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September 13, 2012

Via Facsimile

The Honorable Rachelle Lea Harz
Judge Superior Court
Superior Court of New Jersey
Bergen County Courthouse
10 Main Street, 3rd Floor
Hackensack, NJ 07601
Fax: (201) 371-1156

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

Dear Judge Harz:

This office represents the Defendant, Michele Colón, in the above-captioned matter. Ms. Colón strongly opposes the Plaintiff World Mission's request for an additional adjournment of Ms. Colón's motion to dismiss and motion to strike. World Mission's lawyer, John W. Dozier, died on August 6, 2012. Because Mr. Dozier was the sole owner of his firm, World Mission could have and should have realized immediately that it would need to find new counsel. It is now September 13, 2012, almost six weeks later. World Mission has had plenty of time to interview prospective attorneys and decide on new counsel. Instead, World Mission is dragging its feet, and is using Mr. Dozier's death as an excuse to prolong the proceedings against Ms. Colón.

The instant case is a SLAPP suit - a "Strategic Lawsuit Against Public Participation." See, e.g., LoBiondo v. Schwartz, 199 N.J. 62, 72 (2009). SLAPP suits are part of "a nationwide trend in which large commercial interests utilize[] litigation to intimidate citizens who otherwise would exercise their constitutionally protected right to speak in protest against those interests." Id. at 85. "[T]he goal of such litigation [is] not to prevail, but to silence or intimidate the target, or to cause the target sufficient expense so that he or she would cease speaking out." Id. "SLAPP suits are an improper use of our courts." Id. at 86; see also N.J.S.A. 2A:15-59.1 (awarding costs and attorney fees to victims of frivolous litigation); R. 1:4-8 (imposing sanctions for frivolous litigation).

Ms. Colón has been continually harassed by World Mission and its lawyers for almost a year - since September 28, 2011, when Mr. Dozier sent a cease and desist letter to an Internet company to try to silence Ms. Colón's speech. Ms. Colón's speech is critical of World Mission. World Mission is the New Jersey branch of a Korean-based global doomsday cult. Ms. Colón is a former member of the cult who has been trying to warn people about World Mission's harmful and destructive beliefs and practices. She also assists other victims of the cult and their families by sharing information with them. World Mission is threatened by Ms. Colón's efforts, and will stop at nothing to try and silence her.

World Mission initially tried to silence Ms. Colón by filing a defamation lawsuit against her and another World Mission critic, Tyler Newton, in Virginia last December. (Circuit Court of Fairfax County, Commonwealth of Virginia, No. 2011-17163.) That suit was dismissed against Ms. Colón for lack of personal jurisdiction, but the suit against Mr. Newton continued. World Mission's behavior in that lawsuit reveals that it is employing a strategy of using litigation to harass its critics, and drive up litigation costs for its critics, without ever litigating its claims on the merits. Even though Mr. Dozier was very much alive during most of World Mission's suit against Mr. Newton, World Mission repeatedly adjourned the proceedings, to push back the date when World Mission would have to respond to Mr. Newton's discovery requests. Finally, when neither Mr. Newton nor the judge would consent to any more delays, and when World Mission's deadline to produce discovery came and went, World Mission voluntarily dismissed its lawsuit against Mr. Newton, and informed Mr. Newton that World Mission will start over by filing a new lawsuit against him in New Jersey. In light of such a history of delaying litigation, forum-shopping, and avoiding the production of discovery, World Mission's current request for an adjournment should be viewed as an attempt to prolong the harassment of Ms. Colón, notwithstanding Mr. Dozier's untimely death.

Ms. Colón is being damaged by this ongoing lawsuit, and every day that the lawsuit continues contributes to her injuries. She has suffered emotional damages, and the stress of the litigation is interfering with her job performance at work. Moreover, her fear of additional litigation has caused her to limit her speech with respect to World Mission. Every day that the instant lawsuit is dragged out is another day that Ms. Colón's First Amendment rights are being suppressed. Every such day is also a day that World Mission's victims are denied access to the critically important information they need to save themselves and their loved ones from the cult's grip and to put their lives back together.

In light of the ongoing damage that this lawsuit is inflicting on Ms. Colón and the cult's other victims, World Mission's arguments for adjournment are simply not compelling. First, Mr. Dozier was never World Mission's attorney of record in this case. Mr. Dozier was not even admitted to practice law in New Jersey. World Mission's attorney of record - the attorney who signed the Complaint - is Batya Wernick. Ms. Wernick is perfectly capable of continuing her representation of World Mission. She has not asked to withdraw as counsel of record, and is therefore responsible for responding to Ms. Colón's motions and making sure that her client adheres to the current deadlines.

Even if the Dozier attorneys, and not Ms. Wernick, were responsible for responding to Ms. Colón's motions, it is not an acceptable excuse for Ms. Wernick to claim that the motion papers were not received by Dozier's Corey Pollard until Wednesday, August 29, 2012. Ms. Wernick was served

with the motion papers, via hand delivery to her office, on Friday, August 24, 2012, the day they were due. Although Ms. Wernick claims she did not receive the papers until the following Monday, that is the fault of Ms. Wernick's staff, who failed to forward the papers to her - but it is not the fault of Ms. Colón, and Ms. Colón should not have to bear the brunt of that delay. Moreover, Ms. Wernick states that she immediately forwarded the papers to Laura Marston of Dozier. She does not state how she forwarded them, but if she had used email then Dozier would have received the papers as early as Monday, August 27, 2012. If she did not use email, then any delay in Dozier receiving the papers is Ms. Wernick's fault, not Ms. Colón's. Ms. Colón has no obligation to spend the money to serve the papers on an out-of-state attorney who is not admitted to New Jersey and who is not the attorney of record.¹

Moreover, World Mission knew that Ms. Colón's deadline to respond to its Complaint was on August 24, 2012. World Mission also knew that Ms. Colón's response could possibly include a motion or an answer with a counter-claim, either of which would require a response by World Mission. So after Mr. Dozier died on August 6, World Mission had almost three weeks to find a new attorney in anticipation of what was coming on August 24.

Nevertheless, in the spirit of cooperation, Ms. Colón agreed to a one-time adjournment at Mr. Pollard's request. When Mr. Pollard was asked on Thursday, August 30, 2012 how much additional time World Mission needed, Mr. Pollard said thirty days. Ms. Wernick now claims that Mr. Pollard had made that statement "prior to performing a substantive review" of the motion papers which were in his possession at that time. Such lack of diligence should not be countenanced by this Court. Notwithstanding the fact that Mr. Pollard was dealing with the winding down of the Dozier firm, Ms. Wernick - the attorney of record- was still capable of performing a substantive review of the motion papers.

World Mission is also claiming that it needs additional time due to the length of Ms. Colón's motions. But the length of Ms. Colón's motions is due to the length of World Mission's Complaint, and the numerous deficiencies and frivolous claims that are contained therein. There are no issues raised in Ms. Colón's motions that could not have been reasonably anticipated by a competent lawyer who signed her name to the Complaint. Although Ms. Wernick complains that Ms. Colón's motion papers are 259 pages long, Ms. Wernick fails to mention that most of those pages consist merely of the statements which World Mission claims are defamatory. Ms. Wernick was supposed to have become familiar with those statements before signing her name to the Complaint. See R. 1:4-8 (requiring an attorney who signs a pleading to make an inquiry reasonable under the circumstances to determine that the claims are not frivolous). If Ms. Wernick is not prepared to respond to the issues raised in Ms. Colón's motions than it necessarily means that Ms. Wernick signed her name to the Complaint without first conducting the reasonable inquiry that she is required to conduct, in violation of the frivolous litigation rule. See id.

Finally, Ms. Wernick asserts that because Ms. Colón has indicated that she intends to pursue a

¹ World Mission has since agreed to accept service of future legal papers by email, and Ms. Colón has agreed to include Dozier's Mr. Pollard as a recipient of such emails.

SLAPP-back claim² against World Mission, that additional time is needed for World Mission to respond to Ms. Colón's motions. That is nonsense. A SLAPP-back claim is simply a mirror image of the original SLAPP suit. If the original suit is frivolous, there is a SLAPP-back claim. If the original suit is not frivolous, there is no SLAPP-back claim. The SLAPP-back claim does not need to be analyzed separately from the underlying lawsuit. Moreover, Ms. Colón has not filed a SLAPP-back claim at this time, and will not be able to file one unless and until the instant case is terminated in her favor. See LoBiondo v. Schwartz, 199 N.J. 62, 72 (2009). Thus, the future SLAPP-back claim does not provide a sufficient reason for giving World Mission additional time to address the pending motions.

For the foregoing reasons, Ms. Colón respectfully requests that this Court keep this case moving forward as currently scheduled, with no additional delays.

In the event that this Court does decide to adjourn Ms. Colón's motions until November 30, 2012,³ Ms. Colón respectfully requests that World Mission's opposition brief be due on Monday, November 5, 2012, with Ms. Colón's reply brief due on Monday, November 26, 2012. Counsel's time to work on Ms. Colón's reply brief will be limited in November due to a previously scheduled vacation from November 9 through November 18, and the Thanksgiving holiday.

Thank you for your consideration of this matter.

Sincerely,



Paul S. Grosswald

cc by email: Batya Wernick, Esq. (bgwlaw@verizon.net)
Corey Pollard, Esq. (corey@cybertriallawyer.com)

² Although New Jersey does not have an anti-SLAPP statute, the New Jersey Supreme Court has recognized an anti-SLAPP cause of action, which is a variation of the common-law malicious use of process cause of action. See LoBiondo v. Schwartz, 199 N.J. 62, 72 (2009).

³ November 30, 2012 is not a scheduled motion day. If the Court adjourns until the next motion day - December 7, 2012- then a decision on the motions will likely not be forthcoming until next year. Ms. Colón should not have to wait so long to get relief.