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12 Administrations

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

15 PEOPLE,

16 v.

17 DONALD MYERS.

18 Defendant.

Case No. 6CJ06496

**OPPOSITION TO MOTION FOR AN
ORDER THAT DEFENDANT AND
HIS AGENTS MAY ENTER UPON
PROPERTY TO "INSPECT, RECORD
& MEASURE"**

Court: D54
Date: April 13, 2016
Time: 8:30 am

19 **MEMORANDUM OF POINTS AND AUTHORITIES**

20 **I. INTRODUCTION**

21 The Churches of Scientology and their members have been the victims of criminal acts
22 by Donald Myers for more than 8 years.

23 Myers has been the subject of civil restraining orders, two criminal convictions and a
24 separate criminal diversion penalty arising out of his repeated harassment of Churches of
25 Scientology and their members. These acts included malicious harassment, stalking,
26 vandalism, and harassment of Scientology children at their school. In many other instances,
27 Myers has sought to disrupt religious congregations or gatherings by going into Scientology
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1 churches pretending to be an interested person, and when his identity was realized, screaming at
2 the top of his lungs inside the church buildings and exiting laughing – thereafter posting his
3 crimes on YouTube. In other instances, he harasses church members seeking to go in and out
4 of their churches and makes repeated sexual comments and propositions.

5 In the incident at issue, Myers, admittedly drunk, entered a church property on Fountain
6 Avenue in Los Angeles, screamed loudly once inside the building and was escorted outside by
7 several staff. Once outside, he physically assaulted and battered a church staff member and
8 proceeded to attempt to break security cameras and repeatedly trespass on the properties. He
9 attempted to sexually assault a security guard who evaded him. Myers was taken into custody
10 by the LAPD following a private persons arrest by the battery victim.

11 There is no justification, much less any demonstration of good cause for Myers and his
12 attorney to be given leave to enter Church properties to “inspect, photograph and measure”
13 therein. There is nothing relevant to see, no evidence to be gained, no reason for his presence
14 whatsoever – except more harassment of Church members to get them to drop charges to avoid
15 this further indignity and imposition upon their associational and religious rights. Myers is
16 incorrigible and cares nothing for the rights of others in performing his repeated acts motivated
17 by religious hatred.

18 Moreover, Myers has already spent many hours standing on the street and sidewalks and
19 trespassing on the property, filming the buildings and area. And as to the building at 4810
20 Sunset Blvd., there is no claim that he even entered the building that night. The only
21 connection is that he was arrested outside the building when the police arrived.

22 Movants urge the Court not to permit Myers or his attorney (who often accompanies
23 Myers in his acts of harassment) to further the burden of the crime to its victims. As addressed
24 below, California law would prohibit an order permitting Myers from impinging upon the rights
25 of the victims in the guise of pointless and unnecessary “inspection, photographing and
26 measuring” church premises, which cannot possibly provide any evidence in support of a
27 defense.

28

1 **STATEMENT OF FACTS**

2 The Church parties will largely decline to respond to the vituperative, inflammatory and
3 false allegations of Myers' attorney Graham Berry, having nothing to do with the issue raised.
4 Mr. Berry himself has been party to many acts of harassment, and was found by this Superior
5 Court to be a "vexatious litigant" as defined in C.C.P. §391, for bring multiple frivolous
6 lawsuits against Churches of Scientology. (Ex. A.) Mr. Berry was thereafter suspended from
7 the practice of law for 18 months for this harassment of Scientology Churches and other
8 misconduct. (Ex. B.) Thus, his gratuitous, inflammatory, irrelevant and inaccurate assertions
9 regarding Scientology and speculation of fact will be ignored.

10 The brief history of Myers' acts and the events giving rise to the arrest and prosecution
11 of Mr. Myers, the night of November 7, 2015, in sum, are as follows:

12 Since 2008, Myers, has engaged in numerous acts of harassment of Scientologists. He
13 has appeared at Churches of Scientology in the Los Angeles area literally hundreds of times,
14 under the assertion that he is "protesting" Scientology. Myers has never had any involvement
15 in Scientology, and chose to attack its members for reasons which are unknown.

16 In October of 2008, Myers was the subject of a civil restraining order for stalking a
17 female Scientologist, Lissa Uvizl, who worked at a church building in Hollywood. (Ex. C,
18 Restraining Order.) Myers created a composite video from the video of a church security guard
19 admitted into evidence in the restraining order proceedings and from his own video recording
20 the harassment of Ms. Uvizl, which he posted on the internet. This video, bragging of his
21 harassing exploits, is appended as Exhibit D-1, "Excerpts of Donald Myers Videos." This and
22 other brief excerpts of videos posted by Myers on YouTube are located on the same CD, and
23 are very demonstrative of the situation addressed herein.

24 In 2010, Myers was arrested and prosecuted in Riverside County for vandalism at a
25 Scientology religious film studio. Myers was convicted pursuant to PC §594(a) and ordered
26 not to annoy or harass, threaten or disturb Church members and to stay away from the location
27 for two years. (Ex. E.)

1 Later that year, he and another man pretended to be tourists and went into the Church of
2 Scientology in Pasadena, acting as if they sought information regarding the religion. When
3 Myers' identity became known, he was ordered to leave. Whereupon, Myers and his
4 companion screamed loudly inside the church to disrupt services and those associating therein,
5 and guffawed as they were escorted out. Excerpt of Myers' own video of this incident, again
6 posted on YouTube, is attached here within Exhibit D-2. The same day, Myers went to the
7 Church facilities in Los Angeles where he was also recently arrested, and intentionally
8 disrupted a gathering there outside the church – chasing parishioners and staff into buildings
9 and generally making it impossible for anyone to congregate over Myers' yelling and taunts.
10 Myers proudly posted this on YouTube, which is included in Exhibit D-3.

11 In 2011, Myers was arrested and convicted of PC §626.8 following several instances of
12 harassment of young children at a school run by Scientologists in Santa Monica. (Ex. F.) He
13 also proudly posted a video of this incident of harassing children. (Ex. D-4.) He was ordered to
14 stay away from that location, and focused on other locations he had not yet been ordered to
15 avoid.

16 Some months later, Myers entered the Church of Scientology, Mission of Beverly Hills
17 pretending to be interested in Scientology. When he was identified and asked to leave, he
18 loudly screamed into the religious course rooms and counseling rooms, "Scientology is a cult!"
19 and disrupting services. Myers posted a video of the incident on Youtube.com, titling it,
20 "Scientology Mission Beverly Hills Infiltration" excerpts of which are included at Exhibit D-5.

21 Myers was arrested again in November of 2013 for further harassment of church staff
22 member Lissa Uvizl at her church office after the restraining order relating to her had expired.
23 (Ex. G.) As part of a criminal diversion including extensive community service, Myers was
24 ordered again to stay away from her and the location for a year. (*Id.*)

25 There are many other instances in the past 3 years of Myers coming to the church
26 campus located between Fountain and Sunset and there harassing parishioners, breaking up
27 meetings and assemblies, entering church buildings, trespassing onto Church property, goading
28 security to deal with him, and screaming into doors or windows. (Declaration of Kenneth

1 Long.) Often Myers makes disgusting comments to parishioners and security guards, telling
2 them he would like to have sex with them, and bragging about his sexual encounters with other
3 persons. He has attempted to grab at persons' genitals while taunting them. In some of these
4 instances, he has been accompanied by attorney Graham Berry. (*Id.*) Each such instance has
5 violated the rights of members of this religion to peacefully gather, assemble and practice their
6 faith in peace. These are not acts of "protest" or "demonstration" as asserted, but are endeavors
7 to disrupt persons seeking to exercise constitutional rights.

8 The incident giving rise to the arrest on November 7, 2015 began at the offices of IAS
9 Administrations on the Scientology campus, located at 4751 Fountain Ave. Although Myers
10 had been repeatedly warned by church security to stay off the property and out of the buildings,
11 Myers trespassed onto the property, walked up the steps and went into the lobby of the building
12 where several staff were meeting with parishioners. He began screaming loudly at them and
13 was ordered out by several men. (Declaration of Kenneth Long.) Staff member Kenneth Long
14 saw the incident and came up the steps of the building, telling Myers to leave the property.
15 Myers took a swing at Mr. Long, which was blocked by him. (*Id.*) Myers then started to go
16 past Mr. Long down the steps and grabbed Mr. Long's behind as he did so, calling him a
17 "pretty boy." (*Id.*) Myers then proceeded to the lawn of the property where he violently shook
18 a pole on which was a video surveillance camera. Myers, exclaiming that he was drunk,
19 thereafter turned up L Ron Hubbard Way where the other church buildings are located on the
20 campus, and performed his typical exercise of entering onto the property and harassing
21 members trying to go into buildings – much as seen in the video excerpt of him breaking up
22 gatherings outside Church buildings where many parishioners congregate. (*Id.*; and Ex. D-3.)
23 He was told to stay off the property, and repeatedly went onto and off of the property to taunt
24 the security guards and staff. (*Id.*)

25 LAPD was called, and when Myers was near the top of the block near Sunset Blvd, and
26 in front of one of the Church buildings located at 4810 W. Sunset Blvd., the police arrived and
27 instructed Myers to come to their car. He was then arrested and taken into custody by the
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1 police. (*Id.*) Myers had entered the lobby of 4751 Fountain as noted above, but *did not* enter
2 into the main church building at 4810 Sunset Blvd., where he seeks to inspect. (*Id.*)

3 **MYERS HAS NO RIGHT TO ENTER UPON AND INSPECT, PHOTOGRAPH**
4 **AND MEASURE CHURCH PROPERTY**

5 In some circumstances, discovery is permitted to a criminal defendant. The leading case
6 on the issue is *Bullen v. Superior Court* (1988) 204 Cal.App.3d 22, 26, which states that “To
7 generalize on the law of criminal discovery, an accused’s motion for discovery must be timely,
8 must describe the information sought with reasonable specificity, and must present a plausible
9 justification for production of the items requested.” The Court noted that disposition of the
10 motion requires that the trial court “must balance the value to the accused of the information
11 sought against the legitimate interests of others.” (citing *Reyes v. Municipal Court* (1981) 117
12 Cal.App.3d 771, 775, 173 Cal.Rptr. 48.)

13 Hence, the Court found, “[a]n accused ... is not entitled to inspect material as a matter of
14 right without regard to the adverse effects of disclosure and without a prior showing of good
15 cause... Additionally, the court has discretion to deny discovery in the absence of a showing
16 which specifies the material sought and furnishes a “plausible justification” for inspection.
17 *Bullen* at 27, (citing *Hill v. Superior Court* (1974) 10 Cal.3d 812, 817.)

18 Here, Myers has made no showing whatsoever concerning why he purportedly needs to
19 examine, photograph or “measure” inside the church buildings. The defendant doesn’t say why
20 he wants such information, why he needs it, or how it would serve to defend against any
21 possible claim. Indeed, the demand for this discovery is transparently intended to further
22 intimidate the victims to cause them to drop any charges against Myers or suffer the further
23 abuse of having him tour through the building and take pictures with the power of the Court’s
24 command.

25 But as stated by the *Bullen* court, the rights of the third party – and particularly of the
26 victim of the very crimes at issue -- are paramount, finding that an order permitting a criminal
27 defendant to inspect or photograph a premises impinges upon the victim’s “right to be free from
28 unreasonable search and seizure.” Thus, to override the constitutional rights of the third party

1 victim, which in this case is a church and its parishioners and staff with enhanced associational
2 and religious rights would “require that the ‘plausible justification’ for inspection be so
3 substantiated as to make the seizure constitutionally reasonable.” *Bullen* at 33, citing *Pacific*
4 *Lighting Leasing Co. v. Superior Court* (1976). And, “[I]kewise, petitioner’s fundamental right
5 to privacy free from judicially mandated intrusion into her home invokes a ‘legitimate
6 governmental interest,’ rendering it incumbent on defendant to demonstrate sufficient
7 ‘plausible justification’ and ‘good cause’ for the intrusion. *Bullen* at 33-34, citing *Craig v.*
8 *Municipal Court* (1979) 100 Cal.App.3d 69, 74.

9 *Bullen* failed to make such showing, and like *Myers*, offered only unsupportable
10 conclusions, and even though it was murder case, the trial court’s order permitting discovery
11 was by writ of the Court of Appeals. This, of course, is only a misdemeanor case and the most
12 recent of a long line of such cases against *Myers*.

13 It would be incongruous and constitutionally inappropriate to permit *Myers*, his counsel
14 or his “agents,” to abuse the victims’ rights in a manner perhaps even greater than that for
15 which he is charged – and at the command of the court.

16 Neither *Myers* nor his attorney have even pretended to provide any cogent reason for
17 their demand. What do they need to “inspect” and why? What do they need to “photograph”
18 and why? What do they need to “measure” and why?”

19 Even if it would be helpful to have photographs of the places where *Myers*’ trespassed,
20 he has taken hours of video at these very locations already. And there is no allegation
21 whatsoever that he entered the Church building at 4810 Sunset Blvd. Thus, as noted, the
22 assertion that he will need 1-2 hours to photograph and examine and “measure” the premises is
23 most disingenuous and transparent.

24 Precisely as in *Bullen*, “Defendant’s showing of ‘good cause’ or ‘plausible justification’
25 is conclusional and thus inadequate to support judicially compelled access to petitioner’s
26 [church] with the resulting deprivation of [members’] right to privacy in and freedom from
27 unwanted intrusion.” *Bullen* at 27.

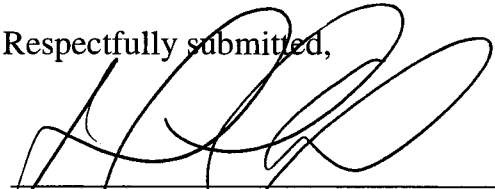
1 **CONCLUSION**

2 Third parties Church of Scientology Western United States (4810 Sunset Blvd.), and
3 International Association of Scientologists (4751 Fountain Ave.), accordingly oppose Myers'
4 motion for leave to enter their premises for any reason. Indeed, Myers should be barred from
5 ever coming anywhere near any of these premises as the reasonable punishment for his crimes.

6 Dated: April 6, 2016

Respectfully submitted,

7
8 By:



9 Kendrick L. Moxon
LAW OFFICE OF KENDRICK L. MOXON, P.C.

10 Attorney for movants Church of Scientology
11 Western United States and International
12 Association of Scientologists Administrations
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DECLARATION OF
KENNETH LONG

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
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16 DONALD MYERS.

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18 Case No. 6CJ06496

19 **DECLARATION OF KENNETH LONG**
20 **IN SUPPORT OF OPPOSITION TO**
21 **MOTION FOR AN ORDER THAT**
22 **DEFENDANT AND HIS AGENTS MAY**
23 **ENTER UPON PROPERTY TO**
24 **“INSPECT, RECORD & MEASURE”**

25 Court: D54
26 Date: April 13, 2016
27 Time: 8:30 am

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1. I am over 18 years of age and a resident of the State of California. The statements herein are based on my personal knowledge and/or through execution of my duties as Assistant Secretary for Church of Scientology Western United States, including review of corroborating videos posted by Donald Myers. If called as a witness, I can and will testify competently thereto.

2. The incident giving rise to my private person’s arrest of Donald Myers on November 7, 2015 began shortly after 6:00 p.m. at the offices of the IAS Administrations (“IASA”), located at 4751 Fountain Avenue. IASA contains administrative offices as well as religious

1 counselling rooms and religious course rooms. All of its staff are religious workers and
2 members of the Scientology religious order.

3 3. Prior to the incident, I had personally ordered Myers off Church property during two
4 incidents in early 2015, the first when he showed up and entered onto Church property while
5 following me with a video camera and making derogatory statements to harass and intimidate,
6 as he was also doing to other Church staff and parishioners. He claimed then that his multiple
7 trespasses were “de minimus.” The second incident was on Easter Sunday, when he showed
8 up and was screaming at children and their parents who were visiting the petting zoo and water
9 slide made available by the Church for the holiday, and where members were gathered. I had
10 also personally observed Church security personnel warning Myers to stay off the property on
11 numerous other occasions during the past eight years.

12 4. I had happened to be passing by the IASA lobby and I heard screaming from inside.
13 A few seconds later, Myers came into view through the glass door and screamed again at
14 persons inside, who I heard order him to leave. I walked halfway up the steps leading to the
15 lobby and, as he opened the door, I told him to get off the property. He came down a step or
16 two, standing above me, and tried to slap my head, striking my arm instead when I blocked
17 him. He then started running down the steps and grabbed or slapped my buttock as he passed,
18 calling me “a pretty boy.”

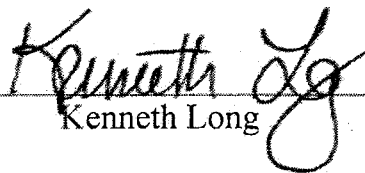
19 5. I followed down to the sidewalk and stood there between him and the IASA entrance,
20 observing that he was agitated and somewhat unrestrained in his conduct and appeared to be
21 drunk or on drugs. (I later read Myers’ posting on his website stating that he had just come
22 from a bar a few blocks away.) Myers made derogatory statements about my wife, seemingly
23 with the intent to incite me to fight him, and then started walking west on Fountain Avenue as
24 several security guards arrived. He paused to step onto the property to violently shake the
25 supporting pole for a security video camera before proceeding west. He turned north onto L.
26 Ron Hubbard Way, crossing the street to the west sidewalk, and proceeded to harass
27 parishioners and staff members as he slowly worked his way up the block, repeatedly entering
28 onto the property to taunt parishioners and the guards and being ordered off. He stopped

1 outside the Church premises at the northern end of the block, with the address of 4810 Sunset
2 Boulevard, to continue his harassment and was there when the police arrived and took him into
3 custody. Myers did not enter into the Church of Scientology of Los Angeles building at 4810
4 Sunset. I have seen him many times take video footage of both the IASA building and at the
5 4810 Sunset Blvd. address and also post some footage of these locations on the Internet.

6 6. Myers has previously come to the Church campus at this location on many occasions,
7 including during the past three years. I have personally observed him, accompanied at times by
8 attorney Graham Berry or others but more often alone, harassing parishioners, breaking up
9 meetings and assemblies by screaming loudly at them, trespassing onto Church property,
10 goading security to deal with him, and screaming into doors or windows.

11 Executed this 6th day of April 2016 at Los Angeles, California.

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

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15  A handwritten signature in black ink, appearing to read 'Kenneth Long', is written over a horizontal line. The signature is stylized and cursive.
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