

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

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IVY HILL CONGREGATION OF  
JEHOVAH’S WITNESSES,

Petitioner,

No. 316 MD 2020

v.

COMMONWEALTH OF PENNSYLVANIA,  
DEPARTMENT OF HUMAN SERVICES,

Respondent.

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**PETITIONER’S APPLICATION FOR  
CASE MANAGEMENT ORDER**

Petitioner Ivy Hill Congregation of Jehovah’s Witnesses hereby submits this Application for Case Management Order, and in support thereof, avers as follows:

**I. BACKGROUND**

1. The Petition for Review before the Court seeks declaratory relief on two discrete matters: (1) whether the elders of the Ivy Hill Congregation of Jehovah’s witnesses can assert the clergymen’s privilege incorporated into the Child Protective Services Law, and, if not, (2) whether the statutory codification of the clergymen’s privilege is unconstitutional in part.

2. These questions were put before the Court by Ivy Hill in an application for summary relief.

3. By Order dated June 17, 2021, the Court denied the application.

4. In the accompanying Memorandum Opinion, the Court explained its rationale for denying the application, stating in relevant part as follows: “There is no evidentiary record at this junction concerning matters such as the doctrine and organization of Petitioner or Jehovah’s Witnesses upon which to make” a determination whether the elders fall within the statutory clergymen’s privilege. *See* Memorandum Opinion at 22-23.

5. With this matter now past the initial stages, the case will proceed to discovery.

## **II. ARGUMENT**

6. As a preliminary matter, Ivy Hill objects to the Court’s holding that matters concerning the beliefs of Ivy Hill, its elders, its members, and Jehovah’s Witnesses are subject to discovery at all. A religion’s interpretation of its doctrine and ecclesiastical text—including pronouncements concerning the role of clergy in the faith—are treated

as “binding fact, so long as those decisions are not tainted by fraud or collusion.” *Askew v. Trustees of Gen. Assembly of Church of the Lord Jesus Christ of the Apostolic Faith Inc.*, 684 F.3d 413, 418 (3d Cir. 2012); *see also Presbytery of Beaver–Butler v. Middlesex*, 489 A.2d 1317, 1320 (Pa. 1985) (“When Caesar enters the Temple to decide what the Temple believes, he can leave behind only his own views.”); *Zernosky v. Kluchinsky*, 122 A. 262, 263 (Pa. 1923) (“The rules of a church organization constitute the law for its government[.]”); *Henderson v. Hunter*, 59 Pa. 335, 343 (1868) (“The rule in the civil court is that the churches are left to speak for themselves in matters of discipline and doctrine[.]”). This objection is raised here to preserve it for further appeal, if necessary.

7. Without waiver of the foregoing objection, Ivy Hill submits that the fact issues noted by the Court can be resolved quickly.

8. Specifically, the only material relevant to the disposition of this matter identified in the Memorandum Opinion is exclusively in Ivy Hill’s possession or control.

9. Ivy Hill is ready to quickly produce the same to Respondent in an effort to rapidly resolve the pending dispute; a dispute, as noted in

the Memorandum Opinion, that has *present and ongoing* impacts on Ivy Hill, its elders, and its members. *See* Memorandum Opinion at 13-14 (describing Petitioner's basis for standing).

10. Thus, Ivy Hill believes a case management order, consistent with the proposed order attached hereto, with an abbreviated discovery schedule is warranted in this matter, and it respectfully urges the Court to adopt the same.

11. As required by Pa.R.A.P. 3707, before filing this Application with the Court, Petitioner conferred with counsel for Respondent via email. Through counsel, Respondent has advised that it does not concur with the relief sought.

WHEREFORE, Petitioner Ivy Hill respectfully requests that the Court grant this Application and enter the proposed case management order attached hereto.

Respectfully submitted,

Dated: June 25, 2021

/s/ Joshua J. Voss  
Matthew H. Haverstick (No. 85072)  
Mark E. Seiberling (No. 91256)  
Joshua J. Voss (No. 306853)  
Shohin H. Vance (No. 323551)  
KLEINBARD LLC  
Three Logan Square  
1717 Arch Street, 5<sup>th</sup> Floor  
Philadelphia, PA 19103  
Ph: (215) 568-2000  
Fax: (215) 568-0140  
Eml: [mhaverstick@kleinbard.com](mailto:mhaverstick@kleinbard.com)  
[mseiberling@kleinbard.com](mailto:mseiberling@kleinbard.com)  
[jvoss@kleinbard.com](mailto:jvoss@kleinbard.com)  
[svance@kleinbard.com](mailto:svance@kleinbard.com)

*Attorneys for Petitioner Ivy Hill  
Congregation of Jehovah's Witnesses*

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**CASE MANAGEMENT ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2021, upon consideration of Petitioner's Application for Case Management Order, and any response thereto, it is hereby ORDERED that the Application is GRANTED. It is further ORDERED as follows:

1. All discovery in the above matter shall be completed not later than August 31, 2021.
2. Petitioner shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial to Respondent not later than August 31, 2021.
3. Respondent shall identify and submit curriculum vitae and expert reports of all expert witnesses intended to testify at trial not later than September 14, 2021.
4. All motions, other than motions *in limine*, shall be filed not later than September 28, 2021.
5. A pre-trial conference will be scheduled any time after the Court resolves pre-trial motions. Fourteen days prior to the pre-trial

conference, all counsel shall serve all opposing counsel and file a pre-trial memorandum containing the following:

- a. A concise summary of the nature of the case if Petitioner or the defense if Respondent;
  - b. A list of all witnesses who may be called to testify at trial by name and address. Counsel should expect witnesses not listed to be precluded from testifying at trial;
  - c. A list of all exhibits the party intends to offer into evidence. All exhibits shall be pre-numbered and shall be exchanged among counsel prior to the conference. Counsel should expect any exhibit not listed to be precluded at trial; and
  - d. Each counsel shall provide an estimate of the anticipated length of trial.
6. Upon the Court's disposition of all pre-trial matters, the Court shall immediately schedule this matter for trial. All motions *in limine* shall be filed not later than seven days before the trial date.

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, J.