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15 CHURCH OF SCIENTOLOGY OF CALIFORNIA

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

18 CHURCH OF SCIENTOLOGY OF)	No. C 420 153
19 CALIFORNIA, a California)	
20 Corporation,)	OBJECTION OF CROSS-DEFENDANT
)	21 CHURCH OF SCIENTOLOGY OF
22 Plaintiff,)	23 CALIFORNIA TO RELEASE OF
)	24 PRECLEAR FILES
v.)	
)	25 [UNDER SEAL]
26 GERALD ARMSTRONG, et al.,)	
)	
27 Defendants.)	
)	
28)	
29 AND RELATED CROSS-ACTION		
30		

31 I.

32 INTRODUCTION

33 The Church has fought, at all times herein, to protect
34 Armstrong's privacy, and the privacy of its other
35 parishioners, by refusing to produce the preclear files
36 relating to Armstrong for an in camera inspection.
37 Needless to say, the Church does not wish to jeopardize its
38 ability to provide religious services to all of its

1 adherents simply because one ex-member lacks respect for its
2 religious principles. The Church urges this Court to consider
3 carefully, as several other courts have done, the potential
4 adverse impact on religious confidentiality for all Church
5 members which arises from Armstrong's own attempts at
6 self-destruction through insisting that his preclear files
7 become discoverable.

8 Throughout this litigation, the Church has maintained
9 these files securely and in confidence, and only within the
10 last few weeks have these files been copied, indexed and
11 reviewed by counsel in preparation for their production as
12 ordered by this Court. As is evident below, the Church has
13 very obviously not utilized or disseminated the information
14 contained in these files at any point. As is also evident
15 below, there is significant information contained in these
16 files which is directly contradictory and otherwise quite
17 detrimental to Armstrong's assertions in support of his case.
18 Additionally, there is a great deal of information contained
19 in the files which is undoubtedly personally embarrassing to
20 Mr. Armstrong and extremely destructive to his reputation and
21 credibility. Nonetheless, even in full awareness of the
22 damage that the contents of these files could inflict upon
23 Armstrong and his claims, the Church still urges this Court to
24 maintain the privacy of the documents and the information
25 contained therein. This position is not based upon any
26 overriding concern for Armstrong's welfare; rather, the Church
27 still maintains that the sanctity of the confessional must be
28 placed above all other concerns.

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II.

APPROPRIATE ALTERNATIVES AVAILABLE TO THIS COURT

In Wollersheim v. Church of Scientology of California.

et al., Los Angeles Superior Court No. C 332 027, the Honorable Ronald Swearinger was faced with a similar, although possibly even more serious, situation. In that case, plaintiff Larry Wollersheim had alleged that the pastoral counseling delivered to him by the Church had directly resulted in physical and emotional damage to him. He further alleged that the preclear files pertaining to him were directly relevant as evidence of this damage, and the intentional or negligent infliction emotional distress to him.

As in the case herein, the production of the preclear files relating to Larry Wollersheim occurred in stages, with the Church bringing to the Court's attention at each stage the relevant objections. On February 28, 1986, Judge Swearinger required plaintiff Wollersheim to inform the Court that a knowing and informed waiver of the priest-penitent privilege was being made. (See Declaration of John G. Peterson, attached hereto as Exhibit "A".)

On March 13, 1986, Judge Swearinger took note of the November 5, 1985 Order issued by the Honorable Judge Mariana Pfaelzer in the case of Religious Technology Center, et al. v. Larry Wollersheim, et al., U.S.D.C. C.D.Ca. Civil Action No. 85-7197-MRP. That Order described as "confidential religious scriptures" the materials known within the Church as "(1) Solo Part II, (2) Power, (3) R6EW, (4) DCSI, (5) Sunshine

1 Rundown, (6) Clearing Course, (7) OT I, (8) OT II, (9) OT III,
2 . . ." (See Temporary Restraining Order, attached hereto as
3 Exhibit "B".) Following the decision reached by Judge
4 Pfaelzer, Judge Swearinger ordered that "[w]e are not going
5 into the contents of those upper level materials." (See March
6 13, 1986 Trial Transcript, pp. 2208-2209, attached hereto as
7 Exhibit "C".) Judge Swearinger reiterated on April 3, 1986
8 that no testimony from the upper levels materials, being
9 defined as "Power through NOTS", would be allowed into the
10 trial of the action. (See April 3, 1986 Trial Transcript, pp.
11 4786-4787, attached hereto as Exhibit "D".) Thereafter, the
12 preclear files were produced to Judge Swearinger for his in
13 camera inspection. The files containing upper level
14 materials were not required to be produced, and were not
15 produced.

16 On May 6, 1986, after Judge Swearinger had thoroughly
17 reviewed the contents of the files, a discussion was held
18 concerning the "tremendous confusion and side shows" that the
19 introduction of the preclear files into the Wollersheim case
20 would create. (See May 6, 1986 Trial Transcript, p. 7571,
21 attached hereto as Exhibit "E".)

22 A procedure whereby the files were maintained by the
23 Court, but in which Wollersheim and his counsel could review
24 them in the presence of a referee, was established. No such
25 review occurred, apparently due to a decision by Wollersheim
26 and his counsel that the interests balanced by the information
27 contained in those files becoming public or staying private
28 came down on the side of privacy.

1 The alternative suggested by the Wollersheim case is
2 completely applicable and appropriate to the case herein. The
3 Church has not produced the three files pertaining to
4 Armstrong which contain "confidential religious scriptures".
5 Those files, covering the time period from just a portion of
6 1978 into early 1980, include "(1) Solo Part II, . . . (6)
7 Clearing Course, (7) OT I, (8) OT II, [and] (9) OT III"
8 materials. It has, however, produced for inspection the
9 twenty-five files covering the time period from Armstrong's
10 first pastoral counseling, in 1970, up through the portion of
11 1978 when he engaged in the confidential upper level
12 counseling. This Court should require only the production of
13 the preclear files already produced.

14 This Court should also, as was established by the
15 Wollersheim court, require Armstrong and his counsel to
16 provide a waiver of the priest-penitent privilege prior to any
17 review of the files which have been produced. The procedure
18 formulated by Judge Swearinger, which would allow Armstrong and
19 his counsel to review the files in the presence of a referee,
20 is likewise completely appropriate for the case herein. Upon
21 completion of his review, this Court should require Armstrong
22 to specifically state which documents support his claims. The
23 Church is confident that Armstrong will be unable to
24 demonstrate any support for his claims that Armstrong's
25 files were "culled" for the simple reason that no such action
26 has occurred.

27 It seems highly unlikely that Armstrong and his counsel,
28 once they have reviewed these files, will still insist on

1 making their contents a part of this case as such an action
2 will create only harm to Armstrong. The Church has not
3 utilized these files in any way for this litigation, and
4 repeats its offer at this time to destroy the files, and any
5 copies thereof, in Armstrong and/or his counsel's presence
6 should they now be willing to adopt this course of action.



7 III.

8 INFORMATION IN THE PRECLEAR FILES IS HARMFUL
9 TO ARMSTRONG'S CASE AND CHARACTER

10 If Armstrong insists on making the contents of these
11 files a part of this case by obtaining copies of them, and if
12 the Court does not reconsider its intention to release these
13 preclear files to Armstrong, the Church will be forced,
14 against its wishes, to utilize the same documentation in its
15 defense as evidence of Armstrong's character and perjurious
16 statements.

17 A. Statements Regarding Armstrong's Case

18 The files contain numerous references to admissions by
19 Armstrong which are directly contradictory to his allegations
20 in the Third Amended Cross-Complaint as well as
21 representations made directly to this Court in various
22 declarations. Information in this regard includes the
23 following:

24 1. On November 18, 1977, Armstrong commented to his
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[REDACTED]

. On February 26, 1977, Armstrong informed his minister [REDACTED]

. On November 13, 1976, Armstrong stated that [REDACTED]

[REDACTED]

2. On October 24, 1977, Armstrong informed his minister that [REDACTED]

3. On October 16, 1977, Armstrong informed his minister that [REDACTED]

[REDACTED]

4. On September 20, 1977, Armstrong informed his minister that [REDACTED]

5. On September 2, 1977, Armstrong confessed to his minister that [REDACTED]

6. On May 5, 1977, Armstrong informed his minister that, [REDACTED]

7. On February 27, 1977, Armstrong informed his minister that [REDACTED]

1 8. On February 26, 1977, Armstrong described the
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7 All of the above statements by Armstrong are highly
8 relevant to this action. They lead to the inescapable
9 conclusion that Armstrong has lied to this Court and, when
10 that ultimately proves to be the case, contempt and dismissal
11 of the action is the proper sanction.

12 B. Statements Regarding Armstrong's Character

13 Other admissions contained in these files, which go
14 directly to Armstrong's credibility and character, include the
15 following:

16 1. Armstrong admitted to his ministers on numerous
17 occasions that

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20 (see, e.g., March 26, 1970 and July 16, 1970
21 statements); (see, e.g., statement of April 17,
22 1970); (see, e.g., statements of December
23 31, 1972 and July 20, 1973); (see,
24 e.g., June 30, 1977 statement).

25
26 2. Armstrong admitted to his ministers on numerous
27 occasions that
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1 [REDACTED]
2 [REDACTED]
3 (see, e.g., statements of July 18, 1974 and September 6, 1977);
4 [REDACTED]
5 [REDACTED] (see, e.g., statements of May 23, 1970,
6 July 18, 1974 and February 27, 1977); [REDACTED]
7 [REDACTED] (see, e.g., statement of May 23, 1970);
8 [REDACTED] (September
9 24, 1976); [REDACTED] (see,
10 e.g., statement of December 8, 1976); [REDACTED]
11 [REDACTED] (see, e.g.,
12 statements of April 14, 1970, February 6, 1971 and August 12,
13 1977); [REDACTED]
14 [REDACTED] (September 6, 1977); [REDACTED]
15 [REDACTED] (see, e.g.,
16 statements of September 15, 1971 and February 26, 1972).

17 3. Armstrong admitted to his ministers that [REDACTED]

18 [REDACTED] (See, e.g., statement of July 25, 1973.)

19 4. Armstrong admitted to his auditors on numerous
20 occasions that [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 [REDACTED] (See, e.g., statements of February 6, 1971;
24 February 15, 1971; September 15, 1971; and October 10, 1972.)

25 The above admissions, if the Church is ever forced to use
26 them, must be construed as admissions against Armstrong's
27 interest. They paint an incredibly sad picture of a pathetic
28 and troubled individual who engaged in one illegal or deviant

1 act after another until entering the Church; who continued,
2 although in a comparatively minor way, to practice his debased
3 activities while a member of the Church; and who immediately
4 resumed his extremely aberrated activities upon leaving the
5 Church as demonstrated by his theft of thousands of pages of
6 personal materials and his "talking pig" essay, a sickening
7 "personal creative work" authored by Armstrong for potential
8 publication. (See essay, attached hereto as Exhibit "F".)

9 IV.

10 THE DOCUMENT DATED NOVEMBER 26, 1976,

11 MARKED BY THE COURT AS SEALED EXHIBIT NO. 600,

12 IS NOT REPRESENTATIVE OF THE PRECLEAR FOLDERS

13 The document selected by the Court and denoted as sealed
14 Exhibit No. 600 in its Order of June 26, 1986 is not
15 representative of the majority of the documents contained in
16 the preclear files pertaining to Armstrong. The majority of
17 the documents contained in these preclear files are notes
18 taken by the ministers who delivered specific pastoral
19 counseling processes to Armstrong. Their notes, as
20 demonstrated above, reflect a great deal of spiritual
21 reflection and unburdening by Armstrong. The document
22 selected by this Court, however, is simply a review of an
23 earlier pastoral counseling process delivered to Armstrong;
24 its purpose was only to prepare Armstrong for additional
25 pastoral counseling processes.

26 Therefore, if the Court determines to release these files
27 to Armstrong, the Church proposes the addition of several
28 additional sealed exhibits as more truly being representative

1 of the documents contained within these preclear files. The
2 documents dated March 26, 1970, May 23, 1970, July 18, 1974,
3 and February 22, 1977 are hereby requested for introduction as
4 sealed Exhibits No. 601, 602, 603, and 604.

5 V.

6 FURTHER COMPLIANCE WITH THE COURT'S ORDER

7 OF JULY 2, 1985

8 Pursuant to this Court's Order of July 2, 1985, attached
9 hereto as Exhibit "G" is a list of each of the pastoral
10 counseling sessions contained within the preclear files by
11 date, the name of the minister who counseled Armstrong, and
12 the location where the counseling occurred when known.

13 VI.

14 CONCLUSION

15 For the reasons set forth hereinabove, the Church urges
16 this Court to allow Armstrong access to the preclear files for
17 inspection without copying or the taking of notes only. Such
18 an alternative will meet Armstrong's discovery objectives and
19 yet maintain the integrity of the confessional files without
20 interjecting their contents into this litigation. The Church
21 further urges this Court to require a waiver of the priest-
22 penitent privilege from Armstrong and his counsel prior to any
23 such inspection, to require a written statement specifying

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1 what documents support his claims, and to exclude any
2 production of the "confidential religious scriptures".

3 DATED: July 3, 1986

Respectfully submitted,

4 OVERLAND, BERKE, WESLEY, GITS,
5 RANDOLPH & LEVANAS

6 By:

7 DONALD C. RANDOLPH

8 Attorneys for Plaintiff and
9 Cross-Defendant Church of
10 Scientology of California