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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.	Case No. BC429217 **DEFENDANT AND CROSS-COMPLAINANT'S APPENDIX NO. III 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
GRAHAM E. BERRY, an individual; Cross-Complainant, v. **KENDRICK L. MOXON**, an individual; Cross-Defendant.	[Filed concurrently with: (1) Judicial Council of California Form MC-701 (C.C.P. §391.7; (2) Appendix No. I of Exhibits [Exhibit A]; (4) Appendix No. II of Exhibits [Exhibits B-D] ; Unverified answer and verified cross-complaint]

Ex. H

EXHIBIT H

GRAHAM E. BERRY (SBN 128503)
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Respondent Pro Per

THE STATE BAR COURT
OF THE STATE OF CALIFORNIA
HEARING DEPARTMENT - LOS ANGELES

In the Matter of	
	) Case No.: 99-0-12791
	)
GRAHAM EDWARD BERRY	) RESPONDENT'S CONTENTIONS OF FACT;
No.128503	) VERIFIED EXHIBITS A-C.
	)
	)
A Member of the State Bar	) Status Conference: None
	) Trial Date: Vacated.
	)
	)
	)
	)
	)

WHEREAS, on October 25,2001 the parties hereto entered in a settlement of the State Bar's Notice of Charges herein;

AND WHEREAS, as part of the negotiations that resulted in the said settlement, Respondent expressed his wish to file, as part of the court record herein, the following amended summary of Respondent's contentions of fact, and to append his two sets of interrogatory responses and partial chronology of events;

AND WHEREAS, during said settlement negotiations the State Bar expressed no opposition, and the Settlement Judge suggested, without disagreement from the State Bar, that Respondent file the papers he wished to because of his waiver of confidentiality herein;

NOW THEREFORE, Respondent files his amended summary of Respondent's contentions of fact, along with his two sets of interrogatory responses and partial chronology of events:

RESPONDENT'S CONTENTIONS OF FACT

I have waived confidentiality in these proceedings and files believing, in the words of Justice Holmes, that, "… sunlight is the best disinfectant."

This is a unique saga and one of the most outrageous series of events to have ever been presented to the California State Bar. The Church of Scientology ("scientology") was the actual complainant herein, through 1999 Los Angeles County Criminal Courts Bar Association President, Donald R. Wager, Esq., ("Wager") and State Bar "ethics specialist" Michael G. Gerner, Esq., ("Gerner"). This complaint was initiated by Wager and Gerner after Wager and scientology in-house lawyer, Kendrick L. Moxon ("Moxon"), unlawfully solicited the replacement representation of my then client, Michael Hurtado ("Hurtado"), in a pending

criminal matter. Ironically, during the same period, Wager was named as one of the Year 2000 Honorees For Significant Contributions To The Criminal Justice System. Eventually, a retired Superior Court Judge would conclude and recommend that Wager's communications were not subject to the attorney client privilege because then L.A. County Criminal Courts Bar Association President Wager and a scientology retained gang of out-lawyers were engaged in the commission of a crime of fraud (Evidence Code § 956). Moxon and Wager did not wait for the trial judge's ruling. Moxon immediately and voluntarily dismissed the Hurtado v. Berry case upon the eve of trial. Wager and Gerner prevailed upon the California State Bar to immediately disbar me! Consequently, Internet commentators now derisively refer to California State Bar as the Scientology State Bar.

Moxon had commenced his California legal career after a 264-page stipulation named him as an unindicted co-conspirator in the largest ever known criminal infiltration of the United States Federal Government. United States v. Hubbard (1979) 474 F. Supp. 64; United States v. Kattar (1st Cir. 1988) 840 F 2d 118, 125. Ironically, Moxon and I were admitted to the California State Bar on the very same day in 1987. I had previously been admitted to practice in New York, Australia and New Zealand and had worked for a New York law firm in London, England.

In 1991, Moxon and I crossed swords for the very first time. Lewis, D'Amato, Brisbois & Bisgaard ("Lewis, D'Amato"), my mentor David B. Parker and I were retained to successfully defend Century City lawyer Joseph A.Yanny in two breaches of fiduciary duty actions that his former client, scientology, had filed. Later, I became involved in one of eight lawsuits that scientology filed against former adherent Gerry Armstrong.

In 1993, I led a winning team of Lewis, D'Amato lawyers in Church of Scientology International v. Fishman and Geertz ("Fishman-Geertz"). Fishman-Geertz was defamation case in U.S. District Court. It involved Time Magazine allegations that scientology was involved in instructions to commit financial fraud, murder and suicide. Indeed, there was testimony that Moxon himself had been involved in instructions to murder opposing San Francisco counsel, Ford Greene, and the President of the Cult Awareness Network and her daughter in Chicago, IL. Steps in furtherance of this conspiracy were taken. There was also testimony that Moxon had been involved in the drowning of L.A. County Superior Court Judge Swearinger's dog, Duke, during the Wollersheim v. Scientology case. Subsequently, Moxon was involved in five scientology lawsuits against Wollersheim. Church of Scientology v. Wollersheim (1996) 42 Cal.App.4th 628, 648-649.

During the Fishman-Geertz case, the scientology trade secret "scriptures" were filed in court and later published on the Internet. Scientology voluntarily dismissed the Fishman-Geertz case on the eve of trial. Scientology openly blamed me for its retreat and defeat in the Fishman-Geertz case and the publication of its secret scriptures, which cost approximately $400,000 for adherents to study in their entirety. During the Fishman-Geertz case, scientology retained Moxon and his investigator Eugene Ingram ("Ingram") to "investigate" me. U.S. District Court Judge Harry Hupp told them to desist. They did not.

Scientology's judicially recognized Fair Game Policies and Practices provide, among other things, that anyone impeding scientology can be, "… tricked, sued, or lied to or destroyed." Elsewhere secret scientology scripture states that, "… when we want someone 'haunted' we

investigate." Hart v. Cult Awareness Network (1993) 13 Cal.App. 4th 777; Church of Scientology v. Armstrong (1991) 232 Cal.App.3d1060, 1067; Wollersheim v. Church of Scientology (1989)
212 Cal.App.872, 888-891; Allard v. Church of Scientology (1976) 58 Cal.App.3d 439, 443n.1. Scientology, Moxon and Ingram have each testified that their "investigation" led to Ingram traveling to New York City and preparing a declaration for signature by my former acquaintance Robert Cipriano ("Cipriano"). This First Cipriano Declaration, under penalty of perjury, falsely stated that during one six month period in 1984, I had been involved in acts of pedophilia with 40-60 teenagers and was associated in the activities of one Andrew Crispo, who was involved in a grisly and sensational 1985 murder. Crispo's friend, Bernard Le Geros, was sentenced to life imprisonment for the murder. Ingram visited Le Geros in a New York prison and obtained another declaration alleging that I was associated with Crispo as well as numerous other major, despicable criminal activities. Ingram also obtained three other declarations containing false and defamatory materials. Scientology published these in what they call "dead agent" packs which Moxon's investigators use for "Black Propaganda" purposes during what the scientology enterprise terms "noisy investigations."

Scientology OSA NW Order 15 defines "Black Propaganda" as, "… a covert communication of false data intended to injure, impede or destroy the life of another person…usually issued from a false or removed source from the actual instigator."

Indeed, in PR Series 18 scientology staffers are directed to invent whatever they wish to allege. Significantly, as recently as October 9, 2001, the Moxon & Kobrin law office wrote to a Netherlands resident threatening to enforce scientology's copyrights and trade secrets in

connection with the very terms "Dead Agenting" and "Targets Defense" activities used by Moxon & Kobrin in their "investigations" and "handling" of regular opposing counsel such as I. The contents of the "Targets Defense" document that the Moxon & Kobrin October 9, 2001, letter refers to include the "vital targets" of:"T1 Depopularizing the enemy to a point of total obliteration; T2 Taking over the control or allegiance of the heads or the proprietors of all news media; T3 Taking over the control or allegiance of key political figures; T4 Taking over the control or allegiance of those who monitor international finance and shifting them to a less precarious finance standard."

Another scientology written policy directs scientology lawyers to use the courts to harass and ruin people rather than to win.

> "The purpose of the law suit is to harass and discourage rather than to win. The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway…would generally be sufficient to cause his professional decease. If possible, of course, ruin utterly."

Former LA Deputy District Attorney, and former Gambino mafia family attorney, Elliot Abelson, Moxon and his law partner, Helena Kobrin, engaged in correspondence with me, confirming the nature, scope and purpose of their "investigation" of me. Scientology front groups and shills published the First Cipriano Declaration, and other Moxon/Ingram procured perjury on the Internet where they still remain today. Ingram and other scientology/Moxon/Abelson retained "investigators" personally disseminated the highly defamatory material to my family, friends, acquaintances, law partners, clients, law firm's

clients, judges, politicians and public officials. False State Bar complaints were filed in New York and California. Ingram; Beverly Hills lawyer, Jeffrey Steinberger; and California State Assemblyman, Steven Baldwin, called a major media press conference demanding a LAPD investigation into the threat that I allegedly posed to the youth of Los Angeles. They also alleged that I was associated with other prominent Los Angeles "pedophiles" because of my support for an annual fundraiser to benefit the education of gay and lesbian youth. A number of sitting judges and numerous respected attorneys were also present at this fundraiser. Ingram then complained to the LAPD and the L.A. Unified School District that 19 of these semi-formal fundraiser attendees were convicted sex offenders-based solely upon their having names similar to those in the state register of sex offenders. Ingram even warned the Los Angeles Unified School District to watch for me. Moxon unsuccessfully claimed, Berry v. Cipriano, that some of this activity meant that C.C.P Section 425.16 and Civil Code 47 (b) applied to protect the conduct as being in furtherance of free speech and the right to petition for redress of grievances.

In excess of ten false State Bar complaints, and at least three false criminal complaints were unsuccessfully filed against me by Moxon and other scientology stooges. Defamatory leaflets were distributed in a three-block radius of my then home and the false allegations delivered to foreign governments with which I dealt professionally. Consequently, I experienced the pain of losing most of my friends and acquaintances, including judges and lawyers and other professionals and business people. Ingram visited and disturbed a number of law offices and businesses just to ensure that it was fully understood that associating with me might be prejudicial to employment, career and other relationships. Obviously, these terrorized people

were only fair weather friends, but that is irrelevant in this context.

Moxon, Abelson and Ingram also "investigated" my then senior partners at Lewis, D'Amato. On January 5, 1995, Abelson visited Robert F. Lewis, Esq., and very quickly extorted him into agreeing that as a Lewis, D'Amato partner I would never handle another case involving scientology; AIG and Lewis D'Amato would withdraw from the remaining Dr. Geertz matters; that a secret settlement agreement would be entered into transferring Dr. Geertz's files to Robert Lewis personally and then re-transfer to a public storage facility near the scientology/Moxon/Abelson offices. Only scientology representatives and Lewis would have access to the Geertz files. Lewis, D'Amato would not oppose the sealing of the Fishman-Geertz court files. Previously, the Ninth Circuit Court of Appeals had twice rejected Judge Hupp's denial of scientology motions to seal the record. The Fishman-Geertz court files have been "temporarily sealed" ever since the scientology, Abelson, Lewis, D'Amato and AIG chicanery. Steven Fishman and Dr. Geertz were forced to file their malicious prosecution case against scientology and Abelson without their attorney Ford Greene, Esq., having the benefit of the clients' files or court record. Having stolen the files, secreted the record, silenced me and concealed the true facts, Abelson was mistakenly named as a defendant. Later, Abelson sued Greene for malicious prosecution and forced a settlement in Abelson's favor. Dr. Geertz filed a California State Bar complaint regarding the secret settlement, theft and concealment of his attorney client files. The State Bar dismissed the complaint at "intake" because these opposing counsel did not owe a professional duty to Dr. Geertz. The opposing counsel were Quinn, Moxon, Drescher and Abelson. No action has been taken against Lewis.

The earlier Fishman-Geertz malicious prosecution case was defended by a battalion of scientology attorneys including Abelson, former L.A. County Bar President John ("Jack") Quinn (who was also involved in other aspects of this), Moxon and Gerald Feffer of Washington, DC's Williams & Connally. LA Superior Court Judge Alexander Williams, III, (an acquaintance of Feffer) dismissed the case on summary judgment. Shortly before all this chicanery, Moxon and Feffer had persuaded the IRS to suddenly reverse its twenty-year denial of IRS § 501 (c) (3) status and finally grant scientology tax-free status. The U.S. Supreme Court had just affirmed the IRS position. Hernandez v. Commissioner (1988) 490 U.S. 680. The surprise scientology visit to the commissioner personally, and the immediate and surprise IRS tax status change and billion dollar windfall to the church, was upon the express representation and condition that scientology did not and would not engage in such litigation and related conduct as I am now describing.

At the same time, very senior scientology officials were visiting a number of former scientology senior officials who had sworn expert witness testimony which was filed in Fishman-Geertz. Three of these former scientology officials have testified that they were subjected to great pressure, intimidation and bribes of over $200,000 to recant their testimony and to sign false declarations that I had suborned and created perjury for filing in Fishman-Geertz. The three former scientologists refused to join this blatant conspiracy being perpetrated by scientology and its lawyers. However, Abelson did have some brief success of his own. A former scientology covert intelligence operative had given a grueling 17 day deposition in Fishman-Geertz while being guarded by off-duty LAPD officers. Abelson flew the former scientology operative from Florida to Los Angeles and, after two days of persuasion, video taped

the witness and him reading and agreeing to a recant of the witnesses Fishman-Geertz deposition testimony. One month later, the witness thought better and testified as to what had just happened with Abelson.

Scientology then obtained federal court search and seizure orders and, accompanied by armed U.S. Marshals, raided the homes of a number of scientology critics. Their computers, records, books and papers were seized. Subsequently, several District Court judges opined that the scientology lawyers had misled them. The Washington Post was unsuccessfully sued for publishing part of the Fishman Declaration. Lewis refused the Washington Post's request for my active involvement in the litigation. Lewis also refused another defendant's request that I represent it even with the benefit of a one million-dollar insurance policy. The express reason was the Fishman-Geertz secret [no longer] settlement agreement between Lewis, his other client AIG and scientology.

I was professionally and personally outraged by all of these lawyer felonies, torts and ethical violations and I refused to be cowed in this manner. I resigned from the Lewis, D'Amato partnership and became a partner at Musick, Peeler & Garrett, a firm for which I have the utmost, enduring professional respect and personal gratitude. I was able to accept defense retentions in a number of other cases filed by scientology in connection with the alleged unlawful dissemination of its religious "trade secrets", picketing and other expressions of free speech. Scientology responded with Samuel D. Rosen, Esq., of the New York office of Paul, Hastings, Janofsky & Walker ("Paul, Hastings"). In despicable circumstances of which he had no personal knowledge, Rosen obtained the first ever monetary sanctions order against me, in

Denver, Colorado.

Moxon had also filed over 30 baseless and unsuccessful "cookie-cutter" lawsuits against the Cult Awareness Network ("CAN") in a successful effort to bankrupt CAN and take it over for scientology. It was the "Bowles & Moxon Plan 100." To complete the sinister program, Moxon had solicited the representation of a cult victim, Jason Scott, and filed Scott v. Ross in the State of Washington. The trial judge excluded all references to scientology's involvement and Moxon obtained a $4M judgment. Instead of compromising and settling the judgment for Scott, Moxon pursued his undisclosed client's, scientology's, agenda, refused any settlement, and drove CAN into bankruptcy. When Scott finally realized Moxon's multiple layers of undisclosed non-waivable conflicts of interest and Moxon's real loyalty and conflicting agenda, Scott fired Moxon and retained me. This provoked a storm of national media attention. Immediately, the Abelson, Moxon & Kobrin worldwide "investigation" of me became even more feverish. Ingram and their other "investigators" conducted even more "interviews" concerning me. Visits were made to Musick, Peeler & Garrett corporate clients, former Musick, Peeler attorneys and non-profit organization clients that were required to provide financial records to the Moxon and Abelson "investigators." Their "investigators" even spent days in the Musick, Peeler reception area, unsuccessfully insisting that they had packages and photographs of me, which had to be personally shown to and discussed with my senior partners.

Understandably, and obviously reluctantly, Musick, Peeler & Garrett gave me a choice. Either leave scientology-related litigation or leave the firm (in which instance they would and did provide me with very generous assistance and support). I believed that at least a few lawyers had

to remain available to provide representation against, what a number of European governments have labeled, scientology's "psycho-terrorism"; criminal fraud; human rights abuses; totalitarian agenda and litigation abuse. I had seen so many lawyers and law firms terrorized out of scientology related matters by despicable, illegal and unethical conduct perpetrated by highly paid major law firms. I had the specialist knowledge and experience to litigate against scientology. As importantly, I am a single and openly gay man. I did not have the vulnerabilities and terror pressure points of a spouse, significant other, children or their need for financial support.

Scientology's Internet shills were goading me to sue, if, in fact, the First Cipriano Declaration and related allegations were indeed false. Reluctantly, I chose to leave the firm, continue to represent the victims of the scientology/Moxon & Kobrin/Abelson litigation abuse and terror investigation enterprise. I decided to sue because of what I had just learned regarding the First Cipriano Declaration. I formed my own solo practice and then merged with three young lawyers to form Berry, Lewis, Scali & Stojkovic. I agreed to represent Palo Alto computer engineer Keith Henson in the statutory damages phase of a scientology "unpublished" copyright case. It was the first of ten lawsuits that scientology, Moxon & Kobrin, Abelson and/or Paul, Hastings, Janofsky & Walker filed, maintained or instigated against Mr. Henson. In referring to the earlier grant of summary judgment against the then pro per Henson, and the subsequent statutory damages of $75,000, a Wall Street Journal editorial opined that Northern District Court judge Ronald M. Whyte had turned copyright law "upside down". Rosen, Moxon & Kobrin and Eric Lieberman of New York's Rabinowitz, Standard, Krinsky & Leiberman unsuccessfully

sought sanctions of $900,000 against me, claiming that my three week solo court appearance had required scientology's use of 28 opposing lawyers from a number of different national law firms at a cost of over $2M.

Meanwhile, and while still at a partner at the Musick, Peeler law firm, I had learned for the first time of the whereabouts of the elusive Robert Cipriano and the identity of certain anonymous distributors of the highly defamatory First Cipriano Declaration. I prepared and filed a verified complaint. Later, there would be testimony and documents, much of it corroborated, that the following then occurred.

Moxon & Kobrin, through Ingram, had a plant in the Musick, Peeler law firm (later I would learn of at least two other scientology plants in my office and home). Moxon and Ingram obtained a draft of my Cipriano complaint from their plant within Musick, Peeler. Moxon and Ingram located Cipriano before he moved in a final but unsuccessful attempt to avoid service. Ingram met with Cipriano in Santa Barbara County and had him travel to Los Angeles to meet with Moxon at the Moxon & Kobrin law office. They showed Cipriano the stolen draft defamation complaint and told him they would provide free representation if I filed. When I did file, Cipriano wanted to immediately settle with me on the written terms I proposed. However, late on a Saturday night, Moxon and Ingram intervened. Moxon and Ingram raced to the home of Cipriano and his then girlfriend, unsuccessfully offered her benefits, successfully solicited the legal representation of Cipriano, and later promised him up to $750,000 in financial benefits if he co-operated to maintain the perjuries they had earlier extorted for the First Cipriano Declaration. Ingram, Moxon and Abelson knew of my long-time statements that when I finally

found and sued Cipriano they would also be defendants as well as being important material witnesses. However, Cipriano was the only "evidence" of truth/substantial truth that they had. Later, as Cipriano's lawyer, and without disclosure or waiver of the multiple and non-waivable conflicts of interest, Moxon would misrepresent to the Berry v. Cipriano court that the 40-60 alleged victims were "unlocatable" as they were "… all teenage hustlers who had all died of AIDS."

Because of the manner in which the then known facts emerged, I filed three different defamation law suits at three different times, all of which were deemed related and consolidated for all purposes ('collectively, "the Berry cases"). Scientology and Moxon assembled a formidable and very expensive army of national and international law firms to defend the consolidated Berry cases, alleging that the First Cipriano and related Declarations were defamatory and had caused me damage .The Scientology litigation juggernaut included: Paul, Hastings, Janofsky & Walker of Los Angeles and New York (Samuel D. Rosen, Barbara Reeves, Michael Turrill and Brad Pauley); Williams & Connelly of Washington, DC (Gerald Feffer); Zuckert, Scoutt & Rasenberger of Washington, DC (Monique Yingling); Wasserman, Comden & Casselman of Los Angeles (Gary Soter);Simke Chodos of Los Angeles (David Chodos and James Martin);William T. Drescher of Los Angeles; Elliot Abelson of Los Angeles and ,course, Moxon & Kobrin of Los Angeles. Rosen was billing at $490 p.h. "no discounts to anyone." The Berry cases were randomly assigned to LA Superior Court judge Hon. Ernest M. Hiroshige. He denied Cipriano's demurrer and C.C.P.§ 425.16 "SLAPP" motion. On behalf of Barton, Rosen and Reeves filed a C.C.P.§ 170.6 peremptory challenge. The case was reassigned and then

reassigned again to Hon. Alexander Williams III. Later, Cipriano testified that at the time Moxon informed him that Judge Hiroshige was "a lame judge" and Judge Williams was a "friend of scientology." Judge Williams most recent clerk had just been hired by the Paul, Hastings law firm and Judge Williams was socially acquainted with Ms. Reeves Appellate Justice husband. Rosen persuaded Judge Williams that there was still discovery priority in California, and that I should be precluded from taking any depositions until mine was concluded. Eight months and twelve deposition days later Moxon, Rosen and Reeves claimed my deposition in Berry v. Cipriano, et al. was still incomplete. Judge Williams denied my C.C.P. § 460.5(c) preferential defamation trial setting request (amazingly " because the law disfavors claims for defamation!!").

In addition, Judge Williams ordered that I could not assert any privacy objections, I had to "just sit there and take it", and that I had to concurrently, comprehensively and repeatedly respond to: over 2,000 form interrogatories; 289 special interrogatories; 121 Requests for Admission (each accompanied by 5 interrogatories, totaling an additional 605 interrogatories); 532 Requests for Authentication; 316 categories of document demands (responding documents to be carefully organized in accordance therewith). Judge Williams ordered this overwhelming discovery both during and after the twelve days of my uncompleted deposition. At the same time, Judge Williams refused me the opportunity to take any depositions of any defendant. However, he allowed Defendants to take the depositions of at least 12 other persons and noticed the depositions of over 30 others. Scientology and Lewis, D'Amato successfully obstructed the addition (Civ.Code § 1714.10) of Moxon and Abelson as defendants in the case by

unsuccessfully removing Berry v. Miscavige to Federal Court (speciously arguing it was related to Pattinson). A former scientologist and Paul, Hastings employee even testified about Paul, Hastings paying $300 for the back dating of certain court documents. Judge Williams was unmoved. During the travesty, Judge Williams commented that because he was a former federal criminal prosecutor the Paul, Hastings lawyers knew much more about the rules of civil procedure than he. One of the Berry v. Cipriano defendants, Mathilde Krim, Ph.D., entered into an early $75,000 settlement.

In November 1998, Christian J. Scali, one of my then two law partners, volunteered assurances he would never allow the scientology lawyers' blitzkrieg to drive him and my other partner, Stephen Lewis, out of the case and out of our fledgling law firm. In late November 1998, on the day of the expiration of the statute of limitations, Scali actually chose not to file a previously prepared summons and complaint against the LAPD. It arose from Moxon "investigator" Edwin Richardson, then LAPD scientology "chaplain", who had physically jumped and battered scientology critic Keith Henson and falsely arrested him. Proper pre-filing notice had been given. I was furious when I learned the facts several weeks later. Subsequently, Cipriano testified that at this time he observed Moxon directly communicating with Lewis and Scali regarding their subsequent announcement, made at the end of December 1998, that they were dissolving the firm and withdrawing from my legal representation with only four days' notice. The scientology lawyers had scheduled a blistering, daily schedule of depositions, discovery responses and motions for January 1999. I requested discovery extensions. Judge Williams acknowledged that ordinarily discovery extensions would be granted in these

circumstances. However, he denied my requests because I was, "… no ordinary attorney." His faint flattery damned me. Now standing alone, and with responsibilities to other clients in other matters, and overwhelmed by such discovery deception and duplication, I was unable to respond to the many hundreds of form interrogatories to the satisfaction of either Moxon or Judge Williams. On behalf of Berry v. Barton defendant scientologist Chait, Moxon successfully moved for terminating and monetary sanctions as a discovery sanction. Judge Williams invited every other defendant to immediately file similar motions. Barbara Reeves of Paul, Hastings then proceeded to try and schedule the deposition of Michael Hurtado whose involvement and perjury is explained below. Barbara Reeves represented that Hurtado would corroborate Cipriano's testimony. I knew that to be building perjury upon perjury, to bolster and buttress even more perjury. Consequently, I had no practical alternative but to make a strategic withdrawal from Judge Williams' courtroom. I immediately and voluntarily dismissed all defendants without prejudice. At least that preserved my ability to return to court at another time and under changed circumstances. Six months later I would learn that Judge Williams' fiancée actually worked for defendant Church of Scientology International. Concurrently, CSI also employed Moxon & Kobrin as well as all of the other scientology lawyers.

Concurrently, the District Court remanded Berry v. Miscavige back to the consolidated Berry cases that I was having dismissed as explained. Lewis, D'Amato entered into a $25,000 settlement in *Berry v. Miscavige*. Obviously, continuing to prosecute Berry v. Miscavige (and moving to add Moxon and Abelson as Civ.Code § 1714.10 defendants) was also not viable at that time. Consequently, over the course of several days in late February 1999, Barbara Reeves

successfully prevailed upon me to also voluntarily dismiss the *Berry v. Miscavige* case, without prejudice, as a pre-requisite to serious settlement discussions. I reluctantly agreed. No serious settlement discussions followed. However, Barbara Reeves obtained a $28,000 prevailing party costs order on behalf of scientology defendant Barton. As a leader of the unincorporated secretive scientology front Can Reform Group, he had participated in the publication and dissemination of the First Cipriano Declaration. Barton co-defendant, Shaw, executed a mutual general release. He agreed to testify at a future deposition. His counsel represented that scientologist Shaw's testimony would be that he merely maintained a certain Internet website as a transmission conduit for the other scientology defendants' website content, including the First Cipriano Declaration, which he did not control. Lieberman and Moxon immediately refiled their motion for Rule 11 sanctions in *Pattinson v. Miscavige* and Moxon promptly filed *Hurtado v. Berry* as explained below.

First, to return to the *Pattinson* cases. Pattinson was a former 25 year scientology adherent who had paid over $500,000 in "fixed donations", in order to receive the most advanced of scientology's "scientifically proven" religious "processing". The Federal and subsequent State Pattinson pleadings were carefully crafted and drafted within the facts, causes of action and opinions of the controlling California Supreme Court authority. Four of the fraud claims were specifically pleaded within the facts and decisions of other scientology cases decided against the church in California and upheld upon appeal. Thus, there were strong grounds for the application of collateral estoppel type principles. However, Moxon, Kobrin and Paquette immediately obstructed, delayed and diverted the Pattinson case. They solicited and filed a retaliatory lawsuit,

Reveillere v. Pattinson. Reveillere was a former friend of Pattinson's. Twelve years previously, in Paris, France, Revelliere loaned Pattinson some money, which was partially repaid. They had been out of touch with each other for five years. Scientology senior staffer Reveillere claimed that he had not known of Pattinson's whereabouts until Pattinson sued scientology. Revelliere, living in Copenhagen, Denmark, speciously claimed that after learning of Pattinson's whereabouts he then located Moxon, Kobrin and Paquette and retained them to immediately sue Pattinson. The retaliatory and obviously solicited *Revelliere v. Pattinson* lawsuit was an action on an unpaid note (to which there are few defenses). *Revelliere v. Pattinson* was filed in Orange County Superior Court, quickly proceeded through very abusive and collateral discovery and onto summary judgment. With the *Reveillere v. Pattinson* judgment in hand, Moxon proceeded to harass Pattinson regarding his ability to finance and obtain money for the litigation of the Pattison v. Scientology. In addition, Moxon & Kobrin unleashed their "chief investigator" Ingram to conduct the usual defamatory and "haunting" "investigation" of Pattinson pursuant to the scientology Fair Game Policies and Practices.

Meanwhile, Rosen and Lieberman from New York appeared in the Central District Pattinson case along with Barbara Reeves, Moxon & Kobrin and other scientology counsel. Again, Rosen and Reeves successfully claimed discovery priority, engaged in an never-ending deposition of Pattinson, and obstructed any discovery by the plaintiff, Pattinson. For the next nine months they engaged in incessant pleading battles, no answers were ever filed and the pleadings were never even "joined". After voluntary dismissal of the Berry cases, and arguing that the dismissals were indicative of bad faith litigation by me, Moxon and Leiberman

successfully filed a Rule 11 sanctions motion against me in *Pattinson v. Miscavige* ("Pattinson 1"). Significantly in the context of the State Bars allegation that the entire Pattinson litigation against scientology was frivolous, baseless and "unjust", the Moxon Rule 11 and section 1927 order was expressly limited to only one defendant in *Pattinson I* [Moxon] and the allegations [contained in one single paragraph] asserted against him. In essence, that contrary to the church's express and material 1991-1993 [mis] representations to the I.R.S. as to its new and reformed character and conduct, scientology was still engaging in criminal activity, and it was doing so through stipulated, unindicted co-conspirator Moxon. Some of Moxon's judicially recognized and stipulated criminal activity is set forth above in cases such as *U.S. v. Hubbard*, (1979) 474 F.Supp.64, where Moxon was stipulated by scientology as an unindicted co-conspirator in the 264 page Department of Justice - Scientology Stipulation Of Evidence. See generally: *United States v. Kattar* (1st Cir.1988) 840 F2d 118,125,126.

It is also clear and convincing, from the subsequent Cipriano confession and testimony summarized below, that at the very same time as Moxon was inside the Federal Court obtaining Rule 11 sanctions against me for an ["frivolous"] allegation that Moxon was involved in criminal conduct on behalf of the Church of Scientology, Moxon was outside the same courtroom concurrently engaged in major felony crime with Abelson, Ingram and Wager. In other words, at the very same time as swearing to the Federal Court in the *Pattinson I* case that he was not engaged in criminal conduct and successfully obtaining Rule 11 sanctions against me, Moxon was concurrently committing serious felony crimes against me, as plaintiff Pattinson's lawyer, together with Wager, Abelson, Ingram, Cipriano, Apodaca and Hurtado. In addition, Moxon

obtained the Rule 11 and section 1927 $28,000 costs order against me with an express finding that it was reasonable for him to incur the expense of retaining New York counsel Lieberman to defend him in Los Angeles against such a "frivolous" and "vexatious" allegation. Moxon then used this finding as principal support in obtaining Judge Williams' "vexatious litigant" order against me.

The month before Judge Snyder granted the Moxon Rule 11 motion, after constant carping by the scientology attorneys, the Pattinson I case was voluntarily dismissed in Federal court and simultaneously refiled in State court without any federal question causes of action (RICO, etc.). Church of Spiritual Technology ("CST") was one of the Pattinson II case defendants. CST is a little known scientology corporation operating from a Post Office Box. On the basis of my knowledge, experience, investigation and research into Church of Scientology matters, I honestly believed CST to be a necessary and proper party for both liability and judgment collection purposes, alter ego purposes, and for numerous matters relevant to the two Pattinson cases. I was one of the relative few who knew that CST was the very apex of the scientology corporate pyramid and that it was the ultimate owner of all of the most valuable scientology property, the scientology intellectual property registrations. CST's ownership is vested in four very low profile individuals: Sherman D. Lenske, Esq., of Woodland Hills, CA; former IRS Assistant Commissioner Meade Emory, Esq., of Lane, Powell, Spears, Lubersky LLP of Seattle, WA; Leon C. Misterek, Esq., of Kirdland, WA; and scientology central reserves money man Lyman D. Spurlock. He is an accountant and the only scientologist among the four who it appears may be the actual owners of the Church of Scientology. Indeed, the scientology

organizational hierarchy is examined in detail in *Church of Spiritual Technology v. United States* (1992) 26 Cl.Ct. 713,730-732, and the various Church of Scientology cases cited therein.

CST filed a spurious but successful C.C.P.§ 425.16 "SLAPP" motion in the State Court *Pattinson II* case. CST had retained expensive Washington, D.C., tax counsel (Monique Yingling, Esq.) and several expensive New York counsel (Paul, Hastings' Samuel D. Rosen and veteran scientology attorney Lieberman) to appear with Kendrick L. Moxon, Esq., on the motion. The "SLAPP" motion relied heavily and expressly upon the August 20, 1999, vexatious litigant order of Judge Williams in the *Berry* consolidated cases and Judge Snyder's July 16, 1999, ruling in the Federal Court Pattinson case. Under C.C.P.§ 425.16(c) a "… prevailing party… shall be entitled to recover his or her attorney's fees and costs." On November 16, 1999, attorneys' fees and costs were awarded against my client, Pattinson, and me in the amount of $12,500.

One year earlier in late 1998, in the *Berry v. Cipriano* consolidated cases, Judge Williams had ordered me and my prior law firms to produce all malpractice policies extending back a number of years. Interestingly, I was the plaintiff. There were no cross-complaints to merit such an unusual order in those circumstances. On November 25, 1998, approximately day 12 of my deposition, and stripped of any "privacy objections", Moxon and Rosen questioned me about my prior sexual relationship with subsequent pro bono client, 24 year old Michael Hurtado. They demanded his address. At the time, I was Hurtado's counsel of record in an active pending criminal indictment in Santa Monica Court. Moxon, Abelson and Ingram started interviews of Hurtado's extended family based on information found in the Santa Monica court

files. Less than one month later, in December 1998, Abelson told Wager about Hurtado who had not met with any of the scientology attorneys or investigators at that time. Wager immediately opened his Hurtado client file and began billing, even though he had never met Hurtado. Wager then spoke with Ingram about Hurtado at least three times. Wager understood Ingram was working for scientology because Ingram told him he was working for Moxon at the time. Moxon, acting as scientology's counsel, also contacted Wager regarding Hurtado. Indeed, Wager had at least six Hurtado related conversations with Moxon before he ever met Hurtado. In mid-January 1999, Ingram first appeared at the Hurtado's home, once again unannounced and uninvited. Ana and Vanessa Hurtado have testified that Ingram told them that I was a child molester. Ingram said he was investigating me from New York and "had been investigating me for a long, long time." Ingram suggested to the Hurtados that I had taken "advantage" of the clearly adult Michael.

When Ingram showed them the videotape of my November 25, 1998, deposition testimony regarding my sexual relationship with Michael Hurtado, Mrs. Hurtado did not want to see it, or look at it, and she refused to keep it, saying, "Forget it. Take it." The entire Hurtado family had long believed that homosexual conduct was inappropriate. Yet, Ingram showed them the First Cipriano declaration, multiple other documents, and even told them that I liked to be defecated upon. Ingram wanted the Hurtados "… to see a lawyer because of this matter," and suggested that there was a possibility that there could be a civil suit against me. Within a very few days, Ingram took Ana, Miguel and Vanessa Hurtado and a Cuban writer friend of theirs to see then L.A. County Criminal Courts Bar Association President Wager at Wager's office. There

they were also introduced to scientology in-house lawyer Moxon. Both Ana and Vanessa Hurtado thought the purpose of the meeting was to find a lawyer who would represent Michael in a sexual molestation lawsuit against me. Neither of them knew about the then pending drug paraphernalia charges against Michael on which I was then his counsel of record and which became the basis of a specious claim that I had engaged in legal malpractice. Surprisingly, no one in the Hurtado family discussed my relationship with Hurtado at any time before they attended the meeting with Wager and Moxon, and agreed to participate in the lawsuit being planned for filing against me. Instead, Vanessa, Ana and Miguel Hurtado, without Michael Hurtado's knowledge, met with Wager and Moxon and agreed that the unconsulted adult son, Michael, would file the *Hurtado v. Berry* lawsuit against me. After the meeting, the elder Mr. Hurtado told Michael that Wager would now be replacing me and representing Michael in the criminal matter. Interestingly, at this time, Wager was about to be honored by the L.A. County Criminal Courts Bar Association for his "significant contributions to the criminal justice system." The Hurtados went along with whatever the lawyers, Wager and Moxon, and investigator Ingram told them to do. The Hurtados even went so far as to allow Ingram to tap their phone to entrap me. I had similarly found Abelson and scientology on my telephone line on December 11, 1996. In fact, Michael Hurtado did not agree with Wager and Moxon to sue me because of what was allegedly done to him. Instead, he testified he had sued for money and because of the contents of the perjured First Cipriano Declaration, which Moxon showed him and discussed with him. Accordingly, Moxon was using perjury he had been instrumental in extorting to procure yet more perjury with which to intentionally obstruct justice in *Berry v.*

Cipriano, Barton, Miscavige (and Ingram) [Moxon, Abelson].

Wager did not meet with Michael Hurtado until January 22, 1999, after Wager had met with Abelson, Ingram, Moxon and the Hurtado family. Michael Hurtado has testified that he was told by Ingram that Moxon was "an attorney watching Berry for a long time because Berry is a bad person." Moxon had "been trying bury the guy [Berry]" for his wrongdoings [against the church?] for a long time. Wager and Hurtado did not sign a retainer agreement until January 27, 1999. Wager immediately filed a pack of perjury upon the Los Angeles (Santa Monica) County Courthouse files. Amazingly, Wager had the guile and chutzpah to represent to Presiding Judge Haber that, " . . . it is obvious from the declaration of Michael Hurtado and Donald R. Wager that the representation by Mr. Berry was unlawfully procured." Motion To Set Aside Defendant's Plea of No Contest And To Reinstate Plea of Not Guilty, etc., dated February 9, 1999, p.4: 1-3. *People v. Hurtado*, LAMC Case No. 8SM04976. At the same time, the Paul, Hastings law firm took the Hurtado statements and, through Barbara Reeves, tried to take my deposition in the still pending *Berry v. Cipriano/Barton/Miscavige* case for the obvious purpose of using Hurtado's perjury that he had personally witnessed me engage in acts of pedophilia with several teenagers simultaneously and that he was sexually a virgin with men before meeting me. I provided rebuttal material to Barbara Reeves but she was adamant that Hurtado was relevant, honest, credible and very convincing. However, before the Paul, Hastings firm could actually proceed with the Hurtado deposition, I was forced to dismiss the *Berry v. Cipriano* cases in the circumstances described above.

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On April 5, 1999, Moxon & Kobrin filed a Los Angeles County Superior Court lawsuit, *Hurtado v. Berry*, asserting causes of action for legal malpractice and sexual battery and seeking damages in excess of my available insurance coverage. An hour after filing *Hurtado v. Berry*, Moxon himself personally served me inside U.S. District Court Judge Snyder's courtroom. He did so as I took to my feet to unsuccessfully argue against his Rule 11 and section 1927 sanctions motion in the *Pattinson I* case. Subsequently, Wager substituted into the *Hurtado v. Berry* case as one of the counsel of record. After Moxon & Kobrin filed the *Hurtado v. Berry* State Court case, Wager went to the West Hollywood Sheriffs with Abelson and Moxon's "chief investigator," Ingram. For a period of weeks, they unsuccessfully pressured the Sheriffs Department (and a Deputy District Attorney) to criminally prosecute me on the basis of the Hurtado perjury that they had suborned. Then they promptly, but unsuccessfully, made a one million dollar malpractice policy limits demand upon my insurance carrier. This was followed by successively lower demands culminating in a $15,000 demand on November 28, 2000.

Although then L.A. County Courts Criminal Bar Association President Wager had never met or represented Anthony Apodaca, on April 13, 1999, he visited this transvestite drug addicted streetwalker, Anthony Apodaca, in jail and left between $100 and $300 for him. Moxon reimbursed Wager. Apodaca was not a witness to anything relating to the Hurtado drug paraphernalia case. In fact, on April 13, 1999, " . . .there was a real question in [Apodaca's] mind as to who Berry was." However, on April 22, 1999, Ingram, Moxon and Wager met with Apodaca and he was videotaped. Apodaca may also have been given money on April 22, 1999. Apodaca was now able to identify me as a man he had been with four to five years earlier. In the

videotape, Apodaca said that while he was under age, he engaged in sadomasochistic activities with me. On April 26, 1999, Moxon noticed Apodaca's deposition in the *Hurtado v. Berry* State Court action. However, at his deposition on May 3, 2000, Hurtado was also cross-examined by my attorney Edith Matthai, current President of the Association of Southern California Defense Counsel. On cross-examination, Apodaca testified he was high at the time of the videotaping, had no recollection of it and he could not even recognize me. Apodaca said he was pressured [by Moxon and Ingram] into giving his videotaped statement. According to Apodaca, a lawyer [Wager] came to County Jail and gave him $200. He was given the money, McDonald's food certificates and clothing to testify against me. He refused. According to Apodaca, "All this stuff about this plaintiff [Wager] trying to bribe me to testifying -- okay? -- I don't go for that."

At the same time Wager was visiting Apodaca, the investigation by the California State Bar proceeding was being commenced against me, arising out of then former Los Angeles County Criminal Courts Bar Association President Wager's and Hurtado's allegations and perjury to Judge Haber in the Santa Monica Court. Commencing with their jointly signed correspondence to the California Sate Bar dated July 12, 1999, Wager and Gerner wrote numerous other jointly signed letters urging immediate summary disbarment on the basis of the Hurtado perjury, and the Cipriano, Pattinson, and other charges the State Bar filed herein earlier this year. They even met with Supreme Court Justice Liu and urged my immediate discipline on the basis of the Hurtado, Cipriano and other allegations against me. At the very least, former Bar Association President Wager had direct personal knowledge that he was willfully making a very serious and false State Bar complaint using perjury he had participated in procuring. Moxon & Kobrin even prepared for deposition, and then deposed, my former partner and counsel J.

Stephen Lewis in *Hurtado v. Berry*. Lewis testified to Ava Paquette, Esq., that it was legal malpractice to recommend that Hurtado plea to a drug diversion program instead of making a motion to suppress statements and evidence obtained by three arresting police officers. However, upon cross-examination by Edith Matthai, Esq., J. Stephen Lewis conceded that in similar circumstances he had made the same recommendations to a client named John. Ironically, John was later deposed in *Hurtado v. Berry*. John impeached part of Hurtado's verified complaint. Contrary to the claim that he was a virgin with men, John testified that he and Hurtado, working as male prostitutes, had engaged in a gay three way. Then they had spent the night having sex themselves. Two employees of a well-known establishment specializing in male hustlers testified that Hurtado "worked" out of their bar-restaurant. However, none of this evidence caused Wager, Byrnes, and/or Moxon & Kobrin to file an amended verified complaint in *Hurtado v. Berry*.

At the same time Wager, Moxon, Abelson and Ingram were tampering with Cipriano, Hurtado and Apodaca, Moxon was commencing proceedings that would effectively terminate my career as an attorney. In May 1999, then Los Angeles Police Commission Chairman Gerald Chaleff of Orrick, Herrington & Sutcliffe; Samuel D. Rosen and Michael Turrill of Paul, Hastings, Janofsky & Walker; Gary Soter of Wasserman, Comden & Casselman; and David Chodos of Simke Chodos filed a Petition to Find [me] a Vexatious Litigant upon the grounds of Judge Snyder's Rule 11 and section 1927 order in the Pattinson I case, and the dismissals of the *Berry v. Cipriano, Barton, Miscavige* (Ingram, Moxon, Abelson) cases.

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The scientology vexatious litigant petition was filed before Judge Williams in the previously dismissed *Berry v. Cipriano* case. [I would not discover the above matters regarding the Hurtado and Apodaca solicitations, perjuries and obstructions of justice for another 18 months!] However, after the Vexatious Litigant Petition was filed and opposed, but before the hearing on August 20, 1999, former Moxon client Cipriano contacted me. He confessed to the fabrication and defamation of the First Cipriano Declaration and a mountain of associated attorney felony crime, fraud and obstruction. Much of it was corroborated by incriminating documents bearing Moxon's own signature and handwriting. There were cancelled checks, original signatures, handwritten notes and even the computer hard drive. Since then they have been in a bank safe deposit vault. For the sake of clarity we must now briefly leave the vexatious litigant petition and fast-forward one year.

Cipriano's deposition had been finally court ordered in *Hurtado v. Berry*. Moxon repeatedly attempted to stop the Cipriano deposition in Hurtado by threatening a protective order suspending the deposition on June 12, 2000, and attempting to again suspend the deposition on August 7, 2000. Then Hurtado and his Moxon & Kobrin attorneys repeatedly attempted to stop the deposition of their former client and "seal" Cipriano's testimony. In his deposition, Cipriano recanted all of the damaging statements contained in the First Cipriano Declaration. Cipriano testified he wanted "the truth to come out".

Cipriano also testified that his former lawyer Moxon provided him (and his soon to be former girlfriend) with a variety of free legal services. Moxon paid Wasserman, Comden & Casselman to represent Cipriano in *Berry v. Cipriano* in exchange for his "cooperation" in

litigation against me. Moxon and scientology's paying Cipriano for his continuing perjury in the amount of $750,000 was "not a problem" according to Cipriano. Moxon provided Cipriano with an automobile in exchange for not saying anything about the perjury extorted in the First Cipriano Declaration. Moxon paid for Cipriano's condominium and leased a four-bedroom house for Cipriano in Palm Springs (to keep him far away from me). Moxon paid off a large judgment against Cipriano in New Jersey and paid Cipriano's legal fees for handling that matter. Moxon implied to Cipriano that scientologist John Travolta had provided the necessary money. Moxon also gave Cipriano an allowance for living expenses for his "cooperation" in Berry v. Cipriano. Moxon even purchased a computer for Cipriano. Moxon funded Cipriano's "non-profit" Day of the Child corporation, and performed or paid for all the legal work, related fees and most of the other expenses of the business. In fact, Cipriano testified under his former counsel Moxon's withering cross-examination, "You were providing the funds to run a company so I would testify on your side." In December 1999, Moxon visited Cipriano and negotiated an $800 payment to sign a settlement, a release and waiver from any potential malpractice, breach of fiduciary duty or other wrong, and a declaration, which Cipriano now contends is inaccurate and was signed in the shadow of more intimidation. The following testimony was elicited from Cipriano, by his former lawyer Moxon on brutal cross-examination:

> "Q: Did you make any representation to anyone when -- that you signed this declaration, it was inaccurate?
>
> A: That it was inaccurate . . . let me ask a question. If it was accurate, then why was I being paid $800.00?
>
> Q: Would you answer my question?

A: It was understood. You don't pay people to write affidavits unless you're doing something. . . . I didn't have intent one way or the other. You presented two documents to me, a settlement agreement and an affidavit, offered me $500 out of nowhere. I did not solicit it. That number settled at $800. I signed in return for the $800."

Again, under Moxon's withering and abusive cross-examination, Cipriano testified:

"Well, you kept providing money. And based on the fact that our whole relationship started with your agent, Mr. Ingram, threatening and intimidating me to give the false declaration in 1994. It was just a continuation of all that, Sir."

Under further cross-examination, Cipriano told Moxon:

"That is what you wanted to hear. That is what you coached me to do. That is what I was threatened and intimidated to do. And that's what I was paid to do."

Cipriano described the procedure Moxon used in preparing declarations in Berry v. Cipriano:

"Every declaration that you prepared for me to sign was what you wanted to hear, and what you wanted written, and what you wanted to file in court, and what you wanted for everything. . . . I signed what you prepared with the commencement of the threat and intimidation and the payments thereafter. Almost every time you gave me something to sign, you look at the same date or day after and there is a payment of some sort."

Cipriano's claims that he was paid by Moxon, and that he received multiple items and services of value from Moxon, are well documented. Put simply, why else would Cipriano make false statements about me? Cipriano was paid for perjury. Cipriano also testified that Moxon and Ingram told him that they had located a person named Hurtado who purportedly "… had exchanged sexual favors for legal services by Mr. Berry." Ingram told Cipriano that the information regarding Hurtado would be used to file a State Bar complaint against me and was to be include in leaflets to be left on cars around my neighborhood. In fact, a false State Bar complaint was filed against me. The current proceeding originated as part of that false Hurtado State Bar complaint pursued by Wager and Gerner as lawyers for scientology. Leaflets have been left in my neighborhood falsely identifying me as a child molester.

One year earlier, I had submitted Cipriano's similar Declaration testimony to Judge Williams, accompanied by fifty corroborating exhibits. The August 9, 1999, Cipriano Declaration detailed a pattern and practice of criminal conduct that includes, but is not limited to, harassment, coercion, bribery, intimidation, solicitation, witness tampering, subornation of perjury, perjury, mail fraud, wire fraud, stalking and other criminal violations in connection with the Berry v. Cipriano cases. Judge Williams confirmed on the record that he had read the recanting Cipriano testimony describing all of the felonies and attaching the fifty corroborating documents. Judge Williams ruled that it was all "irrelevant" to the Church of Scientology International Petition to Find [me] A Vexatious Litigant for having filed and maintained the consolidated Berry v. Cipriano cases and the Pattinson I case. Judge Williams even refused to allow Cipriano to address the court, despite Cipriano's having filed a written opposition to the Petition of his own former attorneys in

the *Berry v. Cipriano* litigation. Moxon had, and still does, refuse to return Cipriano's files. Cipriano filed a motion requesting Judge Williams to order their immediate return. The Judge refused to do so. Judge Williams also refused to hear and consider a joint motion by both Cipriano and me for a CCP§ 877.6 "good faith" settlement determination. We had signed and filed the motion papers.

Earlier, a hearing transcript alteration had emerged. Six months into the Berry v. Cipriano case, Judge Williams suddenly remembered that his fiancée worked as an independent contractor for a scientology related company (Bridge Publications), which was not one of the involved parties or entities. It was not objected to. However, just before the vexatious litigant petition was heard and determined against me, Moxon filed a portion of an earlier hearing transcript. It contained a surprising statement that the scientology corporation for which Judge Williams' fiancée worked was not Bridge Publications, but the Church of Scientology International ("CSI"). CSI was the actual moving party on the pending vexatious litigant petition. CSI had retained Police Commission Chairman Chaleff and Orrick, Herrington & Sutcliffe to file the vexatious litigant petition against me. CSI also regularly retained the other moving counsel Paul, Hastings, Janofsky & Walker; Wasserman, Comden & Casselman; and Simke Chodos. CSI was Moxon & Kobrin's actual employer and client. CSI had been one of the defendants in the Berry v. Cipriano consolidated cases. For a number of reasons, the grounds for disqualification had never been timely, properly or even accurately disclosed by Judge Williams, and therefore had never been waived. Even if they been fully disclosed and waived in the Berry v. Cipriano case, the vexatious litigant proceeding was a new action reviving the C.C.P.§ 170.6 peremptory challenge to the judge.

In fact, Judge Williams refused to "hear" Cipriano. Moreover, it was a non-waivable ground for disqualification. On August 19, 1999, and pursuant to CCP §§ 170.1 and 170.3, Cipriano and I filed our Verified Statements of Disqualification .The very next day, Judge Williams struck the Verified Statement pursuant to CCP § 170.4(b) but also concurrently filed his Verified Answer to the Statement of Disqualification pursuant to CCP § 170.3(c)(3). Judge Williams then granted CSI's pending vexatious litigant petition. In concluding the vexatious litigant proceeding, Judge Williams stated:

> "I happen to be re-elected and I'm in my final term. I can retire in this term, but more importantly, as a judge I was brought up [sic] you could be run out of office doing the right thing, and you can stay in office doing the wrong thing. So I am, as god is my witness, I am like a federal court in a state court."

The Court of Appeals summarily rejected my Petition for Mandate in connection with Judge Williams' refusal to recuse himself and his refusal to follow the mandatory procedure upon the filing of a motion for disqualification. My subsequent appeal to the Second District Court of Appeals was similarly and summarily dismissed. At the time I was unable to proceed further. I did not even have the funds to pay for the photocopying of the writ of mandate I had previously and unsuccessfully filed.

Moxon, Kobrin & Paquette then proceeded against me in bankruptcy court. Moxon appeared there on behalf of himself, Church of Scientology International, Barton, Revelliere (who had no claim at all) and Chait. He filed the adversary proceedings Moxon v. Berry; Barton v. Berry and obtained a ruling that Judge Snyder's Pattinson I sanctions to Church of

Scientology International and him were non-dischargeable despite the alleged fraud upon the courts. I moved to vacate the Moxon $28,000 sanctions order against me in Pattinson I under F. R. Civ. P. Rule 60(b) (1), (3) and (6). Very little attention was given to the Rule 60(b)(1) argument. The majority of the motion and all of the evidence was addressed to the "fraud upon the court" arguments in connection with Rule 60(b)(3) and (6). Surprisingly, Judge Snyder quoted the language of Judge Williams' vexatious litigant ruling. She denied my motion as being improper under Rule 60(b)(1). Judge Snyder totally ignored the majority of my motion and evidence under Rule 60(b)(3) and (6).

By now it was now late in the summer of 1999.Wager had just been an "honored" for his "significant contributions to the criminal justice system". Chaleff, Rosen, Chodos, Soter and Moxon had effectively "caused [my] successful demise." I was devastated, destroyed, obviously having an emotional breakdown and under treatment for severe depression. However, the scientology litigation blitzkrieg continued. I had not been "utterly destroyed" yet. I had ghost written a complaint for a pro per litigant in Jeavons v. CSI. In this case, scientology had retaliated against a helicopter media fly-over of its desert base, described as a "gulag" by former scientologists. CSI had made material misrepresentations to the FAA in support of a complaint seeking suspension of the helicopter pilot's license. I was too busy in the Berry and Pattinson cases to represent Jeavons. But I ghost wrote his complaint, sheparded it through the filing process and had it served. I had indicated I might later enter an appearance in the case. Moxon filed a CCP§ 425.16 "SLAPP" motion. He successfully argued that the SLAPP statute and the Civ.Code § 47(b) litigation privilege protected CSI's FAA complaint about Jeavons, no matter

how false the evidence or how foul CSI's motives might have been. Because I had drafted the complaint and might appear as counsel he argued that both Jeavons and I should be subject to the automatic cost shifting provision of the statute. The judge said it was a very difficult call, but agreed on balance.

Regrettably, my life had now fallen apart under the scientology strafing of the legal system. My performance in other cases had become predictably abysmal. There was a motion to sanction me for a discovery default in a case with no connection whatsoever with scientology or any of its counsel (Anders v. Northwestern Life). Despite that, Moxon filed a motion in support of the sanctions motion. Moxon detailed and urged reliance upon the orders issued by Judges Snyder, Williams and Minning. In another unrelated case (Kaleel v. Nardi), I did not have the personal resources to oppose a motion that I had a conflict of interest with opposing litigation parties who I had never represented. The underlying case ("Nardi v. Kaleel") had been tried a year before. Once again, neither scientology nor any of its counsel had any conceivable connection with the Kaleel case. It was a six-week jury trial in LA Superior Court. Inexplicably, Moxon was often in the courtroom, positioned so I could see him smirking at me. There seemed never a moment when a scientology representative was not present in the courtroom and hallway. Very quickly, the scientology representatives befriended opposing counsel, Bradley Brook, Esq. Subsequently, the trial judge questioned the jury as to whether any jury tampering or other improper scientology contact was occurring. Even the trial judge expressed his surprise at the jury's decision, totally and illogically, against Kaleel.

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It is noteworthy that scientologist financier and Earthlink founder Reed Slatkin recently came under federal investigation for running a $650 million "ponzi" scheme. The largest ever known "ponzi" and international investment fraud scheme in U.S. history. Also representing scientologist Slatkin is attorney Bradley Brook, who met Moxon during the Kaleel trial. Additionally and not likely coincidently, Bradley Brook has been sharing the same office suite as State Bar complainants Gerner and Wager.

Overwhelmed by Moxon, Abelson and scientology attack from every point of the compass, and nearly immobilized by depression as well as emotionally devastated by the perceived failures and corruption of the legal system, I withdrew from active legal practice. However, Wager, Gerner, Moxon, Kobrin and Paquette did not withdraw from active "fair game" harassment of me. Moxon, Kobrin and Paquette pursued me relentlessly in bankruptcy court with frequent motions, regular deposition/examination and at an expense obviously exceeding their claims by many multiples despite its being a no asset bankruptcy. They even pro hac viced Paul, Hastings's New York office lawyer Rosen in the Moxon v. Berry adversary case in Los Angeles Bankruptcy Court. Concurrently, they actively prevented me from selling my real estate to pay them, as explained below. Meanwhile, Gerner and Wager were regularly telephoning the California State Bar and regularly signing joint letters demanding that I be summarily suspended and disbarred in connection with their complaints that it was I who had committed wrongdoing in connection with Hurtado, Cipriano, Barton, Moxon, Pattinson and Kaleel.Wager cannot have missed the paradox that at the same time as he was being honored for his "significant contributions to the criminal justice system" he was committing some of the most

serious crimes and ethical breaches while engaging in a seven year long interstate and international conspiracy to corrupt justice and deny constitutional rights, civil rights and human rights to me, then a fellow Los Angeles lawyer. There was a reason Wager co-signed each of the Gerner letters urging immediate California Sate Bar disciplinary action, at the behest of their joint client the Church of Scientology International.

After an eighteen-month investigation, the State Bar dismissed the Hurtado portion of the joint Wager and Gerner complaint against me .The very same month, Wager testified in Hurtado v. Berry, before a retired superior court judge, that he had unlawfully solicited the representation of Hurtado (away from me) and had engaged in witness tampering in connection with both Hurtado and Apodaca. Consequently, Retired Judge Stephen Lachs, acting as discovery referee in Hurtado v. Berry, ruled that there was no attorney client privilege protection as to any of the communications between current L.A. County Criminal Bar Association President Wager, Hurtado, Moxon, Kobrin, Paquette, Abelson, Byrnes and CSI. Cipriano had already waived his attorney-client privilege. Judge Lachs ruled that, pursuant to Evidence Code § 956, the services of the lawyers (including Wager) had been sought or obtained to enable the commission of a crime or fraud. Further insurance proceeds settlement demands by Byrnes, Moxon and Abelson (and obviously based upon the felonies and perjury they had engaged in with Hurtado) were rejected by my insurance carrier and my counsel, Edith Matthai, Esq., current President of the Association of Southern California Defense Counsel. Moxon and Byrnes filed a voluntary dismissal of the verified complaint in Hurtado v. Berry in State Court. However, Wager (despite his confession under oath) and Gerner continued to jointly press the State Bar to discipline me. Within thirty days, the State Bar obliged then former L.A.County Criminal Courts Bar Association President Wager. It initiated the current proceedings, dropping only the Hurtado

portion from the demands of the voluminous joint Wager and Gerner correspondence. Amazingly, Moxon, Kobrin and Paquette maintained the perjured Hurtado v. Berry upon the federal court record. Six months later, the federal court ordered Moxon, Kobrin and Paquette to file a motion to dismiss there too. At my request it was ordered "with prejudice" on July 10, 2001.

Wager and Gerner's two years of constant joint pressure, commencing with the obviously baseless Hurtado v. Berry complaint, premised upon Wager's own unlawful solicitation and subornation of perjury, at the same time as he was President of L.A.County Criminal Court's Bar Association, is the genesis of this stipulated California State Bar settlement. Incredibly, the California State Bar refuses to take any action against Abelson, Wager, Moxon or any of the other attorneys who participated in the litany of serious criminal and unethical conduct described above. This year alone, on three different occasions to three different people, State Bar representatives (including the Chief Trial Counsel's own Special Assistant) have written stating there is insufficient evidence of any wrongdoing by the Moxon & Kobrin attorneys. On the contrary, the evidence is clear and convincing. There is the deposition testimony of least ten different witnesses; many corroborating each other. There is the declaration testimony of another half dozen witnesses; again, some of it corroborated by other witnesses. And there are over sixty different documents, many in Moxon's handwriting or bearing his signature. In addition, the contents of the First Cipriano Declaration are still being distributed and published around the world. Similarly, it is clear that for seven years scientology has been engaged in a concerted effort to prosecute me in the civil and criminal courts. Despite my alleged blatantly illegal

Conduct on both coasts, Abelson, Moxon, Kobrin and Paquette, and Moxon's investigator, Eugene Ingram, have come up with only three witnesses to my alleged pedophilia: (1) Robert Cipriano, who has testified he was paid by Moxon to give false testimony (2) Anthony Apodaca who testified he too was paid and pressured [by Wager} to give false testimony; and (3) Michael Hurtado who was solicited by Wager and signed a verified complaint claiming $8 million in damages and who has received substantial and valuable legal and investigative services in his several criminal cases in connection with his prosecution of the Hurtado v. Berry action he dismissed upon the eve of trial.

Hurtado has not fared well since allowing Moxon and Wager to solicit his representation away from me. Ingram, Abelson and the Moxon & Kobrin law firm had kept Hurtado under close supervision during the Hurtado v. Berry case. Despite that, Hurtado was arrested and then arrested again and again. Hurtado is now serving five years in County jail for what might have been a murder. Hurtado (whose mother testified that he brought a transvestite home to dinner insisting that the transvestite was actually a woman) began dating a young woman with a transvestite roommate. She quickly broke up with Hurtado. He retaliated. While the young lady was at work, Hurtado gained unlawful entry to her apartment. He took a large knife and bottle of liquor into her bedroom closet and awaited her return. Eventually the ex-girlfriend did return. She opened her closet door and there was Hurtado passed out with an empty bottle of booze and a butcher's knife. She called the L.A.P.D. who responded, dragged the drunken and stupefied Hurtado out of the closet and off to L.A. County jail where he claimed to be gay, but failed an alleged L.A. County Jail "gay test." He entered the general prison population where he remains.

His attorneys Moxon, Kobrin, Paquette, Wager and Byrnes, and co-counsel Abelson, Drescher, Rosen, Chaleff, Soter, etc. remain in practice with the California State Bar's express seal of approval. Like Moxon & Kobrin, Abelson has also spent years "investigating" me. By way of example, on September 13, 2000, Abelson wrote to an attorney friend of mine in New Zealand:

> "I am writing to you in connection with an investigation I am conducting into Graham E. Berry. The purpose of my investigation is to uncover unethical or illegal conduct committed by Mr. Berry. I understand you may be of help in my investigation. Specifically, I would appreciate any information you can provide concerning Mr. Berry's motives for embarking upon a course of action which would seem, to any objective observer, to be contrary to his own best interests, and a blatant attack on an international religion."

Abelson sent a copy of his letter and enclosures to many other people, numerous Bar Associations and my 75 year old parents for whom the publication of the First Cipriano Declaration and the subsequent saga have been a terrifying event. Indeed, consistent with the objectives of the scientology Fair Game Policies and Practices, I have now been "utterly destroyed." Tellingly, in successfully urging Judge Snyder not to consider my Rule 60 (b) (3) and (6) motion, Lieberman wrote: "Like Lazarus, Berry has risen from the dead." Even more tellingly, Moxon, Wager, Abelson and the rest of the scientology lawyers engaged in this saga, have never denied (under oath or otherwise) an iota of the misconduct described above.

Among the matters in mitigation of what I have pleaded to in this proceeding, are the following factors:

First, I have no prior disciplinary record. I have practiced law for over 28 years and have never been disciplined before. In addition to being admitted to legal practice in California, I am also admitted to practice in New York; New South Wales, Australia; New Zealand and as an "overseas" lawyer in London, England.

Second, at all times I acted in utmost good faith. I honestly believed that at least a few lawyers had to remain available to provide representation against scientology "psycho-terrorism", criminal fraud, human rights abuses, totalitarian agenda and litigation abuse. Indeed, it was my own opinion that I (and other lawyers) could not ethically decline to represent clients in areas in which I had specialist knowledge and experience. There is absolutely no suggestion of any financial dishonesty in connection with the failure to pay advance expenses and earned costs aggregating $853 into the client trust account first and not into the business account. However, I recognize that there is strict liability, no de minimis exception, no defense of over-sight, and that there is a mandatory three-month suspension. I believe that I have atoned for this misconduct during my nearly two years of voluntary removal from actual practice and nine months of voluntary inactive status.

Third, the alleged misconduct was not directed at any of my clients and none were thereby harmed. Indeed, several have unsuccessfully filed complaints regarding these matters on the grounds that the misconduct intentionally directed by the scientology-retained attorneys at me was also intended to prejudice my representation of them. The complaint herein, through

Wager and Gerner, was filed by my regular litigation adversary with a worldwide judicially and governmentally recognized reputation as being the most terrifying and richly funded litigation juggernaut on the planet. Moreover, it has already been judicially determined that the manner in which Moxon & Kobrin, Abelson, Paul Hastings, Williams & Connelly, Orrick, Herrington & Sutcliffe, Wasserman, Comden & Casselman and other involved scientology-retained law firms litigate and use, "… the litigation process to bludgeon the opponent into submission" and "… must be closely scrutinized for constitutional implications." Church of Scientology v. Wollersheim (1996) 42 Cal.App.4th. 628, 648, 649.

Fourth, the personal safety and personal security issues that were caused me during the defense of the Fishman-Geertz case resulted in medical treatment with an anti-depressant. The emergence of the Ingram "investigation" by defamatory innuendo aggravated and deepened my depression. My heavy drinking turned into a serious drinking problem. In mid-1998, during the Berry v. Cipriano, Henson I and Pattinson I cases I was referred to specialist treatment for serious depression. On April 25, 1999, I began attending AA meetings and I have remained sober since. At the end of 1999, I closed down what remained of my law practice and this year I took voluntary inactive status for health reasons. It now appears that I should be fit to return to full trial and litigation practice in spring 2002, should I so choose. However, I have been effectively terrorized out of the practice of law by threat of further "investigation" by scientology, Abelson, Moxon & Kobrin and other scientology retained attorneys in the manner described herein. Past experience teaches me that scientology's lawyers and investigators will never leave me alone and that I will never again be able to practice law- at least not as a partner in a large litigation law firm.

Fifth, I extensively co-operated during these two years of investigation and proceedings. This co-operation has often been emotionally painful. Although I am receiving anti-depressant treatment for sever depression, it seems a form of posttraumatic stress. Every time the State Bar has required discovery, documents, interrogatory responses etc., the pain of what these scientology lawyers have done to me is restimulated and the horrible memories refreshed. That is only the tip of the tale of constant and continuing terror.

Sixth, I submit that I am of good character. I have never been arrested or charged with anything other than one speeding ticket (62mph on a 55 mph freeway) in 1985. I have served as a Los Angeles County Municipal Court Judge Pro Tem. I have provided countless people with low cost, no cost and pro bono representation over many years. In 1994, as a Lewis, D'Amato partner, I was retained to provide pro bono representation, to the Standing Committee on Discipline for the US Central District Court, to successfully prosecute a civil rights attorney, Stephen Yagman, for impugning the integrity of a sitting federal judge. What occurred during the underlying and related matters has shown me the strength of his successful appellate arguments and the frustration and depression arising from a judicial and legal system that can be regularly corrupted and tries to raise the "three monkey's defense" when confronted by blatant corruption. Standing Committee v. Yagman (9th Cir. 1995) F.3d 1430. In 1982, I was one of the three founders of what is now the prestigious American Foundation for AIDs Research (AMFar). In the early 1970's I was one of the early directors of New Zealand's Environmental Defense Fund and was responsible for the taking of certain scenic private lands for national parkland. Until the "investigation" (with its implied guilt by innuendo) by Ingram and other

scientology/Moxon/Abelson retained investigators, I participated extensively in various community charitable fund raising and political activities. The constant threat of "investigations"(with their implied guilt by innuendo) have now made that forever impossible on the part of both a charity, its benefactors and me. In that regard, The First Cipriano Declaration continues its permanent publication on the worldwide web of the Internet.

Seventh, the alleged misconduct is an aberration resulting from the health, emotional, financial difficulties caused by the intentional criminal R.I.C.O., civil R.I.C.O., tortious, and unethical conduct perpetrated upon me by complainants Wager, Gerner, Abelson, Moxon & Kobrin, Paquette and various of the large national law firms referred to above. The unpaid sanctions orders were procured by conspiracies, crimes, frauds, perjuries and misrepresentations upon various federal and state courts.

I have agreed to nine month's actual suspension from legal practice for a number of reasons: First, it is an act of commeration - being at least six months longer than the Church of Scientology allows the unborn children of its Sea Organization staffers to live, before forced abortion is ordered according to church [www.lermanet.com/cos/abortions.html.policy www.planetkc.com/sloth/sci/mary.tabayoyon.html] Second, it avoids spending the next 36 months in trial and appeals (whoever prevails). Third, it enables me to focus upon seeking justice against the perpetrators of the criminal, tortious and unethical conduct in the underlying matters (including one of the attorney complainants herein). Fourth, it allows me to move forward with writing the historical record of what the Church of Scientology (through its lawyers and investigators) has done to our judiciary, our legal system (including the State Bar of California)

both in this matter, the underlying cases and in other cases. Fifth, my doctor has informed the State Bar that I should not handle the trial of this case until February 2002.Despite that, the State Bar insists that its lead prosecutor in this matter must personally try this case before she goes on maternity leave in late December. Consequently, the trial judge continues to refuse a trial continuance for three to sixth months. Sixth, Scientology/Moxon/ Kobrin/Paquette continue to prosecute the Barton v. Berry Adversary action after the denial of their motion for summary judgment and the facts that are set forth herein. Their prayer for relief is to revoke my recent discharge in bankruptcy. Discovery is closed in the Barton v. Berry bankruptcy adversary proceeding. However, the day after the bankruptcy court denied Moxon & Kobrin's summary judgment, the State Bar issued clearly collateral discovery regarding the similar State Bar Second and Third Counts concerning Barton and "the Jane Scott account". The State Bar Court has set its only trial date herein for December 11, 2001, and denied my motion to continue the trial until after the complainants' trial in the underlying Barton v. Berry bankruptcy matter, set for 41 days later on January 28, 2002.

Seventh, upon scientology's motion, and acting in a clear excess of jurisdiction that conflicted with express applicable authority, the trial judge has denied me due process, as well as the usual discovery rights and maintains an erroneous and prejudicial order against me, that even the moving eight scientology lawyers (including Wager, Abelson, Moxon, Kobrin, Paquette, William T. Drescher and Sherman D. Lenske) have admitted on the record herein was based upon false oath and misrepresentation. Eighth, because of my current economic situation, I successfully prevailed upon the trial judge herein to permit me to immediately file my trial

exhibits and then use them as already filed exhibits for discovery and other motions before trial and pre-trial. After the successful but fatally defective motion by the eight scientology attorneys to deny me all discovery rights herein except upon motion and a showing of good cause, the trial court ordered the Wager deposition transcript irrelevant, to be stricken from this court file and admonished me for lodging it in connection with a motion containing excerpts from the Wager deposition transcript admitting to unlawful client solicitation and felony witness tampering. The trial judge has also ordered all of my other exhibits stricken from the court's record herein including several which prove that scientology, Moxon and Feffer of Williams & Connally committed criminal financial fraud on behalf of scientology upon the IRS in connection with the very same misrepresentations of express material facts upon which the IRS conditional tax-free status was granted. The stricken evidence also included references to Moxon & Kobrin retaining a private investigator and paying him $1M to gather material upon the then IRS Commissioner Fred Goldberg (now a Skadden, Arps attorney). Subsequently, scientology leader, David Miscavige had burst into the IRS Commissioner's Office unannounced and very quickly convinced him to reverse the Federal Government's twenty year history of defending against over two thousand law suits instigated by Moxon's scientology legal offensive against individual IRS agents. Feffer then negotiated a tax settlement agreement, declared to be secret for national security reasons, which relieved scientology and its leaders of over one billion dollars in back taxes and penalties. It also appointed a scientology tax compliance committee to monitor and supervise its own tax compliance and that of its members.

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The stricken trial exhibits also included evidence of Moxon's and complainant then L.A. County Criminal Courts Bar Association President Wager's own criminal, civil and unethical conduct herein. All of this evidence was essential to my ability to successfully establish the State Bar's Tenth Count that the Pattinson case(s) had not been filed in good faith and contained baseless and "unjust" allegations as against both Moxon and scientology. None of the Count Ten cases (Berry, Pattinson and Jeavons) were determined upon the merits, but the State Bar was prevailing upon the trial judge that the State Bar should be permitted to establish its "maintaining an unjust action" tenth count claims solely upon the introduction of a certified copy of Judge Williams' vexatious litigant order, Judge Snyder's Rule 11 order as to defendant Moxon only (and not as to the other defendants and allegations) and the "SLAPP" ruling in the Jeavons matter. In all of these circumstances, particularly my treating physician's opinion that it would prejudice my recovery to, at this point in time, be concurrently engaged in the stressors of both discovery and pre-trial preparation in this matter, moving to vacate the sanctions orders in the underlying matters and preparing for trial in the Barton v. Berry adversary proceeding. The Trial Court and the State Bar "hierarchy" had already refused my request for a trial continuance in order to move to vacate the underlying sanctions orders and potentially moot the four nonpayment of sanctions orders.

The State Bar had further rejected my defense of impossibility and inability regarding the nonpayment of these four underlying sanctions orders. First, I am unemployed and upon public assistance while completing treatment for severe depression. That treatment is predicted to be completed February 2002. Second, even if I were to be re-employed, scientology "Fair Game

Policies And Practices" would require that their lawyers such as Moxon, Abelson and Wager be instructed to resume their "investigation", and defamation by investigation innuendo, to ensure that I remain "utterly destroyed". Paquette's continuing "deposition" thrust is that I should take employment outside the law for the purpose of paying the unpaid scientology sanctions as charged herein. Third, the vexatious litigant order prevented me from filing suit to recover $28,000 owed to me and which I offered to assign to Barton in satisfaction of his sanctions order in the same amount. Paquette wrote to the company, instructed them not to pay me, but took no action to recover the debt for either Barton or any of her other multiple clients. Fourth, I have just been discharged from a non-asset bankruptcy. Fifth, scientology, Moxon, Kobrin and Paquette have actively, successfully and intentionally obstructed my ability to pay the sanctions ordered in their favor (preferring the opportunity for regular harassing and improper "intelligence gathering" judgment debtor examinations for the purposes of collateral discovery in other matters.) They filed a Barton judgment lien against me condominium. Then, they refused to release the Barton judgment lien over my condominium in which I had equity of $50,000-$70,000. Consequently, a very favorable pre-foreclosure sale fell out of escrow. Subsequent potential sales also could not proceed because Moxon & Kobrin refused to release their lien and thus enable the creation of a real estate pool of approximately $60,000 to compromise the liens of the IRS and Barton and pay outstanding home owners' association dues. Consequently, my home was sold in foreclosure August 9, 2001. I lost approximately $400,000 in lost mortgage payments and lost equity otherwise available to satisfy the sanctions I am being disciplined herein for not paying, and without having an opportunity to now move to set them aside.

I have pleaded equitable estoppel in this connection. Earlier this year, Moxon, Kobrin & Paquette seized my old vehicle after representing to the court it was worth $8,300. In near accordance with my own representation, it sold for $950. The court ordered that the statutory exemption of $1,900 be paid to me. Contrary to the court order and applicable law, and upon clear misrepresentation to the DMV that I owned two vehicles, the $950 exempt proceeds went to Moxon & Kobrin. They retain them despite my express precautionary notice to them after recent and accidental discovery of these facts. Sixth, despite the unpaid sanctions being procured through the crime and fraud of certain of the scientology sanctions holders, the State Bar maintains that the underlying Berry v. Cipriano, Pattinson and Jeavons proceedings were "unjustly" filed and maintained and the unpaid sanctions orders therefore valid. Seventh, I am now surviving on food stamps of $108 per month, general social relief of $221 per month and the charity of caring friends and strangers. I no longer have health insurance, retirement proceeds or retirement prospects. Moxon, Kobrin and Paquette have advised both the Superior Court and me that they will be moving to seize my few remaining art posters, two pictures given me by a former scientologist and client Pattinson, my few remaining artifacts, several artifact presents from my parents and my remaining furniture. They incessantly examine me under oath as to whom I may be negotiating with to sell the book and media rights to my story regarding the above matters.

I wish to thank all of those many dozens of friends and strangers from around the world who unsuccessfully wrote to the State Bar's Board of Governors, and the Office of the Chief Trial Counsel, urging that a panel of three independent retired judges be appointed to fully

investigate and report upon the matters set forth above. The Board of Governors did not respond. The Office of Chief Trial Counsel did not ignore the requests. Instead, on April 3, 2001, the Special Assistant to Chief Trial Counsel, Michael Nisperos, Jr., wrote to me (just as other representatives wrote formal complainants Michael Pattinson and Keith Henson) stating that the State Bar had fully investigated and examined all of the evidence regarding the conduct of Wager, Moxon & Kobrin, Abelson and other scientology lawyers, and found the above allegations as to their conduct lacking in merit. "Your current assertion that the Office is allegedly ignoring on-going criminal conduct by the Church's attorneys, while at the same time pursuing you in a disciplinary proceeding, is equally lacking in merit." However, there is no indication that any State Bar investigation or prosecution of Wager, Abelson, Moxon, Kobrin, Paquette, Rosen, Reeves, Soter, Drescher and others has been initiated. Indeed, the indications are that the State Bar continues to regularly communicate and co-operate with Wager and Gerner as to the prosecution and disposition of this proceeding.

At a recent status conference herein, Gerner admitted that he had been retained by the Church of Scientology to file and pursue these proceedings but denied that they were in any retaliatory, initiated for an improper purpose or maintained in bad faith. The State Bar continually refuses all access to all year 2001 communications with Gerner and Wager and further believes that there have been no written non-telephonic communications with them since the decision to actually initiate and maintain these disciplinary proceedings against me, and to maintain their venue out of the San Francisco Office of the State Bar Court. The evidence herein does not reflect mere isolated instances of misconduct by Rosen, Moxon & Kobrin, Abelson and

other scientology lawyers. The misconduct is part of a continuing interstate pattern reflected upon recent court and government records involving Mark Bunker, Jesse Prince, Ursula Caberta (German Government Official), Keith Henson, Robert Minton, Lawrence Wollersheim and the Lisa McPherson Trust in Clearwater, Florida.

In all of these circumstances, if I were not to enter into this settlement at this time, scientology/Wager/Abelson/Moxon/Kobrin/ Paquette, et. al., will succeed in depriving me of the necessary time and effort to locate and select appropriate counsel to timely file a malicious prosecution and abuse of process claim against certain of the scientology retained lawyers and law firms in connection with the vexatious and criminally procured and fraudulently maintained Hurtado v. Berry cases that were dismissed shortly before trial and in outrageous and despicably aggravated circumstances. Little additional evidence is required. Under F.R.Civ.P.Rule 41(a) the voluntary Hurtado dismissal is deemed adjudication upon the merits. The State Bar has already represented that it has already reviewed and rejected Moxon & Kobrin's conduct as indicating any basis for any disciplinary conduct. Not settling at this time would also interfere with my ability to locate appropriate and eminent pro bono post trial-appellate counsel to quickly move to vacate the underlying sanctions and vexatious litigant orders that are the subject of the majority of the charges to which I now plead in settlement.

Although even Shakespeare in all his creativity would have had difficulty in imagining the situation in which I now find myself, he nonetheless characterized it, as well as Wager, Abelson, Moxon, Kobrin, Paquette and other members of this State Bar, when he wrote the

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immortal and of repeated words, "Oh, what a tangled web we weave when first we practice to deceive."

I also wish to sincerely thank and praise two judges of the Los Angeles State Bar Court. First, I wish to thank Los Angeles Presiding Judge Hon. Michael D. Marcus. As the initial settlement judge he was balanced, objective and insightful. Subsequently, he removed himself from consideration as trial judge because of "bias" and the volume of unsolicited public mail he had received in my support at the commencement of these proceedings. Second, I wish to thank Hon. Robert M. Talbot who mediated the settlement in this matter. Judge Talcott was unwavering in his integrity, perseverance, perspective and understanding. I sincerely appreciate and applaud the professionalism, competence, courage and integrity that Judges Marcus and Talcott contributed to the very difficult settlement process.

Finally, in response to those judges, lawyers and public officials who have allowed themselves to be corrupted by the scientology enterprise I paraphrase Benjamin Franklin: Those who give up another's, "… essential liberty to obtain a little temporary safety for themselves, deserve neither liberty nor safety themselves."

Dated: November 1, 2001

Graham E.Berry, Respondent Pro Per

Notice of Errata: Page 13:16-17 of Respondent's Interrogatories, Part One, executed October 11,2001, and the citation to Allard, should changed to read: U.S. v. Kattar (1988 1st Cir. 118,126.