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14 UNITED STATES DISTRICT COURT  
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 CHURCH OF SCIENTOLOGY	)	CASE NO. CV 91-6426 HLH(Tx)
17 INTERNATIONAL, a California Non-	)	
18 Profit Religious Organization,	)	MOTION TO STRIKE OR, IN THE
19	)	ALTERNATIVE, TO SEAL THE
20 Plaintiff,	)	DECLARATIONS OF ROBERT
21	)	VAUGHN YOUNG AND STACY
22 vs.	)	YOUNG
23	)	
24 STEVEN FISHMAN and UWE GEERTZ,	)	
25	)	Date: February <sup>28</sup> <del>21</del> , 1994
26 Defendants.	)	Time: 10:00 a.m.
27	)	Dept: 7

28 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:  
PLEASE TAKE NOTICE that on February <sup>28</sup>~~21~~, 1994, at 10:00 a.m.  
or at such time as the matter may be heard in Courtroom 7 of the  
above-captioned Court, located at 312 North Spring Street, Los  
Angeles, California 90012, plaintiff Church of Scientology  
International ("CSI") will and hereby does move for an order: (1)  
striking and removing from the files in this case the four  
declarations of Robert Vaughn Young, dated October 25, 1993,  
December 10, 1993, December 29, 1993 and January 3, 1994; (2)  
striking and removing from the files in this case the two  
declarations of Stacy Young, dated December 10, 1993 and January  
3, 1994; or, in the alternative, (3) an order that those

1 declarations and the exhibits thereto be sealed.

2 This motion is based upon the grounds that (1) the  
3 declarations offered contain false, scandalous and scurrilous  
4 material having nothing to do with any issue in this case, which  
5 is offered solely to prejudice the Court [Fed.R.Civ.P. 12(f);  
6 Fed.R. of Evid. 402, 403]; and (2) the declarations are offered  
7 to provide "expert opinion" on matters which are constitutionally  
8 nonjusticiable, rendering them irrelevant to any issue in the  
9 case and inadmissible as a matter of law. [U.S. Const. Amend 1;  
10 Fed.R. of Evid. 702, 703.]

11 This Motion is based upon this Notice of Motion and Motion,  
12 the accompanying Memorandum of Points and Authorities the record  
13 and files in this case, the additional exhibits and evidence  
14 submitted herewith, and such other and further evidence as may  
15 properly come before the Court with respect to this motion. A  
16 Proposed Order is concurrently lodged.

17 Dated: January 31, 1994

Respectfully submitted,

18 MORRISON COHEN SINGER & WEINSTEIN  
19

20 By:

Jonathan W. Lubell

21  
22 Timothy Bowles  
23 Kendrick L. Moxon  
BOWLES & MOXON

24 Attorneys for Plaintiff  
25 CHURCH OF SCIENTOLOGY INTERNATIONAL  
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TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGE</u>
I. PRELIMINARY STATEMENT . . . . .	1
II. THE YOUNGS AND THEIR DECLARATIONS . . . . .	2
A. Vaughn Young's Declarations Are Incompetent, False and Scandalous . . . . .	3
B. Stacy Young's Declarations Are False and Scandalous . . . . .	10
III. ARGUMENT . . . . .	14
A. The Youngs Are Percipient Witnesses To Nothing Relevant And Are Unqualified To Provide "Expert" Declarations . . . . .	14
B. The Court May Strike Declarations Which Are False And Scandalous . . . . .	19
C. Alternatively, The Youngs' Declarations Should Be Sealed . . . . .	20
CONCLUSION . . . . .	22

TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE</u>
<u>Agran v. Isaacs,</u> 306 F.Supp. 945 (N.D. Ill. 1969) . . . . .	20
<u>Butler v. Polk,</u> 592 F.2d 1293 (5th Cir. 1979) . . . . .	19
<u>Chambers v. NASCO, Inc.,</u> __ U.S. __, 111 S.Ct. 2123 (1991) . . . . .	19
<u>Church of Scientology Flag Service Org., Inc. v.</u> <u>City of Clearwater,</u> 2 F.3d. 1514 (11th Cir. 1993) . . . . .	16
<u>Everson v. Board of Education,</u> 330 U.S. 1, 67 S.Ct. 504 (1947) . . . . .	15
<u>Gillette v. United States,</u> 401 U.S. 437, 91 S.Ct. 828 (1971) . . . . .	15
<u>Link v. Wabash R. Co.,</u> 370 U.S. 626, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962) . . . . .	19
<u>Matter of Sealed Affidavit(s) to Search Warrants,</u> 600 F.2d 1256 (9th Cir. 1979) . . . . .	21
<u>Monroe v. Bd. of Education of Town of Wolcott, Conn.,</u> 65 F.R.D. 641 (D. Conn. 1975) . . . . .	20, 21
<u>Nixon v. Warner Communications, Inc.,</u> 435 U.S. 589, 98 S.Ct. 1306 (1978) . . . . .	1,21
<u>Serbian Eastern Orthodox Diocese v. Milivojevich,</u> 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed. 2d 151 (1976) . . . . .	1, 16
<u>United States v. Hudson,</u> 7 Cranch 32, 3 L.Ed. 259 (1812) . . . . .	19
<u>Viterbo v. Dow Chemical Co.,</u> 646 F.Supp. 1420 (E.D.Tex. 1986) . . . . .	18
<u>Watson v. Jones,</u> 80 U.S. (13 Wall.) 679, 20 L.Ed. 666 (1872) . . . . .	17
 <u>OTHER</u>	
F.R.Civ.P. 12(f) . . . . .	19
Fed.R. of Evid. 602 . . . . .	14

1  
2 MEMORANDUM OF POINTS AND AUTHORITIES

3 I. PRELIMINARY STATEMENT

4 Defendant Uwe Geertz has filed six declarations executed by  
5 Robert Vaughn Young and Stacy Young, two excommunicated former  
6 Scientologists who are engaged in the business of filing  
7 supposedly "expert" declarations about Church of Scientology  
8 entities and the Scientology religion.

9 All six of the Youngs' declarations should be stricken to  
10 prevent defendant Geertz from using the Court's files as a  
11 "reservoir[] of libelous statements for press consumption."  
12 Nixon v. Warner Communications, Inc., 435 U.S. 589, 598, 98 S.Ct.  
13 1306, 1312, 55 L.Ed.2d 570 (1978). To characterize their  
14 declarations as "expert" would be to impart to them an aura of  
15 authority to which they are distinctly unentitled. To  
16 characterize their declarations as "true," would be completely  
17 false. To characterize them as anything less than scandalous,  
18 would be an affront to reality. And, to permit them to remain a  
19 part of the Court's files would do violence to the established  
20 Constitutional prohibition against litigating settled matters of  
21 a religion's "discipline, faith, internal organization, or  
22 ecclesiastical rule, custom, or law." Serbian Eastern Orthodox  
23 Diocese v. Milivojevich, 426 U.S. 696, 713, 96 S.Ct. 2372, 2382,  
24 49 L.Ed. 2d 151 (1976). Indeed, the Young declarations are  
25 designed by the defendants to be utilized for the very purpose  
26 which this Court deemed improper in its Minute Order of January  
27 24, 1994: "The court is suspicious of any doctrine the effect of  
28 which is to allow an allegedly defamed plaintiff to be routinely  
defamed some more in a defamation suit by such untrustworthy

1 items as generalized reputation." Accordingly, all six of the  
2 Youngs' declarations should be stricken from the Court's records.

3 **II. THE YOUNGS AND THEIR DECLARATIONS**

4 The Youngs' declarations are designed, constructed, and  
5 intended to be red capes waved before a bull. They make no  
6 pretense of relating to any relevant issue in this defamation  
7 case. They substitute innuendo for fact, tabloid sensationalism  
8 for evidence, hearsay for competence, and scandal for substance.  
9 Their purpose is neither to inform the Court of pertinent  
10 information, nor to support the assertion of any relevant fact.  
11 Rather, their purpose is to poison the record and to provoke  
12 plaintiff Church of Scientology International ("CSI") to escalate  
13 the size and intensity of these proceedings.

14 CSI refuses to be so goaded. Instead of deluging the Court  
15 with the reams of paper available to demonstrate the pernicious  
16 falsity of the Youngs' assertions, CSI has selected examples from  
17 the declarations to demonstrate to the Court that there is no  
18 colorable justification for permitting these declarations to  
19 remain in the Court's file. The Youngs' declarations recite  
20 their version of virtually the entire history of Scientology.  
21 While the history of Scientology is not at issue, CSI is more  
22 than prepared to respond to particular factual allegations set  
23 forth in the Youngs' declarations, should the Court prefer.  
24 However, CSI submits that the sampling discussed below is more  
25 than sufficient to establish the basis for the order to strike  
26 being sought.

27 ///

28 ///

1 A. Vaughn Young's Declarations Are Incompetent, False and  
2 Scandalous

3 Vaughn Young first held positions on Scientology staff and  
4 later at Author Services, Inc. ("ASI") in public relations,  
5 writing and editing. [Declaration of Heber C. Jentzsch, ¶ 17.]  
6 He never occupied a senior ecclesiastical or management position  
7 in any Scientology church. [Id. at ¶ 17.] In 1989, after a  
8 series of his own admitted failures throughout his Scientology  
9 history, Young quit and departed with no notice. [Declaration of  
10 Kendrick L. Moxon, ¶ 3.] He maintained contact with the Church  
11 and was provided assistance to wrap up his affairs and to  
12 retrieve his personal belongings. [Id. at ¶ 4.]

13 Unable to obtain permanent employment and desperate for  
14 cash, at the end of 1992 Young attempted to extort the Church for  
15 \$50,000 with an "offer" to have the Church buy the exclusive  
16 future rights to any of his stories or publications concerning  
17 Scientology. His extortion demand was refused. [Id. at ¶¶ 7-8.]

18 Young then turned his anger and frustration at the Church,  
19 determining to exploit his resentment. He found a willing buyer  
20 in Geertz's counsel, who has attempted to carve an "expert" niche  
21 for a man who never held any senior position in either the  
22 Church's ecclesiastical or corporate hierarchy. [Jentzsch Dec.,  
23 ¶ 32.] The need for the "expert" label was in response to the  
24 fact that Young makes no pretense to having had any knowledge  
25 about nor ever having met Fishman or Geertz. Couched as an  
26 "expert," however, Young was free to gather hearsay,  
27 sensationalize it, and opine on matters he neither knows nor has  
28 a basis upon which to expound. The result is Young's present

1 unbridled willingness to swear to the most outrageous lies while  
2 being paid \$100 or more per hour for so doing. Indeed, it is no  
3 exaggeration to state that Young's claims bear no relationship to  
4 what he knows truly occurred. He is doing nothing more than  
5 creating new "evidence" for his new employers to support whatever  
6 the latest theory is that they are pursuing.

7 Indeed, it is more than a suspicion that Vaughn Young  
8 resents the fact that he never had a claim to bring against the  
9 Church and that since he departed, the Church has left him alone.  
10 The foundation for that assumption is self-evident: if the Church  
11 must deal with Vaughn Young's claims, this case will in effect  
12 become Young v. Scientology and it will become a Roman Circus of  
13 many months duration.

14 Perhaps the most egregious example of false and scandalous  
15 matter contained in Vaughn Young's declarations concerns the  
16 death of defendant Steven Fishman's ex-wife in a traffic accident  
17 late last year. In his January 3, 1994 declaration, Vaughn Young  
18 states:

19 10. I wish to point out one of these tactics to  
20 the court. Hubbard called it "a head on a pike." It  
21 means to make someone an example for the purpose of  
22 intimidating others. His point was to bring order to  
23 an area. Sometimes a head - any head - had to be put on  
24 a pike as was done centuries ago as a warning to  
25 others, he said.

26 11. In that vein, I call to the court's attention  
27 two events that occurred in Florida on December 30,  
28 1993. (1) A key witness in this case was fired from

1 his job when information provided by him in this case  
2 was given to his employers. (2) The wife of one of the  
3 defendants was killed.

4 12. Because of the severity of the latter, let me  
5 first point out to the court that a number of top  
6 Scientology officials have gone to jail in the United  
7 States for felonies.

8 Those three statements taken together are a transparent  
9 smear. Upon reading the insinuation that Scientology officials  
10 might be involved with a person being "killed," CSI's counsel  
11 retained two private investigators in Florida to look into  
12 Young's atrocious innuendo. As to Fishman's ex-wife, Jamie Lee  
13 Nureyev, the investigators interviewed the police officer who  
14 reported the accident and learned that Ms. Nureyev -- who press  
15 reports indicate suffered from multiple sclerosis -- was killed  
16 while attempting to cross a busy six-lane highway in the dark and  
17 not at a cross-walk, immediately after leaving a nightclub.  
18 [Moxon Declaration, ¶ 13 & Ex. 2, Declaration of Richard  
19 Mueller.] The person who hit Ms. Nureyev stopped his car, and  
20 both he and a passenger cooperated with the police. [Moxon  
21 Declaration & Ex 3, Dec. of Margaret Dellerson.] Fishman himself  
22 has referred to the matter as an accident. [Moxon Dec., ¶ 14 &  
23 Ex. 4.] No charges were ever brought [Moxon Dec., ¶ 13], and the  
24 driver had no connection whatever with the Church of Scientology.  
25 [Moxon Dec. & Ex 3, Dellerson Dec., ¶ 5.] To any neutral  
26 observer, this accident was a tragedy. To Vaughn Young, however,  
27 Ms. Nureyev's death was simply an opportunity to concoct  
28 "evidence" and to vent his apostate's hostility.

1 Another private investigator retained by CSI's counsel  
2 learned that Garry Scarff (the supposed "key witness" that "was  
3 fired from his job," to whom Young refers, according to the  
4 Declaration of Graham E. Berry of the same date) was a seasonal  
5 employee of Disney World, hired in October of 1993 and let go at  
6 the end of his seasonal contract, after Christmas. [Moxon Dec.  
7 ¶ 15 & Ex. 5, Declaration of Jon C. Martin.] A seasonal employee  
8 is one hired for the purpose of working one season, and then is  
9 laid off. [Id.] Typically, Disney World hires seasonal  
10 employees in October and lays off at the end of December.  
11 According to the Disney personnel department, there was no  
12 indication that Scarff was ineligible to be re-hired at a later  
13 date. [Id.] Plaintiff and its attorneys categorically deny  
14 having made or caused to be made any communications to Scarff's  
15 employer until after receipt of Vaughn Young's declaration, and  
16 then only to learn the truth.

17 Mr. Young also falsely insinuates that non-party David  
18 Miscavige was somehow implicated in the death of Mr. Miscavige's  
19 mother-in-law, stating that he had a "penchant for guns," and  
20 then alleging:

21 Mr. Miscavige's behavior was overlooked in the  
22 investigation of the death of his mother-in-law, Mary  
23 Florence Barnett. She died in Carson, California in  
24 1985 from three shots to the chest and one to the  
25 temple from a .22 rifle. It was reported to me that  
26 she was about to defect and talk to the wrong people.  
27 The incident was known to only a few in Scientology  
28 because Mr. Miscavige ordered a lid on the matter.

1 [Dec. 10, 1993 Declaration of Robert Vaughn Young, ¶ 28.]

2 The inclusion of such libelous hearsay in Mr. Young's  
3 declaration -- essentially falsely accusing Mr. Miscavige of  
4 complicity in murder -- is appalling, especially when offered  
5 after Geertz's lawyer took the deposition of the medical  
6 examiner's office that investigated Ms. Barnett's death.<sup>1</sup> The  
7 Chief Medical Examiner for Los Angeles County confirmed that  
8 "[t]he cause and the manner of death was suicide...." [Moxon  
9 Dec., ¶ 16 & Ex. 6.] The reasons for the suicide are noted in  
10 the Coroner's report:

11 The decedent's daughter [not Mrs. Miscavige] told me  
12 her mother had been quite ill since her surgery for  
13 aneurysm in March 1985. Although she was not in pain,  
14 she became quite depressed as the surgery seemed to  
15 debilitate her ... Approximately two weeks ago she  
16 mentioned [to that same daughter] she "felt no hope of  
17 getting better."

18 [Moxon Dec., ¶ 16 & Ex. 7.] The coroner's autopsy report of  
19 September 11, 1985, indicated not only that the death was a  
20 suicide, but that Ms. Barnett apparently had attempted to kill  
21 herself shortly before the actual suicide by slashing her wrists.  
22 The coroner's report stated:

23 The case is that of a 52-year-old woman who died as a  
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25 <sup>1</sup> What conceivable relevance these false accusations about  
26 a non-party have to this defamation case remains an utter mystery.  
27 The scandalous nature of such a "declaration," however, is self-  
28 apparent. The declaration is not offered as evidence. It is  
offered to harass CSI, to defame a non-party with the impunity  
accorded by the privilege attached to court proceedings, and to  
poison the record before the Court.

1 result of multiple gunshot wounds that were self  
2 inflicted.... In addition there were 2 recently  
3 incised wounds that involved the right and left wrists.  
4 Two suicide notes were left and the decedent had become  
5 depressed following surgical intervention for an  
6 aneurysm of the carotid artery.

7 [Moxon Dec., ¶ 16 & Ex. 6.]

8 Thus, there was no behavior of Mr. Miscavige to "overlook."  
9 Young's innuendo is intended merely to convert a tragedy into an  
10 allegation. As indicated in the medical examiner's reports, Ms.  
11 Barnett, despondent over her deteriorating medical condition  
12 following brain surgery, took her own life, first with three  
13 superficial, non-debilitating gunshot wounds to the chest, and  
14 then by shooting herself in the head. None of the foregoing  
15 facts served to restrain Mr. Young from his intention to spread  
16 malicious falsehoods in the guise of sworn "fact" on the record  
17 regarding a non-party, and to burden the Court with Mr. Young's  
18 bitterness in the guise of "evidence."

19 Factual details mean simply nothing to Mr. Young. On  
20 December 10, 1993, he made the following sworn statement:

21 CSI is a shell corporation that was gutted after a  
22 multi-million dollar, disastrous legal decision  
23 (Wollersheim vs. Church of Scientology) against it. It  
24 is just like a Hollywood set: there is a front but  
25 nothing behind it.

26 [December 10, 1993 Declaration of Robert Vaughn Young, ¶ 6.]

27 First, CSI was not even a party to that suit; the only defendant  
28 was Church of Scientology of California. [Jentzsch Dec., ¶ 4.]

1 Second, the suit in question was commenced in 1980; CSI was  
2 incorporated in 1981. [Id.]

3 Third, and most significantly, in the four-and-a-half years  
4 since Mr. Young ceased to have any percipient knowledge of  
5 anything to do with Scientology, that "shell corporation" has  
6 undergone the most comprehensive exemption investigation in the  
7 history of the Internal Revenue Service and been recognized as a  
8 tax exempt religious organization "operated exclusively for  
9 charitable and religious purposes." [Declaration of Monique  
10 Yingling, ¶ 2.] All of CSI's records were made available to the  
11 IRS for review, including the financial records this Court  
12 ordered held in escrow in the offices of Quinn, Kully & Morrow,  
13 and were reviewed without restriction by the IRS. [Id., ¶ 2.]<sup>2</sup>  
14 What Young calls "shell corporation" has initiated and litigated  
15 the instant action at great expense, employs more than 1,500  
16 people, and its corporate representatives have provided detailed  
17 testimony regarding the complexity and international scope of its  
18 operations. [Jentzsch Dec., ¶ 4.]

19 Vaughn Young stands alone in the face of the fact that the  
20 IRS granted exemption to each of the individual corporations in  
21

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22 <sup>2</sup> The recognition of the Church's tax exemption status was  
23 also a recognition of the corporate integrity of Church management  
24 and structure. In fact, as part of granting tax exemption to the  
25 Scientology Churches, the IRS has distributed a fact sheet on  
26 Scientology clearly expressing what Scientology is and explaining  
27 its corporate structure. [Jentzsch Dec., Ex. B, Yingling Dec.]  
28 That fact sheet was composed by CSI, and the IRS verified its  
accuracy by comparing it with its review of the Church's records.  
[Id.] That fact sheet was then sent by the IRS to all of the  
United States' tax treaty partner-nations. [Id.] Young, with his  
discredited accusations and personal knowledge of nothing, is like  
a solitary Japanese soldier still trying to fight World War II on  
a remote Pacific atoll.

1 the hierarchy of the Scientology religion, after verifying the  
2 corporate integrity and independence of each corporation.

3 [Jentzsch Declaration, Ex. B, Yingling Dec.] He thus reveals  
4 himself to be "expert" only at swearing falsely to matters of  
5 which he is totally ignorant.

6 Young's currency is an abiding resentment of his former  
7 Church, but this Court is no more a forum for expressing his  
8 spite than it would be for an apostate Catholic to denigrate his  
9 former faith and slander its adherents. While Young's  
10 declarations show him to be proficient at rumor-mongering, they  
11 also reveal him to be percipient to nothing relevant, ignorant to  
12 facts to which he swears, and mercenary to the end. He is  
13 bitterly antagonistic to the religion that he renounced, but that  
14 characteristic renders him neither a witness to nor an expert on  
15 anything.

16 B. Stacy Young's Declarations Are False and Scandalous

17 Stacy Young's declarations are similarly the sensationalized  
18 fictions of an embittered apostate. The product of her scorn,  
19 however, couples irrelevancy, mischaracterization and false  
20 allegations with a taint of constitutional dimension. It is the  
21 tenets, beliefs, and religious conventions of the Scientology  
22 religion that are the special targets of Ms. Young's spite, and  
23 her pose as an "expert" in that regard is especially  
24 disingenuous.

25 Stacy Young is a former employee of several Churches of  
26 Scientology, who spent the majority of her time on staff working  
27 as a writer and editor in public relations. [Jentzsch Dec., ¶  
28 17.] In 1989, she left the Church and renounced her former

1 religion. [*Id.*, ¶ 17.] In a recent deposition, Ms. Young  
2 admitted that she gave up her job in real estate to become a full  
3 time witness for litigants opposing the Church because it was  
4 "more lucrative." [Moxon Dec., ¶ 11.] In this case, she has  
5 been called upon to offer an utterly contrived veneer of "truth"  
6 to support a claim of truth on a matter not at issue in this  
7 case. In so doing, she seeks to put the Scientology religion on  
8 trial.<sup>3</sup>

9 Perhaps the best example of this process is provided in her  
10 January 3, 1994 declaration. There, she opines that Steven  
11 Fishman may have become a Type III PTS by his association with  
12 Scientology. Her statements essentially charge that a  
13 Scientology defined phenomena has been caused by Scientology.  
14 Thus, in her convoluted testimony, Ms. Young states that she has  
15 never met Mr. Fishman, but, after reading a manuscript which he  
16 wrote and observing a videotape of Fishman under hypnosis by Dr.  
17 Geertz, she is able to conclude that "Scientology" made Fishman a  
18 Type III PTS by selling him Scientology books and tapes  
19 containing the religion's scriptures and doctrines. [January 3,  
20 1994 Declaration of Stacy Young, ¶ 34-36.] The Court is now  
21 asked by Ms. Young's declaration not only to review the content  
22 of a religion's beliefs, but also to determine whether the impact  
23 of those beliefs resulted in a religiously defined experience.  
24 In her declaration, Mrs. Young discusses "Potential Trouble  
25 Source, or PTS" (¶ 40); ten types of PTSness, from Type A through  
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27 <sup>3</sup> The attempt to try the religion and its beliefs is  
28 unconstitutional per se. See pp. 15-19, infra. Beyond that, Ms.  
Young's interpretations of Scientology scripture are perverse and  
uninformed. [Jentzsch Dec., ¶¶ 8-13.]

1 Type J (§ 41); three types of PTSness, known as Type 1, Type 2  
2 and Type 3 (§ 48) -- all parts of Scientology's particular  
3 theology, and concludes "Scientology created a situation in which  
4 Fishman would almost certainly suffer a psychotic break and  
5 become a Type 3 PTS." (§ 45).

6 The bases for her opinion are completely unreliable.  
7 Fishman has bragged that he is a "compulsive liar"; his  
8 compulsive lying formed the basis for his arrest, conviction and  
9 prison sentence. [Moxon Dec., § 17.] His manuscript (in which  
10 Fishman claims, among other things, biological fatherhood of  
11 Jesus Christ through water-borne artificial insemination), would  
12 certainly be considered suspect by any reasonable person. [Id.,  
13 § 17.] Indeed, Richard Ofshe, who was supposed to be hired by  
14 Fishman as an "expert" to defend Fishman, agreed that Fishman is  
15 a compulsive, manipulative liar. [Id., § 17 & Ex. 8.]

16 Moreover, Fishman at times has described the videotapes  
17 which Ms. Young viewed, and from which she concluded that Fishman  
18 was insane, as being faked by Fishman and Geertz in order to help  
19 Geertz receive funding for his hypnosis "research." [Id., § 20 &  
20 Ex. 9.]<sup>4</sup>

21 It is remarkable that of all the "experts" who have examined  
22 Fishman, only Ms. Young, who never met him, and has no  
23

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24 <sup>4</sup> Courts faced with "expert" opinions based on such  
25 unreliable data routinely refuse to consider those opinions.  
26 Viterbo v. Dow Chemical Co., 646 F.Supp. 1420, 1424 (E.D.Texas  
27 1986) ("This court finds that the data upon which [the expert]  
28 relied in forming an opinion . . . is so unreliable and lacking in  
probative force that no reasonable expert could base an opinion  
upon them."). Thus, there is no reason for this Court to consider  
Ms. Young's opinion at all.

1 qualifications to make such an opinion, is willing to sign a  
2 declaration relying on information received from Fishman himself.

3 Moreover, Ms. Young's claims of expertise are preposterous.  
4 If there were such a thing as an "expert" on Scientology  
5 scripture, such a designation could only be made by the Church.  
6 [Id., ¶ 17.]

7 Moreover, if Stacy Young is deemed an "expert" on  
8 Scientology, then an excommunicated Catholic seeking to overrule  
9 the Pope would be regarded as an expert on Catholicism, and a  
10 disbarred lawyer would qualify as an expert on legal ethics.<sup>5</sup>

11 Fishman was convicted of obstruction of justice for trying  
12 to frame the Church for his crimes. [Moxon Dec. ¶ 17.] Fishman's  
13 partners in his crimes, the FBI agents who investigated him, the  
14 Assistant United States Attorney who prosecuted him, the prison  
15 doctors who examined him, and even one of the experts who was  
16 supposed to defend him, all agree that Fishman is an  
17 accomplished, manipulative liar. [Id., ¶ 18; Ex. 9-10.] Only  
18 Ms. Young, who has never met or spoken with Fishman, opines to  
19 the contrary. She is a lone and singularly unqualified voice in  
20 her conclusions about Fishman's state of mind.

21 Ms. Young's declarations also are dominated by claims about  
22 events, people and documents concerning which she has claimed no  
23 personal knowledge or about which she can claim none. For  
24 example, in paragraphs 8 and 9 of her December 10, 1993

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25  
26 <sup>5</sup> Even if Ms. Young's interpretations of various Scientology  
27 scriptural terms and concepts conformed with the Church's  
28 interpretation (which is legally the only interpretation that  
-- are, nevertheless, ridiculous. [Jentzsch Dec., ¶¶ 11-13.]

1 declaration, Ms. Young makes sweeping claims that David Miscavige  
2 has "total control over" "every single person in the world who is  
3 a Scientologist," asserting that Mr. Miscavige acquired this  
4 "power" from L. Ron Hubbard in 1981. [December 10, 1993  
5 Declaration of Stacy Young, ¶ 8-9.] These sweeping claims are  
6 inventions of Ms. Young's imagination: she has admitted that she  
7 never worked with Mr. Hubbard at all [*Id.*, ¶ 18]; worked only  
8 briefly with Mr. Miscavige in 1982 [January 3, 1994 Declaration  
9 of Stacy Young. ¶¶ 20, 26]; that in 1981, she was responsible for  
10 establishment in the Public Relations bureau [January 3, 1994  
11 Declaration of Stacy Young, ¶ 17]; and thus not witness to Mr.  
12 Hubbard allegedly passing "power" to Mr. Miscavige.

13 CSI will not belabor the obvious: Stacy Young has no  
14 qualifications or authority to speak about Scientology as a so-  
15 called "expert," her declarations are replete with false and  
16 generalized hearsay conclusions which have no place in this  
17 Court's files, and her effort to place the tenets and religious  
18 services of Scientology on trial is constitutionally forbidden.

### 19 III. ARGUMENT

#### 20 A. The Youngs Are Percipient Witnesses To Nothing Relevant And 21 Are Unqualified To Provide "Expert" Declarations

22 The testimony of witnesses normally may be accepted as  
23 evidence, only if it is based upon the personal knowledge of the  
24 witness. Fed.R. of Evid. 602. The Youngs make no pretense to  
25 any percipient knowledge regarding either defendant or CSI's  
26 defamation claim. Thus, they are not fact witnesses to anything  
27 relevant in this case.

28 The declarations of the Youngs are a compendium of

1 assertions consisting of either alleged personal knowledge,  
2 falsehoods, hearsay, opinion or conclusion. Opinion and  
3 conclusion testimony, of course, is normally permitted only where  
4 the witness has been admitted as an expert by the Court.  
5 Fed.R.Evid. 701 et seq. In this case, the Youngs are offered by  
6 the defendants as "experts" in matters of Scientology theology.  
7 As such, they are not qualified to render any opinion to the  
8 Court at all. Matters of interpretation of scripture and  
9 ecclesiastical governance are reserved to ecclesiastical bodies;  
10 the state, in the form of the legislature or the judiciary, may  
11 not review in a secular forum the truth or efficacy of religious  
12 doctrine, nor second-guess the decisions of duly constituted  
13 ecclesiastical bodies. The opinions of Stacy and Vaughn Young as  
14 to Scientology doctrine, practice or governance are thus not only  
15 irrelevant to any issue actually in this case: the issues which  
16 they would theoretically raise are nonjusticiable. For example,  
17 the Court is not constitutionally permitted to determine whether  
18 certain religious beliefs have had a religiously defined impact  
19 on a particular individual. The Court would find it necessary to  
20 consider extensive religious scriptures, doctrines and policies  
21 to make an essentially religious determination -- whether the  
22 individual is in a Type 3 condition as defined in the scriptures.

23 The Establishment Clause of the First Amendment is "intended  
24 to erect 'a wall of separation between Church and State.'" Everson v. Board of Education, 330 U.S. 1, 16, 67 S.Ct. 504, 512  
25 (1947). Its central purpose is to ensure that the government  
26 remains neutral in matters of religion. Gillette v. United  
27 States, 401 U.S. 437, 449, 91 S.Ct. 828, 836 (1971). Recently,  
28

1 in Church of Scientology Flag Service Org., Inc. v. City of  
2 Clearwater, 2 F.3d. 1514 (11th Cir. 1993) ("Clearwater"), the  
3 Eleventh Circuit Court of Appeals applied the Establishment  
4 Clause doctrine noted above to a Scientology Church. In  
5 Clearwater, the city of Clearwater enacted an ordinance that  
6 required substantial reporting of private information about  
7 parishioners, religious doctrine and activity by the Church to  
8 the city, so that the city could regulate and govern certain  
9 Church activities. The Eleventh Circuit found that the ordinance  
10 was an unconstitutional intrusion of the state into the  
11 ecclesiastical arena, noting, "the imposition of civil authority  
12 in matters of 'church policy and administration' by itself may  
13 pose a 'substantial danger that the State will become entangled  
14 in essentially religious controversies or intervene on behalf of  
15 groups espousing particular doctrinal beliefs.'" Clearwater, at  
16 1537, citing Serbian Eastern Orthodox Diocese v. Milivojevich,  
17 462 U.S. 696, 710, 709, 96 S.Ct. 2372, 2381, 2380, 49 L.Ed.2d 151  
18 (1976).

19 [C]ivil courts are bound to accept the decisions of the  
20 highest judicatories of a religious organization of  
21 hierarchical polity on matters of discipline, faith,  
22 internal organization, or ecclesiastical rule, custom,  
23 or law.

24 Serbian Eastern Orthodox Diocese at 713, 96 S.Ct. at 2382.

25 Stacy and Vaughn Young are not Scientologists, nor do they  
26 pretend to be. Rather, they are apostates with minimal training  
27 in Scientology scripture and doctrine, most of it twenty years  
28 out of date. [Jentzsch Dec., ¶ 8.] The opinions which they urge

1 upon the Court are contrary to the established policy and  
2 doctrine of the Church, which has been determined by the Church's  
3 highest ecclesiastical authority. [Id., ¶ 17.]

4 The Youngs are obsessed with dictating to the Court what  
5 Scientology is, what its scriptures mean, how its tenets work,  
6 and why the Court should displace Church policy in favor of the  
7 contrivances of embittered apostates. This is an inquiry which  
8 has been foreclosed as non-justiciable in this or any secular  
9 court since Watson v. Jones, 80 U.S. (13 Wall.) 679, 728-29, 20  
10 L.Ed. 666 (1872), and nothing in the ensuing 124 years of case  
11 law has dented the prophylactic Watson doctrine.

12 Here, the only issues concerning Scientology faith or  
13 practice are those invented and asserted by the Youngs in their  
14 declarations. They have nothing to do with a determination of  
15 the real issues in the case: whether or not defendants'  
16 statements alleged in the complaint are false, defamatory and  
17 made with actual malice and, if so, what damages are applicable.  
18 Thus, the Court need face no difficult evaluation of whether or  
19 not to permit apostate Scientologists to comment on the truth,  
20 efficacy or purposes of the scriptures of their former faith.  
21 The testimony must, as a matter of law, be excluded.<sup>6</sup>

22  
23 <sup>6</sup> The Establishment Clause's companion guarantee, the Free  
24 Exercise Clause, also proscribes inquiry into Scientology doctrine,  
25 faith and governance. The leading case on the subject states:  
26 The Fathers of the Constitution were not unaware of the  
27 varied and extreme views of religious sects, of the  
28 violence of disagreement among them, and of the lack of  
any one religious creed on which all men would agree.  
They fashioned a charter of government which envisaged  
the widest possible toleration of conflicting views.  
Man's relation to his God was made no concern of the  
State. He was granted the right to worship as he pleased  
(continued...)

1           Moreover, the relentless enmity and bias of the Youngs are  
2 undeniable. Indeed, in Sterling Management Systems v. CAN, No.  
3 BC 043028, Los Angeles County Superior Court, California Justice  
4 David N. Eagleson (Retired), sitting as a discovery referee, had  
5 little trouble discerning the only non-monetary motivation the  
6 Youngs have in offering their service to attorneys in Scientology  
7 litigation. In words equally applicable to this case, Justice  
8 Eagleson noted during a hearing: "Without being pejorative about  
9 it, the Youngs have an intense dislike for Scientology. And I  
10 can't see how what they think and believe and feel relates to  
11 this lawsuit." [Moxon Dec., ¶ 20 & Ex. 13.]

12           Under circumstances such as these, this Court is obligated  
13 not to accept the Youngs' declarations as expert testimony.  
14 Indeed, "[w]here an expert becomes an advocate for a cause, he  
15 therefore departs from the ranks of an objective expert witness,  
16 and any resulting testimony would be unfairly prejudicial and  
17 misleading." Viterbo v. Dow Chemical Co., 646 F.Supp. 1420,  
18 1425-26 (E.D.Tex. 1986).

19           Stripped of an "expert" designation, the Youngs'  
20 declarations can clearly be seen as a morass of falsehoods, half-  
21 truths, hatred, innuendo, hearsay and opinion based on double and  
22 triple hearsay. The lay "opinions" offered by the Youngs in this  
23 context are improper, and must be stricken by the Court. Fed.R.  
24 Evid. 701. Under Rule 701, "If . . . attempts are made to  
25

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26           <sup>6</sup>(...continued)  
27           and to answer to no man for the verity of his religious  
28           views.  
United States v. Ballard, 322 U.S. 78, 87, 64 S.Ct. 882, 886-887,  
88 L.Ed. 1148 (1944).

1 introduce meaningless assertions which amount to little more than  
2 choosing up sides, exclusion for lack of helpfulness is called  
3 for by the rule." Butler v. Polk, 592 F.2d 1293, 1297 (5th Cir.  
4 1979), quoting Notes of the Advisory Committee. The assertions  
5 in the Youngs' declarations are just the sort of "meaningless  
6 assertions" condemned by the Advisory Committee. Their only  
7 purpose is to drive this litigation out of control, expend and  
8 prolong these proceedings, and improperly divert this case into a  
9 war between CSI and the Youngs. As such, the Youngs'  
10 declarations should be stricken from the record of this Court.

11 B. The Court May Strike Declarations Which Are False And  
12 Scandalous

13 The Youngs' declarations are filled with inflammatory  
14 accusations without foundation. They consist of falsehood,  
15 opinion, innuendo, rumor and libel. Hence, the declarations  
16 should be stricken pursuant to F.R.Civ.P. 12(f), and the inherent  
17 powers which are "governed not by a rule or statute but by the  
18 control necessarily vested in courts to manage its own affairs so  
19 as to achieve the orderly and expeditious disposition of cases."  
20 Link v. Wabash R. Co., 370 U.S. 626, 630-631, 82 S.Ct. 1386,  
21 1388-1389, 8 L.Ed.2d 734 (1962). The Supreme Court has recently  
22 affirmed that "[c]ertain implied powers must necessarily result  
23 to our courts of justice from the nature of their institution,"  
24 powers "which cannot be dispensed with in a court, because they  
25 are necessary to the exercise of all others." Chambers v. NASCO,  
26 Inc., \_\_ U.S. \_\_, 111 S.Ct. 2123, 2132 (1991), citing United  
27 States v. Hudson, 7 Cranch 32, 34, 3 L.Ed. 259 (1812).

28 Rule 12(f) provides that upon motion by a party, "the court

1 may order stricken from any pleading" any "redundant, immaterial,  
2 impertinent or scandalous matter." Rule 12(f) has been found to  
3 be appropriate for striking affidavits. See, Monroe v. Bd. of  
4 Education of Town of Wolcott, Conn., 65 F.R.D. 641, 645 (D. Conn.  
5 1975).

6 Rule 12 has also been found to be an appropriate basis to  
7 strike scandalous allegations set forth in motions. Agran v.  
8 Isaacs, 306 F.Supp. 945 (N.D. Ill. 1969). In Agran, an amicus  
9 curiae motion was stricken which was found to contain "libelous  
10 misrepresentations." Id. at 947-48. The Court, in striking the  
11 papers pursuant to the authority of Rule 12(f), stated in  
12 language particularly appropriate to the Youngs' declarations in  
13 this case:

14 These papers are replete with reckless and sensational  
15 libelous accusations, and employ the most deplorable  
16 devices of guilt by association, innuendo, and trial by  
17 press.

18 Id. at 948.

19 As demonstrated above, the Young's declarations are a nearly  
20 seamless weave of falsehood, opinion, innuendo, speculation and  
21 rhetoric, stitched together with snippets of innocent fact to  
22 create false, scandalous and defamatory conclusions. Rather than  
23 providing relevant information about issues in this case, the  
24 declarations appear to have been crafted solely for their "shock"  
25 value. Such declarations well deserve to be stricken completely  
26 by the Court.

27 C. Alternatively, The Youngs' Declarations Should Be Sealed  
28 The United States Supreme Court has long recognized as an

1 "uncontested proposition" that "the right to inspect and copy  
2 judicial records is not absolute," that "every court has  
3 supervisory powers over its own records and files..." and that  
4 pre-trial denial of access to judicial records may be appropriate  
5 in a variety of situations. Nixon v. Warner Communications,  
6 Inc., 435 U.S. 589, 598, 98 S.Ct. 1306, 1312 (1978). Courts have  
7 inherent power to control their own records to protect the  
8 privacy rights of those potentially affected by disclosure, to  
9 ensure that its records are not used "to gratify private spite or  
10 promote public scandal" and to prevent such records from serving  
11 "as reservoirs of libelous statements for press consumption." Id.  
12 See also, Matter of Sealed Affidavit(s) to Search Warrants, 600  
13 F.2d 1256, 1257 (9th Cir. 1979) (authority to deny access extends  
14 to sealing affidavits to protect confidential matters).<sup>7</sup>

15 The false, scurrilous and scandalous declarations authored  
16 by paid "consultants" Vaughn and Stacy Young and filed by  
17 defendants as a litigation tactic to vent their private spite,  
18 should be, at the least, protected from public view and abuse by  
19 this Court's seal. Indeed, Geertz's attorneys have recently  
20 pointed to the amount of media attention they feel they are able  
21 to generate about this case. [Moxon Dec., ¶ 19 & Ex. 11.]  
22 Defendants who have solicited such scandalous and improper  
23 material should not be allowed to use this Court's record

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24 <sup>7</sup> See also, F.R.Civ.Proc. 12(f) which provides that upon  
25 motion by a party, "the court may order stricken from any pleading"  
26 any "redundant, immaterial, impertinent or scandalous matter."  
27 Rule 12(f) has been found to be appropriate for striking  
28 affidavits. See, Monroe v. Bd. of Education of Town of Wolcott,  
Conn., 65 F.R.D. 641 (D. Conn. 1975). The statutory authority to  
strike materials from the record underscores the  
inherent authority to seal them.

1 indefinitely as a "sheltered" reservoir for their continuing  
2 defamations of plaintiff. Nixon, supra. Even if the Court were  
3 to determine, for any reason, that the declarations should not be  
4 stricken, the Court should nonetheless exercise its powers to  
5 protect the innocent slandered mercilessly in the Young  
6 declarations.

7  
8 CONCLUSION

9 The "expert" declarations of Robert Vaughn Young and Stacy  
10 Young are incompetent, laced with lies, hearsay, conclusions,  
11 opinions and lack of foundation for most of the assertions made.  
12 The claims are crafted to be scandalous and extremely  
13 prejudicial, are manifestly intended to be just that, and are  
14 submitted only to create a climate of prejudice and distrust  
15 concerning plaintiff.

16 There is simply no good reason for these matters to be  
17 permitted to remain in a public file to do harm to plaintiff for  
18 years to come, because even if they were not unquestionably  
19 scandalous and false, the assertions have no genuine or  
20 legitimate purpose in this action.

21 Finally, these matters in significant respects seek to  
22 insert within the Court's jurisdiction matters of religious  
23 belief and theological scriptures contrary to constitutional  
24 principles and long standing precedent defining the protection  
25 from judicial inquiry afforded these fundamental matters.

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Accordingly, an order should issue striking the declarations  
from the record or, in the alternative, sealing their contents.

Dated: January 31, 1994

Respectfully submitted,  
MORRISON COHEN SINGER & WEINSTEIN

By: \_\_\_\_\_  
Jonathan W. Lubell

Timothy Bowles  
Kendrick L. Moxon  
BOWLES & MOXON

Attorneys for Plaintiff  
CHURCH OF SCIENTOLOGY INTERNATIONAL

PROOF OF SERVICE

STATE OF CALIFORNIA        )  
                                  )  ss.  
COUNTY OF LOS ANGELES    )

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On January 31, 1994, I served the foregoing document described as MOTION TO STRIKE OR, IN THE ALTERNATIVE, TO SEAL THE DECLARATIONS OF ROBERT VAUGHN YOUNG AND STACY YOUNG on interested parties in this action

by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

by placing  the original  a true copy thereof in a sealed envelope addressed as follows:

Steven Fishman  
8851 Sunrise Lakes Boulevard  
Apartment 116  
Sunrise, Florida 33322-1413

BY MAIL

\*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

Executed on January 31, 1994, at Los Angeles, California.

**\*\* (BY PERSONAL SERVICE)** I delivered such envelope by hand to the addressees.

Executed on \_\_\_\_\_ at Los Angeles, California.

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

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature

\* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

\*\* (For personal service signature must be that of messenger)

PROOF OF SERVICE

STATE OF CALIFORNIA            )  
  )    ss.  
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by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

by placing  the original  a true copy thereof in a sealed envelope addressed as follows:

Graham E. Berry  
LEWIS, D'AMATO, BRISBOIS & BISGAARD  
221 N. Figueroa St. Suite 1200  
Los Angeles, CA 90012

BY MAIL

\*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

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