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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

LAURA ANN DeCRESCENZO, aka  
LAURA A. DIECKMAN,  
  
Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a corporate  
entity, AND DOES 1 - 20,  
  
Defendants.

CASE NO. BC411018  
Assigned to the Honorable  
Ronald M. Sohigian, Dept. 41

PLAINTIFF'S NOTICE OF MOTION  
AND MOTION TO COMPEL  
COMPLIANCE WITH THE COURT'S  
DISCOVERY ORDERS OR  
ALTERNATIVELY FOR TERMINATING  
SANCTIONS; MEMORANDUM OF  
POINTS AND AUTHORITITES;  
DECLARATION OF KATHRYN SALDANA

DATE: March 6, 2013  
TIME: 1:30 p.m.  
DEPT: 41

[FILED CONCURRENTLY WITH  
DECLARATION OF LAURA A.  
DIECKMAN (DECRESCENZO) AND  
EXHIBITS 1-42]

CIT/CASE: BC411018  
LEA REF#  
RECEIVED  
DATE FILED: 02/06/13 11:16 AM  
FILING FEE: \$60.00  
RECEIVED  
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PLAINTIFF'S NOTICE OF MOTION AND MOTION TO COMPEL COMPLIANCE WITH  
THE COURT'S DISCOVERY ORDERS OR TERMINATING SANCTIONS; MEMORANDUM  
OF POINTS AND AUTHORITITES; DECLARATION OF KATHRYN SALDANA

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TO THE PARTIES HERETO AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on March 6, 2013, at 1:30 p.m., or as soon thereafter as the matter may be heard, in Dept. "41" of the above-entitled Court, located at 111 N. Hill Street, Los Angeles, California, Plaintiff will move the Court, pursuant to Code of Civil Procedure § 2031.320, for the following:

(1) An order compelling the compliance of Defendant, Church of Scientology International, with the Court's prior orders of January 7, 2013, requiring amended responses and the production of documents in response to Plaintiff's Requests for Production of Documents or a sufficiently specific privilege log; or in the alternative,

(2) An order issuing a terminating sanction of Defendants' statutes of limitations defense based on Defendants' refusal failure to obey the Court's prior orders of January 7, 2013, requiring the production of documents in response to Plaintiff's Requests for Production of Documents or a sufficiently specific privilege log.

This motion is made pursuant to Code Civ. Proc. § 2031.320 on the grounds that Defendant, Church of Scientology International ("CSI"), has failed, without justification, to obey the Court's prior orders of January 7, 2013, granting Plaintiff's Motion to Compel the Production of Documents from Defendant and/or produce a privilege log sufficient to enable the Court and Plaintiff to evaluate the merits of any claimed privileged. Further, based on descriptions provided of documents within the privilege log, it is evident that the privileges that CSI claims are invalid and cannot be asserted. Notwithstanding meet and confer efforts, CSI refuses to produce a meaningful supplemental privilege log complying with the Court's previous orders or alternatively produce the documents responsive to Plaintiff's discovery requests. CSI also has prevented Plaintiff from obtaining highly relevant documents for nearly one year, and seeks to preclude Plaintiff from fairly litigating this case on an even playing field.

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Said motion will be based upon this Notice, upon the Memorandum of Points and Authorities and Declaration of Kathryn Saldana attached hereto, the Declaration of Laura A. Dieckman filed concurrently herewith, upon the pleadings and papers on file herein, upon all matters of which the Court may properly take judicial notice, and upon such evidence and argument as may be presented at the hearing hereon.

DATED: February 8, 2013

METZGER LAW GROUP  
A Professional Law Corporation

  
KATHRYN SALDANA, ESQ.  
Attorneys for Plaintiff  
LAURA DECRESCENZO

## MEMORANDUM OF POINTS AND AUTHORITIES

### 1. PRELIMINARY STATEMENT

On January 7, 2013, this Court granted Plaintiff's Motion to Compel the Production of Documents from Defendant, Church of Scientology International ("CSI"), and ordered CSI to either produce the responsive documents or to produce a sufficiently specific privilege log regarding all documents that CSI refuses to produce. Since that time, CSI has failed to comply with the Court's order, and instead produced a wholly-insufficient privilege log claiming that all **2,891** documents (of varying lengths) from Plaintiff's "PC Folders" are confidential and subject to the clergy-penitent privilege and protected under the First Amendment. CSI also claims that more than **259** individuals, including individuals who cannot be identified by name, all constitute Plaintiff's "clergymen."

The Court should order CSI to produce the withheld documents which clearly are not privileged and produce a privilege log complying with its prior orders with respect to documents which Defendants assert are covered by a enforceable ministerial privilege. Alternatively, this Court can and should issue a terminating sanction striking CSI's statutes of limitations defense because CSI has intentionally precluded Plaintiff from obtaining access to her "PC Folders" for nearly *one year*.

CSI has routinely objected to Plaintiff's Requests for Production by claiming privileges that it is yet to back up with any substance, despite extensive meet and confer efforts on the part of Plaintiff's counsel and being ordered by the Court to do so. Plaintiff's "PC Folders" are likely to contain documents regarding Plaintiff's state of mind, and are highly relevant to the claims and issues in this case, including the issue of the statutes of limitations and whether or not the doctrine of equitable estoppel is applicable. It is time that CSI's efforts to thwart Plaintiff's ability to properly present her case come to a stop and that CSI not be allowed to hide behind unsubstantiated claims of privilege.

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## 2. SUMMARY OF FACTS

On April 11, 2012, Plaintiff served CSI with Plaintiff's Notice of the Deposition of the Custodian of Records of CSI and Requests for Production of Documents. (Ex. "A"). Plaintiff's Requests for Production of Documents were limited to specific documents relating to *Plaintiff*. (*Id.*). After substantial meet and confer efforts, CSI served Supplemental Objections and Responses to Individual Document Demands, and with respect to Requests for Production Nos. 7-9, 13-17, 20, 24-25, 28-51, 53, 72, 73, and 74, CSI objected to the extent that these requests seek information protected by the clergy-penitent privilege (Evid. Code §§ 1030-1034), the First Amendment to the United States Constitution, Article I, Section 4 of the California Constitution, and the privacy provision of Article I, section 1 of the California Constitution. (Ex. "B"). CSI refused to produce any documents that it claimed were subject to one of these privileges. (*Id.*).

On January 7, 2013, the Court heard and *granted* Plaintiff's Motion to Compel Code Compliant Responses and Documents in Response to Plaintiff's Requests for Production of Documents, with the exception of Requests for Production Nos. 15, 34, and 35, and ordered CSI to produce responses in accordance with the Court's order by January 18, 2013. (Ex. "C"). The Court also ruled that:

CSI may still precipitate non-compliance with the notice and order, but to do so, must provide a coherent and focused privilege log that (1) identifies each document, including information relating to dates, time, place, preparation, who wrote the document, to whom the document went, etc.; and (2) provide a clearer statement and grounds for the specific objection and privilege asserted with respect to each document. Plaintiff may review the privilege log and meet and confer further if necessary, and the Court will consider ruling on any supplemental privilege log at a later date.

(*Id.*).

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1 Rather than comply with the Court's orders, on January 18, 2013, CSI produced a privilege log  
2 to Plaintiff's counsel claiming that 2,891 separate documents (of varying lengths) from Plaintiff's "PC  
3 Folders" are confidential and subject to the clergy-penitent privilege and are somehow protected under  
4 the First Amendment Free Exercise and Establishment Clause. (Saldana Decl., ¶ 7 ; Exs. "1"- "42").  
5 CSI's privilege log provides vague and ambiguous descriptions for of each of the 2,891 documents,  
6 including descriptions such as:

- 7 - "Written communication to clergyman (name not identified, clerical status evident from  
8 nature of document) from senior clergyman (case supervisor) relating to previous  
9 confidential communications between LD and clergymen, and regarding LD's spiritual  
10 condition." (Ex. "1", Document No. 008).
- 11 - "Record of confidential communication from LD to clergyman (name not identified,  
12 clerical status evident from nature of document) regarding her spiritual counseling  
13 session." (Ex. "3", Document No. 004).
- 14 - "Record of confidential communication between from LD to her clergyman (name  
15 illegible) regarding her spiritual counseling session." (Ex. "18", Document No. 031).

16  
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18  
19 CSI also claims in its privilege log that at least 259 individuals identified by their initials *all* constitute  
20 Plaintiff's *clergymen*, and claims in other places, that individuals who *cannot even be identified by*  
21 *name* apparently constitute Plaintiff's clergymen. (Saldana Decl., ¶¶ 7-8; Ex. "3", Document No. 004).  
22 The full extent of the deficiencies in CSI's privilege log and the reasons that it fails to comply with the  
23 Court's orders are addressed in full below.

24  
25 Plaintiff's counsel sent a meet and confer letter to counsel for CSI's regarding the deficiencies  
26 in its privilege log, and also met and conferred telephonically with counsel for CSI regarding the same.  
27 (Saldana Decl., ¶¶ 6-7; Ex. "D"). These meet and confer efforts failed, necessitating the Court's  
28 determination of these matters. (Saldana Decl., ¶ 7).

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3. **THE COURT HAS THE AUTHORITY TO COMPEL COMPLIANCE WITH ITS  
ORDERS OR TO ISSUE A TERMINATING SANCTION FOR DEFENDANT'S  
FAILURE TO COMPLY WITH THE COURT'S PRIOR ORDERS**

Code of Civil Procedure § 2031.320(c) provides courts with the authority to issue a variety of sanctions for a party's failure to comply with a court order:

Except as provided in subdivision (d), if a party then fails to obey an order compelling inspection, copying, testing, or sampling, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In Lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

Code of Civil Procedure § 2031.310(I) provides courts with the same authority for a party's failure to obey an order compelling a further response.

**A. The Court Should Compel Defendant's Compliance With Its Previous Orders**

The Court should compel CSI's compliance with its prior orders so that Plaintiff and the Court can fairly assess CSI's claims of privileges. As noted above, the Court was very particular as to what was required in a privilege log:

CSI may still precipitate non-compliance with the notice and order, but to do so, must provide a coherent and *focused privilege log* that (1) identifies each document, including information relating to dates, time, place, preparation, who wrote the document, to whom the document went, etc.; and (2) provide a clearer statement and grounds for the specific objection and privilege asserted with respect to each document.

(Ex. "C").

Rather than produce a privilege log providing all of the details required by the Court, CSI produced a privilege log claiming that the entirety of Plaintiff's "PC Folders" are privileged pursuant

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1 to the clergy-penitent privilege and pursuant to the First Amendment Free Exercise Clause and  
2 Establishment Clause. This consists of approximately 2,891 documents of varying lengths. The  
3 specific deficiencies in CSI's privilege log are set forth in detail below.

4  
5 First, the Court ordered CSI to provide a clearer statement and grounds for the specific  
6 objection and privilege asserted with respect to each document. Instead of doing this, CSI simply  
7 claims that the clergy-penitent privilege and some unknown and unspecified protections under the First  
8 Amendment Free Exercise and Establishment Clauses apply to every single one of the 2,891  
9 documents identified in its Privilege Log. These purported privileges extend to documents which CSI  
10 vaguely describes as a "[r]ecord of confidential communication from LD to clergyman (name not  
11 identified, clerical status evident from nature of document) regarding her spiritual counseling session"  
12 or a "[r]ecord of confidential communication between from LD to her clergyman (name illegible)  
13 regarding her spiritual counseling session." (Ex. "3", Document No. 004; Ex. "18", Document No.  
14 031). Nothing about these descriptions provide Plaintiff or the Court with a meaningful way to assess  
15 whether or not these documents are actually privileged. Rather, Plaintiff is forced to assume that CSI's  
16 self-serving assertion of "confidential communication" with respect to every single document in its  
17 Privilege Log is valid without any description of the actual contents of the documents themselves.  
18 Plaintiff also is left to assume that even without the identification of an actual name, CSI's assertion  
19 that unknown or illegible persons were her "ministers." This is simply inadequate, and the Court  
20 should compel CSI to comply with its prior orders in this respect.

21  
22 Second, the Court ordered that CSI identify each document in its Privilege Log, and that this  
23 identification include information relating to who wrote the document, to whom the document went,  
24 etc. (Ex. "C"). This identification is critical with respect to the clergy-penitent privilege because this  
25 privilege only covers penitential communications made *in confidence* to a member of the clergy, who,  
26 incident to the tenants of his or her religious denomination, is authorized or accustomed to hear such  
27 communications and has a duty to keep them private. *Roman Catholic Archbishop of Los Angeles v.*  
28 *Sup. Ct. (People)* (2005) 131 Cal.App.4th 417, 444-445. Therefore, a conversation in the presence of



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1 a third person, or a conversation the penitent knows is likely to be transmitted to a third person, does  
2 not warrant the protection of the privilege. *Id.* at 445. . Further, each and every one of the elements  
3 of the clergy-penitent privilege must be satisfied in order to apply the clergy-penitent privilege. *Roman*  
4 *Catholic Archbishop of Los Angeles v. Superior Court* (2005) 131 Cal.App.4th 417, 441-442.

5  
6 Without providing an identification of each individual to whom a document went or identifying  
7 everyone who had access to a particular document, CSI's Privilege Log is inadequate. CSI has not  
8 shown that each of the communications were limited to only Plaintiff and her clergy person or that each  
9 communication was actually confidential in nature other than CSI's self-serving descriptions of  
10 "confidential communication" with respect to *all* 2,891 documents identified in its Privilege Log.

11  
12 Plaintiff takes particular issue with CSI's claims of privilege over documents that it describes  
13 as "[w]ritten communication[s] to clergyman (name not identified, clerical status evident from nature  
14 of document) from senior clergyman (case supervisor) relating to previous confidential  
15 communications between LD and clergymen, and regarding LD's spiritual condition." (*See, e.g., Ex.*  
16 *"1"*, Document No. 008). Not only is this description vague and unclear in violation of the Court's  
17 orders requiring a clearer description of the actual document and the grounds for the privilege asserted,  
18 it is evident that this type of document in no way falls within the clergy-penitent privilege.

19  
20 In *Roman Catholic Archbishop of Los Angeles v. Superior Court* (2005) 131 Cal.App.4th 417,  
21 444-446, the Court specifically ruled that any communications transmitted to a third party, even if that  
22 third-party is someone else within the clergy, is a violation of Evidence Code § 1032's requirement that  
23 the communication be "made in confidence, in the presence of no third person so far as the penitent  
24 is aware, to a member of the clergy who ... has a duty to keep those communications secret." The  
25 Court in that case specifically noted that the clergy-penitent privilege is distinct from privileges such  
26 as the attorney-client or physician-patient privileges because it is "missing from the enumerated  
27 relationships that benefit from t[he] 'reasonably necessary disclosure' rule" set forth in Evidence Code  
28 § 912. *Roman Catholic, supra*, 131 Cal.App.4th at 445, fn. 14.

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Moreover, the entirety of CSI's claim of privilege over Plaintiff's "PC Folders" lacks merit because Plaintiff was told and understood that anyone who was senior to her in her organization within CSI would be permitted to review the contents of any of her "PC Folders." (Dieckman Decl., ¶ 4). This included individuals who were not auditors and who had no auditing training. (*Id.*). Plaintiff also never believed that the contents of her "PC Folders" would be kept confidential between only her and the person who audited her on a particular occasion, nor does she know all of the individuals that had access to her "PC Folders." (*Id.*). Therefore, it appears that CSI's claim that the clergy-penitent privilege applies to each of these documents cannot be trusted as CSI acknowledges that third persons reviewed documents in Plaintiff's "PC Folders" and Plaintiff knew that anyone senior to her was permitted to review her "PC Folders."

Additionally, CSI's privilege log is problematic in that CSI claims that some 259 plus individuals all constituted Plaintiff's "ministers" even though CSI provides no descriptions of these individuals' titles, qualifications, or positions within CSI as justifying a claim of "privilege." CSI's general assertion that all of these individuals constitute ministers, including individuals who cannot even be identified by name, is not sufficiently specific as required by the Court's prior orders. Moreover, such a broad assertion of privilege must be rejected because the clergy-penitent privilege "should not be interpreted to comprehend communications to and among members of sects that denominate each and every member as clergy, proclaim that all communications have spiritual significance, or dictate that all communications among members, whether essential to and in furtherance of the purportedly privileged communication or not, shall be confidential." *In Re Grand Jury Investigation* (3<sup>rd</sup> Cir. 1990) 918 F.2d 374, 384, fn. 13. CSI has designated nearly all communications among members of its Sea Organization as privileged, which is entirely improper.

Moreover, Plaintiff reviewed the list of approximately 259 names that CSI claims were her ministers or clergymen. (DeCrescenzo Decl., ¶ 5). Plaintiff was never audited by the majority of individuals identified on this list. (*Id.*). Additionally, she does not even recognize some of the names included on this list, and for others, while she recognizes the names of the individuals listed, she knows

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that she was never audited by those individuals and that she never considered them to be her ministers or clergymen. (*Id.*). For this additional reason, CSI's claims of privilege are invalid and the documents must be produced.

### **B. The Court Should Issue a Terminating Sanction Striking CSI's Statutes of Limitations Affirmative Defense**

One of the sanctions available under C.C.P. §§ 2031.320(c) 2031.310 for a party's failure to comply with a court order is a terminating sanction. A terminating sanction may consist of striking pleadings, in whole or in part. C.C.P. § 2023.030(d). The power to impose discovery sanctions is a broad discretion subject to reversal only for arbitrary, capricious, or whimsical action. Only two facts are an absolute prerequisite to imposition of a discovery sanction: (1) there must be a failure to comply, and (2) the failure must be willful. *R.S. Creative, Inc. v. Creative Cotton, Ltd.* (1999) 75 Cal.App.4th 486, 496.

Here, Plaintiff requests that the Court issue a terminating sanction striking Defendant CSI's statutes of limitations defense because CSI has refused to provide Plaintiff with access to all documentary evidence necessary to oppose Defendants' Motion for Summary Judgment that is based on its statutes of limitations defense and has failed to obey the Court's orders requiring it to produce a sufficiently specific privilege log for all documents that it is withholding from Plaintiff or to modify its responses to Plaintiff's Requests for Production of Documents and produce the documents requested by Plaintiff. Plaintiff has attempted to obtain the documents requested from CSI for nearly one year, and CSI has consistently prevented Plaintiff from obtaining critical documents that are likely to show her state of mind and whether or not her reliance on Defendants' conduct was reasonable for purposes of equitable estoppel.

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4. **CONCLUSION**

For each of the foregoing reasons, the present motion should be granted.

DATED: February 8, 2013

**METZGER LAW GROUP**  
A Professional Law Corporation



KATHRYN SALDANA, ESQ.  
Attorneys for Plaintiff  
LAURA DECRESCENZO

**DECLARATION OF KATHRYN SALDANA**

I, Kathryn Saldana, declare as follows:

1. I am an attorney at law, duly licensed and authorized to practice law in the State of California.

2. Unless the context indicates otherwise, I have personal knowledge of the matters set forth hereinafter and, if called as a witness, I would competently testify thereto.

3. I am an associate at the Metzger Law Group, counsel for Plaintiff, Laura DeCrescenzo, in this action.

4. Attached hereto as Exhibit "A" is a true and correct copy of Plaintiff's Notice of Deposition of the Custodian(s) Of Records of Defendant, Church of Scientology International, dated April 11, 2012. This Notice of Deposition included Requests for Production of Documents.

5. Attached hereto as Exhibit "B" is a true and correct copy of Defendant Church of Scientology International's Supplemental Objections and Responses to Individual Document Demands, dated November 19, 2012.

6. On January 7, 2013, the Court granted Plaintiff's Motion to Compel Defendant, Church of Scientology International ("CSI"), to Provide Code Compliant Responses and to Produce Documents in Response to Plaintiff's Notice of Deposition of the Custodian of Records of the Church of Scientology International and Request for Production of Documents. Attached hereto as Exhibit "C" is a true and correct copy of the Notice of Ruling on Plaintiff's Motion to Compel.

7. On January 18, 2013, CSI produced a privilege log to my office in which it claimed that at least 2,891 documents (of varying lengths) each were subject to the clergy-penitent privilege. CSI also claims in this privilege log at least 259 different people (and others whose names are unknown) all constitute Plaintiff's clergymen. Filed under separate cover is a true and correct copy of Defendant's Supplemental Privilege Log produced on January 18, 2013, in response to the Court's order of January 7, 2013 - this Privilege Log consists of Exhibits "1"-"42".

8. CSI's Privilege Log also contained a "Key for Initials in Privilege Log,"

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which was marked as Exhibit "43" and designated as "confidential." Based on CSI's "confidentiality" designation, I have not attached Exhibit "43" to this declaration, but will bring a copy of it to the hearing on this motion should the Court need to review it. Exhibit "43" contains the names of some 259 individuals each of which CSI claims were Plaintiff's "ministers."

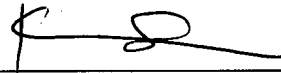
6. On February 4, 2013, I sent a meet and confer letter to counsel for CSI detailing the reasons that CSI's privilege log was insufficient and did not comply with the Court's orders of January 7, 2013. In this letter, I further requested that CSI amend its privilege log to correct the deficiencies contained therein and that CSI agree to continue the hearing date on Defendants' Motion for Summary Judgment to allow time for my office, and possibly the Court, to review CSI's amended privilege log. Attached hereto as Exhibit "D" is a true and correct copy of my meet and confer letter to counsel for CSI, dated February 4, 2013.

7. On February 5, 2013, my co-counsel, Sindee Smolowitz, met and conferred telephonically with counsel for CSI, Bert Deixler and Nicholas Daum. During this meet and confer session, it became apparent that we would not be able to resolve the disputes with CSI's privilege log short of judicial intervention. Defense counsel insisted the withheld documents were privileged and the privilege log was sufficient.

8. My office has attempted to obtain the documents that are the subject of this motion from CSI for nearly one year, and CSI has routinely prevented us from obtaining these documents. These documents are critical and highly relevant as they are likely to show Plaintiff's state of mind and whether or not her reliance on Defendants' conduct was reasonable for purposes of equitable estoppel.

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

Executed February 8, 2013, at Long Beach, California.

  
Kathryn Saldana

02/08/2013

TELEPHONE (562) 437-4499  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
WWW.TOXICTORTS.COM

LAW OFFICES OF  
RAPHAEL METZGER  
A PROFESSIONAL LAW CORPORATION  
401 EAST OCEAN BOULEVARD, SUITE 800  
LONG BEACH, CALIFORNIA 90802-4966

PRACTICE CONCENTRATED IN TOXIC  
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DISEASE, CANCER, AND TOXIC INJURIES

# BLUMBERG LAW CORPORATION

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SINDEE M. SMOLOWITZ, ESQ. (SBN 123237)  
444 W. OCEAN BLVD., SUITE 1500  
LONG BEACH, CA 90802  
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METZGER LAW GROUP  
A PROFESSIONAL LAW CORPORATION  
RAPHAEL METZGER, ESQ. (SBN 116020)  
KATHRYN SALDANA, ESQ. (SBN 251364)  
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LONG BEACH, CA 90802-4966  
TELEPHONE: (562) 437-4499  
TELECOPIER: (562) 436-1561

Attorneys for Plaintiff  
LAURA ANN DECRESCENZO

## SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

LAURA ANN DeCRESCENZO, aka  
LAURA A. DIECKMAN,

Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a corporate  
entity, AND DOES 1 - 20,

Defendants.

CASE NO. BC411018  
Assigned to the Honorable  
Ronald M. Sohigian, Dept. 41

PLAINTIFF'S NOTICE OF THE  
DEPOSITION OF THE CUSTODIAN(S)  
OF RECORDS OF DEFENDANT, CHURCH  
OF SCIENTOLOGY INTERNATIONAL

DATE: April 23, 2012  
TIME: 9:00 a.m.  
PLACE: Blumberg Law Corp.  
444 W. Ocean Blvd.  
Suite 1500  
Long Beach, CA 90802

PLAINTIFF'S NOTICE OF THE DEPOSITION OF THE CUSTODIAN(S) OF  
RECORDS OF DEFENDANT, CHURCH OF SCIENTOLOGY INTERNATIONAL

EXHIBIT A



TELEPHONE (562) 437-4488  
TOLL-FREE (877) TOX-TORT  
TELECOPIER (562) 436-1561  
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-LAW OFFICES OF  
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DISEASE, CANCER, AND TOXIC INJURIES

1 TO THE PARTIES HERETO AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Plaintiff, Laura DeCrescenzo will  
3 take the deposition of the Custodian of Record(s) of Defendant,  
4 Church of Scientology International, at the Blumberg Law Corporation,  
5 located at 444 W. Ocean Blvd., Suite 1500, Long Beach, California,  
6 90802, commencing at 9:00 a.m. on April 23, 2012, and continuing from  
7 day to day thereafter, until completed, weekends and holidays  
8 excepted.

9  
10 PLEASE TAKE FURTHER NOTICE that the deponent, who is a  
11 party to this action, is required to produce at the time of the  
12 deposition for inspection and copying all of the documents described  
13 below.

14  
15 PLEASE TAKE FURTHER NOTICE that the deposing party may  
16 cause the proceedings to be recorded by audio and/or video recording  
17 as well as stenographically.

18  
19  
20 CATEGORIES OF WRITINGS TO BE PRODUCED

21  
22 DEFINITIONS

23  
24 A. The word "WRITING" or "WRITINGS" is used herein as  
25 that term is defined in Cal. Evidence Code Section 250, which states:  
26 "'Writing' means handwriting, typewriting, printing, photostating,  
27 photographing, photocopying, transmitting by electronic mail or  
28 facsimile, and every other means of recording upon any tangible

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DISEASE, CANCER, AND TOXIC INJURIES

1 thing, any form of communication or representation, including  
2 letters, words, pictures, sounds, or symbols, or combinations  
3 thereof, and any record thereby created, regardless of the manner in  
4 which the record has been stored.

5 B. As used herein, the words "YOU" or "YOUR" refer to  
6 Church of Scientology International, as well as its parent companies,  
7 subsidiaries, predecessors, successors, trustees, agents, employees,  
8 officers, directors, attorneys, accountants, and all other persons  
9 under the control, direction, and/or supervision of said party.

10 C. As used herein, the word "PLAINTIFF" refers to Laura  
11 Ann DeCrescenzo, also known as, Laura A. Dieckman.

#### 12 WRITINGS TO BE PRODUCED

- 13 1. All of PLAINTIFF'S personnel files.
- 14 2. All of PLAINTIFF'S life history form(s).
- 15 3. All of PLAINTIFF'S leadership test(s).
- 16 4. All of PLAINTIFF'S aptitude test(s).
- 17 5. All of PLAINTIFF'S IQ test(s).
- 18 6. All of PLAINTIFF'S Oxford Capacity Analysis or OCA
- 19 test(s).

20 7. All WRITINGS constituting, regarding, referring and/or  
21 relating to the Power of Attorney assigned to Shane Whitmore on  
22 PLAINTIFF'S behalf.

23 8. All WRITINGS constituting, regarding, referring and/or  
24 relating to the Power of Attorney assigned to Carol Fullmer on  
25 PLAINTIFF'S behalf.

26 //  
27  
28

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TELECOPIER (562) 436-1581  
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DISEASE, CANCER, AND TOXIC INJURIES

9. All WRITINGS regarding, referring and/or relating to  
YOUR recruitment of PLAINTIFF into the Sea Organization.

10. All of PLAINTIFF'S Sea Org contract(s).

11. All of PLAINTIFF'S posting order(s).

12. All transfer completed staff work or CSW forms for  
PLAINTIFF.

13. All WRITINGS regarding, referring and/or relating to  
PLAINTIFF'S job history.

14. All WRITINGS that show or pertain to PLAINTIFF'S work  
schedule(s) during her time in the Sea Organization.

15. All work or production orders given to PLAINTIFF  
during her time in the Sea Organization.

16. All WRITINGS constituting, regarding, referring and/or  
relating to PLAINTIFF'S fitness board(s).

17. All WRITINGS regarding, referring and/or relating to  
payments made by YOU to PLAINTIFF.

18. All pay stubs issued by YOU to PLAINTIFF.

19. All W-2 tax forms showing amounts paid to PLAINTIFF  
during her time in the Sea Organization.

20. All WRITINGS documenting, regarding, referring and/or  
relating to general education received by PLAINTIFF during her time  
in the Sea Organization.

21. All WRITINGS regarding, referring and/or relating to  
PLAINTIFF'S General Educational Development Test.

22. All WRITINGS constituting, regarding, referring and/or  
relating to PLAINTIFF'S California High School Equivalency  
Certificate.

//

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DISEASE, CANCER, AND TOXIC INJURIES

23. All WRITINGS constituting, regarding, referring and/or relating to PLAINTIFF'S medical records.

24. All WRITINGS regarding, referring and/or relating to PLAINTIFF'S abortion.

25. All WRITINGS regarding, referring and/or relating to any visits by PLAINTIFF to Planned Parenthood.

26. All WRITINGS referring to PLAINTIFF as a "stat" and/or "stat push".

27. PLAINTIFF'S fitness board turndown.

28. All of PLAINTIFF'S ethics files.

29. All of the commendations regarding, referring and/or relating to PLAINTIFF.

30. All knowledge reports regarding, referring and/or relating to PLAINTIFF.

31. All WRITINGS regarding, referring and/or relating to lower conditions assigned to and/or performed by PLAINTIFF.

32. All WRITINGS regarding, referring and/or relating to any reprimands of PLAINTIFF.

33. All WRITINGS regarding, referring and/or relating to any ethics chit(s) regarding PLAINTIFF.

34. All completed staff work or CSW forms prepared by PLAINTIFF.

35. All WRITINGS regarding, referring and/or relating to the completed staff work or CSW forms prepared by PLAINTIFF.

36. All of the Committee(s) of Evidence for PLAINTIFF.

37. All WRITINGS regarding, referring and/or relating to any Committee of Evidence for PLAINTIFF.

//

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DISEASE, CANCER, AND TOXIC INJURIES

38. All of the Committee(s) of Evidence Findings and Recommendations for PLAINTIFF.

39. All WRITINGS regarding, referring and/or relating to any Committee of Evidence Findings and Recommendations for PLAINTIFF.

40. All of the Review Committee(s) of Evidence for PLAINTIFF.

41. All WRITINGS regarding, referring and/or relating to any Review Committee of Evidence for PLAINTIFF.

42. All of the Review Committee(s) of Evidence Findings and Recommendations for PLAINTIFF.

43. All WRITINGS regarding, referring and/or relating to any Review Committee of Evidence Findings and Recommendations for PLAINTIFF.

44. All of the Graduation Completed Staff Work or Graduation CSW for PLAINTIFF.

45. All of PLAINTIFF'S pre-clear or PC folders.

46. All of PLAINTIFF'S PC Programs.

47. All of the Folder Error Summaries for PLAINTIFF.

48. All WRITINGS regarding, referring and/or relating to the auditing sessions of PLAINTIFF.

49. All WRITINGS regarding, referring and/or relating to sec-checking of Plaintiff.

50. All notes to case supervisor from auditing sessions of PLAINTIFF.

51. All overts and withholds or OW write-ups for PLAINTIFF.

52. All of PLAINTIFF'S success stories.

//

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DISEASE, CANCER, AND TOXIC INJURIES

53. All WRITINGS regarding, referring and/or relating to auditor training received by PLAINTIFF.

54. All Copyright Agreement(s) signed by PLAINTIFF.

55. All Declaration(s) of Religious Commitment and Membership signed by PLAINTIFF.

56. All Religious Services Enrollment Application, Agreement, and General Release(s) signed by PLAINTIFF.

57. All Agreement(s) Regarding Confidential Religious Files signed by PLAINTIFF.

58. All Declaration and Nondisclosure Agreements signed by PLAINTIFF.

59. All Release of Liability, Indemnity Agreement and Contract(s) signed by PLAINTIFF.

60. All contracts, agreements, bonds, non-disclosure agreements, releases and similar documents signed by PLAINTIFF.

61. All affidavit(s) signed by PLAINTIFF.

62. All WRITINGS sent by YOU to PLAINTIFF after she left the Sea Organization.

63. All Freeloader bills issued to PLAINTIFF.

64. All WRITINGS regarding, referring and/or relating to any Freeloader bills issued to PLAINTIFF.

65. All WRITINGS reflecting, regarding, referring and/or relating to payment(s) made on PLAINTIFF'S Freeloader debt.

66. All WRITINGS from the Continental Liaison Office Western United States regarding, referring and/or relating to PLAINTIFF'S Freeloader debt, including but not limited to, payments made on PLAINTIFF'S Freeloader debt.

//

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67. All WRITINGS from the Flag Liaison Office regarding, referring and/or relating to PLAINTIFF'S Freeloader debt, including but not limited to, payments made on PLAINTIFF'S Freeloader debt.

68. All WRITINGS from the International Liaison Office regarding, referring and/or relating to PLAINTIFF'S Freeloader debt, including but not limited to, payments made on PLAINTIFF'S Freeloader debt.

69. All invoices issued by YOU for products and services purchased by PLAINTIFF and/or on behalf of PLAINTIFF.

70. All invoices issued by the Continental Liaison Office Western United States for products and services purchased by PLAINTIFF and/or on behalf of PLAINTIFF.

71. All invoices issued by Bridge Publications for products and services purchased by PLAINTIFF and/or on behalf of PLAINTIFF.

72. All directives or orders issued by YOU sending any person to visit PLAINTIFF after she left the Sea Organization.

73. All WRITINGS regarding, referring and/or relating to the handling of PLAINTIFF during and after her time in the Sea Organization.

74. All surveillance reports and/or notes regarding, referring, and/or relating to PLAINTIFF.

75. All video recordings of PLAINTIFF during and after her time in the Sea Organization.

76. All audio recordings of PLAINTIFF during and after her time in the Sea Organization.

//

//

TELEPHONE (562) 437-4459  
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DISEASE, CANCER, AND TOXIC INJURIES

77. All photographs of PLAINTIFF during and after her time  
in the Sea Organization.

DATE: April 11, 2012

METZGER LAW GROUP  
A Professional Law Corporation

  
KATHRYN SALDANA, ESQ.  
Attorneys for Plaintiff  
LAURA ANN DECRESCENZO



## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 401 East Ocean Blvd., #800, Long Beach, CA 90802.

On April 11, 2012, I served the foregoing document, described as: PLAINTIFF'S NOTICE OF THE DEPOSITION OF THE CUSTODIAN(S) OF RECORDS OF DEFENDANT, CHURCH OF SCIENTOLOGY INTERNATIONAL on the parties to this action as follows:

X (BY MAIL) I caused copies of such document, enclosed in sealed envelopes, to be deposited in the mail at Long Beach, California with postage thereon fully prepaid to the persons and addresses indicated on the attached list. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing set forth in this affidavit.

\_\_\_\_ (BY FACSIMILE) I served the foregoing document by faxing true copies thereof from facsimile number (562) 436-1561, to the facsimile numbers indicated on the attached list. Said document was transmitted by facsimile transmission, which was reported complete and without error.

X (BY PERSONAL SERVICE) I caused to be delivered such document by hand to the firms listed on the attached list where personal service is indicated.

\_\_\_\_ (BY E-MAIL) I delivered such document by electronic mail to the firms listed on the attached list.

\_\_\_\_ (BY OVERNIGHT MAIL) I caused such document to be delivered to the firms indicated on the attached list by Express Mail or by another express service carrier, by placing the document in an envelope designated by the carrier and addressed as indicated on the attached list, with the delivery fees provided for, and depositing same in a box or facility regularly maintained by that carrier or by delivering same to an authorized courier or driver authorized by the carrier to receive documents.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_ (FEDERAL) I declare that I am employed in the offices of a member of this court, at whose direction service was made.

Executed on April 11, 2012, at Long Beach, California.

Susan S. Simpson, Declarant

SERVICE LIST

(DeCrescenzo v. Church of Scientology; Case No. BC411018)

-000-

Bert H. Deixler, Esq.  
 Kendall Brill & Klieger LLP  
 10100 Santa Monica Blvd., Suite 1725  
 Los Angeles, CA 90067  
 (Church of Scientology International)  
 \*By Personal Service

Kendrick L. Moxon, Esq.  
 Moxon & Kobrin  
 3055 Wilshire Blvd., Suite 900  
 Los Angeles, CA 90010  
 (Church of Scientology International)  
 \*By Mail

Matthew D. Hinks, Esq.  
 Jeffer, Mangels, Butler & Mitchell  
 1900 Avenue of the Stars, 7<sup>th</sup> Floor  
 Los Angeles, CA 90067-4308  
 (Religious Technology Center)  
 \*By Personal Service

John P. Blumberg, Esq.  
 Blumberg Law Corporation  
 444 W. Ocean Blvd., Suite 1500  
 Long Beach, CA 90802  
 (Plaintiff)  
 \*By Mail

(Updated February 6, 2012 nsv)

02/08/2013

**Kathryn Saldana**

---

**From:** Bert H. Deixler [bdeixler@kbkfirm.com]  
**Sent:** Wednesday, October 24, 2012 3:56 PM  
**To:** Sindee M. Smolowitz  
**Cc:** Kathryn Saldana; Mangels, Robert E.; Matthew D.. Hinks  
**Subject:** RE: Motion to Compel and ex parte notice

No problem.

**K Kendall Brill Klieger**

Bert H. Deixler  
Kendall Brill & Klieger LLP  
10100 Santa Monica Blvd., Suite 1725  
Los Angeles, California 90067  
Tel: (310) 556-2700 main  
Tel: (310) 272-7910 direct  
Fax: (310) 556-2705  
E-mail: [bdeixler@kbkfirm.com](mailto:bdeixler@kbkfirm.com)  
Web: [www.kbkfirm.com](http://www.kbkfirm.com)

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---

**From:** Sindee M. Smolowitz [<mailto:ssmolowitz@blumberglaw.com>]  
**Sent:** Wednesday, October 24, 2012 12:54 PM  
**To:** Bert H. Deixler  
**Cc:** Kathryn Saldana  
**Subject:** FW: Motion to Compel and ex parte notice

Bert:

I will step in given Kathryn's trial situation.

Can you please confirm that you will extend the motion to compel date with respect to the original responses to December 6 so I can review and be certain of where we stand?; and

That you will serve further supplemental responses by November 16, 2012 specifically addressing which categories of documents that will now be fully produced (without redaction) subject to the court's execution of the Protective Order.

Let me know ASAP so I can get the motion withdrawn.

**Sindee M. Smolowitz**  
Blumberg Law Corporation  
444 W. Ocean Blvd., Suite 1500  
Long Beach, California 90802  
562-437-0403  
562-432-0107 Fax  
[ssmolowitz@blumberglaw.com](mailto:ssmolowitz@blumberglaw.com)

**EXHIBIT B**

From: "Bert H. Deixler" <[bdeixler@kbkfirm.com](mailto:bdeixler@kbkfirm.com)>

Date: Wed, 24 Oct 2012 08:55:37 -0700

To: Kathryn Saldana <[ksaldana@toxic torts.com](mailto:ksaldana@toxic torts.com)>

Cc: Hinks, Matt <[MH2@JMBM.com](mailto:MH2@JMBM.com)>; Eric M. Lieberman <[elieberman@rbskl.com](mailto:elieberman@rbskl.com)>; Mangels, Robert E. <[REM@JMBM.com](mailto:REM@JMBM.com)>

Subject: Motion to Compel and ex parte notice

While I appreciate that you are in trial, I recognize that you have found time to file a "reply" that is contrary to our understanding that you would take your motion off calendar and would re-notice it if and when it became necessary. (A reply, I note that has still not been received by my firm or Mr. Mangels firm.) Rather than do what you promised it appears that you have induced our side to not file an opposition, to prepare and file the stipulated protective order and to ready for delivery the unredacted documents pursuant to our agreement. We have performed every aspect of our agreement and your failure to take the motion off calendar breaches yours. Please confirm by the close of business today that you will remove the motion from the calendar. Should you not do so, this will serve as notice that the defendants will proceed Friday morning at 8:30 a.m in Department 41, ex parte for an order shortening time to serve a notice of motion to strike your motion to compel and for sanctions for discovery abuse.

This is really an unnecessary and unhelpful complication. I respectfully suggest that you do as promised and take the motion off calendar. Thanks.  
All rights are reserved.

 **Kendall Brill Klieger**

Bert H. Deixler

Kendall Brill & Klieger LLP

10100 Santa Monica Blvd., Suite 1725

Los Angeles, California 90067

Tel: (310) 556-2700 main

Tel: (310) 272-7910 direct

Fax: (310) 556-2705

E-mail: [bdeixler@kbkfirm.com](mailto:bdeixler@kbkfirm.com)

Web: [www.kbkfirm.com](http://www.kbkfirm.com)

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02/08/2013

02/08/2013

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OCCUPATIONAL & ENVIRONMENTAL LUNG  
DISEASE, CANCER, AND TOXIC INJURIES

BLUMBERG LAW CORPORATION  
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SINDEE M. SMOLOWITZ, ESQ. (SBN 123237)  
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TELEPHONE: (562) 437-0403  
TELECOPIER: (562) 432-0107

CONFORMED COPY  
OF ORIGINAL FILED  
Los Angeles Superior Court

JAN 08 2013

METZGER LAW GROUP  
A PROFESSIONAL LAW CORPORATION  
RAPHAEL METZGER, ESQ. (SBN 116920) *John A. Clarke, Executive Officer/Clerk*  
KATHRYN SALDANA, ESQ. (SBN 251364) *Deputy*  
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Attorneys for Plaintiff  
LAURA ANN DECRESCENZO

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES - CENTRAL DISTRICT

LAURA ANN DECRESCENZO, aka	)	CASE NO. BC411018
LAURA A. DIECKMAN,	)	Assigned to the Honorable
	)	Ronald M. Sohigian, Dept. 41
Plaintiffs,	)	
	)	
vs.	)	NOTICE OF RULING ON
	)	PLAINTIFF'S MOTION TO COMPEL
CHURCH OF SCIENTOLOGY	)	
INTERNATIONAL, a corporate	)	
entity, AND DOES 1 - 20,	)	
	)	
Defendants.	)	

TELEPHONE (562) 437-2498  
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LAW OFFICES OF  
**RAPHAEL METZGER**  
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DISEASE, CANCER, AND TOXIC INJURIES

TO THE PARTIES HERETO AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on January 7, 2013 in Department 41 of the above-entitled Court, Plaintiff's Motion to Compel Defendant, Church of Scientology International ("CSI"), to Provide Code Compliant Responses and to Produce Documents in Response to Plaintiff's Notice of Deposition of the Custodian of Records of Church of Scientology International and Request for Production of Documents came on regularly for hearing before the Honorable Ronald M. Sohigian.

After considering the papers submitted in support of and in opposition to the motion, and after hearing arguments of counsel thereon, the Court ruled as follows:

1. Plaintiff's motion is granted as to each request except for request numbers 15, 34 and 35. CSI may still precipitate non-compliance with the notice and order, but to do so, must provide a coherent and focused privilege log that (1) identifies each document, including information relating to dates, time, place, preparation, who wrote the document, to whom the document went, etc.; and (2) provide a clearer statement and grounds for the specific objection and privilege asserted with respect to each document. Plaintiff may review the privilege log and meet and confer further if necessary, and the Court will consider ruling on any supplemental privilege log at a later date.

2. CSI must produce responses in accordance with the Court's order by January 18, 2013, unless CSI supports its non-compliant responses with a privilege log by the same date. CSI must produce all responsive documents no later than January 25, 2013, at 9:30 a.m. at the offices of Metzger Law Group.


//



3. Plaintiff to give notice.

DATED: January 7, 2013

METZGER LAW GROUP  
A Professional Law Corporation

  
KATHRYN SALDANA, ESQ.  
Attorneys for Plaintiff  
LAURA ANN DECRESCENZO

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## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 401 East Ocean Blvd., #800, Long Beach, CA 90802.

On January 8, 2013, I served the foregoing document, described as: NOTICE OF RULING ON PLAINTIFF'S MOTION TO COMPEL on the parties to this action as follows:

X (BY MAIL) I caused copies of such document, enclosed in sealed envelopes, to be deposited in the mail at Long Beach, California with postage thereon fully prepaid to the persons and addresses indicated on the attached list. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing set forth in this affidavit.

\_\_\_\_ (BY FACSIMILE) I served the foregoing document by faxing true copies thereof from facsimile number (562) 436-1561, to the facsimile numbers indicated on the attached list. Said document was transmitted by facsimile transmission, which was reported complete and without error.

\_\_\_\_ (BY PERSONAL SERVICE) I caused to be delivered such document by hand to the firms listed on the attached list where personal service is indicated.

\_\_\_\_ (BY E-MAIL) I delivered such document by electronic mail to the firms listed on the attached list.

\_\_\_\_ (BY OVERNIGHT MAIL) I caused such document to be delivered to the firms indicated on the attached list by Express Mail or by another express service carrier, by placing the document in an envelope designated by the carrier and addressed as indicated on the attached list, with the delivery fees provided for, and depositing same in a box or facility regularly maintained by that carrier or by delivering same to an authorized courier or driver authorized by the carrier to receive documents.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_ (FEDERAL) I declare that I am employed in the offices of a member of this court, at whose direction service was made.

Executed on January 8, 2013, at Long Beach, California.

Susan M. Simpson, Declarant

SERVICE LIST

(DeCrescenzo v. Church of Scientology, Case No. BC411018)

-o0o-

Bert H. Deixler, Esq.  
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John P. Blumberg, Esq.  
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 Long Beach, CA 90802  
 (Plaintiff)

(Updated August 23, 2012 jlp)

02/09/2013

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February 4, 2013

### VIA EMAIL & U.S. MAIL

Bert H. Deixler, Esq.  
Kendall Brill & Klieger LLP  
10100 Santa Monica Blvd., Suite 1725  
Los Angeles, CA 90067

Re: DeCrescenzo v. CSI, et al.  
Case No. BC411018, Our File No. 9527

Dear Mr. Deixler:

I am writing to meet and confer regarding the privilege log recently produced by Defendant, Church of Scientology International ("CSI"). CSI's privilege log is wholly-deficient and fails to comply with the Court's recent orders issued on January 7, 2013, with respect to Plaintiff's Motion to Compel.

In its privilege log, CSI claims that 2,891 separate documents (of varying lengths) from Plaintiff's "PC Folders" are confidential and subject to the clergy-penitent privilege. CSI then provides vague and ambiguous descriptions for each of these 2,891 documents, including descriptions such as:

- "Record of confidential communication in spiritual counseling session between LD and her clergyman (FD)." (Exhibit "1", Document Number 001).
- "Record of confidential communication from LD to clergyman (name not identified, clerical status evident from nature of document) regarding her spiritual counseling session." (Exhibit "3", Document Number 004).
- "Record of confidential communication between from LD to her clergyman (name illegible) regarding her spiritual counseling session." (Exhibit "18", Document Number 031).

Bert H. Deixler, Esq.  
Kendall Brill & Klieger LLP  
February 4, 2013  
Page 2

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These self-serving descriptions repeat over and over again, and provide no clear indication that the communications referenced are actually privileged, other than CSI's assertion that they constitute "confidential communications," without any further description. CSI further claims that at least 259 individuals identified by their initials its privilege log *all* constitute Plaintiff's *clergymen*. In other places, CSI claims that individuals who cannot even be identified by name apparently constitute Plaintiff's *clergymen*.

The Court ordered CSI to produce a privilege log that (1) identifies each document, including information relating to dates, time, place, preparation, who wrote the document, to whom the document went, etc.; and (2) provide a clearer statement and grounds for the specific objection and privilege being asserted with respect to each document. Nowhere does CSI's privilege log identify to whom each document went or who prepared the respective documents. CSI's privilege log also does not provide a clear statement and grounds for the objection and privilege being asserted with respect to each document. Instead, consistent with its prior descriptions, CSI simply maintains that every single document in Plaintiff's PC folders constitutes a "confidential communication" or is a document regarding a "confidential communication" without any further description as to the actual content or details regarding each document. It is impossible for either Plaintiff or the Court to assess the validity of CSI's claimed privileges based on these vague and self-serving descriptions.

As pointed out in Plaintiff's prior briefing regarding this matter, privileges are personal in nature, such that the right to claim or waive a privilege rests fundamentally with the holder or holders of the privilege, where a privilege is held jointly by two or more persons. *Hirschberg v. Southern Pac. Co.* (1919) 180 Cal. 774, 777. The "holder" of a privilege is unique to each statutory privilege, and must be examined on a case-by-case basis. Here, CSI has made absolutely now showing in its privilege log that each of the individuals identified as Plaintiff's "clergyman" actually were her clergy (i.e., that either Plaintiff or the individuals to whom the communications were made viewed themselves as clergy). Case law also makes clear that the clergy-penitent privilege "should not be interpreted to comprehend communications to and among members of sects that denominate each and every member as clergy, proclaim that all communications have spiritual significance, or dictate that all communications among members, whether essential to and in furtherance of the purportedly privileged communication or not, shall be confidential." *In Re Grand Jury Investigation* (3<sup>rd</sup> Cir. 1990) 918 F.2d 374, 384, fn. 13. This appears to be precisely what CSI has done its privilege log, taking over 2,891 documents among more than 260 individuals, and claiming that each of these are subject to the clergy-penitent privilege without any explanation as to *why* each document should actually be treated as being "confidential" in nature, particularly given that Plaintiff has waived any such claim of privilege.

Bert H. Deixler, Esq.  
Kendall Brill & Klieger LLP  
February 4, 2013  
Page 3

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Given that CSI's privilege log regarding Plaintiff's PC folders does not comport with the earlier notice of ruling regarding required contents of a privilege log, CSI's non-compliance provides the basis for seeking a terminating sanction of the affirmative defense of the Statute of Limitations. We have repeatedly made clear (and the Court agreed at the hearing on Plaintiff's Motion to Compel) that records reflecting Plaintiff's psychological condition and state of mind are highly relevant to numerous issues in this case; and are particularly relevant to the statute of limitations.

Therefore, due to the importance of the documents that Plaintiff seeks from her PC folders and the invalidity of CSI's privilege log, Plaintiff provides CSI the following alternative options:

- 1) withdraw Defendants' Statute of Limitations defense and the pending Motion for Summary Judgment; or
- 2) produce the withheld files and agree to postpone hearing on Defendants' Motion for Summary Judgment to provide time for CSI to gather and produce the files and for Plaintiff to review them; or
- 3) amend CSI's privilege log to include the required details and stipulate to continue Plaintiff's Motion for Summary Judgment hearing date to provide opportunity for review by Plaintiff, and possible court review, of the amended privilege log.

Absent CSI's agreement to any of the foregoing, Plaintiff will petition the Court ex parte on Thursday, February 7, 2013, at 8:30 a.m., for the following:

- 1) An order continuing the hearing date on Defendants' Motion for Summary Judgment and setting a date for Court to consider Plaintiff's Motion to Compel and Motion for Terminating Sanction; or
- 2) An Order continuing the hearing date on date Defendants' Motion for Summary Judgment and setting a date for Defendants to produce comprehensive privilege log followed by in camera review of the documents identified by CSI in its privilege log.

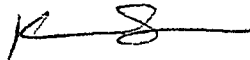
02/09/2013

Bert H. Deixler, Esq.  
Kendall Brill & Klieger LLP  
February 4, 2013  
Page 4

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Please notify us of CSI's position with respect to the contents of this letter no later than noon on *Wednesday, February 6, 2013*.

Very truly yours,



Kathryn Saldana

ks:ip

cc: Sindee Smolowitz, Esq.;  
Robert Mangels, Esq.

02/08/2013



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## PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 444 W. Ocean Blvd., Suite 1500, Long Beach, California 90802.

On February 8, 2013, I served the foregoing document, described as: **PLAINTIFF'S NOTICE OF MOTION AND MOTION TO COMPEL COMPLIANCE WITH THE COURT'S DISCOVERY ORDERS OR TERMINATING SANCTIONS; MEMORANDUM OF POINTS AND AUTHORITITES; DECLARATION OF KATHRYN SALDANA** on the parties to this action as follows:

\_\_\_\_ (BY MAIL) I caused copies of such document, enclosed in sealed envelopes, to be deposited in the mail at Long Beach, California with postage thereon fully prepaid to the persons and addresses indicated on the attached list. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing set forth in this affidavit.

  X   (BY PERSONAL SERVICE) I caused to be delivered such document by hand to the firms listed on the attached list where personal service is indicated.

\_\_\_\_ (BY E-MAIL) I delivered such document by electronic mail to the firms listed on the attached list.

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  X   (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_ (FEDERAL) I declare that I am employed in the offices of a member of this court, at whose direction service was made.

Executed on February 8, 2013, at Long Beach, California.

\_\_\_\_\_  
Sindee M. Smolowitz, Declarant

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# SERVICE LIST

(DeCrescenzo v. Church of Scientology, Case No. BC411018)

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(Updated August 23, 2012 jlp)