



Free Speech and Cultic Litigation:

An Interview With Attorney Peter Skolnik

By Esther Friedman

In 2011, I left a philosophy group. I started researching cults. Everything I read echoed my experiences to the letter, and I recognized that I had been recruited and indoctrinated. I decided to expose this deception in a blog (cultconfessions.com) and, of course, the cult tried to sue me. It didn't work, but I was lucky. Typically when a cult sues a whistle-blower, years of stress and accumulating expense follow.

Today cults can leverage litigation to intimidate and muzzle whistle-blowers. Cults have money and can afford lawyers. Many cults have a template for frivolous legal filings. In contrast, there are no established protections, structures, or supports in place for defendants. Resources are few and far between. Most former members can't afford counsel, and pro bono legal help is nearly impossible to find.

In 2014, ICSA conducted a free-speech survey of its membership (see the report in this issue). The purpose was to begin understanding the extent and impact of cultic litigation and start documenting it. Respondents provided snapshots of how cults suppressed their free speech through the court system, and the toll such litigation takes on those threatened or sued.

I interviewed nine of the respondents. They reported legal strategies that ranged from manipulation of divorce and custody battles to restraining orders, defamation accusations, accusations of violating religious freedom, multiple lawsuits filed against one defendant, and—in the most extreme cases—criminal charges and jail time. All reported multiple obstacles to finding legal counsel. Even those who could afford representation found most lawyers unwilling to take on cult cases. Those lawyers who did take on the cases were unprepared for the cultic legal strategies: intimidation tactics, intentional convolvement of the facts, unnecessary complications, relentless discovery filings.

Attorney Peter Skolnik is the exception. I interviewed the New York-based lawyer, who started litigating against cults in 2000. He represented the Cult Education Institute when Landmark Education sued its founder, Rick Ross, for defamation. He has continued litigating against cults ever since. In an interview, he discussed his experiences, the legal strategies commonly employed in the majority of his cases, and effective responses.

"I think that, for me, it's always been a function of finding that my clients were intelligent, sympathetic folks who really needed protection from onerous, overbearing litigation," Mr. Skolnik said. "I have never had the slightest iota of respect for any of the groups that have brought these litigations ... to some large degree, I've always viewed this all as a mitzvah."¹

Indeed, Mr. Skolnik has provided 15 years of pro bono counsel for the Cult Education Institute, and also has taken on other cult cases. Most of the time the cult in question follows the Scientology model—the objective is to wear down the defendant financially and psychologically; winning, losing, truth, and justice are all inconsequential in such cases. As L. Ron Hubbard is known to have stated within Scientology policy documentation:

The purpose of the suit is to harass and discourage rather than to win. The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized,

will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly. (1955, p. 157)

Sadly, Hubbard's statement proves true. When I was seeking legal help, many who had seen, or experienced, cult cases discouraged me. I was told that the more tangled the web, the more expense accumulates—both financial and emotional. Many defendants are sued into bankruptcy; many settle cases

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simply to end the stress and move on with their lives; many plaintiffs are thus empowered to impose gag orders on those who could be exposing deceptive and predatory groups.

I am not a lawyer. I am an expressive-arts therapist. As a mental health professional, I would argue that these gag orders are damaging, both to the individual and to democracy as a whole. But, as noted, no protections exist against frivolous litigation, and cults don't like to be called cults. It's bad for business. People join religious groups, Bible studies, yoga classes, self-help programs, philosophy classes, theater groups, management trainings, and so on. People don't join cults. Cults must brand and market themselves as something else.

It stands to reason that when a cult is called out, a lawsuit may follow. In the interview, Mr. Skolnik said,

The word has a very ugly connotation ... there are other kinds of cults that are more innocuous, more fan-based than anything else. But the leaders of these cults, who rely on adherence, typically for money, sometimes for power, or for their own sense of power ... they don't like to be called cults.

The label might get members questioning: "I never wanted to join a cult! Why aren't you doing something about this?"

Additionally, Mr. Skolnik said that cult leaders typically believe, "...they are really on the side of the angels and that there's nothing inappropriate with what they're doing." This belief is necessary to proliferate an ideology that relies on a contrived social hierarchy—one in which societal laws, rules, and norms don't apply to those in the cult, *especially* the leadership. The narrative of an "us" — *those in the group*—verses a "them" — *those not in the group*—is one of the hallmarks of culthood and, ironically, one of the hallmarks that could be exposed if whistle-blowers were protected legally.

But when groups believe themselves superior beings on altruistic missions, it is also easy to buy into another belief: The end justifies the means. Justice and truth seeking can drop out of the picture.

"The strategy is to wear you down, I think, in most cases," Skolnik said. "A lot of them [cults] litigate a lot and are used to having lawyers on the other side who haven't done this before,

who don't want to be involved in these cases and who are easy to push around."

In his experience, Mr. Skolnik has typically seen the following strategies: The opposing counsel buries the defendant in unnecessary, never-ending, overarching discovery. Independent law offices don't have the resources to manage the relentless document demands. They also commonly intimidate through depositions—subpoenaing the defendant's friends, family, and close associates. Legal fees, and stress, accumulate.

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When asked why the court system allows such frivolous litigation, Mr. Skolnik explained that, when a complaint is filed, courts are obligated to respond, regardless of the merit of the complaint. If the defendant doesn't respond, the court has to do something.

"One way or another, the wheels of the court system have to begin," he said.

How long they grind on is one of those issues that circle back to how intelligently the lawyer who represents the defendant is able to start pushing the right buttons. But is it an abuse of the court system? I think it absolutely is.

There is no established infrastructure to weed out frivolous suits. Mr. Skolnik said that one of his cases has been grinding on since 2006; the cult in question files continuous lawsuits against detractors.

Mr. Skolnik said,

If you leave that group, you're likely to be sued on some trumped-up charges that will cost you so much to defend that you are forced into bankruptcy. When you are forced into bankruptcy, they will litigate that you should not be allowed a discharge in the bankruptcy

They have done this to 10 people whose names I can give you. They litigate and litigate and litigate; they have destroyed lives. They have harassed almost to the grave. It is simply their strategy. It is simply their way of saying, "You mess with us, you're going to be very sorry."

His experiences paint a grim picture. However, he offered some "right buttons" to push when taking on cultic litigation. The lawyers must begin, he said, by educating the judge about the group, exposing patterns of cultic practices that include frivolous litigation and other such maneuvers against detractors. He said,

Some judges get it pretty quickly and they know what they are dealing with; others either don't get it, or, for one reason or another, are unwilling to clamp their fist[s] down on overreaching, onerous, harassing litigation tactics by the cults. Between lawyers who don't really know what they are getting themselves in for and judges who don't become sufficiently and quickly enough educated to know what they are dealing with, that can cause problems all around.

Additionally, he calls defamation claims "the horse that draws the cart," the central claim in most cases; other charges may be tagged on, but typically these suits rely primarily on defamation. Federal defamation laws have become more sympathetic to defendants over the past 30 years. Federal First Amendment constitutional principles that protect the defendant must be applied by state courts. For example, defendants previously had to prove that their statements were true; now the burden is on the plaintiff to prove that the allegedly defamatory statements are not true.

"One tip I would have for a lawyer who is taking on one of these cases, and has very little experience, is to learn the law of defamation," Mr. Skolnik said.

There is very likely to be far more protection for your client, because one of the rules in a defamation claim is that the plaintiff has to say exactly what it is that your client said that the plaintiff thinks is defamatory.

Additionally, the defamatory statement must be factual—statements of opinion are not actionable. Therefore, plaintiffs must provide a specific statement and cannot modify the filing unless the court grants permission.

"Defamation cases are always about what freedom of expression really means, what you are allowed to say and what you are not allowed to say," he said. "Defamation law is also, by definition, state law. There are federal constitutional principles, but the specifics of defamation law are a state-by-state matter."

However, when that plaintiff is a public figure, the First Amendment has an additional requirement: The plaintiff must prove that the defendant knew he was lying when the statement was made.

Mr. Skolnik said,

They essentially have to really prove that "the defendant is really just doing this to bug me. He or she knows that it's a lie, or that it's likely a lie, but is just hoping to get away with it."

Additionally, he reported, "Cults do not like discovery aimed at their finances." Oftentimes, when facing a court-upheld document request for financial papers, a cult will withdraw its case.

When asked how important it is for lawyers to understand the psychological impact of cultic practices on their client, Mr. Skolnik said that it is important to understand the degree to which a cult has impacted her decisions and actions:

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Sometimes there are ways to bring that to the litigation and to the judge’s attention in ways that are useful because, again, it’s part of that education of the judge. If you can show a court that, while my client was involved in this cult, she was forced to disinherit her children and leave her husband, judges are going to pay some attention to that. So sometimes it will have a direct impact on the way you litigate the case.

But primarily understanding the psychology helps the lawyer also understand the overall gestalt, the environment of the group and the pressures applied on members. Mr. Skolnik likened it to a theater director understanding an actor’s creative process. It might not shape the litigation strategy, but it might, and it is always useful in a lawyer’s relationship with the client. In some cases, the group’s psychological profile informs the type of discovery that would be most impactful.

I have read through a number of Mr. Skolnik’s legal filings in connection with one particular cult case, and have noted that these papers illustrate the tips he outlined for this article. He makes a point of telling the judge, repeatedly, that the plaintiff is involved in a cult. He blares spotlights on misleading, convoluted, or avoidant litigation strategies at every opportunity. He does not hesitate to call out the opposing counsel for misusing and manipulating the court. When the opposing counsel convolutes a legal filing; omits facts; drags on the action unnecessarily, letting court-mandated deadlines slip past; and other such distracting or evasive tactics, he immediately calls it to the judge’s attention. Clearly his intention is to educate the judge and expose the group.

But even given his knowledge, and his track record, he expresses a cautious pessimism. Mr. Skolnik said,

The First Amendment is probably the most important piece of legislation in this country, but there’s a cost for defending it. And very often the poor man or woman who gets on the wrong side of these cases has to ask, “What is ultimately in my best interest: pay the lawyers, or fold?”

Everything circles back to the inequity of the judicial system. At the end of the day, the reality is that cults have a steady stream of income and resources at their fingertips, while the former members and critics typically do not.

It’s disheartening to hear this summation from a counselor who has been successfully litigating against cults for more than a decade. But certainly cults are not the only institutions to abuse the courts intending to silence critics. It would be interesting to know how extensive this misuse is and what kind of ripple effects such abuse sends out into the social fabric of our country. It would be useful to know how much wear and tear it inflicts on free speech, one of the pillars of American democracy. Does it threaten our democracy? How invested are we, as a country, in protecting free speech, our tax dollars, and our court system? And is it possible to build a coordinated political/legal infrastructure to counter such abuse and misuse of the courts?

At the most superficial level, nonmeritorious lawsuits are a blatant misuse of tax dollars. The extent of the damage inflicted by cultic abuse of the courts is hard to fathom. As a nonlawyer, I’m out of my league when it comes to answers. But the fact that it does cause damage is undeniable, and I’d like to believe that something could be done to protect our free speech and our tax dollars from the ironic misuse and abuse of our courts. ■

Note

[1] A *mitzvah* is “a commandment of the Jewish law” or “a meritorious or charitable act” (see <http://www.merriam-webster.com/dictionary/mitzvah>).

Reference

Hubbard, L. Ron. (1955). A manual on the dissemination of material. In L. Ron Hubbard, *The technical bulletins of Dianetics and Scientology, Volume II, 1954–1956* (p. 157). Available online at tep-online.info/laku/usa/reli/scien/SECRETDOX/1954_56.PDF

About the Author



Esther Ruth Friedman is a Boston-based expressive-arts therapist with a master’s degree from Lesley University, and a performing songwriter and recording artist. In 2006 a friend invited her to meet a “group of friends who got together on Tuesday and Thursday nights to discuss ideas.” In 2011 she left the group, began researching the group’s origins, and discovered she had been recruited into what she now views as a secret cult called *School*. In the 1970s, a man named Alex Horn employed the teachings and ideas of Russian philosopher G. I. Gurdjieff and created The Theater of All Possibilities in San Francisco. Investigative news reporters exposed the Theater after the 1978 Jonestown tragedy. The group left San Francisco to reemerge in New York City and Boston, where it continues to operate as a secret, esoteric, mystery school. After discovering that *School* was not all that it claimed to be, Esther started researching high-demand groups and employed writing and songwriting as recovery tools. She posted her experience online in a blog called *Cult Confessions*. In 2014, the group filed legal papers in New York in a failed attempt to establish jurisdiction over her. These experiences have set Esther on a new path to build a therapeutic healing-arts practice for former members and abuse survivors, and to expose and address how cultic groups manipulate the court system to silence criticism. ■