

1 Brian T. Rekofke  
Ross P. White  
2 Witherspoon, Kelley, Davenport & Toole  
1100 US Bank Building  
3 422 West Riverside  
4 Spokane, WA 99201  
(509) 624-5265

5 Attorneys for Church Defendants and Donald C. Fossum

6  
7 UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF WASHINGTON

9 THOMAS A. WAITE,

10 Plaintiff,

11 vs.

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

17 Defendants.  
18

Case No.: CV-05-399-EFS

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

19 1. **Relief Sought:** The Church Defendants and Donald C. Fossum move  
20 for summary judgment of dismissal.

21 2. **Grounds:** The undisputed cause in fact of the motor vehicle accident  
22 that injured Mr. Waite was the criminally reckless conduct of Steven Brodhead to  
23 which defendant Fossum had no legal duty to foresee and prevent.

24 3. **Basis:** This motion is based on the FRCP 56, Church Defendants'  
25 LR 56 Statement of Facts, the Memorandum in Support of Motion, the Affidavit  
26 of Ross White, and the records and files herein.

27 CHURCH AND FOSSUM'S MOTION  
28 FOR SUMMARY JUDGMENT - 1

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WITHERSPOON, KELLEY, DAVENPORT & TOOLE  
A PROFESSIONAL SERVICE CORPORATION  
ATTORNEYS & COUNSELORS

1100 U.S. BANK BUILDING  
422 WEST RIVERSIDE AVENUE  
SPOKANE, WASHINGTON 99201-0302  
(509) 624-5265

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DATED this 25<sup>th</sup> day of May, 2007.

**WITHERSPOON, KELLEY, DAVENPORT  
& TOOLE**

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

CHURCH AND FOSSUM'S MOTION  
FOR SUMMARY JUDGMENT - 2

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(509) 624-5265

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 25<sup>th</sup> day of May, 2007:

1. I electronically filed the foregoing **THE CHURCH DEFENDANTS AND DONALD C. FOSSUM'S MOTION FOR SUMMARY JUDGMENT** 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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Kimberley L. Hunter, Legal Assistant  
 Witherspoon, Kelley, Davenport & Toole, P.S.  
 422 W. Riverside Ave., #1100  
 Spokane, WA 99201-0300  
 Phone: 509-624-5265  
 Fax: 509-478-2728  
[kimh@wkdtlaw.com](mailto:kimh@wkdtlaw.com)

CHURCH AND FOSSUM'S MOTION  
FOR SUMMARY JUDGMENT - 3

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