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16  
17 UNITED STATES DISTRICT COURT  
18 CENTRAL DISTRICT OF CALIFORNIA

19 CLAIRE HEADLEY,

20 Plaintiff,

21 v.

22 CHURCH OF SCIENTOLOGY  
INTERNATIONAL, a corporate entity;  
23 RELIGIOUS TECHNOLOGY  
CENTER, a corporate entity, and  
24 DOES 1 through 20,

25 Defendants.  
26  
27  
28

CASE NO. CV 09-3987 DSF (MANx)

**RTC'S & CSI'S JOINT  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
MOTION FOR SUMMARY  
JUDGMENT ON REMAINING  
CLAIMS AND FOR SUMMARY  
ADJUDICATION OF ISSUES**

Hon. Dale S. Fischer

Date: July 26, 2010  
Time: 1:30 p.m.  
Dept: 840

JMBM  
Jeffer Mangels  
Butler & Marmaro LLP

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## INTRODUCTION

Defendants submit this joint memorandum in support of their motion for summary judgment dismissing plaintiff Claire Headley's remaining two causes of action: (1) A claim for violation of the federal forced labor statute providing for a civil cause of action; (2) A claim for injunctive relief, under California's unfair business practice statute, to enjoin defendants from enforcing an alleged policy of forcing female members of the Sea Organization ("Sea Org") to have abortions.

On April 2, 2010, this Court granted Defendants' joint motion for partial summary judgment on plaintiff's first cause of action alleging a minimum wage/maximum hour claim under California Bus. & Prof. Code §17200, et seq. (Docket No. 100.) Relying on *Alcazar v. Corp. of the Catholic Archdiocese of Seattle*, 598 F.3d 668 (9th Cir. 2010), this Court held that Claire Headley was a "minister" within the meaning of the "ministerial exception" and the First Amendment, and that therefore her labor on behalf of Church of Scientology International ("CSI") and Religious Technology Center ("RTC") was not covered employment under federal and state wage and hour laws.

Summary judgment should now be granted dismissing Plaintiff's third cause of action for "forced labor." Like her husband, Claire Headley had ongoing, numerous and lengthy opportunities to leave during the time she performed her religious duties and responsibilities for Golden Era and RTC, including living in her own apartments and houses off the premises of the International Base ("the Base"), having access to transportation and cell phones, attending to personal and professional needs by frequently traveling around the Los Angeles area, visiting family and friends, going on recreational trips, and otherwise. She admits that for years she was a committed Scientologist and Sea Org member and a high level executive at RTC, where she carried out religious duties that she described as a "police function" to insure that others on the Base were properly carrying out their religious duties, and that she only

1 left after she was removed from her position at RTC and her husband unilaterally left  
2 without telling her. In fact, Ms. Headley attempted to recruit her siblings into the Sea  
3 Org in the hope that they would be able to join her on the International Base. She  
4 claims she did not leave earlier despite almost daily opportunities to do so for a  
5 variety of reasons, including that she purportedly had nowhere else to go and nothing  
6 else she could do, and that she feared she would suffer religious discipline in the form  
7 of dis-fellowship from other Scientologists, including her husband and other  
8 members of her family. Plaintiff's attempt to assert a cause of action under the  
9 federal forced labor statute based upon the facts and circumstances of her  
10 participation in the religious life and commitment of the Sea Org, including "the  
11 lifestyle constraints that come with being a member of the Sea Org" (*Claire Headley*  
12 *Order* at 4-5), must be rejected under the ministerial exception, the First Amendment,  
13 and the Religious Freedom Restoration Act, 42 U.S.C. §§ 2000bb *et seq.*

14 Plaintiff's second cause of action for injunctive relief, pursuant to Cal. UCL §  
15 17200, *et seq.*, against defendants' alleged "forced abortion" policy, which she asserts  
16 caused her to have two abortions in the mid-1990s, also must be dismissed. Plaintiff  
17 lacks standing to seek injunctive relief for two reasons: (1) she suffered no loss of  
18 property or money, a prerequisite for invoking Cal. UCL; and (2) she has not been  
19 associated with defendants for over five years, is not subject to their control, and  
20 cannot show a definitive likelihood of future harm, as is required to assert a claim for  
21 injunctive relief under Article III of the Constitution. Moreover, the undisputed facts  
22 show that plaintiff underwent two abortions because she did not want to leave the Sea  
23 Org or her staff positions with CSI and RTC (the very positions she also claims  
24 constituted "forced labor"), and that defendants have no "forced abortion" policy but  
25 rather insist that the rigorous life of a Sea Org member requires that membership be  
26 reserved for those without the responsibility to rear young children. That policy is  
27 protected by the First Amendment and the ministerial exception.



1 **FACTS**

2 Defendants have set forth an extensive discussion of many of the material and  
3 relevant facts in their first motion for partial summary judgment which the Court  
4 granted on April 2, 2010. We will not repeat here all the facts previously discussed,  
5 although, to make the record on this motion complete and unitary, many are included  
6 in the Separate Statement. In this Brief, we summarize some of those facts most  
7 pertinent to the issues raised by this motion, and address certain additional undisputed  
8 facts that support it and compel that it be granted.

9 **1. Facts concerning the Scientology religion, the Sea Org, and**  
10 **Scientology ethics and justice system.**

11 All CSI and RTC staff belong to the Scientology religious order known as the Sea  
12 Organization, or Sea Org. (SUF 4.) To qualify to join the Sea Org, a Scientologist  
13 must undertake extensive training and study, pass a fitness examination, and receive  
14 certification that he or she is qualified for the rigors of Sea Org life. (SUF 2.) Sea  
15 Org members sign a symbolic commitment of one billion years, reflecting their  
16 dedication to service in furtherance of the Scientology religion and the salvation of  
17 humanity and their awareness of themselves as immortal spiritual beings. Because of  
18 this commitment, it is exclusively from the Sea Org that the senior leadership of  
19 Scientology is drawn, including the entire staff of senior management and Advanced  
20 Scientology churches. (SUF 1, 5.) They subscribe to *The Code of the Sea Org*  
21 *Member*, which contains vows that are repeated at Sea Org ceremonies that take place  
22 annually. (SUF 6.)

23 Before joining the Sea Org, potential members are told that they will be required to  
24 work long and hard hours without material compensation, and that they may be assigned  
25 or reassigned anywhere in the world to further the goals and expansion of the Scientology  
26 religion. (SUF 7.) They share tradition and lifestyle. They wear uniforms when on  
27 duty and have a merit-based maritime rank and rating system and etiquette. Sea  
28

1 Organization members live communally and eat in common dining halls. All living  
2 necessities are provided. (SUF 3.)

3 Sea Org members are held to the highest ethical standards of the Scientology  
4 religion. They are expected to study and comply strictly with Scientology's system of  
5 ethics and justice. (SUF 156.) Scientology posits that only individuals who are acting  
6 according to proper ethical precepts can advance spiritually, and, indeed, unethical  
7 behavior can impede the spiritual progress not only of the individual but also, if the  
8 individual is a church staff member, of the church itself. (SUF 151.) If a Sea Org  
9 member acts outside the ethical principles, he/she may be subject to ecclesiastical  
10 discipline. The form of discipline varies on a gradient in proportion to the seriousness of  
11 the offense, from a verbal warning or rebuke, to temporary loss of privileges, removal  
12 from post and assignment to a post with less responsibility, manual labor such as kitchen  
13 duty, gardening, etc., to expulsion from the group. (SUF 157.) Serious offenses are  
14 brought before a committee of evidence consisting of other Sea Org members in good  
15 standing. (SUF 158, 159.) If a Sea Org member is found to have committed serious  
16 ethical violations that justify expulsion, he/she may be offered the option of participation  
17 in a program of spiritual rehabilitation, called the Rehabilitation Project Force ("RPF").  
18 (SUF 160.) (Neither Marc nor Claire Headley ever participated in the RPF. (SUF 161-  
19 62.)) RPF members engage in religious study and auditing and physical labor. After one  
20 "graduates" from the RPF, he/she will resume a Sea Org position. No one is forced to  
21 participate in the RPF; if one refuses, he/she simply will be expelled from the Sea Org  
22 and from all staff positions, and, depending on the nature of the ethical violation, perhaps  
23 the church. (SUF 160.) Such lifestyle restrictions and ecclesiastical discipline, about  
24 which every Sea Org members knows, are common to religious orders. See Flinn  
25 Decl., in particular ¶¶ 11-15, 17, 19, 28, and 39.<sup>1</sup>

26 \_\_\_\_\_  
27 <sup>1</sup> We submit Dr. Flinn's declaration with this motion. Among his observations,  
28 Dr. Flinn notes that "The rules of [Buddhist] monastic life are all encompassing.  
(footnote continued . . .)

1           Scientology Scriptures provide an accepted procedure, called “Routing Out”, by  
2 which a Sea Org member may withdraw his/her vows and leave the Sea Org, while  
3 still maintaining a relationship with Scientology churches and religion. A person  
4 who has routed out becomes a “public” Scientology parishioner. The process  
5 involves submission of a “leaving staff” routing form, participation in ethics and  
6 justice procedures, including confessionals, and can take several weeks or even  
7 months. (SUF 163.) While participating in the process, a Sea Org member is  
8 excused from his/her post, but is expected to continue to contribute by performing  
9

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10 They govern ... what punishments are to be meted out for breaking the rule”; that for  
11 most rules infractions “the community sits in judgment on the offender and,  
12 depending on the case, either imposes a penance for improvement or expels a  
13 repeating offender. The procedural regulations are very elaborate. ...”; “As with  
14 Christian monks and nuns, a member must seek a superior’s permission to leave the  
15 monastery and is obliged to report in on returning. ... [E]very aspect of the member’s  
16 life — dwelling, periods of study and meditation, food, clothing, manner of begging,  
17 contact with nuns and lay people, food, medicines, etc. — is closely supervised and  
18 monitored;” “Even humble tasks — such as weeding the garden, baking bread,  
19 sweeping the monastery paths, cleaning the latrines — are understood in a religious  
20 way. These ordinary duties contribute to the monastic’s developing attitudes of  
21 humility, modesty, and obedience, without which their progress in the stages of  
22 meditation leading to enlightenment and the spread of the Buddhist ideal would be  
23 impaired or thwarted...”; [The Catholic] Rule of St. Benedict has detailed steps for  
24 disciplining and excommunicating or readmitting erring monks and nuns who have  
25 fallen away from the rules of the order... The punishments include kneeling with  
26 outstretched arms for long periods, silencing, mortification by self-flagellation with a  
27 whip or wearing a hairshirt, solitary meals, physical discipline, and, as a last resort,  
28 outright expulsion .... An excommunicated member is understood to be one who  
foregoes salvation and risks the fires of an everlasting hell. Members who associate  
with an excommunicated member without direction of the abbot or abbess are liable  
to receive the same punishment.”; “The monks or nuns settle the affairs of the daily  
life in the monastery, including the public confession of sins and infractions against  
the rule. Sinning members are usually sent before special supervisory committees of  
other monks or nuns who determine what sort of discipline or punishment befits the  
offense.” (Flinn Decl., ¶¶ 13, 15, 17, 19, 28.)

1 chores, such as gardening, cooking, cleaning, etc. Numerous Sea Org members have  
2 chosen to route out due to changes in their life, while remaining Scientologists in  
3 good standing. (SUF 164.) These procedures are part of “the lifestyle constraints  
4 that come with being a member of the Sea Org.” (*Claire Headley Order* at 4-5.)

5 If a Sea Org member chooses to leave without routing out, other Sea Org  
6 members may attempt to convince or persuade him/her to stay or to return; such  
7 efforts are a natural and inevitable outgrowth of the belief among Sea Org members  
8 that they are attempting to achieve the salvation of the individual and the clearing of  
9 the planet. Such efforts sometimes have included locating the person who left, and  
10 attempting to meet and/or discuss with him/her the reasons for leaving and to  
11 convince the person to return. If the person insists on leaving or refuses to return,  
12 without routing out, he/she may be subject to ecclesiastical discipline, including, but  
13 not necessarily, being declared a “suppressive person”, which is the functional  
14 equivalent of being shunned or excommunicated.<sup>2</sup> (SUF 165.)

---

15 \_\_\_\_\_  
16 <sup>2</sup> Such practices are also typical of religious orders. As described by Dr. Frank  
17 Flinn:

18 As Roman Catholic monks and friars take solemn, as opposed to regular or  
19 temporary vows, they must first obtain what is called a dispensation (from their  
20 vows) from the Vatican itself. They maintain their good relation with the  
21 official church provided that they observe proper procedures in exiting, wait  
22 until the dispensation is finalized according to canonical regulations, and do  
23 not heap scorn on their mother church. If they fail to fulfill these precepts they  
24 are liable to censure, interdict (an exclusion from all sacraments such as  
25 Marriage, Reconciliation (Confession), the Eucharist and Anointing) and/or  
26 excommunication, a total separation from the church and its fellowship.

27 (Flinn Decl., ¶ 29.)

28 Should a member [of a Buddhist religious order] take flight in untoward  
circumstances — whether having committed a serious infraction ... or simply  
depart in an unvetted manner — their fellow monks and nuns would seek to  
bring them back to straighten matters out in a canonical manner. The reason is  
(footnote continued . . .)

1 As a result of the rigorous lifestyle and restraints of the Sea Org, the churches  
2 concluded that it was both unfair to parents and children and unworkable for the Sea  
3 Org for Sea Org members to bear the responsibilities of caring for and raising young  
4 children. (SUF 166.) Thus, in 1986, CSI promulgated a policy that from that point  
5 forward, Sea Org members who wished to have children would be required to route  
6 out of the Sea Org, and, if they wished, work in one of the many local churches of  
7 Scientology whose staff members were not required to live such a rigorous lifestyle.  
8 (SUF 167.) The order stated:

9 [A] Sea Org member is expected to be able to accomplish any action  
10 required, and may be called on at a moment's notice to serve . . . at any  
11 location on the planet. These facts have occasionally caused hardship  
12 for Sea Org members who are parents, and sometimes also for their  
13 children...The Sea Org is a tough, dedicated organization which  
14 requires all of its members to be fully on post – not troubled with  
15 [family responsibilities].

16 (SUF 168.)

17 In April 1991 a second order reiterated the policy and the reasons for it, and  
18 required that a pregnant member must be permitted to complete the routing out  
19 process in no less than 60 days (SUF 169.)

20 After summarizing these attributes of the Sea Org, Dr. Flinn concludes that  
21 “[t]his level of commitment is typical of religious orders throughout history” and that  
22 the Sea Org has all the attributes of religious orders around the world:

23 All of these types of religious activities Scientology shares with members of  
24 religious orders around the world. This spiritual communal life allows the Sea  
25 Organization to fulfill its high religious mission, the preservation and

---

26 simple to the believer: to simply “cut and run” would be to expose oneself to  
27 the frightful condition of foregoing *moksha* in this lifetime. (*Id.*, ¶ 17.)  
28

1 transmission of the teachings of L. Ron Hubbard and the careful and exact  
2 preservation and delivery of the training and auditing technology.

3 (Flinn Decl. ¶37, SUF 3.)

4 **2. Claire Headley: “Strait-laced” Sea Org Member, Commitment to**  
5 **RTC, Living Arrangements, Freedom of Movement, and Leaving.**

6 Claire Headley’s mother was a Sea Org member when Claire was a child, and  
7 remains a Scientologist to this day. Claire’s stepfather also was and is a  
8 Scientologist. (SUF 8.) Like most children of other faiths, she was raised in the faith  
9 of her parents, and was taught and accepted the theology and doctrine of the  
10 Scientology religion. (SUF 9.) At the age of 16, with her parents’ written  
11 permission, she joined the Sea Org. (SUF 1.) She understood at the time what the  
12 lifestyle of a Sea Org member entailed, including wearing uniforms, living  
13 communally, working long hours, and receiving a small allowance, because her  
14 mother, uncle and cousins had all been Sea Org members, and it was “pretty much all  
15 I knew as a lifestyle.” (SUF 10.) Indeed, Claire’s mother even had once accepted an  
16 assignment to the RPF, so Claire was well aware of the strict disciplinary code  
17 applied to Sea Org members. (SUF 11.) Upon joining, she signed a declaration of  
18 religious commitment to the Sea Org, which stated that she volunteered “to create a  
19 better world” for a symbolic one billion years, “not in contemplation of receiving any  
20 compensation whatsoever, and . . . forsaking all commercial and financial  
21 motivation.” (SUF 12.) She restated this commitment to the Sea Org and the religion  
22 upon becoming a staff member of RTC in 1996. (SUF 22.)

23 Headley remained a member of the Sea Org until she left the Church in January  
24 2005. (SUF 13.) During that period, she believed she was furthering the goals of  
25 Scientology. She believed that the purposes of the Sea Org included to “clear the  
26 planet.” (SUF 14.) She regularly recited the Code of a Sea Org Member at  
27 ceremonies that took place annually. (*Id.*) Headley acknowledged that she remained  
28

1 a committed Sea Org member for many years, eventually had doubts and lost her  
2 commitment, and left the first and only time she attempted to do so. In fact, she  
3 believed in Scientology until she left in January 2005. (SUF 113.) During that time,  
4 she served the religion and believed that she was furthering its goals. (SUF 14.) She  
5 had been raised to believe “that it was wrong not to be in the Sea Org and that people  
6 that left were out-ethics criminals and various other things along the same line of  
7 thought.... That’s how I was raised, and I was doing what I was raised to believe was  
8 right,” specifically, “that joining the Sea Org and being a Sea Org member is the  
9 correct thing to do.” (SUF 15.) She had been “firmly raised in that for [her] whole  
10 life...” (*Id.*) As her husband describes her, Claire Headley “was a real strait-laced  
11 Sea Org member” who was “proud” of her husband and “happier” when he was  
12 promoted to a more “respectable position” as a Sea Org member. (SUF 33.) And  
13 therefore, “it took a fair bit to make me actually get to the point of leaving because I  
14 was very firmly connected, and I knew absolutely nothing else.” (SUF 16.) It was  
15 not one event, but “many events over a course of several years”, most significantly  
16 her husband’s departure without her, that led her to depart. (SUF 16, 133.)

17 Indeed, so committed was Claire Headley to the Sea Org and to her positions in  
18 RTC at the International Base that she strenuously attempted to recruit her younger  
19 siblings to join the Sea Org and, Claire hoped, work with her at the International  
20 Base. As Claire testified, in the early 2000s, it was Claire’s “idea” to “encourage”  
21 her sister Kirsten to join the Sea Org “because [she] would have liked to work with  
22 her” at the Gold Base. (SUF 45.) Kirsten confirms that Claire made several efforts to  
23 recruit her to work at the Base:

24 From time to time, when I was in high school, Claire talked to me about  
25 joining the Sea Org myself and encouraged me to join and work with her.

26 Claire told me in 2002 or 2003, I believe, that she already “had a place for  
27 me” as in she had a desk or a space ready for me once I joined the Sea Org  
28

1 where she worked at RTC . . . I remember talking to her about how the food  
2 was there, she told me that there were a lot of options for breakfast - eggs,  
3 cereals, fruit etc, and that everyone ate in a big dining hall. She was very  
4 upbeat about her work and seemed to very much want me to join her as a  
5 member of the Sea Org.

6 (SUF 45-46.)

7 Claire also recruited her brother Robert to join the Sea Org. (SUF 48.) As he  
8 describes it, in 2002:

9 I spoke to Claire on the telephone, and told her that I was thinking of joining the  
10 Sea Organization myself some day. Claire was very excited about this and  
11 arranged to have a long telephone conversation with me to tell me about it. In  
12 the call, Claire was very encouraging to me to join the Sea Org, and told me that  
13 she could pull some strings so that if and when I joined, she could arrange for  
14 me to be posted close to her. [*Id.*]

15 After that, Claire wrote a "Project Prepare" for her brother to join the Sea Org.<sup>3</sup>

16 She asked me about my project prepare and plans for joining over the next  
17 several years and continued to encourage me. She called me occasionally to  
18 check on my progress . . . The gist of our conversations was that joining the  
19 Sea Org would be a good, exciting and worthwhile thing to do. [SUF 49.]

20 Claire never told her siblings that she was held as a prisoner at RTC and  
21 subjected to human trafficking and forced labor; to the contrary, as her mother states,  
22 Claire always told her mother and siblings "that she was happy with her life in the Sea  
23 Org and with her work in the Sea Org. She seemed happy, she told me that things  
24 were going very well, and she manifested her dedication to that life by her efforts to

25  
26 <sup>3</sup> A Project Prepare is a long term project to prepare a person to handle whatever is  
27 necessary in his or her life to become qualified to join the Sea Org, and sometimes  
28 may involve many actions and take several years. (SUF 49.) Claire discussed the  
Project Prepare for her brother over the phone with her mother. (*Id.*)



1 recruit her brother and sister to join and work with her.” (SUF 50.)

2 Claire Headley’s efforts to recruit her siblings into the Sea Org reflected the fact  
3 that she believed in the mission of the Sea Org. Indeed, while she now says that she  
4 did not enjoy performing her various job functions as a Scientology minister, she  
5 concedes that she did at the time, consistent with her sibling recruitment efforts:

6 Q. From the day you started to the day you left, you never enjoyed it?

7 A. I may have *thought that I did at the time*. I was raised to believe that that  
8 was enjoyable.

9 (SUF 51, emphasis added.)

10 In fact, if at any time she did not enjoy it, Claire, like her husband, had  
11 numerous, indeed almost daily, opportunities to leave if she wanted to do so. At all  
12 times the Headleys lived in apartments or houses off the Base. (SUF 52.) When  
13 Plaintiff first moved to Gold Base until March 1996, she lived at the Kirby  
14 Apartments, which are located in the town of Hemet, about a 15 minute drive from  
15 the Base. (SUF 53.) There were about 100 apartments at Kirby, occupied by both  
16 Scientologists and non-Scientologists (including the manager), as well as a swimming  
17 pool and lawn chairs, where, according to his book, Marc Headley got “a serious  
18 tan.” (SUF 59-61.) Plaintiff shopped at a market nearby, which had a pay phone, and  
19 also went at times to the Hemet Mall on Sundays. (SUF 56-58, 63.)

20 Plaintiff went to live in Clearwater, Florida for approximately one year (from  
21 March 1996 until January 1997) for one of her positions with RTC. (SUF 64.) While  
22 Plaintiff was in Clearwater, Florida, she lived at the Hacienda Apartments, which  
23 were about a 5-10 minute drive from where she worked, at a non-gated and unfenced  
24 building in downtown Clearwater on a public street. (SUF 65-68.) She came and  
25 went freely from the apartments, drove a staff vehicle and transported others, went to  
26 the movies, restaurants, Busch Gardens amusement park, and jet-skiing, and flew  
27 back and forth to Los Angeles on commercial jets. (SUF 69-74.)

1 Plaintiff returned to the Base to work for RTC in early 1997 and moved into  
2 the Vista Garden Apartments in Hemet, at which both Scientologists and non-  
3 Scientologists lived. (SUF 76-77.) Plaintiff sometimes drove herself to and from the  
4 Base from Hemet. (SUF 78.) While she lived at Vista Garden, in 1999, plaintiff was  
5 involved in a serious motorcycle accident. (SUF 79.) She was taken to Hemet  
6 Hospital, about ten minutes from the Base, where she stayed for three days. (*Id.*) Her  
7 doctors and nurses had no affiliation with RTC or CSI. (SUF 80-81.) After she was  
8 released from the hospital, plaintiff participated in a lengthy program of physical  
9 therapy, two to three times per week from August-December 1999 at a medical  
10 facility in Hemet, requiring her to make numerous trips from the Base to Hemet.  
11 (SUF 82.) The physical therapist was not a Scientologist. (SUF 83.)

12 Between 2000 and 2005, Plaintiff and her husband lived in various houses on  
13 Sublette Road, which were not on the Gold Base property. Sublette Road is a public  
14 road next to a public golf course and adjacent to the Gold Base. (SUF 84.)

15 During the periods they worked at the Base and lived in apartments in Hemet  
16 or the houses on Sublette Road, the Headleys often left the Base to shop, go to  
17 restaurants, take care of their dog or make and eat dinner. (SUF 85.) They had the  
18 combination to the lock on the pedestrian gate at the International Base and opened  
19 the gate themselves when they passed through it. (SUF 87.) They owned and drove  
20 motorcycles and a jeep (for one year) and had access to and used automobiles. (SUF  
21 35-38.) They attended church functions together (SUF 99-100), and often visited  
22 family (including non-Scientologists) including a visit by Claire to South Carolina to  
23 visit her non-Scientologist grandmother. (SUF 101-110.) They had bank accounts  
24 and a pay pal account. (SUF 112.) They had cell phones and Marc had a laptop with  
25 Internet accessibility. (*Id.*) Claire often drove from the International Base to Los  
26 Angeles for meetings and to bring another staff member for surgery and medical  
27 appointments (SUF 91-93), and went to Big Bear ski resort for recreation. (SUF 98.)  
28

1 Claire Headley never attempted to invoke the Sea Org's routing out procedure  
2 to revoke her Sea Org vows and leave her positions with CSI or RTC. (SUF 119.)  
3 She never attempted to leave without routing out until the day she did so successfully.  
4 (SUF 120.) While she asserts that she had thoughts about leaving "on and off" at  
5 various times (SUF 121), Claire testified that she did not because she did not want to  
6 be separated from her husband or her family, as she would be if she were declared a  
7 suppressive person for leaving the Sea Org without routing out; she did not know  
8 where to go or what she would do; and that she had no one to go to who was outside  
9 of Scientology. (SUF 122.) Plaintiff also testified that she did not leave because she  
10 had no money, no resources, no connections, and no means of transportation. (*Id.*)  
11 Ultimately, however, plaintiff admitted that she only decided to leave near the end of  
12 her tenure, testifying that "it took a fair bit to make me actually get to the point of  
13 leaving because I was very firmly connected, and I knew absolutely nothing else." It  
14 was not one event, but "many events over a course of several years" that led her to  
15 depart. (SUF 16.) She only decided to leave, at about the time she actually did, after  
16 the occurrence of two key events that preceded and precipitated her departure: a  
17 major dispute about her ministerial assignment and reassignment, and accusations  
18 about ethical violations by her husband Marc, causing his precipitous departure  
19 without telling Claire. As she later wrote to her mother (see *post*), it was the latter  
20 event that was the proximate cause; if Marc had not left, "this [leaving] would not  
21 have been my decision." (SUF 133.)

22 Defendants previously have described in detail in their previous Motion for  
23 Partial Summary Judgment the various positions Headley held during her lengthy  
24 tenure at Golden Era and RTC. See Joint Brief at 13-16, and record references  
25 therein. Near the end of that tenure, Headley became embroiled in an ecclesiastical  
26 dispute that resulted in her removal from her position at RTC in late 2004 and her  
27 reassignment to a senior ecclesiastical position at CSI, a transfer she bitterly opposed  
28

1 and resisted. (SUF 123.) While the reason for that removal and transfer are  
2 somewhat in dispute, according to Claire (whose account is accepted for purposes of  
3 this motion) it came about because RTC issued a new policy that henceforth RTC  
4 staff members either must be unmarried or, if married, only to another RTC staff  
5 member. If an existing RTC staff member were married to a staff member of another  
6 Scientology organization, such as CSI or Golden Era, the RTC staff member would  
7 be transferred out of RTC. (*Id.*) According to Claire, she was given a choice: either  
8 to divorce her husband or accede to the transfer.<sup>4</sup> (*Id.*)

9 That purported choice caused Claire to become “distraught.” She claims she  
10 seriously considered divorcing Marc in order to retain her senior position at RTC  
11 (despite the alleged fact that the position involved human trafficking). She requested  
12 RTC for permission to keep her position without divorcing Marc, and continued  
13 “pleading for [her] position [with RTC]” until Marc left on January 5, 2005. (SUF  
14 125.) Not only were her pleas unheeded, but she was told that she was not authorized  
15 for her new position at CSI (SUF 126); in short, she was left in a position of not  
16 knowing what her assignments or positions would be. She concluded that “I saw that  
17 there was absolutely nothing positive being accomplished by my remaining there.”  
18 (*Id.*)

19  
20 <sup>4</sup> In reality, no such choice was imposed upon Ms. Headley; she, as well as a  
21 number of other RTC staff, simply were removed from their positions at RTC for  
22 completely independent ecclesiastical reasons. (SUF 124.) Indeed, Ms. Headley  
23 herself described the meeting at RTC at which she and others were dismissed from  
24 RTC. (*Id.*) Nevertheless, for purposes of this motion, RTC accepts Claire’s account,  
25 but notes that judicial resolution of a dispute concerning the nature of and reasons for  
26 the change in her ministerial assignment would violate the ministerial exception.  
27 *Alcazar*, 598 F.3d at 672, 674 (exception applies “to employment decisions regarding  
28 ... ministers” and “encompasses all tangible employment actions”, including but not  
limited to “. . . the duty [a minister] is to perform in the furtherance of the religious  
mission of the church”).

1 Marc's departure came about immediately thereafter as a result of Golden  
2 Era's discovery that he had been using his personal PayPal account to deposit money  
3 he received from selling surplus Golden Era equipment over Ebay, resulting in  
4 accusations that he had engaged in peculations. (SUF 127.) Prior to being informed  
5 of the allegations, on December 28, 2004, Marc and Claire had attended the  
6 Scientology New Year's event at the Shrine Auditorium. (SUF 128.) After the  
7 event, they posed for photos, left by themselves to see Claire's family in La  
8 Crescenta, and then drove back alone for several hours to their house on Sublette  
9 Road, just in time to catch a movie. (*Id.*) After the New Year, Marc's superior told  
10 him he was being investigated for possible embezzlement, but asked him first to fix a  
11 few points on his last written submission concerning AV systems. Marc writes,  
12 "[h]alf of me wanted to tell her to go fly a kite, but the other half of me had a plan [to  
13 leave]." (SUF 129.) That plan did not involve "routing out", nor did it involve  
14 telling Claire. Rather, on January 4, 2005, Marc left "for good," after walking home  
15 off the Base through the gate the night before. (*Id.*)

16 Claire spoke to Marc on the phone and tried to convince him to return.  
17 According to her, he had been upset because "He ha[d] constantly been fighting to  
18 get the [A/V] systems done with no finance and no personnel." He stated to Claire  
19 that "[h]e couldn't take being a shit-head any more." To this, Claire responded that  
20 "he was doing something of value and ... needed to come back and complete the  
21 project he was working on." Marc refused. (SUF 130.) He described their  
22 conversation in his book:

23 "Well what about us?" Claire is crying now. "You have to come back." . . . "I  
24 don't know what I am gonna do. I want you to come back. I love you so  
25 much," Claire cries. "Well, I will never come back ... Ever. Never. Never  
26 Ever.... Bye." I hang up. [*Id.*]

1 In Claire's words, Marc's refusal caused her to be "emotionally distraught and  
2 devastated." (SUF 131.) This, in addition to Claire's continuing "distraught" state  
3 and disappointment over her removal from RTC, was what caused her to leave  
4 shortly thereafter. As she explained, "[m]y husband had left. I knew that if I didn't  
5 leave, I would never see him again." (SUF 132.) She explained her reasons for  
6 leaving in a letter to her mother written soon *after* she left:

7 Obviously the change of org [the transfer from RTC to CSI] and so forth was  
8 not easy, but I could live with it and was getting my feet on the ground. I lost  
9 it when Marc left. I simply could not live with the idea of never seeing him  
10 again . . . So I made the choices I made and will have to live through the  
11 consequences of my action. . . . *This would not have been my decision had*  
12 *circumstances been otherwise.* I have endured a lot over the years and I am not  
13 one to easily give up – *it was simply that I did not feel it possible to turn my*  
14 *back on Marc.*

15 (SUF 133.) (Emphasis added.)

16 When Ms. Headley left, Greg Wilhere, a senior Scientology official went to the  
17 bus station in Las Vegas to try to convince her to return. No effort was made to seize  
18 her or otherwise physically force her to do so. She refused to be persuaded, got on a  
19 bus, and traveled to Kansas City to be reunited with her husband. No one ever tried  
20 to force her to return. Afterward, she sent an e-mail to Wilhere stating, "I am really  
21 sorry for what happened in Vegas, and what happened period – I know you were  
22 trying to help me and I'm sorry I let you down." (SUF 136.)

23 Shortly after plaintiff and her husband left, plaintiff contacted defendants about  
24 retrieving her personal belongings. Plaintiff's husband went to collect their personal  
25 items, which consisted of 67 boxes, and included items such as a large amount of  
26 clothing, make-up and other personal items, numerous DVDs (including movies such  
27 as Braveheart, Daredevil, Titanic, and Gladiator), numerous books (including the  
28

1 Lord of the Rings trilogy), several magazines (including GQ, Rolling Stone,  
2 Premiere), several CDs, a large jewelry collection, a large amount of audio/video  
3 items (including CD players, speakers, a television monitor, and a turntable), an  
4 exercise bike, and their dog (for which the church had cared) (SUF 145), a unique  
5 collection for victims of “human trafficking”.

6 In May 2006, plaintiff filed a lawsuit against a third party in Kansas City for  
7 false imprisonment for an incident in which she and her husband were “detained” by  
8 a security guard at her apartment complex. (SUF 146.) She wrote a letter to the  
9 management of the apartment complex stating, “let me make clear that in 15 years of  
10 apartment residence in California NEVER have my husband or I been subjected to  
11 such physical abuse, harassment or treatment as we received at the hands of your  
12 ‘Security’ - where we were physically held, handcuffed and treated like common  
13 criminals.” (SUF 147, original emphasis.) She testified in a deposition to the same  
14 effect: “we’ve been residents of apartments in California for 15 years, and we never  
15 had anything remotely like this occur.” (*Id.*)

16 **3. Claire Headley’s Two Abortions.**

17 When Ms. Headley was ten years old, her mother, who was a member of the  
18 Sea Org, became pregnant. (SUF 170.) This was the period when the Sea Org was  
19 about to implement its new policy that Sea Org members could not remain in the  
20 Order if they had children, and Claire’s mother was told she would be one of the last  
21 persons who would be permitted to remain in the Sea Org after having a baby. (SUF  
22 170-71.) Nevertheless, her mother routed out soon thereafter. (SUF 171.) Thus,  
23 even as a teenager, Ms. Headley was aware of the policy that Sea Org members were  
24 free to have children but would be required to leave the Sea Org if they exercised that  
25 choice. She also knew from her mother’s example that a Sea Org member who had a  
26 baby could route out and remain in good standing.

1 The Headleys married in 1992. She had an unplanned pregnancy in 1994. No  
2 one ordered her to have an abortion; one staff member, not someone senior to her,  
3 merely inquired whether she intended to do so. She testified, "I wanted a family. But  
4 I was in a position where I knew that I couldn't." (SUF 172.) And she also knew she  
5 and her husband would be required to route out of the Sea Org within 60 days if she  
6 chose to become a mother, which, as noted above, would require them to participate  
7 in confessionals and to contribute by performing chores, such as gardening, cooking,  
8 cleaning, etc. According to Headley, this constituted forcing her to have an abortion  
9 because she would be required to do "manual labor" and participate in  
10 "interrogations." (SUF 173.) In her proposed Third Amended Complaint, she alleges  
11 that she "would have been demoted, fired, or punished if she had the child. As a  
12 result, Plaintiff had an abortion to keep her position at CSI and not risk the adverse  
13 consequences of having her baby." (Docket #129-1, ¶10.) In other words, had she  
14 and her husband not decided to have an abortion, she would have been *required* to  
15 leave the Sea Org and CSI within 60 days (SUF 172-73), and thus would have been  
16 free from the "forced labor" and "human trafficking" she claims to have suffered.

17 Plaintiff had another unplanned pregnancy and voluntary abortion in 1996.  
18 The circumstances were not materially different. (SUF 175.)

## 19 ARGUMENT

### 20 I. SUMMARY JUDGMENT SHOULD BE GRANTED DISMISSING 21 PLAINTIFF'S TVPA CLAIM FOR "FORCED LABOR"

22 The essence of a claim for "forced labor" under 18 U.S.C. § 1595 is that the  
23 plaintiff is held in some form of captivity and forced to perform labor against his or  
24 her will. Victims of Trafficking and Violence Protection Act of 2000 ("TVPA"), 18  
25 U.S.C. § 1589 (defining "forced labor"). Headley's own statements, testimony and  
26 writings establish that she cannot make out such a claim.



1 First, as shown above, because she was raised as a devout Scientologist and  
2 daughter of a Sea Org member, Headley believed in the mission of the Sea Org,  
3 believed that she was doing the right thing in working for CSI and RTC, and, at the  
4 time, “thought” that she enjoyed performing her various job functions as a  
5 Scientology minister, so much so that she recruited her brother and sister not only to  
6 join the Sea Org but to work side-by-side with her on the International Base. See  
7 *ante* at 9-11. It begs credulity that plaintiff would make repeated efforts over a period  
8 of years to recruit her siblings into a lifestyle from which plaintiff herself allegedly  
9 wanted to “escape” and which she believed constituted human trafficking. Indeed,  
10 together with her husband, plaintiff is unique in claiming that work that she found  
11 “enjoyable” “at the time” and to which she was religiously committed constituted  
12 “forced labor”. The fact that she *now* believes that it was not enjoyable after all  
13 cannot convert her prior ministerial activity into “human trafficking”.

14 Second, as also forth in the Statement of Facts (*supra*) and the Separate  
15 Statement, Headley lived off the Base’s premises in public apartments several miles  
16 away or in houses on public roads; often left the Base to shop, go to restaurants, take  
17 care of her dog or make and eat dinner; had the combination to the lock on the  
18 pedestrian gate at the Base and opened the gate herself when she passed through it;  
19 owned (with her husband) and drove motorcycles and a jeep and had access to and  
20 used automobiles; traveled to and around Los Angeles and California in carrying out  
21 her post positions; visited friends and family in the Los Angeles area; attended public  
22 church functions with her husband; had bank accounts; had a cell phone and access to  
23 her husband’s cell phone and laptop with Internet access; and visited and maintained a  
24 relationship with her grandmother, who was not a Scientologist and lived in South  
25 Carolina.

1 Headley's forced labor claim thus cannot be founded upon physical restraint  
2 prohibiting her from leaving,<sup>5</sup> but rather upon her choice not to route out; her belief  
3 that if she left unilaterally without participating in the "routing out" process, she  
4 would have nowhere to go and nothing to do with her life; would be subject to a  
5 church "declare" and would not be able to communicate with her husband and other  
6 Scientologist friends or family; and that she was subject to what she considered to be  
7 arbitrary and harsh church discipline. As shown below, each of these grounds must  
8 be rejected as a matter of law.

9 **A. The Ministerial Exception Precludes Application of the TVPA to the**  
10 **"Employment" Relationship Between a Church and its Ministers,**  
11 **and In Particular Between Headley and CSI and RTC**

12 Headley has brought a civil claim under 18 U.S.C. § 1595, a civil labor statute.  
13 Section 1595 provides that "an individual who is a victim of a violation" of the forced  
14 labor statutes "may bring a civil action" against someone who has "obtain[ed] the  
15 labor or services of [that] person by any one of, or by any combination of,"  
16 designated means set forth in the section. 18 U.S.C. § 1589. Thus, to determine  
17 whether Headley can maintain her claim, the Court must inquire into the means by  
18 which CSI and RTC acquired and kept Headley's services, one of its ministers. That,  
19 however, is precisely what the Court *cannot* do under the ministerial exception and  
20 the First Amendment. *See, e.g., Alcazar*, 598 F.3d at 671-72 ("The Religion Clauses .  
21 . . . require a 'ministerial exception' to employment statutes if the statute's application  
22 would interfere with a religious institution's employment decisions concerning its  
23 ministers.") "Because the ministerial exception is constitutionally compelled, it  
24 applies as a matter of law *across* statutes, both state and federal, that would interfere

25 <sup>5</sup> In dramatic contrast, when she was restrained by a security guard at her  
26 apartment in Kansas City in 2005, she wrote that "NEVER have my husband or I  
27 been subjected to such physical abuse, harassment, or treatment . . . where we were  
28 physically restrained handcuffed and treated like common criminals." (SUF 147.)

1 with the church-minister relationship.” 598 F.3d at 673 (emphasis added). Thus,  
2 while government certainly may criminalize or create civil remedies for kidnapping,  
3 aggravated battery, or false imprisonment even by churches of their ministers, it may  
4 not do so by means of a broad statute whose primary purpose and focus is to regulate  
5 labor, that reaches conduct not constituting forcible restraint or violence, and by  
6 applying it to the labor relationship between a church and its ministers. “The  
7 exception was created because government interference with the church-minister  
8 relationship *inherently* burdens religion.” *Id.* (court’s emphasis).

9 The statutory remedies for a § 1595 violation demonstrate why the statute must  
10 be construed as subject to and limited by the ministerial exception. 18 U.S.C. § 1593  
11 states that a person who proves a § 1595 claim will be entitled to restitution and “the  
12 greater of the gross income or value to the defendant of the victim’s services or labor  
13 or the value of the victim’s labor as guaranteed under the minimum wage and  
14 overtime guarantees of the Fair Labor Standards Act.” 18 U.S.C. § 1593(b)(3). The  
15 ministerial exception makes Defendants immune from exactly this kind of judicial  
16 interference with ministerial relations, however. The courts cannot dictate to  
17 churches what they should pay their ministers, under § 1593, the FLSA, or otherwise.  
18 Headley is simply trying to impose an unconstitutional wage regulation on CSI  
19 through the “back door” of the TVPA.

20 To interpret the TVPA constitutionally, it must be construed not to apply when the  
21 “labor or services” in question are comprised of ministerial activities for a church.<sup>6</sup>

22 <sup>6</sup> Courts should not interpret a statute in a manner that raises serious  
23 constitutional questions unless such an interpretation is compelled by an “affirmative  
24 intention of the Congress clearly expressed.” *NLRB v. Catholic Bishop of Chicago*,  
25 440 U.S. 490, 506 (1979) (interpreting labor statute so as to avoid conflict with Free  
26 Exercise and Establishment clauses). Here, in the absence of any indication that  
27 Congress intended to criminalize and sanction common and long-established  
28 religious practices by passing the TVPA, the Court should follow this basic rule of  
construction and hold the statute inapplicable.

1 Otherwise, courts will be in the untenable, and unconstitutional, position of constantly  
2 questioning the means by which religious institutions acquire and keep their ministers'  
3 services. Religious practices which, as we show *infra* are protected from state  
4 interference — such as requiring that monks, priests, or other ministers live in seclusion,  
5 take vows of poverty, engage in humble labor, not interact with those of other  
6 persuasions, give up worldly possessions such as televisions and computers, and refrain  
7 from sex — would become the subject of judicial inquiry to determine if they were  
8 improper “means” of acquiring “labor or services,” 18 U.S.C. § 1589, directly contrary  
9 to the law of this circuit (and every other circuit). Such judicial interference would  
10 require both substantive and procedural entanglement in churches’ affairs, contrary to  
11 the Establishment Clause. *See, e.g., Alcazar*, 598 F.3d at 672-73.

12 Indeed, that very danger is demonstrated by this case. As we have shown, by  
13 her own words and actions, Headley’s reasons for leaving RTC at the time she did  
14 were closely related and entwined with ongoing disputes between RTC and her  
15 concerning her ministerial assignment, her performance of her ministerial duties and  
16 her ethical behavior, as well as that of her husband, whose departure was the  
17 proximate cause of her own. If the Court were to attempt to apply TVPA to the  
18 process by which Headley’s relationship to RTC was terminated, it inevitably would  
19 become entangled in matters of religious practice, in violation of the ministerial  
20 exception. *Higgins v. Maher*, 210 Cal. App. 3d 1168, 1170 (1989) (discussed more  
21 fully *post* at 26-27).

22 Moreover, plaintiff has sought to compel document discovery and proposes to  
23 inquire at the depositions of defendants concerning such matters as the “average  
24 hours per week” Sea Org members have worked for defendants for a 16 year period;  
25 defendants’ “personnel policies, rules, guidelines and procedures” including  
26 “supervision procedures” and “the enforcement of personnel policies”; the  
27 “implementation of personnel policies” with respect to Marc and Claire Headley;  
28

1 “routing out procedures”; and defendants’ “supervision hierarchy.” Lest there be any  
2 doubt, plaintiff repeatedly, without acknowledging *Alcazar*, states in her proposed  
3 joint stipulations with respect to her motions to compel discovery that each of her  
4 discovery requests are “directly relevant to Plaintiff’s claim of Forced Labor.”<sup>7</sup> (*See*  
5 *e.g.*, Hill, Decl., Ex. 138.) That is precisely the point, and demonstrates why TVPA  
6 cannot be applied here.

7 At a minimum, TVPA cannot be applied to a church’s relationship with its  
8 ministers in the absence of actual physical force or restraint or the threat of the  
9 imminent and likely use of such force, such as that the Headleys later experienced in  
10 a different context in their apartment complex in Kansas City. A compelling analogy  
11 is to the realm of political speech, also protected by the First Amendment. The  
12 Supreme Court has recognized that speech (like religious doctrine and practice) can  
13 and often is intended to have a psychologically coercive effect. *NAACP v. Claiborne*  
14 *Hardware Co.*, 458 U.S. 886, 911 (1982) (“The claim that the expressions were  
15 intended to exercise a coercive impact on respondent does not remove them from the  
16 reach of the First Amendment”) (quoting *Org. for a Better Austin v. Keefe*, 402 U.S.  
17 415, 419 (1971)). *See Gitlow v. New York*, 268 U.S. 652, 673 (1925) (“Every idea is  
18 an incitement”) (Holmes, J., dissenting). Nevertheless, such speech, even “advocacy  
19 of the use of force or of law violation,” is protected except and only to the extent that  
20 it “is directed to inciting or producing imminent lawless action and is likely to incite  
21

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22 <sup>7</sup> To defendants’ objections that inquiry into such matters and judicial  
23 determination based upon them would violate both the procedural and substantive  
24 components of the ministerial exception, plaintiff, again ignoring the *Alcazar*  
25 decision and this Court’s April 2 Order, incredibly states, “The objections based on  
26 the First Amendment and the California Constitution are unfounded. There is no case  
27 law or constitutional provision in the First Amendment or the California Constitution  
28 that indicates that certain information is protected from discovery due to the First  
Amendment or California Constitution.”

1 or produce such action.” *Claiborne Hardware*, 458 U.S. at 927-28 (quoting  
2 *Brandenburg v. Ohio*, 395 U.S. 444, 447 (1968)). So, too, a church’s application of  
3 religious doctrine and practice to its ministers must be protected in the absence of  
4 actual physical restraint or the threat of imminent restraint. Defendants’ actions with  
5 respect to Headley cannot meet that constitutionally mandated standard.

6 **B. Even if TVPA Could Be Applied to Narrow Circumstances of Actual**  
7 **or Threatened Physical Restraint, Headley’s Fear That She Would**  
8 **Be Subject to Excommunication If She Left Golden Era or RTC**  
9 **Cannot Be the Basis of a Forced Labor Claim**

10 A church’s implementation of a policy requiring its members to “shun” an  
11 excised former member or excommunicating that member from the religious  
12 community may not be a basis to impose civil liability upon the church or its  
13 officials. *Paul v. Watchtower Bible & Tract Soc’y of New York, Inc.*, 819 F.2d 875  
14 (9th Cir. 1987). In *Paul*, the court rejected emotional distress claims resulting from  
15 the Jehovah’s Witnesses’ shunning of a former parishioner, because the First  
16 Amendment “permits them to engage in the practice of shunning pursuant to their  
17 religious beliefs without incurring tort liability,” *id.* at 879, even if the practice in fact  
18 caused emotional distress. Indeed, the court went further and held that claims for  
19 emotional distress arising out of participation in a church are not actionable:

20 Intangible or emotional harms cannot ordinarily serve as a basis for  
21 maintaining a tort cause of action against a church for its practices — or  
22 against its members...Offense to someone’ sensibilities resulting from  
23 religious conduct is simply not actionable in tort...Without society’s tolerance  
24 of offenses to sensibility, the protection of religious differences mandated by  
25 the first amendment would be meaningless.

26 *Id.* at 883 (citations omitted). *Accord, Van Schaick v. Church of Scientology, Inc.*,  
27 535 F. Supp. 1125, 1139 (D. Mass. 1982); *Orlando v. Alamo*, 646 F.2d 1288, 1290  
28 (8th Cir. 1981).

1 Fear of being declared a “suppressive person” thus cannot constitute an  
2 actionable basis for a forced labor claim. To be declared a suppressive person is in  
3 effect to be excommunicated from the Scientology religion. It is inconceivable that a  
4 Catholic Bishop could succeed in an emotional distress claim against his Church,  
5 claiming that he remained a Bishop or engaged in Catholic religious practices only  
6 out of fear of being excommunicated. Such a claim should be no more conceivable  
7 against a newer, minority religion.

8 **C. Even if TVPA Could Be Applied to Narrow Circumstances of Actual**  
9 **or Threatened Imminent Physical Restraint, Defendants’ Imposition**  
10 **or Threatened Imposition of a Restricted Lifestyle and of Church**  
11 **Discipline Upon a Sea Org Member Cannot Be the Basis of a Forced**  
12 **Labor Claim**

13 Headley’s claim that she was coerced to remain at Golden Era and RTC  
14 because of fear that she would be “declared” and thereby separated from her husband  
15 is but a more specific example of her claim that she did not leave because of the  
16 restricted lifestyle of Sea Org members, including imposition or threatened  
17 imposition of discipline by CSI and RTC. Headley asserts, *inter alia*, that her access  
18 to the outside world was restricted (despite the facts that she had motorcycles, access  
19 to transportation, a cell phone, access to the Internet, and frequent travels around  
20 California and Los Angeles); that the Base was subject to strict security with limits  
21 upon access and the ability to leave (despite the facts that she had the combination to  
22 the pedestrian gate, came and left on her own, and lived in apartments and houses off  
23 the Base); that she performed lowly tasks and physical labor (despite the fact that her  
24 principal duties involved acting as a senior executive and ecclesiastical official of  
25 RTC who performed “police” functions); that she was subjected to a highly structured  
26 work environment, humiliating treatment, and had insufficient sleep; that she  
27 underwent confessions of transgressions for which she was subject to disciplinary  
28 action; that she was removed from her ministerial position at RTC for arbitrary and  
improper reasons (including, according to her, that she did not divorce Marc); and

1 that if she left, she would have no close friends or family, nowhere to go and nothing  
2 to do with her life. All this, Headley apparently claims, imposed psychological and  
3 emotional barriers that prevented her from leaving her allegedly forced labor.

4 These latter claims also must be rejected as a basis for liability under the forced  
5 labor statute. While TVPA's provision that labor can be "forced" by the use of  
6 certain forms of psychological or emotion coercion as well as by physical force is  
7 perfectly rational and constitutional in a secular context, such an application of the  
8 statute in a religious context to the "lifestyle constraints that come with being a  
9 member of [a religious order such as] the Sea Org" (*Claire Headley Order* at 4-5) and  
10 the religious discipline of ministers, cannot be made under the First Amendment and  
11 the ministerial exception.<sup>8</sup> Indeed, such matters relate to Headley's labor with  
12 Defendants, and constitute precisely the kind of "tangible employment actions"  
13 covered by the ministerial exception.

14 The appropriateness of a hierarchical church's disciplinary actions taken  
15 against a member, especially a minister, has consistently been held to be beyond the  
16 cognizance of the civil courts. Indeed, the courts have been particularly deferential  
17 when questions of church discipline are at issue. *See, e.g., Serbian Eastern Orthodox*  
18 *Diocese v. Milivojevich*, 426 U.S. 696, 717 (1976) ("questions of church discipline  
19 and the composition of the church hierarchy are at the core of ecclesiastical  
20 concern"). Even if an ecclesiastical decision appears harsh, humiliating, unfair, or  
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22 <sup>8</sup> The Court merely need compare the "harms" alleged by Headley from  
23 participation in the life of a Sea Org member to the harms proven in the criminal  
24 prosecutions brought under the TVPA. *See, e.g., United States v. Sabhnani*, 599 F.3d  
25 215 (2d Cir. 2010) (violent threats against trafficked immigrants); *United States v.*  
26 *Calimlim*, 538 F.3d 706 (7th Cir. 2008) (Wood, J.) (same); *United States v. Kaufman*,  
27 546 F.3d 1242 (10th Cir. 2008) (threats and physical force used to coerce mentally ill  
28 residents to perform manual labor in the nude); *United States v. Marcus*, 487 F. Supp.  
2d 289 (E.D.N.Y. 2007) (BDSM and sexual abuse), *vacated on other grounds*, 538  
F.3d 97 (2d Cir. 2008).



1 irrational from a secular viewpoint, civil courts have no role to play: “Constitutional  
2 concepts of due process, involving secular notions of ‘fundamental fairness’ or  
3 impermissible objectives, are therefore hardly relevant to such matters of  
4 ecclesiastical cognizance.” *Id.* at 715 (footnote omitted). “[S]ecular courts will not  
5 attempt to right wrongs related to the ... discipline or administration of clergy.”  
6 *Higgins v. Maher*, 210 Cal. App. 3d at 1175.

7 In *Paul*, 819 F.2d at 883, the Ninth Circuit reaffirmed these principles of  
8 judicial deference even to harsh ecclesiastical disciplinary decisions that inflict severe  
9 humiliation and emotional distress on members, let alone ministers, recognizing that  
10 acts short of physical force that would be subject to tort liability in a secular context  
11 are protected when undertaken in an ecclesiastical context:

12 Churches are afforded great latitude when they impose discipline on members  
13 or (former members) of a church. We agree with Justice Jackson’s view that  
14 “[r]eligious activities which concern only members of the faith are and ought to  
15 be free — as nearly absolutely free as anything can be.” *Prince v.*  
16 *Massachusetts*, 321 U.S. 158, 177 (1944) (concurring).

17 *Higgins v. Maher*, *supra*, dramatically demonstrates the limitations the First  
18 Amendment and the ministerial exception placed upon application of civil tort law to  
19 employment decisions and discipline imposed in an ecclesiastical context. In  
20 *Higgins*, a Catholic priest brought numerous tort claims against his Bishop and the  
21 Church for his removal from his position, subsequent mandated psychiatric treatment,  
22 which included drugs and shock therapy,<sup>9</sup> and public revelation of alleged private  
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24 <sup>9</sup> Higgins averred that “upon persuasion from the Church,” he “underwent a  
25 program of rehabilitation with a therapy-oriented organization within the church,”  
26 was “given various drugs which caused him to become nervous and lose much of his  
27 reasoning ability” and was “treated with electroshock therapy.” 210 Cal. App. 3d at  
28 1172.

1 defamatory information. The court found that the complaint adequately alleged “torts  
2 of invasion of privacy, defamation, and the intentional and negligent infliction of  
3 emotional distress,” and therefore would be actionable in a secular context. 210 Cal.  
4 App. 3d at 1175. The court, however, dismissed the complaint because, even if  
5 defendants had engaged in the alleged tortious conduct, “the acts so taken were part  
6 and parcel of the Bishop’s administration of his ecclesiastical functions,” and thus  
7 were protected activity under the ministerial exception. *Id.* at 1175-76. Further:

8 the torts recited are simply too close to the peculiarly religious aspects of the  
9 transaction to be segregated and treated separately — as simple civil wrongs.  
10 The making of accusations of misconduct; the discussion of same within the  
11 order; the recommendation of psychological or medical treatment; the  
12 infliction, whether *intentionally* or negligently, of emotional distress — these  
13 are all activities and results which will often, if not usually, attend the difficult  
14 process by which priestly faculties are terminated.

15 *Id.* at 1176 (emphasis added). *Accord, Gunn v. Mariners Church*, 167 Cal. App. 4th  
16 206, 217 (2008) (following *Higgins* and holding that “the ministerial exception  
17 applies to preclude further judicial review *regardless of the otherwise tortious nature*  
18 *of the statements*”) (emphasis added).

19 Here, it is equally impossible to separate out any claim that Headley was  
20 subjected to forced labor by psychological or emotional distress from Headley’s  
21 commitment to the Sea Org and “the difficult process by which” Headley relinquished  
22 her important position within the Church. The allegations of forced labor here are  
23 simply an effort to obtain civil adjudication of Headley’s decision to adhere to Church  
24 discipline at a time when remaining within the Church was of paramount importance to  
25 her, at the least because she wanted to remain with her husband. The Headleys, it must  
26 be emphasized, were not mere parishioners. They were, as members of the Sea  
27 Organization, ministers within the ecclesiastical leadership of Scientology, who had  
28

1 vowed to dedicate their lives to help advance Scientology's goals. Now that Headley's  
2 priorities have changed, she asks this Court and a jury to review the propriety of the Sea  
3 Org's lifestyle and the Church's imposition of discipline and her obedience to it. As  
4 made clear in *Serbian Orthodox Diocese, Paul, and Higgins*, however, this is an inquiry  
5 that secular courts cannot undertake. *See also Meroni v. Holy Spirit Ass'n*, 506 N.Y.S.2d  
6 174, 176-77 (N.Y. App. Div. 1986) (church's alleged "brainwashing" by imposition of  
7 "highly programmed behavioral control techniques in a controlled environment"  
8 "constitutes common and accepted religious proselytizing practices, e.g., fasting,  
9 chanting, physical exercises, cloistered living, confessions, lectures, and a highly  
10 structured work and study schedule, . . . i.e., as a method of religious indoctrination that  
11 is neither extreme nor outrageous.")

12 Thus, Headley's claim that Sea Org members on the Base are isolated from  
13 other friends, family and the outside world cannot be the basis of a forced labor  
14 claim. Many religious organizations encourage or even require that adherents,  
15 particularly those who join religious orders or achieve high ecclesiastical authority,  
16 abandon secular ties and depend on their Church for all social and emotional contact,  
17 maintaining themselves as insular communities open only to co-religionists. (*See*  
18 *Flinn Decl.*, ¶ 33.) Such requirements often go far beyond any restrictions  
19 experienced by the Headleys, who lived together off the Base, had access to  
20 transportation and telecommunications, visited, spoke and corresponded with their  
21 families and frequently traveled around the United States. Courts have frequently  
22 held, as a matter of law, that religious practices of encouraging isolation from the  
23 secular world, or other similar religious beliefs and practices, are not tortious.<sup>10</sup> *Van*

24  
25 <sup>10</sup> As can be seen from cases such as *Meroni*, Headley's complaint that she or  
26 her husband engaged in humbling physical labor is a common practice among  
27 religious orders. Members of Christian religious orders are required to take vows of  
28 obedience and humility, which frequently entail performing lowly tasks that might  
appear degrading and demeaning to outsiders. (*Flinn Decl.*, ¶¶ 23, 26, 53.) *Zen*  
(footnote continued . . .)

1 *Schaick*, 535 F. Supp. at 1139; *Paul*, 819 F.2d at 883; *Orlando v. Alamo*, 646 F.2d  
2 1288, 646 F.2d 1290 (8<sup>th</sup> Cir. 1981).

3 For these reasons, Headley's complaint that she did not leave CSI or RTC  
4 because she had few or even no family, friends or associates outside of the religion,  
5 no secular experiences or training, and nowhere else to go or nothing else to do with  
6 her life cannot be a basis for a claim under TVPA or any other tort theory. For better  
7 or worse, Headley was raised as a committed Scientologist and committed her life to  
8 the Sea Org; indeed, as she acknowledges, she was fully familiar with the Sea Org  
9 life because her mother had been a Sea Org member. In this respect, Headley is no  
10 different than young people throughout history who, raised in a devout religious  
11 tradition, commit themselves to a lifetime of religious service as monks, nuns, priests,  
12 etc, often in isolated abbeys, convents, and monasteries, and pursuant to vows of  
13 poverty, abstinence, abnegation, isolation, and/or even silence. All such individuals  
14 are subject to the possibility that their commitment will not remain steady and firm,  
15 and that they may become disillusioned or disappointed by their church. If they  
16 change their minds, they risk being cast into a secular world with which they are  
17 unfamiliar, for which they are untrained, and in which, perhaps, they may be alone.  
18 Certainly a Buddhist monk or a Catholic nun who spends 20 or 30 years in a  
19 monastery or convent would be in no better position to transform to a secular life if  
20 he/she were to lose his/her commitment than was Claire Headley.

21 Such individuals, under our system of religious freedom, have a right to make  
22 such a choice and to assume such a risk, and all churches have a right to accept and  
23 rely upon such a commitment. Thus, it would seem beyond cavil that the state could

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24 Buddhists may be required to perform repetitive and apparently meaningless tasks as  
25 a means toward enlightenment. (*Id.*) Likewise, Headley's claim of insufficient sleep  
26 hardly constitutes an unusual practice among religious orders. Franciscan friars,  
27 Cistercians and Trappists all engage in practices that Headley would undoubtedly  
28 characterize as "sleep deprivation." (*Id.*, ¶ 54.)

1 not enact a statute prohibiting a person from seeking to join a religious order in which  
2 he/she agrees to the life style constraints inherent in such a choice, or prohibiting a  
3 church from recruiting or accepting such people from joining the order and relying  
4 upon their vows of commitment, on the basis that the state is protecting the individual  
5 from making a life choice that could severely limit his/her lifestyle or secular social  
6 or economic potential in the future if he/she later were to walk away from such  
7 religious commitment. Equally inconceivable is that the state constitutionally could  
8 enact a statute requiring a church to provide warnings or caveats to such prospective  
9 religious initiates that they may be limiting their subsequent life choices if they agree  
10 to join in such a religious life but later decide that it was a mistake to join the order.  
11 Nor, under the ministerial exception, could the state enact legislation requiring a  
12 church after the fact to compensate a nun, monk, priest, or member of a religious  
13 order who chooses to abandon his/her religious calling after years of religious  
14 service, on the basis that upon such renunciation of faith, he or she had nowhere else  
15 to go, nothing to do, no secular friends, contacts or training, etc. *See Alcazar, supra.*

16 Accordingly, Headley, as with all other Sea Org members, had a First  
17 Amendment right to commit her life to the Sea Org, and CSI and RTC had a First  
18 Amendment right to accept her commitment. If a court were to find that a person  
19 such as Headley who makes such a commitment and then becomes disaffected and  
20 disillusioned thereafter may bring a civil lawsuit *after the fact* because her secular life  
21 choices have been substantially narrowed or compromised, then the court in effect  
22 would be denying the right of such a person to have made such a religious  
23 commitment in the first place, and of a church to seek and accept it, just as surely as  
24 if the legislature had directly prohibited or regulated it. Churches would be severely  
25 chilled and restrained from encouraging or accepting people into such a religious life  
26 and religious order, and individuals seeking such a life, including the vast majority of  
27 those who would remain committed to their original choices, ultimately would be  
28

1 denied the ability to pursue it. As aptly stated by the New York Appellate Division in  
2 *Meroni, supra*, 506 N.Y.S.2d at 178 (citations and inner quotations omitted):

3 [An individual] must have the personal and individual right to determine for  
4 himself or herself to associate with a religious group... Otherwise, in order to  
5 avoid potential liability, neither the Church nor any other association could  
6 ever rely on a person's agreement to join, and the individual's ability to  
7 consent to join would be severely compromised.

8 The clear lesson of the various cases discussed above is that the First  
9 Amendment not only prohibits the state from interfering with such a religious  
10 commitment directly, but also from creating liability or punishment for it after the  
11 fact if the religious life does not work out to the satisfaction of the person who made  
12 the commitment. As with all freedoms, the freedom provided by the First  
13 Amendment does not come without its risks and potential downsides even to those it  
14 protects. Our society has made a fundamental constitutional choice on the side of  
15 such freedom. It has decided that it is more important to protect the freedom of  
16 choice of its citizens, and to require them to learn to anticipate and live with their  
17 exercise of such freedom. In short, when it comes to religious exercise and  
18 association, the state must step aside and respect those choices and decisions.

19 **D. The Religious Freedom Restoration Act Bars Plaintiff's TVPA**  
20 **Claim**

21 The Religious Freedom Restoration Act of 1993 ("RFRA"), 42 U.S.C.  
22 §§ 2000bb et seq., reinforces the arguments made above that this Court cannot  
23 impose forced labor sanctions on Defendant based on its religious practices. RFRA  
24 provides that "Government shall not substantially burden a person's exercise of  
25 religion even if the burden results from a rule of general applicability" except "in  
26 furtherance of a compelling governmental interest," and then only by "the least  
27 restrictive means of furthering that compelling governmental interest." 42 U.S.C.  
28

1 § 2000bb-1(b). *See Worldwide Church of God v. Phila. Church of God, Inc.*, 227  
2 F.3d 1110, 1120 (9th Cir. 2000).

3 RFRA precludes state action coercing religious adherents “to act contrary to  
4 their religious beliefs by the threat of civil or criminal sanctions.” *Navajo Nation v.*  
5 *U.S. Forest Serv.*, 535 F.3d 1058, 1070 (9th Cir. 2008). RFRA amends *all* federal  
6 law, whether enacted before or after RFRA itself, *see* 42 U.S.C. § 2000bb-3(a), (b),  
7 unless a statute specifically excludes its application, which the TVPA notably does  
8 not do. A person whose religious practices are burdened in violation of RFRA “may  
9 assert that violation as a claim or defense in a judicial proceeding[.]” *Gonzales v. O*  
10 *Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 424 (2006) (quoting 42  
11 U.S.C. § 2000bb-1(c)); *see, e.g., EEOC v. Catholic Univ. of Am.*, 83 F.3d 455, 470  
12 (D.C. Cir. 1996) (RFRA provided defense to Title VII action brought by plaintiff  
13 whose position was the functional equivalent of a minister).

14 Application of TVPA to CSI’s and RTC’s imposition of ecclesiastical rules and  
15 discipline with respect to its ministers and the Sea Org would unquestionably burden  
16 free exercise. Given that Headley was not physically restrained or imprisoned and  
17 had numerous and ongoing opportunities to leave, no such showing can be made of a  
18 compelling state interest to impose such a burden.

19 **E. The Court Should Summarily Adjudicate That Headley’s Partici-**  
20 **ipation In The Lifestyle Of The Sea Org And CSI’s and RTC’s**  
21 **Implementation Of Ecclesiastical Discipline Cannot Support A**  
**TVPA Claim Against A Church Involving Its Ministers**

22 The Court also, or alternatively, should summarily adjudicate that the acts of  
23 CSI and RTC with respect to the lifestyle restrictions of the Sea Org or defendants’  
24 ecclesiastical rules, governance or discipline of its ministers, including Headley,  
25 cannot be applied to support a TVPA claim against a church with respect to its  
26 ministers. In particular, plaintiff’s claims that the defendant churches imposed  
27 psychological and emotional barriers that prevented her from leaving her allegedly  
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1 forced labor, by, *inter alia*, requiring her to perform lowly tasks and physical labor;  
2 subjecting her to a highly structured work environment; subjecting her to humiliating  
3 treatment; depriving her of sufficient sleep; requiring she undergo confessions of  
4 transgressions for which she was subject to disciplinary action; mandating a formal  
5 procedure, called “routing out” for Sea Org members who wish to revoke their vows  
6 of service and leave the Sea Org; imposing disciplinary penalties, including the  
7 equivalent of excommunication, upon Sea Org members who unilaterally leave their  
8 positions without participating in the routing out process, all “encompass[] *tangible*  
9 *employment actions*”, including but not limited to “the determination of a minister’s  
10 salary, his place of assignment, and the duty he is to perform in the furtherance of the  
11 religious mission of the church”, *Alcazar*, 598 F.3d at 674, and may not be the basis  
12 of a TVPA, or any other claim, against Defendants. Only acts by which a minister is  
13 subjected to physical force and restraint, or the threat of imminent and likely use of  
14 such restraint, can be the subject of state interference, through a forced labor statute  
15 or otherwise.

16 As amended in December 2008, Rule 56 permits “[a] party against whom relief  
17 is sought [to] move . . . for summary judgment on all *or part* of the claim.” Fed. R.  
18 Civ. P. 56(b) (emphasis added). The amendment codified the rule long applied in this  
19 Circuit. *See Lies v. Farrell Lines, Inc.*, 641 F.2d 765, 769 n.3 (9th Cir. 1981) (Rule  
20 56 permits “a determination before the trial that certain issues shall be deemed  
21 established in advance of the trial”). For example, in *DiSandro v. Makahuena*  
22 *Corp.*, 588 F. Supp. 889, 891 (D. Haw. 1984), the court rejected an argument “that  
23 summary judgment is available only where it will dispose entirely of at least one of  
24 plaintiffs’ claims.” The court held that “[s]ummary judgment is available to decide  
25 purely legal issues....[Thus, i]t is appropriate to decide a few limited issues by  
26 summary judgment, *even if those issues are not entirely dispositive of any one claim.*  
27 Summary judgment can thus serve to set the issues for trial.” *Id.* at 892 (emphasis  
28



1 added). *Accord First Nat'l Ins. Co. v. FDIC*, 977 F. Supp. 1051, 1055 (S.D. Cal.  
2 1997) (“[e]ven if [the moving party] will not prevail on one of its causes of action,  
3 the Court may still grant summary adjudication as to specific issues if it will narrow  
4 the issues for trial”); *Bushnell v. VisCorp.*, 1996 WL 506914, at \*11 (N.D. Cal. Aug.  
5 29, 1996) (“a proper interpretation of Rule 56(b) allows summary adjudication on  
6 individual parts of claims brought against a party”).

7 It is important that the Court exercise its summary adjudication power in this  
8 case because of the application of the ministerial exception to the relationship  
9 between defendants and Claire Headley. A central rationale for the ministerial  
10 exception is the non-entanglement principle of the Establishment Clause. By  
11 granting summary adjudication on the issues in question, the Court will minimize  
12 intrusion into “matters of discipline, faith, internal organization, or ecclesiastical rule,  
13 custom or law,” *Serbian Eastern Orthodox Diocese*, 426 U.S. at 713, which lie at the  
14 heart of the exception. *Alcazar*, 598 F.3d at 673 (non-entanglement principle  
15 “recognize[s] that the First Amendment strongly circumscribes legislative and  
16 judicial intrusion into the internal affairs of a religious organization”).

17 In addition, the Court will insure, as it must, that no trial or judgment will be based  
18 upon protected activity. In *NAACP v. Claiborne Hardware*, *supra*, the Court reversed a  
19 judgment for civil conspiracy and an illegal boycott that involved elements of protected  
20 (albeit “coercive”) speech and alleged threats of violence precisely because the trial court  
21 had not limited liability strictly to acts of violence and threats of “imminent” violence and  
22 had not excluded from consideration those parts of the boycott activity that were protected  
23 under the First Amendment. 458 U.S. at 920-23. The Court warned:

24 When such conduct [violence or threats of imminent violence] occurs in the  
25 context of constitutionally protected activity, however, ‘precision of regulation’  
26 is demanded. Specifically, the presence of activity protected by the First  
27 Amendment imposes restraints on the grounds that may give rise to damages  
28

1 liability and on the persons who may be held accountable for those damages.  
2 *Id.* at 916-17 (inner citations and quotations omitted).

3 **II. PLAINTIFF LACKS STANDING UNDER THE CAL. BUS. & PROF.**  
4 **CODE AND UNDER ARTICLE III OF THE CONSTITUTION TO**  
5 **SEEK INJUNCTIVE RELIEF AGAINST DEFENDANTS' ALLEGED**  
6 **POLICY CONCERNING ABORTIONS BECAUSE SHE DID NOT**  
7 **SUFFER LOSS OF PROPERTY OR MONEY AND BECAUSE SHE**  
8 **CANNOT SHOW A DEFINITIVE LIKELIHOOD OF FUTURE HARM**  
9 **TO HERSELF FROM THE ALLEGED CONDUCT**

10 In her Second Cause of Action under California Business & Professions Code  
11 §§ 17200, et seq., for “Injunctive Relief Re Unfair Business Practice,” plaintiff “seeks  
12 to enjoin certain illegal activity, to-wit coercing pregnant females to abort the child.”  
13 [¶46]. Plaintiff alleges that she was “ordered” to have two abortions “to remain an  
14 employee in good standing with Defendants and to avoid adverse consequences in her  
15 future employment.” [¶48]. Plaintiff claims that this purported conduct violated  
16 “state and federal law” as well as plaintiff’s “inalienable constitutional rights,  
17 including the rights of privacy.” [¶49]. Plaintiff, of course, does not and cannot  
18 allege that she lost money or property as a result of the purported conduct, or that she  
19 personally is threatened by a recurrence of the conduct. Nevertheless, as relief she  
20 seeks “an order banning this practice in the future” [¶49].

21 As we have shown above, defendants have no policy or practice at all with  
22 respect to abortions. More precisely, to the extent defendants have any policy on the  
23 subject, it is pro-choice. If a Sea Org member becomes pregnant, it is her choice  
24 whether or not to have an abortion. If she chooses to have a child, she and her  
25 husband are required to route out of the Sea Org. They will remain Scientologists in  
26 good standing. No discipline or sanctions will be applied against them for making  
27 that choice. Plaintiff’s attempt to characterize the process of routing out as  
28 punishment for having a child is merely her after the fact assertion; the routing out  
process is required of all Sea Org members who leave in good standing, and has  
nothing to do with abortions. It is protected by the First Amendment and the

1 ministerial exception, for all the reasons discussed above.

2 Defendants also have shown that no official or agent of either defendant forced  
3 plaintiff to have her two abortions. She chose to have the abortions because, as she  
4 acknowledged and indeed alleges, she did not wish to lose her position in the Sea Org  
5 and her posts with Golden Era and RTC, the very posts she elsewhere contradictorily  
6 claims constituted “forced labor.”

7 The court need not reach these issues, however. Claire Headley left the Sea  
8 Org and any relationship with defendants over five years ago. She no longer  
9 considers herself a Scientologist, and in no possible way would she consider  
10 returning to work for defendants. Whatever policy or practice defendants may have  
11 with respect to the pregnancy and abortions of Sea Org members can have no effect  
12 on her. In short, plaintiff utterly lacks standing to seek injunctive relief under the  
13 California UCL, for two related reasons.<sup>11</sup>

14 First, plaintiff lacks standing to invoke California’s Unfair Competition Law  
15 because she does not and cannot allege that she lost money or property as a result of  
16 the alleged conduct. In 2004, the voters approved Proposition 64, which amended the  
17 UCL to provide that a private person has standing to bring a UCL action only if he or  
18 she “has suffered injury in fact and has lost money or property as a result of the unfair  
19 competition.” Bus. & Prof. Code § 17204; *Troyk v. Farmers Group, Inc.*, 171  
20 Cal.App.4th 1305, 1335, 90 Cal.Rptr.3d 589 (2009). “A private plaintiff must make a  
21 twofold showing: he or she must demonstrate injury in fact *and* a loss of money or  
22 property caused by unfair competition.” *Peterson v. Cellco Partnership* 164

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23  
24 <sup>11</sup> This Court already has held that Headley’s attempt to plead a claim as a  
25 “representative” of “others similarly situated” (SAC ¶¶ 7, 14) fails to state a valid  
26 claim because Headley fails to comply with pleading and other rules related to  
27 bringing a class action. Order of August 12, 2009 (Document 32), at 6, n. 3. In any  
28 event, plaintiff could not pursue a class action for the very reason that she is and  
cannot be a part of the affected class. See discussion in text, *post*.

1 Cal.App.4th 1583, 1590, 80 Cal.Rptr.3d 316 (2008). Plaintiff simply did not suffer  
2 the kind of injury in fact necessary to bring an action under the UCL.

3 Second, plaintiff fails to meet the standing requirements of Article III of the  
4 Constitution. To satisfy Article III's standing requirements, a plaintiff in a federal  
5 court action must show that (1) she has suffered an "injury in fact" that is concrete,  
6 particularized, and actual (or imminent) rather than conjectural or hypothetical; (2)  
7 the injury is fairly traceable to the challenged action of the defendants; and (3) it is  
8 likely, as opposed to speculative, that the injury will be redressed by a favorable  
9 decision. *Friends of the Earth, Inc. v. Laidlaw Env'tl. Serv. (TOC), Inc.*, 528 U.S.  
10 167, 180-81 (2000); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

11 In particular, where, as here, a plaintiff seeks injunctive relief, she must show  
12 that she requires such relief to protect herself against a recurrence of the conduct  
13 alleged, *i.e.*, that she is "realistically threatened by a *repetition* of the violation." *Gest*  
14 *v. Bradbury*, 443 F.3d 1177, 1181 (9th Cir. 2006) (citing *Armstrong v. Davis*, 275  
15 F.3d 849, 860-61 (9th Cir. 2001) (emphasis in original)). See *O'Shea v. Littleton*, 414  
16 U.S. 488, 495-96 (1974) ("Past exposure to illegal conduct does not in itself show a  
17 present case or controversy regarding injunctive relief . . . if unaccompanied by any  
18 continuing, present adverse effects"; standing to seek injunctive relief requires a  
19 showing of a likelihood of "real and immediate" harm to the plaintiff).

20 *Deitz v. Comcast Corp.*, 2006 WL 3782902 (N.D. Cal. Dec. 21, 2006), is  
21 illustrative. The district court held a plaintiff lacked standing to seek injunctive relief  
22 regarding cable services because he was no longer a cable subscriber and had "not  
23 demonstrated there exists a *definitive likelihood* that he will once again become a  
24 subscriber of defendants' cable services.... [P]laintiff's claims of possible future  
25 injury are too speculative and attenuated to warrant prospective relief." *Id.* at \*3  
26 (emphasis added). Accord, *Stickrath v. Globalstar, Inc.*, 527 F. Supp.2d 992, 995-97  
27 (N.D. Cal. 2007). As *Deitz* also held, the requirement that a plaintiff personally be  
28

1 subject to potential repetition of the conduct cannot be avoided by pleading a class  
2 action, which in any event, as this court has held, plaintiff here has not properly done.  
3 Unless the named plaintiff is herself entitled to seek injunctive relief, she “may not  
4 represent a class seeking that relief.” *Hodgers-Durgin v. de la Vina*, 199 F.3d 1037,  
5 1045 (9th Cir. 1999). “Any injury that unnamed members of the proposed class may  
6 have suffered is irrelevant to the question whether [the] named plaintiff is entitled to  
7 the injunctive relief he seeks.” *Deitz* . at \* 4.

8 The Article III standing requirement is constitutionally mandated and applies to  
9 all cases pending in the federal courts, even cases where the underlying claim is  
10 based upon state law and even if the case has been removed to federal court:

11 No state legislature can override Article III. No state legislature may attempt  
12 to confer jurisdiction on a federal court. . . . When a case is filed in a federal  
13 court or when a case is removed to a federal court, the federal court is bound  
14 by Article III. The state legislature may no more allow injunctive relief in this  
15 case than were it to pass a statute allowing courts to give advisory opinions.  
16 *Deitz v. Comcast Corp.*, at \* 4. Thus in *Deitz*, the plaintiff’s claims under Cal. UCL  
17 §17200, which had been removed to federal court, were dismissed for failure to meet  
18 Article III standing requirements.

19 In this case, plaintiff simply does not allege a case or controversy for injunctive  
20 relief under Article III because she cannot show that she is “realistically threatened  
21 by a *repetition* of the [alleged] violation.” *Gest v. Bradbury*, 443 F.3d 1177, 1181  
22 (9th Cir. 2006). Plaintiff has left the Sea Org, left CSI and RTC, and renounced  
23 Scientology. Since she left, she has had two children, and is free, as she always has  
24 been, to have as many more as she chooses. There is literally zero possibility or  
25 threat that defendants could interfere with her choices, let alone that they would ever  
26 try. Plaintiff’s second cause of action for injunctive relief must be dismissed.

**CONCLUSION**

For all the foregoing reasons, the Defendants' joint motion for summary judgment dismissing Plaintiff's second and third claims for relief should be granted.

May 19, 2010

Respectfully Submitted,

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