

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ERIC E. HOYLE,

Plaintiff,

vs.

**DECLARATION**

FREDERICK DIMOND, ROBERT DIMOND,  
and MOST HOLY FAMILY MONASTERY,  
a New York Not-for-Profit Corporation,

**Index No. 08-cv-00347-JTC**

Defendants.

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K. WADE EATON hereby declares, under penalty of perjury:

1. I am an attorney admitted to practice before this Court and represent the Plaintiff in this action. I submit this Declaration in opposition to the Defendants' Motion for an Order Compelling Discovery filed on August 19, 2010.

2. The central question in this litigation is whether the Defendants are affiliated with the universally recognized and sanctioned Order of St. Benedict. Indeed, this Court has stated that "the dispute is simply ... whether the Defendants falsely represented themselves as being affiliated with the Order of St. Benedict." Decision and Order dated March 5, 2009 (Docket # 41) at page 7.

3. Defendants' prior counsel, throughout our discussions with regard to the discoverability issues, persisted in her attempts to divert and expand the proper focus and scope of discovery by claiming that "Mr. Hoyle's past and present religious views, knowledge, and understandings **are at the heart of this lawsuit**.... By accusing my clients a fraud, Mr. Hoyle has exposed to discovery all evidence of his knowledge of religious doctrines, personal opinions

about those doctrines, and experiences with religious organizations." *Emphasis added*. See letter from Lisa A. Coppola, Esq. to K Wade Eaton, Esq., dated February 18, 2010, attached hereto as Exhibit A.

4. It is in this context, supported by the Court's recognition of the limited nature of the dispute between the parties, that the Plaintiff has declined to provide information and documents relating to his past or present religious beliefs, specifically (1) Interrogatory 1 (asking why the Plaintiff decided to disaffiliate with any religious organization to which he had previously been associated); (2) Interrogatory 2 (asking which teachings of the Order of St. Benedict influenced the Plaintiff's decision to try to become a Benedictine monk); and (3) Interrogatory 7 (asking Plaintiff to identify experiences, research, and conversations that led him to set aside his pursuit of priestly training).

5. These interrogatories are plainly irrelevant to the central issue in this case: whether the Defendants misrepresented to the Plaintiff their affiliation with the "universally recognized and sanctioned Order of St. Benedict." Decision and Order dated March 5, 2009 (Docket #41) at page 6.

6. The defendant's discomfort with regard to Plaintiff's response to Interrogatory #5 arises from its use of the ambiguous term "legitimate". Plaintiff's reasonable interpretation of that term directed him to two sources listing the monasteries which are "affiliated with the universally recognized and sanctioned Order of St. Benedict." His response adequately identified each of those sources.

7. Similarly, the Plaintiff's response to interrogatory #6 addressed the question of "legitimacy" by referring to the generally accepted documents identified in his response to interrogatory #5.

8. The Defendants further request an order compelling the Plaintiff to provide many years of "tax filings or gift tax returns." Although such documents were not requested by Defendants' prior counsel, a request was made by letter from the Defendants' current counsel to the undersigned dated June 18, 2010, a copy of which is attached hereto as Exhibit B.

9. Undoubtedly aware that the federal courts require special circumstances and the articulation of the necessity of the production of such documents, counsel asserts that these tax filings are necessary for determining Plaintiff's donative intent. It is unclear how the Plaintiff's "donative intent" can affect the merits of the Plaintiff's claims, since all of the Plaintiff's transfers of assets to the Defendants were the result of their fraudulent misrepresentation regarding their affiliation with the Order of St. Benedict.

10. The Defendants have shown no support for their overreaching demand for the production of plaintiff's state and federal tax filings, including any gift tax filings, for the years 2003 through 2008. Whatever limited relevance portions of these returns might have, certainly only those portions which the Court finds directly relevant to the defense of Plaintiff's claims need be produced.

11. With regard to the Defendants' demand that Plaintiff produce recordings of various telephone conversations, I advise the Court that counsel has reviewed each of the many recordings and is prepared to provide the recordings which are responsive to Defendants'

demands within the near future. The review of these recordings has subsumed many hours; our previous estimate of a reasonable production timetable was unduly optimistic.

12. We continue to review documents provided to us by the plaintiff to ensure compliance with ongoing discovery demands.

13. Attached hereto as Exhibit C is a privilege log as previously requested by Defendants.

Signed this 15<sup>th</sup> day of October, 2010.

s/ K. Wade Eaton

K. Wade Eaton

# Exhibit A

RUPP, BAASE, PFALZGRAF,  
CUNNINGHAM & COPPOLA LLC  
*Attorneys at Law*

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February 18, 2010

K. Wade Eaton, Esq.  
Chamberlain, D'Amanda,  
Oppenheimer & Greenfield LLP  
1600 Crossroads Building  
Two State Street  
Rochester, New York 14614

Dear Mr. Eaton:

Re.: Hoyle v. Most Holy Family Monastery, et al.  
Our File No.: 1876.4048

In response to your most recent correspondence, I ask that you take note of the rules of discovery and the various claims and allegations your client has interposed in this case. The combination of the two demand that your client sufficiently respond to our interrogatories.

As you know, the Federal Rules of Civil Procedure grant discovery of any non-privileged matter that is relevant to any claim or defense. Fed. R. Civ. Proc. 26(b)(1). Discovery further extends to any evidence that is reasonably calculated to lead to the discovery of admissible evidence. *Id.* Thus, evidence need not be admissible at trial in order for it to be subject to pre-trial disclosure.

Mr. Hoyle's past and present religious views, knowledge, and understandings are at the heart of this lawsuit. He has placed them at the center of this case by virtue of the various claims and allegations interposed. By accusing my clients of fraud, Mr. Hoyle has exposed to discovery all evidence of his knowledge of religious doctrines, personal opinions about those doctrines, and experiences with religious organizations. Mr. Hoyle's level of comfort in responding to our interrogatories is not what governs the scope of discovery in this case. This is especially so considering he previously has taken steps to publicize his personal, religious beliefs to the Court. *See* Affidavit of Eric E. Hoyle, sworn to on August 8, 2008 (Dkt. 30). Thus, we again request that Mr. Hoyle provide complete responses to interrogatories 1, 2, and 7.

RUPP, BAASE, PFALZGRAF, CUNNINGHAM & COPPOLA LLC

K. Wade Eaton, Esq.

February 18, 2010

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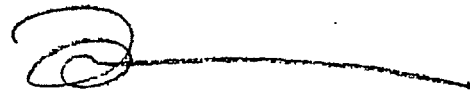
I respectfully disagree with your position that your client's responses to interrogatories 5 and 6 are clear. I also reject your attempt to utilize your own correspondence to further elaborate on Mr. Hoyle's sworn responses to those interrogatories.

Interrogatory 5 instructs Mr. Hoyle to identify precisely what Benedictine monasteries he considers to be legitimate. His generic statement that monasteries founded in accordance with the Order of St. Benedict's rules and procedures fails to sufficiently respond.

Interrogatory 6 simply asks whether Mr. Hoyle considers St. Vincent's Archabbey to be a legitimate Benedictine monastery. A yes or no answer will suffice, and we await same.

I note that with the exception of your objection to interrogatory number 7 (which is without merit, as explained in my letter of January 25), no specific objections have been interposed to the interrogatories addressed herein. Those interrogatories are proper, seek evidence that is within the scope of discovery, and have yet to be sufficiently responded to. In order to avoid further motion practice in this case, please ensure Mr. Hoyle provides sufficient responses to interrogatories 1, 2, 5, 6, and 7 within the next 14 days. Thank you.

Very truly yours,



Lisa A. Coppola

# Exhibit B



**DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP**

ATTORNEYS AT LAW

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June 18, 2010

K. Wade Eaton, Esq.  
Chamberlain D'Amanda Oppenheimer & Greenfield LLP  
1600 Crossroads Building  
Two State Street  
Rochester, NY 14614-1397

Re: **Hoyle v. Dimond et al.**

Dear Wade:

I write to address a number of open issues.

First, enclosed herewith please find defendants' supplemental response to Plaintiff's Document Demands which includes Bates Nos. MHFM 00766 thru MHFM 3381 which are provided as PDF files on two separate CDs. These include:

1. Bates Nos. MHFM 766 thru MHFM 1061;
2. Bates Nos. MHFM 1062 thru MHFM 2252- Confidential Attorneys Eyes Only; and
3. Bates Nos. MHFM 2253 thru MHFM 3381.

Second, I am producing copies of all of the materials returned by Mr. Hoyle per Judge Curtin's Order. These are in a separate envelope marked as Confidential Attorneys Eyes Only, and all materials therein should be treated as such. Per our agreement, I have not Bates numbered these. Please review these materials and if there are any items you wish to copy, please identify them, return the entire set along with the identified items, and I will arrange for the copy service to include the designated documents in the MHFM Bates No. system. I will then return the Bates numbered documents to you.

Third, our file does not contain the following documents: Hoyle 0001 thru Hoyle 0199. I would ask that you provide these documents to my office.

Finally, it appears there are a number of open discovery items owed by your client. I am new to the case, but do not believe the following have been turned over:

K. Wade Eaton, Esq.  
June 18, 2010  
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1. Eric Hoyle's federal and state tax filings for 2003 thru 2008, including all gift tax returns;
2. All documents to or from Richard Ibranyi, R.I., or any of his followers, including but not limited to those Mr. Hoyle reviewed or exchanged in December, 2007 or thereafter;
3. All documents to or from Will Norris, David White, or Gerry Matatics;
4. A complete copy of the contents of the "Genesis" website created by Mr. Hoyle that was on-line in or about February 2008 and for a period of time thereafter;
5. Recordings of all conversations referencing or involving any defendant, Mr. Myers, and/or Richard Ibranyi/his followers;
6. All documents prepared or signed by Mr. Hoyle or any defendant concerning the monies transferred to MHFM by Mr. Hoyle, whether these monies were gifts, donations, loans, etc., and/or whether Mr. Hoyle expected any of these monies to be returned to him, including any of the documents relating to the allegations at paragraphs 44 and/or 45 of the Amended Complaint;
7. Mr. Hoyle needs to provide substantive responsive answers to Interrogatory No. 5, 6, and 7; and
8. I need to arrange for production of the laptop computer Mr. Hoyle took with him when he departed MHFM.

I am continuing to review the materials received from prior counsel, and may need to supplement or clarify my requests, but would ask that you address the matters I have identified immediately.

Finally, I have not yet received the RICO Case Statement as required under the Local Rules and ask that this be produced.

Cordially,

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP

  
Charles C. Ritter, Jr.

CCR/jaf

# Exhibit C

Hoyle v. Dimond, et al., 08-cv-00347

## Privilege Log

October 15, 2010

<b>Type and subject matter of document</b>	<b>Privilege</b>	<b>Date</b>	<b>Author</b>	<b>Recipient</b>
Written narrative of plaintiff's experience At Most Holy Family Monastery	Atty/cli*	1/6/08	EH	KWE
Memorandum to file re conversation with EH	Work pro	2/1/08	KWE	none
Memo re theological differences with Dimonds	Atty/cli	2/5/08	EH	KWE
Memo to file re conversation with Most Holy Family Monastery	Work pro	1/29/08	KWE	none
Memo re entering Most Holy Family Monastery	Atty/cli	3/18/08	EH	KWE
Multiple email, correspondence regarding litigation claims, strategy, evidence, etc.	Atty/cli	1/16/08 to present	EH / KWE	KWE /EH

\* See C.P.L.R. §3101(b) and §4503 (a) (1)