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## U.S. Criticizes Germany on Scientology

### Report Will Attack Policies That Target Members of Church

By Thomas W. Lippman  
Washington Post Staff Writer

The State Department's annual survey of human rights conditions around the world will contain expanded, toughened language criticizing Germany for restrictions on the Church of Scientology and its members, administration officials said.

The report, to be issued Wednesday, will chastise Germany for what a senior administration official called "a campaign of harassment and intimidation" against the controversial church. He said the United States, seeking to protect religious freedom, has urged Germany through diplomatic channels "not to prosecute people for wrong thinking" but has been rebuffed.

The German response is, "We won't change our policy, no matter what you say," a German diplomat here said. "You are a big country. You can afford to have militias and cults. We can't." He said Germany, with 80 million people in a Montana-size country and a unique sensitivity to the dangers of "extremism" because of its Nazi past, is obliged to limit activities of groups perceived as threats to national well-being.

The U.S.-German disagreement over Scientology is a rare irritant in America's generally excellent relations with a key European ally. Although both sides agree it is hardly a major source of friction, the issue has a high decibel level because of the involvement of high-profile Scientologists such as actor Tom Cruise.

The subject is emotional also because of charges by the Scientologists that Germany's treatment of them recalls the Nazis' persecution of the Jews—a charge guaranteed to infuriate and pain Germans. The Bonn government says it is trying to rein in what it regards as a dangerous and subversive organization because of its commitment to maintain

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## U.S. Criticizes Germany on Church Issue

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an open democracy and never to repeat the errors of its tainted past.

The Clinton administration has been trying to walk a fine line, standing up for the principle of freedom of worship but distancing itself from the Scientologists' scorched-earth denunciations of a friendly democratic ally.

"We have criticized the Germans on this, but we aren't going to support the Scientologists' terror tactics against the German government," State Department spokesman Nicholas Burns said, criticizing statements from church supporters likening the campaign against Scientology to the Nazis' antisemitic programs.

Burns and other officials said the issue is not whether Scientology is good or bad, benign or malevolent. They said the United States is obliged to support the church in the brawl between Germany and the Scientologists because German actions may have infringed on the rights of U.S. citizens who are Scientologists by encouraging a boycott of Cruise's movies and restricting performances by jazz pianist Chick Corea.

Scientology is a fast-growing international organization, founded in the 1950s by American science fiction writer L. Ron Hubbard, whose writings remain the group's guiding texts. Its aims, as laid down by Hubbard, are "a civilization without insanity, without criminals and without war, where the able can prosper and honest beings can have rights, and where man is free to rise to greater heights."

The Church of Scientology claims 8 million members worldwide, including about 30,000 in Germany. A church spokesman said that because Scientology teaches that "man's fundamental nature is not evil," it has stirred hostility in particular among conservative Christian theologians in Germany.

Scientology has fought long battles for legal acceptance as a religion and has succeeded in many countries, including the United States. The Internal Revenue Service refused for decades to accord to Scientology the tax-exempt status long granted mainstream churches, but since 1993 the church and its corporate entities have had the same tax status as other religions.

To the German government, however, Scientology is not a legitimate religion but a greedy, cult-like organization built on "pseudo-science," in which "membership can lead to psychological and physical dependency, to financial ruin and even to suicide," according to a position paper distributed by the German Embassy here.

The paper says "the German government has not taken any legislative action against the Scientology organization," but some German state governments have.

The Church of Scientology, however, has posted on its World Wide Web site a long, footnoted document saying its adherents in Germany are "the targets of systematic discrimination in every strata of society as part of an insidious exclusionary policy initiated, encouraged and sanctioned by the government. Scientologists are routinely dismissed from jobs, dismissed from schools, dismissed from political parties, dismissed from social, business and political organizations, denied the right to professional licenses, denied the right to perform their art, denied the right to open bank accounts and obtain loans and denied the

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right to use public facilities and concert halls."

The Scientologists say they are "blacklisted, boycotted, vilified, ostracized and threatened" because of their church membership.

Governments' antipathy to Scientology is almost as old as the organization. More than 30 years ago, an Australian state legislature made membership a crime after a board of inquiry concluded that "Scientology is evil; its techniques evil; its practice a serious threat to the community, medically, morally and socially; and its adherents are deluded and often mentally ill."

A Greek judge recently ordered a church center in Athens closed after finding that Scientology is "an organization with medical, social and ethical practices that are dangerous and harmful." An Italian court last month ordered jail terms for 29 Scientologists found guilty of "criminal association." In France, a prominent Scientologist was sentenced to 18 months in prison in November by a Lyon court that held him responsible for the suicide of a church member unable to pay for church-sponsored courses.

The U.S. position, however, is that Scientology is a religion and its members should not be harassed or persecuted just because they are members.

"We believe that members of the Church of Scientology have a right to practice their religion in Germany and all other countries," Burns said at his Jan. 16 State Department briefing. "We believe that the German government ought to respect the rights of the Scientologists and all other religious communities in Germany."

Burns was commenting on the church because that morning several prominent Americans placed a full-page "Open Letter to Helmut Kohl" in several newspapers appealing for an end to the "shameful pattern of organized persecution" of Scientology. Among the signatories were Dustin Hoffman, Goldie Hawn, Gore Vidal, Mario Puzo, Oliver Stone and Larry King.

The letter caused a sensation because it likened Germany's treatment of Scientology to its persecution of Jews in the 1930s.

"Jews were at first marginalized, then excluded from many activities, then vilified and ultimately subjected to unspeakable horrors," the letter said. "The world stood by in silence. Perhaps if people had spoken up, taken a strong stand, history would tell a different story. We cannot change history but we can try not to re-live it."

Burns, while deploring Germany's actions against Scientology, called the open letter "outrageous."

"And they are wrong," he said. "And we have advised the Scientology community not to run those because the German government is a democratic government and it governs a free people. . . . We share the outrage of many Germans to see their government compared to the Nazis."

Abraham Foxman, national director of the Anti-Defamation League of B'nai Brith, agreed with Burns. In a letter to the International Herald Tribune, he said any effort to equate what is happening to Scientologists with what happened to Germany's Jews is "historically inaccurate [and] an affront to the memory of the 6 million Jews murdered during the Holocaust."

The letter to Kohl was drafted by Bertram Fields, a prominent show business lawyer in Los Angeles, who said the signatories are not Scientologists and the church did not ask him to do it. He said he took up the cause of Scientology because Cruise is a client and his movie "Mission Impossible" faced a boycott in Germany because of Cruise's church membership.

"It became evident to me that for a Western nation, this was a horrible kind of thing," Fields said. He said Germany's arguments are fallacious because the Scientologists are not threatening stability of the German state by "doing what the Nazis did, marching in the streets and beating people up."

Fields said it is "outrageous" that Kohl's party, the Christian Democratic Union, denies membership to Scientologists. "You can be a rapist or an ax murderer, but not a Scientologist," Fields said.

He said German outrage over the Nazi comparison was a "red herring" because the open letter talked only about restrictions on Jews during the early years of Hitler's rule, not the "final solution" that came later.

Burns said he had discussed this point with Fields and rejected Fields's argument.

"Do you mean to say Scientologists are going through what the Jews did when Dachau [concentration camp] was set up in 1933, the first year the Nazis came to power and they began to separate the mentally retarded and the Jews?" Burns said. "For them to say they are being treated like the Jews is historical amnesia."

U.S. officials said Germany and European nations generally cling to policies that allow far more government interference with religious, media and personal freedom than would be acceptable in this country. But the United States is not alone in its criticism of German policy toward Scientology.

The Organization for Security and Cooperation in Europe, reporting on implementation of the Helsinki human rights accords in Germany, said in 1993 that "it seems clear that Germany's course of action reflects the determination to marginalize or eradicate groups perceived as extremist or threatening to the established order. While understandable, especially given Germany's past, this determination can lead the government to engage in discriminatory policy," as in the case of Scientology, it said.



BY MURRAY CLOSE/HARMOUNT PICTURES  
Actor Tom Cruise in a scene from the movie "Mission Impossible," which was the target of a boycott in Germany because Cruise is a Scientologist.

# VERDICTS & SETTLEMENTS

SUPPLEMENT TO THE LOS ANGELES DAILY JOURNAL AND SAN FRANCISCO DAILY JOURNAL • FRIDAY, JANUARY 30, 1998

SUPPLEMENT FOR VERDICTS & SETTLEMENTS

## SPECIAL FEATURE

An in-depth examination of *Wollersheim v. Church of Scientology of California*, a remarkable case poised for another round of appellate review

In the Verdicts and Settlements section of the Daily Journal's December 12, 1997 edition, the readers were offered an extended report on an unusually old case, accompanied by extensive interviews with three of the plaintiff's lawyers. The outcome in the case was striking. Seventeen years after the case was filed, and eleven years after a lengthy jury trial resulted in a verdict against the only defendant, the Los Angeles Superior Court amended the judgment to include two new defendants — neither of which existed when the suit was filed and neither of which participated in the trial — and held both those new defendants liable for what now amounts to a \$6 million judgment.

That outcome was remarkable enough, especially when it is noted that both new defendants were added to the judgment on a contested record but without a single witness being called or cross-examined.

What follows is an in-depth examination provided by the Church of Scientology International of this remarkable case, which is poised again for another round of appellate review.

### A Relic of a Bygone Era

In September 1988, California's then-governor George Deukmejian signed California Senate Bill No. 1 into law. It was designed to protect churches and other charitable organizations from what its sponsor, California State Senator (now U.S. Congressman) John Doolittle, described as "an explosion" of frivolous lawsuits threatening religious freedom. Senate Bill No. 1 became California Code of Civil Procedure Section 425.14, and since its enactment, it has forbidden punitive damages suits against religious organizations except under strictly defined and narrowly limited circumstances.

Recognizing that such suits threatened direct state interference with the free exercise of religion, more than 1,500 religious organizations joined to alert the public to the ominous ramifications for religious freedom which such suits posed and to demand a legislative bar against such suits. The Church of Scientology's support for the legislation was both philosophical and practical. It was, at the time, a target of a variety of punitive damages cases which, with one solitary exception, were all resolved without finding any basis for Church liability whatever, according to the Church.

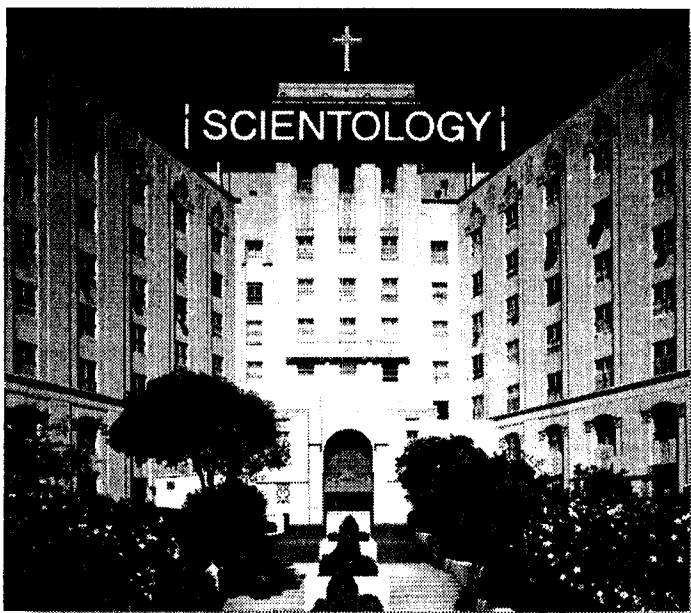
That exception was Larry Wollersheim's suit against Church of Scientology of California, a relic of a bygone era which predated the 1988 legislation and lingers as the example of the impetus behind section 425.14.

### The Road to a "Preposterous" Verdict

Boiled down to cold essentials, Wollersheim sued Church of Scientology of California (CSC) in July 1980, two months



Approximately 50,000 Scientologists were involved in a protest of the original \$30 million verdict. They were peaceful and orderly during their time downtown.



Today, more than 3,100 churches, missions and groups are active in more than 100 countries around the world — a nearly tenfold increase. Every Scientology church in the United States is tax exempt, under section 501(c)(3) of the Internal Revenue Code, recognized as operating exclusively for charitable and religious purposes.

after his expulsion from the Church, claiming that he had been fraudulently induced into obtaining religious services and that auditing (the Church's religious counseling procedures) caused him emotional distress. By the time the case went to the jury, the primary allegation was that his expulsion from the Church hurt his business enterprises since Scientology parishioners would no longer patronize his personal company's activities.

Notwithstanding the Church's con-

tention that auditing is a religious service and that the First Amendment placed its efficacy and effects beyond the power of civil courts to determine, the jury awarded Wollersheim \$5 million in compensatory damages and \$25 million in punitive damages — a punitive damages award the California Court of Appeal would later call "preposterous." That court did not remand for a new trial; instead it reduced the award to \$500,000 in compensatories and \$2 million in punitives for reasons that one of the

judges later admitted in a public forum was a matter of expediency.

The reduced award was later vacated by the Supreme Court of the United States, which remanded the case to the state court of appeal for further consideration. The reduced verdict was then reinstated by the same court that had characterized the original punitive damages award as "preposterous."

The California Supreme Court and the Supreme Court of the United States denied further review, and on March 7, 1994 — nearly eight years after the trial — the judgment against Church of Scientology of California had become final. Oddly, during that eight-year period, Wollersheim made no attempt to collect his judgment, other than having it recorded in every California county, despite being informed on three occasions that unless some compromise were reached, there would be no money left for him to collect. Indeed, when CSC had funds, Wollersheim was twice offered settlement in excess of the ultimate judgment in the case — both were rejected. He pursued appeals of his own, seeking to reinstate the original \$30 million figure, despite his knowledge that the defendant had other significant financial obligations that were causing its resources to dwindle and that CSC had informed the court and Wollersheim in 1986 that it did not have the funds to bond the verdict. Still, Wollersheim stood by, never seeking to collect a penny.

The history of the case raises troubling questions about odd events that have shadowed this case from before the trial until the present.

### "A Wife Beater and Draft Dodger"

According to CSC's lead trial counsel, Earle C. Cooley of Boston's Cooley, Manion, Moore and Jones, "Before becoming a litigant, Wollersheim was enthusiastic about the positive effects of the Scientology religion on his life. But with a jury present, a judge presiding, and the scent of millions of dollars in the air, his satisfaction came out as condemnation, and suddenly he was distressed."

During the trial, three dozen witnesses who knew Wollersheim before, during and after his relationship with the Church of Scientology of California testified to his untrustworthiness and described his history of pursuing whatever course would forward his own interests, regardless of the consequences to others. "He has left a wake of destruction and mystery," Mr. Cooley argued to the jury, "And in his wake are the people that he used, that he abused and that he discarded one after the other."

The trial testimony by and about Wollersheim is even more chilling in certain particulars. It paints a portrait of Wollersheim's

wife-beating, draft evasion, abuse of illicit drugs, and series of unethical business episodes.

According to the testimony, prior to joining the Church, Wollersheim had avoided the draft by persuading the examining psychiatrist that he was crazy. His performance was as cartoonish as it was apparently convincing. Wollersheim smeared peanut butter in his underwear, put his hair up in pigtales and ran around the induction center screaming and scooping the peanut butter from his shorts. "His 'malady' was contemplated, not chronic," Mr. Cooley notes. "It disappeared immediately upon the issuance of draft exemption."

The trial record also reveals that Wollersheim first experienced Scientology in March 1968. For the next decade — the time he spent in the Church — he did not use drugs and was able to hold a job. A document in Wollersheim's own handwriting memorialized his belief that the Church had "saved my life," a fact he gratefully acknowledged again and again at the time.

"Despite all that," says Mike Rinder, a director of Church of Scientology International, pointing to the trial record, "Wollersheim never overcame his own flaws, weaknesses and anti-social traits. He never overcame a life story which was essentially a tribute to deceit and mendacity."

In this regard, the trial testimony of the Church's witnesses showed that Wollersheim took advantage of fellow Scientology parishioners to further his own interests. In 1975, he told his partners in a company called Super Stores — both of whom were Scientologists — that he intended to become a Church staff member. To enable him to make what they believed to be a sincere religious commitment, his partners signed a release absolving Wollersheim from responsibility for any of the company's \$20,000 debts and agreed to take exclusive responsibility for those debts themselves.

Wollersheim then briefly joined Church staff, but a mere two months later, and knowing he was free from any liability for Super Stores, he departed staff on an extended leave of absence. His ex-partners were left with the whole burden of the company's debts while Wollersheim moved unencumbered into other endeavors.

In 1978, trial testimony revealed Wollersheim signed an agreement to provide a picture sales company with an exclusive distributorship and to train its sales force. But within two months, he was recruiting its sales personnel and selling in the territory of the company in violation of the agreement.

In 1979, creditor bills of \$160,000 led him to close down another business, Beautiful Pictures, according to testimony at trial.

To promote another picture-selling business, Argrams, in the late 1970s, Wollersheim claimed that a marketing research survey had shown the public would buy the pictures in volume. About \$15,000 worth of pictures were sold to traders on this assurance. When public sales failed to surface, Wollersheim was challenged by one of his partners to produce the survey — and admitted that no market research had ever been done, according to the trial testimony. Western Union threatened him for usurping its logo, and he subsequently dropped Argrams.

During the period of these episodes, and others also recounted at the trial, Wollersheim was expelled from the Church.

He then moved to Aspen, Colorado, and raised more than \$200,000 from investors for speculative fitness products. Two people who contracted with him to produce and market his products testified at trial that they never saw a penny of the money collected and could only conclude that Wollersheim kept it for himself. Those two witnesses testified that they personally lost \$70,000 in the venture. Wollersheim signed the business over to his fiancée and, in early

1985, left town, and left her with \$200,000 in company debt.

Many of those who worked with Wollersheim — who was known to them variously as Robert Lawrence, Lawrence Roberts and other aliases — testified that they were defrauded by his business practices. A county sheriff from Colorado stated that based on his contacts and conversations with people who knew and had business dealings with Wollersheim, and from his own observations, he felt that Wollersheim "basically...was a con man." Wollersheim's counsel asked the sheriff without offering any proof whether he was "really a Scientologist" and thus could be entirely ignored. Members of the jury admitted they bought this lie, fabricated out of whole cloth.

According to evidence provided by the Internal Revenue Service and presented by the Church at trial, Wollersheim filed no income tax returns for the years 1969, 1972 and 1979 through 1985. The evidence also demonstrated that the Social Security number provided to the trial judge, Ronald M. Swearingin, in response to his request for information about Wollersheim, was not Wollersheim's number. Wollersheim, as it turned out, had used a false Social Security number on his 1975 tax return.

Even Judge Swearingin — the judge who presided at the trial and denied the Church's post-trial challenges to the verdict — was later clear about his view of Wollersheim. "I have no use for Wollersheim," the judge told Church lawyer William T. Drescher, Los Angeles sole practitioner who represents Church of Scientology International, six years after the verdict. "He's a wife beater and a draft dodger."

Why then the verdict in Wollersheim's favor? That has been the subject of the Church's attention for a decade which was marked by various unusual events surrounding the case.

#### Intimidation, Bodyguards and Guns

From the Church's perspective, a combination of factors, either created or condoned by the court, turned the 1986 trial into an opportunity to exploit the circumstances to Wollersheim's benefit at the expense of the

persons entering the courthouse were subject to searches and that all guns and weapons were prohibited within the courtroom and adjacent areas."

According to the order, it was based upon "information derived from investigative, public and judicial sources" which indicated that "the potential exists for disruption of orderly proceedings in the [Wollersheim] case." The day after it was issued, Church counsel Cooley sought to discover the genesis of the order:

MR. COOLEY: This security order, Your Honor, troubles me.... I think that the security ordered by the court is unnecessary and surrounds this case with an atmosphere that is prejudicial and which will prejudice the jury from the outset. ... I ask the court to disclose on the record the investigative, public and judicial sources that led to this — the entry of this order without the opportunity of Counsel to be heard.

JUDGE MARGOLIS: It is not necessary to get into that right now.

Apparently, in the eyes of the court, it never was "necessary" to do so. As the level of courtroom security became ever more pervasive, Church counsel continued their efforts to learn what had prompted his order and to get it withdrawn, but, on October 28, 1985 Judge Margolis ordered that the security measures, including armed guards in the courtroom, remain in force until the conclusion of trial.

#### Strange Events Promulgate

Ten days after Judge Margolis imposed his order, Wollersheim's counsel, Charles O'Reilly, took what the Church characterizes as a campaign to create an oppressive, fear-stained atmosphere to a new level through ridiculing the Church's religious practices in a shameless courthouse exhibition.

On October 31, 1985, after calling the court clerk to announce his impending arrival, O'Reilly marched through the courthouse corridors adjacent to the assigned courtroom dressed as a parody of a Church of Scientology minister — complete with robes, a cross and a volume of church ceremonies, according to a declaration of Earle C. Cooley filed with the Court.

"I expected an instant condemnation of such a display of anti-religious mockery in a courthouse," Mr. Cooley says. "After all, if

alleged the Church was going to "create an incident," requiring security measures. O'Reilly never disclosed who this informant was, since none existed. Nor did any judge ever inform the Church of this *ex parte* contact.

According to the Church, the strange events had only just begun. Inside the courtroom, the security precautions created a tense and sinister environment. On the eve of trial, the Church claims O'Reilly exploited the climate of suspicion. "On the eve of trial," Mr. Cooley recalls, "O'Reilly went on local television to claim that he had discovered a 'bug' which he claimed was planted by the Church." In a world free of religious bigotry and untainted by a hostile, siege-mentality in the courthouse, O'Reilly's "bugging" claim would have been immediately recognized for the bad burlesque it was.

Mr. Cooley continues. "The so-called surreptitious wire would have been visible to a bat. It gave every indication of being some sort of fat electric cable laying out in the open. No one was being bugged, but it was grist for an undiscerning media's mill, who never challenged O'Reilly on why someone would even think about 'secretly' bugging a place with a cable almost thick enough to tie a ship to a dock, left out in the open for the world to see."

The theatrics had only begun. O'Reilly hired what persons who were present described as personal bodyguards, equipped with walkie-talkies, who accompanied Wollersheim and O'Reilly wherever they went in and around the courthouse. "They were playing on the atmosphere that the security order created," said Mr. Cooley. "It was grandstanding, and the jury was influenced by it."

In fact, several members of the jury commented that they mistakenly believed those bodyguards to be Church personnel, according to a declaration from a juror. The show of force caused jurors to discuss with each other why they were being stared at by apparently armed men with walkie-talkies who, they mistakenly believed, worked for the Church of Scientology, as revealed in later jury interviews. One juror stated after the trial that a number of other jurors had said even *before trial* that the Church must be guilty to be showing the "paranoia" reflected by the show of muscle the jurors misinterpreted.

With four armed bailiffs inside the courtroom, in full view of the jury, and another four outside — also carrying guns — Church counsel Cooley protested to the court: "To try this case in that atmosphere is absolutely prejudicial. There is no way that we can get a fair trial. There are guns all over the courtroom. I want that security presence removed, and I want the court to instruct the jury that they are to draw no conclusions from that presence, and that it is not intended to suggest that there is any necessity for armed intervention in a case of this nature."

Judge Swearingin denied the request with the comment: "Security matters are mine in this courtroom. Your motion is denied. Let's get the jury in."

#### A Religion on Trial

Quite apart from the tense, armed atmosphere, the actual trial was, from the Church's perspective, conducted by legal ambush. Judge Swearingin reversed years of pretrial rulings affirming Scientology's religiosity and that Scientology religious counseling, known as "auditing," would not be a subject of inquiry in the case.

The record reflects that from the opening statement to the closing argument, the plaintiff made the beliefs and practices of Scientology the focus of attack. Wollersheim did not produce any witness with percipient knowledge of his ten-year membership in the Church. Instead, he relied on "experts" who testified at length concerning their generalized conclusions about Scientology's practices based on interviews with former Scien-

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Church. "I've reviewed it and re-reviewed it in my mind for a decade," Mr. Cooley, a 40-year trial lawyer who is also chairman of the board of trustees of Boston University says, "and it always comes out the same way. The trial was surrounded with prejudicial incidents, calculated to adversely influence the proceedings."

Shortly before trial began, about 200 posters denigrating the Scientology religion, many depicting a skull and crossbones, suddenly appeared on light poles and electrical and mail boxes around the courthouse, city hall and the *Los Angeles Times* building. As the weeks went by, more and more of these posters appeared. The inflammatory posters — and the hateful graffiti of bigotry — were merely setting the tone for events soon to take place in the courthouse.

"Actually," Mr. Cooley recalls, "the climate of suspicion began even before then." He points to an October 21, 1985, preliminary hearing less than four months before jury selection. At that time, Judge Alfred L. Margolis imposed an order enhancing the security measures around the courthouse. "It was entirely *sua sponte*," Mr. Cooley says. "The order mandated that

he had dressed up as a rabbi, and strolled the courthouse mocking the Talmud, his childish display of bigotry would have been quickly brought to a halt. Instead, during this ridiculing public display, O'Reilly actually spoke with Judge Margolis." At a hearing six days later, the judge stated he had merely said "hello" and nothing more to O'Reilly. Church counsel, however, protested that more was revealed by witnesses: "It wasn't just a 'hello'; that there was some laughter exchanged...."

Judge Margolis had recused himself from handling the trial on October 30, but retained important pending motions for later consideration. After O'Reilly's display, counsel asked that the judge either recuse himself from all matters involved with the case or disclose all private communications concerning the Church that he had received and from whom. Judge Margolis refused. Church counsel then moved for his complete recusal. On November 7, 1985, the case was assigned to Judge Swearingin.

Only years later was the Church to obtain information that plaintiff's counsel, O'Reilly, had an undisclosed *ex parte* contact with the Court claiming he had an "informant" that

tologists and their families. At no time did these "experts" interview any of the millions of satisfied Scientologists or obtain information from the Church. Psychologist Margaret Singer and sociologist Richard Ofshe focused on denigrating the Scientology religion through what they characterized as "scientific" analysis. "That testimony should never have been allowed," Mr. Cooley says. "Can you imagine if someone tried to introduce supposedly scientific testimony to debunk Catholicism's faith in the Immaculate Conception?"

Both the American Psychological Association and the American Sociological Association rejected their theories as unscientific, and four courts have refused to allow them to testify as experts. Singer and Ofshe subsequently claimed that these developments effectively ended their "expert witness" careers.

Specifically, when Singer submitted her thesis on the alleged coercive practices of new religious movements to the American Psychological Association, the APA rejected it, stating that "the report lacks the scientific rigor and evenhanded critical approach necessary for APA imprimatur" and that it had "significant deficiencies." The group cautioned Singer against implying "APA support or approval of the positions advocated in the report," and demanded that Singer not "distribute or publicize the report without indicating that the report was unacceptable to the board." Singer later sued the APA, claiming it had conspired against her. The court characterized some of the allegations in the suit as "absurd" and dismissed the case.

To this day, that testimony — for which Singer and Ofshe charged more than \$50,000 — forms a central premise for the *Wollersheim* verdict.

The record reflects that throughout the trial, Church lawyers again and again caught Wollersheim in misstatements, contrivances and contradictory statements. One thing, however, was consistent throughout all of Wollersheim's evidence: while he was able to relate horror stories about what supposedly happened to him, he was never able to produce evidence sufficient to convince the judge that anything the Church had supposedly done to him cost him any money, a key component to his claim that the Church "ruined" his business. Judge Swearinger even noted this at the close of plaintiff's case: "I don't see he lost any dough."

In the end, it didn't matter at all. Out of this setting came a result which set off alarms in churches across the country: a \$30 million verdict, the punitive damage component of which the appellate court would call "preposterous" and which the nation's highest court would nullify altogether before a greatly reduced award was ultimately reimposed by the appellate court.

Churches weren't the only ones to express alarm at the size of the runaway verdict. Judges, lawyers, legislators, scholars and others also criticized the dangers inherent in the outcome. Judge Swearinger, however, refused to correct the injustice, although he later acknowledged that he knew he should have and it was well within his province to do so, according to Church attorney Drescher.

That post-trial acknowledgment, along with other public statements made by Judge Swearinger still angers the Church. As those later events unfolded, the Church's conviction that an injustice had been done became reinforced. "The proceedings had been tainted with prejudice and suspicion," Mr. Cooley says. "The depth of the taint was staggering beyond our wildest expectations."

#### Admitted Bias

How so? Because unknown to the Church until years later, Judge Swearinger evidently entertained and concealed strong prejudices against the Church throughout the trial.

Following the trial verdict, jurors began

relating horror stories to the Church. For instance, one juror had heard that the tires were slashed on the judge's car and that his dog had been drowned. The Church demanded an investigation of these rumors, where they originated, and where the jury heard them. The request was denied. The Church now knows why — they came from the judge himself.

It was only when *American Lawyer* reporter William Horne interviewed Judge Swearinger more than six years later that the jurist revealed some extraordinary facts. Judge Swearinger told the *American Lawyer* of a number of suspicious and unusual events during the trial, including that his aging dog was found dead in his swimming pool. Judge Swearinger also admitted believing, also without evidence, that

tional scrutiny in the country which regards itself as the birthplace of the guarantee of religious freedom," Mr. Rinder says.

The protestors were peaceful and orderly during their time downtown. "Their presence was intended to remind those inside the courthouse that thousands of people of diverse nationalities and from all walks of life who had improved their lives through the practice of the Scientology religion were outraged that a court in the United States would presume to preside over a heresy trial," Mr. Rinder says. Insiders say that a different message was being spread by the trial judge, fully angered over the Scientologists' expression of free speech concerning the kangaroo heresy trial he'd allowed to occur, with a punitive damages

## During the trial, it seems only the Church was unaware of the behind-the-scenes "mysterious" happenings.

Church agents had slashed his car tires and were following him. It was a complete lie. Even more significant, Swearinger never raised these concerns so the Church could address them.

Another Superior Court judge told a Church executive years later that it was "all over the judges' luncheon" during the *Wollersheim* trial that Judge Swearinger felt he was being followed by the Church. Naturally, the Church representative snapped back, "If Swearinger really believed it and if it affected him, why didn't he recuse himself?" The judge remained silent. "The fact is that Judge Swearinger never made his feelings known during the pendency of the case, and there never was any act of harassment of any kind directed toward him. At least, not by the Church," Mr. Cooley says.

The Church maintains that any judge laboring under such a frame of mind during trial has a duty either to step down or communicate such suspicions to the trial attorneys. Judge Swearinger did neither. Instead, he discussed his suspicions about the Church with court personnel, and it went right to the jurors — all unknown to the Church. It seems *only* the Church was unaware of these behind-the-scenes "mysterious" happenings.

Worse still, in April 1992, shortly before his death, Judge Swearinger made another revealing admission. He told Church attorney Drescher that he was fully cognizant that the jury award should have been reduced, but that he refrained from doing so because he had been angered by lead defense attorney Earle Cooley for arguing that the jury had been unfairly influenced in the case. At that time, the judge also told Church counsel that he privately referred to Mr. Cooley as "Fooley" and that he did not reduce or vacate the verdict — even though it was plainly excessive "and should have been reduced" — because to do so would have given credence to Cooley's argument that the jury had been subjected to the taint of bias. Yet as it turned out the jury was influenced just as the Church attorneys had maintained at the trial.

#### No Recourse

Scientologists immediately made clear their feelings of protest and outrage about the \$30 million verdict. They came from all corners of the globe to stand peacefully outside the Los Angeles courthouse, many carrying flags and singing "We Shall Overcome." *Not one incident of violence or disorderly conduct was reported.* "They had no other way to protest a trial which they regarded as a religious insult, with their beliefs and practices subject to inquisi-

award the Appellate Court was to call preposterous. Obviously the protest was well justified. However, Judge Swearinger made sure he spread his version of events over the preposterous verdict he'd presided over to all the judges in the luncheon.

The Church of Scientology of California appealed the *Wollersheim* verdict in late 1986, after Judge Swearinger's denial of post-trial motions. The appeal was assigned to Justices Mildred Lillie, Earl Johnson and Fred Woods of the California Court of Appeal.

While the appeal was pending, the next astonishing step in the procession of oddities surrounding this case transpired. In January 1987, Charles O'Reilly, Wollersheim's trial lawyer, was named the 1986 "Trial Lawyer of the Year" by the Los Angeles Trial Lawyers Association (LATLA). At that time, the now-defunct Greene, O'Reilly firm dominated LATLA. O'Reilly himself was a member of the LATLA Board of Governors. Between 1978 and 1986, members of that firm had won the LATLA Trial Lawyer of the Year award six years out of nine. In all, in 1986, four members of LATLA's Board of Governors were partners in Greene, O'Reilly. And LATLA's president in 1986 was Gerald Agnew, a name partner in the firm, one of a number of Greene, O'Reilly lawyers to hold that position.

Greene, O'Reilly partner Gary Paul was introduced to give Charles O'Reilly his award. Paul, in that public forum, unleashed a stream of prejudicial allegations regarding the Church of Scientology, all in the context of the *Wollersheim* case. In fact, it became clear that the substantial verdict in that case was the core reason for O'Reilly winning this award, and Paul took the opportunity to give those in attendance a one-sided, prejudicial account of the trial and the surrounding events.

And who was in attendance? Justice Lillie, for one. More outrageous, according to court records, she was *currently* sitting as the senior justice assigned to review the *Wollersheim* appeal. And there she was at the event to accept the 1986 "Appellate Justice of the Year" award from LATLA. The court declined to recuse Justice Lillie — despite evidence presented by the Church in its moving papers regarding the prejudicial introduction to the case by Gary Paul to which she had been exposed at the LATLA function. Contending that the award was intended to influence Justice Lillie, the Church in its recusal motion presented evidence of the influence the Greene, O'Reilly firm had in LATLA and that "... members of the Greene, O'Reilly firm had an important part in determining who would receive the award...."

Despite the above, the evidence for the Church was so strong that the court was forced to admit that the jury's original punitive damages award was "preposterous" and that the damage award had been inspired by "passion and prejudice." However, rather than overturn the verdict and remand the case for a new trial, the court reduced the damage award so that it was more plausible in the view of the appellate court. The panel reasoned around the Church's authority that a central premise of *Wollersheim's* case — the scientifically repudiated theories of "thought reform" — was untenable by suggesting a completely new theory that was not found in the trial record — that Wollersheim had been physically coerced to partake in religious services. No one need take the Church's word that the appellate court invented a theory that was never presented at trial. Wollersheim himself appealed from that aspect of the order — the one that preserved his verdict — on the grounds that it was a theory *he never advanced at trial*.

And what was that "physical coercion?" The trial record reveals that the evidence to support this was testimony that someone asked Wollersheim to calm down and that he "touched his arm" when doing so. "That's all," Mr. Cooley recounts, pointing to the record. "Touching someone on the arm is apparently 'physical coercion' adequate to deprive core religious practices of their First Amendment protection and to justify an award of \$2.5 million." Where did the physical coercion theory arise? It was one of Singer's premises, rejected by her own peers at the APA, but it survives as the underpinning of the Court of Appeal's decision.

The standard to vacate an award is where it is "excessive" or "grossly disproportionate," evidencing it is based on passion and prejudice. The Church pointed out to the appellate court that a "preposterous" punitive damages award exceeds both these standards and thus must be set aside as based on passion and prejudice. The court took the unprecedented step of modifying their ruling in only one respect. They deleted the word "preposterous," leaving the ruling intact without *any* further comment.

The United States Supreme Court denied Wollersheim's *certiorari* petition, but granted the Church's, vacating the verdict and ordering the California Court of Appeal to review the decision anew. The same three jurists' response in June 1992 was to issue a reaffirmation of the earlier ruling, making the reduced damage award dependent upon Wollersheim's acceptance of the reduced amount. It gave Wollersheim 30 days to accept the award. The trial judge contacted the Church through plaintiff's counsel, Barry Van Sickle. However, Wollersheim refused to even respond to the judge.

The panel did not stop there, however. Harking back to the deletion of one word, "preposterous," when, with only one day remaining before Wollersheim's silence about accepting the reduced award would have meant that the entire case would have to be tried all over again, the Court of Appeal, acting on its own initiative, issued a revised opinion which took the choice away from Wollersheim and imposed the reduced award on him and the Church as a final judgment. That's not all. The mechanism for doing so was to delete the language requiring Wollersheim to accept the award. In effect, they rewrote history and then issued it in another decision.

The Church was left to wonder "Why?" "We were one day from having the matter sent back to square one so it could be properly tried," Mr. Cooley recalls, "and then the remittitur was vacated. We had no idea why."

The answer, however, lies in a comment by Justice Earl Johnson, the author of both court of appeal opinions in *Wollersheim*,



made in a legal seminar in 1991. He was asked why a new trial had not been ordered in the court's first opinion: "[A] re-trial would merely have brought the same evidence presumably in and we felt it reduced it substantially on the basis that that was the maximum that would be allowable given the evidence and it was a seven-month trial so to have remanded it for retrial would have meant probably a six-month retrial. ... In the ordinary case we would remand for [the remittitur] but this was an unusual case...."

#### Case Remains Unusual

The Court of Appeal rendered its final order on April 20, 1992, and the Supreme Court of the United States denied review on March 7, 1994. The unusual nature of the case, however, never changed. Wollersheim, having rejected settlement offer after settlement offer while refusing to take any action to collect his judgment, then made several aborted efforts to impose a receiver in aid of collecting judgment against Church of Scientology of California. Each such effort failed, both "because such a receiver could do no more to aid in collecting than Wollersheim could do on his own, had he been so inclined, and because the defendant had become assetless, depleted by its obligations, not the least of which was the litigation of this case," says David M. Chodos of Los Angeles' Simke, Chodos, who represented CSC in those proceedings.

Therein lies the enigma of the entire period following the 1986 jury verdict. "Wollersheim seems much more interested in destroying the Church and in prolonging his dispute than in actually collecting his judgment," Mr. Chodos says.

"He is obsessed," Mr. Rinder agrees. "He has devoted his energy to keeping the dispute alive, to bankrupt CSC, and to harass the religion, its leaders and its parishioners, to the exclusion of any other outcome."

Again, the Church points to documents to make its point.

The documented communications made by Wollersheim and on his behalf range from the bizarre to the sinister. For example, in October of 1992, Wollersheim delivered a delusional letter to appellate counsel Eric M. Lieberman. Having traveled to Mr. Lieberman's New York offices, he threw the letter at the receptionist as the elevator doors were closing and then vanished from the scene, according to Mr. Lieberman. That letter evidences Wollersheim's delirium, "Maybe you haven't figured it out yet and don't have a clue what's really happening. So, its [sic] time to spell it out in black and white.... Scientology may be some type of intelligence agency project itself, or a renegade think tank field experiment in refining the second generation thought reform technology done under a clever and almost inconceivable cover of using the immunity protections of the religious sanctuary."

Certainly bizarre. Most of the communications, however, are more sinister than bizarre. In December of 1990, he threatened a variety of Scientologists, who have attained prominence in the entertainment and motion picture industries, that he would "target your careers and public images" if they continued to permit their names to be associated with their religion. Wollersheim applauded the efforts of a lawyer — whom he would later hire — when that lawyer sent a team of process servers to a fund-raising benefit a Scientology church held to assist the Los Angeles Police Department's drive to buy Christmas toys for underprivileged children. The process servers disrupted the event by serving subpoenas on the celebrities, some of whom were not even Scientologists, who had volunteered to

stage a holiday pageant at the fundraiser.

The first effort that lawyer, Graham E. Berry, undertook was a letter demanding money for Wollersheim and other "witnesses," some of whom had never asserted a claim against any Scientology church, and some of whom, Berry did not even represent. (The letter was sent in connection with a case Berry handled.) Berry wrote: "It seems to us that your client has a very narrow window in which to solve a lot of problems with money. It is similar to a major corporation with a lot of toxic waste which can be controlled with money. The toxic waste is not going away. It has a cash value."

"The import of that letter was clear," Mr. Rinder recalls. "Pay up and we'll shut up." Berry's motives were clear. His demand for silence? \$70 million.

The Church points to more recent Internet postings as evidence that both Wollersheim and Berry — who no longer represents Wollersheim — continued their obsessive pursuit of the Church and its leadership.

Court filings reflect that the Internet postings to which the Church refers certainly have a disturbing character to them,

prove the motion was baseless."

Other than Wollersheim's own declaration, the only sworn testimony was in the form of declarations by individuals who had been paid for their declarations. Indeed, the only declarant whose statement supported the alter ego theory has for five years had as her sole source of income, employment by Wollersheim or his lawyers.

After oral argument of Wollersheim's motion, and while refusing an evidentiary hearing, Judge John P. Shook of the Los Angeles Superior Court entered an order, on October 29, 1997, finding Church of Scientology of California to be the alter ego of both RTC and CSI. Not one witness was called or cross-examined. And yet every piece of Wollersheim's evidence was rebutted with credible evidence, including from the federal government itself. An amended judgment was entered on November 14, 1997 and RTC's and CSI's motions to vacate that order and the amended judgment — based on due process grounds — were denied on December 11, 1997.

The new defendants have appealed from the most recent proceedings. "When

### The court of appeals was forced to admit that the punitive damages award was "preposterous."

reflecting personal and even scatological attacks on the leader of the religion, David Miscavige. In one, Wollersheim placed a "bounty" that ultimately reached \$9,000 on Mr. Miscavige, by offering to pay that sum to anyone who served a judgment debtor examination notice on him in the *Wollersheim* case — a case in which Mr. Miscavige has never been a party. In other postings, Berry, who was then representing Wollersheim, announced that all those opposed to Scientology should be out to "get" Mr. Miscavige. In another exhibit submitted to the court by the Church, Berry also invited "applications for membership" in a club in which Mr. Miscavige and other Scientology leaders were to be "publicly [sexually assaulted] before breakfast on a daily basis."

"That's the level of abuse we've been enduring," Mr. Rinder says. "That's the sort of obsessive harassment we're subjected to."

Finally, in August of 1997, on the eve of the eleventh anniversary of the verdict, Wollersheim moved to amend the judgment to name two other Scientology churches — Church of Scientology International (CSI) and Religious Technology Center (RTC) — as judgment debtors on an alter ego theory.

"The entire alter ego motion was shocking in and of itself," says Gerald L. Chaleff of Orrick, Herrington & Sutcliffe's Los Angeles office, who represented CSI in those proceedings. "Neither CSI nor RTC were even in existence when Wollersheim filed his suit; Wollersheim's showing on the alter ego issue was essentially non-existent, and the eleven-year wait to make such a motion was about four times as long as any that any California court had ever allowed."

RTC's counsel agrees. "What evidence Wollersheim produced in support of his motion was speculative, tainted or invented," says Monique E. Yingling, of Zuckert, Scoutt & Rasenberger in Washington, D.C. "We were confident that the outcome of the motion to amend would either be outright denial or, at worst, that the matter would be scheduled for an evidentiary hearing — something required by law — so we could

the facts are contested in a civil proceeding, due process requires cross-examination and confrontation of witnesses," says Mr. Drescher.

RTC and CSI take issue with more than the procedures applied to them. "It is impossible to reconcile the findings with the record," Mr. Drescher said. For example:

- The order finds that CSC had expended all its assets by the time of trial; the Court of Appeal ruled seven years ago that CSC's assets at that time totaled \$16 million and reduced the award on that basis.

- To support its finding that Mr. Miscavige controlled "all of Scientology" and that "RTC controlled its litigation," the order states that "Miscavige attended a portion of the trial." He didn't. In fact he never went to one day of the trial itself and as the record shows, he was only one of about 50,000 Scientologists who were involved in the protest. Yet under this ruling, if a Scientologist attends a protest, then they are the alter ego. Again, Mr. Miscavige has never appeared in this case, even by affidavit, and yet findings are made about him based on testimony bought by Wollersheim.

- The order states that Mr. Miscavige is the Chairman of RTC and another corporation, Author Services, Inc. Not only is that not so, Wollersheim never even made that allegation. Mr. Miscavige was employed by Author Services, Inc. at the time of trial, but has not been so employed in more than a decade, and Wollersheim made no claim that Author Services, Inc. should be held to alter ego liability. Mr. Miscavige's employer beginning one year after the *Wollersheim* verdict, RTC, has now been held liable based on nothing more than Mr. Miscavige's employment by it.

- RTC is an independent corporation. Two years of IRS examination including financial records and documents totaling a million pages resulted in the U.S. government's ruling as such. No competent evidence to dispute this last finding was ever offered by Wollersheim, nor does the order point to any.

- In the same investigation the IRS also determined that CSI is a separate,

independent tax-exempt corporation, with its own directors, officers, accounts, facilities and staff.

- The order says that assets of CSC were transferred to RTC; no assets of CSC were ever transferred to RTC. An IRS examination over a period of two years confirms this fact.

- The order finds that in another case, RTC and CSI filed a notice of appeal on behalf of CSC when CSC was not a party to that case; CSC was a party, and all three churches joined in that notice.

- The order states that CSI settled another suit in which CSC was a party and CSI was not; CSI was, in fact, a party to the suit it settled.

- The order finds that CSI claimed the judgment in this case as their debt, when CSI has never claimed this.

- The order finds that CSI paid for CSC's defense in the *Wollersheim* case when CSC paid for its own defense costs from the beginning of the case, all the way through trial and the appeal.

- The order finds that Mr. Miscavige ordered the destruction of documents which the trial court had ordered CSC to produce. However, the person who allegedly made this statement testified in a sworn declaration he did no such thing, and the trial record shows that the documents were, in fact, produced at trial as ordered. Nevertheless, the judge ordered it.

The judge was informed of all these facts. And his comment? None. "The findings are square pegs, and the facts are round holes," Ms. Yingling says. "They will never match."

More than that, due process was entirely denied and apparently when it comes to the Scientology religion in the Superior Court, all one need allege is "Oh, he's a Scientologist," and the law goes out the window as it concerns their rights.

#### Epilogue

Today, the *Wollersheim* case remains unique. It is the only case remaining from the glut of lawsuits filed against the Church by apostates in the 1980s and the only one that ever resulted in liability. Since those days, the Scientology religion, supported by parishioners around the world, has emerged stronger and more stable, larger and more influential than ever before. In 1980, the year Wollersheim filed his suit against the Church of Scientology of California, 328 Scientology churches, missions and groups dotted the globe. Today, more than 3,100 are active in more than 100 countries around the world — a nearly tenfold increase. Every Scientology church in the United States is tax exempt, under section 501(c)(3) of the Internal Revenue Code, recognized as operating exclusively for charitable and religious purposes. The Church supports the highly successful Narconon drug rehabilitation program, literacy projects in inner cities around the world, and the Criminon program which has reformed thousands of inmates. Scientologists are active in these and other programs in their communities.

Today, Larry Wollersheim's only income is for "anti-Scientology" work — very much having nothing to do with his case. Indeed, liens filed against his judgment — based on various "investments" he has obtained money for, in addition to loans procured against his judgment, exceed the value of his judgment. That information comes from Wollersheim's attorney, and quite possibly explains why he rejected any settlement from CSC when offered.

As Mr. Cooley summed up in his closing arguments to the jury, "Larry Wollersheim is a con man ... He has been doing it all his life."

*Presented by Church of Scientology International*