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The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K., and  
T.D.,

Plaintiffs,

v.

THE CORPORATION OF THE PRESIDENT  
OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole, a/d/a "MORMON CHURCH"; LDS  
SOCIAL SERVICES a/d/a LDS, a Utah  
corporation,

Defendants.

NO. 04-2338 RSM

DECLARATION OF MICHAEL  
ROSENBERGER IN SUPPORT OF  
DEFENDANT'S MOTION TO  
AMEND ANSWER TO ADD AT-  
FAULT ENTITY

Michael Rosenberger, being duly sworn on oath, deposes and says:

1. I am one of the counsel for the Defendants in this matter.
2. Attached as Exhibit A is a true and accurate copy of the excerpts from the

Deposition of Robert Kelly.

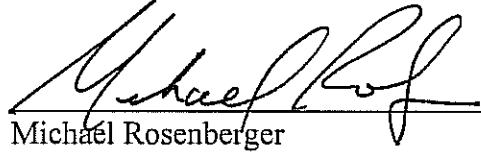
3. Attached as Exhibit B is a true and accurate copy of excerpts from the Deposition  
of Dorothy Kelly.

DECLARATION OF MICHAEL ROSENBERGER IN  
SUPPORT OF DEFENDANT'S MOTION TO AMEND  
ANSWER TO ADD AT-FAULT ENTITY - 1  
No. 04-2338 RSM

GORDON MURRAY TILDEN LLP  
1001 Fourth Avenue, Suite 4000  
Seattle, WA 98154  
Phone (206) 467-6477  
Fax (206) 467-6292

1 I declare under the laws of the State of Washington and of the United States that the  
2  
3 foregoing is true and correct.  
4

5 DATED this 17th day of July, 2006.  
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7  
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10 Michael Rosenberger  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 17, 2006, 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. The parties will additionally be served in the manner indicated.


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**GORDON MURRAY TILDEN LLP**

By   
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH FLEMING and JOHN DOE,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	NO. 04-2338 RSM
	)	
THE CORPORATION OF THE PRESIDENT OF THE	)	
CHURCH OF JESUS CHRIST OF LATTER-DAY	)	
SAINTS, a Utah corporation sole, a/k/a	)	
"MORMON CHURCH"; LDS SOCIAL SERVICES	)	
a/k/a LDS FAMILY SERVICES, a Utah	)	
corporation,	)	
	)	
Defendant.	)	

DEPOSITION UPON ORAL EXAMINATION OF  
ROBERT KELLY  
VIDEOTAPED PROCEEDING

1:10 o'clock p.m.  
August 29, 2005  
601 Union Street  
Suite 3100  
Seattle, Washington

REPORTED BY:  
ALISON LOTT, CCR#2337

1 MR. KOSNOFF: Objection, form of the  
2 question.

3 Q (By Mr. Frey) You may answer.

4 A Can you state it again, please.

5 (The pending question was read by  
6 the reporter.)

7 A That's correct.

8 Q If, in fact, you had gone through the abuse which you've  
9 listed in the second, third, fourth, and fifth, and sixth  
10 incidents, are you telling me that you wouldn't have been  
11 sufficiently scared to go tell her?

12 A The abuse was progressive, and it got -- meaning to say the  
13 humiliation that Jack did to me and other boys, my brother,  
14 and Jimmy and Ricky, it got worse. And so at first, I  
15 grew -- I just grew to be more and more scared and  
16 terrified.

17 Q The incident in the field, according to what your  
18 description is, was much less intrusive or severe than the  
19 other instances that followed in the basement of the  
20 apartment; isn't that correct?

21 A That's correct.

22 Q After the incident which occurred in the field, you went  
23 and told your mother; is that correct?

24 A That's correct.

25 Q Did you also tell your father?

Verb8M Reporting

800 Fifth Ave., Suite 101-122, Seattle, WA 98104 - (206) 467-0800

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1 A We were sitting at the dinner table, and -- well, actually,  
2 we told -- after the abuse in the field where Jack  
3 masturbated in front of us, we ran down to tell my mom, and  
4 then my dad came home from work, and then we all sat down  
5 for dinner, and then my mom brought it up that -- you know,  
6 and then they started asking us questions about, well, what  
7 happened, and how long has this been going on, and then  
8 they went over and my mother and father met with  
9 Dr. Allenbach and Mrs. Allenbach that night.

10 Q How long did you tell them it had been going on?

11 A Several months, I -- it's -- there's a lot that -- you  
12 know, that has happened in the downstairs apartment with  
13 Jack.

14 Q Did you go over to the Allenbach home when your parents  
15 went over there?

16 A No, I didn't.

17 Q By the way, did both your mother and your father go to the  
18 Allenbach home, as far as you know?

19 A They did.

20 Q Do you know about how long they were gone?

21 A I don't recall the exact time, but it was at least an hour  
22 or two.

23 Q When they came back home, did you discuss with them  
24 anything about their meeting with Dr. Allenbach?

25 A No.

1           Kennydale area, one of the highest respected leaders in  
2           that area.

3       Q       When you say he was a bishop, who told you he was a bishop?

4       A       I think Ricky, growing up, Ricky and Jimmy.

5       Q       And do you believe it's in his position as a bishop that he  
6           should have done something to stop the abuse towards you?

7       A       Absolutely.

8       Q       Did your mother ever go and report the abuse that you  
9           described to her to anyone?

10      A       To Dr. Allenbach, and Mrs. Allenbach.

11      Q       Anyone besides them?

12      A       Not to my knowledge.

13      Q       Did your mother take any steps to ensure that you would not  
14           be the victim of abuse again?

15      A       Yes.

16      Q       What did she do?

17      A       Speak to Dr. and Mrs. Allenbach.

18      Q       Did she do anything beyond that?

19      A       I'm not sure.

20      Q       Did she go to the police?

21      A       Not that I'm aware of.

22      Q       Did she go to any school officials?

23      A       Not that I'm aware of.

24      Q       Did she go to the Child Protective Services?

25      A       I don't know.

Verb8M Reporting

800 Fifth Ave., Suite 101-122 , Seattle, WA 98104 - (206) 467-0800

bd84b9e1-33a5-4271-9e07-e718630ca143

1 plaintiffs in this lawsuit?

2 A No.

3 Q Do you know whether your father ever reported your abuse to  
4 either C.P.S., the police, school authorities, or anyone  
5 else?

6 A I don't know.

7 Q Do you think that they should have -- that he should have,  
8 I should say?

9 A I don't know. It's similar to what you said about my mom.  
10 I thought Dr. Allenbach would have taken care of the  
11 problem.

12 Q Do you think Dr. Allenbach had a greater responsibility to  
13 rid the community of Mr. Loholt and his type of actions  
14 than your parents did?

15 A I think my parents did everything they can to protect me by  
16 going over there and seeing Dr. Allenbach, and I thought  
17 that it was going to be -- the problem was going to be  
18 fixed.

19 MR. FREY: I'm going to go ahead and move to  
20 strike the answer as not responsive. Would you read back  
21 the question to him, please.

22 (The pending question was read by  
23 the reporter.)

24 A Yes.

25 Q Why?



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Court Reporters & Video

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH FLEMING and JOHN DOE,	)
	)
Plaintiffs,	)
	) No.
vs.	) C04-2338RSM
	)
THE CORPORATION OF THE PRESIDENT OF THE CHURCH	)
OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah	)
corporation sole, a/k/a the "MORMON CHURCH," LDS	)
SOCIAL SERVICES a/k/a LDS FAMILY SERVICES, a Utah	)
corporation,	)
	)
Defendants.	)

VIDEOTAPED DEPOSITION OF DOROTHY L. KELLY  
March 2, 2005  
Seattle, Washington

BYERS & ANDERSON, INC. - COURT REPORTERS & VIDEO	
2208 North 30th Street	One Union Square
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Tacoma, WA 98403-3360	Suite 2300
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Fax: (253) 383-4884	(206) 340-1316
	(800) 649-2034
	scheduling@byersanderson.com

Dorothy L. Kelly  
3/2/05

1 would -- I took him at his word that he would take care of  
2 it.

3 Q Now, you don't know --

4 A You didn't go --

5 Q Excuse me. Go ahead. I'm sorry.

6 A You didn't go to police with things like that in those days.

7 Q Okay. And you didn't expect Dr. Allenbach to go to the  
8 police either, did you?

9 A I didn't know what he would do. I had no idea.

10 Q Right. But you didn't think you had to go to the police or  
11 should go to the police --

12 A No.

13 Q -- correct?

14 A Never entered my mind. I didn't know what the police could  
15 do.

16 Q Okay. Now, let me ask you this: Do you know at this time  
17 when this incident occurred, were you aware as to whether or  
18 not Jack LaHolt was living in the Allenbach house?

19 A Yes. He lived in the mother-in-law apartment.

20 Q Okay. Was that physically attached to the main home?

21 A It was underneath the -- they had a two-story and a partial  
22 attic. And he lived -- well, his was situated right below  
23 Herman and Veloy's bedroom.

24 Q Okay. And the -- some of the boys slept down there, didn't  
25 they, with him?

Dorothy L. Kelly  
3/2/05