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ALAMEDA COUNTY

OCT 18 2012

CLERK OF THE SUPERIOR COURT
By *[Handwritten signature]* Deputy

ORIGINAL

EXEMPTED

1 JACKSON LEWIS, LLP
 2 Robert J. Schnack, Esq. (SBN 191987)
 3 Douglas M. Egbert, Esq. (SBN 265062)
 4 801 K Street, Suite 2300
 5 Sacramento, CA 95814
 6 Telephone: (916) 341-0404
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8 Attorney for Defendant WATCHTOWER BIBLE
 9 AND TRACT SOCIETY OF NEW YORK, INC.

10 THE McCABE LAW FIRM, APC
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 12 4817 Santa Monica Avenue
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 14 Telephone: (619) 224-2848
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16 Attorney for Defendant NORTH
 17 CONGREGATION OF JEHOVAH'S
 18 WITNESSES, FREMONT, CALIFORNIA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

JANE DOE,
Plaintiff,

v.

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

Case No.: HG11558324

DEFENDANT WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. AND FREMONT CONGREGATION OF JEHOVAH'S WITNESSES, NORTH UNIT'S EX PARTE APPLICATION TO SHORTEN NOTICE OF HEARING ON MOTION RE APPEAL BOND; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION OF DOUGLAS M. EGBERT

I. APPLICATION

PLEASE TAKE NOTICE that on October 18, 2012, Watchtower Bible and Tract Society of New York, Inc. and the North Congregation of Jehovah's Witnesses, Fremont, California (collectively, the "Church Defendants") will file this ex parte application for an order shortening notice of hearing on the Church Defendant's motion to substitute real property for

1 the appeal bond or, in the alternative, decrease the amount of the appeal bond, so that said
2 motion may be heard on November 8 or 9, 2012. Pursuant to Department 22 and the Honorable
3 Robert D. McGuiness' standing order, applications are considered only on the moving papers
4 and any written opposition is to be filed within 24 hours of Watchtower filing this application.
5 This application is made pursuant to California Code of Civil Procedure section 128(a)(3), and
6 California Rules of Court, Rules 3.1200 through 3.1207.

7 As discussed in the memorandum of points and authorities below, good cause exists for
8 an order shortening notice of hearing on the Church Defendants' motion to decrease the amount
9 of the appeal bond because: (1) the Church Defendants' intend to file a motion to substitute real
10 property as security for the judgment or, in the alternative, to reduce the amount of the appeal
11 bond, and the Church Defendants face immediate irreparable harm and hardship if the hearing
12 and ruling on said motion is not completed before November 15, 2012; (2) after an initial good
13 faith "meet and confer" telephone call, Plaintiff's counsel did not communicate Plaintiff's
14 position on this issue until October 17, 2012 when he notified the Church Defendants' counsel
15 that Plaintiff would not agree to substitute real property as security for the judgment; and (3)
16 Plaintiff will not be prejudiced by any shortened notice because her counsel has been aware of
17 the instant issue since the Church Defendants' counsel first contacted Plaintiff's counsel during
18 the week of October 8, 2012, and the judgment for Plaintiff will be protected in any event.

19 Plaintiff is represented in this action by Richard J. Simons (SBN 72676) and Kelly
20 Kraetsch (SBN 281688) of Furtado, Jaspovice & Simons, 22274 Main Street, Hayward,
21 California 94541, (510) 582-1080. (Egbert Decl., ¶ 2.) The Church Defendants complied with
22 Rules 3.1203 and 3.1204 of the California Rules of Court by giving notice of this application to
23 Mr. Simons and Ms. Kraetsch on October 17, 2012, by e-mail communication. (*Id.* at ¶¶ 3-6,
24 Exhs. A-C.) **Plaintiff's counsel has stated that he will not oppose this application**, but will
25 oppose the substantive motion. (*Id.* at ¶ 6, Exh. C.) Plaintiff's counsel has also represented that
26 he is available for a hearing in the afternoon of November 8, 2012 or the morning of November
27 9, 2012. (*Id.*)

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1 This ex parte application is based on this application, the memorandum of points and
2 authorities in support thereof (section II below), the declaration of Douglas M. Egbert (section
3 III below), and all pleadings and papers on file in this action.

4 II. MEMORANDUM OF POINTS AND AUTHORITIES

5 A. Relevant Facts

6 On or about September 20, 2012, the Church Defendants filed their Notice of Posting
7 Bond/Undertaking for Appeal of Judgment Under Code of Civil Procedure Section 917.1.
8 (Egbert Decl., ¶ 8, Exh. D.) As outlined in Exhibit A to the Notice, the bond was for the amount
9 of \$17,277,299.37, and has a premium of \$86,386.

10 The Church Defendants' payment of the appeal bond premium is due November 15,
11 2012. However, the Church Defendants seek to substitute real property defendant Watchtower
12 owns in Patterson, New York in place of the appeal bond as security for the judgment. (*Id.* at ¶
13 9.) To that end, the Church Defendants' counsel contacted Plaintiff's counsel to see if a
14 stipulation could be reached concerning the substitution of security. (*Id.*) After a brief
15 telephone conversation, Plaintiff's counsel's inclination was to not so stipulate, but Plaintiff's
16 counsel suggested the parties discuss the issue further. After additional "meet and confer"
17 efforts, Plaintiff's counsel responded on October 17, 2012 that Plaintiff would not agree to
18 substitute real property for the bond. (*Id.* at ¶ 10.)

19 B. Legal Argument

20 California Code of Civil Procedure section 128(a)(3) gives the Court power to provide
21 for the orderly conduct of the proceedings before it, which may include issuing an order
22 shortening time to hear certain motions. Further, the Court may make an order shortening time
23 where good causes exists, and there is nothing in Code of Civil Procedure section 1005
24 prohibiting the court from doing so. *Eliceche v. Federal Land Bank Ass'n.* (2002) 103
25 Cal.App.4th 1349, 1364, 1369 (upholding order shortening notice requirements of discretionary
26 dismissal motion). Good cause exists to grant this application for the following reasons.

27
28

1 **1. The Church Defendants Face Immediate Harm and Hardship if Their**
2 **Motion is Not Heard and Ruled on Prior to November 15, 2012.**

3 The Church Defendants face immediate harm and hardship if their motion is not heard
4 on shortened time and ruled on by November 15, 2012. Specifically, the Church Defendants
5 must pay the premium on the appeal bond by that date. (Egbert Decl., ¶ 9.) However, for
6 reasons that will be fully explained in their motion, the Church Defendants have a good faith
7 basis for believing that it is proper to substitute the Patterson, New York property for the appeal
8 bond as security for the judgment. Those reasons include, but are not limited to (1) the
9 exceedingly high amount of the bond and related premium, (2) the Church Defendants are
10 permitted to recover the cost of the bond should they prevail on appeal, but they are concerned
11 they would be unable to recover that cost from Plaintiff if, *arguendo*, they prevail on appeal;
12 and, (3) the Church Defendants have more than adequate assets, including the Patterson, New
13 York property, from which they could satisfy the judgment if upheld on appeal. To avoid
14 having the Church Defendants make the payment for the appeal bond premium on November
15 15, 2012 that they may be unable to recover, this Court should shorten the time for the Church
16 Defendants' motion on this issue to be heard prior to that date.

17 **2. Plaintiff's Counsel Notified the Church Defendants on October 17, 2012 that**
18 **Plaintiff Would Not Stipulate to Substituting the Bond for Real Property.**

19 During the week of October 8, 2012, the Church Defendants' counsel met and conferred
20 with Plaintiff's counsel regarding substituting the bond with real property to act as security for
21 the judgment. (Egbert Decl., ¶ 10.) Plaintiff's counsel's initial reaction was to not so stipulate,
22 but suggested the parties discuss the matter further the following week, after the wedding of
23 attorney Robert J. Schnack's daughter held on October 13, 2012. (*Id.*) Thereafter, the Church
24 Defendants' made additional meet and confer efforts on October 15 and 16, and Plaintiff's
25 counsel responded on October 17, 2012, stating that Plaintiff would not agree to substitute real
26 property for the appeal bond. (*Id.*) Thus, the affirmative need for a motion was not completely
27 resolved until October 17, 2012. However, no hearing dates for a motion are available until late
28 January 2013 – well after the bond payments begin. (*Id.* at ¶ 11.)

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3. Plaintiff Will Not Be Prejudiced By Shortened Notice.

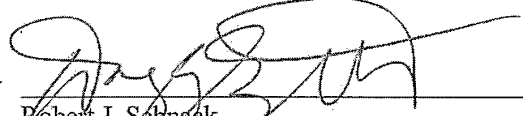
As discussed in section B2 above, Plaintiff was notified of the Church Defendants' desire to substitute the Patterson, New York property as security for the judgment during the week of October 8, 2012. (Egbert Decl., ¶ 10.) Thus, this issue is not new to Plaintiff or her counsel (i.e., Plaintiff was not blindsided by any improper gamesmanship; rather, the Church Defendants have been up front about their desire to substitute the bond for the real property). Further, even if the Church Defendants' motion is heard on shortened time and granted, Plaintiff will not be prejudiced because the judgment will be protected by substituting one form of surety for another. The Church Defendants' motion, even if heard on shortened time, in no way threatens the judgment for Plaintiff.

C. Conclusion

Based on the foregoing, the Church Defendants respectfully request the Court issue an order shortening notice of hearing on the Church Defendant's motion to substitute property for the appeal bond or, in the alternative, decrease the appeal bond, so that said motion may be heard on November 8 or 9, 2012.

DATED: October 18, 2012

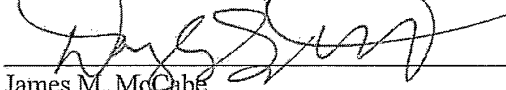
JACKSON LEWIS LLP

By 
Robert J. Schnack
Douglas M. Egbert

Attorneys for Defendant Watchtower Bible and Tract Society of New York, Inc.

DATED: October 18, 2012

THE McCABE LAW FIRM, APC

By 
for James M. McCabe

Attorneys for Defendant North Congregation of Jehovah's Witnesses, Fremont, California

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III. DECLARATION OF DOUGLAS M. EGBERT

I, Douglas M. Egbert, declare as follows:

1. I am an attorney licensed to practice law in the State of California and an associate with the law firm of Jackson Lewis LLP (the "Firm"), attorneys of record in the above-captioned action for Defendant Watchtower Bible and Tract Society of New York, Inc. I have also been authorized by James M. McCabe, attorney of record for Defendant North Congregation of Jehovah's Witnesses, Fremont, California, to make this declaration on the North Congregation's behalf. I make this declaration based on my personal knowledge and, if called upon, I could and would testify competently to the matters set forth herein.

2. Jane Doe ("Plaintiff") is represented in this action by Richard J. Simons (SBN 72676) and Kelly Kraetsch (SBN 281688) of Furtado, Jaspovice & Simons, 22274 Main Street, Hayward, California 94541. Plaintiff's counsel's telephone number is (510) 582-1080. Plaintiff's counsel's e-mail addresses are rick@fjlaw.com and kellyk@fjlaw.com

3. As set forth in paragraphs 4 through 6, Defendant Watchtower Bible and Tract Society of New York, Inc. and Defendant North Congregation of Jehovah's Witnesses, Fremont, California (collectively the "Church Defendants") have complied with the ex parte application notice requirements of California Rules of Court, Rules 3.1203 and 3.1204, and with the rules of Department 22.

4. On October 17, 2012, I copied Mr. Simons on an email I sent to the Court, advising both them and the Court of the Church Defendants' intent to file an ex parte application on October 18, 2012. Pursuant to Department 22 and the Honorable Robert D. McGuiness' standing order, my email further advised Mr. Simons that any opposition to the ex parte application must be filed within 24 hours of the filing of the ex parte application. Attached hereto as **Exhibit A** is a true and correct copy of the email described herein.

5. Also on October 17, 2012, I sent Mr. Simons and Ms. Kraetsch a second email again notifying them of the Church Defendants' intent to file an ex parte application to shorten notice for their motion to substitute the appeal bond with real property or, in the alternative, reduce the bond. My email further requested that they notify me of whether Plaintiff intended to

1 oppose the ex parte application, and explained that any opposition must be filed within 24 hours
2 of the filing of the ex parte application. Finally, my email notified Mr. Simons and Ms.
3 Kraetsch that no appearance was required as the Honorable Robert D. McGuinness would rule on
4 the papers submitted. Attached hereto as **Exhibit B** is a true and correct copy of the email
5 described herein.

6 6. Mr. Simons responded to my second email described in paragraph 5 above by
7 stating that Plaintiff does not oppose the Church Defendant's ex parte application, but will
8 oppose the substantive motion. Attached hereto as **Exhibit C** is a true and correct copy of Mr.
9 Simons' email.

10 7. I have been one of the Firm's attorneys assigned to this matter, and I have
11 reviewed and am familiar with the pleadings, communications, and other records relating to this
12 case.

13 8. The records reflect that on or about September 20, 2012, the Church Defendants'
14 filed their Notice of Posting Bond/Undertaking for Appeal of Judgment Under Code of Civil
15 Procedure Section 917.1. Attached hereto as **Exhibit D** is a true and correct copy of this Notice.

16 9. I am informed and believe that the Church Defendants' payment of the appeal
17 bond is due to begin November 15, 2012. However, the Church Defendants will file a motion to
18 substitute real property located in Patterson, New York for the appeal bond as security for the
19 judgment entered in this matter.

20 10. Firm attorney Robert J. Schnack has informed me, and I therefore believe, that he
21 conferred with Mr. Simons during the week of October 8, 2012 regarding the issue of
22 substituting the appeal bond with defendant Watchtower's real property. Mr. Simons' initial
23 reaction was to not so stipulate, but suggested the parties could discuss the matter further the
24 following week, after the October 13, 2012 wedding of Mr. Schnack's daughter. Mr. Schnack
25 made additional "meet and confer" efforts on October 15 and 16, 2012, and Mr. Simons
26 responded on October 17, 2012 that Plaintiff would not agree to substitute real property for the
27 appeal bond.

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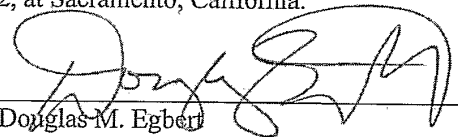
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11. Because Plaintiff will not agree to substitute the appeal bond with Watchtower's real property as security for the judgment entered in this matter, the Church Defendants will file a motion requesting the Court to order this substitution or, in the alternative, reduce the bond amount. Both Mr. Schnack and I have instructed our assistants to obtain a hearing date for said motion. However, in both instances, our assistants reported back to us that Department 22 informed them that no hearing dates were available until late January 2013.

12. Good cause exists to grant the Church Defendants' ex parte application for the reasons set forth above and for the reasons set forth in the application.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 18th day of October 2012, at Sacramento, California.



Douglas M. Egbert

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PROOF OF SERVICE
JANE DOE v. WATCHTOWER, et al.

CASE NO. HG11558324

I am employed in the County of Sacramento, State of California. I am over the age of 18 and am not a party to the within action; my business address is 801 K Street, Suite 2300, Sacramento, California 95814.

On October 18, 2012, I served the following document(s) described as **DEFENDANT WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. AND FREMONT CONGREGATION OF JEHOVAH'S WITNESSES, NORTH UNIT'S EX PARTE APPLICATION TO SHORTEN NOTICE OF HEARING ON MOTION RE APPEAL BOND; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION OF DOUGLAS M. EGBERT** on all interested parties to this action as follows:

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

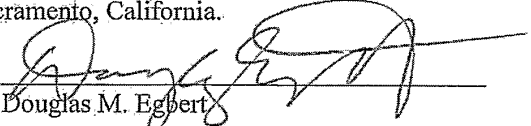
SEE ATTACHED SERVICE LIST

- BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Jackson Lewis LLP's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposition for mailing in affidavit.
- BY OVERNIGHT COURIER:** I caused the above-referenced document(s) to be delivered to _____ for delivery to the above address(es).
- BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the addressee(s).
- BY ELECTRONIC MAIL:** By transmission of a true copy to the email address(es) shown on the attached service list.

[State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 18, 2012, at Sacramento, California.



 Douglas M. Egbert

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SERVICE LIST
JANE DOE v. WATCHTOWER, et al.

CASE NO. HG11558324

Counsel for Plaintiff

Richard J. Simons, Esq.
FURTADO, JASPOVICE & SIMONS
22274 Main Street
Hayward, CA 94541
Telephone: (510) 582-1080
Facsimile: (510) 582-8255
rick@fjlaw.com

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PROOF OF SERVICE
JANE DOE v. WATCHTOWER, et al.

CASE NO. HG11558324

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On October 18, 2012, I served the following document(s) described as **DEFENDANT WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. AND FREMONT CONGREGATION OF JEHOVAH'S WITNESSES, NORTH UNIT'S EX PARTE APPLICATION TO SHORTEN NOTICE OF HEARING ON MOTION RE APPEAL BOND; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF; DECLARATION OF DOUGLAS M. EGBERT** on all interested parties to this action as follows:

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Jackson Lewis LLP's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposition for mailing in affidavit.

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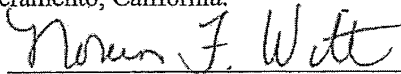
BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee(s).

BY ELECTRONIC MAIL: By transmission of a true copy to the email address(es) shown on the attached service list.

[State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 18, 2012, at Sacramento, California.



Noreen Witt

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SERVICE LIST
JANE DOE v. WATCHTOWER, et al.

CASE NO. HG11558324

Counsel for Plaintiff

Richard J. Simons, Esq.
FURTADO, JASPOVICE & SIMONS
22274 Main Street
Hayward, CA 94541
Telephone: (510) 582-1080
Facsimile: (510) 582-8255
rick@fjlaw.com

Defendant Jonathan Kendrick, in pro per

200 Honey Lane
Oakley, CA 94561
(925) 484-1008

EXHIBIT A

Egbert, Douglas M. (Sacramento)

From: Egbert, Douglas M. (Sacramento)
Sent: Wednesday, October 17, 2012 10:16 AM
To: 'Dept.22@alameda.courts.ca.gov'
Cc: Schnack, Robert J. (Sacramento); 'jim@mccabelaw.net'; 'Rick Simons'
Subject: Doe v. The Watchtower Bible and Tract Society of New York, Inc., et al. (Case No. HG11558324) - Ex Parte Application

Pursuant to Department 22 rules, Defendant Watchtower Bible and Tract Society of New York, Inc. advises Department 22 that it will be filing an ex parte application for the Court to hear a motion in November 2012 relating to Defendant Watchtower's appeal bond. Defendant Watchtower anticipates filing its ex parte application on Thursday, October 18, 2012.

By copying counsel for all other parties to this action, Defendant Watchtower also hereby gives notice of its intent to file said ex parte application, and advises all parties that any written opposition must be filed within 24 hours of Defendant Watchtower filing its ex parte application.

Defendant Watchtower will provide a courtesy copy of its ex parte application to Department 22.

Thank you,

Douglas M. Egbert
Attorney at Law
Jackson Lewis LLP
801 K Street, Suite 2300
Sacramento, CA 95814

(916) 341-0404 - Main
(916) 341-0141 - Fax

egbertd@jacksonlewis.com

www.jacksonlewis.com

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Egbert, Douglas M. (Sacramento)

From: Egbert, Douglas M. (Sacramento)
Sent: Wednesday, October 17, 2012 12:33 PM
To: 'Rick Simons'
Cc: Schnack, Robert J. (Sacramento); Kelly Kraetsch
Subject: FW: Doe v. The Watchtower Bible and Tract Society of New York, Inc., et al. (Case No. HG11558324) - Ex Parte Application

Mr. Simons:

Please let us know whether you intend to oppose the ex parte application referenced in my email to the Court below. The ex parte application will seek shortened notice for the Church Defendant's motion to substitute property for the appeal bond or, in the alternative, to reduce the bond. We will seek a hearing date of November 8 or 9, 2012. As outlined below, any written opposition must be filed within 24 hours of the filing of the ex parte motion. No personal appearance is required as Judge McGuinness will rule based on the papers submitted.

Thank you,

Douglas M. Egbert
Attorney at Law
Jackson Lewis LLP
801 K Street, Suite 2300
Sacramento, CA 95814

(916) 341-0404 - Main
(916) 341-0141 - Fax

egbertd@jacksonlewis.com

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From: Egbert, Douglas M. (Sacramento)
Sent: Wednesday, October 17, 2012 10:16 AM
To: 'Dept.22@alameda.courts.ca.gov'
Cc: Schnack, Robert J. (Sacramento); 'jim@mccabelaw.net'; 'Rick Simons'
Subject: Doe v. The Watchtower Bible and Tract Society of New York, Inc., et al. (Case No. HG11558324) - Ex Parte Application

Pursuant to Department 22 rules, Defendant Watchtower Bible and Tract Society of New York, Inc. advises Department 22 that it will be filing an ex parte application for the Court to hear a motion in November 2012 relating to Defendant

Watchtower's appeal bond. Defendant Watchtower anticipates filing its ex parte application on Thursday, October 18, 2012.

By copying counsel for all other parties to this action, Defendant Watchtower also hereby gives notice of its intent to file said ex parte application, and advises all parties that any written opposition must be filed within 24 hours of Defendant Watchtower filing its ex parte application.

Defendant Watchtower will provide a courtesy copy of its ex parte application to Department 22.

Thank you,

Douglas M. Egbert
Attorney at Law
Jackson Lewis LLP
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Sacramento, CA 95814

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EXHIBIT C

Egbert, Douglas M. (Sacramento)

From: Rick Simons [rick@fjlaw.com]
Sent: Wednesday, October 17, 2012 1:28 PM
To: Egbert, Douglas M. (Sacramento)
Subject: RE: Doe v. The Watchtower Bible and Tract Society of New York, Inc., et al. (Case No. HG11558324) - Ex Parte Application

I'm good Nov 8 in the pm, or Nov 9 in the am, do not oppose the ex parte but do oppose the motion in substance and obviously want a schedule to allow briefing.

Rick Simons
Furtado, Jaspovice & Simons
22274 Main St.
Hayward, Ca. 94541
510-582-1080 x19
fax: 510-582-8254

From: Egbert, Douglas M. (Sacramento) [<mailto:egbertd@jacksonlewis.com>]
Sent: Wednesday, October 17, 2012 12:33 PM
To: Rick Simons
Cc: Schnack, Robert J. (Sacramento); Kelly Kraetsch
Subject: FW: Doe v. The Watchtower Bible and Tract Society of New York, Inc., et al. (Case No. HG11558324) - Ex Parte Application

Mr. Simons:

Please let us know whether you intend to oppose the ex parte application referenced in my email to the Court below. The ex parte application will seek shortened notice for the Church Defendant's motion to substitute property for the appeal bond or, in the alternative, to reduce the bond. We will seek a hearing date of November 8 or 9, 2012. As outlined below, any written opposition must be filed within 24 hours of the filing of the ex parte motion. No personal appearance is required as Judge McGuinness will rule based on the papers submitted.

Thank you,

Douglas M. Egbert
Attorney at Law
Jackson Lewis LLP
801 K Street, Suite 2300
Sacramento, CA 95814

(916) 341-0404 - Main
(916) 341-0141 - Fax

egbertd@jacksonlewis.com

www.jacksonlewis.com

Representing management exclusively in workplace law and related litigation.

Confidentiality Note: This e-mail, and any attachment to it, contains privileged and confidential information intended only for the use of the individual(s) or entity named on the e-mail. If the reader of this e-mail is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that reading it is strictly prohibited. If you have received this e-mail in error, please immediately return it to the sender and delete it from your system. Thank you.

From: Egbert, Douglas M. (Sacramento)
Sent: Wednesday, October 17, 2012 10:16 AM
To: 'Dept.22@alameda.courts.ca.gov'
Cc: Schnack, Robert J. (Sacramento); 'jim@mccabelaw.net'; 'Rick Simons'
Subject: Doe v. The Watchtower Bible and Tract Society of New York, Inc., et al. (Case No. HG11558324) - Ex Parte Application

Pursuant to Department 22 rules, Defendant Watchtower Bible and Tract Society of New York, Inc. advises Department 22 that it will be filing an ex parte application for the Court to hear a motion in November 2012 relating to Defendant Watchtower's appeal bond. Defendant Watchtower anticipates filing its ex parte application on Thursday, October 18, 2012.

By copying counsel for all other parties to this action, Defendant Watchtower also hereby gives notice of its intent to file said ex parte application, and advises all parties that any written opposition must be filed within 24 hours of Defendant Watchtower filing its ex parte application.

Defendant Watchtower will provide a courtesy copy of its ex parte application to Department 22.

Thank you,

Douglas M. Egbert
Attorney at Law
Jackson Lewis LLP
801 K Street, Suite 2300
Sacramento, CA 95814

(916) 341-0404 - Main
(916) 341-0141 - Fax

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1 JACKSON LEWIS, LLP
2 Robert J. Schnack, Esq. (SBN 191987)
3 801 K Street, Suite 2300
4 Sacramento, CA 95814
5 Telephone: (916) 341-0404
6 Facsimile: (916) 341-0141

7 Attorney for Defendant WATCHTOWER BIBLE AND
8 TRACT SOCIETY OF NEW YORK, INC.

9 THE McCABE LAW FIRM, APC
10 James M. McCabe (SBN 51040)
11 4817 Santa Monica Avenue
12 San Diego, CA 92107
13 Telephone: (619) 224-2848
14 Facsimile: (619) 224-0089

15 Attorney for Defendant NORTH CONGREGATION
16 OF JEHOVAH'S WITNESSES, FREMONT,
17 CALIFORNIA

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 COUNTY OF ALAMEDA

20 JANE DOE,
21 Plaintiff,

22 vs.

23 THE WATCHTOWER BIBLE AND TRACT
24 SOCIETY OF NEW YORK, INC., a
25 corporation;
26 Defendants.

Case No.: HG11558324

**NOTICE OF POSTING BOND/
UNDERTAKING FOR APPEAL OF
JUDGMENT UNDER CODE OF CIVIL
PROCEDURE SECTION 917.1 FILED ON
BEHALF OF DEFENDANTS AND
APPELLANTS WATCHTOWER BIBLE
AND TRACT SOCIETY OF NEW YORK,
INC. AND NORTH CONGREGATION OF
JEHOVAH'S WITNESSES, FREMONT,
CALIFORNIA**

(Code Civ. Proc. § 917.1)

Complaint Filed: 01-28-2011
Judgment Entered: 06-27-2012
Amended Judgment Entered: 09-17-2012

ENDORSED
FILED
ALAMEDA COUNTY
SEP 2 2012
CLERK OF THE SUPERIOR COURT
By Marcus Pione

1 TO PLAINTIFF JANE DOE, HER ATTORNEYS OF RECORD,
2 THE ABOVE-ENTITLED COURT AND THE CLERK OF THE ABOVE-ENTITLED
3 COURT:

4 PLEASE TAKE NOTICE that Defendants and Appellants, WATCHTOWER
5 BIBLE AND TRACT SOCIETY OF NEW YORK and NORTH CONGREGATION OF
6 JEHOVAH'S WITNESSES, FREMONT, CALIFORNIA, hereby give notice that a
7 Bond/Undertaking is hereby posted for an appeal under Section 917.1 of the California Code of
8 Civil Procedure in the amount of Seventeen Million Two Hundred Seventy Seven Thousand
9 Two Hundred Ninety Nine Dollars and 37/100 (\$17,277,299.37). A true and correct copy of the
10 Bond/Undertaking is attached hereto as Exhibit A.

11 DATED: September 20, 2012

JACKSON LEWIS LLP
By: *R. Schnack*
Robert J. Schnack
Attorneys for Defendant Watchtower

16 DATED: September 20, 2012

THE McCABE LAW FIRM, APC
By: *R. Schnack*
for James M. McCabe
Attorneys for Defendant North Fremont
Congregation

28

EXHIBIT A

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, CT 06183
(address for service under Section 995.320 C.C.P.)

Bond No: 105790101
Premium: 86,386.00

IN THE SUPERIOR COURT
COUNTY OF ALAMEDA STATE OF CALIFORNIA

Candace Conti, Plaintiff

vs.

CASE NO. HG11558324
Undertaking Under Section 917.1 C.C.P.

Watchtower Bible and Tract Society of New York, Inc.; AND
Fremont Congregation of Jehovah's Witnesses, North Unit,

Defendants

WHEREAS the above named Watchtower Bible and Tract Society of New York, Inc.; AND
Fremont Congregation of Jehovah's Witnesses, North Unit, desires to
give an undertaking for an appeal as provided by
917.1 C.C.P.

NOW, THEREFORE, the undersigned Surety, does hereby obligate itself, jointly and severally, to
Candace Conti, Plaintiff, under said statutory obligations in the sum
of Seventeen Million Two Hundred Seventy Seven Thousand Two Hundred Ninety Nine Dollars and 37/100 Dollars
(\$ 17,277,299.37).

IN TESTIMONY WHEREOF, the said Surety has caused its corporate name and seal to be hereunto affixed by its
duly authorized officer at Chicago, Illinois, on the 18th day of September,
2012.

Travelers Casualty and Surety Company of America

By: Robin L. Amstutz
Robin L. Amstutz Attorney-in-Fact

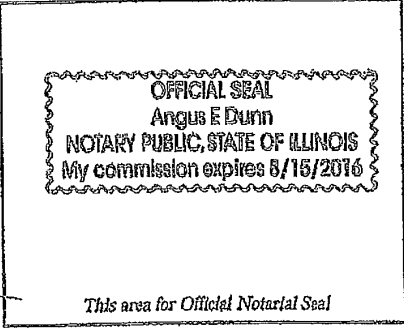
The undersigned declares under penalty of perjury under the Laws of the State of California that he/she is an
attorney in fact for said surety and that an unrevoked power of attorney is on file in the Office of the Clerk of the
above Court or attached hereto.

STATE OF Illinois }
COUNTY OF Cook } SS.

On September 18, 2012, before me, Angus E. Dunn

PERSONALLY APPEARED Robin L. Amstutz

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Signature [Handwritten Signature]

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	<u>Appeal Bond</u>
<input type="checkbox"/> CORPORATE OFFICER	TITLE OF TYPE OF DOCUMENT
_____ TITLE(S)	
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED	<u>1</u>
<input type="checkbox"/> TRUSTEE(S)	NUMBER OF PAGES
<input type="checkbox"/> GUARDIAN/CONSERVATOR	<u>9/18/2012</u>
<input checked="" type="checkbox"/> ATTORNEY-IN-FACT	DATE OF DOCUMENT
<input type="checkbox"/> OTHER: _____	

SIGNER IS REPRESENTING:	<u>N/A</u>
NAME OF PERSON(S) OR ENTITY(ES)	SIGNER(S) OTHER THAN NAMED ABOVE
<u>Travelers Casualty and Surety</u>	
<u>Company of America</u>	

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

TRAVELERS

POWER OF ATTORNEY

105790101

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 223098

Certificate No. 004893512

KNOW ALL MEN BY THESE PRESENTS: That St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Stephen B. Miller, Paul J. Souppa, Robin L. Amstutz, Nancy J. Aque, and Linda C. Pratt

of the City of Chicago, State of Illinois, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 5th day of June, 2012.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: George W. Thompson
George W. Thompson, Senior Vice President

On this 5th day of June, 2012, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



Marie C. Tetreault
Marie C. Tetreault, Notary Public

58440-6-11 Printed in U.S.A.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 18th day of September, 20 12


Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

1 PROOF OF SERVICE

2 I am employed in the County of Sacramento, State of California. I am over the age of 18
3 and am not a party to the within action; my business address is 801 K Street, Suite 2300,
4 Sacramento, California 95814.

5 On September 20, 2012, I served the following document(s) described as
6 **DEFENDANTS NOTICE OF POSTING BOND/ UNDERTAKING FOR APPEAL OF**
7 **JUDGMENT UNDER CODE OF CIVIL PROCEDURE SECTION 917.1 FILED ON**
8 **BEHALF OF DEFENDANTS AND APPELLANT WATCHTOWER BIBLE AND**
9 **TRACT SOCIETY OF NEW YORK, INC. AND NORTH CONGREGATION OF**
10 **JEHOVAH'S WITNESSES, FREMONT, CALIFORNIA (Code Civ. Proc. § 917.1)** on all
11 interested parties to this action as follows:

12 by placing the original a true copy thereof enclosed in sealed envelopes addressed
13 as follows:

14 Richard J. Simons, Esq.
15 FURTADO, JASPOVICE & SIMONS
22274 Main Street
Hayward, CA 94541
Telephone: (510) 582-1080
Facsimile: (510) 582-8255
rick@fjsslaw.com

Jonathan Kendrick
200 Honey Lane
Oakley, CA 94561
Telephone: (925) 484-1008

16 **BY MAIL:** By placing a true copy thereof in a sealed envelope addressed as above, and
17 placing it for collection and mailing following ordinary business practices. I am readily
18 familiar with Jackson Lewis LLP's practice of collection and processing correspondence
19 for mailing. Under that practice it would be deposited with U.S. postal service on that
20 same day with postage thereon fully prepaid at Sacramento, California, in the ordinary
21 course of business. I am aware that on motion of party served, service is presumed
22 invalid if postal cancellation date or postage meter date is more than one day after date of
23 deposition for mailing in affidavit.

24 **BY OVERNIGHT COURIER:** I caused the above-referenced document(s) to be
25 delivered to _____ for delivery to the above address(es).

26 **BY FAX:** I caused the above-referenced document to be transmitted via facsimile from
27 Fax No. (916) 341-0141 to Fax No. _____ directed to _____.
28 The facsimile machine I used complies with Rule 2003(3) and no error was reported by
the machine.

BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the
addressee(s).

BY ELECTRONIC MAIL: By transmission of a true copy to the email address(es)
shown on the attached service list.

[State] I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct.

1 [Federal] I declare that I am employed in the office of a member of the bar of this
2 court at whose direction the service was made.

3 Executed on September 20, 2012, at Sacramento, California.

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5 _____
6 Lori Gillette

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1 JACKSON LEWIS, LLP
 Robert J. Schnack, Esq. (SBN 191987)
 2 Douglas M. Egbert, Esq. (SBN 265062)
 801 K Street, Suite 2300
 3 Sacramento, CA 95814
 Telephone: (916) 341-0404
 4 Facsimile: (916) 341-0141

ALAMEDA COUNTY

OCT 18 2012

CLERK OF THE SUPERIOR COURT

5 Attorney for Defendant WATCHTOWER BIBLE
 AND TRACT SOCIETY OF NEW YORK, INC.

By _____
 Deputy

6 THE McCABE LAW FIRM, APC
 7 James M. McCabe (SBN 51040)
 4817 Santa Monica Avenue
 8 San Diego, CA 92107
 Telephone: (619) 224-2848
 9 Facsimile: (619) 224-0089

RECEIVED

OCT 18 2012

10 Attorney for Defendant NORTH
 CONGREGATION OF JEHOVAH'S
 11 WITNESSES, FREMONT, CALIFORNIA

By _____
 ALAMEDA COUNTY SUPERIOR COURT

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 13 COUNTY OF ALAMEDA

14 JANE DOE,

Case No.: HG11558324

15 Plaintiff,

16 v.

17 THE WATCHTOWER BIBLE AND TRACT
 18 SOCIETY OF NEW YORK, INC., a
 19 corporation; FREMONT CALIFORNIA
 20 CONGREGATION OF JEHOVAH'S
 WITNESSES, NORTH UNIT, a California
 21 corporation; JONATHAN KENDRICK, an
 individual; and ROES 1 to 10,

**[PROPOSED] ORDER GRANTING
 DEFENDANT WATCHTOWER BIBLE AND
 TRACT SOCIETY OF NEW YORK, INC.
 AND FREMONT CONGREGATION OF
 JEHOVAH'S WITNESSES, NORTH UNIT'S
 EX PARTE APPLICATION TO SHORTEN
 NOTICE OF HEARING ON MOTION RE
 APPEAL BOND**

22 Defendants.

23 **[PROPOSED] ORDER**

24 On October 18, 2012, Watchtower Bible and Tract Society of New York, Inc.
 25 ("Watchtower") and North Congregation of Jehovah's Witnesses, Fremont, California
 26 (collectively, the "Church Defendants") filed their Ex Parte Application to Shorten Notice of
 27 Hearing on Motion re Appeal Bond.
 28

ORIGINAL

EXEMPTED

1 After considering the submitted application, and the fact that Plaintiff does not oppose
2 the application, this Court grants the Church Defendants' application as follows:

3 **GOOD CAUSE APPEARING, IT IS ORDERED THAT:**

4 (1) The hearing on the Church Defendants' motion re appeal bond is set for
5 November __ at _____ [a.m./p.m.];

6 (2) The Church Defendants shall file and serve by electronic means their moving
7 papers by October 26, 2012;

8 (3) Plaintiff shall file and serve by electronic means her opposition by November 2,
9 2012; and,

10 (4) The Church Defendants shall file and serve by electronic means their reply by
11 November 6, 2012.

12 **IT IS SO ORDERED**

13 DATED: _____, 2012

14 _____
15 HON. ROBERT D. MCGUINNES
16 JUDGE OF THE SUPERIOR COURT

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18 4812-6299-3681, v. 1
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SERVICE LIST
JANE DOE v. WATCHTOWER, et al.

CASE NO. HG11558324

Counsel for Plaintiff

Richard J. Simons, Esq.
FURTADO, JASPOVICE & SIMONS
22274 Main Street
Hayward, CA 94541
Telephone: (510) 582-1080
Facsimile: (510) 582-8255
rick@fjlaw.com

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PROOF OF SERVICE
JANE DOE v. WATCHTOWER, et al.

CASE NO. HG11558324

I am employed in the County of Sacramento, State of California. I am over the age of 18 and am not a party to the within action; my business address is 801 K Street, Suite 2300, Sacramento, California 95814.

On October 18, 2012, I served the following document(s) described as **[PROPOSED] ORDER GRANTING DEFENDANT WATCHTOWER BIBLE AND TRACT SOCIETY OF NEW YORK, INC. AND FREMONT CONGREGATION OF JEHOVAH'S WITNESSES, NORTH UNIT'S EX PARTE APPLICATION TO SHORTEN NOTICE OF HEARING ON MOTION RE APPEAL BOND** on all interested parties to this action as follows:

by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: By placing a true copy thereof in a sealed envelope addressed as above, and placing it for collection and mailing following ordinary business practices. I am readily familiar with Jackson Lewis LLP's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Sacramento, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposition for mailing in affidavit.

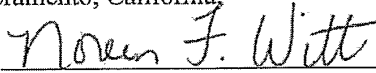
BY OVERNIGHT COURIER: I caused the above-referenced document(s) to be delivered to _____ for delivery to the above address(es).

BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee(s).

BY ELECTRONIC MAIL: By transmission of a true copy to the email address(es) shown on the attached service list.

[State] I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 [Federal] I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on October 18, 2012, at Sacramento, California.



Noreen F. Witt

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SERVICE LIST
JANE DOE v. WATCHTOWER, et al.
CASE NO. HG11558324

Counsel for Plaintiff

Richard J. Simons, Esq.
FURTADO, JASPOVICE & SIMONS
22274 Main Street
Hayward, CA 94541
Telephone: (510) 582-1080
Facsimile: (510) 582-8255
rick@fjslaw.com

Defendant Jonathan Kendrick, in pro per

200 Honey Lane
Oakley, CA 94561
(925) 484-1008