

FEB 28 1990  
EA

ORIGINAL

MAR - 9 1990

Permission to file respondent's brief  
GRANTED  
Time to file respondent's brief extended to 60 days after this order.

COURT OF APPEAL - SECOND DIST.  
FILED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FEB 28 1990

SECOND APPELLATE DISTRICT

WILLIAM N. WILSON Clerk

DIVISION THREE

Deputy Clerk

CHURCH OF SCIENTOLOGY OF CALIFORNIA, et al.,  
Plaintiffs-Appellants,  
v.  
GERALD ARMSTRONG,  
Defendant-Respondent  
MARY SUE HUBBARD  
Intervenor.

)  
) Case No. B025920  
)  
) LASC No. C420153  
)  
)  
) RESPONDENT'S PETITION  
) FOR PERMISSION TO FILE  
) RESPONSE AND FOR AN  
) EXTENSION OF TIME TO  
) FILE RESPONSE  
)  
)  
)

3-22-90

I am the respondent Gerald Armstrong. I am petitioning this court at this time for permission to file a respondent's brief in this appeal and for an extension of time in which to file a respondent's brief or other appropriate document.

1. Permission to File:

The unusual need for this court's permission to file a respondent's brief arises from a condition contained in a document entitled MUTUAL RELEASE OF ALL CLAIMS AND SETTLEMENT AGREEMENT signed by me December 6, 1986, a copy of which is attached hereto in a sealed envelope as Exhibit A. I have no objection to this document being unsealed.

Para. 4A of the settlement agreement allowed appellants to maintain their appeal, no. B005912, which had been filed in 1984, although the case

was ostensibly settled. Para. 4B contains the condition that I "waive any rights [I] may have to oppose (by responding brief or any other means) any further appeals taken by the Church of Scientology of California."

I have recently become convinced that it would be a fraud upon this court to not advise it that the respondent is prohibited from filing a brief. I am also now convinced that my right to file a respondent's brief is not something that can be taken away by such a settlement agreement.

I have discovered, moreover, that "the failure to file respondent's brief imposes an unnecessary burden on [the] court, and at least raises the inference that respondent concedes that the appeal is meritorious," Sowell v. Sowell, 164 Cal. App. 2d 371, 330 P.2d 391 (1958), Yarbrough v. Yarbrough, 144 Cal. App. 2d 610, 301 P. 2d 426 (1956); that the court "may assume . . . that the respondent has abandoned any attempt to support the judgment, and . . . may also assume that the points made by the appellant are meritorious," Roth v. Keene, 256 Cal. App. 2d 725, 64 Cal. Rptr. 399 (1967), and that the court "shall regard with disfavor the failure of a respondent in any case to assist the court by means of an answering brief," James v. James, 125 Cal. App. 2d, 417, 270 P.2d, 538 (1954).

I am therefore requesting this court's permission to file a respondent's brief, motion for dismissal or other responsive document.

## 2. Extension of Time to File:

I received Appellants' Brief and Appellants' Supplemental Appendix in Lieu of Clerk's Transcript from Flynn, Sheridan & Tabb on January 18, 1990. I have not yet received Appellants' Appendix.

I am not an attorney and I am not represented by legal counsel in any Scientology matters at this time. Neither Flynn, Sheridan & Tabb nor Contos & Bunch, both of which firms represented me throughout the litigation of

this case in the lower court, will be representing me in this appeal. It is my intention to retain an attorney to represent me in this appeal if at all possible.

Appellants had five and a half years from the date the trial court issued its Decision to the date they filed their brief.

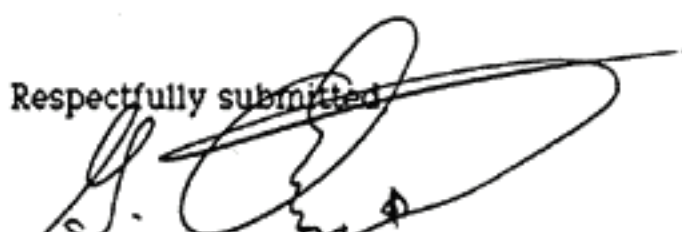
Appellants have filed another appeal, entitled Church of Scientology of California and Mary Sue Hubbard, Appellants, against Gerald Armstrong, Defendant, Bent Corydon, Appellee, Civ. No. B 038975 in Division Four in the Second Appellate District, which has its genesis in the same case underlying this appeal, Super. Ct. No. C420153, and concerns many of the same facts and issues as this appeal. I am at this time also petitioning the Division Four Court for permission to respond in that appeal.

There remain a number of issues springing from the settlement agreement, appellants' actions in violation of the agreement, and appellants' obstructive and threatening use of the agreement, which this court does not have to consider in order to grant my petition, but which I will be addressing as soon as possible by motion or other appropriate action in the Los Angeles Superior Court, which retains, pursuant to clause 20 of the settlement agreement, jurisdiction to enforce its terms.

I therefore request 90 days from the date of this court's granting of this petition in which to file a respondent's brief or other responsive document.

DATED: February 20, 1990

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Armstrong', written over a horizontal line. The signature is stylized and somewhat cursive.

GERALD ARMSTRONG



SERVICE LIST

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION THREE  
3580 Wilshire Blvd., Room 301  
Los Angeles, California 90010

ERIC M. LIEBERMAN, ESQ.  
RABINOWITZ, BOUDIN, STANDARD,  
KRINSKY & LIEBERMAN, P.C.  
740 Broadway, Fifth Floor  
New York, New York 10003-9518

MICHAEL LEE HERTZBERG, ESQ.  
275 Madison Avenue  
New York, New York 10016

MICHAEL J. FLYNN, ESQ.  
FLYNN, SHERIDAN & TABB  
One Boston Place, 26th Floor  
Boston, Massachusetts 02108

JULIA DRAGOJEVIC, ESQ.  
CONTOS & BUNCH  
5855 Topanga Canyon Blvd., #400  
Woodland Hills, California 91367

CLERK OF THE SUPERIOR COURT  
111 North Hill Street  
Los Angeles, California 90012