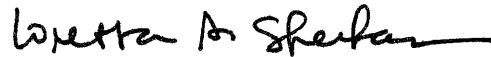
96. The Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 breached the aforesaid duties by their failure to exercise reasonable care to train, monitor, and supervise the Perpetrator.

97. At all relevant times, the Defendants Makaha Kingdom Hall, Watchtower, and Does 1 through 100 knew that the Perpetrator was having sexual contact with minors. Accordingly, the Defendants' acts and omissions, as aforesaid, were intentional, willful, wanton, oppressive, and malicious, and reflected a callous disregard of and a callous indifference to the rights and safety of Plaintiff.

98. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff has suffered and will continue to suffer pain and suffering, mental anguish, emotional distress, loss of quality of life, loss of enjoyment of life, temporary and/or partial impairment and/or disability, emotional disfigurement and/or scarring, loss of income, economic loss, medical expenses, and other expenses, and are therefore entitled to recover special, general, and/or punitive damages in such amounts as shall be shown at a trial or hearing hereof.

WHEREFORE, Plaintiff prays for judgement in her favor and against Defendants, jointly and severally, for special, general, economic, pecuniary, compensatory, consequential, and/or punitive damages, together with costs of suit, reasonable attorneys' fees, pre-and post-judgment interest, and any other relief deemed just and equitable by the Court.

Dated: Honolulu, Hawaii, March 10, 2020.



MARK S. DAVIS
LORETTA A. SHEEHAN
MATTHEW WINTER

JAMES S. ROGERS
HEATHER M. COVER
MICHELLE HYER
(PRO HAC VICE PENDING)
Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

N.D.,

Plaintiff,

vs.

MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES, a Hawaii non-profit unincorporated religious organization, a.k.a. MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES and KINGDOM HALL, MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES; WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., a New York corporation; CHRISTIAN CONGREGATION OF JEHOVAH'S WITNESSES, a New York non-profit corporation; KENNETH L. APANA, individually; and Does 1 through 100, inclusive,

Defendants.

CIVIL NO.

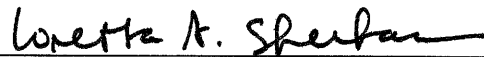
(Other Non-Vehicle Tort)

DEMAND FOR JURY TRIAL

DEMAND FOR JURY TRIAL



Plaintiff hereby demands a trial by jury on all issues triable of right by jury in this case pursuant to Rule 38 of the Hawaii Rules of Civil Procedure.

Dated: Honolulu, Hawaii, March 10, 2020.



MARK S. DAVIS
LORETTA A. SHEEHAN
MATTHEW WINTER

LAW OFFICES OF JAMES S. ROGERS
JAMES S. ROGERS
HEATHER M. COVER
MICHELLE HYER
(PRO HAC VICE PENDING)

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT	CASE NUMBER CIV. NO.
PLAINTIFF N.D.	VS.	DEFENDANT(S) MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES, a Hawaii non-profit unincorporated religious organization, a.k.a. MAKAHA CONGREGATION OF JEHOVA'S WITNESSES and KINGDOM HALL, MAKAHA CONGREGATION OF JEHOVA'S WITNESSES; WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., et al.
PLAINTIFF'S NAME & ADDRESS, TEL. NO. N.D. c/o MARK S. DAVIS (1442) DAVIS LEVIN LIVINGSTON 851 FORT STREET, SUITE 400 HONOLULU, HI 96813 808 524-7500		
<p>TO THE ABOVE-NAMED DEFENDANT(S)</p> <p>You are hereby summoned and required to file with the court and serve upon</p> <p>MARK S. DAVIS, DAVIS LEVIN LIVINGSTON 851 FORT STREET, SUITE 400, HONOLULU, HI 96813 808 524-7500</p> <hr/> <p>plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.</p> <p>THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.</p> <p>A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.</p>		
The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: http://www.courts.state.hi.us	Effective Date of 28-Oct-2019 Signed by: /s/ Patsy Nakamoto Clerk, 1st Circuit, State of Hawaii'i <div style="text-align: right;">  </div>	
<div style="display: flex; align-items: center;">  <p>In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on OAHU- Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402, at least ten (10) working days prior to your hearing or appointment date.</p> </div>		