

1 Anthony V. Smith, Esq. (SBN 124840)
LAW OFFICE OF ANTHONY V. SMITH
2 204 East Second Avenue, #331
San Mateo, CA 94401-3904
3 Tel: 650.548.0100
Fax: 650.548.9741
4

5 Attorney for Defendants ERNEST BREDE, LUIS CONTRERAS, PAUL KOEHLER, LARRY
LAVERDURE, DONALD SHOWERS, AARON LUCAS, STEVE MISTERFELD, ALAN
6 SHUSTER, RICHARD ASHE and DOE SDG:SSX

7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 JONATHAN D. COBB, SR., and)
11 WALTER ARLEN ST. CLAIR,)
12 Plaintiffs,)

) Case No.: 3:10-CV-03907-MEJ
)
) **JUDGE:** Maria-Elena James
)
) **DEFENDANTS' ANSWER TO**
) **PLAINTIFFS UNVERIFIED SECOND**
) **AMENDED COMPLAINT FILED**
) **NOVEMBER 9, 2010¹**

13 v.)
14)
15 ERNEST BREDE, LUIS CONTRERAS,)
16 PAUL KOEHLER, LARRY LAVERDURE,)
17 DONALD SHOWERS, AARON LUCAS,)
18 STEVE MISTERFELD, ALAN SHUSTER,)
RICHARD ASHE and DOE SDG:SSX,)
19 Defendants.)

20 _____)
21 Defendants ERNEST BREDE, LUIS CONTRERAS, PAUL KOEHLER, LARRY
22 LAVERDURE, DONALD SHOWERS, AARON LUCAS, STEVE MISTERFELD, ALAN
23 SHUSTER, RICHARD ASHE and DOE SDG:SSX (hereinafter collectively referred to as
24 "DEFENDANTS"), by and through their attorney of record, pursuant to Order of this court filed
25 on November 12, 2010, hereby Answer Plaintiffs' Second Amended Complaint (hereinafter

26 _____
27 ¹ At the time of the filing of this Answer, Plaintiffs had yet to properly serve their Second
28 Amended Complaint (SAC) on all defendants particularly the newly named defendants in the
SAC.

1 referred to as the “SAC”) filed on November 9, 2010 as follows:
2

3 DEFENDANTS deny each and every, all and singular, generally and specifically, all the
4 allegations of the unverified SAC, and the whole thereof, with the exception of the following
5 statement contained on page 3, paragraph 2 of the SAC which states the following: “It should be
6 noted that Jehovah’s Witnesses are a global brotherhood of peaceful, honest, diligent
7 hardworking individuals who believe in the power of God’s word to changes lives. Jehovah’s
8 Witnesses collectively stand as a beacon of truth and justice within this world because of their
9 strict adherence to bible principles and standards.” (*Plaintiffs’ SAC, page 3, ¶2*).
10

11 DEFENDANTS further deny that Plaintiffs have been damaged in any sum or sums, or at all, as
12 alleged therein.
13

14 **AFFIRMATIVE DEFENSES**

15
16
17 **AS A FIRST SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS allege
18 that Plaintiffs’ SAC fails to state a claim upon which relief may be granted.
19

20 **AS A SECOND SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS
21 allege that Plaintiffs’ SAC is barred by the First Amendment to the United States Constitution.
22 (*United States Constitution, Amendment 1*).
23

24
25 **AS A THIRD SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS
26 allege that Plaintiffs’ SAC is barred by the Article I, Section 4 of the California Constitution.
27 (*California Constitution Article I, §4*).
28

1
2 **AS A FOURTH SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS
3 allege that Plaintiffs' SAC is barred by reason of the ecclesiastical abstention doctrine as set
4 forth under applicable federal and state law and their common law progeny, respectively.
5 (*Jones v. Wolf* (1979) 443 U.S. 595; *Serbian Eastern Orthodox Diocese v. Milivojevich*
6 (1976) 426 U.S. 696; *Central Coast Baptist Ass'n v. First Baptist Church of Las Lomas*
7 (2007) 171 Cal.App.4th 822; *Berry v. Society of Saint Pius X* (1999) 69 Cal.App.4th 343).
8
9

10 **AS A FIFTH SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS allege
11 that by conduct, representations, and omissions, Plaintiffs have waived, relinquished, and/or
12 abandoned any claim for relief against DEFENDANTS respecting the matter which is the
13 subject of the SAC.
14

15 **AS A SIXTH SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS allege
16 that by conduct, representations, and omissions, Plaintiffs are equitably estopped to assert any
17 claim for relief against DEFENDANTS respecting the matter which is the subject of the SAC.
18
19

20 **AS A SEVENTH SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS
21 allege that Plaintiffs suffered no damage or injury that was proximately caused by
22 DEFENDANTS.
23

24 **AS AN EIGHTH SEPARATE AND AFFIRMATIVE DEFENSE**, DEFENDANTS
25 allege that Plaintiffs have not acted in good faith respecting the matter which is the subject of
26 the SAC.
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AS A NINTH SEPARATE AND AFFIRMATIVE DEFENSE, DEFENDANTS

allege that Plaintiffs are guilty of unclean hands with respect to the occurrence or occurrences alleged in the SAC, and they are therefore not entitled to any relief based on the SAC or any claims stated therein.

AS A TENTH SEPARATE AND AFFIRMATIVE DEFENSE, DEFENDANTS

allege that this court lack personal jurisdiction over some or all of the DEFENDANTS named in the SAC.

AS AN ELEVENTH SEPARATE AND AFFIRMATIVE DEFENSE,

DEFENDANTS allege that this court lacks personal jurisdiction over some or all of the DEFENDANTS named in the SAC.

WHEREFORE, DEFENDANTS pray for judgment as set forth below:

1. That Plaintiffs take nothing by reason of their Second Amended Complaint;
2. For costs of suit incurred;
3. For reasonable attorneys fees as permitted by law according to proof; and
4. For such other and further relief as the court deems just and proper.

DATE: December 13, 2010



Anthony V. Smith, Esq.

LAW OFFICES OF ANTHONY V. SMITH
Attorney for Defendants ERNEST BREDE, LUIS CONTRERAS
PAUL KOEHLER, LARRY LAVERDURE, DONALD SHOWERS
AARON LUCAS, STEVE MISTERFELD, ALAN SHUSTER
RICHARD ASHE and DOE SDG:SSX