IN THE CIRCUIT COURT FOR THE SIXTH JUDICIAL CIRCUIT IN AND FOR PINELLAS COUNTY, FLORIDA

STATE OF FLORIDA

v.

Case No. CRC98-20377-CFANO-C

CHURCH OF SCIENTOLOGY FLAG SERVICE ORGANIZATION SPN NO. 01980179

CHURCH OF SCIENTOLOGY FLAG SERVICE ORGANIZATION'S MOTION FOR STAY PENDING FILING OF PETITION FOR WRIT OF PROHIBITION REVIEWING DENIAL OF MOTION TO DISQUALIFY PRESIDING JUDGE

The Church of Scientology Flag Service Organization (the "Church"), by and through undersigned counsel and pursuant to Rule 9.310(a) of the Florida Rules of Appellate Procedure, hereby submits its Motion for Stay Pending Filing of Petition for Writ of Prohibition Reviewing Denial of Motion to Disqualify Presiding Judge and in support thereof would show:

- 1. On March 2, 2000, the Church filed a Motion to Disqualify presiding Judge Brandt C. Downey III on the basis of the Church's well-founded and reasonable fear that it would not receive a fair and impartial trial. This motion was accompanied by the affidavit of Mary Story, a representative of the Church, as well as undersigned counsel's certificate of good faith. On March 3, 2000, the Honorable Judge Downey denied the Motion to Disqualify.
- 2. As is its right under Rule 9.100 of the Florida Rules of Appellate Procedure, the Church will promptly file a Petition for Writ of Prohibition in the Second District Court of Appeal to review the denial of the Motion to Disqualify. *Barnett v. Barnett*, 727 So. 2d 311 (Fla. 2d DCA 1999) (writ of prohibition filed to review denial of a motion to disqualify a judge).
- 3. In the interests of justice and the efficient resolution of issues pending in this proceeding, the Church requests that this Court, in its wise discretion, grant the requested stay until such time

as the Second District Court of Appeal determines whether this Court erred in not disqualifying the presiding judge in this proceeding. The stay is particularly important given that should the Second District Court of Appeal conclude that this Court erred in not disqualifying the presiding judge, any rulings adverse to the Church during the time the Motion to Disqualify was denied and the Writ of Prohibition is affirmed will significantly prejudice the Church in its pursuit of a fair and impartial trial and convey an appearance of impropriety. By contrast, granting the stay will not prejudice the State in any manner.

WHEREFORE, the Court should grant the stay until the Writ of Prohibition is ruled on by the Second District Court of Appeal.

Respectfully submitted:

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Counsel for Church of Scientology Flag Service Organization

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by hand delivery

_ day of March, 2000 to Douglas E. Crow, Assistant State Attorney, Post Office Box

5028, Clearwater, FL 33758.

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