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Attorneys for Church Defendants and Fossum

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

THOMAS A. WAITE,

Plaintiff,

vs.

THE CORPORATION OF THE
PRESIDING BISHOP OF THE CHURCH
OF JESUS CHRIST OF LATTER DAY
SAINTS, a Utah corporation; THE
CORPORATION OF THE PRESIDENT
OF THE CHURCH OF JESUS CHRIST
OF LATTER DAY SAINTS, a Utah
corporation; DONALD C. FOSSUM; and
STEVEN D. BRODHEAD,

Defendants.

Case No.: CV-05-399-EFS

CHURCH DEFENDANTS AND
DONALD C. FOSSUM'S
MOTION FOR SUMMARY
JUDGMENT REGARDING
SPECIFIC CLAIMS

1. **Relief Sought:** The Corporation of the Presiding Bishop and The Corporation of the President (the "Church Defendants") and Donald C. Fossum move for summary judgment dismissing each of Plaintiff's claims alleged in Paragraphs 6.2 and 7.5 of his Complaint.

2. **Grounds:** The Court having previously ruled that Mr. Waite was not negligent in riding unrestrained, Defendants are not, as a matter of law, negligent for preventing Mr. Waite from riding unrestrained. Additionally, Mr. Waite's fiduciary duty and training claims are barred by the First Amendment.

CHURCH DEFENDANTS AND FOSSUM'S
MOTION FOR SUMMARY JUDGMENT
REGARDING SPECIFIC CLAIMS ... - 1

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A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS & COUNSELORS


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3. **Basis:** This motion is based on the FRCP 56, Church Defendants Memorandum in Support of Motion for Partial Summary Judgment of Dismissal, the Affidavit of Brian T. Rekofke, and the records and files herein.

DATED this 11th day of May, 2007.

**WITHERSPOON, KELLEY, DAVENPORT
& TOOLE**

By: 
Brian T. Rekofke, WSBA No. 13260
Ross P. White, WSBA No. 12136
Attorneys for Church Defendants and Donald C. Fossum

CHURCH DEFENDANTS AND FOSSUM'S
MOTION FOR SUMMARY JUDGMENT
REGARDING SPECIFIC CLAIMS ... - 2

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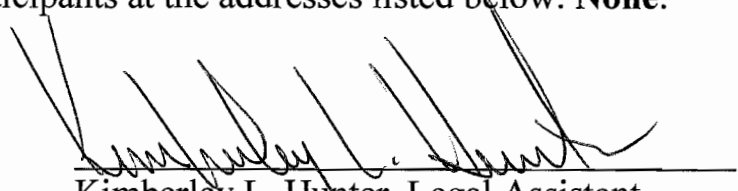
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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of May, 2007:

- 1. I electronically filed the foregoing **CHRIST DEFENDANTS AND DONALD C. FOSSUM'S MOTION FOR SUMMARY JUDGMENT REGARDING SPECIFIC CLAIMS** with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:
 (for Waite) Richard C. Eymann and Stephen L. Nordstrom;
 (for Brodhead) Andrew C. Smythe
- 2. I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants at the address listed below: **None.**
- 3. I hereby certify that I have hand delivered the document to the following participants at the addresses listed below: **None.**



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CHURCH DEFENDANTS AND FOSSUM'S
MOTION FOR SUMMARY JUDGMENT
REGARDING SPECIFIC CLAIMS ... - 3

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