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8 UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF WASHINGTON

10 THOMAS A. WAITE,

No. CV-05-399-EFS

11 Plaintiff,

12 vs.

**JOINT STATEMENT OF
UNCONTROVERTED FACTS
RE: PLAINTIFF'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT RE: AFFIRMATIVE
DEFENSES**

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

19 Defendants.

20 The parties, by and through their respective counsel of record, stipulate that the
21 following specific facts are uncontroverted as to Plaintiff's Motion for Partial
22 Summary Judgment Re: Affirmative Defenses:

23 1. Plaintiff was a missionary for the Church of Jesus Christ of Latter Day
24 Saints. Attachment A (Thomas A. Waite deposition, p. 39, ln. 14-25; p. 40, ln.
25 1-16.)

26 JOINT STATEMENT OF UNCONTROVERTED FACTS EYMANN ALLISON HUNTER JONES P.S.
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1 2. Missionaries were required to sign a "Driving Contract." Attachment B
2 (Donald C. Fossum deposition, p. 43, ln. 24-25; p. 44, ln. 1-25; p. 45, ln. 1-2;
3 Fossum deposition, Exhibit 1).

4 3. Plaintiff signed a "Driving Contract." Attachment C (Waite deposition,
5 p. 98, ln. 8-25; Exhibit 3).

6 4. The "Driving Contract" required that missionaries wear seatbelts whenever
7 riding in a vehicle. Attachment B (Fossum deposition, Exhibit 1).

8 5. At the time of the collision, plaintiff was riding without a seatbelt in the bed
9 of a church-owned pickup. Attachment D (Declaration of James T. Ross, p. 1, ln.
10 27-32; p. 2, ln. 1-22); and Attachment E (Mark Tyler Ryan deposition, p. 12, ln. 4-
11 25; p. 13, ln. 1).¹

12 6. Prior to becoming a missionary, Mr. Waite knew riding in the back of a
13 pickup truck was "obviously not the safest place to be." Aff. of White, Exh. A. (Depo.
14 of Thomas Waite 90:15-25; 91:15-20.)

15 7. Mr. Waite signed a contract agreeing to abide by certain rules relative to
16 vehicles while a missionary. Aff. of Ross White Exh. B. (Thomas Waite Deposition,
17 100:15-101:14; 102:7-14, Exhibit 3.)

18 8. The missionaries' truck was struck by defendant Steven Brodhead. Aff.
19 of White, Exh. D. (Deposition of Stephen Brodhead, 40:4-16.)²

21 ¹ Defendants admitted this fact but objected to the citation of the Ross
22 declaration as incomplete and unsigned.

23
24 ² Plaintiff objects to the description of the truck as the "missionaries' truck"
25 as the subject pickup truck was owned by the defendant church.

1 9. Mr. Waite was ejected from the truck cargo hold and suffered injuries.
2 Aff. of White, Exh. E. (Depo. Of Brodhead, 42:2-21.)

3 10. For purposes of this motion, the parties stipulate that the terms “back of
4 a pickup truck,” “cargo hold” and “bed of a pickup truck” are interchangeable.

5 DATED this 15th day of March, 2007.

6 EYMANN ALLISON HUNTER JONES, P.S.

7
8 By: s/Richard C. Eymann
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Co-Counsel for Plaintiff

9
10 NORDSTROM & NEES, P.S.

11 By: Telephonically Approved 3/15/07
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ROSS P. WHITE, WSBA #12136
16 Attorneys for Defendants LDS Church and
17 Fossum

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26 JOINT STATEMENT OF UNCONTROVERTED FACTS EYMANN ALLISON HUNTER JONES P.S.

27 RE: PLAINTIFF’S MOTION FOR PARTIAL
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By: Telephonically Approved 3/15/07
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CERTIFICATE OF SERVICE

I, RICHARD C. EYMANN, hereby certify that on the 15th day of March, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following participants:

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s/Richard C. Eymann
RICHARD C. EYMANN

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RE: PLAINTIFF'S MOTION FOR PARTIAL
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