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Church's Litany of Lawsuits

Scientology's leaders say the best defense is a good offense.

By ANDREW BLUM

National Law Journal Staff Reporter

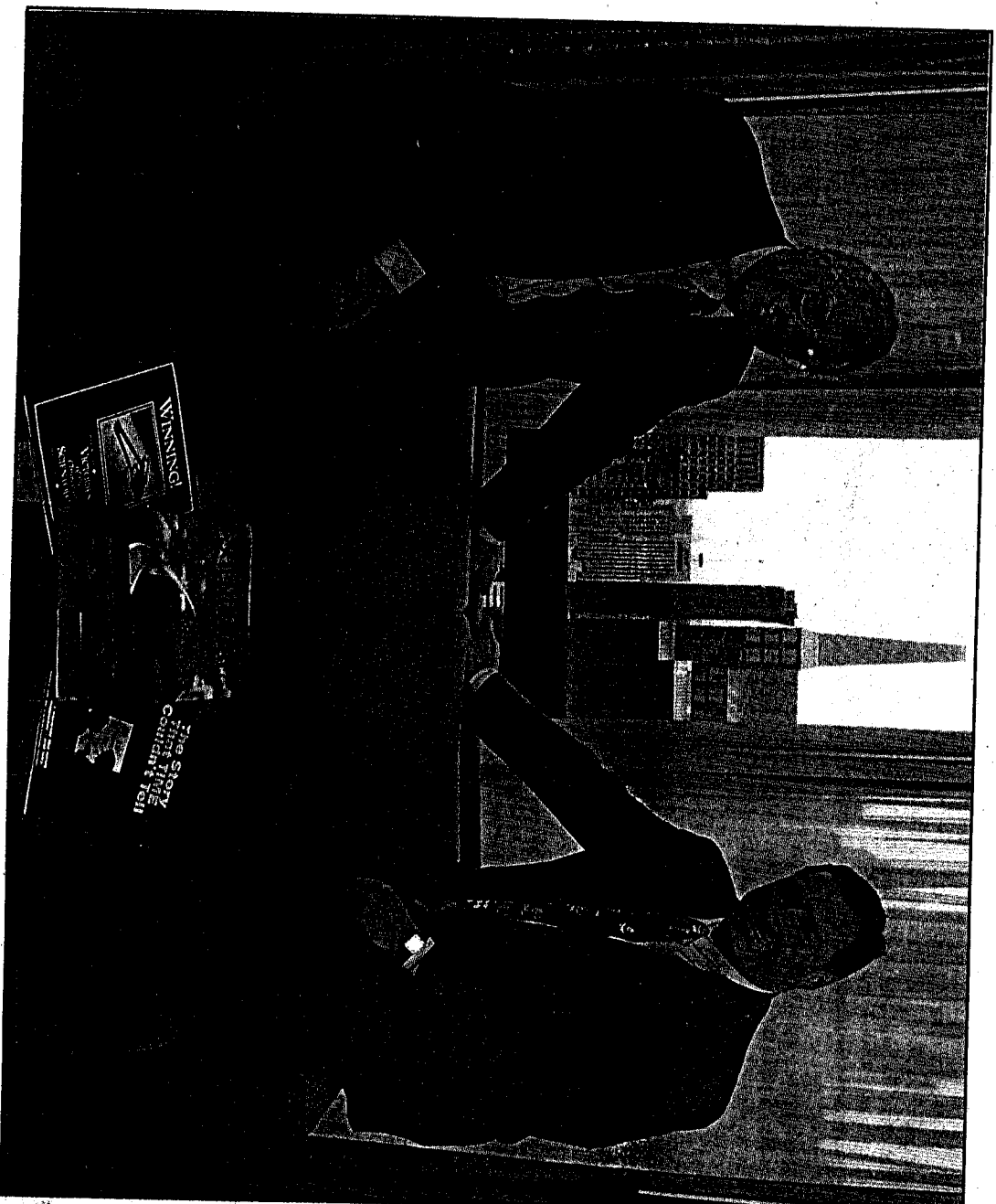
DID THE CHURCH of Scientology kill a judge's dog during a trial? Did the judge, who is now dead, think church members did? Did that lead him to be prejudiced, and bias the jury against the church?

These and other issues are part of an intense battle by the church's litigation machine to overturn what remains of a \$30 million verdict won in 1986 by former church member Larry Wollersheim.

Mr. Wollersheim learned what anyone who tangles with the church does: It never stops fighting, and it never gives an inch. To the church, the best defense is a good offense, something opponents such as Time Warner Inc., Eli Lilly & Co., the Internal Revenue Service and others have also learned the hard way.

After Mr. Wollersheim won his claim of intentional infliction of emotional distress alleging the church

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The Reverends Heber Jentzsch, left, the president of the Church of Scientology International, and Kurt Wei-

land, another church leader, say multiple lawsuits involving the church distract from social reform efforts.

David Labaree

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had ruined him mentally and financially, it appealed up to the U.S. Supreme Court. Now the 13-year-old case is back before California's high court.

Though the judgment was cut to \$2.5 million, the church is now claiming that Los Angeles County Superior Judge Ronald Swearingner — who died last year — was biased. It says the judge reportedly said to court personnel during the trial that his dog had drowned and his tires had been slashed, implying that the church did it. The church says in a suit filed in Los Angeles in February that court personnel passed along to the jurors the judge's bias. *Church of Scientology of California v. Wollersheim*, BC074815.

The attack on Judge Swearingner is not the first time the church has gone after judges. In 1979 and 1980, it tried to force the recusal of four federal judges in Washington, D.C., who were hearing criminal charges against a total of 11 members charged with breaking into government offices.

Protecting Its Reputation

The Wollersheim case is one of about 60 by Scientologists that the Los Angeles-based Church of Scientology International keeps tabs on. Yet, even as it fights old demons such as *Wollersheim*, church officials are on the offensive in two separate but related cases in which they claim the actions of Time magazine and Lilly have tarnished the church's reputation. It seems to be an obsession because the church feels it put to rest the nasty reputation it had in the 1970s and early '80s, only to have it reappear in the '90s.

• The \$416 million Time case alleged the magazine and its reporter, Richard Behar, libeled the church in a May 6, 1991, article, "Scientology: The Cult of Greed." The case pits attorney Floyd Abrams for Time against Jonathan W. Lubell for the church. The church also sued sources for the Time article and tried to stop Reader's Digest from reprinting it in Europe and, when that failed, sued for libel in Switzerland.

Mr. Behar countersued the church for harassing him under a church policy known as the "fair game" doctrine and for allegedly violating the Fair Credit Reporting Act by improperly obtaining his credit history. The "fair game" policy, which Scientology officials claim was taken out of context by opponents, was withdrawn in the 1980s, they say.

According to the counterclaim, the "fair game" doctrine says enemies may "be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist [and] may be tricked, sued or lied to or destroyed." Mr. Behar's claim says such campaigns have continued, aimed particularly at writers. *Church of Scientology International v. Time Warner Inc.*, 92 Civ. 3024 (S.D.N.Y.).

• In the case against Lilly, maker of the anti-depressant drug Prozac, the church (which has an animus against psychiatry and the use of drugs for mental illnesses) alleged that Lilly pressured the public relations firm Hill & Knowlton to stop doing PR for the church. The suit also named H&K's parent company, London-based WPP Group PLC, for alleged breach of contract and religious bias, and WPP's J. Walter Thompson Co. for interfering in that contractual relationship. *Church of Scientology International v. Eli Lilly & Co.*, 92-1892 (D.D.C.).

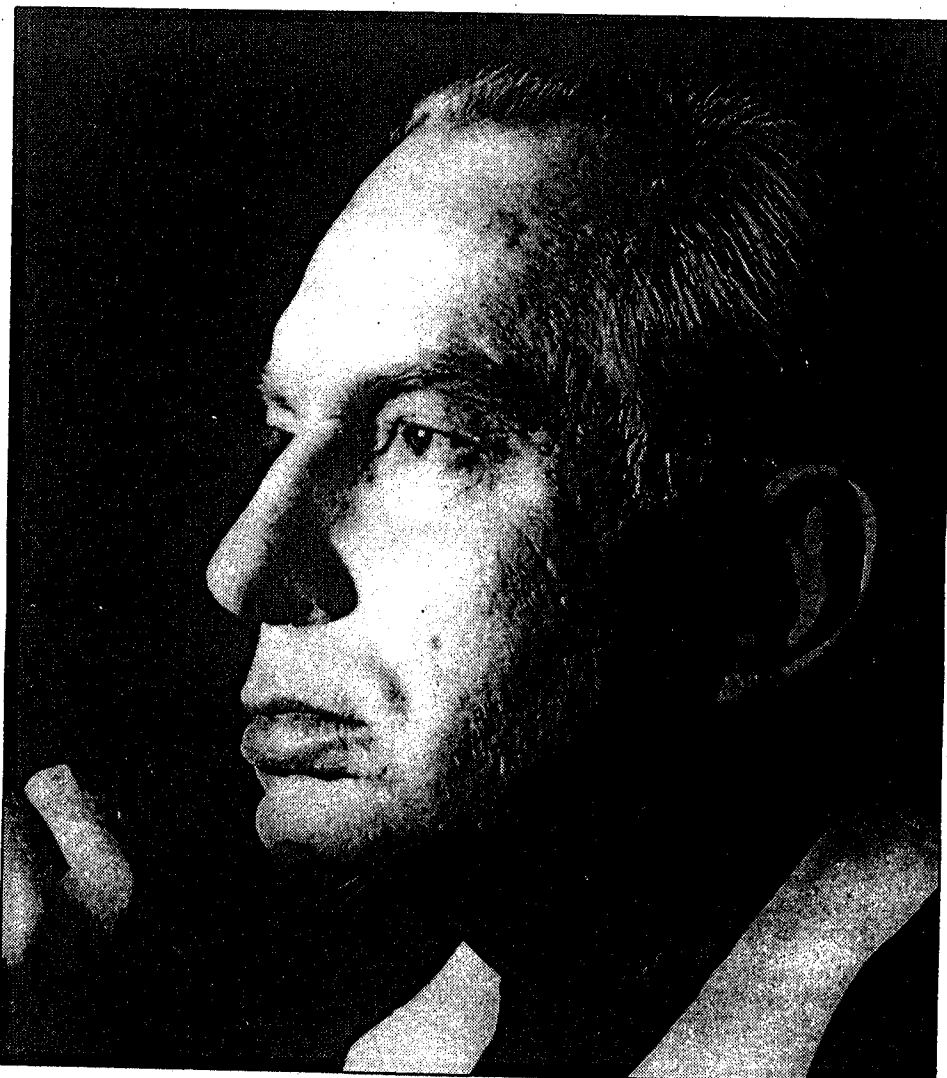
Scientology's Lawyers Fight With Tenacity

• Lilly also was sued for libel in a case in which the church sued PaineWebber Group Inc. It alleged that PaineWebber, pushing Lilly stock, reported in a market advisory that the church was on a Prozac vendetta because a man who went on a shooting spree was a Scientologist. Lilly was dropped from that case. The church and PaineWebber settled for an undisclosed amount.

• Another case stems from an effort by the church and its affiliate, the Citi-

which Lilly has a legitimate interest." *CCHR v. FDA*, 92-5313 (C.D. Calif.).

• In a *Wollersheim* offshoot, the church sued Mr. Wollersheim's trial attorneys — Charles O'Reilly of Marina Del Rey, Calif.'s O'Reilly and Hobart, and Leta Schlosser of Encino, Calif. — and others on Mr. Wollersheim's side, including expert witness Prof. Margaret Singer of the University of California-Berkeley, for allegedly violating the Racketeer Influenced and



AP/Wide World Photos

THE FOUNDER: L. Ron Hubbard developed the philosophy of Scientology. The first church was founded in Los Angeles in 1954.

zens Commission on Human Rights, to gain access to Prozac data from the U.S. Food and Drug Administration. The church filed a Freedom of Information Act case against the FDA. Lilly, trying to prevent the FDA from releasing the data, filed a motion to intervene and accused CCHR of seeking "to mount vitriolic... attacks against Lilly in the public forum while simultaneously attempting to bar Lilly from participating in litigation in

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Scientology's Lawyers Fight With Tenacity

Corrupt Organizations Act. The church accused the lawyers of obtaining copies of stolen religious scriptures from former church members and giving them to Mr. Wollersheim's expert witnesses. The RICO case was thrown out. *Religious Technology Center v. Wollersheim*, 971 F.2d 364 (9th Cir.).

• Separately, Professor Singer alleges in court papers that an expert retained by the church to combat her *Wollersheim* testimony was part of a wider attempt to discredit her, although the church was not named as a defendant. Scientology attorney Eric M. Lieberman of New York's Rabinowitz, Boudin, Standard, Krinsky & Lieberman says the church has nothing to do with the case. *Singer v. American Psychological Association*, 92 Civ. 6082 (S.D.N.Y.).

• In addition to the *Wollersheim*, *Time* and *Lilly* cases, the church has battled the Cult Awareness Network, a Chicago-based group whose self-described mission is to educate the public about cults and whose members include Virginia Thomas, wife of Supreme Court Justice Clarence Thomas.

In a religious-discrimination case CAN recently won, the California Court of Appeal ruled that it did not have to admit a Scientologist to its Los Angeles branch. The court described CAN as a group that educates the public on mind control by cults. "Appellant plainly admits that his purpose is to inform CAN-LA about Scientology so as to challenge, if not change, CAN-LA's belief that Scientology is a destructive cult," the court said. "This purpose is incompatible with CAN-LA's work in counseling and providing support for ex-cult followers and the families of current cult followers." *Hart v. CAN*, B065422.

Daniel A. Leipold of Santa Ana, Calif.'s Hagenbaugh & Murphy, who says he represents CAN officials and members in about 40 cases by Scientologists, is outspoken. He says Scientology members are trying to deprive CAN of its rights. The Church of Scientology "seeks to subvert and destroy [CAN]" through its litigation and requests to join CAN's membership, according to one brief he wrote. *Trammell v. Cult Awareness Network*, BC 719213 (Super. Ct., Santa Clara Co.).

Church President Rev. Heber Jentzsch downplays the church's fight with CAN but dubs it the "Criminal Association Network." He points to a criminal case against Galen Kelly, who has worked as a CAN deprogrammer. Mr. Kelly was convicted of federal kidnapping charges May 28 in the Eastern District of Virginia for trying to kidnap a Washington, D.C., lesbian to turn her into a heterosexual. *U.S. v. Kelly*, 93-098-A.

Says Mr. Leipold: "It's not the business of CAN to kidnap people."

Who Represents the Church?

THE CHURCH of Scientology uses a stable of lawyers and pays \$80,000 a week in fees for litigation, contract negotiations, trademark work and other legal needs, according to church leaders. Some of its lawyers are:

• **JONATHAN LUBELL** of New York's Morrison, Cohen, Singer & Weinstein. Represents the church in a libel suit against *Time* magazine. *Church of Scientology International v. Time Warner Inc.*, 92 Civ. 3024 (S.D.N.Y.). Mr. Lubell is noted for the state-of-mind doctrine in a libel case that went to the Supreme Court against "60 Minutes" on behalf of an Army commander. *Herbert v. Lando*, 85-1685.

• New York sole practitioner **MICHAEL L. HERTZBERG**. He is working with Mr. Lubell on the *Time* case.

• **KENNETH P. MUNDY** of Washington, D.C.'s Mundy, Holt & Mance, attorney for ex-D.C. Mayor Marion Barry in his drug trial. Represents the church in a case against drugmaker *Eli Lilly & Co.*

Church of Scientology International v. Eli Lilly & Co., 92-1892 (D.D.C.).

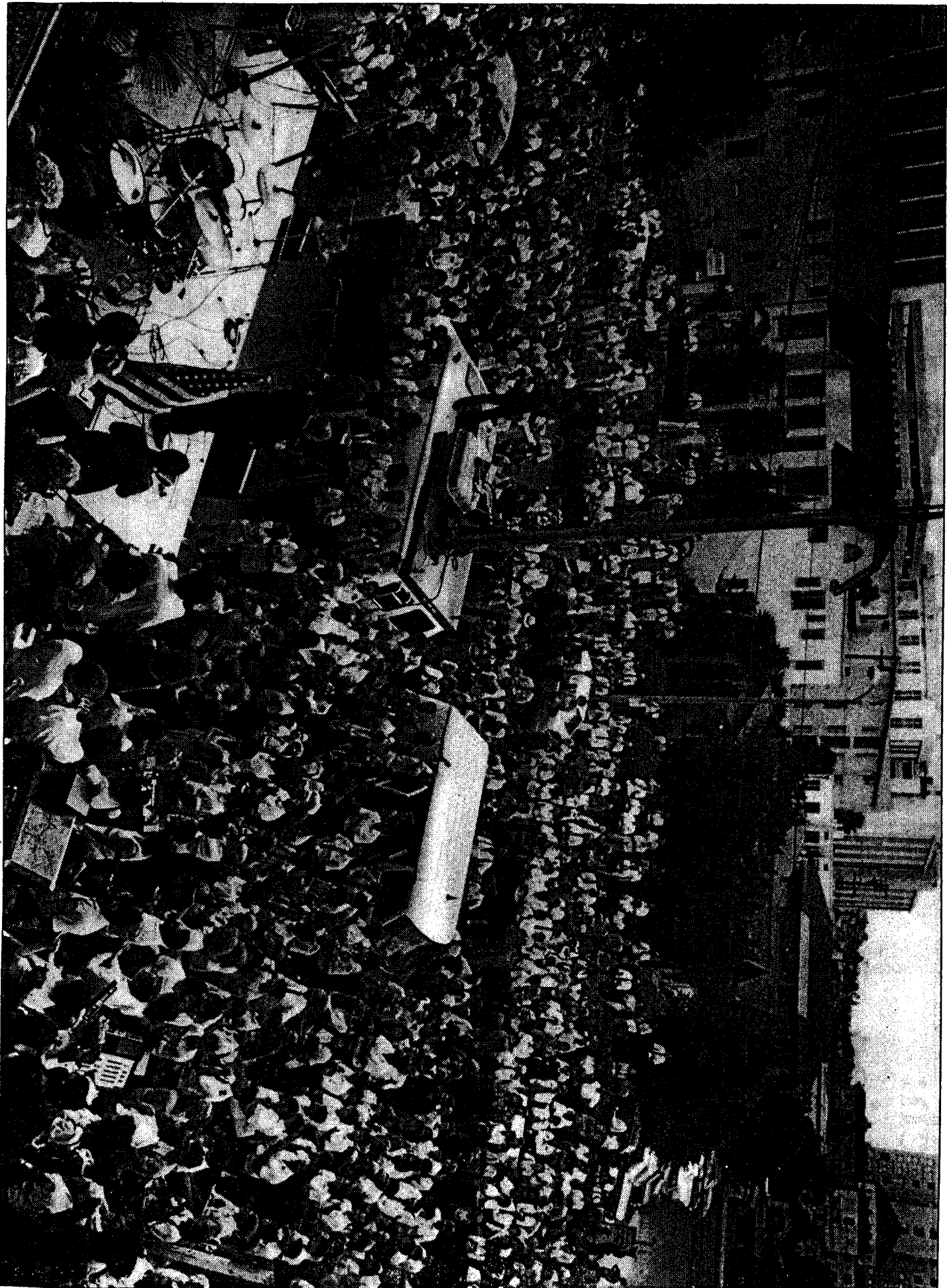
• **ERIC M. LIEBERMAN** and **EDWARD COPELAND** of New York's Rabinowitz, Boudin, Standard, Krinsky & Lieberman. They also represent the church in the *Lilly* case.

• **HENDRICK MOXON** and **TIMOTHY BOWLES** of Los Angeles' Bowles & Moxon. Eighty percent of the 12-person firm's work is for the church. Mr. Moxon is handling the latest action in litigation involving ex-church member Larry Wollersheim as well as various FOIA cases. *Church of Scientology of California v. Wollersheim*, BC074815 (Super. Ct., Los Angeles Co.).

• **GERALD FEFFER** of D.C.'s Williams & Connolly (Leona Helmsley's attorney in her tax fraud case) and his wife, **MONIQUE YINGLING** of D.C.'s Zuckert, Scoutt & Rasenberger, have worked on various cases for the church.

— Andrew Blum

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An estimated 1,000 members of the Church of Scientology, above, gather on the steps of their church July 22, 1986, to hear church attorney Earle Cooley (onstage, right) speak on the

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He adds, "If you were a juror, what would you think?"

Mr. Wollersheim, whose only known address is a Colorado post office box, won \$5 million in compensatory damages and \$25 million in punitive damages for intentional infliction of emotional distress. His suit claimed he was psychologically harmed, in part, after undergoing a technique of personal counseling called auditing, which the church describes as a central religious practice. Auditing is assisted by the use of an E-meter, a device that measures individuals' reactions when asked to reveal intimate details about themselves.

Two-Pronged Attack

After getting the verdict cut, a church amicus brief sided with foes of punitive damages in the *Haslip* case before the U.S. Supreme Court. The church also sought Supreme Court review of the verdict; it failed to win relief, but the case is again before the California Supreme Court. It is stayed while the U.S. Supreme Court decides another punitive damages case.

In the second part of its two-pronged attack on the verdict, the church said post-trial interviews with jurors found they "believed" they were being followed by church members. One juror said jurors were told by unidentified court personnel that the judge's tires were slashed and his dog found dead. She said jurors attributed these acts to Scientologists, the church said.

"No members of any Church of Scientology had, in fact, followed the jurors, slashed any tires, or done anything at all to Judge Swearingen's dog," said the church. The judge, it alleged, refused to allow discovery into the purported tainting of the jury. But in a 1992 interview with Ameri-

The Meaning of Scientology, According to Church Gospel

WHAT IS SCIENTOLOGY? According to church literature, it is "the study and handling of the spirit in relationship to itself, universes and other life."

Scientologists believe "man is a spiritual being... able to solve his own problems, accomplish his goals and gain lasting happiness... and achieve new states of awareness."

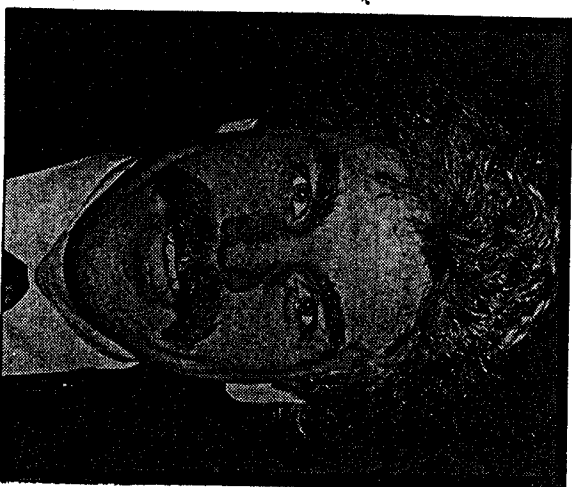
The first church was founded in 1954 in Los Angeles, after the founder of Scientology philosophy, L. Ron Hubbard, began writing and speaking about Dianetics, "a methodology which can help alleviate... illnesses caused by mental stress." Church leaders say

Scientology is the world's fastest growing religion and object — with litigation — to any description of it as a cult.

It has 14,000 staff members worldwide, and of those, 80 are engaged in legal affairs, say church spokesmen. It claims 8 million members; 4.5 million to 5 million in the United States. It has 1,300 churches, missions and organizations in 78 countries. Though it declines to put a dollar figure on itself, it is similar in size to a Fortune 500 company, says the Rev. Heber Jentzsch, president of the Church of Scientology International.

— Andrew Blum

An estimated 1,000 members of the Church of Scientology, above, gather on the steps of their church July 22, 1986, to hear church attorney Earle Cooley (onstage, right) speak on the



Los Angeles Times

outcome of a lawsuit in which former Scientologist Larry Wollersheim, left, won a \$30 million award against the church. The 13-year-old case is still under appeal.

can lawyer, the judge discussed the matter, the church said. He said, according to court papers: "I was followed (at various times) throughout the trial... and during motions for a new trial... All kinds of things were done to intimidate me, and there were a number of unusual occurrences... My car tires were slashed. My collar drowned in my pool."

The judge died last September after heart surgery. A son, Richard, says, "There were never any questions raised before this" about his conduct. "I can't understand why he would change the way he did things all of a sudden."

On May 26, the heretofore pro se Mr. Wollersheim, now represented by two special counsel — Mr. Leopold and Oakland, Calif., sole practitioner Mark Goldwitz — filed a motion in Los Angeles Superior Court seeking to dismiss the church's action based on the new California anti-SLAPP statute, which protects citizens from suits designed to chill the exercise of First Amendment rights. A hearing was sought for June 24.

Church attorney Laurie Bertlson of L.A.'s Bowles & Moxon says the motion by Mr. Wollersheim's attorneys is "a stalling tactic" because she is set to depose jurors from the original trial as well as court personnel. She also calls the application of the new California statute by Messrs. Leopold and Goldwitz a "misuse," adding all the church wants is a fair trial.

Time and Lilly Suits

The Time and Lilly cases come down to a flurry of charges and countercharges: Some are mundane legal arguments, but others require a leap of logic to fathom.

In a publication called "The Story

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Church: Litigation Slowing

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That Time Couldn't Tell," the church alleged a web of conspiratorial financial motives among several companies. And in their NLJ interviews, the Reverends Welland and Jentszsch contend that Lilly ordered at least 250,000 reprints of the Time article, which it mailed to doctors to try to shore up Prozac sales.

The complaint against Time alleged the magazine used "the hatchet job technique" of name-calling by "falsely labelling a judicially recognized religion as 'bogus' and 'Mafia-like.'"

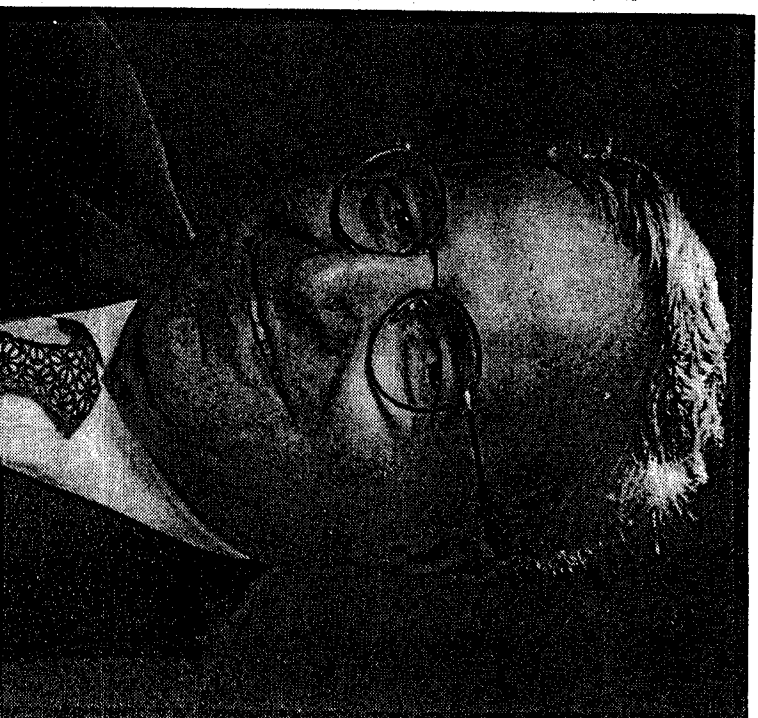
Says Mr. Lubell: "The article falsely portrayed the Church of Scientology as a criminal organization." He says the Time-Lilly connection has not been alleged in the case as such. "It's a classic libel action. [The Time-Lilly conspiracy] is something we're looking at in discovery." And Mr. Lubell, of New York's Morrison, Cohen, Singer & Weinstein, says the counterclaim by Time's Mr. Behar is baseless.

Mr. Abrams, of New York's Cahill Gordon & Reindel, meanwhile, tried a multipronged approach to dismiss the case: "We said the plaintiff, the Church of Scientology International, could not bring the action because the article was about Scientology as a whole, and under First Amendment principles, Time is allowed to criticize Scientology in general."



Marilyn Ward

FOR THE DEFENSE: Floyd Abrams represents Time magazine in a \$416 million libel suit.



David Labareky

FOR THE CHURCH: Jonathan W. Lubell says Time magazine falsely portrayed the church.

In a letter to the judge, Mr. Abrams said he intended to claim the church was libel-proof: "Scientology, by virtue of its history of involvement in criminal and tortious activities against the United States government... its present and former members, and its critics, has placed itself well within the recognized definition of libel-proof." That defense was not pressed in arguments before the court.

Mr. Abrams cited the predecessor mother church being denied tax-exempt status partly because it "filed

'No members of any Church of Scientology had, in fact, followed jurors, slashed any tires or done anything at all...'

false tax returns, burglarized IRS offices... and... obstructed IRS agents who tried to audit... records." And, he says, 11 church members were convicted of criminal charges. *Church of Scientology v. Commissioner*, 83 T.C. 381, 505-09 (1984); *U.S. v. Heidt*, 668 F.2d 1238 (D.C. Cir. 1981).

Ruling last Nov. 23 on Time's dismissal motion, U.S. District Judge Peter K. Leisner said the Church of Scientology International could not sue for every negative passage that mentioned Scientology or Scientologists, but he allowed the case to proceed on four of six passages referring to the church.

Church spokesman Alex Jones says that at a hearing in March, the judge allowed the church to examine Mr. Behar's interview tapes. The church is concerned about unexplained gaps, Mr. Jones says: "We suspect the tapes have been doctored."

Mr. Abrams is clearly skeptical. "This seems to me to be a purposeful effort... to divert the focus of this case from their wrongdoing to anything else that can serve as a substitute," he says. "There are no gaps on that tape that Richard Behar will not explain when he is asked."

But the Rev. Welland remains adamant about Time's and Lilly's behavior. "The defendants in those cases have committed the most egregious and outrageous acts... in an effort to stifle our social reform efforts," he says. "We contend there was a deal between [Lilly] and Time... the cover story was motivated by the possibility

of adding another \$1 million to the profits of Time by ordering reprints."

The Alleged Web

Outlining the conspiracy, the Rev. Welland says there was the PaineWebber advisory, which reported claims by Lilly of the church trying to short-sell Lilly stock, and then came Mr. Behar. "His investigation centers on the Church of Scientology using the stock market as a commercial center to enrich themselves... that the whole motive is financial. That's the Time piece," says the Rev. Welland.

Mr. Abrams denies any such motive. "The decision to publish the Scientology story had absolutely nothing to do with Lilly and everything to do with attempting to inform the American public about Scientology," he says. "Only an institution with a deeply disturbed perception of reality could believe so preposterous a claim."

Says Mr. Lubell of Mr. Behar: "I have never found a clearer case of a writer who had it in for the subject of the article before he even undertook the investigation." Retorts Mr. Abrams: "What Scientology objected to... is not that his mind was closed, but that it was not empty. Behar was an expert about Scientology whose very knowledge... made him a particularly appropriate author."

In the Lilly case, Lilly and Hill & Knowlton challenged charges that Lilly got the PR agency to stop church work. Lilly has blasted the church for perpetuating a hoax concerning Prozac but declined comment on the conspiracy charges.

At a hearing last Nov. 20, U.S. District Judge Stanley Sporkin said he would allow discovery on contract issues but not religious bias: "It seems to me that it is not your everyday case where people do interfere with people's relationships." The defense says that Lilly had the right to protect Prozac from the church, and that there was a perceived conflict for the PR agency in handling both accounts.

Despite this barrage of suits, the church says litigation is winding down. But University of Alberta Sociology Prof. Stephen A. Kent, who has studied Scientology, says, "Scientologists see aggressive litigation as an ongoing attempt to defeat internationally conspiratorial opponents."

For the church, perhaps it's best left to its 833-page book, "What is Scientology?" to sum things up. It says its problems stem from "psychiatric figures, their U.S. government allies and psychiatric colleagues overseas" who "have spent untold millions of dollars around the world to stop Scientology. And they never have."

A Litany of Scientology Litigation

A REVIEW OF pending cases involving the Church of Scientology shows an adversary quick to battle its opponents with tough, take-no-prisoners legal tactics. While the church maintains that its litigation is winding down, many cases remain outstanding. A sampling of cases include:

- *Church of Scientology International v. Time Warner Inc.*, 92 Civ. 3024 (S.D.N.Y.). The church sued Time magazine for libel last year over a story that described Scientology as a "cult of greed." Time magazine reporter Richard Behar counterclaimed for harassment. Damages sought by the church is \$416 million; discovery is proceeding.

- *Eglise de Scientology de Lausanne v. Editions Selection du Reader's Digest*. The church tried to stop Reader's Digest from printing a condensed version of the Time article in five European countries. In one jurisdiction of Switzerland, Reader's Digest ignored a court order and published; the order was later overturned. The church sued Reader's Digest for libel, seeking approximately \$14,000 in damages.

- *Church of Scientology International v. Eli Lilly & Co.*, 92-1892 (D.D.C.); *Citizens Commission on Human Rights v. FDA*, 92-5313 (C.D. Calif.). The church is suing drugmaker Eli Lilly & Co. and public relations firm Hill & Knowlton for contract violations and punitive damages stemming from a claim that Lilly allegedly ordered H&K to drop the church's PR account. Discovery is proceeding. In a case brought by a church affiliate, the Citizens Commission on Human Rights, the church and Lilly are fighting over whether the Food and Drug Administration should release data on Prozac, a Lilly product.

- *Church of Scientology International v. Lilly*, 90 Civ. 7009 (S.D.N.Y.). The church sued PaineWebber and Lilly for a PaineWebber market advisory recommending Lilly stock. In that advisory, PaineWebber reported that the church was on a Prozac vendetta because a man who went on an

allegedly Prozac-induced shooting spree was a Scientologist. Lilly was dropped from the case. PaineWebber settled for an undisclosed amount.

- *Church of Scientology International v. Daniels*, 92-1752 (4th Cir.). The church sued a Lilly executive for \$20 million in punitive damages for defamation for remarks he made in an op-ed piece in USA Today. He wrote that the church was not a church but a commercial enterprise. The 4th U.S. Circuit Court of Appeals May 4 upheld a lower court's dismissal of the case, saying there was insufficient evidence of actual malice against a public entity like the church.

- *Church of Scientology of California v. Wollersheim*, BC074815 (Super. Ct., Los Angeles Co.). The church, seeking to overturn the remainder of a \$30 million verdict, claims that the now-deceased trial judge was biased because he reportedly told court personnel during the trial his dog drowned and his tires were slashed, implying the church did it; the church says in its suit filed in February that court personnel passed along to the jurors the judge's bias, thus influencing them.

- *Church of Scientology International v. Xanthous*, CV 91-4301 (C.D. Calif.). The church sued the IRS for \$120 million, seeking damages from 17 IRS officials in Washington, D.C., and Los Angeles. The church alleged the officials waged a 33-year campaign of illegal acts and violated the rights of the church and many of its members. The case is pending.

- *U.S. v. Church of Scientology of Boston*, 90-302-T (D. Mass.). The Church of Scientology of Boston won \$80,787 in attorney fees and expenses in a case in which the IRS had begun an inquiry into the tax-exempt status of the church's Boston branch.

- *Religious Technology Center v. Siegal*, 89-5741 (C.D. Calif.). The church was awarded \$280,000 for trademark infringement by a hypnotherapist.