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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

10	PEOPLES TEMPLE OF THE DISCIPLES	)	
	OF CHRIST, a nonprofit corporation,	)	
11	JEAN BROWN, and JAMES McELVANE,	)	NO. 740531
		)	
12	Plaintiffs,	)	MEMORANDUM OF POINTS AND AU-
		)	THORITIES IN OPPOSITION TO
13	v.	)	APPLICATION FOR PRELIMINARY
		)	INJUNCTION
14	TIMOTHY OLIVER STOEN,	)	
		)	
15	Defendant.	)	
		)	

17 I. A PRELIMINARY INJUNCTION CANNOT BE ISSUED BECAUSE  
18 PLAINTIFFS ARE BARRED BY THE DOCTRINE OF UNCLEAN HANDS.

19 A. A party seeking the interposition of a court of equity  
20 must come into court with clean hands. Where plaintiffs' conduct  
21 means they have unclean hands, a preliminary injunction will be  
22 denied. London v. Marco (1951) 103 Cal App2d 450, 453, 229  
23 P2d 401.

24 B. As defendant's verified answer makes clear, plaintiffs  
25 PEOPLES TEMPLE, BROWN, and McELVANE have come into this court with  
26 flagrantly unclean hands.

1           1. First, they are aiding and abetting in the disobedience  
2 by Jim Jones of a California Superior Court order dated November 18,  
3 1977, which involves the subject matter of this action, i.e., an  
4 alleged personal vendetta concerning the custody of John Victor  
5 Stoen.

6           2. Secondly, plaintiffs have unclean hands in that it  
7 appears they have knowingly contrived to insert perjury into  
8 paragraph VI of the verified complaint. On July 1 and 2, 1978,  
9 they contrived a totally false story best calculated to induce a  
10 judge to erroneously believe that defendant acquired confidential  
11 information concerning the lawsuit filed by Steven Katsaris. To  
12 do so, plaintiffs had to contumaciously manipulate and dupe their  
13 attorney.

14           3. Thirdly, plaintiffs have unclean hands in that it  
15 appears they have suppressed evidence which is necessary to the  
16 disposition of this case. On July 1 and 2, 1978, they arranged  
17 for Carol Stahl, the nominal president of PEOPLES TEMPLE and the  
18 only person they were willing to let verify the complaint, to  
19 leave the United States and the jurisdiction of this court. It  
20 appears they did this to prevent her being cross-examined at an  
21 evidentiary hearing and thereby revealing the perjury in paragraph  
22 VI of the complaint.

23           4. Fourthly, plaintiffs have unclean hands in that they  
24 are abusing the judicial process. It appears they have ulterior  
25 motives: (a) to divert the attention of the media and the public  
26 from the savage and unlawful acts itemized in the three lawsuits

1 filed against them by defendant, (b) to coerce Timothy Stoen to  
2 expend his energies and limited funds in defending this sham  
3 lawsuit of plaintiffs based on perjured allegations so as to  
4 inhibit his prosecuting of the three legitimate lawsuits brought  
5 on behalf of truly oppressed victims of PEOPLES TEMPLE; and (c)  
6 to introduce as part of a court record a document (Exhibit C-2 of  
7 the complaint) which plaintiffs know is totally false and spurious,  
8 and which plaintiffs know is so utterly lacking in legal signifi-  
9 cance that it could not be introduced in either of the two custody  
10 proceedings, involving the same child John Victor Stoen, brought  
11 in California and Guyana, respectively. None of the foregoing  
12 acts of unclean hands are proper in the use of the judicial process.

13  
14 II. A PRELIMINARY INJUNCTION CANNOT BE ISSUED BECAUSE  
15 PLAINTIFFS HAVE NOT ALLEGED SPECIFIC FACTS BUT SIMPLY HEARSAY  
16 CONCLUSIONS.

17 A. Unless a statement which is in the nature of a con-  
18 clusion is supported by the specific facts or circumstances on  
19 which it rests, it is insufficient to sustain an application for  
20 an injunction. Willis v. Lauridson (1911) 161 Cal 106, 108,  
21 118 P 530. The facts alleged must be so specific that the court  
22 can infer the conclusions drawn by plaintiff were correct.  
23 Provident Land Corp. v. Provident Irrigation Dist. (1937) 22 Cal  
24 App2d 105, 79 P2d 392. Inferences, generalities, presumptions,  
25 and conclusions have no place in a pleading asking for an injunction.  
26 Davitt v. American Bakers' Union (1899) 124 Cal 99, 56 P 775. The

1 facts must be so specific that if they were shown to be false, the  
2 verifier of the complaint would be subject to an indictment for  
3 perjury. Ancora-Citronelle Corp. v. Green (1974) 41 CA3d 146,  
4 115 CR 879 ("The availability of criminal sanctions for perjury  
5 was calculated to insure that injunction applications be sub-  
6 stantially supported by a truthful factual representation, and  
7 made in good faith.").

8 B. Clearly, the complaint and declaration filed by plain-  
9 tiffs herein are totally insufficient as to specificity of facts.  
10 Plaintiffs allege three theories for the removal of Timothy Stoen  
11 as attorney on the three complaints already filed by him. (Since  
12 there are no facts alleged as to future "soliciting" or "accepting"  
13 of professional employment, and no facts alleged as to any specific  
14 items of "confidential" information likely to be disclosed in the  
15 future, plaintiffs' complaint herein should be interpreted as one  
16 to enjoin defendant from "prosecuting any complaints already filed.")

17 The first theory is unlawful "solicitation". But there is not  
18 one fact, not one date, not one conversation put forward as to  
19 when any solicitation occurred as to Steven A. Katsaris, Wade and  
20 Mabel Medlock, or James Cobb, Jr. As their declarations show, each  
21 of these victims of PEOPLES TEMPLE approached Timothy Stoen on  
22 their own initiative and requested his help.

23 The second theory of plaintiffs is that defendant filed his  
24 lawsuits out of a "personal vendetta". While defendant acknow-  
25 ledges he has animus towards PEOPLES TEMPLE and their savage  
26 practices, there is no showing whatever that he acted "solely"

1 out of spite, which is what Rule 2-110 of the California State Bar  
2 Rules of Professional Conduct pertains to. If anything, defendant  
3 has shown an extremely objective and nonvindictive attitude  
4 towards plaintiffs in light of their provocative threats (see his  
5 declaration) that he would be killed and that Jim Jones would  
6 commit "the ultimate sacrifice" (i.e. kill John Victor Stoen) if  
7 defendant did not back off on his custody proceedings. The best  
8 test, of course, in determining whether defendant is acting  
9 "solely" out of spite is to review the complaints he drafted on  
10 behalf of Katsaris, the Medlocks, and Cobb. The wrongdoing of  
11 PEOPLES TEMPLE and Jim Jones were therein supported by allegations  
12 of (1) specific facts (2) verified under penalty of perjury (3)  
13 by persons in a position to know.

14 The third and final theory of plaintiffs in seeking this  
15 injunction is that defendant misused "confidential" information.  
16 For some reason, plaintiffs were unable to come up with anything  
17 specific on either Medlocks or Cobb. As to Medlocks, they alleged  
18 that defendant "planned, advised and arranged the transfer of"  
19 their property. No dates, no facts as to the contents of his  
20 advice, no facts as to what acts he took to "arrange" the transfer.  
21 As to Cobb, plaintiffs do not allege anything except the very  
22 generalized conclusion that the allegations of Cobb's complaint  
23 "concern various incidents about which defendant obtained confi-  
24 dential information during the course of his attorney-client  
25 relationship with plaintiff PEOPLES TEMPLE." What incidents?  
26 The threats to kill Jim Cobb? The department of "Diversions"?

1 The plan to murder 1100 people? For some reason, plaintiffs have  
2 chosen not to itemize these "incidents".

3 There remains, then, only one conceivable theory under which  
4 the plaintiffs may proceed: the alleged misuse of confidential  
5 information affecting the Katsaris lawsuit. In paragraph VI of  
6 PEOPLES TEMPLE's complaint, the defendant is alleged to have  
7 acquired confidential information from Maria Katsaris regarding  
8 possible conservatorship proceedings instituted by her father and  
9 regarding her having been sexually abused by him. But there is no  
10 declaration from Maria Katsaris. She is the only person who could  
11 possibly know what she told Timothy Stoen (who denies in his veri-  
12 fied declaration that any such conversations took place). The  
13 questions become obvious: is PEOPLES TEMPLE afraid to produce  
14 Maria Katsaris and let her testify in court? If so, is it because  
15 their complaint does contain perjury in paragraph VI? Is plaintiffs'  
16 decision to use Carol Stahl as the sole verifier for the purpose  
17 of providing a colorable defense of "hearsay" to an indictment for  
18 perjury?

19 To summarize, plaintiffs have totally failed on any theory  
20 to allege specific facts which have been verified by someone in a  
21 position to know whether they are true or false. Their application  
22 for an injunction should, for this reason alone, be denied.

23 III. A PRELIMINARY INJUNCTION CANNOT BE ISSUED BECAUSE  
24 PLAINTIFFS ULTIMATE CASE IS, IF NOT A SHAM, UTTERLY DOUBTFUL.

25 A. An injunction cannot be granted where plaintiff's  
26 ultimate right to relief is doubtful. Thayer Plymouth Center, Inc.

1 v. Chrysler Motors Corp. (1967) 255 Cal App2d 300, 305-306, 63  
2 Cal Rptr 148; West v. Lind (1960) 186 Cal App2d 563, 569, 9 Cal  
3 Rptr 288.

4 B. Plaintiffs' underlying case for damages is utterly  
5 doubtful. They cannot obtain damages if they have no theory of  
6 a violation of a legal right. But the only theory they have  
7 available to them, taking a look only at plaintiffs pleadings and  
8 construing all ambiguous interpretations in their favor, is para-  
9 graph VI. And the failure of plaintiffs to file a declaration by  
10 Maria Katsaris verifying those allegations shows a reluctance to  
11 let her come forward and testify at a trial on the lawsuit. Fur-  
12 thermore, if the declarations and answer filed on behalf of the  
13 defendant are considered, there appears no reasonable possibility  
14 that a jury or judge could believe the allegations of paragraph VI.  
15 Hence plaintiffs' ultimate case is, if not a sham, utterly  
16 doubtful.

17 IV. A PRELIMINARY INJUNCTION CANNOT BE ISSUED BECAUSE IT  
18 WOULD VIOLATE THE CONSTITUTIONAL GUARANTEES OF FREEDOM OF SPEECH  
19 AND RIGHT TO COUNSEL.

20 A. An injunction cannot be granted where it would inter-  
21 fere with the constitutional guarantees of freedom of speech.  
22 US Const, Amend I; Calif Const, Art I, §9; Rosicrucian Fellowship  
23 v. Rosicrucian Fellowship Non-Sectarian Church (1952) 39 Cal2d,  
24 145, 245 P2d 481. The right to be represented in a civil case by  
25 counsel of one's choice is fundamental. The refusal to recognize  
26 or allow appearance or representation by such counsel is a denial

1 of due process and therefore an act in excess of jurisdiction.  
2 US Const, Amend XIV; Calif Const, Art I, §7(a); Witkin, 1 Cal.  
3 Proc., 2d, Jurisdiction, §194; See Ex parte Gordan (1891) 92 C.  
4 478, 28 P. 489.

5 B. The declarations of Steven A. Katsaris, Wade and Mabel  
6 Medlock, and James Cobb state that Timothy Stoen is their choice of  
7 counsel and request he not be removed. Katsaris says his interest  
8 will be "gravely compromised" if Mr. Stoen were no longer to repre-  
9 sent him. He gives his reasons as including the fact that Mr.  
10 Stoen is "extremely capable", and he attaches Stoen's professional  
11 resume and character references. Any injunction of a court would  
12 constitute a prior restraint on the freedom of speech of everyone  
13 involved, in violation of the Federal and State constitution,  
14 and would also constitute a violation of the constitutional rights  
15 of Katsaris and the Medlocks and Cobb to the counsel of their  
16 constitutional choice.

17 There is no adequate competing consideration because, inter alia  
18 there is no irreparable injury threatened. No specific future acts  
19 of "solicitation" or "accepting" of professional employment are  
20 alleged by plaintiffs. No specific "confidential" information as  
21 to type or source, is alleged as likely to be disclosed. In reality  
22 plaintiffs appear to have one aim in mind; the removal of Stoen  
23 from pending cases as the attorney for the persons claiming to  
24 be victimized by them. Even if plaintiffs' allegations had been  
25 more specifically pleaded and even if they were true, they would  
26 have an adequate remedy of damages at law, i.e. ascertainable



1 damages resulting from the existing lawsuits of Katsaris, Medlocks,  
2 and Cobb.

3 FOR EACH AND ALL OF THE ABOVE REASONS, THE APPLICATION BY  
4 PLAINTIFFS FOR A PRELIMINARY INJUNCTION SHOULD BE DENIED.

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Respectfully submitted,



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