

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

- - -

STEPHANIE FESSLER, : SEPTEMBER TERM, 2013

Plaintiff, :

VS. :

WATCHTOWER BIBLE AND :  
TRACT SOCIETY OF NEW :  
YORK, INC., CHRISTIAN :  
CONGREGATION OF :  
JEHOVAH'S WITNESSES, :  
INC., SPRING GROVE :  
CONGREGATION OF :  
JEHOVAH'S WITNESSES, AND :  
TERRY JEANNE MONHEIM, :  
Defendants. :

NO. 1293

- - -

JURY TRIAL

DAY ONE

A.M. SESSION

- - -

FEBRUARY 7, 2017  
COURTROOM 432, CITY HALL  
PHILADELPHIA, PENNSYLVANIA

- - -

BEFORE: THE HONORABLE MARY D. COLINS, J. AND A  
JURY.

- - -

## Reported By:

Cynthia Touni, RMR, CRR  
Official Court Reporter  
(215) 683-8014

- - -

## APPEARANCES:

SOLOFF & ZERVANOS, P.C.

BY:

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AND

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AND

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WATCHTOWER BIBLE AND TRACT SOCIETY OF  
NEW YORK, INC., CHRISTIAN  
CONGREGATION OF JEHOVAH'S WITNESSES,  
INC.

## APPEARANCES CONTINUED:

CONRAD O'BRIEN, P.C.  
BY,  
JUDSON A. AARON, ESQUIRE  
SCOTT M. VERNICK, ESQUIRE  
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PHILADELPHIA, PA 19102  
COUNSEL FOR THE DEFENDANT, SPRING  
GROVE CONGREGATION OF JEHOVAH'S  
WITNESSES

MOTIONS IN LIMINE

1  
2 THE COURT: We'll proceed now to the  
3 motions.

4 Control number 17011073. This is  
5 defendant's omnibus motion. We will start  
6 with the first issue raised on that motion.

7 The first issue raised on that motion  
8 is the issue of the testimony of the contents  
9 of a card and whether or not it should be  
10 admitted into evidence.

11 The defendant can proceed on that.

12 MR. AARON: Thank you, Your Honor.  
13 Good morning. Jud Aaron for Spring Grove  
14 Congregation. I'll be arguing collectively,  
15 but I hope Your Honor doesn't mind if various  
16 of the lawyers might argue certain of these  
17 motions.

18 THE COURT: Pull that microphone  
19 closer to you.

20 MR. AARON: Certainly.

21 I hope the Court doesn't mind if  
22 various of the lawyers argue certain of these  
23 motions.

24 THE COURT: Yes. I want you to be  
25 prompt on these.

MOTIONS IN LIMINE

1  
2 MR. AARON: Absolutely.

3 THE COURT: I want you to hit the  
4 issue, summarize it and I'll ask plaintiff  
5 for a response and I'll issue my decision.

6 MR. AARON: I'll be very quick on  
7 this one.

8 No one disputes that 17 years ago in  
9 2004, Jodee Fessler, the plaintiff's mother,  
10 found a card that was written by the  
11 plaintiff to Terry Seipp, now Terry Monheim.  
12 The card will not be at trial, because it's  
13 been lost for years.

14 There will be testimony that the card  
15 is what prompted the mother to then have --  
16 to speak to her daughter and have her  
17 daughter meet with the Spring Grove elders  
18 and mental health counselor.

19 We believe the card should be  
20 admitted for a non hearsay purpose that the  
21 effect that the card had on Jodee Fessler,  
22 the mother, that prompted her to go speak  
23 with the elders.

24 THE COURT: You think it should be  
25 admitted?

MOTIONS IN LIMINE

1  
2 MR. AARON: It should be admitted --

3 THE COURT: On the issue of notice.

4 MR. AARON: Only on the issue of  
5 notice; not for its truth. This card hasn't  
6 been around for years. It's really, you  
7 know, we believe it's in the Court's  
8 discretion to allow it only in for its notice  
9 value.

10 Thank you, Your Honor.

11 THE COURT: Notice that what?

12 MR. AARON: Notice to the mother that  
13 there was a relationship as a result of which  
14 she then sent her daughter to speak to the  
15 elders and speak with a psychologist.

16 THE COURT: Thank you.

17 Response.

18 MR. FRITZ: There's another --

19 THE COURT: Your name, sir?

20 MR. FRITZ: I'm sorry. Jeff Fritz  
21 for the plaintiff.

22 There's another purpose in that. And  
23 that would be the mental and emotional state  
24 of the person who made the statements in the  
25 card. And under 803 --

MOTIONS IN LIMINE

1  
2 THE COURT: That would be the  
3 plaintiff?

4 MR. FRITZ: Correct. And she's here  
5 to testify, obviously.

6 THE COURT: And she's here to testify  
7 as to the contents of the card?

8 MR. FRITZ: Correct.

9 THE COURT: As to what was said in  
10 the card?

11 MR. FRITZ: Right.

12 I don't think that the issue is that  
13 they're seeking to not have it be admitted.

14 THE COURT: Well, there's no card to  
15 admit.

16 MR. FRITZ: Correct. But the  
17 statement is in the card.

18 THE COURT: Who was the card sent to?

19 MR. FRITZ: It was never sent. It  
20 was the feelings and emotional state of the  
21 plaintiff, Stephanie Fessler, to defendant,  
22 Terry Seipp, Terry Monheim. And it was found  
23 by the mother and it goes to those two  
24 issues, notice and the existing mental state  
25 of the plaintiff.

MOTIONS IN LIMINE

1  
2 THE COURT: Why is the card -- why is  
3 it necessary for the plaintiff's emotional  
4 state to come in via testimony about the  
5 contents of the card?

6 MR. FRITZ: I don't know that it is  
7 necessary, because she can -- she's here to  
8 testify about what her emotional state was.  
9 But it certainly is relevant to the issue of  
10 notice.

11 THE COURT: It's relevant to the  
12 issue of the mother's motivation to speak to  
13 the elders.

14 Is that what you're saying?

15 MR. FRITZ: Correct. Yes.

16 THE COURT: All right. I'm going to  
17 rule that the card is admissible. The  
18 existence of the card, the fact that the  
19 mother of the plaintiff read the card and  
20 that gave rise to her to notify the elders.  
21 As to the contents of the card, I do think  
22 it's relevant because it goes to notice as  
23 well. It goes to the issue of why the notice  
24 was -- would have been triggered as is the  
25 basis of the plaintiff's claim. So I'm going





MOTIONS IN LIMINE

1  
2 to these specific congregations or are they  
3 country wide?

4 MR. AARON: Plaintiff has not told  
5 us, Your Honor. In fact, in that regard, we  
6 would ask for an offer of proof because we've  
7 not been told. But there certainly is an  
8 allegation, I believe, in the Amended  
9 Complaint and the various pleadings that  
10 they'll try to -- plaintiff will try to bring  
11 this kind of evidence in, but we don't know  
12 specifically what the evidence is.

13 THE COURT: All right. This issue  
14 has come up a few times. So there's been a  
15 request for an offer of proof. Let's try to  
16 nail this down. Let's be more specific.

17 MR. FRITZ: Sure.

18 So, first, the issue is it's relevant  
19 on notice and relevant on punitive damages.  
20 But for the offer of proof, to address what  
21 you're saying, amongst other things, there's  
22 a witness.

23 That we have identified, Martin  
24 Haugh, who is within the same circuit  
25 assembly five, who is --

MOTIONS IN LIMINE

1  
2 THE COURT: Is that Pennsylvania?

3 MR. FRITZ: Yes.

4 Circuit assembly five, who is  
5 familiar with other -- admittedly not the  
6 same congregation, but within the same  
7 circuit, who, number one, his daughter was  
8 abused within the Kingdom Hall. And he's  
9 aware of other instances.

10 He's an elder, former elder. He's  
11 aware of other instances of abuse and whether  
12 or not that was reported by the -- that  
13 particular Kingdom and the elders.

14 THE COURT: Is the allegation that  
15 the other instances were reported and,  
16 therefore, the defendants had notice of the  
17 requirement to report or is the allegation  
18 that there was no reporting?

19 MR. FRITZ: It's that there was no  
20 report and this is --

21 THE COURT: Then how is that relevant  
22 to the issue of notice?

23 MR. FRITZ: Well, first of all --

24 THE COURT: It might be relevant to  
25 the issue of punitive damages.

MOTIONS IN LIMINE

1  
2 MR. FRITZ: Sure. So there's notice  
3 to the headquarters, the Watchtower  
4 headquarters of instances of abuse.

5 THE COURT: Right.

6 MR. FRITZ: That this man will come  
7 in and say, hey, I was told do not report  
8 this to the police or to authorities.

9 So that's what I'm saying. It's both  
10 notice and the fact that there are  
11 instructions given to elders and circuit  
12 overseers not to report abuse.

13 THE COURT: This is testimony that  
14 will be offered by an individual named Martin  
15 Haugh?

16 MR. FRITZ: Haugh, H-A-U-G-H.

17 THE COURT: Will he testify as to who  
18 told him this?

19 MR. FRITZ: Well, it's firsthand. He  
20 has contacted Watchtower headquarters.

21 Now, I want to make something clear.  
22 This is an individual that I spoke with  
23 yesterday for the first time. I didn't know  
24 about him before. He contacted me as a  
25 result of finding out about this lawsuit.

MOTIONS IN LIMINE

1  
2 MR. AARON: Your Honor, if I can hand  
3 up this letter to the Court, this is the  
4 letter that we received from Mr. Fritz about  
5 12 hours before the start of the trial. I  
6 can only describe this as a bombshell. It's  
7 a bombshell witness, this Mr. Haugh. I don't  
8 even know who he is. Frankly at, you know,  
9 late last night we were trying to get to  
10 sleep.

11 I don't know who this gentleman is.  
12 It was never mentioned. It was never  
13 mentioned during discovery. No one has  
14 deposed this gentleman. We have no idea what  
15 he's going to say.

16 This is exactly -- first of all, his  
17 testimony regarding other incidents is  
18 irrelevant for the reasons that we've argued  
19 in our other motions. But in additionally --  
20 in addition, this late disclosure violates  
21 the pretrial order specifically.

22 The pretrial order said at trial all  
23 parties should be limited to those witnesses  
24 identified by name and address on that  
25 party's pretrial memorandum. And he was not

MOTIONS IN LIMINE

1  
2 listed on the pretrial memorandum. Except  
3 for good cause shown. We believe they cannot  
4 show good cause.

5 This case has been around for three  
6 years. They haven't identified him. And we  
7 have a case, which I'm glad to hand up, Adams  
8 versus Rossi, which we found sometime after  
9 midnight, I think, which addresses this very  
10 issue in which a plaintiff came forward with  
11 a surprise witness ten days before trial, not  
12 even 12 hours before trial. And the Lehigh  
13 County Court of Common Pleas ruled that in a  
14 case like this, that witness absolutely  
15 should be precluded from testifying.

16 So this goes a little far afield of  
17 maybe the general argument about evidence of  
18 other lawsuits, but certainly, this  
19 particular witness, Mr. Haugh or Hawk,  
20 however his name is pronounced, should be  
21 precluded. This is a surprise witness. This  
22 isn't supposed to be trial by ambush, Your  
23 Honor.

24 THE COURT: How did you find out  
25 about this?

MOTIONS IN LIMINE

1  
2 MR. FRITZ: This gentleman contacted  
3 me by e-mail on Friday when we were picking  
4 the jury. I spoke with him briefly.

5 I said, can I meet with you? He came  
6 into my office yesterday and he told me what  
7 he knew.

8 He could certainly -- and to be  
9 clear, he's not the only witness who could  
10 speak to any prior information that the  
11 defendants are aware of regarding child  
12 sexual abuse. There are witnesses who we  
13 have identified who have knowledge about  
14 claims or reports of child sexual abuse.

15 This is also newly discovered  
16 information. I didn't know about this three,  
17 you know, three weeks ago, three years ago,  
18 whatever they're claiming. I learned about  
19 it --

20 MR. AARON: We're not claiming  
21 anything.

22 MR. FRITZ: Well --

23 THE COURT: Don't interrupt.

24 MR. FRITZ: The argument -- the  
25 argument is that I somehow knew about this

MOTIONS IN LIMINE

1  
2 witness and held him back. The minute I  
3 talked to him, I identified what he would be  
4 called for.

5 On top of that, any impeachment or  
6 rebuttal evidence, I don't have an obligation  
7 to identify them under Rules of Court as  
8 well. So if --

9 THE COURT: I'm going to grant the  
10 motion and not allow this witness to testify  
11 as on direct examination other than for  
12 purposes of punitive damages, if we get to  
13 that stage.

14 And, in addition, I will allow this  
15 witness to testify if, in fact, it's an  
16 appropriate witness for impeachment purposes.  
17 If it's relevant to impeachment, that's  
18 another story.

19 MR. AARON: Your Honor --

20 THE COURT: So we'll have to see what  
21 happens throughout the trial.

22 Understood?

23 MR. FRITZ: Yes.

24 MR. AARON: Can I ask, Your Honor, if  
25 this witness is allowed to testify, and I



MOTIONS IN LIMINE

1  
2 understand we don't know right now whether he  
3 would be, we would like an opportunity to  
4 depose this witness. We have never been  
5 given an opportunity to depose him.

6 THE COURT: An impeachment witness?

7 MR. AARON: It's not an impeachment  
8 witness; it's a punitive established --

9 THE COURT: I just ruled they can  
10 only use him to impeach.

11 MR. AARON: Oh, I thought you said on  
12 punitives as well.

13 On punitives we should be able to  
14 depose this witness.

15 THE COURT: I agree with that. I  
16 agree with that.

17 So as the trial progresses, if we get  
18 to the punitive damage stage, there will be  
19 an opportunity for a deposition of the  
20 witness.

21 MR. AARON: Thank you, Your Honor.

22 Your Honor, just for clarification, I  
23 understand the ruling on Mr. Haugh. What's  
24 the Court's ruling on the motion to preclude  
25 generally evidence of other lawsuits,

MOTIONS IN LIMINE

1  
2 settlements and allegations? Is the Court's  
3 ruling that that might be relative to  
4 punitive damages only?

5 THE COURT: I don't know yet. I  
6 don't know what the evidence is. I can't --  
7 I'm not going to rule. I'll wait and see as  
8 we go through the trial. I have to hear what  
9 exactly they're offering. All right?

10 Number three. Evidence related to  
11 the purported rocks incident.

12 You're withdrawing that by agreement;  
13 correct?

14 MR. AARON: By agreement.

15 THE COURT: Number four, Detective  
16 Lisa Layden to preclude her testimony that a  
17 mandatory reporter under the Pennsylvania  
18 Child Protective Services Law should report  
19 to law enforcement information of kissing.

20 Correct?

21 MR. AARON: Yes, Your Honor. My  
22 young colleague, Scott Vernick, who has  
23 worked hard and would love to do something in  
24 this trial, can he argue this, Your Honor?

25 THE COURT: Go on.

MOTIONS IN LIMINE

1  
2 MR. AARON: Thank you, Your Honor.

3 MR. VERNICK: Thank you, Your Honor.  
4 Good morning. As Jud said, I'm Scott  
5 Vernick.

6 Your Honor, just very briefly. The  
7 defense opposition -- the plaintiff's  
8 opposition here conflates the issue. So this  
9 motion we are looking to preclude the  
10 irrelevant personal opinion of Detective  
11 Layden.

12 Before the Court is not her  
13 qualification as an expert, but rather simply  
14 that her personal opinion, whether she's an  
15 expert or not, is irrelevant to this case and  
16 misleading.

17 THE COURT: Is she an expert?

18 MR. VERNICK: They have identified  
19 her as an expert, but we have not received a  
20 report.

21 THE COURT: Okay.

22 MR. VERNICK: She was deposed in the  
23 case as a fact witness.

24 THE COURT: Go on.

25 MR. VERNICK: During her deposition,

MOTIONS IN LIMINE

1  
2 Your Honor, very clearly, as clear as day,  
3 Detective Layden stated kissing in and of  
4 itself is not a violation of the Child  
5 Protective Services Law, CPS Law.

6 THE COURT: She can testify to that?

7 MR. VERNICK: She can testify to  
8 that. I can quote her deposition.

9 THE COURT: But she can't testify as  
10 to the other party; right?

11 MR. VERNICK: Correct.

12 So she has stated unequivocally that  
13 kissing in and of itself is not a violation.  
14 But then when pushed on the issue by  
15 plaintiff's counsel, she said, well, should  
16 they violate, I mean should a mandatory  
17 reporter report kissing, she said, in my  
18 personal opinion, yes.

19 Her personal opinion is clearly  
20 irrelevant and highly prejudicial, especially  
21 if she is qualified as an expert at that  
22 time. It misleads the jury to understand her  
23 personal opinion as her expert opinion.

24 THE COURT: Okay.

25 MR. FRITZ: This is not her personal

MOTIONS IN LIMINE

1  
2 opinion. She's worked in law enforcement for  
3 20 years. She's trained in the Child  
4 Protective Services Law and she conducts  
5 child abuse investigations within her region  
6 in York County, southwestern region of the  
7 police department.

8 So the question, to which counsel's  
9 referring, defense is referring, which she  
10 testified to, in fact, was that kissing was  
11 not a violation of the Sex Crimes Code, not  
12 the Child Protective Services Law.

13 So the simple issue of whether a  
14 member of clergy who gets information  
15 regarding kissing between a 14-year old,  
16 intimate kissing, and a 49 or 51-year old,  
17 she is qualified, has, you know, explained  
18 the basis for her opinion for why a mandatory  
19 report should be made under that statute.

20 They're trying to take one question  
21 out of context on that.

22 The only other suggestion I would  
23 make is when the witness is here, if there's  
24 more information that the Court needs  
25 regarding the opinion --

MOTIONS IN LIMINE

1 THE COURT: Is she an expert?

2 MR. FRITZ: Yes.

3 THE COURT: Okay. And so is there --  
4 I'm sure your argument is that they can't  
5 comply with the rules regarding expert -- an  
6 expert witness, offering an expert witness?  
7 Is that your argument?

8 MR. VERNICK: At this point we're not  
9 arguing her expert qualifications. What we  
10 are arguing, Your Honor, is that in her  
11 deposition testimony she said they should  
12 report kissing. And then qualifies it, yeah,  
13 I think they should. Yeah, and, again, you  
14 know, you're asking me my opinion. That's --

15 THE COURT: I'm going to deny your  
16 motion. Thank you.

17 MR. VERNICK: Thank you, Your Honor.

18 THE COURT: Number five, evidence  
19 related to the 2011 search warrant or the  
20 ensuing motion to quash the search warrant.

21 MR. AARON: I think that's -- is that  
22 your motion?

23 MR. FRITZ: No, that's yours.

24 THE COURT: It's part of the omnibus  
25

MOTIONS IN LIMINE

1  
2 motion.

3 MR. FRITZ: If you want to withdraw  
4 it ...

5 MR. AARON: No, no.

6 THE COURT: So your position is that  
7 the evidence of a motion to quash that was  
8 raised by the defendant to the search warrant  
9 in a criminal case back in 2011 would only be  
10 relevant if the case fell to the issue of  
11 punitive damages; is that correct?

12 MR. AARON: No. No, that's not our  
13 position.

14 Our position is it's not relevant on  
15 either -- at all. And the reason is a search  
16 warrant was served. The defendants went to a  
17 court. They followed the legal procedure.  
18 They went to the Court of Common Pleas of  
19 York County. They moved to quash.

20 At that point, and I think this  
21 evidence is undisputed, the York County  
22 D.A.'s Office abandoned the search warrant  
23 and that was the end of it.

24 If they're allowed to put in evidence  
25 that we followed legal procedure and went to





MOTIONS IN LIMINE

1  
2 criminal case? Is this first time that that  
3 became -- that the light shone upon that?

4 MR. AARON: It's certainly the first  
5 time that the plaintiff went to the police  
6 and recorded it. No question about that.

7 Whether -- it's the first time she  
8 went to the police. And so Detective Layden,  
9 who we've already discussed, drafted a search  
10 warrant, affidavit of probable cause and took  
11 it to the Spring Grove Congregation.

12 Spring Grove Congregation naturally  
13 sent it up to their legal counsel. They're  
14 not lawyers. They don't have an in-house  
15 lawyer. But they sent it up to the lawyer at  
16 Watchtower.

17 And a motion to quash the search  
18 warrant was filed in the York County Court of  
19 Common Pleas. York County D.A.'s Office  
20 filed no response and abandoned the search  
21 warrant.

22 And the documents that the police  
23 were seeking, which were documents that were  
24 within the York -- the Spring Grove  
25 Congregation were, in fact, produced in

MOTIONS IN LIMINE

1  
2 discovery.

3 In fact, Detective Layden testified  
4 at her deposition that those documents  
5 wouldn't have been helpful to her in her  
6 investigation. In fact, Terry Monheim, the  
7 perpetrator, was prosecuted and went to jail.

8 But we don't even have to get that  
9 far with it. They followed the proper legal  
10 process.

11 THE COURT: Was there -- after the  
12 motion to quash was filed by the defendant to  
13 the criminal case, was there ever a reporting  
14 pursuant to the mandatory reporting statute  
15 by the defendant?

16 MR. AARON: Well, not at that point,  
17 because there was a criminal prosecution and  
18 it was over. Terry Monheim was prosecuted  
19 shortly thereafter and convicted.

20 THE COURT: So then --

21 MR. AARON: It was in the hands -- it  
22 was reported and in the hands of the police.  
23 It was in the hands of the police.

24 I think we're just on treacherous  
25 ground if we allow the plaintiff to argue

MOTIONS IN LIMINE

1  
2 that where we have followed legal process,  
3 we're trying to conceal or coverup or  
4 something.

5 THE COURT: No, I understand the  
6 issue.

7 Sir?

8 MR. FRITZ: Part of our theory, it's  
9 no secret, is that this organization conceals  
10 abuse of children, sexual abuse of children.

11 Detective Layden -- and to be clear,  
12 this is not any opinion of hers; this is just  
13 what happened. She tried to get information  
14 to investigate this crime from Eric Hoffman  
15 of the Spring Grove Congregation. His answer  
16 was, oh, we don't keep it here. We shipped  
17 it to New York, to the headquarters. And  
18 I'll try and go get it for you.

19 And then a subpoena was issued and it  
20 was in New York, outside of the subpoena  
21 power of a subpoena or search warrant power  
22 in Pennsylvania.

23 So the fact that the criminal  
24 defendant, Terry Seipp, ultimately was  
25 convicted is irrelevant to the issue here.

MOTIONS IN LIMINE

1  
2 And the issue is this is relevant information  
3 to -- that the defendants take certain steps  
4 to conceal child sexual abuse within its  
5 organization.

6 THE COURT: Well, at this point, the  
7 concealment was over. At this point there  
8 was notice; right?

9 MR. FRITZ: Yes.

10 THE COURT: There was notice.

11 MR. FRITZ: And to Your Honor's  
12 question --

13 THE COURT: The question is is the  
14 fact that the defendant, following the rules  
15 of criminal procedure, is that permissible to  
16 cast an adverse -- to present as adverse  
17 information.

18 MR. FRITZ: Well, when they take the  
19 local records of a congregation and ship them  
20 out of a jurisdiction so that the police in  
21 Pennsylvania can't look further into it to  
22 determine if there's a Child Protective  
23 Services Law violation, either civilly or  
24 criminally, that goes to exactly what this  
25 case about.

MOTIONS IN LIMINE

1  
2 MR. AARON: Your Honor, they sent the  
3 records to their lawyer. Their lawyer  
4 happens to be in New York. That's where  
5 their lawyer is.

6 When my client sends me documents and  
7 he's an out-of-town or out-of-state client  
8 who sends documents to me and there's a  
9 subpoena issued, is that an obstruction of  
10 justice?

11 Spring Grove Congregation doesn't  
12 have in-house counsel. Their lawyer is in  
13 New York. They shipped the documents to the  
14 lawyer and the lawyer acting on that then,  
15 you know, there was a motion to quash. I'm  
16 sure with the advice of their legal counsel.

17 THE COURT: I'm going to grant the  
18 motion. I'm going to grant the motion, but  
19 on the issue of whether or not this is  
20 relevant to punitive damages, I'm going to  
21 withhold my ruling on that for the time  
22 being.

23 MR. AARON: Thank you, Your Honor.

24 THE COURT: And, actually, what I'm  
25 going to request of both of you, both sides,

MOTIONS IN LIMINE

1  
2 is specifically some law on that issue as to  
3 whether or not it is relevant to punitive  
4 damages. All right?

5 MR. AARON: Thank you.

6 MR. FRITZ: Thank you.

7 THE COURT: Number six. Testimony  
8 from Deborah Bauer of statements made to her  
9 by the plaintiff being admitted into evidence  
10 for their truth, requesting a limiting  
11 instruction pursuant to the rule.

12 Yes.

13 MR. VERNICK: Good morning, Your  
14 Honor. I won't belabor the point here.

15 Our comment to Rule 703 is very  
16 simple. It's very straightforward. Where an  
17 expert report relies on inadmissible  
18 evidence, a limiting instruction is allowed.

19 We're asking for a limiting  
20 instruction close in time to prevent any  
21 inflammatory or other prejudicial information  
22 taken the wrong way by the jury.

23 THE COURT: Go ahead.

24 MR. FRITZ: Your Honor, we believe  
25 that it would be duplicative and

MOTIONS IN LIMINE

1  
2 unnecessarily essentially frame the issue to  
3 give an additional instruction.

4 There's an instruction under the  
5 standard civil jury instruction, 4.8, about  
6 the information relied upon an expert and how  
7 it should be used and not used.

8 THE COURT: I'm going to deny your  
9 motion, sir.

10 All right. The next motion is 11088,  
11 17011088, defendants' omnibus motion to  
12 exclude evidence regarding and questioning  
13 the religious beliefs and practices of  
14 Jehovah's Witnesses.

15 MR. MILLER: Good morning, Your  
16 Honor. I'm John Miller. I'll handle this  
17 one.

18 The first issue is that in 2005,  
19 Stephanie Fessler, in her congregation, was  
20 treated as a mature minor three weeks shy of  
21 her 17th birthday. And for religious  
22 purposes, she was reprovved for her part in  
23 the relationship with Terry Monheim Seipp.  
24 Terry Monheim Seipp was dealt with  
25 independently by her own congregation.

MOTIONS IN LIMINE

1  
2 Plaintiff now is complaining that she  
3 is being punished by her congregation for  
4 being a victim of child abuse. The elders  
5 and the congregation defendants saw it  
6 differently at that time. They saw a  
7 baptized Jehovah's Witness who had a willing  
8 relationship with a woman and who admitted  
9 her part in that relationship.

10 Obviously the older person's fault in  
11 that relationship is far greater than the  
12 fault of the younger in relation to the sins.  
13 The Bible is very clear about that and  
14 Jehovah's Witnesses are strict  
15 instructionists when it comes to the Bible.

16 When it comes to discipline in the  
17 congregation, two interesting cases, the  
18 Gaston case and the Connor case involve  
19 youths who were disciplined. They were  
20 expelled from school for conduct that was  
21 deemed misconduct.

22 And so those two cases, the Gaston  
23 case, being a Supreme Court case, those two  
24 cases set the stage for this situation coming  
25 to the Court. This is a discipline case.



MOTIONS IN LIMINE

1  
2 And the discipline is based entirely upon the  
3 religious beliefs of Jehovah's Witnesses.  
4 It's a core religious belief of Jehovah's  
5 Witnesses that all baptized persons,  
6 including adults and children, stand  
7 independently before God for their conduct.  
8 And so we look to the Scriptures for that.  
9 The Scriptures are clear. We apply the  
10 discipline on that basis.

11 THE COURT: All right.

12 Sir, go on. Respond, please.

13 MR. FRITZ: Thank you.

14 The cases that Mr. Miller cites are  
15 cases where a case was brought only on the  
16 issue of punishment. This is a case --

17 THE COURT: Challenging a discipline.

18 MR. FRITZ: Correct. This is  
19 different. We're not seeking to address or  
20 attack the religious beliefs --

21 THE COURT: What are you seeking?  
22 What is the testimony you're offering?

23 MR. FRITZ: Sure. Two things. It  
24 would be the fact that Stephanie Fessler was  
25 punished, both publicly and privately

MOTIONS IN LIMINE

1  
2 reproved in 2004 and 2005. That caused  
3 greater injury. So it's offered for the  
4 purpose of explaining part of the damages and  
5 the injury.

6 THE COURT: Yes. So it's offered to  
7 show the impact and the damages; correct?

8 MR. FRITZ: Correct. We have an  
9 expert who clearly lays that out and says,  
10 hey --

11 THE COURT: So you're not questioning  
12 the reasoning or challenging the reproof?

13 MR. FRITZ: Correct.

14 THE COURT: It's public reproof?

15 MR. MILLER: Public reproof or  
16 reproof is fine.

17 MR. FRITZ: Yes. Right. We're not  
18 challenging that it happened. What we're  
19 saying is it's relevant to the issue of her  
20 damages.

21 THE COURT: The impact.

22 MR. FRITZ: And the impact upon her,  
23 which is completely a secular issue.

24 On top of that, the Watchtower  
25 itself, the defendants, have an expressed

MOTIONS IN LIMINE

1  
2 policy that they're going to assume the duty  
3 to protect the child, whatever the cost, as a  
4 step-in for the youth.

5 So that's their policy. Not  
6 necessarily a religious policy or religious,  
7 scriptural belief. It is the type of policy  
8 that exists in schools, it exists in Boy  
9 Scouts and soccer organizations and --

10 THE COURT: So it's not an  
11 ecclesiastical issue; it's an administration  
12 issue that deals with compliance with the  
13 law; is that correct?

14 MR. FRITZ: Correct. And the fact  
15 that she's punished then is in violation of  
16 that secular, non-ecclesiastical -- boy, you  
17 have a tough time writing this transcript,  
18 purpose.

19 MR. MILLER: That's an interesting  
20 take. The problem that it runs into is that  
21 it's challenges the beginning of the attempt  
22 to heal Stephanie Fessler's relationship with  
23 God and that reproof is the beginning of that  
24 process.

25 THE COURT: We've got two different

MOTIONS IN LIMINE

1  
2 things going on. There's a policy that you  
3 are going to introduce that's a policy of the  
4 church that deals with the reporting and  
5 protecting children; is that correct?

6 MR. FRITZ: Correct.

7 THE COURT: That's one issue. And  
8 you maintain that's a non-ecclesiastic issue  
9 and your motion doesn't deal with that; is  
10 that correct?

11 MR. MILLER: No, and not as far as  
12 reporting and other aspects of protecting  
13 children.

14 THE COURT: Your motion does not deal  
15 with the policy.

16 MR. MILLER: No.

17 THE COURT: My ruling is, I'm going  
18 to deny your motion in this regard, that the  
19 plaintiff may testify as to the impact of the  
20 disciplinary action upon her. It's relevant  
21 to the issue of damages. But I will not  
22 allow testimony that goes to the ecclesiastic  
23 reasons for the church's decision.

24 MR. MILLER: Then the problem that  
25 will raise, of course, is that we have to try

MOTIONS IN LIMINE

1  
2 to explain what is involved in that reproof  
3 to show the intended impact and the impact,  
4 in fact.

5 It is also going to raise another  
6 issue with regard to one of the motions in  
7 limine by the plaintiff that we not be  
8 allowed to go into her subsequent fellowship  
9 for subsequent events that occurred.

10 And so we're opening this up now to a  
11 real religious --

12 THE COURT: I disagree with you, sir.  
13 I think my ruling is very clear and precise.  
14 And we'll move on to the next motion.

15 MR. MILLER: All right.

16 THE COURT: 1090. Plaintiff's motion  
17 for an adverse inference instruction against  
18 the defendant for withholding improperly  
19 redacted evidence.

20 Is this a discovery motion at this  
21 point in time?

22 MR. FRITZ: No, it's not, Your Honor.  
23 There's certain categories of documents.  
24 There were documents that were produced that  
25 were redacted. And then in response to this

MOTIONS IN LIMINE

1  
2 motion they produced unredacted versions of  
3 them. They produced unredacted versions of  
4 them long after discovery was closed, long  
5 after I had the opportunity to confront  
6 witnesses with these documents during their  
7 deposition.

8 I'm not seeking to postpone or delay  
9 this. We'll proceed. We're ready to go on  
10 that. All I'm saying is I think that we're  
11 entitled under the law for an adverse  
12 inference to be provided to the jury that  
13 information was wrongfully redacted and  
14 wrongfully withheld.

15 There's another category of  
16 documents, January 20th, I believe the date  
17 was. There was a number of documents that  
18 were produced to John Miller on behalf of  
19 whoever he was representing at the time by  
20 Jodee Fessler. They were produced in March  
21 of 2016 and I got them January 20th in this.

22 So that's in addition to the  
23 documents relating to their policies,  
24 procedures that were either withheld or  
25 wrongfully redacted.

MOTIONS IN LIMINE

1  
2 By way of -- I can go into the  
3 nitty-gritty and the detail of it, but I can  
4 give you one or two examples of what it is  
5 that was withheld, if you would like.

6 There's a document that we attached  
7 as Exhibit 22, which is shorthand for AMS57.  
8 It discusses the standards for evidence that  
9 are applied at judicial -- not judicial, I'm  
10 sorry. At hearings that they have when they  
11 become aware of wrongdoing within the  
12 organization.

13 It's, again, no secret that what  
14 we're saying is, hey, these policies which  
15 are policies that they follow and use in  
16 determining whether or not reports should be  
17 made to authorities relating to child abuse,  
18 vary greatly from what the law is in  
19 Pennsylvania. And they withheld that and we  
20 get it in response to our motion seeking an  
21 adverse inference on that. We get the full  
22 policy.

23 I have it available, if Your Honor  
24 would like to see it. That's just one  
25 example.

MOTIONS IN LIMINE

1  
2 There are multiple examples of  
3 information that's completely relevant to the  
4 core theories that we're pursuing here that  
5 was withheld from us. We have to either go  
6 and get it from the other sources, from other  
7 cases or once they're called on it, then they  
8 finally produce it a few weeks before the  
9 trial.

10 THE COURT: Sir, I'm going to deny  
11 your motion at this point. I'm going to deny  
12 the documents that you've received and use  
13 them obviously for cross examination  
14 purposes, but I'm going to deny your motion.  
15 I'm not going to give you an adverse  
16 inference for redacted documents that you, in  
17 fact, received in an unredacted form on  
18 January 20th or before that.

19 MR. FRITZ: And, Your Honor, to be  
20 clear, the documents we got on January 20th  
21 they weren't produced redacted. They were  
22 held for a good nine or 10 months by Mr.  
23 Miller and only produced to us on  
24 January 20th.

25 THE COURT: Are you asking for a



MOTIONS IN LIMINE

1  
2 continuance, sir?

3 MR. FRITZ: Not at all.

4 THE COURT: I'm going to deny your  
5 motion.

6 MR. ZEFF: Judge, Jeff Zeff. May I  
7 get a clarification on that?

8 There are a series of redacted  
9 documents that have now been turned over.  
10 May the fact that they were redacted be  
11 presented as evidence in this case?

12 This is what is you presented to us.  
13 This is what is we found. This is your  
14 document that you gave us for this case.  
15 Here is the full document.

16 THE COURT: Sir?

17 MR. AARON: If I can respond to why  
18 we say that should not be -- that should not  
19 be told to the jury.

20 The redacted documents. We produced  
21 25 documents. They were redacted. It was  
22 initially back in discovery with a privilege  
23 log. The fact that they were redacted was  
24 apparent on the face of the documents. The  
25 privilege log stated the reason for the

MOTIONS IN LIMINE

1  
2 redaction. It's privileged. It was the  
3 First Amendment privilege that a church would  
4 make.

5 THE COURT: Now, my ruling is that  
6 you may not get an adverse inference charge,  
7 nor may you question about the redaction  
8 during the trial. All right?

9 There was also a motion 10892 on  
10 those same issues.

11 MR. AARON: Same issue.

12 THE COURT: Same issue. My same  
13 ruling for that.

14 1193. Plaintiff's motion to preclude  
15 defendants from presenting evidence that  
16 plaintiff, a minor victim of sexual abuse,  
17 consented or was comparatively at fault for  
18 sexual conduct.

19 This is plaintiff's motion.

20 MR. FRITZ: Your Honor, this is real  
21 simple. The Pennsylvania Supreme Court said  
22 that it's not an available defense of  
23 comparative negligence that a minor either  
24 consented to it or that they should be held  
25 comparatively negligent. It's the Phillies

MOTIONS IN LIMINE

1  
2 case. I believe it's CCH versus Philadelphia  
3 Phillies.

4 THE COURT: So how is this relevant?  
5 How is this issue relevant?

6 MR. VERNICK: Well, I guess we do not  
7 disagree with the way that plaintiff has  
8 framed this. We just wanted to clarify and  
9 make clear that below age 16, consent is not  
10 relevant. And we agree with that. But we  
11 just wanted to --

12 THE COURT: How is consent relevant  
13 to the issue in the case, which is failure to  
14 report?

15 MR. VERNICK: Meaning at age 16 and  
16 beyond?

17 THE COURT: Yes.

18 MR. VERNICK: It's not that the  
19 consent is relevant, because that would be as  
20 to Defendant Monheim, it's the circumstantial  
21 allegations and evidence surrounding that  
22 consent. It's the fact that plaintiff was  
23 performing certain acts. For instance,  
24 meeting in a car, making phone calls. We  
25 just want to make sure that -- we're not

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1  
2 arguing that she consented to a relationship  
3 prior to the age 16, but we must be able to  
4 put on a defense and our defense is that we  
5 didn't know that her actions with her parents  
6 and with her family and her concealment was  
7 clearly relevant to our potential knowledge  
8 or notice.

9 THE COURT: Do you want to respond to  
10 that?

11 MR. FRITZ: Yes. That's precisely  
12 what was at issue in the Phillies case as  
13 well is that, granted the age might have been  
14 different, but it doesn't makes a difference.  
15 She was a minor at 15, 16, 17 until she  
16 turned 18. She's a minor.

17 In this case, Terry Seipp was  
18 convicted of corruption of the morals of a  
19 minor. We're now going to allow, if they  
20 have it their way, we're going to allow  
21 defense in this case to now come in and  
22 either blame or hold comparatively negligent  
23 a victim, a minor victim. It just doesn't  
24 make any sense.

25 MR. VERNICK: Your Honor, may I

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1  
2 respond to the CCH case?

3 Specifically to the CCH case it says  
4 when defense is not available at criminal  
5 law, it is equally unavailable at civil law.  
6 So at age 15, strict liability applies for  
7 sexual crimes. So we cannot bring it in at  
8 age 15. However, according to the CCH case  
9 --

10 THE COURT: So you're saying that  
11 there was no duty to report on the part of  
12 the church for acts that occurred between the  
13 plaintiff's age of 16 and 18?

14 MR. VERNICK: Not necessarily.

15 THE COURT: Well, then how is consent  
16 relevant?

17 MR. VERNICK: So if we're talking to  
18 specifically her consent to the sexual acts,  
19 that's one argument. But we just wanted to  
20 make sure and clarify that this motion  
21 doesn't preclude the defense from arguing the  
22 totality of circumstances as to our notice.  
23 We were on notice -- whether we are on notice  
24 or not of the relationship, clearly what  
25 comes into that is her actions and her

MOTIONS IN LIMINE

1  
2 interactions with Defendant Monheim. We want  
3 to make sure that we're not precluded from --

4 THE COURT: Is it your position that  
5 her actions are consensual between the ages  
6 of 16 and 18, meaning the plaintiff's actions  
7 are consensual, between the ages of 16 and 18  
8 and she's an adult at that point and,  
9 therefore, there's no mandatory duty to  
10 report? Is that your position?

11 MR. VERNICK: I can't speak to  
12 whether that is --

13 THE COURT: I'm talking about the  
14 relevance of this case.

15 MR. VERNICK: -- but, yes, we should  
16 not be precluded from arguing that at age 16  
17 she consented, because under criminal law she  
18 can consent and under civil law she can  
19 consent.

20 That's what the CCH case says. If  
21 you're precluded as a crime, then you're  
22 preclude in a civil action.

23 THE COURT: Okay. So she is an  
24 adult.

25 MR. VERNICK: Correct.

MOTIONS IN LIMINE

1  
2 THE COURT: And, therefore, there's  
3 no mandatory requirement to report.

4 MR. VERNICK: Correct.

5 MR. FRITZ: She's not an adult at 16.  
6 She's a minor. Under the Child Protective  
7 Services Law, a child is defined as somebody  
8 under the age of 18.

9 THE COURT: 18.

10 MR. FRITZ: And that's what we're  
11 talking about here.

12 THE COURT: I don't see where the  
13 consent is relevant in any way to the issue  
14 of reporting, the mandatory reporting. I  
15 don't find it a relevant issue where it's a  
16 minor and the question is is she a minor  
17 between 16 and 18 and the mandatory  
18 reporting, the Child Protective Laws do  
19 extend the status of a minor to the age of  
20 18. So --

21 MR. VERNICK: However, Your Honor, if  
22 a 17-year old minor has a consensual  
23 relationship with a 25 or 30 or 35 or  
24 40-year-old adult, that is consensual per our  
25 law. There is no duty to report a

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17-year-old with a 35-year-old.

THE COURT: It's not a --

MR. VERNICK: Correct. It doesn't violate the statute.

THE COURT: Under criminal law?

MR. VERNICK: Under criminal law.

MR. FRITZ: Corruption of the morals of a minor is a criminal statute. And it's one of the two of which this defendant was convicted of. It's under 18.

MR. VERNICK: However, there's defenses to corruption of a minor, including consent. It's available in criminal law and it's available in civil law. And that's what CCH says.

THE COURT: I'm going to grant plaintiff's motion on this.

MR. VERNICK: Thank you, Your Honor.

THE COURT: For the reasons that I've stated.

Okay. The next one is 1097. Plaintiff's motion concerning to preclude the defendant from the arguing or offering testimony or presenting testimony that no



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1  
2 Jehovah's Witnesses were arrested or  
3 criminally convicted.

4 Plaintiff, it's your motion.

5 MR. FRITZ: So this is pretty simple  
6 as well. We cited case law that because of  
7 the different standard under criminal law,  
8 beyond a reasonable doubt, and the  
9 preponderance of the evidence here, we're  
10 bringing -- we have this statute, the Child  
11 Protective Services Law, that is applied both  
12 civilly and criminally in the Commonwealth of  
13 Pennsylvania.

14 The case law says that they cannot --  
15 it's not relevant whether somebody was  
16 charged or in this case not charged for  
17 violation of the Child Protective Services  
18 Law, because whether someone is charged and  
19 convicted under that and whether a D.A. or  
20 police think they can sustain their burden  
21 beyond a reasonable doubt, is wholly  
22 irrelevant to the issues here in this case,  
23 which is a civil case, upon which the  
24 decision is made on the preponderance of the  
25 evidence.



MOTIONS IN LIMINE

1  
2 Monheim was convicted of a crime, none of the  
3 Jehovah's Witnesses were prosecuted or  
4 convicted. And it's simply so that the jury  
5 knows that so there's not the potential for  
6 speculation among one or any of those jurors.  
7 It's that simple. Just fairness.

8 THE COURT: I disagree. I agree with  
9 the plaintiff's reasoning on this motion.  
10 And I'm going to grant it. Okay.

11 The next one I have is 11027, a  
12 motion to exclude evidence and argument in  
13 reference to inapplicable clergy privileges.

14 MR. FRITZ: There's two privileges to  
15 be considered here, one in Pennsylvania and  
16 one in Maryland. They're similar --

17 THE COURT: There are two what?

18 MR. FRITZ: Privilege statutes.

19 THE COURT: Go on.

20 MR. FRITZ: Under the privilege --

21 THE COURT: Are they the same?

22 MR. FRITZ: They're similar, but not  
23 exactly the same.

24 THE COURT: Go on.

25 MR. FRITZ: We'll talk about

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1  
2 Pennsylvania since we're in Pennsylvania.  
3 There are distinct requirements under  
4 Pennsylvania law for that statute to apply.  
5 The privilege statute, and we cited the case  
6 on this, is strictly construed. So it's a  
7 narrow application of that privilege.

8 And the requirements are that there  
9 is a spiritual communication with a spiritual  
10 penitential purpose that that communication  
11 is made secretly and in confidence and under  
12 the Stewart case that the information or the  
13 communication is not the result of an  
14 investigation.

15 I think the simplest way to look at  
16 this is this was a major portion of the  
17 defendant's argument, to seek dismissal of  
18 this case on summary judgment two years ago  
19 in 2014.

20 If they were right and this  
21 information was privileged, we wouldn't be  
22 standing here. This case would be done and  
23 over with.

24 So our first argument is that has  
25 already been ruled upon, at least implicitly

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1  
2 by the denial of a motion for summary  
3 judgment. But if the Court wants to go into  
4 the details of it, there's a variety of  
5 communications here at issue. And under  
6 either the Pennsylvania statute or the  
7 Maryland statute, the privilege just doesn't  
8 apply.

9 The only -- arguably the only  
10 spiritual communication that anybody  
11 testified that might even approach the  
12 requirements under Pennsylvania law is a  
13 conversation between Jodee Fessler and Eric  
14 Hoffman, an elder. Because she said, hey, I  
15 went to him for some spiritual counseling.  
16 Jodee Fessler, the plaintiff's mother.

17 However, we have to look at that  
18 second element. Was it told in confidence  
19 with the expectation that it would be kept  
20 secret. And it wasn't. And this is  
21 undisputed.

22 Jodee Fessler testified already in  
23 this case that when I told him that, if he  
24 needed to report that, then I expected him to  
25 report that. That's not telling somebody

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1 something in confidence.

2  
3 On top of that, Elder Hoffman and the  
4 other elders who became aware of this  
5 information, either from Jodee Fessler or  
6 Stephanie Fessler for that matter, or --

7 THE COURT: Let's be clear. Let's be  
8 clear.

9 MR. FRITZ: Sure.

10 THE COURT: These communications, who  
11 did they come from, who communicated the  
12 information about the relationship between  
13 the plaintiff and the other church member to  
14 the elders? Who communicated the  
15 information, when, and let's start with that.

16 MR. FRITZ: So there's a variety of  
17 communications.

18 THE COURT: That's where I want you  
19 to be specific.

20 MR. FRITZ: So Jodee Fessler, the  
21 plaintiff's mother, communicates to Eric  
22 Hoffman and possibly another elder.

23 THE COURT: About the relationship  
24 between her daughter and a member of the  
25 church.

MOTIONS IN LIMINE

1  
2 MR. FRITZ: Correct.

3 Stephanie then --

4 THE COURT: Is it your information  
5 that that communication does not fall within  
6 the parameters of what the case law says a  
7 relationship must be between the confessor or  
8 the communicator and the church individual?

9 MR. FRITZ: Correct. Because it was  
10 not told with the expectation that it be kept  
11 confidential.

12 THE COURT: Okay.

13 MR. FRITZ: And, moreover, it wasn't  
14 kept confidential. That elder, Eric Hoffman,  
15 then contacted Stephanie, brought her in,  
16 told her, hey, here's what your mother told  
17 me.

18 That's not keeping it confidential.

19 THE COURT: Okay. Go on. Next  
20 communication.

21 MR. FRITZ: Okay. Stephanie then, as  
22 part of the investigation by Spring Grove  
23 Congregation and the defendants, communicated  
24 with Elders Eric Hoffman, Neal Cluck and John  
25 Ness. Now, John Ness is deceased. The only

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1  
2 two people around are Eric Hoffman and Neal  
3 Cluck.

4 THE COURT: Who communicated -- I'm  
5 sorry.

6 MR. FRITZ: Said, hey, yeah, I was  
7 making out with her.

8 THE COURT: Who did?

9 MR. FRITZ: Stephanie Fessler. So  
10 that conversation --

11 THE COURT: As a result of an  
12 investigation?

13 MR. FRITZ: Correct.

14 So that conversation was not  
15 spiritual. Stephanie didn't call up the  
16 elders and say, hey, I would like to talk  
17 with you and get your spiritual guidance or  
18 confess something to you. She was called in.  
19 She didn't seek any counseling from them.

20 THE COURT: Okay.

21 MR. FRITZ: And she makes certain  
22 admissions to them about what happened.

23 When I asked, and this is perhaps the  
24 most direct way to address this issue, when I  
25 asked Mr. Hoffman, the elder, was there



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1  
2 anything limiting your ability to tell  
3 anybody about this, call the police, call the  
4 authorities? He said, no; there was nothing.

5 So if there was indeed a privilege  
6 here, he would have told me, I couldn't. It  
7 was privileged under the privilege statute.  
8 I'm a member of clergy.

9 He didn't say that. When I asked him  
10 the details --

11 THE COURT: Let's go into the next.  
12 Is there another communication?

13 MR. FRITZ: There's many.

14 THE COURT: Who are they made by?

15 MR. FRITZ: Terry Seipp met with  
16 elders within the Freeland Congregation.

17 THE COURT: Who is Terry Seipp?

18 MR. FRITZ: Terry Monheim, the  
19 defendant. She was known as Terry Seipp at  
20 the time.

21 THE COURT: Okay.

22 MR. FRITZ: She similarly gets called  
23 in and she makes certain admissions regarding  
24 what she had been involved with Stephanie in.  
25 She did not seek any spiritual guidance. She

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1  
2 didn't say to the elders, hey, I want you to  
3 keep this in confidence. The elders didn't  
4 say to her we are going to keep this in  
5 confidence. And she told them what happened.

6 So I can go on. On top of that, you  
7 have elders from the Spring Grove  
8 Congregation calling up elders or overseers  
9 in the Freeland Congregation and telling them  
10 and vice versa.

11 So now, the same elders in Spring  
12 Grove are getting information from elders --

13 THE COURT: So you're saying the  
14 nature of all these communications clearly  
15 does not fall within the parameters of the  
16 case law; correct?

17 MR. FRITZ: Correct.

18 THE COURT: All right. And the  
19 case --

20 MR. FRITZ: For a variety of reasons.

21 THE COURT: All right. Okay, thank  
22 you.

23 MR. FRITZ: May I add just one other  
24 fact?

25 THE COURT: Yes.

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1  
2 MR. FRITZ: The other thing here is  
3 this is not a situation where somebody  
4 confesses to murder and it's the defendant  
5 and we're deciding whether or not that  
6 confession or that admission then becomes  
7 admissible either in a criminal or a civil  
8 case.

9 This is statements made as a result  
10 of an investigation by a victim. I don't  
11 think that the intention of the legislature  
12 in the Commonwealth of Pennsylvania was to  
13 put the clergy privilege above the importance  
14 to the welfare of children.

15 And especially here when we clearly  
16 have, unequivocally, Stephanie saying, hey, I  
17 didn't call them up and ask them for any  
18 counseling. They called me in.

19 Thank you.

20 THE COURT: But what if the adult,  
21 who was involved in this relationship, went  
22 to a member of clergy of the church and asked  
23 to have a private conversation in an effort  
24 to purge herself or seek forgiveness for her  
25 actions?

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1  
2 MR. FRITZ: That might be a different  
3 outcome, but that's not what happened here.

4 THE COURT: Okay. Thank you.

5 Go on, sir.

6 MR. MILLER: I think that the  
7 characterization of the communications is  
8 reasonably what some of the evidence will  
9 show, although I disagree with the conclusion  
10 made by my adversary counsel.

11 I think, first of all, when you think  
12 about Terry Seipp Monheim and her Freeland  
13 Congregation elders, that communication,  
14 first of all, doesn't give rise to a duty on  
15 the part of the elders in the Spring Grove  
16 Congregation to report. I think we have to  
17 keep in mind what we're judging this for, the  
18 purpose of our analysis is to determine  
19 whether the Spring Grove, Pennsylvania elders  
20 had a duty to report child abuse; not whether  
21 the Freeland, Maryland elders did. They  
22 separately talked with the accused and they  
23 had a pre-penitent communication with their  
24 accused.

25 And so under any statute in any

MOTIONS IN LIMINE

1  
2 state, Maryland or Pennsylvania, that  
3 communication that the accused --

4 THE COURT: But they sought the  
5 accused out to have the conversation.

6 MR. MILLER: They did. They called  
7 her in and she voluntarily came in. No  
8 question. They said, please come and talk to  
9 us. And she said, yes, I will and here is  
10 what happened.

11 So I don't know that who initiates  
12 the communication is anything dealt with by  
13 the statute or the case law. The  
14 communication is something in keeping with  
15 the religious practice of the religion.  
16 That's how we have to gauge this. Does the  
17 religion expect this to be kept confidential.

18 THE COURT: I really disagree with  
19 your argument on this issue. And I believe  
20 that the argument that plaintiff's counsel  
21 has made is right on point and so I'm going  
22 to grant the motion. I do not think that the  
23 privilege lies here. I don't think that -- I  
24 don't think that it is in the proper  
25 application in this case. Okay.

MOTIONS IN LIMINE

1  
2 MR. MILLER: May I ask for  
3 clarification?

4 Are we talking only about  
5 Pennsylvania law or are we including Maryland  
6 law?

7 THE COURT: I'm including Maryland as  
8 well.

9 MR. MILLER: So are we saying then  
10 there was no privilege as to communications  
11 between Maryland elders and their --

12 THE COURT: Under the circumstances  
13 that have been described to me, yes.

14 MR. MILLER: Thank you.

15 THE COURT: All right. 10892.  
16 Plaintiff's motion for an adverse inference  
17 instruction against defendant for improper  
18 redaction. I've already ruled on that.

19 MR. FRITZ: Yes.

20 THE COURT: Same ruling as with  
21 11099.

22 And then the last one is plaintiff's  
23 motion to conduct a trial in two phases.

24 MR. AARON: Yes, Your Honor. We're  
25 asking that we move -- the compensatory and

MOTIONS IN LIMINE

1  
2 liability phase be held and, if necessary, we  
3 then move to a punitives phase. There's  
4 clearly evidence that will not be relevant or  
5 admissible through a compensatory phase, such  
6 as net worth, clearly not compensatory.

7 One concern we have is that if the  
8 jury hears in the compensatory phase about  
9 the net worth of the defendants, which is  
10 substantial, it will just naturally inflate  
11 the compensatory damages and then, of course,  
12 you have the possibility of inflating the  
13 punitives amount based on the Supreme Court  
14 case law on that.

15 THE COURT: Isn't there another  
16 issue, too?

17 MR. AARON: There are other issues.

18 THE COURT: Bad acts.

19 MR. AARON: Exactly. That's right.  
20 There's other issues we have discussed during  
21 these motions are those relevant to just  
22 punitives, but not the compensatory.

23 So all we're asking is that really  
24 that the evidence be presented in a way that  
25 is fair to the defendants as it is to the

MOTIONS IN LIMINE

1  
2 plaintiffs, not ask the jury unrealistically  
3 to separate out various kinds of evidence and  
4 what it's relevant to and what it's not  
5 relevant to and all sorts of instructions.  
6 They'll get enough instructions.

7 THE COURT: I don't have a problem at  
8 all with separating the net worth issue for a  
9 bifurcated procedure. I think that's  
10 appropriate.

11 But I thought there were issues  
12 regarding the admissibility of evidence as to  
13 other bad acts.

14 MR. AARON: That's correct.

15 THE COURT: I have to know what that  
16 is.

17 MR. AARON: Well, I think it's the  
18 evidence that we discussed earlier with Mr.  
19 Haugh or Hawk and that type of evidence that  
20 the plaintiff --

21 THE COURT: Was that within this  
22 congregation or within this circuit?

23 MR. FRITZ: Circuit.

24 THE COURT: Circuit is it called?

25 MR. AARON: No, it's not within this



MOTIONS IN LIMINE

1  
2 congregation. The fact is that it's within  
3 this circuit. I don't even know what circuit  
4 is. I'm sure my colleagues will tell me it  
5 doesn't matter.

6 It was not within this congregation.  
7 This case is about this congregation and what  
8 these elders did. This evidence that  
9 plaintiff intends to put on about other  
10 allegations of abuse at other times in other  
11 congregations, we don't believe it's  
12 admissible at all. But if it is, it can only  
13 be admissible to the punitives phase and it  
14 should come on only during the punitives  
15 phase as to its net worth.

16 THE COURT: And you maintain that  
17 it's admissible evidence as to the notice  
18 requirement of the duty to report?

19 MR. FRITZ: Yes.

20 THE COURT: And what would that be?

21 MR. FRITZ: I'm sorry?

22 THE COURT: What would that be?

23 MR. FRITZ: What would?

24 THE COURT: The evidence.

25 MR. FRITZ: Of any other knowledge

MOTIONS IN LIMINE

1  
2 that these defendants have about other  
3 instances of sexual abuse that have been  
4 reported to any of these defendants.

5 I might agree with what they were  
6 saying if the only defendant in this case was  
7 the Spring Grove Congregation. It's not.  
8 It's the congregation, the Christian  
9 Congregation of Jehovah's Witnesses and the  
10 Watchtower.

11 So, therefore, their knowledge of  
12 whether it's gained from this particular  
13 circuit assembly number five or from any  
14 other source is relevant to the issue of  
15 notice and -- which is both as to liability  
16 under negligence and relevant to whether  
17 punitives -- reckless conduct occurs and  
18 whether punitives should even be considered.

19 I want to make clear I'm in total  
20 agreement that the net worth should not come  
21 in at an initial portion phase of this trial.  
22 That should be separate.

23 THE COURT: Right. I think as a  
24 general rule as to whether or not prior  
25 information about notice and prior acts that

MOTIONS IN LIMINE

1  
2 relate to notice would be admissible in the  
3 general part of this -- the part of the trial  
4 for the compensatory damages.

5 So as a general principle, I agree  
6 with plaintiff. But I'm not quite sure what  
7 it is. I don't have a good feel for whether  
8 or not, in fact, the evidence you're going to  
9 offer does prove it.

10 So I'm going to withhold rulings on  
11 that until the time of trial. But I am going  
12 to bifurcate the issue obviously of whether  
13 or not, if there's a verdict, whether or not  
14 if you take it either way, wanton and  
15 reckless and also the net worth. Then the  
16 net worth evidence will come in if there's a  
17 punitive damages phase.

18 MR. AARON: So I assume that means  
19 that on opening no one should address  
20 punitive damages. That's for later in this  
21 trial.

22 THE COURT: Correct.

23 MR. AARON: Thank you.

24 THE COURT: Okay. I believe that  
25 disposes all the motions in limine. No, I

MOTIONS IN LIMINE

1  
2 have more? Is there another one lurking?

3 MR. MILLER: Almost. The other  
4 aspect of the motion that dealt with  
5 preclusion of documents. We've got 80  
6 documents plaintiff wants to offer. Some of  
7 them, many of them, are articles from the  
8 Watchtower Awake magazines that describe the  
9 incidents of child abuse in the nation, the  
10 incidents of child abuse in the world. They  
11 describe how harmful incest is to children.  
12 They describe a whole host of things like  
13 that.

14 That's one class or category of  
15 documents plaintiffs wants to introduce. Not  
16 only are they totally irrelevant to the  
17 issues in this case, but they really are  
18 putting the religion on trial for its  
19 religious beliefs about those things.

20 For example, one of the discussions  
21 in those articles is about homosexuality and  
22 how it is harming society generally. What  
23 the Bible says about homosexuality and what  
24 the parents can do and what the congregation  
25 can do to help people who suffer from

MOTIONS IN LIMINE

1  
2 realizing that they're homosexuals and going  
3 through that trauma of going through puberty  
4 as homosexuals and realizing for the first  
5 time, I'm attracted to the same sex.

6 Those articles deal with that, but  
7 the jury may think, you know, we're liberal  
8 here. The society has advanced beyond those  
9 Bible standards. But Jehovah's Witnesses  
10 haven't.

11 And so that discussion will put us in  
12 a negative light when, in fact, it shouldn't  
13 be an issue in the case.

14 Similarly, for example, there's a  
15 letter to all bodies of elders dated March  
16 14, 1997. The letter asked elders around the  
17 nation to write a report about anybody who  
18 had been appointed in any capacity, any  
19 elders, minister, servant or what we call  
20 pioneer who had committed child abuse in the  
21 past, was known to have committed child  
22 abuse. It only had to do with appointed  
23 people and that's not an issue in this case.

24 But that's one of the exhibits that  
25 the plaintiffs want to offer. We alert you

MOTIONS IN LIMINE

1  
2 to it now, Your Honor. We'll be objecting to  
3 it the entire way.

4 THE COURT: All right. I need us to  
5 get into the trial.

6 MR. MILLER: All right.

7 THE COURT: Those objections have to  
8 be promptly made and then I'm going to have  
9 to rule on that argument and I'll rule.

10 MR. ZEFF: If I may, Your Honor, only  
11 because some of this is in the opening.

12 THE COURT: Okay.

13 MR. ZEFF: There are several series  
14 of documents, some are magazines articles  
15 that relate to child abuse that are  
16 distributed to millions of Jehovah's  
17 Witnesses that discuss looking out for child  
18 abuse, discussing how damaging child abuse  
19 can be. That goes clearly to the notice and  
20 the training and what these elders know prior  
21 to Stephanie Fessler showing up.

22 THE COURT: I agree with that.

23 MR. ZEFF: And I want to discuss that  
24 in the opening and I want to discuss that  
25 with witnesses.

MOTIONS IN LIMINE

1  
2 We're not going to get into what they  
3 say about homosexuality and we won't and if  
4 there's a document that says that, that can  
5 be redacted, that piece of the document.

6 But the third --

7 THE COURT: The judgment of what or  
8 whether or not the church's beliefs, dogma,  
9 ecclesiastic holdings is right or wrong, you  
10 may not go to.

11 MR. ZEFF: Don't intend to.

12 THE COURT: Don't get into that  
13 issue.

14 As to notice whether or not there is  
15 evidence that the church is aware that child  
16 abuse exists and there's a requirement to  
17 address it through reporting, those are the  
18 issues that are relevant in this case. All  
19 right?

20 MR. ZEFF: Thank you, Your Honor.

21 MR. MILLER: Your Honor, I want to  
22 alert you to a problem that is going to arise  
23 and I'm going to be objecting throughout,  
24 including during the openings statement.

25 THE COURT: Okay. Let's hear it.

MOTIONS IN LIMINE

1  
2 Maybe we can short circuit this.

3 MR. MILLER: The defendants are the  
4 Spring Grove Congregation, a specific  
5 element. It's a specific entity. The  
6 Watchtower Bible and Tract Society of New  
7 York, Incorporated is a specific corporation  
8 that's used by the religion of Jehovah's  
9 Witnesses to accomplished specific things  
10 that are necessary to carry out legal  
11 requirements in operating the religion.

12 Christian Congregation of Jehovah's  
13 Witnesses, Inc. is another corporation. They  
14 didn't sue the Jehovah's Witness religion and  
15 yet what they want to do is they want to  
16 show, here is what the religion has printed  
17 about these topics. Here is what the  
18 religion knows. Here is the notice the  
19 religion has.

20 But they're not able to show that the  
21 Spring Grove Congregation had any of that  
22 notice, nor the Watchtower of New York. Even  
23 though Watchtower is the publisher, all they  
24 do is publish things; they don't sit down  
25 adopt these --



MOTIONS IN LIMINE

1  
2 THE COURT: How are you going to  
3 address that?

4 MR. ZEFF: I guess I'm a little  
5 perplexed by the allegation that this is how  
6 it works. These congregants and elders  
7 receive documents from the Watchtower and the  
8 congregation, Christian Congregation of  
9 Jehovah's Witnesses not only telling them  
10 what sexual molestation is, not only telling  
11 them how they should handle the situation,  
12 but what to do to investigate it. On the  
13 Watchtower not only their letterhead, but  
14 they're told, here is what we're going to do.  
15 We want you to read these letters to all of  
16 the elders to explain --

17 THE COURT: So you're saying those  
18 letters are not admissible?

19 MR. MILLER: As far as the  
20 investigation is concerned, there's no issue  
21 about investigation in this case. No issue  
22 whatsoever. How is it relevant? Relevant to  
23 what issue?

24 THE COURT: I disagree.

25 But at this point in time I've gone

MOTIONS IN LIMINE

1  
2 through the motions in limine. I'm going to  
3 bring -- well, it's 11:39 I'm going to bring  
4 the jury in very shortly and make  
5 introductory remarks to them. And then we'll  
6 break for lunch. And when we come back from  
7 lunch, I'll begin with the opening  
8 statements.

9 The opening statements, as I told  
10 you, are to be brief. I'm not going to let  
11 you use -- the opening statements will be 15  
12 minutes each and then we'll go into the  
13 testimony.

14 MR. ZEFF: A couple of more  
15 questions, Your Honor.

16 One is we would like the Court in  
17 your opening remarks to discuss the Child  
18 Protective Services Law and explain that it  
19 requires the clergy to report suspected abuse  
20 of children to authorities and that included  
21 are elders in this matter.

22 THE COURT: You may make that  
23 statement.

24 MR. ZEFF: We would like the Court to  
25 make that statement in its introduction,

MOTIONS IN LIMINE

1  
2 because it is the law and it's a fact they're  
3 going to be hearing about.

4 THE COURT: Well, I intended on  
5 explaining that this case involves that law,  
6 the child abuse, the mandatory requirement of  
7 the Child Protection Law.

8 MR. AARON: There is an exception in  
9 the reporting statute for clergy communicant  
10 privilege, for clergy communications, that  
11 those need not be reported under the law.

12 THE COURT: Well, I just ruled on  
13 that.

14 MR. MILLER: There's another problem.

15 THE COURT: I ruled on that. I said  
16 that the privilege is not a problem.

17 MR. MILLER: The other problem is  
18 there are elements that have to be met to  
19 demonstrate that that statute was violated.  
20 Indeed a perpetrator is defined as either a  
21 parent or a guardian or a person who is  
22 living in the home.

23 THE COURT: Sir.

24 MR. MILLER: And so forth. There's  
25 no showing of that.

MOTIONS IN LIMINE

1  
2 THE COURT: Give me a statement to  
3 make to these jurors explaining the statute.  
4 I was going to read specifically what the  
5 provision of statute is to them. Which is --  
6 let me get my notes.

7 MR. MILLER: I object to it. I  
8 object to that entirely.

9 THE COURT: Do you have the cite?

10 MR. MILLER: Here is what we would  
11 recommend right here.

12 THE COURT: Hold on. All right.  
13 What I intend to explain to the jury in my  
14 opening remarks, what I intend -- I'm not  
15 going to read -- is anyone listening to me?

16 MR. ZEFF: I'm sorry, Judge. We're  
17 coming to an agreement, actually.

18 THE COURT: You're coming to an  
19 agreement?

20 MR. AARON: Believe it or not.

21 THE COURT: Then I'm going to be  
22 quiet.

23 MR. AARON: If you look -- I think if  
24 the Court would read this. Simply --

25 THE COURT: Do you have the statute

MOTIONS IN LIMINE

1  
2 in front of you? Are you looking at the  
3 statute?

4 MR. AARON: I'm looking at the  
5 statute, a piece of it.

6 Did we give that to the Judge?

7 MR. MILLER: The entire statute?

8 MR. AARON: Did we hand --

9 THE COURT: Counsel, let me short  
10 circuit it. And then you can tell me your  
11 agreement. How is that? How about that?

12 I've got the statute in front of me.  
13 It's 23 PA Consolidated Statute Annotated,  
14 Section 6311, subsection A, mandated  
15 reporters. The following adult shall make a  
16 report of suspected child abuse, subject to  
17 subsection B, if the person has reasonable  
18 cause to suspect that a child is a victim of  
19 child abuse.

20 Then down to subsection six. A  
21 clergyman, priest, rabbi, minister Christian  
22 Science practitioner, religious healer or  
23 spiritual leader of any regularly established  
24 church or other religious organization.

25 That's what I was going to read.

MOTIONS IN LIMINE

1  
2 MR. ZEFF: No objection to that.

3 MR. AARON: And my objection, just to  
4 the second part of that, is it really, for a  
5 jury that has no context, it almost makes it  
6 sounds like it's the clergy reporting  
7 statute. And all we're asking is that the  
8 Court simply read the general operative  
9 language, essentially persons who in the  
10 course of their employment, occupation or  
11 practice of their profession come into  
12 contact with children to report or cause a  
13 report to be made when they have reasonable  
14 cause to suspect on the basis of their  
15 medical, professional or other training and  
16 experience that a child is an abused child.  
17 That's a direct quote from the 6311 and we  
18 think that's enough.

19 THE COURT: Where in 6311 is that?

20 MR. AARON: That's 6311. We have  
21 the --

22 MR. VERNICK: Section 6311 of the  
23 statute.

24 MR. AARON: It's right in the  
25 section.

MOTIONS IN LIMINE

1  
2 MR. VERNICK: The 2002 statute which  
3 was the statute in place at the time, Your  
4 Honor.

5 THE COURT: What section is that?

6 MR. VERNICK: We're handing up.

7 THE COURT: What section? I have the  
8 statute right here.

9 MR. MILLER: Do you have the 2002  
10 statute, Your Honor?

11 MR. AARON: I have it, Your Honor.

12 THE COURT: I have 2015.

13 MR. AARON: That's not the one. It's  
14 changed.

15 MR. FRITZ: Since Sandusky there's  
16 been some changes in the law. I have the one  
17 effective in '04.

18 MR. AARON: I have the one effective  
19 in '02. It's 6311(A). I hand that up to the  
20 Court. It's the highlighted portion, Your  
21 Honor.

22 MR. ZEFF: And, judge, our only issue  
23 is, and I don't believe it's in dispute, that  
24 the elders were clergy and subject to this  
25 statute. So we would like that included

MOTIONS IN LIMINE

1  
2 somehow. If you want to include it as the  
3 following are a list of the people that are  
4 included clergy, that's acceptable. But  
5 clergy -- it does apply to clergy.

6 MR. AARON: And our position is  
7 simply we don't have to single out clergy any  
8 more than we have to single out doctors or  
9 lawyers or --

10 THE COURT: Hold on one second. I'll  
11 read 6311(A), the general rule. And then I'm  
12 going to tell the jurors that members of the  
13 clergy aren't covered by that.

14 MR. AARON: Thank you, Your Honor.

15 MR. ZEFF: Thank you, Your Honor.

16 THE COURT: Let's take a short  
17 comfort break and I'll bring the jury in.  
18 I'll give them a general instruction. I'll  
19 give them a general instruction and then  
20 we'll go to your openings after lunch.

21 MR. ZEFF: Just a couple quick  
22 questions on openings. I'm sorry.

23 THE COURT: No, go on.

24 MR. ZEFF: It is my plan to use a  
25 couple of video clips of witnesses from the



MOTIONS IN LIMINE

1  
2 case in my opening. I don't know if Your  
3 Honor has any position on that.

4 THE COURT: Just have them ready to  
5 go.

6 MR. ZEFF: Okay. And I also plan on  
7 putting a couple of lines from my opening up  
8 there as I say them.

9 THE COURT: You may.

10 MR. ZEFF: Thank you.

11 MR. AARON: I only have one question  
12 and that is for tomorrow.

13 THE COURT: Yes.

14 MR. AARON: It would be helpful if we  
15 knew who the witnesses are, particularly the  
16 witnesses they have asked us to produce  
17 because they need to come in.

18 THE COURT: Because you already had  
19 that discussion.

20 MR. AARON: Well, that was for today  
21 and they're available.

22 MR. ZEFF: The current plan which is  
23 subject, of course, to change, is Jefferson,  
24 Hoffman, Hollingworth.

25 THE COURT: Now tomorrow there's a

MOTIONS IN LIMINE

1  
2 possibility I might have to break at 3:30.  
3 There's a possibility. I'll know definitely  
4 tomorrow.

5 MR. ZEFF: Actually, at the end of  
6 the day, we'll let you know who else we're  
7 calling tomorrow, because we don't know how  
8 far we're going to get today.

9 THE COURT: Okay. Let's take a  
10 recess and then we'll come back.

11 - - -

12 (At this time a recess was taken.)

13 - - -

14 THE COURT CRIER: All rise for the  
15 jurors, please.

16 (Jury in at 12:04 p.m.)

17 THE COURT: Good morning, members of  
18 the jury. We're going to administer an oath  
19 to all of you now as jurors in this case and  
20 after that, everyone can be seated.

21 Go on.

22 (AT THIS TIME THE JURY WAS DULY  
23 SWORN.)

24 THE COURT: Good morning, everyone.

25 JURORS: Good morning.

OPENING REMARKS BY THE COURT

1  
2 THE COURT: We just past morning, I'm  
3 sorry. It's the afternoon.

4 I'm going to make some introductory  
5 remarks to you. My name is Judge Colins.  
6 And I'm going to take about 20 minutes  
7 perhaps to set up for you a basic  
8 understanding of the trial proceedings.

9 After that, I'm going to give you a  
10 lunch break and then when you return, we will  
11 begin the trial which will run -- we'll work  
12 today until about 4, 4:30. All right?

13 So now, I want to start out by  
14 congratulating you all. I want to  
15 congratulate you because you've been chosen  
16 now by the attorneys in this case and the  
17 parties to be the judges of the facts in the  
18 case. And it's a very important job which  
19 you have. You'll be asked to pay very  
20 careful and close attention. And based on  
21 the mutual decision of all parties and  
22 counsel that you be here, I know that you'll  
23 do a good job and that you are all fully  
24 equipped to find the true facts in this case  
25 after listening to the evidence.

OPENING REMARKS BY THE COURT

1  
2 I'm going to be the Judge who decides  
3 the law in the case. You must follow my  
4 instructions and obey my orders regarding  
5 matters of law. But keep in mind, that you  
6 are the judges of the facts and no one can  
7 infringe on your duty, which is to decide  
8 what the true facts are in this case.

9 Now, I'm going to explain to you and  
10 outline for you how the trial will proceed.  
11 After I make these introductory remarks,  
12 which you should consider as a preliminary,  
13 my instructions on the law, and I'll give you  
14 further instructions throughout the trial and  
15 at the end.

16 After I make these remarks, then the  
17 attorneys will have an opportunity to make an  
18 opening statement to you. And the opening  
19 statements are going to be brief, yet -- and  
20 concise, yet clear outlines of what each  
21 attorney believes they will be able to prove  
22 as their case. And the opening statements  
23 are important, but they are not evidence.  
24 Nonetheless, you should listen to them,  
25 because they are the attorneys' opportunity

1                                    OPENING REMARKS BY THE COURT

2                                    to create a framework for you so that you can  
3                                    understand where they're going with the case  
4                                    and how to place the facts as you find them  
5                                    from the evidence into the context of the  
6                                    case.

7                                                                       The plaintiff's attorney will go  
8                                    first, followed by defense attorney. Or the  
9                                    defense attorney may reserve his, their right  
10                                   to make their opening at the close of the  
11                                   plaintiff's case.

12                                                                      Counsel, which are you going to do?

13                                                                      MR. AARON: I'm going to make an  
14                                   opening statement now, Your Honor.

15                                                                      THE COURT: Thank you.

16                                                                      Just to be more clear about this,  
17                                   plaintiff's counsel will make their opening  
18                                   and then they will be directly followed by  
19                                   the defense.

20                                                                      After the defense opening statements,  
21                                   then plaintiff will open their case and  
22                                   produce evidence which will come to you  
23                                   through witnesses called by the plaintiff to  
24                                   testify on direct examination. There may be  
25                                   some witnesses called by the plaintiff who

OPENING REMARKS BY THE COURT

1  
2 will be able, through my permission, to  
3 testify as though they were on cross  
4 examination. That's an evidentiary or legal  
5 discussion that I'll have with the lawyers  
6 and I'll make a decision on.

7 But every witness called by the  
8 plaintiff is subject to cross examination by  
9 defense counsel. And the purpose of cross  
10 examination is for counsel to test the  
11 truthfulness of the testimony that was given  
12 by that witness on direct examination.

13 Plaintiff may also introduce  
14 exhibits, which would be documents or  
15 physical objects.

16 And then after the plaintiff has  
17 presented all of their evidence in the form  
18 of testimony from witnesses and/or videotapes  
19 and exhibits, then the defense will have an  
20 opportunity to present their case.

21 And just as in the case of the  
22 plaintiff, any witnesses called by the  
23 defense will be subject to cross examination  
24 by plaintiff's counsel.

25 After all the evidence has been --

OPENING REMARKS BY THE COURT

1  
2 after both sides rest and all the evidence  
3 has been put forward, then you will hear the  
4 closing arguments by counsel and then I'll  
5 give you the law. I'll instruct you more  
6 fully on the law that you are to use and  
7 apply to the facts. And in applying the  
8 facts to the law, the law to the facts as you  
9 find them, you will be able to reach a  
10 verdict in this case.

11 Now, you as jurors and judges of the  
12 facts, will be the sole determiners of  
13 credibility of the witnesses. This is a very  
14 important function. You have to determine  
15 the truthfulness of the testimony that is  
16 presented; who do you believe.

17 You also have to determine what  
18 weight, how important is the testimony. This  
19 may sound daunting, but it's not. Because if  
20 you think about it, you make these decisions  
21 about credibility every day, all the time  
22 when you interact with individuals. You're  
23 always making, whether you know it or not,  
24 you're making decisions whether you believe  
25 them or you don't believe them, whether you

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1  
2 rely on what they're telling you, how  
3 strongly you rely on it. So these are the  
4 types of decisions about credibility and  
5 materiality that you'll be making throughout  
6 this trial.

7 Use your tools that you use in every  
8 day life, common sense, your powers of  
9 observation. Observe the witnesses  
10 carefully, look for indicia from the demeanor  
11 of the witnesses and you'll be able to make  
12 decisions about who you believe and the  
13 quality of what they're telling you.

14 Now, some of the criteria to use that  
15 I give examples of, the criteria that I give  
16 to jurors is as follows: Was the witness  
17 able to see, hear or know the thing about  
18 that which the witness testified, how well  
19 does the witness remember and describe those  
20 things, was the ability of the witness to  
21 see, hear and know, remember or describe  
22 things affected by some sort of impairment of  
23 physical, mental or intellectual deficiency.  
24 Does the witness testify in a convincing  
25 manner. How does the witness look, act,



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1  
2 speak while testifying. Is the testimony  
3 uncertain, confused, self-contradictory or is  
4 it presented in an evasive manner. Does the  
5 witness have an interest in the outcome of  
6 the case or any bias or prejudice or any  
7 other motive that might affect the witness'  
8 testimony. How well does the witness'  
9 testimony square up with other evidence in  
10 the case; including the testimony of other  
11 witnesses. Was it contradicted or supported  
12 by other evidence. Does the testimony make  
13 sense.

14 Now, if you believe that some sort of  
15 the testimony of a witness is inaccurate,  
16 consider whether that inaccuracy casts doubt  
17 upon the rest of that same witness'  
18 testimony. This may depend on whether the  
19 inaccuracy is an important matter or is it a  
20 minor detail. You should also consider any  
21 possible explanation for the inaccuracy. Did  
22 the witness make an honest mistake or simply  
23 forget. Was there a deliberate attempt to  
24 present false testimony to you.

25 If you find that a witness

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1  
2 deliberately testified falsely on a material  
3 point or on a matter that might affect the  
4 outcome of the trial, you may, for that  
5 reason alone, choose to disbelieve other  
6 parts or all of that same witness' testimony,  
7 but you're not required to do so.

8 If there is conflicting testimony in  
9 the case, you as jurors have the duty of  
10 trying to reconcile the conflicting  
11 testimony. Figure out how it fits with each  
12 other or if it doesn't fit, why. And you're  
13 to decide which piece of testimony to accept  
14 and which to reject.

15 Now, in a civil case of this nature,  
16 I want to explain to you a very important  
17 crucial concept of law, which is the burden  
18 of proof. Under the law, the plaintiff has  
19 the burden of proving her claims.

20 Now, this is a civil case, not a  
21 criminal case. The burden of proof in a  
22 civil case is different from the burden of  
23 proof in a criminal case. In a civil case,  
24 the plaintiff must prove her claim by a legal  
25 standard called a preponderance of the

OPENING REMARKS BY THE COURT

1  
2 evidence. Preponderance of the evidence  
3 means that a fact is more likely true than  
4 not.

5 So to illustrate the concept of the  
6 burden of proof, think of the image of the  
7 scales of justice, the balance scale. And on  
8 one side of it place all of the evidence that  
9 you believe is favorable to the plaintiff's  
10 claim. And on the other side, on the other  
11 side, place all of the evidence you believe  
12 is favorable to the defendant.

13 Now, if the scales tip ever so  
14 slightly in favor of the plaintiff, then the  
15 plaintiff has met her burden of proof and you  
16 should find for the plaintiff. If the scales  
17 are equal or tip ever so slightly in favor of  
18 the defendant, the plaintiff has not met her  
19 burden of proof and you should find for the  
20 defendant.

21 Now, this is a case involving claims  
22 of negligence and the issues that you will  
23 have to decide are as follows and these are  
24 issues that you will have to decide by the  
25 burden of proof I just explained to you,

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1  
2 which is a preponderance of the evidence.

3 Number one, were the defendants  
4 negligent.

5 Number two, was the defendant's  
6 negligence a factual cause in bringing about  
7 harm to the plaintiff.

8 The plaintiff also has the burden of  
9 proving the extent of damages caused by the  
10 defendants' negligence.

11 Now, I'm going to explain to you the  
12 general concept of negligence and factual  
13 cause. Let me explain also another concept  
14 specific to this case. And that is you will  
15 be deciding the question of whether or not  
16 the defendants' actions in this case were  
17 reasonable in light of the standard of care  
18 which is provided by the Child Protective  
19 Statute.

20 Now, I'm going to read to you that  
21 statute and then I'm going to read to you the  
22 concept of negligence and factual cause.

23 Okay?

24 So let me repeat again. The question  
25 you will decide is whether or not the

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1  
2 defendants' actions were reasonable in light  
3 of the standard of care provided by the Child  
4 Protective Statute.

5 Specifically that will be Section  
6 6311 of 23 Pennsylvania Consolidated  
7 Statutes. And the provision, I'll give you  
8 the general provision, which is the general  
9 rule which says as follows: Persons, who in  
10 the course of their employment, occupation or  
11 practice of their profession come into  
12 contact with children, shall report or cause  
13 a report to be made in accordance with  
14 Section 6313 relating to reporting procedure  
15 when they have reasonable cause to suspect on  
16 the basis of their medical, professional or  
17 other training and experience, that a child  
18 coming before them in their professional or  
19 official capacity is an abused child, except  
20 with respect to confidential communications  
21 made to an ordained member of the clergy,  
22 which are protected under 42 Pennsylvania  
23 Statutes Number 5943, relating to  
24 confidential communications to clergymen.

25 The privileged communication between

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1  
2 any professional person required to report  
3 and the patient or client of that person,  
4 shall not apply to situations involving child  
5 abuse and shall not constitute grounds for  
6 failure to report as required by this  
7 chapter.

8 Let me explain to you the concept of  
9 negligence, because you are going to have to  
10 determine whether or not there was compliance  
11 by the defendants with that statute requiring  
12 reporting and whether or not the compliance  
13 or lack of compliance was negligent.

14 The legal term negligence, otherwise  
15 known as carelessness, is the absence of  
16 ordinary care which a reasonably prudent  
17 person would exercise in circumstances here  
18 presented. Negligent conduct may consist  
19 either in an act or omission to act when  
20 there's a duty to do so.

21 In other words, negligence is a  
22 failure to do something which a reasonably  
23 careful person would do or the doing of  
24 something which a reasonably careful person  
25 would not do in light of all of the

1                                    OPENING REMARKS BY THE COURT

2                                    surrounding circumstances established by the  
3                                    evidence. It's for you to determine how a  
4                                    reasonably careful person would act in those  
5                                    circumstances.

6                                    Ordinary care is the care a  
7                                    reasonably careful person would use under the  
8                                    circumstances presented in the case. It is  
9                                    the duty of every person to use ordinary care  
10                                   not only for his own safety, but to avoid  
11                                   injury to others.

12                                   What constitutes ordinary care varies  
13                                   according to the particular circumstances and  
14                                   conditions existing then and there. The  
15                                   amount of care required by law must be in  
16                                   keeping with the degree of danger involved.

17                                   Okay, remember on the burden of proof  
18                                   I explained to you that there are issues that  
19                                   the plaintiff must prove by a preponderance  
20                                   of the evidence. The first issue was whether  
21                                   or not the defendants were negligent, and I  
22                                   just instructed you as to what negligence is.

23                                   The next is factual cause. Was the  
24                                   negligence a factual cause of harm to the  
25                                   plaintiff. In order for a plaintiff to

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1  
2 recover in this case, the defendants' conduct  
3 must have been a factual cause in bringing  
4 about harm. Conduct is a factual cause of  
5 harm when the harm would not have occurred  
6 absent the conduct. To be a factual cause,  
7 the conduct must have been an actual, real  
8 factor in causing the harm, even if the  
9 result is unusual or unexpected.

10 A factual cause cannot be an  
11 imaginary or fanciful factor having no  
12 connection or only an insignificant  
13 connection with the harm.

14 To be a factual cause, defendant's  
15 conduct need not be the only factual cause.  
16 The fact that some other causes concur with  
17 the defendants' negligence in producing an  
18 injury does not relieve the defendants from  
19 liability as long as their own negligence is  
20 a factual cause of the injury.

21 Now, in this case you're going to  
22 hear some expert testimony. You're going to  
23 hear the testimony of lay people, who are not  
24 experts, but also some people who are  
25 experts. And the difference is that experts



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1  
2 are permitted to give their opinion. And an  
3 expert is a witness who has a special skill,  
4 knowledge, training in a particular field of  
5 learning or experience. And that expert is  
6 permitted to give an opinion to a reasonable  
7 degree of professional certainty based upon  
8 the assumption of certain facts.

9 And you do not have to accept an  
10 expert's opinion just because he or she is an  
11 expert. In evaluating an expert's opinion  
12 and testimony and in resolving any conflict  
13 between different experts' testimony, you  
14 should consider the following: Whether the  
15 witness' knowledge, skill, experience,  
16 training and education, whether you find the  
17 facts the witness relied upon are accurate  
18 and all of the believability factors in  
19 evaluating a witness' credibility and the  
20 quality of their testimony, which I outlined  
21 for you earlier on in my instructions.

22 Now, during the course of the trial  
23 you're going to hear the opening statements,  
24 the closing statements by the attorneys.  
25 You're going to hear the attorneys make

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1  
2 objections. And I want you to understand  
3 fully that the statements made by the  
4 attorneys are not evidence. The evidence  
5 comes to you from the witness stand and  
6 specifically from the answers that the  
7 witnesses give to questions.

8 If an attorney makes an objection to  
9 a question, it's my duty as the Judge to rule  
10 on the objection. If I overrule an  
11 objection, that means that the witness is to  
12 answer and you will have evidence to consider  
13 then, because you'll have an answer. If I  
14 sustain the objection, the witness is not to  
15 answer. You will have no evidence at that  
16 point, because you'll not have an answer.

17 Should a witness blurt out an  
18 objection -- strike that. Should a witness  
19 blurt out an answer over an objection which  
20 I've sustained, you are to disregard that and  
21 do not consider that as evidence.

22 There may be occasions, and I try to  
23 keep them down to a minimum during the trial,  
24 where I may have to have sidebar conferences  
25 with the attorneys. And the purposes for

1                    OPENING REMARKS BY THE COURT

2                    those conferences would be to discuss matters  
3                    of law for me to decide. And, again, that's  
4                    not part of your domain, you're the deciders  
5                    of the facts. So don't be disconcerted if I  
6                    have those sidebar discussions.

7                                       During the course of this trial,  
8                    which I believe will run probably into next  
9                    week, it will probably be five or six days of  
10                    testimony. So I want to give you an  
11                    approximation so that you have an  
12                    understanding of how long you're going to be  
13                    here.

14                                       But during the course of this trial  
15                    you're going to go home every night to your  
16                    family, to your loved ones. And I am  
17                    instructing you now and I will continue to  
18                    instruct you, you're not to discuss the case  
19                    with anyone.

20                                       In addition, you are not to have --  
21                    you're not to engage in any type of  
22                    independent research about any facts about  
23                    this case. You're not to go online. You're  
24                    not to do any Google research.

25                                       Let me give you the reason for that

1                                    OPENING REMARKS BY THE COURT

2                    so that you understand why I'm very serious  
3                    about giving you that order. Under the Rules  
4                    of Evidence, the Rules of Civil Procedure,  
5                    the Rules of Court, all the evidence must  
6                    come to you as filtered through this jury  
7                    trial process. It must be filtered through  
8                    the Rules of Evidence. It must come to you  
9                    while you sit in the presence of the  
10                  attorneys, the parties and in my presence.  
11                  So that you are directly and emphatically  
12                  ordered you not to do any independent  
13                  research on this case.

14                                  Now, during the trial you're  
15                                  permitted to take notes. Under your chairs  
16                                  there will be notepads. But you can only  
17                                  take notes of the testimony of the witnesses.  
18                                  You're not permitted to take notes of the  
19                                  opening statements or the closing statements.  
20                                  Just the witnesses, because that's where  
21                                  you're going to get the testimony and from  
22                                  that you'll glean what the facts are.

23                                  At the end of the day when you go  
24                                  home, we'll hold onto those notes. You put  
25                                  them back in your manila folder and we'll

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OPENING REMARKS BY THE COURT

maintain the integrity and anonymity of the notes. No one will see them.

That, for now, will conclude my opening remarks. It's 12:30. I think it's a good time for you to be able to go get some lunch and then when you come back, I would like you to come back please at... It's 12:30. Come back at 1:45. That gives you an opportunity to get your lunch and come back.

Come back promptly at 1:45 to the jury room and then we'll begin the testimony. All right?

So don't discuss anything over lunch. Put your notepads under your seats and we'll see you at 1:45. Thank you.

THE COURT CRIER: All rise for the jurors, please.

(Jury out at 12:31 p.m.)

THE COURT: All right. See you at 1:45.

MR. FRITZ: Your Honor, we can address this after lunch or now. We're just -- one thing in the introductory charge. When Your Honor read the Child Protective

1                    OPENING REMARKS BY THE COURT

2                    Services Law, the section regarding privilege  
3                    was included in there and we would just  
4                    simply request, in light of the Court's  
5                    ruling, that there was no privilege  
6                    applicable.

7                    THE COURT: I agree. I agree. I  
8                    realized after I did that that I included it  
9                    and it's not to be included.

10                  So I will repeat that section. It's  
11                  a highlighted section you gave me. I'll  
12                  repeat that to the jury when they come in and  
13                  before you start.

14                  MR. FRITZ: Thank you.

15                  MR. MILLER: One other question, Your  
16                  Honor?

17                  THE COURT: Yes.

18                  MR. MILLER: So it's not to interrupt  
19                  the opening statement, may I have a running  
20                  objection to the First Amendment issues and  
21                  those issues that we've discussed here today  
22                  for motions in limine? May I have a  
23                  continuing objection to those issues so that  
24                  I don't have to interrupt their opening  
25                  statement?

1                                    OPENING REMARKS BY THE COURT

2                                    THE COURT: Absolutely.

3                                    MR. MILLER: Thank you, Your Honor.

4                                    MR. ZEFF: Judge, I don't want to be  
5 interrupted, and a continuing objection to my  
6 opening, I appreciate. But not during the  
7 trial. I don't think we really heard much  
8 First Amendment comment other than this is  
9 religion.

10                                   So I do appreciate the ability to  
11 having no objections for my opening --

12                                   MR. MILLER: Just opening.

13                                   MR. ZEFF: We would like to have some  
14 notice if we're going to go on. Thank you.

15                                   THE COURT CRIER: This Court stands  
16 in luncheon recess until 1:45.

17                                   (LUNCHEON RECESS.)

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CERTIFICATION

I, Cynthia Touni, hereby certify that the testimony and proceedings in the foregoing matter taken on February 7, 2017, are contained fully and accurately in the stenographic notes taken by me, and that Pages 4 to 103, inclusive, of this testimony are a true and correct transcript of the same.

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Cynthia Touni, Registered Merit Reporter  
Official Court Reporter

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I N D E X

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PLAINTIFF'S EVIDENCE

WITNESS: DR CR RDR RCR

THOMAS JEFFERSON, JR. (As of Cross-Examination)

BY MR. ZEFF 35 -- -- --

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THE COURT: You're not ready to start your openings. Is that correct?

MR. ZEFF: No, Judge. Could we have a very the short sidebar?

THE COURT: About the openings?

MR. ZEFF: About the openings.

THE COURT: Something other than what we've discussed?

MR. ZEFF: Just learned something new.

THE COURT: Counsel, I'm not going to have this trial go on and on with the sidebars every five, ten minutes.

MR. ZEFF: Thank you.

THE COURT: Understood?

MR. ZEFF: Yes.

- - -

(The following discussion took place at sidebar:)

- - -

MR. ZEFF: Your Honor, I just learned that they're not deferring -- they're not all opening right now they've decided that they're going to do three openings and apparently

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1  
2 they've deferred two of the three openings  
3 until later and I have an objection to that  
4 either they all should open or they all should  
5 not open at the same time and whether we're  
6 going to have, again, three different times to  
7 open as well.

8 So, one is going to put on the case, the  
9 next one is going to put on a case. They get  
10 to open three difference places. I just  
11 learned that. So, I apologize for the late  
12 notice of it, but I just learned that. I want  
13 to note my objection.

14 If they want to open later all at the same  
15 time --

16 THE COURT: Yes. Let the openings all go  
17 at one time.

18 MR. MILLER: I'll just have one minute.

19 THE COURT: Okay. All go at one time.

20 MR. MILLER: All right.

21 MR. ZEFF: Okay.

22 THE COURT: All at one time. I want them  
23 to last about 15, 20 minutes at the most, then  
24 we'll move to the witnesses.

25 MR. MILLER: Very good.

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2                   THE COURT: All right. And no, I don't  
3 mean 20 minutes each; I mean 20 minutes.

4                   MR. FRITZ: Thank you.

5                   MR. ZEFF: Your Honor, I was going to make  
6 that one comment about the clergy.

7                   THE COURT: I'm going to do that, yes.

8                   MR. ZEFF: Thank you.

9   - - -

10                                       (The sidebar discussion concluded.)

11   - - -

12                   THE COURT: Okay. Now, before we begin  
13 with the opening arguments, I want to read to  
14 you, once again, the portion of the statute  
15 dealing with mandatory required reporting of  
16 suspected child abuse. And I want to read that  
17 to you again, because the first time I read it  
18 I included something that should not have been  
19 included in it.

20                   So, now I'm going to read it again to you.  
21 And the way I read it now is the way you are to  
22 consider the statute. Okay.

23                   Persons who, in the course of their  
24 employment, occupation or practice of their  
25 profession, come into contact with children

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1 shall report or cause a report to be made in  
2 accordance with Section 6315 relating to the  
3 reporting procedure. When they have reasonable  
4 cause to suspect, on the basis of their  
5 medical, professional or other training and  
6 expertise, that a child coming before them in  
7 their professional or official capacity is an  
8 abused child. Except with -- strike that.

9 That concludes that portion of the statute  
10 for your consideration. All right.

11 Counsel, any objection? Are we agreed  
12 that that's the tradition?

13 MR. AARON: Agreed, Your Honor.

14 MR. ZEFF: Yes, Your Honor.

15 MR. FRITZ: Yes.

16 THE COURT: Very good.

17 Now, we're going to go to the opening  
18 statements.

19 Counsel for the plaintiff, under the Rules  
20 of Procedure, makes the opening statement first  
21 and then the attorneys for the defendants.  
22 There will be three brief openings, I believe,  
23 for the defendants that will follow.

24 So, you proceed now.  
25

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MR. AARON: Two.

THE COURT: Two. All right. Very good.  
I thought there were three.

All right. Plaintiff, begin.

- - -

MR. ZEFF: Thank you, Your Honor.

First, on behalf of Stephanie Fessler, I want to thank you for sitting not only here today but for the rest of this week and, perhaps, even next week, on behalf of the whole team, we appreciate your service.

If there is anything that Stephanie Fessler wants you to understand about this opening, and this case, it involves two rules. And the first rule is: Clergy must report sexual abuse of children to protect the victim from additional harm.

There is a second rule. And the second rule is: Clergy may never keep sexual assault of a child a secret to protect the congregation. Those two rules together, clergy must report sexual abuse of children to protect the victim from additional harm and clergy may never keep sexual assault of a child a secret

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   to protect the congregation.

3                   Thank you.

4                   You're going to hear testimony about the  
5                   Watchtower and the Christian Congregation of  
6                   the Jehovah's Witnesses.

7                   MR. MILLER:    Objection, Your Honor.  
8                   That's a misnomer.   I object to the  
9                   misrepresentation of the defendants.

10                  THE CRIER:    Excuse me, Your Honor.

11                  THE COURT:   Overruled.

12                  THE CRIER:    Do you have the microphone on?

13                  MR. ZEFF:     I do.

14                  THE COURT:   Just a minute.

15                                 - - -

16                                 (Pause.)

17                                 - - -

18                  MR. ZEFF:    Thank you.

19                  The "Watchtower," as I will call them,  
20                  controls what all the congregations, the  
21                  different branches all of the world do, tells  
22                  them how to do things.  It writes lots and lots  
23                  of documents.  It tells them how to live their  
24                  lives.

25                  And one of the things they've done over

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1  
2 the years, since the 1960's, is tell its  
3 congregants, its members, about child  
4 molestation. Through documents and through  
5 lectures they have told their congregants about  
6 the dangers of child molesters in society.

7 And you're going to hear that they really  
8 like to write. And they have written about  
9 what to look for in their congregations to try  
10 to prevent child abuse.

11 And this organization, the Watchtower, is  
12 an international organization. What they do is  
13 they instruct their elders, and the elders are  
14 the clergy in this organization, they instruct  
15 their elders that when there is a suspicion of  
16 child abuse, they are to contact their legal  
17 department and do an investigation.

18 Let me repeat that. When there's an  
19 allegation or suspicion of child abuse, they're  
20 to investigate and contact their legal  
21 department. They're told how to investigate.  
22 They're told what to investigate. They're  
23 told -- they have to have a committee to  
24 investigate, and then they're told something  
25 else. They're told to keep the matter secret.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 Part of the reason we're here today is  
3 that Stephanie Fessler wants you to learn these  
4 secrets.

5 I'm going to show you a document. 18B,  
6 please.

7 On July 1, 1989, to all of the elders in  
8 the United States, While we as Christians are  
9 ready to forgive others who may wrong us, those  
10 in the world are not so inclined. Worldly  
11 persons a quick to resort to law suits if they  
12 feel their rights have been violated. Some who  
13 oppose the kingdom preaching work readily take  
14 advantage of any legal provisions to interfere  
15 with it or impede its progress.

16 The document further goes on, When doing  
17 an investigation we form a judicial committee  
18 and upon conclusion of the case, the chairman  
19 should place only necessary documents, a  
20 summary of the case, and the S77 forms in a  
21 sealed envelope for the congregation file.  
22 Nothing should be preserved outside of the  
23 sealed envelope, including unnecessary personal  
24 notes by an elder of the committee.

25 The document also says Child Abuse, many



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1 states have child abuse reporting laws. When  
2 elders receive reports of physical or sexual  
3 abuse of a child, they should contact the  
4 society's legal department immediately.  
5 Victims of such abuse need to be protected from  
6 further danger.  
7

8 And with regard to crimes, in some cases  
9 the elders will form judicial committees to  
10 handle alleged wrongdoing that also constitutes  
11 a violation of Caesar's Criminal Laws, e.g.,  
12 theft, assault, et cetera. Generally a secular  
13 investigation into a matter that is judicial --  
14 I'm sorry.

15 Secular investigation into a matter that  
16 is a concern to the congregation should not  
17 delay conducting a judicial hearing. To avoid  
18 entanglement with the secular authorities who  
19 may be investigating the same matter, the  
20 strictest confidence, even of the fact that  
21 there is a committee, must be maintained.

22 Finally, the document says -- whoop --  
23 I'll read it to you Improper use of the tongue  
24 by an elder can result in serious legal  
25 problems for the individual, the congregation

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 and even the society.

3 In 2004, the Spring Garden Congregation of  
4 the Jehovah's Witnesses, Eric Hoffman, was an  
5 elder of that congregation. At that time he  
6 was contacted by Kevin and Jodee Fessler. They  
7 had a problem with their 15-year-old daughter.  
8 And at that time Jodee Fessler said the  
9 following about a love letter:

10 - - -

11 (A Videotaped clip was played for the  
12 Court and jury.)

13 - - -

14 MR. ZEFF: So, in 2004 Eric Hoffman does  
15 as the Watchtower provides, and he forms a  
16 committee to investigate allegations, suspicion  
17 brought to him by the parents of Stephanie  
18 Fessler.

19 Stephanie's called in. She has to talk to  
20 three of the elders. And these men asked her  
21 questions. But Terry Seipp, 48-year-old woman  
22 who was having a relationship with Stephanie at  
23 the time, intervened. They talked. Terry told  
24 her If you tell them anything and I go to jail,  
25 I'm going to kill myself.

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1  
2           So, what does she say? She told them  
3 about kissing. She told them it was romantic  
4 kissing. They were making out. They were  
5 hugging each other. It was romantic and it was  
6 making out.

7           The elders took this information and did  
8 nothing. They found it inconclusive. They  
9 didn't make a note. They also contacted Terry  
10 Seipp's congregation, which was in Maryland.  
11 They also did an investigation.

12           And you're going to be hear from Donald  
13 Hollingsworth of that congregation. Again,  
14 they talked to her. She admitted to kissing a  
15 14, 15-year-old girl at this point, 15-year-old  
16 girl. And again, nothing, no report to the  
17 police, no call to child services, no things  
18 done to the public.

19           But both Terry Seipp, the predator, and  
20 Stephanie Fessler, the victim, were reprovved by  
21 their chapters, punished for their improper  
22 sexual conduct.

23           Now, you're going to hear that in addition  
24 to no contact with the police, that the family  
25 of Stephanie Fessler wasn't told anything about

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 the police either.

3 - - -

4 (Videotaped clip was played for the Court  
5 and jury.)

6 - - -

7 MR. ZEFF: Over the course of the next  
8 year Stephanie Fessler and Terry Seipp  
9 continued to have a sexual relationship. She  
10 was 15, 16 years old and Terry Seipp was 49, 50  
11 years old during this time frame.

12 They were seen together at the Maryland  
13 congregation perhaps ten, 15, 20 different  
14 times, sitting together at services. No calls  
15 to the police were made. No one tried to stop  
16 them.

17 However, sometime in the fall of 2005 Dana  
18 Seipp, Terry's husband, hired a private  
19 investigator. The private investigator took  
20 pictures confirming that it was a sexual  
21 relationship beyond any doubt.

22 This was brought to the Watchtower again  
23 through the congregations and, again, they  
24 formed committees. They talked to Terry Seipp.  
25 They talked to Stephanie Fessler. They did not

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1  
2 talk to the police. They did not call in  
3 anybody professional to do any investigating.  
4 They did not notify children's services.

5 They took minimal notes, put them in an  
6 envelope and decided this was inconclusive.  
7 Inconclusive. But they also decided to reprove  
8 or punish both of them again.

9 In this case you're going to hear that  
10 there's a difference between the Jehovah's  
11 Witnesses and all other people. Other people  
12 are called "worldly people." And you're going  
13 to hear how these secrets by the defendants  
14 harmed Stephanie Fessler, because they failed  
15 to protect.

16 You're going to hear from Detective Lisa  
17 Layden, she's with the Southwest Regional  
18 Police Department, and in 2011 she arrested  
19 Terry Seipp, who admitted to the wrongdoing,  
20 pled guilty and went to jail for sex crimes.

21 You're going to hear from Detective Layden  
22 that there are rules in Pennsylvania, a law  
23 that you just heard from the judge, that  
24 require elders and clergy, when they have a  
25 suspicion, not beyond a reasonable doubt but a

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 suspicion, that a child abuse is taking place,  
3 that they are to contact the authorities.

4 And you're going to hear from Detective  
5 Layden that when the authorities are contacted,  
6 child services, something called "Child Line,"  
7 takes over. And the child is interviewed by  
8 professionals, and the detective who interviews  
9 the child and perpetrator or potential  
10 perpetrator.

11 The people who have been trained for years  
12 and spent their careers studying these issues  
13 become involved. And you're going to hear  
14 that -- Detective Layden is going to tell you  
15 that in 2004 and 2005, the defendants had a  
16 responsibility to protect Stephanie Fessler and  
17 that responsibility was simply to pick up the  
18 phone and call the Child Line or the police and  
19 to let them know that they suspected sexual  
20 abuse.

21 So, you're going to hear that the rules  
22 were broken in this case, and the rules were  
23 broken to keep the congregations, the  
24 defendants, out of harm's way.

25 As a result, the sexual predator was

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 allowed to remain on the hunt. And she did for  
3 another year.

4 Now, you're also going to hear some  
5 excuses for breaking rules. They're going to  
6 claim they didn't know anything in 2004.  
7 They're going to say in 2005 they didn't know  
8 enough, and they're going to say that a  
9 15-year-old girl deceived them.

10 Listen carefully to these things and at  
11 the end of the case we'll be here to argue  
12 about them. But listen to their excuses.  
13 Analyze them and use your common sense.

14 In 2003 Stephanie was a 14-year-old girl.  
15 That's a picture of Stephanie and her dog. At  
16 that time she was being raised by Kevin and  
17 Jodee and she was with the Jehovah's Witnesses.  
18 That's her religion.

19 She attended public school but she didn't  
20 play sports or do any clubs or anything like  
21 that, because her social life was with the  
22 Jehovah's Witnesses. They try not to socialize  
23 with worldly people, especially with children.  
24 So, her life revolved around her family and her  
25 religion at that time.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2           And she had a tough life at home. Her  
3 mother had schizophrenic traits. She was in  
4 and out of a mental hospital. She wouldn't  
5 take her pills. She would take her pills.  
6 They'd change her medication and she did some  
7 bizarre things.

8           And Stephanie, at 14 years old, was really  
9 the caregiver for her mom. And it's only  
10 natural that, you have a 14-year-old girl who's  
11 put under that kind of stress, that she would  
12 look for a mother figure. And that's exactly  
13 what she found. But she found the wrong one in  
14 this case. She found Terry Seipp.

15           Terry Seipp had children the same age.  
16 She'd go over and play at Terry's house with  
17 her kids. She'd sleep over there. And, from  
18 time to time, she'd get a few minutes with  
19 Terry, where she could vent and talk about her  
20 problems.

21           And the other kids would go to sleep and  
22 she'd talk to Terry. And Terry became a mother  
23 to her. And she'd put her arm around her and  
24 give her a kiss once in awhile, tell her things  
25 would be okay.



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2           But at some point this adult took full  
3 advantage of her situation and began to do  
4 more. The arm around became a kiss on the  
5 neck. Suddenly they were having sex. She  
6 didn't have any experience with sex. She  
7 didn't have a sexual orientation. She had  
8 never been kissed before, and a 48-year-old  
9 woman who she loves -- at least she thinks she  
10 loves -- is having sex with her. It was the  
11 only natural thing she could do at the time,  
12 but she wasn't an adult and she trusted.

13           And even after the punishment the first  
14 time, they continued to see each other. She  
15 was afraid she might kill herself.

16           You're going to hear from Debbie Bauer in  
17 this case. Debbie Bauer is a trained therapist  
18 who has, for 30 years, dealt with victims of  
19 sexual abuse. She's going to talk about the  
20 damages that were suffered by Stephanie,  
21 damages suffered not just for being abused but  
22 for the abuse continuing after her trusted  
23 authority figures knew that she was being  
24 abused.

25           You're going to hear that she has trouble

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1 sleeping. You're going to hear that she  
2 suffers from anxiety and you're going to hear  
3 that this is going to last her lifetime and  
4 that the scars will always, always be there.  
5

6 Now, Terry Seipp has admitted that she had  
7 a secret, and that she had committed a crime  
8 and she spent a lot of time in therapy and is  
9 remorseful at this time.

10 I've told you a little bit about the  
11 secrets of the Watchtower, and we'll certainly  
12 get into a lot more of that as this case goes  
13 on, but after hearing this evidence, we're  
14 seeking your verdict, your truth, your decision  
15 and we are seeking a verdict that holds all of  
16 these parties responsible, all of them, for the  
17 damage that has been caused to Stephanie  
18 Fessler.

19 Thank you.

20 THE COURT: Thank you, Counsel.

21 Who would like to proceed next?

22 MR. AARON: I will, Your Honor.

23 THE COURT: Thank you, Sir.

24 - - -

25 MR. AARON: In life there are consequences

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   to not telling the truth. Plaintiff, Stephanie  
3                   Fessler, is not going to accept those  
4                   consequences.

5                   Members of the Jury, we met a few days  
6                   ago. My name is Jud Aaron. I represent the  
7                   Defendant, the Spring Grove Congregation of  
8                   Jehovah's Witnesses.

9                   Lou Lombardi represents the Defendant, the  
10                  Christian Congregation of Jehovah's Witnesses,  
11                  or CCJW. John Miller represents the Defendant,  
12                  the Watchtower Bible and Tract Society of New  
13                  York. And these are three separate defendants.  
14                  They're not one big defendant.

15                  In 2004 and 2005 Stephanie Fessler and her  
16                  family were members of the Spring Grove  
17                  Congregation of Jehovah's Witnesses. Spring  
18                  Grove is in York County, Pennsylvania, about a  
19                  hundred, hundred ten miles from where we are  
20                  now.

21                  I'm not going to tell you a lot about the  
22                  Jehovah's Witness, religion, but you should  
23                  know that in the Jehovah's Witness  
24                  congregation, the leaders of the congregation,  
25                  the clergy, the ministers, if you will, are

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 called "Elders." And elders are simply members  
3 of the congregation who volunteer to lead. At  
4 the same time that they work their full-time  
5 jobs they are elders.

6 You'll hear that when Stephanie Fessler  
7 was 14, 15, 16 years old, she was involved in a  
8 sexual relationship with a 48, 49, 50-year-old  
9 woman by the name of Terry Seipp. Terry Seipp  
10 now goes by the name Terry Monheim. They refer  
11 to her as Terry Monheim.

12 Terry Monheim was prosecuted for what she  
13 did. She pled guilty. She went to jail for  
14 two-and-a-half months. Stephanie Fessler has  
15 sued Terry Monheim in this lawsuit.

16 We expect that Terry Monheim won't even  
17 bother to show up to defend herself. How could  
18 she defend herself? She'd pled guilty. And at  
19 the end of this trial we, will encourage you to  
20 enter a verdict against Terry Monheim, because  
21 she's the culprit here.

22 But Stephanie Fessler has also sued the  
23 Spring Grove Congregation, Christian  
24 Congregation of Jehovah's Witnesses, the  
25 Watchtower Bible and Tract Society. So, let me

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1  
2 address that now.

3           You'll hear that in the fall of 2004, fall  
4 of 2004, Stephanie Fessler's parents learned  
5 that their daughter was involved in some sort  
6 of a close relationship or close friendship  
7 with Terry Monheim. And you'll hear that  
8 Stephanie Fessler's parents confronted their  
9 daughter, and that Stephanie Fessler insisted  
10 that the relationship was not sexual.

11           Stephanie Fessler's parents will tell you  
12 that their daughter did not tell them the  
13 truth. You'll hear that also in the fall of  
14 2004, same time period, Stephanie Fessler's  
15 parents asked the elders of the Spring Grove  
16 Congregation to speak to their daughter, to  
17 provide her with religious counseling, because  
18 that's what elders do.

19           You'll hear they did speak to Stephanie  
20 Fessler. And the evidence will show that in  
21 the fall of 2004, Stephanie Fessler told the  
22 elders that same thing that she had told her  
23 parents. She denied that the relationship was  
24 sexual.

25           Now, we anticipate Stephanie Fessler is

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 going to take the stand and tell you that in  
3 the fall of 2004, she told the elders that  
4 there was intimate kissing, that when she was  
5 15 years old there was intimate kissing.

6 The evidence is going to show that that's  
7 just not true. The evidence will show that in  
8 the fall of 2004 Terry Monheim and Stephanie  
9 Fessler agreed that they would deny the  
10 relationship was sexual, so that Terry Monheim  
11 would not get in trouble.

12 In fact, you're also going to hear that in  
13 the fall of 2004, same time period, Stephanie  
14 Fessler went to see a psychologist, a woman by  
15 the name of Lori K. Barton. And you'll hear  
16 that Stephanie told Lori K. Barton repeatedly  
17 that the relationship was not sexual.

18 In fact, we're going to show you Lori K.  
19 Barton's counseling notes that she took during  
20 those counseling sessions in the fall of 2004,  
21 and those notes will showed exactly what  
22 Stephanie Fessler was telling everyone in the  
23 fall of 2004.

24 And as a consequence, as a consequence, no  
25 one reported the relationship to authorities;

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 not Stephanie Fessler's parents, not the  
3 elders, not her psychologist, because they  
4 could not report what they did not know. They  
5 couldn't report what they didn't know.

6 You'll hear that after the fall of 2004,  
7 Stephanie Fessler and Terry Monheim continued  
8 to see one another in secret. Another fact  
9 that Stephanie Fessler successfully concealed,  
10 and that the elders certainly did not and could  
11 not know.

12 You'll hear that about a year later, the  
13 fall of 2005 now, 2005, Terry Monheim or Terry  
14 Seipp's husband learned that his wife and  
15 Stephanie Fessler were still involved in a  
16 relationship.

17 You'll hear that Stephanie Fessler went  
18 back to speak to the elders. And you'll hear  
19 that this time Stephanie Fessler didn't tell  
20 the whole truth, but she did admit that there  
21 was some sexual contact.

22 You'll hear that Stephanie Fessler also  
23 told the elders, in the fall of 2005, that the  
24 relationship with Terry Monheim was over. And  
25 the evidence will show -- in fact, I think it

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 will be undisputed that by the fall of 2005, by  
3 the time Stephanie spoke to the elders in the  
4 fall of 2005, the relationship was over  
5 forever, for good, for all time.

6 You'll hear that in the fall of 2005 the  
7 elders did not report the relationship to  
8 authorities, but that if they had, they would  
9 have been reporting a relationship that was  
10 already over for all time.

11 And that's what the evidence will show,  
12 that in the fall of 2004, Stephanie Fessler did  
13 not tell the truth. She told everyone, her  
14 parents, the elders, her psychologist, that the  
15 relationship was not sexual. That as the  
16 consequence of that, no one reported the  
17 relationship to authorities, that after the  
18 fall of 2004 Stephanie Fessler and Terry  
19 Monheim continued to see one another in secret,  
20 and that in the fall of 2005, by the time  
21 Stephanie Fessler finally admitted it was some  
22 sexual contact, the relationship was already  
23 over.

24 Members of the Jury, you're also going to  
25 hear that in the fall of 2005 Stephanie



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 Fessler's psychologist, Lori K. Barton, did  
3 report the relationship to authorities, and the  
4 authorities did nothing.

5           You're going to hear from the elders.  
6 You'll see that these are decent men with kids  
7 and grandkids of their own; not the kind of  
8 people who would look the other way if they  
9 knew that a teenaged girl was being sexually  
10 taken advantage of by a 50-year-old  
11 dysfunctional woman.

12           You're also going to see that now, 12, 13  
13 years after the fact -- it's 12, 13 years later  
14 now -- the elders' recollections of precisely  
15 when certain events occurred is not always  
16 crystal clear. But one fact will be crystal  
17 clear, and that is that Stephanie Fessler did  
18 not tell the truth. And the elders of the  
19 Spring Grove Congregation, therefore, could not  
20 report what they didn't know.

21           Members of the Jury, what happened to  
22 Stephanie Fessler wasn't right. A 15-year-old  
23 girl being sexually abused by a 48, 49,  
24 50-year-old dysfunctional Terry Monheim, place  
25 blame where it belongs, with Terry Monheim, who

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 pled guilty for what she did. Do not place  
3 blame where it does not belong, with the elders  
4 of the Spring Grove Congregation, with the  
5 defendants, who could not protect Stephanie  
6 Fessler because she did not tell the truth.

7 Members of the Jury, thank you for your  
8 time.

9 - - -

10 MR. MILLER: Folks, hi. I'm John Miller  
11 and I'm here only behalf of Watchtower and also  
12 on behalf of the Christian Congregation of  
13 Jehovah's Witnesses. So, Lou Lombardi and I  
14 are both going to be representing those two  
15 defendants.

16 I just want to address you very briefly.  
17 Some of you know Jehovah's Witnesses.  
18 Jehovah's Witnesses are a Christian religion  
19 and they're all over the world.

20 Here in the United States they use  
21 corporations to accomplish different parts of  
22 their legal requirements. So, you'll hear  
23 about Watchtower Bible Tract Society of New  
24 York, Inc.

25 That's a New York corporation. And they

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 own some property up there and they print  
3 things. You'll see some documents that are  
4 introduced into evidence that have Watchtower's  
5 name on them. They're a publisher. And so  
6 you'll hear about them.

7 And the reason that I bring that up and,  
8 as well as what the Christian Congregation of  
9 Jehovah's Witnesses is, it's another  
10 corporation that's used in order to rent  
11 facilities for assemblies and conventions. And  
12 since 2001 they've been the ones that have been  
13 used to send out literature as well.

14 So, the reason I bring that up is because  
15 this lawsuit is against three separate  
16 defendants that are here before you and one who  
17 is not. So, the one who's not, Terry Seipp  
18 Monheim, you'll only see her on a video film.

19 But the three who are before you are the  
20 three -- three defendants that are before you,  
21 that's going to be the Spring Grove  
22 Congregation, Mr. Aaron represents, Christian  
23 Congregation of Jehovah's Witnesses and  
24 Watchtower.

25 So, as regards the instruction the judge

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 has given and what this case is largely about  
3 is a statute that mandates reporting of  
4 suspected child abuse. And you've probably  
5 heard it pretty clearly, Persons, who, in the  
6 course of their employment, occupation or  
7 practice of their profession, come into contact  
8 with children.

9           So, you won't hear any evidence in this  
10 case that anyone in that New York corporation  
11 or anyone in either of those two New York  
12 corporations came into contact with any  
13 children in this case.

14           So, as far as the duty to report is  
15 concerned, you'll hear about some elders in the  
16 Spring Grove Congregation and, then, you'll  
17 hear about Lori Barton. That's the other  
18 person that came into contact with Stephanie.  
19 And those are the only ones who had any  
20 opportunity to gain any information about  
21 whether or not there was a duty to report.

22           The most telling piece of information that  
23 you're going to see, the most important piece  
24 of evidence that you're going to see is Lori  
25 Barton's notes.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   Written record doesn't tell a lie. People  
3 can take that stand, say whatever they want.  
4 And that's what's going to happen here. But  
5 records don't lie.

6                   Lori Barton's records tell all the truth  
7 you're going to need to decide this case. But  
8 from my client's standpoint, I think you'll see  
9 that we have nothing to do with this case.

10                  The plaintiff is going to show you  
11 documents that they say constitute information  
12 that Watchtower provides to the public and,  
13 then, letters that provide directives or  
14 information that's used by elders in what they  
15 do.

16                  Elders of Jehovah's Witnesses are lay  
17 people. They're like you and me. They're not  
18 professionals. They're lay people. They need  
19 some help to apply the Bible scriptures. And  
20 that's what they do. They apply the Bible  
21 scriptures in everything that they do, whether  
22 it's shepherding or whether it's helping people  
23 through a simple matter and so forth.

24                  So, elders need a little direction, how do  
25 the scriptures apply to this topic? How do the

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2 scriptures apply to that topic? And so forth.  
3 So, they get these letters and they read them  
4 and they look at the scriptures and Ahh,  
5 there's the scripture. Yeah, that's -- man, I  
6 wish I'd remembered that, but at least I've got  
7 it here. That's how it works.

8 So, as you look at the evidence in this  
9 case, hopefully you'll see that in all four,  
10 what Lori Barton says rules the day, and what  
11 you'll also see is that Watchtower and CC did  
12 nothing and don't even belong here.

13 Thank you.

14 THE COURT: Very good. Thank you.

15 First witness.

16 - - -

**PLAINTIFF'S EVIDENCE**

18 - - -

19 MR. ZEFF: Thank you, Your Honor.

20 Thomas Jefferson, Jr.

21 THE COURT: Can you show the witness where  
22 to go.

23 THE CRIER: Right around this way, Sir.

24 Watch your step. Right up here. Right  
25 around here.



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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3 BY MR. ZEFF:

4 Q Good afternoon, Mr. Jefferson.

5 A Good afternoon, Counsel.

6 Q You've been selected --

7 MR. ZEFF: Judge if I may call him as of  
8 cross-examination as well. He's the designee  
9 of the defendant.

10 THE COURT: Any objection?

11 MR. MILLER: No, Your Honor.

12 MR. AARON: No objection.

13 THE COURT: Proceed.

14 MR. ZEFF: Thank you.

15 BY MR. ZEFF:

16 Q You've been selected by the Watchtower and  
17 the Christian Congregation to provide testimony on  
18 their behalf.

19 A That's correct, Counsel.

20 Q And you're a member of the Watchtower?

21 A I'm one of Jehovah's Witnesses, Counsel.

22 Q Okay. And there are about a hundred  
23 branches in the United States?

24 A There are about slightly less.

25 Q Slightly less than that. And the world



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headquarters for the Jehovah's Witnesses is where?

A Currently it's located in Warwick, New York.

Q And what is your position with Watchtower?

A I'm a member of the United States Branch and I am also a member of the worldwide religious order of Jehovah's Witnesses.

MR. MILLER: Excuse me, Your Honor.

As an objection, may I ask for clarification. When counsel says the Watchtower, is he referring to the Defendant, Watchtower Bible and Tract Society or some other shorthand? Otherwise I have to keep objecting.

THE COURT: Sir.

MR. ZEFF: Judge, I was going to clarify that with my next question.

THE COURT: Very good. You can proceed.

BY MR. ZEFF:

Q Okay. Can you explain to the jury the difference between the Watchtower and the Christian Congregation?

A Be happy to do so, Counsel.

Q Thank you.

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A The Watchtower is a corporate entity and the Watchtower Bible and Tract Society of New York serves to provide a publishing arm. The Christian Congregation of Jehovah's Witnesses was formed in 2001. And that organization is also a corporate arm. And that's the difference between the two.

Q So, they're both corporations?

A That is correct, Counsel.

Q And they both serve the Congregations of the Jehovah's Witnesses?

A The Christian Congregation of Jehovah's Witnesses cares for the congregations, arranging for assemblies. The Watchtower Bible and Tract Society of New York is a corporation that holds property and also assists with publishing literature.

Q So, and if I may call them the Watchtower and the Christian Congregation for a shorthand, is that okay?

A I think it is.

Q Okay. So, Watchtower and the Christian Congregation, are they ruled or governed by some group or another or person?

A Well, Counsel, as you know, a corporation a legal corporation, of course, is bound by the

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bylaws and so forth of that corporation. And that's basically how both corporations function.

Q I'm asking a little simpler question, Sir. Is there someone in charge?

A Could you clarify what you mean by "in charge?"

Q Sure. "In charge," who makes decisions on behalf of the Watchtower and the Christian Congregation?

A Well, each corporation has a board of directors, if that's what you're asking.

Q No, Sir. I'm asking you whether or not, if I wanted to talk to the people in charge, kind of like, you know, take me to your leader sort of thing, I'm just simply asking you, who's in charge? If we wanted to talk to the person or persons that make decisions on behalf of the Watchtower, for example, who would that be?

A I'd suggest you start with the board of directors. There's a president, there's a vice-president.

Q Okay. Who's the president?

A President of which corporation?

Q The Watchtower.

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A I don't recall right at the moment, Sir.

Q You don't know who the president is?

A I don't recall at the moment, Sir.

Q When you go back to New York, whether it's tonight or tomorrow or next week, and you move onto whatever else you're doing, do you report to somebody as an official with the Watchtower?

A Well, I'm not a member of the Watchtower, so --

Q Okay.

A That's the answer to that.

Q Then I'm confused. What are you a member of?

A I'm a member of a religious order of Jehovah's Witnesses.

Q Okay. So, somebody designated you to be here on behalf of the Watchtower and the Christian Congregation, right?

A That's correct.

Q Okay. Who was that?

MR. AARON: Objection.

THE COURT: Overruled.

BY MR. ZEFF:

Q Who was that?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   THE COURT:    You can answer, please.

3                   THE WITNESS:    Would you restate the  
4                   question, kindly, Counsel?

5                   BY MR. ZEFF:

6                   Q        Sure.    Who decided that you would be the  
7                   one to speak on behalf of these organizations?

8                   MR. AARON:    Another objection.  They --  
9                   plaintiff's asked for this witness as the  
10                  designee.

11                  MR. ZEFF:    Judge --

12                  THE COURT:    Overruled.

13                  THE WITNESS:    I was asked by our legal  
14                  department to represent here at this trial.

15                  BY MR. ZEFF:

16                  Q        Okay.    And whose legal department was  
17                  that?

18                  A        Again, Counsel, please --

19                  Q        Sure.    You were asked by our legal  
20                  department.  What did you mean by "our legal  
21                  department?"

22                  A        I was asked by the legal department for  
23                  the United States Branch to appear today.

24                  Q        The branch of what?

25                  A        The United States Branch, which is the

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organization that cares for our work in the United States. That's not to confuse, but that is what it is.

Q I am -- I'm sorry.

A I apologize, Counsel.

Q I'm confused, because, you know, if I said Take me to your leader, I'd expect you could say board of directors, you could say a person or something like that.

So, you were appointed to be here by the U.S. Branch. Is that your testimony?

A Yes, Counsel, that is my testimony.

Q Okay. So, the U.S. Branch is a corporation?

A The U.S. Branch is not a corporation. The U.S. Branch is a group assigned to operate the care of the work of preaching and disciple-making in the United States. The legal department works with the U.S. Branch and, therefore, I was asked to represent or to answer your questions today.

Q So, would it be fair to say that there's some kind of web of corporations with different boards of directors that brought you here today?

MR. MILLER: Objection to the

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

representation "web."

THE COURT: Sustained.

BY MR. ZEFF:

Q Okay. Would it be fair to say that there are a conglomerate of corporations and branches and different companies that have decided that you're the person that should speak on their behalf?

A What would be fair to say, Counsel, is that in any business and in holding of property, and certainly you're far more intelligent than I am, you have a group of people, a corporation is formed, they care for the property, the legal aspects of printing and disseminating material, I was asked to represent and speak in their behalf.

Q Okay.

A It's not a web.

Q Are there human beings that asked you to come here?

A Are you serious, Counsel?

Q I'm just trying to get the name of a person or some group of people that represent the groups that brought you here today, so that the jury has an understanding of who it is they're dealing with.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        There are human beings, I'm happy to tell  
3 you that, Counsel.

4           Q        Okay. And do you report to any of them?

5           A        I report to the United States Branch  
6 Committee, Counsel.

7           Q        Okay. And who is on that committee?

8           A        There are a group of about 15 men who  
9 comprise that committee.

10          Q        Okay. And the legal department that you  
11 talked about before, the legal department is part of  
12 the branch then?

13          A        The legal department is a department  
14 within the United States Branch, that's correct.

15          Q        Okay. And the legal department is made up  
16 of lawyers that are part of your religion?

17          A        I cannot speak as to the composition of  
18 the legal department, inasmuch as I'm not a member  
19 of that department. I'm a member of the United  
20 States Service Department.

21          Q        Okay. I'm going to move on.

22                    When a congregation is being led,  
23 it's being led by an elder?

24          A        That's incorrect.

25          Q        Okay. Elders are the clergy of the



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congregation?

A Elders are appointed as shepherds. They care for the spiritual well-being of the congregation. That's their role.

Q Okay. And elders get guidance on how to care for the flock from the Watchtower and the Christian Congregation; don't they?

A Incorrect, Counsel.

Q Okay. So, the elders get guidance from whom?

A The Christian Congregation is a corporation on whose letterhead direction is provided to the elders and so, as a vehicle, when there are questions or there are concerns regarding how things should be done in a congregation of Jehovah's Witnesses, you have to have something on which to print that direction.

So, our elders receive that direction from the elders in the United States Branch. When decisions are made, the information is put on the letterhead, letters are sent to all the individual congregations. That's how it's done, Counsel.

Q Are there, again, human beings who write the letters?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        Good sense of humor, Counsel, that's --

3           Q        I'm just trying to figure out -- and  
4 respectfully, Sir --

5           A        And I respect you, Counsel, thank you.

6           Q        I do. And I just want --

7           A        We share this moment together.

8                   THE COURT: Just a moment. Just a moment.  
9 Just a moment.

10                   Ask your question and you provide an  
11 answer.

12                   MR. ZEFF: Thank you. Thank you, Judge.

13                   THE COURT: I don't want cute  
14 give-and-take. I want a question and I want an  
15 answer.

16                   MR. ZEFF: Thank you, Judge.

17                   THE COURT: Is that understood?

18                   THE WITNESS: Absolutely, Your Honor.

19                   THE COURT: Continue, Sir.

20 BY MR. ZEFF:

21           Q        I'm just trying to find out whether there  
22 are human beings above the level of the  
23 congregation, part of the Watchtower, part of the  
24 Christian Congregation, that tell congregations what  
25 to do through these letters?

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A Bible based direction --

MR. MILLER: I'll object to the form as,  
yeah, that's a complexion -- convoluted  
question.

THE COURT: Overruled. Overruled.

You may answer.

THE WITNESS: Ask the question again,  
please, Counsel.

BY MR. ZEFF:

Q Sure. Are there persons that write  
letters on behalf of the Watchtower or the Christian  
Congregation that advise the elders in the  
congregations of Jehovah's Witnesses as to what to  
do on certain matters?

A Yes, Counsel.

Q Okay. And who are they?

A There's no specific name to provide, as  
those letters are compiled by a group of men  
generally.

Q Okay. So, can we agree, at least, that  
the procedure is that there's a group of men who are  
part of a corporation who write letters of  
instruction that are to be followed by elders and  
congregants?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2 A That's incorrect, Counsel.

3 Q Okay.

4 A I did not say they were a part of the  
5 corporation. I simply said they're a group of men  
6 who write letters.

7 Q Who are these men? What are they part of?

8 A They are part of the United States Branch.  
9 They are members of a religious order of Jehovah's  
10 Witnesses.

11 Q Are they part of the United States Branch  
12 of the Watchtower?

13 A Incorrect, Counsel.

14 MR. MILLER: Form.

15 BY MR. ZEFF:

16 Q Are they the part of the United States  
17 Branch of the Christian Congregation of Jehovah's  
18 Witnesses?

19 MR. MILLER: Object to the form.

20 THE COURT: Overruled.

21 Answer.

22 THE WITNESS: As stated earlier, Counsel,  
23 the Christian Congregation of Jehovah's  
24 Witnesses is a corporation, United States  
25 Branch represents a group of people who are all

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2 part of a religious order and who work together  
3 to provide information for the congregants and  
4 for the elders.

5 Watchtower is a corporation. Individuals  
6 who share in the preparation and responses for  
7 the field are not necessarily members of either  
8 corporation, Counsel.

9 BY MR. ZEFF:

10 Q Thank you. If I may, could you come off  
11 the stand and --

12 THE COURT: Hold on.

13 MR. ZEFF: If I may, Your Honor.

14 THE COURT: What's your question?

15 MR. ZEFF: I would just like some kind of  
16 diagram that shows congregation and who the  
17 Watchtower is and who's writing these letters  
18 and telling the congregants and the elders how  
19 to act.

20 THE COURT: Before we get a diagram, ask  
21 him questions and see if you can get answers.

22 MR. ZEFF: I will do that, Your Honor.

23 THE COURT: And once you get answers,  
24 maybe there can be a diagram.

25 MR. ZEFF: Thank you.

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BY MR. ZEFF:

Q Maybe I'm still a little confused.

The U.S. Branch, is that who writes the letters that are signed with the Watchtower on the top?

A As stated earlier, Counsel, the Christian Congregation of Jehovah's Witnesses is the legal entity that is used for letters that explain information to the congregations; not the Watchtower.

Q Okay. So, how long has the Christian Congregation been responsible for those letters?

A Since 2001.

Q Okay. And there are men who work on behalf of the Christian Congregation that write these letters, correct?

A There are men who work on behalf of the United States Branch who prepare letters, and the information prepared is then placed on the letterhead of the Christian Congregation and sent to the congregations.

Q Would you agree that the Christian Congregation is responsible for the content of those letters?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2 A Not necessarily, no.

3 Q Who is responsible for it?

4 A Those who comprise the Unites States  
5 Branch oversight.

6 Q Okay. And do they have anything to do  
7 with the Christian Congregation?

8 A Well, obviously if they're using their  
9 letterhead, there is a relationship.

10 Q Thank you.

11 So, does the Christian Congregation  
12 give permission to the U.S. Branch to write the  
13 letters and use their letterhead?

14 A The Christian Congregation, as a corporate  
15 entity, makes available its letterhead. The United  
16 States Branch Committee reviews the correspondence,  
17 the correspondence, once approved, is placed on that  
18 letterhead and sent out.

19 Q Isn't the Christian Congregation of the  
20 Jehovah's Witnesses responsible for communicating  
21 anything to the Jehovah's Witnesses congregations?

22 A Well, of course, if their letterhead is  
23 used -- and I'm not sure. Let me ask you. What do  
24 you mean "responsible?" I'm sorry.

25 Q Will they take the blame or the credit for

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something that is written with their letterhead on  
it?

MR. MILLER: Late objection.

THE COURT: Overruled.

MR. MILLER: For the record, it calls for  
a legal opinion.

Thank you, Your Honor.

THE COURT: Overruled.

THE WITNESS: I'm not exactly sure I'm  
qualified to answer that question, Counsel.  
When you talk about taking the blame, I'm  
really not an attorney. I don't know if I  
could answer that question.

THE COURT: Sir, I'd like to overrule  
objection. So, you're to answer the question.

THE WITNESS: Thank you, Your Honor.

Then I'll have to take a moment to pause  
and think about what I'm going to say. All due  
respect to the Court.

You want to know if the Christian  
Congregation is responsible to take blame?

BY MR. ZEFF:

Q I want to know whether or not the  
Christian Congregation will take any responsibility



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for anything written on their letterhead?

A Of course they have to, Counsel.

Q And is the same true of the Watchtower, would they take responsibility for what's written on their letterhead?

A I would imagine they would have to, Counsel.

Q And documents that are signed by the Brotherhood of the Watchtower, I believe it is, Watchtower Brotherhood Society, is that what it's called?

A Counsel, may I see the document you have in mind, please?

Q I will show you a different one, because that is not an appropriate document.

There are a number of documents that are -- why don't we show you 18B first, please.

THE COURT: What was that, Sir?

MR. ZEFF: 18B.

Thank you. The very last page of it.

THE COURT: Counsel, do you know what 18B is? Do you have the exhibits?

MR. MILLER: We have them.

MR. ZEFF: We have them coming up.

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BY MR. ZEFF:

Q There's a signature there indicating to me -- if you can blow that up, what is that signature?

A You'd like me to read what's there, Counsel?

Q Your brothers -- yeah. What is that, Watchtower --

A Well, it says there "Your Brothers, Watchtower Bible and Tract Society of New York."

Q Okay. It's the Bible and Tract Society? Okay.

A That's right.

Q So, when the Watchtower Bible and Tract Society -- we're calling it the Watchtower, correct -- when they sign something like that, do they take responsibility for the content of that letter?

A They do, Counsel.

Q Okay. And if it had the Christian Congregation, they would take responsibility for the content of that letter, right?

A That's correct, Counsel.

Q Okay. And those that are writing these

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documents are working on behalf of the Christian  
Congregation and/or the Watchtower?

A That's incorrect, Counsel.

Q Okay. Who are they writing on behalf of?

A United States Branch Committee.

Q Okay. Is that a corporation?

A No, it is not.

Q Elders in the church, how are they  
selected?

A At 1 Timothy 3:1-7 there is a list of  
scriptural qualifications for elders. Now, those  
qualifications include, among other things, that a  
man should be irreprehensible, a husband of one  
wife, he should have a fine testimony on the  
outside. But Titus chapter one also covers other  
qualifications for appointed elders.

When a man reaches a certain level  
spiritually, the elders review those scriptural  
qualifications that are based on God's spirit. And  
if the man measures up to a reasonable degree,  
prayerful consideration is given to whether he can  
be appointed to serve as an elder.

Q Thank you. Now, are elders trained once  
they become elders?



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it.

BY MR. ZEFF:

Q And we have a screen here, but also by your feet are notebooks that would have hard copies of all these document. "Pay Attention to Yourself and to All The Flock." Is that --

A Yes, it is -- it is a handbook for training, yes.

Q And that's something that's given to all elders in the United States?

A I have to adjust that. That's something that was, past tense, Counsel.

Q Okay. And back in 2004, elders had that?

A That's correct, Counsel.

Q 2005 time period we're talking about?

A That's correct, Counsel.

Q So, that's one of the documents that was published at that time by the Watchtower, that was given to elders to train them on how to be a good elder, what to do?

A Yeah. Title page, Counsel.

Q Go to the next page.

A Before I comment on Watchtower, I need to see the title page.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 Q Sure.

3 A And then the publisher page, please.

4 Watchtower of New York and Watchtower  
5 of Pennsylvania are mentioned there, from what I can  
6 see, Counsel.

7 Q You'd agree that the Watchtower provided  
8 this document to elders to instruct them?

9 A Yes.

10 Q Okay. And along with that document, they  
11 provided many, many other documents of instruction  
12 to elders, didn't they?

13 A That depends on what you're referring to,  
14 Counsel. I can't answer that unless I know what I'm  
15 answering.

16 Q More than ten?

17 A And that depends. You would have to show  
18 me the document, Counsel.

19 Q Sir, let me show you a collection of  
20 documents, then.

21 MR. ZEFF: Judge, this is a group of  
22 documents and I will read in what they are, but  
23 I'd like to just approach.

24 THE COURT: Just read what they are, Sir.

25 Counsel is familiar.

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1  
2 MR. ZEFF: Okay.

3 BY MR. ZEFF:

4 Q I'm going to show you a list of documents,  
5 Exhibit 8, 9, 10, 11, 12, 14B, 18B, 20, 21, 23B, 25,  
6 29, 32B, 35.

7 THE COURT: Slow down.

8 MR. ZEFF: I'm sorry.

9 BY MR. ZEFF:

10 Q 35B, 36B, 37, 39, 44, 45, 46, 48B, 50, 54,  
11 55B, 56B, 58B, 60B, 61B, 62, 63, 67B and 78 we've  
12 already seen.

13 THE COURT: All right. And these are  
14 contained in binders and all your exhibits and  
15 those binders have been provided to counsel; is  
16 that correct?

17 MR. MILLER: Yes, Your Honor.

18 MR. ZEFF: Correct.

19 THE COURT: All right. Counsel, is there  
20 any objections to those --

21 MR. MILLER: Yes, Your Honor. Several.

22 THE COURT: -- to those exhibits?

23 MR. MILLER: I have several objections,  
24 Your Honor.

25 THE COURT: All right.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   MR. ZEFF:   And just so we're clear, I want  
3                   to show them to him to establish that they  
4                   write these documents at this point; not for  
5                   the content of them yet.

6                   THE COURT:   All right.

7                   MR. ZEFF:   And I may not get to most of  
8                   them.

9                   THE COURT:   Any objection at this point?

10                  MR. MILLER:   To just showing them, no.

11                  MR. ZEFF:   Okay.

12                  THE COURT:   You can give them to the  
13                  witness.

14                  THE CRIER:   Okay.

15                  MR. ZEFF:   Okay.

16                  THE CRIER:   So marked.

17                  BY MR. ZEFF:

18                  Q        What I've just put before you is a  
19                  collection of documents that I would represent to  
20                  you, I believe, are written by the Watchtower  
21                  related to the issue of sexual molestation.

22                  MR. MILLER:   And I object to the  
23                  characterization.

24                  MR. ZEFF:   Sexual abuse.

25                  THE COURT:   You were going to ask whether



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1  
2 or not they're written --

3 MR. ZEFF: By the Watchtower.

4 THE COURT: -- by the Watchtower.

5 Without getting into content, you may.

6 MR. ZEFF: Very well.

7 Thank you, Your Honor. I will do that in  
8 a moment.

9 BY MR. ZEFF:

10 Q Are those documents that are written by  
11 the Watchtower intended for congregants and elders  
12 to read?

13 A Counsel, are we going to go one-by-one or  
14 do you want me to just look at all of these real  
15 quick?

16 Q If you could look at them very quickly.

17 A Just whatever would expedite the process.

18 Q Look at them very quickly, if you don't  
19 mind.

20 A Happy to do whatever you'd like.

21 THE COURT: And your question is whether  
22 or not they're written by Watchtower --

23 MR. ZEFF: And intended for elders and/or  
24 congregants.

25 THE COURT: And there cannot be a

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   stipulation as to that?

3                   MR. MILLER:    There is such a hodgepodge,  
4                   there is no way we can stipulate to that form  
5                   of that question.   No.   I'm sorry.

6   - - -

7   (Pause.)

8   - - -

9                   THE COURT:    Did you go through them, Sir?

10                   THE WITNESS:   I'm working through, Your  
11                   Honor, as quickly as possible.   And because of  
12                   the broad scope of the question, I need to look  
13                   at each document.

14                                   Thank you for the patience of the Court.

15                                   I'm done, Your Honor, and I can respond to  
16                   the question now.

17                                   The answer to your question is no.

18                   BY MR. ZEFF:

19                   Q        So, these documents are not documents that  
20                   are provided by the Watchtower to congregants and/or  
21                   elders?

22                                   MR. MILLER:    Object to the form.

23                   BY MR. ZEFF:

24                   Q        Is that correct?

25                   A        The documents --



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1  
2 sure about that and I just want to get  
3 clarification on it.

4 THE COURT: Rephrase it.

5 MR. ZEFF: Okay. Thank you.

6 BY MR. ZEFF:

7 Q Do you recall earlier in testimony I asked  
8 you whether the Watchtower provided -- how many  
9 documents the Watchtower provided to congregants or  
10 elders and you weren't sure how many and I asked if  
11 it was more than ten?

12 A And I'm still not sure, Counsel.

13 Q Okay. There are more than ten there,  
14 aren't there --

15 A Thanks.

16 Q -- provided by the Watchtower to  
17 congregants and elders?

18 A And the public at large.

19 Q And it's not just those documents. There  
20 are other documents, many, many more documents that  
21 the Watchtower has published that they're  
22 responsible for that they provide to congregants and  
23 elders on various topics, aren't there?

24 MR. MILLER: Object to the form, Your  
25 Honor.

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1 THE COURT: Overruled.

2 Answer.

3 THE WITNESS: Restate, please.

4 BY MR. ZEFF:

5 Q I'll actually withdraw the question.

6 Letters of instruction to elders,  
7 those come from whom?

8 A Letters of instruction from the elders on  
9 what topic, Counsel? Because that's --

10 Q Okay. Well, let's -- let me give you  
11 this. What is a letter of instruction to elders?

12 A Well, a letter of instruction to elders  
13 could be on any number of things from how to keep a  
14 Kingdom Hall clean to how to care for shepherding.  
15 It's a broad question, Counsel.

16 Q Can you just describe what they are? They  
17 are letters from elders -- from whom to the elders?

18 A Again, please, Counsel, a horn was  
19 blowing. What did you say, please?

20 Q Sure. Letters of instruction that are  
21 sent from the Watchtower, are they documents that  
22 are to be followed by elders?

23 A And again, Counsel, letters to the elders  
24 are sent on the letterhead of the Christian  
25

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Congregation. So, let me clarify that point first of all.

And the instruction provided to the elders on the letterhead by the Christian Congregation is to provide direction to them, and the elders follow that direction.

Q Okay. If an elder doesn't follow the direction that is written to them in the letter of instruction, can that elder be punished?

A Could you clarify what you mean by "punished," Counsel?

Q Disciplined, told you can't be an elder anymore, taking any of their privileges away from them.

A Well, Counsel, I can't answer that question and I'm not trying to be difficult, but here again, that's a very broad question.

The infraction, he doesn't follow direction, could mean he doesn't understand, it's an oversight. But to say he's going to be punished, it's difficult for me to answer that in a forthright way. And I'm not trying to be difficult.

Q And neither am I, Sir. I just want to know whether, under any circumstance, if an elder

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does not follow the directions given to him in one of these letters, can he be punished? Can he be taken off as an elder or told you can't serve as an elder for a period of time or maybe even you can't be a Jehovah's Witness anymore?

MR. MILLER: Objection. Asked and answered and argumentative.

THE COURT: It's overruled.

THE WITNESS: With regard to your question, let me take it in part, because it's a compound question.

First of all, you're asking me if an elder fails to comply with printed direction in a letter would he no longer be one of Jehovah's Witnesses.

And one is not disqualified as one of Jehovah's Witnesses because they fail to follow what's in a letter. So, that's one part of your question.

You asked me about an elder being punished. And I cannot specifically address what you mean by punishment, but I will say this: Elders receive direction and if elders, for whatever reasons, are unable to comply with

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1  
2 that direction, then time is taken to evaluate  
3 what the circumstances were. It may or may not  
4 affect his privilege of serving as an elder.  
5 That's the truthful answer.

6 BY MR. ZEFF:

7 Q Okay. So, there are times -- strike that.

8 It is possible for an elder who does  
9 not follow directions to lose their position as an  
10 elder?

11 MR. MILLER: Object to the form.

12 THE COURT: Overruled.

13 THE WITNESS: It is possible for an elder  
14 who fails to continue to meet the scriptural  
15 qualifications that I outlined to you earlier.  
16 If an elder fails to meet those scriptural  
17 qualifications, that is the only reason he  
18 would be disqualified, Counsel.

19 BY MR. ZEFF:

20 Q Okay.

21 A The same qualifications upon which he was  
22 appointed, if one fails to meet them, he's  
23 disqualified. That's the only reason why an elder  
24 is disqualified, Counsel.

25 Q And who makes the decision whether an



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elder is disqualified?

A The local body of elders will review the qualifications of the elder. When the circuit overseer, which is a traveling elder who visits multiple congregations, when the circuit overseer comes to the congregation, the local body of elders will have met with the elder, explained the deficiency with regard to his qualifications, and they will recommend to the circuit overseer that the elder -- they will recommend to the circuit overseer that the elder is no longer qualified and the circuit overseer will make a decision.

Q And a circuit overseer reports to who?

A The circuit overseer is appointed by the governing body of Jehovah's Witnesses.

Q Who are the governing body of the Jehovah's Witnesses? What is that?

A This is a group of men who serve as the oversight for the worldwide work of Jehovah's Witnesses.

Q Are they associated with the Watchtower?

A No.

Q And are they associated with the Christian Congregation?

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1  
2 A No.

3 Q Okay. Well, are any of the governing body  
4 members board members of either of those  
5 organizations?

6 A No, Sir.

7 Q Okay. When the Watchtower prints  
8 something and tells the congregants to do something  
9 what, if anything, do the governing body have to do  
10 with that?

11 A As stated earlier, when material is  
12 published, a group of men who are spiritually  
13 qualified review bible principles, and those bible  
14 principles provide direction. The group of men I  
15 referred to as the governing body are a group of  
16 spiritually qualified men as well and they, too, may  
17 review the information that is sent out on the  
18 letterhead.

19 Q I want to move on to another topic,  
20 because I was just trying to understand the  
21 organization.

22 MR. ZEFF: And I apologize for taking so  
23 long with that, Your Honor.

24 BY MR. ZEFF:

25 Q Would you agree, Sir, that clergy must

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2       report sexual abuse in children to protect the  
3       victim from additional harm?

4           A        Are you referring by --

5                   MR. AARON:   Objection, Your Honor, to the  
6       extent that calls for a legal conclusion, it's  
7       also overbroad.   I object.

8                   THE COURT:   Overruled.

9                   Answer the question.   Do you agree or  
10       disagree?

11                   THE WITNESS:   Well, I have a question to  
12       clarify, Your Honor, if you don't mind.

13                   THE COURT:   So, then you can't answer the  
14       question?

15                   THE WITNESS:   I cannot answer the question  
16       as it is worded, Your Honor.

17                   THE COURT:   All right.

18       BY MR. ZEFF:

19           Q        Let me ask you about rule number two.   Do  
20       you agree that clergy may never keep sexual assault  
21       of a child a secret to protect the congregation?

22           A        Elders in the congregation are charged  
23       with caring for the flock.   And elders comply with  
24       the need of caring for children in the flock as  
25       well.   They will do everything they can to care for

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their interest and well-being.

Q Do you agree that clergy may never keep sexual assault of a child a secret to protect the congregation?

A I can't agree --

MR. MILLER: I'm going to object to the form, Your Honor. A secret from whom?

THE COURT: Overruled.

THE WITNESS: Counsel, I can't answer your question because we're not clergymen. That's my challenge with your question. If you're asking me about elders, I can speak about elders, but we are not clergymen.

BY MR. ZEFF:

Q Do you agree that elders may never keep sexual assault of a child a secret to protect the congregation?

A That's correct.

Q And we can also agree that we have to protect children in all of our communities from child abuse and child molesters, can't we?

A Again, Counsel, please.

Q We can all agree that we have to protect our children from child molesters, every community?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A       We all have a personal responsibility to  
3 protect the interest and well-being of our children,  
4 Counsel.

5           Q       And you'd agree with me that if there is a  
6 child molester among us, that we as a community must  
7 make all efforts to protect every child from  
8 needless harm caused by child predators?

9                   MR. AARON:    Objection, Your Honor.

10                   THE COURT:   Sustained.

11                   MR. AARON:    It's overbroad.

12                   THE COURT:   Sustained.

13                   MR. ZEFF:     Let me withdraw that.

14 BY MR. ZEFF:

15           Q       The longer we allow a child molester to  
16 remain in our community, the more potential harm a  
17 predator can do? You agree with that, don't you?

18                   MR. AARON:    Same objection.

19                   THE COURT:   Sustained.

20 BY MR. ZEFF:

21           Q       Okay. I want to talk about the Watchtower  
22 rules on child abuse. Part of an elder's  
23 responsibility is to read the letters to all bodies  
24 of elders. Is that part of their responsibility?

25           A       Absolutely, Counsel.

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Q And we talked about part of their responsibility is to follow those directions?

A Yes, Counsel.

Q Okay. Is it required that they read all of the letters?

A Elders are asked to read all letters sent to the congregation, to the body of elders, Counsel. That's correct, yes, they're asked to do that.

Q And is it mandatory that elders follow the letters, to do what they're told as instructed in the letters?

A Could you clarify for me, Counsel, please, respectfully, "mandatory."

Q Are they required to follow what's in the letters?

MR. AARON: Objection. Asked and answered.

THE COURT: Overruled.

Please answer.

THE WITNESS: The elders are asked to follow through with the directions that they find in the letters they receive from the branch office, Counsel.

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BY MR. ZEFF:

Q Thank you. And there is something called "Awake Magazine." What is that?

A That's Exhibit 8, Counsel, that you just handed me.

Q Okay. What is an Awake Magazine?

A The Awake Magazine is a periodical that's published to provide information and helpful encouragement for family life and also on a general number of subjects.

Q And who is Awake Magazine given to or provided to?

A If you and I met one day when I came to your home, I would offer it to you, Counsel. It's for everyone and whoever would like to have it. It's free of charge.

Q And so when you go door-to-door, one of the things that Jehovah's Witnesses do is offer a copy of Awake?

A As I would offer you a copy.

Q Now, members of the Jehovah's Witness, do they have any responsibility to read it?

MR. MILLER: Object to the form. "Members of Jehovah's Witness," we don't know who he is

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1 talking about.

2 MR. ZEFF: Strike that.

3 THE COURT: Sustained. Sustained.

4 BY MR. ZEFF:

5 Q Are elders required to read Awake?

6 A There's no written requirement for elders  
7 to read the Awake Magazine, Counsel.

8 Q Okay. Do you have any expectation that  
9 they will read it?

10 A Our literature is available to all in the  
11 congregation, but it's a personal decision as to  
12 what one chooses to read or not read, Counsel.

13 Q Okay. I'd like to go through some of the  
14 documents that Awake talks about. And if you could  
15 turn to Exhibit 29.

16 A I have it in hand, Counsel.

17 Q Okay. If you go to page --

18 A I'm sorry, Counsel.

19 Q If we go to page ten --

20 MR. MILLER: I'm sorry, Your Honor.

21 Before any of this is displayed, I'd like to be  
22 able to make my objections to the use of this  
23 document for some purpose.

24 THE COURT: State your objection in one or  
25



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1  
2 two words and then I'll determine whether to go  
3 to sidebar.

4 Objection, basis?

5 MR. MILLER: It's irrelevant and it  
6 violates the First Amendment.

7 THE COURT: Overruled.

8 Continue.

9 MR. ZEFF: Thank you.

10 BY MR. ZEFF:

11 Q There's a piece of the small footnote at  
12 the bottom, and I don't know if it could be read  
13 very clearly, though, but it discusses what child  
14 abuse is, and I'll give you a moment to find it.

15 A Yeah. It's a footnote, Counsel, I  
16 believe, right.

17 Q Okay. And it discusses that -- if I'm  
18 reading it wrong, please, I'm trying to paraphrase  
19 and make things move a little more quickly -- that  
20 sexual abuse occurs when someone uses a child to  
21 gratify his or her sexual desires and some acts of  
22 abuse include -- and there's, of course,  
23 intercourse, oral or anal sex, but also fondling of  
24 breasts, immoral proposals, pornography to a child,  
25 voyeurism and indecent exposure, among other things.

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Do you agree with that, that's what the Awake Magazine published by the Watchtower describes as sexual abuse, or one of the many things?

A That's correct, Counsel.

Q Okay. And if you'd turn to page four.

It says child abuse is an urgent problem. Assaults on children are often cloaked in secrecy. Do you see that?

THE COURT: Sir, hold on.

Where are you? What paragraph? What column? What paragraph? And then speak up so the stenographer can hear you.

MR. ZEFF: I'm sorry.

BY MR. ZEFF:

Q Right here, "Urgent problem. Assaults on children." Do you see that paragraph?

A I do, Counsel.

Q Okay. It says "Child abuse is an urgent problem. Assaults on children are often cloaked in secrecy. Child molestation is neither new or rare. It's a longstanding problem that is problematic today and it's impact is devastating. Many survivors suffer profound feelings of worthlessness

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and lowest of self-esteem. Experts in the field are  
--

MR. MILLER: Objection, Your Honor.

THE COURT: Overruled.

Go on.

BY MR. ZEFF:

Q Experts in the field have listed some  
common after affects of incest on girls such as  
running away, drug and alcohol abuse, depression,  
attempted suicide, delinquency, promiscuity, sleep  
disturbances and learning problems.

The long range affects made include  
poor parenting skills rigidity misuse of men --  
mistrust of men, married to a pedophile, lesbianism,  
prostitution and child molestation itself. Do you  
see that? Did I read that correctly?

A You know what, Counsel, I have been trying  
to follow you. You lost me right after you started  
"An urgent problem..."

Q Okay?

A And I've been trying, conscientiously, to  
find where you are in the document.

Q We have it up on the screen.

A Okay.

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Q Right here. Okay?

A I see it on my monitor.

Q And my question is: That's something that the Watchtower wanted to communicate to elders and congregants, isn't it?

A The Watchtower wanted to communicate this to the public at large, including elders and congregants.

Q Okay. And in another document, Exhibit 24 -- I'm sorry, 21.

A We're done with this one?

Q We'll be coming back to that one.

Okay. This is a letter to all bodies of elders. So, this was directed directly to -- do you have it, Sir?

A I do, Counsel.

Q Okay. This was directed to the elders, wasn't it?

A Yes, it was written to all bodies of elders.

Q And it says "Many children who have been continually violated by adults grow up with severe emotional scars and certainly need much love and attention. Balancing the responsibilities,

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 recognize that you're spending limited time with  
3 them. Give them emotional support and encouragement  
4 as time allows. Is that -- okay. And --

5 MR. AARON: I'm sorry. I -- I don't think  
6 that's what it said.

7 MR. ZEFF: I'm sorry, Counsel, it's --  
8 something is skipped. The second page.

9 THE WITNESS: Okay.

10 BY MR. ZEFF:

11 Q Okay?

12 A Where are we?

13 Q We're here. Sir --

14 THE COURT: All right. Sir, for the  
15 record, you said "we're here," we have to be  
16 more precise for the record.

17 MR. ZEFF: I apologize, Your Honor.

18 THE COURT: "Here" means Exhibit-21, page  
19 what, paragraph what?

20 MR. ZEFF: It's page two of Exhibit-21,  
21 Your Honor.

22 BY MR. ZEFF:

23 Q Okay. It's the top paragraph. "Many  
24 victims of abuse have learned to handle their  
25 emotional scars quite well, which is commendable.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           The victim is leading a common, peaceful life.

3           There is no need to dredge up memories of the past."

4           That's something that the Watchtower wanted the

5           elders to read, correct?

6           A        That is correct.

7                   MR. MILLER:  Objection, Your Honor.  It's

8           irrelevant.

9                   THE COURT:  Overruled, Sir.

10          BY MR. ZEFF:

11           Q        Going back to 29 again.

12                   MR. ZEFF:  Judge, if I can just have a

13           minute, it will make things go faster, I hope.

14                   THE COURT:  Yes.

15   - - -

16   (Pause.)

17   - - -

18          BY MR. ZEFF:

19           Q        On page five there are misconceptions.

20           Page five of 29, Common Misconceptions.

21           A        Okay.  Where are we on page five?

22           Q        Do you have it?

23           A        I'm afraid not.

24                   THE COURT:  That would be page six, Sir.

25                   THE WITNESS:  Now I have it.

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BY MR. ZEFF:

Q Page six.

A Page six, Sir.

Q The Watchtower is conveying to the public here that the majority of abusers are known to the child, correct?

A I'm sorry, Counsel. Where are you in this box?

Q Misconceptions.

A Where are you exactly? It's a big box, Counsel.

Q It is. And you don't have it on here, do you?

The second paragraph.

A "In the vast majority?"

MR. ZEFF: Judge, can I have five minutes?

This would be a good time for a break?

THE COURT: We'll take a recess.

MR. ZEFF: Thank you.

THE COURT: Everyone remain where you are while the jury leaves the room for a recess.

THE CRIER: Why don't you remain seated.

Please remain seated while the jurors leave the room.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

- - -

(Pause.)

- - -

THE COURT: All right. I understand that counsel had requested sequestration order. Is that correct?

MR. ZEFF: That's correct.

THE COURT: And so officially I'm entering a sequestration order. And what that means is that no one is to have conversation with any of the witnesses regarding the testimony. That means the witness who's presently testifying is to have no discussion or conversation while you are in the midst of your testimony.

All right?

THE WITNESS: Yes.

MR. ZEFF: Thank you.

THE COURT: Thank you. Take five minutes comfort break and we'll continue.

MR. ZEFF: Sorry, Your Honor. We actually have two different page numbers. I just realized that.

THE COURT: All right.

- - -



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   (A recess was taken.)

3                   - - -

4                   MR. ZEFF:    Your Honor.

5                   THE COURT:   Before we start, the court  
6 officer tells me there's a scheduling issue.  
7 Who has an issue?

8                   MR. MILLER:   Your Honor, Don Hollingsworth  
9 is here. He was requested by plaintiffs. He  
10 is one of the elders in the Freeland  
11 Congregation. He's an old man and he's  
12 flagging.

13                   He's can be here today and testify today,  
14 but he said he can't make it tomorrow, and so I  
15 offered him now, if they want to put him on  
16 now, you're breaking, obviously, with your  
17 train of thought, but at least he'll get Don in  
18 and out and get home so that he can --

19                   THE COURT:   Well, I'm going to be  
20 conducting the trial. We're going to recess at  
21 4:30. So, it's not likely -- is it likely that  
22 witness will be finished anyway by 4:30?

23                   MR. ZEFF:    It's not likely I will finish  
24 him, Your Honor.

25                   THE COURT:   Well, assume I grant the

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request.

MR. ZEFF: Yes, I think it's going to be very close. And how about this, I will -- if we don't finish him -- I'm almost positive I'll finish him.

THE COURT: Hollingsworth.

MR. ZEFF: For Hollingsworth.

THE COURT: All right.

MR. AARON: Both?

THE COURT: So then if you --

MR. ZEFF: Well, of course, I just realized, then, they're going to get to question him.

MR. AARON: So, you might have 45 minutes of Mr. Hollingsworth.

MR. ZEFF: I might --

THE COURT: Yeah, I mean, here's the point -- just a moment. Here's the point I'm making. Assume I do grant your request, this witness we allow to take a break and, then, I bring in Hollingsworth, we're not going to finish him by 4:30. That's not going to happen.

MR. MILLER: That's a problem.

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MR. ZEFF: Yeah.

THE COURT: He's required to come back tomorrow. Those are the rules of the game. I'm sorry.

MR. MILLER: I'll tell him.

THE COURT: All right. So, let's bring the jury in and continue.

MR. ZEFF: Then I have to switch gears again.

THE CRIER: Everyone remain seated. I think it's easier that way.

- - -

(Pause.)

- - -

THE CRIER: Court is back in session.

Sir, if you can kindly state your name one more time for the record, please.

THE WITNESS: Thomas Jefferson, Jr.

THE CRIER: Thank you, Sir. I just want to remind you that you're still under oath.

THE WITNESS: Thank you.

THE CRIER: Thank you.

MR. ZEFF: Thank you.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           BY MR. ZEFF:

3           Q       When I had my procedural glitch, I was  
4           trying to get you to go to Exhibit 29, page six,  
5           which is P-295.

6                               Something that the Watchtower  
7           publishes is misconception, Common Misconceptions.  
8           And you see in the box -- Mr. Jefferson, do you see  
9           that piece?

10          A       Yes, I do, Sir. I'm sorry, Counsel. Yes,  
11          I do.

12          Q       And the Watchtower says Children are  
13          seductive and frequently bring abusive --  
14          Misconception. Children are seductive and  
15          frequently bring abuse on themselves by their  
16          conduct. This notion is particularly warped, since  
17          the fact that it blames the victim for the abuse,  
18          children have no concept of sexuality. They have no  
19          idea what such activity implies or how it will  
20          change them. Therefore -- I'm sorry -- they are  
21          therefore incapable of consenting to it in any  
22          meaningful way. It is the abuser and the abuser  
23          alone who bears the blame for the abuse.

24                               That was something published by the  
25          Watchtower, wasn't it?

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A Yes, Sir.

Q Okay. And if you'll look at Exhibit 12, there is a discussion on page five about the molester at work. I'm not going to read the whole thing, but it says many parents have -- do you see it?

A I do, Counsel.

Q Again, the Watchtower says Many parents have another misconception. They envision the molestation as being violent with the child fighting and screaming for mercy. This may not be the case at all.

And there's then a discussion and I'm not going to read it, but you'd agree with me that the discussion is that molesters take advantage of children?

A That's one little segment, Counsel.

Q I just asked you if that's part of what it says.

A And so your question, again, Counsel, please. I just couldn't hear you over the siren.

Q Sure. The misconception of the discussion in Exhibit 12 is that children are taken advantage of by child molesters; isn't that fair? That's kind

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of what it talks about.

A What I read, Counsel, is that parents have a misconception and that parents have a thought that the molestation is fought off violently by the child. That's what I read.

Q Okay. And my question is as it relates to the rest of the paragraph -- and one of the topics is that the molester takes advantage of the child's childlike qualities?

A And where is that, Counsel?

Q Okay. We can read it, Sir. It's easier to do that.

At the onset sexual abuse may be disguised as playful or affectionate conduct and go on from there.

Do you see that?

A I do, Counsel.

Q Okay. It doesn't -- isn't that the Watchtower talking about the molester taking advantage of the child's play-like innocence, if you will?

A What it appears to be describing to me, Counsel, is that at the onset sexual abuse may be disguised as playful or affectionate contact and go

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on from there. The abuser is likely to persuade and pressure the child, using all the built-in authority of an older person.

What it's telling me is, Parents, here's one method used by molesters that could undermine your children. And that's what I understand from the context.

Q Okay. And if you could turn back to 28, this time I'm going to ask you to go to page --

A Which document?

Q Twenty-eight.

A Exhibit 28?

Q Yep.

A Okay.

Q And this document --

A Just a second, Counsel. Let me get to 28.

Looks like my documents are not in order.

Twenty-eight.

Q Do you have it, Sir?

A I'm looking for it vigorously right now.

Q Okay.

A Twenty-eight. That's exhibit number 28, correct?

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Q     Yep.   Page --

A     You know, unless I'm overlooking it --

MR. ZEFF:   May I give him a copy, Your Honor?

THE WITNESS:  I don't think I have a copy of 28.

THE COURT:   Sir, what are you looking for?

THE WITNESS:  Ma'am?

THE COURT:   What are you directing this witness to, please?

MR. ZEFF:    I'm directing him to Exhibit 28.  I can give him another copy, Your Honor.

MR. MILLER:   Your Honor, that wasn't part of the packet.  That's the problem.  Not in the packet.

THE WITNESS:  I don't have a 28 here.  I'm sorry, Counsel.

THE CRIER:    Counsel, are you all right with this?

MR. MILLER:   I have it.  Thank you.

THE CRIER:    May I, Judge?

THE COURT:    Yes.

THE CRIER:    Thank you.

So marked P-28.



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1  
2 THE WITNESS: Thank you.

3 BY MR. ZEFF:

4 Q It's another Awake Magazine?

5 A No. That's incorrect, Counsel, this is  
6 the Watchtower.

7 Q Okay. And the Watchtower says, on page  
8 six, at the top of the page on the left,  
9 "Unhappily." Do you see what it says, "Unhappily,  
10 however?"

11 A Let's see, Counsel. Let me see if I can  
12 find page six.

13 The document I have in hand, Counsel,  
14 begins with page 27 and then it goes 28, 29.

15 Q It's page 30 of the document.

16 A Thirty is what I have now.

17 Q Thirty of the document.

18 A Go ahead, Counsel.

19 Q Okay .where it says "Unhappily?"

20 A I have that.

21 Q Okay. If we can -- so the Watchtower says  
22 "Unhappily, however, many abusers flatly deny  
23 everything or admit to only a fraction of what they  
24 did."

25 Okay. So, you'd agree with me that

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that was something that was published by the Watchtower for elders to read in 1983?

A This was published by the Watchtower for the congregation, the elders, the public at large to read. And the date was October 1, 1983.

Q And so wouldn't it be fair to say that the Watchtower was telling not just the congregation but the elders, back in 1983, abusers may flatly deny everything or admit only a fraction of what they did?

A Correct, Counsel.

Q And that's something that elders should have known as of 1983?

MR. MILLER: Object to the form of that question.

THE COURT: Overruled.

Please answer.

THE WITNESS: Yes, Your Honor.

I cannot speak to what elders should have known, but I can address the fact that you're correct in saying that this was published in 1983 and, thus, available to all congregations, including elders.

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BY MR. ZEFF:

Q And was the intent, in publishing all of these documents about abuse, to educate elders and congregants about the dangers? Is that fair?

MR. MILLER: Objection. Lack of foundation.

THE COURT: Overruled.

You may answer, Sir.

THE WITNESS: The publish -- or the purpose of publishing this material was designed to help the public, and including elders and congregants, regarding the subject of child abuse.

BY MR. ZEFF:

Q And you'd agree with me that the Watchtower, based on these documents, wanted its members, especially its elders, to look out for any suspicion of sexual abuse of children?

A Would you repeat that question, kindly, Sir.

Q Sure. The Watchtower, through these publications, was asking or telling the congregants and elders to watch out and look out for any suspicion of abuse of children?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        I think the Watchtower was making elders,  
3 congregants and the public at large aware of some of  
4 the methods that child abusers use and, thus, that  
5 would enable parents to be aware of their  
6 responsibility to protect their children. That was  
7 the purpose of the articles.

8           Q        The articles also talk about the fact that  
9 parents can't be everywhere, don't they?

10          A        If you have a specific reference, I'll be  
11 happy to look at that.

12          Q        I do, Sir, but you've read these articles,  
13 haven't you?

14          A        I have, but 1983, according to my  
15 calculations, is about 36 years ago. I may have  
16 forgotten something between now and then.

17          Q        Sure. And I will be glad to go through  
18 them with you one at a time, but is that something  
19 you're familiar with through reading articles on  
20 behalf of the Watchtower, that the parents can't be  
21 everywhere, everybody should watch out?

22          A        I'm familiar with that; not from reading  
23 what's printed by the Watchtower, but as a general  
24 concept. People have to send their children to  
25 school, they have to send them to daycare.

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Obviously, parents can't be everywhere.

Q And one of the places that parents want to feel safe leaving their children is with the congregation.

MR. MILLER: Object to the form.

BY MR. ZEFF:

Q Would that be fair?

MR. MILLER: Assumes facts not in evidence.

THE COURT: Sustained.

BY MR. ZEFF:

Q These documents we've been going through, are they provided by your organization for everyone in the whole world, then; aren't they?

A The materials that we've been looking at are published for anyone and everyone who would like to read them free of charge.

Q And you'd agree with me, Sir, that in addition to educating your members and your elders on child molestation, that the Watchtower has a procedure that's been put in place for dealing with suspicion of child abuse?

A Could you clarify for me, please, Counsel? The Watchtower has a procedure put in place?

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2           Because, as stated earlier, Watchtower is a  
3           corporate entity and, as such, the Watchtower, which  
4           owns property and other things, doesn't have a  
5           procedure. So, I want to answer your question, but  
6           I'd ask that you clarify it.

7           Q        Very well. The authors who have published  
8           documents under the name Watchtower have established  
9           a procedure by which elders are to follow if they  
10          suspect child abuse?

11          A        So, Jehovah's Witnesses and the elders who  
12          serve as Jehovah's Witnesses have been provided  
13          guidelines in our publications so that in the event  
14          there is some report of child abuse, they can pursue  
15          the report in an appropriate way.

16          Q        And those are through letters of  
17          instruction?

18          A        Yes.

19          Q        Okay. When a suspected case of child  
20          abuse is discovered in a congregation, Watchtower's  
21          letters of instruction tell the elders to  
22          investigate it, don't they?

23          A        The letters from the Christian  
24          Congregation provide that direction to investigate,  
25          yes.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       Okay. Well, the Watchtower documents  
3 before then provided the same thing, didn't they?

4           A       That's correct.

5           Q       Okay. So, let me get this straight, the  
6 Watchtower used to tell people that were elders to  
7 investigate, but now it's the Christian Congregation  
8 that does that?

9           A       It's published on the Christian  
10 Congregation's letterhead, Counsel, that's correct.

11          Q       And in 2004 and 2005, which corporation  
12 was instructing elders as to how to investigate  
13 sexual abuse?

14          A       The Christian Congregation of Jehovah's  
15 Witnesses, as stated earlier, formed in 2001.

16          Q       And the documents involving that  
17 instruction predate 2001 in addition to that, don't  
18 they, Sir?

19                   Some of those documents were written  
20 by the Watchtower?

21          A       Some of the documents that you presented  
22 to me to review --

23          Q       Yep.

24          A       -- thus far predate 2001 in this pile that  
25 we've been looking at.

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Q You'd agree with me that the letters of instruction that tell people what to do reference back documents in the past, they say look at this and look at this document, and when you're involved in investigation review certain things?

A And what I would say to that is I'd be happy to comment specifically on your question, but the scope is broad because you've already acknowledged there are lots of documents.

Q Well, we'll go through it document-by-document, then, Sir, if that's what you need us to do.

Well, let's talk about this stuff. So, elders do investigations into sexual abuse. Is that true?

A Elders do investigation into sexual abuse?

Q Yes.

A What do you mean?

Q They are told by the Watchtower and then the Christian Congregation that if someone is suspected of child abuse, those people are to be brought in and questioned, investigated.

A All right. So, what happens, Counsel --

Q Just asking whether or not they're told



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that, Sir.

A Again, please, Counsel.

Q Sure. The Christian Congregation and the Watchtower have instructed elders that if there is a suspicion of child abuse that the elders are to conduct an investigation?

A Correct, Counsel.

Q Okay. And that is something that's been going on with the Watchtower and Christian Congregation since at least the 80's, the 1980's.

MR. MILLER: Well, objection to the form.

CCJW wasn't there in the 80's.

THE COURT: Sustained. Don't answer.

MR. MILLER: Thank you.

BY MR. ZEFF:

Q In the 19 --

THE COURT: Let's let this alarm go by.

- - -

(Pause.)

- - -

Okay. Continue, Sir.

BY MR. ZEFF:

Q Elders are instructed to render assistance to both the victim and the perpetrator, aren't they?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        That's correct, Counsel.

3           Q        Okay. But you'd agree with me, Sir, that  
4   elders are not qualified to evaluate the genuineness  
5   or the seriousness of an allegation of child abuse?

6           A        Could you clarify for me, please, kindly,  
7   Counsel, "not qualified."

8           Q        They have no training in assisting victims  
9   of child molestation, do they?

10          A        They have no training -- I'm sorry. I'm  
11   serious. I am really competing with the street  
12   noise in a big way. And I'm not asking you to  
13   repeat because I just want to take up your time. I  
14   can't hear you.

15          Q        They have --

16          A        That's much better. Thank you.

17          Q        They have -- they have no training -- I'll  
18   withdraw the question. I'll start over again. How  
19   is that? Make life easier.

20                   Elders are not psychologists, are  
21   they?

22          A        Correct.

23          Q        Okay. Elders could be any occupation.  
24   They could be teachers or they could be nurses or  
25   they could be railroad workers or they could be

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working here in City Hall, correct?

A That is correct.

Q They could be doing anything?

A Correct, Counsel.

Q So, an elder who is asked to investigate child abuse may not have any type of educational background or any type of training in investigating child abuse, correct?

A That's incorrect, Counsel.

Q Okay. So, what you're saying is these documents that we've been going through are their training?

A Elders are provided counsel and instruction through some of these documents, yes, but also elders are helped along through Bible principles to understand -- you used the term earlier on, I believe, the genuineness of a confession or something to that nature, and so by means of Bible principles, the elders receive training on how to listen to the testimony.

And you've already pointed out the preponderance of evidence in these publications which you clearly pointed to as training for elders. And when those elders read these publications they

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can be of help to them.

Q Okay. Would you agree that elders are spiritual shepherds but are generally not qualified to evaluate the genuineness or the seriousness of an allegation of child abuse?

A I will agree that elders are spiritual shepherds and that, to some extent, they are able to evaluate the genuineness of a confession of misconduct that includes child sexual abuse.

Q Okay. Sir, the publications of the Watchtower, are they simply for the United States or are they worldwide?

A They are global in scope.

Q And you being here today, are you here as a representative of the global Watchtower?

MR. MILLER: Object to form. There is no such thing.

MR. ZEFF: Okay.

THE COURT: Overruled. He can answer and explain it.

MR. ZEFF: Well, if I -- let me rephrase it, if I could.

BY MR. ZEFF:

Q Are you here on behalf of the headquarters

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           of the Watchtower, which is a global headquarters?

3           A        As I understand matters, Counsel, I'm here  
4           to represent the Christian Congregation of Jehovah's  
5           Witnesses and the Watchtower Bible and Tract Society  
6           of New York.

7           Q        Are you aware, Sir, of any training  
8           provided to elders in other countries that is  
9           different than the training that you allege elders  
10          receive regarding child abuse in the United States?

11                   MR. AARON:    Objection.    Relevance.

12                   THE COURT:    Sustained.    Don't answer it.

13                   MR. ZEFF:     Judge --

14                   THE COURT:    Next question.

15                   MR. ZEFF:     I'd like to come back to this,  
16           Your Honor.    There is a sidebar reason for  
17           this.    But I will.

18           BY MR. ZEFF:

19           Q        So, you're saying they are -- they are  
20           qualified to render -- to make a judgment and --  
21           regarding an investigation into sexual abuse based  
22           on the training that you've just recited?

23                   MR. AARON:    Objection to "they."

24                   THE COURT:    Overruled.

25                   Go on.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2 THE WITNESS: You asked me, Counselor, to  
3 comment on the genuineness and the ability to  
4 evaluate someone. I believe that was your  
5 question. That's the term you used earlier, if  
6 I'm not mistaken.

7 BY MR. ZEFF:

8 Q I'll read it again.

9 Elders are spiritual shepherds but  
10 are generally not qualified to evaluate the  
11 genuineness or the seriousness of an allegation of  
12 child abuse?

13 A And I believe I stated that's incorrect,  
14 Counselor.

15 Q Okay. Are you aware of any publication of  
16 the Watchtower that would state that elders are  
17 spiritual shepherds but are generally not qualified  
18 to evaluate the genuineness or the seriousness of an  
19 allegation of child abuse?

20 A Counselor, are you reading from a  
21 publication or is that a question? Do you want me  
22 to address something in print?

23 THE COURT: Sir, the question is clear.

24 Repeat it so he can answer it.

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BY MR. ZEFF:

Q Are you aware of any publication of the Watchtower that states that elders are spiritual shepherds but are generally not qualified to evaluate the genuineness or the seriousness of an allegation of child abuse?

A I'm not aware of that publication.

Q Okay. And you don't believe that's true, do you? You believe that the elders are qualified to investigate child abuse?

A Are my beliefs on trial?

THE COURT: Just a moment, Sir.

MR. MILLER: Yes, Ma'am.

THE COURT: Asked and answered, you said?

MR. MILLER: Asked and answered.

MR. ZEFF: Thank you.

THE COURT: Overruled.

THE WITNESS: Are my beliefs on trial here?

BY MR. ZEFF:

Q Well, your beliefs are those of the Watchtower. You're here speaking on their behalf.

A So, you would like to ask me what I believe?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       I would like to know what the Watchtower  
3 believes.

4                   Does the Watchtower believe that its  
5 spiritual -- that the elders are spiritual shepherds  
6 but are generally not qualified to evaluate the  
7 genuineness or the seriousness of an allegation of  
8 child abuse or do they believe that they are  
9 qualified?

10                   MR. MILLER:  Objection, Your Honor.

11                   THE COURT:  Overruled.

12                   Answer.

13                   THE WITNESS:  Oh, I intend to, Your Honor.  
14 Thank you for your patience.

15                   With --

16                   THE COURT:  Sir, I do not need your  
17 comments on my rulings.  When I say  
18 "overruled," that means you're to answer.  When  
19 I say "sustained," that means don't answer.

20                   Now, repeat the question yet again and the  
21 witness is instructed to answer.

22                   MR. ZEFF:  Thank you.

23 BY MR. ZEFF:

24           Q       Do you believe, on behalf of -- does the  
25 Watchtower believe that its elders are qualified or



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not qualified to evaluate the genuineness or the seriousness of an allegation of child abuse?

A The Watchtower is a corporate entity. So, it doesn't believe anything. Jehovah's Witnesses and elders and those who prepare our literature, which is published on the letterhead of the Christian Congregation, acknowledge that elders are qualified to evaluate confessions with regard to many matters of misconduct, including child sexual abuse.

That's the answer I gave before and that's the answer I'm giving you now.

Q If I'm not mistaken, Sir, I haven't heard the word confession leave your mouth before.

MR. AARON: Objection. The record will speak for itself.

THE COURT: Sustained.

Next question, please.

MR. ZEFF: Thank you.

BY MR. ZEFF:

Q So, are you aware that there are professionals in the United States that spend their entire careers studying sexual abuse?

A I am aware that people make a profession

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out of that, yes.

Q And are you aware that in Pennsylvania, where we are right now, that our legislature has decided that when there is an accusation, some suspicion of abuse, that they want those professionals to be involved to do an investigation?

MR. MILLER: Objection.

MR. AARON: Object to the form.

MR. MILLER: Some suspicion has not been qualified.

THE COURT: Sustained. Rephrase.

MR. ZEFF: Thank you.

BY MR. ZEFF:

Q Are you that in Pennsylvania, suspicion of child abuse is to be reported to Child Line?

MR. MILLER: Same objection, Your Honor.

THE COURT: Overruled.

You may answer, Sir.

THE WITNESS: Yes. I'm aware based on what the judge read to the jury today.

BY MR. ZEFF:

Q Well, was the Watchtower aware -- and by "the Watchtower" I mean those people that the elders would call, if they had a question, were they aware

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           that child abuse issues in Pennsylvania are to be  
3           reported if there is a suspicion by anyone in the  
4           clergy?

5                   MR. AARON:   Objection, Your Honor.   This  
6           really is a legal line of questioning.

7                   THE COURT:   Overruled, Sir.   Overruled.  
8           You may answer.

9                   THE WITNESS:   I cannot comment on what  
10          those who took phone calls from elders thought  
11          or understood at the time.   It would be a  
12          hypotheses for me to say what they understood,  
13          Counsel.

14   BY MR. ZEFF:

15           Q       So, on behalf of the Watchtower, your  
16          answer is you don't know?

17           A       That's correct, Counsel.

18           Q       And are elders chosen at all because  
19          they're skilled at investigating suspected child  
20          abuse?

21           A       As I stated earlier, Counsel, at II  
22          Timothy 3:1-7, elders are selected because they meet  
23          certain spiritual qualifications, and that's why  
24          they're appointed.

25           Q       Are elders required to have any type of

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formal education or training in questioning suspected child abuse victims to determine if abuse occurred?

A No, Counsel.

Q Okay. Are elders required to take any worldly classed in sociology or criminal justice to identify sexual abuse that discusses -- strike that.

Are elders required to take any worldly classes such as sociology or criminal justice or psychology or even police classes to help identify sexual abuse of children in their families?

MR. MILLER: Objection, Your Honor.

THE COURT: Sustained. Don't answer.

BY MR. ZEFF:

Q Are elders required, even, to review all of the publications of the Watchtower and the Christian Congregation related to sexual abuse?

A If you're asking me, Counsel, is there some stipulation or mandate, no.

Q Okay. So, when it comes time to do an investigation, are elders then required to read anything about child abuse?

A When it comes to the attention of the elders that there is an accusation of child abuse,

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they are asked to read what has been published on the subject prior to beginning the investigation, Counsel.

Q That would be everything I've put in front of you plus more?

A I cannot speak to everything that you've put in front of me.

Q Okay. Is there any document that you're aware of that would tell elders, this is what you need to read, this is what you need to review before you undertake an investigation into child abuse?

A Elders are asked to review what has been printed. As a general term, I think, in the documents, or at least some of them that you've presented here, you'll find a reference to that and, of course, the scope of what they review, there is no specific mandate on that, but they are asked to review what has been in print.

Q So, would it be fair to say that the answer is no, they are not told to review any specific documents or rules before conducting an investigation?

A It would be fair to say that elders are encouraged to read what's in print.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       They're not encouraged to read what's in  
3 print when there's an investigation, though, are  
4 they? That's just a general statement you gave?

5           A       And I'm giving you a general answer to  
6 your question. The question is whether or not they  
7 are either mandated, and I'm telling you that elders  
8 are encouraged to read what's in print before they  
9 begin an investigation.

10          Q       So, when an elder does conduct an  
11 investigation into a child abuse matter, and they  
12 have a suspicion, your rules require the elder to  
13 contact the legal department; is that correct?

14                   MR. MILLER: I'd object to the form, "your  
15 rules."

16                   THE COURT: Sustained. Rephrase it.

17 BY MR. ZEFF:

18          Q       The Watchtower instructs elders conducting  
19 sexual abuse investigations to contact the legal  
20 department?

21          A       That's correct, Counsel.

22          Q       And remember when we talked earlier that  
23 if an elder doesn't follow the letters of  
24 instruction they may be subject to some type of  
25 discipline?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A       That is what you said, Counsel.

3           Q       Okay. Well, you agreed with that, didn't  
4 you, that they could be stripped of their eldership,  
5 if you would, knowing that they don't follow the  
6 letters of instruction?

7                   MR. MILLER: Objection, Your Honor.

8                   THE COURT: Overruled.

9                   THE WITNESS: I believe my response to  
10 counsel was that if an elder failed to meet the  
11 scriptural qualifications outlined in II  
12 Timothy 3:1-7, the same qualifications upon  
13 which his appointment was based, then the elder  
14 would likely be disqualified. That was my  
15 response earlier today.

16 BY MR. ZEFF:

17           Q       Okay. Well, if the elder fails to contact  
18 the legal department after investigating abuse,  
19 could they be in some trouble?

20           A       Could you describe "some trouble" for me,  
21 Counselor.

22           Q       Some trouble with the Watchtower or the  
23 Christian Congregation. Could their position as an  
24 elder be in jeopardy if they fail to contact the  
25 legal department?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   MR. MILLER: Object to the form, Your  
3 Honor. That assumes facts not in evidence.

4                   THE COURT: Overruled.

5                   THE WITNESS: An elder's failure to  
6 contact the legal department, as stated  
7 earlier, is not necessarily a disqualifier.

8                   A disqualifier for an elder -- or to use  
9 your term, if he gets in trouble, I think  
10 that's the term you used -- not to argue  
11 semantics -- but disqualifications for elders  
12 are scriptural, Counsel. And that is why one  
13 can no longer serve.

14                   If, due to one's oversight or other  
15 factors, they failed to comply with some  
16 direction, that is reviewed, the facts are  
17 reviewed, a determination is made about their  
18 qualifications based on those facts.

19 BY MR. ZEFF:

20                   Q       So, would it be fair to say, then, that an  
21 elder who fails to contact the legal department  
22 about sexual abuse may be reviewed to determine  
23 whether he's still qualified?

24                   A       That's possible.

25                   Q       Has it happened?



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A I don't know.

Q You're aware, in Pennsylvania, that clergy are mandatory reporters of suspected child abuse, aren't you?

A I'm aware now.

Q Okay. Are your elders told that at any time?

A What happens, Counsel, is that when elders learn of an accusation of child abuse, as you've already indicated, they're asked to call the legal department. When elders call the legal department since, as you stated, the elders could work at City Hall, they could be bus drivers, et cetera, most elders are not likely aware of that.

So, the purpose of calling the legal department is because they're not lawyers, because they don't know what the law says and, therefore, the legal department provides them with the information you just shared, which they comply with.

Q Assuming the legal department tells them apply?

A Is that a question, Counsel?

Q Yes.

A So, would you frame it as a question,

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please. What you're asking me, Counsel?

Q You're assuming the legal department then tells them to comply with the law, aren't you?

A I'm saying, Counsel, that when elders learn of an accusation of child abuse, they call the legal department, at which time they are provided with legal direction. And that's as far as I'm going.

Q With all of those documents you see in front of you and, perhaps, many more on the subject of child abuse, why wouldn't there be a document that tells elders in Pennsylvania what they have to do?

MR. MILLER: Objection. Calls for speculation.

THE COURT: Overruled.

Well, I sustain it. I'm sorry, Sir.

Sustain it and rephrase it.

MR. ZEFF: Okay.

THE COURT: Is there a document?

BY MR. ZEFF:

Q Sir, there's no document, among all the documents we've seen and all the documents you're aware of, that would tell elders that they must,

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           under Pennsylvania law, report suspicion of child  
3           abuse, is there?

4                   MR. MILLER:   Objection, Your Honor.

5                   That's overly broad.

6                   THE COURT:   Overruled.

7                   THE WITNESS:   Earlier today, Counsel,  
8           there was a discussion about the laws changing  
9           in Pennsylvania.

10                  MR. ZEFF:    Objection, Your Honor.

11                  THE WITNESS:   Documents --

12                  THE COURT:   Sustained.   Sustained.

13                  Answer the question.

14                  MR. ZEFF:    Thank you.

15                  THE WITNESS:   Because the laws changed in  
16           various states --

17                  THE COURT:   Sir, just a moment.   Just a  
18           moment.

19                  Would the stenographer read this question  
20           back.

21                  Listen carefully to the question and then  
22           answer.   I don't want you to go into a  
23           dissertation about legal issues that I've  
24           decided.   All right.

25                  Go on.

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(The pertinent portion of the record was  
read.)  
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THE WITNESS: No.

BY MR. ZEFF:

Q If you can turn to 18B, please. I'm not  
sure it's in that pile, but it would be in your  
notebook.

Do you have this document in front of  
you, Sir?

A I have 18B.

Q And this is a letter to all bodies of  
elders in the United States dated July 1, 1989?

A That's correct.

Q Okay. It comes from the Watchtower?

A That's correct.

Q And this was something that was still in  
effect in 2004 and 2005?

A Okay. 2004, 2005, I imagine so,  
without -- I'd go along with that, Counsel. I --

Q You have no reason to doubt that?

A I don't have a reason to doubt it,  
Counsel.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       And so in the Kingdom Halls, where the are  
3 congregations, is there a depository somewhere where  
4 all of these letters to all bodies of elders are  
5 kept?

6           A       There is a congregation file or  
7 confidential file, Counsel.

8           Q       And all the elders are allowed to look in  
9 there?

10          A       That is correct, Counsel.

11          Q       Okay. Are all letters to all bodies of  
12 elders matters in which the presiding overseer  
13 arranges a special meeting for them to be read?

14          A       Are you asking me, Counsel, are all  
15 letters that come handled by a special meeting of  
16 the elders? Is that what you're asking me? I'm  
17 sorry.

18          Q       No, Sir.

19                   With regard to this document, Sir --  
20 I don't really know how to use this but I'll try --  
21 the very first paragraph, if we can blow that up.  
22 Okay?

23          A       Okay.

24          Q       It says Due to the importance, the  
25 presiding overseer should arrange for a special

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meeting of the body of elders to read and consider this letter carefully.

A Okay.

Q Okay?

A All right.

Q Is that how all letters to all bodies of elders in the United States are handled?

A No, Sir.

Q Okay. So, this was a particularly important document?

A Apparently it was.

Q Okay. Well, you're here on behalf of the Watchtower. This was a very important document to the Watchtower. Would you agree with me?

A As just acknowledged, yes, it was.

Q Okay. And this document, in part, if you look just briefly at page three, part B talks about child abuse.

A I have it in front of me.

Q Okay. And it talks, in part D, about crimes and criminal investigations.

A I see that.

Q Okay. And it talks about, page after page, about improper use of the tongue, doesn't it?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

MR. AARON: Objection to the  
characterization, "page after page."

THE COURT: Sustained.

MR. ZEFF: Page one --

BY MR. ZEFF:

Q Sir, page one talks about improper use of  
the tongue, doesn't it, middle paragraph, last  
sentence?

A I see it, Counsel.

Q "Improper use of the tongue by an elder  
can result in serious legal problems for the  
individual, the congregation and even the society."

Page two, top of the page -- I'm  
sorry, page two -- it's this page.

See where it says "Many of these  
lawsuits are the result of misuse of the tongue?"

A I do, Counsel.

Q Page two?

A I see it, Counsel.

Q Page two talks about misuse of the tongue,  
too. Talking too much, right?

A Talks about misuse of the tongue, Counsel.  
That's what it says.

Q Okay. And page six, "Guide the use of

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your tongue." Talks about it there, too, doesn't it, part D?

A Soon as I find it.

Yes, I see it, Counsel. I see it.

Q The message of this document is keep quiet, isn't it?

A The message of this document is that discussing things with people that are to remain confidential is inappropriate. That's the message of the document.

Q Because there could be lawsuits?

A No. That's one factor that's mentioned, but the purpose of this letter -- the purpose of this letter, Counselor, is because, as you alluded to earlier, many of our elders work for City Hall, they drive buses, and while they meet certain spiritual qualifications, these elders had to learn that when someone comes to them and they share something that's happened in their life, maybe they've been involved in some form of misconduct, maybe they've had an extramarital affair, what have you. Discussing that sensitive information with someone else is who is not authorized to hear it could be harmful, could be harmful to the person and



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           could be harmful to those affected. This letter was  
3           written to help our elders understand that and to  
4           train them.

5                                You spoke earlier about what kind of  
6           training they receive for child abuse. Well, this  
7           letter was a form of training for our elders. So  
8           that if a congregant comes to you and says I  
9           unwisely got involved in this act or that act and  
10          they expect you to keep that confidential, they  
11          don't want you to share it with your wife or with  
12          your friends, or otherwise that would undermine  
13          their confidence. That was the purpose of this  
14          letter. Not for lawsuits.

15                   Q           Paragraph three, bottom of page one -- I'm  
16          sorry. It's the fourth paragraph.

17                                "While we, as Christians, are ready  
18          to forgive others who may wrong us, those in the  
19          world are not so inclined. Worldly persons are  
20          quick to resort to lawsuits if they feel their  
21          rights have been violated. Some who oppose the  
22          Kingdom preaching will readily take advantage of any  
23          legal provisions to interfere with or impede its  
24          progress. Thus, elders must especially guard the  
25          use of the tongue."

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 Did I read that correctly?

3 A You did, Counselor.

4 Q The message there is Keep your mouth shut,  
5 because we might get sued. Keep your mouth shut  
6 because it might interfere or impede with our  
7 progress, the congregation's progress or  
8 Watchtower's progress. Isn't that what it says?

9 MR. MILLER: Object to the form.

10 THE COURT: Sustained.

11 BY MR. ZEFF:

12 Q This paragraph, this document -- well,  
13 let's talk about the paragraph.

14 This paragraph emphasizes that elders  
15 should keep their tongues in their mouths and keep  
16 quiet, doesn't it?

17 A These same bus drivers and City Hall  
18 workers that you referred to earlier are being  
19 helped to understand that given the litigious nature  
20 of people today, the facts are that you can do a  
21 great deal of harm by sharing information about  
22 one's personal life that you shouldn't share with  
23 them.

24 You can actually hurt a person, and  
25 not only can you hurt a person, you could even hurt

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your organization as well. So, it's a course of wisdom not to talk about confidential matters. If you learned somebody slept around, or if you've learned that their children are involved with misconduct, the person who comes to me has a right to believe that my wife, my family or anyone else will not have a knowledge of that. And that's the purpose of this letter and that's what this paragraph is all about, Counselor.

Q That's what that paragraph's all about, Sir?

A That's the goal, Counselor.

Q Sir, in this document can you find anywhere in this document where it talks about what you just said?

There's a little discussion about child custody in the back. Maybe that's the closest.

A Would you like me to answer the question, Sir?

Q I would.

A Okay. You'll notice in this document, Counselor, for example, in the E section of the document, we have a segment on when servants and

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publishers move.

Q So, that's the section that you're talking about, when they move, you -- is the word "divorce" in that section somewhere, Sir?

We can put that up, please.

A I beg your pardon, Sir.

Q E?

A Is what word? I'm sorry, Counselor.

Q Divorce in there, in section E or -- children or any of the things you were just talking about; is that in section E anywhere?

A No, but I wasn't finished with my thought, Counsel, before you cut me off.

Q Okay. Well, I'd just like to know, you're directing the jury and all of us to read section E right now and I want to know what section E has to do with your prior answer.

A I would like to share that with you, Counsel.

Q Go ahead. I would like to know.

A What I'm alluding to, Counsel, is that this letter was broad in scope. The letter was not just merely about child abuse. As a matter of fact, child abuse is just a small segment of the letter.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   The letter is designed to help elders  
3 understand, in a variety of subjects, here are the  
4 steps you need to take to handle your duties as a  
5 spiritual shepherd. That's my answer, Counsel.

6           Q        There are no sections that discuss what  
7 you were talking about, are there?

8                   MR. MILLER: Object to the form. He  
9 hasn't gone through the whole document. We're  
10 at page six.

11                   THE COURT: Sustained.

12                   MR. ZEFF: I'll move one.

13                   THE COURT: We're going to recess for the  
14 afternoon. It's 4:30.

15                   Counsel, have a seat.

16                   Thank you. All right. Ladies and  
17 gentlemen, it's 4:30. We're going to adjourn  
18 now.

19                   I'd like you to take your notepads,  
20 please, and put them in your envelopes, the  
21 manila envelopes under your chairs. The court  
22 officer will collect them. And tomorrow  
23 morning they will be back under your chairs.

24                   And you're to go home tonight and have a  
25 terrific night. Don't discuss this case at

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           all.   Enjoy your evening.

3                   And I'm going to repeat -- I'm going to  
4           repeat my instruction about doing no  
5           independent research whatsoever about any of  
6           the issues in this case.   All right.

7                   So, don't have any conversation about the  
8           case.   Have a good night.   We'll see you  
9           tomorrow morning at 9:30.   Report to your jury  
10          room.

11                   Thank you very much.   You're excused.

12                   THE CRIER:   Everyone remain seated.

13                   Jurors, right this way.

14                                   - - -

15                                   (Pause.)

16                                   - - -

17                   THE COURT:   Mr. Jefferson, you can leave  
18           those exhibits right there and we'll collect  
19           them for the evening.   Thank you.

20                   THE WITNESS:   Yes, Ma'am.

21                   THE COURT:   All right.   Sir, you can step  
22           down.   And Counsel, we'll see you tomorrow  
23           morning at 9:30.   Thank you.

24                   MR. AARON:   Thank you, Your Honor.

25                   MR. MILLER:   Thank you, Your Honor.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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MR. ZEFF: Thank you, Your Honor.

THE CRIER: Everyone, please remain here  
while the jury exits.

- - -

(Court adjourned.)

- - -

## 1 FESSLER VS. WATCHTOWER BIBLE, ET AL.

## 2 CERTIFICATION

3  
4  
5 I hereby certify that the proceedings and  
6 evidence are contained fully and accurately in  
7 the notes taken by me on the trial of the above  
8 cause, and that this copy is a correct  
9 transcript of the same.

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12 Linda J. Settles, RMR  
13 Official Court Reporter  
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19 (The foregoing certification of this  
20 transcript does not apply to any reproduction  
21 of the same by any means unless under the  
22 direct control and/or supervision of the  
23 certifying reporter.)  
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IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

- - -

STEPHANIE FESSLER,	:	SEPTEMBER TERM, 2013
	:	
Plaintiff,	:	
	:	
VS.	:	
	:	
	:	
WATCHTOWER BIBLE AND	:	
TRACT SOCIETY OF NEW	:	
YORK, INC., CHRISTIAN	:	
CONGREGATION OF	:	
JEHOVAH'S WITNESSES,	:	
INC., SPRING GROVE	:	
CONGREGATION OF	:	
JEHOVAH'S WITNESSES, AND	:	
TERRY JEANNE MONHEIM,	:	
Defendants.	:	NO. 1293

- - -

JURY TRIAL  
DAY TWO  
A.M. SESSION

- - -

FEBRUARY 8, 2017  
COURTROOM 432, CITY HALL  
PHILADELPHIA, PENNSYLVANIA

- - -

BEFORE: THE HONORABLE MARY D. COLINS, J. AND A  
JURY.

- - -

## Reported By:

Cynthia Touni, RMR, CRR  
Official Court Reporter  
(215) 683-8014

- - -

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W I T N E S S I N D E X

P L A I N T I F F

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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T. JEFFERSON, JR.

BY MR. ZEFF		12		90
BY MR. AARON	48		114	
BY MR. MILLER	72		115	

- - - -

C O L L O Q U Y

1  
2 THE COURT: We had a conversation off  
3 the record and now we're going to go on the  
4 record with questions about --

5 MR. ZEFF: I have two issues, Your  
6 Honor.

7 The first one is I would like to  
8 introduce Detective Layden. She is our  
9 expert. She'll be going on tomorrow. She's  
10 here a day early.

11 You ordered sequestration. It is my  
12 understanding it doesn't normally apply to  
13 experts, especially --

14 THE COURT: Sure.

15 MR. ZEFF: So we request that she  
16 remain in the room today.

17 MR. AARON: And, Your Honor, we do  
18 have an objection. We are asking for  
19 sequestration.

20 Under these circumstances I think I  
21 have to give you some background.

22 THE COURT: Sure.

23 MR. AARON: When plaintiff's counsel  
24 advised us that Detective Layden would  
25 testify as an expert, we asked what her

C O L L O Q U Y

1  
2 expert testimony would be. And plaintiff's  
3 counsel's response was read her deposition.

4 She had been deposed before we had  
5 been advised she was an expert. She was  
6 deposed as a fact witness who conducted the  
7 investigation of Terry Monheim and that led  
8 to the prosecution of Terry Monheim.

9 Detective Layden -- the plaintiffs  
10 have never produced an expert report of  
11 Detective Layden. They simply said, read the  
12 deposition.

13 And what she was deposed on was what  
14 she had reviewed at the time of her  
15 deposition, which was way back during  
16 discovery. It would be unfair to us and it  
17 would be really be an unfair surprise to us  
18 to allow Detective Layden to now testify as  
19 an expert and give an opinion based on  
20 testimony that she hears in this courtroom  
21 today when at the time we deposed her, she  
22 said what she said based on what she knew  
23 then.

24 We were not told she was an expert.  
25 And when we asked for an expert report, they

C O L L O Q U Y

1  
2 said her testimony is an expert report, her  
3 deposition.

4 Now, she's going to listen to people.  
5 She's going to presumably say something based  
6 on what she's heard in the courtroom today  
7 and that's why they want her in the courtroom  
8 today and we're completely surprised by this.

9 We've never been put on notice. We  
10 have never gotten an expert report. It's  
11 just an unfair surprise to us.

12 And I understand normally an expert  
13 can sit in the courtroom, but this is not the  
14 normal circumstances. This is highly  
15 unusual. Not to produce an expert report,  
16 not to tell us she's an expert when we depose  
17 her and then to have her come in and sit  
18 through testimony which could well change her  
19 opinion or at least base an opinion what she  
20 heard here that we weren't able to depose her  
21 on. It's terribly unfair to defense in this  
22 case.

23 THE COURT: Sir.

24 MR. FRITZ: Your Honor, a couple of  
25 things. In this case, and the rules

C O L L O Q U Y

1  
2 specifically allow, if information is learned  
3 in the course of discovery, that that can be  
4 the notice of the expert opinion, if you  
5 will.

6 In this case, what we did provide and  
7 what we advised the defense about is we  
8 pointed to her report, we pointed to her  
9 testimony. In her testimony she gives  
10 opinions. Not a lot of opinions. She gives  
11 opinions in her testimony.

12 And as this Court knows, in  
13 Pennsylvania parties don't get to depose  
14 experts. In this case they did and they  
15 asked about her opinions. And if the  
16 opinions --

17 So they're not on any surprise. They  
18 have had complete knowledge of what her  
19 opinion is based upon --

20 THE COURT: I agree with you and I'm  
21 going to allow her to be exempt from the  
22 sequestration rule because she's an expert.

23 MR. AARON: And I would just ask that  
24 I be permitted, when I'm cross-examining this  
25 witness, to ask her what's based on what



C O L L O Q U Y

1  
2 she's heard in this courtroom today or  
3 yesterday, if she's deposed tomorrow, as  
4 opposed to what we asked her about during her  
5 deposition. And that would be impeachment,  
6 but I just want to let the Court know that  
7 I'll be doing that.

8 MR. ZEFF: I'm pretty sure he can do  
9 that. I'm pretty sure he can do that, Your  
10 Honor. But we reserve, of course, the right  
11 to object.

12 MR. AARON: The only thing I want to  
13 correct, and I understand your ruling.

14 THE COURT: I'm done with this issue.

15 MR. AARON: Thank you.

16 THE COURT: I'm done with this issue.  
17 I've ruled on it. It's a clear ruling.

18 Now, let's get an update.

19 THE COURT CRIER: A couple more  
20 minutes. I'll go check, though, but they  
21 were all in the restroom.

22 MR. ZEFF: I have one more issue,  
23 Your Honor.

24 THE COURT: Yes.

25 MR. ZEFF: Yesterday, there was an

C O L L O Q U Y

1  
2 objection to one of my questions that was  
3 sustained. And I noted for Your Honor I  
4 wanted to bring it up at a later time. This  
5 is that time.

6 I asked a series of questions and I  
7 read from a document that says elders are  
8 spiritual shepherds, but generally not  
9 qualified to evaluate the genuineness or  
10 seriousness of an allegation of child abuse.

11 And there was some long-winded  
12 response and I was trying to get to it. Then  
13 I asked the question about whether or not the  
14 Watchtower printed all of their documents  
15 from New York for global distribution,  
16 something along those lines. And there was  
17 an objection and it was sustained.

18 THE COURT: Right.

19 MR. ZEFF: I would like to give you  
20 an offer of proof on that. The offer of  
21 proof is Exhibit 54, which is a December 1,  
22 2000, document to all bodies of elders in  
23 Britain by the Watchtower of London. And  
24 that's where that statement comes from. And  
25 as a result of that, I would like to ask him

C O L L O Q U Y

1  
2 whether or not the British documents come  
3 from the United States. That is, that's my  
4 foundation for -- I believe I can use the  
5 document as rebuttal, but I don't believe --  
6 but I would prefer to ask him that foundation  
7 question which is who writes the documents  
8 for Great Britain as opposed to the United  
9 States.

10 THE COURT: I'm not going to change  
11 my ruling.

12 MR. ZEFF: Thank you.

13 THE COURT: All right. As soon as --  
14 does that take care of our preliminary  
15 business?

16 MR. AARON: It does.

17 MR. ZEFF: It does.

18 THE COURT: As soon as the jury is  
19 ready, we'll bring them in and then we can  
20 continue.

21 MR. ZEFF: Thank you.

22 Can I just go back to where I was and  
23 get ready?

24 THE COURT: Yes. All right.

25 (Jury in at 9:51 a.m.)

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T. JEFFERSON - AS ON CROSS

THE COURT: Good morning, everyone.  
The witness has to be sworn or affirmed.

THE COURT CRIER: Yes, Judge.

THE COURT: Sir, do you affirm or swear?

THE WITNESS: I can swear. It's no problem; I can swear.

THE COURT: I just want you to know you have an option.

THE COURT CRIER: State your full name for the record, please.

THE WITNESS: Thomas Jefferson, Jr.

THOMAS JEFFERSON, JR., after having been duly sworn, was examined and testified as follows:

THE COURT: Proceed.

MR. ZEFF: Thank you, Your Honor.

- - -

AS ON CROSS EXAMINATION

- - -

BY MR. ZEFF:

Q. Where we left off last night we were talking about Exhibit 18B.

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T. JEFFERSON - AS ON CROSS

MR. ZEFF: If you would put that back up, please.

BY MR. ZEFF:

Q. I would like to take you to the last paragraph on the first page. On the first page, I'm sorry.

Do you have it, sir? There's a notebook at your feet, two notebooks. One that would be the wrong one. The other notebook has one through 55 in it. So it would be 18B, if that's easier.

This is a document we talked about yesterday?

MR. MILLER: Your Honor, for the record, may I have an ongoing objection to this document on First Amendment rights?

THE COURT: Yes.

MR. MILLER: Thank you, Your Honor.

MR. ZEFF: First Amendment, Your Honor?

THE COURT: Go on, sir.

MR. ZEFF: Thank you.

BY MR. ZEFF:

Q. Last paragraph on the first page.

Do you see that?

T. JEFFERSON - AS ON CROSS

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A. I do.

Q. It says: While we, as Christians, are ready to forgive others who may wrong us, those in the world are not so inclined. Worldly persons are quick to resort to lawsuits if they feel their rights have been violated. Some who oppose the Kingdom preaching work readily take advantage of any legal provisions to interfere with it or impede its progress. Thus, elders must especially guard the use of the tongue.

And then there are several excerpts from the Bible, aren't there?

A. Yes, sir.

Q. The purpose of this paragraph, you would agree with me, was to let all elders know that they should keep certain things quiet?

MR. AARON: Objection. Asked and answered. He was asked about this paragraph before.

THE COURT: Overruled.

THE WITNESS: This paragraph, counselor, was designed to help elders to realize the confidentiality and sensitive matters is of the utmost importance.

T. JEFFERSON - AS ON CROSS

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BY MR. ZEFF:

Q. You would agree with me to keep quiet, keep things secret.

Is that what it says?

A. What it says, counselor, is that confidentiality is important when receiving information about those in the congregation, their personal lives and it should not be discussed with unauthorized persons.

Q. Sir, it really doesn't talk in this paragraph about personal lives; it talks about lawsuits and rights, doesn't it?

A. I understand that, counselor. But I'm explaining what the body of the letter was intended to say to elders.

Q. Maybe you didn't understand my question. I'll ask you again.

The purpose of this paragraph, what I just read to you and the remainder of the paragraph, is to let elders know that they should keep certain things secret.

A. I understand your question, counselor. It doesn't change my answer.

Q. So your answer is that this, it doesn't say

T. JEFFERSON - AS ON CROSS

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that?

A. My answer is, counselor, the body of this letter, the purpose of this letter is designed to remind elders of the need to maintain confidentiality.

Q. So but the purpose of this paragraph, sir, that's what I asked you?

A. And I'm explaining to you the purpose of the paragraph as I understand it.

Q. Thank you.

Now, yesterday I asked you for names of individuals.

MR. ZEFF: You can leave that up.

BY MR. ZEFF:

Q. I asked you for names of individuals that might be in charge of the Watchtower or Christian Congregation or Jehovah's Witnesses.

Do you remember those questions?

A. I do, counselor.

Q. And you didn't give me the names of any individuals, did you?

A. What I said, I believe, counselor, is that the Watchtower has a board of directors.

MR. ZEFF: Judge, can he answer my



T. JEFFERSON - AS ON CROSS

1  
2 question, please?

3 THE COURT: Let him answer. Let him  
4 continue.

5 MR. ZEFF: Thank you.

6 THE WITNESS: What I explained,  
7 counselor, is that the Watchtower is a  
8 corporation and like any corporation you have  
9 the president, vice president, directors.

10 The Christian Congregation is a  
11 corporation and you have members who are  
12 directors. There are people in the United  
13 States branch who comprise neither  
14 corporation who prepared these documents for  
15 publication.

16 That's the answer yesterday and  
17 that's the answer today, counselor.

18 BY MR. ZEFF:

19 Q. Do you remember when I asked you for the names  
20 of the humans?

21 A. I do.

22 Q. You didn't give me the name of any, did you,  
23 sir?

24 A. I did not.

25 Q. Is the reason you didn't give me the names of

T. JEFFERSON - AS ON CROSS

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any humans is because they're secret?

A. No. The answer to that question --

Q. That's all I asked you, sir.

Is the reason you didn't give me the names of any humans is because you wanted to protect them from lawsuits?

A. No.

Q. Yesterday --

MR. ZEFF: We'll go to rule number one, please.

BY MR. ZEFF:

Q. Do you remember earlier in the questioning I asked you about this statement: Clergy must report sexual abuse of children to protect the victim from additional harm?

Do you recall that I asked you that?

A. I do, counselor.

Q. And your answer was you could not agree with that?

A. That's correct, counselor.

Q. And you said you couldn't agree with that because elders are not clergy.

Is that a fair statement?

A. That's a correct statement.

T. JEFFERSON - AS ON CROSS

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Q. Okay. What is your definition of clergy?

A. Clergy meant, as I understand it, are those who are recognized, if you will, as the leader of a church or an organization and that is something that elders are not.

Q. What is a shepherd?

A. A shepherd describes the pastoral works that elders do. In Psalm 23, for example, it highlights that work of feeding and watering the sheep. That's what a shepherd does.

Q. Can I show you Webster's Dictionary's definition of elder and see if you agree with that?

The first definition is a group of ordained to perform pastoral or sacerdotal functions in a Christian church.

Is that a reasonable definition of a clergy?

A. I don't know the answer to that.

Q. Is the second definition? The official or sacerdotal class of non-Christian religion, Buddhist clergy.

Is that a reasonable definition of Buddhist clergy?

A. I don't know the answer to that.

T. JEFFERSON - AS ON CROSS

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Q. Can you define for me what an elder is?

A. Sure. An elder is a man who is appointed by means of the Holy Spirit to care for the interests of the sheep entrusted to him.

Those responsibilities are described in various places in the Bible. For example, first Peter 5, one and two, where elders are urged to care for the interests of the flock entrusted to them.

Q. Elders act as shepherds in the local congregations?

A. They do.

Q. And provide spiritual education and assistance from the Bible to congregants?

A. They do.

Q. And they oversee the congregational meetings?

A. They do.

Q. And they lead?

A. They take the lead also.

Q. And you mentioned yesterday something about confession.

I'm familiar with confession in the Catholic Church. Is there such a thing in the Jehovah's Witnesses?

A. In James five, chapter five, verses 14 through

T. JEFFERSON - AS ON CROSS

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2 16, those who are sick among us are invited to  
3 approach the older men and they are to seek help  
4 from the older men. And that help comes in the form  
5 of confessing their sins openly, which is what the  
6 verse says, so that they can receive help and  
7 assistance.

8 Q. And elders then receive confession of sort?

9 A. Elders listen to the confessions of those who  
10 may have been involved and wronged, yes.

11 MR. ZEFF: I would like to put rule  
12 number one back up there one more time.

13 BY MR. ZEFF:

14 Q. Looking at that the rule one more time, I  
15 would just like to know if you have changed your  
16 answer at all or if you think elders are clergy?

17 A. No.

18 MR. ZEFF: Let's go back to 18B,  
19 please. Page two. Judicial committee. That  
20 paragraph.

21 BY MR. ZEFF:

22 Q. Did you find the paragraph?

23 A. I see it.

24 Q. Do you see that? A judicial committee is a  
25 committee that is set up to listen to or hear some

T. JEFFERSON - AS ON CROSS

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type of problem in the congregation?

A. A judicial committee is formed because it is established that someone has confessed to conduct that merits attention and assistance. That's the purpose of a judicial committee.

Q. And the judicial committee is set forth by the Watchtower. That is, what is a judicial committee, how it's set up, the procedures, that sort of thing?

A. That's not correct, counselor.

Q. The Watchtower publishes documents to the elders explaining to them the procedures to follow with the judicial committee, don't they?

A. That's correct, counselor.

Q. Okay. So that corporation publishes, they actually write it, and other people, who we don't know, do the writing, give it to the Watchtower and then it's given to the congregation.

A. Repeat that question for me, counselor.

Q. Sure. People write these instructions. They give them to the Watchtower. The Watchtower corporation then puts them on their letterhead or puts them in some type of publication and gives them to the elders?

A. That's correct, counselor.

T. JEFFERSON - AS ON CROSS

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Q. The people who write these documents, okay? Whose names we don't know, they don't own any property or have any money related to the Jehovah's Witnesses, do they?

A. That's correct, counselor.

Q. The Watchtower holds all of the assets, the money and the property of the Jehovah's Witnesses, don't they?

MR. MILLER: Objection, Your Honor.

THE COURT: Sustained. Don't answer.

BY MR. ZEFF:

Q. Going back to the judicial committee.

So wouldn't your judicial committee, your rules, and by you, I'm not even sure who I'm talking about. Who is it that tells the elders, this is how a judicial committee should operate? Is it a governing body?

A. Ready? A group of spiritually qualified men, who remain anonymous, are selected to prepare material that's reviewed and approved by the governing body. And then after that, it is published.

Q. So these anonymous men have told the elders that when there's a matter that needs a judicial

T. JEFFERSON - AS ON CROSS

1  
2 committee, here is how the committee should be set  
3 up, here is who should be on the committee, and here  
4 are the types of things you should look for. And  
5 once you've done that, here is what you do if wrong  
6 has been committed.

7 Is that a fair summary?

8 A. Not totally.

9 Q. Okay. Didn't think so.

10 Can you tell us what it is that a  
11 judicial -- the judicial committee does?

12 A. The judicial committee is designed to care for  
13 the spiritual well-being for the person involved in  
14 some misconduct.

15 Q. Just the procedure, how it's set up and what  
16 happens, please.

17 A. Not what it does; how it is set up is what you  
18 would like to know?

19 Q. Please. Please.

20 A. Okay. The body of elders who meet and they  
21 will discuss among themselves who's best qualified  
22 to respond to the needs of the person who has become  
23 involved in wrong conduct. They select three from  
24 their number. One will serve as chairman. They  
25 will then meet and try to render spiritual



T. JEFFERSON - AS ON CROSS

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assistance to the person.

Q. They will also investigate to determine what happened?

A. By the time the judicial committee is formed, there's already been an initial investigation to ascertain whether there's a basis for forming the judicial committee.

Q. And within this document, there's a discussion about keeping judicial committee matters confidential; correct? That's what this paragraph is about?

A. May I have a moment to look at the paragraph, please?

Q. Sure.

A. The paragraph is design to remind the elders that whatever they hear during the judicial committee hearing is to be kept in strict confidence.

Q. Thank you.

And it describes even that the chairman can keep notes, but they have to keep them confidential as well; correct?

A. That's correct.

Q. But at the conclusion of the case, the

T. JEFFERSON - AS ON CROSS

1  
2 chairman should place only necessary notes and  
3 documents, a summary of the case and S-77 forms in a  
4 sealed envelope for the congregation.

5 What's an S-77 form?

6 A. S-77 form is a document that's used to report  
7 concisely the events of that judicial hearing.

8 Q. And the next sentence says nothing should be  
9 preserved outside of the sealed envelope, including  
10 unnecessary personal notes by any elder on the  
11 committee.

12 So is that telling the committee to  
13 destroy anything they don't think is necessary to  
14 put in the envelope?

15 A. It could.

16 Q. And it says, obviously, of course, no tape  
17 recorded or allow witnesses testifying to tape  
18 record in front of the committee; correct? Because  
19 we want to be confidential; correct?

20 A. That's correct.

21 Q. Turn to the next page of the document. We  
22 talked briefly about section D, which was the child  
23 abuse, many states have child abuse reporting laws.  
24 When elders receive reports of physical or sexual  
25 abuse of a child, they should contact the society's

T. JEFFERSON - AS ON CROSS

1  
2 legal department immediately. Victims of such abuse  
3 need to be protected from further danger.

4 That's what it says?

5 A. That's correct, counselor.

6 Q. In this document anywhere does it discuss how  
7 to protect children?

8 A. I'm not aware of any place in the document.

9 Q. But it does tell you to keep as many things  
10 secret as possible, doesn't it?

11 A. It does urge confidentiality, counselor,  
12 correct.

13 Q. Because people may assert rights.

14 A. Because information regarding certain personal  
15 matters and the lives of those who confess should be  
16 kept confidential.

17 Q. Yeah, but does confidentiality also include  
18 child molesters?

19 A. Well, in the paragraph that you just referred  
20 to, the opening sentence says, many states have  
21 child abuse reporting laws.

22 And in harmony with those laws that we  
23 do not keep such matters confidential.

24 Q. Other than being in harmony with those laws,  
25 do the Jehovah's Witnesses do anything -- strike

T. JEFFERSON - AS ON CROSS

1  
2 that.

3 Will you turn to the bottom paragraph,  
4 crimes and criminal investigation, same page. It  
5 says: Crimes and criminal investigations. In some  
6 cases the elders will form judicial committees to  
7 handle alleged wrongdoing that also could constitute  
8 a violation of Caesar's criminal laws. E.g. theft,  
9 assault, et cetera.

10 Now, Caesar's criminal laws might also  
11 include child abuse, might they?

12 A. That's correct.

13 Q. So this paragraph may apply to child abuse as  
14 well; correct?

15 A. Yes.

16 Q. It says: Generally a secular investigation  
17 into a matter that is a concern to the congregation  
18 should not delay conducting a judicial hearing.

19 So if I'm reading that correctly, if  
20 someone is under investigation for child abuse or a  
21 murder or robbery, you're still going to do your  
22 religious investigation as well; correct?

23 A. That's correct.

24 Q. Then it says: To avoid entanglement with  
25 secular authorities who may be investigating the

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T. JEFFERSON - AS ON CROSS

same matter, the strictest confidentiality, even of the fact that there is a committee, must be maintained.

So does that mean that anything you learn in your investigation should remain in confidence and be kept from the secular authorities, the police, the Child Protective Services people?

A. Not necessarily, because as stated earlier, since many states have reporting laws, if in the process of an investigation, for example, we learn that there's some form of abuse, and that is to be reported, that will be reported.

Q. So if I'm an elder and I'm reading this document, and this is a highly important document because you had to have a special meeting about it and read it at the meeting; right?

This is a big deal, this document; would you agree?

A. It's an important document, yes, sir.

Q. So I'm going to take away from this document that things should be kept secret and that even if we find out something in our investigation, we should keep it confidential. But wait a minute, there's this other paragraph, paragraph B, child

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T. JEFFERSON - AS ON CROSS

abuse. We should contact the legal department.

MR. MILLER: I object to the form,  
Your Honor.

BY MR. ZEFF:

Q. Is that fair?

MR. MILLER: I object to the form,  
Your Honor.

THE COURT: Sustained.

BY MR. ZEFF:

Q. Let me break the question up for you.

Wouldn't you agree with me that an  
elder who has limited knowledge of child abuse laws,  
limited knowledge of criminal law, would have a  
difficult time understanding the difference between  
keeping it secret and going to the police based on  
this document?

A. If I answer about an elder's limited  
knowledge, I'd only have to speculate. So I don't  
know the answer to that question.

Q. Sir, you're here on behalf of Watchtower and  
the Christian Congregation to talk about the  
documents and the instructions that you've given to  
them.

Would you agree that that's confusing?

T. JEFFERSON - AS ON CROSS

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A. No, sir.

Q. Crystal clear to you?

A. Quite.

Q. And would you agree with me that the legal department, when called, should know the law in every state?

A. Again, I can't speak for the legal department, counselor. I don't work there.

Q. Well, in writing this document, isn't there an assumption by the Watchtower that the legal department is going to do the right thing by state law?

A. As for assumption, again, I can't speculate, but what I can say with a fair degree of certainty is that when elders follow the instruction in this letter or other letters and call the legal department, they will receive appropriate legal advice.

Q. Are you aware -- there were two chairmen in this matter. There was a chairman selected to look into the matters related to Terry Seipp. His name was Donald Hollingworth.

And there was a chairman selected to look into the matters related to Stephanie Fessler.

T. JEFFERSON - AS ON CROSS

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Are you aware of that? And his name is Eric Hoffman.

A. I don't know the names of those.

Q. Have you ever talked to Eric Hoffman?

A. No. No, I've never talked to him.

Q. And you're part of the service department?

A. I am.

Q. So if my understanding is correct, the service department on occasion will receive phone calls from elders to get help from them on certain issues?

A. That's correct, counselor.

Q. And you would give help including, for instance, if there was a judicial committee going on, you might answer questions and help them form questions and -- for those situations?

A. That's correct, counselor.

Q. And you have no recollection of talking to Eric Hoffman?

A. Not at all, counselor.

Q. And you have no recollection of ever being involved in any matter related to Stephanie Fessler?

A. Not at all, sir.

Q. But it would be your understanding that -- strike that.



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T. JEFFERSON - AS ON CROSS

Do you have an understanding about what happened here? That both chairmen of the committees called the legal department.

A. Okay. I accept that.

Q. And do you know whether or not they reported anything to authorities after calling the legal department?

A. I do not know, counselor.

Q. You know, what's not in a document says a lot about what people are thinking about --

MR. AARON: Objection, Your Honor.

THE COURT: Sustained. Disregard -- just a moment. Disregard that --

MR. ZEFF: Thank you. I'm sorry.

THE COURT: -- statement by counsel.

THE WITNESS: Your Honor, I'm sorry. I can't really hear. His mike is out and the sirens -- I just can't hear him very well.

THE COURT: Okay. Put it on your tie.

MR. ZEFF: Is this on?

THE COURT: It's not on.

BY MR. ZEFF:

Q. Is that better?

T. JEFFERSON - AS ON CROSS

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A. Much better, counselor. Thank you.

Q. There's nothing in that document that says do what's in the best interest of the child, is there?

A. I don't believe that statement appears in the document, counselor.

Q. There's nothing in the document that says when in doubt, protect the child.

A. Again, please, counselor?

Q. There's nothing in the document that says when in doubt, protect the child?

A. That statement doesn't appear in the document, counselor, no.

Q. There's nothing in the document that says elders shouldn't lose sight of the fact that victims urgently need to be protected from further abuse and abusers need to be protected from finding other victims?

MR. MILLER: Your Honor, I have to object. Quoting from other documents and saying they're not in this document is an unfair question. I object to the line of questioning.

THE COURT: Sustained.

BY MR. ZEFF:

T. JEFFERSON - AS ON CROSS

1  
2 Q. Is there any document that you're aware of  
3 that's given to elders in the United States that  
4 says elders shouldn't lose sight of the fact that  
5 victims urgently need to be protected from further  
6 abuse and that abusers need to be prevented from  
7 finding other victims?

8 A. Counselor, several documents which you've  
9 shown here have been printed. I can't point to any  
10 specific one in response to your question. My  
11 memory doesn't bring up one right now.

12 Q. Will you agree with me that none of the  
13 documents require an elder to talk to an overseer  
14 about child abuse?

15 MR. MILLER: Objection, Your Honor.

16 I don't know which document we're talking  
17 about.

18 MR. ZEFF: Strike that.

19 BY MR. ZEFF:

20 Q. Will you agree there's no instruction in any  
21 Watchtower or Christian Congregation document that  
22 says if there's an allegation of sexual abuse,  
23 contact an overseer?

24 A. If there's an allegation of sexual abuse,  
25 contact the overseer. I'm not aware of that

T. JEFFERSON - AS ON CROSS

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specific statement, counselor.

Q. If you could turn in the book to document 61B.

A. B as in bravo?

Q. B as in bravo. It's dated February 15, 2002, to all bodies of elders in the United States.

A. Just give me a second here. I have it, counselor.

Q. Do you have it?

A. I do, counselor.

Q. If and you could turn to page four, the second paragraph from the bottom says, reminders regarding the handling of cases involving child abuse.

A. I have it in front of me.

Q. So let me remind you, if you didn't know it, the issues involving Stephanie Fessler happened in 2004 and 2005. So this is a couple of years before then.

A. That's right.

Q. And this is one of those letters of instruction to the elders that must be followed by the elders?

A. It's a letter of instruction, that's right, counselor.

Q. This one is from the Christian Congregation of

T. JEFFERSON - AS ON CROSS

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the Jehovah's Witnesses?

A. Okay.

Q. Okay? That's 2001?

A. Yes.

Q. The paragraph references the July 1, 1989, document that we were just looking at, doesn't it?

A. Yes, it does.

Q. And the purpose of that is to let everyone know to call the legal department; right?

A. Yes. Yes, it says, call the legal department.

Q. And you would expect if an elder is following this instruction, that they would go back and find the July 1, '89, letter, if they're not familiar with it?

A. That's quite possible.

Q. And a good elder, who was doing a job that you would expect them to do, would read the July 1, '89, letter in conjunction with this one to make sure that they were getting everything that the Watchtower wanted or the Christian Congregation wanted; right?

A. I can't say what a good elder would do, but it is possible that they might go back and read the other letter. It is possible.

T. JEFFERSON - AS ON CROSS

1  
2 Q. Sir, that's the expectation of the Watchtower  
3 and the Christian Congregation, isn't it? That they  
4 would go back and review the July one, 1989, letter  
5 that's referenced in this one?

6 MR. MILLER: I'm sorry, I object to  
7 the form.

8 THE COURT: Overruled.

9 THE WITNESS: The expectation is that  
10 an elder will thoroughly follow through with  
11 the direction that's received, which could  
12 include, counselor, going back and reading  
13 the July 1, 1989, letter, yes, sir.

14 BY MR. ZEFF:

15 Q. And, again, July 1 has to do with  
16 confidentiality. We can agree on that much, can't  
17 we?

18 A. It does.

19 Q. I want to take you to number four on this  
20 document. It says: Child abuse is a crime. Never  
21 suggest to anyone that they should not report an  
22 allegation of child abuse to the police or other  
23 authorities.

24 So that says, correct me if I'm wrong,  
25 that elders should never say don't report it. That

T. JEFFERSON - AS ON CROSS

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would be wrong.

A. That's correct, counselor.

Q. Then it says: If you're asked, make it clear that whether to report the matter to the authorities or not is a personal decision for each individual to make and that there are no congregational sanctions for either decision.

So it says, if you're asked there, and I presume that these authors chose their words carefully.

Do you know why they said if you're asked instead of tell them --

MR. MILLER: I would object to the form.

BY MR. ZEFF:

Q. -- if they had a choice?

MR. MILLER: I object to the form, the presumption part.

THE COURT: Overruled.

THE WITNESS: I don't know why it was exactly worded this way, counselor. I was not a part of the group that composed the letter, so I would only speculate to say why they might have worded it that way.

T. JEFFERSON - AS ON CROSS

1  
2 BY MR. ZEFF:

3 Q. So on behalf of Watchtower and Christian  
4 Congregation, your answer is why they ordered it  
5 that way is you don't know because it would be  
6 speculation?

7 A. I don't know exactly why the author worded it  
8 that way.

9 Q. Well, do you have some idea?

10 A. The wording in this letter is designed to help  
11 elders understand, A, and this paragraph, child  
12 abuse is a crime. Never tell anyone that they can't  
13 report it. If ever you're asked about it, make it  
14 clear that it's your decision as to whether to  
15 report.

16 The design is don't ever keep child  
17 abuse a secret. Now, that was the goal here. Don't  
18 keep it a secret. If someone asks you about  
19 reporting child abuse, do not discourage them. Do  
20 not tell them, well, the congregation is handling  
21 this. No. If they ask you, by all means, please do  
22 what you feel is right and report it, if you feel  
23 you should.

24 That is what this letter was designed  
25 to say, counselor.



T. JEFFERSON - AS ON CROSS

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Q. That's not the law in Pennsylvania or Maryland, isn't it?

A. I cannot speak about those laws, counselor. I don't know what the statute says.

Q. The people who -- the anonymous people who wrote this document had to, wouldn't you agree, had to have some understanding of what the various laws in United States were when they directed elders as to what to do about reporting?

MR. MILLER: Objection.

MR. AARON: Objection.

MR. MILLER: Argumentative.

THE COURT: Sustained.

MR. ZEFF: Thank you.

BY MR. ZEFF:

Q. Would you agree with me that this language does not tell elders that they must report in Pennsylvania?

A. Repeat the question. I'm sorry, counselor.

Q. Sure. Would you agree with me that this language --

MR. ZEFF: I still can't find a good sweet spot.

THE COURT: Just speak up.

T. JEFFERSON - AS ON CROSS

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BY MR. ZEFF:

Q. Would you agree with me that this instruction does not inform elders that they must, in Pennsylvania and Maryland, report suspected child abuse?

A. That's a correct statement, counselor.

Q. In fact, it tells them if they do nothing, if they don't report, no one is going to criticize them?

MR. MILLER: I object to the form.

That's not what it says.

THE COURT: Overruled.

BY MR. ZEFF:

Q. That is, no elder will criticize anyone who reports such an allegation to authorities.

And right above that it says: Make it clear that whether to report the matter to authorities or not is a personal decision. There will be no congressional -- no congregational sanctions for either decision.

A. Would you like my comment on that? Do you have a question?

Q. Doesn't that say that if you don't report, we're not going to sanction you?

T. JEFFERSON - AS ON CROSS

1  
2 A. What I understand it to say, counselor, is if  
3 you're asked to make it clear that whether to report  
4 the matter to the authorities or not is a personal  
5 decision for each individual to make and that there  
6 are no congregation sanctions for either decision.

7 What I understand from reading that  
8 sentence is that if it happens to be that one does  
9 not report it, because they're not mandated to do  
10 so, there are no sanctions.

11 That's what I understand, counselor.

12 Q. And your understanding of that comes from  
13 reading that?

14 A. It does.

15 Q. Where does it say anything like that in this  
16 document or that sentence?

17 MR. MILLER: Objection, Your Honor,  
18 argumentative.

19 THE COURT: Sustained.

20 BY MR. ZEFF:

21 Q. Doesn't it simply say make it clear that  
22 whether to report the matter to authorities or not  
23 is a personal decision for each individual to make  
24 and that there are no congressional --  
25 congregational sanctions for either decision?

1 T. JEFFERSON - AS ON CROSS

2 MR. MILLER: Objection.

3 THE COURT: Overruled.

4 THE WITNESS: You read what it says  
5 except it says congregation instead  
6 congressional. But, yeah, you read the  
7 sentence correctly.

8 BY MR. ZEFF:

9 Q. And don't you think a reasonable elder who  
10 reads that would be comforted to know that they  
11 could do nothing, don't have to report it and that  
12 they would have no problems in their congregation,  
13 with the Watchtower or with the Christian  
14 Congregation?

15 MR. MILLER: Objection.

16 THE COURT: Sustained.

17 BY MR. ZEFF:

18 Q. These reports, they're put together by the  
19 various congregations when they put things in an  
20 envelope.

21 What happens with them? Are they  
22 given to the Watchtower or Christian Congregation,  
23 the governing body, somewhere?

24 A. No.

25 Q. There's a position called overseer; correct?

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And traveling overseer; correct?

A. That's correct.

Q. And the traveling overseer will come to congregation to congregation to kind of make sure they're following the rules; would that be fair?

A. No, that's incorrect.

Q. Do traveling overseers review the documents of the congregation?

A. Which documents are you referring to now, counselor?

Q. Any documents.

A. They do review some documents, yes.

Q. Do they look at sealed envelopes?

A. Absolutely not, counselor.

Q. Do they review judicial matters?

A. Absolutely not, counselor.

Q. So if there's a judicial committee, and there are issues related to a child molester being in the congregation and that committee decides not to report anything, the only evidence of that is a sealed envelope that is kept in confidence.

Is that true?

A. Any judicial matter, child abuse or otherwise --

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T. JEFFERSON - AS ON CROSS

Q. That would include child abuse.

MR. AARON: Your Honor, may he please be permitted to finish answering the question?

THE COURT: Do you have anything else to add, sir?

THE WITNESS: I was caught mid sentence, Your Honor. I was just going to try to finish my statement.

BY MR. ZEFF:

Q. If you could turn to P-78, please.

Sir, on page 120. Sir, these rules by -- are put together by who?

A. The information presented here is prepared by a group of mature elders at our headquarters and they're published after review. That group of men is anonymous.

Q. And these rules are to be followed by the elders?

A. The information in this textbook provides direction to the elders to be applied in the circumstances they face and to be followed.

Q. And the rules that are followed by the elders relating to the judicial committee come from whom?

T. JEFFERSON - AS ON DIRECT

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A. As stated, a group of men, spiritually mature men are appointed to prepare this material under the direction of the governing body. And after it is approved, it is published.

Q. And they're anonymous?

A. They are.

Q. And do you know whether any of these anonymous people have any qualifications of any kind to deal with issues of child abuse?

A. If they're anonymous and I don't know them, then I don't answer that question.

MR. ZEFF: I have nothing further, thank you, Your Honor.

THE COURT: Any questioning, counselor, at this point?

MR. AARON: Yes, Your Honor.

THE COURT: All right.

MR. AARON: If I can just get my apparatus on. This has been charged up.

THE COURT: Before you put it on, turn it on and try it.

THE COURT CRIER: I put fresh batteries in. It should work.

- - -

1 T. JEFFERSON - AS ON DIRECT

2 AS ON DIRECT EXAMINATION

3 - - -

4 BY MR. AARON:

5 Q. Mr. Jefferson, can you hear me?

6 A. I can. Thank you.

7 Q. Good. If at some point you can't, just let me  
8 know.

9 Good morning, Mr. Jefferson.

10 A. Good morning, counselor.

11 MR. AARON: Can we put P-1241 up on  
12 the screen. Thank you.

13 BY MR. AARON:

14 Q. Mr. Jefferson, do you remember being asked  
15 about this --

16 A. I do.

17 Q. -- exhibit and statement that -- let me read  
18 it to you.

19 Clergy must report sexual abuse of  
20 children to protect the victim from additional harm.

21 And yet there was some questions about  
22 it. If I were to substitute the word clergy, remove  
23 the word clergy and put Jehovah's Witnesses elders,  
24 let me read it.

25 Jehovah's Witnesses elders must report



T. JEFFERSON - AS ON DIRECT

1  
2 sexual abuse of children to protect the victim from  
3 additional harm.

4 Would you agree with that?

5 A. I do in certain areas of municipalities and so  
6 forth, yes.

7 Q. Okay. And I think we've spoke about that.

8 MR. AARON: You can take that down.

9 BY MR. AARON:

10 Q. Mr. Jefferson, how long have you been a  
11 Jehovah's Witness?

12 A. 45 years.

13 Q. And how long have you been with what you've  
14 called the U.S. Branch?

15 A. 41 years.

16 Q. That's located where?

17 A. Wallkill, New York.

18 Q. Did you grow up there?

19 A. No, I grew up in Philadelphia, here.

20 Q. Where in Philadelphia?

21 A. North Philadelphia.

22 Q. You've spoken about elders. In the Jehovah's  
23 Witness congregation there are people who are known  
24 as elders?

25 A. That's correct, counselor.

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Q. Are you an elder of a Jehovah's Witness congregation or have you ever been?

A. I am.

Q. Where are you an elder now?

A. The South Congregation of Newburgh, New York.

Q. Were you an elder anywhere before that?

A. I was.

Q. Where was that?

A. Prior to that the Port Chester Congregation, Port Chester, New York. And -- shall I go back some?

Q. I guess. Just tell us approximately for how many years you've been an elder.

A. 35 years.

Q. So 35 of the 45 years you've been a Jehovah's Witness?

A. Yes.

Q. Why did you choose to serve as an elder?

A. Well, in second Timothy three to one it says that one reaching out for office of overseer is desirous of fine work. And I wanted to help people. It's my desire to help and shepherd and care for the interest of people. And that's why I do it. There's no pay involved.

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Q. What are some of the specific duties that you perform as an elder?

A. Well, there's teaching from the platform and both on a personal level. There's shepherding and visiting and helping and consulting the sick. And there are responsibilities associated with judicial matters that we've discussed this morning as well.

Q. Can elders conduct marriages?

A. Some can.

Q. Reside over funerals?

A. Some, yes.

Q. On direct you were shown some documents that were letters to bodies of elders. Some were on the letterhead of Watchtower. Some on the letterhead of Christian Congregation.

Do you recall that?

A. Yes, I do.

Q. Generally, what is the purpose of these letters that are sent to the elders?

A. These letters are designed to help the elders to understand the application of various Bible principles in the discharge of their work that I just mentioned, shepherding, care for the sick, judicial matters, that sort of thing.

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Q. You were also shown some other documents that were copies of magazines, I believe, called the Awake magazine.

Do you remember being shown that?

A. I do.

Q. Is that a magazine that's made available to Jehovah's Witnesses and the public as well?

A. Absolutely.

Q. Do you remember being shown copies of the magazine called the Watchtower?

A. I do.

Q. And is that magazine made available to both Jehovah's Witnesses and the public?

A. Yes.

Q. Are you generally familiar with the letters that have been sent out to elders during the years you've been an elder?

A. I am.

Q. Are you generally aware of these magazines Watchtower and Awake magazine?

A. I am.

Q. Did the letters or magazines that you were shown or anything you're familiar with in your 44 years in being a Jehovah's Witness, express a

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Jehovah's Witness policy that elders who learn that a minor is being physically or sexually abused should not call the police or report that abuse to authorities?

A. No.

Q. Are you aware of any such policy existing in the Jehovah's Witness religion? Are you aware of such a policy?

A. No.

Q. Is there a policy on what an elder should do if in the course of his duties as an elder he learns that a minor is being abused?

A. There is printed direction, yes.

Q. And I think we went over some of it.

And what is the policy with respect to the legal department?

A. In the event an elder learns that there's an allegation of child sexual abuse, he's to promptly contact the legal department for guidance.

Q. Why should he call the legal department?

A. The elders are not experienced in legal matters. They do not know what the laws in each municipality state. Our legal department is set up to ensure that the elders comply with those laws for

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the protection of that minor.

Q. In fact, I want to ask you about Plaintiff's Exhibit 18B. If you can open that in your book.

A. I have it, counselor.

Q. Okay. This is a Watchtower letter to all bodies of elders in the United States dated July 1, 1989.

Do you recall being asked a number of questions about this document?

A. Yes, I do.

Q. Let me just direct your attention to page three of the document. I think the pages are noted on the upper left-hand corner of the document.

A. Yes, I have the page.

Q. And some of these questions you've been asked, but I'm going to ask you again.

Let me just -- the section at the very top of the page, section B, is captioned child abuse. I'll read a portion of it.

Many states have child abuse reporting laws. When elders receive reports of physical or sexual abuse of a child, they should contact the society's legal department.

Have I read that correctly?

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A. You have.

Q. According to that policy, does the elders' obligation to call the legal department kick in when the elder receives a report that a child is being physically or sexually abused?

A. That's correct, counselor.

Q. We'll get back to that document. You can just -- well, leave it open. But I'm not going to ask you about it right now.

You've been asked some questions about judicial committees.

A. I have.

Q. And you've explained what they are.

A. Yes.

Q. As an elder, have you ever sat on a judicial committee?

A. I have.

Q. How many would you say you've sat on over the past 35 years that you've been an elder?

A. Scores.

Q. Scores.

As a general matter, what was the purpose of these judicial committees? I don't want you to go through each one; just as a general

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matter.

A. Typically a person has encountered some spiritual difficulty. They have come to the elders because they want to try to restore their relationship with Jehovah's. The shepherds are there to help them work through that and work through their issues.

One of the things that happens is a person's conscious is affected when they do something, whatever it is, that violates Bible principles. So the elders sit down, as James 5, 14 through 16 says, they help the person to heal by listening to whatever it is that's bothering them.

They open the Bible. And the judicial process is not a form of a punishment. It's a form of instruction.

It's as if you broke your arm and now you need a surgeon to help you to reset it. So a surgeon is resetting a broken arm doesn't punish the child because he broke his arm by being disobedient to his parents; the surgeon generally works with the child. That's what elders do. That's the purpose of the judicial process.

Q. And in the 35 years that you said that you've



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sat on many judicial committees, has that been for more than one congregation?

A. Oh, yes.

Q. How many congregations? Estimate.

A. About seven.

Q. About seven. And in the 35 years that you've sat on judicial committees, about seven congregations of Jehovah's Witnesses, have you sat on one that involved allegations of child sexual abuse?

A. No.

Q. I want you to turn your attention back to that July 1st, 1989, letter. I believe that's Plaintiff's Exhibit 18B.

MR. AARON: We don't need it up on the board yet, but thank you.

BY MR. AARON:

Q. In 1989 just to get a beat on this, where were you working?

A. In Brooklyn, New York at our facility there.

Q. So you're familiar with this letter?

A. I am.

Q. Would you describe this letter as being a letter about child abuse?

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A. Absolutely not.

Q. I'm going to ask you about some portions of letter. I would like you to turn to page two of the letter. My copy doesn't have a page number on it, but just the second page of the letter.

Do you see a portion captioned judicial committee matters?

A. I do.

Q. And would you say that's about what, half a page long?

A. Yes.

Q. Turn to page three of the letter. There's a portion captioned, child abuse. I'll get back to that in a minute.

But look below that in section C. It's captioned search warrants and subpoenas.

MR. ZEFF: Objection, Your Honor.

THE COURT: Basis?

MR. ZEFF: Motion in limine.

THE COURT: Sustained.

MR. AARON: I'm sorry, I didn't hear the objection.

THE COURT: Prior motion in limine. And I've sustained the objection.

1                                    T. JEFFERSON - AS ON DIRECT

2                                    MR. AARON:    Okay.

3        BY MR. AARON:

4        Q.        Go to section D.    Same page, crimes and  
5        criminal investigations.

6        A.        I see it.

7        Q.        And then go to the next page, which would be  
8        page four.    And do you see a caption that says when  
9        servants and publishers move?

10       A.        I do.

11       Q.        And what would you say, that's about two  
12       thirds of the page or just eye balling it?

13       A.        Thereabouts, yes.

14       Q.        Then there's a section F called when lawsuits  
15       are threatened.

16                                    Do you see that?

17       A.        I do.

18       Q.        Then if you turn to page five, section G.

19                                    Is there a section entitled child  
20       custody?

21       A.        Yes.

22       Q.        And about how long, how much of the page would  
23       you say that takes up?

24       A.        About half or better.

25       Q.        Go back to page three the portion captioned

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child abuse.

How many lines does that take up in this six-page letter?

A. Five.

Q. Five lines?

A. Yes.

Q. Let's go back to page one of the letter.

You were asked a number of questions about this page of the letter and let me ask a few more.

Do you recall being asked about this portion of the letter that -- regarding confidentiality or guarding against use of the tongue?

A. Yes.

Q. Do you recall those questions generally?

A. Generally, yes, sir.

Q. Is this section of the letter a direction to elders that when they learn that a minor in the congregation is being abused in some way, that they should keep it secret, that they should conceal it, that they should not report it?

A. No. Not at all.

Q. I'm not going to read the whole section to

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2 you. Mr. Zeff read it to you. But there's language  
3 in the letter, in this portion of the letter, I'm  
4 talking about the first page, and it moves onto the  
5 second page that refers to keeping things  
6 confidential.

7 I'll just quote some of those  
8 sentences. Elders share the obligation to shepherd  
9 the flock, however, they should careful not to  
10 divulge information about personal matters to  
11 unauthorized persons.

12 Another sentence is that problems are  
13 created when elders unwisely reveal matters to be  
14 kept confidential.

15 Another portion. Worldly persons are  
16 quick to resort to lawsuits if they feel their  
17 rights have been violated. I'm not going to read  
18 that whole section.

19 But do you remember generally being  
20 asked about those portions of this letter?

21 A. I do.

22 Q. What was this letter referring to? In other  
23 words, why was this letter sent to elders in 1989  
24 regarding, among other things, elders maintaining  
25 confidentiality?

T. JEFFERSON - AS ON DIRECT

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2 A. Back in 1989 I was serving as an elder myself  
3 and the challenge that our elders were experiencing  
4 in those years is that when an elder would hear a  
5 confession, I used the illustration of adultery.  
6 Someone would come and say I made a grave mistake.  
7 I got overwhelmed in a relationship. I love my wife  
8 and I want to do what's right to save my marriage.

9           Sadly, some elders' perhaps desire to  
10 help and perhaps out of a lack of good judgment,  
11 sometimes shared that information with those that  
12 should not have heard it. And that undermined the  
13 ability of the elders to help the congregant who did  
14 not want that information shared with other people.  
15 And, naturally, none of us would want that shared  
16 with other people, that we were trying our best to  
17 save our marriage. We want it confidential.

18           Some who were affected by having  
19 information shared might have become litigious.

20           Also, to help elders understand that,  
21 A, it's a violation of Bible principles that when  
22 you come to me to share something confidential in  
23 your life and I share it with my wife or anyone  
24 else, I'm violating Bible principles, one.

25           Two, I may also create a problem as

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far as litigation is concerned as some people may feel that I've impugned their reputation and want to take legal action.

The letter was designed to help elders who were bus drivers, who worked at City Hall, who are sanitation workers understand that as a shepherd, you must learn to keep things in strict confidence. That's why this letter was written. And I was serving as an elder at the time. So I know that was.

Q. Was that letter intended to express that elders should protect child abusers?

A. Not at all. Not at all.

Q. Are there something called schools that elders attend?

A. There are.

Q. What's the name of those schools? Do they have a specific name?

A. Kingdom of Ministry School.

Q. Have you been to any of those?

A. Several.

Q. Just tell the jury generally what those Kingdom schools are?

A. Kingdom Ministry School is a division of the

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2 organization for training elders. At Kingdom  
3 Ministry School we learn about Bible principles and  
4 their application. We learn about how to shepherd  
5 and to ensure that the interests of the flock are  
6 properly cared for. We learned about judicial  
7 matters and how to make sure that when someone has  
8 been involved in some form of misconduct, the  
9 congregation is kept clean.

10 So if someone is a child abuser, we  
11 learn that child abuse a crime. It's abhorred and  
12 we don't protect child abusers and that we do  
13 everything possible to protect children and that  
14 anyone who abuses a child or commits that crime,  
15 deserves to receive what that crime merits. And  
16 often to be expelled as one of Jehovah's witnesses.

17 That's what we learn in Kingdom  
18 Ministry School.

19 Q. In the Kingdom Ministry Schools, are there  
20 other elders who attend?

21 A. Yes.

22 Q. How many might attend?

23 A. Excuse me?

24 Q. How many might attend the Kingdom Ministry  
25 School?



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A. Well, all elders attend.

Q. But at a particular session?

A. Well, Kingdom Ministry Schools are held regionally, so you might have two or three hundred elders together at one particular location. There are over 100,000 elders in the United States, so obviously they're held regionally.

Q. In these Kingdom Ministry Schools, do the people who were instructors, I'll call them, have they ever expressed to you anything that would suggest that the policy of Jehovah's Witnesses is to protect child molesters?

A. Absolutely not.

Q. Have they ever expressed to you something which expresses a policy of the Jehovah's Witnesses to conceal allegations of child molesters within the congregation or to cover it up?

A. In no way.

Q. Has any elder of any congregation, you've served in seven of them, ever expressed to you that he believes that that is what the Jehovah's Witnesses' policy is?

A. No.

Q. I want to turn your attention to just a few of

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the magazines that are in here.

Why don't you start with Exhibit 8.

A. I have it.

Q. Just to make sure we're looking at the same thing, this is an Awake magazine that is dated February '08, 1981?

A. That's correct.

Q. I'm just taking this at random. I'm not going to take you through all of these magazines. But do these magazines address solely child abuse?

A. Not at all. No.

Q. So the cover. What's the cover story? Just read the cover.

A. A death in the family. How can you cope.

Q. And if you turn to say, page ten. What's the caption, that big caption in the middle of the page?

A. Preparing the family to cope with death.

Q. Turn to page 12.

What's the caption of that article?

A. Printing revolution sweeps into the 80's.

Q. What is that? It seems to be an article of printing or letter presses or offset printers or something like that?

A. That's correct.

T. JEFFERSON - AS ON DIRECT

- 1
- 2 Q. And then if you turn to page 16, there is an
- 3 article captioned: Incest, the hidden crime.
- 4 Correct?
- 5 A. That's correct.
- 6 Q. And turn to page 20.
- 7 What's on page 20?
- 8 A. Crossword puzzle.
- 9 Q. Turn to page 21.
- 10 What's on page 21?
- 11 A. Counterfeiting; don't be a victim.
- 12 Q. What's on page 24?
- 13 A. Household timesavers.
- 14 Q. What's on page 25? I'm not going to take you
- 15 through any more magazines?
- 16 A. Feathers, marbles of design.
- 17 Q. That's an article about what?
- 18 A. Bird feathers.
- 19 Q. Is this typical of these magazines that
- 20 they're magazines that have religious articles and
- 21 also articles of general interest?
- 22 A. That's correct.
- 23 Q. And some of those magazines, also you were
- 24 asked about them, appear to have articles about
- 25 incest or child abuse or molestation or those types

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of things.

A. They do.

Q. Why?

A. Our magazines are written for a wide range of the public.

In other words, people have different needs. And just like any magazine, it doesn't deal with only one subject. People have various interests and the goal is to address the interest of a wide spectrum of our readers and, thus, there are different topics.

Q. Let me ask you specifically about articles in those magazines that might address sexual abuse and molestation, those sorts of subjects. And I'm going to direct your attention to certain exhibits.

Do you remember being asked whether the July 1st, 1989, letter, that letter that you were asked a lot about and that I've asked you a lot about, instructs elders to protect the child?

A. Yes, I recall.

Q. I'm going to ask you to turn to a couple of the exhibits in here. Why don't you turn to Exhibit 8, page 16.

What's the caption of that article?

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A. Incest, the hidden crime.

Q. Turn to page -- I'm sorry, to Exhibit 9. And go to page 11.

Do you see where I am?

A. Yes. Page 11.

Q. What's the caption of that article?

A. To end child abuse.

Q. Go to Exhibit 10. When you get there, go to page 27.

A. Okay.

Q. What's the caption of that article?

A. Help victims or help for the victims of incest.

Q. Let's go to Exhibit 11 and just so you know, all of those exhibits that I'm showing you, are these publications, either the Awake magazine or the Watchtower magazine we've discussed?

A. Yes.

Q. I'm sorry, I should have identified them.

But Exhibit 11, which is an Awake magazine, go to page five. Is that article entitled: Child abuse, the spin-off epidemic?

A. Yes.

Q. Let's go to Exhibit 12, which is another Awake

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2 magazine. Page three.
- 3 A. Yes, I have it.
- 4 Q. The article is entitled: Child molesting,  
5 every mother's nightmare.
- 6 Have I read that correctly?
- 7 A. You have.
- 8 Q. Let's turn to Exhibit 16, which is another  
9 Awake magazine. Page six.
- 10 A. Yes.
- 11 Q. Do you see a caption, a box at the bottom  
12 entitled: Daycare and sexual abuse?
- 13 A. I do.
- 14 Q. Have I read that correctly?
- 15 A. Yes, you have.
- 16 Q. Let's go to Exhibit 19.
- 17 A. Is that 90 or 19?
- 18 Q. 19. Another Awake magazine. And go to page  
19 25.
- 20 A. I have it.
- 21 Q. And do you see an article captioned: The most  
22 pervasive form of child abuse?
- 23 A. Yes.
- 24 Q. Have I read that correctly?
- 25 A. Yes, you have.

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Q. Why -- let's turn to page 21. I'm sorry, Exhibit 21. Plaintiff's Exhibit 21.

A. Okay. I have it.

Q. This is a Watchtower letter dated March 23rd, 1992. On the first page, right-hand column, do you see a caption: Helping victims of child abuse?

A. I do.

Q. Have I read that correctly?

A. Yes, you have.

Q. Let me ask you something, Mr. Jefferson, why do these publications, the Jehovah's Witness publication, Watchtower magazine, Awake magazine, why do they address repeatedly the issue of child abuse, sexual abuse, physical abuse, that type of thing you just referred to?

A. Because in society in general, many, many people are adversely affected by the crime of child abuse and it's the desire of the organization that I'm a part of to do everything possible, A, to make people aware of this horrible, heinous crime and to do everything possible to help victims first of child abuse and to assist them and assist their parents to shoulder their responsibility to protect their children. And that's why the articles are

T. JEFFERSON - AS ON DIRECT

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2 published.

3 Q. So do these -- that's fine. That's fine.

4 MR. AARON: Court's indulgence. Just  
5 one or minute. I'm almost done. One moment.

6 Your Honor, I have no further  
7 questions. I believe Mr. John Miller has  
8 some questions on behalf of the Watchtower.

9 THE COURT: All right. We're going  
10 to take a short recess for a comfort break  
11 and then we'll come back.

12 (Jury out at 11:08 a.m.)

13 - - -

14 (At this time a recess was taken.)

15 - - -

16 (Jury in at 11:24 a.m.)

17 THE COURT CRIER: Sir, kindly state  
18 your name for the record once again.

19 THE WITNESS: Thomas Jefferson, Jr.

20 THE COURT: I want to remind you  
21 you're still under oath.

22 THE WITNESS: Yes.

23 BY MR. MILLER:

24 Q. Mr. Jefferson, my name is John Miller. You  
25 and I know each other well, don't we?



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A. Yes. Good morning, counselor.

Q. How long have we known each other, sir?

A. 20 years.

Q. 20 years. Yeah.

Well, I want to ask you a little bit about some of the things that you've testified to and a just few other things as well.

First of all, let's talk about this matter of keeping things secret, as it's stated by plaintiff's counsel. Confidential is the word that's used in documents. And we talked about a sealed envelope in which judicial committee matters are kept.

Sealed envelope. What is that sealed envelope? Where is it kept?

A. The sealed envelope represents the results of the judicial committee and it's kept in the congregation's confidential file.

Q. What sorts of topics might it contain?

A. Well, it might have to do with -- well, child abuse. But it might also have to do with other things that the congregants have become involved in.

I used the illustration this morning or earlier this morning of adultery. It could be

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fornication. It could be stealing. It could be anything which one has felt a need to receive help from the elders in a judicial setting.

Q. Do all of those things that are in that sealed envelope deal with crimes?

A. No.

Q. What do they deal with?

A. They deal with things that have happened in the life of a congregant that violate Bible principles.

Q. So sins?

A. Yes.

Q. And specifically gross sins?

A. Yes. Gross sins from the Bible's point of view and they're listed in the Bible in Corinthians and Galatians. So that one would be aware of those gross sins.

Q. Of course, child abuse a gross sin?

A. It is most definitely.

Q. Why is it kept in a sealed envelope?

A. Because the information in that envelope is only to be read by those who are authorized to do so and, thus, it is sealed up.

So if one as a member of the

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2 congregation comes along, they will not have access  
3 to what has happened in another person's personal  
4 life.

5 Q. Well, what if there were an adultery matter  
6 and a congregant came along and were able to have  
7 access to that file. Now they have learned that so  
8 and so committed adultery. What affect does that  
9 have on the congregation?

10 A. Well, obviously, first of all, for the person  
11 who was engaged in the misconduct, it hurts their  
12 reputation. It was an indiscretion, a mistake, they  
13 have worked it out. The couple has settled their  
14 marriage. They're doing well. They're happy. But  
15 now if other people know about that, that could be  
16 very, very damaging to that couple.

17 Q. You were asked about reporting of child abuse  
18 and have you had occasion to, in your capacity in  
19 the service department, work on matters on which  
20 elders actually did call the police?

21 A. Yes.

22 MR. ZEFF: Objection.

23 THE COURT: Sustained. Disregard the  
24 answer.

25 BY MR. MILLER:

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1  
2 Q. Have you had occasion to work on matters in  
3 which you learned whether or not the police were to  
4 be called?

5 MR. ZEFF: Objection.

6 THE COURT: Sustained.

7 BY MR. MILLER:

8 Q. You testified that the laws of the states  
9 vary; is that true?

10 A. That's true.

11 Q. And have you worked with lawyers in the  
12 branch's legal department to render advice to elders  
13 who call about the laws of their particular state?

14 A. I have.

15 Q. And is it in your working with those lawyers  
16 that you have become familiar with differences of  
17 laws of different states?

18 A. I have.

19 MR. ZEFF: Objection.

20 THE COURT: Overruled.

21 BY MR. MILLER:

22 Q. You were asked if you could name some of the  
23 people in Watchtower Bible and Tract Society of New  
24 York, Incorporated and you were unable to do so.

25 Are you a member on the executive

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board of that corporation?

A. I am not.

Q. Are you a member or on the executive board of the corporation Christian Congregation of Jehovah's Witnesses?

A. I am.

Q. Can you name any of the people with that organization?

A. I can.

Q. Go ahead. Name some.

A. The president, Allen Shuster; vice president, Anthony Griffin; secretary/treasurer, William Nonkes.

Q. What is your role?

A. Assistant secretary/treasurer, I believe.

Q. And, also, you were in the process of making some statement about the names of individuals who serve in the U.S. Branch Committee?

A. Yes.

Q. Do you know any of those individuals by name?

A. I do.

Q. Can you name a few of them for us?

A. Allen Shuster, Anthony Griffin, just to name two.

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Q. Was Leon Weaver a member of that branch committee?

A. He is.

Q. We can go on. John Larson, I believe.

A. Yes.

Q. So are the names of those persons who serve in the U.S. Branch kept secret anywhere?

A. Not at all.

Q. Aren't they published on the website?

A. That could very well be.

Q. Have you seen them published in some of magazines that are sent to the public?

A. Yes, they are. The president is published every month in the Watchtower and Awake.

Q. So there's no secret about who is there?

A. No.

Q. You mentioned that in your view elders are not clergy.

A. That's correct.

Q. Can you explain that to us, please.

A. Well, in the sense that clergymen are thought to be leaders, people use the term, for example, pastor, bishop. And it designates -- in fact, I thought I was asked on more than one occasion who

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was the leader. Well, Christ is our leader,  
according to Matthew 23.

So elders are not leaders. Elders are  
shepherds. They're charged with taking the lead and  
caring for the interests of the sheep, but they  
aren't leaders.

So that's why I cannot accede to  
counsel's question about clergy in describing  
elders.

Q. You weren't trying to say that elders don't  
have a duty to report child abuse, if the law  
requires it?

A. Not at all. No, elders do have a duty to  
report.

Q. And they do so?

A. And they do so as the law mandates.

Q. Let me go to Exhibit 18B, which has been used  
before. And if you look at the bottom paragraph on  
the first page.

Do you have that, sir?

A. I do.

Q. And in the middle of the paragraph, thus,  
elders must especially guard against the use of  
tongue.

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Do you see that, sir?

A. I do.

Q. Is that Scripture?

A. It is.

Q. What do the Scriptures say about that?

A. In Proverbs, for example, Proverbs, Chapter 20, I believe it urges elders to maintain confidentiality at all times. And that's what it's based on, really.

Q. And there are several Scriptures that describe the same thing, aren't there?

A. Yes.

Q. So why are elders admonished to adhere to those Scripture principles?

A. Well, it's the source of the whole Bible. So as not to cause harm to those in the congregation primarily.

Q. Can we go to page six of that document, please.

And at the paragraph beneath the letter D where it says, guard against the use of tongue. That whole paragraph, think before you speak.

A. I have it.



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2 Q. It tells elders think before you speak. Do  
3 not discuss private and judicial matters with  
4 members of your family, including your wives, or  
5 with other members of the congregation.

6 Why was that reminder put in that  
7 letter?

8 A. To caution those that have failed in this  
9 regard in the past.

10 Sadly, as I said, some elders back in  
11 the 80's particularly, out of perhaps a desire to  
12 better understand or console, might have said, for  
13 example, you know, Joe and Suzie are having some  
14 marital problems in a discussion with his wife. And  
15 we're trying to help them.

16 Then the wife will go to Suzie and  
17 say, hey, Suzie, I heard you're having some problems  
18 in your marriage, and I understand. I understand.

19 Well, that's explosive, because Suzie  
20 thought that the only person who knew were the  
21 elders. And now that becomes a potential problem.

22 I think you can understand that.

23 Q. The letter goes on to talk about lawsuits.

24 Were there lawsuits being filed over  
25 things like that?

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A. Sure.

Q. So elders were being sued, congregations were being sued?

A. Absolutely. Yes.

Q. Let's talk a little bit about what Watchtower does.

You named just a few of its tasks, but I want to make sure it's clear in your mind the distinction between Watchtower, Christian Congregation of Jehovah's Witnesses, the U.S. Branch, branches of other nations or other territories. I want to get this clear.

So, please, one more time, Watchtower Bible and Tract Society of New York, Inc. is what and what does it do?

A. Watchtower Bible and Tract Society of New York, Incorporated is designed as a publishing arm. It also holds property. In that capacity it cares for the literature that we print. That is, it's published. It also take cares of support for the properties that are owned in the New York State area. Just a brief answer.

Q. Good.

Christ Congregation of Jehovah's

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Witnesses. Same question.

A. Corporation formed in 2001 to handle all matters related to the congregations of Jehovah's Witnesses. That includes publishing material for the elders, it includes if you notice sometimes in Philadelphia we use the Liacouras Center for our regional centers. Well, the Christian Congregation is responsible for booking the Liacouras Center at Temple and caring for all the matters related to the operation of that convention.

The disaster relief in the islands, in New Orleans this week, in North Carolina recently there have been disasters. We work with disaster relief providing support for the communities there and remediation for flooding and so forth all under the Christian Congregation.

Now, the U.S. Branch --

Q. I'm sorry, I have to ask you a question.

What is the U.S. Branch and what does it do?

A. The U.S. Branch is comprised of about 15 men who oversee all of the publishers. At one point two million publishers in the U.S. Branch. Now, publishers are congregants in the United States.

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2 So they take care of all the matters  
3 related to our activity from the door to door. They  
4 take care of the various individuals who comprise  
5 our worldwide order in the United States. And they  
6 look after the day-to-day operation of the  
7 properties in the United States and other parts of  
8 the U.S. Branch.

9 Q. All right. Are there other branches now?

10 A. Yes, there are. Just under 100 or so.

11 Q. And so you mentioned that the Watchtower and  
12 Awake magazines are printed for international  
13 publication; is that correct?

14 A. That's correct.

15 Q. Are those magazines translated into other  
16 languages now?

17 A. Yes, they are.

18 Q. But the letters for the bodies of elders that  
19 are generated by U.S. Branch, specifically the  
20 service department, who are those letters sent to  
21 here?

22 A. Those letters are generated for the bodies of  
23 elders in the 14,000 congregations in the United  
24 States Branch.

25 Q. So if there are letters to bodies of elders in

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other branches, where do those come from?

A. Oftentimes from their branch committee.

Q. Do you know of any -- did this letter of July 1, 1989, did it go to other branches or did it stay in the United States or do you know?

MR. ZEFF: Objection.

THE COURT: Sustained.

THE WITNESS: I'm not sure.

BY MR. MILLER:

Q. No, you can't answer. It was sustained. When she says sustained, we don't answer.

THE COURT: Disregard the answer.

THE WITNESS: I'm sorry.

THE COURT: That's all right.

THE WITNESS: I got confused.

BY MR. MILLER:

Q. Now, just so we get clear on the appointment process of elders, back in the 1990s and 2000's, we're not going to today where the overseer actually makes the appointment, but rather back earlier, who made the appointment of elders back in the 1990's, 2000's?

A. The United States Branch.

Q. Would there be a meeting at the Watchtower

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Bible and Tract Society Corporation? Would there be a corporate meeting to discuss those elders?

A. No.

Q. Was there any Watchtower Bible and Tract Society involvement in determining who qualified as an elder?

A. No.

Q. Was the elder appointed by Watchtower Bible and Tract Society of New York, Inc.?

A. No.

Q. Once the Christian Congregation of Jehovah's Witnesses took over as the letterhead to disseminate letters to elders throughout the United States, did the Christian Congregation of Jehovah's Witnesses, that corporation, was it involved in the process of reviewing qualifications for appointing elders?

A. No.

Q. Can elders, do they get any money from either of those corporations?

A. No.

Q. Do they sign checks for either of those corporations?

A. No.

Q. Are they considered members of those

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corporations?

A. No.

Q. Do they have the ability to rent facilities for those corporations?

A. No.

Q. Are they employees?

A. No.

Q. As shepherds, who do elders perform their functions as shepherds for?

A. Well, for the flock entrusted to their care, but ultimately Jehovah and Jesus Christ.

Q. Mr. Zeff has pointed out in letters to bodies of elders that there are some directions that are given to elders in terms of how to conduct shepherding, how to conduct investigations and how to conduct judicial committees.

Is that to be taken as meaning that those letters are, in fact, making Watchtower direct those elders in what to do?

A. No, not at all.

Q. What do those letters do for elders who receive them and read them?

A. Those letters help elders to understand how to apply Bible principles. How to handle and care for

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1  
2 the interests of the people entrusted to them and to  
3 do it in a way that Christ would want them to do it.

4 Obviously it provides practical  
5 guidelines as has already been discussed on how to  
6 conduct an investigation as well.

7 Q. You've been asked a little bit about  
8 discipline within the congregation. And I just  
9 wanted to ask you a little bit about that.

10 You already explained what it's for.  
11 Is there a Bible principle or are there Bible  
12 principles that talk about discipline?

13 A. Yes, there are.

14 Q. What is the essence of those Bible principles?

15 A. Well, for one thing at Hebrews 12, for  
16 example, we're reminded in verses six through 13  
17 that whoever God loves, he disciplines.

18 Interestingly in the context of those  
19 verses, particularly 11, 12 and 13, we're reminded  
20 that discipline is like, well, making straight paths  
21 for one's feet. In fact, the original language word  
22 for discipline is instruction really.

23 So discipline, if you look at the  
24 original language in which the Bible was written in,  
25 the thought conveyed by the writer is this is an



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instruction, not punishment. This is designed to help one who has -- let's say, for example, to illustrate in common language today, you've gotten off course a little bit. Maybe your thinking is not what it should be.

Well, discipline says to you, let me speak to your heart. Let me tell you that you've made a mistake, but we want to help you. We want to help you get back on course and we don't hate you. We may hate what you've done, but we don't hate you. We love you and we want the best for you.

Q. Is there an age limit at which a person may be baptized as one of Jehovah's Witnesses?

A. No.

Q. What is the requisite to qualify to be baptized?

A. To have a basic understanding of what the Bible --

MR. ZEFF: Objection, Your Honor.

THE COURT: Sustained.

BY MR. MILLER:

Q. Is there a -- is it possible to discipline a person who is not a baptized member of Jehovah's Witnesses?

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A. Could you clarify when you say discipline, please?

Q. Yes. In terms of having a judicial committee, for example, is that available when one is not a baptized Jehovah's Witnesses?

A. No.

Q. One must be baptized in order for that to happen?

A. That is correct.

MR. MILLER: Your Honor, I have nothing further.

THE COURT: Thank you, sir.

Mr. Lombardi?

MR. LOMBARDI: I have no questions at this time. Thank you, Your Honor.

THE COURT: Redirect?

MR. ZEFF: Thank you.

THE COURT: No, recross. Recross.

MR. ZEFF: That's true.

- - -

AS ON RECROSS EXAMINATION

- - -

BY MR. ZEFF:

Q. I'm sorry, I have to start with 18B again.

T. JEFFERSON - AS ON RECROSS

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2 When Mr. Aaron was asking you  
3 questions, you said, I sort of wrote it down and I  
4 can't read my writing, so please if I've misstated,  
5 let me know, that this document --

6 MR. ZEFF: If we can put 18B, the  
7 first page up, please.

8 BY MR. ZEFF:

9 Q. This July 1, 1989, document is about marriage.

10 Is that what you said it was about?

11 A. I don't recall saying it was about marriage,  
12 counselor.

13 Q. Did you say that there were problems in the  
14 congregation with adultery and confessing marital  
15 issues and that you were there when those issues  
16 were discussed and that this -- when this document  
17 was formed and that was the purpose of this  
18 document?

19 A. I believe what I said, counselor, in context  
20 was I wish to illustrate one of the reasons why this  
21 document was prepared. And then I used marriages  
22 and problems in marriages as an example.

23 Q. Sir, the actual word marriage doesn't appear  
24 in the document, does it?

25 A. That's correct, counselor.

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Q. In fact, the word confidentiality, I counted it up, so would you accept my representation that confidentiality is in there 11 times?

A. I didn't count it, counselor.

Q. Tongue, slips of the tongue, that sort of thing is there four times.

A. Okay. I didn't count it, counselor.

Q. And the document at page two says what to do when in specific cases.

Do you see Roman numeral one? Just above A.

A. Where are we, counselor?

Q. Page two, Roman numeral one. What to do in specific cases.

A. What page is it in the upper left corner?

Q. There is no page in the upper left corner, unfortunately. The second page.

A. Yes, I see it. Thank you very much. Sorry about that.

Q. And then if you look, the first thing under that says, A, judicial committee.

Correct?

A. Yes, that's correct.

Q. Then turning to the next page, there's a B,

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child abuse.

A. That's right.

Q. And a C, search warrant and subpoenas.

A. That's right.

Q. And then a D, crimes and criminal investigations.

A. That's correct.

Q. So would it be fair to say that in putting this together, whoever put it together and you were part of the committee that put it together?

A. No, sir.

Q. I think you said something about you sat in some of the meetings about this document?

A. No, sir, I did not.

Q. Did you say something about sitting in on some type of meeting about where the issues to go into this document were being created?

A. If you're referring to the earlier comment I had about taking phone calls and assisting elders with matters, that might be it. I don't know exactly what, which part.

I would love to address your question, but I'm not specifically sure which part of my testimony you're addressing.

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Q. Did you at some point say that you were sure that that document was about the matters that you were just speaking of, marriage counseling and the like? And that you were sure of it because you were part of the discussions related to it? Did you say that, sir? Something like that?

A. What I said, counselor, was in 1989 I was serving as an elder and I was aware of some of the challenges that our elders were experiencing at that time because I was serving and, therefore, I'm acquainted with the fact that this letter, which was designed to help us as elders work through those challenges.

Q. But you had nothing to do with writing it?

A. Not at all.

Q. You don't know who the anonymous people are who wrote it?

A. Absolutely not.

Q. You didn't advise them or say to them you've got to write something like this?

A. No, sir, I did not.

Q. But you were an elder at the time and did you actually go to a special meeting because of this?

A. I did.

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Q. And in that meeting you read this order? You read this from page one to page six straight through?

A. I don't remember exactly how we did it, whether we stopped and discussed it along the way. But what I can say is I did attend the meeting. We did go through the document.

Q. So you would agree with me if you're writing a letter like this, you want to put what's important first, put it in order?

A. Okay.

Q. And the topic of -- the first topic is judicial -- the first topic is really lawsuits and keeping quiet; right? That's the whole first page.

MR. MILLER: I object to the characterization, Your Honor.

MR. ZEFF: I'm just trying to summarize, Judge.

THE COURT: Overruled.

BY MR. ZEFF:

Q. Would it be fair to say the first page is about keeping quiet and keeping out of lawsuits?

A. The first page is designed to remind elders of the need for confidentiality.

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Q. Confidentiality.

The second page at Roman numeral one says here is some specific cases we want to talk about. And the first one is judicial committees; correct?

A. That's correct.

Q. And the second one is child abuse, second on the list.

A. Okay.

Q. The third one is search warrants and subpoenas.

MR. AARON: Objection, Your Honor. I wasn't allowed to ask about that.

MR. ZEFF: I'm not. I'm just pointing out the topic.

THE COURT: Just a moment. Sustained. Skip that, please.

BY MR. ZEFF:

Q. D, crimes and criminal investigations. E, next page, when services and publishers move.

A. Yes.

Q. F, when lawsuits are threatened.

A. Yes, sir.

Q. So these matters were all prioritized by



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whoever wrote those?

MR. AARON: Objection, Your Honor.

He didn't write this letter. It's speculation.

THE COURT: Sustained.

BY MR. ZEFF:

Q. Well, G, child custody. It's the last point in specific cases, isn't it?

A. G. That's the last one.

Q. And it talks about child custody issues, doesn't it? That sometimes there are religious issues that relate to child custody, that relate to legal matters as well and to contact the legal department about it?

That's what -- the only section of this that has anything to do with the force or marital issues of any kind; isn't that right?

A. That's the only reference to marriage and divorce in this segment, counselor.

Q. So is it your testimony that when you, as an elder, were present when this was read, all you guys talked about afterward was marriage issues?

MR. MILLER: I object to the form.

THE COURT: Sustained.

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MR. ZEFF: I'll move on.

BY MR. ZEFF:

Q. You mentioned two sections in particular of this document, the child abuse section and the section E about moving. I want to the talk about section E, moving, for a moment.

MR. ZEFF: If you can put section E up, which is on page four, please.

BY MR. ZEFF:

Q. So it's fair to say a congregant could move from one chapter to another on occasion? That happens. I presume you've moved from different chapters to different chapters.

A. From one congregation to another.

Q. From one congregation to another.

And some of those congregants may have some of those sealed envelopes about them in their current congregation; correct?

A. That is correct.

Q. And this section talks about that, doesn't it? One of the topics that's covered in it.

A. No, sir.

Q. It doesn't talk about if somebody moves from one congregation to another?

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A. That's correct, counselor.

Q. What does it talk about?

A. What this paragraph is designed to do is outline the steps involved when elders and ministerial servants move from one congregation to another in the first paragraph. And if there is some difference or some issue settled at in the next paragraph where accusations of serious wrongdoing have been made, the congregation where the person is moving from should try to resolve the issue rather than the congregation where the person moves to.

It says nothing about sealed envelopes, counselor.

Q. Sir, it talks about moving, doesn't it?

A. It does.

Q. And what to do when someone moves from one congregation to another?

A. We've already agreed on that, counselor.

Q. And you've agreed that some people who move from one congregation to another may have a sealed envelope in their current congregation?

MR. AARON: Objection, asked and answered.

THE COURT: Overruled.

1                                    T. JEFFERSON - AS ON RECROSS

2                                    Answer, please.

3                                    THE WITNESS: That's correct,  
4                                    counselor.

5 BY MR. ZEFF:

6 Q.        So this talks about what to do if there's been  
7        some wrongdoing by a congregant or an elder that's  
8        moving from one chapter to another, doesn't it?

9 A.        No.

10 Q.        If serious accusations of wrongdoing have been  
11        made against an individual and he moves to another  
12        congregation before matters are finalized, usually  
13        it is best if the matters in the original  
14        congregation are followed through in handling  
15        matters, if possible, and if distance permits.

16                                    What does that mean, sir?

17 A.        What it means, counselor, is that if at the  
18        time someone moves there's a discussion about some  
19        wrong conduct that that person has been involved in,  
20        the elders in the congregation, let's just say the  
21        elders here in Philadelphia, where the person moving  
22        is moving from, and the elders in New Jersey, where  
23        the person is moving to, the elders in Philadelphia  
24        would handle it because they know the person, they  
25        know the circumstances.

1                    T. JEFFERSON - AS ON RECROSS

2                    It has nothing to do with sealed  
3 envelopes. That's not mentioned in this paragraph  
4 or in this section at all. It's a totally different  
5 topic, counselor.

6 Q.            Here. Some appointed brothers may be  
7 experiencing problems that have been brought -- that  
8 brought their qualifications into question.

9                    Does that refer to wrongdoing of some  
10 kind?

11 A.            Not necessarily.

12 Q.            It might, though?

13 A.            It could.

14 Q.            So there are some people who move from  
15 congregation to congregation that might have a  
16 problem about their qualifications.

17                    In other words, there's something that  
18 they may have done that's bad; that's in an  
19 envelope. Right?

20 A.            No, sir.

21                    MR. MILLER: Your Honor, I have to  
22 object to the line of questioning. There's  
23 no issue to which this relates. It's  
24 irrelevant. It's a waste of time.

25                    THE COURT: Overruled.

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BY MR. ZEFF:

Q. When somebody moves, the old chapter has to say we recommend his reappointment, don't they?

A. That's correct, counselor.

Q. And this then talks about that. It says, the new chapter calls and they decline to recommend his reappointment in a congregation.

So there are times when someone moves from a chapter to a chapter and they do have an envelope, right, a secret envelope?

A. I acknowledge that they --

MR. AARON: Objection to the characterization secret.

THE COURT: Sustained.

BY MR. ZEFF:

Q. They have an envelope. People move that have envelopes.

A. That's correct, counselor.

Q. In those envelopes there could be information about the person moving being a sexual child predator?

A. Could be.

Q. And that information isn't turned over to authorities, is it?

1                                    T. JEFFERSON - AS ON RECROSS

2        A.        No, sir.

3        Q.        Okay. You mentioned that the Watchtower and  
4        the Christian Congregation, you talked about their  
5        relationship with the congregations themselves, the  
6        actual Kingdom Halls.

7                                    Do you remember that testimony from  
8        Mr. Miller?

9        A.        Yes.

10        Q.        And he tried to distinguished the Watchtower  
11        and the Christian Congregation and what they do in  
12        terms of the chapters, in terms of the actual  
13        congregations; correct?

14        A.        Yes, sir.

15        Q.        I just want you to go to 78 for me in the  
16        book. I don't know if that's the correct book in  
17        front of you.

18                                    MR. ZEFF: But if you put 78, just a  
19        cover sheet of that for us. Thank you.

20        BY MR. ZEFF:

21        Q.        That's -- I'll wait until you get there, but  
22        you agree that's one of the documents we talked  
23        about earlier as being a textbook for elders?

24        A.        Yes, counselor.

25        Q.        And that textbook, if you turn to page nine,

1                    T. JEFFERSON - AS ON RECROSS

2        the very beginning of it, top of the page, it says,  
3        the revised edition of pay attention to yourselves  
4        and all the flock is presented in a practical and  
5        convenient handbook for congregation elders and  
6        traveling overseers to use in caring for  
7        responsibility as shepherds of the flock.

8                    MR. MILLER: May it please the Court,  
9                    I object to the use of this textbook, First  
10                    Amendment rights.

11                    THE COURT: Overruled.

12 BY MR. ZEFF:

13 Q.        Is that what it says?

14                    THE WITNESS: I can answer this,  
15                    right?

16                    Did she say -- I didn't hear what she  
17                    said.

18                    MR. ZEFF: Judge, he --

19                    THE COURT: I'm thinking for a  
20                    minute. I want a sidebar conference on this.

21                    (SIDEBAR DISCUSSION WAS HELD AS  
22                    FOLLOWS:)

23                    THE COURT: There was an objection as  
24                    to the use of this textbook.

25                    Where are you going with this



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1  
2 questioning?

3 MR. ZEFF: Simply that they have  
4 judicial rules for investigating, Judge. And  
5 within those judicial rules the sealed  
6 envelopes are to be, when someone is  
7 disfellowed, to be provided to the  
8 Watchtower. There's been testimony that they  
9 don't get notice.

10 THE COURT: I mean what's the essence  
11 of your First Amendment objection to this?

12 MR. MILLER: I have no First  
13 Amendment objection to that portion. It was  
14 to the broader use of the book.

15 MR. ZEFF: I'm not going into  
16 anything Scriptural or religious about it at  
17 all.

18 THE COURT: That procedure.

19 MR. ZEFF: Yes. And this book  
20 provides responsibilities that are to be  
21 followed.

22 THE COURT: All right.

23 MR. MILLER: No objection to that.

24 THE COURT: All right. Thank you.

25 MR. ZEFF: That's all.

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2                    THE COURT: Are the mikes on or off?

3                    MR. ZEFF: They're off right now.

4                    THE COURT: That's very good. If I  
5 forget to check whenever we go to sidebar, if  
6 I forget to check, please one of you remember  
7 about the mikes.

8                    MR. ZEFF: That would have been bad.

9                    THE COURT: Thank you.

10                   MR. ZEFF: The ruling was fine.

11                   (END OF SIDEBAR DISCUSSION.)

12                   THE COURT: All right. So you may  
13 proceed with your question along the lines as  
14 discussed.

15                   MR. ZEFF: Thank you, Your Honor.

16                   THE COURT: So the objection is  
17 overruled and you can continue.

18                   MR. ZEFF: I thought it was  
19 withdrawn. I thought the objection was  
20 withdrawn.

21                   THE COURT: All right, the objection  
22 is withdrawn.

23                   MR. ZEFF: Thank you.

24                   MR. MILLER: As to the line of  
25 questions discussed.

1                                    T. JEFFERSON - AS ON RECROSS

2                                    THE COURT: Thank you. I appreciate  
3                                    it.

4 BY MR. ZEFF:

5 Q.        So on page nine it talks about this textbook  
6 being something that the elders can use to say help  
7 for carrying on their responsibilities; correct?

8 A.        Yes.

9 Q.        One of those responsibilities has to do with  
10 sexual abuse?

11 A.        Could you clarify that question for me,  
12 please?

13 Q.        Sure. The responsibilities, one of the  
14 responsibilities of the elders has to do with sexual  
15 abuse?

16 A.        One of the responsibilities of the elders is  
17 assisting victims of child sexual abuse or  
18 perpetrators.

19 Q.        And identifying perpetrators, too.

20 A.        I don't know if I'm clear on what you mean by  
21 identifying.

22 Q.        Well, if there's a perpetrator, if there's a  
23 predator in a congregation, isn't it part of the  
24 elders' responsibility to make that determination?

25 A.        It's the responsibility of the elders to

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1  
2 address that person, yes, if they learn that they  
3 have engaged in child sexual abuse, that's correct.

4 Q. And to protect the child?

5 A. Well, the elders have responsibility of  
6 protecting children, yes, and all the flock.

7 Q. And the entire community from predators, not  
8 just the flock?

9 A. What do you mean by entire community?

10 Q. Well, doesn't an elder have a responsibility  
11 if they know there's a sexual predator in their  
12 midst to let the entire community, the State of  
13 Pennsylvania, the people of Philadelphia, know that  
14 there's a sexual predator in their midst?

15 MR. MILLER: Objection. It calls for  
16 a legal conclusion.

17 THE COURT: Overruled.

18 You may answer.

19 THE WITNESS: No.

20 BY MR. ZEFF:

21 Q. This textbook -- if I call it a textbook, is  
22 that --

23 A. Sure.

24 Q. The textbook that I just pulled out has  
25 procedures to follow regarding judicial matters;

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correct?

A. That's correct.

Q. And it tells the elders what to do about the judicial matters?

A. Yes.

Q. One of the things it tells them to do is this S-77 form?

A. Yes.

Q. And the S-77 form is a document that's sent to the branch headquarters in New York?

A. That's correct.

Q. So if someone is subject to some type of discipline, gets an envelope, the S-77 form is also filled out so that the branch headquarters knows about it?

A. Not correct.

Q. Does the S-77 form, does branch headquarters get notified if someone has a serious violation?

A. The S-77 form is only filled out when the person has been disfellowshipped.

Q. And disfellowshipped includes serious violations?

MR. MILLER: Objection, Your Honor.

I object to further questioning about the

1                                    T. JEFFERSON - AS ON RECROSS

2                    S-77 forms. There's no disfellowshipping  
3                    involved in this case and, therefore, any  
4                    potential relevancy is outweighed by  
5                    prejudice under the First Amendment.

6                    THE COURT: Overruled.

7                    THE WITNESS: The question again,  
8                    please?

9 BY MR. ZEFF:

10 Q.            Disfellowship due to serious violations are  
11 clearly in the S-77 form and sent to the branch?

12 A.            Would you rephrase that question for me,  
13 counselor. I just didn't get it.

14 Q.            All disfellowships are sent to the  
15 headquarters?

16 A.            Disfellowshippings are sent to the U.S.  
17 Branch. Reports of disfellowshippings are sent on  
18 the S-77 to the U.S. Branch.

19 Q.            Sexual predators that are found to be sexual  
20 predators have been disfellowed and the branch has  
21 been notified about that; is that true?

22 A.            If a person has been disfellowshipped, the  
23 U.S. Branch is notified.

24 Q.            And no notice of that from the U.S. Branch is  
25 given to Pennsylvania; is that true?

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A. If the disfellowshipping takes place in Pennsylvania, I'm not aware that the U.S. Branch notifies Pennsylvania.

Q. I want to talk to you about, one more time and I promise you, I'll try very hard not to go back, to 18B, section B, child abuse.

A. Is that where we're going, counselor?

Q. Yes.

There was a comment made, and I'm not sure if it was the question or the answer, that there are five lines in this entire document on child abuse.

A. Where would you like me to ...

Q. I would just like you to look at that. There were five lines. Do you remember that comment?

A. I do, counselor.

Q. Wouldn't a shorter and better way to let everybody know is no B; you must report child abuse?

MR. MILLER: Objection, Your Honor.

THE COURT: Sustained.

BY MR. ZEFF:

Q. You mentioned that you want to do what's best for the child in situations of suspected child abuse.

1                                    T. JEFFERSON - AS ON RECROSS

2                                    Do you remember that?

3        A.        I do.

4        Q.        And I think you agree that everybody wants to  
5        do what's in the best interest of the child in our  
6        whole community, everyone.

7        A.        I can't speak for the whole community,  
8        counselor.

9        Q.        Do you think it's in the best interest of this  
10       community to get sexual predators off the street?

11                                   MR. AARON:    Objection, Your Honor.

12                                   MR. MILLER:    Objection, Your Honor.

13                                   THE COURT:     Sustained.

14        BY MR. ZEFF:

15        Q.        If you want to do what's best for the child,  
16        don't you want to have the best investigation to  
17        determine whether an allegation is true?

18                                   MR. MILLER:    Objection.

19                                   MR. AARON:     Objection.

20                                   THE COURT:     Sustained.

21        BY MR. ZEFF:

22        Q.        You mentioned earlier that you had met with  
23        the legal department or had some involvement with  
24        the legal department?

25        A.        Yes, I did, counselor.



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Q. And you talked about that you were with them and talked about ensuring that they comply with the laws in some way? I wasn't quite clear. What was your involvement?

A. I believe I was questioned by one of the counselors regarding whether or not I had had any interaction with the legal department. I think. Now, I just have to try to remember that line of questioning.

So I believe that was the line of questioning at the time.

Q. Was your involvement with the legal department before or after 2004?

A. After.

Q. Before or after 2005?

A. After.

Q. And your involvement with the legal department then -- so back in 2004, 2005 did you have any knowledge at that time about the reporting requirements in Pennsylvania or Maryland?

A. I did not.

Q. But you would have expected, based on your experience with the legal department, that they would?

T. JEFFERSON - AS ON REDIRECT

1  
2 A. I would assume so, counselor.

3 MR. ZEFF: I have nothing further.

4 THE COURT: Very briefly one or two  
5 followups.

6 MR. AARON: I have two questions for  
7 recross.

8 THE COURT: I'm going to hold you to  
9 that.

10 MR. AARON: Directly responsive.

11 - - -

12 AS ON REDIRECT EXAMINATION

13 - - -

14 BY MR. AARON:

15 Q. Mr. Jefferson, I'm just going to stay at the  
16 table here. You were asked some questions about  
17 testimony that you gave about marital problems in  
18 relation to that July 1st, 1989, letter.

19 Did you give marital problems as  
20 simply an example of the type of issue that might  
21 come to the attention of elders in the course of  
22 speaking to go congregants?

23 A. Yes. It was purely as an illustration.

24 Q. And the second question I have for you, you  
25 were asked about a person who might move to another

1 T. JEFFERSON - AS ON REDIRECT

2 congregation and an envelope that might contain  
3 information about a child molester.

4 Do you recall being asked those  
5 questions?

6 A. I do.

7 Q. Is it your testimony that such information  
8 about child molesters is never reported to  
9 authorities?

10 MR. ZEFF: Objection.

11 MR. AARON: The question --

12 THE COURT: Just a moment.

13 Overruled.

14 You may answer, sir.

15 THE WITNESS: I'm sorry?

16 BY MR. AARON:

17 Q. Is it your testimony that information about  
18 child molesters in the congregation is never  
19 reported to authorities?

20 A. Not at all.

21 MR. AARON: Thank you, sir.

22 MR. MILLER: I do have one question.

23 THE COURT: Go on, sir.

24 BY MR. MILLER:

25 Q. If someone is who is a known child abuser

1                    T. JEFFERSON - AS ON REDIRECT

2 moves from a state where the law does not mandate a  
3 report to police to a state where the law mandates a  
4 report to the police, what are the elders instructed  
5 to do?

6 A.        Call the legal department.

7                    MR. MILLER: Thank you.

8                    THE COURT: Thank you.

9                    Sir, thank you. You may step down.

10                   (WITNESS EXCUSED.)

11                   THE COURT: All right. Ladies and  
12 gentlemen, we're going to take our lunch  
13 break now. And it's 12:14. I would like you  
14 please to come back at 1:15.

15                   We're going to recess early today at  
16 3:30, so I'm just going to give you an hour  
17 to grab a bite to eat.

18                   Again, don't discuss the case over  
19 the lunch break. And the reason I give you  
20 this instruction is because you will not have  
21 all available information, the law, to  
22 discuss the case.

23                   When the trial is complete, as I  
24 explained to you in the beginning, then you  
25 will be able to discuss the case. All right?

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T. JEFFERSON - AS ON REDIRECT

So have a good lunch. Be back at 1:15 and we'll continue then.

THE COURT CRIER: Remain seated.

Jurors, right this way. The Court is going to take a recess until 1:15.

(Jury out at 12:14 p.m.)

THE COURT: Counsel, 1:15. We have Hoffman and Hollingworth.

MR. ZEFF: Judge, I just wanted to make sure I checked with your deputy. We introduce the exhibits at the end of our case?

THE COURT: At the very end, introduce them at the very end of your case.

All right. Thank you.

(LUNCHEON RECESS.)

## CERTIFICATION

I, Cynthia Touni, hereby certify that the testimony and proceedings in the foregoing matter taken on February 8, 2017, are contained fully and accurately in the stenographic notes taken by me, and that Pages 5 to 117, inclusive, of this testimony are a true and correct transcript of the same.

---

Cynthia Touni, Registered Merit Reporter  
Official Court Reporter

- - -

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying shorthand reporter.

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IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

- - -

STEPHANIE FESSLER, : SEPTEMBER TERM, 2013  
Plaintiff :  
 :  
-VS- :  
 :  
WATCHTOWER BIBLE AND TRACT :  
SOCIETY OF NEW YORK, INC., :  
CHRISTIAN CONGREGATION OF, :  
JEHOVAH'S WITNESSES, INC., :  
SPRING GROVE CONGREGATION OF :  
JEHOVAH'S WITNESSES and :  
TERRY JEANNE MONHEIM, :  
Defendants : NO. 01293

Wednesday, February 9, 2017  
Courtroom 432 - City Hall  
Philadelphia, Pennsylvania

JURY TRIAL - DAY II - P.M. SESSION

BEFORE: THE HONORABLE MARY COLINS, J.

LINDA J. SETTLES, RMR  
Official Court Reporter

## 1 FESSLER VS. WATCHTOWER BIBLE, ET AL.

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1                    FESSLER VS. WATCHTOWER BIBLE, ET AL.

2                    I N D E X

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4                    PLAINTIFF'S EVIDENCE

5            WITNESS:	DR	CR	RDR	RCR
6            ERIC HOFFMAN				
7            BY MR. ZEFF	5	--	53	--
8            BY MR. AARON	--	38	--	
9            BY MR. MILLER	--	56	--	--
10           DONALD HOLLINGWORTH				
11           BY MR. ZEFF	60	--	104	--
12           BY MR. AARON	--	90	--	--
13           BY MR. MILLER	--	110	--	--

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1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                                   - - -

3                   THE CRIER:   This court is reconvened.   The  
4                   Honorable Mary D. Colins is presiding.

5                   Good afternoon, Your Honor.

6                   THE COURT:   Good afternoon, Everybody.

7                   Next witness.

8                   MR. ZEFF:   Plaintiff calls Eric Hoffman.

9                   THE COURT:   Mr. Hoffman.

10                  THE CRIER:   Good afternoon, Sir.

11                  Sir, can you kindly raise your right hand.

12                  Sir, can you state your name for the record,  
13                  please.

14                  THE WITNESS:   Eric Hoffman.

15                  THE CRIER:   Can you spell your first and  
16                  last name.

17                  THE WITNESS:   E-R-I-C H-O-F-F-M-A-N.

18                  THE CRIER:   Thank you.

19                                   - - -

20                  (ERIC HOFFMAN, after first been duly  
21                  sworn, was examined and testified as follows:)

22                                   - - -

23                  THE CRIER:   Have a seat.   Pull your chair  
24                  up and kindly speak into the microphone.   The  
25                  acoustics aren't so great in here.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   Thank you.

3                   All right.

4                   MR. ZEFF:    May I, Your Honor?

5                   THE COURT:   Yes.

6                   MR. ZEFF:    Thank you.

7                                   - - -

8                                   Direct Examination

9                                   - - -

10                  BY MR. ZEFF:

11                  Q        Good afternoon, Mr. Hoffman.  My name is  
12                  Greg Zeff I represent Stephanie Fessler in this  
13                  case.

14                                  Where are you from?

15                  A        From Spring Grove, Pennsylvania.

16                  Q        And you're a member of the Jehovah's  
17                  Witnesses?

18                  A        Yes.

19                  Q        And you're a member of the Spring Grove  
20                  congregation, correct?

21                  A        Yes.

22                  Q        Okay.  Are you an elder?

23                  A        Yes, I am.

24                  Q        How long have you been an elder?

25                  A        Since 1994.



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       Since 1994?

3           A       Correct.

4           Q       And what is an elder?

5           A       What is an elder?

6           Q       Um-hum.

7           A       An elder is an individual who takes lead  
8       in the shepherding, spiritual shepherding of the  
9       congregation. We have the opportunity to perform  
10      marriages, perform funerals and generally just  
11      trying --

12                   THE COURT: Speak up, Sir, please. If you  
13      would keep your voice up.

14                   THE WITNESS: We try and shepherd the  
15      congregations. We're in charge of spiritual  
16      duties.

17      BY MR. ZEFF:

18           Q       An elder is a member of the clergy?

19           A       We are not labeled clergy. We are not  
20      paid.

21           Q       Sir --

22                   THE COURT: Hold on. Hold on. I can't  
23      hear.

24                   MR. ZEFF: Yep.

25                   THE COURT: Wait until this passes.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   - - -

3                   (Pause.)

4                   - - -

5           BY MR. ZEFF:

6           Q       Sir, would you agree that clergy must  
7           report sexual abuse of children to protect the  
8           victim from additional harm?

9           A       Yes.

10          Q       And would you agree that --

11                   THE COURT:  Everyone, keep your voices up.

12                   Speak up.

13                   MR. ZEFF:  Thank you.

14          BY MR. ZEFF:

15          Q       Would you agree that clergy may never keep  
16          sexual assault of a child a secret to protect the  
17          congregation?

18          A       Yes.

19          Q       You don't have any training in  
20          interviewing children who are victims of sexual  
21          abuse, do you?

22          A       No.

23          Q       And a person with training in interviewing  
24          children with victims of sexual abuse is in a better  
25          position to conduct an interview to determine

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credibility than you are?

MR. AARON: Objection, Your Honor.

THE COURT: Sustained. Don't answer.

BY MR. ZEFF:

Q Prior to 2005, you've never been involved with anyone who was alleged to have committed a sexual abuse act?

A That is correct.

Q You don't know what your obligations under Pennsylvania law are regarding reporting suspicion of child abuse, do you?

A No, I do not.

Q And in 2005, you didn't know what the legal requirements were for reporting suspected child abuse, did you?

A No.

Q Okay. Before 2005, you've read some publications of the Watchtower regarding child sexual abuse, haven't you?

A I may have.

Q Okay, but you never really looked at the information regarding how children who have been victims of sexual abuse might try to cover it up?

A No.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       Okay.  And you've never read anything  
3    about the fact that children tend not to tell adults  
4    everything that happened to them when they're the  
5    victim of sexual abuse?

6                   MR. AARON:  Objection, Your Honor.  It's  
7    only a hypothetical question.  I'm not sure  
8    where they're going.

9                   THE COURT:  Just a moment.  Sustained.

10                  MR. ZEFF:  It's part of their own  
11    documents, Judge.

12                  THE COURT:  Rephrase it then.

13    BY MR. ZEFF:

14           Q       Okay.  Sir, did you ever read any  
15    documents of the Watchtower that discussed whether  
16    or not children tend not to tell adults everything  
17    that happened to them when they're the victim of  
18    sexual abuse?

19           A       I don't recall.

20           Q       Okay.  And, Sir, you're familiar with the  
21    letters of instruction to elders?

22           A       Could you rephrase that again.

23           Q       The letters of instruction to elders, the  
24    letters to all bodies of elders.

25           A       Yes.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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Q Okay. And you received them in your positive as an elder?

A Yes.

Q Okay, and they specifically instruct elders how to get information regarding suspected child abuse, don't they?

A Without having them in front of me, I don't know.

Q Okay. You received the letters from the Watchtower, don't you?

A That's on their letterhead, correct.

Q Okay. Well, it's from the Watchtower, isn't it?

A Yes.

Q Okay. And you rely on those letters of instruction from the Watchtower to perform your duties as an elder, don't you?

A We do.

Q Okay. If you don't follow the letters of instruction the Watchtower may remove you as an elder; isn't that true?

A They could, yes.

Q And the Watchtower directs the activity of elders, doesn't it?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 A We receive direction from them, correct.

3 Q You don't receive direction from anyone  
4 else, do you?

5 A No.

6 Q I'd like to show you Exhibit-18B.

7 There are a number of exhibits in  
8 front of you and I think 18B is in the small pile to  
9 your right.

10 A Here (indicating)?

11 Q I'm going to put it up here as well and on  
12 the screen next to you.

13 Okay. Have you ever seen this  
14 document before?

15 A I may have.

16 Q Were you an elder in 1989?

17 A No, '94.

18 Q Since 19 -- since 1994, have you ever been  
19 told to keep matters confidential relating to your  
20 work as an elder?

21 A Yes. When we talk to individuals they  
22 come to us and ask to keep things confidential.

23 Q And if you can turn to second page,  
24 please. Okay bottom, Judicial Committee Matters.

25 Have you ever said --

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   MR. AARON:   Objection, Your Honor.

3                   Foundation.

4                   This witness has testified he doesn't know  
5                   if he read the document.   In fact, he wasn't an  
6                   elder in 1989.

7                   THE COURT:   Sustained.

8                   MR. ZEFF:    Okay.   I'll move on.

9                   BY MR. ZEFF:

10                  Q        In the fall of 2005, you knew that there  
11                  was suspected child abuse involving Stephanie  
12                  Fessler, didn't you?

13                  A        In the fall of 2005?

14                  Q        Yes.

15                  A        Yes.

16                  Q        Okay.   And you, along with Neal Cluck, who  
17                  was another elder, learned of this and a committee  
18                  was formed, wasn't it?

19                  A        I believe, yes, it was.

20                  Q        Okay.   And you don't really remember  
21                  anything specific that Stephanie's father or mother  
22                  told you, do you?

23                  A        That's correct.

24                  Q        Okay.   During the first meeting -- you had  
25                  two meetings, didn't you?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A       Yes.

3           Q       Okay. So, you don't really remember when  
4 the first meeting was?

5           A       According to my notes, the first meeting  
6 was towards the end of September in 2005.

7           Q       Okay. Well, what note are you talking  
8 about, Sir?

9           A       We had a few notes written down.

10          Q       Let's look at those notes. P-73.

11                   Okay. In your notebook and also on  
12 the screen or in the screen next to you, whatever  
13 way you want to look at it, is a copy of P-73. And  
14 it's three pages, if you can just kind of scroll  
15 through the three pages to show everybody, and the  
16 third page. Are those your notes?

17          A       That's correct.

18          Q       Okay. So, let's start with the first  
19 page. The first page is an envelope.

20          A       That's the outside of an envelope.

21          Q       Okay. And in that envelope were the two  
22 documents that we just saw very briefly, correct?

23          A       Correct.

24          Q       Okay. The second page, those are  
25 handwritten notes by you?



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 A Yes, they are.

3 Q Okay. And up in the left-hand corner it  
4 says October 3, 2005?

5 A Correct.

6 Q Is that the date you wrote the notes?

7 A That could be, yes.

8 Q Is that the date you had the meeting?

9 A Yes.

10 Q Okay, and so you did -- and we'll go over  
11 this later -- you did everything that's written in  
12 the notes, correct, whatever that may say.

13 A We may have.

14 Q Okay. Let's turn to the next page. And,  
15 then, this is a typewritten note. You typed this  
16 note?

17 A Yes.

18 Q Okay. And you typed this note on  
19 October 3, 2005?

20 A That's probably when the meeting was held.  
21 It may have been just a few days after.

22 Q Okay. So, you just said to the jury that  
23 there was a meeting in 2000 -- that there was a  
24 meeting in -- what did you say, September of 2005,  
25 according to your notes?

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A Right.

Q Okay. Where does it say this?

A Where it said "Met with Stephanie approximately two to three weeks beforehand."

Q Okay. And what did you do then?

A Just myself and Neal, we just talked to her to find out what -- what was going on.

Q Okay.

A Basically just to ask her what was -- what the problems were.

Q In the first meeting she told you that she wasn't going to break off with Terry Seipp, didn't she?

A That's correct.

Q And then in the second meeting she told you that she had broken off with Terry Seipp?

A Right.

Q Okay. Are you aware, Sir, that Terry Seipp and Stephanie Fessler carried on between 2004 and 2005?

A I did not.

Q Okay. And that the breakup you're talking about happened in 2005?

A That's what Stephanie told us, yes, that

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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broke up in 2005.

Q And are you aware that Stephanie Fessler and Terry Seipp are anticipated to both testify that they were reprovved and disciplined in 2004.

A No, I did not.

Q Okay. So, when you say you have two meetings, are you sure that your first meeting took place in 2004 -- 2005 rather than 2004?

A Correct.

Q Okay. If we can play clip two of Jodee Fessler, please.

MR. ZEFF: This is Jodee Fessler's testimony.

MR. AARON: Objection, Your Honor.

THE COURT: Sustained.

MR. AARON: This --

BY MR. ZEFF:

Q Are you aware that Jodee Fessler has testified or will testify in this case that the first meeting occurred in 2004?

A May have, but I have no notes and I have no recollection of any meeting in 2004.

Q So, it's possible that happened, she might be right?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        Could be, but I do not remember anything  
3    about it.

4           Q        Okay.  And the second meeting, the meeting  
5    that took place in 2005, you have notes from that  
6    one?

7           A        Correct.

8           Q        So, if Stephanie Fessler, Jodee Fessler  
9    and Terry Seipp all testified that they were  
10   involved with judicial committees in 2004, you  
11   wouldn't have any reason to doubt them, would you?

12          A        Yes, because there's no notes from a  
13   judicial committee in 2004.

14          Q        Well, aren't you told to destroy any  
15   unnecessary notes?

16          A        The only notes I have are what's there.

17          Q        Yeah.  But doesn't the Watchtower direct  
18   you to destroy any unnecessary notes?

19          A        I'm not familiar with that, no.

20          Q        Okay.  So, when you met with Jodee Fessler  
21   and Kevin Fessler, they told you that they suspected  
22   that Terry Seipp and their daughter were having some  
23   type of romantic relationship, didn't they?

24          A        I'm assuming, Sir, that's how it started,  
25   correct.

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Q Okay. Well, they told you that directly?

A Right.

Q And they told you that -- and when you talked to Stephanie, she told you that they were making out, they were kissing romantically, didn't she?

A In 2005, correct.

Q So, in 2005, at least, you were told that a 16-year-old girl was making out with a 50-year-old woman?

A Correct.

Q Okay. You were suspicious, at that point, that this might be child abuse, weren't you?

A We were suspicious that something was going on that shouldn't be.

Q Something sexual between a 50-year-old and a 16-year-old?

A There was no mention of any sexual contact at that time.

Q Making out, sticking their tongues in each other's mouths isn't sexual contact to you?

A Not the way it was explained to us. It was just --

Q It was explained that they were kissing

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romantically.

A Right.

Q Like a boyfriend and girlfriend might,  
right?

A Um-hum.

Q Like a husband and wife might?

A Right.

Q And you didn't find that to be suspicious  
of child abuse?

A Well, that's why we formed the committee  
then.

Q Okay. So, you formed the committee  
because you were suspicious?

A Because we were suspicious.

Q And you didn't really know. You had a  
suspicion, though. Would that be fair?

A That would be fair.

Q Okay. And you were an elder at that time  
with a suspicion.

Okay. When you formed the committee,  
did you contact the Watchtower about it?

A We contacted the legal department.

Q Okay. Well, that's after you learned  
whatever you learned. But in forming the committee,

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did you seek any guidance from anyone regarding what you should do and how you should ask questions?

A No.

Q Do you remember taking a deposition in this case?

A What's that?

Q A deposition.

A Yes, I do.

Q Do you remember Mr. Fritz came and asked you questions under oath?

A Yep.

Q A copy of that deposition is in front of you.

Do you have the deposition in front of you?

A Um-hum.

Q Okay. There are page numbers with the deposition. If you could turn, in the deposition, to page 64, please.

When you're answering these questions for Mr. Fritz, were you truthful?

A As best as I could recall, yes.

Q And at that time you were under oath, correct, just like you are today?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A       Correct.

3           Q       Okay.  And there was a question about the  
4       questions that you prepared related to the interview  
5       you took of Stephanie Fessler.  Do you remember  
6       that?

7           A       Yes.

8           Q       Okay.  And the question was -- and if we  
9       could put up line 16 through 24.

10                   Thank you.  There's some questions  
11       written in your handwriting, where did the questions  
12       come from did I read that question correctly?

13          A       Yes.

14          Q       And your answer was what?

15          A       Questions that I came up with.

16          Q       Okay.  And then the next question was "Did  
17       you consult any documents or literature in coming up  
18       with those questions?"  And your answer was -- it  
19       goes on the next page.

20          A       Consulted the Pay Attention book and  
21       various letters.  Okay.

22          Q       Well, before that it said something else,  
23       though, doesn't it?

24                   Go back, please.  "Did you consult  
25       any documents or literature in coming up with these?"



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2       Brother Jefferson brought out" -- and then the next  
3       page, please, "at Pay Attention book and various  
4       letters to bodies of the elders." So, Brother  
5       Jefferson helped you?

6           A        I believe that answer was in relation to  
7       the question, because he gave a deposition right  
8       before I did, and he referred to those.

9           Q        Okay. So --

10          A        That's why I said Brother Jefferson. I  
11       never met Brother Jefferson before that.

12          Q        You called him on the phone at the  
13       Watchtower when you were doing your very first child  
14       abuse interview and asked him for help with the  
15       questions, didn't you?

16          A        No.

17          Q        Okay. Let's go back and look at it one  
18       more time.

19                    "Did you consult any documents or  
20       literature in coming up with those questions?" What  
21       did you understand that to mean, Sir?

22          A        Means it was asking did I look at any  
23       references or literature.

24          Q        Yeah, in coming up with the questions that  
25       you wrote?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2           A       Correct.

3           Q       Okay. And your answer was Brother  
4       Jefferson brought out look at Pay Attention book and  
5       various letters to the body of elders. That was  
6       your answer then.

7                   MR. AARON: Objection. Asked and  
8       answered.

9       BY MR. ZEFF:

10          Q       Wasn't it?

11                   THE COURT: Overruled.

12          MR. ZEFF: Thank you.

13       BY MR. ZEFF:

14          Q       Was that your answer?

15          A       That was my answer.

16          Q       And you didn't say Wait a minute, I don't  
17       understand the question, are you talking about today  
18       or last year. There was a direct reference to your  
19       notes, correct?

20          A       That's correct.

21          Q       And if we can go back to those notes  
22       again, please, it's P-73, next page. That's what  
23       you're talking about; those questions, right?

24          A       Right.

25          Q       Okay. And can you read those questions

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for the jury, please.

A "How do we know repentant? What led to breakup? Anyone else involved? What lead to this relationship? Pressure is a question mark. Pray to Jehovah for forgiveness. And how do you feel about what happened?"

Q Okay. Underneath that, what does it say?

A Disfellowship or reprove, page 121 number three decision.

Q Okay. And page 121 number three, what is that a reference to?

A What does that say? What's your question?

Q Page 121, number three what is that a reference to?

A I am not sure.

Q Okay. Page 112 at the top, what is that a reference to?

A I'm not sure. That may be the Pay Attention book, KS-91.

Q Okay. Somebody helped you with that, didn't they?

A No.

Q Okay. So, at the time you remembered what page 112 was?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        At that time, correct.

3           Q        And you know that you would call the  
4 service department at the Watchtower if you have any  
5 questions about what to do regarding a judicial  
6 committee, don't you?

7           A        We call the legal department.

8           Q        That's what you did afterward. I want to  
9 know when you form your committee and you don't know  
10 what kind of questions to ask, you can call the  
11 service department for help, can't you?

12          A        We can.

13          Q        Okay. And you know that Mr. Jefferson  
14 worked in that department, right?

15          A        I did not then.

16          Q        Okay. So, you had just met Mr. Jefferson  
17 that day and decided that you were going to answer a  
18 question with his name. Is that what your testimony  
19 is?

20          A        The reason his name was mentioned, because  
21 he was at Mr. Fritz's office and he referenced those  
22 materials and I was just saying As Brother Jefferson  
23 brought out.

24          Q        Well, let's go back and look at it again,  
25 Sir. Is that what your testimony was?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2 MR. AARON: Your Honor, asked and  
3 answered. It's the third time he's asked him  
4 those questions.

5 THE COURT: Overruled. Overruled.

6 BY MR. ZEFF:

7 Q Page 64, please.

8 Let's go back a few questions. Let's  
9 go to line 13, through the end of the page.

10 You were asked "Do you have any  
11 specific training in conducting law enforcement  
12 investigations? No." That was your answer, right?

13 A Correct.

14 Q And you understood the question when it  
15 was asked of you?

16 A What was that again?

17 Q Did you understand the question when it  
18 was asked of you? Do you have any specific training  
19 in conducting law enforcement investigations?

20 A Yes.

21 Q You understood the question, your answer  
22 was no. And that's a truthful answer?

23 A Truthful.

24 Q Okay. And you were told at the beginning  
25 of this deposition by Mr. Fritz that if you didn't

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understand his question, to let him know that and he'd rephrase it, correct?

A Correct.

Q Okay. So, the next question "There's some questions written in your handwriting. Where did the questions come from? Did you understand that question?"

A I did.

Q Did you stop him at that time and say Wait a minute. I don't understand. Can you rephrase it or repeat it?

A No.

Q Did you give a truthful response to that question?

A Yes.

Q And your answer was?

A "Those are the questions that I came up with."

Q Okay. So, the next question, does it relate at all to the last one? The next question is "Did you consult any documents or literature in coming up with these questions," okay, that you had just said that you came up with? Okay?

Did you understand that question when

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it was asked of you?

A I did.

Q And did you understand that to mean did you consult with anyone or anything in coming up with the questions?

MR. MILLER: Object to the form.

THE COURT: Overruled.

THE WITNESS: I did not consult with Brother Jefferson.

BY MR. ZEFF:

Q Okay. But you said you did.

MR. AARON: Objection he's explained this three times, Your Honor, and he just won't accept the answer.

THE COURT: Overruled. Overruled.

Overruled.

BY MR. ZEFF:

Q Didn't you say in your deposition, under oath, that you consulted with Brother Jefferson about the questions and going to the Pay Attention book and the various letters and bodies of elders?

MR. AARON: Same objection.

THE WITNESS: I did not consult Brother Jefferson, even though it may say that, it's

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   not the way it was brought out in that.

3                   BY MR. ZEFF:

4                   Q       Well, Sir, are you saying that someone  
5                   wrote that wrong, that the court reporter who took  
6                   down your words got them wrong?

7                   MR. AARON:   Same objection.

8                   THE COURT:   Sustained.

9                   No need to answer, Sir.

10                  BY MR. ZEFF:

11                 Q       Sir, did you have a chance to review your  
12                 deposition before today?

13                 A       I did.

14                 Q       Okay, and in reviewing your deposition,  
15                 did you ever bring to anybody's attention that  
16                 there's an error in it?

17                 MR. AARON:   Same objection.   He's never  
18                 testified there is an error in it.

19                 THE COURT:   Sustained.

20                 MR. ZEFF:   I'll move on, Your Honor.

21                 MR. AARON:   No objection.

22                 MR. ZEFF:   To me moving on.   Okay.

23                 THE COURT:   No.   Enough.   I don't want  
24                 any --

25                 MR. AARON:   I'm sorry, Your Honor.



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   THE COURT:   -- any snide, unnecessary  
3                   irrelevant --

4                   MR. AARON:   My apologies.

5                   THE COURT:   -- comments from any lawyers  
6                   participating in this trial.

7                   MR. AARON:   Yes, Your Honor.

8                   THE COURT:   Next question.

9                   MR. ZEFF:    So -- thank you, Your Honor.

10                  BY MR. ZEFF:

11                  Q        You looked at certain documents, then,  
12                  before writing those questions, correct?

13                  A        Correct.

14                  Q        Okay.  And you consulted the Pay Attention  
15                  book?

16                  A        Yes.

17                  Q        Pay Attention To The Flock?

18                  A        Yes.

19                  Q        And that's a publication of the  
20                  Watchtower?

21                  A        Yes.

22                  Q        Okay.  So, did you rely upon the Pay  
23                  Attention book to help you in writing these  
24                  questions and doing this investigation?

25                  A        Yes.

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Q Okay. In addition to the kissing and making out, Stephanie Fessler told you that there was some improper hugging, didn't she?

A Some improper --

Q Hugging.

A Yes.

Q And touching of the breasts?

A Yes.

Q You didn't feel that she was completely forthright with you, did you?

A I'm sorry. Could you repeat that again.

Q You didn't feel that she was completely forthright with you when she was answering these questions with you?

A Yes, we thought she was.

Q Okay. Well, let's take a look at 72 again -- I'm sorry, 73.

Okay. And will you turn to the next page. These are the questions you asked her. Did you write down her answers?

A No, I did not.

Q Okay. And on the next page, please, can you read this for the jury, please?

A The whole thing?

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Q Sure.

A It said "The accusation is an immoral relationship with Terry Seipp, a 52-year-old woman from Freeland. We met with Stephanie approximately two to three weeks beforehand to determine if this relationship was going on. Stephanie agreed that it was and was not going to stop seeing Terry. When asked if there was any immoral acts being committed, she told us no, other than hugging and kissing. Her insistence on pursuing this relationship led us to form a judicial committee.

"Before the judicial meeting Stephanie ran away from home to stay at a friend's house. She told us that she could reflect on her actions. She seemed to have repented by breaking off the relationship and any contact with Terry. She did this on her own accord.

"It was later learned during the meeting that there was touching of the breasts on more than one occasion. Her attitude was severely changed during this meeting from bullheaded to seemingly very sorry for what she had done. She also called to apologize to various ones for the stress she put them through. By considering her acts of

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repentance before the meeting and her change of attitude, we as a committee, felt there was significant cause for repentance. It was, therefore, agreed to give her judicial reproof with full restrictions other than service.

Q Now, Sir, when you wrote this document, were you aware that there was an investigation going on regarding Terry Seipp in her Maryland congregation?

A In the Maryland congregation?

Q Yes.

A Yes.

Q Okay. You didn't put that anywhere in your notes, did you?

A No.

Q Did you have a concern that there was a 50-year-old woman in another congregation that was making out and touching the breasts of a 16-year-old?

A We did.

Q Okay. Did you warn anybody about that?

A Just talked to Stephanie.

Q Okay. You didn't tell the other congregation that Stephanie said that her breasts

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were touched and that she was making out with a 50-year-old woman?

A I believe we had conversation with them just to make sure the stories were the same.

Q Did you let the Watchtower know?

A Yes. We called the legal department.

Q And what you're saying is that these two meetings that you had with her were a few weeks apart?

A Yes.

Q Okay. You don't remember anything from 2004?

A I do not.

Q Okay. And you had no record of it?

A Correct.

Q Were you told at any time that Terry Seipp's husband, Dana Seipp, had hired a private investigator to look into them?

A No, we were not.

Q Now, you mentioned a couple times that you called the law department. Did you follow the instructions that the law department gave you?

MR. MILLER: Objection.

MR. AARON: Objection.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   THE COURT: Overruled. You may answer it.

3                   THE WITNESS: I'm sorry. Could your  
4 rephrase your question.

5                   MR. MILLER: Your Honor, can we have a  
6 sidebar?

7                   THE COURT: You need a sidebar?

8                   MR. MILLER: Yes.

9                   THE COURT: All right.

10   - - -

11                   (The following discussion took place at  
12 sidebar:)

13   - - -

14                   MR. MILLER: I'm sorry, Your Honor. You  
15 already ruled. I was too late to ask, but  
16 unless this is breaching the attorney/client  
17 privilege, that's the format you followed, the  
18 instruction you got from the legal department.  
19 That's asking for the legal advice given.

20                   MR. ZEFF: Judge, it's been waived. It  
21 was asked in deposition and answered. These  
22 questions were asked. They were answered in  
23 deposition. You can't turn around after not  
24 asserting the privilege and turn around and  
25 assert the privilege at trial, when it's



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1  
2 (The pertinent portion of the record was  
3 read.)

4 - - -

5 THE COURT: Will you answer that, Sir,  
6 please.

7 THE WITNESS: I'll try. I didn't realize  
8 you were talking to me. Could you read that  
9 again.

10 THE COURT: Just a moment. Let me ask  
11 counsel to repeat it.

12 MR. ZEFF: Sure. Let me back up. I'm go  
13 one question before then.

14 BY MR. ZEFF:

15 Q The reason you contacted the legal  
16 department was regarding trying to find out what  
17 your obligations were regarding reporting sexual  
18 abuse. Isn't that correct?

19 A Yes.

20 Q And after you spoke to the legal  
21 department, you didn't report sexual abuse to any  
22 authority in Pennsylvania, did you?

23 A We did not report to the police, no.

24 Q You never received any instruction that  
25 there was any legal authority in Pennsylvania to



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report suspected child abuse, did you?

A No.

Q And you didn't tell Stephanie Fessler's parents that they could go to the police either, did you?

A We may not have, no.

Q Okay. You didn't.

Thank you.

MR. ZEFF: I have nothing further.

THE COURT: All right. Cross-examine.

MR. AARON: Yes.

- - -

Cross-Examination

- - -

BY MR. AARON:

Q Mr. Hoffman, let me start by asking you about something you were asked on direct examination.

MR. AARON: Can we put back up

Mr. Hoffman's deposition at page 64.

BY MR. AARON:

Q So, I'm reading from line 21. And you can look at your monitor, because you'll be able to see it on there. "Question: Did you consult any

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documents or literature in coming up with those questions?" And then "Answer: Brother Jefferson brought out -- looked at the Pay Attention book and various letters to bodies of elders."

In 2005, when you spoke to Stephanie Fessler, did you know Thomas Jefferson, Jr.?

A I did not.

Q When did you meet Thomas Jefferson, Jr.?

A First time I met him was at Mr. Fritz's office -- or no, Mr. Lombardi's office. I'm sorry.

Q Mr. Lombardi's office. And was Mr. Jefferson deposed at that time?

A He was.

Q And were you there for his deposition?

A Correct.

Q And this is in two thousand and -- can we see the face page of that deposition?

June 9th of 2014?

A Yes.

Q So, when you were saying Brother Jefferson brought out, were you referring to something that he told you in 2005 when you didn't know him or were you referring to something that he had just said in his deposition in Mr. Lombardi's office?

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MR. ZEFF: Objection.

THE COURT: Overruled.

You may answer.

THE WITNESS: I was referring to what  
Brother Jefferson brought out at that meeting  
in Mr. Lombardi's office.

BY MR. AARON:

Q Thank you.

Mr. Hoffman, where do you live?

A I live in Spring Grove, Pennsylvania.

Q How long have you lived there?

A I have lived there for 27 years, 28 years.

Q Okay. You have family there?

A Yes.

Q Wife?

A Yes.

Q Did your wife come down here with you  
today?

A Yes, she is.

Q Okay. Do you and your wife have any  
children?

A We have two daughters.

Q Okay. Are you employed?

A Yes.

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Q And what's your job, Sir?

A I work as a project manager and an estimator for a commercial construction company.

Q Is that a full-time job?

A Yes.

Q How long have you worked there?

A I've worked there for 15 years.

Q All right. You're a member of the Spring Grove Congregation of Jehovah's Witnesses?

A Yes.

Q What county is that in?

A That is in York County.

Q About how far from here is that?

A Approximately two-and-a-half hours.

Q Okay. Drive?

A Yeah, depending on traffic.

Q How big is the Spring Grove congregation?

A We have 113 publishers right now, hundred 13 individuals.

Q Hundred and 13 individuals.

Do you have a Kingdom Hall?

A Yes, we do.

Q Is that where the services are held?

A Yes.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       Why don't you just describe what that  
3 Kingdom Hall looks like. Is it sort of a grand  
4 church-like structure or something more modest?

5           A       A Kingdom Hall is a one-story structure  
6 with a carport on it, a main auditorium, two  
7 bathrooms, a couple little meeting rooms in it,  
8 standard dropped ceiling, carpet on the floor, some  
9 wallpaper on the walls, nothing -- nothing fancy.

10          Q       Is that pretty typical of a Jehovah's  
11 Witnesses Kingdom Hall?

12          A       Correct.

13          Q       You're an elder. Were you an elder in the  
14 Spring Grove congregation in 2004, 2005?

15          A       Yes, I was.

16          Q       What's your role as an elder, just  
17 generally?

18          A       My role as an elder is to spiritually  
19 shepherd the congregation. Like I said before, I  
20 can perform marriages, conduct funeral services,  
21 general teaching of the congregation, biblical  
22 teachings of the congregation.

23          Q       Okay. Are you paid to serve as an elder?

24          A       No, I am not.

25          Q       Why do you choose to serve as an elder?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        I choose to serve as an elder because  
3    it's -- I feel it's my responsibility to help  
4    people, to be a spiritual shepherd the best I can.

5                    I just enjoy serving other  
6    individuals and that's why I do it.

7           Q        Okay. Mr. Hoffman, I'm going to ask you  
8    some questions about 2005. I'm going to repeat some  
9    of what you've been asked, but I'm going to ask it  
10   anyhow.

11                   At some point did you learn that the  
12   Plaintiff, Stephanie Fessler, was having a  
13   relationship with Terry Monheim?

14          A        At some point?

15          Q        Yes.

16          A        Yes, we did.

17          Q        And what year do you remember first  
18   learning about that relationship?

19          A        2005.

20          Q        And about what time of year in 2005?

21          A        September, in the fall.

22          Q        Okay. Do you know Terry Monheim or Terry  
23   Seipp, as she was then called?

24          A        I've never met her personally, no.

25          Q        Okay. All right. This case involves a

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relationship between Stephanie Fessler and Terry Monheim that occurred in 2004, 2005 about 12, 13 years ago. Do you recall the details of precisely when certain things occurred in 12, 13 years ago?

A No, I do not.

Q Okay. Do you have any specific recollection of anything happening in 2004 that you were involved in with respect to this relationship?

A I do not.

Q Is it possible that something could have happened and you just don't remember that many years ago?

A It's possible, yes.

Q Okay. Now, I'm going to direct your attention back to the fall of 2005. From whom did you learn that Stephanie Fessler and Terry Monheim, Terry Seipp, were having a relationship?

A I believe it was from her parents.

Q Okay. Why did the parents come to you?

A Because they were concerned about their daughter.

Q Okay. And were you an elder at the time?

A Yes, I was.

Q Were they coming to you as an elder?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A       Yes.

3           Q       Okay. Did they tell you that Stephanie  
4 Fessler and Terry Seipp were having some sort of a  
5 relationship?

6           A       That's the way I remember it, some sort of  
7 a relationship, correct.

8           Q       And what were you expected to do? What  
9 did you do as an elder?

10          A       First time we met with Stephanie just to  
11 determine what was going on, to give her some  
12 biblical help, some counsel to, hopefully, help her  
13 change her ways, to find out what was going on.

14          Q       What do you mean "biblical help,"  
15 generally?

16          A       I'm just showing her some scriptures, some  
17 versus on the type of conduct she was leading, that  
18 it was going against biblical principles and how to  
19 help to -- how to go against that.

20          Q       Okay. Now, when Stephanie Fessler's  
21 parents first came to you in the fall of 2005, did  
22 they tell you that there was sexual contact between  
23 Miss Fessler and Terry Monheim?

24          A       No, they did not.

25          Q       When Stephanie Fessler's parents first



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came to you in the fall of 2005, did you know that Terry Seipp was having a sexual relationship with Miss Fessler? Did you know that?

A According to my notes, no, we did not.

Q Now, I'm going to ask you something about your notes.

A Okay.

Q You said that you met with Stephanie in the fall of 2005?

A Yes.

Q Okay. Did you try to determine what the nature of the relationship was?

A Yes, we did.

Q Did you try to determine whether or not it was sexual?

A Yes, we did.

Q And in the course of meeting with Miss Fessler in the fall of 2005, did you learn that there had been some sexual contact between them?

A Yes, we did.

Q Did Miss Fessler tell you whether she had been naked with Terry Monheim or Terry Seipp?

A No, she did not.

Q Did Miss Fessler tell you whether there

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had been oral sex or touching of the genitals between Miss Fessler and Terry Monheim?

A No.

Q In the fall of 2005 when you met Miss Fessler did she, at some point, tell you that she had ended the relationship with Ms. Monheim?

A Yes, he did.

Q And based on what you learned from Miss Fessler in the fall of 2005, did you believe that the relationship between her and Terry Monheim or Terry Seipp was over?

A We did.

Q Okay.

MR. AARON: Can you put those notes back up on the screen? I think it's P-73.

Great.

BY MR. AARON:

Q Okay. I can't remember your testimony. You said that these are your notes from 2005?

A Yes, they are.

Q With a date in the upper left-hand corner of October 3rd, 2005?

A Yes.

Q And did you take these notes after

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speaking with Miss Fessler?

A They were probably written before we had our meeting.

Q Before you had the meeting?

A Right.

Q You wrote these notes before you had the meeting?

A Or as we were going through the meeting.

Q As you were going through the meeting.

And if I look down the page about almost to the bottom there is an A, if you look at your screen, you'll be able to see it better, I think, it says "A, end of August last time seen her." Is that something that Miss Fessler told you?

A Yes, or I wouldn't have wrote it down.

Q Okay. Did you believe that?

A Yes, I did.

Q Okay. Now --

MR. AARON: You can take those down for now. Thank you.

BY MR. AARON:

Q Do you have any notes from a year earlier, in 2004, regarding any meeting that you had or might have had with Miss Fessler?

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A No, I do not.

Q If about one year earlier, in 2004, you had learned that a 15-year-old Miss Fessler and a 49 or 50-year-old Terry Seipp were touching each other's breasts, would you have taken notes?

MR. ZEFF: Objection.

MR. AARON: I'm asking him about his practice, Your Honor.

THE COURT: Overruled.

He may answer.

BY MR. AARON:

Q Would you have taken notes?

A Yes, we would have.

Q Would you have maintained those notes in the Kingdom Hall?

A Yes.

Q How long have you been an elder?

A Since 1994.

Q So, that's 23 years?

A Yes.

Q Have you ever sat on a judicial committee other than this one?

A Yes, I have.

Q And in your 23, 24 years as of now, has it

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ever come to your attention that a member of the congregation has been a victim of sexual abuse?

MR. ZEFF: Objection.

THE COURT: Sustained. Do not answer.

BY MR. AARON:

Q In the fall of 2005, I think you testified that you called the legal department.

A Yes.

Q You have to answer "yes" or "no."

A Yes.

Q Was that a procedure that you had been instructed to follow?

A Yes.

Q And do you believe you properly followed that procedure?

A Yes.

Q Okay. I've asked you some questions about calling legal in the fall of 2005. Was the procedure for calling legal the same in 2004, a year earlier?

A Yes, it would have been.

Q If, a year earlier, 2004 -- I'm asking about your practice now -- a year earlier in 2004, a 15-year-old female congregant had told you that she

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           and a 49 or 50-year-old woman were involved in a  
3           relationship that involved intimate kissing,  
4           open-mouth kissing, french kissing, romantic  
5           kissing, whatever you want to call it, would you  
6           have called the legal department for advice?

7           A        Yes, we would have.

8           Q        Okay. Do you have any recollection of  
9           doing so a year earlier, in the fall of 2004?

10          A        No.

11          Q        Okay. Sir, in 2005, I think you said,  
12          correct me if I'm wrong, that it's Miss Fessler's  
13          parents who brought this to your attention?

14          A        I believe that's how it went, correct.

15          Q        Okay. How long had you known  
16          Miss Fessler's parents?

17          A        I had known them probably 30 years.

18          Q        Okay. That's Kevin Fessler and Jodee  
19          Fessler?

20          A        Yes.

21          Q        Those are the parents.

22                    To your knowledge, did any Spring  
23          Grove elder tell Mr. and Mrs. Fessler that they  
24          should not report this relationship to authorities?

25                    MR. ZEFF: Objection.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   THE WITNESS:   Not --

3                   THE COURT:   Sustained.

4       BY MR. AARON:

5           Q       Well, let me ask you about yourself. Did  
6       you ever tell Mr. and Mrs. Fessler that they should  
7       not report this relationship to authorities?

8           A       No.

9           THE CRIER:   Sir, you have to keep your  
10       voice up.

11           THE WITNESS:   No.

12       BY MR. AARON:

13           Q       Did you think that Miss Fessler's parents  
14       would do the responsible thing, whatever that might  
15       be in this situation?

16           MR. ZEFF:   Objection, Your Honor.

17           THE COURT:   Sustained.

18           Don't answer it.

19           MR. AARON:   Your Honor, may I have just  
20       one moment.

21           THE COURT:   Sure.

22           MR. AARON:   Thank you.

23                           - - -

24                           (Pause.)

25                           - - -

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   MR. AARON: Thank you, Mr. Hoffman. I  
3                   have no further questions.

4                   THE COURT: Any redirect?

5                   MR. MILLER: I have no questions.

6                   THE COURT: Oh, I'm sorry, Mr. Miller.

7                   MR. MILLER: I have no questions.

8                   MR. ZEFF: No questions.

9                   THE COURT: Thank you for letting me know.

10                  MR. ZEFF: My turn, Judge?

11                  THE COURT: Yes. Redirect.

12                  MR. ZEFF: Thank you. Just briefly.

13   - - -

14   Redirect Examination

15   - - -

16                  BY MR. ZEFF:

17                  Q       Did you have a specific memory, sitting  
18                  here today -- what is it, ten, eleven,  
19                  eleven-and-a-half years later of asking Stephanie  
20                  Fessler whether or not she had oral sex?

21                  A       Well, according to my notes, we asked her  
22                  if there was anything else involved and she said no.

23                  Q       Okay. So, you asked her if there was  
24                  anything else involved?

25                  A       Right.



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Q You didn't ask her if she had oral sex.  
You didn't ask her if she was naked?

A We may not have, no.

Q And do you consider making out and touching breasts to be a sexual act?

A Yes.

Q And when you went to the legal department, you really weren't sure what to do with this situation, were you?

A That's correct.

Q And you relied on the legal department?

A Yes, we did.

Q And the legal department is part of the Watchtower?

A Yes.

THE COURT: Sir, keep your voice up.

THE WITNESS: Yes.

BY MR. ZEFF:

Q Okay. If the legal department told you to report the matter, would you have done so?

A Yes, we would have.

Q Okay. If the legal department -- strike that.

Did you have a concern, after

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consulting with the legal department, that you followed their advice? Do you want to make sure you followed it?

A We wanted to follow their advice, correct.

Q Okay. And did you have a concern that if you didn't follow the legal department's advice, that the Watchtower might discipline you?

A No.

Q Did you have a concern that if you got this matter wrong, that there might be some kind of discipline for you as an elder?

MR. AARON: Objection, "they."

THE COURT: Sustained.

MR. ZEFF: I'll move on.

BY MR. ZEFF:

Q Did -- according to your notes, the word "reprove" is on there relating to Stephanie. What does that mean?

A A reprove is we just went over some scriptures with her to help her, to show that that was the wrong course of action. Basically it was a disciplining to help her to learn.

Q And did that reprove involve more than just going over some ask scriptures? Did it involve

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some kind of restrictions on her abilities to participate in the congregation?

A Correct.

MR. AARON: Objection. This is --

THE COURT: Overruled.

BY MR. ZEFF:

Q Were you aware of any documents that were provided to you by the Watchtower about discussing that children really have no concept of sexuality or that they cannot be at fault for sexual abuse?

A I'm not aware of any right now.

Q Back in the day, had you read anything like that?

MR. AARON: Beyond the scope of cross -- direct.

THE COURT: Sustained.

MR. ZEFF: I have nothing further.

MR. AARON: I have nothing else.

- - -

Cross-Examination

- - -

BY MR. MILLER:

Q Mr. Hoffman, just briefly.

You said that Watchtower was part --

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           I'm sorry, the legal department was part of the  
3           Watchtower. Do you know whether it was part of the  
4           Watchtower or the U.S. Branch or some other entity?  
5           Do you know?

6                   MR. ZEFF:    Objection.

7                   THE COURT:  Overruled.

8                   You may answer.

9                   THE WITNESS:  We just get the information  
10           on the letterhead. I am not sure what  
11           department it's with, what branch it's with.  
12           It's with the United States Branch.

13                   MR. MILLER:  Okay. That's all. Thank  
14           you.

15                   THE COURT:  All right. Thank you very  
16           much. Sir, you may step down.

17                   You're excused.

18                   THE CRIER:  Watch your step.

19                   MR. ZEFF:  Donald Hollingworth, Your  
20           Honor.

21                   THE COURT:  Okay. I believe he's outside.

22                                   - - -

23                                   (Witness exits the stand.)

24                                   - - -

25                   THE COURT:  Mr. Hoffman is staying in the

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room. You are finished with him, correct?

MR. AARON: Yes.

THE COURT: All right.

MR. AARON: Thank you.

THE CRIER: Sir, this way.

MR. AARON: Well, he should probably be asked to leave the room.

THE COURT: He probably should. You're not sure.

MR. AARON: Yes.

THE COURT: Sir, you're not to discuss your testimony with anyone.

MR. AARON: Your Honor, do you mind if I just tell Mr. Hoffman that he can go back, drive home for the day so he can beat the rush hour.

THE COURT: Do you mind if we swear this witness in, Sir?

MR. ZEFF: I was just going to grab some water while we're doing that if it's okay, Judge.

THE COURT: Of course.

THE CRIER: Please rise, Sir. Raise your right hand.

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Stand up.

THE COURT: Stand up, Sir.

THE WITNESS: I'm sorry.

THE CRIER: I'm sorry.

- - -

(DONALD HOLLINGWORTH, after having first been duly sworn, was examined and testified as follows:)

- - -

THE CRIER: State your full name and spell it.

THE WITNESS: Donald Hollingworth.

THE CRIER: Spell Hollingworth.

THE WITNESS: H-O-L-L-I-N-G-W-O-R-T-H.

THE CRIER: Thank you. You may be seated.

THE WITNESS: Thank you.

THE CRIER: Would you like some water?

THE WITNESS: That would be very helpful.

THE COURT: Okay. Mr. Hollingworth, is it?

THE WITNESS: Yes, it is.

THE COURT: Mr. Hollingworth, you're going to be competing with a lot of noise outside. I've got air conditioners running. So, I'm



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know, please.

A I will.

Q Okay. Where are you from?

A Where am I from?

Q Yep.

A Right now?

Q Um-hum.

A Thomas River, New Jersey.

Q Okay. And are you a member of the  
Jehovah's Witnesses?

A Oh, yes, Sir.

Q And how long have you been a member?

A Oh, a member?

Q Yes.

A Over 50 years.

Q Are you an elder?

A Yes, Sir.

Q Okay. And how long have you been an  
elder?

A Forty years.

Q Wow.

A Forty, 40 years.

Q Thank you. Back in 2004, 2005, what  
congregation were you a member of?



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A        The Freeland congregation.

3           Q        Where is that?

4           A        In Freeland, Maryland.

5           Q        Okay. Can we go to the screen. I want to  
6 show you something on the screen. There's a screen  
7 next to you as well if that helps you.

8                    If you look there, you can look in  
9 either place, whatever is easier for you. I'd like  
10 to know would you agree that clergy must report  
11 sexual abuse in children to protect the victim from  
12 additional harm?

13          A        Do I agree with that?

14          Q        Yes.

15          A        Yes.

16          Q        And do you agree that clergy may never  
17 keep sexual abuse of a child the secret to protect  
18 the congregation?

19          A        Oh, yes, yes.

20          Q        Thank you.

21                    Do you have any training in  
22 investigating sexual abuse matters?

23          A        To some degree, yeah, I've had scriptural  
24 counsel on it given to me.

25          Q        Have you had any training from law

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enforcement in investigations?

A What kind of training, Sir?

Q Training through law enforcement.

A I don't know what that means.

Q From police.

A Police training?

Q Yes.

A No, not police.

Q Have you had any training from  
sociologists --

A No.

Q -- or people associated with children?

A I'm not training, but with having a lot of  
children, I've talked with people about that before  
and counseled people that -- counseled this before,  
but no training, no. Only from a parental  
standpoint.

Q Do you have an understanding of what your  
obligations under Pennsylvania or Maryland law are  
regarding reporting suspected child abuse?

A Are you talking about today?

Q Today.

A No, I'm not familiar today. I live in New  
Jersey and I've lived there for a while.

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Q Did you have any understanding in 2004 or 2005 about what your obligations were as an elder?

A I'm also having -- there's some back feed from your microphone.

Q Is that better?

A Yes.

Q Okay. Did you have any understanding in 2004 or 2005 of your obligations regarding reporting suspected child abuse in Pennsylvania or in Maryland?

A Yes.

Q What was your understanding back then?

A For -- that there was no duty to report it as far as from a procedural standpoint.

Q You received --

A That doesn't mean I don't feel a duty, but there was no legal duty to report it.

Q And that understanding of yours comes from legal department of the Watchtower, doesn't it?

MR. MILLER: Object to form.

THE COURT: Pardon?

MR. MILLER: Object to form. He said legal department of the Watchtower. That's incorrect.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1 THE COURT: All right. Sustained.

2 BY MR. ZEFF:

3 Q Sir, you received that understanding from  
4 the legal department?

5 A That's correct.

6 Q Okay, and the legal department of what?

7 A Jehovah's Witnesses.

8 Q Are you familiar with the letters of  
9 instruction, letters to all elders?

10 A Familiar with what letters, Sir?

11 Q Letters of instruction to all elders.

12 A Am I familiar with such letters?

13 Q Yes.

14 A Any basic subject or just any --

15 Q Just in general.

16 A Oh, yes, yes.

17 Q And you're familiar with the fact that  
18 you, as an elder, are to follow those, correct?

19 A I'm an elder of what?

20 Q You have to follow the letters of  
21 instruction as an elder.

22 A If they're -- yeah, yes, I try to. I do.  
23 If they apply to me, I do.

24 Q Those letters come from the Watchtower,

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don't they?

A No.

Q They did for a period of time, didn't they?

A If you say. I don't know that for a fact.

Q Well, the letters that you received, the letters of instruction, they have letterhead, they have a name at the top, don't they?

A Yes, they do.

Q And a lot of them say Watchtower, don't they?

A It says Christian Congregation of Jehovah's Witnesses.

Q Since 2002 it says that, correct?

A Can you show me a 2002? I don't know. If you show me something in 2001, I'll answer you.

Q Sure. At some point it became the Christian Congregation, Sir, but there was a time before then that it was also the Watchtower; wasn't it?

A I'm not sure of that.

Q Okay.

A Right now I wasn't prepared for that question, Sir.

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Q We'll move on.

You learned that there was an allegation of child abuse involving one of your congregants in Maryland, didn't you?

A I heard the first part. I heard of an allegation of child abuse. I wish I could hear you better.

Q Well, then, why don't I sit down. Let me see if that helps. I don't know.

A I don't mind to be, Sir.

Q No, I understand it's tough.

Is this better? Is this any better?

A Well, let's try.

Q Okay. You've learned sometime in 2005 that Terry Seipp had been accused of having some type of improper relationship with a young girl.

A Yeah, yes. And not sexual abuse, an improper relation.

Q You found out at some point that she was kissing, making out, romantically with a young girl, didn't you?

A Not all the words you just used. I found out there was a relationship with a young girl that we wanted to address. You're putting words in

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there. I don't want to just say yes to everything you just said.

Q Kissing?

A Yes.

Q They were kissing in a romantic way.

A No, I did not know that.

Q You never found out the age of the girl she was kissing, did you?

A I knew she was a teenager, and the approximate age of this other lady's children, because she associated with them. I knew she wasn't 19. I knew she wasn't 13, but somewhere in between.

Q And when you learned of this, a committee was formed, wasn't it, a judicial committee?

A Yes.

Q Okay. You were the chairman of that committee?

A It wasn't me. It was either one of the other two brothers. I can't tell you for a certainty today.

Q Okay.

A I believe it was Gary Neal, but that's not for a certainty.

Q And one of the primary functions of your

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committee was to determine whether or not you had an obligation to legal authorities relating to this matter.

A An obligation to do what?

Q To report to legal authorities in this matter.

A I don't know if I had that -- I don't know if that -- I went in to find out what was going on, and so I didn't start thinking about a lot of other things I'd have to do until I could find out what was going on.

Q But you did consult with the legal department?

A I did what?

Q You consulted the legal department.

A Yes, I did.

Q And you were told you didn't have any duty under Maryland law, correct?

A I didn't have any duty to report; is that what you asked me?

Q Yes. You had no duty to report?

A No legal duty.

Q Right.

A There was no law that said I had to



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report.

Q And, in fact, you didn't report anything, did you?

You did not report anything?

A No, I didn't.

Q And neither did any member of your committee, to your knowledge?

A To my knowledge.

Q Okay. And neither did anybody from the legal department, to your knowledge?

A To my knowledge.

Q You would have wanted this matter reported by the other congregation if it was necessary, wouldn't you?

MR. AARON: I'm sorry. I didn't hear the question.

BY MR. ZEFF:

Q You would have wanted the matter reported by the other congregation?

MR. AARON: Objection.

BY MR. ZEFF:

Q If it was necessary.

MR. AARON: Objection.

THE WITNESS: I didn't understand the

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question.

THE COURT: Just a moment. Just a moment.

Sustained.

MR. ZEFF: Okay.

THE COURT: Don't answer.

THE WITNESS: Okay.

BY MR. ZEFF:

Q I'd like to turn -- you took notes in this matter?

A Can you please ask that question again.

Q You took some notes in this matter?

A I understand that I did.

Q Okay. If we can turn to Exhibit 71 and, Sir, there's a notebook that has this document, but it's also there and we're going to put it up on the screen.

Do you have it? Can you see it well enough?

A Those are my notes. Yes, Sir.

Q Yes. Are they your notes?

A Are they mine?

Q Yes.

A Yes.

Q Okay. And these are the notes you took

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when?

A I put them where?

Q When did you take these notes?

A At the meeting that I went to.

Q Okay. With Terry Seipp?

A Yes.

Q Okay. Why did you take these notes?

A Because I don't have a very good memory over the years, business and meetings that I go to, and so I take notes in case there's a reason to recall, in case there's a discussion later, in case there's another meeting.

I always take notes. It's my habit as a businessman, I always took notes.

Q And with regard to being an elder, you had a practice of making notes and tearing them up and shredding them on occasion, didn't you?

A Yeah, shredding is in a -- yeah, I had a shredder, but I don't know. I -- yeah, I didn't keep them. I didn't keep them. I didn't want them laying around or anything.

Q That was something that the letters to elders suggest that you do or instructed you to do, in fact, don't leave notes around, destroy them if

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they're not necessary?

A Well, that's possible. I always, even  
be -- I, if a confidential nature, I would have  
enough sense not to leave them laying around.

Q So, I wanted to ask you about a specific  
comment made in your notes. It's about  
three-quarters of the way down where it says Assure  
-- "After assurance committee," we're going to blow  
it up for you.

Can you --

A Yes, I understand that.

Q Can you help me read that?

A Can I help you read it?

Q Yeah.

A Sure.

Q They're your notes.

A Yeah, sure.

It says "After assurance the  
committee members would not testify in a legal case,  
she was relieved and more forthcoming."

Q So, did you tell Terry Seipp that no  
member of the committee was going to testify against  
her?

A Well, I think you know -- you're thinking

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of something different than I'm thinking of. The legal case we're talking about and she was worried about her husband divorcing her or thinking she would -- and we were telling her that anything that she told us, we wouldn't use in her divorce case against hers husband, or vice versa. And we had thought we had a right to do that.

Q Did you learn that from the legal department?

A Pardon?

Q Did you learn that from the legal department?

A No. I learned that from watching television, I guess. I don't know. I've known that for a long time.

Q So, if she tells you something that --

A Pardon me?

Q You learned from watching television that if she tells you something in your committee that you don't have to testify in a divorce proceeding?

A Well, not as member of the clergy, I would think it would become -- well, you know, maybe I'm wrong but I would think it would be confidential.

Q Okay. There are some more notes that --

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oh, by the way, in these notes you asked a lot of questions specifically about what they did sexually.

A I have to look at the note.

Q Sure.

A I didn't have a copy of these notes. I was asked about them in a deposition, but I was never given a copy. So, I have to look at them before I can answer you.

Q There is a question regarding porneia.

A Okay.

Q Denied oral, anal sex, denied masturbation or lesbianism?

A Yes.

Q All right. So, you asked her those questions?

A Did she say yes?

Q No. Did you ask those questions?

A I didn't but one of the members did.

Q In your presence?

A Yes.

Q And you wrote it down?

A Yes.

Q Because you wanted to make sure it was recorded in some way?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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A Yes.

Q Okay.

A Yes, that's reasonable.

Q If we can go to Exhibit 87, please.

Are these also your notes?

A What are you asking me?

Q Are these also your notes, what we just  
put up here?

A Yes. Yes, they are.

Q And what are these notes of?

A What do they say?

Q What are they about?

A That was my notes about when I had -- I  
called, contacted the legal department to discuss  
the matter with them and I wrote down some notes  
with regard to that call.

Q Okay. Did you ever contact or did anybody  
on your committee ever contact the Spring Grove  
congregation where Stephanie Fessler was a member?

A Did I contact them?

Q Yes.

A No.

Q Did anybody on your committee contact them  
to let --

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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A Yes.

Q Okay. And they let them know there was an investigation into a possible sexual abuse?

A You'd have to ask them what they let them know.

Q Okay. I want to go to the section toward the bottom where it says "want us to review society's letters with all seven elders."

Do you see that?

A Yes, I do.

Q What do you mean by that?

A What it says, review the letters --

Q Okay. Who wanted you to --

A -- with the whole body of elders, all of the elders in the congregation.

Q It says "with all seven elders," is that everybody?

A What does it say?

Q It says "Want us to review society's letters with all seven elders."

A Yes, that would be our elder body at the time.

Q Okay. And that has to do with your investigation into Terry Seipp?



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A       Well, it's in -- my telephone call was an  
3   investigation that had to deal with that, yes.  And  
4   what exactly they told me to read those letters for,  
5   I don't remember.

6           Q       Who told you to read those letters?

7           A       Whoever I was talking to at the legal  
8   department.  And I am assuming that because, that's  
9   the notes of that.  I don't know for a fact today  
10  who told me to do it, but I'm assuming that's what  
11  it would be.  And I shouldn't be making assumptions,  
12  should I?

13          Q       I have a copy of those letters here with  
14  us today and I'd like to go through some of them  
15  with you.

16          A       You want to show them to me?

17          Q       I do.  I do.

18          A       I don't have much choice, I don't think.

19          Q       And let me first show you the 7/1/89  
20  letter, which is Exhibit-18B.

21                   So, that's one of the --

22          A       Can you make that a little bigger?

23          Q       Sure.

24          A       You get old, you have problems.  Some day  
25  you'll understand.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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Q And you know that this is one of the documents that the legal department told you to review with regard to the Terry Seipp matter, correct?

A I'm taking your word that that's one of the letters was on my notes.

Q 7/1/89.

A I'm taking your word for it.

Q Yes. Okay.

A Then that would be the case. Um-hum.

Q Okay. Have you ever seen this? Did you review this at the time that you were investigating Terry Seipp?

A Did I review it?

Q Yeah. Did you pull this out and those other letters that they told you to look at?

A I don't know what I did. I don't know why I wouldn't, but I can't tell you I did. I don't -- that was 15 years ago. You want to me to remember I filled the letter out or something?

Q Let me see if I can refresh your --

A I'm not trying to be smart.

Q I understand.

A I'm trying to be careful with my answers

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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because I kind of get tricked in my depositions a little bit and I'm trying to be careful here. So --

Q Don't want to trick you. I'm not trying to trick you in any way.

A Okay. Okay. Yeah, I don't know what I did. I mean, the letter is -- official letter or whatever it was, I don't have any reason why I wouldn't have at least read it.

Q Okay. And this is a serious matter, these allegations against Terry Seipp?

A Is this --

Q It was a serious matter back in the day when you were investigating it, correct?

A Was it a serious matter when I spoke to the legal department?

Q Sure.

A Was what a serious matter, our meeting with Terry Seipp?

Q Yes.

A It's always -- any meeting -- yes, any meeting with a member of the congregation was a serious matter. This was a serious matter, absolutely.

Q But this one was a little more serious

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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because you had to go to legal about it, right?

A Because of what it pertained to.

Q Okay. And --

A You have to understand, I -- I mean, I don't mean to be giving evasive answers or anything else, but I'm a father, a parent. My wife and I have many children. We have a lot of -- lot of grandchildren. And child abuse is at the top of my list of things that I detest.

And but I also think that if I knew that all this was about that at the time, I would have a lot better memory of it today than I do that of a normal meeting. So, just appreciate that.

Q So, you wanted to do a good job when you contacted the legal department about this, didn't you?

A Absolutely.

Q And you wanted to be thorough?

A Why did I want to do a good job?

Q You wanted to be a thorough?

A I always try to be. I try to be. That doesn't mean that I always am, but I try to be.

Q That's one of the reasons you took notes, is so you could be thorough?

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           A       One of the reasons I what?

3           Q       Took notes is to be thorough.

4           A       I told you the reasons for it.

5           Q       Okay.

6           A       Yes. So I would remember what we were  
7 talking about.

8           Q       And do you have -- is there much doubt in  
9 your mind that if the legal department told you to  
10 go look at four documents, that you would have done  
11 so at that time?

12          A       I was what?

13          Q       Is there any doubt in your mind that if  
14 the legal department said, in relation to this  
15 investigation, that you should look at these four  
16 documents, that you would have done so?

17          A       Say the last few words, that I was what?

18          Q       Sure.

19                    You would have looked at these  
20 documents back in 2005 if the legal department told  
21 you to?

22          A       Oh, sure.

23          Q       And you would have shared them with your  
24 committee?

25          A       Well, one of us would have. Yes. I don't

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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know if it would have been me. One of us would have made sure that somebody did.

Q Okay. And let me see if I can refresh your recollection about this -- let me see if I can refresh your recollection about this particular document.

This particular document asked for a special meeting of all elders so that it could be read to the elders. That's not the normal course of events, is it?

A It's not in every letter, no. No, it would have to be a serious matter.

Q Okay. So, when this came out in 1989, were you an elder then?

A Yes, Sir.

Q Okay. And do you remember receiving or being read to or maybe even reading it yourself, a document that said you must keep matters confidential and quiet?

A At that time?

Q Yep.

A I don't recall.

Q Okay.

A That doesn't mean I didn't. I just don't

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1 recall.

2  
3 Q Sure. Do you recall this document asks  
4 that you destroy any unnecessary notes that you make  
5 during the judicial committee?

6 A No. Right now I'm not familiar with this  
7 letter at all. That wasn't even brought up in my  
8 deposition. So, I haven't thought about it for 15  
9 years.

10 Q Okay. But at the time you were involved  
11 with this investigation, you're pretty sure you  
12 looked at this document and the other documents that  
13 legal asked you to look at?

14 A That's reasonable.

15 Q Okay. Let's move onto the next one, which  
16 is Exhibit-21.

17 Again, Sir, if you need an actual  
18 piece of paper in front of you, I'm happy to supply  
19 it, but if you can -- if you need paper, if you  
20 needed to see it in paper, that's okay. If you want  
21 to read it on the screen, I'm happy to do that, too.

22 A I think I can handle it.

23 Q Okay.

24 A I think I can -- it's a little blurred,  
25 but I think I can read it all right.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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Q Okay. That's also one of the documents that they asked you to review?

A I'm taking your word for it.

Q Okay. And I'd like to move onto the next one, which is 42. Another document you were asked to review is number 42.

A Okay.

Q Do you remember ever seeing this before?

A I don't remember, but I don't know why I wouldn't have.

Q Okay. If I can direct your attention to page 29 of this document.

A Page 29?

Q Um-hum.

A What about it?

Q Page 29, up at the top, I'm going to blow up the right-hand piece where it says "Children are much easier to deceive," through the end of the paragraph.

A Um-hum.

Q Okay. Do you remember reviewing this?

And I'll read it to you so you understand it. Do you remember reviewing this at the time of the judicial committee? It says



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           "Children are much easier to deceive, confuse or  
3           terrorize."

4           A        I don't remember at the time of the  
5           committee but, Sir, I mentioned before, I had a lot  
6           of children and I'm very conscious of this need.

7           Q        Okay. And had the legal department told  
8           you to, you would have called the police, called  
9           child services?

10          A        I don't need to be told.

11          Q        Okay.

12          A        I -- I don't mean to be fresh or anything  
13          but, no, I told you, I -- abhor is a word that's  
14          worse than hatred and I don't like this thing and I  
15          don't like being involved in it even now, to come  
16          being asked about it.

17          Q        Right. You don't really need to be told  
18          to call the police, do you? You could have done it  
19          anyway?

20          A        Would I what?

21          Q        You could have called the police even if  
22          the legal department told you not to?

23          A        Yes. In hindsight, yes.

24          Q        But you didn't?

25          A        Pardon?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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Q You did not?

A It's already been answered.

Q Okay. You didn't talk to Stephanie Fessler's congregation about her version of the story, did you?

A I said no, I didn't talk to anybody.

Q And neither did your committee?

A Did I what?

Q And neither did your committee?

A Well, I don't know that -- oh, did they talk to her? No, no, they -- you -- I think -- wasn't your question phrased did I talk to her or the congregation?

Q Um-hum.

A They talked to congregation and we prepared notes of whatever, but I -- we talk -- they would have -- one of our brothers would have talked to the congregation.

Q But you'd agree with me you had concerns about the welfare of the teenaged girl involved during the investigation, didn't you?

A But I didn't do what?

Q No. You had concerns about the teenaged girl that was involved with Terry Seipp during the

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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time of the investigation?

A The last part, yeah, I need to know the last sentence there.

Q One more time, Sir. You had concerns about the welfare of the teenaged girl that was involved with Terry Seipp? You were concerned about her?

A Yeah, I have concerns with all young people, absolute -- yes. Would I say no? Of course, I would be an ogre to say no to that.

Q And but you wanted to follow the legal department's advise rather than doing anything else; isn't that correct?

A You know, I wasn't dealing with a teenaged girl. We were dealing with Terry Seipp at our congregation. Please, there was -- another congregation was dealing with the teenaged girl.

It doesn't mean -- my feelings in the matter and my thoughts in the matter don't apply to what would have been -- how it would have been handled. So, you're confusing me and you're confusing the issue.

Q I don't want to do that but --

A Please don't.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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Q -- wouldn't it be fair to say that you were given information that a 50-year-old woman was kissing, romantically, a 16-year-old girl?

A I didn't say -- you -- I made you rephrase that question, you left out romantically. Now it's in there again.

I wasn't given information that there was romantic kissing going on.

Q You were told by -- in the committee that Dana Seipp, Terry's husband, had hired a private investigator and had pictures of them together doing sexual things, weren't you?

A No. I'll -- I'll explain to you what I heard. I heard that he had pictures of the two of them together and we should do something about it, but he would not tell us what those pictures were about. That's what I heard.

Q That was suspicious to you, though, wasn't it?

A I was wondering, of course.

Q But you had a suspicion?

A That's why we met with Terry to find out first what she said about it.

Q Yeah, you had a suspicion that she might

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be abusing a child?

A I wanted to know the facts.

Q Okay. Well --

A Her husband wouldn't say, and he was not a member of our congregation. I only knew him once to say hello to him. He comes up and says "I've got pictures, but I won't tell you what they're about, but you'd better do something about it," that kind of -- what are we supposed to do?

Q Call the police?

A Pardon?

MR. AARON: Objection. That's not a question.

THE COURT: Sustained.

MR. ZEFF: I have nothing further.

THE COURT: Cross.

- - -

Cross-Examination

- - -

BY MR. AARON:

Q Mr. Hollingworth, how long have you been an elder, Jehovah's Witness elder?

A Forty years.

Q Are you aware of any Jehovah's Witness

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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policy not to report child sexual abuse to authorities? Are you aware of any such policy?

A No.

Q In any of the letters to elders that you read or KS schools that you've attended -- have you attended those schools?

A Yes, Sir.

Q In any of those letters in those KS schools, have you ever been instructed or directed not to report sexual abuse to authorities?

A No way. No way.

Q What have you been instructed to do if a report of sexual abuse comes to your attention?

A Contact the legal department.

Q Did you do this in this case?

A Yes, Sir.

Q Let me ask you some questions about yourself, Mr. Hollingworth. Are you -- you're retired?

A Yes, Sir.

Q Where did you work before you were retired?

A I worked for a company called Beacon Sales. It's located in Peabody, Massachusetts. The

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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parent company is in Peabody, Massachusetts.

Q How long did you work there?

A Since 1990.

Q Okay. Are you married?

A Oh, yes.

Q How long have you been married, Sir?

A Fifty-eight beautiful years.

Q Any children?

A Yes. We have eight children.

Q Eight children. How many boys, how many girls?

A Five boys, three girls.

Q Any grandchildren?

A They're all grand, Sir. But one official -- oh, no. Grandchildren, I'm sorry, 26 of them. Yeah, we have 26 grandchildren. That's why I said I love children and I would not do these things.

Q And have you ever been a member of the Spring Grove congregation?

A No, Sir.

Q But you were a member of the Freedland congregation in Maryland, correct?

A That's correct.

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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Q Do you know the Plaintiff, Miss Fessler?

A It's the first time I've seen her. I've seen her, Sir, it's the first time.

Q Okay. But you did know Terry Seipp?

A She was a member of our congregation.

Q And at the time she was a member -- did she hold any position in the congregation?

A Did I?

Q Did she, Terry Seipp.

A Just as a member of the congregation.

Q Oh, was not an elder or an overseer?

A Oh, no, no. I didn't even know her that -- very well.

Q Okay. And what was the position that you held at the Freedland congregation?

A I'm sorry?

Q What position did you hold at the Freedland --

A In Freedland?

Q Yes.

A I was the service overseer.

Q What's the service overseer?

A Well, it's just how it sounds. We oversee the service arrangement, but if you know Jehovah's



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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2 Witnesses, as you know, we're very active in the  
3 field activity of going and trying to talk to people  
4 about the Kingdom that Jesus told us to talk -- he  
5 told his disciples to talk about it and he tells us  
6 that if we follow Jesus' instruction, so we talk to  
7 people about the Kingdom that's going to bring a  
8 refreshing government to the whole world and we're  
9 looking forward to that and trying to share with  
10 anybody else that wants to listen to us.

11           And so my job and our congregational  
12 territory was to organize the work so that we  
13 weren't going helter-skelter -- I don't know if I  
14 can use that expression -- but that it was done in  
15 an organized way, that we had sufficient material  
16 available to do it and helping anybody that needed  
17 help with that activity.

18           Q       Okay. I'm going to ask you some questions  
19 you've already been asked, so if you'll bear with  
20 me.

21           A       Sure.

22           Q       At some point you learned about a  
23 relationship between Terry Seipp and Miss Fessler?

24           A       Yes.

25           Q       How did it come to your attention?

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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A I would -- two of our elders told me that there was a situation that they had known about. They had found out about it, were concerned about, that we needed to have three of us meet with Terry Seipp and they asked me if I would be a member to do that with them, because I didn't know her very well, I would be just -- didn't have any pre-knowledge of anything, and would I sit in on the meeting as well and then participate in it.

Q Okay.

A That was probably a week or two before the meeting and, then, they arranged the meeting right after that.

Q And what year was this?

A 1975.

Q No, I'm sorry, 1975?

A What's the year that -- no, 1995, is that -- 1995. Yeah, I'm sorry.

Q You know what, why don't we -- why don't we pull up your notes.

A Pardon?

Q Why don't we pull up your notes.

A Yeah, I think it was 1995.

Q That may help to refresh your

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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recollection.

A Correct me if I'm wrong, but that was the meeting that the notes were --

MR. AARON: Can you put up P-87, please.

THE WITNESS: Yeah, 1975 that was a long way off.

MR. AARON: Hold up.

THE COURT: Why don't you refresh his recollection.

MR. AARON: Okay.

BY MR. AARON:

Q Well, would it refresh your recollection if I told you this was around the fall of 2005?

A Yes.

Q Okay.

MR. AARON: You can take it down. Thank you.

BY MR. AARON:

Q This case involves a relationship between Miss Fessler and Terry Seipp that occurred in around 2004, 2005. Do you recall precisely when certain things might have occurred 12, 13 years ago, in '04 and '05?

A Not too much, no.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       Okay.    Okay.

3           A       And you get to be in your 80's and it gets  
4 even harder, but we're doing the best we can.

5           Q       Okay.    Now, I think you testified that you  
6 sat on a judicial committee and you spoke to  
7 Miss Seipp?

8           A       That's correct.

9           Q       Who else was on the judicial committee?

10          A       Gary Neal and Scott Wagner.

11          Q       Okay.    Did your judicial committee look  
12 into the report of some sort of a relationship  
13 between Miss Fessler and Miss Seipp?

14          A       Yes.

15          Q       And describe what happened when you met  
16 with Terry Seipp, just generally what happens in a  
17 judicial committee and what happened in this  
18 committee?

19          A       Well, in a judicial committee we try -- I  
20 mean, the purpose of a committee is not to condemn  
21 somebody, to find fault or even to judge them, but  
22 to try to give scriptural counsel and scriptural  
23 help to -- the reason we would be having a committee  
24 is somebody is going off of what, when we dedicate  
25 ourself to be Jehovah's Witnesses, we promise to do,

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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and that's to follow of teaching of Jesus Christ,  
the scriptures that's in the Bible. That's -- to  
us, 2000 years ago, it's still not old stuff. It  
still applies to date. So, we agree to do it.

And when we find that somebody might  
being deviating from that, as quick as possible, we  
want to get them back on course, if they willing to  
do it. If they're not willing to do it, then that  
presents a problem for us.

Q Okay. Did Terry Seipp, in your judicial  
committee, tell you that she was having sex with  
Miss Fessler?

A Did she?

Q Yes.

A Sex?

Q Sex.

A No.

Q Let me be more specific.

Did she tell you that she was having  
oral sex?

A No.

Q Did she deny that she was?

A Yes.

Q Did she tell you that there was touching

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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of the genitals?

A I'm sorry.

Q Did she tell you that there was touching of the genitals?

A No.

Q Did she deny that there was?

A I'm not positive that question came up.

Q Okay.

A But she -- I know she didn't agree to it, but I'm not positive the question came up. It could very well have, but I don't remember.

MR. AARON: Can we put up P-71.

BY MR. AARON:

Q You said you're not positive. If you look at this screen -- yeah, look at this screen. If you look about, I don't know, a third of the way down it says regarding porneia?

A Okay.

Q And if you look down it says "denied masturbation or lesbianism."

A That's correct.

Q Does that refresh your recollection as to what Miss Seipp denied?

A Those points, yes. We went down a list of

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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things that, to be sure, we weren't missing anything and we asked her if she understood what they were and she did. We asked her if she did them and she said no.

Q Okay. As long as we have the notes up, let me ask you a few other things about the notes. You can take that box out.

Thanks.

BY MR. AARON:

Q Let me just read a portion of the notes. Do you see where it says "Advised no subsequent contact with girl" about halfway down the page?

A Yes.

Q So, let me just read that portion to you, and tell me if I'm reading it correctly "Advised no subsequent contact with girl since matter has come to elder's attention. Will have no future involvement even after other party turns 18."

A Yes.

Q Have I read that correctly?

A Yes. That was -- she advised us that that was the case.

Q Okay.

A She told us that was the situation.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       All right.  And that's reflected in the  
3 notes?

4           A       Yes -- well, I knew it -- I knew it was  
5 her.  When -- as soon as I read it, I knew it was  
6 her, yes.

7           Q       Okay.  All right.

8                   MR. AARON:  We can take that down.

9 BY MR. AARON:

10          Q       After the judicial committee met with  
11 Terry Seipp, you reported to legal?

12          A       Yes.

13          Q       And was that the procedure that you were  
14 supposed to follow?

15          A       Yes.

16          Q       Did you feel that you were following the  
17 correct procedure and doing that?

18          A       Yes.

19                   MR. AARON:  One moment, Your Honor.

20                                   - - -

21                                   (Pause.)

22                                   - - -

23                   MR. AARON:  Can you put exhibit P-21 up on  
24 the board.

25



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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BY MR. AARON:

Q Can you go to page three. So, go back to page one. I'll identify it, page one. On your -- on direct examination when Mr. Zeff was examining you, he showed you this Exhibit P-21, it's a Watchtower Bible and Tract Society of New York, letter to all bodies of elders dated 1992. Do you remember him showing you this letter?

A Yes.

Q Okay. Can you go to page three, please. And I'd just like you to look on the left-hand column, the last paragraph, "If a current case..."

A I see it.

Q Let me just read this to you. "If a current case of child abuse comes to light in your congregation, elders should do what they can do to protect children from further abuse." And then cites to another document.

"How might this be accomplished? In the Adeptum presented at the Kingdom Ministry School, direction was given that when elders receive reports of physical or sexual abuse of a child, they should contact the society immediately for legal advice."

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 Have I read that portion correctly?

3 A Yes, Sir. Yes, you did.

4 Q And do you believe that in 2005 you  
5 followed that advice?

6 A Yes, Sir.

7 Q Have you ever been advised as an elder or  
8 are you aware of any direction that, in order to  
9 protect the Jehovah's Witness religion, child abuse  
10 should not be reported to authorities?

11 A To the contrary. The reason I'm a  
12 Jehovah's Witness today -- I wasn't always one --  
13 was because of their concern for the truthfulness  
14 and taking care of people and taking -- the whole  
15 thing, it just made so much sense. No, that would  
16 never happen.

17 Q Thank you.

18 MR. AARON: One moment, Your Honor.

19 - - -

20 (Pause.)

21 - - -

22 MR. AARON: Thank you, Your Honor.

23 No further questions.

24 THE COURT: Mr. Miller, do you have any?

25 MR. MILLER: No, thank you, Your Honor.



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1 affects of child abuse. While participating in  
2 group therapy by a professional therapist is a  
3 personal decision, there could be problems of  
4 revealing confidential facts about other members of  
5 the Christian Congregation during such therapy if a  
6 Christian does not exercise discretion. Thus,  
7 elders can give cautions to their brothers and  
8 sisters, just as outlined in October 15, 2008 issue  
9 of Watchtower, page 29, under the subheading Talking  
10 Therapy.  
11

12 "They can be helped to see that  
13 talking indiscriminately to others about child abuse  
14 may result in circulating damaging and harmful  
15 talk."

16 Sir, what do you understand that to  
17 mean?

18 A Well, we just -- you just read it and I'm  
19 going to absorb what I just read.

20 Q Take a minute. Let me -- let me ask --  
21 when you're ready, I --

22 A I may be missing some details here, but my  
23 -- I'm focusing on the last sentence here. We don't  
24 go talking about it and gossiping about it and --

25 MR. MILLER: Pardon me, Your Honor. I do

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

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have an objection.

THE WITNESS: It's not something to be broadcasting.

THE COURT: Just a moment. Just a moment.

MR. MILLER: I do have an objection to the document. It speaks for itself and what this gentleman today, in his old age, understands it to mean is truly not going to be beneficial.

THE COURT: Overruled.

MR. MILLER: All right.

THE COURT: All right.

Your question to this witness.

BY MR. ZEFF:

Q Sir, my question is talking about child abuse may result in circulating damaging and harmful talk, so they don't -- isn't this telling you -- by the way, this is one of the documents you had that were referred to?

A Is it a doctrine?

Q This is one of the documents that they gave you to look at --

A A document. Yes. Okay.

Q -- at the time? Okay?

A Okay.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       Doesn't what I just read say we don't want  
3 the victim talking to therapists or people like that  
4 because gossip or word might get out?

5           A       How do you read that?

6                   MR. MILLER:  Objection, Your Honor.  It's  
7           misstating the document clearly.

8                   THE COURT:  Sustained.

9   BY MR. ZEFF:

10          Q       What do you understand they can be helped  
11 to see that talking indiscriminately to others about  
12 child abuse may result in circulating damaging and  
13 harmful talk?  What do you understand that to mean?

14          A       To be careful and think about it.  Think  
15 before you speak.  It makes sense to me.

16          Q       You mentioned earlier the KS schools.

17          A       The what?

18          Q       KS schools.

19          A       KS rules?

20          Q       Schools.

21          A       Schools.

22          Q       Yes.

23          A       Okay.

24          Q       What is a KS school?

25          A       Kingdom.  What is a KS school?  It's a

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school that elders go to periodically to be updated on matters that -- they go over scripture -- they go over scriptural matters and how to conduct ourselves, so that we're all on the -- pertinent together, on the same page and we're not just doing what we feel like doing, we're trying to follow the scripture.

Q On the occasions is the issue of child abuse brought up at those schools?

A Is it what?

Q Child abuse, is there discussions about child abuse at those schools on occasion?

A Has it come up?

Q Yeah.

A I'm sure it has.

Q And these schools are conducted by the Watchtower?

A They're conducted by a Jehovah's Witness. I'm not sure why -- they're conducted by a Jehovah's Witness instructor.

Q Okay. And where does that instructor come from?

A They come from a lot of different places. Sometimes it's our circuit overseer who comes

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           from -- we have apartments for them in the local  
3           Kingdom Halls. Different instructors, different  
4           times over the years, there's been -- they come from  
5           a lot of different places.

6           Q        Do the documents that you review in these  
7           schools come from the Watchtower?

8           A        Did what?

9           Q        Do the documents that you go over at these  
10          schools comes from the Watchtower?

11          A        I don't know. I don't know that the  
12          Watchtower sends out documents. They give us  
13          literature. They give us some literature. We  
14          get -- they take care of our printing of our  
15          literature. I don't know. I just can't answer that  
16          question. You would have to ask somebody that comes  
17          from there.

18                    Would it be all right if I have some  
19          more water?

20                   MR. ZEFF: I have nothing else, Your  
21          Honor.

22                   THE COURT: I beg your pardon, Sir?

23                   MR. ZEFF: I have nothing else, Your  
24          Honor.

25                   THE WITNESS: That's okay. Thank you.



1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2                   MR. AARON: I have nothing.

3                   MR. LOMBARDI: I have nothing.

4                   THE COURT: Mr. Miller, are you getting up  
5 to question?

6                   MR. MILLER: I am. One little segment.

7                   THE COURT: Very good.

8   - - -

9   Cross-Examination

10    - - -

11 BY MR. MILLER:

12               Q       We are back on document number 21 at the  
13 bottom of the right-hand corner, lower right-hand  
14 corner, "some medical professionals," that  
15 paragraph. There it is.16                               And read with me, please, "Some  
17 medical professionals and therapists offer" -- what  
18 kind of therapy do you see that says?

19               A       Yes, I do.

20               Q       What kind is it?

21               A       I'm sorry?

22               Q       What does it say?

23               A       What does it say here?

24               Q       What kind of therapy?

25               A       Oh, group therapy.

1                   **FESSLER VS. WATCHTOWER BIBLE, ET AL.**

2           Q       Group therapy. Group therapy. Do you  
3 know what group therapy is?

4           A       More than one person involved.

5           Q       Right. More than one patient involved,  
6 right?

7           A       Yes, yes.

8           Q       "They offer group therapy to those  
9 suffering from the affects of child abuse. While  
10 participating in" -- what kind of therapy?

11          A       Group therapy.

12          Q       -- "group therapy by a professional  
13 therapist is a personal decision, there could be  
14 problems of revealing confidential facts about  
15 other -- and the next page, "members of the  
16 Christian Congregation during such therapy if a  
17 Christian does not exercise discretion."

18                   It didn't say anything about  
19 individual therapy, did it?

20          A       No, Sir.

21          Q       It didn't say anything about a person  
22 suffering from child abuse can't talk about that to  
23 his own therapist or her own therapists, does it?

24          A       No.

25          Q       It doesn't suggest anything but group



**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

- - -

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3 THE COURT: All right. Ladies and  
4 Gentlemen, we were having a discussion about  
5 scheduling.

6 I'm going to adjourn for the afternoon and  
7 ask you to put your notes away. And I want  
8 to -- as you all know, we're expecting a  
9 snowstorm tomorrow, but here's how we're going  
10 to -- here's how we're going to deal with that.

11 I have your phone numbers. The Court  
12 Officer, Debbie Panepinto, has your phone  
13 numbers, has everyone's phone numbers. So, I'm  
14 going to instruct every one to be here at 9:30  
15 unless you hear on the radio, whatever, that  
16 the courts are closed or unless you get a phone  
17 call from the court officer.

18 So, plan on leaving to get here 9:30. All  
19 right.

20 So, have a good night. Don't discuss the  
21 case. We'll see you tomorrow morning.

22 If, during the day -- we're going to give  
23 you a little bit of assurance -- if, during the  
24 day, we're here and it's really snowing like  
25 crazy, we will do some work, but I will not

**FESSLER VS. WATCHTOWER BIBLE, ET AL.**

1  
2 keep you -- I will not keep you to the very  
3 end, if it looks like it's going to be really  
4 nasty and difficult getting home.

5 All right. So, 9:30 tomorrow morning.  
6 Thank you.

7 THE CRIER: Thank you.

8 Please rise.

9 THE COURT: Excuse me. I'd like everyone  
10 to stay seated while the jury goes by.

11 - - -

12 (Court adjourned.)

13 - - -

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## 1 FESSLER VS. WATCHTOWER BIBLE, ET AL.

## 2 CERTIFICATION

3  
4  
5 I hereby certify that the proceedings and  
6 evidence are contained fully and accurately in  
7 the notes taken by me on the trial of the above  
8 cause, and that this copy is a correct  
9 transcript of the same.

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12 Linda J. Settles, RMR  
13 Official Court Reporter  
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19 (The foregoing certification of this  
20 transcript does not apply to any reproduction  
21 of the same by any means unless under the  
22 direct control and/or supervision of the  
23 certifying reporter.)  
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IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

- - -

STEPHANIE FESSLER, : SEPTEMBER TERM, 2013

Plaintiff, :

VS. :

WATCHTOWER BIBLE AND :  
TRACT SOCIETY OF NEW :  
YORK, INC., CHRISTIAN :  
CONGREGATION OF :  
JEHOVAH'S WITNESSES, :  
INC., SPRING GROVE :  
CONGREGATION OF :  
JEHOVAH'S WITNESSES, AND :  
TERRY JEANNE MONHEIM, :  
Defendants. :

NO. 1293

- - -

JURY TRIAL

DAY THREE

A.M. SESSION

- - -

FEBRUARY 10, 2017  
COURTROOM 432, CITY HALL  
PHILADELPHIA, PENNSYLVANIA

- - -

BEFORE: THE HONORABLE MARY D. COLINS, J. AND A  
JURY.

- - -

## Reported By:

Cynthia Touni, RMR, CRR  
Official Court Reporter  
(215) 683-8014

- - -

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W I T N E S S I N D E X

## P L A I N T I F F

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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C O L L O Q U Y

THE COURT: Good morning.

MR. FRITZ: Good morning.

THE COURT: You have two issues to discuss.

MR. FRITZ: Yes.

MR. AARON: I think so.

THE COURT: Two matters to make a record about.

MR. FRITZ: Good morning, Your Honor. Jeff Fritz.

There has been -- there's been some testimony from a couple of witnesses who said that elders are not clergy. And it was our intention to request an instruction to the jury that elders, in fact, are clergy under the applicable statutes here.

And I've spoken with Mr. Miller and he's in agreement with an instruction on that. And we would request that the instruction be made now, as opposed to at the end of the case in light of the fact that there's been testimony that's already been elicited on that point.

MR. MILLER: I shuddered more than he

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C O L L O Q U Y

did when I heard that elders were not clergy.

So, yes, I agree. An instruction now would be a good idea, I think.

THE COURT: All right. And this would be a stipulation and what I would like you to do, do you have something prepared?

MR. FRITZ: I can.

THE COURT: Because if you want me -- you're asking an instruction of me now, I'm going to request of you that you have an agreed upon stipulation.

MR. MILLER: Very good.

MR. FRITZ: I will prepare that.

THE COURT: Make sure you both agree to it and then I'll explain to the jury what a stipulation is and then I'll read it to them.

MR. ZEFF: The second matter, Your Honor, involves Lori Barton, whose video deposition will be this afternoon.

Lori Barton is a licensed psychologist who was seen by the Fessler family, both Stephanie and her mother were patients.

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C O L L O Q U Y

THE COURT: Just put that microphone closer.

MR. ZEFF: Both Stephanie and her mother were patients.

THE COURT: That's better.

MR. ZEFF: And in October of 2004, Stephanie and both of her parents went to see this therapist about these events.

In this record are two pieces of hearsay that we would like excluded. I'll tell you what they are and then if I could show them to Your Honor.

The first one is -- we don't know who said this to the therapist, but it says the church elders involved and police were informed, parents protecting Stephanie in church issuing a no contact between them. Parents unsure if they will pursue legal action.

And the second one says, mother contacted -- this is a year later. Mother contacted church, J Witness, Sergeant Lisa Dixon, with a phone number, Southwestern Regional Police in New Freedom and Tom

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C O L L O Q U Y

Kearney, a criminal attorney. Tom Kearney and Lisa Dixon reported back saying nothing much would happen to Terry. Details are vague.

If I could hand this up to Your Honor.

THE COURT: Well, is it an exhibit? Is it part of her report?

MR. ZEFF: It's part of her report. I don't know which exhibit number it is.

MR. AARON: It's Defendant's 15.

MR. ZEFF: I have the two sections flagged for if you, if it's easier.

May I?

MR. FRITZ: I'm sorry, it's Plaintiff's 6A.

THE COURT: I have it then. I have it.

MR. ZEFF: It's actually the third page which is her First Hope Counseling record dated 10/13/04.

First, under history is the first section. And, Judge, this is -- these are medical records, not business records, is the

C O L L O Q U Y

1  
2 first issue.

3 It is classical hearsay. It's a  
4 statement written -- we don't even know who  
5 said it. We don't whether Kevin said it. We  
6 don't know whether Jodee said it. And we  
7 don't know whether Stephanie said it.

8 Second of all, there's case law  
9 directly on point from the Supreme Court  
10 which talks about medical records in an  
11 emergency room where a child was taken in --  
12 and it happens to deal with child abuse. A  
13 child was taken in with scalding injuries and  
14 the child said in the medical records that  
15 the father did this to me.

16 The Court found that that was not  
17 part of the medical records and was hearsay  
18 and was inadmissible. And it said,  
19 protection from future abuse, as such, does  
20 not constitute medical treatment or  
21 diagnosis. Everything said by the patient in  
22 the context of being questioned for the  
23 purposes of psychological treatment and  
24 diagnosis would be admissible under the  
25 medical treatment exception.

C O L L O Q U Y

1  
2 But, again, things that talk about  
3 future abuse. Things that talk about what's  
4 going on elsewhere is hearsay and not subject  
5 to the medical exception. And, therefore,  
6 there is no exception in this case that would  
7 allow that statement or the second statement  
8 in which, by the way, both appear, and I  
9 would suggest, were made by the parents and  
10 not Stephanie.

11 THE COURT: Hold on. I'm trying to  
12 find the exact part that he's talking about.

13 MR. ZEFF: The second one.

14 THE COURT: They were Bates numbered;  
15 correct? Are they Bates numbered 003?

16 MR. ZEFF: They are, Judge.

17 THE COURT: What pages are you  
18 referring to?

19 MR. ZEFF: 006 A-3 and the second one  
20 is 006 A-8. And I also have a case to hand  
21 up to the Court.

22 THE COURT: All right. Could I have  
23 the case?

24 MR. ZEFF: Sure.

25 THE COURT: What is it from the 003



C O L L O Q U Y

1  
2 that you seek to exclude?

3 MR. ZEFF: Where it said -- sorry.  
4 Let me give you the first page of the case  
5 law.

6 We seek to exclude where it says, a  
7 history. The church elders involved and  
8 police were informed. Parents protecting  
9 Stephanie in church issuing a no contact  
10 between them. Parents unsure if they will  
11 pursue legal action.

12 THE COURT: And the next part is 08?

13 MR. ZEFF: 08.

14 THE COURT: I'm going to let you  
15 address this. I just want to be clear.

16 MR. AARON: All right.

17 THE COURT: What line?

18 MR. ZEFF: Sixth line where it says,  
19 mother contacted the church through where it  
20 says details are vague. That's the mother's  
21 statement, it looks like.

22 So these are not statements by the  
23 patient, not made for medical or  
24 psychological care, and it's classic hearsay.

25 THE COURT: All right. And the case

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you cite to is Commonwealth versus Smith?

MR. ZEFF: Yes. Page 496 is what I was quoting from, Your Honor.

THE COURT: All right.

Mr. Aaron.

MR. AARON: Your Honor, just so I'm clear, because I don't have a copy highlighted from Mr. Zeff.

Mr. Zeff, on the first page could you just read to me that portion that you want to -- that you're asking we be precluded from asking about just so I know where it starts and where it ends or just tell me where it starts and ends.

MR. ZEFF: It says history in the typing. The church elders involved.

MR. AARON: That's where it starts?

MR. ZEFF: Yep. And it ends with patients unsure if they will pursue legal action.

MR. AARON: Okay. All right.

Thanks.

Well, first of all, Your Honor, clearly the notes come in as medical records.

C O L L O Q U Y

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2 I mean there will be testimony from Lori K.  
3 Barton. We're taking her videotaped  
4 deposition. These were her records and they  
5 were kept. I don't think there's any  
6 question the notes come in.

7 The first note, which is dated  
8 October 13th, 2004, at the top? It appears  
9 to be -- and Lori K. Barton will testify, I  
10 don't know what her testimony will be, but  
11 this appears to be notes of Lori K. Barton's  
12 session with Stephanie Fessler.

13 And if that's the case, then these  
14 would all be admissible -- because they're  
15 medical records, because they were taken for  
16 the purpose of diagnosis, because they're  
17 germane to the emotional damage issue which  
18 they're claiming and they're party  
19 admissions.

20 And also for another reason, because  
21 Deborah Bauer, who is the plaintiff's  
22 emotional damages expert, she hasn't been  
23 called yet, but I guess she'll be called  
24 early next week, in her expert report, she  
25 writes that she read the notes of Lori K.

C O L L O Q U Y

1  
2 Barton. They're part of the basis for her  
3 report. And she didn't say, well, these are  
4 part -- the notes are part of the basis for  
5 my report, but not this section that Mr. Zeff  
6 is now challenging. She said I read those  
7 notes.

8 So it could come in for all those  
9 reasons. We shouldn't be precluded from  
10 asking Lori K. Barton about what she learned  
11 in her counseling of the plaintiff and took  
12 notes about and are notes that their own  
13 expert is relying on and says she is relying  
14 on in her own expert report.

15 And, in fact, when Deborah Bauer  
16 takes the stand, we'll be asking her about  
17 notes and so forth of other counselors under  
18 the mental health professionals that she  
19 relied on.

20 THE COURT: Well, you know, counsel's  
21 argument with respect to both passages is  
22 that it's classic hearsay because it does not  
23 meet the medical exception rule; that it  
24 doesn't go to treatment. These statements  
25 don't go to treatment. And, therefore, can

C O L L O Q U Y

1  
2 be -- cannot be admissible because they're  
3 hearsay.

4 Now, the first statement is Stephanie  
5 Fessler and your position is that it's not  
6 hearsay because the declarant is here?

7 MR. AARON: First of all, it's a  
8 party admission.

9 THE COURT: I don't see the  
10 declarant, by the way. Oh, I do. Yes, I do.

11 MR. AARON: She is the plaintiff and  
12 it's a party admission.

13 But, in addition, we don't know that  
14 Lori K. Barton didn't consider this portion  
15 of what she was told in her counseling. We  
16 haven't heard from Lori K. Barton.

17 THE COURT: If she's -- if the  
18 declarant is the plaintiff, isn't it an  
19 admission and, therefore, not hearsay?

20 MR. ZEFF: No, Judge, there's no  
21 indication that she said this. If you look  
22 at the top of the record, it says seen with  
23 mother, Jodee Fessler.

24 Her mother -- and the testimony is  
25 going to be that her mother was at the

C O L L O Q U Y

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2 session. Both of these sessions were  
3 attended by parents. The second session was  
4 attended by both parents.

5 There's no indication of even who  
6 says this. And we're talking about a  
7 15-year-old --

8 THE COURT: You're saying it's not  
9 germane to the medical treatment or anything  
10 the police are going to do.

11 MR. ZEFF: And I would suggest to  
12 Your Honor that it doesn't sound like a child  
13 is going to say, parents unsure if they will  
14 pursue legal action.

15 THE COURT: No.

16 MR. ZEFF: The elders involved and  
17 police were informed.

18 Our client is going to say she never  
19 knew anything about the police at any time.

20 THE COURT: Do you want to argue  
21 about the passage on page eight?

22 MR. AARON: Yes. And I think my  
23 argument here is the same.

24 Lori K. Barton has not testified yet  
25 that neither of these passages were germane

C O L L O Q U Y

1  
2 to medical treatment. She's being deposed  
3 today. They could ask her about that. But  
4 she hasn't testified to that yet.

5 And we're making an assumption. Mr.  
6 Zeff is making an assumption that this is not  
7 germane, when Lori K. Barton is going to be  
8 deposed, her video trial deposition today,  
9 and she'll testify to what she testifies to  
10 and then they can renew their objection.

11 And if the Court sustains it based on  
12 what Lori K. Barton says, then that can  
13 always be redacted from the video deposition,  
14 because our tech person, who is here, is able  
15 to do that.

16 And that's really my point. Let Lori  
17 K. Barton say what was germane to medical  
18 treatment and what wasn't and we'll get that  
19 answer today and then we'll make a decision.  
20 He'll object.

21 MR. ZEFF: Judge, let's even assume  
22 that Lori Barton remembers 12 years ago which  
23 person in the room said what. It's still  
24 triple hearsay if -- even if my client said  
25 my mother contacted the church, Jehovah's

C O L L O Q U Y

1  
2 Witnesses, Sergeant Lisa Dixon of  
3 Southwestern Regional and Tom Kearney, a  
4 lawyer.

5 THE COURT: It sounds like he is  
6 taking a different approach now. He's  
7 shifted his argument. Now he's saying don't  
8 rule now. Let's depose her. Let's find out  
9 from her did she consider that this  
10 information was germane to medical treatment.  
11 And --

12 MR. ZEFF: And my comment -- I'm  
13 sorry, did I cut you off, Your Honor?

14 THE COURT: And don't superimpose  
15 your opinion on the opinion of the  
16 psychologist.

17 MR. AARON: You said it better than I  
18 said it.

19 MR. ZEFF: And my response is there  
20 is no circumstance that the psychologist is  
21 going to be able to undo what's written here  
22 in terms of whether it's hearsay.

23 THE COURT: What's the medical  
24 exception document? Hearsay is admissible in  
25 the records if, in fact, it goes towards



C O L L O Q U Y

1  
2 treatment and diagnosis.

3 MR. ZEFF: From the patient.

4 THE COURT: Now, classically that's  
5 usually supplied to a doctor reviewing other  
6 medical notes and other doctors' impressions.

7 And you're saying it's for me to weed  
8 out what would be third level or second level  
9 hearsay.

10 MR. ZEFF: Yes. And according to the  
11 case I cited to you, Your Honor, which cites  
12 a Supreme Court case and other cases at page  
13 496. We fail to see how the identity of the  
14 perpetrator of the physical abuse was  
15 pertinent to the treatment of Priscilla's  
16 scalding burns. What difference would it  
17 make to the treatment of the burns whether a  
18 total stranger inflicted the burns or a close  
19 family member.

20 THE COURT: Well, here is my ruling  
21 on this. Okay? I'm going to grant your  
22 motion. I'm going to exclude those portions  
23 from Barton's records and any testimony about  
24 what, if anything, the police would have  
25 done, what, if anything, the parents would

C O L L O Q U Y

1  
2 have done. I don't think it's germane to  
3 treatment. I also think it's unreliable and  
4 speculative and doesn't further information  
5 about diagnosis and treatment.

6 So I'm going to make that ruling  
7 right now.

8 MR. AARON: And, Your Honor, there's  
9 only one other issue. We said two, but just  
10 a logistical issue.

11 THE COURT: Okay.

12 MR. AARON: Apparently Terry Monheim  
13 is here today and she will be testifying.  
14 She was subpoenaed. She's a party, but she  
15 was subpoenaed by the plaintiffs.

16 We were told that the witnesses  
17 yesterday, we had had four, that the next  
18 witnesses up in the queue were Gary Neal, who  
19 is an elder who is here; were Detective  
20 Layden, who I believe is here as well. And  
21 Jodee Fessler by way of a videotape that's  
22 going to be played. And we've done our  
23 designations.

24 We show up today and Terry Monheim is  
25 here. I wouldn't normally have a problem

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with that, but I just learned -- it's a different issue, except I just learned that plaintiff's counsel told Terry Monheim's counsel days ago that she was going to be expected to come in yesterday and testify. And we weren't told that.

So all I'm asking -- I don't need to get into this now. I'm ready to cross examine Terry Monheim.

I am asking that when the plaintiffs' counsel gives us their anticipated witness list, it be a full list of who they think they might get on that day, even if they don't know who they'll have.

It shouldn't be an ambush. That's all I'm asking.

THE COURT: Well, I think -- I don't know that -- ambush is a strong word, but I do think that for purposes of convenience and collegiality, I would strongly urge you, since they're bringing witnesses in from out of town or whatever, that you give them ample notice so that they understand who's going to be testifying the next day.

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And that instruction goes both ways.

MR. MILLER: May I address this briefly, Your Honor?

This is the, I think, the fourth witness we've brought at the plaintiff's request. We are bringing elders at their request. We had to send the elderly gentleman home and bring him back the next day. That was a hardship on him.

And now we've got another older man who came here from Baltimore and --

THE COURT: So what are you asking? That I require him to testify first?

MR. MILLER: Can we do that so that he doesn't have to go home and come back?

THE COURT: Well, that's discretionary. That's a discretionary decision on my part. I'm not inclined to interfere with counsel's presentation of their case.

MR. AARON: Except that they told us that Gary Neal would be today.

THE COURT: I'm not inclined to interfere.

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MR. ZEFF: If I may just say two things, Judge.

Our expert has been here since Tuesday. We were anticipating calling her Wednesday and certainly Thursday. She's still here.

THE COURT: You know, we're eating up a lot of time. We could probably get through two witnesses right now.

MR. ZEFF: We will get to their witnesses.

THE COURT: So we could probably get through two more witnesses. Nobody appreciated a fake snow day. So let's just get done.

MR. AARON: Thank you.

MR. ZEFF: Thank you, Your Honor.

THE COURT: Is the jury ready?

THE COURT CRIER: Yes, Judge.

THE COURT: Line them up. Is the witness ready? The witness is outside? Is the witness outside? Who knows that?

MR. AARON: I don't.

THE COURT: Do you have that

C O L L O Q U Y

1  
2 stipulation? We can do that after this  
3 witness. When do you want to do the  
4 stipulation?

5 MR. ZEFF: I'll tell Jeff to work it  
6 on it right now.

7 MR. MILLER: He has it done.

8 THE COURT: Do you have it done?

9 MR. FRITZ: Yes.

10 THE COURT: Have you shown it to  
11 counsel?

12 MR. FRITZ: Yes.

13 THE COURT: Are you ready for me to  
14 read it?

15 MR. FRITZ: Yes.

16 THE COURT CRIER: Please rise.  
17 Jurors entering the room.

18 (Jury in at 10:01 a.m.)

19 THE COURT: Good morning, everyone.  
20 Please be seated.

21 All right. Good morning. Long time  
22 no see.

23 JURORS: Good morning.

24 THE COURT: Before we begin with the  
25 next witness, I have an instruction I want to

C O L L O Q U Y

1  
2 give you.

3 First, I want to explain to you the  
4 word stipulation. A stipulation in a court  
5 of law means that the attorneys have agreed  
6 that certain information may be given to you  
7 by agreement by the attorneys for you to  
8 consider as evidence in the case.

9 And the stipulation I'm going to read  
10 to you now between the attorneys is as  
11 follows: You've heard testimony about  
12 whether or not elders within the Jehovah's  
13 Witnesses are members of clergy. The parties  
14 agree that elders are clergy.

15 All right. So stipulated?

16 MR. FRITZ: Yes.

17 MR. AARON: Yes, Your Honor.

18 MR. MILLER: Yes, Your Honor.

19 THE COURT: All right. Thank you.

20 Now, the next witness.

21 MR. ZEFF: Terry Monheim.

22 THE COURT: All right. Could that  
23 witness come up. Follow the court officer's  
24 instructions.

25 THE COURT CRIER: State your full

1                    T. MONHEIM - DIRECT

2                    name for the record and spell your last name,  
3                    please.

4                    THE WITNESS: Terry Monheim,  
5                    M-O-N-H-E-I-M.

6                    TERRY MONHEIM, after having been  
7                    first duly sworn, was examined and testified  
8                    as follows:

9                    THE COURT: Ma'am, bring your chair  
10                   closer, if you can. And speak into the  
11                   microphone, right into it.

12                   If you hear an objection, don't  
13                   respond until I've ruled. If I overrule it,  
14                   that means answer. If I sustain it, that  
15                   means don't answer.

16                   Do you understand?

17                   THE WITNESS: Yes.

18                   THE COURT: All right. Proceed.

19                   - - -

20                   DIRECT EXAMINATION

21                   - - -

22                   BY MR. ZEFF:

23                   Q.        Good morning. My name is Greg Zeff. I  
24                   represent Stephanie Fessler.

25                   You were charged and pled guilty to



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1  
2 corruption of a minor and indecent assault for the  
3 sexual relationship you had with Stephanie Fessler,  
4 didn't you?

5 A. Yes.

6 Q. And you were sentenced to three months in  
7 prison, five years of probation for it?

8 A. Yes.

9 Q. You are on Megan's List?

10 A. Yes.

11 Q. Today's is the first time since 2005 you've  
12 seen Stephanie Fessler?

13 A. No.

14 Q. When you first met Stephanie, she was about 13  
15 years old and you were 50?

16 A. Not yet, 40 ...

17 Q. Late 40's?

18 A. Yes.

19 Q. And she told you she had some troubles at home  
20 with her mother?

21 A. Yes.

22 Q. She told you that she had to take care of her  
23 mother who was mentally ill?

24 A. Yes.

25 Q. She would come over and sometimes she'd cry,

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sometimes she would be angry?

A. Yes.

Q. You had a mother/daughter type of a relationship with her?

A. Yes.

Q. And you comforted her about her home life?

A. I tried to.

Q. She was a vulnerable kid back then, wasn't she?

A. Yes.

Q. And she looked to you for advice and comfort?

A. Yes, she did.

Q. You took her first kiss, didn't you?

A. Is that a question?

Q. Yes. You took her first kiss.

A. Yes.

Q. And you were intimate with her?

A. Yes.

Q. And you were her first sexual experience?

A. I don't know that.

Q. You had oral sex with her?

A. Yes.

Q. And she was a kid and you were about 50 years old then?

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A. Yes.

Q. In 2004 you attended a congregation meeting at Stephanie Fessler's Spring Grove, Pennsylvania Kingdom Hall.

Do you remember that?

A. I'm not sure of the year, but I attended the congregation meeting at her hall.

Q. When you went there, you sat with Stephanie?

A. Yes.

Q. And families usually sit together; right?

A. Right.

Q. It was unusual for two non-related women to sit together when their family was present, wasn't it?

A. When their family was present?

Q. When their family was present?

A. (No answer.)

Q. You sat with Stephanie?

A. Yes.

Q. And her family sat apart?

A. Yes.

Q. And that's unusual, isn't it? For someone, for a 15, 14 year old kid not to sit with her family and to sit with the other people?

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1  
2 A. Stephanie sat with certain people at different  
3 times.

4 THE COURT: Ma'am, keep your voice  
5 up, please.

6 THE WITNESS: Okay.

7 BY MR. ZEFF:

8 Q. Was it the same day you sat with Stephanie at  
9 her congregation, you got a text from Stephanie  
10 saying that you were caught?

11 A. Yes.

12 Q. Do you remember that?

13 And then you talked to her and you  
14 told her to say that you were only kissing?

15 A. Yes.

16 Q. And you told her to say this because you  
17 didn't want to get into any trouble with the police?

18 A. Right.

19 Q. Before ever meeting with the elders, you had  
20 already been naked with Stephanie?

21 A. I don't think so.

22 Q. You were humping her?

23 A. Yes.

24 Q. If we could turn to 55, five.

25 Do you remember taking a deposition in

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this case? You were videotaped?

A. Yes.

MR. ZEFF: 55, five of her  
deposition. I'm sorry, I'm going to ask you  
to turn 55 line, 25.

BY MR. ZEFF:

Q. It says, what had there been besides kissing?

And the next page, when we had first  
talked with the elders.

And your answer was? Do you see that?

A. Yes.

Q. What does it say?

A. It says, I think we had been naked together  
before.

Q. Okay. Does that refresh your recollection you  
had been naked with her before you ever talked with  
the elders?

A. I don't remember that -- I don't remember.  
Times all go together. It was 12, 13 years ago.

Q. That's what you said in your deposition,  
though. Do you have any reason to doubt what you  
said in your deposition?

A. No.

Q. You told Stephanie you were afraid to go jail,

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didn't you?

A. Yes.

Q. And soon after telling her that and telling her not to say anything other than you kissed, the elders of the Freeland Congregation came to you to talk to you about what was going on; correct?

A. Yes.

Q. And this would have been in 2004 when Stephanie was 15 years old?

A. Yes.

Q. You had two meetings with the elders, one in 2004 that we're about to talk about, and another one a year later in 2005?

A. Right.

Q. I'm going to talk about the first meeting with you. The first meeting you held with the Freeland Congregation was with Gary Neal and Scott Wagner in 2004; correct?

A. Yes.

Q. And they were elders?

A. Yes.

Q. And you would agree with me that they were investigating whether or not you were having sexual relations with Stephanie Fessler who was 15?

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A. Yes.

Q. During that meeting you informed them that you had been kissing Stephanie?

A. Yes.

Q. And you informed them that the kissing was intimate; you were making out with her?

A. Yes.

Q. You also told them there was intimate hugging?

A. Yes.

Q. The elders at that time told you that you were violating laws and charges could be brought against you, didn't they?

A. I don't remember at that time saying that.

Q. Let's go to your deposition again. Page 104, line nine.

Okay. Did they talk to you about whether there was a concern whether any laws were being violated?

Do you remember being asked that question?

A. No.

Q. Do you have any doubt that that was asked of you at your deposition?

A. No. I just don't remember.

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Q. Your answer was yes, wasn't it?

A. The first time I met with the elders?

Q. Yes. Was your answer yes?

A. It's there. Yes.

Q. After meeting with the elders in 2004, you continued having a sexual relationship with Stephanie Fessler?

A. Yes.

Q. You had more sex with her after meeting with the elders than you did before?

A. Yes.

Q. And it was more intense afterward?

A. Yes.

Q. You did more things with her sexually?

A. Yes.

Q. You weren't thinking about any of the harm you might cause her back then, were you?

A. No.

Q. So the relationship continued into the fall of 2005. And between 2004 and 2005, the elders did tell you to stay away from Stephanie, didn't they?

A. Yes.

Q. Just one time.

A. Yes.



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Q. And that was when you met with them.

A. (Witness nods head.)

Q. After you met with them, you attended services five to 10 times in 2005 with Stephanie Fessler, didn't you?

A. I'm not sure how many times, but I did attend meetings was her.

Q. More than five?

A. I'm not sure.

Q. More than ten?

A. I don't know.

Q. You sat together at the meetings?

A. Yes.

Q. And the same elders, Gary Neal and Scott Wagner, who you talked to about the crimes were at those meetings?

A. Yes.

MR. AARON: Objection. Objection to the word crimes.

MR. ZEFF: They're crimes, Judge.

THE COURT: Just a moment.

Sustained. Rephrase it, please.

BY MR. ZEFF:

Q. The same elders you met with and talked to

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1  
2 about having sex with Stephanie Fessler, Gary Neal  
3 and Scott Wagner, were at the meetings that you  
4 attended with Stephanie.

5 A. Yes.

6 MR. MILLER: I object to the form.

7 THE COURT: Overruled.

8 You may answer.

9 THE WITNESS: Yes.

10 BY MR. ZEFF:

11 Q. Did they see you together?

12 A. Yes.

13 Q. Did any elder ever try to stop you from  
14 sitting with Stephanie Fessler?

15 A. No.

16 Q. Did any elder announce to the congregation  
17 that you shouldn't be around children at any time?

18 A. No.

19 Q. Did the elders keep the fact that they  
20 investigated you for child abuse a secret?

21 A. As far as I know.

22 MR. AARON: Objection, Your Honor.

23 THE COURT: Just a moment.

24 Sustained.

25 Don't answer. Or disregard her

1 T. MONHEIM - DIRECT

2 answer.

3 Rephrase, please.

4 MR. ZEFF: Thank you.

5 BY MR. ZEFF:

6 Q. Did the elders keep the fact that they  
7 investigated you for child abuse confidential, to  
8 your knowledge?

9 MR. AARON: Same objection.

10 MR. MILLER: Objection, Your Honor.

11 THE COURT: Sustained.

12 Don't answer.

13 BY MR. ZEFF:

14 Q. Did anybody ever tell you that they were  
15 keeping the matter confidential?

16 MR. AARON: Same objection.

17 THE COURT: Sustained.

18 MR. ZEFF: I'll move on.

19 BY MR. ZEFF:

20 Q. Did anyone from the Spring Garden (sic)  
21 Congregation, Stephanie's congregation, contact you  
22 for any reason?

23 A. No.

24 Q. If they had contacted you, would you have told  
25 them that you intimately kissed Stephanie, just like

T. MONHEIM - DIRECT

1  
2 you told your elders?

3 A. Yes.

4 Q. Now, in 2005 your husband at the time, now  
5 your ex-husband, confronted you about your  
6 relationship with Stephanie?

7 A. Yes.

8 Q. And he told you he hired a private  
9 investigator and had pictures of the two of you?

10 A. Yes.

11 Q. Did you ever see the pictures?

12 A. No.

13 Q. Shortly after that, you had a second meeting  
14 with the elders?

15 A. Yes.

16 Q. And at this meeting, Donald Hollingworth, Mr.  
17 Wagner and Mr. Neal were all present?

18 A. Yes.

19 Q. That was held at the Freeland Kingdom Hall?

20 A. Yes.

21 Q. You told them at that time you were having a  
22 sexual relationship with Stephanie Fessler?

23 A. Yes, I did.

24 Q. They didn't go to the authorities, did they?

25 A. No.

T. MONHEIM - DIRECT

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Q. They just told you to stay away from Stephanie?

A. Yes.

Q. They gave you assurances that they would not be witnesses or call the police, didn't they?

A. Yes.

Q. This meant to you that they were keeping it secret?

A. That it wouldn't be told to the congregation.

Q. So you had two meetings with the elders regarding allegations of sexual abuse; correct?

A. Correct.

Q. 2004 and the second in 2005.

And in the first meeting they told you that laws were violated and that charges could be brought up against you?

A. Yes.

Q. And no charges were brought?

A. No.

Q. At that time.

In the second meeting they assured you that they would not be a witness against you or call the police?

A. Yes.

T. MONHEIM - CROSS

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Q. And between the first meeting and the second meeting, no police officers knocked on your door or questioned you in any way?

A. No.

Q. Between the first meeting and the second meeting you had more sex with Stephanie?

A. Yes.

Q. And the kind of sex you had became more intense?

A. Yes.

Q. Each time you had sex with Stephanie, you harmed her, didn't you?

A. Yes.

Q. You would have stopped harming her in 2004 if the police knocked on your door, wouldn't you?

A. Yes.

MR. ZEFF: I have nothing further.

THE COURT: Mr. Aaron.

MR. AARON: Thank you.

- - -

CROSS EXAMINATION

- - -

BY MR. AARON:

Q. Miss Monheim, my name is Jud Aaron. I

T. MONHEIM - CROSS

1  
2 represent the Spring Grove Congregation of Jehovah's  
3 Witnesses.

4 We haven't met before, have we?

5 A. No.

6 Q. You've never been a member of the Spring Grove  
7 Congregation; correct?

8 A. Correct.

9 Q. You were a member of the Freeland  
10 Congregation; correct?

11 A. Yes.

12 Q. That's in Maryland?

13 A. Yes.

14 Q. The Spring Grove Congregation is in  
15 Pennsylvania; correct?

16 A. Yes.

17 Q. You are a defendant in this lawsuit, are you  
18 not?

19 A. Yes.

20 Q. In other words, the plaintiff, Stephanie  
21 Fessler, has sued you; correct?

22 A. Yes.

23 Q. You have not answered the Complaint, have you?

24 A. No.

25 Q. You are not defending against this lawsuit,

T. MONHEIM - CROSS

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are you?

A. No.

Q. And that's because you've already pled guilty and spent some time in jail for what you did; right?

A. Yes.

Q. When I say for what you did, I mean you had a sexual relationship with Stephanie Fessler when she was 15, 16 and you were 48, 49, 50, something in that range; correct?

A. Correct.

Q. You met Stephanie Fessler at a gathering in a park; correct?

A. Yes.

Q. Some of your children were there?

A. Yes.

Q. Stephanie Fessler became friendly with some of your children?

A. Yes.

Q. She would come over to your house and she would hang out with your children; correct?

A. Right.

Q. The elders of the Freeland Congregation, like Eric Hoffman, he wouldn't drive her to your house, would he?



T. MONHEIM - CROSS

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MR. MILLER: I object, Your Honor.

That's misstated. He said Freeland  
Congregation.

MR. AARON: I'm sorry. Thank you.

My own co-counsel is objecting. I misspoke.

BY MR. AARON:

Q. The elders of the Spring Grove Congregation,  
like Eric Hoffman, he wouldn't drive Stephanie to  
your house, would he?

A. No.

Q. Her parents would drive her?

A. Yes.

Q. And throughout the course of your  
relationship, even when it became sexual, there were  
times that Stephanie would drive herself to meet you  
at various places; correct?

A. Yes.

Q. Do you remember a time when Stephanie was 15  
that she didn't have a driving license, because she  
couldn't have one at that age, when she took her  
parents' car and she drove to meet you somewhere?

A. Yes.

Q. And sometimes you would drive to meet her?

A. Yes.

T. MONHEIM - CROSS

1  
2 Q. And you would meet in places where you thought  
3 you wouldn't get caught; right?

4 A. Yes.

5 Q. Because you were trying to keep it a secret --

6 A. Yes.

7 Q. -- correct?

8 Now, let's go back to the beginning.  
9 When Stephanie would come to your house and meet  
10 with your kids, this is after that picnic or  
11 gathering, you started your relationship by talking  
12 about various teenage problems that maybe she was  
13 having, various issues?

14 A. Yes.

15 Q. You would talk about Stephanie's mother, Jodee  
16 Fessler; correct?

17 A. Correct.

18 Q. And you would talk about the emotional or  
19 mental problems that Jodee Fessler seemed to be  
20 having; correct?

21 A. Yes.

22 Q. And Stephanie Fessler seemed upset about those  
23 emotional problems that her mother was having;  
24 correct?

25 A. Yes.

T. MONHEIM - CROSS

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Q. Did she tell you that her mother had -- would threaten to commit suicide at times?

A. Yes.

Q. Did she tell you how upsetting that was to her?

A. Yes, she did.

Q. Did she tell you that she had to take care of her mother when she was like 13 years old?

A. Yes.

Q. Did she tell you that was so difficult for her?

A. Yes.

Q. Did she tell you that she didn't have a very good relationship with her mother because of her mother's emotional problems?

A. Yes, she did.

Q. Did she describe a very troubling home -- a very troubling environment at home for a young teenager?

A. Yes.

Q. She told about you those things?

A. Yes.

Q. And then eventually they turned to a sexual relationship; right?

T. MONHEIM - CROSS

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A. Yes.

Q. You were friends for about a year before it became a sexual relationship?

A. Yes, I think so.

Q. When it became a sexual relationship, how old was Stephanie? Was she 15 at that point?

A. I believe she was.

Q. When your relationship with Stephanie became sexual in the beginning, you didn't go to the elders at the Freeland Congregation and tell them that you were having a sexual relationship?

A. No.

Q. To the outside world, you were portraying this as a friendship?

A. Yes.

Q. Maybe an odd friendship because you're older and she's younger, but a friendship?

A. Yes.

Q. Not a sexual relationship?

A. No.

Q. Because you wanted to hide that?

A. Yes.

Q. You wanted to conceal that?

A. Yes.

T. MONHEIM - CROSS

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Q. You wanted to keep that secret?

A. Yes.

Q. And you didn't go to the elders at the Spring Grove Congregation, Stephanie's congregation, you didn't tell them that you were having a sexual relationship with Stephanie Fessler, did you?

A. No.

Q. Same reasons. You wanted to keep it secret; right?

A. Yes.

Q. You didn't tell anybody. You didn't tell your kids. You didn't tell your husband. You didn't tell your neighbors. You didn't tell other congregants. You didn't tell anybody at that point that you were having a sexual relationship with teenage Stephanie Fessler, did you?

A. No, I didn't.

Q. At some point you learned of a card that Stephanie had written.

Do you recall that?

A. Yes.

Q. That was in 2004?

A. I'm not sure.

Q. Not sure what year it was?

T. MONHEIM - CROSS

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A. No.

Q. Well, let me ask you this. When you learned about the card, was it before you had met with the Freeland elders for the first time?

A. Yes.

Q. Okay. And Stephanie called you and said we've been caught or something like that; correct?

A. Yes.

Q. You've never seen that card, have you?

A. No.

Q. She didn't tell you what was written in that card?

A. No.

Q. And that's when you then spoke to the elders at the Freeland Congregation; correct?

A. Yes.

Q. You never spoke to the elders at the Spring Grove Congregation?

A. No.

Q. Just the Freeland Congregation?

A. Yes.

Q. And you spoke to them -- I think you said you spoke to them in 2004 and then you spoke to them about a year later in 2005 --

T. MONHEIM - CROSS

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A. Yes.

Q. -- correct?

When you met with the Freeland elders in 2004, you told them that the relationship was over, didn't you?

A. Yes.

Q. You told them that you wouldn't see Stephanie Fessler anymore, didn't you?

A. Yes.

Q. By the way, when Stephanie called you and told you that she had found the card, you and Stephanie had a conversation and you agreed that you would both say to the elders that nothing happened; correct?

A. Right.

Q. You agreed that you would not tell the elders, you would not tell the Freeland elders that it was sexual and Stephanie Fessler would not tell the Spring Grove Congregation it was sexual; correct?

A. Yes.

Q. And the reason you agreed that neither of you would tell the elders of either congregation that it was sexual was because you didn't want to get caught; correct?

T. MONHEIM - CROSS

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A. Yes.

Q. Because you didn't want to get in trouble;  
correct?

A. Yes.

Q. Because you didn't want to get arrested;  
correct?

A. Yes.

Q. And Stephanie didn't want you to get in  
trouble, did she?

A. No.

Q. So you made this agreement; correct?

A. Yes.

Q. And you made that agreement in 2004 after the  
card was found, didn't you?

A. Yes.

Q. You've testified to some things that you say  
you told the elders in 2004, first meeting. You  
didn't tell the elders in 2004 that you and  
Stephanie had been naked together, did you?

A. No.

Q. Or that you had oral sex?

A. No.

Q. Or that you were having sex.

You didn't tell them that, did you?



T. MONHEIM - CROSS

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A. No.

Q. That was because you didn't want to get in trouble; correct?

A. Yes.

Q. And that was the agreement that you and Stephanie made; right?

A. Yes.

Q. And Stephanie Fessler never told you that she told the Spring Grove Congregation that she was having sex with you. She didn't tell you that she told them that, did she?

A. No.

Q. And the elders told you stay away from her; correct?

A. Yes.

Q. And they gave you some religious counseling; correct?

A. Yes.

Q. Because that's what elders do. They're clergy; correct?

A. Correct.

Q. They read you some passages from the Bible, I assume?

A. Yes.

T. MONHEIM - CROSS

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Q. They encouraged you to read the Bible?

A. Yes.

Q. Because you were a member of the Jehovah's  
Witness Church; correct?

A. Right.

Q. They were members of the Jehovah's Witness  
Church; correct?

A. Correct.

Q. And you told the elders when they told you to  
stay away from Stephanie, you said that you would  
stay away from Stephanie, didn't you?

MR. FRITZ: Objection. Asked and  
answered.

THE WITNESS: Yes.

THE COURT: Overruled.

BY MR. AARON:

Q. And one of the reasons you said that is that  
you and Stephanie had discussed that and agreed that  
you would tell your respective elders; she would  
tell Spring Grove; you'll tell Freeland, we'll stay  
away from each other.

Correct?

A. Yes.

Q. Because you wanted -- just as you didn't want

T. MONHEIM - CROSS

1  
2 the world to know before 2004 that you were having  
3 sex and you kept that a secret, you wanted the world  
4 to think after the meeting in 2004 that you guys  
5 weren't going to continue to see each other;  
6 correct?

7 A. Yes.

8 Q. Because you didn't want to get in trouble?

9 A. Yes.

10 Q. After that first meeting in 2004, you and  
11 Stephanie stopped seeing each other for maybe a few  
12 weeks, a month or something like that, do you  
13 recall?

14 A. Yes, but I'm not sure of the amount of time.

15 Q. But you did resume seeing each other; correct?

16 A. Yes.

17 Q. When I say seeing each other, you resumed  
18 having a sexual relationship after you met with the  
19 elders in 2004; correct?

20 A. Yes.

21 Q. And once you resumed seeing Stephanie Fessler,  
22 having a sexual relationship with Stephanie Fessler  
23 after you met with the elders in 2004, you didn't  
24 tell the elders at the Freeland Congregation or the  
25 Spring Grove Congregation that you were continuing

T. MONHEIM - CROSS

1  
2 to see one another; right?

3 A. Right.

4 Q. Because you wanted to keep it a secret?

5 A. Yes.

6 Q. You didn't tell your kids. You didn't tell  
7 your husband. You didn't tell your congregation.  
8 You didn't tell anybody.

9 Correct?

10 A. No.

11 Q. In fact, you asked Stephanie Fessler  
12 specifically not to disclose the relationship to  
13 anybody else, didn't you?

14 A. Yes.

15 Q. And she said she wouldn't disclose the  
16 relationship; correct?

17 A. Yes, she did.

18 Q. She agreed to do that; correct?

19 A. Yes.

20 Q. And then it's about a year before you get  
21 caught, isn't it?

22 A. Yes.

23 Q. Fall of 2005 you're in a parking lot in a car  
24 with Stephanie Fessler and your husband, Dana,  
25 confronts you and Stephanie Fessler in that parking

T. MONHEIM - CROSS

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lot; correct?

A. Yes.

Q. Now you've been caught; correct?

A. Yes.

Q. I'm sorry?

A. Yes.

Q. But for that year from 2004 to 2005, no one caught you in the act, did they?

A. No.

Q. You were pretty good at keeping it secret; correct?

A. Yes.

Q. You had figured out places to go where you wouldn't get caught; correct?

A. Right.

Q. Parking lots or parks or whatever you might go; correct?

A. Yes.

Q. Sometimes she would drive there in her car?

A. Sometimes.

Q. When she turned 16 she had her own car; correct?

A. Yes.

Q. Now she didn't have to drive illegally at 15,

T. MONHEIM - CROSS

1  
2 but she could drive her own car to meet you there;  
3 correct?

4 A. Correct.

5 Q. Now, after your husband caught you in the  
6 parking lot with Stephanie in the fall of 2005, you  
7 and Stephanie went someplace, didn't you?

8 Let me ask you more specific. You and  
9 Stephanie immediately went to Stephanie's mother's  
10 place of work, didn't you?

11 A. Yes.

12 Q. And Stephanie's mother, Jodee Fessler, came  
13 out into the parking lot; right?

14 A. Yes.

15 Q. And it was a scene, wasn't it?

16 A. Yes.

17 Q. There was yelling and screaming, wasn't there?

18 A. Yes.

19 Q. And Stephanie Fessler was yelling to her  
20 mother that you two wanted to be together. That's  
21 what she was yelling to her mother, wasn't she?

22 A. Yes.

23 Q. And at that point, this is the fall of 2005,  
24 Stephanie is 16, almost 17 years old; correct?

25 A. Yes.

T. MONHEIM - CROSS

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Q. And that's really the first time, the fall of 2005, that you and Stephanie revealed the full nature of your relationship to anyone, isn't it?

A. Yes.

Q. You met with the Freeland elders again. This is in 2005?

A. Yes.

Q. At this point you were not denying it was a sexual relationship?

A. No.

Q. And the elders told you stop seeing Stephanie Fessler, didn't they?

A. Yes.

Q. You told them that you would?

A. Yes.

Q. And this time you did?

A. No, I didn't. I didn't see her again.

Q. Right. Right.

So in the fall of 2005 you and Stephanie Fessler stopped seeing one another; correct?

A. Yes.

Q. No more sex?

A. No.

T. MONHEIM - CROSS

1  
2 Q. Relationship over?

3 A. Yes.

4 Q. For good?

5 A. Yes.

6 Q. For all time?

7 A. Yes.

8 Q. Isn't it true, Ms. Monheim, if you had not  
9 started a sexual relationship with Stephanie  
10 Fessler, we would not be here today?

11 A. Yes.

12 MR. AARON: One moment, Your Honor.  
13 Thank you. I have nothing further,  
14 Your Honor.

15 BY MR. MILLER:

16 Q. Mrs. Monheim, I'm John Miller. We've met  
17 before?

18 A. Yes.

19 Q. In fact, I've been to your home to visit with  
20 you, haven't I?

21 A. Yes.

22 Q. It was 2011 when you were contacted by the  
23 police; is that right?

24 A. Yes.

25 Q. And it was 2012 when you went to jail for



T. MONHEIM - CROSS

1  
2 three months and you got out of jail in the fall or  
3 winter of 2012?

4 A. In August.

5 Q. Did Stephanie try to friend you on Facebook  
6 then?

7 A. Yes, she did.

8 MR. ZEFF: Objection.

9 THE COURT: Sustained.

10 Disregard.

11 BY MR. MILLER:

12 Q. Have you had any other contact with Stephanie  
13 since that time?

14 MR. ZEFF: Objection.

15 THE COURT: Sustained.

16 Disregard the question.

17 BY MR. MILLER:

18 Q. The two times you spoke with Gary Neal and  
19 Scott Wagner, the second time Don Hollingworth was  
20 with those two gentlemen at least for a judicial  
21 hearing; correct?

22 A. Yes.

23 Q. But there was no judicial hearing the first  
24 time, was there?

25 A. No.

T. MONHEIM - CROSS

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Q. It was just the two elders you told them it was kissing and hugging. You didn't mention any touching of the breasts or anything sexual the first time? The first time, 2004.

A. Yes.

Q. Now, at that point in time, you and Stephanie had already talked to one another, hadn't you? Before you saw those elders, you and Stephanie concocted your story?

A. Yes.

Q. And the story was going to be that it was just a surrogate mother/daughter relationship. I was like a mother. She was like a daughter.

Right?

A. Yes.

Q. You explained to those elders her mother is having problems. She needs a mother and I play the part of a mother. That's all it was. That's what you told these elders.

A. Yes.

Q. And so you weren't saying we were kissing, making out; you were saying the kissing and hugging was like a mother would kiss a daughter; right?

MR. FRITZ: Objection.

T. MONHEIM - CROSS

THE COURT: Just a moment.

Overruled.

You may answer.

BY MR. MILLER:

Q. Right?

A. Yes.

Q. And so these elders had every reason to trust you. Married, mother of six, coming to meetings, bringing your children to meetings. They had no reason from anything you told them that this was a homosexual relationship. No reason to suspect that at all, did they?

MR. ZEFF: Objection.

THE COURT: Sustained.

Don't answer.

BY MR. MILLER:

Q. Did you give the elders anything for them to suspect that there was anything sexual in 2004?

A. No.

MR. MILLER: Pass the witness, Your Honor.

- - -

REDIRECT EXAMINATION

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T. MONHEIM - REDIRECT

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BY MR. ZEFF:

Q. In 2004, you told Gary Neal and Mr. Wagner that you were making out with Stephanie, didn't you?

A. No, I don't believe I did.

MR. ZEFF: Can we go to page 102 of her deposition, please. I'm sorry, let's go to page 51 of the deposition, line 11 through 13.

BY MR. ZEFF:

Q. You were asked. And what did you tell them? And your answer was what?

A. Nothing was really going on except --

THE COURT: Keep your voice up, please.

THE WITNESS: Nothing was really going on except kissing.

BY MR. ZEFF:

Q. So would you like to change your answer that you just gave Mr. Miller? Isn't that the correct answer?

A. Nothing was going on --

THE COURT: I can't hear you.

THE WITNESS: Nothing was going on except kissing?

T. MONHEIM - REDIRECT

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BY MR. ZEFF:

Q. Yes. That's what you told them in 2004, isn't it?

A. Yes.

Q. That's what you told us under oath in the deposition?

A. Yes.

Q. And the elders found out you were making out with Stephanie and they helped you keep it secret, didn't they?

A. Yes.

MR. ZEFF: Nothing else, Your Honor.

MR. AARON: Nothing further, Your Honor.

MR. MILLER: Nothing further. Thank you.

THE COURT: All right. Thank you. You can step down.

(WITNESS EXCUSED.)

MR. FRITZ: Detective Lisa Layden is our next witness. Oh, sorry.

THE COURT: Just a moment. Just a moment. Let's go to sidebar.

(DISCUSSION HELD AT SIDEBAR AS

C O L L O Q U Y

1  
2 FOLLOWS:)

3 MR. MILLER: I'm sorry.

4 THE COURT: Just a moment. You're  
5 calling the detective now? We just had this  
6 long preliminary discussion.

7 MR. FRITZ: I perhaps was mistaken,  
8 but what I heard Your Honor say is that you  
9 would -- the plaintiffs can decide the order  
10 of their proofs.

11 THE COURT: Yes, I did say that. But  
12 I'm a little surprised that you didn't take  
13 my discussion regarding trying to coordinate  
14 with counsel and come to a fashion. I  
15 understand they have someone here.

16 Who is it that's here?

17 MR. AARON: Gary Neal from Baltimore,  
18 I believe.

19 THE COURT: They have someone from  
20 Baltimore. And today is Friday and you could  
21 probably get through this witness today.

22 MR. FRITZ: Okay. Let's call him,  
23 but I just want to place on the record what  
24 we discussed before. Lisa Layden is getting  
25 married Tuesday and she's been here since

C O L L O Q U Y

1  
2 Tuesday.

3 THE COURT: So now we have another  
4 wrinkle which is now the witness is getting  
5 married on Tuesday.

6 MR. AARON: I guess what I would  
7 suggest is if we put Detective Layden on the  
8 stand first thing Monday morning, I do not  
9 anticipate a lengthy exam of her. I mean I  
10 think mine will be ball park half an hour.

11 THE COURT: Hold on. Let me ask you  
12 this question. If we put the detective on  
13 now, and I'm wasting time, it's quarter of  
14 11, if we put her on now, will she be  
15 finished today?

16 MR. FRITZ: I believe so. And what I  
17 was going to suggest is perhaps we would do  
18 Gary Neal by video later while he's here.

19 MR. VERNICK: How long do you have  
20 with Detective Layden?

21 THE COURT: Go off the record now.

22 (OFF THE RECORD DISCUSSION.)

23 THE COURT: Let's go back on the  
24 record so we can get this on the record.

25 MR. MILLER: May I ask Gary and his

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C O L L O Q U Y

wife? He's only 64. He's not old. May I ask him if there's any problem?

MR. ZEFF: If he would rather come back Monday.

MR. AARON: We'll do him this afternoon by videotape or we'll bring him back Monday.

THE COURT: Thank you. So let's go.

(END OF SIDEBAR DISCUSSION.)

THE COURT: All right, detective, come right up.

THE COURT CRIER: State your full name for the record and spell your last name, please, badge number, district.

THE WITNESS: Lisa Layden.  
L-A-Y-D-E-N. And I'm employed by Southwestern Regional Police Department, York County, Pennsylvania. My badge number is 05.

LISA LAYDEN, after having been first duly sworn, was examined and testified as follows:

- - -

DIRECT EXAMINATION

QUALIFICATIONS



L. LAYDEN - DIRECT (QUALIFICATIONS)

- - -

BY MR. FRITZ:

Q. Good morning, detective.

A. Good morning.

Q. What do you do at the Southwestern Regional Police Department?

A. Currently I am detective sergeant and what that involves is being in charge of all criminal investigations. I'm the primary child abuse investigator and I also handle violent felonies, complex felonies and I oversee any other investigations that are being investigated by the department.

Q. How long have you worked with the Southwestern Regional Police Department and how long have you worked in law enforcement?

A. I've been in law enforcement a total of about 22 years. I went to the police academy in 1995 and straight out of there I worked part time at a department in Cumberland County, Pennsylvania for approximately three or four months.

And then I was hired full-time by North Codorus Township Police Department in York County and that was in February of 1996. And in

L. LAYDEN - DIRECT (QUALIFICATIONS)

1  
2 2002 that department became Southwestern Regional  
3 Police Department where I'm still employed today.

4 Q. You have investigated cases of suspected child  
5 abuse during your career; right?

6 A. Yes. I've investigated many cases.

7 Q. Can you estimate and tell the jury how many  
8 times you've investigated child abuse cases?

9 A. Approximately 260.

10 Q. When did you start receiving any training in  
11 child abuse issues relating to child abuse and  
12 reporting of child abuse?

13 A. When I was first hired at my full-time  
14 position in North Codorus Township in February  
15 of 1996, I was immediately assigned to be the  
16 primary child abuse investigator.

17 At that time I started receiving  
18 training immediately through the York County  
19 District Attorney's Office.

20 Q. Have you conducted or observed forensic  
21 interviews of children?

22 A. Yes. I've observed about that many interviews  
23 as well.

24 Q. What is a forensic interview?

25 A. A forensic interview is conducted by the

L. LAYDEN - DIRECT (QUALIFICATIONS)

1  
2 investigator along with a prosecutor in some cases.

3 We also in York County established the  
4 Children's Advocacy Center in 2006. And at that  
5 time we began employing forensic interviewers that  
6 have a high level of training in child development  
7 issues and they also have a high level of training  
8 in interviewing.

9 And so then we switched from a system  
10 of police detective and prosecutor conducting the  
11 interview to a forensic interview at the Children's  
12 Advocacy Center.

13 Q. Before the time of the Child Advocacy Center  
14 opening, you would conduct interviews of children?

15 A. Yes.

16 Q. And children were suspected to be victims of  
17 child abuse?

18 A. Yes, I did.

19 Q. And you received specific training on how to  
20 work with children; how to interview children?

21 A. Yes. As I said, my training began  
22 immediately. And who I worked with were the  
23 assigned prosecutors. What we call the child abuse  
24 unit in York County is the Special Crimes Unit and  
25 there are specific prosecutors and county detectives

1                    L. LAYDEN - DIRECT (QUALIFICATIONS)

2            that are assigned to that unit and they assist  
3            police officers in investigating child abuse.

4            Q.        Can you just -- you hold some degrees you went  
5            to school for; correct?

6            A.        Yes, I do.

7            Q.        What are those degrees?

8            A.        I have a Bachelor's degree in behavioral  
9            science. I have a Master's degree in public  
10           administration. And currently I'm a doctoral  
11           candidate for Indiana University of Pennsylvania in  
12           sociology.

13           Q.        Through your education and through the  
14           experience that you described, do you have  
15           familiarity with the law in Pennsylvania on what's  
16           called the Child Protective Services Law?

17           A.        Yes. A lot of my training and update training  
18           included information about the Child Protective  
19           Services Law as well as amendments and changes to  
20           the law over the years.

21           Q.        And what is that law?

22           A.        The Child Protective Services Law is meant to  
23           protect children from child abuse. What it does is  
24           it sets the requirements and the mandates for who  
25           must report, how the records are maintained, and how

L. LAYDEN - DIRECT (QUALIFICATIONS)

1  
2 they are disseminated.

3 It calls for operation of a statewide  
4 database, which we call ChildLine. And through that  
5 they operate a toll-free, 24-hour-a-day,  
6 seven-days-a-week place to take in referrals. And  
7 then they create a report from there and maintain a  
8 database and, as I said, disseminate the  
9 information.

10 Q. In your job as a primary abuse investigator,  
11 do you use this law every week in your job?

12 A. Yes. It's involved in some way in most child  
13 abuse referrals.

14 Q. And you conduct investigations under that law  
15 every week of your job?

16 A. Yes.

17 MR. FRITZ: Any questions on voir  
18 dire?

19 MR. AARON: Yes.

20 THE COURT: Very good. Why don't you  
21 take -- do you want to do it from there, sir?

22 MR. AARON: I can do it from the  
23 here.

24 THE COURT: All right. Make sure  
25 that mike is pulled towards you.

1                    L. LAYDEN - CROSS (QUALIFICATIONS)

2                    MR. AARON:    Okay.

3                    THE COURT:    Proceed.

4                    - - -

5                    CROSS EXAMINATION

6                    QUALIFICATIONS

7                    - - -

8                    BY MR. AARON:

9                    Q.            Detective Layden, my name is Jud Aaron and I  
10                  represent the Spring Grove Congregation of Jehovah's  
11                  Witnesses.

12                                    You're familiar with Spring Grove?

13                  A.            Yes.

14                  Q.            I think you testified in your department  
15                  you're the primary investigator of crimes against  
16                  children?

17                  A.            Yes, that's correct.

18                  Q.            So if your department receives a report that  
19                  an underaged person has been abused physically or  
20                  sexually, you're likely to be the officer or  
21                  detective who would investigate that?

22                  A.            I would say more than likely. I handle  
23                  probably 99 percent of our child abuse  
24                  investigations.

25                  Q.            And broadly speaking, your expertise is in the

1                    L. LAYDEN - CROSS (QUALIFICATIONS)

2                    investigation of crimes with a special emphasis on  
3                    crimes against children; correct?

4                    A.            I'm sorry, could you repeat the question.

5                    Q.            That broadly speaking, your expertise is in  
6                    the investigation of crimes with an emphasis on  
7                    crimes against children?

8                    A.            I have a long list of training. I do have  
9                    extensive training in child abuse, but I also  
10                   received extensive training in other types of  
11                   criminal investigations.

12                   Q.            Criminal investigations. So your expertise  
13                   is, broadly speaking, in criminal investigations;  
14                   correct?

15                   A.            Yes. Criminal investigations and related  
16                   issues.

17                   Q.            Okay.

18                                      You conduct interviews as part of your  
19                   investigations?

20                   A.            I did between 1996 and 2006.

21                   Q.            You're familiar, I think you said, with the  
22                   Child Protective Services Law, the Pennsylvania  
23                   Child Protective Services Law?

24                   A.            Yes, I'm familiar with it.

25                   Q.            You know the statutory citation to that law?

1                    L. LAYDEN - CROSS (QUALIFICATIONS)

2            A.        I don't know if I know the exact number, no.

3            Q.        You don't know the number.

4                    Well, do you know that the number, the  
5            statutory citation to the provision of the Child  
6            Protective Services Law that requires reporting of  
7            suspected child abuse?

8            A.        I believe it's Chapter 24. I don't know the  
9            specific sections that outline that.

10          Q.        If I told you it's Chapter 23, would you have  
11          any reason to disagree with me?

12          A.        No.

13          Q.        You're aware, you said, that the Child  
14          Protective Services Law has been amended since it  
15          was first enacted?

16          A.        Am I aware of the amendments?

17          Q.        I think you said you were aware it has been  
18          amended?

19          A.        Yes.

20          Q.        And the Child Protective Services Law was  
21          first enacted sometime in the 1990s; correct?

22          A.        The Child Protective Services Law I believe  
23          was 1973.

24          Q.        1973.

25                    And the version of the Child



1                    L. LAYDEN - CROSS (QUALIFICATIONS)

2            Protective Services Law that applies to this case is  
3            what version?    What year?

4            A.        I would have to look at all the specific  
5            amendments, because the law began in that year and  
6            there's different amendments to different sections  
7            of that law.

8            Q.        So you don't know what amendment to the Child  
9            Protective Services Law, what year's amendment  
10           applies to this case, do you?

11           A.        Specifically are you talking about?

12           Q.        I'm talking about the reporting requirement.  
13           The provision of the law, and I'll tell you the  
14           section, it's 23 Pennsylvania Statute, Section 6311.

15                          You don't know what year's amendment  
16           to Section 6311 applies to this case, do you?

17           A.        I would say most likely it would be the 1994  
18           amendment that added clergy to the list of the  
19           mandated reporter.

20           Q.        If I was to tell you it was the 2002  
21           amendment, would you have any reason to disagree  
22           with me?

23           A.        I'm not sure.    I don't memorize all the  
24           amendments and the years of the changes.

25           Q.        Are you aware that various Pennsylvania courts





L. LAYDEN - CROSS (QUALIFICATIONS)

1  
2 facts are and you've gathered the evidence, a lawyer  
3 determines whether a prosecution should be brought  
4 under the law, including under the Child Protective  
5 Services Law; correct?

6 A. Yes, that's correct. The --

7 Q. I'm sorry?

8 A. Yes, that's correct. The District Attorney  
9 makes a determination on any charges that are filed  
10 and what those charges will be.

11 Q. Because District Attorneys are lawyers;  
12 correct?

13 A. Yes.

14 Q. So after you've conducted your investigation  
15 as to the facts and the evidence, you now go to the  
16 York County District Attorney's Office for an  
17 attorney to make a determination as to whether what  
18 happened violated the law of Pennsylvania; correct?

19 A. Yes, that's correct.

20 Q. Okay. Have you published any articles on the  
21 Child Protective Services Law such as in newspapers  
22 or magazines or law enforcement periodicals, that  
23 kind of thing?

24 A. At this point I have not.

25 Q. So no. You haven't taught any courses on the

1                    L. LAYDEN - CROSS (QUALIFICATIONS)

2            Child Protective Services Law; correct?

3            A.        I've provided several presentations.

4            Q.        Okay. I assume that as a long-time police  
5            officer you've testified in court many times?

6            A.        I have testified hundreds of times.

7            Q.        Have you ever been qualified by a court of the  
8            Commonwealth of Pennsylvania to testify as an expert  
9            witness on the Pennsylvania Child Protective  
10           Services Law, Title 23 of the Pennsylvania Statutes,  
11           Section 6311? Yes or no.

12           A.        I have not.

13           Q.        Have you ever been qualified as an expert in  
14           any court to testify on that law?

15           A.        I have not.

16                            MR. AARON: Thank you, Your Honor. I  
17                            don't know if you want to hear argument.

18                            THE COURT: No, we'll go to sidebar.

19                            MR. AARON: Thank you.

20                            THE COURT: We'll take a short  
21                            recess. No more than ten minutes. We'll  
22                            take a comfort break. Put your notes under  
23                            your chairs.

24                            (Jury out at 10:57 a.m.)

25                            THE COURT: You can step down while

C O L L O Q U Y

1  
2 we do this. Everyone be seated while we do  
3 this.

4 Your motion, sir?

5 MR. AARON: My objection -- it's an  
6 objection. I'm objecting to Detective Layden  
7 being qualified as an expert in the  
8 Pennsylvania Child Protective Services Law,  
9 that statute.

10 The basis of the objection is  
11 although Detective Layden is clearly an  
12 experienced investigator --

13 THE COURT: I think we're getting an  
14 objection before we had the offer.

15 MR. AARON: Oh, yes.

16 THE COURT: What are you offering  
17 this witness as an expert in?

18 MR. FRITZ: In child abuse and child  
19 abuse investigation under the Child  
20 Protective Services Law.

21 MR. AARON: Well, I have no objection  
22 to this witness testifying as to her  
23 expertise in investigations and even  
24 specifically investigations of child abuse.  
25 But I do have an objection to this witness

C O L L O Q U Y

1  
2 offering any opinion as to what the  
3 requirements, including the reporting  
4 requirements, of the Child Protective  
5 Services Law are particularly with respect to  
6 this case.

7 This witness said she's not a lawyer.  
8 Lawyers make those determinations. She  
9 doesn't have legal training in this law.  
10 She's an investigator.

11 THE COURT: Sir.

12 MR. FRITZ: What they're seeking to  
13 do is attack the weight of her expertise in  
14 this area. She works with this law every  
15 day. She's familiar with it. She doesn't  
16 have to be the most qualified expert in the  
17 world on this issue. She has knowledge and  
18 training and experience to support that.

19 The other thing that they're arguing  
20 is that she would offer an opinion on the --  
21 express an opinion on the ultimate issue in  
22 the case, which is perfectly permissible  
23 under the rules of court.

24 MR. AARON: Her opinion, I believe,  
25 the detective's opinion, I assume will be

C O L L O Q U Y

1  
2 that under the facts of this case as she  
3 believes them to be, the defendants or the  
4 elders should have reported under the Child  
5 Protective Services Law. And that's a legal  
6 determination.

7 And also to the extent that she's  
8 going to offer an opinion that they should  
9 have reported under any other law such as  
10 common law --

11 MR. FRITZ: She's not offering that  
12 opinion.

13 MR. AARON: Okay. So we really are  
14 cabined into the Child Protective Services  
15 Law.

16 THE COURT: I'm going to overrule  
17 your objection.

18 So let's take a short recess and then  
19 we'll come back and continue with this  
20 witness.

21 (RECESS TAKEN.)

22 THE COURT CRIER: Please rise.  
23 Jurors entering the room.

24 (Jury in at 11:14 a.m.)

25 THE COURT: All right, ladies and



1                                    L. LAYDEN - DIRECT

2                    gentlemen, let me say that I have a meeting  
3                    at 12 today.

4                    MR. FRITZ: Your Honor, at this time  
5                    we offer Detective Layden as an expert in  
6                    child abuse and child abuse investigation  
7                    under the Child Protective Services Law.

8                    THE COURT: All right. She's  
9                    accepted.

10                                    - - -

11                                    DIRECT EXAMINATION

12                                    - - -

13 BY MR. FRITZ:

14 Q.        Now, Detective Layden, I'm going to ask you  
15        some information about your investigation and also  
16        some of your opinions. And before I do that, can we  
17        agree that the opinions that you're stating you will  
18        state to a reasonable degree of certainty in your  
19        field?

20 A.        Yes, I will.

21 Q.        And we talked a little bit about the Child  
22        Protective Services Law.

23                    Who is it, generally speaking, who  
24        must report suspected child abuse?

25 A.        The Child Protective Services Law lists a list

L. LAYDEN - DIRECT

1  
2 of the mandated reporters and they include people  
3 that during their profession or involved in an  
4 organization or involved in any way with children  
5 and they list mandated reporters.

6 Q. And members of clergy in Pennsylvania as of  
7 2004, were they mandatory reporters?

8 A. Yes.

9 Q. And who is a report to be made to under that  
10 law?

11 A. A report is to be made to the authorities.  
12 Ideally the report goes to ChildLine, but they also  
13 may report to the county Children and Youth  
14 Organization.

15 Q. And does anybody else -- can anyone else take  
16 a report other than ChildLine and Children and  
17 Youth?

18 A. Yes. What we have in Pennsylvania is we like  
19 to use ChildLine, but mandated reporters can also  
20 report to their local police department and often  
21 they do. Sometimes people report directly to the  
22 District Attorney's Office. And sometimes they  
23 report directly to Children and Youth.

24 What happens at that point, though, is  
25 those organizations still report to ChildLine so

L. LAYDEN - DIRECT

1  
2 that it's insured that the report gets to all three  
3 of those investigative organizations.

4 Q. And why is it important for the report to get  
5 to all three of those agencies?

6 A. Well, it's important so that no aspect of the  
7 investigation falls through the cracks. There may  
8 be cases that are only involving criminal matters  
9 and there may be cases that only involve family  
10 matters and there's cases that involve both.

11 So the reason that ChildLine was  
12 established that way to disseminate is so that all  
13 three organizations get to review the report.

14 Q. Now, in Pennsylvania when a person makes a  
15 report to one of these agencies, do they have to be  
16 certain that there's abuse?

17 A. No. Actually, the opposite is true. It  
18 doesn't require that they know the details or that  
19 they know if it violates a law or not. The standard  
20 is reasonable suspicion that child abuse may have  
21 occurred or may occur.

22 Q. And, in fact, that's what the law says. It  
23 says reasonable cause to suspect; right?

24 A. Yes.

25 Q. And do you have an understanding of why that

1                                    L. LAYDEN - DIRECT

2            is the standard for reporting and not something  
3            different?

4                                    MR. AARON:  Objection.

5                                    THE COURT:  Sustained.  No, I'm going  
6            to overrule it.

7                                    The question is -- repeat the  
8            question.

9                                    MR. FRITZ:  Sure.

10            BY MR. FRITZ:

11            Q.        Let me ask it this way.

12                                    In your training and your experience,  
13            do you have an understanding of why it is that the  
14            standard for reporting is just a reasonable  
15            suspicion?

16                                    MR. AARON:  My objection is that  
17            that's a legislative issue.

18                                    THE COURT:  Overruled.  That's a yes,  
19            no question.

20                                    THE WITNESS:  I'm sorry?

21            BY MR. FRITZ:

22            Q.        Let me repeat the question.  Based on what  
23            you've learned and in your experience, do you have  
24            an understanding of why it is that the standard for  
25            reporting is a reasonable suspicion of abuse?

L. LAYDEN - DIRECT

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A. Yes.

Q. And what is your understanding?

MR. AARON: Same objection.

THE COURT: Overruled.

You may answer.

THE WITNESS: The reason is we don't want mandated reporters to feel like they have to have an understanding of whether it violates a law or not or whether the children services -- children need services may be necessary; we just want them to report if they suspect child abuse has occurred or may occur.

BY MR. FRITZ:

Q. Why is it that the report needs to be made to those agencies?

A. So that intervention can happen and children can be assured of safety and there's not going to be any further abuse. So that an investigation can be instigated, if necessary.

Q. How about a victim, a minor, somebody under 18? Do they have a duty to report that they're being abused?

A. The victim of a crime? No.

L. LAYDEN - DIRECT

1  
2 Q. Now, once a report is made, who is it then --  
3 who interviews the complainant or the victim, the  
4 child?

5 A. In York County if the victim is under 18,  
6 there's a Children's Advocacy Center. If the person  
7 is over 18, then they are interviewed at the York  
8 County District Attorney's Office.

9 Q. When they're interviewed, are they interviewed  
10 by somebody who is trained in speaking to children  
11 and interviewing children who might have been or not  
12 have been abused?

13 A. Yes, at both places. At the Children's  
14 Advocacy Center those persons are trained to  
15 interview children. And if the person is  
16 interviewed at the District Attorney's Office, it's  
17 with a detective that has training in interviewing  
18 child abuse victims and a prosecutor that has  
19 training with interviewing child abuse victims.

20 MR. MILLER: Pardon me, Your Honor.

21 A late objection. That sounds like what's  
22 current. She already told us something else  
23 about what was the fact in 2004 and so I  
24 object.

25 THE COURT: Sustained.

1                                    L. LAYDEN - DIRECT

2                                    You can clarify that.

3                                    MR. FRITZ: Sure.

4 BY MR. FRITZ:

5 Q.        What you just described in interviewing kids  
6 and who interviews them, was it any different today  
7 than it was in 2004?

8 A.        Yes. As I spoke of earlier, when I began  
9 child abuse investigation in 1996, I received  
10 training on how to interview children and I worked  
11 with the county prosecutor, who was also trained in  
12 child abuse investigation, and the county detective,  
13 who also had the same type of training.

14                                    In 2006, York County formed the  
15 Children's Advocacy Center. And then from that time  
16 we had forensic interviewers who interviewed persons  
17 under the age of 18 there.

18 Q.        Now, I asked you a moment ago about whether  
19 victims, children have an obligation to report child  
20 abuse. How about parents of children? Do they have  
21 an obligation under the law?

22 A.        In Pennsylvania parents are not mandated  
23 reporters.

24 Q.        Now, you were here, not yesterday, the day  
25 before yesterday, Wednesday. You were here when the

L. LAYDEN - DIRECT

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elder from the Spring Grove congregation, Eric Hoffman, testified; is that correct?

A. Yes, I was.

Q. And when he testified that he had obtained information and suspected abuse of Stephanie, based upon what he had learned from Stephanie or her parents, do you have an opinion regarding whether he had an obligation to report that under the Child Protective Services Law?

A. Yes. As a mandated reporter, he should have reported the information to the authorities.

Q. And based upon what he learned -- strike that.

He had learned information about kissing; correct?

A. Yes.

Q. And touching of the breasts.

You heard him testify to that?

A. Yes, I did.

Q. Have you made reports to ChildLine or Children and Youth for things like that?

A. Yes. I've made many reports to ChildLine and there have been made many reports to our department by those officers.

Q. Have you made reports for things even less



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2 than that? Less than kissing or touching of the  
3 breasts.

4 MR. AARON: Objection. It's not this  
5 case.

6 THE COURT: Sustained.

7 BY MR. FRITZ:

8 Q. Let me ask it this way.

9 What type of things have you either  
10 seen or yourself reported relating to abuse or  
11 suspected abuse of a child?

12 MR. AARON: Same objection.

13 THE COURT: Sustained.

14 BY MR. FRITZ:

15 Q. Why is it that you investigate and call  
16 ChildLine?

17 A. Again, as I said before, to intervene and  
18 ensure safety of the child so that there's not  
19 further abuse and to instigate an investigation.

20 Q. I'm going to ask you some questions now about  
21 your investigation into this matter.

22 You investigated based upon a call you  
23 received from Stephanie Fessler; right?

24 A. She actually came to the police station and I  
25 spoke with her there.

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Q. And when is it that she came?

A. July 26th of 2011.

Q. Do you know roughly how old Stephanie was at that time?

A. I believe she was 22 or 23.

Q. Now, is that the first that you had received any calls about Stephanie?

A. No. There was a missing persons report filed in regards to her in 2005.

Q. And who is it that filed that report?

A. Her mother, Jodee Fessler.

Q. When she filed the report, did you ever talk to Stephanie?

A. No, I did not.

Q. Did you receive some information that she had returned home?

A. Yes. When we take a runaway report, we contact the reporting party within 24 hours, because if the child hasn't returned, we have further duties. And so I contacted her within 24 hours and she told me that Stephanie had returned.

Q. Did you conduct any investigation further into that missing persons report?

A. I do what we normally do for a runaway report.

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2 We take the information and then we enter it into a  
3 national database that all federal, state, county  
4 and local officers have access to. So if they do  
5 come across the child, they call our department and  
6 we return them to their parents.

7 So I did that. And, like I said, then  
8 I had contacted her within 24 hours and I verified  
9 that she had returned.

10 Q. Did you at any time between 2004 and when  
11 Stephanie came into your department in 2011, had you  
12 received a call or message or anything from any  
13 elder or anybody from the Watchtower, the Christian  
14 Congregation, the Spring Grove Congregation to  
15 report suspected abuse of Stephanie?

16 MR. MILLER: Objection. Assumes an  
17 obligation that doesn't exist on the part of  
18 the Watchtower and CCJW.

19 THE COURT: Overruled.

20 THE WITNESS: No, I didn't receive  
21 any reports like that.

22 BY MR. FRITZ:

23 Q. When Stephanie contacted you in 2011, what  
24 information did you get from her?

25 A. She came in and she told me about a

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2 relationship that we had with a person named Terry  
3 Seipp that occurred some years back when Stephanie  
4 was 14 to 16 years old and Terry Seipp was  
5 approximately 50 years old.

6 Q. Did you gain some information how it is that  
7 Stephanie met Terry Seipp?

8 A. She told me she met her at a church function  
9 through the Jehovah's Witness Church.

10 Q. Now, by relationship do you mean -- what kind  
11 of relationship?

12 A. She told me that they had a romantic  
13 relationship and that they had sexual contact.

14 Q. And what, at that time, what was the  
15 information you learned about their sexual contact?  
16 What type of sexual contact was it?

17 A. What happens is when a person comes in and  
18 reports, we get the basic information and then we  
19 schedule an interview so that we can interview the  
20 person with the prosecutor.

21 And that happened within I believe a  
22 day or two of that report. So through that  
23 interview, I learned that Stephanie met Terry Seipp  
24 when she was approximately 13 years old. And that  
25 she had -- Stephanie had a strained relationship

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2 with her mother. That Terry acted in a motherly  
3 role and took her under her wing and she began  
4 spending time with her.

5 And at approximately the age of 14,  
6 that they embarked on an intimate relationship that  
7 included kissing, touching, oral sex, and digital  
8 penetration and that it lasted approximately two  
9 years.

10 Q. And did you gain some information about how  
11 old Stephanie was at the time that they first  
12 kissed?

13 A. 14 years old.

14 Q. How about when there was first any touching  
15 between the two of them?

16 A. Also 14 years old.

17 Q. And how about sexual activity like penetration  
18 or oral sex?

19 A. Stephanie said that the first time she  
20 recalled that occurring was when she was 15 years  
21 old.

22 Q. How do you know that? That that was her age.

23 A. When we conduct an interview, we have a  
24 certain protocol where we let the person tell their  
25 full story first and then we go back and ask them

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2 when the first time this occurred was, if they  
3 recalled that and the details. And then we ask them  
4 when the last time that it occurred, if they could  
5 recall the details.

6 And the reason for that is determining  
7 a time period. And then for specific offenses in  
8 Pennsylvania, determining what age the person was.

9 And what she told me about that is  
10 that she specifically remembered she was 15 because  
11 she didn't have her driver's license yet and she  
12 took her parents' car anyway and went to visit  
13 Terry.

14 Q. Did you find out how many times this type of  
15 activity, the kissing, the sexual activity, occurred  
16 between Terry and Stephanie?

17 A. We do ask an approximate number of times and I  
18 believe she related 20 to 30 times.

19 Q. In your report -- let me ask you this, the  
20 years over which this took place, when was that?

21 A. It would have been probably 2003 when she met  
22 her, because she said she was 13. So it would have  
23 been 2003 to 2005.

24 Q. You had a report that said 2004 to 2006;  
25 correct?

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A. That's -- yeah, probably an approximate time period. Sometimes we include the whole time period of when someone met the person that they're involved with.

Q. Now, did you learn through your investigation if anyone else became aware of this activity, the kissing and the sexual activity between Stephanie and Terry Seipp?

A. Yes. Stephanie told me that her parents found out about it when she was 15.

Q. And anyone else?

A. She told me that her parents reported it to the church elders.

Q. And when or how did that happen? Do you have an understanding of how it is that this is reported to the church elders?

A. She told me that her mother found a letter from Terry. And that she at that point told the church elders about the letter and what she suspected.

Q. You're referring to a card from Stephanie? Is that what you're referring to?

A. I believe she said it was a card from Terry.

Q. Do you have an understanding of how many times

L. LAYDEN - DIRECT

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2 the inappropriate activity and the sexual activity  
3 was reported to elders?

4 A. Stephanie related that there were two  
5 occasions that she met with church elders to discuss  
6 that.

7 Q. Would that have been in 2004 and 2005?

8 A. Yes.

9 Q. So after meeting with Stephanie, what was the  
10 next part of your investigation?

11 A. After I met with her, I began doing  
12 investigation into who this person, Terry Seipp, was  
13 and trying to locate her at that point in time. It  
14 had been quite a few years since Stephanie had known  
15 where she lived or anything like that.

16 And then I interviewed Stephanie's  
17 mother, Jodee Fessler. I spoke with her father,  
18 Kevin Fessler. I interviewed Terry Seipp's  
19 ex-husband at the time, William Seipp.

20 Q. Let's start with talking to Jodee.

21 Do you recall what you learned  
22 interviewing her, Stephanie's mother, Jodee?

23 A. Yes. She told me that Stephanie had met Terry  
24 Seipp when she was about 13 years old and she told  
25 me about having suspicions and finding out when



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2 Stephanie was 15 that they were having an intimate  
3 relationship. She also told me that she reported  
4 that to the church elders.

5 Q. Did you learn any information about a TV movie  
6 or TV show that -- from Jodee?

7 A. Yes. Part of what she told me is that when  
8 Stephanie was 14 years old, they were watching some  
9 type of TV program that was about some type of child  
10 abuse situation and Stephanie had asked her a lot of  
11 questions, particularly questioning her mother that  
12 that type of activity was illegal or that someone  
13 could get in trouble for it. And that made Jodee  
14 suspicious of why Stephanie was asking her that.

15 Q. Do you have a recollection of what that TV  
16 show was about or TV movie?

17 A. I don't know the specifics of it, no.

18 Q. Did Jodee report to you any information about  
19 what she observed in the body language between  
20 Stephanie and Terry?

21 A. Yes. She talked in particular about seeing  
22 Terry drop her off in her vehicle and that the way  
23 that they talked and laughed and touched each other  
24 seemed inappropriate.

25 Q. That information, did anybody from the

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2 congregations, the Watchtower, Christian  
3 Congregation, they ever report that information to  
4 you?

5 MR. MILLER: Objection.

6 THE COURT: Overruled.

7 You may answer.

8 THE WITNESS: As I said, I did not  
9 receive a report from them.

10 BY MR. FRITZ:

11 Q. And did you ever interview any elders or try  
12 to interview any elders from the congregation?

13 A. I did not interview any elders. I had  
14 prepared a search warrant for records. Stephanie  
15 indicated that --

16 MR. AARON: Objection, Your Honor.

17 We had a ruling on this.

18 THE COURT: Sustained.

19 Disregard the answer as given.

20 BY MR. FRITZ:

21 Q. Without telling us about the search warrant,  
22 which we can't talk about, did you have a  
23 conversation with Elder Hoffman?

24 A. I did not interview him about this  
25 investigation, no.

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2 Q. Had you ever gotten information from other  
3 churches and religious organizations in the course  
4 of your investigating expected child abuse?

5 MR. AARON: Same objection.

6 THE COURT: Sustained.

7 Don't answer.

8 BY MR. FRITZ:

9 Q. How did your involvement in your investigation  
10 in this case end?

11 A. I filed criminal charges in I believe January  
12 or February of 2012 against Terry Seipp.

13 Q. And she was convicted?

14 A. Yes. She pled guilty.

15 Q. Now, in your report there's a mention that you  
16 used the word consensual, talking about the activity  
17 between Stephanie and Terry.

18 Why do you use that word?

19 A. In that context I used the word consensual so  
20 the prosecutor knows what type of sexual activity  
21 I'm talking about. Because if physical contact is  
22 not consensual or sexual contact is not consensual,  
23 that's a different crime.

24 Q. And let me ask you this, does a mandated  
25 reporter, such as member of clergy, do they have to

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2 have knowledge that, in fact, the sexual activity or  
3 the suspected abuse actually happened in order for  
4 them to make a report?

5 A. No. Again, I said the standard is suspect,  
6 reasonable suspicion of child abuse.

7 Q. And would kissing of an intimate nature and  
8 any notes, letters or cards speaking of a  
9 relationship together, is that a reasonable  
10 suspicion of abuse?

11 MR. AARON: Objection to the second  
12 part of that question about the letter.

13 THE COURT: Overruled.

14 You may answer.

15 THE WITNESS: Yes.

16 BY MR. FRITZ:

17 Q. And why is it -- I think you said this  
18 earlier, a report I think you is made to protect the  
19 child; right?

20 A. Yes.

21 Q. And can somebody who is a mandated reporter,  
22 can they rely upon somebody else making report or do  
23 they have to make the report themselves?

24 A. No. The law specifies that the mandated  
25 reporter is responsible for reporting to

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2 authorities, not reporting to their supervisor or  
3 anyone else; that they must reporter authorities.

4 Q. And if the elders, any of the elders of the  
5 Watchtower, the Christian Congregation had made a  
6 report of what they knew in either 2004 or 2005,  
7 what would have happened then?

8 A. That would have instigated an investigation  
9 that would have been investigated by Children and  
10 Youth to assure safety. Again, as I said, so they  
11 could assure that the abuse wasn't occurring, that  
12 there wouldn't have been any further contact.

13 And then it would have also been  
14 referred to the police department to investigate to  
15 see if there were any violations of the Crimes Code.

16 Q. If a report had been made by the elders of the  
17 Christian Congregation, of the Watchtower, would  
18 Stephanie have been made safe then?

19 MR. MILLER: Objection.

20 MR. AARON: Objection, Your Honor.

21 THE COURT: Sustained.

22 Do not answer.

23 BY MR. FRITZ:

24 Q. Should a report have been made by those elders  
25 in 2004 for Stephanie's safety?

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A. Yes.

Q. Should a report have been made for Stephanie's safety in 2005?

A. Yes.

MR. FRITZ: Thank you. I don't have any other questions.

THE COURT: Cross examine.

- - -

CROSS EXAMINATION

- - -

BY MR. AARON:

Q. Good morning, Detective Layden.

Let me ask you, let me just follow up on a couple of questions you were asked on direct examination.

I think you stated that parents are not mandated reporters under the Child Protective Services Law?

A. Yes.

Q. You will agree that if a parent learns that their child is being abused, they should report it; correct? That would be the responsible thing for a parent to do.

A. I don't think I can testify to good parenting.

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If you're asking me about if they are mandated reporters --

Q. So your testimony is that if a parent learns that their child is being sexually abused, you don't know, you have no opinion whether a responsible parent or any parent should report that to law enforcement?

A. My opinion on a parenting practice?

Q. I'm asking you whether if a parent learns that their child is being sexually abused, do you agree that a parent should report that to law enforcement?

A. I would hope that a parent would, yes.

Q. You were asked also about a card or a letter.

Do you recall that?

A. Yes.

Q. You never saw such a card or a letter, did you?

A. I never did.

Q. Anything you know about it is what other people have told you about it; correct?

A. That's correct.

Q. Okay. When -- Stephanie Fessler first came to you in 2011 and reported that several years ago she had been involved in this sexual relationship with

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Terry Seipp; correct?

A. Yes.

Q. And you interviewed Stephanie Fessler;  
correct?

A. Yes, I did.

Q. You learned that they were involved in a  
relationship when Stephanie was about 15, 16; Terry  
was about 49, 50. I don't know the exact ages, but  
sometime in that range?

A. The age range for Stephanie was 14 to 16 and  
Terry was around 50 years old.

Q. And when you interviewed Stephanie, she told  
you that she would sometimes drive to meet Terry  
Seipp; correct?

A. Yes, she did.

Q. And she told you when she was 15 before she  
was old enough to drive legally, she took her  
parents' car and she drove to meet Terry Seipp?

A. She told me that that happened on one  
occasion, I believe. I don't know if she specified  
that it happened more than that.

Q. Okay. And you had -- on direct examination  
you were asked about the word consensual.

She told you that during the



L. LAYDEN - CROSS

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2 relationship Terry Seipp did not physically force  
3 herself on her or threaten her; correct?

4 A. Yes.

5 Q. And when you wrote consensual, that's what you  
6 meant by that; correct?

7 A. Yes.

8 Q. You conducted an investigation to determine  
9 whether a crime had been committed by Terry Seipp;  
10 correct?

11 A. Yes, I did.

12 Q. As a result of your investigation, Terry Seipp  
13 was prosecuted?

14 A. Yes.

15 Q. Pled guilty?

16 A. Yes, she did.

17 Q. Went to jail?

18 A. Yes.

19 Q. I'm going to change subjects on you.

20 In the course of your investigation in  
21 2011 -- was it 2011 and 2012? Or just 2011?

22 A. The investigation was started in 2011. I  
23 believe it went into 2012 until it was resolved.

24 Q. So in the course of that investigation, you  
25 did not learn, you did not learn that in the fall of

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2 2005, Stephanie Fessler's psychologist, Lori K.  
3 Barton, reported to Adams County Youth and  
4 Children's Services --

5 MR. FRITZ: Objection.

6 BY MR. AARON:

7 Q. -- that Stephanie and Terry were involved in a  
8 relationship?

9 MR. FRITZ: Objection.

10 THE COURT: Just a moment.

11 Overruled.

12 BY MR. AARON:

13 Q. Correct?

14 A. You're asking me if I knew about information  
15 from the psychologist?

16 Q. I'm just asking, let me repeat it so you can  
17 hear it again. You did not learn that in the fall  
18 of 2005, Lori K. Barton, Stephanie Fessler's  
19 psychologist, reported to Adams County Youth  
20 Services that Stephanie and Terry Seipp were  
21 involved in a relationship. You never learned that;  
22 correct?

23 A. I was not aware of that.

24 Q. Okay. And in the course of the investigation,  
25 I assume you never spoke to Lori K. Barton; correct?

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A. I never spoke to her.

Q. You also never spoke to anyone in Adams County Youth Services, did you?

A. About this case?

Q. Yes.

A. I never received any information from them.

Q. Okay. So you didn't know whether a report had been made to Adams County Youth Services back in 2005, did you?

A. Again, I'm not aware of any report that was made to Adams County.

Q. And because you don't know whether a report was made to Adams County Youth Services, you don't know whether Adams County Youth Services did anything to follow up on such a report, do you?

A. When child abuse is reported, one of the informational things that's gathered at the intake is the county that it occurred in. So if it was reported but it occurred in the county I work in, it would have had to have been investigated in York County.

Q. Right. Say that again? It would have had to have been investigated in?

A. In the county where it occurred.

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Q. And Adams County is like what, a thousand miles from York County?

A. Oh, no, it's right next to it. But whenever a report is received, one of the informational things that's gathered at intake at ChildLine is what county it occurred in so it can be referred to that county for investigation. It wouldn't be investigated by another county.

Q. But in your investigation you never learned anything about that, did you? About a report in Adams County.

A. Again, I was not aware that there was a report made in Adams County.

Q. Now, let me ask you about something else about Spring Grove Congregation. That is in York County; correct?

A. Yes.

Q. So when Stephanie Fessler came to you in 2011, she told you that people at her congregation were aware of the nature of the relationship between her and Terry Monheim; correct?

A. Yes, she did.

Q. Aware of the sexual nature of the relationship; correct?

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A. Yes, she did.

Q. And you know what Stephanie Fessler claims she told them, because she told you what she told them; correct?

A. Yes. That's how I knew.

Q. Well, that's how you know? Or that's what you believe because Stephanie Fessler told you that?

A. That's the information that I had.

Q. That's the information that Stephanie Fessler gave you; correct?

A. Yes.

Q. And you were acting on that information that Stephanie Fessler gave you; correct?

A. Her mother also told me that she reported it to the elders of the congregation.

Q. Okay. And you would agree that those who are required to report child abuse under the CPSL, the Child Protective Services Law, are required to do so if they are, quote, reasonably aware of child abuse; correct?

MR. FRITZ: Objection.

THE COURT: Overruled.

THE WITNESS: Whether they reasonably suspect child abuse has occurred or may

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occur.

BY MR. AARON:

Q. Okay. That's fine.

You would agree that if Stephanie Fessler told the Spring Grove elders that she and Terry Seipp were involved in kissing and holding hands and that it was a mother and daughter type of a relationship, like a mother/daughter surrogate type relationship, that would not rise to the level of a sex offense, would it?

A. It could.

MR. AARON: Do we have Detective Layden's transcript? If it's not available, I have a copy of it. It's not on there? I have it.

BY MR. AARON:

Q. Let me repeat the question.

My question was you would agree that if Stephanie Fessler told the Spring Grove Congregation elders that she and Terry Monheim were just involved in kissing and holding hands and that it was a mother/daughter type relationship, then that would not rise to the level of a sex offense and your answer was?

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A. A sex offense or any offense?

Q. A sex offense. We're talking about sex offenses here.

A. Sex offenses are specific. It's a specific chapter of the Crimes Code that talk about specific sex offenses.

Q. Well, what offense would it be?

A. It still could be corruption of minors.

Q. Let me just read.

MR. AARON: Do we have it? Can you put up page 40?

BY MR. AARON:

Q. The CPSL is about sexual abuse, isn't it?

A. Excuse me?

Q. The CPSL, the Child Protective Services Law, is about abuse, physical and sexual abuse of children; correct?

A. Yes.

Q. That's what it's about?

A. Yes.

Q. Okay. And you're here to talk about your expertise on the CPSL. That's what you've been qualified as an expert in; correct?

A. Yes.

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Q. All right. Let me read you your answer from your deposition transcript.

Do you remember being deposed and being sworn in and you said you'll tell the truth and all that?

A. Yes.

Q. Okay. Question, line five. If all the parents knew about their daughter's activity with Terry was what this card said, and it describes kissing and then the parents didn't have knowledge of any activity that rose to the level of a crime, did they?

And your answer was: Well, whether the parents were aware -- I don't know what the parents were aware of at that time, you know. If what you're asking is kissing, you know, rise to the level of one of the sex offenses, probably not. I don't know what they were aware of at that time.

That's what you answered at your deposition; correct?

A. Yes.

MR. AARON: And now let's close that box.

BY MR. AARON:



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2 Q. And then the next question was: And if all  
3 the elders were told, the elders, all the elders  
4 were told was that Stephanie and Terry were kissing,  
5 then did the elders have a duty to report that to  
6 the police?

7 And your answer: Well, again, you  
8 know, kissing doesn't -- kissing in and of itself  
9 doesn't rise to the level of violating, you know,  
10 one of the sex offenses. What they were aware of,  
11 you know, I don't know the extent of what they were  
12 aware of.

13 And that's what you said at your  
14 deposition. Have I read that correctly?

15 A. Yes, but the question that you asked me is if  
16 that rises to the level of a sex offense.

17 Q. And I just read your deposition to you?

18 A. Yes, and just because --

19 Q. I have no further questions.

20 THE COURT: Let her finish let the  
21 answer.

22 Go ahead.

23 THE WITNESS: All right. So let me  
24 explain. Just because a certain act may not  
25 rise to a level of me charging someone with a

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1  
2 sex offence, doesn't mean that it doesn't  
3 give rise to a reasonable suspicion of child  
4 abuse.

5 There's a difference between the  
6 standard that needs to be reported as child  
7 abuse and the standard that would result in a  
8 criminal charge for one of the sex offenses.

9 BY MR. AARON:

10 Q. Well, you said me charging. You don't make a  
11 charging decision, do you? Lawyers make the  
12 charging decision, don't they?

13 A. I don't make the decision, but I'm certainly  
14 aware of what the elements of the crime is.

15 Q. I understand you are, but you don't make the  
16 ultimate legal decision as to who gets charged; the  
17 lawyers in the D.A.'s Office do, don't they?

18 A. Yes. They make the decision on what charges  
19 gets filed and against who.

20 Q. And it's your position -- no, I won't ask  
21 that.

22 In the fall of 2004, Stephanie Fessler  
23 was 15, almost 16. If all that the elders knew was  
24 kissing between Stephanie Fessler and Terry Seipp,  
25 you would agree they were not required to report

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that, wouldn't you?

A. No, I would not agree.

MR. AARON: Can we please put up page  
41 of the deposition testimony.

MR. MILLER: Jud, you're blocking  
some of the jurors' view.

MR. AARON: Sorry. Thanks.

BY MR. AARON:

Q. Question: All I'm --

MR. AARON: You don't have to blow  
this up.

BY MR. AARON:

Q. Question: All I'm asking is if they knew  
nothing more than kissing, referring to the elders,  
if they knew nothing more than kissing, did they  
have a duty under the law to report that?

Answer: Well, probably not, you know.

That was your answer; correct?

A. Yeah, but that is not my complete answer. If  
you look at that --

Q. The extent of what the nature of the sexual  
relationship is, again, would be determined, you  
know. If that was the case and we were still doing  
this investigation, you know, whether that can be

1                                    L. LAYDEN - CROSS

2        construed as corruption of a minor or something like  
3        that, that would really be up to the District  
4        Attorney's Office.

5                                    That was the full answer; right?

6        A.        Yes.    And maybe I perhaps I should have  
7        clarified.    You're asking me with no description --

8                                    MR. MILLER:    Objection, Your Honor.

9                                    Not responsive.

10                                  THE COURT:    Overruled.    Let the  
11                                  witness answer.

12                                  THE WITNESS:    When you're asking me  
13                                  the question, you're providing no  
14                                  description.    You're asking me if all they  
15                                  knew was about kissing did they have a duty  
16                                  under the law to report.

17                                  Without any description whatsoever, I  
18                                  should have clarified.    But in that answer I  
19                                  also explained to you that that still could  
20                                  rise to corruption of minors.

21        BY MR. AARON:

22        Q.        At your deposition you were told if you didn't  
23        understand the question, you should tell the lawyer  
24        that you didn't understand the question or to  
25        clarify the question.    Weren't you told that?

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A. Yes. And what I'm saying is I'm clarifying what I meant.

Q. Okay. I'm sorry, you said you were clarifying what you meant?

A. Yes.

Q. I didn't mean to cut you off. I apologize.

And when this question was asked, question: All I'm asking is if they knew nothing more than kissing, did they have a duty under the law to report that, you didn't say could you clarify that question. I don't understand the question.

You didn't say that, did you?

A. No. And what I just said was perhaps I should have clarified my answer or asked for clarification of exactly what you're talking about.

Q. You gave the answer that you gave. We can agree to that?

A. Yes.

Q. To the question that was asked?

A. Yes.

MR. AARON: We can take it down.

BY MR. AARON:

Q. In the fall of 2004 when plaintiff was 15, if the elders were not aware of sexual touching, sexual

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1  
2 touching between Stephanie Fessler and Terry  
3 Monheim, then they were not required to report to  
4 authorities; isn't that correct?

5 A. I don't know what the church elders were aware  
6 of.

7 Q. That wasn't my question. Let me ask the  
8 question again. Listen to my question.

9 In the fall of 2004 when Stephanie  
10 Fessler was 15, if the elders were not aware of  
11 sexual touching between Stephanie Fessler and Terry  
12 Monheim, then they were not required to report the  
13 relationship to authorities under the CPSL; isn't  
14 that correct?

15 A. What do you mean by sexual touching?

16 MR. AARON: Can we put up the  
17 transcript again at page 47? I'm going -- so  
18 we're going to have to go from the bottom of  
19 the page to the next page, line 24. I'm  
20 sorry, go back to this. Oh, yeah. That's  
21 good.

22  
23 BY MR. AARON:

24 Q. I'm starting on line 24 and this is you  
25 speaking.

1                                    L. LAYDEN - CROSS

2                                    If they, and again it's the elders  
3 were talking about, if they were not aware of the  
4 sexual touching that had occurred prior to being age  
5 16, then no. They were not required to report.

6                                    That was your sworn testimony at the  
7 deposition. I read that correctly?

8 A.        Yes. And, again, perhaps I should have  
9 clarified. You were asking me about three different  
10 things that day whether actions resulted in criminal  
11 charge level or any charge level and also in  
12 reference to the Child Protective Services Law.

13 Q.        If they were not aware of the sexual touching  
14 that occurred prior to being age 16 then, no, they  
15 were not required to report.

16                                    That was your answer, wasn't it? Have  
17 I read that correctly? I'm asking if I've read that  
18 correctly?

19 A.        Yes.

20 Q.        Thank you.

21                                    You don't know, other than what  
22 Stephanie Fessler told you, what the Spring Grove  
23 Congregation elders knew in the fall of 2004, do  
24 you?

25                                    MR. FRITZ: Objection. It

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1 mischaracterizes her testimony.

2 THE COURT: Overruled.

3 You may answer.

4 THE WITNESS: I did not know at that  
5 time what they knew, no.

6 BY MR. AARON:

7 Q. Okay. But you don't know now, because you  
8 weren't there. You weren't at the meeting between  
9 Stephanie and the elders. You know what Stephanie  
10 told you; correct?

11 A. True, but I also heard Eric Hoffman's  
12 testimony yesterday.

13 Q. Okay. Well, let me ask you about this. Let  
14 me ask you about this.

15 You would agree that there could be a  
16 close relationship between a 15-year-old girl and a  
17 49-year-old woman, who is not her mother, that might  
18 be inappropriate, but not necessarily reportable  
19 under the statute.

20 A. I don't know that I could testify to that. I  
21 don't know.

22 Q. By the way, you referred to Eric Hoffman's  
23 testimony.

24 Is it your testimony today that Eric  
25



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1  
2 Hoffman testified yesterday that in 2004 Stephanie  
3 Fessler told him that it was a sexual relationship  
4 in 2004 as opposed to 2005? I'm not trying to trick  
5 you; I just want to know if you're clear on the  
6 year.

7 A. That's not what I said. You asked if I had  
8 any information about what the church elders knew  
9 about it and I stated that I didn't back then in  
10 2011.

11 Q. I was specifically asking about 2004.

12 A. Excuse me?

13 Q. So I was asking about 2004.

14 MR. FRITZ: Objection.

15 THE COURT: Just a moment.

16 Sustained.

17 BY MR. AARON:

18 Q. Let me ask you this question again. I'm  
19 asking you about 2004. Not 2005.

20 THE COURT: What's your question,  
21 counselor?

22 BY MR. AARON:

23 Q. The question is: You don't know what the  
24 Spring Grove elders knew in the fall of 2004 other  
25 than what Stephanie Fessler told you; correct?

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A. Yes, that's correct.

Q. And because you don't know other than what Stephanie Fessler told you, because you don't know for a fact what the elders knew in 2004, you don't know whether they were required to report the relationship, because it would depend on what they knew; correct?

A. Again, I don't know what they knew in 2004.

Q. Okay. I'm glad we clarified it. I was asking about 2004.

In the course of your investigation, you interviewed Stephanie Fessler's mother and Stephanie Fessler's father; correct?

A. Yes, I did.

Q. When you interviewed Stephanie Fessler's mother, that's Jodee Fessler, she didn't tell you that in the fall of 2004, she knew that Stephanie Fessler and Terry Monheim were having a sexual relationship. She didn't tell you that; correct?

A. I don't believe so.

Q. When you interviewed Stephanie Fessler's father, Kevin Fessler, same question. He did not tell you that in the fall of 2004 that he knew that Stephanie Fessler and Terry Monheim were having a

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1  
2 sexual relationship; correct?

3 A. I don't remember the explicit details. They  
4 indicated that they both found out about this when  
5 Stephanie was 15 and he indicated that he got the  
6 information from his wife.

7 Q. I'm going to pull out your --

8 THE COURT: Sir, we're going to  
9 recess very shortly. I'll give you a few  
10 more questions. All right?

11 MR. AARON: Okay. And maybe this is  
12 a good place to cut, because I still have a  
13 little more to go.

14 THE COURT: I'm sorry?

15 MR. AARON: I still have a little  
16 more to go, so maybe this would be a good  
17 place to stop.

18 THE COURT: All right. Let me talk  
19 to counsel for a bit.

20 (OFF THE RECORD DISCUSSION.)

21 THE COURT: All right. We're going  
22 to adjourn for the afternoon. Counsel  
23 probably has about an hour more of this  
24 witness. So they'll talk privately with the  
25 witness about the arrangements for Monday

1                                    L. LAYDEN - CROSS

2                    morning.

3                                    I'm going to instruct you all to put  
4                    your notes away. Again, do not have  
5                    conversation over the weekend. Do not do any  
6                    internet research on any of the issues or  
7                    parties in this matter and return to us  
8                    Monday morning at 9:30.

9                                    Have a good weekend. We'll see you  
10                    Monday morning.

11                                    THE COURT CRIER: Please rise as the  
12                    jurors leave the room.

13                                    (Jury out at 12:05 p.m.)

14                                    THE COURT: All right, you can talk  
15                    to the detective about the arrangements. No  
16                    conversation about testimony.

17                                    We'll see you Monday morning. While  
18                    you're talking to the detective, I want to  
19                    speak with you privately, counsel, defense.

20                                    (PROCEEDINGS ADJOURNED FOR THE DAY AT  
21                    12:05 P.M.)

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## CERTIFICATION

I, Cynthia Touni, hereby certify that the testimony and proceedings in the foregoing matter taken on February 10, 2017 are contained fully and accurately in the stenographic notes taken by me, and that Pages 5 to 126, inclusive, of this testimony are a true and correct transcript of the same.

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Cynthia Touni, Registered Merit Reporter  
Official Court Reporter

- - -

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IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

- - -

STEPHANIE FESSLER, : SEPTEMBER TERM, 2013

Plaintiff, :

VS. :

WATCHTOWER BIBLE AND :  
TRACT SOCIETY OF NEW :  
YORK, INC., CHRISTIAN :  
CONGREGATION OF :  
JEHOVAH'S WITNESSES, :  
INC., SPRING GROVE :  
CONGREGATION OF :  
JEHOVAH'S WITNESSES, AND :  
TERRY JEANNE MONHEIM, :  
Defendants. :

NO. 1293

- - -

JURY TRIAL

DAY FOUR

A.M. SESSION

- - -

FEBRUARY 13, 2017  
COURTROOM 432, CITY HALL  
PHILADELPHIA, PENNSYLVANIA

- - -

BEFORE: THE HONORABLE MARY D. COLINS, J. AND A  
JURY.

- - -

## Reported By:

Cynthia Touni, RMR, CRR  
Official Court Reporter  
(215) 683-8014

- - -

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C O L L O Q U Y

THE COURT: Good morning. I'm glad you resolved potential problems for that witness in question. And so I take it we're going to start right in with the continuation of her testimony; is that correct?

MR. ZEFF: Yes.

MR. AARON: With Detective Layden, yes.

THE COURT: How much longer does that go?

MR. AARON: What? About probably about half an hour by the defense.

THE COURT: Okay. So how long is the video? I guess, that's the answer.

MR. FRITZ: The video that we're playing --

MR. VERNICK: It's live feed back and forth.

THE COURT: The detective, how long?

MR. VERNICK: The detective is live.

MR. AARON: The detective is live, but she's in a remote location.

THE COURT: Oh, I see. I thought you did a videotape.

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C O L L O Q U Y

MR. AARON: No, no, no. We did other videotapes on Friday.

THE COURT: I'm sorry. My secretary told me we were doing a videotape of her.

So she's live at another location. All right. Better yet.

And let's talk scheduling, counsel, come back here and talk some scheduling off the record. We still need two jurors.

THE COURT CRIER: They're here now.

(OFF THE RECORD DISCUSSION.)

THE COURT CRIER: Please rise.

Jurors entering the room.

(Jury in at 9:39 a.m.)

THE COURT: Good morning, everyone.

JUROR: Good morning.

THE COURT: Ladies and gentlemen, we're going to continue with the witness, Detective Layden, who you heard testifying here in the courtroom on Friday and the continuation is going to take place by video.

She is live in another place, but we're going to continue through the video conferencing process for scheduling



L. LAYDEN - CROSS

1  
2 convenience to everyone. All right?

3 So consider it just as though she was  
4 sitting right in that chair and you'll be  
5 seeing her on the screen.

6 Correct? Correct. Very good.

7 So, Mike, you can center the oath  
8 again.

9 THE COURT CRIER: Detective, could  
10 you restate your name for the record again,  
11 please. Raise your hand. I'm sorry, go  
12 ahead.

13 THE WITNESS: Lisa Layden.

14 THE COURT CRIER: State your title  
15 for the record.

16 THE WITNESS: Detective Sergeant,  
17 Southwestern Regional Police Department.

18 LISA LAYDEN, after having been first  
19 duly sworn, was examined and testified as  
20 follows:

21 THE COURT CRIER: Thank you.

22 MR. AARON: May I commence, Your  
23 Honor?

24 THE COURT: Proceed.

25 - - -

1 L. LAYDEN - CROSS

2 CROSS EXAMINATION

3 - - -

4 BY MR. AARON:

5 Q. Good morning, Detective Layden. How are you  
6 this morning?

7 A. Good morning.

8 Q. I haven't done it this way before, so bear  
9 with me.

10 I want to pick up where we left off on  
11 Friday afternoon, the end of the day. At that time  
12 I was asking you about the investigation that you  
13 performed in 2011 after the plaintiff came in and  
14 reported to you.

15 Do you recall me asking about that?

16 A. Yes.

17 Q. Okay. In the course of your investigation in  
18 2011, you interviewed the plaintiff's mother, Jodee  
19 Fessler, and the plaintiff's father, Kevin Fessler;  
20 correct?

21 A. Yes, I did.

22 Q. In 2011 when you interviewed the plaintiff's  
23 mother, Jodee Fessler, Jodee Fessler did not tell  
24 you that in the fall of 2004, she knew that  
25 Stephanie and Terry Seipp were having a sexual

L. LAYDEN - CROSS

1  
2 relationship. She didn't tell you that, did she?

3 A. No. She indicated what she found out about  
4 was in 2005.

5 Q. Okay. Then when you interviewed Stephanie's  
6 father, Kevin --

7 A. Wait, I'm sorry. That could be wrong. I  
8 think when she originally talked about it it did not  
9 include the sexual contact, but it would have been  
10 in the fall of 2004.

11 Q. What would have been in the fall of 2004? I'm  
12 not clear.

13 A. That she reported she became aware of  
14 something going on between Stephanie and Terry.

15 Q. She said she was aware of something going on,  
16 but that wasn't my question. My question was when  
17 you interviewed Jodee Fessler, plaintiff's mother,  
18 in 2011, I believe it was December of 2011, she did  
19 not tell you that in 2004 she knew that the  
20 plaintiff and Terry Seipp were having a sexual  
21 relationship; correct?

22 A. Yes, that's correct.

23 Q. Okay. Same question as to the plaintiff's  
24 father, Kevin Fessler.

25 When you interviewed him in December

L. LAYDEN - CROSS

1  
2 of 2011, Kevin Fessler did not tell you that in the  
3 fall of 2004 he knew that Stephanie and Terry Seipp  
4 were having a sexual relationship; correct?

5 A. Yes, that's correct.

6 Q. When you interviewed the plaintiff's mother,  
7 Jodee, and the plaintiff's father, Kevin, in  
8 December of 2011, they did not tell you that in the  
9 fall of 2004 or any time in 2004, they told the  
10 elders of the congregation that they believed the  
11 relationship between the two was sexual; correct?

12 A. She didn't provide me the details of exactly  
13 what she told the church elders. She just said that  
14 she reported it to them.

15 Q. Okay. Just that she reported. But she didn't  
16 tell you, at least, that she reported to them that  
17 it was sexual; correct?

18 A. Correct.

19 Q. Let me skip forward about a year to the fall  
20 of 2005.

21 A. Okay.

22 Q. Do you recall that in 2005, in September  
23 of 2005, Stephanie's mother, Jodee Fessler, the  
24 plaintiff's mother, Jodee Fessler, reported to you  
25 that the plaintiff had run away from home and that

L. LAYDEN - CROSS

1  
2 the plaintiff was involved in some sort of  
3 relationship with an older woman, Terry? Do you  
4 recall that?

5 MR. FRITZ: Objection.

6 THE WITNESS: I recall that she  
7 reported as a runaway.

8 THE COURT: Just a moment.  
9 Overruled, sir. Overruled.

10 You may answer, detective.

11 BY MR. AARON:

12 Q. I'm sorry, you can answer.

13 A. I recall that she reported her as a runaway,  
14 yes.

15 Q. So you recall that in September of 2005, Jodee  
16 Fessler reported that her daughter had run away;  
17 correct?

18 A. Yes.

19 Q. You don't recall her telling you anything  
20 about a relationship of any sort between the  
21 plaintiff and a woman named Terry or an older woman  
22 or Terry Seipp or anything to that effect?

23 A. No, I don't.

24 Q. If the plaintiff's mother, Jodee Fessler,  
25 testified that in the fall of 2005 she told you that

L. LAYDEN - CROSS

1  
2 the plaintiff had run away, and she also told you  
3 that Stephanie was involved in a relationship with  
4 an older woman, do you believe that she's wrong when  
5 she told you?

6 MR. FRITZ: Objection.

7 THE COURT: Just a moment.

8 Sustained.

9 Don't answer.

10 BY MR. AARON:

11 Q. Detective, you took a runaway report in 2005,  
12 didn't you?

13 A. Yes, I did.

14 Q. In the course of taking that runaway report,  
15 you would have met with Jodee Fessler, the  
16 plaintiff's mother; correct?

17 A. I'm not sure if I met with her in person or we  
18 may have taken the report over the phone.

19 Q. But you would have taken the report one way or  
20 the other in person or over the phone?

21 A. Yes.

22 Q. And you would have asked her questions in the  
23 course of taking that report; correct?

24 A. Yes.

25 Q. You would have asked her questions about the

L. LAYDEN - CROSS

1  
2 subject of the plaintiff having run away; correct?  
3 Because that's what you were investigating.

4 A. I don't know how many questions I asked her.  
5 I don't recall. Obviously we take all the  
6 information so that we can, if we need to, enter the  
7 child as a missing person.

8 Q. In asking for information, you would have  
9 asked the plaintiff's mother where might she be?  
10 Might she be staying at a friend's house; who might  
11 she be staying with, those kind of questions you  
12 would want to know that as an investigator; correct?

13 A. Yes.

14 Q. And you would have tried to learn everything  
15 that might be pertinent to you in your  
16 investigation; correct?

17 A. Yes. And I believe she did not have an  
18 address where she might be located. She did have an  
19 area that I think was a business that we checked.

20 Q. What was the business?

21 A. I don't remember.

22 Q. That was the business where Terry Seipp  
23 worked, wasn't it?

24 A. I don't remember.

25 Q. You would agree that in the fall of 2005,

L. LAYDEN - CROSS

1  
2 September of 2005, you received a report from Jodee  
3 Fessler that a 16, almost 17-year old girl, by the  
4 name of Stephanie Fessler had run away from home;  
5 correct?

6 A. Yes.

7 Q. And you would agree that when you interviewed  
8 the mother in the course of the interview, you tried  
9 to determine where the plaintiff, Stephanie Fessler,  
10 might be; correct?

11 A. Yes.

12 Q. And you agree that you went to some business,  
13 you don't remember the name of the business, but  
14 some business to try to figure out where Stephanie  
15 Fessler might be; correct?

16 A. Yes. Also it may have been the business where  
17 Stephanie worked.

18 Q. It wasn't a diner where Terry Monheim worked?

19 A. I don't remember what the location was.

20 Q. In 2005 in connection with this runaway  
21 report, you never interviewed Terry Seipp, did you?

22 A. In connection to the runaway report?

23 Q. Yes.

24 A. No, I did not.

25 Q. In 2005 when Jodee Fessler made her report,



L. LAYDEN - CROSS

1  
2 this runaway report, you did not determine that by  
3 2005 Stephanie Fessler and Terry Seipp had been  
4 naked together and had oral sex and other sexual  
5 contact, did you?

6 A. I would have no way of knowing that at that  
7 time.

8 Q. You didn't learn that; correct?

9 A. No, I did not.

10 Q. The only way you could have learned that is if  
11 in the course of your investigation you had learned  
12 that; correct?

13 A. I guess so; unless someone would have told me.

14 Q. You were investigating this runaway report;  
15 correct?

16 A. Yes.

17 Q. And you would also agree that in 2005  
18 Stephanie Fessler did return home shortly after you  
19 got the runaway report; correct?

20 A. Yes, she did.

21 Q. And you would agree that in connection with  
22 the runaway report, you did not interview Stephanie  
23 Fessler at any point; correct?

24 A. No, I did not once her mother reported she had  
25 been returned in less than 24 hours. I did what we

L. LAYDEN - CROSS

1  
2 typically do is we cancel the general alarm number.

3 Q. You didn't ask Stephanie Fessler once she  
4 reported home, once she returned home, where she  
5 was, for instance?

6 A. No, I did not.

7 Q. One moment, detective. I'm almost done.

8 MR. AARON: Your Honor, may I have  
9 just a moment with my co-counsel?

10 THE COURT: Yes, sir.

11 MR. AARON: Thank you.

12 Your Honor, I have no further  
13 questions for the witness.

14 THE COURT: Mr. Miller.

15 MR. MILLER: Your Honor, would it  
16 help if we wear the microphone while we're  
17 asking the questions or can the jury hear us  
18 well enough?

19 THE COURT: I think wearing the  
20 microphone cannot hurt.

21 MR. AARON: Sorry.

22 BY MR. MILLER:

23 Q. First of all, is this causing feedback on your  
24 end, Detective Layden?

25 A. It's stuttering a little bit.

L. LAYDEN - CROSS

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Q. Stuttering?

A. That's a little better. That's better.

Q. Okay. Good morning again and congratulations.  
We understand you're about to get married?

A. Yes. Thank you.

Q. That's wonderful. We're happy for you.

Now, I want to talk about just some of the things you testified about when you were testifying the other day. The first thing I want to talk about is when you were in court and you heard the elder from Spring Grove, that was Mr. Hoffman, and you were asked -- you were here when the elder from the Spring Grove Congregation, Eric Hoffman, testified and you were.

And then you were asked: When he testified that he had obtained information and suspected abuse of Stephanie, based upon what he had learned from Stephanie or her parents, do you have an opinion regarding whether he had an obligation to report that under the Child Protective Services Law?

You said, yes, as a mandatory reporter he should have.

And then you were asked: Based upon what he had learned about kissing; correct?

1 L. LAYDEN - CROSS

2 Yes.

3 And touching of the breasts?

4 Yes.

5 You weren't asked when he heard that.

6 And you now understand from the testimony and the  
7 questioning that he heard that in 2005, not in 2004?

8 MR. FRITZ: Objection.

9 THE COURT: Overruled.

10 You may answer.

11 THE WITNESS: According to his  
12 testimony, that he reported that he didn't  
13 have that information until 2005.

14 BY MR. MILLER:

15 Q. Right.

16 So as of 2004, you don't have an  
17 opinion that he had a duty to report. That opinion  
18 is that he had a duty to report in 2005; is that  
19 right?

20 MR. FRITZ: Objection.

21 THE COURT: Overruled.

22 THE WITNESS: Yes, because I don't  
23 know what he knew or what he was aware of in  
24 2004.

25 BY MR. MILLER:

L. LAYDEN - CROSS

1  
2 Q. You were also asked your opinion about or you  
3 were asked whether you were notified by, and I  
4 quote, the elders of the Watchtower, the Christian  
5 Congregation.

6 And I just wanted to ask you a little  
7 bit about that. Okay?

8 As I understand it, you never spoke to  
9 anyone from Watchtower, did you?

10 A. No, I did not.

11 Q. You never spoke with anyone from the other  
12 corporation, Christian Congregation of Jehovah's  
13 Witnesses, did you?

14 A. I don't believe so.

15 Q. So the elders that you were aware of were the  
16 elders from the Spring Grove Congregation here in  
17 Pennsylvania; is that right?

18 A. Yes, that's correct.

19 Q. Okay. Do you even know where the Watchtower  
20 personnel are located?

21 A. Ferguson, New York, I believe.

22 Q. Do you know where the personnel of the  
23 Christian Congregation of Jehovah's Witnesses  
24 Corporation is located?

25 A. I do not.

L. LAYDEN - CROSS

1  
2 Q. One more clarification and then I want to move  
3 on. But the clarification has to do with something  
4 that you testified about in response to a question  
5 put to you by Jud Aaron yesterday or the other day.  
6 And let me just read the question and let's go over  
7 your answer and see if you understood the question.  
8 Okay?

9 He said: My question was you would  
10 agree that if Stephanie Fessler told the Spring  
11 Grove Congregation elders that she and Terry Monheim  
12 were just involved in kissing and holding hands and  
13 that it was a mother/daughter type relationship,  
14 then that would not -- that would not rise to the  
15 level of a sex offense. And your answer was?

16 And then he -- you gave your answer:  
17 A sex offense or any offense?

18 His question: A sex offense. We're  
19 talking about sex offenses here.

20 Your answer: Sex offenses are  
21 specific. It's a specific chapter of the Crimes  
22 Code that talk about specific sex offenses.

23 Question: Well, what offense would it  
24 be?

25 And you said: It still could be

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1  
2 corruption of minors.

3 So I wanted to ask you a little bit  
4 about that.

5 A. Okay.

6 Q. We heard testimony from Terry Monheim that she  
7 told her elders something that she and Stephanie had  
8 agreed to tell as a story back in 2004 that they  
9 were just like mother and daughter, just the kissing  
10 and hugging was like a mother would kiss a daughter.

11 MR. FRITZ: Objection.

12 THE COURT: Sustained.

13 Don't answer.

14 BY MR. MILLER:

15 Q. Don't answer. Okay?

16 Were you present for Terry Monheim's  
17 testimony here in court?

18 A. Yes, I was.

19 Q. Did you hear her testify:

20 Question: And so you weren't saying  
21 we were kissing, making out, you were saying the  
22 kissing and hugging was like a mother would kiss a  
23 daughter; right?

24 And her answer --

25 MR. FRITZ: Objection.

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1  
2 BY MR. MILLER:

3 Q. -- was yes.

4 THE COURT: Just a moment.

5 Overruled.

6 You may answer.

7 BY MR. MILLER:

8 Q. You heard that testimony in open court?

9 A. Yes, I did.

10 Q. So I want you to assume, therefore, that when  
11 Mr. Aaron was asking you during your testimony the  
12 other day about kissing and holding hands and a  
13 mother/daughter relationship, I want you to assume  
14 that was what the plaintiff and the perpetrator, if  
15 you will, in other words, Stephanie Fessler and  
16 Terry Monheim Seipp, that's what they told their  
17 respective elders in 2004.

18 In your opinion, would that rise to  
19 the level of some kind of crime, including the crime  
20 of corruption of minors?

21 A. So your question is if what she described as  
22 kissing and holding hands would rise to the level of  
23 violating the law of corruption of minors?

24 Q. Under the circumstance that they made it clear  
25 to their elders that it was a mother and daughter



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1  
2 relationship.

3 MR. FRITZ: Objection.

4 THE COURT: Overruled.

5 BY MR. MILLER:

6 Q. That kind of kissing and holding hands, not  
7 the kind of kissing and holding hands that you would  
8 expect from lovers.

9 A. That information, as far as whether it rose to  
10 the level of violating that law, would have been a  
11 decision that would have been made by the District  
12 Attorney's Office.

13 Q. So in your opinion any time a mother kisses a  
14 daughter, that should be reported to the police?

15 MR. FRITZ: Objection.

16 THE COURT: Sustained.

17 Don't answer.

18 BY MR. MILLER:

19 Q. So, in your opinion, any time a woman who is  
20 not a mother of a child holds hands with and kisses  
21 that child, that should be reported to the police;  
22 is that right?

23 MR. FRITZ: Objection.

24 THE COURT: Overruled.

25 You may answer that.

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THE WITNESS: Any time that a mother  
kisses a daughter, you said?

BY MR. MILLER:

Q. No. That one was objected to.

Any time that a person who is not the  
mother, another woman, kisses and holds hands with a  
girl not her daughter, that should also be reported  
to the police as suspected child abuse.

Is that your opinion?

A. It depends on the circumstance.

Q. Yes. And so if the circumstance is that  
Stephanie Fessler's own mother was having mental  
problems and she needed someone to stand in as a  
mother, she went to Terry Monheim, who was the  
mother of six, when the card was found, Stephanie  
insisted it was not sexual. And Stephanie and Terry  
both told their sets of elders it was not sexual; it  
was a mother and daughter type kissing --

MR. FRITZ: Objection.

THE COURT: Overruled.

BY MR. MILLER:

Q. Is it your opinion that this is the type of  
relationship that should be reported to the police?

A. I would have to say this. The standard that I

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1  
2 was taught and the standard that I teach to new  
3 officers in our department is this: If the  
4 information suggests that a child has been or may be  
5 harmed, injured or sexually exploited, then, yes, a  
6 mandated reporter should report it. So it depends  
7 on the circumstance.

8 Q. So you need to know all the circumstances in  
9 order to make a conclusion whether or not a person  
10 has reasonable cause or suspicion that rises to the  
11 level of a reportable suspicion; right?

12 A. I wouldn't say you need to know all the  
13 circumstance. The criteria is that if a person has  
14 information, it's not their duty to investigate  
15 further and find everything out. But if it rises to  
16 a level that makes you suspicious of the activity,  
17 then it should be reported.

18 Q. So we're dealing with a situation where we  
19 have a mother of six who has children the same age  
20 as Stephanie. We have a situation where the elders  
21 where Terry Seipp goes over in Freeland, Maryland  
22 are aware that she's a mother of six. She's  
23 married. She has six children who come, or most of  
24 them, come with her to the Christian meetings there.  
25 That's what those elders know.

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MR. FRITZ: Objection.

BY MR. MILLER:

Q. Are you aware of those facts?

THE COURT: Sustained.

Don't answer.

BY MR. MILLER:

Q. If I were to tell you that those are the facts, can you assume them?

MR. FRITZ: Objection.

THE COURT: Sustained.

Don't answer.

BY MR. MILLER:

Q. Let's see if we can get to a set of facts that will show and illustrate the point that reasonable minds can differ.

Do you agree with that as a general proposition; reasonable minds can differ on what is reasonable cause for suspicion?

MR. FRITZ: Objection.

THE WITNESS: Yes.

THE COURT: Sustained. Sustained.

Disregard the answer. That's not for this witness to determine.

BY MR. MILLER:

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1  
2 Q. Do us a favor and delay even longer before you  
3 answer so that in the event of an objection, which  
4 you can't hear, the Judge can rule and that will  
5 help everybody. Okay? I'm sorry.

6 THE COURT: Thank you, sir.

7 THE WITNESS: Sorry. There's about a  
8 second delay.

9 BY MR. MILLER:

10 Q. Yeah, we need an even longer delay. You just  
11 sit there and wait. I'll nod my head and go like  
12 this, meaning you can answer; there's been no  
13 objection. Okay?

14 If there is an objection, I'll just go  
15 like this. Okay?

16 A. Okay.

17 Q. So we've got the circumstance reported to the  
18 elders. And we're just going to talk about Mr.  
19 Hoffman. Okay?

20 A. Sure.

21 Q. Mr. Hoffman in 2004 is asked by the mother or  
22 the father of the girl to give her some counseling.  
23 Okay?

24 A. Okay.

25 Q. And Mr. Hoffman has known this little girl

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1  
2 since she was a baby. He's known her all her life.  
3 Okay?

4 A. Yes.

5 MR. FRITZ: Objection.

6 THE COURT: Basis very quickly, one  
7 or two words.

8 MR. FRITZ: It's not in the record.

9 THE COURT: Sustained.

10 Disregard that last question. It's a  
11 fact not in evidence.

12 BY MR. MILLER:

13 Q. I'm sorry, I know too much. Let me see.

14 THE COURT: Your hypothetical, as you  
15 pose your hypothetical, remember it has to be  
16 based on the testimony already given.

17 MR. MILLER: Exactly. I've got to  
18 just narrow it down to that.

19 BY MR. MILLER:

20 Q. And so he interviews Stephanie and she tells  
21 him that it's just she had to go and have somebody  
22 in place of her own mother. Okay?

23 You could answer.

24 A. Yes.

25 MR. FRITZ: Objection.

1                                    L. LAYDEN - CROSS

2                                    THE COURT: Overruled. Keep going.

3 BY MR. MILLER:

4 Q.        And so he tells her just stay away from Terry.  
5 Okay? I think there's an objection.

6                                    MR. FRITZ: I'm sorry, let it go. I  
7                                    withdraw it.

8                                    THE WITNESS: Okay. Yes.

9 BY MR. MILLER:

10 Q.        And in the meantime, Terry Monheim, goes over  
11 to her elders in Freeland and she tells her Freeland  
12 elders this is just a surrogate mother type of  
13 kissing and holding hands.

14                                    MR. FRITZ: Objection.

15                                    THE COURT: Sustained.

16                                    Do not answer.

17                                    Counsel, I'll see you all at sidebar  
18 with the stenographer.

19                                    (DISCUSSION HELD AT SIDEBAR AS  
20 FOLLOWS:)

21                                    THE COURT: I'm sustaining the  
22 objection because the fact is you asked her  
23 to assume it and I believe it was not in  
24 evidence.

25                                    MR. MILLER: Terry Monheim

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1 testified -- I'm sorry.

2 THE COURT: Go on. I'll tell you  
3 what my belief about that fact is, that  
4 purported fact is. That the way you phrased  
5 it was that she went to the elders to tell  
6 them this.

7 MR. MILLER: As opposed to concocting  
8 the story. Gotch ya.

9 THE COURT: No, as opposed to having  
10 been summoned. As opposed to have been  
11 brought to the elders.

12 MR. MILLER: Thank you. Thank you.

13 THE COURT: So the way -- the  
14 hypothetical is a distortion to my mind --

15 MR. MILLER: I have that. I see that  
16 now.

17 THE COURT: -- on what the facts in  
18 evidence is, is that she was called to the  
19 elders and once there, gave this information.

20 MR. MILLER: You're right. I agree.

21 THE COURT: That's why I sustained  
22 that objection.

23 MR. FRITZ: A lot of these questions,  
24 a series of the questions are facts that  
25



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1  
2 nobody has testified to.

3 THE COURT: No, the ones where I've  
4 sustained the objections, I agree. But I  
5 think I'm following along pretty carefully  
6 with what he's been asking as a hypothetical.

7 MR. MILLER: I'll correct it. Thank  
8 you.

9 THE COURT: A hypothetical question  
10 is my -- the way that as a judge I make my  
11 decisions on rulings on them is that  
12 assume -- if you were to assume as follows?  
13 And then a recitation of pretty precisely  
14 what the facts that were adduced or from the  
15 witness.

16 Yes, sir.

17 MR. FRITZ: Judge, we have Eric  
18 Hoffman's testimony and that's not what he  
19 testified to.

20 At page 17: So when you met with  
21 Jodee Fessler and Kevin Fessler, they told  
22 you that they suspected that Terry Seipp and  
23 their daughter was having some type of  
24 romantic relationship, didn't they?

25 And he said: Yes. I'm assuming,

1                    L. LAYDEN - CROSS

2                    sir, that's how it started. Correct.

3                    MR. MILLER: Here at trial?

4                    MR. FRITZ: Yes.

5                    They told you that directly? Right.

6                    THE COURT: So you may redirect the  
7                    witness on that. You may redirect the  
8                    witness on that. All right?

9                    So let's go back and continue on.

10                   MR. MILLER: Was that '04 or '05? I  
11                   thought that was '05, Jeff.

12                   MR. FRITZ: Your questions are not  
13                   limited to '04 and '05.

14                   MR. MILLER: Yes, they are.

15                   THE COURT: Just a moment.

16                   So you're to be precise as to whether  
17                   it's '04 or '05.

18                   MR. MILLER: Yes, it's '04.

19                   THE COURT: Let's go on.

20                   (END OF SIDEBAR DISCUSSION.)

21 BY MR. MILLER:

22 Q. All right. We're back.

23                   So what I want to make sure is that  
24                   we're talking about facts. I want you to assume as  
25                   of 2004. Not 2005.

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Are you with me?

A. Yes.

Q. So I want you to assume that in 2004 when either Jodee or Kevin Fessler went to Eric Hoffman, the elder, in the Spring Grove Congregation, they asked him to counsel their daughter concerning a relationship she had with Terry Seipp. Okay?

A. Yes.

Q. I want you to assume that at that point in time there was an agreement between Stephanie Fessler and Terry Seipp that they would tell their respective elders that this was just a surrogate mother/daughter relationship. Okay?

A. Okay.

Q. I want you to assume that the kissing and holding hands that was involved was as a mother and daughter type relationship. Okay?

A. Yes.

Q. In your opinion, do we have any reason to suspect a child abuse situation under those circumstances?

A. So the information is that they provided the information that there was holding hands and kissing and both of the parties advised them of the

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1  
2 mother/daughter relationship? Is that correct?

3 Q. That's the facts I want you to assume, yes.

4 A. And your question is should it have been  
5 reported?

6 Q. Does that rise to the level of reasonable  
7 cause to suspect child abuse so that it should be  
8 reported to the police?

9 A. Yes.

10 Q. Okay. So then I want to know, in your  
11 opinion, detective -- well, first of all, you've  
12 been trained for many years a detective, as a police  
13 officer; right?

14 A. Yes.

15 Q. How long have you been a detective? How long  
16 have you held that rank?

17 A. Almost ten years.

18 Q. Before that, what was your rank?

19 A. Patrol sergeant.

20 Q. And you have been a police officer for how  
21 many years? Is it 20?

22 A. About 22.

23 Q. 22. And part of your training had to do with  
24 child abuse; is that right?

25 A. Yes, that's correct.

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1  
2 Q. You told us how many times you testified, I  
3 believe.

4 How many actual child abuse cases have  
5 you worked on, investigated?

6 A. Approximately 260.

7 Q. So in those 260 cases, how many of them have  
8 involved people who were in the same sort of  
9 surrogate mother, surrogate daughter relationship  
10 that was represented to these elders between  
11 Stephanie Fessler and Terry Monheim? How many of  
12 those have you had?

13 MR. FRITZ: Objection.

14 THE COURT: Sustained.

15 Don't answer.

16 BY MR. MILLER:

17 Q. How many of those 260 cases have involved  
18 women who were in their 40s or 50s and teenagers,  
19 14, 15, 16 years old, maybe 17?

20 MR. FRITZ: Objection.

21 THE COURT: Overruled.

22 You may answer that.

23 BY MR. MILLER:

24 Q. You may answer.

25 A. I don't know without going through the

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records. I wouldn't be able to answer that.

Q. Do you remember any others besides this one?

A. Again, I'd have to be able to look. That's an awful lot of child abuse investigations.

Q. So you can't recall any one to mind today?

Can you?

A. I'm not sure. Again, I would have to be able to at least look through maybe a couple of years of reports.

Q. There were three crimes with which Terry Monheim was charged; is that correct?

A. Yes, that's correct.

MR. FRITZ: Objection.

THE COURT: Overruled.

BY MR. MILLER:

Q. And they included statutory sexual assault, which was a felony; correct?

MR. FRITZ: Objection.

THE COURT: Let's go to sidebar on this.

(DISCUSSION HELD AT SIDEBAR AS

FOLLOWS:)

THE COURT: Basis for the objection?

MR. FRITZ: Sure. They are seeking

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1  
2 to introduce the evidence of a lack of  
3 conviction on one of the charges. She took a  
4 plea. She pled guilty.

5 MR. MILLER: No, we're not.

6 MR. FRITZ: Then why are you asking a  
7 question that relates to it?

8 THE COURT: Just a minute. Finish.  
9 Put the basis for your objection on the  
10 record.

11 MR. FRITZ: Sure. We talked about  
12 this in a different context about the fact  
13 that the lack of a criminal charge or the  
14 lack of a criminal prosecution, the Supreme  
15 Court has held is inadmissible in a civil  
16 case because of the differing standards and  
17 it's really the same thing here.

18 Terry Monheim was convicted of  
19 indecent assault of a child under the age of  
20 16 and corruption of minors. And now we have  
21 questions posed to her relating to another  
22 charge that was pled out.

23 MR. MILLER: All I want to do is I  
24 want to talk about the distinction between  
25 the charges that were made. I'm not going to

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1  
2 convictions. I don't care about convictions.

3 I merely want to show the elements of  
4 the charges and show what was in the minds of  
5 the officer as she was making the arrest.

6 And also I want to show what the  
7 problems are with this corruption of minors  
8 offense. That's where I'm going with this.

9 MR. FRITZ: It's irrelevant and it's  
10 unduly prejudicial. Because if a jury sits  
11 there and hears, oh, wait a second. There  
12 was another charge and it's different and  
13 it's deeper and it's a felony.

14 He already said felony.

15 THE COURT: What's the relevance of  
16 the charges and the conviction? The issue is  
17 whether or not there was a reasonable  
18 suspicion to report.

19 MR. MILLER: That's right. And the  
20 lawyers who gave the advice to the elders  
21 were based upon a research of the law that  
22 existed back then and they're looking at the  
23 crimes that could be charged and they're  
24 looking at what the potential child abuse  
25 charges are. And apparently they didn't look



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1  
2 at corruption of minors.

3 THE COURT: What specifically was  
4 your question again?

5 MR. MILLER: I was asking her about  
6 the elements of the crimes that were  
7 involved.

8 THE COURT: And she pled guilty to  
9 what exactly?

10 MR. FRITZ: She pled guilty to the  
11 corruption of minors, indecent assault of a  
12 person under the age of 16.

13 THE COURT: Okay. You may stick with  
14 those. Only those charges to which she pled  
15 guilty.

16 MR. MILLER: Perfect.

17 THE COURT: Thank you.

18 (END OF SIDEBAR DISCUSSION.)

19 THE COURT: Proceed.

20 MR. MILLER: Thank you, Your Honor.

21 BY MR. MILLER:

22 Q. One of the crimes with which Terry Monheim was  
23 charged was indecent assault; is that right?

24 A. Yes, that's correct.

25 Q. And another one was called corruption of

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minors; is that right?

A. Yes. That's correct.

Q. And indecent assault -- of course, crimes have elements. In other words, there's things that you have to show that were done in order to prove the crime; is that right?

A. Yes.

Q. So the elements to this crime are: The actor had indecent contact with the complainant, Stephanie Fessler, or caused the complainant to have indecent contact with the actor. Actor being Terry Seipp. When the complainant was less than 16 years of age and the actor was four or more years older than the complainant. And the complainant and the actor were not married to each other. I just read that off the charging sheet.

Is that your understanding of that crime?

A. Yes.

Q. Okay. Then on corruption of minors, this says that the actor, being 18 years of age and upwards, that's talking about Terry Seipp or Monheim, corrupted or tended to corrupt the morals of Stephanie Fessler, a child under the age of 18

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1  
2 years, by the act of engaging in sexually activity  
3 and/or intercourse with her.

4 That was the charge; correct?

5 A. I'm sorry?

6 Q. That was --

7 A. That was?

8 Q. That was the charge; right?

9 A. The charge was corruption of minors, yes.

10 Q. So she pled guilty to those two, the indecent  
11 assault and the corruption of minors; isn't that  
12 right?

13 A. Yes, she did.

14 Q. Now, this corruption of minors.

15 MR. MILLER: D-34, please.

16 BY MR. MILLER:

17 Q. We're going to put that up and show it to you  
18 so that we can talk about it just a little bit.

19 Do you see it?

20 A. Yes, I do.

21 Q. So it talks about corrupting or tending to  
22 corrupt the morals of any minor less than 18 years  
23 of age, or who aids, abets, entices or encourages  
24 any such minor in the commission of any crime, or  
25 who knowingly assists or encourages such minor in

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1  
2 violating his or her parole or any order of court,  
3 commits a misdemeanor of the first degree.

4 That's the actual statute, isn't it?

5 A. Yes.

6 Q. So that statute has broad application, doesn't  
7 it?

8 MR. FRITZ: Objection.

9 THE WITNESS: Yes, it does.

10 THE COURT: Overruled.

11 MR. MILLER: I'm sorry, I didn't

12 hear.

13 THE COURT: I overruled the  
14 objection. The answer can stand.

15 MR. MILLER: Thank you, Your Honor.

16 BY MR. MILLER:

17 Q. In other words, you can corrupt the morals of  
18 a minor by helping them commit a crime by delivering  
19 alcohol to them, by delivering them marijuana or by  
20 engaging in sex or in a myriad of ways. True?

21 A. Yeah, I suppose that's true. Yes.

22 Q. And after the Sandusky cases have concluded,  
23 the legislature has revamped the statutes to remove  
24 -- or rather I should say not included this one as  
25 one of the statutes?

1                                    L. LAYDEN - CROSS

2                                    MR. FRITZ:  Objection.

3                                    MR. MILLER:  Included in the  
4                                    reportable offenses; correct?  Under child  
5                                    abuse.

6                                    THE COURT:  Are you objecting?

7                                    MR. FRITZ:  Yes, I did.

8                                    THE COURT:  All right.  Sustained.  
9                                    Don't answer.

10                                  BY MR. MILLER:

11                                  Q.        Don't answer.  Sorry.  That was sustained.

12    Are you aware of the case law that has  
13                                  occurred in 2014 concerning that corruption of  
14                                  minors statute?

15                                    MR. FRITZ:  Objection.

16                                    THE WITNESS:  No, I'm not.

17                                    MR. FRITZ:  I'm sorry, I objected to  
18                                    the question.

19                                    THE COURT:  I'm going to sustain the  
20                                    objection and you can disregard that answer,  
21                                    please.

22                                  BY MR. MILLER:

23                                  Q.        You continue to educate yourself about the  
24                                  statutes involved in your field, don't you?

25                                  A.        Yes.

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Q. Do you attend continuing education courses?

A. I attend the annual training by the multiple disciplinary team and I also attend a monthly training at the Children's Advocacy Center.

Q. Does the training you attend include learning how statutes are interpreted and to be applied?

MR. FRITZ: Objection.

THE COURT: Overruled. She can answer.

THE WITNESS: No. Generally issues of law are referred to the District Attorney's Office.

BY MR. MILLER:

Q. Thank you.

I want to take you to the specific reporting, child abuse reporting statute. It is Title 23, Chapter 63, Section 6311. It's exhibit D-34-1.

That's D-38. I stand corrected. D-38 is the exhibit number.

This is the statute that was in effect in 2004 and 2005.

Do you see it there on the screen?

A. Yes, I do.

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1  
2 Q. Let's just go through this and let's make sure  
3 we understand it.

4 First of all, its title is the Persons  
5 Required to Report Suspected Child Abuse. All  
6 right?

7 And then the general rule says:  
8 Persons. Persons, who in the course of their  
9 employment, occupation or practice of their  
10 profession, come into contact with children.

11 So let's talk about that. Persons.  
12 We're talking about people, aren't we?

13 A. Yes.

14 Q. And these people have to be employed in some  
15 fashion that causes them to have contact with  
16 children; correct?

17 A. Again, if that would have been an issue,  
18 whether violated the reporting act, that would have  
19 been an issue that would have been the decision of  
20 the District Attorney.

21 Q. I'm just asking you if that's what the statute  
22 says and means. And I'm not asking you to make a  
23 decision about it, but -- a charging decision; I  
24 just want to make sure that we understand what the  
25 law says. Okay?

L. LAYDEN - CROSS

1  
2 So persons who are employed or  
3 occupation or their profession causes them to come  
4 into contact with children; is that right?

5 A. Yes.

6 Q. Okay. So I just want to bring that up because  
7 you're not aware of any fact to the effect that  
8 anybody in New York, either with Watchtower or with  
9 Christian Congregation of Jehovah's Witnesses, had  
10 any personal contact with Stephanie Fessler, are  
11 you?

12 A. I don't know if they did or not.

13 Q. In fact, you're not aware of anyone in the  
14 Freeland, Maryland congregation who had personal  
15 contact with Stephanie Fessler either, are you?

16 A. Again, I don't know if they did or not.

17 Q. The only person or persons that you know of  
18 who had contact with Stephanie Fessler would be the  
19 Spring Grove Congregation elders; is that right?

20 A. That's the information that I was provided,  
21 yes.

22 Q. Of course, you know her parents had contact  
23 with her, too, didn't they?

24 A. As far as I know they did, yes.

25 Q. But now they had contact with her as parents;



L. LAYDEN - CROSS

1  
2 not in any employment, occupation or profession.

3 Agreed?

4 MR. FRITZ: Objection.

5 THE WITNESS: Yes, that's correct.

6 THE COURT: Overruled. Overruled.

7 BY MR. MILLER:

8 Q. So this statute doesn't mean that if a parent,  
9 a father or a mother happens to also be a doctor or  
10 a teacher, that -- and they learn that their child  
11 might have had some kind of sexual contact with an  
12 adult, this statute isn't elevating or changing that  
13 parents' status to a professional now that has to  
14 report, is it?

15 A. If I had a situation like that, I would defer  
16 that to the District Attorney's Office, because they  
17 are a mandated reporter. I don't know if they would  
18 be required to report with their own child, not in  
19 the course of their work.

20 Q. So you don't know what it means when it says  
21 persons who in the course of their employment,  
22 occupation or practice of their profession come into  
23 contact with children, you don't understand that  
24 language?

25 MR. FRITZ: Objection.

L. LAYDEN - CROSS

1  
2 THE WITNESS: I understand it, but I  
3 wouldn't interpret how the law applies. If  
4 it was a case I was investigating, I would  
5 refer to the District Attorney to interpret  
6 exactly how they wanted to apply that law.

7 BY MR. MILLER:

8 Q. Now, it goes on, if you follow along in the  
9 statute, to say that these professionals, who come  
10 into contact with children, shall report or cause a  
11 report to be made in accordance with Section 6313  
12 relating to the reporting procedure.

13 And here is when they report: When  
14 they have reasonable cause to suspect.

15 Okay? Are you with me so far?

16 A. Yes.

17 Q. Reasonable cause to suspect. Now, here is  
18 what gives rise to that reasonable cause to suspect:  
19 On the basis of their medical, professional or other  
20 training and experience.

21 Do you see that language, medical,  
22 professional or other training and experience?

23 A. Yes.

24 Q. And so I'm just pointing that out to show a  
25 couple of things with you, and I think you'll agree

L. LAYDEN - CROSS

1  
2 with me, parents who have their own children, they  
3 come into contact with their children on the basis  
4 of being a parent, not on the basis of medical,  
5 professional or training or experience, don't you  
6 agree?

7 A. Yes.

8 Q. And then it goes on to say: That a child  
9 coming before them in their professional or official  
10 capacity is an abused child.

11 See, it's really clear, isn't it?

12 Parents aren't mandated reporters, are they?

13 A. Parent aren't mandated reporters and what  
14 you're describing are persons that are mandated  
15 reporters.

16 Q. Yes. So a person who happens to be a  
17 professional whose own child may have been abused,  
18 this statute does not apply to their professional  
19 life simply because their contact with their own  
20 child doesn't arise from their professional life; it  
21 arises from their family life. Agreed?

22 A. The wording doesn't seem to indicate that,  
23 but, again, I wouldn't make that call on my own if  
24 there was an investigation involving a case of a  
25 minor if those were the specifics.

L. LAYDEN - CROSS

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Q. So the reason you say that is because you're not a lawyer; isn't that right?

A. I'm not a lawyer.

Q. But you would defer to the opinions of an attorney on that point. Is that what you're saying? And, specifically, the District Attorney your case.

A. Yes. For matters of law, interpreting law, I always confer with the District Attorney.

Q. It's reasonable to confer with attorneys over legal issues, isn't it?

MR. FRITZ: Objection.

THE COURT: Sustained.

Don't answer.

BY MR. MILLER:

Q. Do you think that it's a reasonable thing for you to do to ask a District Attorney for a legal opinion about something like this reporting law?

A. Yes.

Q. Do you think that it's reasonable for attorneys to read and interpret this reporting law as they're trying to give advice to their clients?

MR. FRITZ: Objection.

THE COURT: Sustained.

Don't answer.

L. LAYDEN - CROSS

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BY MR. MILLER:

Q. Let's move on. Let's go to the next section under definitions of child abuse. I think it's D-35. We have D-35 on the board.

Do you see it, Detective Layden?

A. Yes.

Q. So here we're defining the term child abuse. And A talks about physical injury.

B. It's an act or failure to act by a perpetrator which causes nonaccidental serious physical injury to or sexual abuse or sexual exploitation of a child under age 18.

Now, do you see the term sexual abuse there? Right?

A. Yes.

Q. So now what we want to do is to define sexual abuse and that's under D-37. There we go.

Do you see it?

A. Yes.

MR. MILLER: Let's highlight the first four lines of the sexual abuse or exploitation paragraph.

BY MR. MILLER:

Q. Okay. Let's just talk about this highlighted

L. LAYDEN - CROSS

1  
2 language.

3 Sexual abuse or exploitation is the  
4 employment or use, persuasion, inducement or  
5 enticement or coercion of any child to engage in or  
6 assist any other persons who engage in any sexually  
7 explicit conduct or any simulation of any sexually  
8 explicit conduct, et cetera.

9 Let's key in on that, sexually  
10 explicit conduct language.

11 Do you see it highlighted now?

12 A. Yes.

13 Q. Do you think a hug is sexually explicit?

14 A. Depends on the circumstance.

15 Q. Do you think that when a mother kisses her  
16 daughter or a daughter kisses her mother, that's  
17 sexually explicit?

18 A. Again, it depends on the entire circumstance.

19 Q. Do you think that when a surrogate mother, a  
20 close friend, who is behaving as a surrogate mother,  
21 kisses her surrogate daughter and hugs her and holds  
22 her hand, is that sexually explicit conduct to you?

23 A. It could be.

24 Q. And so it depends on what the people who are  
25 judging the conduct know about the individuals,

1 L. LAYDEN - CROSS

2 first of all, and know about the circumstances,  
3 second of all.

4 Agreed?

5 A. I don't think they're required to know about  
6 the individuals. As I said, it depends on the  
7 information.

8 Q. But if they do know the individuals, if they  
9 know one of the individuals for sure, as the Spring  
10 Grove elders knew Stephanie, as the Freeland,  
11 Maryland Congregation elders knew Terry, they had  
12 information --

13 MR. FRITZ: Objection.

14 BY MR. MILLER:

15 Q. -- they could use to judge whether this rose  
16 to the level of sexually explicit conduct. Don't  
17 you agree?

18 THE COURT: Overruled.

19 You may answer.

20 BY MR. MILLER:

21 Q. You could answer.

22 A. I wouldn't say that. It depends on the  
23 circumstance. Just because someone has known  
24 someone for a lot of years, that doesn't  
25 automatically change what they should do with the

L. LAYDEN - CROSS

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information.

Q. All right, detective, those are all my questions. Well, no, they're not. No, they're not. Let's talk a little bit about that.

Are you aware that the elders in these congregations are -- they're not people who go to any kind of seminary school; they're lay elders.

Do you know that?

A. I don't know what kind of training they have.

Q. You realize that elders are there to help people apply Bible Scriptures in their lives. Do you know that about them?

A. Again, I don't know the specifics of what their training is or what their duties are.

Q. You sat through the testimony of at least one of these elders and you heard him talk about his background; right?

A. Yes.

Q. And so you could assume that he testified to the truth.

So would you agree then that a lay elder, who doesn't have specialized training like you have, anywhere near like what you have, could reasonably think that when he hears about a



L. LAYDEN - REDIRECT

1 surrogate mother/daughter relationship, the kissing  
2 is like that, a mother/daughter kissing, holding  
3 hands and hugging --

4 MR. FRITZ: Objection.

5 BY MR. MILLER:

6 Q. -- is it reasonable for that person, under  
7 this reporting statute, to not conclude that he  
8 needs to report any kind of sexually child abuse?  
9

10 MR. FRITZ: Same objection.

11 THE COURT: Overruled.

12 You may answer.

13 BY MR. MILLER:

14 Q. You can answer.

15 A. No, I think it should have been reported.

16 MR. MILLER: I'll pass the witness.

17 THE COURT: All right. Any redirect  
18 now?

19 MR. FRITZ: Yes.

20 - - -

21 REDIRECT EXAMINATION

22 - - -

23 BY MR. FRITZ:

24 Q. Detective Layden, can you hear me?

25 A. Yes.

L. LAYDEN - REDIRECT

1  
2 Q. Good. I want to start with some of the  
3 questions that Mr. Miller posed to you and then  
4 we'll sort of work backward and talk about some  
5 information.

6 You were asked some questions by Mr.  
7 Miller about what your knowledge or what the level  
8 of training or experience is of members of clergy  
9 that you just answered.

10 Do you recall that?

11 A. Yes.

12 Q. Would I be correct that this statute, this  
13 law, the mandatory reporting law, simply applies to  
14 clergy who get information of suspected abuse of a  
15 child?

16 MR. MILLER: I object to the form.

17 THE WITNESS: Yes.

18 THE COURT: Overruled.

19 BY MR. FRITZ:

20 Q. And so when you provided your opinions both on  
21 everybody's questioning about whether an elder such  
22 as Mr. Hoffman or Mr. Cluck or Mr. Hollingworth had  
23 an obligation to make a report of suspected abuse of  
24 a child, you were relying upon the fact that they  
25 were an elder and a member of clergy?

L. LAYDEN - REDIRECT

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A. Yes. That's correct.

Q. And so do you have an understanding about why it is that the law, the Child Protective Services Law, says if you get this information, turn it over to authorities?

A. Yes. They don't want mandated reporters doing an investigation or trying to make a determination of whether a law was violated or not; they just want them to report it so that it can be investigated.

Even if it's not -- even if it doesn't rise to the level of violating a law, they want them to contact the authorities so the authorities can intervene and try to determine if anything is wrong or not.

Q. And those authorities would be the police, Children and Youth Services and ChildLine; right?

A. Yes.

Q. Now -- and is it fair to say that the purpose of that is to take the investigative responsibilities away from members of clergy and other mandated reporters?

MR. MILLER: I object to the form.

THE COURT: Just a moment.

Sustained.

L. LAYDEN - REDIRECT

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BY MR. FRITZ:

Q. You were asked some questions by Mr. Miller, a series of hypotheticals about different scenarios of a relationship between an older women and a younger girl.

Is there a difference between kissing like a grandmother would kiss a grandchild or a child and kissing on the mouth between a 50-year-old woman and 14-to-16-year-old woman?

A. Yes.

Q. And what is that difference as it applies to the mandated reporting requirements?

A. Well, again, the information that two people were kissing, it's not described as a grandmother kissing a child on the head, it's described as two people kissing. You have a large age difference and children are more easily deceived and manipulated than adults. So that has to be taken into consideration.

So that information there does give rise to suspicion of child abuse or that child abuse may occur.

Q. And am I correct that you were in the courtroom when Terry Seipp or Terry Monheim

L. LAYDEN - REDIRECT

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testified; is that right?

A. Yes, I was.

Q. And did you hear her testify that she was making out with Stephanie Fessler?

A. Yes, I did.

Q. And so if a 50-year-old woman is making out with a 14-to-16-year-old girl, is that information that a mandated reporter, mandatory reporter, has to make a call to the authorities?

A. Yes, it is.

Q. You were asked some questions about the report that you took in 2005 from Jodee Fessler who had called or contacted you about Stephanie running away.

Do you recall that?

A. Yes.

Q. And you were also asked some questions about your interview of both Jodee Fessler about that call in 2005 and what she knew; is that right?

A. Yes.

Q. And according to your report, you interviewed Jodee Fessler December 2nd, 2011; is that right?

A. Yes.

Q. And did she tell you that she was suspicious

L. LAYDEN - REDIRECT

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in 2003 and 2004?

And if you need to see your report, we can look at it.

A. Yeah, I'm going to need to look at my report.

Q. I'm specifically referring you to page nine of 11. I'll try to put it up on the screen here as well.

A. Okay.

Q. Now, if you look at the top, can you tell the jury what it is that you learned from Jodee Fessler for the basis of her suspicions of an inappropriate relationship, not a mother/daughter or surrogate mother/daughter relationship?

A. She related that when Stephanie was approximately 14, she had asked her questions specifically after watching a television program that was about a child abuse situation and Stephanie had asked her questions about it and that made her suspicious.

And then also she described that Terry came to their church in Spring Grove and sat alone and away from the family with Stephanie and that made her uncomfortable and that is also the day she found a card that Stephanie wrote to Terry, a card

L. LAYDEN - REDIRECT

1  
2 that spoke about kissing and how much Stephanie  
3 loved Terry.

4 And then she also talked about when  
5 Stephanie of Terry dropped her off at the top of the  
6 driveway. She was suspicious of the way that they  
7 were laughing and giggling and the way that they  
8 touched each other.

9 Q. That was something that she reported to you  
10 that she observed directly?

11 A. Yes.

12 Q. And then what did she indicate to you after  
13 she told you all the stuff about what her response  
14 was to seeing all these things?

15 A. She was very upset by it. She told her  
16 husband about it. And that she said that she  
17 contacted the church elders about it.

18 Q. And didn't she say she was panic stricken  
19 about it?

20 A. Yes.

21 Q. And are those facts and information part of  
22 what you base your opinion about whether elders who  
23 were told that information should make a report to  
24 authorities?

25 MR. AARON: Objection. It assumes

L. LAYDEN - REDIRECT

1 facts not in evidence.

2 THE COURT: Overruled. Overruled.

3 You may answer that.

4 THE WITNESS: I'm sorry, I couldn't  
5 hear the ruling.

6  
7 BY MR. FRITZ:

8 Q. You could answer.

9 A. Okay. Yeah, that's what I believe that Jodee  
10 shared with the church elders, the same information  
11 that she shared with me.

12 Q. Well, at least part of that and some of that,  
13 you don't know the details because Eric Hoffman  
14 never talked to you about it; right?

15 A. Yes, that's correct.

16 Q. And you tried to talk to Eric Hoffman; right?

17 MR. MILLER: Objection.

18 THE COURT: Sustained, because that's  
19 leading.

20 BY MR. FRITZ:

21 Q. Did you try to talk to Eric Hoffman about that  
22 topic?

23 MR. AARON: Same objection.

24 THE COURT: Sustained.

25 Don't answer.



1                    L. LAYDEN - REDIRECT

2                    THE WITNESS: Yes.

3                    THE COURT: Disregard her answer,  
4                    please.

5                    There's a time lapse here, so please  
6                    pay attention carefully to my instruction  
7                    when I tell you to disregard.

8 BY MR. FRITZ:

9 Q. All right. I want to change the attention to  
10 you got this runaway report from Jodee Fessler in  
11 2005. You took the report.

12                    And if I recall your testimony, the  
13 next day Stephanie returned home; is that right?

14 A. Yes, that's correct.

15 Q. And why is it that you never interviewed Terry  
16 Seipp in 2005 after you got that report?

17 A. There was no runaway report. I wasn't  
18 provided information about that.

19 Q. Is a runaway report something different than a  
20 report of suspected child abuse?

21 A. Yes.

22 Q. And did you investigate and finish what you  
23 needed to do on the runaway report, the same that  
24 you always have done?

25 A. Yes, I did.

L. LAYDEN - REDIRECT

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Q. What is the difference between those two, those two types of reports?

A. Runaway report is handled, as I described, we enter the person as a missing person. If the person that's reporting knows where they may be found, we check that area.

If they do not return in 24 hours, then we report the information to the Department of Vital Statistics at the school district. If they do return, then we cancel the missing persons entry.

Q. I want to direct your attention to the testimony of Eric Hoffman. And this is P-136-17.

You were asked some questions about, I believe it was Mr. Miller wanted you to assume -- wanted you to assume that the only information that was provided to Eric Hoffman was that it was a mother/daughter relationship. And I want you to look at Mr. Hoffman's testimony. And starting at line 20 on that page.

Okay. So when you met with Jodee Fessler and Kevin Fessler, they told you that they had suspected that Terry Seipp and their daughter were having some type of romantic relationship, didn't they?

L. LAYDEN - REDIRECT

1  
2 And Mr. Hoffman said: I'm assuming,  
3 sir, that's how it started. Correct.

4 Then he was asked: Okay. Well, they  
5 told you that directly?

6 And he said: Right.

7 And they told you that -- and when you  
8 talked to Stephanie, she told you that they were  
9 making out, they were kissing romantically, didn't  
10 she?

11 And he said: In 2005, correct.

12 So in 2005 at least you were told that  
13 a 16-year-old girl was making out with a 50-year-old  
14 woman?

15 Correct.

16 And you were suspicious at that point,  
17 that this might be child abuse, weren't you?

18 And his answer was: We were  
19 suspicious that something was going on that  
20 shouldn't be.

21 Something sexual between a 50-year-old  
22 and a 16-year-old.

23 And he said: There was no mention of  
24 sexual contact.

25 And with that testimony, and your

L. LAYDEN - REDIRECT

1  
2 opinion that a report should have been made, if Mr.  
3 Hoffman got information of kissing on the mouth,  
4 making out in 2004 between Stephanie and Terry,  
5 should a report have been made by Mr. Hoffman and  
6 any other elder who had that information under the  
7 Child Protective Services Law?

8 MR. MILLER: Objection, Your Honor.

9 First of all, our hypothetical was  
10 asked of 2004.

11 Secondly, Eric Hoffman's testimony  
12 was clearly as to 2005.

13 THE COURT: Correct. But the  
14 question was as to 2004. I am going to  
15 overrule the question. He may ask about that  
16 with respect to 2004.

17 Tell the witness she may answer.

18 BY MR. FRITZ:

19 Q. You may answer the question.

20 A. Yes. The information that he had should have  
21 been reported.

22 Q. And, specifically, if he had that information  
23 of making out in 2004, should Mr. Hoffman or any  
24 other elder who had that information had made a  
25 report under the Child Protective Services Law?

L. LAYDEN - RECROSS

1 MR. MILLER: Same objection.

2 THE COURT: Overruled.

3 THE WITNESS: Yes.

4 THE COURT: Ask her to repeat the  
5 answer.

6  
7 BY MR. FRITZ:

8 Q. I'm sorry, could you repeat the answer?

9 A. Yes. A report should have been made.

10 MR. FRITZ: Thank you. I don't have  
11 any other questions.

12 MR. AARON: I do have recross.

13 THE COURT: Recross and then we're  
14 going to stop.

15 - - -

## RECROSS EXAMINATION

16  
17 - - -

18 BY MR. AARON:

19 Q. Detective Layden, do you recall that on cross  
20 examination by Mr. Miller you were asked some  
21 questions about the Child Protective Services Law,  
22 Section 6311?

23 A. Yes.

24 Q. And that that portion of the statute was up on  
25 the screen; correct?

L. LAYDEN - RECROSS

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A. Yes.

Q. And in response to some of those questions, you answered that a lawyer in the D.A.'s Office would be the one to determine that the Child Protective Services Law had been violated.

Do you recall giving some of those answers?

A. Whether there would be enough evidence to file the charge, yes.

Q. But don't you recall testifying about the Child Protective Services Law, that it would be up to the lawyer at the D.A.'s office to determine whether that law had been violated?

A. Yes.

Q. Okay. You're here testifying as an expert on the Child Protective Services Law; correct?

A. Yes.

Q. You're not a lawyer, are you?

A. No, I'm not.

Q. You've never been a lawyer in the District Attorney's Office, have you?

A. No, I have not.

Q. Let me ask you about something else.

Mr. Fritz just asked you, before I

L. LAYDEN - RECROSS

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came back, whether in 2005 -- let me --

In 2005, the fall of 2005, Jodee Fessler made this runaway report; correct?

A. Yes.

Q. And Mr. Fritz asked you whether in 2005 Jodee told you about Terry Seipp.

Do you remember being asked that question?

A. Yes.

Q. And you testified that you weren't provided that information about Terry Seipp in 2005 when she made the runaway report.

Wasn't that your answer?

A. Yes.

Q. Well, you don't know whether you were provided with information about Terry Seipp. The fact is you just don't remember whether Jodee Fessler told you that information or not. You just don't remember; right?

A. I wouldn't say that. I gathered information from her that I needed for the runaway report.

Q. You gathered the information you needed for the runaway report and in the course of gathering information, one thing that you would ask the mother

L. LAYDEN - RECROSS

1  
2 is who do you think she might be with. That would  
3 be the information you would need for the runaway  
4 report; correct?

5 A. Maybe where she may be. She may not  
6 necessarily have said I think she was with a person.  
7 If she gave a place where the child would have been,  
8 we would have checked that location.

9 Q. So you say she might not have necessarily said  
10 that; correct?

11 A. Yes, that's correct.

12 Q. But you don't remember for certain that she  
13 didn't say that. You just said she might not have  
14 necessarily said that; correct?

15 A. I don't remember exactly what she said.

16 Q. And you don't remember exactly what she said  
17 because now 10, 11, 12, 13 years later, memories  
18 fade, don't they, detective?

19 A. Yeah, I'm sure they do.

20 Q. I'm going to ask you one more thing and then I  
21 have nothing else.

22 Can you turn to your report. I'm not  
23 sure of the exhibit number. Yes, that's right.  
24 It's your report. It's the first page and it says  
25 down at the bottom right-hand corner P-00009.



L. LAYDEN - RECROSS

Do you have that in front of you?

It's your report.

MR. FRITZ: Page nine.

THE WITNESS: Yes.

BY MR. AARON:

Q. Okay. And up at the top it says, supplemental, December 21st, 2011, Sergeant Lisa Layden.

Do you see that?

A. Yes.

Q. And we're going to highlight just a portion. This is your report from your interview of Jodee Fessler, Stephanie Fessler's mother, on December 2nd, 2011; correct?

A. Yes.

Q. These are the notes that you took and then you typed them up?

A. Yes.

Q. And it says: Stephanie then ran away from home. Department records indicate a runaway report in regards to Stephanie Fessler was filed by Jodee Fessler on September 26th, 2005. Stephanie was 16 years old. Stephanie returned home and said that the relationship with Terry had ended.

L. LAYDEN - RECROSS

1  
2 Have I read that correctly?

3 A. Yes.

4 Q. Thank you. I have no further questions.

5 Thank you, detective.

6 THE COURT: All right. Mr. Miller,  
7 do you have any other questions?

8 MR. MILLER: Yes, thank you.

9 BY MR. MILLER:

10 Q. So, Detective Layden, what I understand from  
11 your testimony and what we just read from that  
12 report.

13 MR. MILLER: Let's have it back  
14 again, please, P-1, page nine. Highlighting  
15 the runaway section. And yellowing in, said  
16 that the relationship with Terry had ended.

17 BY MR. MILLER:

18 Q. Now then, that is what you got from your  
19 runaway report of September '05; correct?

20 A. No, I'm not sure. That might have been  
21 information that Jodee provided in 2011.

22 Q. Oh, really? Do you have your runaway report?

23 A. No, I don't.

24 Q. What did you do with it?

25 A. I don't have it here with me today, no.

L. LAYDEN - RECROSS

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Q. Well, you referred to it in your report of 2011, 2012 in the prosecution of Terry Monheim; right?

A. Yes.

Q. And that means that you had the report available to you and you reviewed it; correct?

A. I verified that it was in our reporting system, yes.

Q. You didn't do just that; you read it, didn't you?

A. I'm not sure, when I created this report, whether I read it or not.

Q. Okay. Well, let's see if the details that you've written here will refresh your recollection.

Stephanie then ran away from home. Department records indicate a runaway report in regard to Stephanie Fessler was filed by Jodee Fessler on September 26th, '05. Stephanie was 16 years old. Stephanie returned home and said that the relationship with Terry had ended.

Have I read that correctly?

A. Yes.

Q. And so we have enough detail from your report of the runaway to understand that you read the

L. LAYDEN - RECROSS

1  
2 report. You didn't just look up to see that it  
3 existed; right?

4 A. No, I wouldn't say that, because this whole  
5 paragraph is talking about information that Jodee  
6 provided.

7 Q. Well, Jodee didn't provide you the date that  
8 she called in and talked to you about a runaway, did  
9 she?

10 A. No. As I said, I did see that that reporting  
11 said that the reason that I put that in there was  
12 just to, again, clarify time periods.

13 Q. You talked about the fact that Terry Monheim  
14 testified here in court that she and Stephanie were  
15 making out. You heard the testimony; correct?

16 A. Yes, I did.

17 Q. However, you have no idea when that  
18 information was reported to the elders, do you?

19 A. I'm sorry, I don't have any information of  
20 when it was reported to the elders?

21 Q. You have no idea when elders were actually  
22 told that Stephanie Fessler and Terry Monheim had  
23 been making out; you don't know when they heard  
24 that, do you?

25 A. The exact wording of it, no.

L. LAYDEN - RECROSS

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Q. I don't mean the exact wording, Detective Layden, I mean the substance of making out as opposed to a grandmother kissing a granddaughter. You don't know when elders were actually told either by Terry or by Stephanie that they had been making out?

A. No, I don't know exactly when they learned of that.

Q. But you did see the testimony of Mr. Hoffman; right? You were there for that testimony.

A. I did.

Q. And you had the testimony up on the screen just a moment ago showing that he heard of that in 2005.

Do you remember?

A. Yes.

Q. So you were asked by Mr. Fritz if, in fact, the elders heard that in 2004, well, then they had a duty to report in 2004; right?

A. Exactly what do you -- what exact information are you asking me about?

Q. I am simply repeating Mr. Fritz's hypothetical to you.

Mr. Fritz asked you if the elders knew

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2 in 2004 that the two had been making out, then they  
3 had a duty to report to police. And you said yes.

4 A. Yes. That's true.

5 Q. Well, but you don't know whether they heard it  
6 in 2004, do you?

7 A. No, I don't.

8 Q. And the only testimony you heard is from Eric  
9 Hoffman saying he didn't hear it until 2005; right?

10 A. That's correct.

11 Q. And then you heard Terry Monheim testify live  
12 in court and she said that what she had intended to  
13 tell the elders was that it was a surrogate mother,  
14 surrogate daughter type of relationship; correct?

15 MR. FRITZ: Objection.

16 THE COURT: Just a moment.

17 Overruled.

18 You may answer that.

19 BY MR. MILLER:

20 Q. You're allowed to answer.

21 A. Yeah, I don't know exactly what she told the  
22 church elders. I don't know. I don't know what  
23 exactly they were told.

24 Q. Right. You don't know what the elders were  
25 told and that's the point. You don't know, do you?

L. LAYDEN - RECROSS

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A. No, I don't.

Q. In fact, when you go to your report.

MR. MILLER: Let's put it back up.

Let's go to the second paragraph.

BY MR. MILLER:

Q. Now, this is the paragraph you were referring to go when you describe how Jodee got panicked when she found the card and she told elders something. This is after that paragraph.

A. Yes. Yes.

Q. Let's just take a look at it in the middle where it says she went through Stephanie's belongings. She did so and found the card Stephanie wrote to Terry.

Do you see that?

A. Yes.

Q. By the way, you testified earlier that it was a card that Terry gave to Stephanie and here this says Stephanie gave the card to Terry. That's a distinction without a difference. It doesn't matter who gave it to whom in your mind, does it?

A. Well, I never saw either one of the cards. I believe Stephanie made reference to a card that she said Terry wrote and Jodee told me that there was a

L. LAYDEN - RECROSS

1  
2 card that Stephanie wrote to Terry, but I never saw  
3 either one of the cards. I wasn't provided either  
4 one. Whether there was more, I don't know.

5 Q. So there could have been two cards. You don't  
6 know. All right.

7 So the card had a handwritten message  
8 that spoke of kissing. It says it spoke of kissing.  
9 Now, it doesn't say making out or French kissing or  
10 it doesn't say what kind of kissing; it just says  
11 spoke of kissing, doesn't it?

12 A. I don't know what the card said. That's the  
13 way that Jodee related it to me.

14 Q. That's the question; what did Jodee tell you  
15 as opposed to what did you conclude.

16 Now, it also spoke of how much  
17 Stephanie loved Terry. It said that, too, didn't  
18 it?

19 A. Yes.

20 Q. So far we have kissing and they love each  
21 other.

22 Now, to your criminal mind, you  
23 already have cause for suspicion, don't you?

24 MR. FRITZ: Objection.

25 THE COURT: Sustained.



L. LAYDEN - RECROSS

1 THE WITNESS: Yes.

2 THE COURT: Rephrase the question.

3 BY MR. MILLER:

4 Q. As a criminal detective, you already have  
5 suspicion of something going on that may rise to the  
6 level of child abuse. That's your suspicion based  
7 on a spoke of kissing and how much Stephanie loved  
8 Terry; right?

9 A. It could be, yes.

10 Q. Or it could be something innocent, couldn't  
11 it?

12 A. Again, until it's investigated, I don't know.

13 Q. And unless you know the circumstances as the  
14 elders thought they did --

15 THE COURT: Sir, this is recross. I  
16 want you to move.

17 MR. FRITZ: Objection.

18 THE COURT: I'm not going to keep  
19 going too long, because it's recross.

20 BY MR. MILLER:

21 Q. Let's go on. Let's move on to the next  
22 portion.

23 It talks about this. Go to Jodee had  
24 already showed the card to her husband, Kevin. And  
25

L. LAYDEN - RECROSS

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2 so then she confronted Stephanie about the  
3 relationship with Terry and they broke up, to her  
4 knowledge.

5 Do you see that part?

6 A. Yes.

7 Q. This is Jodee telling you sort of the sequence  
8 of events; is that right?

9 A. Yes.

10 Q. And then Jodee tells you that she contacted a  
11 church elder, Eric Hoffman, about the matter and  
12 requested counseling for Stephanie.

13 Do you see that?

14 A. Yes.

15 Q. Then Monday she called an attorney.

16 Now, it doesn't say what she told Eric  
17 Hoffman, does it?

18 A. No, it doesn't.

19 Q. So you have to speculate about what that may  
20 have meant, wouldn't you?

21 A. Yes. I don't know exactly what she told them.

22 Q. Well, you have no idea what she told them.

23 All it says is she contacted Eric Hoffman about the  
24 matter and requested counseling for Stephanie.

25 That's all you can tell us, because that's all you

L. LAYDEN - RECROSS

1  
2 have written down and you have no independent memory  
3 of it, true?

4 A. That's correct.

5 MR. MILLER: Thank you, Detective  
6 Layden.

7 THE COURT: All right. Thank you.  
8 Detective, I don't know if you can  
9 hear me or not, but thank you very much for  
10 your testimony. Good luck tomorrow. Have a  
11 happy wedding tomorrow.

12 THE WITNESS: Thank you, Your Honor.  
13 (WITNESS EXCUSED.)

14 THE COURT: We're going to take a  
15 short recess for a comfort break and then  
16 we'll come back with another witness. If  
17 you'll put your notes under your seats and  
18 we'll bring you back in about ten minutes.

19 THE COURT CRIER: Please rise as the  
20 jury leaves the room.

21 (Jury out at 11:08 a.m.)

22 MR. ZEFF: If we may have a word,  
23 Your Honor.

24 THE COURT: Yes, sir.

25 MR. ZEFF: We're going to be playing

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two videos back to back and both parties have objections that they would like some rulings on.

THE COURT: The videos will be this afternoon, I assume. No, now.

MR. ZEFF: Now.

THE COURT: Sorry. What's the first video?

MR. ZEFF: The first video is Jodee Fessler. And I understand there's a defense objection.

THE COURT: Do you have a transcript for me? And if you do, could I have it?

MR. VERNICK: It has my notations on it, if that's all right.

THE COURT: Talk to me then.

MR. ZEFF: I have no objection.

MR. FRITZ: I have a clean copy.

THE COURT: A clean copy is good. Thank you.

Okay. This is Jodee Fessler's videotaped deposition and point me to the page of the objection.

MR. VERNICK: Number four, Your

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Honor, page 33, line six to page 33, line 18.

Both objections are of the same nature.

THE COURT: 33, line six. Page 33, line six. The question, okay, I will represent to you that Eric Hoffman?

MR. VERNICK: Correct, Your Honor.

Just very briefly, and both of the objections are of the same nature.

THE COURT: Where is the objection?

MR. VERNICK: The objection is that this is deposition testimony being read to Jodee Fessler and it's Eric Hoffman's deposition testimony.

He testified here in court I believe on Wednesday. So to read his deposition testimony, which is not before the Court, would be improper to impeach or to characterize evidence for the witness.

THE COURT: Okay. So it goes to where? I'm looking. I don't see the objection.

MR. VERNICK: It's just, okay, I will represent to you that Eric Hoffman testified.

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2 And then they read as follows.

3 And that's directly from Eric  
4 Hoffman's deposition, which was in 2014. We  
5 have trial testimony from Eric Hoffman a few  
6 days, which would be valid, but the  
7 deposition testimony cannot come before the  
8 Court.

9 THE COURT: Your response.

10 MR. ZEFF: Judge, two things. It's  
11 consistent with what Mr. Hoffman said. And,  
12 secondly, that exact same passage from Jodee  
13 Fessler was discussed with Mr. Hoffman and I  
14 said would it surprise you to learn that  
15 Jodee Fessler had something different to say  
16 about 2004 to which he responded, it's  
17 possible she's right.

18 MR. VERNICK: If you recall, I  
19 believe plaintiff's counsel attempted to play  
20 the deposition video during Eric Hoffman's  
21 testimony. We objected and it was sustained  
22 and held out for this very reason.

23 MR. FRITZ: No, my recollection is,  
24 and I don't mean to interrupt the Court, but  
25 my recollection is it was sustained because

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she hadn't testified yet. Now, we're putting on that testimony.

THE COURT: All right. Just a moment.

I'm going to overrule the objection. I'm overruling it.

MR. VERNICK: Okay, Your Honor. There's a second portion. It's of the same nature, but additionally it also mischaracterizes the trial testimony.

So the first testimony is more or less accurate as to the trial testimony. The second portion, which it says if Mr. Hoffman --

MR. FRITZ: What page?

MR. VERNICK: Now, I'm looking at page 95, line 11. And it's just three lines just running to it looks like 95, page 14.

THE COURT: And so --

MR. VERNICK: This portion states, Your Honor, if Mr. Hoffman said that you didn't talk to him in 2004. And that's not what Mr. Hoffman said. He said I don't remember 2004.

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So not only is it his deposition, but it mischaracterizes what he said on the stand on Wednesday.

MR. ZEFF: Judge -- I'm sorry, Your Honor. You're reading.

If I'm not mistaken, that's pretty much not only the same thing, but Mr. Hoffman said it was 2005. I have no memory of anything in 2004.

THE COURT: Say that again, sir.

MR. ZEFF: Sure. Mr. Hoffman said I have no memory of 2004. It happened in 2005.

And this goes directly to that to contradict what Mr. Hoffman said. If they want to call Mr. Hoffman back to go the other way, they're certainly free to do that.

THE COURT: No, I'm going to sustain that objection. I recall Hoffman saying that no one -- that she did not speak to them in 2004.

MR. FRITZ: I'm sorry, what were the lines on that?

MR. VERNICK: That's just 11 through 13, just where you characterize his



C O L L O Q U Y

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2 testimony.

3 MR. FRITZ: Do you mean 15?

4 MR. VERNICK: Well, 15 is the answer.  
5 From my recollection I did speak to him in  
6 2004. We're just objecting to what the  
7 characterization of Mr. Hoffman's testimony  
8 is.

9 MR. FRITZ: So we just take out 11 to  
10 13. Okay.

11 MR. VERNICK: And I guess the answer,  
12 because she would be responding directly to  
13 the question which is objectionable. So just  
14 through 15.

15 Correct, Your Honor?

16 THE COURT: Yes.

17 MR. FRITZ: Thank you.

18 MR. ZEFF: Then we have a dispute, if  
19 I'm not mistaken, about Gary Neal and S-77?

20 MR. VERNICK: We do have that  
21 dispute, but John also has objections and  
22 argument on that as well.

23 THE COURT: Are there any other  
24 objections on the deposition of Jodee  
25 Fessler?

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2                                   MR. VERNICK: None on my behalf.

3                                   MR. MILLER: None.

4                                   MR. VERNICK: None, Your Honor.

5                                   THE COURT: You have objections?

6                                   MR. FRITZ: We have objections on the  
7                                   designations by the defense, but they're not  
8                                   being played at this time. That's in their  
9                                   case.

10                                  MR. AARON: Yeah, we're going to play  
11                                  those in our case in chief.

12                                  MR. ZEFF: We'll show you those  
13                                  later, Judge.

14                                  THE COURT: Okay.

15                                  Now, this deposition is about how  
16                                  long?

17                                  MR. FRITZ: It's about ten minutes.

18                                  THE COURT: Oh, it's ten minutes?

19                                  MR. ZEFF: Yes.

20                                  THE COURT: What's the next one?

21                                  MR. VERNICK: Then will you guys be  
22                                  playing Gary Neal.

23                                  MR. ZEFF: Gary Neal.

24                                  THE COURT: Could I have the Gary  
25                                  Neal transcript? This goes back to Mr.

1                                   C O L L O Q U Y

2                   Miller.

3                                   MR. VERNICK: I have, again, with my  
4                   notations.

5                                   Do you have a clean copy?

6                                   MR. FRITZ: I might have one. Here  
7                   it is.

8                                   MR. VERNICK: Mine is just yellow  
9                   highlighting.

10                                  MR. FRITZ: This is an extra copy.

11                                  MR. ZEFF: Where are we going? It's  
12                   20, line 11 to 23, line 22?

13                                  MR. VERNICK: Yes. So, Your Honor,  
14                   we're directing you to page 20, line 11 and  
15                   then it's going to run through a couple of  
16                   pages. It's all speaking of the same subject  
17                   matter.

18                                  THE COURT: Gary Neal. Gary Neal is?

19                                  MR. VERNICK: An elder of the  
20                   Freeland Congregation in Maryland, Your  
21                   Honor.

22                                  THE COURT: Okay. And the objection  
23                   is an objection to the question: And that  
24                   form is sent somewhere; right?

25                                  MR. VERNICK: It begins with: And

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there's also there are times when a form is filled out, an S-77 form.

THE COURT: Answer: Yes.

MR. ZEFF: Judge, just so you know, we had an agreement to not interrupt each other during the deposition and we did agree that they could object in this manner to this line of questioning. We did the same thing with them.

MR. VERNICK: Thank you.

THE COURT: So there's a continuing objection. And tell me about this objection.

MR. VERNICK: So I have a 401, 403 objection. Co-counsel, Mr. Miller, has a First Amendment objection.

I'll start with the 401, 403 objection. Simply, these S-77 forms are filled out when an individual in the Jehovah's Witness is disfellowshipped and then they're sent to the national U.S. Branch.

So, foremost, there's no relevance. We would agree with co-counsel at the beginning of the case that disfellowshipping

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was not coming in. We agreed to leave out the '07 and '09 disfellowshipping of the plaintiff. So for our record there is no disfellowshipping.

THE COURT: Okay. And this is a form that would document that?

MR. VERNICK: The S-77 form, I believe.

THE COURT: When you initiate the process or whatever part of that process is.

MR. VERNICK: Exactly. And it's sent to the U.S. Branch, which is not a defendant to this case.

THE COURT: And there's also a First Amendment objection or concern?

MR. VERNICK: I don't know where Mr. Miller is.

MR. FRITZ: Do you want me to address that?

THE COURT: Address that.

MR. FRITZ: Sure.

THE COURT: Hold on, everybody.

MR. FRITZ: My understanding is that the S-77 form is the outcome and a summary of

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a judicial committee hearing. Whether it's disfellowshipping or reproof or whatever.

They fill out a form. Here is a summer of what happened. They keep a copy that's sealed in the local congregation and they send it off to the headquarters. Okay?

And that's what this is about. The issue about disfellowshipping, that's a sideline issue, because what happened is these people, not these people, but the Jehovah's Witnesses disfellowshipped Stephanie years later and that's an issue we had an agreement on.

This is different. This is they had information. They ship it to New York and it's part of our case. Part of our case is that they gather all this information; they just don't report on it and they don't do anything about it. And this is directly relevant to our case.

MR. VERNICK: If I may briefly respond, Your Honor?

THE COURT: Do you go into the contents of the form or just the process that

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there was a form?

MR. FRITZ: I believe in the sort of foundation leading up to it, the fact that the outcome of the judicial committee is contained on the S-77 form and that's what --

THE COURT: And where it goes.

MR. FRITZ: And where it goes?

THE COURT: Do you question about what the outcome was and what the content of the form is?

MR. FRITZ: You mean the outcome in this case or just generally?

THE COURT: This case.

MR. FRITZ: What I ask him about is --

THE COURT: Do you ask what's written on that form? What's that form say?

MR. FRITZ: So the form is a summary. It contains information of who it is that is being interviewed and who the investigator is and what a summary of whatever finding was of the wrongdoing.

THE COURT: You ask about conclusion, all that?

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MR. FRITZ: Yes.

MR. VERNICK: Your Honor, if I may respond briefly?

THE COURT: Yes.

MR. VERNICK: In this very record that we're objecting to, it says that these were sent to the service department, which is the U.S. Branch, which is not a defendant.

Then in the line of questioning from Mr. Fritz, and there would be reports from all over the country about persons who have been disfellowshipped. These forms are only filled out when somebody is disfellowshipped.

THE COURT: I'm going to sustain the objection.

MR. VERNICK: Thank you.

THE COURT: We'll leave questions about this form out.

MR. FRITZ: Your Honor, just so I may, in the event that there is the second half of the bifurcation of this, we would submit that this goes towards that. So on the issue of --

THE COURT: That thought has crossed



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my mind. I am not ruling on that.

MR. VERNICK: Thank you, Your Honor.

THE COURT: Anything else? No? Then we can take a short break. Everyone can take a comfort break and we'll bring the jury back and they'll see the two videotaped depositions. All right?

Let's do that and then we'll get back and try to get these depositions done before the lunch break.

MR. ZEFF: Judge, can I?

THE COURT: Hold on. You were about to say something.

MR. AARON: Our tech expert is going to need to know how to separate.

THE COURT: Tell the tech person what to take out. Do that during the break.

MR. AARON: Okay.

MR. ZEFF: Thank you, Your Honor.

And may I step out for a comfort break while these are being played? I also have a phone call to make.

THE COURT: Yes, you may.

MR. ZEFF: Thank you.

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THE COURT: All right. Let's take a  
break. Let's take some time to get ready to  
conclude before lunch.

(RECESS TAKEN.)

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CERTIFICATION

I, Cynthia Touni, hereby certify that the testimony and proceedings in the foregoing matter taken on February 13, 2017, are contained fully and accurately in the stenographic notes taken by me, and that Pages 5 to 96, inclusive, of this testimony are a true and correct transcript of the same.

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Cynthia Touni, Registered Merit Reporter  
Official Court Reporter

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