

ENDORSED  
FILED  
ALAMEDA COUNTY

MAY 15 2012

CLERK OF THE SUPERIOR COURT  
By Miranda Edgerly, Deputy

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8 SUPERIOR COURT OF CALIFORNIA - COUNTY OF ALAMEDA

9 JANE DOE,

10 Plaintiff,

11 v.

12 THE WATCHTOWER BIBLE AND TRACT SOCIETY  
13 OF NEW YORK, Inc., a corporation, et al.,

14 Defendants.

No. HG11558324

ASSIGNED FOR ALL PURPOSES TO JUDGE ROBERT  
McGUINNESS, DEPARTMENT 22

PLAINTIFF'S MOTION IN LIMINE NO. 3 TO EXCLUDE  
IRRELEVANT MEDICAL HISTORY [Evid. Code  
§§350, 352]

Trial Date: 5/21/2012

15 STATEMENT OF THE ISSUE

16 Virtually all of plaintiff's lifetime medical records have been obtained and disclosed in the  
17 course of discovery in this action. There are well over 1000 pages of medical records from multiple  
18 healthcare providers. Many of the records contain medical conditions, complaints, or care that has  
19 nothing to do with either plaintiff's sexual abuse by Jonathan Kendrick or her mental health - the two  
20 areas of physical and mental health that she has placed at issue in her claim for damages. The vast  
21 majority of plaintiff's remaining medical care and treatment over her lifetime is neither relevant to the  
22 subject action, nor probative of any factual inquiry. Addressing evidence of plaintiff's remote or  
23 unrelated care will unduly consume time, confuse the jury, and promote inquiry into collateral issues.  
24 For these reasons, plaintiff moves to specifically exclude any records, argument, or testimony from  
25 experts or lay persons concerning the medical, mental health, and socio-medical care and treatment  
26 not directly at issue in this case.  
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1 Plaintiff has prepared a Table, attached as Exhibit 1, setting for the specific medical  
2 conditions, and general time frames of their care and treatment, that are included under the umbrella  
3 of this Motion. There are various medical records which may contain relevant information, but also  
4 contain information concerning irrelevant matters, and it is requested that the records be redacted  
5 appropriately by any party seeking to offer those records into evidence.

6 **I. MEDICAL HISTORY NOT PLACED IN ISSUE IS IRRELEVANT.**

7 It has long been established that a plaintiff does not place his or her entire medical history at  
8 issue by bringing a personal injury claim. (*Britt v. Superior Court* (1978) 20 Cal.3d 844, 862-4) In  
9 *Britt*, the Supreme Court denied discovery of overbroad medical history in a case where the plaintiffs  
10 were claiming hearing loss due to jet airplane over flights. While plaintiff has placed her mental  
11 health history and relevant social history, at issue by claiming damages for childhood sexual abuse,  
12 she has not placed her physical health in issue. In addition, her history of sexual conduct or activity is  
13 irrelevant and excluded by public policy from a civil sexual assault case. (Plaintiff's Motion in Limine  
14 No. 1)

15 Only relevant evidence is admissible. (Evidence Code §350) There is no relevance to any of  
16 the information contained in plaintiff's unrelated medical history.

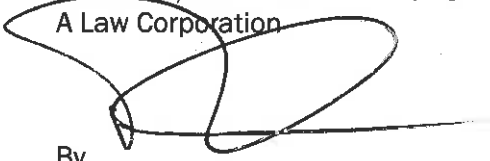
17 In addition, defendant does not have any physician designated as an expert witness, either  
18 retained or non-retained, to testify on issues of medical history. None of plaintiff's medical experts  
19 have, in their videotape for use at trial deposition testimony, or in depositions to date, expressed any  
20 opinion or belief that plaintiff's medical history as to the type of matters set forth in Exhibit 1 are  
21 relevant in any way to understanding her mental health and social issues. If any such evidence is to  
22 be offered, or raised on cross-examination, plaintiff's requests an offer of proof as to its relevancy  
23 prior to any disclosure to the jury.

24 Given the voluminous amount of medical records that plaintiff has, and which are in  
25 possession of all counsel, there is significant risk of an undue consumption of time reviewing her  
26 medical history, or arguing about the facts or significance of specific medical visits for unrelated  
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1 physical history issues. Plaintiff moves to exclude all such evidence based upon the prejudice, lack of  
2 probative value, lack of relevance, and the undue consumption of time.

3 In the event that there are certain medical records to be offered into evidence which contain  
4 irrelevant information that is subject to this Motion, or otherwise included, plaintiff requests that all  
5 such exhibits be redacted.

6 Dated: May 7, 2012

FURTADO, JASPOVICE & SIMONS  
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By \_\_\_\_\_  
RICHARD J. SIMONS  
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**TABLE**  
**EXHIBIT 1 TO PLAINTIFF'S MOTION IN LIMINE NO. 3**

<u>Condition/Complaint</u>	<u>Dates</u>	<u>Healthcare Providers</u>
Knee injury/bursitis	1995; 1997; 3/2000; 12/2000; 9/2009	Kaiser; Bay Valley Medical Group; Palo Alto Med
Miscellaneous minor traumas	1993 (arm injury on playground); 1997 (facial contusion-hit table); 5/2010 (cut thumb); 1/2011 (finger injury)	Bay Valley Medical Group; Kaiser Fremont and Downey
Facial Dermatitis	2/2001	Palo Alto Med
ENT: Allergy/Sinusitis/URI/Ear Infection	1994 (ear); 1996 (ear (2)); 1997 (allergies); 2000 (sinusitis); 6/2004 (sinus); 11/2005 (URI); 12/2009 (sinus)	Bay Valley Medical Group; Kaiser Fremont; Palo Alto Med
Kidney stone	2/2011	Kaiser Downey
Optical issues	7/25/2000 (eye infection); 1/31/11	Bay Valley Medical Group; Kaiser Downey
Bladder/kidney/UTI/OB-GYN	2/9/99; 3/2000; 10/2001; 9/2002-2/2003; 8/26/2003 (birth control eval) 9/2001-10/2002 (UTI) 10/25/2002 (UTI); 2007 (evaluation); 11/2009 (eval, inc. STD testing)	Palo Alto Med; Bay Valley Medical Group; Kaiser Fremont and Downey; Washington Hospital
Blood and Lab Tests [including STD/Hepatitis]	1999-2003	Bay Valley Medical Group
Neck pain	1997-1998	Palo Alto Med
Tonsillitis	9/2003	Palo Alto Med
Cellulitis	8/2009	Kaiser Fremont
Cardiology Evaluation	12/2010	Kaiser Downey