

As an initial matter, the Defendant's Motion is not ripe for review. The Defendant does not know which witnesses the United States intends to call to testify about COG financial transactions. The Defendant also does not know upon what grounds these witnesses may base their testimony. Accordingly, the Defendant's Motion to bar yet-unknown witnesses from testifying about yet-unknown COG financial transactions based on their yet-unknown knowledge is without merit at this time.

Moreover, the United States does not intend to offer testimony regarding COG financial transactions for which witnesses have no firsthand knowledge. Instead, the United States anticipates calling witnesses including, but not limited to, COG employees, elders, and members, as well as the church's bookkeeper. The United States anticipates that these witnesses will testify about the organization of the church, its operations, and the expenses of the church based on their participation in the church. For example, such a witness may testify about renting a meeting hall for a congregation to gather for the weekly Sabbath, and then being reimbursed by COG for the cost of the meeting hall. In short, the witnesses will testify based on their first-hand knowledge and observations of COG operations, funding, and expenses pursuant to Federal Rules of Evidence 602 and 701. The United States does not anticipate that these witnesses will base their testimony on any scientific, technical, or other specialized knowledge within the scope of Federal Rule of Evidence 702. *See* FED. R. EVID. 701.

The United States also does not intend for these witnesses to base their testimony regarding COG financial transactions on "legal determination[s]." *See* Defendant's Motion in Limine at p. 1. Because the United States expects that these witnesses will

testify about their understanding and knowledge of church organization, operations and expenses, the witnesses will not need to make any legal determination regarding the transactions in question. However, these witnesses may testify regarding “the specific facts and circumstances surrounding” key transactions, which is essential for “a clear understanding of the witness testimony [and] the determination of a fact in issue.” *See* Defendant’s Motion in Limine, at pp. 1-2 (citing FED. R. EVID. 602, 701).

WHEREFORE, for the above reasons, the United States respectfully submits the Court should deny the Defendant’s Motion in Limine Concerning the Trial Testimony of Lay Witnesses.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2012 the foregoing was electronically filed through the CM/ECF system, which will send notice of the filing to counsel of record.

s/ Christopher L. Nasson
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