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5 Attorney for Defendant
6 Donald James Myers

7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF LOS ANGELES**

10 THE PEOPLE OF THE STATE OF)
11 CALIFORNIA,)
12 Plaintiff,)

13 v.)

14 DONALD JAMES MYERS 07/31/1965 M)
15 AKA: ANGRYGAY MONIKER)

16 P242)
17 P302a, P602k)

18 Defendant.)

) Case No: **6CJ06496**

) **DEFENDANT'S NOTICE OF MOTION**
) **AND MOTION FOR AN ORDER THAT**
) **THE PROSECUTION PROVIDE THE**
) **DEFENSE WITH DISCOVERY IN LAW**
) **ENFORCEMENT PERSONNEL FILES,**
) **DECLARATION OF GRAHAM E. BERRY**
) **IN SUPPORT THEREOF.**

) [*Pitchess* motion]

) **Trial Date:** None

) DATE: April 13, 2016
) TIME: 8-30 A.M.
) DEPT: D54
)

1 **TO THE LOS ANGELES CITY ATTORNEY AND/OR HIS REPRESENTATIVE:**

2 **PLEASE TAKE NOTICE** that on Wednesday the 13th day of April, 2016, at 8:30
3 A.M., or as soon thereafter as counsel may be heard in Department D54 of the Los Angeles
4 County Superior Court, Clara Shortridge Foltz Criminal Justice Center, at 210 West Temple
5 Street, Los Angeles, CA 90012, Defendant Donald James Myers through and by his counsel of
6 record herein will and hereby does move this Honorable Court to order the Los Angeles City
7 Attorney's Office and the Los Angeles Police Department to provide the defense in the case of
8 *The People of the State of California v. Donald James Myers*, LASC Case No. 6CJ06496 with
9 discovery in law enforcement personnel files under Evid. Code §§1043 and 1045 and *Pitchess*
10 *v. Superior Court*, (1974) 11 Cal. 3d 531, 113 Cal. Rptr. 897.

11 **THIS MOTION** will be made pursuant to Evidence Code §§1043 and 1045 and upon
12 the ground that good cause exists to order disclosure of the following information:

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16 (1) All complaints from any and all sources relating to acts of fabrication of police
17 reports, fabrication of probable cause, false testimony, perjury, against Los Angeles
18 Police Department Officers Lopez #38805 and Stauber #41178, and Los Angeles
19 Police Department Officers Karla Carrillo #40854 and Asuncion #36248. Defendant
20 specifically requests production of the names, addresses, dates of birth, and
21 telephone numbers of all persons who filed complaints, who may be witnesses,
22 and/or who were interviewed by investigators or other personnel from the Los
23 Angeles Police Department, the dates and locations of such incidents complained of
24 as well as the date of the filing of such complaints.
25
26 (2) All complaints from any and all sources of officer misconduct amounting to moral
27 turpitude within the meaning of *People v. Wheeler* (1992) 4 Cal. 4th 284, 14 Cal.
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1 Rptr. 2d 418, including but not limited to allegations of false arrest, planting
2 evidence, fabrication of police reports, fabrication of probable cause, false
3 testimony, perjury, and false or misleading internal reports including but not limited
4 to false overtime or medical reports.
5

6 **(3)** Discipline imposed upon the named officers as a result of the Investigating
7 Department’s investigation of any citizen complaint described in items one and two.

8 **(4)** Any other material which is exculpatory or impeaching within the meaning of *Brady*
9 *v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194 (1963). “Evidence is favorable and must
10 be disclosed if it will either help the defendant or hurt the prosecution.” (*People v.*
11 *Coddington*, (2000) 23 Cal. 4th 529, 589, 97 Cal. Rptr. 528, as modified on denial
12 reh’g, Sept. 27, 2000) and (overruled on other grounds by, *Price v. Superior Court*,
13 (2001) 25 Cal. 4th 1046, 108 Cal. Rptr. 2d. 409)). The California Supreme Court
14 specifically empowered trial courts to examine police personnel files for *Brady*
15 material which is discoverable without regard to the five-year limitation applicable
16 to *Pitchess* discovery. (*City of Los Angeles v. Superior Court*, (2002) 29 Cal. 4th 1,
17 16, 124 Cal. Rptr. 2d 202.)
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20 **(5)** The statements, records, notes and related documents of all police officers who are
21 named above and/or who are listed as either complainants or witnesses within the
22 meaning of items 1, 2, and 4 above.
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 In 2008 the defendant became part of a large group of first amendment protestors
4 Known as Anonymous and that commenced protesting alleged human rights, civil rights,
5 criminal conduct and other abuses allegedly being perpetrated by various of the churches and
6 corporations of Scientology, and he has also done so in smaller groups and alone, as he was on
7 the occasion in issue. During that time the Scientology organization has employed off-duty
8 police officers to limit and chill the activities of protestors on public streets outside their
9 various properties. In addition, the Scientology organization has made a practice of calling the
10 LAPD to the scene of almost any first amendment activity, alleged misconduct, and then
11 demanded the removal and arrest of protestors who are labelled “suppressive persons” (“SPs”)
12 by the Scientology organization which teaches that SPs have no rights at all. The defendant has
13 been one of the victims of this despicable activity. Not surprisingly, various protestors
14 including this defendant have alleged collusive conduct between the LAPD and the Scientology
15 organization. In addition, the defendant is an openly gay man. The Scientology organization
16 has an open bias against all gay people considering them to be among the lowest of the low, as
17 having no rights at all, and who are to be removed from society and exterminated. See attached
18 Berry Declaration (“Berry Decl.”), Exhibit 6. The LAPD also has a history of open bias against
19 gay people.
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24 **II. APPLICABLE FACTS**

25 The Private Person’s Arrest misdemeanor complaint herein was sworn to by a Mr.
26 Kenneth Long who has been and/or is variously a paralegal for Church of Scientology attorney
27 Kendrick L. Moxon, an employee in the intelligence/surveillance/investigations/legal and
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1 public relations bureau of the Church of Scientology International's ("CSI") Office of Special
2 Affairs ("OSA") and other entities related to CSI and located around L. Ron Hubbard Way
3 (formerly part of Berendo Street) at the junction of Sunset Boulevard and Vermont Avenue in
4 Hollywood, CA 90029. Berry Decl., ¶5 . A copy of the relevant police report dated 2015 Nov-8
5 AM 9:54 AM is attached to the Berry Decl. as Exhibit 1. The arrest of Mr. Myers occurred
6 nearly 15 hours prior to that date and time.
7

8 For many decades, members of the public have protested the alleged criminal conduct
9 and alleged human rights abuses of the Church of Scientology which has used various tactics
10 (both lawful and unlawful) to try and stop or interfere with these first amendment protests
11 wherever and whenever they occur. Berry Decl., ¶6 .
12

13 The defendant Mr. Myers is one of the over nine thousand people who, since late
14 January 2008, have been engaging in monthly and other global protests against Scientology
15 crime and abuse in over 110 cities in over 42 countries around the planet. On a number of
16 occasions the defendant herein has been part of a smaller group, and sometimes on his own,
17 protesting alleged Scientology forced labor, human trafficking, violence, unlawful
18 imprisonment and other abuses at various Scientology locations including the "Big Blue" and
19 former Cedars of Lebanon Hospital buildings located along L. Ron Hubbard Way. Berry Decl.,
20 ¶5. Among other activities conducted at 'Big Blue' is the Los Angeles location of the
21 'Rehabilitation Project Force' or the 'RPF' of CSI's para-military and pseudo-naval Sea
22 Organization headed by Scientology leader Captain David Miscavige who himself has been
23 accused of many violent physical assaults by many of his former subordinate officers as a
24 Google search of "David Miscavige" will disclose. The RPF has been compared by many
25 former high level Scientologists to a dangerous gulag where there is a tyranny of violence and
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1 other human and civil rights abuses. At any-one time there may be as many as 150-200 RPFer's
2 confined in one of the Big Blue buildings; crammed like sardines in small rooms, with little
3 hope of escaping a fire because even the fire escapes are locked. Berry Decl., ¶9.
4

5 The Church of Scientology also has a number of policy letters and practices for the
6 "Handling of Suppressive Persons" and loosely referred to as the "Fair Game" policies.
7 Scientology disingenuously claims that it cancelled "Fair Game" because "it causes bad public
8 relations" but experts have opined in litigation that it was cancelled in name only and is still
9 carried out by the organization. Indeed, the organization recently admitted to [Fair Game]
10 harassment and intimidation of a former senior scientology executive and his new non-
11 Scientology wife in Florida litigation. Berry Decl., ¶10. However, the judge and appellate court
12 rejected Scientology's argument that this harassment was protected first amendment activity.
13 The court also ruled that Scientology was engaged in the conduct of a business when it denied a
14 'SLAPP' motion in the same manner. Berry Decl., ¶11.
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17 The Scientology organization, which is the real party in interest in this case, and for
18 which complainant Ken Long is employed at approx. \$50.00 per week under a billion year
19 written contract. He must adhere to its policies and practices. Relevant Scientology documents
20 deem gay persons to have no rights of any description and that they must be removed from
21 society and exterminated "without remorse." Berry Decl. ¶15, Exhibit 6. The LAPD has its own
22 history of homophobia which continues among some officers.
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24 Mr. Myers is an openly gay man who used the moniker the 'Angry Gay Pope' and
25 protested Scientology with a Bishop's Miter and a party mask. Berry Decl., ¶12, Exhibits 4,5.
26 Scientology used private investigators and off-duty LAPD officers to try and prevent the
27 protests of the Anonymous picketers who included Mr. Myers. They picketed and protested
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1 anonymously (with masks) because of the well-known CSI “Fair Game” policies and practices.
2 Notwithstanding the anonymity, CSI still located these many of these protestors, thereafter
3 harassing their parents and others associated with them. Mr. Myers was one such person. Berry
4 Decl., ¶13, Exhibits 4-5.
5

6 At protests off-duty LAPD officers were employed to restrict and chill first amendment
7 activity. On duty police were frequently called to warn away protestors and sometimes to arrest
8 them on what the arrestees complained were false complaints and charges. Repeatedly, Mr.
9 Myers has been one such person. Allegations of improper Scientology “street closing/filming
10 permits,” enforced by collusive LAPD officers being directed by Scientology executives such
11 as Scientology executive Ken Long and his attorney herein, Mr. Kendrick Moxon, were made
12 by many including Mr. Myers. Berry Decl., ¶13. With regard to such ‘dirty tricks,’ it is relevant
13 to note that attorney Moxon was once named by the U.S. Department of Justice as an
14 unindicted co-conspirator (for submitting fake handwriting samples to the FBI) in the largest
15 ever known criminal infiltration and burglary of [at least nine] departments of the U.S.
16 Government. Berry Decl., ¶13.
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19 In addition, the defendant is an openly gay man. The Scientology organization has an
20 open bias against all gay people considering them to be among the lowest of the low, as having
21 no rights at all, and who are to be removed from society and exterminated. The LAPD also has
22 a history of open bias against gay people. As far as Scientology is concerned, it has policy
23 letters referring to homosexuals as persons who are 1.1 on its tone scale, “covertly hostile” and
24 who should be “removed from society, quarantined and exterminated without sorrow.” Dozens
25 of documents could be attached to verify this institutional discrimination, by both the
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1 Scientology organization and the LAPD, against homosexuals. It would unnecessarily clutter
2 the court's file. Berry Decl., ¶15, Exhibit 6.

3 Scientology "handlers" such as various bicycle riding 'security' officers and executives
4 such as Private Person Arrestee Ken Long frequently interacted with Mr. Myers and others, and
5 were often photographed and video-taped doing so. Berry Decl., ¶14, Exhibits 1 and 4. Indeed,
6 Mr. Myers has become one of the protestors that CSI and OSA has surveilled, harassed,
7 prosecuted and libeled most viciously and continuously. The pending prosecution is merely a
8 continuation of a long and continuing first amendment tussle between Mr. Myers and the CSI,
9 OSA, attorney Moxon and executive Ken Long. Berry Decl., ¶16.

10 Mr. Myers is expected to contend that the current prosecution is the product of a false
11 police report by a person employed and controlled by an organization with a history of criminal
12 conduct and of malice towards Mr. Myers; and in the latest case, an organization and a
13 complainant which and who the defense alleges acted in collusion with the L.A.P.D. officers
14 named in the motion to falsely arrest him, and to then subject him to three days and nights of
15 confinement in various Los Angeles jails before the single [false] charge of sexual battery was
16 dismissed and Mr. Myers released with no charges pending. Nearly ten weeks later the three
17 new charges herein were filed; no doubt upon pressure from the Scientology enterprise to, in
18 the words of their founder L. Ron Hubbard, "put [Myer's] head on a pike" as a warning to all
19 of the other first amendment protestors.

20 **III. A PLAUSIBLE FACTUAL FOUNDATION EXISTS FOR THE DISCOVERY**

21 Under no reasonable reading of the police report and related documents can it be said that
22 there was probable cause to take the defendant in custody, to hold him in various jails for three
23 days and nights, and then release him without either a court appearance, charge, summons or

1 notice to appear. It is understood that if Mr. Myers were to testify at trial herein his evidence
2 would mirror the nearly contemporaneous report Mr. Myers made himself and posted to his
3 website on the Internet within a few days of being released from jail and nearly nine weeks
4 before the these three new charges were filed. A copy of Mr. Myer's detailed "web posting" of
5 the incident is attached hereto as Exhibit 2. In other words, when Mr. Myers wrote and posted
6 the Internet report he had no notice of these charges and thus no reason to shape or shade his
7 account of the events – at 180 degrees in variance to the Police Report. Berry Decl. ¶17.
8

9
10 The arresting officers themselves state that they did not witness the alleged incident (s),
11 thus they cannot testify as fact witnesses. The police report states that the two officers who took
12 Mr. Myers into custody (Carrillo #40884 and Asuncion #36248) were the second responding
13 unit. The first responding unit 11A72 were Officers Lopez #38805 and Stauber #41178. The
14 Police Report (Berry Decl. Ex. 1) states that Officers Lopez and Stauber took Mr. Myers into
15 custody. However, it was not until later, as the Myers report indicates (Berry Decl. Ex.2), that
16 he was placed in handcuffs. Myers was not aware he was under arrest until then. Indeed, the
17 Police Report states that it was Officer Asuncion #36248 that allegedly read him his Miranda
18 rights.
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20
21 Prior to his arrest, Mr. Myers was not given any opportunity to contradict or explain the
22 Scientologist's allegations. On the other hand, as Exhibit 2 indicates, after his arrest, Myers was
23 subjected to the banter about his being gay in the context of the sexual battery allegation
24 Contrast the hearsay police report with the nearly contemporaneous Myer's Internet report. He
25 states that one of the officers even knew who he was and said "You're the protester with a
26 website." The alleged victim (Ken Long) does not even show up on the scene until the end
27 when Myer's is strolling up L. Ron Hubbard Way and about to talk with another unlisted
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1 witness “Cathy” who also lives on L. Ron Hubbard Way. Moreover, the Police Report does not
2 indicate any significant compliance with the LAPD Manual regarding Private Person Arrests.
3 Indeed, the irregularities in the entire saga, and the adverse inferences that can be drawn
4 therefrom, all support this motion.
5

6 In all of the above circumstances, there is a logical link between the three pending
7 charges, the proposed defense and discovery sought which merely seeks information as to prior
8 dishonesty (which would go to the credibility of an officers testimony). Furthermore, in light of
9 the contents of both the Police Report and the defendants detailed Internet statement, evidence
10 material to the defenses that will/may be asserted include evidence relating to sexual
11 orientation bias, coercive conduct, and/or violation of constitutional rights by Los Angeles
12 Police Department Officers Lopez #38805 and Stauber #41178, and Los Angeles Police
13 Department Officers Karla Carrillo #40854 and Asuncion #36248. Similarly, material evidence
14 would include allegations of false arrest, planting evidence, fabrication of police reports,
15 fabrication of probable cause, false testimony, perjury, false or misleading internal reports, and
16 complaints of officer misconduct amounting to moral turpitude within the meaning of *People v.*
17 *Wheeler* (1992) 4 Cal. 4th 284, 14 Cal. Rptr. 2d 418.
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20 **IV. ADDITIONAL ARGUMENT**

21
22 This motion is made pursuant to the discovery provisions set forth in California Penal
23 Code §§1054-1054.7 *et seq.*, the applicable case-law cited herein, and the inherent jurisdiction
24 of this court to control the proceedings before it.

25 In *Hill v. Superior Court* (1974) 10 Cal. 3d 812, the California Supreme Court held that
26 “[A] motion for discovery by an accused is addressed to the sound discretion of the trial court,
27 which has inherent power to order discovery in the interests of justice. ... [and] the basis for
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1 granting pretrial discovery to a defendant is the fundamental principle that an accused is
2 entitled to a fair trial.” *Id.* at p. 816. In *Reyes v. Municipal Court* (1981) 117 Cal.App.3d
3 771,775, the Second District stated that “[t]o generalize on the law of criminal discovery, an
4 accused’s motion for discovery must be timely, must describe the information sought with
5 reasonable specificity, and present a plausible justification for production of the items
6 requested.” Citations omitted.

8 In *Pitchess v. Superior Court*, (1974) 11 Cal. 3d 531, 535, 113 Cal. Rptr. 2d 897, the
9 California Supreme Court held that a defendant has the right to discover the contents of peace
10 officer personnel records. The decision in *Pitchess* was codified by Evidence Code §§1043 and
11 1045 which delineates the requisite procedures for such discovery. In order to obtain discovery
12 of past complaints against the police, a defendant must first make a “threshold showing” by:

14 “... demonstrating that the requested information will
15 facilitate the ascertainment of the facts and a fair trial. [Citation
16 omitted] The requisite showing may be satisfied by general
17 allegations which establish some cause for discovery other than ‘a
18 mere desire for the benefit of all information which has been obtained
19 by the People in their investigation of the crime.’” *Id.* at p. 535.

20 *Pitchess* discovery is not limited to allegations involving officer violence but can extend
21 to anything relevant to the facts of the particular case. In *People v. Hustead*, (1999) 74 Cal.
22 App. 4th 410, 416, 87 Cal. Rptr. 2d. 875, the court noted that ““one legitimate goal of [*Pitchess*]
23 discovery is to obtain information for possible use to impeach or cross-examine an adverse
24 witness.”” ... “Likewise, other cases have held that *Pitchess* motions are proper for issues
25 relating to credibility.” See generally, *Larry E. v. Superior Court*, (1987) 194 Cal.App. 3d 25,
26 28-33, where it was held that *Pitchess* motions are also proper for the discovery of records
27 relating to “racial prejudice, false arrest, illegal search and seizure, the fabrication of charges
28 and/or evidence, dishonesty and improper tactics.” Similarly, in *Pierre C. v. Superior Court*,

1 (1984) 159 Cal.App. 3d 1120, 1122-1123, the court held that where a defense of false arrest
2 was raised a substantial issue at trial would be the character, habits, customs and credibility of
3 the officers and therefore it was sufficient for the defense to request records relating to “racial
4 prejudice, false arrest, illegal search and seizure, the fabrication of charges and/or evidence,
5 dishonesty and improper practices.” In the case at bar, the defense is also alleging sexual
6 orientation bias and discrimination. The complainant is an employee of the Scientology
7 organization with has mandatory policies and practices that can at best be described as
8 discriminatory against homosexuals. The defendant alleges that the complainant and his
9 employer have and are discriminating against the defendant on the basis, at least in part,
10 because of his sexual orientation. In the past, the Scientology organization has even publicly
11 attacked the defendant with medical information representing a breach of the defendant’s
12 privacy.
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16 In addition, the defendant is also alleging that the complainant and his employer
17 colluded with the arresting officers which is part of an organization with its own history of
18 discrimination on the basis of sexual orientation. Indeed, on the basis of what the complainant
19 told the two LAPD officers, they arrested him without even asking for his version of what had
20 allegedly occurred and with regard to which they had no personal knowledge.
21

22 In *City of Santa Cruz v. Municipal Court* (1989) 49 Cal. 3d 74, 83, 260 Cal. Rptr. 520
23 the court held that although the defense must establish “good cause to obtain the information of
24 people who have made complaints against the police ... [the] threshold burden is relatively
25 low.”
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1 LAPD and the Scientology Organization and involving the defendant herein and
2 his protest group. Much of it relies on material I had also written.

3 **Exhibit 5:** “Scientology Psycho-Terrorists Chris Smith and Randy Stith Strike in
4 Hollywood.” Another article discussing improper collusion between the LAPD
5 and the Scientology organization in Los Angeles.

6 **Exhibit 6:** “Scientology Homophobia.” An article by the former number 3
7 ranking executive in the Scientology organization.

8
9 **5.** I have been involved in the defense of persons and entities being sued by the
10 corporations of Scientology since the year 1990 and have been directly involved in
11 approximately 30 such matters, both civil and criminal. Over the course of those 25 years the
12 private person arrestor herein, Ken Long, and his attorney Kendrick Moxon, were also involved
13 in many of those proceedings; Most often attorney Moxon would be representing the Church of
14 Scientology International (“CSI”) and Ken Long would be assisting him as his paralegal. Both
15 were within the legal unit of CSI’s Office of Special Affairs (“OSA”). More recently, I have
16 known Ken Long to also be fulfilling a public relations post at one of the Scientology entities
17 operating at L. Ron Hubbard Way. In addition, I have known Ken Long to be directly involved
18 in many efforts to stop protestors engaged in first amendment activity against alleged
19 Scientology abuses in and around L. Ron Hubbard Way (formerly part of Berendo Street) at the
20 junction of Sunset Boulevard and Vermont Avenue in Hollywood, CA 90029.

21
22 **6.** For many decades, members of the public have protested the alleged criminal
23 conduct and alleged human rights abuses of the Church of Scientology which has used various
24 tactics (both lawful and unlawful) to try and stop or interfere with these first amendment
25 protests wherever and whenever they occur.
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1 7. Since at least the late 1990s I have personally observed members of the public
2 protesting the alleged criminal conduct and alleged human rights abuses of the Church of
3 Scientology which has used various tactics to try and stop, interfere with and chill these first
4 amendment protests wherever and whenever they occur.
5

6 8. The defendant herein, Mr. Myers, is one of the over nine thousand people who,
7 beginning in late January/early February 2008, have engaged in monthly and other global
8 protests against Scientology crime and abuse in over 110 cities in over 42 countries around the
9 planet. On a number of occasions the defendant herein has been part of a smaller group, and
10 sometimes on his own, protesting alleged Scientology forced labor, human trafficking,
11 violence, unlawful imprisonment and other abuses at various Scientology locations including
12 the “Big Blue” and former Cedars of Lebanon Hospital buildings located along L. Ron
13 Hubbard Way.
14

15 9. Among other activities conducted at ‘Big Blue’ is the Los Angeles location of the
16 ‘Rehabilitation Project Force’ or the ‘RPF’ of CSI’s para-military and pseudo-naval Sea
17 Organization headed by Scientology leader Captain David Miscavige who himself has been
18 accused of many violent physical assaults by many of his former subordinate officers as a
19 Google search of “David Miscavige” will disclose. The RPF has been compared by many
20 former high level Scientologists to a dangerous gulag where there is a tyranny of violence and
21 other human and civil rights abuses. At any-one time there may be as many as 150-200 RPFer’s
22 confined in one of the Big Blue buildings; crammed like sardines in small rooms, with little
23 hope of escaping a fire because even the fire escapes are locked.
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26 10. The Church of Spiritual Technology, The Religious Technology Center and the
27 Church of Scientology International, also have a number of copyrighted policy letters and
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1 practices for the “Handling of Suppressive Persons” who are persons, among other things, who
2 are critical of Scientology.TM These copyrighted policy letters and practices for the “Handling
3 of Suppressive Persons” are loosely referred to as the “Fair Game” policies. Scientology
4 disingenuously claims that it cancelled “Fair Game” because “it causes bad public relations”
5 but experts have opined in litigation that it was cancelled in name only and is still carried out
6 by the organization.
7

8 **11.** Indeed, the organization recently admitted to [Fair Game] harassment and
9 intimidation of a former senior scientology executive and his new non-Scientology wife in
10 Florida litigation and contended that this harassment was protected first amendment expression.
11 However, the judge and appellate court rejected Scientology’s argument that this harassment was
12 protected first amendment activity. The court also ruled that Scientology was engaged in the
13 conduct of a business when it denied a ‘SLAPP’ motion in the same litigation.
14

15 **12.** As part of the Anonymous protests against the Scientology organization, Mr.
16 Myer’s used the moniker the ‘Angry Gay Pope’ and protested with a Bishop’s Miter and a
17 mask. Scientology used private investigators and off-duty LAPD officers to try and prevent the
18 protests of these many hundreds Anonymous picketers who included Mr. Myers. They picketed
19 and protested anonymously (with masks) because of the well-known Scientology “Fair Game”
20 policies and practices. Notwithstanding the anonymity, CSI still located these many of these
21 protestors, thereafter harassing their parents and others associated with them. Mr. Myers was
22 one such person.
23

24 **13.** At these protests the Scientology organization employed off-duty LAPD officers
25 to restrict and chill the first amendment activity. On duty police were frequently called to warn
26 away protestors and sometimes to arrest them on what the arrestees complained were false
27 complaints and charges. Mr. Myers was one such person. Allegations were made of improper
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1 Scientology “street closing/filming permits,” enforced by collusive LAPD officers being
2 directed by Scientology executives such as Scientology executive Ken Long and his attorney
3 herein, Mr. Kendrick Moxon. It is relevant to note that attorney Moxon was named by the U.S.
4 Department of Justice as an unindicted co-conspirator (for submitting fake handwriting samples
5 to the FBI) in the largest ever known criminal infiltration and burglary of [at least nine]
6 departments of the U.S. Government. Many documents could be attached to verify this history.
7 However, it would unnecessarily clutter the court’s file.
8

9 **14.** Scientology “handlers’ such as various bicycle riding ‘security’ officers and
10 executives such as Private Person Arrestee Ken Long frequently interacted with Mr. Myers and
11 others, and were often photographed and video-taped doing so. Indeed, Mr. Myers has become
12 one of the protestors that CSI and OSA has surveilled, harassed, prosecuted and libeled most
13 viciously and continuously. Indeed, the pending prosecution is merely a continuation of a long
14 and continuing first amendment tussle between Mr. Myers and the CSI, OSA, attorney Moxon
15 and executive Ken Long. Many documents could be attached to verify this history. However, it
16 would unnecessarily clutter the court’s file.
17
18

19 **15.** In addition, the defendant is an openly gay man. The Scientology organization
20 has an open bias against all gay people considering them to be among the lowest of the low, as
21 having no rights at all, and who are to be removed from society and exterminated. The LAPD
22 also has a history of open bias against gay people. As far as Scientology is concerned, it has
23 policy letters referring to homosexuals as persons who are 1.1 on its tone scale, “covertly
24 hostile” and who should be removed from society, quarantined and exterminated without
25 sorrow. Dozens of documents could be attached to verify this institutional discrimination, by
26 both the Scientology organization and the LAPD, against homosexuals. It would unnecessarily
27
28

1 clutter the court's file. However, attached hereto as Exhibit 3 is an examination of some of
2 Scientology's homophobic documents. The article was written by the former number 3
3 executive in the organization.
4

5 **16.** Mr. Myers is also expected to contend that the current prosecution is the product
6 of a false police report by a person with a history of malice towards Mr. Myers, who acted in
7 collusion with certain L.A.P.D. officers to falsely arrest him and to subject him to three days
8 and nights of confinement in various jails before the single [false] charge of sexual battery was
9 dismissed and Mr. Myers released with no charges pending. Nearly ten weeks later the three
10 charges herein were filed. Scientology policy documents referring to the practice of putting
11 "heads on a pike;" shaming and/or making examples of critics as part of the Scientology policy
12 to "destroy [them] utterly without sorrow."
13

14 **17.** Mr. Myers is adamant that the events and conduct, as alleged and charged, did
15 not occur. His version of the pertinent facts is at 180 degrees to the version of PPA KLong
16 [long-time Scientology executive, para-legal and Sea Organization staffer Ken Long]. Indeed,
17 the key participant in the current charges has been totally omitted from the reports and other
18 discovery produced by the people at arraignment.
19
20

21 I declare under penalty of perjury according to the laws of the State of California that the
22 foregoing is true and correct.
23

24 Executed this 29th day of March, 2016 at Los Angeles, California.
25

26 _____
27 Graham E. Berry
28

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss.
4 COUNTY OF LOS ANGELES)

5 I reside in the County of Los Angeles, State of California. I am over the age of 18.
6 **On March 30, 2016 I served** the foregoing document described as:

7 **DEFENDANT’S NOTICE OF MOTION AND MOTION FOR AN ORDER THAT THE**
8 **PROSECUTION PROVIDE THE DEFENSE WITH DISCOVERY IN LAW**
9 **ENFORCEMENT PERSONNEL FILES, DECLARATION OF GRAHAM E. BERRY IN**
10 **SUPPORT THEREOF.** [Pitchess motion]

11 **By Personal Delivery to** a person in control of the reception area, in an envelope addressed as
12 follows:

13 The Los Angeles City Attorney
14 Los Angeles City Attorney’s Office
15 200 Main Street, Room 800
16 Los Angeles, CA 90012-4131

17 Attention: Motion Section

18 **Re: The People v. Donald James Myers 07/31/1965 M**

19 Aka: AngryGay Moniker
20 P242

21 P302a, P602k

22 **Next Court Date: April 13, 2016; 8-30 AM, Department 54 (Pre-Trial Conference).**

23 **AND:**

24 The Los Angeles Police Department
25 100 West 1st Street
26 Los Angeles, CA 90012

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

Executed this 30th day of March, 2016, at Los Angeles, California.

Signed: _____
Print Name: Graham E. Berry
Address: 3384 McLaughlin Avenue
Los Angeles, CA 90066-2005