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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA

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CLAIRE HEADLEY,

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Plaintiff,

16

vs.

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CHURCH OF SCIENTOLOGY
INTERNATIONAL, a corporate entity,
18 RELIGIOUS TECHNOLOGY
CENTER, a corporate entity AND
19 DOES 1-20,

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Defendants.

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CASE NO. CV09-3987 DSF (MANx)

**PLAINTIFF'S MEMORANDUM
OF POINTS AND AUTHORITIES
IN OPPOSITION TO
DEFENDANTS' JOINT MOTION
FOR SUMMARY JUDGMENT**

DATE: August 2, 2010
TIME: 1:30 p.m.
DEPT: 840

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MEMORANDUM OF POINTS AND AUTHORITIES

1. PRELIMINARY STATEMENT AND SUMMARY OF ARGUMENT

The Court should deny the Joint Motion for Summary Judgment filed by Defendants, Church of Scientology International (“CSI”) and Religious Technology Center (“RTC”), for three simple reasons.

First, applicable federal case law makes clear that the ministerial exception does not apply to claims asserted under the Victims of Trafficking and Violence Protection Act of 2000 (“TVPA”), 18 U.S.C. §§ 1589, *et seq.* See *Shukla v. Sharma*, No. 07-CV-2972 (CBA), at *1 (E.D.N.Y. Sept. 29, 2009) (adopting Report and Recommendation dated August 21, 2009). While the TVPA was enacted to protect individual liberty and prevent conduct that is extreme, offensive, and contrary to fundamental human rights, the ministerial exception is intended to address ordinary violations of labor and employment laws - two very different concepts.

Second, a First Amendment defense can only be asserted where there is a conflict between religion and the conduct being regulated. *Bollard v. California Province of the Society of Jesus*, 196 F.3d 940, 947 (9th Cir. 1999). In the absence of such a conflict, the freedoms that the First Amendment was established to protect are absent. *Id.*

Third, as demonstrated in detail below, there is no conflict between the Scientology religion and the conduct that Plaintiff, Claire Headley, challenges through her human trafficking claim because Defendants officially prohibit human trafficking, forced labor, and involuntary confinement. In fact, “Scientologists, as a general rule, are ***opposed of any human rights violation***: Anything that violates an individual’s right to choose, anything that would reduce a person’s freedom, individual[ity], and ability to think for themselves.” (Deposition of Thomas Davis (“Davis Depo.”), attached as Exhibit “L” to the Darnell Decl., 104:25-105:14).

1 **2. STATEMENT OF FACTS**

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A. Claire Headley

(1). Experience in the Sea Organization

Claire Headley first became involved in the Scientology religion at age four when her mother joined the Sea Organization. (Deposition of Claire Headley (“C. Headley Depo.”), 20:6-16; 23:20-24:7, attached as Exhibit “Q” to the Declaration of Kathryn Darnell (“Darnell Decl.”)). From age four to eight, she lived at Scientology’s Cadet Org where she was supervised by staff and performed weeding, cleaning, and was bused to and from school. (C. Headley Depo., 25:2-26:13, attached as Exhibit “Q” to the Darnell Decl.). During this time period, she only saw her mother for a few hours a week, and on at least one occasion, did not see her mother for several months. (C. Headley Decl., 26:13-27:18, attached as Exhibit “Q” to the Darnell Decl.).

By age sixteen, Mrs. Headley signed a billion year contract with the Sea Organization. (C. Headley Decl., 77:8-78:24; 91:8-10, attached as Exhibit “Q” to the Darnell Decl.). She briefly worked in Los Angeles, and then moved to Scientology’s International Headquarters (“Gold Base”) in Gilman Hot Springs, California. (C. Headley Depo., 122:1-21, attached as Exhibit “Q” to the Darnell Decl.). She also worked for a brief period of time in the 1990s in Clearwater, Florida. (C. Headley, Depo., 380:22-381:22, attached as Exhibit “R” to the Darnell Decl.).

Over the course of her fourteen years in the Sea Organization, Claire Headley endured both psychological and physical abuse causing her to believe that she could not leave the Sea Organization, and that if she attempted to leave and stop performing work for Defendants, she would suffer serious harm or physical detention. (Declaration of Robert V. Levine, Ph.D.) This abuse and manipulation is described below.

//

1 **(2). Physical Abuse**

2
3 Mrs. Headley experienced and observed instances of physical abuse at
4 Gold Base on a number of occasions. In the early to mid-1990s, one of her coworkers
5 yelled and screamed at her, and then shoved her. (C. Headley Depo., 183:25-184:22,
6 attached as Exhibit “Q” to the Darnell Decl.). Mrs. Headley also recalls attending
7 meetings where David Miscavige, the leader of the Church of Scientology, assaulted
8 coworkers in her presence. (C. Headley Decl., ¶ 8; *see also* C. Headley Depo., 279:6-
9 22, attached as Exhibit “Q” to the Darnell Decl.). Mr. Miscavige’s actions included
10 grabbing individuals from behind the neck, bashing coworkers’ heads together, and
11 shoving staff members. (C. Headley Decl., ¶ 8). Several staff members who were
12 shoved by Mr. Miscavige actually fell down or into a table. (C. Headley Decl., ¶ 8).
13 Mrs. Headley recalls at least fifty occasions when Mr. Miscavige assaulted coworkers
14 in her presence from 1996 onward. (C. Headley Decl., ¶ 8). Mrs. Headley prepared a
15 report in 2002 documenting numerous instances of physical abuse perpetrated by Marty
16 Rathbun, a former high-ranking Sea Organization member. (C. Headley Decl., ¶ 9; *see*
17 *also* Davis Depo., 67:10-18, attached as Exhibit “L” to the Darnell Decl.).

18 Mrs. Headley’s husband similarly was subjected to physical abuse in the
19 Sea Organization and recalls seeing similar acts of physical violence perpetrated against
20 coworkers. (Declaration of Marc Headley (“M. Headley Decl.”), ¶ 4; Deposition of
21 Marc Headley (“M. Headley Depo.”), 598:15-600:5, attached as Exhibit “D” to the
22 Darnell Decl.; M. Headley Depo., 916:16-917:7, attached as Exhibit “E” to the Darnell
23 Decl.). During a meeting that Mr. and Mrs. Headley attended together with David
24 Miscavige, Mr. Headley was escorted out of a meeting and interrogated after failing to
25 “correctly” answer one of Mr. Miscavige’s questions. (M. Headley Decl., ¶ 4);
26 (Declaration of Claire Headley (“C. Headley Decl.”), ¶ 7).

27 Mrs. Headley’s former coworkers also recall observing physical abuse at
28 Gold Base. Michael Norton testified that he observed several instances of physical

1 violence and heard about other instances of physical abuse that occurred at Gold Base.
 2 (Norton Depo., 79:17-80:8; 80:15-81:6; 81:16-82:4, attached as Exhibit “K” to the
 3 Darnell Decl.). Likewise, Maureen Bolstad testified that on a number of occasions
 4 when she attempted to leave Gold Base, she was physically attacked and sustained a
 5 broken arm. (Deposition of Maureen Bolstad (“Bolstad Depo.”), 169:9-19, attached as
 6 Exhibit “J” to the Darnell Decl.; see also M. Headley Depo., 933:18-935:12; 937:8-17,
 7 attached as Exhibit “E” to the Darnell Decl.).

8 Indeed, the Church of Scientology’s official spokesperson admitted under
 9 oath that from the time period of 2001 to 2004, at least fifty instances of physical abuse
 10 occurred at Gold Base where Mrs. Headley worked. (Davis Depo., 53:20-54:5; 54:21-
 11 55:15; 55:24-57:3; 100:16-17; 102:3-8, attached as Exhibit “L” to the Darnell Decl.).
 12 These acts of physical abuse were perpetrated by high-ranking officials within the Sea
 13 Organization. (Davis Depo., 77:9-78:4, attached as Exhibit “L” to the Darnell Decl.;
 14 Deposition of Warren McShane (“McShane Depo.”), 31:14-32:20, attached as Exhibit
 15 “G”, to the Darnell Decl.; C. Headley Decl., ¶ 9; Declaration of Marty Rathbun
 16 (“Rathbun Decl.”), ¶ 25).

17

18 **(3). Verbal Abuse and Degrading Punishments**

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20 Mrs. Headley and her coworkers also were subjected to a number of
 21 degrading forms of verbal abuse and punishment. Michael Norton testified that Gold
 22 Base was an “angry environment” where there was lots of yelling and demoralizing
 23 assignments unnecessarily given to staff members. (Norton Depo., 106:16-107:7,
 24 attached as Exhibit “K” to the Darnell Decl.). These assignments included assigning
 25 the executive council for Golden Era Productions to clean all of the bathrooms in the
 26 manufacturing department, requiring an executive to clean the dumpsters outside the
 27 food hall, and requiring executives to live in tents on the property. (Norton Depo.,
 28 107:8-108:2, attached as Exhibit “K” to the Darnell Decl.). Mr. Norton also noted that

1 employees at Gold Base were yelled at on a daily basis and belittled; these instances of
2 verbal abuse became so frequent that Mr. Norton stated it was a “constant scenario.”
3 (Norton Depo., 108:12-109:6, attached as Exhibit “K” to the Darnell Decl.).

4 Perhaps the most outrageous verbal abuse to which Mrs. Headley was
5 subjected occurred in 1995 at a meeting that she attended with David Miscavige. (C.
6 Headley Decl., ¶ 5). Commenting on certain purported mistakes that Mr. Headley made
7 during a trip to Clearwater, Florida, Mr. Miscavige told Mrs. Headley and others that
8 he had her husband returned to Gold Base “in a body bag.” (C. Headley Decl., ¶ 5).
9 Although Mr. Headley ultimately was not returned in a body bag, he was assigned
10 heavy manual labor upon his return to Gold Base and was in terrible shape emotionally
11 upon his return. (C. Headley Decl., ¶ 5).

12 During another meeting, David Miscavige grabbed the back of Mrs.
13 Headley’s pants and made her drag him across a room to demonstrate to her and others
14 that they were his ball and chain. (C. Headley Depo, 184:25-185:17, attached as
15 Exhibit “Q” to the Darnell Decl.). This was a humiliating and physically exhausting
16 experience. (C. Headley Depo., 186:3-6, attached as Exhibit “Q” to the Darnell Decl.).

17 Mrs. Headley also was denied food privileges for lengthy periods of time,
18 frequently was required to sleep at her work station on the Gold Base, and was assigned
19 heavy manual labor. (C. Headley Depo., 138:4-12; 141:12-15; 141:21-142:6, attached
20 as Exhibit “Q” to the Darnell Decl.; C. Headley Depo., 881:13-882:23, attached at
21 Exhibit “T” to the Darnell Decl.). As a result of some of these punishments, she lost
22 significant weight and was emaciated and sleep deprived by the time she finally
23 escaped Gold Base. (C. Headley Depo., 594:3-16; 665:4-8, attached as Exhibit “S” to
24 the Darnell Decl.).

25 Mrs. Headley also observed her coworkers being made to divorce, clean
26 human excrement out of ponds, subjected to verbal abuse, restricted to Gold Base for
27 months on end, required to sleep in sleeping bags at their work stations, and not being
28 allowed to leave to eat or shower. (C. Headley Depo., 279:6-279:22, attached as

1 Exhibit “Q” to the Darnell Decl.). Indeed, Mrs. Headley was told on several occasions
2 that she needed to divorce her husband. This was first suggested at a meeting in 2000,
3 when David Miscavige informed staff members of a personnel policy that he was
4 considering implementing that would require her to divorce her husband to remain an
5 employee of RTC. (C. Headley Depo., 877:25-879:6, attached at Exhibit “T” to the
6 Darnell Decl.). In 2004, this policy became official and Mrs. Headley was told that she
7 had to divorce her husband to remain at RTC. (C. Headley Depo., 227:6:229:18,
8 attached as Exhibit “Q” to the Darnell Decl.; C. Headley Decl., ¶ 4; McShane Depo.,
9 93:1-8, attached as Exhibit “G” to the Darnell Decl.). After Mrs. Headley’s husband
10 escaped Gold Base, she again was told that she needed to divorce him. (C. Headley
11 Depo., 524:8-17, attached as Exhibit “R” to the Darnell Decl.).

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(4). Controls on Communication

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Mrs. Headley and her coworkers did not have uncensored access to mail; incoming and outgoing mail was censored. (Fraser Depo., 102:10-105:8, attached as Exhibit “H” to the Darnell Decl.; C. Headley Depo., 137:11-12, attached as Exhibit “Q” to the Darnell Decl.; C. Headley Depo., 849:19-24; 851:10-14; 852:10-24; 854:23-858:18; 860:9-20; 861:1-862:2; 862:19-863:5; 865:14-867:12, attached as Exhibit “T” to the Darnell Decl.). Additionally, personal telephone calls were monitored by a third person, and Mrs. Headley and her coworkers were required to obtain permission before making personal phone calls. (Fraser Depo., 106:13-16; 107:24-110:10, attached as Exhibit “H” to the Darnell Decl.; C. Headley Depo., 137:11-12, attached as Exhibit “Q” to the Darnell Decl.; C. Headley Depo., 842:4-10; 841:25-842:10; 846:7-12, attached as Exhibit “T” to the Darnell Decl.). Finally, Mrs. Headley and her coworkers had limited access to email. To use the internet, Sea Organization members at Gold Base were required to ask and receive permission. (Fraser Depo., 100:11-24, attached as Exhibit “H” to the Darnell Decl.).

1 On at least one occasion, Mrs. Headley was pressured and threatened with
2 punishment if she did not write a threatening letter to her husband to “get his act
3 together” and get out of trouble for whatever he had done previously. (C. Headley
4 Depo., 868:9-869:2, attached as Exhibit “T” to the Darnell Decl.). Mrs. Headley knew
5 that all of her communications were filtered by Defendants, and only included
6 statements in her letters that she knew would be sent along to her family members. (C.
7 Headley Depo., 849:14-852:15, attached as Exhibit “T” to the Darnell Decl.). Her
8 family did not even know where Gold Base was located, and was not allowed to know
9 this information. (C. Headley Depo., 854:11-22, attached as Exhibit “T” to the Darnell
10 Decl.).

11 Mrs. Headley and her coworkers also were strictly prohibited from
12 communicating any desire to leave Gold Base. (C. Headley Depo., 541:2-5, attached
13 as Exhibit “R” to the Darnell Decl.). They were told that it was a major transgression
14 to want to leave, and that if it was discovered that they thought about leaving, they
15 would be placed on heavy manual labor and placed under security watch. (C. Headley
16 Depo., 541:5-11, attached as Exhibit “R” to the Darnell Decl.; Deposition of Astra
17 Woodcraft (“Woodcraft Depo.”), 74:10-20, attached as Exhibit “M” to the Darnell
18 Decl.). Additionally, they would be separated from their spouses, interrogated, and
19 restricted to the Gold Base property. (C. Headley Depo. 541:11-19, attached as Exhibit
20 “R” to the Darnell Decl.).

21 Sea Organization members also were told it was a “high crime” to call the
22 police, and Mrs. Headley believed that dire consequences would result if she attempted
23 to call 911. (C. Headley Depo., 139:2-5; 139:7-140:10, attached as Exhibit “Q” to the
24 Darnell Decl.). Indeed, she feared that if she called 911, she would lose all contact with
25 her family, that she would be put on heavy manual labor, she would be stripped of all
26 rights, that she would be ostracized from everyone at Gold Base, that she would have
27 no access to outside phone lines for a year or two, that she would not be allowed to
28 leave the property without a security escort, and that she would be assigned a full-time

1 security watch. (C. Headley Depo., 525:19-526:16, attached as Exhibit “R” to the
2 Darnell Decl.). Mrs. Headley further believed that if she called 911, the police would
3 never get past the security at the property. (C. Headley Depo., 531:4-8, attached as
4 Exhibit “R” to the Darnell Decl.). Indeed, the corporate designee for the CSI testified
5 that she could not recall anytime when the police were called to Gold Base for
6 something that occurred within the perimeter fence at Gold Base or that concerned a
7 Sea Organization member. (Fraser Depo., 97:15-98:10, attached as Exhibit “H” to the
8 Darnell Decl.).

9 Defendants’ control over Mrs. Headley’s ability to communicate played
10 a significant factor in the psychological coercion of Mrs. Headley that ultimately caused
11 her to believe that she could not leave Gold Base. (Levine Decl., ¶¶ 36-44; 93).

12

13 **(5). Security Measures**

14

15 Extensive security measures were put in place at Gold Base to prevent
16 Mrs. Headley and her coworkers from leaving. Gold Base is 500 acre piece of property
17 surrounded by a perimeter fence. (Fraser Depo., 31:14-23, 66:23-67:18, attached as
18 Exhibit “H” to the Darnell Decl.; Davis Depo., 186:12-188:12, attached as Exhibit “L”
19 to the Darnell Decl.). Security cameras were located along the perimeter fence. (Fraser
20 Depo., 65:6-11, attached as Exhibit “H” to the Darnell Decl.; Norton Depo., 65:13-
21 66:22; 68:25-69:19, attached as Exhibit “K” to the Darnell Decl.). Additionally, the
22 perimeter fence was equipped with motion detectors, flood lights, and “shaker” type
23 devices that detect whether or not the fence was moved. (Fraser Depo., 65:6-66:22;
24 67:21-22; 69:18-25, attached as Exhibit “H” to the Darnell Decl.; Norton Depo., 59:6-
25 9; 69:20-71:3, attached as Exhibit “K” to the Darnell Decl.; McShane Depo., 79:23-24,
26 attached as Exhibit “G” to the Darnell Decl.). Portions of the perimeter fence also were
27 topped with spikes that face both inward and outward. (Fraser Depo., 68:11-24,
28 attached as Exhibit “H” to the Darnell Decl.; McShane Decl., 79:25-80:3, attached as

1 Exhibit “G” to the Darnell Decl.) On at least one occasion, the motion sensors on the
2 fence sounded an alarm when a staff member attempted to climb the fence and leave;
3 this caused security to initiate a “blow drill” which is discussed in greater detail later.
4 (Norton Depo., 59:23-61:4, attached as Exhibit “K” to the Darnell Decl.).

5 Security guards were present at Gold Base twenty-four hours a day during
6 Mrs. Headley’s employment. (Fraser Depo., 62:14-63:3, attached as Exhibit “H” to the
7 Darnell Decl.; McShane Depo. 78:24-79:5, attached as Exhibit “G” to the Darnell
8 Decl.). These security guards carried handcuffs, batons, and mace. (Fraser Depo.,
9 63:6-15; 65:2; 78:2-9, attached as Exhibit “H” to the Darnell Decl.; Norton Depo.,
10 75:12-17; 75:22-25, attached as Exhibit “K” to the Darnell Decl.; Deposition of Daniel
11 Dunigan (“Dunigan Depo.”), 68:18-69:5; 181:13-18, attached as Exhibit “N” to the
12 Darnell Decl.). Some of the security guards also carried firearms, and an attack dog
13 was assigned to the security detail at Gold Base. (Norton Depo., 74:1-13; 76:14-77:8,
14 attached as Exhibit “K” to the Darnell Decl.; Dunigan Depo., 22:4-24:18; 41:19-21;
15 83:3-86:15, attached as Exhibit “N” to the Darnell Decl.).

16 Moreover, there also was an observation post on the hillside near Gold
17 Base containing cameras that monitored and scanned the entire Gold Base property.
18 (Davis Depo., 186:12-188:12, attached as Exhibit “L” to the Darnell Decl.).

19 By 2001 or 2002, a security camera was installed on top of Mrs. Headley’s
20 house by one of the security guards that worked at Gold Base. (Norton Depo., 55:9-21;
21 57:4-57:17, attached as Exhibit “K” to the Darnell Decl.) If Mrs. Headley drove down
22 the road away from her house, she easily could be detected by the security camera. (*See*
23 M. Norton Depo., 110:5-23, attached as Exhibit “K” to the Darnell Decl.; C. Headley
24 Depo., 160:15-161:1, attached as Exhibit “Q” to the Darnell Decl.). Security also was
25 present at some of the locations that Mrs. Headley lived, and if staff members at Gold
26 Base did not arrive to work on any given day, security guards or other personnel were
27 dispatched to locate these workers. (*See* C. Headley Depo., 147:21-148:20, attached
28 as Exhibit “Q” to the Darnell Decl.).

1 “Perimeter Council” meetings were regularly held at the Gold Base
2 property. During these meetings individuals who were of “concern” were discussed,
3 including individuals who wanted to leave. (Fraser Depo., 87:17-88:4, attached as
4 Exhibit “H” to the Darnell Decl.). In fact, security guards were instructed to keep a
5 close eye on individuals who were believed to want to leave the Sea Organization.
6 (Norton Depo., 71:10-72:14, attached as Exhibit “K” to the Darnell Decl.).

7 Sea Organization members were often not allowed to leave Gold Base
8 without an escort if they were viewed as being at risk of leaving the Sea Organization.
9 (See Fraser Depo., 123:4-8; 123:23-124:9, attached as Exhibit “H” to the Darnell Decl.;
10 Norton Depo., 73:7-73:25, attached as Exhibit “K” to the Darnell Decl.; M. Headley
11 Depo., 582:24-585:16, attached as Exhibit “D” to the Darnell Decl.).

12 Additionally, “musters” were regularly held at Gold Base to account for
13 the whereabouts of every single staff member. (Fraser Depo., 129:1-17; 132:8-19,
14 attached as Exhibit “H” to the Darnell Decl.).

15 These security measures caused Mrs. Headley to believe that leaving Gold
16 Base would be physically difficult, dangerous, and likely unsuccessful. (Levine Decl.,
17 ¶¶ 59-62). As such, these security measures were a factor in Defendants’ psychological
18 coercion of Mrs. Headley. (Levine Decl., ¶¶ 16, 86-101).

19

20 **(6). Pursuing Sea Organization Members Who Left**

21

22 Defendants engage in what it referred to as a “blow drill” anytime a
23 member of the Sea Organization leaves Gold Base without prior permission. (Norton
24 Depo., 26:17-28:17; 48:1-4, attached as Exhibit “K” to the Darnell Decl.). The purpose
25 of these blow drills is to locate the individual who has left and get the person to return
26 to Gold Base. (McShane Depo., 84:23-85:23; 86:13-14, attached as Exhibit “G” to the
27 Darnell Decl.; Fraser Depo., 138:24-139:12, attached as Exhibit “H” to the Darnell
28 Decl.; Woodcraft Depo., 79:4-80:23, attached as Exhibit “M” to the Darnell Decl.).

1 During blow drills, individuals are pursued, and their whereabouts are
2 tracked by a variety of methods. (Norton Depo., 32:6-18; 36:4-37:13; 48:19-50:16,
3 attached as Exhibit “K” to the Darnell Decl.; *see also* C. Headley Depo., 389:18-390:5,
4 attached as Exhibit “R” to the Darnell Decl.; Woodcraft Depo., 79:7-17, attached as
5 Exhibit “M” to the Darnell Decl.; Rathbun Decl., ¶¶ 11-15). These methods include
6 tracking the checking, credit and financial accounts of individuals, researching their
7 travel plans, and placing phone calls to determine an individual’s location. (Norton
8 Depo., 36:4-37:13; 48:19-50:16, attached as Exhibit “K” to the Darnell Decl.).
9 Anywhere from thirty to seventy people could be dispatched to track the every move
10 of someone who left. (C. Headley Depo., 495:7-496:24; 510:14-21, attached as Exhibit
11 “R” to the Darnell Decl.). After an individual is located, efforts are made to “persuade”
12 them to return to Gold Base, which sometimes involves physical coercion. (*See* Norton
13 Depo., 42:10-44:14, attached as Exhibit “K” to the Darnell Decl.; *see also* Bolstad
14 Depo., 169:9-19, attached as Exhibit “J” to the Darnell Decl.; *see also* Dunigan Depo.,
15 222:8-12, attached as Exhibit “O” to the Darnell Decl.; C. Headley Depo., 195:6-18,
16 attached as Exhibit “Q” to the Darnell Decl.; Rathbun Decl., ¶¶ 11-15).

17 On a number of occasions when Sea Organization members attempted to
18 leave Gold Base, they were captured and returned. (M. Headley Depo., 926:18-949:22,
19 attached as Exhibit “E” to the Darnell Decl.; C. Headley Depo., 148:21-154:19;
20 155:1-17; 193:11-199:13, attached as Exhibit “Q” to the Darnell Decl.). One of Mrs.
21 Headley’s coworkers drove a car through the security gate at Gold Base to get out. (M.
22 Headley Depo., 932:12-933:3, attached as Exhibit “E” to the Darnell Decl.; McShane
23 Depo., 66:3-68:17, attached as Exhibit “G” to the Darnell Decl.). Several of Mrs.
24 Headley’s coworkers were physically restrained and returned to the property. (M.
25 Headley Depo., 933:18-935:12; 937:8-17, attached as Exhibit “E” to the Darnell Decl.;
26 Bolstad Depo., 80:9-19; 169:9-19, attached as Exhibit “J” to the Darnell Decl.; C.
27 Headley Depo. 195:6-18, attached as Exhibit “Q” to the Darnell Decl.). Other workers
28 were intercepted by Sea Organization members at a bus station and convinced to return

1 to Gold Base; upon their return, they were assigned hard labor. (M. Headley Depo.,
2 938:21-939:25, attached as Exhibit “E” to the Darnell Decl.). One worker attempted
3 to leave the Sea Organization on several occasions and was returned, each time being
4 placed under 24-hour surveillance. (M. Headley Depo., 940:6-942:22, attached as
5 Exhibit “E” to the Darnell Decl.). Indeed, as a general rule, anyone who left Gold Base
6 without permission and was returned, was restricted to the property and assigned
7 manual labor. (Norton Depo., 82:3-10; 82:13-83:10, attached hereto as Exhibit “K” to
8 the Darnell Decl.; C. Headley Depo., 154:6-16, attached as Exhibit “Q” to the Darnell
9 Decl.).

10 Additionally, Mrs. Headley observed that after her coworker, Tanja Castle,
11 attempted to leave, she was placed on heavy manual labor, isolated from other workers,
12 not allowed to leave Gold Base for any reason, and was assigned a permanent guard.
13 (C. Headley Depo., 260:18-262:2, attached as Exhibit “Q” to the Darnell Decl.).
14 Additionally, Mrs. Castle was locked in a room with Mike Rinder and Warren
15 McShane, high ranking Sea Organization members, during which these men yelled and
16 screamed at Ms. Castle and told her that she was never going to be able to see her
17 husband again. (C. Headley Depo., 261:1-25, attached as Exhibit “Q” to the Darnell
18 Decl.). Mrs. Headley also was forced to try to convince Mrs. Castle to stay and to
19 divorce her husband. (C. Headley Depo., 264:3-265:25, attached as Exhibit “Q” to the
20 Darnell Decl.).

21 Many of Mrs. Headley’s coworkers at Gold Base also recall being
22 prevented from leaving. Michael Norton testified that he attempted to leave Gold Base
23 in 2003, and that staff members at Gold Base attempted to physically prevent him from
24 leaving. (Norton Depo., 84:8-85:4, attached as Exhibit “K” to the Darnell Decl.). In
25 fact, he was physically prevented access to his motorcycle when he attempted to leave.
26 (Norton Depo., 85:5-86:3, attached as Exhibit “K” to the Darnell Decl.). Maureen
27 Bolstad also testified to being prevented from leaving, and to being restricted to a trailer
28 on a corner of the property for a period of time. (Bolstad Depo., 80:9-19; 127:23-

1 128:4; 164:10-20; 169:9-19, attached as Exhibit “J” to the Darnell Decl.).

2 As recent as April of this year, the Church of Scientology dispatched a
3 team of four individuals to Texas to pursue a Sea Organization member who left Gold
4 Base a few days earlier without permission. (Incident Report, 6/8:43-47, attached as
5 Exhibit “P” to the Darnell Decl.; Davis Depo., 194:13-15, attached as Exhibit “L” to
6 the Darnell Decl.). To determine the whereabouts of this individual, private
7 investigators were hired, who then tracked this individual to a motel in Texas. (Incident
8 Report, 6/8:30-36, attached as Exhibit “P” to the Darnell Decl.). Once his whereabouts
9 were determined, these four Sea Organization members flew to Texas, arrived
10 unannounced at the individuals’s motel at 5:30 in the morning, and then attempted to
11 persuade this individual to return to the Sea Organization. (Davis Depo., 17:8-18:9,
12 attached as Exhibit “L” to the Darnell Decl.; Incident Report, 6/8:45-46, attached as
13 Exhibit “P” to the Darnell Decl.). Despite the insistence of one of these four Sea
14 Organization members that he was not “sent” by anyone at the Church to pursue the
15 individual who had blown the Sea Organization, an Incident Report filed with the
16 Riverside County Sheriff confirms that these four Scientology staff members were
17 summoned and sent to “persuade” this individual to return to the Sea Organization.
18 (Davis Depo., 22:5-9, attached as Exhibit “L” to the Darnell Decl.; Incident Report,
19 6/8:43-46, attached as Exhibit “P” to the Darnell Decl.).

20 Additionally, the passports of Sea Organizations members were locked up
21 at Gold Base, preventing Sea Organization members from freely coming and going.
22 (See Fraser Depo., 78:7-8, attached as Exhibit “H” to the Darnell Decl.).

23

24 **(7). Plaintiff’s Abortions**

25

26 Mrs. Headley was coerced into having two abortions during her time the
27 Sea Organization. (C. Headley Depo., 734:20-25, attached as Exhibit “S” to the Darnell
28 Decl.). The first abortion occurred when Mrs. Headley was only nineteen years old

1 while working at Gold Base. (C. Headley Depo., 735:1-15, attached hereto as Exhibit
2 “S” to the Darnell Decl.). She was ordered by the Medical Officer at Gold Base to have
3 an abortion and told that she would be placed on heavy manual labor and subjected to
4 interrogation if she did not have an abortion. (C. Headley Depo., 739:12-740:21;
5 760:15-762:9, attached as Exhibit “S” to the Darnell Decl.). She also was forbidden
6 from discussing her pregnancy with her husband, other than telling him that she was
7 pregnant and that they would both be in big trouble and she would be assigned heavy
8 manual labor if she did not have an abortion. (C. Headley Depo., 737:6-738:14,
9 attached as Exhibit “S” to the Darnell Decl.). Mrs. Headley was escorted to the abortion
10 clinic by male staff member and was coached in detail on how to respond to the
11 questions asked of her by staff at the abortion clinic. (C. Headley Depo., 764:21-765:8,
12 attached as Exhibit “S” to the Darnell Decl.). Mrs. Headley was extremely distraught
13 over this abortion, but feared that the consequences of not having an abortion were too
14 great. (C. Headley Depo., 764:8-767:3; 770:10-771:7, attached as Exhibit “S” to the
15 Darnell Decl.).

16 Mrs. Headley was coerced to undergo a second abortion in 1996 while
17 living away from her husband in Clearwater, Florida. (C. Headley Depo., 771:22-
18 772:2, attached as Exhibit “S” to the Darnell Decl.). After Mrs. Headley discovered
19 that she was pregnant in 1996, one of the staff members in Florida told her that she
20 would have to undergo an abortion and that they had already arranged for one of her
21 coworkers to loan her the money for the procedure. (C. Headley Depo., 773:12-774:7,
22 attached as Exhibit “S” to the Darnell Decl.). Mrs. Headley asked for permission to call
23 her husband in California to discuss her pregnancy and the demand that she have an
24 abortion, but this request was denied. (C. Headley Depo., 772:17-773:11, attached at
25 Exhibit “S” to the Darnell Decl.). Further, another staff member told her that she had
26 to have an abortion or else there would be severe consequences. (C. Headley Depo.,
27 777:13-778:4, attached as Exhibit “S” to the Darnell Decl.). After Mrs. Headley was
28 coerced to have her second abortion, she was interrogated at length by a staff member

1 to determine if she had intentionally become pregnant in an attempt to leave the Sea
2 Organization. (C. Headley Depo., 774:10-777:12, attached as Exhibit “S” to the
3 Darnell Decl.). Mrs. Headley believed that if it appeared in any way that she
4 intentionally became pregnant, that she would be removed from her position, separated
5 from her husband, and placed on heavy manual labor. (C. Headley Depo., 775:14-20,
6 attached as Exhibit “S” to the Darnell Decl.).

7 Although there was a written policy that Sea Org members would be sent
8 to a Class 5 organization, that policy was not utilized. (C. Headley Depo., 746:3-21;
9 751:13-760:7, attached as Exhibit “S” to the Darnell Decl.; Woodcraft Depo., 110:6-10,
10 attached as Exhibit “M” to the Darnell Decl.). Instead, women who became pregnant
11 were placed on heavy manual labor (washing large pots and pans in the mess hall,
12 digging ditches, or pulling weeds) and were interrogated to convince them not to leave,
13 and instead to have abortions. (C. Headley Depo., 735:18-736:3; 751:13-753:25,
14 attached hereto as Exhibit “S” to the Darnell Decl.). Mrs. Headley recalls at least three
15 coworkers who were placed on heavy manual labor after they became pregnant and
16 refused to have abortions; at least one of these women was placed on full-time security
17 watch. (C. Headley Depo., 740:16-741:21; 743:14-744:8; 751:13-753:25, attached as
18 Exhibit “S” to the Darnell Decl.). Other women were coerced to have abortions, and
19 Mrs. Headley recalls a long list of women in the Sea Organization who actually had
20 abortions. (C. Headley Depo., 751:13-753:11; 754:1-760:7; 778:14-15, attached as
21 Exhibit “S” to the Darnell Decl.; C. Headley Depo., 902:11-910:4, attached as Exhibit
22 “T” to the Darnell Decl.).

23 Astra Woodcraft, a former member of the Sea Organization, also testified
24 that Defendants coerce women in the Sea Organization to have abortions. (Woodcraft
25 Depo., 74:21-25, 109:18-110:13, attached as Exhibit “M” to the Darnell Decl.). In fact,
26 she was specifically assigned the task of convincing women to have abortions so that
27 they would continue performing labor for Defendants. (Woodcraft Depo., 74:21-25,
28 109:18-110:13, attached as Exhibit “M” to the Darnell Decl.).

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(8). Plaintiff Believed She Could Not Leave Gold Base

Given the multitude of physical and mental restraints on Mrs. Headley’s personal liberty detailed above, she believed that she was not free to stop working for Defendants or to leave Gold Base (Levine Decl., ¶¶ 86-101). Mrs. Headley herself has articulated some of her beliefs regarding her ability to leave.

Specifically, she was told by her supervisor, Shelly Miscavige, that no one who worked for RTC would be allowed to leave, and that if they did, they would be brought back to Gold Base. (C. Headley Depo., 811:4-13, attached as Exhibit “T” to the Darnell Decl.). Additionally, although Mrs. Headley thought many times about leaving Gold Base, she never asked to leave because she knew the consequences would be too severe, including assignment to heavy labor, extensive interrogations, assignment of an escort to prevent her from leaving, separation from her husband, and restriction to Gold Base for a lengthy period of time. (C. Headley Depo., 277:22-278:20, attached as Exhibit “Q” to the Darnell Decl.). She also believed that if she left and went to her parents to try to get away, her mother would turn her in and her step-father would lose his job. (C. Headley Depo., 829:5-830:8, attached as Exhibit “T” to the Darnell Decl.).

(9). Plaintiff’s Escape

In late January 2005, Mrs. Headley determined that she could no longer bear the conditions at Gold Base and escaped. (C. Headley, 155:20-25, attached hereto as Exhibit “Q” to the Darnell Decl.).

Two Sea Organization members tracked Mrs. Headley to a bus station in Las Vegas, Nevada, shortly after she left. (C. Headley Depo., 156:1-12, attached as Exhibit “Q” to the Darnell Decl.). These individuals attempted to get Mrs. Headley to return to Gold Base with them, and one of the individuals threatened that he would

1 follow her to her final destination, that her family would be barred from continuing in
2 Scientology because she was leaving, and that she would never be able to speak with
3 her family again. (C. Headley Depo., 156:26-157:17, attached as Exhibit “Q” to the
4 Darnell Decl.). This same individual called Mrs. Headley’s husband and told him that
5 she had been intercepted and would not be coming to meet him. (C. Headley Depo.,
6 515:23-518:9, attached as Exhibit “R” to the Darnell Decl.). Additionally, he told Mrs.
7 Headley that her coworkers would be in serious trouble as a result of her leaving. (C.
8 Headley Depo., 515:23-518:9, attached as Exhibit “R” to the Darnell Decl.).

9 When Mrs. Headley escaped Gold Base, she was emaciated and had been
10 sleep deprived for years. (C. Headley Depo., 594:3-16; 665:4-8, attached as Exhibit
11 “S” to the Darnell Decl.). Indeed, for several weeks prior to escaping, she was forced
12 to sleep on her office floor in a sleeping bag. (C. Headley Depo., 594:3-16, attached
13 as Exhibit “S” to the Darnell Decl.).

14

15 **B. Plaintiff Is A Victim Of Human Trafficking**

16

17 Pursuant to 18 U.S.C. § 1589, “[t]he crime of forced labor occurs when
18 someone knowingly . . . obtains the labor or services of a person: 1) by threats of
19 serious harm to, or physical restraint against, that person or another person; 2) by means
20 of any scheme, plan, or pattern intended to cause the person to believe that, if the
21 person did not perform such labor or services, that person or another person would
22 suffer serious harm or physical restraint; or 3) by means of the abuse or threatened
23 abuse of law or the legal process. . . .”

24 Mrs. Headley is a victim of human trafficking because Defendants
25 knowingly obtained her labor and services by violating each of the provisions set forth
26 in 18 U.S.C. § 1589. First, Mrs. Headley was threatened with serious harm and
27 physical restraint as set forth above in the detailed factual history. Second, Defendants
28 clearly engaged in scheme and pattern of conduct to cause Mrs. Headley to believe that

1 if she did not continue working for Defendants, she would suffer serious harm or
2 physical restraint. This included the significant security measures implemented by
3 Defendants at Gold Base, as well as Defendants’ repeated pattern of pursuing Sea
4 Organization members who left, only to bring them back and place them under more
5 restrictions. Notably, Defendants actually told Mrs. Headley that she had “forgone” her
6 right to leave and that she would be brought back even if she attempted to leave. (C.
7 Headley Depo., 811:4-13, attached as Exhibit “T” to the Darnell Decl.). Mrs. Headley
8 was subjected to other means of abuse, such as threats that she would never see her
9 family or husband again, forced abortions, and attempts to force her to divorce her
10 husband. Indeed, Defendants coerced Mrs. Headley to have an abortion so that she
11 could continue performing labor for them. (See Woodcraft Depo., 74:21-25, 109:18-
12 110:13, attached as Exhibit “M” to the Darnell Decl.).

13

14 **C. The Scripture, Beliefs, and Formal Policies of the Church of**
15 **Scientology Prohibit Human Trafficking And Forced Labor**

16

17 Defendants expressly prohibit human trafficking and forced labor. This
18 is reflected in Defendants’ By-Laws and other policies, and was confirmed by the
19 corporate designees for both RTC and CSI. In fact, the public spokesperson for the
20 Church of Scientology testified that “Scientologists, as a general rule, are *opposed of*
21 *any human rights violation*: Anything that violates an individual’s right to choose,
22 anything that would reduce a person’s freedom, individual[ity], and ability to think for
23 themselves.” (Davis Depo., attached as Exhibit “L” to the Darnell Decl., 104:25-
24 105:14) (emphasis added).

25

26 Pursuant to the By-Laws and religious policies of RTC, all men have
27 “inalienable rights to their own lives” and “inalienable rights to think freely, to talk
28 freely, to write freely their own opinions and to counter or utter or write upon the
opinions of others.” (McShane Depo., 153:17-156:3, attached as Exhibit “G” to the

1 Darnell Decl.). Moreover, all men (and women) have “inalienable rights to the creation
2 of their own kind.” (McShane Depo., 156:4-17, attached as Exhibit “G” to the Darnell
3 Decl.). The By-Laws and religious policies of CSI are identical in those of RTC set
4 forth above. (Fraser Depo., 242:12-245:20; 246:20-247:1, attached as Exhibit “H” to
5 the Darnell Decl.).

6 The corporate designees for Defendants testified as follows when asked
7 asked about Scientology’s religious policies with respect to human trafficking:

8 Q. Mr. McShane, does the church allow involuntary
9 servitude?

10 A. No.

11 Q. Does the church allow human trafficking?

12 A. No, of course not.

13 Q. Does the church allow the use of coercion to force
14 labor?

15 A. No.

16 Q. Does the church allow harassment?

17 A. No.

18 Q. Does the church allow stalking?

19 A. No.

20 Q. Does the church allow involuntary confinement?

21 A. No.

22 (McShane Depo., 100:18-101:6, attached as Exhibit “G” to the Darnell Decl.).

23 Q. Does the Church of Scientology allow a person to be imprisoned?

24 A. No.

25 Q. Does the Church of Scientology allow a person to be held against their
26 will?

27 A. No.

28 Q. Does the Church of Scientology engage in human
trafficking?

A. No.

1 Q. Does the Church of Scientology engage in forced labor,
2 also a form of involuntary servitude?

3 A. No.

4 (Fraser Depo., 168:20-25; 171:18-23, attached as Exhibit “H” to the Darnell Decl.).

5 In fact, consistent with the definition of forced labor set forth in 18 U.S.C.
6 § 1589, the corporate designees of CSI and RTC confirmed that the Church of
7 Scientology officially prohibits physical punishment or detention, physical abuse,
8 battery, assault, aggravated battery, physical isolation, or the use of threats or physical
9 intimidation. (McShane Depo., 95:24-96:16; 162:22-163:10 attached as Exhibit “G”
10 to the Darnell Decl.; Fraser Depo., 161:6-8; 161:21-162:2; 166:3-11; 172:22-173:2;
11 174:16-176:2; 176:14-18, attached as Exhibit “H” to the Darnell Decl.). Additionally,
12 the Church of Scientology does not officially physically force, threaten, or otherwise
13 coerce anyone to return to the Sea Organization after they have left, including making
14 threats that a person would never see their family members again. (McShane Depo.,
15 85:17-87:2, attached as Exhibit “G” to the Darnell Decl.). The Church of Scientology
16 also does not officially allow food or sleep deprivation. (McShane Depo., 96:17-96:20,
17 attached as Exhibit “G” to the Darnell Decl.; Fraser Depo., 163:14-16, attached as
18 Exhibit “H” to the Darnell Decl.). It also religious doctrine that members of the Church
19 of Scientology must abide by the law. (McShane Depo., 163:11-13, attached as Exhibit
20 “G” to the Darnell Decl.).

21 Additionally, Defendants officially prohibit forced abortions, and make it
22 clear that if a woman is coerced to have an abortion, such is a violation of church
23 policy. (McShane Depo., 92:9-11; 101:16-102:16; 156:12-21, attached as Exhibit “G”
24 to the Darnell Decl.; Fraser Depo., 160:5-7; 217:10-13, attached as Exhibit “H” to the
25 Darnell Decl.). The Church of Scientology also officially does not allow a person to
26 be forced or coerced to divorce his or her spouse. (McShane Depo., 92:11-13, attached
27 as Exhibit “G” to the Darnell Decl.; Fraser Depo., 160:8-10, attached as Exhibit “H”
28 to the Darnell Decl.).

1 **3. PURSUANT TO APPLICABLE FEDERAL CASE LAW, THE**
2 **MINISTERIAL EXCEPTION DOES NOT APPLY TO HUMAN**
3 **TRAFFICKING CLAIMS**

4
5 The United States District Court for the Eastern District of New York
6 recently addressed the precise issue of law raised in Defendant’s Motion, and held that
7 the ministerial exception does not apply to claims asserted under the Victims of
8 Trafficking and Violence Protection Act of 2000 (“TVPA”), 18 U.S.C. §§ 1589, *et seq.*
9 *See Shukla v. Sharma*, No. 07-CV-2972 (CBA), at *1 (E.D.N.Y. Sept. 29, 2009)
10 (adopting Report and Recommendation dated August 21, 2009). The facts and legal
11 issues in this case compel the same finding.

12 The plaintiff in *Shukla* was a Hindu Priest employed by a not-for-profit
13 religious organization. *Shukla v. Sharma*, No. 07-CV-2972 (CBA), Report and
14 Recommendation, at *2 (E.D.N.Y. August 21, 2009). Given the plaintiff’s status as a
15 Hindu Priest, it was not disputed that he was a minister for purposes of the ministerial
16 exception, such that the court focused entirely on whether or not the ministerial
17 exception barred any of the plaintiff’s claims. *Id.* at *10. The court ruled that plaintiff
18 could not state claims for minimum wage and overtime under the Fair Labor Standards
19 Act or corresponding state law as these claims clearly fell within the ministerial
20 exception. *Id.* at *10-13. However, the court ruled that the ministerial exception did
21 not apply to human trafficking or forced labor claims because the TVPA “does not
22 require courts to unduly interfere with the internal affairs of religious organizations or
23 get involved in the selection or retention of ministers.” *Id.* at *15.

24 In reaching this conclusion, the court thoroughly addressed the differences
25 between the TVPA and statutes that regulate ordinary, adverse personnel actions to
26 which the ministerial exception does apply:

27 [A]s a preliminary matter, the standards that govern what
28 constitutes trafficking and forced labor do not depend on the
 interpretation of religious doctrine; rather they are secular

1 standards that guarantee that employers cannot deprive
2 employees of fundamental human rights. Thus, unlike
3 analyzing suits brought under federal and state employment
4 laws, exploring the ills that the TVPA is meant to combat –
5 namely, trafficking and forced labor – does not require courts
6 to unduly interfere with the internal affairs of religious
7 organizations or get involved in the selection or retention of
8 ministers. Furthermore, a suit under the TVPA is not
9 analogous to a suit under federal and state employment laws,
10 because it is not brought in response to an adverse
11 employment action.

12 ...

13 Although labor and employment laws seek to eradicate
14 certain societal evils, such as poverty and discrimination, the
15 TVPA seeks to address the evil of human trafficking and
16 *forced* labor, both of which strike directly at the core
17 individual liberty. That is, the TVPA protects infringement
18 upon an individual’s liberty from unlawful restraint in an
19 attempt to eradicate modern-day slavery. The type of abuse
20 addressed by the TVPA is **so extreme, offensive, and**
21 **contrary to fundamental human rights as to distinguish**
22 **it from the type of conduct that ordinarily gives rise to**
23 **violations of labor and employment laws.** Given the
24 relative magnitude of the deprivation of individual liberty in
25 cases covered by the TVPA, and the international scope and
26 significance of human trafficking, the TVPA transcends the
27 boundaries of the ministerial exception.

28 *Id.* at *14-15 (emphasis added).

Other courts similarly have found that the TVPA was adopted to protect
fundamental human rights, not to address ordinary employment disputes. In *United*
States v. Bradley, 390 F.3d 145, 156-57 (1st Cir. 2004), the court noted that in enacting
the TVPA, “Congress thought of forced labor as a species of involuntary servitude,”
and that the TVPA was “intended to reach cases in which persons are held in a
condition of servitude through nonviolent coercion.” The court in *United States v.*
Calimlim, 538 F. 3d 706, 714 (7th Cir. 2008), also noted that the TVPA was intended
to address conditions of “involuntary servitude.” Finally, in *United States v. Garcia*,
No. 02 CR 110S-01, 2003 WL 22956917, at *4 (W.D.N.Y. Dec. 2, 2003), the court
noted that “Section 1589 is intended to address the increasingly subtle methods of
traffickers who place their victims in modern-day slavery....”

//

1 In fact, when Congress adopted the TVPA, it identified the important state
2 interests underlying this statute, which included the fundamental tenets upon which our
3 society is based:

4 One of the founding documents of the United States, the
5 Declaration of Independence, recognizes the inherent dignity
6 and worth of all people. It states that all men are created
7 equal and that they are endowed by their Creator with certain
8 unalienable rights. The right to be free from slavery and
9 involuntary servitude is among those unalienable rights.
10 Acknowledging this fact, the United States outlawed slavery
11 and involuntary servitude in 1865, recognizing them as evil
12 institutions that must be abolished. Current practices of
13 sexual slavery and trafficking of women and children are
14 similarly abhorrent to the principles upon which the United
15 States was founded.

16 ...

17 The United States and the international community agree that
18 trafficking in persons involves grave violations of human
19 rights and is a matter of pressing international concern. The
20 international community has repeatedly condemned slavery
21 and involuntary servitude, violence against women, and other
22 elements of trafficking...

23 H.R. Conf. Rep. 106-939, §102(b)(22),(23) (October 2000).

24 Given the fundamental rights at issue in Mrs. Headley's human trafficking
25 claim, the Court should follow the *Shukla* court and hold that the ministerial exception
26 does not apply to Mrs. Headley's human trafficking claim asserted under the TVPA.

27 **4. THERE CAN BE NO FIRST AMENDMENT FREE EXERCISE**
28 **DEFENSE IN THE ABSENCE OF A CONFLICT BETWEEN**
RELIGIOUS BELIEF AND THE CONDUCT CHALLENGED

29 The primary contention underlying Defendants' Motion is that Mrs.
30 Headley's human trafficking claim impedes Defendants' free exercise of religion in
31 violation of the First Amendment. To assert this defense, Defendants must establish
32 that Mrs. Headley's human trafficking claim actually infringes on Defendants' free
33 exercise of religion. *See Grove v. Mead School Dist. No. 354*, 753 F.2d 1528, 1533 (9th

1 Cir. 1985) (pursuant to Free Exercise Clause, “a litigant must show that challenged state
2 action has a coercive effect that operates against the litigant’s practice of his or her
3 *religion.*”); *see also Malik v. Brown*, 16 F.3d 330, 333 (9th Cir. 1994) (to merit
4 protection under the Free Exercise Clause of the First Amendment, a religious claim
5 “must be rooted in religious belief”).

6 “In determining whether the proposed application of a statute would
7 violate the Free Exercise Clause, courts must weigh three factors: ‘(1) the magnitude
8 of the statute’s impact upon the exercise of a religious belief, (2) the existence of a
9 compelling state interest justifying the burden imposed upon the exercise of the
10 religious belief, and (3) the extent to which recognition of an exemption from the
11 statute would impede the objectives sought to be advanced by the state.’ *Bollard*, 196
12 F.3d at 946 (quoting *EEOC v. Pacific Press Publ’g Ass’n*, 676 F.2d 1272, 1279 (9th
13 Cir. 1982)). Notably, the first of these factors requires an assessment of whether or not
14 the statute at issue actually impacts the exercise of one’s religious belief.

15 Based on these factors, courts routinely refuse to apply the ministerial
16 exception to the tort claims of ministers where there is no religious justification for the
17 conduct challenged by a minister. For instance, in *Bollard*, the court refused to apply
18 the ministerial exception to the plaintiff’s claim for sexual harassment because the
19 Jesuit order “did not offer a religious justification” for the alleged harassment, and
20 even “condemned it as inconsistent with their values and beliefs.” *Bollard*, 196 F.3d
21 at 947. As a result, the court ruled that the plaintiff’s sexual harassment claim did “not
22 run afoul of the Free Exercise Clause” because there was little danger that application
23 of Title VII would interfere with the religious faith or doctrine of the Jesuit order given
24 its disavowment of sexual harassment. *Id.*

25 The court in *Elvig v. Calvin Presbyterian Church*, 375 F.3d 951, 959 (9th
26 Cir. 2004), similarly found that an alleged minister could assert a Title VII sexual
27 harassment claim against her religious employer because there was no religious
28 justification for the conduct challenged. In reaching this decision, the court explained:

1 Elvig may, consistent with the First Amendment, attempt to
2 show that she was sexually harassed and that this harassment
3 created a hostile work environment. *Bollard*, 196 F.3d at
4 949-50. This showing would, after all, involve a purely
5 secular inquiry. Assuming Elvig can prove a hostile work
6 environment, the Church may nonetheless invoke First
7 Amendment protection from Title VII liability if it claims
8 that her subjection to or the Church's toleration of sexual
9 harassment was doctrinal. We do not scrutinize doctrinal
justifications because "[i]t is ... not our role to determine
whether the Church had a secular or religious reason for the
alleged mistreatment of [Elvig]." *Alicea-Hernandez v.*
Catholic Bishop of Chi., 320 F.3d 698, 703 (7th Cir.2003).
As in *Bollard*, however, the Defendants here "do not offer a
religious justification for the harassment [Elvig] alleges,"
Bollard, 196 F.3d at 947, and, indeed, deny it occurred at all.

10 Likewise, in *Petruska v. Gannon University*, 448 F.3d 615, 620 (3rd Cir. 2006), a
11 minister was allowed to assert a Title VII discrimination claim against his religious
12 employer because his claim did not infringe on the defendant's free exercise of religion:

13 ...where a church discriminates for reasons unrelated to
14 religion, we hold that the Constitution does not foreclose
15 Title VII suits. Employment discrimination unconnected to
16 religious belief, religious doctrine, or the internal regulations
of a church is simply the exercise of intolerance, not the free
exercise of religion that the Constitution protects.

17 Clearly, in order for Defendants to assert a First Amendment defense based
18 on the Free Exercise Clause, Defendants must establish that Mrs. Headley's human
19 trafficking claim actually infringes on Defendants' free exercise of religion. As
20 addressed below, there is no conflict in this case between the Scientology religion and
21 Mrs. Headley's human trafficking claim because Defendants have no religious
22 justification for human trafficking and even contends that they do not engage in human
23 trafficking.

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1 **5. NO CONFLICT EXISTS BETWEEN THE SCIENTOLOGY**
2 **RELIGION AND THE LAW OF HUMAN TRAFFICKING**
3 **BECAUSE THE CHURCH OF SCIENTOLOGY PROHIBITS**
4 **HUMAN TRAFFICKING**

5
6 Defendants’ free exercise defense under the First Amendment to Mrs.
7 Headley’s human trafficking claim fails because Defendants deny that the Church of
8 Scientology allows or engages in human trafficking, involuntary servitude, or forced
9 labor. The deposition testimony of the corporate designees of both CSI and RTC make
10 this denial clear:

11 Q. Mr. McShane, does the church allow involuntary
12 servitude?

13 A. No.

14 Q. Does the church allow human trafficking?

15 A. No, of course not.

16 Q. Does the church allow the use of coercion to force
17 labor?

18 A. No.

19 Q. Does the church allow harassment?

20 A. No.

21 Q. Does the church allow stalking?

22 A. No.

23 Q. Does the church allow involuntary confinement?

24 A. No.

25 (McShane Depo., 100:18-101:6, attached as Exhibit “G” to the Darnell Decl.).

26 Q. Does the Church of Scientology allow a person to be imprisoned?

27 A. No.

28 Q. Does the Church of Scientology allow a person to be held against their
will?

1 A. No.

2 Q. Does the Church of Scientology engage in human
3 trafficking?

4 A. No.

5 Q. Does the Church of Scientology engage in forced labor,
6 also a form of involuntary servitude?

7 A. No.

8 (Fraser, 168:20-25; 171:18-23).

9 Indeed, consistent with the definition of forced labor set forth in 18 U.S.C.
10 § 1589, the corporate designees of CSI and RTC confirmed that the Church of
11 Scientology officially prohibits physical punishment or detention, physical abuse,
12 battery, assault, aggravated battery, physical isolation, or the use of threats or physical
13 intimidation. (McShane Depo., 95:24-96:16; 162:22-163:10, attached as Exhibit “G”
14 to the Darnell Decl.; Fraser Depo., 161:6-8; 161:21-162:2; 166:3-11; 172:22-173:2;
15 174:16-176:2; 176:14-18, attached as Exhibit “H” to the Darnell Decl.). Additionally,
16 the Church of Scientology officially does not physically force, threaten, or otherwise
17 coerce anyone to return to the Sea Organization after they have left, including making
18 threats that a person would never see their family members again. (McShane Depo.,
19 85:17-87:2, attached as Exhibit “G” to the Darnell Decl.). The Church of Scientology
20 officially also does not allow food or sleep deprivation. (McShane Depo., 96:17-96:20,
21 attached as Exhibit “G” to the Darnell Decl.; Fraser Depo., 163:14-16, attached as
22 Exhibit “H” to the Darnell Decl.). Moreover, the public spokesperson for the Church
23 of Scientology confirmed under oath that “Scientologists, as a general rule, are ***opposed***
24 ***of any human rights violation***: Anything that violates an individual’s right to choose,
25 anything that would reduce a person’s freedom, individual[ity], and ability to think for
26 themselves.” (Davis Depo., 104:25-105:14) (emphasis added). It also religious
27 doctrine that members of the Church of Scientology must abide by the law. (McShane
28 Depo., 163:11-13, attached as Exhibit “G” to the Darnell Decl.).

//

1 Given Defendants’ very clear beliefs and position against human
2 trafficking and forced labor, Defendants have no grounds on which to claim that Mrs.
3 Headley’s human trafficking claim violates Defendants’ free exercise of religion.
4 Defendants are in the same position as the religious organizations in *Bollard*, *Elvig*, and
5 *Petruska*, who could not offer a religious justification for the conduct challenged, and
6 as such, could not properly assert a defense based on the Free Exercise Clause of the
7 First Amendment. As there is no conflict between the Scientology religion and the
8 conduct that the TVPA was established to regulate, the Court should reject Defendants’
9 assertion that Mrs. Headley’s human trafficking claim violates the Free Exercise Clause
10 of the First Amendment.

11

12 **6. DEFENDANTS’ ARGUMENT THAT ALLOWING PLAINTIFF’S**
13 **HUMAN TRAFFICKING CLAIM WOULD VIOLATE THE**
14 **ESTABLISHMENT CLAUSE FAILS, BECAUSE THERE CAN BE**
15 **NO ENTANGLEMENT OF RELIGION AND GOVERNMENT**
16 **WHERE THE CHURCH PROHIBITS HUMAN TRAFFICKING**

17

18 Defendants further contend that the Court should apply the ministerial
19 exception to Mrs. Headley’s human trafficking claim because allowing Mrs. Headley
20 to proceed with this claim would cause the Court to become excessively entangled in
21 the Scientology religion in violation of the Establishment Clause of the First
22 Amendment. The Court should reject this argument as nothing about Mrs. Headley’s
23 human trafficking claim could possibly entangle the Court in the Scientology religion
24 or that could place Defendants’ rights under the Establishment Clause at risk.

25 The Establishment Clause of the First Amendment states that “Congress
26 shall make no law respecting an establishment of religion.” “[T]he three main evils
27 against which the Establishment Clause was intended to afford protection [are]
28 ‘sponsorship, financial support, and active involvement of the sovereign in religious

1 activity.’” *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971) (quoting *Walz v. Tax*
2 *Comm’n*, 397 U.S. 664, 668 (1970). A three-part test is utilized to determine if a statute
3 violates the Establishment Clause: “First, the statute must have a secular legislative
4 purpose; second, its principal or primary effect must be one that neither advances nor
5 inhibits religion; finally, the statute must not foster ‘an excessive government
6 entanglement with religion.’” *Lemon*, 403 U.S. at 612-13 (internal citations omitted).

7 It is undisputed in this case that the TVPA has a secular legislative purpose
8 and that the principal effect of this statute is neither to advance nor inhibit religion.
9 Defendants contend, however, that application of the TVPA in this case would foster
10 excessive entanglement of this Court in the Scientology religion.

11 The short and simple answer to Defendants’ argument is that there can be
12 no entanglement of church and state where the state enforces laws that do not conflict
13 with a church’s religious beliefs. Since Defendants prohibit and officially do not
14 tolerate human trafficking, allowing Mrs. Headley’s human trafficking claim to proceed
15 cannot entangle this Court in the religious beliefs, doctrine, or practices of the Church
16 of Scientology. *Bollard*, 196 F.3 at 947-48.

17

18 **7. ASSUMING, ARGUENDO, THAT DEFENDANTS SOMEHOW**
19 **COULD ASSERT A FIRST AMENDMENT DEFENSE, THE**
20 **DEFENSE FAILS BECAUSE THE FIRST AMENDMENT ONLY**
21 **PROTECTS RELIGIOUS BELIEFS, NOT UNLAWFUL CONDUCT**

22

23 While “the first amendment absolutely protects the holding of any religious
24 belief, no matter how bizarre or irrational, . . . the ‘operational activities’ of a religion,
25 those activities that are not solely in the ideological or intellectual realm, are subject to
26 judicial review and may be regulated to achieve a sufficiently important state
27 objective.” *Turner v. Unification Church*, 473 F.Supp. 367, 371-72 (D. R.I. 1978).
28 Thus, while statutes may not dictate religious *beliefs*, statutes may prohibit unlawful

1 *conduct* without violating the First Amendment.

2 “The Supreme Court has recognized that the first amendment’s protection
3 of religious liberty ‘embraces two concepts – freedom to believe and freedom to act.
4 The first is absolute but, in the nature of things, the second cannot be. Conduct remains
5 subject to regulation for the protection of society. . . . Thus, religious operations that
6 endanger public safety, threaten disorder, endanger the health of a member, or
7 drastically differ from societal norms may be regulated or prohibited.” *Turner v.*
8 *Unification Church* (D. R.I. 1978) 473 F.Supp. 367, 372. In essence, “churches are not
9 – and should not be – above the law” and [l]ike any other person or organization, they
10 may be held liable for their torts. . . .” *Rayburn v. Gen. Conf. Of Seventh-Day*
11 *Adventists*, 772 F.2d 1164, 1171 (4th Cir. 1985)).

12 In *Turner*, the plaintiff alleged that after she joined the defendants’ church,
13 she was placed in involuntary servitude, where she was “forced to work long hours
14 ‘often more than 12 hours per day’ of ‘compulsory service’ soliciting money and selling
15 such items as candies, flowers and tickets for Unification Church rallies.” *Turner*, 473
16 F.Supp. at 370-71. The defendants asserted that the free exercise clause prohibited the
17 court from hearing the suit. *Id.* The court rejected this assertion, holding that
18 defendants were not immune from causes of action alleging involuntary servitude or
19 other intentional tortious activity based on the free exercise clause of the First
20 Amendment. In reaching this conclusion, the court stated:

21 The alleged involuntary servitude is unquestionably an act
22 which has a serious adverse effect upon one of the Church’s
23 followers and constitutes conduct that violates the most
24 fundamental tenets of both American society and the United
25 States Constitution. The Unification Church cannot seek the
26 protection of one constitutional amendment while it allegedly
27 deprives citizens the protection of other constitutional
28 guarantees.

26 *Id.* at 372.

27 Thus, the free exercise clause is no defense to a claim alleging involuntary
28 servitude, i.e., human trafficking. *See also, Sherbert v. Verner*, 374 U.S. 398, 402-03

1 (1963) (It is fundamental to our system that each person has a right to believe as he
2 wishes and to practice that belief according to the dictates of his conscience, *so long as*
3 he does not violate the personal rights of others). Given the fundamental rights at issue
4 in this lawsuit, which are similar to those addressed in *Turner*, Defendants’ conduct is
5 subject to regulation and Defendants are not above the law.

6

7 **8. DEFENDANTS’ ATTEMPTS TO CHARACTERIZE THE TVPA AS**
8 **AN ORDINARY EMPLOYMENT STATUTE FAIL**

9

10 The Court should reject Defendants’ attempt to characterize the TVPA as
11 an ordinary employment statute. Defendants contend that because *one* of the damages
12 available under the TVPA is “the value of the victim’s labor as guaranteed under the
13 minimum wage and overtime” provisions of the Fair Labor Standards Act, the
14 ministerial exception clearly bars any claim pursued under the TVPA. This argument
15 not only ignores the many, distinct damages available under the TVPA, but also ignores
16 the fundamental human rights that the TVPA was established to protect as discussed
17 in detail above. Under 18 U.S.C. § 1593(b)(3), a victim of human trafficking is entitled
18 to recover not only minimum wage and overtime, but also the “full amount of the
19 victim’s losses” as set forth in 18 U.S.C. § 2259(b)(3). Under 18 U.S.C. § 2259(b)(3)
20 a victim of human trafficking or forced labor is entitled to the following:

21

[A]ny costs incurred by the victim for--

22

(A) medical services relating to physical, psychiatric, or
23 psychological care;

24

(B) physical and occupational therapy or rehabilitation;

25

(C) necessary transportation, temporary housing, and child
26 care expenses;

27

(D) lost income;

28

(E) attorneys’ fees, as well as other costs incurred; and

29

1 **(F) any other losses suffered by the victim as a proximate**
2 **result of the offense.**

3 Minimum wage and overtime pay is only a minor part of the *damages* available under
4 the TVPA, such that Defendants cannot properly classify the TVPA as a “back door”
5 to imposing the Fair Labor Standards Act. Indeed, in determining if a violation of the
6 TVPA occurred, the Court is not required to assess or determine whether minimum
7 wage or overtime was paid to the victim as that damage is entirely separate from the
8 crime of forced labor itself.

9 Under 18 U.S.C. § 1589, “[t]he crime of forced labor occurs when
10 someone knowingly . . . obtains the labor or services of a person: 1) by threats of
11 serious harm to, or physical restraint against, that person or another person; 2) by means
12 of any scheme, plan, or pattern intended to cause the person to believe that, if the
13 person did not perform such labor or services, that person or another person would
14 suffer serious harm or physical restraint; or 3) by means of the abuse or threatened
15 abuse of law or the legal process. . . .”

16 Nothing in this statute suggests that a finding of forced labor is contingent
17 on the failure to pay minimum wage or overtime or any other violation of the Fair Labor
18 Standards Act. Rather, as noted by the *Shukla* court, the TVPA very clearly “seeks to
19 address the evil of human trafficking and *forced* labor, both of which strike directly at
20 the core individual liberty.” *Shukla*, No. 07-CV-2972 (CBA), Report and
21 Recommendation, at *14 (emphasis in original). As such, the Court should reject
22 Defendants’ misrepresentations regarding the TVPA, including Defendants’
23 misrepresentations regarding the applicability of the ministerial exception to Mrs.
24 Headley’s claim under the TVPA.

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1 **9. THE LIMITATIONS DEFENDANT SEEKS TO IMPOSE ON**
2 **PLAINTIFF’S HUMAN TRAFFICKING CLAIM ARE IMPROPER**
3 **AND UNDERMINE THE ENTIRE INTENT OF THE TVPA**

4
5 Defendants contend that pursuant to the Religious Freedom Restoration
6 Act (“RFRA”), this Court should limit any consideration of Mrs. Headley’s human
7 trafficking claim to only instances of actual or threatened physical restraint and nothing
8 further. Such a limitation would completely undermine the entire intent of 18 U.S.C.
9 § 1859 and the important government interests underlying this statute - i.e., protection
10 against modern-day forms of slavery.

11 Congress made clear that 18 U.S.C. § 1589 was intended to address not
12 only physical harm and captivity, but more importantly, psychological methods of
13 coercion: “Adopted in 2000 as part of a broader set of provisions – the Victims of
14 Trafficking and Violence Protection Act of 2000, 114 Stat. 1464 – section 1589 was
15 intended expressly to counter *United States v. Kozminski*, 487 U.S. 931, 108 S.Ct. 2751,
16 101 L.Ed.2d 788 (1988).” *United States v. Bradley*, 390 F.3d 145, 150 (1st Cir. 2004)
17 (citing H.R. Conf. Rep. No. 106-939, at 100-01 (2000)). “In *Kozminski*, the Supreme
18 Court had interpreted the pre-existing ban on ‘involuntary servitude’ in section 1584
19 to prohibit only conduct involving the use or threatened use of physical or legal
20 coercion.” *Bradley*, 390 F.3d at 150 (citing *Kozminski*, 487 U.S. at 949-52). “In
21 glossing the new statute, the conference report said ‘serious harm’ was intended to
22 encompass not only physical violence, but also more subtle psychological methods of
23 coercion—‘such as where traffickers threaten harm to third persons, restrain their
24 victims without physical violence or injury, or threaten dire consequences by means
25 other than overt violence.’ *See* H.R. Conf. Rep. No. 106-939, at 101. It continued:
26 ‘The term `serious harm’ as used in this Act refers to a broad array of harms, including
27 both physical and nonphysical...’ *Id.*” *Bradley*, 390 F.3d 150; *see also U.S. v.*
28 *Calimlim*, 538 F.3d 706, 714 (7th Cir. 2008) (“Section 1589 is not written in terms

1 limited to overt physical coercion, and we know that when Congress amended the
2 statute it expanded the definition of involuntary servitude to include nonphysical forms
3 of coercion.”).

4 Ultimately, the TVPA, and specifically 18 U.S.C. § 1589 will lose all of
5 their purpose and effect if the Court construes them as narrowly as Defendants request.
6 Pursuant to RFRA, 18 U.S.C. § 1589, as defined under the statute, is the least restrictive
7 means by which the Court and government can achieve the important goals of
8 protecting individual liberty and eradicating modern-day forms of involuntary
9 servitude.

10

11 **10. CONCLUSION**

12

13 For each of the foregoing reasons, Defendants’ Joint Motion for Summary
14 Judgment should be denied in its entirety.

15

16 DATED: July 12, 2010

METZGER LAW GROUP
A Professional Law Corporation

17

18

/s/

19

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and am not a party to the within action. My business address is 401 East Ocean Blvd., #800, Long Beach, CA 90802.

On July 12, 2010, I served the foregoing document, described as: **PLAINTIFF CLAIRE HEADLEY'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANTS' JOINT MOTION FOR SUMMARY JUDGMENT** on the parties to this action as follows:

X **(ELECTRONIC FILING/SERVICE)** Complying with United States District Court General Order re Electronic Filing, my electronic business address is nvidal@toxicortorts.com and I caused such document(s) to be electronically served through CM/ECF of the Central District of California, United States District Court website at www.cacd.uscourts.com addressed to all parties appearing on the electronic service list for the above-entitled case. The file transmission was reported as complete and a copy of the Filing/Service Receipt will be maintained with the original document(s) in our offices.

I declare that I am employed in the offices of a member of this court, at whose direction service was made.

Executed on July 12, 2010, at Long Beach, California.

s/

Nina S. Vidal, Declarant

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PROOF OF SERVICE

Marc Headley vs. Church of Scientology, Case No. CV09-3986 DSF (MANx)
and
Claire Headley vs. Church of Scientology, Case No. CV09-3987 DSF (MANx)

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(Updated June 8, 2010 kk)