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10 **SUPERIOR COURT OF CALIFORNIA**  
11 **COUNTY OF LOS ANGELES**  
12 **CENTRAL DISTRICT**

13 **KENDRICK MOXON** )

14 Plaintiff, )

15 v. )

16 **GRAHAM BERRY,** )

17 Defendants. )

18 **GRAHAM E. BERRY, an individual;** )

19 Cross-Complainant, )

20 v. )

21 **KENDRICK L. MOXON, an individual;** )

22 Cross-Defendant. )

Case No. BC 429217

Assigned to Hon. Rolf M. Treu, Dept. 58.

**FIRST AMENDED**

**UNVERIFIED ANSWER, AND VERIFIED  
COMPULSARY CROSS-COMPLAINT TO  
SET ASIDE ORDERS AND JUDGMENTS  
AND FOR RELATED RELIEF.**

Action filed: January 5, 2010

Trial Date: None

Unlimited jurisdiction in equity

## INTRODUCTION

1  
2 This is a tale of two lawyers; Graham Berry who engages in “fair play,” and Kendrick  
3 Moxon who engages in “fair game.” *Wollersheim v. Church of Scientology* (1989) 212 Cal. App.  
4 3d 872, 888, *Church of Scientology v. Wollersheim* (1996) 42 Cal. App. 4<sup>th</sup> 628, 648-649.  
5  
6 California courts have long held that pursuant to “fair game,” perceived “enemies” of Scientology,  
7 such as Mr. Berry is deemed to be, “may be tricked, sued or lied to or destroyed.” *Wollersheim v.*  
8 *Church of Scientology, supra*, 212 Cal. App. 3d at 893.

9  
10 Consistent therewith, the record and judgment rolls in the underlying matters contain truly  
11 remarkable evidence of Mr. Moxon’s pathological and persistent use of totally perjured testimony  
12 to personally attack and “destroy” opposing counsel Mr. Berry. For example, the defamatory May  
13 5, 1994 Declaration of Robert Cipriano, subsequently recanted by him, was totally fabricated by  
14 Mr. Moxon’s private investigator Eugene Ingram [Appendices No. I-III, Exhibits A-E and K-L  
15 (filed 02/16/2010)]. The recanted Cipriano Declaration was procured by the *Berry v. Miscavige*  
16 defendants. It was widely published through the defendants named in the *Berry v. Barton* case.  
17

18 As a result of the conduct of Mr. Moxon in the underlying matters, the outrageous,  
19 extremely damaging and totally baseless Cipriano Declaration of May 5, 1994 is still being widely  
20 published with impunity despite being recanted by Robert Cipriano on multiple occasions, and  
21 there being no other evidence to support it from Mr. Moxon’s wide discovery in the *Berry* cases.  
22

23 Mr. Moxon commenced his legal career in 1977 when the FBI targeted and raided the  
24 Washington, DC, and Los Angeles offices of the Church of Scientology. The FBI seized  
25 documents confirming the church had committed the largest known criminal infiltration of the  
26 United States government. Nine senior scientology executives were convicted and jailed,  
27 including number two church official Mary Sue Hubbard. *United States v. Hubbard*, (1979) 474 F.  
28

1 Supp. 64. See also, *United States v. Kattar* (1<sup>st</sup> Cir. 1988) 840 F2d 118,125-126. Mr. Moxon was  
2 named in a 264-page stipulation of evidence executed by the Church of Scientology; as an un-  
3 indicted co-conspirator for the attempted obstruction of justice in connection with his provision of  
4 fake and forged handwriting exemplars to the FBI. [*U. S. v. Hubbard* (USDC DC) Crim. #78-401].  
5

6 During 1986, Mr. Moxon was in a blockade of the Los Angeles courthouse as part of  
7 Scientology’s Battle of Los Angeles [*Church of Scientology v. Wollersheim*, (1996) 42 Cal. App.  
8 4<sup>th</sup> 628, 660 FN 2], and the trial in *Wollersheim v. Church of Scientology*, (1989) 212 Cal. App. 3d  
9 872. The same year Mr. Berry moved to Los Angeles. In 1987, on the same day, both Mr. Moxon  
10 and Mr. Berry were sworn into the California Bar. Mr. Berry had previously practiced law in  
11 Christchurch (New Zealand), Sydney (Australia), London (England) and New York (New York).  
12 In Los Angeles, Mr. Moxon practiced law within the Church of Scientology International (“CSI”)  
13 Office of Special Affairs (“OSA”); first as Bowles & Moxon and later as Moxon & Kobrin.  
14

15 In these and the underlying proceedings, Mr. Moxon has consistently portrayed Mr. Berry  
16 as an incompetent low life who has been “uniformly admonished and sanctioned for harassing,  
17 unmeritorious, frivolous actions.” [Moxon Opposition herein filed Feb. 22, 2010, p.1]. However,  
18 in 1986 Mr. Berry joined Lewis, D’Amato Brisbois & Bisgaard where he later become an equity  
19 partner in 1993, before joining Musick, Peeler & Garrett as an equity partner in 1996, and then  
20 forming his own law firm as Berry, Lewis, Scali & Stojkovic in 1998. He is now practicing part  
21 time as a solo practitioner, for reasons in ¶¶37-103 of the cross-complaint (“XC ¶. \_”). Contrary to  
22 Mr. Moxon’s mantra, during 35 years of legal practice, Mr. Berry has had his major wins against  
23 litigation opponents and, like any attorney who handles tough cases, Mr. Berry has also had his  
24 losses. Like many older litigators, including Mr. Moxon [XC ¶¶5-6], Mr. Berry has lost a C.C.P.  
25 §425.16 (anti-SLAPP suit) motion, and like most older litigators, he has been sanctioned in  
26 discovery disputes. Such is the life of many a litigator, but such is not the definition of vexatious.  
27  
28

1 In 1988 former Scientology intellectual property and trial counsel Joseph Yanny of  
2 Century City was sued by Scientology for alleged breaches of fiduciary duty. Barry Van Sickle led  
3 the successful defense team in a forty day trial. In 1990, Scientology, through Mr. Moxon, sued  
4 Mr. Yanny again. In Yanny II, Mr. Berry was second chair of another successful defense team led  
5 by David B. Parker. The Parker team also won the appeals from *Yanny I & II*. Then, in 1993, Mr.  
6 Berry with Gordon Calhoun as second chair, led another successful defense team, in *CSI v.*  
7 *Fishman & Geertz* and its two appeals (XC ¶¶14-18). In 1994, Mr. Moxon sent his chief private  
8 investigator Eugene Ingram to New York to dig up dirt for retaliatory use against Mr. Berry. (¶35)  
9

10 In New York, Eugene Ingram fabricated and extorted a number of declarations from  
11 individuals who became the defendants in the 1998 *Berry v. Cipriano* defamations. The false,  
12 scandalous and very damaging 1994 Cipriano declarations (XC ¶¶ 35, 44, 55-58) were, and still  
13 are, extensively published by Scientology staffers and associates, some who became the  
14 defendants in the related *Berry v. Barton* proceedings. The related *Berry v. Miscavige (and*  
15 *Moxon)* defendants had planned, procured, and co-ordinated the publication of the fabricated  
16 *Cipriano* case declarations. The *Berry* cases were consolidated for all purposes. XC ¶ 35, 55.  
17  
18

19 In May 1998 Los Angeles Superior Court Judge Ernest Hiroshige denied Mr. Moxon's  
20 C.C.P. §425.16 (anti-SLAPP suit) motion, ruling that the evidence indicated that Mr. Berry would  
21 probably win his consolidated defamation lawsuit against Scientology representatives David  
22 Miscavige, Michael Rinder, Elliot Abelson, Kendrick Moxon, Eugene Ingram and others. The  
23 Scientology defendants immediately disqualified Judge Hiroshige. The *Berry* cases were  
24 reassigned to Judge Alexander Williams, III who, Mr. Moxon informed Robert Cipriano, was "a  
25 friend of Scientology." Judge William's fiancée (now wife) was/is the 50% partner in a  
26 corporation providing CSI with translation services in over 90 languages. CSI was a defendant, it  
27 employed Mr. Moxon, and it employed most of the defendants.  
28

1           Soon after the *Berry* cases were filed, Mr. Moxon served a deposition subpoena on Mr.  
2 Berry and then wrongly convinced Judge Williams that there was discovery priority in California.  
3 Consequently, Mr. Berry was barred from taking any deposition discovery until Mr. Moxon had  
4 finished his discovery. Judge Williams was “too busy” to deal with discovery disputes so Mr.  
5 Berry was also ordered to pay half the \$500 *p.h.* cost of a retired California Supreme Court Justice  
6 to deal with all discovery matters.

7  
8           Then Mr. Berry was ordered to respond to over 2,000 form interrogatories, 289 special  
9 interrogatories, 121 Requests for Admission (each accompanied by 5 interrogatories, totaling an  
10 additional 605 interrogatories), 532 Requests for Authentication and 316 categories of document  
11 demands (with all responsive documents to be organized according to the categories and each  
12 category to include all documents however duplicative or expensive). Mr. Moxon took the  
13 depositions of twelve other persons and noticed the depositions of thirty others, many of them in  
14 New York. Seven months and thirteen days of deposition later, Mr. Moxon still had not finished  
15 the deposition of Mr. Berry and there was no end in sight. Mr. Moxon’s litigation war of financial  
16 attrition caused the new Berry law firm to collapse at the beginning of 1999. Thirty days later Mr.  
17 Berry was forced out of the *Berry v. Cipriano* and *Barton* cases upon alleged discovery defaults  
18 fabricated by Mr. Moxon. XC ¶ 56, 58-59 66-68. See also, *Church of Scientology v. Wollersheim*  
19 (1996) 42 Cal. App. 4<sup>th</sup> 628, 649 (5b) [where Mr. Moxon appeared as a sanctioned counsel].  
20  
21

22           In May 1998 Mr. Berry and the Berry, Lewis, Scali & Stojkovic law firm also filed a  
23 Federal court law suit for former Scientology celebrity member Michael Pattinson who had spent  
24 over \$500,000 on Scientology. Once again, Mr. Moxon also persuaded the federal court that he  
25 had “discovery priority” there too, prevented discovery by Mr. Berry’s client, and then launched  
26 another of his discovery of the world blitzkriegs. Mr. Moxon also reached across to Europe.  
27  
28

1 Mr. Pattinson had joined Scientology in Paris, France where he had signed a promissory  
2 note for a business loan from scientologist Mr. Reveillere who was now on CSI staff in  
3 Copenhagen, Denmark. Mr. Moxon filed Mr. Revelliere's California law suit, an action on an  
4 unpaid note, against Mr. Pattinson who was forced into bankruptcy and into dismissing the  
5 *Pattinson v. Scientology* litigation, before Mr. Moxon used the bankruptcy process to seize Mr.  
6 Pattinson's lawsuit against Scientology as an asset of the Pattinson estate in bankruptcy. 1997 Mr.  
7 Moxon had done a similar thing to the Cult Awareness Network ("CAN"), through an undisclosed  
8 and non-waivable conflict of interest involving his then clients Jason Scott and CSI.

10 In the *Pattinson v. CSI* case, one of Mr. Pattinson's allegations was that the International  
11 Association of Scientologists had made fraudulent representations to him regarding the use of the  
12 funds it received from him; in reality using the tax-exempt funds to pay for Mr. Moxon to engage  
13 in criminal conduct directed at the integrity of the legal and judicial system in various law suits.  
14 Mr. Moxon's New York lawyers convinced the court that Mr. Berry should be sanctioned for a  
15 bad faith allegation that had multiplied the proceedings. History now shows otherwise. XC ¶. \_

18 At the outset of the *Berry v. Miscavige* case, a conspiracy between Mr. Moxon and his  
19 client was alleged without a prior Civ. Code §1714.10 motion. The case was promptly dismissed  
20 voluntarily and immediately re-filed, with the appropriate pleading deletions. Mr. Moxon then  
21 removed the *Berry v. Miscavige* case to Federal Court, to avoid the Civ. Code §1714.10 motion,  
22 by baselessly arguing that the case was related to *Pattinson v. CSI* pending in the Federal Court.  
23 *Berry v. Miscavige* was not remanded back to State Court until Mr. Moxon had forced the  
24 economic collapse of the Berry, Lewis law firm, and Mr. Berry's discovery defaults and  
25 dismissals in *Berry v. Cipriano and Barton*. Mr. Berry was then persuaded to dismiss the *Berry v.*  
26 *Miscavige, Rinder, Abelson, Ingram, Moxon* case, without prejudice, as a pre-condition to  
27 meaningful settlement meetings with Scientology leader David Miscavige. Settlement meetings  
28

1 never occurred. Instead, Mr. Moxon and co-counsel filed a Petition to have Mr. Berry declared a  
2 vexatious litigant. The Petition satisfied none of the relevant statutory criteria. XC ¶¶64-94. Mr.  
3 Berry filed his opposition to the baseless vexatious litigant petition and was then stunned to  
4 receive a contact from Robert Cipriano who later would provide over fifty documents, many  
5 signed by Mr. Moxon, to corroborate an otherwise incredible story worthy of its many links to  
6 Hollywood; except that the Cipriano [Hurtado & Apodaca] evidence is all independently  
7 corroborated and demonstrably true. XC ¶¶ 35-38, 42, 53-54, 66-68, 73, 93, 96 -106, 112. The  
8 new evidence showed that the entire defense in the consolidated *Berry* cases had been procured,  
9 criminally fabricated, criminally paid for, and fraudulently presented by Mr. Moxon and his co-  
10 counsel. It did not stop there.

12  
13           During discovery in the *Berry* cases Judge Williams had stripped Mr. Berry of all  
14 discovery objections, and any deposition right of privacy objections saying “Mr. Berry will just sit  
15 there and take it.” As a result, Mr. Moxon obtained the name of one of Mr. Berry’s [adult] clients,  
16 Michael Hurtado, with whom Mr. Berry had had a pre-existing consensual sexual relationship. XC  
17 ¶ 66. Mr. Moxon and Eugene Ingram then took the fabricated Cipriano declaration to Michael  
18 Hurtado’s parents and had them direct their adult son to fire Mr. Berry as his attorney, to hire Mr.  
19 Moxon and his co-counsel, and to sue Mr. Berry for damages from a fabricated sexual battery.

21           During discovery in the *Hurtado v. Berry* case the real truth came out. In addition, Mr.  
22 Cipriano gave a two day deposition in the *Hurtado* case and he was extensively cross-examined by  
23 his former attorney Mr. Moxon on the facts and documents evidencing serious criminal conduct  
24 by Mr. Moxon in the *Berry*, *Pattinson* and *Hurtado* cases. Hon. Ray Hart was about to grant a  
25 motion to order Eugene Ingram’s deposition and to waive the attorney client privilege, on the  
26 basis of the crimes and frauds between Cipriano, Apodaca, Hurtado and Mr. Moxon, when Mr.  
27

1 Moxon dismissed the *Hurtado v. Berry* state court case. XC ¶ 97-101. Mr. Moxon did not dismiss  
2 the identical *Hurtado v. Berry* federal case for another six months!

3  
4 Mr. Moxon also used the false and salacious *Hurtado* fabrications to fatally infect the  
5 rulings in the *Berry* cases. XC ¶ 87. Subsequently, Judge Williams ruled that Mr. Cipriano's  
6 testimony and fifty supporting documents, evidencing *prima facie* that Mr. Moxon, as an officer of  
7 the court, had engaged in serious crime and fraud against the legal system within the very same  
8 case, was irrelevant to the issue of whether Mr. Berry's defamation claims against Mr. Cipriano  
9 were well-founded.

10  
11 At about the same time, and again thanks to Mr. Cipriano's decision to recant, tell the truth  
12 and to seek forgiveness, the real facts also emerged regarding Judge William's fiancée (now wife).  
13 She was/is working for the Church of Scientology International which was one of the defendants,  
14 the employer of Mr. Moxon and the other defendants, and the location of Mr. Moxon's office.  
15 Both Mr. Cipriano and Mr. Berry jointly moved to disqualify Judge Williams. Judge Williams  
16 responded by sealing the proceedings and refusing to either recuse himself or to refer the matter to  
17 an independent jurist. Judge Williams declared Mr. Berry a vexatious litigant before unsealing the  
18 files. XC ¶ 85.

19  
20 Although the *Berry*, *Pattinson* and *Hurtado* cases had been dismissed, and Mr. Moxon's  
21 criminal conduct and frauds upon the courts and Mr. Berry revealed, Mr. Moxon still continued to  
22 use the fabricated allegations, and unfair orders against Mr. Berry in the U.S. Bankruptcy Court  
23 where he pursued the *Moxon v. Berry*, *Barton v. Berry* and *Hurtado v. Berry* cases despite the  
24 truth having emerged over six months earlier. E.g. XC ¶ 34, 40, 48, 68 & 99. Similarly, Mr.  
25 Moxon and his co-counsel filed false state bar proceedings against Mr. Berry, based largely upon  
26 the void vexatious litigant ruling, and the *Cipriano* and *Hurtado* fabrications. Mr. Berry agreed to  
27  
28

1 a nine month suspension from practice, in order to care for his mother who was dying from  
2 ovarian cancer in New Zealand. XC ¶ 51.

3  
4 Ironically, it is Mr. Moxon who now contends that it is Mr. Berry who should be barred  
5 from seeking any relief herein; that it is Mr. Berry who should be held in contempt; and that it is  
6 Mr. Berry who should be summarily and immediately disbarred from the practice of law, for filing  
7 the answer and cross-complaint herein on February 16, 2010. XC ¶ 122.

8  
9 Mr. Berry now comes to equity for “fair play” relief.

10 **FIRST AMENDED ANSWER TO COMPLAINT**

11 **COMES NOW** the defendant **GRAHAM BERRY** and, for his first amended answer, asserted as  
12 of right, to the unverified complaint herein, alleges as follows:

- 13  
14 **1.** Under the provisions of Section 431.30 of the California Code of Civil Procedure, the  
15 defendant generally denies each and every allegation of the said complaint and the whole thereof  
16 and denies plaintiff is entitled to any relief at all.
- 17  
18 **2.** At all relevant times herein the plaintiff was an officer of the relevant courts of law.
- 19  
20 **3.** In seeking the underlying order now at issue herein, the earlier inter-related orders as set forth  
21 in the affirmative defenses hereto and in the attached verified cross-complaint, the plaintiff and his  
22 agents engaged in a continuum of inter-related crimes directed at the machinery and integrity of  
23 the legal system and process itself, “extrinsic frauds and/or mistakes” upon the courts, and there  
24 were “extrinsic mistakes,” and resulting “unjust judgments,” as more fully set forth in the attached  
25 verified cross-complaint filed herewith and made a part hereof.
- 26  
27 **4.** In seeking the underlying order now at issue herein, and the earlier inter-related orders as set  
28 forth in the attached verified cross-complaint, the plaintiff and his agents, and as an officer (s) of

1 the court (s), expressly and knowingly relied upon the fruits of criminal conduct in which he  
2 participated and which was directed at the machinery and integrity of the legal system and process  
3 itself, requested multiple federal and state courts to rely upon a continuum of inter-related material  
4 misrepresentations and omissions based thereon, other crimes, “extrinsic frauds and/or mistakes”  
5 upon the courts, and there were “extrinsic mistakes,” as set forth in the verified cross-complaint  
6 concurrently filed herewith and made a part hereof.  
7

8 **5.** The aforesaid crimes and frauds directed at the machinery and integrity of the legal system and  
9 process itself, “extrinsic fraud and/or mistakes upon the courts,” were committed by an officer (s)  
10 of the court and were not privileged as being in furtherance of justice or the interests of justice.  
11

12 **6.** The aforesaid crimes directed at the machinery and integrity of the legal system and process  
13 itself, “extrinsic fraud and/or mistakes,” and “extrinsic mistakes,” resulted in the denial of all or  
14 any meaningful discovery being permitted of either Berry or Pattinson in the relevant underlying  
15 cases, the express denial of all constitutional privacy and other rights of objection, the denial of  
16 due process and other constitutional rights, “unjust judgments” without proper discovery and fair  
17 adversary hearings, and other “unjust,” abusive and/or baseless orders being entered against  
18 Michael Pattinson and/or defendant and cross-complainant Berry in the relevant underlying *Berry*  
19 and *Pattinson* cases identified herein.  
20

21  
22 **7.** The aforesaid crimes directed at the machinery and integrity of the legal system and process  
23 itself, “extrinsic fraud and/or mistakes” unfairly deprived plaintiffs (Berry and Pattinson) in the  
24 underlying proceedings of deposition and other discovery, a fair and impartial hearing, and/or an  
25 adversary trial upon the merits of their claims, or the opportunity to fully litigate and conduct full  
26 discovery on their claims.  
27  
28

1 **8.** The relevant allegations in the *Pattinson v. Church of Scientology* case, and the largely  
2 concurrent *Berry v. Cipriano, Barton and Miscavige* cases had merit inter alia: **(a)** the ruling by  
3 Hon. Ernest Hiroshige [*Berry v. Cipriano, Barton, et. al.*, June 10, 1998] that cross-complainant  
4 Berry “had established that there is a probability that [Berry as plaintiff] will prevail on the claim”  
5 [in the three consolidated *Berry* cases], and **(b)** because of the matters set forth in the post-  
6 dismissal recant testimony of cross-defendant Moxon’s former client Robert Cipriano, and **(c)** the  
7 matters set forth in the Robie & Matthai law firm crime fraud motion against cross-defendant  
8 Moxon and his client Michael Hurtado in the *Hurtado v. Berry* case and which directly resulted in  
9 Mr. Moxon’s voluntary dismissal of Hurtado’s claims therein, and **(d)** the testimony of the various  
10 Hurtado family witnesses, Donald Wager, Esq. and Anthony Apodaca in the *Hurtado* case, and **(e)**  
11 and cross-defendant’s unsuccessful efforts in the *McPherson v. Church of Scientology* case  
12 (Dandar disqualification hearing) to fraudulently establish a baseless allegation that cross-  
13 complainant Berry had fabricated evidence against CSI in the *CSI v. Fishman & Geertz* litigation;  
14 and **(f)** otherwise as set forth in the supporting exhibits thereto, the contents of which are expressly  
15 incorporated herein and made a part hereof, as if fully set forth herein.  
16  
17

18 **9.** Among other things, the aforesaid crimes directed at the machinery and integrity of the legal  
19 system and process itself, “extrinsic frauds” directly or indirectly contributed to excusable and  
20 relevant “extrinsic mistake (s)” (and “excusable neglect”) by defendant Berry, and by his then  
21 client Michael Pattinson. This resulted in unjust judgment (s) without the opportunity of proper  
22 discovery and other procedural rights being allowed to Berry and/or Pattinson, or full, fair and  
23 impartial adversary and evidential hearings (s) upon their claims.  
24

25  
26 **10.** Irregularity in the proceedings of the relevant court (s), and/or an adverse party (including  
27 attorney and party misconduct), rulings by a disqualified court after sealing the court files, void  
28 orders of the court (s) and abuses of process, due process violations, abuses of civility, baseless ad

1 hominine attacks, procedural abuses, abuses of process, and abuse of judicial discretion occurred  
2 that were so prejudicial, of such an irregular nature, and done under such irregular and/or  
3 egregious circumstances, that as a matter of law they deprived defendant and cross-complainant  
4 Berry (and his then client Michael Pattinson) of the constitutionally guaranteed right to due  
5 process, full and fair discovery, and a full, fair and impartial trial (s) upon the merits of their  
6 claims in the *Berry* and the *Pattinson* cases.  
7

8 **11.** Defendant Berry’s allegations, set forth in the attached verified cross-complaint, are expressly  
9 incorporated and made a part hereof as if fully set forth herein.  
10

11 **12.** The matters set forth herein should also be addressed in the context of a continuing fraud (s)  
12 upon the courts, and the continuing intentional and fraudulent use of the fruits of serious crimes  
13 directed at the machinery and integrity of the legal system and process itself by an officer of the  
14 courts, plaintiff Moxon.  
15

16 **13.** In all the circumstances herein, and that will be submitted by way of evidence herein,  
17 defendant Berry has acted diligently and/or with justification and/or excuse.  
18

19 **14.** In all the circumstances herein, the relief sought herein will not prejudice plaintiff Moxon.  
20

21 **15.** The facts constituting criminal conduct directed at the machinery and integrity of the legal  
22 system and process itself, “extrinsic fraud (s) and/or mistake (s),” by plaintiff Moxon acting as an  
23 officer of the court, and giving rise to “extrinsic mistake (s)” and “unjust judgment (s)” as alleged  
24 herein, could not have been reasonably discovered by defendant Berry, before entry of the orders  
25 and judgments at issue.  
26

27 **16.** In all of the circumstances of crime directed at the machinery and integrity of the legal  
28 system and process itself, “extrinsic fraud and mistake” therein, as set forth in the attached verified

1 cross-complaint and made a part hereof, the wrongful conduct of *inter alia* Robert Cipriano,  
2 Anthony Apodaca and Michael Hurtado should be imputed to the attorney, plaintiff Moxon herein.

3  
4 **AFFIRMATIVE DEFENSES**

5 For his first amended answer herein defendant Berry affirmatively alleges as follows:

6  
7 **FIRST AFFIRMATIVE DEFENSE**

8 **(Criminal conduct directed at the machinery and integrity of the legal system & process)**

9 **17.** Plaintiff Moxon, as an officer of the court (s), obtained the entry of the relevant order (s)  
10 through criminal conduct directed at the machinery and integrity of the legal system and process  
11 itself, in the same and/or related litigation, as set forth in the attached verified cross-complaint for  
12 affirmative relief, that is expressly incorporated herein and made a part hereof.

13  
14 **SECOND AFFIRMATIVE DEFENSE**

15 **(Extrinsic fraud and/or extrinsic mistake)**

16 **18.** Plaintiff Moxon, as an officer of the court (s), obtained the entry of the relevant order (s)  
17 through “extrinsic fraud and/or mistake upon the court,” and “extrinsic mistake,” as set forth in the  
18 attached verified cross-complaint for affirmative relief, that is expressly incorporated herein and  
19 made a part hereof.

20  
21 **THIRD AFFIRMATIVE DEFENSE**

22 **(Void judgment-Civil Code §3539)**

23 **19.** Plaintiff Moxon, as an officer of the court (s), obtained the entry of the relevant order (s) in  
24 circumstances that render it/them void, unenforceable and able to be set aside at any time by  
25 motion, affirmative defense or independent action in equity.  
26

27 //

1 **FOURTH AFFIRMATIVE DEFENSE**

2 **(Failure to State a Claim)**

3 **20.** In all the circumstances, the complaint and each of its claims fails to state a claim upon  
4 which relief may be granted.

5 **FIFTH AFFIRMATIVE DEFENSE**

6 **(Failure to State a Claim-No State judgment [C.C.P. §1710.10-65])**

7 **21.** Plaintiff Moxon never reduced his void/voidable Federal District Court order to a money  
8 judgment issued by the State of California Superior Court and so the complaint and each of its  
9 claims fails to state an essential element of a claim upon which relief by way of extension of  
10 judgment may be granted.  
11

12 **SIXTH AFFIRMATIVE DEFENSE**

13 **(Statutes of Limitation)**

14 **22.** The complaint and each and every claim for relief therein is/are barred by each and every  
15 applicable statute of limitations.  
16

17 **23.** In all the circumstances, the application of equitable principles precludes any tolling of any  
18 applicable statute of limitations for the benefit of plaintiff Moxon herein.  
19

20 **SEVENTH AFFIRMATIVE DEFENSE**

21 **(Unclean Hands- Civil Code §3517)**

22 **24.** Plaintiff Moxon’s claim is barred by plaintiff Moxon’s own unclean hands, and those of his  
23 law partners, employees, private investigators and other agents, and those of his co-counsel and/or  
24 clients, specifically directed at defendant Berry in respect to those matters and events constituting  
25 serious criminal conduct directed at the machinery and integrity of the legal system and process  
26 itself, “extrinsic fraud and mistake,” and “extrinsic mistake,” and in the specific cases which form  
27  
28

1 the basis of the present litigation including but not limited to the “extrinsic fraud and/or extrinsic  
2 mistake,” “extrinsic mistake,” and “unjust judgments” as more fully set forth in the attached  
3 verified cross-complaint.

4  
5 **EIGHTH AFFIRMATIVE DEFENSE**

6 **(Illegality)**

7 **25.** Plaintiff’s claim is barred by the doctrine of illegality arising from his unconscionable,  
8 unethical, unlawful and fraudulent continuum of inter-related crimes directed at the machinery and  
9 integrity of the legal system and process itself, “extrinsic fraud and/or mistake” and other unlawful  
10 conduct, material omissions and non-disclosures, commencing no later than April 30, 1994 and  
11 continuing to the present day, intentionally directed at the Defendant specifically, and not in  
12 furtherance of the interests of justice, including but not limited to his non-privileged and inter-  
13 related crimes, “extrinsic frauds and mistakes,” and other consequential “extrinsic mistake,” upon  
14 at least five different courts in the underlying overlapping continuum of cases between 1998 and  
15 2000 and continuing through to the present day including but not limited to *Berry v. Cipriano*,  
16 *Barton and Miscavige* , *Pattinson v. Church of Scientology*, *Reveillere v. Pattinson*, *In re Michael*  
17 *Pattinson Bankruptcy Proceedings*, *In re Graham E. Berry Bankruptcy Proceedings* [*Moxon v.*  
18 *Berry*, *Barton v. Berry & Hurtado v. Berry*] and *State Bar v. Berry*.

19  
20  
21 **NINTH AFFIRMATIVE DEFENSE**

22  
23 **(Waiver & Estoppel)**

24 **26.** Plaintiff’s claim is barred by the doctrine of waiver and estoppel arising from his  
25 unconscionable, unethical, unlawful and fraudulent conduct, deceit, suppression, omissions and  
26 non-disclosures, including “extrinsic fraud and/or mistake,” and resulting “extrinsic mistake,” and  
27 involving a continuum of extrinsic but relevant criminal conduct directed at the machinery and  
28

1 integrity of the legal system and process itself in the matters relevant hereto, commencing in or  
2 about April 1994 and continuing to the present day, intentionally directed at the defendant and not  
3 in furtherance of the interests of justice, including but not limited to plaintiff Moxon's non-  
4 privileged and inter-related extrinsic frauds upon at least five different courts in the related  
5 underlying overlapping continuum of cases including *Berry v. Cipriano, Barton and Miscavige* ,  
6 *Pattinson v. Church of Scientology, Reveillere v. Pattinson, In re Michael Pattinson Bankruptcy*  
7 *Proceedings, In re Graham E. Berry Bankruptcy Proceedings [Moxon v. Berry, Barton v. Berry &*  
8 *Hurtado v. Berry]* and *State Bar v. Berry*.

10 **27.** Plaintiff is further judicially estopped from denying that the *Berry v. Cipriano, et al.* cases are  
11 part of a continuum of crimes directed at the machinery and integrity of the legal system and  
12 process itself, "extrinsic frauds and/or mistakes" by Plaintiff, his employees and agents upon the  
13 courts, directed against the defendant specifically and directly relevant to the relief sought by the  
14 Plaintiff herein because of the Plaintiff's express claims, in each of the underlying matters  
15 including the underlying *Pattinson v. Church of Scientology* case, that the facts, orders and judicial  
16 statements from the *Berry v. Cipriano, et al.* cases were so inter-related with the *Pattinson* cases  
17 that matters in the *Berry v. Cipriano* litigation, resulting from what defendant alleges constitute  
18 relevant crime (s) directed at the machinery and integrity of the legal system and process itself,  
19 "extrinsic fraud and mistake," could be used to obtain the relevant order in *Pattinson v. Church of*  
20 *Scientology* case because, according to the misrepresentations of plaintiff Moxon and his co-  
21 counsel in the underlying matters, the *Berry* and *Pattinson* cases allegedly involved "substantially  
22 similar facts, transactions or occurrences," and by the subsequent use of the fraudulently procured  
23 orders in the *Pattinson* and *Berry* cases to obtain a legally baseless vexatious litigant ruling in the  
24 *Berry v. Cipriano, Barton, Miscavige, Rinder, Ingram and Moxon* cases, and during the course of  
25 the *Hurtado v. Berry* case (where plaintiff Moxon also engaged in "crime and/or fraud" directed at  
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27  
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1 the machinery and integrity of the legal system and process itself), to obtain directly related  
2 voidable/void orders in the United States Bankruptcy Court, to knowingly and/or recklessly file or  
3 cause others to file multiple false criminal and state bar complaints against defendant Berry.

4  
5 **TENTH AFFIRMATIVE DEFENSE**

6 **(Denial of due process)**

7 **28.** In all of the circumstances herein, and as set forth in the attached verified cross-complaint,  
8 plaintiff's conduct in the inter-twined and inter-related concurrent underlying matters involved  
9 such complex "crime and/or fraud" directed at the machinery and integrity of the legal system and  
10 process itself, and such other deceptive, despicable and reprehensible methods to influence and  
11 persuade that court (s), administrative agencies and law enforcement agencies, and/or was  
12 otherwise so egregious, wrongful, unethical and inequitable, that it infected the relevant Berry and  
13 Pattinson proceedings with a degree of unfairness as to amount to a denial of constitutional rights.  
14

15  
16 **ELEVENTH AFFIRMATIVE DEFENSE**

17 **(Unconscienability)**

18 **29.** In all of the circumstances herein, and as set forth in the attached verified cross-complaint  
19 for affirmative relief that is attached hereto and made a part hereof, it would be against conscience  
20 and equity to either enforce or extend the alleged judgment.  
21

22 **TWELTH AFFIRMATIVE DEFENSE**

23 **(Impossibility- Civil Code §3531)**

24 **30.** Plaintiff, his employees, agents and clients, has/have, through his/their malicious, void  
25 and/or voidable conduct and communications, made it impossible and/or unreasonably difficult  
26 and/or unfair for the defendant to reasonably satisfy the fraudulently obtained void order (s) at  
27 issue herein and for the reasons set forth in paragraphs \_\_\_ and \_\_\_ of the cross-complaint.  
28

1 **THIRTEENTH AFFIRMATIVE DEFENSE**

2 (Civil Code Section 3517)

3 31. Plaintiff should not be permitted to “take advantage of his own wrong (s).”

4 **VERIFIED COMPULSORY CROSS-COMPLAINT**

5  
6 **FOR HIS VERIFIED COMPULSORY CROSS-COMPLAINT** herein defendant and  
7 cross-complainant **GRAHAM E. BERRY** (“Berry”) alleges as follows:

8  
9 **BACKGROUND**

10 1. In the circumstances this cross-complaint is also presented in the form of a petition for relief.

11 2. Filed previously herein on February 16 and 22, 2010, are four supporting appendices of  
12 exhibits marked A-Z, and requests for judicial notice, filed in connection with defendant and  
13 cross-complainant Berry’s Request and Order to File New Litigation [Judicial Council Form MC-  
14 701 C.C.P. §391.7)] intended to initially demonstrate the good faith and *prima facie* merits of the  
15 answer and verified compulsory cross-complaint filed herein on February 16, 2010, and of  
16 defendant and cross-complainant Berry’s *prima facie* entitlement to full discovery and a full  
17 evidentiary and adversarial proceeding and hearing, upon the relief requested herein.

18  
19 3. Upon information and belief, in or about 1977 cross-defendant Moxon was on the staff of  
20 the Church of Scientology in Washington, DC when the F.B.I. raided the premises and seized  
21 documents that established beyond a reasonable doubt that cross-defendant Moxon, Moxon’s  
22 employer and Moxon’s associates were engaged in what the Department Justice described as “the  
23 largest ever known criminal infiltration of the United States government.”

24  
25 4. Upon information and belief, in connection with the subsequent criminal prosecutions (e.g.  
26 *U.S. v. Hubbard* (1979) 474 F. Supp. 64), cross-defendant Moxon was expressly named as an un-  
27 indicted co-conspirator regarding the attempted obstruction of justice and he was identified in  
28



1 acting in his capacity as an officer of the federal and state courts and with full knowledge that he  
2 was one of the most principal witnesses in all three *Berry* cases, and that cross-complainant Berry  
3 intended to name him as a party in, the *Berry v. Miscavige, Rinder, Abelson, Moxon, Ingram*  
4 litigation, after a Civil Code §1714.10 motion. Consequently, cross-defendant Moxon is also  
5 deemed to know that his appearance as defense counsel in the underlying matters was precluded  
6 under applicable Business & Professions Code provisions and Rules of Professional conduct.

7  
8 **10.** At all times herein mentioned, cross-defendant Moxon’s law partners, law associates, law  
9 office employees, and private investigators, and his co-counsel in the *Berry, Pattinson, Hurtado,*  
10 *and related* cases, were the agents, servants, or employees of cross-defendant Moxon and were at  
11 all times acting within the purpose and scope of said agency and/or employment, and acting with  
12 his express and/or implied knowledge or consent.

13 **11.** The alleged acts of cross-defendant Moxon, and those of his other associates referred to  
14 herein, constitute a single course of unprivileged conduct throughout the events at issue herein,  
15 commencing no later than April 30, 1994 and continuing to the present.

16  
17 **12.** A further detailed, but still only partial, explanation of the sequence of underlying events  
18 and some of the subsequent adverse impact upon the cross-complainant Berry, all in support of the  
19 allegations set forth and the equitable relief requested herein, is attached to the earlier filed  
20 [02/16/2010] Appendix. No. III as Exhibit H and the contents incorporated herein.

21  
22 **FIRST CAUSE OF ACTION**

23 (Criminal conduct by an officer of the court directed against the integrity and machinery of the  
24 legal system within the relevant underlying cases, extrinsic fraud and/or mistake, and extrinsic  
25 mistake, upon the court, by an officer of the court, within the relevant underlying cases)

26 **13.** Cross-defendant Moxon has wrongfully alleged in both the underlying cases and herein  
27 [Opposition to file new litigation, etc. filed 02-22-2010] that “[a]ttorney Graham Berry initiated  
28

1 considerable litigation against the churches of Scientology in the 1990's and hauled with him  
2 from courtroom to courtroom his own personal bias of both Scientology and attorneys who have  
3 represented the religion, such as plaintiff herein, Kendrick Moxon. In the suits filed by Mr. Berry  
4 he was uniformly admonished and sanctioned for harassing, unmeritorious, frivolous actions." ...  
5 "[this] cross-complaint should be disallowed, Mr. Berry should be held in contempt for flagrant  
6 violation of C.C.P. § 391.7 (a), and the California Bar informed of [his] continuing misconduct."  
7 ... [or this court] should condition [this] filing upon Mr. Berry posting a security bond pursuant to  
8 § 391.7 (b), in the amount of the judgment at issue of \$48,000, plus reasonable fees and costs in  
9 defending the action, in the amount of an additional \$100,000." Cross-Defendant Moxon's  
10 Opposition and Request for finding of contempt against Graham Berry filed herein February, 22,  
11 2010. Cross-complainant Berry alleges to the contrary, as now set forth hereunder.

13 **14.** Immediately prior to the commencement of the matters at issue herein, and referred to in  
14 the immediately preceding paragraph, cross-complainant Berry was practicing as an attorney  
15 specializing, *inter alia*, in the representation of lawyers and other professional persons in litigation  
16 alleging professional malpractice and related causes of action.

18 **15.** Between 1990 and 1992 cross-complainant Berry and other counsel at the then law firm  
19 of Lewis, D'Amato, Brisbois & Bisgaard in Los Angeles, California, were engaged in the defense  
20 of Century City attorney Joseph Yanny being repeatedly sued for breach of fiduciary duty by his  
21 former clients the Church of Scientology International ("CSI") and the Religious Technology  
22 Center ("RTC"). In *RTC v. Yanny II*, RTC and CSI were represented by cross-defendant Moxon  
23 and other counsel. Cross-complainant Berry's client prevailed at the commencement of trial with a  
24 successful motion for judgment on the pleadings. Joseph Yanny also prevailed at the appellate  
25 levels in both *RTC v. Yanny I* and *RTC v. Yanny II*.

1           **16.** During the course of the *RTC v. Yanny II* litigation cross-complainant Berry, on behalf of  
2 his then client Joseph Yanny, Esq., intervened in then and still continuing litigation involving  
3 former L. Ron Hubbard biographer and scientologist Gerry Armstrong.

4           **17.** Between 1993 and 1994 cross-complainant Berry and other counsel at the law firm of  
5 Lewis, D'Amato, Brisbois & Bisgaard in Los Angeles, California were engaged in the defense of  
6 a psychologist and his former scientologist patient being sued for defamation by CSI, which was  
7 represented by cross-defendant Moxon and other counsel. After cross-complainant Berry's client  
8 Dr. Geertz's malpractice insurance carrier had spend nearly two million dollars in defense costs,  
9 cross-defendant Moxon's clients filed a voluntary dismissal of the case upon the eve of trial.  
10 Consequently, cross-complainant Berry's client prevailed at the trial level and in two appeals.

11           **18.** During 1993 and 1994, cross-complainant Berry served as *pro bono* lead counsel for the  
12 Standing Committee on Discipline of the United States District Court for the Central District of  
13 California in disciplinary proceedings, before a three judge panel, against then civil rights and  
14 police misconduct specialist attorney Stephen Yagman. Cross-complainant Berry's client, the  
15 Federal Court for the Central District of California, prevailed at the trial level, against former  
16 United States Attorney General Ramsay Clark appearing for Stephen Yagman.

17           **19.** In 1996, as an equity partner at the Los Angeles law firm of Musick, Peeler & Garrett,  
18 cross-complainant Berry and his then law firm were retained to represent the Colorado non-profit  
19 FACTnet in a major breach of copyright case filed on behalf of RTC and CSI by *inter alia* cross-  
20 defendant Moxon and his associates. During the *RTC v. FACTnet* and related cases, cross-  
21 complainant Berry, acting on behalf of Lawrence Wollersheim and FACTnet, filed an *ex parte*  
22 application and motion to intervene, allege copyright fraud, and raise the issue of negligent  
23 homicide, in the 1986 - 1990 L. Ron Hubbard Estate proceedings in San Luis Obispo, California.  
24 Although the *ex parte* application and motion to intervene in the *L. Ron Hubbard Estate*  
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1 *proceedings* were denied without prejudice, the *RTC v. FACTnet* and several other related  
2 copyright infringement cases were quickly settled and sealed.

3 **20.** In 1997, as an equity partner at the Los Angeles law firm of Musick, Peeler & Garrett, and  
4 on behalf of a client, cross-complainant Berry asserted and successfully settled a claim against the  
5 Scientology affiliated organization Narconon.

6 **21.** In 1997, as an equity partner at the Los Angeles law firm of Musick, Peeler & Garrett,  
7 cross-complainant Berry was consulted by Jason Scott who then discharged his attorney, cross-  
8 defendant Kendrick Moxon, and retained cross-complainant Berry as his new lawyer. In papers  
9 subsequently filed in various courts, Jason Scott alleged (and testified), in essence, that cross-  
10 defendant Moxon had solicited and paid for his legal representation in a Washington State law  
11 suit captioned *Jason Scott v. Rick Ross (and the Cult Awareness Network or CAN)*.

12 **22.** Jason Scott engaged cross-complainant Berry to take-over Jason Scott's legal  
13 representation in the then concluding CAN bankruptcy proceeding. The CAN bankruptcy  
14 proceeding was also caused by the cost to CAN of having to defend the dozens of cookie-cutter  
15 law suits filed as part of "the Bowles & Moxon Plan 100" testified to during discovery in the *CSI*  
16 *v. Fishman & Geertz* case; to solicit various individual scientologists to file and maintain 100 law  
17 suits against the Cult Awareness Network with the intention of bankrupting and silencing its  
18 assistance to victims of various cults including Scientology.

19 **23.** On November 1, 1997, Scientology protestor Keith Henson was arrested and charged with  
20 violating a restraining order that prevented him from protesting or otherwise being near  
21 Scientology staffer Glenn Barton. Subsequently Keith Henson was charged with a second  
22 violation of the Barton restraining order. Keith Henson retained cross-complainant Berry to  
23 provide legal representation. The charges were subsequently dismissed by the L.A. City Attorney.  
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1           **24.** In February 1998, as an equity partner at the Los Angeles law firm of Musick, Peeler &  
2 Garrett, cross-complainant Berry successfully represented Scientology protestor Keith Henson in  
3 injunctive proceedings brought against him by a representative of the Church of Scientology  
4 (*Hoden v. Henson*, Riverside County Superior Court RIC 306884). Cross-complainant filed a  
5 successful motion to dismiss the case which was granted after an evidentiary hearing.

6           **25.** In May and June 1998, as a partner in the then new Los Angeles law firm of Berry, Lewis,  
7 Scali & Stojkovic, cross-complainant Berry represented Keith Henson in federal district court in  
8 San Jose, CA., following the grant of summary judgment in a Church of Scientology copyright  
9 infringement case against Keith Henson while representing himself as a defendant *pro se*. After a  
10 three week damages hearing, on a single copyright infringement claim, the jury returned a verdict  
11 of “willful breach of copyright;” the court imposed damages in the statutory amount of \$75,000.  
12

13           **26.** After the verdict and penalty in *RTC v. Henson*, cross-defendant Moxon’s client  
14 unsuccessfully sought \$900,000 in legal expenses against cross-complainant Berry personally,  
15 arguing that his appearance in the damages phase of the case, as sole counsel for the defense, had  
16 been so frivolous and vexatious as to cause the Church of Scientology to spend over \$2 million to  
17 engage the services of at least 28 different lawyers in over six different law firms from across the  
18 entire United States to ensure that it would prevail against cross-complainant Berry and his client  
19 at the three week damages hearing. Among other things, the district court ruled that the cross-  
20 defendant Moxon’s law partner Helena Kobrin and her co-counsel had been “overly aggressive”  
21 during the litigation and their legal expenses were “excessive.”  
22

23           **27.** Helena Kobrin’s co- counsel in *RTC v. Henson* included Samuel D. Rosen, Esq from the  
24 New York office of Paul, Hastings, Janofsky & Walker. During *RTC v. Henson* attorney Rosen, a  
25 man twice the size of cross-complainant Berry, approached Berry and bellowed at him that he  
26 [attorney Rosen] “was going to smash [Berry’s] face in.” The incident was witnessed by many in  
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1 the courtroom (one of whom filed a descriptive declaration) and addressed on the record by Judge  
2 Whyte. Subsequently, in the *Rosen v. Rosen* divorce proceedings in New Jersey, attorney Rosen's  
3 wife accused him of throwing her down the stairs in their home and causing her injury.

4 **28.** During the San Jose, CA hearing in *RTC v. Henson*, Samuel Rosen, Esq. of New York  
5 filed his Los Angeles, CA appearance in *Berry v. Barton, et. al.*, as counsel for scientology  
6 employee Glenn Barton who, upon information and belief, is paid less than fifty dollars a week  
7 and required to pay his personal expenses therefore. Upon information and belief, at the time  
8 Samuel Rosen was charging nearly \$600 per hour and requiring two first class air tickets and five  
9 star accommodations in connection with his many California court appearances *pro hac vice*.  
10 Samuel D. Rosen, Esq., then entered his appearance *pro hac vice* in the *Pattinson* litigation.  
11

12 **29.** Following Samuel D. Rosen, Esq.'s. unprovoked threat to smash "cross-complainant's  
13 face in," cross-complainant's counsel of record in *Berry v. Cipriano/Barton/Miscavige*, who were  
14 also counsel of record in *Pattinson v. Miscavige*, suggested and advised the cross-complainant  
15 Berry to seek a stay away order against attorney Rosen. Cross-complainant Berry accepted his  
16 counsel's advice. Cross-complainant Berry's counsel prepared the application for a restraining  
17 order and made the several appearances relating thereto during the two weeks that the request for  
18 protection was pending. Although he acted at all times upon the advice and assistance of counsel,  
19 cross-complainant Berry was ordered to pay attorney Rosen's legal fees and costs, and the case  
20 was used to have cross-complainant Berry deemed a vexatious litigant in the subsequent vexatious  
21 litigant proceedings where New York attorney Rosen appeared *pro hac vice* with Mr. Moxon.  
22

23 **30.** Cross-defendant Moxon has also pursued cross-complainant Berry in other cases and in  
24 other ways including: **(a)** filing papers in proceedings in which he had neither appeared nor had a  
25 legitimate interest and using the matters, fabricated as alleged herein, as support for requests that  
26 cross-complainant Berry should be sanctioned [*Northwestern Mutual Insurance v. Anders*]; **(b)**  
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1 attending throughout, or having his associates attend, a four week civil trial with which he/they  
2 had no business connection and interacting with those involved to such an extent that the trial  
3 judge polled the jury to determine whether any of the jurors had been adversely influenced by the  
4 cross-defendant Moxon and the rest of the Church of Scientology presence against trial attorney  
5 Berry [*Kaleel v. Hollywood at the El Rey Theater*].

6 **THE MAY 5, 1994 CIPRIANO DECLARATION WAS FABRICATED BY MOXON**

7  
8 **31.** Upon information and belief, the defamatory May 5, 1994 Declaration of Robert Cipriano,  
9 and subsequently recanted, was fabricated by cross-defendant Moxon's agent Eugene Ingram as  
10 evidenced by the contents of Exhibits A-E and K-L of the earlier filed [02/16/2010] Appendices  
11 No. I to No. III. It was procured by the *Berry v. Miscavige* defendants and it was widely published  
12 by and through the defendants named in the *Berry v. Barton* case.

13 **32.** Cross-complainant Berry filed the underlying *Berry v. Cipriano* case in order to obtain a  
14 retraction from Mr. Cipriano and the co-defendants. In *Berry v. Cipriano, et. al.*, co-defendant  
15 Mathilde Krim Ph. D., entered into an early settlement in the amount of \$75,000. In the *Berry v.*  
16 *Miscavige, Rinder, Moxon, Ingram, et. al.*, a non-Scientology related defendant entered into a  
17 \$25,000 settlement. The three Berry cases were consolidated for all purposes. App. III, Ex. M, N.

18 **33.** In his subsequent declaration and deposition testimony, as evidenced by the contents of  
19 Exhibits A-E of the earlier filed (02/16/2010) Appendices No. I to No. III, Robert Cipriano has  
20 testified that shortly after cross-complainant Berry filed suit, Cipriano prepared a letter (produced  
21 in his *Hurtado v. Berry* testimony) requesting cross-complainant Berry to accept his retraction,  
22 and to dismiss the *Berry v. Cipriano* law suit, as cross-complainant Berry had demanded.  
23

24 **34.** Cross-defendant Moxon then intervened, solicited and paid for Cipriano's legal  
25 representation, business, transportation, living expenses and perjury for the next twelve months.  
26 Mr. Cipriano provided his settlement offer, retraction and apology in a letter delivered to cross-  
27

1 defendant Moxon, in Moxon's new and impermissibly conflicted capacity as Cipriano's lawyer.  
2 Mr. Cipriano requested cross-defendant Moxon to send the offer of a written retraction and  
3 apology to cross-complainant Berry. Cross-defendant Moxon failed to do so, preferring instead the  
4 multiple, undisclosed, and non-waivable conflicts of interest involving his clients and associates.

5 **35.** Upon information and belief, in 1998, as of or about the time cross-defendant Moxon and  
6 Eugene Ingram solicited the legal representation of Robert Cipriano and engaged in the criminal  
7 conduct directed at the integrity and machinery of the legal system, "extrinsic fraud and/or  
8 mistake," and the other criminal, fraudulent and abusive conduct alleged herein, cross-defendant  
9 Moxon's law partner Helena Kobrin initiated a serious sanctions proceeding, against cross-  
10 complainant Berry, before the bankruptcy court judge in the *Keith Henson bankruptcy* proceeding.  
11 At the conclusion of that sanctions hearing, cross-defendant's law partner Helena Kobrin was  
12 admonished for consuming the court's time with an extensive hearing involving absolutely  
13 baseless allegations against cross-complainant Berry.  
14

15 **36.** On August 14, 2001, in the *In re Graham Berry, debtor, Barton v. Berry Adversary*  
16 *Action*, the federal court issued a memorandum of decision denying cross-defendant Moxon's (and  
17 his associate Ava Paquette's) summary judgment motion upon the ground that the *Barton v. Berry*  
18 claim in Berry's bankruptcy proceeding was time-barred. In so ruling against cross-defendant  
19 Moxon and his client Barton, the federal court ruled there were also "inaccuracies in the [Paquette,  
20 Moxon and Kobrin] allegations of fact" against cross-defendant Berry. [App. III, Exh. H, p.106.]  
21

22 **37.** But for cross-defendant Moxon's undisclosed, material, non-waivable conflicts of interest  
23 and appearance as counsel for clients in matters (the *Berry* cases) in which he knew or ought to  
24 have known he personally was a principal percipient witness and pending party (after Civ. Code  
25 §1714.10 permission), cross-defendant Moxon's subsequent criminal conduct directed at the  
26 integrity and machinery of the legal system, his "extrinsic frauds and/or mistakes," corruption and  
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1 procurement of unjust judgments and orders, and misrepresenting their inter-relationship,  
2 defendant and cross-complainant Berry would probably have prevailed in the Berry case.

3 **38.** Moxon's conduct as alleged herein and described in the declaration and deposition  
4 testimony of various witnesses attached to the earlier filed (02/16/2010 & 02/22/2010) Appendices  
5 No. I to No. IV, was intended to and did have the actual effect of unlawfully obstructing and  
6 perverting justice and thereby inequitably insulating all of the defendants in the *Berry v. Cipriano*,  
7 *et. al.*, the *Berry v. Barton, et. al.* and the *Berry v. Miscavige, Rinder, Ingram, Abelson and*  
8 *Moxon, et al.*, consolidated defamation case from adverse judgments or settlements in that  
9 consolidated case, and in the *Pattinson* case.

11 **39.** Cross-complainant Berry alleges that after cross-complainant Moxon obtained the void  
12 orders and judgments, as alleged herein, either he or his associates then frustrated cross-  
13 complainant Berry's ability and willingness to satisfy those orders, before filing this equitable  
14 proceeding to set them aside by, *inter alia*, **(a)** in or about 1999, refusing to release a judgment  
15 lien against cross-complainant Berry's Santa Monica condominium so that a profitable short-sale  
16 could be made instead of a "fire sale" foreclosure caused by the economic impact of cross-  
17 defendant Moxon's void judgments and/or orders at issue herein; **(b)** in or about 2001, knowingly  
18 or recklessly making material false misrepresentations about the value of cross-complainant  
19 Berry's "exempt" 1988 vintage vehicle to the Los Angeles County Sheriffs Department and  
20 causing it to be wrongly seized and sold in attachment proceedings, and refusing to disgorge the  
21 resulting monies; **(c)** in or about 2001, rejecting the offer of an assignment of a \$28,000 unpaid  
22 wage claim that cross-complainant Berry could not proceed at law with because of the potential  
23 bonding requirement of cross-defendant Moxon's void vexatious litigant order from which relief  
24 is sought herein; **(d)** in or about 2007, rejecting the offer of an assignment of an appropriate  
25 portion of a \$428, 000 unpaid legal fees and costs bill where, in essence, liability has been  
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1 admitted, and sufficient assets are available to satisfy a judgment, but because of the potential  
2 bonding consequence of the void vexatious litigant order obtained by cross-defendant Moxon,  
3 cross-complainant Berry has not been able to file this still timely recovery action regarding a case  
4 where cross-complainant's corporate and individual clients received a jury verdict completely  
5 rejecting their former lawyer's claim for over four million dollars and finding liability but no  
6 damages on the cross-complaint.

7  
8 **40.** As recently as the week of February 15, 2010, cross-defendant Moxon, his agents or  
9 associates were continuing to use the fruits of the criminal, fraudulent and abusive conduct and  
10 void orders alleged herein to discredit, defame and smear cross-complainant Berry. Attached  
11 hereto as Exhibit 1 is a copy of a document which, upon information and belief, was sent by  
12 clients or associates of cross-defendant Moxon to major television media located and broadcasting  
13 in Sydney, Australia. Upon information and belief, since cross-defendant Moxon has obtained the  
14 void judgments and void orders at issue herein, cross-defendant Moxon, his associates and clients  
15 have used those void orders and judgments to continue to defame and discredit cross-complainant  
16 Berry around the world including on the internet at such sites as [www.religiousfreedomwatch.org](http://www.religiousfreedomwatch.org),  
17 to the media as alleged in this paragraph, and also to local, state and federal governments and  
18 agencies in the United States and to foreign governments and agencies, to clients and potential  
19 clients of Berry; Moxon and Paquette have informed clients of Berry they should not employ him.

20  
21 **41.** The conduct of cross-defendant Moxon in the use, distribution and publication of the fruits  
22 of the criminal conduct directed at the integrity and machinery of the legal system, "extrinsic fraud  
23 and/or mistake," and the other criminal, fraudulent and abusive conduct alleged herein, including  
24 unjustly labeling cross-complainant Berry a vexatious litigant pursuant to Code Civ. Proc. § 391.7,  
25 has materially limited cross-complainants professional opportunities as a litigator and trial  
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1 attorney, and has led to him largely surviving through public welfare, private charity and the kind  
2 gifts of concerned but anonymous friends and strangers.

3 **42.** The consequences of the conduct alleged of cross-defendant Moxon in the use, distribution  
4 and publication of the fruits of the criminal conduct directed at the integrity and machinery of the  
5 legal system, “extrinsic fraud and/or mistake,” and the other criminal, fraudulent and abusive  
6 conduct alleged of cross-defendant Moxon herein, including obtaining void orders and unjustly  
7 labeling cross-complainant Berry a vexatious litigant pursuant to Code Civ. Proc. § 391.7, and  
8 causing him to attend regular and abusive judgment debtor examinations in both the federal and  
9 state courts, has wrongfully, maliciously, unjustly, inequitably and inexcusably caused cross-  
10 complainant Berry to lose: **(a)** nearly all employment income for more than ten years; **(b)** nearly  
11 all his physical and personal assets and property; **(c)** his professional career and prospects; **(d)** any  
12 retirement prospects or meaningful elder survival prospects; **(e)** many professional and social  
13 companionships; **(f)** the opportunity to be of public, professional and charitable service; **(g)** his  
14 hitherto good name and repute; and **(h)** to suffer major emotional distress, severe depression and  
15 several episodes of suicidal ideation.

16 **43.** Upon information and belief, as of or about the time cross-defendant Moxon and Eugene  
17 Ingram solicited the legal representation of Robert Cipriano and engaged in the criminal conduct  
18 directed at the integrity and machinery of the legal system, “extrinsic fraud and/or mistake,” and  
19 the other criminal, fraudulent and abusive conduct alleged herein, cross-defendant Moxon and/or  
20 his associates and/or clients, had initiated and pursued at least three unsuccessful investigations  
21 and attempted criminal prosecutions of cross-complainant Berry by the L.A.P.D. which found no  
22 evidence of wrong-doing, at least eight major State Bar investigations of cross-complainant where  
23 no evidence of wrong-doing was found by the California State Bar, and many dozens of requests  
24 for sanctions (one for \$900,000) which were denied by different federal and state courts.  
25  
26  
27  
28

1           **44.** Upon information and belief, after cross-defendant Moxon and Eugene Ingram solicited  
2 the legal representation of Robert Cipriano, Anthony Apodaca and Michael Hurtado, and engaged  
3 in the criminal conduct directed at the integrity and machinery of the legal system, “extrinsic fraud  
4 and/or mistake,” and the other criminal, fraudulent and abusive conduct alleged herein, cross-  
5 defendant Moxon and/or his associates and/or clients, initiated and pursued at least two more  
6 unsuccessful criminal investigations and attempted criminal prosecution of cross-complainant  
7 Berry by the L.A.P.D. and Los Angeles Sheriff’s Department which found no evidence of wrong-  
8 doing, and at least two more State Bar proceedings (Hurtado and Cipriano) during which cross-  
9 defendant Moxon and his co-counsel intervened in by way of third-party motions and prevailed  
10 upon the State Bar trial court that the orders in the vexatious litigant proceeding were *res judicata*  
11 and could not enquired into by the State Bar, and that cross-complainant Berry should be denied  
12 all discovery rights before the State Bar relating to what cross-defendant Moxon and his  
13 associates did to procure the underlying orders and judgments now at issue herein, and the State  
14 Bar Court thereafter ruled to disallow discovery by cross-complainant Berry.

17           **45.** Upon information and belief, the aforesaid motion of cross-defendant Moxon, through his  
18 co-counsel, was made to a San Francisco State Bar Court judge assigned to sit in the proceedings  
19 after the Los Angeles State Bar Trial Court judge had recused himself for the express reason that  
20 he was biased in cross-complainant Berry’s favor. Again upon information and belief, the State  
21 Bar thereafter departed from its regular case handling proceedings regarding, *inter alia*, the six  
22 monthly rotation of cases and insisted upon the disposition of *State Bar v. Berry* before the then  
23 irregularly ‘permanently’ assigned prosecutor had to depart on maternity leave.

25           **46.** Thereafter there was a settlement proceeding. The settlement proceeding judge disclosed:  
26 (a) that he had been a member of the Standing Committee on Discipline of the United States  
27 District Court for the Central District of California during the *In re Stephen Yagman* proceedings  
28

1 and that cross-complainant Berry had provided excellent and effective representation to the United  
2 States Federal District Court during that high profile proceeding; **(b)** Scientology attorney Elliot  
3 Abelson had consulted him and his prior law firm regarding the handling of a Scientology related  
4 case but that he and his firm had declined the representation. Subsequently, and several years later,  
5 cross-complainant Berry discovered that the State Bar settlement judge and his law firm had  
6 actually appeared in and throughout the case of *Abelson v. Greene* [Ford Greene, Esq], and at  
7 hearings therein, which arose from the *CSI v. Fishman & Geertz* case.

8  
9 **47.** The California State Bar settlement process resulted in a settlement offer of nine month  
10 actual suspension from the practice of law which cross-defendant Berry accepted because: **(a)** the  
11 actual intervention of cross-defendant Moxon and his co-counsel in the State Bar case led cross-  
12 complainant Berry to reasonably conclude that he was facing an irregular proceeding that would  
13 probably require lengthy appeals, additional costs, expensive specialist counsel he could not  
14 afford, and another two years of his time; and **(b)** his then 76 year old late mother had recently  
15 been diagnosed with advanced ovarian cancer and his family needed his physical assistance with  
16 her terminal care; and **(c)** by cross-complainant Berry assisting with the terminal care of his  
17 mother in New Zealand, she was able to spend her final months in her own home and to die in her  
18 own bed surrounded by her family, and **(d)** cross-complainant Berry was thereafter able to assist  
19 his father to transition to living alone without his wife of 54 years.

20  
21 **48.** At all times, before during and after the relevant underlying *Berry* and *Pattinson*  
22 proceedings, the main and sometimes only evidence intentionally, knowingly and/or recklessly  
23 relied upon by cross-defendant Moxon to support his various false allegations, abusive and  
24 frivolous actions, wrongful conduct and baseless defenses, for himself and others, against cross-  
25 complainant Berry, even before the California State Bar itself, has been the perjury of Robert  
26 Cipriano, Anthony Apodaca and Michael Hurtado, all of which cross-defendant Moxon and his  
27  
28

1 agent Eugene Ingram themselves extorted, solicited and suborned, and all of which has been either  
2 recanted, rebutted, rejected, self-impeached or impeached.

3 **49.** At all times, the testimony by Robert Cipriano against his former attorney, cross-  
4 defendant Moxon, has been corroborated by over fifty documents, many of which are in Mr.  
5 Moxon's own handwriting or signed by him [Appendix No. I-III, Exhibits A-E, filed 02/16/2010].

6 **50.** At all times, the allegations by cross-defendant Moxon, solicited and suborned by cross-  
7 defendant Moxon against cross-complainant Berry in the federal, state and state bar *Hurtado v.*  
8 *Berry* proceedings have also been false and fabricated as demonstrated by, *inter alia*, the self-  
9 impeaching testimony of Michael Hurtado and the testimony of the various Hurtado family  
10 witnesses [Appendix 1, Exhibit A].

11  
12 **51.** On or about January 16, 1998 cross-complainant Berry, as plaintiff, filed in the Los  
13 Angeles County Superior Court a complaint entitled *Graham E. Berry v. Robert A. Cipriano et.*  
14 *al.*, LASC Case No. 184355 ("*Berry v. Cipriano, et. al.*"), in which damages were sought for, *inter*  
15 *alia*, defamatory statements made to Bowles & Moxon [now *Moxon & Kobrin*] private  
16 investigator Eugene Ingram that were later published by certain persons named in the *Berry v.*  
17 *Barton* case who acted through certain persons named in the *Berry v. Miscavige, Moxon, Ingram,*  
18 *et. al.* case. Except for the named parties and the nature of their involvements, the three cases were  
19  
20 subsequently deemed related and consolidated for all purposes.

21  
22 **52.** On or about February 18, 1998 cross-complainant Berry, as plaintiff, filed in the Los  
23 Angeles County Superior Court a complaint entitled *Graham E. Berry v. Glenn Barton et. al.*,  
24 LASC Case No. 186168 ("*Berry v. Barton, et. al.*"), in which damages were sought for, *inter alia*,  
25 the world wide publication [continuing from 1994 through to the present day] of defamatory  
26 statements made to Bowles & Moxon [now *Moxon & Kobrin*] private investigator Eugene Ingram  
27 by certain persons named in the *Berry v. Cipriano* case, certain or all of whom became corruptly  
28

1 involved in crimes and frauds upon the court (s) through certain persons named in the *Berry v.*  
2 *Miscavige, Rinder, Moxon, Ingram, et. al.* case. Except for the named parties and the nature of  
3 their involvements, the three cases were deemed related and consolidated for all purposes.

4 **53.** On or about July 1, 1998 cross-complainant Berry, as plaintiff, filed in the Los Angeles  
5 County Superior Court a complaint entitled *Graham E. Berry v. David Miscavige, Michael Rinder,*  
6 *Eugene Ingram, [Abelson & Moxon, post Civ. Code §1714.10 motion] et. al.,* LASC Case No.  
7 196402 (“*Berry v. Miscavige, Rinder, Moxon, Ingram*”), in which damages were sought for, *inter*  
8 *alia*, the world wide publication [continuing from 1994 through to the present day] of defamatory  
9 statements made to Bowles & Moxon [now *Moxon & Kobrin*] private investigator Eugene Ingram  
10 by certain persons named in the *Berry v. Cipriano* case, certain or all of whom became corruptly  
11 involved in criminal conduct directed at the machinery and integrity of the legal system and  
12 process itself and/or frauds upon the court (s) through certain persons named in the *Berry v.*  
13 *Miscavige, Rinder, Moxon, Ingram, et. al.* case.

14  
15 **54.** The three *Berry* cases were subsequently deemed related and consolidated for all purposes  
16 on September 29, 1998. Appendix IV, Ex. M.

17  
18 **55.** But for the criminal conduct of cross-defendant directed at the machinery and integrity of  
19 the legal system and process itself, the resulting “extrinsic frauds and/or mistakes,” and “extrinsic  
20 mistakes” upon the courts, all by the plaintiff and cross-defendant as an officer of the court, the  
21 plaintiff and cross-defendant herein would have been named as the principal party defendant in the  
22 *Berry v. Miscavige, Rinder, Moxon, Ingram* case after a Civil Code §1714.10 motion was granted.

23  
24 **56.** Cross-complainant Berry filed the original complaints in the *Berry v. Cipriano* and *Berry*  
25 *v. Barton* litigation as a *pro se* litigant. The complaint in the *Berry v. Miscavige (Ingram &*  
26 *Moxon)* litigation, and the amended complaints in the *Berry v. Cipriano* and *Berry v. Barton*  
27 litigation were filed by the subsequent law firm of Berry, Lewis, Scali & Stojkovic which then  
28

1 provided legal representation to cross-complainant Berry in the three consolidated cases before  
2 cross-complainant Berry was emotionally, physically and financially overwhelmed by discovery  
3 abuse, excess and expense being perpetrated by cross-defendant Moxon as part of the scheme and  
4 course of crime and other wrong-doing directed at the integrity of the legal system, extrinsic fraud  
5 and extrinsic mistake by an officer of the court as alleged herein, and by consequential “severe  
6 depression” for which cross-complainant Berry had/has been receiving treatment.

7  
8 **57.** On May 21, 1998, the cross-complainant, as a partner in the then law firm of Berry,  
9 Lewis, Scali & Stojkovic which was providing legal services to former Scientology celebrity  
10 member Michael Pattinson, filed in the United States District Court for the Central District of  
11 California a complaint entitled *Michael Pattinson v. Church of Scientology International, David*  
12 *Miscavige, Kendrick Moxon, et. al.* U.S.D.C. Case No. CV-98-3958 CAS (SHx) (*Pattinson v.*  
13 *Church of Scientology, et. al.*”), in which former scientologist Mr. Pattinson sought damages for  
14 various torts alleged to have been committed against him by the Church of Scientology and  
15 certain of its members and employees including scientology attorney Kendrick Moxon.

16  
17 **58.** In the *Berry v. Cipriano, Barton, Miscavige (Ingram, Abelson, Moxon)* cases, cross-  
18 defendant Moxon and his agents commenced cross-complainant Berry’s deposition on May 28,  
19 1998, and they claimed they had not completed it 13 deposition days later, in February 1999. In  
20 addition, cross-complainant Berry was precluded from making any privacy objections at all and he  
21 was judicially ordered to “just sit there and take it,” and further judicially ordered, among other  
22 things, to concurrently respond to:

- 23  
24 (a) Over 2,000 form interrogatories;  
25 (b) 289 special interrogatories;  
26 (c) 121 Requests for Admission (each accompanied by 5 interrogatories,  
27 totaling an additional 605 interrogatories);  
28

1 (d) 532 Requests for Authentication;

2 (e) 316 categories of document demands (responding documents to be  
3 carefully organized in accordance therewith).

4 **59.** The immediately preceding abusive discovery by cross-defendant Moxon and his agents  
5 was compounded by judicial orders that all of cross-defendant Moxon's massive discovery  
6 demands, and crippling expense involving court-ordered private judges, be answered and paid for  
7 during the thirteen days of uncompleted cross-complainant Berry's deposition while refusing  
8 plaintiff, cross-complainant Berry herein, the opportunity to take any depositions at all of the  
9 defendants or to order the defendant's adequate compliance with Plaintiff's written discovery. At  
10 the same time cross-defendant Moxon, and the [other] defendant's took the depositions of at least  
11 twelve other persons and noticed the depositions of over thirty others. Cross-defendant Moxon  
12 then obstructed cross-complainant Berry from adding Moxon and Abelson as Civ. Code § 1714.10  
13 defendant's in the case by removing *Berry v. Miscavige* to Federal Court (arguing it was related to  
14 Pattinson), and thereby obstructing Plaintiff's [cross-defendant Berry's] ability to move to amend  
15 (Civ. Code § 1714.10) for nearly three months (until the case was remanded back) and into  
16 January 1999. Cross-defendant Moxon also persuaded Judge Williams that cross-complainant  
17 Berry could not have an early and preferential trial date by law despite the express provisions of  
18 C.C.P. § 460.5; upon an unsupportable argument that "the law disfavors actions for defamation."  
19

20  
21 **60.** Upon information and belief, during mid 1998 cross-defendant Moxon (or his agents)  
22 solicited the representation, or acted upon the solicitation of representation, of Copenhagen,  
23 Denmark Church of Scientology employee Mr. Reveillere and had him file an action in Orange  
24 County California on an old promissory note on an unpaid business loan by Mr. Reveillere to Mr.  
25 Pattinson while both were Scientologists in Paris, France.  
26  
27  
28

1           **61.** The *Reveillere v. Pattinson* action on a note quickly proceeded to a judgment which Mr.  
2 Pattinson was unable to satisfy. Mr. Pattinson was financially forced to file bankruptcy and to list  
3 the *Pattinson v. Church of Scientology/Moxon* law suit as an asset of his bankruptcy estate.

4           **62.** Upon information and belief, as a result of the *Reveillere v. Pattinson* action on a note,  
5 Mr. Pattinson could not afford the continuing litigation expenses in the *Pattinson v. Church of*  
6 *Scientology/Miscavige/Moxon* and he feared cross-defendant Moxon would seize the *Pattinson v.*  
7 *Church of Scientology/Miscavige/Moxon* lawsuit as an asset of the Pattinson bankruptcy estate  
8 with which to satisfy creditor *Reveillere* unpaid note and to extinguish Pattinson’s litigation in  
9 which he was being represented by cross-complainant Berry; as cross-defendant Moxon had  
10 earlier done with the Jason Scott judgment in the CAN bankruptcy case. On March 19, 1999, Mr.  
11 Pattinson voluntarily dismissed the *Pattinson v. Church of Scientology, Miscavige, Moxon, et. al.*  
12 litigation without prejudice.  
13

14           **63.** Upon information and belief based upon the deposition testimony of various adverse  
15 witnesses in the *Hurtado v. Berry* [LASC Case No. BC 208227] litigation, in early December  
16 1998 cross-defendant’s agent Eugene Ingram initiated the solicitation and fabrication of the  
17 *Hurtado v. Berry* case using a portion of a recent deposition transcript and video from the  
18 continuing days of deposition on cross-complainant Berry in the consolidated *Berry v. Cipriano,*  
19 *et. al.* case. The portion of the deposition transcript concerned matters that cross-complainant  
20 Berry was improperly required to respond to because of Judge Alexander H. Williams, III order  
21 that he could assert no right of privacy objections whatever; “Berry [had] to sit there and take it.”  
22  
23

24           **64.** Cross-defendant Moxon also filed the same solicited and fabricated *Hurtado v. Berry* case  
25 in the United States Bankruptcy Court and, using the same knowingly solicited and fabricated  
26 *Hurtado* allegations, initiated another false state bar complaint and state bar investigation of cross-  
27 complainant Berry. Cross-defendant Moxon voluntarily dismissed the *Hurtado* case three weeks  
28

1 before trial and only after discovery referee Hon. Stephen Lachs (ret.) recommended trial judge  
2 Hon. Ray Hart waive the attorney-client privilege between cross-defendant Moxon and his client  
3 Hurtado, based upon the the crime-fraud exception to the attorney-client privilege.

4 **65.** Notwithstanding, the cross-defendant Moxon maintained the *Hurtado v. Berry* Federal  
5 Bankruptcy Court litigation for a further six months. The State Bar eventually dismissed the  
6 Scientology/Hurtado State Bar complaint which was the direct product of cross-defendant  
7 Moxon's criminal conduct directed at the integrity and machinery of the legal system, extrinsic  
8 fraud and/or mistake, and other frauds upon the court (s), as set forth in Exhibit F pages 62-104.

9  
10 **66.** In February 1999 cross-defendant Moxon filed a successful motion to dismiss the *Berry*  
11 *v. Barton, et. al.* case upon an alleged but objectively contrived and largely baseless discovery  
12 failure by cross-complainant Berry caused by the collapse of his law firm.

13 **67.** Cross-defendant Moxon obtained the entry of the judgment in *Berry v. Barton* through the  
14 subsequently discovered and documented criminal conduct directed at the integrity and machinery  
15 of the legal system, extrinsic fraud and/or mistake, and other frauds upon the court (s) by cross-  
16 defendant Moxon as, *inter alia*, set forth below, in the declarations of Robert Cipriano attached to  
17 Appendix No. II as Exhibits C and D and to Appendix No. III as Exhibit E, and in the further  
18 explanations of cross-complainant in Appendix No. III, Exhibits G and H.

19  
20 **68.** In or about February 1999 the cross-defendant Moxon also filed a successful motion to  
21 dismiss the *Berry v. Cipriano, et. al.* case based upon the entry of the dismissal in *Berry v. Barton*.  
22 Both the Barton and Cipriano dismissals were obtained through the subsequently discovered and  
23 documented criminal conduct directed at the integrity and machinery of the legal system, extrinsic  
24 fraud and/or mistake, and other frauds upon the court (s) by cross-defendant Moxon as, *inter alia*,  
25 set forth below and in the declarations of Robert Cipriano attached to Appendix No. II as Exhibits  
26 C and D and to Appendix III as Exhibit E, and by Berry in Appendix No. III, Exhibits G and H.

1           **69.** As a direct and probable consequence of the subsequently discovered and documented  
2 criminal conduct directed at the integrity and machinery of the legal system, extrinsic fraud and/or  
3 mistake, and other frauds upon the court (s) by cross-defendant Moxon, in late  
4 Febraury/earlyMarch 1999 cross-complainant Berry signed a voluntary dismissal of the *Berry v.*  
5 *Miscavige/Ingram/Moxon* case, without prejudice, prepared by cross-defendant’s co-counsel  
6 Barbara Reeves, upon her insistence that voluntary dismissal was a pre-condition to settlement  
7 discussions with Scientology leader David Miscavige and her repeated representations that the  
8 *Berry v. Miscavige/Ingram/Moxon* case could be immediately re-filed if the settlement talks broke  
9 down.  
10

11           **70.** Cross-defendant Moxon and his co-counsel for defendant Miscavige obtained the  
12 voluntary dismissal of the *Berry v. Miscavige* case through *inter alia*: **(a)** the subsequently  
13 discovered and documented criminal conduct directed at the integrity and machinery of the legal  
14 system, extrinsic fraud and/or mistake, and other frauds upon the court (s) by cross-defendant  
15 Moxon acting as an officer of the court in those same cases; and/or **(b)** cross-complainant Berry’s  
16 excusable “extrinsic mistake” arising from the misleading and adverse impact upon cross-  
17 complainant Berry of cross-defendant Moxon’s criminal conduct as set forth below and in the four  
18 Appendices previously filed herein (particularly Exhibits G and H); and/or **(c)** cross- complainant  
19 Moxon’s “extrinsic fraud and/or mistake) as an officer of the court, and in the declaration and  
20 fifty corroborating exhibits of cross-defendant Moxon’s former client Robert Cipriano executed  
21 August 9, 1999 (the “August 1999 Cipriano Declaration”), attached to Appendix No. II as Exhibit  
22 C and made a part hereof as if fully set forth herein.  
23  
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**THE VOID VEXATIOUS LITIGANT RULING**

1  
2       **71.** Following the voluntary dismissal of *Berry v. Miscavige/Ingram/Miscavige et. al.*,  
3 counsel for Scientology Leader David Miscavige refused to conduct any settlement discussions.

4       **72.** Soon thereafter, cross-defendant Moxon and his various co-counsel filed a vexatious  
5 litigant petition against cross-complainant Berry for the purpose, expressed in paragraph 3 on page  
6 thereof, of obstructing cross-defendant Berry from re-filing the *Berry v. Miscavige, Rinder,*  
7 *Ingram, Abelson, Moxon, et. al.* case in connection with the defamations published by the *Berry v.*  
8 *Cipriano* and *Berry v. Barton* groups of defendants. [Appendix. IV, Exhibit Q, pp. 53:17-22].

9  
10       **73.** Upon information and belief, the primary purpose of the void vexatious litigant ruling  
11 was to obstruct the re-filing of the *Berry v. Cipriano, Barton, Miscavige, Rinder, Abelson, Ingram,*  
12 *Moxon* cases for the further reasons set forth in the colloquy between cross-defendant Moxon, his  
13 counsel and Judge Alexander H. Williams III [App. IV, Ex. (2) pp. 169: 9-198: 19] regarding the  
14 immediate signing and entry of the void vexatious litigant order to ensure the obstruction of the  
15 refiling of the *Berry v. Miscavige, Rinder, Abelson, Ingram, Moxon* cases by the pre-filing  
16 procedure that cross-defendant Moxon has successfully used to prevent cross-complainant from  
17 seeking the relief he does herein without: **(a)** a \$145,000 bond to secure cross-defendant Moxon’s  
18 legal fees and costs herein; **(b)** incurring the cost, he cannot reasonably afford, of retaining counsel  
19 for the relief requested herein but which he has now done; **(c)** an order of contempt being sought  
20 by cross-defendant Moxon, as he has requested herein. [Opposition, etc. filed February 22, 2010]  
21  
22

23       **74.** The grounds set forth in the vexatious litigant petition, and expressly relied upon by a  
24 “disqualified court,” did not satisfy any of the relevant statutory criteria and the subsequent  
25 erroneous decision is apparent upon the face of the record and judgment roll.

26 //

27 //

1           **75.** As of August 20, 1999 the only litigation cross-complainant Berry had ever filed *in*  
2 *propria persona* had been: **(a)** a 1981/82 landlord tenant case in New York city and dismissed  
3 after a settlement in cross-complainant Berry's favor; **(b)** a 1984 case in New York city seeking  
4 injunctive relief and which was promptly settled in cross-complainant Berry's favor; **(c)** a 1990s  
5 case in Los Angeles, as collection- assignee for his then Homeowner's Association, which resulted  
6 in a judgment in favor of cross-complainant Berry and his assignor H.O.A.

7           **76.** As of August 20, 1999 cross-complainant Berry had never filed any litigation *in propria*  
8 *persona* which had been determined adversely to him during any preceding period.

9           **77.** As of August 20, 1999, and according to his best recollection, cross-complainant Berry  
10 had only been sanctioned twice in litigation; once in 1987, in the Tandon Computer securities  
11 class action litigation where the cross-defendant was one of several lawyers who were sanctioned  
12 for filing a brief in excess of the page limit but there was no imposition of penalty; and one other  
13 time in 1997, in the *RTC v. FACTnet* litigation, where cross-complainant Berry stopped the  
14 deposition of former senior Scientology executive Robert Vaughan Young, after Mr. Young  
15 begged him to do so, after Mr. Young had been reduced to tears in connection with abusive and  
16 restimulative deposition questioning upon very personal and intimate private matters contained in  
17 Mr. Young's supposedly confidential Scientology priest-penitent folders.

18           **78.** As of August 20, 1999 cross-complainant Berry had been engaged in the practice of law  
19 for twenty-five years in territorial jurisdictions which included Christchurch (New Zealand),  
20 Sydney (Australia), London (England), New York (New York) and Los Angeles (California)  
21 without any adverse disciplinary action in any of those jurisdictions. He was in "good standing."  
22

23           **79.** Upon information and belief, the petition to deem cross-complainant Berry a vexatious  
24 litigant was drafted by cross-defendant and/or his agents. In that petition, and in oral argument, it  
25 was strenuously although falsely contended that the *Pattinson v. Miscavige* federal case involved  
26  
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1 substantially similar facts and occurrences, transactions and occurrences as the *Berry v. Cipriano*,  
2 *Barton, Miscavige (Ingram, Abelson/Moxon)* case.

3 **80.** The vexatious litigant opinion expressly recognized that the express statutory provisions  
4 were not satisfied by ruling that it was “not what the cross-complainant [Berry] had done but the  
5 way he had done it.” [Appendix No. IV, Exhibit T (2), p. 159: 17-21]

6 **81.** At the commencement of the *Berry v. Cipriano, Barton, Miscavige, Rinder, Ingram,*  
7 *Moxon, Abelson* litigation cross-defendant Moxon and his agents filed a Code Civ. Proc. §425.10  
8 motion which was denied on June 10, 1998 with Hon. Ernest Hiroshige’s express finding of the  
9 “probability that [cross-complainant Berry would] prevail upon the claim” in the *Berry* litigation.

10 **82.** Thereafter cross-defendant Moxon and his co-counsel had disqualified Judge Hiroshige.  
11 The subsequent presiding judge (Hon. Alexander Williams, III) had failed to properly disclose  
12 non-waivable conflicts arising from his fiancée (now wife) being either an employee, or contract  
13 employee/business services provider of/to the Church of Scientology International Office of  
14 Special Affairs which was a party to the litigation, the employer of various defendants, the  
15 employer and client of cross-defendant Moxon and the location of his physical office as part of  
16 the Church of Scientology International Office of Special Affairs legal unit. When these actual  
17 non-waivable conflicts of interest [and appearances of impropriety] emerged (from the revelations  
18 of Robert Cipriano) just prior to the vexatious litigant petition being heard, Judge Alexander H.  
19 Williams III refused to disqualify himself, refused to refer the disqualification proceedings to an  
20 independent judge, temporarily sealed the court files in the *Berry* cases, and in the vexatious  
21 litigant proceedings, until after he [Judge Alexander H. Williams III] had denied the  
22 disqualification motion and ruled against cross-complainant Berry and the overwhelming weight  
23 of the evidence. The 2nd District Court of Appeal denied the resulting writ. App. No. IV, Ex. V.  
24  
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1       **83.** Upon information and belief, based upon recent internet postings upon the subject, Hon.  
2 Alexander H. William III's first wife may also have had a financial relationship with the Church  
3 of Scientology International as a translator of foreign languages. Upon recent information and  
4 belief, Judge William's fiancé, and now wife, had/has a 50% undisclosed interest in a corporation  
5 that providing translation services in over 90 languages to the Church of Scientology International.

6       **84.** Upon information and belief, during the pendency of the *Berry* cases and/or the vexatious  
7 litigant proceeding (where there was at least one responsive reference), Hon. Alexander H.  
8 Williams, III became aware of the fabricated allegations in the *Hurtado v. Berry* case (s) which, in  
9 light of the scandalous and highly prejudicial nature of those entirely fabricated allegations,  
10 suborned by Moxon, also made the judge a "disqualified jurist." [App. IV, Ex. V, p. 202].

11       **85.** Prior to the *Berry v. Cipriano* vexatious litigant hearing Berry and Cipriano filed a motion  
12 and settlement agreement for Code Civ. Proc. §877.6 approval. During the course of the *Berry v.*  
13 *Cipriano* vexatious litigant hearing Judge Alexander Williams, III refused to consider or rule upon  
14 the settlement agreement between the former plaintiff Berry and lead defendant Cipriano in the  
15 *Berry v. Cipriano, Barton, Miscavige, Rinder, Ingram, Abelson, Moxon* cases.

16       **86.** During the course of the *Berry v. Cipriano* vexatious litigant hearing Robert Cipriano  
17 begged to be heard in explanation of his former lawyer Moxon's crimes, frauds and abuse in the  
18 case but Judge Alexander Williams, III refused to hear from him after objection by cross-  
19 defendant Moxon and his co-counsel. [App. No. IV, Exhibit T (1), p. 97:13-100:15, 112:17-24]

20       **87.** The vexatious litigant ruling pursuant to Code Civ. Proc. § 391 is void on the face of the  
21 record and judgment roll for the reasons set forth in the resulting writ [App. No. IV, Ex. V p. 202].  
22 and because, *inter alia*, cross-complainant Berry had not: (a) "in the immediately preceding seven  
23 year-period ... commenced, prosecuted, or maintained *in propria persona* at least five litigations  
24 ... that have been (i) finally determined adversely to the person or (ii) unjustifiably permitted to  
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1 remain pending at least two years without having been brought to trial or hearing;” or **(b)** in any  
2 proceeding while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or  
3 other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or  
4 solely intended to cause unnecessary delay;” or **(c)** has previously been declared to be a vexatious  
5 litigant by any state or federal court of record in any action or proceeding based upon the same or  
6 substantially similar facts, transaction, or occurrence.”

7  
8 **88.** The vexatious litigant ruling pursuant to Code Civ. Proc. § 391 is void on the face of the  
9 record and judgment roll for the reasons set forth in the resulting writ [App. No. IV, Ex. V p. 202]  
10 and because, *inter alia*: **(a)** in the *Berry v. Cipriano* and *Berry v. Barton* cases cross-complainant  
11 was only acting *in propria persona* for the first two months and for the last month after his law  
12 partnership dissolved; **(b)** in the *Berry v. Miscavige* case (s) the cross-complainant was only acting  
13 *in propria persona* for the last month after his law partnership dissolved; **(c)** Former California  
14 Supreme Court Justice David Eagleson excluded cross-complainant Berry from participating in  
15 certain discovery proceedings because he was “represented by counsel” in the *Berry* cases  
16 [Appendix IV, Ex O]; **(d)** Cross-defendant Moxon intentionally, knowingly and or recklessly  
17 relied upon fabricated matters as established continuing facts [the *Cipriano* May 5, 1994  
18 pedophilia allegations against cross-complainant Berry] which he knew or ought to have known  
19 had been extorted, fabricated, solicited, suborned and previously recanted, and that there was no  
20 other evidence to support such highly prejudicial and inflammatory statements in the vexatious  
21 litigant papers and argument, and/or on the underlying judgment rolls and discovery documents,  
22 and omitted material responsive documents therefrom, and in consequence thereof, as an objective  
23 matter and matter of law, Hon. Alexander H. Williams III was unfairly prejudiced and biased; **(e)**  
24 the *Berry v. Cipriano*, *Berry v. Barton*, and *Berry v. Miscavige* cases were all deemed related, and  
25 consolidated for all purposes, as had been the intent upon filing each case, and so they was one  
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1 *Berry* case and not three; **(f)** there had been an early ruling by Hon. Ernest Hiroshige’s ruling  
2 [*Berry v. Cipriano, Barton, et. al.*, June 10, 1998] that [cross-complainant Berry] “had established  
3 that there is a probability that [Berry as plaintiff] will prevail on the claim” [in the consolidated  
4 *Berry* cases]; **(g)** in the *Berry v. Rosen* case the cross-complainant filed the case at the suggestion  
5 and upon the advice of counsel, never appeared therein himself, was at all times represented by  
6 counsel, and for the further reasons set forth in paragraph 52-55 herein; **(h)** cross-defendant  
7 Moxon’s papers and argument were laced with *ad hominen* attacks upon cross-defendant Berry  
8 alleging he was acting with actual malice against the Scientology leader David Miscavige when  
9 neither actual malice, legal malice or constitutional malice are a relevant or appropriate  
10 independent standard to be applied to the plaintiff in defamation litigation [e.g. Appendix No. IV,  
11 Exhibit Q pp. 54:19-56:13, 62:11-66:4] ; **(i)** notwithstanding cross-defendant Moxon’s many  
12 claims about cross-complainant Berry being deemed a federal vexatious litigant, broadcast around  
13 the world, cross-complainant Berry was not “declared a vexatious litigant in the *Pattinson v*  
14 *Church of Scientology, Miscavige, Moxon* case and put on the Federal vexatious litigant list;  
15 **(j)** cross-complainant Berry had NOT “ previously been declared to be a vexatious litigant by any  
16 state or federal court of record in any action or proceeding based upon the same or substantially  
17 similar facts, transaction, or occurrence;” **(k)** the subsequent testimonial evidence of at least seven  
18 witnesses, regarding cross-defendant Moxon’s criminal conduct directed at the machinery and  
19 integrity of the legal system, essentially establishes the good faith and accuracy of the pleading  
20 allegation (s) forming the basis of the federal court sanction obtained by cross-defendant Moxon,  
21 using crime and fraud directed at the integrity and the machinery of the legal system, extrinsic  
22 fraud and/or extrinsic mistake within the very same case where he expressly denied such conduct  
23 now known to have occurred and had cross-complainant Berry sanctioned for “baselessly”  
24 alleging it and despite himself knowing that cross-complainant’s Berry’s defamation and other  
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1 claims and allegations were either true or substantially true; **(l)** cross-defendant Berry never  
2 “attempted to extort a ‘settlement’ of the Geertz case although in 1994/95 cross-defendant Moxon  
3 and/or his associates had filed a California State Bar complaint alleging exactly that and the  
4 California State Bar investigated for many months before ruling that the allegation was unfounded  
5 [App. IV, Ex. Q, p. 54:25-55:10]; **(m)** far from being some stranger to the underlying defamation  
6 proceedings, cross-defendant Moxon arranged for *Berry v. Barton* co-defendant Isadore Chait to  
7 help purchase the perjury that Cipriano has testified that Moxon was paying him for [App. No. 1,  
8 Ex. A, p. 7:1-26]; **(n)** cross-defendant Moxon’s knowing false and fraudulent misrepresentations  
9 to Judge Williams, that “the alleged defamatory statements were accurate and truthful” [Appendix  
10 No. IV, Ex. Q, p.59:12-13], were known or should have been known, by cross-defendant Moxon  
11 to be false because of the circumstances in which they were extorted and fabricated, and also  
12 because of the contents of the August 5, 1999 Cipriano declaration and fifty exhibits [App. No. II,  
13 Exh. C] which had been served upon him, and were later argued to the court to be irrelevant, and  
14 that Cipriano’s recant of the fabricated May 5, 1994 Cipriano Declaration then in issue could not  
15 be believed because Robert Cipriano’s inconsistent testimony established that he was a liar  
16 [although his first and Ingram fabricated declaration should still stand!]; **(o)** the representations of  
17 cross-defendant Moxon, that the imposition of a Code Civ. Proc. §391.7 pre-filing order would not  
18 cause cross-complainant Berry any significant prejudice or effective loss of rights or livelihood  
19 were also extrinsically fraudulent as evidenced by: **(i)** cross-defendant Moxon’s successful  
20 opposition to cross-complainant Berry’s Judicial Council Form MC-701 (C.C.P. §391.7) filing  
21 herein, demand for a pre-filing security bond of nearly \$150, 000.00 and request for contempt  
22 against him for seeking the court’s equitable relief herein, and **(ii)** the matters set forth in  
23 paragraphs 37-42 herein; **(o)** the false and fraudulent argument that there had been a vexatious  
24 litigant ruling by the federal court in the *Pattinson* case which should be extended to the *Berry*  
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1 cases; “because the *Pattinson* and *Berry* cases were substantially related and arose out of similar  
2 transactions” [Appendix No. IV, Ex. S] was factually and legally baseless, unfairly misleading and  
3 highly prejudicial; (p) Upon information and belief, Judge Williams later used the void vexatious  
4 litigant ruling, and references to cross-complainant Berry, in his court room to support statements,  
5 in essence, that he could deal with any attorney in discovery disputes in the same way as he had  
6 dealt with cross-complainant Berry by way of the void vexatious litigant ruling at issue herein; (q)  
7 the motion, reply and oral argument by cross-defendant Moxon and his co-counsel were largely  
8 comprised of unsupported *ad hominem* attacks on cross-complainant Berry in respect of matters  
9 irrelevant to the specific criteria set forth in Code Civ. Proc. § 391 *et seq.* and/or neither properly  
10 before the court nor in the papers; (r) the August 11, 1999 settlement agreement between plaintiff  
11 Berry and defendant Cipriano, which was before the court but which the court expressly refused to  
12 consider and expressly stated was “a bizarre evolution in the case” and “irrelevant,” [App. No. IV,  
13 Ex. T (1) pp.112: 17-21] evidenced that cross-complainant Berry had not been vexatious but  
14 instead had ultimately been successful in the *Berry v. Cipriano* litigation (and would have been  
15 successful in the *Berry v. Barton* and *Berry v. Miscavige* cases) but for the wrongful intervening  
16 conduct of cross-defendant Moxon, as alleged and incorporated herein; (s) the introduction of the  
17 *RTC v. Henson* case, and matters before Federal Judge Whyte into oral argument [Appendix No.  
18 IV, Ex. T, p. 117 *et seq.*] was highly prejudicial and misleading because cross-complainant Berry  
19 was not sanctioned in that matter, he was not the subject of any misconduct complaint arising from  
20 that case, and for the other reasons set forth in paras. 25-29 herein; (t) the references during the  
21 void vexatious litigant hearing, to Judge Minning, and to the *Jeavons* case, were also wrong,  
22 misleading and unduly prejudicial because: (i) Judge Minning had merely imposed the mandatory  
23 cost shifting provision of Code Civ. Proc. §425.16 (c); and (ii) cross-complainant Berry had not  
24 appeared as an attorney or a party in the *Jeavons v. Church of Scientology International* case but  
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1 instead was sanctioned, in what the judge expressly stated was a very close call, for ghostwriting a  
2 complaint for a *pro se* litigant that alleged the Church of Scientology had filed a false Department  
3 of Civil Aviation complaint against a helicopter pilot and his flying license to punish him for  
4 flying over the Scientology desert compounds at Gilman Hot Springs and Happy Valley, and  
5 which cross-defendant Moxon successfully argued the litigation privilege protected however foul  
6 the motivation, and that cross-complainant Berry should be sanctioned in the amount of \$3,500.00,  
7 even though he had not appeared in the case; **(u)** cross-complainant Berry voluntarily dismissed  
8 the underlying *Berry* cases not because they lacked merit but as a direct result of : **(i)** the  
9 misconduct of cross-defendant Moxon as alleged herein; **(ii)** the crippling costs of a case where  
10 the court had denied him almost all discovery, denied him any privacy objections, denied him  
11 other discovery objections rights and ruling that “Berry will just sit there and take it,” **(iii)** and  
12 cross-defendant Moxon, *et. al.* had required him to pay the deposition costs of over twenty  
13 deposition days and had noticed another 21 depositions many out of state and where opposing  
14 counsel Rosen had represented that they would prevent Berry from representing himself *pro se*  
15 even though he is admitted to the practice of law in that jurisdiction; **(iii)** the denial of due process  
16 arising from the crippling costs of being ordered to pay for a retired Supreme Court Justice to read  
17 all discovery papers and to preside at discovery hearings, and make discovery recommendations to  
18 the trial judge, at a cost of over \$450.00 per hour (in addition to the court reporter costs) by the  
19 trial judge, because the trial judge was “too busy;” **(v)** the lack of fairness arising from the  
20 mandated use of an expensive private judge who had been employed by the Scientology  
21 defendants, cross-defendant Moxon, and his multiple huge law firm co-counsel in previous cases  
22 and who had a reasonable expectation of being lucratively hired by those same Scientology  
23 entities and their lawyers in future litigation; **(w)** the argument of Mr. Moxon and his co-counsel,  
24 that cross-complainant Berry was vexatious because Mr. Moxon’s client had won more motions  
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1 than Mr. Berry had [Appendix No. IV, Ex. Q, p. 62:9-21] was wrong and misleading; (x) the self-  
2 evident purpose of the vexatious litigant proceeding, as expressed in the vexatious litigant petition,  
3 reply and hearing [App. No. IV, Ex. Q, p. 1:17-19], was to permanently protect cross-defendant  
4 Moxon, his leader David Miscavige, Moxon's then OSA superior Michael Rinder, his private  
5 investigator Eugene Ingram, and his co-counsel Elliot Abelson, Esq., and others from any legal  
6 responsibility or consequences for the despicable fabrication, publication and continuing  
7 publication of the May 5, 1994 Cipriano declaration now objectively known to be a perjury that  
8 was procured, fabricated and paid for by cross-defendant Moxon as an officer of the court; and  
9 which continues to be published by various of cross-defendant Moxon's associates and clients,  
10 and to otherwise defame and cause damage to cross-complainant Berry; (y) and the other reasons  
11 set forth in the Request for Stay, Petition for Mandate, etc. filed thereafter [App. IV, Ex. V p.  
12 202]; and, (z) in the opening brief of the appeal papers which disappeared from the appellate court  
13 files and resulted in the dismissal for "failure to perfect the appeal."

14  
15 **89.** The judgment roll of the void vexatious litigant proceeding evidences that the vexatious  
16 litigant proceedings were wrongfully and maliciously used to both obstruct justice and to impose  
17 an unjust lifetime punitive sanction upon cross-complainant Berry for what he had said about the  
18 Church of Scientology and its leader David Miscavige in first amendment protected speech  
19 outside the court room and not for matters he had done in litigation inside the court room.

20  
21 **90.** Robert Cipriano's subsequent confession (s), and the acts of solicitation, fabrication,  
22 suppression, concealment and cover-up by plaintiff and cross-defendant Moxon, and his  
23 associates and clients, in and around the *Berry* and *Pattinson* cases, in essence, demonstrate that at  
24 all material times the claims in the *Berry v. Cipriano, Barton, Miscavige, Rinder, Abelson,*  
25 *Ingram, Moxon* litigation, and the relevant allegation (s) in the *Pattinson* case, had merit, were not  
26 frivolous, that a reasonable jury presented with Cipriano's recanted and new testimony, and the  
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1 fifty documents corroborating it, along with other relevant and admissible evidence, would have  
2 determined the *Berry v. Cipriano, Barton, Miscavige, Rinder, Abelson, Ingram, Moxon*  
3 defamation, etc. litigation in favor of cross-complainant Berry; and that in the *Pattinson v.*  
4 *Miscavige* case a reasonable jury presented with the new evidence, would have determined *inter*  
5 *alia* the issue of cross-defendant Moxon’s involvement in scientology litigation-related crime,  
6 fraud and abuse, contrary to express representations and partially paid for with Pattinson’s  
7 substantial donations to the International Association of Scientologists (“the IAS”), in favor of the  
8 plaintiff Michael Pattinson.

9  
10 **91.** The vexatious litigant petition against cross-complainant Berry, by cross-defendant  
11 Moxon, in the *Berry v. Cipriano, et. al.* consolidated litigation expressly relied upon the rulings  
12 and language of the “unjust order” entered against cross-complainant in the *Pattinson* case and  
13 Hon. Alexander Williams, III expressly ruled that: **(i)** his grounds for doing so were those set forth  
14 in the vexatious litigant petition filed by cross-defendant Moxon and his agents (and which failed  
15 to satisfy any of the Code Civ. Proc. §391 *et. seq.* criteria); and **(ii)** cross-complainant Berry was  
16 being deemed a vexatious litigant for life “not for what he had done but because of the way he had  
17 done it,” according to cross-defendant Moxon and his co-counsel, in the consolidated *Berry v.*  
18 *Cipriano, Barton, Miscavige* defamation, etc. case. [App. IV, Ex. T (2), p.159].

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20 **92.** On March 22, 1999, in the *Pattinson v. Church of Scientology International, Miscavige,*  
21 *Rinder, Ingram, Moxon, et. al.* cross-defendant’s motion for sanctions, resulting in the [unjust]  
22 order relied upon by cross-defendant in his unverified complaint herein, was heard. It expressly  
23 incorporated matters allegedly adverse to cross-complainant Berry from within the *Berry v.*  
24 *Cipriano, et. al.* litigation. Mere moments before cross-complainant Berry was to approach the  
25 podium to address the court in his own defense upon cross-defendant Moxon’s sanctions motion  
26 therein, cross-defendant Moxon approached him personally and served a new law suit on cross-  
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1 complainant Berry as he prepared to stand and address the judge; the new case that cross-  
2 defendant served was *Michael Hurtado v. Graham Berry*, LASC Case No. BC 208227.

3 **93.** Upon information and belief, including that obtained from the deposition testimony in the  
4 *Hurtado v. Berry* case, cross-defendant Moxon used information obtained during discovery in the  
5 *Berry v. Cipriano, Barton, Miscavige, Rinder, Abelson, Ingram, Moxon* cases, through denial of  
6 any right to privacy objections, to solicit and fabricate the representations and claims in the  
7 *Hurtado v. Berry* case, the salacious allegations of which were then introduced into the *Berry* and  
8 *Pattinson* cases, published on the internet, provided to the media and otherwise used vexatiously  
9 as set forth in the four appendices of exhibits filed previously and incorporated herein.

11 **94.** Twelve months later, cross-defendant Moxon, through his then client Hurtado voluntarily  
12 dismissed the improperly solicited *Hurtado v. Berry* case after a retired superior court judge (Hon  
13 Stephen Lachs), sitting as a discovery referee, ruled that the attorney client privilege between  
14 cross-defendant Moxon and Hurtado was waived because the witness testimony before the court  
15 demonstrated that cross-defendant Moxon was engaged in a crime or fraud upon the court in the  
16 *Hurtado v. Berry* cases and, from the actual evidence before the court, in the consolidated *Berry v.*  
17 *Cipriano, Barton, Miscavige, Rinder, Abelson, Ingram, Moxon* cases, and in the *Pattinson v.*  
18 *Miscavige* case, because the evidence to be ruled upon as constituting a fraud upon the court in the  
19 *Hurtado v. Berry* case included that which cross-defendant Moxon misrepresented to the courts in  
20 the *Berry* and *Pattinson* cases. [Appendix No. I, Exhibit A].

22 **95.** Cross-defendant Moxon, through his then solicited client Michael Hurtado, and through  
23 his co-counsel, and knowing that the *Hurtado v. Berry* case was solicited, then paid for and  
24 fabricated a false police complaint, and caused a police investigation of cross-complainant on  
25 allegations of pandering. Upon information and belief, the Los Angeles Sheriff's Department  
26 found no evidence to support the charge.  
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1           **96.** Cross-defendant Moxon, through his then solicited client Michael Hurtado, and through  
2 his co-counsel, and knowing that the *Hurtado v. Berry* case was solicited, paid for and fabricated,  
3 also caused a California State Bar investigation of cross-complainant Berry on in connection with  
4 the Hurtado fabrications suborned by cross-defendant Moxon, his co-counsel and agents. Upon  
5 information and belief, the California State Bar found no evidence to support the complaint.

6           **97.** During the *Hurtado* case, cross-defendant Moxon cross-examined his own former client  
7 Cipriano upon the allegations of felony conduct criminal conduct directed at the machinery and  
8 integrity of the legal system and process itself, and other fraudulent representations which  
9 Cipriano alleged cross-defendant Moxon had suborned and made as his attorney in the *Berry v.*  
10 *Cipriano.* case and this evidence was supported by over fifty documents (Appendix No. II, Exhibit  
11 B hereto), some in cross-defendant Moxon’s own handwriting and/or with his signature and many  
12 of it being checks and other evidence of corrupt payments to obstruct justice. The testimony that  
13 cross-defendant Moxon elicited from his own former client became part of the evidence set forth  
14 in Exhibit A attached to Appendix I filed herewith, which was the motion precipitating Hon.  
15 Stephen Lachs (ret.) recommendation to LASC Judge Ray Hart that the attorney client privilege  
16 between *Hurtado* and cross-defendant Moxon, be waived under the crime-fraud exception.  
17

18           **98.** Upon information and belief, during the pendency of, *inter alia*, the continuum of inter-  
19 related cases at issue, cross-defendant Moxon’s corroborated felony criminal conduct criminal  
20 conduct directed at the machinery and integrity of the legal system and process itself, “extrinsic  
21 frauds and/or mistakes,” and that of his agents, included violations of 18 U.S.C. §§ 1621, 1603,  
22 1503, 1512, 371 2 (a), 2 (b) (perjury, obstruction of justice, witness and evidence tampering,  
23 conspiracy, aiding and abetting and the use of an intermediary). Specifically, cross-defendant  
24 Moxon's felony and fraudulent acts criminal conduct directed at the machinery and integrity of the  
25 legal system and process itself, included violations of the Business & Professions Code and the  
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1 Rules of Professional Conduct, “extrinsic frauds and/or mistakes,” and those of his agents, in  
2 connection with and/or during the course of the underlying matters, and they included but are  
3 expressly not limited to:

- 4     **A.** The May 5, 1994 presentation of the first Cipriano Declaration with numerous  
5 fabrications and exaggerated statements regarding cross-complainant’s alleged sexual  
6 history to Robert Cipriano, which Cipriano was forced to sign under duress and the  
7 coercive threats of cross-defendant’s agent Eugene Ingram;
- 8     **B.** The use of less than candid investigators to obtain information and the subsequent use of  
9 that information obtained through uncontroverted evidence of intimidation and coercion;
- 10     **C.** The solicitation of Cipriano as a client in the ensuing litigation in order to pervert and  
11 obstruct the course of justice as more fully set forth and/or incorporated herein.
- 12     **D.** The deposition preparation of Cipriano by cross-defendant Moxon on June 29, 1998 during  
13 which, *inter alia*, cross-defendant Moxon instructed Cipriano to lie about the ages of  
14 cross-complainants falsely alleged sexual relationships, and which *inter alia* violated Rule  
15 3-210 of the Rules of Professional Conduct, C.C.P. §1209 (8) and 18 U.S.C. §§371, 1512,  
16 2 (B), 1503, 1621 and 1623 (conspiracy, obstruction of justice, witness and evidence  
17 tampering, perjury);
- 18     **E.** The further testimonial preparation of Cipriano by cross-defendant Moxon comprised of  
19 instructions to lie on June 30, 1998, also in violation of Rule 3-210 of the Rules of  
20 Professional Conduct and C.C.P. §1209 (8);
- 21     **F.** Violating the oath taken by all attorneys at law under Business and Professions Code  
22 §6067, in which attorneys promise, "... faithfully to discharge the duties of any attorney at  
23 law to the best of his knowledge and ability;"
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- 1 **G.** The unlawful business dealings between attorney and client, cross-defendant Moxon and  
2 Cipriano, prohibited by Rule 5-200 of the Rules of Professional Conduct and C.C.P. §1209  
3 (8), undertaken in order to maintain Cipriano's livelihood in exchange for perjurious  
4 testimony against cross-complainant Berry;
- 5 **H.** The promise of up to three quarters of a million dollar (\$750,000) donation by cross-  
6 defendant Moxon to found and fund Cipriano's charity Day of the Child (incorporated in  
7 Nevada as part of cross-defendant Moxon's criminal conduct herein) ;
- 8 **I.** The provision of a \$2,500 loan to Cipriano;
- 9 **J.** The provision of Cipriano's free room and board at Joanne Wheaton's Franklin House;
- 10 **K.** The rental of a Palm Springs condominium, a five bedroom Palm Springs home complete  
11 with swimming pool, and monthly provisions for Cipriano's board and living expenses by  
12 the law firm of Moxon & Kobrin;
- 13 **L.** The provision by cross-defendant Moxon, at no cost to Cipriano, of a \$20,000 lawyer in  
14 New Jersey to clear and expunge Cipriano's criminal record to avoid impeachment at trial;
- 15 **M.** The provision of the balance of those monies in the amount of \$1,500 to Cipriano;
- 16 **N.** Cross-defendant Moxon's provision of free legal services to incorporate Cipriano's "Day of  
17 the Child" Charity in Nevada (to serve as vehicle for the commission of some of the  
18 applicable criminal, fraudulent and unethical conduct herein);
- 19 **O.** Cross-defendant Moxon's provision of a new Saturn auto for Cipriano on October 6, 1998;
- 20 **P.** Cross-defendant Moxon's provision of a computer for Cipriano at a cost of \$1,000.
- 21 **Q.** Cross-defendant Moxon and/or his agents solicitation of fellow employee Reveillere to file  
22 a retaliatory law suit against opposing party Michael Pattinson in *Pattinson v. Church of*  
23 *Scientology* to *inter alia* serve as a vehicle for interfering with and obstructing the course  
24 of justice and Michael Pattinson's civil rights therein.  
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- 1 **R.** The use of abusing rulings and questioning in the *Berry v. Cipriano* case to obtain and  
2 wrongfully use deposition testimony about cross-complainant's consensual relationship  
3 with adult Michael Hurtado.
- 4 **S.** Soliciting the representation of *Michael Hurtado* and suborning his perjury to file a  
5 fabricated law suit against cross-complainant Berry in order to pervert and obstruct the  
6 course of justice in the *Berry v. Cipriano et al.*, *Pattinson v. Church of Scientology, et. al.*,  
7 and other litigation and matters.
- 8 **T.** Soliciting the representation of *Anthony Apodaca*, making payments to him, and suborning  
9 his perjury to support the fabricated *Hurtado v. Berry* law suit against cross-complainant  
10 Berry in order to pervert and obstruct the course of justice in the *Berry v. Cipriano et al.*,  
11 *Pattinson v. Church of Scientology, et. al.*, and other litigation and matters.
- 12 **U.** The payment of Anthony Apodaca's solicitation, subornation and legal representation by  
13 another law firm, the payment of Michael Hurtado's solicitation, subornation and legal  
14 representation by two other law firms, and the payment of Robert Cipriano's solicitation,  
15 subornation and legal representation by three law firms.
- 16 **V.** The fabrication and fraudulent filing of a false criminal complaint, a false state bar  
17 complaint, federal and state law suits captioned *Hurtado v. Berry*, and maintaining them  
18 longer after a reasonable attorney would have realized they were fabricated and baseless.
- 19 **W.** The intimidation, by Eugene Ingram, of a witness in the *People v. Hurtado* criminal  
20 proceeding which resulted in the conviction and imprisonment of Michael Hurtado for a  
21 serious and violent felony.
- 22 **X.** Upon information and belief, abusing the deposition process in the *Hurtado v. Berry* case  
23 with a notice of deposition of Keith Henson for the same date as the appearance of Keith  
24 Henson was being scheduled for arraignment, and which arraignment notice was not  
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1 “noticed” as part of a “set up” intended for the arrest of Mr. Henson for failing to appear as  
2 allegedly “noticed” and so attempting to also obstruct justice in the *Henson* matters.

3 **Y.** Upon information and belief, the subornation of perjury by Stacy Brooks Young against  
4 cross-complainant Berry in the Florida case of *Lisa McPherson v. Church of Scientology*  
5 [*Dandar disqualification hearing*];

6 **Z.** Upon information and belief, as documented *inter alia* by the uncontroverted and  
7 corroborated testimony and documents filed herewith and incorporated herein as Exhibits  
8 A-J, cross-defendant Moxon’s criminal conduct directed at the machinery and integrity of  
9 the legal system and process itself, “extrinsic frauds and mistakes, and other wrongful  
10 conduct engaged in and relating to the underlying matters include violations of the  
11 following: **(1)** Rules of Professional Conduct 1-120; 1-400 (C), (D) (1) & (2), (3), (4), (5);  
12 2 - 100 (A); 3-110 (A); 3-200 (A) and (B); 3-210, 3-300, 3- 310 (B), (1), (2), (3), (4), (C)  
13 (1), (2), (3), (E), (F) (1), (2), (3); 3-400 (B); 3-500; 3-600 (A), (B), (C), (D), (E), 3-700 (B)  
14 (1), (2); 4-100 (B) (4); Rule 4-210 (A); 5-100 (A); 5-200 (A), (B), (C) and (E), 5 -  
15 220, 5 – 310; **(2)** State Bar Act sections 6067, 6068 (a), (c), (d), (f), (g), (n), 6106, 6106.5,  
16 6151, 6152; **(3)** Insurance Code § 1871.7, 550 (a) (1), (a) (5), (b) (1) - (5), (c) (1)-(4).  
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19 **99.** Upon information and belief, the testimony of cross-defendant Moxon’s former client  
20 Robert Cipriano regarding the matters alleged and/or set forth herein (both before and after his  
21 recant) is set forth in the following deposition transcripts and declarations: **(a)** May 5, 1994;  
22 **(b)** April 27, 1998; **(c)** Deposition taken July 1 and 2, 1998; **(d)** Declaration dated July 16, 1999;  
23 **(e)** Declaration dated August 9, 1999 (and the fifty exhibits); **(f)** Settlement Agreement dated  
24 August 11, 1999 (the Recitals are significant); **(g)** Declaration dated September 26, 1999 and  
25 exhibit (transcript); **(h)** Declaration dated December 23, 1999; **(i)** Cipriano – Moxon settlement  
26 agreement dated December 23, 1999; **(j)** Declaration dated June 15, 2000; **(k)** Declaration dated  
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1 July 18, 2000; (I) Declaration dated August 6, 2000. A copy of the August 6, 2000 declaration is  
2 attached to the Appendix of Exhibits filed herein as Exhibit E.

3 **100.** Upon information and belief, the relevant testimony of cross-defendant Moxon's  
4 former client and witnesses in the *Hurtado v. Berry* cases includes that of: (a) Michael Hurtado;  
5 (b) Ana Marina Hurtado; (c) Vanessa Hurtado; (d) Jenny Berosteguy; (e) Donald Wager, Esq.,  
6 (f) Anthony Apodaca.

7 **101.** The conduct of cross-defendant Moxon, which is alleged to provide the grounds for the  
8 relief sought herein by cross-complainant Berry, was a deliberate, despicable and diabolical  
9 continuum of felonies and/or other criminal conduct directed at the machinery and integrity of the  
10 legal system and process itself, frauds and corruption committed by an officer of the court.

11 **102.** The conduct of cross-defendant Moxon, which is alleged to provide the grounds for the  
12 relief sought herein by cross-complainant Berry, was directed at the very integrity of the judicial  
13 process and machinery itself by an officer of the court appearing in the same case (s).

14 **103.** The wrongful conduct and the unjust and damaging consequences thereof, committed  
15 by cross-defendant Moxon against cross-complainant Berry, are continuing to this day and will  
16 continue indefinitely unless relief is granted as requested herein.

17 **104.** As alleged herein, circumstances extrinsic to the *Berry v. Cipriano, Barton, Miscavige,*  
18 *Rinder, Abelson, Ingram, Moxon* cases, and the *Pattinson v. Church of Scientology* litigation,  
19 unfairly cost those plaintiffs, which included cross-complainant Berry herein, an adversarial  
20 hearing and impartial trial upon the merits and resulted, *inter alia*, in the judgments and orders”  
21 from which relief is sought as requested herein

22 **105.** Cross-complainant Berry (and his former client Michael Pattinson) has/have been  
23 denied a full hearing and /or an adversary trial on the merits of all their claims, and the opportunity  
24 to fully litigate and conduct discovery on all their claims, by the criminal conduct criminal conduct  
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1 directed at the machinery and integrity of the legal system and process itself, “extrinsic frauds  
2 and/or mistakes, and extrinsic mistakes, committed by or caused by cross-defendant Moxon.

3 **106.** In the *Berry v. Cipriano, Barton, Miscavige, Rinder, Abelson, Ingram, Moxon* cases,  
4 and in the *Pattinson v. Church of Scientology* litigation, cross-defendant Moxon and his co-  
5 counsel obtained orders that they had discovery preference and that cross-complainant Berry in the  
6 *Berry v. Cipriano* litigation and cross-complainant Berry’s client in the *Pattinson* litigation could  
7 not take any discovery until cross-defendant Moxon and his co-counsel had concluded their  
8 deposition discovery including a deposition of cross-complainant Berry which proceeded for over  
9 thirteen full days and for nearly the entirety of the *Berry* and *Pattinson* cases.

11 **107.** Cross-defendant Moxon’s “extrinsic fraud,” criminal conduct directed at the machinery  
12 and integrity of the legal system and process itself, and other unconscionable conduct so  
13 improperly and adversely impacted cross-complainant Berry and his then client Michael Pattinson  
14 that they were caused to act in “extrinsic mistake,” were separately forced to voluntarily dismiss  
15 their meritorious claims as evidenced, in substantial part, by the subsequent testimony of Cipriano  
16 (corroborated by over fifty incriminating documents many bearing cross-defendant Moxon’s  
17 signature and/or handwriting) and the subsequent testimony of numerous adverse witnesses in the  
18 *Hurtado v. Berry* case which was solicited and filed by cross-defendant Moxon and voluntarily  
19 dismissed by him on the eve of a hearing on a motion (attached to Appendix No. II herein as  
20 Exhibit B) to pierce the attorney client privilege upon the crime-fraud exception and involving,  
21 *inter alia*, the acts alleged herein as constituting extrinsic crime, fraud and mistake.

24 **108.** Cross-complainant Berry has no adequate remedy at law in that, through no fault of his  
25 own, and through cross-defendant Moxon’s criminal conduct directed at the machinery and  
26 integrity of the legal system and process itself, “extrinsic frauds and/or mistakes” upon the  
27 courts,” he was improperly and unfairly prejudiced before those courts, denied proper hearings  
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1 and litigation of his claims and discovery rights, and denied legal redress after Robert Cipriano  
2 recanted and confessed to the conduct of cross-defendant Moxon and himself, and before any  
3 knowledge of the largely concurrent Hurtado, Wager, Apodaca conduct leading to the filing of  
4 cross-complainant Berry's "crime fraud exception to the attorney client privilege" motion and  
5 subsequent dismissal in the *Hurtado v. Berry* state and federal court cases.

6 **109.** The relevant allegations in the *Pattinson v. Church of Scientology* case had merit *inter*  
7 *alia* because of the matters set forth in the subsequent testimony of cross-defendant Moxon's  
8 client Robert Cipriano, the successful crime fraud motion against cross-defendant Moxon and his  
9 client Hurtado in the *Hurtado v. Berry* case which directly resulted in cross-defendant Moxon's  
10 voluntary dismissal of Hurtado's claims in federal and state courts, the testimony of the Hurtado  
11 family witnesses, Mr. Cipriano, Donald Wager, Esq. and Anthony Apodaca in the *Hurtado* case.

13 **110.** Equitable relief herein upon the ground of "extrinsic fraud" and "extrinsic mistake" is  
14 proper for the further reason, *inter alia*, because cross-defendant Moxon's criminal conduct  
15 directed at the machinery and integrity of the legal system and process itself and "extrinsic  
16 frauds" upon the court, as an officer of the court, caused cross-complainant Berry [and the relevant  
17 judicial officers] to make excusable "extrinsic mistakes" causing, *inter alia*, the dismissal of the  
18 *Berry v. Barton* case and the voluntary dismissal of the *Pattinson v. CSI*, *Berry v. Miscavige* and  
19 *Berry v. Cipriano* cases, and unfairly cost cross-complainant Berry and his then client Michael  
20 Pattinson a fair, full and impartial adversarial hearing, after full discovery, upon the merits in their  
21 respective litigation at issue herein.

24 **111.** Among other things, the Cipriano evidence and the subsequent Apodaca, Hurtado  
25 family, Wager and related evidence establishes that "extrinsic fraud and/or mistake" and other  
26 criminal conduct directed at the machinery and integrity of the legal system and  
27 process itself was being committed outside the court (s) by cross-defendant Moxon, an officer of  
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1 the relevant court (s), who was expressly, falsely and concurrently denying the same or similar  
2 conduct inside the court, and to the court, and intentionally making false representations of fact  
3 allegedly supported by the matters of “extrinsic fraud and/or mistake” as set forth herein and  
4 causing the cross-complainant Berry (and his then client Michael Pattinson) to be unfairly and  
5 unconstitutionally prejudiced and deprived of their legal and civil rights thereby.

6 **112.** The alleged criminal conduct directed at the machinery and integrity of the legal  
7 system and process itself, intentional extrinsic frauds and/or extrinsic mistakes upon the court, by  
8 cross-defendant Moxon acting as an officer of the court, were an unconscionable plan or scheme  
9 designed to improperly influence the court and judicial process.  
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11 **113.** The alleged criminal conduct directed at the machinery and integrity of the legal  
12 system and process itself, intentional extrinsic frauds and/or extrinsic mistakes upon the court, by  
13 cross-defendant Moxon acting as an officer of the court, were in fact against the machinery,  
14 integrity and impartiality of the court and of the judicial process, were not in the interests or  
15 furtherance of justice, and were not privileged.  
16

17 **114.** The acts and continuum of conduct set forth herein and alleged to constitute criminal  
18 conduct directed at the integrity and machinery of the legal system, extrinsic fraud and/or mistake,  
19 and other frauds upon the court (s) by cross-defendant Moxon acting as an officer of the court in  
20 those same cases, also provides the evidential basis for cross-complainant Berry to assert, *inter*  
21 *alia*, duress, mistake, excuse, justification, excusable neglect, accident or extrinsic accident, and  
22 extrinsic surprise in connection with any of his own acts or omissions herein.  
23

24 **115.** The adverse, wrongful and damaging impact of cross-defendant Moxon’s criminal  
25 conduct directed at the machinery and integrity of the legal system and process itself, “extrinsic  
26 frauds and/or extrinsic mistake” and other wrongful conduct against cross-complainant Berry,  
27 commencing in 1994 and continuing through to the present day, caused a grave miscarriage of  
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1 justice and amount to unusual circumstances explaining and preventing cross-complainant Berry,  
2 *inter alia*, from seeking earlier relief at equity.

3 **116.** In all of the circumstances set forth herein there can be no prejudice to cross-defendant  
4 Moxon because, *inter alia*, cross-defendant Moxon should not be permitted to “take advantage of  
5 his own wrong (s)” [Civil Code Section 3517].

6 **117.** The matters set forth herein should also be addressed in the context of a continuing  
7 serious fraud upon the court (s) by an officer of the court (s).

8 **118.** The wrongful conduct of cross-defendant Moxon intentionally and/or recklessly  
9 directed at cross-complainant Berry, as alleged and incorporated herein, and the unjust judgments  
10 and orders wrongfully obtained against cross-complainant Berry by cross-defendant Moxon,  
11 have/has wrongfully and seriously damaged and/or destroyed the professional and personal life,  
12 finances, health and prospects of cross-complainant Berry for the past sixteen years and will likely  
13 continue to do so unless the relief sought herein is granted as requested.  
14

15 **119.** On March 3, 2010, during a discovery meet and confer, with Moxon’s co-counsel  
16 David Cantrell, Esq., and cross-complainant Berry, regarding the scheduling of depositions for  
17 three witnesses cross-complainant Berry was then representing in the *Choquette v. CSI* false  
18 imprisonment, etc. case, cross-defendant Moxon repeatedly brought up the matter of cross-  
19 complainant Berry having been deemed a vexatious litigant and that cross-defendant Berry’s offer  
20 of deposition dates for his *pro bono* clients in mid April were too far out because cross-  
21 complainant Berry may have lost his law license by then as a result of cross-defendant’s  
22 opposition, contempt and bonding motion in this *Moxon v. Berry* litigation, filed Feb. 22, 2010.  
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**PRAYER**

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2           **WHEREFORE**, the defendant and cross-claimant Berry prays for judgment against the  
3 plaintiff and cross-defendant Moxon as follows:  
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- 5   **1.** That plaintiffs’ claims be dismissed and that plaintiff take nothing by them.  
6  
7   **2.** That the attorneys fees and costs award/order, submitted by and made to cross-defendant on or  
8 about July 19, 1999 in *Pattinson v. Church of Scientology International, Moxon, et. al.* be  
9 vacated and set aside, and be declared null and void, upon the grounds, *inter alia*, that it was a  
10 material consequence of criminal conduct directed at the machinery and integrity of the legal  
11 system and process itself, extrinsic frauds and mistakes upon the court, and extrinsic mistakes  
12 alleged herein, it is an “unfair judgment,” and in the interests of equity and justice.  
13  
14 **3.** That the order entered in the *Berry v. Cipriano* case on August 19, 1999 and declaring the  
15 cross-complainant to be a vexatious litigant be vacated and set aside, and the order entered  
16 against Cross-Complainant be declared null and void, upon the grounds, *inter alia*, that it was  
17 a material consequence of the criminal conduct directed at the machinery and integrity of the  
18 legal system and process itself, extrinsic frauds and mistakes upon the court, and extrinsic  
19 mistakes alleged herein, it is an “unfair judgment,” and in the interests of equity and justice.  
20  
21 **4.** For costs of suit herein incurred.  
22  
23 **5.** For such other and further relief and appropriate equitable remedies (including disgorgement)  
24 herein and in connection with the underlying matters as the Court may deem proper, fair and to  
25 prevent further injustice against defendant and cross-complainant Berry and to restore him to  
26 the positions he would be in absent the criminal and fraudulent conduct alleged and submitted  
27 in evidence herein.  
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DATED: March 4, 2010

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**Graham E. Berry**  
Defendant *pro se*

DATED: March 4, 2010

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**Barry Van Sickle**  
Attorney for cross-complainant

**VERIFICATION**

I, **GRAHAM E. BERRY**, am the cross-complainant in the above-entitled action. I have read the foregoing and I know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on contention, information or belief, or which have been testified to by others, and as to those matters I believe them to be true.

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

Executed at Los Angeles, CA this 5th day of March, 2010.

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**GRAHAM E. BERRY**  
Defendant and cross-complainant

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**EXHIBIT 1**

**Document delivered by associates of plaintiff and cross-defendant Moxon to  
Australian national media on or about the week of February 15, 2010.**

