

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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

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 defendants' motion to compel discovery.

2. A number of the items which the defendants seek to discover have now been produced. These include (1) scraps of paper on which plaintiff recorded unpleasant events; (2) plaintiff's facsimile transmission to law enforcement regarding defendant Frederick Dimond's driving habits; and (3) all versions of the MHFM website in plaintiff's possession.

3. Defendants have requested the production of plaintiff's state and federal tax returns from 2005 to the present, in order to determine the plaintiff's treatment for tax purposes of various transfers to Most Holy Family Monastery. Plaintiff has produced those portions of the federal tax returns which contain the information sought by the defendants. No other portions of the plaintiff's tax returns are relevant or likely to lead to information relevant to the issues in this matter.

4. Plaintiff does not possess copies of any communications by a third party to any defendant made at his behest.

5. Plaintiff has produced a copy of all entries from his personal journal which relate to the issues in this case. Entries which have been redacted are neither material nor relevant to this action nor are likely to lead to the discovery of any material and relevant information.

6. Plaintiff agrees to provide an unredacted photocopy of his journal to the Court for its in camera inspection. Plaintiff will indicate which portions of the journal were redacted prior to its delivery to defendants' counsel.

7. Plaintiff requests that the Court review this document to determine whether the redacted material was properly withheld. Cf. Carolan v. New York Telephone Company, 1984 WL 368 (S.D.N.Y., 1984).

Wherefore, your Declarant prays for an order denying defendants' motion to compel production of documents.

Dated: March 22, 2011

/s/ K. Wade Eaton

K. WADE EATON