

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ERIC E. HOYLE,

Plaintiff,

DECLARATION

v.

FREDERICK DIMOND, ROBERT DIMOND,
and MOST HOLY FAMILY MONASTERY,

Civil Action No. 08-CV-347C

Defendants.

Pursuant to 28 U.S.C. § 1746, I, **Frederick (Brother Michael) Dimond**, declare the following:

1. I am a named defendant in the above-captioned action, together with Robert (Brother Peter) Dimond and Most Holy Family Monastery ("MHFM"). We three are sometimes collectively referred to hereinafter as "Defendants." I am the Superior of MHFM, which means that I am in charge of the MHFM religious community. As such, I have personal knowledge of the facts and circumstances involved in this action.

2. I submit this declaration in support of Defendants' motion for an Order: **(1)** granting Defendants summary judgment against Plaintiff Eric E. Hoyle ("Plaintiff") dismissing Plaintiff's causes of action for violation of 18 U.S.C. 1962(c) and (d) [R.I.C.O.], fraud, constructive fraud/negligent misrepresentation, unjust enrichment/constructive trust, mandatory accounting, money had and received, deceptive trade practice, false advertising, and vicarious liability of MHFM; **(2)** granting Defendants summary judgment against Plaintiff on Defendants' counterclaims for defamation/injurious falsehood, violation of Lanham Act, conversion, breach of fiduciary duty, misappropriation of trade secrets, and violation of the Electronic Communications Privacy Act; and **(3)** for such other and further relief as this Court deems just and proper.

3. MHFM is an independent Traditional Catholic Benedictine Monastery. Defendants believe that being a “Traditional Catholic” means adhering to all the dogmas proclaimed by true popes, and the traditional rites of the Church. A Traditional Catholic does not accept Vatican II, the New Mass (the Novus Ordo)¹, or the structure known as the Vatican II Church. Defendants believe these things are departures from traditional Catholic teaching. The Vatican II Church is currently lead by Benedict XVI, whom Defendants do not regard as a true pope. Defendants do not accept the post-Vatican II claimants to the Papacy as valid popes and believe that the Papacy is currently vacant.

4. Plaintiff has filed a RICO case statement which summarizes his claim as follows: defendants committed fraud against plaintiff by making false representations "that they are and have been members of the Order of St. Benedict and that MHFM was a Benedictine community." (Item 54 ¶ 2, 5(B)-(C)). This representation is the sole basis for Plaintiff’s RICO and fraud claims and, as Plaintiff now admits, there was in fact no such misrepresentation ever made by Defendants.

5. Over the course of this action, Plaintiff has evinced an ever-changing and contradictory position as to who he considers to be “Benedictine.” Plaintiff’s Amended Complaint claims that “Robert Dimond actively assisted and conspired with Frederick Dimond in misrepresenting to the plaintiff the facts regarding MHFM’s status as a Benedictine monastery and the status of himself and defendant Frederick Dimond as members.” (Item 42 at ¶ 55).

6. In his Reply to Counterclaims, Plaintiff admitted that he cannot identify one person in the world he considers to be a legitimate member of the Order of St. Benedict. (Item 47 at ¶ 153).

7. Plaintiff then contradicts himself in his response to Interrogatory #5, in which he identifies the “persons and monasteries” of the Vatican II Church or publicly recognized Order of St. Benedict as the true members of the Order of St. Benedict. (See Exhibit C to the accompanying Declaration of Charles C. Ritter, Jr., Esq. (“Ritter Decl.”)).

¹ Novus Ordo or “New Order” refers to the New Mass promulgated by Paul IV on April 3, 1969.

8. In Plaintiff's compliance affidavit of 8/8/08, he admits that he does not regard the publicly recognized Order of St. Benedict as legitimate:

My own belief is that the publicly recognized Order of Saint Benedict organization has in recent decades departed from authentic Catholic religious doctrine on certain matters, and that this undermines its Benedictine legitimacy. I understand that the defendants share this belief, which they have stated publicly since before my entrance into Most Holy Family Monastery.

(Item 30, ¶ 12). Throughout the course of discovery, Plaintiff has maintained – contrary to his pleadings – that MHFM has always represented itself as a Benedictine monastery of the Traditional Catholic faith and that he knew MHFM was not affiliated with the Vatican II or “publicly recognized Order of St. Benedict,” and that the reason Plaintiff departed MHFM and seeks to destroy it is because he adopted a different religious belief from MHFM on the issue of mass attendance.

A. MHFM is and Always has been a Traditional Catholic Benedictine Monastery

9. The religious community presently known as MHFM was started by Brother Joseph Natale in the 1960s. In 1994, MHFM was given a piece of land in Fillmore, New York, where it is located today.

10. Since its beginning, MHFM has always been and held itself out to be a Traditional Catholic Benedictine Monastery. MHFM's mission is dedicated to defending and spreading the true Catholic Faith, as taught and defined by the authoritative teachings of the true popes throughout history. It is also dedicated to exposing the post-Vatican II pseudo-“Church” and the New Mass, which purport to be Catholic, but which MHFM believes are not.

11. Defendants have never represented MHFM to be a Vatican II “Benedictine” monastery, but always as a Traditional Catholic Benedictine Monastery of the Traditional Catholic faith.

B. Plaintiff's Contact with and Visits to MHFM

12. In or about April of 2005, Plaintiff contacted MHFM to inquire about its teachings and its community. In response to Plaintiff's inquiry, I spoke to Plaintiff and invited him, if he wished, to visit MHFM in Fillmore, New York. At that time, Plaintiff told me he was searching for a religious community in which to live that adhered to Traditional Catholic beliefs. Plaintiff indicated that he had previously rejected the Vatican II religion.

13. At that time, Plaintiff expressed that he was looking for a Traditional Catholic community to join. He expressed eagerness to participate in the work of MHFM which was, and is, to share its religious beliefs with people outside of the MHFM community.

14. In or about April and May 2005, Plaintiff made unconditional cash donations to MHFM in the amounts of \$700 and \$65,000, respectively. Annexed hereto as **Exhibits A** and **Exhibit B** are true and correct copies of MHFM's letters to Plaintiff acknowledging said donations.

15. During the summer months of 2005, Plaintiff visited MHFM twice - the first time he spent several days at MHFM, the second time he spent several weeks at MHFM. During these visits to MHFM, Plaintiff observed MHFM's chapel, living quarters, kitchen, outdoor land and natural space, and areas where books, articles, and writings were stored.

16. During these visits to MHFM, and even prior thereto, Plaintiff had access and opportunities to review, read, observe, and analyze the writings of the monks at MHFM, many of which also were readily accessible to Plaintiff over the Internet. Plaintiff testified that he thoroughly reviewed MHFM's website before entering the monastery. (Deposition Transcript of Eric E. Hoyle, February 8, 2011, hereafter referred to as "Hoyle T." at 256: 21 – 257: 1).

17. At no time did Defendants hide, withhold or conceal any information from Plaintiff regarding MHFM's religious beliefs or status.

C. Eric Hoyle Joins MHFM

18. After Plaintiff's two visits to MHFM, Plaintiff advised me that he wished to join MHFM and live in the community in Fillmore, New York, and that he wished to donate his worldly possessions to MHFM.

19. In or about September 2005 Plaintiff moved to MHFM and took the religious name of Brother Edmund.

20. When Plaintiff entered MHFM to live he was admitted to MHFM's religious community and conducted himself in a manner consistent with others residing at MHFM.

21. After living at MHFM for approximately one year, Plaintiff was given a monk's habit and clerical collar.

22. After living at MHFM for approximately two years, on October 4, 2007, Plaintiff took formal, monastic vows before me.

23. At or around this time, Plaintiff reiterated that he fully agreed with and understood the teachings of MHFM and that he was devoted to the work of MHFM.

24. From the time Plaintiff moved to MHFM in September 2005, he was involved in the routine life and responsibilities of a religious at MHFM.

25. For example, he regularly engaged in prayer in the chapel and elsewhere. Plaintiff regularly assisted in the work of MHFM's Internet-based sales operation, taking online, telephone and mailed-in orders, processing and filling those orders, and downloading customer information from MHFM's website-based store, including credit card information.

D. Eric Hoyle's Gifts/Donations to MHFM

26. On or about August 30, 2005, Plaintiff emailed me to follow up on our conversations regarding arrangements for his entering MHFM, including his financial donations and my request that he send something in writing as to the sum he wished to be returned to him should he leave MHFM.

He stated in that email that “I plan to give the vast majority of my holdings as an outright gift. As for the part that would be written down under my name and would revert to me if I departed, perhaps around \$30,000? Even that sounds excessive, but it comes to mind as a small portion of what I am accustomed to having. Give me your thoughts on this.” A true and correct copy of this email (Deposition Exhibit 19) is annexed hereto as **Exhibit C**. After I spoke with Plaintiff about whether he wanted to make an election of funds to revert to him if he were to leave MHFM, he ultimately decided that he wanted to make all of his assets an outright gift and also stated that he wished to give his future inheritance assets to MHFM as well.

27. In or about November 2005, Plaintiff made an unconditional donation of certain shares of stock to MHFM which were valued in the approximate amount of \$1.2 million. Annexed hereto as **Exhibit D** (Deposition Exhibit 27) is a true and correct copy of MHFM’s letter to Plaintiff in acknowledgement of said donation.

28. Plaintiff admits he received the \$1.2 million donation receipt (Exhibit D). (Hoyle T. 221: 23 – 222: 2).

29. In an email to Plaintiff’s tax advisor, Michael Trawick, dated January 18, 2006, Plaintiff provided Mr. Trawick with numbers for his 2005 taxes, which expressly included under “Gifts” “Stock \$1,233,100.00” and “Cash [\$]65,700.00.” (Exhibit E). Annexed hereto as **Exhibit E** is a copy of the email chain between Plaintiff and Mr. Trawick concerning Plaintiff’s 2005 tax return numbers, dated September 2005 and January and March 2006 (Deposition Exhibit 20).

30. On January 19, 2006, Mr. Trawick responded to Plaintiff’s January 18, 2006 email and confirmed that he understood and treated Plaintiff’s \$1.2 million transfer to MHFM as a gift to a qualifying 501(c)(3) organization. (See Exhibit E).

31. Plaintiff testified that these emails reflected Plaintiff’s intention that these donations were gifts to MHFM. (Hoyle T. 194: 22 – 195: 2).

32. In or about September 2006, Plaintiff made an unconditional donation of certain shares of stock to MHFM which were valued in the approximate amount of \$307,989.00. Annexed hereto as **Exhibit F** (Deposition Exhibit 28) is a true and correct copy of MHFM's letter to Plaintiff in acknowledgement of said donation.

33. Prior to and while living at MHFM, Plaintiff described himself as being in agreement with the teachings of and the positions espoused by MHFM with respect to the Traditional Catholic Church. Plaintiff told the Defendants while living at MHFM that he found great comfort in living the religious life within MHFM and described himself to me as being the happiest he ever had been in his entire life and that he wished to live out his life at MHFM.

E. Plaintiff's Knowledge of MHFM's Religious Beliefs

34. Plaintiff has admitted many times that (a) Defendants did not present themselves as a part of the publicly recognized Order of St. Benedict, (b) that he knew that Defendants were not part of said order, and (c) that he would not have joined the publicly recognized Order of St. Benedict. For example, Plaintiff testified:

Q. Since the publicly recognized Order of St. Benedict recognized John Paul the Second as pope, would you have joined any of their monasteries in 2005?

A. No.

(Hoyle T. 258: 3-7, see also, 258: 8-12, 13-21, 259: 21 – 260:14).

35. Plaintiff admits that, in 2005, he knew that MHFM condemned as false all the monasteries of the "publicly recognized Order of St. Benedict" (Hoyle T. 257: 20 – 258: 2), that MHFM's theological position on the issue was clear and that he agreed with such position:

Q. Before you entered Most Holy Family Monastery, did the Dimonds make their theological position clear that they did not regard as legitimately Catholic any of the monasteries of what are now called or referred to as the publicly recognized Order of St. Benedict?

A. Yes, I believe they did.

Q. And were you in agreement about that?

A. Yes.

(Hoyle T. 262: 3-11).

36. Plaintiff admits that, prior to entering MHFM, he thoroughly reviewed MHFM's website and was aware of the position that was posted on MHFM's website before he entered and while he was there: that MHFM is not part of the Benedictine Order under John Paul II, i.e., what is called the "publicly recognized Order of St. Benedict":

Q. Exhibit 35 [printout of Questions, Answers and Comments section of MHFM website] there, take a look at it.

A. Yes.

Q. Do you recognize that on the website of Most Holy Family Monastery, they have prior years' sections where you can go back and look at questions and answers that were posed to the brothers and the answers they gave? Are you familiar with that?

A. Yes, I recognize that such things were on there at sometime. I can't speak for now.

Q. Okay. But back before you joined, you indicated you thoroughly reviewed the information on their website?

A. Yes.

Q. Do you see question twelve listed on this document? If you could refer to that.

A. Yes.

Q. The question was, is your community affiliated with Rome and the Benedictine Order under John Paul the Second. That's how the question is characterized?

A. Yes.

Q. And do you see the answer?

A. I do.

Q. And were you familiar with that position of the – as stated there? No, our community is not affiliated with anti-pope John Paul the Second or the Benedictine

Order under him.

A. Yes.

Q. You were familiar with that position of the monastery before you joined it?

A. Yes.

(Hoyle T. 256: 12 – 257:19).

37. A true and correct copy of the “Questions, Answers and Comments” section from MHFM’s website from Summer 2004 (Deposition Exhibit 35) is annexed hereto as **Exhibit G**.

38. A true and correct copy of the “Our Benedictine Community” section from MHFM’s website (Deposition Exhibit 34) is annexed hereto as **Exhibit H**.

39. Plaintiff admits that while at MHFM, he counseled others over the telephone that the monasteries of the publicly recognized Order of St. Benedict are not truly Benedictine or Catholic:

Q. * * * While you were at the Most Holy Family Monastery, did you counsel people over the telephone?

A. Yes.

Q. And you provided them with religious advice and guidance?

A. Yes.

Q. Did you convey to people you talked to on the telephone that the publicly recognized – that monasteries that were part of the publicly recognized Order of St. Benedict were not Catholic and not true Benedictines?

A. Yes, I conveyed that idea. And also that their lack of the Catholic faith as the cause of them being called not Benedictine.

(Hoyle T. 263: 6-20).

40. Plaintiff admits, in his Reply to Counterclaims, that while at MHFM, and more than a year before he departed, he read Defendants’ book, *The Truth about What Really Happened to the Catholic Church after Vatican II*. (Item 44 at ¶ 7). This book explicitly states that the defendants are

not in communion with the post-Vatican II “Benedictines.” This was Defendants’ public position, which Plaintiff understood before he entered MHFM.

41. This book contains an entire section against the post-Vatican II “Benedictines” about which Plaintiff was and is aware. As an example, at page 403 of the book, Defendants explicitly say that they are not in communion with the post-Vatican II “Benedictines.” Plaintiff proofread this book to assist Defendants, and in doing so, he read it numerous times before it was published. Chapter 32 of *The Truth about What Really Happened to the Catholic Church after Vatican II* is titled “The Religious Orders in the Vatican II Sect: Totally Apostate.”² A copy of chapter is annexed hereto as **Exhibit I.**

F. MHFM’s Confidential and Proprietary Information

42. The computer databases in which MHFM maintained information regarding its supporters, donors, and customers are called the Arc List and the S List. In addition, MHFM had other data, not necessarily recorded in either the Arc List or the S List, that reflected names, addresses, telephone numbers, and in many cases credit card information for individuals who purchased items from MHFM’s store and/or from its EBay site.

43. In order to develop these lists, MHFM has spent approximately \$1,000,000 over the past several years on advertising and other promotional support. These efforts include the use of the Internet, traditional radio broadcasts, e-mail, telephone (including the maintenance of a toll-free telephone number), and regular mail. This was a considerable expense to MHFM, but it was necessary in order for MHFM to spread its message and teach about Traditional Catholicism. The support base that MHFM has developed as a result of these efforts over the years in publishing its teachings is what permits MHFM to exit and continue its mission to spread traditional Catholicism.

² “Apostasy” is used in the context of meaning abandonment of the true Catholic Faith.

44. MHFM's customers, supporters, and benefactors are not readily ascertainable outside MHFM's community as prospective donors or supporters to MHFM or as customers of MHFM's products (books, DVDs, and the like). The data in the MHFM databases and computers was not shared publicly. MHFM guarded this information with electronic firewalls and the like to ensure it was secure.

45. While a member of MHFM's community, Plaintiff assisted in creating and administering MHFM's EBay sales store and their online Yahoo website store, and in doing so he had access to and did in fact download online orders and customer information.

46. In working on these sales efforts on behalf of MHFM, Plaintiff knew or reasonably should have known that he was doing the work of MHFM and that the customer information that he viewed, downloaded, and saved was of a confidential nature.

47. Plaintiff knew or reasonably should have known that customer information and other sensitive business information of MHFM was not to be shared outside of MHFM and that it was entrusted to him because MHFM and I trusted Plaintiff to keep such information confidential.

48. Plaintiff made it clear that he had expertise in computer and information technology as well as banking and investments. For more than two years, Plaintiff fervently supported MHFM and its beliefs and during that time was given increasing responsibility to handle various computer and technology-related tasks vital to the continued survival of MHFM.

49. Plaintiff not only handled MHFM's online store and all telephone, Internet, and mail-generated orders, but as part of that responsibility he managed the confidential and proprietary information that was maintained by MHFM on its customers, clients, supporters and benefactors.

50. In addition to being placed in control of a vast amount of MHFM's client information- including supporters' private home addresses, telephone numbers, e-mail addresses, and credit card information - Plaintiff also was given access to MHFM's Scottrade brokerage account in the early winter of 2007 as a result of the trust I had for him to assist in the banking and bookkeeping of MHFM.

51. This account housed almost all of MHFM's financial assets, worth more than \$1.1 million. Plaintiff was given access to this information only as part of his work at MHFM and only because he had demonstrated a strong aptitude for investment-related matters and had developed so much trust in him after living and working at MHFM for more than two years.

52. Plaintiff knew or reasonably should have known that his access to MHFM's confidential and proprietary business and financial records was solely for the purposes of doing business on behalf of MHFM.

G. Plaintiff's Departure: Mass Attendance and Efforts to Destroy MHFM

53. On December 31, 2007, after having spent more than two years at MHFM, Plaintiff abruptly and without notice departed MHFM.

54. Plaintiff left MHFM because he changed his belief on mass attendance after reading articles on the internet by a self-proclaimed prophet named Richard Ibranyi. The mass attendance issue caused Plaintiff to change his religious beliefs, conclude that MHFM is evil and heretical, and depart MHFM on the very next day:

Q. So as you sit here today, it would be fair to say, then, that you have no recollection of any disagreement with Brother Michael or Brother Peter Dimond about Catholic religious beliefs and teachings until December 31st, 2007?

A. I don't recall having a disagreement with them about Catholic religious beliefs and teachings.

Q. All right. But on December 31st, you claim that you had an inspiration or realization that there was something about what they were doing or teaching that was wrong, is that right?

A. Yes, I had a realization on or about that day that was a serious conflict with what they believed.

Q. And with what you had believed until that day, correct?

A. Yes.

Q. And what was that realization that you had?

A. The realization I had was that attending a mass or liturgy offered by a priest in the Eastern Rite --- or, in an Eastern Rite of the Vatican Two church was wrong.

Q. Actually heretical, according to you?

A. Yes.

Q. Okay.

A. At the time I used the term heretical.

Q. Now, how did you become aware of that? Was it divine inspiration, you woke up and lifted your head off the pillow and it suddenly occurred to you or did you read something? How did you come to this realization?

A. I read some articles by Richard Ibranyi, I-B-R-A-N-Y-I.

* * *

Q. And as of the morning of December 30th, 2007, you were of the belief that yourself as well as Brother Peter and Brother Michael were practicing the Roman Catholic religion, correct?

A. Yes.

Q. And did you come to a conclusion before you left that Brother Michael and Brother Peter were not practicing the Roman Catholic religion?

A. Yes.

Q. And was that a result of Mr. Ibranyi's articles?

A. Yes.

Q. And was it that conclusion on your part, was that the reason you left the monastery?

A. Yes.

Q. Was there any other reason why you left the monastery, that motivated you on December 31st to call a cab and leave?

A. Not that I recall.

* * *

Q. The reason you departed [MHFM] was because your beliefs regarding mass attendance evolved and changed?

A. Yes, that was the immediate cause of my departure.

* * *

Q. That's the issue that --the reason why you claim you left the Most Holy Family Monastery, isn't it?

A. Yes. It was about mass attendance.

(Hoyle T. 49: 1 – 50: 10, 50: 4 – 17, 61: 1 – 18, 301: 14 – 18; 38: 10-13).

55. When Plaintiff left MHFM on December 31, 2007, he took with him MHFM's confidential and proprietary business records including bank, investment account, customer, benefactor, and donor records:

Q. And in fact, when you decided to leave the monastery, you took some of the monastery's financial records with you, did you not?

A. Yes, they were with my things.

(Hoyle T. 64: 2 – 5).

Such information was and is not readily or publicly available.

56. Plaintiff abruptly left MHFM, without notifying me or Brother Peter Dimond, on December 31, 2007 with other MHFM confidential and proprietary records and materials including but not limited to MHFM's Scottrade brokerage account application and records; historical M&T Securities investment account records and other financial records; MHFM's flash drive containing various computer files and databases; the Apple laptop computer Plaintiff donated to MHFM when he joined MHFM in September of 2005, which contained databases housing the personal contact information for some of MHFM's more than 90,000 supporters, donors, benefactors, and clients, including credit card information for some; computer passwords; technology purchase information; phone system information; customer ordering data; customer information, and other data and

intellectual property contained on a laptop computer, flash drive, and in hard copy. (See also, Hoyle T. 51: 1 - 10). Such information was not readily or publicly available.

1. Attempt to Transfer/Steal MHFM Assets

57. Plaintiff admits that on December 31, 2007, the day of his departure, he used the bank and investment account information that he took from MHFM in attempts to transfer to himself MHFM's funds. (Hoyle T. 64: 2 – 14). In fact, Plaintiff testified:

Q. Do you remember trying to make a transfer out of the Scottrade account away from the monastery to yourself?

A. Yes.

Q. And when did you do that?

A. In the morning of the day I left I tried to do so online, and in the afternoon I tried to do so on a telephone call.

(Id. 64: 12-19).

2. Plaintiff's Unauthorized Use of MHFM's Confidential and Proprietary Information

58. Following Plaintiff's departure, he engaged in a campaign of contacting MHFM supporters to convince them that MHFM was a fraud. Plaintiff used the confidential proprietary information he stole from MHFM to contact its supporters and benefactors. As a direct result of that unfair competition, many former supporters no longer donate to MHFM and many others have turned away from the monastery altogether. MHFM relies solely on the donations of its supporters to continue its practice and teaching of its religious beliefs.

59. For example, Plaintiff disseminated emails to MHFM customers and supporters referring recipients to visit Plaintiff's website which condemns MHFM as heretical. Annexed hereto as **Exhibit J** are true and correct copies of such emails. A true and correct copy of Plaintiff's website is annexed hereto as **Exhibit K**. He used MHFM's customer contact information to direct them to his

competing website, utilized a website-based PayPal link to make solicitations and thereby unfairly competed with MHFM.

60. Plaintiff admits that following his departure from MHFM, he transmitted emails that purported to come from MHFM's email address:

Q. All right. Did you use the monastery's e-mail address to send e-mails to anyone after you departed the monastery on December 31st, 2007?

A. Based on documents provided by the Dimonds, I believe I did, but it was inadvertent.

(Hoyle T. 289: 19 – 23).

61. Plaintiff used the confidential and proprietary information to contact MHFM followers/customers for the purpose of directing them away from MHFM. For example, on or about February 19, 2008, Plaintiff conducted and recorded a telephone conversation with former MHFM customer and supporter Christy Awana. A copy of this conversation between Plaintiff and Christy Awana (Bates No. HOYLE 0001299) is annexed hereto as **Exhibit L**.³

62. In that conversation Plaintiff told Ms. Awana, in the course of conversing about why Plaintiff left MHFM and what heresies he believes Defendants hold, that:

HOYLE: I realized that this position on the mass attendance – well, I mention this to Frederick and he didn't know if he could say that he was a heretic and **I went on his website and read some stuff about how he had been rebuking the Dimonds for years on the mass attendance issue and I realized that MHFM is heretical and they have been rebuked and they are heretics**, and heresy is about the worst thing a person can be period.

AWANA: What heresies do they hold?

HOYLE: They hold a person can go and unite in the public prayer of the mass where he knows that the priest and/or the people are obviously clearly heretical and are not Catholics at all...

(Exhibit L).

³ Exhibits L and O are audio files. The document uploaded for e-filing is a copy of the CD containing those files. The CD will be furnished separately to the Court and plaintiff's counsel upon filing.

3. Plaintiff's Defamatory Statements

63. Plaintiff's response to interrogatories demonstrates that he directly contacted hundreds about MHFM after his departure. A copy of Plaintiff's Response to Defendants' First and Second Sets of Interrogatories is annexed hereto as **Exhibit M**.

64. For example, Defendants' Second Set of Interrogatories to Plaintiff, No. 23 stated: "Identify the persons you contacted after you left MHFM including but not limited to those persons to whom/which you stated that defendants teach heresy and/or that MHFM is not a legitimate monastery of the Catholic faith and/or that defendants stole your money."

65. In supplemental response to this interrogatory (see Ritter Decl. Exh. C), Plaintiff stated: "Each of the individuals identified in response to defendants' first set of interrogatories, plus New York State Trooper Larry A. LaRose."

66. This list in the original response included more than 100 people, addresses, and/or organizations, including MHFM customers and contacts.

67. Beginning in or around December 31, 2007, Plaintiff published and/or caused to be published certain statements about all Defendants, in particular, he made statements to people that the individual Defendants stole money from Plaintiff. Plaintiff contacted MHFM's supporters, customers and readers and portrayed MHFM as fraudulent and criminal, as set forth below in further detail.

a. Stephen Hand

68. A true and correct copy of Stephen Hand's affidavit, sworn to June 5, 2008, (and previously filed in this action on 06/09/08 at Document No. 7-15, "Hand Aff.") is annexed hereto as **Exhibit N** and incorporated herein by reference.

69. Stephen Hand was a customer of MHFM, who spoke with Plaintiff on or about December 26, 2007 when he called MHFM to order a book. (Hand Aff. ¶2).

70. On or about January 12, 2008, Plaintiff told Stephen Hand that Brother Michael and Brother Peter had stolen money from him and another person: “During the course of this conversation, Mr. Hoyle insisted that he also left MHFM because Brothers Michael and Peter **had stolen money from him and another person.**” (Hand. Aff. ¶5) (emphasis added).

b. Trooper Larry LaRose

71. On or about January 2, 2008, Plaintiff contacted New York State Trooper Larry LaRose and recorded the conversation. Plaintiff told Trooper Larry LaRose that “I’m reporting the theft of a large amount of money that is owed to me by this non-profit corporation called Most Holy Family Monastery.” A copy of this conversation between Plaintiff and New York State Trooper Larry LaRose (Bates No. HOYLE 0001315) is annexed here to as **Exhibit O**.

72. A copy of the police report resulting from Plaintiff’s contact of Trooper LaRose is annexed hereto as **Exhibit P** and states in pertinent part that “ERIC HOYLE REPORTS ON 12/31/07 A THEFT OF MONEY OWED TO HIM BY ‘MOST HOLY FAMILY MONASTERY’.”

WHEREFORE, the Defendants respectfully request that the Court grant an Order awarding Defendants summary judgment against Plaintiff as set forth above, and awarding Defendants summary judgment on the specified counterclaims against Plaintiff, and for such other and further relief as this Court deems just and proper.

Dated: January 6, 2012

Frederick (Brother Michael) Dimond