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

LUIS A. GARCIA SAZ, and
wife, MARIA DEL ROCIO
BURGOS GARCIA,

Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY
RELIGIOUS TRUST; et al,

Defendant.

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: CIVIL 8:13-cv-220-JDW
: NO.:
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: DATE: 2/19/2015
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: TIME: 9:00 a.m.
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TRANSCRIPT OF EVIDENTIARY HEARING
BEFORE THE HONORABLE JAMES D. WHITTEMORE
UNITED STATES DISTRICT JUDGE

Court Reporter: Lynann Nicely, RPR, RMR, CRR
Official Court Reporter
801 N. Florida Avenue
Suite 13B
Tampa, Florida 33602

Proceedings recorded and transcribed by computer-aided
stenography.

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A P P E A R A N C E S

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1 COURTROOM SECURITY OFFICER: All rise. This
2 Honorable Court is in session, The Honorable James
3 D. Whittemore presiding.

4 Be seated, please.

5 P R O C E E D I N G S

6 THE COURT: Good morning. Are we ready? Can
7 we back that video up just a tad so I can kind of
8 get back into the gentleman's testimony.

9 (Videotaped deposition of Mr. Ellis resumed)

10 THE COURT: Is that it?

11 MR. BABBITT: Yes, Your Honor.

12 MR. POPE: Your Honor, I had attempted to make
13 an objection during that and you told me I could
14 bring it up in effect on redirect. If I may, should
15 I come to the podium?

16 THE COURT: Yes, sir.

17 MR. POPE: Let me refresh the Court's memory.
18 This had to do with what was Exhibit 9 in the Ellis
19 deposition and I believe is part of Exhibit 20 in
20 the plaintiff's exhibit book. It's a series of
21 emails and the issue was --

22 THE COURT: Just a second, let me catch up
23 because that's the problem I've been having with
24 plaintiff's exhibits, the tags don't match up. So
25 let me find -- these are the emails from Charles

1 Parselle?

2 MR. POPE: No. Well, he's on one of them, but
3 it's Jonathan Ramsay.

4 THE COURT: I have to confess, gentlemen, that
5 several times during this witness's video testimony
6 I could not follow the exhibits because the numbers
7 are not in sequence and they certainly don't match
8 up with the exhibits that I have in the plaintiff's
9 package. I'm not apologizing, I'm just letting you
10 know that if I miss something, it's because it's not
11 possible to follow these exhibits. Right now I
12 don't know what exhibit you're talking about,
13 Mr. Pope. I'm not blaming you, but I don't have --

14 MR. POPE: Your Honor, in the lower right-hand
15 corner of the exhibit it says Exhibit 9, Witness
16 Ellis.

17 THE COURT: All right. That is in --
18 according to the exhibit tag it's Plaintiff's 23.
19 It's a one-page document?

20 MR. POPE: It's some emails that starts out at
21 the top, "I have read the lawyer's long letter."

22 THE COURT: Right. It's one page?

23 MR. POPE: Yes, sir.

24 THE COURT: I've got it.

25 MR. POPE: Just to set the stage for you,

1 Mr. Babbitt asked a series of questions basically
2 suggesting that Mr. Ellis had committed perjury when
3 he stated that Jonathan Ramsay was a Scientologist,
4 at least he sort of backed him into that kind of a
5 corner. And they went through this exhibit and the
6 third paragraph from the bottom, which is
7 Mr. Ramsay's email, says, about himself, "To give
8 some background on me, I grew up exposed and active
9 in Scientology, even attending the Mohave Desert
10 School where LRH's doctrines and teachings were part
11 of the curriculum. I have done various courses over
12 the years, although not active in recent time."
13 Just wanted to point that out, Your Honor.

14 THE COURT: All right. Thank you. I have
15 read that.

16 Can you call your next witness, please.

17 MR. POPE: Our next witness will be Mr. Lenske
18 by video deposition.

19 MR. BABBITT: And Your Honor, we would object
20 to that.

21 THE COURT: What's the objection, please?

22 MR. BABBITT: Mr. Lenske's testimony is
23 limited to his having authored allegedly the
24 arbitration agreement and the only reason for it
25 being played, it's 40 minutes long, is to impeach

1 Mr. Rinder when he said he created, on his
2 declaration, the arbitration agreement. He's not
3 going to testify to that, Your Honor. I'm not going
4 to call him because I think it's completely
5 irrelevant who created it or whether there was good
6 thoughts in creating it or bad thoughts. The
7 question is limited to whether or not it is
8 unconscionable or not. If they had good thoughts,
9 they wanted it to be binding, and it's
10 unconscionable, it's still unconscionable. If they
11 had bad thoughts, it doesn't matter. It's
12 irrelevant and it's completely irrelevant because
13 it's not an impeachment of something that's going to
14 be put on, unless they play it, then I'll be
15 required to have Mr. Rinder explain why they're
16 wrong.

17 THE COURT: Mr. Pope?

18 MR. POPE: Your Honor, Mr. Rinder put in an
19 affidavit in October this past year --

20 THE COURT: I'm not considering affidavits in
21 this factual dispute. Unless there is a
22 stipulation.

23 MR. POPE: The other point, Your Honor, is
24 that Mr. Lenske testified that his effort in using
25 this was to create a fair procedure and not

1 something that would be an impediment to people,
2 which is I believe something Mr. Rinder intends to
3 testify to.

4 MR. BABBITT: No, Your Honor, he will not
5 testify.

6 THE COURT: Mr. Babbitt, please don't
7 interject. This isn't a free-for-all. Sorry for my
8 tone yesterday, but it's not appropriate for lawyers
9 just to jump up and start talking. Other judges
10 might allow it, that's fine, but I don't. I'll give
11 you ample opportunity to respond to Mr. Pope.

12 What does it matter, Mr. Pope -- and I don't
13 mean that facetiously -- what this gentleman is
14 going to say about his intention?

15 MR. POPE: Well, I mean, there has been a
16 contention in this matter that this whole
17 arbitration procedure was designed to frustrate
18 people who had claims and his --

19 THE COURT: What is that -- I understand that
20 that is a contention, but what does that have to do
21 with my determination of whether or not, one, there
22 are rules in effect applicable to arbitration, and
23 two, the arbitration process is either procedurally
24 or substantively unconscionable.

25 MR. POPE: It really goes to the credibility

1 of Mr. Rinder.

2 THE COURT: Well, as I said, absent
3 stipulation I am not considering affidavits in this
4 evidentiary proceeding. I am going to consider the
5 testimony, of course, and the exhibits that have
6 been stipulated to, but if the concern is about
7 affidavits and declarations submitted along the way
8 as this case progressed, like any trial, and this
9 essentially is a trial, it's rank hearsay, I'm not
10 going to consider it unless there is an agreement.

11 MR. POPE: All right, sir.

12 THE COURT: Does that satisfy the concern?

13 MR. POPE: I believe so, Your Honor.

14 THE COURT: Well, I don't mean to put you in a
15 box, but --

16 MR. POPE: Well, may I --

17 THE COURT: Everybody has opinions in this
18 case. Candidly, the only opinion that matters I
19 guess is the one I'm going to have at the end of
20 this case.

21 MR. POPE: May I do this? If you're not going
22 to let me play the --

23 THE COURT: Now, I didn't say that. I just
24 asked you what the relevance is. You can play
25 whatever you want to play. If it has nothing to do

1 with the issues I have to decide, I'm going to
2 disregard it, like a jury would.

3 MR. POPE: How about this, Your Honor. May I,
4 in lieu of playing it, simply file the transcript of
5 the deposition with the Court so that I'll have it
6 in the record?

7 THE COURT: And if I'm sitting on an Eleventh
8 Circuit panel I would ask, Mr. Pope, what difference
9 does that make? If the judge didn't consider it,
10 it's not in evidence.

11 MR. POPE: Would the Court allow me to take
12 that chance? Well, it's 14 minutes long -- my
13 questions is 14 minutes long.

14 THE COURT: We spent that much time talking
15 about it. Look, gentlemen, my sense is, and I say
16 this in all sincerity, underlying what I think is a
17 fairly narrow issue here, and there is three issues,
18 is these contentious allegations being thrown
19 against -- the parties are throwing against each
20 other. This isn't about the Scientology beliefs and
21 whether one witness is perjuring themself or not and
22 whether somebody's opinion about whether this
23 process is fair. That's not part of the equation.

24 I wish you would just stick to the issues that
25 I tried to limit in the order scheduling this

1 hearing. It's something like surgery in a sense,
2 judicial surgery. Are there rules that apply? Yes
3 or no. If no, we're done, motion to compel will be
4 denied.

5 If there are rules that apply, we move to the
6 next step. Is the process procedurally
7 unconscionable? Yes or no. Is it substantively
8 unconscionable? Yes or no.

9 So this gentleman's opinion about what he
10 intended -- you can play it. There is an objection.
11 I'll overrule it. I'll assess whatever weight to
12 the testimony that I believe it deserves. I'm
13 certainly not limiting your presentation of
14 evidence, I'm just trying to get you to focus.

15 MR. POPE: All right, Your Honor, I would like
16 to play it, I'm sorry.

17 THE COURT: Let's go. I'll overrule the
18 objection. Spell the witness's last name for the
19 record.

20 MR. POPE: Lenske, L-E-N-S-K-E.

21 THE COURT: And his first name?

22 MR. POPE: Sherman.

23 THE COURT: Do we have a transcript of his
24 testimony?

25 MR. POPE: We have a transcript that we would

1 file.

2 THE COURT: Unredacted or redacted?

3 MR. POPE: The deposition is unredacted. I
4 don't believe anything has been redacted from it.

5 MR. BABBITT: Your Honor, I believe that
6 counsel will stipulate that we'll do the same thing
7 with Mr. Lenske that we did with Mr. Ellis, we will
8 file a redacted copy.

9 THE COURT: All right. So stipulated. Thank
10 you.

11 [Videotaped deposition of Sherman Lenske
12 played.]

13 THE COURT: Can we stop the video, please?
14 What exhibit, Mr. Pope, are we talking about?

15 MR. POPE: It would be Exhibit Number 16 in
16 our book.

17 THE COURT: All right, I have it, you may
18 resume the video, thank you.

19 [Video resumed]

20 [Video ended]

21 MR. BABBITT: Your Honor, rather than play my
22 cross, which takes about 20 minutes, if I could just
23 read a half a page at the end, the last questions I
24 asked.

25 THE COURT: If that's your choice, go right

1 ahead.

2 MR. BABBITT: I'm reading from page 32, line
3 18, beginning there.

4 "Right, but you don't know what motivation
5 there was, what discussion there was, what decision
6 there was, in the hierarchy of the church, who was
7 involved, what they decided as to transplanting if
8 you will your arbitration procedure in the staff
9 agreement into the declaration."

10 And his answer is, "Yes, that's correct, I did
11 not know."

12 "You don't know now?"

13 "I don't know now."

14 "Okay, can you offer any evidence -- first of
15 all, do you have anything to do with drafting the
16 Committee of Evidence rules?"

17 Answer, "No."

18 "Can you offer any evidence whatsoever -- I
19 think you said you couldn't -- as to whether the
20 Committee of Evidence rules apply to arbitration or
21 were they ever intended to apply to arbitration?"

22 Answer, "No."

23 "Have you ever heard of an arbitration taking
24 place under the Enrollment Agreement, do you know of
25 one?"

1 Answer, "No."

2 "And you've been with the church how many
3 years? Or been not with the church but associated?"

4 Answer, "1981."

5 "How many years is that? That's 30,
6 40 years?"

7 Answer, "30. I would not have known because I
8 was a transactional attorney, I didn't get involved
9 in the operations of the church."

10 Question, "You cannot offer to the court any
11 information as to whether three Scientologists in
12 good standing could fairly decide a case by a
13 declared Scientologist, someone who has been
14 declared, and ask him for the funds back."

15 Answer, "No."

16 That's it, Your Honor.

17 THE COURT: All right. Thank you. Call your
18 next witness, please.

19 I will say, gentlemen, in respect to the
20 objection that this witness's testimony is in my
21 view completely irrelevant to the issues to be
22 determined based on his lack of knowledge concerning
23 the Enrollmen Agreement and the clauses within that
24 Enrollmen Agreement, the document that he alluded
25 to, I guess it would be Exhibit 16, has nothing to

1 do with this dispute. So I'm assessing no weight to
2 his testimony.

3 Mr. Pope, call your next witness, please.

4 MR. POPE: Mr. Cartwright, Allan Cartwright.

5 MR. BABBITT: We would object to
6 Mr. Cartwright.

7 THE COURT: Grounds?

8 MR. BABBITT: The defendants invoked the rule
9 in this case. Mr. Cartwright is not an employee of
10 the defendants, he is an employee of CSI which is
11 not a party to this action. He has sat through this
12 entire case so far. I did not know they were going
13 to call him. I assumed, because he was sitting
14 here, they were not going until yesterday afternoon.
15 I tried to raise that objection at that time.

16 THE COURT: I'm sorry, what do you mean you
17 tried to raise the objection at that time?

18 MR. BABBITT: If Your Honor will recall, I
19 said I have two objections to Mr. Lenske and
20 Mr. Cartwright, but Your Honor told me that was not
21 the appropriate time to raise it.

22 THE COURT: Well, meaning that now you're
23 raising the objection?

24 MR. BABBITT: Yes, Your Honor.

25 THE COURT: Mr. Pope?

1 MR. POPE: Your Honor, Mr. Cartwright has not
2 been in the courtroom here, he's been out in the
3 witness room the whole time. He's not here now.

4 THE COURT: Mr. Babbitt?

5 MR. BABBITT: He was here yesterday all day,
6 Your Honor.

7 THE COURT: Was he, Mr. Pope?

8 MR. POPE: No, sir. He was out -- he was out
9 there guarding my cell phone.

10 THE COURT: Against theft?

11 MR. POPE: Right.

12 THE COURT: Bring the gentleman in here.

13 Bring him up in front of me. I'm going to put him
14 under oath and find out where he was yesterday.

15 Mr. Cartwright, come forward, please. I'm
16 Judge Whittemore, I'm presiding over this matter.
17 If you'll stand right there, you've been called as a
18 witness. I need to find out something before you
19 testify. If you'll raise your right hand and be
20 sworn.

21 COURTROOM DEPUTY CLERK: Do you swear or
22 affirm that the testimony you give in this case will
23 be the truth, the whole truth and nothing but the
24 truth?

25 THE WITNESS: I do.

1 THE COURT: State your name, please.

2 THE WITNESS: Allan Cartwright.

3 THE COURT: How are you employed?

4 THE WITNESS: I work for the Church of
5 Scientology International.

6 THE COURT: And have you been in this
7 courtroom during this proceeding?

8 THE WITNESS: I was here yesterday morning for
9 a couple of minutes before Mr. Pope got up and said
10 he wanted all the witnesses to leave the courtroom
11 and that's when I left the courtroom. I haven't
12 been in here since.

13 THE COURT: You have not been in here since.

14 THE WITNESS: No, sir.

15 THE COURT: Mr. Babbitt, would you like to ask
16 Mr. Cartwright any questions about that?

17 MR. BABBITT: No, Your Honor.

18 THE COURT: All right. You may take the
19 stand. The objection is overruled. Someone was
20 mistaken, I take it, Mr. Babbitt?

21 MR. BABBITT: Three people told me he was here
22 all day yesterday. Either they're obviously
23 mistaken or Mr. Cartwright is mistaken. Mr. Rinder,
24 Mr. Garcia -- I mean, I don't know how we prove
25 whether he was there or not. I'm certainly not

1 going to turn this into having multiple people
2 testify about this subject.

3 THE COURT: Mr. Pope, what are we going to do
4 here? Come on. This is a simple matter.

5 MR. POPE: I know it's a simple matter and I
6 know that this gentleman was not in the courtroom.
7 He left, he did not come back.

8 THE COURT: Well, I think we have to, based on
9 his testimony, let him testify. There is no
10 evidence to the contrary, Mr. Babbitt.

11 MR. BABBITT: May I be allowed to go outside
12 for a moment and talk to Mr. Rinder?

13 THE COURT: Certainly.

14 MR. BABBITT: Thank you.

15 (Brief pause)

16 MR. BABBITT: I think the mystery has been
17 cleared up, Your Honor. The people that have told
18 me that he was -- with the exception of Mr. Garcia,
19 I guess, were not in the courtroom themselves. He
20 may have been in the ante room and that's why they
21 didn't see him outside and they assumed he had
22 stayed in there. He may have gone into the ante
23 room. So we're going to withdraw our objection.

24 THE COURT: You may proceed, Mr. Pope. Thank
25 you, Mr. Babbitt.

DIRECT EXAMINATION

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BY MR. POPE:

Q Where do you live?

A I live in Los Angeles, California.

Q What is your formal education?

A Equivalent to high school education -- I went through school in Australia and so it was basically equivalent to that.

Q What is your current position?

A I'm the legal director for the Church of Scientology International and also the corporate assistant for the Church of Scientology International.

Q What are your duties?

A Basically I am over all legal matters for the Church of Scientology International, also I deal with basically supervising legal matters for the churches around the world, but mainly more of a supervisory type position.

Q How long have you been in your current position as legal director?

A Since 2006.

Q And what was your position before then?

A I was basically the legal director for the Church of Scientology Flag Service Organization

1 which is the Church in Clearwater and basically
2 holding similar functions to what I do now, on an
3 international level.

4 Q When did you first become associated with the
5 Church of Scientology?

6 A Well, I became a parishioner back in 1973 and
7 then a staff member in 1974.

8 Q Are you a member of the Sea Org?

9 A Yes, I am.

10 Q What is the Sea Org?

11 A The Sea Org is a religious order that
12 dedicated Scientologists have basically made it
13 their lifelong endeavor to practice their religion
14 and spread the faith and it's a full-time activity.

15 Q What were you doing in 1982 to 1984 in the
16 church?

17 A I was working in the basically corporate
18 transactional area which involved licensing and
19 enrollment forms from '82 to '84 in Church of
20 Scientology International.

21 Q Your Honor, may I provide the witness with an
22 exhibit book?

23 THE COURT: Yes, sir.

24 BY MR. POPE:

25 Q Would you turn to 18?

1 A Yes, I've done that.

2 Q What is 18?

3 A 18 is -- it's an executive directive from 29
4 August 1983 called Staff Covenants. It's a document
5 that attaches the actual staff covenant, staff
6 agreement that staff members would sign and it would
7 have been issued back in that time, that's when it
8 would have been getting signed.

9 Q Would you turn to 19, please? What is 19?

10 A It's called Flag Divisional Directive, it's
11 called Enrollmen Agreement. It's dated 5 July 1984.
12 And this agreement -- this directive attaches to it
13 the Enrollmen Agreement that was implemented back at
14 that time.

15 Q That would have been July 5, 1984?

16 A That's correct.

17 Q Is there in the Church of Scientology what we
18 might call an excommunication practice?

19 A Yes, there is.

20 Q What is it?

21 A Okay. What that is is if a person has been
22 declared suppressive, that is in effect
23 excommunication in the Scientology religion.

24 Q And what sort of conduct merits this type of
25 religious sanction?

1 A It would be actions like -- conduct like
2 heresy or if a person has committed a felony or has
3 publicly attacked the church, would cause -- could
4 cause a suppressive person declared.

5 Q What avenues are available for a person who
6 has been declared to get back in good standing with
7 the church?

8 A There is basically two avenues. One is a
9 person can -- he can go through the steps, he can
10 contact the international justice chief and say that
11 I understand I've been declared suppressive and I
12 would like to know what I can do to make up the
13 damage, and the person would go through those steps
14 and be able to get back in good standing with the
15 church. Or he could say I disagree with the declare
16 and I would like to have a Committee of Evidence to
17 review that and to determine whether it's correct or
18 not because I feel it's incorrect.

19 Q Are you familiar with the instances in which a
20 person who has been declared an SP has succeeded in
21 having that decision reversed?

22 A Yes, I have, my office reviews submissions of
23 that nature from time to time and there is
24 definitely instances where a declare is cancelled
25 because it was found that there was an injustice and

1 the person was incorrectly declared and was again
2 put into good standing again.

3 Q Can someone who has been declared a
4 suppressive person receive a fair hearing in the
5 church despite having been declared?

6 A Yes, they can, most definitely.

7 Q Are you familiar with the statistics on this
8 during the past 12 years?

9 A Yes, I had a review done and I found that
10 there was 79 instances of where a Committee of
11 Evidence was held to review whether someone was
12 correctly declared and of that we found that there
13 was 33 were actually reversed because the declare
14 was an injustice and it was cancelled and the person
15 was back in good standing.

16 Q And so of the 79 reviewed, about what
17 percentage of that was reversed?

18 A It's about 41 percent, a little over that.

19 Q Are SPs in an arbitration under the Enrollmen
20 Agreement entitled to the same consideration as SPs
21 seeking the reversal of their declarations?

22 A Yes, they are.

23 THE COURT: Can you specific what Enrollmen
24 Agreement you're referring to, Mr. Pope?

25 BY MR. POPE:

1 Q The Enrollment Agreements that are at issue in
2 this action, actually the one dated March 2006 with
3 between Mr. Garcia and Flag.

4 THE COURT: Thank you.

5 THE WITNESS: Okay. And so -- yes, they do.
6 There is -- when a person has a Committee of
7 Evidence to review whether the person is declared or
8 whether they have an arbitration, it's always done
9 with a viewpoint that there is impartiality, that
10 the person is going to get a fair hearing and the
11 facts are going to be looked at to determine whether
12 -- what the truth is and come to a proper
13 resolution.

14 BY MR. POPE:

15 Q Is the justice system in Scientology limited
16 to questions of ecclesiastical discipline or
17 sanctions?

18 A No, not only that, no.

19 Q What else can it cover?

20 A It can cover anything. On the Enrollment
21 Agreement, the one we're talking about here,
22 paragraph 60 makes it very clear that there is
23 language in there that says it's basically any
24 dispute, any controversy, any complaint, any matter
25 that a parishioner has with the church, they can use

1 that procedure to be able to resolve any problem or
2 dispute they may have.

3 Q On any subject?

4 A On any subject whatsoever, yes.

5 THE COURT: Are you talking about the
6 arbitration process or the Committee of Evidence
7 process?

8 THE WITNESS: No, I'm talking about, sir, if I
9 go to the policy -- can I go to the --

10 THE COURT: Just answer my question if you
11 can, please.

12 THE WITNESS: It means any dispute. It could
13 involve a ComEv definitely, but 6(D) talks about
14 basically any of the justice or ethics procedures
15 could be used whether the person is declared or not
16 declared, they can take up any matter with the
17 church.

18 THE COURT: By way of arbitration or a
19 Committee of Evidence?

20 THE WITNESS: In both.

21 THE COURT: How many arbitrations have been
22 conducted, to your knowledge, within the church?

23 THE WITNESS: There haven't been any
24 conducted.

25 THE COURT: Thank you, sir. Go ahead,

1 Mr. Pope.

2 BY MR. POPE:

3 Q Does paragraph 5(C) of the particular
4 Enrollment Agreement we are discussing of 2006 cover
5 disputes over refunds?

6 A Yes, it does.

7 Q Does paragraph 5(C) state and refer to church
8 policy with respect to refunds?

9 A Yes, it refers to a policy from 1996 which
10 basically says that the procedure -- the refunds are
11 handled through -- it's discretionary by the claims
12 verification board and the claims verification
13 determines whether the person has correctly
14 requested the refund and has followed the procedure
15 because it's not that it's -- the money isn't just
16 given, you have to follow a specific procedure and
17 qualify for it.

18 Q In the plaintiff's bench brief at pages 6
19 through 7 they state, "The problem is that what he
20 was signing had nothing to do with the Committee of
21 Evidence or Scientology justice system procedures."
22 Is that true?

23 A No, it's not true. There is -- the policy
24 that would apply here would be the justice policies
25 which includes the Committee of Evidence policy from

1 1963.

2 Q Let me read to you paragraph 6(D) of the
3 Enrollment Agreement in question. "I will pursue
4 resolution of that dispute, claim or controversy
5 solely and exclusively through Scientology's
6 internal ethics, justice and binding religious
7 arbitration procedures." Correct?

8 A Yes.

9 Q And what does the reference to Scientology
10 internal justice procedures mean?

11 A That means it's any --

12 THE COURT: Mr. Pope, I'm not sure that this
13 witness's testimony is relevant to the inquiry. Why
14 is it? His interpretation of a document simply is
15 not in my view important.

16 MR. POPE: Your Honor, I listened to
17 Mr. Garcia interpret what he thought the document
18 meant and I -- I will move on, Your Honor.

19 THE COURT: Don't move on. I'm curious. I
20 mean, do you think that this witness's opinion is
21 determinative of the limited issues that I have
22 raised? I understand Mr. Ellis's I'll call it
23 interpretation may arguably be relevant because he
24 is in his position speaking from a little different
25 perspective than an in-house lawyer.

1 MR. POPE: Actually Mr. Cartwright is not an
2 in-house lawyer. He's head of the legal department,
3 but he is not a lawyer.

4 THE COURT: He said he was a lawyer.

5 MR. POPE: He said his education was the
6 equivalent of high school -- high school equivalency
7 in Australia. Just to clarify that, Mr. Cartwright,
8 are you a lawyer?

9 THE WITNESS: No, I'm not.

10 THE COURT: I apologize. I didn't make a
11 note. I'm sorry, he's the legal director.

12 MR. POPE: He is the legal director, but not a
13 lawyer. I could have clarified that, should have,
14 Your Honor.

15 THE COURT: My fault. But the same question I
16 guess begs itself.

17 BY MR. POPE:

18 Q Now, Mr. Cartwright, has the church ever in
19 its history filed a suit on an Enrollment Agreement?

20 A No, it has not.

21 Q And why not?

22 A Because we've been able to -- because
23 basically we utilize the church's policy and
24 procedures concerning the justice procedure, ethics
25 procedures to be able to resolve matters and have

1 been successful in doing that and basically there's
2 the claims verification board procedure, that's one
3 avenue that's used to deal with matters. And also
4 there is other instances where even when an
5 individual has been declared, one example is there
6 was an individual by the name of Tsutsiana Ludwig
7 who had asked for a refund and he was a declared
8 person and I work with Mr. Ellis on responding to
9 him and attempting to work out a resolution of that
10 issue so that he would -- basically we offered him
11 some of the funds he had asked for and so that
12 was -- that's where we were trying to resolve issues
13 like that. And that's those kind of things.

14 Q Why has there never been an arbitration
15 proceeding under the provisions of the Enrollment
16 Agreement?

17 A Only because we've been able to resolve
18 matters well beforehand because there are other
19 steps that are done that listed out in the
20 Enrollment Agreement as to what would be done before
21 we even need to get to arbitration.

22 Q Was there a person named Carisa Marion who
23 obtained a refund through these methods?

24 MR. BABBITT: Excuse me, Your Honor, I object.
25 Relevance. Individual anecdotes.

1 THE COURT: What rule does that come under,
2 "individual anecdotes"?

3 MR. BABBITT: Relevance. I'm sorry.

4 THE COURT: Relevance. I'm going to allow it.
5 Overruled.

6 BY MR. POPE:

7 Q Tell me about Carisa Marion.

8 A Carisa Marion was a parishioner of the Flag
9 Service Organization and she had -- I was involved
10 in that matter from CSI because I was advising on
11 it. And that had to do with the fact that she had
12 donated a large amount of funds to the Flag Service
13 Organization and it was determined that she was not
14 eligible to be a member of the church in Florida and
15 so it was decided that she would be returned her
16 funds, she was declared at the time and so it was a
17 matter that was dealt with not necessarily from the
18 claims verification board level but it was dealt
19 with as an attempt to deal with any dispute or any
20 claim type of thing.

21 And there are other examples like that that
22 we've handled so that there has never been the need
23 to go to the level of an arbitration.

24 Q Has the church pointed out the availability of
25 religious arbitration to individuals wanting a

1 refund?

2 A Yes. It's in the -- first off, it's been in
3 every Enrollment Agreement since 1984 and then not
4 only that, but over the last few years we've been
5 sending communications to -- letters to former
6 parishioners who wanted a refund that that's an
7 avenue that they could use.

8 Q Is there currently an arbitration matter
9 pending?

10 A Yes, there is.

11 Q Who is that with?

12 A His name is Jonathan Ramsay.

13 Q And who is Mr. Ramsay?

14 A He is the son of a Scientologist, his name is
15 Peter Ramsay, who is deceased.

16 Q And Peter Ramsay was a Scientologist?

17 A Yes, he was, he was a Scientologist for many
18 years.

19 Q Is Jonathan Ramsay a Scientologist?

20 A Yes, he is.

21 Q Do you have any other information about
22 Jonathan Ramsay's status as a member of the
23 religion?

24 A Yes, I checked into his membership and found
25 out that he's an international member of the

1 International Association of Scientologists.

2 Q Continues to be?

3 A Yes, he still has a membership.

4 Q And when was the arbitration availability
5 first pointed out to Mr. Ramsay?

6 A It was first pointed out to him in October, I
7 think October 31, 2013.

8 Q And following that notice in October 2013, did
9 Mr. Ramsay request arbitration?

10 A He did, he only ended up requesting it in
11 May 2014.

12 Q All right. And why has there been a delay in
13 the arbitration moving forward?

14 A The reason for it is because not only did
15 Mr. Jonathan Ramsay make a request, but his father's
16 two brothers, Ian and Robert Ramsay, also made
17 requests and we had a concern about who really was
18 making a claim and so there was a bit of confusion
19 going on concerning who was -- who we should be
20 communicating with. That was the reason for the
21 delay.

22 Q Have there been instances where a Committee of
23 Evidence found that a church staff member did
24 something inappropriate, resulting in a refund to a
25 parishioner?

1 A Yes, there was, there has been. One example
2 was there was a parishioner in California who one of
3 our staff members from one of the California
4 churches had contacted her and had encouraged her to
5 loan a large amount of money to another individual
6 and with the agreement that he would then donate
7 that money to the church. He donated half of it to
8 the church and then absconded with the other half.
9 And so there was a Committee of Evidence held to
10 look into the matter to find out what happened and
11 it was determined that the staff member's act was
12 inappropriate and that he shouldn't have done that
13 and so the funds were returned back to the
14 parishioner so that she received not only the funds
15 that was donated but also the funds that this other
16 individual absconded with.

17 Q Mr. Cartwright, how many donors were there to
18 the Flag building project?

19 A There is over 17,000 donors.

20 Q From where?

21 A All over the world, from many different
22 countries around the world and many different
23 states.

24 Q Now, Mr. Cartwright, although you haven't been
25 in the courtroom for the proceedings, you did attend

1 the deposition of Mr. Ellis in California on
2 January 29th, correct?

3 A I did.

4 Q And you heard Mr. Ellis testify about speaking
5 to Leanna Wyland about having discussed the
6 procedures for arbitration?

7 A Yes, I did.

8 Q What is your relationship to Leanna Wyland?

9 A She is -- I'm her superior.

10 Q And are you familiar with the conversation
11 that Mike Ellis described?

12 MR. BABBITT: Excuse me, Your Honor, object.
13 Hearsay.

14 THE COURT: Sustained.

15 MR. POPE: Your Honor --

16 THE COURT: Sustained.

17 BY MR. POPE:

18 Q Did you assign a task to her regarding the
19 Enrollment Agreement?

20 A I did assign a task to her. I asked her to
21 review the Enrollment Agreement a number of years
22 ago to review it for purposes of verifying the
23 policy -- the church policy connected to it.

24 Q And did she report back to you?

25 MR. BABBITT: Objection, Your Honor, hearsay.

1 MR. POPE: I'm not asking him what she said,
2 just that she reported back.

3 THE COURT: Overruled for that purpose, for
4 that particular question.

5 THE WITNESS: Yes, she did.

6 MR. POPE: May I have a moment, Your Honor?

7 THE COURT: Yes, sir.

8 BY MR. POPE:

9 Q One last question about your conversation, not
10 going into the substance of it with Ms. Wyland.
11 When did that take place?

12 A That was I believe five or six years ago. I
13 think Mr. Ellis had the date probably a little wrong
14 because it was five or six years ago because that's
15 when Leanna Wyland started working for me.

16 Q Thank you.

17 THE COURT: Cross-examination? Let's take 5.
18 You may step down, Mr. Cartwright.

19 (Recess taken at 10:13 a.m. until 10:30 a.m.)

20 THE COURT: Mr. Babbitt, you may proceed.

21 CROSS EXAMINATION

22 BY MR. BABBITT:

23 Q Mr. Cartwright, while you're not a lawyer, you
24 have been legal director of the Church of
25 Scientology between the years 2000 and 2006, right?

1 A For the Flag Service Organization, yes.

2 Q Since 2006 you've been legal director of the
3 Church of Scientology International, right?

4 A That's correct.

5 Q And as such, you've been directly involved in
6 legal affairs of the Church of Scientology
7 International in the Office of Special Affairs
8 International, correct?

9 A I have been from 2006 to the present.

10 Q You've supervised all corporate and legal
11 matters for the Church of Scientology International,
12 correct?

13 A That's correct.

14 Q And you are also a corporate officer of the
15 church, correct?

16 A That's correct.

17 Q You live in Scientology quarters, you're a
18 member of what's called the Sea Org, you said that?

19 A That's correct.

20 Q And the Sea Org, in order to be in that, you
21 had to devote not just your lifetime but a billion
22 years to the Church of Scientology, right?

23 A That's right, it's a covenant that's signed
24 that we dedicate a billion years towards the faith.

25 Q And like Mr. Ellis, do you work 13 hours a

1 day, seven days a week for \$50 a week?

2 A About similar hours, yes.

3 Q The Church of Scientology is considered the
4 mother church of Scientology, right?

5 A That's correct.

6 Q And as legal director you work directly with
7 counsel in cases against Scientology, correct?

8 A That's correct.

9 Q You would be involved in every single case
10 that the church is involved in, correct?

11 A I don't know about every single case, but I
12 would have some supervising or knowledge type thing.

13 Q In fact, you work directly with counsel in
14 this case, correct?

15 A I have, yes.

16 Q You've attended the depositions of Mr. Rinder,
17 Mr. Lenske, of course your own deposition, Christie
18 Collburn, Mr. Ellis, right?

19 A That's correct.

20 Q You came all the way from California to attend
21 Mr. Rinder's, for example, to Florida?

22 A That's correct.

23 Q You discuss strategy with counsel?

24 A Yes.

25 Q You've even hired private detectives through

1 counsel, haven't you?

2 A When necessary, counselors retain
3 investigators to gather information, yes.

4 Q And you told the court there has never been,
5 to your knowledge, in all the years you've been with
6 the church since you were 15 years old, an
7 arbitration under this Enrollment Agreement so far
8 as you know?

9 A I've never testified to that. Oh, you mean
10 whether I've ever heard of one. No, I've never --
11 there hasn't been one, no.

12 Q Yes. To the best of your knowledge there has
13 never even been a request for arbitration until
14 Mr. Ramsay was contacted five months after denying
15 his claim and six days after the judge entered the
16 October 24th order, right?

17 A Six days after -- well, actually it was -- I
18 looked at that order last night, it was five days
19 after.

20 Q Sorry, five days. Excuse me.

21 A But there was --

22 THE COURT: Well, let me ask you,
23 Mr. Cartwright, how did you know to look at that
24 order?

25 THE WITNESS: Because I was studying the -- I

1 was preparing myself for my testimony.

2 THE COURT: How did you hear anything about
3 the order?

4 THE WITNESS: I didn't. I already knew about
5 the order, sir.

6 THE COURT: You just decided to look into the
7 order?

8 THE WITNESS: No, sir, I was going through it
9 because I know that one of the issues that had come
10 up earlier was concerning Mr. Ramsay because I was
11 reading Mr. Ellis's deposition and in Mr. Ellis's
12 deposition it came up the fact that this whole issue
13 concerning whether Mr. Ramsay was a Scientologist or
14 not was sort of like I was quite surprised that that
15 was such an issue. And so I -- when I read that, I
16 actually looked into the matter to determine whether
17 he was a Scientologist or not, that's how I found
18 that out. And then as part of that I was going
19 through the documents concerning it. That's how.

20 THE COURT: How does my order concern
21 Mr. Ramsay?

22 THE WITNESS: I'm sorry?

23 THE COURT: I'm curious, sir, how does that
24 order have anything to do with Mr. Ramsay?

25 THE WITNESS: The only reason why that order

1 had to do with Mr. Ramsay was because when I was
2 going through the facts of the Ramsay matter, I
3 noticed that it was September 24th, last year, I
4 believe, or the year -- let me see, last year -- and
5 -- actually the year before, I think it was. No,
6 last year, sorry. And so I was going through the
7 testimony to see -- the documentation to see when
8 was the request made and when was it -- when was the
9 request made to Mr. Ramsay because I was going for
10 the timeline concerning -- because he asked for --
11 he asked the arbitration in May and then what has
12 occurred afterwards type of thing. And so I noticed
13 that it was -- that Mr. Soter had sent a letter to
14 Mr. Ramsay on 24 September and it was 25 September
15 that your order was issued.

16 THE COURT: Okay.

17 THE WITNESS: That's all.

18 THE COURT: All of a sudden my order came to
19 light? Who have you talked to about the testimony
20 in this case yesterday -- that occurred yesterday?
21 You are under oath, sir.

22 THE WITNESS: No, sir.

23 THE COURT: Yes, you are under oath.

24 THE WITNESS: I understand, sir.

25 THE COURT: You have talked to somebody about

1 the testimony in this case that occurred yesterday,
2 otherwise you would have no reason to look at an
3 order of the court that had nothing to do with
4 Mr. Ramsay.

5 THE WITNESS: Sir, I looked at all that
6 material a couple of days ago because I was planning
7 on testifying concerning the Ramsay matter.

8 THE COURT: And again, my order has nothing to
9 do with the Ramsay matter. So why are you even
10 looking at that order? I'm being accusatory, sir,
11 because it's pretty obvious to me that you were
12 privy to the testimony yesterday, some of the
13 exchange that occurred. Doesn't take a scientist or
14 a judge to see that.

15 THE WITNESS: Okay, sir, I did not -- I'm just
16 saying what happened was a couple of days ago I was
17 going through the Ramsay material and also last
18 night in preparation of my testimony because I was
19 trying to understand the effects of the matter as to
20 why there was a delay because it was one of the
21 issues the other side had been raising. That's all.

22 THE COURT: Go ahead, Mr. Babbitt.

23 BY MR. BABBITT:

24 Q When you testified that the Committee of
25 Evidence rules apply to arbitration, did you say

1 that today, this morning?

2 A Sorry, sir?

3 Q Was that part of your direct this morning?

4 A What was, sorry?

5 Q That the Committee of Evidence rules applied
6 to arbitration.

7 A Yes, yes, I did say that.

8 Q You're relying entirely on the September '63
9 doctrine to support that statement, aren't you?

10 A Yes.

11 Q Because there has never been an arbitration,
12 right?

13 A No, there has not.

14 Q And the arbitration provision in the
15 Enrollment Agreement doesn't use the words Committee
16 of Evidence, does it?

17 A No, it does not, all it uses there is the
18 justice procedure and ethics procedures.

19 Q And there is very little difference, isn't
20 that true, that between the different Enrollment
21 Agreements through the years, all that's been added
22 is a little constitutional language, right?

23 A That's correct, there is the language in
24 paragraph 60, I think it is, included that language.

25 Q But the procedure for choosing arbitrators has

1 stayed the same.

2 A That's correct.

3 Q There has never been, to your knowledge, a
4 Committee of Evidence hearing where someone wanted
5 to get their money back for a donation, has there?

6 A A Committee of Evidence hearing?

7 Q Yes.

8 A Well, I mentioned one earlier which was this
9 matter in California involving someone wanting to
10 get their money back because it was taken by this
11 other person.

12 Q Do you remember when your deposition was taken
13 on January 28, 2015?

14 A Yes.

15 Q Did you give these answers to these questions?

16 "Has there ever been to your knowledge a
17 Committee of Evidence hearing with respect to
18 someone wanting to get their money back for a
19 donation?"

20 Answer, "For a donation?"

21 "Yes."

22 Answer, "A Committee of Evidence want to
23 get -- I'm not aware, no."

24 Did you give those answers to those questions?

25 A I thought I did, but I thought I said

1 something else further on because I had that Germany
2 matter I mentioned that it came up concerning a
3 Committee of Evidence involving a German. And since
4 then I researched and found this matter in
5 California.

6 Q There was a time, was there not, when
7 Mr. Rinder essentially had what your job is, right?

8 A Yes.

9 Q He was in a position of some control, wasn't
10 he, within the Scientology corporate organization?

11 A Yes, he was.

12 Q It would fall within his purview to discuss
13 strategy concerning these Enrollment Agreements and
14 the arbitration procedure, isn't that true?

15 A Yes, it would have been.

16 Q That includes whether they should be used at
17 all, doesn't it?

18 A Yes, it could involve that.

19 Q You know of no hearings that have ever been
20 held of your own knowledge over what is called a
21 civil Committee of Evidence, have you?

22 A No, I'm not aware of any.

23 Q That's all the questions I have.

24 THE COURT: Redirect, Mr. Pope?

25 REDIRECT EXAMINATION

1 BY MR. POPE:

2 Q Mr. Cartwright, you indicated under the
3 judge's questioning about how you knew about his
4 order, that you had read the Ellis deposition,
5 correct?

6 A Yes, sir.

7 Q And you also sat through that deposition in
8 its entirety, didn't you?

9 A Yes, I did.

10 Q And wasn't there a point made by Mr. Babbitt
11 in there that the letter that was sent out to
12 Mr. Ramsay was contrived somehow as a response to
13 the judge's order that you referenced?

14 A Yes, I did.

15 Q Is that how you connected the Ramsay and the
16 judge's order?

17 A Yes, I did, that's how -- that's where I had
18 the idea of looking at the facts and I would notice
19 that Mr. Soter had written to Mr. Ramsay the day
20 before, telling him give me your address and -- give
21 me your mail address so that Mr. Ellis could send
22 his letter to you concerning your arbitration. And
23 I happened to notice that it was the day before,
24 that's all.

25 Q All right. And you were concerned about that

1 because of the claim that this had somehow been
2 contrived to respond to the judge's order?

3 A That's correct, yes.

4 Q Did you and Mr. Cartwright yesterday or the
5 day before have any conversations with me,
6 Mr. Potter or anybody else in this room with respect
7 to the judge's order and the Ramsay matter or
8 anything regarding your testimony?

9 A No, I have not.

10 Q Thank you.

11 THE COURT: Thank you, sir, you may step down,
12 please watch your step.

13 Call your next witness.

14 MR. POPE: We have no more witnesses, Your
15 Honor.

16 THE COURT: Mr. Babbitt, call your first
17 witness, please.

18 MR. BABBITT: Mr. Hayden James, please.

19 MR. POTTER: Your Honor, if I might, we do
20 object to the calling of Hayden James, he is going
21 to testify to his opinion as to whether or not three
22 Scientologists in good standing can be fair. That's
23 goes to exact issues that you've already explained
24 to us today is irrelevant.

25 THE COURT: Well, you presented a boat load of

1 testimony through Mr. Ellis and through the lawyer,
2 Lenske, which I don't accept they can be fair. So
3 is it understandable that Mr. Babbitt can put on
4 counter evidence? I mean, I'll just assess it
5 whatever the weight it deserves. I don't know this
6 witness, I don't know what his background is. I
7 suspect Mr. Babbitt will lay a foundation, so I
8 overrule the objection.

9 COURTROOM DEPUTY CLERK: Please raise your
10 right hand.

11 (Witness complies.)

12 COURTROOM DEPUTY CLERK: Do you swear or
13 affirm that the testimony you give in this case will
14 be the truth, the whole truth and nothing but the
15 truth?

16 THE WITNESS: I do.

17 DIRECT EXAMINATION

18 BY MR. BABBITT:

19 Q Give us your name, please.

20 A Hayden John James.

21 Q And where do you live?

22 A I live in Parker, Colorado.

23 Q Are you a practicing independent
24 Scientologist?

25 A Yes, sir.

1 Q What does that mean?

2 A I'm no longer a member of the church, but I do
3 see merit in the subject of Scientology and still
4 practice it with reservations about the church,
5 but --

6 Q And how do you practice it?

7 A Well, it boils down to either training in the
8 subject matter of Scientology or in delivering
9 counseling.

10 Q How long were you with the church?

11 A I was a practicing Scientologist for 34 years
12 and I worked for the Church of Scientology in
13 various capacities for 31 years.

14 Q Were you a member of Sea Org?

15 A Yes, sir.

16 Q And for how long?

17 A 25 years.

18 Q In what capacities did you work for the
19 church?

20 A I worked for their legal department for seven
21 years from approximately 1977 to 1984. I worked for
22 their management including the international finance
23 office and the international liaise office which is
24 upper management and runs all the organizations.
25 And approximately half of those 31 years, maybe a

1 little over half, I worked at the lower levels of
2 Scientology in service organizations dealing
3 directly with parishioners.

4 Q Did you work for the church's Office of
5 Special Affairs?

6 A I did, sir, yeah, the legal department.

7 Q What does that mean?

8 A I worked in the litigation department dealing
9 with various legal suits that were ongoing at the
10 time. I started life as a clerk in England to an
11 in-house solicitor and went on from there. I
12 finished my stint in the legal office in Los Angeles
13 in the Office of Special Affairs Legal Department in
14 late '84.

15 Q Under what circumstances did you leave the
16 church?

17 A I left the church in 2006 under a cloud. I'm
18 not sure what your question means.

19 Q Tell us what happened.

20 A Well, my daughter joined us in the Sea Org,
21 she was a young teenager at 13 and she didn't wish
22 to be there and the church wanted me to get rid of
23 her, send her off somewhere and my wife and I
24 refused. So we left employment at that point. I
25 left -- I no longer became a member a couple years

1 later, maybe that's the question you're asking.

2 Q Were you declared?

3 A Pardon?

4 Q Were you declared?

5 A A couple years later I was, in 2009. I was
6 working for a dental practice and the owner -- I was
7 managing the practice along with my wife and my
8 youngest daughter was working there as well. And
9 the owner of the practice was a Scientologist and
10 during a work day at the office he requested that I
11 donate money to the International Association of
12 Scientologists and I refused, so did my wife, and we
13 expressed our disagreement with the existence of the
14 organization. And he wrote a report on me to church
15 officials and a few weeks later we were all fired.

16 And I then filed a complaint with the EEOC,
17 the Equal Employment Opportunities Commission, in
18 San Antonio, effectively I filed suit and at that
19 point I believe I was declared.

20 Q As a result of your being declared, what we're
21 interested in is whether Scientologists in good
22 standing could fairly hear from a declared person.
23 Have you had personal experiences concerning the
24 depth of feeling of Scientologists concerning a
25 declared person?

1 A Well, certainly there is two aspects to that.
2 There is what the individual Scientologist feel
3 obviously and then there is the church policy and
4 the way that they apply it.

5 The moment I filed suit, the Office of Special
6 Affairs -- we were in America at the time, but my
7 eldest daughter was living in England and the Office
8 of Special Affairs immediately intervened to have my
9 daughter disconnect from myself and my wife. And
10 they were present at the meeting between her and her
11 common law husband and they pressured him and her to
12 disconnect from us. She refused and so her common
13 law husband, who was also a Scientologist,
14 disconnected from her and they left her abandoned in
15 a hotel in London. She got an email to us and we
16 had to get a flight so she could come stay with us
17 in America.

18 Q Has he ever come back to your daughter?

19 A No.

20 Q Have you had any other experiences where you
21 personally have been involved or you know of
22 situations where disconnection is a common practice?

23 A Yes, sir. In the summer of 2000 my wife and I
24 were executives in a church in England about
25 200 miles north of the headquarters there, the

1 Scientology headquarters, and we were both summoned
2 to the headquarters and shown a communique from the
3 international justice chief's office, Mr. Ellis's
4 office, that my mother-in-law, my wife's mother, a
5 long-term American Scientologist, had obtained a
6 lawyer, requested a refund, and obviously threatened
7 to sue. And we were immediately ordered to
8 disconnect from her and we weren't allowed to leave
9 those premises until we did. We were there for a
10 number of days and browbeat basically into
11 disconnecting. Sadly, we did.

12 Q You did disconnect from her?

13 A We did disconnect from her. Because the
14 penalties for not disconnecting from someone guilty
15 of a suppressive act is dire.

16 Q What do you mean "dire"?

17 A Well, you are then guilty of a suppressive act
18 if you don't disconnect from them. It's covered in
19 the book. If someone commits a suppressive act and
20 you don't disavow them or handle them or disconnect
21 from them, then you're also tainted and guilty and
22 it rolls on from there. So we did disconnect
23 because consequences for us at that time would have
24 been very difficult.

25 Q Are you familiar with the tenets of

1 **Scientology?**

2 A **Yes, sir.**

3 Q **Have you studied them?**

4 A **Yes, sir.**

5 Q **For how long?**

6 A **Obviously as an ongoing process for 31 years,**
7 **but I did do the big organizational policy course**
8 **that pretty much contains all their policy, takes**
9 **months to do.**

10 Q **Can you envision any circumstance under which**
11 **three Scientologists in good standing could find**
12 **against the church on behalf of a declared person**
13 **seeking their money back because they claim that the**
14 **church had defrauded them?**

15 **MR. POTTER: Your Honor, we object on the**
16 **basis that this witness is being asked for opinion**
17 **testimony; he's not an expert.**

18 **THE COURT: Mr. Potter, how is this any**
19 **different from the opinions that have been expressed**
20 **by your witnesses?**

21 **MR. POTTER: Your Honor, this witness I think**
22 **is trying to come in under Rule 701, trying to**
23 **testify to common knowledge. He does not have**
24 **common knowledge.**

25 **THE COURT: That's not really my question.**

1 How is this any different from the testimony that
2 your witnesses have --

3 MR. POTTER: Your Honor, I'm not sure that it
4 is. But you've made it clear that this is
5 irrelevant and it's wasting the Court's time and I
6 think it's an appropriate objection at this time.
7 The next witness is going to be the same, Your
8 Honor.

9 THE COURT: Well, it may be.

10 MR. POTTER: I guess the other distinction is
11 that the other witnesses we called were church
12 officials trying to explain what church policies
13 are.

14 THE COURT: Well, an opinion about fairness is
15 not a church policy.

16 MR. POTTER: With all due respect, Your Honor,
17 there is a 1963 policy letter which states on its
18 face that it's applicable to all justice actions and
19 that's what this case goes back to is that 1963
20 policy letter.

21 THE COURT: Well, that's different from
22 someone's opinion about whether an arbitrator can be
23 fair. I understand what the policy statement says
24 and that is relevant, but somebody's opinion about
25 whether an arbitrator can be fair is in my view

1 irrelevant.

2 I'm going to allow the testimony, gentlemen,
3 but I will tell you now that I'm not putting any
4 weight on the opinions of any witness as to whether
5 these arbitrators could or could not be fair. There
6 is simply no basis for such an opinion, whether they
7 testify as an expert or not, or even an informed
8 member of the church. Since there has never been an
9 arbitration, there is no basis to express an opinion
10 about whether an arbitrator would or would not be
11 fair. But Mr. Garcia has his opinion, this
12 gentleman has his opinion, Mr. Ellis has his
13 opinion, and he think there was at least one other
14 witness who talked about this.

15 I'm going to let it in because I don't want to
16 be accused of not allowing you to put on your
17 evidence, but I will tell you that the weight I will
18 give to this type of testimony is not likely to be
19 what you might expect.

20 MR. BABBITT: Your Honor, may I be heard on
21 this just for a moment to avoid -- because I've got
22 two other witnesses.

23 THE COURT: Well, let me tell you what's going
24 to happen at about midday. We're going to be done.
25 So if you want to talk and use up your time, that's

1 fine, Mr. Babbitt, go ahead.

2 MR. BABBITT: Well, I'm just trying to get
3 some direction, Judge.

4 THE COURT: I've given you direction. We'll
5 be done at noon with evidence.

6 BY MR. BABBITT:

7 Q Mr. James, I simply want to know if you have
8 knowledge concerning how the policies of the church
9 might affect a potential arbitrator who is a
10 Scientologist in good standing?

11 A With all my knowledge and experience over 30
12 odd years, I can't see how they could be fair.

13 Q Why?

14 A Based on the rules and based on the attitudes
15 and the policing of the disconnection system by the
16 church, which I've only spoken of briefly, there is
17 much more evidence. But it's part of their security
18 system. They police the behavior of individual
19 Scientologists by these rules and they're written in
20 this book and Scientologists study them quite early
21 on and the rules are quite clear. You can't sit in
22 judgment on Scientology, you can't be connected to
23 or favor someone who has committed a suppressive act
24 or you're guilty of a suppressive act yourself. I
25 could read the rules, but -- they're covered in the

1 basic book.

2 Q Well, the judge can read the rules, too. I
3 don't really want you to tell us what the rules say
4 because we can all read those. I'm interesting in
5 knowing from your own personal experience, 31 years
6 with the church, if you can testify about whether
7 all Scientologists or the vast majority of them
8 would hold beliefs -- let me rephrase it in a
9 different way.

10 Do you know what the attitude is, what the
11 attitude is --

12 A Right. The average --

13 Q Let me finish my question, please.

14 THE COURT: All right, guys, look, Mr. James,
15 this is not a forum to fight with the church. I
16 don't want to hear it. It's not relevant to this
17 proceeding. So please listen carefully to the
18 question.

19 BY MR. BABBITT:

20 Q What the attitude is of the average
21 Scientologist or every Scientologist concerning
22 declared individuals having a legal battle or an
23 arbitrable battle with the church?

24 A Quite simply they consider them an enemy and
25 they consider the action an enemy action to sue.

1 It's that simple.

2 MR. BABBITT: That's my questions, Your Honor.

3 THE COURT: Cross-examination, Mr. Potter?

4 CROSS EXAMINATION

5 BY MR. POTTER:

6 Q Mr. James, it's fair to say that you have an
7 ax to grind against the Church of Scientology, isn't
8 it?

9 A I'm sorry, sir, I heard the word ax, I didn't
10 hear the rest.

11 Q Yes. Do you have an ax to grind against the
12 Church of Scientology, sir?

13 A I have certain disagreements with their
14 practices, having experienced them at first hand.

15 Q Are you trying to get even with the Church of
16 Scientology, sir?

17 A No, sir.

18 Q Sir, after you left the Church of Scientology,
19 you went to work for a dentist in Texas somewhere,
20 correct?

21 A Yes.

22 Q And some Scientology friends helped you get
23 that job, correct?

24 A A consultant at a chiropractic office who was
25 also a Scientology helped me get the job, that's

1 correct.

2 Q And the dentist himself was a Scientologist?

3 A Yes, sir.

4 Q And while you were there, you started posting
5 on an anti-Scientology blog, correct?

6 A Under a pen name, yes, sir, not under my name.

7 Q Under a T. Payne, I believe it was.

8 A That's correct, sir.

9 Q And shortly after that, you got fired, did you
10 not?

11 A You're leaving out some things that occurred
12 in between that, but yes.

13 Q The dentist fired you, did he not, sir?

14 A And my wife and my daughter as well.

15 Q While you were blogging against Scientology,
16 this dentist was actually paying some of your debts
17 back to the church on your behalf, wasn't he?

18 A Not my debts, no, sir.

19 Q Okay. After you got fired, you blamed the
20 church for that, didn't you?

21 A The church were involved in the firing because
22 he -- yes.

23 Q You blamed the church, did you not, sir?

24 A I believe they were involved in my firing,
25 yes.

1 Q Did you go out and hire a lawyer and write a
2 letter to the church and threaten them?

3 A I did hire a lawyer. My lawyer did write a
4 letter to the church.

5 Q And that letter said please pay me \$350,000 or
6 I'm going to sue you, correct?

7 A I don't remember sir, I didn't write the
8 letter.

9 Q Would you like me to show you a copy of the
10 letter?

11 A If that's what the letter says, I'm sure it
12 did.

13 Q You know your lawyer wrote a letter to the
14 church accusing them of causing your termination.

15 A Yes.

16 Q And you demanded money in exchange.

17 MR. BABBITT: Your Honor, objection,
18 relevance.

19 MR. POTTER: Goes to motive and bias, Your
20 Honor.

21 THE COURT: It does go to bias. Overruled.

22 BY MR. POTTER:

23 Q All that stuff happened, did it not,
24 Mr. James?

25 A And more.

1 Q You have an ax to grind, don't you?

2 A I have a legal suit.

3 Q Thank you, sir. No further questions.

4 THE COURT: Any redirect?

5 MR. BABBITT: No, Your Honor.

6 THE COURT: Thank you, sir, you may step down.

7 Call your next witness.

8 MR. BABBITT: Christie Collburn.

9 COURTROOM DEPUTY CLERK: Please raise your
10 right hand.

11 (Witness complies.)

12 COURTROOM DEPUTY CLERK: Do you swear or
13 affirm that the testimony you give in this case will
14 be the truth, the whole truth and nothing but the
15 truth?

16 THE WITNESS: I do.

17 MR. POTTER: Just for the record, Your Honor,
18 we have the same objection with this witness, she's
19 going to offer the same opinion testimony.

20 THE COURT: Thank you, sir. Same ruling.

21 COURTROOM DEPUTY CLERK: Please be seated.
22 Please state your name and spell your last name for
23 the record.

24 THE WITNESS: Christie Collburn.

25 THE COURT: Spell your last name, please.

1 THE WITNESS: C-O-L-L-B-U-R-N.

2 DIRECT EXAMINATION

3 BY MR. BABBITT:

4 Q Ms. Collburn, are you married?

5 A Yes.

6 Q To whom?

7 A Mike Rinder.

8 Q And have you been a member of the Church of
9 Scientology?

10 A Yes.

11 Q What age did you join?

12 A I grew up in Scientology, but I joined the Sea
13 Org when I was 16.

14 Q When you say you grew up --

15 A I was born into a Scientology family.

16 Q As a member of Sea Org, did you dedicate
17 yourself to the life of the church in fact to a
18 billion years?

19 A Yes.

20 Q And did you work all day long, seven days a
21 week for \$50 a week?

22 A Yes.

23 Q How old were you -- excuse me, were you
24 declared a suppressive person by the church?

25 A Yes, I was.

1 Q When was that?

2 A 2009.

3 Q What were the circumstances?

4 A I had basically become friends with Marty
5 Rathbun. Because he was considered a bad person by
6 the church, they declared me a suppressive person as
7 well.

8 Q Because you didn't disconnect from him?

9 A Yes, because I didn't disconnect from him.

10 Q Did you as a member of the Sea Org study
11 church policies?

12 A Yes, I did.

13 Q What did you study?

14 A Policies about ethics, policies about
15 administrative technology, all kinds of different
16 policies.

17 Q Did you in fact serve on the Committee of
18 Evidence from time to time?

19 A Yes, I did.

20 Q How did that come about?

21 A As a staff member oftentimes you're just
22 chosen and you're assigned to be a member on a
23 committee, so I was picked at least 5 to 10 times.

24 Q Can you tell us what a Committee of Evidence
25 does?

1 A Committee of Evidence basically reviews
2 charges that a person is being accused of, ethical
3 offenses, high crimes and crimes, to determine
4 whether they are guilty or innocent and then submit
5 their findings and recommendations to the convening
6 authority who can then approve them or reject them.

7 Q Is a Committee of Evidence designed to handle
8 people who want refunds from the church because of
9 donations?

10 A No.

11 Q Has that ever happened, to your knowledge?

12 A Not that I know of.

13 Q Are you familiar with the rules of the
14 Committee of Evidence?

15 A Yes.

16 Q Are you familiar with the Enrollment
17 Agreement?

18 A I'm not that familiar with it, actually.

19 Q The arbitration process in the Enrollment
20 Agreement?

21 A No.

22 Q Have you had personal experience concerning
23 the depth of feeling of Scientologists as it would
24 relate to being able to hear the claim of someone
25 seeking a refund from the church?

1 A Yes.

2 Q Tell us what your personal experience has
3 been.

4 A Well, I've been -- I've been shunned, my
5 family doesn't talk to me, my parents don't talk to
6 me, they haven't met my son. So if my own family
7 will not speak to me and they're in good standing
8 with the church, you know, that's just an example of
9 how suppressive people are treated. We're treated
10 like we're very bad people and we should not be
11 associating with Scientologists in good standing at
12 all.

13 Q Were you close to your family before you
14 became declared?

15 A Very.

16 Q And how long ago was it since you've talked to
17 your mother or father?

18 A It's been eight years. I think it was 2009
19 when they stopped talking to me.

20 Q And they have met their grandchild?

21 A No, they have never met my son, my
22 two-year-old son, never.

23 Q Have you made an effort to try to reconcile
24 with them, to go to their home or try to get them to
25 see you and see your son?

1 A Yes, I have.

2 Q What efforts have you made?

3 A I visited their house two times, I left notes,
4 I left my phone number, I've written them letters,
5 I've called them. They won't talk to me.

6 Q Do you know why?

7 A Because I'm declared a suppressive person and
8 therefore I'm an enemy of the church and they want
9 to remain in good standing, so they won't talk to
10 me.

11 Q Is that a common belief throughout the church?

12 A Yes.

13 Q How common?

14 A Extremely common. Everybody -- most people --
15 I can't think of anyone I know of that's a
16 Scientologist that doesn't know about that policy.

17 Q How about your brother and sister, will they
18 speak to you?

19 A No.

20 Q Are they Scientologists?

21 A Yes.

22 Q For the same reason?

23 A Yes.

24 Q Did you have a good relationship with them
25 before you became declared?

1 A Very good.

2 Q Have you done anything else other than get
3 declared to cause your family to disconnect with
4 you?

5 A No. It was immediately after that that they
6 disconnected from me. Prior to that they didn't.

7 Q You understand the Garcias have sought a
8 judgment against the church.

9 A Yes.

10 Q What does that mean from the standpoint of a
11 Scientologist in good standing?

12 A It means they're an enemy immediately.
13 They're a bad person, they're suppressive, they're
14 committing a high crime, so they're immediately
15 kicked out of the church and no longer your friend,
16 no longer somebody you're going to associate with in
17 any way.

18 Q Is that the same policy that causes
19 disconnection?

20 A Yes.

21 MR. BABBITT: Your Honor, we would offer into
22 evidence the exhibits that we have had marked and in
23 lieu of asking her to testify about that, we would
24 like to simply offer them in evidence.

25 THE COURT: Which exhibits, please?

1 MR. BABBITT: The entire list of exhibits that
2 we have. There are three that have been objected
3 to. I don't think there is any objection -- perhaps
4 we can offer all except those three and then deal
5 with that afterwards.

6 THE COURT: I understood the stipulation was
7 that all exhibits of the parties are received except
8 with respect to the three that Mr. Pope objected to.
9 Am I incorrect?

10 MR. BABBITT: They're already in evidence,
11 Your Honor.

12 THE COURT: That's what I understood.

13 MR. POPE: Yes, sir, that was my understanding
14 as well.

15 THE COURT: I've assumed that. So there were
16 three that were objected to and you'll have to give
17 me the exhibit numbers again.

18 MR. POPE: 6, 9, 27 of his list, assuming that
19 that is a correct list.

20 THE COURT: Well, that's a big assumption.
21 Are you moving 6, 9, and 27 in at this time,
22 Mr. Babbitt?

23 MR. BABBITT: I won't move them in at this
24 time.

25 THE COURT: I'm sorry?

1 MR. BABBITT: I won't move them in at this
2 time. We'll deal with that subsequent to this.

3 THE COURT: The other exhibits are in evidence
4 then.

5 MR. BABBITT: That's all the questions I have.

6 THE COURT: Cross?

7 CROSS EXAMINATION

8 BY MR. POTTER:

9 Q Ms. Collburn, while you were on the staff of
10 the Church of Scientology you did on occasion serve
11 on Committees of Evidence, did you not?

12 A Yes, I did.

13 Q And when you served on those committees, did
14 you understand that your purpose was to listen to
15 the evidence, look for the truth, and try to be
16 fair?

17 A Yes.

18 Q And when you sat on those committees, did you
19 in fact do that, listen to the evidence, look for
20 the truth, and try to be fair?

21 A I would say on the majority of cases yes, but
22 I would also say that there are times where I felt
23 executives had ordered Committees of Evidence to be
24 done with sort of a stated objective in mind of what
25 they already wanted the outcome to be, and I felt

1 the pressures of those and that if I tried to find
2 something other than what they wanted, that I might
3 be in trouble.

4 Q But when you yourself were sitting on the
5 committee, you would listen to the evidence, would
6 you not?

7 A Yes, I would.

8 Q And you would look for the truth?

9 A Yes.

10 Q And you would try to be fair?

11 A Yes.

12 Q And as far as you knew, your fellow committee
13 members were trying to do the same thing.

14 A For the most part, yes.

15 Q That's what Committees of Evidence do,
16 correct?

17 A Yes.

18 Q Thank you, ma'am, no further questions.

19 THE COURT: Any redirect?

20 MR. BABBITT: Yes, Your Honor, just one.

21 REDIRECT EXAMINATION

22 BY MR. BABBITT:

23 Q Is there a difference between someone that has
24 been declared or has suffered some penalty with the
25 church, asking a Committee of Evidence to hear

1 whether they should have been declared, should have
2 been called a potential trouble source, should have
3 been penalized in some way, and someone who is
4 declared and is asking for their money back because
5 the church defrauded them?

6 A There is a huge difference because the person
7 who is already declared is already guilty of
8 violating church policies and therefore will not be
9 treated fairly because they're already assumed to
10 have been a bad person.

11 Q But someone who has been declared can ask the
12 church -- excuse me, ask the Committee of Evidence
13 to un-declare them, right?

14 A Yes, they can.

15 Q So they can be heard, right?

16 A Yes, they can be heard.

17 Q Is there a difference between being heard
18 because you want to stay in the church and being
19 heard because you are trying to get money back
20 because the church has defrauded you and you're
21 declared, you have no interest in being back in the
22 church?

23 A Yes, there is a huge difference. You have now
24 this status that you're coming in with that you're a
25 declared person and you're not asking to change

1 that, you're just asking for your money back or
2 whatever you're asking, and you've going to be
3 tainted because you've been labeled a specific thing
4 by the church so they will see you in that way.

5 Q Every single member of the church would do
6 that?

7 A Yes.

8 Q No further questions.

9 THE COURT: Thank you, ma'am, you may step
10 down. Please watch your step.

11 MR. BABBITT: Can I have just a moment, Your
12 Honor?

13 THE COURT: Yes, sir.

14 MR. BABBITT: We rest. I'm going to invite
15 Mr. Rinder to come in.

16 THE COURT: I'm sorry, I didn't hear you.

17 MR. BABBITT: We rest. And is it all right if
18 I let Mr. Rinder come back in now since he's not
19 going to be called?

20 THE COURT: Mr. Pope?

21 MR. POPE: What was the question?

22 THE COURT: He wants to let Mr. Rinder come
23 back in.

24 MR. POPE: If he's concluded his case, that's
25 okay with me.

1 THE COURT: All right, that's fine. It seems
2 to me, gentlemen, that the plaintiff's contention
3 that there is no way that -- Mr. Rinder, if you'll
4 step back into the witness gallery, please, you're
5 not a member of this court -- I'm sorry, you're not
6 Mr. Rinder. I'm sorry, I didn't have these on. Now
7 I can see you. Thank you.

8 As I was about to say, it seems to me that the
9 plaintiff's contention that this arbitration process
10 is all a big sham because no Scientologist in good
11 standing can ever be fair to a declared person like
12 Mr. Garcia and his wife, however persuasive that
13 evidence is because of disconnect, labeling of
14 suppressed people by the church as evils and enemies
15 of the church, and what I just heard from the last
16 witness who made I think a fairly definitive
17 distinction between suppressed person or one accused
18 of being suppressive who seeks a Committee of
19 Evidence proceeding to get back into the church and
20 one who like Mr. Garcia simply wants money back
21 without any interest of returning to the church,
22 that's pretty compelling and persuasive evidence
23 that this process is not going to go the way that
24 Mr. Garcia hopes it will.

25 That said, this Court is constrained not to

1 delve into the fairness of that process based on the
2 First Amendment. It's simply of no moment to the
3 judiciary and I have no authority to delve into the
4 beliefs, the doctrines, the tenants of this
5 organization that calls itself a church. The First
6 Amendment prohibits that. That is a component of
7 the plaintiff's claim of substantive
8 unconscionability. So I don't want you to spend
9 time on that.

10 What's definitive in this case, it seems to
11 me, is whether there are indeed rules and procedures
12 in effect that govern this process of arbitration
13 and I'm very interested to hear from both of you
14 from a legal perspective -- not the opinions of
15 various witnesses -- as to what the binding
16 religious arbitration procedures are as well as what
17 the arbitration procedures of Church of Scientology
18 International are, other than, of course, the
19 selection of the arbitrators which is set forth in
20 the Enrollment Agreement.

21 Distilling this all down, Mr. Pope, what is
22 the nexus or connection between the arbitration
23 provision and the Enrollment Agreements, and the
24 defendant's contention that the Committee of
25 Evidence constitutes those rules and procedures

1 underlying arbitration? A component of that inquiry
2 is why should I be bound by an opinion of Mr. Ellis
3 that the Committee of Evidence constitutes the rules
4 applicable to arbitration?

5 It seems to me that this is a factual inquiry,
6 not a matter of opinion, and this is not a matter of
7 church doctrine, it's a matter of whether or not
8 these rules and procedures actually exist as a
9 component of the arbitration process.

10 So that being said, I certainly would be
11 interested in your comments, your argument, because
12 I think that issue is the one that carries the day
13 one way or the other.

14 And while Mr. Pope is getting up to the
15 podium, I will also say to those who are here that
16 have a great interest in this case that this is not
17 the forum for airing disputes between suppressed
18 individuals and the church, or former members of the
19 church. I don't think the judiciary should have nor
20 do I have any interest in that because the First
21 Amendment precludes any interest that I may have in
22 that.

23 So to the extent, Mr. Babbitt, Mr. Pope,
24 Mr. Potter, I have been sharp in my commentary
25 during this process, it is because you have both

1 delved into matters that I think are proscribed by
2 the First Amendment from being considered by the
3 Court and it's frustrating. I'm not going to be
4 dragged into these disputes.

5 So the limited purpose of this hearing again I
6 reiterate as set forth in the order is do these
7 rules exist and if so, show me convincingly how the
8 arbitration clause is connected to these rules.

9 Mr. Pope?

10 MR. POPE: May it please the court. I would
11 like to start with the case of *Premier Real Estate*
12 *Holdings Inc. vs. Butch*, 24 So.3d 708, Fourth
13 District, 2009. I had made reference to this case
14 at the conclusion of our first hearing on the motion
15 to compel arbitration that led ultimately to this
16 evidentiary hearing. And here is what the Fourth
17 District held, and let me just read the arbitration
18 clause here. "Any controversy or claim arising out
19 of or related to this contract or the breach thereof
20 shall be settled by a neutral binding arbitration in
21 Dade County, Florida, in accordance with the rules
22 of --" blank. There is nothing filled in there.
23 And then it says under that, "Name of organization
24 and not by any court action except as provided by
25 Florida law for judicial review of arbitration

1 proceedings."

2 Now, that's about as loosey-goosey an
3 arbitration clause as you can ever imagine. It
4 doesn't even say in accordance with what.

5 THE COURT: Just blank?

6 MR. POPE: Just blank. It's right there, just
7 a blank, they forgot to fill in the blank. And the
8 contention was both that it was unconscionable and
9 that it didn't spell out the rules. And in this
10 particular case the Court said well, we'll just plug
11 in whatever the Florida Arbitration Code says.

12 So here what you have here is you have the
13 man, Mr. Ellis, who is charged with deciding these
14 internal matters, and this is a matter of procedure,
15 and you do have an arbitration provision that tells
16 you what the subject matter is to be of the
17 arbitration, and tells you how the arbitrators are
18 to be selected. And then you have Mr. Ellis saying
19 the compatible rules that govern a Committee of
20 Evidence are the rules that would apply to this.
21 And those are the rules that call for a bill of
22 particulars, they are call for interviewing
23 witnesses, they don't call for legal representation,
24 although a lawyer can come and counsel with the
25 person, and they call for impartiality and getting

1 to the truth of the matter. That was what he turned
2 to time and time again.

3 So there is a framework here for deciding this
4 and it's a framework that the guy in charge of
5 deciding these sorts of has testified to and it's in
6 there --

7 THE COURT: Let me stop you for a moment. If
8 I understand the *Premier* case, the court
9 incorporated the Florida statutes on arbitration
10 procedures, right?

11 MR. POPE: Yes, sir.

12 THE COURT: In this case you're asking me to
13 incorporate the opinions of Mr. Ellis.

14 MR. POPE: Actually I'm not asking you to do
15 that. I'm asking you to acknowledge that there is
16 an existing policy letter, dated September 7, 1963,
17 that sets forth the procedures that apply not only
18 to a Committee of Evidence but also to an
19 arbitration.

20 THE COURT: But that policy letter does not
21 mention arbitration, does it?

22 MR. POPE: No, it does not because that policy
23 letter was written in 1963 and the evidence is that
24 the Enrollment Agreement did not come about until
25 1984 that had the agreement in it. So -- but the

1 policy letter says that it applies to all
2 Scientology justice matters and it even mentions in
3 there on the first page "refunds."

4 So you have the international justice chief
5 who says it's my job to apply these things and that
6 is how he has applied it.

7 THE COURT: Well, he hasn't applied it. An
8 arbitration has never been conducted.

9 MR. POPE: True. But if an arbitration goes
10 forward, he has said this is how it will take place.

11 THE COURT: Didn't you or someone say
12 yesterday, might have been Mr. Potter, that the
13 conscionability or unconscionability of an
14 arbitration agreement has to be determined as of the
15 time it was entered into?

16 MR. POPE: Yes, procedural. And what
17 Mr. Ellis said was essentially this -- all you've
18 got to do is read the first page of the 1963 policy
19 letter which is required reading for everybody in
20 this religion. I walked you through or I walked
21 Mr. Garcia through this elaborate course that he
22 compared to a master's degree in which he dissected
23 this whole procedure.

24 So if it applies to all Scientology justice
25 matters, it seems to me, and the theory within the

1 church is that of LRH infallibility, it applies to
2 any justice matter that comes along later, including
3 arbitration.

4 THE COURT: Is justice matter defined in the
5 religious tenets of this organization?

6 MR. POPE: Well, there were a couple of
7 definitions I recall. One was on page -- where was
8 the -- in part of the book-- it basically has to do
9 with fairness and impartiality. But it has to do
10 basically in -- on the front page of the 1963
11 letter, policy letter, it talks about the various
12 sorts of things that are considered subject to the
13 Scientology justice system and one of those things
14 mentioned in there is refunds.

15 THE COURT: I'm curious still, though, where
16 is the definition of justice -- matters of justice
17 that you rely on. Is it in the book?

18 MR. POPE: Well, on page 370 there is this
19 concept. "Most people do not even know that justice
20 means fair and equitable treatment for both the
21 group and individual." And in the policy letter
22 itself, have you got the policy letter, the policy
23 letter itself, Your Honor, on page 1, which is
24 Exhibit 11 in our book, speaks about justice.
25 "There can be no personal security without easily

1 accessible, swift and fair justice. The
2 jurisprudence employed must be competent, acceptable
3 to the members, the group, and effective, in
4 accomplishing good order for the group. Justice
5 used for revenge, securing advantages for
6 [inaudible] increases disorder. Justice should
7 serve as a means of establishing guilt or innocence
8 and awarding damages to the injured." "And awarding
9 damages." Which would be refunds for people who are
10 aggrieved.

11 THE COURT: Well, that's your interpretation,
12 right?

13 MR. POPE: Well, I think it -- yes, sir.

14 THE COURT: And that may be. But I think the
15 First Amendment prohibits me from interpreting this
16 I will call it a tenet -- I hope that's a correct --

17 MR. POPE: Your Honor, I'm not asking you to
18 interpret it. I'm asking you to accept the
19 interpretation that Mr. Ellis gave to it.

20 THE COURT: No, I don't, I don't, because it's
21 irrelevant. My mission, as I understand it, is to
22 determine whether these rules apply to arbitration.
23 His opinion that they do is not determinative. And
24 unless you can cite some case law that tells me I
25 should accept his opinion, I have to rely on the

1 documents, the Enrollment Agreement and the
2 arbitration clause and what you contend are the
3 applicable rules and procedures vis-à-vis the
4 Committees of Evidence.

5 You may be right; all I'm saying is that's a
6 matter of his religious interpretation or his
7 interpretation of this policy letter. Am I bound by
8 that?

9 MR. POPE: Sir?

10 THE COURT: Am I bound by that?

11 MR. POPE: I believe that you are under the
12 First Amendment.

13 THE COURT: Give me case law that tells me I'm
14 bound by that.

15 MR. POPE: That's what I'm digging into right
16 this minute.

17 THE COURT: It's not his interpretation of the
18 Committees of Evidence that I'm talking about, it's
19 his opinion that these are the rules of arbitration.

20 Sir, could you please sit down? Gentleman,
21 hello, if you want to carry on a conversation, go
22 outside, please. Thank you. It's distracting and I
23 apologize for raising my voice. Mr. Pope is trying
24 to make a point here and if I'm distracted, I'm not
25 going to get it.

1 MR. POPE: Let me start -- let me start with
2 *Watson vs. Jones, 80 U.S. 679, 1871 U.S. Supreme*
3 *Court case. "All who unite themselves to a church*
4 *do so with implied consent to its government and are*
5 *bound to submit to it. We cannot decide who ought*
6 *to be members of the church. The judicial eye*
7 *cannot penetrate the veil of the church for the*
8 *forbidden purpose of vindicating the alleged wrongs*
9 *of excised members. When they became members, they*
10 *did so upon the condition of continuing or not as*
11 *they and their churches might determine and they*
12 *thereby submit to the ecclesiastical power and*
13 *cannot now invoke the supervisory power of the civil*
14 *tribunals."*

15 Let me also call your attention to a case that
16 came to my attention after the last hearing we had.
17 It's called -- this is a mouthful -- *Bible Way*
18 *Church of Our Lord Jesus Christ of the Apostolic*
19 *Faith of Washington, D.C., 680 Atl.2d 419, D.C.*
20 *Court of Appeals 1996. The court pointed out to the*
21 *plaintiffs in this case the "primacy of church*
22 *tribunals for deciding such matters consistent with*
23 *the Fourth Amendment" and then held, "Absent an*
24 *effective church tribunal or adoption of standards,*
25 *a civil court can decide without crossing an*

1 ecclesiastical line a church member's only remedy
2 for perceived financial irregularity appears to be
3 cutting one's losses by leaving the membership."

4 That opinion in that case is a scholarly one
5 and I commend the attention of the church to it.
6 But the point is, Your Honor, that you have an
7 internal religious justice system and you have a
8 fellow come in here and testify to you that this is
9 how it works, this is what it means.

10 THE COURT: Isn't that different from my
11 responsibility to determine if this arbitration
12 clause is enforceable?

13 MR. POPE: Well, I think that if you defer to
14 Mr. Ellis's --

15 THE COURT: Why are we here then? If I have
16 to defer to him, we shouldn't even be here.

17 MR. POPE: Well, I think that that's the
18 issue.

19 THE COURT: I don't think that's correct.
20 That's my point. If he wants to tell me what
21 disconnect means and what a suppressive person is,
22 and all of those things, absolutely, I'll defer.
23 But I don't think he can tell me that these are the
24 rules that apply to arbitration unless that opinion
25 is supported by a reference to arbitration or vice

1 versa to the rules in the arbitration clause. And
2 that's distilled down just to this issue.

3 So if you say forget Mr. Ellis's opinion, just
4 look at the phraseology in the September 1963 policy
5 letter, I'm with you on that, this system is for use
6 in all matters of justice in Scientology. Okay.

7 All right.

8 Segue into arbitration from that statement.
9 Definitions or -- I do see the reference to refunds,
10 I mean that's there.

11 MR. POPE: It's in there. And I don't see --
12 the reference to refunds occurs on the second page
13 under the headings HCO Area Committee of Evidence.

14 THE COURT: Yes, sir.

15 MR. POPE: So the -- when you have as the lead
16 off sentence, "This system is for use in all matters
17 of justice in Scientology," it seems to me that
18 justice has to do with the internal dispute
19 resolution process of the church and arbitration is
20 necessarily a part of that.

21 And here's what paragraph 6(D) of the
22 Enrollment Agreement says: "I will pursue
23 resolution of that dispute, claim or controversy
24 solely and exclusively through Scientology's
25 internal ethics justice and binding religious

1 arbitration procedures."

2 So --

3 THE COURT: I understand that's what it says.
4 Where are they?

5 MR. POPE: They're in the Committee of
6 Evidence.

7 THE COURT: That doesn't say anything about
8 arbitration.

9 MR. POPE: I understand that, Your Honor, and
10 neither did the case -- the Premier Property case or
11 whatever the name of that case was. It didn't say
12 anything. As a matter of fact --

13 THE COURT: Well, do you want me to fill in
14 the blank here and say you guys go arbitrate
15 according to the Florida Arbitration Code? I'll be
16 happy to do that.

17 MR. POPE: You could do that. You could do
18 that.

19 THE COURT: You really think I can do that?
20 When I said I would be happy to do that, it was for
21 the sake of argument.

22 MR. POPE: Well, I was going to say --

23 THE COURT: I think I would be reversed in a
24 nanosecond.

25 MR. POPE: In the average arbitration

1 agreement there is a reference that says we're going
2 to arbitrate this pursuant to the AAA and its rules.
3 There is nothing spelled out in the agreement
4 whatsoever. You've got to go and look it up and
5 research.

6 THE COURT: But there is an express reference
7 to the AAA rules which are known to exist.

8 MR. POPE: Well, Your Honor, the cases have
9 made it clear in Florida that you don't have to have
10 Rules of Civil Procedure like detail to have enough.
11 The cases really have said it's enough if you know
12 how the arbitrators are selected, what the subject
13 matter is to be, that's basically what several of
14 these cases have held including I believe the most
15 recent one, let me get it, Voicestream Wireless
16 case, 912 So.2d 34, deals with that subject and
17 basically says that you don't have to have a huge
18 amount of detail for it to pass muster. And we've
19 got detail here supplemented by the rules of the
20 Committee of Evidence that the IJC says apply to
21 arbitration.

22 THE COURT: Let me ask you a hypothetical. If
23 I agree with you and compel arbitration and it
24 happens, although it's never happened in the history
25 of this organization, and then one of you is unhappy

1 with the result, where do you turn?

2 MR. POPE: I believe that you would have the
3 right of any court that compels arbitration to do a
4 review limited to those areas that courts are
5 limited to and that is partiality, unfairness and
6 partiality and corruption and that sort of stuff.

7 THE COURT: Mr. Babbitt is happy to hear that
8 is. There going to be a record of it?

9 MR. POPE: Your Honor, there is the
10 complicating factor of the First Amendment in this.
11 And you've already said where you can't go on the
12 fairness issue.

13 THE COURT: Well, I've said that, but if
14 something happens in arbitration and it becomes
15 apparent that one of the arbitrators has been bought
16 off, paid off, I think there might be appropriate
17 judicial scrutiny of that.

18 MR. POPE: I would have to agree, I believe.

19 THE COURT: Will there be a record of the
20 proceeding if I'm asked to review it by you on
21 behalf of your client or Mr. Babbitt on behalf of
22 his? What am I going to review?

23 MR. POPE: Well, as I understand the process,
24 it is less formal than would be required under the
25 Florida Arbitration Code. There are -- the

1 witnesses are interviewed, the facts are gathered
2 from them over a period of time, documents are
3 looked at. In this case he's got a claim for fraud.
4 He comes in, he puts out, he brings whatever
5 witnesses, he testifies himself or gets interviewed
6 on the subject, and a report is written up with a
7 binding decision and that's what would come back to
8 you as the court compelling the arbitration.

9 THE COURT: So you do contemplate that there
10 would be some memorialization of whatever the
11 arbitrators decide?

12 Please, people. Mr. Potter, tell them to
13 relax. Thank you. Mr. Pope has the floor.

14 Am I going to get something in writing signed
15 by these three arbitrators saying here are the
16 facts, here's our conclusions, and we agree or
17 disagree with the Garcias?

18 MR. POPE: That was the import of what
19 Mr. Ellis said. There is a report that comes out of
20 the process.

21 THE COURT: But they haven't filed this
22 voucher thing yet.

23 MR. POPE: Bill of particulars?

24 THE COURT: No, voucher. Remember the witness
25 yesterday told us that before you can get an

1 arbitration, you have to submit this voucher thing.
2 And if you don't do that --

3 MR. POPE: No, Your Honor, that actually
4 doesn't apply to persons who are declared. You mean
5 the, what do you call it, claims verification board.
6 That process does not apply to people who are
7 declared.

8 THE COURT: So we can bypass that.

9 MR. POPE: You bypass that. You go straight
10 to the international justice chief. And first they
11 pick an arbitrator, the church picks one, the two of
12 them pick a third, and those people get together and
13 form the process that is compatible with arbitration
14 under the Committee of Evidence, interviewing --
15 it's an informal process, but it does result in a
16 final report and decision.

17 THE COURT: Binding on the church?

18 MR. POPE: That is binding on the church.

19 THE COURT: Not subject to the review by
20 Mr. Ellis?

21 MR. POPE: That's exactly what he said. It is
22 not subject to review by him, it is binding on the
23 church.

24 THE COURT: Let's let Mr. Babbitt take his
25 shot. The case that you cited, the *912 So.2d 34*,

1 let me get the name of that again, please. I'm
2 sorry.

3 MR. POPE: I think it's Voicestream, Your
4 Honor. And there is another case I want to point
5 out to you.

6 THE COURT: Voice? Speaking voice?

7 MR. POPE: Voicestream, as in a phone company
8 or something. It's one word, Voicestream with
9 capital V, capital S, I believe.

10 THE COURT: What was the other case you wanted
11 to cite?

12 MR. POPE: I'll have to go look for it, Your
13 Honor, there are a couple of them.

14 THE COURT: This is on the point of what is
15 required by way of rules and procedures to meet the
16 test of enforceability. And you're saying not much.

17 MR. POPE: That's correct.

18 THE COURT: Mr. Babbitt.

19 MR. BABBITT: Thank you, may it please the
20 court. Your Honor, what is the Enrollment
21 Agreement? What is it at bottom? It's a contract,
22 right? This court can't put things into the
23 contract or take things out of the contract.

24 THE COURT: Well, apparently the Fourth DCA
25 thought it could.

1 MR. BABBITT: Well, that's because they
2 applied the Florida Arbitration Code. But you asked
3 Scientology, Mr. Potter, last hearing, whether he
4 would concede that and apply the Florida arbitration
5 and they specifically said no, we will not. So that
6 can't be done in this case.

7 But Your Honor, there is nothing in this
8 agreement, there is zero in this arbitration
9 agreement that applies any rules at all. So that's
10 why you're asking these questions and you're getting
11 these responses, we're just taking it as it goes,
12 we're making it up as we go along. There is nothing
13 in there about the CBV form doesn't apply, that's in
14 the rules it does, but it's Mr. Ellis's opinion that
15 we're going to change this contract by adding that
16 in there. But you can't do that. There are no
17 rules. There is not a mention of these rules in the
18 arbitration agreement and that's the bottom of what
19 procedural unconscionability is because it's at the
20 time the man signs the agreement, he has to know
21 what applies. And there is nothing that says that
22 it does. Zero. There is nothing in the Committee
23 of Evidence rules that says anything about
24 arbitration because it's impossible, it is
25 impossible to apply those rules to an arbitration.

1 They're mutually inconsistent.

2 On the one hand there are three arbitrators,
3 on the other hand there are four to six members of
4 the Committee of Evidence rule. On the one hand the
5 arbitrators are chosen by the parties, on the other
6 hand they are chosen by an official of Scientology.
7 It's impossible. There are at least 10 different
8 things in the Committee of Evidence that simply are
9 inconsistent, are polar opposites to the arbitration
10 proceeding. The arbitration proceeding is supposed
11 to be binding, it says it's binding, yet the
12 Committee of Evidence rule says it's not binding,
13 that a finding of the Committee of Evidence is
14 merely a suggestion to this employee of Scientology
15 who can then change it.

16 You can't have both. Judge, the circumstances
17 under which Mr. Ellis supposedly ruled that the
18 Committee of Evidence rules apply to arbitration
19 simply don't pass the smell test. I mean,
20 supposedly six days after this Court's order there
21 is this contact with a man who they have denied his
22 claim six months before and you entered an order
23 which said tell me, Scientology, where the IJC has
24 ruled that these rules apply. They file an
25 affidavit of Mr. Ellis and in that affidavit he

1 doesn't say a word about this thing that happened
2 nine years ago in a hallway where somebody said what
3 rules apply and he says oh, it be the Committee of
4 Evidence rule.

5 I mean, this was an order that said tell me
6 when it happened. And there is not a thing in his
7 declaration that says that it happened nine years
8 ago when I was talking to this Leanna lady who by
9 the way they don't call, they don't even have her
10 deposition, they don't do anything to say that this
11 really happened. I mean, it just doesn't pass the
12 smell test.

13 Besides which, whether he ever ruled or not,
14 if it doesn't fit, you must acquit. It cannot
15 possibly apply to an arbitration in which three
16 people are chosen. It's impossible. There are no
17 rules. And that's dispositive of this Court's
18 ruling.

19 Now, you asked about where justice is defined.
20 It's defined on page 6 of Exhibit 3 in which it
21 says --

22 THE COURT: You mean the book itself?

23 MR. BABBITT: I am, the book itself.

24 THE COURT: Page --

25 MR. BABBITT: 6.

1 THE COURT: Number 3 or III?

2 MR. BABBITT: I'm sorry, it's Exhibit 3, page
3 6.

4 THE COURT: I got you. The basics of ethics?

5 MR. BABBITT: The definition of justice. You
6 asked where is it defined. It's defined on page 6
7 of Exhibit 3, this book. This book that Mr. Ellis's
8 declaration said was the *sine qua non* of Scientology
9 and contains all the ethics of Scientology, it says
10 when the individual fails to put his own ethics, the
11 group takes action against him and this is called
12 justice. It's defining what justice is.

13 The definition of justice that Mr. Pope
14 referred to was the common Webster definition of
15 justice, it's not what Scientology defines as
16 justice. And that's why the Committee of Evidence
17 rules don't apply. They're a criminal procedure.

18 THE COURT: To be fair, Mr. Babbitt, the
19 question should be where is the phrase "matters of
20 justice" defined.

21 MR. BABBITT: Well, they're not. The word
22 justice is defined, but the word "matters" -- and
23 this issue of refund being in the Exhibit 11, my
24 Exhibit 11, which is the Committee of Evidence
25 rules, it was there in 1963 when it was passed, the

1 word "refund," but it related, if you read it, it
2 relates to a committee called the HCO Committee
3 which the evidence shows does not exist anymore. It
4 was merged into the other functions of Scientology,
5 it doesn't exist anymore. So when this book came
6 out, the book that has been testified by everyone as
7 the book, the words of L. Ron Hubbard, that was
8 taken out. That word doesn't exist in this book
9 anymore, nowhere does it exist with relation to the
10 Committee of Evidence. So that is not applicable
11 anymore.

12 Now, on the subject -- as I understand it,
13 Your Honor, you want me to talk about the First
14 Amendment issue; is that correct?

15 THE COURT: No.

16 MR. BABBITT: I thought you said you wanted to
17 hear from me about that. Because I want to talk
18 about the cases that Mr. Pope has cited which
19 specifically say that this Court does have
20 jurisdiction to consider the secular issue of
21 whether this contract is enforceable or not.

22 THE COURT: That point, yes, I was interested
23 in your comments. I think what I was trying to --

24 MR. BABBITT: So if you look at one of the key
25 cases that he cites is *Meshel vs. Ohev Sholom Talmud*

1 *Torah*, that case on page 343 says -- and this
2 Justice Brennan, excuse me, before Justice Brennan
3 in his concurring opinion but in the opinion of the
4 court, "Specifically civil courts may resolve
5 disputes involving religious organizations as long
6 as the court is applying neutral principles of law
7 and their decisions are not premised upon their
8 consideration of doctrinal matters, whether the
9 ritual and liturgy of worship were the tenets of the
10 faith," and they cite several cases.

11 Then Justice Brennan in concurring says, "Even
12 where the civil courts must examine religious
13 documents in reaching their decisions, the mutual
14 principles approach avoids prohibited entanglement
15 in questions of religious doctrine, polity and
16 practice by relying exclusively on objective
17 well-established concepts of law that are familiar
18 to lawyers and judges. The neutral principles
19 approach is thereby completely secular in operation.
20 We are fully satisfied that a civil court can
21 resolve appellant's action to compel arbitration
22 according to objective, well-established neutral
23 principles of law."

24 THE COURT: What's the cite on that, please?

25 MR. BABBITT: That cite is *869 At1.2d 343*,

1 District of Columbia Court of Appeals in 2004,
2 December 15th of 2004. Decided 2005. And then in
3 the other cases --

4 THE COURT: I was just curious, you have
5 referenced Justice Brennan. Is that a
6 different Justice Brennan than --

7 MR. BABBITT: It must be. It's Justice J.
8 Brennan.

9 THE COURT: That's what threw me off. I
10 thought you were talking about a Supreme Court case.

11 MR. BABBITT: I did, too, when I first read
12 it, Judge.

13 The case of *Church of Scientology Flag Service*
14 *Organization vs. City of Clearwater*, the cite is 62
15 *USLW 2218*, it's 2 *F.3d 1514*, a 1993 case. In that
16 case essentially what the court held is that
17 Scientology is not above the law. "Generally
18 applicable penal laws that proscribe extortion,
19 burglary, kidnapping and the like, are inadequate to
20 address other asserted interests in controlling the
21 alleged illegal and coercive conduct of charitable
22 and religious organizations." They cite this Sun
23 Myung Moon case, and they talk about false
24 documents -- the point is, Judge, we're not asking
25 you to look into the Church of Scientology and

1 decide whether their doctrines or right or wrong.
2 You can't do that. That First Amendment prohibits
3 that if they're a religion. That issue has never
4 been decided, by the way, in this case, they have
5 the burden of showing that.

6 But even assuming that they are, we're not
7 asking you to do that. This court has inherent
8 jurisdiction to decide its own jurisdiction and
9 we're not telling the court what to believe or what
10 Scientologists believe. The question is have they
11 set up a system of arbitration that is so unfair
12 that they have set up in essence a kangaroo court.
13 They have said there is no way that anyone under the
14 circumstances of this case could ever get any
15 fairness because of the inherent beliefs of what
16 every Scientologist believes in, which is that a
17 person who is declared is at war with Scientology
18 and they could never find for that person.

19 That is what deals with the issue of
20 unconscionability, so it's not substantive
21 unconscionability. The fact that there is no
22 reference to the Committee of Evidence, the fact
23 that there has never been an arbitration, the fact
24 that this agreement, this Enrollment Agreement,
25 deals only with services, it doesn't deal with -- if

1 a Scientologist runs somebody over in a truck in a
2 truck that belongs to Scientology, that you have to
3 arbitrate things. That doesn't make any sense. And
4 that's the logical extension of their argument that
5 we're going to apply this to everything, no matter
6 that it's mentioned or not.

7 The agreement itself, if you read it,
8 specifically says the rules that apply are as
9 follows. And then it lists choosing an arbitrator,
10 one, and the other. It doesn't give notice to
11 Mr. Garcia or his wife that we're going to apply the
12 Committee of Evidence rules that apply to a criminal
13 or a quasi criminal issue. That just isn't in
14 there. And it can't happen. It would be
15 impossible. Just think if you order us to
16 arbitration, what happens once the arbitrators are
17 chosen? There is nothing there about how it's run,
18 who makes decisions, what rules apply, nothing.

19 Now, the church could have easily made an
20 arbitration proceeding that was enforceable. They
21 could have said let's -- you know, if you have a
22 problem with what we've charged you for your
23 services and you want to be heard, go to the
24 American Arbitration Association, let them pick some
25 arbitrators. The Florida Arbitration, JAMS,

1 whatever you want. But instead they said it's got
2 to be three Scientologists in good standing who by
3 every doctrine that you could read yourself, you
4 don't need anybody to tell you what it says, says
5 you can't believe anything that this person says,
6 you can't grant adherence to them, you can't sit in
7 judgment of Scientology. All of these things make
8 it impossible for someone to have an enforceable
9 arbitration hearing.

10 I think I've covered everything, Judge. If
11 you read this Committee of Evidence rule on
12 Plaintiff's Number 11, you find that not only is it
13 completely incompatible, but it specifically says
14 the only findings that can come out of this are
15 penal findings. Is this person guilty, not guilty,
16 or are we going to reduce his sentence. That's it.
17 It's impossible to apply that procedure to this and
18 it wasn't in the agreement, it's never been in the
19 agreement, it's never been used, they can't cite one
20 example of when it has been used, and it's just
21 impossible to apply those rules to this procedure.

22 THE COURT: All right, thank you, Mr. Babbitt.
23 Mr. Pope, your last chance. Looking at the policy
24 letter of 7 September 1963, your Exhibit 11, tell us
25 where in that document it tells us how the three

1 arbitrators are to make a ruling in a particular
2 arbitration.

3 MR. POPE: I believe that -- well --

4 THE COURT: It doesn't. It doesn't. I mean,
5 in fairness to you.

6 MR. POPE: It doesn't use the word
7 arbitration, that's true. But may I finish what I
8 -- give you the cases that I wanted to give.

9 THE COURT: Well, let's go back to my
10 question. Yes, sir, I do want to get that cite
11 down. Go right ahead.

12 MR. POPE: First, the language I was looking
13 for appears also in the *Premier Real Estate Holdings*
14 case which says, "Provisions in a contract providing
15 for arbitration must be definite enough so that the
16 parties at least have some idea as to what
17 particular matters are to be submitted to
18 arbitration and set forth some procedures by which
19 arbitration is to be affected."

20 To the same extent is the case of *Malone*
21 *Hyde Inc. vs. RTC Transportation*, which is at 515
22 *So.2d 365*, Fourth District, 1987, and *GN*
23 *Construction Company vs. Kirpatofsky*, 181 *So.2d 664*,
24 Third District, 1966.

25 So the law of Florida is pretty clear that you

1 really don't have to have a whole lot of detail and
2 the Premier Property case is probably the premier
3 case because that had virtually no detail.

4 Now, with regard to the Committees of
5 Evidence, Your Honor, it speaks in terms of bills of
6 particulars, of interviewing witnesses,
7 deliberating, coming to a conclusion, reaching a
8 decision which is binding. And at least according
9 to the man who is charged with deciding these
10 matters -- and let me just conclude with this, Your
11 Honor. The Court -- we have made representations to
12 the Court about how this would proceed and you could
13 certainly hold our feet to the fire if it doesn't
14 proceed in that fashion. I mean, we have said that
15 there is a bill of particulars and how the
16 arbitrators are to be picked and what's the subject
17 of arbitration. We've certainly provided enough
18 detail for this internal informal process to run its
19 course and you're entitled to hold our feet to the
20 fire to make sure that we in fact did follow the
21 procedures that we said we would.

22 I think that that's a fair -- that would be a
23 fair concession to make if you compelled
24 arbitration. And with that, Your Honor, I'm not
25 sure I have anything else to add.

1 THE COURT: Well, I glean from your comment --
2 apparently Potter has something to add. What's he
3 found?

4 MR. POPE: He has found in the Committee of
5 Evidence on page number 453, they have those
6 numbers, page 453 under Types of Bills, "A committee
7 may here any civil or criminal matter or dispute
8 within the realm of Scientology whether the parties
9 are connected with the organization or not. Liable,
10 estranging marital partners, dismissals, debt,
11 theft, mayhem, violations of codes, deprivation of
12 income, or any dispute or harmful improper action of
13 any kind may be heard."

14 That's pretty sweeping. And now I'm ready to
15 sit down and be quiet, Your Honor.

16 THE COURT: Well, on a positive note,
17 gentlemen, I am happy to have the lawyers here who
18 have been participating in this matter because you
19 have kept it professional, you have stayed above the
20 fray for the most part, and I appreciate that. So
21 thank you for your efforts on behalf of your
22 respective clients.

23 Whatever I decide -- and I am still
24 deliberating -- it's certainly not a comment and
25 should not be construed as a comment on any beliefs

1 of this organization. I will try to apply, as
2 Mr. Pope calls it, completely secular, neutral
3 principles of law. In doing that, it necessarily
4 requires that I look at the September 7th, 1963
5 policy letter to determine if indeed the arbitration
6 clause incorporates that as the procedures
7 applicable to arbitration.

8 And I think the *Premier* case may be
9 instructive, I'm not hearing any disagreement from
10 Mr. Babbitt, that to be enforceable the arbitration
11 rules and procedures must be definite enough to put
12 the parties on notice. That is, there must be some
13 procedures.

14 I hear the plaintiffs loud and well that we're
15 trying to fit a square into a circle because there
16 are inherit inconsistencies in this Committees of
17 Evidence policy statement and the arbitration
18 clauses at issue. And it's problematic perhaps, but
19 I will have to look at it.

20 I don't promise when I will decide or how I
21 will decide. I will do it as soon as possible as I
22 possibly can. I don't want any additional briefing.
23 If you file something without leave of court, it
24 will be stricken. And if you were here, you would
25 do the same thing. If you find authority on point

1 that has not been cited to the court, you are
2 certainly free to file a notice of supplemental
3 authority without argument, giving us a citation, we
4 will certainly read that case. But I trust you've
5 given us everything you could find.

6 Anything else from the defendant, Mr. Pope?

7 MR. POPE: No, Your Honor.

8 THE COURT: Mr. Babbitt, on behalf of your
9 clients?

10 MR. BABBITT: No, Your Honor.

11 THE COURT: All right. If what one of the
12 witnesses said is actually correct, it would seem to
13 me that now would be a great opportunity for the
14 parties to try to resolve their differences.
15 Because once I rule, it will be too late. Perhaps
16 not too late, but later than now. And I think it
17 was the testimony of Mr. Cartwright who says we
18 haven't had any arbitrations because the preliminary
19 steps involved resolve all of the claims or resolved
20 all of the claims to refunds. I presume that means
21 to the satisfaction of the parties.

22 So if Mr. Cartwright's testimony is accurate,
23 maybe we should give some thought to that.

24 Otherwise I'll make a difficult decision one way or
25 the other. And I appreciate your efforts. We will

1 **be in recess.**

2 **(The proceedings adjourned at 12:06 p.m.)**

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C E R T I F I C A T E

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

I, Lynann Nicely, RMR, CRR, Official Court Reporter for the United States District Court, Middle District, Tampa Division,

DO HEREBY CERTIFY, that I was authorized to and did, through use of Computer Aided Transcription, report in machine shorthand the proceedings and evidence in the above-styled cause, as stated in the caption hereto, and that the foregoing pages, numbered 1 through 107, inclusive, constitute a true and correct transcription of my machine shorthand report of said proceedings and evidence.

IN WITNESS WHEREOF, I have hereunto set my hand in the City of Tampa, County of Hillsborough, State of Florida, May 13, 2015.

/s/ Lynann Nicely
Lynann Nicely, RMR, CRR,
Official Court Reporter