

1 GRAHAM E. BERRY, Bar No.128503
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2 Los Angeles, California 90066-2005
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4 Defendant and Cross-Complainant *pro se*

CONFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

FEB 22 2010

John A. Clarke, Executive Officer/Clerk

Paul Sanchez
PAUL SANCHEZ

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 CENTRAL DISTRICT

11 KENDRICK MOXON

12 Plaintiff,

13 v.

14 GRAHAM BERRY,

15 Defendants.

16 GRAHAM E. BERRY, an individual;

17 Cross-Complainant,

18 v.

19 KENDRICK L. MOXON, an individual;

20 Cross-Defendant.

Case No. BC429217

DEFENDANT AND CROSS-
COMPLAINANT'S APPENDIX NO. IV
OF EXHIBITS [K-Z] AND REQUEST FOR
JUDICIAL NOTICE FILED AS PART OF
THE UNVERIFIED ANSWER AND
VERIFIED COMPULSARY CROSS-
COMPLAINT HEREIN.

Action filed: January 5, 2010

[Filed concurrently with Reply in Support of
Request to file Compulsory Cross-
Complaint by Judicial Council of California
Form MC-701 (C.C.P. §391.7) and Exhibits
A-J therewith.]

1 COMES NOW the defendant and cross-complainant **GRAHAM BERRY** and attaches hereto
2 exhibits K-Z, hereby expressly incorporated into and made a part of his concurrently filed answer
3 and cross-complaint herein, and his reply to plaintiff's opposition to the filing of the compulsory
4 cross-complaint herein.

5 1. This Appendix No. IV of Exhibits is expressly incorporated as part of the previously filed
6 unverified answer and verified cross-complaint herein. This Appendix No. IV of Exhibits is also
7 filed in connection with defendant and cross-complainant's Judicial Council of California Form
8 MC-701 (C.C.P. §391.7) filed previously herein. Pursuant to the cross-complaint filed herein,
9 defendant and cross-complainant alleges that the C.C.P. §391.7 order obtained in the underlying
10 matters through, *inter alia*, plaintiff and cross-defendant herein was a product of the frauds upon
11 the courts, unjust judgments and orders, irregular proceedings, a disqualified judge and other
12 wrongful conduct and representations alleged in the answer and cross-complaint herein, and is
13 clearly erroneous as appears on the face of the judgment roll and record, and it therefore should be
14 vacated and set aside as requested herein.
15

16
17 2. Pursuant to: California Evidence Code sections 450, 452 (c), 452 (d) (1), 453, 454, 455, 459,
18 1530; Code of Civil Procedure sections 430.30 and 430.70; and the Court's own inherent
19 discretion, defendant and cross-complainant Graham E. Berry hereby requests that the court take
20 Judicial Notice of the document (s) listed hereunder for the limited purpose of the matters set forth
21 in this cross-complaint and cross-complainant's concurrently filed Judicial Council Form MC-701.
22

23 //

24 //

25 //

1 3. Attached hereto and made a part hereof are true and correct copies of the following documents
2 and marked as follows:

3 K. Declaration of Kendrick Moxon's then law partner, Timothy Bowles, setting forth
4 the Moxon instigated investigation that led to the perjured May 5, 1994 declaration and
5 the underlying consolidated three Berry case.
6

7 L. Declaration of Kendrick Moxon's chief "investigator," Eugene Ingram, setting
8 forth the Moxon instigated investigation that led to the perjured May 5, 1994
9 declaration and the underlying consolidated three Berry case.
10

11 M. *Berry v. Cipriano et. al.* Minute Order consolidating the three cases "for all further
12 proceedings." The Moxon petition to declare Berry a vexatious litigant, and the Moxon
13 reply, deny that the court ever entered such an order. See Exhibit S hereunder, p.
14 188:16-24.
15

16 N. Notice of consolidated case status in the three Berry cases and explanation of
17 Moxon removing *Berry v. Miscavige, Rinder, Moxon, Ingram, et. al.* to Federal court
18 to avoid a C.C.P. 1714.10 motion to add Moxon and Abelson as a party.
19

20 O. Excerpt from discovery hearing before former California Supreme Court Justice
21 who rules that Berry cannot participate because he is a party represented by counsel in
22 the consolidated cases.
23

24 P. Amended opposition to motion to dismiss in the *Berry v. Cipriano* cases. This
25 opposition explains the underlying allegations and the discovery history of the Berry
26 consolidated cases.
27
28

1
2 Q. The vexatious litigant petition.

3
4 R. Opposition to the vexatious litigant petition.

5
6 S. Reply in support of the vexatious litigant petition.

7
8 T. Reporter's transcript of vexatious litigant proceedings.

9
10 U. Vexatious litigant order.

11
12 V. Request for Stay, Petition for Writ of Mandate, etc.

13
14 W. Affidavit of Moxon's former superior Jesse Prince testifying to the regular
15 obstruction of justice and other conduct related to that set forth herein.

16
17 X. June 21, 2009 St. Petersburg Times article, "The Truth Rundown," where former
18 scientologist Michael Rinder states that "he lied to protect the church" (Exhibit X, p.
19 265) and that the church is now attempting to stop him from speak and testifying about
20 crime and fraud committed on its behalf. During the underlying matters Michael
21 Rinder was the Commanding Officer of the Scientology office where Mr. Moxon has
22 the physical office in which he primarily works.

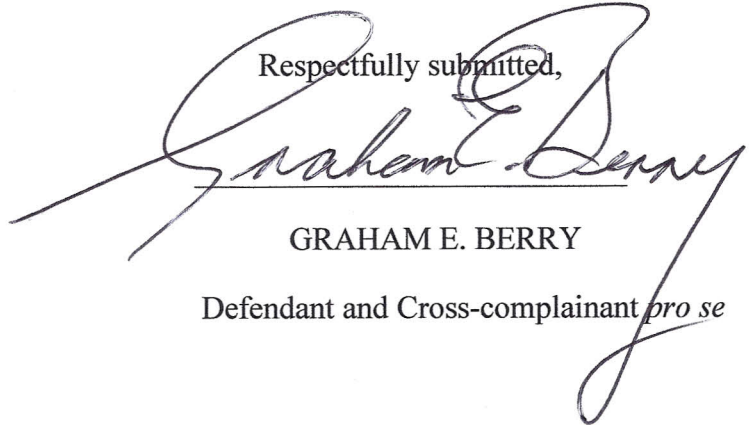
23
24 Y. The declaration of former Federal District Court judge James Ideman regarding the
25 conduct of Mr. Moxon and others that was addressed in *Wollersheim v. Church of*
26 *Scientology* (1996) 42 Cal. App. 4th 628 where the Second District Court of Appeal
27 upheld an award of approximately \$500,000 in sanctions against attorney Moxon for
28 his tactics and vexatious conduct in a case where the appellate court even address the

1 drowning of the trial judge's dog "Duke." See also, *Wollersheim v. Church of*
2 *Scientology*, (1989) 212 Cal.App. 3d 872.

3 **Z.** Media webpage reporting on a video clip after the underlying vexatious litigant
4 ruling.
5

6
7
8 DATED: February 22, 2010

Respectfully submitted,


GRAHAM E. BERRY

Defendant and Cross-complainant *pro se*

Pages 6-9 intentionally left blank.

EXHIBIT K

FROM

(WED) 5. 6 '98 12:51 ST. 12:55/NO. 4260229197 P 2

1 Gary S. Soter
WASSERMAN, COMDEN & CASSELMAN, LLP
2 P.O. Box 7033
5567 Reseda Boulevard, Suite 330
3 Tarzana, California 91357-7033
Telephone: (818) 705-6800

4 Kendrick Moxon
5 MOXON & KOBRIN
6255 Sunset Blvd., Suite 2000
6 Los Angeles, CA 90028
Telephone: (213) 993-4435

7 Attorneys for Defendant
8 ROBERT J. CIPRIANO

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF LOS ANGELES

11 GRAHAM E. BERRY,

12 Plaintiff,

13 vs.

14
15 ROBERT J. CIPRIANO, an individual,
and DOES 1 through 200, inclusive,

16
17 Defendants.

) Case No. BC 184355
) Judge Ernest Hiroshige

) DECLARATION OF
) TIMOTHY BOWLES
) IN SUPPORT OF SPECIAL
) MOTION TO STRIKE COMPLAINT
) PURSUANT TO C.C.P. § 425.16

) DATE: May __, 1998
) TIME: 8:30 a.m.
) DEPT: 54

) TRIAL DATE: none assigned
) DISCOVERY CUTOFF: none assigned

18
19
20 I, TIMOTHY BOWLES, declare and say:

21 1. I am a member of the Bar of the State of California and a partner in the law
22 firm of Bowles & Hayes. I have personal knowledge of the facts set forth in this
23 declaration and if called as a witness, I could and would competently testify thereto.

24 2. I was one of the counsel of record for Church of Scientology
25 International("the Church") in *Church of Scientology International v. Uwe W. Geertz, et*
26 *al.*, No. CV 91-6426 HLH (TX) (C.D. Cal.) (hereinafter "the federal case"). During the

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1 pendency of that case, especially late in 1993 and early in 1994, several events transpired
2 that led my client, through its representative Lynn R. Farny, to ask that an investigation
3 be undertaken into the conduct of attorney Graham E. Berry, who represented one of the
4 defendants in the federal case. Specifically, I was asked to retain the services of a
5 licensed private investigator and to investigate Mr. Berry's background and conduct in
6 connection with the then-pending federal case, as well as to develop evidence for
7 litigation which Mr. Berry repeatedly threatened to pursue and for use in other official
8 governmental, bar and criminal proceedings related to Mr. Berry's conduct.

9 3. In response to that request, my then-firm, Bowles & Moxon, retained the
10 services of a licensed California private investigator named Eugene M. Ingram to conduct
11 such an investigation. Mr. Ingram embarked upon such an investigation to develop
12 evidence for the purposes stated above, and in the course of his investigation, obtained
13 from Robert J. Cipriano a declaration executed on May 5, 1994, a copy of which is both
14 annexed to the complaint in this action and attached hereto as Exhibit A. Specifically,
15 the 1994 Cipriano declaration was obtained in connection with and for use in ongoing
16 and anticipated litigation, as preliminary evidence gathering prior to complaints made to
17 the State Bars of two different states, in petitioning the Los Angeles District Attorney to
18 initiate a criminal prosecution and in an effort to induce or influence the actions of the
19 New Zealand government in connection with its official business.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct and that this declaration was executed by me on the 6th day
22 of May, 1998 at ~~Los Angeles, California.~~
Clearwater, Florida

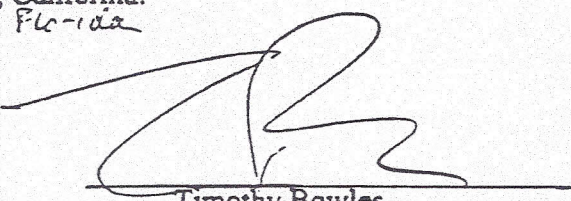
23
24
25
26

Timothy Bowles

EXHIBIT L

1 Gary S. Soter
2 WASSERMAN, COMDEN & CASSELMAN, LLP
3 P.O. Box 7033
4 5567 Reseda Boulevard, Suite 330
5 Tarzana, California 91357-7033
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12 Telephone: (213) 993-4435
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14 Attorneys for Defendant
15 ROBERT J. CIPRIANO

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

GRAHAM E. BERRY,

Plaintiff,

vs.

ROBERT J. CIPRIANO, an individual,
DOES 1 through 200, inclusive,

Defendants.

) Case No. BC 184355
) Judge Ernest Hiroshige

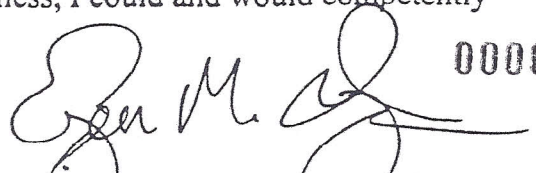
) DECLARATION OF
) EUGENE M. INGRAM
) IN SUPPORT OF SPECIAL
) MOTION TO STRIKE COMPLAINT
) PURSUANT TO C.C.P. § 425.16

) DATE: May __, 1998
) TIME: 8:30 a.m.
) DEPT: 54

) TRIAL DATE: none assigned
) DISCOVERY CUTOFF: none

I, EUGENE M. INGRAM, declare and say:

1. I am over the age of eighteen and I am a private investigator duly licensed by
and in good standing with the State of California. I have personal knowledge of the facts
set forth in this declaration and if called as a witness, I could and would competently



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1 testify thereto.

2 2. In April 1994, I was retained by the law firm of Bowles & Moxon to
3 undertake an investigation of a Los Angeles lawyer named Graham E. Berry, who is the
4 plaintiff in this action. I was retained specifically to develop evidence in connection with
5 then-pending litigation, *Church of Scientology International v. Uwe W. Geertz, et al*, No.
6 CV 91-6426 HLH (TX) (C.D. Cal.), as well as for anticipated litigation, official
7 governmental proceedings such as disciplinary proceedings against Berry before the New
8 York and California Bars and to compile evidence so the Los Angeles County District
9 Attorney would pursue criminal extortion charges against Berry.

10 3. On May 4, 1994, in New York City, I interviewed Robert J. Cipriano. I
11 explained to him that I was retained by a law firm to conduct an investigation of Graham
12 E. Berry in connection with existing and anticipated litigation as well as in connection
13 with anticipated official proceedings, including State Bar investigations and potential
14 criminal complaints to various prosecutorial agencies. Mr. Cipriano and I spoke for
15 several hours on that day.

16 4. I then prepared a draft declaration under penalty of perjury for Mr. Cipriano,
17 based on the information he had told me during our May 4, 1994 interview. On May 5,
18 1994, I presented that draft declaration to Mr. Cipriano for his review and correction. On
19 that same day, May 5, 1994, Mr. Cipriano executed a declaration under penalty of
20 perjury, a true and correct copy of which is attached as Exhibit A, as well as to the
21 complaint in this case. Upon receipt of Mr. Cipriano's signed declaration, I transmitted it
22 to the Bowles & Moxon firm.

23 5. On December 18, 1997, I filed a complaint against Graham E. Berry with the
24 State Bar of California, which was the result of later investigations undertaken by me. In
25 support of that complaint, I included a copy of the May 5, 1994 Cipriano declaration as a
26 result of the moral turpitude aspects of that complaint and the evidence of such moral

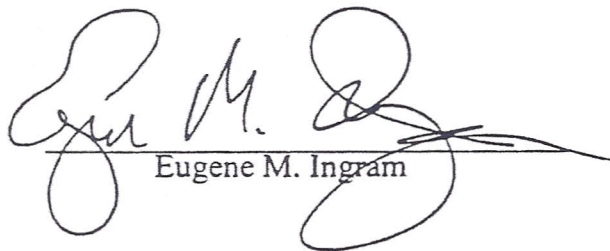
1 turpitude presented in the 1994 Cipriano declaration.

2 6. I have utilized the Cipriano declaration as well as the information contained
3 therein in furtherance of my investigation, in interviews and attempted interviews with
4 various persons with probable knowledge of Berry's activities.

5 7. I had no contact with Mr. Cipriano after I obtained his declaration until I
6 spoke to him in November of 1996 when he informed me he had moved to Los Angeles.

7 I declare under penalty of perjury under the laws of the State of California that
8 the foregoing is true and correct and that this declaration was executed by me on the 6th
9 day of May, 1998 at Los Angeles, California.

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Eugene M. Ingram

EXHIBIT M

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/29/98

DEPT. 35

HONORABLE Alexander Williams, III

JUDGE

F. MOREAU

DEPUTY CLERK

HONORABLE
10.

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

none

Deputy Sheriff

S. GECO

Reporter

8:30 am

BC184355

Plaintiff

Counsel

CHRISTIAN SCALI (X)

GRAHAM E BERRY (X) IN PRO PER
VS

LEAD CASE

Defendant

ROBERT J CIPRIANO

Counsel

BARBARA REEVES (X)

BC186168, BC196402 CONSOLIDATED

KENDRICK L. MOXON (X)

HEREIN; XXXXXXXXXX

JAMES MARTIN (X)

NATURE OF PROCEEDINGS:

STATUS CONFERENCE.

Related Cases BC186168 and BC196402 are ordered consolidated into this Lead Case BC184355 Berry VS. Cipriano for all further proceedings without prejudice to motion to sever for Trial. All further pleadings are to be filed under this Lead Case number.

Defendant Dennis Cantwell is dismissed pursuant to request of plaintiff.

Status Conference is held and continued for hearing on previously set status conference date of November 13, 1998 at 8:30 a.m., in this department.

Leave is granted until October 9, 1998 for plaintiff to serve defendants, file application for service by publication, and file 1714.10 CC Motions.

Discovery stay until October 1, 1998 is extended to October 12, 1998.

Plaintiff is to give notice.

EXHIBIT N

1 GRAHAM E. BERRY (SBN 128503)
J. STEPHEN LEWIS (SBN) 176080
2 CHRISTIAN J. SCALI (SBN 193785)
BERRY, LEWIS, SCALI & STOJKOVIC
3 One Wilshire Boulevard
Twenty-First Floor
4 Los Angeles, California 90017-3383
Telephone: (213) 833-5900
5 Facsimile: (213) 833-5909

6 Attorneys for Plaintiff
GRAHAM E. BERRY, ESQ.
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 GRAHAM E. BERRY,
12 Plaintiff,

13 vs.

14 ROBERT J. CIPRIANO, an individual,
15 BERNARD J. LeGEROS, an individual,
16 WILBUR J. ("BILL") LONG, an individual,
and DOES 1 through 200, inclusive,

17 Defendants.
18
19
20

) Case Nos.: BC 184 355
) BC 186 168
) BC 196 402

) [Assigned to the Hon. Alexander Williams in
) Department 35]

) NOTICE OF CONSOLIDATED CASE
) STATUS

) DATE: November 13, 1998
) TIME: 10:00 A.M.
) DEPT: 35

21 TO THIS HONORABLE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF
22 RECORD;
23

24 PLEASE TAKE NOTICE that on or about October 5, 1998, Defendant Heber Jentzsch
25 (formerly a Berry v. Miscavige defendant and now a Berry v. Cipriano (consolidated case)
26 defendant, filed a Notice of Removal to federal court, only using the Berry v. Miscavige case
27 caption. It was filed by Mr. Moxon's law partner, and proposed defendant, Helena Kobrin, Esq.
28

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EXHIBIT C-00001

1 All other former Berry v. Miscavige defendants (except Steven Baldwin) have joined. It appears
2 they have not previously advised this Court.

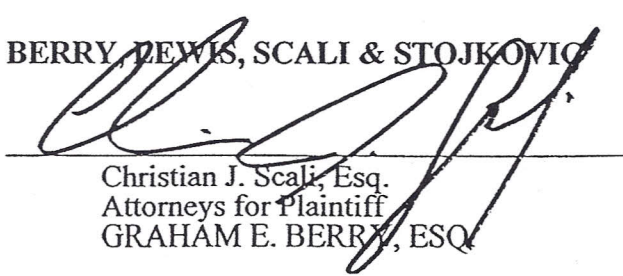
3 This Court has ordered all three of the purported partially removed cases (Berry v.
4 Cipriano; LASC, Case No. BC 184 355, Berry v. Barton; LASC, Case No. BC 186 168, and
5 Berry v. Miscavige; LASC, Case No. BC 196 402) consolidated. Accordingly, it would appear
6 that the Berry v. Cipriano, et al. litigation is either all in federal court (in which case, Defendant
7 Jentzsch's removal is improper) or still all in state court, properly before this Court.

8 Plaintiff has filed a Motion for Remand which was set for hearing on November 16,
9 1998. However, Defendant Lewis, D'Amato, Brisbois & Bisgaard (LDB&B) has since made the
10 federal court aware of a potential conflict, involving that Court's representation of former
11 LDB&B partners against the partnership, before his honor's elevation to the bench.
12 Accordingly, that Court has vacated all hearings on November 16, 1998 to allow the parties an
13 opportunity to brief the issue of its recusal. Consequently, the hearing on Plaintiff's Motion for
14 Remand will not be heard until December 1998 at the earliest. The Berry v. Miscavige
15 defendants have not advised the federal Court that they have purported to remove only part of a
16 consolidated case.

17 Because Mr. Moxon's law partner purportedly removed the Berry v. Miscavige case four
18 days before Plaintiff's Court ordered deadline to add Mr. Moxon, Ms. Kobrin, Mr. Drescher, Mr.
19 Bowles and Mr. Abelson as defendants in that suit, Plaintiff has been unable to put the proper
20 Civil Code §1714.10 pleadings on file with this Court. They are, however, completed. All of the
21 foregoing named attorneys have entered an appearance in this matter on behalf of various parties,
22 after they had notice that they would be added as parties to this lawsuit.

23
24
25 Dated: November 11, 1998

BERRY, LEWIS, SCALI & STOJKOVIC


Christian J. Scali, Esq.
Attorneys for Plaintiff
GRAHAM E. BERRY, ESQ.

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EXHIBIT C-00002

EXHIBIT O

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

GRAHAM E. BERRY,,)

CASE NO. BC 186188)

Plaintiff,)

vs.)

GLENN BARTON, an individual, the)
CAN Reform Group, an unincorporated)
association of individuals, Cult)
Awareness Network, an organization)
whose legal status is currently)
unknown, Cult Awareness Network)
Corporation, a California)
corporation, Nancy O'Meara, an)
individual, Robert Lippman, an)
individual, Isadore "Izzy" Chait,)
an individual, Donna Casselman, an)
individual, W. Russell Shaw, an)
individual, and DOES 1 through 400,)
inclusive,)

Defendants.)

HEARING HELD BEFORE DISCOVERY REFEREE

HON. DAVID N. EAGLESON

SEPTEMBER 15, 1998

(Pages 1 through 145)

REPORTED BY:

Jan M. Rhoades
CSR No. 5705

HOMAN ASSOCIATES

CERTIFIED SHORTHAND REPORTERS
4287 JACKSON AVENUE
CULVER CITY, CALIFORNIA 90232
(310) 838-7734

1 THE REFEREE: That is a Thursday.

2 Go ahead.

3 MR. SCALI: Was there a sanction request on this
4 one?

5 MR. MOXON: Your Honor, there is an escape
6 clause -- that's essentially what the Court is allowing
7 them is the escape clause -- if they didn't respond in
8 time. Of course, they concede they didn't respond in
9 time.

10 THE REFEREE: Let me go back further. This
11 business, Plaintiff is without sufficient information and
12 belief as to the authenticity of this document and on
13 that basis denies the authenticity is worth the paper
14 it's written on. Presumptively, he's the author, and he
15 has to disabuse us that he's not, and that's based on
16 research, thought, what-have-you.

17 It seemed incredible that all of these would
18 pop up, and he's taken the position of I don't know
19 anything at all. I don't know what's going on here.
20 Some guy's coming in and using my computer. That doesn't
21 make any sense to me.

22 MR. BERRY: Your Honor, I am one of the counsel of
23 record here.

24 THE REFEREE: No. No. Sorry, Mr. Berry, but
25 you're represented by counsel.

EXHIBIT P

1 GRAHAM E. BERRY (SBN 128503)
2 One Wilshire Boulevard
3 Twenty-First Floor
4 Los Angeles, California 90017-3383
5 Telephone: (213) 833-5900
6 Facsimile: (213) 833-5909

7 Plaintiff Pro Se

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

10
11 GRAHAM E. BERRY,
12 Plaintiff,

13 vs.

14 ROBERT J. CIPRIANO, et al.,
15 Defendants.

) Case No.: BC 184 355
) BC 186 168
) BC 196 402

) **AMENDED PLAINTIFF'S OPPOSITION**
) **TO DEFENDANT CHAIT'S MOTION TO**
) **DISMISS FOR FAILURE TO COMPLY**
) **WITH DISCOVERY ORDER RE FORM**
) **INTERROGATORIES; DECLARATION**
) **OF GRAHAM E. BERRY, EXHIBITS**
) **THERETO AND REQUEST FOR CASE**
) **MANAGEMENT ORDER, PROTECTIVE**
) **ORDER AND SANCTIONS**

) **DATE: February 8, 1999**
) **TIME: 8:30 a.m.**
) **DEPT: 35**

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20 AND RELATED/CONSOLIDATED CASES.

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22
23 Plaintiff hereby submits his opposition to defendant Chait's motion to dismiss and for
24 other relief. Plaintiff urges the Court to deny Defendant Chait's motion, issue protective orders,
25 award sanctions and to request the parties to submit proposed case management orders for
26 consideration at the previously scheduled hearing on March 18, 1999.

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PLAINTIFF'S OPPOSITION TO DEFENDANT CHAIT'S MOTION TO DISMISS FOR FAILURE TO COMPLY
WITH DISCOVERY ORDER RE FORM INTERROGATORIES, ETC.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Since the filing of these three consolidated and related cases, the currently appearing Defendants and their counsel, all unlawfully funded by the tax-exempt Church of Scientology,¹ have engaged in the most outrageous discovery abuses far beyond that of any reported California decision. In addition, certain defense counsel engage in major continuing ethical breaches: witness tampering, subornation of perjury and obstruction of justice is occurring herein. Even Barbara Reeves, Esq. and Samuel D. Rosen, Esq. regularly make misrepresentations to this Court which are totally unsupported by anything in the relevant record. In short, what is occurring in these cases will surely horrify the appellate courts, legislature, public and legal media. Just as no citizen should be subjected to the conduct that is at the core of these lawsuits, so also should no litigant be forced to endure what the Plaintiff has already suffered at the hands of these Defendants. Berry Dec., ¶ 5-9.

II. SYNOPSIS OF THE LITIGATION

This litigation involves some of the most egregious, extensive and permanent defamation, invasion of privacy and conspiracy in legal history. Among other things, Defendants have directly or implicitly accused Plaintiff of participating in murder, torture, kidnapping, slavery, illegal baby brokering, criminal sexual activity, prostitution, the production and importation of snuff movies, public sexual activity, scatological sexual practices, lewd conduct, art fraud, financial fraud, lying, dishonesty, assault, violent behavior, threatening behavior, aggressive behavior, obnoxious behavior, drug running, loan sharking, fencing stolen art, sado-masochistic sexual activity, sexual perversion, associating with Mafia mobsters, establishing fraudulent businesses with lascivious intent, creating a hostile and abusive work environment, giving

¹ Such funding is unlawful because it constitutes "enurement" under section 501(c)(3) of the Tax Code.

1 cocaine to forty to sixty 14-16 year-old boys in exchange for their unlawful employment
2 services, academic incompetence, professional incompetence and having H.I.V. or AIDS. The
3 defamatory statements being actually litigated are defamatory per se directed to persons known
4 to be associated with the Plaintiff including to such persons such as Plaintiff's friends,
5 acquaintances, professional partners, the clients of his professional partners, opposing counsel,
6 clients, potential clients, former clients, legislators (as far afield as New Zealand), members of
7 the judiciary, members of the media (as far afield as Germany), neighbors and others. In
8 addition, these defamatory publications have been directed to charitable organizations, to the
9 entire Board of Education and many other officials of the Los Angeles Unified School District,
10 accompanied by statements and innuendoes, for example; that the Plaintiff is a child molester,
11 under investigation for child molestation, under investigation for other criminal conduct, and a
12 thief of monies raised for charity, and that the various organizations and others should have
13 nothing to do with the Plaintiff. To that despicable end, Defendants (through attorneys) obtained
14 and distributed perjured declarations in unlawful combination with Scientology private
15 investigators and others particularly skilled in the low art of guilt by innuendo and association.
16 These publications have also been made, on a continuous daily basis, and continue to forever to
17 be made, through numerous "sites" and "postings" on the "electronic superhighway" commonly
18 known as "the Internet." Consequently, the most outrageous, salacious, defamatory and
19 damaging statements imaginable have been intentionally and broadly disseminated worldwide as
20 extensively and permanently as has ever occurred before in the history of any legal system. As a
21 matter of law, damages are presumed and punitive damages are almost a foregone conclusion.

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25 Defendants' defamatory and other statements have been used by persons associated with
26 the tax-exempt enterprise trading as the corporation(s) and Church(es) of Scientology and their
27 agents and representatives, including Kendrick L. Moxon, Esq. and his private investigator
28 Eugene M. Ingram, in breach of the Church of Scientology's relevant and material

1 representations to the Internal Revenue Service regarding its pre- and post-1991 litigation and
2 harassing conduct. In so doing, David Miscavige, Kendrick Moxon and others have conducted
3 an unprecedented "operation" or "project" to "destroy" and "to utterly ruin" the Plaintiff through
4 the application of certain writings of the late science fiction writer and charlatan, L. Ron
5 Hubbard, such as "The Manual of Justice," "Fair Game," "Black Propaganda," "Noisy
6 Investigation," "On Control and Lying" and "Dead Agenting." Despite Church of Scientology
7 claims that the "Fair Game" policy was canceled in 1966, Scientology's "Fair Game" policy has
8 been judicially recognized (during the 1980's and 1990's) in a number of judicial decisions in
9 California and elsewhere. The Church of Scientology also conducted a similar "operation"
10 against a Canadian lawyer resulting in two recent multi-million dollar damage awards against the
11 church. Furthermore, these were the two largest defamation awards ever in Canadian history.
12 The Church of Scientology recently became the first "religious" organization to be convicted of
13 criminal conduct in Canada. It has been convicted of criminal conduct elsewhere, is currently
14 under criminal indictment in the State of Florida and its President (Heber Jentszch) is free on \$1
15 million bail while facing a possible 60 year prison sentence in Spain. The conspiracy continues,
16 for example; through instigators such as Scientologist Kendrick L. Moxon, Esq. and his "clients"
17 such as the Church of Scientology soliciting, and paying for, the legal representation of Robert J.
18 Cipriano, notwithstanding the obvious non-waivable conflict of interest that exists between Mr.
19 Cipriano and material witness and potential defendant Kendrick L. Moxon, Esq.² Moreover,
20 after the filing of the two related lawsuits, Kendrick L. Moxon, Esq. retained and directed
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25 ² Mr. Moxon is among the most culpable parties and a material witness herein. He also
26 represents at least three Defendants herein. This is a blatant breach of numerous rules of
27 professional ethics and most courts would disqualify him sua sponte or require his clients to file
28 conflict of interest waivers containing evidence of truly independent legal advice. This is not the
first time Mr. Moxon has ignored conflict of interest rules. Berry Dec., Exh. M. Robert
Cipriano has testified that Mr. Moxon and Mr. Ingram arrived unexpectedly and uninvitedly at
his home late on a Saturday evening, less than one hour after Cipriano had telephoned Plaintiff.
Within an hour Cipriano had agreed to Mr. Moxon being his attorney. At midnight Mr. Moxon
then communicated this development to Plaintiff.
3

1 Scientology investigator Eugene Ingram to continue to engage in the dissemination of the
2 perjured statements originally obtained by Eugene Ingram at the request of Kendrick Moxon,
3 Esq. and the Church of Scientology's Office of Special Affairs.

4 **III. SUMMARY OF DISCOVERY CONDUCTED BY DEFENDANTS IN**
5 **BERRY v. CIPRIANO AND BERRY v. BARTON CASES**

6 Even those involved in the administration of justice and the law will be absolutely
7 incredulous that the Defendants have required, and that this Court has ordered³, Plaintiff to
8 respond to approximately 2,000 form interrogatories (including subparts), 289 special
9 interrogatories (involving the broadest and most comprehensive questions imaginable), 121
10 requests for admission (each accompanied by 5 interrogatories, totaling an additional 605
11 interrogatories), 532 requests for authentication, 316 document demands (calling for virtually
12 every single piece of paper from Plaintiff's entire life and professional career) as well as the
13 contents of his home and law office computers, 12 days of his own deposition (thus far),
14 numerous other depositions and the most blatant misrepresentations in constantly seeking
15 sanctions in an effort to drive the Plaintiff out of this litigation, consistent with the outrageous
16 and despicable conduct that gives rise to it. To date, the Court has consistently resisted Justice
17 Eagleson's suggestion, and Plaintiff's requests, that a case management order be instituted to
18 regulate the timing and scope of discovery. Moreover, at the most recent hearing herein, and
19 despite the express provisions of CCP § 460.5, the Court rejected Plaintiff's position that this
20 case was entitled to preferential trial setting (CCP § 460.5(c)) saying that this sort of case was
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25 ³ Moreover, this Court has even ordered sanctions against Plaintiff of nearly \$10,000 and ordered
26 him to pay over \$8,000 in discovery referee fees. These sanction orders have totally intimidated
27 Plaintiff from seeking the protection of the Court which should have issued terminating sanctions
28 (CCP § 2023) against Defendants long ago. The Court's oft stated position that counsel know
more about discovery than the Court, previously a Federal criminal prosecutor, is no basis for the
Court to permit Defendants to so blatantly stamp and snuff out Plaintiff's constitutional rights of
redress. Particularly when Mr. Moxon constantly uses the Court record to continue to slander
Plaintiff and repeat the defamatory statements at issue herein.

1 "disfavored." Plaintiff will file all discovery requests, responses and transcripts so that they are
2 available for appellate review, the state Attorney General and the Legislature.

3 A. FORM INTERROGATORIES

4 (1) (a) BARTON's Form Interrogatories (Set One) April 24, 1998.

5 (b) Plaintiff's Responses to Barton's Form Interrogatories (Set One) May 29,
6 1998.

7 (2) (a) BARTON's Form Interrogatories (Set Two 17.1) [Requests for Admission
8 1-48, with five subparts, totals 240 special interrogatories, October 19, 1998.

9 (b) Plaintiff's Response to Barton's Form Interrogatories (Set Two) ____.

10 (3) (a) CHAIT's Form Interrogatories (Set One) May 20, 1998.

11 (b) Plaintiff's Responses to Chait's Form Interrogatories (Set One) August 3,
12 1998.

13 (c) Plaintiff's Supplemental Responses to Chait's Form Interrogatories (Set
14 One) November 13, 1998.

15 (4) (a) SHAW's Form Interrogatories (Set One) November 4, 1998.

16 (b) Plaintiff's Responses to Shaw's Form Interrogatories (Set One)
17 December 11, 1998.

18 (5) (a) SHAW's Form Interrogatories (Set Two - 17.1) [Requests for Admission
19 1-73, with five subparts, totals 365 special interrogatories, November 10, 1998.

20 (b) Plaintiff's Responses to Shaw's Form Interrogatories (Set Two) ?.

21 (6) (a) CIPRIANO's Form Interrogatories (Set One) December 1, 1998.

22 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set One) ---.

23 (7) (a) CIPRIANO's Form Interrogatories (Set Two) December 1, 1998.

24 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Two) ---.

25 (8) (a) CIPRIANO's Form Interrogatories (Set Three) December 1, 1998.

- 1 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Three) ---.
- 2 (9) (a) CIPRIANO's Form Interrogatories (Set Four) December 1, 1998.
- 3 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Four) ---.
- 4 (10) (a) CIPRIANO's Form Interrogatories (Set Five) December 1, 1998.
- 5 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Five) ---.
- 6 (11) (a) CIPRIANO's Form Interrogatories (Set Six) December 1, 1998.
- 7 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Six) ---.
- 8 (12) (a) CIPRIANO's Form Interrogatories (Set Seven) December 1, 1998.
- 9 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Seven) ---.
- 10 (13) (a) CIPRIANO's Form Interrogatories (Set Eight) December 1, 1998.
- 11 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Eight) ---.
- 12 (14) (a) CIPRIANO's Form Interrogatories (Set Nine) December 1, 1998.
- 13 (b) Plaintiff's Responses to Cipriano's Form Interrogatories (Set Nine) ---.

14
15
16 Cipriano's nine sets of form interrogatories (including subparts) exceed 750
17 interrogatories.

18 **B. SPECIAL INTERROGATORIES.**

- 19 (1) (a) BARTON's Special Interrogatories (Set One), Numbers 1 to 104,
20 October 19, 1998.
- 21 (b) Plaintiff's Responses to Barton's Special Interrogatories (Set One),
22 Numbers 1 to 104, November 20, 1998.
- 23 (c) Plaintiff's Revised Responses to Barton's Special Interrogatories (Set
24 One), Numbers 1 to 104, December 11, 1998.
- 25 (2) (a) SHAW's Special Interrogatories (Set One), Numbers 1 to 73,
26 November 11, 1998.
- 27
28

1 (b) Plaintiff's Responses to Shaw's Special Interrogatories (Set One), Numbers
2 1 to 73, January 29, 1999.

3 (3) (a) CIPRIANO's Special Interrogatories (Set One), Numbers 1-112,
4 December 4, 1998.

5 (b) Plaintiff's Responses to Cipriano's Special Interrogatories (Set One),
6 Numbers 1-112, -----.

7
8 **C. REQUESTS FOR ADMISSION**

9 (1) (a) BARTON's Requests for Admission (Set One), Numbers 1-48,
10 October 19, 1998.

11 (b) Plaintiff's Responses to Barton's Requests for Admission (Set One),
12 Numbers 1-48, November 18, 1998.

13 (2) (a) SHAW's Requests for Admission and Authentication (Set One), Numbers
14 1-73 and exhibits A-L, November 4, 1998.

15 (b) Plaintiff's Responses to Shaw's Requests for Admission and
16 Authentication (Set One), Numbers 1-73 and Exhibits A-L, December __, 1998.

17
18 **D. REQUESTS FOR AUTHENTICATION**

19 (1) (a) Chait's Requests for Authentication of Documents (Set One), pages 1-520.

20 (b) Plaintiff's Response to Chait's Requests for Authentication (Set One),
21 pages 1-520, October __, 1998.

22 (2) SHAW's Requests for Authentication, 1-12.

23
24 **E. REQUESTS FOR PRODUCTION OF DOCUMENTS.**

25 (1) (a) BARTON'S Demand for Inspection of Documents (Set One), Numbers 1-
26 148, May 4, 1998.⁴

27
28 ⁴ Barton's Reply to Plaintiff's Opposition to Request for Sanctions, filed January 12, 1999,
expressly concedes that these requests were improper. p.5:1-8, fn. 1.

(b) Plaintiff's 20 Day Responses to Barton's First Set of Inspection Demands, Numbers 1-178, May 26, 1998.

(c) Plaintiff's Supplemental 20 Day Responses to Barton's First Set of Inspection Demands, Numbers 1-148, July 8, 1998.

(d) Plaintiff's Production of Documents to Barton (approximately seven bankers file boxes), May/early June 1998.

(2) (a) BARTON's Demand for Inspection of Documents (Set Two), Numbers 1-74 [totaling 252], October 19, 1998.

(b) Plaintiff's 20 Day Responses to Barton's Demand for Inspection of Documents (Set Two), Numbers [75-252], November 12, 1998.

(3) (a) SHAW's Demand for Inspection of Documents (Set One), Numbers 1-64, August 21, 1998.

(b) Plaintiff's 20 Day Responses to Shaw's Demand for Inspection of Documents (Set One), Numbers 1-64, September 14, 1998.

(c) Plaintiff's Supplemental 20 Day Responses to Shaw's Demand for Inspection of Documents (Set One), Numbers 1-64, September 15, 1998.

(d) Plaintiff's Production of Documents to Shaw, pages 1-3,981, November 1998.

F. DEPOSITIONS TAKEN BY DEFENDANTS

(1) Plaintiff:⁵ May 28-29, 1998--2 days; July 7-10, 1998--4 days; January 18-22, 1999--5 days; February 2, 1999--1/2 day; February 5, 1999--1/2 day [total=12 days]; (2) Daniel Garcia (plaintiff's former roommate); (3) Dr. Hilard L. Kravitz; (4) Dr. Gary Cohan; (5) Dr. Gary

⁵ Contrary to the rules and practice, attorneys are rotating the questioning. For example, Moxon, Rosen, Reeves, Moxon, Chait, [Reeves, Moxon, Rosen?]. Clearly, Plaintiff's deposition may take twice to three times as long as it has because of discovery allowed to proceed despite the pending but stalled related/consolidated Berry v. Miscavige case.

1 Corgiat; (6) Defendant Robert Cipriano; (7) Custodian of Records of Pacific Oaks Medical
2 Group.

3 **G. DEPOSITIONS NOTICED BY DEFENDANTS⁶**

4 (1) Dr. Joel Weissman; (2) Betty Berzon; (3) Lewis, D'Amato, Brisbois & Bisgaard
5 (personnel records); (4) Musick, Peeler & Garrett (personnel records); (5) Troy Glick (Orlando,
6 Florida); (6) Sam Collins (Ft. Lauderdale, Florida); (7) Dr. Uwe Geertz (Ft. Lauderdale, Florida);
7 (8) Bernard LeGeros (Upstate New York); (9) Suzette Holmes (New York, New York); (10)
8 John Lauricella (New York, New York); (11) Jerome Spiegelman (New York, New York); (12)
9 Howard Shafran (New York, New York); (13) Carol Lackenbach (New York, New York); (14)
10 Mathilde Krim; (15) Isadore Chait (New York, New York); (16) Bryan Hyatt (Plaintiff's
11 roommate); (17) Jane Scott (Plaintiff's legal assistant)⁷; (18) Cheryl Nelson (Plaintiff's temporary
12 part-time secretary)⁸; (19) Tristan McManaman (Plaintiff's former companion); (20) Lawrence
13 Wollersheim; (21) Citibank

14
15 **Plaintiff has approximately 200 boxes of documents responsive to Defendants'**
16 **document demands.** Many are documents already in Defendants' possession.⁹ Plaintiff wishes
17 to produce them in the manner in which they are kept in the ordinary course of business (which
18 is in the boxes themselves). C.C.P. 2031(e),(f)(1). However, Defendants improperly refuse to
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20
21

22 ⁶ Attorney Moxon has also stated he will take the depositions of Steven Fishman. Attorney
23 Rosen has also represented that he will take at least 30 depositions in New York and that he will
24 prevent Plaintiff from representing himself there. Attorney Rosen has said, in open court, that he
25 "will smash [Plaintiff's] face in." Berry Decl., Exh. I.

26 ⁷ Her eldest son was educationally and physically abused at the hands of Scientology
27 "educators." Her former husband was required to give Scientology over \$1 million. The
28 families are the real victims of the Scientology enterprise and the judicially determined paranoid
Hubbard.

⁸ Her eldest son was permanently impaired by an unlawful Scientology-influenced breach birth
at home.

⁹ Indeed, Mr. Moxon has even used documents in deposition but continues to insist Plaintiff
spend days locating and producing the very same documents.

1 accept the production unless and until Plaintiff cross-references each document in the
2 approximately 200 boxes of documents to Defendants' 316 document demands.

3 **IV. DEFENDANTS' ABUSIVE DISCOVERY PEAKED IN JANUARY 1999.**

4 Defendants' discovery abuse, particularly by Kendrick L. Moxon, Esq., and the Paul,
5 Hastings law firm,¹⁰ crested in January, 1999, with a discovery blitzkrieg blatantly intended, in
6 accordance with Scientology's fair game policies and practices, to "overwhelm" Plaintiff at a
7 time of critical vulnerability. Berry Dec., Exh. E. At the end of December, 1998, Plaintiff's two
8 law partners advised him that the never-ending daily broadside of repetitive, duplicative,
9 overlapping, irrelevant, abusive, totally time consuming and harassing discovery by Defendants
10 had driven Plaintiff's law firm and partners into bankruptcy and that they had to exit immediately
11 despite earlier representations that they would never let the Scientology litigation juggernaut do
12 that. They served an ex parte application, on less than four days' notice, requesting leave to
13 withdraw from this litigation. The language of the motion to withdraw approximates Mr.
14 Moxon's invective style. Indeed, one of the firm's clients requested their confirmation that the
15 Scientology enterprise had not subverted Plaintiff's law partners. They have refused to respond
16 to this. Berry Dec. ¶ A. Despite authority to the contrary, the Court stated that it believed in the
17 Thirteenth Amendment (even though this was a contingency matter), and permitted the
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21 ¹⁰ At the commencement of this case, Barbara Reeves, Esq., tried to keep this litigation before
22 her social friend, Hon. Marvin Lager. When the case was assigned to this courtroom Plaintiff
23 made no objection to the fact that the Court's law clerk had just accepted employment with the
24 Paul, Hastings law firm. On January 19, 1999, Barbara Reeves said something on the telephone
25 to the court clerk to cause this Court to state, in packed open court, "I don't care what law firm
26 Barbara Reeves is with, and I don't care that her husband is on the appellate court, she is ordered
27 here by 11 a.m." The Court then shouted at Plaintiff, pointing at him across a crowded
28 courtroom, "You better be right because I am going through hell over this case." What does that
statement really mean or imply? The Scientology organization also put Ms. Reeves on the
caption of the Wollersheim v. Church of Scientology case, forcing the reassignment of the case
from the previously unsympathetic appellate panel on which her husband sits. Furthermore,
Plaintiff did not object following the Court's disclosure that his fiancée provided translation

1 immediate withdrawal of counsel and expressly refused any form of discovery stay. However,
2 implicitly recognizing Plaintiff's predicament, the Court continued pending motions to compel
3 discovery until March 18, 1999, in what appeared to be an effort to permit Plaintiff to regroup
4 his law practice and make an orderly response to outstanding discovery. It also recognized that
5 Plaintiff should be able to leave the country to attend his parents' 50th wedding anniversary in
6 New Zealand. Mr. Moxon's response was to file the instant motion to dismiss. Furthermore, he
7 has done everything possible to ensure that Plaintiff had to spend nearly every day in deposition
8 between January 7, 1999 and his departure for New Zealand on February 24, 1999, thus
9 deliberately preventing Plaintiff from complying with the barrage of written discovery that he
10 must respond to by March 18, 1999. This is the sort of conduct that led the Ninth Circuit Court
11 of Appeals to impose \$2.9 million in attorneys' fees against Mr. Moxon, among others, as
12 explained in the Declaration of Judge Ideman, set forth on pages 4 and 5 of the Ninth Circuit's
13 April 11, 1996 decision. Berry Dec., Exhibit B. Similarly, in another case in which Mr. Moxon
14 was counsel of record, the California Court of Appeal held that the Church "has every right to
15 exhaust its legal remedies.... However, when a litigant continuously and unsuccessfully uses the
16 litigation process in filing unmeritorious motions, appeals and lawsuits, such actions have
17 constitutional implications which may be reviewed on a motion under Section 425.16"
18 (regarding SLAPP suits). Other courts in this state have also recognized the abusive litigation
19 tactics of the Scientology enterprise.¹¹ Berry Dec., Exhibit B. The driving force of Defendants'
20 discovery abuse herein is Scientology's fair game policies and practices which are at the core of
21 Plaintiff's complaint in this and the related cases. It is described in the extract from the Berry v.
22 Miscavige First Amended Complaint. Berry Dec., Exhibit B. Such discovery abuse has led
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26
27 services to one of the churches and corporations of Scientology. And, the Court's former clerk
28 works for Defendants' lead counsel and its fiancée works for the Defendants.

1 other courts to closely regulate the discovery conduct of Scientology counsel, including Mr.
2 Moxon. Time limits have been put on depositions, Plaintiff has been permitted to use stop
3 watches to regulate Mr. Moxon's disruptive and abusive behavior, special three camera videotape
4 arrangements have been ordered to record it and the scope of discovery has been limited to a
5 showing of good cause. Berry Dec., Exhibit F. This Court refuses to do more than "preserve a
6 record" of hearings and to make itself readily available for dispute resolution.
7

8 Mr. Moxon, and the Paul, Hastings attorneys, have even submitted a fraudulently altered
9 document in this litigation in a felonious effort to commit a fraud and artifice upon this Court.
10 Twice, Plaintiff has filed a motion regarding this and twice that motion has disappeared from the
11 Court's file. Berry Dec., ¶ 3G, Exhibit G. Other alleged criminal conduct involving the Court's
12 files was recently revealed in deposition herein. Specifically, "... that certain attorneys at Paul,
13 Hastings had a practice of instructing [the court filing clerk] to persuade the court clerks to
14 backdate Paul, Hastings' documents that were given to him untimely to file, so that the
15 documents would appear timely filed." Moreover, "the relevant attorneys" would pay "\$300
16 each time for him to accomplish this." Berry Dec., Exhibit H.
17

18 Indeed, it is transparent that Paul, Hastings attorney Samuel D. Rosen was specifically
19 admitted pro hac vice herein to continue his harassment of the Plaintiff having previously told
20 Plaintiff, in open court, that he would "smash Plaintiff's face in." Berry Dec., Exhibit I. Even
21 Barbara Reeves has stepped into the misrepresentation business. On January 19, 1999, she made
22 representations to this Court regarding deposition statements that are totally contradicted by the
23 relevant deposition record. Berry Dec., ¶ 9, Berry Dec., Exhibit I, p. 1, para. 4. Consistent with
24 the allegation of unlawful phone tapping in the Berry v. Miscavige case, Paul, Hastings co-
25
26

27
28 ¹¹ The Central District is so familiar with Scientology litigation abuse, and regulates it
accordingly, that Scientology attorney Elliot Abelson, Esq., has publicly complained that
Scientology "cannot get justice there."

1 counsel (Mr. Moxon) appears to be intercepting Plaintiff's telephonic communications.¹² Berry
2 Dec., Exhibit J, p.1, para. 4. Indeed, Samuel D. Rosen, Esq. insisted that Plaintiff answer
3 deposition questions about his law office telephone system and how and where it was routed
4 through the Musick, Peeler & Garrett switchboard. Mr. Moxon has even extensively questioned
5 Plaintiff regarding his own personal security, protection and protective devices. Mr. Moxon has,
6 moreover, scheduled Florida depositions for almost the entire week of February 8, 1999, in
7 violation of local rules and so as to prevent Plaintiff from responding to outstanding written
8 discovery. Berry Dec., Exhibit J, p.2. In an effort to streamline this litigation, and to get to the
9 responsible culprits such as Mr. Moxon, Plaintiff has even offered to dismiss Defendants Barton
10 and Chait on a "walk away" basis but they have refused the offer. Berry Dec., Exhibit K.

11
12 Plaintiff requests a protective order, case management order and sanctions. On the eve of
13 Plaintiff's proposed Civ. Code § 1714.10 amendment of the Berry v. Miscavige complaint,
14 certain of the proposed attorney defendants unethically stepped into the litigation to represent
15 other proposed defendants and removed that case to federal court. It has now been remanded
16 back to this Court. It is not yet "at issue" and involves the very same evidence and witnesses as
17 the Cipriano and Barton cases. Plaintiff will shortly file his Civ. Code Section 1714.10 motion
18 and also dismiss a significant number of defendants in a further effort to streamline this
19 litigation, move it forward and get to trial consistent with the provisions of CCP Section 460.5.
20 Accordingly, no one except Plaintiff will be prejudiced by a protective order being issued.
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24 ¹² This Court may be familiar with Scientology's blockade of this Courthouse in 1986 during the
25 Wollersheim v. Church of Scientology case. Trial judge Swearingin's dog drowned during that
26 case. In Church of Scientology v. Fishman and Geertz, Steven Fishman filed a declaration
27 alleging knowledge that Kendrick L. Moxon was responsible for the drowning of the Judge's
28 dog. Another witness, Garry L. Scarff, testified that Kendrick Moxon, Esq., had solicited the
murder of litigation adversary Cynthia Kissner and opposing counsel Ford Greene, Esq. Mr.
Moxon was an unindicted co-conspirator in U.S. v. Hubbard when nine top ranking
Scientologists were sentenced to prison for the largest ever known criminal infiltration of the
United States government. There he submitted fake handwriting exemplars to the F.B.I.

1 Therefore, Plaintiff requests orders that: (1) no further depositions be taken until the status
2 conference on March 18, 1999; (2) that Plaintiff be relieved of responding to the hundreds of
3 abusive form interrogatories (Sets 1-9) that are now outstanding to Mr. Moxon's client Robert
4 Cipriano. Berry Dec., Exhibit L; (3) that no further motions be filed for hearing on a date prior
5 to March 18, 1999; (4) that Defendants file and serve nothing during Plaintiff's family visit
6 (February 26-March 12, 1999); (5) that Defendants serve no further written discovery until
7 March 18, 1999; (6) that Plaintiff and Defendants meet and confer in an attempt to submit a
8 proposed case management order for consideration on March 18, 1999, so that the Court may
9 issue orders as to the number, scope of, timing of and duration of depositions and regulate other
10 discovery and motions in an orderly scheduled manner consistent with the provisions of
11 applicable statutes and ethical rules. Furthermore, Plaintiff requests that, in all the
12 circumstances, its previous order ordering him to pay Mr. Moxon¹³ sanctions in the amount of
13 \$2,555 be vacated and that pursuant to CCP section 2023(c) against Defendants Cipriano, Barton
14 and Chait, and their counsel, in the amount of at least \$10,000.
15
16

17 **V. CONCLUSION**

18 Access to our courts, whether to sue Scientology for a continuing defamation and
19 harassment, or to sue Ford Motor Company for improperly engineered Pintos and the resulting
20 deaths, should not be limited to those who can afford to match the number of lawyers fueled by
21 "deep pocket" defendants conducting a war of litigation attrition intended to drive them out of
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23
24
25

26 ¹³ Mr. Moxon has, among other things, even been using confidential medical information
27 regarding Plaintiff, obtained in discovery herein, to mock Plaintiff with at depositions (and in
28 front of Plaintiff's other clients) and constantly makes snide and offensive remarks about other
matters which are the subject of this litigation. All in violation of applicable local rules,
professional behavior and common human decency.

1 the litigation process, deprive them of their judicial remedies and otherwise obstruct the course
2 of justice.

3 For the foregoing reasons, Plaintiff requests that Defendant Chait's motions be denied and
4 that Plaintiff's requests for relief and sanctions be granted.
5

6
7 DATED: February 1, 1999

Respectfully submitted,

8
9 _____
10 Graham E. Berry
11 Plaintiff Pro Se
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EXHIBIT 2

1 GRAHAM E. BERRY (SBN 128503)
2 One Wilshire Boulevard
3 Twenty-First Floor
4 Los Angeles, California 90017-3383
5 Telephone: (213) 833-5900
6 Facsimile: (213) 833-5909

7 Plaintiff Pro Se

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

10
11 GRAHAM E. BERRY,
12 Plaintiff,

13 vs.

14 ROBERT J. CIPRIANO, et al.
15 Defendants.

) Case No.: BC 184 355
) BC 186 168
) BC 196 402

) **AMENDED DECLARATION OF**
) **GRAHAM E. BERRY RE PLAINTIFF'S**
) **OPPOSITION TO DEFENDANT CHAIT'S**
) **MOTION TO DISMISS FOR FAILURE**
) **TO COMPLY WITH DISCOVERY**
) **ORDER RE FORM**
) **INTERROGATORIES; DECLARATION**
) **OF GRAHAM E. BERRY, EXHIBITS**
) **THERETO AND REQUEST FOR CASE**
) **MANAGEMENT ORDER, PROTECTIVE**
) **ORDER AND SANCTIONS**

) **DATE: February 8, 1999**
) **TIME: 8:30 a.m.**
) **DEPT: 35**


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21 AND RELATED/CONSOLIDATED CASES.

22 I, Graham E. Berry, declare as follows:

23
24 1. I am the plaintiff herein and, in that capacity, have personal knowledge of the
25 facts contained in this Declaration and, if called as a witness, can competently testify thereto.

26 2. This Declaration is submitted in opposition to Defendant Chait's motion to
27 dismiss and in support of Plaintiff's motion for certain relief.

28 3. Attached hereto are true and correct copies of the following documents:

- 1  A. ~~A letter from Michael Pattinson to Lewis & Scali.~~
- 2 B. The decision of the Ninth Circuit Court of Appeals in Religious
- 3 Technology Center v. Wollersheim.
- 4 C. The decision of the California Court of Appeal in Church of Scientology
- 5 v. Wollersheim.
- 6 D. A decision of a California Supreme Court, an order in the case of Jane
- 7 Scott and Steven Archinal.
- 8 E. A portion of the First Amended Berry v. Miscavige complaint herein
- 9 detailing Scientology's Fair Game policies and practices which are at the core of Plaintiff's
- 10 complaint in this and related cases.
- 11 F. The transcript of hearing on January 4, 1994, in Church of Scientology v.
- 12 Steven Fishman.
- 13 G. Motion for evidentiary and terminating sanctions. I have been instructed
- 14 by my former counsel Mr. Scali, and verily believe, that this motion was previously filed twice
- 15 in this Court and on each occasion has disappeared from the Court's file.
- 16 H. Declarations of Cheryl Nelson.
- 17 I. Declarations of Grady Ward and James Wissick.
- 18 J. Letter from Plaintiff to Barbara Reeves, Esq. dated January 30, 1999.
- 19 K. Letter from Graham Berry to Kendrick Moxon, Esq.
- 20 L. Letter and enclosed nine sets of form interrogatories served by
- 21 Kendrick L. Moxon, Esq.

22 4. I have served interrogatories on Robert Cipriano. He refused to answer most of

23 them on the basis of the contrived allegation that a settlement communication I made was a

24 threat to his personal safety. I have served document demands on Defendant Barton but he has

25 responded that he has not one single document. That is clearly an artifice and all such

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1 documents must be in the hands of Mr. Moxon's client, the Church of Scientology. My previous
2 notices of deposition of Defendant such as Glenn Barton were objected to on the basis that
3 Defendant Barton's deposition should not be taken prior to the completion of my own deposition
4 which is still continuing.

5
6 5. Defendants' discovery herein required my former law partners and myself to
7 expend almost all of our time in dealing with it. I do not believe there is any other case in this
8 courthouse where ^{four} ~~core~~ defendants are requiring one plaintiff to expend almost the entirety of
9 every waking hour responding to discovery to the detriment of his livelihood and life. The
10 Defendants' discovery is further abusive because none of the attorneys are taking depositions
11 complete. They are ^{all} ~~are~~ questioning, but change chairs and drop in and out of the deposition process,
12 asking repetitive, overlapping and duplicative questions regarding each other's clients (and then
13 their own clients). Kendrick L. Moxon, Esq. has taken information from my personal medical
14 records, subject to a protective order herein, and constantly mocks me in front of others with the
15 information. He also makes snide remarks concerning the allegations in my complaint and
16 otherwise engages in highly offensive conduct. On Monday, January 25, 1999, one of Mr.
17 Moxon's investigators visited a client of mine and read that client, and his family, portions of my
18 deposition herein, resulting in that client changing attorneys. That very same day, at about 5:30
19 p.m., I made a telephone call to my psychiatrist herein and made an appointment for the next
20 day. The telephone call was made from my home telephone. I told no one at all regarding the
21 appointment. I kept the appointment at 10:30 a.m. the next morning. Moments after I left the
22 doctor's office someone calling himself Kendrick Jackson called the doctor and wanted to know
23 if I was still there or if I had left. He finally admitted that his name was Kendrick Moxon and
24 then demanded a deposition of the doctor. Previously, I had discovered my phone line being
25 linked into an internal phone line at the Church of Scientology where Mr. Moxon's office is and
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1 his co-counsel in other matters, Elliot Abelson, Esq., came onto the phone line and confirmed
2 that my phone line was linked into an internal Scientology phone line.

3 6. On January 7, 1999, my two counsel were permitted to withdraw from this
4 litigation upon less than four days notice. Thereafter, Defendants have done everything they can
5 to ensure that I cannot respond to outstanding written discovery by requiring me to spend almost
6 every day in deposition. On January 12, 1999, the deposition of one of my doctors, Dr. Gary
7 Cohan, was taken. On January 15, 1999, Mr. Moxon's office required me to spend the afternoon
8 producing documents in another Scientology-related case. I then had to spend the entire week of
9 January 18, 1999, in deposition in this litigation. During that deposition, Mr. Moxon resumed
10 questioning, after Mr. Rosen and Ms. Reeves had been questioning me, and continued to engage
11 in the highly repetitive, duplicative, irrelevant and offensive questioning that he engaged in
12 during the first three days of my deposition leading me to finally walk out in exasperation. For
13 example, there are no allegations regarding drug use at anytime, anywhere in the currently
14 operative pleadings. Similarly, the only allegations involving sex and perversion relate to
15 Defendants' allegations that I engaged in 40-60 acts of statutory rape with 14-16 year-old boys
16 during one six-month period in 1984. Authorities have rejected Mr. Moxon's allegations in that
17 regard. He explains the lack of witnesses, complaints, victims, evidence or any other form of
18 corroboration by saying that they must have been street kids who have since died of AIDS and
19 thus cannot be either identified, located or questioned. Notwithstanding, almost the entirety of
20 his four days of deposition have dealt with, and continued to deal with, any and all sexual or drug
21 experiences I have ever had at any time in my life. Despite Justice Egleson limiting such
22 questioning to the last twenty years, Mr. Moxon continues to want to know when I had my first
23 homosexual experience and wants to know the names, addresses and telephone numbers of every
24 single sexual partner I have had in my entire life including those under the age of 18 when I was
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1 also under the age of 18. This is but the tip of the outrageous, offensive and abusive questioning
2 engaged in by Mr. Moxon and Mr. Rosen.

3 7. On January 14, 1998, Defendant Barton had me back before this Court on a
4 motion for sanctions. On September 25, 1998, Mr. Moxon had me in the district court on a
5 motion in the Pattinson v. Church of Scientology case. He then insisted upon Mr. Pattinson's
6 deposition in a retaliatory case filed against him by a Scientology co-employee of Mr. Moxon's.
7

8 8. I have also been required to attend a half day of deposition on Tuesday,
9 February 2, 1999 and on Friday, February 5, 1999. My former companion has been subpoenaed
10 for deposition on Wednesday, February 3, 1999. My new temporary part-time secretary has
11 been subpoenaed for deposition on Thursday, February 4, 1999. And my legal assistant has been
12 subpoenaed for deposition on Friday, February 5, 1999. He has scheduled this hearing for
13 February 8, 1999. He has insisted that there must be three days of deposition in Florida that
14 same week, on the 10, 11 and 12 of February, thus requiring me to be out of state for five days
15 that week. The following week, on February 17, 1999, he has noticed a deposition of a former
16 roommate of mine despite my prior advice that I was in depositions on another matter that entire
17 week. On February 24, 1999, I depart for New Zealand and return on March 12, 1999. The
18 following week there is a hearing on certain motions by Defendants (March 18, 1999). None of
19 these depositions, by any of the Defendants, have been scheduled in accordance with Local Rule
20 7.12(e)(2). There is no way that I can attend all these depositions and respond to the mountain of
21 discovery that must be responded to before March 18, 1999. This mountain of written and
22 deposition discovery has also brought my legal practice to a virtual standstill. This is particularly
23 devastating since most of my former law firm's clients have chosen to remain with me.
24

25 9. On January 19, 1999, Barbara Reeves came to this Court on an ex parte basis and
26 made misrepresentations to the Court regarding matters that I had apparently said and done in
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1 deposition. On information and belief, none of her representations can be supported by the
2 relevant transcript.

3 10. I submit that the massive and unprecedented discovery abuse can only be solved
4 by the imposition of a case management order. Such an order should regulate the service and
5 timing of discovery including the need for each deposition, its scope, timing and duration. For
6 example, there is no need for the Florida depositions to take place during the particular week
7 demanded by Mr. Moxon. In fact, there are other depositions I wish to take in Florida that I have
8 told Mr. Moxon I wish to take and he has refused to schedule depositions so that one visit can be
9 made to take all depositions.
10

11 11. I have been unable to pay previously ordered sanctions in the amount of \$2,555 to
12 Mr. Moxon because of the financial collapse of my law firm and life caused by the sudden
13 departure of my former law partners. I represent that I will do so as soon as I am able but request
14 the Court to vacate that earlier order on the ground of Mr. Moxon's misconduct as set forth
15 herein.
16

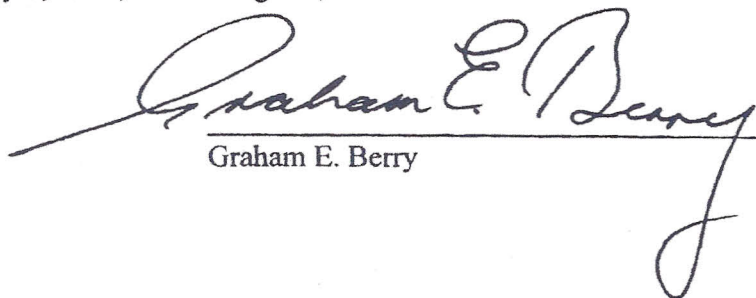
17 12. My regular billing rate is \$300 per hour. The litigation and discovery misconduct
18 set forth herein has cost me at least \$10,000 (and probably closer to \$30,000) in the last month
19 alone. The award of sanctions requested would help compensate Plaintiff for the loss of income
20 and costs resulting from the misconduct of Defendant Cipriano, Barton, Chait and their counsel
21 and help balance the ledger as far as sanctions are concerned. Nothing Plaintiff has done herein,
22 even as misrepresented by Defendants, approaches the magnitude the litigation and discovery
23 misconduct of Defendants yet Plaintiff has been sanctioned in similar aggregate amount.
24

25 13. I am pursuing this litigation, in large part, to try and achieve a result that may
26 deter the Scientology enterprise, and its lawyers and investigators such as Mr. Moxon and Mr.
27 Ingram, from continuing to harass judges, lawyers, litigants and others with whom they have a
28 perceived problem, destroying their lives, livelihoods and reputations in a similar but lesser

1 manner to that which is the basis of this case. I believe that as a person who Defendants have
2 told the world is a gay man I have nothing left in my closet. I no longer have any senior
3 partners, and I have no dependents or significant others who can be intimidated by the
4 Scientology enterprise through its attorneys and investigators. Such intimidation has resulted in
5 approximately four lawyers nationwide who are prepared to take cases against the Scientology
6 enterprise on a regular basis. The other law firms, such as Morrison & Foerster, are in and out of
7 Scientology litigation on specific cases. Usually, their experiences are such that they vow, as
8 reported in the American Lawyer, that life is too short to be engaged in litigation with the
9 Scientology enterprise. I figured that if I cannot obtain justice against the Scientology enterprise
10 and its conduct against our citizens, then who can? If I am driven out of this litigation then the
11 harassment of our citizens, causing them to "shudder into silence," will continue unabated. I
12 fully recognize that I may be killed in the process and for that reason, during the past several
13 years, have maintained a higher public profile. I believe that it is not only in my interest but in
14 the public interest that the pending motion be denied and my requested relief be granted.
15

16
17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed on February 1, 1999, at Los Angeles, California.

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Graham E. Berry

EXHIBIT 3

1 GRAHAM E. BERRY (SBN 128503)
2 One Wilshire Boulevard
3 Twenty-First Floor
4 Los Angeles, California 90017-3383
5 Telephone: (213) 833-5900
6 Facsimile: (213) 833-5909

7 Plaintiff Pro Se

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

10
11 GRAHAM E. BERRY,

12 Plaintiff,

13 vs.

14 ROBERT J. CIPRIANO, et al., inclusive,

15 Defendants.

) Case No.: BC 184 355
) BC 186 168
) BC 196 402

) **DECLARATION OF MICHAEL P.**
) **PATTINSON IN SUPPORT OF**
) **PLAINTIFF'S OPPOSITION TO**
) **DEFENDANT CHAIT'S MOTION TO**
) **DISMISS FOR FAILURE TO COMPLY**
) **WITH DISCOVERY ORDER RE FORM**
) **INTERROGATORIES**

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20 AND RELATED/CONSOLIDATED CASES.

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DECLARATION OF MICHAEL P. PATTINSON IN SUPPORT OF PLAINTIFF'S OPPOSITION TO
DEFENDANT CHAIT'S MOTION TO DISMISS FOR FAILURE TO COMPLY WITH DISCOVERY
ORDER RE FORM INTERROGATORIES

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1 5. Despite my deposition being in a case concerning only an alleged loan agreement,
2 during the deposition, and on transcript, Mr. Moxon seemed obsessed with my legal counsel's
3 sex life to a degree that was shockingly distasteful and unprofessional. From the number and
4 vehement intensity of Mr. Moxon's gratuitous defamatory stabs it seemed apparent that he
5 intended to slander Mr. Berry at every opportunity in the hope that a rift might form between me
6 and my counsel if I believed his tirades of "fanatical" contempt.
7

8 6. As this was my first deposition ever in my life I wondered if such conduct was
9 "usual." In hindsight, I see that it was not only unprofessional in the extreme, but was malicious
10 and defamatory. Mr. Moxon (as surely can be evidenced by the video recording of the
11 deposition) according to my own direct observation, seemed utterly obsessed with trying to get
12 "sanctions" against Mr. Berry by any and all possible ruses and means. It seemed to me that Mr.
13 Moxon had more focus on attacking my counsel, both in and out of the deposition, than he had
14 on the deposition itself; if I would judge such on the vehemence and uncontrolled anger in his
15 voice, and his unprovoked attacks upon my counsel, who took such obscene conduct in his stride
16 and did not let himself be lured into responding.
17

18 7. The outrageous conduct by Mr. Moxon was severely disturbing to me in giving
19 my deposition testimony and even hampered my recall of information due to the strong and
20 unnecessary disruption it introduced into the deposition itself as well as in the general
21 atmosphere.
22

23 8. The Reveillere v. Pattinson case involves an alleged original loan of
24 approximately \$25,000 and a litigation claim of approximately \$50,000. The Church of
25 Scientology funded four lawyers, one legal assistant, two videographers and a court reporter
26 (employed by a Scientology court reporting service) to deal with a case that has no material
27 connection with Scientology. This display of numerical strength was clearly intended to
28 intimidate me. Since this was my first-ever deposition under oath, Mr. Moxon's ugly and

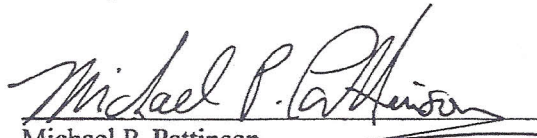
1 malicious behavior cheapened the solemnity and dignity of the deposition and made it hard for
2 me to respond as well as I would have liked to.

3 9. Mr. Moxon's unprovoked, gratuitous and ugly attacks against my counsel, Mr.
4 Berry, even in mid-deposition as well as outside, were unmerited and were totally out of context
5 ("out of present time" so to speak) and lacked any degree of what one could call "ethics
6 presence" whatsoever. It is obvious that Mr. Moxon and his entourage intended to provoke Mr.
7 Berry into sanctionable conduct by whatever means they could.
8

9 10. Since leaving the Church of Scientology, after 25 years, and giving the Church
10 over \$500,000 in fixed donations based upon their fraudulent promises, I now realize that Mr.
11 Moxon and his use of the legal system to conduct Scientology's "Fair Game policies and
12 practices" against its perceived "enemies" represents the real face of Scientology which is one of
13 the reasons why I am suing him in my case in federal court.
14

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct.

17 Executed on February 1st, 1999, at Los Angeles, California.

18 
19
20 Michael P. Pattinson