

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

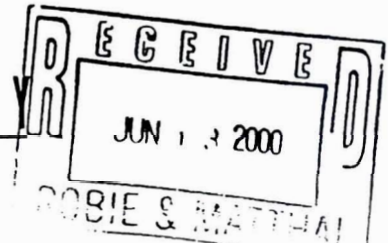
**DEFENDANT AND CROSS-  
COMPLAINANT'S APPENDIX NO. I  
OF EXHIBITS AND REQUEST FOR  
JUDICIAL NOTICE FILED AS PART OF  
THE UNVERIFIED ANSWER AND  
VERIFIED COMPULSARY CROSS-  
COMPLAINT HEREIN.**

Action filed: January 5, 2010

[Filed concurrently with: (1) Judicial Council  
of California Form MC-701 (C.C.P. §391.7;  
(2) Appendix No. II of Exhibits [Exhibits B-  
D]; (4) Appendix No. III of Exhibits  
[Exhibits E-J ] ; Unverified answer and  
verified cross-complaint]

**CERTIFIED COPY**

**MILLER & COMPANY**  
**REPORTERS**



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

MICHAEL HURTADO,

Plaintiff,

versus

GRAHAM E. BERRY,

Defendant.

No. BC208227

DEPOSITION OF: ROBERT J. CIPRIANO

TAKEN ON: June 12, 2000

VOLUME I: Pages 1 through 35,  
inclusive

NO. 14183

REPORTED BY:

DEBRA V. HELGESON  
CSR No. 3189

**EXHIBIT 1**

Los Angeles

San Francisco

1 any other matter. However, he has handled a couple of  
2 matters -- legal matters for me pro bono.

3 Q What was the nature of those two matters?

4 A One matter being the formation and  
5 directorship of a nonprofit organization called Day of  
6 The Child World Concert, Inc.

7 Q What was --

8 A Retained counsel for me in the State of  
9 New Jersey with regards to an outstanding warrant in  
10 Atlantic County and the settlement of a restitution  
11 issue.

12 Q And has that matter been resolved?

13 A I've been informed that it has been.

14 Q When was it resolved?

15 A Immediately prior to my previous deposition --

16 Q Okay.

17 A -- whatever dates that was.

18 Q Have you now identified for me all of the  
19 matters in which Mr. Moxon has acted as your attorney?

20 A I believe so.

21 Q Did you pay Mr. Moxon or his law firm any fees  
22 for representing you in the Berry versus Cipriano  
23 matter?

24 A No, I have not.

25 Q Is it your understanding that you are

1 obligated to them to pay any fees?

2 A It's not my understanding that I was  
3 obligated.

4 Q Was it your understanding that their legal  
representation was free of costs to you in the Berry  
6 versus Cipriano matter?

7 A Yes.

8 Q Okay. Did you have to pay any costs, such as  
9 deposition costs, travel costs, parking, anything,  
10 motion costs, things like that?

11 A No.

12 Q Have you ever paid the Moxon firm for any of  
13 the legal services they have provided to you?

14 A No.

15 Q Is it your understanding that you are not  
16 obligated to pay the Moxon firm for any of the legal  
17 services that they have provided to you?

18 A It is my understanding that all services were  
19 free of charge.

20 Q Okay. Do you have any understanding as to why  
21 they were giving you legal services for free?

22 A My understanding, that it was in exchange for  
23 cooperation.

24 Q Cooperation of what nature?

25 A In litigation against Graham Berry.

1 Berry versus Cipriano matter, did he also hire a second  
2 law firm to represent you?

3 A Yes, he did.

4 MS. SELLARS: Okay. I show you Exhibit 2,  
5 which is an attorney-client fee contract between you  
6 and Wasserman, Comden & Casselman.

7 If would you review Exhibit 2 and tell me when  
8 you have completed your review.

9 (The document referred to was marked for  
10 Identification as Cipriano Exhibit 2 by the  
11 Reporter, and a copy is attached.)

12 BY MS. SELLARS:

13 Q Have you had an opportunity to review  
14 Exhibit 2?

15 A Yes, I have.

16 Q Is Exhibit 2 a true and correct copy of the  
17 retainer agreement between yourself and the Wasserman,  
18 Comden & Casselman firm?

19 A Yes, it is.

20 Q Does Exhibit 2 contain a true and correct copy  
21 of your signature?

22 A This is my signature, yes.

23 Q No wonder you couldn't explain the difference.  
24 Okay.

25 Did you pay any fees to the Wasserman,

1 Comden & Casselman firm for their representation of  
2 you?

3 A No, I did not.

4 Q Is it your understanding that you are not  
5 obligated to pay them any fees for their representation  
6 of you in the Berry versus Cipriano matter?

7 A That is my understanding.

8 Q Do you have any understanding as to how -  
9 what amount of fees were run up in this case on your  
10 behalf?

11 A On a visit to the Hollywood Boulevard office  
12 of Mr. Kendrick Moxon -- and I don't remember the  
13 date -- he had delivered mail to me that was being  
14 received at their offices, Moxon's office.

15 And he accidentally gave me an envelope, which  
16 was a bill from Wasserman, Comden & Casselman, which I  
17 was opening my mail, didn't realize it, and I noted  
18 that there was a 5- or \$6,000 balance due. It was  
19 Wasserman, Comden & Casselman billing Moxon & Kobrin  
20 for legal services regarding Cipriano.

21 Q Do you have any understanding, from your  
22 review of that bill, whether that was just a balance  
23 due or whether that represented the total fees?

24 A I have no knowledge of -- of whether it was  
25 partial fee or all.



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**MILLER & COMPANY**  
**REPORTERS**

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

MICHAEL HURTADO,	)	
	)	
Plaintiff,	)	
	)	
versus	)	No. BC 208 227
	)	
GRAHAM E. BERRY,	)	
	)	
Defendant.	)	
_____	)	

DEPOSITION OF: ROBERT J. CIPRIANO

TAKEN ON: August 7, 2000

VOLUME 2: Pages 36 to 218, inclusive

**CONFIDENTIAL**

NO. 14327      REPORTED BY: LES F. MARTIN  
CSR No. 3286, RPR

Los Angeles

San Francisco

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VOLUME 2, DEPOSITION OF ROBERT J. CIPRIANO,  
taken on behalf of the Defendant, at  
500 South Grand Avenue, Suite 1500,  
Los Angeles, California, on Monday,  
August 7, 2000, at 10:15 A.M.,  
before Les F. Martin, CSR No. 3286, RPR.

APPEARANCES:

For Plaintiff:

MOXON & KOBRIN  
BY: KENDRICK L. MOXON, ESQ.  
AVA PAQUETTE, ESQ.  
3055 Wilshire Boulevard  
Suite 900  
Los Angeles, California 90010  
(213) 487-5385

For Defendant:

ROBIE & MATTHAI  
BY: EDITH MATTHAI, ESQ.  
500 South Grand Avenue  
Suite 1500  
Los Angeles, California 90071  
(213) 624-3062

Also Present:

GRAHAM E. BERRY, ESQ.  
LYNNE SHAPE, Paralegal



1 Q Group. Okay.

2 A I have one question.

3 Q Sure.

4 A I've seen in other depositions where people  
5 identify who they are at the table. There is a third  
6 person here that I'm not aware of.

7 MR. MOXON: Lynn Shape is from my office.

8 MS. MATTHAI: Last name?

9 MR. MOXON: Shape.

10 MS. MATTHAI: Her position with the firm?

11 MR. MOXON: She works for my office.

12 MS. MATTHAI: Paralegal? She just works for  
13 your office?

14 MR. MOXON: Yes.

15 MS. PAQUETTE: The court reporter has her card

16 THE WITNESS: I'm sorry.

17 BY MS. MATTHAI:

18 Q Did you want to know anything else,  
19 Mr. Cipriano?

20 A Is she a member of the firm or Scientology?

21 MR. MOXON: She is a paralegal with my firm.

22 THE WITNESS: Paralegal? Thank you.

23 BY MS. MATTHAI:

24 Q In January of '96, where did you go?

25 A Los Angeles.

1           Q     When you were a business partner of  
2 Mr. Spiegelman in 1984 or 1985, were the businesses you  
3 and Mr. Spiegelman had interests in operated out of the  
4 law firm of Mr. Spiegelman?

5           A     There were two floors that were leased by  
6 either Mr. Spiegelman, Cipriano Enterprises, Limited, or  
7 the law offices of Jerome F. Spiegelman.

8           Q     So you were -- you weren't necessarily in the  
9 same portion of the office where the law work was being  
10 done? These offices were in close proximity to each  
11 other; correct?

12          A     Upstairs, downstairs.

13          Q     And from 1984 through January or February of  
14 '85, did you from time to time see Mr. Berry?

15          A     Yes.

16          Q     And did you during that period of time ever go  
17 out socially with Mr. Berry, dinner or to a restaurant,  
18 bar, anything of that nature?

19          A     Yes.

20          Q     Was that something that would happen  
21 periodically during the time between the time that  
22 Mr. Berry joined the Spiegelman law firm and when he  
23 left New York in January, February of 1985?

24          A     Same period, correct.

25          Q     At any time between 19- -- mid 1984 and January

1 or February of 1985, did you observe Mr. Berry having a  
2 sexual relationship with a male under the age of 18?

3 MR. MOXON: Define "observe." Sexually?

4 MS. MATTHAI: I mean see it.

5 MR. MOXON: See the sexual act between Berry  
6 and the teenager?

7 MS. MATTHAI: That is correct.

8 THE WITNESS: No.

9 BY MS. MATTHAI:

10 Q At -- did you have any contact -- let me  
11 rephrase that.

12 After February of 1985, when was the next time  
13 that you saw Graham Berry?

14 A Deposition, July, 199- -- 1990. It was the  
15 deposition of "Berry versus Barton," whenever that was.

16 Q Did you have any telephone conversations with  
17 Mr. Berry between February of 1985 and July of -- let me  
18 rephrase that -- between February of 1985 and the  
19 deposition was taken?

20 A I believe there was a telephone conversation, I  
21 believe in early March or February of 1998 wherein I had  
22 contacted Mr. Ingram, Eugene Ingram, and Mr. Berry and  
23 said that I required their attendance at the Van Nuys  
24 Police Department to rectify all disputes at that point.

25 There was -- that was -- I asked them to please

1 meet at the Police Department. Mr. Berry refused saying  
2 that he was at -- he was conducting a dinner party of  
3 some sort. That was the only telephone conversation, I  
4 believe.

5 Q Did you contact Mr. Berry on -- in that time  
6 frame of March or February of 1998 to ask him to come to  
7 the police station?

8 A Yes. I also asked Mr. Ingram and Mr. Moxon  
9 through Mr. Ingram at that time.

10 Q Did Mr. Moxon agree to come to the police  
11 station?

12 MR. MOXON: I wish to assert an attorney-client  
13 objection. I don't know, Ms. Matthai, if you have some  
14 independent counsel to inform Mr. Cipriano of his rights  
15 with respect to the attorney-client privilege.

16 Obviously, it's not proper for you or  
17 Ms. Sellars or Mr. Berry to have done so since Mr. Berry  
18 has been in an adversarial position with Mr. Cipriano  
19 for several years and apparently remains so from time to  
20 time.

21 So Mr. Cipriano obviously has attorney-client  
22 rights. I have not -- I do not represent him nor have I  
23 represented him for some time. But he -- I spoke to him  
24 very briefly before the deposition, and he informed me  
25 that he is not clear on what his attorney-client rights

1 are.

2           Therefore, I think it's only appropriate that  
3 the attorney-client privilege be asserted and that he  
4 recognize that he has such a right with any  
5 conversations he had with me.

6 BY MS. MATTHAI:

7           Q     Mr. Moxon mentioned that he spoke with you  
8 immediately prior to this deposition; correct?

9           A     That's correct.

10          Q     What did -- did Mr. Moxon ask to speak with you  
11 or you ask to speak with Mr. Moxon?

12          A     Neither one of us asked each other.

13          Q     What was said during the conversation between  
14 you and Mr. Moxon this morning?

15          A     I'm coming through the doors on the 14th floor  
16 through this wing. Mr. Moxon and I turned around and  
17 shook his hand and conveyed my sympathies over a recent  
18 loss that he has been subject to. We proceeded to go  
19 downstairs where I smoked a cigarette.

20                I said to him, "I am not -- I am here for the  
21 truth. This has to end. This is an atrocity; that I'm  
22 not for or against Berry. I'm not for or against  
23 Mr. Moxon and that I have been privy to documents in the  
24 last four weeks."

25                He said, "Berry's documents?"

1 I said, "Berry's documents up to last Friday in  
2 which I received summons from Mr. Soter, which is  
3 co-counsel. There are several issues that I have. And,  
4 basically, I just want an end to this and the truth to  
5 come out as I see it, any which way that happens."

6 We returned upstairs. That's pretty much it.

7 Q Did you and Mr. Moxon have any discussion this  
8 morning with regards to any issues surrounding the  
9 attorney-client privilege?

10 A I believe -- I know he did discuss it, that he  
11 was going to invoke -- evoke, invoke the attorney-client  
12 privilege.

13 I still don't have a complete understanding of  
14 what that means or what it entails. I told him, "I do  
15 not have counsel. I'm not represented. I cannot afford  
16 counsel, and I want this to end and the truth will come  
17 out."

18 Q Did Mr. Moxon advise you that the client is the  
19 holder of the attorney-client privilege, and the client  
20 is the one who makes the determination as to whether or  
21 not attorney-client communications will or will not be  
22 revealed?

23 A He didn't say that to me.

24 Q We're back to the conversations with regard to  
25 going to the Van Nuys Police Station in February or



March of 1998.

My question is: Did Mr. Moxon agree to come to the police station at that time?

4 MR. MOXON: Again, I assert an attorney-client  
5 privilege. You're -

6 MS. MATTHAI: Mr. Moxon, the witness holds the  
7 privilege.

8 MR. MOXON: Ms. Matthai --

9 MS. MATTHAI: He can decide to answer if he  
10 chooses.

11 MR. MOXON: If you interrupt me, you cannot  
12 hear what I said. You gave an admonition to  
13 Mr. Cipriano about interrupting because it's difficult  
14 for the court reporter, and it makes a bad record.

15 Don't you agree?

16 Now, if you want to try to get a witness who  
17 you have an adversarial relationship with and who your  
18 client has made written threats to in the past and who  
19 has sued him and holds some kind of a, you know, bogus  
20 document, I mean, for a huge amount of money, millions  
21 of dollars, a judgment, and where you didn't give him  
22 representation of independent counsel, either, I think  
23 you are in a very precarious position, frankly.

24 As I said, I don't represent Mr. Cipriano.  
25 Mr. Cipriano does have a right to independent counsel.

1 statement? You complained I interrupted you. I didn't  
2 want to interrupt you.

3 MR. MOXON: When I'm through talking, I'm  
4 finished. You can assume that all day long. I wanted  
5 to make sure that is on the record.

6 BY MS. MATTHAI:

7 Q Why did you contact Mr. Berry, Mr. Ingram, and  
8 Mr. Moxon to have them to meet you at the Van Nuys  
9 Police Station in February or March of 1998?

10 A After a day long conversation with my then  
11 fiancée, Christine Gregos, it was decided the events  
12 surrounding Mr. Berry's lawsuit, Mr. Ingram's  
13 intervention -- Mr. Ingram's having come into my life  
14 and, I believe, one consultation that I had with  
15 Mr. Moxon in Glendale, and also my knowledge at that  
16 point that Mr. Ingram from the Internet was doing a  
17 private investigation involved in some way with  
18 Scientology, that Mr. Moxon in some way represented  
19 people involved in Scientology at that time. That was  
20 my knowledge -- I believe this was getting out of hand,  
21 and I just needed to crack heads together in front of  
22 law enforcement to settle this matter.

23 Q Did Mr. Moxon agree to come to the Van Nuys  
24 Police Station as a result of your call in February or  
25 March of 1998?



1       A     I don't recall if I spoke to Mr. Moxon. I  
2 spoke to Mr. Ingram. He said, "Stay by the phone, and I  
3 would get ahold of Rick."

4             Mr. Ingram called back and said, "You could --  
5 you could go to the police station, but why don't you  
6 just stay at home and Mr. Moxon and Mr. Ingram would be  
7 over straightaway to discuss it and go from there."

8       Q     Did Mr. Moxon and Mr. Ingram come over to your  
9 home at that point?

10      A     They did.

11      Q     What happened when Mr. Moxon and Mr. Ingram  
12 came over to your home in February or March of 1998?

13      A     Conversations were had with the people in the  
14 room, which was Christine, myself, Mr. Moxon,  
15 Mr. Ingram.

16             Mr. Moxon and I went into our second bedroom,  
17 which was an office, home office. Mr. Moxon called  
18 someone. I believe it was -- he said "Judy" at that  
19 time. He asked her to fax something to my home on the  
20 fax machine.

21             Mr. Ingram was talking to Christine. The fax  
22 came in a few minutes later with a cover sheet which  
23 said "Office of Special Affairs." I didn't understand  
24 what that was. I figured that was his law office.

25             It was a deposition, I believe, of Gary Scarf.

1 I do not remember why I read it or what impact it was  
2 supposed to have on me.

3 The end result of that conversation was 2 or  
4 3 hours -- Mr. Moxon called Mr. Berry at home and told  
5 him that he could no longer communicate with me because  
6 I was being represented by Mr. Moxon and his law firm at  
7 that time; that that would -- that he would -- Berry  
8 would be prevented from having a communication from me  
9 directly and Christine and things would calm down and  
10 get sorted out.

11 There was a great deal more to that  
12 conversation, but that was the gist of it.

13 Q As of this meeting in February or March of 1998  
14 did -- had there been a lawsuit filed against you by  
15 Mr. Berry?

16 A At that point, yes, there was.

17 Q And what was your understanding of the claims  
18 that were being made by Mr. Berry in that lawsuit  
19 against you?

20 A From the cover sheet, it says "Slander, libel,  
21 invasion of privacy, falsehoods, and double-risk." It  
22 looked like legal terms.

23 Q Did you understand that the lawsuit involved  
24 the -- a declaration that you had executed in May of  
25 1994?

1           A       That is correct.

2                   MS. MATTHAI: We'll mark as Exhibit 5 to your  
3 deposition a document entitled "Declaration of Robert J.  
4 Cipriano." It's dated May 5th, 1994.

5                   (The document referred to was marked for  
6 identification as Plaintiff's Exhibit 5  
7 by the Certified Shorthand Reporter and  
8 is attached hereto.)

9 BY MS. MATTHAI:

10           Q       Are you familiar with that document,  
11 Mr. Cipriano?

12           A       Yes, I am.

13           Q       And is that your signature on the last page of  
14 Exhibit 5?

15           A       Yes, it is.

16           Q       Who was the first person to contact you with  
17 regard to preparing this declaration that we have marked  
18 as Exhibit 5?

19           A       Eugene Ingram.

20           Q       Who actually typed the declaration that we have  
21 marked as Exhibit 5?

22           A       Mr. Ingram said that he did.

23           Q       Approximately how long before the 5th of May,  
24 1994, did Mr. Ingram first contact you with regard to  
25 Graham Berry?

1 A 4th of May, 1994.

2 Q Did Mr. Ingram contact you by telephone or in  
3 person?

4 A In person.

5 Q And where was that contact made?

6 A In my apartment, 245 East 63rd Street,  
7 Apartment 1617, New York, New York.

8 Q When -- I take it that Mr. Ingram arrived  
9 without any previous telephone call or inquiry as to  
10 whether you would be home?

11 A Mr. Ingram arrived having gone through a highly  
12 secured building without having been announced. It's a  
13 very expensive building to live in.

14 There is security, off-duty police, and also  
15 doormen throughout the whole property. He made it  
16 through the front door to the 16th floor unannounced.

17 When I opened the door, he flashed a shield and  
18 indicated that he was a Los Angeles Department -  
19 Los Angeles Police Department detective.

20 Q When you say "flashed a shield," what do you  
21 mean by that?

22 A "Hello. My name is Eugene Ingram," and lifts  
23 his hand, opens a wallet, and there is a shield and  
24 identification.

25 Q A shield like a badge?