

As posted to the Internets:

**CHURCH OF SCIENTOLOGY V. ANGRY GAY POPE**

It has been my privilege to serve as pro bono counsel to Angry Gay Pope (“AGP”) who is an enthusiastic and dedicated critic of Scientology abuse and crime. As many of you know, on August 14, 2008 AGP was served with a civil harassment temporary restraining order (Cal. Code of Civil Procedure section 527.6) which prohibited him from approaching within 100 yards of the Church of Scientology Office of Special Affairs and middle management building at 6331 Hollywood Boulevard, Los Angeles, CA. The restraining order was obtained by two Scientology staffers (Lisa Evil and Lewis Miranda) who work in the 6331 Hollywood Boulevard building. They were clearly shells for the real party in interest, the Church of Scientology.

AGP’s first court appearance was on August 29, 2008. On that occasion we requested a trial continuance (postponement) so that AGP could file an Anti-SLAPP motion under California Code Section 425.16. This section provides for the early dismissal of law suits that have been filed “primarily to chill the valid exercise of freedom of speech.” Scientology attorney Kendrick Moxon was appearing for Scientology and objected. However, the judge commented that anti-SLAPP motions were not unknown in his courtroom and continued the hearing until October 24, 2008 with a briefing schedule on the anti-SLAPP motion.

AGP filed his Anti-SLAPP motion and supporting documents on September 19, 2008, and Scientology filed its Opposition papers on October 13, 2008. AGP filed his

Reply papers on October 16, 2008. Two days after the Reply was filed Scientology filed evidentiary objections to the Berry and Scarff declarations. Those evidentiary objections should have been filed with Scientology's Opposition papers on October 13, 2008, so that AGP could address the objections in his Reply. On October 20, 2008, AGP filed an Objection to Scientology's very late-filed Objections and an Ex Parte Application and motion to exclude Scientology's late filed objection. At the Ex Parte hearing on October 21, 2008 the court denied AGP's Ex Parte Application saying it would deal with the matters at the hearing on Friday, October 24, 2008. On October 23, 2008, AGP filed his Trial Brief and Scientology filed a Motion in Limine to exclude any evidence of Scientology beliefs and practices. Mr. Moxon and myself had discussed the possibility of stipulating (agreeing) to certain facts (such as the sidewalks being a public forum and OT 3 and 8, etc. relating to "Scientology religion." We were unable to agree.

This morning, October 24, 2008, the Anti-SLAPP motion came on for hearing before Los Angeles Superior Court Judge Hon. Richard E. Rico. The judge is a former law firm partner and Court of Appeals research attorney. He has granted Anti-SLAPP motions before and he has a good record on first amendment issues. The judge ignored our motion to exclude Scientology's very late filed objection, so the contents of both the Berry and Scarff declarations remained before the court. Then Judge Rico issued a mixed bag of evidentiary rulings on AGP's two sets of evidentiary objections. In essence, AGP's evidentiary objections to various statements in the Plaintiff's two declarations (affidavits) were over-ruled. However, all of AGP's objections to the Scientology evidence of alleged Anonymous terrorism, and their nemesis me (Graham Berry) were sustained.

The judge delivered an eight page tentative ruling. It was exhaustive and comprehensive. Like all of the other documents, the Judge's tentative will later be uploaded to AGP's documents page, along with our Ex Parte Application and Trial Brief, Scientology's Motion in Limine and any other pertinent documents which have not already been uploaded to [http://www.angrygaypope.com/images/doc\\_gallery/index.htm](http://www.angrygaypope.com/images/doc_gallery/index.htm) Next week a transcript of today's court hearing will also be uploaded and then you can then read the proceedings verbatim for yourselves.

The Court's tentative ruling, in essence, was as follows: (1) Plaintiff Miranda had not made out a case of civil harassment against him personally as opposed to a case that Scientology should have "to endure the protests of Myers and others. This is not the conduct the civil harassment statute was meant to address." [This was also my winning argument in the 1998 Rev. Ken Hoden v. Keith Henson civil injunction case before the Riverside Superior Court]. Accordingly, Judge Rico granted AGP's Anti-SLAPP motion as against Lewis Miranda; (2) However, Judge Rico denied the Anti-SLAPP motion as to Plaintiff Uvizl. This is the relevant section of the court's tentative [preliminary/pre-argument] ruling:

"UVIZL PETITION. The analysis as to the Uvizl Petition is the same except when it comes to the harassing conduct. In the case of Uvizl, there are two visually recorded instances where Myers (AGP) follows Uvizl from the Church offices. In one case Myers was shirtless and wearing a mask and was with someone who was

videotaping the incident. In both cases Uvizl appears annoyed by Myers presence. As a result, the conduct complained of by Uvizl more closely resembles the conduct the civil harassment statute was meant to deter. In the visually recorded confrontation between Myers (AGP) and Uvizl, Myers can be heard to make caustic and even insulting remarks about the Church and Uvizl's participation in the Church. In order to meet her burden, Uvizl must establish the likelihood of prevailing in the civil harassment claim which itself must be established by clear and convincing evidence (case citation omitted). Pursuant to the evidence in the record, petitioner has met her burden. The Anti-SLAPP Motion as to Uvizl is denied.”

After having had a brief opportunity to review the Court's Tentative Ruling the case was called and Mr. Moxon and I appeared before the bench at counsel's table. I disagreed with the Court's ruling as to Uvizl but the judge was not willing to entertain much oral argument. As you can read in the transcript to be uploaded next week, I made the following submissions to the Judge: that the Flatley case relied upon by the court was factually distinguishable; that most people who are picketed are “annoyed” by it and AGP had briefed the Court (Motion pages 16-19) on the U.S. Supreme Court cases holding that “the fact society may find speech offensive is not sufficient reason for suppressing it. Indeed, if it is the speaker's opinion that gives offense, that consequence is a reason for according it constitutional protection.” The judge did not want to listen saying he had read and reviewed everything, looked at the D.V.D.s and carefully prepared his ruling on the Anti-SLAPP. His honor had clearly been more diligent than many of his brethren and, in fairness, his ruling was detailed and well reasoned despite

our disagreement with its final page as to Lissa Uvizl. Mr. Moxon made little attempt to convince the Court to change its ruling as to Plaintiff Miranda. The Court ruled that prevailing party fees on the Anti-SLAPP motion were “a wash.” This greatly relieved AGP! Indeed, earlier that week, at the Ex Parte hearing, Mr. Moxon informed me that he would again be putting me before the California State Bar (for the 14<sup>th</sup> time!) and seeking my permanent disbarment if I lost AGP’s Anti-SLAPP motion. I responded, “That could cut both ways Rick.” By that I meant I could respond with the subsequent developments in the Cipriano, Hurtado, Apodaca and related frauds upon four State and Federal courts, and the State Bar itself.

The Court then proceeded to an evidentiary hearing as to the Uvizl restraining. However, the judge declined to actually hear live testimony saying he had carefully reviewed the declarations and the DVDs. Once again, he provided very little opportunity to counsel for argument. I briefly addressed the court as to Ms. Uvizl’s credibility. There were no allegations or threats of violence, no evidence of severe emotional distress, and no evidence of reasonable fear because of the constant presence of security guards and cameras. He had gone to the Scientology location to address his message to the group and not any specific individual. On the contrary, Ms. Uvizl had bantered with AGP, laughed and even said she was not afraid. Furthermore, that AGP’s communications had largely been about Scientology matters of public interest such as OT 3 and OT 8, the Billion Year contract, staff working and living conditions, etc.”

The judge responded with a new factor and ground for his decision. He said that there had been harassment because AGP had followed Ms. Uvizl and AGP had not stopped following Ms. Uvizl after she had requested him to do so. Therefore, he was issuing a permanent (three year) injunction against AGP restraining him from being within 50 yards of Ms. Uvizl's employment at 6331 Hollywood Boulevard or her residence down the street from the Church of Scientology Celebrity Center on Franklyn Avenue. Once again, I argued to the contrary. I submitted that the ambit or scope of the restriction was too broad because even the U.S. Supreme Court cases of Madsen and Schenk had adopted a 15 foot buffer zone and those two cases involved abortion clinic cases where there had been actual violence and even murders. No matter how hard I pushed, Judge Rico refused to budge from his rulings and concluded the hearing.

Most of the public gallery then left the court room. There were ten people on each side of the courtroom. The Scientology contingent included Mr. Moxon, the two plaintiffs, one of the Scientology security guards/camera men, and others. AGP's contingent included Anon Orange and Happy Smurf. In addition, attorney Barry Van Sickle attended. Barry had substantial experience in Scientology litigation matters in the late 80s and early 90s. In fact, Barry was part of the trial team that won *Scientology v. Yanny one* while I was part of the trial team that won *Scientology v. Yanny two*. He has significant appellate experience.

The drama did not end with the hearing. Rick Moxon and I were standing at the Court Clerk's desk while awaiting our copies of the 50 yard Restraining Order regarding

Lissa Uvizl. “Barry [Van Sickle] told me he will handle an appeal,” said Moxon. “If we decide to appeal then Barry and I will work on it,” I said. “We do work on things together. I am sure you are aware of the labor claim that Barry has presented (to require Scientology to pay Scientology Gold Base workers the minimum wage),” I added. This was not what Rick wanted to hear so he went over to chat with Mr. Miranda who loudly said, “So I have to prepare to defend myself.” Mr. Moxon then went over to one of the Anon who had remained sitting in the courtroom. Rick Moxon informed him that if he continued to attend anti-scientology pickets and court proceedings he would be receiving a temporary restraining order too. I called Mr. Moxon out for threatening this Anon with litigation while just sitting in the courtroom. “Berry, are you his lawyer too.” I responded, “No, but he is an acquaintance of mine.” Shortly after that we received our copies of the Restraining Order and we left the courtroom together (I was not leaving Moxon alone in there to engage in even more shenanigans).

I did observe that Rick Moxon was wearing a near new expensive suit and that he was unusually relaxed at the Ex Parte hearing earlier this week. At that time I was so surprised that I asked Rick if everything was okay with him. I wasn’t used to seeing him so relaxed and rested. It was the day after the channer pleaded guilty to the denial of service charges. Are we seeing a new Moxon? Nah, I don’t think so.

And so our merry little band had coffee, conversation and departed the Los Angeles Superior Court House. AGP, Happy Smurf, Anon Orange, Casper and another then proceeded to L. Ron Hubbard Way. There we used ‘Anonymous Clearing

Technology' to quickly empty the entire street, leaving only the Scientology security guards to stalk, harass and video us as we picketed for an hour and observed the work crew erecting the big tent again for the International Association of Scientologists (IAS) event on November 1, 2008. Anon Orange and Happy Smurf were videotaping endlessly and I expect they will soon be uploading their footage.

Judge Rico, like most judges, clearly did not enjoy a Church of Scientology case being in his court room. He wanted it out of there with minimal repercussions. If he had ruled entirely in our favor the Church of Scientology would have appealed and visa versa. Consequently, like King Solomon, the judge split the baby, sending both sides away unhappy. However, AGP can still picket at L. Ron Hubbard Way, CCHR, Celebrity Center and elsewhere. Personally, I think L. Ron Hubbard Way is a better picketing venue than 6331 Hollywood Boulevard. The lower level Scientology staffers are more malleable and more Scientology public members are exposed to our communications and invitations. I know that I have caused one to blow with a LRH Died ON Psych Drugs picket sign.

I think the decision in the AGP case today was a 75% win and really, as with Gregg's case in Boston, a win despite certain ongoing restrictions.

The message Anonymous should take away from Judge Rico's ruling today is that they may direct their proper free speech communications at Scientologists as both a group and individuals. However, picketers should not follow individual Scientologists

and must stop doing so when requested. Of course, this should cut both ways too including with Scientology's private investigators and investigations officers and their "dead agenting" activity. My advice to Anonymous is not to push the picketing envelope and to err on the cautious and civil side, while still communicating the messages that have been so effective this year. Scientology is looking for a reason to sue anyone and everyone. If Anonymous errs on the side of the law and basic civility Scientology will be frustrated in their search for "heads on a pike." If a frustrated Scientologist does attack you then do not be provoked or retaliate in any manner. "Turn the other cheek," apply "Ghandi Tech" and then take police or court action against the violent Scientologist. That is what Tommy Gorman did and it totally thwarted the Church's attempted set-up of Tommy for an arrest and a lawsuit.

I wish to thank Anons for their generous contributions to AGPs actual court costs (photocopying, filing fees, parking/gas, etc.). I also wish to thank those who have sent me some money orders and Staples cards. Although I am happy to act pro bono in these matters I do need donations to be able to meet the bare necessities of life and any checks, money orders or cash (in any amount) will now be gratefully received. "Living on the smell on an oily rag" still requires some minimal cost. Indeed, my living and work expenses will soon significantly increase (yet remain relatively modest) when I lose my support to another state and another home. I also want to thank Anon Orange for my two new picket signs: "Scientology Abuses the Law" and "Blow Baby Blow." As I said to a few Scientology staffers today, "Blow like Rinder, Blow like Rathbun."

I'll now scan the rest of the case documents so that AGP may post them to the URL above. Then it is back to the backlog of other matters which include: my website; my book; document scanning; the Subway restaurant matter (for which one of our Anon legal specialists has ghost-written some documents); the Moxon matters; our civil rights complaints; Belgium; the dozens of Narconon victims; the Freewinds; and the Los Angeles Police Commission. Earlier this week the Los Angeles Police Department telephoned me yet again regarding the complaint we filed in April regarding the weekly closures of L. Ron Hubbard Way. The L.A.P.D. was investigating the March 15, 2008 L. Ron Hubbard Way Picket in particular. Apparently the L.A.P.D. has concluded its investigation. Among other things, changes are to be made as to the manner in which Movie filming permits (such as the Church of Scientology has used) are handled in the future.

Congratulations AGP. Congratulations Gregg Housh. Congratulations Australian Anonymous. Congratulations Anonymous everywhere; keep up the good global work.

Anonymous does not forgive. It does not forget. Expect us.

[My apologies for this epistle to the reading challenged who write in terms of tl: dr <gr>]

Read the comments, see my video message and see today's picket videos at:

<http://forums.whyweprotest.net/123-leaks-legal/agp-99-9-win-30939/>

Also see: <http://ocmb.xenu.net/ocmb/viewtopic.php?p=346300#346300>

<http://www.forum.exscn.net/showthread.php?t=8295&highlight=graham+berry>

<http://nz.youtube.com/watch?v=qvMoSsuRVW8>

<http://nz.youtube.com/user/berrytruth>