

**Summary of the Legal Proceedings
January 1997-June 23, 2003**

Plaintiffs Richard Bandler, Brahm von Huene and Dominic Luzi
Defendants John Grinder and Carmen Bostic St. Clair,
Christina Hall, Steve and Connirae Andreas, and Lara Ewing.

The Honorable Robert B. Yonts, Jr., presided over the trial, in the Superior Court of California, County of Santa Cruz, January 31-February 10, 2000, involving several notables in the field of Neuro-Linguistic Programming.

Intention

The intention of this document is to make available to the general NLP community a factual report of the findings, decisions and rulings of the Superior Court in Santa Cruz. It is my belief that there are significant and pervasive consequences flowing from these actions which impact the behaviors and work of many thousands of people worldwide who have an interest in the continuing development and future use of NLP.

I would like to gratefully acknowledge the especially instrumental and highly effective contribution of my attorney, Philip Burkhardt, Esq., in making possible the striking accomplishments to date in this lawsuit.

I would also like to acknowledge the ongoing support of loyal friends and colleagues, Sharon McGraham and Cherie Newland, who sat close by day after day with their steady perspective and heart, quickness of wit and flash of humor. In addition, I want express my deep gratitude to the witnesses who came forth on my behalf for their courage, trust and confidence.

The following is a chronological summary of the salient issues and the significance of the decisions reached in this legal action to date from the perspective of Christina Hall, a primary defendant and only cross-complainant in this lawsuit.

Background

In October of 1981, John Grinder and Richard Bandler signed an Agreement governing the specific commercial use and rights involved in their joint creation - the technology of Neuro-Linguistic Programming. The principle issues were the certification rights which accompanied the Society of NLP, the timing and location of the right to use them, and the use of the Society Seal (aka the NLP Logo) and marketing devices. In 1982, Richard Bandler filed chapter 11, the bankruptcy chapter which allows a corporation to reorganize in an effort to do business while temporarily protected from demands by its debtors. Bandler subsequently filed chapter 7 for NOT Ltd., which officially put his business into liquidation. In December of 1983, one of the assets of NOT Ltd., namely the Society of Neuro-Linguistic Programming and all the rights therein, was purchased, through a bankruptcy sale, by a group named the Bandler Group. (Pursuant to the October 1981 Agreement, the entirety of the Society of Neuro-Linguistic Programming was vested in Bandler's corporation, NOT Ltd.).

In July of 1996, Richard Bandler filed a suit, as the alleged Representative of the Bandler Group, against John Grinder. Bandler alleged that Grinder had violated a Permanent Injunction stipulated to by both Grinder and Bandler and based on the October 1981 Agreement.

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In January of 1997, Bandler and co-plaintiffs, Brahm von Huene and Dominic Luzi, filed a civil action against John Grinder, Carmen Bostic St. Clair, Christina Hall, Steve and Connirae Andreas, and Lara Ewing, as well as their respective business entities, and 200 John and Jane Does, in which Bandler claimed exclusive ownership of the Society of NLP, among other things.

The primary issues in this second suit against the named defendants revolved around Bandler's claims of Unfair Trade Practices, Misappropriation of Intellectual Property, with demands for damages in the tens of millions of dollars. The two suits were consolidated as some of the issues were common to both actions.

Christina Hall filed a cross-complaint, alleging Bandler had committed a series of actions against her, including unfair trade practices.

Objectives & Goals

In the case of Christina Hall, although some of the issues were similar to those in the others, there was one issue unique to her case, namely, the ownership of the Society of NLP and the rights therein, including the intellectual property rights associated with NLP. She was the only defendant with legal standing, who was in a position to impact this particular issue.

Ms. Hall had, as a primary goal, to clarify once and for all, her co-ownership of the Society of NLP, her right to certify in the name of the Society, and her right to use the Society Seal. (The reader will note that this goal was basically achieved in the Summary Judgment in May of 1999 and re-confirmed in subsequent Court rulings.)

The Court's rulings have made it clear that Bandler's claim to exclusive and sole ownership of the Society and the intellectual property rights associated with NLP have been false and unlawful (page 4, lines 9 – 15 of the Statement of Decision by the Honorable Robert B. Yonts, Jr., of the Superior Court of Santa Cruz on the 23rd of March 2000).

As the legal process continued, it became apparent to Ms. Hall that although this case involved personal issues, the results of this lawsuit would have profound, far-reaching effects on everyone in the field of NLP, as well as the future development of NLP.

The defendants formed a loose collaborative alliance to support one another in their defense.

Little occurred in the consolidated suit until the Spring of 1999. Because a minimum of documents had been offered by the plaintiffs to support their case, Christina Hall initiated a Motion for Summary Judgment, asking that the twelve Causes of Actions filed against her by Bandler be dismissed. Judge Yonts ruled in May of 1999 on the Motion for Summary Judgment, granting Ms. Hall adjudication on nine of the twelve Causes of Action, dismissing these charges. Thus, even before the trial began on the 31st of January 2000, Christina Hall had already prevailed in the great majority of the actions. (The significance in such adjudication is that it makes the dismissed causes non-triable issues, subsequently barring them from presentation before the Court. The remaining causes of action against Ms. Hall were limited to a charge of disparagement of Bandler by Hall, and a declaration of the rights and duties of each party.)

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This **Summary Judgment** represents the first of several pivotal rulings emanating from this lawsuit. Notable among the findings by Judge Yonts' were the following:

1. Christina Hall was confirmed as a member of the Bandler Group, and therefore as a legal owner of the Society of Neuro-Linguistic Programming, its certification rights, the Seal/Logo of the Society and all intellectual property associated with NLP. "So under the undisputed evidence, Hall had a right to exercise her rights as an owner of the Society and of the intellectual property rights relating to NLP." (Judge Yonts)
2. Judge Yonts deferred the question of Bandler's membership in the Bandler Group, and therefore as an owner of the Society of NLP. "While it is clear that Hall acquired an interest in the Society as part of the Bandler Group, there is a triable issue of fact as to whether Bandler is also a member of the Bandler Group." (Judge Yonts)

It follows from this ruling that the majority of charges against Hall by Bandler were without basis. For example, there could be no basis for charges that Hall had misappropriated any of the rights of the Society (for example, the right to certify in the Society's name and use the Society's Seal/Logo) since Hall is and has been since 1983 an owner of the Society with its attendant rights. This ruling clearly eliminates any basis for Bandler to claim, as he has since the early 1990's, that he solely owned the Society and had the exclusive right to certify people in NLP through the Society of NLP.

Shortly thereafter, Bandler filed a motion asking Judge Yonts to reconsider the rulings of the Summary Judgment. The motion for reconsideration was denied by the Court.

In the fall of 1999, Bandler filed a **Petition For Writ of Mandate** (interim appeal) which was denied by the Appellate Court.

Near the end of 1999, a settlement agreement was reached between Bandler and Steve and Connirae Andreas.

The Trial

The trial began on the 31st of January 2000 in Department 9 of the Superior Court of California, County of Santa Cruz. At the start of the trial, representations were made that a settlement was eminent between the Andreas and Bandler, and similarly between Ewing and Bandler. Both of these settlements were finalized during the course of the trial.

The first 7 1/2 days of the trial principally involved the presentation by the Plaintiffs and their witnesses of testimony primarily against Hall, attempting to prove disparagement, plagiarism and misappropriation of what Bandler called his "work product."

Mr. Michael Breen and Mr. Paul McKenna, business associates of Bandler in England, were individually called to the stand, by Bandler's attorney, and presented as expert witnesses in NLP and marketing. The thrust of their testimony attempted to establish that some of Hall's actions, as well as those of Grinder and Bostic St. Clair, had created market resistance to Bandler's efforts to market and sell his services and products. It was disclosed under cross examination By Philip Burkhardt (Hall's legal counsel) that the UK company owned by McKenna Breen,

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as a result of an assignment by Bandler of monies due him by McKenna Breen, had been paying Bandler's attorney's fees in this legal action. Because of this, Mr. Burkhardt brought into question the credibility of the testimony of these two witnesses.

John La Valle, also a business associate of Bandler, was then called to the stand by Bandler's attorney to support allegations of plagiarism and misappropriation by Hall of what was referred to as Bandler's "work product."

The first notable witness for the defense (Hall) heard in this first week was Dr. Max Steinbach, NLP Master Trainer, former business associate of Bandler and physician, residing in New York State. Dr. Steinbach had previously been identified by Hall as one of members of the Bandler Group and a co-owner of the Society of NLP. Dr. Steinbach testified that Bandler is not nor had he ever been a member of the Bandler Group. He also introduced concrete evidence into the court record that clearly contradicted Bandler's allegation against Hall of plagiarism and misappropriation of his (Bandler) "work product".

The prosecuting attorney for the Plaintiffs called Richard Bandler to the stand at the end of the first week and into the opening days of the second week of trial. Bandler's allegations primarily centered around charges of disparagement against Hall and simultaneously to refute the complaints brought forth against him by Hall in her Cross-Complaint.

Just before the closing of the first week of the trial proceedings, with the Judge having heard motions by Grinder's attorney, Tim Volkmann, to dismiss the charges against Grinder and Bostic St. Clair, Grinder and Bostic accepted a Release and Agreement document offered by Bandler and his co-plaintiffs.

After their Release and Agreement, Grinder and Bostic remained in court in support of Hall's efforts.

Co-plaintiff, Brahm von Huene was called to the stand in an attempt to support Bandler's allegations of disparagement by Hall.

Also during the presentation of the Plaintiffs case, two expert witnesses were called to the stand, John P. Sutton, Esq., retired patent and copyright attorney and Stephen A. Degnan, CPA, CFE and CVA.

Grinder testified on Tuesday (February 8) on behalf of Hall. The key portion of his testimony centered around the historical roots of NLP and their (Grinder and Bandler) collaboration during the 1970's which resulted in the development of the material known as Neuro-Linguistic Programming, presented in seminars and published in the original set of books by Grinder and Bandler.

Another co-owner of the Society of NLP and NLP Trainer, Karen MacDonald (widow and successor in interest of Will MacDonald, one of the members of the Bandler Group and former business associate of Bandler) was called as a witness for the defense regarding her late husband's business relationship with Bandler.

During the second week of trial, a settlement agreement was reached between Bandler and Lara Amber Ewing.

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Christina Hall took the stand on Wednesday and Thursday of the second week. Judge Yonts' had expressed, on many occasions during trial, his eagerness to hear Ms. Hall's testimony. Some of the major issues to which Hall testified included the circumstances of the purchase of the Society of NLP from the bankruptcy court by the Bandler Group; the years of her unique apprenticeship and collaboration with Bandler, which produced several outstanding developments in the field; her involvement in the creation of seminar training materials; her use of Bandler's signature, with permission, on certificates; and presented evidence to demonstrate the detrimental impact (i.e., market resistance) of Bandler's unfair trade practices on her business.

With about 15 minutes remaining, the attorney for the Plaintiffs called Dominic Luzi to the stand in an attempt to refute some of Ms. Hall's testimony.

Judge Yonts' ended the trial with his verbal decisions, which were finalized in the **Statement of Decision** and formalized in the **Judgment After Trial by Court**.

Rulings by Judge Yonts – Statement of Decision

On the 23rd of March, the Honorable Robert B. Yonts, Jr. issued his decisions on this case. The most significant portions of Judge Yonts' rulings are listed below, quoted from the record.

1. Plaintiffs (Bandler et. al.) were unable to produce any substantial evidence of disparagement or other acts which could be seen as unfair competition in the context of this case. (page 2, lines 26-27 and page 3, line 1)
2. The Court has already found on Summary Adjudication that as a member of the Bandler Group, Hall is one of the owners of the intellectual property associated with Neuro-Linguistic Programming ("NLP") as of the date of the bankruptcy sale in 1983. Further, the evidence is clear that Hall, both before and after 1983, contributed to the development of the body of knowledge collectively known as "Neuro-Linguistic Programming." In fact, it was Hall who was a major author and creator of the training materials used in seminars. There is no credible evidence, despite Bandler's repeated assertions, that Hall plagiarized or otherwise misappropriated materials that were proprietary to Bandler. (page 3, lines 4-11)
3. The Court finds in favor of Hall and against Bandler on the Fifth, Sixth and Seventh Causes of Action. Bandler has misrepresented to the public, through his licensing agreement and promotional materials, that he is the exclusive owner of all intellectual property rights associated with NLP, and maintains the exclusive authority to determine membership in and certification in the Society of NLP. Bandler also committed unlawful business practices by purporting to exclude Hall from the Society of NLP and causing her right to provide NLP services to be challenged in the marketplace. (page 4, lines 9-15)
4. Although Bandler was not a member of the Bandler Group and hence acquired no ownership interest in the Society as a result of the bankruptcy sale in 1983, the owners of the Society have acquiesced since 1983 to Bandler's use of the name, seal, and logo of the Society of Neuro-Linguistic Programming. The Court finds, that while Bandler's purported exclusion of members of the Bandler Group from the Society was unlawful, his attempt to

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disassociate himself from the owners of the Society did not, as a matter of law, result in a loss of his rights to continue to use the name, seal, or logo of the Society. (page 4, lines 17-23)

5. As a result of the aforementioned unlawful acts of Bandler, Christina Hall suffered a significant loss of earnings from 1994 to the present. ... This loss coincides with the onset of a publicity campaign by Plaintiff to disparage Hall's status within the Society and as a provider of NLP services. ... Thus Hall's total damages equal \$200,000. Pursuant to the provisions of the Lantham Act, those damages are trebled for a total judgment of \$600,000. (page 4, lines 24-27 and page 5, lines 1-5)
6. The Court finds that Hall is entitled to permanent injunction relief enjoining Bandler from claiming exclusive ownership of the intellectual property rights associated with NLP including, but not limited to, the name, seal, and logo of the Society of NLP, or from claiming or advertising that Hall is not a member of the Society of NLP in good standing and/or does not have rights to certify using the name, seal, or logo of the Society. (page 5, lines 7-11)
7. The Court further declares that both Hall and Bandler played a role in the development of Neuro-Linguistic Programming. (page 5, lines 11-12)
8. The Court further finds that Bandler and Hall are both equal members and owners of the Society, both having all the rights appurtenant to such ownership, along with the other persons who are members of the Bandler Group. (page 5, lines 16-18)

On November 9, 2000, the **Judgment After Trial By Court** was filed. In this document, the Court lists its orders, adjudications and decrees.

By virtue of the **Judgement After Trial By Court**, it was confirmed that the following individuals can legally certify proficiency in NLP through the Society of Neuro-Linguistic Programming:

- The Members of the Bandler Group and Co-Owners of the Society of Neuro-Linguistic Programming since December 1983: Christina Hall, Max Steinbach, M.D., Karen MacDonald, Ed and Maryann Reese, Joseph and Linda Sommers-Yeager, and Richard Morales.
- As a Co-Owner of the Society of Neuro-Linguistic Programming: Richard Bandler

As a result of the **February 3, 2000 Settlement Agreement** signed by Bandler & co-plaintiffs, and Grinder & Bostic, the following individuals can legally certify proficiency in NLP:
John Grinder and Carmen Bostic St. Clair

It is important to note that Judge Yonts in his Statement of Decision (23rd of March, 2000, page 5, lines 7 through 11) and in his Judgment After Trial By Court (8th of November, 2000) expressly gave Christina Hall permanent Injunctive Relief from Bandler claiming any exclusivity with respect to certification through the Society of NLP, the use of the name, seal/logo of the Society of NLP and the intellectual property rights associated with NLP, in his certification agreements and related materials, as well as in advertising materials.

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On January 8, 2001, Bandler filed an appeal from the Judgment after Trial by Court. (The reader is advised that in California, a party adversely affected by a judgment has a right to seek an appeal from that judgment, although the grounds for appeal are limited. Richard Bandler has exercised that right with respect to the Judgment After Trial By Court entered November 9, 2000. However, all of the orders and determinations set forth in the Judgment remain in full force and effect unless any or all of the rulings are reversed by a higher court.

On June 23, 2003, Bandler's appeal was denied by the Court of Appeal of the State of California, Sixth Appellate District. As a result, all previous decisions by the Court are affirmed in all respects.

From the Past into the Future

During the early 1970's, John Grinder and Richard Bandler developed the body of knowledge, methodology and original set of techniques known as Neuro-Linguistic Programming. In the over 25 years since I first started my NLP training in 1977 during the pioneering days with Bandler and Grinder, many techniques have been added to NLP over the years, all derived from their earlier developments. Many thousands of people have pursued NLP because of the profound results they have experienced for themselves and others through its varied applications. Many have made NLP the basis of their livelihoods and have embraced the attitude, methodology and presuppositions as a way of living. Richard and John have earned their place in the sun, so to speak, and deserve recognition for their sincere desire to advance human consciousness through the development of NLP. Regardless of all that has happened, including the lawsuit, I believe they wholeheartedly deserve our gratitude and appreciation for their unique and singular contribution from which we have all benefited in ways that we are aware of and in ways yet to be realized.

It is the dream of my heart that a new higher systemic wholeness will spread through this field that truly reflects the spirit demonstrated in the earlier collaboration of Richard Bandler and John Grinder. It is time to leave behind the disruptive divisiveness of the either/or adversarial system and struggles for power, control and supremacy that have plagued NLP for a long time. I hope that we all can work together to usher in an exciting and inspiring epoch of true cooperation, respect and harmony among all practitioners of NLP. I also hope that we strive to engender with greater vigor an atmosphere in which people can pursue their dreams and visions freely, without fear, respectfully without disparagement, and responsibly, playing with the differences as a source of possibility, discovering and sharing the discoveries. Each of us has a contribution to make. Let's honor this and move forwards and upwards. I believe that, in this way, we can collectively take NLP to a new level and higher form of relationship and NLP will truly thrive.

Respectfully submitted,

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