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10 UNITED STATES DISTRICT COURT
 11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 THOMAS A. WAITE,)
 13)
 14 Plaintiff,)

Case No.: CV-05-399-EFS

15 vs.)

16 CORPORATION OF THE PRESIDING)
 17 BISHOP OF THE CHURCH OF JESUS)
 18 CHRIST OF LATTER DAY SAINTS, a)
 19 Utah corporation; CORPORAITON OF)
 20 THE PRESIDENT OF THE CHURCH OF)
 21 JESUS CHRIST OF LATTER DAY)
 22 SAINTS, a Utah corporation; DONALD C.)
 23 FOSSUM; and STEVEN D. BRODHEAD,)
 24 Defendants.)

**PLAINTIFF'S MEMORANDUM
 IN RESPONSE TO CHURCH
 DEFENDANTS AND
 DONALD C. FOSSUM'S
 MOTION FOR SUMMARY
 JUDGMENT OF DISMISSAL**

1 **I. INTRODUCTION**

2 The two LDS Church defendants and defendant DONALD C. FOSSUM
3 (collectively “the Defendants”) contend that this litigation should be dismissed as a
4 matter of law on both the issue of cause in fact and legal causation. See Court Doc.
5 No. 121. The Defendants’ contentions are not supported by the totality of the facts
6 before the Court or the law applicable to those facts, and their motion should be denied.
7

8 **II. MR. WAITE’S FACTS**

9
10 1. The collision at issue occurred on August 21, 2003, at the intersection of
11 8th Avenue and Adams Road, which is a four way stop intersection. (Plaintiff’s LR 56
12 Statement of Facts, ¶1).

13
14 2. The posted speed limit on 8th Avenue was 35 miles per hour. The posted
15 speed limit on Adams Road was 25 miles per hour. *Id.*, ¶2 .

16
17 3. Mr. Fossum was driving a church-owned pickup north on Adams Road
18 when he brought the pickup to a complete stop at the 8th Avenue and Adams Road
19 intersection. *Id.*, ¶3.

20
21 4. On the southwest corner of 8th Avenue and Adams Road is a large pine tree
22 making it difficult to see eastbound traffic on 8th Avenue. *Id.*, ¶4.

23
24 5. Mr. Fossum was aware that the pine tree partially blocked his view of 8th
25 Avenue. *Id.*, ¶5.

26
27 6. Mr. Fossum looked to his left and then to his right. *Id.*, ¶6.

1 7. At the same time as Mr. Fossum was stopped at the stop sign,
2 Mr. Brodhead was driving his Honda east on 8th Avenue. *Id.*, ¶7.

3
4 8. After accelerating to approximately 70 miles per hour, Mr. Brodhead took
5 his foot off the accelerator of his vehicle and started slowing down about halfway down
6 the road. *Id.*, ¶8.

7
8 9. Rochelle Hamilton was a passenger riding in the middle rear seat of
9 Mr. Brodhead's vehicle, while Rebecca Hamilton was a passenger in the right side of
10 the rear seat of his vehicle. *Id.*, ¶9.

11 10. Rochelle Hamilton saw the intersection stop sign at Adams and 8th, and
12 yelled, "Stop sign." Mr. Brodhead responded by slamming on his brakes. *Id.*, ¶10.

13
14 11. Mr. Brodhead's vehicle was braking when Rebecca Hamilton saw the
15 church pickup completely stopped at the stop sign, and then start to cross the
16 intersection. *Id.*, ¶11.

17
18 12. Mr. Brodhead also saw the pickup at a full stop at the stop sign at 8th
19 Avenue and Adams Road, and watched as it pulled forward. *Id.*, ¶12.

20 13. Mr. Fossum did not see any vehicles approaching the intersection from any
21 direction, and so he proceeded forward. *Id.*, ¶13.

22
23 14. Because the "big pine tree" blocked his view to the west, Mr. Fossum's
24 front seat passenger, James T. Ross, did not see the Brodhead vehicle until Mr. Fossum
25 began moving forward past the stop sign. *Id.*, ¶14.

1 15. Mr. Ross heard the screeching of tires and saw smoke coming from the
2 Brodhead vehicle. *Id.*, ¶15.

3 16. Mr. Fossum also heard a high pitched squeal and asked the question,
4 “What is that?” *Id.*, ¶16.

5 17. Mr. Ross pointed his finger toward the Brodhead vehicle to get Mr.
6 Fossum’s attention, and yelled, “Oh crap.” *Id.*, ¶17.

7 18. Mr. Fossum heard Mr. Ross yell, “Oh crap.” *Id.*, ¶18.

8 19. Mr. Fossum looked to his right and saw Mr. Ross pressed up against the
9 passenger door looking west out the driver’s side window. *Id.*, ¶19.

10 20. For the first time since leaving the stop sign, Mr. Fossum looked to his left
11 and saw smoke coming from Mr. Brodhead’s vehicle. *Id.*, ¶20.

12 21. Mr. Fossum pushed the accelerator to the floor. *Id.*, ¶21.

13 22. At the time of the collision, Mr. Brodhead was traveling below the 35 mile
14 an hour speed limit. *Id.*, ¶22.

15 23. Mr. Brodhead’s vehicle left two distinct skid marks which were straight
16 and dark, the longest (driver’s side) skid mark was 260 feet long, and the shorter
17 (passenger’s side) skid mark was 207 feet. *Id.*, ¶23.

18 24. Mr. Fossum was aware that the pine tree created a sight obstruction and
19 had he pulled forward and looked left he could have cleared the obstruction and avoided
20 the collision. *Id.*, ¶24.

1 25. Had Mr. Fossum merely pulled forward so the pine tree was no longer an
2 obstruction, he would have seen the Brodhead vehicle in a braking mode, skidding with
3 smoke coming from the tires, with his front end down depicting the speed of the
4 vehicle. *Id.*, ¶25.

6 26. If Mr. Fossum had looked left when he cleared the sight obstruction, he
7 would have seen the Brodhead vehicle in a braking mode with skidding tires, smoke
8 coming from the tires, and front end down, depicting the speed of the vehicle. *Id.*, ¶26.

10 27. The LDS Church produced a video titled, “Safe Intersection Driving.” *Id.*,
11 ¶27.

12 28. Defendants produced the video in response to Plaintiff’s request for
13 production. *Id.*, ¶28.

15 29. It was intended by the LDS Church that the video, “Safe Intersection
16 Driving,” be shown to its missionaries. *Id.*, ¶29.

18 30. Mr. Fossum does not recall whether he was shown the video. *Id.*, ¶30.

19 31. Mr. Fossum does not recall taking a written test that was associated with
20 the video. *Id.*, ¶31.

21 32. The video provided instruction to its missionaries which included the
22 following:

23 A. Accidents at intersections claim a significant number of missionary lives
24 each year, as well as causing injury.
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1 B. Two major factors that contribute to missionary accidents are inattention
2 and speed.

3 C. Common choices that lead to trouble at intersections include failing to
4 check traffic in all directions and failing to see approaching vehicles.
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6 D. Missionaries are to scan the intersection ahead for potential hazards
7 including hazards that are in or near the roadway.
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9 E. Missionaries are to anticipate that other drivers may not stop at a stop sign.

10 *Id.*, ¶32.

11 **III. COUNTERSTATEMENT OF FACTS**

12 The Church defendants and Fossum's Facts are, in several instances, incomplete,
13 misleading or irrelevant. The particulars of these shortcomings are as follows:
14

15 Defendants' Facts No. 1 and 2 state that defendant Steven Brodhead had been
16 diagnosed with depression, was prescribed with Zoloft and had not taken his medication
17 on the day of the accident. These statements of facts have not been related to the accident
18 and are irrelevant.
19

20 Defendants' Fact No. 4 states that at the time of the accident, Steven Brodhead was
21 "angry" and driving in an "agitated" manner. The source of this statement, Brodhead's
22 deposition and guilty plea statement, reveal that he said that he was "upset," not angry,
23 and that he was "agrivated" (sic), which is more likely to be "aggravated" than
24 "agitated."
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1 Defendants' Fact No. 5 states that Steven Brodhead was involved in a "verbal
2 altercation" with another driver. The source of this fact, again Brodhead's deposition,
3 merely says that Brodhead "yelled" at another driver. Then in the body of defendants'
4 memorandum, this yelling escalates to a "road rage" incident. Court Doc. No. 121, p 6.
5 There is no evidence here of a road rage incident.
6

7 Defendants' Fact No. 6 states that Steven Brodhead accelerated his vehicle to
8 "speeds in excess of 70 miles per hour." The source of this fact, Brodhead's deposition,
9 contains testimony that he saw the speedometer hit 70 miles per hour and then let his foot
10 off the accelerator and started slowing down.
11

12 Defendants' Fact No. 7 states that "while traveling at or near 70 miles per hour,"
13 Steven Brodhead saw a stop sign and slammed on his brakes. As noted in the preceding
14 paragraph, Brodhead had slowed down prior to braking. There is no evidence that he was
15 driving "at or near 70 miles per hour" when he applied his brakes.
16

17 **IV. ARGUMENT**

18 **A. Standard For Summary Judgment**

19 Summary judgment is proper only where there are no genuine issues of material
20 fact. FRCP 56(c). *Public Employees Mutual Ins. Co. v. Fitzgerald*, 65 Wn. App. 307,
21 828 P.2d 63 (1992). In determining if summary judgment is appropriate, the court must
22 consider all evidence and inferences in a light most favorable to the nonmoving party.
23 *Davis v. Niagara Mach. Co.*, 90 Wn.2d 342, 581 P.2d 1344 (1978). Summary
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1 judgment should be granted only where reasonable persons could reach but one
2 conclusion, and that being in favor of the moving party. *Weatherbee v. Gustafson*, 64
3 Wn. App. 128, 822 P.2d 1257 (1992). If any genuine fact issue exists, there must be a
4 trial. *Klossner v. San Juan County*, 21 Wn. App. 689, 586 P.2d 899 (1978), aff'd, 93
5 Wn.2d 42 (1979). A material issue precluding summary judgment is one upon which
6 the outcome of the litigation depends, in whole, or in part. *Vacova v. Farrell*, 62 Wn.
7 App. 386, 814 P.2d 255 (1991).

8
9
10 **B. There are Material Issues of Fact as to Whether Mr. Fossum**
11 **Exercised Reasonable Care**

12 The Defendants begin their argument by citing to *Poston v. Mathers*, 77 Wn.2d
13 329, 462 P.2d 222 (1969), implying that as the favored driver, Mr. Fossum had one of
14 the “strongest rights of way which the law allows.” Assuming, arguendo, that
15 Mr. Fossum was the favored driver, there is no evidence that such a standard would
16 apply in this case. Neither in *Poston* nor for that matter in any Washington case which
17 refers to the “strongest rights” standard, did the favored driver face a stop sign. See
18 *Pudmaroff v. Allen*, 138 Wn.2d 55, 977 P.2d 574 (1999); *Sanchez v. Haddix*, 95 Wn.2d
19 593, 627 P.2d 1312 (1981); *Zahn v. Arbelo*, 72 Wn.2d 636, 434 P.2d 570 (1967); *Blake*
20 *v. Nelson*, 72 Wn.2d 652, 434 P.2d 595 (1967); *Krause v. McIntosh*, 17 Wn. App. 297,
21 562 P.2d 662 (1977); *Merrick v. Stansbury*, 12 Wn. App. 900, 533 P.2d 136 (1975);
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1 *Dunn v. Harmon*, 5 Wn. App. 87, 486 P.2d 103 (1971); and *Sadler v. Wagner*, 5 Wn.
2 App. 77, 486 P.2d 330 (1971).

3
4 Plaintiff has been unable to find any Washington case which specifically
5 addresses the relative rights of drivers at a four-way stop sign intersection. However, it
6 is illogical that such a standard would apply to a driver facing a stop sign. A driver
7 approaching a stop sign must bring his vehicle to a stop at some point before entering
8 the opposing lane of travel. RCW 46.61.190. Having a duty to do so, the strength of
9 his right of way cannot be as strong as the driver who has no such duty, including those
10 drivers at an uncontrolled intersection.
11

12
13 Moreover, even if we do assume that Mr. Fossum was the favored driver and
14 protected by one of the strongest rights of way under law, it still does not absolve
15 Mr. Fossum of his duty. In quoting from *Poston*, 77 Wn.2d at 333, the defendants
16 omitted the final sentence of the paragraph which states that such favored driver "... is
17 still required to exercise reasonable care." *Id.*; see also *Sanchez*, 95 Wn.2d at 597.
18 Indeed, it goes without saying that there may be more than one cause in fact of an
19 accident. *Travis v. Bohannon*, 128 Wn. App. 231, 242 (2005) citing *State v. Jacobson*,
20 74 Wn.2d 36, 37 (1968). The *Travis* Court goes on to provide:
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22

23 The general rule is that the contributing concurrent
24 negligence of a third person is not a defense if the
25 defendant's negligence was an "efficient cause" without
26 which the injury would not have occurred. *Eskildsen v.*
City of Seattle, 29 Wash. 583, 586, 70 P. 64 (1902). The

1 rule is found in *Restatement (Second) of Torts* §439: “If
2 the effects of the actor’s negligent conduct actively and
3 continuously operate to bring about harm to another, the
4 fact that the active and substantially simultaneous
5 operation of the effects of a third person’s innocent,
6 tortious, or criminal act is also a substantial factor in
7 bringing about the harm does not protect the actor from
8 liability.

9 128 Wn. App. at 242-43.

10 This is, of course, the essence of comparative negligence law in the State of
11 Washington. RCW 4.22.070.

12 In the present case, there clearly are material issues of fact as to whether
13 Mr. Fossum exercised reasonable care. Mr. Fossum was aware that the large pine tree
14 to the west partially blocked his view of 8th Avenue and, therefore, any vehicles
15 approaching from that direction. While Mr. Fossum was still sitting at the stop sign with
16 his view blocked, Mr. Brodhead had already slammed on his brakes and was skidding
17 towards the intersection. Prior to the impact there was sufficient time to allow both
18 Mr. Fossum and his passenger, Mr. Ross, to hear the screeching of tires. There was
19 time for Mr. Fossum to ask the question, “What is that?” There was time for Mr. Ross
20 to view and recognize that smoke was coming from the Brodhead vehicle. There was
21 sufficient time for him to react by raising his finger, pointing toward the Brodhead
22 vehicle and yelling the words, “Oh crap.” There was still time for Mr. Fossum to
23 perceive this conduct by Mr. Ross and to react by looking to his right and to see
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1 Mr. Ross pressed up against the passenger door, looking west out Mr. Fossum's driver's
2 side window. There was time for Mr. Fossum to turn from looking to his right, to his
3 left, and to perceive the smoke coming from Mr. Brodhead's vehicle, and then to react
4 by pushing the accelerator to the floor. All of these events occurred prior to the
5 collision with the Brodhead vehicle.
6

7 Had Mr. Fossum merely looked to his left, once his view of 8th Avenue was
8 somewhat clear, he would have seen a vehicle that was clearly not going to yield the
9 right of way and he could have stopped and avoided the collision. Moreover, if both
10 Mr. Brodhead and his passenger, Rebecca Hamilton, were able to see the pickup while
11 it was still stopped at the stop sign, it would be difficult for reasonable minds to
12 conclude that Mr. Fossum would not have had the opportunity to view the Brodhead
13 vehicle much sooner than he did.
14

15 There are clearly material issues of fact as to whether Mr. Fossum exercised
16 reasonable care to avoid the collision.
17

18
19 **C. Legal Causation Exists In This Case**

20 In *Hartley v. State*, 103 Wn.2d 768 (1985), the Washington Supreme Court, as
21 noted by the Defendants, distinguished between cause in fact and legal causation, with
22 the comment cause in fact questions are generally left to the jury. 103 Wn.2d at 777-78.
23 The Court, in its review, pointed out that these concepts of cause in fact and legal
24 causation are often intertwined in the case law, as are the concepts of legal causation and
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1 duty. *Id.*, 103 Wn.2d at 779-81. At the end of its analysis regarding legal causation and
2 duty, the Supreme Court stated:

3
4 Thus, it may be immaterial whether we analyze the
5 County's and State's liability on the basis of duty or
6 legal causation. Policy considerations and common
7 sense dictate whether the connection of the County and
8 State with the collision is too remote or insubstantial to
9 impose liability.

103 Wn.2d at 781.

9 In the end, the Supreme Court ruled that the failure of the County and State to
10 revoke the driver's license of the person who drove while intoxicated, crossed the center
11 line and killed Mrs. Hartley, was "too remote and too insubstantial to impose liability for
12 Mr. Johnson's drunk driving." 103 Wn.2d at 784.

14 Here, in contrast, the alleged negligence of Mr. Fossum was not remote or
15 insubstantial. He was the driver of one of the vehicles involved in the accident and,
16 under allegations contained in the Complaint as bolstered by Plaintiff's Statement of
17 Facts, is partially responsible for the accident.

19 The other cases relied upon by the Defendants, *Mediano v. Schwendman*, 66 Wn.
20 App. 607 (1992) and *Minahan v. Western Washington Fair Ass'n*, 117 Wn. App. 881
21 (2003) sought to impose liability in situations where a party against whom liability was
22 sought had very little or nothing to do with the accident itself. A better analogy is
23 found in *McCoy v. Suzuki*, 136 Wn.2d 350, 961 P.2d 952 (1998). Mr. McCoy was hit
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1 by a hit and run driver as he walked along the shoulder of I-90, with a flare in his
2 outside hand, after assisting at the accident scene of a Suzuki car that had rolled over.
3 Suzuki argued that it was unforeseeable that Mr. McCoy, under the rescuer doctrine,
4 would be struck in this manner. 136 Wn.2d at 358. The Supreme Court then discussed
5 legal causation in this context, referring back to *Hartley, supra*. 136 Wn.2d at 359-60.
6 It ruled that Suzuki's actions were not too remote a cause of Mr. McCoy's injuries for
7 legal causation to bar McCoy's claim. Those facts, which are much more remote than
8 the connection to the accident here, compel the same result.
9
10

11 **D. A Motor Vehicle Collision With a Speeding Driver at an Intersection is**
12 **a Foreseeable Event**

13 In *Minahan v. Wash. Fair Ass'n.*, 17 Wn. App. 881, 73 P.3d 1019 (2003), cited
14 by the Defendants, the issue was whether it should have been foreseeable to plaintiff's
15 employer that a drunk driver would rear-end the plaintiff while she was loading
16 equipment into her son's (employer) vehicle. The son was a disc jockey who had just
17 completed entertaining for a high school activity, and his vehicle was parked in a legal
18 parking space on an avenue near the activity. The defendant drunk driver was a
19 127 pound woman who had drunk 18 mixed drinks in a five hour period, who had taken
20 a corner too wide and, as a result, had struck and pinned the plaintiff between two
21 vehicles. After the initial impact, the driver put her car in reverse, backed up, shifted
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1 into drive, and struck the plaintiff again. The driver repeated the same tragic sequence
2 again a third time. She pleaded guilty to vehicular assault.

3
4 In granting summary judgment to the employer's son, the court emphasized that
5 whether a criminal act is foreseeable is normally a jury question. However, the court
6 found there was no logical relationship between the disc jockey business and being
7 struck by a drunk driver. "Nothing about this business (disc jockey entertainment)
8 would cause a reasonable person to foresee criminal conduct like (defendant driver's)."
9
10 *Minahan*, 17 Wn. App. at 895.

11 In the present case, although disdainful, conduct similar to Mr. Brodhead's is
12 clearly foreseeable. Drivers speed and fail to stop at intersections every day. If you
13 ride in a vehicle on a roadway, you must expect both, just as the LDS Church did.

14
15 In its video "Safe Intersection Driving," the LDS Church provided instruction to
16 its missionaries, which included: Accidents at intersections claim a significant number
17 of missionary lives each year as well as injuries; Two major factors that contribute to
18 missionary accidents are inattention and speed; Common choices that lead to trouble at
19 intersections include failing to check traffic in all directions, and failing to see
20 approaching vehicles; Missionaries are to scan the intersection ahead for potential
21 hazards, including hazards that may be in or near the roadway; and they are also to
22 anticipate that other drivers may not stop at a stop sign.
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1 Mr. Fossum does not know whether he was ever shown the aforementioned video
2 and cannot recall taking a written examination which accompanied the video, but it was
3 clearly foreseeable to the LDS Church that a driver would speed and fail to stop at a
4 stop sign. It was also foreseeable that a missionary like Mr. Fossum would be
5 inattentive and fail to see a vehicle that was there to be seen.
6

7 **E. The Defendants' Special Relationship With Mr. Waite Established**
8 **Legal Causation**

9 *Hartley* and its progeny are clearly distinguishable from that presently before the
10 Court. In the present case, it is admitted that a "special relationship" existed between
11 the church and its missionaries, which includes both Mr. Waite and Mr. Fossum. It is
12 also admitted that the church is vicariously liable for any negligence on the part of
13 Mr. Fossum. Further, it is admitted that the church owned the vehicle Mr. Fossum was
14 driving and that he was acting within the scope and duty of the church's missionary
15 work at the time of the collision. In none of the cases cited by the Defendants did a
16 special relationship exist between the parties, nor was a defendant driving a vehicle
17 owned by a third-party defendant or acting within the scope or under the direction of a
18 third party.
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22 In *Hartley, supra*, the decedent had been killed in a motor vehicle collision. His
23 survivors brought a negligence claim against the state of Washington for failing to
24 revoke the driver's license of the defendant driver who had been determined to be a
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1 habitual offender. The state's motion for summary judgment was granted because the
2 duty to revoke the license was owed to the public at large, and not to any individual in
3 particular. The court stated:
4

5 We have consistently held that absent a clear legislative intent
6 or clearly enunciated policy to the contrary, these duties are
7 owed to the public at large and are unenforceable as to any
8 individual members of the public.

9 *Hartley*, 103 Wn.2d at 782.

10 The court went on to state that if a special relationship had existed between the
11 parties, then liability would have been imposed.

12 Johnson clearly was subject to license revocation under the
13 HTOA. Nothing, however, sets Johnson apart from the
14 thousands of other offenders subject to license revocation under
15 the act. *No special relationship or privity existed between the
16 government agents and either Johnson or the victim of his
17 negligence which would impose liability.* Johnson was not
18 under the control of government agents who should have
19 known of his dangerous proclivities, as was the case in
20 Peterson v. State, supra.

21 103 Wn.2d at 784-85.

22 The *Hartley* court went on to cite several other cases where the
23 establishment of a special relationship did impose liability.

24 In J&B Dev. Co., we found establishment of a 'special
25 relationship' focused a duty on the plaintiff. J&B Dev., at 307.
26 The county agent had direct contact with the plaintiff developer,
27 had reviewed his plans, and had wrongfully issued a building
28 permit. . . .

1 103 Wn.2d at 782.

2 In *Campbell*, liability hinged on a *special relationship* between
3 a city agent and a woman killed as a result of his negligent acts.
4 There, the city electric inspector had examined and knew of the
5 extreme danger of faulty wiring in a creek bed, yet failed to
6 comply with the city ordinance requiring him to shut off power.

6 . . .

7 103 Wn.2d at 783.

8 In *Peterson v. State*, 100 Wn.2d 421 (1983), we found liability
9 in the release by a psychiatrist of a mentally ill patient, and that
10 patient’s negligent driver, which injured another. The court
11 recognized the state’s duty to take reasonable precautions to
12 protect anyone who might foreseeably be endangered. Since the
13 state had full control over the patient at Western State Hospital
14 and wrongfully released him, it can be said the state was in a
15 *special relationship* with the patient which justified imposition
16 of liability. . . .

14 103 Wn.2d at 783.

15 In summary, we have premised legal causation (liability) on the
16 existence of some direct contact or *special relationship*
17 between the defendant and the injured party. . . .

18 103 Wn.2d at 784 (citations omitted).

19 Here, since a special relationship exists between the Defendants and Mr. Waite,
20 legal causation has been met on these grounds as well.

21
22 **V. CONCLUSION**

23 There are a significant number of material facts which preclude summary judgment
24 on the issue of “cause in fact,” not the least of which is Mr. Fossum’s duty to exercise
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1 reasonable care on behalf of Mr. Waite and the other passengers in his vehicle. Similarly,
2 legal causation exists here because the accident was not “too remote” from Mr. Fossum’s
3 negligence and because of the duty owed to both Mr. Fossum and Mr. Waite by the LDS
4 Church as a result of the special relationship which existed between them. As a result,
5 Defendants’ motion should be denied and the case allowed to proceed to trial.
6

7 DATED this 5th day of June, 2007.

8 NORDSTROM LAW FIRM, PLLC

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14 RICHARD C. EYMANN, WSBA #7470
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2 CERTIFICATE OF SERVICE

3 I, Stephen L. Nordstrom, hereby certify that on the 5th day of June, 2007,
4 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System
5 which will send notification of such filing to the following participants:

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