

1 5. At all times material to this action, defendants
2 Barnettts were principals, agents, employees and representatives
3 of CCBTC. All actions complained of were performed in the scope
4 of their representation, employment, and/or agency for CCBTC.

5 II. FACTS

6 6. In the early 1970s, at age nineteen, plaintiff suffered
7 serious injuries in an automobile accident in the state of Alaska.
8 As a result of these injuries, plaintiff was confined to a
9 wheelchair and classified medically as a quadriplegic. Plaintiff
10 filed a lawsuit against the state of Alaska on account of her
11 injuries and, in early 1975, received a net amount of
12 approximately \$730,000.

13 7. Sometime during the period between the automobile
14 accident and plaintiff's receipt of the \$730,000 from the lawsuit,
15 plaintiff began attending both CCBTC's church services and the
16 Community Chapel Bible College. Both the church and the college
17 taught that submission to church authority and complete obedience
18 to church teachings were required of all members. In her weakened
19 condition and facing the prospect of a permanent and devastating
20 disabling condition, plaintiff was especially vulnerable to the
21 strong authoritarian leadership exercised by Donald Barnett.

22 8. Donald and Barbara Barnett were aware of plaintiff's
23 weak and vulnerable state, and took advantage of her condition by
24 manipulating, pressuring, coercing, and influencing plaintiff in
25 every aspect of her life, including without limitation, dictating
26 the persons whom she dated, with whom she lived and spent time,

1 advising her not to marry outside the church, advising her to
2 marry Dennis Pangburn, and threatening to disfellowship her when
3 she attempted to separate from Dennis Pangburn.

4 9. After plaintiff received the \$730,000 from the lawsuit,
5 Donald Barnett counseled and admonished her that she should give
6 her money to CCBTC and that it was morally and spiritually wrong
7 for her to retain the money for her own care and use. CCBTC, by
8 and through defendants Barnett, promised plaintiff that all of
9 her needs would be met and that she would be healed if she gave
10 her money to the church.

11 10. In approximately April, 1975, Donald Barnett persuaded
12 plaintiff to transfer to CCBTC the amount of \$580,000 in the form
13 of a loan evidenced by a promissory note. Ultimately, Barnett
14 convinced plaintiff to transfer \$100,000 as an outright gift, and
15 to loan defendant CCBTC \$480,000. Plaintiff planned to retain
16 approximately \$100,000, the remainder of the lawsuit proceeds,
17 for the purchase of a wheelchair-accessible home and vehicle.

18 11. Although plaintiff understood that the note would bear
19 interest at the rate of five percent (5%) per annum, the note, as
20 presented to plaintiff for her signature on December 1, 1975, bore
21 no interest. Plaintiff, who was not accompanied by counsel at the
22 time of signing, protested that the note should bear interest.
23 However, Donald Barnett insisted that plaintiff had a religious
24 obligation to make an interest-free loan to the church. On
25 Barnett's insistence, plaintiff reluctantly accepted the interest-
26 free note in the amount of \$480,000, the entire remainder of the

1 lawsuit proceeds. A copy of the note is attached hereto as
2 Exhibit 1.

3 12. The note, as executed, provided that defendant CCBTC
4 would furnish a mortgage on real property in order to secure
5 payments of the loan. Nonetheless, defendants failed to provide
6 any security, nor have they ever done so.

7 13. As part of the consideration for the gift and loan,
8 Donald Barnett assured plaintiff that defendant would provide care
9 and support to plaintiff for life, including payment of any
10 medical expenses she might incur.

11 14. Defendants knew that plaintiff was emotionally and
12 physically dependent on the church and, after her gift and loan
13 to the church, that she was financially dependent on the church
14 for funds to meet her medical and other expenses. Notwithstanding
15 this knowledge, when plaintiff requested funds from defendants to
16 complete the construction of her wheelchair-accessible home, she
17 was rebuked and made to feel ashamed by Donald Barnett.

18 15. Although they were aware that plaintiff was frequently
19 in a weakened and dependent physical and emotional condition, and
20 that she was in need of ongoing health care, defendants
21 continuously advised plaintiff not to consult or seek treatment
22 from doctors, nurses, or hospitals on the basis that such
23 treatment was not sanctioned by God and evidenced a lack of faith.
24 During this period, defendants were aware that plaintiff was
25 suffering from insomnia, lack of appetite, dizziness, cramping,
26

1 headaches, diarrhea, depression, and kidney and urinary tract
2 infections.

3 16. When plaintiff sought medical attention in 1985 due to
4 her chronic and acute health problems, she requested that CCBTC
5 help her to pay approximately \$10,000 in necessary medical
6 expenses incurred by her, in accordance with defendant's earlier
7 promises to provide care and support to plaintiff. CCBTC failed
8 and refused to pay plaintiff's medical expenses.

9 17. After plaintiff requested money for her medical
10 expenses, Donald Barnett made disparaging remarks and publicly
11 rebuked plaintiff at a church meeting at which he accused her of
12 being selfish and evil, beset by demons, and lacking faith in God
13 and the church.

14 18. In 1985, Donald Barnett began to teach a new religious
15 doctrine to members and parishioners of CCBTC, known as "Dancing
16 Before the Lord." This practice has disrupted many marriages and
17 family relationships among defendant's members, and has led to
18 widespread publicity in the news media because of the requirement
19 that parishioners establish "spiritual connections" with members
20 of the opposite sex other than their spouses by means of slow
21 dancing during church hours and during many additional hours spent
22 in one another's company. As a result of this doctrine,
23 plaintiff's (now former) husband fell in love with his
24 "connection;" plaintiff's marriage was thereby broken and
25 ultimately dissolved. In view of the destruction of her marriage
26 by this new practice and plaintiff's conviction that the new

1 teaching was non-Biblical, she could no longer remain an adherent.
2 In December, 1985, therefore, plaintiff severed her ties with the
3 Church.

4 III. CLAIMS FOR RELIEF

5 First Claim for Relief: Constructive Trust

6 19. Plaintiff realleges paragraphs 1 through 18.

7 20. CCBTC, through its pastor and president, Donald Barnett,
8 occupied a confidential relationship to plaintiff at all times
9 surrounding the execution of the no-interest loan and continuing
10 for more than ten years thereafter. Moreover, Donald Barnett and
11 other church employees actively participated in the preparation
12 of the note by which plaintiff transferred \$480,000 to CCBTC in
13 an interest-free transaction. Given plaintiff's available
14 financial resources and the likelihood of a permanent reduction
15 in her earning power as a result of her disabling condition, the
16 "loan" to CCBTC was unnaturally large.

17 21. In light of the above factors and the unequal bargaining
18 power between plaintiff and defendants in negotiating the terms
19 of the note, defendants exerted ongoing undue influence upon
20 plaintiff.

21 22. CCBTC, through Donald and Barbara Barnett, and plaintiff
22 stood in a confidential relationship to one another from at least
23 1975 until 1985. The Barnetts gained plaintiff's confidence and
24 purported to act with plaintiff's best interests in mind.

25 23. In light of the continuing undue influence exerted by
26 Donald Barnett as a result of his confidential relationship with

1 plaintiff, CCBTC has been, since 1975, unjustly enriched by the
2 use of plaintiff's property while paying no interest on those
3 funds to plaintiff. Plaintiff is thus entitled to restitution in
4 the amount of a reasonable return on the funds held and invested
5 by defendants since December 1, 1975, plus return of the remaining
6 principal amount still held by defendants, which amount is
7 believed to equal approximately \$180,000. The Court should impose
8 a constructive trust on the property still held by CCBTC, together
9 with interest at a fair return on the principal already repaid to
10 plaintiff and prejudgment interest from December 1, 1975.

11 Second Claim for Relief: Breach of Contract

12 24. Plaintiff realleges paragraphs 1 through 23.

13 25. As additional consideration for the promissory note
14 executed by defendant CCBTC on December 1, 1975, defendants
15 promised and agreed to pay all necessary medical expenses incurred
16 by plaintiff, who had suffered permanent and disabling injuries.
17 At the time of defendant's promise, defendants knew that the
18 failure and refusal to fulfill the promise to plaintiff would
19 cause her emotional, mental, and physical suffering and distress.
20 CCBTC failed and refused, however, to pay approximately \$10,000
21 in medical expenses incurred by plaintiff in 1985, in spite of
22 plaintiff's request that CCBTC honor its agreement. Such failure
23 constitutes a material breach of the parties' agreement and a
24 failure of consideration. As a result of defendant's breach and
25 intentional, reckless and wanton conduct, plaintiff has suffered
26 severe emotional distress and is entitled to recover damages,

1 rescind the parties' agreement and recover funds still held by
2 CCBTC.

3 Third Claim for Relief: Infliction of Emotional Distress

4 26. Plaintiff realleges paragraphs 1 through 25.

5 27. The acts and conduct of CCBTC, by and through its pastor
6 and president, were perpetrated so as to intentionally,
7 recklessly, and/or negligently inflict severe emotional distress
8 upon plaintiff, with the knowledge that such distress was certain
9 or substantially certain to result from defendants' outrageous
10 conduct.

11 28. As a direct and proximate result of defendants' conduct,
12 plaintiff suffered severe emotional distress, was greatly
13 humiliated, shamed and embarrassed, and endured great pain and
14 suffering.

15 29. By reason of the foregoing, plaintiff has sustained
16 general damages, and was required to and did incur reasonable
17 necessary expenses in connection with treatment of her personal
18 injuries.

19 30. As a direct and proximate result of the intentional,
20 reckless, and/or negligent wrongful acts and omissions of the
21 defendants, plaintiff is entitled to actual damages, damages for
22 continuing pain and suffering, and attorneys' fees.

23 Fourth Claim for Relief: Negligent Employment and Supervision

24 31. Plaintiff realleges paragraphs 1 through 30.

25 32. Defendant CCBTC owed plaintiff a duty to properly
26 supervise defendant Donald Barnett in his ministerial and

1 counseling activities. Defendant CCBTC further owed plaintiff a
2 duty not to employ or retain a pastor likely to harm others in
3 the course of his employment or agency.

4 33. Defendant CCBTC had sufficient knowledge or information
5 that a reasonable person in CCBTC's position would have realized
6 the likelihood that defendant Barnetts' activities were causing
7 and would continue to cause harm.

8 34. Defendant CCBTC breached its duties to plaintiff by
9 negligently supervising, employing, and continuing to retain
10 defendants Barnetts as its servants, representatives, and agents.
11 Defendant CCBTC failed to warn or protect plaintiff from injury
12 or the likelihood of injury.

13 35. Defendant CCBTC's negligent supervision and employment
14 of defendants Barnetts proximately caused bodily and other
15 injuries to plaintiff, including but not limited to her financial
16 losses, severe emotional distress, bodily anguish and injury,
17 humiliation, and pain and suffering.

18 36. By reason of the foregoing, plaintiff has sustained
19 general damages, and was required to and did incur reasonable
20 necessary expenses in connection with treatment of her personal
21 injuries.

22 37. Plaintiff is entitled to actual damages, damages for
23 continuing pain and suffering, and attorneys' fees.

WHEREFORE, plaintiff seeks the following relief:

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1. That the Court impose a constructive trust for the benefit of plaintiff on the loan proceeds still in the hands of defendants;

2. That the Court order payment of a reasonable rate of return on the principal amount loaned to defendant on December 1, 1975;

3. That the Court award plaintiff prejudgment interest;

4. That the Court award plaintiff general damages in an amount now unknown but which will be proved at trial;

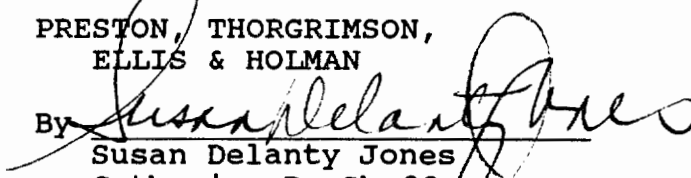
5. That the Court award plaintiff medical expenses incurred and other costs, in an amount now unknown but which will be proved at trial;

6. That the Court award plaintiff her attorneys fees and costs of suit; and

7. That the Court award such other relief as it deems just.

DATED this 7 day of December, 1988.

PRESTON, THORGRIMSON,
ELLIS & HOLMAN

By 
Susan Delanty Jones
Catherine D. Shaffer
Attorneys for Plaintiff,
Maureen Jorgensen

FILED

CIVIL TRACK I
THE HONORABLE JOHN RILEY

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

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

Plaintiffs,)

vs.)

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

Defendants.)

NO. 86-2-18176-8

AFFIDAVIT OF SUSAN DELANTY
JONES IN SUPPORT OF
JORGENSEN'S MOTION TO AMEND
FIRST AMENDED COMPLAINT

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.)

JONES AFFIDAVIT IN
SUPPORT OF MOTION TO AMEND

ORIGINAL

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

184
2/1

1 AMERICAN CASUALTY COMPANY OF)
 2 READING PENNSYLVANIA, a)
 Pennsylvania corporation,)
 3)
 Plaintiff,)
 4)
 v.)
 5)
 KATHY LEE BUTLER, et. al.,)
 6)
 Defendants.)
 7)

8 STATE OF WASHINGTON)
) :ss
 9 COUNTY OF KING)

10 I, SUSAN DELANTY JONES, being first duly sworn on oath,
 11 deposes and says:

12 1. I am one of the attorneys for Maureen Jorgensen
 13 ("Jorgensen"), who moves to amend her complaint in this action.
 14 This affidavit is based on my personal knowledge.

15 2. Jorgensen filed suit against the Community Chapel and
 16 Bible Training Center ("CCBTC") in December, 1986. The only
 17 discovery which took place thereafter was on Jorgensen's
 18 initiative. On March 14, 1988, the court granted Jorgensen's
 19 motion to amend her complaint to add a claim for infliction of
 20 emotional distress and to add Donald Lee Barnett and Barbara
 21 Barnett ("Barnetts") as defendants.

22 3. On April 8, 1988, the court granted Jorgensen's motion
 23 for preassignment and consolidation with this action, Cause No.
 24 86-2-18176-8. Jorgensen continued to conduct written discovery,
 25 including the filing of several motions to compel. Discovery
 26

JONES AFFIDAVIT IN
 SUPPORT OF MOTION TO AMEND 2

1 slowed following Judge Little's death because of uncertainty about
2 the validity of the discovery schedule deadlines and the
3 enforceability of discovery requests. Jorgensen did, however,
4 conduct and complete two oral depositions in August, 1988.

5 4. Until November, 1988, neither CCBTC nor the Barnetts
6 sought any discovery of any kind from Jorgensen, although the
7 Barnetts' counsel served and then cancelled some notices of
8 deposition. Following this Court's scheduling conference on
9 November 10, 1988, defendants' counsel did informally request and
10 receive an opportunity to examine some of Jorgensen's documents,
11 and on November 16, 1988, began the deposition of Jorgensen, which
12 will resume on December 9, 1988. Defendants have not sought any
13 other discovery from Jorgensen to date.

14 5. On October 10, 1988, the court granted Jorgensen's
15 motion to intervene in the American Casualty Company of Reading,
16 Pennsylvania ("American Casualty") suit for a declaratory
17 judgment. That action was preassigned and consolidated with this
18 suit on November 10, 1988.

19 6. The American Casualty action concerns American
20 Casualty's liability under its Comprehensive General Liability
21 Policy from May 9, 1982 until May 9, 1986. Among other things,
22 American Casualty seeks a declaratory judgment construing the
23 policy language "bodily injury," "occurrence" and "within the
24 scope of his duties." American Casualty further seeks a
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JONES AFFIDAVIT IN
SUPPORT OF MOTION TO AMEND

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1 declaration that none of the injuries for which the tort
2 plaintiffs seek compensation fall within the scope of coverage
3 under the policy. Those other plaintiffs, like Jorgensen, allege
4 infliction of emotional distress as well as other causes of
5 action.

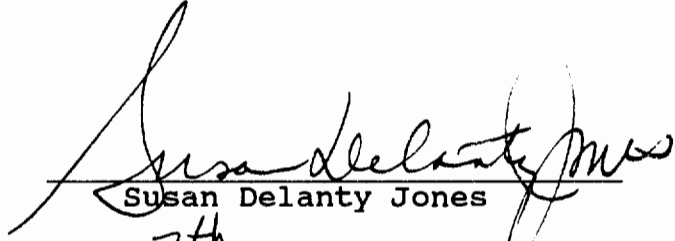
6 7. As already set forth in her First Amended Complaint,
7 Jorgensen's emotional distress claim, like those of the other tort
8 plaintiffs, arises out of the "spiritual connections" and other
9 acts and practices of defendant CCBTC, by and through its agents,
10 defendants Barnetts. Jorgensen claims an interest in the American
11 Casualty insurance policy based on the injuries she suffered due
12 to these actions.

13 8. That defendant CCBTC negligently employed and supervised
14 defendants Barnetts, to Jorgensen's injury, is implicit in the
15 facts alleged in Jorgensen's original complaint and First Amended
16 Complaint. Jorgensen's proposed Second Amended Complaint would
17 merely make this claim explicit.

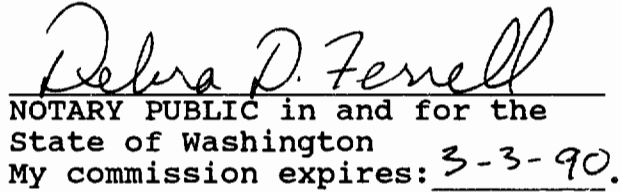
18 9. To date, American Casualty has conducted no discovery as
19 to Jorgensen.

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1 10. Jorgensen's proposed amended claim arises out of the
2 same transactions and occurrences already set forth in Jorgensen's
3 prior complaints.

4
5 
6 Susan Delanty Jones

7 SIGNED AND SWORN to this 7th day of December, 1988, by
8 Susan Delanty Jones.

9 
10 Debra D. Ferrell
11 NOTARY PUBLIC in and for the
12 State of Washington
13 My commission expires: 3-3-90.

FILED

1988 DEC -7 PM 4:12

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

Civil Track I
The Honorable John Riley

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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,)

v.)

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

Defendants.)

Consolidated
No. 86-2-18176-8
AFFIDAVIT OF SERVICE
BY MAIL

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.)

AFFIDAVIT OF SERVICE
BY MAIL - 1

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

ORIGINAL

185
DH

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

4 Plaintiff,)

5 v.)

6 KATHY LEE BUTLER, et al.,)

7 Defendants.)

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

11 Plaintiff,)

12 v.)

13 KATHY LEE BUTLER, et al.,)

14 Defendants.)

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

16 That I am a citizen of the United States and a resident of
17 the State of Washington, over the age of twenty-one years and
18 not a party to this action; that on the 7th day of December,
19 1988, I caused a copy of the following:

- 20 1. Note for Motion Calendar;
- 21 2. Motion of Maureen Jorgensen for Leave to Amend
22 Complaint;
- 23 3. Memorandum in Support of Jorgensen's Motion to Amend
24 First Amended Complaint;
- 25 4. Affidavit of Susan Delanty Jones in Support of
26 Jorgensen's Motion to Amend First Amended Complaint;

AFFIDAVIT OF SERVICE
BY MAIL - 2

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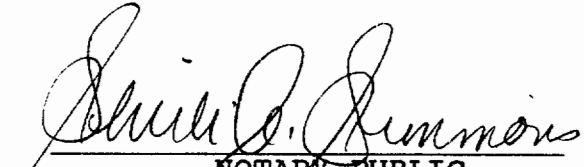
1 5. Second Amended Complaint of Maureen P. Jorgensen for
2 Damages and Equitable Relief; and

3 6. (Proposed) Order Granting Leave to Plaintiff to File
4 and Serve Seconded Amended Complaint of Maureen P. Jorgensen for
5 Damages and Equitable Relief.

6 to be deposited in the United States Mail in an envelope with
7 first class postage prepaid, addressed to each of the parties
8 listed on Exhibit A attached hereto.

9 
10 Kristi L. deRham

11 SIGNED AND SWORN to before me this 7th day of December,
12 1988, by Kristi L. deRham.

13 
14 Shelli G. Simmons
15 NOTARY PUBLIC
16 My Commission Expires: 10-10-89



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AFFIDAVIT OF SERVICE
BY MAIL - 3

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701 FIFTH AVENUE
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12P.05L

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
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18 4002 Tacoma Mall Blvd.
19 Tacoma, WA 98409
20 Attorneys for Plaintiffs
21 Ehrlich, Lemke, Chabot,
22 Kitchell

23
24 Richard H. Adler, Esquire
25 Ann J. Durham, Esquire
26 Adler Giersch
401 Second Avenue South, Suite 600
Seattle, WA 98104
Attorneys for Plaintiffs
Ehrlich, Lemke, Chabot,
Kitchell

18
19 Jack G. Rosenow, Esquire
20 Rosenow, Hale & Johnson
21 301 Tacoma Mall Office Bldg.
22 4301 South Pine Street
23 Tacoma, WA 98409
24 Attorney for Defendants Alskog

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

AFFIDAVIT OF SERVICE
BY MAIL - 4

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

12P.05L

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

Michael W. Bugni, Esquire
Moren, Cornell & Hansen
Roosevelt-Pinehurst Building
11320 Roosevelt Way N.E.
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

AFFIDAVIT OF SERVICE
BY MAIL - 5

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701 FIFTH AVENUE
SEATTLE, WASHINGTON 98104-7011
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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

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

Carl A. Peterson
4203 South 172nd
Seattle, WA 98188
Pro Se - Plaintiff

AFFIDAVIT OF SERVICE
BY MAIL - 6

LAW OFFICES OF
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5400 COLUMBIA SEAFIRST CENTER
701 FIFTH AVENUE
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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

CIVIL TRACK I
THE HONORABLE JOHN RILEY

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

6 KATHY LEE BUTLER, et ux.,)
7 et al.,)

8 Plaintiffs,)

9 vs.)

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

12 Defendants.)

CONSOLIDATED
NO. 86-2-18176-8

MOTION OF MAUREEN JORGENSEN
FOR LEAVE TO AMEND COMPLAINT

13 SANDY EHRLICH, et vir., et)
14 al.,)

15 Plaintiffs,)

16 vs.)

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

19 Defendants.)

20 MAUREEN P. JORGENSEN,)

21 Plaintiff,)

22 vs.)

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

25 Defendants.)
26

JORGENSEN MOTION TO
AMEND COMPLAINT

1
ORIGINAL

LAW OFFICES OF
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SEATTLE, WASHINGTON 98104-7011
(206) 623-7580

185

1 AMERICAN CASUALTY COMPANY OF)
 2 READING PENNSYLVANIA, a)
 3 Pennsylvania corporation,)
 4)
 5 Plaintiff,)
 6)
 7 v.)
 8)
 9 KATHY LEE BUTLER, et. al.,)
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 11 Defendants.)
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Plaintiff, Maureen P. Jorgensen ("Jorgensen"), through her undersigned attorneys, moves the court as follows:

1. Relief Requested:

Plaintiff Jorgensen seeks leave to amend her First Amended Complaint by adding a claim for negligent supervision by defendant, Community Chapel and Bible Training Center ("CCBTC"), of defendants Donald Lee Barnett and Barbara Barnett ("Barnetts"), relating back to the date of her original complaint.

2. Facts:

Jorgensen filed suit against CCBTC in December, 1986, expressly alleging that CCBTC had acted through its pastor, Donald Barnett. On March 14, 1988, the court granted Jorgensen's motion to amend by adding a claim for infliction of emotional distress and adding the Barnetts as defendants. The first amended complaint alleges that the Barnetts acted as representatives, agents and servants of CCBTC.

As more fully set forth in Jorgensen's memorandum in support of this motion, most of the discovery pertaining to Jorgensen's claim has been undertaken by Jorgensen, and almost none has been undertaken by defendants.

1 Jorgensen seeks to amend her First Amended Complaint to
2 clarify her interest in the Comprehensive General Liability Policy
3 issued by American Casualty Company of Reading, Pennsylvania
4 ("American Casualty") to CCBTC from May 9, 1982 until May 9, 1986.
5 To protect that interest, Jorgensen recently moved to intervene
6 in American Casualty's suit for a declaratory judgment on the
7 meaning of its policy. Jorgensen's motion was granted on October
8 10, 1988. American Casualty's declaratory judgment action was
9 preassigned and consolidated with this suit on November 10, 1988.

10 3. Issues Presented:

11 Should the Court grant Jorgensen's Motion to Amend?

12 4. Evidence Relied Upon:

13 This motion is based upon the accompanying Affidavit of Susan
14 Delanty Jones, Jorgensen's original complaint, First Amended
15 Complaint, and proposed Second Amended Complaint, and American
16 Casualty's complaint.

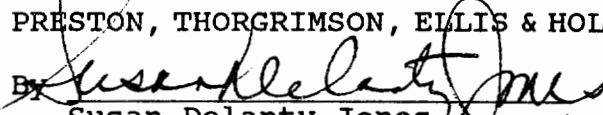
17 5. Legal Authority:

18 Legal authority for this motion is set forth in the
19 accompanying Memorandum in Support of Motion to Amend.

20 6. Proposed Order:

21 This motion is accompanied by a proposed Order as required
22 by Local Civil Rule 7(b)(2)(D)(vi).

23 DATED this 7 day of December, 1988.

24 PRESTON, THORGRIMSON, ELLIS & HOLMAN
25 By 
26 Susan Delanty Jones
Catherine D. Shaffer
Attorneys for Plaintiff,
Maureen P. Jorgensen

RECEIVED

DEC 06 1988

MOREN,
CORNELL & HANSEN, P.S.

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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

1988 DEC 12 AM 9:36
SUPERIOR COURT CLERK
SEATTLE, WA

FILED

ACKNOWLEDGEMENT AND
ACCEPTANCE OF SERVICE - 1
ackacc.ser

ORIGINAL

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 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
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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 Buter, husband and
8 wife, et al., under Consolidated Cause No. 86-2-18176-8, on
9 behalf of defendants (litigation plaintiffs) Robert Howerton and
10 Jane Doe Howerton, husband and wife, and the marital community
11 composed thereof.

12 DATED this 6th day of December, 1988.

13 MOREN, CORNELL & HANSEN

14 By 

15 Michael W. Bugni
16 Of Attorneys for Defendants
17 (Litigation Plaintiffs)
18 Howerton

19
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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

FILED

KING COUNTY, WASHINGTON

DEC 12 1988

SUPERIOR COURT CLERK
MELISSA R. KEATING
DEPUTY

CIVIL TRACK ONE
THE HONORABLE JOHN W. RILEY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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

Plaintiffs,)

v.)

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

Defendants,)
Third Party Plaintiffs,)

v.)

GARY LIEN,)

Third Party Defendant.)

_____)
SANDY EHRLICH, et. ux., et. al.,)

Plaintiffs,)

v.)

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

Defendants.)

_____)
MAUREEN P. JORGENSEN,)

Plaintiff,)

v.)

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

MOTION &
AFFIDAVIT: 1

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

MOTION FOR PROTECTIVE ORDER
SEALING DEPOSITIONS OF DONALD
LEE BARNETT AND BARBARA
BARNETT

Evans, Craven & Lachic, P.S.
LAWYERS

1000 4TH AVENUE, SUITE 1000
SEATTLE, WASHINGTON 98104

(206) 386-5555

CIVIL TRACK 1

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1 Defendants.)
2 _____)
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4 1. Relief Requested. Defendants, Don and Barbara Barnett,
5 request that this court enter a protective order sealing the
6 depositions of Donald Lee Barnett and Barbara Barnett in the
7 above-entitled consolidated actions.

8 2. Statement of Facts. Throughout the course of this
9 litigation and other litigation in Pierce County, numerous
10 articles have appeared in regional newspapers. Much of the
11 content of these articles have come from the discovery conducted
12 in these proceedings. Media attention has generally been
13 followed by harassment, threats, and vandalism against Don
14 Barnett and the Community Chapel and Bible Training Center. The
15 depositions of Don Barnett and Barbara Barnett would create media
16 interest, and articles based thereon would lead to further
17 harassment of the church, Don Barnett, Barbara Barnett, and
18 individuals identified therein.

19 3. Statement of Issues. Good cause exists to seal the
20 depositions of Don Barnett and Barbara Barnett to protect the
21 church, Don Barnett, Barbara Barnett and individuals they may be
22 compelled to identify during the course of their depositions from
23 annoyance, embarrassment, oppression, and undue burden.

24 4. Evidence Relied Upon. The affidavit of Tim Donaldson
25 annexed hereto, and the AFFIDAVIT OF DON BARNETT IN SUPPORT OF
26 MOTION FOR PROTECTIVE ORDER SEALING DEPOSITIONS OF DONALD LEE
27 BARNETT AND BARBARA BARNETT filed herein.

28 5. Authority. CR 26(c) and Rhinehart v. Seattle Times, 98
29 Wn.2d 226, 654 P.2d 673 (1982), affirmed in Seattle Times v.
30 Rhinehart, 467 U.S. 20, 104 S.Ct. 2199, 81 L.Ed.2d 17 (1984).

31 MOTION &
32 AFFIDAVIT: 2

Donald Lee Barnett

DONALD LEE BARNETT

BARBARA BARNETT

1 6. Proposed Order. A proposed form of order is attached
2 hereto.

3 DATED December 9, 1988.

4 EVANS CRAVEN & LACKIE, P.S.

5
6 By Tim Donaldson
7 TIM DONALDSON
8 Attorneys for Defendants Barnett

9 STATE OF WASHINGTON)
10) ss. AFFIDAVIT OF TIM DONALDSON
11 County of King)

12 Tim Donaldson, being first duly sworn, upon oath, and having
13 personal knowledge of the following facts deposes and says:

14 1. I am at least twenty-one (21) years of age and
15 competent to make this statement;

16 2. I am one of the attorneys for Don and Barbara Barnett
17 in the above-entitled consolidated action, and also in an action
18 filed in Pierce County, cause number 86-2-02792-6, by Ira and
19 Carol Gabrielson;

20 3. Since March of this past year, my office has regularly
21 kept a media file upon the actions pending against our clients;

22 4. Attached hereto as exhibit one is a copy of a newspaper
23 article which appeared in the Seattle Post-Intelligencer on March
24 16, 1988, wherein the contents of a confidential letter written
25 by Rod Hollenbeck of my office on behalf of our clients to their
26 insurance carrier were published;

27 5. Attached hereto as exhibit two is a copy of a newspaper
28 article which appeared in the Tacoma News Tribune on April 4,
29 1988, wherein the contents of the depositions of Jack McDonald
30 and Carol Gabrielson taken in Pierce County cause number 86-2-
31 02792-6 were published;

32 MOTION &
 AFFIDAVIT: 3

Evans, Craven & Lackie, P.S.
ATTORNEYS

1 6. Attached hereto as exhibit three is a copy of a
2 newspaper article which appeared in the Tacoma News Tribune on
3 August 10, 1988, wherein the contents of discovery responses in
4 the above-entitled consolidated actions were revealed;

5 7. Since March of this past year, my office has received
6 numerous contacts from persons identifying themselves as members
7 of the media asking for comment upon articles which were to be
8 printed regarding litigation involving our clients, and I have
9 seen over twenty articles which have appeared in regional
10 newspapers since that time regarding such litigation;

11 8. Attached hereto as exhibit four is a copy of an article
12 which appeared recently in The Seattle Times on December 1, 1988
13 regarding litigation which is currently pending between Don
14 Barnett and members of the Board of Senior Elders of the
15 Community Chapel and Bible Training Center;

16 9. Based upon my personal involvement in litigation
17 against my clients, and particularly my participation in the
18 discovery process, I believe that the breadth of the depositions
19 of Don Barnett and Barbara Barnett would include questions
20 regarding details of their personal sex lives, and identification
21 of persons who are not parties to these consolidated lawsuits;

22 10. Based upon my personal involvement in litigation
23 against my clients, and particularly my participation in the
24 discovery process, I believe that these depositions will
25 encompass areas wherein attorneys from my office shall state
26 admissability and relevance objections;

27 11. Based upon the forgoing, I believe that litigation
28 involving Don Barnett and the Community Chapel attracts media
29 attention, and that the contents of the depositions of Don
30 Barnett and Barbara Barnett, including areas regarding their

31 MOTION &
32 AFFIDAVIT: 4

Evans, Crawford Lachin, P.A.
LAWYERS

(206) 386-5555

1 personal sex lives, identification of persons who are not parties
2 to these lawsuits, and information which would be inadmissible at
3 trial will be published in regional newspapers if the depositions
4 of Donald Lee Barnett and Barbara Barnett are not sealed;

5 Further affiant sayeth naught.

6
7 Tim Donaldson
8 TIM DONALDSON

9 State of Washington
10 County of King

11 Signed and sworn to before me on
12 December 9, 1988 by Tim
13 Donaldson.

14 Irish Bashaw
15 NOTARY PUBLIC
16 My commission expires 09/04/90

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31 MOTION &
32 AFFIDAVIT: 5

Ernest Crawford Luskie, P.S.

EXHIBIT 1

Burien pastor wants suit settled out of court

Seattle Post-Intelligencer
March 14, 1988

By Mary Rottschild
P-I Reporter

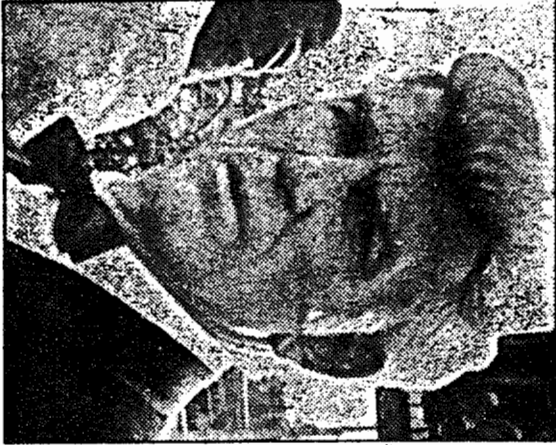
Pastor Donald Lee Barnett of the Community Chapel & Bible Training Center wants to settle out of court a lawsuit he fears will reveal potentially damaging pretrial testimony about his relationships with female church members.

Scheduled for a hearing Friday in Pierce County, the case involves testimony already given by Barnett under oath and ordered sealed by Superior Court Judge D. Gary Steiner.

Attorneys for the plaintiff are now seeking to open those documents, arguing that the recent spate of publicity surrounding the controversial preacher and his unusual theology of extramarital intimacy has made his request for secrecy unnecessary.

Barnett, 57, a self-ordained minister, has acknowledged certain sexual proprieties and claims to have renounced and ended them. But when he refused to restrict his further contacts with female followers, Chapel elders changed church bylaws and dismissed him from his job and the church.

Pending a final court ruling in the matter, Barnett has been ordered reinstated and control of the \$10 million church, school and Bible college



Donald Lee Barnett

complex remains in legal limbo with the schism. One elder, Jack Hicks, who also is Chapel vice president and general manager, has resigned in the midst of the turmoil.

In a March 4 letter, to which was obtained by the Post-Intelligencer, Barnett attorney Rodney Hollenbeck

relayed the preacher's desire to settle a \$2 million suit brought by former church member Carol Gabrielson against Jack McDonald, one-time pastor of the Tacoma Community Chapel, a satellite fellowship of the Burien-based church.

Gabrielson, with her husband, Ira, claim in the suit filed in 1986 that McDonald took advantage of her vulnerability to pressure her into a sexual relationship with him after she went to him for marital counseling.

The case is set for trial in Pierce County Superior Court April 18.

Named as a co-defendant in the Gabrielson suit, Barnett is accused of failing to adequately train McDonald before he was placed as head pastor of the Tacoma satellite.

Furthermore, the suit alleges that by promoting, as well as engaging in, the concept of "spiritual connections," Barnett essentially validated McDonald's alleged sexual assault of Gabrielson.

The theology of "spiritual connections" is unique to the independent, non-denominational sect and includes encouraging intimate connections between partners other than spouses, ostensibly to achieve greater communion with God.

Former member and church critics

have said the practice does nothing more than encourage "church-sanctioned affairs" and is responsible for the breakup of marriages, incidents of child abuse, suicides and suicide attempts and the slaying of a 5-year-old girl.

The Gabrielson suit also claims Barnett's alleged involvement in the sexual relationships that often grew out of the connections was a routine practice and pattern that permeated the church hierarchy.

According to the letter to the insurance carrier, "the inflammatory nature of the allegations is apparent and might prejudice a jury against Barnett, who did not have direct personal contact with the plaintiff.

And though "valid defenses exist as to all allegations leveled against Pastor Barnett," wrote Hollenbeck, "there is a chance that the court will not agree that he was protected through his First Amendment Constitutional Right (sic)" to religious freedom with regard to his theology or ideas.

"We firmly believe that a finding of liability against Pastor Barnett would be the result of passion or prejudice based on evidence and innuendo admitted over our objections," said the

See PASTOR Page B4

Pastor: Out-of-court settlement sought in Tacoma

From Page B1

attorney's letter.

The letter concluded, "For the reasons set forth above, and those thoroughly discussed with our client, it is Pastor Barnett's desire to settle the Gabrielson matter, and I have been authorized to convey that message to you."

On Friday, Barnett's attorneys will move to dismiss him from the Gabrielson suit and, according to the letter, believe "we stand marginally better than 50-50 percent on that motion."

But, they told the insurance company, they also believe McDonald could be found liable for counseling negligence in this action and that the co-defendant Chapel has "some exposure" based on inadequate training of McDon-

Barnett yesterday refused to confirm or deny that he wants an out-of-court settlement of the Gabrielson case, referring the call to his attorney. But in a Feb. 28 sermon to his followers, he alluded to the Gabrielson case and blasted the dissident elders for "wickedly" baring information about his sexual relationships.

"We have gone to great lengths to get legal protective covering . . . so it won't go past the deposition . . ." Barnett is heard to say in a tape recording of that sermon. "And now (the elders) are making it happen before the trial so the protective order we have gotten is now null and void. Now (the jury is) going to get the information after all."

He went on, "This lawyer is going to get up if he can — I don't think the court is going to allow him — and (make this out) to be a great big sex cult where we purposely push people into wanting to do these things . . . (where) the eldership and Don Barnett in particular has made up this doctrine in order to exploit the congregation, the girls of the congregation . . ."

"It's a \$2 million lawsuit," he is heard saying at another point on the tape. Later he adds, "We can't handle a \$2 million judgment, do you know that?"

Depositions in the case were sealed as a compromise, after Barnett refused to answer questions and Gabrielson's attorney, Dan Hannula, obtained a court order to force the preacher's cooperation in the pre-trial interviews.

But Barnett's attorneys appealed that order. Rather than wait months for a decision on the appeal, Hannula agreed to their request to close the depositions. Now, however, he wants the depositions opened.

Yesterday some of the many attorneys representing Community Chapel and Barnett were back in court as King County Superior Court Judge Jim Bates signed a

restraining order he had granted orally last Friday. The order restored Barnett as pastor until the court makes a final ruling on the legality of his dismissal.

Church elders also filed a motion for a mutual restraining order, which would prevent both sides from firing Chapel employees, hiring new employees, interfering with worship services scheduled by either faction, authorizing new expenditures from church funds, destroying church documents and giving keys, offices or files to unauthorized people. Bates set a 1:15 p.m. hearing

for tomorrow to hear arguments on the new request.

In an affidavit filed with the motion, elder E. Scott Hartley charged that Barnett last Friday had suggested that "substantial changes" might be made in church staff and requested that supporters submit resumes and applications. On Monday, Barnett said he'd received 100 applications, according to Hartley.

The affidavit also said Barnett ordered the church staff to meet with him Monday. Of 103 employees asked to come, only 10 did and 79 signed a letter saying they

wouldn't work for him.

Although Barnett tried to prevent the elders from holding alternative church services over the weekend, dual services were held. Barnett presided in the newer main sanctuary while the elders held forth in the East Campus, the sect's original church building.

Hartley's affidavit said a "substantial majority" of the Chapel's 1,500 members had indicated they would not follow Barnett. While Barnett's three services Friday and Sunday attracted from 295 to 395 people, according to Hartley, the elders' service drew about 650.

EXHIBIT 2

Ex-pastor, parishioner see affair differently

By Debby Abe
The News Tribune

Insisting his sexual relationship with a church member was purely social, a former Tacoma pastor denies he used religion to seduce the woman.

"I got caught in a sin and it hurt bad and it still is hurting bad, because I've got my wife to face," a repentant former Pastor Jack McDonald said in a court deposition. "I got financial ruin out of this thing."

McDonald made the statements Feb. 2 in a deposition in response to a lawsuit brought by former church member Carol Gabrielson and her ex-husband, Ira.

The Parkland woman claims the minister took advantage of her vulnerability in counseling sessions, causing her to leave her husband and have a sexual relationship with the married minister. Church practices and the seduction, the Gabrielsons contend, led to the breakup of their 19-year marriage and emotional pain for both.

McDonald expressed remorse over his relationship with Gabrielson.

"I've felt very condemned, very guilty," he said in the deposition. "I realize I've thrown away 15 years of my life. I went through a lot of hell with this, believe me."

"It was not a wise choice, but a poor judgment. But I feel like Carol was used, not deliberately, but there was seducing spirits. Both of us got hurt quite badly."

The depositions were made available to *The Morning News Tribune* last week.

The Gabrielsons' lawsuit, scheduled to be tried May 18 in Tacoma, is among at least three against the Burien-based Community Chapel and Bible Training Center, a controversial church swirling in allegations that male leaders had adulterous relationships with

Please see **Pastor, B2**

Pastor

Continued from B 1

female members. The Gabrielsons attended the Tacoma branch of the church, where McDonald was pastor until he resigned in November.

At the eye of the legal hurricane is Pastor Don Barnett, founder of the Burien-based church, and his teaching that members develop intimate relationships with people other than their spouses to grow spiritually. The couple contend McDonald used the "spiritual connection" theory in conjunction with counseling to sexually exploit and deprive Carol Gabrielson of her free will.

In his deposition, McDonald expresses reservations about the spiritual connection, which often took the form of dancing between couples who were not married. Many former church members have said the practice led to marital strife or divorce.

The practice filtered into the Tacoma chapel some six months later, however, when members who attended both services began dancing, he said.

McDonald, 51, a married father of two, said in his deposition that he and Carol Gabrielson, 37, initially felt a spiritual flow when they danced together in church services. The feeling, however, never returned after they began having sex together in October 1985, he said.

He described their three-month sexual relationship as primarily social, having nothing to do with his

position as pastor. During this time, she was separated from her husband.

In her deposition taken last October, Carol Gabrielson said McDonald first seduced her in October 1985 by telling her he would help her grow spiritually, often citing Bible passages. She describes their relationship as a submissive and yielding one, in which she would do whatever McDonald told her.

"It's like I turned — my mind went off and he began to think for me," she said.

Denying her other statements, McDonald said he never counseled her privately. He also said that he never told her to leave her husband, that Ira Gabrielson was possessed by demons or that she should not talk discuss marital problems with him. McDonald also denied advising her that God wanted her to feel whole when they were about to have sex, or reciting Bible passages after they had sex.

Their depositions diverge on other points as well. Carol Gabrielson said they had sexual intercourse anywhere from 28 to 60 times. He says it was more like 20 times. She says she snuffed the relationship. He says he did. She says the acts took place in his house, her house, friends' homes and at church. He denies it ever happened on church property.

They agreed that they once had sex in a motel room while McDonald's wife and a friend of the McDonalds were in an adjoining room. They had rented the rooms to celebrate the McDonalds' 30th wedding anniversary.

McDonald said he had Carol Ga-

brielson banished from the church after their breakup because she broke their pact not to discuss the relationship with others.

About two years later on Nov. 11, 1987, McDonald resigned as pastor of the Tacoma satellite during a meeting with two elders from the Burien church. He said the decision was his choice, not the result of an ouster attempt.

"It's like I followed them up the hill as far as I wanted to go and it was time for me to move out."

He called the meeting, he said, to discuss the church's reneging on its initial agreement to cover his legal costs in the lawsuit. McDonald said two elders told him the church's bills on other legal matters were mounting and they did not think insurance would cover his representation. They advised him to get a cheap attorney, he said.

He told them he was concerned about the Tacoma church's loss of members, making it impossible for him to earn a decent living as full-time pastor. Only 13 members were consistently attending then, while another 10 occasionally attended, he said.

Finally, he expressed dissatisfaction with the church's direction and Barnett's leadership. Elaborating, he said: "The divorce problems, adultery problems, problems of — it seemed like they were popping up all over. . . . There were people that were forced into jealousies and wanting to commit suicide. I've had phone calls in the night, you know, where terrific problems were occurring."

4/4/88

①

Insisting his sexual relationship with a church member was purely social, a former Tacoma pastor denies he used religion to seduce the woman.

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②

Their depositions diverge on other points as well. Carol Gabrielson said they had sexual intercourse anywhere from 28 to 60 times. He says it was more like 20 times. She says she snuffed the relationship. He says he did. She says the acts took place in his house, her house, friends' homes and at church. He denies it ever happened on church property.

McDonald said he had Carol Gabrielson banished from the church after their breakup because she broke their pact not to discuss the relationship with others.

About two years later on Nov. 11, 1987, McDonald resigned as pastor of the Tacoma satellite during a meeting with two elders from the Burien church. He said the decision was his choice, not the result of an ouster attempt.

"It's like I followed them up the hill as far as I wanted to go and it was time for me to move out."

He called the meeting, he said, to discuss the church's renegeing on its initial agreement to cover his legal costs in the lawsuit. McDonald said two elders told him the church's bills on other legal matters were mounting and they did not think insurance would cover his representation. They advised him to get a cheap attorney, he said.

He told them he was concerned about the Tacoma church's loss of members, making it impossible for him to earn a decent living as full-time pastor. Only 13 members were consistently attending then, while another 10 occasionally attended, he said.

Finally, he expressed dissatisfaction with the church's direction and Barnett's leadership. Elaborating, he said: "The divorce problems, adultery problems, problems of — it seemed like they were popping up all over. . . . There were people that were forced into jealousies and wanting to commit suicide. I've had phone calls in the night, you know, where terrific problems were occurring."

Ex-pastor, woman see affair differently

By Debby Abe
The News Tribune

③

McDonald used the "spiritual connection" theory in conjunction with counseling to sexually exploit and deprive Carol Gabrielson of her free will.

In his deposition, McDonald expresses reservations about the spiritual connection, which often took the form of dancing between couples who were not married. Many former church members have said the practice led to marital strife or divorce.

The practice filtered into the Tacoma chapel some six months later, however, when members who attended both services began dancing, he said.

McDonald, 51, a married father of two, said in his deposition that he and Carol Gabrielson, 37, initially felt a spiritual flow when they danced together in church services. The feeling, however, never returned after they began having sex together in October 1985, he said.

He described their three-month sexual relationship as primarily social, having nothing to do with his position as pastor. During this time, she was separated from her husband.

In her deposition taken last October, Carol Gabrielson said McDonald first seduced her in October 1985 by telling her he would help her grow spiritually, often citing Bible passages.

Denying her other statements, McDonald said he never counseled her privately. He also said that he never told her to leave her husband, that Ira Gabrielson was possessed by demons or that she should not talk discuss marital problems with him. McDonald also denied advising her that God wanted her to feel whole when they were about to have sex, or reciting Bible passages after they had sex.

EXHIBIT 3

Pastor pled guilty to sex charge

1976 court record lists Burien church leader

By Erik Godchaux

The News Tribune

The head pastor of Burien's Community Chapel and Bible Training Center was convicted of a sexual misdemeanor more than a decade ago in Las Vegas, Nev., court records show.

Donald Lee Barnett, 58, pleaded guilty to a charge of open or gross lewdness in Clark County, Nev., Justice Court on April 30, 1976, and was fined \$100, according to records obtained by The Morning News Tribune.

Barnett, who has been the focus of sexual misconduct allegations made public earlier this year, founded the large Burien church more than two decades ago and has been its pastor-for-life ever since.

The old conviction is getting new attention because Barnett is the subject of several pending civil lawsuits in Pierce and King counties. Most of the cases allege Bar-

nett subjected former parishioners to sexual contact under the guise of ministerial counseling.

In pretrial documents arising from one of those cases, Barnett last year denied under oath he had ever been convicted of a crime.

But Tuesday, Barnett declined to discuss the conviction.

"The pastor has no comment concerning what's hitting the papers," a spokeswoman said.

Jeff Campiche, a Seattle attorney representing plaintiffs in a King County Superior Court lawsuit brought by more than 15 former parishioners, said Tuesday he plans to file a request for admissions on the conviction.

A request for admissions is a formal legal inquiry allowing defendants to admit or deny an issue as a fact already in litigation.

The Nevada criminal case was initiated against Barnett in November 1975, as a gross misdemeanor when

prosecutors alleged he publicly masturbated in the Circus Circus Hotel, according to the court documents. The charge was reduced to a misdemeanor in exchange for his guilty plea, the documents show.

On the Clark County court records, Barnett listed his home address in Seattle and his occupation as pastor. Although he declined to discuss the matter with The News Tribune, Barnett last October issued a sworn statement in response to questions about his personal and criminal background posed by Campiche's law firm, Kargianis & Austin.

In the document, on file in King County Superior Court, Barnett was asked, "Have you ever pled guilty to or been convicted of any crime?"

Barnett noted a legal objection to the relevance of the query, but added: "Without waiving the objection, the answer is no."

Public allegations of sexual misconduct by Barnett, the head pastor of the Burien-based church and its satel-

lites, are the subject of several lawsuits. Please see Pastor B2.

Pastor

Continued from B1

lites, including one in Tacoma, erupted earlier this year.

Citing Barnett's numerous alleged sexual indiscretions, three fellow senior elders sought to legally oust him from the church board of directors and bar contact on church grounds with females, except his estranged wife, Barbara.

But several King County judges have ruled in Barnett's favor on legal skirmishes initiated by the elders, including one ruling that assures he retains his title as chief executive officer of the church and remains in control of its more than \$11 million in assets.

A judge isn't expected to rule on the ouster attempt for several more months.

After the disclosures, the church saw a large drop in membership from its peak of about 1,600, and it split into two camps.

One set of services is lead by rebel elders Scott Hartley and Jack DuBois, while the other, smaller congregation is lead by Barnett. A fourth senior elder allied with Hartley and DuBois has since resigned.

Neither Hartley nor DuBois could be reached for comment Tuesday about the Nevada conviction.

One of Barnett's civil trials is scheduled to begin in Pierce County Superior Court next month. Many of the court records in that case have been sealed.

In a King County Superior Court civil complaint, filed in 1986 by former church member Kathy Lee Butler and joined by some 15 other plaintiffs, it is alleged Barnett encouraged members of the congregation to form intimate "spiritual

connections" with members of the opposite sex as part of regular church services.

The connections include dancing with other church members' mates and the "giving up of one's mate to another," the complaint said. Twelve causes of action are leveled against Barnett in the lawsuit, including ministerial malpractice and sexual battery.

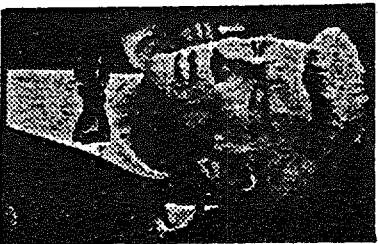
EXHIBIT 4

Judge holds firm on removing Rev. Barnett from Burien church

by Carol M. Ostrom
Times religion reporter

A King County Superior Court judge is standing by his earlier decision affirming the removal of the Rev. Donald Lee Barnett from the Community Chapel and Bible Training Center in Burien.

Acting on a motion by Barnett's lawyer to reconsider his decision of Nov. 18, Judge Norman Quinn reiterated his opinion



Donald Barnett
Judge Norman Quinn reiterated his opinion

that the elders of the church acted properly when they voted Barnett out last spring without including him in their board of directors' meeting.

The judge's order, which will be entered today, will not force any changes in the status quo, said Rodney Pierce, Barnett's attorney, because the judge has granted Barnett a grace period of at least 10 days to actually leave the church.

At a hearing Dec. 15, the judge likely will decide the rest of the issues in question and enter a final order. He will act on a motion brought by Robert Rohan, attorney for the church's elders, who are seeking to remove Barnett from the church.

Earlier rulings had given Barnett control of the church until the legal questions involving the church's articles of incorporation, bylaws, and notification procedures for meetings could be decided.

Unless this decision is overturned on appeal, Barnett will be permanently removed from the church.

Barnett became controversial for his teaching of "spiritual connections," which encourage close relationships between church members who are often married to other people. Several former members have claimed Barnett's teachings have been the cause of divorces, suicides and other traumas for church members.

PROPOSED ORDER

PROPOSED

CIVIL TRACK ONE
THE HONORABLE JOHN W. RILEY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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

Plaintiffs,)

v.)

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

Defendants,)

Third Party Plaintiffs,)

v.)

GARY LIEN,)

Third Party Defendant.)

SANDY EHRLICH, et. ux., et. al.,)

Plaintiffs,)

v.)

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

Defendants.)

MAUREEN P. JORGENSEN,)

Plaintiff,)

v.)

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

PROTECTIVE ORDER: 1

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

ORDER SEALING DEPOSITIONS OF
DONALD LEE BARNETT AND
BARBARA BARNETT

Evans, Craven & Lachic, P.S.

LAWYERS

(206) 386-5555

1 Defendants.)
2 _____)

3
4 I. HEARING

5
6 1.1 Date. December 22, 1988.

7
8 1.2 Appearances. Plaintiffs, Butler, Brown, and Hall, appeared
9 through their attorneys, Kargianis, Austin & Erikson, by _____
10 _____. Plaintiffs, Ehrlich, Chabot, Kitchell, and Lemke,
11 appeared through their attorneys, Adler, Giersch & Read, by _____
12 _____. Plaintiff Jorgensen appeared through her
13 attorneys, Preston, Thorgrimson, Ellis & Holman, by _____
14 _____. Plaintiff American Casualty Company appeared through its
15 counsel, Lane, Powell, Moss & Miller, by _____.
16 Defendants, Don and Barbara Barnett, appeared through their
17 attorneys, Evans, Craven & Lackie, P.S., by James S. Craven.
18 Defendant, Community Chapel and Bible Training Center, appeared
19 through its attorneys, Lee, Smart, Cook, Martin & Patterson, by
20 _____ and its attorney John Glassman. Defendants
21 Alskog, appeared through their attorneys, Rosenow, Hale &
22 Johnson, by _____. Defendants Howerton appeared
23 through their attorneys, Moren, Cornell & Hansen, by _____
24 _____. Intervenor, St. Paul Fire Insurance, appeared through its
25 attorney, Don Gulliford.

26
27 1.3 Notice. Notice of hearing was given at least six court days
28 prior to hearing as required by LR 7 (b)(2)(C).

29
30 1.4 Purpose. To consider MOTION FOR PROTECTIVE ORDER SEALING
31 PROTECTIVE ORDER: 2
32

Evans, Craven & Lackie, P.S.
LAWYERS

17001 386-5555

1 DEPOSITIONS OF DONALD LEE BARNETT AND BARABARA BARNETT filed
2 herein on December 9, 1988.
3

4 1.5 Evidence. The affidavit of Tim Donaldson annexed to MOTION
5 FOR PROTECTIVE ORDER SEALING DEPOSITIONS OF DONALD LEE BARNETT
6 AND BARBARA BARNETT and AFFIDAVIT OF DON BARNETT IN SUPPORT OF
7 MOTION FOR PROTECTIVE ORDER SEALING DEPOSITIONS OF DONALD LEE
8 BARNETT AND BARBARA BARNETT.
9

10 II. FINDINGS
11

12 2.1 Good Cause. Good cause exists to seal the depositions of
13 Donald Lee Barnett and Barbara Barnett.
14

15 III. ORDER
16

17 The depositions of Donald Lee Barnett and Barbara Barnett
18 shall be sealed until otherwise ordered by this court. Any and
19 all materials making quotation, citation, or other reference to
20 these depositions shall also be sealed.

21 The contents of these depositions shall be made available
22 only to named parties herein, their counsel, and experts which
23 they may retain. All such persons and entities having access to
24 the depositions of Donald Lee Barnett and Barbara Barnett shall
25 comply with this order and shall agree not to disclose to any
26 other person or entity all materials sealed herein. All
27 individuals other than counsel to parties shall verify in
28 writing, prior to being provided with access to materials sealed
29 herein, that they have read this order and agree to comply with
30 its terms.

31 PROTECTIVE ORDER: 3
32

Ernest Crawford Luckie, P. J.

LAWYERS

1988-12-09

1 Any and all materials to be submitted to this court
2 containing copies, quotation, citation, or other reference to
3 these depositions and materials sealed herein shall be enclosed
4 in a sealed envelope containing the wording SEALED MATERIALS
5 CONTAINED HEREIN printed or typed thereon.

6 The Clerk of this court is ordered to deny access to all
7 materials sealed herein to anyone other than persons and entities
8 presenting proper identification to establish that they are
9 persons or entities to whom the depositions of Donald Lee Barnett
10 and Barbara Barnett are made available by this order.

11 DATED this _____ day of December, 1988.

12
13
14 _____
15 HONORABLE JOHN RILEY

16 Presented by:

17
18
19 _____
20 JAMES S. CRAVEN

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28
29
30 PROTECTIVE ORDER: 4

31
32 *Craven, Craven & Luckie, P.C.*

LAWYERS

1000 386-8555

CIVIL TRACK ONE
THE HONORABLE JOHN W. RILEY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

1 KATHY LEE BUTLER, et. ux.,)
2 et. al.,)

3 Plaintiffs,)

4 v.)

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

7 Defendants,)
8 Third Party Plaintiffs,)

9 v.)

10 GARY LIEN,)

11 Third Party Defendant.)

12 _____)
13 SANDY EHRLICH, et. ux., et. al.,)

14 Plaintiffs,)

15 v.)

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

17 Defendants.)

18 _____)
19 MAUREEN P. JORGENSEN,)

20 Plaintiff,)

21 v.)

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

24 Defendants.)

25 NOTE FOR HEARING : 1
26 als15004789.NOH

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

29 NOTE FOR HEARING

30 *Carroll, Crawford, Larkin, P.S.O.*
31 LAWYERS

32 CIVIL TRACK I

1 TO: THE CLERK OF COURT, and to all parties named below:

2 PLEASE TAKE NOTICE that an issue of law in this case will be
3 heard on the date below and the Clerk is directed to note this
4 issue on the Civil Motion Calendar.

5 DATE OF HEARING: THURSDAY, DECEMBER 22, 1988

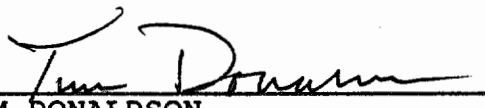
6 TIME OF HEARING: 3:00 P.M.

7 PLACE OF HEARING: KING COUNTY SUPERIOR COURT
8 ROOM E854

9 NATURE OF MOTION: MOTION FOR PROTECTIVE ORDER SEALING
10 DEPOSITIONS OF DONALD LEE BARNETT
11 AND BARBARA BARNETT

12 DATED: December 9, 1988

13 EVANS CRAVEN & LACKIE, P.S.
14 3100 Columbia Center
15 Seattle, WA 98104
16 386-5555

17 By 
18 TIM DONALDSON
19 Attorneys for Defendants
20 Barnett

21 OTHER PARTIES REQUIRING NOTICE:

22 Susan Delanty Jones
23 Preston Thorgrimson Ellis & Holman
24 5400 Columbia Center
25 701 Fifth Avenue
26 Seattle WA 98104-7011

27 Michael Bond
28 Lee Smart Cook Martin & Patterson
29 800 Washington Building
30 Seattle WA 98101

31 George Kargianis/Jeff Campiche
32 Kargianis Austin & Erickson
701 Fifth Avenue, #4700
Seattle, WA 98104

NOTE FOR HEARING : 2
als15004789.NOH

Evans, Craven & Lackie, P.S.
LAWYERS

1
2 Richard Adler/Ann Durham
3 Adler Giersch & Read
4 401 Second Avenue South, #600
5 Seattle, WA 98104

6 John Messina, Esq.
7 Messina & Duffy
8 4002 Tacoma Mall Blvd. #200
9 Tacoma, WA 98409

10 Michael W. Bugni
11 Moren Cornell & Hansen
12 Roosevelt-Pinehurst Building
13 11320 Roosevelt Way NE
14 Seattle, WA 98125

15 Jack Rosenow/John C. Graffe
16 Rosenow Hale & Johnson
17 #301 Tacoma Mall Blvd.
18 2000 Tacoma Mall
19 Tacoma, WA 98409

20 Pauline V. Smetka
21 Helsell Fetterman
22 1500 Washington Building
23 1325 Fourth Avenue
24 Seattle, WA 98111

25 Bruce Winchell
26 Lane Powell Moss & Miller
27 3800 Rainier Bank Tower
28 Seattle, WA 98101-2647

29 John S. Glassman
30 420 Old City Hall
31 625 Commerce St.
32 Tacoma, WA 98402

Don M. Gulliford
2200 - 112th Ave. NE
Bellevue, WA 98004

NOTE FOR HEARING : 3
als15004789.NOH

Crans, Craven & Luckie, P.S.

LAWYERS

1000 4th Avenue, Suite 1000
Seattle, WA 98101

(206) 390-5555

CIVIL TRACK ONE
THE HONORABLE JOHN W. RILEY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

1 KATHY LEE BUTLER, et. ux.,)
2 et. al.,)

3 Plaintiffs,)

4 v.)

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

7 Defendants,)

8 Third Party Plaintiffs,)

9 v.)

10 GARY LIEN,)

11 Third Party Defendant.)

12 SANDY EHRLICH, et. ux., et. al.,)

13 Plaintiffs,)

14 v.)

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

16 Defendants.)

17 MAUREEN P. JORGENSEN,)

18 Plaintiff,)

19 v.)

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

22 Defendants.)

23 D. BARNETT'S AFF.
24 RE PROT. ORDER : 1
25 15004789.60

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

28 AFFIDAVIT OF DON BARNETT IN
29 SUPPORT OF MOTION FOR
30 PROTECTIVE ORDER SEALING
31 DEPOSITIONS OF DONALD LEE
BARNETT AND BARBARA BARNETT

1 STATE OF WASHINGTON)
2 : ss.
3 County of King)

4 DONALD BARNETT, being first duly sworn on oath, deposes and
5 says:

6 I am over the age of 18, competent to be a witness and have
7 personal knowledge of the facts contained herein;

8 I am the original pastor of the Community Chapel and Bible
9 Training Center;

10 I am a named party defendant in the above-entitled
11 consolidated proceedings.

12 Since media attention intensified on or about the beginning
13 of March, 1988 upon litigation involving myself and the Community
14 Chapel and Bible Training Center, I have received several death
15 threats, and numerous harassing and threatening telephone calls
16 from unidentified persons;

17 Over the course of the last nine months I have experienced
18 that the frequency of the threats and harassment has increased
19 following the publication of stories regarding the litigation
20 involving myself and the church;

21 The church and myself have been subject to numerous acts of
22 vandalism and at least one bomb threat;

23 Following recent media attention given to a November 18
24 decision by Judge Norman Quinn in an action currently pending in
25 King County Superior Court, the windows of many vehicles and
26 buildings at the Chapel were broken by unidentified persons;

27 Based on the foregoing, I reasonably believe that myself,
28 the church, and persons who may be identified during the course
29 of my deposition and the deposition of Barbara Barnett would be
30 associated with the church and would experience annoyance,

31 D. BARNETT'S AFF.
32 RE PROT. ORDER : 2
15004789.60

Evans, Crawford & Larkin, P.C.

LAWYERS

1200 4th Ave

FILED

1988 DEC 14 PM 1:36

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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

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.

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

DECLARATION OF MICHAEL J. BOND IN OPPOSITION TO PLAINTIFFS' MOTION TO TERMINATE DEPOSITION OF SYBIL LEMKE

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.

////////

DECL OF MIKE BOND IN OPP TO PLTFF'S MOT/TERMINATE LEMKE DEP - 1

LEE, SMART, COOK, MARTIN & PATTERSON, P.S., INC.
ATTORNEYS AT LAW
800 WASHINGTON BUILDING
1325 FOURTH AVENUE
SEATTLE, WASHINGTON 98101
(206) 624-7990 · FACSIMILE (206) 624-5944

190
jb

1 I am one of the attorneys representing the Community Chapel
2 & Bible Training Center and I make this declaration based upon my
3 personal knowledge. This declaration is submitted in opposition to
4 plaintiffs' motion to terminate the deposition of Sybil Lemke.

5 Ms. Lemke's deposition was not completed. The first day of
6 deposition was not completed and it was continued based on the
7 agreement of counsel. The continuation of the deposition which began
8 on January 12, 1987 was abruptly terminated when Ms. Lemke refused to
9 answer any further questions and walked out of the deposition.
10 Attached as Exhibit A are pages 23 and 24 of the deposition which
11 commenced on January 12, 1987.

12 Ms. Lemke's diary was delivered to us by Ms. Lemke's aunt
13 after Ms. Lemke had abandoned it at her aunt's residence. The diary
14 appears to contain several statements directly relevant to the
15 liability and damage issues in this case. Furthermore, the diary
16 contradicts her sworn testimony.

17 Plaintiff has not been as forthcoming in discovery as is
18 suggested by attorney Durham's affidavit who, incidentally, appeared
19 in this case over two years after it had been filed. Attached as
20 Exhibit B are plaintiff's responses to interrogatories Nos. 32 and
21 46.

22 The nature of the discovery yet to be done revolves
23 primarily around Sybil Lemke's damages. Furthermore, almost two years
24 have now elapsed since we last spoke with Ms. Lemke and the defendant
25 requires additional supplemental discovery in order to ascertain what

DECL OF MIKE BOND IN OPP TO PLTFF'S
MOT/TERMINATE LEMKE DEP - 2

LEE, SMART, COOK, MARTIN & PATTERSON, P.S., INC.
ATTORNEYS AT LAW
800 WASHINGTON BUILDING
1325 FOURTH AVENUE
SEATTLE, WASHINGTON 98101
(206) 624-7990 · FACSIMILE (206) 624-9944

1 Ms. Lemke has been doing in the interim. I will note that there has
2 been no supplemental response to written interrogatories as to
3 residence, schooling, employment, injuries, physicians or counselors.

4 In view of the fact that Ms. Lemke stormed out of the
5 deposition in January 1987 and refused to answer any further
6 questions, the almost two-year lapse in time and the plaintiff's
7 failure to supplement any written discovery, the plaintiffs' motion
8 to terminate the deposition should be denied.

9 This declaration is made under the penalties of perjury.

10 DATED: December 12, 1988

11
12 Michael J. Bond
13 MICHAEL J. BOND
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25 DECL OF MIKE BOND IN OPP TO PLTFF'S
MOT/TERMINATE LEMKE DEP - 3

LEE, SMART, COOK, MARTIN & PATTERSON, P.S., INC.
ATTORNEYS AT LAW
800 WASHINGTON BUILDING
1325 FOURTH AVENUE
SEATTLE, WASHINGTON 98101
(206) 624-7990 • FACSIMILE (206) 624-5944

haven't drinkin there. (sic)

Q Have you ever been drunk in front of Mr.
Hornbecker?

A Yes.

Q When did that happen?

A When we were at the restaurant, although I did my
best to control it.

I didn't stagger all over the place,
but I felt very intoxicated.

(Exhibit 1 marked for
identification)

BY MR. BOND:

Q I'm going to go show you what was marked as
Exhibit 1 to the deposition and ask you if that
is your handwriting?

A Yes.

Q Would you look through briefly each page?

There are many pages in that document.

A First of all, I'd like to ask you a question.

Q Sybil, the rules are that I ask the questions and
you give the answers until your lawyer instructs
you not to.

So I'm going to ask you again, please
read the contents of that Exhibit and tell me

whether that is your handwriting?

A I just told you it was my handwriting.

Q There are multiple pages in the document and I would ask you to look through each page and tell me if it is your handwriting?

MR. GIERSCH: Sybil, do you want to take a break for a minute?

THE WITNESS: Yes, I do.

(Discussion had off the record)

MR. BOND: The record should reflect that the witness and her guardian have stormed out of the room and are refusing to return and answer any further questions, is that right Mr. Giersch?

MR. GIERSCH: Yes. They're declining to continue the deposition at this time.

(Deposition concluded at 4:45 P.M.)

Signature waived)

1 ANSWER:

2 No.

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7 31. Has she ever been convicted of a crime? If so, please
8 state for each such crime the statutory provision vio-
9 lated, the court in which the case was heard, the type
 of disposition of the case, the cause number, and the
 name, address and telephone of the attorney who repre-
 sented her.

10 ANSWER: No.

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17 32. Furnish the names, addresses, occupations, job designa-
18 tions and present location of any person known to her or
19 her attorneys, as having knowledge of relevant facts
 pertaining to the above-entitled cause. This request is
 intended to include all witnesses known to her or her
 attorneys.

20 ANSWER: Objection. The Court of Appeals has determined that this form of
21 question is beyond the proper scope of discovery.

1 ANSWER: Between May and July of 1986, Sybil Lemke's name was published in the
2 Community Chapel Bible and Training Center church bulletin which is an official
3 publication of the church. She was listed in the church bulletin as being considered
4 "special status." This term means that Sybil is a potentially bad influence on
5 other children and the church's way of warning all parents in the congregation that
6 Sybil is sinful, possessed by demonic spirits, or having rebellion problems. Parents
7 of other children in the congregation are supposed to respond by preventing their
8 children from having any social or other contact with Sybil.

9
10 45. Please identify the name, address and dates of atten-
11 dance of every church she attended any type of service,
12 whether it be worship service, counseling, education or
13 social meeting since January 1, 1975.

14 ANSWER:

15 Sybil attended three services weekly from January 1, 1975 to
16 November 1985 on Friday evening, Sunday morning, and Sunday evening.

17
18 46. With respect to her allegation in paragraph 14.2 of the
19 complaint, please state the date of each sexual assault,
20 the location of each sexual assault, the persons present
21 at the time each sexual assault occurred and all persons
22 with knowledge of these alleged sexual assaults.

23 ANSWER: Please obtain this information directly from your client as he has
24 been charged with a criminal offense. The information in the criminal reports which
25 are already in defendant's possession will answer your questions regarding each sexual
26 assault, the location of each sexual assault, the persons present at the time each
27 sexual assault occurred and all persons involved in each sexual assault.

FILED

12/22/88 at 3:00 P.M.

1988 DEC 14 PM 1:36

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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

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

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

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

COMMUNITY CHAPEL'S OBJECTION TO MOTION TO AMEND

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.

////////

COMMUNITY CHAPEL'S OBJECTION TO MOT/AMEND - 1

LEE, SMART, COOK, MARTIN & PATTERSON, P.S., INC.
ATTORNEYS AT LAW
600 WASHINGTON BUILDING
1325 FOURTH AVENUE
SEATTLE, WASHINGTON 98101
(206) 624-7990 · FACSIMILE (206) 624-5944

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1 The Community Chapel & Bible Training Center objects to
2 plaintiff Jorgensen's second attempt to amend her complaint.
3 Plaintiff's complaint was filed over two (2) years ago. Furthermore,
4 plaintiff Jorgensen is bound by the Pre-Trial Order governing cut-off
5 dates for amendment of claims and discovery scheduling entered by
6 Judge Little. This is now the second attempt by a plaintiff in these
7 consolidated actions to seek amendment of their claims after the
8 cut-off date set forth in the Pre-Trial Order. The motion to amend
9 should, therefore, be denied.

10 DATED this 12 day of December, 1988.

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

13 By Michael J. Bond
14 MICHAEL J. BOND
15 of Attorneys for Defendant
16 Community Chapel & Bible
17 Training Center

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25 COMMUNITY CHAPEL'S OBJECTION
 TO MOT/AMEND - 2

 LEE, SMART, COOK, MARTIN & PATTERSON, P.S., INC.
 ATTORNEYS AT LAW
 800 WASHINGTON BUILDING
 1325 FOURTH AVENUE
 SEATTLE, WASHINGTON 98101
 (206) 624-7990 · FACSIMILE (206) 624-5944

FILED

'88 DEC 15 PM 3 43

KING COUNTY CIVIL TRACK ONE
SUPERIOR COURT CLERK 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

191.5

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

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
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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: St. Paul Fire and Marine Insurance Co., Plaintiff, and
2 TO: Law Offices of Don M. Gulliford & Associates, its attorneys.
3

4 The undersigned hereby acknowledges receipt of, states he is
5 authorized to, and does hereby accept service of process of
6 Summons and Complaint for Declaratory Judgment entitled St. Paul
7 Fire and Marine Insurance Company v. Kathy Lee Butler and Stephen
8 Lynn Butler, husband and wife, et al., under Consolidated Cause
9 No. 86-2-18176-8, on behalf of defendants (litigation plaintiffs)
10 Ralph Alskog and Rosemary Alskog, husband and wife, and the
11 marital community composed thereof.

12 DATED this 12th day of December, 1988.

13 ROSENOW, HALE & JOHNSON

14 By 

15 Jack G. Rosenow
16 Of Attorneys for Defendants
17 (Litigation Plaintiffs)
18 Alskog
19
20
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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

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CIVIL TRACK ONE
The Honorable John W. Riley

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KATHY LEE BUTLER, et ux., et al.,)
)
Plaintiffs,)
)
v.)
)
DONALD LEE BARNETT, et ux., et al.)
)
Defendants, Third)
Party Plaintiffs,)
)
v.)
)
GARY LIEN,)
)
Third Party Defendant.)

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

MOTION TO INTERVENE IN
REGARD TO MOTION BY
DONALD LEE BARNETT AND
BARBARA BARNETT FOR A
PROTECTIVE ORDER SEALING
THEIR DEPOSITIONS

SANDY EHRLICH, et ux., 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.)

MOTION TO INTERVENE IN MOTION
FOR PROTECTIVE ORDER--1

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

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1 INTRODUCTION

2 Fisher Broadcasting Inc., owner and operator of KOMO TV,
3 states the following:

4 1. Relief Requested. Fisher Broadcasting Inc. ("KOMO TV")
5 requests the Court pursuant to CR 24(a)(2) to permit it to
6 intervene for the limited purpose of participating in argument on
7 the motion of defendants Donald and Barbara Barnett for a
8 protective order sealing their depositions in the above-entitled
9 consolidated actions.

10 2. Basis for Motion. KOMO TV has learned that defendants
11 Barnett have requested this Court for a protective order sealing
12 their deposition transcripts, alleging that such action is
13 necessary in part because of acts by the media. KOMO TV, as a
14 member of the media, has a special interest in connection with the
15 Barnetts' motion for a protective order, which interests cannot be
16 adequately represented by the parties to this consolidated action.
17 Defndants Barnett ^{are} and attempting, by their motion, to limit the
18 access of KOMO TV to depositions which are presumptively available
19 to the press and public.

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MOTION TO INTERVENE IN MOTION
FOR PROTECTIVE ORDER--2

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 324-8300

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3. Proposed Order. A proposed form of order is attached to this Motion.

DATED: December 16, 1988.

GRAHAM & DUNN

By Alice F. Gustafson
Michael E. Kipling
Alice F. Gustafson

Attorneys for Defendants
FISHER BROADCASTING INC.

afg/f

CIVIL TRACK ONE
The Honorable John W. Riley

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KATHY LEE BUTLER, et ux., et al.,)
 Plaintiffs,)
 v.)
 DONALD LEE BARNETT, et ux., et al.)
 Defendants, Third)
 Party Plaintiffs,)
 v.)
 GARY LIEN,)
 Third Party Defendant.)

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

ORDER AUTHORIZING INTER-
VENTION OF FISHER
BROADCASTING INC. IN
CONNECTION WITH MOTION OF
DEFENDANTS BARNETT FOR
ORDER SEALING THEIR
DEPOSITIONS

SANDY EHRLICH, et ux., 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.)

ORDER AUTHORIZING INTER-
VENTION WITH MOTION FOR
ORDER SEALING DEPOSITIONS--1

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2653
(206) 624-8300

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SEATTLE, WA

CIVIL TRACK ONE
The Honorable John W. Riley

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KATHY LEE BUTLER, et ux., et al.,)
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Plaintiffs,)
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v.)
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DONALD LEE BARNETT, et ux., et al.)
)
Defendants, Third)
Party Plaintiffs,)
)
v.)
)
GARY LIEN,)
)
Third Party Defendant.)

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

MOTION TO SHORTEN TIME
TO HEAR MOTION FOR
INTERVENTION OF FISHER
BROADCASTING INC.

SANDY EHRLICH, et ux., 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.)

MOTION TO SHORTEN TIME--1

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

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1 Fisher Broadcasting Inc., by and through its attorneys,
2 Graham & Dunn and Alice F. Gustafson, moves the Court to grant an
3 ex parte order shortening time to hear Fisher Broadcasting's
4 motion for intervention on Thursday, December 22, at 3:00 p.m.

5 This Motion is based upon the attached Affidavit of Alice F.
6 Gustafson.

7 DATED: December 16, 1988.

8 GRAHAM & DUNN

9
10 By Alice F. Gustafson
11 Alice F. Gustafson

12 Attorneys for Defendant
13 FISHER BROADCASTING

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CIVIL TRACK ONE
The Honorable John W. Riley

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

KATHY LEE BUTLER, et ux., et al.,)
)
 Plaintiffs,)
)
 v.)
)
 DONALD LEE BARNETT, et ux., et al.)
)
 Defendants, Third)
 Party Plaintiffs,)
)
 v.)
)
 GARY LIEN,)
)
 Third Party Defendant.)

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

AFFIDAVIT OF ALICE F.
GUSTAFSON

SANDY EHRLICH, et ux., 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.)

AFFIDAVIT OF ALICE F. GUSTAFSON--1

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 424-8300

1 STATE OF WASHINGTON)
2) ss.
3 COUNTY OF KING)

4 Alice F. Gustafson, being first duly sworn upon oath, deposes
5 and says:

6 1. I am one of the attorneys representing Fisher
7 Broadcasting Inc. in connection with its motion to intervene. I
8 am over the age of 18 and otherwise competent to testify. I have
9 personal knowledge, after reviewing the records, of the facts
10 listed below:

11 2. Defendants Donald Barnett and Barbara Barnett have moved
12 for a protective order sealing the transcripts of their
13 depositions. Said motion is noted for hearing before this Court
14 on December 22 at 3:00 p.m.

15 3. Defendants Barnett state as part of their reason
16 justifying their motion for protective order that the media are,
17 in part, the cause for the need of a protective order.

18 4. Fisher Broadcasting Inc., as owner and operator of KOMO
19 TV, was not notified by defendants Barnett of their motion and now
20 seeks to intervene for a limited purpose because it will be
21 directly affected by the Court's order and decision on that
22 motion.

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AFFIDAVIT OF ALICE F. GUSTAFSON--2

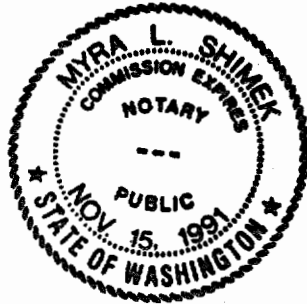
GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1101 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

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5. It is not possible to give all parties six days' notice of Fisher Broadcasting's motion to intervene, if such motion is to be heard prior to the Court's consideration of the motion for a protective order.

Alice F. Gustafson
ALICE F. GUSTAFSON

SUBSCRIBED AND SWORN TO before me this 16th day of Dec., 1988.



Myra L. Shimek
NOTARY PUBLIC in and for the State of Washington, residing at Lybland.
My Commission Expires: 11/15/91.

afg/f

CIVIL TRACK ONE
The Honorable John W. Riley

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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

Plaintiffs,)

v.)

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

Defendants, Third
Party Plaintiffs,)

v.)

GARY LIEN,)

Third Party Defendant.)

SANDY EHRLICH, et ux., 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/TRACK ONE
NO. 86-2-18176-8

ORDER GRANTING MOTION
TO SHORTEN TIME

ORDER GRANTING MOTION
TO SHORTEN TIME--1

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

1 THIS MATTER having come on for ex parte application before
2 this Court on the motion of Fisher Broadcasting Inc. to shorten
3 time to hear its motion for intervention in connection with the
4 motion of defendants Barnett for an order sealing their
5 depositions, the Court having considered the argument of counsel
6 and the Affidavit of Alice F. Gustafson, and being fully advised,
7 IT IS HEREBY

8 ORDERED that Fisher Broadcasting Inc.'s motion to shorten
9 time is granted and Fisher Broadcasting's motion for intervention
10 shall be heard on Thursday, December 22, at 3:00 p.m., just prior
11 to the hearing on the motion of defendants Barnett for a
12 protective order.

13 DATED this _____ day of December, 1988.

14
15
16 JUDGE JOHN W. RILEY

17 Presented by:

18 GRAHAM & DUNN

19
20 By Alice F. Gustafson

Alice F. Gustafson

21 Attorneys for Defendant
22 FISHER BROADCASTING

23 afg/f
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ORDER GRANTING MOTION
TO SHORTEN TIME--2

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2653
(206) 624-8300

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KING COUNTY CIVIL TRACK ONE
SUPERIOR COURT CLERK The Honorable John W. Riley
SEATTLE, WA

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SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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

Plaintiffs,)

v.)

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

Defendants, Third)
Party Plaintiffs,)

v.)

GARY LIEN,)

Third Party Defendant.)

SANDY EHRLICH, et ux., 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/TRACK ONE
NO. 86-2-18176-8

NOTE FOR HEARING

NOTE FOR HEARING--1

GRAHAM & DUNN
3418 FLOOR, RAINIER BANK TOWER
1101 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

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nd

1 TO: The Clerk of the Court

2 AND TO: All parties named below:

3 Please take notice that an issue of law in this case will be
4 heard on the date below before The Honorable John W. Riley.

5 Date of hearing: Thursday, December 22, 1988.

6 Time of hearing: 3:00 p.m., just prior to the hearing on
7 the motion of defendants Barnett for a
8 protective order.

9 Place of hearing: King County Superior Court, Room E854.

10 Nature of motion: Motion of Fisher Broadcasting Inc. to
11 intervene in regard to motion for a
12 protective order sealing depositions of
13 defendants Barnett.

14 DATED: December 16, 1988.

15 GRAHAM & DUNN

16
17 By 
18 Michael E. Kipling
Alice F. Gustafson

19 Attorneys for Defendant
20 FISHER BROADCASTING INC.

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NOTE FOR HEARING--2

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

1 Parties requiring notice (per Mr. Donaldson's Note for Hearing):

2 Tim Donaldson
3 Evans, Craven & Lackie
3100 Columbia Center
4 Seattle, WA 98104

5 Susan Delanty Jones
6 Preston, Thorgrimson, Ellis & Holman
5400 Columbia Center
701 Fifth Avenue
7 Seattle, WA 98104-7011

8 Michael Bond
9 Lee, Smart, Cook, Martin & Patterson
800 Washington Building
Seattle, WA 98101

10 George Kargianis/Jeff Campiche
11 Kargianis Austin & Erickson
701 Fifth Avenue, Suite 4700
12 Seattle, WA 98104

13 Richard Adler/Ann Durham
14 Adler, Giersch & Read
401 Second Avenue South
Suite 600
15 Seattle, Washington 98104

16 John Messina
17 Messina & Duffy
4002 Tacoma Mall Blvd.
Suite 200
18 Tacoma, Washington 98409

19 Michael W. Bugni
20 Moren, Cornell & Hansen
Roosevelt-Pinehurst Bldg.
11320 Roosevelt Way N.E.
21 Seattle, Washington 98125

22 Jack Rosenow/John C. Graffe
23 Rosenow, Hale & Johnson
#301 Tacoma Mall Blvd.
2000 Tacoma Mall
24 Tacoma, WA 98409

25
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NOTE FOR HEARING--3

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 424-8300

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Pauline V. Smetka
Helsell, Fetterman, Martin,
Todd & Hokanson
1500 Washington Bldg.
1325 Fourth Avenue
Seattle, WA 98111

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

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

Don M. Gulliford
2200 112th Avenue N.E.
Bellevue, WA 98004

afg/f

NOTE FOR HEARING--4

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2653
(206) 324-8300

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The Honorable John W. Riley
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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6 KATHY LEE BUTLER, et ux., et al.,)

7 Plaintiffs,)

8 v.)

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

10 Defendants, Third)
11 Party Plaintiffs,)

12 v.)

13 GARY LIEN,)

14 Third Party Defendant.)

15 SANDY EHRLICH, et ux., et al.,)

16 Plaintiffs,)

17 v.)

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

19 Defendants.)

20 MAUREEN P. JORGENSEN,)

21 Plaintiff,)

22 v.)

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

25 Defendants.)
26

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

ORDER GRANTING MOTION
TO SHORTEN TIME

ORDER GRANTING MOTION
TO SHORTEN TIME--1

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

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1 THIS MATTER having come on for ex parte application before
2 this Court on the motion of Fisher Broadcasting Inc. to shorten
3 time to hear its motion for intervention in connection with the
4 motion of defendants Barnett for an order sealing their
5 depositions, the Court having considered the argument of counsel
6 and the Affidavit of Alice F. Gustafson, and being fully advised,
7 IT IS HEREBY

8 ORDERED that Fisher Broadcasting Inc.'s motion to shorten
9 time is granted and Fisher Broadcasting's motion for intervention
10 shall be heard on Thursday, December 22, at 3:00 p.m., just prior
11 to the hearing on the motion of defendants Barnett for a
12 protective order.

13 DATED this 16 day of December, 1988.

14
15
16 
17 JUDGE JOHN W. RILEY

18 Presented by:

19 GRAHAM & DUNN

20 By 
21 Alice F. Gustafson

22 Attorneys for Defendant
23 FISHER BROADCASTING

24 afg/f

25
26 ORDER GRANTING MOTION
TO SHORTEN TIME--2

GRAHAM & DUNN
34TH FLOOR, RAINIER BANK TOWER
1301 FIFTH AVENUE
SEATTLE, WASHINGTON 98101-2053
(206) 624-8300

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KING COUNTY
SUPERIOR COURT CLERK
BELLEVUE WASHINGTON

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

196

ACKNOWLEDGEMENT AND
ACCEPTANCE OF SERVICE - 1
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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 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
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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: St. Paul Fire and Marine Insurance Co., Plaintiff, and
2 TO: Law Offices of Don M. Gulliford & Associates, its attorneys.
3

4 The undersigned hereby acknowledges receipt of, states he is
5 authorized to, and does hereby accept service of process of
6 Summons and Complaint for Declaratory Judgment entitled St. Paul
7 Fire and Marine Insurance Company v. Kathy Lee Butler and Stephen
8 Lynn Butler, husband and wife, et al., under Consolidated Cause
9 No. 86-2-18176-8, on behalf of defendants (litigation plaintiffs)
10 Sandy Ehrlich and Michael Ehrlich, wife and husband, and the
11 marital community composed thereof; Larry Lemke, parent; Larry
12 Lemke as guaridan ad litem for Sybil N. Lemke, a minor; Dee
13 Cahbot, parent; Dee Chabot as guardian ad litem for Shawna
14 Michele Chabot, Michael Grant Chabot, and Nicholas Sterling
15 Chabot, minors; Catherine Kitchell and Ronald Kitchell, wife and
16 husband, and the marital community composed thereof; Catherine
17 Kitchell as guardian ad litem for Wendy Kitchell, a minor.

18 DATED this 5th day of December, 1988.

19 ADLER GIERSCH

20
21 By 

22 Richard H. Adler
23 Ann J. Durham
24 Of Attorneys for Defendants
(Litigation Plaintiffs)
Ehrlich, Lemke, indivi-
dually; Larry Lemke as
Guardian ad Litem for Sybil N.

ACKNOWLEDGEMENT AND
ACCEPTANCE OF SERVICE - 3
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P.O. Box 548, Bellevue, WA 98009-0548
Bellevue, WA 98004
(206) 462-4000

Lemke; Chabot, individually;
Dee Chabot as Guardian ad
Litem for Shawna Michele
Chabot, Michael Grant Chabot
and Nicholas Sterling Chabot,
minors; Kitchell; Catherine
Kitchell as Guardian ad Litem
for Wendy Kitchell, a minor

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ACKNOWLEDGEMENT AND
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LAW OFFICES OF
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P.O. Box 548, Bellevue, WA 98009-0548
Bellevue, WA 98004
(206) 462-4000

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SEATTLE, WA

CIVIL TRACK ONE
THE HONORABLE JOHN W. RILEY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

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

Plaintiffs,)

v.)

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

Defendants,)
Third Party Plaintiffs,)

GARY LIEN,)
Third Party Defendant.)

_____)
SANDY EHRLICH, et. ux., 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.)

NOTICE OF DEPOSITION : 1
15004789.NOD

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

NOTICE OF DEPOSITIONS UPON
ORAL EXAMINATION OF DEE
CHABOT, SHAWNA MICHELLE
CHABOT, MICHAEL GRANT CHABOT,
AND NICHOLAS STERLING CHABOT

Evans, Craven & Luckie, P.S.
LAWYERS

1100 5TH AVENUE, SUITE 2000
SEATTLE, WASHINGTON 98101

(206) 396-5555

197
DH

1 TO: All Parties; and
2 TO: All Counsel:

3 YOU ARE HEREBY NOTIFIED that the testimony of DEE CHABOT,
4 SHAWNA MICHELL CHABOT, MICHAEL GRANT CHABOT AND NICHOLAS STERLING
5 CHABOT will be taken at the instance and request of defendants
6 Barnett in the above action, subject to continuance or
7 adjournment from time to time or place to place until completed
8 and to be taken on the ground and for the reason that said
9 witness will give evidence material to the establishment of the
10 parties' case; said deposition to be held:

11 DATE: WEDNESDAY, DECEMBER 28, 1988 AND
12 THURSDAY, DECEMBER 29, 1988

13 TIME: COMMENCING AT 9:30 A.M.

14 PLACE: OFFICE OF ATTORNEY ANN DURHAM
15 SUITE 600, 401 SECOND AVENUE SO.,
16 SEATTLE, WA

17
18 DATED December 14, 1988.

19 EVANS CRAVEN & LACKIE, P.S.

20
21 By 
22 JAMES S. CRAVEN
23 Attorneys for Defendants Barnett
24
25
26
27
28
29
30

31 NOTICE OF DEPOSITION : 2
32 15004789.NOD

Evans, Craven & Lackie, P.S.

LAWYERS

THE FIDELITY & BOND COMPANY OF AMERICA
OF NEW YORK, NEW YORK

(206) 380-5555

FILED

Civil Track I
The Honorable John Riley

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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,)

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

JORGENSEN'S RESPONSE IN
OPPOSITION TO AMERICAN
CASUALTY'S MOTION FOR
PARTIAL SUMMARY JUDGMENT

Hearing Date:
December 22, 1988,
3:00 p.m.

JORGENSEN'S RESPONSE IN OPPOSITION
TO AMERICAN CASUALTY'S MOTION
FOR PARTIAL SUMMARY JUDGMENT - 1

ORIGINAL

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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AMERICAN CASUALTY COMPANY OF
READING PENNSYLVANIA, a
Pennsylvania corporation,

Plaintiff,

v.

KATHY LEE BUTLER, et al.,

Defendants.

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

Plaintiff,

v.

KATHY LEE BUTLER, et al.,

Defendants.

I. INTRODUCTION

Maureen Jorgensen is a defendant in this consolidated declaratory judgment action and a plaintiff in the underlying contract and tort actions against the Community Chapel and Bible Training Center ("CCBTC"). Jorgensen joins with all other declaratory action defendants in requesting a denial of the motion of American Casualty Company of Reading, Pennsylvania ("American Casualty") for partial summary judgment on the issue of coverage for emotional distress damages.

II. FACTS PERTINENT TO JORGENSEN ARGUMENT

In her first amended complaint filed March 14, 1988,

JORGENSEN'S RESPONSE IN OPPOSITION
TO AMERICAN CASUALTY'S MOTION
FOR PARTIAL SUMMARY JUDGMENT - 2

1 Jorgensen alleged in part that CCBTC, through its pastor, Donald
2 Barnett ("Barnett"), had severely rebuked her in front of a
3 congregation of 2500 people; and that, as a result, she suffered
4 "severe emotional distress, was greatly humiliated, shamed and
5 embarrassed, and endured great pain and suffering." In
6 addition, Jorgensen alleged that she had incurred "reasonable
7 and necessary expenses in connection with treatment of her
8 personal injuries." See Jorgensen's first amended complaint,
9 p. 9, attached as Ex. 1 to Affidavit of Susan Delanty Jones.

10 In her deposition on December 9, 1988, Jorgensen testified
11 that during Barnett's public rebuke of her in October 1985, she
12 was lying down on a pew, and in great pain from stomach cramps
13 arising from her shame and embarrassment. Deposition of Maureen
14 Jorgensen, Vol. II, p. 90 (relevant portions of deposition
15 attached as Ex. 2 to Affidavit of Susan Delanty Jones).

16 Q. What did Pastor Barnett say publicly about you?

17 A. He said, "Maureen, remember our talk last night?
18 You have demons of suicide, rebelliousness, and jealousy,
19 and you are having these stomach convulsions because you
20 are giving into jealousy and anxiety and fear," screaming
21 at me. And I tried so hard all of those years to submit
22 to him.

23 (Short break.)

24 Q. Mrs. Jorgensen, the statement that you've described
25 made by Pastor Barnett, is that the entire statement?

26 JORGENSEN'S RESPONSE IN OPPOSITION
TO AMERICAN CASUALTY'S MOTION
FOR PARTIAL SUMMARY JUDGMENT - 3

1 A. Well, no. It went on and on for quite a while. And
2 he was yelling, but it sort of got louder and louder,
3 because he was rebuking me and he was yelling, and then I
4 think he walked towards me with a microphone, and so,
5 because the next thing I knew, he was there, and he was
6 grabbing me and shaking me and screaming at the demons.
7 Me, screaming at me. It seemed like he wanted to kill me.
8 I felt like he was killing me.

9 Id. (emphasis supplied).

10 Q. Did you stop attending the Chapel at that point?

11 A. I did not.

12 Q. Did you continue attending the Chapel after that?

13 A. After that, I was suffering from depression and I was
14 suffering from physical fatigue, chest pains, lower back
15 pains, and things like that, and I was not feeling up to
16 much activity, but I did try to keep going after that.

17 Id., at pp. 91-92 (emphasis supplied).

18 Q. You were in the hospital in December 1985?

19 A. Yes.

20 Q. Why was that?

21 A. I had complained to my doctor about all these things
22 that I had. I had all these pains and sickness and nausea
23 and insomnia, and I couldn't eat. And I was basically
24 just physically a wreck.

25 Id., at pp. 93 (emphasis supplied).

26 JORGENSEN'S RESPONSE IN OPPOSITION
TO AMERICAN CASUALTY'S MOTION
FOR PARTIAL SUMMARY JUDGMENT - 4

1 A few weeks after the rebuke, Jorgensen severed her
2 relationship with CCBTC.

3
4 III. ARGUMENT

5 A. American Casualty's Insurance Policy Covers the
6 Injuries Alleged by Jorgensen.

7 American Casualty's policy no. 50 214 40 20 provides as
8 follows:

9 The Company will pay on behalf of the **Insured** all sums
10 which the **Insured** shall become legally obligated to
11 pay as damages because of

- 12 A. **Bodily Injury** or
13 B. **Property Damage**

14 to which this insurance applies, caused by an **Occurrence**,
15 and the Company shall have the right and duty to defend any
16 suit against the **Insured** seeking damages on account of such
17 **Bodily Injury**

18 The term "Bodily Injury" is defined as "bodily injury,
19 sickness or disease sustained by any person which occurs during
20 the policy period. . . ." See insurance policy, p. 1 of 8 and
21 policy conditions, p. 9 of 11, attached to plaintiff's motion
22 for partial summary judgment.

23 In this case, Jorgensen's first amended complaint alleges
24 that she suffered personal injuries for which she sought
25 treatment. More important, she has testified about the

26 JORGENSEN'S RESPONSE IN OPPOSITION
TO AMERICAN CASUALTY'S MOTION
FOR PARTIAL SUMMARY JUDGMENT - 5

1 sickness which she sustained as a result of Barnett's rebuke and
2 his physical grabbing of her person while she lay prone on a
3 pew. Jorgensen Dep. p. 90. These allegations fit squarely
4 within the definition of "bodily injury, sickness and disease"
5 in the American Casualty policy.

6 B. American Casualty has failed to address the Gauger
7 case that has been raised by several other defendants in
8 the declaratory action.

9 Several responsive briefs have discussed the important case
10 of General Ins. Co. v. Gauger, 13 Wn. App. 928, 538 P.2d 563
11 (1975), (copy attached to court's copy of this brief), but
12 American Casualty failed to address Gauger in either its opening
13 or reply briefs. In Gauger, the court held that consequential
14 damages flowing from a covered injury are recoverable from the
15 insurer, unless the policy specifically excludes such damages.
16 Id., 13 Wn. App. at 931. Thus, where the policy covered
17 property damage to tangible property, then lost profits flowing
18 from that injury were among the consequential damages payable
19 by the insurer under the policy, unless explicitly excluded.
20 Id.

21 American Casualty's policy admittedly covers bodily injury
22 caused by an occurrence. "Bodily injury" includes the terms
23 "sickness and disease." Policy conditions, p. 9 of 11.
24 Jorgensen has pleaded, and has testified in her deposition, that
25 the public rebuke in October 1985 caused physical sickness and
26 resulted in her hospitalization in December 1985. As part of

JORGENSEN'S RESPONSE IN OPPOSITION
TO AMERICAN CASUALTY'S MOTION
FOR PARTIAL SUMMARY JUDGMENT - 6

1 the injury caused by Barnett, she also suffered emotional
2 distress and mental anguish, as alleged in her first amended
3 complaint. These damages were consequential to the bodily
4 injury which was inflicted by Barnett in negligently rebuking
5 her before 2500 people. Thus, under Gauger, these emotional
6 damages are recoverable under American Casualty's policy: they
7 are consequential to the injury, and they were not specifically
8 excluded in the policy. Id., 13 Wn.App. at 931-32.

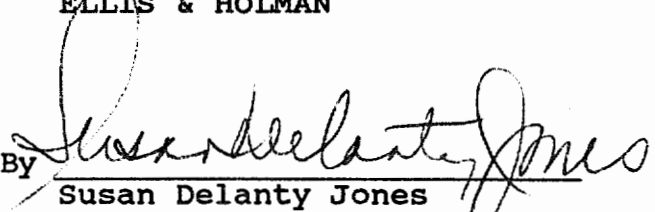
9
10 CONCLUSION

11 Jorgensen's pleadings and testimony establish that she
12 suffered bodily injury, as that term is defined in American
13 Casualty's policy of insurance. She also suffered emotional
14 distress damages as a consequence of that injury, and such
15 damages are not excluded by the policy. Accordingly, American
16 Casualty's motion for partial summary judgment should be denied.

17 DATED this 19th day of December, 1988.

18 Respectfully submitted,

19 PRESTON, THORGRIMSON,
20 ELLIS & HOLMAN

21
22 By 
23 Susan Delanty Jones
24 Attorneys for Maureen Jorgensen

25
26 JORGENSEN'S RESPONSE IN OPPOSITION
TO AMERICAN CASUALTY'S MOTION
FOR PARTIAL SUMMARY JUDGMENT - 7

FILED

1988 DEC 20 AM 11:21

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA.

CIVIL TRACK I
THE HONORABLE JOHN RILEY

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

6 KATHY LEE BUTLER, et ux.,)
7 et al.,)

8 Plaintiffs,)

9 vs.)

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

12 Defendants.)

13 SANDY EHRLICH, et vir., et)
14 al.,)

15 Plaintiffs,)

16 vs.)

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

19 Defendants.)

20 MAUREEN P. JORGENSEN,)

21 Plaintiff,)

22 vs.)

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

25 Defendants.)

26 JORGENSEN MEMORANDUM
OPPOSING BARNETTS' MOTION
FOR PROTECTIVE ORDER

NO. 86-2-18176-8

MEMORANDUM OF PLAINTIFF
MAUREEN P. JORGENSEN
OPPOSING DEFENDANTS BARNETTS'
MOTION FOR PROTECTIVE ORDER

ORIGINAL

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

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AMERICAN CASUALTY COMPANY OF)
READING PENNSYLVANIA, a)
Pennsylvania corporation,)
)
Plaintiff,)
)
v.)
)
KATHY LEE BUTLER, et. al.,)
)
Defendants.)

I. INTRODUCTION

Plaintiff Maureen P. Jorgensen ("Jorgensen") joins proposed intervenor Fisher Broadcasting Inc.'s opposition to defendants Donald Lee Barnett's and Barbara Barnett's ("Barnetts") motion for a protective order sealing their depositions.

II. ARGUMENT

A. The burden is on defendants to overcome the presumption of openness and establish good cause for a protective order.

The public's common law right of access to judicial proceedings is well-established. See Rushford v. The New Yorker Magazine, 846 F.2d 249, 253 (4th Cir. 1988) (citing Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 (1978)). The party seeking to overcome the presumption of openness bears the burden of showing a significant interest which heavily outweighs the public interest in access. Id. Similarly, Civil Rule 26(c) states that

[u]pon motion by a party or the person from whom discovery is sought and for good cause shown, the court . . . may make any order which justice requires to protect a party or person

JORGENSEN MEMORANDUM
OPPOSING BARNETTS' MOTION
FOR PROTECTIVE ORDER

1 from annoyance, embarrassment, oppression, or undue burden
2 or expense.

3 (Emphasis added.)

4 Seattle Times v. Rhinehart, 467 U.S. 20 (1984), cited by
5 defendants Barnetts, is not to the contrary. That case holds only
6 that a protective order, when entered on a showing of good cause
7 as required by Rule Federal Rule of Civil Procedure 26(c), does
8 not offend the First Amendment. Id. at 37. The underlying
9 Washington Supreme Court decision stated that in

10 cases which involve matters which do concern the public
11 generally . . . and where privacy interests are not involved,
12 there may be good reason to deny a protective order. In such
13 cases, the tendency to undermine confidence in the integrity
14 of the process may be negligible, and the objecting party may
15 have difficulty in showing good cause.

16 Rhinehart v. Seattle Times, 98 Wn.2d 226, 254, 654 P.2d 673
17 (1982), aff'd, 467 U.S. 20 (1984) (emphasis added). See Public
18 Citizen v. Liggett Group, Inc., 858 F.2d 775, 788 (1st Cir. 1988)
19 (Nothing in Seattle Times precludes a claim that the public has
20 a presumptive right of access to discovery materials unless good
21 cause for confidentiality is shown.)

22 In view of the common law right of access and the language
23 of Rule 26(c), plainly the burden is on defendants Barnetts to
24 show good reason for a protective order sealing their depositions.
25 See Liggett Group, 858 F.2d at 789 (Rule 26(c) "good cause"
26 requirement means pretrial discovery must take place in public
absent compelling reasons for denying public access); United

JORGENSEN MEMORANDUM
OPPOSING BARNETTS' MOTION
FOR PROTECTIVE ORDER

3

1 States v. Didrichsons, 15 Med. L. Rptr. 1869, 1870 (W.D. Wa. 1988)
2 (Holding that "at a minimum the reasonableness and legitimacy of
3 the public's interest in the proceedings should be weighed in
4 determining whether good cause for a protective order exists or
5 does not exist" and denying motion for protective order.)

6 B. Defendants' motion for a protective order should be denied for
7 failure to meet their burden of proof.

8 Defendants' motion for a protective order evidently relies
9 on affidavits submitted by the Barnetts' counsel, Tim Donaldson,
10 and by Donald Lee Barnett. Neither establishes good cause for
11 issuance of a protective order.

12 The Donaldson affidavit states counsel's belief that
13 depositions of the Barnetts would include identification of
14 unnamed persons not parties to the consolidated lawsuits, and
15 objections by counsel. Because virtually every deposition
16 includes objections by defending counsel, the likelihood of such
17 objections cannot be good cause to seal. Counsel has not
18 identified any specific inadmissible evidence likely to be adduced
19 at the depositions, much less how public knowledge of such
20 evidence would prejudice his clients. Similarly, counsel has not
21 stated why identification of unspecified non-parties to these
22 suits provides any basis for issuance of a protective order.

23 The Donaldson affidavit further asserts counsel's belief that
24 the Barnetts' depositions would include "questions regarding
25 details of [the Barnetts'] personal sex lives." To the extent the

26 JORGENSEN MEMORANDUM
OPPOSING BARNETTS' MOTION
FOR PROTECTIVE ORDER

4

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