

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DEPARTMENT 35 HON. ALEXANDER H. WILLIAMS III

GRAHAM E. BERRY,)
)
 PLAINTIFF,)
)
 VS.) NO. BC184355
)
 ROBERT CIPRIANO,)
 DEFENDANT.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
FRIDAY, AUGUST 20, 1999

APPEARANCES:

FOR THE PLAINTIFF: GRAHAM BERRY *
ATTORNEY AT LAW
ONE WILSHIRE BOULEVARD
LOS ANGELES, CA 90017
(213) 833-5900

FOR THE DEFENDANT: MOXON & KOBRIN **
BY: KENDRICK MOXON
3055 WILSHIRE BOULEVARD
LOS ANGELES, CA 90010
(213) 487-4466

PAUL, HASTINGS, JANOFSKY *
BY: MR. SAMUEL ROSEN
23RD FLOOR
555 SOUTH FLOWER STREET
LOS ANGELES, CA 90071
(213) 683-6311

ORRICK, HERRINGTON, SUTCLIFFE
BY: GERALD L. CHALEFF *
777 SOUTH FIGUEROA STREET
LOS ANGELES, CA 90017
(213) 612-2194

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SIMKE CHODOS
BY: DAVID M. CHODOS
1880 CENTURY PARK EAST
SUITE 1511
LOS ANGELES, CA
(213) 653-0211

BY TELEPHONE

MR. BARRY SOTER
ATTORNEY AT LAW

CHARLES KUHN, CSR #7810
OFFICIAL REPORTER

1 CASE NUMBER: BC184355
2 CASE NAME: GRAHAM E. BERRY VERSUS
ROBERT J. CIPRIANO
3
4 LOS ANGELES, CA FRIDAY, AUGUST 20, 1999
5 DEPARTMENT 35 HON. ALEXANDER WILLIAMS, III, JUDGE
6 REPORTER: CHARLES KUHN, CSR #7810
7 APPEARANCES: (AS NOTED ON TITLE PAGE.)

8 THE COURT: GOOD MORNING AND WELCOME
9 BACK. WE ARE ON THE RECORD IN CASE NUMBER BC184355 AND
10 RELATED CONSOLIDATED MATTERS. THE LEAD NAME IS GRAHAM
11 BERRY VERSUS ROBERT CIPRIANO.

12 COUNSEL, GOOD MORNING. THANK YOU FOR
13 YOUR PATIENCE THIS MORNING. MAY I HAVE YOUR
14 APPEARANCES. AND I REMIND YOU THAT ONE COUNSEL IS
15 APPEARING BY PHONE, THAT APPEARANCE, MR. SOTER?

16 MR. SOTER: BARRY SOTER OF WASSERMAN, SOTER AND
17 COUNSEL, FORMALLY ATTORNEY OF RECORD FOR THE DISMISSED
18 DEFENDANT, ROBERT CIPRIANO.

19 THE COURT: I KNOW YOU ARE OUT OF TOWN, AND I DO
20 WANT TO REPEAT MY REQUEST OF YOU. IF AT ANY TIME YOU
21 DON'T HEAR, SOUND OFF IN SOME WAY AND I WILL ASSURE
22 THAT THESE PROCEEDINGS ARE CONDUCTED IN A WAY THAT
23 EVERYBODY CAN UNDERSTAND, OKAY, SIR?

24 MR. SOTER: I WILL DO THAT.

25 THE COURT: OTHER APPEARANCES OF COUNSEL HERE IN
26 COURT.

27 MR. CHALEFF: GERALD CHALEFF OF ORRICK,
28 HERRINGTON AND SUTCLIFF FOR CHURCH OF SCIENTOLOGY

1 INTERNATIONAL.

2 MR. MOXON: KENDRICK MOXON, YOUR HONOR, ON
3 BEHALF OF ISADOR CHAIT.

4 MR. ROSEN: SAMUEL D. ROSEN ON BEHALF OF PAUL,
5 HASTINGS, JANOFSKY, AND WALKER.

6 THE COURT: GOOD MORNING.

7 MR. CHODOS: DAVID CHODOS OF SIMKE CHODOS, YOUR
8 HONOR, ON BEHALF OF RUSSELL SHAW.

9 MR. BERRY: GRAHAM BERRY ON BEHALF OF MYSELF,
10 AND MR. CIPRIANO IS HERE WHO IS READY TO COME FORWARD
11 AND SPEAK THE TRUTH, AND HE IS SITTING ON MY RIGHT.

12 THE COURT: THEN LET HIM DO THAT.

13 GOOD MORNING, MR. CIPRIANO. WELCOME TO
14 THIS COURT AND IN WHAT CAPACITY DO YOU APPEAR HERE
15 TODAY?

16 MR. CIPRIANO: I APPEAR PRO PER.

17 THE COURT: IN WHAT CAPACITY THOUGH, ARE YOU A
18 PARTY TO THE LITIGATION?

19 MR. CIPRIANO: I BELIEVE I'M A DEFENDANT.

20 THE COURT: I BELIEVE THE MATTER HAS BEEN
21 DISMISSED, HAS IT NOT?

22 MR. BERRY: AS A FORMER PARTY, YOUR HONOR, HE
23 COMES TO THIS COURT SEEKING RELIEF IN RESPECT OF HIS
24 FILES AND HIS PHYSICAL SAFETY.

25 THE COURT: VERY GOOD. I JUST WANT TO CLARIFY
26 THAT STATUS.

27 THE GUY NEXT TO YOU IS THE SAME GUY
28 THAT SUED YOU, ACCORDING TO THE NAME IN THE LAWSUIT; IS

1 THAT CORRECT, MR. CIPRIANO?

2 MR. CIPRIANO: THAT'S RIGHT.

3 THE REPORTER: CAN I GET THEIR NAMES IF THEY ARE
4 GOING TO SPEAK RANDOMLY?

5 THE COURT: YES.

6 GENTLEMAN, WHEN YOU SPEAK YOU NEED TO
7 ANNOUNCE, BECAUSE THE COURT REPORTER TODAY IS CHUCK
8 KUHN, K-U-H-N. HE IS NOT THE REGULARLY ASSIGNED COURT
9 REPORTER. LET'S DO THIS THING IN AN ORDERLY WAY LIKE
10 WE WERE TRYING TO DO WITH RESPECT THROUGHOUT THESE
11 PROCEEDINGS UNTIL LAST NIGHT.

12 MR. ROSEN: THANK YOU, YOUR HONOR.

13 SAMUEL ROSEN, FIRST OF ALL, I SHOULD
14 THANK YOU FOR MY CONTINUED PRIVILEGE OF AUDIENCE ON MY
15 PRO HAC VICE IN THIS MATTER.

16 THE COURT: YOU KNOW, WE HAVE A SHORTAGE OF
17 LAWYERS HERE IN LOS ANGELES, AND I AM PARTICULARLY
18 HAPPY TO HAVE THOSE OF YOU APPEAR, PARTICULARLY FROM
19 NEW YORK CITY.

20 MR. ROSEN: YOUR HONOR, I'M A LITTLE CONFUSED
21 BECAUSE I DIDN'T UNDERSTAND THAT THERE WAS ANY
22 APPLICATION BY MR. CIPRIANO ON, FOR THE SIMPLE REASON
23 OF WHAT I UNDERSTOOD TO BE ON.

24 MAYBE IT'S MY ERROR, BUT THIS IS A
25 VEXATIOUS LITIGANT MOTION AGAINST MR. BERRY.

26 THE COURT: WOULD YOU ALLOW ME TO CITE WHAT I
27 THINK IS ON TODAY?

28 MR. ROSEN: OF COURSE.

1 THE COURT: I APPRECIATE YOUR LEADERSHIP. AS
2 YOU KNOW, I PARTICULARLY RESPECT THAT WHEN IT COMES
3 FROM SOMEBODY WHO HAS A PARTICULAR HAIR COLOR, BUT LET
4 ME, IF YOU WOULD, RUN THIS CASE.

5 I WANT TO STATE AT THE BEGINNING NOBODY
6 OWNS THIS COURT. I AM NOT A WEALTHY GUY. I'VE BEEN A
7 GOVERNMENT SERVANT ALL MY LIFE. I HAVE SERVED WITH
8 PRIDE, AND I TAKE THE BENCH EVERY DAY KNOWING THAT I'M
9 GOING TO DO THE RIGHT THING BECAUSE I'M NOT AFRAID OF
10 ANYTHING OR ANYBODY. I AM NOT RICH, EXCEPT IN THINGS
11 THAT YOU CAN'T MEASURE BY MONEY.

12 ONE OF THE OBLIGATIONS OF THIS JOB IS TO
13 BE THICK OF SKIN, AND I HAVE LEARNED TO DO THAT AFTER
14 FIFTEEN YEARS IN THIS JOB.

15 I TELL PEOPLE I HOPE I'M KINDER AND
16 GENTLER, BUT DARN SURE I'M OLDER AND SLOWER, SO THINGS
17 DO NOT UPSET ME. I TAKE THINGS IN STRIDE, BUT I WILL
18 SAY THAT I TAKE PRIDE IN HAVING TRIED VERY HARD IN MY
19 MOST RECENT JUDICIAL YEARS, AND PARTICULARLY IN THE
20 HANDLING OF THIS VERY DIFFICULT CASES TO TREAT
21 EVERYBODY, AND I MEAN EVERYBODY, TO COURTESY AND
22 RESPECT. AND I REALLY BELIEVE I HAVE DONE SO.

23 THE INTERESTING THING ABOUT MY JOB IS I
24 HAVE AN OBLIGATION TO YOU ALL TO TREAT EVERYBODY WITH
25 RESPECT AND COURTESY. I GUESS THE OBLIGATION DOESN'T
26 NECESSARILY RUN THE OTHER WAY. THAT IS FINE. I'M A
27 BIG BOY AND I GET PAID BY THE MONTH.

28 NOW HERE IS WHAT IS ON FOR TODAY. LET ME

1 RECITE THE HISTORY. I CAN INVITE YOU ALL TO HAVE A
2 SEAT IF YOU WANT.

3 MR. SOTER, ARE YOU STILL HEARING ME?

4 MR. SOTER: I AM, WITH SOME DIFFICULTY. IT'S
5 DIFFICULT FOR ME TO HEAR, BUT I CAN JUST QUITE PICK YOU
6 UP.

7 THE COURT: LET ME DO THIS, DOES THIS HELP? I'M
8 NOW ON THE MICROPHONE, DOES THAT HELP?

9 MR. SOTER: YES, IT DOES.

10 THE COURT: THIS IS A CASE THAT HAS BEEN PENDING
11 FOR SOMETIME IN THIS COURT, AND WE HAVE SEEN CHANGES OF
12 COUNSEL AND CHANGES OF PARTIES AND CHANGES OF SEATS AND
13 AS OF TODAY, SOME OF THE MOST AMAZING CHANGES I HAVE
14 SEEN IN MY PROFESSIONAL CAREER, BUT WE WILL DEAL WITH
15 IT STEP-BY-STEP, WITH RESPECT.

16 THE CASE HAD BEEN DISMISSED. ALL CLAIMS
17 AND ALL COMPLAINTS HAD BEEN DISMISSED AND THE CASE WAS
18 EFFECTIVELY GONE WITH THE EXCEPTION THAT SOMETIME AGO
19 MR. CHALEFF NOTICED ON BEHALF OF THE CHURCH OF
20 SCIENTOLOGY INTERNATIONAL, AND I BELIEVE OTHER
21 DEFENDANTS, SPECIFICALLY DEFENDANT CHAIT REPRESENTED BY
22 MR. MOXON, IF I RECALL CORRECTLY, JOINED IN A MOTION TO
23 DECLARE GRAHAM BERRY A VEXATIOUS LITIGANT.

24 THAT MOTION FOR VARIOUS REASONS WAS
25 CONTINUED TO TODAY. THAT WAS ALL THAT I EXPECTED TO
26 SEE OF THIS CASE TODAY ON THE APPLICATION ONLY, ON THAT
27 PETITION ONLY.

28 ON MONDAY, ALL OF THE DEFENDANTS'

1 COUNSEL, SPECIFICALLY, IF I RECALL, MR. MOXON,
2 MR. CHALEFF, I'M NOT SURE WHO WAS HERE ON BEHALF OF
3 MR. CHODOS, MR. SOTER, AND I DON'T RECALL WHO ELSE WAS
4 HERE, BUT IT APPEARED TO BE ALL OF THE COUNSEL FOR THE
5 SEVERAL DEFENDANTS.

6 THEY WERE HERE AT 8:30 AND ADVISED ME AND
7 MY COURT FOR THE FIRST TIME, BECAUSE NONE OF US HAD ANY
8 NOTICE OF IT, WHICH WE ALWAYS ASK FOR IN EX PARTE
9 MATTERS, BUT WE HAVE GOTTEN NONE, THEY HAD BEEN NOTICED
10 INTO THIS COURT BY MR. BERRY FOR AN EXPARTE
11 APPLICATION, AND NOTABLY ABSENCE WAS MR. BERRY.

12 I DID NOT SEE FIT TO HOLD COUNSEL
13 SHACKLED TO THIS COURTROOM ON AN EXPARTE APPLICATION
14 THAT HAD BEEN UNEXPLAINED, UNNOTICED, AND UNACCOUNTED.
15 WE HEARD NOTHING, I REPEAT, NOTHING, LET ME SAY AGAIN,
16 NOTHING, FROM MR. BERRY ABOUT WHAT WAS GOING ON OR WHY.

17 MY VIEW IS THAT ONE OF THE FIRST RULES OF
18 MY JOB IS DON'T LET PEOPLE JERK PEOPLE AROUND. THE
19 FIRST RULE OF RUNNING A FAIR COURTROOM IS TO REWARD
20 CLASSY LAWYERING AND NOT GO WITH THAT LAWYERING THAT IS
21 NOT CLASSY; THEREFORE, I ADVISED COUNSEL THAT THEY WERE
22 RELIEVED OF ANY OBLIGATION OF ATTENDANCE TO THIS COURT
23 ON THAT MORNING SINCE WE HAD NOT HEARD FROM OR SEEN
24 MR. BERRY AND THE COURT HOURS HAD COMMENCED.

25 I ALSO ADVISED COUNSEL THAT I WAS
26 SUFFICIENTLY CONCERNED THAT THEY, AS PROFESSIONAL
27 PEOPLE, HAD BEEN REQUIRED TO ATTEND HERE AT THE EXPENSE
28 OF THEMSELVES OR THEIR CLIENTS, AND THAT THE PERSON WHO

1 HAD REQUIRED THEM TO ATTEND, MAKE THEM BE HERE, HAD NOT
2 TOLD US ABOUT IT AND HAD NOT APPEARED AND HAD NOT
3 ACCOUNTED FOR HIS LATENESS.

4 THEREFORE, I SAID THAT, SHOULD THEY
5 CHOOSE TO BRING A MOTION FOR TODAY'S CALENDAR FOR
6 COMPENSATION FOR THE EXPENSES THAT THEY WERE UNFAIRLY
7 PUT TO, I WOULD HEAR THAT MOTION. AND I EVEN SET A
8 BRIEFING SCHEDULE. I BELIEVE THAT SUCH APPLICATION HAD
9 TO BE SUBMITTED BY WEDNESDAY, OPPOSITIONS BY THURSDAY,
10 AND REPLIES HERE IN COURT THIS MORNING.

11 THE COURT STAFF INFORMED ME THAT
12 MR. BERRY LATER SHOWED UP, AND VARIOUS THINGS
13 TRANSPIRED. MR. BERRY HAD TENDERED SOME EXPARTE
14 MATTERS THAT I SIMPLY CONTINUED TO THIS DAY.

15 I ALSO ADVISED THAT I REALLY DIDN'T WANT
16 TO ENGAGE IN EXPARTE PRACTICE. THIS IS A CASE WHERE
17 EXPARTE PRACTICE BY MR. BERRY IN THE PAST HAS BEEN A
18 HALLMARK OF THE WAY THAT HE DOES BUSINESS, AND I URGED
19 AND ASKED HIM TO REFRAIN FROM THAT AND HE HAS LARGELY
20 DONE SO.

21 IT'S FUNDAMENTAL TO THE PROCESS OF
22 JUSTICE THAT PROCEEDINGS BE ORDERLY, FAIR, AND ON A
23 NOTICED BASIS. WE DON'T PRACTICE OR COUNTENANCE AMBUSH
24 LITIGATION; THEREFORE, YESTERDAY, THE CLERK INFORMED ME
25 AT THE MIDDLE OF THE DAY THAT WE HAD RECEIVED SOMETHING
26 CALLED A QUOTE JOINT VERIFIED STATEMENT
27 DISQUALIFICATION OF GRAHAM E. BERRY AND ROBERT J.
28 CIPRIANO FOR THE DISQUALIFICATION OF THE HONORABLE

1 ALEXANDER H. WILLIAMS THE III.

2 I REVIEWED THE DOCUMENT AND I PREPARED
3 LAST NIGHT AND CAUSED TO BE FILED THIS MORNING AND
4 DISTRIBUTED TO COUNSEL TWO DOCUMENTS.

5 THE FIRST IS AN ORDER STRIKING THE
6 STATEMENT OF DISQUALIFICATION. I WAS INFORMED BY THE
7 CLERK THAT MR. BERRY HAD BLATANTLY INFORMED THE CLERK
8 AS HE DEPARTED THESE PREMISES YESTERDAY THAT HE WOULD
9 NOT BE SEEING US TODAY, WRONG.

10 AS A MATTER OF LAW, THE STATEMENT OF
11 DISQUALIFICATION IN THIS COURT'S JUDGMENT DISCLOSES NO,
12 I REPEAT, NO, I MEAN ABSOLUTELY NONE, GROUNDS FOR
13 DISQUALIFICATION OF THIS COURT. I THEREFORE ORDER IT
14 STRICKEN PURSUANT TO CODE OF CIVIL PROCEDURE SECTION
15 174.4(B).

16 AS A PRECAUTION, AS IT SHOULD BE
17 DETERMINED BY SOME APPROPRIATE COURT AT SOME TIME THAT
18 THIS COURT SHOULD NOT HAVE TAKEN THAT STEP, I DO NOT
19 BELIEVE THAT THAT WILL HAPPEN, BUT SHOULD IT, I HAVE
20 PREPARED AND SUBMITTED AND ALSO FILED TODAY MY OWN
21 VERIFIED ANSWER TO THE JOINT VERIFIED STATEMENT OF
22 DISQUALIFICATION.

23 THE BOTTOM LINE IS THAT THIS CASE
24 THEREFORE REMAINS BEFORE THIS COURT, AND I PROPOSE TO
25 PROCEED WITH THE SCHEDULED MATTER WHICH IS THE PETITION
26 TO FIND GRAHAM BERRY TO BE A VEXATIOUS LITIGANT.

27 I KNOW THAT MR. BERRY HAS OTHER MATTERS
28 THAT HE AND MR. CIPRIANO WANT TO BRING BEFORE THIS

1 COURT, AND I WILL HEAR FROM HIM ON THAT. BUT THE
2 NOTICED MATTER IS THE FIRST MATTER WE WILL DEAL WITH.

3 REMEMBER, THAT THE COURT SETS THE AGENDA
4 AND COUNSEL DO NOT. WITH ALL DUE RESPECT, THAT IS WHY
5 THE STATE OF CALIFORNIA REQUIRES ME TO WEAR THIS
6 POLYESTER DRESS ALL DAY. IT'S ABOUT ORDER. IT'S ABOUT
7 NOTICE. IT'S ABOUT FAIRNESS.

8 MR. SOTER, ARE YOU THERE?

9 MR. SOTER: YES, I AM.

10 THE COURT: ALL RIGHT.

11 MR. CHALEFF, IT IS YOUR APPLICATION.
12 PLEASE TELL ME WHAT YOU ARE ASKING THIS COURT TO DO,
13 AND WHY. OF COURSE I HAVE READ ALL THE PAPERS,
14 INCLUDING THOSE IN OPPOSITION INCLUDING THOSE TENDERED
15 JUST THIS MORNING.

16 MR. CHALEFF: THANK YOU, YOUR HONOR.

17 WE ARE REQUESTING THE COURT TO DECLARE
18 MR. BERRY --

19 THE COURT: ONE MOMENT, PLEASE. I AM CONFIDENT
20 THAT MR. SOTER CANNOT HEAR YOU. I WILL REQUEST THAT WE
21 GIVE YOU, SPEAKING COUNSEL, THE MICROPHONE. WE HAVE
22 DONE THIS BEFORE IN THIS CASE. STAND BY.

23 ALL RIGHT, MR. CHALEFF.

24 MR. CHALEFF: YES, YOUR HONOR.

25 THE COURT: AND MR. SOTER, PLEASE ADVISE US IF
26 YOU CANNOT HEAR HIM, OKAY?

27 MR. SOTER: I WILL, THANK YOU.

28 MR. CHALEFF: IT IS OUR REQUEST THAT MR. BERRY

1 BE DECLARED A VEXATIOUS LITIGANT AND THAT HE BE
2 REQUIRED TO FULFILL THE REQUIREMENTS OF THE CODE OF
3 CIVIL PROCEDURE UPON THAT DECLARATION.

4 I HAVE NOT BEEN INVOLVED IN THIS CASE OR
5 IN ANY OF THE CASES WHICH ARE THE BASIS OF THIS MOTION.

6 THE COURT: GO TO TEMPLE AND THANK GOD.

7 MR. CHALEFF: YES. I HAVE REPRESENTED THE
8 CHURCH OF SCIENTOLOGY INTERNATIONAL IN ANOTHER MATTER.

9 LET ME START OFF BY SAYING THIS IS NOT
10 EASY FOR ME TO BRING, BEING SOMEBODY WHO IS ALWAYS
11 DEFENDING PEOPLE'S RIGHTS TO REDRESS AND PEOPLE'S
12 RIGHTS WHEN THEY ARE ACCUSED OF CRIMINAL ACTIVITIES OR
13 OTHER KINDS OF CONDUCT.

14 THE COURT: AND LET ME ADD THAT I ABSOLUTELY
15 AGREE. I AM A STRONG BELIEVER IN THE GUARANTEES THAT
16 WE ALL ENJOY UNDER OUR CONSTITUTION. THOSE GUARANTEES
17 INCLUDE FREEDOM OF SPEECH AND THEY INCLUDE FREEDOM OF
18 ACCESS TO THE COURTS TO SEEK REDRESS.

19 I DO NOT LIGHTLY EMBARK UPON THAT WHICH
20 YOU ASKED ME TO DO.

21 MR. CHALEFF: AND I DO NOT LIGHTLY EMBARK OR
22 BRING THIS MOTION.

23 I MIGHT SAY THAT I HAVE BEEN KNOWN TO
24 DEFEND EVEN THOSE PEOPLE ATTACKING ME, THEIR RIGHT TO
25 ATTACK ME, BECAUSE I BELIEVE PEOPLE HAVE THE RIGHT TO
26 SAY WHAT THEY WANT AND TO SEEK LEGITIMATE REDRESS IN
27 THE COURT SYSTEM.

28 I WAS ASKED BY MY CLIENT TO REVIEW WHAT

1 HAS HAPPENED IN ALL OF THESE CASES AND DETERMINE
2 WHETHER OR NOT THAT I, AS AN OBJECTIVE PARTY AND
3 SOMEONE WHO HAS ALSO DEVELOPED A LOT HAVE GREY HAIR,
4 FELT THIS WAS AN APPROPRIATE MOTION IN THIS TYPE OF
5 CASE, AND I DID. I MIGHT NOTE THAT IF I HAD ANY
6 DOUBTS, WHAT HAS HAPPENED IN THE LAST WEEK HAS
7 ELIMINATED ALL OF THOSE DOUBTS.

8 WE FILED THIS MOTION AND IT WAS TO BE
9 HEARD ON JUNE 15TH AND FOR VARIOUS REASONS, WHICH WILL
10 BE DISCUSSED, INCLUDING MR. BERRY FILING BANKRUPTCY AND
11 OTHERS, THE MOTION WAS CONTINUED UNTIL TODAY.

12 BEFORE ME, AND I HAVE PROBABLY THROWN MY
13 BACK OUT, THIS IS THE PAPERWORK THAT I HAVE RECEIVED IN
14 THE LAST EIGHT DAYS. IT'S BEEN A CONSTANT FLOW OF
15 DOCUMENTS, MOST OF WHICH ARE DUPLICATIVE AND MOST OF
16 WHICH BEAR NO RELATION TO WHATEVER THE MOTION WAS OTHER
17 THAN TO RE-ENFORCE THE VIEW THAT MR. BERRY IS USING THE
18 COURT SYSTEM FOR SOME PURPOSE OTHER THAN A LEGITIMATE
19 PURPOSE.

20 I MIGHT SAY THAT THERE IS NO MORE TELLING
21 DOCUMENT TO SHOW THAT THAN THE LAST PAGE OF EXHIBIT A
22 OF WHAT MR. BERRY FILED TODAY. I'M NOT SURE WHICH
23 MOTION HE FILED IT IN, BUT IT'S EXHIBIT A AND IT IS A
24 PRESS RELEASE THAT CAME OUT OVER THE INTERNET.

25 I HAVE A COPY FOR THE COURT, IF THE COURT
26 WISHES.

27 THE COURT: HE TENDERED THE PLEADINGS TO ME,
28 ALSO.

1 MR. CHALEFF: IN WHICH HE TALKS ABOUT HOW HE IS
2 FACING GOING TO JAIL, WHICH IS CERTAINLY NOT TRUE, BUT
3 THIS IS ON THE INTERNET, AND THAT HOW HE RECENTLY
4 RELEASED A SHATTERING AFFIDAVIT BY MR. CIPRIANO AND ON
5 AND ON. AND IF YOU WANT MORE INFORMATION, CALL HIM AT
6 HIS PHONE NUMBER, AND THE SEPARATION DECLARATION IS ON
7 THE WEB.

8 THIS IS AN EXHIBIT WHICH SHOWS THAT WHEN
9 YOU REVIEW WHAT THE PURPOSE OF THIS MOTION OR WHAT THE
10 GROUNDS FOR THE MOTION ARE, AMONG THEM ARE FILED
11 UNMERITORIOUS MOTIONS, PLEADINGS, OR OTHER PAPERS OR
12 ENGAGING IN OTHER TACTICS THAT ARE FRIVOLOUS OR SOLELY
13 INTENDED TO CAUSE INCREASING DELAY.

14 IT'S CLEAR IN THIS CASE THAT MANY OF
15 THESE DOCUMENTS ARE FILED ONLY FOR THE PURPOSE OF BEING
16 ABLE TO RELEASE THEM ON THE INTERNET OR FOR SOMETHING,
17 AND THEN TO HAVE AN IMPROVIDER IN THE COURT SAYING,
18 "LOOK, I FILED THIS IN THE COURT." THEN WHATEVER
19 HAPPENS IN COURT, MR. BERRY MISINTERPRETS IT AND OUT IT
20 GOES ON THE INTERNET. WELL, IT'S CLEAR FROM THE
21 HISTORY --

22 THE COURT: UNDER THE PROTECTION OF THE
23 LITIGATION PRIVILEGE.

24 MR. CHALEFF: WELL, IT MAY NOT ALL BE
25 PROTECTED, BUT HE BELIEVES IT IS PROTECTED.

26 THE COURT: YOU ARE CITING IT AS EVIDENCE OF
27 THE ABUSE OF THE PROCESS OF THIS COURT TO UTILIZE THE
28 LITIGATION PRIVILEGE AS A SHELTER FOR THE IRRELEVANT

1 MATERIAL FOR THIS LITIGATION AND NOT BE ACCOUNTABLE FOR
2 IT.

3 MR. CHALEFF: I DON'T KNOW WHO WWW. MERVIN.COM
4 IS, BUT I BELIEVE IT'S ANOTHER CLIENT OR ASSOCIATE OF
5 MR. BERRY. I BELIEVE MR. BERRY FITS UNDER THE
6 REQUIREMENTS OF THIS SECTION.

7 THERE WERE FIVE LITIGATIONS, MOST OF
8 WHICH WERE DISMISSED BY MR. BERRY BECAUSE HE FILED
9 THESE THINGS. UP GOES ALL THESE DECLARATIONS AND I
10 MAKE NOTE -- WELL, LET ME SAY THAT IN A SECOND.

11 THEY'RE UNMERITORIOUS. HE HAS NOT WON
12 ANY OF THEM. THEY ARE FILED FOR ALL KINDS OF REASONS,
13 NONE OF WHICH ARE LEGITIMATE PURPOSES OF REDRESS.

14 HE HAS PREVIOUSLY BE DECLARED A VEXATIOUS
15 LITIGANT BY JUDGE CHRISTINA SCHNEIDER UNDER THE FEDERAL
16 SECTION RULES AND EVIDENCE. AND I THINK WE FILED IT
17 THIS WEEK, BUT HE WAS FINED SOMEWHERE IN THE VICINITY
18 OF \$28,000. \$28,484 HE WAS FINED IN THAT CASE IN WHICH
19 THERE WAS A LAWYER CALLED PATTINSON.

20 THE COURT: THE NAME OF THE CASE FOR THE COURT
21 REPORTER.

22 MR. CHALEFF: PATTINSON, P-A-T-T-I-N-S-O-N.

23 THE COURT: THANK YOU.

24 MR. CHALEFF: AND AS THE COURT WELL KNOWS,
25 MR. BERRY HAS BEEN FINED NUMEROUS TIMES OR SANCTIONED,
26 NOT ONLY BY THIS COURT, BUT RECOMMENDED BY JUDGE,
27 RETIRED JUSTICE EAGLESON AND BY OTHER JUDGES IN THIS
28 COURTHOUSE. THE REQUIREMENTS HAVE BEEN MET.

1 IN ADDITION TO THAT, THE WHOLE CONDUCT OF
2 MR. BERRY IN THIS LAWSUIT CRIES OUT FOR THIS BECAUSE
3 THERE SEEMS TO BE NO OTHER WAY TO CONTROL HIM. I
4 ASSUME I'LL BE SUED NEXT BECAUSE EVERY LAWYER, WHOEVER
5 GETS INVOLVED GETS SUED. EVERY JUDGE IS ACCUSED OF
6 BEING DISHONEST OR ASKED TO BE RECUSED. EVERY LAWYER
7 IS ACCUSED OF DISHONEST ACTION. EVERYBODY WHO SEEMS TO
8 OPPOSE HIM IS ACCUSED OF CRIMINAL CONDUCT.

9 I FOUND THAT, I DON'T KNOW IF IT WAS
10 AMUSING OR NOT, BUT AS SOON AS HE FIGURED OUT MY
11 RELATIONSHIP TO CHALEFF, WHO IS PRESENT IN THE POLICE
12 COMMISSION, THERE WAS AN ARGUMENT THAT I SHOULD BE
13 RECUSED BECAUSE WE SHOULD BE INVESTIGATING MY CLIENT
14 AND ALL THE LAWYERS RELATED TO THE CASE RATHER THAN
15 REPRESENTING THEM.

16 I FIND THAT STRANGE COMING FROM SOMEBODY
17 WHO SUED MR. CIPRIANO AND NOW, IN SOME WAY, EITHER
18 WANTS TO BE HIS LAWYER OR HIS ADVISOR OR BE THE
19 RECIPIENT OF HIS FILES. SO IT SEEMED TO ME THAT UNDER
20 ALL THE REQUIREMENTS, AND JUST UNDER COMMON SENSE,
21 MR. BERRY QUALIFIES AS A VEXATIOUS LITIGANT.

22 SOME OF THE PARTS THAT STRIKE ME, AND I
23 HAVE READ THROUGH ALL OF THIS BECAUSE I BELIEVE THAT IS
24 MY DUTY TO READ ALL OF THIS. IT'S REPETITIVE. EVERY
25 CASE HAS THE SAME CLAIMS. THERE ARE LIKE THIRTY-FIVE
26 PARAGRAPHS THAT SHOW UP IN ALMOST EVERYONE OF THESE
27 FILINGS.

28 THE EXHIBITS ARE DUPLICATIVE, ALWAYS

1 CLAIMING MISCONDUCT. MOST OF WHICH BEARING
2 RELATIONSHIP, WHATEVER, TO WHATEVER THE MOTION IS. IN
3 THIS CASE, THE VEXATIOUS LITIGATION MOTION, I DIDN'T
4 FIND, I SAW MAYBE TWO OF ALL THE EXHIBITS THAT MIGHT IN
5 ANY WAY HAVE RELATED TO IT. THE REST OF IT IS THE
6 USUAL DIATRIBE AGAINST THE CLIENTS AND THE LAWYERS AND
7 THE JUDGE AND WHOEVER ELSE HAPPENS TO BE ON THE OTHER
8 SIDE WHICH, TO ME, SUPPORTS THE VIEW THAT THESE ARE NOT
9 BEING BROUGHT FOR THE LEGITIMATE PURPOSES OF SEEKING
10 LEGAL REDRESS OF ANY TYPE.

11 ALSO, MR. BERRY'S WILLINGNESS TO DISMISS
12 ALL OF THESE IN THE WAY HE HAS AGAIN SHOWS THAT HE IS
13 USING THE COURT SYSTEM FOR PURPOSES OTHER THAN
14 LEGITIMATE REDRESS.

15 AGAIN I SAY, I WOULD BE THE LAST PERSON
16 TO COME BEFORE A COURT AND ARGUE THAT SOMEBODY SHOULD
17 NOT BE ALLOWED TO PRESENT AN ISSUE THAT LEGITIMATELY
18 SHOULD BE REDRESSED BY THE COURT WHETHER THE PERSON IS
19 RIGHT OR WRONG.

20 IN FACT, THERE IS A LAWYER WHO IS
21 CONSTANTLY SUING THE POLICE DEPARTMENT WHO IN FEDERAL
22 COURT TRIED TO SANCTION HIM AND NOT ALLOW HIM TO
23 PRACTICE, AND I FILED AN AMICUS BRIEF ON HIS BEHALF
24 EVEN THOUGH I WAS ONE OF THE PEOPLE HE WAS ATTACKING.

25 THE OTHER PART THAT ADDS TO IT IS
26 SANCTIONS THAT WE ARE ASKING TO SLOW MR. BERRY DOWN.
27 EITHER HE DOESN'T PAY THEM OR HE DECLARES BANKRUPTCY.
28 AND THAT ALSO MEANS THAT COSTS ARE NOT GOING TO SLOW

1 HIM DOWN BECAUSE HE HAS THROWN ALL OF THAT INTO THE
2 MIX.

3 SO THE ONLY WAY TO PROTECT THE CLIENTS,
4 AND ALL THE OTHERS INVOLVED IN THIS CASE, IS TO REQUIRE
5 THAT SOMEBODY GET BETWEEN MR. BERRY AND ALL OF US, AND
6 THAT IS WHAT THE VEXATIOUS LITIGATION STATUTE WOULD
7 SAY. THAT BEFORE MR. BERRY CAN FILE ANYTHING, BEFORE
8 MR. BERRY CAN SEEK THE SANCTITY OF THE LITIGATION
9 PRIVILEGE HE HAS TO GO TO THE PRESIDING JUDGE OR
10 WHEREVER HE WANTS TO FILE IT, AND SHOW THAT THERE IS A
11 LEGITIMATE CLAIM, A LEGITIMATE ISSUE. THAT IS NOT WHAT
12 MR. BERRY SEEMS TO BE DOING.

13 HE IS USING THE COURT SYSTEM FOR HIS OWN
14 PURPOSES, AND THERE IS NO OTHER WAY HE SHOULD HAVE DONE
15 IT. I AM NOT AS ARTICULATE AS JUDGE SCHNEIDER. I'M
16 SURE THE COURT HAS READ JUDGE SCHNEIDER'S ORDER AND YOU
17 CAN SEE WHAT HAPPENS. I KNOW IN REVIEWING SOME OF THE
18 TRANSCRIPTS IN THIS CASE, MR. BERRY'S RESPONSES TO
19 DISCOVERY MOTIONS AND MR. BERRY'S RESPONSES TO
20 INTERROGATORIES, MR. BERRY'S ACTIVITIES AT DEPOSITIONS
21 WOULD BE ENOUGH TO TRY ANYONE'S PATIENCE, BUT CERTAINLY
22 YOU CAN'T PUT SOMEBODY IN THAT CATEGORY. MR. ROSEN CAN
23 RELATE TO HIS OWN EXPERIENCE WITH MR. BERRY, HOW
24 MR. BERRY ATTEMPTED TO USE THE COURT SYSTEM IN AN
25 ATTEMPT TO PREVENT HIM FROM BEING DEPOSED BY MR. ROSEN.

26 IF THERE IS ANYTHING THAT SHOWS THE
27 PURPOSES OF WHAT IS GOING ON, THERE IS NOTHING MORE
28 BAZAAR THAN WHAT HAS HAPPENED IN THE LAST WEEK ABOUT

1 MR. CIPRIANO AND MR. BERRY'S RELATIONSHIP. IN FACT, IT
2 TOOK ME ABOUT FOUR DAYS TO FIGURE OUT WHAT WAS GOING ON
3 FROM READING ALL OF THIS. BECAUSE I MAY BE SIMPLE AT
4 TIMES, I COULD NOT UNDERSTAND HOW YOU COULD SUE
5 SOMEBODY AND THEN BECOME HIS LAWYER AND GET A
6 \$120,000,000 JUDGMENT AGAINST THAT PERSON WHO YOU SUED,
7 BUT NOW YOU WANT TO BE HIS LAWYER, BUT NOW YOU WANT TO
8 GET \$120,000,000, BUT YOU NOT GOING TO COLLECT IT
9 AGAINST HIM. YOU ARE GOING TO COLLECT IT AGAINST SOME
10 OTHER PEOPLE.

11 I THINK I GOT LOST IN THE MIDDLE OF ALL
12 THAT AND FIGURED OUT IT WAS JUST A PLOY ON MR. BERRY'S
13 PART TO HAVE SOMETHING TO THROW UP ON THE INTERNET
14 SAYING I GOT A \$120,000,000 JUDGMENT AGAINST ALL OF
15 THESE PEOPLE BECAUSE OF THE CAPTION AND THE NAME OF THE
16 CASE.

17 THE COURT: I SHOULD HAVE ACTUALLY SPOKEN
18 BRIEFLY TO THAT POINT. I THINK THAT FOR PURPOSES OF
19 OUR HEARING TODAY ON ISSUES WE ARE NOW HEARING, THE
20 BIZARRE EVOLUTION OF THE RELATIONSHIP BETWEEN MR. BERRY
21 AND MR. CIPRIANO, IS IRRELEVANT. WHEN WE START DEALING
22 WITH ISSUES INVOLVING MR. CIPRIANO AS A PARTY, AND WHO
23 SPEAKS FOR HIM, THAT IS A SEPARATE MATTER OF INTEREST
24 TO HIM, MR. BERRY AND MR. SOTER.

25 I'M NOT SURE I NEED TO BURDEN EVERYBODY
26 TO BE HERE, BUT WITH REGARD TO THE QUESTION OF
27 DISQUALIFICATION AND WITH REGARD TO THE QUESTION OF THE
28 PETITION TO SEEK TO HAVE MR. BERRY DECLARED A VEXATIOUS

1 LITIGANT, I DON'T THINK EITHER OF THOSE REQUIRE A
2 UNTYING OF THE BIZARRE GORDIAN KNOT PRESENTED BY
3 MR. BERRY AND MR. CIPRIANO HERE THIS MORNING.

4 SO I SHOULD HAVE CLARIFIED THAT BEFORE WE
5 PROCEEDED.

6 GO AHEAD.

7 MR. CHALEFF: WHAT I WAS LEADING UP TO, AND
8 I AGREE WITH THE COURT, I'M NOT SURE THAT WE COULD
9 UNTIE THAT KNOT. HIS RECORD SHOWS THAT MR. BERRY
10 ATTEMPTS TO, FEELS THAT HE CAN PLAY BY HIS OWN RULES.
11 THE RULES THAT APPLY TO US, ALL OF THE REST OF THE
12 LITIGATION AND ATTORNEYS DO NOT.

13 MR. BERRY BELIEVES THEY DO NOT APPLY TO
14 HIM, AND THAT IS SHOWN BY THE BIZARRE KIND OF CONDUCT
15 IN RELATION TO MR. CIPRIANO AND THE DISQUALIFICATION
16 MOTION AGAINST THE COURT AND ALL OF THE OTHER DOCUMENTS
17 THAT I HAVE HAD IN MY FAX MACHINE AND OTHERS HAVE
18 CONFRONTED ME IN THE LAST WEEK. INCLUDING, NOT ONLY
19 THE LACK OF APPEARANCES, BUT THE APPEARANCES COMING
20 LATE, BUT THE MANNER IN WHICH THINGS ARE SERVED.

21 IN FACT, I GOT SOMETHING THAT I COULDN'T
22 QUITE UNDERSTAND YESTERDAY THAT SAID THERE IS AN EX
23 PARTE THE DAY BEFORE. I ASSUME THAT WHEN HE LEFT THE
24 COURTROOM HERE, HE CERTAINLY NOTICED WHERE THE COURT
25 SAID YOU HAVE TO COME BACK FRIDAY, BUT HE SORT OF
26 SERVED IT ON US ANYWAY.

27 THE COURT: I HAD NO DIALOGUE WITH MR. BERRY,
28 BUT IT WAS REPORTED TO ME THAT THE CLERK HAD SO ADVISED

1 HIM.

2 MR. CHALEFF: IF YOU GO THROUGH THE LITIGATION
3 AND THE COURT LOOKS AT HOW IT WAS CONDUCTED, YOU CAN
4 SEE THAT AGAIN MR. BERRY MAY BE THE POSTER CHILD FOR
5 WHAT A VEXATIOUS LITIGANT IS.

6 HE FILES BERRY VERSUS CIPRIANO IN JANUARY
7 HAVE 1998. HE FILES BERRY VERSUS BARTON IN FEBRUARY OF
8 1998. HE AMENDS BERRY VERSUS BARTON IN MARCH OF 1998.
9 HE AMENDS BERRY VERSUS CIPRIANO IN MAY OF 1998. HE
10 ATTEMPTS TO GET A TRO AGAINST MR. ROSEN IN MAY OF 1998.
11 HE DISMISSES THE MATTER AGAINST MR. ROSEN IN JUNE OF
12 1998. HE FILES A CASE CALLED BERRY VERSUS MISS CABAGE
13 IN JULY OF 1998. HE DISMISSES IT IN AUGUST OF 1998 AND
14 TURNS AROUND THE SAME DAY AND REFILES IT AND THEN IN
15 SEPTEMBER HE AMENDS IT.

16 THEN THERE IS SORT OF A LULL, I GUESS,
17 BECAUSE OF THE HOLIDAYS, AND HE COMES BACK IN FEBRUARY
18 OF 1999 AND DISMISSES BERRY VERSUS CIPRIANO, DISMISSES
19 BERRY VERSUS MISS CABAGE.

20 IN BERRY VERSUS BARTON IN MARCH THIS
21 COURT DISMISSES MR. CHAIT BECAUSE MR. BERRY HAS NOT
22 RESPONDED TO ANY OF THE CALIFORNIA JUDICIAL COUNSEL
23 FORM INTERROGATORIES WHICH I FIND AMAZING THAT HE
24 SHOULD COMPLAIN ABOUT THOSE, AND IN APRIL --

25 THE COURT: BY THE WAY, THAT WAS THE FIRST TIME
26 I HAVE EVER, IN MY PRACTICE AS A JUDGE, DISMISSED A
27 CASE ON DISCOVERY VIOLATIONS. I DON'T GO THERE
28 LIGHTLY.

1 MR. CHALEFF: I READ THE TRANSCRIPTS. I AGAIN
2 DIDN'T QUITE UNDERSTAND WHAT WAS GOING ON IN RELATION
3 TO WHAT MR. BERRY WAS SAYING OTHER THAN THE USUAL
4 LITANY OF COMPLAINTS.

5 THEN IN APRIL OF 1999, IN BERRY VERSUS
6 BARTON, ALL THE OTHER DEFENDANTS ARE DISMISSED AND THEN
7 JUDGE SCHNEIDER ADVANCED RULE ELEVEN, 28 USC 1927
8 MOTION, AND FINDS THAT MR. BERRY ASSERTED HIS CLAIMS
9 AGAINST MR. MOXON AND OTHERS IN BAD FAITH AND WE HAVE
10 THIS COURT ORDER.

11 I BRING THAT UP TO SHOW THIS HAS BEEN A
12 STEADY DRUMBEAT. AND WHAT HAPPENS AFTER THAT? I
13 REVIEWED ALL OF THIS. WE FILED OUR MOTION IN JUNE AND
14 IT'S NOT LIKE IT MADE IT BETTER, IT MADE IT WORSE
15 BECAUSE NOW WE HAVE THIS FLOOD OF MATERIAL THAT STARTS
16 COMING IN AGAIN.

17 MOST OF THE EXHIBITS ATTACK INDIVIDUALS
18 OR INSTITUTIONS PERSONALLY AND DO NOT DEAL WITH THE
19 MOTION. AND WHEN THAT DOESN'T SEEM TO WORK, HE THEN
20 ATTACKS THE COURT. AND IN THE MIDDLE OF ALL THAT, HE
21 ATTACKS ALL THE LAWYERS AND AT SOME POINT THREATENS TO
22 SLOW THE PROCEEDINGS DOWN BY ATTEMPTING TO DISQUALIFY
23 ME. AND AS SOON AS WE FILED OUR MOTION IN JUNE OR
24 SHORTLY THEREAFTER, HE DECLARES BANKRUPTCY IN AN
25 ATTEMPT TO SLOW EVERYTHING DOWN.

26 SO IT SEEMS TO ME THAT THE ONLY REMEDY WE
27 HAVE IS FOR THE COURT TO GRANT THE MOTION. THAT IS THE
28 ONLY WAY TO SLOW MR. BERRY DOWN. COSTS DIDN'T SLOW HIM

1 DOWN. SANCTIONS DID NOT SLOW HIM DOWN. DISPLEASURE OF
2 THE COURT DOES NOT SLOW HIM DOWN. IT SEEMS LIKE
3 NOTHING SLOWS HIM DOWN, AND THAT IS WHY THIS MOTION WAS
4 BROUGHT AND THAT IS THE REASON I BELIEVE THIS MOTION
5 SHOULD BE GRANTED.

6 THE COURT: I WANT TO HEAR FROM THOSE IN
7 SUPPORT AND THEN GIVE MR. BERRY A FULL AND FAIR
8 OPPORTUNITY TO RESPOND.

9 MR. SOTER, ARE YOU STILL WITH US?

10 MR. SOTER: YES, I AM.

11 MR. ROSEN: I HAVE BEEN TOLD BY OTHER JUDGES
12 THAT I DON'T NEED A MICROPHONE, BUT IF MR. SOTER SAYS
13 HE CANNOT HEAR ME, I WILL USE IT.

14 MR. SOTER: I HEAR YOU FINE.

15 MR. ROSEN: YOUR HONOR, I JUST WANT TO MAKE
16 A FEW POINTS IN ADDITION TO THOSE THAT MR. CHALEFF
17 MADE.

18 AS THE MOVING PAPERS SET FORTH, MR. BERRY
19 HAD BEEN SANCTIONED SEVEN TIMES BY FIVE DIFFERENT
20 JUDGES IN CONTEXT OF MONETARY SANCTIONS. THAT DOES NOT
21 EVEN BEGIN TO SCRATCH THE SURFACE.

22 MR. BERRY HAS BEEN SANCTIONED NON
23 MONETARY SANCTIONS IN CASES IN WHICH I WAS REPRESENTING
24 A PARTY INCLUDING PROHIBITED FILING ANY DISCOVERY
25 WITHOUT LEAVE OF COURT FIRST. I MEAN, THERE IS JUST AN
26 ENDLESS ARRAY OF CONDUCT.

27 THE OTHER THING, THE NEXT POINT I WANT TO
28 MAKE IS THIS, PERHAPS I'M A BIT OF A DINOSAUR, I'VE

1 BEEN PRACTICING OVER THIRTY YEARS NOW.

2 THE COURT: CAREFUL.

3 MR. ROSEN: WELL, AS A GOVERNMENT PROSECUTOR AND
4 THEN IN PRIVATE PRACTICE. AND I WAS BROUGHT UP WITH
5 THE NOTION THAT PROFESSIONALLY, WHETHER YOU THINK THE
6 JUDGE IS RIGHT, WRONG, OR OVER THE TOP, THE JUDGE IS
7 THE JUDGE AND THERE IS A CERTAIN AMOUNT OF RESPECT THAT
8 IS COMMANDED BY THAT POSITION.

9 THE COURT: IF THAT IS THE VIEW IN NEW YORK, I
10 ENCOURAGE YOU TO BRING IT TO CALIFORNIA.

11 MR. ROSEN: YOUR HONOR, I'LL TELL YOU THAT I
12 WAS RECENTLY IN THE FOURTH CIRCUIT COURT OF APPEALS,
13 AND YOU KNOW THAT COURT OF APPEALS --

14 THE COURT: IT SITS IN MY HOMETOWN.

15 MR. ROSEN: IT WAS ACTUALLY SITTING IN
16 BALTIMORE HEARING A CASE, AND AFTER EACH ORAL ARGUMENT
17 THEY INVITE COUNSEL UP TO THE BENCH AND EACH OF THE
18 JUDGES ON THE PANEL GREET THE COUNSEL. IT'S A COURT OF
19 INFINITE HOSPITALITY AND GENTEEL CONDUCT.

20 THE COURT: LET ME SAY ABOUT THAT WE HAVE A
21 CRISIS IN CALIFORNIA OF CIVILITY. I KNOW THAT
22 EVERYTHING IN NEW YORK IS HISTORICALLY SWEET.

23 MR. ROSEN: NO, MR. BERRY IS A MEMBER OF THE
24 NEW YORK BAR, TOO, YOUR HONOR.

25 THE COURT: ALL RIGHT, BUT THE POINT THAT I
26 WANT TO MAKE IS ACTUALLY GERMANE TO THIS WHOLE CASE.

27 THERE IS A CRISES OF CIVILITY AMONGST
28 LAWYERS AND THEY COME BY IT ACTUALLY, HONESTLY. THE

1 LAW COMPELS COUNSEL TO BE ZEALOUS ADVOCATES FOR THEIR
2 CLIENTS, AND SOMETIMES IT'S VERY HARD TO DRAW THE
3 BOUNDARIES.

4 ONE OF THE THINGS I LEARNED IN MY FIFTEEN
5 YEARS IN THIS JOB IS THAT IT'S PART OF MY JOB TO HELP
6 COUNSEL BRIDGE THE CIVILITY GAP BY SETTING BOUNDARIES
7 AND BY SETTING AN EXAMPLE.

8 THERE WAS A TIME IN MY LIFE WHEN I
9 REACTED TO HOSTILITY AMONG COUNSEL WITH GREATER
10 HOSTILITY ON THE THEORY THEY DON'T KNOW BAD UNTIL THEY
11 KNOW HOW BAD I CAN BE, BUT THAT IS NOT THE WAY TO BE A
12 JUDGE.

13 IN THIS PARTICULAR CASE, I HAVE REALLY
14 BENT OVER BACKWARDS TO TRY AND SET A CIVILIZED, CALM,
15 CHECK-YOUR-GUNS-AT-THE-DOOR KIND OF TONE. I KNOW THAT
16 LITIGATION INVOLVING THE CHURCH OF SCIENTOLOGY IS
17 HISTORICALLY EXTREMELY BITTER. THOSE WHO ARE
18 AFFILIATED AND THOSE WHO ARE FORMALLY AFFILIATED HAVE
19 VERY STRONG FEELINGS. I RESPECT THOSE FEELINGS, AND I
20 HAVE NO POSITION ABOUT THEM OTHER THAN MY OBLIGATION TO
21 AFFORD A CIVILIZED, COURTEOUS, RESPONSIBLE, LAWFUL
22 ARENA FOR THE RESOLUTION OF THOSE ISSUES.

23 I BELIEVE THAT JUDGES PLAY A MAJOR ROLE
24 IN THE SO-CALLED CIVILITY CRISES THAT WE SUFFER
25 GENERALLY IN THIS COUNTRY AND SPECIFICALLY HERE IN LOS
26 ANGELES.

27 SO THAT UPON WHICH YOU TOUCH ABOUT THAT
28 GOES ON IN THE FOURTH CIRCUIT, IT REMINDS ME IN SOME

1 WAYS THAT I HAVE GONE BACK TO MY ROOTS AND THE COURTESY
2 AND THE GOOD MANNERS THAT I LEARNED AT THE DINNER
3 TABLE, AND I'M TRYING TO IMPART THAT TO THIS COURT.

4 WHAT MOST DISAPPOINTS ME ABOUT WHAT I
5 HAVE RECEIVED YESTERDAY FROM MR. BERRY IS A COMPLETE
6 FAILURE TO ACKNOWLEDGE THE EFFORT OF THIS COURT TO
7 AFFORD FOR HIM, FOR THOSE THAT CARE ABOUT HIS CAUSE,
8 FOR EVERY PARTY AND EVERY LITIGANT, THE EXACT KIND OF
9 CIVILIZED, COURTEOUS, AND FRIENDLY ARENA THAT YOU HAVE
10 EXTOLLED IN THE FOURTH CIRCUIT AND WE TRY TO ACHIEVE
11 HERE.

12 GO AHEAD, SIR, THANK YOU.

13 MR. ROSEN: THE REASON I BRING IT UP IS BECAUSE
14 I DON'T WANT YOU TO LEAVE THE BENCH THINKING THAT YOU
15 HAVE DONE SOMETHING TO PERCIPITATE THIS CONDUCT BY
16 MR. BERRY.

17 THE COURT: I DON'T.

18 MR. ROSEN: OKAY. I WILL TELL YOU A YEAR AGO I
19 WAS IN TRIAL AGAINST MR. BERRY, A JURY TRIAL IN SAN
20 JOSE BEFORE JUDGE WHYTE. NOW I DON'T KNOW IF YOU KNOW
21 JUDGE WHYTE --

22 THE COURT: I DO.

23 MR. ROSEN: HE IS THE MOST MILD-MANNERED
24 LAID-BACK JUDGE. YOU CAN'T HEAR HIM WHEN HE USES THE
25 MICROPHONE, AND YOU HAVE TO GO A LONG WAY TO GET JUDGE
26 WHYTE'S IRE UP.

27 MR. BERRY MADE AN APPEARANCE IN A CASE
28 THAT WAS BEING TRIED TO A JURY IN A COPYRIGHT CASE, AND

1 HE SAID THINGS TO THE JUDGE IN OPEN COURT AND TREATED
2 THE JUDGE IN A WAY THAT EVERY COUNSEL SAT THERE TRYING
3 TO CRAWL UNDER THE TABLE AND SAY I REALLY DON'T WANT TO
4 BE HERE.

5 THE VERY NEXT DAY HE MADE A POSTING TO
6 THE INTERNET WHICH, AFTER BEING CRITICISED BY PEOPLE
7 FOR HOW CAN YOU ACT THIS WAY AS AN ATTORNEY BEFORE A
8 FEDERAL JUDGE, QUOTE, TAKING ON JUDGE WHYTE YESTERDAY
9 WAS ALSO DELIBERATELY DEFIANT. DEFIANT ON MY PART FOR
10 A NUMBER OF REASONS. HE IS PROUD OF IT.

11 THIS IS NOT YOU, YOUR HONOR. HE HAS
12 TREATED OTHER JUDGES WITH THE SAME DISDAIN THAT HE HAS
13 EXPRESSED TO THIS COURT.

14 THE COURT: PLEASE, I AM WORRIED THAT YOUR
15 ARGUMENT SUGGESTS THAT THERE IS A REASON TO FEAR THAT I
16 PERCEIVE THIS IS ABOUT ME, AND I DO NOT.

17 THIS IS ABOUT ISSUES IN THIS CASE. I AM
18 DISAPPOINTED IN SOME THINGS THAT HAVE HAPPENED IN THIS
19 CASE, BUT I APPROACH MY DUTY WITH A COMPLETE, CAREFUL,
20 BALANCE, FAIRNESS, TO ALL PARTIES. I EXTEND THAT TODAY
21 AND I AM ABSOLUTELY CLEAR ON MY DUTY AND MY ABILITY TO
22 AFFORD IT TO BE FAIR TO ALL SIDES HERE. THERE IS
23 NOTHING HERE THAT I TAKE PERSONALLY.

24 MR. ROSEN: AND JUDGE WHYTE DIDN'T TAKE IT
25 PERSONALLY EITHER, YOUR HONOR, BUT I THINK THIS IS AN
26 INDICATION OF THE CONDUCT THAT MR. BERRY ENGAGES IN
27 INTENTIONALLY.

28 OF THE FIVE CASES THAT ARE BEFORE YOU AS

1 THE PREDICATE FOR THE VEXATIOUS LITIGANT MOTION, I
2 WOULD LIKE TO ADDRESS ONE OF THEM IN WHICH I HAD THE
3 DISPLEASURE OF BEING THE DEFENDANT. I WOULD LIKE TO
4 TELL YOU A STORY ABOUT WHAT HAPPENED IN THAT CASE
5 BECAUSE I THINK IT REALLY SUMS UP THE ENTIRETY OF THIS.

6 I WAS SCHEDULED TO TAKE MR. BERRY'S
7 DEPOSITION IN BERRY V. BARTON'S OFFICE STARTING, I
8 BELIEVE, ON THURSDAY THE 28TH OF MAY. ON TUESDAY
9 MORNING, THE 26TH OF MAY, MR. BERRY WENT INTO JUDGE
10 LAGER WITH AN EXPARTE THAT MORNING SAYING HE WANTED HIS
11 DEPOSITION POSTPONED.

12 THE REASON WAS BECAUSE HE HAD NOT YET
13 SERVED, AS THE PLAINTIFF, SEVERAL DEFENDANTS. THE CASE
14 WAS FILED THREE MONTHS EARLIER, AND HE HAD NOT GOTTEN
15 AROUND TO SERVING THEM AND IT WAS UNFAIR FOR HIM TO BE
16 DEPOSED BEFORE HE HAD GOTTEN AROUND TO SERVING THEM.

17 WELL, JUDGE LAGER MADE SHORT SHRIFT OF
18 THAT, BUT MR. BERRY KNEW THAT WAS GOING TO HAPPEN, THAT
19 THAT MOTION WAS GOING TO BE DENIED BECAUSE IN HIS
20 BRIEFCASE HE HAD ANOTHER SET OF PAPERS AND WALKED OUT
21 OF JUDGE LAGER'S COURTROOM AND DOWN THE HALL TO, AND
22 I'M NOT SURE WHAT IT'S CALLED HERE, BUT TO THE FAMILY
23 DIVISION, AND FILED AN EXPARTE, A TRUE EXPARTE, NO
24 NOTICE TO US.

25 WE ARE IN THE COURTROOM WITH HIM BEFORE
26 JUDGE LAGER AND DOESN'T TELL US, AND WALKS DOWN THE
27 HALL TO JUSTICE BEVERLY AND PRESENTS AN EXPARTE ORDER
28 TO SHOW CAUSE WITH A TRO TO RESTRAIN ME FROM COMING

1 WITHIN ONE HUNDRED FEET OF MR. BERRY AND DOESN'T TELL
2 JUDGE BEVERLY IN HIS PAPERS THAT IF FOR SOME REASON THE
3 JUDGE WOULD HAVE GRANTED THIS, I WOULD BE EFFECTIVELY
4 PRECLUDED FROM TAKING HIS DEPOSITION TWO DAYS LATER.

5 WELL, FORTUNATELY, JUDGE BEVERLY SIGNED
6 THE ORDER TO SHOW CAUSE AND MADE IT RETURNABLE TWO
7 WEEKS LATER AND CROSSED OUT THE TRO AND PUT HIS
8 INITIALS IN THE MARGIN. THOSE PAPERS WERE IN
9 MR. BARRY'S BRIEFCASE. HE WENT FROM JUDGE LAGER TO
10 JUDGE BEVERLY THAT DAY.

11 THE NEXT DAY HE CAME UP WITH A THIRD TRY
12 TO TRY TO AVOID THIS DEPOSITION. HE OPPOSED MY PRO HAC
13 VICE MOTION. I WANT TO READ TO YOU WHAT HE TOLD JUDGE
14 LAGER,

15 "PLAINTIFF APPLIES FOR AND RECEIVED
16 A TEMPORARY RESTRAINING ORDER
17 RESTRAINING APPLICANT, ME, FROM
18 COMING WITHIN ONE HUNDRED YARDS OF
19 PLAINTIFF. FROM TELEPHONING AND
20 FROM HARASSING OR INTIMIDATING HIM."

21 WELL, YOUR HONOR, AS I SAY, I MAY BE A
22 LITTLE BIT OF A DINOSAUR, BUT I AM NOT USED TO SEEING
23 AN ATTORNEY PUT IN AN AFFIDAVIT THAT SAYS HE GOT A TRO
24 WHEN HE DIDN'T. IN ANY EVENT, JUDGE LAGER MADE SHORT
25 SHRIFT OF THAT ONE AS WELL.

26 THAT PROCEEDING WAS THEN WITHDRAWN WITH
27 PREJUDICE WHEN MY COUNSEL REPRESENTING ME, MISS REEVES
28 AND MR. TURRILL FROM MY FIRM APPEARED BEFORE JUDGE

1 BEVERLY ON AN APPLICATION FOR BOTH ATTORNEY'S FEES AND
2 SANCTIONS.

3 IN ADDITION TO ATTORNEY FEES, JUDGE
4 BEVERLY ISSUED AN ORDER GRANTING US OUR FULL ATTORNEYS
5 FEES, ONE HUNDRED PERCENT OF THEM, AND SAID IF I HAD
6 THE AUTHORITY TO DO IT UNDER THE STATUTE, I WOULD
7 IMPOSE SANCTIONS AS WELL.

8 NOW IN THE HISTORY AND VIEW OF ALL THIS,
9 ONE IS COMPELLED WITH A NOTION OF EXAMINING WHETHER OR
10 NOT THERE HAS BEEN ANY ACT OF CONTRITION, ANY ACT OF
11 ATONEMENT, ANYTHING TO INDICATE THAT SOMEHOW MR. BERRY
12 HAS CHOSEN TO STEER A BETTER COURSE, PERHAPS, AND THAT
13 IS SOMETHING THAT I THINK IS VERY RELEVANT TO THE ISSUE
14 BEFORE YOU OF VEXATIOUS LITIGANT.

15 HAS MR. BERRY LEARNED BY THE ERROR OF HIS
16 WAYS?

17 THE ANSWER IS NO. I WASN'T HERE ON
18 MONDAY, BUT YOUR HONOR'S RECITATION OF WHAT OCCURRED ON
19 MONDAY IS PERFECTLY, ONE HUNDRED PERCENT CONSISTENT
20 WITH WHAT MR. TURRILL TOLD ME.

21 MR. TURRILL OF MY FIRM WAS HERE ON
22 MONDAY. I THEN GET A SET OF PAPERS THAT ACCUSE MYSELF
23 AND MIKE TURRILL OF COMMITTING ALL KINDS OF HEINOUS
24 CRIMES, HIGHWAY MOBERY, SUBORNATION OF PERJURY, ET
25 CETERA, ET CETERA.

26 WELL, I DON'T HAVE TO READ THEM,
27 MR. BERRY'S PAPERS, BECAUSE I KNOW THAT TEN SECONDS
28 AFTER THE FILING IN THE CLERK'S OFFICE I CAN READ THEM

1 ON THE INTERNET, THAT IS THE GAME.

2 I THEN FIND SOMETHING VERY INTERESTING
3 AND MR. CHALEFF REFERRED TO THIS EARLIER. YESTERDAY
4 AFTERNOON AT 1:00 O'CLOCK, I GOT DELIVERED TO MY OFFICE
5 THE TOP HALF OF THIS STACK IN SUPPORT OF A MOTION TO
6 DISQUALIFY YOUR HONOR. THE MOTION WAS NOTICED FOR
7 YESTERDAY MORNING AT 8:30 IN DEPARTMENT ONE.

8 WELL, I DON'T PROFESS TO BE AN EXPERT ON
9 CALIFORNIA PRACTICE, IF COUNSEL NOTICED A MOTION TO BE
10 RETURNED AT 8:30 ON THE 19TH OF AUGUST, DOES COUNSEL
11 MAKE SERVICE OF THOSE MOTION PAPERS AT 1:00 O'CLOCK IN
12 THE AFTERNOON ON THAT DAY?

13 IT DOESN'T SEEM TO MAKE A LOT OF SENSE TO
14 ME. WHAT IS THE POINT IN MAKING SERVICE OF PAPERS IF
15 YOU DON'T HAVE AN OPPORTUNITY TO APPEAR OR RESPOND
16 BECAUSE THE POINT FOR APPEARING IS ALREADY PAST?

17 THAT, TO ME, SPEAKS VOLUMES OF THE FACT
18 THAT MR. BERRY AND HIS PRACTICE IS NOT, HE IS NOT A
19 REPENTANT INDIVIDUAL, AND HE HAS NOT CONFORMED HIS
20 CONDUCT TO THAT WHICH IS EXPECTED OF ALL ATTORNEYS WHO
21 ARE PRIVILEGED TO APPEAR BEFORE THIS COURT.

22 IT'S NOT A RIGHT, IT'S A PRIVILEGE,
23 INCLUDING ME AS A PRO HAC VICE, INCLUDING SOMEBODY WHO
24 IS ADMITTED IN THIS COURT IN THE STATE OF CALIFORNIA.

25 THE SECOND ASPECT OF THAT IS THE MOTION
26 THAT YOU ARE NOT GOING TO HEAR, THE MOTION WITH RESPECT
27 TO MR. CIPRIANO. I'M NOT GOING TO ADDRESS IT EXCEPT TO
28 SAY THE VERY IDEA OF FILING A MOTION IN A CLOSED CASE,

1 THERE IS NO MOTION TO REOPEN ANY CASE.

2 I MEAN, I WANT TO FILE A MOTION. THIS IS
3 LIKE A TOTAL DISREGARD OF ANYTHING WHICH RESEMBLES
4 PROPER ORDER AND THE JUDICIAL SYSTEM PROCESS AND
5 PROCEEDINGS WHICH ARE DESIGNED TO PROTECT ALL
6 LITIGANTS.

7 THE NEXT POINT I WANT TO MAKE IS THIS, I
8 HAVE READ SOME OF THE PAPERS IN WHICH MR. BERRY
9 PROVIDES AN EXPLANATION FOR HIS TARDINESS ON MONDAY. I
10 GUESS IT'S IN HIS EXPLANATION FOR WHY HE SHOULD NOT BE
11 SANCTIONED FOR SHOWING UP IN YOUR HONOR'S COURT LATE ON
12 MONDAY.

13 GIVING THE BENEFIT OF THE DOUBT TO ANY
14 ATTORNEY THAT SAYS I GOT STUCK ON THE 10 AND 101, I
15 THINK, IS A NATURAL INCLINATION OF ANY JUDGE IN THIS
16 BUILDING. LET ME TELL YOU THIS, IN MY EXPERIENCE WITH
17 MR. BERRY, MR. BERRY IS NEVER ON TIME. NEVER FILES
18 ANYTHING ON TIME.

19 I CAN HAND UP DEPOSITION TRANSCRIPTS OF
20 ONE MONTH AGO WHEN I DEPOSED MR. BERRY'S CLIENT
21 MR. PATTINSON. EVERY SINGLE DAY MR. BERRY WOULD SHOW
22 UP FIFTEEN MINUTES LATE, TWENTY MINUTES LATE, IN FACT,
23 WE HAD -- AND ALL OF THIS IS ON THE RECORD -- WE HAD AN
24 EXCHANGE ON THE RECORD. I SAID TO MR. BERRY, "YOU ARE
25 A HALF-AN-HOUR LATE." "NO, I'M NOT A HALF AN HOUR,
26 IT'S ONLY TWENTY-TWO MINUTES LATE."

27 JUDGE WHYTE, IN THE CASE I REFERRED TO
28 THAT WAS TRIED LAST YEAR IN SAN JOSE IN WHICH MR. BERRY

1 WAS DEFENSE COUNSEL, REACHED THE END OF HIS ROPE WITH
2 MR. BERRY. MR. BERRY DID NOT FILE SOMETHING. I DON'T
3 REMEMBER WHAT IT WAS, AND JUDGE WHYTE CAME OUT AND THIS
4 IS IN THE OFFICIAL TRANSCRIPT OF APRIL 30, 1998, AND
5 MR. BERRY TRIED TO FILE SOMETHING LATE AND JUDGE WHYTE
6 SAID, "I'M NOT GOING TO LET YOU FILE IT."

7 THE REVIEW OF THE HISTORY OF THIS CASE
8 WILL SHOW THAT THE DEFENSE HAD MORE THAN AMPLE
9 OPPORTUNITY TO LIST EXHIBITS BUT DID NOT DO SO.

10 NOVEMBER 14 1998, THE ORIGINAL PRETRIAL
11 CONFERENCE STATEMENT WAS FILED, NO EXHIBIT LIST.
12 FEBRUARY 5, 1997, PRETRIAL CONFERENCE, NO EXHIBIT LIST.
13 APRIL 22, 1998, PRETRIAL CONFERENCE, NO EXHIBITS. ON
14 AND ON.

15 JUDGE WHYTE WENT BACK THROUGH HIS FILES
16 AND LISTED EVERY SINGLE TIME DEADLINE THAT APPLIED IN
17 THIS CASE AND EVERY SINGLE ONE OF THEM MR. BERRY
18 IGNORED.

19 THIS IS HIS MODUS OPERANDI, TO IGNORE
20 THEM. HE HAS DISPLAYED THAT EARLIER THIS WEEK UPSTAIRS
21 IN DEPARTMENT 46 BEFORE JUSTICE MINNING. THERE WAS A
22 MOTION ON A CASE IN WHICH MR. BERRY REPRESENTS
23 MR. PATTINSON. ON THE LAST DAY FOR FILING OPPOSITION
24 PAPERS, MR. BERRY FILES AND SERVES A DOCUMENT ENTITLED
25 PRELIMINARY OPPOSITION. A DRAFT WITH HOLES IN IT.
26 WITH BLANKS, UNSIGNED, SUPPORTED BY AN UNSIGNED
27 AFFIDAVIT OF MR. BERRY AND NOT SERVED ON COUNSEL UNTIL
28 THE NEXT DAY. ONE DAY LATE. SERVES IT, FILES IT ONE

1 DAY AND SERVES IT THE NEXT DAY.

2 NOW WHY AM I SAYING THIS? IT'S NOT
3 BECAUSE I'M ASKING YOU TO TAKE ANY ACTION. I'M SAYING
4 IT TO MAKE THE POINT THAT THE EXTENT THAT YOUR HONOR
5 BELIEVES THERE IS ANY HOPE OF REHABILITATION OF
6 MR. BERRY, THAT PUNISHMENT SHOULD BE MEASURED BY AN
7 INTENTION OF REHABILITATION OR A HOPE OF
8 REHABILITATION, I'M TELLING YOU THAT SINCE THIS MOTION
9 WAS FILED, MR. BERRY'S CONDUCT HAS NOT COMPORTED WITH
10 THE RULES OF PRACTICE. AND IF ANYTHING, IT HAS JUST
11 GOTTEN WORSE AND WORSE.

12 THERE IS ONE LAST POINT THAT I WOULD LIKE
13 TO MAKE AND THAT IS THAT VEXATIOUS LITIGANT MOTIONS ARE
14 RARE IN ANY JURISDICTION. AND YOU REALLY HAVE TO DO
15 SOME, TO GO TO THE BOOKS AND FIND CASES IN WHICH THE
16 COURT'S HAVE IMPOSED A RESTRAINT, SUCH AS THE RESTRAINT
17 THAT IS BEING ASKED FOR HERE UNDER THE CALIFORNIA
18 STATUTE AGAINST MR. BERRY.

19 THE ONLY ONE I AM AWARE OF IN THIRTY
20 YEARS OF PRACTICE IN THE STATE OF NEW YORK, AND IT'S IN
21 THE FEDERAL SYSTEM, INVOLVES A LITIGANT WHO ENGAGED IN
22 CONDUCT LIKE MR. BERRY. AND THE SECOND CIRCUIT PUT IN
23 AN ADDITIONAL PROVISION TO THE ORDER HOLDING THAT
24 PERSON TO BE A VEXATIOUS LITIGANT, AND THAT PROVISION
25 IS ONE I'M GOING TO ASK YOU TO PUT IN YOUR ORDER TODAY.

26 AND THAT IS THAT WHENEVER MR. BERRY
27 APPEARS IN ANY CASE IN ANY COURT, WHETHER IN THE FIRST
28 APPEARANCE IN THE NOTICE OF APPEARANCE OR A PLEADING,

1 HE ATTACHES A COPY OF THIS COURT'S ORDER HOLDING HIM TO
2 BE A VEXATIOUS LITIGANT TO THAT PLEADING.

3 AND IN THE MARTIN TUGADI CASE, THE SECOND
4 CIRCUIT EXPLAINED THAT BECAUSE DECISIONS ARE NOT
5 ORDINARILY PUBLISHED OF THE LOWER COURTS BECAUSE
6 ANOTHER LITIGENT WHO WILL RUN INTO MR. BERRY WHO DOES
7 NOT KNOW THE HISTORY, WILL NOT BE AWARE OF HIS PRIOR
8 CONDUCT, EVERY JUDGE AND EVERY LITIGANT AGAINST
9 MR. BERRY, WHETHER IT'S IN THE STATE OF CALIFORNIA OR
10 THE STATE OF OHIO HAS A RIGHT TO KNOW THAT THIS PERSON
11 HAS BEEN ADJUDICATED TO BE A VEXATIOUS LITIGANT.

12 SO I WILL ASK YOUR HONOR TO CONSIDER
13 ADDING THAT ADDITIONAL PROVISION TO THE ORDER WE
14 REQUEST YOU TO ISSUE.

15 AND THANK YOU, YOUR HONOR, FOR YOUR
16 PATIENCE.

17 THE COURT: THANK YOU. ONE MOMENT.

18 CHUCK, HOW ARE YOU DOING? WHAT I PROPOSE
19 TO DO IS THE FOLLOWING AND I NEED TO GIVE THE COURT
20 REPORTER A BREAK. I WANT TO HEAR PATIENTLY FROM THOSE
21 WHO WISH TO BE HEARD IN SUPPORT OF THIS APPLICATION. I
22 WANT TO TAKE A BREAK AND GIVE MR. BERRY A CHANCE TO
23 ORGANIZE HIS RESPONSE AND THEN I WANT TO HEAR FROM
24 MR. BERRY.

25 HOW MUCH TIME DO YOU WISH, AND I'M NOT
26 SETTING A LIMIT, I'M TRYING TO MAKE PLANS, MR. MOXON?

27 MR. MOXON: I WILL ATTEMPT TO BE VERY BRIEF.

28 THE COURT: THAT MEANS?

1 MR. CHALEFF: LESS THAN FIVE MINUTES.

2 THE COURT: AND MR. CHODOS, DO YOU WISH TO BE
3 HEARD?

4 MR. CHODOS: YES, IT WOULD BE LESS THAN FIVE
5 MINUTES.

6 THE COURT: IF IT WORKS FOR YOU, I WOULD LIKE TO
7 HEAR FROM THEM AND THEN GO AHEAD AND TAKE A BREAK.

8 THE REPORTER: THAT IS FINE.

9 THE COURT: GO AHEAD.

10 MR. MOXON: MY NAME IS KENDRICK MOXON.

11 YOUR HONOR, I APPRECIATE YOUR COMMENTS
12 REGARDING THE RESTRAINTS.

13 THE COURT: MR. SOTER, ARE YOU THERE?

14 MR. SOTER: YES, I AM.

15 THE COURT: YOU MAY WANT TO HOLD THAT
16 MICROPHONE CLOSER.

17 MR. MOXON: I APPRECIATE THE COMMENTS YOU HAVE
18 GIVEN US CONCERNING RESTRAINTS.

19 AS YOU KNOW IN THE BEGINNING OF THIS
20 CASE, IT WAS A LITTLE WILDER THAN IT WAS AT SOME LATER
21 POINTS, AND AS THE TARGET OF MOST OF THE COMMENTS BY
22 THE PLAINTIFF IN THE CASE, I TENDED TO WANT TO TAKE
23 THEM PERSONALLY. AND YOUR COMMENTS AND YOUR ACTIVITIES
24 AND YOUR EXAMPLE OF RESTRAINT WAS ACTUALLY AN EXAMPLE
25 TO US AND IT CAUSED A GREAT DEAL OF DIFFERENCE IN THE
26 WAY THAT WE ATTEMPTED TO APPROACH THINGS HERE.

27 THE COURT: THANK YOU.

28 MR. MOXON: AND I SAY THAT BECAUSE YOU MAY HAVE

1 SEEN SOME OF THE WRITTEN COMMENTS HERE BY MR. BERRY
2 WHERE HE INDICATED THAT, FOR EXAMPLE, A BLACK GUY FROM
3 HOBSON IS A GOOD DEAL, AS FAR AS I'M CONCERNED. AND I
4 OBJECTED BECAUSE HE SAID IN ANOTHER CASE IN WHICH HE
5 WAS COUNSEL WAS TO BITE SCIENTOLOGY IN THE BUTT. THAT
6 IS MY AGENDA, TO CAUSE IT AS MUCH GRIEF AS POSSIBLE.

7 I DON'T THINK THAT A BAR CARD SHOULD BE A
8 LICENSE TO CREATE CHAOS AND THAT IS WHAT HAS BEEN DONE
9 HERE.

10 EVERY TIME MR. BERRY HAS BEEN REPEATEDLY
11 SANCTIONED HE SAID THE COURT IS TO BLAME. WHEN COSTS
12 HAVE BEEN LEVIED AGAINST HIM HE SAID, "I DON'T CARE
13 BECAUSE I'M FILING BANKRUPTCY." WHEN A VERY PATIENT
14 FEDERAL JUDGE, CHRISTINE SCHNEIDER, ISSUED AN
15 EXTRAORDINARY RULE ELEVEN SANCTION, \$28,000 AGAINST HIM
16 ON MY BEHALF FOR FILING A BAD FAITH, WHAT SHE CALLED A
17 BAD FAITH CASE, UNDER THE FEDERAL VEXATIOUS LITIGANT
18 STATUTE, HE SAID HE WAS A VICTIM OF A CONSPIRACY.

19 HE HAS BEEN REPEATEDLY SANCTIONED,
20 CONSTANTLY, AND HE JUST -- I DON'T HAVE YOUR THICK
21 SKIN, YOUR HONOR. I HAVE SAT HERE MANY HOURS TO SEE
22 WHAT IS GOING ON AND YOU TOLD ME TO CALM DOWN BEFORE I
23 GOT UP AND SPOKE AND I TRULY APPRECIATED THAT.

24 THE COURT: I COMMEND YOU FOR YOUR SUCCESS IN
25 DOING SO.

26 MR. MOXON: AT ANY RATE, THE LEGISLATURE IN
27 CALIFORNIA CONTEMPLATED THIS KIND OF LITIGANT FAR LESS
28 THAN THE KIND OF LITIGANT THAT WE HAD HAVE SEEN

1 HERE. AND THEY HAVE SET FORTH THREE OBJECTIVE
2 STANDARDS AND ONE SUBJECTIVE STANDARD FOR HOW TO DEAL
3 WITH IT.

4 THOSE STANDARD ARE MET IN THIS CASE.
5 SECTION 391 HAS FOUR STANDARDS. THE FIRST OF THEM, ANY
6 ONE OF THEM, BY THE WAY, WARRANTS AND REQUIRES A
7 FINDING OF VEXATIOUS LITIGANT.

8 THE FIRST ONE IS ENTIRELY OBJECTIVE,
9 ENTIRETY. AND THAT IS THAT FIVE CASES BE DISMISSED
10 WITHIN A PERIOD OF SEVEN YEARS. HERE WE HAVE FIVE
11 CASES DISMISSED AS A PER SE LITIGANT IN ONE YEAR. IT'S
12 AN OBJECTIVE STANDARD.

13 THE SECOND ONE IS A SUBJECTIVE STANDARD.
14 IT DEALS WITH THE FILING OF UNMERITORIOUS OR FRIVOLOUS
15 PAPERS IN AN ACTION. THE COURT CAN TAKE JUDICIAL
16 NOTICE OF WHAT HAS BEEN DONE HERE. I DON'T THINK I
17 NEED TO REPEAT IT. IT WAS DONE HERE VERY WELL BY
18 MR. ROSEN AND MR. CHALEFF AND THIS COURT KNOWS BETTER
19 THAN I DO OF THAT.

20 THE THIRD STANDARD IS ALSO OBJECTIVE AND
21 THAT IS THAT THERE BE A FINDING IN ANOTHER COURT THAT
22 HE WAS A VEXATIOUS LITIGANT. WE HAVE THAT BY JUDGE
23 SCHNEIDER. HE HAD AN OPPORTUNITY TO APPEAL THAT AND HE
24 DIDN'T DO IT. IT WAS A \$28,000 RULE ELEVEN SANCTION
25 UNDER 28 USC 1927 FEDERAL VEXATIOUS LITIGANT STATUTE.

26 SO ASIDE FROM ANYTHING ELSE, ASIDE FROM
27 ALL THE OTHER COMMENTARY, THOSE OBJECTIVE STANDARDS
28 REQUIRE THAT MR. BERRY, AS A MATTER OF LAW, BE FOUND TO

1 BE A VEXATIOUS LITIGANT. HE MEETS ALL THREE OF THEM.

2 IT SEEMS TO ME THAT MR. BERRY HAS BEEN
3 GIVEN VIRTUALLY UNLIMITED LEEWAY, AND THAT HE HAS
4 EXHAUSTED IT. HE HAS BEEN GIVEN VIRTUALLY UNLIMITED
5 PATIENCE AND HE HAS EXHAUSTED THAT, TOO.

6 ALL WE ASK HERE IS THAT A VERY LIMITED
7 RESTRAINT BE IMPOSED UPON HIM. VERY LIMITED PROCEDURAL
8 RESTRAINT THAT IS FOUND TO BE CONSTITUTIONAL IN THE
9 COURT SYSTEM BEING IMPOSED UPON MR. BERRY SO THAT WE
10 CAN GET ON WITH OUR BUSINESS.

11 THANK YOU.

12 THE COURT: MR. CHODOS.

13 MR. CHODOS: I DIDN'T THINK THAT I WOULD BE
14 PART OF THIS PROCEEDING UNTIL MR. BERRY --

15 THE COURT: HOLD ON. PLEASE USE THE
16 MICROPHONE.

17 ARE YOU STILL THERE, MR. SOTER?

18 MR. SOTER: YES, I AM.

19 THE COURT: VERY GOOD.

20 MR. CHODOS: I DIDN'T THINK, YOUR HONOR, I WOULD
21 BE PART OF THIS PROCEDURE BEFORE MR. BERRY MADE ME A
22 PARTY BY SERVING ON ME THE FIRST OF MANY DOCUMENTS LAST
23 FRIDAY AND THEN ANOTHER SIX INCHES THIS WEEK, BUT NOW I
24 AM.

25 MR. BERRY DOES THINGS THAT I DIDN'T THINK
26 LAWYERS DO. I WAS RELIEVED IN THE VOLUMES OF PLEADINGS
27 THAT HE FILED IN THE LAST WEEK TO SEE THAT MY NAME
28 APPEARED ONLY IN THE AFFIDAVIT OF SERVICE, ALTHOUGH I

1 WAS INCLUDED APPARENTLY AMONG THE LAWYERS, AND MY
2 CLIENTS AMONG THE CLIENTS THAT SHOULD BE HELD IN
3 CONTEMPT, BE DISQUALIFIED, ET CETERA.

4 MR. BERRY WAS NOT ALWAYS SO KIND. IN THE
5 PATTINSON CASE, YOUR HONOR, WHEN HE FIRST FILED IT, I
6 BARELY KNEW MR. BERRY. WE OPPOSED EACH OTHER IN, I
7 THINK, ONE PROCEEDING.

8 I THOUGHT OUR RELATIONSHIP WITH EACH
9 OTHER WAS GENTLEMANLY AND COURTEOUS. THE ONLY
10 DESCRIPTION HE HAS EVER GIVEN OF MY CONDUCT TO DATE IN
11 ANY COURT WAS THAT IT WAS PROFESSIONAL AND COURTEOUS TO
12 HIM.

13 IN THE PATTINSON CASE I WAS INCLUDED IN
14 PARAGRAPH 106 AS ONE OF THE LAWYERS WHO IMPLEMENTED
15 SCIENTOLOGY'S POLICY OF USING LITIGATION AND
16 INVESTIGATION TO HARASS, DEFAME, INTIMIDATE, AND
17 DESTROY, WHICH HAS BEEN USED UPON THE PLAINTIFF.

18 ACTUALLY, I WASN'T TREATED AS BADLY IN
19 THAT COMPLAINT WHICH, BY THE WAY, I WAS ABLE TO AVOID
20 PUTTING INTO MY FILES BECAUSE I WAS ABLE TO PICK IT UP
21 OFF THE INTERNET, AS WAS OTHER LAWYERS INCLUDING JACK
22 QUINN, MR. ROSEN HERE, AND BARBARA REEVES WHO WERE
23 ACCUSED IN PARAGRAPH 114 OF DESTROYING DOCUMENTS. AND
24 IN PARAGRAPH 15, ACCUSED IN SUCH THINGS AS ENGAGING IN
25 SUCH BLATANT AND BRUTAL LEGAL FUDDERY, USING
26 MR. BERRY'S WORDS, AND INTENTIONAL, ABUSIVE, UNETHICAL
27 AND CRIMINAL CONDUCT -- THIS IS HIS DESCRIPTION OF
28 OTHER LAWYERS. MISS REEVES, I THINK, HE BARELY KNEW AT

1 THE TIME AND WHEN HE MADE THESE REMARKS ABOUT ME, I
2 THINK HE BARELY KNEW ME.

3 YOUR HONOR, I HAVE BEEN A LAWYER FOR
4 THIRTY-TWO YEARS. BEING A LAWYER WAS ALL I EVER WANTED
5 TO BE.

6 THE COURT: YOU SEE, MR. ROSEN, I TOLD YOU TO
7 BE CAREFUL.

8 MR. ROSEN: HE LOOKS YOUNGER.

9 MR. MOXON: I KNOW WHEN I DECIDED I WANTED TO BE
10 A LAWYER, WHICH WAS BEFORE MOST OF THE PEOPLE SITTING
11 IN THIS COURTROOM WERE BORN, THAT LAWYERS DIDN'T DO
12 THINGS LIKE THIS. I UNDERSTAND HOW, IN THE HEAT OF
13 COMBAT, CIVILITY IS SOMETIMES THE FIRST VICTIM, BUT
14 THERE ARE BOUNDARIES, THERE ARE LIMITS. I STILL DON'T
15 THINK LAWYERS DO THINGS LIKE THIS.

16 THE COURT: MR. SOTER, IT IS DIFFICULT TO
17 TRANSCRIBE REMARKS OVER THE TELEPHONE, BUT IF YOU WISH
18 TO SPEAK AND DO SO SLOWLY AND CLEARLY, I'LL BE HAPPY TO
19 HEAR FROM YOU.

20 MR. SOTER: YOUR HONOR, MY COMMENTS WILL BE
21 BRIEF.

22 WE ARE NOT A PARTY. I'M NOT A PARTY. MY
23 LAW FIRM IS NOT A PARTY TO THIS VEXATIOUS LITIGANT
24 MOTION. AND IN VIEW OF THE RECENT EVENTS, I THINK IT'S
25 INAPPROPRIATE FOR US TO TAKE A POSITION ON THAT MOTION,
26 ONE WAY OR THE OTHER.

27 I WILL SAY THAT THERE ARE CERTAIN
28 REPRESENTATIONS IN THE MOST RECENTLY FILED DECLARATION

1 OF MR. CIPRIANO, PARTICULARLY IN PARAGRAPH FOUR THAT
2 ARE WRONG AND THAT SHOULD BE STRICKEN, AND THAT I
3 REPRESENTED MR. CIPRIANO PROPERLY, FOLLOWING ALL THE
4 RULES OF PROFESSIONAL CONDUCT, AND THAT I DISCHARGED MY
5 OBLIGATION TO REPRESENT MR. CIPRIANO AS HE INSTRUCTED,
6 AND THAT I TREATED MR. BERRY CIVILLY AT ALL TIMES AND
7 THAT I DON'T UNDERSTAND ANY BASIS FOR ANY OF THE
8 REQUESTS FOR EXPARTE RELIEF THAT MR. BERRY IS SEEKING.

9 I WOULD BE READY TO ADDRESS THAT WHEN THE
10 COURT IS READY FOR THAT ARGUMENT.

11 THE COURT: VERY GOOD, SIR, THANK YOU.

12 I WANT TO GIVE THE COURT REPORTER A
13 BREAK. MR. BERRY, I ALSO WISH TO GIVE YOU A REASONABLE
14 OPPORTUNITY, SHOULD YOU WISH IT, TO COMPOSE YOUR
15 THOUGHTS AND RESPONSE.

16 THERE ARE NO SECRETS HERE. THIS IS ALL A
17 PRODUCT OF PAPERWORK THAT HAS BEEN ON FILE A LONG TIME,
18 SUPPLEMENTED RECENTLY BY A FEW MATTERS. BUT IF YOU
19 NEED A REASONABLE PERIOD OF MINUTES THIS MORNING, AND
20 IF YOU WISH TO USE THIS COURT'S JURY ROOM AS A PRIVATE
21 PLACE TO GATHER YOUR THOUGHTS AND CONFER WITH WHOEVER
22 YOU WISH, YOU CERTAINLY MAY.

23 MR. BERRY: THERE ARE SEVERAL THINGS, HAS THE
24 COURT READ MY OPPOSITION?

25 THE COURT: THE COURT HAS READ EVERYTHING
26 PERTINENT TO THIS MOTION.

27 MR. BERRY: HAS IT READ THE DOCUMENTS FILED
28 SINCE THE MOTION SUCH AS THE CIPRIANO DECLARATION?

1 THE COURT: I HAVE REVIEWED, TO THE EXTENT
2 NECESSARY TO COMMAND THE SUBSTANCE OF EVERY DOCUMENT
3 THAT HAS BEEN SUBMITTED.

4 MR. BERRY: I WOULD ASK THAT THE CIPRIANO
5 DECLARATION, DATED AUGUST 9, AND ALL SUBSEQUENT FILINGS
6 TO THIS VEXATICUS LITIGANT MOTION BE PART OF THIS
7 RECORD.

8 MR. CHALEFF: WE WOULD OBJECT, YOUR HONOR.

9 THE COURT: AND YOUR POSITION ON THAT?

10 MR. CHALEFF: IT IS IRRELEVANT. THE ONLY
11 PURPOSE FOR THIS IS TO MAKE IT A COURT FILING THAT CAN
12 THEN BE USED IN A HEARING.

13 THE COURT: THAT RAISES A RELATED POINT, A
14 NUMBER OF ACCUSATORY DOCUMENTS HAVE FLOWED INTO THIS
15 COURTROOM THIS WEEK. AT THE REQUEST OF COUNSEL ON
16 MONDAY, THIS COURT DID, AGAIN, A VERY UNUSUAL ACT FOR
17 THE COURT, AND THAT IS TO CAUSE DOCUMENTS TO BE FILED
18 UNDER SEAL PENDING TODAY'S HEARING.

19 IT IS NOT MY INTENT TO LEAVE MATTERS
20 UNDER SEAL. MY VIEW IS THAT IF SOMEBODY CHOOSES TO USE
21 THE LEGAL SYSTEM TO BASH AND TRASH, THAT BECOMES
22 EVIDENCE IN THE VERY MATTER BEFORE THIS COURT.

23 THE QUESTION OF SEALING OR NOT IS
24 SOMETHING THAT WE SHOULD DEAL WITH AFTER THE CONCLUSION
25 OF THIS HEARING, BUT I DO WANT TO GIVE EVERYBODY A
26 HEADS UP THAT THE RULES OF THE CALIFORNIA SUPERIOR
27 COURT, AND THE RULES OF THE LOS ANGELES SUPERIOR COURT
28 PROHIBIT PLEADINGS UNDER SEAL EXCEPT, IN A REALLY

1 COMPELLING AND UNUSUAL CIRCUMSTANCE.

2 I ALSO HAPPEN TO BELIEVE VERY STRONGLY IN
3 THE FIRST AMENDMENT. I WAS RAISED IN THE JEFFERSONIAN
4 TRADITION, AND I THOUGHT OF THAT LAST NIGHT IN
5 REVIEWING MR. BERRY'S PAPERS THAT I MAY DISAGREE WITH
6 WHAT YOU SAY, BUT I WILL DEFEND TO THE DEATH YOUR RIGHT
7 TO SAY SO.

8 I THEREFORE INTEND AND AM INCLINED TO
9 ALLOW THAT WHICH HAS BEEN TENDERED TO THE COURT TO BE
10 PART OF THE RECORD. WE ARE TALKING ABOUT A VERY
11 DRASTIC POTENTIAL STEP THAT IS BEING SOUGHT BY THE
12 PARTIES. I DON'T CONCEDE FOR A MINUTE THAT THEY ARE
13 RELEVANT, BUT THEY HAVE BEEN TENDERED, AND QUITE
14 FRANKLY, I BELIEVE THEY HAVE EVIDENTIARY MATTER AS TO
15 THE VERY MATTER BEFORE THIS COURT.

16 I'LL HEAR FROM PEOPLE INDIVIDUALLY, BUT I
17 WILL TELL YOU THAT THAT IS MY TENTATIVE ON THAT.

18 MR. BERRY?

19 MR. BERRY: THANK YOU, YOUR HONOR.

20 I WOULD ASK THEN THAT THE RECORD INCLUDE
21 EVERY FILING SINCE THE FILING OF THE VEXATIOUS LITIGANT
22 MOTION.

23 THE COURT: THAT IS MY TENTATIVE.

24 MR. BERRY: THANK YOU. AND I ALSO WANT THE
25 FILES UNSEALED, YOUR HONOR, THAT WOULD BE MY POSITION,
26 TOO.

27 THE COURT: VERY GOOD.

28 MR. BERRY: AND THE CIPRIANO DECLARATION IS ON

1 OTHER FILES IN RELATION TO OTHER MATTERS SO ANY FILED
2 SEALING OF THAT WOULD BE MOOT.

3 THE COURT: WE UNDERSTAND. WE WILL DEAL WITH
4 THAT QUESTION SEPARATELY. I'VE GIVEN MY TENTATIVE ON
5 THAT. I DO WANT TO GIVE COUNSEL THE OPPORTUNITY TO BE
6 HEARD ON THAT BUT THAT IS A DOWNSTREAM MATTER THIS
7 MORNING.

8 MR. BERRY: AND FINALLY, AS TO MR. SOTER'S
9 REMARKS BEFORE, I SIT DOWN, I'M TOLD BY MR. CIPRIANO
10 THAT HE MET HIM ONCE AND HAS NEVER HEARD FROM HIM
11 SINCE.

12 THE COURT: VERY WELL.

13 HOW MUCH TIME WOULD YOU LIKE? MY NORMAL
14 BREAK IS FIFTEEN MINUTES.

15 MR. BERRY: THAT WILL BE SUFFICIENT, YOUR HONOR.

16 THE COURT: WE WILL BE IN RECESS FOR FIFTEEN
17 MINUTES.

18 (MORNING RECESS.)
19
20
21
22
23
24
25
26
27
28

1 THE COURT: WE ARE BACK ON THE RECORD.

2 MR. BERRY, I HAVE ENDEAVORED THROUGHOUT
3 THESE PROCEEDINGS TO ASSURE THAT YOU AND EVERYBODY THAT
4 COMES BEFORE THIS COURT ON THIS MATTER, AND HOPEFULLY
5 IN ANY MATTER, IS TREATED WITH RESPECT AND PATIENCE AND
6 COURTESY WHILE NOT IN ANY TIME ABANDONING THE
7 RESPONSIBILITIES OF MY JOB TO ASSURE FAIRNESS ON ALL
8 SIDES.

9 IN THAT SPIRIT, WHICH I HAVE CONTINUED TO
10 MAINTAIN, I INVITE YOUR RESPONSE. TAKE THE TIME YOU
11 WISH. I WOULD URGE YOU, TO THE EXTENT THAT YOU CHOOSE.
12 TO EXERCISE DISCRETION, JUDGMENT, AND YOUR RHETORIC,
13 BUT THIS IS THE TIME FOR YOU TO BE HEARD IF YOU CHOOSE
14 TO BE HEARD.

15 GO AHEAD, SIR, YOU MAY STAND OR SIT AS
16 YOU ARE MORE COMFORTABLE AND MAKE SURE I HEAR YOU. I
17 AM INFORMED MR. SOTER IS NOT APPEARING BY TELEPHONE ON
18 THIS MATTER, AND MAY WANT TO BE HEARD IF WE TO GO OTHER
19 MATTERS. AND I'LL BE HAPPY TO DO THAT.

20 YOU HAVE THE FLOOR, SIR.

21 MR. BERRY: YOUR HONOR, IN THE WORDS OF THE
22 WALL STREET JOURNAL AFTER THE CASE MR. ROSEN AND I
23 APPEARED IN LAST YEAR, "THE LAW HAS BEEN TURNED ON ITS
24 HEAD." I SHALL GET TO THAT SHORTLY.

25 LET ME FIRST OF ALL REBUT A FEW COMMENTS
26 OF COUNSEL. THE MOTION TO RECUSE THE COURT NOTED 8:30
27 A.M. YESTERDAY MORNING BECAUSE SOME DATE HAD TO BE PUT
28 ON IT, IS NOT A NOTICE THAT REQUIRES THE PRESENCE OF

1 PARTIES. IT'S NOT A NOTICE THAT REQUIRES ARGUMENT.
2 IT'S A NOTICE TO THE COURT.

3 THERE WAS NO INTENTION THAT COUNSEL COME
4 RUNNING DOWN HERE TO APPEAR ON IT BECAUSE THERE IS NO
5 RIGHT OF SUCH APPEARANCE. SO I ASK THE COURT TO
6 DISMISS THAT AS A RED HERRING.

7 ALSO, YOUR HONOR, AS FAR AS THE COMMENTS
8 ABOUT MR. ROSEN, ABOUT MY BEING BEFORE JUDGE BEVERLY
9 RUNNING UP AND DOWN THE COURTHOUSE WITH THINGS IN MY
10 POCKETS, I WAS NEVER EVEN BEEN IN THAT COURTROOM AND I
11 NEVER EVEN APPEARED IN THAT PROCEEDING.

12 AND AS FOR JUDGE SCHNEIDER'S REMARKS, I
13 THINK WHAT I'LL SHOW THE COURT INDICATES THE BASIS FOR
14 A RULE 60(B) DECISION MOTION BEING FILED OVER THERE
15 VERY SHORTLY. AND I FINALLY WOULD ASK THE COURT TO
16 INCLUDE IN THE RECORD HERE THE EXPARTE APPLICATION
17 EARLIER THIS WEEK.

18 THE COURT: I STATED EARLIER THAT THE
19 APPLICATIONS ARE OF RECORD, AND THE PRESUMPTION IS THAT
20 THEY WILL BE OF RECORD, AND I WILL HEAR FROM ANYONE
21 SEEKING TO MAKE THEM OTHERWISE, BUT THE PRESUMPTION IS
22 THAT WE BELIEVE IN OPEN COURT PROCEEDINGS.

23 H L. LINCOLN SAID THAT "CONSCIENCE IS THE
24 PERCEPTION IF SOMEBODY WATCHING."

25 GO AHEAD, SIR.

26 MR. BERRY: WHAT MR. ROSEN DIDN'T TELL YOU WHEN
27 HE TALKED ABOUT COURTESY WAS THAT THE RECORD IN VARIOUS
28 COURTS DISPOSES THAT HE HAD SAID TO ME IN OPEN COURT

1 THAT "HE WOULD SMASH MY FACE IN." THAT, IN MY BOOK, IS
2 NOT PROFESSIONAL COURTESY.

3 AND WHAT HE DID NOT TELL YOU, THAT BEFORE
4 JUDGE MINNING THIS WEEK, THE OPPOSITION PAPERS OF MINE
5 HAD DISAPPEARED FROM THE COURTROOM, AND THERE WAS NO
6 SUCH FINDING OR SUGGESTION AS HE HAS REPRESENTED TO THE
7 COURT.

8 I HAVE HEARD FROM THE COURT THAT IT HAS
9 READ ALL MY PAPERS, SO I WILL NOT ADDRESS AT LENGTH THE
10 STATEMENTS --

11 THE COURT: BUT FEEL FREE TO SPEAK TO ANYTHING
12 YOU WISH. I AM NOT RESTRICTING YOU.

13 MR. BERRY: NO, BUT I THINK I HAVE FULLY
14 BRIEFED THE ARGUMENTS AS TO THE APPLICABLE LAW THAT
15 THERE ARE NOT FIVE CASES, THAT THE CASES ARE
16 MERITORIOUS, NOR THE CASE ON THE SLAPP MOTION RENDERS
17 IT SO. THE SETTLEMENTS RENDER IT SO. THE RECORD IS
18 REplete WITH THE ARGUMENTS AND AUTHORITIES AND WITH THE
19 MISREPRESENTATIONS AND DISTORTIONS.

20 MR. MOXON TOLD THIS COURT THAT "A BAR
21 CARD IS NOT A LICENSE TO COMMIT CHAOS." AND MR. CHODOS
22 TOLD THIS COURT THAT "I DIDN'T THINK THAT LAWYERS DO
23 CERTAIN THINGS, OR DO THINGS LIKE THIS."

24 WHEN I TOOK AN OATH AS A CITIZEN AND
25 WHICH I TOOK BEFORE CHIEF JUSTICE BURGER, WHEN I TOOK
26 AN OATH AS A LAWYER, I TOOK AN OATH TO UPHOLD THE LAW
27 AND SO DID MR. MOXON. AND WHAT DOES THE RECORD SHOW
28 HERE? THAT THE LAW HAS BEEN TURNED ON ITS HEAD AND WE

1 ARE NOW IN ALICE IN WONDERLAND.

2 BEFORE I GET TO THAT, YOUR HONOR, ONE
3 FINAL THING ABOUT THE PAPERS, EXHIBIT B WAS INCLUDED,
4 IF COUNSEL HAD READ MY DECLARATIONS, SOLELY FOR THE
5 PURPOSE OF SHOWING MY COMPLIANCE WITH THE COURT'S
6 MONDAY ORDER. AND THE MONDAY ORDER OF THE COURT SAID I
7 WAS NOT TO DISSEMINATE ANYTHING, AND I DIDN'T,
8 ACCORDING TO MY DECLARATION.

9 ITS THINGS WERE DISSEMINATED AND THINGS
10 WERE ON THE NET, AND I HAD FILED EXHIBIT B TO TELL THE
11 COURT THAT I WAS NOT RESPONSIBLE, IN ANYWAY, FOR THAT
12 EXHIBIT B. FOR COUNSEL TO ARGUE THAT I WAS AND THAT
13 IT'S A MATTER THAT SHOULD BE HELD AGAINST ME, IS
14 TOTALLY CONTRARY TO THE RECORD.

15 EARLIER THIS YEAR, THE CHIEF JUSTICE OF
16 THE UNITED STATES PRESIDED OVER THE IMPEACHMENT TRIAL
17 OF THE PRESIDENT AND THE NATION WAS LECTURED FOR MONTHS
18 ON THE IMPORTANCE OF HONESTY, ON THE IMPORTANCE OF
19 OATHS, ON THE SERIOUSNESS OF BLACKMAIL, BRIBERY,
20 PURJURY, SUBORDINATION OF PERJURY, AND THE CORRUPTION
21 OF JUSTICE. AND WHAT DOES THE EVIDENCE BEFORE THIS
22 COURT NOW SHOW? THAT IS EXACTLY WHAT HAPPENED HERE.

23 IT WAS CORRUPT IN THE INCEPTION. CORRUPT
24 IN THE EXECUTION AND CORRUPT IN THE CONCLUSION. AND
25 WHY DOES MR. CHALEFF APPEAR HERE TODAY WITH MR. MOXON?
26 I DON'T KNOW. HE IS A CRIMINAL DEFENSE LAWYER, BUT THE
27 EVIDENCE NOW BEFORE THE COURT MIGHT LEAD ONE TO CERTAIN
28 CONCLUSIONS.

1 I CAME TO THIS COURTHOUSE SEEKING
2 JUSTICE. INSTEAD, I WAS PUMMELED AND PUNISHED AND
3 NEVER KNEW WHY. FEELING LIKE THE CHARACTER IN
4 "DARKNESS AT NOON," SURROUNDED BY LIES AND INJUSTICE
5 AND UNABLE TO GET OUT.

6 THE COURT: A GREAT BOOK.

7 MR. BERRY: YES.

8 AND UNTIL MR. CIPRIANO CAME FORWARD, AND
9 EVEN WHEN HE CAME FORWARD, I WAS SUSPICIOUS. I THOUGHT
10 IT WAS A SETUP, BUT WHAT HAS MR. CIPRIANO TOLD US?
11 WITH DOCUMENTS ATTACHED TO HIS DECLARATION, ONLY SOME
12 OF THE DOCUMENTS, FIFTY SUCH DOCUMENTS WITH THE HANDS
13 OF COUNSEL UPON THEM. WHAT HAS HE TOLD US?

14 ON MAY 4, 1994, MR. INGRAM APPEARED ON
15 HIS DOORSTEP, AND ACCORDING TO THIS COURT'S RECORD, THE
16 DECLARATIONS OF MR. BOWELS, MR. INGRAM, AND MR. FARNY
17 AND THE REPRESENTATIONS OF MR. MOXON, MR. INGRAM WAS
18 HIRED BY MR. MOXON AS PART OF AN INVESTIGATION OF ME.
19 THAT IS PART OF THE RECORD ON THE SLAPP SUIT MOTION
20 WHICH I HAVE SUBMITTED AS LAW OF THE CASE AND AS TO THE
21 MERITS TO THE CIPRIANO ACTION.

22 AND PARAGRAPH FOURTEEN OF THE DECLARATION
23 OF MR. CIPRIANO, EXHIBIT B, I'M GOING TO SPEND SOME
24 TIME WITH THE CIPRIANO DECLARATION, THE COURT MAY WISH
25 TO GO THROUGH THIS.

26 THE COURT: PROCEED.

27 MR. BERRY: PARAGRAPH FOURTEEN INDICATES THAT
28 THE VERY DOCUMENT I CAME TO SEEK JUSTICE ON FROM THIS

1 COURT, THE MAY 5 CIPRIANO DECLARATION WAS PROCURED,
2 ACCORDING TO PARAGRAPHS FOURTEEN THROUGH TWENTY, BY
3 BLACKMAIL, AND IT CONSTITUTED PERJURY.

4 MR. CIPRIANO WAS THREATENED BY BEING
5 REFERRED TO THE AUTHORITIES IN NEW JERSEY IN CONNECTION
6 WITH HIS OUTSTANDING ARREST WARRANT IF HE DID NOT SIGN
7 THE VERY DOCUMENT THAT GAVE RISE TO THIS LITIGATION.
8 IT WAS BLACKMAIL AND SUBORDINATION OF PERJURY ON THIS
9 COURT'S RECORD IN CONNECTION WITH THE MATTERS THAT THIS
10 LITIGATION HAS INVOLVED.

11 AND WHAT HAPPENED THEN, MR. MOXON, ON HIS
12 OWN ADMISSION, TOOK THAT PRODUCT OF BRIBERY, BLACKMAIL,
13 AND PERJURY AND PUBLISHED IT ACROSS THE WORLD. IT IS
14 STILL BEING PUBLISHED. YOUR HONOR CAN GO TO INTERNET
15 AND HAVE IT DOWNLOADED RIGHT NOW.

16 THE COURT: LET EVERYBODY UNDERSTAND, I HAVE
17 CONFINED MYSELF IN THIS CASE TO THE PLEADINGS TENDERED
18 TO THIS COURT. I HAVE NOT SOUGHT ANY INFORMATION ABOUT
19 THIS CASE FROM ANY SOURCE OUTSIDE OF THIS COURT, AND
20 THE ONLY TIME I ACQUIRED ANY INFORMATION, EVEN
21 TANGENTIALLY, I PUT ON THE RECORD.

22 THAT IS, ONE NIGHT, UNABLE TO SLEEP IN
23 THE MIDDLE OF THE NIGHT WATCHING SOME OBSCURE TV
24 CHANNEL, MR. BERRY'S FACE APPEARED IN THE COURSE OF AN
25 ARTICLE ABOUT SCIENTOLOGY.

26 I REPORTED THAT DUTIFULLY AND DID NOT PAY
27 ATTENTION TO IT, AND I DID NOT CRUISE THE INTERNET OR
28 SURF THE INTERNET FOR THINGS RELEVANT TO THIS CASE.

1 TRUST ME. WHEN I READ THIS CASE, I DON'T WANT ANYTHING
2 MORE TO DO WITH IT.

3 I APPRECIATE THE IMPORTANCE OF THE
4 INTERNET TO THE ARGUMENTS BEING MADE IN CONNECTION WITH
5 THE PETITION WHICH SUGGEST TO PROVIDE AN ARGUABLY
6 PROTECTED FORUM FOR ACCUSATIONS AGAINST PARTIES THAT
7 MIGHT BE MORE SUBJECT TO LIABLE AND SLANDER LAWS, BUT
8 FOR THEM BEING MADE IN CONNECTION WITH LITIGATION AS A
9 GROUND FOR DEEMING THIS TO BE CONDUCT WHICH INVOKED THE
10 SANCTIONS INVITED BY THE PETITION, BUT I DO WANT
11 EVERYBODY TO UNDERSTAND THAT I HAVE NOT HAD ANY
12 INTERNET CONTACT WITH THIS CASE, OTHER THAN THAT WHICH
13 HAS BEEN TENDERED TO ME IN THE PAPERS BY WAY OF, IN THE
14 FORM OF THE INTERNET DOCUMENTS.

15 GO AHEAD.

16 MR. BERRY: AT SOME POINT IN TIME, YOUR HONOR,
17 I MANAGED TO LOCATE MR. CIPRIANO. AND TURNING NOW TO
18 PARAGRAPH TWENTY-THREE OF HIS DECLARATION, AND LET ME
19 FOR CLARIFICATION SAY ALL THE REFERENCE TO
20 MR. CIPRIANO'S DECLARATION SHALL BE TO THE AUGUST 9,
21 1999 DECLARATION.

22 PARAGRAPH TWENTY-THREE OF HIS DECLARATION
23 SET FORTH THAT HE WAS VISITED, UNREQUESTED BY
24 MR. MOXON'S AGENT, MR. INGRAM, WHO TOLD HIM THAT HE MAY
25 BE SUED BY ME, AND THAT HE HAD A SPY IN MY OFFICE AND
26 HAD GOTTEN A COPY OF THE DRAFT COMPLAINT AND SHOWED IT
27 TO HIM. HIS COMPLAINT WAS NOT EVEN ON FILE.

28 THEN PARAGRAPH TWENTY-FOUR, MR. MOXON AND

1 MR. INGRAM THEN HAD MR. CIPRIANO COME TO LOS ANGELES
2 WHERE DISCUSSIONS ABOUT THE PENDING ARREST WARRANT
3 AGAIN OCCURRED.

4 ON JANUARY 23, MR. MOXON AND MR. CIPRIANO
5 HAD A MEETING. AND ACCORDING TO PARAGRAPH TWENTY-EIGHT
6 OF THE DECLARATION, MR. MOXON SAID, "WELL, CERTAINLY IF
7 BERRY DID SUE YOU, THEN I WOULD REPRESENT YOU AT NO
8 COST. YOU WERE HELPFUL TO ME, AND WE WILL NOT LEAVE
9 YOU ALONE TO FIGHT THIS BATTLE."

10 WHAT HAPPENS NEXT, I SENT MR. CIPRIANO
11 SOME E-MAILS SUGGESTING THAT THE WISER COURSE WOULD BE
12 SETTLEMENT. IN COMES A SATURDAY E-MAIL ON MARCH 21,
13 1998, I'M ENTERTAINING AND RECEIVE A CALL FROM
14 MR. CIPRIANO TO GO TO THE POLICE STATION. HE HAS HAD
15 ENOUGH FROM BOTH SIDES. I THOUGHT THAT WAS
16 INAPPROPRIATE TO HAVE ANY FURTHER COMMENT WITH
17 MR. CIPRIANO. IF HE WANTED TO GO TO THE POLICE HE
18 SHOULD DO SO.

19 INSTEAD, MR. MOXON AND MR. INGRAM RUSH
20 OVER TO MR. CIPRIANO'S APARTMENT. PARAGRAPHS
21 TWENTY-ONE TO THIRTY-SIX OF HIS DECLARATION,
22 SCIENTOLOGY'S OFFICE OF SPECIAL AFFAIRS IN CONNECTION
23 WITH MR. CIPRIANO'S VISIT FAXES HIM MATERIALS ABOUT ME,
24 THAT IS AN EXHIBIT TO THE CIPRIANO DECLARATION, EXHIBIT
25 FIVE TO HIS DECLARATION.

26 AND AS THE PARAGRAPHS SHOW, HE WAS BRIBED
27 IN THE MOST BLATANT AND BRUTAL MANNER. MR. MOXON
28 OFFERED HIS THEN GIRLFRIEND ANYTHING SHE WANTED, A JOB,

1 MONEY, ANYTHING. EVENTUALLY, SHE WANTED AWAY FROM
2 MR. MOXON, BUT THAT IS ANOTHER PART OF THE DECLARATION.

3 MR. MOXON MADE IT CLEAR THAT MR. CIPRIANO
4 WOULD NOT HAVE TO PAY A DIME IN LEGAL FEES OR ANY OTHER
5 FEES RELATING TO THIS MATTER AND THAT THE CHURCH OF
6 SCIENTOLOGY WOULD PAY FOR EVERYTHING. THE NEXT WEEK
7 MR. MOXON SENT OVER REQUESTS FOR THE STATE BAR TO
8 INVESTIGATE ME TO BE SIGNED BY MR. CIPRIANO AND THAT IS
9 PARAGRAPH THIRTY-FOUR.

10 AND THEN MR. MOXON PROVIDED SOME FREE
11 LEGAL SERVICES BECAUSE MR. CIPRIANO'S GIRLFRIEND WANTED
12 WELL AWAY FROM THIS. AND ON MARCH 25, ACCORDING TO
13 PARAGRAPH THIRTY-SIX, MR. MOXON ASKED MR. CIPRIANO TO
14 HAVE HIS ONE MEETING WITH MR. SOTER. HE MET MR. SOTER
15 AT THE WASSERMAN LAW OFFICES AND SIGNED A RETAINER
16 AGREEMENT SO MR. SOTER COULD ALSO PROVIDE
17 REPRESENTATION.

18 WE NOW KNOW THAT CASTLEMAN OF THAT LAW
19 FIRM IS SOMEHOW CONNECTED WITH ONE OF THE PARTIES THAT
20 WAS IN THIS CASE, CASTLEMAN, AND ACCORDING TO THE
21 RETAINER AGREEMENT WHICH IS EXHIBIT 10, MR. MOXON WAS
22 TO PAY FOR ALL OF MR. CIPRIANO'S LEGAL FEES THAT WERE
23 INCURRED BY MR. SOTER. AND INDEED, TO THE BEST OF
24 MR. CIPRIANO'S KNOWLEDGE, HAS DONE SO. MR. CIPRIANO
25 MIGHT TESTIFY THAT HE HAS SEEN THE BILLS AND THAT THEY
26 HAVE BEEN PAID.

27 PARAGRAPH THIRTY-SEVEN OF THE CIPRIANO
28 DECLARATION DEMONSTRATES THAT MR. MOXON THEN FOUND

1 MR. CIPRIANO A JOB AT EARTHLINK WHERE HE THEN WORKED
2 FOR THE NEXT MONTH OR SO. AND ON APRIL 4, 1998,
3 ACCORDING TO PARAGRAPH FORTY-ONE, MR. MOXON SENT HIM AN
4 E-MAIL SAYING, "THE FUN WAS STARTING WITH BERRY." AND
5 THAT IS EXHIBIT THIRTEEN TO THE DECLARATION.

6 AND AT PARAGRAPHS FORTY-TWO AND
7 FORTY-THREE, MR. MOXON THEN HAS MR. CIPRIANO VISIT THE
8 CHURCH OF SCIENTOLOGY'S PREMISES AND GIVES HIM A
9 FINANCIAL INCENTIVE OF AROUND \$750,000 IN RESPECT OF
10 HIS TESTIMONY. MR. CIPRIANO SAYS HE DOESN'T WANT TO BE
11 PAID FOR HIS TESTIMONY. SO MR. MOXON THEN USES A
12 CHARITABLE VEHICLE CALLED "DAY OF THE CHILD" AND TELLS
13 MR. CIPRIANO QUOTE, IN PLAIN WORDS, THAT HE WOULD
14 SYNDICATE THE MONIES NEEDED WITH SOME OF THE WEALTHY
15 SCIENTOLOGISTS AND GET IT FUNDED.

16 TURNING NOW TO PARAGRAPH FORTY-FIVE OF
17 THE CIPRIANO DECLARATION, WE HAVE AN E-MAIL, EXHIBIT
18 FIFTEEN, DESCRIBING PERCENTAGES IN ALL OF THIS. IN
19 THIS DOCUMENT THAT WAS TO BE PART OF AN SEC FILE WHERE
20 THAT SECURITIES FRAUD IS ANOTHER MATTER.

21 THE COURT: HAPPILY, THAT IS NOT ON MY PLATE.

22 MR. BERRY: BUT THAT DOCUMENT IS ALSO PART OF
23 THE RECORD.

24 THEN, YOUR HONOR, ON MAY 25, 1998,
25 PARAGRAPH FORTY-SEVEN, MR. MOXON ARRANGES FOR \$2,500 TO
26 BE WIRED FROM A JEFFREY BARTON FOR THE BENEFIT OF
27 MR. CIPRIANO AND A PROMISORY NOTE WAS SIGNED SO IT
28 DIDN'T LOOK LIKE SCIENTOLOGY WAS PAYING THE MONEY.

1 QUOTE, WHILE HE WAS A WITNESS, CLOSE QUOTE. THAT IS
2 EXHIBIT 17.

3 THEN AT PARAGRAPH FORTY-EIGHT, MR. MOXON
4 TELLS MR. CIPRIANO THAT THE CASE HAS BEEN MOVED TO THIS
5 COURT, AND I WILL NOT GO FURTHER INTO THE ALLEGATIONS
6 THERE.

7 THE COURT: I DON'T CARE IT ROLLS OFF MY BACK.
8 SAY WHAT YOU WANT TO SAY.

9 MR. BERRY: WELL, YOUR HONOR, TO TAKE THE COURT
10 AT ITS WORD, THE ALLEGATIONS WERE WITHOUT ANY MERIT AND
11 PERHAPS WELL-FOUNDED OPTIMISM AT LEAST TO THIS POINT.

12 JUST BEFORE HIS DEPOSITION IN THIS CASE
13 ON JUNE 17, 1998, MR. MOXON MOVED MR. CIPRIANO INTO A
14 SCIENTOLOGY BORDERING HOUSE, FREE OF CHARGE, OWNED BY
15 MR. INGRAM'S ASSISTANT TO GET HIM AWAY FROM HIS FORMER
16 GIRLFRIEND WHO, MR. MOXON THOUGHT, WAS TOXIC TO HIM.
17 AND TO QUOTE, KEEP ME FROM BOLTING TO MR. BERRY'S SIDE
18 OF THE LAWSUIT.

19 THE COURT: IT'S NOT A WORD THAT OCCURRED TO ME
20 IN A RELATIONSHIP. I'LL HAVE TO THINK ABOUT THAT.
21 THAT IS AN INTERESTING WAY TO DESCRIBE A RELATIONSHIP.

22 THIS CASE, IF NOTHING ELSE, HAS HAD ITS
23 MOMENTS OF POETRY.

24 MR. BERRY: PARAGRAPH FIFTY, IN PREPARATION FOR
25 MR. CIPRIANO'S DEPOSITION IN THIS CASE, ON JUNE 29 AND
26 30, 1998, MR. MOXON INVITED MR. CIPRIANO TO HIS HOME
27 AND PREPARED HIM TO BE DEPOSED. AND LET ME ADD, YOUR
28 HONOR, THIS IS A DEPOSITION WHICH HAS BEEN NOTICED BY

1 COUNSEL FOR MR. BARTON WHO IS ALSO MR. MOXON'S CLIENT.
2 THIS IS CONFUSING EVEN TO ME.

3 MR. CIPRIANO REPRESENTED BY MR. MOXON,
4 HAD HIS DEPOSITION NOTICED BY HIS CO-DEFENDANT.
5 MR. BARTON REPRESENTED BY MR. ROSEN, MR. BARTON IS NOW
6 MR. MOXON'S CLIENT AS WELL AND HAD BEEN PAID, USED TO
7 PAY MONEY TO MR. CIPRIANO.

8 THE COURT: MR. BERRY, I NEED TO ASK FOR SIXTY
9 SECONDS. WOULD YOU HOLD FOR ME JUST RIGHT THERE.

10 (SHORT BREAK WHILE REPORTER CHANGES PAPER.)

11 THE COURT: THANK YOU, SIR.

12 MR. BERRY: LET ME RETURN TO THE LOOKING GLASS
13 AND GO FURTHER INTO THE RABBIT HOLE.

14 ON JUNE 29 AND 30 1998, MR. MOXON
15 PREPARES MR. CIPRIANO FOR HIS DEPOSITION. PARAGRAPH
16 FIFTY, "MR. MOXON TOLD ME TO LIE ABOUT THE AGES OF
17 MR. BERRY'S INTIMATE RELATIONSHIPS AND TO ANTAGONIZE
18 HIM AND GET MR. BERRY TO SAY THINGS THAT HE MIGHT NOT
19 NORMALLY SAY. MR. MOXON TOLD ME TO GET MR. BERRY
20 PISSED OFF AT THE DEPOSITION. IT APPEARED TO ME THIS
21 WAS A GAME FOR MR. MOXON AND IT WAS MORE ABOUT SCARING
22 MR. BERRY THAN ABOUT A REAL CAUSE OF ACTION BASED ON
23 TRUTHFUL FACTS."

24 SOMETHING I SUBMIT, YOUR HONOR,
25 CHARACTERIZES THE DEFENSE IN THIS CASE.

26 AND THEN AT PARAGRAPH FIFTY-ONE,

27 "THE DAY OF THE DEPOSITION ON JULY 1,
28 1998, I ARRIVED IN DOWNTOWN LOS ANGELES AT THE PAUL,

1 HASTINGS, JANOFSKY, AND WALKER LAW FIRM AND MET WITH
2 MR. MOXON, MR. SANDY ROSEN, MR. MICHAEL RINDER, WHO IS
3 HERE IN THIS COURTROOM TODAY, THE HEAD OF THE OFFICE OF
4 SPECIAL AFFAIRS FOR SCIENTOLOGY, WITH BARBARA REEVES
5 AND NUMEROUS OTHER CHURCH OF SCIENTOLOGY OFFICERS AND
6 SPECIAL AFFAIRS OFFICIALS AT 8:30 A.M. THEY WERE
7 STANDING AROUND."

8 LET ME SKIP.

9 "I WAS PREPARED BY MR. ROSEN AND GIVEN A
10 COPY OF MR. BERRY'S BANKRUPTCY DOCUMENTS. I WAS TOLD
11 BY MR. ROSEN TO PICK THE ITEMS IN THE BANKRUPTCY THAT I
12 THOUGHT MIGHT BE FALSE AND ON WHICH MR. BERRY HAD
13 FILED. MR. ROSEN TOLD ME THAT WHEN I WAS UNSURE OF AN
14 ITEM TO SAY IT WAS FALSE.

15 EACH TIME, TURNING NOW TO PARAGRAPH
16 FIFTY-FOUR, "IMMEDIATELY FOLLOWING MY DEPOSITION I WAS
17 MOVED TO PALM SPRINGS TO GET AWAY FROM LOS ANGELES.
18 MR. MOXON TOLD ME THAT THIS WAS THE CHURCH OF
19 SCIENTOLOGY WITNESS PROTECTION PROGRAM. AND THAT IT
20 WAS FIFTEEN MILES FROM INTERNATIONAL HEADQUARTERS FOR
21 THE CHURCH OF SCIENTOLOGY IN GILBERT HOT SPRINGS.
22 UNDER THE PROMISE THAT MR. MOXON WOULD COVER ALL
23 EXPENSES AND GET DAY OF THE CHILD FUNDED AND OFF THE
24 GROUND."

25 PARAGRAPH FIFTY-FIVE, MR. CIPRIANO
26 ARRIVES IN PALM SPRINGS, QUOTE AND IN PHONE
27 CONVERSATIONS WITH MR. MOXON, I INDICATED THAT THE
28 BUDGET NUMBERS FOR DAY OF THE CHILD WERE COMING IN AT

1 AROUND \$520,000 FOR THE FIRST YEAR. HE INDICATED THAT
2 HE HAD NO PROBLEM WITH THAT.

3 AND THEN PARAGRAPHS FIFTY-SIX AND
4 FIFTY-SEVEN DEAL WITH A MEETING MR. MOXON HAD IN PALM
5 SPRINGS WITH MR. CIPRIANO. AND AS A RESULT OF THAT,
6 PARAGRAPH FIFTY-NINE, MR. MOXON RENTS A CONDOMIMUM FOR
7 THE WITNESS TO LIVE. AND THE RENTAL AGREEMENT IN
8 MR. MOXON'S NAME IS ATTACHED TO THE DECLARATION AS AN
9 EXHIBIT.

10 ON JULY 27, 1998, MR. MOXON COMPLETED THE
11 RENTAL APPLICATION AND SENT \$1,074 TO THE PALM SPRINGS
12 RENTAL AGENCY AND SIGNED A LEASE FOR THE PREMISES AT
13 \$500 A MONTH FOR SEVEN MONTHS. THAT IS EXHIBIT 21, 20
14 AND 22.

15 ADDITIONALLY, MR. MOXON STARTED SENDING
16 \$200 TO \$400 EVERY WEEK VIA WESTERN UNION OR MONEY
17 GRAM. EVERY MONTH THEREAFTER MR. MOXON WOULD CALL ME
18 TO HIS LOS ANGELES OFFICE AND GIVE ME CHECKS DRAWN ON
19 MOXON AND KOBRIN RANGING IN AMOUNTS FROM \$500 TO \$1,000
20 FOR LIVING EXPENSES.

21 THE COURT: MAY I INQUIRE, MR. BERRY, I AM
22 PREPARED TO HEAR FROM YOU ON MATTERS GERMANE TO THE
23 PETITION AND I HAVE A VERY BROAD SENSE OF RELEVANCE. I
24 REALLY WANT TO GIVE YOU YOUR DAY IN COURT. I'M HAVING
25 TROUBLE SEEING THE NEXUS TO THAT WHICH YOU ARE RECITING
26 AND MR. CHALEFF'S PETITION.

27 TELL ME WHAT I'M MISSING. I WANT TO BE
28 INDULGENT, BUT I DO HAVE SOME DUTY TO OTHER FOLKS THAT

1 ARE WAITING AROUND FOR ME SOME DAY TO GET AROUND TO
2 THEIR LITIGATION ON TODAY'S CALENDAR.

3 MR. BERRY: YOUR HONOR, THE EVIDENCE I AM
4 REFERRING TO DEMONSTRATES THAT THIS WAS A LEGAL SETUP
5 FROM THE GET GO.

6 THE COURT: VERY WELL, PROCEED.

7 MR. BERRY: THAT MR. MOXON WENT OUT TO HIRE AND
8 SUBORN PURJURY AND WHEN HE OBTAINED THAT PERJURY, HE
9 SOLICITED THE PURJUROR IN A CASE IN WHICH HE WAS --
10 YOUR HONOR, THIS COULD NOT BE MORE MATERIAL.

11 THE COURT: GO AHEAD.

12 MR. BERRY: ONE OF THOSE CHECKS IS EVEN
13 ATTACHED AS AN EXHIBIT AND WE SHALL GET TO THAT.

14 PARAGRAPH SIXTY, ON AUGUST 6, 1998,
15 MR. MOXON SENT ME A FEDERAL EXPRESS LETTER INFORMING ME
16 THAT MR. MOXON HAD RETAINED LLOYD LEVINSON IN NEW
17 JERSEY.

18 THE COURT: MAY I MAKE AN INTERRUPTION JUST TO
19 ACCOMMODATE THOSE THAT ARE WAITING ON TODAY'S CALENDAR
20 AND THEN I WILL HEAR YOU OUT.

21 (SHORT BREAK.)

22 THE COURT: MR. BERRY, THANK YOU VERY MUCH FOR
23 THE INTERRUPTION. I DO HAVE A GOAL OF FINISHING IN THE
24 MIDDAY TIMEFRAME AND I HOPE YOUR ARGUMENTS WILL TAKE NO
25 MORE THAN PERHAPS FORTY-FIVE MINUTES, IS THAT
26 REASONABLE REQUEST?

27 MR. MOXON: PROBABLY LESS THAN THAT.

28 MR. BERRY: LESS THAN THAT, YOUR HONOR.

1 THE COURT: I APPRECIATE THAT. I'M NOT TRYING
2 TO RUSH YOU, BUT I AM TRYING TO PROCEED WITH SOME
3 ORDERLY PROGRESS TO EVENTS HERE. I'M JUST TRYING TO BE
4 FAIR.

5 MR. BERRY: YOUR HONOR, I WAS JUST ADDRESSING
6 THE COURT ON MR. MOXON OBTAINING \$20,000 TO SEND TO AN
7 ATTORNEY IN NEW JERSEY TO HAVE A CRIMINAL RECORD
8 EXPUNGED SO IT COULD NOT BE USED IN THIS COURTROOM AS
9 IMPEACHMENT IN A MATTER THEN PENDING. AND THAT IS
10 PARAGRAPHS SIXTY, SEVENTY, SEVENTY-ONE, AND
11 SEVENTY-THREE OF THE CIPRIANO DECLARATION.

12 AND THE DECLARATION GOES ON AND ON.
13 PARAGRAPH SIXTY-ONE, ABOUT PAYING
14 INCORPORATION FEES FOR MR. CIPRIANO'S NOT TO PROFIT.
15 ABOUT HIM PAYING THE PHONE BILLS FOR MR. CIPRIANO,
16 SIXTY-TWO, ABOUT HAVING MR. CIPRIANO GO
17 TO THE TABLOIDS IN CONNECTION WITH ME, A MATTER WHICH
18 MAY SEEM A LITTLE HYPOCRITICAL IN LIGHT OF THE SOME OF
19 THE ASSERTIONS HE HAS MADE HEREIN.

20 THE COURT: MOST SWORDS IN THIS CASE HAVE TWO
21 EDGES.

22 MR. BERRY: I REALIZE THAT, YOUR HONOR, BUT I
23 HAVE NOT BEEN TO THE TABLOIDS OF MY OWN VOLITION BEFORE
24 MAKING INSTIGATED CONTACT.

25 PARAGRAPHS SIXTY-FIVE AND SIXTY-SIX, THAT
26 THE PAUL, HASTINGS LAW FIRM IS NOW DROPPING ITS \$490
27 PER HOUR FEES, NO DISCOUNTS TO ANYONE, IN ORDER TO
28 PROVIDE CHEAP SERVICES TO MR. CIPRIANO FOR HIS CHARITY.

1 AND ON OCTOBER 6, 1998, MR. MOXON HAS
2 MR. CIPRIANO LEASE A CAR. MR. MOXON DOESN'T CHOOSE THE
3 CAR. HE DOESN'T EVEN SEE THE CAR. HE NEVER RIDES IN
4 THE CAR. AND HE SEIZES THE CAR OUTSIDE OF MY OFFICE
5 AND PREMISES LAST WEEK WHEN HE LEARNED THAT
6 MR. CIPRIANO HAD DECIDED TO TELL THE TRUTH. AND THAT
7 IS EXHIBITS 27, THE CAR INCIDENT WITH MR. MOXON'S NAME
8 ON IT. AND THEN IN NOVEMBER 1998, PARAGRAPH
9 SEVENTY-TWO, EXHIBIT 32, MR. MOXON ARRANGES FOR
10 MR. CHAIT TO GIVE MONEY FOR MR. CIPRIANO'S BENEFIT.

11 AND LET THE RECORD REFLECT I'M MISSING
12 OUT A LOT OF THE STUFF IN HERE IN THE INTEREST OF --

13 THE COURT: IT'S ALL OF RECORD. I UNDERSTAND.

14 MR. BERRY: THE COURT MAY RECALL THAT MY FORMER
15 PARTNERS FOUND THE SCIENTOLOGY FINANCIAL BLACK HOLE A
16 PROBLEM FINANCIALLY.

17 PARAGRAPH SEVENTY-FIVE SHOWS MR. MOXON,
18 AND THEN HAVING WHAT APPEARED TO BE IMPROPER
19 COMMUNICATIONS AT THAT TIME.

20 PARAGRAPH SEVENTY-NINE, MR. MOXON THEN
21 BUYS MR. CIPRIANO A COMPUTER ON HIS CREDIT CARD. AND
22 THEN HANDLED LEGAL AFFAIRS FOR HIS FRIENDS, FREE OF
23 CHARGE. PARAGRAPH EIGHTY, AND THEN HAS MR. CIPRIANO
24 INTRODUCE HIM AND MR. INGRAM TO A TEEN-AGE TRANSVESTITE
25 IN HOLLYWOOD FROM WHOM HE OBTAINED A PERJURED
26 DECLARATION. SOMEONE I HAVE NEVER MET OR HEARD OF IN
27 MY LIFE.

28 AND THEN MR. MOXON, ON JANUARY 6,

1 PARAGRAPH EIGHTY-SIX, RENTS A FIVE BEDROOM HOUSE IN
2 PALM SPRINGS FOR MR. CIPRIANO DURING THE PENDENCY OF
3 THIS CASE AT A RENT OF \$1,295 PER MONTH AND THAT
4 DOCUMENT IS EXHIBIT FORTY, FORTY-ONE, FORTY-TWO AND
5 FORTY-THREE. SO MR. CIPRIANO IS NOW MOVED FROM THE
6 CONDOMINIUM TO THE FIVE BEDROOM HOUSE.

7 PARAGRAPH NINETY-THREE IS PARTICULARLY
8 TELLING. MR. MOXON RECOGNIZED MR. CIPRIANO HAS DONE
9 WELL. AND STARTS HANDLING CERTAIN DETAILS AND THOSE
10 FINANCIAL DETAILS CONTINUED THROUGH UNTIL JUNE 7, WHEN
11 MR. MOXON SENDS A CHECK, EXHIBIT FORTY-EIGHT, TO
12 MR. CIPRIANO FOR \$800.

13 YOUR HONOR, THOSE FEW EXCERPTS FROM THE
14 CIPRIANO DECLARATION THAT IS PART OF THIS RECORD SHOWS
15 THAT MR. MOXON, ALONG WITH OTHER PERSONS, WENT OUT AND
16 PROCURED PERJURY, PUBLISHED IT AGAINST ME ON THEIR OWN
17 ADMISSION IN THIS RECORD CLAIMING I REJECTED DEFENSE
18 SECTION 47(B) IN THE SLAPP STATUTE, AND WHEN I SUED
19 SOLICITED THE REPRESENTATION OF THE PERSON THEY HAD
20 PROCURED THE PERJURY FROM, PAID TO PERPETRATE AND
21 CONTINUE THAT PURJURY, COACHED PERJURY, AND MADE OTHER
22 PAYMENTS TO THE WITNESS AND CLIENT IN A MANNER THAT
23 CLEARLY CONSTITUTES THE OBSTRUCTION OF JUSTICE AND
24 WITNESS TAMPERING, AND THAT THAT CONDUCT PERMEATES,
25 POLLUTES AND CONTAMINATES AND TAINTS THIS ENTIRE
26 PROCEEDING.

27 HENCE MY REQUEST BY EXPARTE APPLICATION
28 FOR A TWENTY-FIVE PAGE, PAGE LIMIT ON THE MOTION FOR

1 CONTEMPT AGAINST MR. MOXON AND SANCTIONS. I REQUEST
2 THAT IT BE GRANTED IN JUDGE MINNINGS COURT IN
3 CONNECTION WITH PAPERS THAT WILL BE FILED BEFORE JUDGE
4 SCHNEIDER.

5 HOW CAN, IN GOOD FAITH, MR. MOXON AS
6 REPRESENTATIVE SAY JUDGE SCHNEIDER SANCTIONED ME WHEN
7 THE VERY PRODUCT OF THAT SANCTION REQUEST IS NOW KNOWN
8 TO BE POLLUTED, TAINTED, AND CORRUPTED.

9 WHEN I WAS SANCTIONED, YOUR HONOR, FOR
10 ALLEGING THAT MR. MOXON WAS ENGAGED IN CRIMINAL CONDUCT
11 WHEN WE NOW KNOW HE WAS CONCURRENTLY ENGAGED IN THAT
12 VERY SAME CRIMINAL CONDUCT ACCORDING TO THE RECORD.

13 I CAME TO THIS COURT TO SEEK JUSTICE, AND
14 WHAT HAPPENED, JUSTICE WAS SEDUCED, SEDUCED BY COUNSEL
15 USING MONEY TO CORRUPT THE SYSTEM. AT THE HEART OF THE
16 PROCEEDING TO HAVE ME DECLARED A VEXATIOUS LITIGANT, IS
17 THE PREMISE THAT MY COMPLAINT LACKED LEGAL OR FACTUAL
18 MERIT. WE NOW KNOW THAT IT HAD LEGAL AND FACTUAL
19 MERIT. THAT THE COMPLAINT I MADE ABOUT THE ORIGINAL
20 CIPRIANO DECLARATION WAS TRUE. I DID NOT KNOW AT THE
21 TIME IT HAD BEEN SUBORNED BY PURJURY WHICH WAS
22 PERPETRATED. AND HAD THIS PROCEEDING NOT BEEN AN
23 OPERATION OF THE CHURCH OF SCIENTOLOGY WE WOULD NOT BE
24 HERE TODAY BECAUSE THE EVIDENCE ALSO SHOWS IN MR.
25 CIPRIANO'S DECLARATION THAT IN MARCH LAST YEAR, AND
26 THIS IS ALSO ATTACHED TO THE EXPARTE PROCEEDING, IN
27 MARCH, MR. CIPRIANO GAVE WRITTEN INSTRUCTIONS TO MR.
28 MOXON TO SETTLE THIS LITIGATION ALONG THE LINES I HAD

1 REQUESTED WITH E-MAIL. WHAT DID MR. MOXON DO? HE USED
2 MY E-MAIL AS A PRETENSE TO CLAIM THAT NO DISCOVERY
3 SHOULD BE PROVIDED TO ME. NO DOCUMENTS, NO
4 INTERROGATORY RESPONSES BECAUSE I WAS A THREAT TO MR.
5 CIPRIANO WHO HAD GIVEN HIM INSTRUCTIONS TO SETTLE THIS
6 CASE. AND IT WAS ONLY RECENTLY AS THE CIPRIANO
7 DECLARATION DEMONSTRATES THAT MR. CIPRIANO FOUND OUT
8 THAT HIS INSTRUCTIONS HAD NEVER BEEN HONORED. IN OTHER
9 WORDS, IF THESE INSTRUCTIONS HAD BEEN HONORED, THIS
10 COURT WOULD NEVER HAVE SEEN THIS CASE. IT WOULD NOT
11 HAVE GOTTEN AS FAR UP AS JUDGE LAGER AND JUDGE
12 SOHEGIAN.

13 MR. BARTON AND MR. CHAIT, WHO ALSO BRING
14 THIS MOTION, HAVE BEEN DEMONSTRABLY INVOLVED IN THE
15 SOLICITATION, SUBORDINATION, AND PURCHASE OF THE
16 PERJURY AND CONTINUING THE PAYMENTS TO THE WITNESS TO
17 KEEP MAINTAINING THAT PERJURY.

18 THE CHURCH OF SCIENTOLOGY INTERNATIONAL
19 WHICH BRINGS THIS MOTION IS IMPLICATED WITH ITS OWN
20 DOCUMENT SOLICITING THE REPRESENTATION OF MR. CIPRIANO.
21 WHEN THE COURT SAYS WHAT HAS THE CIPRIANO DECLARATION
22 GOT TO DO WITH THIS PROCEEDING, IT HAS EVERYTHING TO DO
23 WITH THIS PROCEEDING. IT IS NOW THE MOST FUNDAMENTALLY
24 IMPORTANT DOCUMENT IN THE PROCEEDING BECAUSE IT SHOWS
25 THAT THE ENTIRE DEFENSE WAS PREMISED ON THE
26 SOLICITATION, PROCUREMENT AND PERPETRATION OF PURJURY.

27 AS I SAID AT THE INCEPTION, YOUR HONOR, I
28 TOOK AN OATH TO HONOR THE LAW AND SO DID MR. MOXON, AND

1 AS MY PAPERS AND THE EXPARTE APPLICATIONS DEMONSTRATE,
2 WE HAVE NOW HAD LAWYER LAWLESSNESS RESEMBLING A JOHN
3 GRISHAM NOVEL.

4 TO CALL ME A VEXATIOUS LITIGANT STANDS
5 THE LAW ON ITS HEAD. AND TAKES US DOWN THAT RABBIT
6 HOLE INTO ALICE IN WONDERLAND. THE PEOPLE PERPETRATING
7 THE PURJURY, THE CORRUPTION OF JUSTICE, THE OBSTRUCTION
8 OF JUSTICE AND THE WITNESS TAMPERING NOW CLAIM THAT THE
9 PERSON WHO SOUGHT REDRESS SHOULD BE DENOMINATED AS A
10 VEXATIOUS LITIGANT FOR DOING SO.

11 IN THE WORDS OF THE WALL STREET JOURNAL
12 FROM MR. ROSEN LAST YEAR IN THE EDITORIAL, "THAT STANDS
13 THE LAW ON ITS HEAD."

14 COUNSEL HAVE AN OBLIGATION TO BRING
15 PAPERS SUCH AS THIS IN GOOD FAITH. THEY ATTEST IN
16 THEIR FILING THAT THEY HAVE MERIT, FACTUALLY AND
17 LEGALLY. YET SINCE THE FILING OF THESE PAPERS, THE
18 CIPRIANO DECLARATION HAS BEEN PROVIDED TO THEM. I
19 WOULD HAVE EXPECTED IN THE LIGHT OF THE CIPRIANO
20 DECLARATION THAT COUNSEL WOULD TAKE THE MOTION OFF
21 CALENDAR, BUT NOT SO, WITH TOTAL ARROGANCE, THE MOTION
22 IS MAINTAINED ON CALENDAR AND ON THE BASIS OF A RECORD
23 THAT READS LIKE A SEWER WHEN IT COMES TO INTEGRITY,
24 TRUTH, JUSTICE, AND TO QUOTE SUPERMAN, THE AMERICAN
25 WAY, THEY NOW SEEK TO HAVE ME DECLARED A VEXATIOUS
26 LITIGANT. ANYONE WONDER WHY I STAND HERE SAYING I FEEL
27 LIKE DARKNESS AT NOON.

28 THE COURT: NOT ONLY A GREAT NOVEL, BUT THE WAY

1 I REFER TO MY CONTRACTS CLASS AT THE UNIVERSITY.

2 MR. BERRY: THIS COURT IS NOW FULLY APPRISED OF
3 THESE MATTERS. IT HAS AN INHERENT JURISDICTION TO
4 PUNISH THOSE RESPONSIBLE WITHOUT THE MOTION I WILL BE
5 BRINGING, IRRESPECTIVE OF THE OUTCOME OF THIS HEARING.

6 CONTEMPT, CRIMINAL AND CIVIL IS WRITTEN
7 ALL OVER THIS MATTER. SANCTIONS IS WRITTEN ALL OVER
8 THIS MATTER. CRIMINAL CONDUCT SCREAMS FROM THESE
9 PAPERS. THE COURT'S DESCRETION IN GRANTING THE
10 VEXATIOUS LITIGANT MOTION MUST BE BASED ON LAW AND
11 EQUITY AND FAIRNESS.

12 I SUBMIT, YOUR HONOR, THAT IT WOULD BE
13 THE MOST UNEQUITABLE THING, THE MOST UNFAIR THING TO
14 PUNISH A LITIGANT FOR SEEKING REDRESS FOR CONDUCT THAT
15 WAS SHOWN TO BE CRIMINAL IN ITS INCEPTION AND
16 PERPETRATION.

17 THE COURT: I THINK, MR. BERRY, FOR PURPOSES OF
18 FOCUSING ON THE PETITION, THE PETITION MAY NOT BE SO
19 MUCH ABOUT THE REDRESS YOU HAVE SOUGHT BUT HOW YOU HAVE
20 DONE IT. MAYBE NOT SO MUCH THE WHAT, BUT HE HOW AND
21 YOU MAY WANT TO ADDRESS THOSE PARTS OF THE ALLEGATION.

22 MR. BERRY: THE PETITION AS I HAVE ARGUED IN MY
23 OPPOSITION, YOUR HONOR, ASSERTS THAT I AM A FRIVOLOUS
24 LITIGANT. A LITIGANT WHO BRINGS A PROCEEDING BASED
25 UPON DEFAMATION SUBSEQUENTLY SHOWN TO BE PROCURED BY
26 PERJURY TO BE DEFENDED BY OBSTRUCTION AND CORRUPTION OF
27 JUSTICE AND WITNESS TAMPERING, IT'S THE VERY ANTITHESES
28 OF A VEXATIOUS LITIGANT.

1 THE CIPRIANO CASE, THE CASES WERE
2 DISMISSED BECAUSE I HAD BEEN OVERWHELMED BY DISCOVERY.
3 MR. MOXON ON BEHALF OF MR. CHAIT WHO HAD PAID FOR SOME
4 OF THIS OBSTRUCTION OF JUSTICE AND WITNESS TAMPERING AS
5 AN OFFICER OF THE COURT IS OVERWHELMING ME WITH
6 DISCOVERY WHICH HAS NOW BEEN SHOWN TO BE BROUGHT IN
7 LESS THAN GOOD FAITH.

8 AND WHEN THE COURT DISMISSED THE CHAIT
9 CASE, IT WAS CLEAR THAT BARTON AND THE OTHERS WERE
10 GOING TO BE DISMISSED SHORTLY THEREAFTER. FOR THE SAME
11 REASONS, THE PARTIES WHOSE CONDUCT IS NOW KNOWN TO HAVE
12 IRRETRIVABLE TAINTED THE PROCESS, THROW DISMISSED
13 VOLUNTARILY WITHOUT PREJUDICE, AFTER TWO PARTIES HAD
14 PAID MONIES IN SETTLEMENT SUBSTANTIAL MONIES. THAT
15 WOULD INDICATED THAT THOSE PARTIES CONSIDERED THE
16 MATTER TO HAVE SOME MERIT.

17 IF THIS MATTER HAD SO LITTLE MERIT, WHAT
18 IS THE NECESSITY TO HAVE SO MANY HIGH PRICED LAWYERS
19 FROM ALL OVER THE NATION DEFENDING THE PERPETRATION AND
20 PROCUREMENT OF CRIMINAL CONDUCT? IF THIS MATTER IS SO
21 LACKING IN LEGAL AND FACTUAL MERITS, WHY WERE SO MANY
22 MOTIONS NECESSARY ON THEIR PART? WHY WERE SO MANY
23 SANCTION MOTIONS BROUGHT NOW KNOWN TO BE FRIVOLOUS?

24 THE CONDUCT OF THE DEFENDANTS RESPONSIBLE
25 FOR THIS TRAVESTY OF JUSTICE PERMEATES THE ENTIRE
26 PROCEEDING. AS MY OPPOSITION PAPERS DEMONSTRATE, THERE
27 HAD NOT BEEN FIVE CASES THAT HAD BEEN ADJUDICATED
28 CONTRARY TO ME AT THE MOST THERE IS TWO. AND THE

1 PAPERS ARE REplete SHOWING THE CASES WERE DISMISSED
2 ONLY AT THEIR INSISTENCE, AS PART OF A TOLLING
3 AGREEMENT FOR SETTLEMENT DISCUSSIONS THAT TURNED OUT TO
4 BE BOGUS. UPON REPRESENTATIONS THAT COULD BE FILED
5 AGAIN IN CIRCUMSTANCES WHERE IT'S CLEAR THEY WERE
6 CONTRIVING A BASIS TO BRING THIS MOTION.

7 AND IN THE COURT THINKS MY BEHAVIOR HAS
8 BEEN LESS THAN CIVIL AT TIMES, I ASK IT TO REMEMBER
9 THAT I STAND HERE, AT LEAST IN MY MIND, AND THAT OF
10 MANY OTHERS OUTSIDE OF THIS COURTROOM THE PRODUCT OF A
11 TRAVESTY AND LEGAL LYNCHING AT THE HANDS OF THE
12 DEFENDANTS WHO HAVE BEEN SHOWN TO APPROACH THIS COURT
13 IN LESS THAN GOOD FAITH ON BOTH THE LAW AND THE MERITS.

14 AND EVEN IF THERE WAS A SHRED, A
15 SCINTILLA OF EVIDENCE TO SUPPORT THIS MALICIOUS MOTION,
16 THE COURT SHOULD BALANCE THE EQUITIES SO AS NOT TO
17 DESTROY THE PROFESSIONAL LIGHT OF SOMEONE WHO HAS
18 ENDURED SUCH OUTRAGEOUS CONDUCT IN THE NAME OF LAW,
19 ORDER, AND JUSTICE.

20 AS MR. CHODOS SAID, "LAWYERS DON'T DO
21 THAT SORT OF THING." THE RECORD NOW SHOWS THAT LAWYERS
22 DO. NOT ONLY LAWYERS WITHIN THE CHURCH OF SCIENTOLOGY
23 BUT TO AN CERTAIN EXTENT, LAWYERS WITHIN BIG LAW FIRMS
24 BLINDED BY FEES. THIS IS A MATTER FOR JUDICIAL
25 DESCRETION.

26 THE COURT: AS A COUNTY EMPLOYEE, I CAN'T HELP
27 THINKING LISTENING TO YOUR ARGUMENT HOW NICE IT WOULD
28 BE TO HAVE OCCASION IN MY LIFE TO BE BLINDED BY FEES.

1 I INTEND INSULT BY MOMENTS OF LEVITY. IT
2 IS HOW I BALANCE AND TRY TO KEEP A VERY SERIOUS AND
3 VERY INTENSE MOVEMENT CIVIL AND HELP PEOPLE OUT.

4 IT'S MY THEORY THAT WHEN PEOPLE ARE MORE
5 COMFORTABLE, THEY CAN DO THEIR JOBS BETTER, BUT I
6 INTEND NO DISRESPECT.

7 GO AHEAD, SIR.

8 MR. BERRY: THE COURT, I REQUEST, SHOULD
9 EXERCISE ITS DISCRETION BALANCING THE EQUITIES UPON
10 WHAT IS NOW KNOWN TO HAVE OCCURRED HERE AND WHICH I
11 HAVE SUBMITTED MY PAPERS INCLUDES THE PULLING OF THE
12 WOOL OVER THE COURT'S OWN EYES.

13 AND THE MOTION, AS MY PAPERS HAVE ALREADY
14 INDICATED, TO DISQUALIFY THE COURT WERE IN PART
15 PREMISED ON THOSE RESPONSIBLE FOR THIS TRAVESTY. NOT
16 EVEN ALLOWING ME A TEN MINUTE GRACE PERIOD FOR ME TO
17 APPEAR HERE AT COURT AND TO SEEK \$4,000 FROM ME BY WAY
18 OF SANCTIONS FOR BEING LATE IN CONNECTION WITH A MOTION
19 TO PROTECT THIS MAN'S FILES AND PHYSICAL SAFETY AND FOR
20 ME TO BRING A MOTION IN CONNECTION WITH THEIR
21 MISCONDUCT.

22 LAST WEEK I CAME DOWN TO THIS COURTHOUSE
23 TO FILE THE EXPARTE PAPERS AND WAS TOLD THAT THE COURT
24 WAS OUT OF THE COURTROOM THURSDAY AND FRIDAY. I TOLD
25 THE COURT CLERK, THEREFORE, WE WILL BRING IT ON MONDAY.
26 IT WAS NOTICED TO COUNSEL ALL OF LAST WEEK. THE COURT
27 HAS SEEN THE WRITTEN NOTICES.

28 THE COURT: I APOLOGIZE IF I FAILED TO

1 RECOLLECT THAT IN MY RESUSTATION THIS MORNING OF WHAT
2 HAD TRANSPIRED. IT WAS A SURPRISE TO ME PERSONLLY WHEN
3 YOU WERE HERE MONDAY AND I WAS NOT AWARE OF ANY
4 DISCUSSION THAT YOU HAD WITH ANY MEMBER OF THE COURT
5 STAFF.

6 MR. BERRY: I WAS DOWN HERE SEVERAL TIMES LAST
7 WEEK, YOUR HONOR.

8 THE COURT: VERY WELL.

9 MR. BERRY: AND WHEN THE COURT WAS ABSENT, THEY
10 TOLD ME NO ARRANGEMENT HAD BEEN MADE FOR ANOTHER JUDGE
11 TO HEAR EX PARTES.

12 THE COURT: YES, IT IS MY PREFERENCE TO HAVE
13 THEM MYSELF. I DON'T KNOW OF ANY JUDGE SO WELL THAT I
14 WOULD WISH THIS MATTER ON THEIR CALENDAR.

15 MR. BERRY: AND I DECIDED THAT WE WOULD SUFFER
16 THE HARASSMENT THAT WAS GOING ON AGAINST MR. CIPRIANO
17 UNTIL MONDAY AND CAME DOWN HERE. ENOUGH PAPER BY WAY
18 OF NOTICE ENCLOSURES AND EXHIBITS HAD BEEN PROVIDED TO
19 THE OTHER SIDE FOR THEM WELL, TO KNOW THAT IF I WASN'T
20 HERE BY 8:40 OR 8:45, THAT I WAS PROBABLY RUNNING LATE
21 NOT FAILING TO ATTEND THE COURT.

22 THE COURTS KNOWS ABOUT THE NEW SECURITY
23 PROCEDURES. MY DECLARATION DEMONSTRATES I WAS CAUGHT
24 UP IN THE SECURITY PROCEDURES AND IF THE LINES AT THE
25 CLERK'S OFFICE PAYING THE FEE.

26 THE COURT: LET ME SPEAK TO THAT ISSUE RIGHT
27 NOW. I WANT TO STICK TO THE ISSUE OF THE PETITION.
28 WITH REGARD TO THE QUESTION OF SANCTIONS, I'M NOT A

1 SANCTIONS JOCKEY. I DON'T DO SANCTIONS A LOT. I HAVE
2 DONE THEM VERY RARELY. THIS IS ONE CASE I HAVE DONE SO
3 VERY RARELY. WITH REGARD TO THE PROCEEDINGS THIS
4 MONDAY, I AM NOT INCLINED TO GRANT THE REQUEST FOR
5 SANCTIONS. I PROVIDED AN OPPORTUNITY TO MAKE THAT
6 REQUEST SO THAT IT WOULD BE ON TODAY'S CALENDAR.

7 I TAKE NO OFFENSE WHEN SOMEONE IS LATE TO
8 THIS COURT. I GET PAID BY THE MONTH TO BE HERE AND I
9 TRY AND GIVE SERVICE WHENEVER PEOPLE ARE HERE. MY
10 CONCERN WAS FOUR OR FIVE LAWYERS WERE HERE AT YOUR
11 BEHEAST AND I KNEW NOTHING OF IT AND I WAS NOT ABLE TO
12 VERIFY WHEN YOU WOULD BE HERE AND THEN THEREFORE I
13 DECIDED TO PUT EVERYTHING TO FRIDAY.

14 IT IS TRUE THERE HAVE BEEN A NUMBER OF
15 PROCEEDINGS ON YOUR PART WHERE YOU COME IN EX PARTE AND
16 PEOPLE HAVE BEEN WAITING FOR YOU AND I JUST DID NOT
17 WANT TO CAUSE THAT TO HAPPEN THIS WEEK.

18 BUT WITH REGARD TO THAT QUESTION, I WOULD
19 ASK THAT WE DEFER IT MOMENTAIRLY SO THAT MR. SOTER MAY
20 BE INVOLVED IN THAT. I WOULD LIKE TO CONCLUDE THE
21 LITIGATION OF THE PETITION TO DECLARE YOU A VEXATIOUS
22 LITIGANT THAT WHICH TRANSPIRED ON MONDAY WITH RESPECT
23 TO YOUR NOT BEING HERE IS NOT PART OF MY CONSIDERATION.

24 MR. BERRY: AND JUST TO CLOSE IT UP, YOUR
25 HONOR, IT WAS THE DEFENDANTS WHOSE EXPARTE APPLICATIONS
26 INITIALLY CAUSED THIS COURT TO SAY ON THE RECORD THIS
27 COURT DOES DO BUSINESS OTHER THAN BY WAY OF EX PARTE
28 MOTION.

1 THE COURT: THAT IS TRUE. I REMEMBER SAYING
2 THAT.

3 MR. BERRY: BEFORE I MADE MY FIRST EXPARTE
4 APPLICATION.

5 YOUR HONOR, THE RECORD AS I HAVE SHOWN
6 THE COURT IS PERHAPS THE MOST DESPICABLE AS TO LAWYER
7 CONDUCT THIS COURT HAS EVER SEEN OR LIKELY TO SEE OR
8 HAS BEEN SEEN ANYWHERE IN THE NATION, HENCE SOME OF THE
9 MATTERS THAT THE COURT IS NOW AWARE OF.

10 THE REPRESENTATIONS OF COUNSEL AS TO WHY
11 I SHOULD BE DECLARED A VEXATIOUS LITIGANT, THE EVIDENCE
12 HAS BEEN SEEN TO BE NOTHING MORE THAN THE BUILDING UP
13 AND BEATING DOWN OF A STRAW MAN ON A DIFFERENT PLAYING
14 FIELD THAN EXISTS ON THE RECORD.

15 THE SO CALLED FIVE CASE REQUIREMENT HAS
16 SHOWN BEEN SHOWN TO BE AN INVENTION. AND I LEAN ON AND
17 RELY ON MY OPPOSITION ANALYSIS IN THAT REGARD. THE SO
18 CALLED VEXATIOUS LITIGANT HOLDING OF JUDGE SCHNEIDER
19 HAS BEEN SHOWN TO BE PREMISED ON AN APPLICATION MOTION
20 TO THE COURT THAT CONSTITUTES SANCTIONS, AT THE VERY
21 LEAST, AND MUCH WORSE.

22 THE EVIDENCE SUBMITTED TO THE COURTS IN
23 SUPPORT OF HAVING ME DECLARED A VEXATIOUS LITIGANT HAS
24 BEEN SHOWN TO BE BUILT UPON SAND. THE FOUNDATIONS HAVE
25 BEEN KNOCKED OUT FROM UNDERNEATH IT BY MR. CIPRIANO'S
26 DECLARATION. THE ENTIRE RECORD SCREAMS THAT THIS
27 MOTION SHOULD NEVER HAVE BEEN BROUGHT OR HAVE CONSUMED
28 ONE MINUTE OF THIS COURT'S ATTENTION. I HAVE NO

1 FURTHER SUBMISSIONS, YOUR HONOR.

2 THE COURT: THANK YOU VERY MUCH, MR. BERRY.

3 THE COURT: I WILL GO AROUND THE TABLE FOR
4 REPLIES, IF YOU WISH. PLEASE BE ADVISED THAT A, I
5 INTEND TO GRANT THE PETITION AND B, IF YOU NEED TO BE
6 HEARD, IN BRIEFEST RESPONSE TO ALLEGATIONS MADE, I
7 WOULD ASK YOU TO LIMIT IT TO APPROXIMATELY TWO MINUTES
8 BECAUSE I DON'T THINK THERE IS NEED, BUT IN FAIRNESS,
9 REQUIRES AN OPPORTUNITY TO BE HEARD.

10 MR. CHALEFF.

11 MR. CHALEFF: I NEVER ATTEMPT TO SNATCH DEFEAT
12 FROM THE JAWS OF VICTORY. I WILL SUBMIT IT, YOUR
13 HONOR.

14 THE COURT: VERY WELL.

15 MR. ROSEN: I WILL ONLY REPEAT MY MY REQUEST
16 WITH RESPECT TO THE REMEDY AND THE ORDER.

17 THE COURT: WE WILL TALK ABOUT THAT.

18 MR. CHODOS.

19 MR. CHODOS: I HAVE NOTHING FURTHER, YOUR
20 HONOR.

21 MR. MOXON: I DON'T WISH TO RESPOND TO THE
22 CHARGES, YOUR HONOR, AND I WILL LEAVE IT AT THAT.

23 THE COURT: THANK YOU.

24 ON SEVERAL THINGS, MR. BERRY, I HAVE
25 GENERALLY ENJOYED WORKING WITH YOU, AND I MEAN THAT
26 SINCERELY. YOU ARE LITERATE. YOU ARE PARTICULAR AT
27 TIMES POETIC. YOU ARE CAPABLE OF GREAT COURTLINESS,
28 AND I HAVE ENJOYED TRYING TO PROVIDE AN ARENA WHERE

1 YOUR PASSION AND YOUR CONCERN WOULD RECEIVE LAWFUL
2 HEARING AND LAWFUL ACCESS.

3 IT IS THE DIFFICULT CASES THAT MAKE A
4 JUDGE A JUDGE, AND I HAVE TRIED VERY HARD TO RESPOND
5 WITH THE BEST JUDICIAL FIBER I CAN MUSTER TO THIS VERY
6 CHALLENGING CASE.

7 I REPEAT NOW WHAT I HAD SUGGESTED IN MY
8 DIALOGUE WITH YOU IN YOUR ARGUMENT. I THINK THE
9 PETITION IS MORE ABOUT NOT SO MUCH ABOUT WHAT YOU HAVE
10 DONE IN SEEKING TO REDRESS FOR THE CLAIMS YOU HAVE
11 BROUGHT TO THIS COURT THAN IT IS ABOUT HOW YOU HAVE
12 DONE IT.

13 THIRDLY, THERE IS AN IRONY HERE. MY
14 POSITION AS A NEUTRAL JUDICIAL ARMS-LENGTH OBSERVER OF
15 THE PASSIONS AND ACCUSATIONS AND RECRIMINATIONS THAT
16 ARE ASSOCIATED WITH LITIGATION BY AND AGAINST THE
17 CHURCH OF SCIENTOLOGY AND ITS PRESENT AND FORMER
18 DECIPLES HAS CAUSED ME TO SEE A LOT OF CONSPIRACY
19 THEORIES AND SUGGESTIONS AND SUSPICIONS AND FINGER
20 POINTING. AND THAT LEADS TO A GREAT AND SAD IRONY.

21 IF ONE LOOKS FOR ONE PERSON WHO IS
22 RESPONSIBLE FOR THE FAILURE OF THE MATTERS AND CLAIMS
23 YOU HAVE BROUGHT TO THIS COURT, IF ONE LOOKS FOR ONE
24 PERSON RESPONSIBLE FOR THE CHURCH OF SCIENTOLOGY AND
25 ITS ALLIES PREVAILING AS YOU MIGHT PRESUMPTIVELY
26 PRESUME THEM TO HAVE PREVAILED IN THIS CASE, THE ONE
27 PERSON MOST RESPONSIBLE IS GRAHAM BERRY. THAT IS WHAT
28 THE MOTION IS ABOUT. THAT IS WHAT THE PETITION IS

1 ABOUT.

2 THE WAY THINGS HAVE HAPPENED IN THIS
3 LITIGATION AND THE WAY IT HAS BEEN CONDUCTED HAVE GIVEN
4 SUPPORT TO THE PETITION. WITH ALL THE DUE RESPECT,
5 SIR, I HAVE TO SADLY STATE THAT IF THERE IS SUCH A
6 THING ON GOD'S GREEN EARTH AS A VEXATIOUS LITIGENT YOU,
7 SIR, SADLY, ARE IT.

8 GEORGES SANTIATA G-E-O-R-G-E-S SAID,
9 THOSE WHO DO NOT LEARN FROM HISTORY ARE CONDEMNED TO
10 RELIVE IT. THEREFORE, IT IS WITH GREAT REGRET THAT I
11 FIND MYSELF JUDICIALLY OBLIGED TO GRANT THE PETITION.

12 I DO NOT DO SO LIGHTLY. ACCESS TO
13 JUSTICE IS THE CENTRAL FIBER OF MY JUDICIAL OBLIGATION
14 AND THE HIGHEST PRIDE OF MY DAILY DUTY.

15 I AM IN THE BUSINESS OF AFFORDING
16 OPPORTUNITIES TO PEOPLE TO BE HEARD. NOT JUST ON
17 PLEASANT MATTER BUT ON UNPLEASANT. NOT JUST ON EASY
18 MATTERS, BUT ON DIFFICULT. TO HOLD THE DOORS OF THIS
19 COURTROOM OPEN TO ALL WHO SEEK TO DRAW NEAR, AND BE
20 HEARD, IN THE WORDS, THE OPENING WORDS OF THE UNITED
21 STATES SUPREME COURT AND COURTS THROUGHOUT THIS LAND, I
22 HOLD THAT INVITATION PROUDLY TO DRAW YOU IN AND YOU
23 SHALL BE HEARD.

24 I TAKE COMFORT IN GRANTING THIS PETITION.
25 I'M NOT PREVENTING ACCESS TO JUSTICE FOR YOU OR THOSE
26 YOU REPRESENT, BUT ONLY REQUIRING THAT THAT ACCESS BE
27 PROCURED UNDER CIRCUMSTANCES THAT ASSURE THAT THE
28 PROCEEDINGS IN THAT COURT WILL BE MORE ORDERLY, MORE

1 LAWFUL, MORE COURTLY, AND MORE LEGAL THAN THOSE THAT
2 OCCURRED AT TIMES IN THIS COURT.

3 I'M GOING TO ASK THE MOVING PARTY TO
4 PREPARE AN APPROPRIATE ORDER. I WANT TO TALK ABOUT THE
5 LOGISTICS OF THAT AND I THEN ALSO WANT TO TALK ABOUT
6 OTHER MATTERS THAT ARE ON CALENDAR.

7 ROBERT, YOU MAY AT THIS TIME CALL IN MR.
8 SOTER.

9 WITH REGARD TO THE PETITION, I WANT TO
10 PROCEED WITH GREAT CARE. I WANT AN ORDER THAT
11 ACCURATELY REFLECTS THAT THIS COURT IS FINDING THAT THE
12 PETITION SHOULD BE GRANTED ON ALL THE GROUNDS ADVANCED.

13 I'M DECIDING NO MORE THAN THAT, BUT I AM
14 DECIDING THAT, THAT THE TOTALITY OF THE EVIDENCE AND
15 INFORMATION PRESENTED TO THIS COURT SUPPORT THE
16 PETITION IN EACH OF ITS SEVERAL GROUNDS AND THE COURT
17 SO FINDS TO THAT EXTENT, BUT TO THAT EXTENT ONLY. MY
18 MISSION TODAY IS ONLY TO ANSWER THE MAIL, NOT TO
19 RESOLVE ALL MATTERS IN THIS DISPUTE.

20 SECONDLY, I AM PREPARED TO ENTERTAIN
21 APPROPRIATE ADDITIONS TO THE ORDER IF THEY ARE WITHIN
22 MY JURISDICTION. THE OLDER I GET THE MORE I BELIEVE IN
23 THE PROCESS AND I AM NOT ABOUT TO MAKE AN ORDER ABOUT
24 WHICH I HAVE NO AUTHORITY. I SIMPLY WANT TO DO MY DUTY
25 IN LIGHT OF THE CIRCUMSTANCES.

26 IT THEREFORE OCCURS TO ME THAT PROBABLY
27 THE APPROPRIATE ACTION IS FOR AN ORDER TO BE PREPARED,
28 TO BE PRESENTED TO MR. BERRY AND ANYBODY ELSE THAT

1 WISHES TO BE HEARD AND TO THEN BE SIGNED BY THIS COURT.

2 THE DIFFICULTY, IF IT BE ONE, IS THAT
3 THIS COURT IS SCHEDULED TO BE DARK STARTING AT THE END
4 OF BUSINESS TODAY THROUGH AND INCLUDING THE 7TH OF
5 SEPTEMBER. I HOPE TO BE OUT OF THE COUNTRY COMMENCING
6 THE END OF NEXT WEEK, BUT I WILL BE IN LOS ANGELES NEXT
7 WEEK AND IF WE WANT TO SET UP A SCHEDULE THAT COULD
8 PRESENT THE DRAFT AND PRESENT AN OPPORTUNITY TO BE
9 HEARD, I COULD SCHEDULE NOW A HEARING NEXT WEEK AS TO
10 MY VACATION TO THAT EXTENT.

11 I DO NOT WANT TO REQUIRE THAT OF ANYBODY.
12 I AM JUST IN THE BUSINESS OF CUSTOMER SERVICE AND I
13 WANT TO BE REASONABLE, UNDER THE CIRCUMSTANCES. AND
14 THAT MAY NOT BE, LET ME GO TO THE MOVING PARTY AND THEN
15 THE OPPOSING PARTY ON THE PETITION.

16 MR. CHALEFF, HOW WOULD YOU LIKE THIS
17 COURT TO PROCEED. TAKE YOUR TIME IF YOU WISH TO CONFER
18 WITH THOSE YOU WISH TO CONFER.

19 MEANWHILE, IS MR. SOTER BACK ON THE
20 PHONE?

21 MR. SOTER: YES, I AM HERE.

22 THE COURT: CAN YOU HEAR ME, SIR?

23 MR. SOTER: POORLY, I'M ON THE CELL PHONE NOW.

24 THE COURT: DO YOU WISH TO MAINTAIN TELEPHONE
25 ACCESS TO THESE PROCEEDINGS AT THIS STAGE? I CAN HEAR
26 YOU CAN YOU HEAR ME? PARDON?

27 IT APPEARS THAT MR. SOTER, LET US GO BACK
28 ON THE RECORD HERE WHILE ROBERT TRIES TO RECONNECT MR.

1 SOTER.

2 MR. CHALEFF?

3 MR. CHALEFF: IF MR. BERRY WILL REPRESENT THAT
4 HE WILL FILE NO ACTION BETWEEN NOW AND WHEN THE COURT
5 RETURNS, I BELIEVE WE CAN WAIT UNTIL WE GET A COPY OF
6 THE TRANSCRIPT AND DRAFT AN ORDER AND SERVE MR. BERRY
7 AND IF WE CAN, I THINK WE SHOULD SET ANOTHER COURT DATE
8 TO MAKE SURE, BUT WE CAN DO IT AFTER THE COURT RETURNS.

9 IF MR. BERRY DOESN'T WISH TO DO THAT,
10 THEN I WOULD RECOMMEND WE COME BACK NEXT THURSDAY AND
11 HASH THIS OUT BECAUSE I HATE TO HAVE AN INTERIM PERIOD
12 WHERE I HAVE TO FIGHT WHAT YOU ORDER IS.

13 THE COURT: UNFORTUNATELY, THAT IS A RISK. I
14 AM AVAILABLE FOR EITHER OPTION, BUT I WOULD PREFER THE
15 FORMER.

16 MR. BERRY: THIS COURT, YOUR HONOR, DOES NOT
17 HAVE AUTHORITY TO BAR ME FROM FILING ANY ACTIONS.
18 YOUR HONOR, THE AUTHORITY IS ONLY AS A PRO PER. NOT AS
19 PARTY FOR --

20 THE COURT: I WILL TAKE THAT AS A NO, AND
21 THEREFORE I WILL EITHER SIGN AN ORDER TODAY OR I WILL
22 SIGN AN ORDER NEXT WEEK AT A DATE HEARD.

23 THE OPPORTUNITY THAT AT LEAST IN MY MIND,
24 TO DELAY THIS MATTER WAS TO GIVE YOU AN OPPORTUNITY
25 FOR, LET ME SAY THIS CAREFULLY, ORDERLY, NOTICED,
26 RATIONAL, CALM, CIVILIZED PRINCIPLED LITIGATION OF THIS
27 ISSUE, INCLUDING EXECUTION OF THIS --

28 MR. SOTER: HELLO?

1 THE COURT: MR. SOTER, ARE YOU THERE?

2 MR. SOTER: HELLO.

3 THE COURT: CAN YOU HEAR ME, MR. SOTER?

4 MR. SOTER: THIS DOESN'T WORK. IT'S BREAKING
5 UP. I CAN'T HEAR YOU.

6 THE COURT: OKAY, I'M SORRY ABOUT THAT. MR.
7 BERRY, WHAT MR. CHALEFF WAS PROPOSING, AND WHAT I WOULD
8 LIKE TO THINK OF AS A WIN-WIN SITUATION, IS A SITUATION
9 IN WHICH THE PROPONENT HAVE THE BENEFIT OF THIS COURT'S
10 ORDER TODAY, BUT YOU HAVE THE OPPORTUNITY AND THE
11 BENEFIT OF ASSURING THAT THE FINALIZATION OF THIS
12 COURT'S ORDER IN THIS REGARD IS DONE WITH CAREFUL
13 CONSIDERATION OF POINTS OF ORDER THAT YOU MIGHT ARRANGE
14 PERTINENT, THERETO, INDEPENDENT OF THE POINTS ALREADY
15 CONSIDERED.

16 IF YOU DO NOT WISH TO AVAIL YOURSELF OF
17 THIS AGREEMENT, I APPRECIATE THAT. I DON'T HAVE THE
18 POWER TO TAKE IT OVER UNTIL I MAKE AN ORDER. IF YOU
19 ARE SAYING YOU ARE NOT GOING TO WAIT FOR ME TO MAKE AN
20 ORDER, THAT ORDER IS FORTHCOMING IN THE NEXT FIFTEEN
21 MINUTES.

22 ONE OF MY FAVORITE NAVY BOSSES USED TO
23 SAY, "I WANT IT BAD, BUT I DON'T WANT IT SO BAD THAT I
24 WANT IT BAD."

25 I AM HAPPY TO DO THINGS IN AN ORDINARILY
26 FASHION, BUT IF YOU REQUIRE ME NOT TO DO SO, I LACK
27 NEITHER THE WIT NOR THE WILL TO DO IT NOW.

28 MR. BERRY: THE COURT CUT ME OFF BEFORE I

1 FINISHED SPEAKING.

2 THE COURT: WELL, GO AHEAD, SIR.

3 MR. BERRY: I WAS GOING TO SAY THAT THE COURT
4 CANNOT, AS A MATTER OF LAW, STOP ME FROM PRACTICING LAW
5 ON THIS POINT. I THINK THE LAW IS CLEAR ON THAT. I
6 WILL GIVE A REPRESENTATION, WHICH I WAS ABOUT TO SAY
7 BEFORE THE COURT INTERRUPTED ME, THAT I WILL NOT FILE
8 ANY PROCEEDINGS AS A PRO PER LITIGENT PENDING THE ENTRY
9 OF THE COURT'S ORDERS.

10 I FULLY APPRECIATE THE ORDERLY APPROACH
11 BECAUSE WE HAVE APPEAL MATTERS AT NUMEROUS LEVELS TO
12 THINK ABOUT.

13 THE COURT: I SUPPOSE WHAT WE COULD DO IS CRAFT
14 NOW A MINUTE ORDER, CRAFT IT RIGHT NOW ON THE RECORD
15 THAT MEMORIALIZES THIS, SO SHOULD, HEAVEN FORBID, WHILE
16 I'M GONE SOMEBODY PERCEIVE THAT THIS COURT SETTLED THIS
17 AGREEMENT TO BE BREACHED, THAT THERE WOULD BE A MINUTE
18 ORDER TO WHICH READY ACCESS COULD BE HAD.

19 I WOULD PROPOSE THAT WE SIMPLY STAND AT
20 EASE OFF THE RECORD AND LET COUNSEL CONFER ABOUT THE
21 LANGUAGE, INCLUDING CONFERRING WITH MR. BERRY. I WANT
22 TO RESERVE EVERYBODY'S RIGHTS, AND MR. BERRY, YOU ARE
23 QUITE RIGHT IN REMINDING ME, AS I REMINDED MYSELF JUST
24 IN THE PAST FEW MINUTES, THAT I DO NOT WANT TO DO
25 ANYTHING IN EXCESS OF MY JURISDICTION.

26 I PREFER TO SAIL VERY CLOSE TO THE WIND
27 ON ISSUES OF JUDICIAL AUTHORITY.

28 ALL RIGHT. MR. SOTER, ARE YOU BACK WITH

1 US? I GUESS NOT.

2 I WOULD LIKE TO ALSO SUGGEST THE
3 FOLLOWING, BEFORE WE TAKE A MOMENT, JUST A QUICK BREAK
4 ON THAT POINT.

5 THERE ARE A NUMBER OF EXPARTE MATTERS ON
6 THIS COURT'S CALENDAR BROUGHT BY MR. BERRY THAT I
7 THOUGHT MR. SOTER WANTED TO BE HEARD ON, BUT IT LOOKS
8 LIKE WE CAN'T REACH HIM.

9 THE CLERK: HIS STATUS IS HE IS ON THE CELL
10 PHONE AND ON THE GOLDEN GATE BRIDGE.

11 THE COURT: AT LEAST WITHIN THE JURISDICTION OF
12 THE STATE OF CALIFORNIA.

13 THE CLERK: HE CAN BARELY HEAR YOU.

14 THE COURT: OKAY, I'LL MOVE CLOSER TO THE PHONE.

15 MR. SOTER, CAN HEAR ME, SIR?

16 MR. SOTER: I CAN BARELY HEAR YOU.

17 THE COURT: CAN YOU HEAR ME BETTER?

18 MR. SOTER: I CAN BARELY MAKE YOU OUT. I CANNOT
19 HEAR YOU.

20 THE COURT: I AM SHOUTING INTO THE PHONE AT TWO
21 INCHES. I CAN'T DO ANY BETTER THAN THIS.

22 OKAY, HE CAN NOW HEAR ME PERFECTLY. THE
23 DOWN SIDE IS THAT NOBODY CAN HEAR YOU. ALL RIGHT, MR.
24 SOTER HAS PROMISED NOT TO SAY ANYTHING IMPORTANT.

25 IS THERE ANY OBJECTION TO MR. SOTER
26 APPEARING ON THIS MATTER BY TELEPHONE WHERE THE ONLY
27 PERSON WHO CAN HEAR HIM IS ME BECAUSE THE ONLY WAY HE
28 CAN HEAR ME ON A CELL PHONE FROM THE GOLDEN GREAT

1 BRIDGE IS IF I USE THE RECEIVER AND NOT THE SPEAKER
2 PHONE WITH THE UNDERSTANDING THAT NOTHING THAT MR.
3 SOTER SAID WILL BE OPERATIVE ON ANYTHING I DO EXCEPT TO
4 THE EXTENT THAT IT'S COMMUNICATED FULLY TO EVERYBODY
5 ELSE AND EVERYBODY ELSE HAS A CHANCE TO BE HEARD ON
6 THAT. DOES ANYBODY HAVE ANY OBJECTIONS?

7 MR. CHALEFF: NO OBJECTIONS.

8 MR. BERRY: NO OBJECTIONS, YOUR HONOR.

9 THE COURT: THANK YOU VERY MUCH. SO THERE IS
10 NO OBJECTION.

11 MR. SOTER, IF YOU HAVE ANYTHING TO SAY, I
12 WILL HAVE TO TRANSLATE IT.

13 MR. SOTER, THE STATUS OF THE CASE THIS
14 MORNING IS THAT THE COURT HAS JUST NOW GRANTED THE
15 PETITION TO DECLARE MR. BERRY A VEXATIOUS LITIGANT.
16 I'M SPEAKING TO YOU, OF COURSE, ON THE RECORD. THE
17 COURT REPORTER IS TAKING DOWN WHAT WE HAVE BEEN SAYING
18 SINCE I PICKED UP THE PHONE.

19 COUNSEL ARE CONFERRING MOMENTAIRLY ABOUT
20 AN ODDLY PROCESS FOR THAT DETERMINATION TO BE PUT IN AN
21 ORDER I KNOW YOU ARE NOT A PARTY TO THAT. I BELIEVE,
22 HOWEVER, YOU MAY BE INVOLVED, AND OTHERS ARE INTERESTED
23 IN THE OTHER MATTERS THAT ARE OF RECORD TODAY.

24 THERE ARE FIVE OF THEM. SOME OF THEM
25 ARE, AS WE SAY IN THE NAVY, OVERCOME BY EVENTS. THEY
26 ARE PLAINTIFF'S EXPARTE APPLICATIONS FOR

27 A, LEAVE TO FILE AN EXCESS PAGE LIMIT
28 BRIEF.

1 B, AN ORDER TO TURN OVER ALL FILES.
2 C, AN ORDER TO PRESERVE EVIDENCE.
3 D, A RESTRAINING ORDER.
4 AND E, AN ORDER TO CONTINUE THE HEARING.
5 TO THE EXTENT THAT THE ORDER TO CONTINUE
6 THE HEARING WAS BEING SOUGHT WITH RESPECT TO THIS
7 HEARING, THAT COURSE HAS BEEN IMPLICITLY AND IS NOW
8 EXPRESSLY DENIED.

9 WITH ORDER, TO THE EXTENT THAT AN ORDER
10 TO, FOR LEAVE TO FILE AN EXCESS PAGE LIMIT PERTAINS AND
11 I CAN'T RECALL TO THIS APPLICATION OR TO THE CONTEMPT
12 APPLICATION THAT MR. BERRY WISHES TO BRING, MY ATTITUDE
13 IS THAT THE PAPERS THAT HE WISHES TO SUBMIT FOR THE
14 RECORD HAVE BEEN RECEIVED IN THIS CASE AND THE QUESTION
15 OF WHETHER OR NOT THEY SHOULD BE SEALED IS AN ISSUE
16 THAT I WISH TO RAISE ON THE RECORD WITH ALL PARTIES
17 MOMENTARILY.

18 WITH REGARD, SECONDLY, TO THE ORDER TO
19 TURN OVER ALL FILES, THAT IS A MATTER THAT I DO NOT
20 DEEM TO BE WITHIN MY JURISDICTION AT THIS POINT, AND I
21 WOULD WANT TO DEAL WITH THAT ONLY ON A NOTICED BASIS
22 THAT SHOWS THIS COURT'S JURISDICTION.

23 C, AN ORDER TO PRESERVE EVIDENCE SEEMS TO
24 BE AN ORDER TO OBEY THE LAW. AND THIS COURT DOESN'T
25 SEE IT HAVING EITHER THE JURISDICTION OR THE NEED TO
26 ENTER SUCH AN ORDER.

27 D, THE RESTRAINING ORDER SOUGHT I THINK
28 ARE IN EXCESS OF THIS COURT'S JURISDICTION AND TO THE

1 EXTENT THAT THEY MAY NOT BE, DO NOT MAKE OUT A
2 REQUIREMENTS OR AN OBLIGATION OR A NEED ON THIS COURT
3 TO RESPOND.

4 IT SEEMS TO ME, AND I HAVE NOT HEARD FROM
5 MR. BERRY ON THIS, OR ANYBODY, I'M JUST TURNING TO THIS
6 AGENDA NOW WITH YOU ON THE PHONE MR. SOTER TO, I THINK
7 I WOULD NOT LIKE TO BE INVOLVED FURTHER IN THESE
8 EXPARTE MATTERS EXCEPT FOR THE EVENT THAT THERE IS
9 SOMETHING THERE THAT REQUIRES THIS COURT'S ACTION OVER
10 AND ABOVE WHAT HAS ALREADY BEEN TAKEN.

11 LET ME STOP NOW FOR A MOMENT AND GO BACK.
12 MR. SOTER, HAVE YOU HEARD ME SO FAR? ALL RIGHT, I'M
13 GOING TO TRY, I GUESS THERE IS NO POINT IN TRYING TO
14 PUT YOU BACK ON THE SPEAKER PHONE. I THINK IT IS
15 APPARENT WE CAN'T HEAR YOU. ARE YOU IN ANY BETTER
16 CIRCUMSTANCES?

17 ALL RIGHT, ARE YOU MOVING OR STATIONARY?
18 WELL, THEN WHY DON'T YOU GET A CONVERTIBLE LIKE I HAVE.
19 HOLD ON FOLKS, IT IS ALMOST NOON. I'M NOT SURE WHERE
20 TO PROCEED ON THIS. I GUESS A MORE ORDERLY WAY OF
21 DOING THESE THINGS WOULD BE TO CONTINUE THIS MATTER.
22 TO HAVE A TENDERED ORDER PREPARED BY THE MOVING PARTY
23 PRESENTED AND DUALY NOTICED TO THE DEFENDING PARTY TO
24 HAVE A HEARING THEREON AFTER THIS COURT'S RETURN WHICH
25 WOULD BE ON OR AFTER PREFERABLE AFTER THE 8TH OF
26 SEPTEMBER.

27 AND IF WE WERE TO DO THAT, THE CONCERN
28 RAISED BY MR. CHALEFF THAT I THINK WE ARE ON THE VERGE

1 OF WORKING OUT WILL BE A PROVISIO THAT NO PARTY WOULD BE
2 PREJUDICED BY THAT DELAY IN THE TENDERING OF A PROPOSED
3 ORDER, AND THAT WE WOULD MAKE A MINUTE ORDER
4 INCORPORATING BOTH THIS COURT'S WISHES AND THE
5 AGREEMENT OF THE PARTIES TO THAT REGARD.

6 I THINK, SPECIFICALLY, MR. CHALEFF IS
7 CONCERNED THAT NOTHING THAT IS ORDERED, AS ORDERED BY
8 THE COURT TODAY BUT HAS NOT YET BEEN CRAFTED WOULD
9 PREVENT, WOULD TAKE PLACE WHILE THAT ORDER WAS BEING
10 PREPARED.

11 MR. BERRY HAS BEEN GOOD ENOUGH TO SUGGEST
12 AS I HEARD HIM UPON SECOND HEARING, THAT IT WOULD NOT
13 BE A PROBLEM. I DON'T WANT TO SPEAK FOR HIM OR FOR
14 ANYBODY ELSE. LET ME ASK YOU MR. SOTER, WITH REGARD TO
15 THE MATTER THAT ARE ON CALENDAR IF YOU MIGHT BE
16 INTERESTED IN THAT PROCESS. WOULD THAT BE AGREEABLE TO
17 YOU?

18 THE COURT: THE ANSWER OF MR. SOTER WAS QUOTE,
19 IT'S PERFECTLY ACCEPTABLE, CLOSE QUOTE.

20 LET ME NOW CONDUCT DISCUSSION WITH
21 COUNSEL ON THE RECORD AND I WILL REPORT TO YOU MR.
22 SOTER WHAT THEY SAY.

23 MR. CHALEFF, YOUR RECOMMENDATION?

24 MR. CHALEFF: I AGREE. WE CAN DRAFT SOMETHING
25 QUICKLY AND WHATEVER ELSE THE COURT WANTS US TO DO IN
26 THE OTHER MOTION WHICH I'M NOT SURE I'M A PARTY TO.

27 THE COURT: MR. CHALEFF SAYS HE IS AGREEABLE,
28 BUT HE IS NOT SURE WHETHER HE IS PARTY TO.

1 MR. CHALEFF, I WOULD LIKE THE DUST TO
2 SETTLE A LITTLE BIT AND I WOULD LIKE WHATEVER IS ON
3 TODAY TO BE RENOTICED, IF WE NEED TO ON A SHORTENED
4 BASIS, SO THAT WE HAVE A CLEAN CHOICE OF WHAT TO BRING
5 BEFORE THIS COURT THAT IS NOT CONFUSED BY THE HURLY
6 BURLY AND THE FRUSTRATIONS WHICH HAVE AFFECTED US ALL,
7 INCLUDING MR. BERRY IN THIS NOW. AND I WOULD LIKE A DE
8 NOVO PLEASE FOR THAT DATE, SO THAT EVERYBODY ELSE WOULD
9 BE NEW, MR. ROSEN?

10 MR. ROSEN: YOUR HONOR, I AGREE WITH THAT AND I
11 THINK THAT COUNSEL WOULD BE ADVISED TO ADDRESS IN THAT
12 DE NOVO PLEADING WHETHER OR NOT THE COURT HAS
13 JURISDICTION BECAUSE OF THE FACT THAT THE APPLICATION
14 FOR COURTS TO BE MADE IN THE CAPTION OF A CLOSED CASE
15 AND NO APPLICATION MADE TO REOPEN, I THINK THAT SHOULD
16 BE ADDRESSED BY COUNSEL WHEN RENOTICING THIS.

17 THE COURT: MR. SOTER, AGAIN SPEAKING TO YOU BY
18 PHONE, ARE YOU THERE, SIR?

19 MR. ROSEN AGREES WITH THE IDEA OF A DE
20 NOVO PLEADINGS AND HE RECOMMENDS THAT THOSE PLEADING
21 INCLUDE, AS OBVIOUSLY A GOOD LAWYER WOULD DO, QUESTIONS
22 ABOUT WHETHER OR NOT THIS COURT EVEN HAS JURISDICTION
23 IN LIGHT OF THE POSTURE OF THIS CASE TO ENTERTAIN ANY
24 SUCH REQUEST FOR RELIEF FROM ANY SIDE.

25 MR. CHODOS, AGREEABLE?

26 MR. CHODOS: AGREEABLE.

27 THE COURT: MR. MOXON?

28 MR. MOXON: AGREEABLE, YOUR HONOR. IT'S MY

1 UNDERSTANDING THEN THAT THE EXPARTES WHICH HAVE BEEN
2 FILED ARE GONE?

3 THE COURT: THEY ARE DENIED WITHOUT PREJUDICE.
4 THAT WOULD GIVE MR. BERRY A CHANCE TO CONSIDER WHAT TO
5 BRING AND ANYBODY A CHANCE TO CONSIDER WHAT TO BRING.

6 I WOULD LIKE THEM TO BE BROUGHT ON A
7 NOTICED BASIS. MR. MOXON AND MR. CHODOS REPORT THAT
8 THEY ARE AGREEABLE AND SO ARE YOU. AND MR. BERRY, YOUR
9 POSITION?

10 MR. BERRY: I'M FILING A MOTION IN DEPARTMENT
11 45 WITH PERMISSION FOR 25 PAGES TO ADDRESS THE CONTEMPT
12 MATTER; IS THE COURT DENYING ME THE SAME RELIEF HERE?

13 THE COURT: WHAT IS IT THAT YOU WISH TO BRING
14 TO THIS COURT SO THAT WE ALL UNDERSTAND?

15 MR. BERRY: A MOTION TO HAVE CERTAIN COUNSEL
16 DECLARED IN CONTEMPT AND SANCTIONED FOR THE VERY
17 CONDUCT IN CONNECTION MR. CIPRIANO THAT I HAVE
18 OUTLINED.

19 THE COURT: THE ANSWER TO YOUR QUESTION IS THAT
20 I AM NOT AT THIS POINT GRANTING ANY ENLARGEMENT OF THE
21 REQUIREMENT OF LAW WITH REGARD TO PAPERS. LET'S SEE
22 WHAT YOU HAVE TO SAY WITHIN THE TIME SET. IF I FIND
23 THAT THERE IS REASON TO CONSIDER IT FURTHER, I WILL
24 GRANT YOU SUCH RELIEF, BUT AT THIS STAGE I WOULD RATHER
25 US STICK TO THE MESSAGE.

26 I WOULD REMIND YOU OF THE WISDOM OF MY
27 FATHER WHO INSTRUCTED ME EARLY WHEN I WAS LEARNING TO
28 WRITE DON'T WRITE TELEGRAPH, OR AS AN ENGLISH TEACHER

1 SAID, TAKE MORE TIME AND WRITE LESS.

2 SO I WOULD URGE YOU, SIR, WITHOUT
3 PREJUDICE, I'M GOING TO DENY YOUR APPLICATION AND ASK
4 YOU TO STATE SINCINCTLY WITHIN THE REQUIREMENTS OF LAW
5 THAT WHICH YOU ARE SEEKING AND IF THERE IS REASON TO
6 SEEK MORE FROM YOU, THEN I WILL GO BACK ON THE RECORD
7 AND HEAR FROM YOU.

8 SO THAT WILL BE THE ORDER THAT THE
9 APPLICATION FOR AN EXTENSION OF PAPERS IS RESPECTFULLY
10 DENIED.

11 THERE WILL BE A COUPLE MORE QUESTIONS.
12 WHAT I WOULD LIKE TO DO IS SET OUT A MINUTE ORDER THAT
13 DOES TWO THINGS, IT SETS FORTH A PLEADING SCHEDULE FOR
14 THESE MATTERS, INCLUDING A HEARING DATE AND ANY
15 APPLICATION TO THIS COURT AND ANY OPPOSITIONS AND
16 REPLIES TO BE SCHEDULED ACCORDINGLY.

17 AND SECONDLY, THAT IT SETS OUT SOME
18 INTERIM AGREEMENT AND OR ORDER THAT GIVES COMFORT AND
19 SAFETY AND PROTECTION TO ALL SIDES, INCLUDING MR. BARRY
20 AND THOSE OPPOSED TO HIM, TO ASSURE THAT THAT WHICH
21 THIS COURT IS DONE TODAY IS NOT EFFECTIVELY UNDONE IN
22 THE INTERIM.

23 I WANT THAT MINUTE ORDER IN PLACE BECAUSE
24 IT IS THIS COURT'S SPECIFIC INTENT NOT TO DO ANYTHING
25 TODAY THAT WOULD CAUSE ANY OF MY COLLEAGUES TO HAVE TO
26 THE DEAL WITH THIS MATTER IN MY ABSENCE. IF THERE IS
27 ANY SUCH RISK THEN IN LIEU THEREOF, I WILL SIMPLY SET
28 THIS MATTER FOR A HEARING NEXT THURSDAY IN THIS COURT

1 AND I WILL TERMINATE OR INTERRUPT MY VACATION FOR THAT
2 POINT BECAUSE UNLESS WE HAVE AN AGREEMENT, PROFESSIONAL
3 TO PROFESSIONAL, WITH THIS COURT AND WITH EACH OTHER
4 THAT THIS MATTER WILL NOT BE PLACED ON ANY OTHER JUDGES
5 CALENDAR IN MY INTERIM THEN I WILL NOT DEFER UNTIL THE
6 END OF MY VACATION. I WILL SET THIS MATTER NEXT WEEK
7 AND WE WILL GET CLOSURE.

8 MR. BERRY?

9 MR. BERRY: I HAVE GIVEN THAT REPRESENTATION,
10 YOUR HONOR. THERE IS ONE QUALIFICATION, AS THE COURT
11 MIGHT WELL EXPECT, PROCEEDINGS RELATING TO THE CIPRIANO
12 DECLARATION AND ITS CONTENTS.

13 THE COURT: WHAT DO YOU MEAN BY THAT?

14 MR. BERRY: ABOUT TO BE FILED. I WOULD
15 REPRESENT, I WOULD ASK THAT THEY BE FILED IN ACCORDANCE
16 WITH THE PROVISIONS OF VEXATIOUS LITIGANT STATUTE WITH
17 A REQUEST FOR THE PRIOR DETERMINATION THAT THE COURT IS
18 ABOUT TO GIVE. THAT IS NOT DECLINED BUT THAT I OPERATE
19 IN ACCORDANCE WITH WHAT IS FOREGONE CONCLUSION.

20 THE COURT: WITHOUT TRANSLATING AT GREAT
21 LENGHT, MR. SOTER, MR. BERRY HAS SOME CONCERNS ABOUT
22 BEING PERMITTED TO PROCEED WITH THE UNDERSTANDING THAT
23 HE PROCEED IN ACCORDANCE WITH THE VEXATIOUS LITIGANT
24 STATUTE. HERE IS WHAT I'M GOING TO DO. I'M GOING TO
25 RESET THIS PROCEEDINGS UNTIL 1:30.

26 I'M SORRY, BUT WE ARE ALL TIRED. I
27 CERTAINLY AM AND WE HAVE THINGS TO DO. I AM HAPPY TO
28 TAKE IT OFF CALENDAR AT 1:30 IF THERE IS AGREEMENT, BUT

1 I WANT THAT WHICH MR. BERRY PROPOSED AND THAT WHICH
2 COUNSEL IS PROPOSING TO BE WORKED OUT IN AN ACCEPTABLE
3 MINUTE ORDER.

4 AFTER THAT I AM SIMPLY -- IN FACT HERE IS
5 BETTER DEAL, I AM RIGHT NOW GOING TO CONTINUE THESE
6 PROCEEDINGS UNTIL NEXT THURSDAY THE 26TH OF AUGUST AT
7 10:00 O'CLOCK.

8 I WILL VACATE MY VACATION TO THAT EXTENT
9 IF I HAVE TO. THAT MATTER, THAT ORDER MAY BE TAKEN OFF
10 CALENDAR IF A STIPULATION TO DO SO IS SATISFACTORILY
11 ARRIVED AT BY ALL COUNSEL. I AM PLACING THE BURDEN ON
12 THEM INSTEAD OF ON ME. I LIKE DOING THAT.

13 MR. ROSEN: SOMEBODY WILL BE HERE IN YOU
14 ABSENCE?

15 THE COURT: YES, THE COURT, ROBERT E. LEE, THE
16 COURT'S CALENDER CLERK WILL BE PRESENT IN MY ABSENCE
17 AND ABSENT THAT, ANY REQUEST FOR RELIEF NEEDS TO BE
18 FILED IN THIS COURT BY TUESDAY NOON AND PERSONALLY
19 SERVED BY TUESDAY NOON. ANY OPPOSITION THERETO HAS TO
20 BE PERSONALLY SERVED BY WEDNESDAY NOON AND ANY REPLY
21 THERETO HAS TO BE BROUGHT TO THIS COURT ON THURSDAY ON
22 THE HEARING.

23 I URGE YOU TO FIND A WAY NOT TO MAKE THAT
24 HAPPEN, BUT ABSENT THAT I HAVE NO CONFIDENCE THAT I AM
25 PROTECTING MY COLLEAGUES FROM THE BURDEN OF THIS
26 LITIGATION, AND QUITE FRANKLY, NOT ONLY AM I CONCERNED
27 ABOUT PROTECTING MY COLLEAGUES, I'M CONCERNED ABOUT
28 PLACING ANY LAWYER, MR. BERRY OR ANYBODY ELSE, IN THE

1 TERRIBLE POSITION OF TRYING TO EXPLAIN THIS TO ANY
2 JUDGE WHOSE DOORWAY THIS MIGHT DARKEN.

3 MR. CHODOS: IN LIGHT OF THAT IS THE
4 COURT GOING TO ISSUE A MINUTE DECLARING MR. BERRY IS A
5 VEXATIOUS LITIGANT PURSUANT TO CRIMINAL PROCEDURE
6 SECTION?

7 THE COURT: YES, IT WILL SHOW THAT THE PETITION
8 TO THAT EFFECT WAS GRANTED AND THAT AN ORDER WILL BE
9 FINALIZED ON THE 26TH OF AUGUST ABSENT ARRANGEMENT BY
10 THE PARTIES.

11 MR. MOXON: YOUR HONOR, THE EXPARTE MATTERS ARE
12 STILL TO BE BROUGHT ON A REGULARLY NOTICE SCHEDULE,
13 CORRECT? THIS WILL ONLY BE FOR THE ORDER ITSELF?

14 THE COURT: WITH REGARD TO THAT, MR. MOXON HAS
15 ASKED -- MR. SOTER, ARE YOU STILL THERE?
16 HAVE YOU HEARD WHAT HAS BEEN GOING ON? THAT PRETTY
17 MUCH GIVES ME COMFORT.

18 THE QUESTION IS WHAT ABOUT EXPARTE
19 MATTERS? IT IS NEITHER MY BUSINESS, MY INTENT, NOR MY
20 RIGHT TO PREVENT ANYBODY FROM PRACTICING LAW. THAT
21 INCLUDES THE RIGHT TO PRACTICE LAW IN AN EXPARTE BASIS.
22 I WILL INSTRUCT MY CLERK THAT IF ANY EXPARTE
23 APPLICATION IS BROUGHT IN MY ABSENCE, IT IS MY REQUEST
24 INCLUDING MY REQUEST TO ANY RECEIVING JUDGE THAT IT BE
25 CONTINUED TO MY CALENDAR UPON MY RETURN.

26 I THINK THAT IS THE ONLY WAY TO BE FAIR
27 TO THE LITIGANTS AND TO THE PARTIES, BUT I WILL NOT
28 ISSUE ANY PREVENTATIVE ORDER ANY PRIOR RESTRAINT ANY IN

1 FIRST AMENDMENT TERMS ON ANYBODY'S RIGHT TO SEEK ACCESS
2 TO THE COURT.

3 SO THAT WILL BE THE ORDER AND I ASSUME,
4 MR. BERRY, THAT PROTECTS YOUR CONCERNS.

5 MR. BERRY: THERE IS ANOTHER CONCERN, THE COURT
6 IS ENTERING A MINUTE ORDER DECLARING ME A VEXATIOUS
7 LITIGANT TODAY WITHOUT THE PARAMETERS OF THAT ORDER
8 BEING DECIDED. AND IF THE ORDER IS ENTERED TODAY, MY
9 TEN DAY TIME LIMIT FOR MY APPEAL RIGHTS RUNS FROM TODAY
10 IN RESPECT TO AN ORDER THAT HAS NO CONTENT FROM WHICH
11 TO APPEAL.

12 THE COURT: I'M VERY HAPPY TO COME BACK AT 1:30
13 AND WE WILL WORK IT OUT SEE YOU ALL THEN.

14 (THIS MATTER WAS CONTINUED TO 1:30 P.M. ON THE
15 SAME DAY.)

16

17

18

19

20

21

22

23

24

25

26

27

28

1 THE COURT: I HAVE BEFORE ME A PROPOSED ORDER
2 FINDING GRAHAM E. BERRY TO BE A VEXATIOUS LITIGANT. IT
3 CONSISTS OF A COVER PAGE AND A PAGE OF TEXT. I GATHER
4 IT'S BEEN DISTRIBUTED TO ALL SIDES. IF NOT, TELL ME
5 SO. HEARING NOTHING, I ASSUME THAT TO BE THE CASE.

6 MR. CHALEFF IS THIS OF YOUR DESIGN?

7 MR. CHALEFF: YES, YOUR HONOR, IT'S A
8 COOPERATIVE EFFORT OF ALL OF US.

9 THE COURT: AND IT WOULD APPEAR TO BE A FAIRLY
10 STRAIGHT-FORWARD FIRST PARAGRAPH IN RESPONSE TO THE
11 ORDER AND THE A SECOND PARAGRAPH THAT CORRESPONDS TO
12 THAT WHICH MR. ROSEN HAS REQUESTED OF THIS COURT.

13 MR. CHALEFF: CORRECT, YOUR HONOR.

14 THE COURT: AND IS THERE OBJECTION FROM ANY
15 PARTY?

16 MR. BERRY: I OBJECT TO IT IN ITS ENTIRETY AND
17 SPECIFICALLY TO PARAGRAPH TWO.

18 THE COURT: OKAY, GO AHEAD, SIR.

19 MR. BERRY: AS TO MY OBJECTION TO PARAGRAPH ONE,
20 I WON'T REPEAT MY ARGUMENT THIS MORNING.

21 THE COURT: RIGHT.

22 MR. BERRY: OTHER THAN TO REQUEST THE RECORD
23 REFLECT MY RELIANCE ON CHURCH OF SCIENTOLOGY
24 VERSUS ARMSTRONG AND THE JUSTIFICATION DEFENSE.

25 THE COURT: VERY WELL.

26 MR. BERRY: AS TO PARAGRAPH TWO, I WOULD SUBMIT,
27 YOUR HONOR, THAT THAT INTERFERES WITH MY BUSINESS AND
28 PROFESSION AS A MATTER THAT SHOULD BE CONSIDERED BY THE

1 COURT, AND SHOULD NOT BE PART OF THE RECORD.

2 THE COURT: MAY I INQUIRE OF THE MOVING PARTY,
3 MR. CHALEFF OR ANYBODY ELSE TO WISHES TO SPEAK WHEREIN
4 LIES MY AUTHORITY TO DO THIS?

5 MR. ROSEN: YOUR HONOR, THE AUTHORITY I
6 BELIEVE, IF I MIGHT START BY ADDRESSING MR. BERRY'S
7 COMMENT. IT IN NO WAY IMPAIRS HIS ABILITY TO PRACTICE
8 LAW. IT DOES REQUIRE ANY PRESCREENING TO FILE
9 LITIGATION AS A COUNSEL SO I THINK THAT THAT IS A RED
10 HERRING.

11 WITH RESPECT TO YOUR AUTHORITY TO DO
12 THIS, YOUR HONOR, THE AUTHORITY TO DO THIS, I BELIEVE,
13 IS DERIVED AND THIS MAY BE JUST A TEMPORARY ORDER UNTIL
14 THE JUDICIAL COUNSEL DOES THIS. FROM 391.7(D), UNDER
15 THAT PROVISION OF VEXATIOUS LITIGANT WHO IS REQUIRED
16 OBVIOUSLY TO OBTAIN LEAVE OF COURT, THE JUDICIAL
17 COUNSEL IS SUPPOSED TO MAINTAIN A RECORD OF VEXATIOUS
18 LITIGANTS AND TO CIRCULATE THOSE TO ALL THE
19 COURTS WITHIN THE STATE.

20 THE ORDER PLACES NO BURDEN ON MR. BERRY
21 IN HIS CAPACITY AS AN ATTORNEY TO REPRESENT ANYONE,
22 DOES NOT REQUIRE ANY PRECLEARANCE, NUMBER ONE.

23 NUMBER TWO, THE ORDER IS RELEVANT BECAUSE
24 IF MR. BERRY SAYS, I DON'T WANT TO DO IT, HE IS SAYING
25 IN AFFECT I'M NOT GOING TO TELL OTHER COURTS BEFORE
26 WHOM I APPEAR THAT I HAVE BEEN THE SUBJECT OF THIS
27 ORDER.

28 I WOULD BRING TO YOUR HONOR'S ATTENTION

1 THE FACT THAT SPECIFICALLY BEFORE JUDGE SCHNEIDER IN
2 THE CENTRAL DISTRICT OF CALIFORNIA THE PROPOSITION OF
3 SANCTIONS AGAINST MR. BERRY AND HIS CAPACITY AS AN
4 ATTORNEY, IT IS HIGHLY RELEVANT TO BOTH THE ISSUANCE OF
5 SANCTIONS AS JUDGE SCHNEIDER FOUND, AS WELL AS THE
6 AMOUNT OF THE SANCTION TO SEE THE IF THE ACCUSED
7 ATTORNEY IS RECIDIVIST, AND IF HE HAS PREVIOUSLY BEEN
8 SANCTIONED AND IT MAKES NO DIFFERENCE WHETHER HIS
9 PREVIOUS SANCTIONS ARE IN HIS CAPACITY AS A PARTY OR AN
10 ATTORNEY, I WOULD ALSO POINT OUT THAT THE SECOND
11 AUTHORITY INHERENT IN IT IS 391(B)(4) AS WE SET FORTH
12 IN OUR MOVING PAPERS, A VEXATIOUS LITIGANT
13 DETERMINATION UNDER (B)(4) APPLIES TO SOMEONE WHO IS A
14 LITIGANT REGARDLESS OF WHETHER HE IS A PRO PER OR
15 WHETHER HE IS AN ATTORNEY.

16 (B)(4) CERTAINLY ENCOMPASSES AND EMBRACES
17 THE NOTION THAT A PERSON MAY BE DETERMINED AN
18 ADJUDICATED TO BE THE A VEXATIOUS LITIGANT BASED SOLELY
19 UPON HIS CONDUCT AS AN ATTORNEY AS OPPOSED TO AS A
20 PARTY.

21 SO ON THOSE BASIS, YOUR HONOR, I BELIEVE
22 THAT AT LEAST UNTIL THE JUDICIAL COUNSEL RECEIVES THE
23 ORDER AND IMPLEMENTS THE PROVISION OF 391.7(D), THAT
24 THIS PROVISION IS REQUIRED IN ORDER TO PROHIBIT MR.
25 BERRY FROM NOT DISCLOSING AND THEREFORE COMMITTING
26 PERHAPS A DECEPTION BY OMISSION UPON ANY COURT IN WHICH
27 HE APPEARS.

28 THE COURT: THANK YOU, MY VIEW IS AS FOLLOWS:

1 A, I AM VERY GUARDED IN MY APPROACH TO
2 MATTERS THIS SEVERE.

3 B, I DON'T FIND SPECIFIC AUTHORIZATION TO
4 MAKE SUCH AN ORDER.

5 C, I AM CONFIDENT THAT THE LANDSCAPE IN
6 WHICH MR. BERRY HAS OPERATED IS ONE, IF ANYTHING IS
7 OPEN, PUELIC AND NOTORIOUS AND THAT, THEREFORE, I
8 CANNOT IMAGINE THAT ANYBODY WHO DEALS WITH MR. BERRY IS
9 NOT GOING TO KNOW WITHIN THIRTY-SEVEN NEW YORK NANO
10 SECONDS THEREAFTER, THAT HE IS A VEXATIOUS LITIGENT.

11 IT SEEMS TO ME, THEREFORE, THAT THIS IS
12 UNNECESSARY, UN-NEEDED, PREJUDICED NO ONE BY ITS
13 OMISSION, AND EVIDENCES IT BY REFRAINING FROM DOING IT.
14 THIS COURT'S CAREFUL APPROACH, GUARDED APPROACH AND
15 LIMITED APPROACH TO DESIGNING THAT WHICH IT HAS DONE
16 TODAY; THEREFORE, I'M GOING TO RESPECTFULLY DECLINE TO
17 ENTER THE SECOND PARAGRAPH.

18 I WILL SUSTAIN MR. BERRY'S OBJECTION
19 THERETO.

20 MR. BERRY'S OBJECTIONS TO THE FIRST
21 PARAGRAPH IS, OF COURSE, A REITERATION OF EVERYTHING WE
22 LITIGATED THIS MORNING AND THAT IS ONCE AGAIN
23 RESPECTFULLY OVERRULED.

24 AS WE SPEAK, I AM SIGNING THE ORDER
25 HAVING EXCISED THE LAST PARAGRAPH I WILL GIVE IT TO THE
26 CLERK WHO WILL FILE IT AND CONFORM IT AND I ASSUME THAT
27 THE MOVING PARTY WILL TAKE SUCH STEPS AS TO INTERJECT
28 IT INTO THE SYSTEM.

1 I WILL TELL YOU THAT THE INFORMATION THAT
2 I AS A TRIAL JUDGE RECEIVED ABOUT SO-CALLED VEXATIOUS
3 LITIGANTS IS SPOTTY AT BEST, IRREGULAR AT BEST. I KNOW
4 THAT SHOCKS YOU TO DEPEND UPON A GOVERNMENT ENTITY TO
5 IMPLEMENT.

6 I INVITE YOU TO TAKE THE STEPS AS YOU
7 FEEL ARE APPROPRIATE. I DON'T RECALL THE PLEADING WITH
8 REGARD TO SANCTIONS ASSOCIATED WITH THE PETITION, IT IS
9 NOT MY INTENTION TO AWARD SANCTIONS. I AM AWARE OF THE
10 ECONOMICS CIRCUMSTANCES UNDER WHICH THIS LITIGATION IS
11 CONDUCTED. I AM NOT IN THE BUSINESS OF PUNISHING. I'M
12 IN THE BUSINESS OF PROTECTING THE PROCESSES OF THIS
13 COURT AND OF THE COURTS OF THIS STATE AND THIS COUNTRY.

14 AND I THINK WHAT WE HAVE DONE TODAY
15 ANSWERS THE MAIL WITH RESPECT TO THAT MISSION.

16 IS THERE ANYTHING ELSE THAT WE HAVE TO
17 TAKE UP TODAY, MR. CHALEFF?

18 MR. CHALEFF: THE ONLY THING THE COURT STATED
19 THAT YOU WANTED TO SET A BRIEFING SCHEDULE FOR ALL OF
20 THESE OTHER EXPARTES THAT MR. BERRY FILED. I'M NOT
21 SURE, BUT MR. ROSEN HAD RAISED THE ISSUE THAT THERE
22 DOESN'T SEEM TO BE ANYTHING TO ATTACH THE EXPARTES TO.

23 THE COURT: THAT IS CERTAINLY MY HOPE.

24 MR. CHALEFF: AND I DON'T KNOW IF SETTING A
25 BRIEFING SCHEDULE, IN FACT, SOMEHOW GIVES CREDENCE
26 OR SOMEHOW IS A IMPROMATOR TO THE HEARING. SO I DON'T
27 KNOW HOW THE COURT WANTS TO PROCEED, AND THAT WAS THE
28 ONLY ISSUE THAT I WANTED TO CLEAR UP.

1 AND I ASSUME BY THE COURT'S COMMENTS THAT
2 IT IS DENYING THE SANCTION MOTION BROUGHT BY MR. SOTER
3 OR IS THE COURT ONLY PUTTING THAT OVER, TOO?

4 THE COURT: I AM SPEAKING ONLY IN SO FAR AS IT
5 SPEAKS TO THE PETITION FOR THE DECLARATION OF VEXATIOUS
6 LITIGANT. THE REMEDY I'M PROVIDING IS THE ONE I
7 PROVIDED. THE ORDER IS LIMITED. I DON'T WANT TO
8 ADDRESS ANY OTHER MATTER. IT IS MY HOPE THAT THEY MAY,
9 AS WE SAY IN NAVY BE OBE, OVERCOME BY EVENTS.

10 I HAVE SET A BRIEFING SCHEDULE IF
11 SOMEBODY TELLS ME THEY WANT TO BRING A MOTION THAT
12 BRIEFING SCHEDULE DOES NOT CONCEDE ANY ISSUE INCLUDING
13 JURISDICTION OF THIS COURT TO ADDRESS THE MOTION.

14 I AM IN THE BUSINESS OF CREATING
15 SUSTAINING AND CARRYING OUT, I HOPE, ORDERLY,
16 RESPECTFUL JUSTICE. AND THAT INCLUDES JUSTICE TO THOSE
17 WHO ARE INITIATING THE ACTION AND JUSTICE TO THOSE WHO
18 ARE OPPOSING IT. ANYTHING ELSE?

19 MR. ROSEN?

20 MR. ROSEN: YES, YOUR HONOR, YOU MENTIONED
21 EARLIER TODAY THAT YOU WOULD ADDRESS THE ISSUE OF THE
22 SEALING, I WOULD LIKE TO SPEND THIRTY SECONDS ON THAT.

23 THE COURT: YES.

24 MR. ROSEN: THERE ARE TWO VERY IMPORTANT
25 CONSIDERATIONS WHICH I THINK MOVE YOUR HONOR AND
26 RIGHTLY SO. THE FIRST IS THE GOVERNMENT AND SUNSHINE
27 AND THE PUBLIC'S RIGHT TO KNOW THE BUSINESS OF THE
28 COURT.

1 THE COURT: I KNOW THAT I DO DARN FOOL THINGS
2 IN OPEN COURT, BUT THE LAST THING I WANT TO DO IS CLOSE
3 COURT PROCEEDINGS OR CLOSE COURT DOCUMENTS.

4 MR. ROSEN: THAT IS THE ONE PRINCIPLE THAT
5 WEIGHS ON THE ISSUE. THE SECOND PRINCIPLE THAT WEIGHS
6 ON THE ISSUE, AND WHAT HAS BEEN ALLUDED TO TODAY AND
7 THAT IS, AT LEAST, IN CALIFORNIA AND NOW A MINORITY OF
8 STATES, THAT I MIGHT ADD WHAT ATTACHES UPON THE
9 PUBLICATION OF DOCUMENTS THAT HAS BEEN FILED IN
10 COURTHOUSES AN ABSOLUTELY, BASICALLY, ALMOST
11 BULLETPROOF PRIVILEGE AGAINST DEFAMATION AND THE LIKE
12 BECAUSE ASSUMING IT IS DONE CORRECTLY, GIVEN THOSE TWO
13 CONSIDERATIONS, IT STRIKES ME THAT THE ONLY WAY TO
14 PROTECT A LITIGANT OR ATTORNEY, AS IS THE ISSUE IN THIS
15 CASE, INCLUDING MYSELF, MY FORMER PARTNER, BARBARA
16 REEVES, MY FIRM, MR. CHALEFF, MR. CHODOS, AND
17 MR. MOXON, IS FOR THE COURT TO EXERCISE SOME CONTROL
18 OVER WHAT GETS FILED. KNOWING THAT WHAT GETS FILED IS
19 A, GOING TO BE AN OPEN FILE AND B, IS GOING TO BE ON
20 THE INTERNET FIVE MINUTES AFTER.

21 IT STRIKES ME IN THAT CONTEXT THE BALANCE
22 IS NOT TO SEAL, BUT THE BALANCE IS AS FOLLOWS, TO GRANT
23 A MOTION TO STRIKE THE PAPERS AS IRRELEVANT TO THE
24 ISSUE BEFORE YOU. IT IS MY RESPECTFUL POSITION THAT
25 THE DOCUMENTS FILED BY MR. BERRY ARE NOT RELEVANT TO
26 THE MOTION THAT YOUR HONOR HEARD THIS MORNING AND
27 GRANTED, AND IF YOU THINK ABOUT IT TO ITS LOGICAL
28 EXTREME, ON ANY MOTION INVOLVING ANYTHING WHETHER I

1 SHOULD BE OBLIGED TO ANSWER A FORM INTERROGATORY NUMBER
2 THREE OR SOMETHING LIKE THAT, SOMEBODY CAN TAKE THE
3 ADVANTAGE OF DUMPING INTO THE COURT FILE ALL MANNER OF
4 HEINOUS MATERIAL AND SAY, WELL, NOW IT'S A, NOT UNDER
5 SEAL; AND B, IT'S THERE FOR ME TO REPUBLISH AND CLAIM A
6 PRIVILEGE.

7 THE COURT: I GUESS I'VE BEEN THE PUBLIC EYE SO
8 LONG, INCLUDING GOING THROUGH JUDICIAL ELECTION THAT I
9 HAVE LEARNED AT SOME POINT THAT THE PUBLIC DOESN'T
10 BEGIN TO CARE HALF AS MUCH AS WE DO ABOUT WHAT IS SAID
11 ABOUT US, AND THAT AT SOME POINT YOU JUST HAVE TO
12 RECOGNIZE THAT PEOPLE SAY STUFF AND THAT IN AN OPEN
13 SOCIETY SOONER OR LATER THE TRUTH WILL OUT AND THAT
14 THOSE WHO SAY THINGS ABOUT PEOPLE SOONER OR LATER
15 BECOME SELF IMPEACHING.

16 INDEED, I KNOW PEOPLE THAT ARE OFFENDED
17 IF THEY ARE NOT INCLUDED IN THE LIST OF CERTAIN
18 ACCUSATIONS THAT COME FROM CERTAIN SOURCES, THEIR
19 PRINCIPLE RESPONSE IS THAT YOU TELL A FRIEND. I URGE A
20 GROWN UP APPROACH OF THIS.

21 I FULLY APPRECIATE THE SLINGS AND
22 ARROWS OF OUTRAGEOUS OVER STATEMENT TO PUT IT IN YOUR
23 PERSPECTIVE AND I AM NO FAN OF THE WAY LITIGATION
24 PRIVILEGE IS IMPLEMENTED IN CALIFORNIA BECAUSE IT
25 ENCOURAGES EXACTLY WHAT HAS HAPPENED BEFORE THIS COURT.

26 MY REACTION TO IT IS NUMBER ONE THIS IS
27 EXHIBIT LETTER A, AND IF THE RULE STINKS, HERE IS A
28 GOOD REASON WHY IT DOES BECAUSE QUITE FRANKLY THIS

1 COURT HAS SEEN THE DUMPING OF HUGE AMOUNTS OF
2 BORDERLINE IRRELEVANT MATERIAL WITH UNDUE GLEE BY MR.
3 BERRY BECAUSE IT IS IN HIS JUDGMENT AND MY OBSERVATION
4 A LICENSE TO BASH AND TRASH. I HAVE SEEN IT. I HAVE
5 WATCHED IT AND IT'S TIME FOR SOMEBODY TO CALL IT WHAT
6 IT IS AND THAT IS WHAT IT IS.

7 IT IS BORDERLINE CHILDISH BUT BY THAT
8 STANDARD AN AWFUL LOT OF STUFF I SEE IN THIS COURT
9 WOULD GO DOWN THE TUBES.

10 THE NEXT POINT I MAKE IS I DON'T SEE MY
11 HAVING AUTHORITY TO SCREEN IT. IT IS MY DUTY TO FOLLOW
12 THE LAW WITH CARE AND WITH BALANCE, AND I WON'T PUT
13 THINGS UNDER SEAL, I JUST DON'T BELIEVE IT.

14 MR. ROSEN: I DIDN'T ASK YOU TO, I ASKED YOU TO
15 EXERCISE YOUR AUTHORITY TO STRIKE.

16 THE COURT: AND THAT IS SOMETHING THAT I DON'T
17 KNOW ABOUT AND WHAT I WILL TELL YOU IS, I WILL, AS I
18 SAID TO MR. BERRY ON SO MANY THINGS, I AM OPEN TO TELL
19 YOU WHAT YOU WANT TO DO AND WHY. I DON'T HAVE IT
20 BEFORE ME AND THEREFORE MY PROPOSAL IS THAT WE ARE
21 GOING TO SET IT DOWN ON A DATE AND YOU ALL COME AND
22 ANYBODY WHO WANTS TO, WHAT DID WE SAY EARLIER, THOSE OF
23 YOU WHO WISH TO BE HEARD DRAW NEIGH AND YOU SHALL BE
24 HEARD.

25 EVEN IF IT'S FROM NEW YORK CITY, WE ARE
26 AN EQUAL OPPORTUNITY COURTROOM. REMEMBER THAT I WAS
27 TEN YEARS OLD BEFORE I KNEW THAT YANKEES WAS A BASEBALL
28 TEAM TOO.

1 MR. ROSEN: I TAKE THE COMMENT IF YOU WANT ME
2 TO PURSUE THAT YOU ARE GOING TO WANT TO SEE SOMETHING.

3 THE COURT: THE ONLY CONCERN I HAVE THEN IS TO
4 ANTICIPATE WHAT YOU ARE GOING TO ASK NEXT IS WHAT
5 BETWEEN NOW AND THEN PUTS ME IN A POSITION OF AN
6 INTERIM SEAL --

7 MR. ROSEN: I HAVEN'T ASKED THAT.

8 THE COURT: OKAY. AND I SAY THAT, BY THE WAY
9 IS BECAUSE I BELIEVE IT. ONE OF THE REALITIES HOWEVER
10 OF BEING AN ELECTED JUDGE IS THAT THIS COURT SITS IN
11 THE SHADOW OF A BUILDING OCCUPIED BY THE LOS ANGELES
12 TIMES AND IT IS OFTEN SAID THAT ANY JUDGE WHOEVER SEALS
13 ANYTHING RUNS GREAT POLITICAL RISK IN THIS COMMUNITY.

14 I WILL SAY THAT AND I WILL REJECT THAT
15 FOR TWO REASONS, I HAPPEN TO BE RE-ELECTED AND I'M IN
16 MY FINAL TERM. I CAN RETIRE IN THIS TERM, BUT MORE
17 IMPORTANTLY, AS A JUDGE I WAS BROUGHT UP YOU COULD BE
18 RUN OUT OF OFFICE DOING THE RIGHT THING, AND YOU CAN
19 STAY IN OFFICE DOING THE WRONG THING. SO I AM, AS GOD
20 IS MY WITNESS, I AM LIKE A FEDERAL COURT IN A STATE
21 COURT.

22 MR. ROSEN: I RESPECT THAT, YOUR HONOR AND
23 THANK YOU FOR IT.

24 THE COURT: SO IF YOU SEEK A REMEDY, LET'S MAKE
25 THE PROCESS WORK AND ON A NOTICED BASIS, PLEASE. TELL
26 ME WHAT YOU WANT TO DO, TELL ME WHY. AND IF THE OTHER
27 SIDE HAS REASON TO OBJECT, WE WILL HAVE A HEARING.
28 I'LL GIVE YOU RESPECT, AND A RESULT AND A REASON AND A

1 RECORD, THANK IS HOW THE PROCESS WORKS.

2 MR. ROSEN: THANK YOU, YOUR HONOR.

3 MR. MOXON?

4 MR. MOXON: I HAVE NOTHING TO ADD.

5 THE COURT: MR. BERRY.

6 MR. BERRY: YOUR HONOR, I TAKE IT FROM YOUR
7 COMMENTS THAT THE RECORD IS BEING UNSEALED TO THE
8 EXTENT IT HAS BEEN SEALED THIS WEEK.

9 THE COURT: THAT IS CORRECT.

10 MR. BERRY: AS FAR AS A BRIEFING SCHEDULE IS
11 CONCERNED, ALTHOUGH I RECOGNIZE THE FUTILITY IT'S MY
12 INTENTION TO BRING A MOTION FOR CONTEMPT AND SANCTIONS
13 IN CONNECTION WITH THE MATTER NOW KNOWN TO THE COURT,
14 EVEN IF IT'S GOING TO BE DENIED.

15 THE COURT: AS I OFTEN SAY, MR. BERRY, NUMBER
16 ONE, I DON'T TELL PEOPLE WHAT TO PLEAD. I DO NOT ISSUE
17 ANY PRIOR RESTRAINTS. I DO NOT PRECLUDE ACCESS TO THE
18 COURT. I DO INVITE YOU TO CONSIDER, AS I TELL
19 EVERYBODY WHO PRACTICES HERE THE DIFFERENCE WHAT YOU
20 CAN DO AND WHAT YOU CHOOSE TO DO IS CALLED JUDGMENT,
21 AND IT'S YOUR ULTIMATELY YOUR ABILITY TO EXERCISE YOUR
22 JUDGMENT THAT USE TO MEASURE PROFESSIONALS AND PEOPLE.

23 MR. BERRY: MY NEXT POINT, YOUR HONOR, IS FOR
24 THE PURPOSE OF FURTHER PROCEEDINGS, THAT THE PARTIES
25 BEFORE THIS COURT, THOSE ON THE CAPTION OF THIS ORDER,
26 PLUS FOR PURPOSES OF SERVICE.

27 THE COURT: MR. BERRY, YOU ARE INVITING MY
28 ATTENTION TO THE FOLKS THAT ARE ON THE MASTHEAD OF THE

1 ORDER THAT IS PRESENTLY TENDERED TODAY; IS THAT
2 CORRECT.

3 MR. BERRY: THAT IS CORRECT, YOUR HONOR.

4 THE COURT: GO AHEAD SIR.

5 MR. BERRY: THEY ARE THE PARTIES UPON WHOM
6 FURTHER PROCEEDINGS ABOVE SHOULD BE SERVED.

7 THE COURT: I CAN'T TELL, SIR, BECAUSE I DON'T
8 KNOW UNDER WHAT AUSPICIOUS YOU SEEK THIS. AND LET ME
9 TELL YOU, SIR, I CAN'T ANSWER YOUR QUESTION FOR TWO
10 IMPORTANT REASONS, NUMBER ONE, I CAN'T PRACTICE LAW
11 BECAUSE IT'S ETHICALLY WRONG, AND SECONDLY, I CAN'T
12 PRACTICE CIVIL LAW BECAUSE IT WOULD BE MALPRACTICE PER
13 SE.

14 I HAVE AS FOUND OUT IN YOUR PAPERS
15 YESTERDAY, MY EXPERIENCE PRIOR TO TAKING THE BENCH WAS
16 ENTIRELY IN CRIMINAL PERIMETER.

17 YOU MUST DETERMINE WHAT IT IS THAT YOU
18 WANT TO BRING AND WHO THE APPROPRIATE PARTIES IF ANY,
19 THERETO, EXTENT, TO BE.

20 MR. BERRY: THEN I PROPOSE SERVING WITH APPEAL
21 AND WRIT PAPERS THE PARTIES ON THE MASTHEAD ONLY.

22 THE COURT: I WILL NOT REQUIRE ANYBODY TO
23 SUBMIT TO THAT CLAIM ON YOUR PART, TO EITHER HAVE THEIR
24 SILENCE BE DEEMED AN ACKNOWLEDGMENT OR BE DEEMED A
25 REPLY. IT WOULD BE UNPROFESSIONAL FOR ME TO ASK YOU OR
26 ANYBODY TO RESPOND TO WHO SHOULD BE SERVED WHEN THEY
27 DON'T REALLY KNOW WHAT IT IS.

28 IN INVITE YOU, SIR, TO PRACTICE LAW AS

1 YOU ARE TRAINED AND EQUIPPED AND OBVIOUSLY QUITE
2 CAPABLE OF DOING, AND THOSE THAT ARE AGAINST YOU I
3 EXPECT THEM TO DO THE SAME.

4 MR. BERRY: FINALLY, YOUR HONOR, IS
5 MR. CIPRIANO A PARTY BEFORE THIS COURT OR IS HE NOT?

6 THE COURT: HE IS NOT. AS OF MY POSITION
7 TODAY, HE IS A, AND I WANT TO SAY ON THE RECORD HE IS A
8 DEFENDANT AS TO MATTERS THAT HAVE BEEN DISMISSED.

9 I WELCOME HIM TO THIS COURT AS I WELCOME
10 EVERYBODY HERE AND I OFFER HIM, I HOPE COURTESY AND
11 RESPECT AS I DO EVERYONE ELSE. BUT I DON'T THINK THAT
12 HE HAS A LEGAL STANDING BEFORE THIS COURT UNLESS I'M
13 MISSING SOMETHING. YOU KNOW YOU HAVE A LAWSUIT AND
14 PEOPLE GET SUED AND PEOPLE GET DISMISSED AND THEY ARE
15 ENTITLED TO CLOSURE. AND THANK INCLUDES ALL OF US.

16 ALL RIGHT, ANYTHING ELSE OR ANY COMMENTS?
17 THANK YOU ALL VERY MUCH. I KNOW YOU HAVE SPENT MORE OF
18 YOUR DAY THAN YOU PLANNED TO I GUESS YOU ARE ON NOTICE
19 FOR THAT.

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DEPARTMENT 35 HON. ALEXANDER WILLIAMS III

GRAHAM E. BERRY,)
)
PLAINTIFF,)
)
VS.) NO. BC184355
)
ROBERT J. CIPRIANO,)
DEFENDANT(S).)
)

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES)

I, CHARLES KUHN, CSR NO. 7810 OFFICIAL
SHORTHAND REPORTER OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES 1 THROUGH 105, INCLUSIVE, COMPRISE
A FULL, TRUE, AND CORRECT TRANSCRIPT OF THE TESTIMONY
AND PROCEEDINGS TAKEN IN THE ABOVE-ENTITLED MATTER ON
FRIDAY, AUGUST 20, 1999.

DATED THIS _____ DAY OF {MONTH}, 1998.

CHARLES KUHN, OFFICIAL REPORTER

C.S.R. NO. 7810