

**SCHEPER KIM & HARRIS LLP**

1 WILLIAM H. FORMAN (State Bar No. 150477)

wforman@scheperkim.com

2 DAVID C. SCHEPER (State Bar No. 120174)

dscheper@scheperkim.com

3 MARGARET E. DAYTON (State Bar No. 274353)

pdayton@scheperkim.com

4 800 West Sixth Street, 18th Floor  
Los Angeles, California 90017-2701

5 Telephone: (213) 613-4655

6 Facsimile: (213) 613-4656

7 Attorneys for Defendants Church of Scientology  
International and Celebrity Centre International

**JEFFER MANGELS BUTLER & MITCHELL LLP**

8 ROBERT E. MANGELS (Bar No. 48291)

9 rmangels@jmbm.com

10 MATTHEW D. HINKS (Bar No. 200750)

mhinks@jmbm.com

11 1900 Avenue of the Stars, 7th Floor  
Los Angeles, California 90067-4308

12 Telephone: (310) 203-8080

Facsimile: (310) 203-0567

13 Attorneys for Defendant Religious Technology  
Center

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

16 CHRISSIE CARNELL BIXLER; CEDRIC  
17 BIXLER-ZAVALA; JANE DOE #1; MARIE  
BOBETTE RIALES; and JANE DOE #2,

18 Plaintiffs,

19 v.

20 CHURCH OF SCIENTOLOGY  
21 INTERNATIONAL; RELIGIOUS  
TECHNOLOGY CENTER; CHURCH OF  
22 SCIENTOLOGY CELEBRITY CENTRE  
INTERNATIONAL; DAVID MISCAVIGE;  
23 DANIEL MASTERSON; and DOES 1-25,

24 Defendants.

CASE NO. 19STCV29458

*Assigned to Hon. Steven J. Kleinfeld*

**DEFENDANTS CHURCH OF  
SCIENTOLOGY INTERNATIONAL,  
CELEBRITY CENTRE  
INTERNATIONAL, AND RELIGIOUS  
TECHNOLOGY CENTER'S FURTHER  
BRIEFING IN SUPPORT OF MOTIONS  
TO COMPEL RELIGIOUS  
ARBITRATION AND FOR STAY OF  
LITIGATION AS TO PLAINTIFFS  
CARNELL BIXLER, BIXLER-ZAVALA,  
JANE DOE #1, AND JANE DOE #2**

*[Filed Concurrently with Second Supplemental  
Declaration of Lynn R. Farny]*

Date: December 18, 2020

Time: 10:00 a.m.

Dept.: 57

Complaint Filed: August 22, 2019

Trial Date: None Set

1 I. The Agreements At Issue Evidence Transactions Involving Commerce.

2 “[T]he phrase ‘involving commerce’ in the FAA [Federal Arbitration Act] is the functional  
3 equivalent of the term ‘affecting commerce,’ which is a term of art that ordinarily signals the  
4 broadest permissible exercise of Congress’s commerce clause power.” *Shepard v. Edward Mackay*  
5 *Enter., Inc.*, 148 Cal.App.4th 1092, 1097 (2007). The phrase “evidencing a transaction involving  
6 commerce” is broadly construed and agreements to arbitrate claims affecting commerce are  
7 “rigorously enforced.” *Giuliano v. Inland Empire Pers., Inc.*, 149 Cal.App.4th 1276, 1286 (2007).

8 The FAA governs even where individual agreements do not have “any specific effect upon  
9 interstate commerce” where “in the aggregate the economic activity in question” represents “a  
10 general practice” affecting commerce. *Citizens Bank v. Alafabco, Inc.*, 539 U.S. 52, 57 (2003); *Scott*  
11 *v. Yoho*, 248 Cal.App.4th 392, 401-02 (2016) (surgical procedure contract between California doctor  
12 and California patient governed by FAA where defendant’s combined out-of-state contacts  
13 represented sufficient nexus with interstate commerce); *Shepard*, 148 Cal.App.4th at 1096  
14 (residential purchase contract involved interstate commerce where developer used out-of-state  
15 material suppliers even though virtually none of the materials used came from other states). There  
16 is also no requirement that all parties to an agreement be involved in conduct “affecting commerce.”  
17 *See, e.g., Nguyen v. Applied Med. Res. Corp.*, 4 Cal.App.5th 232, 246 (2016) (FAA applies to  
18 employment agreement between local line worker and employer engaged in interstate commerce).

19 “The ‘business’ or ‘commerce’ of a church involves the solicitation and receipt of donations,  
20 and the provision of spiritual, social, community, educational (religious or non-religious) and other  
21 charitable services.” *United States v. Rayborn*, 312 F.3d 229, 233 (6th Cir. 2002); *Camps*  
22 *Newfound/Owatonna v. Town of Harrison*, 520 U.S. 564, 584-85 (1997) (commerce clause applies  
23 to charitable entities). The Church of Scientology is no different: parishioners make donations for  
24 religious services they wish to participate in. (Second Supplemental Declaration of Lynn R. Farny  
25 ¶ 3.) These contributions are the primary source of financial support for the Church and fund its  
26 religious and social betterment activities throughout the world. (*Id.*)

27 The Agreements thus affect interstate commerce. There are thousands of Scientology  
28 churches and organizations in the United States and worldwide. (Farny Decl. ¶ 3.) CSI is  
29 Scientology’s Mother Church and oversees the ecclesiastical activities of Scientology churches and  
30 organizations throughout the United States and globally. (*Id.* ¶ 4.) RTC is the worldwide arbiter of  
31 Scientology orthodoxy. (McShane Decl. ¶ 4.) The Agreements with CC and FSO and extend to all  
32 Scientology organizations. (Exs. 7-14, ¶ 6.a.) CC is a Scientology church for prominent persons who

1 travel to California from around the globe to participate in Scientology privately at CC. (Marmolejo  
2 Decl. ¶ 2.) FSO is located in Florida, is Scientology’s worldwide spiritual headquarters, and  
3 ministers to Scientologists throughout the world who come to Florida for Scientology services  
4 available only at that church. (Heller Decl. ¶ 2.) The Agreements control “the provision of spiritual”  
5 services by Defendants; no parishioner is permitted to receive such services without executing one.  
6 (Farny Decl. ¶ 22; Marmolejo Decl. ¶ 3; Heller Decl. ¶ 3). Moreover, the Agreements contain  
7 detailed provisions concerning the return of religious donations. (Exemplar Agreement, Marmolejo  
8 Decl. Ex. 8 ¶¶ 5.c.i-iv.) Thus the Agreements in the aggregate plainly affect both interstate and  
9 international commerce as they are a condition for the provision of Scientology services worldwide  
10 and govern the conditions for the receipt and return of religious donations—the primary source of  
11 the Church’s funding enabling its global ministry. *See Alafabco*, 539 U.S. at 57 (FAA governs where  
12 “in the aggregate the economic activity in question” represents “a general practice” affecting  
13 commerce); *Garcia v. Church of Scientology Flag Service Org., Inc.*, No. 8:13-cv-220-T-27TBM,  
2015 WL 10844160, at \*2, 12 (M.D. Fla. Mar. 13, 2015) (enforcing identical agreement under FAA).

13 II. The Claims Need Not “Arise out of” the Agreements, But They Do.

14 The purpose of the FAA is to enforce the intent of the parties to arbitrate disputes. *Lamps*  
15 *Plus, Inc. v. Varela*, 139 S.Ct. 1407, 1416 (2019) (citation omitted). (“Whatever they settle on, the  
16 task for courts and arbitrators at bottom remains the same: ‘to give effect to the intent of the  
17 parties.’”) The FAA leaves no place for the exercise of discretion by a court, but instead “mandates  
18 that [] courts *shall* direct the parties to proceed to arbitration on issues to which an arbitration  
19 agreement has been signed.” *Dean Witter Reynolds v. Byrd*, 470 U.S. 213, 218 (1985). Because  
20 arbitration is a matter of contract and the parties specify the matters to be arbitrated, the language  
21 identified by the Court in Section 2 does not limit or impact the enforceability of an arbitration  
22 clause under the FAA. “[A]greements to arbitrate a dispute not arising out of the contract containing  
23 the arbitration agreement” are enforceable under the FAA “so long as the other requirements of the  
24 act are satisfied.” *Zink v. Merrill Lynch*, 13 F.3d 330, 333 (10th Cir. 1993) (rejecting the argument  
25 that Section 2 of the FAA precludes enforcement of a dispute within the scope of the arbitration  
26 clause that did not “arise out of” the contract containing the arbitration clause). Applying the FAA,  
27 courts regularly enforce arbitration clauses with express terms that require arbitration of disputes  
28 beyond those that “arise out of” the contracts or transactions. *See, e.g., In re Cox Enter., Inc.*, 835  
F.3d 1195, 1199, 1202 (10th Cir. 2016) (enforcing arbitration agreement requiring arbitration of  
“any dispute between [defendant] and a customer” arising out of the agreement or relating to

1 business between them or their affiliates); *Shearson/Am. Exp., Inc. v. McMahon*, 482 U.S. 220, 223  
2 (1987) (arbitration clause covering “any controversy relating to the accounts” the plaintiffs  
3 maintained with the defendant is enforceable); *Mey v. DIRECTV*, 971 F.3d 284, 287, 294-95  
4 (reversing order denying arbitration under clause covering “all disputes and claims between us”).

5 In any event, Plaintiffs’ disputes here *do* arise out of and are connected to the Agreements.<sup>1</sup>  
6 “Arbitration clauses covering claims ‘arising out of’ or ‘relating to’ an agreement are broad.” *Parm*  
7 *v. Bluestem Brands, Inc.*, 898 F.3d 869, 874 (8th Cir. 2018). “‘Arising out of’ reaches all disputes  
8 having their origin or genesis in the contract.” *Sweet Dreams Unlimited, Inc. v. Dial-A-Mattress*  
9 *Intern., Ltd.*, 1 F.3d 639, 642 (7th Cir. 1993). If the allegations underlying the claims “touch matters”  
10 covered by the parties’ agreement, then those claims must be arbitrated. *Parm*, 898 F.3d at 874, 876.

11 The Agreements establish and define Plaintiffs’ relationship with the Church and  
12 memorialize their commitment to live by Church law and doctrine. Plaintiffs made a “commitment”  
13 to participate in the Scientology religion “in accordance with *the* beliefs and practices of the  
14 Scientology religion.” (Agreements, Ex. 8, ¶ 4.) Those “beliefs and practices” included an express  
15 avowal by Plaintiffs to be bound by Scientology law in relation to the Church:

16 “This Contract memorializes my freely given consent to be bound *exclusively* by the  
17 discipline, faith, internal organization, and ecclesiastical rule, custom, and law of the  
18 Scientology religion *in all matters relating to Scientology Religious Services, in all my*  
19 *dealings of any nature with the Church, and in all my dealings of any nature with any*  
20 *other Scientology church or organization....”*

21 (*Id.* ¶ 6.) The commitment to be bound entirely by Church law predominates throughout the  
22 Agreements. (*See also id.* ¶¶ 6a.-e., 8, 9.)

23 Thus the subject matter of the Agreements is not limited to “just” the provision of religious  
24 services, as previously suggested by Plaintiffs. Even so, the Agreements define “Religious Services”  
25 broadly to include: “the beliefs and practices set forth in the writings and spoken words of LRH  
26 [L. Ron Hubbard] on the subjects of Dianetics and Scientology,” “all services or application of the  
27 principles of Mr. Hubbard provided to me by the ministers or staff of the Church,” “auditing,” “the  
28 application of Scientology Ethics and Justice technology, which are both exclusively religious  
components of the practice of the Scientology religion,” “the study and the application of the  
principles contained in the administrative writings of LRH used with the Church” and “any and all  
other services or use of the technology of L. Ron Hubbard, without limitation provided to me by the

---

1 Because the “arising out of” language in Section 2 of the FAA is not a limitation on arbitrable  
controversies, Defendants’ cited authority construes that term when it is included in the parties’  
arbitration provisions – solely in order to address the question asked by the Court.

1 ministers or staff of the Church and all other Scientology churches and organizations.” (*Id.* ¶ 2.)

2 Plaintiffs’ claims, as pled by them, have their genesis in their relation with the Church as  
3 created and defined by the Agreements. Each pleads that Mr. Masterson assaulted them when  
4 members of the Church, that he was in the Church’s employ and acted as the Church’s agent at the  
5 time of the supposed assaults (FAC ¶ 62), that the Church then conspired to cover-up the assaults  
6 and dissuade the Plaintiffs from reporting the assaults to the police, (*id.* ¶¶ 15, 58). Each alleges that  
7 Church doctrine forbade them from reporting their assaults, that they were then declared  
8 “Suppressive Persons” for making such reports, and then targeted under the alleged Church doctrine  
9 of “Fair Game” for harassment for the violations of Church doctrine. (*Id.* ¶¶ 15, 30, 38, 58.)

10 Plaintiff Bixler specifically avers that she reported her assault to a Church ethics officer, was  
11 instructed that reporting the assault violated Church doctrine, and was ordered to participate in  
12 Church ethics courses and review materials of L. Ron Hubbard as a result of the report. (*Id.* ¶¶ 70,  
13 72, 73.) In 2016, Bixler alleges she contacted Church officials “informing them that she was aware  
14 of the roles they played in her abuse and the subsequent efforts to silence her.” (*Id.*) The Church  
15 allegedly then declared her a “Suppressive Person” for her reports and implemented its supposed  
16 doctrine of “Fair Game” harassment against her. (*Id.* ¶ 92.) Jane Doe #1 tells a similar story. In  
17 2003, while still a member of the Church, she allegedly reported an assault by Masterson to her  
18 Church ethics officer. (*Id.* ¶ 152.) She alleges the ethics officer told her not to report the assault and  
19 provided her with materials describing the reporting of sexual assault as a “High Crime” against the  
20 Church. (*Id.* ¶¶ 154, 163.) In response, she alleges she was subjected to “endless auditing sessions”  
21 and other impositions of Church doctrine. (*Id.* ¶¶ 157-158). She alleges the Church implemented its  
22 “Fair Game” policy against her for violating supposed Church doctrine in reporting Mr. Masterson  
23 to the police. (*Id.* ¶ 171.) Jane Doe #2’s allegations are sparser, but she too alleges that the Church  
24 conspired to cover up Mr. Masterson’s alleged assault, that she “understood from her Scientology  
25 coursework that she would not be permitted to report the assault to civil authorities outside of  
26 Scientology” that “reporting the assault to Scientology would not result in any action being taken  
27 except to shame and harass her,” and that she was targeted under the “Fair Game” doctrine for  
28 making such reports. (*Id.* ¶¶ 244, 248.) Plaintiffs incorporate all of these allegations into their causes  
of action, and further allege that the Church Defendants conspired to cover-up the assaults, that their  
relationship with their alleged agent Mr. Masterson caused the assaults, and that Plaintiffs were  
targeted with the doctrine of “Fair Game” for reporting the assaults. (*Id.* ¶¶ 264, 270, 273.)

Plaintiffs also assert that “they rejected the Church’s teaching that they were not allowed to

1 report the rapes and harassment to authorities” and “for this, they were labeled ‘Suppressive  
2 Persons.’” (Pls.’ Opp. to Mot. to Arb. at 2:26-3:3.) Plaintiffs allege the Church, through application  
3 of its “Fair Game” doctrine, then targeted them for “religiously motivated persecution.” (*Id.* at 1:3.)

4 Thus the claims explicitly include Church conduct against Plaintiffs while they were  
5 members, including instruction and religious services they received from the Church in response to  
6 reporting the assaults, application of Church doctrine against them, and their status within the  
7 Church. Mr. Masterson, a supposed agent of the Church, allegedly assaulted them, and then they  
8 reported the incidents to the Church. They were instructed that reporting of crimes to civil authorities  
9 violated Church doctrine. This alleged violation of the supposed doctrine caused a change in their  
10 status within the Church to that of “Suppressive Persons.” This new status allegedly both  
11 precipitated and allowed the imposition of the “Fair Game” doctrine which they claim to be victims  
12 of. The claims unquestionably “arise from” an agreement to be bound by Church doctrine and law  
13 in all dealings with the Church and enrollment in religious services that include ethics courses and  
14 instruction in Church doctrine. *See Sweet Dreams Unlimited, Inc.*, 1 F.3d at 642.

15 Given the connection between Plaintiffs’ claims and the Agreements, the court need not  
16 “define the outer limits of this arbitration agreement to conclude, based on the arbitration provision  
17 and the contracts as a whole, that [Plaintiffs’ claims] fall within its scope.” *Mey*, 971 F.3d at 294;  
18 *see also Parm*, 898 F.3d at 878 (rejecting interpretation by hypothetical in favor of looking “to the  
19 underlying factual allegations [to] determine whether they fall within the scope of the arbitration  
20 clause”).

21 III. The Arbitration Agreements May Be Enforced Under the FAA Regardless of Whether the  
22 Controversies Arise Out of the Contracts.


23 As to question one, the FAA does not apply if the Agreements do not evidence commerce,  
24 as that clause is interpreted under the case law. With regard to question two, as set forth above, the  
25 arbitration agreements may be enforced under the FAA even if the controversy does not “arise out  
26 of” the contract containing the arbitration clause where, as here, the dispute falls within the scope  
27 of the arbitration provision and the other requirements of the act are met. *Zink*, 13 F.3d at 333.<sup>2</sup>

28 <sup>2</sup> The Agreements are also enforceable under the California Arbitration Act (“CAA”), as argued  
previously. (MTC Arb. JD #2 at 12:9-24; MTC Arb. JD #1/Bixlers at 13:4-16.) “California law  
incorporates many of the basic policy objectives contained in the FAA, including a presumption in  
favor of arbitrability.” *Erickson v. Aetna Health Plans of Calif.*, 71 Cal.App.4th 649, 655 (1999).  
The Court’s questions concerning the statutory language of Section 2 of the FAA have no bearing  
on the enforceability of the Agreements under the CAA. *See Cal. Civ. Proc. Code* § 1281.2.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

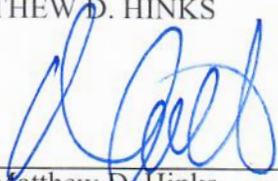
DATED: December 2, 2020

SCHEPER KIM & HARRIS LLP  
WILLIAM H. FORMAN

By:   
\_\_\_\_\_  
William H. Forman  
Attorneys for Defendants Church of Scientology  
International and Celebrity Centre International

DATED: December 2, 2020

JEFFER MANGELS BUTLER & MITCHELL LLP  
ROBERT E. MANGELS  
MATTHEW D. HINKS

By:   
\_\_\_\_\_  
Matthew D. Hinks  
Attorneys for Defendant Religious Technology  
Center

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

**Chrissie Carnell Bixler v. Church of Scientology International, et al.  
LASC Case No. 19STCV29458**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 800 West Sixth Street, 18th Floor, Los Angeles, CA 90017-2701.

On December 2, 2020, I served true copies of the following document(s) described as **DEFENDANTS CHURCH OF SCIENTOLOGY INTERNATIONAL, CELEBRITY CENTRE INTERNATIONAL, AND RELIGIOUS TECHNOLOGY CENTER’S FURTHER BRIEFING IN SUPPORT OF MOTIONS TO COMPEL RELIGIOUS ARBITRATION AND FOR STAY OF LITIGATION AS TO PLAINTIFFS CARNELL BIXLER, BIXLER-ZAVALA, JANE DOE #1, AND JANE DOE #2** on the interested parties in this action as follows:

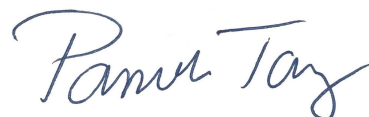
**SEE ATTACHED SERVICE LIST**

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address [ptanigawa@scheperkim.com](mailto:ptanigawa@scheperkim.com) to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**BY ELECTRONIC SERVICE:** I served the document(s) on the person listed in the Service List by submitting an electronic version of the document(s) to One Legal, LLC, through the user interface at [www.onelegal.com](http://www.onelegal.com).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 2, 2020, at Pasadena, California.



\_\_\_\_\_  
Pamela Tanigawa



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SERVICE LIST**

**Chrissie Carnell Bixler v. Church of Scientology International, et al.  
LASC Case No. 19STCV29458**

Robert W. Thompson  
Casey A. Gee  
THOMPSON LAW OFFICES  
700 Airport Boulevard, Suite 160  
Burlingame, CA 94010  
Telephone: 650-513-6111  
Facsimile: 650-513-6071  
Emails: bobby@tlopc.com  
          casey@tlopc.com  
          alicia@tlopc.com

*Attorneys for Plaintiffs CHRISSIE CARNELL  
BIXLER; CEDRIC BIXLER-ZAVALA; JANE  
DOE #1; MARIE BOBETTE RIALES and  
JANE DOE #2*

Graham E. Berry  
Law Office of Graham E. Berry  
3384 McLaughlin Ave.  
Los Angeles, CA 90066-2005  
Telephone: 310-745-3771  
Facsimile: 310-745-3771  
Email: grahamberrvesa@gmail.com

Brian D. Kent (*Admitted Pro Hac Vice*)  
Gaetano D'Andrea (*Admitted Pro Hac Vice*)  
M. Stewart Ryan (*Admitted Pro Hac Vice*)  
LAFHEY BUCCI & KENT LLP  
1435 Walnut Street, Suite 700  
Philadelphia, PA 19102  
Telephone: 215-399-9255  
Facsimile: 215-241-8700  
Emails: bkent@lbk-law.com  
          GDandrea@laffeybuccikent.com  
          sryan@laffeybuccikent.com  
          vzeoli@laffeybuccikent.com  
          jkerr@laffeybuccikent.com

Jeffrey P. Fritz (*Admitted Pro Hac Vice*)  
SOLOFF & ZERVANOS P C  
1525 Locust Street, 8<sup>th</sup> Floor  
Philadelphia, PA 19102  
Telephone: 215-732-2260  
Facsimile: 215-732-2289  
Email: jfritz@lawsz.com  
          lgoodfellow@lawsz.com  
          igilbert@lawsz.com

1 Marci Hamilton (*Admitted Pro Hac Vice*)  
UNIVERSITY OF PENNSYLVANIA  
2 Fox-Fels Building  
3814 Walnut Street  
3 Philadelphia, PA 19104  
Telephone: 215-353-8984  
4 Facsimile: 215-493-1094  
Email: hamilton.marci@gmail.com

5 Jeffrey K. Riffer  
6 ELKINS KALT WEINTRAUB REUBEN  
GARTSIDE LLP  
7 10345 West Olympic Boulevard  
Los Angeles, CA 90064  
8 Telephone: 310-746-4400  
Facsimile: 310-746-4499  
9 Email: jriffer@elkinskalt.com

*Attorneys for Specially-Appearing Defendant*  
*DAVID MISCAVIGE*

10 Andrew B. Brettler  
LAVELY & SINGER PROFESSIONAL  
11 CORPORATION  
2049 Century Park E 2400  
12 Los Angeles, CA 90067  
Telephone: 310-556-3501  
13 Facsimile: 310-556-3615  
Email: abrettler@lavelysinger.com  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

*Attorneys for Defendant*  
*DANIEL MASTERSON*