

THE HONORABLE RICARDO MARTINEZ

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

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

**NO. C04-2338 RSM**

Plaintiffs,

**[PROPOSED ORDER DENYING  
DEFENDANTS' GENERAL MOTIONS  
FOR SUMMARY JUDGMENT AND  
MOTION FOR SUMMARY  
JUDGMENT RE: STATUTE OF  
LIMITATIONS**

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 LDA  
FAMILY SERVICES, a Utah corporation,

**NOTE ON MOTION CALENDAR:  
FRIDAY, FEBRUARY 3, 2006**

Defendants.

THIS MATTER having come on regularly before the above-captioned Court upon motion of defendants COP and LDSFS, Motion for Summary Judgment, and the Court having considered the records and files herein, including:

1. Defendants' General Motions for Summary Judgment re: (1) plaintiffs' claim based on failure to report sexual abuse pursuant to RCW 26.44, 92) plaintiff R.K.'s negligence/special relationship claim for lack of duty; (3) plaintiffs' claim for equitable estoppel and fraudulent concealment; (4) plaintiffs claims for negligent infliction of emotional distress; (5) plaintiff T.D.'s claims for lack of proven damages; (6) plaintiffs' civil conspiracy claims; (7) plaintiff John Doe's and R.K.'s claims for sexual abuse that occurred before first notice to defendant COP in 1972; (8) plaintiffs' claims for failure to prove proximate cause of damages caused by

[PROPOSED] ORDER - 1  
(C04-2338 RSM)  
[158037 v1.doc]

LAW OFFICES  
GORDON, THOMAS, HONEYWELL, MALANCA,  
PETERSON & DAHEIM LLP  
ONE UNION SQUARE  
600 UNIVERSITY, SUITE 2100  
SEATTLE, WASHINGTON 98101-4185  
(206) 676-7500 - FACSIMILE (206) 676-7575

1 defendants' conduct; (9) legal rulings on the issue of segregation of damages  
2 between intentional and negligent tortfeasors;

- 3 2. Defendants' Motions for Summary Judgment on Statute of Limitations Grounds;  
4 3. The Declaration of Marcus T. Frey and all exhibits thereto;  
5 4. Plaintiffs' Opposition to Defendants' General Motions for Summary Judgment;  
6 5. Plaintiffs' Opposition to Defendants' Motion for Summary Judgment re: Statute of  
7 Limitations;  
8 6. The declaration of R.K.;  
9 7. The declaration of Jon Conte re: R.K.;  
10 8. The declaration of Jon Conte re: T.D.;  
11 9. The declaration of Stuart Greenberg re: John Doe;  
12 10. The declaration of Michael T. Pfau, and all attachments thereto; and  
13 11. Defendants' Replies to Oppositions, if any.

14 And having heard argument of counsel and otherwise deeming itself fully advised, the  
15 Court rules as follows:

- 16 1. Defendants General Motions for Summary Judgment are **DENIED**.  
17 2. Defendants Motion for Summary Judgment re: Statute of Limitations is  
18 **DENIED**.

19 DONE IN OPEN COURT this \_\_\_\_ day of February, 2006.

21 \_\_\_\_\_  
22 THE HONORABLE RICARDO S. MARTINEZ

1 PRESENTED BY:

2 **GORDON, THOMAS, HONEYWELL,**  
3 **MALANCA, PETERSON & DAHEIM, LLP**

4 By: /s/ Michael T. Pfau  
5 Michael T. Pfau, WSBA No. 24694  
6 mpfau@gth-law.com  
7 Co-Counsel for Plaintiffs

8 LAW OFFICES OF TIMOTHY D. KOSNOFF

9  
10 By: /s/ Timothy D. Kosnoff  
11 Timothy D. Kosnoff, WSBA No. 16586  
12 timkosnoff@comcast.net  
13 Co-Counsel for Plaintiffs

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[PROPOSED] ORDER - 3  
(C04-2338 RSM)  
[158037 v1.doc]

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SEATTLE, WASHINGTON 98101-4185  
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that on January 30, 2006, I electronically filed the foregoing **PROPOSED ORDER DENHING DEFENDANTS MOTIONS FOR SUMMARY JUDGMENT** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Thomas D. Frey and  
Marcus Nash  
STAFFORD FREY COOPER  
601 Union Street, Suite 3100  
Seattle, WA 98101-1374

DATED this 30<sup>th</sup> day of January, 2006.

/s/Teri A. Watson  
Teri A. Watson  
Assistant to Michael T. Pfau,