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October 17, 2013

Via Hand Delivery and Email
Solomon Rubin, Esq.
Law Offices of Jan Meyer & Associates, P.C.
1029 Teaneck Road, Second Floor
Teaneck, NJ 07666
(201) 862-9500
Attorneys for Plaintiffs

Re: World Mission Society, Church of God v. Colón
Docket No: BER-L-5274-12

Dear Mr. Rubin:

On October 9, 2013, I was served, on behalf of my client, Michele Colón, with Plaintiff World Mission's motion for a protective order in the above-referenced matter. This letter is to put you on notice that Ms. Colón and I believe that you and your client have filed the motion for a protective order in violation of Rule 1:4-8 of the Rules Governing the Courts of the State of New Jersey, and in violation of N.J.S.A. 2A:15-59.1, both of which prohibit frivolous litigation. Pursuant to Rule 1:4-8(b)(1), we demand that the motion for a protective order be withdrawn within 28 days of the date of service of this letter, or else we will make an application for sanctions within a reasonable time thereafter, or as soon thereafter as the Court will allow. Because the subject of this letter is a motion whose return date, October 25, 2013, precedes the expiration of the 28-day period, you have the option of either requesting an adjournment of the return date or waiving the balance of the 28-day period. If you do not request an adjournment of the return date, you will be deemed to have elected the waiver, pursuant to Rule 1:4-8(b)(1).

The basis for our belief that the motion for a protective order is frivolous can be found in the papers which Ms. Colón filed today in opposition to the motion. Nevertheless, the paragraphs below provide a summary of the basis for our belief that the motion for a protective order is frivolous.

I. The Motion Is Frivolous Because of Your Failure to Confer

You made no attempt to confer with me regarding the issues raised in your motion, as required by Rule 1:6-2(c). The failure to confer prior to filing a discovery motion makes the discovery motion frivolous.

II. Your Certification Is Frivolous Because It Contains Argument, Hearsay, and Perjury

Your certification violates Rule 1:6-6 for a number of reasons. First, it is riddled with legal arguments, so much so that you are actually using your certification in lieu of a brief. Second, it is filled with inadmissible hearsay. For instance, you testify in your certification about the same facts that are presented in the affidavits of Mr. Whalen and Mr. Pereira. Yet, you have no personal knowledge of those facts. You are merely repeating what was told to you.

Even worse, you have brazenly committed multiple counts of perjury in your certification. You have fabricated a series of facts to support your contention that Ms. Colón and I are using this litigation to pursue personal business interests. For instance, in ¶ 29 of your certification, you claim that Ms. Colón "has expressed openly to the court that her purpose and the motive for her moving forward is to begin a career in the field of exit counseling both for herself and Grosswald." In fact, Ms. Colón has never said any such thing. Naturally, when that sentence appears in your certification, it is not followed up with a citation to the record. That is because you invented that fact yourself.

You continue to lie throughout ¶ 29. You refer to an alleged attempt by Ms. Colón to obtain the "names of all the members of the Ridgewood branch," something Ms. Colón has never asked for. You then cite to page 21 of the January 11, 2013 hearing transcript (without including it as an exhibit), in which I was arguing for dismissal of Mr. [redacted] claim for intentional infliction of emotional distress. Nowhere on that page do I ever mention obtaining the names of Plaintiff members. Nor do I mention a desire held by either Ms. Colón or myself to become "exit counselors."

You continue your perjury in ¶ 31:

> The underlying reason for Colon and Grosswald's desire for this list is to build a clientele and gather leads of potential clients for their newly founded intervention business. Their business model is to lure families into believing a family member is in danger, and to hire themselves out as "exit counseling for a lucrative payment.

(end quotation marks missing in original.) Every fact contained in that paragraph is false. You are testifying that you have personal knowledge of the activities of Ms. Colón and myself. Yet, you have never met Ms. Colón or myself. Except for your being copied on a few of Mr. Miltenberg's emails beginning in late September of this year, you have never had any communication or other interactions with either Ms. Colón or myself. You are simply making up facts, and certifying that those facts are true under penalty of perjury.

In ¶ 32, you add a new layer of speculation to your perjured testimony. You claim that "there is great potential for relatives of Church members to be harassed and targeted." You do not identify any relatives of Plaintiff members who have been so harassed. Rather, you simply speculate that such harassment could happen. You are not only fabricating a story about Ms. Colón and I becoming "exit counselors," but you are assuming that if we did become exit

counselors, that we would be unethical exit counselors who would violate the accepted standards of the profession by harassing people. You are not saying this because you have any basis for saying it. You just decided to make up some facts, and certify under penalty of perjury that they are true.

In ¶ 35, you again testify to facts about which you have no personal knowledge. This time, you claim that Ms. Colón "has also reached out to media contacts to further publicize the case and her libelous statements against the Church." You do not have any personal knowledge of Ms. Colón reaching out to media contacts, and you certainly have no knowledge of what Ms. Colón has said or would say when reaching out to media contacts. For all you know, Ms. Colón could be refraining from discussing the alleged defamation when speaking with the media, and instead she could be talking about all of the facts that she has published online about Plaintiff which Plaintiff does not claim are defamatory.

In ¶ 36, you claim that I have made a "multitude of statements" which "have nothing to do with the argument or topic of that moment," and which contain "factual inaccuracies." You fail to cite even one single example of that happening. You then testify that I have posted documents from this case online, when in fact I have not. Again, this is perjury.

In light of the above, your continuing reliance on your certification to advance Plaintiff's legal position is frivolous.

III. <u>Plaintiff's Request to Prevent Discovery From Being Had Is Frivolous Because the Issues Raised Have Already Been Ruled On By The Court</u>

The Court has already ruled on every one of the document production issues raised in your motion. At the August 27, 2013 case management conference, the Court went through each discovery request one by one and ruled on them. You are now attempting to re-litigate those same issues, even the ones you previously prevailed on. Such a motion is frivolous and serves no purpose other than to drive up Ms. Colón's legal bill.

For instance, you are frivolously litigating the requests for insurance agreements and engagement letters, even though Ms. Colón withdrew those requests, without prejudice, at the August 27 conference. You are frivolously litigating the request for Big Shine documents, even though the Court narrowed those requests and ordered the narrowed version of the requests to be produced. You are frivolously litigating Request #26, asking for documents sufficient to show the size of the WMSCOG's membership, even though Mr. Miltenberg agreed to produce such documents, if they exist. You are frivolously litigating the request for information about Joo Cheol Kim's citizenship, even though that request was granted by this Court on August 27 with no objection from Plaintiff. Kim's citizenship status is obviously relevant to the issue of whether the Presidential Volunteer Service Award Article is defamatory, since the article discusses Mr. Kim's citizenship status and the fact that his citizenship status made him ineligible to receive the award.

Of course, had you conferred with me prior to filing your discovery motion, as you are required by rule to do, I would have reviewed this Court's August 27 decisions with you and

explained that your efforts to raise these issues again were duplicative and unnecessary. If at that time we had a disagreement as to what the Court's August 27 rulings were, we could have defined those specific issues and presented them jointly to the Court for resolution. However, your attempt to re-litigate issues that have already been decided is frivolous.

IV. Plaintiff's Request for a Sealing Order Is Frivolous

The arguments you make and evidence you present in support of your request for a sealing order are frivolous. First, the allegation that Ms. Colón and I are seeking discovery to further our own careers, rather than to prove Ms. Colón's defenses, is baseless and frivolous. As explained above, the allegation is based entirely on your perjured testimony.

Second, the arguments you make and evidence you present regarding the actions of Daniel Gerard Abbamont are frivolous. You are relying entirely on inadmissible evidence to support your contention that Mr. Abbamont's actions were caused in whole or in part because of the public accessibility of court documents. You try to provide such evidence by testifying that:

> Abbamont has no relation to the church or any of its members. He launched this campaign based solely on Ms. Colon's publication of the Court filings.

(Rubin Cert. ¶ 55; see also Rubin Cert. ¶ 69.) Yet, again, you are being frivolous by testifying to things for which you have no personal knowledge. You are also being frivolous by relying on Mr. Abbamont's claim that he was motivated by Ms. Colón's complaint, because such a claim is inadmissible hearsay. It is just as likely - perhaps even more likely - that he was motivated by something else (such as Plaintiff's bad behavior) and he simply used Ms. Colón's complaint as an excuse to act out. It is even possible that he is a devoted member of Plaintiff, and that he staged his bad actions in order to discredit Ms. Colón. Moreover, it is frivolous for you to suggest that the fact that Ms. Colón tweeted a link to Mr. Abbamont's protest makes her "complicit" in Mr. Abbamont's actions. (See Rubin Cert. ¶ 62.) You have not presented any evidence to show that Ms. Colón knew what Mr. Abbamont was going to do before he did it, or that she condoned his actions after he did it.

Likewise, the certifications of Mr. Pereira and Mr. Whalen are frivolous because they, too, rely on inadmissible hearsay to connect Ms. Colón to Mr. Abbamont. Mr. Pereira tries to make the connection in ¶ 18 of his certification:

> Once I read the links on the website provided on the Flyer, I understood the reason behind the harassing messages and derogatory article was Ms. Colon’s 5 part series and the posting of the Colon Complaint . . . . There was a correlation between the words written by Colon and what was written on the website listed on the Flyer.

Mr. Pereira's testimony in ¶ 18 is frivolous because he is relying on inadmissible hearsay.

Mr. Whalen's certification is also frivolous. In ¶ 26, he testifies that "It is believed and presumed that Ms. Colón was aware of Abbamont's course of actions . . . ." Such testimony is inadmissible under Rule 1:6-6. Your reliance on such testimony is frivolous.

Moreover, the facts offered by Mr. Pereira and Mr. Whalen show that the most recent incident of "harassment" took place last May - over five months ago. Plaintiff's attempt to seal the record of this case based on the actions of one individual, terminating five months ago, is frivolous.

Moreover, your own evidence shows that you have frivolously overblown the "threat" faced by Plaintiff. For instance, you and Mr. Pereira each testify that the flyer attached to the Lincoln Grill's window left glue reside which caused damage to the window. (Rubin Cert. ¶ 64; Pereira Cert. ¶9.) You elaborate by calling it "irreparable damage." (Rubin Cert. ¶ 64.) Mr. Pereira claims that the window has been "damaged ever since." (Pereira Cert. ¶ 9.) Yet, in the police report submitted with Mr. Pereira's certification, the police officer notes:

> All glass was intact and there was no major damage visible to the windows other than where Arcesio removed the sticker on the door. I advised Arcesio that he could purchase window cleaning products and remove the remaining glue residue without issue.

(Pereira Cert., Ex. 2, p. 3.)

Likewise, Mr. Whalen is frivolously exaggerating the facts. Mr. Whalen claims that he "felt even more fearful and panicked" when he visited the Facebook page of a WMSCOG critic who had posted a picture of a 3D printable gun and commented on using it against the government. (Whalen Aff., ¶ 16; Whalen Aff., Ex. 4.) That post said nothing about the WMSCOG and was clearly not directed at Plaintiff or Mr. Whalen. The fact that Plaintiff has to rely on threats that are not directed at Plaintiff in order to create the appearance that Plaintiff is threatened only serves to illustrate the point that Plaintiff is actually not under any serious threat, and your motion is frivolous.

Finally, your characterization of Rule 1:38-3 is false and frivolous:

> Under NJ Court Rule 1:38-3, regarding court records excluded from public access, subheading C notes that all criminal records and documents are not part of public record. There is a reason that all criminal cases are automatically confidential, so as not to implicate a defendant or plaintiff as allegations are brought forth until the party's innocence is proven.

(Rubin Cert. ¶ 83.) The rule obviously does not say that all criminal cases are automatically confidential. Rather, the rule identifies twelve categories of documents that are excluded from the general rule requiring public access to documents. You do not argue that any of the documents in the instant case are analogous to any of those twelve categories, such that the policy justifying nondisclosure under Rule 1:38-3 should be incorporated into the sealing order

standard in Rule 1:38-11. Your attempt to mischaracterize Rule 1:38-3, and to rely on your false description of the rule, is frivolous.

Moreover, the allegations of criminality made by Ms. Colón in court documents are substantially the same as those made in the challenged statements identified in Plaintiff's pleadings. Plaintiff did not feel the need to place this case under seal when it first put those challenged statements into the public record by filing this case back in July 2012. It is only now, less than three months before Plaintiff's document production is due, that Plaintiff has decided that it needs to have a sealing order to prevent the public from learning its secrets. Plaintiff's attempt to obtain a sealing order to avoid public accountability for its actions is frivolous.

V. Plaintiff's Request for a Confidentiality Order Is Frivolous

Plaintiff's attempt to obtain a confidentiality order is frivolous. Plaintiff has failed to show that the discovery materials sought fall into any of the confidentiality categories of Rule 4:10-3(g). Ms. Colón is not seeking trade secrets, confidential research, development, or commercial information from Plaintiff.

Plaintiff's attempt to assert confidentiality over financial documents is frivolous because it is being done solely in order to enable Plaintiff to avoid being held publicly accountable as a non-profit tax-exempt entity.

Likewise, Plaintiff's attempt to assert confidentiality over its religious doctrines is frivolous. Plaintiff's assertion that WMSCOG members in other countries would suffer persecution as a result of disclosure is frivolous because it is not supported by any evidence in the record. Obviously, the real reason that Plaintiff wants to keep its religious doctrines confidential is so that it can continue to recruit unsuspecting people who are unaware of what they are getting involved in. That is a frivolous reason for seeking court-ordered confidentiality. Moreover, because secret beliefs are one of the hallmarks of a cult, it is frivolous for Plaintiff to claim that the "cult" label is defamatory at the same time that it is attempting to preserve the secrecy of its beliefs with a confidentiality order.

Moreover, your reliance on an unpublished opinion that you have not served on me is frivolous because it violates Rule 1:36-3. (See Rubin Cert. ¶ 80.) Once again you commit perjury in your certification - when you assert that you have included the unpublished case with your motion papers. (See Rubin Cert. n.1.)

Finally, your repeated assertion that Plaintiff has a right to privacy is frivolous because, as you know, courts have universally held that corporations have no right to privacy.

Conclusion

For all of the foregoing reasons, the motion for a protective order is frivolous. As explained above, we will be seeking sanctions against you, Plaintiff World Mission, the Law Offices of Jan Meyer & Associates, P.C., Nesenoff & Miltenberg, LLP, and any other lawyer or

law firm who assisted you in the preparation of the motion for a protective order, unless you withdraw the motion for a protective order as described above.

Please be advised that this demand is made without prejudice to Ms. Colón's right to pursue any other legal remedies that may be available to her. Compliance with this demand will not absolve any person or entity of their respective liability in any other proceeding.

Sincerely,

Paul Grosswald

<u>cc by email</u>: Andrew T. Miltenberg, Esq.
Marco A. Santori, Esq.
Diana R. Zborovsky, Esq.
Jan Meyer, Esq.