

PAUL MARRICK and GREG ARNOLD

Plaintiffs,

VS.

RELIGIOUS TECHNOLOGY CENTER,
CHURCH OF SCIENTOLOGY
INTERNATIONAL, CHURCH OF
SCIENTOLOGY OF TEXAS, and DAVID
MISCAVIGE,

Defendants.

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IN THE DISTRICT COURT

343rd JUDICIAL DISTRICT

SAN PATRICIO COUNTY, TEXAS

RELIGIOUS TECHNOLOGY CENTER'S SPECIAL APPEARANCE

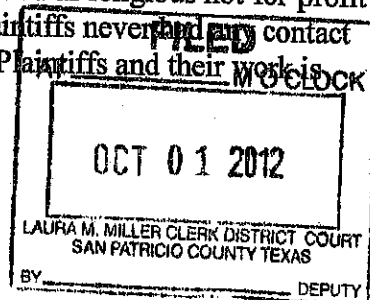
TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant RELIGIOUS TECHNOLOGY CENTER ("RTC") and makes this Special Appearance under Rule 120a of the Texas Rules of Civil Procedure for the sole purpose of objecting to the jurisdiction of this Court over RTC, and in support thereof, would respectfully show this Court the following:

INTRODUCTION

1. Plaintiffs wrongfully bring this lawsuit for breach of an alleged oral agreement in Texas against Defendants' non-profit religious organizations. None of the parties (other than the sham Defendant Church of Scientology of Texas¹) reside in or conduct business or other operations in Texas. None of the events which are connected to the issues in dispute occurred in

¹ Church of Scientology of Texas was named by Plaintiffs in a bad-faith attempt to set forth a Texas nexus. All Churches of Scientology are separately incorporated as religious not-for-profit corporations under the control of their own Board of Directors. Plaintiffs never had any contact or communication with the Texas Church and the identities of the Plaintiffs and their work is totally unknown to the Texas Church.



Texas. The only connection that this lawsuit has with Texas is the residence of Plaintiffs' counsel.

2. Defendant RTC now specially appears under Rule 120a to object to this entire proceeding on the ground that this court lacks personal jurisdiction over RTC. This Motion is filed before any other plea, pleading or motion. In accordance with Rule 120a of the Texas Rules of Civil Procedure, this Special Appearance is supported by the verified Affidavit of Warren McShane (attached hereto and incorporated herein as Exhibit "A") and the contemporaneously filed Affidavit of Allan Cartwright on behalf of Church of Scientology International ("CSI") which is also incorporated herein by reference for all purposes.

3. RTC is a non-profit religious corporation organized and existing under the laws of the state of California. *See* Affidavit of Warren McShane, Exhibit "A." RTC is not now and has never been incorporated under the laws of the state of Texas, does not have any office in Texas, does not have any officers, directors, staff, employees, agents, servants or representatives in Texas, and does not (and is not required to) maintain a registered agent for service in Texas. *Id.* RTC does not reside in the state of Texas. *Id.* RTC does not own, manage or control any real or personal property in the State of Texas and does not maintain any records or other documents in the State of Texas.

4. Texas courts may exercise *in personam* jurisdiction over a nonresident, such as RTC, if but only if: (1) the Texas long-arm statute authorizes the exercise of jurisdiction; and (2) the exercise of jurisdiction is consistent with federal and state constitutional due process guarantees. *See Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 574 (Tex. 2007) (citing *Schlobohm v. Schapiro*, 784 S.W.2d 355, 356 (Tex. 1990)). Neither requirement is met with respect to RTC.

5. Plaintiffs do not allege *any facts* in their operative pleading which support their conclusory allegation that the Texas long-arm statute authorizes the exercise of jurisdiction over RTC, nor can they do so, as RTC does not “do business” in the state of Texas. *See* Tex. Civ. Prac. & Rem. Code § 17.042; Exhibit “A.”

6. The exercise of personal jurisdiction over RTC is also not consistent with federal and state constitutional due process guarantees, as RTC has not purposefully established “minimum contacts” with the state of Texas and the court’s exercise of jurisdiction over RTC does not comport with “fair play and substantial justice.” *See, e.g., Burger King v. Rudzewicz*, 471 U.S. 462, 474-76 (1985); *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945); *Moki Mac*, 221 S.W.3d at 575; *see also Dawson-Austin v. Austin*, 968 S.W.2d 319, 326 (Tex. 1998).

7. Furthermore, the exercise of jurisdiction over RTC is not warranted on the basis of either “specific” or “general” jurisdiction. The alleged liability of RTC in this case, if any, does not arise out of any purposeful RTC activity in the state of Texas. *See* Exhibit “A.” Plaintiffs have set forth no facts showing the contrary, nor do any such facts exist. RTC did not contract by mail or otherwise with any Texas resident. RTC did not commit a tort in whole or in part in Texas. RTC did not recruit Texas residents, directly or through an intermediary located in Texas, for employment inside or outside of Texas (*See Tex. Civ. Proc. & Rem. Code* § 17.042).

8. RTC has not made “continuous and systematic contacts with the forum . . .” warranting the exercise of general jurisdiction. *See Moki Mac*, 221 S.W.3d at 575-76 (citing *Helicopteros Nacionales de Colombia v. Hall*, 466 U.S. 408, 414 n.8 (1984); *BMC Software Belgium, N.V. v. Marchand*, 83 S.W.3d 789, 796 (Tex. 2002); *CSR Ltd. v. Link*, 925 S.W.2d 591, 595 (Tex. 1996)). RTC has no relevant contacts with the state of Texas.

9. RTC’s contact with Texas is limited to one lawsuit which RTC filed in Tyler, Texas in 2002. It sued Dell Liebreich, a Texas resident, and the Estate of Lisa McPherson in

Tyler, Texas in Federal Court for breach of contract. That lawsuit was brought in Texas *solely* because one of the Defendants resided in Texas. Dell Liebreich was dismissed as an individual and the Estate was dismissed on appeal when the 5th Circuit determined that it did not have jurisdiction over a Florida Estate even though the personal representative lived in Texas.

10. Finally, in light of all relevant factors provided for under law, the Court's exercise of personal jurisdiction over RTC would not comport with due process requirements because doing so would "offend traditional notions of fair play and substantial justice." *See Int'l Shoe Co.*, 326 U.S. at 316; *Guardian Royal Exch. Assur., Ltd. v. English China Clays, P.L.C.*, 815 S.W.2d 223, 226 (Tex. 1991).

11. For the foregoing reasons, and the reasons outlined in the following paragraphs, RTC respectfully requests that this Court dismiss all causes of action against RTC for want of *in personam* jurisdiction.

A. THE TEXAS COURTS DO NOT HAVE PERSONAL JURISDICTION OVER RTC UNDER THE TEXAS LONG-ARM STATUTE.

In order for a Texas court to exercise *in personam* jurisdiction over a nonresident defendant, such as RTC, the exercise of jurisdiction must comport with both the Texas long-arm statute and due process. *Moki Mac*, 221 S.W.3d at 574 (citing *Schlobohm v. Schapiro*, 784 S.W.2d 355, 356 (Tex. 1990)).

At the outset, Plaintiffs have failed to properly plead in accordance with the Texas long-arm statute, as they have omitted to plead *any facts* bringing RTC within reach of the long-arm statute. *See Kelly v. Gen. Interior Const., Inc.*, 301 S.W.3d 653, 659 (Tex. 2010). Consequently, RTC is entitled to a dismissal for want of jurisdiction by virtue of its being a nonresident of the state of Texas. *Id.*; *see also* Ex. "A."

Further, not only have Plaintiffs failed to plead any facts bringing RTC within reach of the long-arm statute, no such facts exist. *Id.* The Texas long-arm statute specifically requires that a nonresident must perform “acts constituting business” in the state of Texas. *See* Tex. Civ. Prac. & Rem. Code § 17.042. The statute provides three ways in which a nonresident may be deemed to have performed acts constituting business in the state of Texas:

- (1) Contracting by mail or otherwise with a Texas resident and either party is to perform the contract in whole or in part in this state;
- (2) Committing a tort in whole or in part in this state; or
- (3) Recruiting Texas residents, directly or through an intermediary located in this state, for employment inside or outside this state.

See Tex. Civ. Prac. & Rem. Code § 17.042(1)-(3).

RTC has not contracted by mail, or otherwise, with a Texas resident where either party is to perform the contract in whole or in part in the state of Texas. *See* Ex. “A.” Plaintiffs are residents of California and Colorado. RTC has not recruited a Texas resident, directly or through an intermediary located in this state, for employment with RTC inside or outside of this state. *Id.*

Plaintiff cannot show that RTC has committed a “tort” in whole or in part in the state of Texas. As Plaintiffs stated in their pleadings, the operative facts of this litigation concern alleged nonpayment for services Plaintiffs claim to have rendered on behalf of RTC. *See generally*, Plaintiffs’ Original Petition. Nonpayment for services rendered under an alleged contractual relationship is purely a contract claim and therefore does not constitute a “tort” under Texas law and under Section 17.042. *See, e.g., Southwestern Bell Tel. Co. v. DeLanney*, 809 S.W.2d 493, 494 (Tex. 1991) (Alleged failure to perform a contract does not sound in tort); *see also, e.g., Sharyland Water Supply Corp. v. City of Alton*, 354 S.W.3d 407, 417-418 (Tex. 2011). Furthermore, even if such a claim was a “tort” (which is denied), it could not have been

committed "in whole or in part" in Texas because, since 1991, Plaintiffs provided their services through their own corporation called "Select Investigations, Inc.," ("Select") which is located in and organized under the laws of the state of Colorado. *See* Affidavit of Allan Cartwright in support of Church of Scientology International's ("CSI") Motion to Dismiss filed contemporaneously. Therefore, if Plaintiffs could establish that RTC owes money to Plaintiffs for services rendered (which is denied), and to the extent that nonpayment for alleged contractual services constitutes a "tort" (which is also denied), any such alleged "tort" could not possibly have occurred "in whole or in part" in Texas. *Id*; *see also*, Tex. Civ. Prac. & Rem. Code 17.042(2). Accordingly, the Court's prospective exercise of personal jurisdiction over RTC is not authorized by the long-arm statute. *Id*.

In sum, since Plaintiffs have failed to plead sufficient facts to bring RTC within reach of Texas' long-arm statute, RTC's special appearance should be granted by virtue of its proof that it is a nonresident of this state. *Kelly*, 301 S.W.3d at 659. However, even if Plaintiffs had pleaded facts attempting to bring RTC within reach of the long-arm statute, RTC's proof by affidavit establishes that it does not "do business" or conduct any of its religious activities in the state of Texas. *See* Tex. Civ. Prac. & Rem. Code § 17.042(1)-(3). For these reasons, RTC's objections to jurisdiction should be sustained and its Special Appearance should be granted. *Moki Mac*, 221 S.W.3d at 574 (citing *Schlobohm*, 784 S.W.2d at 356).

B. RTC HAS NOT PURPOSEFULLY AVAILED ITSELF OF THE PRIVILEGE OF CONDUCTING ACTIVITIES IN THE STATE OF TEXAS.

This Court cannot exercise personal jurisdiction over RTC because it has not purposefully availed itself of the privilege of conducting activities in the state of Texas. *See Hanson*, 357 U.S. at 253 (1958) (citing *Int'l Shoe Co.*, 326 U.S. at 319).

The purposeful availment element is the “touchstone of jurisdictional due process” and requires “some act by which the *defendant purposefully avails* itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its law.” See *IRA Resources, Inc. v. Griego*, 221 S.W.3d 592, 596 (Tex. 2007) (emphasis original) (citing *Am. Type Culture Collection, Inc. v. Coleman*, 83 S.W.3d 801, 806 (Tex. 2002); *Michiana Easy Livin’ Country, Inc. v. Holten*, 168 S.W.3d 777, 784 (Tex. 2005); *Hanson*, 357 U.S. at 253). Texas courts apply a three-pronged analysis to this issue: (1) only the defendant’s forum-state contacts matter, not anyone else’s; (2) the contacts must be purposeful, not merely random, isolated, or fortuitous; (3) a nonresident defendant must seek some benefit, advantage, or profit by “availing” itself of the jurisdiction, thus impliedly consenting to its laws. *Id.*

In *Helicopteros Nacionales de Colombia, S.A., v. Hall*, 466 U.S. 408, 416 (1984), the Supreme Court held that the Texas court could not constitutionally exercise general jurisdiction over a non-resident Defendant which regularly accepted checks drawn on a Texas bank account, regularly purchased helicopters in Texas, occasionally sent personnel to Texas on training missions and whose CEO negotiated a services contract in Texas, *in accord, see Kulko v. California Superior Court*, 436 U. S. 84, 93 (1978) (basing California jurisdiction on 3-day and 1-day isolated stopovers in that State “would make a mockery of due process limitations on assertion of personal jurisdiction”).

RTC has not purposefully “availed” itself of the benefits and protections of Texas law. RTC conducts no business or other operations in the state of Texas, has no property (real or personal) in this state, has no officers, directors, staff, employees, servants, or agents in Texas, does not maintain any bank accounts in this state, and is not registered or licensed to conduct business or any of its religious activities in this state. See Ex. “A.” As such, RTC has not sought any benefit or advantage or otherwise availed itself, through business or otherwise, of the

protections of Texas law. *Id.* Furthermore, RTC has not expressly or impliedly consented to Texas law in any form or fashion. *Id.* RTC's objections to this Court's exercise of personal jurisdiction are therefore properly sustained. There are no facts coming close to the contacts deemed insufficient as a matter of law by the United States Supreme Court in the *Helicopteros* and *Kulko* cases.

C. EXERCISE OF PERSONAL JURISDICTION OVER RTC IS NOT PROPER ON THE BASIS OF "SPECIAL" OR "GENERAL" JURISDICTION.

Due Process requires that personal jurisdiction must be based on facts establishing either "specific" or "general" jurisdiction. *See, e.g., Kelly*, 301 S.W.3d at 659; *Moki Mac*, 221 S.W.3d at 579; *BMC Software*, 83 S.W.3d at 797. Plaintiff alleges that personal jurisdiction is properly exercised over RTC on the basis of both specific and general jurisdiction. *See* Plaintiffs' Original Petition, at ¶ 4. Plaintiff's factually devoid conclusion is incorrect as to both types of jurisdiction.

1. Plaintiffs' Claims Against RTC Do Not Arise From or Relate to Any Texas Contacts of RTC.

The exercise of *in personam* jurisdiction over RTC is not proper on the basis of specific jurisdiction, as Plaintiffs' purported causes of action do not arise from or relate to any contacts between RTC and the state of Texas. *See Moki Mac*, 221 S.W.3d at 575-76; *see also Retamco Operating, Inc. v. Republic Drilling Co.*, 278 S.W.3d 333, 337 (Tex. 2009); *CSR, Ltd. v. Link*, 925 S.W.2d 591, 595 (Tex. 1996).

In the context of specific jurisdiction, the proper focus is on "the relationship among the defendant, the forum and the litigation." *See Moki Mac*, 221 S.W.3d at 575-76 (citing *Guardian Royal*, 815 S.W.2d at 228; *Helicopteros Nacionales de Columbia v. Hall*, 466 U.S. 408, 414 (1984); *Schlobohm*, 784 S.W.2d at 357). As indicated above, specific jurisdiction is found to exist when the litigation arises out of or relates to the nonresident's contacts with Texas. *Id.* The

Texas Supreme Court has held that litigation “arises from” or “relates to” the nonresident’s Texas contacts when said contacts are substantially connected to the operative facts of the plaintiff’s lawsuit. *See Spir Star AG v. Kimich*, 310 S.W.3d 868, 874 (Tex. 2010) (citing *Moki Mac*, 221 S.W.3d at 585); *see also*, *Moki Mac*, 221 S.W.3d 585 (citing *Guardian Royal*, 815 S.W.2d at 229-33; *Rush v. Savchuk*, 444 U.S. 320, 329 (1980); *Shell Compania Argentina de Petroleo, S.A. v. Reef Exploration, Inc.*, 84 S.W.3d 830, 837 (Tex. App.—Houston [1st Dist.] 2002, pet. denied)). Plaintiffs plead no jurisdictional facts showing a substantial connection between the operative facts of this lawsuit and any contacts between RTC and Texas, nor do any such facts exist.

As is readily apparent from Plaintiffs’ operative pleading, Plaintiffs’ suit concerns alleged nonpayment for services they claim to have rendered for RTC. *See generally*, Plaintiffs’ Original Petition. That is, the “operative facts” of this litigation concern payment (or alleged lack thereof) for services allegedly rendered by Plaintiffs for RTC. *Id.* These alleged “operative facts” have no connection to any contacts between RTC and the state of Texas, if any such contacts even exist.

Specifically, none of the parties have ever resided in the state of Texas. *Id.* at ¶ 2. Payment for services to the California and Colorado plaintiffs was never made in Texas. In fact, since 1991 any and all payments to Plaintiffs for their services were made to Plaintiffs’ corporation, which is organized and licensed under the name of “Select Investigations, Inc.” *See* Affidavit of Allan Cartwright in support of Church of Scientology International’s (“CSI”) Motion to Dismiss filed contemporaneously. Any legal obligation which might arise out of RTC’s alleged failure or refusal to pay for services rendered by the California and Colorado Plaintiffs has no substantial nexus to Texas. Plaintiffs have failed to plead facts, nor do any facts exist, showing the contrary. The proposed exercise of personal jurisdiction over RTC on the basis of special jurisdiction is therefore improper.

2. RTC Has No Continuing and Systematic Contacts with the State of Texas

RTC also has no continuous or systematic contacts with the state of Texas; as such, exercise of personal jurisdiction on the basis of general jurisdiction is similarly unavailable.

The general jurisdictional analysis of a more demanding showing than special jurisdiction, and specifically requires the Plaintiff asserting jurisdiction over a nonresident to establish "continuous and systematic" contacts between the nonresident and the state of Texas. *See BMC Software*, 83 S.W.3d at 796; *Guardian Royal*, 815 S.W.2d at 228; *Schlobohm*, 784 S.W.2d at 358; *PHC-Minden v. CSR, Ltd.*, 925 S.W.2d at 595.

As stated above, RTC is a California Corporation with its principal place of business in California. *See* Exhibit "A." RTC conducts no business or any other operation in the state of Texas, does not maintain a place of business in Texas, has no property (real or personal) in Texas, does not maintain any bank accounts in Texas, is not registered to conduct business in Texas, has no agent (and is not required to have an agent) for service of process in Texas, and has no employees, servants or agents in Texas. *See* Exhibit "A." RTC simply has no continuing and systematic contacts with the state of Texas; indeed, RTC has no jurisdictionally-meaningful contacts with the state of Texas at all. *Id.* Exercise of personal jurisdiction therefore may not be based on the application of general jurisdiction.

Since the prospective exercise of *in personam* jurisdiction over RTC is not proper on the basis of general or special jurisdiction, this Court cannot exercise personal jurisdiction over RTC and its objections to the same are properly sustained. *Kelly*, 301 S.W.3d at 659; *Moki Mac*, 221 S.W.3d at 579; *BMC Software*, 83 S.W.3d at 797.

D. EXERCISE OF PERSONAL JURISDICTION OVER RTC DOES NOT COMPORT WITH FAIR PLAY AND SUBSTANTIAL JUSTICE.

In this breach of oral contract case, none of the parties reside in Texas. The agreement, if any, was not made in Texas and the claims do not relate to any allegedly wrongful acts or omissions which occurred in Texas. Payments for services were made in California to Plaintiffs' corporation. Plaintiffs do not allege that Defendants committed any wrongful act, error or omission in Texas. The United States Supreme Court has held that a court may not exercise personal jurisdiction over a nonresident defendant when doing so would "offend traditional notions of fair play and substantial justice". See, e.g., *Int'l Shoe*, 326 U.S. at 316. Courts have formulated a five-factor test for analyzing whether exercising personal jurisdiction over a nonresident would "offend traditional notions of fair play and substantial justice:" (1) the burden on the defendant; (2) the interest of Texas in adjudicating the dispute; (3) the plaintiff's interest in obtaining convenient and effective relief; (4) the interstate judicial system's interest in obtaining the most efficient resolution of controversies; and (5) the shared interest of the states in furthering fundamental and substantial social policies. See *Guardian Royal*, 815 S.W.2d at 231 (citing *Burger King v. Rudzewicz*, 471 U.S. 462, 477 (1985)); see also, *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 292 (1980). All of these factors mitigate against the exercise of jurisdiction over RTC comporting with "fair play and substantial justice."

First, forcing RTC, a California Corporation, to litigate in this forum when RTC has no presence in this state and has not conducted any business or other activities in this state poses a heavy burden on RTC. This is especially true when considering that the current dispute has no relationship with Texas, as again, any alleged omission (if any) on the part of RTC, if any, could not have occurred in this state. See Exhibit "A." The state of Texas has no interest in adjudicating this dispute between residents of California and Colorado. In summary, Plaintiffs'

suit is an action for breach of an alleged oral agreement that has no meaningful connection to Texas by and between non-resident parties who conduct no business or other operations in Texas.

Although Plaintiffs have elected to file this suit in Texas and therefore presumably find some advantage in forum shopping in Texas, Plaintiffs' choice of forum is clearly not in the interest of "obtaining convenient and effective relief" since an essential party is the entity which Plaintiffs provided their services through, Select Investigations, Inc., a corporation registered in the state of Colorado. Select is a necessary or indispensable party but it is not authorized to conduct any business or sue in Texas courts. *See Guardian Royal*, 815 S.W.3d at 231. Plaintiffs are not residents of Texas and there is simply no nexus between the state of Texas and the alleged events purportedly giving rise to Plaintiffs' causes of action. *See Ex. "A."*

Texas courts hold that in considering the final two factors in the analysis – the interstate judicial system's interest in obtaining the most efficient resolution and "the shared interest of the several states in furthering fundamental social policies" – the court is to weigh the interests of Texas against the other states potentially having an interest in deciding the dispute. *See, e.g., Waterman Steamship Co. v. Ruiz*, 355 S.W.3d 387, 427 (Tex. App.—Houston [1st Dist.] 2011, no pet.) (citing *Michel v. Rocket Eng'g Corp.*, 45 S.W.3d 658, 684 (Tex. App.—Fort Worth 2001, no pet.)). When done so here, these factors clearly mitigate against the exercise of personal jurisdiction over RTC.

This is simply because Texas has no interest in deciding this alleged contract dispute when the Plaintiffs are citizens of California and Colorado, RTC is a citizen of California, and the alleged dispute do not relate to this state. *See Plaintiffs' Original Petition*, at ¶ 2; *see also*, Exhibit "A;" *see also, e.g., Michel*, 45 S.W.3d at 684; *State of Rio De Janeiro of Federative Republic of Brazil v. Philip Morris, Inc.*, 143 S.W.3d 497, 503 (Tex. App.—Beaumont 2004 pet.

denied) (citing *Allianz Risk Transfer (Bermuda) Ltd. v. S.J. Camp & Co.*, 117 S.W.3d 92, 97 (Tex. App.—Tyler 2003, no pet.); *John Doe I v. Roman Catholic Archdiocese of St. Louis*, 109 S.W.3d 928, 931 (Tex. App.—Dallas 2003, no pet.) (“Judicial efficiency would be served by litigating this dispute in the state in which most parties reside, most witnesses are likely to reside, and the alleged torts occurred); see also, *James v. Illinois Cent. R.R. Co.*, 965 S.W.2d 594, 599 (Tex. App.—Houston [1st Dist.] 1998, no pet.) (lack of interest where nonresident plaintiffs litigating in Texas for injury with no relationship to Texas); see also *Bearry v. Beech Aircraft Corp.*, 818 F.2d 370, 377 (5th Cir. 1987) (plaintiff’s inability to show any witnesses or other evidence located in Texas weighs in favor of dismissal). Because of the lack of relationship between the parties, the subject matter made the basis of this lawsuit, and the state of Texas, the interstate judicial system’s interest in obtaining the most efficient resolution of this matter and the shared interest of the several states in furthering fundamental social policies weigh heavily in favor of dismissal. *Id.*

Since all of the aforementioned factors of the “fairness” inquiry weigh heavily against this Court’s exercise of personal jurisdiction over RTC, RTC’s objections to personal jurisdiction should be sustained and Plaintiffs’ claims herein against it should be dismissed for lack of jurisdiction.

CONCLUSION

As outlined above, the law requires two elements for exercise of personal jurisdiction by a Texas court: (1) the exercise must be authorized by the Texas long-arm statute; and (2) the exercise must comport with state and federal due process guarantees. *Moki Mac*, 221 S.W.3d at 574 (citing *Schlobohm*, 784 S.W.2d at 356). Plaintiffs have not and cannot establish a basis to invoke the Texas long-arm statute. As such, RTC’s objections to personal jurisdiction are properly sustained.

THEREFORE, Defendant RELIGIOUS TECHNOLOGY CENTER respectfully requests that this Court grant its Special Appearance under Rule 120a of the Texas Rules of Civil Procedure, that RTC be dismissed from this action, and that RTC be granted such other and further relief to which it may show itself justly entitled.

Respectfully submitted,

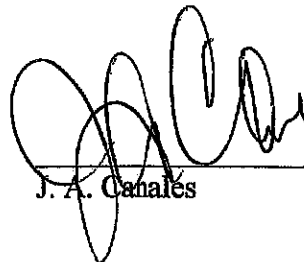


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**ATTORNEYS FOR DEFENDANT
RELIGIOUS TECHNOLOGY CENTER**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all known counsel of record in this cause in accordance with the Texas Rules of Civil Procedure on this the 1st day of October, 2012.



J. A. Canales

PAUL MARRICK and GREG ARNOLD

Plaintiffs,

VS.

RELIGIOUS TECHNOLOGY CENTER,
CHURCH OF SCIENTOLOGY
INTERNATIONAL, CHURCH OF
SCIENTOLOGY OF TEXAS, and DAVID
MISCAVIGE,

Defendants.

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IN THE DISTRICT COURT

343rd JUDICIAL DISTRICT

SAN PATRICIO COUNTY, TEXAS

**AFFIDAVIT OF WARREN McSHANE IN SUPPORT OF
RELIGIOUS TECHNOLOGY CENTER'S SPECIAL APPEARANCE**

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

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BEFORE ME, the undersigned authority, on this day personally appeared Warren McShane, who, after being by me duly sworn, stated on his oath as follows:

My name is Warren McShane. I am a resident of Los Angeles, California, am over the age of 21, have not been convicted of a felony and have personal knowledge of the matters stated in this Affidavit.

1. Religious Technology Center ("RTC") is a religious non-profit California corporation that is tax exempt under IRC § 501(c)(3). RTC is located at 1710 Ivar Ave., Suite 1100, Los Angeles, CA.

2. In 1983, I became a Director and Officer of RTC and in 1993 I became its President. I am the custodian of the RTC records and am responsible for the operation of RTC including the creation and execution of all legal agreements and contracts both internally and externally. I am responsible for the day to day activities and functions of RTC and its staff.

3. RTC does not conduct any business or operate in the state of Texas, nor does any of its staff. RTC has not contracted with any Texas residents. RTC has not committed a tort in whole or in part in Texas. RTC has not recruited Texas residents, directly or through an intermediary located in Texas, for any staff position with RTC inside or outside Texas.

4. RTC does not have "continuing and systematic contacts purposefully directed toward Texas."

5. RTC is not a resident of the state of Texas and is not required to maintain and does not maintain a registered agent for service of process in the state of Texas. RTC has no real or personal property in Texas. RTC maintains no office or place of business in Texas and maintains no mailing address or telephone listing in Texas. RTC does not maintain any bank accounts in Texas. RTC does not maintain a place of operations in Texas. RTC does not have any officers, directors, employees, staff, servants, or agents in Texas.

6. RTC filed one lawsuit in the state of Texas in 2002. It sued Dell Liebreich, a Texas resident, and the Estate of Lisa McPherson in Tyler, Texas in Federal Court for breach of contract. Dell Liebreich was dismissed as an individual and the Estate was dismissed on appeal when the 5th Circuit determined that it did not have jurisdiction over a Florida Estate even though the personal representative lived in Texas.

7. Plaintiffs' alleged claims do not relate to or arise out of any contacts between RTC and Texas. There is no substantial relationship between the operative facts of this litigation and the State of Texas. Any and all agreements between the parties (to the extent that such actually exist) were entered into in California.

I declare under the penalty of perjury under the laws of the States of California and

Texas, that the foregoing is true and correct.

Further affiant sayeth not.



Warren McShane

Subscribed and sworn to before me this 30 day of September, 2012, to certify which witness my hand and proved to me on the basis of satisfactory evidence to be the person who appeared before me.



NOTARY PUBLIC,
STATE OF CALIFORNIA

