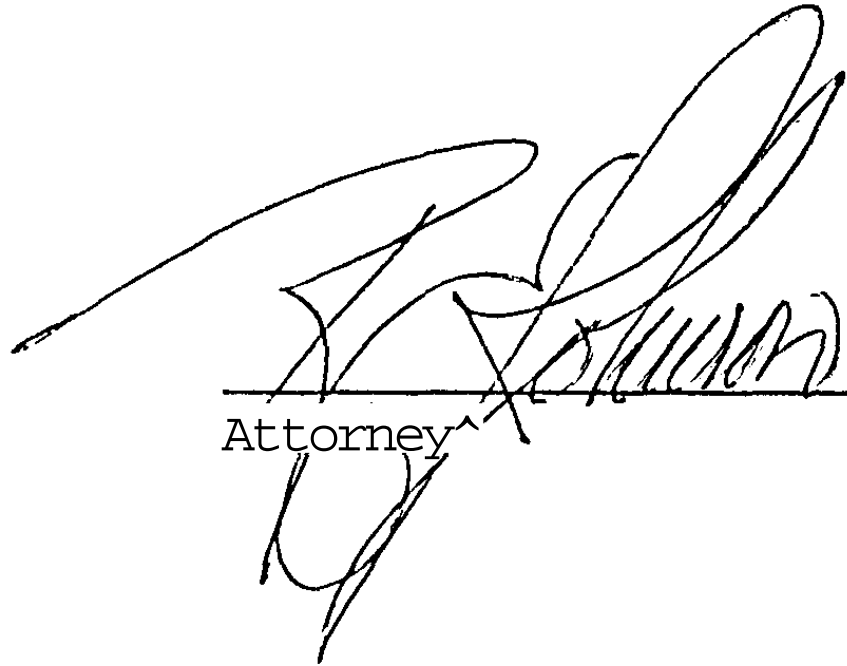


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to
MARGERY WAKEFIELD, P.O. Box 290402, Tampa, Florida 33687
by U.S. mail this 12 day of February, 1993.



Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MARGERY WAKEFIELD,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 82-1313-Civ-T-10
)	
THE CHURCH OF SCIENTOLOGY)	
OF CALIFORNIA, etc.,)	
)	
Defendant.)	
_____)	

IN CAMERA

MOTION FOR ORDER TO SHOW CAUSE WHY
PLAINTIFF SHOULD NOT BE HELD IN CRIMINAL CONTEMPT

The Church of Scientology of California ("Church"), Defendant above and Movant herein, moves the Court for an Order requiring Plaintiff, Margery Wakefield, to Show Cause why she should not be held in criminal contempt for the violation of the terms of the preliminary and permanent injunction entered by this Court on May 16, 1989. The basis for this motion, as more particularly set forth herein and the attached exhibits and in the accompanying Memorandum of Law, is that Wakefield recently appeared on a television program which was broadcast on November 18, 1992, during which Wakefield made statements which she knew to violate this Court's permanent injunction. In support of this motion the Church alleges:

1. Margery Wakefield and the Church entered into a Settlement Agreement in the above-styled case which was approved by this Court and filed under seal with the Court on August 14, 1986.

2. Paragraph 5 of the Settlement Agreement provided that the parties promised and agreed for valuable consideration to comply with every term, condition and undertaking contained in the transcript of the in camara proceedings of July 11, 1986, a copy of which was attached to the Settlement Agreement as Exhibit 3. The parties further agreed that the Settlement Agreement would be enforceable by this Court.

3. The Church has fully complied with all the terms and conditions of the Settlement Agreement.

4. On July 2, 1987 the Church filed a Motion to Enforce Settlement Agreement and to Enjoin Plaintiff from violating the terms of the Settlement Agreement.

5. On May 16, 1989, the Court entered a Preliminary and Permanent Injunction against Margery Wakefield which provided in relevant part as follows:

That Margery Wakefield is restrained and enjoined from disclosing to other persons, not members of her immediate family, matters relating to: a) the substance of her complaint against the Church; b) the substance of her claim against the Church; c) alleged wrongs committed by the church; d) the contents of the documents which were returned to the Church pursuant to the settlement agreement or similar fact evidence.

6. On July 18, 1989 the Church filed motions to hold Wakefield in civil and/or criminal contempt for repeated violations of this Court's May 16 injunction, as a result of published interviews Wakefield granted to various newspapers and radio and television stations. This Court referred the matter to

Magistrate Paul Game, Jr. for a hearing which was held in October and November, 1989.

7. In a Report and Recommendation dated June 25, 1990, Magistrate Game concluded that Wakefield had engaged in a total of forty-four separate willful violations of this Court's injunction which would warrant findings of civil contempt. Additionally, Magistrate Game deferred to this Court's discretion whether a referral should be made to the United States Attorney's office for prosecution of Wakefield on criminal contempt charges. Magistrate Game's June 25, 1990 Report and Recommendation is pending before this Court.

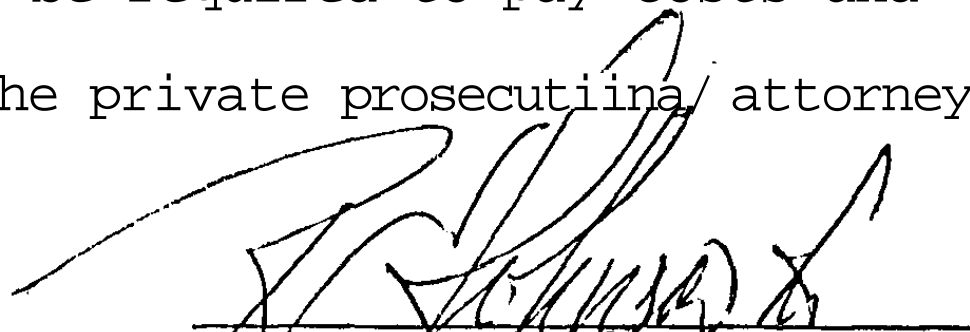
8. On November 18, 1992 a television program entitled "Au Nom De La Loi" (In the Name of the Law) was broadcast in Belgium by television station RTBF (the "RTBF Program"). The RTBF Program contained several segments in which Margery Wakefield, who was identified each time by name, spoke on camera in English with a French "voice-over" about her experiences in the Church of Scientology and her views of Scientology. The televised segments involving Wakefield were apparently filmed in the Clearwater, Florida area. In the course of the RTBF program Wakefield made statements which are willful and knowing violations of this Court's May 16, 1989 injunction. Some of the aforementioned statements made by Wakefield on the RTBF Program are identical in substance to statements previously determined by Magistrate Game in his June 25, 1990 Report to have been willful contempts of this Court's injunction by Wakefield in 1989. The

details of Wakefield's recent new violations are set out more fully in the Declaration of Michael Lee Hertzberg, Esq., attached hereto as Exhibit A and are evidenced by excerpts from a certified translation of the RTBF Program attached hereto as Exhibit B.

WHEREFORE, the Church respectfully moves as follows:

1. The Court appoint the United States Attorney or a private attorney to prosecute Wakefield's criminal contempt.
2. That the Court issue an Order requiring Plaintiff, Margery Wakefield, to appear before this Court and show cause why Wakefield should not be adjudged in criminal contempt of this Honorable Court and have sanctions imposed upon her as provided by law including but not limited to a fine of up to \$500.00 or imprisonment not exceeding six (6) months for each act of contempt.
3. That Wakefield be required to pay costs and attorneys¹ fees incurred by the private prosecutiina attorney.

Dated: February 12, 1993



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**Attorneys for Defendant-Movant
THE CHURCH OF SCIENTOLOGY
OF CALIFORNIA**

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MARGERY WAKEFIELD,)
)
 Plaintiff,) Case No, 82-1313-Civ-T-10
)
 VS.) IN CAMERA
) **DECLARATION OF**
) **MICHAEL LEE HERTZBERG, ESQ.**
)
 THE CHURCH OF SCIENTOLOGY)
 OF CALIFORNIA, etc.,)
 Defendant.)
 _____)

MICHAEL LEE HERTZBERG hereby declares and states:

1. I am an attorney who has previously appeared before this Court on behalf of the defendant Church of Scientology of California ("the Church"¹¹) in this matter. My co-counsel is Paul B. Johnson of the firm of Johnson and Johnson in Tampa. I submit this Declaration in support of the Church's Motion for Order to Show Cause Why Plaintiff Should Not Be Held In Criminal Contempt. I have personal knowledge of the facts set forth in this Declaration and could competently testify thereto if called as a witness.

2. On or about November 18, 1992 a television program entitled "Au Nom De La Loi" ("In the Name of the Law") was broadcast in Belgium by station RTBF (the "RTBF Program"). The narration and most of the interviews on the RTBF Program are conducted in French. Some of the interviews are in English with a voice over narration in French.

3. The RTBF Program includes several segments in which Margery Wakefield speaks on camera and is identified by name.

WAKEFIELD A

Counsel representing the Church herein viewed a videotaped copy of the RTBF Program and concluded that remarks were made by Wakefield during the Program which violated an injunction entered by this Court against Wakefield dated May 16, 1989.

4. Counsel hired a translator, Annette T. Gordon, to translate the RTBF Program from French to English and to prepare a transcript of her translation. Ms. Gordon, who has no relationship to the Church, has experience providing transcriptions from French to English for the United States Customs Service and has also translated from French to English in proceedings in the United States District Court for the Middle District of Florida. Attached as Exhibit B herein are eleven pages containing the portions of the transcript prepared by Ms. Gordon in which Margery Wakefield either speaks or is referred to, together with an affidavit from Ms. Gordon certifying the accuracy of her translation and reciting her professional qualifications. Should this Court desire, the Church will file the forty-one page translation of the entire RTBF Program as well as a copy of the videotape of the Program. The Church has not done so at this time to avoid burdening the Court with excess material.

5. Significant portions of the RTBF Program were filmed in or about Clearwater, Florida, and Clearwater appears to be the venue for the segments involving Wakefield.

6. Wakefield is introduced on the RTBF Program as a former Scientologist qualified to describe what the Church of Scientology is like based upon her personal experience.

7. The narrator of the RTBF Program reports that Wakefield has disclosed that she was transformed by the Church into a "zombie" by techniques of "brainwashing":

VOICE: For 12 years MARGERY was a convinced Scientologist. And, now she's revealed to us how the sect transformed her into a zombie, an obedient and docile robot. The method is simple and frightening at the same time. A daily drill exacerbated by the techniques of brainwashing.

8. During the RTBF Program Wakefield claimed that the Church's training routines are designed as hypnotic processes:

MARGERY:

* * *

T-R-0-, the first drill that we did is part of the first Scientology course, which is called "Communication Course." They tell you that this drill serves in helping you better your visual contacts, but, really, is designed to hypnotise. When I was in Scientology, this drill lasted 2 hours.

9. During the RTBF Program Wakefield stated that at the time she worked at the Church's Guardian Office she was aware of the planning of two murders:

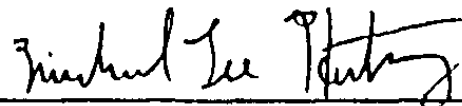
MARGERY:

* * *

Michael Meisner was one of the two people that we had planned to murder in 1979. I think it was. And, the day that I was told that, we had the meeting in the Guardian Office, Michael Meisner was handcuffed to a bed. The Guardian Office had him somewhere

in hiding. The plan was to take him, the next day, out to sea, out to the bay, tie weights on him and to throw him overboard. In Scientology, it's called "Deep Sixing." That was the plan.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on February 11, 1993 at New York, New York.



MICHAEL LEE HERTZBERG

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MARGERY WAKEFIELD,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 82-1313-Civ-T-10
)	
THE CHURCH OF SCIENTOLOGY)	
OF CALIFORNIA, etc.,)	
)	
Defendant.)	
_____)	

IN CAMERA

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S
MOTION FOR AN ORDER TO SHOW CAUSE WHY PLAINTIFF
SHOULD NOT BE HELD IN CRIMINAL CONTEMPT

A. Introduction

The most recent violation by Margery Wakefield of this Court's May 16, 1989 injunction is uniquely deserving of punishment as a criminal contempt. Within one year of entering into a court approved Settlement Agreement with the Church of Scientology of California ("Church") Wakefield engaged in conduct which this Court determined violated the settlement. As a result this Court issued its May 16 injunction which in clear and unequivocal terms enjoined Wakefield from further violations of the Settlement Agreement.

Less than three months after entry of this Court's injunction, which Wakefield did not appeal, Wakefield undertook a deliberate campaign of media interviews and contacts in which she openly defied the injunction. Indeed Wakefield publicly

proclaimed that she had committed multiple violations of the injunction and that she would continue to do so regardless of the consequences. Ultimately Magistrate Paul Game, Jr. determined that Wakefield had separately violated the injunction forty-four times on eleven different occasions in the three months after entry of the injunction. Magistrate Game deemed these willful violations to warrant findings of civil contempt, and deferred to this Court's discretion whether referral should be made to the United States Attorney's office for prosecution of Wakefield on criminal contempt charges.

While Magistrate Game's report is pending before this Court Wakefield has now resumed her contemptuous defiance of the injunction. As we shall demonstrate herein, some of the statements made by Wakefield on the recently broadcast television program are identical in substance to statements which Magistrate Game previously ruled were willful contempts of the injunction. It is clear that the only appropriate punishment for Wakefield's latest calculated mockery of this Court's order is to prosecute her for criminal contempt.

B. The Latest Violation of the Injunction

On November 18, 1992 a television program entitled "In the Name of the Law" was broadcast in Belgium by station RTBF (the "RTBF Program"). The thesis of this show generally was a purported "expose", in news magazine format, of the Church of

Scientology. The RTBF Program includes several segments in which Wakefield speaks on camera and is identified by name. (Hertzberg Decla. at 5 3.)¹ Wakefield is presented as a former Scientologist qualified to describe what the Church is like based upon her personal experiences. (Hertzberg Decla. at 6.) Significant portions of the RTBF Program were filmed in or about Clearwater, Florida, and Clearwater appears to be the venue for the segments involving Wakefield. (Hertzberg Decla. at 5 5.)

During the RTBF Program the narrator reports that Wakefield has asserted that the Church transformed her into a "zombie" by use of "brainwashing" techniques. (Hertzberg Decla. at 5 7.) Further, during the Program Wakefield made numerous direct statements about the Church, including the following:

1. Wakefield claimed that the Church's training routines are designed as hypnotic processes; and

2. Wakefield stated that at the time she worked at the Church's Guardian Office she was aware of the planning of two murders.

(Hertzberg Decla. at 55 8-9.)

Identical allegations which Wakefield had previously made to the media about purported brainwashing, hypnosis and murders have already been found by Magistrate Game to be contempts of this Court's injunction. (See June 25, 1990 Report

^{1/} References to "Hertzberg Decla." are to the Declaration of Michael Lee Hertzberg, Esq. which is annexed as Exhibit A to the Motion For Order to Show Cause

and Recommendation of Hon. Paul Game, Jr. at pp. 7, 10-13, 16, 18, 19, 21 and 22.) Specifically, Magistrate Game noted that during the litigation of her underlying lawsuit Wakefield had made allegations of brainwashing in her depositions of February 17, 1983 (at page 108), September 30, 1985 (at pages 84-85; 139) and October 1, 1985 (at page 44); that Wakefield had described the training routines as hypnotic processes in her depositions of February 17, 1983 (at page 108) and September 30, 1985 (at page 58); and that Wakefield had claimed to witness the planning of two murders, while working at the Guardian's Office, in her deposition of February 16, 1983 (at pages 254-257). Therefore, Magistrate Game found that Wakefield's repetition of these charges to the media after entry of the injunction clearly violated the proscriptions of the injunction which prohibited Wakefield from publicizing the substance of her complaint or claims against the Church, or alleged wrongs committed by the Church. Thus there can be no dispute whatever that Wakefield had notice that her recent repetition of these same statements on the RTBF Program would constitute yet another deliberate contempt of this Court's order.

C. The Law

This Court has the power to punish contempt of its authority. 18 U.S.C. § 401 provides in relevant part:

A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as . . . [d]isobedience or resistance to its lawful writ, process, order, rule decree or command.

An injunctive order, such as this Court's May 16, 1989 order, is an extraordinary writ enforceable by the power of contempt. Gunn v. University Committee to End War in Vietnam, 399 U.S. 383 (1970). Under the present circumstances the Church is seeking criminal contempt sanctions against Wakefield. A contempt is criminal in nature when punishment by imprisonment or fine is deemed necessary to vindicate the authority of the court. United States v. United Mine Workers, 330 U.S. 258, 302 (1947); United States v. Hilburn, 625 F.2d 1177, 1179 (5th Cir. 1980); United States v. Rizzo, 539 F.2d 458, 463 (5th Cir. 1976).

Wakefield's open defiance of this Court's injunction has resumed with her participation in the RTBF Program. The threat of remedial sanctions for civil contempt for her prior multiple willful violations has obviously not deterred her. Indeed the cumulative record strongly suggests that Wakefield will feel free to continue to flaunt this Court's authority unless and until she is punished for her illegal actions.

In the case of a criminal contempt, Rule 42 of the Federal Rules of Criminal Procedure governs the manner by which notice is provided. Young v. United States, ex rel. Vuitton Et Fils S.A., 481 U.S. 787 (1987).

Rule 42 provides:

A criminal contempt . . . shall be prosecuted on notice. The notice shall state the time and place of hearing, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting

the criminal contempt charged and describe it as such. The notice shall be given orally by the judge in open court in the presence of the defendant or _f on application of the United States attorney or of an attorney appointed by the court for that purpose, by an order to show cause or an order of arrest.

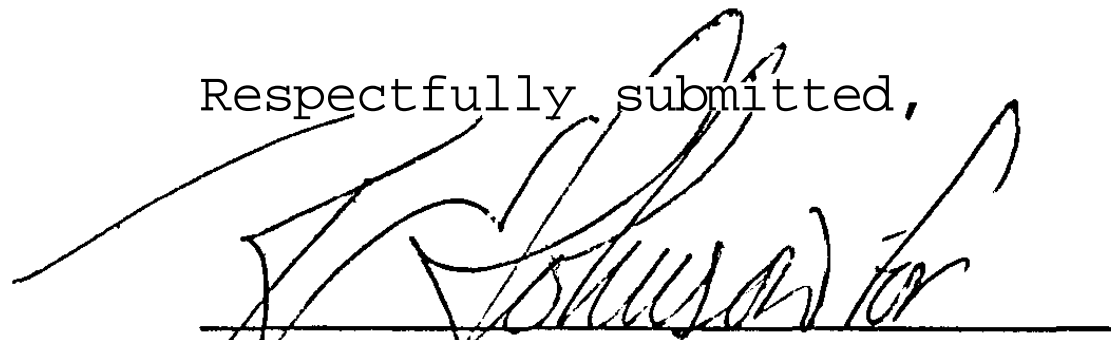
It is proper for the Court to appoint a United States Attorney or a disinterested private attorney to prosecute the criminal contempt charges. Young 481 U.S. at 800-01. Wakefield has no constitutional right to a jury trial on the criminal contempt. The Court may act on this matter without a jury because the Church has sought imprisonment of Wakefield for no more than six months for each act of contempt. A contemnor may be sentenced to up to six months¹ imprisonment and fined as much as \$500.00 without a jury trial. Frank v. United States, 395 U.S. 147, 150 (1969); United States v. Rylander, 714 F.2d 996, 1005 (9th Cir. 1963).

The instant pleadings, including the Declaration and excerpts from the television program, attached to the Motion, together with the prior findings by the Magistrate and this Court, establish overwhelmingly that Wakefield's participation in the RTBF Program constitutes yet another willful defiance of this Court's authority which is punishable as a criminal contempt. For the foregoing reasons the Church respectfully requests this

Court to initiate the procedure for prosecution of Margery Wakefield at the earliest practicable moment.

Dated: February 12, 1993

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul B. Johnson", written over a horizontal line.

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