

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ERIC E. HOYLE,

Plaintiff,

v.

Civil Action No. 08-CV-347C

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

Defendants.

**DEFENDANT MOST HOLY FAMILY MONASTERY'S
RESPONSE AND OBJECTIONS TO
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Defendant Most Holy Family Monastery ("Defendant" or "MHFM"), by and through its counsel Duke, Holzman, Photiadis & Gresens LLP as and for its response and objections to Plaintiff's First Set of Interrogatories to Defendant MHFM, states and alleges follows:

GENERAL STATEMENTS

By responding to any particular Interrogatory or making information available to plaintiff, defendant does not waive any objections that it may have regarding the use of such information and documents, or the truth or accuracy of any term, phrase or characterization contained therein. Defendant expressly reserves: (1) all objections regarding the competency, materiality, probative value and admissibility of all information provided, documents produced and the contents thereof; (2) the right to object to the use of any document produced in whole or in part, or to the subject matter covered thereby, in any later stage or proceeding in this litigation or other discovery procedures involving or relating to the subject matter of any information provided or documents produced by plaintiffs; and (3) all objections as to vagueness and ambiguity.

Privileged information responsive to a particular Interrogatory, if any such information exists, is not being provided and will be identified in a mutually agreeable manner. If any such information or documents which are properly the subject of any attorney-client, or work product privilege are provided or produced, such production is not to be construed as a waiver of the attorney-client, attorney work product or any other privilege and the production of responsive documents and/or information is made based on the condition that if any privileged materials are inadvertently produced or provided, all such materials and copies of all such materials will be returned to defendant or its attorneys immediately upon written request.

Defendant reserves the right to challenge the competency, relevancy, materiality and admissibility of, or to object on any grounds, to the use of the information set forth herein in any subsequent proceeding or trial of this or any other action.

Defendant reserves the right to supplement these responses for any reason.

GENERAL OBJECTIONS

Each Interrogatory is responded to subject to the General Objections set forth below. These limitations and objections form a part of the response to each and every Interrogatory and are set forth herein to avoid the duplication and repetition of re-stating them for each response.

General Objections may be specifically referred to in a Response to certain Interrogatories for the purpose of clarity; however, the failure to specifically incorporate a General Objection should not be construed as a waiver of the same.

1. Defendant objects to Plaintiff's Interrogatories to the extent that they call for disclosure of information protected by the attorney-client privilege, work product and joint work product privilege or other applicable privilege, and defendant hereby asserts every applicable privilege and rule governing confidentiality to the fullest extent provided by law.

2. Defendant objects to the Interrogatories to the extent that they call for disclosure of materials prepared in anticipation of litigation and/or trial preparation material without the showing required by law.

3. Defendant objects to the Interrogatories to the extent that they seek disclosure of the opinions, mental impressions, conclusions, or legal theories of defendants, its counsel or other representatives.

4. Defendant object to the Interrogatories to the extent that they seek information or documentation not relevant to the issues raised in this lawsuit and/or not reasonably calculated to lead to the discovery of admissible evidence. Nothing herein shall be construed as an admission regarding the admissibility or relevancy of any fact or document.

5. Defendant objects to the Interrogatories to the extent that they are vague, ambiguous, and/or incomprehensible in nature and not permitting a reasonable response.

6. Defendant objects to the Interrogatories to the extent they are overly broad, unduly burdensome, oppressive, harassing and/or any probative value is outweighed by the effort and expense required to comply.

7. Defendant objects to the Interrogatories to the extent that they seek discovery of materials not in defendant's possession and/or from entities or persons other than defendant.

8. Defendant objects to the Interrogatories to the extent that they may be construed to require responses beyond those required by law.

9. Defendant objects to the Interrogatories which seek identity of documents or material which cannot be provided by defendant.

10. Defendant objects to the Interrogatories to the extent that they are unduly burdensome and speculative in that they request defendant to exhaustively state facts supporting

its present contentions and to speculate as to their future contentions before discovery is complete.

11. Defendant objects to the Interrogatories to the extent that they seek confidential materials or information.

12. Defendant objects to the Interrogatories to the extent that discovery from plaintiff and third-parties is not yet complete and is anticipated to reveal further facts and evidence supporting defendant's claims and defenses.

13. Defendant objects to all Interrogatories issued by the plaintiff to the extent that they are in violation of the Local Rules of the Western District of New York and exceed the number and/or scope allowed thereby.

OBJECTIONS TO INSTRUCTIONS

Defendant objects to plaintiff's Instructions to the extent that they are intended to expand defendant's obligations beyond those provided for by law.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1

State when, where, and how MHFM became a traditional Benedictine monastery, identifying all documents which support your answer.

RESPONSE: MHFM first became a traditional Benedictine Monastery when Joseph Natale formed a religious community of Catholic men, dedicated to the traditional Catholic faith, under the framework of the Rule of St. Benedict. Upon information and belief, this occurred in approximately the late 1960s on 261 Cross Keys Rd. in Berlin, NJ. It continues under Brother Michael Dimond (Frederick Dimond), who became Superior of MHFM in 1995.

INTERROGATORY NO. 2

Has MHFM ever been listed in Benedictine Ordo, Catalogus of the Benedictine Federation or any edition of the Official Catholic Directory? If so, state the publication and produce a copy of said listings.

RESPONSE: Upon information and belief, MHFM has not been listed in any of those publications nor would it choose to be. Since the institutions currently listed in such publications presumably accept Vatican II, the New Mass and recognize Benedict XVI as a true pope (all of which MHFM publicly rejects), MHFM does not believe that they are authentically or legitimately Catholic.

INTERROGATORY NO. 3

Was Joseph Natale a monk in the Order of St. Benedict? If so, state in detail all facts which support your answer.

RESPONSE: Yes, Joseph Natale was a monk in the Order of St. Benedict. He started a religious community of Catholic men, dedicated to the traditional Catholic faith, under the framework of the Rule of St. Benedict.

INTERROGATORY NO. 4

Did Joseph Natale receive permission from anyone at St. Vincent's ArachAbbey [*sic*] to found a new Benedictine monastery? If so, state when and who gave permission and identify all documents supporting your answer.

RESPONSE: Yes, upon information and belief, Joseph Natale was given permission in the 1960s by then Archabbot Dennis Strittmatter of St. Vincent's Archabbey to start a Benedictine monastery. However, that permission would not be necessary for a Catholic to start a Benedictine monastery because any Catholic man who holds the true Catholic faith, could begin a Benedictine monastery under the framework of the rule of St. Benedict. This was the case when St. Benedict himself started the Order of St. Benedict in the 6th century. St. Benedict founded numerous Benedictine monasteries without permission from anyone.

INTERROGATORY NO. 5

Describe the historical and present relationship between MHFM and Oblates of St. Jude.

RESPONSE: Upon information and belief, Oblates of St. Jude was registered and incorporated under the laws of the State of New Jersey and used the name "Most Holy Family Monastery" at times in doing business. Subsequently, MHFM was registered and incorporated under the laws of the State of New York. There is no present relationship between MHFM and Oblates of St. Jude.

INTERROGATORY NO. 6

Identify each person who was at any time since its New York incorporation a member of MHFM or Queen of Angels Corporation.

RESPONSE: Bro. Michael Dimond (Frederick Dimond), Paul Wedekind, Richard Ibranyi, Bro. Peter Dimond (Robert Dimond), Eric Hoyle, Michael Lipscomb, Joseph Myers, John Vennari and Bro. Joseph Natale.

INTERROGATORY NO. 7

Identify by case title, venue, and commencement dates all litigation to which MHFM has been a party since 1992 and describe the claims by and/or against MHFM in each.

RESPONSE: Objection. This interrogatory seeks info not likely to lead to identification of material and relevant evidence to issues in this case, and seeks disclosure as to information which is a matter of public record for which no response is required.

INTERROGATORY NO. 8

State the requirements of the Order of Saint Benedict for election as superior of a Benedictine monastery.

RESPONSE: He whom the existing superior designates as his successor, or he who is chosen, recognized or acclaimed as the superior by the remaining members of the monastery following the death of the superior, is elected as the superior of the monastery.

INTERROGATORY NO. 9

Identify all documents which govern the structure and activities of MHFM or set forth rules applicable to MHFM as a Benedictine Monastery.

RESPONSE: The traditional teachings of the Catholic Church and the Rule of St. Benedict, as understood and interpreted by the superior. For further responsive information, defendants refer to documents concerning the organization of MHFM already produced to plaintiff.

INTERROGATORY NO. 10

Has MHFM ever belonged to a Congregation within the Order of Saint Benedict? If so, identify said Congregation and state the dates during which MHFM belonged to it.

RESPONSE: MHFM belongs to the Order of St. Benedict which, when founded by St. Benedict in the 6th century, did not contain any separate congregations. MHFM believes the same is true today and since MHFM was founded. Moreover, the term “congregation” can refer to a church or to a particular monastery and as such MHFM constitutes a “congregation.”

INTERROGATORY NO. 11

State the monetary amount of damages which you contend was suffered by MHFM due to the alleged statements of the plaintiff set forth in ¶¶ 180-185 of the Defendants’ Answer and Counterclaims to the Plaintiff’s Amended Complaint and the facts which support said contention.

RESPONSE: Defendants’ monetary damages are in the amount of \$5 million. Plaintiff stated to individuals acquainted with defendants that defendants stole money from him. Plaintiff’s statements constitute defamation per se. As a result of Plaintiff’s widespread defamation of defendants, defendants have suffered widespread and irreparable harm to their reputations, loss of contacts, followers, supporters, readers, customers and benefactors. Based on the Plaintiff’s false statements about defendants, the following groups, websites, publications and individuals, including but not limited to: Angelqueen.org; cathinfo.com; catholicforum.fisheaters.com; forchrist-contramundum.blogspot.com; Traditio.com; Today’s Catholic World; Catholic Answers Forum; *The Rochester Daily Record*; Rebecca Tushnet’s Blog; *The Four Marks newspaper*; These Last Days Ministries; The Incorruptibles Forum;

Stephen Hand; “Athanasius Contra Mundum” blog; Catholic Apologetics International; The Buffalo News (cover story), have published articles or statements in which the defendants are portrayed as either thieves, frauds, deceptive, dishonest in business, and/or criminals. Plaintiff’s statements were made with malice and for the purpose of causing injury to the defendants.

INTERROGATORY NO. 12

Specify the allegedly false or misleading representations referenced in ¶ 201 thereof and state when and how each statement was made.

RESPONSE: Beginning after Plaintiff’s departure from MHFM on Dec. 31, 2007, Plaintiff used MHFM’s confidential records, contact list and information to reach MHFM’s readers, supporters, customers and benefactors by e-mail, regular mail, and telephone. For example, on February 10, 2008, as well in the days and months before and after, Plaintiff sent out a mass e-mailing to MHFM readers and supporters (e.g., Bates No. 00008574). Among other things, the mass e-mailing denounced MHFM and directed MHFM’s readers and supporters to the Plaintiff’s website, genesis49.com.

On his website, to which Plaintiff directed people, he portrayed MHFM as a false and fraudulent operation. This message was spread to MHFM’s readers and supporters. In this context and at the same time, Plaintiff directly solicited donations from MHFM’s former supporters, readers and customers. In order to receive donations and money from MHFM’s former supporters and readers, Plaintiff maintained a “Donate” button on his website by which he also advertised his services.

During the days and months following Plaintiff’s abrupt departure from MHFM, he also contacted MHFM’s supporters, customers and readers by telephone, e-mail and regular mail. In

those conversations, he portrayed MHFM as fraudulent and criminal. For example, in a telephone conversation of April 13, 2008 with MHFM customer Jan Shipp, which Plaintiff recorded (Bates No. 0001341), Plaintiff asserted that “illegal” activity occurs at MHFM. In numerous conversations with people, including with MHFM readers and supporters, Plaintiff also asserted that MHFM has a “policy” to illegally keep and withhold money that belongs to others. For example, on January 2, 2008, Plaintiff told Trooper Larry LaRose it is MHFM’s “policy” to unlawfully refuse to return the money that belongs to others. (Bates No. 0001315) He also told the Trooper that Brother Michael Dimond deals fraudulently. These statements are false and constitute defamation per se. They also misrepresent the nature, quality, and characteristics of MHFM’s business services and monastery.

Plaintiff made the same false allegation to many others, including MHFM’s former benefactors. For example, Plaintiff told Joseph Godlewski that MHFM unlawfully withholds money that belongs to him (Bates No. 0001312). In a conversation of February 19, 2008 (Bates No. 0001299), Plaintiff told former MHFM customer and supporter Christy Awana that MHFM unlawfully keeps money that belongs to him. In January of 2008, Plaintiff told Stephen Hand that MHFM stole money from him and from another person. In the early part of 2008, Plaintiff contacted David Burrow, owner of DPS Video, a business entity with which MHFM has business relations. Plaintiff told Mr. Burrow that MHFM had lied to and cheated Plaintiff. On February 10, 2008, Plaintiff had a telephone conversation with MHFM supporter and reader, Najla Zager (Bates No. 0001349). In the conversation, Plaintiff criticized MHFM and directed Ms. Zager to his competing website. Prior to having been contacted by Plaintiff, Ms. Zager was a consistent customer and supporter of MHFM. Sometime after Plaintiff’s contact with Ms. Zager, she stopped ordering from or supporting MHFM. In a 2009 e-mail to Plaintiff, Ms. Zager

asked Plaintiff for more information proving that MHFM's members are a "fraud" and questions whether we deliberately deceive people for nefarious reasons in MHFM publications. (Bates No.00009909).

On March 22, 2008, Plaintiff conducted a telephone conversation with Francis Pagnanelli, a former customer and benefactor of MHFM (Bates No. 0001332). In the conversation, Plaintiff told Mr. Pagnanelli that MHFM is guilty of a pattern of "repetitive fraud." In a conversation with Rosemary Andreotti (Bates No. 0001298), Plaintiff told Ms. Andreotti that MHFM operates and conducts itself in a "fraudulent" way. He also told Ms. Andreotti that MHFM illegally withheld money that belongs to Plaintiff and that Plaintiff hoped to put MHFM "out of commission."

In an e-mail to John Maffei, Jan. 21, 2008 (Bates No. 00010006), Hoyle told him that Frederick Dimond violated "verbal and written agreements" to pay him money he was owed. Plaintiff's replies to Interrogatories demonstrate that he directly contacted hundreds, if not thousands, about MHFM after his departure. Plaintiff's false statements about MHFM and its services have now reached tens of thousands. Since the facts above concerning Plaintiff's activity demonstrate a consistent pattern, in which he repeatedly alleged that MHFM is fraudulent and criminal, it would be excessively burdensome to document every single case. The facts above are sufficient to demonstrate a pattern of activity. Indeed, in Plaintiff's *Reply to Counterclaims*, April 9, 2009 (#61), Plaintiff admitted that, "... **Plaintiff made such statements, to the effect that defendants allegedly stole his money, to others who knew of MHFM and the individual defendants.** The defendants cannot identify each of these individuals, as that information is within the sole knowledge and control of the plaintiff."

INTERROGATORY NO. 13

State the facts which you contend support your allegation at ¶ 202 thereof that plaintiff's representations were used in commerce and were made in the context of commercial advertising.

RESPONSE: As specified in the response to Interrogatory 12, after departing MHFM on Dec. 31, 2007, Plaintiff engaged in a widespread campaign of defamation against the defendants. Plaintiff made false representations about MHFM in the context of soliciting and receiving money from former MHFM customers and supporters. For example, on February 10, 2008, as well in the days and months before and after, Plaintiff sent out a mass e-mailing to MHFM readers and supporters. Among other things, the mass e-mailing denounced Most Holy Family Monastery and directed MHFM's readers and supporters to the Plaintiff's website, genesis49.com. On the website, Plaintiff directly solicited donations from MHFM's former supporters, readers and customers. In order to receive money and donations from MHFM's former readers and supporters, he maintained a "Donate" button on his website. Plaintiff acknowledges that he solicited donations from former MHFM supporters in his e-mail to Francis Pagnanelli, February 9, 2008 (Bates No. 00008558). In this way, Plaintiff advertised his services as a religious teacher.

On genesis49.com, as well as in many e-mails to former MHFM customers, Plaintiff linked to, advertised for and promoted his tutoring business, www.hoyletutoring.com, a for-profit business conducted by the Plaintiff. He advertised his services as an educational and religious instructor, and he did so to MHFM's former benefactors, readers and supporters -- an audience inclined to such services and discussions of religious doctrine. Plaintiff also advertised his for-profit tutoring business to many of MHFM's former customers, benefactors and supporters in e-mails and telephone conversations which denounced MHFM (e.g., in his e-mail to Bridget

Burrows, Bates No. 00008705). In a telephone conversation of February 19, 2008 (Bates No. 0001299), Plaintiff told former MHFM customer and supporter Christy Awana that MHFM unlawfully keeps money that belongs to him. In the same conversation, he discussed, recommended and advertised his tutoring business, Hoyle Tutoring. As referenced above, Plaintiff also contacted MHFM supporter Najla Zager to denounce MHFM. In the conversation with Najla Zager, Plaintiff recommended his competing website. Zager eventually wrote back to Plaintiff requesting information that the Dimonds were a “fraud.” She sent the e-mail specifically to Hoyle’s Tutoring Business, www.hoyletutoring.com (Bates No. 00009099).

In an e-mail to Hoyle, December 16, 2009 (Bates No. 00009101), Robert Sissons stated that Hoyle posted on his website a statement that he might need to charge people, through his private tutoring business, for his discussions with them about Catholic doctrine.

Furthermore, Plaintiff made false representations about MHFM in the context of commercial advertising because he directly received money from Francis Pagnanelli following his departure from MHFM and in the context of accusing MHFM of “repetitive fraud.” Plaintiff acknowledges that he took money from Mr. Pagnanelli in Plaintiff’s e-mail to Pagnanelli, February 9, 2008 (Bates No. 00008557). Plaintiff also requested money from John Pontrello, a customer and benefactor of MHFM, in the process of verbally denouncing MHFM (Bates No. 00008572, e-mail from Hoyle to Pontrello, February 10, 2008). John Pontrello, in an e-mail to Eric Hoyle, February 11, 2008 (Bates No. 00008569), acknowledged that Plaintiff asked him for money in the context of his departure and criticism of MHFM. The e-mail was sent to Plaintiff’s website, genesis49.com, on which Plaintiff had solicited donations. Plaintiff also promoted his tutoring business to John Pontrello (Bates No. 00008571). Plaintiff also told Luke Stevens, a former MHFM customer, that he might charge Luke and others a fee for talking to them about

religious issues (Bates No. 00009099). In another e-mail to Luke Stevens, a former MHFM customer, Plaintiff also asserts that he advertises his writings on his website for financial purposes and donations (Bates No. 00009100).

INTERROGATORY NO. 14

State the amount of actual damages and consequential damages which MHFM has suffered by reason of the activities of the plaintiff alleged in ¶ 205 thereof and the facts which support each amount claimed.

RESPONSE: Defendant's actual and consequential damages are not presently quantifiable, but consist of injury to Defendant's reputation which has or will result in decreased fellowship and financial donations and support. Plaintiff's actions also constitute defamation per se.

INTERROGATORY NO. 15

Identify each person with whom MHFM had a business relationship prior to the conduct of plaintiff alleged in ¶ 207 and who terminated such relationship solely because of plaintiff's alleged conduct.

RESPONSE: MHFM is aware of the following persons who terminated their relationship with MHFM because of Plaintiff's conduct: John Pontrello; Christy Awana; Gary Craft; Robert Mann; Daniel Capodilupo; Stu Ingraham; Mary Scott; Stephen Hand; Maria Chouinard; Ed Baidy; Peter De Niese; Gary Muehlbauer; Ethan Muehlbauer; Matt Laski; John Jones; Patrick Lipscomb; Howard and Joan Williams; Ken Bird; The Pacelli Family; Najla Zager; Michael Creighton; Steve Weigand; Fr. Bill Rauh; Judy Deffenbaugh; Jean Vail; Jan

Shipp; Dr. Kevin Hill; Luis Gonzalez; Joseph Emmanuel; Rico Longo; Al Kosten; Holly Zonneveld; Amanda Watts & Family; George Nordmann; Joseph Godlewski; Robert Sissons; Aaron and Khristen Duffy; Jamie Pagnanelli; Paul Ellwanger; Helen Rogue; Fr. Bernard Champagne; Coast to Coast AM; Ebay.

INTERROGATORY NO. 16

State the amount of actual damages which MHFM has suffered by reason of the activities of the plaintiff ¶ 224 and the facts which support each amount claimed.

RESPONSE: Defendant objects to this Interrogatory as vague, ambiguous, and/or incomprehensible in nature and not permitting a reasonable response. Defendant refers to Interrogatory responses 11, 14, & 15.

INTERROGATORY NO. 17

State the amount of actual damages which MHFM has suffered by reason by reason of the activities of the plaintiff ¶ 231 and the facts which support each amount claimed.

RESPONSE: Defendant objects to this Interrogatory as vague, ambiguous, and/or incomprehensible in nature and not permitting a reasonable response. Defendant refers to Interrogatory responses 11, 14, & 15.

INTERROGATORY NO. 18


State the amount of actual damages which MHFM has suffered by reason by reason of the activities of the plaintiff ¶ 240 and the facts which support each amount claimed.

RESPONSE: Defendant objects to this Interrogatory as vague, ambiguous, and/or

incomprehensible in nature and not permitting a reasonable response. Defendant refers to Interrogatory responses 11, 14, & 15.

Dated: Buffalo, New York
February 18, 2011

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STATE OF NEW YORK)
) SS.:
COUNTY OF ALLEGANY)

Brother Michael Dimond (Frederick Dimond), being duly sworn, deposes and says that he is the President of domestic not-for-profit corporation Most Holy Family Monastery, a defendant in the within action; that deponent has read the foregoing Responses and Objections to Plaintiff's First Set Of Interrogatories to defendant Most Holy Family Monastery and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: the books and records of the corporation.


Brother Michael Dimond (Frederick Dimond)

Sworn to before me this
18 day of February, 2011

ERIC S. PARKER No. 01PA6056073
Notary Public, State of New York
Qualified in Allegany County
My Commission Expires 03/12/2011


Notary Public