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WORLD MISSION SOCIETY)	SUPERIOR COURT OF NEW JERSEY
CHURCH OF GOD, et al.)	LAW DIVISION: BERGEN COUNTY
)	
Plaintiffs,)	DOCKET NO. BER-L-5274-12
)	
v.)	<u>Civil Action</u>
)	
MICHELE COLÓN, et al.)	DEFENDANT TYLER NEWTON'S
)	NOTICE OF MOTION FOR
Defendants.)	RECONSIDERATION &
)	SEVERANCE OF CLAIMS

TO: ANDREW T. MILTENBERG, ESQ.
Nesenoff & Miltenberg, LLP
363 Seventh Avenue, 5th Floor
New York, NY 10001

COUNSEL:

PLEASE TAKE NOTICE that the undersigned, attorney for Defendant Tyler Newton, will apply to the Superior Court of New Jersey, Law Division, Bergen County, located at the Justice Center, 10 Main Street, Hackensack, New Jersey, on Tuesday, August 27, 2013, at 1:30 pm, or as soon thereafter as counsel can be heard, pursuant to Rule 4:49-2, for an Order amending the Court's August 7, 2013 Order to explicitly state that Mr. Newton has been dismissed from this case, and severing the claims against Mr. Newton from all other claims in the case, pursuant to Rule 4:38-2(a).

PLEASE TAKE FURTHER NOTICE that in support of said Motion, Mr. Newton shall rely upon the accompanying Letter Brief, the Certification of Paul S. Grosswald in Support of Mr. Newton's Motion for Reconsideration and Severance of Claims, and attached Exhibits A and B.

PLEASE TAKE FURTHER NOTICE that oral argument is requested if this application is opposed.

A proposed form of Order is attached.

No pre-trial conference, arbitration proceeding, calendar call or trial date has been set.

A discovery end date has not been assigned to this matter.

PAUL S. GROSSWALD
Attorney for Defendant,
Tyler Newton

Dated: August 9, 2013

By: *Paul Grosswald*
PAUL S. GROSSWALD

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August 9, 2013

Via Hand Delivery

The Honorable Rachelle Lea Harz
Judge Superior Court
Superior Court of New Jersey
Bergen County Courthouse
10 Main Street, 3rd Floor
Hackensack, NJ 07601

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

Dear Judge Harz:

I represent the Defendant Tyler Newton in the above-referenced matter. I am submitting this letter brief in support of Mr. Newton's motion for reconsideration, pursuant to Rule 4:49-2, and motion to sever the claims against him, pursuant to Rule 4:38-2(a).

I. Motion for Reconsideration

On August 7, 2013, the Court issued a written Decision dismissing all claims against Mr. Newton for lack of personal jurisdiction. (Grosswald Cert. in Support of Mr. Newton's Mot. for Reconsideration, Ex. A, p. 10). However, the Order that accompanied that decision does not state that the claims against Mr. Newton have been dismissed. (Id., Ex. B.) While the Order implies that the claims against Mr. Newton have been dismissed (for instance, it states that Ms. Colón must Answer the remaining claims in the Second Amended Complaint within 30 days, and does not make a similar demand of Mr. Newton), Mr. Newton is nevertheless entitled to have an Order that explicitly disposes of the claims against him. Therefore, Mr. Newton respectfully requests that this Court issue an Order stating that he has been dismissed from the case for lack of personal jurisdiction.

II. Motion to Sever Claims Against Mr. Newton From All Other Claims

Now that Mr. Newton has been dismissed from the case, he should be free and clear from liability arising out of the Second Amended Complaint. Yet, he is not free and clear because of the possibility that the Plaintiffs will appeal this Court's decision regarding the lack of jurisdiction over Mr. Newton. While the Court's reasoning was sound and there is no reason to believe that the jurisdiction decision would be overturned on appeal, the Plaintiffs nevertheless have the right to bring such an appeal. As this Court is aware, appeals generally may not be

brought unless and until there is a final judgment in the case as to all issues and all parties. See, e.g., Caggiano v. Fontoura, 354 N.J. Super. 111, 123 (App. Div. 2002). That means that if the Plaintiffs choose to bring an appeal with respect to Mr. Newton, it will have to wait until all of the litigation involving Ms. Colón has been resolved. As this Court has previously noted, the litigation between the church and Ms. Colón could drag on for years. That means that Mr. Newton could wake up one day, many years from now, and find that he has been served with a notice of appeal in a case that he has not been a part of for a very long time. Mr. Newton is entitled to bring the litigation with respect to himself to a full and speedy resolution, which necessarily means that he is entitled to litigate any appeals immediately and without delay.

Rule 4:38-2 states:

(a) Severance of Claims. The court, for the convenience of the parties or to avoid prejudice, may order a separate trial of any claim, cross-claim, counterclaim, third-party claim, or separate issue, or of any number of claims, cross-claims, counterclaims, third-party claims, or issues.

Mr. Newton would be severely prejudiced if he is forced to litigate an appeal in this matter many years from now. Moreover, the Plaintiffs would not suffer any prejudice by taking their appeal now, rather than later. After all, the jurisdictional issues pertaining to Mr. Newton are completely unrelated to the issues still being litigated by Ms. Colón, so there is no reason why an appeal with respect to Mr. Newton should have to wait until the litigation with Ms. Colón is resolved. Therefore, Mr. Newton respectfully requests that this Court sever all of the claims against Mr. Newton from all other claims in this case, such that the Order dismissing Mr. Newton from the case shall be deemed a final judgment for purposes of appeal.

In summary, Mr. Newton respectfully requests that this Court amend its August 7, 2013 Order, pursuant to Rule 4:49-2, to explicitly state that Mr. Newton has been dismissed from this case for lack of personal jurisdiction. Mr. Newton further requests that this Court sever all claims against him, pursuant to Rule 4:38-2(a), such that the Order dismissing him from the case shall constitute a final judgment. Thank you for your attention to this matter.

Sincerely,



Paul S. Grosswald

cc by email: Andrew T. Miltenberg, Esq. (amiltenberg@nmlplaw.com)
Marco A. Santori, Esq. (msantori@nmlplaw.com)
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MICHELE COLÓN, et al.)	ORDER
)	
Defendants.)	

THIS MATTER having been presented to the Court by Paul S. Grosswald, attorney for Defendant Tyler Newton, by way of Motion for Reconsideration and Severance of Claims, and the Court having considered all of the papers and arguments submitted in support of and in opposition to said Motion; and for good cause shown;

IT IS on this _____ day of _____, 2013,

ORDERED that Mr. Newton's Motion for Reconsideration is GRANTED pursuant to Rule 4:49-2; and it is further

ORDERED that Mr. Newton's Motion to Sever the Claims Against him is GRANTED pursuant to Rule 4:38-2(a); and it is further

ORDERED that Mr. Newton is hereby dismissed from this case for lack of personal jurisdiction; and it is further

ORDERED that all claims against Mr. Newton are hereby severed from all other claims in this case; and it is further

ORDERED that this Order shall constitute a final judgment for purposes of appeal with respect to Mr. Newton; and it is further

ORDERED that a copy of this Order shall be served by the Defendants' counsel upon all counsel of record, within _____ days of its entry.

Hon. Rachelle L. Harz, J.S.C.

This Motion was:
____ Opposed
____ Unopposed