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

12 LISSA UVIZL,
13 Plaintiff,
14 v.
15 DONALD J. MYERS.
16 Defendant.

Case No. BS 116340
Case No. BS 116339

PLAINTIFFS' OBJECTION TO
DECLARATIONS OF GRAHAM BERRY
AND GARRY SCARFF FILED IN
SUPPORT OF DEFENDANT'S SPECIAL
MOTION TO STRIKE; REQUEST TO
STRIKE DECLARATIONS

17 LEWIS MIRANDA,
18 Plaintiff,
19 v.
20 DONALD J. MYERS,
21 Defendant.

Date: October 24, 2008
Time: 8:30 am
Dept: 76

22 Plaintiffs Lissa Uvizl and Lewis Miranda hereby object to the declarations of G
23 Scarff and Graham Berry filed in support of defendant Donald Myers' Special Motion
24 Strike. The declarations are irrelevant, immaterial and contain numerous hearsay. The
25 declarations are also spurious, knowingly inaccurate and filed for an improper purpose.

26 As addressed in Opposition to the Plaintiff's Special Motion to Strike, Mr. Berry
27 counsel for Mr. Myers, has a long history of frivolous assertions and positions respecti
28 Scientologists, such that he was oft sanctioned by judges of this Court and the U.S. Dis

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2 Court in cases involving Scientologists, was found to be a “vexatious litigant” pursuant to
3 C.C.P. §391 and was suspended from the practice of law by the California Bar for 18 months.
4 (See Opposition to Motion to Strike, p. 14-15.) Mr. Berry has filed a lengthy, rambling and
5 utterly irrelevant declaration regarding various issues – mirroring the allegations for which he
6 was sanctioned in the Courts in which he appeared to present these same outlandish
7 assertions. The declaration is also largely hearsay and otherwise incompetent.

8 Plaintiff has also utilized a declaration by one Garry Scarff which is equally irrelevant
9 and also largely hearsay. Mr. Scarff has also stated in other sworn declarations that prior
10 sworn statements he has made for Mr. Berry elsewhere are untruthful.

11 Neither of the two declarations address any element of the claims or defenses herein
12 and should be stricken.

13 **Declaration of Garry Scarff**

14 The apparent purpose of Mr. Scarff’s declaration is an attack upon plaintiff’s counsel,
15 as this is Mr. Berry’s normal method in pursuing claims or defenses involving Scientologists.
16 For the record, Mr. Scarff’s assertions that he “worked for” or “at the direction of” plaintiffs’
17 counsel, Kendrick Moxon, are prevarications. (Declaration of Kendrick Moxon.)

18 Indeed, while Mr. Scarff was utilized by Mr. Berry in the past to make similar
19 allegations, he thereafter swore that he “fabricated” his various sworn statements similar to
20 those set forth in his instant declaration and that he had actually never met Mr. Moxon until
21 he saw him at a deposition. (Ex. A.) In a further declaration, he stated, “I have a lengthy
22 history of changing stories...” (Ex. B, par. 3), and “After I was exposed as a liar...”, (*id.*, ¶ 4),
23 “because of a psychological compulsion for attention, I changed my story again...” (*id.*, ¶ 5),
24 “... I was willing to make up further outrageous claims in order to gain publicity and
25 attention”, and “I made numerous blatantly false statements against the Church of
26 Scientology, its executives, lawyers and investigators...” (*Id.*, ¶ 6.) He notes, “When I
27 became concerned about my perjury, Berry assured me not to worry, he would take care of
28 it ...” (*Id.*, ¶ 7.) There are more statements in this vein, but suffice it to say that Mr. Scarff

1 has conceded under oath that he prevaricates and the assertions in his declaration follow suit.

2 Moreover, the sole reference to Mr. Scarff in the Special Motion to Strike is an
3 allegation that “Scientology’s O.S.A.” visited him at his home, gave him a cease and desist
4 letter and that he was told he was “electronically monitored” in Mr. Berry’s back yard.
5 (Special Motion to Strike at 10-11.) This story is bizarre enough, but it is unquestionably
6 irrelevant to the Special Motion to Strike, as regardless of falsity of the allegation, it supports
7 no defense to the action against Mr. Myers.

8 The assertions in Mr. Scarff’s Declaration referenced in the Motion to Strike are also
9 hearsay, based upon what Mr. Scarff claims was told to him by others and are therefore
10 inadmissible. Cal. Rule of Evid. §1200. No exception to the hearsay rule could apply.

11 The allegations in the remainder of the Scarff declaration are also irrelevant (and
12 untrue) and interjected apparently to prejudice the Court against the plaintiffs’ religion and
13 counsel. Much of it concerns allegations of purported events in the 1970s, 1980s and 1990s
14 (¶¶ 6, 7, 8 and 9), numerous irrelevant bizarre allegations, other purported litigation (¶¶ 11
15 and 12), allegations regarding the service of the TRO on Mr. Myers (¶¶ 12-26), another
16 alleged event in which Myers was given notice of the plaintiff’s residence after receipt of the
17 TRO (¶¶ 28-36), irrelevant allegations regarding plaintiffs’ counsel and the Scientology
18 religion (¶¶ 37-43), and an alleged conversation Mr. Scarff had with someone about a “cease
19 and desist letter.” (¶¶ 46-51.) The only part of the declaration which concerns *Mr. Myers* at
20 all relates to alleged events which occurred *after* the TRO was entered and thus have no
21 bearing upon this lawsuit. The entirety of the declaration is therefore irrelevant.

22 The declaration is also nearly all incompetent, making allegations about which Mr.
23 Scarff admits he has no personal knowledge and is stated on “information and belief” or
24 which he demonstrates no personal knowledge, which are inadmissible in anti-SLAPP
25 proceedings, *Evans v. Unkow* (1995) 38 Cal.App.4th 1490, 1497, or in any other type of
26 proceeding. Evid. Code §702.

27 But for a few alleged personal observations of Mr. Scarff, the declaration is also rife
28 with alleged statements of persons who are not parties to this case which are therefore

1 hearsay, and for which no exception to the hearsay rule could apply.

2 Declaration of Graham Berry

3 Mr. Berry's declaration is an example of what courts in which he has appeared have
4 had to deal with for years. As the Court will see, it is a stream of consciousness similar to
5 U.S. District Judge Christine Snyder's description of another of his pleadings: a "rambling
6 tale of irrelevancies." (See Opposition to Special Motion to Strike, Exs. Q, R, S) The entire
7 declaration is irrelevant, impertinent and incompetent. As no description of the Berry
8 Declaration can do it sufficient justice, plaintiffs request the court flip through and review
9 nearly any page at random for an example of the irrelevant and spurious nature of allegations
10 set forth therein.

11 Mr. Berry has occasionally filed such "declarations" and pleadings to avail himself of
12 the litigation privilege and thus avoid liability for defamation. Plaintiffs request that the
13 entirety of his declaration be stricken so that this document not be privileged in the public
14 record.


15 CONCLUSION

16 The declarations of Garry Scarff and Graham Berry are irrelevant, incompetent and
17 inadmissible. They should be disregarded and stricken.

18 Dated: October 16, 2008

Moxon & Kobrin

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21 By:



22 Kendrick E. Moxon

23 Attorneys for Plaintiffs
24 Lissa Uvizl and Lewis Miranda
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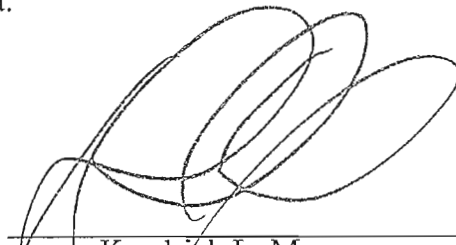
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DECLARATION OF KENDRICK L. MOXON

I, Kendrick L. Moxon, state:

1. The facts contained herein are true of my own personal knowledge and if called upon to testify, I could and would competently testify thereto.
2. I am counsel to plaintiffs in this action.
3. In his declaration submitted in support of defendant's Special Motion to Strike, Gary Scarff makes several allegations that at some time he "worked for" or "at the direction of" me. These statements are utterly false. Gary Scarff never worked for me or my lawfirm. I have never "directed" him in any fashion whatsoever. I have never even spoken to him prior to August 14, 2008, when he tried to interrupt me when speaking to Donald Myers and a police officer, and I told him I was not speaking to him. All of his assertions about me, my work and my office are all untruthful.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th day of October, Los Angeles, California.



Kendrick L. Moxon

Exhibit A

AFFIDAVIT OF GARRY SCARFF

GARRY SCARFF, being duly sworn, hereby deposes and states:

1. I am a citizen of the United States and am over the age of 18. The statements herein are made of my personal knowledge and, if called as a witness, I can and will testify competently thereto.


2. I am not being paid anything to write this affidavit. I am doing so on my own free will and in fact, offered to write this as I want to unburden myself and make clear the terrible lies I have told and damage I have done to people who have never done anything to harm me in any way.

3. I was deposed in August and September, 1993, in *Church of Scientology International v. Steven Fishman and Uwe Geertz*. During that deposition I concocted a story that I had conspired at a meeting in December, 1991, with attorneys Kendrick Moxon, Timothy Bowles and Laurie Bartilson, as well as with investigator Eugene Ingram, to murder CAN's Executive Director, Cynthia Kissler, and San Francisco attorney Ford Greene, who had represented individuals in legal actions with the Church.

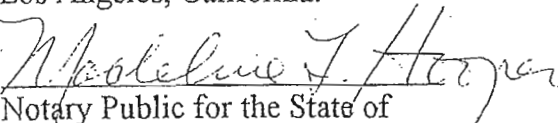
4. The truth of the matter was that no such meeting was ever held. I have never met Laurie Bartilson. I met Mr. Moxon for the first and only time when he appeared for a few minutes during one of the sessions of my deposition. I luckily recognized him then only because I had seen his photograph in a media article, so I feigned having met him before to try and bolster my credibility. I was never ordered or asked to murder anyone

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and I never have engaged in any discussion or meeting relating to murdering anyone. I completely fabricated the story with the knowing participation of Mr. Berry.


Garry Scarff
July 5, 1997

Sworn to and subscribed before me this 5th day of July, 1997, at Los Angeles, California.


Notary Public for the State of California

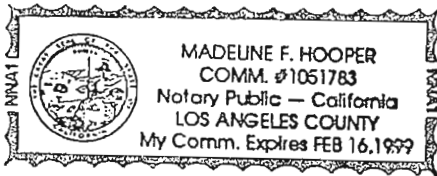


Exhibit B

AFFIDAVIT OF GARRY SCARFF

GARRY SCARFF, being duly sworn, hereby deposes and states:

1. I am a citizen of the United States and am over the age of 18. The statements herein are made of my personal knowledge and, if called as a witness, I can and will testify competently thereto.
2. I am not being paid anything to write this affidavit. I am doing so of my own free will and, in fact, offered to write this as I want to unburden myself and make clear the terrible lies I have told and damage I have done to people who have never done anything to harm me in any way.
3. I have a lengthy history of changing stories, and have actively supported groups opposing religious movements (e.g., the Positive Action Center in Portland, Oregon and the Cult Awareness Network ("CAN")) as well as groups opposing these anti-religious forces. As a member of CAN in the early 1980s, I falsely claimed that I was a former member of the People's Temple and that I had lost my father, my girlfriend and my infant son at Jonestown in 1978. In fact, I was never at Jonestown, I lost no relatives there and my father is still alive. I was encouraged by various CAN members, including Cynthia Kissner, and Anne and Adrian Greek, to embellish this story and to make speeches at CAN fundraising events. The entire story was a fabrication, which has subsequently been documented and exposed in the media.
4. After I was exposed as a liar to the broad membership of CAN in 1988, I assisted representatives of various religions, including members of the Church of



Scientology, to help educate the public about CAN's bias and hatred, including the fact that they had knowingly exploited my false story to gain publicity and used its relevance to the Jonestown tragedy as a manipulative tool for fundraising purposes. In doing so, I publicized my previous lies for CAN and exposed the CAN members who had been aware of them.

5. In late 1992, because of a psychological compulsion and need for attention, I changed my story again and attempted to return to CAN. I thought they would be interested in stories about what I did with the religious groups, and I was willing to make up further outrageous claims in order to gain publicity and attention. To try and convince them, I retracted my true and sworn statements about CAN. However, I was still not accepted or trusted by many of CAN's members, including Priscilla Coates, the head of CAN in Los Angeles.

6. It was not until early 1993, when I spoke to attorney Daniel Leipold and offered to tell my stories for him in the context of a court case he was litigating, that I was able to make any progress in having anyone listen to my new stories. Leipold flew to Portland, interviewed me and took my deposition in a case relating to an individual Scientologist, *Wisel v. CAN*. During the course of the deposition, in order to ingratiate myself with Leipold and with the hope of gaining future employment as a "witness," I made numerous blatantly false statements against the Church of Scientology, its executives, lawyers and investigators. After the deposition, Leipold was extremely pleased with my testimony and encouraged me to continue working against the Church.

He also referred me to Graham Berry, an attorney representing defendants against the Church of Scientology International.

7. In July, 1993, I met with Berry at his office in Los Angeles. I was out of work and Berry took advantage of my availability to depose me. We spent several days drilling for the deposition, with Berry instructing me how to “authenticate” exhibits by looking for anything on the document that I had seen before, such as the name “Scientology” or “Dianetics,” and using that as a basis for stating that I was “familiar” with the document, even if I had never seen it before and had no idea what it was. I provided 17 days of sworn deposition testimony in the *Church of Scientology International v. Steven Fishman and Uwe Geertz* case, authenticating hundreds of exhibits introduced by Berry in this fashion, and manufacturing one lie after another for Berry’s use against the Church of Scientology. When I became concerned about my perjury, Berry assured me not to worry, he would take care of it, because any Scientologist who testified otherwise would not be believed because the courts were prejudiced against Scientology.

8. During the course of the deposition, my false testimony included the following assertions. I knew that the statements I made would be used against the Church, and that though they would surely deny them (as the events had never happened), they would be recounted anyway, and it would create negative publicity and sentiment against the Church.

a. I made up a story that I had conspired with attorneys Kendrick Moxon, Timothy Bowles and Laurie Bartilson, as well as with investigator

Eugene Ingram, to murder CAN's Executive Director, Cynthia Kissler, and San Francisco attorney Ford Greene, who had represented individuals in legal actions with the Church.

The truth of the matter was that no such meeting was ever held. I was never ordered or asked to murder anyone and I completely fabricated the story with the knowing participation of Mr. Berry. I never even met Mr. Moxon until he appeared for a few minutes during one of the sessions of my deposition. I luckily recognized him then only because I had seen his photograph in a media article, so I feigned having met him before to try and bolster my credibility.

b. I concocted a story of having met Mr. David Miscavige and being introduced to him immediately following the meeting above.

I have never met Mr. Miscavige; nor have I ever spoken with him. My deposition stories of having called him by telephone following his interview on ABC-TV's *Nightline* and of being introduced to him in passing in December, 1991, were 100% fiction, created to increase my sense of importance.

c. I falsely claimed that I had been a member of the Church of Scientology, and an "operative" conducting illegal or unethical activities on behalf of the Church, since the early 1980s.

In fact, I have never even been a member of the Church, much less an employee or “operative” for any Church of Scientology. I forged invoices and similar documents to support my false claim of having taken various Church religious services. Nor have I ever done anything illegal or unethical at the instruction of, on behalf of, or with the knowledge of any member of the Church of Scientology. To the contrary, I was specifically directed by representatives of the Church that I was not to do anything illegal or unethical while educating the public about CAN and told that, should I do so, they would immediately cease all contact with me.

d. I made up a story that I was in fear for my life and the lives of my parents, because of my testimony against the Church of Scientology, and believed I required protection by the police.

I knew that I would not be harmed by the Church, no matter how outrageous my lies became, because my contacts with its representatives had demonstrated them to be honest and law abiding. I had also been informed by Berry and others that a litigation tactic successfully employed against the Church was to allege threats or fear for one’s life.

e. I falsely asserted that Eugene Ingram, a private investigator retained by the law firm of Bowles & Moxon to investigate CAN, threatened me and my family members.

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I met or spoke with Mr. Ingram on several occasions and he was never anything but a gentleman. He never, in any way, threatened me or members of my family. I considered him my friend. The truth is simply that in a psychological sense, I had a very high desire to be liked and respected by others. In late 1992, Mr. Ingram and others working to educate the public about the anti-religious hatred and illegal acts of CAN, were very busy and did not give me the amount of attention I felt I deserved. I then lashed out at them, changing sides and attempting to go back to CAN with lies about them in the belief that such lies would buy me a return.

f. I wrongly claimed that affidavits written and executed with assistance from Mr. Ingram in 1991 and 1992, regarding my actions in CAN and as a deprogrammer, were false.

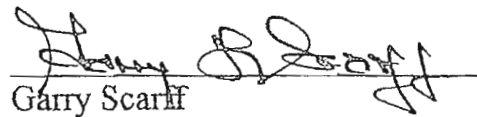
Mr. Ingram made extensive efforts to obtain and corroborate the facts. He debriefed me over a period of several days before turning my taped words into written declarations. He took me to the various locations I had described to see for himself that the scene was as I had described it. He spoke to those individuals I had mentioned, where he was able to reach them and they were willing to speak to him, which was often difficult given that many of these individuals were on the other side of the fence and would have nothing to do with him. I reviewed the declarations in detail,

revising them in many small particulars to make sure that they were totally accurate before I signed them. Although I subsequently retracted them, the reason for the retraction had nothing to do with whether they were true or not, but was based on my psychological upset as described above. I lied when I accused him of writing false declarations for me.

9. While I could go on for many more pages describing the lies that I told about the Church of Scientology and Eugene Ingram, the above provide a representative sampling. My deposition in the *Fishman* case was a show put on by Graham Berry, in which I attended his "witness school," learned how to "authenticate" exhibits I had never seen before, and then matriculated through 17 days of blatantly false testimony with his assurances that I would never be prosecuted for my falsehoods.

10. My purpose for now making these facts known is simple: I want to come clean and get out of this game. I am symptomatically HIV positive, require regular medication for my worsening condition and must avoid stress if I am to avert an early death from AIDS. Participation in such activities as assisting members of the media to create false and derogatory stories about the Church, as I did earlier this year following a referral from Berry, eliminates my hope for longterm survival. I am executing this affidavit voluntarily, at my own request and as a result of my own actions in contacting counsel for the Church of Scientology International. I am fully aware that individuals such as Graham Berry, who helped me lie while publicly protesting attacks on my credibility, will now play down my actions here as "just another flip flop." My only

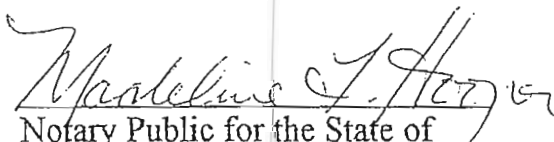
response is that they should be held accountable for their actions — if my testimony was acceptable and believable to them before, when it was what they wanted to hear despite my history of reversing positions, then it should be just as believable now. Their only other choice is to admit that they knowingly participated in bringing me to create false testimony, because events cannot be factually corroborated if the events never occurred.


Garry Scarff

GARRY W SCARFF

July 5, 1997.

Sworn to and subscribed before
me this 5th day of July, 1997, at
Los Angeles, California.


Notary Public for the State of
California

