

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 OPPOSITION
TO PLAINTIFF'S MOTIONS IN
LIMINE

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

1. I am one of the attorneys representing Defendants in this matter. I make this Declaration based upon personal knowledge.
2. Attached as Exhibit 1 is a true and accurate copy of an excerpt of Plaintiff's Pretrial Statement, captioned as "Pretrial Order."
3. Attached as Exhibit 2 is a true and accurate copy of the preface to the "Encyclopedia of Mormonism."

DECLARATION OF MICHAEL ROSENBERGER IN
OPPOSITION TO PLAINTIFF'S MOTIONS IN LIMINE - 1
No. 04-2338 RSM

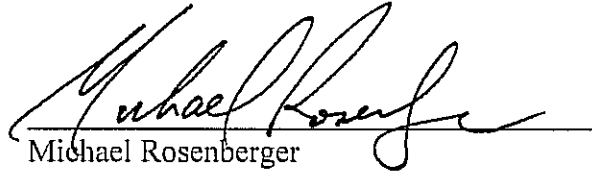
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4. Attached to this Declaration are true and accurate copies of excerpts from the deposition of Souhir Ben Hamida, M.D.

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

DATED this 11th day of September, 2006.

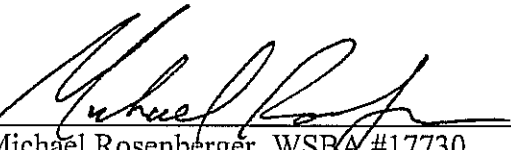

Michael Rosenberger

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 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.

<p>Michael T. Pfau Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim LLP P.O. Box 1157 Tacoma, WA 98401-1157 Telephone: (206) 676-7500 Facsimile: (206) 676-7575 E-Mail: mpfau@gth-law.com</p> <p><input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input type="checkbox"/> Federal Express</p>	<p>Timothy D. Kosnoff Law Offices of Timothy D. Kosnoff, P.C. 600 University Street, Suite 2101 Seattle, WA 98101 Telephone: (206) 676-7610 Facsimile: (425) 837-9692 E-Mail: timkosnoff@comcast.net</p> <p><input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> Fax <input type="checkbox"/> Federal Express</p>
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THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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

NO. C04-2338RSM

Plaintiffs,

PRETRIAL ORDER

vs.

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 LDA FAMILY
SERVICES, a Utah corporation,

Defendants.

COME NOW the plaintiff R.K. and defendants Corporation of the President of the Church of Jesus Christ of Latter-day Saints and LDS Social Services and submit the following pre-trial order.

I. FEDERAL JURISDICTION

Jurisdiction is vested in this court by virtue of 28 U.S.C. § 1332(a)(1) because there is complete diversity of citizenship between the plaintiff and defendant and the amount in controversy exceeds the requisite amount established by 28 U.S.C. § 1332. Venue is likewise

PRE-TRIAL ORDER - 1 of 18
(C04-2338RSM)
[Pretrial order.doc]

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Loholt's sexual abuse of boys in the scouting program, how Loholt was stalking their sons. He will testify that church officials covered up for Loholt and enabled him to abuse children.

- (iv) Jeanne Humphrey, 27325 156th Avenue, Kent, WA 98042 (253) 631-6199. She will testify that she is a member of the Mormon Church. She will testify about warnings she and her husband gave to church leaders regarding Loholt and of how they unsuccessfully urged church leaders to inform church members about Loholt.
- (v) Evalyn deGuzman, address to be supplemented. Ms. deGuzman will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.
- (vi) Jovine Umali, address to be supplemented. Ms. Umali will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.
- (vii) Julie Garasi, address to be supplemented. Ms. Garasi will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.
- (viii) Rachelle Cope, address to be supplemented. Ms. Cope will testify regarding her relationship with R.K., including her observation of R.K. and will provide testimony relating to R.K.'s damages.

(2) On behalf of Defendants:

VII. EXHIBITS

(a) ADMISSIBILITY STIPULATED.

PRE-TRIAL ORDER - 16 of 18
(C04-2338RSM)
[Pretrial order.doc]

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Plaintiff's Exhibits:

1. Medical and psychological records of Robert Kelly
2. Jack Onfrey, aka Jack Loholt, King County Suspect Information Report and Bail Order, No. 90-1-01505-6
3. Jack Onofrey, aka Jack Loholt, King County Criminal Court File Documents, 90-1-01505-6.
4. Renton and Kent State Directories 1969 through 1980.
5. Historical Report of the Kent 2d Ward January 3, 1971 through December 28, 1975.
6. Demonstrative Exhibit Timeline of Events re Loholt youth leadership positions and abuse complaints of victims and others to church leaders
7. Dr. Jon Conte Forensic Report and forensic tests administered to Robert Kelly and Conte C.V.
8. Childhood photographs of Robert Kelly.
9. Articles of Incorporation COP and LDSSSS..
10. Excerpts from of Church Handbook of Instructions
11. Excepts from Encyclopedia of Mormonism, Priesthood and Church Organization
12. Washington State Mandatory Reporting Statute 1971
13. Depositions of Dwayne Liddell and Harold Brown in *Scott v. Mormon Church*, Oregon Circuit Court.
14. Real Estate Contract between Jack Loholt and Madeline J. Wham relating to 1973 purchase of Kent residence.

Defendant's Exhibits:

PRE-TRIAL ORDER - 17 of 18
(C04-2338RSM)
[Pretrial order.doc]

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ENCYCLOPEDIA OF MORMONISM



Edited by
Daniel H. Ludlow

Volume 1

*The History, Scripture, Doctrine, and Procedure
of The Church of Jesus Christ of Latter-day Saints*

Macmillan Publishing Company
New York

Maxwell Macmillan Canada
Toronto

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PREFACE

According to a standard definition, an encyclopedia is to "treat comprehensively all the various branches of knowledge" pertaining to a particular subject. The subject of this *Encyclopedia* is The Church of Jesus Christ of Latter-day Saints, widely known as the Mormon church. This is the first major encyclopedia published about the Mormons. It presents the work of hundreds of Latter-day Saint (LDS) lay scholars and others from throughout the world and provides a comprehensive reporting of Mormon history, scripture, doctrines, life, and knowledge, intended for both the non-Mormon and the LDS reader. Readers will find an article on almost any topic conceivably related to the general topic of Mormonism, but no article is exhaustive because of space limitations. Most articles include bibliographic references; cross-references to other articles in the *Encyclopedia* are indicated by small capital letters.

When Macmillan Publishing Company asked authorities at Brigham Young University whether they would be interested in developing an encyclopedia about The Church of Jesus Christ of Latter-day Saints, President Jeffrey R. Holland took the query to his Board of Trustees. They instructed him to proceed. Working closely with Church authorities and Macmillan, President Holland chose an editor in chief and a board of editors. Discussion of possible titles concluded that the work should be called the *Encyclopedia of Mormonism* since that is the term by which the Church is most widely known, though unofficially.

The contract called for a work of one million words in about 1,500 articles in four volumes including pictures, maps, charts, appendixes, indexes, and a glossary. It soon became apparent that references to what the Church calls the standard works—the Bible, the Book of Mormon, the Doctrine and Covenants, and the Pearl of Great Price—would be so frequent that readers who did not have ready access to those works would be at a serious disadvantage in using the *Encyclopedia*. A fifth volume was decided upon to include all the LDS standard works except the Bible, which is readily available everywhere.

The Church does not have a paid clergy or a battery of theologians to write the articles. It functions with a lay ministry, and all members are encouraged to become scholars of the gospel. Over 730 men and women were asked to write articles on topics assigned because of previous interest and study.

Six major articles unfold the history of the Church: (1) the background and founding period in New York; (2) the Ohio, Missouri, and Illinois periods ending with the martyrdom of Joseph Smith; (3) the exodus west and the early pioneer period under Brigham Young; (4) the late pioneer Utah period ending at the turn of the century and statehood; (5) a transitional period during the early twentieth century; and (6) the post-World War II period of

international growth. The history of the Church has been dramatic and moving, considering its brief span of just over 160 years. Compared to Catholicism, Judaism, ancient Far East religions, and many Protestant churches, the Church has a very short history.

Nearly 250 articles explain the doctrines of the Church, with special emphasis on basic principles and ordinances of the gospel of Jesus Christ. Twenty-four articles are clustered under the title "Jesus Christ," and another sixteen include his name in the title or relate directly to his divine mission and atonement.

Over 150 articles relate the details on such topics as the First Vision, Zion's Camp, Handcart Companies, Plural Marriage, the Salt Lake Temple, Temple Square, and the Church throughout the world. Biographies cover men and women contemporary in the life of Joseph Smith, Presidents of the Church, and auxiliary founders and past presidents. The only biography of a person living at the time of publication is on the present prophet and President of the Church, Ezra Taft Benson.

And finally, there are over a hundred articles primarily concerned with how Latter-day Saints relate to their families, the Church, and to society in general. It is said there is a "Mormon culture," and several articles explore Mormon lifestyle, folklore, folk art, artists, literature, and other facets that distinguish Latter-day Saints.

It may be that the growth of the Church in the last decades has mandated the encyclopedic account that is presented here. Yet, even as the most recent programs were set down and the latest figures listed, there is an acute awareness that the basic tenet of the Church is that its canon is open-ended. The contemporary President of the Church is sustained as a "prophet, seer, and revelator." While this makes some theological discussion moot, the basic beliefs of the Latter-day Saints, summarized in the Articles of Faith (see Glossary) do not change.

In several areas, the Church shares beliefs held by other Christians, and a number of scholars from other faiths were asked to present articles. However, the most distinctive tenets of the Church—those regarding the pre-mortal and postmortal life, living prophets who receive continuous and current revelation from God, sacred ordinances for deceased ancestors, moral and health codes that provide increasingly well-documented benefits, and the potential within man for progression into an infinite future—are all treated primarily by writers selected from among Latter-day Saints.

Lest the role of the *Encyclopedia* be given more weight than it deserves, the editors make it clear that those who have written and edited have only tried to explain their understanding of Church history, doctrines, and procedures, their statements and opinions remain their own. The *Encyclopedia of Mormonism* is a joint product of Brigham Young University and Macmillan Publishing Company, and its contents do not necessarily represent the official position of The Church of Jesus Christ of Latter-day Saints. In no sense does the *Encyclopedia* have the force and authority of scripture.

DANIEL H. LUDLOW

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KENNETH FLEMING, JOHN DOE, R.K.)	
and T.D.,)	
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Plaintiffs,)	
)	No. No. C04-2338RSM
vs.)	
)	
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)	
LDA FAMILY SERVICES, a Utah)	
corporation,)	
)	
Defendants.)	

VIDEOTAPED DEPOSITION OF SOUHIR BENHAMIDA, Ph.D.

August 25, 2006

Seattle, Washington

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Page 15

1 develop a psychological profile on Mr. Kelly?

2 A Yes. I gave him the MMPI, the Minnesota Multiphasic
3 Personality Inventory, the MCMI, the Millon Clinical
4 Multiaxial Inventory.

5 THE REPORT: I'm sorry?

6 THE WITNESS: Multiaxial, the
7 Millon, M-I-L-L-O-N, Clinical Multiaxial Inventory. I
8 gave him the Shipley and various questionnaires. So
9 two forensic history questionnaires, a parent history
10 questionnaire, and then the child behavior checklist.

11 Q (By Mr. Gordon) Of the -- of those, would some be
12 intended to develop information about Mr. Kelly's
13 psychological profile more than others?

14 A Yes.

15 Q Which ones would those be?

16 A That those would be the MMPI, the MCMI, the Shipley,
17 the forensic history questionnaires, and that's it.

18 Q Okay. Let's -- that's all I want to talk about today
19 if you could.

20 A Yes.

21 Q Let's take them kind of one by one.

22 What is the Minnesota Multiphasic Personality
23 Inventory?

24 A It's a well-used psychological test that helps
25 psychologists understand personality. So a person's

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August 25, 2006

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Page 22

1 like.

2 A Sure. Essentially Mr. Kelly was quite guarded on both
3 the MMPI and the MMCI, and what that means is that his
4 response set, his -- the way that he approached the
5 testing experience was quite defensive. So he tended
6 to focus on positive traits and highlight those and
7 not admit readily to more negative traits or traits
8 that are generally considered negative.

9 So that was a very strong finding in both tests,
10 and although forensic clients often are defensive on
11 these tests, I would say that he was more than
12 average, more than the average forensic client in a
13 custody case.

14 And there's a big distinction between response set
15 in custody-related issues versus personal injury. So
16 compared to custody cases, he was even more defensive
17 than the average client.

18 Q What does that mean?

19 A Well, what that means is that he tended to deny the
20 minor faults and foibles that most people would admit
21 readily. He tended to say a lot of positive or
22 acknowledge or endorse a lot of positive traits that
23 may be in absolute terms, that most people say, well,
24 you know, yeah, I get angry some of the time. I
25 don't -- for instance, I don't -- he said I never

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August 25, 2006

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Page 29

1 Q Yes.

2 A -- cases? No, actually I -- I usually assume that
3 there is a level of bias, depending on what the
4 secondary gain might be in a particular context.

5 Q Do you then kind of incorporate that into your
6 evaluation?

7 A Yes, I try to. So that's why in my report I mentioned
8 that caveat about the testing within normal limits and
9 so on.

10 Q There's information in your report about other
11 self-report information.

12 Did you discuss or ask Mr. Kelly if he had periods
13 of clinical depression?

14 A Yes, I did. That was in the interview.

15 Q And what did you say?

16 A No.

17 Q How about if he had suicidal tendencies, did you ask
18 him that?

19 A Yes, I did.

20 Q What did he --

21 A He said no.

22 Q He said what?

23 A No.

24 Q You -- you mentioned here, and I'm looking in the
25 report -- that he appears to have developed good

Souhir Benhamida, Ph.D
August 25, 2006

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Page 30

1 coping mechanisms and a good social support system,
2 and it goes on; what did you mean by that?

3 A I think he mentioned that his family was very
4 supportive and that he tried to volunteer in his
5 community. He didn't seem to be isolated. I mean
6 he's dealing with a high level of stress in the
7 context that I've seen him, and he seemed to be
8 mentioning some activities that certainly would help
9 with that.

10 Q Did you -- you made some brief impressions in your
11 report, as well.

12 Can you tell us what those were?

13 A Do you mean the other self-reported information?

14 Q I think we talked about that.

15 A Oh, the brief impressions. Sorry. Yeah.

16 These impressions usually come from the interview.
17 And again, because this is the testing report, I don't
18 go into a lot of detail about that, but we talked
19 about psychological problems, medical problems, legal
20 problems, substance abuse, all sorts of things. So
21 if there are any -- if there's anything that is
22 significant, I'll bring it up, including sometimes
23 about the context of the evaluation.

24 Q And your finding in that regard was what here on the
25 brief impressions?

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August 25, 2006

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Page 31

1 A That it didn't seem like he had any major
2 psychological problems at the time. So there was no
3 clear diagnosis. He didn't report any psychological
4 problems at the time and, you know, there weren't any
5 glaring ones on the testing. Now, that doesn't mean
6 that there aren't, but that's the report.

7 Q Sure. Did you have any further contact with Mr. Kelly
8 after you issued the report?

9 A No. No, I think he called me sometime later when
10 another professional's report came out to indicate
11 they may have misquoted my report. So I wrote a
12 letter clarifying how I was misquoted.

13 Q But just in terms of meeting him in person, anything
14 like any further evaluation?

15 A No.

16 Q And he had some -- he was under certain stress factors
17 that you discussed at the time, was he not?

18 A Yes.

19 Q There was a dispute about the parenting or the
20 visitation with his son?

21 A Yes.

22 Q And with her natural mother -- with his natural
23 mother, I mean? I mean the son's mother, there was
24 some stress there?

25 A Correct. He reported that, yes.

Souhir Benhamida, Ph.D
August 25, 2006