

1 RICHARD C. EYMANN
 2 Eymann Allison Hunter Jones, P.S.
 3 2208 West Second Avenue
 4 Spokane, WA 99201-5417
 (509) 747-0101

5 STEPHEN L. NORDSTROM
 6 Nordstrom & Nees, P.S.
 7 323 S. Pines Rd.
 8 Spokane, WA 99206
 (509) 924-9800

9 Attorneys for the Plaintiff

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

12 THOMAS A. WAITE,)

13 Plaintiff,)

14 vs.)

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

25 Defendants.)

Case No.: CV-05-399-EFS

**DECLARATION OF STEPHEN
 L. NORDSTROM IN SUPPORT
 OF PLAINTIFF'S OPPOSITION
 TO DEFENDANT'S MOTION
 TO COMPEL**

1 I, Stephen L. Nordstrom, declare under penalty of perjury under the laws of the
2 State of Washington that the following is true and correct:

3 1. That I am one of the attorneys for the plaintiff in the above-entitled
4 matter, and make this Declaration from my own personal knowledge.

5 2. That the attached pertinent pages from the depositions of Mark Tyler
6 Ryan and Donald C. Fossum are an accurate representation of the depositions of the
7 witnesses.
8

9 3. That some time in 2005, (Mr. Reese did not note the dates of the
10 interviews), following their release from their missions, J.R. Reese, an intern with my
11 law office, contacted Mark Ryan and Dillon Hanson by telephone. With my assistance,
12 Mr. Reese had prepared questions which he telephonically posed separately to Mr.
13 Ryan and Mr. Hanson, and which he recorded in pencil. Mr. Reese did not
14 electronically record the interviews.
15

16 4. That although I was present during the depositions which were taken
17 in Salt Lake City on November 9, 2006 and November 10, 2006, I was not present, nor
18 did I participate in the discussions between Mr. Eymann and Mr. Rekofke as to whether
19 missionaries were speaking agents for the church, or Mr. Rekofke's apparent belief that
20 plaintiff's counsel were not entitled to contact those missionaries.
21

22 5. It appeared to me during the November 9th and 10th depositions that
23 the witnesses had been coached, and therefore I decided to interview James T. Ross
24
25
26

1 directly. A couple of weeks following the Salt Lake depositions, I interviewed Mr.
2 Ross by telephone at his apartment in Arizona. He had been released from his mission
3 in May of 2004 and was attending college. I took notes from the interview, which I put
4 into declaration form and mailed to Mr. Ross for his review and signature. Mr. Eymann
5 was not aware of my interview or the declaration until I provided him with a copy in
6 December of 2006. A copy of the declaration was also provided to the defendants.
7

8
9 6. That following an exchange of interrogatories and responses as set
10 forth in defendant's memorandum, Mr. Rekofke responded by sending me a letter
11 indicating he was seeking "...specific information concerning the individuals you have
12 contacted ex parte." (i.e. Ryan, Ross and Hanson).
13

14 7. I responded by letter dated April 5, 2007, and that letter is attached
15 hereto as Exhibit A.
16

17
18 DATED this 23rd day of April, 2007.
19

20 s/Stephen L. Nordstrom
21 STEPHEN L. NORDSTROM
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of April, 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:

Brian T. Rekofke
Witherspoon Kelley Davenport & Toole
422 W. Riverside Avenue, Suite 1100
Spokane, WA 99201-0302

Andrew C. Smythe
Paine Hamblen Coffin Brooke & Miller
717 W. Sprague Avenue, Suite 1200
Spokane, WA 99201-3503

s/Stephen L. Nordstrom
STEPHEN L. NORDSTROM

Exhibit "A"

VALLEY OFFICE

April 5, 2007

Mr. Brian T. Rekofke
Witherspoon Kelley Davenport & Toole
422 W. Riverside Avenue, Suite 1100
Spokane, WA 99201-0302

Re: Waite v. LDS Church

Dear Brian:

I have reviewed your letter of April 2, 2007, concerning Plaintiff's responses to discovery, and will attempt to address the issues you raised.

1. A copy of the 2003 Dodge Dakota Owner's Manual is available for review at our office.
2. Regarding "other specific documents" on which we are relying to support our allegations, the only other document is that of James Ross, which you have received.
3. Regarding the standard intelligence tests administered to Mr. Waite, we have re-contacted the district offices for grades K-8, his high school, and Fullerton college, all of whom state that they do not have any standardized testing records for Mr. Waite. The district office for Fullerton district, grades K-8, did fax us a copy of the "student card" which is all they have on file for Mr. Waite. In lieu of a formal supplemental response to your request for production, a copy of this card is enclosed. While Mr. Waite does not believe he took any SAT exams, we have requested a records search from the college board, a process that takes anywhere from two weeks to two months. The results of their records search will be provided when received.
4. Regarding Mark Ryan or Dillon Hansen, we do not have signed declarations or statements from these individuals. We have only the Ross Declaration which was previously provided to you. Regarding interviews of Mr. Hanson, Mr. Ryan or Mr. Ross, the memoranda of these witnesses' oral statements to representatives of this office are clearly work product. They are not discoverable. See Soter v. Cowles

Publishing Co., 131 Wn. App. 882, 130 P.3d 840 (2006 Div. III).

Very truly yours,

NORDSTROM & NEES, P.S.

STEPHEN L. NORDSTROM
SLN/rn

cc: Richard C. Eymann
Andrew C. Smythe
Waite

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