

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

8 Attorney for Plaintiff
9 Pro se

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

KENDRICK MOXON

Plaintiff,

vs.

GRAHAM BERRY,

Defendant.

Case No. BC429217

**DECLARATION OF KENDRICK
MOXON IN SUPPORT PLAINTIFF'S
EX PARTE APPLICATION FOR
ORDER STAYING CROSS-
COMPLAINT PENDING
DETERMINATION OF VEXATIOUS
LITIGANT'S REQUEST TO FILE
NEW LITIGATION**

Dept: 58
Time: 8:30 am
Date: March 22, 2010

DECLARATION OF KENDRICK MOXON

I, Kendrick Moxon, hereby declare and state:

I make the following declaration of my own personal knowledge, and if called to testify thereto, could and would do so competently.

1. On March 18, 2010, I called Graham Berry and provided notice that I would appear at 8:30 am in Department 58 to seek affirmation of the stay of his cross-complaint until the court determined whether Mr. Berry would be permitted to file that

TAB E

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/10/99

DEPT. 73

HONORABLE DAVID DOI

JUDGE

VICKIE PARTIDA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

K. HOLLIS

Deputy Sheriff

NONE PRESENT

Reporter

9:00 am

BC207363

Plaintiff
Counsel

GRAHAM E. BERRY (X)

ROBERT JEAUVONS

VS

Defendant
Counsel

KENDRICK L. MOXON (X)

CHURCH OF SCIENTOLOGY
INTERNATIONAL

RECUSAL CCP 170.1 JUDGE MEIERS

NATURE OF PROCEEDINGS:

MOTION OF THE DEFENDANT CHURCH OF SCIENTOLOGY
INTERNATIONAL AN MURIEL DEFRESNE TO STRIKE AND MOTION
TO STRIKE COMPLAINT URSUANT TO C.C.P. SECTION 425.16;

Matter comes on calendar. The Defendants, Special
Motion to Strike brought pursuant to CCP Sec 425.16
is granted. The Court orders as follows: (1) The
Plaintiff's Complaint is stricken; (2) The Plaintiff's
action is dismissed, with prejudice; and (3) The
Defendants shall have and recover from the Plaintiff,
Robert Jeavons, and/or his attorney, Graham Berry,
reasonable attorney fees in the sum of \$3,000.00,
and costs in the sum of \$23.00.

Defendants shall lodge with the Court within 10 days
a proposed order reflecting the Court's ruling and
orders.

Clerk to give notice.

A copy of this minute order is sent via United States
Mail, to the following:

Graham E. Berry
One Wilshire Boulevard
Twenty First Floor
Los Angeles, California 90017-3383

TAB F

1 Gerald L. Chaleff, SBN 39552
2 ORRICK, HERRINGTON & SUTCLIFFE, LLP
3 777 South Figueroa Street, Suite 3200
4 Los Angeles, California 90017-5832
5 Telephone: (213) 629-2020

6 Counsel for Petitioner
7 CHURCH OF SCIENTOLOGY
8 INTERNATIONAL

9 Michael Turrill, SBN 185263
10 PAUL, HASTINGS, JANOFSKY &
11 WALKER LLP
12 555 S. Flower St., 23rd Floor
13 Los Angeles, CA 90071
14 Telephone: (213) 683-6000

15 Counsel for Petitioner
16 GLENN BARTON

17 Kendrick L. Moxon, SBN 128240
18 MOXON & KOBRIN
19 3055 Wilshire Blvd., Suite 900
20 Los Angeles, CA 90010
21 Telephone: (213) 487-4468

22 Counsel for Petitioner
23 ISADORE CHAIT

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

26 GRAHAM E. BERRY,

Plaintiff,

vs.

ROBERT J. CIPRIANO, et al.,

Defendants.

AND RELATED CASES.

FILED
LOS ANGELES SUPERIOR COURT

AUG 20 1999

JOHN A. CLARKE, CLERK

BY ROBERT E. LEE, DEPUTY

Case No. BC 184355

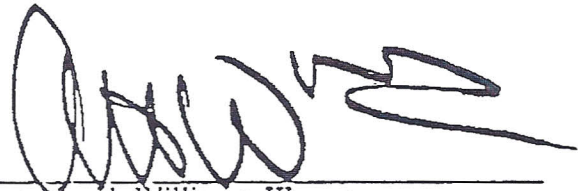
ORDER FINDING GRAHAM E.
BERRY TO BE A VEXATIOUS
LITIGANT

Date: August 20, 1999
Time: 8:30 a.m.
Dept: 35

1 The Court having read and considered the moving papers of Petitioners Church of
2 Scientology International, Isadore Chait and Glenn Barton, opposing papers of Graham E. Berry and
3 supplemental papers filed by the parties and having heard oral argument thereon, the Court hereby
4 finds Graham E. Berry to be a vexatious litigant within the meaning of C.C.P. §§ 391(b)(1)(3)(4).
5 Effective immediately, Graham E. Berry is required to comply with the procedures set forth in
6 C.C.P. §391.7.

7 Further, as the Court has found Mr. Berry to be a vexatious litigant pursuant to *inter alia*
8 C.C.P. §391(b)(4), which section applies to either an attorney appearing in pro per or as a counsel of
9 record, this Court hereby orders that in any action or proceeding in which Mr. Berry appears, either
10 as a party or counsel, he attaches to the first document he files in that action or proceeding a true
11 copy of this Order.

12 Dated: August 20, 1999

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16 Alexander H. Williams, III
17 Superior Court Judge
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TAB G

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 35

HON. ALEXANDER H. WILLIAMS III

GRAHAM E. BERRY,

PLAINTIFF,

VS.

NO. BC184355

ROBERT CIPRIANO,

DEFENDANT.

REPORTER'S TRANSCRIPT OF PROCEEDINGS
FRIDAY, AUGUST 20, 1999

APPEARANCES:

FOR THE PLAINTIFF:

GRAHAM BERRY *
ATTORNEY AT LAW
ONE WILSHIRE BOULEVARD
LOS ANGELES, CA 90017
(213) 833-5900

FOR THE DEFENDANT:

MOXON & KOBRIN **
BY: KENDRICK MOXON
3055 WILSHIRE BOULEVARD
LOS ANGELES, CA 90010
(213) 487-4466

PAUL, HASTINGS, JANOFSKY *
BY: MR. SAMUEL ROSEN
23RD FLOOR
555 SOUTH FLOWER STREET
LOS ANGELES, CA 90071
(213) 683-6311

ORRICK, HERRINGTON, SUTCLIFFE
BY: GERALD L. CHALEFF *
777 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90017
(213) 612-2194

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SIMKE CHODOS
BY: DAVID M. CHODOS
1880 CENTURY PARK EAST
SUITE 1511
LOS ANGELES, CA
(213) 653-0211

BY TELEPHONE

MR. BARRY SOTER
ATTORNEY AT LAW

CHARLES KUHN, CSR #7810
OFFICIAL REPORTER

1 CASE NUMBER: BC184355
2 CASE NAME: GRAHAM E. BERRY VERSUS
3 ROBERT J. CIPRIANO
4 LOS ANGELES, CA FRIDAY, AUGUST 20, 1999
5 DEPARTMENT 35 HON. ALEXANDER WILLIAMS, III, JUDGE
6 REPORTER: CHARLES KUHN, CSR #7810
7 APPEARANCES: (AS NOTED ON TITLE PAGE.)
8 THE COURT: GOOD MORNING AND WELCOME
9 BACK. WE ARE ON THE RECORD IN CASE NUMBER BC184355 AND
10 RELATED CONSOLIDATED MATTERS. THE LEAD NAME IS GRAHAM
11 BERRY VERSUS ROBERT CIPRIANO.
12 COUNSEL, GOOD MORNING. THANK YOU FOR
13 YOUR PATIENCE THIS MORNING. MAY I HAVE YOUR
14 APPEARANCES. AND I REMIND YOU THAT ONE COUNSEL IS
15 APPEARING BY PHONE, THAT APPEARANCE, MR. SOTER?
16 MR. SOTER: BARRY SOTER OF WASSERMAN, SOTER AND
17 COUNSEL, FORMALLY ATTORNEY OF RECORD FOR THE DISMISSED
18 DEFENDANT, ROBERT CIPRIANO.
19 THE COURT: I KNOW YOU ARE OUT OF TOWN, AND I DO
20 WANT TO REPEAT MY REQUEST OF YOU. IF AT ANY TIME YOU
21 DON'T HEAR, SOUND OFF IN SOME WAY AND I WILL ASSURE
22 THAT THESE PROCEEDINGS ARE CONDUCTED IN A WAY THAT
23 EVERYBODY CAN UNDERSTAND, OKAY, SIR?
24 MR. SOTER: I WILL DO THAT.
25 THE COURT: OTHER APPEARANCES OF COUNSEL HERE IN
26 COURT.
27 MR. CHALEFF: GERALD CHALEFF OF ORRICK,
28 HERRINGTON AND SUTCLIFF FOR CHURCH OF SCIENTOLOGY

1 YOUR PASSION AND YOUR CONCERN WOULD RECEIVE LAWFUL
2 HEARING AND LAWFUL ACCESS.

3 IT IS THE DIFFICULT CASES THAT MAKE A
4 JUDGE A JUDGE, AND I HAVE TRIED VERY HARD TO RESPOND
5 WITH THE BEST JUDICIAL FIBER I CAN MUSTER TO THIS VERY
6 CHALLENGING CASE.

7 I REPEAT NOW WHAT I HAD SUGGESTED IN MY
8 DIALOGUE WITH YOU IN YOUR ARGUMENT. I THINK THE
9 PETITION IS MORE ABOUT NOT SO MUCH ABOUT WHAT YOU HAVE
10 DONE IN SEEKING TO REDRESS FOR THE CLAIMS YOU HAVE
11 BROUGHT TO THIS COURT THAN IT IS ABOUT HOW YOU HAVE
12 DONE IT.

13 THIRDLY, THERE IS AN IRONY HERE. MY
14 POSITION AS A NEUTRAL JUDICIAL ARMS-LENGTH OBSERVER OF
15 THE PASSIONS AND ACCUSATIONS AND RECRIMINATIONS THAT
16 ARE ASSOCIATED WITH LITIGATION BY AND AGAINST THE
17 CHURCH OF SCIENTOLOGY AND ITS PRESENT AND FORMER
18 DECIPLES HAS CAUSED ME TO SEE A LOT OF CONSPIRACY.
19 THEORIES AND SUGGESTIONS AND SUSPICIONS AND FINGER
20 POINTING. AND THAT LEADS TO A GREAT AND SAD IRONY.

21 IF ONE LOOKS FOR ONE PERSON WHO IS
22 RESPONSIBLE FOR THE FAILURE OF THE MATTERS AND CLAIMS
23 YOU HAVE BROUGHT TO THIS COURT, IF ONE LOOKS FOR ONE
24 PERSON RESPONSIBLE FOR THE CHURCH OF SCIENTOLOGY AND
25 ITS ALLIES PREVAILING AS YOU MIGHT PRESUMPTIVELY
26 PRESUME THEM TO HAVE PREVAILED IN THIS CASE, THE ONE
27 PERSON MOST RESPONSIBLE IS GRAHAM BERRY. THAT IS WHAT
28 THE MOTION IS ABOUT. THAT IS WHAT THE PETITION IS

1 ABOUT.

2 THE WAY THINGS HAVE HAPPENED IN THIS
3 LITIGATION AND THE WAY IT HAS BEEN CONDUCTED HAVE GIVEN
4 SUPPORT TO THE PETITION. WITH ALL THE DUE RESPECT,
5 SIR, I HAVE TO SADLY STATE THAT IF THERE IS SUCH A
6 THING ON GOD'S GREEN EARTH AS A VEXATIOUS LITIGENT YOU,
7 SIR, SADLY, ARE IT.

8 GEORGES SANTIATA G-E-O-R-G-E-S SAID,
9 THOSE WHO DO NOT LEARN FROM HISTORY ARE CONDEMNED TO
10 RELIVE IT. THEREFORE, IT IS WITH GREAT REGRET THAT I
11 FIND MYSELF JUDICIALLY OBLIGED TO GRANT THE PETITION.

12 I DO NOT DO SO LIGHTLY. ACCESS TO
13 JUSTICE IS THE CENTRAL FIBER OF MY JUDICIAL OBLIGATION
14 AND THE HIGHEST PRIDE OF MY DAILY DUTY.

15 I AM IN THE BUSINESS OF AFFORDING
16 OPPORTUNITIES TO PEOPLE TO BE HEARD. NOT JUST ON
17 PLEASANT MATTER BUT ON UNPLEASANT. NOT JUST ON EASY
18 MATTERS, BUT ON DIFFICULT. TO HOLD THE DOORS OF THIS
19 COURTROOM OPEN TO ALL WHO SEEK TO DRAW NEAR, AND BE
20 HEARD, IN THE WORDS, THE OPENING WORDS OF THE UNITED
21 STATES SUPREME COURT AND COURTS THROUGHOUT THIS LAND, I
22 HOLD THAT INVITATION PROUDLY TO DRAW YOU IN AND YOU
23 SHALL BE HEARD.

24 I TAKE COMFORT IN GRANTING THIS PETITION.
25 I'M NOT PREVENTING ACCESS TO JUSTICE FOR YOU OR THOSE
26 YOU REPRESENT, BUT ONLY REQUIRING THAT THAT ACCESS BE
27 PROCURED UNDER CIRCUMSTANCES THAT ASSURE THAT THE
28 PROCEEDINGS IN THAT COURT WILL BE MORE ORDERLY, MORE

1 SHOULD BE OBLIGED TO ANSWER A FORM INTERROGATORY NUMBER
2 THREE OR SOMETHING LIKE THAT, SOMEBODY CAN TAKE THE
3 ADVANTAGE OF DUMPING INTO THE COURT FILE ALL MANNER OF
4 HEINOUS MATERIAL AND SAY, WELL, NOW IT'S A, NOT UNDER
5 SEAL; AND B, IT'S THERE FOR ME TO REPUBLISH AND CLAIM A
6 PRIVILEGE.

7 THE COURT: I GUESS I'VE BEEN THE PUBLIC EYE SO
8 LONG, INCLUDING GOING THROUGH JUDICIAL ELECTION THAT I
9 HAVE LEARNED AT SOME POINT THAT THE PUBLIC DOESN'T
10 BEGIN TO CARE HALF AS MUCH AS WE DO ABOUT WHAT IS SAID
11 ABOUT US, AND THAT AT SOME POINT YOU JUST HAVE TO
12 RECOGNIZE THAT PEOPLE SAY STUFF AND THAT IN AN OPEN
13 SOCIETY SOONER OR LATER THE TRUTH WILL OUT AND THAT
14 THOSE WHO SAY THINGS ABOUT PEOPLE SOONER OR LATER
15 BECOME SELF IMPEACHING.

16 INDEED, I KNOW PEOPLE THAT ARE OFFENDED
17 IF THEY ARE NOT INCLUDED IN THE LIST OF CERTAIN
18 ACCUSATIONS THAT COME FROM CERTAIN SOURCES, THEIR
19 PRINCIPLE RESPONSE IS THAT YOU TELL A FRIEND. I URGE A
20 GROWN UP APPROACH OF THIS.

21 I FULLY APPRECIATE THE SLINGS AND
22 ARROWS OF OUTRAGEOUS OVER STATEMENT TO PUT IT IN YOUR
23 PERSPECTIVE AND I AM NO FAN OF THE WAY LITIGATION
24 PRIVILEGE IS IMPLEMENTED IN CALIFORNIA BECAUSE IT
25 ENCOURAGES EXACTLY WHAT HAS HAPPENED BEFORE THIS COURT.

26 MY REACTION TO IT IS NUMBER ONE THIS IS
27 EXHIBIT LETTER A, AND IF THE RULE STINKS, HERE IS A
28 GOOD REASON WHY IT DOES BECAUSE QUITE FRANKLY THIS

1 COURT HAS SEEN THE DUMPING OF HUGE AMOUNTS OF
2 BORDERLINE IRRELEVANT MATERIAL WITH UNDUE GLEE BY MR.
3 BERRY BECAUSE IT IS IN HIS JUDGMENT AND MY OBSERVATION.
4 A LICENSE TO BASH AND TRASH. I HAVE SEEN IT. I HAVE
5 WATCHED IT AND IT'S TIME FOR SOMEBODY TO CALL IT WHAT
6 IT IS AND THAT IS WHAT IT IS.

7 IT IS BORDERLINE CHILDISH BUT BY THAT
8 STANDARD AN AWFUL LOT OF STUFF I SEE IN THIS COURT
9 WOULD GO DOWN THE TUBES.

10 THE NEXT POINT I MAKE IS I DON'T SEE MY
11 HAVING AUTHORITY TO SCREEN IT. IT IS MY DUTY TO FOLLOW
12 THE LAW WITH CARE AND WITH BALANCE, AND I WON'T PUT
13 THINGS UNDER SEAL, I JUST DON'T BELIEVE IT.

14 MR. ROSEN: I DIDN'T ASK YOU TO, I ASKED YOU TO
15 EXERCISE YOUR AUTHORITY TO STRIKE.

16 THE COURT: AND THAT IS SOMETHING THAT I DON'T
17 KNOW ABOUT AND WHAT I WILL TELL YOU IS, I WILL, AS I
18 SAID TO MR. BERRY ON SO MANY THINGS, I AM OPEN TO TELL
19 YOU WHAT YOU WANT TO DO AND WHY. I DON'T HAVE IT
20 BEFORE ME AND THEREFORE MY PROPOSAL IS THAT WE ARE
21 GOING TO SET IT DOWN ON A DATE AND YOU ALL COME AND
22 ANYBODY WHO WANTS TO, WHAT DID WE SAY EARLIER, THOSE OF
23 YOU WHO WISH TO BE HEARD DRAW NEIGH AND YOU SHALL BE
24 HEARD.

25 EVEN IF IT'S FROM NEW YORK CITY, WE ARE
26 AN EQUAL OPPORTUNITY COURTROOM. REMEMBER THAT I WAS
27 TEN YEARS OLD BEFORE I KNEW THAT YANKEES WAS A BASEBALL
28 TEAM TOO.

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 2 FOR THE COUNTY OF LOS ANGELES
 3 DEPARTMENT 35 HON. ALEXANDER WILLIAMS III
 4
 5 GRAHAM E. BERRY,)
 6 PLAINTIFF,)
 7 VS.) NO. BC184355
 8 ROBERT J. CIPRIANO,)
 9 DEFENDANT(S).)

10 STATE OF CALIFORNIA)
 11) SS.
 12 COUNTY OF LOS ANGELES)

12 I, CHARLES KUHN, CSR NO. 7810 OFFICIAL
 13 SHORTHAND REPORTER OF THE STATE OF CALIFORNIA, FOR THE
 14 COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
 15 FOREGOING PAGES 1 THROUGH 105, INCLUSIVE, COMPRISE
 16 A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE TESTIMONY
 17 AND PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED MATTER ON
 18 FRIDAY, AUGUST 20, 1999.

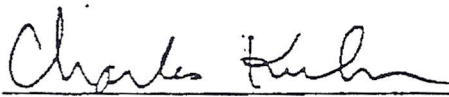
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21 DATED THIS 24 DAY OF (MONTH), 1998.

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 CHARLES KUHN, OFFICIAL REPORTER

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C.S.R. NO. 7810


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TAB H

Bar Court of the State Bar of California
Hearing Department ☒ Los Angeles ☐ San Francisco

| | | |
|---|---|--|
| <p>Counsel for the State Bar Terrie Goldade, No. 155348 Agustin Hernandez, No. 161625 1149 S. Hill St. Los Angeles, CA 90015 (213) 765-1000</p> | <p>Case number(s) 99-0-12791-EEB</p> | <p>(for Court's use) PUBLIC MATTER FILED  OCT 29 2001 STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p> |
| <p>Counsel for Respondent Graham E. Berry, No. 128503 3384 McLaughlin Ave. Los Angeles, CA 90066 (310) 745-3771</p> | <p>Submitted to <input type="checkbox"/> assigned judge <input checked="" type="checkbox"/> settlement judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p> | |
| <p>In the Matter of Graham Edward Berry Bar # 128503 A Member of the State Bar of California (Respondent)</p> | | |

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 17, 1987
(date)
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation, are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation and order consist of 15 pages.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
 - ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years:
2002 & 2003 & 2004 & 2005
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth under "Partial Waiver of Costs"
 - ☐ costs entirely waived

Note: All information required by this form and any additional information which cannot be provided in the space provided, shall be set forth in the text component of this stipulation under specific headings, i.e. "Facts," "Dismissals," "Conclusions of Law."

(Stipulation form approved by SBC Executive Committee 10/16/00)

Actual Suspension

In the Matter of Graham Edward Berry
A Member of the State Bar

Case Number(s):
99-0-12791-EEB

NOLO CONTENDERE PLEA TO STIPULATION AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

Bus. & Prof. Code §6085.5 Disciplinary Charges; Pleas to Allegations

There are three kinds of pleas to the allegations of a notice of disciplinary charges or other pleading which initiates a disciplinary proceeding against a member:

(a) Admission of culpability.

(b) Denial of culpability.

(c) Nolo contendere, subject to the approval of the State Bar Court. The court shall ascertain whether the member completely understands that a plea of nolo contendere shall be considered the same as an admission of culpability and that, upon a plea of nolo contendere, the court shall find the member culpable. The legal effect of such a plea shall be the same as that of an admission of culpability for all purposes, except that the plea and any admissions required by the court during any inquiry it makes as to the voluntariness of, or the factual basis for, the pleas, may not be used against the member as an admission in any civil suit based upon or growing out of the act upon which the disciplinary proceeding is based. (Added by Stats. 1996, ch. 1104.) (emphasis supplied)

RULE 133, Rules of Procedure of the State Bar of California STIPULATIONS AS TO FACTS, CONCLUSIONS OF LAW AND DISPOSITION

(a) A proposed stipulation as to facts, conclusions of law, and disposition shall set forth each of the following: ...

(5) a statement that respondent either

(i) admits the facts set forth in the stipulation are true and that he or she is culpable of violations of the specified statutes and/or Rules of Professional Conduct or

(ii) pleads nolo contendere to those facts and violations. If the respondent pleads nolo contendere, the stipulation shall include each of the following:

(a) an acknowledgment that the respondent completely understands that the plea of nolo contendere shall be considered the same as an admission of the stipulated facts and of his or her culpability of the statutes and/or Rules of Professional Conduct specified in the stipulation; and

(b) If requested by the Court, a statement by the deputy trial counsel that the factual stipulations are supported by evidence obtained in the State Bar investigation of the matter. (emphasis supplied)

I, the Respondent in this matter, have read the applicable provisions of Bus. & Prof. Code §6085.5 and rule 133(a)(5) of the Rules of Procedure of the State Bar of California. I plead nolo contendere to the charges set forth in this stipulation and I completely understand that my plea shall be considered the same as an admission of culpability except as stated in Business and Professions Code section 6085.5(c).

10.25.01 Graham E. Berry GRAHAM E. BERRY
Date Signature print name

(Nolo Contendere Plea form approved by SBC Executive Committee 10/22/97)

- B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b).] Facts supporting aggravating circumstances are required.

(1) ☐ Prior record of discipline [see standard 1.2(f)]

(a) ☐ State Bar Court case # of prior case _____

(b) ☐ date prior discipline effective _____

(c) ☐ Rules of Professional Conduct/ State Bar Act violations: _____

(d) ☐ degree of prior discipline _____

(e) ☐ If Respondent has two or more incidents of prior discipline, use space provided below or under "Prior Discipline".

(2) ☐ Dishonesty: Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.

(3) ☐ Trust Violation: Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.

(4) ☐ Harm: Respondent's misconduct harmed significantly a client, the public or the administration of justice.

(5) ☐ Indifference: Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

(6) ☐ Lack of Cooperation: Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.

(7) ☒ Multiple/Pattern of Misconduct: Respondent's current misconduct evidences multiple acts of wrongdoing ~~which constitute a pattern of misconduct~~

(8) ☐ No aggravating circumstances are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see Standard 1.2(e).] Facts supporting mitigating circumstances are required.

- (1) ☒ No Prior Discipline: Respondent has no prior record of discipline over many years of practice ~~except with certain misconduct which is not deemed serious.~~
- (2) ☐ No Harm: Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ Candor/Cooperation: Respondent displayed spontaneous candor and cooperation ~~to the violation of his professional misconduct and~~ to the State Bar during disciplinary investigation ~~and proceedings.~~
- (4) ☒ Remorse: Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct ~~in relation to Court One.~~
- (5) ☐ Restitution: Respondent paid \$ _____ on _____ in restitution to _____ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ Delay: These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☒ Good Faith: Respondent acted in good faith.
- (8) ☒ Emotional/Physical Difficulties: At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties ~~and physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the respondent such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.~~
- (9) ☒ Severe Financial Stress: At the time of the misconduct, Respondent suffered from severe financial stress ~~which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.~~
- (10) ☐ Family Problems: At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ Good Character: Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ Rehabilitation: Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13) ☐ No mitigating circumstances are involved.

Additional mitigating circumstances: See Stipulation Attachment.

D. Discipline

1. Stayed Suspension.

A. Respondent shall be suspended from the practice of law for a period of 18 months

- ☐ i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ☐ ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- ☐ iii. and until Respondent does the following: _____

B. The above-referenced suspension shall be stayed.

2. Probation.

Respondent shall be placed on probation for a period of 18 months, which shall commence upon the effective date of the Supreme Court order herein. (See rule 953, California Rules of Court.)

3. Actual Suspension.

A. Respondent shall be actually suspended from the practice of law in the State of California for a period of 9 months

- ☐ i. and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ☐ ii. and until Respondent pays restitution to _____ [payee(s)] (or the Client Security Fund, if appropriate), in the amount of _____, plus 10% per annum accruing from _____ and provides proof thereof to the Probation Unit, Office of the Chief Trial Counsel
- ☐ iii. and until Respondent does the following: _____

E. Additional Conditions of Probation:

- (1) ☐ If Respondent is actually suspended for two years or more, he/she shall remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.
- (2) ☒ During the probation period, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent shall report to the Membership Records Office of the State Bar and to the Probation Unit, all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Respondent shall submit written quarterly reports to the Probation Unit on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, respondent shall state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all

conditions of probation during the preceding calendar quarter. If the first report would cover less than 30 days, that report shall be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (5) ☐ Respondent shall be assigned a probation monitor. Respondent shall promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, respondent shall furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Probation Unit. Respondent shall cooperate fully with the probation monitor.
- (6) ☒ Subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit of the Office of the Chief Trial Counsel and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (7) ☒ Within one (1) year of the effective date of the discipline herein, respondent shall provide to the Probation Unit satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended.
- (8) ☐ Respondent shall comply with all conditions of probation imposed in the underlying criminal matter and shall so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Probation Unit.
- (9) ☒ The following conditions are attached hereto and incorporated:
- | | |
|--|---|
| <input type="checkbox"/> Substance Abuse Conditions | <input type="checkbox"/> Law Office Management Conditions |
| <input checked="" type="checkbox"/> Medical Conditions | <input checked="" type="checkbox"/> Financial Conditions |
- (10) ☒ Other conditions negotiated by the parties:
- ☒ Multistate Professional Responsibility Examination: Respondent shall provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Probation Unit of the Office of the Chief Trial Counsel during the period of actual suspension or within one year, whichever period is longer. Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 951(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.
- ☐ No MPRE recommended.
- ☒ Rule 955, California Rules of Court: Respondent shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 30 and 40 days, respectively, from the effective date of the Supreme Court order herein.
- ☐ Conditional Rule 955, California Rules of Court: If Respondent remains actually suspended for 90 days or more, he/she shall comply with the provisions of subdivisions (a) and (c) of rule 955, California Rules of Court, within 120 and 130 days, respectively, from the effective date of the Supreme Court order herein.
- ☐ Credit for Interim Suspension [conviction referral cases only]: Respondent shall be credited for the period of his/her interim suspension toward the stipulated period of actual suspension.

In the Matter of Graham Edward Berry
A Member of the State Bar

Case Number(s):
99-0-12791-EEB

Medical Conditions

- a. ☒ Respondent shall obtain psychiatric or psychological help/ treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at respondent's own expense a minimum of 1 ^{every other} ~~time~~ ~~month~~ and shall furnish evidence to the Probation Unit that respondent is so complying with each quarterly report. Help/treatment should commence immediately, and in any event, no later than thirty (30) days after the effective date of the discipline in this matter. Treatment shall continue for 18 ~~days or~~ months or years or the period of probation or until a motion to modify this condition is granted and that ruling becomes final.

If the treating psychiatrist, psychologist, or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or Office of the Chief Trial Counsel may file a motion for modification of this condition with the Hearing Department of the State Bar Court, pursuant to rule 550 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist, or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

- b. ☒ Upon the request of the Probation Unit, respondent shall provide the Probation Unit with medical waivers and access to all of respondent's medical records. Revocation of any medical waiver is a violation of this condition. Any medical records obtained by the Probation Unit shall be confidential and no information concerning them or their contents shall be given anyone except members of the Office of the Chief Trial Counsel, including the Probation Unit, and the State Bar Court, who are directly involved with maintaining, enforcing or adjudicating this condition.

1 PROOF OF SERVICE

2 I am employed in Los Angeles County, California, at Moxon & Kobrin, 3055
3 Wilshire Blvd., Ste. 900, Los Angeles, CA, 90010.

4 On March 22, 2010, I personally served the foregoing the following document:

5 **DECLARATION OF KENDRICK MOXON IN SUPPORT PLAINTIFF'S EX**
6 **PARTE APPLICATION FOR ORDER STAYING CROSS-COMPLAINT**
7 **PENDING DETERMINATION OF VEXATIOUS LITIGANT'S REQUEST**
8 **TO FILE NEW LITIGATION**

9 on the following person:

10 Graham Berry
11 3384 McLaughlin Ave.
12 Los Angeles, CA 90066

13 Executed on March 22, 2010, in Los Angeles, California. I declare under the
14 penalty of perjury under the laws of the State of California that the foregoing is true
15 and correct.

16 _____
17 Kendrick Moxon
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