

04/30/2019

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 19-0077

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IN THE SUPREME COURT OF THE STATE OF MONTANA  
Supreme Court Cause No. DA 19-0077

ALEXIS NUNEZ and HOLLY  
McGOWAN,

Plaintiffs/Appellees,

v.

WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, INC.;  
CHRISTIAN CONGREGATION OF  
JEHOVAH'S WITNESSES and  
THOMPSON FALLS CONGREGATION  
OF JEHOVAH'S WITNESSES,

Defendants/Appellants.

**AFFIDAVIT OF  
KATHLEEN L. DESOTO**

WATCHTOWER BIBLE AND TRACT  
SOCIETY OF NEW YORK, INC.;  
CHRISTIAN CONGREGATION OF  
JEHOVAH'S WITNESSES and  
THOMPSON FALLS CONGREGATION  
OF JEHOVAH'S WITNESSES,

Third-Party Plaintiffs/Appellants,

v.

MAXIMO NAVA REYES and IVY  
McGOWAN-CASTLEBERRY,

Third-Party Defendants/Appellees.

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STATE OF MONTANA )

:ss

County of Missoula )

KATHLEEN L. DESOTO, being first duly sworn upon oath, deposes and  
says:

1. I am attorney for Defendants/Third-Party Plaintiffs/Appellants  
Watchtower Bible and Tract Society of New York, Inc. ("Watchtower"), Christian  
Congregation of Jehovah's Witnesses ("Christian Congregation"), and Thompson  
Falls Congregation of Jehovah's Witnesses.
2. This affidavit is offered in support of Appellants' Second Motion for  
Extension of Time (Unopposed) and Motion for Leave to File an Over-Length  
Brief.
3. Appellants' Opening Brief is currently due May 8, 2019.

4. Appellants' Opening Brief was originally due April 8, 2019.
5. Appellants request an additional two-week extension, up to and including May 22, 2019, in which to file their Opening Brief.
6. An additional extension is necessary because of the number and complexity of the arguments Appellants intend to raise in their brief.
7. The issues include:
  - a. Interpretation of Montana Code Annotated § 41-3-201, et seq., which has only been addressed once by this court more than two decades ago, and never in the context of a claim for negligence per se;
  - b. The extra-territorial effect, if any, of Montana Code Annotated § 41-3-201;
  - c. The constitutionality of the District Court's narrow interpretation of Montana Code Annotated § 41-3-201(6)(c), which creates an exception to mandatory child abuse reporting laws for clergy who receive communications about abuse that established church practice requires them to keep "confidential";
  - d. The constitutionality of Montana Code Annotated § 27-1-220(3), the statutory cap on punitive damages; and

- e. Whether the \$30 million punitive damages award against Appellants Watchtower and Christian Congregation violates the Due Process Clause of the federal constitution.
8. This case presents several critical and complex issues of statutory and constitutional law, some of which have not yet been considered by this Court.
9. Appellants request additional time to ensure that the facts are thoroughly and accurately stated in the record, that the law is accurately and thoroughly discussed in the Opening Brief, and that the arguments are presented to the Court in as clear and concise manner as possible.
10. Appellants have exercised diligence in drafting and revising their Opening Brief, and seek a two-week extension to ensure that the complex constitutional issues raised in their brief are thoroughly and accurately presented to this Court.
11. Counsel for Appellees do not oppose the Second Motion for Extension of Time.
12. Appellants also seek leave to file an over-length brief, pursuant to Montana Rule of Appellate Procedure 12(10).
13. Appellants seek to have an additional 1500 words in their Opening Brief.

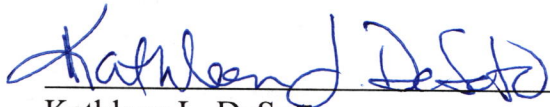
14. The extraordinary justification for this request to file an over-length brief is the number and complexity of the issues raised in this case, as discussed above.

15. Appellants are raising issues of state and federal constitutional law, and are asking this Court to examine statutes which have not yet been interpreted by the Court.

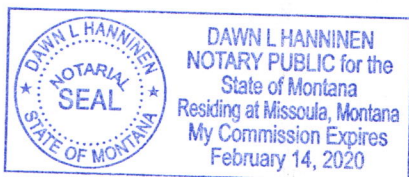
16. Appellants have diligently worked to hone the arguments they are raising in this case, and believe that the number and complexity of the significant issues raised in this appeal justify an over-length brief.


17. Counsel for Appellees oppose the Motion to File an Over-Length Brief.

DATED this 30th day of April, 2019.

  
Kathleen L. DeSoto

SUBSCRIBED TO AND SWORN before me this 30th day of April, 2019, by  
Kathleen L. DeSoto.



  
NOTARY PUBLIC for the State of Montana