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**MONTANA TWENTIETH JUDICIAL DISTRICT COURT
SANDERS COUNTY**

ALEXIS NUNEZ and)
HOLLY McGOWAN,)
)
Plaintiffs,)
)
vs.)
)
WATCHTOWER BIBLE AND)
TRACT SOCIETY OF)
NEW YORK, INC.; WATCHTOWER)
BIBLE AND TRACT SOCIETY OF)
PENNSYLVANIA, INC.;)
CHRISTIAN CONGREGATION OF)
JEHOVAH'S WITNESSES and)
THOMPSON FALLS)
CONGREGATION OF)
JEHOVAH'S WITNESSES,)
)
Defendants.)

Cause No. DV 16-84
Hon. James A. Manley

FIRST AMENDED COMPLAINT

Plaintiffs, Alexis Nunez and Holly McGowan, for their Complaint against the Defendants, allege as follows:

PARTIES

1. Plaintiff, Holly McGowan, is a citizen of and is domiciled in the state of Nebraska.
2. Plaintiff, Alexis Nunez, is a citizen of and is domiciled in the state of Wyoming.
3. At all material times, Defendant **Watchtower Bible and Tract Society of New York, Inc.** (“Watchtower NY”) is and was a New York corporation authorized to conduct and conducting business in the State of Montana, with its principal place of business at 25 Columbia Heights, Brooklyn, New York 11201. Watchtower NY may be served with process through Philip Brumley at 100 Watchtower Drive (2891 Route 22), Patterson, NY 12563.
4. At all material times, Defendant **Watchtower Bible and Tract Society of Pennsylvania, Inc.** (“Watchtower PA”) is and was a Pennsylvania corporation authorized to conduct and conducting business in the State of Montana, with its principal place of business at 1630 Spring Run Road Extension, Coraopolis, Pennsylvania 15108. Alternatively, Watchtower PA may be served with process through Philip Brumley at 100 Watchtower Drive (2891 Route 22), Patterson, NY 12563.

5. At all material times, Defendant **Christian Congregation of Jehovah's Witnesses** ("CCJW") is a corporation organized and existing under the laws of the State of New York, which is authorized to conduct, and is conducting business in the State of Montana, with its principal place of business at 100 Watchtower Drive, Patterson, New York 12563-9204. CCJW may be served through its registered agent Kurt Lee at 21 Thunder Ridge Road, Clancy, Montana, 59634, United States.

6. At all material times, Defendant **Thompson Falls Congregation of Jehovah's Witnesses** ("Thompson Falls Congregation") is and was a legal entity located in Thompson Falls, Sanders County, Montana and a part of the organization of Jehovah's Witnesses. The principal place of business for Defendant Thompson Falls Congregation is 1197 Mount Silcox Drive, Thompson Falls, Montana 59873.

7. Defendants Watchtower NY, Watchtower PA, CCJW, and Thompson Falls Congregation are collectively referred to herein as the "Watchtower Defendants" because each is the agent and alter ego of each other and operate as a single business enterprise. Each defendant was acting within the scope and course of his or its authority as an agent, servant, and/or alter ego of the other and each of them engaged in, joined in and conspired with the other wrongdoers in carrying out the tortious and unlawful activities alleged in this complaint.

JURISDICTION AND VENUE

8. Pursuant to Mont. Code Ann. § 3-5-302(1)(b), this Court has jurisdiction over this civil matter. Pursuant to Mont. R. Civ. P. 4, this Court has jurisdiction over Defendants because Defendants committed acts resulting in the accrual within Montana of a tort action and because Defendant Thompson Falls Congregation may be found within the state of Montana.

9. Pursuant to Mont. Code Ann. §§ 25-2-118 and 25-2-122, venue is proper in the Twentieth Judicial District – Sanders County because it is the county in which the torts were committed and because it is the county of Defendant Thompson Falls Congregation’s residence.

FACTUAL BACKGROUND

10. The Watchtower Defendants comprise a hierarchical organization made up of different corporations and other entities. Watchtower NY is the parent organization of all entities of Jehovah’s Witnesses in the United States. The “Governing Body” establishes policies and dictates practices for Jehovah’s Witnesses throughout the world, and operates through various corporate entities including the Watchtower PA and CCJW.

11. Besides the Watch Tower NY, Watchtower PA, and CCJW, Jehovah’s Witnesses use dozens of legal entities in various countries. Some of these entities

include in their name such terms as “Watch Tower,” “Watchtower,” or a translation of one of these.

12. The Governing Body is a small group of men called Elders who operate out of various entities within the hierarchical structure of the Watchtower Defendants. An Elder is the highest rank within the Church that can be held by a Jehovah’s Witness. Authority flows downward from the Governing Body and/or Watchtower NY to the local levels of the Church.

13. At the local level, members of the Church are divided into Congregations. Congregations are run on a daily basis by a Body of Elders. Elders organize weekly church meetings, direct door-to-door preaching activities, determine whether an individual is suitable for representing the Church in the community by becoming a Publisher, select potential candidates for becoming Ministerial Servants and Elders, handle finances for the Congregation, and determine the guilt, repentance and punishment of church members who commit serious sins. The number of Elders in a given Congregation fluctuates depending on the size and needs of the Congregation, as well as the number of qualified men in the Congregation.

14. When a person expresses interest in becoming a member of the Jehovah’s Witness Church, he or she begins a period of bible study with a baptized member of the Congregation. The aspirant also engages in self-study during this period.

15. After months of study, the person may make application to the Congregation's Body of Elders to become an unbaptized Publisher. In determining whether to approve the application, the Body of Elders considers whether the aspirant exhibits sufficient knowledge of the beliefs and organization of the Jehovah's Witness Church and vets the morals and ethics of the aspirant to determine if he or she meets the standards for inclusion as a member of the Jehovah's Witness Church.

16. Once a person is approved as an unbaptized Publisher, he or she is authorized to represent the Jehovah's Witness Church and the specific Congregation in the community. An unbaptized Publisher is authorized to engage in Field Service (the door-to-door proselytizing for which Jehovah's Witnesses are most recognizable), which is the centerpiece of Jehovah's Witness marketing, fundraising, and recruiting activities.

17. After several more months of study, an unbaptized Publisher may make an application to the Congregation's Body of Elders to become a baptized Publisher. To be approved for baptism, an applicant must be tested and approved by the Body of Elders and the Congregation. During the testing, the Elders ask the applicant dozens of oral questions relating to the teaching of the Jehovah's Witnesses, as well as the organizational structure of the Jehovah's Witness Church. The applicant must answer adequately before being approved for baptism.

18. Baptism as one of Jehovah's Witnesses constitutes an ordination as a minister of the Jehovah's Witness Church.

19. A person holding the position of a baptized Publisher is an agent of the Congregation to which he or she belongs and an agent of Watchtower Defendants.

20. Male baptized Publishers who meet certain requirements may be appointed as Ministerial Servants. Ministerial Servants serve the Congregation and aid the Elders in their responsibilities. To be appointed as a Ministerial Servant, a person must be a male baptized Publisher in good standing. The Body of Elders of the local church identifies potential candidates and determines whether they are suitable and if they live their life in accordance with appropriate morals. Once the Body of Elders has identified a candidate, it makes a recommendation to the Governing Body and/or Watchtower NY, which has the ultimate authority as to whether to approve the candidate to become a Ministerial Servant.

21. A person holding the position of Ministerial Servant is an agent of the Congregation to which he is appointed and an agent of Watchtower Defendants.

22. To be appointed as an Elder, a person must be a Ministerial Servant in good standing or have served as an Elder in another Congregation. The Body of Elders of the local church identifies potential candidates and determines whether they are suitable and if they live their life in accordance with appropriate morals. Once the Body of Elders has identified a candidate, it makes a recommendation to

Governing Body and/or Watchtower NY, which has the ultimate authority as to whether to approve the candidate to become an Elder.

23. A person holding the position of Elder is an agent of the Congregation to which he is appointed and an agent of Watchtower Defendants.

24. The Watchtower Defendants exercise control of the Church and the running of the local Congregations.

25. The Watchtower Defendants publish a series of handbooks that it distributes to Elders and chooses to keep secret from other Jehovah's Witnesses and the public. These handbooks provide instruction to Elders regarding the day-to-day administration of the Church, such as the scheduling of congregation meetings, as well as more specific instruction regarding how to respond to allegations of wrongdoing, when to convene a judicial committee, and how to handle the procedure.

26. The Watchtower Defendants also provide periodic instruction to local Congregations through letters addressed to "All Bodies of Elders." These letters cover a broad spectrum of topics, ranging from standardizing the recordkeeping practices of all Congregations to responding to complaints of childhood sexual abuse.

27. The Watchtower Defendants establish processes for the discipline of members accused of wrongdoing. Defendants encourage congregants to bring

problems to the Elders to be resolved rather than to seek intervention from outside the Church.

28. In practice, when a congregant commits a wrongdoing, such as the sexual abuse of a child, that matter may be brought to an Elder to be resolved. Jehovah's Witness policy requires Elders to investigate such a claim. If there are two witnesses to the wrongdoing or if the accused confesses his wrongdoing, the Elders will convene a Judicial Committee. Even in cases of child molestation, if there are not at least two eyewitnesses to the abuse and the accused denies the wrong, the Elders take no action.

29. If a Judicial Committee is convened, the two Elders who originally investigated the wrongdoing will be joined by a third Elder, who will hear the case and impose punishment on the wrongdoer. Possible outcomes of a Judicial Committee range from a private reproof to disfellowship. Private reproof is a private censorship of the wrongdoer that generally results in a limitation of the wrongdoer's privileges to engage in Field Service for a short period of time. The Elders do not make an announcement to the Congregation when a wrongdoer is privately reproofed. Disfellowship is expulsion from the Congregation. When a wrongdoer is disfellowshipped, the Elders make an announcement to the Congregation that the wrongdoer is no longer one of Jehovah's Witnesses, but they give no details regarding the nature of the wrongdoing. A person who is

disfellowshipped can seek reinstatement into the Congregation by written request to the Elders.

30. Through their rules and policies, the Watchtower Defendants assumed a duty to protect children in their organization, including Plaintiffs.

31. Plaintiff Holly McGowan was raised in a Jehovah's Witness family and belonged to the Thompson Falls Congregation.

32. In or around 1994, when she was approximately the age of 9, Plaintiff McGowan started to suffer sexual abuse and molestation at the hand of her step-father, Maximo Nava Reyes ("Reyes"), a baptized Publisher in Defendant Thompson Falls Congregation. The abuse involved fondling and inappropriate touching between Plaintiff McGowan and Reyes. At times, Reyes would also involve Plaintiff McGowan's minor brother in the abuse of Plaintiff McGowan.

33. Plaintiff McGowan endured the abuse for years before she mustered the courage to seek help. In or around 1998, when she was approximately the age of 13, Plaintiff McGowan reported the inappropriate touching to Don Herberger, an Elder in Defendant Thompson Falls Congregation. Elder Herberger directed Plaintiff McGowan to two other Elders – Ken Reich and Glen Wilson. After hearing Plaintiff McGowan's report, these Elders informed Plaintiff McGowan that her accusations were invalid because she did not have a second witness to verify her account of the events. These Elders sent Plaintiff McGowan home to continue

to be abused by Reyes. Further exacerbating the situation, a Ministerial Servant named Steve Piper reproved Plaintiff McGowan for making an uncorroborated accusation.

34. Following Plaintiff McGowan's report, the Elders did not warn others of the danger Reyes posed to children nor did the Elders report the abuse to any child protective or law enforcement agency.

35. The sexual abuse and molestation of Plaintiff McGowan continued after the Elders sent her home with her abuser. The abuse worsened to include numerous incidents of rape.

36. Ultimately, Plaintiff McGowan left Montana and the Jehovah's Witness Church.

37. Plaintiff Alexis Nunez is the daughter of Plaintiff McGowan's sister. Plaintiff Nunez was raised in a Jehovah's Witness Family and attended services at Defendant Thompson Falls Congregation.

38. In or around 2002, when she was approximately the age of 5, Plaintiff Nunez started to suffer sexual abuse and molestation at the hand of Reyes.

39. Prior to the molestation of Plaintiffs, and continuing thereafter, the Watchtower Defendants employed an institutional policy for responding to allegations of childhood sexual abuse. One component of that policy mandated that Elders who were informed of allegations of childhood sexual abuse against a

member voluntarily undertake a duty to vigilantly monitor the molester for the safety and protection of children in the Congregation. Since the Watchtower Defendants possessed knowledge of Reyes' prior molestation of Plaintiff McGowan as a young girl, the Watchtower Defendants assumed an obligation to monitor Reyes and protect young girls in the Congregation, including Plaintiff Nunez, from his predations. The Watchtower Defendants failed in this regard.

40. In or around 2005, Reyes was disfellowshipped from the Jehovah's Witness Church after Plaintiff McGowan's brother admitted to being abused with Plaintiff McGowan. Reyes' separation from the Church did not last long. After petitioning the Elders of Defendant Thompson Falls Congregation, Reyes was reinstated as a baptized Publisher.

41. Throughout his disfellowship and after his reinstatement, Reyes continued to sexually abuse and molest Plaintiff Nunez on a weekly basis. The abuse continued until approximately 2007, when Plaintiff Nunez was ten years old.

42. The emotional scars caused by her abuse lead Plaintiff Nunez to seek counseling in 2013. At counseling, she was diagnosed with anxiety and depression. Eventually, in 2015, Plaintiff Nunez confessed the circumstances of her abuse to her family, including Plaintiff McGowan.

43. News of her niece's abuse released a floodgate of trauma in Plaintiff McGowan. Plaintiff McGowan entered counseling to deal with the scars of her

own abuse. In counseling, Plaintiff McGowan was diagnosed with post-traumatic stress disorder.

44. Plaintiff McGowan's action is timely pursuant to Mont. Code Ann. § 27-2-216(b). Plaintiff Nunez's action is timely pursuant to Mont. Code Ann. §§ 27-2-216(a) and 27-2-401(1).

CAUSES OF ACTION AGAINST DEFENDANTS

Count I - Negligence

45. Plaintiffs adopt and incorporate by reference each and every allegation set forth above.

46. The Watchtower Defendants have a duty to exercise reasonable care in matters relating to the prevention and investigation of sexual abuse by their agents.

47. The Watchtower Defendants negligently failed to exercise reasonable care by:

- a. failing to create and implement policies and procedures to prevent the sexual abuse of children, including Plaintiffs;
- b. failing to train its employees and agents to prevent, identify, investigate, respond to, or report the sexual abuse of children;
- c. failing to conduct a proper and thorough investigation of Reyes;
- d. failing to properly and thoroughly investigate and respond to complaints regarding Reyes' inappropriate behavior involving minor children;
- e. failing to warn and inform children and families of Reyes' inappropriate behavior involving minor children;

- f. failing to report suspected abuse and neglect by Reyes in breach of common law and statutory duties;
- g. failing to supervise its employees and agents and otherwise monitor the conduct of Reyes who was their agent and under their control; and
- h. retaining Reyes in the organization at a time when they knew or should have known of his propensities to engage in acts of sexual abuse against Plaintiffs and other young children.

48. The Watchtower Defendants knew, or by the exercise of ordinary and prudent care, should have known that the above-referenced acts of negligence posed an unreasonable risk of harm to Plaintiffs.

49. The Watchtower Defendants' negligence, singularly and collectively and joint and severally, proximately caused Plaintiffs' personal injuries, emotional trauma, and damages.

Count II - Negligence *Per Se*

50. Plaintiffs adopt and incorporate by reference each and every allegation set forth above.

51. Montana law requires members of the clergy to make a report when they know or have reasonable cause to suspect that a child is being abused. Mont. Code Ann. § 41-3-201. Plaintiffs are of the type of victim the statute seeks to protect, and Plaintiffs' injuries are of the type of injury the statute seeks to prevent.

52. The Watchtower Defendants, directly or through their agents and employees, knew or had reasonable cause to suspect that Plaintiffs were being abused by Reyes.

53. The Watchtower Defendants willfully and knowingly failed to report such abuse and, therefore, were negligent *per se*.

54. The Watchtower Defendants' failure to report the abuse caused Plaintiffs to suffer injury and damages by being or continuing to be sexually abused and molested.

Count III - Respondeat Superior

55. Plaintiffs adopt and incorporate by reference each and every allegation set forth above.

56. The Watchtower Defendants are vicariously liable for the torts, negligence, and damages attributed to individuals who were employees, officers, agents and/or were acting in the course and scope of their employment with the Watchtower Defendants at all relevant times.

57. As a direct and proximate result of the Watchtower Defendants' wrongful actions, Plaintiffs suffered serious personal injury and mental anguish and trauma.

Count IV – Breach of Fiduciary Duty

58. The Watchtower Defendants placed themselves in a position of trust and confidence with Plaintiffs. The relationship between Plaintiffs and the Watchtower

Defendants organization was fiduciary in nature and imposed on the Watchtower Defendants a duty to act in the Plaintiffs' best interest.

59. Because of this special relationship between the Plaintiffs and the Watchtower Defendants, Plaintiffs and their families placed their trust and confidence in the Watchtower Defendants that they would not harm the Plaintiffs or fail to warn Plaintiffs of potential harm. Further, Plaintiffs and their families placed their trust and confidence in the Watchtower Defendants that they would protect the Plaintiffs from harm.

60. The above acts and/or omissions by the Watchtower Defendants, either independently or in conjunction with each other constitutes a breach of fiduciary duty owed to Plaintiffs by the Defendants.

61. As a direct result of the conduct of the Watchtower Defendants, Plaintiffs have suffered the injuries and damages described herein.

Count V – Malice - Exemplary and Punitive Damages

62. Plaintiffs adopt and incorporate by reference each and every allegation set forth above.

63. The Watchtower Defendants had knowledge of facts or intentionally disregarded facts that created a high probability of injury to Plaintiffs, yet the Watchtower Defendants deliberately proceeded to act in conscious or intentional disregard or with indifference to the high probability of injury to Plaintiffs.

64. The sexual abuse and molestation by Reyes and Plaintiffs' resulting damages were directly and proximately caused by the Watchtower Defendants' gross negligence and actual malice.

65. Based on their acts and omissions, the Watchtower Defendants are liable to Plaintiffs for exemplary and punitive damages, pursuant to Mont. Code. Ann. § 27-1-221.

PRAYER FOR RELIEF

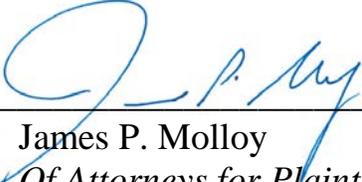
Wherefore, Plaintiffs request the following relief:

1. For compensatory damages in amounts to be proven at trial, including:
 - a. reasonable and necessary medical, psychiatric, and psychological expenses incurred in the past;
 - b. reasonable and necessary medical, psychiatric, and psychological expenses reasonably likely to be incurred in the future;
 - c. mental anguish in the past;
 - d. mental anguish in the future;
 - e. physical and mental impairment/disfigurement in the past;
 - f. physical and mental impairment/disfigurement in the future;
 - g. physical and psychological pain/mental anguish suffered in the past;
 - h. physical and psychological pain/mental anguish suffered in the future;
 - i. loss of enjoyment and quality of life in the past;
 - j. loss of enjoyment and quality of life in the future; and
 - k. loss of established course of life.

2. For an award of punitive damages;
3. For pre-judgment and post-judgment interest to the extent allowed by law;
4. For an award of costs; and
5. For such other and further relief as this Court deems just and equitable.

Dated this 14th day of November, 2016.

GALLIK, BREMER & MOLLOY, P.C.
NIX, PATTERSON & ROACH, LLP


By: James P. Molloy
Of Attorneys for Plaintiffs