

1 GRAHAM E. BERRY, Bar No. 128503  
Attorney at Law  
2 3384 McLaughlin Avenue  
Los Angeles, CA 90066  
3 Telephone: (310) 745-3771  
Email: [grahamberry@ca.rr.com](mailto:grahamberry@ca.rr.com)

4 Defendant *pro se*

5 BARRY VAN SICKLE, Bar No. 98645  
Attorney at Law  
6 1079 Sunrise Avenue  
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7 Telephone: (916) 549-8784  
Email: [bvansickle@surewest.com](mailto:bvansickle@surewest.com)

8 Attorney for cross-complainant  
9

10 **SUPERIOR COURT OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES**  
12 **CENTRAL DISTRICT**

13 **KENDRICK MOXON**

14 Plaintiff,

15 v.

16 **GRAHAM BERRY,**

17 Defendants.

18 **GRAHAM E. BERRY**, an individual;

19 Cross-Complainant,

20 v.

21 **KENDRICK L. MOXON**, an individual;

22 Cross-Defendant.  
23

**CONFORMED COPY**  
OF ORIGINAL FILED  
Superior Court of California  
County of Los Angeles  
MAR 18 2010  
John A. Clarke, Executive Officer/Clerk  
By ROSENA LOPEZ, Deputy

) Case No. BC 429217

) Assigned to Hon. Rolf M. Treu, Dept. 58

) **MOTION TO (1) COMPEL DEPOSITION**  
) **OF PLAINTIFF AND CROSS-**  
) **DEFENDANT KENDRICK L. MOXON,**  
) **(2) BAR THE ASSERTION OF THE**  
) **ATTORNEY CLIENT PRIVILEGE RE**  
) **THE UNDERLYING MATTERS;**  
) **DECLARATION OF GRAHAM E. BERRY**  
) **NOTICE AND EXHIBITS THERETO.**

) [Filed concurrently with: (1) (proposed) order;  
) (2) Request for Judicial Notice and Exhibits.]

24 Date: ~~April 9~~ <sup>MAY 6</sup>, 2010  
25 Time: 8-30 A.M.  
26 Dept: 58

27 Action filed: January 5, 2010

28 Trial Date: None

Unlimited jurisdiction in equity

**EXHIBIT A**

GRAHAM E. BERRY, Bar No.128503  
Attorney at Law  
3384 McLaughlin Avenue  
Los Angeles, California 90066-2005  
Telephone: (310) 745-3771  
Facsimile: (310) 745-3771  
Email: [grahamberry@ca.rr.com](mailto:grahamberry@ca.rr.com)

Defendant and Cross-Complainant *pro se*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CENTRAL DISTRICT

KENDRICK MOXON

Plaintiff,

v.

GRAHAM BERRY,

Defendants.

GRAHAM E. BERRY, an individual;

Cross-Complainant,

v.

KENDRICK L. MOXON, an individual;

Cross-Defendant.

Case No. BC429217

NOTICE OF TAKING DEPOSITION OF  
PLAINTIFF AND CROSS-DEFENDANT  
AND PRODUCTION OF DOCUMENTS  
THEREAT

Date: February 25, 2010

Time: 10 a.m.

Place: Esquire Deposition Services,  
523 West 6<sup>th</sup> Street,  
Los Angeles, CA 90014-1217

1           **TO THE PLAINTIFF AND CROSS-DEFENDANT KENDRICK L. MOXON**

2           **PLEASE TAKE NOTICE** that defendant and cross-complainant, Graham E. Berry, will  
3 take the deposition of plaintiff and cross-defendant Kendrick L. Moxon, pursuant to Code of Civil  
4 Procedure section 2025.010, *et. seq.* The deposition will take place on February 25, 2010, at 10:00  
5 a.m., at Esquire Deposition Services, 523 West 6<sup>th</sup> Street, Los Angeles, CA 90014-1217 before a  
6 Notary Public authorized to administer oaths by the laws of the State of California.

7           **PLEASE TAKE FURTHER NOTICE** that defendant and cross-complainant reserves the  
8 right to have this deposition video-taped for use at trial in lieu of live testimony pursuant to Code  
9 of Civil Procedure section 2025.340, *et. seq.*

10          **PLEASE TAKE FURTHER NOTICE** that said deposition will be continued from day to  
11 day until completed (Saturdays and Sundays excluded).

12          **PLEASE TAKE FURTHER NOTICE** that plaintiff and cross-defendant is requested to  
13 bring the following documents to the deposition:

14                           **INSTRUCTIONS**

15          The term "**DOCUMENTS**" refers to any writing, paper, or recording of every kind and  
16 nature, including hard-copy records, electronically stored records, audio and visual recordings,  
17 emails, and magnetically stored information within **YOUR** possession, custody, or control. The  
18 term "**YOU**" or "**YOUR**" refers to plaintiff and cross-defendant and any agent acting under  
19 plaintiff and cross-defendant's control.

20          If plaintiff and cross-defendant withholds any document (s), for any reason (s), from being  
21 produced at the deposition as requested herein, then the plaintiff and cross-defendant will also  
22 bring to the deposition a privilege log that properly identifies and adequately describes the  
23 document (s) being withheld and the legal basis upon which they are being withheld.

24          The plaintiff and cross-defendant shall produce original copies of all **DOCUMENTS**  
25 requested along with all markings of any nature thereon.

26          The scope of this document demand commences January 1, 1990.  
27  
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## DOCUMENTS TO BE PRODUCED

1. All **DOCUMENTS** reflecting communications **YOU** have had with any person, through any media or form, regarding defendant and cross-complainant.
2. All **DOCUMENTS** reflecting communications any of **YOUR** partners, employees, agents, clients, associates or others have had with any person or entity, including but not limited to any business entity, professional entity, government agency, law enforcement agency, prosecutorial agency, State Bar representative, judicial officer, media entity or media reporter, relating and/or referring to the defendant and cross-complainant.
3. All **DOCUMENTS** relating and/or referring to the defendant and cross-complainant and either maintained by **YOU** or **YOUR** agents or provided by **YOU**, **YOUR** private investigators, agents, clients or any others acting on behalf of either **YOU** or **YOUR** clients to any person including but not limited to any business entity, professional entity, government agency, law enforcement agency, prosecutorial agency, State Bar, judicial officer, media entity or media reporter.
4. All **DOCUMENTS** constituting the transcript of hearing on any matter or motion in connection with the cases claimed by defendant and cross-complainant to be related to or otherwise connected with the litigation in *Berry v. Cipriano/Barton/Miscavige/Moxon/Ingram, et al.*, *Pattinson v. Church of Scientology*, *Reveillere v. Pattinson*, *In Re Michael Pattinson Bankruptcy Proceedings*, *In Re Graham E. Berry Bankruptcy Proceedings*, *State Bar v. Berry*, *Hurtado v. Berry* and *McPherson v. Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the Hoden v. Henson cases."*
5. All **DOCUMENTS** filed in any of the following matters containing any statement (s) that any of the following matters are related or for any purposes should be considered as being similar: *Berry v. Cipriano/Barton/Miscavige/Moxon/Ingram, et al.*, *Pattinson v. Church of Scientology*, *Reveillere v. Pattinson*, *In Re Michael Pattinson Bankruptcy Proceedings*, *In Re Graham E. Berry Bankruptcy Proceedings*, *State Bar v. Berry*, *Hurtado v. Berry* and *McPherson v.*

1 *Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the*  
2 *Hoden v. Henson cases."*

- 3 6. All **DOCUMENTS**, including all banking records, indicating the amount, date, purpose,  
4 origin, source and/or beneficiary of the funds **YOU** used to make payments to or for the  
5 benefit of any of the defendants, witnesses or potential witnesses in any of the following  
6 matters:

7 *Berry v. Cipriano/Barton/Miscavige/Moxon/Ingram ,et al., Pattinson v. Church of Scientology,*  
8 *Reveillere v. Pattinson, In Re Michael Pattinson Bankruptcy Proceedings, In Re Graham E.*  
9 *Berry Bankruptcy Proceedings, State Bar v. Berry, Hurtado v. Berry and McPherson v.*  
10 *Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the*  
11 *Hoden v. Henson cases."*

- 12 7. All **DOCUMENTS**, including all banking records, indicating the amount, date, target,  
13 purpose, origin, source and/or beneficiary of the funds **YOU** used to make payments to or for  
14 the benefit of any private investigator to investigate or conduct any manner of surveillance of  
15 the defendant and cross-complainant herein, or of any and all parties, witnesses or potential  
16 witnesses in any of the following matters:

17 *Berry v. Cipriano/Barton/Miscavige/Moxon/Ingram ,et al., Pattinson v. Church of Scientology,*  
18 *Reveillere v. Pattinson, In Re Michael Pattinson Bankruptcy Proceedings, In Re Graham E.*  
19 *Berry Bankruptcy Proceedings, State Bar v. Berry, Hurtado v. Berry and McPherson v.*  
20 *Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the*  
21 *Hoden v. Henson cases."*

- 22 8. All **DOCUMENTS**, including all banking records, indicating the amount, date, purpose,  
23 origin, source and/or beneficiary of the funds **YOU** or **YOUR** agents used to make payments  
24 to or for the benefit of any person connected with any judicial officer in the matters of *Berry v.*  
25 *Cipriano/Barton/Miscavige/Moxon/Ingram ,et al., Pattinson v. Church of Scientology,*  
26 *Reveillere v. Pattinson, In Re Michael Pattinson Bankruptcy Proceedings, In Re Graham E.*  
27 *Berry Bankruptcy Proceedings, State Bar v. Berry, Hurtado v. Berry and McPherson v.*  
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1 *Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the*  
2 *Hoden v. Henson cases."*

3 9. All **DOCUMENTS** recording or reflecting any communication with, or to be had with, any  
4 judicial officer or person connected with any judicial officer (including but not limited to law  
5 clerks, wives, fiancées and friends), or retired judicial officer, in the matters of *Berry v.*  
6 *Cipriano/Barton/Miscavige/Moxon/Ingram ,et al., Pattinson v. Church of Scientology,*  
7 *Reveillere v. Pattinson, In Re Michael Pattinson Bankruptcy Proceedings, In Re Graham E.*  
8 *Berry Bankruptcy Proceedings, State Bar v. Berry, Hurtado v. Berry and McPherson v.*  
9 *Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the*  
10 *Hoden v. Henson cases."*

11 10. All **DOCUMENTS** recording or reflecting any communication with, or to be had with, any  
12 employee of any bar associations anywhere concerning the defendant and cross-complainant  
13 herein including but not limited to the California and New York State Bars, the New Zealand  
14 and New South Wales Societies of Solicitors.

15 11. All **DOCUMENTS** recording or reflecting any communication with, or to be had with, any  
16 employee of any federal or state court anywhere concerning the defendant and cross-  
17 complainant herein.

18 12. All **DOCUMENTS** recording or reflecting any communication with, or to be had with, any of  
19 your co-counsel in the matters of *Berry v. Cipriano/Barton/Miscavige/Moxon/Ingram ,et al.,*  
20 *Berry v. Cipriano Code Civ. Proc. §391 proceeding, Pattinson v. Church of Scientology,*  
21 *Reveillere v. Pattinson, In Re Michael Pattinson Bankruptcy proceedings, In Re Graham E.*  
22 *Berry Bankruptcy proceedings, State Bar v. Berry, Hurtado v. Berry and McPherson v.*  
23 *Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the*  
24 *Hoden v. Henson cases."*

25 13. All **DOCUMENTS** recording or reflecting any communication with, or to be had with, Robert  
26 Cipriano, Dr. Mathilde Krim, Bernard Le Geros and Wilbur J. Long.

- 1 14. All **DOCUMENTS** recording or reflecting any communication with, or to be had with, any  
2 representative of a local, county, state, federal or foreign government concerning the defendant  
3 and cross-complainant herein.
- 4 15. All **DOCUMENTS** describing, recording or reflecting **YOUR** weekly statistics or "stats" in  
5 connection with any cycle of action or other activity in connection with the defendant and  
6 cross-complainant herein and the specific activity that weekly statistic reflected and/or  
7 recorded.
- 8 16. All **DOCUMENTS** describing, recording or reflecting any communication with any party,  
9 witness or potential witness in the underlying proceedings.
- 10 17. All **DOCUMENTS**, billing statements, requests for payment or funds, submitted within  
11 **YOUR** office or to any of **YOUR** clients in connection with any payments made in connection  
12 with any expense incurred or payment made concerning the All **DOCUMENTS** constituting  
13 the transcript of hearing on any matter or motion in connection with the cases claimed by  
14 defendant and cross-complainant to be related to or otherwise connected with the litigation in  
15 *Berry v. Cipriano/Barton/Miscavige/Moxon/Ingram ,et al., Pattinson v. Church of Scientology,*  
16 *Reveillere v. Pattinson, In Re Michael Pattinson Bankruptcy Proceedings, In Re Graham E.*  
17 *Berry Bankruptcy Proceedings, State Bar v. Berry, Hurtado v. Berry and McPherson v.*  
18 *Church of Scientology (Ken Dandar Disqualification hearing, Jeavons v. CSI, and in "the*  
19 *Hoden v. Henson cases."*  
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- 22 18. All **DOCUMENTS** describing, recording or reflecting any communication with J. Stephen  
23 Lewis or Christian J. Scali after November 1, 1998.
- 24 19. All **DOCUMENTS** constituting the transcript of hearing on any matter or motion in  
25 connection with the cases claimed by defendant and cross-complainant to be related to or  
26 otherwise connected with the litigation in *Berry v. Cipriano/Barton/Miscavige/Moxon/Ingram*  
27 *,et al., Pattinson v. Church of Scientology, Reveillere v. Pattinson, In Re Michael Pattinson*  
28



1 *Bankruptcy Proceedings, In Re Graham E. Berry Bankruptcy Proceedings, State Bar v. Berry,*  
2 *Hurtado v. Berry and McPherson v. Church of Scientology (Ken Dandar Disqualification*  
3 *hearing, Jeavons v. CSI, and in "the Hoden v. Henson cases."*

4  
5 Respectfully submitted,

6 DATED: February 14, 2010

7   
8 GRAHAM E. BERRY

9 Defendant and Cross-complainant *pro se*  
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**PROOF OF SERVICE BY MAIL**

STATE OF CALIFORNIA

ss.:

COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and I am not a party to the within action. My business address is 3384 McLaughlin Avenue, Los Angeles, CA 90066

On February 14, 2010, I served on interested parties in said action the within:

**NOTICE OF TAKING DEPOSITION OF PLAINTIFF AND CROSS-DEFENDANT AND PRODUCTION OF DOCUMENTS THEREAT**

By email transmission to *knoxon@earthlink.net* at 9:22 p.m. and by fax transmission to fax number (213) 487-5385 at 4:25 p.m. and

by placing a true copy thereof in sealed envelope(s) addressed as stated below.

Kendrick L. Moxon, Esq,  
Moxon & Kobrin  
3055 Wilshire Boulevard, Suite 900  
Los Angeles, CA 90010

Telephone: (213) 487-4468  
Facsimile: (213) 487-5385  
Email: *knoxon@earthlink.net*

I am readily familiar with this 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 Riverside, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than 1 day after date of deposit for mailing in affidavit.

Executed on February 14, 2010, at Los Angeles, California.

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

Graham E. Berry  
(Type or print name)

(Signature)

**GRAHAM E. BERRY**  
**ATTORNEY & COUNSELOR AT LAW**  
**3384 McLAUGHLIN AVENUE**  
**LOS ANGELES, CA 90066**  
**Telephone and Facsimile: (310) 745-3771**  
**Email: [grahamberry@ca.rr.com](mailto:grahamberry@ca.rr.com)**

February 14, 2010 at 9.25 p.m.

**FAX**

**Kendrick L. Moxon, Esq,**  
Moxon & Kobrin  
3055 Wilshire Boulevard, Suite 900  
Los Angeles, CA 90010

Telephone: (213) 487-4468  
Facsimile: (213) 487-5385  
Email: [kmoxon@earthlink.net](mailto:kmoxon@earthlink.net)

9 pages including this transmittal sheet.

**EXHIBIT B**



## Graham Berry

---

**From:** Graham Berry [grahamberry@ca.rr.com]  
**Sent:** Tuesday, February 16, 2010 12:38 PM  
**To:** kmoxon@earthlink.net  
**Subject:** RE: Deposition Notice. Moxon v. Berry.  
**Attachments:** 3. Answer&CrossComplaint.02.12.10.pdf; Appendix No.I.pdf; Appendix of Exhibits II .pdf; Appendix of Exhibits III..pdf; 4. Berry Request to file new litigation..pdf

Mr. Moxon, It was served upon you on Friday with the other documents; at 4-23 PM to Paul Cho who confirmed that Suite 900 is indeed the location at which you receive your mail, as per your address on the complaint. However, for your convenience, I attach a copy of the Answer and Cross-Complaint, the Request to file new litigation and the Appendices of supporting exhibits for your convenience. You can also find most of the filing online at [www.angrygaypope.com](http://www.angrygaypope.com) where I understand that various law enforcement IP addresses have been downloading great gobs of data. Indeed, federal law enforcement called this morning! I also understand that unrelated unknown third parties have also "mirrored" the documents off-shore.

Incidentally, speaking of improprieties, I understand that on Saturday February 14, 2010 some fifty demonstrators were protesting crime, fraud and abuse outside your offices. Various of your staff apparently handed out numerous partially completed deposition subpoenas in the *Francois Choquette v. Scientology* civil rights violation case. Clearly you were merely trying to use court process in that case to intimidate and silence unwanted first amendment attention on scientology "forced abortions," "mandated divorces," "disconnection," "suppressive person destruction," etc. Those are "improprieties." So far, in the *Choquette* case, you have noticed \$50-100,000 in deposition costs for a case that could be settled for a small fraction of that amount if the medical, other expenses, etc. were offered up. That is "impropriety." It also seems to raise IRS EO issues arising out of your organizations denial of such over-litigation in its section 501 (c) (3) application.

Sincerely,

Graham Berry

---

**From:** kmoxon@earthlink.net [mailto:kmoxon@earthlink.net]  
**Sent:** Tuesday, February 16, 2010 11:42 AM  
**To:** Graham Berry  
**Subject:** Re: Deposition Notice. Moxon v. Berry.

Mr. Berry,

I will address the improprieties of the deposition notice directly. But before I do, I note that the caption indicates a cross-complaint. If indeed you filed a cross-complaint, would you please provide same?

Kendrick Moxon

-----Original Message-----

**From:** Graham Berry  
**Sent:** Feb 14, 2010 9:23 PM  
**To:** "Moxon, Kendrick"  
**Subject:** Deposition Notice. Moxon v. Berry.

**EXHIBIT C**

## Graham Berry

---

**From:** Graham Berry [grahamberry@ca.rr.com]  
**Sent:** Thursday, February 18, 2010 5:22 PM  
**To:** kmoxon@earthlink.net  
**Subject:** RE: Deposition Notice. Moxon v. Berry.

So you will rely upon your own fraudulently obtained order to try and block my quest for justice and due process! The 391.7 application form and supporting three appendices were filed with the answer and compulsory cross-complaint which had to be asserted then as a matter of applicable law.

Graham Berry

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**From:** kmoxon@earthlink.net [mailto:kmoxon@earthlink.net]  
**Sent:** Thursday, February 18, 2010 4:55 PM  
**To:** Graham Berry  
**Subject:** Re: Deposition Notice. Moxon v. Berry.

Mr. Berry,

I will not be attending this noticed deposition.

I have informed the court in accordance with CCP 391.7 of your status as a vexatious litigant and failure to acquire pre-filing approval of the cross complaint. Such notice automatically stays your action. If the cross-claim survives and is approved, we shall have further discussions in the nature of a meet and confer before I file a motion for protective order as to the deposition, and I will provide other reasons why your notice is improper and objectionable.

Do not undertake the expense of a court reporter, as I will not be present.

Kendrick Moxon

-----Original Message-----

**From:** Graham Berry  
**Sent:** Feb 15, 2010 12:23 AM  
**To:** "Moxon, Kendrick"  
**Subject:** Deposition Notice. Moxon v. Berry.

**EXHIBIT D**



**GRAHAM E. BERRY**  
**ATTORNEY & COUNSELOR AT LAW**  
**3384 McLAUGHLIN AVENUE**  
**LOS ANGELES, CA 90066**  
**Telephone and Facsimile: (310) 745-3771**  
**Email: [grahamberry@ca.rr.com](mailto:grahamberry@ca.rr.com)**

March 16, 2010

By Email and Fax

Kendrick L. Moxon, Esq.  
Moxon & Kobrin  
3055 Wilshire Boulevard, Suite 900  
Los Angeles, CA 90010

Re: **Moxon v. Berry/Berry v. Moxon**

Dear Mr. Moxon:

I have just sent you an email in connection with the *Choquette v. CSI* case where I have been requested to represent three witnesses at their depositions. Although they were only witnesses to a violent attack, false arrest and false imprisonment, you demand the production of every email they have ever written which even mentions Scientology, and you want all of their communications with me their attorney. Before I was asked to represent them you had served them with deposition subpoena duces tecums. The time for written objection and motion for protective order had passed. Your position is that their failure to object and make a motion leaves them with two options: appear and produce, or be cited for contempt. In that regard, you (and your co-counsel) have referred me to Code Civ. Proc. §2025.410. You and your co-counsel have a compelling argument.

However, when considering your position in *Moxon v. Berry/Berry v. Moxon* you seem to ignore the principles of judicial estoppel. Instead, you wrote to me and merely stated you were not going to attend your deposition or

produce any documents at all, and that you might get around to dealing with the issue some time later. In that regard, “sauce for the goose is sauce for the gander.” I contend there is only one rule for all of us, and you and your co-counsel have correctly state it in the *Choquette* case.

Accordingly, I shall soon telephone you to “meet and confer” prior to completing and filing a motion to compel your deposition and the production of documents. Accordingly, I now set forth a section of the brief written thus far.

#### **I. “ THE PLAINTIFF REFUSED TO ATTEND HIS NOTICED DEPOSITION**

Plaintiff Moxon filed this action on January 5, 2010. Defendant Berry filed his answer on February 9, 2010. On that date Berry also filed a cross-complaint along with a C.C.P. §391.7 “request to file new litigation” supported by three (later four) Appendices of supporting evidence (Exhibits A-Z). The Request was denied with leave granted to file for the same order by regular motion. On March 9, 2010, the defendant filed a first amended answer as defendant *pro per*. Attached to the same pleading, filed as of right, was a cross-complaint signed by Barry Van Sickel, Esq. See generally, First Amended Answer, Introduction, p.4: 1-3.

On February 14, 2010, plaintiff was mail served with a Notice of Deposition and Request for Production of Documents. Supporting Berry declaration (“**Berry Dec.**”), Ex. A. On February 16, 2010, Mr. Moxon acknowledged receipt of the “deposition notice.” **Berry Dec.**, Ex. B. On February 18, 2010, Mr. Moxon emailed Mr. Berry again and stated “*I will not be attending this noticed deposition. ... Do not undertake the expense of a court reporter, as I will not be present.*” **Berry Dec.**, Ex. C. However, Mr. Moxon did not serve any “written objection” setting forth the specific “error or irregularity” with regard to the deposition of Mr. Moxon being taken by Mr. Berry as defendant *pro se*, and so his “objection was [not] a valid one.” **Berry Dec.**, Ex. C. Furthermore, Mr. Moxon did not seek “an order staying the deposition and quashing the deposition

notice” pursuant to Code Civ. Proc. §2025.410 (c). Mr. Moxon merely decided that he could unilaterally “stay [Berry’s] action.” Even assuming Mr. Moxon is correct, he did not “move for an order staying the taking of the deposition and quashing the deposition notice” of Mr. Moxon as plaintiff *pro se* by Mr. Berry as defendant *pro se*. (Code Civ. Proc. §2025.410 (c).). Mr. Moxon still refuses to attend his deposition by Mr. Berry as plaintiff *pro se* herein. Berry Dec., ¶ \_\_\_\_.

## **II. THE PLAINTIFF SHOULD BE ORDERED TO ATTEND AND PRODUCE**

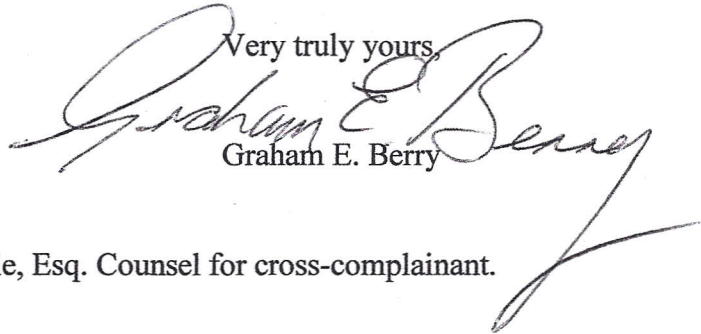
Although Mr. Moxon’s February 16, 2010 email stated he would “address the improprieties of the deposition notice directly,” he never did. Code Civ. Proc. §2025.410 (a) provides, *inter alia*, that failure to serve a written objection specifying that error or irregularity at least three calendar days prior to the [deposition] date” ...“waives any error or irregularity.” Mr. Moxon has commented that the document demand would be burdensome for him to comply with. However, complying with any discovery demand is burdensome. Most of the documents can be accessed by Mr. Moxon’s small army of paralegals. Some relate to documentation of corruption-type payments in connection with the underlying cases; if there truly are so many documents evidencing payments for testimony, that is even greater reason to compel their production herein.”

However, in a spirit of compromise, I shall make the following modifications to the document demand:

Demand No. 4: In Dandar Disqualification matter, you need produce only the transcripts of the testimony of Stacy Brooks Young and the late Robert Vaughn Young.

Accordingly, I will call you shortly to: (1) ascertain a mutually convenient date (to you, Barry Van Sickle, Esq. and myself) for your deposition and document production during the first two weeks of April, 2010, or the first two weeks of May, 2010; (2) In the alternative, to ascertain that you will not be co-operating, attending and producing without being compelled by court order.

Very truly yours,

  
Graham E. Berry

Cc: Barry Van Sickle, Esq. Counsel for cross-complainant.



**Last Transaction**

Date	Time	Type	Station ID	Duration Digital Fax	Pages	Result
Mar 16	3:15PM	Fax Sent	12134875385	1:45 N/A	5	OK

**Note:**

Image on Fax Send Report is set to Off

An image of page 1 will appear here for faxes that are sent as Scan and Fax.

**Exhibit E**

KENDRICK L. MOXON \*  
HELENA K. KOBRIN #  
AVA PAQUETTE

\* ALSO ADMITTED IN  
THE DISTRICT OF COLUMBIA  
# ALSO ADMITTED IN  
FLORIDA

**MOXON & KOBRIN**

ATTORNEYS AT LAW  
3055 WILSHIRE BOULEVARD  
SUITE 900  
LOS ANGELES, CALIFORNIA 90010  
TELEPHONE (213) 487-4468  
TELECOPIER (213) 487-5385

OF COUNSEL

JEANNE M. REYNOLDS

March 17, 2010

Graham Berry  
3384 McLaughlin Ave.  
Los Angeles, CA 90066

Re: *Moxon v. Berry*

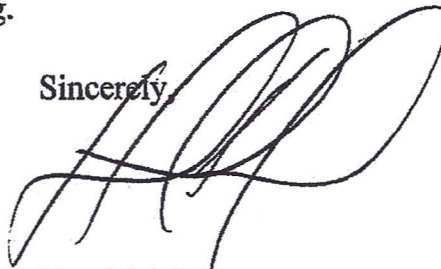
Dear Mr. Berry:

To confirm our conversation of yesterday:

You called and stated that you intended to file a motion to compel my deposition in your cross-complaint in your role as "plaintiff pro per." I informed you that that your case was automatically stayed pursuant to C.C.P. §391.7(c). You disagreed. I asked that you wait until the court determines if you may file the action. You declined, and stated you intended to file a motion to compel. I told you that such an act would be further contempt of §391. You disagreed, indicated that that the call constituted a sufficient meet-and-confer and that you intended to file the motion.

Again, please take note of my filings with the court which automatically stays your action; and your continuing contempt by failing to acquire leave of court to pursue your proposed pleading.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kendrick Moxon', written over a horizontal line.

Kendrick Moxon

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3 **PROOF OF SERVICE BY HAND**

4 STATE OF CALIFORNIA )

ss.:

5 COUNTY OF LOS ANGELES )

6 *MOXON V. BERRY BC42917*

7 I am employed in the County of Los Angeles, State of California. I am over the age of 18.  
8 My business address is 3384 McLaughlin Avenue, Los Angeles, CA 90066. I am an officer of the  
9 court herein.

10 **MOTION TO (1) COMPEL DEPOSITION OF PLAINTIFF AND CROSS-DEFENDANT  
11 KENDRICK L. MOXON, (2) BAR THE ASSERTION OF THE ATTORNEY CLIENT  
12 PRIVILEGE RE THE UNDERLYING MATTERS; DECLARATION OF GRAHAM E.  
13 BERRY NOTICE AND EXHIBITS THERETO.**

14 On March 17, 2010, I personally served on interested parties in said action the within:  
15 by placing a true copy thereof in sealed envelope(s) addressed as stated below and by delivering  
16 the envelope (s) by hand to the offices of the addressee (s).

17 Kendrick L. Moxon, Esq.  
18 Moxon & Kobrin  
19 3055 Wilshire Boulevard, Suite 900  
20 Los Angeles, CA 90010

21 Telephone: (213) 487-4468  
22 Facsimile: (213) 487-5385  
23 Email: kmoxon@earthlink.net

24 Executed on March 17, 2010 at Los Angeles, California.

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

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