

OF COUNSEL:
DAVIS LEVIN LIVINGSTON

MARK S. DAVIS 1442
LORETTA A. SHEEHAN 4160
MATTHEW C. WINTER 8464
851 Fort Street, Suite 400
Honolulu, HI 96813
Telephone: (808) 524-7500
Facsimile: (808) 356-0418
Email: mwinter@davislevin.com

Electronically Filed
FIRST CIRCUIT
1CCV-20-0000390
18-NOV-2021
03:37 PM
Dkt. 242 MTCD

LAW OFFICES OF JAMES S. ROGERS
JAMES S. ROGERS 5335 *[Pro Hac Vice]*
HEATHER M. COVER 52146 *[Pro Hac Vice]*
1500 Fourth Avenue, Suite 500
Seattle, WA 98101
Telephone: (206) 621-8525
Facsimile: (206) 223-8224
Email: jsr@jsrogerslaw.com
Email: heather@jsrogerslaw.com

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;
KENNETH L. APANA, Individually; and Does
1 through 100, inclusive,

Defendants.

CIVIL NO. 1CCV-20-0000390
(Non-Motor Vehicle Tort)

[REDACTED]
**PLAINTIFF'S MOTION TO COMPEL
DOCUMENTS FROM DEFENDANTS
WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC. AND
MAKAHA, HAWAII CONGREGATION
OF JEHOVAH'S WITNESSES., a.k.a.
MAKAHA CONGREGATION OF
JEHOVAH'S WITNESSES AND
KINGDOM HALL, MAKAHA**

Hearing:

DATE: January 7, 2022

TIME: 8:30 a.m.

JUDGE: Honorable Dean E. Ochiai

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; and WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC., a New York corporation,

Crossclaimants,

vs.

KENNETH L. APANA, Individually,

Crossclaim Defendant.

**JEHOVAH'S WITNESSES';
MEMORANDUM IN SUPPORT OF
MOTION; DECLARATION OF
MATTHEW C. WINTER; EXHIBITS 1-
11; NOTICE OF REMOTE HEARING
and CERTIFICATE OF SERVICE**

Trial Date: June 20, 2022

**PLAINTIFF'S MOTION TO COMPEL DOCUMENTS FROM DEFENDANTS
WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. AND
MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES., a.k.a.
MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES AND KINGDOM HALL,
MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES'**

Plaintiff N.D. moves for an order compelling Defendant 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 and Defendant Watchtower Bible and Tract Society of New York, Inc. to produce unredacted versions of the documents (MAKAHA 000001-11 REV and WTNV-C000004-C00009 and WTNV-C000012) produced by them in response to Plaintiff's First Requests for Production of Documents on the grounds that the redacted information is not protected by the claimed clergy privilege.

This Motion is made pursuant to Rules 7 and 34 of the Hawai'i Rules of Civil Procedure and Rule 7 of the Circuit Court Rules of the State of Hawai'i. It is supported by all legal authorities provided in the attached Memorandum, Declaration of Matthew Winter with exhibits thereto, and the records and files herein.

DATED: Honolulu, Hawai'i, November 18, 2021.

/s/ Matthew C. Winter

MARK S. DAVIS

LORETTA A. SHEEHAN

MATTHEW C. WINTER

JAMES S. ROGERS

HEATHER M. COVER

Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

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;
KENNETH L. APANA, Individually; and Does
1 through 100, inclusive,

Defendants.

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; and
WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC., a New York
corporation,

Crossclaimants,

vs.

KENNETH L. APANA, Individually,

Crossclaim Defendant.

CIVIL NO. 1CCV-20-0000390
(Non-Motor Vehicle Tort)

**MEMORANDUM IN SUPPORT OF
MOTION**

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

Defendants Watchtower Bible and Tract Society of New York, Inc. (“Watchtower”) and Makaha, Hawaii Congregation of Jehovah’s Witnesses (“Makaha”) are attempting to shield highly relevant information contained in internal documents, investigations and statements regarding Defendant Apana’s (a church elder) sexual abuse of minors by claiming that such evidence falls under the “communication to clergy” privilege, HRE 506.

The information sought by Plaintiff is not the product of a confidential communication to a clergy member, but rather Makaha’s (as well as another local congregation’s) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. All of these documents are relevant to Plaintiff’s claims against Defendants. Defendants’ attempts to block production of this highly relevant information should be denied and these documents should be immediately produced without redaction based on clergy privilege.²

As argued below, none of the documents at issue contain statements made in the course of giving Apana spiritual guidance as is required for Defendants to rely on the privilege. Rather,

[REDACTED]

[REDACTED]

¹ CCJW was initially named as a defendant but was dismissed pursuant to the parties’ stipulation.
² The Court could also Order Defendants to produce unredacted versions of these documents for in camera review should it be necessary for a ruling.

CCJW – as opposed to police and/or local authorities. For the reasons contained herein, Plaintiff asks that the motion to compel unredacted copies of the requested documents be granted.

II. STATEMENT OF FACTS RELEVANT TO THIS MOTION

A. Apana’s Sexual Abuse of Makaha’s Minor Members

In 1992 Kenneth Apana repeatedly sexually molested Plaintiff when she was 12 to 13 years old. *See* Plaintiff’s Complaint. At the time, Apana was an Elder, a high-ranking church member of the Makaha Kingdom Hall Congregation in Waianae, Hawaii and approved and appointed by Defendant Watchtower. *See Id.* at ¶2. [REDACTED]

[REDACTED] *See* Matthew Winter Declaration (“Winter Decl.”), Exs. 1 & 2.

[REDACTED]

[REDACTED]

[REDACTED]

B. Defendants’ Responses to Plaintiff’s Discovery Requests

Defendant Makaha produced documents in response to Plaintiff’s First Requests for Production of Documents. Many of these documents were redacted in their entirety, from top to bottom of each page and no privilege log pertaining to the redactions was produced. When challenged by Plaintiff, Makaha removed some of the redactions but claimed the communication to clergy privilege as to the remaining redactions and stating that pursuant to Rule 506 of the Hawai’i Rules of Evidence, “Mr. Apana has the exclusive ability to waive his privilege in confidential communications, and not [Makaha’s].” *Id.*, ¶9 & Ex. 6.

On September 7, 2021, more than a year after it was served with Plaintiff’s First Requests for Production, Defendant Watchtower produced its first supplemental documents. These

documents were only produced after Plaintiff had subpoenaed documents from another Jehovah's Witness church attended by Apana. Included in these supplemental documents [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Exs. 7-9.

Defendants Watchtower and Makaha's assertions of clergy privilege are incorrect. As discussed below, the redacted information and communications at issue are not protected by privilege because they 1) were not made privately; 2) were always expected to be disseminated further; and 3) were not made by a parishioner to a clergy member for the purpose of seeking or receiving spiritual advice, but rather were part of an adversarial, investigative procedure. These communications [REDACTED]

[REDACTED]

[REDACTED]

C. Conferral Prior to Filing Motion

In compliance with Rule 37(a)(2) of the Hawai'i Rules of Civil Procedure Plaintiff's counsel has made good faith efforts in attempting to resolve these discovery issues without the Court's assistance. Plaintiff's Counsel conferred with defense counsel via telephone on November 8, 2021. However, the parties were not able to resolve the matter. *Id.*, ¶16.

III. STATEMENT OF THE ISSUE

Whether Defendant Watchtower should be compelled to produce copies of documents bates numbered WTNY-C000004-C000009 and WTNY-C000012 unredacted by claims of clergy privilege and whether Defendant Makaha should be compelled to produce copies of documents bates numbered MAKAHA 000001-000011 REV also unredacted by claims of clergy privilege.

IV. EVIDENCE RELIED UPON

This Motion is based on the record and pleadings on file herein and the Declaration of Matthew Winter with exhibits attached thereto.

V. ARGUMENT AND AUTHORITY

Rule 506 of the Hawai'i Rules of Evidence provides:

Rule 506. Communications to clergy

(a) Definitions. As used in this rule:

- (1) A "member of the clergy" is a minister, priest, rabbi, Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed so to be by the communicant.
- (2) A communication is "confidential" if made privately and not intended for further disclosure except to other persons present in furtherance of the purpose of the communication.

(b) General rule of privilege. A person has a privilege to refuse to disclose and to prevent another from disclosing a confidential communication by the person to a member of the clergy in the latter's professional character as spiritual advisor.

(c) Who may claim the privilege. The privilege may be claimed by the communicant or by the communicant's guardian, conservator, or personal representative. The member of the clergy may claim the privilege on behalf of the communicant. Authority so to do is presumed in the absence of evidence to the contrary.

Hawai'i Rule of Evidence 506.

The proper application of a codified privilege requires that the claimant—in this case Makaha and Watchtower—have the burden of establishing that the privilege is proper. *See, DiCenzo v. Izawa*, 68 Haw. 528, 536, 723 P.2d 171, 175-76 (1986), *citing Sapp v. Wong*, 62 Haw. 34, 609 P.2d 137 (1980) (addressing assertion of attorney-client privilege). “An *ipse dixit* claim of privilege” clearly does not suffice. 62 Haw. at 38.

THE COMMUNICATIONS AT ISSUE ARE NOT PRIVILEGED

A. The Communications Were Not Made Privately

Initially, there can be no clergy privilege here as the subject communications were not made privately. Instead, the communications were [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The redacted information and documents at issue are related to [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Defendants' arguments have been made and rejected before. *Charissa W., et al. v. Watchtower Bible and Tract Society of New York, et al.*, No. 26-22191 (Cal. Napa Co. Super. Ct. Sept. 29, 2005). *Id.*, **Ex. 11**. The *Charissa* court granted plaintiff's motion to compel production of documents stating that the penitential communication privilege "does not apply to communications between the alleged abusers and the Judicial Committee" (writ denied). The trial court added: "The evidence presented by both sides established that communications with the Judicial Committee do not fall within the scope of the privilege." *Id.* at *2.

The Court should make a similar determination here.

B. The Subject Communications Specifically Contemplate Further Disclosure

In order to qualify as a privileged statement, the communications must not be disseminated to third parties. Here, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Defendants' attempt to invoke the clergy privilege mirrors those that were rejected by the *Charissa* court. "[T]he privilege does not apply because the Judicial Committee was under no duty to keep the communications private. In fact, evidence establishes that the Judicial Committee was required to communicate information it obtained regarding potential cases of child molestation to the Watchtower Society Headquarters." *Id.* at *2

In *Conti v. Watchtower Bible & Tract Society of New York, Inc.*, 235 Cal.App.4th 1214, 186 Cal.Rptr.3d 26 (2015), Watchtower's claims of privilege were also addressed by the court. There, the court also recognized the limitations on an entity claiming clergy privilege where the

communications are subject to further disclosure. The *Conti* court recognized the fundamental importance of the clergy privilege, but also found this privilege did not apply to communications if they were shared with others or made with the expectation they would be disclosed beyond the protected relationship. (*Id.* at 1229–1230)(accord *Lopez v. Watchtower Bible and Tract Society of New York, Inc.*, 246 Cal.App.4th 566 (2017)).⁴ Here, [REDACTED]

C. The Statements Were Not Made In Furtherance Of The Purpose Of The Communication – To Receive Clergy Guidance

On the face of the rule, the confidentiality referred to must necessarily flow from the maker of the statement to the clergy member. Here, however, even the redacted records clearly refer to communications [REDACTED]

[REDACTED]. Instead, Defendants appear to be asserting the communications to clergy privilege over communications [REDACTED]

⁴ Following *Lopez*, the court in *Padron v. Watchtower Bible and Tract Society of New York, Inc.*, 16 Cal.App.5th 1246, 225 Cal.Rptr.3d 81 (2017), granted plaintiff’s motion for sanctions against Watchtower - \$2,000 per day for every day Watchtower did not produce responsive documents and \$2,000 per day for every day Watchtower did not search for responsive documents. The *Padron* court specifically upheld the lower court’s ruling: “The Court finds that the information sought in Request No. 12 (aka ‘Molestation Files’) is directly relevant to Plaintiff’s claims as alleged in this action. Further, Defendant failed to establish that the clergy-penitent privilege is applicable to each responsive document, and if the privilege did apply that it was not vitiated once the information was shared and/or communicated to others. (*Roman Catholic Archbishop of Los Angeles v. Superior Court* (2005) 131 Cal.App.4th 417, 444-445 [32 Cal.Rptr.3d 209].)” *Padron*, 16 Cal.App.5th at 1253-54.

[REDACTED]

In any event, these arguments have been rejected by another court. In *McFarland v. W. Congregation of Jehovah's Witnesses, Lorain, OH, Inc.*, 2016-Ohio-5462, ¶¶ 25-27, 60 N.E.3d 39 (9th Dist.), the court addressed nearly identical facts. A plaintiff alleged that she was sexually assaulted by member of the Jehovah's Witness Church. She sued for negligence against both the local and nations Jehovah's Witness entities. *Id.* The court held that a letter *from* the local congregation *to* the service department was not protected by clergy privilege because the letter was sent for a secular purpose, not a spiritual one. *Id.* The court further found that letters sent from the service department to the local congregation were not protected by a clergy privilege. *Id.* ¶¶ 30, 31, 35-38. [REDACTED]

[REDACTED]

Hearing and rejecting a similar argument, the Supreme Court of Pennsylvania held, “[T]o the extent the requested documents reflect relevant disciplinary action, **investigations of**

misconduct, substance abuse treatment and/or non-confessional admissions of misconduct by Reverend Heineman, they are discoverable.” *Com. v. Stewart*, 547 Pa. 277, 290, 690 A.2d 195, 93 A.L.R.5th 741 (1997) (emphasis added). The court there further stated:

We, therefore, hold that the application of the privilege distills to a single inquiry whether the communicant disclosed information in confidence to a member of the clergy in his or her capacity as a confessor or spiritual advisor. Accordingly, confidential communications to a member of the clergy, even for counseling or solace, do not fall within the protections of the privilege unless motivated by spiritual or penitential considerations.

Id.

This was not a situation [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

VI. CONCLUSION

The Court should not reward Defendants for their inappropriate attempts to shield discoverable information. Simply put, Defendants cannot meet their burden of establishing that the asserted privilege applies. Even employing a broad reading of the rule, the communications at issue do not fall within the protections of the clergy privilege. Accordingly, Plaintiff respectfully requests that the Court issue an order compelling Defendant Watchtower to produce documents bates numbered WTNY-C000004-C00009 and WTNY-C000012 without any redactions based on clergy privilege and compelling Defendant Makaha to produce the

documents bates numbered MAKAHA #000001-000011 REV without any redactions based on clergy privilege.

DATED: Honolulu, Hawai'i, November 18, 2021.

/s/ Matthew C. Winter
MARK S. DAVIS
LORETTA A. SHEEHAN
MATTHEW C. WINTER
JAMES S. ROGERS
HEATHER M. COVER
Attorneys for Plaintiff

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

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;
KENNETH L. APANA, Individually; and Does
1 through 100, inclusive,

Defendants.

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; and
WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC., a New York
corporation,

Crossclaimants,

vs.

KENNETH L. APANA, Individually,

Crossclaim Defendant.

CIVIL NO. 1CCV-20-0000390
(Non-Motor Vehicle Tort)

**DECLARATION OF MATTHEW C.
WINTER**

DECLARATION OF MATTHEW C. WINTER

I, MATTHEW C. WINTER, do hereby declare and state under penalty of perjury that the following facts are true and correct:

1. I am an attorney at law licensed to practice in Hawaii and am one of the attorneys for Plaintiff in the above case.

2. Defendant produced documents entitled [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. Attached hereto as **Exhibit 1** is a true and correct copy of Makaha Kingdom Hall's redacted [REDACTED] (MAKAHA 00001-2 REV) produced in discovery by Makaha Kingdom Hall.

4. Attached hereto as **Exhibit 2** are true and correct copies of redacted handwritten notes of Makaha Kingdom Hall's [REDACTED] [REDACTED] MAKAHA 00005-9 REV.

5. Attached hereto as **Exhibit 3** is a true and correct copy of Makaha Kingdom Hall's redacted [REDACTED] (MAKAHA 000010 REV) produced in discovery by Makaha Kingdom Hall.

6. Attached hereto as **Exhibit 4** is a true and correct copy of [REDACTED] [REDACTED] (MAKAHA 000011 REV). This document was produced with redactions.

7. [REDACTED]

[REDACTED]

[REDACTED]

8. Attached hereto as **Exhibit 5** is a true and correct copy of Makaha Kingdom Hall's redacted [REDACTED] [REDACTED] (MAKAHA 00003-4 REV).

9. Most of these documents at issue (MAKAHA 000001-11 REV) were redacted in their entirety, from top to bottom of each page and no privilege log pertaining to the redactions was produced when they were initially produced. When challenged by Plaintiff, Makaha Kingdom Hall removed some of the redactions but claimed the clergy privilege as to the remaining redactions stating that pursuant to Rule 506 of the Hawaii Rules of Evidence, “Mr. Apana has the exclusive ability to waive his privilege in confidential communications, and not [Makaha Kingdom Hall’s].” Attached hereto as **Exhibit 6** is a true and correct copy of an excerpts from Defendants’ counsel’s letter dated December 7, 2020.

10. Watchtower was served with Plaintiff’s first requests for production in June 2020. More than a year after it was served with Plaintiff’s discovery requests, on September 7, 2021, Watchtower produced additional documents responsive to Plaintiff’s requests for production (WTNY-C000001-13). These documents were not identified in Watchtower’s privilege log served with its initial documents and it is unknown to the undersigned why these documents had been withheld. Attached hereto as **Exhibit 7** is a true and correct copy of [REDACTED]

[REDACTED] This document was produced with redactions by Watchtower and bears bates numbers of WTNY-C000004-6.

11. Attached hereto as **Exhibit 8** is a true and correct copy of [REDACTED]

[REDACTED] These documents were produced with redactions by Watchtower and bear bates numbers of WTNY-C000007-9.

12. Attached hereto as **Exhibit 9** is a true and correct copy of a [REDACTED]

[REDACTED] This document was produced with redactions by Watchtower and bears a bate number of WTNYS-C000012.

13. Attached hereto as **Exhibit 10** is a true and correct copy of excerpts (pp. 19, 22, 35) from the transcript of deposition of Philip N. Main taken in this matter on May 26, 2021.

14. Attached hereto as **Exhibit 11** is a true and correct copy of a court order issued in *Charissa W., et al. v. Watchtower Bible and Tract Society of New York, et al.*, Cal. Napa Co. Super. Ct. No. 26-22191, dated September 29, 2005.

15. In compliance with Rule 37(a)(2) of the Hawai'i Rules of Civil Procedure Plaintiff's counsel has made good faith efforts in attempting to resolve these discovery issues without the Court's assistance in writing and through a meet and confer telephonic conference held on November 8, 2021.

I declare under penalty of perjury that the foregoing statements are true and correct.

Executed in Honolulu, Hawai'i, on November 18, 2021.

/s/ Matthew C. Winter
MATTHEW C. WINTER

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;
KENNETH L. APANA, Individually; and Does
1 through 100, inclusive,

Defendants.

CIVIL NO. 1CCV-20-0000390
(Non-Motor Vehicle Tort)

**NOTICE OF REMOTE HEARING and
CERTIFICATE OF SERVICE**

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; and
WATCHTOWER BIBLE AND TRACT
SOCIETY OF NEW YORK, INC., a New York
corporation,

Crossclaimants,

vs.

KENNETH L. APANA, Individually,

Crossclaim Defendant.

NOTICE OF REMOTE HEARING

TO: WILLIAM S. HUNT, ESQ.
JENNY J.N.A. NAKAMOTO, ESQ.
Dentons US LLP
1001 Bishop Street, Suite 1800
Honolulu, Hawaii 96813

and

JOEL M. TAYLOR (*Pro Hac Vice*)
1000 Watchtower Drive
Patterson, New York 12563

Attorneys for Defendants/Crossclaimants
MAKAHA CONGREGATION OF JEHOVAH'S
WITNESSES, HAWAII; and WATCHTOWER BIBLE
AND TRACT SOCIETY OF NEW YORK, INC.

KENNETH APANA
P. O. Box 331
Kailua-Kona, HI 96745

Defendant

NOTICE IS HEREBY GIVEN that *PLAINTIFF'S MOTION TO COMPEL DOCUMENTS FROM DEFENDANTS WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. AND MAKAHA, HAWAII CONGREGATION OF JEHOVAH'S WITNESSES., a.k.a. MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES AND KINGDOM HALL, MAKAHA CONGREGATION OF JEHOVAH'S WITNESSES'* shall come on for hearing before the Honorable Dean E. Ochiai, Judge of the above-entitled court, via ZOOM video conferencing on January 7, 2022 at 8:30 a.m., or as soon thereafter as the matter can be heard.

If you fail to appear at the hearing, the relief requested may be granted without further notice to you.

All parties are directed to appear at least **10 minutes** prior to the scheduled start time. The Zoom meeting ID is: **895 888 6479**. No password is required.

Self-represented parties unable to appear by video may call **888-788- 0099 (U.S. toll free) or 646 558-8656** to participate by telephone. You must enter the above noted Zoom meeting ID when prompted. You must also notify the assigned judge’s chambers that you intend to participate by telephone at least 48 hours before the hearing and you must provide the court with the telephone number that you will be using to dial-in for the hearing.

Attorneys and self-represented parties must enter a user name that sets forth their full name, otherwise you will not be admitted into the hearing. Attorneys must also include the suffix “Esq.”

All attorneys and parties shall dress appropriately for the hearing. Recording court proceedings is strictly prohibited unless permission is granted by the court. The court may impose sanctions for failure to comply with this notice.

DATED: Honolulu, Hawai‘i. November 18, 2021.

/s/ Matthew C. Winter
MARK S. DAVIS
LORETTA A. SHEEHAN
MATTHEW C. WINTER
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, on the date below, a true and correct copy of the foregoing document was duly served on the following persons electronically through the Judiciary Electronic Filing and Service System (JEFS):

WILLIAM S. HUNT, ESQ.
JENNY NAKAMOTO, ESQ.

bill.hunt@dentons.com
jenny.nakamoto@dentons.com

and

JOEL M. TAYLOR (Pro Hac Vice)
1000 Watchtower Drive
Patterson, New York 12563

Email: jmtaylor@jw.org

Attorneys for Defendants/Crossclaimants
MAKAHA CONGREGATION OF JEHOVAH'S
WITNESSES, HAWAII; and WATCHTOWER BIBLE
AND TRACT SOCIETY OF NEW YORK, INC.

I further certify that, on the date below, a true and correct copy of the foregoing document was duly served on the following person by depositing same in the U.S. Mail, postage prepaid, addressed as follows:

KENNETH APANA
P. O. Box 331
Kailua-Kona, HI 96745

Pro Se Defendant/Crossclaim Defendant

DATED: Honolulu, Hawai'i. November 18, 2021.

/s/ Matthew C. Winter
MARK S. DAVIS
LORETTA A. SHEEHAN
MATTHEW C. WINTER
Attorneys for Plaintiff