

1 Kendrick L. Moxon, State Bar No. 128240
2 MOXON & KOBRIN
3 kmoxon@earthlink.net
4 3055 Wilshire Boulevard, Suite 900
Los Angeles, California 90010
Telephone: (213) 487-4468
Facsimile: (213) 487-5385

5 Attorney for Plaintiff
6 Pro se

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

JAN 05 2010

John A. Clarke, Executive Officer/Clerk
By A.E. LaFleur-Clayton, Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

10 KENDRICK MOXON

12 Plaintiff,

13 vs.

14 GRAHAM BERRY,

15 Defendant.

BC 429217

Case No. _____

**COMPLAINT TO ENFORCE
JUDGMENT**

19 **INTRODUCTION**

20 1. This is an action to enforce a judgment against defendant Graham Berry,
21 issued and assessed against him for acts of bad faith litigation. This action is brought
22 pursuant to California Code of Civil Procedure §683.020 et seq.

23 **PARTIES**

24 2. Plaintiff, Kendrick Moxon ("Moxon"), is an attorney, licensed to practice law
25 in all state and federal courts of the State of California, and the District of Columbia.
26 He is a resident of Los Angeles County.

3. Defendant Graham Berry (“Berry”) is an attorney, and a resident of Los Angeles County.

FACTUAL ALLEGATIONS

4. On July 19, 1999, in the case of *Pattinson v. Church of Scientology International, et al.*, CV-98-3958 CAS (SHx), United States District Court, Central District California, the Hon. Christina A. Snyder entered an order of sanctions pursuant to Rule 11, F.R.Civ.P., and 28 U.S.C. §1927, and entered judgment against defendant Berry in the amount of \$28,484.72, arising out of vexatious litigation filed against Moxon. (Exhibit A to Declaration of Kendrick Moxon.)

4. Berry subsequently sought to vacate the sanctions ruling and judgment, which motion was denied by the Court by Order dated June 30, 2000. Berry appealed the rulings, which appeal was dismissed by the Ninth Circuit Court of Appeals on Jan 17, 2001, which also issued the mandate on that date, constituting finality of the judgment, and establishing the date upon which any applicable statute of limitations for collection of the judgment would run. (Exhibit B to Declaration of Kendrick Moxon.)

5. Berry filed for bankruptcy on July 13, 1999, during the pendency of the motion seeking sanctions against him. *In re Graham Edward Berry*, LA99-32264ER, U.S.B.C, C.D. Cal. (Exhibit C to Declaration of Kendrick Moxon.) In the bankruptcy action, Berry sought discharge of the judgment. The bankruptcy action automatically stayed collection of the judgment. However, the sanctions order and judgment against Mr. Berry was found to be non-dischargeable by Order entered in the Bankruptcy Court on December 18, 2000. (Exhibit D to Declaration of Kendrick Moxon.) Thus, even had the judgment not been appealed and finality of it accordingly tolled, any action to enforce or collect the judgment was independently tolled for at least a period of 17 months and 5 days during the period of the automatic stay imposed by 11 U.S.C. §362(a). (Declaration of Kendrick Moxon.) The beginning date upon which the statute

1 of limitations for collection of the judgment would begin to run in consideration of the
2 bankruptcy stay, would be no earlier than December 24, 2000.

3 6. The applicable statute of limitations for collection of the debt at issue is 10
4 years. California Code of Civil Procedure, §337.5(3). Because the judgment was final
5 on January 17, 2001, the statute of limitations expires on January 17, 2011, unless the
6 judgment is renewed by the instant action.

7 7. Plaintiff is entitled to collect upon the judgment of \$28,484.72, plus interest
8 from the date of July 19, 1999, in accordance with California Code of Civil Procedure
9 §683.020 et seq. and relevant authorities. With interest, the total value of the judgment,
10 as of January 5, 2010, is \$48,276.60.¹

11 PRAYER FOR RELIEF

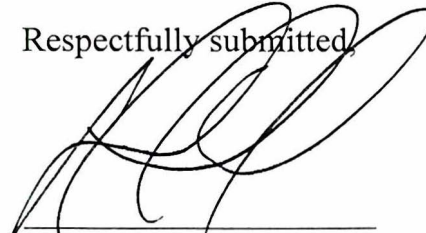
12 8. Plaintiff accordingly requests entry of:

13 a. An order that the judgment against Graham Berry is enforceable for the
14 period of an additional 10 years from the date of the filing of this Complaint,
15 to and including January 4, 2020, in the amount of \$48,276.60, and
16 including further interest running on any uncollected amount to the date of
17 collection.

18 b. Costs and filing fees in the instant action.

19 Dated: January 5, 2010

Respectfully submitted,

20
21
22 
23 Kendrick Moxon
24 Counsel pro se
25 MOXON & KOBRIN
26

27 ¹ See interest calculation tool at www.nationaljudgment.net/intcalc.php.

1 **DECLARATION OF KENDRICK MOXON**

2 I, Kendrick Moxon, hereby declare and state:

3 1. I make the following statements of my own personal knowledge, and if called
4 to testify thereto, could and would do so competently. The instant declaration is
5 submitted in compliance with California Code of Civil Procedure, §683.040.

6 2. I am an attorney, licensed to practice law in all state and federal courts of the
7 State of California, and the District of Columbia. I, along with over a dozen other
8 defendants, was sued in an action filed by attorney Graham Berry in the case of
9 *Pattinson v. Church Of Scientology International, et al.*, CV-98-3958 CAS (SHX),
10 United States District Court, Central District California.

11 3. On July 19, 1999, the Hon. Christina A. Snyder, presiding in that action,
12 entered an order of sanctions pursuant to Rule 11, F.R.Civ.P., and 28 U.S.C. §1927,
13 and judgment against Mr. Berry in the amount of \$28,484.72, arising out of the
14 vexatious litigation filed against me. (A true and correct copy of the Judgment is
15 appended hereto as Exhibit A.)

16 4. Mr. Berry subsequently sought to vacate the sanctions ruling and judgment.
17 which motion was denied by the Court by Order dated June 30, 2000. Mr. Berry
18 appealed the rulings, which appeal was dismissed by the Ninth Circuit Court of
19 Appeals on Jan 17, 2001, which issued the mandate on that date, constituting finality of
20 the judgment, and establishing the date upon which any applicable statute of limitations
21 for collection of the judgment would run. (A true and correct copy of the docket sheet
22 is appended hereto as Exhibit B.)

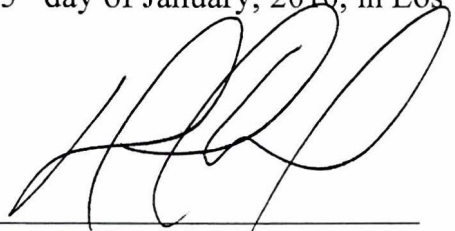
23 5. Mr. Berry filed for bankruptcy on July 13, 1999, during the pendency of the
24 motion seeking sanctions against him. *In re Graham Edward Berry*, LA99-32264ER,
25 U.S.B.C, C.D. Cal. (A true and correct copy of the bankruptcy petition cover page is
26 appended hereto as Exhibit C.) In the bankruptcy action, Mr. Berry sought discharge
27 of the judgment. The bankruptcy action automatically stayed collection of the
28

1 judgment. However, the sanctions order and judgment against Mr. Berry was found to
2 be non-dischargeable by Order entered in the Bankruptcy Court on December 18, 2000.
3 (A true and correct copy of the bankruptcy petition over page is appended hereto as
4 Exhibit D.) Thus, even had the judgment not been appealed and finality of it
5 accordingly tolled, any action to enforce or collect the judgment was independently
6 tolled for at least a period of 17 months and 5 days during the period of the automatic
7 stay imposed by 11 U.S.C. §362(a). The beginning date upon which the statute of
8 limitations for collection of the judgment would begin to run in consideration of the
9 bankruptcy stay, would be no earlier than December 24, 2000.

10 6. The applicable statute of limitations for collection of the debt at issue is 10
11 years. California Code of Civil Procedure, §337.5(3). Because the judgment was final
12 on January 17, 2001, the statute of limitations expires on January 17, 2011, unless the
13 judgment is renewed by the instant action.

14 7. Plaintiff is entitled to collect upon the judgment of \$28,484.72, plus interest
15 from the date of July 19, 1999, in accordance with California Code of Civil Procedure
16 §683.020 et seq. and relevant authorities. With interest, the total value of the judgment,
17 as of January 5, 2010, is \$48,276.60.¹

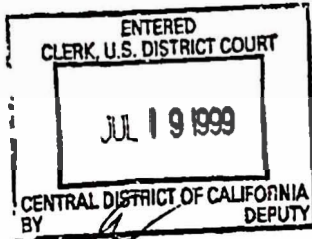
18 I declare under the penalty of perjury of the laws of the State of California that
19 the foregoing is true and correct. Executed this 5th day of January, 2010, in Los
20 Angeles, California.

21
22
23 
Kendrick Moxon

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27 ¹ See interest calculation tool at www.nationaljudgment.net/intcalc.php.

EXHIBIT A

AS REQUIRED BY FRCP, RULE 77(d)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MINUTE ORDER

Case No.: CV-98-3985 CAS (SHx)

July 15, 1999

Title: MICHAEL P. PATTINSON v. CHURCH OF SCIENTOLOGY ET AL.

PRESIDING: HONORABLE CHRISTINA A. SNYDER, U.S. DISTRICT JUDGE

Jim Holmes,
Deputy ClerkNot present
Court ReporterPLAINTIFF COUNSEL PRESENT:

None

DEFENDANT COUNSEL PRESENT:

None

PROCEEDINGS: AWARD OF COSTS, EXPENSES, AND ATTORNEYS' FEES

On April 15, 1999, this Court issued an order finding that defendant Kendrick Moxon ("Moxon") was entitled to costs, expenses, and attorneys' fees pursuant to 28 U.S.C. § 1927, or in the alternative, pursuant to Fed. R. Civ. P. 11. In that order, the Court directed the parties to submit briefing to determine the proper amount to be awarded.

Under section 1927, the court may allow the recovery of attorneys' fees, costs, and expenses incurred as a result of unreasonable or unnecessary multiplication of proceedings by an attorney. In calculating an appropriate award under section 1927, the court determines the amount of fees and expenses incurred as a direct result of the sanctionable conduct. See Yagman v. Baden, 796 F.2d 1165, 1187-88 (9th Cir. 1986), amended, 803 F.2d 1085 (9th Cir. 1986). The court may award those fees, costs, and expenses clearly attributable to the unnecessary multiplication of proceedings. See Salstrom v. Citicorp Credit Services, Inc., 74 F.3d 183, 185 (9th Cir. 1996) (holding that

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percentage award based on evaluation of attributable costs and fees was appropriate under section 1927).¹

Under Rule 11, the court may consider a number of factors in determining the amount of fees to be awarded, including: (1) whether the award will deter future misconduct by the sanctioned party; (2) whether the fees incurred were "reasonably necessary to resist the offending action"; and (3) any mitigation of fees and expenses. See Yagman, 796 F.2d at 1183-1185; Pope v. Federal Express, 49 F.3d 1327, 1328 (8th Cir. 1995). The award is limited to those fees and expenses "incurred as a direct result of the [Rule 11] violation." Fed. R. Civ. P. 11(c)(2). In addition, Rule 11 "specifically allows a district court to include the costs associated with sanctions proceedings." Margolis v. Ryan, 140 F.3d 850, 854 (9th Cir. 1998) (citing 1993 amendment to Rule 11).

This Court concluded in its previous order that plaintiff's counsel, Graham Berry ("Berry"), acted in bad faith by pursuing meritless claims against defendant Moxon in this action. The Court determined that filings by Berry following the dismissal of the first amended complaint on September 28, 1998, created an unnecessary multiplication of the proceedings for Moxon, and therefore granted Moxon his costs, expenses, and attorneys' fees incurred as a result of Berry's actions after that date.

In the briefs submitted to the Court, Moxon has requested a total amount of \$52,809.72, consisting of \$50,312.50 in attorneys' fees and \$2,497.22 in expenses. Moxon has submitted summaries of time sheets for hours expended by his attorney, Eric

¹ There is little case law in the Ninth Circuit articulating the correct formula for calculating an award of attorneys' fees, costs, and expenses under section 1927. District courts in other circuits have concluded that the lodestar method, applied after the time spent in the initial pleadings, is an appropriate method for determining fees under this section. See e.g., Boykin v. Bloomsburg Univ. of Pennsylvania, 905 F. Supp. 1335, 1347 (M.D. Pa. 1995) (calculating fees by multiplying reasonable hourly rate by number of hours reasonably expended on responding to unnecessary multiplication of litigation).

Lieberman ("Lieberman"). See Exhibit A to Declaration of Eric M. Lieberman ("Lieberman Decl."). The summaries reflect that Lieberman performed 143.75 hours of work on this case between October 1, 1998, and April 5, 1998. See Lieberman Decl. at ¶ 8. Lieberman practices in New York, and his ordinary hourly rate ranges from \$375 to \$400 per hour, which he states is reasonable for an attorney with his education and experience in either New York or Los Angeles. Id. at ¶ 7. Lieberman seeks to recover at a rate of \$350 per hour for his services in this action. Id. Lieberman states that he has practiced law for over twenty-eight years. Id. at ¶¶ 2-4.

Moxon has also submitted a request for expenses incurred for Lieberman's travel from New York to appear at a hearing before this Court on April 5, 1999. These expenses include airfare in the amount of \$1,896.00, hotel and meal costs of \$461.22, and taxi fare of \$140.00, for a total of \$2,497.22. See id. at ¶ 10.

Defendant also contends that he has attempted to mitigate his costs in defending this action in several respects. For example, Moxon, who is an attorney, does not seek to recover for the hours he personally expended on this litigation.² Defendant also points to unsuccessful efforts by Lieberman through the course of the action to convince Berry to dismiss the action against defendant Moxon. See id. at ¶¶ 13-17.

Berry raises several objections to the fees and expenses requested by Moxon.³ Berry first objects to the hourly rate charged by Lieberman, arguing that his New York rates are unreasonable for litigation conducted in Los Angeles. Berry also contends that the requested travel expenses would not be incurred by local counsel. In addition, Berry argues that Lieberman and

² Moxon states that he performed over fifty hours of work on this case, resulting in a loss to his own practice. See Declaration of Kendrick L. Moxon, ¶ 3.

³ Berry also renews his objections to the Court's decision to award fees to Moxon. The Court finds that Berry has not presented any legitimate basis for reconsideration of this Court's earlier order.

Moxon conducted the defense in bad faith and failed to mitigate costs in this litigation.

Upon review of the submissions of the parties, the Court finds that defendant Moxon is entitled to recover a reasonable amount of the fees and expenses he has requested. Lieberman has provided time sheets indicating that he expended 143.75 hours over the course of six months. A review of the summaries provided indicates that this time was expended in filing oppositions to motions filed by Berry, as well as in preparing motions in response to the complaint. The record reflects that defendant Moxon filed the following documents after September 28, 1998:

(1) Opposition of Defendant Kendrick L. Moxon to Plaintiff's Motion for Leave to File Revised Second Amended Complaint and Third Amended Complaint, and Notice of Cross-motion to Dismiss and to Renew Motion for Rule 11 Sanctions (filed November 17, 1998);

(2) Opposition of Defendant Kendrick L. Moxon to Plaintiff's Motion for Leave to File Third Amended Complaint, and Renewal of Request for Sanctions Under Rule 11 (filed January 11, 1999);

(3) Motion to Dismiss Third Amended Complaint and Renewal of Request for Sanctions Under Rule 11 (filed February 12, 1999);

(4) Motion for Costs, Expenses and Attorneys' Fees Pursuant to 28 U.S.C. § 1927 (filed March 1, 1999);

(5) Defendant Kendrick L. Moxon's Opposition to Plaintiff's Motion for Leave to File Nunc Pro Tunc to File Revised Third Amended Complaint (filed March 8, 1999);

(6) Reply Memorandum in Support of Defendant Kendrick L. Moxon's Motion for Costs, Expenses and Attorneys' Fees Pursuant to 28 U.S.C. § 1927 (filed March 15, 1999);

(7) Reply of Defendant Kendrick L. Moxon in Support of Motion to Dismiss Third Amended Complaint (filed March 15, 1999);

(8) Ex Parte Application to Strike Declaration of Michael Pattinson (filed March 22, 1999); and

(9) Reply Memorandum Regarding Plaintiff's Second Opposition to Motion for Costs, Expenses and Attorneys' Fees Pursuant to 28 U.S.C. § 1927 (filed March 29, 1999).

From the time sheets submitted by Lieberman, the Court cannot determine the precise number of hours expended on each opposition or motion filed. Based on an examination of these documents, the Court concludes that some of the hours claimed by Lieberman do not fairly represent time expended as a direct result of Berry's sanctionable conduct. The motions to dismiss the amended complaints involved largely the same issues. In addition, defendant's requests for sanctions were based on the similar arguments to those originally advanced by defendant in September 1998. Consequently, the Court concludes that a reduction in the number of hours expended is appropriate in calculating the fee award.

The Court finds that the following hours claimed by Lieberman constitute time spent defending against unnecessary filings by Berry:

- (1) October 30: "Receive and review new complaint." (3.50 hours);
- (2) November 3: "Review 2nd amended complaint; PCs EP, RM re: strategy, motion; Letter to Berry." (4.00 hours);
- (3) November 4: "PCs GB, RM, EP. Review complaint and outline." (2.00 hours);
- (4) November 5: "Review GB declaration; PC EP; Review complaint and outline." (2.00 hours);
- (5) November 6: "PCs EP. Review Berry's motion to replead." (1.00 hours);
- (6) November 9: "Review revised 2nd amended complaint, memo from client. Outline response and cross motion." (2.00 hours);

(7) November 10: "Letter to GB. Work on draft for response and cross motion." (3.00 hours);

(8) November 12: "Work on opposition to Berry motion and cross motion; Research and writing. Revising draft. PCs EP, KL re: same." (8.50 hours);

(9) November 13: "Review, revise, edit draft; PCs EP, RM, BR." (4.50 hours);

(10) December 11: "PCs EP, RM. Research re: § 1927." (2.50 hours);

(11) January 5: "Review Berry motion to amend. Review proposed 3rd amended complaint; PCs EP. Research and began drafting opposition memo." (3.50 hours);

(12) March 1: "Review and edit § 1927 motion; PCs RM." (2.00 hours);

(13) March 2: "Review pleadings. PCs EP re: response to motion; PCs SR, RM." (1.50 hours);

(14) March 10: "PC BD. PC EP. PC RM. Review Berry's latest papers. Conf. call re: response." (2.50);

(15) March 11: "Work on response. PCs EP, RM, BR." (3.00 hours);

(16) March 12: "PCs EP, RM. Review letters, pleadings, response." (2.00 hours);

(17) March 16: "Review Pattinson pleadings. Revise and edit responses. PCs EP, RM." (2.50 hours)

(18) March 18: "Receive and review materials for hearing. PCs EP." (2.50 hours)

(19) March 19: "Review Berry pleadings. PC RM, EP re: motion to strike." (2.00 hours);

(20) March 22: "Read new complaint. PCs EP, RM. Conf. call w/BR, et al. Letters from SR." (3.00 hours);

(21) March 23: "Order. PCs EP, RM. Review Pattinson declaration." (2.50 hours);

(22) April 2: "Review file and materials in preparation for hearing." (4.25 hours);

(23) April 4: "Travel to LA. Meeting w/client. Prepare for hearing. (Hours for travel include only working time)." (6.25 hours); and

(24) April 5: "Review materials for hearing. Attend hearing." (3.75 hours).

Exhibit A to Lieberman Decl.

The Court finds that the above 74.25 hours represent hours necessitated by Berry's actions and fairly represent the excess time spent as a result of the sanctionable conduct.⁴ The Court also finds that Lieberman's hourly rate of \$350 is comparable to rates of attorneys in the Los Angeles community with comparable skill and experience to that of Lieberman. Therefore, the Court hereby awards attorneys' fees in favor of defendant Moxon for

⁴ Specifically, the Court finds that items (1) through (9) listed above reflect hours expended in preparing the Opposition of Defendant Kendrick L. Moxon to Plaintiff's Motion for Leave to File Revised Second Amended Complaint and Third Amended Complaint, and Notice of Cross-motion to Dismiss and to Renew Motion for Rule 11 Sanctions, filed November 17, 1998; items (10) and (12) reflect hours spent in preparing defendant's Motion for Costs, Expenses and Attorneys' Fees Pursuant to 28 U.S.C. § 1927, filed March 1, 1999; items (11) and (13) reflect preparation for Defendant Kendrick L. Moxon's Opposition to Plaintiff's Motion for Leave to File Nunc Pro Tunc to File Revised Third Amended Complaint, filed March 8, 1999; items (14)-(16) reflect hours expended for Reply of Defendant Kendrick L. Moxon in Support of Motion to Dismiss Third Amended Complaint, filed March 15, 1999; item (19) reflects hours expended for the Ex Parte Application to Strike Declaration of Michael Pattinson, filed March 22, 1999; and items (17), (18), and (20)-(24) reflect preparation for the April 5, 1999 hearing on defendant's motions before this Court.

74.25 hours at a rate of \$350 per hour, for a total sum of \$25,987.50.

In addition, the Court concludes that Moxon's choice of New York counsel was not unreasonable in this case, and the travel expenses for one hearing before this Court are not excessive. The Court hereby awards expenses in the amount of \$2,497.22.

For the reasons set forth above, the Court awards defendant Moxon the total sum of \$28,484.72 in attorneys' fees and expenses.

IT IS SO ORDERED.

EXHIBIT B

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 00-56356

Docketed: 08/15/2000

Nature of Suit: 3470 Civil (Rico)

Termed: 01/17/2001

Berry, et al v. Church of Scientology, et al

Appeal From: U.S. District Court for Central California, Los Angeles

Case Type Information:

- 1) civil
- 2) private
- 3) null

Originating Court Information:

District: 0973-2 : CV-98-03985-CAS

Court Reporter: Dawn Bullock, Court Reporter

Trial Judge: Christina A. Snyder, U.S. District Judge

Date Filed: 05/21/1998

Date Order/Judgment:
07/11/2000

Date NOA Filed:
07/31/2000

Prior Cases:

None

Current Cases:

None

MICHAEL PHILLIP PATTINSON
Plaintiff - ,

Graham Edward Berry, Esquire, Attorney
Direct: 310-395-4800
[COR LD NTC Retained]
GRAHAM E. BERRY LAW OFFICES
Post Office Box 1028
1223 Wilshire Boulevard
Los Angeles, CA 90403

Christian Joseph Scali, Esquire, Attorney
Direct: 213-637-5656
[COR LD NTC Retained]
LEWIS & SCALI
Suite 1755
3550 Wilshire Boulevard
Los Angeles, CA 90010

GRAHAM EDWARD BERRY
Appellant,

Graham Edward Berry
[COR LD NTC Pro Se]

GRAHAM E. BERRY LAW OFFICES
Post Office Box 1028
1223 Wilshire Boulevard
Los Angeles, CA 90403

v.

CHURCH OF SCIENTOLOGY
INTERNATIONAL, a California Corporation
Defendant - Appellee,

No Appearance
No address
City Name, 0
Country

RELIGIOUS TECHNOLOGY CENTER, a
California Corporation
Defendant - Appellee,

No Appearance
(see above)

CHURCH OF SPIRITUAL TECHNOLOGY, a
California Corporation
Defendant - Appellee,

No Appearance
(see above)

KENDRICK L. MOXON, an individual
Defendant - Appellee,

Helena K. Kobrin, Esquire, Attorney
Direct: 213/487-4468
[COR LD NTC Retained]
MOXIN & KOBRIN
Suite 900
3055 Wilshire Blvd.
Los Angeles, CA 90010

Eric M. Lieberman, Esquire
Direct: 212/254-1111
[COR LD NTC Retained]
Rabionowitz, Boudin, Standard, Krinsky &
Lieberman
740 Broadway - Fifth Floor
New York, NY 10003-9518

BUILDING MANAGEMENT SERVICE, a
California Corporation
Defendant - Appellee,

No Appearance
(see above)

SEA ORGANIZATION, a California
Unincorporated Association
Defendant - Appellee,

No Appearance
(see above)

MICHAEL PHILLIP PATTINSON,

Plaintiff,

and

GRAHAM EDWARD BERRY,

Appellant,

v.

CHURCH OF SCIENTOLOGY INTERNATIONAL, a California Corporation; RELIGIOUS TECHNOLOGY CENTER, a California Corporation; CHURCH OF SPIRITUAL TECHNOLOGY, a California Corporation; KENDRICK L. MOXON, an individual; BUILDING MANAGEMENT SERVICE, a California Corporation; SEA ORGANIZATION, a California Unincorporated Association,

Defendants - Appellees.

08/15/2000	┐ 2	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): n. setting schedule as follows: appellant's designation of RT is due 8/10/00; appellee's designation of RT is due 8/21/00,, ; appellant shall order transcript by 8/30/00; court reporter shall file transcript in DC by ; certificate of record shall be filed by 10/10/00 ; appellant's opening brief is due 11/16/00; appellees' brief is due 12/18/00,, ; appellants' reply brief is due 1/2/01; [00-56356] (BG)
09/01/2000	┐ 3	Filed attorney for Appellant Civil Appeals Docketing Statement served on 8/31/00 (to CONFATT) [00-56356] [00-56356] (DR)
09/29/2000	┐ 4	Case rejected from Circuit Mediation Program. (EU)
01/17/2001	┐ 5	Order filed (Dep. Clk. mhf) dismiss case for failure to prosecute (C.R. 42-1) A certified copy of this order sent to the district court shall act as and for the mandate of this court. (Procedurally Terminated Without Judicial Action; F.R.A.P. 42.) [00-56356] (MF)
09/11/2001	┐ 6	NO ORIGINAL RECORD (BL)

ORIGINAL

FORM B1 UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA		Voluntary Petition
NAME OF DEBTOR (if individual, enter Last, First Middle): Berry, Graham Edward		NAME OF JOINT DEBTOR (Spouse) (Last, First, Middle):
ALL OTHER NAMES USED BY THE DEBTOR IN THE LAST 6 YEARS (include married, maiden, and trade names): NONE		ALL OTHER NAMES USED BY THE JOINT DEBTOR IN THE LAST 5 YEARS (include married, maiden, and trade names):
SOC. SEC./TAX I.D. NO. (if more than one, state all): 050-64-3912		SOC. SEC./TAX I.D. NO. (if more than one, state all):
STREET ADDRESS OF DEBTOR: 1228 11th Street #202 Santa Monica, CA 90401 <div style="text-align: right;"><i>Ph:</i></div>		STREET ADDRESS OF JOINT DEBTOR:
COUNTY OF RESIDENCE OR OF THE PRINCIPAL PLACE OF BUSINESS: Los Angeles		COUNTY OF RESIDENCE OR OF THE PRINCIPAL PLACE OF BUSINESS:
MAILING ADDRESS OF DEBTOR: SAME		MAILING ADDRESS OF JOINT DEBTOR:
LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR (if different from street address above): NOT APPLICABLE		
Information Regarding the Debtor (Check the Applicable Boxes)		
VENUE (Check any applicable box) <input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.		
TYPE OF DEBTOR (Check all boxes that apply) <input checked="" type="checkbox"/> Individual(s) <input type="checkbox"/> Railroad <input type="checkbox"/> Corporation <input type="checkbox"/> Stockbroker <input type="checkbox"/> Partnership <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Other _____	CHAPTER OR SECTION OF BANKRUPTCY CODE UNDER WHICH THE PETITION IS FILED (Check one box) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Sec. 304 - Case ancillary to foreign proceeding	
NATURE OF DEBTS (Check one box) <input checked="" type="checkbox"/> Consumer/Non-Business <input type="checkbox"/> Business	FILING FEE (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3.	
CHAPTER 11 SMALL BUSINESS (Check all boxes that apply) <input type="checkbox"/> Debtor is a small business as defined in 11 U.S.C. §101 <input type="checkbox"/> Debtor is and elects to be considered a small business under 11 U.S.C. §1121(e) (Optional)		
STATISTICAL/ADMINISTRATIVE INFORMATION (Estimates Only) <input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.		
ESTIMATED NO. OF CREDITORS: <input checked="" type="checkbox"/> 50-99 ESTIMATED ASSETS (thousands): <input checked="" type="checkbox"/> \$0 to \$50,000 ESTIMATED DEBTS (thousands): <input checked="" type="checkbox"/> \$500,001 to \$1 million		

06/11/99 **FILED** 13:29
LA99-32264ER
 DEBTOR: BERRY, GRAHAM EDWARD
 JUDGE: HON. E. Robles - 515
 TRUSTEE: BT62 CH: 07 (INCOMPLETE)
 341A Mtg: 07/13/99 01:30 F01
 221 N. Figueroa St., #101 L.A.

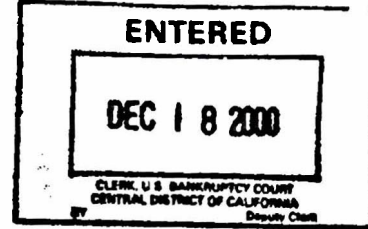
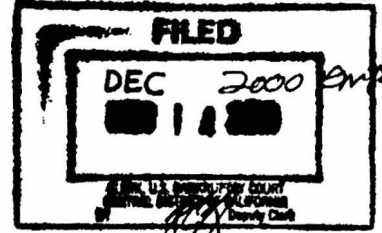
CLERK, U.S. BANKRUPTCY COURT
 CENTRAL DISTRICT OF CALIF. Id: 744
 RECEIPT NO: LA-028610 \$ 175.00

Voluntary Petition		NAME OF DEBTOR(S):	
(This page must be completed and filed in every case)		FORM 81, Page 2	
PRIOR BANKRUPTCY CASE FILED WITHIN LAST 6 YEARS			
LOCATION WHERE FILED: NONE	CASE NUMBER:	DATE FILED:	
PENDING BANKRUPTCY CASE FILED BY ANY SPOUSE, PARTNER, OR AFFILIATE OF THE DEBTOR			
NAME OF DEBTOR: NONE	CASE NUMBER:	DATE:	
DISTRICT:	RELATIONSHIP:	JUDGE:	
SIGNATURES			
SIGNATURE(S) OF DEBTOR(S) (Individual/Joint) I declare under penalty of perjury that the information provided in this petition is true and correct. [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, U.S. Code, understand the relief available under each such chapter and choose to proceed under chapter 7. I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.		SIGNATURE OF DEBTOR (Corporation/Partnership) I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor. The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.	
X <u><i>Graham E. Berry</i></u> Debtor: Graham Edward Berry X Joint Debtor: Telephone No. (if In Pro Per): Date:		X _____ Signature of Authorized Individual Name: Title: Date:	
X <u><i>Peter J. Leotta</i></u> Attorney: Peter J. Leotta Bar No.: 101022 Firm Name: Bayer, Wishman & Leotta Attorneys at Law Address: 201 N. Figueroa, Suite 675 Los Angeles, CA 90012 Telephone No: (213) 975-1444 Date: 6-11-97		SIGNATURE OF NON-ATTORNEY PETITION PREPARER I certify that I am a bankruptcy petition preparer as defined in 11 U.S.C. §110, that I prepared this document for compensation, and that I have provided the debtor with a copy of this document. Name: Social Security Number: Address:	
EXHIBIT A (To be completed if debtor is required to file periodic reports (e.g., forms 10K & 10Q) with the SEC pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.) [] Exhibit A is attached and made a part of this petition.		Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document: If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.	
EXHIBIT B (To be completed if debtor is an individual whose debts are primarily consumer debts) I, the attorney for the petitioner named in the foregoing petition declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, U.S. Code, and have explained the relief available under each such chapter.		X _____ Signature of Preparer Date: A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 USC §110; 18 USC §156	
X <u><i>Peter J. Leotta</i></u> Attorney: Peter J. Leotta Date: 6-11-97			

1 Ava M. Paquette, SBN 165375
2 MOXON & KOBRIN
3 3055 Wilshire Blvd., Suite 900
4 Los Angeles, CA 90010
5 Telephone: (213) 487-4468
6 Facsimile: (213) 487-5385

7 Samuel D. Rosen, pro hac vice
8 PAUL, HASTINGS, JANOFSKY & WALKER, LLP
9 399 Park Avenue, 31st Floor
10 New York, New York 10022-4679
11 Telephone: (212) 318-6000
12 Facsimile: (212) 319-4090

13 Attorneys for Plaintiff/Creditor
14 KENDRICK MOXON



15
16 IN THE UNITED STATES BANKRUPTCY COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18

19 IN RE GRAHAM E. BERRY,

20 Debtor.

21 KENDRICK MOXON,

22 Plaintiff,

23 VS.

24 GRAHAM E. BERRY,

25 Defendant.

) Case No. LA 99-32264 ER

) Adversary No:

) ADV 99-02615-ER

) Honorable Ernest Robles

) 
) ~~PROPOSED~~ FINAL JUDGMENT
) OF NON-DISCHARGEABILITY

26 The above-captioned cause having come on regularly
27 before this Court on November 30, 2000 at 10:00 a.m., and the
28 Court, having entertained the presentations of
defendant/debtor *in propria persona* and of counsel for

"LODGED"

94/12/18

1 plaintiff, and being fully informed:

2 IT IS HEREBY ORDERED, ADJUDGED AND DECREED,

3 That a final judgment is hereby entered in favor of
4 plaintiff and creditor, Kendrick L. Moxon, and against
5 defendant and debtor, Graham E. Berry, that the sanctions
6 imposed against debtor by the Honorable Christina A. Snyder,
7 United States District Judge, pursuant to its April 15, 1999
8 Order and its July 25, 1999 Order in the case entitled
9 *Pattinson v. Church of Scientology International, et al.*, No.
10 CV 98-3985 CAS (SHx) (C.D.Cal.) are nondischargeable and that
11 debtor shall be responsible for payment of the sanctions so
12 ordered in the amount of \$28,484.72.

13

14 DATED: December 14, 2000

15

16

17


The Honorable Ernest M. Robles
United States Bankruptcy Judge

18

19 Respectfully submitted this 11th day of December, 2000,
20 by MOXON & KOBRIN.

21

22 By:


Ava M. Paquette

23

24 Attorneys for Plaintiff/Creditor
KENDRICK MOXON

25

26

27

28

PROOF OF SERVICE

State of California)
County of Los Angeles) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 3055 Wilshire Blvd., Suite 900, Los Angeles, California 90010.

On December 11, 2000, I served the foregoing documents described as: [PROPOSED] FINAL JUDGMENT OF NON-DISCHARGEABILITY on the interested parties in this action addressed as follows:

Debtor
Graham E. Berry
1223 Wilshire Blvd.
Box 1028
Santa Monica, CA 90403

U.S. Trustee
Office of the U.S. Trustee
221 North Figueroa, Suite 800
Los Angeles, CA 90012

[X] BY MAIL

[] I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[X] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed this 11th day of December, 2000, at Los Angeles, California.

Ava Pagnette

UNITED STATES BANKRUPTCY COURT
Central District of California

Debtor(s) Name	For Court Use Only
Plaintiff MOXON, KENDRICK	<div>ENTERED JAN 11 2001 CLERK, U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA Deputy Clerk</div> <div>FILED JAN 11 2001 CLERK, U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA Deputy Clerk</div>
Defendant BERRY, GRAHAM E	
Chapter: 7 Case Number: LA99-32264-ER Adversary Number: LA99-02615-ER	

**ORDER CLOSING
ADVERSARY PROCEEDING**

The concluding document for this Adversary Proceeding was entered on 12/14/2000. The complaint is disposed and the Adversary Proceeding is closed.

By Order of the United States Bankruptcy Court

Date: 01/11/2001

Jon L. Celis
Clerk of Court