

application but will also discuss the factual merits of the action, in anticipation of what have become formulaic and false charges of bad faith by defendants.

I. Background

3. Landmark Education LLC (“Landmark Education”) is an employee-owned company that delivers educational programs to the public in the United States. Landmark Education International, Inc. (“Landmark International”) delivers Landmark Education’s programs to the public in twenty-three other countries. Both companies commenced operations in 1991. Landmark Education offers a four-part Curriculum For Living. The basic program is the Landmark Forum, a three-day program (plus one follow-up evening session). The curriculum is directed to enhancing communication, creativity and productivity. Landmark Education’s courses are sold to individuals. To date, more than 820,000 people have participated in programs delivered by Landmark Education and Landmark International. Graduates of Landmark’s programs include highly credentialed individuals such as: Sir Christopher Ball, University of Derby Chancellor Emeritus; Bill Bradbury, State of Oregon, Secretary of State; Paul Fireman, Reebok International Ltd., Chief Executive Officer; and The Honorable Moody Tidwell, United States Federal Court of Claims, to name just a few. In addition, many businesses seeking to improve performance, creativity and organizational effectiveness, including Fortune 500 companies such as IBM and public sector entities such as the United States Postal Service, encourage their employees to attend the Landmark Forum by reimbursing them for the cost of tuition. Landmark Education is an accredited member of the International Association for Continuing Education and Training, and people who participate in Landmark Education courses receive continuing education units.

4. Landmark Education Business Development, Inc. ("LEBD") which commenced operations in 1993, is a global consulting firm providing services directly to corporate customers and public sector entities. LEBD's engagements encompass a full range of consulting services: strategic planning sessions, building and coaching high-performance executive and management teams and implementing large-scale initiatives in workforce mobilization. Private corporations which have used LEBD's services include athletic and fitness giant Reebok International and UNUM, the leading provider of group disability insurance. Other LEBD clients have included Magma Copper Company, New Zealand Steel, various public utilities and numerous small, high growth companies in sectors such as health care.

5. Defendant Rick Ross is a self-styled expert on cults. Ross earns a livelihood as an expert witness and by conducting "de-programmings" for the families of cult members. In 1976, Ross was convicted of conspiracy to commit grand theft. In 1995, he was found civilly liable for \$3,375,000 on account of his tortious abuse of an individual in the course of "de-programming" him. Defendant The Ross Institute is a recently-formed not-for-profit entity. Defendants operate Internet websites promoting Ross's alleged expertise and offering a "database" of information about cults. Ross has never attended any Landmark program, despite our having invited him to do so.

6. Defendants constantly conflate Landmark and its programs with programs delivered in the 1970s and 1980s by Werner Erhard, popularly known as "est." Defendants are either being deliberately misleading or grossly negligent in doing so. When Landmark Education was founded in January 1991, it licensed certain program materials from Werner Erhard & Associates. In the 14 years since, Landmark Education's programs have evolved into very different offerings from those early materials. Landmark Education has never paid Erhard

under the license agreements (he assigned his rights to others). Erhard has no financial stake in Landmark. Indeed, he has never had any financial interest in Landmark and does not now serve, and never has served, as an officer, director, employee of or consultant to Landmark.

II. The Bases of Landmark's Complaint

7. Landmark's complaint stems from defendants' posting of disparaging materials on their websites about Landmark's educational programs (and linking us to est), defendants' refusal to post positive materials about Landmark's programs, and defendants' false statements about Landmark's programs published in the media. The false charges include likening Landmark's programs to "cults," representing that participants in the programs are subject to "hypnosis," "brainwashing" or "mind control" and stating that the programs are "destructive" and "dangerous." Landmark wrote to defendants and requested that they modify the content of their websites so as to include some positive media coverage, expert opinions and consumer comments regarding Landmark's educational programs in the interest of presenting a balanced and accurate presentation of the facts to the public.² Defendants refused to post any of the material provided to them by Landmark.

8. Landmark's complaint alleges seven causes of action, sounding, *inter alia*, in product disparagement and tortious interference. The common elements of Landmark's claims are that the comments, stories and discussion threads posted by defendants on the websites concerning Landmark are false and derogatory statements of fact that have damaged Landmark. At the time it filed this action, and now, Landmark has strong factual support for its position.

² Because Ross has styled himself as an expert on the subject of cults, Landmark believes it is incumbent for him to present a factually balanced view and to substantiate his opinions. Moreover, an "expert" should personally examine the subject matters about which he opines, which Ross has refused to do.

A. Defendants' Postings Are False

9. As our complaint alleges (see, e.g., ¶¶ 18, 22, and 25-26), defendants' website postings state that Landmark's programs are cult-like and present risks of physical and emotional harm to participants. The posts accuse Landmark of being a cult and of "hypnotizing" and "brainwashing" participants and attempting "cult recruitment" and "mind control." Examples of specific statements include:

- a. "A clear unmistakable warning sounded in my head near the end [of the Landmark Forum] 'Get out of here now it's a cult!'"
- b. Landmark's participants are subjected to "an elaborate mind control system"
- c. the Landmark Forum "was literally mind control at work"
- d. Landmark's programs make "a deliberate assault on your mind"
- e. Landmark's programs encourage participants "to cut themselves off" from people who are not associated with the program
- f. participants in the Landmark Forum who want to leave are met with "guilt, manipulation and implied threats" and those who do leave are thereafter continuously "harassed" by Landmark representatives seeking to convince them to return to the program
- g. participants in the Landmark Forum are not "allowed to be by themselves for long periods of time or deviate from the Forum rules in any manner" and
- h. Landmark's programs are "downright dangerous" and "destructive."

10. Landmark has considerable proof that defendants' statements are untrue. For example:

As to the Landmark Forum and Landmark Education:

- a. Raymond Fowler, Ph.D., then the Chief Executive Officer of the American Psychological Association, after participating in the Landmark Forum, stated his personal opinion:

“The Landmark Forum is not a cult or anything like a cult, and I do not see how any reasonable, responsible person could say that it is.”

“The relatively brief encounters in a pleasant environment that take place at a Landmark Forum program could never effect such extreme and unwanted changes in personality and behavior as those attributed to the various forms of ‘mind control.’” (Exhibit B.)

- b. Lowell Streiker, Ph.D., a recognized expert on cults:³

The Landmark Forum “is not a cult in any sense of the word, religious or otherwise.”⁴

- c. Numerous other psychiatrists and psychologists concur, stating, e.g.:

³ Dr. Streiker, the author of several books on cults, including The Cults Are Coming, has for years worked as a counselor to cult victims and their families. He was the founder and Executive Director of the Freedom Counseling Center in Burlingame, California. Dr. Streiker has been qualified to provide expert testimony concerning cults in various jurisdictions in the United States and Canada.

⁴ See also Dr. Steven Callahan, clinical psychologist: “[I]ndividuals in Landmark classes are encouraged to think for themselves and not to automatically believe what everyone else believes. These individuals are encouraged to pursue their own personal goals, even when these goals are in no way related to Landmark Education. These individuals are also encouraged to become independent, to feel that they have control over their own lives, and to understand that they are not being “victimized” or controlled by anyone or anything. Finally, these individuals are strongly encouraged to improve their relationships with their families, actively pursuing the mending of any damaged relationships that exist. It absolutely would be counter-productive for any cult [or brainwashing group] to encourage its members to pursue any of the above goals.” [Emphasis in original.]

- (i) Landmark does not “engage in any sort of brainwashing, thought reform, hypnosis, or thought modification whatsoever,”

“[n]ot one [of the elements of a cult] exists in Landmark or any of its programs,”

“Landmark has none of the characteristics of cult-like organizations”

“Landmark and The Landmark Forum are not a cult or cult-like and . . . people who participate in Landmark’s programs are not damaged” (Dr. Edward Lowell);

- (ii) Landmark is “not a cult, but a transformational education corporation, which is what they claim to be” (Dr. Richard Bralliar);
- (iii) Landmark is not “coercive, cult-like, or otherwise negative” (Dr. Jim Miller);
- (iv) Landmark “has NEVER displayed ANY” characteristics of a cult (Dr. Bruce Borkosky, emphasis in original);
- (v) Landmark is not “a cult or any other kind of distorted, antisocial entity,” and there is “no evidence of any inherent danger or harm arising from Landmark’s programs [which] are high-quality programs solidly grounded in well-established principle and method that have the potential to offer participants substantial value” (Dr. Gregory Lester).

- d. Noted social scientist Daniel Yankelovich analyzed the results of a study of more than 1,300 participants in the Landmark Forum. One of the results was that seven out of ten people surveyed deemed the Landmark Forum to be one of their life’s most rewarding experiences.

- e. The Talent Foundation, a global non-profit research organization, studied the Landmark Forum's effects on motivation and learning⁵ and found that more than two-thirds of the one hundred Landmark Forum participants included in its study said their levels of motivation, self-esteem and confidence at work improved as a result of participating in the Landmark Forum. (The Talent Foundation study is attached as Exhibit C.)
- f. Judge Schlomo Shoham, the Legal Advisor on cult matters to the Israeli Knesset, after participating in the Landmark Forum wrote:

The Landmark Forum has "none of the characteristics found in the definition of a cult."

- g. Bishop Otis Charles of the Episcopal Church and the former Dean of the Episcopal Divinity School in Boston wrote:

"By no definition that I know of can The Landmark Forum or Landmark Education's programs be considered part of a cult. In fact, quite the opposite, the organization and courses are conducted in a way that is entirely consistent with any accredited educational institution."⁶

As to LEBD:

- a. A case study published by the University of Southern California Marshall School of Business noted that LEBD's program was instrumental in one major corporation studied "realizing major accomplishments in key areas,

⁵ Researchers conducted 100 telephone interviews of randomly-selected Landmark Forum graduates and compared the responses to those given in similar telephone interviews of a 100-person control group.

⁶ Numerous other clergy from major religious denominations concur, e.g.,: (i) "[t]o regard the Landmark Forum as a 'cult' is ridiculous" (Rev. Dean Simpson, Lutheran); (ii) Landmark is not "cultish, devious or anti-religious. Rather, the work and programs developed by Landmark Education are truly educational in the best sense" (Rev. Gerard O'Rourke, Catholic).

including boosting productivity by 86%, cutting production costs by 40%, and appreciating stock by more than 400%” and that LEBD’s program helped another corporation studied produce a 50% increase in safety performance, a reduction by 15-20% in key benchmark costs, a 50% increase in return on capital and a 20% rise in production. (The USC study is attached as Exhibit D.)

- b. Paul Fireman, Chairman and Executive Officer of Reebok International wrote:

“Landmark has done outstanding consulting work and programs on long-range planning and cultural transformation with our employees at all levels, and the work they have done has been enjoyed and well received in assisting us in preparing our employees for a future that stems from a common and shared goal.” (Exhibit E.)

B. Defendants’ Postings Are Derogatory

11. As set forth in our Memorandum of Law in Support of Motion For a Voluntary Dismissal, the test to determine whether a statement is derogatory is the fair and natural meaning that will be given to the statement by reasonable persons of ordinary intelligence taking into consideration the context in which the statement is made. The fair and natural meaning given by persons of ordinary intelligence to the allegation that a group is a “cult,” appearing on an database of allegedly “destructive” groups, is inarguably derogatory. Further, in another Landmark litigation, the court held specifically that the allegation that a program or entity is a cult is actionable as either a statement of fact or a mixed statement of fact and opinion (see Exhibit F).

C. Defendants' Postings Are Misstatements of Fact, Not Opinion

12. We believe, and decisions have held (see Exhibit F), that the allegation that an organization is a "cult" and "brainwashes" participants is a statement of fact that is capable of being proven either true or false. Experts agree that to be a "cult," an entity must possess certain characteristics and that "brainwashing" involves definable activities, as described in ¶ 14 below.

13. Landmark has been prepared, as its Rule 26(a)(1) disclosure states, to offer expert testimony as to: (a) the characteristics of cults; (b) the fact that Landmark is not a cult; and (c) the fact that Landmark's programs do not use brainwashing techniques. For example, see Dr. Raymond Fowler's personal opinion, given when he was the Chief Executive Officer of the American Psychological Association, concluded after participation in the Landmark Forum, quoted in paragraph 10(a) above.

14. Dr. Edward Lowell, an expert on cults and a psychiatrist with specialized government training in the technology and techniques of brainwashing, mind control and thought reform had expressed the required characteristics of a cult (and absence of these in Landmark's programs and organization) as follows:⁷

[a cult] is a religion or religion-like sect generally considered to be extremist or false, with its followers believing or living in an unconventional manner under the guidance of an authoritarian or charismatic leader. There is a special reverence or devotion to such person. There is often a non-scientific method or regimen claimed by its originator or proponent to have exclusive or exceptional power. In a cult, there is an inculcation or indoctrination of a new idea to displace participants' usual, familiar and conventional ideas by subjecting them to repetitive instruction, indoctrination, sense of duty, etc. Similarly, brainwashing involves (1) intensive, forcible indoctrination aimed at destroying a person's basic convictions and attitudes and replacing them

⁷ Among other things, Dr. Lowell was trained by the United States Army during the Korean war to treat American prisoners of war who had been subjected to brainwashing and other "thought reform" techniques by their captors.

with an alternative set of fixed beliefs; and (2) the application of a concentrated means of persuasion, such as repeated suggestion, in order to develop a specific belief or motivation. Necessarily involved are a kind of physical entrapment, power to inflict harm or detrimental effects, and secluding one from contact with friends and family.

Not one of these exists in Landmark or any of its programs. Nowhere, ever, is there any granting or seeking of obedience, authority or the acceptance of any harshness. . . . Nowhere does the participant experience a disenchantment with his previous affiliations, loyalties, support groups and principles. . . . There is no joining an organization. . . . There is no element of geographic or family dislocation whatsoever. There is no thought reform. . . . There is no element of coercive persuasion. There is no damage to family. . . . There is no charismatic leader. . . . Those who take The Landmark Forum continue on in their jobs, neighborhoods, communities, charities of interest. . . . There is no Forum idea to inculcate. . . . Landmark and The Landmark Forum are not a cult or cult-like and . . . people who participate in Landmark's programs are not damaged.

After my careful observation, I have seen nothing at all that would lead me to the conclusion that The Landmark Forum or any other Landmark program or Landmark itself does or even attempts to engage in any sort of brainwashing, thought reform, hypnosis, or thought modification whatsoever.

15. Landmark's Rule 26(a)(1) disclosure (the "Rule 26 Disclosure") is attached as Exhibit G. Section B identifies Landmark's witnesses. Other witnesses listed thereon as persons capable of refuting defendants' charges against Landmark included, among others, members of the clergy, law enforcement and health care professionals. (See the Rule 26 Disclosure, Section B, identifying witnesses.)

D. Landmark Has Suffered Damages

16. Landmark brought this action both to recover for damages suffered and in the hope that defendants would reconsider the one-sided nature of their postings. Landmark has produced to defendants information as to damages, including documentation concerning a number of individuals who cancelled their registration in Landmark's programs as a result of

defendants' actions. Furthermore, defendants' own websites contain proof of damages. For example, numerous postings on defendants' websites contain statements to the effect that the author or someone known to the author opted not to participate in the Landmark Forum after reviewing information found on defendants' websites.

E. The Authorship of The Posts on Defendants' Websites

17. Landmark has long suspected that Mr. Ross, for his own self-serving purposes, has himself authored certain of the more damning comments, stories and discussion threads posted on defendants' websites.

18. Prior to filing the complaint, Landmark, through counsel, consulted a noted forensic linguist, Dr. Gerald McMEnamin, who has qualified as an expert in numerous federal and state courts to opine on issues concerning questioned authorship. This expert was presented with: (1) a sampling of the admitted writings of Mr. Ross; and (2) a sampling of the "visitor comments," and "personal stories" from defendants' websites concerning Landmark. Dr. McMEnamin, after study of the material, concluded that the latter materials, though posted as anonymous third-party submissions on defendants' websites, were in fact authored by Mr. Ross:

Mr. Rick Ross is the author of the Questioned writings. . . . [T]he Known writings of Mr. Ross demonstrate a sufficiently large and significant set of similarities vis-à-vis the Questioned writings, making it possible to identify Mr. Ross as the author of all Questioned writings. . . . [F]our measured characteristics of the Questioned writings occur in the Known writings of Ross to the extent that it is highly unlikely (close to zero chance) that their respective joint occurrence in both Ross's writings as well as in the Questioned writings is due to chance.

Landmark's complaint, thus, was based in part on statements made by Mr. Ross himself (including statements deceitfully posted by defendants as having been authored by others) and on

defendants' selective selection of the materials they posted, which eliminate Landmark-favorable materials.

III. The State of The Law When This Action Was Commenced

19. Landmark commenced this action in June 2004. At that time, there was no case from any court within the Third Circuit or the New Jersey state court system addressing the applicability to website hosts of the immunity granted by the Communications Decency Act of 1996, 47 U.S.C. § 230(c)(1) (the "CDA") from state-law tort liability arising from statements authored by persons other than the defendant but republished on the Internet by the defendant. Specifically, the relevant unsettled legal questions concerned whether (1) Internet websites such as those operated by the defendants are entitled to the same immunity granted to Internet service providers ("ISPs") such as America Online; and (2) if so, whether that immunity is negated where website hosts such as the defendants edit the content provided to the website or take an active role in the selection of the third-party content that is included thereupon.

20. Notably, defendants' answer, filed in September 2004, did not assert the CDA as a defense to Landmark's claims. (Answer excerpted in pertinent part as Exhibit H.)

21. Landmark was prepared to urge this Court to hold that defendants are not providers of an "interactive computer service" because, unlike ISPs, by operating websites they do not "enable computer access by multiple users to a computer server" and because, unlike ISPs, they have full control over the third-party content that they permit to be posted and therefore are not entitled to claim the same limited protection that Congress intended to provide to ISPs who do no more than act as mere conduits for information. Landmark was also prepared to urge this Court to hold, if it found that the CDA applies to website operators, that the immunity is lost if the defendants edited or engaged in active selection of the third-party content

appearing on their websites because those actions cause them to become “information content providers” under the definition set forth in the CDA.

IV. The January 2005 Change In The Law -- Donato v. Moldow

22. On January 31, 2005, the Appellate Division of the Superior Court of the State of New Jersey handed down a decision that forecloses the arguments sought to be made by Landmark concerning the non-applicability of the CDA to its claims against the defendants. See Donato v. Moldow, 374 N.J. Super. 475 (App. Div. 2005).

23. Donato considered the potential liability of a website based upon allegedly actionable messages posted anonymously by others, id. at 479, and is thus exactly on point. The Appellate Division affirmed the trial court’s grant of a dismissal in favor of the website operator defendant. Id. Noting the lack of any controlling authority in New Jersey, the court looked to decisions from other jurisdictions. Id. at 487. The court held that website operators are providers or users of “interactive computer services” such that the CDA’s grant of immunity for publications by third parties applies to them, id. at 487-89, and that a website operator does not become an “information content provider” such as to negate that immunity by actively participating “in selective editing, deletion and re-writing of anonymously posted messages,” or by controlling the “‘content of the discussion’ by posting messages of his own, commenting favorably or unfavorably on messages posted by others, selectively deleting some messages while allowing others to remain, and selectively banning users whose messages he deems disruptive to the forum.” Id. at 497-99. Moreover, the court held that immunity was not negated by the fact that the website operator actually harbored ill-will toward the plaintiff because, irrespective of defendant’s motive, plaintiff had not alleged any acts outside of the traditional publisher’s editorial functions. Id. at 500.

24. Notably, in February 2005, after Donato was published, counsel for defendants requested that Landmark stipulate to permit defendants to amend their answer to assert the CDA as an affirmative defense.

25. Although Landmark may still be able to pursue claims based upon certain of the website postings whose “anonymous” or allegedly identified author is in fact Mr. Ross, Donato leaves Landmark without any viable cause of action as to the remainder of the derogatory posts. Further, for Landmark to prove that its damages flowed from a third-party’s receipt of a Ross-authored post rather than a post actually authored by a third-party as to which defendants’ have immunity -- a distinction not previously important but now a likely prerequisite to recovery of damages -- would be extraordinarily difficult, if not impossible.

26. Landmark has, since the Donato decision, considered its options in this matter. While Landmark believes that Donato is incorrectly decided and the relevant courts may eventually reject its holdings, at the same time, Landmark, an educational institution, does not perceive its mission to be well served by a protracted and costly legal fight on this issue.

V. Additional Relevant Facts

27. In connection with Landmark’s request to Magistrate Judge Falk for permission to make this motion, defendants took the position that Landmark was in the practice of bringing lawsuits to bully members of the public into foregoing their beliefs that Landmark is a cult and then, when confronted by discovery requests, withdrawing these suits.

28. The claim is false, on a number of fronts.

29. First, Landmark is not in the practice of bringing lawsuits at all. In our 14-year history, apart from this action, we have brought all of four actions in the federal and state courts of the United States. Landmark takes deep pride in its programs and the value the programs

provide to participants. In each of the four cases, we sued to obtain correction of false accusations against us of being a cult and/or engaged in brainwashing. The cases were not, as defendants claim, against members of the public. They were against either media giants or self-styled cult experts and their organizations. As discussed below, in three of the four cases, we engaged in discovery on the merits and defeated substantive motions (to dismiss or for summary judgment) brought by the defendants. In each of those three, our claims were validated by settlements made by the defendants. In the fourth, our claim was dismissed on New York pleading grounds and we chose not to appeal. The last of the cases was filed in 1998, i.e., six years before this action was filed.

30. Specifically, the facts of these cases are:

- 1) Name: Venue. Landmark Education Corp. v. Conde Nast Publications Inc., et al., Supreme Court of the State of New York, County of New York
Docket Number. 114814/93
Filing Year. 1993
Claim(s). Defamation
Procedural History. Discovery was conducted, subject to a confidentiality order. Defendants moved for summary judgment. Summary judgment was denied, the Court holding that there was sufficient evidence to try the claim. A settlement was then reached. Among other things, defendants acknowledged they had no first-hand knowledge that Landmark is a cult. See Exhibit I, containing the complaint, the decision denying the motion for summary judgment, the confidentiality order and the settlement agreement.

2) Name: Venue. Landmark Education v. Cult Awareness Network, et. al.,

Circuit Court of Cook County, Illinois County Department -- Law

Division

Docket Number. 94L 11478

Filing Year. 1994

Claim(s). Defamation, injurious falsehood, interference with prospective economic advantage, false light, commercial disparagement, conspiracy, deceptive trade practices, consumer fraud

Procedural History. Discovery was conducted, subject to a confidentiality order. Defendants moved for summary judgment. Summary judgment was denied, the Court holding that there was sufficient evidence to try the claim. Landmark settled with Cult Awareness Network on November 21, 1997 and settled with Cynthia Kisser on December 23, 1998. In connection with the settlement, the Board of Directors of Cult Awareness Network stated "Cult Awareness Network does not hold, and has never held the position that Landmark Education Corporation, or any of the Programs of Landmark Education Corporation, including The Landmark Forum ("Landmark"), is a 'cult' or 'sect'." Ms. Kisser made a similar statement.

See Exhibit J, containing the complaint, the Board resolution of the Cult Awareness Network and the statement made by Ms. Kisser.⁸

⁸ To date, Landmark has not been able to retrieve copies of the protective order or the decision denying summary judgment.

- 3) Name: Venue. Landmark Education Corporation v. Singer. et al.,
Superior Court of the State of California, County of San Francisco
Docket Number. 976037
Filing Year. 1996
Claim(s). Libel
Procedural History. On September 9, 1996, defendants' substantive motion to dismiss was denied. Discovery was conducted, subject to a confidentiality order. In May 1997, the case was settled. Dr. Singer stated: "I do not believe that either Landmark or the Landmark Forum is a cult or sect, or meets the criteria of a cult or sect." Dr. Singer also acknowledged that she had never participated in any Landmark program and had "no personal, firsthand knowledge of Landmark or its programs." See Exhibit K, containing the complaint, excerpt of motion to strike (dismiss), the decision denying the motion to dismiss, the confidentiality order, the settlement agreement and Dr. Singer's statement.
- 4) Name: Venue. Landmark Education Corporation v. Hachette Filipacchi Medias Group, et ano, Supreme Court of the State of New York, County of New York
Docket Number. 115873/98
Filing Year. 1998
Claim(s). Defamation
Procedural History. Dismissed by the court April 1999.
See Exhibit L, containing the complaint and the decision.

31. In sum, the facts simply belie defendants' reckless assertion that Landmark has a pattern and practice of engaging in frivolous litigation against the public.


32. In fact, as the lawsuits filed against the defendants demonstrate, it is Mr. Ross who has a history of bullying others, using as a cloak his self-proclaimed "expertise" to promote his commercial interests at the expense of others. See, e.g.: (1) Gentle Wind Project et al. v. Garvey, et al., United States District Court for the District of Maine, 2004, Docket Number 2:04-CV-00103 (Ross and The Ross Institute were sued, along with others, for defamation, tortious interference, invasion of privacy, infliction of emotional distress and violations of RICO and the Lanham Act violations); (2) NVIXM Corp. v. Ross Institute, et al., United States District Court for the Northern District of New York, 2003, Docket Number 03-7052 (Ross and The Ross Institute were sued, along with others, for trademark infringement); (3) The Church of Immortal Consciousness et al. v. Ross, et al., Arizona Superior Court, Maricopa County, 1995, Docket Number CV 95-18824 (Ross sued, along with others, for defamation); and (4) Scott v. Ross, United States District Court for the Northern District of California, 1996, Docket Number 96-35050 (Ross sued, along with others, for violation of civil rights arising out of one of Ross's "de-programmings"). Ross was also sued for defamation in 2001 in a Florida state court by Pure Bride Ministries Inc.

VI. Conclusion

33. The facts here suggest that it is defendants who seek to misuse the litigation process, for Ross' own purposes. He plainly knows that Landmark is widely attended and, because of the quality of participating groups, quite visible. He uses attacks against us as a means of self-promotion. (See Exhibit M (promotional materials from defendants' websites).)

34. Landmark believes and is advised that, given the facts set forth above, it should be entitled to dismiss this action, which is in its earliest stage, without paying any amount to defendants or their counsel. The accompanying memorandum of law sets forth the law concerning Rule 41(a)(2) dismissal motions. We ask that the Court dismiss the action, without any penal terms.

Made this 3rd day of May, 2005 in San Francisco, California.


Arthur Schreiber