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**FILED**  
**ALAMEDA COUNTY**

NOV 06 2012

CLERK OF THE SUPERIOR COURT  
By Michelle Wilson Deputy

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9 AND TRACT SOCIETY OF NEW YORK, INC.

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18 WITNESSES, NORTH UNIT

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF ALAMEDA**

19 JANE DOE,  
20  
21 Plaintiff,  
22  
23 v.

Case No.: HG11558324

**DEFENDANTS' REPLY IN SUPPORT OF  
MOTION TO SUBSTITUTE OR REDUCE  
BOND ON APPEAL**  
[Code Civ. Proc. §§ 995.010, et seq.]

24 THE WATCHTOWER BIBLE AND TRACT  
25 SOCIETY OF NEW YORK, INC., a  
26 corporation; FREMONT CALIFORNIA  
27 CONGREGATION OF JEHOVAH'S  
28 WITNESSES, NORTH UNIT, a California  
corporation; JONATHAN KENDRICK, an  
individual; and ROES 1 to 10,

Date: November 8, 2012  
Time: 3:00 p.m.  
Judge: Hon. Robert McGuiness  
Dept.: 22

Defendants.

Defendants WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC.  
and FREMONT CALIFORNIA CONGREGATION OF JEHOVAH'S WITNESSES, NORTH  
UNIT (collectively the "Church Defendants") respectfully submit this Reply in Support of their  
Motion to Substitute or Reduce Bond on Appeal.

**ORIGINAL**  
**FAXED**

1 I. LEGAL ARGUMENTS

2 A. **The Patterson Property is More Than Sufficient to Protect Plaintiff's**  
3 **Interest in the Amended Judgment.**

4 One of the primary purposes of the security requirement pending appeal is to provide  
5 monetary protection to the judgment creditor to ensure the judgment is collectable after the  
6 appeal is concluded. Plaintiff's Opposition quotes the following from *Grant v. Superior Court*  
7 (1990) 225 Cal.App.3d 929, 934:

8 The statute is clearly designed to protect the judgment won in the trial  
9 court from becoming uncollectible while the judgment is subjected to  
10 appellate review. [Citation.] A successful litigant will have an assured  
source of funds to meet the amount of the money judgment, costs and  
postjudgment interest after postponing enjoyment of a trial court victory.

11 Consistent with the purpose of Code of Civil Procedure section 917.1 as stated in *Grant*,  
12 the Amended Judgment and Plaintiff's interest therein will be fully protected by the Patterson  
13 Property. As explained in the Church Defendants' moving papers, the Patterson Property is  
14 valued at more than \$162,000,000 – *more than nine times the requisite bond of \$17,277,299.*  
15 This is an assured source of funds from which Plaintiff will have no difficulty whatsoever  
16 collecting her money judgment should, *arguendo*, the Court of Appeal affirm the Amended  
17 Judgment. Finally, the bond and undertaking statutes themselves provide that the Court has the  
18 discretion to “prescribe terms and conditions” for a deposit in lieu of a bond. (*See* Code Civ.  
19 Proc. §995.710.)

20 Based on the foregoing, the Court has the discretion to permit the use of the Patterson  
21 Property as security for the Amended Judgment in lieu of the appeal bond, and Plaintiff's  
22 interest in the Amended Judgment is more than adequately protected by the Patterson Property.  
23 Indeed, Plaintiff earlier *stipulated* to have the Patterson Property serve as security for the  
24 original (and substantially larger) judgment entered in this case, so Plaintiff's opposition to that  
25 same property now being used as security for the Amended Judgment can be viewed as  
26 disingenuous, particularly given the value of the property.

27 In addition, given that the appeal process in California often lasts two to three years,  
28 more than \$200,000 in bond premiums can be avoided if the Patterson Property is substituted as

1 security for the Amended Judgment. It follows that if the Court of Appeal should reverse this  
2 matter and award costs to the Church Defendants, substituting the property for the appeal bond  
3 will actually inure to Plaintiff's benefit by avoiding an award to Defendant Watchtower of more  
4 than \$200,000 against Plaintiff for costs on appeal.

5 In the alternative, the Church Defendants respectfully request the amount of the bond be  
6 reduced consistent with the points and authorities outlined in their moving papers.

7 **B. Good Cause Exists to Present Oral Evidence at the Hearing on this Issue.**

8 In her Opposition, Plaintiff's sole argument against the presentation of oral testimony at  
9 the November 8, 2012 hearing on this issue is that "[s]ince there is no authority to grant the  
10 requested relief, there is no point in taking oral testimony . . . ." (Plt. Oppo., 1:24-25.) As  
11 discussed above, however, the Court has the discretion to permit the Church Defendants to  
12 substitute the Patterson Property in lieu of the appeal bond.

13 Further, Rule 3.1306(b) expressly allows for oral testimony at a hearing where good  
14 cause exists. Here, good cause exists to permit oral testimony to help inform the Court about  
15 the suitability of the Patterson Property to act as security for the Amended Judgment.  
16 Specifically, the oral testimony and related exhibits will demonstrate, consistent with the Court  
17 of Appeal's language in *Grant*, that Plaintiff will "have an assured source of funds to meet the  
18 amount of the money judgment." (*Grant, supra*, at 934.)

19 **II. CONCLUSION**

20 For the foregoing reasons, the Church Defendants respectfully request this Court to  
21 either permit substitution of the Patterson Property to securitize the Amended Judgment in lieu  
22 of any bonding requirement or, alternatively, to order that the bonding requirement be modified  
23 and reduced. The Church Defendants also reiterate their request pursuant to Rule 3.1306 of the  
24 Rules of Court to present oral testimony at the November 8, 2012 hearing on this issue.

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1 DATED: November 6, 2012

JACKSON LEWIS LLP

2 By   
3 Robert J. Schnack  
4 Douglas M. Egbert

5 Attorneys for Defendant,  
6 WATCHTOWER BIBLE AND TRACT  
7 SOCIETY OF NEW YORK, INC.

8 DATED: November 6, 2012

THE McCABE LAW FIRM, APC

9 By   
10 for James M. McCabe

11 Attorneys for Defendant,  
12 FREMONT CALIFORNIA CONGREGATION  
13 OF JEHOVAH'S WITNESSES, NORTH UNIT  
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1 **PROOF OF SERVICE**

2 I am employed in the County of Sacramento, State of California. I am over the age of  
3 eighteen years and not a party to the within action; my business address is Jackson Lewis LLP,  
801 K Street, Suite 2300, Sacramento, California 95814.

4 On November 6, 2012, I served the within:

5 **DEFENDANTS' REPLY IN SUPPORT OF MOTION TO SUBSTITUTE OR**  
6 **REDUCE BOND ON APPEAL [Code Civ. Proc. §§ 995.010, et seq.]**

7 on all interested parties in said action, through their attorneys of record as listed below, by placing  
8 a true and correct copy thereof, addressed as shown below, by the following means:

- 9  **PERSONAL SERVICE** - by personally delivering a true and correct copy thereof to the  
10 person at the address set forth below, in accordance with Code of Civil Procedure section  
11 1011(a).
- 12  **MAIL** - by placing a true and correct copy thereof enclosed in a sealed envelope with  
13 postage thereon fully prepaid for deposit in the United States Post Office mail box, at my  
14 business address shown above, following Jackson Lewis LLP's ordinary business  
practices for the collection and processing of mail, of which I am readily familiar, and  
addressed as set forth below. On the same day correspondence is placed for collection and  
mailing, it is deposited in the ordinary course of business with the United States Postal  
Service.
- 15  **OVERNIGHT DELIVERY** - by depositing a true and correct copy thereof enclosed in a  
16 sealed envelope with delivery fees thereon fully prepaid in a box or other facility regularly  
maintained by Norco Delivery Services or delivering to an authorized courier or driver  
authorized by Norco Delivery Services to receive documents, addressed as set forth below.
- 17  **FACSIMILE TRANSMISSION** - by transmitting a true and correct copy by facsimile  
18 from facsimile number (916) 341-0141 to the person(s) at the facsimile number(s) set forth  
19 below, which transmission was confirmed as complete. A copy of the transmission record  
is attached hereto.
- 20  **ELECTRONIC MAIL** - by forwarding a true and correct copy thereof by e-mail from e-  
21 mail address [martinellit@jacksonlewis.com](mailto:martinellit@jacksonlewis.com) to the person(s) at the e-mail address(es) set  
forth below.

22 Richard J. Simons, Esq. (SBN 072676)  
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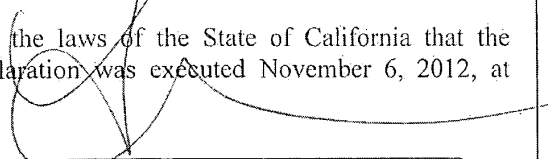
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed November 6, 2012, at Sacramento, California.

  
\_\_\_\_\_  
Tami J. Martinelli