

12P.05L

each of the parties listed on Exhibit A attached hereto.

Kristi L. deRham
Kristi L. deRham

SIGNED AND SWORN to before me this 24th day of January,
1989, by Kristi L. deRham.

Samuel B. Johnson
NOTARY PUBLIC
My Commission Expires: 10-10-89



AFFIDAVIT OF SERVICE
BY MAIL - 3

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

EXHIBIT A

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Jim Messina, Esquire
Molly McCarty, Legal Assistant
Messina & Duffy
200 Benjamin Franklin Building
4002 Tacoma Mall Blvd.
Tacoma, WA 98409
Attorneys for Plaintiffs
Ehrlich, Lemke, Chabot,
Kitchell

Richard H. Adler, Esquire
Ann J. Durham, Esquire
Adler Giersch
401 Second Avenue South, Suite 600
Seattle, WA 98104
Attorneys for Plaintiffs
Ehrlich, Lemke, Chabot,
Kitchell

Jack G. Rosenow, Esquire
Rosenow, Hale & Johnson
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4301 South Pine Street
Tacoma, WA 98409
Attorney for Defendants Alskog

Rodney D. Hollenbeck, Esquire
Evans, Craven & Lackie, P. S.
3100 Columbia Seafirst Center
701 Fifth Avenue
Seattle, WA 98104
Attorney for Defendants Barnett

John C. Graffe, Esquire
Rosenow, Hale & Johnson
1620 Key Tower
1000 Second Avenue
Seattle, WA 98104
Attorney for Defendants Alskog

AFFIDAVIT OF SERVICE
BY MAIL - 4

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1 Bruce Winchell, Esquire
2 Lane, Powell, Moss & Miller
3 3800 Rainier Tower
4 1301 Fifth Avenue
5 Seattle, WA 98101
6 Attorney for American Casualty
7 Company

8 Don M. Gulliford, Esquire
9 Don M. Gulliford & Associates
10 2200 - 112th Avenue Northeast, #200
11 Bellevue, WA 98004
12 Attorney for Plaintiff
13 St. Paul Fire and Marine
14 Insurance Company

15 Pauline V. Smetka, Esquire
16 Helsell, Fetterman, Martin,
17 Todd & Hokanson
18 1500 Washington Building
19 P. O. Box 21846
20 Seattle, WA 98111
21 Attorney for Defendants Alskog

22 Michael W. Bugni, Esquire
23 Moren, Cornell & Hansen
24 Roosevelt-Pinehurst Building
25 11320 Roosevelt Way N.E.
26 Seattle, WA 98125
Attorney for Defendants Howerton

George Kargianis, Esquire
Jeff Campiche, Esquire
Kargianis, Austin & Erickson
4700 Columbia Seafirst Center
701 Fifth Avenue
Seattle, Washington 98104
Attorneys for Plaintiffs
Butler, Lien, Brown, Fellhauer

John S. Glassman
Attorney at Law
420 Old City Hall
625 Commerce Street
Tacoma, WA 98402
Attorney for Defendant
Community Chapel and
Bible Training Center

AFFIDAVIT OF SERVICE
BY MAIL - 5

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

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Donald Hall
P. O. Box 168
Big Fork, Montana 59911
Pro Se - Plaintiff

Carl A. Peterson
710 Cedar Street
Muscatine, Iowa 52761
Pro Se - Plaintiff

AFFIDAVIT OF SERVICE
BY MAIL - 6

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1800
SUPERIOR COURT
SEATTLE WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir.,
et al.,

Plaintiffs,

v.

DONALD LEE BARNETT, et ux.,
et al.,

Defendants.

SANDY EHRLICH, et vir., et
al.,

Plaintiffs,

v.

RALPH ALSKOG, et ux., et
al.,

Defendants.

MAUREEN P. JORGENSEN,

Plaintiff,

v.

COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al.,

Defendants.

Consolidated

No. 86-2-18176-8

PLAINTIFF MAUREEN
JORGENSEN'S OBJECTION
TO PROPOSED WITHDRAWAL
OF ATTORNEYS FOR
COMMUNITY CHAPEL AND
BIBLE TRAINING CENTER

PLAINTIFF MAUREEN JORGENSEN'S OBJECTION
TO PROPOSED WITHDRAWAL OF ATTORNEYS FOR
COMMUNITY CHAPEL AND BIBLE TRAINING CENTER - 1

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

ORIGINAL

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2 AMERICAN CASUALTY COMPANY OF)
3 READING PENNSYLVANIA, a)
4 Pennsylvania corporation,)

5 Plaintiff,)

6 v.)

7 KATHY LEE BUTLER, et al.,)

8 Defendants.)

9 ST. PAUL FIRE AND MARINE)
10 INSURANCE COMPANY, a foreign)
11 corporation,)

12 Plaintiff,)

13 v.)

14 KATHY LEE BUTLER, et al.,)

15 Defendants.)

16 Plaintiff Maureen Jorgensen, through her attorneys of
17 record, Preston, Thorgrimson, Ellis & Holman and Susan Delanty
18 Jones, hereby objects to the proposed withdrawal of attorneys
19 for Community Chapel and Bible Training Center ("CCBTC")
20 received on January 18, 1989 with a proposed withdrawal date of
21 January 28, 1989. This objection is based upon the requirements
22 of CR 71(c)(3) and the following issues:

23 1. This is an extremely complicated consolidated case
24 with many issues, parties, and attorneys. Counsel for CCBTC has
25 represented its client since it filed its appearance on January
26 6, 1987, more than two years ago. According to the proposed

PLAINTIFF MAUREEN JORGENSEN'S OBJECTION
TO PROPOSED WITHDRAWAL OF ATTORNEYS FOR
COMMUNITY CHAPEL AND BIBLE TRAINING CENTER - 2

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1 Pre-trial Order No. 4 of this court, the trial of Jorgensen's
2 claims against CCBTC and Barbara Barnett has been severed and
3 tentatively set for May 16, 1989.

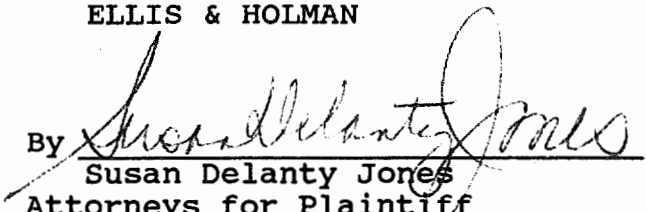
4 2. No substitute counsel has yet filed an appearance or
5 notice of substitution. The possibility of delay grows more
6 likely every day, because the factual complexity of this case
7 makes it entirely predictable that new counsel will require a
8 significant amount of time to learn the file. In addition,
9 there is a very significant amount of discovery of both expert
10 and lay witnesses still to be undertaken.

11 3. Maureen Jorgensen's complaint was originally filed
12 December 17, 1986. She will have waited thirty months for her
13 day in court if trial takes place on May 16, 1989 or shortly
14 thereafter. She therefore objects to the withdrawal of the Lee,
15 Smart firm unless it is made on the condition that substituted
16 counsel 1) will abide by the Agreed Order for Pre-trial
17 Discovery entered by this court on November 9, 1988; and 2) will
18 not request a continuance of the May 16, 1989 trial date.

19 DATED this 24th day of January, 1989.

20 Respectfully submitted,

21 PRESTON, THORGRIMSON,
22 ELLIS & HOLMAN

23
24 By 
25 Susan Delanty Jones
26 Attorneys for Plaintiff
Maureen P. Jorgensen

PLAINTIFF MAUREEN JORGENSEN'S OBJECTION
TO PROPOSED WITHDRAWAL OF ATTORNEYS FOR
COMMUNITY CHAPEL AND BIBLE TRAINING CENTER - 3

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

CIVIL TRACK ONE
THE HONORABLE JOHN RILEY

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ST. PAUL FIRE AND MARINE)
INSURANCE COMPANY, a foreign)
corporation,)
Plaintiff,)
v.)
KATHY LEE BUTLER, et vir.,)
et al.,)
Defendants.)

NO. 88-2-18321-0
CONSOLIDATED/TRACK ONE ✓
NO. 86-2-18176-8

CERTIFICATE OF MAILING

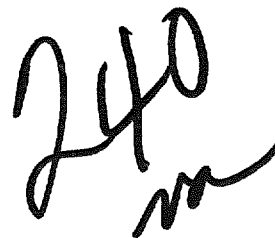
THE UNDERSIGNED declares under penalty of perjury that on January 25, 1989, I mailed a copy of NOTICE OF APPEARANCE OF DEFENDANTS BARNETT to the following counsel, postage prepaid:

Susan Delanty Jones
Preston Thorgrimson Ellis & Holman
5400 Columbia Center
701 Fifth Avenue
Seattle WA 98104-7011
Attorney for Jorgensen

Michael Bond
Lee Smart Cook Martin & Patterson
800 Washington Building
Seattle WA 98101
Attorney for CCBTC

George Kargianis/Jeff Campiche
Kargianis Austin & Erickson
701 Fifth Avenue, #4700
Seattle, WA 98104
Attorneys for Plf. Butler, et al.

CERTIFICATE OF MAILING 1



Evans, Craven & Lickie, P.S.

LAWYERS

1000 4th Avenue, Suite 1000
Seattle, WA 98101

(206) 461-5550

Richard Adler/Ann Durham
Adler Giersch & Read
401 Second Avenue South, #600
Seattle, WA 98104
Attorneys for Plf. Ehrlich, et al.

John Messina, Esq.
Messina & Duffy
4002 Tacoma Mall Blvd. #200
Tacoma, WA 98409
Co-Counsel for Plf. Ehrlich, et al.

Michael W. Bugni
Moren Cornell & Hansen
Roosevelt-Pinehurst Building
11320 Roosevelt Way NE
Seattle, WA 98125
Attorney for Def. Howerton

Jack Rosenow/John C. Graffe
Rosenow Hale & Johnson
#301 Tacoma Mall Blvd.
2000 Tacoma Mall
Tacoma, WA 98409
Attorneys for Def. Alskog

Pauline V. Smetka
Helsell Fetterman
1500 Washington Building
1325 Fourth Avenue
Seattle, WA 98111
Co-Counsel for Def. Alskog

Bruce Winchell
Lane Powell Moss & Miller
3800 Rainier Bank Tower
Seattle, WA 98101-2647
Attorney for American Casualty

CERTIFICATE OF MAILING 2

Evans, Craven & Luckie, P.S.

LAWYERS

1000 1ST AVENUE
SEATTLE, WASHINGTON 98101

(206) 386-5555

CIVIL TRACK ONE
THE HONORABLE JOHN RILEY

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ST. PAUL FIRE AND MARINE)
INSURANCE COMPANY, a foreign)
corporation,)
Plaintiff,)
v.)
KATHY LEE BUTLER, et vir.,)
et al.,)
Defendants)

NO. 88-2-18321-0

CONSOLIDATED/TRACK ONE ✓
NO. 86-2-18176-8

NOTICE OF APPEARANCE OF
DEFENDANTS BARNETT

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that the defendants DONALD LEE BARNETT AND BARBARA BARNETT hereby enter their Notice of Appearance in the above-entitled action, by and through their attorneys of record, Evans, Craven & Lackie, P.S., and request that all further pleadings or papers herein, except process, be served on their counsel at the address set out below.

DATED January 25, 1989.

EVANS CRAVEN & LACKIE, P.S.

By: James S. Craven
JAMES S. CRAVEN
Attorneys for Defendants
Barnett

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Evans, Craven & Lackie, P.S.
LAWYERS

NOTICE OF APPEARANCE OF
DEFENDANTS BARNETT

FILED

1989 JAN 27 PM 12: 34

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir.,)
et al.,)
Plaintiffs,)

Consolidated
No. 86-2-18176-8 ✓

v.)

No. 86-2-18176-8

DONALD LEE BARNETT, et ux.,)
et al.,)
Defendants.)

AFFIDAVIT OF SERVICE
BY MAIL

SANDY EHRLICH, et vir., et)
al.,)
Plaintiffs,)

No. 86-2-18429-5

v.)

RALPH ALSKOG, et ux., et)
al.,)
Defendants.)

MAUREEN P. JORGENSEN,)
Plaintiff,)

No. 86-2-26360-8

v.)

COMMUNITY CHAPEL AND BIBLE)

AFFIDAVIT OF SERVICE
BY MAIL - 1

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ORIGINAL

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1 TRAINING CENTER, et al.,)
2 Defendants.)

3 _____)
4 AMERICAN CASUALTY COMPANY OF)
5 READING PENNSYLVANIA, a)
6 Pennsylvania corporation,)
7 Plaintiff,)

8 v.)

9 KATHY LEE BUTLER, et al.,)
10 Defendants.)

11 _____)
12 ST. PAUL FIRE AND MARINE)
13 INSURANCE COMPANY, a foreign)
14 corporation,)
15 Plaintiff,)

16 v.)

17 KATHY LEE BUTLER, et al.,)
18 Defendants.)

No. 88-2-04615-8

No. 88-2-18321-0

19 STATE OF WASHINGTON)
20 : ss.
21 COUNTY OF KING)

22 I, Kristi L. deRham duly sworn on oath deposes and says:

23 That I am a citizen of the United States and a resident of
24 the State of Washington, over the age of twenty-one years and
25 not a party to this action; that on the 26th day of January,
26 1989, I caused a copy of the Notice of Appearance of Maureen
Jorgensen to be deposited in the United States Mail in an
envelope with first class postage prepaid, addressed to each of

AFFIDAVIT OF SERVICE
BY MAIL - 2

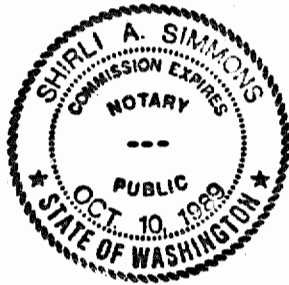
LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

the parties listed on Exhibit A attached hereto.

Kristi L. deRham
Kristi L. deRham

SIGNED AND SWORN to before me this 26th day of January,
1989, by Kristi L. deRham.

Shirli A. Simmons
NOTARY PUBLIC
My Commission Expires: 10-10-89



AFFIDAVIT OF SERVICE
BY MAIL - 3

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7560

EXHIBIT A

1
2
3 Michael J. Bond, Esquire
4 Lee, Smart, Cook,
5 Martin & Patterson
6 800 Washington Building
7 1325 Fourth Avenue
8 Seattle, WA 98104
9 Attorney for Defendant
10 Community Chapel and Bible
11 Training Center
12

13
14 Jim Messina, Esquire
15 Molly McCarty, Legal Assistant
16 Messina & Duffy
17 200 Benjamin Franklin Building
18 4002 Tacoma Mall Blvd.
19 Tacoma, WA 98409
20 Attorneys for Plaintiffs
21 Ehrlich, Lemke, Chabot,
22 Kitchell
23

24
25 Richard H. Adler, Esquire
26 Ann J. Durham, Esquire
Adler Giersch
401 Second Avenue South, Suite 600
Seattle, WA 98104
Attorneys for Plaintiffs
Ehrlich, Lemke, Chabot,
Kitchell

19
20 Jack G. Rosenow, Esquire
21 Rosenow, Hale & Johnson
22 301 Tacoma Mall Office Bldg.
23 4301 South Pine Street
24 Tacoma, WA 98409
25 Attorney for Defendants Alskog
26

23
24 Rodney D. Hollenbeck, Esquire
25 Evans, Craven & Lackie, P. S.
26 3100 Columbia Seafirst Center
701 Fifth Avenue
Seattle, WA 98104
Attorney for Defendants Barnett

AFFIDAVIT OF SERVICE
BY MAIL - 4

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
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SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1 John C. Graffe, Esquire
2 Rosenow, Hale & Johnson
3 1620 Key Tower
4 1000 Second Avenue
5 Seattle, WA 98104
6 Attorney for Defendants Alskog

7 Bruce Winchell, Esquire
8 Lane, Powell, Moss & Miller
9 3800 Rainier Tower
10 1301 Fifth Avenue
11 Seattle, WA 98101
12 Attorney for American Casualty
13 Company

14 Don M. Gulliford, Esquire
15 Don M. Gulliford & Associates
16 2200 - 112th Avenue Northeast, #200
17 Bellevue, WA 98004
18 Attorney for Plaintiff
19 St. Paul Fire and Marine
20 Insurance Company

21 Pauline V. Smetka, Esquire
22 Helsell, Fetterman, Martin,
23 Todd & Hokanson
24 1500 Washington Building
25 P. O. Box 21846
26 Seattle, WA 98111
Attorney for Defendants Alskog

19 Michael W. Bugni, Esquire
20 Moren, Cornell & Hansen
21 Roosevelt-Pinehurst Building
22 11320 Roosevelt Way N.E.
23 Seattle, WA 98125
24 Attorney for Defendants Howerton

23 George Kargianis, Esquire
24 Jeff Campiche, Esquire
25 Kargianis, Austin & Erickson
26 4700 Columbia Seafirst Center
701 Fifth Avenue
Seattle, Washington 98104
Attorneys for Plaintiffs
Butler, Lien, Brown, Fellhauer

AFFIDAVIT OF SERVICE
BY MAIL - 5

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

12P.05L

1 John S. Glassman
2 Attorney at Law
3 420 Old City Hall
4 625 Commerce Street
5 Tacoma, WA 98402
6 Attorney for Defendant
7 Community Chapel and
8 Bible Training Center

9 Donald Hall
10 P. O. Box 168
11 Big Fork, Montana 59911
12 Pro Se - Plaintiff

13 Carl A. Peterson
14 710 Cedar Street
15 Muscatine, Iowa 52761
16 Pro Se - Plaintiff

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AFFIDAVIT OF SERVICE
BY MAIL - 6

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

FILED

1989 JAN 27 PM 12: 34

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir.,
et al.,

Plaintiffs,

v.

DONALD LEE BARNETT, et ux.,
et al.,

Defendants.

Consolidated
No. 86-2-18176-8 ✓

No. 86-2-18176-8

NOTICE OF APPEARANCE
OF MAUREEN JORGENSEN

SANDY EHRLICH, et vir., et
al.,

Plaintiffs,

v.

RALPH ALSKOG, et ux., et
al.,

Defendants.

No. 86-2-18429-5

MAUREEN P. JORGENSEN,

Plaintiff,

v.

No. 86-2-26360-8

NOTICE OF APPEARANCE OF
MAUREEN JORGENSEN - 1

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ORIGINAL

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1 COMMUNITY CHAPEL AND BIBLE)
2 TRAINING CENTER, et al.,)

3 Defendants.)

4 _____)
5 AMERICAN CASUALTY COMPANY OF)
6 READING PENNSYLVANIA, a)
7 Pennsylvania corporation,)

8 Plaintiff,)

9 v.)

10 KATHY LEE BUTLER, et al.,)

11 Defendants.)

12 _____)
13 ST. PAUL FIRE AND MARINE)
14 INSURANCE COMPANY, a foreign)
15 corporation,)

16 Plaintiff,)

17 v.)

18 KATHY LEE BUTLER, et al.,)

19 Defendants.)

No. 88-2-04615-8

No. 88-2-18321-0

20 TO: ALL PARTIES AND THEIR ATTORNEYS

21 YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that on behalf
22 of defendant (litigation plaintiff) Maureen P. Jorgensen, the
23 undersigned attorneys hereby enter their Notice of Appearance
24 in St. Paul Fire and Marine Insurance Company v. Kathy Lee
25 Butler and Stephen Lynn Butler, husband and wife, et al., under
26 Consolidated Cause No. 86-2-18176-8. You are hereby requested
to serve all further papers and proceedings in this cause,

NOTICE OF APPEARANCE OF
MAUREEN JORGENSEN - 2

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1 except original process, upon said attorneys at their address
2 below stated.

3 DATED this 26 day of January, 1989.

4 Respectfully submitted,

5 PRESTON, THORGRIMSON,
6 ELLIS & HOLMAN

7
8 By Susan Delanty Jones
9 Susan Delanty Jones
10 Attorneys for Defendant
11 Maureen P. Jorgensen (litigation
12 plaintiff)
13
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NOTICE OF APPEARANCE OF
MAUREEN JORGENSEN - 3

LAW OFFICES OF
PRESTON, THORGRIMSON, ELLIS & HOLMAN
5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7500

FILED

1989 FEB -3 PM 3:53

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

CIVIL TRACK I
HONORABLE JOHN RILEY

SUPERIOR COURT FOR THE STATE OF WASHINGTON
COUNTY OF KING

KATHY LEE BUTLER and STEVEN L. BUTLER, wife and husband, and the marital community composed thereof; et al.,

Plaintiffs,

v.

DONALD LEE BARNETT and BARBARA BARNETT, husband and wife, and the marital community composed thereof; et al.,

Defendants.

SANDY EHRLICH and MICHAEL EHRLICH, wife and husband; et al.,

Plaintiffs,

v.

RALPH ALSKOG and ROSEMARY ALSKOG, husband and wife; et al.,

Defendants.

MAUREEN P. JORGENSEN,

Plaintiff,

v.

COMMUNITY CHAPEL AND BIBLE TRAINING CENTER, a Washington non-profit corporation; et al.,

Defendants.

///

NO. 86-2-18176-8 ✓
86-2-18429-5
86-2-26360-8
(consolidated)

NOTICE OF WITHDRAWAL AND
SUBSTITUTION OF ATTORNEYS

NOTICE OF WITHDRAWAL AND
SUBSTITUTION OF ATTORNEYS -1-

SCHWEPPE, KRUG & TAUSEND, P.S.

800 WATERFRONT PLACE
1011 WESTERN AVENUE
SEATTLE, WASHINGTON 98104
(206) 223-1600

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TO: CLERK OF COURT
AND TO: ALL PARTIES

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that the undersigned signed Michael J. Bond of Lee, Smart, Cook, Martin & Patterson, P.S., Inc. hereby withdraws as attorneys for defendant Community Chapel and Bible Training Center in the above-entitled action and consents to the substitution of the undersigned J. Ronald Sim and Robert J. Rohan of Schweppe, Krug & Tausend, P.S., 1011 Western Ave., Suite 800, Seattle, Washington 98104, as attorneys for said defendant.

DATED this 2nd day of February, 1989.

LEE, SMART, COOK, MARTIN &
PATTERSON, P.S., INC.

By Michael J. Bond
MICHAEL J. BOND

SCHWEPPE, KRUG & TAUSEND, P.S.

By J. Ronald Sim
J. RONALD SIM
ROBERT J. ROHAN

0147-005\Z020289.RJR

pursuant to Civil Rules 21 and 42(b).

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II. STATEMENT OF FACTS

As presently constituted, this lawsuit is an extraordinarily complex one. Numerous claims have been filed in the 30 page complaint. Claims are alleged by more than 15 Plaintiffs against Community Chapel & Bible Training Center in Burien, Washington and numerous individual members of that church in the above-referenced cases. The claims involve allegations of inappropriate sexual contact and intimidation. However, the facts pertaining to the claims against the various Defendants differ greatly.

It is apparent from the Complaint that the action against Defendants Howerton is for alleged incidents that occurred separate and apart from the alleged incidents involving the other Plaintiffs and Defendants. The detailed facts of the claim against Defendants Howerton, and the claims against the various other Defendants, will be uniquely different, raising separate and distinct questions of fact. Moreover, the witnesses involved in Defendants Howerton's case will be different from those involved in the other claims. Unless the single action against Defendants Howerton is severed from the other claims against the various other Defendants in this lawsuit, Defendants Howerton's right to a fair trial will be seriously prejudiced.

III. ISSUE

Whether the Court should sever the action brought by

MOTION FOR SEPARATE TRIAL - 2

1 Plaintiffs against Defendants Howerton, from the other claims in
2 this case, where the claims do not arise out of the same occur-
3 rences, and where a trial against Defendants Howerton, together
4 with all the other claims, would be extremely prejudicial to said
5 Defendants.

6 IV. EVIDENCE RELIED UPON

- 7 A. Affidavit of Michael W. Bugni;
8 B. The Complaints filed in all actions;
9 C. The records and files herein contained.

10 V. AUTHORITY

11 A. The Claims Filed in this Action do not Arise Out of
12 the Same Occurrence and do not Involve Common Questions of Law or
13 Fact; Therefore, They are Misjoined.

14 CR 20 establishes the criteria for determining whether
15 Plaintiffs have properly joined their cases and CR 21 establishes
16 the remedy for misjoinder; i.e., separate trials. Here,
17 Plaintiffs' claims do not meet the requirement for joinder; more-
18 over, to permit joinder here would be an abuse of discretion,
19 which would seriously prejudice the opportunity of Defendants
20 Howerton to obtain a fair trial.

21 CR 20(a) sets forth the requirements for joinder of
22 different persons in a single action as Plaintiffs:

23 All persons may join in one action as plaintiffs
24 if they assert any right to relief jointly,
25 severally, or in the alternative in respect of or
arising out of the same transaction, occurrence,
or series of transactions or occurrences and if
any question of law or fact common to all of

MOTION FOR SEPARATE TRIAL - 3

these persons will arise in the action.

1 CR 20(a) clearly establishes two criteria for joinder in
2 cases such as these: (1) the actions must arise out of the same
3 occurrence or series of occurrences or transactions; and (2) they
4 must involve common questions of law or fact. To be properly
5 joined, the Plaintiffs' claims must satisfy both, not just one of
6 these criteria. Here, Plaintiffs' claims meet neither test.
7 First, the allegations against Defendants Howerton and the alle-
8 gations against all the other Defendants involve entirely
9 separate occurrences, each involving unique facts. Second, the
10 alleged inappropriate sexual contact in each case must be con-
11 sidered based upon its own individual facts, and the questions of
12 law will be different among the various Defendants because of the
13 various different claims which have been asserted.

14 There are surprisingly few cases on misjoinder; however,
15 Williams v. Maslan, 92 Wash. 616 (1937) (recently commented on
16 favorably in P. Trautman, Joinder of Claims and Parties in
17 Washington, 14 Gonzaga L. Rev. 103, 112 N. 44 [1978]), is a case
18 which should be considered here. In that case, two separate
19 plaintiffs made virtually identical allegations of wrongful
20 arrest and wrongful imprisonment against an identical set of
21 defendants. The court found that the two causes of action had
22 been improperly joined, and that the plaintiffs were attempting
23 to try two wholly independent actions in the same suit. Citing
24 the applicable court rule, which was virtually identical to the

25 MOTION FOR SEPARATE TRIAL - 4

1 present CR 20(a), the court stated that joinder was proper only
2 where the alleged right to recover arose from the same set of
3 facts.

4 The court offered a hypothetical to demonstrate where
5 joinder was improper at page 620-21:

6 But suppose that C, in driving from Tacoma to
7 Olympia at an unlawful speed, has a collision in
8 South Tacoma in which he injures A, and on the
9 same trip he collides with B in the outskirts of
10 Olympia and injures him. A and B cannot join as
11 plaintiffs and sue C in the same action. Their
12 rights to relief do not arise out of the same
13 transaction, but merely out of similar trans-
14 actions, and are wholly independent. Evidence
15 tending to support the complaint of B would in no
16 way tend to support the complaint of A and vice
17 versa. That is the condition in the case at bar.
18 The plaintiffs are attempting to try two wholly
19 independent actions in the same suit. (Emphasis
20 added).

21 The hypothetical in Williams, supra, describes one
22 defendant's similar negligent conduct causing damages to separate
23 parties in separate circumstances. While the events may have
24 been similar, they were neither the same nor part of a "series"
25 to support joinder. The Complaint in the present case also
involves allegations of separate injuries in separate circum-
stances and, like the hypothetical, does not describe events that
could be considered "arising out of the same transaction, occur-
rences or series of transactions or occurrences."

Joinder of more than one claim is improper, and sever-
ance is compelled, where such claims are predicated on allega-
tions of separate occurrences for alleged injuries to different

MOTION FOR SEPARATE TRIAL - 5

1 indivi- duals by different defendants. The plaintiffs in this
2 case are attempting to try wholly independent actions in the same
3 suit. Their rights to relief do not arise out of the same
4 transaction or occurrence, and are wholly independent. Any right
5 to recover by Plaintiffs will depend upon entirely separate
6 facts, from any right to recover by the other Plaintiffs in this
7 case. Thus, Defendants Howerton's case is improperly joined and
8 should be severed.

9 B. Joinder of the Action Against Defendants Howerton,
10 with the Other Actions Would Severely Prejudice Said Defendants;
11 Therefore, Separate Trials Should be Ordered.

12 This Court has the express authority to sever claims
13 and/or order separate trials when it is necessary and/or appro-
14 priate for the convenience of the parties or to avoid prejudice.
15 The authority for this Court to order a separate trial is pro-
16 vided in Civil Rules 20, 21 and 42. CR 20(b) provides as
17 follows:

18 The court may make such orders as will prevent a
19 party from being embarrassed, delayed, or put to
20 expense by the inclusion of a party against whom
21 he asserts no claim and who asserts no claims
22 against him, a court may order separate trials or
23 make other orders to prevent delay or prejudice.

24 CR 21 states in pertinent part that "[a]ny claim against a party
25 may be severed and proceeded with separately." Additionally, CR
42(b) enables the court to order separate trials of any claims to
avoid prejudice. CR 42(b) states:

Separate Trials. The court, in furtherance of

MOTION FOR SEPARATE TRIAL - 6

1 convenience or to avoid prejudice, or when
2 separate trials will be conducive to expedition
3 and economy, may order a separate trial of any
4 claim, cross-claim, counterclaim, or third-party
5 claim, or of any separate issue or of any number
6 of claims, cross-claims, counterclaims, third-
7 party claims, or issues, always preserving
8 inviolate the right of trial by jury.

9 It is clear that the application of CR 21 is within the
10 sound discretion of the trial court, whose decision will not be
11 disturbed on appeal absent a manifest abuse of discretion.

12 Shelby v. Keck, 85 W.2d 911, 918, 541 P.2d 365 (1975).

13 As stated by the court in Shelby, supra, at 918, citing
14 3 Orland, Wash. Prac. 412 (2d ed 1968):

15 Under the last sentence of the rule, severance
16 should mean that the severed claims become
17 independent actions in which independent judg-
18 ments should be had. Ordinarily relief of
19 severance should not be granted in cases of
20 properly joined claims and parties because the
21 whole purpose of the joinder rules would be
22 nullified. Rather, if inconvenience or possible
23 confusion or other factors dictate separate files
24 in cases where there is proper joinder of claims
25 of parties, separate trials may be ordered.

Under CR 42(b), it is appropriate for the trial court to
order separate trials and/or to bifurcate a trial "where informed
judgment impels the court to conclude that application of the
rule [CR 42(b)] will manifest to promote convenience and/or
actually avoid prejudice." Brown v. General Motors Corp., 67
Wn.2d 278, 282, 407 P.2d 461 (1965).

In this case, trial of the claim against Defendants
Howerton with the other actions would promote neither economy nor
convenience. The claim against Defendants Howerton is so

MOTION FOR SEPARATE TRIAL - 7

1 factually unique that little time can be saved by trying the
2 cases together.

3 Moreover, trying the cases together would be severely
4 prejudicial to said Defendants. The right to a fair trial will
5 be denied unless the claim against Defendants Howerton is judged
6 separately, without the risk that the jury might be influenced by
7 a case presented by one of the Co-Plaintiffs. Considering the
8 inflammatory nature of the subject matter, allowing the same jury
9 to hear testimony regarding the claim against Defendants Howerton
10 together with the rest of the action would most certainly result
11 in harmful prejudice toward said Defendants.

12 No jury can realistically be expected to neatly compart-
13 mentalize the evidence among the multiple claims arising from the
14 vastly different sets of facts. The alleged incidents involving
15 the different Defendants occurred at different times, in dif-
16 ferent places and under different circumstances. It is incon-
17 ceivable that the evidence in the different claims could be
18 presented in a manner comprehensible to the jury, and without
19 prejudice to the Defendants Howerton. Defendants Howerton's
20 right to a fair and impartial trial mandates that a separate
21 trial be ordered of the single claim against them.

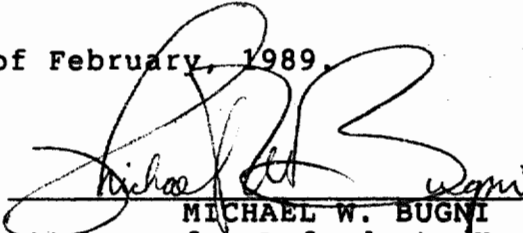
22 VI. CONCLUSION

23 The action against Defendants Howerton should be tried
24 separately from the rest of the cases, because the multiple
25 claims of the numerous Plaintiffs have been misjoined. Further,

MOTION FOR SEPARATE TRIAL - 8

1 a separate trial of the claim against Defendants Howerton is
2 critical to said Defendants' ability to properly defend against
3 the allegations brought against them. Defendants Howerton
4 therefore, respectfully request that this Court sever the action
5 against them from the remainder of this multiple claim lawsuit.

6 DATED this 3rd day of February, 1989.

7
8 
9 MICHAEL W. BUGNI
10 Attorney for Defendants Howerton
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25 MOTION FOR SEPARATE TRIAL - 9

MOREN, CORNELL & HANSEN, P.S.
ATTORNEYS AT LAW
11320 ROOSEVELT WAY NORTHEAST
SEATTLE, WASHINGTON 98125
(206) 365-5500

COMIS code:

PREHRG DISPHRG HEARING
 POSTHRG MINUTE STTL CNF

Department No. 25
Date: February 6, 1989
Page 1 of 1

JUDGE: John W. Riley
BAILIFF: Beth Custer
COURT CLERK: Melissa Keating
REPORTER: Raelene Semago

86-2-26360-8
88-2-18321-0
88-2-04615-8
86-2-18429-5
86-2-18176-8 Consolidated
87-2-14919-6

ing County Cause No. 86-2-18176-8 Consolidated

Case Caption

Cathy Lee Butler et al vs. Donald Barnett et al

Parties and attorneys

Debra Winchell appearing for Plaintiff American Casualty, Don Gulliford appearing for St. Paul Fire and Marine, Susan Jones appearing for Plaintiff Jorgenson, in Durham appearing for Plaintiff Ehrlich, J. Ronald Sim and Robert Bohan for Defendant CBTC, Craig McIvor and Jack Rosenow for Defendant Alskog

Minute Entry

Plaintiff Ehrlich motion in opposition to withdraw as legal counsel.

Respective Counsel and the Court discuss scheduling.

Respective Counsel make oral arguments.

Defendant CBTC motion to extend discovery cut off date. The Court reserves ruling.

Plaintiff Ehrlich motion in opposition to withdraw as legal counsel. The Court reserves ruling.

No Order Signed. X X X

sub #
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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

1
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5 KATHY LEE BUTLER, et vir,)
et al,)

No. 86-2-18176-8

6 Plaintiffs,)

CONSOLIDATED WITH
88-2-04615-8

7 vs.)

8 DONALD LEE BARNETT, et ux,)
et al,)

AFFIDAVIT OF MICHAEL W. BUGNI
IN SUPPORT OF DEFENDANTS
HOWERTON'S MOTION FOR SEPARATE
TRIALS

9 Defendants.)

10 SANDY EHRlich, et vir, et al,)

11 Plaintiffs,)

12 vs.)

13 RALPH ALSKOG, et ux, et al,)

14 Defendants.)

15 MAUREEN P. JORGENSEN,)

16 Plaintiff,)

17 vs.)

18 COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al,)

19 Defendants.)

20 STATE OF WASHINGTON)

ss.

21 COUNTY OF KING)

22 MICHAEL W. BUGNI, being first duly sworn, on oath,
23 deposes and says as follows:
24

25 AFFIDAVIT OF M. W. BUGNI - 1

ORIGINAL

MOREN, CORNELL & HANSEN, P.S. 246
ATTORNEYS AT LAW
11320 ROOSEVELT WAY NORTHEAST
SEATTLE, WASHINGTON 98125
(206) 365-5500 JH

1 I am the attorney of record for the Defendants Howerton,
2 and make this Affidavit in support of said Defendants' Motion for
3 Separate Trial.

4 The Plaintiffs' Complaint in this case involves multiple
5 separate claims filed by numerous Plaintiffs against various
6 Defendants. The action against Defendants Howerton in this case
7 involves only one claim filed by Plaintiffs Lemke. The alleged
8 claim against Defendants Howerton is separate and distinct from
9 the claims against the other Defendants. For example:

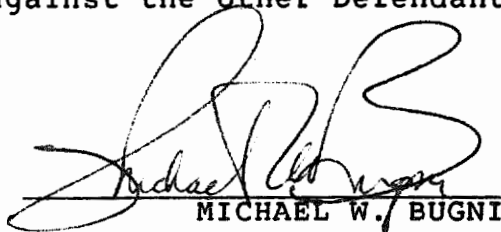
- 10 1. Plaintiffs Lemke have made claims arising out of
11 an alleged immoral communication between Sybil
12 Lemke and Defendant Robert Howerton.
- 13 2. Plaintiffs Ehrlich have made claims arising out
14 of an alleged sexual relationship between Sandy
15 Ehrlich and Defendant Ralph Alskog.
- 16 3. Plaintiffs Chabot have made claims based upon the
17 breakup of the marriage between Dee Chabot and
18 Michael Chabot, with no allegations of any direct
19 sexual misconduct on the part of any Defendant.
- 20 4. Plaintiffs Butler, Brown and Hall all have made
21 claims based upon the alleged sexual activity of
22 Don Barnett.
- 23 5. Several, but not all, Plaintiffs have alleged
24 causes of action against Community Chapel and
25 Defendants Barnett for spiritual teachings and
practices, negligent supervision and negligent
counseling.
6. Plaintiffs Kitchell have asserted claims based on
their marital disharmony.
7. Plaintiffs Jorgensen have asserted claims on a
promissory note which are substantially distinct
from the above causes of action.
8. Such a gamut of claims and Plaintiffs preclude
Defendants from effectively defending themselves

AFFIDAVIT OF M. W. BUGNI - 2


1 and equally preclude the trier of fact from being
2 able to distinguish and preserve a distinction
3 among the claims herein.

4 A separate trial of the action against Defendants
5 Howerton is critical to said Defendants' ability to properly
6 defend against the allegations brought against him. Allowing the
7 separate and distinct claims to be tried as one would cause
8 severe confusion in the jury, and would result in prejudice to
9 said Defendant. The jury would be unable to distinguish and keep
10 separate the complex testimony regarding each claim. Also, con-
11 sidering the inflammatory nature of this subject matter, allowing
12 the same jury to hear testimony regarding the claim against
13 Defendants Howerton together with the multiple other claims filed
14 against different Defendants in this case would most certainly
15 result in harmful prejudice toward Defendants Howerton.

16 In order to allow the claim against Defendants Howerton
17 to be resolved in a manner which would be just and equitable to
18 all parties concerned, this Court should sever the claim against
19 them from the claims filed against the other Defendants, pursuant
20 to CR 21 and CR 42(b).

21 
MICHAEL W. BUGNI

22 SIGNED AND SWORN to before me on this 3rd day of
23 February, 1989.

24 
NOTARY PUBLIC in and for the State of
25 Washington, residing at Seattle
My appointment expires 9-28-90

AFFIDAVIT OF M. W. BUGNI - 3

MOREN, CORNELL & HANSEN, P.S.
ATTORNEYS AT LAW
11320 ROOSEVELT WAY NORTHEAST
SEATTLE, WASHINGTON 98125
(206) 365-5500

FILED

1988 FEB -6 PM 1:49

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR KING COUNTY

KATHY LEE BUTLER, et vir,
et al,

Plaintiffs,

vs.

DONALD LEE BARNETT, et ux,
et al,

Defendants.

No. 86-2-18176-8

CONSOLIDATED WITH
88-2-04615-8

DEFENDANTS HOWERTON'S BRIEF
IN SUPPORT OF MOTION FOR
SEPARATE TRIAL

SANDY EHRLICH, et vir, et al,

Plaintiffs,

vs.

RALPH ALSKOG, et ux, et al,

Defendants.

MAUREEN P. JORGENSEN,

Plaintiff,

vs.

COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al,

Defendants.

COME NOW the Defendants Howerton by and through their
attorneys of record, and submit the following Brief in support of
their Motion for Separate Trial.

HOWERTONS' REPLY BRIEF - 1

ORIGINAL

MOREN, CORNELL & HANSEN, P.S.
ATTORNEYS AT LAW
11320 ROOSEVELT WAY NORTHEAST
SEATTLE, WASHINGTON 98125
(206) 365-5500

247
9/1

I. FACTS AND PROCEDURE

1 The above-entitled cause of action consists of various
2 claims made by each of the Plaintiffs against different Defen-
3 dants. Plaintiffs Lemke have made claims arising out of an
4 alleged immoral communication between Sybil Lemke and Defendant
5 Robert Howerton. Plaintiffs Ehrlich have made claims arising out
6 of an alleged sexual relationship between Sandy Ehrlich and
7 Defendant Ralph Alskog. Plaintiffs Chabot have made claims based
8 upon the breakup of the marriage between Dee Chabot and Michael
9 Chabot, with no allegations of any direct sexual misconduct on
10 the part of any Defendant. Plaintiffs Butler, Brown and Hall all
11 have made claims based upon the alleged sexual activity of Don
12 Barnett. Several, but not all, Plaintiffs have alleged causes of
13 action against Community Chapel and Defendants Barnett for
14 spiritual teachings and practices, negligent supervision and
15 negligent counseling. Plaintiffs Kitchell have asserted claims
16 based on their marital disharmony. Such a gamut of claims and
17 Plaintiffs preclude Defendants from effectively defending them-
18 selves and equally preclude the trier of fact from being able to
19 distinguish and preserve a distinction among the claims herein.

20 Defendants Howerton now join Defendant Alskog's request
21 for a separate trial on the basis that a joinder and consolidated
22 trial would prejudice Defendant Howertons' ability to effectively
23 defend against each independent claim.

24
25 HOWERTONS' REPLY BRIEF - 2

II. LAW AND ARGUMENT

1 A. Separate Trials. Separate trials are proper to
2 prevent delay or prejudice. CR 20(b). "The right to order
3 separate trials is a matter of discretion vested in the trial
4 court by the rules." Maki v. Aluminum Bldg. Products, 73 Wn.2d
5 23, 25, 436 P.2d 186 (1968).

6 Claims have been made against all Defendants based in
7 part upon the spiritual teachings of Don Barnett. Each of the
8 alleged claims arise, however, out of separate occurrences.
9 Plaintiffs have urged this Court that the claims based upon the
10 spiritual teachings of Don Barnett link the other alleged claims.
11 At best, this indicates similarity. It does not lead to the
12 conclusion that the occurrences were the same. Williams v.
13 Maslan, 192 Wn.616, 74 P.2d 217 (1937).

14 B. Joinder. Joinder is proper only if the parties
15 wishing to join assert claims arising out of the same trans-
16 actions, occurrence, or series of transactions or occurrences and
17 there are material questions of law or fact in common. Cr 20(a).
18 Plaintiffs Lemke do not allege claims arising out of the same
19 transaction, occurrence, or series of occurrences alleged by any
20 of the other parties. The alleged problems which they exper-
21 ienced are in fact separate from the alleged problems of the
22 other parties to this action. Plaintiffs Lemke do not state
23 allegations against many of the other Defendants, nor do they
24 allege specific activities which relate to the activities alleged

25 HOWERTONS' REPLY BRIEF - 3

1 in the claims of other Plaintiffs. Consequently, Plaintiffs
2 Lemke have failed to meet the first requirement for joinder.
3 They have failed to allege claims arising out of the same
4 transaction, occurrence, or series of occurrences. See, Williams
5 v. Maslan, 192 Wn. 616, 74 P.2d (1937).

6 III. REPLY TO PLAINTIFFS' ARGUMENTS

7 Cases cited by Plaintiffs in support of joinder of the
8 actions in this case state that joinder is appropriate to avoid
9 multiplicity of suits in litigation between the same parties
10 arising out of the same transaction. (Emphasis added). See,
11 e.g., Longenecker v. Brommer, 59 Wn.2d 552, 564, 368 P.2d 900
12 (1962); Labor & Industries v. Kennewick, 31 Wn.App. 777, 781, 644
13 P.2d 1196 (1982). This is not the situation here. The present
14 lawsuit involves neither the same parties nor the same trans-
15 action. Only one Plaintiff has sued Defendants Howerton in this
16 multiple claim lawsuit. Further, the allegations against
17 Defendants Howerton do not arise out of the same transaction or
18 occurrence as the claims against any of the other Defendants. It
19 is apparent from the Complaint filed in the Ehrlich v. Alskog
20 case that all the allegations against the Defendants involve
21 entirely separate occurrences, each consisting of its own unique
22 facts.

23 According to the Williams case, supra, even if joinder
24 would avoid multiplicity of actions, joinder is not proper where
25 the Plaintiffs are attempting to try wholly independent actions.

HOWERTONS' REPLY BRIEF - 4

1 As explained by the court in Williams, supra, similarity between
2 claims is insufficient for joinder; joinder is proper only where
3 the alleged right to recover arises from the same set of facts.

4 The alleged right to recover against Defendants Howerton
5 does not arise from the same set of facts as those facts set
6 forth in the claims against the other Defendants. The facts
7 alleged do not describe events that could be considered arising
8 from a single event or set of circumstances. Rather, the
9 Complaint describes alleged events that occurred between
10 different Defendants and different Plaintiffs, at different
11 times, and under different circumstances.

12 Plaintiffs cite Mangham v. Gold Seal Chinchillas, Inc.,
13 69 Wn.2d 37, 416 P.2d 680 (1966) for the position that the
14 actions should be joined. That case, however, is not on point.
15 Mangham, supra, was a case involving fraud in the sale of chin-
16 chillas. The facts in each case were essentially the same. All
17 the sales were made by salesmen who used the same brochure and
18 sales presentation in each case to obtain the sales. The alleged
19 representations and warranties regarding the chinchillas were the
20 same, and the same contract was signed in each case.

21 In sharp contrast, in the present case the alleged inci-
22 dents are vastly different. The Complaint clearly illustrates
23 that the different claims involve alleged incidents that differ
24 greatly from each other. A review of the facts set forth in the
25 Complaint confirms the conclusion that the factual issues unique

HOWERTONS' REPLY BRIEF - 5

1 to each claim strongly predominate over any facts alleged by
2 Plaintiffs to be in common.

3 Plaintiffs argue that there will be similar witnesses
4 and, therefore, judicial economy would be served by consolida-
5 tion. Judicial economy, however, does not justify substantive
6 prejudice to the Defendants. For instance, in the vast asbestos
7 litigation, the experts and fact witnesses on each side are fre-
8 quently the same in case after case, but the medical evidence as
9 to the nature cause of each plaintiff's medical problem is
10 necessarily always unique. For this reason, the cases are
11 universally tried separately for each plaintiff. Here, the same
12 result should occur but for even better reasons. Not only would
13 each witness's testimony as to the nature and cause of each
14 Plain- tiff's alleged injury be different in each case but,
15 unlike the asbestos litigation, the testimony and evidence as to
16 alleged liability will also be different. Furthermore, very
17 little judicial economy will be realized by consolidation here.
18 While the Plaintiffs may consult the same experts on the cases,
19 they will not be giving repetitious testimony in the cases, but
20 very different testimony based upon different facts, unique to
21 each claim. Thus, if the case against Defendants Howerton is
22 separated, the testimony of the witnesses should be considerably
23 shorter. Separate trials would be much less confusing to the
24 jury and would not be contaminated by prejudicial evidence
25 regarding separate incidents. It would be most appropriate,

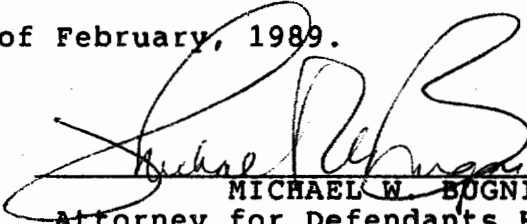
HOWERTONS' REPLY BRIEF - 6

1 therefore, for the court to sever the cases under CR 20(b), CR
2 21, and CR 42(b) to avoid substantial prejudice to Defendants
3 Howerton.

4 **II. CONCLUSION**

5 The claim against Defendants Howerton should be severed
6 from this action because the cases involve separate and distinct
7 incidents, and because any effort to try them together would
8 result in substantial prejudice to said Defendants.

9 DATED this 3rd day of February, 1989.

10 
11 MICHAEL W. BOGNI
12 Attorney for Defendants Howerton

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25 HOWERTONS' REPLY BRIEF - 7

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(206) 682-0300

RICHARD H. ADLER
ANN J. DURHAM
MARGARET L. ENNIS
E. PAUL GIERSCH

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

February 3, 1989

The Honorable John W. Riley
King County Courthouse
King County Superior Court
Room E854
Seattle, WA 98104

RE: Ehrlich, et al. v. Alskog, et al.
King County Cause No. 86-2-18176-8

Dear Judge Riley:


This letter is written in response to your memo dated January 11, 1989, with the attached drafted pre-trial orders. In addition, I have received a letter from Attorney Jack Rosenow on behalf of Defendant Ralph Alskog, which requests a clarification of the Draft Pre-trial No. 4, attached to your memo. At this time, I join in Mr. Rosenow's request for clarification of the pre-trial order language granting a separate trial for Defendants Alskog, et al.

It is my understanding from the order that the claims filed under the case Ehrlich, et al. v. Alskog, et al. will be tried together. As the Court is aware, Plaintiffs Ehrlich, et al., have filed legal memoranda in opposition to Defendant Alskog's request for a separate trial. Briefly stated, our position is that the joint actions of all our named plaintiffs are similar in nature and involve common questions of law and fact. If I have misunderstood the Court's proposed Pre-Trial Order No. 4, and the Court is severing Defendant Alskog from the other parties, I request an opportunity to orally argue our position in opposition to this severance.

Thank you for your consideration.

Sincerely yours,

ADLER GIERSCH, P.S.


Ann J. Durham
Attorney at Law

JD/kjj
cc: All Parties
All Counsel

248
Dr

LAW OFFICES OF
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401 SECOND AVENUE SOUTH
SEATTLE, WA 98104



King County Superior Court Clerk
King County Courthouse
Seattle, WA. 98104

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JAN 18 1989

STAFFORD FREY
COOPER & STEWART

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KING COUNTY
SUPERIOR COURT CLERK
BELLEVUE WA.

CIVIL TRACK ONE
THE HONORABLE JOHN RILEY

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

ST. PAUL FIRE AND MARINE)
INSURANCE COMPANY, a foreign)
corporation,)
Plaintiff,)

NO. 88-2-18321-0

v.)

CONSOLIDATED/TRACK ONE
NO. 86-2-18176-8

KATHY LEE BUTLER and STEPHEN)
LYNN BUTLER, wife and husband,)
and the marital community com-)
posed thereof; KATHY LEE)
BUTLER as guardian ad litem)
for SCOTT WILLIAM LIEN and)
RANDY WILLIAM LIEN, minors;)
SANDI LEE BROWN and LYLE DAVID)
BROWN, wife and husband, and)
the marital community composed)
thereof; DORA FELLHAUER as)
guardian ad litem for TARA LYNN)
BROWN and TROY STEVEN BROWN,)
minors; CHRISTINE HALL and)
DONALD T. HALL, wife and husband)
and the marital community com-)
posed thereof; SANDY EHRLICH and)
MICHAEL EHRLICH, wife and hus-)
band; LARRY LEMKE, parent; LARRY)
LEMKE, guardian ad litem on)
behalf of SYBIL N. LEMKE, a)
minor; KATHRYN REYNOLDS; DEE)
CHABOT, parent; DEE CHABOT,)
guardian ad litem on behalf of)
SHAWNA MICHELE CHABOT, MICHAEL)
GRANT CHABOT, NICHOLAS STERLING)
CHABOT, minors; RALPH ALSKOG and)
ROSEMARY ALSKOG, husband and)
wife; ROBERT HOWERTON and JANE)
DOE HOWERTON, husband and wife,)
MAUREEN P. JORGENSEN;)
E. SCOTT HARTLEY and JANE DOE)
HARTLEY; DONALD LEE BARNETT and)
BARBARA BARNETT, husband and)

ACKNOWLEDGEMENT AND
ACCEPTANCE OF SERVICE

ACKNOWLEDGEMENT AND
ACCEPTANCE OF SERVICE - 1

ackacc.ser

LAW OFFICES OF
DON M. GULLIFORD & ASSOCIATES
2200 112th Avenue N.E.
P.O. Box 548, Bellevue, WA 98009-0548
Bellevue, WA 98004
(206) 462-4000

249
*

1 wife; COMMUNITY CHAPEL AND BIBLE)
2 TRAINING CENTER, a Washington)
3 corporation; "JOHN DOES" 1-5 and)
4 "JANE DOES" 1-5, husbands and)
5 wife; FIRST DOE CORPORATION; and)
6 FIRST DOE PARTNERSHIP; FARMERS)
7 INSURANCE COMPANY OF WASHINGTON,)
8 WAYNE SNOEY, individually and)
9 in his official capacity as a)
10 security guard of Community)
11 Chapel; WAYNE SNOEY and JANE)
12 DOE SNOEY, husband and wife, and)
13 the marital community composed)
14 thereof; JOHN DOE, individually)
15 and in his official capacity as)
16 a security guard of Community)
17 Chapel; DREW GALAS, individually)
18 and in his official capacity as)
19 a security guard of Community)
20 Chapel; DREW GALAS and JANE DOE)
21 GALAS, husband and wife, and the)
22 marital community composed)
23 thereof; DEAN GREFTHEH, individ-)
24 ually and in his official capa-)
city as an employee of Community)
Chapel; DEAN GREFTHEH and JANE)
DOE GREFTHEH, husband and wife,)
and the marital community com-)
posed thereof; DON DAVIS,)
individually and in his official)
capacity as a security guard of)
Community Chapel; DON DAVIS and)
JANE DOE DAVIS, husband and wife)
and the marital community com-)
posed thereof; TED KAUFMAN,)
individually and in his official)
capacity as a security guard of)
Community Chapel; TED KAUFMAN)
and JANE DOE KAUFMAN, husband)
and wife, and the marital com-)
munity composed thereof, and)
CARL A. PETERSON and JANE DOE)
PETERSON, husband and wife, and)
the marital community composed)
thereof,)
Defendants.)

ACKNOWLEDGEMENT AND
ACCEPTANCE OF SERVICE - 2
ackacc.ser

LAW OFFICES OF
DON M. GULLIFORD & ASSOCIATES
2200 112th Avenue N.E.
P.O. Box 548, Bellevue, WA 98009-0548
Bellevue, WA 98004
(206) 462-4000

1 TO: Plaintiff, and

2 TO: Law Offices of Don M. Gulliford & Associates, its attorneys.
3

4 The undersigned hereby states he is authorized to and does
5 hereby accept service of process of Summons and Complaint for
6 Declaratory Judgment entitled St. Paul Fire and Marine Insurance
7 Company v. Kathy Lee Butler and Stephen Lynn Butler, husband and
8 wife, et al., under Consolidated Cause No. 86-2-18176-8, on
9 behalf of defendants Wayne Snoey, individually, in his capacity
10 as security guard of Community Chapel, and Wayne Snoey and Jane
11 Doe Snoey, husband and wife, and the marital community composed
12 thereof.

13 DATED this 19th day of January, 1989.

14
15 By 

16 R. ANDREW BERGH
17 Of Attorneys for
18 Defendants Snoey
19
20
21
22
23
24

ACKNOWLEDGEMENT AND
ACCEPTANCE OF SERVICE - 3
ackacc.ser

LAW OFFICES OF
DON M. GULLIFORD & ASSOCIATES
2200 112th Avenue N.E.
P.O. Box 548, Bellevue, WA 98009-0548
Bellevue, WA 98004
(206) 462-4000

On this day I delivered a true and accurate copy of the document to which this certificate is affixed to LEGAL MESSENGERS, INC. for delivery to the attorneys of record of plaintiff/defendant.

FILED

1989 FEB -7 PM 4:20

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.
DATED this 7th day of February, 1989 at Tacoma, Washington.

CIVIL TRACK I

KING COUNTY
SUPERIOR COURT CLERK
JOHN RILEY

The Honorable John Riley

Mary Ellen Bay

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir., et al.,
Plaintiffs,
vs.
DONALD LEE BARNETT, et ux., et al.,
Defendants.

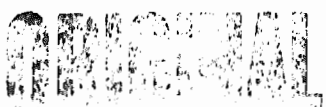
(Consolidated)
NO. 86-2-18176-8

MOTION TO STRIKE TRIAL DATE
BY DEFENDANTS ALSKOG

SANDY EHRLICH, et vir., et al.,
Plaintiffs,
vs.
RALPH ALSKOG, et ux., et al.,
Defendants.

MAUREEN P. JORGENSEN,
Plaintiff,
vs.
COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al.,
Defendants.

MOTION TO STRIKE TRIAL DATE
BY DEFENDANTS ALSKOG -1-
JGR/mer:8



ROSENOW, HALE & JOHNSON
LAWYERS
SUITE 301 TACOMA MALL OFFICE BUILDING
TACOMA, WASHINGTON 98409
(206) 473-0725

Handwritten signature or initials, possibly "JGR" or "mer", with a vertical line extending downwards.

1
2 AMERICAN CASUALTY COMPANY OF)
3 READING PENNSYLVANIA, a)
4 Pennsylvania corporation,)

5 Plaintiff,)

6 vs.)

7 KATHY LEE BUTLER, et al.,)

8 Defendants.)

9 ST. PAUL FIRE AND MARINE INSURANCE)
10 COMPANY, a foreign corporation,)

11 Plaintiff,)

12 vs.)

13 KATHY LEE BUTLER, et al.,)

14 Deendants.)

15 COME NOW the Defendants Alskog, by and through their
16 attorneys of record, ROSENOW, HALE & JOHNSON, and JACK G. ROSENOW,
17 and move this Court to strike the trial date presently set herein
18 for failure of plaintiffs to timely provide witnesses to be deposed
19 in this matter.

20 This Motion is based upon the Affidavit of Jack G. Rosenow
21 attached hereto, the letter from counsel for plaintiffs, Ann Durham
22 dated February 3, 1989, and this Court's prior discovery orders
23 entered herein.

24 DATED this 7th day of February, 1989.

25 ROSENOW, HALE & JOHNSON

26 BY: 

JACK G. ROSENOW

Of Attorneys for Defendants,
ALSKOG

ROSENOW, HALE & JOHNSON
LAWYERS

SUITE 301 TACOMA MALL OFFICE BUILDING
TACOMA, WASHINGTON 98409
(206) 473-0725

MOTION TO STRIKE TRIAL DATE
BY DEFENDANTS ALSKOG -2-
JGR/mer:8

FILED

1989 FEB -7 PM 4:20



**SUPERIOR COURT OF WASHINGTON
COUNTY OF KING**

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE WA

CONSOLIDATED TRACK ONE

SANDY EHRLICH, et al.,
Plaintiffs,
vs.
RALPH ALSKOG, et al.,
Defendants.

NO. 86-2-18176-8

**NOTE FOR MOTION CALENDAR
(Clerk's Action Required)**

TO: THE CLERK OF THE COURT; and to all other parties per list on reverse side:

PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the Clerk is directed to note this issue on the appropriate calendar.

Calendar Date: February 23, 1989 Day of Week Thursday
Nature of Motion: Motion to Strike Trial Date by Defendants Alskog

DESIGNATED CALENDAR

- | | |
|---|--|
| <input type="checkbox"/> Civil Motion (LR 7) (9:30) | <u>FAMILY LAW MOTION I</u> <u>LR 94.041</u> |
| <input type="checkbox"/> Summary Judgment (LR 56) (9:30) | (W291) |
| <input type="checkbox"/> Supplemental Proceeding (LR 69) (1:30) | |
| <input type="checkbox"/> Presiding Judge (Trial Date Motions Only)
(11:15 or 1:30 Daily)
Time of Hearing: _____ | <input type="checkbox"/> Domestic Motion (9:30) |
| | <input type="checkbox"/> Scaled File Motion (1:30) |
| | <input type="checkbox"/> Support Motion (1:30) |
| | <input type="checkbox"/> Modification (1:30) |

EX PARTE MOTION (LR 0.9(b)) (W285)
The following motions are heard 9:00-12:00 and 1:30-4:15:

- | | |
|---|--|
| <input type="checkbox"/> Adoption Time of Hearing: _____ | <input type="checkbox"/> Receivership (LR 66) (2:00) |
| <input type="checkbox"/> Dissolution Time of Hearing: _____ | <input type="checkbox"/> Scaled File Motion (9:30) |
| <input type="checkbox"/> Ex Parte Motion Time of Hearing: _____ | |
| <input type="checkbox"/> Probate Time of Hearing: _____ | |

DEPARTMENTAL HEARINGS (LR 40(b))

Special Setting Before Judge/Commissioner:
Time of Hearing: 3:00 p.m. Room E-854

Typed Name: JACK G. ROSENOW
OF: ROSENOW, HALE & JOHNSON
Attorney for: Defendants Alskog
Telephone: 473-0725

DATED: February 7, 1989

(SEE ATTACHED LIST OF COUNSEL)

LIST NAMES, ADDRESSES AND TELEPHONE NUMBERS OF ALL PARTIES REQUIRING NOTICE ON REVERSE SIDE.

**NOTE FOR MOTION CALENDAR (NTMTDK)
SC Form JO-138 5/87**

ORIGINAL

(Affix Firm Name Cutout)
ROSENOW, HALE & JOHNSON
ATTORNEYS AT LAW
4301 SO PINE STREET, #301
TACOMA WA 98409

AEES
5/87

JH

LIST OF COUNSEL RECEIVING NOTICE (Page 2)

Mr. Michael W. Bugni
MOREN, CORNELL & HANSEN
Attorneys at Law
Roosevelt-Pinehurst Bldg.
11320 Roosevelt Way, N.E.
Seattle, Washington 98125

Ms. Susan Delanty Jones
PRESTON, THORGRIMSON, ELLIS & HOLMAN
Attorneys at Law
5400 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104

Mr. Bruce Winchell
LANE, POWELL, MOSS & MILLER
Attorneys at Law
3800 Rainier Bank Tower
1301 Fifth Avenue
Seattle, Washington 98101

Mr. Don M. Gulliford
LAW OFFICES OF DON M. GULLIFORD
& ASSOCIATES
Attorneys at Law
2200 - 112th Avenue N.E.
Bellevue, Washington 98004

Mr. John S. Glassman
Attorney at Law
420 Old City Hall
625 Commerce St.
Tacoma, Washington 98402

Mr. E. Scott Hartley
18635 Eighth Avenue So.
Seattle, Washington 98148

Donald and Christine Hall
P.O. Box 168
Big Fork, Montana 59911

LIST OF COUNSEL RECEIVING NOTICE

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Jeff Campiche
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4700 Columbia Center
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Seattle, Washington 98104

Mr. James S. Craven
Mr. Rod D. Hollenbeck
EVANS, CRAVEN & LACKIE
Attorneys at Law
3100 Columbia Center
701 Fifth Avenue
Seattle, Washington 98104

Mr. Michael J. Bond
LEE, SMART, COOK, MARTIN & PATTERSON
Attorneys at Law
800 Washington Building
1325 Fourth Avenue
Seattle, Washington 98101

Mr. Richard H. Adler
Ms. Ann J. Durham
ADLER GIERSCH
Attorneys at Law
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Seattle, Washington 98104

Mr. John L. Messina
MESSINA DUFFY
Attorneys at Law
200 Benj. Franklin Bldg.
4002 Tacoma Mall Blvd.
Tacoma, Washington 98409

Ms. Pauline V. Smetka
HELSELL, PETTERMAN, MARTIN, TODD
& HOKANSON
Attorneys at Law
1500 Washington Building
1325 Fourth Avenue
Seattle, Washington 98101

CERTIFICATE

On this day I delivered a true and accurate copy of the document to which this certificate is affixed to LEGAL MESSENGERS, INC. for delivery to the attorneys of record of plaintiff/defendant.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 7th day of February, 1989 at Tacoma, Washington.

Mary Ellen Ray

On this day I delivered a true and accurate copy of the document to which this certificate is affixed to LEGAL MESSENGERS, INC. for delivery to the attorneys of record of plaintiff/defendant.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.
DATED this 7th day of February, 1987 at Tacoma, Washington.

Mary Ellen Ray

FILED

1988 FEB -7 PM 4:20

CIVIL TRACK KING COUNTY
SUPERIOR COURT CLERK
The Honorable John Riley

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir., et al.,
Plaintiffs,
vs.
DONALD LEE BARNETT, et ux., et al.,
Defendants.

(Consolidated)
NO. 86-2-18176-8
AFFIDAVIT OF JACK G. ROSENOW
IN SUPPORT OF DEFENDANTS
ALSKOG'S MOTION TO STRIKE
TRIAL DATE

SANDY EHRLICH, et vir., et al.,
Plaintiffs,
vs.
RALPH ALSKOG, et ux., et al.,
Defendants.

MAUREEN P. JORGENSEN,
Plaintiff,
vs.
COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al.,
Defendants.

AFFIDAVIT OF JACK G. ROSENOW
IN SUPPORT OF DEFENDANTS
ALSKOG'S MOTION TO STRIKE
TRIAL DATE
JGR/mer:8



ROSENOW, HALE & JOHNSON
LAWYERS
SUITE 301 TACOMA MALL OFFICE BUILDING
TACOMA, WASHINGTON 98409
(206) 473-0725

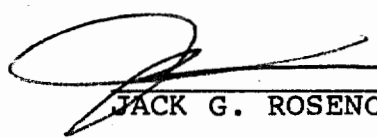
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1 The cutoff date for dispositive motions is April 14, 1989.
2 If depositions are not completed timely to allow court reporters to
3 do transcripts so that dispositive motions may in fact be prepared
4 and/or defended by either side, the court's presently set dates
5 will not be able to be maintained.


6 It is therefore your affiant's motion that the trial date
7 herein be stricken and that a trial date be set sixty (60) days
8 after completion of all discovery. Dispositive motions should then
9 be scheduled thirty (30) days after all discovery is completed.

10 Adopting such a format would mandate the attorneys for all
11 parties to get discovery completed.

12 FURTHER YOUR AFFIANT SAYETH NAUGHT.

13 
14 JACK G. ROSENOW

15 SUBSCRIBED AND SWORN to before me this 7th day of
16 February, 1989.

17 
18 NOTARY PUBLIC in and for the State of
19 Washington, residing at Tacoma.

20 My Commission Expires: 6/20/90.

21
22
23
24 AFFIDAVIT OF JACK G. ROSENOW
25 IN SUPPORT OF DEFENDANTS
26 ALSKOG'S MOTION TO STRIKE
TRIAL DATE -4-
JGR/mer:8

ROSENOW, HALE & JOHNSON
LAWYERS
SUITE 301 TACOMA MALL OFFICE BUILDING
TACOMA, WASHINGTON 98409
(206) 473-0725

LAW OFFICES OF
ADLER GIERSCH, P.S.
SUITE 600
401 SECOND AVENUE SOUTH
SEATTLE, WA 98104

(206) 682-0300

RICHARD H. ADLER
ANN J. DURHAM
MARGARET L. ENNIS
E. PAUL GIERSCH

February 3, 1989

Jack Rosenow, Esquire
Rosenow, Hale & Johnson
Tacoma Mall Office Building
Suite 301
4301 S. Pine Street
Tacoma, WA 98409

RE: Ehrlich, et al. v. Alskog, et al.

Dear Mr. Rosenow:

This letter is in response to your letter dated January 27, 1989, regarding our efforts to obtain available dates for depositions of lay and expert witnesses. Please be advised that as soon as we have confirmed dates for the depositions of the witnesses you have listed, we will contact your office by telephone then follow up with a letter verifying the confirmed dates. At this point, however, while the dates you have listed in your letter appear to be workable for our witnesses, only one of them has confirmed their availability. For your information, I will be unavailable for other depositions on February 28 and March 16, 1988. I will also keep the other dates you have listed open for these depositions.

The following list contains our status report on the depositions at this time.

Ray Ellis. Our investigators have been unable to contact Mr. Ellis to determine his availability. If you have any information which would enable us to contact Mr. Ellis, please advise our office as soon as possible.

David and Nancy Dobbs. We are hereby withdrawing David and Nancy Dobbs as witnesses on behalf of our clients.

Detective Larry Daly. Detective Daly has an extremely busy schedule, and I am still trying to work out a time when he will be available.

Lucy Brown. We are still attempting to contact Lucy Brown regarding her availability.

Heather Marth. Heather Marth was available on March 16, 1988; however I will not be available on that date. We will attempt to schedule her deposition for one of the other days.

Marvin Williams. We are still trying to contact Marvin Williams regarding his availability.

Kim Hamm. Ms. Hamm is available for deposition at 9:30 a.m. on March 15, 1989 at our offices.

Ronald Enroth, PhD, and Margaret Singer, PhD. As you know, both of these witnesses reside in California and will be witnesses for all the other plaintiffs. At this time, we are not certain when these witnesses will be available to come to Seattle for their depositions. The scheduling of their depositions may be more difficult due to the geographics and the coordination of all attorneys' schedules.

Phillip Lindsay, M.D.. We still need to confirm Dr. Lindsay's availability for deposition.

Jerry Yates, M.D.. Please confirm with our office the necessity of taking Dr. Yates' deposition after having received his records.

Pastor George Page. Pastor Page has indicated his willingness to cooperate with the dates provided; however, he has not confirmed any time or place for his deposition.

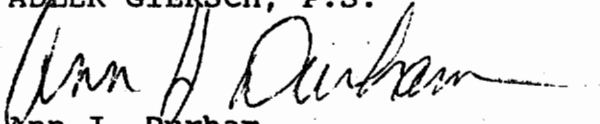
Jack Rosenow, Esquire
February 3, 1989
Page 3

David Penner, PhD. Dr. Penner is a witness for Dee Chabot and Larry Lemke, also. He has tentatively suggested March 17, 1988 for the date of his deposition. However, I will need to confirm this information with him, and I am awaiting his return phone call.

Again, when we have more definite information about confirmed dates for these depositions, we will telephone you immediately.

Sincerely yours,

ADLER GIERSCH, P.S.



Ann J. Durham
Attorney at Law

AJD/kjj
enc.

FILED

1989 FEB -8 PM 2:15

KING COUNTY
SUPERIOR COURT CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir,
et al,

Plaintiffs,

vs.

DONALD LEE BARNETT, et ux,
et al,

Defendants.

No. 86-2-18176-8 ✓

CONSOLIDATED WITH
88-2-04615-8

AFFIDAVIT OF MAILING

SANDY EHRLICH, et vir, et al,

Plaintiffs,

vs.

RALPH ALSKOG, et ux, et al,

Defendants.

MAUREEN P. JORGENSEN,

Plaintiff,

vs.

COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al,

Defendants.

THE UNDERSIGNED, being first duly sworn on oath, deposes and says: That I am a citizen of the United States, over the age of 18 years, not a party to or interested in the within matter, and competent to be a witness herein.

That on the 3rd day of February, 1989, I deposited in the mails of the United States envelopes addressed and possessing postage first class prepaid mail, to the Honorable John Riley and all counsel in the above-captioned cases, and said envelopes were directed as follows:

AFFIDAVIT OF MAILING - 1

MOREN, CORNELL & HANSEN, P.S.
ATTORNEYS AT LAW
11320 ROOSEVELT WAY NORTHEAST
SEATTLE, WASHINGTON 98125
(206) 365-5500

253
X

1 The Honorable John Riley
W312 King County Courthouse
2 Seattle, WA 98104

Ms. Susan Jones
54th Floor Columbia Center
701 5th Ave.
Seattle, WA 98104

3 Mr. Bruce Winchell
3800 Rainier Tower
4 1301 5th Ave.
Seattle, WA 98101

Mr. John S. Glassman
420 Old City Hall
625 Commerce St.
Tacoma, WA 98402

5 Mr. John C. Graffe
6 1620 Key Tower
1000 2nd Ave.
7 Seattle, WA 98104

Ms. Ann J. Durham
401 2nd Ave. S., Suite 600
Seattle, WA 98104

8 Ms. Pauline V. Smetka
1500 Washington Bldg.
9 1325 4th Ave.
Seattle, WA 98101

Mr. Jack G. Rosenow
301 Tacoma Mall Office Bldg.
4301 S. Pine St.
Tacoma, WA 98409

10 Mr. Rod D. Hollenbeck
3100 Columbia Center
11 701 5th Ave.
Seattle, WA 98104

Mr. John L. Messina
200 Benjamin Franklin Bldg.
4002 Tacoma Mall Blvd.
Tacoma, WA 98409

12 Mr. Don M. Gulliford
13 2200 112th Ave. N.E.
14 Bellevue, WA 98004

Mr. John P. Lycette, Jr.
1100 Norton Bldg.
801 2nd Ave.
Seattle, WA 98104

15 and which envelopes contained a Memorandum and Witness List,
16 Memorandum, a copy of Defendants Howerton's Motion for Separate
17 Trial, Affidavit of Michael W. Bugni in Support of Defendants
18 Howerton's Motion for Separate Trials, Defendants Howerton's
19 Brief in Support of Motion for Separate Trial and proposed Order
20 Granting Defendants Howerton's Motion for Separate Trial, in the
21 above-captioned consolidated cases.

Margaret Prokopiou
MARGARET PROKOPIOU

22 Signed and sworn to before me on February 7, 1989, by
23 Margaret Prokopiou.

Brenda J. Lindsey
NOTARY PUBLIC in and for the State of
24 Washington, residing at Seattle
25 My appointment expires 9-28-90.

AFFIDAVIT OF MAILING - 2

MOREN, CORNELL & HANSEN, P.S.
ATTORNEYS AT LAW
11320 ROOSEVELT WAY NORTHEAST
SEATTLE, WASHINGTON 98125
(206) 365-5500

FILED

1988 FEB -9 PM 4:22

NOTARIAL PUBLIC
SUPERIOR COURT CLERK
SEATTLE, WA

CIVIL TRACK I
HONORABLE JOHN RILEY

SUPERIOR COURT FOR THE STATE OF WASHINGTON
COUNTY OF KING

KATHY LEE BUTLER and STEVEN L. BUTLER, wife and husband, and the marital community composed thereof; et al.,

Plaintiffs,

v.

DONALD LEE BARNETT and BARBARA BARNETT, husband and wife, and the marital community composed thereof; et al.,

Defendants.

SANDY EHRLICH and MICHAEL EHRLICH, wife and husband; et al.,

Plaintiffs,

v.

RALPH ALSKOG and ROSEMARY ALSKOG, husband and wife; et al.,

Defendants.

MAUREEN P. JORGENSEN,

Plaintiff,

v.

COMMUNITY CHAPEL AND BIBLE TRAINING CENTER, a Washington non-profit corporation; et al.,

Defendants.

///

NO. 86-2-18176-8
86-2-18429-5
86-2-26360-8
(consolidated)

CERTIFICATE OF SERVICE

253.5
9/8

1 THE UNDERSIGNED certifies under penalty of perjury of the
2 laws of the State of Washington that on February 8, 1989, I
3 mailed a copy of Notice of Withdrawal and Substitution of
4 Attorneys (re Community Chapel) to the following counsel, postage
5 prepaid:

6 Susan Jones
7 Preston Thorgrimson Ellis & Holman
8 5400 Columbia Center
9 701 Fifth Ave.
10 Seattle, WA 98104-7011
11 Attorney for Pltf. Jorgensen

12 Jeff Campiche
13 Kargianis Austin & Erickson
14 4700 Columbia Center
15 701 Fifth Ave.
16 Seattle, WA 98104
17 Attorney for Pltf. Butler, et al.

18 Richard Adler/Ann Durham
19 Adler Giersch & Read
20 401 Second Ave. S. #600
21 Seattle, WA 98104
22 Attorney for Pltf. Ehrlich, et al.

23 John Messina
24 Messina & Duffy
25 4002 Tacoma Mall Blvd. #200
26 Tacoma, WA 98409
Attorney for Pltf. Ehrlich, et al.

Jack Rosenow/John Graffe
Rosenow Hale & Johnson
1620 Key Tower
Seattle, WA 98104
Attorney for Defs. Alskog

Jack Rosenow
Rosenow Hale & Johnson
301 Tacoma Mall Office Bldg.
Tacoma, WA 98409
Attorney for Defs. Alskog

Pauline Smetka
Helsell Fetterman
1500 Washington Bldg.
1325 Fourth Ave.
Seattle, WA 98101

SCHWEPPE, KRUG & TAUSEND, P.S.

800 WATERFRONT PLACE
1011 WESTERN AVENUE
SEATTLE, WASHINGTON 98104
(206) 223-1600

1 Attorney for Defs. Alskog

2 Rodney Hollenbeck
3 Evans Cravens & Lackie
4 3100 Columbia Center
5 701 Fifth Ave.
6 Seattle, WA 98104
7 Attorney for Defs. Barnett

8 Bruce Winchell
9 Lane Powell Moss & Miller
10 3800 Rainier Bank Tower
11 Seattle, WA 98101-2647
12 Attorney for American Casualty

13 Don Gulliford
14 2200 - 112th Ave. N.E.
15 Bellevue, WA 98004
16 Attorney for St. Paul Insurance Co.

17 Alvin D. Mayhew, Jr.
18 1016 Main Street
19 Sumner, WA 98390
20 Attorney for Def. Gary Lien

21 Robert Howerton
22 3507 S. 40th Street
23 Tacoma, WA 98409
24 Pro se Defendant

25 Donald Hall
26 P.O. Box 168
Big Fork, MT 59911
Pro se Plaintiff

Nancy Blanchfield
NANCY BLANCHFIELD

0147-005\A020889.NB

SCHWEPPE, KRUG & TAUSEND, P.S.

800 WATERFRONT PLACE
1011 WESTERN AVENUE
SEATTLE, WASHINGTON 98104
(206) 223-1600

CERTIFICATE OF SERVICE -3-

CERTIFICATE

On this day I delivered a true and accurate copy of the document to which this certificate is affixed to LEGAL MESSENGERS, INC. for delivery to the attorneys of record of plaintiff/defendant.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.
DATED this 9th day of February, 1989 at Tacoma, Washington.

Mary Ellen Ray

FILED

1989 FEB 10 AM 9 23

CIVIL TRACK I
The Honorable John Riley
CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir., et al.,
Plaintiffs,
vs.
DONALD LEE BARNETT, et ux., et al.,
Defendants.

(Consolidated)
NO. 86-2-18176-8
DEFENDANTS ALSKOG'S
DISCLOSURE OF EXPERT
WITNESSES

SANDY EHRLICH, et vir., et al.,
Plaintiffs,
vs.
RALPH ALSKOG, et ux., et al.,
Defendants.

MAUREEN P. JORGENSEN,
Plaintiff,
vs.
COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al.,
Defendants.

DEFENDANTS ALSKOG'S DISCLOSURE
OF EXPERT WITNESSES -1-
MWS/mer:10

ROSENOW, HALE & JOHNSON
LAWYERS
SUITE 301 TACOMA MALL OFFICE BUILDING
TACOMA, WASHINGTON 98409
(206) 473-0725

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2 AMERICAN CASUALTY COMPANY OF)
3 READING PENNSYLVANIA, a)
4 Pennsylvania corporation,)

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Plaintiff,

vs.

KATHY LEE BUTLER, et al.,

Defendants.

ST. PAUL FIRE AND MARINE INSURANCE)
COMPANY, a foreign corporation,)

Plaintiff,

vs.

KATHY LEE BUTLER, et al.,

Deendants.

COME NOW the Defendants, RALPH ALSKOG and ROSEMARY ALSKOG, husband and wife, above-named, and list the following consulting expert witness who has been consulted for purposes of review of this case. No decision has been made as to whether or not this consulting expert will be called to testify at the time of trial. Defendants maintain the right to full protection of this consulting expert as provided for by the Civil Rules of Procedure for Washington and applicable case law prohibiting Plaintiffs from using any deposition or portions thereof of any consulting expert not chosen by Defendants to be called on as an expert, and to give testimony at the time of trial.

DEFENDANTS ALSKOG'S DISCLOSURE
OF EXPERT WITNESSES -2-

MWS/mer:10

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TACOMA, WASHINGTON 98409
(206) 473-0725

1 The following consulting expert may be called to give
2 opinions regarding Plaintiff, Sandy Ehrlich's alleged mental con-
3 dition, including but not limited to the current status and future
4 prognosis of Plaintiff's alleged mental condition, and the results
5 of any IME to be performed.

- 6
7 1. Dr. Richard Carter
8 801 N.W. Market, Suite 407
9 Seattle, Washington 98107

10 These Defendants reserve the right to call any and all
11 expert witnesses listed by Plaintiffs or other Defendants.

12 These Defendants reserve the right to supplement this
13 disclosure of said expert witness in response to any additional
14 expert witnesses disclosed by the Plaintiffs after this date, or in
15 response to any new theories brought up by existing experts of the
16 Plaintiffs after this date.

17 These Defendants expressly reserve, and do not waive, any
18 right they may have under the rules, or Washington common law, to
19 object to Plaintiffs calling Defendants' expert witness, or eli-
20 citing certain expert testimony of the expert witness, even though
21 said expert witness has been listed in this document.

22 These Defendants also reserve the right to call any person
23 who has provided medical care or counseling to the Plaintiffs in
24 this case.

25 These Defendants hereby disclose all other treating physi-
26 cians, psychologists, counselors, health care providers and other

DEFENDANTS ALSKOG'S DISCLOSURE
OF EXPERT WITNESSES -3-

MWS/mer:10

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1 individuals or entities who have provided care, treatment, coun-
2 seling and/or services to Plaintiffs related to this case.

3 DATED this 9th day of February, 1989.

4 ROSENOW, HALE & JOHNSON

5
6 By: Margaret Schulteis
for JACK G. ROSENOW

7 Of Attorneys for Defendants,
8 ALSKOG
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26 DEFENDANTS ALSKOG'S DISCLOSURE
OF EXPERT WITNESSES -4-

MWS/mer:10

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1989 FEB 13 PM 4:22

Hearing date: February 23, 1989
3:00 p.m.

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

KATHY LEE BUTLER, et vir.,
et al.,

Plaintiffs,

v.

DONALD LEE BARNETT, et ux.,
et al.,

Defendants.

Consolidated
No. 86-2-18176-8

No. 86-2-18176-8

AFFIDAVIT OF SUSAN DELANTY
JONES IN SUPPORT OF
JORGENSEN'S MOTION RE
DISQUALIFICATION OF
ATTORNEYS

SANDY EHRLICH, et vir., et
al.,

Plaintiffs,

v.

RALPH ALSKOG, et ux., et
al.,

Defendants.

No. 86-2-18429-5

MAUREEN P. JORGENSEN,

Plaintiff,

v.

COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al.,

No. 86-2-26360-8

JONES AFFIDAVIT AND SUPPORT
OF JORGENSEN'S MOTION RE
DISQUALIFICATION OF ATTORNEYS - 1

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Defendants.)

AMERICAN CASUALTY COMPANY OF
READING PENNSYLVANIA, a
Pennsylvania corporation,

Plaintiff,

v.

KATHY LEE BUTLER, et al.,

Defendants.)

No. 88-2-04615-8

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, a foreign
corporation,

Plaintiff,

v.

KATHY LEE BUTLER, et al.,

Defendants.)

No. 88-2-18321-0

1. I am one of the attorneys for plaintiff Maureen Jorgensen ("Jorgensen") in this matter and make this affidavit on my own personal knowledge.

2. Robert Beezer, formerly a named partner in the law firm of Schweppe, Krug & Tausend, represented Thomas I'Anson, Jorgensen's father, in a guardianship case in 1975. In that case, Mr. Beezer sought to have his client appointed Guardian for Jorgensen, primarily to prevent her from making

JONES AFFIDAVIT AND SUPPORT
OF JORGENSEN'S MOTION RE
DISQUALIFICATION OF ATTORNEYS - 2

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701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

1 a large donation to Community Chapel & Bible Training Center
2 ("CCBTC").

3 3. Robert Beezer left the Schwappe firm several years
4 ago to become a judge of the United States Court of Appeals
5 for the Ninth Circuit. Judge Beezer was identified by Donald
6 and Barbara Barnett and by CCBTC as a lay witness in their
7 initial witness lists. His name was withdrawn in subsequent
8 revised lists, but both the Barnetts and CCBTC have listed
9 Charles Moren as a witness in the revised lay witness lists.
10 Charles Moren represented Jorgensen against I'Anson in the
11 1975 guardianship case.

12 4. If Moren's testimony is used, as expected, to
13 support defendant's argument that the issues decided in
14 I'Anson v. I'Anson in 1975 are the same claims asserted by
15 Jorgensen in this case, then Judge Beezer will be a necessary
16 rebuttal witness. Because he represented Jorgensen's father,
17 the petitioner, Judge Beezer is the only person other than
18 Moren who can testify as to what was determined by the court
19 in the 1975 case. Only if it is certain that Judge Beezer's
20 testimony will not be necessary can the Schwappe firm, where
21 Judge Beezer was a named partner for many years, continue
22 its involvement in the portion of this consolidated case that
23 involves Maureen Jorgensen.

24 5. Jorgensen therefore seeks an order permitting the
25

26 JONES AFFIDAVIT AND SUPPORT
OF JORGENSEN'S MOTION RE
DISQUALIFICATION OF ATTORNEYS - 3

1 Schweppe firm's participation only if the parties, including
2 the Barnetts, can stipulate that the issues decided in 1975
3 are not the same claims at issue in this lawsuit, and that
4 Judge Beezer's testimony will therefore not be necessary.

5 6. In April and July of 1986, I spoke at least twice by
6 telephone with Kenneth Rekow of the Schweppe firm regarding
7 my request to review the firm's documents and files from its
8 work on behalf of Thomas I'Anson in 1975. Mr. Rekow advised
9 that I'Anson would have to give written permission for the
10 release of those documents, and I'Anson subsequently did so.
11 A copy of I'Anson's consent is attached as Exhibit 1.

12 7. The Schweppe firm subsequently sent us what was
13 understood to be the entire contents of its I'Anson file.
14 However, months later we discovered three letters written in
15 the matter by Robert Beezer. Copies of these letters were
16 not among the documents furnished to us by the Schweppe firm
17 pursuant to I'Anson's consent. We are therefore concerned
18 that there are other documents in the I'Anson file at the
19 Schweppe firm that were not sent to Preston, Thorgrimson. In
20 particular, there were no notes to the file except two pages
21 that appear to be notes of Jorgensen's deposition on
22 September 15, 1975. If the Schweppe firm is to remain as
23 counsel to CCBTC in this case, Jorgensen and I'Anson request
24 that another careful review be made to confirm that the files
25

26 JONES AFFIDAVIT AND SUPPORT
OF JORGENSEN'S MOTION RE
DISQUALIFICATION OF ATTORNEYS - 4

1 contain no additional unproduced documents relating to Mr.
2 Anson's consent.

3
4 8. In her deposition on February 9, 1989, Barbara
5 Barnett, who is now affiliated with the branch of CCBTC that
6 has expelled Donald Barnett, testified that CCBTC has ordered
7 an appraisal of the real property that is the subject of
8 Jorgensen's claim for a constructive trust. It is also the
9 property on which CCBTC promised but failed to give a deed
10 of trust to secure payment of the promissory note that is the
11 subject of this lawsuit. Jorgensen's counsel are concerned
12 that the appraisal is a preparatory step for the sale of the
13 property. Thus, the May 16 trial date tentatively set by
14 this court is important to Jorgensen.

15 9. Jorgensen is now faced with a Hobson's choice which
16 is entirely not of her own making. At this late date CCBTC
17 has substituted counsel which is willing to cross examine one
18 of its own former clients with respect to the very
19 transaction for which that former client, Thomas I'Anson,
20 sought counsel from the Schweppe firm in 1975. Moreover, the
21 testimony of Robert Beezer, a former senior partner of the
22 Schweppe firm, is central to Jorgensen's ability to defend
23 against CCBTC's expected defense that the 1975 case decided a
24 claim or claims at issue in this lawsuit. Yet, the
25 appearance of bias of Judge Beezer will be difficult if not

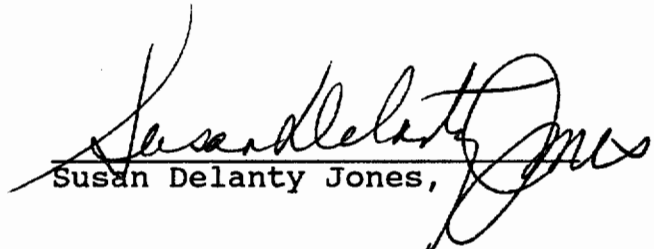
26 JONES AFFIDAVIT AND SUPPORT
OF JORGENSEN'S MOTION RE
DISQUALIFICATION OF ATTORNEYS - 5

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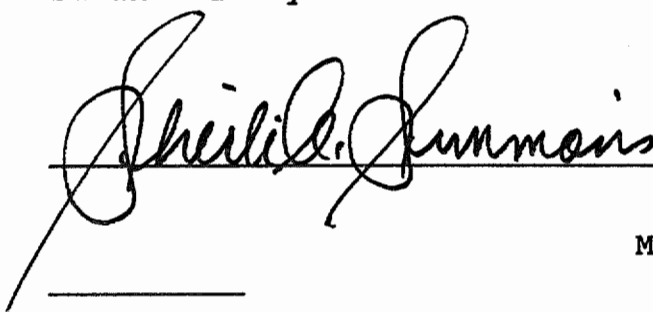
1 impossible to avoid if he is cross examined by members of his
2 own former firm.

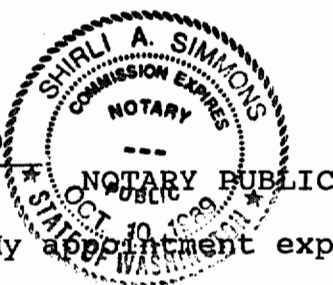
3 10. Jorgensen should not bear the burden of CCBTC's
4 choice of new counsel a mere three months before trial. She
5 should not bear the burden of contesting the ethics of that
6 new counsel, with the inevitable result that CCBTC will
7 benefit from the delay.

8 11. On or about January 25, 1989 I learned that the
9 Schweppe firm might substitute Michael Bond as attorneys for
10 CCBTC. I immediately called Robert Rohan to advise him of
11 the conflict in the representation. He indicated that he
12 would review the matter. I assumed the firm would not
13 represent CCBTC against Jorgensen's claims and was surprised
14 when we were served with the Substitution for Attorney on
15 February 6, 1989.

16 
Susan Delanty Jones,

17 SIGNED AND SWORN TO before me on February 13, 1989 by
18 Susan Delanty Jones.

19 



My appointment expires: 10/10/89

20 (Stamp or Seal)

21 JONES AFFIDAVIT AND SUPPORT
22 OF JORGENSEN'S MOTION RE
23 DISQUALIFICATION OF ATTORNEYS - 6

24 LAW OFFICES OF
25 PRESTON, THORGRIMSON, ELLIS & HOLMAN
26 5400 COLUMBIA SEAFIRST CENTER
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1989 FEB 13 10 42

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CLERK

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

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Defendants.)

SANDY EHRLICH, et vir., et)
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Plaintiffs)

v.)

RALPH ALSKOG, et ux., et)
al.,)

Defendants)

MAUREEN P. JORGENSEN,)

Plaintiff,)

v.)

COMMUNITY CHAPEL AND BIBLE)
TRAINING CENTER, et al.,)

Consolidated
No. 86-2-18176-8 ✓

No. 86-2-18176-8

MEMORANDUM OF MAUREEN
JORGENSEN IN SUPPORT OF
MOTION TO DISQUALIFY

No. 86-2-18429-5

No. 86-2-26360-8

MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 1

LAW OFFICES OF
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2 Defendants.)

3 AMERICAN CASUALTY COMPANY OF)
4 READING PENNSYLVANIA, a)
5 Pennsylvania corporation,)

6 Plaintiff,)

7 v.)

No. 88-2-04615-8

8 KATHY LEE BUTLER, et al.,)

9 Defendants.)

10 ST. PAUL FIRE AND MARINE)
11 INSURANCE COMPANY, a foreign)
12 corporation,)

13 Plaintiff,)

14 v.)

No. 88-2-18321-0

15 KATHY LEE BUTLER, et al.,)

16 Defendants.)

17
18 I. INTRODUCTION

19 Plaintiff, Maureen Jorgensen ("Jorgensen") has moved to
20 disqualify the law firm of Schweppe, Krug & Tausend from
21 representation of the defendant Community Chapel & Bible
22 Training Center ("CCBTC") on the issues relating to
23 Jorgensen's claims in this consolidated lawsuit.

24 II. FACTS

25 The facts relevant to this motion are set forth in the
26

MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 2

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1 motion and the accompanying affidavit of Susan Delanty Jones
2 ("Jones Aff.").

3 III. ARGUMENT

4 A. The Rules of Professional Conduct Require That the
5 Schweppe Firm Disqualify Itself from Representation of CCBTC
6 Against the Claims Asserted By Jorgensen.

7 RPC 1.10(c) provides as follows:

8 (c) When a lawyer has terminated an association
9 with a firm, the firm is not prohibited from
10 thereafter representing a person with interests
11 materially adverse to those of a client represented
12 by the formerly associated lawyer unless:

- 13 (1) The matter is the same or substantially
14 related to that in which the formerly
15 associated lawyer represented the client; and
16 (2) Any lawyer remaining in the firm has
17 acquired confidences or secrets protected by
18 rules 1.6 and 119(b) that are material to the
19 matter.

20 (Emphasis supplied).

21 In this matter, Judge Beezer terminated his association
22 with the Schweppe firm when he became a judge. The matter
23 which Judge Beezer handled for Jorgensen's father, Thomas
24 I'Anson, involved the very same transaction now at issue
25 between Jorgensen and CCBTC: the donation of a huge amount
26

MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 3

1 of money to CCBTC by Jorgensen. I'Anson, by his attorneys,
2 sought diligently to prevent the transaction. Now, Judge
3 Beezer's former partners want to argue the very opposite on
4 behalf of CCBTC: that the gift the Schweppe firm sought to
5 prevent was appropriate, after all.

6 In addition, CCBTC's new counsel will have access to
7 confidential material gained during the representation of
8 I'Anson. The file documents received by the Preston firm from
9 the Schweppe firm pursuant to the written consent of Thomas
10 I'Anson contain confidences that are material to this case.
11 Because I'Anson has not consented to the general
12 dissemination of these materials, the pertinent documents
13 have not been produced with this motion. If the court
14 wishes, or counsel moves, Jorgensen can seek her father's
15 consent to disclosure of these documents for the limited
16 purpose of deciding this motion. In any event, however,
17 actual knowledge of confidential matters is not required,
18 only access to confidential information. Kurvitz v. Kurvitz,
19 77 Wn.2d 943,946, 468 P.2d 673 (1970). Here, it is plain
20 that counsel has access. See Jones Aff., para. 6,7.
21 Jorgensen is also concerned that the Schweppe firm has
22 materials that were not produced pursuant to I'Anson's
23 request. Jones Aff., para. 7. This suspicion arises because
24 Jorgensen's attorneys have located some documents generated
25 by the Schweppe firm in the I'Anson matter that did not come
26

MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 4

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1 from the Schwappe firm. Id. Thus, there may be confidences
2 still in the file at the Schwappe firm which could be used
3 against I'Anson in cross examination.

4 B. The Requirement of Confidentiality Between Lawyer
5 and Client Would be Breached by the Schwappe Firm's
6 Representation of CCBTC in this Matter.

7 RPC 1.6 provides that:

8 A lawyer shall not reveal confidences or secrets
9 relating to the representation of a client unless
10 the client consents after consultation. . . .

11 Here, it is predictable that the Schwappe firm will use
12 confidences from its representation of Thomas I'Anson in
13 cross examination on the issue of I'Anson's suit against his
14 daughter in 1975. The file may contain weaknesses in
15 I'Anson's case or unfavorable facts disclosed by I'Anson to
16 his lawyer. These are confidential communications. In
17 addition, Judge Beezer could remember oral communications
18 which do not appear in the file. I'Anson has not consented
19 to general disclosures of these communications or other
20 documents.

21 This rule is not regarded lightly by the courts. As the
22 Ninth Circuit has explained,

23 Perhaps the most important facet of the
24 professional relationship served by this rule of
25 disqualification is the preservation of secrets and
26

MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 5

1 confidences communicated to the lawyer by the client. .
2 . . Confidentiality, however, is not the only aspect of
3 the professional tie preserved by the disqualification
4 rule.

5 Both the lawyer and the client should expect that
6 the lawyer will use every skill, expend every energy,
7 and tap every legitimate resource in the exercise of
8 independent professional judgment on behalf of the
9 client and in undertaking representation on the client's
10 behalf. That professional commitment is not furthered,
11 but endangered, if the possibility exists that the
12 lawyer will change sides later in a substantially
13 related matter. Both the fact and the appearance of
14 total professional commitment are endangered by adverse
15 representation in related cases. From this standpoint
16 it matters not whether confidences were in fact imparted
17 to the lawyer by the client. The substantial
18 relationship between the two representations is itself
19 sufficient to disqualify.

20 Trone v. Smith, 621 F.2d 994, 998-99 (9th Cir. 1980) (emphasis
21 supplied)

22 C. The Rules of Professional Conduct Prohibit a Law Firm
23 From Serving as an Advocate Where a Member of the Firm is a
24 Likely Witness, Unless the Court So Rules.

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MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 6

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1 RPC 3.7 expressly provides:

2 A lawyer shall not act as an advocate at a trial in
3 which the lawyer or another lawyer in the same law firm
4 is likely to be a necessary witness except where:

5 (a) The testimony relates to an issue that is
6 either uncontested or a formality;

7 (b) The testimony relates to the nature and value
8 of legal services rendered in the case; or

9 (c) The lawyer has been called by the opposing
10 party and the court rules that the lawyer may
11 continue to act as an advocate; or

12 (d) The trial judge finds that disqualification of
13 the lawyer would work a substantial hardship on the
14 client and that the likelihood of the lawyer being
15 a necessary witness was not reasonably foreseeable
16 before trial.

17 Here, the Schweppe firm proposes to act as an advocate
18 for CCBTC in the trial against Jorgensen, even though a
19 lawyer formerly at the Schweppe firm is likely to be a
20 necessary witness for Jorgensen if CCBTC presses its defense
21 that the 1975 case bars some of Jorgensen's claims. Jones
22 Aff., para. 4. None of the exceptions to RLD 3.7 apply.
23 Indeed, the very opposite of RLD 3.7(d) is present in this
24 case: disqualification will not work a substantial hardship
25 on CCBTC because it has a large pool of attorneys in this
26

MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 7

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1 community to choose from, and the Jorgensen portion of this
2 case can be severed from the remaining matters. In addition,
3 the Schwappe firm was notified on or about January 25, 1989,
4 more than a week before it formally appeared, about the
5 possibility of a conflict. Jones Aff., para. 11. Thus, the
6 likelihood that Judge Beezer would be a witness was known to
7 the Schwappe firm prior to its filing its Substitution of
8 Attorneys on behalf of CCBTC. See Wilkins v. Lasater, 46 Wn.
9 App. 766, 781-82, 733 P.2d 221 (1987).

10 IV. CONCLUSION

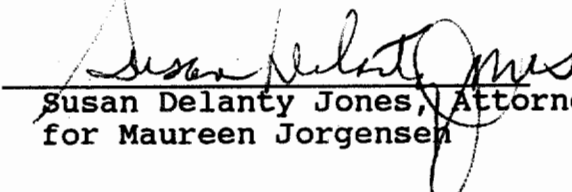
11 This is not a difficult question. CCBTC's new counsel
12 seeks to represent a client with interests adverse to a
13 former client; to be in a position to cross examine that
14 former client on the very issues the firm provided counsel
15 on; and to cross-examine one of the firm's former partners on
16 same subject matter, and similar legal issues, that are
17 involved in this case. Unless the court can fashion a
18 solution that does not permit an ethical violation by the
19 Schwappe firm, and that does not cause prejudice to the
20 interests of Maureen Jorgensen, the Schwappe firm should be
21 disqualified.

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MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 8

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1 DATED this 13th day of February, 1989.

2 PRESTON, THORGRIMSON,
3 ELLIS & HOLMAN

4 By 
5 Susan Delanty Jones, Attorney
6 for Maureen Jorgensen
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MEMO IN SUPPORT OF MOTION
TO DISQUALIFY - 9

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FILED

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al.,

Plaintiffs,

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RALPH ALSKOG, et ux., et
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Defendants.

MOTION REGARDING
DISQUALIFICATION OF ATTORNEYS
FOR COMMUNITY CHAPEL AND
BIBLE TRAINING CENTER.

No. 86-2-18429-5

MAUREEN P. JORGENSEN,

Plaintiff,

v.

COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al.,

Defendants.

No. 86-2-26360-8

MOTION TO DISQUALIFY - 1

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1 _____)
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15 KATHY LEE BUTLER, et al.,)

16 Defendants.)

17 Plaintiff, Maureen Jorgensen, moves the court as follows:

18 1. Relief Requested. Jorgensen seeks an order relating
19 to the representation of defendant, Community Chapel and Bible
20 Training Center ("CCBTC"), by the law firm of Schweppe, Krug &
21 Tausend ("the Schweppe firm") as follows:

22 a) That the Schweppe firm may not represent CCBTC in
23 this matter because of a conflict arising out of the firm's prior
24 representation of plaintiff's father in a case arising from the
25 same events as this lawsuit;

26 b) That CCBTC must retain new and independent counsel
that is able to prepare the case for the May 16 trial date of

MOTION TO DISQUALIFY - 2

1 the Jorgensen portion of this consolidated lawsuit;

2 c) In the alternative, if the court orders that CCBTC
3 must retain new counsel, but is entitled to a continuance of the
4 the May 16 trial date for the Jorgensen portion of this
5 consolidated case, then:

6 i) that the Schweppe firm may represent CCBTC only
7 if it agrees to stipulate that the issue decided by the I'Anson
8 case in October 1975 does not bar the legal claims raised by
9 Jorgensen in this lawsuit and that the testimony of Robert
10 Beezer and Thomas I'Anson therefore will not be necessary; and

11 ii) that the Schweppe firm review its files in the
12 matter of I'Anson v. I'Anson, King County Superior Court No. G-
13 4419, filed in 1975, to ascertain that it has provided copies
14 of all documents to Preston, Thorgrimson, Ellis & Holman, as
15 requested in writing by Thomas I'Anson in 1987.

16 2. Statement of Facts. In 1975, Thomas I'Anson, father
17 of Jorgensen (then known as Maureen I'Anson), brought a petition
18 seeking both a declaration that Jorgensen was incompetent to
19 manage her financial affairs and an order appointing himself as
20 Jorgensen's guardian. The impetus for the lawsuit was
21 Jorgensen's stated intention to give a large gift of money to
22 CCBTC from funds received in a lawsuit brought to compensate her
23 for her physical injuries.

24 I'Anson was represented by Robert Beezer, a senior named
25 partner in the Schweppe law firm. After Mr. Beezer's opening
26

MOTION TO DISQUALIFY - 3

1 statement at the trial on October 16, 1975, the court dismissed
2 the petition after finding that Jorgensen did not "suffer from
3 any mental disorder." Jorgensen subsequently loaned nearly one-
4 half million dollars to CCBTC at no interest, and made an
5 outright gift of approximately \$100,000 to CCTBC.

6 Jorgensen later left CCBTC and in December, 1986 filed her
7 complaint alleging undue influence and other claims against
8 CCBTC and Donald and Barbara Barnett. Thomas I'Anson, at
9 Jorgensen's request, instructed his former attorneys, Schweppe,
10 Krug & Tausend, to release all "documents, records and files"
11 in the law firm's possession to Jorgensen's attorneys. He did
12 not consent to the use against him of those materials by the
13 Schweppe firm.

14 CCTBC was represented by Michael Bond of the firm of Lee,
15 Smart, Cook, Martin & Patterson from January 6, 1987, until
16 February 6, 1989, when the Schweppe firm served and filed its
17 Substitution of Attorneys.

18 Thomas I'Anson will be a witness in the trial of this
19 matter. As such, he will be subject to cross-examination by his
20 former law firm. He has not authorized his former attorneys to
21 use confidential communications made in the course of the
22 representation against him during cross examination.

23 Robert Beezer is now a judge of the United States Court of
24 Appeals for the Ninth Circuit. His rebuttal testimony about the
25 earlier lawsuit will be required by Jorgensen if, as expected,
26

MOTION TO DISQUALIFY - 4

1 CCBTC asserts the defense raised in its answer that some or all
2 the claims in this lawsuit are barred by the result in the
3 earlier case. Thus, he will be subject to cross-examination by
4 his former law partners who are seeking to uphold the
5 transaction he sought to avoid on behalf of I'Anson in 1975.

6 Because of the rapidly changing events concerning CCBTC and
7 its former pastor, Donald Barnett, Jorgenson wishes to retain
8 the trial date of May 16, 1989, which this court has tentatively
9 set. If the court rules that the May 16 trial date must be
10 continued if the Schweppe firm withdraws, Jorgensen requests
11 that CCBTC's defense based on the 1975 litigation be stricken.

12 3. Statement of Issue.

13 a) Should the Schweppe firm be disqualified from its
14 representation of CCBTC in the Jorgensen portion of this
15 consolidated lawsuit?

16 b) In the alternative, if the Schweppe firm is not
17 disqualified, should the representation of CCBTC by the Schweppe
18 law firm be subject to the conditions outlined in Part 1.c
19 above?

20 4. Evidence Relied Upon. This motion is based on the
21 Affidavit of Susan Delanty Jones filed with these papers.

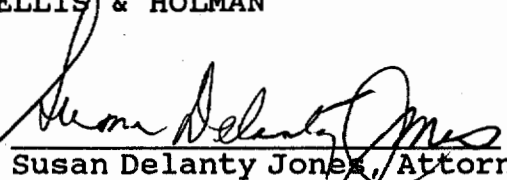
22 5. Legal Authority. This motion is based on the
23 requirements of Rules of Professional Conduct 1.6, 1.7, 1.9,
24 1.10, and 3.7; and Kurbitz v. Kurbitz, 77 Wn.2d 943, 468 P.2d
25 673 (1970).

26
MOTION TO DISQUALIFY - 5

1 6. Proposed Order. A proposed form of order is filed and
2 served with this motion and supporting documents.

3 DATED this 13th day of February, 1989.

4
5 PRESTON, THORGRIMSON,
6 ELLIS & HOLMAN

7 By 
8 Susan Delanty Jones, Attorneys
9 for Plaintiff Maureen Jorgensen

LAW OFFICES OF
ADLER GIERSCH, P.S.
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SEATTLE, WA 98104

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(206) 682-0300

SUP. COURT CLERK
SEATTLE, WA



RICHARD H. ADLER
ANN J. DURHAM
MARGARET L. ENNIS
E. PAUL GIERSCH

February 13, 1989

Jack Rosenow, Esquire
Rosenow, Hale and Johnson
Tacoma Mall Office Building
4301 S. Pine Street, Suite 301
Tacoma, WA 98409

RE: Ehrlich, et al v. Alskog, et al, King County Cause No. 86-2-18176-1

Dear Mr. Rosenow:

This letter is to keep you informed of the status of my efforts to obtain available dates for the depositions of Drs. Ronald Enroth and Margaret Singer.

As you know, Drs. Enroth and Singer reside in California and are expected to be called as witness for all of the plaintiffs in this consolidated action. Both Drs. Enroth and Singer have indicated that they are not available on any of the dates you have proposed in your letter dated January 27, 1989. Specifically, neither Dr. Enroth nor Dr. Singer will be available to come to Seattle for deposition on February 28, 1989; March 15, 16, 17, 20 (p.m. only), 22, or 23, 1989. However, both Dr. Enroth and Dr. Singer have indicated that they will be available for their depositions in a timely fashion and to meet our discovery deadlines. In order to accommodate the schedules of all the attorneys involved in this litigation, Drs. Enroth and Singer have suggested that we schedule their depositions for a weekend. I note that none of the dates you have proposed include a weekend. Therefore, if you will kindly let me know for which weekend you would like to schedule these depositions, I believe we will be able to satisfy all your concerns regarding timely preparation in accordance with the schedule established by the Court's pre-trial discovery order.

As I have previously stated in letters to you, our scheduling of these depositions is a continuing process and as soon as we have more definite information, we will immediately telephone you and write you a confirming letter.

Sincerely yours,

ADLER GIERSCH, P.S.

Ann J. Durham
Attorney at Law

AJD/kjj

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SEATTLE, WA

RICHARD H. ADLER
ANN J. DURHAM
MARGARET L. ENNIS
E. PAUL GIERSCH

February 13, 1989

Jack Rosenow, Esquire
Rosenow, Hale and Johnson
Tacoma Mall Office Building
4301 S. Pine Street, Suite 301
Tacoma, WA 98409

RE: Ehrlich, et al. v. Alskog, et al.

Dear Mr. Rosenow:

This letter is to confirm the telephone conversation on February 10, 1989, between my paralegal, Jean Seeley, and Julie, of your office. The following issues were discussed:

1. Marvin Williams deposition is scheduled for Tuesday, March 14, 1989, at 9:30 a.m., in our offices.
2. George Page's deposition is scheduled for Thursday, March 23, 1989, at 10:30 a.m., also in our offices.
3. The deposition of Phillip J. Lindsay, M.D., is scheduled for Monday, March 20, 1989, at 2:30 p.m., in his offices located at 901 Boren, Suite 1329, Seattle, Washington.
4. Please note that we are withdrawing Ray Ellis as a witness for Sandra and Michael Ehrlich.

If I can be of any further assistance, please do not hesitate to let me know.

Sincerely yours,

ADLER GIERSCH, P.S.

Ann J. Durham
Attorney at Law

AJD/kjj

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RICHARD H. ADLER
ANN J. DURHAM
MARGARET L. ENNIS
E. PAUL GIERSCH

November 11, 1988

SUPERIOR COURT CLERK
SEATTLE, WA

Jack Rosenow, Esquire
Rosenow, Hale & Johnson
205 Tacoma Mall Office Building
Tacoma, WA 98409

RE: Ehrlich, et al. v. Alskog, et al.
Deposition Schedule

Dear Mr. Rosenow:

Pursuant to our tentative scheduling arrangement following our meeting on Tuesday, November 8, 1988, I have contacted our clients and determined their availability for depositions. Following is a list of our clients and their tentatively scheduled deposition dates.

<u>PLAINTIFF</u>	<u>DATE AND TIME</u>
Catherine Kitchell	November 22 @ 2:00 - 5:00 p.m. and, if necessary, November 23 @ 9:00 a.m.
Wendy Kitchell	November 23 from 9:00 a.m. - 3:00 p.m.
Ronald Kitchell	November 29, December 6 or later
Sandy Ehrlich	November 28* @ 9:00 a.m.
Sybil Lemke	Sometime between December 27 and December 30
Larry Lemke	December 5 @ 9:00 a.m.
Dee Chabot & children	December 28, 29, or 30

*This date will have to be changed since Jack Rosenow has indicated that he is unavailable on November 28.

Accordingly, our clients will be available at the offices of Adler Giersch, P.S., at the indicated times.

It is also my understanding that we have scheduled the following depositions of defense parties.

<u>DEFENDANT</u>	<u>DATE AND TIME</u>
Barbara Barnett	December 19 & 20
Donald Barnett	January 3, 1989
Scott Hartley	December 21

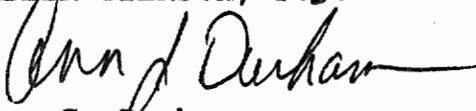
I am assuming that these defense depositions will be held at Rod Hollenbeck's offices and would begin at or about 9:00 a.m.

Pursuant to our discussions at the pre-trial conference before Judge Riley on November 10, 1988, these depositions are open for all counsel to attend. It is our intent that the Kitchells, Ehrlichs, Lemkes and Chabots will be available for all counsel only at the times indicated above and not for individual defense counsel. It is also our intent to arrange depositions as soon as possible for the other named defendants. I propose that Defendant Howerton be made available on December 7, 1988 at or about 9:00 a.m., and that Defendant Alskog be made available on December 12, 1988 at or about 9:00 a.m.

I propose that we consider scheduling another meeting for all counsel to arrange additional depositions. Please contact Denise Smutny in my office for any deposition scheduling efforts.

Sincerely yours,

ADLER GIERSCH, P.F.



Ann J. Durham
Attorney at Law

AJD/kjj

cc: Jim Messina, Esquire
Jack Rosenow, Esquire
John C. Graffe, Esquire
Pauline Smetka, Esquire
Michael Bond, Esquire
Susan Jones, Esquire
Bruce Winchell, Esquire
Rodney Hollenbeck, Esquire
Michael Bugni, Esquire

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SEATTLE, WA 98104

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SEATTLE, WA

RICHARD H. ADLER
ANN J. DURHAM
MARGARET L. ENNIS
E. PAUL GIERSCH



February 8, 1989

Jack Rosenow, Esquire
Rosenow, Hale & Johnson
Tacoma Mall Office Building
Suite 301
4301 S. Pine Street
Tacoma, WA 98409

RE: Ehrlich, et al. v. Alskog, et al.

Dear Mr. Rosenow:

This letter is to confirm the telephone conversation on February 8, 1989, between my paralegal, Jean Seeley, and Julie, in your office. The following issues were discussed:

1. Kim Hamm's deposition is scheduled for Wednesday, March 15, 1989, at 9:30 a.m. in our offices;
2. Heather Marth's deposition is scheduled for Wednesday, March 22, 1989, at 10:30 a.m., also in our offices;
3. As we discussed at the hearing on February 6, 1989, Detective Larry Daly is available to be deposed on either March 22, 1989 or March 23, 1989; however, you must serve the King County Police Department with a subpoena in order for Mr. Daly to be deposed. Also there are witness fees which must be paid.
4. Please note that we are withdrawing Lucy Brown as a witness.

We are still waiting to hear from other witnesses and will confirm these facts as they become available.

Sincerely yours,

ADLER GIERSCH, P.S.

Ann J. Durham
Attorney at Law

AJD/js/kjj

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SEATTLE, WA



RICHARD H. ADLER
ANN J. DURHAM
MARGARET L. ENNIS
E. PAUL GIERSCH

February 10, 1989

Rodney Hollenbeck, Esquire
Evans, Craven & Lackie, P.S.
Columbia Center, Suite 1300
701 Fifth Avenue
Seattle, WA 98104

RE: Ehrlich, et al. v. Alskog, et al.

Dear Mr. Hollenbeck:

This letter is to confirm the telephone conversation on February 10, 1989, between my paralegal, Jean Seeley, and Kathleen Wales, of your office.

As a reminder, below is the list of depositions we would like to have scheduled:

1. Shannon Lemke
2. Alice Ricks
3. Katherine Gasek
4. Marilyn Down
5. Michael Beaton
6. Chani Hayes
7. Alex Tennant
8. Dan O'Brien

I am holding the following dates open for these depositions:

1. March 3, 1989
2. March 6 - 9, 1989
3. March 13 and 14, 1989
4. March 21, 1989

Please let me know, as soon as possible, when the above individuals will be available for deposition. Thank you in advance for your anticipated prompt attention to this matter.

Sincerely yours,

ADLER GIERSCH, P.S.

Ann J. Durham
Attorney at Law

AJD/kjj

FILED

CIVIL TRACK I

THE HONORABLE JOHN RILEY

FEB 11 11 42 PM '99

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

SUPERIOR COURT CLERK

AMERICAN CASUALTY COMPANY OF
READING PENNSYLVANIA, a
Pennsylvania corporation,

St. ... WA

Plaintiff,

No. 88-2-04615-8

v.

CONSOLIDATED TRACK ONE
CAUSE NO. 86-2-18176-8

KATHY LEE BUTLER, et al.,

Defendants.

MEMORANDUM IN OPPOSITION TO
DEFENDANT ALSKOG'S MOTION TO
STRIKE TRIAL DATE

KATHY LEE BUTLER, et vir.,
et al.,

Plaintiffs,

v.

DONALD LEE BARNETT, et ux.,
et al.,

Defendants.

No. 86-2-18176-8

SANDY EHRLICH, et al.,

Plaintiffs,

v.

RALPH ALSKOG, et al.

Defendants.

No. 86-2-18429-5

MAUREEN PANGBORNE JORGENSEN,

Plaintiff,

v.

COMMUNITY CHAPEL AND BIBLE
TRAINING CENTER, et al.,

Defendants.

No. 86-2-26360-8

MEMORANDUM IN OPPOSITION- 1

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ST. PAUL FIRE AND MARINE)
INSURANCE COMPANY, a foreign)
corporation,)
Plaintiff,)
v.)
KATHY LEE BUTLER, et al.,)
Defendants.)

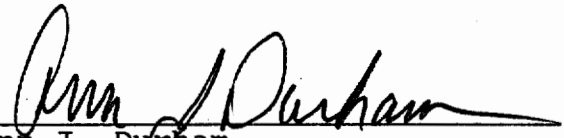
No. 88-2-18321-0

COME NOW Plaintiffs Sandy Ehrlich, et al., by and through their attorneys of record, Ann J. Durham and Adler Giersch, P.S., and hereby oppose Defendant Alskog's motion to strike the trial date. This memorandum is accompanied by the declaration of Ann J. Durham and the attached letters written by Ann J. Durham.

DATED this 14th day of February, 1989.

RESPECTFULLY SUBMITTED,

ADLER GIERSCH, P.S.

BY: 
Ann J. Durham
Attorney for Plaintiffs Ehrlich,
et al.



IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

FILED
FEB 14 4 42 PM '89
SUPERIOR COURT CLERK

AMERICAN CASUALTY COMPANY OF)
READING PENNSYLVANIA, a)
Pennsylvania corporation,)

Plaintiff,)

v.)

KATHY LEE BUTLER, et al.,)

Defendants.)

No. 88-2-04615-8

CONSOLIDATED TRACK ONE
CAUSE NO. 86-2-18176-8

KATHY LEE BUTLER, et vir.,)
et al.,)

Plaintiffs,)

v.)

DONALD LEE BARNETT, et ux.,)
et al.,)

Defendants.)

No. 86-2-18176-8

SANDY EHRLICH, et al.,)

Plaintiffs,)

v.)

RALPH ALSKOG, et al.)

Defendants.)

No. 86-2-18429-5

MAUREEN PANGBORNE JORGENSON,)

Plaintiff,)

v.)

COMMUNITY CHAPEL AND BIBLE)
TRAINING CENTER, et al.,)

Defendants.)

No. 86-2-26360-8

DECLARATION OF ANN J. DURHAM - 1

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ST. PAUL FIRE AND MARINE)
INSURANCE COMPANY, a foreign)
corporation,)
Plaintiff,)
v.)
KATHY LEE BUTLER, et al.,)
Defendants.)

No. 88-2-18321-0

I am one of the attorneys representing Plaintiffs Ehrlich, et al., and I make this declaration based on my personal knowledge. This declaration is submitted in opposition to Defendant Alskog's motion to strike the trial date.

On behalf of Plaintiffs Ehrlich, et al., I have made continual efforts to schedule depositions of various parties and witnesses in this case. As early as Tuesday, November 8, 1988, I attended a meeting among several of the attorneys involved in this action, in order to arrange depositions for the parties in these actions. Mr. Rosenow did not attend this meeting. At this meeting, the attorneys in attendance agreed that we should try to arrange depositions of the parties in this action prior to arranging depositions of the witnesses. To that end, we tentatively agreed on scheduling depositions for several of the plaintiffs and proposed dates for several of the defendants. I am attaching a copy of a letter dated November 11, 1988, written by me, which outlines the attempts I made to schedule these depositions.

DECLARATION OF ANN J. DURHAM - 2

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1 Mr. Rosenow indicated that he was not available on November
2 28, 1988, for Sandy Ehrlich's deposition. Accordingly, we
3 accommodated his schedule by re-scheduling Sandy Ehrlich's
4 deposition to December 7, 1988. Since November 10, 1988, I have
5 made repeated attempts to schedule the deposition of Defendant
6 Ralph Alskog. Due to Mr. Rosenow's schedule, the first available
7 full day for Defendant Alskog's deposition was not until February
8 6, 1989. Although the attorneys at the November 8, 1988 meeting
9 had tentatively agreed to try to have all the depositions of the
10 parties taken prior to or, the very latest, at the end of January,
11 1989, I was unable to arrange for Defendant Ralph Alskog's
12 deposition to take place before February 6, 1989. Likewise, I
13 have still not been able to take Defendant Rosemary Alskog's
14 deposition. At this time, it is scheduled for February 28, 1989.

15 Mr. Rosenow's paralegal has contacted my office to arrange for
16 depositions to be taken of witnesses listed on behalf of
17 Plaintiffs Ehrlich, et al. To that end, I informed Mr. Rosenow's
18 office that Celeste Berger was available for deposition during the
19 first two weeks of January, 1989, as requested by his paralegal.
20 Since Ms. Berger resides in Mandan, North Dakota and was in
21 Seattle, Washington for an extended period, we had hoped to be
22 able accommodate everyone's schedule by taking her deposition
23 during the first two weeks of January when she was in Seattle.
24 However, Mr. Rosenow declined to set Ms. Berger's deposition.

25 In a letter dated January 27, 1989, Mr. Rosenow provided the
26 following available dates for depositions of our lay and expert
27

28 DECLARATION OF ANN J. DURHAM - 3

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