BEFORE THE UNITED STATES

JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE: CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS SEXUAL ABUSE LITIGATION

MDL NO. 1:25-P-12

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR TRANSFER AND CENTRALIZATION OF RELATED ACTIONS TO THE CENTRAL DISTRICT OF CALIFORNIA PURSUANT TO 28 U.S.C. § 1407 FOR CONSOLIDATED PRETRIAL PROCEEDINGS

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Pursuant to 28 U.S.C. §1407 and J.P.M.L. Rule 6.2, Movants Stephanie Thomas, Roe JB 84[1], Jane Roe HM 95 and Jane Doe 2 (collectively, "Movants"), the named Plaintiff in Stephanie Thomas v. Doe 1 et al., (Case No. 2:2025CV00834, C.D. Cal., filed January 30, 2025), Roe JB 84 v. The Church of Jesus Christ of Latter-Day Saints, (Case No. 5:2024cv07608, N.D. Cal., filed November 1, 2024), and Jane Doe v. Doe 1 et al., (Case No. 2:25-cv-00713-FMO-AJR, C.D. Cal., filed January 27, 2025), respectfully move the Judicial Panel on Multidistrict Litigation ("JPML" or "Panel") for an Order transferring and centralizing the 48 actions listed in the Schedule of Actions, as well as any tag-along cases subsequently filed, to the United States District Court for the Central District of California for coordinated or consolidated pretrial proceedings, before whom 27 of the Actions are currently pending (collectively, the "Related Actions" or "Actions")[2].

INTRODUCTION AND COMMON FACTUAL BACKGROUND

Each of the Actions subject to this motion arise from one nucleus of operative facts: members of the Church of Jesus Christ of Latter-Day Saints ("the Church") have been subjected to horrific sexual abuse by other Church members while they were minors. In each action, Plaintiffs allege reports were made to Church leadership regarding the abuse but were not acted upon due to a pervasive and intentional scheme to cover-up and conceal the rampant sexual abuse within the Church. These horrific crimes, most often perpetrated against children, are swept under the rug by the Church and its ordained members as a matter of policy. The Church actively works to make sure that credible reports of sexual violence – including the rape of children – are silenced. One example of these practices is the Church's "Help Line" which is available only to Stake Presidents and Bishops (Church-appointed leaders of Wards). Reports of sexual abuse made to the Help Line are not reported to authorities, nor to other vulnerable members in contact with the reported abuser. Instead, records of these reports are regularly

[1] Several Plaintiffs filed under pseudonyms to protect their anonymity.
[2] See Exhibit A, Schedule of Actions. The Complaints (without exhibits) in the Actions and their related docket sheets are attached as Exhibits

destroyed, and the Church has refused to produce evidence of such reports to the Help Line in litigation. The nationwide policies and practices of the Church form the common factual nucleus for how the Plaintiffs in each Action were abused.

The Church of Jesus Christ of Latter-Day Saints has approximately 6.8 million members in the United States. It is organized into a series of territories known as Areas. Areas are further divided into Stakes. Each Stake is comprised of a maximum of sixteen individual congregations known as Wards. The Church operates as one of the wealthiest private organizations in the world. Movants allege that in order to preserve the influx of generations of financial commitments from congregants and to protect the moral reputation of the Church, the Church hides, covers up, and ultimately knowingly and directly benefits from the trafficking and sexual abuse of children by Church members. Plaintiffs in each action also allege that individual Bishops and Stake Presidents were involved in either perpetrating their abuse or failing to act on reports of the abuse. In each such case, Plaintiffs allege that Church-wide policies and practices were designed to silence victims, protect abusers, and facilitate their ongoing abuse by ferrying them across the country when their heinous acts were reported.

As of the date of this filing, 48 Actions are currently pending against Defendant; 27 are filed in the Central District of California, seven are filed in the Northern District of California, five are filed in the Eastern District of California, four are filed in the Southern District of California, one is filed in the Northern District of New York, one is filed in the Northern District of Illinois, one is filed in the Western District of Louisiana, one is filed in the District Court of Nevada and one is filed in the Western District of Washington. Each of the Actions was filed as an individual action alleging that the Church did nothing to protect the victims of sexual assault. In each of the Actions, Plaintiffs allege the Church covered up the abuse, perpetuated the abuse, and exacerbated the harm to Plaintiffs in a similar manner. Each of the Actions further individually allege that the Church has knowingly benefitted in the same ways from the victims' sexual assaults. The Actions are all based on several common questions of fact and law. Thus, there is a compelling need to establish uniform and consistent standards in conducting

pretrial discovery and motion practice, and to avoid potentially inconsistent rulings, inefficiencies, and waste of the parties' and judicial resources that would result if the Actions were allowed to proceed in numerous district courts.

This is the sort of case that this Panel has routinely consolidated. This Panel has previously recognized that centralization was proper where, like here, victims of sexual abuse are alleging that institution-wide policies contributed to or caused their injuries at the hands of third parties. *In re Uber Techs., Inc., Passenger Sexual Assault Litig.*, 699 F. Supp. 3d 1396, 1399 (J.P.M.L. 2023) (finding that the impact of company's policies and procedures on sexual abuse and/or harassment prevention and investigation of complaints was a common nexus of fact suited for centralization; finding that the involvement of third-party tortfeasors in each injury did not make centralization inappropriate). This case is distinguishable from other centralization requests that this Panel denied involving sexual abuse and trafficking across multiple institutions, each with different policies. Unlike the various and disparate hotel operators and owners in *In re: Hotel Industry Sex Trafficking Litigation*, this case involves a single set of policies and procedures utilized by a single primary defendant; this results in many near-identical questions of fact. Without centralization, there would be serious risk of inconsistent rulings and waste of judicial resources should the cases go forward in multiple districts.

The Church has members in all fifty states and globally. The policies and procedures which have allowed—and indeed, actively enabled—predators to remain undetected are present in every state and faithfully followed by local leaders in the Church. Due to the nationwide nature of the allegations and span of the Actions, there is no one center of gravity for this case, although the majority of Church members (and therefore victims) reside in states on or near the west coast of the United States, California in particular is home to the second largest number of Church members in the country and is the current venue for 43 of the filed Actions. Plaintiffs contend the most logical and convenient location for these proceedings would be the Central District of California, where the Church maintains a significant presence and where 27 of the 48 Actions are pending. Furthermore, pursuant to Cal.C.C.P.

§ 340.1 Californias statute of limitations, extending to the age of 40 for sexually abused victims, is among the most generous in the nation. Unlike most states with limits as short as 2 years, California provides victims a significantly longer window to seek justice, making it the proper venue for this case since more claims are likely to be filed in California in the near future.

BACKGROUND

Prior to filing this motion, Plaintiffs conferred with counsel for the 48 Actions to discuss whether alternatives to centralization, including seeking §1404 transfer to one district court, and information coordination could be accomplished. Counsel for the 48 Actions could not agree to transfer all Actions to one district court or to informal coordination of the cases given the overlapping claims and classes.

Child sexual abuse within the Church has affected tens of thousands of victims. Moreover, due to the public interest in these matters and press coverage thus far, undersigned Plaintiffs anticipate additional actions will soon commence in other federal courts alleging similar claims on behalf of new victims.

ARGUMENT

The Panel may order transfer and coordination if civil actions pending in different districts "involv[e] one or more common questions of fact" and transfer will further "the convenience of parties and witnesses and will promote the just and efficient conduct of such actions." 28 U.S.C. §1407(a). "The objective of transfer is to eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation cost, and save the time and effort of the parties, the attorneys, the witnesses, and the courts." MAN. FOR COMPLEX LITIG., §20.131, at 220 (4th ed. 2004). Because allowing the Actions to proceed independently would guarantee duplication of discovery and overlapping efforts, transfer and coordination for pretrial proceedings is necessary and appropriate.

The Related Actions all involve common issues of fact—e.g., how the Church systematically and intentionally conceals reports of sexual abuse within its ranks—centralization of which will promote the convenience of the parties and witnesses and the just and efficient conduct of the litigation. *See* 28 U.S.C. §1407. The policies that are used to silence victims, cover up abuse and perpetuate abuse within the Church are directed at the national level. Transfer and centralization will mitigate the possibility of inconsistent rulings, including rulings regarding privilege issues and spoliation of evidence, and will promote the judicial economy by providing a single forum to which future filed tag-along actions can be transferred.

Indeed, courts have held that "Although the scope of the [clergy-penitent] privilege varies from State to State, all States at a minimum 'require that the communications be made in private, with an expectation of confidentiality, to a minister in his or her professional capacity as a member of the clergy.'" *McFarland v. W. Congregation of Jehovah's Witnesses, Lorain, Ohio, Inc.*, 2016-Ohio-5462, ¶ 16, 60 N.E.3d 39, 47; quoting *Varner v. Stovall,* 500 F.3d 491, 495 (6th Cir.2007), *see also* Cassidy, *Sharing Sacred Secrets: Is it (Past) Time for a Dangerous Person Exception to the Clergy–Penitent Privilege?,* 44 Wm. & Mary L.Rev. 1627, 1645 (2003). Layered on top of these common issues are case-specific factors impacting the privilege like mandatory reporting requirements, questions of who qualifies as a clergy member, questions of how waiver of the privilege is accomplished and whether the privilege can be waived at all, and the scope of the privilege. It is not a hypothetical threat that the clergy-penitent privilege issue may come up in these actions – thus creating the risk of inconsistent rulings in disparate district courts – it is essentially a certainty.

For example, discovery matters at trial regarding the reaches of clergy-penitent privilege were such a point of contention in *Doe I v. The Corp. of the President of the Church of Jesus Christ of Latter-Day St.*, 2022 WL 20563294, Ariz.Super., Dec. 30, 2022, that the court assigned a Discovery Master to help with discovery matters. Even this remedy was ineffective because both parties consistently appealed adverse decisions through to the highest court in Arizona. One of the primary focuses of these

discovery disputes were with regard to church disciplinary proceedings and confessions, all of which the court ruled were privileged due to unique Arizona state law regarding the scope of the privilege being extended to disciplinary proceedings. In contrast, in Ohio in *McFarland v. W. Congregation of Jehovah's Witnesses*, the court found discoverable numerous letters which contained information sent to multiple clergy members in confidence, including at least five letters that concerned the internal discipline of church members, and at least two which included the information of a member's "spiritual confession of misconduct." *McFarland v. W. Congregation of Jehovah's Witnesses, Lorain, Ohio, Inc.*, 2016-Ohio-5462, ¶ 40, 60 N.E.3d 39, 52. This is in part because Ohio's statute provides strict and narrow parameters for the application of the privilege.

In *State v. Glen*, the Washington Court of Appeals held that while the courts usually strictly construe testimonial privileges, the term "confession" should be broadly construed to account for differences in religious doctrines. *State v. Glenn*, 115 Wash. App. 540, 548, 62 P.3d 921, 925 (2003) (citing *State v. MacKinnon,* 288 Mont. 329, 337, 957 P.2d 23, 28 (Mont. 1998)). In contrast, the law in Wyoming states that a clergyman cannot testify "concerning a confession made to him in his professional character if enjoined by the church to which he belongs," indicating that the breadth of the privilege and its application are dictated by church doctrine. Wyo. Stat. Ann. § 1-12-101 (a)(ii). On the other hand, courts in New Jersey have held that "the scope and application of statutory cleric-penitent privilege is not limited to communications deemed privileged by the relevant religious authorities." *State v. J.G.*, 201 N.J. 369, 990 A.2d 1122 (2010). In Georgia, clergy members are completely prevented from disclosing or testifying about communications made to them by people seeking spiritual guidance, counseling, or professing a religious faith, however the factual scenario will dictate whether reports of sexual abuse fall under those protected categories. Georgia Code Annotated § 24-9-22. These arguments vary from state to state and will inevitably require the Court's consistent and definitive determination to prevent inconsistencies.

Here, each of the Actions name The Church of Jesus Christ of Latter-day Saints as the primary defendant. Each of these Actions contain the same or similar causes of action, such as claims for negligence, sexual abuse of a minor, and violations of the Trafficking Victims Protection Act ("TVPA"). Legal rulings on the TVPA cause of action in particular warrant centralization pursuant to 28 U.S.C. §1407 in order to avoid inconsistent rulings in multiple district courts where a singular federal cause of action is being applied.

I. THE RELATED ACTIONS AND ANY TAG-ALONG ACTIONS ARE APPROPRIATE FOR TRANSFER AND COORDINATION PURSUANT 28 U.S.C. §1407

Transfer and coordination are permitted if civil actions pending in different districts "involv[e] one or more common questions of fact" and this Panel determines that transfer will further "the convenience of parties and witnesses and will promote the just and efficient conduct of such actions." 28 U.S.C. §1407(a). "The objective of transfer is to eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation cost, and save the time and effort of the parties, the attorneys, the witnesses, and the courts." MAN. FOR COMPLEX LITIG., §20.131, at 220. Transfer and coordination for pretrial proceedings would achieve those objectives in the Related Actions and is therefore appropriate here.

A. The Related Actions Involve One or More Common Questions of Fact

Transfer and coordination are appropriate here as the Related Actions are based upon the same facts concerning the policies and practices of The Church of Jesus Christ of Latter-day Saints with regards to reports of sexual assaults in the Church. The factual questions common to the Related Actions include, but are not limited to:

i. the Church's knowledge about the prevalence of sexual assault committed by its members, including members in leadership;

ii. the Church's knowledge about the prevalence of sexual assault committed against its members, especially children;

iii. whether the Church owed a duty to Plaintiffs to protect them from third-party conduct;

iv. whether the Church owed a duty to Plaintiffs to warn them about the risk of sexual abuse from third parties;

v. whether the Church and its nationwide policies suppress, silence, diminish or otherwise downplay reports of sexual abuse amongst its members;

vi. whether and how the Church benefits from nondisclosure of sexual abuse against its members to authorities and the public;

vii. whether the Church intentionally misinforms clergy of state laws applicable to reporting sexual abuse to avoid illegal activity from being revealed to authorities and the public;

viii. whether the Church responded appropriately to direct reports of sexual assaults by its members;

ix. whether, to protect its reputations and those of the abusers, the Church reassigns and/or transfers members who have been reported to sexually abuse other members to other Stakes and Wards;

x. whether the Church directs its clergy and members to cover up sexual abuse beyond preventing official reporting;

xi. whether the Church's policies regarding the reporting of sexual abuse are designed to prevent illegal activity from being revealed to authorities or other vulnerable members; and

xii. whether the disclosure of sexual abuse to Church leadership by victims, their families, or unrelated parties is made under the penitent privilege.

Additionally, all Related Actions rely upon similar legal theories of recovery, each turning on the intentional conduct of the Church to protect abusers, prevent official reporting of sexual abuse, and the Church's failure to protect its members after becoming aware of sexually abusive conduct. The

causes of action include general negligence, ratification of intentional sexual abuse by members in leadership, and in some actions, violations of the Trafficking Victims Protection Act. Centralization is appropriate in situations where Plaintiffs have alleged institution-wide policies and practices that minimize the reporting and investigation of sexual assaults. *In re Uber Techs., Inc., Passenger Sexual Assault Litig.,* 699 F. Supp. 3d 1396, 1399 (J.P.M.L. 2023). Unlike other recent petitions to consolidate other human trafficking claims, the cases here are widespread and are unlikely to be centralized on their own to one or two courts, and they have one predominant defendant: The Church of Jesus Christ of Latter-Day Saints. Given the substantial factual overlap across the Actions, centralization will eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel, and the judiciary.

B. Transfer and Coordination of the Related Actions to the Central District of California Will Further the Convenience of the Parties and Witnesses

Centralization under 28 U.S.C. §1407 is proper when it will "serve the convenience of the parties and witnesses and promote the just and efficient conduct of [the] litigation." *In re: Dairy Farmers of America, Inc. Cheese Antitrust Litig*., 626 F. Supp. 2d 1348, 1348 (J.P.M.L. 2009). Centralization is appropriate where, as here, it will "eliminate duplication in discovery, avoid conflicting rulings and schedules, reduce litigation cost, and save the time and effort of the parties, the attorneys, the witnesses, and the courts." MAN. FOR COMPLEX LITIG., §20.131 at 220.

The Church faces multiple Actions asserting claims on behalf of numerous victims of sexual abuse. In addition to the Related Actions, Movants' counsel understands that attorneys across the country represent victims in hundreds of additional unfiled actions which will allege similar injuries and the same or similar conduct of the Church. Absent centralization and transfer, all parties will be subjected to duplicative motion practice and discovery. *See, e.g.*, *Uber*, 304 F. Supp. 3d at 1353

("Centralization will eliminate duplicative discovery; prevent inconsistent pretrial rulings, including with respect to class certification; and conserve the resources of the parties, their counsel, and the judiciary.").

Absent transfer, the federal court system will be forced to administer – and the Church will be compelled to defend – the Related Actions asserting similar allegations across multiple venues, serving similar and overlapping discovery requests, deposing the same witnesses on the same or similar issues, and all proceeding on potentially different pretrial schedules and subject to different judicial decision-making and local procedural requirements. Moreover, each Plaintiff will be required to monitor and possibly participate in each of the other similar Actions to ensure that the Church and any future co-defendants do not provide inconsistent or misleading information. This would not only waste each party's resources, including the courts', and unnecessarily prolong litigation, but such duplicative action would also subject Plaintiffs to further needless re-traumatization.

Many of the same pretrial disputes are likely to arise in each Action, including issues of law regarding the application of various privileges. Likewise, due to the similar causes of action in each complaint, the defenses asserted in the Actions will be substantially the same, as will the substance of any motions to dismiss, which will be based on the same or similar claims and based on the same arguments in each Action. None of the pending cases have progressed to the point where efficiencies will be forfeited through transfer to an MDL proceeding – each Action is in its infancy.

As noted, Plaintiffs' counsel anticipates there will be additional case filings. Given the allegations of these complaints and the current level of litigation – 48 Actions in nine separate District Courts – all parties would benefit from transfer and coordinated proceedings. *In re: Equifax, Inc., Customer Data Sec. Breach Litig.,* 289 F. Supp. 3d 1322, 1324 (J.P.M.L. 2017) (finding that "centralization under Section 1407 . . . will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation"); *see also In re: First Nat. Collection Bureau, Inc., Tel. Consumer Prot. Act (TCPA) Litig.*, 11 F. Supp. 3d 1353, 1354 (J.P.M.L. 2014) ("[E]fficiencies

can be gained from having these actions proceed in a single district," such as "eliminat[ing] duplicative discovery; prevent[ing] inconsistent pretrial rulings . . . and conserv[ing] the resources of the parties, their counsel and the judiciary."); *In re: Zurn Pex Plumbing Prods. Liab. Litig.*, 572 F. Supp. 2d 1380, 1381 (J.P.M.L. 2008) (granting transfer and consolidation of five cases and six potential tag-alongs because of the "overlapping and, often, nearly identical factual allegations that will likely require duplicative discovery and motion practice"). Indeed, centralization will serve to streamline the filing of additional actions and resolve initial common issues of law in a more organized and orderly manner than would be possible in actions pending in different District Courts.

In sum, transfer and coordination of the Related Actions to a single federal district will mitigate these problems by enabling a single judge to manage discovery and the parties to coordinate their efforts. This will reduce litigation costs and minimize inconvenience to the parties and witnesses, to the benefit of all litigations, third parties, and the courts. *See In re: Enfamil Lipil Mktg. & Sales Pracs. Litig.*, 764 F. Supp. 2d 1356, 1357 (J.P.M.L. 2011).

C. Coordination Will Promote the Just and Efficient Conduct of the Related Actions

Centralization will "promote the just and efficient conduct of [the] actions" because the Related Actions will likely involve many of the same pretrial issues concerning the nature and scope of discovery and the sufficiency of Plaintiffs' allegations. See 28 U.S.C. §1407(a). Discovery will be more effectively and efficiently managed, while the resources of the parties, attorneys, and judicial system are conserved. Coordination is therefore necessary to prevent inconsistent pretrial rulings on many central issues, which would present substantial problems because of the consistency in factual and legal allegations between the Related Actions. *See In re LLRice 601 Contamination Litig.*, 466 F. Supp. 2d 1351, 1352 (J.P.M.L. 2006).

Centralization is necessary to prevent inconsistent pretrial rulings on many central issues, which would present significant problems due to the substantial consistency in factual and legal allegations among all Related Actions. *Id*. (observing that centralization would "prevent inconsistent pretrial rulings" on class certification and other issues). The prospect of inconsistent rulings also encourages forum and judge shopping. Without centralization, issues would inevitably include manipulation of incongruent discovery limits, approaches to electronically stored information, and protective order issues). By contrast, a single MDL judge coordinating pretrial discovery and ruling on pretrial motions in all of these federal cases at once will help reduce witness inconvenience, the cumulative burden on the courts, and the litigation's overall expense, as well as minimizing this potential for conflicting rulings. *Id*. Centralization will mitigate these problems by enabling a single judge to manage discovery and the parties to coordinate their efforts. *Am. Med. Collection Agency, Inc.*, 410 F. Supp. 3d at 1353 ("[A] single MDL encompassing [multiple defendants] is necessary to ensure the just and efficient conduct of this litigation."). This will reduce litigation costs and minimize inconvenience to the parties and witnesses, to the benefit of litigants, third parties, and the courts. *See id*. at 1354 ("centralization will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation"); *Enfamil*, 764 F. Supp. 2d at 1357 ("Centralizing the actions will allow for the efficient resolution of common issues and prevent unnecessary or duplicative pretrial burdens from being placed on the common parties and witnesses."); *In re: Lumber Liquidators Chinese-Manufactured Flooring Prods. Mktg., Sales Pracs. & Prods. Liab. Litig.*, 109 F. Supp. 3d 1382, 1383 (J.P.M.L. 2015) ("Centralization will . . . conserve the resources of the parties, their counsel and the judiciary.").

There is another compelling reason for centralization: the treatment of sexual assault victims in the justice system calls for trauma-sensitive and informed judicial oversight. The sensitivity of cases such as these raises serious concerns for fairness of trials for victims. The few judicial education resources that are available on these topics identify a wide range of issues that judicial officers should

take into account throughout leading up to and during the trial process, including but not limited to setting ground rules for depositions by court order, scheduling of witnesses, a judge's tolerance of tone and sarcasm in attorney questioning, how witnesses and parties are addressed by the court, consideration of the physical spaces of the courthouse to minimize contact between victims and abusers, and *voir dire* questioning.[3] While some considerations may seem minor, the cumulative effect of a judge's informed handling of sexual assault case can ensure the fairness of the proceeding, as well as limit the re-traumatization of survivors of sexual assault. This cannot be achieved without judicial officers investing precious time and resources into addressing these compelling concerns, however, once learned by a judicial officer, the trauma-informed approach to such cases is easily extended to all the participants in a centralized proceeding. Therefore, centralization would not only be an efficient use of judicial resources to have a single judge and their courtroom staff familiarize themselves with these sensitive issues, but also a steadfast approach to ensuring that victims of sexual assault within the Church feel safe in participating in the judicial process.

D. Centralization Under §1407 Is Appropriate Given the Number of Related Actions and District Courts at Issue

Centralization is particularly appropriate given the number of Related Actions pending in nine federal district courts. Given the number of current cases and the likelihood of future filings, and the number of differing federal district courts, §1407 transfer at this stage is an appropriate method of consolidating subsequent tag-along actions which also serves to avoid waste of resources and

[3] The National Judicial Education Program has an ongoing curriculum on *Understanding Sexual Violence*. It is one of the few judicial education resources geared specifically towards cases involving sexual violence. Among this curriculum is 'The Judicial Response to Stranger and Nonstranger Rape and Sexual Assault', available at: https://www.legalmomentum.org/sites/default/files/reports/NJEP%20Understanding%20Sexual%20Violence%20-%20Judges%27%20Recommendations_0.pdf;
2005 *Understanding Sexual Violence* Faculty Manual available at: https://www.legalmomentum.org/sites/default/files/reports/FINAL%20USV%20FACULTY%20MANUAL.12.27.05.pdf

inconsistent initial rulings. *See In re: Airline Baggage Fee Antitrust Litig.*, 655 F. Supp. 2d 1362, 1363 (J.P.M.L. 2009) ("In light of the very large number of individuals affected by the fees in question, the possibility of additional actions arising in other districts (with ensuing duplicative Section 1404(a) motion practice) looms."). The 48 pending actions would be enough to justify centralization because the common questions of fact are so extensive and because the risk of inconsistent judgments on critical legal issues – such as privilege issues – are so certain to occur.[4] However, Movants are also aware of dozens of additional cases represented by counsel that are prepared to file once initial investigation is complete.

II. THE CENTRAL DISTRICT OF CALIFORNIA IS THE MOST APPROPRIATE TRANSFEREE FORUM

The selection of an appropriate transferee forum depends greatly on the specific facts and circumstances of the litigation being considered for consolidation. The decision involves a "balancing test based on the nuances of a particular litigation" that considers several factors. *See* Robert A. Cahn, *A Look at the Judicial Panel on Multidistrict Litigation*, 72 F.R.D. 211, 214 (1977). Here, the Central District of California is the most appropriate venue because: (1) California is historically home to the second largest number of congregants of the Church in the country[5] and will likely be the initial forum for a large number of forthcoming tag-along actions; (2) California has a lengthy statute of limitations, allowing victims of childhood sexual abuse that occurred prior to 2024, to come forward and bring claims 22 years after they reach the age of majority, or within five years from discovering, or when they reasonably should have discovered, their injury was caused by the sexual abuse, which will further make it the initial forum for a large number of tag-along actions; (3) California has it is a convenient forum for direct travel for the parties' counsel in close proximity to multiple international airports; (4)

[4] See *supra*, discussion of inconsistent rulings on penitent-privilege issue in prior state cases.
[5] https://www.pewresearch.org/religion/2009/07/24/a-portrait-of-mormons-in-the-us/

it is accessible by direct flight for witnesses from the headquarters of the Church in Utah; and (5) it has the substantial resources and the subject matter experience that this litigation will require.

A. California Is An Appropriate Venue Given That California State Court Proceedings Have Been Consolidated

A California District Court, the Central District Court in particular, would be an appropriate forum for this consolidation. On January 30, 2025, the Superior Court of California, County of Los Angeles ruled, agreeing to coordinate the sexual abuse cases, similar to those bought by the Movants, against the Church in California. The cases are now to be coordinated under case number JCCP5357. The California Courts has established an understanding of the complexity of these cases and the importance of consolidating to ensure consistent rulings as the cases progress. Therefore, a California District Court would be an appropriate venue for the Movants' cases to be centralized.

Although many instances of abuse similar to those suffered by the Movants may have occurred in the state of Utah, the District of Utah is not the most appropriate venue for a centralized proceeding. First, it is understood that many members of the federal bench in the District of Utah may have close, personal connections to the subject matter of these actions that would require them to at least consider recusal. Second, although Utah has the most members of the Church in the country, Utah does not share California's liberal approach to the extension of statutes of limitations for victims of sexual abuse. Utah requires victims to file civil actions against entities responsible for their abuse within four years of occurrence or discovery.[6] California allows survivors, whose claims for childhood sexual abuse were not previously expired, the right to file a civil claim for sexually assault until their 40th birthday, or within five years of discovering, or reasonably should have discovered, of the injuries caused by the childhood sexual abuse.[7] Despite Utah having more members total than any other state, it is anticipated

[6] Utah Code §78B-2-308.
[7] California Code of Civil Procedure § 340.1(q) (2023).

that the difference in the states' statutes of limitations will result in a far greater number of cases being filed outside of Utah, including in states such as California. Other states with significant numbers of Church members have either more restrictive or similar statutes of limitations for sexual abuse injuries.[8]

B. A Factor for Transfer Should Be the Accessibility of the Venue for Parties in the Related Actions

[8] ***New York,*** New York Civil Practice Law § 214-G- allows survivors, whose claims for childhood sexual abuse were not previously expired, the right to file a civil claim for sexually assault before the age of fifty-five.
Arizona, Ariz. Rev. Stat. § 12-514 – An action must be brought within twelve years of when plaintiff reaches the age of majority, 30 years of age. Ariz. Rev. Stat. § 15-514 opened a nineteen-month window for plaintiffs over the age of thirty file a lawsuit. The window was open from May 27, 2019, to December 31, 2020.
Colorado**,** Colo. Rev. Stat. § 13-20-1203 opened a window for childhood sexual abuse that occurred between January 1, 1960, but before January 1, 2022. The window required all claims to be filed by January 1, 2025. The law was struck down by the Colorado Supreme Court as unconstitutional. The Colorado legislature is considering amendments to the state constitution.
Oregon, Oregon Revised Statutes §12.117 – a victim has to file their action either by their 40th birthday or within five years of when they discovery or reasonably should have discovered the connection between their injury and the abuse.
Washington, Washington Revised Codes §4.16.340 – claims for childhood sexual abuse must be filed before the latter of: (1) within three years of the act allege to have caused the injury or condition; (2) within three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act or (3) within three years of the victim discovered the act caused the injury for which the claim is brought. The time limit for commencement of an action under this section is tolled for a child until the child reaches the age of eighteen.
Texas, Texas Civ. Prac. And Rem. Code §16.0045 - a victim must bring their childhood sexual abuse suit for no later than 30 years after the day the cause of action occurs. The extended statute of limitations enacted in September 2019 does not revive claims that were time-barred at the time the law became effective.
Florida, Florida Statutes §95.11 - child sexual abuse suit may be commenced at any time within the later of: (1) seven years after reaching the age of majority, 25 years of age; (2) within 4 years from the time of discovery by the injured party of both the injury and the causal relationship between the injury and the abuse; or (3) within four years after the injured person leaves the dependency of the abuser.
Idaho, Idaho Code §6-1704 - a childhood sexual abuse suit must be filed within the later of (1) five years from the date that an aggrieved child reaches the age of eighteen, 23 years of age; or (2) within five years of the time the child discovers or reasonably should have discovered the act, abuse or exploitation and its causal relationship to any injury or condition suffered by the child.
Nevada, Nevada Revised Statute §11.215 - an action for childhood sexual abuse against a non-perpetrator defendant must be filed within twenty years after the plaintiff reaches eighteen years of age, 38 years of age. Nevada Revised Statute §11.215 - revived all claims against non-perpetrators that would have been time-barred previously, up to age thirty-eight.

Given that the primary fact witnesses and agents of the Church critical to each Action are located at or near the venue of filing for the Related Actions, not to mention the victims, their families and other witnesses, the center of gravity for any given action is the location of the abuse itself, not any repository of Church documents.

Unlike cases based on centralized decision-making of corporate actors, the Related Actions involve the more localized effects of nationwide policies of the Church. The offending policies put in place to prevent reporting of sexual abuse and to protect abusers were implemented at a hyper-local level and affected each plaintiff differently. The religious head of each Ward, called a Bishop, would typically be the person that sexual abuse allegations were reported to. From there, other members of leadership, including the leadership of the Area and Stake where a given Ward is located, would have influence on what actions were taken – or more accurately, not taken – in response to reports of sexual abuse. Therefore, while the centralized decision-making and policy implementation of the Church is an important common fact question in the case, it is far from the only fact question affecting each Action. Indeed, in each action the vast majority of witnesses and documentary evidence will be local in nature, arising from the location where the abuse occurred. Witnesses with information on the nationwide policies of the Church can easily access the Central District of California, which is a convenient venue for those witnesses, the parties to the various Related Actions, and their counsel.

C. The Central District of California has the Resources to Accommodate Centralization

The Central District of California has the resources to administer a case of this size, with four MDLs currently centralized in the District.[9] Although several hundred cases are anticipated across the country, Movants believe the total action count in a centralized proceeding would be less than a

[9] MDL Statistics Report - Distribution of Pending MDL Dockets by District, J.P.M.L., https://www.jpml.uscourts.gov/sites/jpml/files/Pending_MDL_Dockets_By_District-January-2-2025.pdf

thousand. The Central District of California is home to 27 of the Movants' case. Judicial familiarity with the factual allegations, legal defenses, and pertinent discovery issues would magnify the efficiencies of centralization.

D. The Honorable Judge André Birotte Jr. Should Preside Over This Consolidated Litigation Because of His Experience Managing A Complex MDL

The Honorable Judge André Birotte Jr. is eminently qualified to handle the complexity of this MDL. He is the presiding Judge in Plaintiff JANE ROE AA 102 and PLAINTIFF ROE PD 58's cases.

The experience and knowledge of a particular judge is a third important factor that may be considered when determining the best transferee forum. *See, e.g., In re "Factor VIII or IX Concentrate Blood Prods." Prod. Liab. Litig.,* 853 F. Supp. 454, 455 (J.P.M.L. 1993).

Judge Birotte has presided over numerous complex litigations. He is currently presiding over one MDL, *In Re: Ford Motor Co. DPS6 PowerShift Transmission Prods. Liab. Litig.* (MDL No. 2814) that has 170 actions pending. The *In Re: Ford Motor Co.* case is a complex multi-district litigation on complex issues of product liability. Judge Birotte's experience in presiding over the Ford MDL has given him the requisite experience to reside over this MDL. Finally, Judge Birotte's docket allows for an MDL such as this one.

III. THE NORTHERN DISTRICT OF CALIFORNIA IS AN APPROPRIATE ALTERNATIVE TRANSFEREE FORUM

The Northern District of California stands out for its robust bench of federal judges with expertise in managing MDLs. The Northern District of California has the resources to administer a case of this size, with 18 MDLs currently centralized in the District.[10] Although several hundred cases are anticipated across the country, Movants believe the total action count in a centralized proceeding

[10] *Id.*

would be less than a thousand. The Northern District of California is home to 7 of the Movants' cases. Although the Northern District of California is hosting 18 MDLs, only two of those have over one thousand actions pending; the District's docket is more than able to accommodate a new MDL with only several hundred cases.[11] The judges of the Northern District of California, as well as the court staff and court clerks are amongst the most experienced in the country in dealing with centralized proceedings. The efficiencies of centralization would be enhanced manyfold by these Actions being placed before a judge experienced with the administration of MDLs.

The Northern District of California is also an appropriate transferee district, as it shares many commonalities with the Central District of California. Both the Northern District of California and the Central District of California are likely to be the initial forum of any of the forthcoming tag-along cases, as both courts are governed by the lengthier California Statute of Limitations offered to victims of childhood sexual abuse. Additionally, the high number of congregants living in California would also make it more likely that the Northern District of California will be forum to the forthcoming tag-along cases. The Northern District of California is also a convenient forum for direct travel for the parties' counsel in close proximity to multiple international airports, is accessible by direct flight for witnesses from the headquarters of the Church in Utah, and has the substantial resources and the subject matter experience that this litigation will require.

A. The Honorable Judge Haywood S. Gilliam Jr. Should Preside Over This Consolidated Litigation Because of His Experience Managing A Complex MDL

The Honorable Judge Haywood S. Gilliam. is eminently qualified to handle the complexity of this MDL. He is the presiding Judge in Plaintiff JANE ROE JT 34's case.

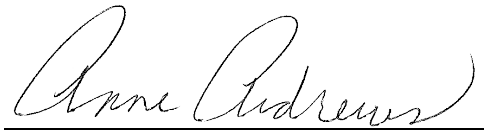
[11] *Id.*

The experience and knowledge of a particular judge is a third important factor that may be considered when determining the best transferee forum. *See, e.g., In re "Factor VIII or IX Concentrate Blood Prods." Prod. Liab. Litig.,* 853 F. Supp. 454, 455 (J.P.M.L. 1993).

Judge Gilliam has presided over numerous complex litigations. He is currently presiding over the *In Re: StubHub Refund Litigation* (MDL No. 2951) MDL, that has 6 actions pending. The *In Re: StubHub* litigation has dealt with complex issues relating to California consumer protection, competition law, false advertising, and other complex legal matters. Finally, Judge Gilliam's docket allows for an MDL such as this one.

Dated: February 03, 2025

Respectfully submitted,



Anne Andrews, Esq.
ANDREWS & THORNTON
4701 Von Karman Ave., Suite 300
Newport Beach, CA 92660
Telephone: (949) 748-1000
Facsimile: (949) 315-3540
Email:survivor@andrewsthornton.com
Counsel for Stephanie Thomas, Daniel Carey, Dominique James, Jane Doe, Nicole Zimmerman, and Jane Doe (2)