

1 DONALD J. MYERS
XXXXXXXXXXXXXXXXXXXX
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2 Telephone: (xxx) xxxxxxxx
Non-party witness appearing pro se
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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF RIVERSIDE

10 CENTRAL DISTRICT

11 FRANCOIS G. CHOQUETTE, an individual)	Case No. RIC 538634
Plaintiff,)	Assigned: Hon. Sharon J. Waters, Dept.10
12 v.)	
13 CHURCH OF SCIENTOLOGY)	OPPOSITION OF NON-PARTY
INTERNATIONAL, a California corporation;)	WITNESS DONALD J. MYERS TO
14 BUILDING MANAGEMENT SERVICES, a)	MOTION TO COMPEL AND FOR
California corporation; DAVID ALAN)	SANCTIONS, DECLARATIONS OF
15 DUNIGAN, an individual; KENNETH R.)	GRAHAM E. BERRY, DONALD J.
SEYBOLD, an individual; MATTHEW)	MYERS AND EXHIBITS.
16 JAMES BUTLER, an individual;)	
SALVATORE MEO, and individual; and)	
17 DOES 1 through 20, inclusive,)	Date: 8-20-10
Defendants.)	Time: 9:00 a.m.
	Dept. 2

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

COMES NOW non-party witness Donald J. Myers and submits his opposition to Defendant's Motion to Compel Deposition and for Sanctions.

This Opposition is based upon the supporting Memorandum of Points and Authorities, the attached declarations of Donald J. Myers and his former attorney Graham E. Berry, the exhibits thereto, and such other matters as may properly be brought before the Court prior to, or at the hearing on the pending motion.

Dated: August 9, 2010.

Respectfully submitted,

Donald J. Myers
Non-party witness

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 I have been protesting against Scientology crime, abuse and other wrongful conduct for
4 over two years. During that time, Mr. Moxon has been involved in various attempts to silence me
5 including filing for restraining orders and criminal penalties. The only criminal conviction I have
6 is a plea bargain for stepping on some pansies outside Scientology’s “Gold Base” where the
7 Scientologist’s had been forcing us off the roadside by turning water sprinklers on us during
8 protests and pickets. I stepped on the flowers to force the police to arrive. The total penalty against
9 me was less than \$170.00. I have no other criminal or traffic convictions. Myers Declaration, para.
10 24. The defendants also mischaracterize me as some kind of masked terrorist as opposed to being
11 a first amendment protestor against civil and human rights abuses. That is an untrue and unfair
12 characterization. Myers Declaration, para. 24.

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15 Despite the statements made in the pending motion to compel, and as shown below and in
16 my supporting declaration, I have not refused to participate in discovery in this case. On the
17 contrary, I have already turned over a 27 gigabytes of info, hours of video, photographics and
18 other documentary materials in digital form. Myers Declaration, paras. 6, 20. I have also answered
19 most of the questions that Mr. Moxon seemed to have for me at the May 28, 2010 deposition.
20 Myers Declaration, paras. 11-18. The reason I was unwilling to continue with the deposition, as
21 explained in my attached declaration, is that I felt Mr. Moxon’s questions were such that I should
22 have legal assistance. It is very difficult, and expensive, to find a lawyer willing to be involved in
23 litigation against Scientology. Graham Berry and Barry Van Sickle are among the only lawyers
24 willing to appear in Scientology related cases but they have not been available to assist me in this
25 particular case for the reasons I explain in these papers. Myers Declaration, para. 5. Deposition
26 transcript, pages 11:15-15:10 (Defendant’s Exhibits in Support of Motion, Exhibit J.
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2 **II. STATEMENT OF FACTS**

3 **A.** The deposition notice that I received in this case required me to produce a large volume of
4 photographs, videographs and documents; much of which appeared to me to have nothing to do
5 with Mr. Choquette's lawsuit against the defendants. However, I willingly provided all this
6 material in an external digital drive. It amounted to a mammoth 27 gigabytes of material. It was
7 provided to the defendant's lawyers over a month before my deposition. Myers Decl., para.6.

8 **B.** Defendant's attorney Kendrick L. Moxon works within the Church of Scientology
9 International's Office of Special Affairs. It is also known as OSA or Department 20. Mr. Moxon
10 has two offices both of which are a few miles from me. I do not have a vehicle. I depend upon
11 public transport. Instead of seeking to take my deposition at one of his offices less than five miles
12 and a half hour bus road from my residence, Mr. Moxon required me to spend half a day traveling
13 to another lawyer's office 65 miles away in another county and now wants me to pay for the time
14 it took him to drive there. Myers Declaration, paras.7, 8, 10. In addition, instead of the transcript
15 of the deposition being sent to my home, I had to travel to the court reporter's office to review the
16 transcript of the deposition of me that Mr. Moxon took on May 28, 2010. Myers Decl., para.21.

17 **C.** Because of what I have experienced myself with litigation involving Mr. Moxon and the
18 defendants in this case, and because of what I have read and become aware of, I wanted counsel to
19 represent me at my deposition in this case. However, it is very difficult to find a lawyer willing to
20 appear in litigation against the Scientology organization. Mr. Berry is one of the few attorney's so
21 willing. He originally represented the plaintiff but withdrew after Mr. Moxon responded with a
22 personal lawsuit against Mr. Berry. After he offered to represent witnesses at deposition in this
23 case, I am informed and believe that Mr. Moxon and Mr. Cantrell suggested he would have a
24 conflict of interest that could be reported to the State Bar. Mr. Van Sickle is one of the few other
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1 attorneys willing to appear in litigation against the Church of Scientology. However, unlike Mr.
2 Berry, he does not appear *pro bono* on these types of cases and he has been recovering from
3 serious hip surgery. I cannot afford to pay for a lawyer. I cannot afford to pay any of the amount of
4 money that Mr. Moxon is demanding of me. Myers Declaration, paras.5,6, 9,11,12,14, 17, 19, 23.

5 **D.** On May 28, 2010, because of the transportation issues involved with the location of the
6 deposition, I arrived late. The defendants started questioning me immediately and it was some
7 minutes before I could easily assert my wish not to proceed without the benefit of the advice and
8 assistance of counsel. Defendants proceeded with their questioning anyway. When they started
9 asking me irrelevant questions about the ownership of a bicycle and personal questions of whether
10 the plaintiff was on medication I decided that I really did need the assistance of a lawyer. These
11 were not matters I have direct knowledge of and I thought they may be protected from disclosure
12 by privacy and/or other rights. Myers Declaration, paras. 3, 10-19.

14 **E.** I was not present at the location of the attack and arrest of the plaintiff on the day it
15 happened. Myers Declaration, para.3.

17 **F.** After the attack and arrest of the plaintiff, he provided me with copies of videos that had
18 been taken by himself and others at the location on the day of the attack and arrest. I edited some
19 of the video footage together for an Internet version. I later turned whatever copies and versions
20 over to the defendants as part of the 27 gigabyte document production I engaged in. See paragraph
21 A above. At my deposition on May 28, 2010 Mr. Moxon questioned me about these videos before
22 moving away to other subjects. Myers Declaration, para.13-18.

24 **G.** When Mr. Moxon continued to ignore my requests that I be allowed more time to try and
25 find a lawyer, and when he started asking me about the plaintiff's property and medications, I
26 decided I needed to stop the deposition and seek legal counsel. As explained in my declaration and
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1 the exhibits thereto, it was my belief then and now that I was acting reasonably in all of the
2 circumstances. Myers Declaration, paras.17-19.

3 **III. ARGUMENT**

4 **A. The edited videotape argument is a canard and a misdirection.**

5 The defendant's focus upon an edited video version of a number of different videos that
6 were recorded by the plaintiff and others with him when he was attacked and arrested on October
7 26, 2010 is a canard and a misdirection. The defendants [should] have the most comprehensive
8 video and audio recordings of the incident from the dozens of camera and audio devices that are
9 permanently located and constantly recording every movement and sound at and around the
10 Scientology "Gold Base" at Gilman Hot Springs near Hemet, California. Myers Declaration,
11 paras.3, 4, 6. Berry Declaration, para. 4. All of the video film (edited and unedited) that was called
12 for and in my possession has been turned over to the defendants. The defendants lawyers
13 questioned me about these videos at my deposition on May 28, 2010. It appeared then that they
14 had finished their questions of me. Myers Declaration, paras.6, 13, 20.

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17 **B. The characterization of me is untrue. Mr. Moxon has been after me for two years.**

18 In 2008, I began protesting against what I believe are human rights violations, civil rights
19 violations and criminal conduct being committed by the Scientology organization. After that I was
20 followed by private investigators and law suits were filed against me in an effort to both stop me
21 protesting against wrongful Scientology conduct and to punish me for having done so. Mr. Moxon
22 and his private investigators have been principally involved in this activity.

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24 My protests are done in a lighthearted manner and in comical costumes. I am not a masked
25 terrorist engaged in hate crimes and religious bigotry as alleged by Mr. Moxon in the defendant's
26 motion papers. Myers Declaration, paras.22, 24.

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C. The defendant’s were engaged in improper and irrelevant questioning.

During the deposition of me on May 28, 2010 the defendant’s lawyers questioned me about the communications between and involving other lawyers including my own. Myers Declaration, para.12. He wanted to know about the ownership of a bicycle Mr. Choquette had in the taxi cab we arrived in, who was touching that bicycle and whether Mr. Choquette was on medication. Myers Declaration, para.16. It was at that juncture, after the defendant’s lawyers had not honored my request to postpone the deposition so that I could continue to locate a lawyer, that I decided I needed leave and seek further legal counsel and assistance. I believe that was a reasonable decision in the circumstances. The deposition had gone for nearly half an hour and the defendants lawyers appeared to me to be trying to harass me with comments and questions that were not within my knowledge. Myers Declaration, paras.12, 16. When I again requested a delay so I could retain counsel they suggested I was scared of my own “liability.” Myers Decl., para.14.

D. I have not refused to appear for deposition. I want a lawyer.

The reputation and conduct of the Scientology organization and it’s lawyers, like Mr. Moxon, is such that very few lawyers in the entire nation will appear in litigation against them. When Mr. Berry filed this lawsuit for plaintiff, Mr. Moxon responded with a lawsuit against Mr. Berry. When Mr. Berry withdrew from representation of the plaintiff he remained willing to provide pro bono representation of the witnesses. The defendant’s lawyers suggested he could be punished by the State Bar for engaging in a conflict of interest. Myers Declaration, paras.5, 12. Berry Declaration, paras. 5-8. During my deposition on May 28, 2010 I repeatedly raised the issue of legal assistance before finally acting after the defendant’s appeared to finish asking me

1 questions of which I would have knowledge as opposed to speculation that may involve the
2 plaintiff's right to privacy. Myers Declaration, paras. 10, 12, 14, 17-19, 20.

3 In addition, I have previously produced all of the things that were requested of me and
4 this amounted to 27 gigabytes of digital material and answered questions about these. Myers
5 Declaration, paras.6, 13. The defendant's did send me "what they call a meet and confer letter" but
6 that did not provide me with the opportunity to obtain legal representation and the defendant's
7 lawyers advised me that even if I turned up without a lawyer they would still be seeking thousands
8 of dollars against me for what they claimed was my "liability" to date. Myers Decl., para.20, 8, 10.

10 However, their claim is not correct. The transcript of the half hour deposition on May 28,
11 2010 demonstrates that I answered all questions relating to my knowledge of the various videos I
12 received and how and why I edited them. Mr. Moxon then proceeded to ask me things that I did
13 not know, such as what other lawyers might pay Mr. Berry, what medication (s) Mr. Choquette
14 might be taking, and why he might have been riding a bicycle. Myers Declaration, paras.11-19.
15 It is reasonable to conclude from the questions Mr. Moxon asked of me, and when he asked them
16 of me, that the defendant's had finished their questions about anything relevant to the lawsuit
17 before they asked the series of questions that caused me to further seek and insist upon the
18 assistance of counsel. Myers Declaration, paras.11-19.

20 Mr. Moxon has not argued or demonstrated that anything he asked of me had not been
21 answered adequately or truthfully. Therefore, the claim that he should be awarded \$2,100.00 of
22 money I do not have (and can never save as things now stand) for "the time [Mr. Moxon] incurred
23 related to my deposition." Moxon Decl., p.2:4-6. Had Mr. Cantrell been willing not to make this
24 motion for his time and costs incurred, in making the motion then there would have been a basis
25 for resolving the "meet and confer" demands of Mr. Cantrell. However, since he refused to drop
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1 his demand that he be paid for later going to the court to get an order that he be paid for getting the
2 order left me no option but to seek this courts intervention. Myers Declaration, paras.7, 8, 10, 23.

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4 **E. I am indigent and cannot afford to pay either a lawyer or the sanctions demanded.**

5 I have been unemployed for over ten months now and I have no immediate prospects for
6 employment. I work in the Hollywood post-production film industry which is severely depressed.
7 My job occurs at the end of a film production. This means the rest of the entertainment economy
8 must recover before I am employed. I have high medical expenses, no income and few assets. I am
9 barely able to afford my housing, food, medication and public transport. I am totally unable to
10 afford to pay any of the amount of money that Mr. Moxon and Mr. Cantrell have been demanding
11 of me irrespective of whether I can find a lawyer and resume a proper deposition. I respectfully
12 request the Court not to make an order that will drive me out of my home and into the streets
13 because of law suit I did not file and have no part of. Myers Declaration, pares. 9 and 25.

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16 **F. The defendant's request for sanctions should be denied.**

17 In all of the circumstances, I submit that I have acted reasonably and in good faith. I need
18 the court's assistance to move beyond the Scientology financial demands that would destroy me.
19 Myers Declaration, paras. 9, 25. It appears that Mr. Moxon has done his best to cause me the
20 greatest possible inconvenience and expense in connection with a case in which I have little direct
21 involvement. Myers Declaration, paras. 3, 7-10, 21, 23-25. If Mr. Berry or some other attorney can
22 be assured and agree to represent me in deposition (preferably pro bono), and if my deposition is
23 to be resumed, I request that it be taken at one of Mr. Moxon's offices near my residence, or at
24 some other address in that general locale. Myers Declaration, paras.7-10.

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26 **IV. CONCLUSION**

1 For the foregoing reasons, the defendant's motion for monetary sanctions should be
2 denied.

3 Dated: August 9, 2010. Respectfully submitted,

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6 **Donald J. Myers**

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8 **DECLARATION OF DONALD J. MYERS**

9 I, **DONALD J. MYERS**, declare and state as follows:

10 1. I reside in the City of West Hollywood, County of Los Angeles, State of California.

11 I am not a party to the proceedings herein. I have personal knowledge of the matters set forth
12 herein and, if called upon to do so, I believe that I could and would competently testify thereto.

13 2. This declaration is filed in support of opposition to the motion to compel my
14 deposition and for sanctions filed by the attorneys for the defendants herein.

15 3. I was not present when the plaintiff Francois Choquette was allegedly attacked and
16 wrongfully arrested at a first amendment protest against Scientology crime and abuse that was
17 held outside Scientology's "GOLD BASE" at Gilman Hot Springs near Hemet, California.

18 However, I often participate in such protests against alleged Scientology related crimes, civil
19 rights abuses, and human rights abuses, and in that connection I maintain an Internet website and
20 archive at <http://www.angrygaypope.com>. Subsequent to the protest, attack and arrest that
21 prompted this lawsuit, I received digital copies of a number of different videos that were taken of
22 the events involved. I edited these tapes and posted the edited version to my website where it has
23 remained and where it has received global attention. In the instant moving papers, I have read the
24 extract of Mr. Choquette's deposition where he testifies that the webcast video is an edited version
25 and not the original video.
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1 **4.** From personal experience and observation, the permanent security cameras
2 maintained by defendants at their “Gold Base” monitor the entire facility and associated
3 intersecting Highway 79. They will probably provided the most extensive and comprehensive
4 camera footage of the events in issue. I am not aware of any of that camera footage being
5 produced by the defendants herein. Certainly, and to the best of my knowledge, I have not seen
6 any such camera footage produced by the defendants.

7 **5.** Initially, my regular attorney Graham Berry was willing to actually represent me
8 and some of the other witnesses being deposed herein. However, I am informed and believed that
9 earlier this year Mr. Moxon and Mr. Cantrell raised the suggestion that he could be reported to the
10 State Bar for an alleged conflict of interest in representing we witnesses in a case where he had
11 State Bar for an alleged conflict of interest in representing we witnesses in a case where he had
12 previously represented the plaintiff (until Mr. Moxon filed a personal lawsuit against Mr. Berry).

13 **6.** While Mr. Berry was representing me I had agreed to provide all relevant and
14 unobjectionable documents and digital evidence that was responsive to a subpoena duces tecum to
15 testify at deposition. In this regard, in late April I arranged for the delivery to Defendant’s attorney
16 David Cantrell of a portable external computer hard drive containing at least 27 gb of videos,
17 photos and other information. At the time, my deposition had been scheduled for April 28, 2010
18 but defense counsel David Cantrell, Esq. postponed it to sometime in May because of the “large
19 volume of data” I was producing in advance of the deposition. Mr. Cantrell then sent me a new
20 deposition notice for May 28, 2010. See Moving defendant’s Exhibits E-G.

21 **7.** Upon information and belief, Mr. Moxon has at least two offices. His official office
22 is located at 3055 Wilshire Boulevard, Suite 900, Los Angeles, CA 90010 which is a mere 5.7
23 miles from my residence, according to Google maps. Mr. Moxon’s unofficial office is located
24 within the Church of Scientology Office of Special Affairs at 6331 Hollywood Boulevard,
25 Hollywood, California, which, according to Google maps, is a mere 3.7 miles from my residence
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1 in West Hollywood, CA. Because of my personal preference and economic circumstances, I do
2 not have a vehicle and Mr. Moxon either knows this or ought to know this from the surveillance
3 reports of his private investigators and various covert Church of Scientology Office of Special
4 Affairs “Intelligence Officers.”

5 **8.** Although my residence and Mr. Moxon’s office (s) are only a few miles apart in
6 Los Angeles County, Mr. Moxon’s deposition notice has required me (and him) to travel over 65
7 miles to the City of Riverside in Riverside County. That journey requires me to travel by bus or
8 subway from West Hollywood to Union Station in downtown Los Angeles (which can take one to
9 one and one half hours) and then to wait for a train to Riverside which can take over two hours in
10 travel time. Accordingly, it takes me the best part of half a day just to travel each way to the
11 farthest possible deposition location that Mr. Moxon could have chosen. See Moving
12 Defendant’s Exhibit I.

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14 **9.** Around this time I also became aware of some of the reports of what had been
15 happening at the depositions of other witnesses who were being represented by an attorney. Mr.
16 Berry has always represented me pro bono and I cannot afford legal counsel because, among other
17 things, I have been unemployed since October 2008 and I survive upon unemployment relief
18 payments of \$450 per week. I have no significant savings or assets. I suffer medical complications
19 and have high prescription drug expenses. When I am employed it is in post-production end of the
20 Hollywood film industry. There has been a major decline in Hollywood film production and I
21 have no immediate or foreseeable employment prospects. Accordingly, I wanted to at the very
22 least take my own videotape of the deposition testimony. Defense lawyers Mr. Moxon and Mr.
23 Cantrell refused to allow me to do this. See Moving Defendant’s Exhibit E.

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25 **10.** On May 28, 2010, I spent the morning and early afternoon traveling from the City
26 of Los Angeles to the City of Riverside to attend the deposition I had been advised of and to tell
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1 the lawyers at that time that I did not wish to proceed without the assistance of a lawyer. When I
2 walked into the deposition room the questioning of me began so quickly that it was a few minutes
3 before I was able to explain that I did not want to answer further questions without the benefit of
4 counsel and that I was having difficulty in finding a lawyer who would represent me in a case
5 involving the Church of Scientology or Mr. Moxon.

6 **11.** Referring the reader to Exhibit J of Defendant’s Exhibits in Support of Motion,
7 etc., at pages 9:9- 10:25, after Mr. Moxon asked me if I was “under the influence of any
8 medication,” I informed him that I did not want to proceed further without the assistance of a
9 lawyer and I explained why I was having difficulty in finding one. Mr. Moxon then asked me if
10 he could proceed with some further questioning about “a few preliminary matters,” and I said
11 “yes.”
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13 **12.** Mr. Moxon then asked me a number of questions about by communications with
14 attorneys Graham Berry and Barry Van Sickle, other lawyers Mr. Berry might handle cases with,
15 and whether another lawyer might be paying Mr. Berry. Defendant’s Exhibits in Support of
16 Motion, etc., at pages 11:15- 15:10.
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18 **13.** Mr. Moxon then proceeded to ask me a lot of questions about the video tapes I have
19 received from people who were present when Mr. Choquette was attacked and arrested, how and
20 why I had produced an edited version of the various other tapes for the Internet and what I did the
21 videotapes I had received and used for the purpose of the edited Internet version. Defendant’s
22 Exhibits in Support of Motion, etc., at pages 15:16- 26:14.
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24 **14.** At this point, the transcript indicates that Mr. Moxon had been questioning me for
25 25 minutes and had ceased questioning me regarding the videotapes I had received and edited. I
26 then reasserted my wish not to proceed any further without an attorney and Mr. Moxon then
27 suggested that I was afraid of “some liability to[me].” I never refused to testify at all. I just
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1 requested an opportunity to find an attorney willing to represent me in this particular case before
2 giving my testimony. Defendant's Exhibits in Support of Motion, etc., at pages 26:15-23.

3 **15.** Mr. Moxon said he would move to compel my testimony and that he had hired a
4 court reporter and videographer. Defendant's Exhibits in Support of Motion, etc., at pages 26:25-
5 27:7.

6 **16.** Mr. Moxon then proceeded with further deposition questions of me. He informed
7 me that he had been watching Mr. Choquette and myself arrive at the depo by taxicab. Mr. Moxon
8 said he had seen Mr. Choquette take a bicycle out of the trunk of the taxi. "Is that correct?"
9 "Whose bicycle was that?" "Why did he have a bicycle in the trunk?" "Do you know if Mr.
10 Choquette is on any medication?" etc. Defendant's Exhibits in Support of Motion, etc., at pages
11 27:22- 28:15.

13 **17.** In all of the circumstances, especially having asserted and reasserted my wish to
14 locate and retain counsel before being examined any further by Mr. Moxon, I informed him again
15 that I was going to leave. Mr. Moxon appeared to me to have exhausted any relevant questioning
16 of me and I had no personal knowledge of Mr. Choquette's medications and even if I had I would
17 then want to consult a lawyer before responding to a question which might invade Mr.
18 Choquette's right of privacy and Mr. Choquette did not have a lawyer at the deposition either.
19 Defendant's Exhibits in Support of Motion, etc., at pages 28:15- 29:7.

21 **18.** Mr. Moxon and Mr. Cantrell then "conclude[d] the deposition for the moment."
22 According to the transcript, we had been on "the record" for 27 minutes, from 2-35 p.m. until 3-02
23 p.m. Defendant's Exhibits in Support of Motion, etc., at pages 4:8 and 29:15.

25 **19.** Although I did not have the benefit of legal counsel at the time, I believe that the
26 actions I took, and the manner in which I took them, were objectively reasonable in those
27 circumstances.

1 **20.** At no time have I refused to provide documents and videos, etc. to the defendants
2 in this case. As stated in paragraph 6 above, during the third week of April I delivered about 27
3 gigabytes of digital data to the defendant’s counsel including emails, photographs and videos
4 demanded by them but in large part having little or nothing to do with this particular law suit.
5 During the 25 minutes of deposition of me on May 28, 2010, I answered all the questions asked of
6 me regarding the sources of, creation of and posting of the edited version of various videotape
7 footage taken at the attack and arrest of Mr. Choquette on October 26, 2008. I merely wish to have
8 the benefit of legal advice before I answer questions on subjects such as Mr. Choquette’s
9 medications, the ownership of his bicycle and his reasons for riding it.
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11 **21.** I understand and believe that lawyers who take a deposition often relieve the court
12 reporter of a duty regarding the safekeeping of the transcript so that the transcript may be sent to
13 the witness for review and any revisions. Instead, Mr. Moxon required me to travel a considerable
14 distance to the court reporters office in order to review the transcript of my depo and sign it in the
15 presence of a notary. This was despite my requests to have the deposition continued so I could
16 keep trying to obtain legal representation.
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18 **22.** I have read the defendant’s pending Motion to Compel which asserts that I am a
19 member “of an anti-religious hate group which calls itself “Anonymous.” Motion to Compel
20 Deposition of Donald Myers, page 3:6:8. In rebuttal of those assertions I say as follows:

- 21 **A.** It is my understanding that Anonymous is not “an anti-religious hate group.” It opposes the
22 criminal conduct, civil rights abuses and human rights abuses of the Church of Scientology
23 as explained on the Internet website www.whyweprotest.net
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- 25 **B.** It is also my understanding that Anonymous chooses to protest anonymously against civil
26 rights abuses because of the Church of Scientology’s reputation for hunting down and
27 harassing its critics with private investigators, lawyers and lawsuits. The exercise of my
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1 freedom of speech and other first amendment rights have attacked by civil and criminal
2 law suits where Mr. Moxon has been involved on behalf of the Church of Scientology's
3 Department 20 (OSA).

4 **C.** I also understand that the Anonymous protests have no leaders or membership although I
5 have observed Mr. Moxon and numerous private investigators trying to follow and
6 ascertain the identities, addresses and employment of the protestors. Indeed, I am informed
7 and believe that the Defendants herein are even deposing the owner of the business which
8 printed the plaintiff's protest signs that he has used when protesting Church of Scientology
9 abuses.
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11 **D.** I am informed and believe that the only documented violence at any of the global
12 Anonymous protests against Scientology crime and abuses has been by scientologists
13 against the protestors, as is the situation in the pending case before the court.
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15 **E.** Although I sometimes wear a masked ball type costume mask, and I have participated in
16 some protests by the group Anonymous, for the most part my protests against Scientology
17 abuses (such as forced abortions, child labor, false imprisonments, batteries and assaults,
18 and human trafficking) have been independent of the groups that refer to themselves as
19 being associated with the Anonymous human rights movement.

20 **23.** "The meet and confer" letter and requests that the defendant's lawyers never
21 offered me an opportunity to obtain a lawyer before setting a new date to resume my deposition.
22 Instead it informed me, in effect, that whatever I did they would be seeking thousands of dollars in
23 fees and costs which I do not have. At the time I had already given them my best recollection as to
24 the all of the questions they seemed to have for me at the time. Mr. Cantrell refused to drop his
25 notice that he would be proceeding with a motion to have me sanctioned and for an order that I
26 pay his fees and costs for making that motion. This was just make work to get court orders with
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1 which to drive me out of my residence, into the street and into bankruptcy, I reasoned. I decided
2 that I needed the matter to come before this court so that logic and reason might prevail. Why
3 should I be ruined financially and in other ways in connection with a law suit I did not file and for
4 which I merely need legal counsel, in the particular circumstances of this litigation.

5 **24.** Since I first began protesting Scientology crime, abuse and other wrongful conduct,
6 Mr. Moxon has been engaged in various attempts to have me punished for protesting against
7 Scientology activity. He filed one request for a restraining order which my lawyer Graham Berry
8 was successful in dismissing with what the lawyers called an “anti-SLAPP” motion. Mr. Moxon
9 has also brought another restraining order against me, and has been involved in a criminal
10 prosecution of me that he refers to in his motion. Indeed, the pending motion (page 4:15-16) refers
11 to a criminal conviction for property damage. In that regard, I had been protesting at the
12 Scientology Gold Base where we had been blasted with loud noise and water sprinklers. When
13 the police refused to show up to enforce ordinance 884 I stepped on the flowers to force the Hemet
14 Sheriff’s station to send officers.. I was prosecuted for vandalism, plea bargained and the total
15 penalty and costs was less than \$170.00. I have no other criminal or traffic convictions. Upon
16 information and belief, at the same time as he has been pursuing me and whatever information I
17 may know about the identity of other Anonymous protestors. Mr. Moxon has also been involved
18 in efforts to prosecute and penalize a large number of other people for their involvement in
19 protests against wrongful Scientology conduct. Mr. Moxon claims I wear a chilling mask.
20 Actually I am usually unmasked but when I do wear a mask it is a gold Lone Ranger type party
21 mask with a Bishop’s miter hat. In my case it is part of a costume as much as a disguise since the
22 Scientology private investigators and security guards know exactly who I am and why I am there
23 to protest their wrongful conduct.
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25. As explained in paragraph 9 above, I am part of the long-term unemployed in the Hollywood film industry which is going through a prolonged period of low and little production, at least as compared to the level production before the current economic client. I am barely able to afford housing, food, medication and public transport. I simply do not have any available funds to pay the financial claims being made against me by the lawyers for the Church of Scientology and other related defendants in this case.

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

Executed this 8th day of August, 2010 at Los Angeles, California.

Donald J. Myers

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DECLARATION OF GRAHAM E. BERRY

I, **GRAHAM E. BERRY**, declare and state as follows:

1. I am an attorney duly admitted to practice before all of the courts of the States of California. I have personal knowledge of the matters set forth herein and, if called upon to do so, I believe that I could and would competently testify thereto.
2. I was formerly counsel of record for the plaintiff herein. Due to disagreements the plaintiff agreed to substitute me out of this litigation.
3. In their pending Motion to Compel, the Defendants imply that the plaintiff withheld evidence during the time I represented him. This is absolutely denied. To the best of my knowledge and recollection, the Internet video that was edited and posted by Donald J. Myers was only one of a number of videos, including the sources of the edited videos, that were turned over to defendants during my relatively brief involvement in this case. Defendants create a misleading impression when they omit mention of all the copies of source videos that were produced in the same condition as received.
4. Upon information and belief, Defendant’s have an expensive and extensive audio-visual surveillance system at and around the location of the October 26, 2008 attack and arrest. These include cameras visible upon rooftops, fence tops, pole tops, street level, etc. From my own personal observations these many cameras at Scientology’s “Gold Base” vastly exceed any cameras that the plaintiff and other protestors had. From my own understanding of Scientology retention policies, the film and video tape from these many cameras and microphones will be in the custody of officials from Scientology’s Department 20 (the Office of Special Affairs).
5. At the time I ceased being counsel of record herein, and upon information and belief, the plaintiff was seeking successor representation from a relatively young Riverside attorney, Jeff

1 Boyd. My understanding was that Mr. Jeff Boyd had expressed serious interest in handling the
2 plaintiff's case. Mr. Jeff Boyd's father is John Boyd, Esq. who is also an attorney practicing in
3 Riverside County, California. I have been informed that after it became known to defense counsel
4 that the Plaintiff was discussing potential representation by Mr. Jeff Boyd, defense counsel
5 Kendrick L. Moxon, Esq. communicated with Mr. Jeff Boyd's father and discussed the son's
6 potential representation of the plaintiff against the Church of Scientology related defendants.
7 Again, upon information and belief, Mr. John Boyd had provided legal representation to the
8 Church of Scientology's "GOLD BASE" at Gilman Hot Springs, CA which is the location of the
9 assault and battery being alleged by the plaintiff.
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11 **6.** Relatively recently, and in connection with an unrelated matter, I have been providing
12 representation in an administrative appeal where John Boyd, Esq. has been appointed as the
13 hearing officer. Because of Mr. Moxon's past record regarding interference in unrelated matters I
14 was handling, I raised the reports with Mr. Boyd senior. He confirmed that he and his firm had
15 handled a matter for the Church of Scientology, that Mr. Moxon had made a telephone call to him
16 regarding the Choquette case, but that he (Mr. Boyd senior) had done nothing to influence any
17 decision not to represent Mr. Choquette that may or may not have been made by his son Jeff
18 Boyd, Esq.
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20 **7.** Thereafter I agreed to provide representation to various of the witnesses that defendants were
21 noticing, such as Patricia Curtis, Drew Margolis and Donald J. Myers. However, during a
22 telephone conference regarding deposition scheduling, defense counsel Mr. Moxon and Mr.
23 Cantrell raised the suggestion that I would be engaging in a potential or actual conflict of interest
24 by representing these witnesses in a case where I had withdrawn as counsel for plaintiff. I have
25 been counsel of record in about 20 cases involving the Church of Scientology International or its
26 affiliates and/or associates. They have often been represented by Mr. Moxon and both he and they
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1 have filed at least ten different state bar complaints against me, all but one dismissed; and that one
2 was largely based upon demonstrable perjury, blackmail and bribery. Accordingly, irrespective of
3 the lack of merit in defense counsel's suggestions, in these circumstances I felt it wiser not to
4 proceed with further representation. However, I have provided some assistance to Mr. Myers in
5 connection with the preparation of his papers in opposition to the pending motion.

6 **8.** I have indicated to all parties that I would be willing to become re-involved in this in order to
7 try and get this case settled. Although the plaintiff was appreciative defense counsel did not want
8 me being involved merely to get the case settled. They apparently have the benefit of an insurance
9 policy and I am informed and believe that they have noticed over 25 different depositions in
10 various states and in another country. Apparently the insurance policy provides for costs of
11 defense. I am not aware of a copy of the relevant insurance policy (s) being provided to Mr.
12 Choquette by defendant's counsel.
13

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

17 Executed this 8th day of August, 2010 at Los Angeles, California.
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19 _____
20 Graham E. Berry
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1 **PROOF OF SERVICE BY PRIORITY MAIL and EMAIL**

2
3 STATE OF CALIFORNIA)
4 COUNTY OF RIVERSIDE) ss.:
5 *Choquette v. Church of Scientology*
6 *RIC 538634*

7 I reside in the County of Los Angeles, State of California. I am over the age of 18 and not a party
8 to the within action. My business address is 958 Palm Avenue, #215, West Hollywood, CA
9 90069.

10 On August 9, 2010, I served on interested parties in said action the within:

11 **OPPOSITION OF NON-PARTY WITNESS DONALD J. MYERS TO MOTION TO
12 COMPEL AND FOR SANCTIONS, DECLARATIONS OF GRAHAM E. BERRY,
13 DONALD J. MYERS AND EXHIBITS.**

14 by placing a true copy thereof in sealed envelope(s) addressed as stated below and by delivering
15 the envelope to the U.S. Post Office and paying for it to be sent Priority Mail next day delivery,
16 and by emailing it to each of the recipients.

17 Mark S. Lester, Esq.
18 David Cantrell, Esq.
19 Lester & Cantrell, LLP
20 1325 Spruce Street, Suite 310
21 Riverside, CA 92507

22 Kendrick L. Moxon, Esq.
23 Moxon & Kobrin
24 3055 Wilshire Boulevard, Suite 900
25 Los Angeles, CA 90010

26 Telephone: (951) 300-2690
27 Facsimile: (951) 300-2694

28 Telephone: (213) 487-4468
Facsimile: (213) 487-5385

Executed on August 9, 2010, at Los Angeles, California.

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

Donald J. Myers
(Type or print name)

(Signature)