

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

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RELIGIOUS TECHNOLOGY CENTER : DOCKET NO. 6:00CV503  
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VS. : TYLER, TEXAS  
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DELL LIEBREICH : JANUARY 24, 2002  
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9:00 A.M.

TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE JOHN HANNAH, JR.,  
UNITED STATES DISTRICT JUDGE, AND A JURY

APPEARANCES:

FOR THE PLAINTIFF: CHARLES A. GALL  
JENKENS & GILCHRIST  
1445 ROSS AVE. SUITE 3200  
DALLAS, TEXAS 75202

JOHN F. WALKER, III  
SAMMONS & PARKER  
218 N. COLLEGE  
TYLER, TEXAS 75702

SAMUEL D. ROSEN  
PAUL, HASTINGS, JANOFSKY  
399 PARK AVENUE 31ST FLOOR  
NEW YORK, NEW YORK 10022

FOR THE DEFENDANT: THOMAS J. DANDAR  
KENNAN G. DANDAR  
5340 W. KENNEDY BLVD.  
TAMPA, FLORIDA 33602

1 THE COURT: Pardon?

2 MR. GALL: Nothing else at this time, Your Honor.

3 THE COURT: All right. Bring the jury in, please.

4 (Jury was seated in the jury box.)

5 THE COURT: Please be seated.

6 Are you ready to call your next witness, Mr. Gall?

7 MR. GALL: Yes. We call Samuel Rosen.

8 THE COURT: Mr. Rosen, I don't believe you've been  
9 sworn, have you?

10 MR. ROSEN: No, Your Honor, I have not.

11 THE COURT: All right. Raise your right hand,  
12 please.

13 (Witness sworn.)

14 SAMUEL D. ROSEN, PLAINTIFF'S WITNESS, SWORN

15 D I R E C T E X A M I N A T I O N

16 BY MR. GALL:

17 Q State your name, please.

18 A Samuel D. Rosen.

19 Q Mr. Rosen, are you one of the lawyers that was retained by  
20 the RTC to represent David Miscavige in the Florida litigation?

21 A Yes, I was.

22 Q Filed by the Estate of Lisa McPherson?

23 A Yes, I was.

24 Q Let's -- before we go on, let's talk a little about your  
25 background. Where do you live, sir?

1 A Where do I live?

2 Q Yes?

3 A I presently live in New York.

4 Q All right. And you're an attorney?

5 A Yes, I am.

6 Q How long have you been an attorney?

7 A Is my 33rd year to practice. 1969.

8 Q Where did you go to law school?

9 A Started out Suffolk Law School in Boston, got my JD degree  
10 first in my class and then went to NYU, New York University  
11 Graduate Law School for a Master of Law degree.

12 Q Where do you currently practice law?

13 A All over the country.

14 Q What firm?

15 A The name of the firm is Paul, Hastings, Janofsky and  
16 Walker.

17 Q Where is your principal office, yours personally?

18 A New York, but I practice out of nine of the firm's ten  
19 offices.

20 Q Where all does the law firm of Paul, Hastings have offices?

21 A We have eight offices in New York, four on the East Coast,  
22 four on the West Coast, two overseas, one in Tokyo that I've  
23 never been to and one in England.

24 Q How many lawyers do you have at Paul, Hastings?

25 A Well, I think as of last count it was somewhere around 850.

1 Q What is your personal specialty?

2 A I do complex litigation.

3 Q In your practice, what -- where is most of your work? In  
4 New York?

5 A Very little. I heard Judge Hannah say last week that there  
6 was something like 84 Federal District Courts in the United  
7 States.

8 THE COURT: 94.

9 A Huh?

10 THE COURT: 94.

11 A 94. When my secretary retired last year, she had counted  
12 and I was -- at that time I had appeared in 52 of them, so from  
13 Puerto Rico to the Virgin Islands to Florida to Alaska, Los  
14 Angeles and points in between.

15 Q Where -- do you also handle appellate work?

16 A I've argued approximately 75 cases in the United States  
17 Federal Circuit Courts of Appeal. Of the 13 Federal Circuit  
18 Courts of Appeal in the United States, including the Fifth  
19 Circuit Court of Appeal, which covers Texas, I have argued  
20 cases in nine of those 13.

21 Q Have you ever appeared before the Supreme Court?

22 A No, I've never have had that honor. I've submitted eight  
23 briefs to the Supreme Court but I guess none of them were good  
24 enough for the Supreme Court to hear the case, so only by  
25 briefs.

1 Q Let's talk about your billing rates and your practices with  
2 respect to billing. When you handle matters around the country  
3 as you have described, do you have one rate you charge or  
4 multiple rates depending upon the area? How do you handle it?

5 A I have the hourly rate, whether I handle a case in New  
6 York, in Texas, in Florida, or for that matter, in England.  
7 Doesn't make any difference.

8 Q What is your current billing rate?

9 A \$575 an hour.

10 Q What was your billing rate at the time of the events that  
11 we're here talking about?

12 A Is that the year 2000?

13 Q '99 -- yeah, I guess it was 2000.

14 A I believe it was \$510 an hour.

15 Q And was that a rate you charged to all of your clients?

16 A All my clients paid the same rate for -- I should qualify  
17 it by saying that rate is only for productive time. It is not  
18 for every hour spent. It is for productive time. There's a  
19 big difference.

20 Q What do you mean?

21 A One of the responsibilities that we do as a firm and every  
22 lawyer in the firm does it is the client is entitled to the  
23 best output and thinking that an attorney can bring, and one of  
24 the things I do as a supervising attorney is I look at the  
25 amount of time spent, and if I conclude that the client did not

1 get a reasonable return, then I reduce the hours charged.

2 I'll give you an example. The end of December I was ill  
3 and I was trying to do some work, and if I wrote let's say an  
4 opinion letter that took me three hours, I would look at that  
5 in January and I would say well, if I was -- if I were not ill,  
6 I probably would have taken about an hour to write that and  
7 it's not fair to charge the client three hours if I'm not  
8 working up at full capacity.

9 So that's what we mean by productive time. In a case like  
10 that, I would just write down the bill and say instead of  
11 charging you three hours, I'm only going to charge you one hour  
12 because that's what -- that's the value of what you got for the  
13 time that I put in.

14 In some cases the time is worth nothing. I've spent time  
15 on telephone calls with clients and they ask me a question and  
16 I say I don't know the answer, so if it's not productive, I  
17 don't charge a client for it.

18 Q In this case did you charge your standard rates?

19 A Yes, I did.

20 Q Based on your experience, are the rates that you charge for  
21 your time comparable to the rates that are charged by other  
22 lawyers with similar experience and training?

23 A Throughout all of the national firms the answer is yes.  
24 We're I think the 28th largest firm in the world. Just got  
25 passed last year by two of the Texas firms in Houston, but I

1 think up and down the line for what -- we're called the  
2 national firms, the firms that practice across the country. My  
3 hourly rate is completely in line with those of other attorneys  
4 of comparable skill and experience.

5 Q What about your practice of billing one rate wherever  
6 you are working, is that a practice based on your knowledge of  
7 the practice in the industry -- the practice that is used  
8 throughout the industry?

9 A I have never seen a situation in which a lawyer in a  
10 national law firm did anything else, whether he's working in  
11 his home office or wherever a client wants to send him to  
12 handle a case, he charges his hourly rate.

13 Q How do you keep track of your time?

14 A Time is the only thing that lawyers have to sell. I sit at  
15 my desk, wherever I'm working, with a little scratch pad and  
16 during the day I make notes of what I'm working on and how much  
17 time I spend. Because in a given day I could be on the phone  
18 for hours talking to 15 different clients on different matters.  
19 At the end of each day, I then take the notes while it's still  
20 fresh in my mind as well, and I either dictate on my dictating  
21 machine and give a tape to my secretary as to what time I spent  
22 on -- how much time I spent and a description of the time of  
23 the service for that matter to that client or those clients, or  
24 if I'm out of town sometimes what I do is I call my secretary's  
25 voice mail and dictate right on to her voice mail. My

1 I certify that the foregoing is a correct transcript from  
2 the record of proceedings in the above-entitled matter.

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Ron Mason  
Ron Mason

2-22-02  
Date