



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

BOARD PROCEEDINGS DIVISION - MIC 80
450 N STREET, SACRAMENTO, CALIFORNIA
P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
916-324-8261 • FAX 916-324-3984
www.boe.ca.gov

SEN. GEORGE RUNNER (RET.)
First District, Lancaster

FIONA MA, CPA
Second District, San Francisco

JEROME E. HORTON
Third District, Los Angeles County

DIANE L. HARKEY
Fourth District, Orange County

BETTY T. YEE
State Controller

March 6, 2015

PATRICK MISSUD

[REDACTED]

CYNTHIA BRIDGES
Executive Director

Re: Account No. FIP
Case ID. 845292

Dear Mr. Missud:

We are writing to acknowledge your request for a Board hearing before the Members of the State Board of Equalization.

Your appeal will be heard at the Board's Sacramento Headquarters Office. The specific date of your hearing has not been determined; however, approximately 80 days before the scheduled hearing date, you and any designated representative will receive a hearing notice that will indicate the date and time of your hearing.

To help you prepare, we have enclosed publication 142, *Hearings An Introduction*. This publication provides a general overview of the Board hearing process.

As your hearing date approaches, additional information will be provided to you. Please carefully review all materials that you receive. Should you have any questions regarding your hearing, please contact me at 916-324-8261 or e-mail me at KAbdalla@boe.ca.gov.

Sincerely,


Khaled Abdalla

Enclosures
BOE-1609-11-07 38256281 FIP

STATE BOARD OF EQUALIZATION



Appeal Name: Patrick Missud

Case ID: 845292 ITEM #: B1

Date: 05/27/15 Exhibit No: 5.1

TP **FTB** **DEPT** **PUBLIC COMMENT**



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
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BETTY T. YEE
State Controller

CYNTHIA BRIDGES
Executive Director

March 3, 2015

Patrick Missud

uc

Appeal of Patrick Missud
Case ID No. 845292

Dear Mr. Missud:

The Franchise Tax Board did not request permission to file a reply to your brief. Therefore, briefing is completed for this appeal, unless additional briefing is requested pursuant to California Code of Regulations, title 18, section (Rule) 5435.

Pursuant to Rule 5442, the Appeals Division "will review the record and determine whether the briefing on file adequately addresses all relevant factual issues." The Appeals Division may request additional briefing and/or a pre-hearing conference. When the Appeals Division determines that all relevant issues have been addressed, per your request dated February 12, 2015, the appeal will be scheduled for an oral hearing. We note that you requested your oral hearing to be scheduled in Sacramento. You will receive notice of the date and time of hearing at least 75 days in advance of the hearing date.

If you have any questions regarding your hearing, please call the Franchise and Income Taxes Appeals Hearing Analyst, Khaaliq Abd'Allah, at 916-324-8261.

Sincerely,

Quyen Del Mar
Appeals Analyst
Board Proceedings Division

cc: Franchise Tax Board - Legal (MS A2.60)

*My pending reply
was filed as a Friend
Req - WRONG.*



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

BOARD PROCEEDINGS DIVISION – MIC. 80
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Third District, Los Angeles County

DIANE L. HARKEY
Fourth District, Orange County

BETTY T. YEE
State Controller

March 26, 2015

PATRICK MISSUD

[REDACTED]

CYNTHIA BRIDGES
Executive Director


Re: Taxpayer: Patrick Missud
Case ID: 845292

Dear Mr. Missud:

This is to inform you that by March 23, 2015, you failed to respond to the Notice of Board Hearing sent by this Board on March 06, 2015.

Therefore, in accordance with Regulation 5522.6 (e), the above-referenced petition has been removed from the Board's Wednesday, May 27, 2015, oral hearing calendar and has been placed on a consent calendar for Board decision. The decision will be based on the written record on file and without oral hearing. You will be notified in writing of the Board's decision.

Sincerely,


Khalid Abdallah
Franchise Tax Appeals Analyst

cc:
Franchise Tax Board

BOE- 1830-FTB (rev 12/11)
38552195



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

BOARD PROCEEDINGS DIVISION (MIC. 80)
450 N STREET, SACRAMENTO, CALIFORNIA
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khaaliq.abd'allah@boe.ca.gov

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JEROME E. HORTON
Third District, Los Angeles County

DIANE L. HARKEY
Fourth District, Orange County

BETTY T. YEE
State Controller

CYNTHIA BRIDGES
Executive Director

April 3, 2015

Patrick Missud

[REDACTED]

[REDACTED] 15

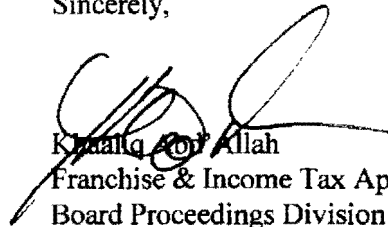
Appeal of Patrick Missud
Case Id No. 845292

Dear Mr. Missud:

This is to confirm that per your letter dated March 30, 2015, the above-named matter has been placed back on the oral hearing calendar for the May 27, 2015 Sacramento meeting. The hearing will be held at the Board of Equalization Headquarters, Board Hearing Room located at 450 N Street, Sacramento, CA 95814. The meeting will start at 10:00 AM. The matter is one of many scheduled for this meeting day. Parties should check in at 9:30AM and be prepared to attend the entire day. A copy of the Notice of Board Hearing is attached for your convenience.

Please contact me if you have any further questions.

Sincerely,


Khaaliq Abd Allah
Franchise & Income Tax Appeals Analyst
Board Proceedings Division

cc: Franchise Tax Board – Legal (MS A260)



State of California
Franchise Tax Board

Legal Division MS A260
P.O. Box 1720
Rancho Cordova CA 95741
tel: 916.845.5685 fax: 916.843.2246
ftb.ca.gov

chair Betty T. Yee | member ~~James~~ E. Horton | member Michael Cohen

COPY

Date: 05.14.15

Case: 11360561474609756
Case Unit: 11360561474609760
In reply refer to 410:BW

TO: CHIEF, BOARD PROCEEDINGS DIVISION
STATE BOARD OF EQUALIZATION
450 N STREET, MIC: 81
SACRAMENTO, CA 95814

FROM: BRIAN WERKING

RE: Appeal of Patrick Missud
Appeal Case ID No. 845292
Revision to Proposed Assessment

MEMORANDUM

Upon further review, respondent will reduce the proposed assessment to exclude 1099-MISC income of \$12,000. The proposed taxable income is reduced to \$103,428.00, the proposed filing enforcement fee remains \$78.00, the proposed tax is reduced to \$7,118.00, the proposed demand penalty is reduced to \$1,779.50, the proposed delinquent penalty is reduced to \$1,779.50, and accrued interest on this unpaid liability calculated to May 27, 2015 is \$638.24.

Accordingly, the total proposed tax, penalties, interest, and fee calculated to May 27, 2015 is \$11,393.24.

Tax Counsel

cc: Patrick Missud



Tuesday, May 26, 2015

ATTORNEY SEARCH

Patrick Alexandre Missud - #219614**Current Status: Disbarred****This member is prohibited from practicing law in California by order of the California Supreme Court.**

See below for more details.

Profile Information

*The following information is from the official records of The State Bar of California.***Bar Number:** 219614**Phone Number:****Fax Number:****e-mail:****County:** San Francisco**District:** District 1**Sections:** None**Undergraduate School:**

Carnegie Mellon Univ; Pittsburgh PA

Law School:

No Information Available;

Status History

Effective Date	Status Change
Present	Disbarred
4/17/2015	Disbarred
7/4/2013	Not Eligible To Practice Law
6/4/2002	Admitted to The State Bar of California

Explanation of member status

Actions Affecting Eligibility to Practice Law

Effective Date	Description	Case Number	Resulting Status
Disciplinary and Related Actions			
Overview of the attorney discipline system.			
4/17/2015	Disbarment	12-O-10026	Disbarred
7/4/2013	Ordered inactive	12-O-10026	Not Eligible To Practice Law

Administrative Actions

This member has no public record of administrative actions.

Copies of official attorney discipline records are available upon request.

Explanation of common actions

State Bar Court Cases

NOTE: *The State Bar Court began posting public discipline documents online in 2005. The format and pagination of documents posted on this site may vary from the originals in the case file as a result of their translation from the original format into Word and PDF. Copies of additional related documents in a case are available upon request. Only Opinions designated for publication in the State Bar Court Reporter may be cited or relied on as precedent in State Bar Court proceedings. For further information about a case that is displayed here, please refer to the State Bar Court's online docket, which can be found at: <http://apps.statebarcourt.ca.gov/dockets/dockets.aspx>*

DISCLAIMER: *Any posted Notice of Disciplinary Charges, Conviction Transmittal or other initiating document, contains only allegations of professional misconduct. The attorney is presumed to be innocent of any misconduct warranting discipline until the charges have been proven.*

Effective Date	Case Number	Description
4/17/2015	12-O-10026	Opinion [PDF] [WORD]

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1 **Mark Carbone**
 STATE BAR NO. 76005
2 **MACMORRIS & CARBONE**
 ATTORNEYS AT LAW
3 505 14TH STREET, SUITE 600
 OAKLAND, CA 94612
4 (510) 267-7270

5 ATTORNEYS FOR DEFENDANTS
6 CSAA AND CHRISTINA URIARTE
 (ERRONEOUSLY SUED HEREIN AS
7 CHRISTINA URIARGE)

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
9 UNLIMITED CIVIL JURISDICTION

10 Angelo Panari,

11 Plaintiff,

12 v.

13 Christina Uriarte, California State
14 Automobile Association Inter-Insurance
 Bureau; Does 1-10,

15 Defendants.

Case No. CGC11514016

**DEMAND FOR PHYSICAL AND
MEDICAL EXAMINATION OF
PLAINTIFF**

16 PLEASE TAKE NOTICE that Defendants CSAA and Christina Uriarte (Erroneously
17 sued herein as Christina Uriarge) hereby request, pursuant to California Code of Civil
18 Procedure section 2032.020, that the Plaintiff, Plaintiff Angelo Panari, submit to a physical
19 and medical examination to be conducted by **Floyd D. Fortuin**, Neurologist, at the
20 following date, time, and place:

21 DATE: Tuesday, November 13, 2012

22 TIME: 1:00 PM

23 PLACE: 909 Hyde Street, Suite 620
24 San Francisco, CA 94109
 (415) 922-2604

25 This examination shall include obtaining a medical history, diagnostic examination
26 and manipulation of the Plaintiff's body, x-rays, laboratory tests, and other such tests and
27 procedures which are ordinarily considered part of a general physical and medical
28

DEMAND FOR PHYSICAL AND MEDICAL EXAMINATION OF PLAINTIFF



P.O. Box 36380
Louisville, KY 40233

FAX: (502) 214-1291

December 26, 2012

PATRICK MISSUD ATTORNEY AT LAW

RE: Health Plan: KAISER CALIFORNIA NORTH
Patient: ANGELO PANARI
Date of Injury: 9/8/2009
Event Number: HRI 14405856-14412406

To Whom It May Concern:

Healthcare Recoveries has been advised that the above-referenced Patient's claim has settled. Since a settlement has been reached, the amount owed to KAISER CALIFORNIA NORTH requires resolution.

KAISER CALIFORNIA NORTH has provided medical benefits for ANGELO PANARI in the amount of \$1 490.40, for treatment rendered as a result of this accident. A Consolidated Statement of Benefits is enclosed.

Please forward your payment promptly to the address at the top of the page. **Be sure to include the Healthcare Recoveries event number and Patient name on/with your check.** Thank you in advance for your attention to this unresolved matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Martin Keplinger".

Martin Keplinger
(877) 886-0500

14405856-14412406/CSSM

HEALTHCARE RECOVERIES
P.O. Box 36380
Louisville, Kentucky 40233

FEDERAL TAX ID: 61-1141758
TELEPHONE NUMBER: (877) 886-0500
PAGE 1 OF 1

CONSOLIDATED STATEMENT OF BENEFITS

PATIENT'S NAME: ANGELO PANARI
HEALTH PLAN: KAISER CALIFORNIA NORTH
DATE OF INJURY: 9/8/2009
SERVICE PERIOD: 11/17/2009-3/1/2011
EVENT NUMBER: HRI 14405856-14412406

Subject to change.

Instructions:

- If remitting payment, make checks payable to: Healthcare Recoveries.
- Write the patient's name, ANGELO PANARI, and event number, 14405856-14412406, on the check.

Provider of Service	Diagnosis Code	Claim Number	
Date of Service	Procedure Code(s)	Billed Amt.	Provided Benefits
SFO-KAISER EPIC RES	719.46 PAIN JOINT LOWE	E-P03538902520	
11/17/2009	COPAY CO-PAYMENT	\$0.00	\$-25.00
11/17/2009	99213 OFFICE OUTPATIEN	\$170.00	\$170.00
11/22/2010	99214 OFFICE OUTPATIEN	\$265.00	\$265.00
	719.46 PAIN JOINT LOWE	E-P03538902530	
11/22/2010	COPAY CO-PAYMENT	\$0.00	\$-25.00
11/22/2010	73564 KNEE COMPLETE IN	\$160.00	\$160.00
11/22/2010	73564 KNEE COMPLETE IN	\$160.00	\$160.00
11/22/2010	72100 RAD EXAM, SPINE,	\$165.00	\$165.00
	719.46 PAIN JOINT LOWE	E-P03538806650	
12/6/2010	97001 PT EVALUATION	\$320.00	\$320.00
12/6/2010	COPAY CO-PAYMENT	\$0.00	\$-30.00
12/20/2010	COPAY CO-PAYMENT	\$0.00	\$-30.00
12/20/2010	97140 MANUAL THERAPY T	\$120.00	\$120.00
12/20/2010	97530 THERAPEUTIC ACTI	\$125.00	\$125.00
1/3/2011	97530 THERAPEUTIC ACTI	\$214.00	\$214.00
1/3/2011	COPAY CO-PAYMENT	\$0.00	\$-30.00
2/7/2011	COPAY CO-PAYMENT	\$0.00	\$-30.00
2/7/2011	97110 PT. THERAPEUTIC	\$200.00	\$200.00
3/1/2011	97530 THERAPEUTIC ACTI	\$214.00	\$214.00
3/1/2011	COPAY CO-PAYMENT	\$0.00	\$-30.00
Total Billed Charges \$2,113.00		Amount Received	\$0.00
Total Benefits Provided \$1,913.00			

Mark Carbone
STATE BAR NO. 76005

MACMORRIS & CARBONE
ATTORNEYS AT LAW
505 14TH STREET, SUITE 600
OAKLAND, CA 94612
(510) 267-7270

ATTORNEYS FOR DEFENDANT CHRISTINA
URIARTE (ERRONEOUSLY SUED HEREIN AS
CHRISTINA URIARTE)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

Angelo Panari,

Plaintiff,

v.

Christina Uriarte, California State
Automobile Association Inter-Insurance
Bureau; Does 1-10,

Defendants.

Case No. CGC11514016

DEMAND FOR INSPECTION

Propounding Party: Defendant Christina Uriarte (Erroneously sued herein as Christina Uriarte)

Responding Party: Plaintiff Angelo Panari

Set Number: Three

TO Plaintiff his attorney of record:

Please take notice that the above propounding party hereby requires the above responding party to produce for inspection and copying the requested documents and tangible things listed below pursuant to California Code of Civil Procedure sections 2031.010 through 2031.320. Production shall take place on December 10, 2012 at 2pm at the law offices of MacMorris & Carbone, located at 505 14th Street, Suite 600, Oakland, CA 94612-1911 or a place agreed to by the parties.

The responding party must serve a verified response to this demand within 30 days of

DEMAND FOR INSPECTION

1 the date of service. (Code Civ. Proc. § 2031.260.) The responding party is required under
2 California Code of Civil Procedure section 2031.240 to identify with particularity any
3 document, tangible thing, or land falling within any category of item in the demand to which
4 an objection is being made and to set forth clearly the extent of, and the specific ground for,
5 the objection.

6 **DEFINITIONS**

7 **DOCUMENTS:** As used in this demand for inspection, the term "**DOCUMENTS**"
8 means writings as defined in California Evidence Code section 250, and includes the original
9 or a copy of handwriting, typewriting, printing, photostating, photographing, and every other
10 means of recording upon any tangible thing and form of communicating or representation,
11 including letters, words, pictures, sounds, or symbols, or combinations of them..

12 **REQUESTED DOCUMENTS AND TANGIBLE THINGS**

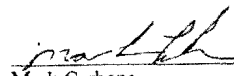
13 1. The 1987 Alpha-Romeo Milano referenced in answers 7.1 to 7.3 of the form
14 interrogatories.

15 2. All **DOCUMENTS** evidencing how you acquired the vehicle and all servicing,
16 restoration and/or repairs you made to the vehicle from the date you acquired it until the
17 present.

18 3. All **DOCUMENTS** and other tangible evidence that support your claims as to the
19 value of the vehicle.

20 DATED: November 5, 2012

MACMORRIS & CARBONE

21
22 
23 Mark Carbone
24 Attorneys for Defendant Christina Uriarte
25 (Erroneously sued herein as Christina Uriarte)
26
27
28

Panari v. Uriarge
San Francisco County Superior Court
Case No. CGC11514016

PROOF OF SERVICE BY MAIL

I, Cassandra L. Miller, am employed by the office of MacMorris & Carbone in Alameda County at 505 14th Street, Suite 600, Oakland, CA 94612-1911. I am over the age of 18 years and am not a party to this action.

I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service the same day it is placed for collection in the ordinary course of business. I served the accompanying NOTICE OF DEPOSITION OF PLAINTIFF ANGELO PANARI WITH PRODUCTION OF DOCUMENTS by placing the document(s) for collection and mailing on the date below, following ordinary business practices at the above business address of my employer, in a sealed envelope or envelopes, with postage fully paid, and addressed to:



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: January 17, 2012

Cassandra L. Miller
Cassandra L. Miller

Mark Carbone
STATE BAR NO. 78005

MACMORRIS & CARBONE

ATTORNEYS AT LAW
505 14TH STREET, SUITE 600
OAKLAND, CA 94612-1911
(510) 267-7270

ATTORNEYS FOR DEFENDANT
CHRISTINA URIARTE ERRONEOUSLY SUED
HEREIN AS CHRISTINA URIARGE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO
UNLIMITED CIVIL JURISDICTION

Angelo Panari,

Plaintiff,

v.

Christina Uriarge, California State
Automobile Association Inter-Insurance
Bureau; Does 1-10,

Defendants.

Case No. CGC11514016

**NOTICE OF DEPOSITION OF
PLAINTIFF ANGELO PANARI WITH
PRODUCTION OF DOCUMENTS**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

DATE: **January 18, 2012**

TIME: **10:00 AM**

PLACE: **505 14th Street, Suite 600
Oakland, CA 94612-1911**

DEPONENT: Plaintiff Angelo Panari

NOTICE IS HEREBY GIVEN that at the place, date, and time set forth above, the parties represented by MacMorris & Carbone will take the oral deposition of the deponent named in this Notice.

If the deponent is not sufficiently conversant to be able to comprehend and respond in English, demand is hereby made that attorneys for the Defendants be advised in writing at least ten (10) days prior to the deposition date of the language and dialect involved

1 for purposes of securing an appropriate interpreter.

2 Said deposition will be taken upon oral examination before a Certified Court Reporter
3 authorized to administer oaths in the State of California, to continue from day to day until
4 completed.

5 PLEASE TAKE FURTHER NOTICE that pursuant to California Code of Civil
6 Procedure section 2025.220, Plaintiff shall produce at the deposition and permit the
7 inspection and copying of the following documents and photographs:

8 1. All written, recorded, transcribed or otherwise preserved statements of
9 Defendants.

10 2. All written, recorded, transcribed or otherwise preserved statements of witnesses
11 to the accident described in the Complaint or persons with knowledge of relevant facts
12 pertaining to the accident.

13 3. All photographs, movies, computer images and videotapes of the vehicles
14 involved in the subject accident.

15 4. All photographs, movies, computer images and videotapes of the scene or location
16 of the subject accident.

17 5. All bills for medical treatment which Plaintiff alleges were legally caused by the
18 subject accident.

19 6. If Plaintiff claims loss of income from self-employment, Plaintiff's Federal
20 income tax returns, including Schedule C, for the three (3) calendar years before the year of
21 the accident, the calendar year of the accident, and all calendar years since the year of the
22 accident.

23 7. If Plaintiff claims loss of income from self-employment, all documents showing
24 Plaintiff's gross income and receipts, as well as Plaintiff's expenses, from Plaintiff's self-
25 employment for the three (3) calendar years before the year of the accident, the calendar year
26 of the accident, and all calendar years since the year of the accident. "Documents" mean all
27 written or graphic material, however produced or reproduced, of every kind and description,
28 in Plaintiff's actual or constructive possession, custody, care or control, including, but not

1 limited to, originals (or copies where originals are unavailable) of ledgers, receipts, bills,
2 statistical records, costs and analysis sheets, desk calendars, appointment books, timesheets,
3 profit and loss statements and balance sheets.

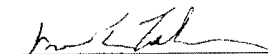
4 8. If Plaintiff claims a vehicle Plaintiff occupied was damaged as a legal result of the
5 accident, all repair estimates for the damage.

6 9. All photographs, movies, computer images and videotapes taken of any Plaintiff
7 showing injuries Plaintiff claims were legally caused by the accident.


8 10. If Plaintiff was an owner or operator of a motor vehicle involved in the accident,
9 the liability insurance policy on the vehicle together with the declarations page in effect at
10 the time of the accident, showing the name of the insurance company, the policy number, the
11 effective dates of the policy, the name(s) of the person(s) insured under the policy, and the
12 vehicle(s) listed as insured thereunder.

13 DATED: January 13, 2012

MACMORRIS & CARBONE

14
15 
16 Mark Carbone
17 Attorneys for Defendant
18 Christina Uriarte erroneously sued herein as
19 Christina Uriarte
20
21
22
23
24
25
26
27
28

Patrick Missud
Attorney at Law



July 25, 2012

Mark Carbone, Esq.
MacMorris & Carbone
505 14th Street, Suite 600
Oakland, CA, 94612

Re: CGC-11-514016; 02-LU8113-1; Claimant Angelo Panari
Via: Mail; Fax 510-834-8450

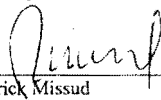
Dear Mr. Carbone,

Per our July 18, 2012 phone conversation, please forward available dates for our forthcoming BASF mediation. If I recall, you agreed to set up the hearing.

Per our prior May 23, 2012 stipulation, we agreed to mediator Robert Lynch followed by Arnold Haims in the alternative.

Per the enclosed Subpoena, make sure that your client brings to said Mediation copies of her cell phone records for the date of the auto accident, September 8, 2009.

Thank you in advance,



Patrick Missud

Encl.

CC: State Bar: Adriana.burger@calbar.ca.gov, Danielle.lee@calbar.ca.gov,
erica.dennings@calbar.ca.gov

LAW OFFICES OF
MACMORRIS & CARBONE
505 14th Street, Suite 600
Oakland, CA 94612
A law firm consisting of employees of the
AAA Northern California, Nevada & Utah Insurance Exchange
(510) 267-7270
FAX (510) 834-8460

May 23, 2012

Fax (415) 584-7251



Re: Panari v. Uriarte

Dear Patrick:

Thank you for your letter of May 18. The adjuster has been on vacation but is now back and hopefully, will have time to look at the file in the next week.

In the meantime, I agree we should pick mediator. I have "marked" the names of several who I believe would be acceptable to my client. Please note that Mr. Johnson used to be in the same building as our firm and has mediated several cases for me. There may be others on the list who are acceptable so feel free to let me know who you would be comfortable with.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark Carbone".

Mark Carbone

MC/mc

com

Mark Carbone, Esq.
MacMorris & Carbone
505 14th Street, Suite 600
Oakland, CA, 94612

Dear Mr. Carbone,

Cordially,

Patrick Missud

Patrick Missud
Encl.

To (name of deposition officer): BASF Mediator for mediation to be scheduled by Carbone
On (date): TBD per 5/23/12 Stip At (time): TBD by Carbone per Stip.
Location (address): 301 Battery Street, 3d Floor, SF, CA, 94111

Do not release the requested records to the deposition officer prior to the date and time stated above.

- a. ☒ by delivering a true, legible, and durable **copy** of the business records described in item 3, enclosed in a sealed inner wrapper with the title and number of the action, name of witness, and date of subpoena clearly written on it. The inner wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and mailed to the deposition officer at the address in item 1.
- b. ☐ by delivering a true, legible, and durable **copy** of the business records described in item 3 to the deposition officer at the witness's address, on receipt of payment in cash or by check of the reasonable costs of preparing the copy, as determined under Evidence Code section 1563(b).
- c. ☐ by making the **original** business records described in item 3 available for inspection at your business address by the attorney's representative and permitting **copying** at your business address under reasonable conditions during normal business hours.
2. The records are to be produced by the date and time shown in item 1 (but not sooner than 20 days after the issuance of the deposition subpoena, or 15 days after service, whichever date is later). Reasonable costs of locating records, making them available or copying them, and postage, if any, are recoverable as set forth in Evidence Code section 1563(b). The records shall be accompanied by an affidavit of the custodian or other qualified witness pursuant to Evidence Code section 1561.
3. The records to be produced are described as follows (if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):

Christina Uriarte's cell phone records for the date of the auto accident: 9-8-2009

☐ Continued on Attachment 3.

4. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: 7-25-2012

Patrick Missud

(TYPE OR PRINT NAME)

(SIGNATURE OF PERSON ISSUING SUBPOENA)

Attorney for Panari

(Proof of service on reverse)

CITY:

Page 1 of 2

1 Patrick Missud, SBN 219614
2 [REDACTED]
3 [REDACTED]

4 Attorney for Plaintiffs
5
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION
11

12 ANGELO PANARI

Case No.: CGC-11-514016

13 Plaintiff,

14 vs.

DEMAND FOR PRODUCTION OF
DOCUMENTS PER CCP §2031.010

15 CHRISTINA URIARGE; Et Al.

Date: BASF Mediation date
Time: TBD
Address: 301 Battery Street, SF, 94111
Mediator: TBD

16 Defendants.
17
18

19 NOTICE to all parties of record and their attorneys from Plaintiff Panari:

20 Per CCP §2031.010, you are requested to produce on the date of the forthcoming BASF
21 Mediation, date for which is to set by Carbone and Missud, the cellular phone records for
22 Defendant Christina Uriarge on the date of the auto accident occurring on September 8, 2009.
23
24

25 Patrick Missud

Dated 7-25-12
26
27
28

1 PROOF OF SERVICE:

2 I am a citizen of the United States; I am over 18 years of age; my address is:

3 91 San Juan Avenue, San Francisco, California, 94112

4 I am employed in the County of San Francisco, where this mailing/e-mailing occurred.

5 On July 25, 2012, I served the following documents:
6

7 DEMAND FOR PRODUCTION OF DOCUMENTS PER CCP §2031.010

8 By mail and fax to:

9 MacMorris & Carbone
10 c/o Mark Carbone
11 505 14th Street, Suite 600
12 Oakland, CA 94612-1911
510-267-7270

13 I declare under the penalty of perjury under the laws of California and the Constitution that the
14 forgoing is true and correct.

15 July 25, 2012
16

17 Patrick Missud

Date
18
19
20
21
22
23
24
25
26
27
28

**~SAN MATEO~
CREDIT UNION**

PO Box 910
Redwood City, CA 94064-0910
(650) 363-1725 Fax: (650) 364-0336
www.smcu.org

May 23, 2014

PATRICE A MISSUD
[REDACTED]

Re: Franchise Tax Board

Account(s): [REDACTED]

Enclosed, please find receipt of payment for the above referenced Levy that was processed from your San Mateo Credit Union account on 5/23/14.

Sincerely,

Member Services

SHWI Check Withdrawal Voucher 05/23/14 09:06AM 74012 21 255 DWS BR:0006
SAN MATEO CREDIT UNION

[REDACTED] 0 MISSUD/PATRICE A EFF DT:05/23/14 [REDACTED]
BEG BAL: 4,727.16 AMT: -4,727.16 FROM REGULAR SHARES
MEMB FEES: .00 NEW BAL: .00

Enjoy the convenience of accessing
your account 24 hours a day with
SMCU OnLine. Visit www.smcu.org



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
PO Box 942867
Sacramento CA 94267-0011

Telephone: (916) 845-7044
Fax: (916) 843-0944

HH93

Notice Date: 05/09/14

Order to Withhold Personal Income Tax

SAN MATEO CREDIT UNION
PO BOX 910
REDWOOD CITY CA 94064-0910

Placed by 77

513354

Taxpayer's Name and Address

PATRICE A MISSUD



00 - 3450.36
80 - 1276.80
47 27.16

Case Number: [REDACTED]

Account Number: [REDACTED]

SSN: [REDACTED]

Tax Years
2011

Payor ID: 71231186000

Order Number: 696814975624551106

Amount Due: \$11,217.86

5/23/14

This order requires you to **withhold** taxpayer funds. We issued this order to enforce payment of the taxpayer's outstanding amount due (shown above) for California personal income tax. (California Revenue and Taxation Code Sections 18670 and 18674)

Withhold either of the following: (1) The amount due, or (2) The amount of the taxpayer's funds in your possession or under your control on the date you received this order, whichever is less. For additional information, go to ftb.ca.gov and search for **order to withhold**.

According to this order, you are required to:

- **Retain** any funds withheld for 10 business days from the date you receive this order.
- **Notify** the taxpayer and any other person listed on the account or accounts that you are withholding funds according to this order and the date you will be transmitting the funds to the Franchise Tax Board (FTB).
- **Transmit** any funds withheld to us at the end of the 10-day holding period unless you received a release from us. Make your payment payable to the Franchise Tax Board.

If you fail to comply with this order, you will become liable for any amount you fail to withhold or transmit. (California Revenue and Taxation Code Section 18672)

We also request you:

- **Complete** the questionnaire on PAGE 2. Enclose your payment, if any, and mail both to FTB. If you are not mailing a payment, fax PAGE 2 to (916) 843-0944.
- **Advise** any interested parties to present claims to FTB.

Call us at (916) 845-7044 if you are not sure how to proceed in special or unusual circumstances, such as a safe deposit box.

PAGE 3 is for informational purposes only and does not meet your legal requirement to notify your account holder(s).

**Keep for Your Records
Do Not Return PAGE 1 to Us**

3. Summons to Annual Meeting of the Board and County Assessors and Proposed Meeting Date/Location + Mr. Kinnee
Proposed change to the 2015 Board Meeting Calendar for August to add the annual Board/Assessors' meeting in Olympic Valley, California, and to request approval to summon county assessors to such meeting with the Board to discuss issues relating to property assessment administration.
4. CROS Project Update and Actions Mr. Steen
Progress on the CROS project to replace BOE's two current tax legacy technology systems.

Special Presentations

Employee Recognition Award Ceremony 2014-2015 Ms. Herrera
The Board will honor BOE Employee Recognition Award recipients participating in the Northern California Ceremony.

- A. Homeowner and Renter Property Tax Assistance Appeals Hearings
There are no items for this matter.

B. Corporate Franchise and Personal Income Tax Appeals Hearings
(Contribution Disclosure forms required pursuant to Gov. Code, § 15626.)

- B1. Patrick Missud, 845292 +
For Appellant: Patrick Missud, Taxpayer
For Franchise Tax Board: Brian Werking, Tax Counsel
Marguerite Mosnier, Tax Counsel
- B2. ConAgra Foods, Inc., 597512, 785058, 799162 +
For Appellant: Kyle Snedaker, Taxpayer
Fred O. Marcus, Attorney
Edwin P. Antolin, Attorney
For Franchise Tax Board: Delinda Tamagni, Tax Counsel
Norman Scott, Tax Counsel
- B3. Michael D. Rudd and Patricia J. Rudd, 794298 +
For Appellants: Mark A. Loyd, Attorney
Charles J. Moll III, Attorney
For Franchise Tax Board: Kristen Kane, Tax Counsel
Ciro Immordino, Tax Counsel
- B4. Clifford L. Marshall and Deanna R. Marshall, 816195 +
For Appellants: Michelle LaPena, Attorney
For Franchise Tax Board: Maria Brosterhous, Tax Counsel
Fred Campbell-Craven, Tax Counsel



STATE BOARD OF EQUALIZATION

450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
(916) 322-2270 • FAX (916) 324-3984
www.boe.ca.gov

SEN. GEORGE RUNNER (Ret.)
First District, Lancaster

FIONA MA, CPA
Second District, San Francisco

JEROME E. HORTON
Third District, Los Angeles County

DIANE L. HARKEY
Fourth District, Orange County

BETTY T. YEE
State Controller

CYNTHIA BRIDGES
Executive Director

**STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
May 27-28, 2015
NOTICE AND AGENDA
Meeting Agenda (as of 5/26/2015, 10:30 AM)**

Agenda Changes

Webcast on Wednesday, May 27, 2015

Wednesday, May 27, 2015

10:00 a.m. Pledge of Allegiance

Board Meeting Convenes*

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair may modify the order of the items on the agenda. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

Board Member Annual Photograph

State-Assessed Properties Value Setting

Property Tax Matter 'CF' + Mr. Thompson

Board sets unitary values of state-assessed properties annually, on or before May 31, pursuant to constitutional and statutory law.

Administrative Session

Items that appear under these matters provide information to the Members and may require Board action or direction.

P. Other Administrative Matters

P1. Executive Director's Report Ms. Bridges

1. Update on BOE Alignment

Progress on BOE's ongoing alignment to improve organizational structure.

2. Report on time extensions to El Dorado, Mariposa and

Tehama counties to complete and submit 2015/16 Local Assessment Roll, pursuant to Revenue and Taxation Code section 155. +

1 Patrick Missud, *Formerly* CA Bar Licensed #219614¹
2 5-Year NSA Mole; Federal Informant; Qui-Tam Relator;
Engineer; BSME, MSCE, CSLB IE, GC 697370;

3 [REDACTED]
4 missudpat@yahoo.com;
5 <https://www.facebook.com/patrick.missud.1>;
6 <http://www.judgesforsale.org/home.html>; and
7 <http://www.sanfranciscosuperiorcourtfraud.com/home.html>

8
9 BOARD OF EQUALIZATION
STATE OF CALIFORNIA

10 [Which desperately wants to conceal & Suppre\$\$ State Official\$'
11 Targeting of 38 Million Californians for Financial Predation]
12 *Court-Reported and Recorded for Maximum Public Exposure of State
Official/Judicial Corruption; and All Confidentiality is WAIVED*

13 In the Matter of the Appeal of:

Case No.: 845292

14 PATRICK A. MISSUD;

15 18 USC §1513 Federal Informant whose job
16 along with the NSA is to expose 18 USC §201
17 Judicial Corruption and §1962 Racketeering
18 which is targeting the People of the State of
California for financial-predation in civil
courts & revenue-raising in criminal courts

APPELLANT'S HEARING SUMMARY
DETAILING THE BOE'S ONGOING 18
USC §1513(e) FINANCIAL RETALIATION
AND INTERFERENCE WITH EXPOSURE
OF STATE CRIMES

Date: May 27, 2015
Court: 450 N. St., MIC 85, Sacto, CA, 95814
Time: 10 AM
18 USC §201 Corrupt Member\$: Runner, Ma,
Horton. Harkev. Yee

20 ALL PARTIES AND BOE BOARD MEMBERS TAKE NOTICE THAT Missud waives all
21 confidentiality² regarding the May 27th 2015 Hearing in case 845292, and will make an audio
22 record which might then be transcribed by a certified court reporter.³ Missud's legal demand will
23 supplement any other means that the BOE might use to memorialize the Hearing and to promote
24 transparency of the public agency....

25
26 ¹ <http://members.calbar.ca.gov/fal/Member/Detail/219614>

27 ² See "Business Tax Privacy Notice" at: <http://www.boe.ca.gov/meetings/boardcomm.htm>

28 ³ Whenever Missud sets-up judge\$ or official\$ they alternatively make recordings/transcripts of hearing unavailable,
interfere with the same, prevent production of those public documents, and/or otherwise violate due process, civil
rights, court rules, and/or California's Open Government Statutes to Suppre\$\$ the evidence. Per the BOE's own
rules, Board Meetings are always transcribed: <http://www.boe.ca.gov/meetings/transcripts/> and requests for
production of transcripts can be directed to: Kathy.Skidgel@boe.ca.gov

1 “When the Legislature enacted the Bagley-Keene Act, it imposed still another value
2 judgment on the governmental process. In effect, the Legislature said that when a body sits
3 down to develop its consensus, there needs to be a seat at the table reserved for the public.
4 (§11120.) By reserving this place for the public, the Legislature has provided the public
5 with the ability to monitor and participate in the decision-making process. If the body were
6 permitted to meet in secret, the public’s role in the decision-making process would be
7 negated. Therefore, absent a specific reason to keep the public out of the meeting, the
8 public should be allowed to monitor and participate in the decision-making process.”

9 See this BOE transparency rule at: <http://www.boe.ca.gov/meetings/boardcomm.htm>

10 QUESTIONS PRESENTED

11 (1) Whether the State BOE knowingly stole \$4727 of Missud’s litigation funds on May 23rd 2014
12 to prevent his additional exposure of State official\$’ criminal racketeering this year?

13 (2) Whether the State BOE will further financially retaliate against Missud this year to continue
14 interfering with his federal whistle blowing in violation of 18 USC §1513(e)?

15 (3) Whether the State BOE’s five Board Member\$ will violate PC §136.1 by further attempting
16 to dissuade Witness Missud from exposing State official\$’ crimes to federal authorities?

17 (4) Whether the State BOE will impose further color-of-law \$anction\$ which are based in ruses
18 and against Missud even though he’s a CCP §1021.5 Private Attorney General protecting 38
19 Million Californians from corrupt State official\$ and judge\$?

20 (5) Whether the five Board Member\$ will each get in excess of a decade in prison for having
21 ignored all of Missud’s CRE §§450 self-authenticating evidence on May 27th 2015, regarding
22 rampant, Statewide official/judicial corruption never before seen in these United States?

23 HEARING SUMMARY

24 For over 5 years, Missud has been working with the feds as an Informant, Qui-Tam
25 Relator, and inside-attorney who sets-up corrupt State judge\$, other attorney\$, and official\$ like
26 BOE Member\$. He’s also been a California Private Attorney General championing 38 Million
27 Californians as defined in CCP §1021.5.⁴ Missud’s ‘income’ as an attorney has been negative for
28 at least 4 years. In fact, Missud loses approximately \$3000/month when setting-up California’s
corrupt agent\$, judge\$ & official\$. His monthly bills just for postage, court filing costs & fees,
transcripts, printing services, travel costs to & from hearings, office maintenance & supplies, and

⁴ <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=ccp&group=01001-02000&file=1021-1038>

1 other incidentals like paying for: exorbitant State bail; and rekeying locks after false
2 imprisonment & illegal confiscation of keys, easily add up to that monthly amount.⁵

3 On top of those \$3000 in monthly expenses are the massive and bogus color-of-law
4 sanction that corrupt State agents routinely impose upon Missud for his federally-protected
5 whistle-blowing. For instance, just last month on April 17th 2015, California's Supreme Court
6 adopted the California Bar's recommendation to disbar Missud and sanction him with \$17,568.⁶
7 That's in addition to the \$12k in sanction which California's First District Court of Appeal
8 affirmed on March 30th 2015 in A141459 regarding Superior Court retaliation crafted to SLAPP
9 Missud for having acted as a CCP § 1021.5 PAG.⁷ Prior still in January & February, State judge
10 Elfving sanctioned Missud with over \$11k in fees in 2 other criminally-proven cases featuring
11 State officials' corruption.⁸ In each of the last 4 months, the State of California financially-
retaliated against Missud to the tune of \$10,000/month to cover-up agents' very serious crime\$.

12 Now let's consider Bar License #219614 that was recently revoked by California's Chief
13 Thief and Justice Cantil-Sakauye. Missud's JD was earned while he worked as a licensed
14 General Building Contractor and attended USF School of Law.⁹ Missud's business took a hit
15 when he studied for that JD -which any moron who can read at a 6th grade level can get.
16 Decreased business capacity cost him about \$150,000; and tuition, books, and other law school
17 expenses another \$150,000. Missud has two Engineering Degrees that the 5 idiots on this BOE's

18
19 ⁵ Santa Clara's DA Rosen first trumped-up three charges, -two of which added to brazenly pad my (Missud's) Pre-
20 Booking Information Sheet and Bail. Thereafter, the Magistrate Judge totaled Bail in excess of statutory maximums,
21 and then doubled that amount after hearing I was to bond-out. On what arguably should have been only \$25k Bail
22 for which I needed only a \$2000 bond to get out, Santa Clara County and its corrupt officials collected my \$4000
23 bond in what's called an 8th Amendment Excessive Bail violation crafted to illegally raise revenue and falsely
24 imprison mostly black & brown men who can't afford to bond-out after exorbitant bail is set. Note that I intend on
25 having as many law enforcement officials & judges thrown in prison, and for as long as possible, for their highest of
26 crimes including falsely imprisoning my black & brown brothers.

27 ⁶ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2094232&doc_no=S222905

28 ⁷ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=1&doc_id=2073395&doc_no=A141459

⁸ CGC-14-536981:

[http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACGC14536981,-AR,-AGenerated%3A%20May-10-2015%2010%3A43%20am,-A00976064,-AD,-AJAN-27-2014,-APR-24-2015,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A and CGC-14-537723:](http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACGC14536981,-AR,-AGenerated%3A%20May-10-2015%2010%3A43%20am,-A00976064,-AD,-AJAN-27-2014,-APR-24-2015,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A and CGC-14-537723)

<http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACGC14537723,-AR,-AGenerated%3A%20May-10-2015%2010%3A43%20am,-A00976069,-AD,-AFEB-28-2014,-AMAR-26-2015,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A>

⁹ Missud Contracting B#697370:

<https://www2.cslb.ca.gov/online-services/CheckLicense/LicenseDetail.aspx?LicNum=697370>

1 Board could never attain. That pair of technical degrees used in conjunction with the moron's JD
2 qualified him to become a highly-paid Silicon Valley Patent Attorney like his wife who makes
3 nearly \$200,000/year. Since Cantil-Sakauye stole Bar License #219614 from would-be Patent
4 Attorney Missud last month, he forecasts very conservative losses of at least \$5 Million over the
5 next 20 years, and calculated with simple non-compounded low interest. That's just short of
6 another \$21,000 in losses per month.

7 All told- State agent\$, judge\$, and official\$' financial retaliation is costing Missud over
8 \$25,000 each and every month because he had the audacity in exposing State corruption and
9 racketeering to federal authorities.¹⁰ So, -while the BOE lie\$ that Missud earned \$106k/year as a
10 Bar-licensed attorney, the verifiable official records found on the web, registered in dockets,
11 recorded in transcripts, per court orders, ..., and contained in self-authenticating government
12 archives actually prove that Missud was and is hemorrhaging tens of thousands of dollars every
13 month as a five-year federally-protected whistle-blower. The BOE now wants to pile-on another
14 \$12k in classic 18 USC §1513(e) retaliation.¹¹

15 APPELLANT'S CONTENTIONS

16 Missud hereby adopts the BOE's recitation of facts per their "Appellant's Contentions"
17 found at HS: 2/14-5/18, *but with the following corrections:*

18 At 3/5: State official\$ and judge\$ are in violation of dozens of state and federal criminal codes,
19 as well as not producing public documents required per County Sunshine Ordinances, and
20 California's Open Government Statutes.

21 At 3/6-7: A case management conference was held in which judge Elfving purposefully ignored
22 *with Scierter* that 135 subpoenas were flaunted by State agencies\$ & official\$ to cover-up federal
23 crimes like those already exposed by the FBI and federal DOJ in Bell-CA and Ferguson-MO.

24 At 4/24: Missud will contact *all BOE Members and their staff* directly, through fax and emails,
25 and copy federal authorities on the correspondence to make sure everyone is very knowledgeable
26 and updated regarding the concrete facts of this case so that no one lies nor feigns not knowing
27 what was and is going on. *Even this pleading* will be forwarded to the Members and staff.

28 ¹⁰ The reason Missud wants Cantil-Sakauye convicted of high crimes, treason, and overthrow of government is to
get her sentenced to death and then sent to California's gas chamber.

¹¹ My patience ran out long ago. I no longer give any 2nd chances and hereby guarantee all five BOE Member\$
significant prison time.

1 At 5/6: Missud's job is to *expose* as well as oppose the State Bar which is a RICO network.
2 At 5/10: The "much higher crimes" include overthrowing "Government of and by the People."
3 The BOE is a public agency supposedly working on behalf of the People of California. Missud is
4 exposing that lot\$ of State agencie\$ are financially preying on the People. Even this BOE is
5 rigging case 845292 to conceal that the State itSelf condones overthrow of "Government of and
6 by the People" through it\$ own official\$ & judge\$ who routinely sell their orders, rulings, and
7 decisions to the \$pecial intere\$t\$. That's called treason for which corrupt official\$, judge\$, and
8 BOE Board Member\$ who are in positions of public trust *can and should be executed*.¹²

9 **RESPONDENT BOE'S THINLY-VEILED INTENTIONS & CONTENTIONS**

10 Basically, the BOE wants to rig this Hearing to: levy another color-of-law tax lien; steal
11 more of Missud's litigation funds; and stop his exposure of State official & judicial corruption.
12 The BOE admits knowing that Missud is a federal whistle-blower who already exposed over 100
13 corrupt State official\$ & judge\$, and that California's 38 Million citizens are due damages for
14 the State's willful concealment of their many agent's' criminal racketeering. The BOE wants to
15 steal Missud's cash to save Billion\$ in restitution owed to California's defrauded constituency.

16 The BOE's angle & ruse to steal Missud's money includes lying that he was and is a Bar
17 licensed attorney making upwards of \$106,000/year. In fact, the California's BOE knows that
18 California's Bar interfered with Missud's gainful employment as an attorney ever since January
19 27th 2011 when he testified before the Governance in the Public Interest Task Force whereat he
20 detailed the Bar's racketeering which targets members of the public for financial predation. BOE
21 Member\$- that's in the official transcript attached hereto as a self-authenticating exhibit.

22 Worse still, California's BOE know\$ that former corrupt California Bar Member turned
23 ultra-corrupt District Judge Chen filed his clearly fraudulent Bar Complaint 12-O-12270 with
24 scienter, which in-turn caused California's Bar to craft a rigged inve\$tigation into Missud's
25 federally-protected whistle-blowing. On April 2nd 2012, just 11 days after Chen \$old hi\$ order of
26 di\$mi\$\$al to California's largest residential builder D.R. Horton Inc.¹³ 'absolutely judicially

27 ¹² This BOE's 5 Board Member\$ are relatively small fish who likely won't get executed. However, judge\$ like John
28 Robert\$ who \$ell the nation off to entities seeking to do the nation and its 318 Million citizens harm are prime
candidates for the electric chair.

¹³ See [C:11-3567 #88; (3-22-12)], at: <http://dockets.justia.com/docket/california/candce/3:2011cv03567/249876>

1 immune' and corporate-bought traitor Chen filed trumped-up 12270 lying that Missud's
2 exposure of DHI's¹⁴ 27-state predatory lending, mortgage fraud on the US government, and
3 financial-targeting of Californians from San Diego to Sacramento was hara\$\$ing to the Fortune-
4 500, Citizen\$-United corporate "person."¹⁵

5 To recap- BOE Board Member\$ Runner, Ma, Horton, Harkey & Yee know that: Missud
6 blew his federal whistle on the State Bar's racketeering on January 27th 2011; the Bar then
7 trumped-up a State investigation targeting Missud because he exposed a multi-billion-dollar
8 corporation's purchase of judge Chen and Statewide financial predation of Californians; but the
9 BOE neverthele\$\$ lied that Missud was and is a Bar Member in good standing who earned over
10 \$106,000/year even while the Bar was: preventing him from practicing law; interfering with his
11 exposure of official & judicial corruption; and ultimately \$tole his license starting from 4-2-12.

12 CALIFORNIA RULES OF EVIDENCE §§450 & FRE §803

13 At least 50 State judge\$ are \$elling decisions, orders, and rulings to friends, corporations,
14 and special interests. They and just a few of their crimes will now be featured...

15 Case CGC-07-464022;¹⁶ Appeal A130482; Writ S206342; District C:11-1856; Circuit 12-15371,
16 and \$COTU\$ Writ\$ 12-7817 & -9981:

17 Superior Court judge\$ Mahoney, Woolard, Giorgi, Kahn, Lee, Robert\$on & Gold\$mith
18 compelled, confirmed, and rubber-\$tamped a rigged arbitration at ADR \$ervice\$ where \$an
19 Francisco \$uperior "Court Approved" arbi-*traitor* Michael Carbone rigged All\$ate In\$urance's
20 corporate-favoring award \$o he could rig more arbitrations because the corporate special intere\$t
21 was a repeat bu\$ine\$\$ partner at ADR\$ which ho\$ted it 234 times. Then Appeal\$ Division II'\$:
22 Kline, Haerle & Lambden affirmed the million-dollar fraud; and Lambden went to work at ADR
23 Services making \$650/hr after proving his allegiance to the RICO \$cheme and to al\$o rig award\$

24
25 ¹⁴ D.R. Horton Inc. is NYSE-listed as "DHI" and worth/capitalized \$10 Billion today.

26 ¹⁵ DHI continues to \$teal from Californians by illegally bundling home sales with predatory loans and denying
27 warranty for clear construction defects: <http://sanfrancisco.cbslocal.com/2015/05/08/d-r-horton-bay-area-homebuyers-accuse-builder-stalling-repairs-dublin/>

28 ¹⁶ <http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACGC07464022,-AR,-AGenerated\%3A%20May-12-2015%20%206%3A43%20am,-A00014072,-AD,-AJUN-06-2007,-AAPR-16-2015,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A>

1 in Secret when at ADR Service\$.¹⁷ Thereafter, California Supreme Court C.J. Cantil-Sakauye
2 denied review of her underling\$' crimes because to expose them at that late stage would have
3 caused an FBI investigation into FAA award-rigging as already widely known since the National
4 Arbitration Forum \$candal exposing how 72 of 100 arbitration\$ were rigged by non-neutral,
5 Self-interest\$ed retired judge\$ \$eeking more employment by the \$pecial interest\$ at the NAF.¹⁸

6 Now \$ee the official court transcript\$ catching judge\$ Woolard & Giorgi in lie\$, and
7 agreeing with Carbone that 60=200, 32=36, 1856=4000, 12,000=0, 72,000=0, 200,000=0

8 Cases CPF-10-510760, 11-511994; Appeals A131914, A134206, ... ; \$COTUS\$ Writ 12-7817

9 Superior Court judge\$ Woolard, Giorgi, Karnow, Kahn, Nichols, Taylor, Lee, Robert\$on,
10 Cheng, Gold\$mith, Quidachay compelled, confirmed, and rubber-\$tamped another railroad
11 arbitration at JAM\$ where retired judge and arbi-*traitor* Gene McDonald rigged an award for his
12 buddie\$: judge Woolard; *and the very attorney who hand-picked him* to rig that award and \$teal
13 a million-dollar condominium. Then Division II'\$ Kline, Haerle & Richman affirmed the
14 million-dollar fraud so they could all judicially foreclose on their victim's home, throw him out
15 onto the street, and pad Gene'\$ pocket\$.¹⁹ This case was featured in \$COTUS\$ Writ 12-7817, but
16 John Robert\$ and the four other con\$ervatives who claimed binding arbitrations are imminently
17 fair since corporate \$pecial interest\$ would never rig award\$ in \$ecret by paying-off arbi-
18 *traitor*\$ like McDonald (and Carbone) denied review because they didn't want to admit *AT&T v.*
19 *Concepcion* wa\$ their gift to *Citizen\$-United* corporate "people" who abuse \$ecretive, rigged,
20 railroaded and federally-mandated arbitration to \$teal from the public.²⁰

21 \$ee the official court transcript\$ catching judge\$ Woolard and Giorgi in lie\$ as simple as
22 ignoring officially-recorded legal documents proving that the rigged JAM\$ arbitration was void.

23 //

24 //

25 ¹⁷ <http://www.adrservices.org/neutrals/james-lambden.php>

26 ¹⁸ http://www.nytimes.com/2009/07/20/business/20credit.html?_r=0 and

27 http://www.businessweek.com/investing/wall_street_news_blog/archives/2009/07/big_arbitration.html

28 ¹⁹ The State judge\$' treacherou\$ financial-targeting of a citizen, grand-theft of a million dollar\$, and obtaining title
of a condominium by fraud, color-of-law & false pretense\$ i\$ now happening in real-time:

<http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACPF10510760,-AR,-AGenerated\%3A%20May-12-2015%20%206%3A50%20am,-A00014112,-AD,-ASEP-29-2010,-AMAY-05-2015,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A>

²⁰ <http://www.scotusblog.com/case-files/cases/att-mobility-v-concepcion/>

1 Case CPF-10-510876, Appeals A131566, ..., A135531; Writ S207619; District C:11-3567;
2 Circuit 12-15658; SCOTUS 12-10006 & 13-5888

3 Superior Court judge\$ Giorgi, Alvarado, Kahn, Lee, and Gold\$mith ignored several
4 thousand pages of self-authenticating transcripts and FTC, HUD, SEC & FBI records to in\$tead
5 allow the entry of a corporate-bought order for \$48k in \$anction\$ crafted to silence federal
6 whistle-blowing and detailing how the \$10+ Billion D.R. Horton Corporation [DHI] *continue\$ to*
7 *buy-off judge\$* to prevent exposure that it bundles lucrative predatory loans to home sales in
8 violation of at least 4 federal antitrust acts.²¹ Then Appeal\$ Division-III'\$ McGuine\$\$, Jenkin\$
9 and Pollak lied that Missud's submission of 5000 pages of records detailing over 400 families'
10 foreclosures & bankruptcies violated DHI'\$ due proce\$\$ right\$ to not having unfettered ability
11 to buy-off ab\$olutely judicially immune and corrupt judge\$.²² Chief Ju\$ti\$e \$akauye and her 6
12 minions then didn't want to admit their lower court judge\$ routinely take corporate payoffs to rig
13 hearing\$ and ca\$e\$ and \$o denied review. Wouldn't you know it- the \$ame exact thing\$
14 happened in the federal court\$ because all judge\$ are vultures of a feather who, with ab\$olute
15 judicial immunity, prey on sheep or 318,000,000 flesh-and-blood (and tasty) real people.²³ When
16 not rabidly feeding on the public, the absolutely judicially immune elite\$ also regularly throw
millions of lowly flesh-and-blood \$itizens under *Citizen\$-United* corporate wheels of greed.

17 See the official court transcript catching formerly California Bar licen\$ed attorney and
18 now federal judge Chen lying he didn't have jurisdiction over Fortune-500 DHI \$o that it could
19 bankrupt thousands more families throughout California. It\$ even registered in C:11-3567 #110.

21 Sherman, Clayton, Cartwright, RESPA, (and Regulation X & TILA). DHI forces consumers into predatory loans
22 by threatening to \$teal thousands of dollars put into "forfeitable at the builder'\$ di\$cretion" escrow accounts. By
23 threatening grand-theft, DHI extorts consumers into buying homes illegally bundled with high-rate, unaffordable
24 loan\$ -which are immediately sold to Freddie and Fannie and apt to default, foreclose, and bankrupt families. Its
through these predatory, *racketeering means* that DHI maintained it\$ \$tatu\$ as the nation's largest residential
builder selling the most homes in the nation.

22 Traitors and corrupt judge\$ alike have to be legally-murdered and executed for the good of the nation:
25 http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=1&doc_id=1974787&doc_no=A131566 and
26 <http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACPF10510876,-AR,-AGenerated\%3A%20May-12-2015%20%207\%3A05%20am,-A00014259,-AD,-ANOV-16-2010,-ANOV-13-2013,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A>
27 AS,-AS,-AD,-AA,-A,-A,-A

23 Corrupt, turn-coat, \$editioni\$t, treacherou\$, self-interested, greedy judge\$ -like the 9th District'\$ Edward Chen,
28 and who sold the nation to DHI NOW NEED TO DIE IN THE ELECTRIC CHAIR for their well-established high-
crimes against America: <http://dockets.justia.com/docket/california/candce/4:2011cv03567/243285> and
<http://dockets.justia.com/docket/california/candce/3:2011cv03567/249876>

1 Case CGC-13-533811, Appeal A141459; and California Writ of the Same which Cantil-Sakauye
2 timely and verifiably got on May 6th but won't docket because She wants to ignore it.

3 Superior Court judge Lee, Goldsmith, Kahn, Elfving, and Ryan ignored a 750 page
4 transcript catching Bar Court judge McElroy, Armendariz, Remke, Purcell, Epstein, and Honn
5 rigging Missud's disbarment because his job is to expose judicial racketeering as the feds'
6 inside-attorney. What better way to interfere with a federal mole than by preventing him from
7 getting access to the court? Division-IV's Ruvolo, Reardon, Rivera & Bolanos then naturally
8 covered for their many lower court colleagues *-just like Division II & III* because their judiciary
9 is one big happy mafia-style family wherein each member benefits from racketeering activities
10 which include rigging, railroading, crafting, setting-up, throwing, scuttling and torpedoing cases,
11 appeals, and writs for the well-connected and deep pocket's money. Cantil-Sakauye and her two
12 newbie have yet to docket Writ of A141459, *and likely won't* because it proves how a dozen
13 judge purposely violated Missud's fundamental rights so they and other judge could remain in
14 their lofty positions of public trust from where they financially destroy the public for personal
gain.

15 See the official court transcript catching judge Goldsmith and Elfving in lie to cover-
16 up that the Member-run State Bar which give them cover is a racketeering organization that
17 promote its own Member's financial interest especially if that means targeting the unknowing
18 public for financial predation.

19 Case CGC-14-536981; Appeal A143554 and related A144527 which has yet to be briefed.

20 Superior Court judge Elfving rigged case dismissal on November 7th 2014 after brazenly
21 lying that he and his own court staff didn't get served with 6 copies of a pleading he verifiably
22 got by tracked USPS mail, email, and personal service. Elfving took 'hear, See and Speak no
23 evil' to the next level when he played three monkey to phuk 38 Million Californians that he
24 only See as piggy bank because the super-low IQ judge think he's God. This mother phuking
piece of shit will now die in a concrete cell.

25 Know that even as of today, Division-IV is interfering with Missud's absolute right to
26 Petition Review of Elfving's High Crime that will hopefully get him strapped to a chair in
27 California's gas chamber. An already prepared Reply that needs to be filed in A143554 can't be
28 submitted through Truefiling because Ruvolo, Reardon, Rivera & Bolanos want to lie it wasn't
timely submitted and to ignore it. However, that Reply was filed in lots of other courts, with

1 several agencies, and over the counter at their Court of Appeals to make sure that they also get
2 *legally*-killed in San Quentin for treason and overthrow of government.

3 See the official court transcript\$, and USPS & email records proving that Elfving is a
4 traitor worse than Julius and Ethel Rosenberg who were each electrocuted for their high-crimes
5 on June 19th 1953.²⁴

6 Case CGC-14-537723; District cases C:12-5468 & 14-1503, Circuit Appeals 13-15357 & 14-
7 16494; SCOTUS 14-9320

8 Elfving even lied about not getting a subpoena attaching concrete proof that San
9 Francisco preys on its minority community in the same exact ways already exposed in Bell-CA
10 and Ferguson-MO. On January 9th 2015 Elfving lied 8 times to rig di\$mi\$\$al of case 536981,
11 and then 7 more time\$ to rid him\$elf of 537723. After caught making a deal with San
12 Francisco's defense attorneys to bury the criminally-proven case, Elfving had Missud illegally-
arrested just outside his court room.

13 See the official 1-9-15 court transcript catching Elfving rigging a Demurrer & case
14 di\$mi\$\$al at page-20 with City Attorney Ceballo; official Sheriff Dept. record\$ documenting
15 Missud's illegal arrest just 5 minutes after Elfving rigged hi\$ di\$mi\$\$al; illegal bail excessively
16 set in violation of the 8th Amendment to send Missud a clear message that treacherou\$ judge\$
17 like: Elfving are above the law and can imprison anyone whenever they want; and Ryan can
18 repeatedly violate evidentiary rules to cover-up that judge\$ from San Francisco to Santa Clara
19 are destroying democracy and imprisoning mostly minorities to illegally raise revenue in their
criminal ju\$stice \$y\$tem which is nothing but a racketeering meat-grinding machine.²⁵

20 Santa Clara Criminal Case C:1502123

21 Santa Clara Criminal Court judge Ryan is railroading more of Missud's Habeas Corpus
22 ever since her corrupt \$tate colleague Elfving had him falsely-imprisoned in January for his
23 federally-protected whistle-blowing. There have so far been 8 hearings at which Ryan refused to
24 acknowledge facts or honor the constitution's rights to due process, and 4th & 8th Amendments.
25 Ryan doesn't believe in either civil or criminal rights because \$he'\$ ab\$olutely judicially
26 immune and thinks she can imprison people as would Kim Jong Un or Vladimir Putin.

27
28 ²⁴ http://www.ask.com/wiki/Julius_and_Ethel_Rosenberg?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com

²⁵ <http://www.judgesforsale.org/arre-t.html> and [http://www.localcrimenews.com/city-arrests/arrest-](http://www.localcrimenews.com/city-arrests/arrest-details/?arrest=8204079)
[details/?arrest=8204079](http://www.crimevoice.com/tag/patrick-alexander-missud/) and <http://www.crimevoice.com/tag/patrick-alexander-missud/>

1 For trying to further railroad Missud's false imprisonment or otherwise take his freedom,
2 Ryan also has to go to prison until She's dead.

3 See the many official court transcripts for case C:1502123 wherein Ryan always refuses
4 to acknowledge official court transcripts catching Elfving in lie\$, and which is the sole reason he
5 had Missud illegally arrested to begin with.

6 Case 12-O-10026; S222905; \$COTU\$ Writ 14-xxxx which will never get docketed because John
7 Robert\$ will soon get convicted of high crimes, treason, and overthrow of government.

8 John Glover 'Traitor' Robert\$ already twice-lied that jurisdiction hadn't passed to his US
9 Supreme Court so he could instead ignore criminally-proven Petition for Writ of S222905.
10 Therein the California Supreme Court's Chief Justice and her six minion\$ refused to
11 acknowledge that the State Bar *which they supposedly supervise* is the State's most predatory
12 criminal organization *Bar-none*. There is no other organized crime syndicate as large or as
13 pernicious as the Bar either now or ever in the history of the world. By comparison, Sicily's
14 Mafia was a small gathering of boy scouts working on their merit badges. The Bar's Member\$
15 prey on California's citizenry as if they were ATM machines with million-dollar limit\$ and cash
16 pay-out\$. Fear of exposure of the State Bar's statewide racketeering is the true reason why the
17 BOE already stole nearly \$5000 from Missud and is poised to steal even more on May 27th
18 during the officially court-reported hearing.

19 Now see the US Supreme Court's official document\$ brazenly lying that Cantil-Sakauye
20 didn't finally rule in S222905 when on March 18th 2015 she stripped Missud of his Bar license
21 and sanctioned him with nearly \$18,000 in fees for having had the audacity in protecting
22 38,000,000 Californians from her and Bar Member's racketeering.

23 APPLICABLE LAW

24 Several federal & state criminal codes & statutes are being violated by the BOE and other
25 California agencies like the State Bar; and Superior, Appellate & Supreme Court\$.

26 18 USC §1513(e) proscribes the financial retaliation against federal whistle blowers who expose
27 crimes to federal authorities. Any interference with a whistle-blower's gainful employment, like
28 for instance revoking Bar licenses, is a criminal offense punishable with a decade in prison:

"Whoever knowingly, with the intent to retaliate, takes any action harmful to any person,
including interference with the lawful employment or livelihood of any person, for
providing to a law enforcement officer any truthful information relating to the commission

1 or possible commission of any Federal offense, shall be fined under this title or imprisoned
2 not more than 10 years, or both.” <https://www.law.cornell.edu/uscode/text/18/1513>

3 California’s State Bar and Bar Court judge\$ McElroy, Armendariz, Remke, Purcell &
4 Honn: first rigged an investigation under 12-O-12270; then trumped-up case 12-O-10026;
5 subsequently rubber-stamped Review; and finally railroaded \$anction\$ and Missud’s involuntary
6 disbarment. California’s Superior Court\$ in two counties then allowed the Bar’s nefarious
7 action\$ and SLAPP suit 10026 to stand. Thereafter, California’s First District Court of Appeal\$
8 affirmed tho\$e retaliatory decision\$; and finally California’s Supreme Court gave all it\$ lower
9 court\$ cover because doing otherwise would have exposed that all of California’s judiciary *Bar-*
none, i\$ corrupt from the State’s Bar on up to Supreme Court.²⁶

10 Furthermore, recall that this BOE already stole nearly \$5000 from Missud to financially
11 harm him for providing the feds truthful information that the State Bar and California court\$ are
12 corrupt racketeering organization\$ which prey on California’s citizenry. Although the BOE can’t
13 be sentenced to prison time, it\$ 5 Board Member\$ can get a decade each.

14 California PC §136.1(a) forbids anyone from dissuading a witness to, or victim of, a crime from
15 testifying in court or informing law enforcement about those crimes:

16 “... any person who does any of the following is guilty of a public offense and shall be
17 punished by imprisonment in a county jail for not more than one year or in the state prison:
18 (1) Knowingly and maliciously prevents or dissuades any witness or victim from attending
19 or giving testimony at any trial, proceeding, or inquiry authorized by law. (2) Knowingly
and maliciously attempts to prevent or dissuade any witness or victim from attending or
giving testimony at any trial, proceeding, or inquiry authorized by law ...”
<http://law.onecle.com/california/penal/136.1.html>

20 California’s State Bar; Bar Court judge\$ McElroy, Armendariz, Remke, Purcell & Honn;
21 Superior Court judge\$ Goldsmith, Elfving, Lee, Kahn ,...& Taylor; Appellate Court judge\$
22 Ruvolo, Reardon, Rivera & Bolanos; and the Supreme Court’s magnificent Seven including
23 Cantil-Sakauye repeatedly tried to dissuade Missud from testifying at trials or relating to federal
24 authorities that- dozens of California judge\$ rig hearings, railroad cases, affirm appeals, and
25
26
27

28 ²⁶ Superior Court ca\$e\$ CGC-13-533811, 14-536981; Appeal\$ A141459, 143554 [Division-IV is currently
interfering with registration of documents], 144527; Writ S222905 and Review of A141459 which has yet to be
docketed although California’s ultra-corrupt Supreme Court timely got the Petition for Writ.

1 deny writ\$ to illegally favor friend\$, deep pocket\$, corporation\$, and other \$pecial intere\$t\$
2 while also padding their own pocket\$.²⁷

3 In addition, thi\$ BOE already intimated in it\$ Hearing Summary that it \$eek\$ to steal
4 more color-of-law fee\$, cost\$, fine\$, and \$anction\$ to dissuade Missud from attending his own
5 May 27th Hearing and testifying during that court-reported public proceeding which happens to
6 be authorized by law.

7 PC §136(b) further adds that:

8 “... every person who attempts to prevent or dissuade another person who has been the
9 victim of a crime or who is witness to a crime from doing any of the following is guilty of
10 a public offense and shall be punished by imprisonment in a county jail for not more than
11 one year or in the state prison: (1) Making any report of that victimization to any peace
12 officer or state or local law enforcement officer or probation or parole or correctional
13 officer or prosecuting agency or to any judge. (2) Causing a complaint, indictment,
14 information, probation or parole violation to be sought and prosecuted, and assisting in the
15 prosecution thereof. (3) Arresting or causing or seeking the arrest of any person in
16 connection with that victimization.”

17 Missud filed and prosecuted state & federal cases, appeals, and writs with the express
18 intent of: making reports to peace officers & judge\$; causing complaints to be prosecuted; and
19 seeking the arrest of all corrupt State officer\$ and judge\$ who’ll hopefully soon get rounded-up
20 by the FBI and US DOJ. On the other hand, official\$ and judge\$ repeatedly attempted to prevent
21 and dissuade Missud from pursuing all those protected activities for years, and certainly since
22 April 18th 2011 when he filed C:11-I-1856-PJH that was criminally-proven, pled to heightened
23 FRCP Rule-9 standards, and named \$uperior Court judge\$ Woolard, Giorgi, ..., and Cheng as
24 co-conspiring felon\$.²⁸ That case detailed judicial Federal Arbitration Act Racketeering exactly
25 like that already exposed in the San Francisco \$uperior Court’s *People of the State of California*
26 *vs. The National Arbitration Forum* [CGC-08-473569].²⁹

27 The short list of cases, appeals & writs in which the corrupt California agent\$ already dissuaded Missud from
28 testifying and/or retaliated against him include: CGC-07-464022, CPF-10-510760, CPF-10-510876 CGC-13-
533811, CGC-14-536981, CGC-14-537723, A130482, A131566, A141459, A143554, S222905.

28 See this FAA RICO case at: <http://dockets.justia.com/docket/california/candce/4:2011cv01856/239672>

29 See this FAA RICO case at:

<http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACGC08473569.-AR.-AGenerated\%3A%20May-10-2015%20%204\%3A20%20pm,-A00977205,-AD,-AMAR-24-2008,-AAPR-02-2013,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A>

1 State official\$ at this BOE even violated California's clearly-expressed Penal Code when
2 they lied that Missud owed taxes for the \$same tax year he filed RICO \$uit C:11-1856 exposing
3 how \$tate judge\$ illegally force Californians into rigged arbitration\$ that are railroaded by
4 corrupt retired colleagues who *lie-in-wait* to ambush the unsuspecting public for grand theft at
5 Super-\$ecretive ADR forum\$ where they \$teal with ab\$olute judicial impunity and then claim
6 ab\$olute judicial immunity to \$ave them\$elve\$ from rotting in pri\$on cell\$.

7 PC §136(c) specifies that:

8 "Every person doing any of the acts described in subdivision (a) or (b) knowingly and
9 maliciously under any one or more of the following circumstances, is guilty of a felony
10 punishable by imprisonment in the state prison for two, three, or four years under any of
11 the following circumstances: (1) Where the act is accompanied by force or by an express
12 or implied threat of force or violence, upon a witness or victim or any third person or the
13 property of any victim, witness, or any third person. (2) Where the act is in furtherance of a
14 conspiracy. (4) Where the act is committed by any person for pecuniary gain or for any
15 other consideration acting upon the request of any other person. All parties to such a
16 transaction are guilty of a felony."

17 On January 9th 2015, dozens of official\$ & judge\$ colluded to have Missud illegally-
18 arrested and then falsely-imprisoned to prevent & dissuade him from working with the feds to
19 throw them all in prison for \$tate and federal crime\$.³⁰ Just 5 minutes after Missud caught
20 Superior Court judge Elfving in 15 lie\$ and rigging two ca\$e\$, the co-conspiring \$tate agent\$
21 forcibly committed habeas corpus and booked Missud into Santa Clara County's 'Hall of
22 Ju\$stice.' That event is forever-recorded at Missud's proprietary websites and corroborating 3rd
23 party sites which also memorialize the conspirator\$' felonies.³¹

24 BOE official\$, *including Betty Yee -State Controller for the world's 9th largest economy*,
25 know that Missud was illegally-arrested for exposing \$tate official\$' crimes targeting a potential
26 38 Million Californians. They now want to 'add fuel to that fire' after having already stolen over
27

28 ³⁰ Co-conspiring felon\$ include: Superior Court judge\$ Elfving, Gold\$mith, and Ryan; Appellate judge\$ Ruvolo,
29 Reardon, Rivera, and Bolanos; \$F City Attorney\$ Herrera and Ceballo; Santa Clara District Attorney Ro\$en and
30 Sheriff\$ \$mith and Briet; Details regarding their conspiracy are filed in a pair of already criminally-proven
31 \$100M civil rights cases filed in San Francisco Superior Court:

32 <http://webaccess.sftc.org/Scripts/Magic94/mgrqispi94.dll?APPNAME=WEB&PRGNAME=caseinfoscreensSHA1&ARGUMENTS=-ACGC15543711,-AR,-AGenerated%3A%20May-10-2015%20%205%3A16%20pm,-A00977395,-AD,-AJAN-20-2015,-AAPR-24-2015,-ASort%20by%20Party%20Name,-ASort%20by%20Name,-AS,-AS,-AD,-AA,-A,-A,-A> and Santa Clara Superior Court:

33 http://www.sccaseinfo.org/pa6.asp?full_case_number=1-15-CV-275919&crumbs=Civil%20Index&crumbs=Case%20Number%20Search&crumbs=Case%20Number%20Results

34 ³¹ See <http://www.judgesforsale.org/arrest.html> and <http://www.localcrimenews.com/city-arrests/arrest-details/?arrest=8204079> <http://www.crimevoice.com/tag/patrick-alexander-missud/>

1 \$4700 from him in May 2014 to prevent his whistle-blowing. As soon as Betty further\$ her
2 colleague\$' cover-up to \$ave California from having to pay restitution to 38 Million defrauded
3 Californians, and at the request of other corrupt official\$ & judge\$, then all parties knowingly
4 covering-up Missud's false-imprisonment will also be guilty of this latest felony.

5 PC §136(d) provides that:

6 "Every person attempting the commission of any act described in subdivisions (a), (b), and
7 (c) is guilty of the offense attempted without regard to success or failure of the attempt.
8 The fact that no person was injured physically, or in fact intimidated, shall be no defense
9 against any prosecution under this section. (e) Nothing in this section precludes the
10 imposition of an enhancement for great bodily injury where the injury inflicted is
11 significant or substantial. (f) The use of force during the commission of any offense
12 described in subdivision (c) shall be considered a circumstance in aggravation of the crime
13 in imposing a term of imprisonment under subdivision (b) of Section 1170."

14 Know that Missud expected retaliation, dissuasion, and interference on January 9th, but
15 didn't expect to get arrested or imprisoned under false pretenses. That was just phuking dumb
16 and really desperate. Despite the dopey \$tate official\$' and judge\$' failure to intimidate Missud
17 with their 2 dozen Sheriff Deputies who greeted him as he arrived at and then left Elfving'\$
18 courtroom, details for which specifically addressed during the 40-minute interrogation with
19 Deputy Sheriff Breit, using such force and falsely imprisoning Missud for 13 hours was and is a
20 circumstance in aggravation of the official and judicial crimes which the \$tate agent\$ tried so
21 desperately to conceal.

22 Since the BOE Board Member\$ are furthering the official\$' and judge\$' conspiracy, and
23 specifically know the circumstances surrounding Missud's false imprisonment, they will share in
24 aggravated prison terms just like the principles who orchestrated his Habeas Corpus.

25 **PENALTY SUMMARY**

26 The BOE outlined it\$ "Late Filing, Demand, Filing Enforcement, and Frivolous Appeal
27 Penalties" from Hearing Summary page 7/19 to 9/10. The BOE wants to collect at least \$12,429
28 under color-of-law, and then tack-on another \$5000 if it can convince this Board'\$ five self-
interested Member\$ to \$ee thing\$ it\$ way.

Missud doesn't feel like adding-up the lengthy prison sentences under the dozens of
charges that will be presented at official\$' and these Board Member\$' arraignments, but they'll
essentially approach life terms.

1 DEMANDS

2 The State's BOE will refund the \$4727 stolen on May 23rd 2014 *plus interest*, so that
3 Missud can use it to further expose the corrupt State official & judge who already preyed upon
4 38 Million unknowing Californians.

5 The BOE won't impose further costs, fees, *Sanction*, or *penalty* because Missud is a
6 CCP §1021 Private Attorney General who's protecting 38 Million Californians from corrupt
7 official's & judge's financial predation:

8 "In an action for damages against a defendant based upon that defendant's commission of a
9 felony offense for which that defendant has been convicted, the court may, upon motion,
10 award reasonable attorney's fees to a prevailing plaintiff against the defendant who has
11 been convicted of the felony. ...Upon motion, a court may award attorneys' fees to a
12 successful party against one or more opposing parties in any action which has resulted in
13 the enforcement of an important right affecting the public interest if: (a) a significant
14 benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a
15 large class of persons, (b) the necessity and financial burden of private enforcement, or of
16 enforcement by one public entity against another public entity, are such as to make the
17 award appropriate, and (c) such fees should not in the interest of justice be paid out of the
18 recovery, if any." [http://www.leginfo.ca.gov/cgi-](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=ccp&group=01001-02000&file=1021-1038)
19 [bin/displaycode?section=ccp&group=01001-02000&file=1021-1038](http://www.leginfo.ca.gov/cgi-bin/displaycode?section=ccp&group=01001-02000&file=1021-1038)

20 Corrupt State official & judge are *guaranteed* convictions and prison time. Since 38
21 Million Californians will be protected from being financially raped after the State felon are all
22 locked-up, that significantly benefits the general public. Hence, PAG Missud shouldn't be made
23 to pay any color-of-law costs, fees, *Sanction*, or *penalty* imposed by the BOE for his exposure
24 of State agent's high-crimes and treason.

25 CONCLUSIONS

26 You five Board Member are all going to be on-record ignoring lots of concrete facts and
27 proof that PAG Missud lost lot of money since 2011 because he exposed the State Bar's
28 racketeering and official & judicial corruption. Any imposition of tax liens or *Sanction* will
prove that the BOE is covering-up State agent's crimes because California doesn't want to have
to pay restitution to its 38 Million citizens who've been official's & judge's financial targets.

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1 Most of the official transcripts referenced herein, and which this BOE'S Board Member\$
2 must acknowledge, are already posted to the web and were forwarded to federal authorities.³²
3 Failure to acknowledge their content guarantees that Runner, Ma, Horton, Harkey and Yee go to
4 prison forever.

5 //

6 This pleading is submitted to get all 5 BOE Board Member\$ convicted of at least 18 USC §201
7 Corruption for covering-up 18 USC §1962 Bar and Judicial Racketeering.

8 Patrick Missud 5-12-2015

9 Patrick Missud; 5-Year Inside Federal Mole

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27
28 ³² <http://www.judgesforsale.org/home.html> and
<http://www.sanfranciscosuperiorcourtfraud.com/home.html>

1 PROOF OF SERVICE:

2 I'm a citizen of the United States, over 18 years of age, and 5-year Federal Informant. My
3 address is: 91 San Juan Avenue, San Francisco, California, 94112. *I'm no longer employed in the*
4 *County of San Francisco ever since Cantil-Sakauye disbarred me.*³³ On May 12th 2015 I served
the following from my home address:

5 APPELLANT'S HEARING SUMMARY DETAILING THE BOE'S ONGOING 18 USC
6 §1513(e) FINANCIAL RETALIATION AND INTERFERENCE WITH EXPOSURE OF
STATE CRIMES

7 To: District-2 BOE Member Fiona Ma³⁴

8 By: Personal service on May 27th at 450 N. Street, MIC:85, Sacramento, CA, 95814;
9 Email: Fiona.ma@boe.ca.gov, James.kuhl@boe.ca.gov, patricia.schapiro@boe.ca.gov,
Genevieve.jopanda@boe.ca.gov, lizette.mata@boe.ca.gov, susan.block@boe.ca.gov,
10 ray.sanguinetti@boe.ca.gov, john.vigna@boe.ca.gov, tim.morland@boe.ca.gov,
Emily.vena@boe.ca.gov, NaTasha.Ralston@boe.ca.gov, Kathryn.asprey@boe.ca.gov,
11 cally.wong@boe.ca.gov, jain.thapa@boe.ca.gov, Gloria.li@boe.ca.gov,
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12 drew.mercy@boe.ca.gov, Jerome.horton@boe.ca.gov, kari.hammond@boe.ca.gov,
Shellie.hughes@boe.ca.gov, Cynthia.bridges@boe.ca.gov, selvi.stanislaus@boe.ca.gov,
13 diane.harkey@boe.ca.gov, betty.yee@boe.ca.gov, meetinginfo@boe.ca.gov,
14 Kathy.Skidgel@boe.ca.gov, Clifford.Oakes@boe.ca.gov, Kirsten.Stark@boe.ca.gov,
David.Gau@boe.ca.gov, Yvette.Butler@boe.ca.gov, Angela.Howe@boe.ca.gov,
15 Rose.Smith@boe.ca.gov, Fred.Mittermayr@boe.ca.gov, Khaaliq.AbdAllah@boe.ca.gov,
16 Evan.Stagg@boe.ca.gov, Greg.Day@boe.ca.gov, Lauren.Simpson@boe.ca.gov,
Fax: 1-415-557-0287; 916-324-2087

17
18 I declare under the penalty of perjury as a 5-Year Federal Informant who's working with the feds
19 to bust corrupt State official\$ & judge\$ that the forgoing is true and correct, and this pleading is
submitted to get all five BOE Board Member\$ convicted for racketeering as co-conspirator\$.

20 Patrick Missud 5-12-15

21 Patrick Missud

Date

18 USC §1513, 31 USC §3279, CCP §1021.5, BSME, MSCE, GC B697370, CSLB IE, JD

22 <https://www.facebook.com/patrick.missud.1>

23 <http://www.sanfranciscosuperiorcourtfraud.com/home.html>

<http://www.judgesforsale.org/arre-t.html>


24
25
26
27
28 ³³ See how California's top judge played 'hear, See, and Speak no evil' to cover-up Statewide judicial crimes
targeting California's entire population for financial predation:

http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2094232&doc_no=S222905


³⁴ <http://www.boe.ca.gov/ma/contact.htm>

**This Reply Form and/or a Tax Return
Is Due to FTB by MAY 27, 2015**

FILING ENFORCEMENT SECTION MS F180
FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040
Fax: 916.855.5646

From: 

Reply to FTB

PATRICK A MISSUD




A

Tax return filed

If you already filed, check and complete the appropriate boxes for your situation:

- ☐ The social security number (SSN) on my tax return is:*
- ☐ I filed a joint tax return for 2013. My spouse's/RDP's SSN is:*
- ☐ My records indicate I mailed my tax return to you on: _____
- ☐ Taxpayer is deceased. Date of death: _____. A final tax return was filed under the Taxpayer Identification Number: _____

Mail or fax us the following:

1. A complete copy of your 2013 California income tax return with all wage statements (Forms W-2).
2. Proof of payment (e.g., a copy of the canceled check, cash receipt, canceled money order, etc.).
3. This completed *Reply to FTB* form.

*For privacy information, see the enclosed FTB 1131, *Franchise Tax Board Privacy Notice*.

B

No filing requirement or unsure whether you must file

If you do not have a requirement to file or are unsure whether you must file, complete the following statements:

- A. My filing status for 2013 was: ☐ Single ☐ Head of household ☒ Married/RDP filing jointly
☐ Qualifying widow(er) ☐ Married/RDP filing separately
- B. In 2013, the number of dependents I had was: ☒ 0 ☐ 1 ☐ 2 or more
- C. In 2013, my age was: ☒ Under 65 ☐ 65 or older
- D. In 2013, my spouse's/RDP's age was: ☒ Under 65 ☐ 65 or older
- E. The license or permit I hold is: ☐ Active ☒ No longer active as of: MARCH 18, 2015
- F. I supported myself in 2013 by: DRAWING MY RETIREMENT FUNDS

G. If you were a resident of California for all of 2013, then complete questions 1-7 below. If not, skip Section G and complete Section H.

1. Total amount of wages and/or tips you earned in 2013..... NEGATIVE (NOT YET CALCULATED)
2. Income you earned (before expenses) for services you performed and reported on federal Form 1099..... ?
3. Realized gain from property sale..... FORECLOSED DUE TO JUDICIAL FRAUD IN CPF-10-510876
4. Interest and dividend income..... 0
5. Total of all other income for 2013 (including income from a Schedule K-1, pension income, business income before expenses, and any other income not shown above)..... NEGATIVE (LIENS & SANCTIONS)
6. Total of lines 1 through 5..... VERY NEGATIVE

Refer to the 2013 California Filing Requirement Guidelines on PAGE 2.

7. Is the amount you entered on line 6 more than the minimum income amounts for your filing status and number of dependents listed on PAGE 2 of this notice?

☐ YES. You have a requirement to file a California tax return. File your tax return by **May 27, 2015**.

☒ NO. You do not have a California filing requirement. Complete, sign, and mail this *Reply to FTB* form so we can correct our records.

Section B Continued on Next Page

H. If you were a part-year resident or nonresident of California in 2013, complete questions 1-9 below:

1. Number of months during 2013 that you were a California resident.....
2. Total amount of gross income you received from **all** sources.....
3. Total amount of income you earned (before expenses) for services you performed in California and reported on federal Form 1099.....
4. Realized gain from California property sale.....
5. Total wages you earned while a California resident and wages you earned in California while a nonresident.....
6. Income you earned (before expenses) while you were self-employed in California.....
7. Income reported to you on Schedule K-1 from a business entity doing business in California.....
8. All other income from a California source (if not listed above).....
9. **Total** of lines 3 through 8.....

Refer to the 2013 California Filing Requirement Guidelines on PAGE 2.

If the total on line 2 above meets the minimum income amounts for your filing status and number of dependents and you entered California income on line 9, you are required to file a 2013 Form 540NR. You must file your 2013 tax return by May 27, 2015

If your income is less than or equal to the minimum income amounts for your filing status and number of dependents, **you do not have** a California filing requirement. Complete, sign, and mail this *Reply to FTB* form so we may correct our records.

Thank you for the information. Sign and mail this *Reply to FTB* form with any supporting documents to the address on PAGE 3 by **May 27, 2015**



Explanation

Complete if Section A or B does not reflect your situation:

TOMORROW MAY 27th I'M GETTING BOE BOARD MEMBER\$
YEE, MA, HARVEY, HORTON & RUNNER INDICTED FOR: 18USC§201, 1962;
PC§136.1, 139

I declare under penalty of perjury the above statements are true and correct to the best of my knowledge and belief.

Signed: _____

PATRICK MISSUD

Daytime telephone: _____

Best time to reach you: ANY

(Between 8 a.m. and 5 p.m., weekdays, except state holidays)

If you moved, provide your new address below.

New address: _____

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Oct 17, 2014 ... It should come as no surprise that California intellectual property lawyer **Patrick Missud** was disbarred for moral turpitude. After all, Missud ...

Calif. Disbars IP Lawyer Who Accused Courts Of Racketeering ...

<http://www.law360.com/articles/586563/calif-disbars-ip-lawyer-who-accused-courts-of-racketeering>

Oct 10, 2014 ... **Patrick Missud**, who went on the warpath in 2004 against housing developer D.R. Horton Inc. and later the judiciary, was found to have ...

State Bar of CA :: Patrick Alexandre Missud

<http://members.calbar.ca.gov/fal/Member/Detail/219614>

The State Bar of California maintains a database of California attorney information. Online public information from this database includes an attorney's name, ...

Patrick Missud Profiles | Facebook

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The court has dealt with dozens of hate mails and criminal threats by individuals, but none as criminally explosive as 47-year-old **Patrick Alexander Missud**.

C.A. Rejects Disbarred Lawyer's Defamation Suit Against State Bar

<http://www.metnews.com/articles/2015/miss040115.htm>
Apr 1, 2015 ... Four Monday upheld a San Francisco Superior Court judge's ruling that **Patrick A. Missud's** complaint, in which he claimed to have been libeled ...

[Drhortonsjudges.info](http://drhortonsjudges.info)

<http://drhortonsjudges.info/>

Patrick Missud, Attorney at Law. 91 San Juan Ave. San Francisco, CA, 94112. 415-584-7251 Office. 415-845-5540 Cell. missudpat@yahoo.com. August 8, 2009.

Patrick A. Missud v. State Bar Of California :: Superior Court of ...

<http://www.plainsite.org/dockets/xybj82ra/superior-court-of-california-county-of-san-francisco/p...>
Case no. CGC 13 533811 in the Superior Court of California, County of San Francisco.

PATRICK MISSUD, I V. STATE OF CALIFORNIA, No. 13-15357 (9th ...

<http://law.justia.com/cases/federal/appellate-courts/ca9/13-15357/13-15357-2013-08-19.html>

Patrick Alexandre Missud, I, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 putative class action alleging claims for judicial ...

DR Horton, Inc. - Securities and Exchange Commission

<http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2012/patrickmissud102312-14a8.pdf>

Oct 23, 2012 ... This is in response to your letter dated September 17, 2012 concerning the shareholder proposal submitted to D.R. Horton by **Patrick Missud**.

Patrick Missud | LinkedIn

<https://www.linkedin.com/pub/patrick-missud/10/992/a04>
View **Patrick Missud's** professional profile on LinkedIn. LinkedIn is the world's largest business network, helping professionals like **Patrick Missud** discover inside ...

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patrick missud






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A resource for intellectual property attorneys regarding patent and trademark ethics, professional liability, and discipline, including the latest USPTO and court decisions, trends, news, and analysis.

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After a Decade of Frivolous Litigation, IP Lawyer Finally Ousted From California Bar

 October 17, 2014  Michael E. McCabe, Jr.  Discipline, moral turpitude



It should come as no surprise that California intellectual property lawyer Patrick Missud was disbarred for moral turpitude. After all, Missud clogged the federal and state courts for years with frivolous lawsuits and bizarre, often outrageous, litigation conduct. On October 1, 2014, a Review Board of the State Bar Court of California adopted a hearing panel's recommendation that Missud be disbarred. *See In re Patrick Alexandre Missud*, State Bar Court of California, No. 12-O-10026 (Oct. 1, 2014). Given his outlandish behavior over such a long time period, the

only real question is this—what took them so long?

Missud was admitted to the California bar in 2002. His legal troubles began shortly after 2004, when Missud and his wife purchased a home in Nevada from DR Horton. The couple had the option to finance the purchase through Horton's preferred lender only if the home would be a primary residence. Because Horton understood Missud intended to use the home as a rental, Horton required him to use another lender.

This seemingly trivial matter set Missud off. To be sure, between 2005 and 2006, Missud as *pro se* plaintiff filed three separate actions against Horton and its affiliates in the San Francisco Superior Court alleging emotional distress, fraud, and breach of contract. *Missud v. Horton, et al.*, No. 05-444247 (filed Aug. 22, 2005), *Missud v. Horton, et al.*, No. 05-447499 (filed Dec. 9, 2005), *Missud et al. v. Horton, et al.*, No. 06-457207 (filed Oct. 23, 2006). All three actions were dismissed for lack of personal jurisdiction.

Rather than get the message, the dismissals of Missud's cases only seemed to stoke his flames. Missud began filing complaints in federal court against the same defendants alleging similar claims. The first filing, in 2007 was dismissed for lack of personal jurisdiction, forum non conveniens, and statute of limitations. *See Patrice Missud v. D.R. Horton, et al.*, Civ. 07-2625 at Dkt. No. 38 (N.D. Cal. Oct. 30, 2007) (Armstrong, J.).



Two weeks after the California district court action was dismissed, Missud filed another lawsuit against the same defendants, this time in Nevada state court. Two years into that litigation, Missud was found in contempt for sending threatening communications to witnesses and counsel and violating the court's protective order. The court awarded defendants nearly \$50,000 in fees and dismissed the case.





"Never give in—never, never, never, never. . . ." – Winston Churchill



Missud refused to give up and instead ratcheted up his litigation machine. This time, he turned his sights on the

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About Michael E. McCabe, Jr.

Michael E. McCabe Jr, a partner at Funk & Bolton, P.A., represents practitioners involved in claims of professional misconduct, attorney discipline, and ethics matters before the Office of Enrollment and Discipline (OED) of the PTO and the state bars of Maryland, Virginia and the District of Columbia.

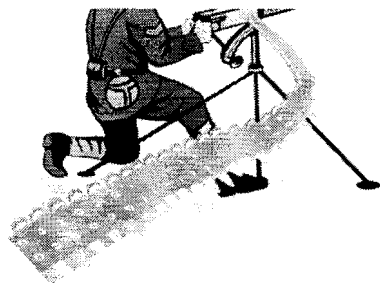
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Speaking Engagements

Arizona State Bar IP Section
Annual Meeting, Phoenix,
AZ

May 15, 2015

Arizona State Bar IP Section
Annual Meeting, Phoenix, AZ
Ethics panel featuring Michael
McCabe and Roberta Tepper.



judiciary itself, filing over the next several years a dozen district court actions. The defendants in those cases included everyone from United States Supreme Court Justices, to federal district court judges, state court judges, the State Bars of California, Nevada and Texas, the San Francisco Superior Court, the State of Nevada, the Nevada Supreme Court, and the Securities and Exchange Commission. All of his lawsuits were dismissed as frivolous.

In 2010, for example, Missud filed a complaint alleging that District Court Judge Armstrong wrongfully silenced Missud by dismissing his case in 2007, and that Magistrate Judge Curtis Coltrane, District Judge Roger Benitez, District Judge Berry Edenfield, and District Judge Martin Reidinger, were somehow conspiring with Horton to silence people of low income. That complaint was dismissed by Judge Susan Illston on grounds of judicial immunity, *Patrick Missud v. D.R. Horton Inc., et al.*, Civ. 10-0235 (N.D. Cal. April 2, 2010) (Illston, J.).

In April 2011, Missud sued the San Francisco Superior Court and Superior Court Judge Charlotte Woolard for allegedly engaging in an illegal conspiracy to force litigants into mediation or arbitration against their will. That complaint was dismissed for failure to state a plausible claim and judicial immunity. *Patrick Missud v. San Francisco Sup. Ct.*, Civ. 11-1856 at Dkt. No. 54 (N.D. Cal. Feb. 13, 2012) (Hamilton, J.).

In July 2011, Missud filed a complaint alleging several state and federal judges (many of the same judges dismissed in prior actions) and courts were corrupt and biased against people with low income. That complaint was dismissed for failure to state a plausible claim and judicial immunity. *Patrick Missud v. State of Nevada, et al.*, Civ. 11-3567 (N.D. Cal. Mar. 22, 2012) (Chen, J.). Judge Chen found Missud's claims lacked "any credible factual basis" and that his abusive tactics "appear[ed] to be motivated more by obtaining press for himself and imposing expense on Horton than by any legitimate claim for relief." Judge Chen declared Missud a vexatious litigant and ordered him to provide a copy of any complaint against Horton for a pre-filing determination of whether the complaint should be accepted for filing.

This did not deter Missud, who sued the San Francisco Superior Court. *Missud v. San Francisco Superior Court*, No. 3:12-cv-03117-WHA, Dkt. No. 123 (N.D. Cal. Sept. 24, 2012). Judge Alsup expanded the scope of Judge Chen's order, finding that Missud is a vexatious litigant and requiring pre-filing review by the court in all matters regardless of defendant. As an indication of some of his judicial misconduct, the following is a sample of one of nearly one-hundred docket entries Missud filed after the action was officially closed:

“ Request for Judicial Notice THAT I WILL RAILROAD THE BAR RATHER THAN IT RAILROAD ME filed by Patrick A. Missud. (Attachments: # 1 Exhibit The Trial that the ssBarss will rig to Disbar Missud, # 2 Exhibit The Bar's Trumped-Up Charges to Railroad the Trial, # 3 Exhibit Federal Judge Chen's Complaint to the Bar and Instructions to Railroad the Hearing, # 4 Exhibit All sorts of Courts, Judges, and Corporation Wanting Missud to be Disbarred, # 5 Exhibit Bar Court Judge Armendariz is Trying Really Hard to Railroad the Trial)(Missud, Patrick) (Filed on 4/1/2013) (Entered: 04/01/2013)

”

In September 2013, Missud sued the National Rifle Association, the State of California, and the Supreme Court of the United States, alleging a plethora of "constitutional violations." That complaint alleged that public officials and Supreme Court justices were "bought" by corporate interests. That action, like all the others, was dismissed. *Missud v. NRA*, No. 3:13-cv-80213-WHA (N.D. Cal. Oct. 15, 2013).

In December 2013, Missud filed a near identical complaint in state court, replacing the Supreme Court of the United States defendants with a corporate defendant, and alleging violations of the California Constitution, but otherwise repeating his allegations. The case was removed to federal court, where it was assigned to Judge Alsup. In his Order granting defendants' motion to dismiss, Judge Alsup quoted

Lawyer Assistance Program
Director, State Bar of Arizona

ABA IP Section Annual
Meeting, Chicago, IL
July 31, 2015
Ethics panel featuring Michael
McCabe, OED Director William
Covey, and Syracuse
University Law School
Professor Lisa A. Dolak

Association of Professional
Responsibility Lawyers
Annual Meeting, Chicago, IL
July 31, 2015
Ethics panel featuring Michael
McCabe and Professor David
Hricik, Mercer Law School.

Washington State Bar IP
Section Annual Meeting,
Seattle, WA
Fall 2015 (Date TBD)

About Funk and Bolton

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- ABA Center for Prof. Responsibility
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- Freivogel on Conflicts
- Legal Ethics Research Guide
- National Organization of Bar Counsel
- USPTO Office of Enrollment & Discipline
- USPTO OED Disciplinary Decisions
- USPTO Code of Prof.

various "threatening statements" made by Missud in his papers such as:

“*You ultra-~~stupid~~ phuk Alsud- Know that I already caused your death from a prison cell. You are a phuking traitor who ~~sold-out~~ America you phuking prick. You intentionally tried to destroy America from within which is exactly what Al Qaeda tried to do when they flattened the World Trade Towers which I routinely visited with family when living in NYC. I'll be at your sentencing and will testify hoping that you get the death penalty by firing squad. . . . I here and now personally announce and guarantee your death in a concrete cell***”**

California State Bar Court

In July 2013, after a five-day hearing, Missud was placed on involuntary inactive status with the State Bar of California following its recommendation that Missud committed professional misconduct, including maintaining unjust actions and failing to obey court orders. The State Bar decision stated that Missud “has total disdain for the legal profession and the judicial process.” *In the Matter of Patrick Alexandre Missud*, No. 12-O-10026-LMA (Cal. St. B. July 1, 2013).

On October 1, 2014, the California State Bar Court Review Department concluded that Missud was culpable of the alleged misconduct and recommended that he be “disbarred from the practice of law – the only solution for public protection.” The Review Department also noted Missud conducted himself without respect toward the disciplinary proceedings.

In addition to the frivolous nature of his appeal, for example, Missud proclaimed in his opening statement at trial:

“*There is no doubt that criminality runs rampant throughout the judiciary and that this Bar Court trial is being railroaded to lift my license.***”**

Then, over the course of his five-day hearing, he failed utterly to refute the charges against him and, instead, spent hours railing against Horton, accusing judges and public officials, by name, of corruption, and referring to one judge as an “asshole.” Missud accused witnesses of lying, insisted that the hearing judge initiate State Bar investigations against them and other attorneys, and threatened to have one witness criminally investigated. Finally, he threatened the State Bar prosecutor and State Bar Court judges with criminal prosecution.

The Review Department found as an aggravating factor Missud’s “wildly inappropriate invective that permeates all his submissions to the State Bar Court.” The Review Department determined Missud’s habitual abuse of the judicial system constitutes moral turpitude and

“*Missud's actions demonstrate that he is unfit to practice law. Disbarment is the only appropriate discipline given the magnitude of his misconduct; his disregard of professional standards; his disdain for the judiciary; the harm caused to Horton, the courts, and the public; his indifference to such harm; his demonstrated and unrepentant intent to continue his misconduct; and his deplorable behavior before the State Bar Court.***”**

The State Bar Court thus affirmed the hearing judge’s recommended order of disbarment.

The Aftermath

Missud may (and says he will) continue to fight his disbarment by appealing to the Supreme Court of California. In the meantime, he remains ineligible to practice law. Not that any of this will stop Missud from continuing to sue whoever or whatever gets in his way. On the contrary, in a recent interview with IP360, Missud was quoted as saying he intends to sue the California State Bar for defamation.

Responsibility (Pre-May 2013)

- USPTO Rules of Professional Conduct (Post-May 2013)
- USPTO and ABA Rules Comparison

Blogs of Interest

- Chicago IP Litigation Blog
- Copyright Litigation Blog
- Delaware IP Law Blog
- Foss Patents
- IP Litigation Blog
- IP Watchdog
- LegalEthics.com
- Legal Ethics Forum
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- Patent Baristas
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- The 271 Patent Blog
- The TTAB Blog
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Some people just never learn.

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📌 **California State Bar Court, disbarment, District Judge Alsup, District Judge Chen, frivolous litigation, IP ethics, Winston Churchill**

2 Responses to *After a Decade of Frivolous Litigation, IP Lawyer Finally Ousted From California Bar*

Willie Borst

October 21, 2014 at 1:57 pm [Reply](#)


How many judicial resources have been wasted on this ex-lawyer? His opponents in court clearly passed up numerous opportunities to remove him from the profession before his legacy grew to the extent it did.

Michael E. McCabe, Jr.

October 21, 2014 at 2:30 pm [Reply](#)

I agree. I have dealt with my share of this type of litigant. The problem is that the judiciary rarely steps up to deal with these types of situations, instead passing them off to the next poor soul. That simply emboldens the frivolous litigants to repeat their pattern of behavior.

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LIVE COVERAGE: Dewey trial enters 2nd day of opening arguments.
[Click here to follow.](#)

Calif. Disbars IP Lawyer Who Accused Courts Of Racketeering

By **Beth Winegarner**

Law360, San Francisco (October 10, 2014, 8:18 PM ET) -- A California intellectual property attorney was disbarred this month by the State Bar Court of California, which found that his pattern of frivolous litigation, abusive language toward judges and waste of judicial resources constituted moral turpitude.

Patrick Missud, who went on the warpath in 2004 against housing developer D.R. Horton Inc. and later the judiciary, was found to have committed moral turpitude through his “serious, habitual abuse of the judicial system,” the bar court said in a ruling Oct. 1.

Missud appealed to the bar court...
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patrick alexander missud



Criminal threats made by disbarred attorney against Civil Lawsuit Superior Court Judge

The court has dealt with dozens of hate mails and criminal threats by individuals, but none as criminally explosive as 47-year-old Patrick Alexander Missud. Missud was arrested for making criminal threats against federal and county employees, including Santa Clara County's own District Attorney Jeff Rosen on January 9, 2015. He was charged under PC 664-76(a)(1), attempted threatening of a ...[Full Article](#)

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-

Metropolitan News-Enterprise

Wednesday, April 1, 2015

Page 1

C.A. Rejects Disbarred Lawyer's Defamation Suit Against State Bar

By KENNETH OFGANG, Staff Writer

The First District Court of Appeal has affirmed the dismissal of a disbarred lawyer's defamation suit against the State Bar, based on the anti-SLAPP statute.

Div. Four Monday upheld a San Francisco Superior Court judge's ruling that Patrick A. Missud's complaint, in which he claimed to have been libeled by the publication of a State Bar Court opinion recommending his disbarment, arose from protected activity in connection with an official proceeding, and that he failed to show a likelihood that he would prevail.

The Review Department recommended in 2013 that Missud's right to practice be lifted, in part due to vexatious litigation in which he represented himself against various defendants involved in the sale of a Nevada home that he bought in 2004, two years after being admitted in California.

Missud filed multiple lawsuits in Nevada and California, and in March 2012, a federal district judge declared him a vexatious litigant and referred him to the State Bar for disciplinary action. Several opposing lawyers filed complaints with the State Bar as well.

Review Department Findings

In the allegedly defamatory opinion, the Review Department found that the litigation was baseless, that Missud repeatedly used the media and websites to make false statements and unsupportable accusations against defendants, communicated with defendants he knew were represented by counsel, and violated court orders, including a stipulated order of a Nevada court that required him to remove allegedly false statements from the Internet and to cease making attacks on defendants, their counsel, and the Nevada judiciary.

The Review Department also found that Missud had filed papers attacking State Bar Court judges and prosecutors, disrespectfully and without factual or legal basis, and that his ongoing misconduct harmed the administration of justice.

Missud's Superior Court complaint sought \$192 million in damages and equitable relief, including the dissolution of the State Bar.

Presiding Justice Ignacio Ruvolo, in an unpublished opinion for the Court of Appeal, said the trial judge ruled correctly in granting the anti-SLAPP motion.

'Public Proceeding'

Because the State Bar disciplinary action was a "public proceeding," and the published opinion a "public record," Ruvolo said, the first prong of the anti-SLAPP inquiry was satisfied and the burden shifted to the plaintiff to show a likelihood of prevailing. Missud failed to meet that burden, Ruvolo said.

The plaintiff's response to the motion, the presiding justice explained, was that the State Bar filed the anti-SLAPP motion in retaliation for his efforts to expose corruption in the organization.

"First, we find no evidence to support these inflammatory accusations," Ruvolo wrote. "Second, appellant can neither satisfy nor avoid his burden of proving a probability of prevailing on the merits of his claim by questioning respondent's motivation for defending itself in this action."

The appellate court also upheld the trial judge's award of \$10,700 in attorney fees and costs and rejected Missud's claim that he was entitled to fees under the private attorney general statute.

Ruvolo said Missud failed to show why fees and costs should not be awarded as per the statute, and that he wasn't entitled to an award under the private attorney general statute because the litigation was unsuccessful.

The case is *Missud v. State Bar of California*, A141459.

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PATRICK MISSUD of San Francisco, CA was last arrested on 1/9/2015

Arrest for PATRICK MISSUD



Arrest Name:	PATRICK MISSUD
Age:	AVAILABLE
Address:	AVAILABLE
City, State, Zip:	San Francisco, CA 94112-2615 (Verified)
Reported on:	1/13/2015
Source:	Santa Clara
Arrested for:	AVAILABLE

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Metropolitan News-Enterprise

Friday, March 20, 2015

Page 1

S.C. to Decide if Threats Charge May Be Based on Hand Gestures

By KENNETH OFGANG, Staff Writer

The California Supreme Court has agreed to decide whether nonverbal communication, such as threatening hand gestures, may form the basis of a criminal threats charge.

The justices, at their weekly conference in San Francisco Wednesday, voted unanimously to review the ruling of the Fourth District Court of Appeal, Div. Two, in *People v. Gonzalez* (2014) 232 Cal. App. 4th 151.

The Court of Appeal reinstated charges against Mario Alberto Gonzalez, who was arrested following a March 2013 incident in which he allegedly threatened several persons, including off-duty police officers, by flashing gang signs and employing a slashing gesture, at and in front of a Cathedral City restaurant.

Gonzalez was charged with five counts of violating Penal Code §422, the threats statute, and one count each of violating an injunction, challenging another to a fight, and engaging in criminal activity for the benefit of a street gang. According to the preliminary hearing testimony, the incident began when one of the officers, after getting up to use the restroom, noticed that a former high school classmate was sitting next to several tattooed men, including Gonzalez.

Gang Tattoo

One of the men had a "JT" tattoo, which the officer recognized as referring to the Jackson Terrace gang. As they left the restaurant, two of the men stared at the officers and their companions, and, when their car passed the front of the eatery, the defendant made a Jackson Terrace gang sign with his hand and pointed his finger in the air toward the ceiling, allegedly simulating a gun.

Two of the officers said they saw the gesture and feared for the safety of themselves, their friends and people at the restaurant. One of those officers said he spotted the defendant's vehicle again on the street in front of the restaurant, and that the defendant again flashed the gang symbol, and also simulated a gun with his hands and made a slashing motion across his neck.

A magistrate dismissed all of the charges except violating an injunction, to which the defendant pled guilty. Prosecutors appealed solely as to the criminal threats charges.

Writing for the Court of Appeal, and concluding that there was probable cause to try the defendant for making criminal threats, Justice Betty Richli explained that conduct need not be verbal in order to constitute a "statement" under §422, which provides, in part:

"Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement...is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished...."

Richli cited *People v. Franz* (2001) 88 Cal.App.4th 1426, which held that a threatening hand gesture, accompanied by a "shushing" noise, constituted a criminal threat. Even without an accompanying sound, she said, such gesture may be deemed a threat, depending on context.

Other Action

In other conference action, the justices:

- Left standing a ruling, in an unpublished opinion of this district's Div. Three, affirming the dismissal of a suit against the state by the family of a 17-year-old girl struck and killed by a car on a highway. The plaintiffs sought to hold the state responsible for the negligence of two California Highway Patrol officers who, despite the girl being in an intoxicated state, allowed her to wander by foot into the night, after she approached and asked for their help.

Then-Los Angeles Superior Court Judge Lee Edmon, who was sitting on assignment in Div. Three at the time and is now presiding justice of that division, wrote the opinion.

Edmon said that while the "facts of this case are undeniably tragic," the parents can have no redress against the state, either for violation of federal civil rights or for negligence, based on the officers' failure to save their daughter from harm.

The presiding justice said the officers, who called a cab for the teenager, which she refused to take, could not be held liable for what the plaintiffs said was "reckless disregard for the dangers to Sophia as she stumbled deeper into a high-crime area in the wrong direction."

The jurist said the "officers and the State could be liable only if they took some affirmative action to place Sophia in danger or to heighten her vulnerability to existing danger," and that the plaintiffs alleged no such action in their complaint.

The case is *Esmaili v. California*, B246247.

- Agreed to decide whether a clause in a real estate option agreement, providing for recovery of attorney fees by the prevailing party in a "legal action or any other

proceeding...brought for the enforcement of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Agreement," applied to a party that prevailed on its affirmative defense that the option agreement constituted a novation, extinguishing a prior agreement between the parties. The First District's Div. Two said that it did, in *Mountain Air Enterprises, LLC v. Sundowner Towers, LLC* (2014) 231 Cal. App. 4th 805.

- Ordered the disbarment of San Francisco attorney Patrick A. Missud for conduct that included repeated violations of a stipulated order in Nevada litigation that required him to remove facts about the case from his various websites and to cease making attacks on defendants, their counsel, and the Nevada judiciary. The State Bar Court Review Department also noted that Missud had engaged in years of vexatious litigation against the defendants and had filed papers attacking State Bar Court judges and prosecutors, disrespectfully and without factual or legal basis.

The case was decided by only two of the three Review Department judges, who noted that all other hearing and review judges had been disqualified.

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D. R. HORTON INC. AND ASSOCIATES

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State Officials

In Nevada, the Deputy Commissioner of Mortgage Lending was caught with her hand in the cookie jar. One month after she claimed not to have the authority to regulate D R Horton's predatory lender, she was shown the door. She is among two other Clark County Commissioners to have been investigated by the FBI and asked to resign. <http://www.drhortonfraud.com/>

Patrick Missud

In Texas, the Texas Residential Construction Committee is very well known to be a builder sponsored, supported and directed 'state' organization. Texas consumers pay for the privilege of filing complaints with the TRCC only to lose 79% of the time. Ironically, even if consumers 'win,' the TRCC has no enforcement capabilities to compel builders to repair, so they are again on their own to battle the special interests. <http://www.sunset.state.tx.us/81streports/trcc/responses/109.pdf>

California's State Bar was apprised of two clear cut instances of perjury by D R Horton's defense firms, but to no avail. The Bar instead shifted the burden of investigation to the courts which do not get involved in 'pissing matches.' Essentially, the attorney police condoned the perjury and just looked the other way. http://drhortonconfidential.com/_wsn/page2.html

Nevada's State Bar does not fare much better. D R Horton's defense counsel was found to be fibbing three times: once to the Deputy Commissioner who 'resigned,' when denying receipt of post office confirmed certified mail; and when submitting a form of order in Clark County case #A551662. http://drhortonconfidential.com/_wsn/page4.html

- D R Horton RICO including:
- Predatory Lending
- Mortgage Fraud
- Appraisal Fraud
- HOA Skimming
- Construction Defects
- Warranty Misrepresentation
- Labor Tax Evasion
- Transfer Tax Evasion
- Intentional Code Non-Compliance
- Using Licenses Without Authority
- Non Payment of Wages
- Non Payment of Commissions
- Non Payment to Sub Contractors
- Land Sale Misrepresentations
- Non Development of Community Amenities
- Non Disclosure of Toxic Contaminants
- Fraud
- Bait and Switch Lending Terms
- Bait and Switch Construction Materials
- Non Issuance Real Estate Title Closing Documents
- Assesment of Bogus Fees and Charges.....

SINCE 2009 →
3

Contact me for information about all of the above.

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Law Office of Qui-Tam Patrick Missud

L A W O F F I C E

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The Gate-Keeping California \$upreme Court

California's Supreme Court has but three jobs. First, it oversees all lower California Courts from Superior to Appellate Districts from which it receives Petitions for Writ of Certiorari or Review. Second, the seven high-court judge\$ manage their state underlings to make sure they're all acting legally within confines of California's law and Constitution. Third, it's commissioned to directly supervise California's Bar Association which is but "an arm of the California Supreme Court." That's simple and straight-forward.

38 Million Californians expect these seven "absolutely judicially immune" Justices to dutifully, legally, and honestly perform those three basic functions as required under California's law and Constitution and federal law and Constitution to maintain democracy and the rule of law throughout the Golden State. The 99.999997369%, who are but ordinary California \$itizens without any immunity let alone "absolute immunity," trust the .000002631%, who swore oaths to uphold Constitutional Rights, to do whats right and protect them: from law-breakers and entities seeking to do them harm; and in the third branch of government which is supposed to be a \$itizen's last recourse to petition government with redress.

I guess its too bad for the 99.999997369%, that California's\$ "ab\$olutely judicially immune" \$upreme Court work\$ only for their "ab\$olutely judicially immune" court colleague\$, \$pecial intere\$t\$, \$elf-intere\$t\$ed Bar Member\$, and underling\$ who target the public for financial predation \$imply because that\$ how their rigged \$y\$tem work\$, the wolves in sheeps' pelts all have one another'\$ back\$, and the hazard\$ of a feather close rank\$ when their multi-billion dollar BICO enterprise and network get exposed

Law Office of Qui-Tam Patrick Missud

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To prevent exposure of all their judicial corruption & racketeering, and higher crimes of subversion & overthrow of government of and by the people, the judge\$ colluded to have me arrested immediately after a hearing whereat I caught a first judge- William Elfving in brazen lie\$. They then set a criminal arraignment date to scuttle two other state actions including an oral argument before Appeals Division-IV's Ruvolo, Reardon, and Rivera. Those three already violated bright-line law by refusing to: do their one-and-only job- to review official court record\$; and augment the record with the November 21st 2014 transcript catching Elfving in yet more lie\$. What bull\$#!t. Find below my Inmate paperwork, and Records Unit Request Form which demands a Transcript that MUST BE PRODUCED by the County of Santa Clara. Failure to produce will prove that Santa Clara's Sheriff\$ Dept. colluded with judge Elfving to illegally arrest me because I'm a five-year federal mole who's exposing rampant judicial corruption like Elfving'\$\$.

The Records Demand was faxed to three Sheriff Divisions: Records, Administration, and Sheriff Laurie Smith; emailed to so.website@sheriff.sccgov.org; and message was left with Investigations: 408-299-8890. If the records aren't produced in-time for my January 13, 2015 arraignment, I will immediately ask for a dismissal.

Inmate #15001177

DEMAND and Proof of Service for Records in the \$heriff\$ Po\$\$e\$\$ion

I bailed-out of County at 3AM Saturday morning. By 7AM I started filling-out paperwork to get two transcripts: the 1st for the 40 minute hearing convening before Elfving and to be produced by court reporter Jeanie; and the 2nd for the 30 minute Interrogation to be produced by the Sheriff's Dept. The Sheriff denied my lawful request claiming that I wasn't a victim. However, the above paperwork clearly states that I'm a "victim" of "false imprisonment" and retaliation for having exposed judge Elfving in his own court where he again lied for the official record. Jeanie on the other hand produced the hearing transcript in record time.

FEDERAL WHISTLE-BLOWING

QUI-TAM RELATOR MISSUE

HOME

PRACTICE AREAS

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STATE BAR RACKETEERING

CIVIL DIVISION FRAUD

U.S. SUPREME COURT

The Member-run California Bar is actually a RICO Organization which assist its own Membership to financially prey on the public. While feigning to protect the public, it allows its own Members to file lucrative frivolous suits targeting parties with assets, and allow other Member to defend criminally-acting corporate and other special interests with lots to hide. The deep pockets pay their defense attorneys very well to conceal illegal businesses practices and crimes; however those corporate legal bills are just pennies on the dollar if the schemes were otherwise exposed. Crime does pay in the United States- because the courts are bought to hide it.....

Former Bar Members turned judges know exactly how these games are played. They condone frivolous suits which pad some members' pockets; and help corporate defense firms from where many hail by: quashing discovery; overlooking discovery abuses; dismissing evidence as 'irrelevant;' allow contemptuous flaunting of subpoenas; signing protective orders; ruling that cases, pleadings, and evidence be filed under seal and hidden from public view; and generally ignoring diamond-hard evidence of crimes.

The State Bar is currently being sued for having 18 USC 1513(e) Retaliated against

Law Office of Qui-Tâm Patrick Missud

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[G](#)

Cook-Bell County [or "Book" as in "Book 'em Danno"] is a combination of Cook County Chicago and Bell California FBI \$ting\$.

In Cook County's Operation Greylord, 17 judge\$, 48 lawyers, 8 policemen, 10 sheriff deputies, 8 court staff, and a politician were indicted for arranging, taking, or participating in a Traffic Court kick-back scheme to rig hearings and di\$mi\$\$ cases. By 1984, 92 people were nabbed for corruption, racketeering, and Honest Services Fraud.

In Bell California's 'Baseball Game,' 7 City Managers were convicted of illegally and un-Constitutionally 'taking' residents' vehicles under color-of-law and without due process to pad their own pocket\$ and fund bloated payrolls, among many other crimes. Robert Rizzo was recently sentenced to 12 years in federal/state prison for having: illegally ticketed, towed, and stored victims' vehicles; and then extorted registered owners by demanding on average \$1000 for their return: <http://www.huffingtonpost.com/tag/bell-corruption-scandal/>

[Cook County's Operation Greylord](#)
[Bell's Baseball Game](#)

San Francisco's RICO \$cheme\$ will nab far more than the 92 corrupt officials rounded-up in Cook, and is Bell California on \$teroid\$. In "Book," the City orchestrates at least 15 distinct racketeering \$cheme\$ to steal thousands of dollars per victim so that it can meet an \$840.5 Million "performance standard" in fiscal 2014. That's right- The City of San Francisco set a financial target, or has the expectation of earning just short of a Billion dollar\$ as if it were a for-profit, publicly-traded corporation. Municipalities aren't supposed to profit off the backs of residents, -they're supposed to provide City services for residents.

Law Office of Qui-Tam Patrick Missud

L A W O F F I C E

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THE STING

I filed three Cases in the \$an Francisco \$uperior Court to \$et-up it\$ Low-IQ judge\$. I was hoping to add further decades' imprisonment for judges Mahoney, Busch, Alvarado, Karnow, Woolard, Giorgi, Kahn, Goldsmith, and/or Presiding Judge Lee, but they transferred all Cases to the \$anta Clara \$uperior Court, which is an hour from San Francisco. Cases CGC-13-533811, 14-536981, and 14-537723 are now before \$anta Clara \$uperior Court Judge William Elfving. Thi\$ man has such a tiny IQ that its negative. Ideas and logic not only go over his vacuous head, but are sucked-up by a black-hole that rings it like a halo. Be it known that he'\$ no angel though.

Elfving was in charge of rigging hearing\$ on behalf of his corrupt court colleagues who've been involved in racketeering. If you recall from Operation Greylord, 17 judge\$ colluded to get cash-payoffs to rig hearings and cases in Cook County Chicago. They were all convicted of corruption, racketeering and whats now Honest Services Fraud. A second RICO ring of Pennsylvania judge\$ recently colluded with others in "Kid\$ for Ca\$h." Former PA judge\$ turned felon\$ Conahan and Ciavarella are now rotting in prison for over two decades each. Texas has quite its share of bribe-taking judge\$. Limas, McGinty, ... and Ochoa were convicted and are serving time as well. Even the federal court\$' \$upposedly "absolutely judicially immune judge\$" aren't immune from getting judicial pay-off\$. Louisiana's Thoma\$ Porteu\$ got impeached after caught taking bribe\$ to feed his gambling habit. I gue\$\$ that judge\$ aren't so judicially immune when they take Hobb\$ Act bribe\$.

The \$uperior Court\$' judicial racketeering is broad and all-encompassing, but the multi-million/billion-dollar RICO \$cheme best exposed is Federal Arbitration Act racketeering. The basics are as such- active judge\$ judicially-compel litigants into secretive arbitration. Nearly every consumer needs an service contract containing a mandatory arbitration clause which requires litigants to



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Available credit	\$0.00	Payment due date	05/27/2015

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Statement Ending Apr 02, 2015

	<u>Trans Date</u>	<u>Post Date</u>	<u>Type</u>	<u>Description</u>	<u>Amount</u>
<input type="checkbox"/>	04/02/2015	04/02/2015	Fee	PURCHASE INTEREST CHARGE	\$12.22
<input type="checkbox"/>	04/02/2015	04/02/2015	Payment	Payment Thank You Bill Pa	-\$300.00
<input type="checkbox"/>	03/30/2015	03/31/2015	Sale	ALEMANY 76	\$7.75
<input type="checkbox"/>	03/27/2015	03/27/2015	Fee	LATE FEE	\$25.00
<input type="checkbox"/>	03/25/2015	03/26/2015	Sale	CHEVRON 00092709	\$10.72
<input type="checkbox"/>	03/23/2015	03/25/2015	Sale	SILVER GAS & DIESEL	\$11.15
<input type="checkbox"/>	03/23/2015	03/25/2015	Sale	SANTA CLARA OTC FEE	\$5.95
<input type="checkbox"/>	03/23/2015	03/25/2015	Sale	SC SUPCRT C	\$235.00
<input type="checkbox"/>	03/19/2015	03/20/2015	Sale	RANK QUICKSERVE INC	\$12.64
<input type="checkbox"/>	03/14/2015	03/15/2015	Sale	CHEVRON 00092709	\$8.82
<input type="checkbox"/>	03/14/2015	03/16/2015	Sale	USPS 05681200334706077	\$34.60
<input type="checkbox"/>	03/13/2015	03/15/2015	Sale	SF SUPCRT	\$60.00
<input type="checkbox"/>	03/11/2015	03/13/2015	Sale	ADOBE SYSTEMS, INC.	\$9.99
<input type="checkbox"/>	03/10/2015	03/11/2015	Sale	ALEMANY 76	\$14.53
<input type="checkbox"/>	03/10/2015	03/11/2015	Sale	GROCERY OUTLET OF V	\$14.46
<input type="checkbox"/>	03/06/2015	03/09/2015	Sale	SANTA CLARA OTC FEE	\$5.95
<input type="checkbox"/>	03/06/2015	03/09/2015	Sale	SC SUPCRT C	\$200.00
<input type="checkbox"/>	03/06/2015	03/08/2015	Sale	7-ELEVEN 19235	\$12.90

1 are unclear, however, given the bizzare nature of the Complaint. For example, the
2 Complaint's prayer for relief asks that all NRA members be forced to volunteer as
3 "auxiliary police" or "become[] a mercenary in Latin America" in order to "experience
4 what urban combat might be like" and asks Defendant LaPierre "risk hi\$ own
5 phucking life like I did," among other incoherent and vaguely threatening requests.
6 *Id.* at 15:24-16:7.

7 18. Although Plaintiff has not indicated a monetary value for the relief at
8 issue, however, he apparently does not dispute that it exceeds \$75,000.00 given that
9 the Compliant acknowledges that Defendants can remove the case based on diversity
10 jurisdiction. Complaint at 2:25.

11 **The Other Requirements for Removal Are Met**

12 19. This Notice of Removal is being filed within thirty (30) days of receipt by
13 Defendants, "through service or otherwise," of a copy of the initial pleading setting
14 forth the claim for relief upon which such action or proceeding is based and therefore
15 is timely filed under 28 U.S.C. § 1446(b)(1). Defendant LaPierre received a copy of
16 the complaint by certified mail on February 18, 2014. Defendant NRA received a
17 copy of the complaint through its registered agent for service of process, Corporation
18 Service Company, on February 18, 2014. Service on Defendants was completed on
19 March 4, 2014 when Defendants signed and returned the Notice of Acknowledgement
20 of Receipt forms, copies of which are attached hereto as Exhibit "F".

21 20. Removal to this district and division is proper because the San Francisco
22 Superior Court, State of California, where the State Action was originally filed is
23 located within the Northern District of California, San Francisco Division. 28 U.S.C.
24 §1446(a).

25 21. Defendants' legal counsel certifies that a copy of this Notice of Removal
26 is being filed with the Clerk of the San Francisco Superior Court. 28 U.S.C. §1446(d)

	<u>Trans Date</u>	<u>Post Date</u>	<u>Type</u>	<u>Description</u>	<u>Amount</u>
<input type="checkbox"/>	03/05/2015	03/06/2015	Sale	THRIFT TOWN #3	\$10.86
<input type="checkbox"/>	03/04/2015	03/05/2015	Sale	GROCERY OUTLET OF V	\$47.21
<input type="checkbox"/>	03/04/2015	03/06/2015	Sale	7-ELEVEN 19235	\$12.93
<input type="checkbox"/>	03/02/2015	03/03/2015	Sale	USPS 05685900134605824	\$12.98
<input type="checkbox"/>	03/02/2015	03/03/2015	Sale	ALEMANY 76	\$6.69
<input type="checkbox"/>	03/01/2015	03/03/2015	Sale	ALEMANY 76	\$7.28
<input type="checkbox"/>	03/01/2015	03/03/2015	Sale	BIG LOTS STORES - #4340	\$21.60

22. Defendants' legal counsel certifies that a copy of this Notice of Removal is being served on Missud. 28 U.S.C. §1446(d).

23. All named Defendants join in this Notice of Removal.

24. Copies of all process, pleadings, and orders served upon Defendants are attached to this Notice of Removal. A pleading filed in the State Court by Missud on March 14, 2014 entitled "Request for Judicial Notice and Declaration Regarding Notice of Appearance by These Defendants" is attached hereto as Exhibit G.

PRAYER

WHEREFORE, pursuant to 28 U.S.C. §§1331, 1332, and 1441, and in conformance with the requirements set forth in 28 U.S. §1446, Defendants Wayne LaPierre and the National Rifle Association hereby remove the case styled in *Patrick A. Missud and Those Similarly Situated v. Wayne LaPierre et al.*, CGC-13-536370, filed in the Superior Court of the State of California for the County of San Francisco, to the United States District Court for the Northern District of California, San Francisco Division, so that this Court may assume jurisdiction over the cause as provided by law.

Dated: March 14, 2014

LATHROP & GAGE LLP

By: /s/ Lincoln D. Bandlow

Lincoln D. Bandlow
Attorneys for Defendants
NATIONAL RIFLE ASSOCIATION and
WAYNE LAPIERRE

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

BEFORE THE HONORABLE CHARLOTTE WALTER WOOLARD, JUDGE PRESIDING

DEPARTMENT NUMBER 302

---oOo---

TATIANA SANOCHKINA, et al.,

Plaintiff,

vs.

MATHEW HUI, et al.,

Defendants.

Case No. CGC-07-464022

NOT
REALLY

Reporter's Transcript of Proceedings

Tuesday, October 26, 2010

APPEARANCES OF COUNSEL:

For Plaintiff:

PATRICK MISSUD, Esquire

For Defendant Finkelson:

JOHN NASH, Esquire

For Defendant Yuen:

R. DEWEY WHEELER, Esquire

GOVERNMENT CODE SECTION 69954(D): "ANY COURT, PARTY, OR PERSON WHO HAS PURCHASED A TRANSCRIPT MAY, WITHOUT PAYING A FURTHER FEE TO THE REPORTER, REPRODUCE A COPY OR PORTION THEREOF AS AN EXHIBIT PURSUANT TO COURT ORDER OR RULE, OR FOR INTERNAL USE, BUT SHALL NOT OTHERWISE PROVIDE OR SELL A COPY OR COPIES TO ANY OTHER PARTY OR PERSON."

Reported by: Kent S. Gubbine, CSR #5797

1 Tuesday, October 26, 2010

10:01 o'clock a.m.

2 ---ooXoo---

3 **THE COURT:** Line number 1 is Sanochkina versus Hui.

4 **MR. WHEELER:** Good morning, Your Honor. Dewey Wheeler for
5 petitioner and defendant Richard Yuen.

6 **MR. NASH:** Good morning, Your Honor. John Nash appearing
7 for Gregory Finkelson, one of the plaintiffs.

8 **MR. MISSUD:** Good morning, Judge. Patrick Missud appearing
9 on behalf of Sanochkina. *WHEELER*

10 **THE COURT:** Good morning. Now, this is a petition to
11 confirm arbitration award, and the Court's ruling is that the
12 petition is granted. Insufficient evidence is presented to
13 demonstrate grounds for vacation of the award, Code of Civil
14 Procedure Section 1286.2, or correction of the award, Code of
15 Civil Procedure Section 1286.6. The arbitrator's disclosure was
16 sufficient. The Court adopts defendant's proposed order
17 confirming the arbitration award, except that the judgment must
18 be a document that is separate from the order confirming the
19 award.

20 **MR. WHEELER:** I did bring a separate document.

21 **THE COURT:** Okay. So let me hear from you first.

22 **MR. NASH:** Your Honor, I represent Gregory Finkelson, and it
23 does appear that this decision of Your Honor I hate to say will
24 almost have to be revised somewhat. Hopefully revised a lot, but
25 at least somewhat.

26 Mr. Finkelson, my client, never did sign the arbitration --
27 rather never did sign the contract of sale which contained the
28 arbitration agreement at all. Never, never, never. He was

SIMPLE LAW

1 is to get you to substitute your decision for the judgment in the
2 arbitration. We are not. We are asking you to vacate based on
3 paragraph 1 of 1286.4, fraud, if the award is procured for fraud,
4 Mr. Posard's fraud, the judgment can be vacated. I have not
5 guessed, hypothesized. I have presented numbers. The same
6 number in China, the same numbers in the Philippines, the same
7 numbers in France, the same numbers here. Thirty-two inches is
8 not 36 inches. Sixty amps is not 200 amps. A jack stud is there
9 or it's lacking. Eight thousand dollars to repair is not zero
10 dollars to repair. A \$4000 electrical panel is a \$1486
11 electrical panel.

12 Also, to borrow from another case, you had earlier informed
13 the plaintiff at line 13 that you cannot give advice. You are a
14 neutral. You cannot give advice to either the plaintiffs or the
15 defendants. Mr. Carbone, the neutral in our arbitration, made
16 suggestions to the defense regarding how they should couch the
17 damages. Diminution in value versus cost to repair. Mr. Wheeler
18 had admitted that Ms. Sanochkina had incurred costs to repair.
19 He just admitted them 25 minutes ago.

20 When Mr. Nash presented Mr. Finkelson's claims that he
21 should have been reimbursed \$9600 for the rent, Mr. Wheeler then
22 piped up and said, no, that's Sanochkina's claim. That was the
23 cost incurred. She also incurred \$80,000 in remedial repair
24 costs. That was submitted into evidence. She had already spent
25 \$90,000, costs to repair far in excess of the diminution and
26 value theory.

27 Our neutral arbitrator steered the defense into a legal
28 theory that would support the final decision. He cannot give

SAMPLE #1

SAMPLE #

1 that advice. Just like at line 13, you can't favor one of the
2 sides. I will also find the cite specifically in the transcript.

3 In Mr. Wheeler's closing, page 2164, line 16, let's just
4 start with that paragraph: "With respect to the future moving
5 expense, the future rent that Mr. Nash just eloquently set forth,
6 Section 3343 is very specific. And it says those consequential
7 damages have to be actually expended. Those damages have not
8 been actually expended. 3343 sub 1 provides that a party
9 defrauded in the purchase of property may recover damages in the
10 amount actually and reasonably expended in reliance on the fraud.
11 That would seem to provide legal support for Mr. Finkelson's
12 cover rent that Ms. Sanochkina is the actually the real party in
13 interest on. But as far as the numbers, what I heard testified
14 to was three months at 1400 for a total of \$1400 for house
15 expense and garage rent of 100 for three months for 300.

16 **THE COURT:** Counsel, I am going to have to cut you off.
17 This is well cited in your brief. I have read the transcript. I
18 don't see that the arbitrator did anything improper. I don't see
19 that he was coaching anyone. It is very similar to what I do
20 when I am hearing closing argument in a court trial. There will
21 be times when I will interrupt counsel and discuss issues with
22 them to clarify things. That is really what was going on here.

23 So is the matter submitted?

24 **MR. MISSUD:** Yes, Your Honor.

25 **THE COURT:** Submitted? Mr. Nash?

26 **MR. NASH:** Your Honor, with regard, may I mention a page
27 number of the final award of page 14, of the final award, the
28 arbitrator says, quote, "The arbitration agreement is only

1 between the buyer and the seller, and Finkelson's claims in his
 2 own right are not a proper subject of this arbitration."

3 I just wanted to mention that. Thank you for allowing me to
 4 mention it, page 14.

5 **THE COURT:** Thank you.

6 **MR. NASH:** At the top of the page, it's Finkelson's claims
 7 for damages. Do you see that, Your Honor?

8 **THE COURT:** Yes, I do.

9 **MR. NASH:** Okay. Thank you very much, Your Honor.

10 **MR. MISSUD:** Also I do have one more thing, please.

11 **THE COURT:** I think that we need to conclude this. I have
 12 my next calendar coming up, and I have been I think very generous
 13 in allowing you to make your record.

14 **MR. MISSUD:** Thank you. If in the proposed order I could
 15 request to review it and I want to make sure that it touches all
 16 the bases. There were five claims and the tentative only
 17 referred to Mr. Carbone's disclosures.

18 We have also proffered that the award was procured by fraud
 19 through expert witness testimony, that there was coaching of the
 20 defense -- that there was an incomplete ruling in that
 21 Mr. Finkelson's claim were not addressed. And that the statute
 22 was not followed in, which the full costs of the arbitration were
 23 allocated to the plaintiff.

24 And if the proposed order can address all of those points,
 25 it will be useful in the ongoing parallel investigations. Thank
 26 you.

27 **MR. WHEELER:** I don't think an order of this Court has any
 28 relevance to any other -- I don't know what he is talking about,

OFFICIAL ADMISSION

(S) REASON TO VACATE

1 probably state bar or CSLB investigations. My understanding from
2 the tentative was that the Court adopted the order that was
3 already submitted basically saying, please give us something
4 separate in the form of a judgment. I have done that. I have
5 prepared a separate order that reflects the exact same language
6 that we put in our petition and I have got a judgment which is a
7 separate document as requested. And I would like to show those
8 to the Court. I have copies for counsel so I can leave here
9 today with a judgment.

10 May I approach?

11 **THE COURT:** You may.

12 **MR. WHEELER:** I have an original and a copy of both.

13 **THE COURT:** Okay. The Court will sign the proposed order
14 and the judgment. And I agree with counsel, I don't think that
15 the Court's indication one way or the other with greater
16 specificity is required or would be helpful.

17 **MR. NASH:** Is that the end of these proceedings then?

18 **THE COURT:** That's the end of these proceedings, yes. But
19 thank you very much, Counsel.

20 **MR. NASH:** Thank you.

21 **MR. WHEELER:** Thank you, Your Honor.

22 **MR. MISSUD:** Thank you, Judge.

23 (Whereupon, the proceedings were concluded at 10:53 o'clock
24 a.m.)

25 ---ooXoo---

26
27
28

GOD FORBID THAT THE RULING BE SPECIFIC & TRANSPARENT.

taking the lack of compliance with building codes and failures to obtain final inspections into account, was at least as much as the purchase price.

6. Finkelson's Claims for Damages.

Finkelson also testified with regard to damages for loss of use, rent for other space while work was being done, and necessary moving expenses. The evidence was that these alleged damages were either sustained or will be sustained by him. Because Finkelson was not the Buyer any Claims that he makes on his own behalf are not a proper subject of this arbitration. The arbitration agreement is only between the Buyer and the Seller, and Finkelson's Claims in his own right are not a proper subject of this arbitration.

7. Attorneys' Fees and Costs.

(NO JURISDICTION)

At the conclusion of the hearing the parties stipulated on the record that the Arbitrator would retain jurisdiction to adjudicate the issue of attorneys' fees and costs that would be recoverable by the prevailing party. For the reasons stated above, Yuen is the prevailing party.

The purchase and sale agreement provides in paragraph 22 thereof that "In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing Buyer or Seller shall be entitled to reasonable attorneys' fees and costs from the non-prevailing Buyer or Seller, except as provided in paragraph 17A."

Paragraph 17A requires that the Buyer and Seller agree to mediate any disputes or claims arising out of the agreement, or any resulting transaction, before first resorting to arbitration or court action. It further provides that if any party commences an action without first attempting to resolve the matter through mediation, "...or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action."

After considering the evidence on this issue during the initial hearing, the Arbitrator indicated in a preliminary ruling on the Eighth Cause of Action that Yuen did refuse to mediate the dispute which is the subject of this arbitration after having been requested by Sanochkina to do so. Accordingly, Yuen is not entitled to recover for

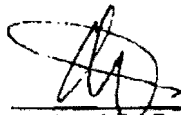
attorneys' fees. However, Yuen as the prevailing party may submit a claim for his costs (other than attorneys' fees) incurred for this arbitration and a determination thereon will be made in a Supplemental Award.

Yuen may submit a claim for such costs in writing not later than May 10, 2010. Any opposition thereto shall be submitted in writing not later than May 20, 2010, at which time the matter will be taken under submission for a period of not more than thirty days.

Summary of Award

1. Sanochkina shall take nothing from Yuen on any of her Claims pursuant to the Third, Fifth, Sixth, and Ninth Causes of Action.
2. Finkelson's Claims are dismissed for lack of jurisdiction.
3. Yuen shall recover his costs of this arbitration, not including attorneys' fees, pursuant to a Supplemental Award.

Dated: April 30, 2010



Michael P. Carbone
Arbitrator

(NO JURISDICTION)

Defendants.

The Petition of Richard Yuen for an order confirming an arbitration award came on regularly this date for hearing by the Court. Petitioner Richard Yuen appeared by his counsel R. Dewey Wheeler and respondent Tatiana Sanochkina appeared by her counsel Patrick Missud and respondent Gregory Finkelson appeared by his counsel John Nash.

Proof having been made to the satisfaction of the Court that the Petition should be granted,

IT IS ORDERED that the Award of Michael Carbone, Esq. dated April 30, 2010 and the Supplemental Award dated June 11, 2010 are confirmed in all respects and that judgment be entered in conformity therewith, including interest on the amount of the award of costs at the legal rate from April 30, 2010, the date the final award was rendered and the costs of this proceeding in the sum of \$40.00.

Dated: 10-26, 2010

Charlotte W. Woolard
JUDGE OF THE SUPERIOR COURT
CHARLOTTE WALTER WOOLARD

WHAT ABOUT:

① FRAUD

② COACHING

③ INCOMPLETE RULING

④ STATUTE NOT FOLLOWED

?

MENAMARA, NEY, BEATTY, SLATTERY, BORGES & BROTHERS LLP
ATTORNEYS AT LAW
P.O. BOX 5288, WALNUT CREEK, CA 94596
TELEPHONE: (925) 939-5310

Defendants.

The final arbitration Award dated April 30, 2010 and Supplemental Award dated June 11, 2010, of Michael Carbone, Esq. having been confirmed by order of this Court on October 26, 2010,

IT IS ADJUDGED that petitioner Richard Yuen recover from respondents Tatiana Sanochkina and Gregory Finkelson, jointly and severally, the sum of \$56,080.90 together with interest thereon at the legal rate of 10%, and costs of this proceeding in the amount of \$40.00.

Dated: 10-26, 2010

Charlotte W. Woolard
JUDGE OF THE SUPERIOR COURT
CHARLOTTE WALTER WOOLARD

WHAT ABOUT:

page 14: NO JURISDICTION

OVER FINKELSON?

COPY

Filed 10/25/12

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

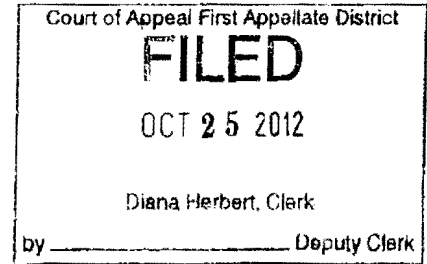
TATIANA SANOCKINA et al.,
Plaintiffs and Appellants,

v.

RICHARD YUEN,
Defendant and Respondent.

A130482

(San Francisco County
Super. Ct. No. CGC-07-464022)



I. INTRODUCTION

This is an appeal from a judgment confirming an arbitration award. Appellants seek to vacate the judgment on the ground that the arbitration award was procured by fraud. Respondent contends that appellants waived their right to appeal the judgment and that, in any event, the arbitration award was proper. We hold that appellants did not waive their right to appeal the judgment. However, appellants have failed to substantiate their claim that the arbitration award was procured by fraud and they have not identified any other proper basis for vacating the award. Therefore, we will affirm the judgment.

II. STATEMENT OF FACTS

A. Background

In 1991, respondent Richard Yuen and his wife Mabel Teng purchased a home on 16th Avenue in San Francisco. During the decade that followed, Yuen and Teng remodeled their home three times; the last remodel was completed in the summer of 2001. In 2005, Yuen and Teng separated and put their house on the market for sale.

In May 2005, appellant Gregory Finkelson made an offer to purchase Yuen and Teng's home. Finkelson made this offer as the "Attorney in Fact" for appellant Tatiana Sanochkina, a Russian businesswoman. Yuen and Teng accepted Finkelson's offer. The parties executed a California Residential Purchase Agreement (the Purchase Agreement). Finkelson initialed key provisions and signed the Purchase Agreement as the attorney in fact for Sanochkina.

Paragraph 17 of the Purchase Agreement is titled "Dispute Resolution" and contains three parts. Paragraph 17A contains an agreement that the parties will mediate any dispute or claim arising out of their agreement or the resulting transaction before resorting to arbitration or a court action and also provides that any party who "refuses to mediate after a request has been made . . . shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action."¹

Paragraph 17B of the Purchase Agreement is titled "Arbitration of Disputes" and provides, in part: "(1) Buyer and Seller agree that any dispute or claim in Law or equity arising between them out of this Agreement or any resulting transaction, which is not settled through mediation, shall be decided by neutral, binding arbitration The arbitrator shall be a retired judge or justice, or an attorney with at least 5 years of residential real estate Law experience, unless the parties mutually agree to a different arbitrator, who shall render an award in accordance with substantive California Law. The parties shall have the right to discovery in accordance with California Code of Civil Procedure § 1283.05. In all other respects, the arbitration shall be conducted in accordance with Title 9 of Part III of the California Code of Civil Procedure. Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction. Interpretation of this agreement to arbitrate shall be governed by the Federal Arbitration Act."

¹ Paragraph 22 of the Purchase Agreement is titled "Attorney Fees," and states: "In any action, proceeding, or arbitration between Buyer and Seller arising out of this Agreement, the prevailing buyer or seller shall be entitled to reasonable attorney fees and costs from the non-prevailing Buyer or Seller, except as provided in Paragraph 17A."

The third part of paragraph 17 of the Purchase Agreement consists of a “NOTICE” provision which states (in capital letters): “By initialing in the space below you are agreeing to have any dispute arising out of the matters included in the ‘Arbitration of Disputes’ provision decided by neutral arbitration as provided by California law and you are giving up any rights you might possess to have the dispute litigated in a court or jury trial. By initialing in the space below you are giving up your judicial rights to discovery and appeal, unless those rights are specifically included in the ‘Arbitration of Disputes’ provision. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of the California Code of Civil Procedure. Your agreement to this arbitration provision is voluntary.”

In early July 2005, Finkelson took possession of the home as Sanochkina’s tenant. Finkelson then made arrangements for renovations to construct an office and make repairs to address problems that had been disclosed prior to the sale. Thereafter, Finkelson allegedly discovered defects in the property and violations of the Building Code that were previously unknown to him which he believed the prior owners had concealed. Finkelson also claimed that he became ill from mold that was discovered in the walls.

B. *The Complaint*

On June 6, 2007, Sanochkina “By and through” her attorney in fact, Finkelson, and Finkelson “Individually,” filed a complaint for “Real Estate Misrepresentation and Personal Injury.” The named defendants included Yuen, Teng, the Yuen-Teng Trust, realtors involved in the sale and individuals and companies allegedly involved in the 2001 remodel of the home. Plaintiffs alleged, or attempted to allege, seven distinct causes of action, each one of which was made by one plaintiff against one or more of the defendants. Although Yuen and other defendants were served with this complaint, appellants never served Teng.

Yuen was named in three causes of action: (1) Sanochkina’s claim for intentional misrepresentation and breach of warranty; (2) Sanochkina’s claim for conspiracy; and (3) Finkelson’s claim for conspiracy. All three of these causes of action were supported by

factual allegations that Yuen and Teng knew of and intentionally failed to disclose defects and Building Code violations that resulted from the 2001 remodel.

C. *The Arbitration*

In August 2007, Yuen filed a motion for an order compelling arbitration of all of appellants' claims against him, relying on paragraph 17B of the Purchase Agreement. Appellants opposed the motion, arguing that Yuen had waived the right to arbitrate by failing to respond to a demand for mediation and/or arbitration that they made before they filed their complaint.

On October 11, 2007, the superior court filed an order granting Yuen's motion for an order compelling arbitration. The court found that (1) Yuen had not waived his right to arbitration, (2) Finkelson, "as an agent for" Sanochkina, was bound by the arbitration provision in the Purchase Agreement and "therefore must arbitrate his individual claims against [Yuen]," and (3) the pending action would be stayed without prejudice.

In April 2009, the parties stipulated to the appointment of attorney Michael Carbone as the arbitrator in this case. During the year that followed, the arbitrator issued at least seven case management orders, the last of which established that liability issues would be bifurcated and resolved at a hearing in March 2010, and that issues relating to damages would be reserved for a further hearing.

In March 2010, the plaintiffs amended their complaint to allege additional causes of action against Yuen for declaratory relief and negligent misrepresentation.² Pursuant to the declaratory relief claim, both plaintiffs sought a determination of their rights and duties under the attorney fees provision of the Purchase Agreement. Specifically, they requested that the arbitrator make two declarations prior to the arbitration hearing: (1) that "defendants" are not entitled to attorney fees if they prevail in this action and (2) "that the plaintiffs would be entitled to attorney's fees and costs if they prevail in this litigation."

² Yuen contends that he objected to this amendment which was filed on the eve of the arbitration hearing. However, this assertion is not supported by the record references that Yuen provides.

The new negligent misrepresentation claim was alleged by Sanochkina; Finkelson was not a plaintiff as to that cause of action. Sanochkina alleged that Yuen made misrepresentations to Finkelson about the actual square footage of the home and other conditions pertaining to the property which were the proximate cause of damages that she sustained.

D. *The Arbitration Award(s)*

1. *The Partial Final Award*

A hearing on liability issues was conducted over several days in March 2010. During the hearing, the parties requested that the arbitrator make a ruling on the declaratory relief cause of action prior to the conclusion of the arbitration. Accordingly, the arbitrator found that Yuen would not be eligible for attorney fees were he to prevail in the arbitration because he had previously refused appellants' request to submit to mediation and, under paragraphs 17 and 22 of the Purchase Agreement, that refusal precluded Yuen from recovering attorney fees.

At the conclusion of the liability hearing, the arbitrator granted a motion by Yuen to dismiss the two conspiracy claims against him. Subsequently, on April 6, 2010, the arbitrator issued a "Partial Final Award" which contained his rulings on the remaining liability issues pertaining to Sanochkina's claims for intentional fraud and negligent misrepresentation.

The arbitrator divided the alleged misrepresentations into three categories: (1) inaccuracy regarding square footage of the home; (2) latent defects resulting from the 2001 remodel; and (3) mold exposure. He then concluded that there was insufficient evidence of either intentional or negligent misrepresentation by Yuen with respect to the square footage of the home or the potential existence of mold. The arbitrator also found there was insufficient evidence of any intentional misrepresentation pertaining to latent defects. However, the arbitrator found that Yuen (and Teng) did make negligent misrepresentations regarding latent defects in the home.

Specifically, the arbitrator found that both Yuen and Teng stated in writing that (1) they were not aware of any alterations to the property that had been made without

necessary permits or that were not in compliance with the building codes; (2) they had made alterations to the home which were supported by necessary permits; and (3) an inspector had approved the alterations in writing after they were completed. These representations were false because the evidence established that permits for the 2001 remodel were never signed by the building inspector, there were numerous code violations in the 2001 remodel, and neither Yuen nor Teng had any reasonable ground for believing that their representations about code and permit compliance were true.

2. *The Final Award*

The hearing on damages was conducted over several days in April 2010. At the conclusion of the hearing, on April 16, the parties stipulated on the record that the arbitrator would “retain jurisdiction to rule on attorneys’ fees and costs after the final award on the merits” On April 30, 2010, the arbitrator issued a “Final Award” which (1) incorporated the findings and statement of reasons set forth in the Partial Final Award, (2) resolved the damages claims, and (3) identified the prevailing party in this case.

To calculate Sanochkina’s damages for negligent misrepresentation, the arbitrator applied the “out of pocket” rule codified in Civil Code section 3343. After summarizing the conflicting evidence regarding the value of the home, the arbitrator ultimately concluded that Sanochkina was not damaged by Yuen’s negligent misrepresentations. Specifically, the arbitrator found as follows: “After consideration of all of the foregoing evidence, it is the Arbitrator’s opinion that at the time of the purchase and sale transaction in 2005, Sanochkina did not sustain out-of-pocket damages. The value of the subject property at that time, after taking the lack of compliance with building codes and failures to obtain final inspections into account, was at least as much as the purchase price.”

In the Final Award, the arbitrator rejected a claim by Finkelson that he was entitled to damages to compensate him for his loss of use of the property during renovations and for rent he paid or would have to pay for alternative accommodations while the home was unavailable to him. The arbitrator dismissed these specific claims

for “lack of jurisdiction,” reasoning that they were not the proper subject of arbitration because the arbitration agreement was only between the buyer and seller.

Finally, the arbitrator found that Yuen was the prevailing party in this action. Although the arbitrator confirmed its prior ruling that Yuen was not entitled to contractual attorney fees, he found that Yuen was entitled to recover his costs as the prevailing party in this arbitration.

3. *Supplemental Award*

On June 11, 2010, the arbitrator issued a Supplemental Award pursuant to the parties’ prior stipulation at the arbitration hearing that the arbitrator would retain jurisdiction to adjudicate issues of attorney fees and costs. The arbitrator affirmed its prior rulings that Yuen is the prevailing party, and that Yuen is not entitled to attorney fees but that he may recover his costs. The arbitrator then denied an application by the plaintiffs to tax costs and awarded Yuen a total of \$56,080.90 for his costs incurred in this action.

E. *The Superior Court Order and Judgment*

On June 15, 2010, Yuen filed a petition in the superior court to confirm the arbitration award. On October 26, 2010, a hearing on the petition was conducted before the Honorable Charlotte Woolard. At the conclusion of the hearing, the court filed an order confirming both the Final Award dated April 30, 2010, and the Supplemental Award dated June 11, 2010.

That same day, the court filed a judgment confirming the arbitration award and adjudging that “petitioner Richard Yuen recover from respondents Tatiana Sanochkina and Gregory Finkelson jointly and severally, the sum of \$56,080.90 together with interest thereon at the legal rate of 10%, and costs of this proceeding in the amount of \$40.00.”

III. DISCUSSION

A. *The Motion to Dismiss*

1. *Background and Issue Presented*

The notice of appeal was filed on December 6, 2010. Eight days later, Yuen filed a motion to dismiss this appeal which was supported by evidence attached to the declaration of one of his attorneys, Tanner D. Brink (the Brink declaration).

Exhibit 1 to the Brink declaration is a copy of the Purchase Agreement which is the subject of this action. Brink directs our attention to the following language in paragraph 17: “by initialing in the space below you are giving up your judicial rights to discovery and appeal”

Exhibit 2 to the Brink declaration consists of a single page titled “Arbitration Provision,” which appears to be part of a larger document. According to the Brink declaration, Exhibit 2 is a “true and correct copy of the ‘Arbitration Provision’, submitted with the Appellants’ Complaint, signed by Appellant Gregory Finkelson on February 9, 2007.” Brink also states that the last sentence of the first paragraph of Exhibit 2 “contains the waiver of appeal provisions responsive to the subject Motion to Dismiss Appeal.” That sentence states: “The arbitration shall be held before a single arbitrator and shall be binding with no right of appeal.”

Respondent argues that this appeal must be dismissed because the waivers in Exhibits 1 and 2, when read as a whole, constitute a valid waiver of the right to appeal this judgment. Appellants oppose the motion to dismiss and request sanctions. They argue, among other things, that respondent failed to comply with rule 8.57 of the California Rules of Court which sets forth the requirements for filing a motion to dismiss before the record is filed in the reviewing court. In an order filed January 7, 2011, this court took this matter under submission and advised the parties that the motion would be decided with the merits of the appeal.

Respondent’s reliance on Exhibit 2 to the Brink declaration is misleading and inappropriate. Contrary to Brink’s representation to this court, Exhibit 2 is not “responsive” to this motion to dismiss because Yuen was not a party to that agreement.

Rather, that “Arbitration Provision” was part of an agreement between Finkelson and Sanochkina pursuant to which Sanochkina gave Finkelson her power of attorney. We are very troubled and concerned by respondent’s counsel’s failure to disclose this fact in a motion to dismiss that was filed *before* the record on appeal was filed in this court. As best we can determine, Exhibit 2 is irrelevant to this motion and we offer no opinion as to its meaning or import. Here, we focus exclusively on paragraph 17 of the Purchase Agreement.

2. *Analysis*

In California, a party has a statutory right to appeal from a judgment on an arbitration award. (Code Civ. Proc., § 1294, subd. (d) [“An aggrieved party may appeal from . . . A judgment entered pursuant to this title.”].) Case law establishes that a party can waive this right. (*Guseinov v. Burns* (2006) 145 Cal.App.4th 944, 952 (*Guseinov*), and authority collected therein.)

“The Courts of Appeal have held, however, that any waiver of the right to appeal must be clear and express” (*Guseinov, supra*, 145 Cal.App.4th at p. 952; see also *Reisman v. Shahverdian* (1984) 153 Cal.App.3d 1074 (*Reisman*).) For example, in *Pratt v. Gursev, Schneider & Co* (2000) 80 Cal.App.4th 1105 (*Pratt*) the parties entered into an arbitration agreement which stated that “ ‘[t]he right to appeal from the arbitrator’s award or any judgment thereby entered or any order made is expressly waived.’ ” (*Id.* at p. 1110.) The *Pratt* court held that “[t]he broad language utilized by the parties constitutes a waiver of the right to appeal from ‘any judgment’ or ‘any order.’ . . . [T]he right to appeal ‘any judgment’ or ‘any order’ has been expressly waived.” (*Ibid.*)

Furthermore, the waiver of the right to appeal an arbitration award is not tantamount to a waiver of the right to appeal a judicial action on an arbitration award. (*Reisman, supra*, 153 Cal.App.3d 1074; *Guseinov, supra*, 145 Cal.App.4th at p. 952.) For example, in *Reisman, supra*, 153 Cal.App.3d 1074, the parties agreed “ ‘to enter into binding arbitration’ ” and that, “ ‘No appeal or further proceedings will be possible after the arbitration award is made.’ ” (*Id.* at p. 1082.) The *Reisman* court found that “the waiver agreements here are directed against a party seeking a trial de novo and against

any appeal directly from the award and within the arbitration proceeding itself as distinguished from an appeal of judicial action on the award.” (*Id.* at p. 1088.) The court reasoned that the waiver agreement language lacked the necessary specificity to effectively “waive rights to appeal trial court judicial action which was expressly provided for by [statute].” (*Id.* at p. 1089.)

Similarly, in *Guseinov, supra*, 145 Cal.App.4th at page 947, the parties entered into an arbitration agreement which stated that “ ‘The Parties waive any right to appeal the arbitral award.’ ” (*Id.* at p. 954.) The *Guseinov* court found this provision was “insufficiently clear and express to constitute a waiver of [defendant’s] right to appeal from the judgment entered on the arbitration award.” (*Id.* at pp. 953-954.) The court outlined several circumstances which supported its conclusion. First, the arbitration agreement in that case also provided that the parties “ ‘retain[ed] the right to seek judicial assistance’ which included the power to enforce any decision or award of the arbitrator.” (*Id.* at p. 954.) Second, since the waiver did not prevent filing a motion or petition to secure a judgment on the arbitration award, the parties “clearly contemplated” that they would be permitted to file a petition to vacate or enforce the award. Third, the parties had “expressly agreed that California law would be controlling” and, the court emphasized, “California law explicitly provides a judgment entered upon an arbitration award is appealable. [Citations.]” (*Ibid.*) Ultimately, the court concluded that “[a]bsent greater specificity, the arbitration clause cannot be construed to waive an appeal from a judgment entered on an award. [Citations.]” (*Id.* at p. 955.)

Applying the principles outlined in these cases, we conclude that the arbitration clause in this case cannot be construed to waive an appeal from the judgment entered on an award. First, paragraph 17 of the Purchase Agreement does not contain language specifically waiving the right to appeal judicial action or a court judgment. Indeed, the subject of appeal rights is not directly addressed in the arbitration agreement itself. Rather that subject is addressed in the “Notice” provision, which states that, “by initialing in the space below you are giving up your judicial rights to discovery and appeal, unless those rights are specifically included in the ‘Arbitration of Disputes’ provision.” This

notice provision is ambiguous, not just because it requires the parties to refer back to the arbitration agreement to determine its meaning, but also because it attempts to circumvent the legal requirement that a waiver of the right of appeal must be clear and express.

Second, paragraph 17 in the Purchase Agreement also states that the arbitration shall be conducted in accordance with California law. As discussed above, California law authorizes an appeal from a judgment confirming an arbitration award. (Code Civ. Proc., § 1294, subd. (d); *Guseinov, supra*, 145 Cal.App.4th at p. 954; *Reisman, supra*, 153 Cal.App.3d at p. 1089.)

Third, both the “Arbitration of Disputes” provision and the “Notice” provision of paragraph 17 contemplate that the parties can and will seek judicial assistance with respect to the enforcement of the arbitration agreement and any award made pursuant thereto. Indeed, the arbitration provision expressly states that “Judgment upon the award of the arbitrator(s) may be entered into any court having jurisdiction.” By acknowledging that the arbitration award in this case would be supported by a court judgment, the parties also agreed that the judgment would be subject to appellate review as provided for by California law.

Respondent does not address or even acknowledge these relevant circumstances. Furthermore, his superficial analysis is premised on waiver language that does not appear in the agreement between the parties to this appeal. Therefore, the motion to dismiss is denied.

As noted above, appellants request that we impose monetary sanctions on respondent for filing a frivolous motion. Unfortunately, filing this motion is not the only potentially sanctionable conduct that occurred in this case. Thus, we will postpone the subject of sanctions until the end of our opinion.

B. *Scope of Review*

“The principles governing review of an arbitration award are well established. An arbitration award is final and conclusive because the parties—as here—‘have agreed that it be so.’ [Citation.] Only limited judicial review is available; courts may not review the

merits of the controversy, the validity of the arbitrator's reasoning, or the sufficiency of the evidence supporting the award. [Citation.] Thus, with 'narrow exceptions,' an arbitrator's decision is not reviewable for errors of fact or law. [Citation.] This is so even if the error appears on the face of the award and causes substantial injustice. [Citation.]" (*Shahinian v. Cedars-Sinai Medical Center* (2011) 194 Cal.App.4th 987, 999-1000 (*Shahinian*); see also *Moncharsh v. Heily & Blase* (1992) 3 Cal.4th 1, 6-11 (*Moncharsh*); *California Faculty Assn. v. Superior Court* (1998) 63 Cal.App.4th 935, 943 (*California Faculty*).) This "[l]imited judicial review is a well-understood feature of private arbitration, inherent in the nature of the arbitral forum as an informal, expeditious, and efficient alternative means of dispute resolution." (*Vandenberg v. Superior Court* (1999) 21 Cal.4th 815, 831.)

The grounds for vacating an arbitration award are limited to the circumstances set forth in Code of Civil Procedure section 1286.2, subdivision (a) which provides that a court "shall" vacate an arbitration award if it finds: "(1) The award was procured by corruption, fraud or other undue means. [¶] (2) There was corruption in any of the arbitrators. [¶] (3) The rights of the party were substantially prejudiced by misconduct of a neutral arbitrator. [¶] (4) The arbitrators exceeded their powers and the award cannot be corrected without affecting the merits of the decision upon the controversy submitted. [¶] (5) The rights of the party were substantially prejudiced by the refusal of the arbitrators to postpone the hearing upon sufficient cause being shown therefore or by the refusal of the arbitrators to hear evidence material to the controversy or by other conduct of the arbitrators contrary to the provisions of this title. [¶] (6) An arbitrator making the award either: (A) failed to disclose within the time required for disclosure a ground for disqualification of which the arbitrator was then aware; or (B) was subject to disqualification upon grounds specified in [Code of Civil Procedure s]ection 1281.91 but failed upon receipt of timely demand to disqualify himself or herself as required by that provision. . . ."

C. *Issue Presented*

Appellants filed an Opening Brief and a Reply Brief that violated the requirements of rule 8.204 of the California Rules of Court (rule 8.204) and contained numerous hyperbolic opinions, sarcastic remarks and unsupported accusations about the arbitrator and the trial judge. We attempted to remedy these errors by striking appellants' briefs and affording them additional opportunities to make their case on appeal. Unfortunately, the "Second Revised Appellants' Opening Brief" does not comply with the letter or spirit of rule 8.204 and also contains numerous improper unprofessional remarks. Nevertheless, we exercise our discretion to resolve this appeal on the merits for the sake of expediency and in the interests of justice.

The appellants' brief is poorly written, poorly organized, and poorly reasoned. Despite these serious shortcomings, the ground for this appeal is clear: appellants contend that the arbitration award was procured by fraud. As discussed above, under California law, a court is required to vacate an arbitration award that was "procured by corruption, fraud or other undue means." (Code Civ. Proc., § 1286.2, subd. (a)(1).)³ This ground for vacating an award "applies when 'fraud' is perpetrated by either the arbitrator or a party involved." (*Pacific Crown Distributors v. Brotherhood of Teamsters* (1986) 183 Cal.App.3d 1138, 1147 (*Pacific Crown Distributors*.) However, "[n]ot every incidence of fraud will be allowed a remedy; vacation of an award will lie only for occurrences of 'extrinsic' fraud and not for 'intrinsic' fraud. [Citation.] 'Extrinsic' fraud is that conduct which 'results in depriving either of the parties of a fair and impartial hearing to their substantial prejudice.' [Citation.]" (*Ibid.*)

³ Appellants also rely on a provision of the Federal Arbitration Act which authorizes a federal court to vacate an arbitration award that was "procured by corruption, fraud, or undue means." (9 U.S.C. § 10, subd. (a)(1).) However, they do not make any discrete argument based on this federal law or explain how it might apply here. Appellants' counsel does request that this court take judicial notice of documents that he allegedly filed or intends to file in some type of federal action. However, his requests are denied because counsel fails to establish these documents are the proper subject of judicial notice or that they are relevant to the issue on appeal. (Evid. Code §§ 452 & 459; *People v. Galvan* (2008) 168 Cal.App.4th 846, 854, fn. 8.)

D. *Analysis*

In their brief to this court, appellants purport to outline 10 distinct indicia of fraud and they ask us to “produce a detailed decision regarding all ten issues.” We discern only three cognizable issues relating to appellants’ fraud theory.

1. *Defense Expert Testimony*

Appellants’ first and primary theory is that the arbitration award was procured by fraud because it is based on the false testimony of two defense experts, Alan Posard and Walter Ricci. Posard is an architect and general contractor who provided expert testimony about the nature of the defects about which appellants’ complained and the costs of repairing them. Ricci is a certified general appraiser who testified about the value of the subject property.

Appellants purport to document eight examples of allegedly fraudulent testimony by these defense experts, although they claim there are many more than that. Appellants then argue that the arbitration award was procured by fraud because both the arbitrator and the trial court knowingly relied on this false testimony.

As we noted at the outset of our discussion, the law governing review of an arbitration award precludes us from reviewing either the merits of the underlying controversy or the sufficiency of the evidence to support the arbitration award. (*Shahinian, supra*, 194 Cal.App.4th at pp. 999-1000.) After considering the eight examples of allegedly false testimony, we conclude that appellants’ complaints are poorly disguised challenges to the sufficiency of the evidence.

Solely to illustrate our point, we will address appellants’ first example of allegedly false testimony. Appellants contend that Posard testified that a shower pan in one of the bathrooms was an “open and obvious” defective condition because it measured only 32x32 inches, but then, “[a]fter three prior claims that the Pan measured only 32 inches, Posard back-tracked and inconsistently stated that that same shower pan actually measured a larger, and almost code compliant 36x36.”

Appellants’ characterization of Posard’s testimony is not consistent with the evidence in this record. That evidence shows that, at some time prior to the arbitration

hearing, plaintiffs' expert told Posard that the shower pan measured 32x32 and Posard responded that such a condition would have been open and obvious to anyone who looked at it. Posard subsequently determined, and testified at the hearing, that the shower pan was not in fact 32x32 and, more importantly, that the 2001 remodel plans for that shower were expressly approved by the building inspector which made the entire matter a non-issue.

It appears to us that appellants have blatantly mischaracterized Posard's testimony to create the false impression that he lied in a misguided effort to obtain judicial review of the sufficiency of the evidence to support the award. However, they are not entitled to that type of review. (*Shahinian, supra*, 194 Cal.App.4th at pp. 999-1000; see also *Moncharsh, supra*, 3 Cal.4th at pp. 6-11 ["an arbitrator's decision is not generally reviewable for errors of fact or law, whether or not such error appears on the face of the award and causes substantial injustice to the parties."]; *California Faculty, supra*, 63 Cal.App.4th at p. 943 ["Courts may not review either the merits of the controversy or the sufficiency of the evidence supporting the award."].)

Furthermore, another essential premise of this fraud theory is that both the arbitrator and the trial court were fully apprised of the allegedly false testimony. To support this premise, appellants' take the position that plaintiffs' counsel proved the testimony was false during the arbitration proceeding. However, by taking this position, appellants admit that they had the opportunity to address, respond to, and indeed highlight the alleged flaws in the defense expert evidence during the arbitration. Thus, as a matter of law, the testimony of these defense experts is not evidence of *extrinsic* fraud that would entitle appellants to an order vacating the arbitration award. (*Pacific Crown Distributors, supra*, 183 Cal.App.3d at p. 1147; see also *Kachig v. Boothe* (1971) 22 Cal.App.3d 626, 632-634.)

Finally, appellants' assertion that the superior court participated in the allegedly fraudulent procurement of this arbitration award is not supported by any evidence in this record. Appellants were not entitled to judicial review of the sufficiency of the evidence

to support the arbitrator's decision and, therefore, the trial court's refusal to conduct that type of review is not evidence of fraud.

2. Consumer Rights

Appellants' second attempt to prove that the arbitration award was procured by fraud rests on the following propositions: (1) the arbitrator violated Sanochkina's rights as a consumer by forcing her to pay costs in this arbitration; (2) plaintiffs proved to the trial court that the arbitrator violated Sanochkina's consumer rights; and, therefore, (3) the trial court participated in the fraud by refusing to strike the cost award. The first two propositions are not supported by evidence in the record or relevant case authority and appellants' attempt to use them as a ground for inferring fraud oversteps the bounds of reasonable advocacy.

During the arbitration, appellants did not allege or ever argue that Sanochkina was a consumer in the context of this proceeding or that her status as a consumer precluded the arbitrator from awarding Yuen his costs. To the contrary, pursuant to their declaratory relief claim, plaintiffs expressly alleged that the parties' rights and duties with respect to the payment of fees and costs were dictated by paragraphs 17 and 22 of the Purchase Agreement. Furthermore, after the arbitrator ruled on this claim, and found that Yuen waived his right to fees but could still be entitled to costs if he was the prevailing party, each party to this arbitration expressly stipulated on the record that the arbitrator would retain jurisdiction to make a determination regarding fees and costs.

These facts compel the conclusion that appellants waived the claim that Sanochkina could not be liable for a cost award because of her status as a consumer by failing to raise that issue at the arbitration. (*Moncharsh, supra*, 3 Cal.4th at pp. 30-31.) As our Supreme Court has recognized, applying the waiver doctrine in this context serves two important functions. First, "[a]ny other conclusion is inconsistent with the basic purpose of arbitration, which is to finally decide a dispute between the parties." (*Id.* at p. 30.) Second a party simply cannot wait to see if the arbitrator will rule against her knowing that, if he does, she can later challenge the legality of the contract provision in a motion to vacate the arbitrator's award. "A contrary rule would condone a level of

‘procedural gamesmanship’ that we have condemned as ‘undermining the advantages of arbitration.’ [Citation.]” (*Ibid.*)

Because this consumer rights claim was waived, the trial court was not required to consider it at all. Furthermore, even if the issue had not been waived, appellants failed to support their consumer rights theory during the proceedings on the petition to confirm the arbitration award. They did contend that Sanochkina was protected by section 1284.3 of the Code of Civil Procedure (section 1284.3) which states, in part: “No neutral arbitrator or private arbitration company shall administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration pay the fees and costs incurred by an opposing party if the consumer does not prevail in the arbitration, including, but not limited to, the fees and costs of the arbitrator, provider organization, attorney, or witnesses.” (§ 1284.3, subd. (a).) However, plaintiffs’ failed to provide any relevant authority or sound reason for their assumption that section 1284.3 applies to Sanochkina under the circumstances of this case.

Beyond that, appellants have consistently ignored the following facts which are established by this record: (1) This case involves a private arbitration between individuals; (2) this arbitration was conducted pursuant to an express agreement between these individuals; (3) Sanochkina never alleged a cause of action for a consumer rights violation or claimed that she was a consumer in the context of her relationship with Yuen; (4) both Sanochkina and Finkelson alleged a cause of action for declaratory relief pursuant to which they admitted that the rights and obligations of the parties with respect to the payment of attorney fees and costs were governed by the terms of the Purchase Agreement. These facts support the conclusion that section 1284.3 does not apply in this case.

Finally, we reject appellants’ claim that fraud can be inferred from the fact that a trial court rejected their argument. Appellants fail to provide any sound reason or legal authority justifying such an inference. Suffice to say the trial court did not err by

refusing to vacate the arbitration award pursuant to appellants' untimely and erroneous consumer rights theory.⁴

3. *Jurisdiction*

Appellants' final contention is that fraud can be inferred from the fact that the judgment holds Finkelson personally liable for Yuen's costs. Appellants' theory is that (1) the arbitrator made an express finding divesting himself of jurisdiction over Finkelson; (2) appellants informed the superior court that "there was no jurisdiction over Attorney-in-Fact Finkelson"; and (3) nevertheless, the court held Finkelson jointly and severally liable for Yuen's costs.

First, the record before us does not establish that the arbitrator divested himself of personal jurisdiction over Finkelson. When the arbitrator issued the Final Award, he did find that he did not have jurisdiction to award Finkelson damages for his loss of the use of the subject property while it was being repaired. However, by that time, the arbitrator had already found that Finkelson's individual liability claims against Yuen were not supported by the evidence. Furthermore, the specific type of damages that Finkelson sought during the damages phase did not arise out of any alleged violation of the Purchase Agreement itself. Rather, since Finkelson was not the owner of the property, his right to use it necessarily depended on a separate agreement with Sanochkina. Thus the arbitrator's conclusion that he did not have jurisdiction to award this specific type of damages did not establish that he lacked personal jurisdiction over Finkelson.⁵

⁴ Appellants attempt to develop and refine their consumer rights theory in their appellate brief by resorting to evidence outside of this record. We ignore this new argument which is a particularly egregious violation of rule 8.204. However, we also note that the attempt to go outside the record to find evidentiary support for an obviously weak legal theory is yet another indication that appellants have no colorable justification for accusing the trial court of fraud.

⁵ Evidence of statements the arbitrator made after the Final Order was issued shed further light on the ruling regarding his jurisdiction over Finkelson. After the Final Order was issued, Finkelson submitted a motion to amend the complaint to "conform to proof" on behalf of Sanochkina pursuant to which he attempted to make a claim that Sanochkina be awarded "special damages" for having to compensate Finkelson for his loss of use of

Second, as best we can determine, appellants did not raise this jurisdictional issue in any written opposition to the motion to affirm the arbitration award. The attorney who previously represented Sanochkina did argue at the hearing on the motion to confirm, that the arbitrator divested himself of personal jurisdiction over Finkelson. However, as discussed above, such a broad and self-serving interpretation of the arbitrator's finding was not compelled by the evidence.

Furthermore, there was additional evidence before the court which affirmatively showed that the arbitrator did have personal jurisdiction over Finkelson. For example, there was an order compelling Finkelson to arbitrate his individual claims arising out of the Purchase Agreement. As best we can determine, that order has never been challenged and is now final. Furthermore, the record shows that Finkelson participated in the arbitration both as an individual plaintiff and as the attorney in fact for Sanochkina. Finkelson failed to substantiate his individual claims for damages, but he did obtain affirmative relief on his declaratory relief claim which directly put at issue his rights and obligations with respect to the payment of attorney fees and costs. Finally, the attorney who represented Finkelson in his individual capacity at the arbitration hearing expressly stipulated on the record that the arbitrator had jurisdiction over these parties to award fees and costs.

On this record, we cannot accept appellants' contention that the superior court was compelled to accept their theory that the arbitrator divested himself of personal jurisdiction over Finkelson. The record supports the conclusion that the arbitrator made a discrete finding that he did not have jurisdiction to award a specific type of damages to

the property. In denying that motion, the arbitrator found, among other things, that the proposed new claim was no different than the claim that Finkelson previously asserted in his own right that the arbitrator dismissed. The arbitrator then clarified that "Finkelson's claims in his own right for lack of use of the subject property were dismissed for lack of arbitral jurisdiction because he was not the buyer of the subject property." The arbitrator also found that there was no evidence that Finkelson actually sustained any loss of use damages and therefore, "[i]n addition to the lack of jurisdiction, the insufficiency of the evidence provided a further reason for dismissal of Finkelson's claim."

Finkelson. Furthermore, and in any event, the fact that this record contains some evidence to support the jurisdictional argument that Sanochkina's attorney made at the superior court hearing simply is not evidence of trial court fraud. We find nothing in the record before us to support appellants' ultimate conclusion that the lower court's resolution of this issue is evidence of fraud.

E. *Requests for Sanctions*

Both parties have made requests for sanctions.⁶ Appellants ask us to impose monetary sanctions on Yuen for filing a frivolous motion to dismiss this appeal. Yuen seeks monetary sanctions for appellants' unreasonable infractions of the rules governing appeals, unprofessional conduct, and abuse of the appellate process.

Appellants' motion to impose sanctions on respondent for filing a frivolous motion is denied. In a letter brief filed after oral argument before this court, respondent acknowledged that he erroneously relied on an irrelevant waiver agreement, but he maintained that he made a reasonable mistake. As discussed above, the decision to support respondent's motion to dismiss with an arbitration agreement that does not pertain to Yuen was patently unreasonable. Nevertheless, there is no direct evidence of bad faith. Furthermore, the irrelevant arbitration agreement was not a ground upon which appellants moved for sanctions; indeed appellants did not raise this issue in any of the multiple pleadings filed in this court prior to oral argument. Finally, although the motion to dismiss lacked merit, one of the waiver provisions used to support the respondent's motion was part of the arbitration agreement between these parties. Therefore, we cannot say that the motion to dismiss this appeal was frivolous as that term has been defined by the courts. (See *In re Marriage of Flaherty* (1992) 31 Cal.3d 637, 649.)

Respondent's request for monetary sanctions is also denied. "A party seeking sanctions on appeal must file a separate motion for sanctions that complies with the requirements of [the] Rules of Court" (*Kajima Engineering and Construction, Inc.*

⁶ At oral argument, we notified the parties we were considering imposing sanctions and heard argument on the relevant issues. We also deferred submission of this case so that the parties could file additional briefs in support of their respective positions.

v. Pacific Bell (2002) 103 Cal.App.4th 1397, 1402.) Here respondent requested sanctions for the first time in a supplemental brief filed very late in this protracted appellate proceeding. Thus, he failed to file any motion, not to mention the timely motion required by rule 8.276 of the California Rules of Court (rule 8.276). Furthermore, although respondent filed a declaration “in support” of his sanctions request, that pleading does not include sufficient evidence to determine the appropriate amount of a potential sanction award for work that was actually necessary to respond to this appeal, but instead addresses matters which reinforce our concern that the dysfunctional relationship between the attorneys involved in this case has unnecessarily increased the costs to the taxpayers to process this appeal. Despite this concern, however, there is no doubt that appellant’s counsel must take the brunt of the blame for the procedural mess created by this appeal.

Appellants’ counsel’s violations of the rules of court are simply too extensive to recount here. Furthermore, the tone of appellants’ briefs and the false accusations which drive those filings strongly suggest that appellants’ counsel has lost sight of his duties, both to his clients and as an officer of this court. As discussed above, we afforded appellant’s counsel numerous opportunities to remedy his errors, but he declined to do so. Of course, we have authority under rule 8.276 to impose sanctions on appellants’ counsel pursuant to our own motion. However, a monetary sanction will not adequately address the fundamental problem, which is that appellants’ counsel insists on continuing to press his unsupported accusation that the superior court judge committed fraud by confirming the final arbitration award in this case. It appears that the relentless pursuit of this false theory seriously impeded appellants’ counsel’s ability to advance colorable though ultimately meritless grounds for challenging this arbitration award. More fundamentally though, there is no doubt that appellants’ counsel is committed to disparaging this trial court judge.

“Disparaging the trial judge is a tactic that is not taken lightly by a reviewing court. Counsel better make sure he or she has the facts right before venturing into such dangerous territory because it is contemptuous for an attorney to make the unsupported

assertion that the judge was ‘act[ing] out of bias toward a party.’ [Citation.]” (*In re S.C.* (2006) 138 Cal.App.4th 396, 422.) On this record, we have little doubt that appellant’s counsel is guilty of contempt. (*Ibid.*; see also *In re White* (2004) 121 Cal.App.4th 1453, 1477-1478.) Instead of instituting a contempt proceeding, we will refer this matter to the State Bar of California, so that it can take the appropriate action.

IV. DISPOSITION

The judgment is affirmed. Respondent is awarded costs on appeal. Upon issuance of the remittitur, the clerk of this court is directed to send a copy of this opinion to the State Bar of California.

Hacrie, J.

We concur:

Kline, P.J.

Lambden, J.

A130482, *Sanochkina et al. v. Yuen*



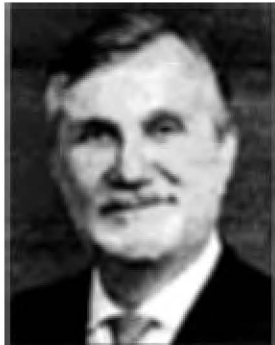
[ADR Home](#) > [Neutrals](#) > [Northern California](#) > [Hon. James Lambden](#)

Hon. James Lambden

Case Manager: Joanna Barron

Tel: (415) 772-0900

[E-Mail](#)



Justice James Lambden brings to his ADR practice nearly four decades of experience as a trial lawyer, trial court judge and Associate Justice of the California Court of Appeal.

Business Trial Lawyer

During his 14 years as a trial lawyer he represented clients throughout the state in cases involving construction, commercial contracts, torts, secured transactions, employment, insurance and real estate. His clients ranged from wind farm start-ups to international corporations such as Merck and Co.

Trial Judge and Civil Procedure expert

His 7 years as a trial judge included more than 4 years presiding over a master civil law and motion calendar averaging 25 to 30 hearings each day. During this assignment he also briefed the presiding judge weekly regarding the settlement prospects of the cases coming up for trial.

In his other civil assignments he managed the Fast Track calendar and successfully settled dozens of cases scheduled for jury trials; and he tried to verdict many others. He was named Civil Trial Judge of the Year by the Alameda/Contra Costa Trial Lawyers Association before being elevated to the Court of Appeal in 1996.

Appellate Justice, Author and Educator

Justice Lambden authored over 900 opinions during his 17 years on the First District Court of Appeal in San Francisco; and he joined in hundreds of other published opinions authored by his colleagues. More than 100 of his opinions resolved important civil issues; and several of those resulted in new law, either by subsequent legislation or as affirmed precedents.

Justice Lambden has been a national leader in developing strategies to improve access to justice. Since 1997 he has been first a founding member, then chairman and now an ex officio member of the California Commission on Access to Justice. He served on the Board of the National Consortium on Racial and Ethnic Fairness.

For 9 years he chaired the Access and Fairness Advisory Committee of the California Judicial Council (the constitutional governing body of the California court system). And in 2013 he received the Benjamin Aranda Award in recognition of his life-long work to remove barriers to access to justice.

Throughout his career Justice Lambden has been an author and frequent lecturer on civil procedure and substantive civil law. He has taught on behalf of the California Judges' Association, the State Bar, CEB (Continuing Education of the Bar) and CJER (California Judicial Education and Research). As an appellate justice he regularly lectured at the Bernard Witkin Judicial College and conducted orientations for new judges on procedural and substantive topics.

He co-authored California Civil Practice, "Procedure" Thomson-West; he holds a lifetime community college teaching credential in law; and he has taught legal writing and trial practice classes at several law schools for many years. However, he is reluctant to reveal in which year he composed a question for the California Bar Exam.

JUDICIAL EXPERIENCE

- Seven years as a trial judge on the Superior Court of Alameda County
- Including four years presiding over the Law and Motion Master Calendar
- Named ACCTLA "Civil Trial Judge of the Year" before being appointed to the First District Court of Appeal in 1996
- Authored 900 appellate opinions, including more than 100 civil precedents

PROFESSIONAL EXPERIENCE

- Fourteen years as a trial lawyer with Fitzgerald, Abbott & Beardsley, Oakland
- Practicing statewide in disputes involving construction, commercial contracts, torts, employment and real estate

PROFESSIONAL TEACHING/EDUCATION

- Author and frequent lecturer on civil procedure and substantive law topics for the California Judges Association, the State Bar, CEB (Continuing Education of the Bar, UC Berkeley), and CJER (California Judicial Education and Research)
- Co-Author, California Civil Practice: Procedure, Thomson-West
- Contributor, California Appellate Practice, Matthew Bender
- Witkin Lecturer, Bernard Witkin Judicial College, Berkeley
- State Bar of California Litigation Section programs, including: "Effective Summary Judgment Motion Practice: A Judicial Perspective"
- Co-author, "*Stop Shooting Down Tort Liability, It is Time to Resuscitate the Abnormally Dangerous Activity Doctrine Against Handgun Manufacturers.*" Stanford Law and Policy Review, Vol. 12:143 (2001)
- Instructor in Law, Peralta Community College District

PROFESSIONAL AFFILIATIONS

- California Society of Healthcare Attorneys
- California Dispute Resolution Council
- Hastings Alumni Association, University of California Alumni Association
- Member, Association of Business Trial Lawyers (ABTL)
- Chairman, Access and Fairness Committee, 2003-2012 (Principal standing committee of the Judicial Council)
- Chairman, California Commission on Access to Justice (State Bar)
- National Consortium on Racial and Ethnic Fairness, Board Member
- California Tribal/State Court Forum, Founding Member
- California Judges Association, Board Member

Court of Appeal, First Appellate District, Division Two - No. A130482

S206342

IN THE SUPREME COURT OF CALIFORNIA

En Banc

TATIANA SANOCHKINA et al., Plaintiffs and Appellants,

v.

RICHARD YUEN, Defendant and Respondent.

The request for judicial notice is denied.

The petition for review is denied.

The request for an order directing publication of the opinion is denied.

**SUPREME COURT
FILED**

JAN - 3 2013

Frank A. McGuire Clerk

Deputy

CANTIL-SAKAUYE

Chief Justice

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 7, 2013

Mr. Gregory Finkelson
2076 16th Avenue
San Francisco, CA 94116

Re: Gregory Finkelson
v. Richard Yuen
No. 12-9981

Dear Mr. Finkelson:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until October 28, 2013, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

Sincerely,

A handwritten signature in cursive script, reading "Scott S. Harris".

Scott S. Harris, Clerk

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

November 18, 2013

Mr. Gregory Finkelson
2076 16th Avenue
San Francisco, CA 94116

Re: Gregory Finkelson
v. Richard Yuen
No. 12-9981

Dear Mr. Finkelson:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott S. Harris", written in a cursive style.

Scott S. Harris, Clerk

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

BEFORE THE HONORABLE CHARLOTTE WALTER WOOLARD, JUDGE PRESIDING

DEPARTMENT NUMBER 302

---oOo---

MICHAEL COOMS, et al.,

Petitioners,

vs.

ARCHIBALD CUNNINGHAM,

Respondent.

NOT
REALLY

Case No. CPF-10-510760

Reporter's Transcript of Proceedings

Tuesday, October 19, 2010

APPEARANCES OF COUNSEL:

For Plaintiff:

JOHN SCOTT MCKAY, Esquire

For Defendants:

ARCHIBALD CUNNINGHAM, Pro per

GOVERNMENT CODE SECTION 69954(D): "ANY COURT, PARTY, OR PERSON WHO HAS PURCHASED A TRANSCRIPT MAY, WITHOUT PAYING A FURTHER FEE TO THE REPORTER, REPRODUCE A COPY OR PORTION THEREOF AS AN EXHIBIT PURSUANT TO COURT ORDER OR RULE, OR FOR INTERNAL USE, BUT SHALL NOT OTHERWISE PROVIDE OR SELL A COPY OR COPIES TO ANY OTHER PARTY OR PERSON."

Reported by: Kent S. Gubbine, CSR #5797

1 Tuesday, October 19, 2010

10:28 o'clock a.m.

2 ---ooXoo---

3 **THE COURT:** Line number 15 is Cooms versus Cunningham.

4 **MR. MCKAY:** Good morning, Your Honor. Scott McKay appearing
5 on behalf of Petitioners Michael Cooms and Tamara Woods.

6 **MR. CUNNINGHAM:** Archibald Cunningham, self-represented.

7 **THE COURT:** Good morning to both of you.

8 And this is a petition brought by Petitioner to compel
9 arbitration for appointment of neutral arbitrator. The Court's
10 tentative ruling is that the petition is granted. Mediation
11 failed to resolve this dispute. Respondent signed the tenancy in
12 common agreement which contains a clear and unambiguous
13 arbitration agreement. Respondent fails to show that the
14 arbitration agreement is invalid or unenforceable.

15 Respondent has not objected to the proposed arbitrator. The
16 Court appoints the Honorable V. Gene McDonald, retired, of JAMS
17 as the arbitrator in this case. Respondent to pay reasonable
18 attorney fees and costs to petitioners in the amount of \$2610 no
19 later than 60 days from notice of this order pursuant to Section
20 14.3 G of the agreement.

21 So I take it that you are contesting the Court's tentative
22 ruling?

23 **MR. CUNNINGHAM:** Yes, I am. I certainly do oppose the
24 motion to compel arbitration. Also, the TIC agreement that
25 petitioner relies on clearly states that one of the motions that
26 absolutely cannot be brought is a motion to compel arbitration.
27 That's in my pleadings. I pointed that out.

28 So we also have a situation where we never had any

THIS IS AN OFFICIAL ADMISSION

1 mediation. In the arbitration agreement it says that the steps
2 in trying to resolve some dispute proceed from I would presume a
3 discussion amongst the parties, then to mediation. Then if
4 mediation doesn't occur, a mediator can compel arbitration or a
5 motion to compel arbitration can be made after the mediation. We
6 have had no mediation. We have had no discussion.

7 What we have had is a situation where we have been unable to
8 agree or discuss certain matters, and Mr. Cooms immediately hired
9 an attorney. And while Mr. McKay originally said that he had no
10 intention of going to court on this, was never able to meet with
11 me and discuss things and set up a plan to kind of resolve some
12 of the disputes we have. And so, yes, I very strongly and
13 adamantly oppose a motion to compel, certainly before
14 arbitration -- or before mediation. And then likewise before any
15 cordial discussion made in good faith to resolve those issues.
16 There with have been no faith efforts for mediation or before Mr.
17 McKay has filed his motion to compel.

18 **MR. MCKAY:** Your Honor, all attempts at resolution and
19 moving this thing forward have met with failure. ⁴ I have asked
20 Mr. Cunningham countless times to address the issues. What he
21 does is he simply avoids the issues. I ask him direct questions:
22 What are doing about this? He wants to tell me about your
23 client's furnace is not properly permitted. He wants to tell me
24 about all of these things. He won't address the issues.

25 And it's out of total frustration that we are here today
26 because I can't get him to cooperate at all in moving this
27 forward. And part of that was my asking him if he wanted to
28 mediate. He just didn't address it. So I can't -- it's like the

1 sound of one hand clapping. We can't mediate if he doesn't
2 participate. And then he wants to say, well, gee, you can't
3 order this, because we haven't mediated. The reason we haven't
4 mediated is because he won't cooperate. And he wants to just
5 drag this thing out. My clients are paying all the expenses on
6 this property and he is living there for free. I think the last
7 payment he made on any property expenses was back in February of
8 this year. And my clients are having to bank roll the entire
9 property.

10 And we can't really solve the problems in mediation anyway
11 because Mr. Cunningham's problems are with third parties. His
12 creditors that have judgments that have been placed against the
13 property, I can't fix that for him. I can't mediate that for
14 him.

15 Likewise he has got to refinance the property under the
16 tenancy in common agreement. He is out of work. He probably
17 can't get refinancing, but I can't fix it. That's not something
18 my clients can fix for him in mediation. So here we are. I have
19 never spoken to Mr. Cunningham orally until, as we are standing
20 here right now. I don't want to because if we do it in writing,
21 then we have a record of what is said and what is not said.

22 So the Court should order this. We need to get this problem
23 fixed. We need to force Mr. Cunningham to address these
24 problems.

25 **MR. CUNNINGHAM:** My response to that is, first of all, the
26 expenses have been separated, at least condo-lized the property.
27 We have a TIC agreement. Mr. McKay is relying on a TIC
28 agreement. The property has been condo-lized. To that extent

THIS IS A PARTY ADMISSION

1 true I am a licensed teacher. I was laid off. I have
 2 reactivated my bar license and I do have clients that I am
 3 representing and I am doing that. I have every belief that I
 4 could refinance if it could be coordinated amongst the people. A
 5 sale of the property that refinance would -- we would have to
 6 work together. Whether I rent my unit as a way of refinancing, I
 7 would have to work with Mr. McKay.

8 So these are the questions and the matters that have never
 9 been addressed the mediation. These are the matters that Mr.
 10 McKay doesn't want to discuss because it's easier for him to
 11 presume what my finances are, to presume what the facts are, to
 12 presume I don't have a job, because what this is about is that
 13 there is an arbitration clause and the arbitration clause allows
 14 for Attorney fees. And this is really about Mr. McKay having a
 15 payday which I find rather shocking, and I have said that to him
 16 in e-mail after e-mail. Sit down and meet me, with me, and talk
 17 this -- we can work this out. We can arrange something.

18 Back in March his client said, well, I may move to New York
 19 in the summer. Well, are you going to move or are you not going
 20 to move? You know, up in the air. Well, we need to coordinate
 21 that issue. If you are going to move, I need to know so I could
 22 rent or sell and we can coordinate our activities. No
 23 discussion, nothing.

24 So I would say the motion to compel arbitration puts the
 25 cart before the horse. We haven't mediated. We haven't mediated
 26 in good faith. We haven't discussed any of these facts.

27 **MR. MCKAY:** Your Honor, this has nothing to do with the
 28 petition before the Court. The provision says that the parties

motion to compel arbitration?

1 will -- any matter not resolved in mediation will go to
 2 arbitration. And in my papers I put that I tried to solicit Mr.
 3 Cunningham's participation in mediation. He just blew me off.

4 So it hasn't been resolved through mediation. It's time for
 5 arbitration. We meet all the statutory requirements, and I don't
 6 see any reason to get into what he says about the disputes.
 7 That's not before the Court. We can take that up with the
 8 arbitrator.

9 **THE COURT:** Anything further?

10 **MR. CUNNINGHAM:** Again I would say that if I am going to
 11 held to a TIC contract and that contract unequivocally says,
 12 there is nothing vague about it, that a motion to compel
 13 arbitration cannot be brought under that provision, that the
 14 parties have to go to mediation. We have not gone to mediation
 15 because Mr. McKay has tried to rewrite the agreements for his own
 16 purposes, namely, a payday under the arbitration clause. I find
 17 that rather than unconscionable and rather shocking.

18 **THE COURT:** Okay. Is the matter submitted then?

19 **MR. MCKAY:** Submitted.

20 **THE COURT:** I am going to adopt the tentative decision.

21 **MR. MCKAY:** Thank you, Your Honor. I do have an order. I
 22 incorporated the language of the tentative verbatim into the
 23 order after the introductory language.

24 **THE COURT:** All right.

25 **MR. MCKAY:** May I approach?

26 **THE COURT:** Yes.

27 **MR. MCKAY:** Thank you.

28 **MR. CUNNINGHAM:** Your Honor, what is the date to be set up

PARTY ADMITS

COURT'S SELF INCULCATING

RETURN

CHA-CHING!

Mail Plus Contacts Calendar Notepad Mail Search What's New? Mobile Mail Options

Check Mail New - Try the newest Yahoo! Mail

Previous | Next | Back to Search Results Mark as Unread | Print

Folders
Inbox (3889) Delete Reply - Forward Spam Move -
Drafts (444)
Sent
Spam (46) [Empty]
Trash [Empty]
My Photos Arch -
My Attachments

Chat & Mobile Text
I am Offline

My Folders (Add - Sort)

1480KCALL
ArtHouse
CCH
Divorc2
Divorce
EDJOIN (10)
Elkins
FAIS (15)
Friends
ISABEL
JOBSstuff
Jodie
KENYON
Legalsuits
mary wang
McKay (2)
McKStrick
Mediators
NEA (51)
Red Poppy
Robertson
RoomMales
Schopp
SFSU
Sirkin
Stoltz
Sutton
Writers

Re: Signing
From: "Scott McKay" <scott@mckayleonglaw.com>
To: "arch cunningham" <archcunningham@yahoo.com>

Friday, April 23, 2010 1:51 PM

Thanks for taking care of that. Michael and Tamara are trying to get in today for signing.

In response to your other comments, first, the recording of the grant deeds does not need to coincide with any refinancing. Legally properties can transfer without any refinancing. The properties just remain subject to the existing financing. Of course usually there is new financing involved in the sale of a property, but it is not necessarily required.

As to the completion of the condo conversion, the problem is that I am not sure that there is a specific definition of "complete" or "final" for all purposes. In some respects, as I understand it, certain final approvals were obtained some time ago. Yet the property was still, as a matter of title, held as a TIC. Neither of the condo units had actually been transferred out of the TIC. What the city might consider final for some purposes is not necessarily final for all other purposes.

With respect to the agreements, the ambiguity, or potential ambiguity, arose from the fact that while certain approvals had been obtained, the property was still formally held as a TIC.

The units had not been deeded to the intended owners. I am not trying to be coy about the CC&R's being the applicable agreement. Indeed, section 15.4 of the TIC agreement says that such agreement remains in effect until the property is converted (which, I think, is not a defined term and thus open to some question), the ownership of the condos is distributed, and all debts and obligations of the TIC are satisfied. Thus it would seem to me that the TIC agreement is still applicable. Of course, that does not mean that the CC&R's are not applicable, and I expect (off the top of my head) that they are applicable. To be honest, I have not really tried to sort out which provisions of the two agreement are applicable or may have precedence (in the event of a conflict), because I am not sure that I need to at this point. I am just trying to move the process forward, and resolve any disputes.

As to the possibility of my clients having to pay down any new mortgage, I acknowledge that this would need to be addressed in connection with any refinancing. My clients indicate that this is not going to be an impediment.

As to what a court might do in the event of any litigation, as I mentioned to you I have no plans of filing any litigation, and I do not see litigation as being in anybody's interests. And in terms of what a bank may do, that is something I have no control over as banks make their own decisions. There are not really any legal standards under which a bank has to make a loan. While there is a lot of case law on banks and loans, I do not really follow that area of the law, and especially any law on a bank's lending practices (except to the extent that such practices might be considered deceptive in some way). I also do not know enough about your financial condition to even comment on what a bank may or may not do.

So, I agree with you, lets move on to the next step. I expected that you would want to now move on to an accounting for the funds for expenses. I have therefore already spoken to Michael about this, and he has agreed to put together a very complete accounting that will clearly spell out any receipts, expenditures, allocations, or anything else involved.

In terms of an appraisal, maybe the first thing we should discuss is a potential time frame for refinancing, which will need to be done at some point. It seems that the market is showing some signs of life, and some prices are on the rise. Assuming that to be true for the moment, there would be some benefit in holding off on the appraisal so that any increase in value can be reflected in the appraisal. In a (hopefully) rising market, it would be my inclination to wait on the appraisal until it appears that some refinancing is imminent. I am not sure why you would want to do an appraisal right now. Maybe you can explain your thought processes on that to me, as well as what time frame you have in mind.

J. Scott McKay
MCKAY & LEONG Attorneys At Law
2175 North California Boulevard, Suite 775
Walnut Creek, CA 94596
Telephone: 925-932-9095
Facsimile: 925-932-5434

--- On Fri, 4/23/10, arch.cunningham <archcunningham@yahoo.com> wrote:

From: arch.cunningham <archcunningham@yahoo.com>
Subject: Re: Signing
To: "Scott McKay" <scott@mckayleonglaw.com>
Date: Friday, April 23, 2010, 11:08 AM
Scott

I signed the docs this morning. It was my understanding that the filing of the grant deeds occurred at the time of refinancing, which Charles said was the standard procedure. He also mentioned, as I believed and had been told by various city workers, that the "condo conversion" occurred or was finalized at the time the CC&Rs were signed and filed. The City of SF is and was bound to sent out separate property tax the following "tax year," that is for Nov 2010/April 2011, after they finished the "condo" application and sent us a confirmation that the property was condo-ized.

You mentioned that you were not sure which agreement applied here...the TIC or CC&Rs... I don't think filing and signing the "deeds" is going to clarify that...we've already signed and filed the CC&Rs...perhaps you're being coy and hope to enforce the "lien" provisions in the CC&Rs...it seems there is much uncertainty in those provisions as to when or how or even whether the change in the type of ownership changes the nature of the problem, etc.

In any event, I've mentioned that Andy Sirkin is recognized as the expert in San Francisco on these matters...it may be wise to ask him for some "declaratory" or advisory opinion on the matter...

Also, there is the issue of the equity to value issue and whether your clients may need to pay down their share of the mortgage in order to refinance...it very well may be that they won't have to "pay down" anything, but then again they may have to "pay down" up to \$100,000 if their property has dropped significantly in value (for instance, the next door home went on the market several years ago for \$80,000 and short-sold for the low 700,000).

Then again, in the event of litigation, is a court going to order me to "sell" because the banks have swung to the extreme of not lending money, even to someone like myself who has three or four times as much equity as my mortgage? We may get to the end of litigation and the court may order the bank to sell the mortgages...as I mentioned yesterday, the real obstacles may be the bank's new restrictive lending practices rather than


PARTY ADMISSION:
"CC&R'S ARE APPLICABLE"
\$EE IT THERE?

EXHIBIT E

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

William K. Suter
Clerk of the Court
(202) 479-3011

April 15, 2013

Mr. Patrick A. Missud


Re: Patrick Alexandre Missud
v. Superior Court of California, San Francisco County, et al.
No. 12-7817

Dear Mr. Missud:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



William K. Suter, Clerk



THE STATE BAR
OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

OFFICE OF THE CHIEF TRIAL COUNSEL
ENFORCEMENT

Jayne Kim, Acting Chief Trial Counsel

TELEPHONE: (415) 538-2000

FAX: (415) 538-2220

<http://www.calbar.ca.gov>

DIRECT DIAL: (415) 538-2076

April 2, 2012

PERSONAL AND CONFIDENTIAL

Patrick A. Missud
[REDACTED]

Re: Case Number: 12-O-12270
Complainant: Hon. Edward M. Chen

Dear Mr. Missud:

This letter is sent to you based upon information that you are not currently represented by counsel in this matter. If this is incorrect, please advise me within five days so that future communications may be directed to your counsel.

The State Bar received a complaint from Judge Edward M. Chen alleging the following:

A federal court judge issued an order on March 22, 2012, dismissing your claims against D.R. Horton, Inc., various state and federal defendants, and public officers, deeming you to be a vexatious litigant.

It is asserted that you previously filed seven other cases with courts, in Nevada and California which were dismissed for various reasons. The March 22, 2012, order held in part that your allegations lacked a credible factual basis. The court also held your conduct against D.R. Horton to be both frivolous and harassing.

It is alleged that you failed to support the Constitution and the laws of the United States and of this state.

It is claimed that you maintained actions, legal proceedings or defenses that appeared to be unjust.

It is claimed that you engaged in moral turpitude and/or dishonesty.

Your written response to these allegations along with any supporting documentation is requested. All documents that you send to the State Bar, whether copies or originals, become State Bar property and are subject to destruction. In addition, please provide the information requested below and legible copies of referenced documents:

Patrick A. Missud

April 2, 2012

Page 2

Please provide a copy of each action you filed, in any venue, in connection with the Defendant, D.R. Horton and/or its subsidiaries.

Please provide a detailed explanation to the allegations of misconduct.

FAILURE TO PROVIDE THE DOCUMENTS REQUESTED IN THIS LETTER MAY RESULT IN THE ISSUANCE OF A SUBPOENA DUCES TECUM.


In addition, pursuant to Business and Professions Code section 6086.10, you may be subject to a cost assessment for the expenses incurred by the State Bar if this matter results in public discipline.

We must receive your written response and the documents requested, if any, by **April 16, 2012**. Section 6068(i) of the Business and Professions Code states that it is the duty of an attorney to cooperate with and participate in any State Bar Investigation.

Upon request, the Office of the Chief Trial Counsel will consider granting you additional time within which to submit a written response to the allegations and the requested information and documents. A request for an extension of time must be in writing and state good cause as to the specific constraints on your practice which are claimed to necessitate the additional time. Any request for extension of time must be received by the undersigned on or before **April 16, 2012**.

Please feel free to call me at (415) 538-2076 if you have any questions.

Very truly yours,


P. Jacobs
Special Investigator

FJ/cjt



THE STATE BAR
OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

OFFICE OF THE CHIEF TRIAL COUNSEL
ENFORCEMENT

Jayne Kim, Chief Trial Counsel

TELEPHONE: (415) 538-2000

FAX: (415) 538-2284

<http://www.calbar.ca.gov>

DIRECT DIAL: (415) 538-2285

June 11, 2012

PERSONAL AND CONFIDENTIAL

Patrick Missud

Re: NOTICE OF INTENT TO FILE NOTICE OF DISCIPLINARY CHARGES
Case Number: 12-O-10026
Complainant: Joel Odou

Dear Mr. Missud:

This letter is sent to you based upon information that you are not currently represented by counsel in this matter. If this is incorrect, please advise me within **five** days so that future communications may be directed to your counsel by completing the enclosed "Notice of Designation to Receive Service" form.

As you know, the State Bar of California has conducted an investigation concerning allegations of professional misconduct made against you. You have had an opportunity to respond to the allegations. Based on a review of the investigation, unless a pre-filing settlement is reached, a Notice of Disciplinary Charges ("NDC") will be filed. The NDC will allege acts of misconduct including, but not limited to, violations of Business and Professions Code sections 6103 and 6068(o).

The filing of a NDC commences formal, public disciplinary proceedings against you before the State Bar Court. If public discipline is imposed, disciplinary costs will be assessed against you.

If you are interested in resolving this matter before disciplinary charges are filed, you may request an Early Neutral Evaluation Conference ("ENEC") conducted by a State Bar Court Judge. A copy of Rule 5.30, Rules of Procedure, is enclosed. To request an ENEC, you must return the enclosed form to the Court within ten calendar days from the date of this letter and provide me with a copy of your ENEC request. To ensure timely receipt of your ENEC request, please fax the enclosed form to the State Bar Court using the fax number on the form.

The Court will conduct the ENEC within 15 days of the request. If you do not request an ENEC with the Court within 10 days, I will assume that you are not requesting an ENEC and disciplinary charges may be filed without further notice to you.

#6 You may have access to, and an opportunity to copy, all non-privileged materials and any exculpatory evidence within the State Bar's investigation file(s). If you want copies of these documents, you must also request them within ten days of the date of this letter to have them available before the ENEC. If

Patrick Missud
June 11, 2012
Page 2

you do not request an ENEC but want copies of these documents, you will be provided with copies in a timely fashion.

Finally, as you may be aware, the State Bar of California now has a Lawyer Assistance Program ("LAP") to assist attorneys who have drug, alcohol or mental health conditions. The toll free number is (866) 436-6644; a LAP brochure is enclosed for your information and review. The State Bar Court also has a program to address misconduct that arises from drug, alcohol or mental health problems. (Rules of Procedure of the State Bar, at rules 5.380-5.389; see also www.calbar.ca.gov, at hyperlinks: Attorney Resources, State Bar Court - Procedures, Programs & Rules). We provide this information to all respondents in disciplinary proceedings, in the event it may be useful to them, and do not intend to imply that you have need of these programs.

If you wish to discuss this matter informally with me either instead of or prior to the ENEC, my direct dial number is noted at the top of this letter. Please note that you must still submit a request for an ENEC (on the enclosed form) to preserve your right to an ENEC even if you wish to discuss this matter with me informally.

Very truly yours,



Erica L. M. Dennings
Senior Trial Counsel

ELD/ad

Enclosures
Notice of Designation to Receive Service
Rule 5.30
ENEC Request form
LAP information



DIANA HERBERT
CLERK/ADMINISTRATOR

STATE OF CALIFORNIA
Court of Appeal

OFFICE OF THE CLERK
FIRST APPELLATE DISTRICT
350 MCALLISTER STREET
SAN FRANCISCO, CA 94102-4712

TELEPHONE
(415) 865-7200
FAX
(415) 865-7209
E-MAIL
first.district@jud.ca.gov

January 30, 2013

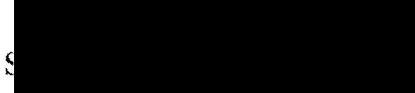
Director, Administrative Compliance Unit
The State Bar of California
1149 So. Hill Street, 5th Floor
Los Angeles, CA 90015-2299

Dear Madam/Sir:

At the direction of the court and pursuant to the opinion, we are forwarding a copy of an opinion filed by this court on October 25, 2012, case number A130482, *Tatiana Sanochkina et al. v. Richard Yuen*, in Division Two, to take such actions as the State Bar deems appropriate against appellant's counsel.

The name and address of the attorney whose conduct is described in the enclosed opinion is:

Patrick A. Missud



Very truly yours,

Diana Herbert
Clerk/Administrator

enc.

cc: Patrick Missud



THE STATE BAR
OF CALIFORNIA

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE

Dane Dauphine, Assistant Chief Trial Counsel

TELEPHONE: (213) 765-1000

FAX: (213) 765-1168

<http://www.calbar.ca.gov>

January 10, 2013

PERSONAL AND CONFIDENTIAL

Patrick A. Missud

Re: Reportable Action No(s): 12-14559-C

Dear Mr. Missud:

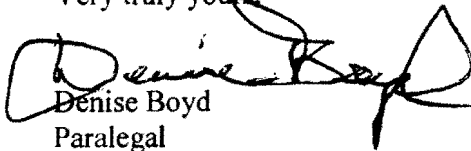
The State Bar of California has been notified of sanctions issued against you in the amount of \$1,500 on May 24, 2012 in the San Francisco Superior Court case no. FDI-03-753770 entitled *Mary Wang vs. Archibald Cunningham*.

We have no record that you have paid the sanctions. Please advise the State Bar as to whether the sanctions or judgment award has/have been paid of appealed. If the sanctions have been paid, please provide proof of payment, such as with a copy of the cancelled check or other proof. If the sanctions have been appealed, please provide a copy of the notice of appeal filed with the court.

We also note that we have no record of your having reported these sanctions. Business and Professions Code section 6068(o)(3) requires a member to report to the State Bar, within thirty days of knowledge, a sanction order of \$1,000 or greater which is not related to the failure to make discovery. If the matter was reported, please provide the State Bar with a copy of the notice. If the matter was not reported, please also provide the State Bar with an explanation for the failure to do so.

Please note that these matters undergo attorney review and that a failure to provide a full response may require that we open an investigation into this matter. We request your written response - including an explanation of your actions (your side of the story) related to the issuance of the sanctions **within ten (10) days** from the date of this letter. In the meantime, should you require an extension of time, you can PDF your request to Reportable.Actions@calbar.ca.gov, or send a fax to (213) 765-1168. You can also PDF your signed response to the same email address. Thank you for your cooperation.

Very truly yours,


Denise Boyd
Paralegal



THE STATE BAR
OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CALIFORNIA 94105-1639

OFFICE OF THE CHIEF TRIAL COUNSEL
ENFORCEMENT

Jayne Kim, Chief Trial Counsel

TELEPHONE: (415) 538-2000

FAX: (415) 538-2220

<http://www.calbar.ca.gov>

March 21, 2013

PERSONAL AND CONFIDENTIAL

Patrick Missud

Re: Case Number: 13-O-11110
Complainant: SBI

Dear Mr. Missud:

This letter is sent to you based upon information that you are not currently represented by counsel in this matter. If this is incorrect, please advise me within **five** days so that future communications may be directed to your counsel.

The State Bar has opened a new complaint based on a report from San Francisco Superior Court that is as follows:

You were representing Archibald Cunningham in the matter of Wang vs. Cunningham. During the course of your representation you recorded the court proceedings without permission of the presiding judge, a violation of California Rule of Court 1.150(d). *Mahoney LRE 1.150*

The court found that your pleadings were devoid of any meaningful analysis. Your pleadings on the visitation issue made the same arguments made in the past and reject. The failed to address the testimony of witnesses and experts were not consulted and no thought was given to securing their testimony.

Finally, under CCP § 128.7 you were sanctioned \$1,500, by Judge Patrick Mahoney, for presenting to the court or advocating to the court an unwarranted legal contention and/or unsupported factual contention. The court said you had affirmative duty to investigate the positions taken before filing pleadings reflecting such positions. Also as a part of the sanction was the improper recording of the court proceedings. You were supposed to pay the sanctions within 30 days.

The State Bar has no record of you reporting the sanctions to us.

Your written response to these allegations along with any supporting documentation is requested. **All** documents that you send to the State Bar, whether **copies or originals**, become State Bar property and are subject to destruction. In addition, please provide the information requested below and legible copies of referenced documents:

Patrick Missud
March 21, 2013
Page 2

1. All pleadings you filed with the court in this matter.
2. A copy of all recordings you made without permission of the court in this matter.
3. Proof of payment of the sanctions.
4. Proof of your report to the State Bar.

FAILURE TO PROVIDE THE DOCUMENTS REQUESTED IN THIS LETTER MAY RESULT IN THE ISSUANCE OF A SUBPOENA DUCES TECUM.


In addition, pursuant to Business and Professions Code section 6086.10, you may be subject to a cost assessment for the expenses incurred by the State Bar if this matter results in public discipline.

We must receive your written response and the documents requested, if any, by **April 4, 2013**. Section 6068(i) of the Business and Professions Code states that it is the duty of an attorney to cooperate with and participate in any State Bar Investigation.

Upon request, the Office of the Chief Trial Counsel will consider granting you additional time within which to submit a written response to the allegations and the requested information and documents. A request for an extension of time must be in writing and state good cause as to the specific constraints on your practice which are claimed to necessitate the additional time. Any request for extension of time must be received by the undersigned on or before **April 4, 2013**.

Please feel free to call me at (415) 538-2343 if you have any questions.

Very truly yours,


Mike Maacks
Investigator

/mm



COURT'S PRESIDING JUDGE.

Federal Subpoenas for Two Transcripts Ignored by the SF Superior Court

Tuesday, May 15, 2012 6:34 AM

From: "pat missud" <missudpat@yahoo.com>

To: transcriptrequests@sftc.org, msage@sftc.org, kfeinstein@sftc.org, myuen@sftc.org

Cc: gavaks@bayareanewsgroup.com, tbarnidge@bayareanewsgroup.com, kbender@bayareanewsgroup.com, kbennett@bayareanewsgroup.com, dbotano@bayareanewsgroup.com, dborenstein@bayareanewsgroup.com, eburch@bayareanewsgroup.com, cburt@bayareanewsgroup.com, acrane@bayareanewsgroup.com, tdrummond@bayareanewsgroup.com, fmalai@bayareanewsgroup.com, ngonzales@bayareanewsgroup.com, vgriffey@bayareanewsgroup.com, tharrington@bayareanewsgroup.com, hharris@bayareanewsgroup.com, ahill@bayareanewsgroup.com, akinney@bayareanewsgroup.com, mmanekin@bayareanewsgroup.com, tmartinez@bayareanewsgroup.com, jmelvin@bayareanewsgroup.com, cmetinko@bayareanewsgroup.com, emitche@bayareanewsgroup.com, dnehouse@bayareanewsgroup.com, toourke@bayareanewsgroup.com, tpeele@bayareanewsgroup.com, kpfrommer@bayareanewsgroup.com, grabinowitz@bayareanewsgroup.com, jrichman@bayareanewsgroup.com, mrosenberg@bayareanewsgroup.com, prosynsky@bayareanewsgroup.com, jrux@bayareanewsgroup.com, dscardina@bayareanewsgroup.com, ntabak@bayareanewsgroup.com, ctreadway@bayareanewsgroup.com, pturtime@bayareanewsgroup.com, lvorderbrueggen@bayareanewsgroup.com, avoros@cctimes.com, cwalker@bayareanewsgroup.com, awoodall@bayareanewsgroup.com

1 File (30KB)



RJN_161_...

Good morning all-

\$o far, the \$F \$uperior Court has continued supre\$\$ing production of the all-telling Department 302 3-19-12 and 4-25-12 tran\$cript\$ for hearings held before Kahn. What'\$ up with that? Can I please either have the transcripts or an update for their production?

* FYI- Today at 9 AM in Dept.405, I have another hearing before Mahoney. If a court reporter is made 'unavailable,' or in the event that production of this third transcript is also illegally withheld, I will be recording the hearing with a digital device. *

This is your notice,

Patrick Missud

CCP 1021.5 California Private Attorney General;

Title 18, Section 1513 Federal Informant;

US Citizen afforded due process, fairness and right to court access per the US Constitution and Bill of Rights.

--- On Thu, 5/10/12, pat missud <missudpat@yahoo.com> wrote:

From: pat missud <missudpat@yahoo.com>

Subject: Transcript Request

To: transcriptrequests@sftc.org, msage@sftc.org, kfeinstein@sftc.org, myuen@sftc.org

Date: Thursday, May 10, 2012, 6:29 AM

Per declaration #12 of the attached I request production of the 3-19-12 and 4-25-12 transcripts of the hearings held before judge Kahn in Dept. 302.

Thank you in advance,

Patrick

Rule 1.100 amended effective January 1, 2010; adopted as rule 989.3 effective January 1, 1996; previously amended effective January 1, 2006; previously amended and renumbered effective January 1, 2007.

Advisory Committee Comment

Subdivision (g)(2). Which court is the “appropriate reviewing court” under this rule depends on the court in which the accommodation decision is made and the nature of the underlying case. If the accommodation decision is made by a superior court judicial officer and the underlying case is a limited civil, misdemeanor, or infraction case, the appropriate reviewing court is the appellate division of the superior court. If the accommodation decision is made by a superior court judicial officer and the case is anything other than a limited civil, misdemeanor, or infraction case, such as a family law, unlimited civil, or felony case, the appropriate reviewing court is the Court of Appeal. If the accommodation decision is made by a judicial officer of the Court of Appeal, the appropriate reviewing court is the California Supreme Court.

Chapter 6. Public Access to Court Proceedings

Rule 1.150. Photographing, recording, and broadcasting in court

Rule 1.150. Photographing, recording, and broadcasting in court

(a) Introduction

The judiciary is responsible for ensuring the fair and equal administration of justice. The judiciary adjudicates controversies, both civil and criminal, in accordance with established legal procedures in the calmness and solemnity of the courtroom. Photographing, recording, and broadcasting of courtroom proceedings may be permitted as circumscribed in this rule if executed in a manner that ensures that the fairness and dignity of the proceedings are not adversely affected. This rule does not create a presumption for or against granting permission to photograph, record, or broadcast court proceedings.

(Subd (a) adopted effective January 1, 1997.)

(b) Definitions

As used in this rule:

- (1) “Media coverage” means any photographing, recording, or broadcasting of court proceedings by the media using television, radio, photographic, or recording equipment.
- (2) “Media” or “media agency” means any person or organization engaging in news gathering or reporting and includes any newspaper, radio or television

station or network, news service, magazine, trade paper, in-house publication, professional journal, or other news-reporting or news-gathering agency.

- (3) “Court” means the courtroom at issue, the courthouse, and its entrances and exits.
- (4) “Judge” means the judicial officer or officers assigned to or presiding at the proceeding, except as provided in (e)(1) if no judge has been assigned.
- (5) “Photographing” means recording a likeness, regardless of the method used, including by digital or photographic methods. As used in this rule, photographing does not include drawings or sketchings of the court proceedings.
- (6) “Recording” means the use of any analog or digital device to aurally or visually preserve court proceedings. As used in this rule, recording does not include handwritten notes on the court record, whether by court reporter or by digital or analog preservation.
- (7) “Broadcasting” means a visual or aural transmission or signal, by any method, of the court proceedings, including any electronic transmission or transmission by sound waves.

(Subd (b) amended effective January 1, 2007; adopted as subd (a) effective July 1, 1984; previously amended and relettered as subd (b) effective January 1, 1997; previously amended effective January 1, 2006.)

(c) Photographing, recording, and broadcasting prohibited

Except as provided in this rule, court proceedings may not be photographed, recorded, or broadcast. This rule does not prohibit courts from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the courthouse or between court facilities if the broadcasts are controlled by the court and court personnel.

(Subd (c) amended effective January 1, 2006; adopted effective January 1, 1997.)

(d) Personal recording devices

The judge may permit inconspicuous personal recording devices to be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device must obtain advance permission from the judge. The recordings must not be used for any purpose other than as personal notes.

(Subd (d) amended effective January 1, 2007; adopted as subd (c) effective July 1, 1984; previously amended and relettered as subd (d) effective January 1, 1997; previously amended effective January 1, 2006.)

(e) Media coverage

Media coverage may be permitted only on written order of the judge as provided in this subdivision. The judge in his or her discretion may permit, refuse, limit, or terminate media coverage. This rule does not otherwise limit or restrict the right of the media to cover and report court proceedings.

(1) Request for order

The media may request an order on *Media Request to Photograph, Record, or Broadcast* (form MC-500). The form must be filed at least five court days before the portion of the proceeding to be covered unless good cause is shown. A completed, proposed order on *Order on Media Request to Permit Coverage* (form MC-510) must be filed with the request. The judge assigned to the proceeding must rule on the request. If no judge has been assigned, the request will be submitted to the judge supervising the calendar department, and thereafter be ruled on by the judge assigned to the proceeding. The clerk must promptly notify the parties that a request has been filed.

(2) Hearing on request

The judge may hold a hearing on the request or may rule on the request without a hearing.

(3) Factors to be considered by the judge

In ruling on the request, the judge is to consider the following factors:

- (A) The importance of maintaining public trust and confidence in the judicial system;
- (B) The importance of promoting public access to the judicial system;
- (C) The parties' support of or opposition to the request;
- (D) The nature of the case;
- (E) The privacy rights of all participants in the proceeding, including witnesses, jurors, and victims;
- (F) The effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding;

FILED
San Francisco County Superior Court

MAY 25 2012

CLERK OF THE COURT

~~FILED~~ Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

County of San Francisco

Department No. 405

MARY WANG

Petitioner,

vs.

ARCHIBALD CUNNINGHAM

Respondent.

Case No.: FDI-03-753770

CASE RESOLUTION ORDER # 2
FINDINGS & ORDER AFTER HEARING

On May 15, 2012, Petitioner Mary Wang appears through her counsel, Maria Schopp, and Respondent Archibald Cunningham personally appears represented by Paul Missud. Prior to the hearing, the Court directs the parties to address a series of questions to elicit legal arguments relevant to Respondent's pending request for relief, including determining that Respondent is no longer a vexatious litigant, termination of the Restraining Order against Respondent and reinstatement of a 50/50 custody arrangement. In support of this relief, Respondent, represented by counsel, declined to file the previously set vexatious litigant bond on the grounds this deprived Respondent of due process and Respondent's expressed desire to call witnesses to

1 explains the steps that he has taken to address his expressed anger toward Petitioner and
2 demonstrate that he can safely maintain visits with his daughter.

3 9. At the conclusion of the hearing on May 15, 2012, the Court directed Respondent's
4 counsel to file a pleading addressing the issue of sanctions under CCP § 128.7.

5 Respondent's counsel has done so.

6 a. California Rule of Court 1.150(d) specifies the steps that must be taken before a
7 party is authorized to use a personal recording device to transcribe a court
8 proceeding. Respondent's counsel did not follow this procedure and began to
9 record the proceedings absent the consent of the judge presiding over the hearing.
10 Counsel apparently contends that an email to Court's Presiding Judge or Chief
11 Executive Officers of the Manager of Court Reporters is sufficient compliance. It
12 is not.

13 b. Counsel acknowledges that he advised Respondent that counsel "knew nothing
14 about family law" and agreed to represent Respondent on the vexatious litigant
15 issue. (Response Declaration to Threat of Fee Sanctions under CCP 128.7 page
16 3.) Yet, the pleadings counsel puts his name to are replete with family law issues
17 and on their face, appear to be written by Respondent himself with counsel merely
18 lending his name to the filing.

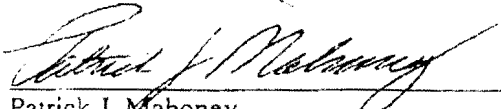
19 c. The pleadings filed are replete with an inaccurate statement of the facts and the
20 law to be applied to the facts of the case. It is for this reason that the Court issued
21 Case Resolution Order # 1 and directed the parties to address among other issues
22 the effect of the Court's earlier rulings and Respondent's failure to overturn those
23 rulings. The pleading filed by counsel is devoid of any meaningful analysis that
24 would support the relief requested. As to the visitation issue, counsel fails to
25 address the Court's prior findings; rather, counsel's filings are replete with

1 arguments made in the past and rejected. When asked to address the testimony of
2 witnesses, it is obvious that the experts were not consulted, nor any thought was
3 given to securing their testimony, let alone any theory that would authorize the
4 taking of testimony from a judge who made earlier rulings in the case.

5 d. CCP § 128.7 authorizes the imposition of sanctions for presenting to the Court or
6 advocating to the Court an unwarranted legal contention and/or unsupported
7 factual contention. Counsel has an affirmative duty to investigate the positions
8 taken before filing pleadings reflecting such positions. The inquiry must be
9 reasonable under the circumstances. CCP 128.7(b). The test is an objective one.
10 Here, the pleadings filed by counsel seeking disqualification, termination of the
11 vexatious litigant finding, termination of the restraining order, the challenge to the
12 present visitation order, and the asserted need for testimony fail to meet the
13 mandate of CCP § 128.7. Moreover, counsel failed to comply with California
14 Rule of Court regarding the recording of proceedings.

15 e. For the reasons stated, sanctions in the sum of \$1,500 are assessed against Paul
16 Missud, counsel for Respondent. The sanctions are to be paid within 30 days to
17 Petitioner.

18
19 May 24, 2012

20 
21 Patrick J. Mahoney
22 Judge of the Superior Court
23
24
25

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U.S. District Court
California Northern District

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The following transaction was entered by Missud, Patrick on 5/15/2012 at 3:25 PM and filed on 5/15/2012

Case Name: Missud v. State of Nevada et al

Case Number: 4:12-cv-00161-DMR

Filer: Patrick A. Missud

Document Number: 97

Docket Text:

AFFIDAVIT of Service for Subpoena for Production of Microcassette served on SFSC CEO Yuen, Presiding Judge Feinstein, and Judge Mahoney on May 15, 2012, filed by Patrick A. Missud. (Attachments: # (1) Exhibit 1,2,5,7,8,9,10,11)(Missud, Patrick) (Filed on 5/15/2012)

4:12-cv-00161-DMR Notice has been electronically mailed to:

Ann Marie Reding annie.reding@usdoj.gov, bonny.wong@usdoj.gov

Patrick Alexandre Missud missudpat@yahoo.com

4:12-cv-00161-DMR Please see General Order 45 Section IX C.2 and D; Notice has NOT been electronically mailed to:

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[761fa89cc6d95bb97d396d69abc7c6e91934c0a8b35e3a07c883ff0711dedc48810a9
d5a27a7593a0af278bc53e7036edc9ac1bfe6bf03cb8bf9d7f395557615]]

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8bfbd2b8c31391663e5e4683e3d716efe13a48f6d57a3895151b6734606]]

D R Horton Criminality? What do you think?

FBI & EXPLOSIVES

FBI & EXPLOSIVES

Home

Over 100,000 people have visited these sites. Millions in net sales losses

Vandalism & Burglary

are being racked up weekly, yet D R Horton has avoided the courts and

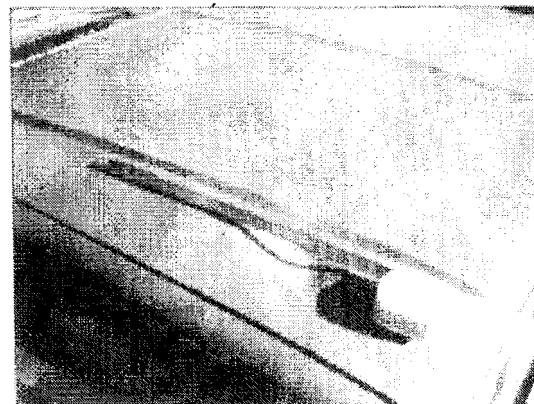
Retaliation

not tried to shut them down. Very curious.....isnt it?

Summon the Criminals



The above picture depicting my truck was sent to Horton in March 2007. The picture to the right is of damage due to an



Report Type: Initial

San Francisco Police Department INCIDENT REPORT

070793172

I N C I D E N T	Incident Number 070793172	Reported Date/Time 08/03/2007 16:52	Occurrence On/From Date/Time 08/03/2007 22:00	Occurrence To Date/Time 08/03/2007 22:00	CAD Number 072472331	
	Type Of Incident Mischief, Vandalism to Vehicle - 28160					
	Location [REDACTED] Street					
	Arrest Made <input type="checkbox"/> Non-Suspect Incident <input type="checkbox"/> Suspect Known <input type="checkbox"/> Suspect Unknown <input type="checkbox"/> Reporting Unit Yes <input type="checkbox"/> No <input type="checkbox"/> 3H3C					
Location S [REDACTED]			Assign To : GENERAL WORK Assigned By : RC, 585			
O D I C L A R A T I O N	I declare under penalty of perjury, this report of 2 pages is true and correct, based on my personal knowledge, after making an investigation and belief following an investigation of the events and parties involved.					
	Prop 118 Certified: 5 Yrs <input checked="" type="checkbox"/> Post Training <input checked="" type="checkbox"/> Signature: <i>R. Pung</i> 585					
	Reporting Officer Curry, R.		Star 585	Station Inglewood	Watch 1100-2100	Date 08/05/2007 17:35
	Receiving Officer [REDACTED]		Star 1667	Station C 4	Watch 15/01	Date 8/5/07
	CIC Approval Officer [REDACTED]		Star 1667	Station C 4	Watch 15/01	Date 8/5/07
	Report Status Signed	Juv. Involved	How Cleared	Assigned To GENERAL WORK	Copy To	

S U B J E C T	Code R/V - Reporter/Victim	Name Missud, Patrice	Alias
	[REDACTED]		
	School (If Juvenile)	Sex Male	DOB 08/30/1988
	Race : White	Age : 39	[REDACTED]

V E H I C L E	Code D - DAM	Year 1981	Make GMC	Model 1500	Style Truck	Color [REDACTED]
	Condition Of Vehicle : Apparently Drivable, Damaged Damage : Dent in the hood					
	Point Of Entry :					

P R O P E R T Y	Property Code D - Damage	Item Hood	Brand	Model
	Serial Number	Color BRO	Value : \$TBD	
	Quantity : 1 Description : Dent in the hood of (R/V) Missud's (D) vehicle			

P R O P E R T Y	Property Code E - Evidence	Item Disk	Brand	Model
	Serial Number	Color	Seized By (Star) : 585	
	Quantity : 1 Description : 4 Photos of (D) vehicle			

Audit Records

Incident # 070793172

Topic: Narrative

N
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V
E

On Sunday 08-05-07 at 1652 hours I was dispatched to [REDACTED] for vandalism to a vehicle. Upon my arrival I met (RV) Mussid who stated that on Friday 08-03-07 approximately 2200 hours, he heard firecrackers outside his home. Shortly after Mussid said he heard a large explosive, possibly an M80 go off. Mussid said he looked outside his window, but didn't see anything. Mussid did not go outside until the next day when he noticed his (D) vehicle had a dent in the hood, with some of the paint taken off. Mussid said he went to a baseball game, and called the police the next day, on Sunday.

I saw the damage to Mussid's vehicle, and took four photos on a (E) disk of the (D) vehicle. Mussid had no suspect information at this time. After taking Mussid's statement, I gave him a follow up form with a case number. I later booked the disk at Ingalls Station as evidence.

Printed by AOLIVE on Aug 28 2007 at 12:45 PM

Audit Records

Incident # 070793172

(11)

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THE PERSONS FOR THE BOMBING PERHAPS?

11



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Google ②	On	\$0.61	704	7,434	9.47%	\$0.68	\$475.62	1.3
Search partners	On	Auto	115	1,956	5.87%	\$0.76	\$87.09	2.1
Content ②			63	10,324	0.61% ②	\$0.59	\$37.24	n/a
Placements you've targeted	None selected Add placements							
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11

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5. **DR Horton**
Across the entire country, D.R. Horton delivers more homes than any other homebuilder. How sweet it is to know that the track record, reputation, quality and value of ...
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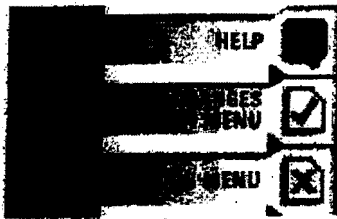
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Warranty Fraud

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1068
157
137
223
107

BACK

11

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA

GARY G. STAUFFER and LINDA S. STAUFFER,	:	No. CI-08-
Plaintiffs	:	
v.	:	Civil Action
D. R. HORTON, INC. - NEW JERSEY,	:	Jury Trial Demanded
Defendant	:	

COMPLAINT

AND NOW come the Plaintiffs, Gary G. Stauffer and Linda S. Stauffer, by and through their attorneys, Malone & Neubaum, Leo Wallace, and file this their Complaint of which the following is a statement.

1. Plaintiffs, Gary G. Stauffer and Linda S. Stauffer, husband and wife, are adult individuals residing at 1835 Buchers Mill Road, Lancaster, Pennsylvania 17601.

2. Defendant, D. R. Horton, Inc.- New Jersey, is a Delaware corporation whose registered agent is the Corporation Trust Company with an address of 1209 Orange Street, Wilmington, Delaware 19801.

3. On or about August 31, 2005 the Plaintiffs and the Defendant executed a certain written agreement for the construction of a new home. A true and correct copy of the agreement is attached hereto marked as Exhibit A and is incorporated by reference herein.

4. On or about March 15, 2006 the Plaintiffs paid the full purchase price and took possession of their home located at 1835 Buchers Mill Road, Lancaster, Pennsylvania 17601.

5. After taking possession of their home, Plaintiffs began to notice what they believed were construction defects.

6. On November 10, 2006 the Plaintiffs had their home inspected by an independent inspection agency, Code Administrators, Inc.

7. On or about February 10, 2007 the Commonwealth of Pennsylvania, Department of Labor and Industry, performed an inspection of the Plaintiffs' home.

8. The aforementioned inspections confirmed the Plaintiffs' belief that there were in fact defects in the construction of their home.

9. The home and other improvements were constructed by the Defendants and/or their subcontractors over whom Defendants exercised supervision, direction and control.

10. The independent inspection and the inspection by the Department of Labor and Industry identified numerous construction defects, including inter alia the following:

- (a) The required plumbing, mechanical, electrical system and wallboard inspections were not conducted prior to the issuance of an occupancy permit;
- (b) Exterior penetrations have not been properly sealed and are not weathertight;
- (c) Staircase to the second floor is built with a different riser from the first and last riser;

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

James M. Ivey,)
)
Plaintiff,) **COMPLAINT** 3:08-598-CMC
) **(Jury Trial Demanded)**
vs.)
)
D.R. Horton, Inc.,)
)
Defendant.)
_____)

The plaintiff, by and through his undersigned counsel, hereby files this Complaint against D.R. Horton, Inc. ("Horton") alleging fraudulent conduct and public policy discharge causes of action in violation of his rights and proximately causing him damages as further set out herein.

1. The plaintiff is a citizen of the United States residing in Leesville, South Carolina and submits himself to the jurisdiction of this Court.

2. The defendant, D.R. Horton ("Horton"), is a Delaware corporation or a foreign corporation chartered with its principal place of business in Ft. Worth, Texas where it maintains a nationwide residential construction operation including large construction operations within the state of South Carolina, particularly in Richland and Lexington Counties.

3. This action arises under Section 28 U.S.C. Section 1337 and invokes the diversity jurisdiction of this Court.

4. Venue lies within the Columbia Division pursuant to 28 U.S.C. Section 1391 because the unlawful actions and practices alleged herein were committed within the District of South Carolina where the defendant does business and maintains agents, servants and employees.

5. The defendant Horton is a nationwide corporation and develops real estate and

purchase of the Townhouse, so that Defendant D.R. Horton could attempt to claim a breach by Plaintiff and forfeit her deposit as alleged liquidated damages under the contract.

57. In agreeing to exchange the contract for the Rainswood Lane property for a contract for the Townhouse, Plaintiff relied on Defendants representations referenced above.
58. Defendants representations that DHI would finance Plaintiff for the Townhouse was a material consideration in Plaintiff's entry into that contract.
59. As a result of Defendant's false representations, Plaintiff was damaged.
60. Defendants' actions were taken in willful, wanton and reckless disregard for Plaintiff's rights.

COUNT IV - VIOLATION OF THE VIRGINIA CONSUMER PROTECTION ACT

61. The allegations of paragraphs 1 through and including 60 of the Complaint are realleged and incorporated herein by reference.
62. The purchases described above are "consumer transactions" as that term is used in the Virginia Consumer Protection Act.
63. Defendant D.R. Horton is a "supplier" as that term is used in the Virginia Consumer Protection Act.
64. Defendant D.R. Horton claimed that it was forfeiting Plaintiff's deposit based on an alleged liquidated damage provision in the contract.
65. The alleged liquidated damage provision of the contract is void and unenforceable as a penalty, rather than liquidated damages.

49. In the alternative of willful violations, the Defendant DHI's violations were negligent.
50. As a result of the above alleged FCRA violations, Plaintiff has suffered substantial actual damages.
51. As a result of these FCRA violations, Defendant DHI is liable to Plaintiff for statutory damages, or actual damages if the amount of actual damages is greater than the statutory amount for each of the violations; Defendant DHI is also liable for punitive damages, and for attorneys fees and costs.

COUNT III-FRAUD

52. The allegations of paragraphs 1 through and including 51 of the Complaint are realleged and incorporated herein by reference.
53. Defendants DHI and D.R. Horton misrepresented that DHI would finance the purchase of the Townhouse.
54. Defendants DHI and D.R. Horton misrepresented that DHI would finance the purchase of the Townhouse in order to get Plaintiff to agree to purchase the townhouse in lieu of the Rainswood Lane property.
55. Defendants DHI and D.R. Horton misrepresented that DHI would finance the purchase of the Townhouse in order that Defendant D.R. Horton would not be in default of the purchase contract and thus be unable to make a claim for forfeiture of Plaintiff's deposit as liquidated damages under the contract.
56. Defendants DHI and D.R. Horton misrepresented that DHI would finance the purchase of the Townhouse, knowing that DHI would not in fact finance the

markets upscale residential and multi-family homes throughout many areas of the State of South Carolina where it acts through its managers, officers and employees. The claims of the plaintiff focus upon the end years of his employment with Horton when he was assigned to the Columbia, South Carolina office in charge of area construction issues and later placed in charge of development and infrastructure until his wrongful and fraudulent termination in October of 2007.

6. In February of 2005, the plaintiff was moved from Charleston, South Carolina to Columbia after several years of employment with Horton in several different locations. In the late spring of 2005, he was placed in charge of area construction which included numerous Horton projects in Richland and Lexington Counties.

7. At the time he was placed in such position, Horton had no corporate or individual builders license as required by the State of South Carolina to carry on its real estate operations. The plaintiff had held such licenses previously in other locations and as a part of his newly relocated position, Horton arranged for and paid the necessary fees for the plaintiff to take the examination and be licensed as a builder in order to utilize such license to conduct its corporate activities in the building area.

8. The plaintiff agreed to allow Horton to utilize his license only upon the express assurance that he would be responsible only for the period of time that he was in charge of residential construction and had oversight of the inspection and correction process required by South Carolina law. In his construction position, he could assure compliance for both himself and for Horton. He in fact assured such compliance at all times that he was in charge of construction.

9. Horton's agents and servants, specifically the division president, Jay Henderson, as

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THOMAS G. HUGGINS
968 Cornwallis Drive
West Chester, PA 19380
Plaintiff

CIVIL ACTION NO. 08-

v.

D.R. HORTON, INC.
301 Commerce Street
Suite 500
Fort Worth, TX 76102
Defendant

COMPLAINT

1. This action sets forth claims for wrongful discharge, violation of the Pennsylvania Wage Payment and Collection Law, 42 P.S. § 260.1, et seq., and common law breach of contract, with jurisdiction founded on the parties' diversity of citizenship.

JURISDICTION AND VENUE

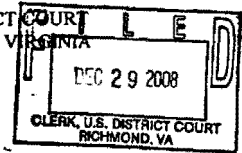
2. The parties being citizens of different states and the amount in controversy, exclusive of interest and costs, being in excess of \$75,000, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332.

3. Venue is proper in this district pursuant to 28 U.S.C. §1391(a)(2) and (3), in that a substantial part of the events or omissions giving rise to the claims set forth in this Complaint occurred in this judicial district and defendant Horton is subject to personal jurisdiction in this judicial district.

PARTIES

4. Plaintiff, Thomas G. Huggins, (hereinafter called "Plaintiff" or "Huggins") is an individual residing at 968 Cornwallis Drive, West Chester,

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION



VILMA E. MORENO
f/k/a Vilma Diaz

Plaintiff,

v.

DHI MORTGAGE COMPANY GP, INC.

and

D. R. HORTON, INC.

Defendants

CIVIL ACTION No.
COMPLAINT AND
REQUEST FOR JURY TRIAL

3:08cv845

COMPLAINT

COME NOW, Plaintiff, by counsel, and as her Complaint against Defendants, DHI MORTGAGE COMPANY GP, INC (hereinafter DHI) and D. R. HORTON, INC. (hereinafter, D.R. Horton), respectfully allege the following:

PARTIES

1. Plaintiff is a resident of the Commonwealth of Virginia.
2. Defendant DHI was, at all times relevant hereto, a corporation licensed and authorized to do business in the Commonwealth of Virginia, in the business of financing residential mortgage loans.
3. Defendant D.R. Horton was, at all times relevant hereto, a Delaware corporation, in the business of constructing and selling homes.

JURISDICTION AND VENUE

money in their accounts. However this explanation was never provided to Plaintiffs by Defendant, and despite Mr. Yow's use of the term COFI loan, Plaintiffs were orally informed by Mr. Yow that their interest rate would begin at one (1) percent the first year and then increase by one (1) percent each year for five (5) years until capped at five (5) percent per year for the remainder of the life of the mortgage. In sum, Mr. Yow orally described a loan which was not a COFI loan at all.

14. Not only did Mr. Yow describe something other than a COFI loan to the Plaintiffs, the two (2) separate TILDS prepared by Mr. Yow reflected an entirely different loan arrangement than the loan terms which were described orally by Mr. Yow. On February 25, 2005, Mr. Yow prepared a TILDS ("February 2005 TILDS") indicating Plaintiffs' loan was an "ARM" initially set at 4.430 annual percentage rate. Mr. Yow never explained to Plaintiffs that "ARM" was an acronym for an adjustable rate mortgage, nor did he ever explain what an adjustable rate mortgage was to Plaintiffs. The February 2005 TILDS Mr. Yow prepared had a box to indicate whether or not the loan being disclosed contained a variable rate feature. Mr. Yow did not check the variable rate feature box on the February 2005 TILDS, thereby providing a written disclosure which was not only entirely contradictory within the TILDS itself, but one which also contradicted his own oral representations to Plaintiffs as to whether they were purchasing an interest rate that fluctuated or not. The February 2005 TILDS also indicated that this was a "final" document and that there was neither a prepayment penalty nor any entitlement to a refund of part of the finance charge. The total finance charge under this February 2005 TILDS was stated as \$577,527.72.

15. On May 12, 2006, Mr. Yow provided a different TILDS ("May 2006 TILDS") to Plaintiffs for the same loan number which stated that Plaintiffs' adjustable rate mortgage came with a 7.047 annual percentage rate—an amount significantly higher than Plaintiffs were advised, either

Chester County, Pennsylvania, 19380.

5. Defendant, D.R. Horton, Inc. (hereinafter referred to as "Defendant" or "Horton") is a corporation registered to do business within the Commonwealth of Pennsylvania, with its principal place of business located at 301 Commerce Street, Suite 500, Fort Worth, Texas, 76102.

BACKGROUND OF THE VIOLATIONS

6. On or about February 25, 2005, Horton, which is in the business of new home construction, made an employment offer to Huggins for the position of Project Manager, at an annual salary of \$90,000, a year-end discretionary bonus, and benefits. Additionally, Horton promised Huggins that he would participate in a separate bonus program (the "houeline bonus"), under which he would be entitled to a bonus of up to \$200 per closed home based on certain criteria identified in the offer of employment letter ("offer letter") that Horton provided, a copy of which is attached as Exhibit A. Huggins accepted this offer of employment and began to work for Horton on or about March 11, 2005.

7. From and after the commencement of his employment with Horton, Huggins worked diligently on its behalf and contributed to the closing of many houses in his capacity as Project Manager of Horton's Village Grande at Miller's Run development located in Lancaster County, Pennsylvania.

8. Beginning in December 2005, Huggins made written inquiry to his immediate supervisor, Zachrey Colburn, concerning payment of the houseline bonus due to him. At all times from then and thereafter, Colburn indicated that the houseline bonus was payable to Huggins and that Colburn would investigate the reasons for delay in payment. Such interaction between Huggins and Colburn continued through the summer of 2006.

9. By September 6, 2006, Horton's delay in paying and failure to pay Huggins and other employees the houseline bonus compensation to which he and they were entitled and were requesting had reached the point where Huggins and a co-worker, Lou Mastrella, communicated by letter addressed to Horton's

IN THE CIRCUIT COURT OF THE 17TH
JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.

07004661

08

ANGELENA KANDAH,

Plaintiff,

vs.

D.R. HORTON, INC.,
a foreign corporation,

Defendant.

A TRUE COPY
HOWARD C. FORMAN
CLERK OF CIRCUIT COURT

MAR 01 2007

COMPLAINT

Plaintiff, ANGELENA KANDAH, by and through her undersigned counsel, sues the
Defendant, D.R. HORTON, INC. and alleges as follows:

Allegations Common to All Counts

1. Plaintiff is an individual, over the age of twenty one, a resident of Florida, and is otherwise sui juris.
2. At all times material hereto, Defendant D.R. Horton, Inc. was and is a foreign corporation licensed and doing business in Broward County, Florida.
3. Venue is proper in this Court in that significant and material transactions and occurrences giving rise to the causes of action set forth herein arose and transpired in Broward County, Florida.
4. This is an action for money damages in excess of \$15,000.00.
5. All conditions precedent to the maintenance of the causes of action set forth herein have occurred, been waived or excused.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

MAR 26 2007

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

THOMAS DODSON AND
OLGA DODSON

Plaintiffs,

v.

DHI MORTGAGE COMPANY, LTD.

Defendant.

CIVIL ACTION NO. **A07CA230** **SS**
JURY

PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiffs Thomas Dodson and Olga Dodson ("Plaintiffs") file this Original Complaint
against DHI Mortgage Company, Ltd. ("Defendant") and respectfully show the Court as follows:

A.
PARTIES

1. Plaintiffs are individual citizens of the Commonwealth of Virginia. Plaintiffs are married and reside together as husband and wife in Manassas, Prince William County, Virginia.
2. Defendant is a company organized and existing under the laws of the State of Texas and maintains its principal place of business at 12357 Riata Trace Parkway, Austin, Texas 78727. Defendant may be served with process by serving its registered agent, C.T. Corporation, at 350 North St. Paul Street, Dallas, Texas 75201.

B.
JURISDICTION AND VENUE

3. The Court has jurisdiction over the lawsuit under the provisions of 28 U.S.C. § 1332.

1 expected to receive, based on the representations made to me by Brad Trembly. When I provided
2 my \$20,000 down payment, I was assured that my closing costs would not exceed \$4,000 and my
3 monthly payment would not exceed \$2,500. After Defendants refused to fund my loan with Bank
4 of America, however, Horton raised the closing costs to \$14,000 and the monthly payments to
5 \$3,100 per month. As a result, the deal that they gave me was quite different from the deal I had
6 agreed to when I put down my payment of \$20,000.00. When I tried to refuse this deal, Horton
7 threatened to withhold my \$20,000 deposit because thirty ("30") days had elapsed since I entered
8 into the purchase agreement. At that time, had Horton or Horton Mortgage actually disclosed to
9 me that the loan would cost me over \$4,000 in fees, with an interest rate of 7%, and with closing
10 costs of over \$14,000, I would never have entered into the purchase agreement.

11
12 14. The Purchase Agreement for the unit was represented to me to be a standard form
13 document, and I was never given any reason to believe that the terms of the arbitration agreement
14 were negotiable. The agreement was presented on a take-it or leave-it basis, and there was no
15 opportunity to negotiate any of the boilerplate terms of the agreement. I did not understand that
16 as a result of the agreement that my rights against D.R. Horton, Inc., Horton or DHI Mortgage
17 Company, LTD., L.P. ("Horton Mortgage") (collectively referred to herein as "Defendants") to
18 enforce statutory remedies and/or California law as a result of their sales conduct were being
19 forfeited through the agreement.
20

21 15. In signing the agreement I was not told, nor did I understand that by signing the
22 agreement with the arbitration provision I would be waiving rights to receive attorney's fees as a
23 prevailing party, which are guaranteed by Federal and/or California law. I also did not
24 understand that I would be waiving statutory remedies or other rights provided by California law.
25 I was not informed nor did I understand that I would be forced to pay for the costs of providing, at
26 my sole expense, JAMS and all non-appealing parties with a certified copy of the hearing
27
28

6. Plaintiff has retained The Law Offices of David Eltringham, P.L. to represent her in this cause and she has agreed and become obligated to pay it a reasonable fee for its services.

General Factual Allegations

7. In or about 2002, Plaintiff was hired by Defendant, a nationally prominent builder/developer, to work as a sales assistant in its Deerfield Beach office location.

8. As a sales assistant, Plaintiff entered into a 5 month sales training program where she was paid a salary and nominal commission on the sale of any new homes made by her.

9. At her successful completion of that training program, Plaintiff was promoted to the position of full time sales associate at which time Defendant orally advised her that going forward she was to be paid on a commission only basis and further advised her that her commissions would always remain fixed at the agreed upon rate and become fully due and owing to her in the pay period immediately following the close of the sale of any new homes sold by her.

10. Based on the foregoing representations, Plaintiff accepted her promotion and worked as Defendant's sales associate for the next 3 1/2 years.

11. On or about January 9, 2007, Defendant terminated Plaintiff's employment and subsequently advised her that any commissions due and owing to her on future closings of homes sold by Plaintiff would be paid out to her on a reduced sliding scale basis pursuant to a written employment agreement Plaintiff had allegedly previously entered into with Defendant.

8:06-cv-00867-AG-AN Keith Rielly v. D R Horton
 Andrew J. Guilford, presiding
 Arthur Nakazato, referral
Date filed: 09/14/2006 **Date of last filing:** 02/21/2008

Case Summary

Office: Southern Division - Santa Ana

Filed: 09/14/2006

Jury Demand: Plaintiff

Demand: \$1500000

Nature of Suit: 710

Cause: 28:1331 Fed. Question: Fair Labor

Jurisdiction: Federal Question

Standards

County: Orange

Disposition:

Origin: 1

Terminated:

Lead Case:

Reopened:

Related Case:

None

Other Court Case:

None

Def Custody Status:

Flags: (ANx), DISCOVERY

Plaintiff: Keith Rielly	represented by	Mark Joseph Butler	Phone: 949-222-9181 Email: mark.butler@mazdabutler.com
Plaintiff: Keith Rielly	represented by	Mark N Mazda	Phone: 949-222-9182 Email: mark.mazda@mazdabutler.com
Defendant: D R Horton	represented by	David Augustus Garcia	Phone: 213-239-9800 Email: david.garcia@ogletreedeakins.com
Defendant: D R Horton	represented by	Howard L Magee	Phone: 213-239-9800 Email: howard.magee@ogletreedeakins.com
Defendant: D R Horton	represented by	Jack S Sholkoff	Phone: 213-239-9800 Email: jack.sholkoff@ogletreedeakins.com
Defendant: D R Horton	represented by	Leslie E Wallis	Phone: 213-239-9800 Email: leslie.wallis@odnss.com

PACER Service Center			
Transaction Receipt			
03/08/2008 09:06:50			
PACER Login:	pm2756	Client Code:	
Description:	Case Summary	Search Criteria:	8:06-cv-00867-AG-AN
Billable Pages:	1	Cost:	0.08

Case 3:08-cv-00592-BEN-RBB Document 12-7 Filed 05/27/08 Page 4 of 6

10. After Horton Mortgage failed to cooperate with Bank of America, I had no choice but to accept the loan from Horton Mortgage in order to close the purchase. I felt that Horton's insistence on placing me with this loan was in conflict with the clear terms of the Affiliated Business Arrangement Addendum document, contained in my Purchase Agreement, which discusses DR Horton's affiliation with DHI Mortgage and states:

You are **NOT** required to use these companies as a condition of your purchase of the Property from Seller. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

11. My understanding is that this statement meant that I was free to shop and compare services. Mr. Trembly, however, told me when I wanted to continue to use Bank of America, that I was foreclosed from shopping after thirty (30) days of entering into my Purchase Agreement. This statement is completely inconsistent with the above mentioned language in the Purchase Agreement. This inconsistency is fostered by the fact that the Affiliated Business Arrangement Addendum contained in my Purchase Agreement further stated:

If there is a conflict between the Purchase Agreement and the terms and provisions of this Addendum, the terms and provisions of this Addendum shall control.

12. At closing, Horton Mortgage failed to provide me with the promised 2% discount for financing the home purchase with Horton Mortgage and for not using my own real estate agent. When I asked why I was not receiving the promised 2% discount off of the purchase price, Mr. Trembly replied, "I am just a messenger." When I insisted that I should at least receive the discount for using Horton Mortgage, Mr. Trembly ask me. "Do you want to get this over with or not?"

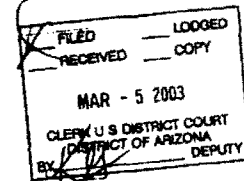
13. The fees, interest rate, and closing costs of the mortgage loan I actually received from Horton Mortgage are substantially higher than the fees, interest rate, and closing costs that I

6. Mr. Trembly thereafter visited me in my home on at least three (3) separate occasions. I informed Mr. Trembly, during these visits, that I was interested in obtaining a home loan from Bank of America because I had always experienced a good business relationship with Bank of America. Mr. Trembly insisted that Horton Mortgage was competitive with any mortgage company and that Horton Mortgage would offer me a discount off of the purchase price equivalent to 2% of the total purchase price if I did not use my own real estate agent and used Horton Mortgage. Mr. Trembly repeated these same representations in telephone calls and messages.

7. Although several sales representatives from Horton and Horton Mortgage, including Mr. Trembly, had previously represented that my closing costs would not exceed \$4,000, Mr. Trembly later informed me during one of his visits that the closing costs would amount to approximately \$12,000. In order to avoid paying these high closing costs, I continued to attempt to obtain financing for my home purchase through Bank of America.

8. At Bank of America, I was offered a fixed interest rate of 5.875% and no closing costs. Despite the best efforts of my representative at Bank of America and myself, Horton would not cooperate with either my representative at Bank of America or with myself. These efforts were made within thirty (30) days of entering into the Purchase Agreement and before the lender commitment date specified in my Purchase Agreement. As a result, I was under a severe time constraint to either obtain alternative financing, commit to DHI Mortgage, or else cancel the purchase.

9. Although I had obtained a commitment from Bank of America, Horton refused to cooperate with Bank of America to finalize the commitment. As a result, I was, therefore, unable to obtain a formal commitment from Bank of America within the time frame specified by Horton.



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Julie E. Collins; Robert B. Ryan,
Plaintiffs,
vs.
D.R. Horton, Inc.,
Defendant.

No. CV-99-330-PHX-ROS
ORDER

Pending before the Court is Plaintiffs' Motion for Partial Reconsideration of the Court's March 29, 2002 Order granting Defendant's Motion to Dismiss/Compel Arbitration. For the reasons stated below, the Court denies the Motion.

Background

On February 29, 1999, Plaintiffs, former employees of Defendant, filed a Complaint against Defendant alleging breach of contract, promissory estoppel, and fraud arising out of an employment agreement ("Agreement"). According to Plaintiffs, Defendant forced them to resign their positions and failed to pay them various sums allegedly owed under the terms of the Agreement. Although the Agreement includes a compulsory arbitration provision, on March 15, 1999, Defendant filed a timely response to Plaintiffs' claims. The parties then filed a Joint Proposed Case Management Plan, which provides, among other things, that "[a]ny Motion by Defendant directed at obtaining an Order to compel arbitration of

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

JOHN R. YEATMAN and ELEANOR E.
YEATMAN, individually and
on behalf of all similarly situated
individuals,

Plaintiffs,

vs.

D.R. HORTON, INC., and DHI
MORTGAGE CO.,

Defendants.

CIVIL ACTION NUMBER:

CV 407-081

Demand for Jury Trial

CLASS ACTION COMPLAINT

I. INTRODUCTION

1. This class action is brought on behalf of residential mortgage borrowers who purchased a home from D. R. Horton, Inc. ("Horton") and received a mortgage loan for such purchase that was originated, processed and/or brokered by DHI Mortgage Co. ("Horton Mortgage"), wherein the borrower(s) were required by the literal terms of their real estate purchase agreement with Horton to finance their purchase through Horton Mortgage, or else forfeit various discounts off of the purchase price and/or closing costs for their new home. Horton Mortgage is a wholly-owned subsidiary of Horton and for this reason, among others, their relationship constitutes an "affiliated business arrangement" within the meaning of Section 8(c) of the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2607(c). Affiliated business arrangements are exempt from RESPA's prohibition against kickbacks and unearned fees only if, *inter alia*, there is no requirement that the borrower use a particular settlement

I, James Wilson, declare:

1. I have personal knowledge as to the facts stated in this declaration. If called as a witness, I could and would competently testify to the truth of the facts stated in this declaration. I make this declaration in opposition to the motion to compel arbitration, in opposition to the motions to dismiss, and in opposition to the motion to strike.

2. On or about September 29, 2007, I entered into a home purchase agreement to purchase a new condominium from Western Pacific Housing, Inc., a Delaware Corporation, dba D.R. Horton, America's Builder ("Horton"), located in Horton's "La Boheme" community at 3950 Ohio Street, Unit 235, in San Diego, California.

3. On or about September 29, 2007, I attended an auction held by Horton where only registered bidders with \$5,000 in cash or a cashier's check would be permitted to attend the sale of new units of the condominiums sold by Horton. I paid the \$5,000 bid and was offered the opportunity to purchase a condominium from Horton.

4. At this time, I entered into a Purchase Agreement with Horton and paid an additional \$15,000 as a deposit towards the purchase price of the condominium. I was assured that any closing costs charged by Horton would not exceed \$4,000 and my monthly payment would be \$2,500 or less. I was also told by the sales staff that the interest rate I would receive on a loan from Horton Mortgage would not exceed 6%. Mr. Brad Trembly, who worked for Horton, also informed me that if I used Horton Mortgage and I did not use a real estate agent, I would receive a discount off the purchase price equivalent to 2% of the total purchase price.

5. As required by ¶7.2 of my Purchase Agreement with Horton, I was required to and did apply for a home loan with DHI Mortgage, which reads in relevant part as follows:

(a) Loan Application. Within 5 days after Buyer's Offer, Buyer shall submit a completed application for the New Loan to DHI Mortgage ("Seller's Approved Lender"), and a lender selected by Buyer, if any.

1 You are NOT required to use this company as a condition of your purchase of the
2 Property from Seller. There are frequently other settlement service providers
3 available with similar services. You are free to shop around to determine that you
4 are receiving the best services and the best rate for these services.
(Emphasis in original)

5 6. My understanding was that this statement meant that I was free to shop and compare
6 services. Ms. Brancecki, nevertheless, had informed me that if I attempted to use any lender other
7 than Horton Mortgage, my deposit of \$7,500 would be forfeited and the sale of the home would
8 be canceled. I accepted her at her word.

9 7. The possibility of then determining if I was receiving the best rate and lowest fees
10 became nonexistent. Without the ability to compare the actual rate and fees of the DHI loan to
11 other rates and fees, I did not feel that I was truly "free to shop around."

12 8. As a result of the offered "discount" and the direct threat of losing both the \$7,500
13 deposit and home purchase if I did not purchase the home, I therefore did not consider financing
14 my home loan with any mortgage provider other than Horton Mortgage.

15 9. The loan I felt coerced into obtaining from Horton Mortgage consisted of two (2)
16 loans. The first loan funded eighty percent (80%) of the home purchase with an interest rate that
17 was fixed at 1.5% for one (1) year and adjustable thereafter. The second loan funded twenty
18 (20%) of the home purchase with an interest rate that adjusts between 9.75-10.5%.

19 10. The fees, interest rate, and closing costs of the mortgage loan I received from Horton
20 Mortgage are substantially higher than the fees, interest rate, and closing costs that I expected to
21 receive from Horton Mortgage, based on the representations made to me by employees of
22 Defendants.

23 11. As a result of the higher fees, interest rate, and charges imposed on me by Horton
24 Mortgage, I have been financially devastated. I cannot afford the loan payments and, as a result, I
25 am constantly in fear of losing my home.
26
27
28

service provider. By requiring home buyers to finance their purchase through Horton Mortgage,
under the direct threat of having to otherwise pay more money for their new home, Defendants
have failed to comply with the statutory prerequisites for exemption as an affiliated business
arrangement and, consequently, have violated RESPA's prohibition against kickbacks and
unearned fees.

2. Defendants have engaged in a uniform, systematic pattern and practice of
requiring the use of Horton Mortgage for the financing of home purchases from Horton, in
violation of Section 8 of RESPA.

II. THE PARTIES

3. Plaintiff John R. Yeatman is an adult individual who resides at 37 Westbourne
Way, Pooler, Georgia 31322.

4. Plaintiff Eleanor E. Yeatman is an adult individual who resides at 37 Westbourne
Way, Pooler, Georgia 31322.

5. Defendant, Horton, Inc., is, upon information and belief, a corporation with its
headquarters at D. R. Horton Tower, 301 Commerce Street, Suite 500, Fort Worth, Texas,
76102.

6. Defendant, Horton Mortgage Co., is, upon information and belief, a wholly-
owned subsidiary of Horton, Inc. with an office at 29 Plantation Park Drive, Suite 102, Bluffton,
South Carolina 29910

III. JURISDICTION AND VENUE

7. Plaintiffs seek relief under RESPA and, therefore, federal question jurisdiction is
appropriate pursuant to 28 U.S.C. § 1331.

FILE COPY

PATRICE A. MISSUD (Ca. SBN 219614)

Attorney for Julie D. Missud

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT
OF CALIFORNIA, SAN FRANCISCO DIVISION
UNLIMITED CIVIL JURISDICTION

PATRICE A. MISSUD,
JULIE D. MISSUD

Plaintiffs

vs.

D. R. HORTON, INC.;
DHI MORTGAGE COMPANY, LTD. LP.;
DONALD HORTON; DONALD TOMNITZ;
MICHAEL MASON; DANIEL CALLIHAN;
ANNIE SCHANKIN; JAMES FRASURE;
DOES 1-200

Defendants

PLAINTIFFS, PATRICE A. MISSUD AND JULIE D. MISSUD, ALLEGE an action based on
FRAUDULENT INDUCEMENT, FRAUDULENT CONCEALMENT, INTENTIONAL

COMPLAINT FOR FRAUDULENT INDUCEMENT, FRAUDULENT CONCEAL, INTENTIONAL MISREPRESENTATION

ORIGINAL
FILED

MAY 17 2007

E-filing

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No.

07 2625

COMPLAINT FOR: FRAUDULENT
INDUCEMENT, FRAUDULENT
CONCEALMENT, INTENTIONAL
MISREPRESENTATION, BREACH OF
FIDUCIARY DUTY, BREACH OF CONTRACT,
PERSONAL INJURY, VIOLATION OF USC
TITLE 18 SECTION 1513, DECLARATORY
RELIEF AND RESTITUTION.
-DEMAND FOR JURY TRIAL-

UNLIMITED

I, Rebecca Lorenzo, declare:

1. I have personal knowledge as to the facts stated in this declaration. If called as a witness, I could and would competently testify to the truth of the facts stated in this declaration. I make this declaration in opposition to the motion to compel arbitration, in opposition to the motions to dismiss, and in opposition to the motion to strike.

2. On or about January 25, 2006, I entered into a home purchase agreement to purchase a new home from Western Pacific Housing, Inc., a Delaware Corporation, dba D.R. Horton, America's Builder ("Horton"), located in Horton's "Valverde Villages" community at 2345 New Brighton Lane, in Stockton, California.

3. I was purchasing my home from Horton as a first time home buyer. After I paid a \$7,500 deposit towards the purchase price of the home, I was offered a \$5,000 discount off of the closing costs. Julie Branecki informed me that I would only be eligible for this "discount," if I obtained my home loan from Horton Mortgage. As required by ¶7.2 of my Purchase Agreement with Horton, I was required to and did apply for a home loan with DHI Mortgage, which reads in relevant part as follows:

(a) Loan Application. Within 5 days after Buyer's Offer, Buyer shall submit a completed application for the New Loan to DHI Mortgage, LTD., LP ("Seller's Approved Lender"), and a lender selected by Buyer ("Buyer's Lender"), if any.

4. My understanding of ¶7.5 of my Purchase Agreement, when read with ¶7.2 and the Notice of Affiliated Business Arrangement Addendum thereto, was that ¶7.5 did not apply to a DHI Mortgage loan, as the DHI application did not "compel" me to accept the DHI Loan. This understanding is also supported by the clear language in the Affiliated Business Arrangement Disclosure, contained in my Purchase Agreement, which discusses Horton's affiliation with DHI Mortgage and states:

would be forfeited and the sale of the home would be cancelled if I financed the home purchase with any provider other than Horton Mortgage, as set forth in ¶7.5 of the Purchase Agreement.

6. My understanding of ¶7.5 of my Purchase Agreement, when read with ¶7.2 and Addendum No. 1 thereto, was that ¶7.5 did not apply to a DHI Mortgage loan, as the DHI application did not "compel" me to accept the DHI Loan. This understanding is also supported by the clear language in the Affiliated Business Arrangement Disclosure document, contained in my purchase agreement, which discusses DR Horton's affiliation with DHI Mortgage and states:

You are NOT required to use these companies as a condition of your purchase of the Property from Seller or as a condition of your application for, or settlement of, a mortgage loan on the Property in connection with your purchase. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES (Emphasis in original)

7. My understanding is that this statement meant that I was free to shop and compare services. This freedom to shop was further reiterated in the Notice of Affiliated Business Arrangement Addendum, also contained in my Purchase Agreement, which also describes the relationship between Horton and Horton Mortgage as follows:

You are NOT required to use these companies as a condition of your purchase of the Property from Seller. THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.

The Affiliated Business Arrangement Addendum contained in my Purchase Agreement also states:

If there is a conflict between the Purchase Agreement and the terms and provisions of this Addendum, the terms and provisions of this Addendum shall control.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Patsy Hancock, Bill Dalo, Val Naona, Lana)
Brunton-Naona, RSD Properties, Diane)
Bennett, Drew Russ, Kenneth Nadar, Thomas)
J. Madeline, Jr. and Elizabeth K. Madeline,)
Frank E. Knapp, Jr., Dorian Terence Williams,)
Mark Macvay, MD, Mary Marlene Goodman,)
Corrine R. Frazier & Edwin B. Frazier, III,)
Sharon Farbstein & Gordon Farbstein,)
Nicholas & Christine Taylor, William Young,)
Jr., Luke Bilger, Heather Martinez, Ruth M.)
Jacobs, Dennis A. & Sharon L. Scothorn,)
Barry A. Carpe, Douglas A. & Melissa M.)
Dupuis, Cathy Harris Lee, Charles Burleson)
Crockett, William Stuart Crockett, Robert &)
Janet Wright, Paquita Segarra-Jarzebi, Mary)
Bridges and William Sions, Bransky Family)
Trust, Daniel McCready, Barbara Conway,)
William & Nancy Hepburn, Leonard)
Minervial, Kimberly Pollard, University Park)
Partners, LLC, Alan & Marcia Pagliano,)
Grimald & Grimald LLC, Lionnel Patane,)
Paul Faith, Brenda Dolan, Beverly Petersen,)
Jean Bullen, Ashlee & Duane Shotwell, Omav)
Nieves, C. Lee Barber, Chris McDonald,)
William Nash, Danny & Janice Allen, Cindy)
Garfield, Kimberly Hildreth, Jenna Koch,)
Leslie Cooper, Russell Barker, Anna Lewis,)
Jason Eastman, Kimberly Simpson, Bruce M.)
Skipper, Laura Overland, James Whittaker,)
Kathryn Bennett, Christopher Okupski,)
Christopher Breeland, John & Kathleen)
Appelbans, Deb & Joey Stremel, Darrell)
Watson,)
Plaintiffs,)
vs.)
D.R. Horton, Inc.,)
Defendant.)

C/A No.: 9:08-3617-SB

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that the Defendant D.R. Horton, Inc. ("Defendant") by and through its counsel, hereby notifies this Court pursuant to 28 U.S.C. §§ 1441 and 1446, of removal to this Court of this action currently pending in the Court of Common Pleas, County of Beaufort, State of South Carolina (the "State Court"). In support of its petition, Defendant states as follows:

1. Plaintiffs above named filed a Complaint against Defendant in the Court of Common Pleas, County of Beaufort, State of South Carolina and served Defendant with the same on or about October 3, 2008. Accordingly, this Notice of Removal is timely filed within the thirty (30) day period required by 28 U.S.C. § 1446(b).

2. The original Complaint (attached as Exhibit 1) named, in addition to Defendant, Property Administrators, Inc., as a defendant. However, the Plaintiffs filed an Amended Complaint (attached as Exhibit 2) on October 21, 2008 which omits that party and names only D.R. Horton, Inc. Accordingly, D.R. Horton, Inc. is the only defendant in this action.

3. Plaintiffs attempt to allege causes of actions against Defendant for breach of fiduciary duty, breach of contract/breach of implied contract, unfair trade practices, negligence/gross negligence, and accounting. Upon information and belief, Plaintiffs seek actual damages, punitive damages and treble damages, placing an amount in controversy in excess of \$75,000.00.

4. Defendant, D.R. Horton, Inc. is a foreign corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Texas.

5. The Amended Complaint alleges that Plaintiffs are all residents of or own property in Beaufort County, South Carolina. Defendant has consulted with Plaintiffs' counsel to inquire as to whether any of the Plaintiffs are non-diverse to Defendant, and no information

1 I, Jorge Lopez, declare:

2 1. I have personal knowledge as to the facts stated in this declaration. If called as a
3 witness, I could and would competently testify to the truth of the facts stated in this declaration. I
4 make this declaration in opposition to the motion to compel arbitration and in opposition to the
5 motions to dismiss, and in opposition to the motion to strike.

6
7 2. On or about May 28, 2006, I entered into a home purchase agreement to purchase a
8 new home from Western Pacific Housing, Inc., a Delaware Corporation, dba D.R. Horton,
9 America's Builder ("Horton"), located in Horton's "Valverde Villages" community at 2614
10 Breaker Way, in Stockton, California.

11 3. In or about May of 2006 I paid a \$13,500 deposit towards the purchase price of the
12 home. I was also offered a \$10,000 discount off of the closing costs by Ms. Julie Branecki, the
13 sales assistant from Horton. Ms. Branecki, at that time, informed me that I would only be eligible
14 for this "discount," if I obtained my home loan from Horton Mortgage. As required by ¶7.2 of
15 the Purchase Agreement with Horton, I was required to and did apply for a home loan with DHI,
16 which reads in relevant part as follows:

17
18 (a) Loan Application. Within 5 days after Buyer's Offer, Buyer shall submit
19 a completed application for the New Loan to DHI Mortgage ("**Seller's Approved**
20 **Lender**"), and a lender selected by Buyer, if any.

21 4. In or about July of 2006, Ms. Candace Rivera from Horton Mortgage informed me that
22 I was approved to receive a loan from Horton Mortgage. She also informed me of the terms and
23 conditions of the loan, which included an interest rate of 6.25% that is fixed for five (5) years, but
24 adjustable thereafter.

25 5. When I told Ms. Rivera that I would like to obtain my own financing for the home
26 purchase, rather than accept the loan from Horton Mortgage, Ms. Rivera informed me that the
27 \$13,500 I paid as a deposit I paid as an upgrade deposit, along with other credits already paid,
28

FILED: October 15, 2003

Case 3:08-cv-00592-BEN-RBB Document 12-4 Filed 05/27/08 Page 3 of 5

1 against me. Ms. Sugiyam further informed me that my closing date would be delayed, which
 2 would cause further fees to be assessed against me and cause my deposit to be forfeited.

3 6. At the time I entered into the home purchase agreement, I had no reason to foresee that
 4 I would not be permitted to use a lender of my choice. When I signed the Purchase Agreement,
 5 Ms. Sugiyam did not explain to me that, upon being presented with approval to receive a loan
 6 from Horton Mortgage, I would be threatened with additional fees, delay of closing, and
 7 forfeiture of my deposit, if I sought out a loan with more favorable terms and conditions.

8 7. My understanding of ¶ 7.5 of my Purchase Agreement, when read with ¶ 7.2 and the
 9 Notice of Affiliated Business Arrangement Addendum thereto, was that ¶ 7.5 did not apply to a
 10 DHI Mortgage loan, as the DHI application did not "compel" me to accept the DHI Loan. This
 11 understanding is also supported by the clear language in the Notice of Affiliated Business
 12 Arrangement Addendum, contained in my Purchase Agreement, which discusses Horton's
 13 affiliation with DHI Mortgage and states:

14 You are NOT required to use this company as a condition of your purchase of the
 15 Property from Seller. THERE ARE FREQUENTLY OTHER SETTLEMENT
 16 SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU
 17 ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE
 18 RECEIVING THE BEST SERVICES AND THE BEST RATES FOR THESE
 19 SERVICES.
 20 (Emphasis in original)

21 8. My understanding was that this statement meant that I was free to shop and compare
 22 services. Ms. Sugiyam, however, threatened me with additional fees, delay of closing, and
 23 forfeiture of my deposit, if I sought out a loan with more favorable terms and conditions. As a
 24 result, I felt immediately foreclosed from shopping. The possibility of determining if I am
 25 receiving the best rate and lowest fees is nonexistent if I cannot compare the actual rate and fees
 26 of the DHI loan to other rates and fees. This statement is inconsistent with the above mentioned
 27
 28

IN THE COURT OF APPEALS OF THE STATE OF OREGON

ROGER M. POLLOCK
 and RMP PROPERTIES, INC.,
 nka KMP Properties, Inc.,
 an Oregon corporation,

Appellants,

v.

D. R. HORTON, INC. - PORTLAND,
 a Delaware corporation,
 and D. R. HORTON, INC.,
 a Delaware corporation,

Respondents.

9903-02825; A110606

Appeal from Circuit Court, Multnomah County.

William C. Snouffer, Judge.

Argued and submitted October 2, 2001.

Gary M. Berne argued the cause for appellants. With him on the briefs were David F. Rees, and Stoll
 Stoll Berne Lokting & Schlachter, P. C.

Peter H. Glade argued the cause for respondents. With him on the brief were Paul Bierly and Markowitz,
 Herbold, Glade & Mehlhaf, P. C.

Before Wollheim, Presiding Judge, and Deits, Chief Judge, and Linder, Judge.*

DEITS, C. J.

Reversed and remanded.

*Linder, J., vice Warren, S. J.

DEITS, C. J.

Plaintiffs appeal a judgment entered after the trial court's grant of summary judgment to defendants on
 plaintiffs' claims for breach of contract and on defendants' counterclaims for breach of fiduciary duty,
 restitution, and breach of contract. We reverse.

Because the trial court granted defendants' motions for summary judgment, we state the facts in the
 record most favorably to plaintiffs, including drawing all reasonable inferences in their favor. ORCP 47

1 I, Susie Khuu, declare:

2 1. I have personal knowledge as to the facts stated in this declaration. If called as a
3 witness, I could and would competently testify to the truth of the facts stated in this declaration. I
4 make this declaration in opposition to the motion to compel arbitration, in opposition to the
5 motions to dismiss, and in opposition to the motion to strike.

6 2. On or about July 26, 2007, I entered into a home purchase agreement to purchase a
7 new condominium from Western Pacific Housing, Inc., a Delaware Corporation, dba D.R.
8 Horton, America's Builder ("Horton"), located in Horton's "Valverde Villages" community at
9 3857 30th Street, Unit 207, in San Diego, California.

10 3. At this time, I paid an \$8,000 deposit towards the purchase price of the home. I was
11 also told, at that time, by Ms. Patricia Sugiyam, a Horton sales representatives that I would only
12 have to pay \$3,000 in closing costs. As required by ¶7.2 of my Purchase Agreement with Horton,
13 I was required to and did apply for a home loan with DHI Mortgage, which reads in relevant part
14 as follows:
15

16 (a) Loan Application. Within 5 days after Buyer's Offer, Buyer shall submit
17 a completed application for the New Loan to DHI Mortgage, LTD., LP ("Seller's
18 Approved Lender"), and a lender selected by Buyer ("Buyer's Lender"), if any.

19 4. On or about September of 2007, Ms. Cynthia L. Brockway from Horton Mortgage.
20 informed me that I had been approved to obtain a loan from Horton Mortgage. When Ms.
21 Brockway presented me with the terms and conditions of the loan, I was so shocked by the
22 closing costs of \$7,000, which were more than double what I was quoted from Ms. Sugiyam, that
23 I considered looking for a loan from another lender.
24

25 5. At that time, Ms. Sugiyam informed me that if I attempted to change lenders, fees
26 incurred by Horton Mortgage in approving me for the Horton Mortgage loan would be assessed
27
28

1 5. With my high credit rating I was sure that I could obtain funding for my home
2 purchase with another lender. Indeed, I was able to obtain a loan from Washington Mutual.
3 Payments under the terms of this loan would have been approximately \$1300 per month.

4 6. When I attempted to fund my home purchase with the loan from Washington Mutual, I
5 was informed by Ms. Julie Branecki from Horton that I would be forfeiting both the \$7,500 I paid
6 as a deposit and the \$4,739 I paid as an upgrade deposit, and that the sale of the home would be
7 cancelled if I financed the home purchase with any provider other than Horton Mortgage, as set
8 forth in ¶7.5 of the Purchase Agreement.

9 7. At the time I entered into the home purchase, I had no reason to foresee that I would
10 not be permitted to use a lender of my choice. When I signed the purchase agreement, neither
11 Ms. Julie Branecki nor Mr. John Costello explained to me that, upon being presented with
12 approval to receive a loan from Horton Mortgage, I would be forever barred from seeking a loan
13 with more favorable terms and conditions.

14 8. My understanding of ¶ 7.5 of my Purchase Agreement, when read with ¶7.2 and
15 Addendum No. 1 thereto, was that ¶7.5 did not apply to a DHI Mortgage loan, as the DHI
16 application did not "compel" me to accept the DHI Loan. This understanding is also supported
17 by the clear language in the Affiliated Business Arrangement Disclosure document, contained in
18 my Purchase Agreement, which discusses Horton's affiliation with DHI Mortgage and states:

19 You are **NOT** required to use this company as a condition of your purchase of the
20 Property from **Seller**. There are frequently other settlement service providers
21 available with similar services. You are free to shop around to determine that you
22 are receiving the best services and the best rate for these services.
23 (Emphasis in original)

24 9. This freedom to shop was further reiterated in the Notice of Affiliated Business
25 Arrangement Addendum, also contained in my Purchase Agreement, which also describes the
26 relationship between Horton and Horton Mortgage as follows:
27
28

1 I, Waheeda Khan, declare:

2 1. I have personal knowledge as to the facts stated in this declaration. If called as a
3 witness, I could and would competently testify to the truth of the facts stated in this declaration. I
4 make this declaration in opposition to the motion to compel arbitration, in opposition to the
5 motions to dismiss, and in opposition to the motion to strike.

6 2. On or about December 11, 2005, I entered into a home purchase agreement to purchase
7 a new home from Western Pacific Housing, Inc., a Delaware Corporation, dba D.R. Horton,
8 America's Builder ("Horton"), located in Horton's "Valverde Villages" community at 10935
9 Cliffside Drive, in Stockton, California. The sales assistants who assisted me with this purchase
10 were John Costello and Julie Branecki.

11 3. In or about December of 2005 I paid a \$7,500 deposit towards the purchase price of the
12 home. I also paid an upgrade deposit of \$4,739. I was offered a \$5,000 discount off of the
13 closing costs. Ms. Julie Branecki, at that time, informed me that I would only be eligible for this
14 "discount," if I obtained my home loan from Horton Mortgage. As required by ¶7.2 of my
15 Purchase Agreement with Horton, I was required to and did apply for a home loan with DHI
16 Mortgage, which reads in relevant part as follows:
17

18 (a) Loan Application. Within 5 days after Buyer's Offer, Buyer shall submit
19 a completed application for the New Loan to DHI Mortgage ("**Seller's Approved**
20 **Lender**"), and a lender selected by Buyer, if any.

21 4. In or about March or April of 2006, Ms. Anna Pena from Horton Mortgage,
22 informed me that I had been approved to obtain a loan from Horton Mortgage. When Ms. Pena
23 presented me with the terms and conditions of the loan, I was so shocked by the high broker fees,
24 and exorbitant charges that I decided to look for a loan from another lender.
25
26
27
28



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Record # 5 of 20 / Consumer Sentinel Network Complaints	
Reference Number: 19449071	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? <input type="checkbox"/>
Comments: We contacted the company in March to apply for a home loan which Denise preapproved us for and our builder began building our home. Our home was finished in December and we went to close on our loan and all of a sudden DHI turned us down. They stated that because I was a mortgage loan officer they would not approve my loan because they could not prove how much money I would make next year. I am a commissioned employee who provided up to date paystubs showing plenty of earnings and also my previous 2 years tax returns. I felt that I was very much discriminated against because I know of 2 other individuals that DHI has approved that receive some sort of commission.	
Entered By: FTCCIS-FTCuser	Entry Date: 7/2/2008
Updated By:	Updated Date:
Complaint PUBLIC USERS - CIS	Product Service Mortgage Lender
Source:	Code:
Amount \$375.00	Amount Paid: \$375.00
Requested:	
Payment Method: Check (Not Classified)	Agency Internet Contact:
Complaint 7/2/2008	Transaction # 7/1/2007
Date:	Date:
Initial Contact: Mobile Text/Email/IM	Initial Mobile Text/Email/IM
Statute/Rule: Truth in Lending Act FTC Act Sec 5 (SCP)	Response:
Topic:	Law Violation: Deception/Misrepresentation Other Written Disclosure/Written Violations
	Fraud Complaint?:
Complaining Company/Org:	Consumer
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Palm Bay	State/Prov: Florida
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 20 - 29
Subject	
Subject: Dhi Mortgage	
Address: 100 Riata Place Suite 815	
City: Melbourne	State/Prov: Florida
ZIP: 32901	Country: United States
Email: DM2aken@dhimortgage.com	URL:
Area Code: 321	Phone Number: 7258077
Ext:	
Representative Denise Zaken	Title:
Name:	

DEC 3 1 2008

Re: FOIA-2009-00355
DHI Mortgage, et al.

Dear Mr. Missud:

This is in response to your request dated November 26, 2008, under the Freedom of Information Act seeking access to records relating to consumer complaints against DHI Mortgage et al. In accordance with the FOIA and agency policy, we have searched our records, as of December 18, 2008, the date we received your request in our FOIA office.

We have located 190 pages of responsive records. I am granting partial access to, and am enclosing copies of, the accessible records. Fifteen pages, and portions of other pages, are subject to two of the nine exemptions to the FOIA's mandatory disclosure requirement, as explained below.

I am withholding fifteen responsive pages which are exempt from disclosure under FOIA Exemption 3, 5 U.S.C. § 552(b)(3), because they are exempt from disclosure by another statute. Specifically, Section 21(f) of the FTC Act provides that information obtained by the Commission in a law enforcement investigation, whether through compulsory process, or voluntarily in lieu of such process, is exempt from disclosure under the FOIA. 15 U.S.C. § 57b-2(f), see *Kathleen McDermott v. FTC*, 1981-1 Trade Cas. (CCH) ¶ 63964 (D.D.C. April 13, 1981).

The enclosed records are responsive complaints that consumers have sent to the Federal Trade Commission ("FTC"). You should know that the enclosed complaints have not necessarily been verified by the FTC. Therefore, you should make your own judgment about relying on the information provided. I am denying access to consumers' names and addresses, and any other identifying information found in the complaints. This information is exempt from release under FOIA Exemption 6, 5 U.S.C. § 552(b)(6), because individuals' right to privacy outweighs the general public's interest in seeing personal identifying information. See *The Lakin Law Firm v. FTC*, 352 F.3d 1122 (7th Cir. 2003).

Based on the fee provisions of the FOIA, 5 U.S.C. § 552(a)(4)(A), and the Commission's Rules of Practice, 16 CFR § 4.8 et seq., as amended, I am also enclosing an invoice for the charges we incurred for this response to your request.

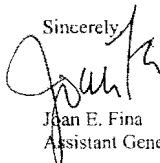
Please make checks payable to U.S. Treasury and send payment to:

Financial Management Office, H-790
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Failure to pay this bill promptly will result in our refusal to provide copies of accessible documents in response to future requests. If not paid within 30 days, this bill will accrue interest penalties as provided by Federal Claims Collection Standards, 31 C.F.R. § 900-904, as amended.

If you are not satisfied with this response to your request, you may appeal by writing to Freedom of Information Act Appeal, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington D.C. 20580, within 30 days of the date of this letter. Please enclose a copy of your original request and a copy of this response. If you believe that we should choose to disclose additional materials beyond what the FOIA requires, please explain why this would be in the public interest.

If you have any questions about the way we handled your request, or about our FOIA regulations or procedures, please contact Carolyn Lowry at 202-326-3055.

Sincerely,

Joan E. Fina
Assistant General Counsel

Enclosed:
Complaints (190 pages)
Invoice

Record # 77 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 2266500	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: I approached D.R. Horton Custom Homes (Called as D.R. Horton) during September/October 2000 regarding buying a single family home at their Cal Hollow Estates Development (Located in Round Rock, TX). I signed the contract papers and deposited \$5000.00 with them as the initial deposit and D.R. Horton accepted my application on October 06, 2000. And in November 2001 D.R. Horton Started Constructing the home at 16610 Malaga Hills Drive. According to the contract D.R. Horton should verify the pre-approval for loan within 30 days from the day of the contract. I asked their Sales Manager Mr. Rocky Suda about producing a pre-approval for loan (as per the contract) during October 2000 and he mentioned that it's not necessary and after that they never asked me to produce a pre-approval for loan. As the home is nearing completion I approached my credit union and other Banks/Lenders for getting a loan for the home. I applied for a loan and my application for loan was rejected and the reasons given for my credit denial are over obligation of loan and the length of my employment. So I promptly notified my inability to buy the house to D.R. Horton on September 02, 2001 through a Certified mail. I also mentioned to them to refund my Initial Deposit of \$5000.00 and the money I paid towards upgrades. I never heard back from them after the certified mail and also after calling their office couple of times. I sent them a second letter through Certified mail on March 27, 2002, citing my first letter and also requesting them again to refund the money I paid to them. They replied back after couple of days saying that they are not in a position to refund the money I paid.	
Entered By: NSHOUSE	Entry Date: 8/26/2002
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service Code: Real Estate (not Timeshares)
Amount Requested: \$5,000.00	Amount Paid: \$5,000.00
Payment Method: Check (Personal)	Agency Contact: Internal
Complaint Date: 8/25/2002	Transaction Date: 8/8/2000
Initial Contact: Unknown	Initial Response:
Statute/Rule: Rule / Other	Law Violation: Other (Note the Violation in the Comment Field)
Topic:	Fraud Y
Complaint?: Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Austin	State/Prov: Texas
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 20 - 29
Subject	
Subject: D.R. Horton Homes	
Address: 12554 Riata Vista Circle 2nd Floor	
City: Austin	State/Prov: Texas
ZIP: 78727	Country: United States
Email:	URL:
Area Code: 512	Phone Number: 2184215
Ext:	
Representative Name: Rocky Suda	Title:

Record # 76 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 2323584	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: Consumer worked for H.R. Horton as a contractor. The consumer was issued a vender number. The consumer left the company in 11/2001. In 03/2002 the consumer received a check from H.R. Horton for work he did not do. The consumer found out that the superintendent at the job site is turning in invoices for work that was never done then he is turning around and turning in damage reports and keeping the money. The consumer reports that is he aware this kind of activity is going on with all of the independent contractors that the company hires. The consumer went to the companys legal department and they told him if he didn't quit complaining they would sue him for harassment.	
Entered By: EDUNIGAN	Entry Date: 9/18/2002
Updated By: EDUNIGAN	Updated Date: 9/18/2002
Complaint Source: TOLL FREE NUMBER AND CONSUMER SENTINEL	Product Service Code: DT Other
Amount Requested:	Amount Paid:
Payment Method:	Agency Phone Contact:
Complaint Date:	Transaction Date:
Initial Contact:	Initial Response:
Statute/Rule Topic:	Law Violation: Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Bedford	State/Prov: Texas
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 50 - 59
Subject	
Subject: Dr. Horton Ltd.	
Address: 1901 Ascension Blvd, Suite 100	
City: Arlington	State/Prov: Texas
ZIP: 76006	Country: United States
Email:	URL:
Area Code: 817	Phone Number: 8565200
Ext:	
Representative Name:	Title:



Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

Requester Invoice

Request No	: FOIA-2009-00355
Invoice No	: 00000002055
Invoice Date	: 12/23/2008 3:35:35 PM
Requester Name	: Missud, Patrick
Requester Organization	: -

Fee Types	Amount (\$)
CLERICAL HOURS	
a. SEARCH	16.00
b. REVIEW/EXCISING	64.00
OFFICE COPY REPRODUCTION	
a. PAGES REPRODUCED	26.60
Total Amount : (\$) 106.60	

Request Description

DHI Mortgage, et. al.

Federal Trade Commission



Record Details

Consumer Sentinel Network Complaints

Record # 1 of 1: Consumer Sentinel Network Complaints	
Reference Number: 9797735	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: Product Name: Martha Washington/2602 Somerset Ct/Machelsville, MD 20775) We have a sales agreement contract with D.R. Horton/D.H.I. to purchase a single family home. We are disputing a null and void contract status on the contract for lack of financing. We initially applied for a mortgage loan with D.R. Horton/D.H.I. on 01/19/05 with Seth Casner(Former Sr. Loan Officer) and not given a Good faith estimate or Truth in Lending Disclosure. He told us don't worry about any contractual contingencies regarding time limits, since he worked for the company they would be waived. About 11/05, I contacted D.R. Horton/D.H.I. to find out Seth C. was fired and my paperwork was lost. They re-applied our information and denied us a mortgage on 01/04/06. At that time, we secured a new mortgage commitment letter from a subsequent lender on 3/18/06. On 01/20/06, we were informed our contract is null and void due to lack of financing. According to U.S.C. TITLE 15/CHAPTER 41/PART B CREDIT TRANSACTIONS/1631, they violated federal disclosure requirements (a),(b),(c),(d). Please respond to our complaint as soon as possible so we can follow up with our next step of action. We'd like to arbitrate the issue, if possible. If you need to contact us for any clarifications or details, please contact (b)(6) Silver Spring, MD (b)(6)	
Entered By: NSHOUSE	Entry Date: 3/7/2006
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount: \$28,000.00	Code:
Requested:	Amount Paid: \$28,000.00
Payment Method: Cashier's Check	Agency Contact: Internet
Complaint Date: 3/5/2006	Transaction Date:
Initial Contact: In Person	Initial Response:
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud:
Complaining Company/Org.: (b)(6)	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Silver Spring	State/Prov: Maryland
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject: D.R. Horton/D.H.I. Financing	

Record # 69 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 4277009	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: The consumer writes to complain on D.R. Horton, Inc. and CH Mortgage. The consumer reports that he was trying to have a house built by D.R. Horton, Inc. and take the financing through their in house mortgage company CH Mortgage. The consumer was actually trying to get lending from an outside lender. The consumer states that the mortgage lender fraudulently maintained the label of "preliminary" approval on his loan thereby keeping him in house and claimed that the lender conditions were not fulfilled to permit the builder to rescind the contract, keep the deposits and recapture the house for resale at a higher price.	
Entered By: CSHORT	Entry Date: 4/2/2004
Updated By:	Updated Date:
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service: Mortgage Lender
Amount: \$0.00	Code:
Requested:	Amount Paid: \$0.00
Payment Method: Unknown	Agency Contact: Mail
Complaint Date: 3/25/2004	Transaction Date: 3/22/2004
Initial Contact: Unknown	Initial Response:
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud:
Complaining Company/Org.: (b)(6)	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: San Francisco	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range:
Subject: CH Mortgage	
Address: 8215 S Eastern Avenue Ste 225	State/Prov: Nevada
City: Las Vegas	Country: United States
ZIP: 89123	URL:
Email:	Phone Number: 407.2700
Area Code: 702	Ext:
Representative Name:	Title:
Associated Subjects	
Company: D.R. Horton, Inc.	
Company Type: Affiliate	
Address:	
City: Las Vegas	State/Prov: Nevada
ZIP:	Country: United States
Email:	URL:
Area Code:	Phone Number:
Ext:	



Record Details

Consumer Sentinel Network Complaints

Record # 1 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 21083548	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: I was issued a Fixed 30 year mortgage - FHA with 20% down payment, for a condominium in Miami in February 2005 I provided income tax returns to the Mortgage company for years 2003 and 2004 I have done a Audit to the mortgage where I have found I only qualified for a 150,000\$ mortgage. The mortgage issued to me was 350,000 \$ I put in total 65,000\$ down payment. The mortgage company owned by the same developer I bought the unit did not qualified me but approved me in order to collect all fees. Later they sold the mortgage to CHASE bank. The mortgage issued should have never being issued according to FHA regulations I consider the Developer - Crescent Heights of America (the publish themselves as US largest developer) is not truthfully representing themselves and hds behind a bogus operation. I spoke to the owner, Russell Gabut and he refuse to take responsibly saying that CHASE bank approved me and he as the Mortgage company "have nothing to do with it" This company - Crescent Heights had 5 Billion Dollars condo conversion sales between years 2004-2005. The building I bought has 300 units, 50% of the building has either bankrupt, short-saled or being foreclosed bringing down the value of my unit from original price of 428,000\$ in 2/2005 to 200,000\$ market price in 12/2008, all this as consequence of the Developer to push people who did not qualified to take loans they could not afford against the regulations. The actions of this developer brought me to this day 250,000\$ dollars of losses and at this moment of market conditions I am upside down and I can't afford to pay any longer. My credit score is impeccable of 797 and today this situation make me to loose all my savings and my credit I need your advice what I can do. Sincerely, (b)(6)	
Entered By: FTCCIS-FTCUSER	Entry Date: 12/9/2008
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount Requested:	Amount Paid:
Payment Method: Check (Personal)	Agency Contact: Internet
Complaint Date: 12/9/2008	Transaction Date:
Initial Contact: Print	Initial Response: In Person
Statute/Rule: Truth-in-Lending Act	Law Violation: Creditor Fails or Inaccurately Discloses Broker's Fees Creditor Fails to Honor Consumer's Rescission of Mortgage Creditor Fails to Retain Copies of Consumer Disclosure/Contract Documents
Topic:	Fraud Complaint?:
Complaining Company/Org.: Consumer	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Hacienda Heights	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: D R Horton	
Address: 6845 Escordido Street, Suite 105	
City: Las Vegas	State/Prov: Nevada
ZIP: 89119	Country: United States
Email:	URL:
Area Code: 702	Phone Number: 3967381
Ext:	
Representative Name: Michelle Belding	Title:

Record # 68 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 1767695	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: I have purchased a townhome from D R Horton on 05/26/04. Original close of escrow date was 8/03/04. During the week of 07/12/04, the Sales Representative, Michelle Belding, from D R Horton called and informed me that the final walk through is scheduled to be 7/27/04 and COE will take place 3 days after that. I couldn't make it on 7/27/04 and requested to postpone it to 7/28/04. They made it so difficult, but still rescheduled it for 12 pm. 7/28/04 I drove to Las Vegas from Los Angeles at 6 AM in the morning on 7/28/04 after work. At 10:17 AM Michelle Belding left me a message to reschedule the Walk Through to a later date (unknown at that time). I arrived at Las Vegas at that time already. On 7/15/04, Michelle affirmed me the Walk Through will take place on 7/28/04. Close of Escrow will take place 3 days after Walk Through. On 7/28/04, they haven't put in any flooring and they had no idea when it's going to be completed. I have scheduled time off from work, moving company and furniture deliveries all based on the information she provided me. Now nothing will work out according to her original schedule. I have a job to do. It's not like I have nothing else to do and just wait around for them to change schedules on me at the last minute.	
Entered By: SXHEINY	Entry Date: 8/4/2004
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Housing
Amount Requested: \$236,900.00	Amount Paid: \$236,900.00
Payment Method: Cashier's Check	Agency Contact: Internet
Complaint Date: 7/31/2004	Transaction Date: 5/25/2004
Initial Contact: In Person	Initial Response:
Statute/Rule:	Law Violation:
Topic:	Fraud Complaint?:
Complaining Company/Org.: Consumer	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Hacienda Heights	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: D R Horton	
Address: 6845 Escordido Street, Suite 105	
City: Las Vegas	State/Prov: Nevada
ZIP: 89119	Country: United States
Email:	URL:
Area Code: 702	Phone Number: 3967381
Ext:	
Representative Name: Michelle Belding	Title:

Record # 2 of 13 / Consumer Sentinel Network Complaints		Originator Reference Number:	
Reference Number: 9277006		Contact Type: Complaint	
Language: English		DNC? N	
Source: Consumer			
Comments: The consumer writes to complain on D.R. Horton, Inc. and CH Mortgage. The consumer reports that he was trying to have a house built by D.R. Horton, and take the financing through their in house mortgage company CH Mortgage. The consumer was actually trying to get lending from an outside lender. The consumer states that the mortgage lender fraudulently maintained the label of "preliminary" approval on his loan thereby keeping him in house and claimed that the lender conditions were not fulfilled to permit the builder to rescind the contract, keep the deposits and recapture the house for resale at a higher price.			
Entered By: CSHORT		Entry Date: 4/8/2004	
Updated By:		Updated Date:	
Complaint Source: TOLL FREE NUMBER AND CONSUMER		Product Service: Mortgage Lender	
Amount Requested: \$0.00		Amount Paid: \$0.00	
Payment Method: Unknown		Agency Mail Contact:	
Complaint Date: 3/25/2004		Transaction Date: 3/22/2004	
Initial Contact: Unknown		Initial Response:	
Statute/Rule: FTC Ad Sec 5 (BCP)		Law Violation: Deception/Misrepresentation	
Topic: Fraud		Complaint?:	
Consumer			
Complaining Company/Org.:			
First Name: (b)(6)		Last Name: (b)(6)	
Address 1:		Address 2:	
City: San Francisco		State/Prov: California	
ZIP: (b)(6)		Country: UNITED STATES	
Home Number:		Work Number: (b)(6)	
Fax Number:		Ext:	
Email:		Age Range:	
Subject			
Subject: CH Mortgage			
Address: 8215 S Eastern Ave ste 225		State/Prov: Nevada	
City: Las Vegas		Country: United States	
ZIP: 89123		URL:	
Email:		Phone Number: 702 702 2100	
Area Code: 702		Ext:	
Representative Name:		Title:	
Associated Subjects			
Company: D.R. Horton, Inc			
Company Type: Affiliate			
Address:		State/Prov: Nevada	
City: Las Vegas		Country: United States	
ZIP:		URL:	
Email:		Phone Number:	
Area Code:		Ext:	

Record # 56 of 80 / Consumer Sentinel Network Complaints		Originator Reference Number:	
Reference Number: 8348388		Contact Type: Complaint	
Language: English		DNC? N	
Source: Consumer			
Comments: MAIL The consumer purchased 2 lots from D.R. Horton Builders on 07/12/04, and put down \$1000.00 deposit on each lot. The consumer called to speak to the sales consultant about questions they had and he was no longer employed there. The consumer spoke to the person who had taken over for him and he was not informed on those lots. The consumer made numerous calls that were unreturned and then found out that this person was no longer at the position, and a new person was taking over for him, and this person also is no longer at the position. The consumer was contacted by the mortgage company for the builders in 1/2005 to let them to get a mortgage ready for the building on one of the lots. The consumer did this and paid a \$475.00 application fee on 02/12/05. The consumer had numerous problems in getting the good faith estimate from the company, and was given a date for closing. The consumer did not have the correct good faith estimate on the day of the closing and when they finally received it it had errors on it. The consumer finally said that they would pay in cash to eliminate all the extra charges that were being added, and was told that someone would call them back. The consumer received a fax saying if they weren't going to cash close that evening he was cancelling the contract. The consumer called the next day, 03/01/05 and left a message asking about the status, and never received a call back. The consumer has received \$1500.00 back for the cancellation of the lots. The consumer did not provide the initial contact type. The consumer did not provide an alternate phone number, e-mail or age range.			
Entered By: BSTLUM		Entry Date: 8/30/2005	
Updated By:		Updated Date:	
Complaint Source: TOLL FREE NUMBER AND CONSUMER		Product Service: Housing	
Amount Requested: \$0.00		Amount Paid: \$0.00	
Payment Method: Unknown		Agency Mail Contact:	
Complaint Date: 8/15/2005		Transaction Date: 7/12/2004	
Initial Contact: Unknown		Initial Response: Phone other	
Statute/Rule:		Law Violation:	
Topic:		Fraud	
Complaint?:			
Consumer			
Complaining Company/Org.:			
First Name: (b)(6)		Last Name: (b)(6)	
Address 1:		Address 2:	
City: Longwood		State/Prov: Florida	
ZIP: (b)(6)		Country: UNITED STATES	
Home Number:		Work Number:	
Fax Number:		Ext:	
Email:		Age Range:	
Subject			
Subject: D.R. Horton Builders			
Address:		State/Prov: Florida	
City: Sorrento Springs		Country: United States	
ZIP:		URL:	
Email:		Phone Number:	
Area Code:		Ext:	
Representative Name:		Title:	

HOA
LSM

Record # 53 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 5957039	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: I am the current President of the Homeowners Association of the Traditions Golf Community in Bluffton, SC (A DR Horton developed Community). Approximately one year ago Horton turned its control over to the current HOA after their Declarant Control Period expired. After much research and investigation our association believes that Horton has fraudulently marketed this community and misappropriated homeowners association funds.	
Entered By: RLOPER	Entry Date: 10/25/2005
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount: \$215,000.00	Amount Paid: \$215,000.00
Requested:	Agency: Internet
Payment Method: Unknown	Contact:
Complaint Date: 10/22/2005	Transaction Date: 8/1/2002
Initial Contact: In Person	Initial Response:
Statute/Rule: FTC Ad Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Bluffton	State/Prov: South Carolina
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 50 - 59
Subject	
Subject: Dr Horton, Inc	
Address: 500 Commerce Street Suite 500	
City: Fort Worth	State/Prov: Texas
ZIP: 76102	Country: United States
Email:	URL:
Area Code: 817	Phone Number: 390-8200
Ext:	
Representative: Janis Stewart	Title:
Name:	

Record # 3 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 4224379	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: The consumer is in the middle of closing on a loan with CH Mortgage. The consumer got a good faith estimate on her 80/20 loan. The 20% of the loan was to be a 33 yr loan. At closing, they told her that was an error and it is actually a 15 yr loan with a balloon payment. That balloon payment would be over \$20,000. The consumer says that CH Mortgage is changing their name to DHH Mortgage soon. The consumer was told that because the consumer didn't close, the builder can charge the consumer \$100 a day.	
Entered By: ZRITZ	Entry Date: 7/30/2004
Updated By:	Updated Date:
Complaint Source: TOLL FREE NUMBER AND CONSUMER SENTINEL	Product Service: Mortgage Lender
Amount: \$0.00	Amount Paid: \$0.00
Requested:	Agency: Phone
Payment Method: Unknown	Contact:
Complaint Date:	Transaction Date: 3/29/2004
Initial Contact: In Person	Initial Response:
Statute/Rule: Truth-In-Lending Act	Law Violation: Creditor Fails or Inaccurately Discloses Balloon Payments and/or Other Payments
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Phoenix	State/Prov: Arizona
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 40 - 49
Subject	
Subject: Ch Mortgage	
Address: 7001 N. SCOTTSDALE RD SUITE 2055	
City: Scottsdale	State/Prov: Arizona
ZIP: 85253	Country: United States
Email:	URL:
Area Code: 480	Phone Number: 948-9525
Ext:	
Representative: Melanie Howe	Title:
Name:	

Record # 4 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 4166305	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: CH Mortgage is an in house affiliated lender to DR Horton home builders. The lender will fraudulently maintain a label of "preliminary" approval on a loan and claim that lender conditions were not fulfilled to permit the builder to rescind the contract, keep the house deposits and recapture the house for resale at a higher price.	
Entered By: DCRASE	Entry Date: 6/23/2004
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount: \$400.00	Code:
Requested:	Amount Paid: \$400.00
Payment Method: Check (Personal)	Agency Contact: Internet
Complaint Date: 3/27/2004	Transaction Date: 11/30/2003
Initial Contact: In Person	Response: Initial
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud
Complaining Company/Org.: Consumer	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: San Francisco	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: CH Mortgage	
Address: 8215 South Eastern Avenue Suite 225	State/Prov: Nevada
City: Las Vegas	Country: United States
ZIP: 89123	URL:
Area Code: 702	Phone Number: 407
Ext:	
Representative: Michael Mason	Title:

Record # 46 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 7197755	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: Martha Washington/2603 Semerton Ct/Mitchellville, MD 20775) We have a sales agreement contract with D.R. Horton/D.H.I. to purchase a single family home. We are disputing a null and void contract status on the contract for lack of financing. We initially applied for a mortgage loan with D.R. Horton/D.H.I. on 01/19/05 with Seth Casner (Former Sr. Loan Officer) and not given a Good faith estimate or Truth in Lending Disclosure. He told us don't worry about any contractual contingencies regarding time limits, since he worked for the company they would be waived. About 11/05, I contacted D.R. Horton/D.H.I. to find out Seth C. was fired and my paperwork was lost. They re-applied our information and denied us a mortgage on 01/10/06. At that time, we secured a new mortgage commitment letter from a subsequent lender on 01/10/06. On 01/20/06, we were informed our contract is null and void due to lack of financing. According to U.S.C./TITLE 15/CHAPTER 41/PART B CREDIT TRANSACTIONS/1631, they violated federal disclosure requirements (a),(b), (c),3(d). Please respond to our complaint as soon as possible so we can follow up with our next step of action. We'd like to arbitrate the issue, if possible. If you need to contact us for any clarifications or details, please contact Mr. (b)(6).	
Entered By: INSHOUSE	Entry Date: 8/7/2006
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount: \$28,000.00	Code:
Requested:	Amount Paid: \$28,000.00
Payment Method: Cashier's Check	Agency Contact: Internet
Complaint Date: 3/5/2006	Transaction Date:
Initial Contact: In Person	Response: Initial
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud
Complaining Company/Org.: Consumer	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Silver Spring	State/Prov: Maryland
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: D.R. Horton/D.H.I. Financing	
Address: Company's Add /1370 Piccard Drive Suite 230/ Attention: Frank Lackman	State/Prov: Maryland
City: Rockville	Country: United States
ZIP: 20850	URL:
Area Code: 301	Phone Number: 870 6144
Ext:	
Representative: Frank Lackman	Title:

Record # 41 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 8264303	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: Consumer's real estate broker is calling. Caller took the consumer to see a home. Consumer has financing set up already but the builder, D.R. Horton Continental Homes, is telling him that he has to go through a specific lender to get financing if he wants to buy the home. Consumer told the company that they wanted to waive incentives and the consumer was told that they still could not get the home. No alternate #'s	
Entered By: LAWRENCE	Entry Date: 4/19/2006
Updated By:	Updated Date:
Complaint Source: SENTINEL	Product Service Code: Other (Note in Comments)
Amount: \$0.00	Amount Paid: \$0.00
Requested:	Agency Phone Contact:
Payment Method: Unknown	Transaction Date: 4/14/2006
Complaint Date:	Initial In Person
Initial Contact: In Person	Response:
Statute/Rule: FTC Ad Sec 5 (BC)	Law Violation: Other (Note the Violation in the Comment Field)
Topic: Bureau of Competition	Fraud Complaint?:
Consumer	
Complaining Company/Org.: First Name: (b)(6) Address 1: City: Denver ZIP: (b)(6) Home Number: Fax Number: Email: Complaining Company/Org.: First Name: (b)(6) Address 1: City: Aurora ZIP: (b)(6) Home Number: Fax Number: Email:	
Last Name: (b)(6) Address 2: State/Prov: Colorado Country: UNITED STATES Work Number: Ext: Age Range: 40 - 49	
Subject: Subject: D.R. Horton Continental Homes Address: 24566 E Bellewood City: Aurora ZIP: 80018 Email: Area Code: 303 Phone Number: 8175630 Ext: Representative Name: Title:	

Record # 5 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 4913383	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: On February 5, 2004, the consumer closed on a new home. When the consumer looked at the loan documents, he noticed the lender had added PMI (private mortgage insurance) to his loan at \$250.00. His home was previously appraised for over 30 0% equity in his home. He questioned his lender (CH Mortgage) about this fee and was informed that the loan was in the process of being sold, but he would only be making one payment so it's not that big of a deal. The consumer feels this is fraud. The consumer did not provide the following personal information: an alternate phone	
Entered By: SCOLE	Entry Date: 2/23/2004
Updated By:	Updated Date:
Complaint Source: SENTINEL	Product Service Code: Mortgage Lender
Amount: \$250.00	Amount Paid: \$0.00
Requested:	Agency Phone Contact:
Payment Method: Unknown	Transaction Date: 2/5/2004
Complaint Date:	Initial Phone: 900/688 number
Initial Contact: Phone	Response:
Statute/Rule: FTC Ad Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.: First Name: (b)(6) Address 1: City: Farmington ZIP: (b)(6) Home Number: Fax Number: Email:	
Last Name: (b)(6) Address 2: State/Prov: Minnesota Country: UNITED STATES Work Number: Ext: Age Range: 20 - 29	
Subject: Subject: CH Mortgage Address: City: State/Prov: ZIP: Country: Email: Area Code: 800 Phone Number: 3158434 Ext: Representative Name: Title:	

Record # 6 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 3479832	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: On July 2nd, I contacted Troy Buckler of CH Mortgage (preferred lender of DR Horton Builders in Las Vegas) to set up a time to review my credit report to see if it may be possible to get a loan approved for a home I was purchasing through DR Horton. In my initial telephone conversation with Troy Buckler, I informed him that I had already spoken to another lender, who ran my credit report already, and that I did NOT want CH Mortgage to run my credit report again. I told Troy that I would bring a printed copy of my credit report for the two of us to review in person. Troy agreed to that, and asked me to fax my personal information to him prior to our meeting so that he could get a head start. I faxed the information to Troy on July 4th, with the cover letter specifically stating "Application without credit check." After multiple attempts to contact Troy to find out whether or not he felt the information I provided was sufficient to start the loan approval process, I found out that Troy had gone ahead and accessed my credit information without my approval. I was then told that based on the credit report they ran I was not eligible for a loan. I then contacted CH Mortgage, following that incident, to find out why they accessed my credit info without my consent, but was refused to be told anything about the situation. CH Mortgage is in violation of the FCRA in that I never gave them permission to access my credit, or did I at any time give them the approval to begin the loan process for the application for credit. CH Mortgage took it upon themselves to access my credit information and deny me for credit, without having permissible purpose.	
Entered By: UNHEINY	Entry Date: 1/28/2003
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Credit Report Users
Amount Requested:	Amount Paid:
Payment Method:	Agency Internal Contact:
Complaint Date: 10/27/2003	Transaction Date: 7/2/2003
Initial Contact: Phone	Initial Response:
Statute/Rule: Fair Credit Reporting Act	Law Violation: FCRA - User - Obtains Report Without Permissible Purpose
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Henderson	State/Prov: Nevada
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 31 - 39
Subject	
Subject: CH Mortgage	
Address:	
City: Las Vegas	State/Prov: Nevada
ZIP: 89123	Country: United States
Email:	URL:
Area Code: 702	Phone Number: 4072700
Ext:	
Representative Name: Troy Buckler	Title:

Record # 37 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 8224017	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: Predatory Lending Practices) My wife and I were looking at new homes in Maricopa Arizona and went to the D R Horton Builders model homes. The sales person offered us \$70,000 off of the listed prices if we went through the company's lender and closed by the end of the month. We found a house that we wanted and called the builder's lender to qualify. Within about 20 minutes or so, the lender called my wife, and I could hear the call, and said when do you want your new home you qualify. My wife said well that is going to depend on interest rate and other factors. The lender refused to tell my wife the interest rate and said that she couldn't disclose the rate until we signed a contract with the builder. The real estate agent was on the phone with the builder and learned that we would have to put \$15,000 down to sign a contract that a large portion would be forfeited if the contract was cancelled. At that point our real estate agent got on line and questioned the lender. Finally the lender told us that the interest rate was 7.5%, clearly above the going rate. We also learned that the lender had huge prepayment penalties if we refinanced or sold the home within three years. Therefore we were locked into this loan for years even if the interest rates went down. Also using the builder's lender, they could control the time that it would take to buy the home and the construction completion of the home, so they could raise the price at the end of the month if you didn't close on the home. We didn't sign or pay anything. It should be noted that this was not the first lender in the area that told us we couldn't learn the interest rate unless we signed a contract.	
Entered By: MPHILLIPS	Entry Date: 8/17/2006
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Other (Note in Comments)
Amount Requested: \$300,000.00	Amount Paid: \$0.00
Payment Method:	Agency Internal Contact:
Complaint Date: 5/15/2006	Transaction Date: 3/3/2006
Initial Contact: In Person	Initial Response:
Statute/Rule:	Law Violation:
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: San Francisco	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 50 - 59
Subject	
Subject: D R Horton Builders	
Address:	
City: Maricopa	State/Prov: Arizona
ZIP:	Country: United States
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 32 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 3046681	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? <input type="checkbox"/>
Comments: Consumer got disconnected while getting contact information. UPDATE: 9/22/2008 Consumer's friend is purchasing a home and is being give incentives by mortgage company D R Horton Mortgage Company. Caller states that D R Horton Mortgage Company is way above the market. Consumer states that the way D R Horton Mortgage Company is taking business from other mortgage lenders because of the incentives and business practices of D R Horton Mortgage Company. Incentives include closing cost discount and a cut on the price of the home. sschwartz	
Entered By: SBARNEDO	Entry Date: 9/22/2008
Updated By: SSSCHWARTZ	Updated Date: 9/22/2008
Complaint Source: SENTINEL	Product Service: Mortgage Lender
Amount: \$0.00	Code:
Requested:	Amount Paid: \$0.00
Payment Method: Unknown	Agency Phone Contact:
Complaint Date:	Transaction Date:
Initial Contact: Unknown	Initial: Unknown
Statute/Rule: FTC Act Sec 5 (b)(3)	Response:
Topic: Bureau of Competition	Law Violation:
	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Gaithersburg	State/Prov: Maryland
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range:
Subject	
Subject: D R Horton Mortgage Company	
Address: DHI Mortgage 1370 Piccard Dr Ste 140	
City: Rockville	State/Prov: Maryland
ZIP: 20850	Country: United States
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 7 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 3384352	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? <input type="checkbox"/>
Comments: The consumer advised that his mortgage on CH Mortgage that his construction loan is through has practices are irregular. The consumer states the co. while the house is in process of being built has told the consumer that due to market conditions and high risk his application is no longer approved. The consumer noticed that one day the co. pulled him and his wife's credit reports 15 times in one day. The consumer states he has proof through a copy of his credit report. The consumer will mail info to the CRAs to remove most of the inquiries. UPDATE: 9/22/2008 The consumer wanted to know what act was involved because he didn't write it down. SLT	
Entered By: SMABON	Entry Date: 9/22/2008
Updated By: STAWPISIN	Updated Date: 9/22/2008
Complaint Source: SENTINEL	Product Service: Mortgage Lender
Amount: \$0.00	Code:
Requested:	Amount Paid: \$0.00
Payment Method: Unknown	Agency Phone Contact:
Complaint Date:	Transaction Date: 8/1/2008
Initial Contact: Phone	Initial: In Person
Statute/Rule: Equal Credit Opportunity Act	Response:
Topic:	Law Violation: Creditor Did Not Give Accurate Reason for Denial
	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Orange Park	State/Prov: Florida
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: CH Mortgage	
Address: unknown	
City:	State/Prov: Location Not Reported
ZIP:	Country: Location Not Reported
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 8 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 3611991	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: I was going to purchase a new home through CH-Mortgage which is a subsidiary of DR Horton who was building the house. I had a rate locked at 4.625 on a 5 yr arm and was buying the home as my primary residence. Two days before the closing CH-mortgage said that I changed the terms from a primary residence to an investment property changing my rate from 4.625 to more than 6 percent which is a blatant lie. I have no other house and all of my family was already out in the Las Vegas area. I had all my belongings scheduled to be delivered shortly after the closing so my family could move in. The Mortgage company intentionally lied so they could keep my earnest money in the event I cancelled which I did do. At the time of cancellation of the contract I was also told that I would receive my earnest money back. The builder DR Horton filled in the bottom portion of the cancellation form after I signed the top part of the document. I feel as if this is fraudulent. I also believe there could be collusion involved between CH-mortgage and DR Horton as well as a bait and switch. I have also incurred moving expenses as well and I was forced to buy another house since there was an alleged fire that took place too and the builder could not receive the permit of final occupancy for my home.	
Entered By: JKH/EIN	Entry Date: 8/9/2008
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount: \$4,900.00	Amount Paid: \$4,900.00
Requested:	Agency Contact:
Payment Method: Certified Cheque	Initial Response:
Complaint Date: 9/2/2003	Transaction Date: 1/30/2003
Initial Contact: Phone	Initial Response:
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Las Vegas	State/Prov: Nevada
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: CH-mortgage	
Address: 8215 S Eastern, Suite 103	
City: Las Vegas	State/Prov: Nevada
ZIP: 89123	Country: United States
Email:	URL:
Area Code: 702	Phone Number: 407-2700
Ext:	
Representative Name: Arlene Williams	Title:

Record # 29 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 161322	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: House) My husband and I bought a house in (b)(6) in Oakley, California, built by DR Horton. At the closed of escrow on July 31st of 2006, the amount of \$8,500 was credited to DR Horton by mistake. We notified the loan officer, Terr Bradshaw of CH Mortgage immediately, and the Title Company as well. We were told to expect a check in 2 weeks. I did not get anything in the mail. Then I subsequently call the office multiple times, and after a couple of transfers, I was sent to Denise Christiano of DR Horton Concord Office. She told me that the matter did not get to her until September 6th, 2006. She already processed my case, and I should expect a check in 2 weeks (so 2 weeks will be as of Oct 30th, 2006, I should get my check). I patiently waited, but still did not get anything in the mail. I attempted to contact her and had left her several voice mails. But no answers. Today (Oct 13th) I called and was put in touch with Sn Balanier (I'm not sure if I had her last name spelled correctly) because Denise is on vacation. She told me that I need to wait until Tuesday because the matter is out of her hand. It is in Corporate's, and "We are a big company. It takes time to process anything". This makes me really upset. Because being a big corporate did not give anyone a right to retain someone's money beyond reasonable time (since July 31st, 2006). I asked for an address to file a complaint. I was told that it will be of no use. At the end, I was given the address of her supervisor, Marc Adoni, 2300 Clayton Rd. Ste 800, Concord CA 94520. But what I wanted is a name and address of the Corporate Office. I'm very angry and frustrated not knowing what to do next. Can you help? Thanks.	
Entered By: JKH/EIN	Entry Date: 10/17/2006
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Housing
Amount:	Amount Paid:
Requested:	Agency Contact:
Payment Method:	Initial Response:
Complaint Date: 10/13/2006	Transaction Date:
Initial Contact: Unknown	Initial Response:
Statute/Rule:	Law Violation:
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: San Ramon	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 40 - 49
Subject	
Subject: DR Horton	
Address: 22 Vignola Ct	
City: Oakley	State/Prov: California
ZIP: 94561	Country: United States
Email:	URL:
Area Code: 925	Phone Number: 8082300
Ext:	
Representative Name: Denise Christiano	Title:

Record # 23 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 10x27037	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: MAIL: Consumer paid \$2000 deposit to D R Horton Builders for a house. Consumer decided on 11/14/06 not to purchase house. Consumer was told they would get a refund. On 12/12/06 they received letter that they wouldn't get refund. Stipulation was if they didn't get financing they would get refund. Consumer contacted mortgage company and was told they wouldn't need a loan if they sold their home, so they never filled out paperwork. No contact ph/s or email.	
Entered By: LUART	Entry Date: 12/16/2007
Updated By:	Updated Date:
Complaint Source: SENTINEL	Product Service: Housing
Amount: \$2,000.00	Code:
Requested:	Amount Paid: \$2,000.00
Payment Method: Unknown	Agency Mail:
Complaint Date: 11/16/2007	Contact:
Initial Contact: In Person	Transaction Date: 9/12/2006
Statute/Rule: FTC Ad Sec 5 (BCP)	Date:
Topic:	Initial Response:
	Law Violation: Deception/Misrepresentation
	Fraud:
	Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Rio Rancho	State/Prov: New Mexico
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range:
Subject	
Subject: D R Horton Builders	
Address: 4400 Nameda NE	
City: Albuquerque	State/Prov: New Mexico
ZIP: 87113	Country: United States
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name: Kathryn Rhoades	Title:

Record # 9 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 3272483	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: I paid a mortgage balance of \$1380.52 on 30 July, 2003, and included an extra \$1019.48 with instructions to reduce the principle. Instead of following instructions, CH Mortgage paid themselves extra interest, and then impounded the remainder of the money in unsecured accounts. They sold the loan, and did not forward the additional funds to the new lender. They did not return the impounds to me, or explain why they charged extra interest. I am still out the \$1019.48.	
Entered By: RBROWN1	Entry Date: 8/20/2003
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount: \$1,380.52	Code:
Requested:	Amount Paid: \$2,500.00
Payment Method: Check (Personal)	Agency Internet:
Complaint Date: 8/19/2003	Contact:
Initial Contact: Mail	Transaction Date:
Statute/Rule: FTC Ad Sec 5 (BCP)	Date:
Topic:	Initial Response:
	Law Violation: Deception/Misrepresentation
	Fraud:
	Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Las Vegas	State/Prov: Nevada
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 40 - 49
Subject	
Subject: Ch Mortgage	
Address: 12554 Riata Vista Circle	
City: Austin	State/Prov: Texas
ZIP: 78727	Country: United States
Email:	URL:
Area Code: 512	Phone Number: 534-0545
Ext:	
Representative Name: George Not Provided	Title:

Record # 10 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 3984896	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? <input checked="" type="checkbox"/> N
Comments: The company communicated to me that I would be eligible for a mortgage buy-down program. I was given a copy of the advertisement that would be in Sunday's paper. When I received the information from Lazlo Toth, I was informed that I was not eligible for the program. I was completely misled by the company. Additionally, the company is not offering the program that is being advertised in the paper.	
Entered By: AHOWARD	Entry Date: 8/18/2003
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount: \$2,000.00	Code:
Payment Method: Cashier's Check	Amount Paid: \$2,000.00
Complaint Date: 8/17/2003	Agency Contact:
Initial Contact: In Person	Transaction Date: 8/16/2003
Statute/Rule: FTC Ad Sec 5 (BCP)	Response:
Topic:	Law Violation: Deception/Misrepresentation
	Fraud Complaint?:
	Consumer
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Norcross	State/Prov: Georgia
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: Ch Mortgage	
Address: 8200 Roberts Road	
City: Dunwoody	State/Prov: Georgia
ZIP: 30356	Country: United States
Email:	URL:
Area Code: 873	Phone Number: 731-8340
Ext:	
Representative Name: Lazlo Toth	Title:

Record # 19 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 10659173	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? <input checked="" type="checkbox"/> N
Comments: (Product Name: Mortgage Loan) My wife and I (b)(6) have purchased a brand new townhouse from D.R. Horton recently. We are not very satisfied with our home purchasing experience with D.R. Horton & DHI Mortgage. The loan type is totally different than what was told to us. 1. Candice Rivera (DHI Mortgage loan consultant), provided us with the initial Good Faith Estimate of \$3066/month (including tax and insurance). We were told later on that our monthly payment would be \$3300/month instead. 2. Good Faith Estimate was stated the loan would be 5/1 ARM for the loans and we found out the loan was 2/1 ARM on the day of the signing of the contract (3/29/2007). 3. At the beginning we were told that there is no prepay penalty for the first and second loan. At the day of the signing of the contract, we found out that there is prepay penalty for both loans. 4. During signing we called Candice Rivera on how much the prepay penalty for the second loan would be and she told us that it would be less than \$600. We later on figured that the prepay penalty actually cost anywhere between \$2000 or even more. We started to believe that DHI Mortgage used the "Bait and Switch Tactics" as well as the "High-pressure Sales Tactics". Important information was not disclosed to us until we found out ourselves during the signing of the contract. We felt extreme pressure on determining whether losing our dream house or taking the deal that was totally different than what was told to us. Consumers should not have to pay for the mistakes that the builder or mortgage company made. We shouldn't have to pay for the prepay penalty if we selected to refinance within two years and the mortgage company should absorb all the cost. We have complained the issue with D.R. Horton on 4/2/2007 and we still have not received a response from them. (b)(6) Richmond, CA (b)(6)	
Entered By: MPHILLIPS	Entry Date: 5/16/2007
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount:	Code:
Payment Method:	Amount Paid:
Complaint Date: 5/14/2007	Agency Contact:
Initial Contact: Unknown	Transaction Date:
Statute/Rule: Truth-In-Lending Act	Response:
Topic:	Law Violation: Creditor Fails to Inaccurately Discloses Finance Charge/Method of Computing Finance Charge/Annual Percentage Rate
	Fraud Complaint?:
	Consumer
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Richmond	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: Ch Mortgage (division of D.R. Horton)	
Address: 2300 Clayton Road, Ste 850	
City: Concord	State/Prov: California
ZIP: 94520	Country: United States
Email:	URL:
Area Code: 925	Phone Number: 808-2600
Ext:	

Record # 11 of 80 / Consumer Sentinel Network Complaints			
Reference Number:	12716039	Originator Reference Number:	
Language:	English	Contact Type:	Complaint
Source:	Consumer	DNC?	N
Comments:	MAIL: The complaint was forwarded by the WA Department of Financial Institutions. Consumer has written to file a complaint against D R Horton. Consumer states that it was advertised a 5% interest rate but never give the APR. Consumer did not provide work, fax, or age range.		
Entered By:	BAYALA	Entry Date:	7/16/2008
Updated By:		Updated Date:	
Complaint Source:	TOLL FREE NUMBER AND CONSUMER	Product Service:	Mortgage Lender
Amount Requested:	\$0.00	Amount Paid:	\$0.00
Payment Method:	Unknown	Agency Mail Contact:	
Complaint Date:	7/16/2007	Transaction Date:	7/17/2007
Initial Contact:	TV/Radio	Initial:	Unknown
Statute/Rule:	FTC Act Sec 5 (BCP)	Response:	
Topic:		Law Violation:	Deception/Misrepresentation
		Fraud Complaint?:	
Complaining Company/Org:			
First Name:	(b)(6)	Last Name:	(b)(6)
Address 1:		Address 2:	
City:	Kenilworth	State/Prov:	Washington
ZIP:	(b)(6)	Country:	UNITED STATES
Home Number:		Work Number:	
Fax Number:		Ext:	
Email:		Age Range:	
Subject			
Subject:	D R Horton		
Address:	12931 NE 126th Pl		
City:	Kirkland	State/Prov:	Washington
ZIP:	98034	Country:	United States
Email:		URL:	
Area Code:	425	Phone Number:	8213400
Ext:			
Representative Name:		Title:	

Record # 11 of 13 / Consumer Sentinel Network Complaints			
Reference Number:	2738375	Originator Reference Number:	
Language:	English	Contact Type:	Complaint
Source:	Consumer	DNC?	N
Comments:	The consumer states that she is on a federal program. The consumer states that the recapture tax rate, and schedule was not provided to her during the closing of the house. The consumer states that it was provided to her one year later after the closing. The consumer states that it is not in her copies of the closing papers.		
Entered By:	CSHORT	Entry Date:	2/20/2003
Updated By:	CSHORT	Updated Date:	2/20/2003
Complaint Source:	TOLL FREE NUMBER AND CONSUMER	Product Service:	Mortgage Lender
Amount Requested:	\$0.00	Amount Paid:	\$0.00
Payment Method:	Unknown	Agency Phone Contact:	
Complaint Date:	2/20/2003	Transaction Date:	2/20/2003
Initial Contact:	Unknown	Initial:	Unknown
Statute/Rule:	Truth-In-Lending Act	Response:	
Topic:		Law Violation:	Other Written Disclosure/Written Violations
		Fraud Complaint?:	
Complaining Company/Org:			
First Name:	(b)(6)	Last Name:	(b)(6)
Address 1:		Address 2:	
City:	Leander	State/Prov:	Texas
ZIP:	(b)(6)	Country:	UNITED STATES
Home Number:		Work Number:	(b)(6)
Fax Number:		Ext:	
Email:		Age Range:	40 - 49
Subject			
Subject:	Ch Mortgage		
Address:	7001 N. SCOTTSDALE RD SUITE 2055		
City:	Scottsdale	State/Prov:	Arizona
ZIP:	85253	Country:	United States
Email:		URL:	
Area Code:	602	Phone Number:	3158434
Ext:			
Representative Name:		Title:	

Record # 12 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 2134873	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: The consumer was out looking at homes. The consumer saw some homes that they liked. The consumer stopped and talked to CH Mortgage. The consumer decided to get the home. The consumer came back and fill out the papers. The consumer fill out the contract for the company. The consumer had got a call from the lender and the lender told the consumer that she was approved in Mar 02. The consumer was also approved for the Good Faith Estimate which would have made her mortgage payment \$1200. The consumer sold her house on April 3/02. The lender called the consumer 15 minutes after the consumer had called to tell them that she sold her house. The lender told the consumer that they had made a mistake and she was not approved for the Good Faith Estimate. The consumer has to be out of her house by 07/06/02. The consumer cannot afford to pay the mortgage with CH Mortgage without the GFE. The consumer has to move out of her house because the house is sold. The consumer has spoken to the lender and she will have to move into the house with CH Mortgage. The lender told the consumer that she would have to pay \$1200 with the Good Faith Estimate and now the consumer has to pay \$2000.	
Entered By: BYOUNG	Entry Date: 7/2/2002
Updated By: BYOUNG	Updated Date: 7/3/2002
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service Code: Mortgage Lender
Amount Requested:	Amount Paid:
Payment Method:	Agency Contact: Phone
Complaint Date:	Transaction Date: 7/10/2002
Initial Contact:	Initial Response:
Statute/Rule: FTC Ad Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?: Consumer
Complaining Company/Org.: First Name: (b)(6) Address 1: City: Cedar Hill ZIP: (b)(6) Home Number: Fax Number: Email:	
Subject: Ch Mortgage Address: 1901 Ascension Blvd Ste 320 City: Arlington ZIP: 76006 State/Prov: Texas Country: United States URL: Area Code: 817 Ext: Representative Name:	
Last Name: (b)(6) Address 2: State/Prov: Texas Country: UNITED STATES Work Number: (b)(6) Ext: Age Range: 30 - 49	

Record # 6 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 13766552	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: In February 2003 I entered into a contract to purchase a home, my timeframe for purchasing this home was April 1, 2008. This timeframe came and went and I backed out of the contract as I indicated I would in my timeframe had not been met. The deposit that I left in February was a 1000 dollar money order and since I had no intention on purchasing this home I sought my deposit back. I contacted the company in early to mid April and was told that it would be 3 weeks before I could get my deposit back. I informed them that I had to move out of the place that I was currently living in by May 1, 2008 and I needed my deposit before that day. Today on May 5 I was contacted again and informed that I needed to sign a release form and that it would probably be another three to four weeks before I could get my deposit back, that puts me into June and it really creates a hardship on me and my family to have to continue to wait for them to give me my money. I want my check expedited with interest from April 15, 2008, whatever interest they have obtained by holding onto my money.	
Entered By: MPHILLIPS	Entry Date: 5/8/2008
Updated By:	Updated Date:
Complaint Source: PUBLIC USFRS - CIS	Product Service Code: Real Estate (not Timeshares)
Amount Requested: \$1,000.00	Amount Paid: \$1,000.00
Payment Method: Bank Money Order	Agency Contact: Internet
Complaint Date: 5/6/2008	Transaction Date:
Initial Contact:	Initial Response:
Statute/Rule: FTC Ad Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?: Consumer
Complaining Company/Org.: First Name: (b)(6) Address 1: City: Woodbridge ZIP: (b)(6) Home Number: Fax Number: Email:	
Subject: Address: 11216 WAPLES MILLS ROAD #105 City: Fairfax ZIP: 22030 State/Prov: Virginia Country: United States URL: Area Code: 703 Phone Number: 3859001 Ext: Representative Name: RAY LEONA Title:	
Last Name: (b)(6) Address 2: State/Prov: Virginia Country: UNITED STATES Work Number: (b)(6) Ext: Age Range: 30 - 39	

Record # 4 of 80 / Consumer Sentinel Network Complaints	
Reference Number: 19509123	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: UNFORTUNATELY	DNC? N
Comments: MAIL 07/10/2008 Consumer (apparently an Attorney) complains that D. R. Horton (DRI) has engaged in predatory mortgage fraud, mail fraud, and anti-trust activities. (Consumer offers no supporting information and hides the US Government for not stopping DRI) Consumer requested additional fulfillment - Consumer requested additional fulfillment.	
Entered By: nloper	Entry Date: 7/10/2008
Updated By: nloper	Updated Date: 7/10/2008
Complaint: TOLL FREE NUMBER AND CONSUMER	Product Service: Real Estate (not Timeshares)
Source: SENTINEL	Code:
Amount: \$0.00	Amount Paid: \$0.00
Requested: ① 400 Certified pages of letters to Sec/FIC/	Agency Mail Contact:
Payment Method: Unknown	Agency Mail Contact:
Complaint Date: 7/10/2008	Transaction Date:
Initial Contact: Unknown	Initial Unknown
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic: ② 800 PAGE evidence file to CA & Ill & DOS	Fraud? ①
Complaining Company/Org.: #EB 517695415 US	Consumer Complaint:
First Name: (b)(6)	Last Name: (b)(6) MISSUD
Address 1: ③ 400 cyberspace	Address 2:
City: San Francisco	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email: 2 YEARS	Age Range:
Subject: D R Horton	Subject:
Address:	
City:	State/Prov:
ZIP:	Country:
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 13 of 13 / Consumer Sentinel Network Complaints	
Reference Number: 1305178	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: MY CREDIT WAS PULLED BY CHERYL STOWELL FROM CH MORTGAGE ON OR ABOUT 2/05/01 I RECEIVED A GOOD FAITH OFFER WITH A CONTRACT TO PURCHASE THE HOME ON 2/9/01 STATING AN INTEREST RATE OF 7.75% I ASKED THE SALES PERSON IF THIS WAS GOING TO BE THE RATE ON THE MTG AND SHE SAID "YES" SO I SIGNED THE CONTRACT. CHERYL CALLED ME 2 DAYS LATER AND SAID BECAUSE I WAS SELF-EMPLOYED, WHICH SHE KNEW ON 2/6/01, THE RATE WOULD BE \$.25% I TOLD HER THAT I WOULD TRY TO GET ANOTHER LENDER. WHEN I GOT ANOTHER LENDER, THE NEW LENDER TOLD ME THAT CHERYL STOWELL (WHO ALSO CLAIMED SHE OWNED THE PROPERTY) WAS NOT IN FACT THE TITLED OWNER, BUT CONTINENTAL HOMES WAS THE TITLED OWNER, AND ON 2/5/01 WHEN I ASKED THE SALES PERSON AT CONTINENTAL HOMES (SHARON GREYER 480-538-9690) WHO OWNED THE HOUSE SHE SAID CHERYL STOWELL AT CONTINENTAL MORTGAGE CO THE NEW LENDER SAID THAT THEY WOULD NOT DO A DOUBLE ESCROW ON THE PROPERTY. BOTTOM LINE- I BELIEVE I HAVE BEEN DECEIVED AND GIVEN A FALSE GOOD FAITH CREDIT EST. THIS HAS CAUSED ME AT LEAST A 30 TO 60 DAY MOVING DELAY AND ANOTHER TRIP TO ARIZONA TO FIND A PLACE TO LIVE. ALL AND ALL THE DELAYS COULD CAUSE MY NEW BUSINESS TO SUFFER ALONG WITH THE ADDED EXPENSES TO GO BACK TO ARIZONA TO FIND ANOTHER HOUSE.	
Entered By: JEL AND	Entry Date: 3/5/2001
Updated By:	Updated Date:
Complaint: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Source:	Code:
Amount:	Amount Paid:
Requested:	Agency Internet Contact:
Payment Method:	Agency Internet Contact:
Complaint Date: 3/2/2001	Transaction Date: 2/9/2001
Initial Contact: In Person	Initial:
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: TEMECULA	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email: (b)(6)	Age Range: 40 - 49
Subject	
Subject: Ch Mortgage	
Address: 7001 N SCOTTSDALE RD SUITE 2055	
City: Scottsdale	State/Prov: Arizona
ZIP: 85253	Country: United States
Email:	URL:
Area Code: 480	Phone Number: 9389535
Ext:	
Representative Name: CHERYL STOWELL	Title:

Record # 2 of 20 / Consumer Sentinel Network Complaints	
Reference Number: 39544996	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: DNC? N	
Comments: MAIL: Consumer stated in a letter that the US government has not appropriately handled DR Horton. Consumer asked in the letter for Municipal, State and National actions against the company. No agency (email address) were available. UPDATE 11/1/2008 MAIL: The consumer mailed the same information as previously. UPDATE 12/10/08 MAIL: Consumer sent a copy of same complaint. Isharp	
Entered By: MRITZ	Entry Date: 10/10/2008
Updated By: SLFSHIF	Updated Date: 11/9/2008
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service: Mortgage Lender
Amount Requested:	Amount Paid:
Payment Method: IN FEBRUARY	Agency Mail Contact:
Complaint Date: 11/2/2008	Transaction Date: 9/26/2008
Initial Contact: Unknown	Initial: Unknown
Statute/Rule: Truth-In-Lending Act	Response:
Topic:	Law Violation: Creditor Fails or Inaccurately Discloses High Cost Home Equity Mortgage Terms
	Fraud Complaint?: (9)
Complaining Company/Org.: Consumer	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: San Francisco	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range:
Subject: DR Horton	
Address:	
City:	State/Prov:
ZIP:	Country:
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Yes

Record # 53 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 4008940	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: Consumer approached DR Horton Developers to purchase a home 02/14/04 and picked out the home that they wanted. On 2/14/04 consumer was told 2% down. Consumer obtained his preapproval and went back to day 2/20/04 and was told that because he used an outside lender he would have to pay 4% down. He was not told this last week when he talked to the developers. DR's lender is CH Mortgage. He had already applied with outside lender and already was approved. He will seek legal advice. UPDATE 2/23/04 Consumer states that he has received a phone call from a Cynthia Hoag from the FTC but no number was provided for him to call her back. JAB UPDATE 02/23/2004 Consumer will wait for a call back by his own choice. PSB	
Entered By: CMINER	Entry Date: 2/20/2004
Updated By: PBLUNT	Updated Date: 2/23/2004
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service: Mortgage Lender
Amount Requested: \$0.00	Amount Paid: \$0.00
Payment Method: Unknown	Agency Contact: Phone
Complaint Date:	Transaction Date: 2/20/2004
Initial Contact: In Person	Initial: In Person
Statute/Rule: Truth-In-Lending Act	Response:
Topic:	Law Violation: Creditor Fails or Inaccurately Discloses Balloon Payments and/or Other Payments
	Fraud Complaint?:
Complaining Company/Org.: Consumer	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Las Vegas	State/Prov: Nevada
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 20 - 39
Subject: Dr Horton Developers	
Address: Unknown	
City:	State/Prov: Location Not Reported
ZIP:	Country: Location Not Reported
Email:	URL:
Area Code: 702	Phone Number: 4354888
Ext:	
Representative Name:	Title:

Record # 50 of 54 / Consumer Sentinel Network Complaints			
Reference Number:	5281972	Originator Reference Number:	
Language:	English	Contact Type:	Complaint
Source:	Consumer	DNC?	N
Comments:	Consumer called to report a complaint against DR Horton. Consumer reports that they built her home. Consumer reports that they agreed to operate without the 1031 exchange. Consumer reports that they pushed back the construction though because of the 1031 not done. Consumer reports that they breached contract. Consumer will call state consumer protection. Consumer also reports that she ordered for them to build a certain model, but they instead built the cheaper model, and still charged her the higher price, and will not give a refund.		
Entered By:	NDIXON	Entry Date:	11/22/2004
Updated By:		Updated Date:	
Complaint Source:	TOLL FREE NUMBER AND CONSUMER	Product Service:	Mortgage Lender
Amount:	\$0.00	Code:	
Requested:		Amount Paid:	\$0.00
Payment Method:	Unknown	Agency Phone Contact:	
Complaint Date:		Transaction Date:	7/1/2004
Initial Contact:	In Person	Initial:	In Person
Statute/Rule:	FTC Ad Sec 5 (BCP)	Response:	
Topic:		Law Violation:	Deception/Misrepresentation Breach of Contract
		Fraud Complaint?	
Consumer			
Complaining Company/Org.:		Last Name:	(b)(6)
First Name:	(b)(6)	Address 2:	
Address 1:		State/Prov:	California
City:	San Ramon	Country:	UNITED STATES
ZIP:	(b)(6)	Work Number:	(b)(6)
Home Number:		Ext:	
Fax Number:		Age Range:	40 - 49
Email:		Subject	
Subject:	Dr Horton		
Address:	6680 Owens Dr		
City:	Pleasanton	State/Prov:	California
ZIP:	94589	Country:	United States
Email:		URL:	
Area Code:	925	Phone Number:	737 1080
Ext:			
Representative Name:		Title:	

Record # 3 of 20 / Consumer Sentinel Network Complaints			
Reference Number:	20411792	Originator Reference Number:	
Language:	English	Contact Type:	Complaint
Source:		DNC?	N
Comments:	MAIL: The consumer has a complaint against DHI Mortgage. The consumer applied for a loan and was told that his rate would be 5.75%. The consumer told the company to look in the rate, and they agreed. The consumer went to closing and the rate on his paperwork was at 5.0%. The company also requested at the last minute that the consumer provide documentation of insurance and reporting it is 4.0%. The consumer didn't provide a phone #, email address or age range. Consumer requested additional fulfillment.		
Entered By:	ASMITLEY	Entry Date:	9/26/2008
Updated By:	GALCALDE	Updated Date:	10/3/2008
Complaint Source:	TOLL FREE NUMBER AND CONSUMER	Product Service:	Mortgage Lender
Amount:	\$0.00	Code:	
Requested:		Amount Paid:	\$0.00
Payment Method:	Unknown	Agency Mail Contact:	
Complaint Date:	10/3/2008	Transaction Date:	5/16/2008
Initial Contact:	In Person	Initial:	In Person
Statute/Rule:	FTC Ad Sec 5 (BCP)	Response:	
Topic:		Law Violation:	Deception/Misrepresentation
		Fraud Complaint?	
Consumer			
Complaining Company/Org.:		Last Name:	(b)(6)
First Name:	(b)(6)	Address 2:	
Address 1:		State/Prov:	Virginia
City:	Woodbridge	Country:	UNITED STATES
ZIP:	(b)(6)	Work Number:	
Home Number:		Ext:	
Fax Number:		Age Range:	
Email:		Subject	
Subject:	DHI Mortgage		
Address:	11216 Waples Mill Rd		
City:	Fairfax	State/Prov:	Virginia
ZIP:	22030	Country:	United States
Email:		URL:	
Area Code:	571	Phone Number:	7250830
Ext:			
Representative Name:	Mark Toelle	Title:	

Record # 4 of 20 / Consumer Sentinel Network Complaints	
Reference Number: 30045679	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
<p>Comments: We put an offer on a DR Horton 6/15/08, after holding the offers and encouraging us to bid on another home we bid on 7/6/08. Contract was terminated on 7/23/08 as to financing did not secure. After continuous calls and follow thru we were told by the DR Horton finance person to go ahead and put the offer back on the table 8/22/08 promising that the manual underwrite was almost completed. Offer was denied due to financing not completed again. All along we were told that we had to use DR Horton's financing in order to get the down payment and closing assistance we requested and needed. 8/25/08, the loan officer called us to "sell" us on another home in the neighborhood once again (not letting us know they sold one with our offer) and said he would be happy to complete any there. Finally acknowledged that our loan after all this time never even was in manual underwriting as promised and was held. DR Horton realtors and loan officer are aware that we are in need of buying in this neighborhood (we currently rent there) as they know our immediate needs and the condition of the home we are currently in. After over 2 months, he finally gave us a automated approval with a loan amount lesser than the one he told us to put an offer on and said there are other homes available. I again pushed him for the manual underwrite on the "pre-approved" amount for the home we put an offer on. After dragging his feet again, promises to get back to us once again "first thing" and let us know. All the while we were accidentally informed that he knew all along they took another offer on this home during our live offer and he personally is doing their pre-approval. Again, tried to sell us that he is doing what he is told, and once again, we have many other homes we are happy to sell you. Now we have lost 2 homes due to no financing completed!</p>	
Entered By: FFOCIS-FICUSER	Entry Date: 8/25/2008
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - LHS	Product Service: Mortgage Lender
Amount Requested:	Amount Paid:
Payment Method:	Agency Internal Contact:
Complaint Date: 8/25/2008	Transaction Date: 8/15/2008
Initial Contact: Phone Call Mobile/Cell	Initial Response: Phone other
Statute/Rule: Truth-in-Lending Act	Law Violation: Deception/Misrepresentation
Topic: FTC Act Sec 5 (RCP)	Other Written Disclosure/Written Violations
	Fraud Complaint?:
	Consumer
<p>Complaining Company/Org.:</p> <p>First Name: (b)(6) Last Name: (b)(6)</p> <p>Address 1: Address 2:</p> <p>City: Newberg State/Prov: Oregon</p> <p>ZIP: (b)(6) Country: UNITED STATES</p> <p>Home Number: Work Number: (b)(6)</p> <p>Fax Number: Ext:</p> <p>Email: Age Range: 30 - 39</p> <p>Subject</p> <p>Subject: DH Mortgage</p> <p>Address: 4380 SE Macadam Ave</p> <p>City: Portland State/Prov: Oregon</p> <p>ZIP: 97239 Country: United States</p> <p>Email: URL: DHIMortgage.com</p> <p>Area Code: 503 Phone Number: 2192353</p> <p>Ext:</p> <p>Representative Name: Chris Jenner Title: Loan Officer - Portland</p>	

Record # 49 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 5622849	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
<p>Comments: The consumer is filing a complaint against DR Horton, the company that is building her home. The consumer has been doing business with this company since March of 2004. The consumer states she asked the company if she could use her own loan company and the company told her if she used her own loan company the price of the house would go up by \$5,000.</p>	
Entered By: CELLIOTT	Entry Date: 12/2/2004
Updated By:	Updated Date:
Complaint Source: TOL FREE NUMBER AND CONSUMER	Product Service: Housing
Amount: \$0.00	Amount Paid: \$0.00
Requested:	Agency Phone Contact:
Payment Method: Unknown	Transaction Date: 8/9/2004
Complaint Date:	Initial In Person:
Initial Contact: In Person	Response:
Statute/Rule:	Law Violation:
Topic:	Fraud Complaint?:
	Consumer
<p>Complaining Company/Org.:</p> <p>First Name: (b)(6) Last Name: (b)(6)</p> <p>Address 1: Address 2:</p> <p>City: Plano State/Prov: Texas</p> <p>ZIP: (b)(6) Country: UNITED STATES</p> <p>Home Number: Work Number: (b)(6)</p> <p>Fax Number: Ext:</p> <p>Email: Age Range: 40 - 49</p> <p>Subject</p> <p>Subject: DR Horton</p> <p>Address:</p> <p>City: State/Prov:</p> <p>ZIP: Country:</p> <p>Email: URL:</p> <p>Area Code: Phone Number:</p> <p>Ext: Title:</p> <p>Representative Name:</p>	

Record # 47 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 8058051	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: DR Horton failed to disclose facts about the property that materially effed the value of the property My original contract did not show Wells, and DR Horton is dealing dishonestly and unfairly by clearly attempting to "cover-up" these issues. Fraudulent documents were then given to me to cover the issues. I have all docs/permits issued prior to their attempt to misrepresent the property. I also have all DR Horton "altered" documents including permits I signed contract for Lot 39, 573 Breeze Oak Way, Apopka FL on Dec 20, 2004. On Jan. 8, 2005, I traveled to Florida to inspect location and progress on home. At that time, I received a copy of the plot that was dated 2-14-04 and did not have any notation for wells(s) anywhere pictorially nor in writing. I was never notified of any wells verbally nor in writing. On April 23rd received closing documentation via FFD FAX. In reviewing the documentation, found notations on Survey plot received from DHI title that there were not one but two wells discovered on LOT 39. Further investigation showed that the wells were discovered on 6-28-2004 and New well on 7-16-04. According to Well capping and plugging procedures followed by DR Horton Inc*, The St. Johns River Water Management District would be used in the review and permitting of the capping procedure. Unfortunately, there are no documents at St Johns River Water Management outlining the capping and plugging procedure for LOT 39 which apparently contains two wells. In addition, there is inconsistent information shown on plot diagrams. With the earlier diagrams showing well location pictorially and with subsequent diagrams being devoid of the existence of the well(s) completely, and with the latest plot dated 2-14-05 showing only small print reference for both wells. Andy stated that, DR Horton has necessary permit paperwork and engineering reports regarding the Wells on LOT 39 and will provide them. Upon receipt of the paperwork, it was altered to reflect "Lot 39".	
Entered By: JXHEINY	Entry Date: 5/4/2005
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Housing
Amount Requested: \$347,921.00	Amount Paid: \$347,921.00
Payment Method: Cashier's Check	Agency Contact: Internet
Complaint Date: 5/3/2005	Transaction Date: 4/25/2005
Initial Contact: Phone	Initial Response:
Statute/Rule:	Law Violation:
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.: First Name: (b)(6) Last Name: (b)(6) Address 1: Address 2: City: Peekskill State/Prov: New York ZIP: (b)(6) Country: UNITED STATES Home Number: Work Number: (b)(6) Fax Number: Ext: Email: Age Range: 30 - 39	
Subject	
Subject: Dr Horton Inc Address: 5850 T.G. Lee Blvd City: Orlando State/Prov: Florida ZIP: 32822 Country: United States Email: URL: Area Code: 407 Phone Number: 850-5200 Ext: Representative: Andrew Raddon Title:	

Record # 7 of 20 / Consumer Sentinel Network Complaints	
Reference Number: 11731558	Originator Reference Number:
Language: English	Contact Type: Request for Information
Source: Consumer	DNC? N
Comments: Product Name: Fraud and unfair and deceptive trade practices. Hi, I just had a jury trial in which the jury found the Mortgage Company guilty of Fraud and Unfair and Deceptive trade practices (Bait and Switch). What information do you need from me to validate this? Also what actions will Fannie Mae take against the Mortgage company? Can you pull there contract to do or sell loans to you? Thanks. (b)(6)	
Entered By: LSHARP	Entry Date: 10/3/2007
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount Requested:	Amount Paid:
Payment Method:	Agency Internet Contact:
Complaint Date: 10/7/2007	Transaction Date:
Initial Contact: In Person	Initial Response:
Statute/Rule:	Law Violation:
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.: First Name: (b)(6) Last Name: (b)(6) Address 1: Address 2: City: Jonsdale State/Prov: Minnesota ZIP: (b)(6) Country: UNITED STATES Home Number: Work Number: (b)(6) Fax Number: Ext: Email: Age Range: 30 - 39	
Subject	
Subject: DHI Mortgage And Dr Horton Builder Address: State/Prov: City: Country: ZIP: URL: Email: Phone Number: Area Code: Ext: Representative Name: Title:	

Record # 6 of 20 / Consumer Sentinel Network Complaints	
Reference Number: 10949809	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: MAIL: The consumer went to the DR Horton website on 08/20/05 and then spoke with a sales rep about the possibility of purchasing one of their homes. The consumer was referred to DHI Mortgage to work out the financing. The consumer was told that his credit was not good and it would be better if his fiancée applied for the loan. The consumer states that DHI did not run their credit report until after the contract was written. When the consumer tried to use a different lender they were told that they could not because of the incentives DR Horton was offering, and if they did not go with their lender they would withdraw the incentives they were offering. The consumer executed a good faith contract with DR Horton and at closing the purchase price was higher than agreed on earlier. No email or age provided.	
Entered By: BST/IRM	Entry Date: 8/14/2007
Updated By: UOB Upc Internet related	Updated Date: 8/15/2007
Complaint Source: TOLL FREE NUMBER AND CONSUMER SENTINEL	Product Service: Mortgage Lender
Amount Requested: \$0.00	Amount Paid: \$0.00
Payment Method: Unknown	Agency Mail Contact:
Complaint Date: 4/26/2007	Transaction Date: 8/20/2006
Initial Contact: Internet Web Site	Initial Unknown:
Statute/Rule: FTC Act Sec 5 (a)(1)	Response:
Topic:	Law Violation: Deception/Misrepresentation
	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Woodbridge	State/Prov: Virginia
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range:
Subject	
Subject: Dr Horton Inc	
Address:	
City:	State/Prov:
ZIP:	Country:
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:
Subject: DHI Mortgage	
Address:	
City:	State/Prov:
ZIP:	Country:
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 46 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 6187548	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: I have been trying to buy a condo from DR Horton. I have told them since the beginning I was getting a VA loan. They have told me since day 1 they were VA approved. Three weeks before my closing my lender contacted them to get an approval number. We need this so the VA can go out and do their inspection and ok my loan. Numerous emails and calls have gone out requesting this information. We got "yes we are VA approved" or a 4 digit number that the VA stated was not a valid VA #. Days before my closing, DR Horton informed us they were not VA approved. So now I have lost my interest rate. Also the square footage is off by 51 sq ft. Now when we call DR Horton, we get no response or if we get a response it is rude and sarcastic, and no resolution. I do not know what to do. They even suggested I pay them 60 dollars a day until I move in since I did not move in on time.	
Entered By: DCRASE	Entry Date: 5/31/2005
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount Requested: \$181,620.00	Amount Paid: \$2,500.00
Payment Method: Check (Personal)	Agency Internet Contact:
Complaint Date: 5/27/2005	Transaction Date: 5/26/2005
Initial Contact: In Person	Initial Response:
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Issaquah	State/Prov: Washington
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: Dr Horton	
Address: 12931 N 126th Pl	
City: Kirkland	State/Prov: Washington
ZIP: 98034	Country: United States
Email:	URL:
Area Code: 425	Phone Number: 821-3400
Ext:	
Representative Name: Paula Hovander	Title:

Record # 42 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 6500852	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: The consumer states that D.R. Horton is a building developers office. The consumer notes that he works in mortgage and someone he knows contacted them but was told that the loan could only be obtained through D.R. Horton's particular lenders. The consumer notes that the interest rates through the lenders are higher.	
Entered By: SBROWN1	Entry Date: 8/12/2005
Updated By:	Updated Date:
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service: Real Estate (not Timeshares)
Amount: \$0.00	Amount Paid: \$0.00
Requested:	Agency Phone:
Payment Method: Not Reported	Contact:
Complaint Date:	Transaction Date:
Initial Contact: Unknown	Initial Unknown
Statute/Rule: FTC Act Sec 5 (BCP)	Response:
Topic:	Law Violation: Deception/Misrepresentation
	Fraud:
	Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: St Augustine	State/Prov: Florida
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 50 - 59
Subject	
Subject: Dr Horton	
Address:	
City: Jacksonville	State/Prov: Florida
ZIP:	Country: United States
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 9 of 20 / Consumer Sentinel Network Complaints	
Reference Number: 10659173	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: Mortgage Loan) My wife and I (b)(6) have purchased a brand new townhouse from D.R. Horton recently. We are not very satisfied with our home purchasing experience with D.R. Horton & DHI Mortgage. The loan type is totally different than what was told to us. 1. Candice Rivera, DHI Mortgage loan consultant, provided us with the initial Good Faith Estimate of \$3006/month (including tax and insurance). We were told later on that our monthly payment would be \$3000/month instead. 2. Good Faith Estimate was stated the loan would be 5/1 ARM for the loans and we found out the loan was 2/1 ARM on the day of the signing of the contract (3/29/2007). 3. At the beginning we were told that there is no prepay penalty for the first and second loan. At the day of the signing of the contract, we found out that there is a prepay penalty for both loans. 4. During signing we called Candice Rivera on how much the prepay penalty for the second loan would be and she told us that it would be less than \$600. We later on figured that the prepay penalty actually cost anywhere between \$2000 or even more. We started to believe that DHI Mortgage used the 2-Bait and Switch Tactics, as well as the High-pressure Sales Tactics. Important information was not disclosed to us until we found out ourselves during the signing of the contract. We felt extreme pressure on determining whether losing our dream house or taking the deal that was totally different than what was told to us. Consumers should not have to pay for the mistakes that the builder or mortgage company made. We shouldn't have to pay for the prepay penalty if we selected to refinance within two years and the mortgage company should absorb all the cost. We have complained the issue with D.R. Horton on 4/2/2007 and we still have not received a response from them. (b)(6) (Phyllis) (b)(6) (Phyllis) Richmond, CA (b)(6)	
Entered By: MPHILLIPS	Entry Date: 5/15/2007
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS: CIS	Product Service: Mortgage Lender
Amount:	Amount Paid:
Requested:	Agency Contact:
Payment Method:	Internet
Complaint Date: 5/14/2007	Transaction Date:
Initial Contact: Unknown	Initial Response:
Statute/Rule: Truth-in-Lending Act	Law Violation: Creditor Fails or Inaccurately Discloses Finance Charge/Method of Computing Finance Charge/Annual Percentage Rate
Topic:	Fraud:
	Complaint?:
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Richmond	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: Dhi Mortgage (division Of D.R. Horton)	
Address: 2300 Clayton Road, Ste 850	
City: Concord	State/Prov: California
ZIP: 94520	Country: United States
Email:	URL:
Area Code: 925	Phone Number: 908-2600
Ext:	

Record # 20 of 20 / Consumer Sentinel Network Complaints	
Reference Number: 2416234	Originator Reference Number:
Language: English	Contact Type: Complaint
Source:	DNC? N
Comments: MAIL Forwarded by US Dept of Justice. Consumer has a complaint against DRI Mortgage. Consumer states that he was approved for a loan through this company which was had written by the officer providing the loan. Consumer states that later he received paperwork from a court stating that he was never approved for the loan. Consumer feels that what they did was fraudulent. No email address. UPDATE MAIL 7/7/08 Consumer is writing again that DRI Mortgage Co is deceptive. Consumer goes into great detail of how this company works by getting 2 percent on back of the deals. Part UPDATE 07/14/08 The consumer mentions D. R. Horton as an affiliate of the mortgage lender. The company is a home builder. The consumer states that he has documentation of hundreds of people being defrauded by the company. (b)(6)	
Entered By: SWOODSON	Entry Date: 6/15/2008
Updated By: jesmitlay	Updated Date: 7/14/2008
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service: Real Estate (not Timeshares)
Amount: \$0.00	Code: Mortgage Lender
Requested:	Amount Paid: \$0.00
Payment Method: Unknown	Agency Mail Contact:
Complaint Date: 7/14/2008	Transaction Date: 2/12/2004
Initial Contact: Mail	Initial: Unknown
Statute/Rule: FTC Act Sec 5 (B)(1)	Response:
Topic:	Law Violation: Deception/Misrepresentation
	Fraud
	Complaint?:
Complaining Company/Org.: Attorney At Law	Consumer
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: San Francisco	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range:
Subject	
Subject: DRI Mortgage	
Address:	
City:	State/Prov:
ZIP:	Country:
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 39 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 7127370	Originator Reference Number:
Language: English	Contact Type: Complaint
Source:	DNC? N
Comments: MAIL The consumer hired DR Horton to build a home. The consumer notes that this institution requires consumers to go through a specific lender or they may not be able to close on the home. The consumer provided documentation and correspondence between himself, DR Horton, and various lenders. (No home #) was provided. UPDATE MAIL 06/07/08 Consumer states that he has several newspaper articles relating to this complaint. Consumer also mailed in a copy of a judgement. Right MAIL UPDATE 06/13/08 The consumer sent additional documentation for this complaint. The consumer included an alternate phone number. BSLum UPDATE 09/28/08 MAIL The consumer sent in more documentation to support his case. This includes previous complaint letters DBRAH LEK MAILUP004 25.08. The consumer wrote to state that court action was taken against DR Horton Brown MAIL UPDATE 9/25/08 The consumer sent addl info for this report. (b)(6)	
Entered By: RBROWN1	Entry Date: 11/28/2005
Updated By: BSLum	Updated Date: 9/25/2008
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service: Other (Note in Comments)
Amount: \$0.00	Code:
Requested:	Amount Paid: \$0.00
Payment Method: Not Reported	Agency Mail Contact:
Complaint Date: 5/25/2008	Transaction Date: 2/1/2004
Initial Contact: Unknown	Initial: In Person
Statute/Rule:	Response:
Topic:	Law Violation:
	Fraud
	Complaint?:
Complaining Company/Org.: (b)(6)	Consumer
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: San Francisco	State/Prov: California
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range:
Subject	
Subject: Dr Horton	
Address: 1362 Rossini	
City: Henderson	State/Prov: Nevada
ZIP: 89052	Country: United States
Email:	URL:
Area Code: 707	Phone Number: 6102045
Ext:	
Representative Name:	Title:

BULLS

Record # 32 of 54 / Consumer Sentinel Network Complaints			
Reference Number:	3020381		
Language:	English	Originator Reference Number:	
Source:	Consumer	Contact Type:	Complaint
Comments:	Product Name: 30 year fixed mortgage and marketing of costs; DR Horton markets that they will pay closing costs if you use DHI Mortgage when purchasing a DR Horton built home. In our case that was about \$8,000. When it is close to time to lock-in, DHI Mortgage quotes an interest rate similar in the industry to a "no cost" loan, thereby having the borrower pay the costs through a higher interest rate. It is fraudulent to advertise a major incentive of DR Horton "paying" the closing costs and then give you an industry interest rate that is equivalent to "no closing costs". What they are advertising is false.		
Entered By:	UXHEINY	Entry Date:	4/11/2006
Updated By:		Updated Date:	
Complaint Source:	PUBLIC USERS - CIS	Product Service:	Mortgage Lender
Amount Requested:		Code:	
Payment Method:		Amount Paid:	
Complaint Date:	4/10/2006	Agency Contact:	Internet
Initial Contact:	In Person	Transaction Date:	
Statute/Rule:	FTC Ad Sec 5 (BCP)	Initial Response:	
Topic:		Law Violation:	Deception/Misrepresentation
		Fraud Complaint?:	
Consumer			
Complaining Company/Org.:			
First Name:	(b)(6)	Last Name:	(b)(6)
Address 1:		Address 2:	
City:	Fort Collins	State/Prov:	Colorado
ZIP:	(b)(6)	Country:	UNITED STATES
Home Number:		Work Number:	(b)(6)
Fax Number:		Ext:	
Email:		Age Range:	30 - 39
Subject			
Subject: DHI Mortgage & Dr Horton			
Address:			
City:	Fort Collins	State/Prov:	Colorado
ZIP:	80525	Country:	United States
Email:		URL:	
Area Code:		Phone Number:	
Ext:			
Representative Name:	Phil Buckingham	Title:	

Record # 3 of 54 / Consumer Sentinel Network Complaints			
Reference Number:	30544996		
Language:	English	Originator Reference Number:	
Source:	Consumer	Contact Type:	Complaint
Comments:	MAIL: Consumer stated in a letter that the US government has not appropriately handled (DHI Rico/DR Horton) "clear criminality" against consumers and that (DHI) has corrupted the judicial system. Consumer asked in the letter for Municipal, State and National actions against the company. Full name and address were available. UPDATE 11/18/08 MAIL: The consumer mailed the same information as midday UPDATE 12/10/08 MAIL: Consumer sent a copy of same complaint to sharp.		
Entered By:	MRTZ	Entry Date:	10/10/2008
Updated By:	SLESUE	Updated Date:	10/10/2008
Complaint Source:	TOLL FREE NUMBER AND CONSUMER	Product Service:	Mortgage Lender
Amount Requested:		Code:	
Payment Method:		Amount Paid:	
Complaint Date:	10/10/2008	Agency Mail Contact:	
Initial Contact:	Unknown	Transaction Date:	9/26/2008
Statute/Rule:	Truth-In-Lending Act	Initial Response:	
Topic:		Law Violation:	Creditor Fails or Inaccurately Discloses High Cost/Home Equity Mortgage Terms
		Fraud Complaint?:	
Consumer			
Complaining Company/Org.:			
First Name:	(b)(6)	Last Name:	(b)(6)
Address 1:		Address 2:	
City:	San Francisco	State/Prov:	California
ZIP:	(b)(6)	Country:	UNITED STATES
Home Number:		Work Number:	(b)(6)
Fax Number:		Ext:	
Email:		Age Range:	
Subject			
Subject: DHI Rico/Dr Horton			
Address:			
City:		State/Prov:	
ZIP:		Country:	
Email:		URL:	
Area Code:		Phone Number:	
Ext:			
Representative Name:		Title:	

Record # 8 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 20647057	Originator Reference Number:
Language: English	Contact Type: Complaint
Source:	DNC? N
<p>Comments: In June we had a major water issue in the home we are renting with option to buy. This home became uninhabitable due to mold during renovations. With the knowledge of this we knew we could not buy this home. We live across the street from the realty office for DR Horton (our neighborhood). We had been watching a few homes being built. On 6/14/08 with full knowledge of our housing situation they told us to go with their lender and we would get more incentives. We went into the office and made an offer on a home on our street. We were told we would hear back that afternoon, latest next day. Come Monday 6/16/08 we finally heard back on a counter. We counter back Tues morn within deadline, they countered back Wed evening, we contacted office Thursday with our counter only to be told that they already signed with other couple (during our counter time she they gave us). After thought we came back on 6/30/08 with our realtor and made an offer on another house. On 7/6/08 after a week of negotiations and agreement of 3% seller down/ 3% seller closing costs. Right before we showed up to sign Jky Wolf told our agent that we had to go with their companies mortgage co. again (DHI Mortgage) even though nego to that point were 3:3 with our own mortgage co. We went forward signed 7/8/08. After signing we worked with Chris Zenner and started our loan. A surprise to us there was something in accurate on our credit. We worked with DHI credit bureaus and myself to get this rectified. We asked for an extension on our financing deadline. Extended to 7/25. Chris and Angela at DHI informed us even though this was an error it would take 30-90 days to correct our credit. From this information DR Horton terminated our contract and told us to come back to table when completed (during this time and after they kept tabs on our loan asking and giving information that was not agreed upon. On 8/4/08 (1 wk later), we had a call from US Bank's President's office apologizing and correcting our credit with a rapid response in less than 4 hours. Once again we asked for loan to move forward with new scores ASAP. We checked in almost daily with Chris Zenner and Angela regarding loan status. Being told numerous things delays etc. On 8/11/08 we finally rec'd pre-approval letter and told to go back with offer again (manual underwrite will be completed by 8/25/08. On 8/22/08 new offer on table at 10:47am PST during sale that promised a 45 min response. Finally a counter at 5:30pm, during a live offer DR Horton wrote another offer. We arrived on 8/23/08 at 10:15am PST to accept counter offer. And were told that our financing was not in order even with THEIR mortgage co. pre-approval letter, and they have no permission to speak re our loan at this point to our loan officer and that we could counter or wait until Monday. And that they have lots of homes we could buy if this didn't work and that they were already countering with other offer. Our agent spoke to their agents and were told they did not care if that was wrong, unethical, or illegal. Their "one page offers sheets" are "worthless" according to their principal broker. We accepted their counter firm 5:30pm 8/22/08, were told we would hear 8/25. While they accepted and wrote contract over weekend Nvr phoned us. In meantime not knowing this, their mortgage company calls us 8/25 in morning and literally tries to sell us on another loan AND another home. Later admitting that he nvr sent loan to manual underwrite and he has another firm for us. PS9000 Real Estate UPDATE 09/04/2009 Corrected product service code, per notes consumer states that she was working with DR Horton Inc. and their in-house realtor and mortgage company, after numerous offers and counteroffers and having a minor credit issue consumer believes that the practices of the company were deceiving because she was told the loan would be sent to underwriting when it was not and instead the company called the consumer back with an offer for a different home), corrected violation code and status VGO.</p>	
Entered By: FTCCIS-FTCUSER	Entry Date: 8/26/2008
Updated By: YGONZALEZ	Updated Date: 9/4/2008
Complaint Source: PUBLIC USERS - CIS	Product Service: Housing
Amount Requested: \$0.00	Amount Paid: \$0.00
Payment Method:	Agency Contact: Internet
Complaint Date: 8/4/2008	Transaction Date:
Initial Contact: In Person	Initial Response:
Statute/Rule: FTC Ad Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org:	

Record # 31 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 8274051	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
<p>Comments: (Product Name: Mortgage Lending) I am writing to complain about the unfair trade practices of the builders in Texas. I am a mortgage banker in Texas. I preapprove my clients. If they want a new home they are being forced to use the builders lender. That is putting me out of business. The customer has higher interest rates they are being put in Sub-prime financing when they can go FHA and get a better rate. They are offering money incentives attached to using their mortgage company only. I have proof in their contracts and advertising. It is also a violation of RESPA. I can't give any incentives why can the builder only give it if they use his mortgage company. That takes out all competition. It seems to me no one wants to do anything to the builders only to mortgage companies and title companies.</p>	
Entered By: RLOPER	Entry Date: 5/25/2008
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Mortgage Lender
Amount Requested:	Amount Paid:
Payment Method:	Agency Contact: Internet
Complaint Date: 5/24/2008	Transaction Date:
Initial Contact: Unknown	Initial Response:
Statute/Rule: FTC Ad Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?:
Consumer	
Complaining Company/Org:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Fort Worth	State/Prov: Texas
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 40 - 49
Subject	
Subject: Fox & Jacobs, Legacy Homes, Dr Horton Etc	
Address:	
City:	State/Prov:
ZIP:	Country:
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 27 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 9987223	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: Home) home is currently being built with completion date of early April 2007, already have a Sales Contract with builder since 1/8/2007. Now builder is threatening to terminate the sales contract if we don't pay 50% of upgrade amount, in which during the initial drawing up of sale contract, builder said they would just add the whole amount to our home price so no upfront cost for us even with the upgrades. DHI Mortgage (DR Horton's Mortgage Company) called me a few days ago regarding going with their loan mortgage. I told them I already have an approved loan with Bank of America. But told them I might consider their offer. Then today, Ray Romo, Sales rep for DR Horton, after receiving a call from DHI Mortgage, threatened to terminate sales contract. Very unethical. And also a few days ago, Ray Romo calls me just to tell me that he almost sold our home (that we already have a sales contract on) to a "very interested" buyer, but then he told the buyer that the home was already sold to us. Why would he even tell me this. So now, the builder is bullying me to cough up \$11,000, which is 1/2 of the total price of the upgrades, or they will terminate the contract. Therefore, I am complaining about this unethical business practice, and violation of consumer rights. Please help me. Thank you. Sincerely, (b)(6)	
Entered By: DURASE	Entry Date: 2/29/2007
Updated By: JCB_Ucd_internet_related	Updated Date: 2/10/2007
Complaint Source: PUBLIC USERS - CIS	Product Service Code: Housing
Amount: \$500.00	Amount Paid: \$500.00
Requested:	Agency: Internet
Payment Method: Check (Personal)	Contact:
Complaint Date: 2/8/2007	Transaction Date: 2/8/2007
Initial Contact: Internet Web Site	Initial Response:
Statute/Rule:	Law Violation:
Topic:	Fraud Complaint?
Consumer	
Complaining Company/Orp.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Edinburg	State/Prov: Texas
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: Dr Horton Home Builder	
Address: 11381 Beeville Dr	
City: Frisco	State/Prov: Texas
ZIP: 75034	Country: United States
Email:	URL:
Area Code: 972	Phone Number: 712-8620
Ext:	
Representative Name: Ray Romo	Title:

First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Newberg	State/Prov: Oregon
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number: (b)(6)
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject	
Subject: Dr Horton Inc.	
Address: 301 Commerce Dr Suite 500	
City: Fortworth	State/Prov: Texas
ZIP: 76102	Country: United States
Email: dhorton@dhorton.com	URL: www.dhorton.com
Area Code: 817	Phone Number: 3906200
Ext:	
Representative Name: Ky Wolf- Agent Caroline Chamberline-Agen	Title: Nicole Tanner- Agent

Record # 7 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 30030503	Originator Reference Number:
Language: English	Contact Type: Complaint
Source:	DNC? N
Comments: MAIL Consumer has a complaint against DR Horton, a home builder, and mortgage lender. Consumer states that they were building a house for consumer and financing it. Consumer states that they asked for a fixed rate loan stating they didn't want adjustable, but ended up getting adjustable. Consumer states that they have falsified documentation stating consumer put \$440,000 down on the property but consumer did not. Consumer states that they refused to accept copies of consumer's check stubs and tax papers claiming they were given a special loan due to their age and didn't need wage documentation. Consumer now cannot afford this loan.	
Entered By: CAL CALDE	Entry Date: 8/23/2008
Updated By:	Updated Date:
Complaint Source: TOLL FREE NUMBER AND CONSUMER	Product Service: Mortgage Lender
Amount: \$0.00	Code:
Requested:	Amount Paid: \$0.00
Payment Method: Unknown	Agency Mail Contact:
Complaint Date: 8/23/2008	Transaction Date: 7/21/2008
Initial Contact: In Person	Initial Response:
Statute/Rule: Truth-In-Lending Act	Law Violation: Deception/Misrepresentation
Topic:	Fraud
Complaining Company/Org.:	Complaint?: Consumer
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Naples	State/Prov: Florida
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range:
Subject: Dr Horton	Subject:
Address:	
City:	State/Prov:
ZIP:	Country:
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 23 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 30406453	Originator Reference Number:
Language: English	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: new home purchase) April 2, 2007 To Whom It May Concern, In December 2005, I decided to buy a home in Monterey Cove at Mountains Edge. I was very excited with my decision until the problems with the discrepancy on the game room surfaced. In December 2005 when I first looked at the home I received a price sheet which stated that the game room was \$16,900. The price sheet had a valid date of 7/8/05. However during signing I was charged \$24,500 for the same game room. Later that evening while going over all my paperwork I noticed the discrepancy and right away called the sales manager, Marty Tezmer. She told me that she would look into the price difference and get back to me. After numerous phone calls and emails to Marty, she never was able to provide me an updated price sheet. I inquired about canceling the sales agreement and Marty explained to me that I could cancel, however I would lose my \$6,500 earnest deposit. I feel I was completely taken advantage of and the purchase of my home was misrepresented by the D.R. Horton sales team. Monterey Cove was sold as a gated and is still not gated one year later with the community finished. On 1/29/06, I finally moved into my home at 8462 Centos important and pretty. Since moving into my home (late January/early February 2006), the contractor's board has found approximately 42 items that need to be fixed or addressed. Such problems include: electrical wiring problems, uneven walls, base boards installed poorly, nails showing through, squeaky stairs, and an uneven floor in the 2nd floor game room. At the end of August 2006 I realized the number of problems I had on the list and I faxed a request to the warranty department. The items are still pending as of 4/8.	
Entered By: JXHENY	Entry Date: 8/10/2007
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service: Housing
Amount:	Code:
Requested:	Amount Paid: \$416,000.00
Payment Method: Unknown	Agency Internet Contact:
Complaint Date: 4/8/2007	Transaction Date:
Initial Contact: Phone	Initial Response:
Statute/Rule:	Law Violation:
Topic:	Fraud
Complaining Company/Org.:	Complaint?: Consumer
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Las Vegas	State/Prov: Nevada
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 30 - 39
Subject: Dr Horton American Builder	Subject:
Address: 6845 ESCORCADO ST BLDG 6 suite 105	
City:	State/Prov: Nevada
ZIP: 89119	Country: United States
Email:	URL:
Area Code: 702	Phone Number: 475-4898
Ext:	
Representative Name: ED SMITH	Title:

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Record # 21 of 54 / Consumer Sentinel Network Complaints			
Reference Number:	10849809		Originator Reference Number:
Language:	English	Contact Type:	Complaint
Source:	Consumer	DNC?	N
Comments:	MAIL: The consumer went to the DR Horton website on 8/20/06 and then spoke with a sales rep about the possibility of purchasing one of their homes. The consumer was referred to DHI Mortgage to work out the financing. The consumer was told that his credit was not good and it would be better if his fiancée applied for the loan. The consumer states that DHI did not run their credit report until after the contract was written. When the consumer tried to use a different lender they were told that they could not because of the incentives DR Horton was offering, and if they did not go with their lender they would withdraw the incentives they were offering. The consumer executed a good faith contract with DR Horton and at closing the purchase price was higher than agreed on earlier. No e-mail or age provided.		
Entered By:	BSTURM	Entry Date:	8/14/2007
Updated By:	UOB Upd internet related	Updated Date:	8/15/2007
Complaint Source:	TOLL FREE NUMBER AND CONSUMER SENTINEL	Product Service Code:	Mortgage Lender
Amount Requested:	\$0.00	Amount Paid:	\$0.00
Payment Method:	Unknown	Agency Mail Contact:	
Complaint Date:	4/26/2007	Transaction Date:	8/20/2006
Initial Contact:	Internet Web Site	Initial:	Unknown
Statute/Rule:	FTC Act Sec 5 (BCP)	Response:	
Topic:		Law Violation:	Deception/Misrepresentation
		Fraud:	
		Complaint?:	
		Consumer	
Complaining Company/Org.:			
First Name:	(b)(6)	Last Name:	(b)(6)
Address 1:		Address 2:	
City:	Woodbridge	State/Prov:	Virginia
ZIP:	(b)(6)	Country:	UNITED STATES
Home Number:	(b)(6)	Work Number:	(b)(6)
Fax Number:		Ext:	
Email:		Age Range:	
		Subject	
Subject:	Dr Horton Inc		
Address:			
City:		State/Prov:	
ZIP:		Country:	
Email:		URL:	
Area Code:		Phone Number:	
Ext:			
Representative Name:		Title:	
Subject:	Dhi Mortgage		
Address:			
City:		State/Prov:	
ZIP:		Country:	
Email:		URL:	
Area Code:		Phone Number:	
Ext:			
Representative Name:		Title:	

Record # 15 of 54 / Consumer Sentinel Network Complaints			
Reference Number:	11882658		Originator Reference Number:
Language:	English	Contact Type:	Complaint
Source:	Consumer	DNC?	N
Comments:	(Product Name: cento home model) IN DEC 2005, I SIGNED A CONTRACT FOR PURCHASE OF A NEW HOME. SALE PRICE WAS 500,000. PRICES STARTED TO GO DOWN IN NOV 2006. I WAS CONTACTED BY DR HORTON SALES REP MICHAEL KUPPER AND SAID THEY WOULD DO A PRICE ADJUSTMENT ACCORDING TO THE MARKET SO THEY DID THE PRICE WAS 430,000 AT THE TIME I SAID OK IT'S A GOOD DEAL. SO I PURCHASED THE HOME. WHAT I DON'T FIND THAT'S FAIR TO ME IS THAT AS SOON AS I CLOSED, THE PRICE OF THE MODEL HOME THAT I BOUGHT WENT DOWN ON PRICE 30,000 AND THE MAINT. FEE WENT UP \$50.00 FROM \$150.00. THEN MONTHS LATER THERE WAS ANOTHER PRICE REDUCTION THE SAME HOME MODEL THAT I LIVE IN NEW NOW COST \$350,000 AND THE MAINT FEE WENT UP ANOTHER \$7.00. MAINT FEE IS NOW \$207. THE BOTTOM LINE IS I AM NEGATIVE \$80,000 ON MY HOME. WHEN DR HORTON SAID THEY WOULD NOT LOWER THE PRICES AND THEY WOULD NOT RAISE THE MAINT FEE, I FEEL WAS CHEATED!!!!		
Entered By:	DBRAHLEK	Entry Date:	10/19/2007
Updated By:		Updated Date:	
Complaint Source:	PUBLIC USERS - CIS	Product Service Code:	Real Estate (not Timeshares)
Amount Requested:	\$432,000.00	Amount Paid:	\$432,000.00
Payment Method:	Cashier's Check	Agency internet Contact:	
Complaint Date:	10/17/2007	Transaction Date:	
Initial Contact:	Unknown	Initial:	
Statute/Rule:	FTC Act Sec 5 (BCP)	Response:	
Topic:		Law Violation:	Deception/Misrepresentation
		Fraud:	
		Complaint?:	
		Consumer	
Complaining Company/Org.:			
First Name:	(b)(6)	Last Name:	(b)(6)
Address 1:		Address 2:	
City:	Naples	State/Prov:	Florida
ZIP:	(b)(6)	Country:	UNITED STATES
Home Number:	(b)(6)	Work Number:	(b)(6)
Fax Number:		Ext:	
Email:		Age Range:	30 - 39
		Subject	
Subject:	Dr Horton		
Address:	1654 birdie dr		
City:	Naples	State/Prov:	Florida
ZIP:	34120	Country:	United States
Email:		URL:	
Area Code:	239	Phone Number:	5513205
Ext:			
Representative Name:	Michael Kupper		Title:

Record # 16 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 11747078	Originator Reference Number:
Language: Spanish	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: casa) Compramos una casa nos enganaron, pues nos dieron un prestamo supuestamente especial para nuestra edad. Hasta que nos dimos cuenta que el prestamo era de alto riesgo ya que era de un 1% todo nuestro ahorro lo depositamos en esa casa, pero ya no podemos con los pagos	
Entered By: MRITZ	Entry Date: 10/5/2007
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service Code: Real Estate (not Timeshares)
Amount Requested: \$5.00	Amount Paid: \$140,000.00
Payment Method: Check (Personal)	Agency Contact: Internet
Complaint Date: 10/4/2007	Transaction Date: 12/5/2006
Initial Contact: In Person	Initial Response:
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?: Y
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Naples	State/Prov: Florida
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 70 - 79
Subject	
Subject: Dr Horton	
Address:	
City: Naples	State/Prov: Florida
ZIP:	Country: United States
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:

Record # 17 of 54 / Consumer Sentinel Network Complaints	
Reference Number: 11747063	Originator Reference Number:
Language: Spanish	Contact Type: Complaint
Source: Consumer	DNC? N
Comments: (Product Name: Una casa) Compramos una casa por la suma de \$470,000 dolares. En menos de dos meses la misma casa la estan vendiendo por cien mil dolares menos. Creo que nos enganaron porque apresuraron el cierre, nos dijeron que si no cerravamos perderiamos el deposito	
Entered By: MRITZ	Entry Date: 10/5/2007
Updated By:	Updated Date:
Complaint Source: PUBLIC USERS - CIS	Product Service Code: Real Estate (not Timeshares)
Amount Requested: \$31,300.00	Amount Paid: \$31,000.00
Payment Method: Check (Personal)	Agency Contact: Internet
Complaint Date: 10/4/2007	Transaction Date: 1/5/2007
Initial Contact: In Person	Initial Response:
Statute/Rule: FTC Act Sec 5 (BCP)	Law Violation: Deception/Misrepresentation
Topic:	Fraud Complaint?: Y
Consumer	
Complaining Company/Org.:	
First Name: (b)(6)	Last Name: (b)(6)
Address 1:	Address 2:
City: Naples	State/Prov: Florida
ZIP: (b)(6)	Country: UNITED STATES
Home Number:	Work Number:
Fax Number:	Ext:
Email:	Age Range: 43 - 49
Subject	
Subject: Dr Horton	
Address:	
City: Naples	State/Prov: Florida
ZIP:	Country: United States
Email:	URL:
Area Code:	Phone Number:
Ext:	
Representative Name:	Title:



Issue Date

March 19, 2010

Audit Report Number

2010-LA-1009

TO: Vicki Bott, Deputy Assistant Secretary for Single Family Housing, HU

Joan S. Hobbs

FROM: Joan S. Hobbs, Regional Inspector General for Audit, Region IX, 9DGA

SUBJECT: DHI Mortgage Company, LTD's Scottsdale, AZ, Branches Did Not Follow
FHA-Insured Loan Underwriting Requirements

HIGHLIGHTS

What We Audited and Why

We audited Federal Housing Administration (FHA)-insured loan processes at two DHI Mortgage Company, LTD (DHI Mortgage), branches in Scottsdale, AZ, to determine whether DHI Mortgage originated, approved, and closed FHA-insured single-family loans in accordance with U.S. Department of Housing and Urban Development (HUD) requirements. We recently conducted an audit of DHI Mortgage's Tucson and Scottsdale branches and identified significant underwriting deficiencies and improper restrictive addenda/liens to the purchase contracts. Based on the results of our prior audit, we chose to audit the remaining two DHI Mortgage Scottsdale branches.

What We Found

DHI Mortgage did not follow HUD requirements for originating, approving, or closing FHA-insured loans. Specifically, all 20 of the loans reviewed contained underwriting deficiencies, and 12 of these had significant deficiencies that impacted the insurability of the loan. The significant underwriting deficiencies included improper calculation of income, inadequate documentation of income, inadequate determination of credit and/or debt, and inadequate compensating factors when the debt-to-income ratio exceeded

HUD's benchmark ratio. We also reviewed all of the loans in our audit period that were either "new construction" or "new condo" to determine whether improper restrictive covenants were recorded against the FHA-insured properties. We identified eight loans that had prohibited restrictive addenda to the purchase contracts.

What We Recommend

We recommend that the Deputy Assistant Secretary for Single Family Housing require DHI Mortgage to (1) indemnify HUD for more than \$2.5 million for loans that did not meet FHA insurance requirements and (2) reimburse HUD \$265,420 for the amount of claims and associated fees paid on loans that did not meet FHA insurance requirements.

For each recommendation without a management decision, please respond and provide status reports in accordance with HUD Handbook 2000.06, REV-3. Please furnish us copies of any correspondence or directives issued because of the audit.

Auditee's Response

We provided a discussion draft report to DHI Mortgage on February 5, 2010, and held an exit conference on February 23, 2010. DHI Mortgage provided written comments on March 3, 2010. They generally disagreed with our findings.

The complete text of the auditee's response, along with our evaluation of that response, can be found in appendix B of this report.



U.S. Department of Housing and Urban Development
Office of Inspector General
Region IX
611 West Sixth Street, Suite 1160
Los Angeles, CA 90017-3101
Voice (213) 894-8016
Fax (213) 894-8115

Issue Date
February 9, 2011
Audit Report Number
2011-LA-1801

MEMORANDUM FOR: Teresa B. Payne, Associate Deputy Assistant Secretary, Office of Regulatory Affairs and Manufactured Housing, HE

Vicki B. Bott, Deputy Assistant Secretary for Single Family Housing, HU

Tanya E. Schulze

FROM: Tanya E. Schulze, Regional Inspector General for Audit, Region IX, 9DGA

SUBJECT: Review of Compliance With the Real Estate Settlement Procedures Act by DHI Mortgage, LTD, and Its Closing Agents

INTRODUCTION

We reviewed Federal Housing Administration (FHA)-insured loan settlement documents from two branches of DHI Mortgage Company, LTD (DHI Mortgage), in Arizona. During a previous audit of loan origination by the same branches (audit report number 2009-LA-1018), there was information indicating that the Real Estate Settlement Procedures Act (Act) might have been violated; however, we were unable to report on the issue at the time. Our review followed up with the objective to determine whether DHI Mortgage FHA branch numbers 0524200180 and 0542400332 charged borrowers for services and disclosed settlement charges in accordance with the Act's and the U.S. Department of Housing and Urban Development's (HUD) requirements. We issued a discussion draft report on August 5, 2010, and solicited comments from the auditee as well as HUD officials. As a result of those comments, we made significant changes to our draft report and omitted the referrals. The report conveys our concerns regarding the potential noncompliance with certain sections of the Act, irrespective of the responsible parties.

SCOPE AND METHODOLOGY

We reviewed title files corresponding to 468¹ FHA-insured loans with beginning amortization dates from October 1, 2006, to September 30, 2008, originated by DHI Mortgage FHA branch numbers 0542400180 and 0542400332, both now closed. Generally, the review was limited to examination of the settlement statement (HUD-1); file balance sheet or disbursements summary; and schedule A to purchase contract, declaration of covenant restricting rental or resale of property, or equivalent documents. We also reviewed underwriting documentation in the lender/FHA loan files for 34 of these FHA-insured loans, which was a nonrepresentative sample based on the existence of loan defaults and claims. We reported the results of the underwriting review for these loans in HUD Office of Inspector General (OIG) audit report number 2009-LA-1018.

To accomplish our objective, we

- Reviewed the Act.
- Reviewed HUD regulations and reference materials related to the Act and FHA single-family mortgage insurance program requirements.
- Reviewed DHI Mortgage's processing, underwriting, and settlement policies and procedures.
- Reviewed 34 DHI Mortgage loan files.
- Reviewed 468 title files corresponding to the 481 loans originated in our audit period. Documents reviewed were generally limited to the (1) HUD-1; (2) file balance sheet or disbursements summary; and (3) schedule A to purchase contract, declaration of covenant restricting rental or resale of property, or equivalent.
- Considered written and oral comments on the discussion draft report provided by the auditee, HUD officials responsible for oversight and enforcement of the Act, and counsel in HUD Office of General Counsel and OIG's Office of Legal Counsel.

We conducted our fieldwork at DHI Mortgage's Tucson and Scottsdale, AZ, branch offices between December 2008 and March 2009.

BACKGROUND

DHI Mortgage is a nonsupervised lender² approved June 8, 1981, to originate FHA loans. It currently originates FHA loans under the lender insurance program.³ The company is a wholly owned subsidiary of D.R. Horton, Inc., a national residential home builder, and provides mortgage financing services principally to purchasers of homes built by D.R. Horton, Inc. DHI

¹ Although we attempted to review all 481 loans originated during our review period, we did not receive 13 title files and, therefore, did not conduct a review of those loans. This limitation did not affect the results of our review.

² A nonsupervised lender is a HUD/FHA-approved lending institution that has as its principal activity the lending or investment of funds in real estate mortgages and is not a supervised lender, a loan correspondent, a governmental institution, a government-sponsored enterprise, or a public or State housing agency and has not applied for approval for the limited purpose of being an investing lender.

³ HUD's lender insurance program allows lenders to self-insure FHA loans and submit only those case binders (paper or electronic) requested for review by HUD. HUD requests approximately 6 percent of insured loans for review.

mortgage generally closed its loans using the services of various settlement agents; however, for the majority of loans in this review, DHI Mortgage primarily used an affiliated title company and one other independent title company. DHI Mortgage headquarters is at 12357 Riata Trace Parkway, Suite C-150, Austin, TX, and the company has branches in 19 States.

RESULTS OF REVIEW

1. Home Buyers May Have Been Charged Ineligible Settlement Fees or Service Charges

The Act is a HUD consumer protection statute enacted by Congress in 1974 to protect the American home-buying public from unreasonably and unnecessarily inflated prices in the home-buying process and is enforced by HUD through regulations promulgated at 24 CFR (Code of Federal Regulations) Part 3500. The Act requires that consumers receive disclosures at settlement in a prescribed manner and that settlement charges be only for goods and services actually furnished. Accordingly, regulations at 12 CFR 3500.14(c) do not allow charges for which no or nominal services are performed or which are duplicative. Fees that violate HUD regulations are ineligible to be charged to borrowers of FHA-insured mortgages. HUD Mortgagee Letter 2006-04 allows lenders to charge and collect customary and reasonable costs necessary to close the mortgage. It restricts the fees, in general, to the actual cost for the service and limits the origination fee to 1 percent of the loan balance at settlement for forward mortgages.⁴ This mortgagee letter also notes that “all fees and charges must comply with Federal and State disclosure laws and other applicable laws and regulations.”

- **Excess Origination Fees**

DHI Mortgage charged FHA borrowers for services that appeared to duplicate services covered by the origination fees. We questioned whether charging apparent duplicative fees effectively caused the origination fees to exceed the 1 percent limit applicable at the time.⁵ The origination fee (also called an underwriting fee, administrative fee, or processing fee) is charged by the lender for evaluating and preparing the mortgage loan. In a number of instances, DHI charged borrowers fees labeled as document preparation, underwriting, administrative, processing, and/or application fees (or a variation thereof) in addition to an origination fee charge, resulting in an aggregate total that exceeded 1 percent of the loan value.

The auditee’s response disagreed with our interpretation of the 1 percent limit and noted that Mortgagee Letter 2006-04 specifically permits a lender to charge and collect from the borrower those customary and reasonable costs necessary to close the mortgage. The response also noted that “the services covered by the Application and Administration Fee arguably could be considered services covered as part of the administration process. Therefore, DHIM is in the process of refunding the Application and Administration Fee charged to the borrowers” on 11 loans. Although we do not consider the matter settled

⁴ All of the loans reviewed were forward mortgages. A forward mortgage is a mortgage in which the balance of the mortgage decreases over time.

⁵ For the years in our review period and until January 1, 2010, 24 CFR 203.27 allowed an origination charge of up to 1 percent of the loan value.

and are uncertain of how the auditee distinguished between charges that were duplicative and those that were not. we accept DHI Mortgage's voluntary effort to address the issue. We have decided to not refer the issue and note that HUD revised regulations in November 2008⁶ to remove the 1 percent limit on origination fees and allow a single "origination charge" that "must include any amounts received for origination services, including administrative and processing services, performed by or on behalf of the loan originator."

- **Escrow Charges**

Almost 20 percent of the settlement statements contained charges to borrowers for recording fees and/or e-mail document and delivery (courier, messenger, overnight, and special) fees. Because the (mostly even dollar) amounts varied widely in some cases and appeared excessive for services such as e-mails, we questioned whether the amounts charged represented actual costs for the services in accordance with Mortgagee Letter 2006-04. The auditee's response stated that the closing agents charged these fees in accordance with escrow rate schedules filed with the State of Arizona to comply with Arizona Revised Statutes, section 6-846.01. The response also stated that the filed rates were evidence that "it is customary to charge a flat escrow service fee for the couriering of documents."

Our follow-up review of the escrow rate schedules filed by the title companies with the Arizona Department of Financial Institutions generally supported that the charges we had questioned agreed with the rates on file. The Arizona Revised Statutes, title 6, section 846, required escrow agents to file their rate schedule with the Arizona Department of Financial Institutions and further stated that an escrow agent may not deviate from his escrow rates that are in effect. State officials confirmed that penalties would be applied for undercharges as well as overcharges. Although in many cases the closing files we reviewed contained no charges for these services, State officials noted that this practice was acceptable if the title company had filed a bundled rate schedule.⁷

We continue to question charges that did not agree with the applicable rate schedules. We also question whether the rates filed under the Arizona statute would be found allowable as customary and reasonable costs (see OIG's response to auditee's comments in appendix A) or whether this criterion should have been applied when an outside party provided the services. Because HUD's revised regulations⁶ generally changed the criteria for allowable charges, we have determined that further pursuit of the matter would not be warranted.

⁶ "Real Estate Settlement Procedures Act: Rule to Simplify and Improve the Process of Obtaining Mortgages and Reduce Consumer Settlement Costs; Final Rule." Federal Register 73 (17 November 2008): 68227, 68239, 68244, and 68276

⁷ During our review, it appeared that there was no straightforward way to tell whether a particular fee had been bundled as of a specific date. Further, enforcement of the rates for the related services was complicated by years of disorganized rate filings on the part of one title company.

1 **ORDR**



CLERK OF THE COURT

2
3
4 **DISTRICT COURT**

5 **CLARK COUNTY, NEVADA**

6 PATRICK A. MISSUD and JULIE)
MISSUD, husband and wife)

7)
8 Plaintiffs,)

9 vs.)

10 D. R. HORTON, INC.; DHI MORTGAGE)
COMPANY LTD. LP; and ROE)
11 CORPORATIONS I THROUGH X,)

12 Defendants,)
13)

Case No. 07 A 551662

Dept. No. XI

14 **DECISION AND ORDER**

15 The Court conducted an evidentiary hearing¹ on July 20, 2010 regarding Defendant's
16 Motion Requesting that the Court Issue an Order to Show Cause as to Why the Plaintiffs Should
17 Not be Held in Contempt of Court for Violating the Court's April 19, 2010 Stipulated Protective
18 Order and Request for Evidentiary and Monetary Sanctions filed on April 29, 2010 and
19 Defendants Motion for Terminating Sanctions and Costs and Fees for Plaintiffs' Continued
20 Discovery Abuses,² Plaintiffs' Personal Treats Against Defense Counsel and for Plaintiffs'
21 Retaliation for the Defendants' Attempt to Engage in Discovery filed on January 29, 2010.³
22
23
24
25

26 ¹ The Court heard this matter following a initial determination by the Discovery
27 Commissioner. See Discovery Commissioner's Report and Recommendations, dated July 13,
28 2010.

² Other than the Stipulated Protective Order, no prior orders were issued as a result of
discovery violations.

³ The Court declines to address the issues related to unauthorized practice of law.

1 Plaintiff PATRICK MISSUD⁴ appearing in proper person; Defendants were represented by Joel
2 D. Odou, Esq. of the law firm of Wood, Smith, Henning & Berman. The Court having
3 considered the briefing, arguments, and the evidence presented and the testimony of witnesses
4 the Court makes the following findings of fact and conclusions of law:
5

6 1. Plaintiff PATRICK MISSUD admitted to sending threatening communications to
7 witnesses and counsel in connection with this litigation.

8 2. Defendant's counsel represented that former employees have refused to cooperate as a
9 result of Plaintiff PATRICK MISSUD's conduct.

10 3. The irreplaceable loss of witness testimony was not due to the conduct of the
11 Defendants.

12 4. The Defendants are entitled to defend these claims by presenting evidence that the
13 Plaintiffs' allegations are incorrect; and/or, to present an alternate explanation for the claims.
14

15 5. The Defendants have argued that they are hindered and prejudiced in investigating this
16 case.
17

18 6. The Defendants are prejudiced in their ability to defend and present evidence regarding
19 this case.

20 7. Nevada has long recognized that under the law of agency, the actions of an agent in
21 destroying or spoliating evidence are imputed to the principal for the purposes of sanctions. See
22 Fire Insurance Exchange v. Zenith Radio Corp., 103 Nev. 648 (1987) (investigator); Stubli v.
23 Big D International Trucks, 107 Nev. 309 (1991) (investigator/expert and counsel); and, Bass-
24 Davis v. Davis, 122 Nev. 442 (2006) (franchisor).
25
26
27
28

⁴ Patrick Missud is an attorney licensed to practice in California, Bar No. 219614.

1 8. Plaintiff PATRICK MISSUD acted as an agent on behalf of Plaintiff JULIE MISSUD⁵
2 for purposes of this action.

3
4 9. In evaluating the seriousness of the prejudice as a result of the threats, the Court has
5 evaluated the factors enunciated in Young v. Ribiero, 106 Nev. 88 (1990) and concludes:

- 6 a. There are varying degrees of willfulness of the Plaintiffs ranging from
7 knowing, willful and intentional conduct with an intent to prevent the
8 Defendants' being able to identify the true facts and interview witnesses and
9 more simple intimidation. However, the multiple incidents of threats are so
10 pervasive as to exacerbate the prejudice rather than if each instance were
11 treated as an isolated incident.
12
13 b. As a result of this conduct, relevant evidence, i.e. witness testimony, has
14 been irreparably lost.
15
16 c. Given the numerous instances of threats, the prejudice to the Defendants in
17 preparing their defense and the intentional nature of Plaintiff PATRICK
18 MISSUD's conduct (taken in conjunction with the intentional violation of the
19 Stipulated Protective Order, *infra*), a sanction less severe than dismissal of
20 Plaintiffs' claims is not sufficient to protect the rights of the Defendants.
21
22 d. A fair adjudication on the merits cannot be achieved given the numerous
23 instances of threats to witnesses and prevents the Defendants in preparing a
24 defense in this action.
25
26 e. Given the numerous instances of threats, the prejudice to the Defendants in
27 preparing their defense and the repeated nature of Plaintiffs and Plaintiffs'

28

⁵ Plaintiff JULIE MISSUD did not participate in the hearing, but her husband Plaintiff PATRICK MISSUD indicated that his wife was unavailable due to a serious medical condition. None of the affirmative conduct which is a part of this Court's findings was actually performed by Plaintiff JULIE MISSUD.

agents conduct over a several month period, a sanction less severe than dismissal of Plaintiffs claims is not sufficient to protect the rights of the Defendants.

f. Plaintiff PATRICK MISSUD has willfully disregarded the judicial process by his actions.

g. Given the involvement of Plaintiff PATRICK MISSUD, sanctions do not unfairly penalize the remaining Plaintiff for the conduct of her agent.

h. There is a public policy to prevent further abuses and deter litigants from threatening witnesses in an attempt to advance their claims.

10. Plaintiff PATRICK MISSUD, became aware that the Court entered the Stipulated Protective Order on April 30, 2010. Plaintiff PATRICK MISSUD had an unsigned copy of the Court's Stipulated Protective Order prior to its entry.

11. The Stipulated Protective Order spells out the details of compliance in clear, specific and unambiguous terms and Plaintiff PATRICK MISSUD readily knew the obligations the Stipulated Protective Order imposed upon him. Plaintiff PATRICK MISSUD's prior counsel negotiated the Stipulated Protective Order before it was signed by the Court.

12. Plaintiff PATRICK MISSUD had the ability to comply with the Stipulated Protective Order.

13. Plaintiff PATRICK MISSUD has made no effort whatsoever to comply with the terms of Stipulated Protective Order.

14. Plaintiff PATRICK MISSUD has demonstrated a complete and knowing disregard for his obligations under the Stipulated Protective Order.

15. Plaintiff PATRICK MISSUD has not proven any legally cognizable defense to the contempt of the Stipulated Protective Order.

1 16. There is clear and convincing evidence that Plaintiff PATRICK MISSUD
2 reposted his websites in violation of the Stipulated Protective Order upon learning of its entry in
3 direct violation of the Stipulated Protective Order.

4 17. There is clear and convincing evidence that Plaintiff PATRICK MISSUD is
5 knowingly and intentionally in violation of this Stipulated Protective Order and that he is
6 knowingly and intentionally in contempt of Court.

7 18. The Stipulated Protective Order included a provision at paragraph 4.g. that any
8 violation of the Order may result in the striking of the pleadings.

9 19. A judgment of contempt should be issued against Plaintiff PATRICK MISSUD.

10 20. If any of the foregoing findings of fact may be deemed conclusions of law.

11
12
13 CONCLUSIONS OF LAW

14 1. As a result of those communications, Defendants' counsel represented witnesses
15 have been unwilling to participate in discovery.

16 2. Defendants have established that there has been substantial prejudice as a result
17 of the threats to witnesses.

18 3. The Stipulated Protective Order is clear and unambiguous.

19 4. It is possible for Plaintiff PATRICK MISSUD to comply with the Stipulated
20 Protective Order.

21 5. Plaintiff PATRICK MISSUD has the ability to comply with the Stipulated
22 Protective Order.

23 6. Defendants have demonstrated by clear and convincing evidence that Plaintiff
24 PATRICK MISSUD has knowingly and willfully violated and refused to comply with the
25 Stipulated Protective Order.

26 7. As a result of the discovery abuse and the contempt, the Plaintiffs' Amended
27 Complaint is stricken.
28

8. Defendants should recover their reasonable costs and attorneys' fees incurred in pursuing these proceedings to enforce the Stipulated Protective Order and to find Plaintiff PATRICK MISSUD in contempt of Court. Defendants shall file their application for costs and attorneys' fees within 30 days of entry of this Order.

9. Accordingly Plaintiffs action against the Defendants is dismissed.

10. If any of the foregoing conclusions of law may be deemed findings of fact.

Dated this 20th day of July, 2010.

Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on the date filed, I served by ~~fax or~~ by placing a copy of this Decision and Order in the attorney's folder in the Clerk's Office as follows:

Joel Odou, Esq. (Wood, Smith, et al)
Fax: 253-6225

Patrick and Julie Missud
Fax 415-584-7251


Dan Kutinac

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK A. MISSUD AND JULIE
MISSUD, HUSBAND AND WIFE,
Appellants,
vs.
D.R. HORTON, INC. AND DHI
MORTGAGE COMPANY, LTD.,
Respondents.

No. 56502

FILED

NOV 22 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY H. Gonzalez
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order striking appellants' complaint and dismissing a real property and tort action. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

The district court determined that appellants should be sanctioned for abusive litigation tactics and that appellants were in contempt of a district court protective order. Based on these conclusions, the district court struck appellants' complaint and dismissed the case. Appellants now appeal from the district court order.

We review both a district court's sanction for abusive litigation tactics and a district court's contempt ruling for an abuse of discretion. Matter of Water Rights of Humboldt River, 118 Nev. 901, 907, 59 P.3d 1226, 1229-30 (2002); Young v. Johnny Ribeiro Building, 106 Nev. 88, 92,

787 P.2d 777, 779 (1990). We have held that the authority to dismiss a case for "abusive litigation practices" is within the court's "inherent equitable powers." Young, 106 Nev. at 92, 787 P.2d at 779.

Appellants do not raise any challenge on appeal as to the district court's findings that appellants engaged in abusive litigation tactics by contacting and threatening respondents' employees, which resulted in those employees refusing to testify. Thus, we affirm the district court's findings as to these facts. We also reject appellants' arguments that the record was not considered by the district court, that insufficient evidence existed to support the findings of the district court or the sanctions imposed, or that their due process rights were violated, as the district court held an evidentiary hearing, considered the evidence presented, and properly addressed the necessary factors outlined in Young. Id. at 93-94, 787 P.2d at 780. We further conclude that appellants' failed to adequately raise in district court their arguments that the protective order was a violation of their first amendment rights and that it was vague and overbroad; thus, they have waived these arguments on appeal. Appellants' argument that they had insufficient time to comply with the protective order lacks merit, as appellant Patrick Missud admitted during the evidentiary hearing to intentionally violating the protective order. Finally, we reject appellants' contentions that the order was procured by respondents' fraud or misrepresentations or that a violation of SCR 3 occurred and prevented the sanctions issued in this matter.

Based on the above discussion, we conclude that the district court did not abuse its discretion in sanctioning appellants for litigation

abuses or in finding them in contempt of court for violating the protective order. As a result, we

ORDER the judgment of the district court AFFIRMED.¹

Saitta, C.J.
Saitta

Douglas, J.
Douglas

Hardesty, J.
Hardesty


cc: Hon. Elizabeth Goff Gonzalez, District Judge
Patrick A. Missud
Julie Missud
Wood, Smith, Henning & Berman, LLP
Eighth District Court Clerk

¹We deny appellants' request to correct the appellate record and the motion to impose a moratorium on foreclosures in Nevada. We do not address appellants other filings, as we determine that they do not seek any relief from this court but were provided for notice only.

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 7, 2013

Mr. Patrick A. Missud


Re: Patrick A. Missud
v. D.R. Horton, Inc., et al.
No. 12-9412

Dear Mr. Missud:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,




Scott S. Harris, Clerk

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 7, 2013

Mr. Patrick A. Missud


Re: Patrick A. Missud
v. D.R. Horton, Inc., et al.
No. 12-10006

Dear Mr. Missud:

The Court today entered the following order in the above-entitled case:

The motion of petitioner for leave to proceed *in forma pauperis* is denied. Petitioner is allowed until October 28, 2013, within which to pay the docketing fee required by Rule 38(a) and to submit a petition in compliance with Rule 33.1 of the Rules of this Court.

Sincerely,



Scott S. Harris, Clerk

FILED
San Francisco County Superior Court

FEB 02 2011

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

1 Joel D. Odou (State Bar No. 167353)
2 **WOOD, SMITH, HENNING & BERMAN LLP**
3 1401 Willow Pass Road, Suite 700
4 Concord, California 94520-7982
5 Phone: 925 356 8200 ♦ Fax: 925 356 8250
6
7 Attorneys for Defendants, D. R. HORTON, INC.
8 and DHI MORTGAGE COMPANY, LTD., LP
9

10 **SUPERIOR COURT, STATE OF CALIFORNIA**
11 **COUNTY OF SAN FRANCISCO**
12

13 PATRICK A. MISSUD and JULIE
14 MISSUD, husband and wife,

15 Plaintiffs,

16 v.

17 D. R. HORTON, INC., DHI MORTGAGE
18 COMPANY, LTD., LP, and ROE
19 CORPORATIONS I-X,

20 Defendants.
21

CASE NO. CPF-10-510876
DEPT. 302

**ORDER DENYING
PATRICK A. MISSUD'S MOTION
TO VACATE SISTER STATE
JUDGMENT PER CCP §1710.10 ET SEQ**

22 PATRICK A. MISSUD and JULIE MISSUD's ("Plaintiffs") Motion to Vacate Sister
23 State Judgment Per CCP Section 1710.10 *Et Seq.* came on for hearing on January 19,
24 2011, before the Honorable Judge Loretta M. Giorgi in Department 302.

25 Patrick A. Missud appeared on his own behalf in proper person and Joel D. Odou,
26 Esq., of Wood, Smith, Henning & Berman, LLP, appeared on behalf of Defendants, D.R.
27 HORTON, INC. and DHI MORTGAGE Co., LTD., LP.

28 After consideration of the pleadings, supporting papers and arguments from
counsel:

///
///
///

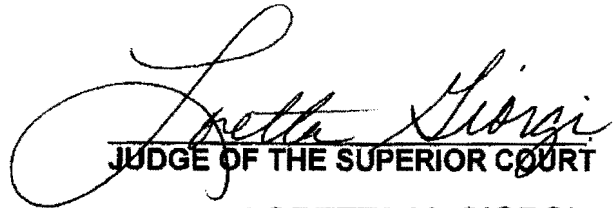
JAN 31 2011

WOOD, SMITH, HENNING & BERMAN LLP
Attorneys at Law
1401 WILLOW PASS ROAD, SUITE 700
CONCORD, CALIFORNIA 94520-7982
TELEPHONE 925 356 8200 ♦ FAX 925 356 8250

1 IT IS HEREBY ORDERED that Plaintiffs' Motion to Vacate Sister State Judgment
2 Per CCP Section 1710.10 *Et Seq.* is DENIED as Plaintiffs failed to provide a legally
3 sufficient basis to vacate the Nevada Judgment pursuant to CCP 1710.10 *et seq.*

4 IT IS SO ORDERED.

5 Dated: 2/1, 2011

6
7 
8 JUDGE OF THE SUPERIOR COURT

9 LORETTA M. GIORGI
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WOOD, SMITH, HENNING & BERMAN LLP
Attorneys at Law
1401 WILLOW PASS ROAD, SUITE 700
CONCORD, CALIFORNIA 94520-7982
TELEPHONE 925 356 8200 • FAX 925 356 8250

COPY

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

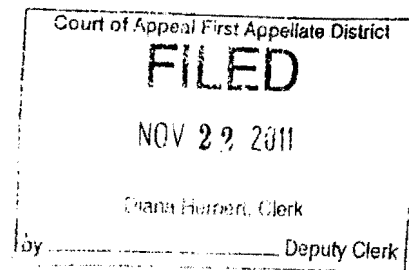
FIRST APPELLATE DISTRICT

DIVISION THREE

PATRICK A. MISSUD,
Plaintiff and Appellant,
v.
D.R. HORTON, INC., et al.,
Defendants and Respondents.

A131566

(City & County of San Francisco
Super. Ct. No. CPF10510876)



Appellant Patrick A. Missud states in his opening brief that he challenges the denial of his motion under Code of Civil Procedure section 1710.10 et seq. to vacate a Nevada state court monetary judgment and order holding him in contempt of court. He argues that the “sister state Nevada ruling was fraudulently procured; and that denial of the appellant’s January 19, 2011 motion to vacate before Judge Giorgi was improper as well as fraudulent; and that the subsequent June 30, 2011 motion for reconsideration of the January 19, 2011 motion to vacate before Judge Giorgi was improper as well as fraudulent.”

On March 15, 2011, Missud filed a notice of appeal specifying he appeals from a trial court order filed on February 2, 2011. Attached to the notice of appeal is the order, which states, “After consideration of the pleadings, supporting papers and arguments from counsel: It is hereby ordered that Plaintiffs’ Motion to Vacate Sister State Judgment Per CCP Section 1710.10 et seq. is denied as Plaintiffs failed to provide a legally sufficient basis to vacate the Nevada Judgment pursuant to CCP 1710.10 et seq.”

On August 4, 2011, this court issued an order noting that “On August 1, 2011, this court received appellant Patrick A. Missud’s opening brief along with a bound volume entitled ‘Appellant’s Index, Declaration, and Request for Judicial Notice.’ Although not labeled as such, the bound volume is presumably appellant’s appendix pursuant to rule 8.124 of the California Rules of Court. On August 2, 2011, the court received a CD purportedly containing ‘5000 docs for opening brief.’ [¶] Appellant’s opening brief and appendix do not comply with various content and formatting requirements contained in the California Rules of Court.” The order identifies the various rules with which the opening brief and appendix fail to comply, but continues: “Nevertheless, the court in its discretion shall permit the noncomplying opening brief and appendix to be filed.”

These inadequacies, including the failure to cite to the record (Cal. Rules of Court, rule 8.204 (c)(1)) and the failure to include in the appendix “[a]ny item . . . that is necessary for proper consideration of the issues . . . ,” were also brought to Missud’s attention by respondents in their brief.

Missud then filed a declaration with his reply brief, attaching several documents. The documents were not submitted in accordance with California Rules of Court, rules 8.120 through 8.163. Moreover, the declaration that accompanies these documents does not reference or authenticate the documents in any way.¹

Setting aside these procedural inadequacies, Missud’s briefs contain no comprehensible legal argument as to why the order he challenges should be reversed. Missud quotes two provisions of the Code of Civil Procedure (Code Civ. Proc., §§ 1710.40, 663) in the “Table of Authorities” at the outset of his brief, but otherwise cites to no authority, fails to explain the connection between those statutes and the ruling he challenges, and provides no explanation of why he believes the trial court order was in error. Although it is clear he feels he has been grievously wronged, and he alludes to

¹ Missud also filed a document entitled “Ex Parte Application for Additional Time and ADA Accommodations” in response to which the court rearranged its oral argument calendar to accommodate Missud. We have also given consideration to the declaration filed in a federal district court action that is attached to Missud’s application.

numerous other actions brought in various courts, he offers this court no basis for action. (See *Troensegaard v. Silvercrest Industries, Inc.* (1985) 175 Cal.App.3d 218, 228 [error waived because no argument, citation to authorities, or reference to record].)

DISPOSITION

The judgment is affirmed. (See *In re Marriage of Wilcox*(2004) 124 Cal.App.4th 492, 498.)

Pollak, J.

We concur:

McGuiness, P. J.

Jenkins, J.



Court of Appeal First Appellate District

Date: 11/17/2011
Start: 9:11:20 AM
End: 9:32:15 AM



A131566

Patrick A. Missud et al. v. D.R. Horton Inc. et al.

Division Three
Oral Argument

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE EDWARD M. CHEN

PATRICK MISSUD,)
)
Plaintiff,)
)
VS.) NO. C 11-3567 EMC
)
STATE OF NEVADA, et al,)
) San Francisco, California
Defendants.) Friday
) ~~May~~ 9, 2012
) 1:30 p.m.

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

For Plaintiff:

PATRICK ALEXANDRE MISSUD

- in pro per

For Defendant
D.R. Horton:

Wood, Smith, Henning & Berman, LLP
7674 W. Lake Mead Boulevard
Suite 150
Las Vegas, Nevada 89128

BY: JOEL EUGENE ODOU, ESQ.

Reported By: *Debra L. Pas, CSR 11916, CRR, RMR, RPR*

Official Reporter - US District Court

Computerized Transcription By Eclipse

Debra L. Pas, CSR, CRR, RMR, RPR
Official Reporter - U.S. District Court - San Francisco, California
(415) 431-1477

P R O C E E D I N G S

MARCH 9, 2012

2:01 p.m.

THE CLERK: Calling Case C 11-3567, Missud versus State of Nevada.

Counsel, please come to the podium and state your name for the record.

DEFENSE COUNSEL: Good afternoon, your Honor. Joel Odou on behalf of D.R. Horton.

THE COURT: All right. Okay. Thank you.

MR. MISSUD: Good afternoon, Judge. Patrick Missud. Plaintiff in pro per.

THE COURT: All right, Mr. Missud.

Mr. Missud, there is no secret that there have been a number of suits, many of which bear similarity at least in terms of some of the defendants; in fact, many of the defendants in the earlier actions.

But I don't understand how you can file another claim, for instance, against judges when it's already been adjudicated in the past that the judicial defendants, many of them who are repeated here, are, for one, subject to judicial immunity.

You're a lawyer, I understand, and you're a member of the Bar. You've studied, I assume, the rules of res judicata, collateral estoppel.

1 So at least as to those defendants who have
2 previously been named on any kind of similar theory that either
3 was or could have been alleged earlier, there is -- I don't see
4 a basis to rename them again in another suit.

5 **MR. MISSUD:** They are not renamed as a unit. There
6 are differences in the named defendants; some have been added,
7 some have been deleted.

8 Also, as for some of the judicial defendants, another
9 suit was filed, 11-CV-1856 by Phyllis Hamilton, and that was
10 recently decided on the 2nd of this month. Now, she ruled that
11 the Federal Arbitration Acts Rules 9 and 10 are preempted by
12 the doctrine of judicial immunity. Rules 9 and 10 more or less
13 say that fraudulent orders can be vacated if you provide proof
14 of fraud in the underlying arbitration.

15 Now, in that underlying arbitration I proved 63
16 different ways that the award was fraudulently procured.

17 Judge Hamilton claimed that the doctrine of judicial
18 immunity simply overcomes 63 lies. That is why I have informed
19 the Department of Justice Public Integrity Unit. They are the
20 judge police.

21 Now, similarly, in this case, 3567, I have discovered
22 several judges, starting with Nevada's Eighth District Court,
23 who have illegally supported a \$4.6 billion corporation to the
24 detriment of 311 million Americans. The proof that I don't
25 have with me -- except on my key chain, which is a two gig zip

1 drive which contains 5,000 documents -- are embodied in
2 official court transcripts, official court rulings. I caught
3 judges claiming not having received confirmed or certified mail
4 on the record. USPS officials said they did, indeed, receive
5 the packages. They have also said that they have not received
6 faxes and emails directly to chambers. My records are
7 concrete. They received all the records. They are on official
8 transcripts claiming non-receipt.

9 **THE COURT:** Let me ask you about Defendant Horton,
10 who is represented here. There have already been a number of
11 cases that found that there is no jurisdiction over this --
12 personal jurisdiction over this defendant and, again, under the
13 normal rules of collateral estoppel, that having been
14 adjudicated, why doesn't that apply here?

15 **MR. MISSUD:** All right. Actually, these same
16 defendants, jurisdiction over them was found in 08-CV-592,
17 Roger Benitez. That is a San Diego court case where D.R.
18 Horton was a defendant and there were five plaintiffs that
19 named them for the same predatory lending that I am claiming
20 that they foist on consumers in 27 different states. That case
21 was referred to arbitration per a binding mandatory
22 arbitration's clause within all of their contracts.

23 Now, if I understand correctly, reviewing the
24 arbitrations act, arbitral awards are non-reviewable even for
25 mistake of fact or misinterpretation of law. And it can even

1 be intentional.

2 So pretty much if a litigant, or in this case five
3 plaintiffs, are compelled into arbitration and the arbitrator
4 makes mistakes to favor a \$4.6 billion corporation that stands
5 to lose \$1 billion in illegally earned revenue, plus treble
6 damages, that arbitrator can actually rule favorably for the
7 corporation and not look at any of the evidence.

8 **THE COURT:** Well, that doesn't address the question
9 I just asked you.

10 There has been a determination that there is no
11 jurisdiction. Plus, the allegations in this case, which are
12 based on -- the jurisdictional allegation, which is based on
13 the filing by D.R. Horton of state court judgment in the
14 superior court, as Judge Ryu has held, that that has been held
15 not to be sufficient to confer personal jurisdiction.

16 So both on the merits, as well as a matter of issue
17 preclusion, I don't see how you can assert personal
18 jurisdiction over this defendant.

19 **MR. MISSUD:** Also, there is another federal case that
20 was just filed, I believe, two or three months ago in New
21 Jersey. It was the *National Labor Relations Board* case, and it
22 was an administrative proceeding. That board determined that
23 D.R. Horton plays corporate shell games. They misclassified
24 their workers and subcontractors.

25 So although D.R. Horton claims to do no business and

1 have no contacts in the State of California, it pulls the
2 strings of all its subs. That might have been the reason why
3 jurisdiction was found over D.R. Horton in the San Diego case.

4 Another thing is that the Superior Court down the
5 block, San Francisco Superior Court, the same judges that have
6 claimed that the \$4.6 billion D.R. Horton Corporation is not
7 subject to jurisdiction in California has also been caught on
8 official court transcripts claiming that jurisdiction exists
9 over a plaintiff where even the arbitrator said there was no
10 jurisdiction. That same Court claims that there was
11 jurisdiction over a second plaintiff after having heard that
12 there was no meet-and-confer, which was a prerequisite to
13 arbitration.

14 I've got two San Francisco Superior Court judges
15 conferring jurisdiction over flesh and blood citizens despite
16 lack of power to do so. However, they are more than happy to
17 release billion dollar corporate defendants from jurisdiction
18 when they stand to lose over \$4 billion in illegal proceeds,
19 including treble damages.

20 **THE COURT:** All right. Do you have any comments to
21 make, counsel?

22 **MR. ODOU:** Your Honor, Joel Odou on behalf of D.R.
23 Horton.

24 I really don't. The magistrate judge looked at this
25 very issue. In fact, Judge Armstrong looked at this very issue

1 previously and dismissed a prior lawsuit. The magistrate judge
2 recommended a dismissal of this lawsuit for lack of personal
3 jurisdiction.

4 And the record is quite clear that there has been no
5 relevant or admissible evidence offered as to the personal
6 jurisdiction issue, your Honor.

7 **THE COURT:** All right. I will take the matter under
8 submission. Thank you.

9 **MR. ODOU:** Your Honor, we have the vexatious litigant
10 motion as well.

11 **THE COURT:** All right. Why don't you go ahead and --
12 go ahead and let me hear your points on this.

13 **MR. ODOU:** Thank you, your Honor.

14 This is lawsuit number seven for Mr. Missud.
15 Unfortunately, Mr. Missud takes each of these lawsuits and
16 after he is ruled against, he then proceeds to sue the judges
17 and then include D.R. Horton.

18 This started originally in 2005 when he first sued
19 D.R. Horton and tried to sue the Department -- Division of
20 Mortgages in Nevada, one of the officials there, and then lost
21 that case. Lost his case here. Case got transferred to -- or
22 he filed a new case, lawsuit number four in Nevada. Abused the
23 process in Nevada. Was sanctioned in Nevada over \$48,000.
24 Filed additional lawsuits here in California.

25 Clearly, under the California Code of Civil Procedure

1 we have more than five lawsuits in seven years. We actually
2 have six lawsuits in seven years. Seven lawsuits in seven
3 years. So he definitely qualifies as a vexatious litigant
4 under the California Code of Civil Procedure.

5 Under the federal standard discussed in *Molski versus*
6 *Evergreen*, he has a history of harassing and duplicative
7 lawsuits; seven. He has a motive in pursuing this litigation
8 of harassment. He files things, such things as letters to
9 presidential hopefuls. He files the middle finger in his
10 pleadings, sends it to me. He files pictures of cartoons of
11 people picking their nose. I get probably in order of 10
12 emails a week from him, which he then proceeds to file in this
13 Court, the Nevada Supreme Court, the California Court of
14 Appeals. Just an avalanche of vexatious and frivolous filings.

15 And he freely admits in opposition to the motion
16 for -- to be designated a vexatious litigant that sanctions
17 will not stop him. He says, "No, don't care. Don't care about
18 the Court's rules. Don't care about the decorum of the Court."

19 This Court has local rules about decorum. Doesn't
20 care. Didn't try to refute any of those things. And really,
21 your Honor, this is becoming a very sad matter. And I wasn't
22 kidding and my clients aren't kidding that they bear Mr. Missud
23 no ill-will, but this really needs to stop.

24 We would request the Court designate him a vexatious
25 litigant so he cannot file further lawsuits against our client,

1 against my law firm. He has filed numerous state bar
2 complaints against my clients in Texas, my law firm in
3 California, my law firm in Nevada. And it's time that this
4 comes to an end.

5 There have been other judges in federal court who
6 have recommended counseling for plaintiffs who become obsessed
7 and lose their temper. And so as part of our vexatious
8 litigant motion, the main thing that we're seeking is to be
9 left alone; but we also have some concern for this plaintiff,
10 that he gets some kind of counseling, because he really needs
11 to stop. This behavior is disturbing. I have some employees
12 that are completely frightened of him. He has taken a picture
13 in front of our corporate headquarters in Texas flipping the
14 bird at the corporate sign and so, certainly, employees are in
15 fear for their safety. And this needs to come to an end.

16 **THE COURT:** Let me ask you two questions: Has there
17 been a prior termination by any State or Federal Court of --
18 that has pursued being vexatious?

19 **MR. ODOU:** No, your Honor. This is the first motion
20 that D.R. Horton has brought.

21 **THE COURT:** If the Court were to agree with you that
22 the *Molski* standard has been satisfied here, what is the
23 jurisdiction of this Court with respect to restricting filings
24 beyond this Court itself?

25 **MR. ODOU:** We appreciate that this Court could issue

1 an injunction that would probably only be applicable in
2 California; that should Mr. Missud file in Nevada again -- I'm
3 sorry, there actually is a filing in Nevada that will be
4 appearing next week; that we will need to get other
5 jurisdictions, at least as far as the state courts go.
6 Certainly, there could be an injunction on the federal level
7 prohibiting him from filing additional in pro per actions.

8 In addition, your Honor, Mr. Missud has teemed up
9 with another California vexatious litigant Archibald
10 Cunningham. We have great reason to believe that if he is
11 designated a vexatious litigant, that Mr. Cunningham will then
12 -- who is an attorney, will then start arguing Mr. Missud's
13 case because Mr. Missud is arguing Mr. Cunningham's cases.

14 So, the case law is pretty clear that we cannot have
15 a prefiling rule against an attorney, such as Mr. Archibald
16 Cunningham, if he takes over this case, but that nothing would
17 prevent this Court from requiring costs, a security of costs to
18 be posted if there are additional filings by Mr. Cunningham on
19 Mr. Missud's behalf.

20 Clearly, that's what these two gentlemen are doing.
21 They are both California attorneys. And, again, that's why we
22 really are more concerned about how do we bring this to an end
23 and conclude these matters. We have a judgment that's final.
24 It's been appealed to the Nevada Supreme Court. They have
25 ruled. It's been appealed to the California Court of Appeals.

1 They have ruled. I don't know if it's been appealed to the
2 California Supreme Court off the top of my head. I imagine it
3 probably will be, if it hasn't.

4 And we just would like to see two things: This
5 matter come to an end; and, frankly, we would like to see
6 Mr. Missud get some help because this is -- this is unhealthy.
7 It's become a complete focus of his life.

8 Every time something goes wrong in his litigation
9 practice, he's referred to D.R. Horton as somehow coming in,
10 swooping in and controlling these arbitrations that -- because
11 he had a construction arbitration of some kind, somehow my
12 client's tentacles reached out and grabbed the arbitrator and
13 had them award against Mr. Missud and his clients. And it's
14 all-encompassing and it's troubling. And so we would like to
15 see these matters come to an end, your Honor.

16 **THE COURT:** Mr. Missud, besides this suit and other
17 suits involving D.R. Horton, do you do any other legal work?

18 **MR. MISSUD:** Yes, actually I do. I am an attorney
19 for at least two other clients. I pretty much take everything
20 on contingency.

21 I would also like to respond directly to Mr. Odou's
22 former statements with facts.

23 He mentioned Judge Armstrong having already ruled in
24 matters similar to these and not conferring jurisdiction and
25 actually dismissing the case. I emailed and registered in

1 07-CV-2625 SBA a copy of a police report. Within that police
2 report Officer Curry came by and he photographed my truck,
3 which had placed on it a bomb. That bomb exploded during the
4 week when my internet campaign exposing the defendants as the
5 country's probably worst primary source of predatory loans was
6 reaching its peak. By simply sponsoring internet websites, I
7 can find, as I learned then, 12 predatory victims per day.

8 As a matter of fact, in the *Wilson* case, all five of
9 the class action representatives were found in just such a way,
10 either by the internet or direct postcards to recent purchasers
11 of D.R. Horton properties. If I want to find an additional 100
12 predatory lending victims, I can do so within a week.

13 Now, another thing about Judge Armstrong is that I
14 happen to have emailed, also by PDF directly to her chambers, a
15 copy of the *Betsinger* award in Clark County Case A-503121,
16 which was later appealed to the Supreme Court. 50510, I
17 believe. 50- -- I don't remember.

18 The *Betsinger* case alleged the same exact predatory
19 lending that I have alleged, which is exactly the same as that
20 alleged by Dodson, Moreno, Wilson, Khuu, Canda and about 80
21 other people that I know of.

22 Now, my personal records contain 400 D.R. Horton
23 predatory lending victims. I've listed them and I have
24 included them as exhibits in this case and in 10-CV-235 SI.
25 The papers have been distributed nationally.

1 They are also embodied or they are reflected in
2 Federal Trade Commission Freedom of Information Act records. I
3 filed those in this case. There are 205 pages of records,
4 which reflect 44 predatory lending victims from 20 different
5 states --

6 **THE COURT:** That's really not addressing the issue
7 that I -- that's before me now.

8 **MR. MISSUD:** All right. Well, I'm sorry. I am
9 responding directly to what Defense Attorney Odou has brought
10 up with facts.

11 Now, he brought up Nevada Division of Mortgage
12 Lending Deputy Commissioner Eckhardt. She admitted in a
13 June 2006 letter that she could not regulate the regulatory
14 licenses that she issued to D.R. Horton to regulate it.

15 After my three meetings with Nevada's Attorney
16 General, we decided that it was probably a good time for Nevada
17 Division Mortgage Lending Susan Eckhardt to find another job.
18 Twenty-six days after my notification, she was finding greener
19 pastures.

20 Now, Mr. Odou is saying that I abused litigation in
21 Nevada and he's likewise claiming that I'm abusing litigation
22 in California. The problem is, is that I am performing extra
23 judicial discovery for which I do not need summons or
24 subpoenas. I can simply troll the web and find hundreds of
25 their victims. They are very upset that they cannot control

1 the evidentiary process in court.

2 **THE COURT:** Let me ask you something, Mr. Missud. If
3 I were to make a finding that you are a vexatious litigant and
4 put limits on whether you can file in this Court any additional
5 claims along these same lines naming any of these same
6 defendants, do you intend to comply with that? Would you
7 comply with that? Or is your intent at this point to do
8 whatever you're going to do regardless of what this court
9 orders?

10 **MR. MISSUD:** My intent is to maintain my status as a
11 Title 18 Section 1513 federal informant. I will continue to
12 notify the Department of Justice, the Federal FBI, State
13 Attorneys General everywhere that D.R. Horton does business and
14 I will clue them into the additional victims that I find and
15 who find me daily. I will do what's best for 311 million
16 Americans. I will not do what's best for the very few
17 corporations which think that they can pull the strings and get
18 orders which conceals the racketeering.

19 **THE COURT:** I have heard your comments. I will take
20 the matter under submission.

21 **MR. ODOU:** Thank you, your Honor.

22 **MR. MISSUD:** Also, for the record, I would like to
23 drop off a copy of the letter that I sent out certified return
24 receipt mailed to the Sheriff's Civil Service Process. It
25 is --

1 **THE COURT:** You can file that, if you want to file
2 that, as part of the record.

3 (Whereupon, further proceedings in the
4 above matter were adjourned.)

5 --oo--

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CERTIFICATE OF REPORTER

I, DEBRA L. PAS, Official Reporter for the United States Court, Northern District of California, hereby certify that the foregoing proceedings in C 11-3567 EMC, PATRICK MISSUD vs STATE OF NEVADA, et al were reported by me, a certified shorthand reporter, and were thereafter transcribed under my direction into typewriting; that the foregoing is a full, complete and true record of said proceedings as bound by me at the time of filing.

The validity of the reporter's certification of said transcript may be void upon disassembly and/or removal from the court file.

Debra L. Pas, CSR 11916, CRR, RMR, RPR

Friday, May 18, 2012

Debra L. Pas, CSR, CRR, RMR, RPR
Official Reporter - U.S. District Court - San Francisco, California
(415) 431-1477

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PATRICK A. MISSUD,

No. C-11-3567 EMC

Plaintiff,

**ORDER ADOPTING MAGISTRATE
JUDGE RYU'S REPORT AND
RECOMMENDATION AS MODIFIED;
GRANTING DEFENDANT'S MOTION
TO DECLARE PLAINTIFF A
VEXATIOUS LITIGANT; AND
DISMISSING ACTION**

v.

STATE OF NEVADA, *et al.*,

Defendants.

(Docket Nos. 53, 59)

Plaintiff Patrick A. Missud, an attorney licensed in California¹ and representing himself, has filed suit against Defendant D.R. Horton, Inc. ("Horton") and numerous state and federal judicial defendants and public offices, including Special Magistrate Curtis Coltrane of Beaufort County, South Carolina; Court Clerk Steven Grierson and Judge Elizabeth Gonzales of the Clark County Courts of Nevada; Discovery Commissioner Bonnie Bulla of Nevada's Eighth Judicial District Court; Chief Justice Nancy M. Saiita and Justices Michael L. Douglas, James W. Hardesty, Kristina Pickering, Mark Gibbons, Michael Cherry, and Ron Parraguirre of the Supreme Court of Nevada; San Francisco Superior Court Judges Charlotte Woolard and Loretta Giorgi; Judge Sandra Armstrong of the U.S. District Court for the Northern District of California; Judge Roger Hunt of the U.S. District Court for the District of Nevada; Judge Roger Benitez of the U.S. District Court for the Southern District of California; the Nevada Supreme Court; the Eighth Judicial District Court of

¹ State Bar No. 219614.

1 County of Clark; the State of Nevada; Susan Eckhardt; David Sarnowski; the Nevada State Bar; and
 2 Constance Akridge. Mr. Missud brings unspecified claims under 42 U.S.C. § 1983 for public
 3 corruption and civil rights violations, on behalf of an unspecified class of purported victims. First
 4 Amended Complaint (“FAC”), Docket No. 18, at 4.

5 In response to Defendant Horton’s motion to dismiss and orders to show cause issued by the
 6 Court, Magistrate Judge Ryu has issued a Report and Recommendation (“R&R”), recommending
 7 dismissal of Mr. Missud’s claims against all Defendants. Docket No. 53. In addition, Defendant
 8 Horton has filed a motion to declare Plaintiff a vexatious litigant. Docket No. 59. Both matters are
 9 pending before the Court.

10 I. FACTUAL & PROCEDURAL BACKGROUND

11 In his FAC, Mr. Missud alleges broadly that Defendants, led by Defendant Horton, have
 12 “conspired to buy the judiciary, this Country and its Constitution.” FAC at 3. Mr. Missud lays
 13 much of the blame for the success of this purported conspiracy on the Supreme Court’s recent
 14 decisions in *Citizens United v. FEC*, 130 S. Ct. 876 (2010), and *AT&T Mobility v. Concepcion*, 131
 15 S.Ct. 1740 (2011), which he claims have “allowed corporate ‘citizens’ to buy America’s court[s] and
 16 alternative dispute forum[s].” *Id.* at 2. He claims that those Defendants in the judiciary have acted
 17 with bias against him in prior proceedings due to the influence of Horton and its subsidiaries,
 18 including DHI Mortgage Company Ltd. (“DHI”).² *Id.* at 8, 10. Although he does not describe the
 19 particular transaction(s) that give rise to his complaint, it appears the root of his dissatisfaction with
 20 Horton originates from his dealings with Horton and DHI in conjunction with his purchase of a
 21 home in Nevada. *See* 07-2625 SBA, Docket No. 38, at 1-3 (summarizing previous similar claims
 22 against same defendants). Nearly all of his allegations herein stem from judicial decisions that have
 23 disagreed with his positions, which he equates with *per se* evidence of those judges’ bias and
 24 indebtedness to Horton. *See, e.g.*, FAC at 12. Although his allegations are broad and not entirely
 25 clear, he asserts, *inter alia*, the following allegations of wrongdoing against specific Defendants:

26
 27 ² Mr. Missud does not always distinguish between D.R. Horton, Defendant in this action,
 28 and DHI Mortgage, which is not a defendant in the instant case but has previously been a defendant
 in other cases brought by Mr. Missud.

- 1 • Nevada Division of Mortgage Lending (“NDML”) Commissioner Susan Eckhardt – Plaintiff
- 2 alleges that Commissioner Eckhardt wrongfully refused to investigate consumer complaints against
- 3 Horton. FAC at 5-6.
- 4 • South Carolina Special Magistrate Coltrane – Plaintiff alleges that Magistrate Coltrane
- 5 wrongfully issued an injunction against picketers protesting Horton’s sale of a golf course. FAC at
- 6 6-7.
- 7 • Nevada Discovery Commissioner Bulla – Plaintiff alleges that Commissioner Bulla
- 8 dishonestly claimed not to have received Mr. Missud’s document submissions to the court. FAC at
- 9 7.
- 10 • Nevada Judge Gonzales – Plaintiff alleges that Judge Gonzales wrongfully sealed court
- 11 records “regarding DHI’s interstate financial crimes,” blocked media from court proceedings, struck
- 12 Plaintiff’s case despite its merit (according to Mr. Missud), and failed to recuse herself despite
- 13 Plaintiff’s motion to disqualify her based on bias. FAC at 7-8.
- 14 • Clark County’s Eighth District Court & Court Executive Officer Grierson – Plaintiff alleges
- 15 that these Defendants failed to respond to subpoenas to produce video evidence of Judge Gonzales’s
- 16 bias. FAC at 9-10.
- 17 • Nevada Commission on Judicial Discipline and Executive Director Sarnowski – Plaintiff
- 18 alleges that these Defendants failed to investigate Plaintiff’s claims of judicial misconduct against
- 19 Judge Gonzales. FAC at 10.
- 20 • Nevada Supreme Court – Plaintiff alleges that the Court wrongfully requested that the
- 21 Nevada Attorney General investigate Plaintiff after receiving Plaintiff’s amicus brief in another
- 22 action, and denied his Emergency Motion to Compel production of the video and documents
- 23 regarding his accusations of bias against Judge Gonzales. FAC at 11, 12. The Court also reduced
- 24 the damages a jury awarded to another plaintiff (Betsinger) in another action against Horton. FAC
- 25 at 11. Mr. Missud summarily alleges that the Nevada Supreme Court is “the Country’s 8th most
- 26 beholden state supreme court to the special interests.” FAC at 12. The link Mr. Missud provides in
- 27 support of this statement is an article stating that the court ranks eighth in election fundraising. *Id.*
- 28 • San Francisco Superior Court Judges Woolard and Giorgi – Plaintiff alleges that Judge

1 Woolard confirmed an arbitration award against Mr. Missud's evidence of fraud in the arbitration
 2 proceedings. FAC at 14. Judge Giorgi then denied a motion for reconsideration of Judge Woolard's
 3 decision. *Id.* Judge Giorgi also denied a motion to vacate based on fraud an order in favor of
 4 Horton in San Francisco Superior Court case CPF-10-510876, and a later motion for
 5 reconsideration. FAC at 15. Mr. Missud states that her failure to consider his conclusive evidence
 6 renders her biased. *Id.* at 15-16.

7 • U.S. District Court Judge Armstrong – Plaintiff alleges that Judge Armstrong's rulings in 07-
 8 2625, another case by Plaintiff against Horton, dismissing his case for lack of personal jurisdiction
 9 and failing to consider certain evidence he submitted, were incorrect and evinced bias in favor of
 10 Horton. FAC at 17-18.

11 • U.S. District Court Judge Roger Benitez – Plaintiff alleges that Judge Benitez granted Horton
 12 and DHI's request for arbitration in a suit against them by five class action representatives in San
 13 Diego, 08-592-RBB, on the basis of bias. FAC at 19.

14 • U.S. District Court Judge Hunt – Plaintiff alleges that Judge Hunt wrongfully granted
 15 summary judgment in favor of Horton in a suit filed by a different plaintiff unrelated to Mr. Missud.
 16 FAC at 21-22.

17 Plaintiff asserts that Horton has essentially purchased cooperation from each of these
 18 Defendants. Mr. Missud also includes allegations of corruption among Texas officials, not named as
 19 Defendants in this complaint. *See* FAC at 22-25.³ Plaintiff further alleges that California Superior
 20 Court Mediator/Arbitrator Michael Carbone – also not named in this action – dismissed Mr.
 21 Missud's arbitration case against Allstate Insurance on the basis of bias toward a repeat client. FAC
 22 at 13. Mr. Missud summarily connects this particular arbitration decision to allegations of arbitral
 23 fraud in other courts and in the media without any factual allegations as to how his particular case
 24 was improper. He requests disgorgement of profits, restitution, treble damages, injunctive relief, an
 25 order vacating prior judgments in other courts in favor of Horton, attorney's fees and costs, and
 26 prejudgment interest. FAC at 28.

27
 28 ³ Mr. Missud also included claims against the SEC, SEC Chairwoman Mary Shapiro, and
 the United States, but those parties have now been severed from this case. *See* Docket No. 52.

On December 1, 2011, Defendant Horton filed a motion to dismiss Plaintiff's complaint against it for lack of personal jurisdiction, or in the alternative, on the grounds of forum non conveniens. Docket No. 37. On December 5, 2011, Judge Ryu issued an order to show cause why the Court should not dismiss Judicial Defendants⁴ on grounds of judicial immunity. Docket No. 41. On December 22, 2011, Judge Ryu further ordered Plaintiff to show cause why the Court should not dismiss Unserved Defendants⁵ on the grounds of lack of service under Rule 4(m). Docket No. 49. After reviewing the parties' submissions as to each of these issues, Judge Ryu issued an R&R recommending: (1) that Defendant Horton's motion to dismiss for lack of personal jurisdiction be granted; (2) that Plaintiff's complaint be dismissed with prejudice as to Judicial Defendants on the basis of judicial immunity; and (3) that Plaintiff's complaint be dismissed without prejudice as to Unserved Defendants on the basis of Plaintiff's failure to serve them within 120 days pursuant to Rule 4(m).

Plaintiff objected to Judge Ryu's R&R and filed voluminous documents with this Court, including several Requests for Judicial Notice. *See* Docket Nos. 58, 63, 69, 71, 73, 74, 79-81, 83-86. He has also filed requests for the Court to issue subpoenas and order U.S. Marshals to effect service on Defendants. *See* Docket Nos. 55, 65.

Defendant Horton filed a Reply in support of Judge Ryu's R&R, along with a motion to declare Plaintiff a vexatious litigant, on January 25, 2012. Docket No. 59. Horton asserts that Plaintiff has filed seven frivolous lawsuits against it in Nevada and California state and federal courts since 2005, and that previous sanctions have not deterred Plaintiff from filing additional frivolous suits and engaging in abusive and harassing litigation tactics. Horton requests a

⁴ Special Magistrate Curtis Coltrane of Beaufort County, South Carolina; Court Clerk Steven Grierson and Judge Elizabeth Gonzales of the Clark County Courts of Nevada; Discovery Commissioner Bonnie Bulla of Nevada's Eighth Judicial District Court; Chief Justice Nancy M. Saiita and Justices Michael L. Douglas, James W. Hardesty, Kristina Pickering, Mark Gibbons, Michael Cherry, and Ron Parraguirre of the Supreme Court of Nevada; San Francisco Superior Court Judges Charlotte Woolard and Loretta Giorgi; Judge Sandra Armstrong of the U.S. District Court for the Northern District of California; Judge Roger Hunt of the U.S. District Court for the District of Nevada; Judge Roger Benitez of the U.S. District Court for the Southern District of California; the Nevada Supreme Court; and the Eighth Judicial District Court of County of Clark.

⁵ State of Nevada, Susan Eckhardt, David Sarnowski, the Nevada State Bar, and Constance Akridge.

1 declaration that Mr. Missud is a vexatious litigant and an order requiring him to: (1) post Security of
2 Costs in this action in the amount of \$50,000, absent which the complaint would be subject to
3 dismissal with prejudice; (2) obtain pre-filing permission before filing any actions on his behalf or
4 on behalf of his spouse, Julie Missud, if those complaints name as parties Horton, DHI, their
5 affiliates, their employees, and their attorneys or other individuals associated with this action.
6 Defendant requests that Plaintiff be ordered to provide a copy of any proposed complaint along with
7 a letter requesting that the complaint be filed and copies of the Nevada State Court orders finding
8 him in contempt and sanctioning him, proof of satisfaction of the Judgments of Sanctions against
9 him, and a copy of this Court's order in this case; (3) post Security of Costs in any future action
10 against the Parties in this matter, in an amount to be determined by this Court; and (4) pay sanctions
11 in an amount determined by this Court and report said sanctions to the State Bar for any appropriate
12 disciplinary review due to his violations of Local Rule 11-4. Defendant also suggests a possible
13 order requiring Plaintiff to complete anger management and ethics continuing education. Finally,
14 Defendant proposes that any violation of the pre-filing order would expose Plaintiff to a contempt
15 hearing and injunctive relief consistent with the order, and that any action filed in violation of the
16 order be subject to dismissal. *See* Docket No. 59 at 17-18. Plaintiff opposes Defendant's motion to
17 declare him a Vexatious Litigant. Docket No. 62.

18 II. DISCUSSION

19 A. Judge Ryu's Report and Recommendation

20 Judge Ryu recommends dismissing Plaintiff Missud's complaint as against all Defendants
21 on the basis of (1) lack of personal jurisdiction as against Defendant DR Horton; (2) judicial
22 immunity as against the Judicial Defendants; and (3) failure to effect proper service of process as
23 against Defendants State of Nevada, Susan Eckhardt, David Sarnowski, the Nevada State Bar, and
24 Constance Akridge. R&R, Docket No. 53, at 1-2. The Court **ADOPTS** Judge Ryu's R&R as
25 modified herein for the reasons set forth below.

26 1. Personal Jurisdiction – Defendant Horton

27 The Court adopts Judge Ryu's R&R with respect to Defendant Horton in its entirety. Mr.
28 Missud fails to provide any basis for challenging Magistrate Judge Ryu's conclusion that Horton has

no contacts with California that would give rise to personal jurisdiction. *See* R&R, Docket No. 53, at 6-7 (concluding that filing a state court judgment in another state does not confer jurisdiction; that the Court cannot treat Plaintiff's allegations as to DHI's contacts with California as relevant to Horton's contacts because the two are "distinct legal entities" and DHI is a non-party; and that Plaintiff has failed to produce evidence of Horton's contacts). Judge Ryu's conclusion is also in accord with the numerous other state and federal courts in California in which Mr. Missud has attempted to bring suit against Horton. Those courts have concluded that they lack personal jurisdiction over Defendant Horton. *See, e.g., Missud v. D.R. Horton, et al.*, U.S. District Court for the Northern District of California, C-07-2625 SBA, Defendant's RJN, Docket No. 61, Ex. 6 (dismissing the action for lack of personal jurisdiction and forum non conveniens); *Missud v. D.R. Horton, et al.*, San Francisco Superior Court, CGC 05-447499, Defendant's RJN, Docket No. 61, Ex. 2-4 (finding lack of personal jurisdiction with respect to Defendant Horton); *Missud v. D.R. Horton, et al.*, San Francisco Superior Court, CGC 06-457207, Defendant's RJN, Docket No. 61, Ex. 5 (dismissing action without prejudice for lack of personal jurisdiction).

2. Judicial Immunity – Judicial Defendants

Judge Ryu recommends dismissing Plaintiff's complaint against the Judicial Defendants on the basis of judicial immunity. R&R at 3 ("Judges and 'individuals necessary to the judicial process' at the state and federal levels are 'generally immune from civil liability under [§] 1983.'") (quoting *Olsen v. Idaho State Bd. of Med.*, 363 F.3d 916, 923 (9th Cir. 2004) (citations and quotation marks omitted); *Meek v. Cnty. of Riverside*, 183 F.3d 962, 965 (9th Cir. 1999) (citing *Mireles v. Waco*, 502 U.S. 9, 9-10 (1991))). As Judge Ryu concluded, Plaintiff provided no evidence to support a conclusion that Judicial Defendants acted "in the clear absence of all jurisdiction" so as to strip them of judicial immunity. *See Sadoski v. Mosley*, 435 F.3d 1076, 1079 (9th Cir. 2006) (quoting *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978) (quotation marks omitted)). While Plaintiff asserts that they acted without authority, he fails to explain how they have done so. *See* Obj. at 3. In fact, Plaintiff's own allegations evince otherwise, as his complaint about Judicial Defendants is not that they had no authority to act, but that they made the wrong decisions. *Id.* at 3-4. Judge Hamilton has just so ruled in another case involving Plaintiff, filed against some of the

1 same Judicial Defendants as the instant case. *See Missud v. San Francisco Superior Court et al.*, 11-
 2 1856 PJH, Docket No. 54, at (granting motion to dismiss complaint against, *inter alia*, Judges
 3 Woolard and Giorgi, among other judicial defendants not named in this action, on the basis of
 4 judicial immunity). Some of the conduct alleged in this case against Judges Woolard and Giorgi –
 5 their confirmation of an arbitration award in favor of Allstate Insurance against Plaintiff – is also
 6 alleged in Plaintiff’s case before Judge Hamilton and covered by her ruling on judicial immunity.
 7 *Compare* 11-3567 EMC, FAC at 14, *with* 11-1856 PJH, Docket No. 19, at 6-8.

8 It is worth noting that, unlike federal judges who are absolutely immune from all suits, *see*
 9 *Mullis v. United States Bankruptcy Court*, 828 F.2d 1385, 1394 (9th Cir. 1987), state judges may, in
 10 very limited circumstances, be subject to suit under § 1983. *See* 42 U.S.C. § 1983 (as amended by
 11 Pub. L. 104-317, Title III, § 309(c), 110 Stat. 3853 (Oct. 19, 1996)) (“[I]n any action brought against
 12 a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief
 13 shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”);
 14 *Flanders v. Snyder Bromley*, No. 09-01623 CMA-KMT, 2010 WL 2650028, at *7 (D. Colo., Jun.
 15 30, 2010) (“If these special circumstances do not exist in a § 1983 action, absolute judicial immunity
 16 bars claims for injunctive relief.”) (citing *Lawrence v. Kuenhold*, 271 F. App’x. 763, 766 n. 6 (10th
 17 Cir. 2008)); *Brandon E. ex rel. Listenbee v. Reynolds*, 201 F.3d 194, 197 (3d Cir. 2000) (same).
 18 Plaintiff has made no showing that those circumstances obtain here.

19 Even if state Judicial Defendants were not protected by judicial immunity, Plaintiff’s claims
 20 would still be barred for two reasons. First, Plaintiff’s claims are barred by the *Rooker-Feldman*
 21 doctrine because he seeks to overrule previous state court rulings against him. “[A] federal district
 22 court does not have subject matter jurisdiction to hear a direct appeal from the final judgment of a
 23 state court.” *Manufactured Home Communities, Inc. v. City of San Jose*, 420 F.3d 1022, 1029 (9th
 24 Cir. 2005). “As the Ninth Circuit has explained, *Rooker-Feldman* prohibits a federal district court
 25 from exercising jurisdiction over a suit that is a ‘de facto appeal from a state court judgment.’”
 26 *Khanna v. State Bar of California*, 505 F. Supp. 2d 633, 640-41 (N.D. Cal. 2007) (quoting
 27 *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004)); *Cunningham v. Mahoney*, No. C 10-
 28 01182 JSW, 2010 WL 2560488, at *3 (N.D. Cal. June 22, 2010). Here, Plaintiff is essentially

FILED

NOT FOR PUBLICATION

MAY 21 2013

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

PATRICK ALEANDRE MISSUD, I,

Plaintiff - Appellant,

v.

STATE OF NEVADA; et al.,

Defendants - Appellees.

No. 12-15658

D.C. No. 3:11-cv-03567-EMC

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Edward M. Chen, District Judge, Presiding

Submitted May 14, 2013**

Before: LEAVY, THOMAS, and MURGUIA, Circuit Judges.

Patrick Alexandre Missud, I, appeals pro se from the district court's judgment dismissing his 42 U.S.C. § 1983 putative class action alleging due process and equal protection claims arising from various prior lawsuits involving a Nevada real estate transaction. We have jurisdiction under 28 U.S.C. § 1291. We

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review de novo both a dismissal for lack of personal jurisdiction, *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004), and for failure to state a claim, *Stoner v. Santa Clara Cnty. Office of Educ.*, 502 F.3d 1116, 1120 (9th Cir. 2007). We affirm.

The district court properly dismissed Missud's claims against defendant D.R. Horton, Inc. because it neither had continuous and systematic contacts with the State of California nor availed itself of the privilege of doing business in the State to justify the exercise of personal jurisdiction over it. *See* Cal. Civ. Proc. Code § 410.10 (allowing for jurisdiction over non-residents coextensive with due process requirements); *Schwarzenegger*, 374 F.3d at 800-803 (setting forth tests for general and specific personal jurisdiction under the California long-arm statute).

The district court properly dismissed Missud's claims against various state and federal judges on the basis of absolute judicial immunity because Missud failed to allege facts tending to show that these judges acted "in the clear absence of jurisdiction" in issuing adverse rulings against him in his prior lawsuits. *See Stump v. Sparkman*, 435 U.S. 349, 356-58 (1978) (unless they clearly lack jurisdiction to act, judges are absolutely immune from liability for their judicial acts even if their exercise of authority is flawed by the commission of grave

procedural errors).

The district court did not abuse its discretion in entering a narrowly-tailored pre-filing order against Missud as a vexatious litigant because it carefully reviewed the relevant facts, and made each necessary finding under the applicable factors.

See Molski v. Evergreen Dynasty Corp., 500 F.3d 1047, 1056 (9th Cir. 2007)

(setting forth standard of review and factors to be considered before the entry of a pre-filing order against a vexatious litigant).

Missud's successive requests for the wholesale judicial notice of various documents from numerous prior proceedings for the purpose of validating his arguments and claims, set forth in his opening and reply briefs, are denied.

Missud's contentions regarding alleged corruption in the federal and state judiciaries, fraud in the mortgage industry and the private financial sector, and conspiracies against him, are unpersuasive.

Issues not expressly raised on appeal, including the dismissal of Missud's claims against the remaining defendants on the basis of the *Rooker-Feldman* doctrine and for failure to serve, are deemed waived. *See Cook v. Schriro*, 538 F.3d 1000, 1014 n.5 (9th Cir. 2008).

AFFIRMED.

United States Court of Appeals for the Ninth Circuit

Office of the Clerk
95 Seventh Street
San Francisco, CA 94103

Information Regarding Judgment and Post-Judgment Proceedings

Judgment

- This Court has filed and entered the attached judgment in your case. Fed. R. App. P. 36. Please note the filed date on the attached decision because all of the dates described below run from that date, not from the date you receive this notice.

Mandate (Fed. R. App. P. 41; 9th Cir. R. 41-1 & -2)

- The mandate will issue 7 days after the expiration of the time for filing a petition for rehearing or 7 days from the denial of a petition for rehearing, unless the Court directs otherwise. To file a motion to stay the mandate, file it electronically via the appellate ECF system or, if you are a pro se litigant or an attorney with an exemption from using appellate ECF, file one original motion on paper.

Petition for Panel Rehearing (Fed. R. App. P. 40; 9th Cir. R. 40-1)

Petition for Rehearing En Banc (Fed. R. App. P. 35; 9th Cir. R. 35-1 to -3)

(1) A. Purpose (Panel Rehearing):

- A party should seek panel rehearing only if one or more of the following grounds exist:
 - ▶ A material point of fact or law was overlooked in the decision;
 - ▶ A change in the law occurred after the case was submitted which appears to have been overlooked by the panel; or
 - ▶ An apparent conflict with another decision of the Court was not addressed in the opinion.
- Do not file a petition for panel rehearing merely to reargue the case.

B. Purpose (Rehearing En Banc)

- A party should seek en banc rehearing only if one or more of the following grounds exist:

- ▶ Consideration by the full Court is necessary to secure or maintain uniformity of the Court's decisions; or
- ▶ The proceeding involves a question of exceptional importance; or
- ▶ The opinion directly conflicts with an existing opinion by another court of appeals or the Supreme Court and substantially affects a rule of national application in which there is an overriding need for national uniformity.

(2) Deadlines for Filing:

- A petition for rehearing may be filed within 14 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the United States or an agency or officer thereof is a party in a civil case, the time for filing a petition for rehearing is 45 days after entry of judgment. Fed. R. App. P. 40(a)(1).
- If the mandate has issued, the petition for rehearing should be accompanied by a motion to recall the mandate.
- *See* Advisory Note to 9th Cir. R. 40-1 (petitions must be received on the due date).
- An order to publish a previously unpublished memorandum disposition extends the time to file a petition for rehearing to 14 days after the date of the order of publication or, in all civil cases in which the United States or an agency or officer thereof is a party, 45 days after the date of the order of publication. 9th Cir. R. 40-2.

(3) Statement of Counsel

- A petition should contain an introduction stating that, in counsel's judgment, one or more of the situations described in the "purpose" section above exist. The points to be raised must be stated clearly.

(4) Form & Number of Copies (9th Cir. R. 40-1; Fed. R. App. P. 32(c)(2))

- The petition shall not exceed 15 pages unless it complies with the alternative length limitations of 4,200 words or 390 lines of text.
- The petition must be accompanied by a copy of the panel's decision being challenged.
- An answer, when ordered by the Court, shall comply with the same length limitations as the petition.
- If a pro se litigant elects to file a form brief pursuant to Circuit Rule 28-1, a petition for panel rehearing or for rehearing en banc need not comply with Fed. R. App. P. 32.

- The petition or answer must be accompanied by a Certificate of Compliance found at Form 11, available on our website at www.ca9.uscourts.gov under *Forms*.
- You may file a petition electronically via the appellate ECF system. No paper copies are required unless the Court orders otherwise. If you are a pro se litigant or an attorney exempted from using the appellate ECF system, file one original petition on paper. No additional paper copies are required unless the Court orders otherwise.

Bill of Costs (Fed. R. App. P. 39, 9th Cir. R. 39-1)

- The Bill of Costs must be filed within 14 days after entry of judgment.
- See Form 10 for additional information, available on our website at www.ca9.uscourts.gov under *Forms*.

Attorneys Fees

- Ninth Circuit Rule 39-1 describes the content and due dates for attorneys fees applications.
- All relevant forms are available on our website at www.ca9.uscourts.gov under *Forms* or by telephoning (415) 355-7806.

Petition for a Writ of Certiorari

- Please refer to the Rules of the United States Supreme Court at www.supremecourt.gov

Counsel Listing in Published Opinions

- Please check counsel listing on the attached decision.
- If there are any errors in a published opinion, please send a letter in **writing within 10 days** to:
 - ▶ West Publishing Company; 610 Opperman Drive; PO Box 64526; St. Paul, MN 55164-0526 (Attn: Kathy Blesener, Senior Editor);
 - ▶ and electronically file a copy of the letter via the appellate ECF system by using “File Correspondence to Court,” or if you are an attorney exempted from using the appellate ECF system, mail the Court one copy of the letter.

United States Court of Appeals for the Ninth Circuit

BILL OF COSTS

Note: If you wish to file a bill of costs, it **MUST** be submitted on this form and filed, with the clerk, with proof of service, within 14 days of the date of entry of judgment, and in accordance with 9th Circuit Rule 39-1. A late bill of costs must be accompanied by a motion showing good cause. Please refer to FRAP 39, 28 U.S.C. § 1920, and 9th Circuit Rule 39-1 when preparing your bill of costs.

_____ v. _____ 9th Cir. No. _____

The Clerk is requested to tax the following costs against: _____

Cost Taxable under FRAP 39, 28 U.S.C. § 1920, 9th Cir. R. 39-1	REQUESTED Each Column Must Be Completed				ALLOWED To Be Completed by the Clerk			
	No. of Docs.	Pages per Doc.	Cost per Page*	TOTAL COST	No. of Docs.	Pages per Doc.	Cost per Page*	TOTAL COST
Excerpt of Record			\$	\$			\$	\$
Opening Brief			\$	\$			\$	\$
Answering Brief			\$	\$			\$	\$
Reply Brief			\$	\$			\$	\$
Other**			\$	\$			\$	\$
TOTAL:				\$	TOTAL: \$			

* Costs per page may not exceed .10 or actual cost, whichever is less. 9th Circuit Rule 39-1.

** Other: Any other requests must be accompanied by a statement explaining why the item(s) should be taxed pursuant to 9th Circuit Rule 39-1. Additional items without such supporting statements will not be considered.

Attorneys' fees **cannot** be requested on this form.

Continue to next page.

I, _____, swear under penalty of perjury that the services for which costs are taxed were actually and necessarily performed, and that the requested costs were actually expended as listed.

Signature _____

("s/" plus attorney's name if submitted electronically)

Date _____

Name of Counsel: _____

Attorney for: _____

(To Be Completed by the Clerk)

Date _____

Costs are taxed in the amount of \$ _____

Clerk of Court

By: _____, Deputy Clerk

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

December 9, 2013

Mr. Patrick A. Missud


Re: Patrick A. Missud
v. Nevada, et al.
No. 13-5888

Dear Mr. Missud:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,




Scott S. Harris, Clerk

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

William K. Suter
Clerk of the Court
(202) 479-3011

April 15, 2013

Mr. Patrick A. Missud


Re: Patrick A. Missud
v. Securities and Exchange Commission, et al.
No. 12-8191

Dear Mr. Missud:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



William K. Suter, Clerk

IN RE:

GOVERNANCE IN THE PUBLIC INTEREST TASK FORCE

REPORTER'S TRANSCRIPT

PUBLIC HEARING

JANUARY 27, 2011

9:30 A.M.

Reported by:

JANE H. STULLER, CSR 7223

NANCY SORENSEN

COURT REPORTING SERVICE

82A W. MANOR DRIVE

PACIFICA, CA 94044

(800) 748-6197

STATE BAR OF CALIFORNIA 2011 PUBLIC HEARING

2

APPEARANCES

WILLIAM HEBERT, State Bar President

LOWELL CARRUTH, Second-Year Lawyer

LOREN KIEVE, First-Year Layer Member

WELLS LYMAN, Second-Year Lawyer Member

DENNIS MANGERS, First-Year Public Member

GWEN MOORE, Second-Year Public Member

JON STREETER, Third-Year Lawyer Member

MICHAEL TENENBAUM, Third-Year Lawyer Member

GRETCHEN NELSON First-Year Lawyer Member

BETH JAY

JUDY JOHNSON

GAYLE MURPHY

HONORABLE JOANN REMKE

STARR BABCOCK

RICHARD ZANASSI

TRACEY MCCORMICK

CATHY TORNEY

AMY ANDERSON

JIM TOWERY

RODD SANTOMAURO

MICHAEL J. LEVY

SHANNON STEIN

CHRISTOPHER DOLAN

STATE BAR OF CALIFORNIA 2011 PUBLIC HEARING

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APPEARANCES (Continued)

DANIEL PASSAMANECK

ALLAN KAPLAN

ERIN BALDWIN

ROYAL GLAUDE

PATRICK MISSUD

CONNIE VALENTINE

HELEN LYNN

AFTERNOON SESSION

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STATE BAR OF CALIFORNIA 2011 PUBLIC HEARING

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1 questions?

2 Well, we've got your submission, and you've
3 made your statement for the record. So thank you very
4 much, sir.

5 MR. GLAUDE: Oh, just one -- one more thing I
6 forgot. This is more important, and this is a very
7 serious question, if I may, please.

8 Why shouldn't the Internal Revenue Service have
9 auditors to investigate the State Bar? I'd like to have
10 that in the record, and I'd like you to answer that.
11 Thank you.

12 PRESIDENT HEBERT: Great. Thank you, sir.

13 Okay. I want to go ahead -- I don't think
14 anyone wants to take a break, so I'm going to go ahead
15 on to the next speaker again. The new speaker is to --
16 ten minutes, and we have -- the next speaker is Patrick
17 Missud?

18 MR. MISSUD: Yes.

19 PRESIDENT HEBERT: Welcome.

20 MR. MISSUD: Thank you. Good afternoon, Task
21 Force. All right. I'm here, more or less, to pro -- to
22 provide a little bit of color, as Mr. Kaplan did just a
23 few minutes ago regarding his own personal grievance.

24 I've have several that I have filed with the
25 State Bar, and none of them seem to have been picked up

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1 or investigated to any degree. I'm going to pretty much
2 harp on the first point of the first question that the
3 Task Force has requested our input on, as Mr. Tenenbaum
4 said, a review of the disciplinary system.

5 Now, in one particular grievance that I had
6 filed several years ago was against an attorney who had
7 filed an ex parte motion claiming to have contacted me
8 in good faith. I had supplied the State Bar with
9 evidence proving, in fact, that he had not used
10 good-faith attempts and had contacted me.

11 I had six or seven witnesses' declar --
12 witnesses' statements transcribed in official records
13 from a recording device that I had at my office. It had
14 stated that I was out of town. The attorney heard them,
15 the outgoing message, as had my witnesses. They
16 prepared declarations to that effect.

17 The attorney had also filed in his ex parte
18 motion the few exhibits that I had sent to his client.
19 Therein were my cell phone records. Over half of the
20 documents contained my cell phone number.

21 At issue was receipt of information or
22 nonreceipt of information, and had to deal with my
23 contact numbers. This attorney made a statement in his
24 pleadings that he had tried to contact me in good faith.
25 All of my other clients had heard the same messages he

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1 had. Everybody knew I was out of town. Everybody knew
2 how to reach me by cell except for this attorney.

3 Even with being confronted with this evidence,
4 the State Bar claimed that there was nothing to
5 investigate, and that the attorney did not perjure
6 himself in those four documents.

7 There was another grievance that I had filed
8 against another attorney who had filed a frivolous case
9 against a -- a friend of mine. Happened to be a general
10 contractor, as am I. My friend called me up. He wanted
11 me to do a site inspection. We both went.

12 I reviewed the construction project and the
13 contract. When you file a construction claim, you are
14 supposed to append to that a copy of the contract. That
15 contract was drafted by the plaintiff. And within the
16 pleading, she had claimed that she had fulfilled all
17 prerequisites to that contract; and that the defendant,
18 my friend, had breached, and that she was thereof
19 damaged.

20 My inspection of the project -- and I can also
21 add that I'm a contractor, State Licensing Board
22 industry expert. I routinely go out to inspect such
23 projects for defects.

24 The result was that, when I did the site
25 inspection, that the precondition -- that the plaintiff

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1 had actually breached the contract by not fulfilling her
2 parts of the contract. That there were no defects
3 whatsoever, and therefore she was not damaged.

4 Now, I'm not the judge, and I'm not a jury in
5 this. However, the papers that the plaintiff had filed
6 had proven our case for us. I took pictures to prove
7 that the conditions that the plaintiff herself had
8 claimed were fulfilled were, indeed, not.

9 Confronted with that evidence, the State Bar
10 never picked up the case and did not investigate this
11 attorney. I had demanded from that attorney a copy of
12 his inspection report from his licensed professional
13 claiming three times the amount of damages to this
14 property.

15 There was a contract to remodel the property
16 for 45,000. She was claiming 150,000 in damages to undo
17 what was done and then to redo it. And, apparently, to
18 redo it a second time.

19 I demanded a copy of this report, which I did
20 not -- which I knew did not exist because no licensed
21 contractor would have ever been able to come up with
22 that number of defects at this project, especially since
23 I couldn't find one.

24 And he refused. He wanted to drag us through a
25 very long lengthy discovery process. That would be

1 expensive and bankrupt my friend. He ended up going to
2 mediation. I think he spent about \$30,000 on a bogus
3 frivolous claim. And it's proven to be just that.

4 That could have been nipped in the bud very
5 quickly with a State Bar letter saying, Please furnish
6 Mr. Missud a copy of this inspector's report; but that
7 never happened.

8 There was another one when I was personally
9 sued in my capacity as a general contractor. Luckily, I
10 knew how to defend myself. I knew how this system
11 worked.

12 To preemptively prevent a long dragged out --
13 dragged out the discovery process, I filed seven
14 declarations, along with our answer to their frivolous
15 Complaint.

16 This attorney's client had run into a
17 construction project, assaulted a gentleman onsite who
18 happened to be the owner's father, a Senior. He did
19 injury to the Senior, and yet the plaintiff was claiming
20 that the Senior had assaulted him.

21 Of course, the assault took place at the job
22 site so that they could implicate insurance provisions
23 from me, the general contractor, and the homeowner --
24 home owners' insurance.

25 So he claimed in his pleading that he had been

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1 assaulted. Our seven declarations proved otherwise.
2 Luckily, I also got the police to forward or give me a
3 little bit of information.

4 Apparently, the plaintiff had a criminal
5 record. So confronted with this information, the State
6 Bar did not act to investigate the attorney who was
7 bringing the frivolous case.

8 Now, this attorney, I had met with at a law and
9 motion hearing. Her -- her client had bolted after he
10 realized I had registered seven declarations. He knew
11 had been caught in lies and she couldn't find him for
12 three weeks. She yet pressed on to keep that case
13 active, so that she could make her money.

14 At that hearing, she told me: Why don't you
15 tender it to insurance?

16 The reason that I told her that I had no
17 intentions of tendering, nor did my client, was because
18 our rates would go up, and so would yours.

19 She said, So? She knew she had a frivolous
20 claim. There were seven declarations proving that her
21 client was a fraud. And yet, she wanted to press on.

22 There was another case. It was another
23 attorney against whom I filed a grievance. He has
24 denied receiving certified mail. Right now on your
25 computers, you can look up USPS.com, and nail down to

1 the second that certified mail is received. He did this
2 twice.

3 There is another one. I want to talk about
4 discovery abuses. I have not yet filed a grievance, and
5 I'm not going to because nothing will come of it. I'll
6 be wasting my time. This is in the official
7 transcripts.

8 I am crossing-examining a witness who happens
9 to be a general contractor, as am I. This guy has more
10 experience than I do, and yet I am considered a
11 Contractors Board industry expert. This guy works on
12 multi-million dollar civil works projects. I do not.

13 This guy is overqualified to answer the very
14 simple questions that I am posing, such as: What is a
15 two-by-four?

16 His defense attorney pipes up, says, This
17 witness is not testifying as an expert. He is merely a
18 witness. I explained to the defense attorney, this guy
19 is so qualified, he should be able to tell me what a
20 nail is, what a screw is, what a two-by-four is.

21 This dodging, obfuscation, waste of time,
22 harassment, lasted for two to three hours. The bills
23 were mounting from my client almost going bankrupt.
24 That's the defense position, though. The insurance
25 defense firms, that's what they'll do, they'll wear you

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1 down until you run out of money. It's got nothing to do
2 with justice. I've come to the State Bar for a little
3 help. Again, nothing happens.

4 I have another one.

5 PRESIDENT HEBERT: Okay. You've got about
6 another minute before I ask open it up to questions.

7 But go ahead.

8 MR. MISSUD: The piece de resistance, it's a
9 very recent case that I've been working on. We were
10 compelled into mandatory arbitration. And as many of
11 you attorneys know, mistakes of law, in fact, are not
12 reviewable, and you cannot appeal said decisions
13 sometimes, unless they're based in fraud.

14 Now, as it just so happens, that case happened
15 to be a construction defect case, in which I've got 20
16 years experience in the construction field. I'm also an
17 engineer.

18 I was cross-examining the defense expert, who
19 was an architect and general contractor. I caught the
20 defense expert in no less than 63 lies, 6-3. You can't
21 overlook that. And these are lies such as, 32 equals 36
22 because he took apart -- taken a measurement twice. And
23 apparently, he said, For sure, it was 32 inches. A
24 couple days later when he forgot his testimony, he said
25 it was 36 inches.

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1 He also said that the particular item cost
2 \$1476 to repair in his written estimate. But in oral
3 testimony, he said 4,000. He claimed in oral testimony
4 particular components existed, and then it disappeared.
5 He said, at one instance, that another component did not
6 exist, and then it magically appeared. You can't make
7 this stuff up. There is no gray area.

8 You can't say that there was a misunderstanding
9 of the question, that, well, shades of gray. No. 1476
10 is not 4,000. \$8,000 is not zero dollars in the final
11 cost estimate. The arbitrator based his decision on 63
12 lies.

13 We opposed. We asked him to correct his
14 decision because it was based in defense expert's lies.
15 He refused. It went to confirmation to the Superior
16 Court. It was rubber stamped. It is now being
17 appealed.

18 I also filed a grievance against this
19 particular arbitrator, who is a Bar licensed attorney.
20 That letter came back. We are not going to investigate.
21 There was another attorney also on that case. The same
22 thing: He is the one that got his defence expert to
23 lie. Big-money case, very politically sensitive.
24 Nobody wants to get their hands dirty. Nobody wants to
25 admit that there was fraud. It continues to be rubber

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1 stamped now.

2 PRESIDENT HEBERT: I'll give you a couple --
3 about two-and-a-half minutes overtime. So if you can
4 just wrap up, and we'll see if there's any questions.

5 MR. MISSUD: Right. Fine. If attorneys are
6 not adequately regulated, and there aren't ramifications
7 for illegal conduct, they can become arbitrators and
8 mediators. They can do substantial injury to consumers.
9 Those attorneys can then also become judges, who can
10 then do even more injury to consumers.

11 We've got a culture here. Unless you check the
12 bad behavior, it will pervade the judicial system. And
13 I'm afraid that we may already be at that point.

14 This is the most important hearing that I've
15 ever had in my five years as a practicing attorney. And
16 I've been licensed for ten. The policy that you make
17 here can bring the legal profession back to where it
18 should be as a noble profession and not one that is
19 reviled by most of society.

20 And that's all I have to say.

21 PRESIDENT HEBERT: Thank you, sir.

22 Are there any questions?


23 I see none. Thank you very much for your time
24 today. We appreciate it.

25 Okay. We've got a couple people who signed up

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

October 7, 2013

Scott S. Harris
Clerk of the Court
(202) 479-3011

Mr. Patrick A. Missud


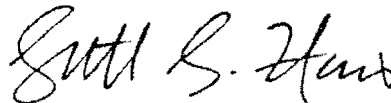
Re: Patrick A. Missud
v. State Bar of California
No. 12-9413

Dear Mr. Missud:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,



Scott S. Harris, Clerk

DUPLICATE

STATE BAR COURT
OF THE STATE OF CALIFORNIA
HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:) Case No. 12-0-10026-LMA
PATRICK ALEXANDRE MISSUD, ESQ.,)
Respondent.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY M. ARMENDARIZ
TUESDAY, JANUARY 22, 2013
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105

APPEARANCES:

For the State Bar: ERICA L.M. DENNINGS, ESQ.
The State Bar of California
180 Howard Street
San Francisco, California
94105

For the Respondent: PATRICK ALEXANDRE MISSUD, ESQ.
[REDACTED]
94112

Audio Reporter: Mazie Yip

Proceedings recorded by digital recorder; transcript
produced by:

Briggs Reporting Company, Inc.
6336 Greenwich Drive, Suite B
San Diego, California 92122
(310) 410-4151

1 THE COURT: This is the matter of Patrick Missud.
2 Case Number 12-0-10026. Please state your appearances
3 starting with the State Bar.

4 MS. DENNINGS: Erica Dennings Senior Trial Counsel
5 for the State Bar. Good morning.

6 THE COURT: Good morning.

7 MR. MISSUD: Good morning. Patrick Missud In Pro
8 Per. And also an 18 USC 1513 Federal Informant, CCP 1021.5
9 Private Attorney General.

10 THE COURT: Good morning, Mr. Missud. Your
11 response to the notice of disciplinary charges was due two
12 weeks ago on January 11th. Will you be filing a response?

13 MR. MISSUD: That response was already filed
14 actually in Federal Court Action 11CV5468-EMC. I also sent
15 a copy electronically to Court, the State Bar. I believe
16 Ms. Dennings also received it as did at least 200 media
17 contacts. Now I say at least because it's probably in
18 excess of 500. Let's just to be conservative and say 200.

19 THE COURT: We don't have that on the file. Do
20 you have a copy of that, Ms. Dennings?

21 MS. DENNINGS: I have not. But you said you filed
22 something in Federal Court?

23 MR. MISSUD: Absolutely. It's docketed --

24 THE COURT: You need to file in this court.

25 MR. MISSUD: It is docketed in several federal

1 actions and it was sent electronically by PDF to the State
2 Bar as well as I believe mailed snail mail.

3 THE COURT: Do you have a copy of it now?

4 Mr. Missud, do you have a copy of what you filed
5 with the State Bar Court?

6 MR. MISSUD: Right. I am looking for that right
7 now. It would be -- I'm trying to find the hard copy with
8 me if I've brought one. Generally I testify off the top of
9 my head because it's just too much information. But, the
10 complaint would be filed in the docket prior to the January
11 11th filing in Federal Case C115468-EMC.

12 THE COURT: I understand that. But you need to
13 file something in this court.

14 MR. MISSUD: And it was filed.

15 THE COURT: Where is the proof of service? Where
16 is the filing? We don't have it filed in this -- how did
17 you file it? Did you come to the filing window?

18 MR. MISSUD: Generally when I deal with the State
19 Bar, I send all my correspondence certified. That way I can
20 prove to federal authorities that it receives notices of
21 crimes by members and fails to act each and every time. So
22 most likely, I'm trying to remember now off the top of my
23 head, is that the complaint, the bar's complaint, was
24 answered by me and served on the bar by certified mail. Now
25 I've probably got that tag at home. I've got hundreds if

1 not thousands of tags at home. That's how I catch judges in
2 lies for the record. They claim things like they never
3 received the pleadings when in fact the USPS delivers them
4 straight to their chambers. I've done this in Nevada, I've
5 done this in California, I've done it at the federal level.
6 Judges have a compunction for lying when they don't want to
7 acknowledge pleadings to which are attached overwhelming
8 facts and proof of corporate and special interest fraud.

9 THE COURT: Okay. Well we don't have a copy of
10 that. I'm going to give to this Friday the 25th to file
11 your response. Ms. Dennings, if he doesn't file his
12 response you can file your motion for entry of default. It
13 was due January 11th and the Court does not have a copy of
14 that response. I'll go ahead and set trial dates today and
15 send you to a settlement conference with Judge McElroy. How
16 many days will you need, Ms. Dennings?

17 MS. DENNINGS: Your Honor, I believe that one
18 possibly two days would be sufficient.

19 THE COURT: How many days will you need if this
20 case goes to trial, Mr. Missud?

21 MR. MISSUD: I will probably need at least five.
22 I've got with me at least 30 transcripts. And I can right
23 now prove at least a dozen judges in perjury. Gonzalez in
24 Nevada, Gillie in Nevada, Giorgi, San Francisco Superior
25 Court, Woolard, San Francisco Superior Court, Kline,

1 McGuiness, Pollak, Jenkins, the First District Court of
2 Appeal, Chen, Ryu, Hamilton, Ninth District Court, Bea,
3 Wardlaw, Berzon, in the Ninth Circuit Court of Appeal I also
4 have two, Ritz docketed before the United States Supreme
5 Court.

6 Now, let it be known, since I've already ordered a
7 copy of this hearing is that the State Bar has intentionally
8 filed its initial status conference to interfere my federal
9 whistling blowing in an attempt to relieve of my bar license
10 such that Scottish Rule 8 could be invoked and similar rules
11 could be invoked at the state level because once disbarred
12 all the Courts can ignore all the pleadings and all the
13 evidence and simply make their problems go away.

14 I will need five days to argue my case and get
15 probably 40 transcripts on yet another record overwhelmingly
16 proving to criminal standards, FRCP Rule 9, that judges are
17 paid off to ignore evidence of crimes against the public.

18 THE COURT: Thank you. This case will be set for
19 April 15th through the 19th. I'm going to send you to a
20 settlement conference with Judge McElroy in February, Ms.
21 Yip.

22 MR. MISSUD: Fifteenth through the 19th of?

23 THE COURT: April. Did I not say it, I'm sorry,
24 April.

25 MR. MISSUD: Also, one more matter. I've recently

1 filed -- I think it's a ninth State Bar complaint against
2 Member Hudak of the Carr McClellan Law firm. The bar did
3 send back a post card confirming that I did send in the
4 complaint, yet again by certified mail, because otherwise it
5 would claim it did not receive it. And I think we're in
6 Number 13-10436 is now before the bar.

7 THE COURT: I have jurisdiction over that matter,
8 Mr. Missud. We're only dealing with the 12-0-10026 matter
9 today. When that other matter is before me, I will listen
10 to that matter. Right now we're only setting trial dates on
11 the 12-0-10026 matter. Settlement conference, Ms. Yip.

12 MR. MISSUD: That's fine.

13 THE CLERK: February the 4th at 3:00 p.m.

14 MS. DENNINGS: What was the time?

15 THE COURT: At 3:00 p.m. for an in-person
16 settlement conference with Judge McElroy.

17 MS. DENNINGS: The trial will start at 9:30?

18 THE COURT: 9:30 on April 15th through the 19th.

19 MS. DENNINGS: Thank you.

20 MR. MISSUD: I'll be receiving notices of these
21 electronically as well through the mail I presume.

22 THE COURT: We don't do it electronically. We
23 mail it to your membership record's address.

24 MR. MISSUD: In the past I've also had problems
25 with things not mailed. Judge Mahoney actually did just

1 that with his May 25th status conference pleading. I
2 actually had to go to the clerk to get him to go to the back
3 and unbury the six-page order which was purported to have
4 been mailed but never was. So if at all possible I would
5 appreciate if I could get an electronic copy so that I could
6 get that in my records as positive proof of service.

7 THE COURT: We'll send you a courtesy copy to your
8 e-mail address. Is that the Yahoo address?

9 MR. MISSUD: Yes, that's correct.

10 THE COURT: And then the membership record's
11 address is on San Juan Avenue?

12 MR. MISSUD: Yes, that's correct.

13 THE COURT: We'll mail it there and send an e-mail
14 copy to the Yahoo address. We will come back here on
15 February 11th at 10:00 a.m. in person. If you haven't
16 settled this case by February 11th at 10:00 a.m. I'll give
17 you your pretrial conference date and your pretrial
18 statements due date.

19 MS. DENNINGS: You said the February 11th status
20 conference is in person, your Honor?

21 THE COURT: Yes.

22 MS. DENNINGS: Thank you.

23 THE COURT: Also the settlement conference is in
24 person and of course the trial is in person.

25 MR. MISSUD: And just one more record keeping

1 matter. As I was saying regarding Member Hudak, I've got a
2 witness here right now who is prepared to state that the
3 member lied in official court pleadings which were signed
4 under penalty of perjury. Now, this Bar Court does have
5 jurisdiction when they learn that a member has perjured
6 himself to order an investigation into that member. The
7 members name is Mark Hudak, H-U-D-A-K, from the Carr,
8 McClellan Law Firm. He filed a fraudulent complaint naming
9 Mickey Wong and it is over a fee dispute. I trust that the
10 state will inquire as to why a bar member is lying in
11 official court records. And he is only one of nine such
12 cases that I've presented to the bar for investigation,
13 which fails to act each and every time.

14 THE COURT: As I've mentioned before, Mr. Missud,
15 I do not have jurisdiction over that. I will not hear that
16 claim right now. We will talk again on February 11th after
17 your settlement conference. I want to see your response
18 filed in this court by this Friday. If he doesn't do so,
19 Ms. Dennings, you may file your motion. We're off the
20 record.

21 (Proceedings concluded.)
22
23
24
25

1 CERTIFICATION OF TRANSCRIBER

2 I, Holly Martens, do hereby certify that the
3 foregoing 7-page transcript of proceedings, recorded by
4 digital recording, represents a true and accurate transcript
5 of the hearing in the matter of Patrick Alexandre Missud,
6 Esq., held on January 22, 2013.

7

8

9 Date

Transcriber

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BAR Court Rec 5.108 e

Notice of Bar Member Panel Hear Tx can be
taken

DUPLICATE

STATE BAR COURT

OF THE STATE OF CALIFORNIA

HEARING DEPARTMENT - SAN FRANCISCO

In the Matter of:) Case No. 12-0-10026-LMA
)
PATRICK ALEXANDRE MISSUD, ESQ.,)
)
Respondent.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY M. ARMENDARIZ
MONDAY, FEBRUARY 11, 2013
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105

APPEARANCES:

For the State Bar: ERICA L.M. DENNINGS, ESQ.
The State Bar of California
180 Howard Street
San Francisco, California
94105

For the Respondent: PATRICK ALEXANDRE MISSUD, ESQ.
[REDACTED]
94112

Audio Reporter: Bernadette C.O. Molina

Proceedings recorded by digital recorder; transcript
produced by:

Briggs Reporting Company, Inc.
6336 Greenwich Drive, Suite B
San Diego, California 92122
(310) 410-4151

1 THE COURT: This is the matter of Patrick A.
2 Missud, case number 12-0-10026. Please state your
3 appearances starting with the State Bar.

4 MS. DENNINGS: Erica Dennings, Senior Trial
5 Counsel for the State Bar. Good morning.

6 THE COURT: Good morning.

7 MR. MISSUD: Patrick Missud, In Pro Per,
8 representing myself. Also Title 18 USC 1513 Federal
9 Informant, California CCP 1021.5 Private Attorney General.

10 THE COURT: Good morning. I do have a settlement
11 conference order from Judge McElroy dated February 4th that
12 this matter was not resolved at the settlement conference.
13 So we will go to trial on April 15th through the 19th. I
14 want to see your pretrial statements and proposed exhibits
15 by March 28th. And we will have an in-person pretrial
16 conference on Monday, April 8th at 10:30 a.m.

17 MS. DENNINGS: Your Honor, I'm due to be on
18 vacation out of town that week. Is it possible to do it the
19 -- oh, maybe not -- the previous week or later, the week of
20 the first, or push the pretrial statements back a week and
21 have the pretrial conference -- would that be the week of
22 March 25th?

23 THE COURT: When do you get back from vacation?

24 MS. DENNINGS: The 8th -- well, yes, I'll be out
25 that whole week. I won't be back in the office the week of

1 the 8th.

2 THE COURT: Let's have the pretrial conference on
3 Friday, April 5th at noon. I'm sorry, at 12:30. So we will
4 have trial April 15th through the 19th. We will add more
5 dates at the April 5th pretrial conference if your pretrial
6 statements and proposed exhibits lead me to believe that
7 we'll need more dates. But for now we're set for five days.
8 I want to see those pretrial statements and proposed
9 exhibits by March 28th. And we will have an in-person
10 pretrial conference on April 5th at 12:30 p.m.

11 MS. DENNINGS: That's fine, your Honor.

12 MR. MISSUD: I do have another question. Well
13 actually more or less a statement. I already registered in
14 Federal Court at least 3,000 documents including I believe
15 30 to 50 transcripts and about 1,000 FTC, HUD, SEC, Freedom
16 of Information Act records. Now this Court has represented
17 in the past that it does not receive such pleadings. But
18 I'd like to also call attention to the Court that the State
19 Bar is being represented by Troy Overton and a second state
20 attorney who agreed to receive electronic service of all
21 pleadings. Now will this Court acknowledge that it has
22 received over 3,000 records through the Federal Courts?

23 THE COURT: This Court has no such records.

24 MR. MISSUD: Very good. That's for the record
25 then.

1 Also I've demanded in advance a copy of this
2 transcript. I will this afternoon send in the appropriate
3 fee to procure said transcript. And I presume that it will
4 be supplied as is my right. Will the Court acknowledge that
5 at least?

6 THE COURT: We will have your transcripts ready
7 once you have done the necessary paperwork.

8 MR. MISSUD: Okay, thank you very much.

9 THE COURT: Anything else, Mr. Missud?

10 MR. MISSUD: If the Court has a little time I've
11 brought just a very small sampling of those 3,000 records in
12 the courtroom today. If you like you can read the 190
13 records from the Freedom of Information Act request
14 propounded on the FTC, which events is 44 frauds in 20
15 states by the very entity that initiated this bar complaint
16 to sanction me in 18 USC 1513 retaliatory fashion. Now, the
17 coverup going on and a bunch of judges are involved. So it
18 might expedite things a bit if the Court wanted to peruse
19 some of these documents today.

20 THE COURT: No, thank you, I have plenty to read.
21 So we'll see each other April 5th at the pretrial conference
22 at 12:30 p.m.

23 MR. MISSUD: Okay, thank you.

24 THE COURT: You won't be filing a response in this
25 matter?

1 MR. MISSUD: My response has been filed already in
2 this matter. What exactly are you insinuating?

3 THE COURT: I ordered you to file a response by
4 January 25th. And the Court has not received a response to
5 the Notice of Disciplinary Charges.

6 MR. MISSUD: Actually I did supply that. And
7 Judge McElroy made a copy of it. It's also been filed in
8 Federal Court served on Troy Overton and the other state
9 attorney. Also a copy sent to Ms. Dennings. Carbon copies
10 electronically served to several hundred media contacts as
11 well as the FBI and Department of Justice. So, yes, the Bar
12 Court did receive them.

13 MS. DENNINGS: Your Honor, I thought that at the
14 last status conference he filed it in court. Am I mistaken?

15 THE COURT: We don't have a response.

16 MS. DENNINGS: You don't have anything?

17 THE COURT: We don't have anything filed.

18 MR. MISSUD: All right then for the record I'm
19 going to leave the Court another copy of the response,
20 another response, that it was filed just this morning at
21 7:30 in Federal Racketeering Action C125468 in front of
22 Edward Channa (phonetic).

23 MS. DENNINGS: Mr. Missud, are you clear that the
24 documents that you're referring to in Federal Court do not
25 -- I mean that this is a separate proceeding that you had to

1 file an answer in?

2 MR. MISSUD: Absolutely. This proceeding --
3 actually secondary takes a backseat to the Federal
4 Racketeering Action, which also alleges official corruption
5 by bar agents.

6 THE COURT: Mr. Missud, there was an NBC filed on
7 September 17th with 74 paragraphs. I want a specific
8 admission or denial of each and every single one of those
9 paragraphs. I ordered that response on January 22nd that it
10 be filed by January 25th. This Court has not received that
11 response. I'm going to give you until Friday the 15th. If
12 that response is not filed by Friday the 15th I will use it
13 as aggravation against you if there's some culpability in
14 this matter for failing to obey the Court order for you to
15 file your response to the NBC twice.

16 MS. DENNINGS: Your Honor, can I --

17 MR. MISSUD: Yes, I will refile it and serve it on
18 this Court by certified mail like the last copy, which was
19 federally tracked directly to this building.

20 THE COURT: I want a response to each and every
21 allegation of those 74 paragraphs and a specific admission
22 or denial of each and every paragraph.

23 MR. MISSUD: All right. I can probably find time
24 in my very busy schedule while I'm informing federal
25 authorities of the bar's corruption. But I will definitely

1 try to find time to specifically address each and every
2 retaliatory allegation in the State Bar's complaint.

3 THE COURT: That response was due January 11th.
4 I'm going to give you an extra month. And it's now due
5 February 15th. We're off the record.

6 (Proceedings concluded.)
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1 CERTIFICATION OF TRANSCRIBER

2 I, Holly Martens, do hereby certify that the
3 foregoing 6-page transcript of proceedings, recorded by
4 digital recording, represents a true and accurate transcript
5 of the hearing in the matter of Patrick Alexandre Missud,
6 Esq., held on February 11, 2013.

7
8 3-25-13

9 Date

Holly Martens
Transcriber

PUBLIC MATTER — NOT DESIGNATED FOR PUBLICATION

FILED

OCT 01 2014 *JS*

STATE BAR COURT OF CALIFORNIA

STATE BAR COURT
CLERK'S OFFICE
LOS ANGELES

REVIEW DEPARTMENT

In the Matter of)	Case No. 12-O-10026
)	
PATRICK ALEXANDRE MISSUD,)	OPINION AND ORDER
)	
A Member of the State Bar, No. 219614.)	
)	

This matter concerns Patrick Alexandre Missud's egregious misconduct during his disciplinary proceeding and in connection with several frivolous lawsuits he filed from 2005 through 2011. Due to his abusive litigation tactics, a Nevada state court held him in contempt and issued terminating sanctions, and a federal district court declared him a vexatious litigant.

The hearing judge below found Missud culpable of seven counts of misconduct: (1) maintaining unjust actions; (2) moral turpitude [two counts]; (3) communicating with a represented party; (4) failing to obey court orders [two counts]; and (5) failing to report judicial sanctions. The judge also found four factors in aggravation and none in mitigation. Ultimately, the judge recommended that Missud be disbarred.

Missud has appealed without identifying the relief he seeks. Rather than making any good faith argument for modifying the hearing judge's decision, he claims the judge "lied" in her decision and "ignored all facts and laws to railroad" him. The Office of the Chief Trial Counsel of the State Bar of California (OCTC) urges that we recommend Missud be disbarred. We affirm the hearing judge's disbarment recommendation.

I. REQUEST FOR SUMMARY DISMISSAL

OCTC requests that we summarily dismiss Missud's appeal as frivolous and brought for improper reasons. OCTC correctly observes that the opening brief is a diatribe of bullying threats and nonsensical insults, devoid of legally cognizable or even rational arguments. The reply brief is the same, beginning with the declaration: "Missud's been a Federal Informant for four years." Missud's stated purpose in bringing the appeal and seeking oral argument — "to expedite Bar Officials' indictments" — is both improper and irrelevant to whether we should affirm the hearing judge's disbarment recommendation. Moreover, he has waived any claim of factual error by failing to specify particular factual findings in dispute and failing to point to the record in support thereof. (Rules Proc. of State Bar, rule 5.152(C).)

While we agree with OCTC that Missud's appeal is frivolous, we review his case under our duty to independently examine the record. (Cal. Rules of Court, rule 9.12.) However, we consider as aggravation Missud's improper basis for bringing his appeal and the wildly inappropriate invective that permeates all his submissions to the State Bar Court, such as:¹

- "Don't bother filing anything with C.J. Cantil-Sakauye. She'll just put it in the 'circular file' because her job is to rubberstamp everything the Member-run Bar does, which primarily include\$ furthering Bar Member\$' financial predation of a potential 38 Million \$alifornians."
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- “Antonin and Clarence are likewise good lap dog\$ which do as told. For their masters, they run through obstacle course, do back flips, and jump through burning hoops of fire.”

II. FACTUAL BACKGROUND

A. Missud Filed Eight Frivolous Lawsuits

Missud has been a member of the State Bar of California since 2002. His dissatisfaction with D. R. Horton, Inc. (Horton) began in 2004, when he and his wife purchased a Nevada home from the company. The couple had the option to finance the purchase through Horton’s preferred lender, DHI Mortgage Company, LTD (DHI), only if the home would be a primary residence, not a rental. Because Horton understood Missud intended to use the home as a rental, Horton required him to use another lender. Missud believed himself wronged by this and other aspects of the purchase process and began a crusade first against Horton, and later, the judiciary. To start, he repeatedly and unsuccessfully sued Horton, DHI, and six of Horton’s officers and

employees and contacted them about his dispute with Horton, even after their counsel specifically requested that he not do so. The first five lawsuits were:

<i>Filed</i>	<i>Case Name / Cause of Action</i>	<i>Outcome</i>
8/22/05	<i>Missud v. D.R. Horton et al.</i> (Super. Ct. S.F. City and County, 2005, No. CGC [REDACTED]). Complaint for infliction of emotional distress.	Court sustained motion to quash service of summons and complaint; dismissed without prejudice on November 14, 2005.
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10/23/06	<i>Missud and Julie Missud v. D.R. Horton et al.</i> (Super. Ct. S.F. City and County, 2006, No. CGC 06-457207). Complaint for fraud.	Dismissed due to lack of personal jurisdiction as to all defendants on February 20, 2007.
5/17/07	<i>Missud and Julie Missud v. D.R. Horton et al.</i> (N.D. Cal. No. 07-cv-2625-SBA). Complaint in federal court for breach of contract and fraud.	Dismissed for lack of personal jurisdiction, forum non conveniens, and statute of limitations on October 30, 2007 (the court's docket lists Missud as counsel for his wife, Julie Missud).
11/13/07	<i>Missud and Julie Missud v. D.R. Horton et al.</i> (Nevada County, Nevada, District Court Case No. A551662). Complaint for breach of contract, deceptive trade practices, defamation, and personal injury.	Court determined Missud was in contempt of court and should be sanctioned for abusive litigation tactics; case dismissed on October 4, 2010; Nevada Supreme Court affirmed dismissal.

Missud then initiated another round of lawsuits. This time, he asserted conclusory allegations of a conspiracy between Horton and numerous state and federal judges and magistrates, private neutrals, state and federal public officials and agencies, and opposing

counsel.² In the complaints, Missud listed unfavorable decisions against him by the defendants as evidence of collusion. Those three lawsuits were:

<i>Filed</i>	<i>Case Name / Cause of Action</i>	<i>Outcome</i>
1/19/10	<i>Missud v. D.R. Horton et al.</i> (N.D. Cal. No. 10-cv-235-SI). Claim in federal district court asserting Horton conspired with and purchased cooperation from each defendant.	Court dismissed claims against federal judges on grounds of absolute federal immunity and dismissed the remaining claims against other defendants without prejudice based on Missud's voluntary dismissal on April 2, 2010.
4/18/11	<i>Missud v. San Francisco Superior Court et al.</i> (N.D. Cal. No. 11-cv-1856-PJH). Complaint in federal district court asserting fraud in superior court's alternate dispute resolution system.	Dismissed with prejudice because claims were "implausible and/or woefully deficient" and amendment of complaint would be futile in light of judicial and Eleventh Amendment immunities on February 13, 2012; appeal dismissed by Ninth Circuit Court of Appeals.
7/20/11	<i>Missud v. State of Nevada, D.R. Horton et al.</i> (N.D. Cal. No. 11-cv-3567-EMC). Complaint in federal district court alleging public corruption and civil rights violations.	Court declared Missud a vexatious litigant and dismissed the action on March 22, 2012.

B. Two Courts Found Missud's Litigation Conduct Objectionable³

1. Nevada State Court Held Missud In Contempt

More than two years into the Nevada state court litigation, Horton and DHI brought the following motions against Missud: (1) for terminating sanctions and for costs and fees for

² Missud filed suit against five federal district court judges, two San Francisco Superior Court judges and a court-appointed mediator, a Nevada state district court judge and the discovery commissioner of Nevada's Eighth Judicial District Court of County of Clark, seven justices of the Supreme Court of Nevada, a special magistrate from South Carolina, and numerous California, Nevada, and Texas state officials and regulators. He also sued the State Bars of California, Nevada and Texas, the San Francisco Superior Court and ADR Services, Inc., the State of Nevada, the Eighth Judicial District Court of County of Clark, the Nevada Supreme Court, and the Securities and Exchange Commission and SEC Chair Mary L. Schapiro.

³ Generally, we give a strong presumption of validity to a civil court's findings if supported by substantial evidence. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 947.) We find the civil court findings discussed below to be supported by substantial evidence.

discovery abuses and for personal threats against defense counsel; and (2) for a protective order to preclude Missud's continued posting of pleadings, discovery, and correspondence regarding the case on his websites.⁴ The sanctions motion was set aside as the parties stipulated to, and the court issued, a protective order (Stipulated Protective Order). As part of the Stipulated Protective Order, Missud agreed to immediately remove facts about the case from his various websites and to cease making attacks on Horton and the other defendants, their counsel, and the Nevada judiciary. Later, after a full evidentiary hearing, the court found that Missud had "knowingly and intentionally" violated the Stipulated Protective Order and that he was "knowingly and intentionally" in contempt of court. The court also found that he admitted to sending "threatening communications to witnesses and counsel in connection with this litigation." Based on these findings, the court found Missud in contempt, awarded defendants \$48,691.97 in fees and costs, and dismissed the case. Missud has not paid any portion of the fees.

2. Federal District Court Declared Missud a Vexatious Litigant

In the federal case pending before District Court Judge Edward Chen, Horton filed a motion to declare Missud a vexatious litigant and to impose a pre-filing order against him.⁵ The

⁴ Missud created and maintained numerous websites: drhortonfraud.com, drhortonhomelemon.info, drhortonhomeofhorrors.com, drhortonhomesstink.com, donaltdomnitzisacrook.com, drhortonsucks.info, drhortonsjudges.com, and drhortoncouldhavekilledme.com. These sites targeted Horton and public officials and made extrajudicial and potentially prejudicial statements about pending litigation, Horton's counsel, and its employees.

⁵ Title 28 United States Code Section 1651(a) provides federal district courts with the inherent power to enter pre-filing orders against vexatious litigants. A pre-filing order is appropriate if: (1) plaintiff is given adequate notice and an opportunity to oppose the order; (2) the court compiles an adequate record for review; (3) the court makes substantive findings as to the frivolous or harassing nature of the litigant's actions; and (4) the order is narrowly tailored. (*Molski v. Evergreen Dynasty Corp.* (9th Cir. 2007) 500 F.3d 1047, 1057.)

court considered orders and filings from eight actions between Missud and Horton⁶ and made substantive findings as to the frivolous and harassing nature of Missud's actions.

First, the court found Missud's claims against Horton lacked "any credible factual basis," that he refused to comply with court rules and procedures in making his claims, and that his abusive tactics in the pending federal case were similar to those found by the Nevada state court. Second, the court concluded that Missud "appear[ed] to be motivated more by obtaining press for himself and imposing expense on Horton than by any legitimate claim for relief," citing Missud's communications with the press and a fax to Horton counsel stating his goal was to make things "horrendously expensive" for Horton. Third, the court found as harassment Missud's repeated attempts to sue Horton in California despite multiple court rulings that the company is not subject to personal jurisdiction here. Fourth, the court found he demonstrated "intent to continue frivolously litigating against [Horton] and others in spite of judicial rulings against him" and to continue harassing Horton and its affiliates and employees. Based on these findings, Judge Chen declared Missud a vexatious litigant and ordered him to provide a copy of any complaint against Horton for a pre-filing determination of whether the complaint should be accepted for filing.

C. Missud's Conduct During His Disciplinary Proceedings Was Outrageous

Missud has conducted himself without respect toward these disciplinary proceedings. In addition to the frivolous nature of his appeal, he proclaimed in his opening statement at trial: "There is no doubt that criminality runs rampant throughout the judiciary and that this Bar Court trial is being railroaded to lift my license." Then, over the course of his five-day hearing, he

⁶ The court reviewed materials from seven of the eight cases identified above. We did not consider the record for *Missud v. San Francisco Superior Court, et al.* (N.D. Cal. No. 11-cv-1856-PJH), as Horton was not a party to that litigation. The court also reviewed materials from a California state court suit initiated by Horton to domesticate the Nevada state court judgment in California.

failed utterly to refute the charges against him and, instead, spent hours railing against Horton, accusing judges and public officials, by name, of corruption, and referring to one judge as an "asshole."⁷ Similarly, without any basis, Missud accused three of OCTC's four witnesses⁸ of lying, insisted that the hearing judge initiate State Bar investigations against them and other attorneys, and threatened to have one witness criminally investigated. Finally, he threatened the State Bar prosecutor and State Bar Court judges with criminal prosecution.

III. CULPABILITY

A. Counts One and Two

OCTC charged Missud with maintaining an unjust action in violation of Business and Professions Code section 6068, subdivision (c)⁹ (Count One), and committing moral turpitude in violation of section 6106¹⁰ (Count Two). The hearing judge found Missud culpable on both counts. The two counts, however, are based on the same alleged vexatious litigation conduct. We find Missud committed moral turpitude, and dismiss Count One as duplicative. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060 [little, if any, purpose is served by duplicate allegations of misconduct in State Bar proceedings].)

The record clearly and convincingly establishes that Missud has committed "serious, habitual abuse of the judicial system," which constitutes moral turpitude. (*In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, 186.) First, each of his lawsuits

⁷ Missud used profanity frequently throughout his disciplinary trial.

⁸ OCTC's four witnesses were counsel for defendants: (1) James Wagstaffe for court-appointed mediator, Michael Carbone, (2) Horton's Nevada counsel, Joel Odou; (3) Horton's California counsel, Leonard Marquez, and (4) Colleen Ryan for ADR Services Inc.

⁹ Business and Professions Code section 6068, subdivision (c), provides that an attorney must maintain only those actions or proceedings that appear "legal or just." All further references to sections are to the Business and Professions Code.

¹⁰ Section 6106 makes it cause for disbarment or suspension for an attorney to commit any act involving moral turpitude, dishonesty or corruption.

was fundamentally flawed due to personal jurisdiction issues, the lack of cogent legal claims or factual support, and/or the protection of immunities for certain defendants. Second, as observed by the judges involved, Missud routinely flouted pleading requirements, violated local court and procedural rules, brought frivolous appeals, flooded the courts with dozens of requests for judicial notice totaling thousands of pages, and engaged in abusive discovery and motions practice. For example, a federal district court judge stated: “the court has attempted — as have the defendants — to analyze the substance of plaintiff’s allegations, only to conclude that plaintiff’s stated claims are implausible and/or woefully deficient.” And a California Court of Appeal found: “Missud’s briefs contain no comprehensible legal argument as to why the order he challenges should be reversed.”

B. Count Three

The hearing judge found Missud culpable of violating rule 2-100(A) of the Rules of Professional Conduct.¹¹ We dismiss this count because clear and convincing evidence does not establish that Missud was representing a client, as opposed to himself only, when he repeatedly and knowingly communicated with Horton’s employees regarding the subject of the litigation. Nevertheless, this conduct constitutes harassment, and we consider it in aggravation.

C. Counts Four and Five

OCTC charged Missud with failure to obey a court order in violation of section 6103¹² (Count Four), and with committing moral turpitude in violation of section 6106 (Count Five) by deliberately violating the Stipulated Protective Order in the Nevada litigation.

¹¹ Rule 2-100(A) of the Rules of Professional Conduct provides: “While representing a client, a member shall not communicate directly or indirectly about the subject matter of the representation with a party the member knows to be represented by another lawyer in the matter, unless the member has the consent of the other lawyer.” Missud represented his wife in one of the lawsuits he filed against Horton.

¹² Section 6103 prohibits an attorney from willfully disobeying a court order “requiring him to do or forbear an act connected with or in the course of his profession . . .”

The hearing judge found culpability on both counts. We dismiss Count Four because Missud appeared as a private litigant in the Nevada case, and no violation of section 6103 occurs where an attorney's noncompliance is not in the course of his profession. (*Maltaman v. State Bar, supra*, 43 Cal.3d at p. 950.) Noncompliance with a court order, however, constitutes moral turpitude if the attorney acted in bad faith, *even* in his private capacity. (*Id.* at pp. 950-951.) Missud's repeated violations of the Stipulated Protective Order, "committed willfully and in bad faith, suggest a lapse of character and a disrespect for the legal system [and] bear[s] directly on [Missud's] fitness to practice law" and constitute moral turpitude. (*Id.* at p. 951.) We, therefore, affirm the hearing judge's culpability finding on Count Five.

D. Count Six

OCTC charged Missud with failure to obey a court order by not paying any portion of the \$48,691.97 sanctions award. (§ 6103.) We dismiss this count because his ongoing failure to pay the sanctions order is in his private capacity. (*Maltaman v. State Bar, supra*, 43 Cal.3d at p. 950.) Instead, we consider this misconduct in aggravation.

E. Count Seven

Although the hearing judge found Missud culpable of Count Seven for failing to report sanctions to the State Bar in violation of section 6068, subdivision (o)(3), OCTC concedes it did not prove this charge. We agree and dismiss this count with prejudice.

IV. AGGRAVATION AND MITIGATION¹³

We find five factors in aggravation and assign significant weight to each factor. First, Missud committed multiple acts of misconduct. (Std. 1.5(b).) Second, he demonstrated a pattern of misconduct by repeatedly engaging in vexatious litigation for six years. (Std. 1.5(c); *Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149, fn. 14, citing *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367 [most serious instances of repeated misconduct over prolonged period of time characterized as pattern of misconduct].)

Third, Missud significantly harmed the public and the administration of justice. (Std. 1.5(f).) Not only did he force Horton and the other defendants to spend time and money defending themselves against baseless claims, but he also clogged the court system for manifestly improper purposes, thereby wasting scarce judicial resources. For example, Horton's California counsel Leonard Marquez testified: "Our attorney's fees and costs were substantial, responding to the extrajudicial activities of [Missud], counseling our clients on those matters, making the complaints to the State Bar, those all obviously took an incredible amount of time and effort." Marquez also testified that Missud's communications became increasingly harassing and overtly threatening, prompting enough concern that they were reported to the Oakland Police Department and the Federal Bureau of Investigation. Horton's Nevada counsel Joel Odou testified that one of his employees: "was basically an office person who was completely terrified that [Missud] was going to find out where she lived and harass her."

¹³ The appropriate discipline is determined in light of the relevant circumstances, including aggravating and mitigating factors. (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828.) OCTC must establish aggravation by clear and convincing evidence (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.5 [hereafter standards]), while Missud has the same burden to prove mitigating circumstances (std. 1.6). These standards reflect modifications effective January 1, 2014. Since this case was submitted for ruling in 2014, the new standards apply.

Fourth, Missud's misconduct is aggravated by his utter failure to accept responsibility for his actions. (Std. 1.5(g); *In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [while law does not require Missud to be falsely penitent, it "does require that [he] accept responsibility for his acts and come to grips with his culpability. [Citation.]") And fifth, Missud's case is aggravated by his display of abusive and disruptive conduct throughout his disciplinary proceedings. (Std. 1.5(h) [lack of cooperation with State Bar during disciplinary proceedings]; see *Lebbos v. State Bar* (1991) 53 Cal.3d 37, 45-46 ["[I]t is a violation of professional standards for counsel to indulge in offensive and demeaning remarks about judges in a spirit of reckless disregard for the truth"].)

We adopt the hearing judge's finding that Missud did not prove any factors in mitigation.

V. DISCIPLINE¹⁴

Standard 2.7 provides that "Disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law." We are guided by the Supreme Court's reasoning in *Lebbos v. State Bar*, *supra*, 53 Cal.3d at p. 45, and find it applies four-square in this proceeding: "Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. [Citations.] [Missud's] pattern of serious, recurrent misconduct is a factor in aggravation. [Citation.] Further, unrestrained personal abuse and disruptive behavior characterized [Missud's] conduct during the State Bar proceedings. [Citation.] Failure to cooperate with the State Bar during disciplinary proceedings itself may support severe discipline. [Citation.] It is evident that [Missud] has no appreciation that [his] method of

¹⁴ The purpose of attorney discipline is not to punish the attorney but to protect the public, the courts, and the legal profession. (Std. 1.1.) Though both standards 2.7 and 2.15 apply, we apply standard 2.7 as it calls for the more severe sanctions. (See std. 1.7(a).)

practicing law is totally at odds with the professional standards of this state. Disbarment is thus necessary to protect the public, preserve confidence in the profession, and maintain high professional standards. [Citation.]”

Missud’s actions demonstrate that he is unfit to practice law. Disbarment is the only appropriate discipline given the magnitude of his misconduct; his disregard of professional standards; his disdain for the judiciary; the harm caused to Horton, the courts, and the public; his indifference to such harm; his demonstrated and unrepentant intent to continue his misconduct; and his deplorable behavior before the State Bar Court.

VI. RECOMMENDATION

We therefore recommend that Patrick Alexandre Missud be disbarred and that his name be stricken from the roll of attorneys licensed to practice in this state. We further recommend that he be ordered to comply with the provisions of rule 9.20 of the California Rules of Court and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court’s order in this matter. Finally, we recommend that the State Bar be awarded costs in accordance with section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

VII. ORDER OF INACTIVE ENROLLMENT

Because the hearing judge recommended disbarment, she properly ordered Missud to be involuntarily enrolled as an inactive member of the State Bar, as required by section 6007, subdivision (c)(4). The hearing judge’s order became effective on July 4, 2013, and Missud has

been on involuntary inactive enrollment since that time, and he will remain on involuntary inactive enrollment pending the final disposition of this proceeding.

PURCELL, P. J.

I CONCUR:*

HONN, J.

* All other review and hearing judges appointed by the Supreme Court are disqualified under Code of Civil Procedure section 170.1(a)(6)(A)(i) or rule 5.155(F). Accordingly, this appeal was heard en banc with two judges constituting a quorum, pursuant to rule 5.155(D).

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on October 1, 2014, I deposited a true copy of the following document(s):

OPINION AND ORDER FILED OCTOBER 1, 2014

in a sealed envelope for collection and mailing on that date as follows:

- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:


PATRICK A. MISSUD



- [X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

DONALD R. STEEDMAN, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on October 1, 2014.



Jasmine Guladzhyan
Case Administrator
State Bar Court

Filed October 1, 2014

STATE BAR COURT OF CALIFORNIA
REVIEW DEPARTMENT

In the Matter of)	Case No. 12-O-10026
)	
PATRICK ALEXANDRE MISSUD,)	OPINION AND ORDER
)	
A Member of the State Bar, No. 219614.)	
<hr/>)	

This matter concerns Patrick Alexandre Missud’s egregious misconduct during his disciplinary proceeding and in connection with several frivolous lawsuits he filed from 2005 through 2011. Due to his abusive litigation tactics, a Nevada state court held him in contempt and issued terminating sanctions, and a federal district court declared him a vexatious litigant.

The hearing judge below found Missud culpable of seven counts of misconduct: (1) maintaining unjust actions; (2) moral turpitude [two counts]; (3) communicating with a represented party; (4) failing to obey court orders [two counts]; and (5) failing to report judicial sanctions. The judge also found four factors in aggravation and none in mitigation. Ultimately, the judge recommended that Missud be disbarred.

Missud has appealed without identifying the relief he seeks. Rather than making any good faith argument for modifying the hearing judge’s decision, he claims the judge “lied” in her decision and “ignored all facts and laws to railroad” him. The Office of the Chief Trial Counsel of the State Bar of California (OCTC) urges that we recommend Missud be disbarred. We affirm the hearing judge’s disbarment recommendation.

I. REQUEST FOR SUMMARY DISMISSAL

OCTC requests that we summarily dismiss Missud's appeal as frivolous and brought for improper reasons. OCTC correctly observes that the opening brief is a diatribe of bullying threats and nonsensical insults, devoid of legally cognizable or even rational arguments. The reply brief is the same, beginning with the declaration: "Missud's been a Federal Informant for four years." Missud's stated purpose in bringing the appeal and seeking oral argument — "to expedite Bar Officials' indictments" — is both improper and irrelevant to whether we should affirm the hearing judge's disbarment recommendation. Moreover, he has waived any claim of factual error by failing to specify particular factual findings in dispute and failing to point to the record in support thereof. (Rules Proc. of State Bar, rule 5.152(C).)

While we agree with OCTC that Missud's appeal is frivolous, we review his case under our duty to independently examine the record. (Cal. Rules of Court, rule 9.12.) However, we consider as aggravation Missud's improper basis for bringing his appeal and the wildly inappropriate invective that permeates all his submissions to the State Bar Court, such as:¹

- "Don't bother filing anything with C.J. Cantil-Sakauye. She'll just put it in the 'circular file' because her job is to rubberstamp everything the Member-run Bar does, which primarily include\$ furthering Bar Member\$' financial predation of a potential 38 Million californians."
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II. FACTUAL BACKGROUND

A. Missud Filed Eight Frivolous Lawsuits

Missud has been a member of the State Bar of California since 2002. His dissatisfaction with D. R. Horton, Inc. (Horton) began in 2004, when he and his wife purchased a Nevada home from the company. The couple had the option to finance the purchase through Horton’s preferred lender, DHI Mortgage Company, LTD (DHI), only if the home would be a primary residence, not a rental. Because Horton understood Missud intended to use the home as a rental, Horton required him to use another lender. Missud believed himself wronged by this and other aspects of the purchase process and began a crusade first against Horton, and later, the judiciary. To start, he repeatedly and unsuccessfully sued Horton, DHI, and six of Horton’s officers and

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8/22/05	<i>Missud v. D.R. Horton et al.</i> (Super. Ct. S.F. City and County, 2005, No. CGC 05-444247). Complaint for infliction of emotional distress.	Court sustained motion to quash service of summons and complaint; dismissed without prejudice on November 14, 2005.
12/9/05	Refiled <i>Missud v. D.R. Horton et al.</i> (Super. Ct. S.F. City and County, 2005, No. CGC 05-447499). Refiled claim for emotional distress and property damage.	Dismissed without prejudice due to lack of personal jurisdiction on April 25, 2006 (as to Horton) and remaining defendants on January 11, 2007.
10/23/06	<i>Missud and Julie Missud v. D.R. Horton et al.</i> (Super. Ct. S.F. City and County, 2006, No. CGC 06-457207). Complaint for fraud.	Dismissed due to lack of personal jurisdiction as to all defendants on February 20, 2007.
5/17/07	<i>Missud and Julie Missud v. D.R. Horton et al.</i> (N.D. Cal. No. 07-cv-2625-SBA). Complaint in federal court for breach of contract and fraud.	Dismissed for lack of personal jurisdiction, forum non conveniens, and statute of limitations on October 30, 2007 (the court's docket lists Missud as counsel for his wife, Julie Missud).
11/13/07	<i>Missud and Julie Missud v. D.R. Horton et al.</i> (Nevada County, Nevada, District Court Case No. A551662). Complaint for breach of contract, deceptive trade practices, defamation, and personal injury.	Court determined Missud was in contempt of court and should be sanctioned for abusive litigation tactics; case dismissed on October 4, 2010; Nevada Supreme Court affirmed dismissal.

Missud then initiated another round of lawsuits. This time, he asserted conclusory allegations of a conspiracy between Horton and numerous state and federal judges and magistrates, private neutrals, state and federal public officials and agencies, and opposing

counsel.² In the complaints, Missud listed unfavorable decisions against him by the defendants as evidence of collusion. Those three lawsuits were:

<i>Filed</i>	<i>Case Name / Cause of Action</i>	<i>Outcome</i>
1/19/10	<i>Missud v. D.R. Horton et al.</i> (N.D. Cal. No. 10-cv-235-SI). Claim in federal district court asserting Horton conspired with and purchased cooperation from each defendant.	Court dismissed claims against federal judges on grounds of absolute federal immunity and dismissed the remaining claims against other defendants without prejudice based on Missud's voluntary dismissal on April 2, 2010.
4/18/11	<i>Missud v. San Francisco Superior Court et al.</i> (N.D. Cal. No. 11-cv-1856-PJH). Complaint in federal district court asserting fraud in superior court's alternate dispute resolution system.	Dismissed with prejudice because claims were "implausible and/or woefully deficient" and amendment of complaint would be futile in light of judicial and Eleventh Amendment immunities on February 13, 2012; appeal dismissed by Ninth Circuit Court of Appeals.
7/20/11	<i>Missud v. State of Nevada, D.R. Horton et al.</i> (N.D. Cal. No. 11-cv-3567-EMC). Complaint in federal district court alleging public corruption and civil rights violations.	Court declared Missud a vexatious litigant and dismissed the action on March 22, 2012.

B. Two Courts Found Missud's Litigation Conduct Objectionable³

1. Nevada State Court Held Missud In Contempt

More than two years into the Nevada state court litigation, Horton and DHI brought the following motions against Missud: (1) for terminating sanctions and for costs and fees for

² Missud filed suit against five federal district court judges, two San Francisco Superior Court judges and a court-appointed mediator, a Nevada state district court judge and the discovery commissioner of Nevada's Eighth Judicial District Court of County of Clark, seven justices of the Supreme Court of Nevada, a special magistrate from South Carolina, and numerous California, Nevada, and Texas state officials and regulators. He also sued the State Bars of California, Nevada and Texas, the San Francisco Superior Court and ADR Services, Inc., the State of Nevada, the Eighth Judicial District Court of County of Clark, the Nevada Supreme Court, and the Securities and Exchange Commission and SEC Chair Mary L. Schapiro.

³ Generally, we give a strong presumption of validity to a civil court's findings if supported by substantial evidence. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 947.) We find the civil court findings discussed below to be supported by substantial evidence.

discovery abuses and for personal threats against defense counsel; and (2) for a protective order to preclude Missud's continued posting of pleadings, discovery, and correspondence regarding the case on his websites.⁴ The sanctions motion was set aside as the parties stipulated to, and the court issued, a protective order (Stipulated Protective Order). As part of the Stipulated Protective Order, Missud agreed to immediately remove facts about the case from his various websites and to cease making attacks on Horton and the other defendants, their counsel, and the Nevada judiciary. Later, after a full evidentiary hearing, the court found that Missud had "knowingly and intentionally" violated the Stipulated Protective Order and that he was "knowingly and intentionally" in contempt of court. The court also found that he admitted to sending "threatening communications to witnesses and counsel in connection with this litigation." Based on these findings, the court found Missud in contempt, awarded defendants \$48,691.97 in fees and costs, and dismissed the case. Missud has not paid any portion of the fees.

2. Federal District Court Declared Missud a Vexatious Litigant

In the federal case pending before District Court Judge Edward Chen, Horton filed a motion to declare Missud a vexatious litigant and to impose a pre-filing order against him.⁵ The

⁴ Missud created and maintained numerous websites: drhortonfraud.com, drhortonhomelemon.info, drhortonhomeofhorrors.com, drhortonhomesstink.com, donaltdomnitzisacrook.com, drhortonsucks.info, drhortonsjudges.com, and drhortoncouldhavekilledme.com. These sites targeted Horton and public officials and made extrajudicial and potentially prejudicial statements about pending litigation, Horton's counsel, and its employees.

⁵ Title 28 United States Code Section 1651(a) provides federal district courts with the inherent power to enter pre-filing orders against vexatious litigants. A pre-filing order is appropriate if: (1) plaintiff is given adequate notice and an opportunity to oppose the order; (2) the court compiles an adequate record for review; (3) the court makes substantive findings as to the frivolous or harassing nature of the litigant's actions; and (4) the order is narrowly tailored. (*Molski v. Evergreen Dynasty Corp.* (9th Cir. 2007) 500 F.3d 1047, 1057.)

court considered orders and filings from eight actions between Missud and Horton⁶ and made substantive findings as to the frivolous and harassing nature of Missud's actions.

First, the court found Missud's claims against Horton lacked "any credible factual basis," that he refused to comply with court rules and procedures in making his claims, and that his abusive tactics in the pending federal case were similar to those found by the Nevada state court. Second, the court concluded that Missud "appear[ed] to be motivated more by obtaining press for himself and imposing expense on Horton than by any legitimate claim for relief," citing Missud's communications with the press and a fax to Horton counsel stating his goal was to make things "horrendously expensive" for Horton. Third, the court found as harassment Missud's repeated attempts to sue Horton in California despite multiple court rulings that the company is not subject to personal jurisdiction here. Fourth, the court found he demonstrated "intent to continue frivolously litigating against [Horton] and others in spite of judicial rulings against him" and to continue harassing Horton and its affiliates and employees. Based on these findings, Judge Chen declared Missud a vexatious litigant and ordered him to provide a copy of any complaint against Horton for a pre-filing determination of whether the complaint should be accepted for filing.

C. Missud's Conduct During His Disciplinary Proceedings Was Outrageous

Missud has conducted himself without respect toward these disciplinary proceedings. In addition to the frivolous nature of his appeal, he proclaimed in his opening statement at trial: "There is no doubt that criminality runs rampant throughout the judiciary and that this Bar Court trial is being railroaded to lift my license." Then, over the course of his five-day hearing, he

⁶ The court reviewed materials from seven of the eight cases identified above. We did not consider the record for *Missud v. San Francisco Superior Court, et al.* (N.D. Cal. No. 11-cv-1856-PJH), as Horton was not a party to that litigation. The court also reviewed materials from a California state court suit initiated by Horton to domesticate the Nevada state court judgment in California.

failed utterly to refute the charges against him and, instead, spent hours railing against Horton, accusing judges and public officials, by name, of corruption, and referring to one judge as an “asshole.”⁷ Similarly, without any basis, Missud accused three of OCTC’s four witnesses⁸ of lying, insisted that the hearing judge initiate State Bar investigations against them and other attorneys, and threatened to have one witness criminally investigated. Finally, he threatened the State Bar prosecutor and State Bar Court judges with criminal prosecution.

III. CULPABILITY

A. Counts One and Two

OCTC charged Missud with maintaining an unjust action in violation of Business and Professions Code section 6068, subdivision (c)⁹ (Count One), and committing moral turpitude in violation of section 6106¹⁰ (Count Two). The hearing judge found Missud culpable on both counts. The two counts, however, are based on the same alleged vexatious litigation conduct. We find Missud committed moral turpitude, and dismiss Count One as duplicative. (*Bates v. State Bar* (1990) 51 Cal.3d 1056, 1060 [little, if any, purpose is served by duplicate allegations of misconduct in State Bar proceedings].)

The record clearly and convincingly establishes that Missud has committed “serious, habitual abuse of the judicial system,” which constitutes moral turpitude. (*In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179, 186.) First, each of his lawsuits

⁷ Missud used profanity frequently throughout his disciplinary trial.

⁸ OCTC’s four witnesses were counsel for defendants: (1) James Wagstaffe for court-appointed mediator, Michael Carbone, (2) Horton’s Nevada counsel, Joel Odou; (3) Horton’s California counsel, Leonard Marquez, and (4) Colleen Ryan for ADR Services Inc.

⁹ Business and Professions Code section 6068, subdivision (c), provides that an attorney must maintain only those actions or proceedings that appear “legal or just.” All further references to sections are to the Business and Professions Code.

¹⁰ Section 6106 makes it cause for disbarment or suspension for an attorney to commit any act involving moral turpitude, dishonesty or corruption.

was fundamentally flawed due to personal jurisdiction issues, the lack of cogent legal claims or factual support, and/or the protection of immunities for certain defendants. Second, as observed by the judges involved, Missud routinely flouted pleading requirements, violated local court and procedural rules, brought frivolous appeals, flooded the courts with dozens of requests for judicial notice totaling thousands of pages, and engaged in abusive discovery and motions practice. For example, a federal district court judge stated: “the court has attempted — as have the defendants — to analyze the substance of plaintiff’s allegations, only to conclude that plaintiff’s stated claims are implausible and/or woefully deficient.” And a California Court of Appeal found: “Missud’s briefs contain no comprehensible legal argument as to why the order he challenges should be reversed.”

B. Count Three

The hearing judge found Missud culpable of violating rule 2-100(A) of the Rules of Professional Conduct.¹¹ We dismiss this count because clear and convincing evidence does not establish that Missud was representing a client, as opposed to himself only, when he repeatedly and knowingly communicated with Horton’s employees regarding the subject of the litigation. Nevertheless, this conduct constitutes harassment, and we consider it in aggravation.

C. Counts Four and Five

OCTC charged Missud with failure to obey a court order in violation of section 6103¹²(Count Four), and with committing moral turpitude in violation of section 6106 (Count Five) by deliberately violating the Stipulated Protective Order in the Nevada litigation.

¹¹ Rule 2-100(A) of the Rules of Professional Conduct provides: “While representing a client, a member shall not communicate directly or indirectly about the subject matter of the representation with a party the member knows to be represented by another lawyer in the matter, unless the member has the consent of the other lawyer.” Missud represented his wife in one of the lawsuits he filed against Horton.

¹² Section 6103 prohibits an attorney from willfully disobeying a court order “requiring him to do or forbear an act connected with or in the course of his profession . . .”

The hearing judge found culpability on both counts. We dismiss Count Four because Missud appeared as a private litigant in the Nevada case, and no violation of section 6103 occurs where an attorney's noncompliance is not in the course of his profession. (*Maltaman v. State Bar, supra*, 43 Cal.3d at p. 950.) Noncompliance with a court order, however, constitutes moral turpitude if the attorney acted in bad faith, *even* in his private capacity. (*Id.* at pp. 950-951.) Missud's repeated violations of the Stipulated Protective Order, "committed willfully and in bad faith, suggest a lapse of character and a disrespect for the legal system [and] bear[s] directly on [Missud's] fitness to practice law" and constitute moral turpitude. (*Id.* at p. 951.) We, therefore, affirm the hearing judge's culpability finding on Count Five.

D. Count Six

OCTC charged Missud with failure to obey a court order by not paying any portion of the \$48,691.97 sanctions award. (§ 6103.) We dismiss this count because his ongoing failure to pay the sanctions order is in his private capacity. (*Maltaman v. State Bar, supra*, 43 Cal.3d at p. 950.) Instead, we consider this misconduct in aggravation.

E. Count Seven

Although the hearing judge found Missud culpable of Count Seven for failing to report sanctions to the State Bar in violation of section 6068, subdivision (o)(3), OCTC concedes it did not prove this charge. We agree and dismiss this count with prejudice.

IV. AGGRAVATION AND MITIGATION¹³

We find five factors in aggravation and assign significant weight to each factor. First, Missud committed multiple acts of misconduct. (Std. 1.5(b).) Second, he demonstrated a pattern of misconduct by repeatedly engaging in vexatious litigation for six years. (Std. 1.5(c); *Levin v. State Bar* (1989) 47 Cal.3d 1140, 1149, fn. 14, citing *Lawhorn v. State Bar* (1987) 43 Cal.3d 1357, 1367 [most serious instances of repeated misconduct over prolonged period of time characterized as pattern of misconduct].)

Third, Missud significantly harmed the public and the administration of justice. (Std. 1.5(f).) Not only did he force Horton and the other defendants to spend time and money defending themselves against baseless claims, but he also clogged the court system for manifestly improper purposes, thereby wasting scarce judicial resources. For example, Horton's California counsel Leonard Marquez testified: "Our attorney's fees and costs were substantial, responding to the extrajudicial activities of [Missud], counseling our clients on those matters, making the complaints to the State Bar, those all obviously took an incredible amount of time and effort." Marquez also testified that Missud's communications became increasingly harassing and overtly threatening, prompting enough concern that they were reported to the Oakland Police Department and the Federal Bureau of Investigation. Horton's Nevada counsel Joel Odou testified that one of his employees: "was basically an office person who was completely terrified that [Missud] was going to find out where she lived and harass her."

¹³ The appropriate discipline is determined in light of the relevant circumstances, including aggravating and mitigating factors. (*Gary v. State Bar* (1988) 44 Cal.3d 820, 828.) OCTC must establish aggravation by clear and convincing evidence (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.5 [hereafter standards]), while Missud has the same burden to prove mitigating circumstances (std. 1.6). These standards reflect modifications effective January 1, 2014. Since this case was submitted for ruling in 2014, the new standards apply.

Fourth, Missud's misconduct is aggravated by his utter failure to accept responsibility for his actions. (Std. 1.5(g); *In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 [while law does not require Missud to be falsely penitent, it "does require that [he] accept responsibility for his acts and come to grips with his culpability. [Citation.]") And fifth, Missud's case is aggravated by his display of abusive and disruptive conduct throughout his disciplinary proceedings. (Std. 1.5(h) [lack of cooperation with State Bar during disciplinary proceedings]; see *Lebbos v. State Bar* (1991) 53 Cal.3d 37, 45-46 ["[I]t is a violation of professional standards for counsel to indulge in offensive and demeaning remarks about judges in a spirit of reckless disregard for the truth"].)

We adopt the hearing judge's finding that Missud did not prove any factors in mitigation.

V. DISCIPLINE¹⁴

Standard 2.7 provides that "Disbarment or actual suspension is appropriate for an act of moral turpitude, dishonesty, fraud, corruption or concealment of a material fact. The degree of sanction depends on the magnitude of the misconduct and the extent to which the misconduct harmed or misled the victim and related to the member's practice of law." We are guided by the Supreme Court's reasoning in *Lebbos v. State Bar, supra*, 53 Cal.3d at p. 45, and find it applies four-square in this proceeding: "Multiple acts of misconduct involving moral turpitude and dishonesty warrant disbarment. [Citations.] [Missud's] pattern of serious, recurrent misconduct is a factor in aggravation. [Citation.] Further, unrestrained personal abuse and disruptive behavior characterized [Missud's] conduct during the State Bar proceedings. [Citation.] Failure to cooperate with the State Bar during disciplinary proceedings itself may support severe discipline. [Citation.] It is evident that [Missud] has no appreciation that [his] method of

¹⁴ The purpose of attorney discipline is not to punish the attorney but to protect the public, the courts, and the legal profession. (Std. 1.1.) Though both standards 2.7 and 2.15 apply, we apply standard 2.7 as it calls for the more severe sanctions. (See std. 1.7(a).)

practicing law is totally at odds with the professional standards of this state. Disbarment is thus necessary to protect the public, preserve confidence in the profession, and maintain high professional standards. [Citation.]”

Missud’s actions demonstrate that he is unfit to practice law. Disbarment is the only appropriate discipline given the magnitude of his misconduct; his disregard of professional standards; his disdain for the judiciary; the harm caused to Horton, the courts, and the public; his indifference to such harm; his demonstrated and unrepentant intent to continue his misconduct; and his deplorable behavior before the State Bar Court.

VI. RECOMMENDATION

We therefore recommend that Patrick Alexandre Missud be disbarred and that his name be stricken from the roll of attorneys licensed to practice in this state. We further recommend that he be ordered to comply with the provisions of rule 9.20 of the California Rules of Court and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court’s order in this matter. Finally, we recommend that the State Bar be awarded costs in accordance with section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

VII. ORDER OF INACTIVE ENROLLMENT

Because the hearing judge recommended disbarment, she properly ordered Missud to be involuntarily enrolled as an inactive member of the State Bar, as required by section 6007, subdivision (c)(4). The hearing judge’s order became effective on July 4, 2013, and Missud has

been on involuntary inactive enrollment since that time, and he will remain on involuntary inactive enrollment pending the final disposition of this proceeding.

PURCELL, P. J.

I CONCUR.*

HONN, J.

* All other review and hearing judges appointed by the Supreme Court are disqualified under Code of Civil Procedure section 170.1(a)(6)(A)(i) or rule 5.155(F). Accordingly, this appeal was heard en banc with two judges constituting a quorum, pursuant to rule 5.155(D).

Subject: CGC-14-536981 Proposed Order; and Request for Judicial Notice (that judge Elfving is going to prison)

From: pat missud (missudpat@yahoo.com)

To: welfving@scscourt.org; mrosales@scscourt.org; sscivilinfo@scscourt.org; Pretrialinfo@pts.sccgov.org; so.website@sheriff.sccgov.org; kconger@sfexaminer.com; jkwong@sfexaminer.com; jsabatini@sfexaminer.com; ldudnick@sfexaminer.com; croberts@sfexaminer.com; rnagle@sfexaminer.com; akoskey@sfexaminer.com; lkatz@sfexaminer.com; maldax@sfexaminer.com; newstips@sfexaminer.com; mbillings@sfexaminer.com; sdrumwright@sfexaminer.com; mdenike@sfexaminer.com;

Cc: begelko@sfchronicle.com; esernoffsky@sfchronicle.com; vho@sfchronicle.com; metro@sfchronicle.com; aabney@sfchronicle.com; dbaker@sfchronicle.com; bbeck@sfchronicle.com; pbronstein@sfchronicle.com; dbulwa@sfchronicle.com; tbyrne@sfchronicle.com; mcabanatuan@sfchronicle.com; vcolliver@sfchronicle.com; acooper@sfchronicle.com; jcote@sfchronicle.com; bevangelista@sfchronicle.com; kfagan@sfchronicle.com; pfimrite@sfchronicle.com; lgarchik@sfchronicle.com; jguthrie@sfchronicle.com; chjohnson@sfchronicle.com; carolynjones@sfchronicle.com; hknight@sfchronicle.com; mlagos@sfchronicle.com; hlee@sfchronicle.com; jlloren@sfchronicle.com; CLochhead@sfchronicle.com; cmarinucci@sfchronicle.com; pmatier@sfchronicle.com; mmay@sfchronicle.com; cwnevius@sfchronicle.com; kpender@sfchronicle.com; trobertson@sfchronicle.com; asross@sfchronicle.com; csaid@sfchronicle.com; sespinoso@sfchronicle.com; jtucker@sfchronicle.com; jvanderbeken@sfchronicle.com; kgo@sfchronicle.com; jwildermuth@sfchronicle.com; rshaw@beyondchron.org; editor@sfcitizen.com;

Date: Friday, November 7, 2014 11:31 AM

Hi All-

Media-

Find attached my Proposed-Order for Santa Clara Judge Elfving to sign. As you already know, he doesn't want his corrupt colleague Goldsmith investigated for judicial corruption. That would only invite investigations into all the other judge\$ *including himself*, so he'll ignore all the documents attached to the P-O.

Clerks for Judge Elfving-

Please make sure that the Elf gets the attached pleadings. They are also being sent by tracked Signature Confirmed mail to guarantee receipt. They were already sent to federal contacts who are monitoring these ridiculous events. We are all making state *and federal* records that will get the Elf convicted under 18 USC 201 and 1962.

Santa Clara Sheriffs-

Per the caption, I'll be in court on November 21st. Thank you for your courtesy during the last three hearings. This sting won't take much longer and I'll be soon 'out of your (collective) hair.'

Thanks in advance,

Pat Missud:

Consumer-Civil Rights Attorney;

5-year *Federal Mole*;

18 USC §1513 *Federal Informant*;

31 USC §3279 *Federal Qui-Tam Relator*;

CCP §1021.5 California Private Attorney General.



Date: November 21, 2014

Elfving Commits Mail Fraud:

The following is in response to your November 21, 2014 request for delivery information on your Signature Confirmation™ item number 2313276000009627301. The delivery record shows that this item was delivered on November 10, 2014 at 6:57 am in SAN JOSE, CA 95113 to E ERNESTO. The scanned image of the recipient information is provided below.

Signature of Recipient :

A scanned image of a handwritten signature in black ink on a white background. The signature appears to be "E ERNESTO" with a stylized flourish.

Address of Recipient :

A scanned image of a handwritten address in black ink on a white background. The address appears to be "151 N. 1st St. (E. 1st St.)".

Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

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Have questions? We're here to help.

Tracking Number: **2313276000009627301**Updated Delivery Day: **Saturday, November 8, 2014**
Signed for By: E ERNESTO - SAN JOSE, CA 95113 6:57 am

Product & Tracking Information

Available Actions

Postal Product:
Priority Mail 1-Day™**Features:**
Signature Confirmation™Up to \$50 insurance included
Restrictions Apply

Proof of Delivery

DATE & TIME	STATUS OF ITEM	LOCATION
November 10, 2014 , 6:57 am	Delivered	SAN JOSE, CA 95113

Your item was delivered at 6:57 am on November 10, 2014 in SAN JOSE, CA 95113. The item was signed for by E ERNESTO.

November 8, 2014 , 9:04 am	Available for Pickup	SAN JOSE, CA 95113
November 8, 2014 , 9:03 am	Available for Pickup	SAN JOSE, CA 95113
November 8, 2014 , 8:26 am	Arrived at Post Office	SAN JOSE, CA 95113
November 8, 2014 , 5:30 am	Departed USPS Facility	SAN JOSE, CA 95101
November 8, 2014 , 2:53 am	Arrived at USPS Origin Facility	SAN JOSE, CA 95101
November 7, 2014 , 6:59 pm	Arrived at USPS Origin Facility	SAN FRANCISCO, CA 94188
November 7, 2014 , 5:49 pm	Departed Post Office	SAN FRANCISCO, CA 94112
November 7, 2014 , 11:57 am	Acceptance	SAN FRANCISCO, CA 94112

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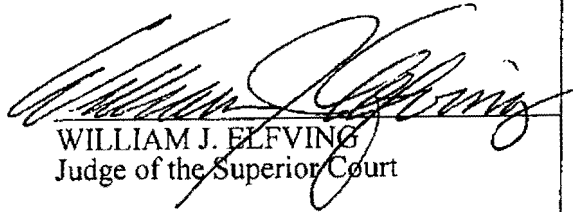
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Plaintiff Patrick A. Missud is hereby ordered to appear in Santa Clara Superior Court, Department 3, 191 North First Street, San Jose, CA, 95113 on January 9, 2015 at 10:00 a.m. and show cause why sanctions should not be imposed on you or why the above entitled case, or individual Defendants therein, should not be dismissed for failure to serve the Summons and

1 Complaint as required by California Rule of Court 3.110 and the Local Rules of the San
2 Francisco Superior Court. Any written opposition to the imposition of sanctions/dismissal must
3 be filed at least five (5) days prior to the above scheduled hearing date.

4
5
6 Dated: 11-21-14


WILLIAM J. ELFVING
Judge of the Superior Court

San Francisco County Superior Court

JAN 14 2015

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

PATRICK A. MISSUD,

Case No. CGC-14-536981

Plaintiff,

ORDER RE: MOTION FOR
ATTORNEYS' FEES

vs.

LUCY ARMENDARIZ, et al.,

Defendants.

On January 9, 2015 in Department 3, Honorable William J. Elfving, Judge Presiding, there was a hearing on the Motion for Attorneys' Fees by Defendants Lucy Armendariz and Joann Remke. Having considered the papers on file and the arguments of counsel for the Defendants and Plaintiff, the court rules as follows:

The motion is GRANTED. Plaintiff Patrick A. Missud is ordered to pay forthwith reasonable attorneys' fees in the amount of \$5,240.00 to Defendants Lucy Armendariz and Joann Remke pursuant to CCP Sec. 425.16(c).

Dated:

WILLIAM J. ELFVING
Judge of the Superior Court

FILED
San Francisco County Superior Court

JAN 14 2015

CLERK OF THE COURT
BY: [Signature] Deputy Clerk

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

PATRICK A. MISSUD,

Plaintiff,

vs.

LUCY ARMENDARIZ, et al.,

Defendants.

Case No. CGC-14-536981

ORDER AFTER HEARING ON OSC RE:
SANCTIONS/DISMISSAL

On January 9, 2015 in Department 3, Honorable William J. Elfving, Judge Presiding, there was a hearing on the Order to Show Cause Re: Sanctions/Dismissal dated November 21, 2014 and filed December 10, 2014 issued to Plaintiff Patrick A. Missud. Having considered the papers on file and the oral statements of Plaintiff and Defendants' counsel, the court orders as follows:

Plaintiff failed to demonstrate that he filed written opposition to the Order to Show cause at least five (5) days prior to the hearing and failed to demonstrate that any unserved Defendants have been properly served with the Summons and Complaint or that he has made good faith efforts to effectuate service of process on the Defendants. Accordingly, the court imposes a monetary sanction in the amount of \$500.00 on Plaintiff and orders him to pay said sum forthwith to the Clerk of the San Francisco Superior Court.

1 Plaintiff Patrick A. Missud is hereby ordered to appear in Santa Clara Superior Court,
2 Department 3, 191 North First Street, San Jose, CA, 95113 on March 6, 2015 at 10:00 a.m. and
3 show cause why further sanctions should not be imposed on you or why the above entitled case,
4 or individual Defendants therein, should not be dismissed for failure to serve the Summons and
5 Complaint as required by California Rule of Court 3.110 and the Local Rules of the San
6 Francisco Superior Court. Any written opposition to the imposition of sanctions/dismissal must
7 be filed at least five (5) days prior to the above scheduled hearing date.

8
9
10 Dated: 1-9-15


11 WILLIAM J. ELFVING
12 Judge of the Superior Court
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Subject: Dirty Judge\$ and (BOE) Official\$

From: pat missud (missudpat@yahoo.com)

To: Fiona.ma@boe.ca.gov; James.kuhl@boe.ca.gov; patricia.schapiro@boe.ca.gov; Genevieve.jopanda@boe.ca.gov; lizette.mata@boe.ca.gov; susan.block@boe.ca.gov; ray.sanguinetti@boe.ca.gov; john.vigna@boe.ca.gov; tim.morland@boe.ca.gov; Emily.vena@boe.ca.gov; NaTasha.Ralston@boe.ca.gov; Kathryn.asprey@boe.ca.gov; cally.wong@boe.ca.gov; jain.thapa@boe.ca.gov; Gloria.li@boe.ca.gov; George.runner@boe.ca.gov; sean.wallentine@boe.ca.gov; Michele.brown@boe.ca.gov; drew.mercy@boe.ca.gov; Jerome.horton@boe.ca.gov; kari.hammond@boe.ca.gov; Shellie.hughes@boe.ca.gov; Cynthia.bridges@boe.ca.gov; selvi.stanislaus@boe.ca.gov; diane.harkey@boe.ca.gov; betty.yee@boe.ca.gov; info@bettyyee.com; meetinginfo@boe.ca.gov; Kathy.Skidgel@boe.ca.gov; Clifford.Oakes@boe.ca.gov; Kirsten.Stark@boe.ca.gov; David.Gau@boe.ca.gov; Yvette.Butler@boe.ca.gov; Angela.Howe@boe.ca.gov; Rose.Smith@boe.ca.gov; Fred.Mittermayr@boe.ca.gov; KAbdalla@boe.ca.gov; Evan.Stagg@boe.ca.gov; Greg.Day@boe.ca.gov; Laureen.Simpson@boe.ca.gov;

Cc: john.devine@doj.ca.gov; troy.overton@doj.ca.gov; joan.randolph@doj.ca.gov;

Date: Tuesday, May 26, 2015 3:48 PM

Good afternoon BOE Official\$-

A couple of last minute matters require your immediate attention:

- (1) My Reply Brief in Appeal A143554 was just officially docketed after having been electronically and personally submitted over the counter on May 8th. Have you any idea why the \$tate Court of Appeal\$ would wait 2.5 week\$ to finally register it? and
- (2) I just got my transcript for my last criminal court hearing whereat \$tate judge Ryan i\$ trying to rig my incarceration. Have you any idea why \$he might be doing that?

I'm looking forward to getting you all incarcerated for far longer than the 13 hours I spent at County, Patrick
<https://www.facebook.com/patrick.missud.1>

P.S.- \$tate DOJ Attorneys- You can chime-in any time you want as well.

On Tuesday, May 26, 2015 12:10 PM, "Notify@jud.ca.gov" <Notify@jud.ca.gov> wrote:

2 1/2 wks later.

missudpat@yahoo.com, the following transaction has occurred in:
 Missud v. Armendariz et al.
 Case: A143554 1st District, Division 4

Date (YYYY-MM-DD): 2015-05-12
 Event Description: Appellant's reply brief.

Notes:
 "reply brief [to respondent-felons feinstein, lee, robertson, goldsmith, cantil-sakauye]"

For more information on this case, go to:

http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=1&doc_id=2093124&doc_no=A143554

Do not reply to this e-mail. Messages sent to this e-mail address will not be processed.

1 MICHAEL VON LOEWENFELDT (187665)
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11 Attorneys for Defendant
12 STATE BAR OF CALIFORNIA

13
14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF SAN FRANCISCO**
16

17 PATRICK A. MISSUD,

18 Plaintiff,

19 v.

20 STATE BAR OF CALIFORNIA; DOES 1-100,

21 Defendants.
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28

Exempt from Filing Fees
Pursuant to Government
Code Section 6103

ENDORSED
FILED
San Francisco County Superior Court

JAN 16 2014

CLERK OF THE COURT
BY: CYNTHIA S. HERBERT
Deputy Clerk

Case No. CGC-13-533811

**[PROPOSED] ORDER GRANTING
SPECIAL MOTION TO STRIKE FIRST
AMENDED COMPLAINT UNDER
CALIFORNIA'S ANTI-SLAPP
STATUTE [C.C.P. § 425.16]**

DATE: January 16, 2014
TIME: 9:30 AM
DEPT: 302

Hon. Marla Miller

1 **[PROPOSED] ORDER**

2 Defendant State Bar of California's Special Motion to Strike Plaintiff's First Amended
3 Complaint Under California's Anti-SLAPP Statute, C.C.P. §425.16, came on for hearing in
4 Department 302 on January 16, 2014.

5 Having considered the papers filed by the parties, and good cause appearing,

6 IT IS HEREBY ORDERED THAT Defendant State Bar Of California's Motion To
7 Strike The 1st Amended Complaint is GRANTED. Defendant's request for judicial notice is
8 GRANTED.

9 Defendant has carried its burden of showing the alleged conduct in Plaintiff's First
10 Amended Complaint arises from protected activity under CCP § 425.16(e). Plaintiff has not
11 demonstrated a probability of prevailing on the merits because he fails to produce prima facie
12 evidence supporting his defamation claim. CCP § 425.15(b)(1).

13 The First Amended Complaint is therefore dismissed with prejudice.

14 IT IS SO ORDERED.

15 JAN 16 2014

ERNEST H. GOLDSMITH

16 Dated: _____

17 HON. MARLA MILLER
18 Judge of the Superior Court
19
20
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ENDORSED
FILED

San Francisco County Superior Court

FEB 10 2014

CLERK OF THE COURT

by JUANITA MURPHY
Deputy Clerk

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

PATRICK A. MISSUD,

Plaintiff,

vs.

STATE BAR OF CALIFORNIA, et al.,

Defendants.

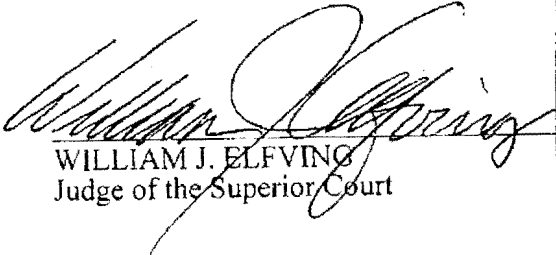
Case No. CGC-13-533811

ORDER AFTER HEARING ON
Plaintiff's Motion for Reconsideration
of October 17, 2014 Order Denying Stay

On November 21, 2014 in Department 3, Honorable William J. Elfving, Judge Presiding, there was a hearing on the Motion for Reconsideration of October 17, 2014 Order Denying Stay by Plaintiff Patrick A. Missud. Having considered the papers on file and the oral statements of Plaintiff and Defendants' counsel, the court rules as follows:

The motion is DENIED. Plaintiff failed to clear the date of hearing with the court and opposing counsel. Plaintiff failed to timely file and properly serve the motion. The motion is not based on any new facts or law and violates CCP Section 1008. The motion is substantively frivolous.

Dated: 11-21-14


WILLIAM J. ELFVING
Judge of the Superior Court

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

PATRICK A. MISSUD,

Plaintiff and Appellant,

v.

STATE BAR OF CALIFORNIA,

Defendant and Respondent.

A141459

(San Francisco City & County
Super. Ct. No. CPF-13-533811)

I.

INTRODUCTION

Patrick Massud (appellant) brought this action against the State Bar of California (respondent) seeking damages and other relief for defamation allegedly caused by respondent's publication of a State Bar Court recommendation to disbar appellant from practicing law in California. The trial court granted a special motion to strike the defamation complaint pursuant to section 425.16, subdivision (b) of the Code of Civil Procedure, the anti-SLAPP statute, and awarded respondent its attorney fees and costs.¹ We affirm.

¹ "SLAPP is an acronym for 'strategic lawsuit against public participation.' " (*Jarrow Formulas, Inc. v. LaMarche* (2003) 31 Cal.4th 728, 732, fn. 1.) All statutory references are to the Code of Civil Procedure.

II. STATEMENT OF FACTS

A. Background

Appellant was admitted to the California Bar in 2002. In 2004, appellant purchased a home in Nevada. During the seven years that followed, he engaged in litigation arising out of that purchase. Appellant filed at least eight separate lawsuits, and multiple motions and appeals in California and Nevada, but failed to prevail in any of that litigation. On March 22, 2012, a federal district court declared appellant a vexatious litigant and referred him to respondent for disciplinary action. Respondent also received referrals about appellant from several of his opposing counsel.

On July 1, 2013, the State Bar Court of California filed a decision and order placing appellant on involuntary inactive status and recommending that he be disbarred. The State Bar Court found, among other things, that appellant relentlessly pursued baseless litigation in California and Nevada; repeatedly used the media and websites to make false statements and baseless accusations against defendants in his lawsuits; communicated with defendants he knew were represented by counsel; and violated court orders. The State Bar Court also found that appellant's pattern of misconduct was willful, egregious and ongoing, and that he significantly harmed the public and the administration of justice.

B. The Present Action

On August 27, 2013, appellant filed this defamation action against respondent. In his first amended complaint (FAC), appellant alleged that respondent defamed him by publishing on its website the State Bar Court's order and recommendation to disbar appellant from practicing law. In addition to compensatory and punitive damages in the amount of \$192 million, appellant sought equitable relief including the dissolution of the California State Bar.

On December 9, 2013, respondent filed a special motion to strike appellant's complaint pursuant to section 425.16, subdivision (b)(1), which states: "A cause of action against a person arising from any act of that person in furtherance of the person's

right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.”

On January 16, 2014, the trial court granted the special motion to strike, finding that (1) respondent carried its burden of establishing that conduct alleged in the FAC was protected activity, and (2) appellant failed to establish a probability of prevailing on the merits of his defamation claim.

On January 31, 2014, appellant filed a motion for reconsideration of the order granting the special motion to strike. To support this motion, appellant attached 20 exhibits which he described as self-authenticating court transcripts that speak for themselves about the “diamond-hard facts.” The first two exhibits attached to appellant’s motion were the transcript of the hearing on respondent’s special motion to strike and the trial order court order granting that motion. The remaining exhibits consisted of transcripts and pleadings from others cases in which appellant has been involved.

On February 14, 2014, respondent filed a motion for attorney fees under section 425.16, subdivision (c), which states that, with exceptions not relevant here, “in any action subject to subdivision (b), a prevailing defendant on the special motion to strike shall be entitled to recover his or her attorney’s fees and costs.” (§ 425.16, subd. (c)(1).) Appellant opposed the attorney fee motion and filed a “Counter-motion” for private attorney general attorney fees and costs under section 1021.5.

On March 4, 2014, the trial court denied appellant’s motion for reconsideration of the order granting the special motion to strike appellant’s FAC. On March 26, the court granted respondent’s motion for attorney fees and ordered appellant to pay respondent reasonable fees and costs in the amount of \$10,705.00.

Appellant filed a timely notice of appeal, and, pursuant to an amended notice, seeks review of the January 16, 2014 order granting the special motion to strike; the

March 4, 2014 order denying his motion for reconsideration; and the March 26, 2014 order awarding respondent attorney fees and costs.²

III.

DISCUSSION

A. The January 16, 2014 Order

“Section 425.16 authorizes a defendant to file a special motion to strike any cause of action arising from an act in furtherance of the defendant’s constitutional right of petition or free speech in connection with a public issue. It establishes a procedure by which the trial court evaluates the merits of the lawsuit using a summary-judgment-like procedure at an early stage of the litigation. [Citations.]” (*Haight Ashbury Free Clinics, Inc. v. Happening House Ventures* (2010) 184 Cal.App.4th 1539, 1546-1547.) The purpose of this procedure is to create a mechanism “for the early dismissal of unmeritorious claims filed to interfere with the valid exercise of the constitutional rights of freedom of speech and petition for the redress of grievances. [Citation.]” (*Club Members for an Honest Election v. Sierra Club* (2008) 45 Cal.4th 309, 310; see also *Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 192.)

“Section 425.16, subdivision (b)(1) requires the court to engage in a two-step process. First, the court decides whether the defendant has made a threshold showing that the challenged cause of action is one arising from protected activity. The moving defendant’s burden is to demonstrate that the act or acts of which the plaintiff complains were taken ‘in furtherance of the [defendant]’s right of petition or free speech under the United States or California Constitution in connection with a public issue,’ as defined in the statute. [Citation.] If the court finds such a showing has been made, it then determines whether the plaintiff has demonstrated a probability of prevailing on the claim.” (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.)

² On November 4, 2014, appellant filed a motion to augment the record on appeal with documents that have no relationship to or bearing on these appealed orders. That motion is denied.

When, as here, an order granting a special motion to strike is challenged on appeal, we independently review the trial court's findings under the two-step process outlined above. (*Rusheen v. Cohen* (2006) 37 Cal.4th 1048, 1056.)

Under the first step of the section 425.16 inquiry, we find that appellant's defamation claim arises out of protected activity. A disciplinary proceeding before the State Bar Court is an official proceeding authorized by law. (§ 425.16, subds. (e)(1), (e)(2).) The "purpose of a disciplinary proceeding under the State Bar Act is to protect the public [Citations.]" (*Hyland v. State Bar of California* (1963) 59 Cal.2d 765, 774.) Furthermore, an attorney's disciplinary history is a "public record" which may lawfully be published on line. (*Mack v. State Bar* (2001) 92 Cal.App.4th 957, 961-964; see also *Canatella v. Van De Kamp* (2005) 2005 U.S. Dist. LEXIS 40093 *6-*9.) Thus, an attorney's discipline record is a matter of public interest.

Because the FAC challenged protected activity, we turn to the second step of the section 425.16 inquiry. Appellant had the burden to produce evidence of a probability of prevailing on his defamation claim against respondent. (*Equilon, supra*, 29 Cal.4th at p. 67.) To meet that burden, appellant was required to demonstrate that his FAC " " "is both legally sufficient and supported by a sufficient prima facie showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited." [Citations.] " " (*Vargas v. City of Salinas* (2009) 46 Cal.4th 1, 19-20.) " " "Defamation is an invasion of the interest in reputation. The tort involves the intentional publication of a statement of fact which is false, unprivileged, and has a natural tendency to injure or which causes special damage." [Citation.] [Citation.]" (*Burrill v. Nair* (2013) 217 Cal.App. 4th 357, 382.)

In the present case, appellant failed to demonstrate that his FAC is legally sufficient and supported by a prima facie showing of facts required to show a probability of prevailing on his defamation claim against respondent. Although appellant disputes this conclusion, his only argument on appeal is that respondent filed a special motion to strike in order to prevent appellant from exposing widespread corruption among attorneys, judges and the courts. First, we find no evidence to support these

inflammatory accusations. Second, appellant can neither satisfy nor avoid his burden of proving a probability of prevailing on the merits of his claim by questioning respondent's motivation for defending itself in this action.

B. The March 4, 2014, Order

Section 1008 allows the trial court to reconsider and “modify, amend or revoke” its prior order based upon a showing of “new or different facts, circumstances, or law.” “A trial court’s ruling on a motion for reconsideration is reviewed under the abuse of discretion standard. [Citation.]” (*Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1457.)

In the present case, appellant did not support his motion for reconsideration with new legal authority or with any new evidence that was relevant to the court’s inquiry under section 425.16, subdivision (b). Thus, the trial court did not abuse its discretion by denying the motion for reconsideration.

Appellant contends the trial court erroneously refused to take judicial notice of transcripts and documents from other cases which allegedly support appellant’s theory of widespread corruption in the judiciary. However that collateral matter had no bearing on the special motion to strike. Thus, the superior court did not abuse its discretion by denying appellant’s motion for reconsideration.

C. The March 26, 2104, Order

“Section 425.16, subdivision (c) authorizes an award of attorney fees and costs to the prevailing party. Further, the right of a prevailing defendant to recover attorney fees and costs adequately compensates him for ‘the expense of responding to a baseless lawsuit.’ [Citation.]” (*Conroy v. Spitzer* (1999) 70 Cal.App.4th 1446, 1454-1455.) Here, respondent was the prevailing defendant on the special motion to strike and, therefore, its motion for attorney fees was properly granted. (§ 425.16, subd. (c).)

Appellant contends that the trial court did not have jurisdiction to award attorney fees to respondent. To support this contention, appellant mistakenly relies on *Barry v. State Bar of California* (2013) 218 Cal.App.4th 1435, review granted November 26, 2013, S214058, , a case that is not properly cited to us because the Supreme Court has

granted a petition to review it. Aside from this improper citation, appellant fails to provide any explanation for his jurisdictional challenge.

The California Supreme Court has primary, inherent power over attorney admission and discipline. (*O'Brien v. Jones* (2000) 23 Cal.4th 40, 48) Thus, there may be a jurisdictional limitation on a superior court's authority to award attorney fees in a lawsuit seeking to overturn a decision in a State Bar disciplinary proceeding. However, that jurisdictional question did not arise in this case because appellant's complaint did not seek to overturn the State Bar Court's recommendation. Rather, appellant filed a SLAPP complaint premised on common law defamation, and, as the prevailing defendant on the special motion to strike that complaint, respondent has an express statutory right to recover attorney fees. (§ 425.16, subd. (c).)

Appellant also contends that he is entitled to attorney fees under section 1021.5 because he is a private attorney general providing a significant benefit to the general public. Section 1021.5 authorizes an award of attorney fees to "a successful party" when specific conditions are met. Appellant is not the successful party in this action.

IV.

DISPOSITION

The orders are affirmed.

RUVOLO, P. J.

We concur:

REARDON, J.

BOLANOS, J.*

* Judge of the San Francisco City and County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

SUPREME COURT
FILED

State Bar Court No. 12-O-10026

MAR 18 2015

S222905

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re PATRICK ALEXANDRE MISSUD on Discipline.

The petition for review is denied.

The court orders that Patrick Alexandre Missud, State Bar Number 219614, is disbarred from the practice of law in California and that his name is stricken from the roll of attorneys.

Patrick Alexandre Missud must comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

CANTIL-SAKAUYE

Chief Justice

Appellate Courts Case Information

CALIFORNIA COURTS
THE JUDICIAL BRANCH OF CALIFORNIA

Supreme Court

[Change court](#)

Court data last updated: 03/18/2015 03:10 PM

Docket (Register of Actions)

MISSUD ON DISCIPLINE**Case Number S222905**

Date	Description	Notes
11/12/2014	Record of State Bar discipline filed	Recommendation of disbarment 11 volumes
01/12/2015	Request for extension of time filed	Pro per petnr. requests a 2-week extension of time to file a finalized Opposition to the State Bar's recommendation.
01/12/2015	Petition for review filed	Petitioner: Patrick Alexandre Missud Attorney: Patrick Alexandre Missud
01/12/2015	Filed:	by Pro per petnr. Appendix in Support of Preliminary Opposition.
01/14/2015	Order filed	Petitioner's "Preliminary Opposition to the State Bar's Recommendation to the California Supreme Court" is filed as a petition for review. Petitioner's "Request for Extension of Time to file a Finalized Opposition to the State Bar's Recommendation to the California Supreme Court" is denied. (California Rules of Court, rule 9.13 (a).)
01/20/2015	Received:	Document entitled: "Supplemental Appendix in Support of (Preliminary) Opposition to the State Bar's Recommendation to the California Supreme Court" Patrick Alexandre Missud, Petitioner Patrick Alexandre Missud, Pro se
01/29/2015	Response by State Bar filed	Non-Title Respondent: State Bar of California Attorney: Office of General Counsel - State Bar Attorney: Office of the State Bar Court Attorney: State Bar of California/Membership
03/09/2015	Received:	from pro per petnr., Motion to Augment the Record with (a)(1)(b) Certified Transcripts.
03/18/2015	Petition for writ of review denied; disbarred	The petition for review is denied. The court orders that Patrick Alexandre Missud, State Bar Number 219614, is disbarred from the practice of law in California and that his name is stricken from the roll of attorneys. Patrick Alexandre Missud must comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

STATE BAR COURT OF CALIFORNIA 845 S. Figueroa Street, 3rd Floor Los Angeles, CA 90017-2515 (213) 765-1400	FOR STATE BAR COURT USE FILED NOV 12 2014 <i>ACM</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter of PATRICK A. MISSUD, No. 219614 Member of the State Bar	
CERTIFICATE OF COSTS	CASE NO.: 12-O-10026

1. TAXABLE COSTS of the Office of the Chief Trial Counsel (Code Civ. Proc. §1033.5(a)).	
\$	Reporter's transcript of State Bar Court proceedings.
\$ 979.71	Witness fees pursuant to Government Code.
\$	Deposition expenses, including transcript and travel costs.
\$	Service of process.
\$	Photocopies of exhibits prepared by outside service.
\$	Models and blowups of exhibits prepared by outside service.
2. REASONABLE COSTS PURSUANT TO FORMULA APPROVED BY THE BOARD OF GOVERNORS (Bus. & Prof. Code § 6086.10(b)(3)).	
\$ 15,660.00	Base charge.
\$	Charge of \$914 for investigations over one.
\$	Minimum charge for consolidated matter.
\$	Resignation charge (\$ 128.00)
3. OTHER REASONABLE COSTS—Incidental expenses of the Office of the Chief Trial Counsel (Bus. & Prof. Code § 6086.10(b)(2)).	
\$ 928.70	Cost for certifying court documents.
\$	Staff travel expenses.
\$	Bank records.
4. \$ 17,568.41	SUBTOTAL

By: *Linda Kuzma Rodevad* Dated: 7/19/13
Linda Kuzma Rodevad, Records Coordinator, Office of the Chief Trial Counsel

5. OTHER REASONABLE COSTS OF THE STATE BAR COURT
\$ _____

\$ 17,568.41	TOTAL OF ALL COSTS
--------------	---------------------------

By: *Charles M. K.* Dated: 11/12/14
Deputy Court Clerk, Office of the State Bar Court

S222905

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

In the Matter of:

PATRICK ALEXANDRE MISSUD

Petitioner; 5-Year NSA Mole;

18 USC §1513 Federal Informant;

31 USC §3279 Qui Tam Relator;

CCP §1021.5 California Private Attorney General;

Mechanical Engineer, Carnegie-Mellon University BSME;

Civil Engineer, San Francisco State University MSCE;

General Building Contractor. B697370;

California Contractors' Board Industry Expert;

And Member #219614 of the RICO State Bar because like any idiot with a JD, I can also read as well as a 12 year old.

v.

Bar Case No. 12-O-10026-LMA
Service on Cal. Attorney General
(CAR Rule 8.29)

STATE BAR OF CALIFORNIA

**NOTICE OF PETITION FOR WRIT OF CERTIORARI TO THE U.S.
SUPREME COURT C/O CHIEF JUSTICE JOHN ROBERTS**

REVIEW OF BAR COURT JUDGES ARMENDARIZ, REMKE,
PURCELL AND HONN; AND SUBMITTED TO CAUSE FEDERAL
CONVICTIONS AND LIFE SENTENCING FOR CALIFORNIA
SUPREME COURT JUSTICES: Tanil Cantil-Sakauye, Carol Corrigan,
Joyce Kennard, Kathryn Werdegard, Ming Chin, Marvin Baxter, Goodwin
Liu [and Mariano-Florentino Cuéllar and Leondra R. Kruger after 1-5-14]

Patrick Missud CA #219614; <https://www.facebook.com/patrick.missud.1>

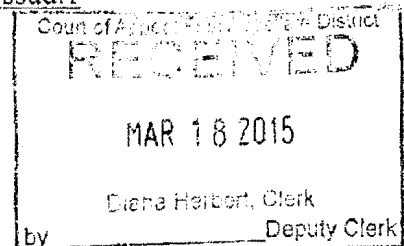
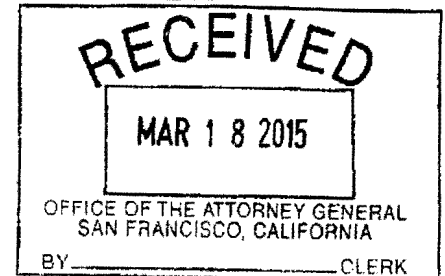
Law Office of Qui-Tam Relator Patrick Missud;

91 San Juan Ave. San Francisco, CA, 94112;

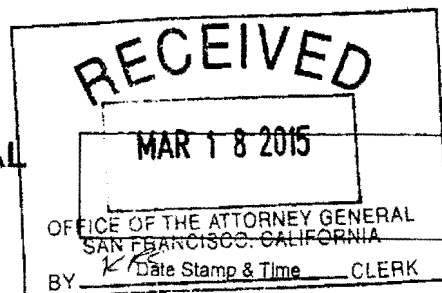
415-845-5540 phone; 415-584-7251 fax: missudpat@yahoo.com

<http://www.judgesforsale.org/cal.--upreme-court.html>;

<http://sanfranciscosuperiorcourtfraud.com/>



OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
Civil Service of Process Cover Sheet
 SAC SF OAK LA SD FR



Service of Process Disclaimer:

To All Persons Attempting Service of Process Upon The Office Of The Attorney General:

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Please complete this form when delivering documents to the Attorney General's Office:

Case Name: <u>MISSUD ON DISCIPLINE; MISSUD VS. STATE BAR.</u>	
County: <u>SAN FRANCISCO</u>	Court No.: <u>S 222905</u>
Document(s) served:	<input type="checkbox"/> Summons and Complaint/Cross Complaint/Amended Complaint <input type="checkbox"/> Notice to Attorney General's Office pursuant to Section _____ <input type="checkbox"/> Petition For Relief From Late Claim Filing (Govt. Code Section 946.6) <input type="checkbox"/> Pitchess Motion <input type="checkbox"/> Small Claims <input type="checkbox"/> Deposition Subpoena for Production of Business Records <input type="checkbox"/> Notice of Consumer or Employee and Objection and check for \$15.00 <input type="checkbox"/> Writ of Mandate and Complaint for Declaratory Relief <input checked="" type="checkbox"/> Other (please list): <u>NOTICE OF PETITION TO US SUPREME COURT TO GET CALIFORNIA'S EN BANK SUPREME COURT ROULDED-UP BY THE FEDS. JOHN DEWINE</u>
Document(s) For (Specify State Agency):	<u>DOJ - KAMALA HARRIS</u>
Process Server's Name:	<u>5-YEAR FEDERAL MOLE MISSUD</u>
Name of Company: (business name, address, and number)	<u>LAW OFFICE OF QUI TAM & 31 USC § 3279 MISSUD</u>
Receptionist Signature:	<u>KONSTANTIN CHAYKOVSKIY</u>
FOR SERVICE DEPUTY'S USE ONLY	
Forwarded to:	<u>TROY OVERTON, DAG</u>
Date Forwarded:	<u>3-18-2015</u>
Name of Service Deputy, section, and telephone number:	<u>LYDIA ZANE SLA. LICENSING. Section-Civil (415) 703-5573</u>
NOTES: <u>Requested 4 copies of Documents stamped "received" by our office</u>	

The attached document(s) appear(s) to be the responsibility of your section; if they are not, please return them to the service deputy named above, noting the section to which they are to be directed.

(Rev. 3/2004)
2014

S222905

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

In the Matter of:

PATRICK ALEXANDRE MISSUD

Petitioner; 5-Year NSA Mole;

18 USC §1513 Federal Informant;

31 USC §3279 Qui Tam Relator;

CCP §1021.5 California Private Attorney General;

Mechanical Engineer, Carnegie-Mellon University BSME;

Civil Engineer, San Francisco State University MSCE;

General Building Contractor, B697370;

California Contractors' Board Industry Expert;

And Member #219614 of the RICO State Bar because like any idiot with a JD, I can also read as well as a 12 year old.

v.

Bar Case No. 12-O-10026-LMA

Service on Cal. Attorney General

(CAR Rule 8.29)


STATE BAR OF CALIFORNIA

**NOTICE OF PETITION FOR WRIT OF CERTIORARI TO THE U.S.
SUPREME COURT C/O CHIEF JUSTICE JOHN ROBERTS**

REVIEW OF BAR COURT JUDGES ARMENDARIZ, REMKE,
PURCELL AND HONN; AND SUBMITTED TO CAUSE FEDERAL
CONVICTIONS AND LIFE SENTENCING FOR CALIFORNIA
SUPREME COURT JUSTICES: Tanil Cantil-Sakauye, Carol Corrigan,
Joyce Kennard, Kathryn Werdegarr, Ming Chin, Marvin Baxter, Goodwin
Liu [and Mariano-Florentino Cuéllar and Leondra R. Kruger after 1-5-14]

Patrick Missud CA #219614; <https://www.facebook.com/patrick.missud.1>

Law Office of Qui-Tam Relator Patrick Missud;

 dpat@yahoo.com

<http://www.judgesforsale.org/cal.--upreme-court.html>;

<http://sanfranciscosuperiorcourtfraud.com/>

ALL PARTIES TAKE NOTICE THAT the California Supreme Court's March 18th 2015 decision and order to: Deny Review of criminally-proven S222905; and conceal from the public that the Member-run Bar provides cover for its own Member's to financially-prey on the public will be appealed to the U.S. Supreme Court for Writ of Certiorari.

The Petition will showcase how Chief Justice Cantil-Sakauye: ignored official Bar Court transcripts catching Bar Court judge's in lies as simple as feigning non-receipt of legal pleadings tracked by the USPS to their chambers; ignored that 3 of 4 Bar witnesses were impeached on the stand as memorialized in yet more official Bar Court transcript's; lied and violated her own Appellate Rules when she denied registration of my timely Reply exposing the Member-run Bar's criminally-proven racketeering; failed to lawfully Augment the record with two more official court transcripts catching an underling judge in FIFTEEN lies on January 9th 2015, and yet more lies in the yet-to-be produced March 6th 2015 transcript that will in-turn cause Santa Clara's judge Elfving to go to prison until he dies.

That's just the 'reader's digest' version of the ploys which C.J. Cantil Sakauye used to rig my disbarment for being a five-year federal mole whose job is to get the Country's highest judge's like her indicted for High-Crimes like Treason.
//

Submitted to get California's En-Banc Supreme Court convicted of High Crimes,

Patrick Missud

Patrick Missud of Operation Greylord-II

Consumer-Civil Rights Attorney;

Former 5-year Federal Mole;

18 USC§1513 *Federal Informant;*

31 USC §3279 *Federal Qui-Tam Relator;*

CCP §1021.5 California Private Attorney General;

http://www.fbi.gov/news/stories/2004/march/greylord_031504 and

<http://www.chicagotribune.com/news/nationworld/politics/chi-chicagodays-greylord-story-story.html>

PROOF OF SERVICE:

I'm: a citizen of the United States; over 18 years of age; my address is:
91 San Juan Avenue, San Francisco, California, 94112; employed in the County of San Francisco,
where this mailing occurred; and a party to this action.
On March 18th 2015 I served the following documents:

**NOTICE OF PETITION FOR WRIT OF CERTIORARI TO THE U.S.
SUPREME COURT C/O CHIEF JUSTICE JOHN ROBERTS**

Via "TrueFiling;" and/or personal, mail, email:

First District Court of Appeal
350 McAllister Street
San Francisco, CA, 94102

California Supreme Court
350 McAllister Street
San Francisco, CA, 94102

Michael von Loewenfeldt, Rachel A. Dodson
Kerr & Wagstaffe LLP
101 Mission Street, 18th Floor
San Francisco, CA, 94105

mvl@kerrwagstaffe.com, Dodson@kerrwagstaffe.com, wagstaffe@kerrwagstaffe.com,
tompkins@kerrwagstaffe.com, mackey@kerrwagstaffe.com, kerr@kerrwagstaffe.com,
labar@kerrwagstaffe.com, mng@kerrwagstaffe.com, peden@kerrwagstaffe.com,
sawyer@kerrwagstaffe.com, zaheer@kerrwagstaffe.com,

Lawrence C. Yee, Danielle A. Lee, Richard Zanassi, Erika Leighton
Office of general Counsel
State Bar of California
180 Howard Street
San Francisco, CA, 94105-1639

State Bar of California
845 S. Figueroa
Los Angeles, CA, 90017

Lawrence.yee@calbar.ca.gov, Danielle.lee@calbar.ca.gov, Richard.zanassi@calbar.ca.gov,
Erika.leighton@calbar.ca.gov, donald.steedman@calbar.ca.gov, joann.remke@calbar.ca.gov,
lucy.armendariz@calbar.ca.gov, judith.epstein@calbar.ca.gov, catherine.purcell@calbar.ca.gov,
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donald.steedman@calbar.ca.gov, Jayne.kim@calbar.ca.gov, starr.babcock@calbar.ca.gov,
Bernadette.molina@calbar.ca.gov, Kevin.taylor@calbar.ca.gov, Joseph.carlucci@calbar.ca.gov,
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Adriana.burger@calbar.ca.gov,

FBI San Francisco
450 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102-9523

Phone: (415) 553-7400
Fax: (415) 553-7674
E-mail: san.francisco@ic.fbi.gov

U.S. Department of Justice
Civil Rights Division, Office of the Ass't. AG
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

U.S. Department of Justice
Public Integrity Unit
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

I declare under the penalty of perjury under the laws of California that the forgoing is true and correct.


Patrick Missud

3-18-2015

Patrick Missud

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

April 28, 2015

Patrick Missud


RE: Patrick Missud

Dear Mr. Missud:

The enclosed papers were received on April 28, 2015. These papers fail to comply with the Rules of this Court and are herewith returned.

You may seek review of a decision only by filing a timely petition for writ of certiorari. The papers you submitted are not construed to be a petition for writ of certiorari. Should you choose to file a petition for writ of certiorari, you must submit the petition within the 90 day time limit allowed under Rule 13 of the Rules of this Court. A Copy of the Rules of this Court and a sample petition for a writ of certiorari are enclosed.

Your case must first be reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.

Sincerely,
Scott S. Harris, Clerk
By:

Redmond K. Barnes
(202) 479-3022

Enclosures



SUPREME COURT

OF THE UNITED STATES

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No. 14-579

Title: Marilyn Sue Scheer, Petitioner

v.

State Bar of California

Docketed: November 19, 2014

Lower Ct: Supreme Court of California

Case Nos.: (S218357)

Decision Date: July 16, 2014

Rehearing Denied: August 13, 2014

~~~Date~~~      ~~~~~Proceedings and Orders~~~~~

Nov 4 2014      Petition for a writ of certiorari filed. (Response due December 19, 2014)

Dec 12 2014      Waiver of right of respondent State Bar of California to respond filed.

Dec 23 2014      DISTRIBUTED for Conference of January 9, 2015.

Jan 12 2015      Petition DENIED.

~~~Name~~~~~

~~~~~Address~~~~~

~~~Phone~~~

Attorneys for Petitioner:

Marilyn Sue Scheer

Party name: Marilyn Sue Scheer

Attorneys for Respondent:

Tracey L. McCormick
Counsel of Record

Office of General Counsel, State Bar of CA (415) 538-2324
180 Howard Street
San Francisco, CA 94105-1617
tracey.mccormick@calbar.ca.gov

Party name: State Bar of California

May 11, 2015 | Version 2014.1

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Supreme Court of the United States

Subject: USPS Shipment Info for 23061570000045407921
From: US_Postal_Service@usps.com (US_Postal_Service@usps.com)
To: missudpat@yahoo.com;
Date: Tuesday, May 26, 2015 6:48 AM

This is a post-only message. Please do not respond.

Roberts Genocide Roberts has requested that you receive a USPS Tracking™ update, as shown below.

USPS Tracking™ e-mail update information provided by the U.S. Postal Service.

Label Number: 23061570000045407921

On Time

Expected Delivery Date: May 26, 2015

Service Type: Signature Confirmation™

| Shipment Activity | Location | Date & Time |
|---------------------------------|-------------------------|--------------------------|
| Delivered | WASHINGTON, DC 20543 | May 26, 2015
6:00 am |
| Business Closed | WASHINGTON, DC 20543 | May 24, 2015
11:50 am |
| Arrived at Hub | WASHINGTON, DC 20018 | May 24, 2015
9:14 am |
| Arrived at USPS Origin Facility | WASHINGTON, DC 20018 | May 24, 2015
8:34 am |
| Departed USPS Facility | WASHINGTON, DC 20066 | May 21, 2015
11:12 am |
| Arrived at USPS Origin Facility | WASHINGTON, DC 20066 | May 20, 2015
11:43 pm |
| Departed USPS Facility | SAN FRANCISCO, CA 94188 | May 20, 2015
5:13 am |
| Arrived at USPS Facility | SAN FRANCISCO, CA 94188 | May 19, 2015
8:02 pm |
| Departed Post Office | SAN FRANCISCO, CA 94112 | May 19, 2015
5:50 pm |
| Acceptance | SAN FRANCISCO, CA 94112 | May 19, 2015
2:57 pm |

Reminder: USPS Tracking™ by email

Date of email request: May 20, 2015

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the USPS Tracking™ by email process again at the end of the 2 weeks, please do so at the USPS Tracking™ web site at <http://www.usps.com/shipping/trackandconfirm.htm>

Results provided by the U.S. Postal Service.

Subject: USPS Shipment Info for 23061570000045407938
From: US_Postal_Service@usps.com (US_Postal_Service@usps.com)
To: missudpat@yahoo.com;
Date: Tuesday, May 26, 2015 2:03 AM

This is a post-only message. Please do not respond.

Federal Informant Missud has requested that you receive a USPS Tracking™ update, as shown below.

USPS Tracking™ e-mail update information provided by the U.S. Postal Service.

Label Number: 23061570000045407938

On Time

Expected Delivery Date: May 26, 2015

Service Type: Signature Confirmation™

| Shipment Activity | Location | Date & Time |
|---------------------------------|-------------------------|--------------------------|
| Delivered | WASHINGTON, DC 20530 | May 26, 2015
4:27 am |
| Business Closed | WASHINGTON, DC 20530 | May 24, 2015
1:18 pm |
| Arrived at Hub | WASHINGTON, DC 20018 | May 24, 2015
12:04 pm |
| Sorting Complete | WASHINGTON, DC 20016 | May 21, 2015
7:59 am |
| Arrived at USPS Origin Facility | WASHINGTON, DC 20066 | May 20, 2015
11:44 pm |
| Departed USPS Facility | SAN FRANCISCO, CA 94188 | May 20, 2015
5:13 am |
| Arrived at USPS Facility | SAN FRANCISCO, CA 94188 | May 19, 2015
6:47 pm |
| Departed Post Office | SAN FRANCISCO, CA 94112 | May 19, 2015
5:50 pm |
| Acceptance | SAN FRANCISCO, CA 94112 | May 19, 2015
2:56 pm |

Reminder: USPS Tracking™ by email

Date of email request: May 20, 2015

Future activity will continue to be emailed for up to 2 weeks from the Date of Request shown above. If you need to initiate the USPS Tracking™ by email process again at the end of the 2 weeks, please do so at the USPS Tracking™ web site at <http://www.usps.com/shipping/trackandconfirm.htm>

Results provided by the U.S. Postal Service.

Want to Track on the go?

No.

IN THE SUPREME COURT
OF THE UNITED STATES

PATRICK A MISSUD

Petitioner

vs.

STATE BAR OF CALIFORNIA ET AL.

Respondents

PETITION FOR A WRIT OF CERTIORARI REGARDING THE
CALIFORNIA SUPREME COURT'S **FINAL** 28 USC §1257(a)
DECISION TO DENY REVIEW OF S222905 ON MARCH 18, 2015.

PETITION FOR WRIT FOR CERTIORARI
[EXACTLY THE SAME RELIEF THAT MARILYN SCHEER ASKED
FOR IN DOCKETED SCOTUS PETITION FOR WRIT OF 14-579, AND
WHICH JOHN ROBERTS DENIED ON JANUARY 12, 2015]¹

Patrick Missud
91 San Juan Ave
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415-845-5540 phone
415-584-7251 fax
missudpat@yahoo.com
Engineer; BSME, MSCE, CSLB IE, GC
Pro-Se Attorney in Very Good Standing;
Cal. CCP §1021.5 Private Attorney General;
18 USC §1513 Federal Informant; and
5-Year Federal Mole

¹ *Scheer v. State Bar of California*, Docketed Petition for Writ 14-579 at.
<http://www.supremecourt.gov/search.aspx?filename=/docketfiles/14-579.htm>

QUESTIONS PRESENTED

1. Did California's Supreme Court Deny Review of S222905 because it proves that the Member-run Bar's Trial & Review Departments railroad cases & appeals to retaliate against 5-year federal whistle-blowers who already exposed over 100 corrupt state and federal judge\$?²
2. Did California's Supreme Court Deny Review of S222905 because it already Denied Review of S198352 which criminally-proved that State judge\$ were taking Hobb-Act kick-back\$ and Selling order\$ to deep corporate pocket\$?³
3. Did California's Supreme Court Deny Review of S222905 because it already Denied Review of S205522 which criminally-proved that 3 Bar Members targeted a mere member of the public for financial predation and a quick insurance pay-out as is the norm among corrupt Bar licensed Member\$?⁴
4. Did California's Supreme Court Deny Review of S222905 because it already Denied Review of S206342 which criminally-proved that Bar Member\$ colluded with State judge\$ to rig a federally-mandated arbitration before a "court approved" *arbitrator* who crafted a corporate-favoring award just as done and exposed in the National Arbitration Forum \$candal?⁵
5. Did California's Supreme Court Deny Review of S222905 because it already Denied Review of S207619 which criminally-proved that State & federal judge\$ Sold decision\$ to corporation\$ and then hid behind 'absolute judicial immunity' once caught?⁶
6. Is the California Supreme Court's well-established Pattern & Practice of Denying Review of criminally-proven State Writs that expose judicial corruption intentional acts to subvert the rule of law and undermine democracy?

² http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2094232&doc_no=S222905

³ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=1998680&doc_no=S198352

⁴ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2023808&doc_no=S205522

⁵ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2029149&doc_no=S206342
and http://www.businessweek.com/investing/vall_street_news_blog/archives/2009/07/big_arbitration.html
and http://www.nytimes.com/2009/07/20/business/20credit.html?_r=0

⁶ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2033841&doc_no=S207619

7. Does the California Supreme Court provide cover for California's Member-run Bar which acts a front for its own corrupt Member\$ to orchestrate RICO schemes behind the Scene\$ to steal from the public?
8. Is the California Supreme Court's well-established Pattern & Practice of blindly rubberstamping Trial Court Disbarments purposeful non-feasance to conceal that Bar Court\$ routinely rig Bar Court Trial\$ to protect their RICO network?⁷
9. Does Chief Justice Cantil-Sakauye intentionally breach her duties when she Denies Review of Disbarments knowing that Member-run Bar Court Trials are rigged to conceal Bar Member\$' crimes and former Member\$-turned judge\$' judicial racketeering?
10. Is Cantil-Sakauye's real job as the Bar's Supervising Authority to Suppress\$ evidence of the Member-run Bar's financial predation of the public while the Bar feigns it's a public protection agency?
11. Is Cantil-Sakauye's real job as the Bar's Supervising Authority to conceal Bar Member\$' racketeering and court corruption rather than protect the public from corrupt Member\$ and judge\$?
12. Did Cantil-Sakauye Sanction 5-year federal mole Missud with \$17,568 in co\$t\$ & fee\$ on 3/18/15 to interfere with his federal whistle-blowing that's exposing how California's complete judiciary from County to Supreme Court is 18 USC §201 Corrupt?⁸
13. Did Cantil-Sakauye intentionally and with scienter disbar Missud and order nearly \$18,000 in color-of-law Sanction\$ to financially injure him because he's relating judicial crimes to federal law enforcement?
14. Does Cantil-Sakauye know that California's Penal Code §136.1(a) Proscribes acts which dissuade witnesses and victims of crimes from testifying about those crimes in court or Petitioning them to the U.S. Supreme Court?⁹

⁷ <http://www.law360.com/articles/598682/suspended-atty-asks-justices-to-look-at-discipline-in-calif> and

<http://kanbaroo.blogspot.com/2014/12/110th-installment-judicially.html>

⁸ <http://members.calbar.ca.gov/fal/Member/Detail/219614>

⁹ <http://law.onecle.com/california/penal/136.1.html>

15. Does Cantil-Sakaue know that California's Penal Code §136.1(b) Proscribes acts which dissuade witnesses and victims of crimes from reporting crimes to law enforcement like the FBI and DOJ's Criminal Investigations Unit?

16. Does Cantil-Sakaue understand that California's Penal Code §136.1(c) Proscribes acts which threaten witnesses and victims of crimes from testifying about them in court, Petitioning them to the U.S. Supreme Court, or reporting those crimes to the FBI and DOJ?

17. Does Cantil-Sakaue understand that California Penal Code §§136.1(a,b,c) each prescribe a year in state prison per violation, and that ordering Sanction\$ of nearly \$18,000 against 5-year federal moles who've also been disbarred because they exposed rampant judicial racketeering from California's County to Supreme Court can be sentenced despite "absolute judicial immunity?"

18. Does Cantil-Sakaue understand that 18 USC §1512 Proscribes Interfering with Federal Informants who Relate the commission of crimes to federal authorities?¹⁰

19. Does Cantil-Sakaue understand that 18 USC §1513(e) Proscribes Financial Retaliation against Federal Informants like when stripping them of professional licenses and interfering with their gainful employment?¹¹

20. Does Cantil-Sakaue understand that 18 USC §1512 Interference and §1513(e) Financial Retaliation prescribe up to 10 years' prison time per violation?

21. Will the following judge\$ get convicted for Corruption, Racketeering, Honest Services Fraud, Treason, and other even higher crimes like Sedition, Subversion, and Overthrow of Government?

Curtis Coltrane; Bonnie Bulla, Elizabeth Gonzalez, Kristina Pickering, Ron Parraguirre, James Hardesty, Mark Gibbons, Michael Cherry, Nancy Saitta, Michael Douglas, Charlotte Woolard, Loretta Giorgi, Katherine Feinstein, Elaine Wick, Peter Busch, Marla Miller, Andrew Cheng, Harold Kahn, Curtis Karnow, Paul Alvarado, Patrick Mahoney, Gene McDonald, Leslie Nichols, Cynthia Lee, James Robertson, Ronald Stovitz, Gail Dekreon, James Dye,

¹⁰ <https://www.law.cornell.edu/uscode/text/18/1512>

¹¹ <https://www.law.cornell.edu/uscode/text/18/1513>

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450 Golden Gate Avenue, 13th Floor
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U.S. Department of Justice
Civil Rights Division, Office of the Ass't. AG
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

U.S. Department of Justice
Public Integrity Unit
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

I declare under the penalty of perjury under the laws of California that the forgoing is true and correct.

Patrick Missud

Patrick Missud

4-23-2015

Date

PROOF OF SERVICE:

I am a citizen of the United States; I am over 18 years of age; my address is: 91 San Juan Avenue, San Francisco, California, 94112; I am employed in the County of San Francisco, where this mailing occurred. On 4-23-15, [per USPS POS] I served the following documents:

PETITION FOR WRIT FOR CERTIORARI

By placing a true copies thereof in the mail and/or by fax, hand delivery, email:

U.S. Supreme Court Priority Signature Confirmed #2313 2760 0000 0962 5253
One First Street, N.E.
Washington DC, 20543

U.S. Solicitor General, Room 5614
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC, 20530-0001

| | |
|--------------------------------|--------------------------|
| First District Court of Appeal | California Supreme Court |
| 350 McAllister Street | 350 McAllister Street |
| San Francisco, CA, 94102 | San Francisco, CA, 94102 |

Michael von Loewenfeldt, Rachel A. Dodson
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101 Mission Street, 18th Floor
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tompkins@kerrwagstaffe.com, mackey@kerrwagstaffe.com, kerr@kerrwagstaffe.com,
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Susan.kagan@calbar.ca.gov, Sherrie.mcletchie@calbar.ca.gov,
Rachel.grunberg@calbar.ca.gov, Adriana.burger@calbar.ca.gov,

Ernest Goldsmith, Harold Dorfman, Lillian Sing, Lynn Taylor, William Elfving, Ronald Quidachay, John Stewart, Deborah Ryan, William McGuinness, Stuart Pollak, Martin Jenkins, Anthony Kline, Paul Haerle, James Lambden, James Richman, Ignazio Ruvolo, Timothy Reardon, Maria Rivera, Tanil Cantil-Sakauye, Carol Corrigan, Joyce Kennard, Kathryn Werdegarr, Ming Chin, Marvin Baxter, Goodwin Liu, Leondra Kruger, Mariano-Florentino Cuéllar, Patrice McElroy, Lucy Armendariz, Joann Remke, Judith Epstein, Katherine Purcell, Richard Honn, Sandra Armstrong, Roger Benitez, Roger Hunt, Susan Illston, Phyllis Hamilton, Edward Chen, Donna Ryu, William Alsup, Claudia Wilkin, Joseph Spero, Ralph Beistline, Audrey Collins, George King, Anthony Ishii, Martin Reidinger, Berry Edenfield, Alex Kozinski, Jerry Smith, Edith Jones, Carlos Bea, Stephen Reinhardt, Kim Wardlaw, Ronald Gould, Richard Clifton, Jay Bybee, Harry Pregerson, Susan Graber, Stephen Trott, Richard Paez, Edward Leavy, Sidney Thomas, Mary Murguia, William Fletcher, Milan Smith, Morgan Christen, Jacqueline Nguyen, Wallace, Tallman, John Roberts, Clarence Thomas, Antonin Scalia, Anthony Kennedy, Samuel Alito.

LIST OF PARTIES

All parties do not appear on the cover's caption. Every judge like those listed above who sold a decision, rigged a hearing, railroaded an action, or otherwise scuttled a case, appeal, or writ should now be terrified of going to prison for at least Honest Services Fraud, 18 USC §201 Corruption, §1962 Racketeering, and §2381 Treason & Overthrow of Government.

318 Million Americans who've had their constitutionally-mandated neutral judiciary commandeered by corporation\$, \$pecial intere\$t\$ & corrupt judge\$ want their "government of and by the people" back. Hence they're interested parties too.

**RULE 29.6 CORPORATE DISCLOSURE STATEMENT/CERTIFICATE
OF INTERESTED ENTITIES**

All State and federal judge\$ are financially-interested in this Writ. That's the problem. Judge\$ are Selling decision\$, order\$, and ruling\$ because 'absolute judicial immunity' made most of them absolutely judicially corrupt.

Washington D.C.'s Department of Justice, Criminal Division, Public Corruption Unit, Federal Bureau of Investigation, Local FBI, Judicial Watch, Public Citizen, ACLU, consumer protection agencies, entities and individuals asserting the rights of real non-corporate people -as opposed to the fake corporate 'people' who fleece real people, are all generally-interested entities in this Writ.

ONE REALLY GOOD REASON FOR GRANTING THIS PETITION

It proves that the County's judicial \$y\$tem is rigged by all courts in all 50 states up to John Robert\$' conservative-controlled US Supreme Court.

CONCLUSIONS

America's court\$ are owned by the \$pecial intere\$t\$. These days, ju\$stice can only be bought and e\$pecially so with ab\$olute judicial immunity and particularly after *Citizen\$ United* which buys only the WOR\$T judge\$ that money CAN buy.

VERIFICATION AND PLEADING LENGTH

I, Patrick Missud am the Pro-Per Petitioner in the above-entitled action. I'm also a five-year 18 USC §1513 Informant whose job is to set-up dopey judge\$. I prepared the foregoing Petition and therefore know the contents thereof. The same is true of my own knowledge, except as to those matters that are therein alleged on information and belief, and as to those matters, I believe it to be true. This Petition conforms to pleading standards, is 9752 words, and written in 13 point type.

I declare under penalty of perjury under federal laws that the foregoing is true and correct. When called upon as a witness to get John Robert\$ impeached and then executed for *Treason and other Higher Crimes like Genocide which will be featured in Writ for Review of 9th Circuit 14-16509*, I'll do so competently and with great pleasure. This declaration was executed in SF County, but Robert\$ will probably be executed elsewhere like in Leavenworth.

//

Submitted to cause the complete implosion of the 3rd Branch of Government,

Patrick Missud

Patrick Missud

4-23-15

Date

D. Chief Justice Cantil-Sakauye's Collusion to Commit More Racketeering

Cantil-Sakauye will soon get Petitioned to Review Div-IV's corrupt decision to Affirm judicial racketeering in A141459. She'll then get to review Appeals A143554 & A144527 which will surely also be rigged. She already 18 USC §1513(e) Retaliated against me by stealing my Bar license and sanctioning me with almost \$17,568 in S222905. That amount added to Elfving's \$ Sanction\$, cost\$, and fee\$ of \$12,075 already Affirmed in A141459, and \$5750 more featured in A143554/144527 bring the total financial retaliation to over \$35,000 plus a quarter-million-dollar Bar license which could have been used to prosecute patents in the Silicon Valley at a high-tech firm happy to pay me over \$200,000 per year plus benefits.

Cantil-Sakauye and the Member-run Bar *which She doesn't Supervise in violation of her duties*, interfered with my gainful employment since 2011 when I testified before the corrupt Bar's Governance in the Public Interest Task Force. Rather than protect the public and reign-in Member's' financial predation of the public and my lowly targeted clients, She allowed over \$3 Million to be illegally funneled from my clients' pockets into corporate high-roller's' pocket\$. I lost *substantial* contingency fees.

In all, Cantil-Sakauye's racketeering personally & conservatively cost me over \$3 Million. Cantil-Sakauye is also responsible for: over a million in losses to Plaintiffs in CGC-07-464022; at least another million for the financial target in CPF-10-510760; and over \$600,000 for Wong in CGC-09-494395. Worse still, Cantil-Sakauye is responsible for the destruction of the rule of law, impartiality, due process, equality, and fairness now-absent in all of California's courts. She eradicated democracy throughout the Golden State for 38 Million non-corporate naïve citizens who looked towards the courts as their last means of redress. Little did they know the courts are in a state of *undress* being run by emperors having no clothes, -but you can't tell them that since they're omnipotent with that absolute judicial immunity which made them all absolutely corrupt.

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INDEX OF APPENDICES

All the orders, rulings, transcripts, and other concrete evidence permanently registered in and for Bar Court Trial 12-O-10026, Bar Court Review of the same, and in California Supreme Court Writ of S222905, were already forwarded to the FBI and DOJ's Criminal Division. Many of the documents are already uploaded to the web at several sites including: <http://www.judgesforsale.org/cal.-upreme-court.html> and <http://www.sanfranciscosuperiorcourtfraud.com/-tate-bar-racketeering.html>. A supersite will be created whereat every transcript will be posted to fully expose the California Bar's criminally-proven racketeering, and each and every judge who participated in sedition.

Just like at the Bar's website where the corrupt judge defamed Missud with their fraudulent Decision & Order of Missud's Disbarment, Missud will expose every judge's corruption, racketeering, and other state and federal crimes to guarantee that their reputations are destroyed, they are financially devastated, and then die in prison for subversion, sedition, and misprision of treason.

318 million Americans and consumer protection agencies have access to all the same documents that this corporate-bought conservative US Supreme Court will consider if granting Petition for Review. Attached hereto and in support of this Opening Brief are FRE Rule-803 documents and records which aren't subject to dismissal for any reason. They must be considered for their substantive content. Failure to follow FRE-803 will cause Chief Justice John Robert to first be convicted of purposeful ignorance of lower court judicial high-crimes, and then executed for treason and undermining the Constitution with Scenter.

Robert now has to explain why California's Supreme Court repeatedly ignored all evidence in S222905 which showcased how California's judge and Bar Court orchestrated a variety of RICO Scheme, -all which crafted to steal from the public and 38 Million Californians.

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home the day after I was coincidentally disbarred, they demanded I pay the \$775 filing fee for related Appeal A144527 even though they granted Fee Waiver 4 months prior based on *better* financial information since I hadn't then-been fined with over \$35,000 in sanction or disbarred. *Twilight zone*. On 4/7 Div-IV ignored yet more transcripts and diamond-hard proof of Elfving's high-crimes and subversion, feigning that catching him in lies and rigging cases aren't relevant in the appeal which criminally-proves that Elfving lies and rigs cases. *Outer Limits*. By 4/9 I filed an email to notify Div-IV that the FBI was monitoring their underhanded obfuscation of judicial racketeering spanning from Santa Clara to San Francisco, and extending from California's Superior to Supreme Court. *That's a lot of court*. On April 16th Cantil-Sakauye and her buzzard of a feather filed for a Time Extension to kick the can down the road and figure out what to do next. They picked May 8th which is two weeks after Santa Clara's judge Ryan plans on rigging the April 27th hearing for the criminal case initiated by Elfving to cover-up his own judicial RICO. I immediately filed an Opposition to TE pointing-out that Respondents' scrum of attorneys had and still have plenty of time to get their act together. Then on April 17th I filed my Reply Brief to Armendariz & Remke, and which details how Elfving lied on 10/3/14 to dismissthe case under review; and then rigged the next 11/21/14 hearing further-lying about not getting pleadings and proof that Bar Court judge Armendariz & Remke partake in criminal acts like Honest Services Fraud. Note that I only had 20 days to Reply to Armendariz & Remke, which means that if Cantil-Sakauye got her TE, she'd get a 1st look at my Reply to prepare her own Respondents' Brief. Nifty eh? Sure enough, on 4/21 Div-IV assisted Sakauye & friend and gave them their Extension even though a dozen attorneys are working on that RB and now know what's in my Reply. Does anybody really believe that self-interested Div-IV will do anything but railroad this 2nd appeal after ignoring all records and evidence of underling's, colleague's, and their own judicial corruption?

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days, and to add another lifetime to her already lifelong prison sentence. Finally on April 16th, Div-IV told me they wouldn't publish their Order since they don't want anyone knowing that judge\$ all the way up to California's Supreme Court rig hearings and railroad cases in violation of the most basic 229 Y-O fundamental rights which created this Country. All these phuks desperately need to get ga\$sed.

2. **Appeal A143554** is also starting to get very entertaining:

http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=1&doc_id=2093124&doc_no=A143554

On 11/20/14 I was granted IFP status partially based in the fact that judge Elfving under review already targeted me for \$20,000 in retaliatory sanctions because I exposed his corruption including rigging the case under review as well as the one in A141459. By 1/6/15, Div-IV received a copy of the November 21st 2014 transcript catching Elfving brazenly lying at page 3 that he didn't get 6 copies of my Opposition papers so he could instead rig the ca\$e on that same date. On 1/12, the Superior Court which employ\$ Elfving didn't waive its \$100 filing fee although the Appellate Court reviewing Elfving waived its own \$775 fee. The financial information was identical for both Fee Waivers and showed that Elfving stole \$20,000 two months prior, but that didn't matter to the Superior Court which wanted to financially retaliate some more to prevent my exposure of it\$ own corrupt judge. On 3/19 I filed my Petition for En Banc Reconsideration of Cantil-Sakauye's 3/18 decision to interfere with my gainful employment as a Bar-licensed attorney, and because I'm a federally-protected Informant who's exposing judicial graft to federal authorities. On 3/25 I wanted to Augment the Record with more transcripts proving that Santa Clara's Civil & Criminal Court\$ were coordinating to make sure I couldn't expose Elfving's crime\$ in the appeal. By 4/3 I filed for reconsideration of the Superior Court's denial of my prior Fee Waiver basing the request on the fact that increasing costs of litigation is a classic means to 18 USC §1512 Interfere with a Federal Informant. By 4/6, Div-IV was steadfast that they'd ignore any and all proof that Elfving is a crook. To drive that point

APPENDIX A1 contains the one-and-only page of the California Supreme Court's 3/18/15, 3-part Order which: (1) Denie\$ Review of Writ S222905; (2) Prima-Facie 18 USC §1513(e) Retaliate\$ Against Missud by Striking him from the Roll of Attorneys; and (3) Impose\$ nearly \$18,000 in color-of-law Sanction\$ which are actually brazen violations of California Penal Code 136.1 subsections a,b,&c which proscribe: dissuading witnesses and victims of crimes from testifying in or petitioning courts; and/or relating the commission of crimes to law enforcement agencies. Cantil-Sakauye and her colleagues will likely each get imprisoned for 13 years for their violations of just those state and federal codes.

APPENDIX A2 contains the C\$C's Refusal to Rehear S222905. That's a VERY FINAL decision and seals Cantil-Sakauye's fate as a soon-to-be-indicted felon.

APPENDIX B contains the Member-run Bar Review Department's contrived Opinion & Order/Affirmation of the Trial Court Decision & Order regarding Missud's Disbarment. None of the Review judge\$' conclusions or findings of fact are supported in the Trial transcripts or submitted exhibits. Rather, judge\$ Purcell & Honn 18 USC §201 Corruptly participated in §1962 Racketeering by burying evidence of civil court judge\$' crime\$ to further their common \$cheme to prey on the public while getting cover from the Member-run Bar -which only feigns to protect the public from corrupt Member\$ when in-fact the organization protects corrupt Member\$ from exposure for their financial crimes targeting the public.

APPENDIX C contains the factually-bereft and tortured Bar Court Decision & Order of Missud's Disbarment. Not a word is anchored in any truth or based in proof from approximately 60 transcripts and 2000+/- pages of evidence filed for Trial judge Armendariz' consideration. Armendariz ignored that District judge Chen lied there wasn't jurisdiction over corporate deep pocket DHI and then immediately filed a bogus Complaint to initiate the Trial to hide his own Haobb\$ Act corruption. Armendariz ignored over 400 pages of official federal records proving that DHI has a pattern & practice of bait-and-switch lending that bankrupts consumers and causes their foreclosures. Armendariz ignored that: 400

families each said that DHI targeted them for financial predation; and State and federal judges were complicit in DHI's RICO since they all concealed the crime. Armendariz wouldn't even take judicial notice of her very own words during Pre-Trial conferences when she lied about not getting pleadings and violated her own Bar Court Rule 5.109 when she suppressed evidence of corrupt Member's predation of a lowly citizen: who personally appeared to testify about Six Bar Member who illegally targeted him for \$600,000 in fraud; and whose own defense attorney triple-billed him while torpedoing his defense to monger even more fees.

APPENDIX D is John Robert's refusal to Augment the Record for SCOTUS Writ 12-9413 with *highly relevant* FRE-803 transcripts from rigged Bar Court Trial 12-O-10026 which proved Bar Court racketeering and detailed how three California Bar Member targeted a mere member of the public for over \$600,000 in fraud with the Member-run Bar's blessing. Gee would it have been nice way back in 2012 if Robert had acknowledged that California's Member-run Bar provides cover for Bar Member's criminal acts targeting the public for financial predation.

expose rampant judicial RICO before they kicked me out of court. Lee didn't even fill-up two minutes of her allotted time. She must have had an epiphany: "Hear, See, and Speak no Evil" comes to mind. That very afternoon, I filed my \$100 Million civil rights action across the street in the Superior Court, and then served a courtesy copy of CGC-15-543711 on Div-IV that was so very instrumental in torpedoing two Oral Arguments because they didn't want to admit that Superior Court underlings like Elfving are thieves and felons who falsely-imprison Federal Informants after dismissing criminally-proven cases detailing the financial-targeting of minorities who are but 2nd class citizens in Tony Benet's City by the Bay. These phuks need to be gassed. On 2/2 & 3/16, I twice-requested more record augmentation with transcripts from the railroaded criminal court case that Elfving trumped-up to conceal his judicial racketeering. Then on March 18th I got some really bad news from California's Supreme Court. Those seven justices wanted me disbarred and to pay their RICO-operating Bar \$17,568 for having rigged my disbarment because I specialize in exposing dirty scumbag judges like Elfving, Ryan, and Div-IV's Fab-Four. These phuks really need to be gassed. In any case, I rubbed salt in Div-IV's already gaping wounds by filing a courtesy copy of my "Notice of Petition" of this very *Petition of S222905 to YOU John Robert!* TAG- you're 'it' asshole. On March 19th, I did two things: (1) tried a 5th time to Augment the Record with undeniable concrete proof of judicial corruption but Div-IV didn't want to admit they were already caught neck-deep in a dozen judicial lies, and so dug their own graves even deeper and added nails to their own coffins; and (2) filed a courtesy copy of my Petition for En Banc Rehearing of Cantil-Sakauye's corrupt decision to send her to prison until she's dead. By March 30th, Div-IV cobbled together another self-serving Order Affirming Elfving because by-then, -they couldn't admit furthering his racketeering and made his crimes their own as co-conspirator. No sooner was the ink dry on that Order that on April 1st I notified the four dummies that I'd Petition Cantil-Sakauye with Review of their bonehead move to get her back on the hook for a 2nd time in 13

coincide with that January 13th 2015 Oral Argument before Div-IV where I was to expose Elfving's rigging of all those hearing\$ for the ca\$e under review in A141459. All the stars lined-up that day for Elfving. How *lucky*. He should have bought a lottery ticket! At 3AM January 10th, I bailed-out with a \$4000 bond³⁰ - twice the amount required to cover the County's egregious 8th Amendment excessive-bail violation. I slept-in that day and on January 12th, quickly Motioned to delay San Francisco's Oral Argument since I Suddenly had to Simultaneously appear before Santa Clara's judge Ryan for the rigged criminal case that Elfving initiated to keep: me from attending Oral Argument in San Francisco, and himself out of prison for sedition and rigging case di\$mi\$Sa1\$ on behalf of lot\$ of Special intere\$t\$. By then Div-IV: knew I was pissed; and figured they'd better cut me some slack after I bent over and coughed 3 times for no other reason that I exposed Elfving's crime\$. Getting justice from Div-IV is harder than pulling teeth and performing your own open heart surgery. On January 14th I tried Augmenting the Record with that January 9th transcript documenting Elfving's FIFTEEN phuking lie\$ including rigging a Demurrer with a defense attorney, but the Fab-Four refused that too. They did end up rescheduling Oral Argument for January 27th. Then on the 23rd, the criminal organization also known as the Bar swapped Lee for Gill at Oral Argument. Extra-fabulous!! Wouldn't you know it, Santa Clara's Criminal Court again scheduled a superseding & intervening hearing to conflict with that 2nd re-scheduled Argument where I was to expose Elfving's high-crimes of overthrowing government by rigging cases in his non-neutral judicial branch & kangaroo court. All these phuks need to be gassed. This time Div-IV tightened the screws. They told me tough-\$#!t we're going to make you come at the appointed date & time. On January 26th, I went to my rigged 1:30PM Santa Clara hearing which was called last and dragged-on for hours. I finally got home at 7PM and started getting files together for the next day's Argument at the crack of dawn. I used the whole 10 minutes [600 seconds] that Div-IV gave me to

³⁰ Reduced from \$5000 with my "professional discount"

TABLE OF AUTHORITIES

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A. CONGRESSIONAL ACTS

18 USC §1951 Hobbs Act; and Bribery Under Color of Official Right: 18
<http://www.law.cornell.edu/uscode/text/18/1951> and
http://www.justice.gov/usao/eousa/foia_reading_room/usam/title9/crm02404.htm

B. FEDERAL STATUTES, RULES, CODES

1st, 5th, 14th Amendment State Due Process, Fairness, Equal Protection: 18
<http://www.law.cornell.edu/constitution/amendmentxiv>
 18 USC §1512/13 Threatening/Retaliation against a Federal Informant: 19
<http://www.law.cornell.edu/uscode/text/18/1513>

C. CALIFORNIA PENAL CODES

PC §136.1(a/b/c) Prohibition against dissuading a witness or victim from testifying or reporting a crime at court hearings or to law enforcement and regarding the commission of crimes:
<http://law.onecle.com/california/penal/136.1.html> 19

D. OTHER

1. FBI INVESTIGATIONS OF CORRUPT JUDGES

State and Federal judges from Louisiana, Texas, Illinois, California, Pennsylvania, New Jersey, Virginia, Nevada, West Virginia ... and virtually every other state in America were caught taking Hobb\$-Act bribes and selling decisions to the highest bidders and \$pecial intere\$t\$. All judge\$ have their price\$ for \$uch auction\$, and especially \$o under the doctrine of 'ab\$olute judicial immunity.'¹²

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¹² <http://www.judicialwatch.org/blog/2010/03/house-impeaches-bribed-fed-judge/> and <http://articles.latimes.com/2010/dec/09/nation/la-na-porteous-impeach-20101209> and <http://www.fbi.gov/sanantonio/press-releases/2013/former-judge-abel-limas-gets-72-months-in-prison-for-taking-bribes> and http://www.fbi.gov/news/stories/2004/march/greylord_031504 and <http://www.fbi.gov/philadelphia/press-releases/2011/former-pennsylvania-county-president-judge-and-juvenile-judge-mark-ciavarella-sentenced-to-28-years-in-prison> and http://www.nytimes.com/2009/08/06/us/06jefferson.html?_r=0 and <http://www.scotusblog.com/case-files/cases/caperton-v-a-t-massey-coal-company-inc-et-al/> ...

2. FBI INVESTIGATIONS OF CORRUPT OFFICIALS

A. In 1984, the FBI's Operation Greylord nabbed 92 felon\$ including 17 corrupt Cook County Chicago judge\$ who were taking Hobb\$ Act ca\$h to line their own pocket\$. That sting led to others called Lambat, Lantern, Silver Shovel, etc.¹³

B. In 2009, the FBI exposed how a pair of self-interested Presiding Judge\$ stripped juveniles of due process, and then falsely-imprisoned them for ca\$h kickback\$ from corporations in which they had financial tie\$.¹⁴

C. In 2014, the Federal DOJ uncovered massive civil rights violations in Ferguson MO and produced a scathing report detailing how officials there considered African Americans as 2nd class citizens not entitled to fundamental rights.¹⁵

D. In this 2015 Operation Greylord-II, the FBI & DOJ will round-up more judge\$ than all other FBI stings *combined* in the history of these United States. I'll be surprised if less than 90% of all state & federal judges aren't rounded-up for some form of corruption and/or racketeering. That's how badly "ab\$olute judicial immunity" infe\$ted our ab\$olutely corrupt judicial \$y\$tem.

¹³ http://www.fbi.gov/news/stories/2004/march/greylord_031504 and <http://www.chicagotribune.com/news/nationworld/politics/chi-chicagodays-greylord-story-story.html> and http://www.ask.com/wiki/Operation_Greylord?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com

¹⁴ http://www.ask.com/wiki/City_of_Bell_scandal?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com and <http://www.latimes.com/local/bell/> and <http://www.foxnews.com/politics/2013/03/20/verdicts-reached-in-bell-california-corruption-case/> and <http://www.reuters.com/article/2013/03/20/us-usa-california-corruption-idUSBRE92J17M20130320> and <http://online.wsj.com/article/SB10001424127887323419104578372710300513892.html>

¹⁵ <http://www.justice.gov/opa/pr/justice-department-announces-findings-two-civil-rights-investigations-ferguson-missouri>

wanted to dispose of Oral Argument in just 5 minutes. I protested because the Bar is involved in so much RICO that at least a month's argument is needed to scratch the surface. Then on November 4th, I requested Div-IV to Augment the Record with yet more official proof that the lower case was rigged, but wouldn't you know it, they punted on my legal request until they crafted a railroaded decision. On 12/24 I explained that Augmenting the Record was mandatory and not subject to judicial discretion because of a couple little things called due process & equality. Neverthele\$\$, four Div-IV moron\$ denied looking at transcripts catching Elfving lying about not getting pleadings to rig a related case. I guess that lying is commonplace in the Superior & Appellate court\$ and isn't reason for pause to guarantee fundamental rights. Div-IV though did at least have the decency of setting Oral Argument for January 13th 2015. *Remember this date!* Then on December 29th I Opposed the Member-run Bar's 18 USC 1513(e) \$17,568 Financial Retaliation against me for having spilled the beans to the feds who've been monitoring the Bar's self-destruction. On January 2nd, after drinking lots of water to rehydrate from the New-Year festivities, I requested a status update because Div-IV was dragging their collective feet. By January 5th I filed a Writ with Cantil-Sakauye to set her up regarding rigged Bar Court case 12-O-10026, and which was directly relevant to Div-IV's anticipated rigging of Appeal A141459. Then came January 9th when the corrupt Member-run Bar notified me that Gill would appear at the following week's Oral Argument. Fabulou\$!! You know what else happened on January 9th? Judge Elfving had me illegally-arrested just five minutes after he rigged: more of the same case under review in this A141459; and a 2nd case criminally-proving that San Francisco preys on minority constituents in the same way that Ferguson MO did. No joke! Elfving rigged a Demurrer of the 2nd case asking a San Francisco defense attorney about his best strategy for rigging the next hearing. I was in handcuffs about ten minutes later at 10:45AM. After the Sheriffs made sure I was falsely-imprisoned by civil judge Elfving for 13 hours, -a criminal court magistrate \$et my first arraignment date to

fabulous example of 'I'll scratch your back if you scratch mine.' Federal Whistle Blowers who expose corrupt judges get targeted by the Bar for trumped-up investigations and disbarments. Likewise, Whistle Blowers who expose Bar Racketeering in civil courts get their cases summarily dismissed by corrupt judges who also impose sanctions to send the crystal-clear message that the self-interested Member-run Bar and former Members turned corrupt judges collude to ensure that the legal [lethal] community targets the public at-will for any & all financial predation more sinister & nefarious than other white collar crimes committed by felons lurking around Wall Street.

1. **Appeal A141459:** Wow is the docket for this appeal amusing:

http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=1&doc_id=2073395&doc_no=A141459

On 5/5/14, I "Missud" filed a Request for Supersedeas simply asking Division-IV to force Superior Court judge Elfving to follow California Rules of Evidence §450 et seq., and acknowledge self-authenticating evidence including official court transcripts and USPS records. However, Div-IV didn't compel corrupt judge Elfving to follow basic rules to instead allow the felon to continue rigging the case under appeal. I also asked that Elfving's color-of-law retaliatory \$11,705 sanction be stayed pending resolution of the appeal, but since Div-IV wanted Elfving to railroad the case to begin with, that lawful request fell on deaf & dumb ears. Then on 5/12/14, I set-up the four Div-IV dolt some more. I submitted official Civil & Bar Court transcripts catching lots of dopey judges in lies as simple as feigning non-receipt of federally-tracked mail that was virtually pinned to their foreheads. However, Div-IV once again refused to admit that all absolutely judicially immune judges are felons because absolute immunity corrupts absolutely. On 5/19 I set-up Chief Thief Cantil-Sakauye of California's corporate-bought Supreme Court. I asked her to force Div-IV to follow its own CAR Rules, but she refused because the fix was long-since in; and wanted to railroad my disbarment for at least a year. On 10/8/14 the Member-run State Bar

OPINIONS BELOW

IN THE SUPREME COURT OF THE UNITED STATES PETITION FOR A WRIT FOR CERTIORARI, Petitioner respectfully prays that a Writ of Certiorari issue to review the judgment below.

A. The California Supreme Court's [CSC] "Denial of Review," intentional malfeasance, and brazen refusal to open its eyes to crystal-clear Bar Court Corruption and Member-run Bar Racketeering was issued March 18th 2015. It appears in Appendix A to this Petition and is unpublished because the former, self-interested Bar Members who comprise the CSC don't want the public knowing they support their corrupt colleagues and other equally-as-sinister Bar Members who run the Bar and target the public for financial predation. As a matter of fact, therein Chief Justice Cantil-Sakauye immediately ordered nearly \$18,000 in color-of-law sanctions to stop Missud's whistle-blowing, and disbars him in clause 18 USC §1513(e) retaliation for having coordinated with federal law enforcement to expose her and colleagues' rampant 18 USC §2381 Treason and Sedition.

B. The Bar Review Department's October 1st 2014 "Opinion and Order" Affirming the Bar's Trial Court Decision & Order appears in Appendix B to this Petition. Its ironically labeled "Public Matter- NOT Designated for Publication" because judges Purcell & Honn don't want the public knowing their Review Department just rubber-stamps Trial Court case-rigging, -and to dupe the naïve public into thinking the Member-run Bar is a public protection agency when in truth it's a public *predation* agency that conceals its own Members' schemes to defraud the public.

C. The Bar Court Trial Department's July 1st 2013 "Decision & Order" of Missud's Involuntary Inactive Disbarment [D&O] appears in Appendix C to this Petition. It's also published to the web on Missud's Bar Profile page.¹⁶ It's clearly defamatory since it's wholly-contrived and crafted to conceal that the Member-run Bar provides cover for its own corrupt Members who rig cases with judges that

¹⁶ <http://members.calbar.ca.gov/fal/Member/Detail/219614>

are paid-off by Special interest to make sure that neutral juries never get to decide cases that are criminally-proven, and show how corporations & the well-connected routinely buy justice in America's 'court of law.' Former Bar Member turned judge rig cases with active Member to conceal corporate financial predation of the public from the public because the lucrative Scheme line Member and judge's pocket.

TAKE JUDICIAL NOTICE that the D&O was printed from the official Superior Court docket for case CGC-07-464022. IMPORTANT NOTE HERE.¹⁷

| | | |
|-------------|---|----------------------|
| JUL-03-2013 | NOTICE OF STATE BAR COURT OF CALIFORNIA DECISION AND ORDER OF INVOLUNTARY INACTIVE ENROLLMENT FILED BY DEFENDANT HUEY, MATHEW ERRONEOUSLY SUED AS MATHEW HUI IND AND DBA AS M H CONSTRUCTION CO. M H CONSTRUCTION CO. | View |
|-------------|---|----------------------|

In case 464022, corrupt judge Mahoney ordered two Plaintiffs into mandatory (and rigged) arbitration to cover-up an official crime including getting kick-backs for political favors.¹⁸ One of the Plaintiffs was illegally forced into arbitration despite never having signed any agreement to arbitrate, -a crystal clear violation of FAA §2. Then at arbitration, "court-approved" arbitrator Carbone ignored \$80,000 in Plaintiffs' receipts to rig an Award for the Allstate Insurance Corporation which: already arbitrated 234 other cases at ADR Service; paid Carbone \$425/hour to rig awards for repeat-business Allstate; and saved one million dollars by buying justice from Carbone at that Super-Secretive and rigged arbitration.¹⁹ The corrupt Award was then brought back to the same court that rigged arbitration to begin with, and where judge Woolard ignored that Carbone can't do first-grade math since he thinks 60 Amps=200 Amps, \$4000=\$1386,

¹⁷ The D&O was printed from the official Superior Court docket because it proves the D&O was registered 2 days before publicly known and available per the D&O's very own terms at page 24. The corrupt defendant and their sinister Bar-Member attorney got an *advance copy* of the D&O from the Member-run State Bar which wanted them to banish Missus from the case which criminally-proves judicial Federal Arbitration Act racketeering. More later.

¹⁸ Former disgraced San Francisco Tax Assessor Mabel Teng reassessed her contractor's income property in exchange for shoddy home remodeling riddled with over \$500k in construction defects she covered-up right before sale. <http://www.sfgate.com/politics/article/Embattled-S-F-official-Teng-quits-Assessor-2641539.php>

¹⁹ Michael Carbone was formerly vetted as a Superior Court "Approved Mediator/Arbitrator" at <http://www.sfsuperiorcourt.org/divisions/civil/dispute-resolution>

ATTENTION good-as-convicted-for-subversion John Robert: The "voluminous exhibits submitted with Petition of 12-9413" which: are the 750 pages of Bar Court Transcripts for rigged 12-O-10026; and were returned by you because they incriminated over 100 civil court judges, are re-enclosed herewith for your re-consideration. Therein, Armendariz is caught in over 100 lies including giving 3 of the Bar's 4 star witness 'get out of jail free card' for their perjury under oath. YOU John Robert will be EXECUTED FOR TREASON if YOU again ignore this FRE-803 self-authenticating evidence of Bar Court racketeering for a second time in Review of S222905.

3. The **Review Department** is an essential cog in the Bar's RICO machine. No rigged Trial is complete unless the Review Department's judge naturally agree with the Trial Court judge. Does anybody really believe there's any independent review in a court system which employs only 8 judges -all of whom work together all the time? Such was the case with rigged 12-O-10026. After Remke retired from the Bar's Review Dept. and Epstein recused, remaining judges Purcell & Honn were tasked with blindly affirming Armendariz' fraudulent D&O. They also ignored all the same documents that will get Armendariz a life sentence for Honest Service Fraud and as a co-conspirator in the Bar's racketeering. On October 1st 2014 the Bar racketeer supported: corporate predation of the masses; concealed judicial FAA racketeering; and suppressed proof that Civil Court judges routinely dismiss cases for the Special interest -and especially when they are government entities which pay judicial salaries and benefits.

C. Appellate Court Rubber-Stamping of the Bar's Trial Rigging

California's First District Court of Appeals Division-IV already rubber-stamped Bar Court Racketeering in A141459 and is poised to do the same in related A143554.²⁰ The judge's lucrative criminal organization will implode unless they cover for the Bar which in return gives them cover in what's a

²⁰ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=1&doc_id=2073395&doc_no=A141459 and http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=1&doc_id=2093124&doc_no=A143554

home-buyers into bankruptcy & foreclosures. That's also what caused Bear-Stearns, AIG, and Lehman Brothers to go bankrupt overnight. Joe wouldn't admit he illegally-cited Nevada PreSiding judge Gonzale's corporate-bought Order to collect DHI's Sanction\$, -that were then domesticated in California by buying-off judge Giorgi. Gonzale's Order specified that Mrs. Missud was judgment-proof, buy Odou lied in Sheriff's Dept lien papers that she was an additional judgment debtor. Liar Odou did that to retaliate against the Missuds, and prevent Mr. Missud's further exposure of DHI's racketeering which includes Hobb's Act purchase of judge\$ like Gonzale\$, Chen, Giorgi, and Armendariz.

The 5-day Trial Transcripts were so damning with those three witne's impeachments, and on-record presentation of 5000+/- documents²⁸ not subject to casual dismissal for any reason since all were self-authenticating California Rules of Evidence §§450 proof, that the Bar illegally withheld all 750 pages for 40 day\$. Missud immediately paid for and demanded the Transcripts that were quickly transcribed by May 21st 2013. However, the Member-run Bar which Specialize\$ in fraud leisurely produced them on July 1st 2013 concurrently with Armendariz' rigged D&O. That very, very tardy production prejudiced Missud's case because he could have detailed the 100+ lie\$ Armendariz was caught in, -per the official Transcript's page\$ which are suitable to impeach even judge\$ like Armendariz.

Worse still, the Member-run Bar whose Member\$ don't want to be exposed as racketeer\$, purposely withheld Transcript pp. 433-599 since they contained the most damning evidence catching Armendariz in lie\$ and rigging her D&O. Missud had to federally-subpoena those pages directly from the Court Reporting Agency that was instructed by the Bar to not produce the subpoenaed public records.

²⁸ The overwhelming proof included 60 civil court transcripts catching dozens of judge\$ in lie\$ in their own courtrooms, said lie\$ as simple as feigning non-receipt of federally tracked mail delivered directly to their chambers, flunking 1st grade math lessons, ignoring FRE-803 evidence which must be acknowledged by law, admitting lack of jurisdiction and then ordering litigants over whom they have no power to cough-up tens of thousands of dollar\$ to the judge\$' well-connected friend\$, and ignoring valid agreements but recognizing defunct ones to rig million-dollar fraud\$\$.

\$12,000=0, and 32 inches=36 inches. Those mathematical impossibilities and 59 others were proffered by Allstate's 'expert\$' to Save the Fortune-500 company a million dollar\$ at the fully court-reported arbitration which forever memorializes that "court-approved" arbitrator\$ will craft corporate-favoring awards in secret to line their own pockets and save \$24 Billion in\$urance companie\$ millions of dollars at Secretive ADR forum\$. Despite the brazenly-rigged Award, Woolard confirmed the RICO in violation of FAA §10; and then of course more judge\$ like Giorgi, Kahn & Goldsmith furthered Carbone's million-dollar racketeering to cover-up that high-level City official and Tax Assessor Mabel Teng sold her position of public trust to line her own pocket\$.

Ultimately, tho\$e many corrupt Superior Court decision\$ were Affirmed by Division-II Appellate Judge\$ Kline, Haerle & Lambden who furthered Carbone's criminal racketeering orchestrated by ADR Service\$, and to a\$si\$ four ultra-corrupt underling judge\$ running an FAA-RICO ring.

FEB-04-2013 REMITTITUR AFFIRMED (A130482 DIV 2) [View](#)

Shortly thereafter, Lambden retired from his bench and position of public trust, with a fat taxpayer-funded pension, to work at the very same ADR Service\$ to rig arbitration awards for \$650/hr since he proved his loyalty to the RICO syndicate by brazenly rubberstamping the million-dollar fraud that Allstate purchased from "court-approved" arbitrator Carbone.²⁰

Then quite naturally, Chief Justice Cantil-Sakauye had to clo\$e rank\$ and conceal eight lower-court judge\$' collusion to steal a million dollar\$ from two Plaintiffs who exposed that City official Teng committed yet more criminal act\$ while in office to ingratiate herself at taxpayer expense.²¹

While that debacle unfolded in State court, Missud also filed federal RICO action C:11-1856 to showcase the above ADR Service\$ crime\$ and yet another million-dollar fraud orchestrated at JAMS regarding case CPF-10-510760. In

²⁰ <http://www.adrservices.org/neutrals/james-lambden.php>

²¹ http://appellatecases.courtinfo.ca.gov/search/case/dockets.cfm?dist=0&doc_id=2029149&doc_no=S206342

510760, the same RICO-ring of judge\$ colluded to \$steal another victim's million-dollar condo and rigged an Award through retired judge Gene McDonald. All those corrupt, seditious judge\$ and other\$ like Karnow, Taylor, Richman, and Quidachay then rigged the forced-sale of the Victim's home which is to be sold as soon as this week per the recently registered Proposed Order that was only partially-scanned to hide it\$ rigged term\$ from the public:

| | | |
|-------------|---|----------------------|
| APR-22-2015 | NOTICE OF ORDER FILED BY OTHER SINGER, KEVIN | |
| APR-16-2015 | ORDER EX PARTE APPLICATION FOR ORDER AUTHORIZING RECEIVER TO RETAIN LEGAL COUNSEL TO REPRESENT THE BUYER INVOLVED IN THE SALE OF 1487 MCALLISTER STREET | View |

Despite concrete proof that the same ring of corrupt judge\$ rigged two million-dollar fraud\$, District judge Phylli\$ Hamilton ordered criminally-proven RICO ca\$e 1856 di\$mi\$sed based in "absolute judicial immunity." She held that judge\$ can lie, cheat & steal million\$ of dollar\$ at-will because they're above the law and needn't support the Constitution or fundamental rights.²²

Hamilton's Circuit Court colleague\$ Bea, Wardlaw, and Reinhardt then covered for Hamilton's Misprision of Treason because by-then over three dozen State and federal judge\$ were in on the \$cam to \$steal two million dollar\$.²³

All those High Crimes including Overthrow of Government, -since the people can't govern themselves when their cases are rigged by judge\$ to steal million\$ of dollar\$, were finally Petitioned for Review to U.S. Chief Thief and Justice John Robert\$.²⁴ As any other white collar criminal, Robert\$ tightly shut his eyes to the crime\$ because by-then, he also couldn't admit the nation's entire judicial \$y\$tem is corporate-bought and run by corrupt judge\$ who: abuse 'absolute judicial immunity' to rig cases against non-corporate entities and for the *Citizen\$-United* "people" to whom Robert\$ swore his allegiance instead of to: the United States; its Constitution; and 318 Million real flesh-and-blood non-corporate

²² <http://dockets.justia.com/docket/california/candce/4/2011cv01856/239672>

²³ <http://dockets.justia.com/docket/circuit-courts/ca9/12-15371>

²⁴ <http://www.supremecourt.gov/search.aspx?filename=/docketfiles/12-7817.htm>

because he was exposing how the Member-run Bar is a criminal organization advancing it\$ own corrupt Member\$' financial predation of the public.

2. The rigged **Bar Court Trial** took place from April 15-19th 2013. Every official transcript, all damning corporate admi\$tion\$, and each self-authenticating government record was ignored by Armendariz. Three of four \$tar witne\$e\$ appearing for the Bar were even impeached while under oath.

Witne\$\$ #1 was none other than Civil Procedure Law Professor, Author, and Mental-Maven James Wag\$taffe. Jimmy couldn't explain how judge Woolard admitted not having jurisdiction over a litigant but then ordered him to cough-up \$56k to \$24 Billion All\$ate In\$urance which rigged arbitration at ADR Service\$ in case CGC-07-464022. Jimbo also couldn't explain how judge Woolard in a 2nd case CPF-10-510760, ignored that a 1st never-recorded agreement to arbitrate was voided by a 2nd official instrument recorded on-title, to instead force a litigant into a rigged JAMS arbitration before her good friend and retired judge McDonald who was hand-picked to \$steal the victim's million-dollar condo.

Witne\$\$ #2, Leonard Marquez testified that his client, the \$16B predatory loan originating DHI Corporation, was hara\$\$ed by Missud because he discovered over 400 of it\$ victimized families 1½ years before the Mortgage Meltdown that caused \$4 Trillion in real estate equity lo\$\$e\$ triggered in large-part by DHI's predatory lending. Armendariz ignored that Lenny brazenly violated *Tenderloin v. Sparks* when he knowingly scheduled an Ex-Parte Motion the day before Missud was to return from vacation. Marquez got judge Wick to illegally quash discovery which would have exposed more of DHI's predatory loans that caused the near financial collapse of the US Government's Freddie, Fannie, and Federal Reserve.

Witne\$\$ #3 was Joel Odou who rigged case di\$mi\$sal of C:11-3567 with District judge Chen. Joey testified that DHI was hara\$\$ed by Missud because he gathered hundreds of FTC, HUD, FBI, and SEC records proving to criminal standards that DHI originate\$ predatory subprime loans and extorts consumers into taking them to boost it\$ own corporate profit\$ while knowingly fast-tracking

hearings and case to guarantee the \$25k gets coughed-up after a speedy and railroaded trial. Judge\$, DA'\$, and even Public Defender\$ will plea-bargain to collect ca\$h and threaten (additional) jail-time if the accused don't capitulate to the revenue-raising extortion.

More often than not, its Hispanics, black people, and lower socio-economic groups who are thusly victimized through these many money-grubbing Scheme\$. People of color are truly that. They're all money-green in the eye\$ of the law.

B. Bar Trial Rigging to Prevent Exposure of Civil Court Judge\$' Deal-Making

Quite simply, the Bar's Trial Judge Armendariz first rigged Trial 12-O-10026, and it\$ Review Department then rubber-stamped her fraud. Nothing in Armendariz' Decision & Order of Missud's "Involuntary Disbarment" is true.

1. In fact, even at five **Pre-Trial Conferences**, Armendariz was caught in blatant lie\$ already trying to scuttle the Trial. She and Senior Bar Trial Coun\$el Denning\$ are recorded in four Pre-Trial Transcripts lying about not getting Missud's Pleadings which were verifiably mailed, emailed to their official government addresses, uploaded in two federal RICO cases, and automatically served on state DOJ defense attorneys-of-record in those cases.²⁶ Armendariz simply wanted to illegally ignore overwhelming evidence of judicial corruption concurrently filed with those positively served Pleadings, and then give Dennings immediate summary judgment on two occasions to quickly dispose of 12-O-10026 no que\$tion\$ asked. Worse still, on 1-22-13 Armendariz allowed the financial predation of a Contractor named Wong, -who attended that hearing to invoke Bar Court Rule 5.109 and tell her about three Bar Member\$' frivolous insurance-fraud, shake-down lawsuit that was fraudulently based in a \$50,000 damage estimate which never existed.²⁷ Rather than protect Wong and the public from 3 Member\$' brazen fraud, Armendariz wa\$ dead-Set on railroading Missud's disbarment

²⁶ C:12-3117, C:12-5468

²⁷ Corrupt Bar Member\$ Rose Tsai, Timothy Nardell, and Houman Chitsaz wanted to shake Wong down

people who live and breath but can't Stuff his and judicial colleague\$' pocket\$ full of ca\$h.

Back to that IMPORTANT NOTE mentioned in footnote 6: Notice how per the terms of the D&O at the bottom of page 24, the Order wouldn't become effective or known until 3 days after July 1st 2013, to allow for service. Three days after July 1st was a national holiday when all courts were closed. The next business day was therefore July 5th. Somehow, the corrupt defense attorneys trying to cover-up rampant judicial Federal Arbitration Act Racketeering in case 464022 managed to get an advance copy of the D&O two days before publication and registered it on July 3rd. They all seemed in a ru\$h to get Missud off that case because by-then he'd already easily caught over two dozen judge\$ concealing nearly identical ADR fraud like that already nationally-exposed in the National Arbitration Forum Scandal. The Scandal showcased how mostly retired judge\$ rigged award\$ at the NAF to save banks and credit-card companies million\$ of dollar\$.²⁵ Now how Strange i\$ it that these corrupt Bar Member\$ got an advance copy of Missud's Disbarment directly from the Member-run Bar that's Self-interested in covering-up nefariou\$ deal\$ between corrupt Member\$ and judge\$ who rig arbitration\$ with "court-approved" arbitrator\$ whose Award\$ are rubber-Stamped by former corrupt Bar Member\$ turned even more corrupt arbitration-rigging judge\$?????

JOHN ROBERT\$ YOU PHUKING PRICK- If you don't acknowledge that California's corrupt Member-run Bar relea\$ed an advance copy of it\$ rigged D&O to it\$ own corrupt Member\$ to conceal judicial FAA Racketeering in case 464022, then you'll swing from a noose as punishment for Treason, \$edition, and Overthrowing Government.

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²⁵ <http://www.wsj.com/articles/SB125548128115183913> and http://www.nytimes.com/2015/03/11/business/binding-arbitration-rules-get-consumer-protection-bureau-scrutiny.html?_r=0 and ...

JURISDICTION

Jurisdiction of this Court is invoked under 28 USC §1257(a). California's Supreme Court Denied Petition for Review on March 18, 2015.

CONSTITUTION AND STATUTORY PROVISIONS INVOLVED

As this Supreme Court explained in a recent opinion regarding the Hobbs Act:

"[a]t common law, extortion was an offense committed by a public official who took 'by color of his office' money that was not due to him for the performance of his official duties. . . . Extortion by the public official was the rough equivalent of what we would now describe as 'taking a bribe.'" *Evans v. United States*, 504 U.S. 255 (1992).

To show a prima-facie violation of the Hobbs Act under this holding, "the Government need only show that a public official obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts."

1st, 5th, 14th Amendment Rights to Redress Grievances, Due Process, Equal Protection, Fairness, Court Access, etc. Whether in federal or state court, where an individual is facing deprivation of life, liberty, or property, procedural due process mandates that he or she is entitled to adequate notice, a hearing, and a neutral judge.

"no person shall be deprived of life, liberty, or property, without due process of law; no state shall ... deny to any person within its jurisdiction the equal protection of the laws."

This SCOTUS Petition for Writ and under-lying Review and Trial prove beyond any shadow of doubt that the C\$C and Bar Court judge\$ are rigging di\$barments to prevent exposure of statewide judicial racketeering and the financial targeting of a potential 38 Million Californians.

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5. The worst of the worst are **Criminal Court** judge\$. They'll falsely imprison citizens because their Criminal Division\$ are fully-funded by the bail & fine\$ brought in and enforced.

Judge\$ & District Attorneys collude to pad Pre-Booking charges with offenses that weren't committed. That way, they boost the price of bond\$ required to cover bail to procure inmates' freedom. A typical scenario can be just like this: An official conjures-up, contrives, and presses a false charge against a citizen to cover-up his own official crimes. Then, the Sheriff's Dept. takes the citizen to County Jail where a Pre-Booking Information sheet lists two additional crimes that also weren't committed. Rather than having to post a bond on just \$25,000 bail, the citizen has to post a bond twice as large on \$50,000 bail. Then at arraignment, the last two bogus charges are dropped, but the County already collected on the \$5000 bond. That way, a cool \$2500 is instantly made by the criminal ju\$te sy\$tem.

Another favorite revenue-raising ru\$e which Criminal Court judge\$, DA's, and 'law enforcement' love to orchestrate is setting bail in excess of what's legally allowed. Under the Constitution that's called excessive bail, and happens to be a violation of the 8th Amendment. A typical scenario can be just like this: Three trumped-up charges having bails set by statute for a total of only \$36,000 can be inflated to \$50,000 so that an extra premium is collected to buy-back a citizen's freedom. A 10% bond of the unconstitutional \$14,000 overage is \$1400 which the County instantly pocket\$ thereby keeping the County's coffers\$ stuffed with ca\$h. Normally, inmates don't research bail schedules or know about 8th Amendment violations so don't know their incarceration was illegally procured. Inmates not having the money to bail-out and pad County coffers with bond\$ have to spend time in prison in lieu of the money.

Worse still is that judge\$ and their Criminal Ju\$te sy\$tem will railroad trials to ultimately collect on the full fine. For instance, if the County need\$ or want\$ a \$25,000 fine based in a trumped-up charge, then the judge will rig all

happen to be Civil Court judge\$, force litigants into secretive quasi-judicial arbitration whether or not jurisdiction exists. Corporations contemplating fraud in their contracts of adhesion even get judge\$ to rig ADR where litigants are made to sign confidentiality agreement\$. Judge\$ don't care if litigants ever agreed to arbitration as is required under FAA §2. They'll lie that a party did, or claim an agreement is valid even though officially void. If a corrupt judge want\$ to rig an arbitration before retired friend\$, then that's what happen\$. Once at the NAF, JAMS, AAA, or ADR \$ervice\$, repeat-bu\$ine\$\$ companies like bank\$, insurance companie\$, hospital\$, and lender\$ get retired judge\$ to skew award\$ in their favor. Private litigants never win because the retired judge\$ only 'earn' their grossly-inflated wages if they routinely rig award\$ for the repeat-bu\$ine\$\$ entities which pay them off to rig results. Those Award\$ are then always confirmed by the active judge\$ who rigged ADR to begin with. The active judge\$ blindly rubber-stamp the fraud because they also want to make enormou\$ \$um\$ of money by rigging arbitration\$ once retired from their benches and leaching their pensions from the same taxpayers they set-up at arbitration.

3. **Traffic Court** judge\$ never bite the hands that feed them. They know their Traffic Divisions are fully-funded by the fines they enforce. No matter what exculpatory evidence is brought to court, it\$ never enough because municipalities and the Traffic Division need the ca\$h to keep flowing. Otherwise the judge, bailiff, court staff, police, and other agents don't get paid and municipalities' coffer\$ don't get stuffed with ca\$h.

4. **Family Court** judge\$ have the extra added benefit of sealed record\$. They hold hearing\$ in secret and never po\$t any decision\$. That means the wealthier parent can buy justice behind closed doors. If a vindictive mother of a minor child has family wealth, then \$he and her money-bags dad can strip the child's father of all parental rights despite Supreme Court precedent forbidding the same without full evidentiary hearings which if made public would expose the mother's purchase of the Family Court judge with daddy's wealth. Thi\$ really happen\$.

18 USC §1513(e): Retaliating Against an Informant:

“Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.”

To try and cover-up their crimes: the Member-run Bar, Bar Court judge\$ McElroy, Armendariz, Purcell, Remke, and Honn; and the C\$C's Chief Thief Cantil-\$akauye first rigged my Trial, then put me “Involuntary Disbarment,” and finally \$truck me from the Roll of Licensed Attorneys. They brazenly interfered with my lawful employment and livelihood because I exposed their statewide crimes to federal colleagues. For that they'll each get sentenced to a decade in state and/or federal prison.

California PC §136.1(a/b/c): Dissuading a Witness or Victim from Testifying or Reporting Crimes

Basically, all subsections of PC §136.1 prohibit dissuading a witness or victim of a crime from testifying in court, or reporting crimes to law enforcement.

The City of San Francisco colluded with Santa Clara official\$ to first have me illegally-arrested immediately after my January 9th 2015 hearing held before that lying \$uperior Court judge Elfving. Theirs was a clear violation of PC §136.1 which forbids dissuading witnesses from testifying about official and judicial crime\$. Worse still, since that illegal arrest, corrupt Criminal Court judge Ryan knows I was a victim of false-imprisonment but keeps railroading my criminal trial to dissuade me from further testifying about official and judicial crime\$ like Elfving's. Judge\$ from both San Francisco and Santa Clara joined force\$ with official\$ from both Counties to violate PC §136.1 numerous times at each rigged criminal court hearing in C1502123 since my arraignment. Everybody's going to state and federal prison for a really long time.

INTRODUCTION

This pleading contains hypertext links allowing 3rd party recipients getting it electronically to access web information. Law enforcement, syndicated media, consumer protection agencies, and thousands of lowly non-corporate citizens who've been preyed upon by corporate 'citizens' already received it by electronic means, and are similarly considering the same Questions Presented.

IFP status is concurrently requested. Petitioner Missud has been a Qui-Tam whistle blower, Federal Informant, and California Private Attorney General for over five years. In that time, most judge\$ & court\$ like Robert\$ & SCOTUS have needlessly increased Missud's costs of litigation and otherwise made prosecuting all cases, appeals, and writ\$ very expensive in hopes of derailing his exposure of judicial felonies. Hopefully this time Robert\$ agrees and realizes that Missud "provided to law enforcement information relating to the commission of a Federal offense- namely judge\$' racketeering; truthfully informed federal authorities of crimes- namely judicial corruption; that "a significant benefit has been conferred on the general public" -namely knowledge that hearings and cases are rigged for the \$pecial intere\$t\$: and that the necessity and financial burden of private enforcement are such as to make the [granting of IFP status] appropriate" [Id].

BRIEF-ISH STATEMENT OF THE CASE

This crystal-clear, simple, and brazen case of Bar Court retaliation for my exposure of corrupt judge\$' deal-making with corrupt Member\$ can best be explained by detailing the following in order: A. Civil Court judge\$' deal-making; B. Bar Trial-rigging to prevent exposure of Civil Court judge\$' deal-making; C. Appellate Court rubber-stamping of the Bar'\$ Trial-rigging to prevent exposure of rampant judicial corruption; and D. California Supreme Court Chief Ju\$lice Cantil-\$akauye's collusion with the Bar'\$ Trial-rigging and Appellate Court'\$ rubber-stamping to prevent exposure of Civil Court judge\$' deal-making.

A. Judge\$' Deal-Making, Corruption, and Racketeering

Judge\$ in every court division hide behind their "absolute judicial immunity" to favor friend\$, deep pocket\$, the well-connected, corporation\$, and \$pecial intere\$t\$. Judge\$ ignore facts, lie about not getting pleadings, twist law, and then feign that 'mistakes' were made while performing "judicial functions." However, those supposed judicial functions never include subversion, sedition, undermining the rule of law, rigging hearings, and/or railroading cases. All those are intentional acts of treason and overthrow of government since cases ought to be decided by neutral juries of ordinary citizens, -who per the Constitution are entitled to a government of and by themselves- "the people."

1. **Civil Court** judge\$ love their Hobb\$ Act bribes. 18 USC §201 Corruption runs rampant in the Law in Motion Department. Before neutral juries get any cases, judge\$ make back-door deals to scuttle cases or send them into a black-hole called Alternative Dispute Resolution. Judge\$ will lie that services of Summons and Complaints are defective to increase plaintiffs' costs if they have less clout and money than defendants. Judge\$ entertain frivolous Motions to Strike basing their tenuous decisions on razor-thin corporate arguments. Deep pocket\$' Demurrers are granted despite laws and facts proving that claims are lawful and properly supported. Another favorite judicial ruse is to say that concrete evidence doesn't support claims and therefore cases must be dismissed. Judge\$ love saying they didn't get courtesy copies of pleadings to kick the can down the road by months and increase litigation costs by thousands. Where city, county, or state agencies are named, judge\$ always side with their employers and feign that claims hadn't first been served on government entities to rid themselves of even the most criminally of proven cases. Law in Motion Departments should actually be called Three Ring Circuses because that's where Circu\$ Ma\$ter\$ and Judge\$ perform their magic.

2. Retired judge\$ love **Alternative Dispute Resolution Divisions**, and orchestrating Federal Arbitration Act Racketeering. Their active friend\$, who

Court of Appeal, First Appellate District, Division Four - No. A141459

S226199

IN THE SUPREME COURT OF CALIFORNIA

En Banc

PATRICK A. MISSUD, Petitioner,

v.

COURT OF APPEAL, FIRST APPELLATE DISTRICT, Respondent;

STATE BAR OF CALIFORNIA, Real Party in Interest.

The petition for writ of mandate and application for stay are denied.

SUPREME COURT
FILED

MAY 13 2015

Frank A. McGuire Clerk

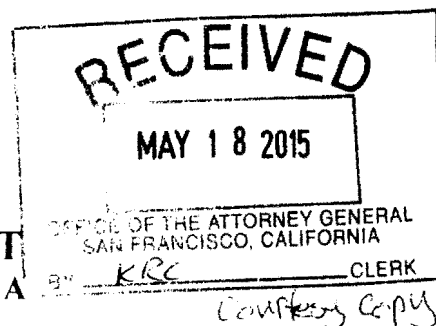
Deputy

CANTIL-SAKAUYE

Chief Justice

S226199

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**



PATRICK A. MISSUD
Petitioner

Review of May 4, 2015 8:10AM
Order in A141459

v.

Superior Court Case
CGC-13-533811

Service on Cal. Attorney
General (Rule 8.29)

**COURT OF APPEAL, FIRST DISTRICT
DIVISION-IV**
Respondent

RECEIVED

STATE BAR OF CALIFORNIA
Real Party in Interest

MAY 18 2015

CLERK SUPREME COURT

**NOTICE OF PETITION FOR WRIT OF CERTIORARI TO THE U.S.
SUPREME COURT**

PETITION FOR U.S. SUPREME COURT WRIT OF CERTIORARI/MANDATE
COMPELLING CALIFORNIA'S ULTRA-CORRUPT SUPREME COURT AND
COURT OF APPEALS TO SIMPLY FOLLOW CAR RULE 8.256(e) AND
VACATE SUBMISSION OF A141459 BASED IN INTERVENING CHANGE
OF CONTROLLING & BINDING LAW PUBLISHED BY THE U.S. SUPREME
COURT ON APRIL 29TH 2015 [*Yulee vs. Florida Bar*; 575 U.S. ____ (2015)]

Patrick Missud CA#219614
Law Office of Patrick Missud

missudpat@yahoo.com

Federal Informant, Qui-Tam Relator, and Attorney in Pro-Se

RECEIVED

MAY 18 2015

S226199

**IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA**

PATRICK A. MISSUD
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OF CONTROLLING & BINDING LAW PUBLISHED BY THE U.S. SUPREME
COURT ON APRIL 29TH 2015 [*Yulee vs. Florida Bar*; 575 U.S. ____ (2015)]

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Federal Informant, Qui-Tam Relator, and Attorney in Pro-Se

ALL PARTIES TAKE NOTICE THAT Patrick Missud, 5-Year Operation Greyhound-II inside-attorney, will Petition the U.S. Supreme Court's Chief Justice John Roberts for Writ of Certiorari to guarantee his execution for: sedition, treason, *and* overthrow of a once constitutionally-mandated neutral & fair, *but now absolutely corrupted* judicial branch of government.

Every attempt was made in Appeal A141459 and Writ S226199 to get California's highest courts to follow their own CAR Rules and apply binding, superseding, and intervening law published in *Yulee vs. Florida Bar*; 575 U.S. ____ (2015). However, both high-courts brazenly ignored the Supremacy Clause and flaunted super-simple civil procedures when they purposefully *and with scienter* denied applying SCOTUS' controlling precedent to nearly identical issues presented in A141459. Rather than follow simple bright-line law, Appeals Division-IV Presiding Judge Ruvolo & Supreme Court Chief Justice Cantil-Sakauye instead: affirmed Missud's color-of-law & rigged disbarment; and continued concealing the rampant judicial racketeering that Missud already exposed as a 5-year inside Qui Tam Relator and Federal Informant.

Now that jurisdiction for SCOTUS review exists, John Roberts will be set-up for conviction under 18 USC §2381 High Crimes & Treason which prescribe the death penalty for overthrow of government. If Roberts refuses to force his underlings to follow his very own edicts and holdings as published in *Yulee*, then he will have allowed: the complete break-down of justice; condoned lawlessness; undermined the Constitution; caused the overthrow of his no longer neutral judicial branch; and appointed corrupt judges who now routinely & brazenly rig cases, appeals, and writs for- the special interests, *Citizen-United* corporate "people," and to line their own pockets.

FURTHER NOTE THAT John Robert\$ already thrice-lied he didn't have jurisdiction to review the California \$upreme Court's corrupt March 18th 2015 decision in S222905. Robert\$ brazenly lied that Cantil-\$akauye hadn't issued a final decision on March 18th to formally disbar and retaliate against Missud for having cooperated with federal law enforcement to expose California's ultra-corrupt judicial branch. Just like Writ S222905 was finally decided on March 18th thereby conferring jurisdiction to hi\$ con\$ervative-controlled U.S. Supreme Court per 28 USC §1257(a), Writ S226199 was finally decided on May 13th 2015 which likewise confers jurisdiction to John Robert\$ who bow\$ only to the money.¹ Robert\$ will \$oon have to decide whether his California underlings are bound to his "supreme law of the land" per the 229 Y-O, U.S. Constitution's Article VI:

"This Constitution, and the Laws of the United States which shall be made in pursuance thereof...shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

Decisions, orders, rulings, and holdings of the U.S. Supreme Court are "the supreme law of the land." They are among the highest form of law in the United States, and the Supremacy Clause mandates that all state judges like Ruvolo and Cantil-\$akauye must follow federal law when a conflict arises between federal law and either a state constitution or state law of any state. Since April 29th 2015, conflicts over regulating California's Bar members, and enforcement after supposed violations, MUST be analyzed under *Yulee*; however, California's highe\$t court\$ flatly and illegally refused to follow "the supreme law of the land."

Robert\$ will either compel Cantil-\$akauye and Ruvolo to follow the Supremacy Clause and determine whether California's \$tate Bar: only exercised regulation over Missud's Bar License; or actually retaliated against him by stripping him of his License and \$anctioning him with nearly \$18,000 for being a

¹ Robert\$' mantra is everything for the \$pecial intere\$t\$, *Citizen\$-United* and corporate "people;" but nothing for real flesh-and-blood \$itizens.

Federal Informant who already exposed rampant judicial racketeering throughout California's ultra-corrupt judiciary.

The main Question Presented in SCOTUS Writ of Review of S226199, and directed to *Yulee* author & known-traitor John Robert\$ will be:

"Should John Robert\$ be executed for treason if he allows his lower State judicial colleagues to flaunt his binding federal law & supreme law of the land to instead railroad Missud's retaliatory disbarment crafted to interfere with his exposure of nationwide judicial racketeering?"

//

Submitted to Procure *and guarantee* Robert\$' Execution,

Patrick Missud

5-18-15

Patrick Missud

Date

PROOF OF SERVICE:

I'm a citizen of the United States; over 18 years of age. My address is [REDACTED]
[REDACTED]. I'm employed in the County of San Francisco,
where this mailing occurred. On 5-18-2015, I served the following:

**NOTICE OF PETITION FOR WRIT OF CERTIORARI TO THE U.S.
SUPREME COURT**

By placing a true copy thereof in the mail and/or by fax, hand delivery, email:

Court of Appeal (one copy)
California Supreme Court (efiled; and one copy)
Attorney General (Suite 11000) (one copy)
350 McAllister St.
San Francisco, CA, 94102

San Francisco Superior Court (one copy)
400 McAllister St.
San Francisco, CA, 94102

Moron\$ at Kerr-Wagstaffe, Jarvi\$-Faye, and Haapala-Thomp\$on:
mvl@kerrwagstaffe.com, wagstaffe@kerrwagstaffe.com, tompkins@kerrwagstaffe.com,
mackey@kerrwagstaffe.com, kerr@kerrwagstaffe.com, labar@kerrwagstaffe.com,
mng@kerrwagstaffe.com, peden@kerrwagstaffe.com, sawyer@kerrwagstaffe.com,
zaheer@kerrwagstaffe.com, Dodson@kerrwagstaffe.com, kdrake@jarvisfay.com, cleee@sftc.org,
rick@jarvisfay.com, ben@jarvisfay.com, dan@jarvisfay.com, clare@jarvisfay.com,
mrodriquez@jarvisfay.com, cliff@jarvisfay.com, terry@jarvisfay.com,
appellatespecialist@yahoo.com, patricktang@jarvisfay.com, jstruck@htalaw.com,
sabern@htalaw.com, dwebb@htalaw.com, info@htalaw.com,

State Bar of California and its many, many low-IQ attorney\$ and judge\$:
Patrick.kelly@calbar.ca.gov, lucy.armendariz@calbar.ca.gov, erica.dennings@calbar.ca.gov,
donald.steedman@calbar.ca.gov, Patrice.mcelroy@calbar.ca.gov, Danielle.lee@calbar.ca.gov,
starr.babcock@calbar.ca.gov, Bernadette.molina@calbar.ca.gov, Jayne.kim@calbar.ca.gov,
Kevin.taylor@calbar.ca.gov, Joseph.carlucci@calbar.ca.gov, Susan.kagan@calbar.ca.gov,
Sherrie.mcletchie@calbar.ca.gov, Lawrence.yee@calbar.ca.gov,
Rachel.grunberg@calbar.ca.gov, Adriana.burger@calbar.ca.gov, joann.remke@calbar.ca.gov,
judith.epstein@calbar.ca.gov, catherine.purcell@calbar.ca.gov

California Attorney General: troy.overton@doj.ca.gov, joan.randolph@doj.ca.gov
Federal Agencies and Agents: san.francisco@ic.fbi.gov, criminal.division@usdoj.gov,
AskDOJ@usdoj.gov, annie.reding@usdoj.gov, bonny.wong@usdoj.gov

I declare under the penalty of perjury under the laws of California that the forgoing is true
and correct.

Patrick Missud

Patrick Missud

5-18-2015

Date

EXCESSIVE BAIL

| Penal | Offense | Term | Bail |
|----------|---|----------------|---|
| 32 | Accessory to felony | 16 2 3
CJ | Same as underlying offense;
No specified underlying offense—10,000
Underlying offense has life term—100,000 |
| 67 | Bribes, giving or offering to executive officer | 2 3 4 | 25,000 |
| 67.5(b) | Bribing ministerial officer | 16 2 3 | 25,000 |
| 68 | Bribes, executive or ministerial officers | 2 3 4 | 25,000 |
| 69 | Resisting executive officer | 16 2 3
CJ | 10,000 |
| 71 | Threat to injure school official | 16 2 3
CJ | 10,000 |
| 76(a)(1) | Threatening life of government official | 16 2 3 | 25,000 |
| 76(a)(2) | Threat to public official with or | 16 2 3 | 50,000 |
| 85 | Bribes; giving or offering | 2 3 4 | 25,000 |
| 86 | Bribes; asking or receiving | 2 3 4 | 25,000 |
| 92 | Bribes; judicial officers, jurors | 2 3 4 | 25,000 |
| 93 | Judicial officer or juror accepting bribe | 2 3 4 | 25,000 |
| 95.1 | Threatening juror after verdict | 16 24 36
CJ | 25,000 |
| 118 | Perjury | 2 3 4 | 25,000 |
| 136.1(a) | Dissuading a witness or victim from testifying | 16 2 3
CJ | 25,000 |
| 136.1(b) | Dissuading a witness or victim from reporting a crime | 16 2 3
CJ | 25,000 |

MISSOURI'S
3 COUNTS



664.69

664.76(a)(1)

653.2(a) 2(a)

ELECTRONICALLY
COMMUNICATING
HARASSING
MESSAGES

6

1,000

\$36,000 MAX.

JUDGE'S
MANY, MANY
COUNTS

X

X

X

X

X

X

X

X

X

X

| Penal | Offense | Term | Bail |
|-------------------|--|--|---------------|
| 136.1(c) | Dissuading a witness or victim by threat | 2 3 4 | 50,000 |
| 137(a) | Inducing false testimony | 16 2 3 | 25,000 |
| 139 | Threats to use violence or force against witness or victim | 16 2 3
CJ | 50,000 |
| 140 | Threatening witnesses, victims | 16 2 3
CJ | 50,000 |
| 141(b) | Peace officer planting evidence | 2 3 4 | 50,000 |
| 148(b),(c),(d) | Removing or taking police officer's weapon | 16 2 3
CJ | 50,000 |
| 148.10 | Resisting officer resulting in injury or death | 2 3 4
CJ | 100,000 |
| 149 | Officer unnecessarily beats or assaults person | 16 2 3
CJ | 25,000 |
| 165 | Bribery; council members, board of supervisors | 2 3 4 | 25,000 |
| 182 | Conspiracy to commit crime | Same as crime | Same as crime |
| 186.22 | Street gang activity | 1 2 3 | 10,000 |
| 186.22(b)(4) | Committing certain enumerated felonies as part of street gang activities | Life | 500,000 |
| 186.26(a) | Soliciting or threatening another to participate in criminal street gang | 16 2 3
CJ | 10,000 |
| 187,189,190,190.5 | Murder First Degree | 25 YEARS TO LIFE;
DEATH OR LIFE
W/O PAROLE | No Bail* |

X

X

X

X

Superior Court of California, County of Santa Clara, Bail Bonds Filed Report, January, 2015

| BOND
FILE DATE | DOCKET | BAIL BOND
NUMBER | BAIL BOND COMPANY | BOND
AMOUNT | FORFEITED
DATE | EXONERATED
DATE |
|-------------------|----------|---------------------|--------------------|----------------|-------------------|--------------------|
| 1/27/2015 | | 5272221963 | LE BAIL BONDS | 25,000 | | |
| 1/29/2015 | C1498905 | 5112776789 | LE BAIL BONDS | 10,000 | | |
| 1/29/2015 | C1502456 | 5250024171 | LE BAIL BONDS | 200,000 | | |
| 1/26/2015 | C1106264 | 2015CC003465 | LIEN TA BAIL BONDS | 25,000 | | |
| 1/2/2015 | C1400773 | AS100133006 | LUNA BAIL BONDS | 30,000 | | |
| 1/2/2015 | | AS25232675 | LUNA BAIL BONDS | 25,000 | | 1/28/2015 |
| 1/2/2015 | B1476535 | AS50174629 | LUNA BAIL BONDS | 50,000 | | |
| 1/6/2015 | C1501569 | AS100133075 | LUNA BAIL BONDS | 91,000 | | |
| 1/6/2015 | C1499940 | AS25231381 | LUNA BAIL BONDS | 25,000 | | |
| 1/6/2015 | C1501374 | AS25232494 | LUNA BAIL BONDS | 25,000 | | |
| 1/6/2015 | | AS25232665 | LUNA BAIL BONDS | 25,000 | | 1/30/2015 |
| 1/6/2015 | C1501716 | AS25233273 | LUNA BAIL BONDS | 25,000 | | |
| 1/6/2015 | B1576762 | AS25233274 | LUNA BAIL BONDS | 25,000 | | |
| 1/6/2015 | | AS25235440 | LUNA BAIL BONDS | 25,000 | | 1/30/2015 |
| 1/6/2015 | B1476555 | AS50173708 | LUNA BAIL BONDS | 35,000 | | |
| 1/6/2015 | | AS50174627 | LUNA BAIL BONDS | 35,000 | | |
| 1/7/2015 | | AS15414484 | LUNA BAIL BONDS | 15,000 | | |
| 1/7/2015 | C1498580 | AS15414487 | LUNA BAIL BONDS | 10,000 | | |
| 1/7/2015 | | AS25233272 | LUNA BAIL BONDS | 25,000 | | |
| 1/7/2015 | C1357253 | AS51002456 | LUNA BAIL BONDS | 5,000 | | |
| 1/7/2015 | C1499616 | AS51002457 | LUNA BAIL BONDS | 1,000 | | |
| 1/8/2015 | C1400075 | AS50174496 | LUNA BAIL BONDS | 50,000 | | |
| 1/12/2015 | | AS25235412 | LUNA BAIL BONDS | 25,000 | | |
| 1/12/2015 | | AS25235428 | LUNA BAIL BONDS | 25,000 | | |
| 1/12/2015 | | AS25235433 | LUNA BAIL BONDS | 15,000 | | |
| 1/12/2015 | | AS25235436 | LUNA BAIL BONDS | 25,000 | | |
| 1/12/2015 | C1502123 | AS50173857 | LUNA BAIL BONDS | 50,000 | | |
| 1/12/2015 | C1502296 | AS50175245 | LUNA BAIL BONDS | 50,000 | | |
| 1/12/2015 | | AS50175768 | LUNA BAIL BONDS | 35,000 | | |
| 1/13/2015 | F1452880 | AS25235431 | LUNA BAIL BONDS | 7,500 | | |
| 1/13/2015 | B1476307 | AS25535444 | LUNA BAIL BONDS | 10,000 | | |
| 1/14/2015 | | AS25235441 | LUNA BAIL BONDS | 25,000 | | |
| 1/14/2015 | C1502440 | AS50174628 | LUNA BAIL BONDS | 25,000 | | |
| 1/14/2015 | C1496483 | AS51002461 | LUNA BAIL BONDS | 1,000 | | |

WHY WAS MY BAIL ILLEGALLY SET AT \$50K?
 ALSO, WHY WAS IT INCREASED FROM \$27K TO \$50K
 AFTER THE COURT LEARNED I WAS ABOUT TO BAIL OUT?



Inmate Booking Information

Inmate Details for PATRICK MISSUD

Inmate related information sometimes changes quickly during the booking process and the first few days in custody. Please continue to check this site for changes. You may also contact the Department of Correction at (408) 299-2305 or (408) 299-2306 for the most recent information.

Inmate Details

| | | | |
|----------------|------------|-------------------|-----------------|
| First Name: | PATRICK | PFN: | EDG382 |
| Last Name: | MISSUD | CEN: | 15001177 |
| Middle Name: | ALEXANDRE | Housing Facility: | MAIN JAIL SOUTH |
| Sex: | M | Bail Amount: | 27500.00 |
| Date Of Birth: | XXX | Release Date: | |
| Booking Date: | 01/09/2015 | | |

Court Appearances

| SNO | COURT CODE | COURT DEPT | DATE | TIME |
|-----|------------|------------|------------|-------|
| 1 | 43470 | XY | 01/13/2015 | 12:00 |




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[Update My Account](#) | [Logout](#)

Inmate Booking Information

Inmate Details for PATRICK MISSUD

Inmate related information sometimes changes quickly during the booking process and the first few days in custody. Please continue to check this site for changes. You may also contact the Department of Correction at (408) 299-2305 or (408) 299-2306 for the most recent information.

Inmate Details

| | | | |
|----------------|------------|-------------------|-----------------|
| First Name: | PATRICK | PFN: | EDG382 |
| Last Name: | MISSUD | CEN: | 15001177 |
| Middle Name: | ALEXANDRE | Housing Facility: | MAIN JAIL SOUTH |
| Sex: | M | Bail Amount: | 50000.00 |
| Date Of Birth: | XXX | Release Date: | |
| Booking Date: | 01/09/2015 | | |

Court Appearances

| SNO | COURT CODE | COURT DEPT | DATE | TIME |
|-----|------------|------------|------------|-------|
| 1 | 43470 | XY | 01/13/2015 | 12:00 |
| 2 | 43470 | | 01/23/2015 | 13:30 |


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BUT THE DIVISION - IV ORAL
 ARGUMENT IS ON THE SAME DAY AT 1:30!
 OH - SHOOT I CAN'T MAKE BOTH HEARINGS!!
 WHAT ARE THE CHANCES.

County of Santa Clara

SANTA CLARA COUNTY

DEPT OF CORRECTIONS

BAIL \$50000.00

TOTAL \$50000.00

BOND \$50000.00

CLERK 01 01/09/2015 22:17
00 00307

RAIL RECEIPT
SCC DEPARTMENT OF CORRECTION

000000135618

POSTED FOR:
BOOKING NAME: MISSUD PATRICK ALEXANDRE
PEN NAME: MISSUD PATRICK ALEXANDRE
[REDACTED] AV

(415)845-5540

SERVING CEN: 15001177

RECEIVED FROM: LUNA BAIL BONDS
636 N FIRST ST
SAN JOSE, CA 95112

COURT DOCKET NO:
CONTROL/WARRANT NO:
CHARGES BATTLED ON: F PC 664/69, F PC 653.2(A), F PC 664/76(A)

BAIL AMOUNT: \$ 50000.00 (FIFTY-THOUSAND DOLLARS AND 00 CENTS)

PAYMENT:

X BOND NO AMERICAN SURETY INS. AS50 173857 EXP. 2/12/15

X SENTENCE - POST/FORFEIT, NO COURT DATE REQUESTED BY DEFENDANT

X MANDATORY COURT -
X DEFENDANT TO APPEAR ON FRIDAY 01/23/2015 AT 1:30 PM AT

SANTA CLARA COUNTY SUPERIOR COURT HALL OF JUSTICE

100 E. HEDDING ST.

SAN JOSE, CA 95110

BAIL SHALL BE FORFEITED IF DEFENDANT FAILS TO APPEAR FOR ALL SCHEDULED COURT APPEARANCES.

DATE RECEIVED: 01/09/2015

RECEIVED BY:

THIS IS AN OFFICIAL RECEIPT ONLY WHEN VALIDATED

THE MONEY DEPOSITED BY ME MAY BE APPLIED TO A FINE IMPOSED BY THE COURT. THE
MONEY DEPOSITED BY ME MAY BE FORFEITED IF AN APPEARANCE IS NOT MANDATORY.

DEPOSITOR SIGNATURE (CASH BAIL, OTHER)

LUNA BAIL BONDS

Jordi Vidales

Bail Agent

Hablamos Español Nationwide Service 24/7

636 North 1st Street

San Jose, CA 95112

Next to IHOP

JVidales@LunaBailBonds.com

Cell: 408.674.2225

Office: 408.298.6000

Fax: 408.298.6020

NA BONDS

Call us at: (877) 422-2245

STATEMENT OF CHARGES

Date: 01/09/2015

Power No: A 550-173857

Premium: 4,000.00

Misc. Charge: 0.00

Total Charge: 4,000.00

Paid on Acct: 4,000.00

Balance Due: 0.00

Name: PATRICK ALEXANDRE MISSUD

Expenses (Itemized in detail, such as Notary Fees, long Distance calls, Travel or other actual expenses)

Was collateral taken? ☐ Yes ☐ No

If yes: ☐ Cash ☐ Real Property

Other: Collateral Receipt No:

By: LUNA BAIL BONDS

636 N 1ST STREET SAN JOSE, CA 95112

JORDI VIDAL

MEMORANDUM OF BAILBOND FURNISHED

Cash ☐ Visa ☒
MasterCard ☐ Discover ☐

Check# Other

Defendants Name: PATRICK ALEXANDRE MISSUD

Date Of Birth: 05/30/1968

Date Of Appear: 01/23/2015

Time: 1:30

☐ AM ☒ PM

Court: SUPERIOR

City: Dept:

Bond Amount: \$ \$50,000

Case No.: ON VIEW

Charge(s): PC 664/69, PC 653.2A) PC 664/76(A)

State Excuted: CALIFORNIA

Received Above Receipt:

PNRef 11965798

CommercialCard False

CVRresult

AVSResponse 5 Zip Match, Address Does Not Match

to conflict as C-A in A141459
Exposure of
elling who had 15x
and had me falsely imprisoned

California Code of Civil Procedure

§ 1021.5 – Private Attorney General

1021.5. Upon motion, a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: (a) a significant benefit, whether pecuniary or non-pecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any. With respect to actions involving public entities, this section applies to allowances against, but not in favor of, public entities, and no claim shall be required to be filed therefore, unless one or more successful parties and one or more opposing parties are public entities, in which case no claim shall be required to be filed therefore under Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code.

Attorneys' fees awarded to a public entity pursuant to this section shall not be increased or decreased by a multiplier based upon extrinsic circumstances, as discussed in *Serrano v. Priest*, 20 Cal. 3d 25, 49.

18 U.S. Code § 201 - Bribery of public officials and witnesses

(a) For the purpose of this section—

(1) the term “public official” means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;

(2) the term “person who has been selected to be a public official” means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and

(3) the term “official act” means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit.

(b) Whoever—

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent—

(A) to influence any official act; or

(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever—

(1) otherwise than as provided by law for the proper discharge of official duty—

(A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

18 U.S. Code § 1091 - Genocide

(a) **Basic Offense:** Whoever, whether in time of peace or in time of war and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

(1) kills members of that group;

(2) causes serious bodily injury to members of that group;

(3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;

(4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

(5) imposes measures intended to prevent births within the group; or

(6) transfers by force children of the group to another group;

shall be punished as provided in subsection (b).

18 U.S. Code § 1341 - Frauds and swindles

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing,

or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

18 U.S. Code § 1343 - Fraud by wire, radio, or television

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

18 U.S. Code § 1512 - Tampering with a witness, victim, or an informant

- (a) (1) Whoever kills or attempts to kill another person, with intent to—
- (A) prevent the attendance or testimony of any person in an official proceeding;
 - (B) prevent the production of a record, document, or other object, in an official proceeding; or
 - (C) prevent the communication by any person to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;
- shall be punished as provided in paragraph (3).
- (2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—
- (A) influence, delay, or prevent the testimony of any person in an official proceeding;
 - (B) cause or induce any person to—

(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;
(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;
(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or
(iv) be absent from an official proceeding to which that person has been summoned by legal process; or
(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings;
shall be punished as provided in paragraph (3).

(3) The punishment for an offense under this subsection is—

(A) in the case of a killing, the punishment provided in sections 1111 and 1112;

(B) in the case of—

(i) an attempt to murder; or

(ii) the use or attempted use of physical force against any person;
imprisonment for not more than 30 years; and

(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 20 years.

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

(1) influence, delay, or prevent the testimony of any person in an official proceeding;

(2) cause or induce any person to—

(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

(B) alter, destroy, mutilate, or conceal an object with intent to impair the object's integrity or availability for use in an official proceeding;

(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

(D) be absent from an official proceeding to which such person has been summoned by legal process; or

(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation ^[1]supervised release,,^[1]parole, or release pending judicial proceedings;

shall be fined under this title or imprisoned not more than 20 years, or both.

(c) Whoever corruptly—

(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding; or

(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.

(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

(1) attending or testifying in an official proceeding;

(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation ^[1] supervised release, ^[1] parole, or release pending judicial proceedings;

(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

or attempts to do so, shall be fined under this title or imprisoned not more than 3 years, or both.

(e) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

(f) For the purposes of this section—

(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

(g) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

(1) that the official proceeding before a judge, court, magistrate judge, grand jury, or government agency is before a judge or court of the United States, a United States magistrate judge, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

(h) There is extraterritorial Federal jurisdiction over an offense under this section.

(i) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or in the district in which the conduct constituting the alleged offense occurred.

(j) If the offense under this section occurs in connection with a trial of a criminal case, the maximum term of imprisonment which may be imposed for the offense shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

18 U.S. Code § 1513 - Retaliating against a witness, victim, or an informant

(a) (1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings, shall be punished as provided in paragraph (2).

(2) The punishment for an offense under this subsection is—

(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

(B) in the case of an attempt, imprisonment for not more than 30 years.

(b) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings given by a person to a law enforcement officer; or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(c) If the retaliation occurred because of attendance at or testimony in a criminal case, the maximum term of imprisonment which may be imposed for the offense under this section shall be the higher of that otherwise provided by law or the maximum term that could have been imposed for any offense charged in such case.

(d) There is extraterritorial Federal jurisdiction over an offense under this section.

(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.

(f) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.

18 U.S.C. §1951 : Hobbs Act: Interference with commerce by threats or violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both. (b) As used in this section - (1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining. (2) *The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.* (3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction. (c) This section shall not be construed to repeal, modify or affect section 17 of Title 15, sections 52, 101-115, 151-166 of Title 29 or sections 151-188 of Title 45.

18 U.S. Code § 1959 - Violent crimes in aid of racketeering activity

(a) Whoever, as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value from an enterprise engaged in racketeering activity, or for the purpose of gaining entrance to or maintaining or increasing position in an enterprise engaged in racketeering activity, murders, kidnaps, maims, assaults with a dangerous weapon, commits assault resulting in serious bodily injury upon, or threatens to commit a crime of violence against any individual in violation of the laws of any State or the United States, or attempts or conspires so to do, shall be punished—

(1) for murder, by death or life imprisonment, or a fine under this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine under this title, or both;

(2) for maiming, by imprisonment for not more than thirty years or a fine under this title, or both;

(3) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than twenty years or a fine under this title, or both;

(4) for threatening to commit a crime of violence, by imprisonment for not more than five years or a fine under this title, or both;

(5) for attempting or conspiring to commit murder or kidnapping, by imprisonment for not more than ten years or a fine under this title, or both; and
(6) for attempting or conspiring to commit a crime involving maiming, assault with a dangerous weapon, or assault resulting in serious bodily injury, by imprisonment for not more than three years or a fine of ^[1] under this title, or both.

(b) As used in this section—

(1) “racketeering activity” has the meaning set forth in section 1961 of this title; and
(2) “enterprise” includes any partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, which is engaged in, or the activities of which affect, interstate or foreign commerce.

18 U.S. Code § 1962 - Prohibited activities

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

18 U.S. Code § 2381 - Treason

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States.

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SANTA CLARA

3 BEFORE THE HONORABLE DEBORAH RYAN, JUDGE

4 DEPARTMENT NO. 24

5 ---o0o---

6
7 THE PEOPLE OF THE STATE OF)
CALIFORNIA,)

8 Plaintiff,)

9 v.)

CASE NO. C1502123

10 PATRICK MISSUD,)

11 Defendant.)

12 /

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14
15 ---o0o---

16 REPORTER'S TRANSCRIPT OF PROCEEDINGS
17 APRIL 8, 2015

18 ---o0o---

19
20 APPEARANCES:

21 FOR THE PEOPLE:

CAROLYN ZABRICKI MALINSKY
Deputy District Attorney

22
23 FOR THE DEFENDANT:

JENNIFER BEDOLLA
Deputy Public Defender

24
25
26 OFFICIAL REPORTER: HEATHER J. BAUTISTA, CSR, CRR, RPR, CLR
27 CSR License #11600
28 CRR/RPR Certificate #852251
Certified Livenote Reporter
Realtime Systems Administrator

HEATHER J. BAUTISTA, CSR, CRR, RPR, CLR

1 San Jose, California April 8, 2015

2 PROCEEDINGS

3 THE COURT: Number 28, Patrick Missud. 28, Mr.
4 Missud.

5 DEFENDANT MISSUD: Good afternoon, Judge. Patrick
6 Missud, pro se counsel with Jennifer Bedolla, my hand-picked
7 public defender.

8 MS. BEDOLLA: Your Honor, in this matter --

9 THE COURT: Mr. Missud, as you know, the
10 requirements of the law are that you have an attorney. I
11 did appoint the Public Defender's Office to represent you,
12 and Ms. Bedolla is doing that and is functioning in that
13 role.

14 MS. BEDOLLA: Jennifer Bedolla for Mr. Missud.
15 He's present out of custody.

16 THE COURT: And this matter was on following the
17 receipt of the two reports for decision to be made regarding
18 a Court trial or a jury trial.

19 MS. BEDOLLA: And, Your Honor, I'm requesting a
20 date set in your department for Court trial. I will be
21 waiving the right to a jury trial on this matter.

22 MS. ZABRICKI MALINSKY: Good afternoon, Your
23 Honor. Carolyn Zabricki Malinsky for the People on that
24 matter.

25 DEFENDANT MISSUD: I am protesting the waiver of
26 the right to a jury trial. Also, I did serve the Court with
27 a renewed CCP 170.6 motion to recuse based on bias and based
28 on new evidence that was supplied to me by the Court's

1 reporter on March 25th and that official transcript, wherein
2 this Court refuses to take judicial notice or acknowledge
3 another official January 9th court transcript catching
4 colleague, Judge Elfving, in 15 lies.

5 THE COURT: Are you requesting that?

6 MS. BEDOLLA: I am not, Your Honor.

7 THE COURT: All right.

8 DEFENDANT MISSUD: I'm also requesting --

9 MS. BEDOLLA: And, Your Honor, I would ask the
10 Court note he is objecting to the waiver of the jury trial.

11 THE COURT: And absolutely will so note that.

12 DEFENDANT MISSUD: I also understand that there's
13 an alternative public defender when there's a conflict of
14 interest with the public defender who is hand picked by the
15 Court to railroad the case. I'm requesting an alternative
16 public defender, as is my right in Santa Clara County.

17 MS. BEDOLLA: Your Honor, I believe that he is
18 making a request for a Marsden hearing.

19 THE COURT: That's what I took that as also.

20 MS. BEDOLLA: If we could set that for a date when
21 the Court is available. We can either appoint counsel at
22 that time if the Court grants the motion or proceed with the
23 Court trial if the Court denies the motion.

24 THE COURT: All right.

25 DEFENDANT MISSUD: All right. And just --

26 THE COURT: Let me just put something on the
27 record, Mr. Missud.

28 As I indicated last time, I have serious concerns

1 and doubts, and I have done some research in this matter, as
2 to whether Mr. Missud, himself, can bring a 170.6 motion
3 under the circumstances where it is required when the
4 proceedings are suspended under 1368 and where a lawyer is
5 required to be appointed.

6 So because Ms. Bedolla, as Mr. Missud's lawyer, is
7 not requesting the 170.6, I do not feel it is appropriate to
8 grant it. And, further, I do find that I have been involved
9 in this case from the beginning, and I don't think it is --
10 it is timely, and so I am just, for the record and to be
11 clear, denying that request at this time.

12 If there's anything further that I need to hear on
13 that or there's other legal points on that for me to
14 reconsider at another time, I will be happy to do that, but
15 that is my position based on my understanding of the law at
16 this point.

17 MS. BEDOLLA: Thank you.

18 THE COURT: And I will set it for a Marsden
19 hearing.

20 MS. BEDOLLA: Yes.

21 THE COURT: And/or potentially a Court trial,
22 depending on the results of the hearing --

23 MS. BEDOLLA: Thank you.

24 THE COURT: -- in my department.

25 MS. BEDOLLA: And what date, what weeks are you
26 available for --

27 THE COURT: I think we should set it for --

28 MS. BEDOLLA: Prelim week?

1 THE COURT: Yes, prelim week. Let me see where
2 I'm going to be at for that.

3 MS. BEDOLLA: Is the week of the 27th a prelim
4 week?

5 THE COURT: It will have to be the 27th or the
6 29th. Could we check the --

7 MS. BEDOLLA: The 29th? The 29th isn't going to
8 work for me, Your Honor, because that's the AA calendar
9 date.

10 THE COURT: So I'm going to try for the 27th. I
11 want to see how many other matters I have on.

12 MS. BEDOLLA: I think I set another matter in your
13 department for that day.

14 THE COURT: Okay. So I think that would be a good
15 morning. All right.

16 DEFENDANT MISSUD: All right.

17 And also, for the record, just to correct the --
18 that the Court just put on the record, Section 170.6 states
19 that a party and/or an attorney appearing in a case can
20 motion the judge for recusal, and am I doing both in my
21 capacity as a party and attorney, as well as California
22 private Attorney General under the CCP 1021 and USC 18 1512
23 and 1513, which is federal informant.

24 Now, the --

25 THE COURT: I think that's -- I think that's all
26 we needed. I think that's all we need, Mr. Missud.

27 Mr. Missud, I think that's all we need. You've
28 made your position known. You've made your objection known.

1 You've made your record, and I've made my ruling.

2 So you do have a right to a Marsden hearing, which
3 is what we will have on Monday, April 27th, at 9:00 o'clock
4 in my department, Department 30.

5 MS. BEDOLLA: Thank you.

6 THE COURT: All right.

7 MS. ZABRICKI MALINSKY: Your Honor --

8 DEFENDANT MISSUD: One last thing. My mother is
9 not well, so April 27th may conflict with family
10 appointments. That is, as of this date, uncertain and
11 unknown. She's currently recuperating.

12 THE COURT: I'm sorry to hear that she's not well.
13 If there's something --

14 DEFENDANT MISSUD: I will notify Ms. Bedolla.

15 MS. BEDOLLA: If there's a problem with him coming
16 to court.

17 THE COURT: Please do. We will take that into
18 consideration, certainly, if you can't make it for that
19 reason.

20 MS. ZABRICKI MALINSKY: Clarify, Your Honor. Is
21 the April 27th date both a Marsden hearing and the --
22 depending on the outcome of the Marsden hearing, the Court
23 trial itself?

24 MS. BEDOLLA: Yes.

25 THE COURT: Potentially, yes, it is. Yes.

26 So you would not be present, of course, for the
27 Marsden hearing, but if it goes to trial, then you would be
28 notified, or you're welcome to be there but outside for the

1 hearing itself.

2 (Whereupon, the Court recessed.)

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1 STATE OF CALIFORNIA)
)
2 COUNTY OF SANTA CLARA)

3

4

5 I, HEATHER J. BAUTISTA, HEREBY CERTIFY THAT:

6 The foregoing is a full, true, and correct
7 transcript of the testimony given and proceedings had in the
8 above-entitled action taken on April 8, 2015; that it is a
9 full, true, and correct transcript of the evidence offered
10 and received, acts and statements of the Court, also all
11 objections of counsel, and all matters to which the same
12 relate; that I reported the same in stenotype to the best of
13 my ability, being the duly appointed and acting official
14 stenographic reporter of said Court, and thereafter had the
15 same transcribed into typewriting as herein appears.

16

17

Dated: May 25, 2015

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19

20

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21

Heather J. Bautista, CSR, CRR, RPR, CLR

CSR Licence #11600

22

CRR/RPR Certificate #852251

23

Certified Livenote Reporter

24

Realtime Systems Administrator

25

ATTENTION:

CALIFORNIA GOVERNMENT CODE

26

SECTION 69954(D) STATES:

27

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
BEFORE THE HONORABLE WILLIAM J. ELFVING, JUDGE
DEPARTMENT NO. 3

---OOO---

PATRICK A. MISSUD,)
)
) PLAINTIFF(S),) CASE NO.:
)
) -VS-) CGC-14-536981
)
) LUCY ARMENDARIZ, ET AL.,)
)
) DEFENDANT(S).)

-537723

REPORTER'S TRANSCRIPT OF PROCEEDINGS

HELD ON JANUARY 9, 2015

APPEARANCES:

FOR THE PLAINTIFF: IN PROPRIA PERSONA

FOR THE DEFENDANT: MICHAEL J. VON LOEWENFELDT,
ATTORNEY AT LAW

ALSO PRESENT: BRIAN CEBALLO,
DEPUTY CITY ATTORNEY

OFFICIAL COURT REPORTER: JEANIE CAYABAN-ALMA
CSR #10920
CCRR #143

---oOo---

1 SAN JOSE, CALIFORNIA

JANUARY 9, 2015

2 (WHEREUPON, COURT CONVENED AND THE FOLLOWING
3 PROCEEDINGS WERE HAD:)

4 THE COURT: All right. Calling the case of
5 Patrick A. Missud vs Lucy Armendariz, et al. Would
6 parties and counsel take their places and state your
7 appearances starting with the plaintiff.

8 MR. MISSUD: Patrick A. Missud, 18 USC 1513,
9 federal informant, five-year federal mole whose job is to
10 set up corrupt judges.

11 THE COURT: Do we have counsel on the
12 telephone?

13 MR. VON LOEWENFELDT: Yes. Good morning, your
14 Honor. Michael Von Loewenfeldt for defendants Armendariz
15 and Remke.

16 THE COURT: We have no one else representing a
17 party in the courtroom and apparently there's nobody else
18 on the telephone, so I will deal with Mr. Missud and
19 Mr. Von Loewenfeldt.

20 And the first order of business that was
21 scheduled by the Court is the motion for attorney's fees
22 brought by defendants, and so I'm going to let Mr. Von
23 Loewenfeldt summarize his position regarding that motion,
24 and when he's finished, I'll let Mr. Missud make his
25 argument heard, and then I'll give Mr. Von Loewenfeldt a
26 chance to reply. So go ahead, Mr. Von Loewenfeldt.

27 MR. VON LOEWENFELDT: Thank you, your Honor.

28 Your Honor, the code is very clear that a

1 prevailing defendant on an anti-SLAPP motion is entitled
2 to recover attorney's fees and costs. The Bar has
3 submitted -- or excuse me, not the Bar, Judges Armendariz
4 and Remke have submitted a motion requesting \$5,240 in
5 fees. We've submitted declarations from myself and from
6 Daniel Lee, who is with the Office of General Counsel,
7 detailing some of our time responding to Mr. Missud's
8 case in the anti-SLAPP issues. I must say, since we've
9 filed these declarations, we've, of course, had to deal
10 with other things Mr. Missud has done, but at this point,
11 we're not seeking to increase the amount we've requested.

12 We really didn't get any meaningful opposition
13 other than the continuing death threats that Mr. Missud
14 presents, and I'm really not sure how to describe the
15 rest of his papers. They certainly don't present any
16 reasoned arguments as to why any of our fees should be
17 denied, so we'd ask the Court to grant the motion.

18 THE COURT: Thank you.

19 Mr. Missud, did you want to say anything that's
20 relevant to the motion for attorney's fees?

21 MR. MISSUD: Absolutely. I checked actually
22 this morning on USPS.com website, and it informed me that
23 the pleadings that I had sent by tracked signature,
24 confirmed mailing to this court has not yet been picked
25 up.

26 Mr. Rosales, did you pick up the last package
27 ending in four digits 7394 which contain pleadings that
28 are responsive to this day's hearing?

1 THE COURT: Mr. Missud, your question to the
2 Clerk is improper. You address your remarks to the
3 Court, not to the Court staff. So I'm instructing the
4 Clerk not to respond to that question.

5 MR. MISSUD: All right. Absolutely, yes, I did
6 oppose to the Bar's request for fees. It was filed
7 December 12th. It's entitled opposition to defendant's
8 18 USC 1513(e) financial retaliation against me for
9 blowing the whistle on a lot of dirty court shenanigans,
10 including rigging federally mandated arbitrations. If
11 you'll recall, the National Arbitration got busted for
12 doing just that and they hired mostly retired judges to
13 rig awards.

14 Now, in my opposition, I begin the pleading,
15 saying that Elfving lied big time. You, Judge Elfving,
16 lied about not getting my opposition to rigging this very
17 hearing. I very succinctly stated and filed in court and
18 also sent a copy by a certified return receipt mail to
19 chambers, which you lied not getting, and you lied in the
20 official transcripts so stating.

21 On November 21st at page 3 of the official
22 transcript, you said, "I'm not aware of any written
23 opposition to the OSC regarding sanctions and dismissal.
24 Mr. Missud, did you file anything?" Then I went on to
25 tell you absolutely I did. I posted it, certified return
26 receipt purposely to catch you in 18 USC 1341 and 3, mail
27 and wire fraud, feigning that you didn't get my pleadings
28 so that you could rig this very hearing.

1 THE COURT: Mr. Missud, your argument makes no
2 sense whatsoever. This is a motion for attorney's fees
3 after an anti-SLAPP motion was granted. The law is very
4 clear that the prevailing party is entitled to attorney's
5 fees related to that motion. In fact, the moving parties
6 did win that motion, and they're seeking some \$5,000 in
7 attorney's fees. So address your comments to why they're
8 wrong on the law or facts given that issue.

9 MR. MISSUD: Absolutely. The law is absolutely
10 very clear on these issues. Now, you rigged this
11 hearing, feigning that you did not get my opposition.
12 That is a fact from the official court transcript. That
13 is a Court admission.

14 The very clear law that I'm going to cite you
15 have to follow, a void judgment, which includes judgment
16 entered by a Court, which lacks jurisdiction of the
17 parties subject matter or an order procured by fraud can
18 be attacked at any time in any court, either directly or
19 collaterally. I listed about 30 different cases which
20 you have to, by law, abide by which state that any
21 subsequent order that is premised on a prior fraudulent
22 order, like when you lied about not getting five copies
23 of my opposition to rigging this very hearing, mind you,
24 that this civil court's civil division got a copy,
25 Mr. Rosales got a copy, Judge Elfving got a copy, the
26 Sheriff's Department got a copy, all over federal wires
27 which confers jurisdiction over the federal DOJ, and if
28 there are any underlying crimes that are being committed,

1 state judges can go to prison forever.

2 THE COURT: All right. Your argument is that
3 the order was void; it was procured by fraudulent
4 conduct, and I think I've heard enough on that.

5 So Mr. Von Loewenfeldt, anything else you want
6 to say about the motion for attorney's fees?

7 MR. VON LOEWENFELDT: No, your Honor. I think
8 you're displaying enormous patience.

9 I wanted to ask to make sure the Court is
10 aware, the emails Mr. Missud sent, including one last
11 week, is threatening to post your Honor's address online
12 so that somebody could assassinate you, and at some level
13 here, you know, this conduct has to stop.

14 THE COURT: I understand. I'm addressing the
15 motion for attorney's fees, your motion, and so --

16 MR. VON LOEWENFELDT: Submitted, your Honor.

17 THE COURT: All right. I'll take that motion
18 under submission.

19 MR. MISSUD: Actually, there's one more matter.
20 The official court docket for this very case, it's the
21 most unusual docket I've ever seen in my life. Mr. Von
22 Loewenfeldt supposedly filed his reply to my opposition
23 on December 31st, but for some reason the supposed
24 automatic electronic registration of that reply never
25 happened. He sent me a proof of service stating
26 unequivocally, "electronically filed on December 31st
27 authorized," and yet when I printed a copy of that docket
28 on that date, it was nowhere to be found. However, it

1 miraculously showed up seven days later after I had
2 myself copied Mr. Von Loewenfeldt's reply and filed it in
3 the case. That's when this Court retroactively added Mr.
4 Loewenfeldt's reply to the docket, which it was
5 suppressing, and it didn't even post my opposition
6 online.

7 This Court suppressed and concealed my
8 opposition, did not make it viewable by PDF, then failed
9 to register Mr. Von Loewenfeldt's reply so that you guys
10 could all lie and rig this hearing, claiming that I had
11 not opposed and you could simply award the sanctions.

12 THE COURT: No. I think you're mistaken,
13 Mr. Missud.

14 MR. MISSUD: I'll leave you the copies of the
15 dockets.

16 THE COURT: Your argument is that the order is
17 void. You did apparently file opposition in writing, and
18 the Court is considering the moving papers, your
19 opposition and the reply. So that motion is submitted.

20 We have an order to show cause re sanctions,
21 dismissal for failure to serve the defendants. In this
22 case, we have a whole series of defendants. A prior
23 motion to quash service of summons was granted. I'm not
24 aware that any of the defendants have been properly
25 served, but I'll ask Mr. Von Loewenfeldt.

26 Are you aware that any of the defendants in
27 this Armendariz/Remke case have been served?

28 MR. VON LOEWENFELDT: So that we're clear, your

1 Honor, Judges Armendariz and Remke were served, and we've
2 appeared and prevailed. As to the other defendants, I'm
3 not aware of them being served. I don't represent them.

4 THE COURT: All right. And their attorneys are
5 not here today.

6 So as to Feinstein, Lee, Robertson, Goldsmith,
7 Cantil-Sakauye, have proofs of service of the service of
8 summons and complaint been filed on any of those
9 defendants, Mr. Missud --

10 MR. MISSUD: Actually --

11 THE COURT: -- since the ruling on the motion
12 to quash?

13 MR. MISSUD: Yeah. Actually, I've got even
14 better than that. I've got Judge Goldsmith in
15 transcript, on record admitting to receiving service by
16 Deputy Sheriff Murphy in his very own courtroom on March
17 4th in department 302.

18 THE COURT: No. I'm referring not to ancient
19 history, Mr. Missud. I'm referring to service within the
20 past 60 days, or thereabouts, at the end of 2014, not
21 what you claim happened back in early 2014.

22 MR. MISSUD: All right. What you claim as
23 being ancient history is actually California Rules of
24 Evidence Section 450 et seq. That means that official
25 court records can be admitted for any purpose including
26 impeaching judges on the stand, and it must be
27 acknowledged thereof, absolutely reliable,
28 self-authenticating court records.

1 Now, this is definitely going to go on appeal,
2 and it is already lodged with federal authorities,
3 including the US DOJ.

4 Would you like to take judicial notice of your
5 very own court transcripts, March 4th, 2014, Department
6 302, Judge Ernest Goldsmith admitting getting served with
7 the summons for this case.

8 THE COURT: All right. I'm going to take the
9 issue of the order to show cause re sanctions dismissal
10 under submission.

11 We have also a further case management
12 conference. So Mr. Von Loewenfeldt, do you have any
13 thoughts on the case management conference and what needs
14 to be done on future events? Go ahead, please.

15 MR. VON LOEWENFELDT: Your Honor, once the
16 Court enters an order on our fee motion, that will
17 resolve Superior Court proceedings concerning Judges
18 Remke and Armendariz. And the judgment's already been
19 entered in their favor on the anti-SLAPP motion, so
20 there's nothing for us to do going forward.

21 With respect to the other defendants, when the
22 Court quashed summons of service, and Mr. Missud has
23 clearly not served them. So, you know, I -- we suggested
24 in our reply papers that the Court look at the vexatious
25 litigant statute as a way of dealing with Mr. Missud's
26 ongoing conduct, and I think that is appropriate. I'm
27 not sure what else there is to be done with respect to
28 those defendants other than dismiss them and deal with

1 Mr. Missud's conduct.

2 THE COURT: All right.

3 MR. MISSUD: I've got a bit of a rebuttal, if I
4 may.

5 THE COURT: Go ahead.

6 MR. MISSUD: All right. Mr. Von Loewenfeldt
7 just said that Missud has not clearly served them,
8 meaning the defendants. When Missud serves parties in
9 this case and the Judge, for that matter, and he always
10 does so by multiple verified means, including through
11 federal wires and federal mails tracked directly to
12 chambers. I can count on two hands the number of times
13 that this Court has lied about not receiving pleadings.

14 Just a few minutes ago, you forbade Mr. Rosales
15 from answering my question as to whether he picked up a
16 tracked package directly to chambers. These are typical
17 ploys by this Court to rig hearings and to simply deny my
18 motions or deny my request for motion dates, feigning not
19 having received the pleadings.

20 Now, Mr. Von Loewenfeldt also has brought up a
21 vexatious litigant statute. This statute has been
22 brought and raised and used against me in multiple courts
23 because I have a knack for catching dirty judges in lies,
24 the simple ones, like lying about not receiving
25 pleadings. Those are very simple to prove. There's no
26 gray. It's only black and white. Either you lied that
27 you got them or you don't.

28 THE COURT: Just a second, Mr. Missud. I'm

1 running this hearing, so I don't want to hear anymore
2 from you on that subject at this moment.

3 Mr. Von Loewenfeldt, when I saw that in your
4 reply that you're suggesting the Court on its own motion
5 find Mr. Missud a vexatious litigant, and I am aware that
6 other Courts have done that, it raises the question of
7 whether that is an appropriate route, justified
8 procedurally and substantively, or is it better to have
9 an interested party, whether it's your clients or some of
10 the other defendants, file such a motion, document it
11 factually and legally, give Mr. Missud a chance to file
12 his opposition, get a written reply, have oral argument,
13 then make a decision? So I would be interested in
14 Mr. Von Loewenfeldt's comments on that issue.

15 MR. VON LOEWENFELDT: Well, your Honor, the
16 code expressly states that the Court can do it on its own
17 motion, so I think either of those avenues would be
18 appropriate. The transaction is not cost-free for us to
19 bring yet another motion, you know. So -- I am somewhat
20 cognizant of spending public funds of the State Bar
21 bringing motions. There are also, frankly, contempt
22 remedies. I'm not a criminal lawyer, but it's beyond my
23 understanding that one can threaten to have judges killed
24 and very specifically do so and suffer no consequence
25 whatsoever. That has to be a crime of some sort.
26 Obviously, your Honor wouldn't be the one dealing with
27 that. That would be the criminal authorities dealing
28 with that.

1 But from our position, we're getting spammed
2 practically daily with threatening comments that we don't
3 know how seriously to take it, with a series of
4 litigation arguments where it's just the same nonsense
5 over and over. Eventually, we will have to file a
6 vexatious litigant motion if this still happens and the
7 Court hasn't done anything on its own, but I do think it
8 is appropriate if the Court wants to do so. And
9 certainly, I'm not going to tell the Court what to do by
10 any means, but certainly your Honor has the tools by your
11 contempt power with a clear contempt being committed
12 right in front of you and under the vexatious litigant
13 statute to curb this behavior going forward in the future
14 as the Federal Courts have done.

15 THE COURT: All right. I will mull that issue
16 over. I'm not taking any action at this time, but I am
17 aware of the suggestion.

18 MR. MISSUD: I do have a little bit of rebuttal
19 as to what Mr. Von Loewenfeldt just said.

20 THE COURT: Go ahead.

21 MR. MISSUD: Thank you. He wants to call me
22 vexatious probably to lock me out of several databases
23 including ECF, electronic filing. That's been done
24 before by the Federal Courts. They've actually also
25 physically barred my access to the courts when I went to
26 file pleadings that attached dropdead, absolute proof of
27 judicial corruption. This is what judges typically do
28 when I gather such overwhelming evidence of 23 to 1

1 treason.

2 Now, Mr. Von Loewenfeldt just said that I
3 threatened to have judges killed. Now, "killed,"
4 "murdered," "put to death" or "executed" -- I use those
5 terms interchangeably. There are several violations of
6 federal law that prescribe the death penalty execution.
7 Those would be 18 USC 1959 which prescribes the death
8 penalty if you are coconspiring with an entity which uses
9 lethal means, including bombs, to maintain an interest in
10 an underlying crime.

11 The party that filed its Bar complaint to have
12 me stripped of my license against me is called a DRO
13 Corporation (phonetic), which on August 3rd of 2007 put a
14 bomb on my truck because I was exposing 27 state
15 predatory lending and mortgage fraud on --

16 THE COURT: Mr. Missud, hold up. Hold up. I'm
17 not going to listen to this. We're getting far afield.
18 I'm not going to talk anymore, listen anymore on the
19 vexatious litigant issue. I want to think about that,
20 and we'll go forward in the appropriate time if that is
21 the way to go.

22 MR. MISSUD: Conceding on that point now --

23 THE COURT: Just a second.

24 MR. MISSUD: -- Mr. Von Loewenfeldt --

25 THE COURT: Just a second. We're not going to
26 have speeches here.

27 Mr. Von Loewenfeldt, are you aware of anything
28 else that was properly scheduled for today's hearing?

1 MR. VON LOEWENFELDT: No, your Honor, I'm not.

2 THE COURT: Okay. I'm not aware of anything
3 else that is properly scheduled.

4 MR. MISSUD: Actually, let's refer to the
5 official docket for case 537723 where it says, December
6 10th, mandatory judicial notice that a hearing date of
7 summary judgment will be set today.

8 THE COURT: Just a second, Mr. Missud. My
9 initial case management order provided that if anybody
10 wants to file a motion, they have to contact this
11 department and clear a date and get approval for it.
12 This Court did not approve any motion for summary
13 judgment to be heard today, and so, in my view, you can
14 file any number of things, but that doesn't mean it's
15 going to get heard and considered. And so I don't have a
16 motion for summary judgment that I'm prepared to rule
17 on.

18 MR. MISSUD: Judge, I think you misunderstand
19 me. What I motioned for was to get a motion date in the
20 future so that I could file a motion for summary
21 judgment. In this case, I filed no less than three
22 requests to get a motion date --

23 THE COURT: Let me stop you right there.

24 MR. MISSUD: -- was denied --

25 THE COURT: Let me stop you right there.

26 MR. MISSUD: -- in violation of --

27 THE COURT: Just a second. Defendants
28 Armendariz and Remke already have an order granting their

1 anti-SLAPP motion, so you can't file a motion for summary
2 judgment against them.

3 MR. MISSUD: I'm not talking about this case,
4 536981. There was a separate motion to procure a motion
5 date filed in and for case CGC 14537723, which has also
6 been assigned care of William Elfving of the Santa Clara
7 Superior Court.

8 THE COURT: We're not on that case. We're not
9 on that case now.

10 MR. MISSUD: It is filed in the docket on
11 December 10, 2014. It is a matter to be heard today at
12 this hearing.

13 THE COURT: Just a second, Mr. Missud. We are
14 now talking about the case of Missud vs Armendariz
15 CGC-14-536981. I'm not aware of any further matters to
16 be heard today in that case. Are you aware of any?

17 MR. MISSUD: Yes. Actually, Mr. Von
18 Loewenfeldt just brought up the contempt power of the
19 court, and I didn't have a chance to reply to that.

20 This Court does indeed have contempt power over
21 people appearing before it as well as people that are
22 subpoenaed to bring documents with them. On October 3rd,
23 Brian Ceballo, City Attorney, San Francisco --

24 THE COURT: Whoa. Stop.

25 MR. MISSUD: -- flaunted subpoena --

26 THE COURT: There is no order to show cause re
27 contempt. Nobody's been given notice that contempt will
28 be addressed today. If it's addressed in the future,

1 we'll take that when it comes up, but there's no contempt
2 hearing on today.

3 Is there anything else on today in the Missud
4 vs Armendariz case as you see it, Mr. Missud?

5 MR. MISSUD: Yes, actually. I did also
6 subpoena Judge William Elfving to provide answers as to
7 whether he would take judicial notice of his own court
8 transcripts in this very department 3 where he's been
9 caught in lies. However, the general counsel, Lisa
10 Herrick, sent me a letter claiming that you would not be
11 appearing today or getting on the record regarding taking
12 judicial notice of your very own court transcripts and
13 your admissions therein. Will you take judicial notice
14 of the things that you said at prior hearings, Judge
15 Elfving?

16 THE COURT: I'm not taking judicial notice of
17 anything unless a proper request is filed in the proper
18 way and it's relevant and so, no, I'm not going to grant
19 that request at this point. That issue is not before the
20 Court.

21 Okay. I'm not aware of any further events in
22 Armendariz/Remke.

23 Now, you mentioned a couple of other cases.
24 Yes, I've been assigned a couple of other cases where
25 Patrick Missud is the plaintiff, and I'm not aware of any
26 of those other cases that any approval has been given for
27 a hearing in those cases today on any issue by any party.

28 I don't think Mr. Von Loewenfeldt is involved

1 in any other Missud cases, am I correct?

2 MR. VON LOEWENFELDT: None that are before your
3 Honor.

4 THE COURT: All right. So Mr. Missud, in any
5 of these other cases, reference the court number and tell
6 me what, if anything, you think is on for hearing
7 today.

8 MR. MISSUD: What is definitely docketed on the
9 register of actions for case CGC-14-537723, filed on
10 December 10th, 2014, is a request that Judge Elfving
11 peruse his calendar today at this very hearing to find
12 out when there will be an available date for me to file a
13 motion for summary judgment in that case in which is
14 already criminally proven by nothing but the city's own
15 documents that there is Bell California racketeering
16 happening in San Francisco. If you'll recall in 2009,
17 the FBI raided Bell for financially targeting --

18 THE COURT: That's enough. You want a motion
19 for summary judgment heard?

20 MR. MISSUD: Yes.

21 MR. VON LOEWENFELDT: Your Honor, I apologize.
22 Your Honor, I don't mean to interrupt you or Mr. Missud,
23 but do I have to stay on the phone to hear him talk about
24 his traffic issues?

25 THE COURT: No.

26 MR. VON LOEWENFELDT: I'm not involved in any
27 of these.

28 THE COURT: I'll excuse Mr. Von Loewenfeldt.

1 Thank you for appearing.

2 MR. VON LOEWENFELDT: Thank you, your Honor.
3 Thank you for letting us appear by phone.

4 THE COURT: Sure.

5 MR. CEBALLO: Good morning, your Honor. May I
6 approach the Court?

7 THE COURT: Sure.

8 MR. CEBALLO: Your Honor, my name is Brian
9 Ceballo from the City and County of San Francisco. We've
10 been made aware that there is a subpoena for my
11 appearance today under case number 14-537723, so that's
12 why I'm here today, your Honor.

13 THE COURT: Well, I don't know why you were
14 subpoenaed, but I didn't sign any orders to that effect,
15 and we're not conducting a hearing, and so I'm not sure
16 why we should even deal with that issue. Do you have any
17 comment on that, counsel?

18 MR. CEBALLO: No, your Honor. I completely
19 agree with you.

20 THE COURT: Okay.

21 MR. MISSUD: Actually, I've got a comment.
22 Those subpoenas doubled as City sunshine request and
23 California open government requests within 10 days
24 receipt of the demand for public records, they must be
25 produced.

26 This City of San Francisco has been illegally
27 withholding public records for over six months. I have
28 Brian Ceballo's admission on city letterhead from his

1 office of the City Attorney, lying that he didn't have
2 the very financial records that I already had in my
3 possession for two years. I needed only updates of those
4 financial records which Brian Ceballo and the city
5 illegally withheld in violation of city sunshine
6 California government, and he flaunted a subpoena in your
7 very courtroom two months ago. I believe it was on
8 October 3rd. You acknowledged his presence in the peanut
9 gallery. You let him get away with not producing any
10 public records in violation of three forms of legal
11 production.

12 THE COURT: There is no hearing scheduled today
13 in that case in this department, and I'm not going to
14 take up the issue. So I think Mr. Missud is misguided
15 from a procedural standpoint, but I'm not going to
16 address that alleged subpoena and whether it's proper and
17 service has been appropriate and deal with anything else.
18 There's no motion pending. No dates were cleared with
19 the Court.

20 So anything else besides that in case 723,
21 Mr. Missud?

22 MR. MISSUD: Yes. Like I said before, it's not
23 called a subpoena. Let's call it a ten-day Sunshine
24 request that's being flaunted for over six months.

25 Now, yes, I would like very much to have a
26 motion date for my motion for summary judgment against
27 the City of San Francisco, because attached to the
28 subpoena that I'm going to be leaving with you, Judge

1 Elfving, that is in your presence, I'm explaining to you
2 that is a subpoena demand for public documents, I've
3 attached two sets of subpoenas, overwhelming records that
4 the City's involved, engaged in racketeering exactly that
5 of Bell California for which Robert Rizzo was sentenced
6 to 12 years for official corruption and services fraud.

7 THE COURT: No speeches, Mr. Missud. Let me
8 ask counsel for the city.

9 Is a motion for summary judgment procedurally
10 appropriate at this stage, or is it even something that
11 we should set a date for, or is it premature given other
12 considerations?

13 MR. CEBALLO: Your Honor, I'm not sure of the
14 basis that plaintiff would move for summary judgment;
15 however, I do think it would be in the judicial economy
16 for the Court's interest to set a schedule for demurrer
17 so the city could move. I believe the only thing
18 remaining in this case are state law claims. This case
19 for some time was in the Federal Court, other district of
20 California before Judge Chen. The city at that point
21 moved for a 12-V-6 (phonetic) motion to dismiss the case.
22 Judge Chen ruled on the federal cause of action; however,
23 he declined to rule on the state law cause of action,
24 which is why this case is before your Honor today.

25 THE COURT: All right. So normally a demurrer
26 and a briefing and argument and ruling on that precedes a
27 motion for summary judgment. And if your client intends
28 to file such a demurrer, how soon do you think you can

1 get that on file?

2 MR. CEBALLO: Your Honor, if we can request
3 some early dates in March. I understand that you have --
4 you listen to motions on Tuesdays and Thursdays? --

5 THE COURT: Actually, this case, I've been
6 doing it on Fridays so I could devote more time to it and
7 we're not distracted.

8 So let me ask the Clerk to go into my chambers
9 and get my calendar on the credenza and bring it back to
10 me. Thank you.

11 I'll suggest a date, see if both Mr. Missud and
12 counsel are available. Is Friday, March 20th at 10 a.m.,
13 counsel, is that open on your schedule?

14 MR. CEBALLO: Unfortunately, your Honor, I have
15 3-6, 3-13 and 3-27 open.

16 THE COURT: Okay. Let me look at those other
17 dates. Friday, March 6th at 10 a.m. is open on my
18 schedule. Is that one of the dates, counsel, that's open
19 on your schedule?

20 MR. CEBALLO: Yes, your Honor.

21 THE COURT: Mr. Missud, you're available on
22 March 6th at 10 a.m.?

23 MR. MISSUD: I don't have my calendar with me,
24 but I'm pretty sure I can probably make it fit my
25 schedule.

26 THE COURT: All right. Thank you.

27 All right. I will set a hearing on the
28 defendant's demurrer to the complaint in action ending in

1 723 for March 6th at 10 a.m. I think it's appropriate to
2 get the demurrer ruled on before we consider whether
3 summary judgment is appropriate, when that should be
4 heard. So I'm not going to hear summary judgment in 723
5 at this time until we get that demurrer behind us.

6 Why don't I set a case management conference
7 for the same date and time so we can get other businesses
8 taken care of. You'll be here anyway.

9 And counsel for the city, anything else in case
10 723 that needs to be addressed that you see?

11 MR. CEBALLO: No, your Honor. Thank you.

12 THE COURT: Okay. Anything else in that case
13 that needs to be addressed, Mr. Missud?

14 MR. MISSUD: Oh, absolutely. Now, I'd like to
15 take this opportunity to note that the city just got its
16 motion date upon asking you a single time. I tried three
17 times prior to this hearing, and I was denied my motion
18 date. As a matter of fact, I was just denied a few
19 minutes ago a fourth time because this city and this
20 Judge, Judge Elfving, wants to rig case dismissal on
21 March 6 before my concrete evidence ever gets before the
22 Court, the concrete evidence which happens to be attached
23 to the subpoena I'll be leaving with the Court and which
24 the Court has already received before a gallery of
25 witnesses.

26 Now, Mr. Ceballo also mentioned that this state
27 case 537723 was brought to -- removed to the District
28 Court by none other than Police Chief Greg Suhr who

1 answered it.

2 Now, the weirdest thing happened in San
3 Francisco Superior Court. They issued a case management
4 statement, ordering appearances as to why the complaint
5 was not served on the parties in that case. However,
6 Greg Suhr answered the complaint and even removed to
7 Federal Court, so superior courts for some reason is
8 lying that Greg Suhr didn't answer the complaint. That
9 is just astonishing.

10 Another thing is that there was a prior federal
11 action regarding these claims, C-12-5468, which was
12 overwhelmingly proven and yet dismissed. It was
13 petitioned all the way up to the U.S. Supreme Court which
14 denied review. Their coverup is extending from the
15 Superior to District to Circuit Supreme Court. Nobody
16 wants to peruse the documents proving Bell California
17 style racketeering. As a matter of fact, Mr. Ceballo
18 just brought up the case that was remanded back to this
19 Superior Court from Federal Court, that case number
20 C14-1503, appeal still pending, 14-16494. The Circuit
21 Court lied about not getting over \$1,000 to fund the
22 appeal so that they could kick it out without reviewing a
23 single scrap of evidence.

24 THE COURT: Okay. That's enough.

25 MR. MISSUD: I'm still waiting for the Circuit
26 Court to reinstate the appeal so that I can set up three
27 more of the Circuit's finest for treason.

28 THE COURT: Let me ask counsel for the city.

1 Any other business you think we need to take up today?

2 MR. CEBALLO: No, your Honor. Thank you.

3 THE COURT: Mr. Missud, is there anything else
4 pending on any of these cases that you think needs to be
5 addressed today?

6 MR. MISSUD: Yes. Again, as I was saying,
7 pending is that Circuit appeal, all issues in the case
8 we're currently discussing now. The city failed to
9 provide any response to my notification and attachment of
10 official city documents, catching them in lies. The city
11 towed five of my cars, three of which were registered
12 when towed, and the city is feigning that they weren't
13 registered when towed. They towed all five cars when the
14 cases were pending. They also towed all five cars
15 knowing that the issues in the cases are that tickets are
16 issued under color of law, and that they are extorting
17 San Francisco residents into paying bogus fines to
18 increase their bottom lines and meet performance
19 standards of \$140.5 million last fiscal year.

20 THE COURT: All right. That's enough,
21 Mr. Missud.

22 The Court has concluded that there's no further
23 business appropriately before the Court in any of these
24 cases this morning, so the Court will be in recess.
25 Thank you.

26 MR. MISSUD: For the official record, I'm
27 leaving a copy of the subpoena for Judge Elfving.

28 (WHEREUPON, PROCEEDINGS CONCLUDED.)

1 STATE OF CALIFORNIA)
2 COUNTY OF SANTA CLARA) SS.
3)

4 In Re the matter of: PATRICK A. MISSUD vs
5 LUCY ARMENDARIZ, ET AL.
6 Case Number: CGC-14-536981
7 Hearing/Trial Date: JANUARY 9, 2015

8 I, JEANIE CAYABAN-ALMA, OFFICIAL COURT
9 REPORTER, DO HEREBY CERTIFY THAT:

10 I AM THE REPORTER, DULY APPOINTED AND SWORN,
11 WHO REPORTED THE ABOVE AND FOREGOING PROCEEDINGS AT THE
12 TIME AND PLACE THEREIN STATED;

13 THAT I REPORTED THE SAID PROCEEDINGS AND THAT
14 THE FOREGOING PAGES ARE FULL, TRUE, COMPLETE, AND CORRECT
15 TO THE BEST OF MY ABILITY;

16 I FURTHER CERTIFY THAT I HAVE COMPLIED WITH CCP
17 237(a)(2) IN THAT ALL PERSONAL JUROR IDENTIFYING
18 INFORMATION HAS BEEN REDACTED, IF APPLICABLE.

19 DATED THIS 13th DAY OF JANUARY, 2015

20
21 JEANIE CAYABAN-ALMA, CSR #10920
22 CCR #143

23 ATTENTION:

24 CALIFORNIA GOVERNMENT CODE
25 SECTION 69954(D) STATES:

26 "ANY COURT, PARTY OR PERSON WHO HAS PURCHASED A
27 TRANSCRIPT MAY, WITHOUT PAYING A FURTHER FEE TO THE
28 REPORTER, REPRODUCE A COPY OF PORTION THEREOF AS AN
EXHIBIT PURSUANT TO COURT ORDER OR RULE, OR FOR INTERNAL
USE, BUT SHALL NOT OTHERWISE PROVIDE OR SELL A COPY OR
COPIES TO ANY OTHER PARTY OR PERSON."

FILED
San Francisco County Superior Court

JAN 14 2015

CLERK OF THE COURT
BY: [Signature] Deputy Clerk

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

PATRICK A. MISSUD,

Plaintiff,

vs.

STATE OF CALIFORNIA, et al.,

Defendants.

Case No. CGC-14-537723

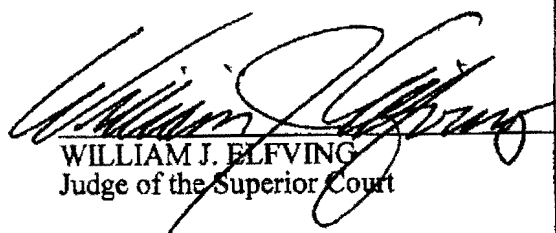
ORDERS RE: CASE MANAGEMENT
CONFERENCE, HEARING ON
DEMURRER

The undersigned judicial officer having been assigned this case for all purposes by the
Judicial Council of California, the following orders are adopted:

1. A Case Management Conference is set for March 6, 2015 at 10:00 a.m. in Department 3,
Santa Clara Superior Court, 191 North First Street, San Jose, CA, 95113.
2. All future hearings will be held in Department 3 of the Santa Clara Superior Court.
3. Any party who wants to file a motion or schedule a hearing in this case must clear the
date with Judge Elfving's clerk prior to filing. The Department 3 telephone number is
408-882-2130. A \$60.00 motion fee should accompany the pleading. If the matter is
being filed by messenger the contact person in the San Francisco Superior Court Clerk's
Office, Subsequent Filings, is Carol Balistreri. If the party chooses to send the filing via
US Mail or other courier, it should be directed to Marsha Smith in the San Francisco
Superior Court Clerk's Office.

1 4. The hearing on the Demurrer to be filed by Defendants City and County of San Francisco
2 and Greg Suhr is set for March 6, 2015 at 10:00 a.m. in Department 3.
3

4
5 Dated: 1-9-15


WILLIAM J. ELFVING
Judge of the Superior Court

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF SANTA CLARA
 BEFORE THE HONORABLE WILLIAM J. ELFVING, JUDGE
 DEPARTMENT NO. 3

---OOO---

| | | |
|----------------------------------|---|---------------|
| PATRICK A. MISSUD, |) | |
| |) | |
| PLAINTIFF(S), |) | CASE NO.: |
| |) | |
| -VS- |) | CGC-14-537723 |
| |) | |
| STATE OF CALIFORNIA, CITY AND |) | |
| COUNTY OF SAN FRANCISCO, ET AL., |) | |
| |) | |
| DEFENDANT(S). |) | |
| <hr/> | | |
| PATRICK A. MISSUD, |) | |
| |) | |
| PLAINTIFF(S), |) | CASE NO.: |
| |) | |
| -VS- |) | CGC-14-536981 |
| |) | |
| LUCY ARMENDARIZ, |) | |
| |) | |
| DEFENDANT(S). |) | |
| <hr/> | | |

REPORTER'S TRANSCRIPT OF PROCEEDINGS

HELD ON MARCH 6, 2015

APPEARANCES:

FOR THE PLAINTIFF: IN PROPRIA PERSONA

FOR THE DEFENDANT: BRIAN P. CEBALLO,
 DEPUTY CITY ATTORNEY

OFFICIAL COURT REPORTER: JEANIE CAYABAN-ALMA
 CSR #10920, CCRR #143

---OOO---

1 SAN JOSE, CALIFORNIA

MARCH 6, 2015

2 (WHEREUPON, COURT CONVENED AND THE FOLLOWING
3 PROCEEDINGS WERE HAD:)

4 THE COURT: In the case entitled Patrick A.
5 Missud vs City and County of San Francisco, would the
6 party and counsel state their appearances, starting with
7 plaintiff.

8 THE PLAINTIFF: Yes. Patrick Missud, 18 USC
9 1513 federal informant for five years with jobs to get
10 judges indicted.

11 THE COURT: And for defense.

12 MR. CEBALLO: Good morning, your Honor. Brian
13 Ceballo appearing on behalf of the City and County of San
14 Francisco.

15 THE COURT: Good morning, everyone.

16 We have on calendar a demurrer to the first
17 amended complaint brought by defendant City and County of
18 San Francisco. I've read your papers. I'll listen to
19 what you have to say that's germane, relevant and on
20 point. Let's start with counsel for the moving party.
21 Go ahead, please.

22 MR. CEBALLO: Thank you, your Honor. Would you
23 prefer that I remain seated?

24 THE COURT: Either way.

25 MR. CEBALLO: Your Honor, we did not -- we
26 received an opposition to our demurrer from plaintiff's
27 counsel. However, it's our opinion that he did not
28 present a legal argument to reply to, and I would ask

1 that our demurrer go in as submitted. But I can -- if
2 the Court would like, I can briefly explain what our
3 position is with respect to the demurrer, if you'd like.

4 THE COURT: All right. Well, let's put it this
5 way. I think your papers were clear, but I don't mind if
6 you summarize your major points, so go ahead.

7 MR. CEBALLO: Your Honor, this case was brought
8 by Mr. Missud back on February 28, 2014. His amended
9 complaint was seeking a suit for money and damages.
10 However, your Honor, plaintiff did not bring or present a
11 government claim under Government Code, California
12 Government Code 945.4, which is required before bringing
13 a suit against a government entity. Mr. Missud did not
14 do so, and that bars his action alone.

15 Aside from that, Mr. Missud now brings four
16 state claims in this action. And even if the Court were
17 to consider the merits of those claims, it's our position
18 that the Court would still grant the demurrer in favor of
19 the City and County of San Francisco.

20 And just to briefly summarize, plaintiff's
21 stated causes of action, the first cause of action he
22 brings is under California Civil Code 3294, and he simply
23 states punitive damages may be awarded against the
24 defendant, and he does not articulate any facts to
25 support that legal claim. And, your Honor, there's
26 really nothing to respond to. It's not a cause of
27 action.

28 The second claim plaintiff brings is under the

1 California Civil Code once again, under section 1770, and
2 that falls under the Consumer Legal Remedies Act, and
3 that provision, that act protects consumers against
4 unfair deceptive business practices. Mr. Missud has
5 failed to explain how the city's ticketing or towing
6 practices amounts to a deceptive business practice.

7 And the third cause of action that Mr. Missud
8 brings is under California Business and Professions Code,
9 and that's section 17200. In that cause of action,
10 Mr. Missud states that the city engaged in unfair
11 competition, and, again, your Honor, it is our position
12 that that cause of action does not apply to government
13 entity.

14 Lastly, your Honor, under the California
15 Government Code, Mr. Missud brings a claim under the
16 California False Claims Act, and that's under sections
17 12650. And, your Honor, this particular act, Falls
18 Claims Act allows the government to bring civil actions
19 to recover damages when the government is being
20 defrauded. And again, your Honor, this act does not
21 apply to the government entity itself.

22 Your Honor, that summarizes the City's position
23 with respect to the plaintiff's amended complaint.

24 THE COURT: All right. Thank you, counsel.

25 Mr. Missud, do you have anything to say about
26 this demurrer?

27 THE PLAINTIFF: Yes. Actually, the six points
28 that the City brought up I'd like to flush out a little

1 bit better. My supposedly, quote/unquote, unsubstantive
2 opposition that didn't proffer any facts or law to
3 support my opposition, supposedly, was jam-packed full of
4 official court records and city admissions that this
5 Court must, by law, under California Rules of Evidence
6 sections 450, et seq, have to consider.

7 Now, attached to my oppositions were, let's
8 say, for instance, Mr. Ceballo, the attorney who is
9 representing the City today, in a June 13th, 2014 letter
10 wherein he lied that the City did not have the exact
11 financial documents that I already had in my possession
12 since 2012 but merely needed updates for until the
13 present. Those documents happen to have been a legal
14 contract that the City has with Auto Return. It's an
15 exclusive towing contract with shares and profits for
16 \$600 vehicle tows. That's on the first day. Thereafter,
17 the City collects an additional \$70 in storage per day
18 until the car or the motorcycle or other vehicle is taken
19 out of impound.

20 Now, several municipalities have already been
21 raided by the FBI for such illegal schemes, the first one
22 being Bell, California in 2009. Robert Rizzo, City
23 Manager, is now serving 12 years for a scheme not nearly
24 as bad as San Francisco's.

25 Just this week, two days ago, Federal DOJ,
26 Attorney General Erik Holder says Ferguson, Missouri was
27 targeting mostly blacks in Ferguson Missouri for illegal
28 citations and illegal tows, major civil rights violations

1 there. So Bell, California, mostly Hispanics were being
2 targeted. In Ferguson, Missouri, mostly blacks were
3 being targeted.

4 It's been my experience based on my concrete
5 evidence that both blacks and Hispanics and lower income
6 socioeconomic roots are being targeted in San Francisco
7 for illegal citations and illegal revenue raising tows.
8 Those were attached to a subpoena that you received,
9 Judge Elfving, numerous times by multiple verifiable
10 means, which is dated January 7. It also attached two
11 official California State DMV records proving that two
12 cars that the city towed from me were registered beyond
13 the dates of tows; however, the City, in order to make
14 \$600 per tow and \$70 per day per storage per vehicle lied
15 they weren't registered when towed.

16 All five of my cars were illegally towed while
17 this case was and still is pending. Brian Ceballo's
18 caught on the phone -- my cell records can verify this --
19 while they were towing my second and third cars in
20 retaliation for my blowing the whistle and getting the
21 FBI to raid San Francisco, as was done to Bell and
22 Ferguson. That is the first point I wanted to make
23 regarding Mr. Ceballo's feigning that my opposition
24 wasn't substantial.

25 Now, on to the second point, notice. The City
26 admitted in its own pleadings submitted for this motion
27 for demurrer that they had notice since 2012 of my first
28 civil suit naming the City for some of these same crimes.

1 Since 2012, I discovered additional racketeering schemes
2 which now exceed 15.

3 The City has had ample notice of my claims
4 against the City for three years. I keep on filing
5 claims against the City that keep on being ignored. They
6 are verified and sent by certified return receipt and/or
7 signature confirmed mail. They make it all the way to
8 Matthew Rothschild who is under investigation for a
9 kickback scheme. An attorney in the City Attorney's
10 Office was illegally fired because she also exposed his
11 kickback scheme to Dennis Herrera who was defending the
12 City. Matthew Rothschild will not admit or acknowledge
13 any of my claims against the City because he simply wants
14 to stay out of prison.

15 So the City has already admitted having notice
16 of Federal Case C-12-5468 which allege many of these same
17 claims. This current case alleges many additional
18 racketeering schemes that are proven to criminal
19 standards. The City has had ample notice of my claims
20 against the city.

21 The merits of this case, that's point number 3.
22 I keep on filing drop dead, concrete, hard evidence of
23 City predation of a potential 900,000 San Francisco
24 victims. Court after Court after Court ignores them all.
25 I have been to toll hearings, to no vote hearings. I've
26 been in person to contest the legal citations and tows.
27 I've done it through the mail. The SFMTA always takes
28 the same position. You cannot fight City Hall. No

1 matter what evidence you bring in, if you were trying to
2 prevent the City from stealing your money, you will not
3 win.

4 The City has stolen thousands of dollars of my
5 money. The City stole five of my cars. The City wants
6 over \$50,000 for the cars it stole, three of which were
7 registered when towed, two of which could not be
8 registered until I paid on bogus citations that the City
9 issued, strong arming me into paying those bills. The
10 City has been trying to steal my money and my cars in an
11 effort to strong arm me into dropping this criminally
12 proven suit.

13 Now, attached to the January 9th -- attached to
14 the January 7th subpoena, which I left for you, Judge
15 Elfving, here on January 9th, five minutes before you had
16 me illegally arrested because I caught you rigging this
17 demurrer with attorney Ceballo, I proved that you lied
18 about another case. You received an opposition in case
19 536981 by -- I already tracked mail, signature
20 confirmed --

21 THE COURT: So, Mr. Missud, how does any of
22 this relate to points made in the City's demurrer? I
23 mean, Mr. Ceballo articulated his major points, and now
24 we're getting off on sidetrack about alleged subpoenas,
25 service, what the Judge did or didn't do. Seems to be
26 beyond the point. Why don't you stick to the arguments
27 that oppose the demurrer in question.

28 THE PLAINTIFF: Absolutely. Brian Ceballo said

1 that there's nothing substantive in my opposition and
2 that it should be ignored because there's nothing to
3 read. Now I'm pointing out that in another case, you,
4 Judge Elfving, ignored an opposition which was verifiably
5 served on you five different ways so that you can ignore
6 all the facts and hard evidence that was attached
7 thereto. What I'm saying is you have a pattern and
8 practice of ignoring oppositions that attach defendant
9 admissions to practice and racketeering.

10 Now, I'm going to leave you another copy of
11 that January 7, 2015 subpoena so you can review it. It
12 will probably be your dozen copy. It's also registered
13 on the web.

14 THE COURT: Mr. Missud, stick to the arguments
15 regarding the demurrer. Forget about subpoenas.

16 THE PLAINTIFF: Now, Mr. Ceballo, City defense
17 attorney Brian Ceballo said that I failed to explain how
18 illegal ticketing and bogus tows fall under the Deceptive
19 Business Practices Act. Well, they are based in fraud.
20 For instance, VC 40202 requires that the last four digits
21 of the VIN be displayed on the tickets. Quentin Kopp,
22 former state controller, says that if those tickets do
23 not have those last four digits, they aren't enforceable.
24 The City had me and my neighbors pay on those voidable or
25 non-enforceable tickets even though they were totally
26 illegal. That is a deceptive business practice.

27 Another deceptive business practice to increase
28 city revenue is that the SFMTA and SFPD, they troll

1 around neighborhoods and they make believe sometimes that
2 front plates aren't hanging from cars. That way they can
3 get an additional either \$10 fix-it or over \$100
4 citation, which they can compound if you do not pay
5 timely. I received just one such no front plate ticket
6 approximately two months after I got another no front
7 plate ticket which I remedied and had signed off. The
8 City really want you to believe that I went to the
9 trouble of taking the front plate off so I could risk
10 getting a second no front plate ticket?

11 Now, another ruse that the City uses, which is
12 a deceptive trade practice is that if you do not pay on
13 the bonus no front plate tickets or the VC 40202
14 non-compliant citations, they will not allow you to
15 re-register your car. In other words, you must pay them
16 their extortion in order to get new tabs that you can
17 glue onto your plate. That's a deceptive trade practice.
18 The City's commandeering state agencies to prevent
19 re-registrations so that it gets paid on its extortive
20 bogus color of law citations or so that the City can then
21 tow your car for \$600, stored at \$70 a day, and then sell
22 it back to you. That's a deceptive trade practice.

23 Now, Brian Ceballo also brings up unfair
24 competition. I just said, and I opened with the City has
25 an exclusive tow contract with a company called Auto
26 Return. No other tow companies can tow on behalf of the
27 City. It is a monopoly. The City collects millions of
28 dollars through a private tow company called Auto Return.

1 There is no competition. Auto Return charges what it
2 feels like for \$600 tows.

3 Two of my cars were supposedly towed with the
4 assistance of a piece hardware called a tow dolly. Those
5 are extra wheels that you put on the locked wheels so
6 that you can drag cars away. I snapped two pictures of
7 the two of my cars that were illegally seized from the
8 front of my house, neither of which required the use of a
9 tow dolly. But low and behold, when the City billed me,
10 I had to pay an extra 26.75, or around there, for the use
11 of a tow dolly that was still stowed atop of the tow
12 trucks. So what we've got here is very unfair
13 competition whereby the City of San Francisco employs
14 only Auto Return to steal money

15 Now, the last point that Mr. Ceballo brought up
16 was the California Falls Claims Act, and that only
17 governments can bring suits. That's not necessarily the
18 case. Private attorney generals under under CCP 1021.5,
19 which is me, can bring suit on behalf of 38 million
20 Californias or 900,000 San Franciscans who are getting
21 gouged and financially targeted for predation by the City
22 of San Francisco and its partner in crime, Auto Return.
23 These are all points that I made very clear to Attorney
24 General Erik holder who busted Bell, California's Robert
25 Rizzo five years ago and who is now serving 12 years in
26 prison and who busted Ferguson Missouri's law enforcement
27 community two days ago. So I can bring suit as a private
28 attorney general and/or what could happen is that Erik

1 Holder will raid the City of San Francisco.

2 THE COURT: All right. Thank you, Mr. Missud.

3 Mr. Ceballo, do you have any response or
4 anything else you wish to say?

5 MR. CEBALLO: No, your Honor. We respectfully
6 request that the Court accept the City's demurrer on
7 submission.

8 THE COURT: I'll take the demurrer under
9 submission.

10 We also had a case management conference
11 scheduled. I'm not sure there's much to talk about until
12 this is decided, and then you can see what the next step
13 is, what the next hearing ought to be. So I'll review
14 the history of the case, review the filings and make a
15 decision when we have the next case management conference
16 or similar event.

17 I'm going to have to talk to Mr. Missud about
18 another case which doesn't concern Mr. Ceballo, so you're
19 excused, Mr. Ceballo. Thank you.

20 MR. CEBALLO: Thank you, your Honor.

21 (Mr. Ceballo exits the courtroom.)

22 THE COURT: So in the case of Patrick A. Missud
23 vs Lucy Armendariz, that is case CGC-14-536981, we set a
24 hearing today on an order to show cause why sanctions
25 and/or dismissal should not be imposed for failure to
26 serve the summons and complaint on unserved defendants in
27 the Armendariz case.

28 So my question for Mr. Missud is since January

1 9th, the date of the last hearing, have any defendants
2 been served with the summons and complaint?

3 THE PLAINTIFF: Right. Since our last hearing,
4 January 9th, 2015, which terminated at 10:40 a.m., and
5 you had me illegally arrested five minutes thereafter,
6 since then I have not additionally served the defendants
7 who have already been properly served prior to January
8 9th.

9 THE COURT: All right. That answers the
10 question, at least with your own unique twist on it.
11 It's been your position that certain defendants were
12 properly served prior to January 9th. Court's already
13 ruled on that. And so you've told me that no additional
14 service has been made since January 9, 2015. That's the
15 information I'm looking for. So I will decide what to do
16 about that. I don't think there's anything else we have
17 to consider.

18 Is there anything else you can think of we need
19 to take up today, Mr. Missud?

20 THE PLAINTIFF: Yes. I'm looking right now at
21 the official register of actions for the case that we're
22 discussing currently, and on January 21st, I filed a
23 motion for reconsideration --

24 THE COURT: All right. Let's talk about
25 that.

26 THE PLAINTIFF: -- on a couple of your
27 decisions, which was unopposed by the defendants. And as
28 you already know, that unopposed motions are usually

1 granted in favor of the moving party, who is me.

2 THE COURT: The matter was not brought to my
3 attention or, to my knowledge, my Clerk's prior to your
4 filing that motion for reconsideration, so we didn't have
5 it on calendar. But I did see it; I did read it, and I
6 will rule on it. And regardless of whether it's opposed
7 or not, it still has to be properly appropriate. So is
8 there anything you want to say about that motion for
9 reconsideration?

10 THE PLAINTIFF: Yes. Actually, it was very
11 properly noticed. I believe on January 9th, just before
12 I was illegally arrested and falsely imprisoned for
13 having exposed 15 lies, that we had all agreed that day
14 would be a fantastic day to meet to flush out all of the
15 issues and motions as we have just done with Brian
16 Ceballo.

17 Now, I definitely emailed this Court, the
18 Clerk, the civil department, the pretrial services
19 department, even the Sheriff's Department that we would
20 be discussing my motion for reconsideration of two orders
21 in which you sanctioned me approximately \$6,000 because
22 I've exposed a lot of judicial corruption throughout
23 Northern California. So being that the defendants didn't
24 see fit to oppose my very valid and properly noticed
25 motion supported with nothing but CRE 450 evidence,
26 probably what this Court should do is follow the law and
27 precedent and grant my motion in my favor.

28 THE COURT: All right. What I will do,

1 Mr. Missud, is re-read that motion and make a decision,
2 so I'll take that under submission.

3 Is there anything else you think we need to
4 bring up this morning?

5 THE PLAINTIFF: No, but I will put on the
6 record that I'm leaving you a copy of the summons and
7 complaint for my civil rights violations lawsuit that's
8 seeking one hundred million dollars for my illegal arrest
9 five minutes after I caught you in 15 lies. I'll leave
10 that with the subpoena that you need to consider for the
11 defendant City and County of San Francisco's demurrer
12 that you rigged on January 9th, page 20, when you asked
13 Brian Ceballo the best way to rig today's hearing.

14 THE COURT: All right. We'll be in recess.
15
16

17 (WHEREUPON, PROCEEDINGS CONCLUDED.)
18
19
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24
25
26
27
28

1 STATE OF CALIFORNIA)
2 COUNTY OF SANTA CLARA) SS.

3
4 In Re the matter of: PATRICK A. MISSUD vs
5 STATE OF CA, CITY AND COUNTY OF SF, ET AL. AND
6 PATRICK A. MISSUD vs LUCY ARMENDARIZ
Case Number: CGC-14-537723/CGC-14-536981
Hearing/Trial Date: MARCH 6, 2015

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19 DATED THIS 22nd DAY OF MARCH, 2015

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22 CCRR #143

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COPIES TO ANY OTHER PARTY OR PERSON."

FILED
Superior Court of California
County of San Francisco

MAR 10 2015

CLERK OF THE COURT

BY: Mark [Signature]
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

PATRICK A. MISSUD.,

Plaintiff,

vs.

STATE OF CALIFORNIA, et al.,

Defendants.

Case No.: CGC-14-537723

ORDER RE: DEMURRER TO FIRST
AMENDED COMPLAINT

The demurrer by defendant City and County of San Francisco ("Defendant") to the first amended complaint filed by plaintiff Patrick A. Missud ("Plaintiff") came on for hearing before the Honorable William J. Elfving on March 6, 2015, at 10:00 a.m. The matter having been submitted, the Court orders as follows:

Defendant's request for judicial notice is GRANTED. (See Evid. Code, § 452, subds. (c), (d); *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1752-1753.)

Plaintiff's request for judicial notice is DENIED. The majority of the documents for which judicial notice is sought do not fall within the ambit of matters that are subject to judicial notice under Evidence Code sections 451 and 452. To the extent any of the matters do fall

1 within the ambit of those statutes, they nevertheless are not judicially noticeable because they are
2 irrelevant to the issues under review. (See *People ex rel. Lockyer v. Shamrock Foods Co.* (2000)
3 24 Cal.4th 415, 422 [a precondition to taking judicial notice is that the matter is relevant to an
4 issue under review]; see also *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301.) For example, to
5 rebut Defendant's contention that he did not comply with the pre-litigation claim presentation
6 requirement, Plaintiff submits various documents that purportedly demonstrate that he did satisfy
7 that requirement; those documents, however, postdate the commencement of this lawsuit.

8
9 Defendant's demurrer to the first amended complaint on the ground that Plaintiff cannot
10 state a viable cause of action because he failed to comply with the pre-litigation claim
11 presentation requirement is SUSTAINED WITHOUT LEAVE TO AMEND.
12

13 Government Code section 945.4, which is part of the Government Tort Claims Act,
14 provides that "no suit for money or damages may be brought against a public entity on a cause of
15 action for which a claim is required to be presented in accordance" with the provisions of the Act
16 "until a written claim therefore has been presented to the public entity and has been acted upon
17 by the board, or has been deemed to have been rejected by the board." As such, the liability of a
18 local public entity for money or damages "is subject to a procedural condition precedent." (*Gong*
19 *v. City of Rosemead* (2014) 226 Cal.App.4th 363, 374.) In other words, "the timely filing of a
20 written claim with the proper officer or body is an element of a valid cause of action against a
21 public entity." (*Ibid.*)

22 "Compliance [with the claim presentation requirement] is mandatory, and cannot be
23 excused on the theory that the entity was not surprised by the suit. 'It is not the purpose of the
24 claims statutes to prevent surprise. Rather, the purpose of these statutes is to provide the public
25 entity sufficient information to enable it to adequately investigate claims and to settle them, if
26 appropriate, without the expense of litigation. [Citations.] It is well-settled that claims statutes
27 must be satisfied even in [the] face of the public entity's actual knowledge of the circumstances
28 surrounding the claim. Such knowledge—standing alone—constitutes neither substantial

1 compliance nor basis for estoppel.’ [Citation.] The failure to timely present a proper claim for
2 money or damages to a public entity bars a plaintiff from filing a lawsuit against that entity.”

3 (*Id.*)

4 “A cause of action that is subject to the statutory claim procedure must allege either that
5 the plaintiff complied with the claims presentation requirement, or that a recognized exception or
6 excuse for noncompliance exists. A plaintiff may allege compliance with the claims
7 requirements by including a general allegation that he or she timely complied with the claims
8 statute. If the plaintiff fails to include the necessary allegations, the complaint is subject to attack
9 by demurrer.” (*Id.*)

10 The claims asserted in the first amended complaint are subject to the pre-litigation claim
11 presentation requirement. (See Gov. Code, § 905.) Thus, in order to state a viable cause of
12 action against Defendant, Plaintiff needed to affirmatively allege compliance with that
13 requirement or a recognized exception or excuse for noncompliance. The pleading, however, is
14 devoid of any such allegations. Plaintiff therefore failed to state a cause of action against
15 Defendant.

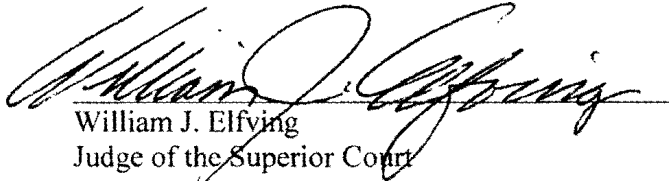
16 On the question of whether leave to amend should be granted, Plaintiff bears the burden
17 of showing that there is a reasonable possibility the subject pleading defect can be cured by
18 amendment. (*Fontenot v. Wells Fargo Bank, N.A.* (2011) 198 Cal.App.4th 256, 274-275; see
19 also *Traders Sports v. City of San Leandro* (2001) 93 Cal.App.4th 37, 43-44.) Plaintiff failed to
20 satisfy that burden.

21 Defendant demonstrated by judicial notice that no claim was ever presented by Plaintiff
22 prior to the initiation of this lawsuit. In his opposition, although Plaintiff insists that he did in
23 fact present claims in accordance with Government Code section 945.4, he did not even
24 minimally substantiate that assertion. Plaintiff stated, for example, that he presented five claims
25 “during” the pendency of this lawsuit (Opp., p. 10:19-20) and submitted documentation in
26 support reflecting communications with Defendant *after* the commencement of this lawsuit. The
27 fact that Plaintiff may have presented claims after this action was initiated is immaterial given
28 that *pre-litigation* presentation is required. Plaintiff did not offer any evidence tending to show

1 that he presented a claim prior to the commencement of this case, and it appears that he may be
2 conflating the filing of other lawsuits or litigation tools against Defendant with the pre-litigation
3 claim requirement. For example, Plaintiff states: "In fact C:12-5468 provides all the facts,
4 actors, dates of incident, locations of incidents, witnesses, and other information required when
5 filing a Claim." (Opp., p. 11:1-4.) Plaintiff is referencing a federal lawsuit he filed against
6 Defendant in 2012. The earlier lawsuit does not qualify as a pre-litigation claim relative to the
7 instant action. Plaintiff also refers to subpoenas he issued to obtain public records, which do no
8 constitute pre-litigation government tort claims. Plaintiff otherwise does not suggest that he has
9 any basis to claim a recognized exception or excuse to the claim presentation requirement. Thus,
10 Plaintiff has not demonstrated that he can amend the pleading to cure the subject defect.

11
12
13 Dated:

3/6/15


William J. Elfving
Judge of the Superior Court

FILED
Superior Court of California
County of San Francisco

MAR 10 2015

CLERK OF THE COURT

BY: Wanda [Signature]
Deputy Clerk

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

PATRICK A. MISSUD,

Plaintiff,

vs.

STATE OF CALIFORNIA, et al.,

Defendants.

Case No. CGC-14-537723

ORDER TO SHOW CAUSE RE:
SANCTIONS/DISMISSAL

TO: PLAINTIFF PATRICK A. MISSUD:

You are hereby ordered to appear in Santa Clara Superior Court, Department 3, 191 North First Street, San Jose, CA, 95113 on June 5, 2015 at 10:00 a.m. and show cause why sanctions should not be imposed on you or why the above entitled case, or individual defendants therein, should not be dismissed for failure to serve the summons and complaint as required by California Rule of Court 3.110. Written opposition to this Order to Show Cause must be filed at least five (5) days prior to the above scheduled hearing date.

Dated: 3/6/15

William J. Elfving
WILLIAM J. ELFVING
Judge of the Superior Court

[Home \(/\)](#) / [San Francisco, CA \(/san-francisco-ca/\)](#) /

Vehicle Details

TOW DETAILS

TR Number: 20141215M0018

License: [REDACTED]

VIN: [REDACTED]

Vehicle: [REDACTED] 1991 SAAB 900

Towed Date and Time: 12/15/14 9:39 AM

Towed By: DPT - San Francisco

Towed From: 98 SAN JUAN

Reason: SCOF/651.I-O Scofflaw-Citations/Reg

Status: SOLD

Tow Company: AutoReturn
450 7th St, San Francisco, CA
415-865-8200
Google Maps (<http://maps.google.com/maps?q=450+7th+St,San+Francisco,CA>)

What do you do now?

Your vehicle was previously towed by AutoReturn, but has since been sold as an unclaimed vehicle. When AutoReturn tows a vehicle and it is not claimed by the vehicle owner within the allowed timeframe as defined by the California Department of Motor Vehicles (DMV), the company initiates a lien in order to sell the vehicle to recover the

DENNIS J. HERRERA, State Bar #139669
City Attorney
CHERYL ADAMS, State Bar #164194
Chief Trial Deputy
BRIAN P. CEBALLO, State Bar #243828
Deputy City Attorney
Fox Plaza
1390 Market Street, Sixth Floor
San Francisco, California 94102-5408
Telephone: (415) 554-3911
Facsimile: (415) 554-3837
E-Mail: brian.cebalo@sfgov.org

Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO
UNLIMITED JURISDICTION

PATRICK MISSUD,

Plaintiff,

vs.

CITY AND COUNTY OF SAN
FRANCISCO; SAN FRANCISCO
MUNICIPAL TRANSPORTATION
AGENCY; AUTO-RETURN; CITY
ATTORNEY'S OFFICE; DENNIS
HERRERA, individually; TOM NOLAN,
individually; JOHN WICKER, individually;
DOES 1-200,

Defendants.

Case No. CGC-15-545303

**CITY AND COUNTY OF SAN FRANCISCO'S
OBJECTION TO PLAINTIFF'S CIVIL
SUBPOENA FOR PERSONAL APPEARANCE
AND PRODUCTION OF DOCUMENTS**

Date Action Filed: April 14, 2015
Trial Date: Not Set

1 Defendant City and County of San Francisco (the "City") hereby objects to the Civil Subpoena
2 for Personal Appearance of City Attorney Dennis Herrera, with accompanying requests for production
3 of documents.

4 Further, please take notice that pursuant to Code of Civil Procedure §1987.1, the City objects
5 to your request for documents, and will not make Mr. Herrera available for an appearance at the June
6 5, 2015 court hearing.

7 The City further objects to the notice of City Attorney Herrera's deposition on the grounds that
8 he is a high-ranking government official and has no unique knowledge as to material issues in dispute
9 in this matter. It is well settled that a high-ranking public official cannot be required to give evidence
10 in his or her official capacity in the absence of a compelling need for the testimony. *Kyle Engineering*
11 *Co. v. Kleppe*, 600 F.2d 226, 231 (9th Cir. 1979); *Westley v. Superior Court*, 125 Cal.App.4th 907,
12 910 (2004). This is so whether or not the high official is a named party in the litigation. *Nagle v.*
13 *Superior Court*, 28 Cal.App.4th 1465, 1468 (1994). The City further objects to this notice on the
14 grounds that plaintiff has failed to identify any information uniquely within City Attorney Herrera's
15 possession, and failed to exhaust other avenues for obtaining such information, including the use of
16 written discovery.

17 The City further objects to the request for an appearance on the grounds that it is unduly
18 burdensome, oppressive, abusively drawn, and served for the purpose of annoying and harassing the
19 proposed witness. The City states that there is no compelling need for the testimony of Mr. Herrera
20 and that plaintiff has a less burdensome means of obtaining the information he seeks.

21 The City further objects to the request for documents on the grounds that it is irrelevant,
22 overbroad, vague, ambiguous, not limited in time and scope, fails to identify the information sought
23 with reasonable particularity, unduly burdensome, and seeks irrelevant information not reasonably
24 calculated to lead to the discovery of admissible evidence. The City further objects to the request for
25 documents to the extent it seeks the production of attorney/client privileged materials or documents

26 ///

27 ///

28 ///

1 protected by the work product doctrine, including *Nacht & Lewis Architects, Inc. v. Superior Court*
2 (1996) 47 Cal.App.4th 214, 217, or other privileges under state and/or federal law.

3
4 Dated: May 19, 2015

DENNIS J. HERRERA
City Attorney
CHERYL ADAMS
Chief Trial Deputy
BRIAN P. CEBALLO
Deputy City Attorney

5
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7
8 By: 

9 BRIAN P. CEBALLO

10 Attorneys for Defendant
11 CITY AND COUNTY OF SAN FRANCISCO
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PROOF OF SERVICE

I, ANITA MURDOCK, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On May 19, 2015, I served the following document(s):

CITY AND COUNTY OF SAN FRANCISCO'S OBJECTION'S TO PLAINTIFF'S CIVIL SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS

on the following persons at the locations specified:

Patrick Missud

G. Scott Emblidge, Esq.
Matthew K. Yan, Esq.
Moscone Emblidge & Otis, LLP
220 Montgomery Street, Suite 2100
San Francisco, CA 94104
Telephone: 415-362-3599
Facsimile: 415-362-2006
Email: emblidge@mosconelaw.com
yan@mosconelaw.com
Attorneys for Tegsco, LLC dba San Francisco AutoReturn

In Pro Per

in the manner indicated below:

☒ **BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct.

Executed May 19, 2015, at San Francisco, California.

Anita Murdock
ANITA MURDOCK

1 PATRICK [REDACTED]
2 [REDACTED]
3 [REDACTED]

4 <http://www.judgesforsale.org/cook-bell-county.html>;
5 <http://www.judgesforsale.org/---judge-elfving---.html>;
6 <http://www.sanfranciscosuperiorcourtfraud.com/home.html>;
7 5-Year Federal Mole and 18 USC §1513 Informant;
8 Attorney and Plaintiff in Pro-Se, missudpat@yahoo.com;
9 <https://www.facebook.com/patrick.missud.1>

10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF SAN FRANCISCO
12 → TRANSFERRED TO THE SANTA CLARA SUPERIOR COURT ON 11-24-14←
13 UNLIMITED JURISDICTION
14 CLASS ACTION
15 **Publicized Jury Trial Demanded**

16 PATRICK A. MISSUD,
17 and those similarly situated

Case No.: CGC-14-537723

18 vs.

**NOTICE OF SUBPOENA TO BE SERVED
BY DEPUTY SHERIFF ON JUDGE
ELFVING IN HIS OWN COURTROOM
AT THE JANUARY 9TH 2015 HEARING**

19 STATE OF CALIFORNIA; CITY AND
20 COUNTY OF SAN FRANCISCO; SAN
21 FRANCISCO POLICE DEPARTMENT;
22 GREG SUHR individually; SAN
23 FRANCISCO MUNICIPAL TRANSPORT-
24 ATION AUTHORITY; TOM NOLAN
25 individually; AUTO-RETURN; JOHN
26 WICKER individually; SAN FRANCISCO
27 TRIAL COURTS; CYNTHIA LEE
28 individually; XEROX SOLUTIONS; LDC
COLLECTIONS; DAVID CUMMINS
individually; DOES 1-200. Defendants.

Date: January 9, 2015

Time: 10:00AM

Dept.: 3

18 USC §2381 Corrupt Judge: Elfving¹

29 FIND ATTACHED a true and correct copy of the January 7th 2015 Subpoena to be served on
30 judge Elfving in his Department 3 on January 9th 2015 during our hearing. Elfving is being set-
up for conviction under at least 18 USC §2381 Treason and Subversion, for which he can by
executed for undermining democracy and overthrowing government of and by the people.

¹ 18 USC §2381 Treason prescribes the death penalty for anyone who subverts democracy. Elfving is rigging hearings and railroading cases to divert criminally proven cases from being heard by neutral juries of peers. Elfving is thereby committing a high crime by purposely undermining democracy and wresting justice and government of and by the people from the people whom Elfving wants to remain ignorant of his own and colleagues' rampant judicial corruption and racketeering

1 //

2 Submitted to get Elfving EXECUTED for High Crimes,

3 //

4 Patrick Missud

5 Patrick Missud of Operation Greylord-II; January 7th 2015
6 Consumer-Civil Rights Attorney;
7 Former 5-year Federal Mole;
8 18 USC§1513 Federal Informant;
9 31 USC §3279 Federal Qui-Tam Relator;
10 CCP §1021.5 California Private Attorney General.

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SFMTA Municipal Transportation Agency

December 22, 2014

PATRICK A. MISSUD
[REDACTED]

Re: Protest of vehicle tow and/or storage for CA6LAL792

Date of Tow: 12/15/2014
Reason for Tow: CVC22651(i) & (o)(1)(A)
Date of Hearing: 12/22/2014

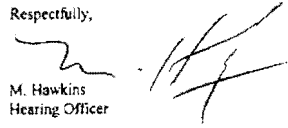
Dear Claimant:

A hearing was initiated in response to your protest. After reviewing all the evidence, including your testimony and all applicable statutes, I find the tow and storage valid. Your request for a waiver is denied. Your testimony is that the five delinquent citations are being litigated in another venue. You have also stated that your deposit of fees is in fact registration.

There are five delinquent citations on this vehicle. The DMV inquiry indicates that this vehicle's last valid registration was from 9/28/2012 to 9/28/2013. California Vehicle Code (CVC) 22651(i) permits removal of a vehicle if there are five or more outstanding citations. CVC22651(o)(1)(A) permits removal when a vehicle is found or operated upon a highway, public land, or an offstreet parking facility under the following circumstance(s): With a registration expiration date in excess of six months before the date it is found or operated on the highway, public lands, or the offstreet parking facility.

If you do not agree with my decision, you may file a government tort claim with the Controller's Office within one (1) year of the tow date. The claim form is enclosed. It should be returned to the Controller's Office at the address indicated on the form.

Respectfully,


M. Hawkins
Hearing Officer

Enclosure: Claim Form

NOTICE OF SUBPOENA TO BE SERVED ON ELLEVING ON AND FOR THE RECORD

SUBP-002

| | | |
|--|--|----------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Patrick Missud, 219614 | | FOR COURT USE ONLY |
| NAME OF COURT: Santa Clara Superior Court
STREET ADDRESS: 191 North First St.
MAILING ADDRESS:
CITY AND ZIP CODE: San Jose CA, 95113
BRANCH NAME: Superior Court of Santa Clara
PLAINTIFF/PETITIONER: PATRICK A. MISSUD | | |
| DEFENDANT/RESPONDENT: STATE OF CALIFORNIA et al. | | |
| CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION | | CASE NUMBER: CGC-14-537723 |

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):

William Elfving; 191 North First Street, San Jose, CA, 95113

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below.

a. Date: January 9, 2015 Time: 10:00AM ☒ Dept 3 ☐ Div. ☐ Room.

b. Address: 191 North First Street, San Jose, CA, 95113.

2. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

3. YOU ARE (item a or b must be checked):

a. ☒ Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.

b. ☐ Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562 and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number, your name, and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

4. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name of subpoenaing party or attorney: Federal Informant Missud b. Telephone number: 415-845-5540

5. Witness Fees: You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: 1-7-2015

Patrick Missud: 31 USC 3279 Qui Tam Relator

(TYPE OR PRINT NAME)

(SIGNATURE OF PERSON ISSUING SUBPOENA)

18 USC 1513 Federal Informant

(Declaration in support of subpoena on reverse)

(TITLE)

Page 1 of 3

Form Adopted for Mandatory Use
Judicial Council of California
SUBP-002 (Rev. January 1, 2012)

CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

Code of Civil Procedure:
§ 1986 et seq.
www.courtinfo.ca.gov

FEEP H01 A GVH P VFEEPCVS
*** CITATION DISPOSITION ***

LAST TRF/ACQSTN/FIRST OPER/FEE DUE DATE-
LICENSE NO: REPO DATE-

CURR EXP DATE- 09/28/13

NEW EXP DATE: 09/28/15

| # | C VIOLDT | CITATION NUMBER | AGNCY AMT | # | C VIOLDT | CITATION NUMBER | AGNCY AMT |
|----|----------|-----------------|-----------|----|----------|-----------------|-----------|
| 01 | 121012 | 820948343 | 38302 74 | 02 | 121212 | 820742650 | 38302 97 |
| 03 | 010313 | PD25148642 | 38302 124 | 04 | 010913 | 822301001 | 38302 126 |
| 05 | 052314 | 841785770 | 38302 130 | 06 | | | |
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| 19 | | | | 20 | | | |

TOTAL DISP CD 5-\$ TOTAL BLANK DISP CD-\$ 551 = TOTAL DUE-\$ 551

ENTER PAY DMV-PF1 PAY DMV/RDF(PV)-PF2 RDF(PV) FALLBACK RESTART CANCEL

FEE1 H01 A GVH P GFEE1 PCVS 34 VFEEP 0 R
*** GENERATED FEES ***

| | | | | | | |
|----|--------------|-------|----|--------------|-------|----|
| 01 | CURR RF | 43.00 | 16 | 1PY AUTO/DUI | 1.00 | 31 |
| 02 | CURR CHP | 24.00 | 17 | 1PY ABN VEH | 1.00 | 32 |
| 03 | CURR VLF | 2.00 | 18 | 1PY AIR QLT | 6.00 | 33 |
| 04 | CURR SAFE | 1.00 | 19 | 1PY CTPF | 10.00 | 34 |
| 05 | CURR FID | 1.00 | 20 | CHP PEN | 30.00 | 35 |
| 06 | CUR AUTO/DUI | 1.00 | 21 | 1PY RF PEN | 30.00 | 36 |
| 07 | CURR ABN VEH | 1.00 | 22 | 1PY VLF PEN | 1.00 | 37 |
| 08 | CURR AIR QLT | 6.00 | 23 | | | 38 |
| 09 | CURR CTPF | 10.00 | 24 | | | 39 |
| 10 | ALT FUEL RF | 6.00 | 25 | | | 40 |
| 11 | 1PY RF | 43.00 | 26 | | | 41 |
| 12 | 1PY CHP | 23.00 | 27 | | | 42 |
| 13 | 1PY VLF | 2.00 | 28 | | | 43 |
| 14 | 1PY SAFE | 1.00 | 29 | | | 44 |
| 15 | 1PY FID | 1.00 | 30 | | | |

TOTAL FEES DUE: 244.00

FEE #- SAMT- REASON- PASSWORD-
FR- I R30- VESSEL TAX BYPASS-
CURR EXP DATE- 09/28/13
NEW EXP DATE: 09/28/15
VIN- YS3AL756M7020231

ENTER WAIVER PF1 NO RENEWAL-PF2 KEY FEES-PF3 FALLBACK RESTART CANCEL

TO OBTAIN A TITLE OR REGISTRATION CARD, MAIL THE ATTACHED DOCUMENTS AND REQUESTED FEES TO: DMV, PO BOX 942669, SACRAMENTO, CA 94269-0001. PENALTIES ARE DUE IF RENEWAL FEES ARE PAID AFTER THE EXPIRATION DATE. PLANNED NON-OPERATION (PNM) REQUESTS MUST BE SUBMITTED WITHIN 90 DAYS OF THE EXPIRATION DATE, BUT NO LATER BEFORE THE EXPIRATION DATE FOR OFF-HIGHWAY VEHICLES OR ALL FEES AND PENALTIES ARE DUE. IF A DMV EMPLOYEE AFFIRMS THAT YOU ARE NOT A DMV DRIVER, OR CALL 1-800-777-0133.

SMOG INSPECTION/CERTIFICATION REQUIRED

THE UNPAID PARK/TOLL CITATIONS NOTED ON THE ATTACHED PRINTOUT MUST BE CLEARED. THEY MAY BE PAID AT AN OFFICE OF THE DEPARTMENT OF MOTOR VEHICLES OR CLEARED BY THE APPROPRIATE AGENCY. IF PAID TO THE AGENCY, A RELEASE MUST BE OBTAINED AND SUBMITTED TO THE DEPARTMENT BEFORE YOUR APPLICATION CAN BE COMPLETED.

599 082114 E1
0035 H01 11
231

REPORT OF
DEPOSIT
OF FEES
PAGE 1 OF 1



* INCOMPLETE APPLICATION**SEE ABOVE**THIS IS NOT AN OPERATING PERMIT *

| NAME | VEHICLE | PLATE | REGISTRATION | TYPE | EXPIRATION | TYPE | TYPE | TYPE |
|------|---------|-------|--------------|------|------------|------|------|------|
| SAA | 1991 | 1991 | AD | 2010 | 120 | 11 | | |

| BOOK | TYPE | MODEL | VEHICLE | PLATE | REGISTRATION | TYPE | TYPE | TYPE |
|------|------|-------|---------|-------|--------------|------|------|------|
| | G | VV | | | | | | |

| VEHICLE | MODEL | DATE | PLATE | REGISTRATION | TYPE | TYPE | TYPE | TYPE |
|------------|-------|----------|-------|--------------|------|------|------|------|
| AUTOMOBILE | | 08/21/14 | 38 | 08/21/14 | 0 | | | |

MISSUD PATRICE A

RDP REASONS: 0 S

| AMOUNT DUE | AMOUNT PAID | AMOUNT REC'D |
|------------|-------------|--------------|
| \$ 244.00 | | |
| CASH : | | |
| CHECK : | | |
| CRDT : | 244.00 | |

PR EXP DATE: 09/28/2013

| ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME, STREET ADDRESS, AND CITY/STATE/ZIP) | | FOR COURT USE ONLY | |
|--|--|---|--|
| PATRICK MISSUD 214614
91 SAN JUAN ST.
SAN FRANCISCO, CA 94112 | | SUBP-002 | |
| TELEPHONE NO: | | | |
| PLAINTIFF/PETITIONER: PATRICK A. MISSUD | | CASE NUMBER: CGC-14-531723 | |
| DEFENDANT/RESPONDENT: STATE OF CALIFORNIA et al. | | | |
| CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION | | | |
| THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):
WILLIAM BLIVING, 191 NORTH FIRST ST, SAN JOSE CA 95113 | | | |
| 1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below. | | | |
| a. Date: JANUARY 6, 2015 Time: 10 AM <input checked="" type="checkbox"/> Dept.: <input type="checkbox"/> Div.: <input type="checkbox"/> Room: <input type="checkbox"/>
b. Address: 191 N FIRST ST, SAN JOSE CA 95113 | | | |
| 2. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS. | | | |
| 3. YOU ARE (item a or b must be checked):
a. <input checked="" type="checkbox"/> Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
b. <input type="checkbox"/> Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number, your name, and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form. | | | |
| 4. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:
a. Name of subpoenaing party or attorney: PATRICK MISSUD b. Telephone number: 415 545 5546 | | | |
| 5. Witness Fees: You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4. | | | |
| DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY. | | | |
| Date issued: 1-7-2015 | | WAYNE PARINAS
(TYPE OR PRINT NAME) | |
| | | SIGNATURE OF PERSON ISSUING SUBPOENA
COURT ADMINISTRATOR | |
| (Declaration in support of subpoena on reverse) | | (TITLE) | |
| Form Adopted for Mandatory Use
Judicial Council of California
SUBP-002 (Rev. January 1, 2012) | | | |
| CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION | | | |
| Page 1 of 3
Code of Civil Procedure
§ 1965 et seq
www.courts.ca.gov | | | |

SUBP-002

| | |
|--|---------------|
| PLAINTIFF/PETITIONER: PATRICK A. MISSUD | CASE NUMBER |
| DEFENDANT/RESPONDENT: STATE OF CALIFORNIA et al. | CGC-14-537723 |

The production of the documents, electronically stored information, or other things sought by the subpoena on page one is supported by (check one)

☐ the attached affidavit or ☒ the following declaration:

DECLARATION IN SUPPORT OF CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS AT TRIAL OR HEARING
(Code Civ. Proc., §§ 1985, 1987.5)

1. I, the undersigned, declare I am the ☒ plaintiff ☐ defendant ☐ petitioner ☐ respondent
☐ attorney for (specify): ☒ other (specify): CCP 1021.5 Private Attorney General
in the above-entitled action.

2. The witness has possession or control of the documents, electronically stored information, or other things listed below, and shall produce them at the time and place specified in the Civil Subpoena for Personal Appearance and Production of Records at Trial or Hearing on page one of this form (specify the exact documents or other things to be produced, if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified).

Official government & court records from Defendants appearing in this case, and which are attached to this very subpoena served to you by your own Deputy Sheriff. You now have possession and control over these California Rules of Evidence Section 450 documents which aren't subject to being ignored for any reason. Now look at them since we'll now discuss them in detail for the Motion for Summary Judgment [MSJ].

☒ Continued on Attachment 2

3. Good cause exists for the production of the documents, electronically stored information, or other things described in paragraph 2 for the following reasons:

Defendants repeatedly flaunted production of public records like those attached hereto and compelled under subpoena, County Sunshine & CA's Open Gov't Act. You judge Elfving admitted that witness Ceballo appeared at the 10-3-14 hearing, however didn't produce any evidence as lawfully compelled, and thusly had contempt for your court. These concrete facts now require Summary Judgment in Missud's favor.

☒ Continued on Attachment 3

4. The documents, electronically stored information, or other things described in paragraph 2 are material to the issues involved in this case for the following reasons:

The documents now in your possession are material for Missud's MSJ. They already prove that Missud and those similarly situated must prevail based in Defendants' many lies and admiSSionS which can't be overlooked for any reason, -not even if you want to rig this case like you already did in CGC-13-533811 & 14-536981, and for which you're now guilty of subversion, treason, and other high crimes.

☒ Continued on Attachment 4

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 1-7-2015

Patrick Missud; 18LSC1513 Federal Informant
(TYPE OR PRINT NAME)

SIGNATURE OF ☒ SUBPOENAING PARTY ☒ ATTORNEY FOR SUBPOENAING PARTY

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the date on which you are to appear. Contact the clerk's office or go to www.courts.ca.gov/forms for Request for Accommodations by Persons With Disabilities and Response (form MC-410). (Civil Code, § 54.8)



(Proof of service on page 3)

CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

Page 2 of 3

SFMTA

Municipal Transportation Agency

July 23, 2014

Notice of Tow Hearing Decision

PATRICE A MISSUD

Re: Protest of vehicle tow and/or storage for CA6GSZ505

Date of Tow: 6/24/14
Reason for Tow: VC22651 O
Date of Hearing: 07/23/2014

Dear Mr. Missud:

A hearing was initiated in response to your protest. Your vehicle was towed from 90 San Juan Street for VC22651 O expired registration. During your hearing you said you believe the vehicle was towed illegally. You also said you believe it was a conspiracy by the SFMTA.

According to DMV records your vehicles registration was expired on the date it was towed (6/24/14 0850)

After reviewing all the evidence, I find the tow and storage valid. Your request for a waiver is denied.

If you do not agree with my decision, you may file a government tort claim with the Controller's Office within one (1) year of the tow date. The claim form is enclosed. It should be returned to the Controller's Office at the address indicated on the form.

Respectfully,

D. Delphino
Hearing Officer

Enclosure: Claim Form

CA DMV DALY CITY FO 5
1500 SULLIVAN AVE
DALY CITY, CA. 94015-
800-777-8133

TERMINAL ID: 0075412000000127500005
RECEIPT ID: 000127507

DEBIT
RECORD: 11 INU: 000011
DATE: Nov 06, 13 TIME: 14:57
BATCH: 000004
TAX: 01061325700
AUTH: 000000
APPROVAL: 000000
TOTAL \$155.00

SIGNATURE NOT REQUIRED

CUSTOMER COPY

TOTAL

CURR EXP DATE: 07/20/14
NEW EXP DATE: 07/20/14

VIN: JSN711255040

FEE1 H05 A GV9 P GFEE1 PCVS 599310B8 0 VFEEF
*** G E N E R A T E D F E E S ***
01 CURR RF 43.00 16
02 CURR CHP 23.00 17
03 CURR VLF 4.00 18
04 CURR SAFE 1.00 19
05 CURR FID 1.00 20
06 CURR AUTO/DUI 1.00 21
07 CURR ABN VEH 1.00 22
08 CURR AIR QLT 6.00 23
09 CURR CTPE 10.00 24
10 ALT FUEL RF 3.00 25
11 CURR REG PEN 30.00 26
12 CHP PEN 30.00 27
13 CURR VLF PEN 2.00 28
14 PARK VIO FEE 514.00 29
15 30

FEE # - \$AMT-
FR - T R30-

REASON- PASSWORD-
VESSEL TAX BYPASS-

ENTER WAIVER-PF1 NO RENEWAL-PF2 KEY FEES-PF3 FALLBACK RESTART CANCEL

Court Abstract Required

FEEF H05 A GV9 P VFEEF PCVS 599310B8 0 VEXP4 0 110613 1454 VDAP
*** PARK / TOLL CITATION DISPOSITION ***

LAST TRF/ACQSTN/FIRST OPER/FEE DUE DATE-
LICENSE NO: 6GS2505 REPO DATE-

CURR EXP DATE: 07/20/13
NEW EXP DATE: 07/20/14

| # | C VIOLDT | CITATION NUMBER | AGNCY AMT | # | C VIOLDT | CITATION NUMBER | AGNCY AMT |
|----|----------|-----------------|-----------|-------|----------|-----------------|-----------|
| 01 | 5 | 121212 | 820742646 | 38302 | 178 | 02 | 5 |
| 03 | 5 | 121912 | 821390415 | 38302 | 168 | 04 | 5 |
| 05 | | | | | | 06 | |
| 07 | | | | | | 08 | |
| 09 | | | | | | 10 | |
| 11 | | | | | | 12 | |
| 13 | | | | | | 14 | |
| 15 | | | | | | 16 | |
| 17 | | | | | | 18 | |
| 19 | | | | | | 20 | |

TOTAL DISP CD 5-\$ - TOTAL BLANK DISP CD-S 514 - TOTAL DUE-S 514

ENTER PAY DMV-PF1 PAY DMV (RDF/PV)-PF2 RDF(PV) FALLBACK RESTART CANCEL

SUBP-002

PLAINTIFF/PETITIONER: PATRICK A. MISSUD
DEFENDANT/RESPONDENT: STATE OF CALIFORNIA et al.

CASE NUMBER
CGC-14-537723

PROOF OF SERVICE OF CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

1. I served this Civil Subpoena (Duces Tecum) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and Declaration by personally delivering a copy to the person served as follows:

a. Person served (name): William Elfving

b. Address where served:

Santa Clara Superior Court, 191 North First Street, Department 3, San Jose, CA, 95113

c. Date of delivery: January 9th 2015

d. Time of delivery: 10AM +/-

e. Witness fees (check one):

(1) ☐ were offered or demanded

and paid. Amount: \$

(2) ☒ were not demanded or paid

f. Fee for service: \$ 0

2. I received this subpoena for service on (date): January 9th 2015

3. Person serving:

a. ☐ Not a registered California process server:

b. ☒ California sheriff or marshal.

c. ☐ Registered California process server.

d. ☐ Employee or independent contractor of a registered California process server

e. ☐ Exempt from registration under Business and Professions Code section 22350(b)

f. ☐ Registered professional copier

g. ☐ Exempt from registration under Business and Professions Code section 22451

h. Name, address, telephone number, and, if applicable, county of registration and number

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff or marshal use only)
I certify that the foregoing is true and correct

Date:

Date: January 9th 2015

(SIGNATURE)

(SIGNATURE)

SUBP-002 (Rev. January 1, 2012)

CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

Page 1 of 3

Attachment 2: Witness Elfving now has Possession and Control of the Documents

Find attached documents that once ignored by Elfving, will cause HIS DEATH FOR TREASON:

² <http://www.dailymail.co.uk/news/article-1123026/Ukraine-president-Victor-Yushchenko-ugly-poison-scars-disappear.html>

THE UNPAID PARK/TOLL CITATIONS NOTED ON THE ATTACHED PRINTOUT MUST BE CLEARED. THEY MAY BE PAID AT AN OFFICE OF THE DEPARTMENT OF MOTOR VEHICLES OR CLEARED BY THE APPROPRIATE AGENCY. IF PAID TO THE AGENCY, A RELEASE MUST BE OBTAINED AND SUBMITTED TO THE DEPARTMENT BEFORE YOUR APPLICATION CAN BE COMPLETED.

REPORT OF
DEPOSIT
OF FEES
PAGE 1 OF 1

PR EXP DATE: 07/20/2013

Elfving protect\$ corrupt judge\$ & official\$ like San Francisco Mayor Ed Lee & Police Chief Suhr, rather than preserve this nation of laws. Elfving wants to convert California into Guerrero Mexico where 43 vocal student-teachers & activists were slain for their truthful speech after being rounded-up by federal police at the behest of their local mayor.³ ELFVING MUST DIE to preserve: this nation; American democracy & freedoms; and save its people -who might otherwise be imprisoned or slain for exposing corrupt official\$ like Lee & Suhr, or judge\$ like Elfving & Gold\$mith.

Attachment 3: Good Cause

Very good cause exists for already producing these damning documents and dumping them in Elfving's lap. That was done to set him up and cause his conviction for High Crimes and Treason. If he doesn't acknowledge the documents, and their crystal-clear content, then he'll HAVE TO DIE FOR SUBVERSION. Protecting American democracy from being destroyed by corrupt judge\$ like Elfving is really good cause to set him up, and others like him, for High Crimes *and the death penalty*.

Attachment 4: Materiality of Documents

The documents are Material to the issues in this case because this and dozens of related cases already prove to criminal standards that official\$ and judge\$ regularly abuse their authority to Steal from ordinary citizens, and are routinely subverting this nation which is supposed to be governed of and by the people. As soon as Elfving ignores them, he'll become a suitable candidate for capital punishment and made an example of. ELFVING'S DEATH will preserve the rule of law.

Even more Material is that United States Supreme Court Chief Justice John Robert\$ already had the opportunity to expose all the\$e official\$' & judge\$' High Crimes and Treason in criminally-proven \$COTUS Writ 13-6398. He denied review \$o that judge\$ like him could subvert & convert America into Egypt and Mexico where ordinary honest citizens have no rights and are slaughtered on judge\$ and official\$' whim\$.

FOR THIS REASON, JOHN ROBERTS MUST NOW DIE.⁴

//

Submitted to cause corrupt judge\$' EXECUTIONS,

Patrick Missud

Patrick Missud of Operation Greylord-II

Consumer-Civil Rights Attorney;

Former 5-year Federal Mole;

18 USC§1513 Federal Informant;

31 USC §3279 Federal Qui-Tam Relator;

CCP §1021.5 California Private Attorney General.

³ <http://www.cnn.com/2014/11/14/world/americas/mexico-missing-students-vignettes/>

⁴ *Patrick A. Missud, Petitioner v. California, et al.* Docket for 13-6398, at <http://www.supremecourt.gov/docket/docket.aspx>, and currently active, criminally-proven 9th Circuit Appeal 14-16494 at: <http://dockets.justia.com/docket/circuit-courts/ca9/14-16494>

12

Monthly DPT Reporting - Financial Data
Fiscal Year 2012

| | Aug-11 | Sep-11 | Oct-11 | Nov-11 | Dec-11 | Jan-12 | Feb-12 | Mar-12 | Apr-12 | May-12 | Jun-12 | Jul-12 | Total |
|--|--------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|--------------|--------------|-----------------|
| Referral Fee Summary | | | | | | | | | | | | | |
| Total # of Referrals - Own | 4,724 | 4,482 | 4,951 | 3,766 | 4,036 | 4,029 | 3,921 | 4,210 | 4,312 | 4,347 | 4,209 | 4,268 | 29,032 |
| Less: Total # of Waivers | (144) | (172) | (161) | (141) | (144) | (144) | (144) | (144) | (144) | (144) | (144) | (144) | (1,050) |
| Net # of Referral Fee Tows | 4,580 | 4,310 | 4,790 | 3,625 | 3,892 | 3,885 | 3,777 | 4,066 | 4,168 | 4,203 | 4,065 | 4,124 | 27,982 |
| Referral Fee | \$ 271,324 | \$ 261,414 | \$ 302,232 | \$ 216,416 | \$ 234,432 | \$ 234,432 | \$ 229,432 | \$ 249,432 | \$ 254,432 | \$ 254,432 | \$ 249,432 | \$ 254,432 | \$ 2,333 |
| Gross Referral Fee Amount | \$ 271,324 | \$ 261,414 | \$ 302,232 | \$ 216,416 | \$ 234,432 | \$ 234,432 | \$ 229,432 | \$ 249,432 | \$ 254,432 | \$ 254,432 | \$ 249,432 | \$ 254,432 | \$ 2,333 |
| Differences: Amounts (owed) to/from City based on reconciliation of Daily to Monthly Reports | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 |
| Net Referral Fee Amount Paid | \$ 169,880 | \$ 160,000 | \$ 190,788 | \$ 114,972 | \$ 132,988 | \$ 132,988 | \$ 128,000 | \$ 148,000 | \$ 153,000 | \$ 153,000 | \$ 148,000 | \$ 153,000 | \$ 1,889 |
| Admin Fee Summary | | | | | | | | | | | | | |
| Total # of Vehicles Released | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 1,144 | 26,272 |
| Less: Non-Referral Fee Releases (Excess Counties) | (44) | (44) | (44) | (44) | (44) | (44) | (44) | (44) | (44) | (44) | (44) | (44) | (312) |
| Net # of Vehicles - Admin Fee Collected | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | 25,960 |
| Average Admin Fee | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 |
| Net Admin Fee (owed) | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 |
| Differences: Amounts (owed) to/from City based on reconciliation of Daily to Monthly Reports | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 | \$ 1,444.00 |
| Net Admin Fee Paid | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 | \$ 197.68 |
| # of Waivers Submitted By Type | | | | | | | | | | | | | |
| SPFO | 41 | 45 | 136 | 114 | 136 | 136 | 136 | 136 | 136 | 136 | 136 | 136 | 727 |
| Auto/Return | 41 | 45 | 36 | 52 | 36 | 47 | 31 | 30 | 30 | 30 | 30 | 30 | 281 |
| DPT | 7 | 7 | 30 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 42 |
| Total | 89 | 97 | 166 | 169 | 175 | 176 | 170 | 169 | 169 | 169 | 169 | 169 | 1,050 |
| Gross Amount of Waivers - By Type | | | | | | | | | | | | | |
| SPFO & Admin Waiver | \$ 26,690.75 | \$ 44,444.25 | \$ 33,896.50 | \$ 36,360.75 | \$ 23,833.25 | \$ 34,180.75 | \$ 144,881.25 | \$ 86,230.00 | \$ 40,076.75 | \$ 49,582.00 | \$ 31,806.00 | \$ 42,805.00 | \$ 385,434.00 |
| Auto/Return | \$ 62,739.75 | \$ 130,620.00 | \$ 106,512.00 | \$ 102,791.25 | \$ 170,064.25 | \$ 36,532.25 | \$ 13,350.30 | \$ 53,048.25 | \$ 150,478.50 | \$ 58,589.00 | \$ 35,516.25 | \$ 31,502.25 | \$ 921,887.50 |
| DPT | \$ 4,221.00 | \$ 3,064.25 | \$ 4,485.25 | \$ 1,116.25 | \$ 5,185.25 | \$ 6,171.00 | \$ 1,484.25 | \$ 39,359.25 | \$ 4,664.25 | \$ 7,091.00 | \$ 2,241.25 | \$ 2,211.25 | \$ 75,271.50 |
| Total | \$ 93,651.50 | \$ 178,128.50 | \$ 144,893.75 | \$ 139,268.25 | \$ 205,078.50 | \$ 141,846.00 | \$ 169,715.75 | \$ 178,677.25 | \$ 205,159.50 | \$ 215,261.00 | \$ 69,563.25 | \$ 76,518.50 | \$ 1,482,593.00 |
| Waiver Amounts Billed to the Controller's Office | | | | | | | | | | | | | |
| SPFO (excludes Admin) | \$ 8,685.00 | \$ 10,919.25 | \$ 6,472.50 | \$ 6,304.75 | \$ 3,338.75 | \$ 7,981.75 | \$ 5,454.75 | \$ 12,320.25 | \$ 11,004.00 | \$ 11,702.50 | \$ 7,359.75 | \$ 6,944.50 | \$ 83,210.50 |
| DPT | \$ 2,601.00 | \$ 2,254.00 | \$ 2,343.50 | \$ 617.75 | \$ 2,070.00 | \$ 2,278.25 | \$ 718.00 | \$ 12,320.50 | \$ 1,505.25 | \$ 1,138.50 | \$ 1,022.75 | \$ 1,432.50 | \$ 21,320.75 |
| Total | \$ 11,286.00 | \$ 13,173.25 | \$ 8,816.00 | \$ 6,922.50 | \$ 5,408.75 | \$ 10,259.00 | \$ 6,172.75 | \$ 24,640.75 | \$ 12,509.25 | \$ 12,841.00 | \$ 8,382.50 | \$ 8,377.00 | \$ 104,531.25 |
| Waiver Amounts Written off | | | | | | | | | | | | | |
| SPFO | \$ 20,005.75 | \$ 25,419.00 | \$ 26,424.00 | \$ 29,027.75 | \$ 20,844.25 | \$ 26,204.00 | \$ 130,236.25 | \$ 23,409.75 | \$ 29,072.75 | \$ 37,879.50 | \$ 24,446.25 | \$ 35,851.00 | \$ 322,443.50 |
| Auto/Return | \$ 62,739.75 | \$ 130,620.00 | \$ 106,512.00 | \$ 102,791.25 | \$ 170,064.25 | \$ 36,532.25 | \$ 13,350.30 | \$ 53,048.25 | \$ 150,478.50 | \$ 58,589.00 | \$ 35,516.25 | \$ 31,502.25 | \$ 921,887.50 |
| DPT | \$ 4,221.00 | \$ 3,064.25 | \$ 4,485.25 | \$ 1,116.25 | \$ 5,185.25 | \$ 6,171.00 | \$ 1,484.25 | \$ 39,359.25 | \$ 4,664.25 | \$ 7,091.00 | \$ 2,241.25 | \$ 2,211.25 | \$ 75,271.50 |
| Total | \$ 87,066.50 | \$ 159,103.25 | \$ 137,421.25 | \$ 132,935.25 | \$ 222,093.75 | \$ 265,069.25 | \$ 155,071.25 | \$ 214,832.25 | \$ 215,155.50 | \$ 215,270.50 | \$ 65,114.00 | \$ 69,564.25 | \$ 1,482,593.00 |

Monthly DPT Reporting - Financial Data
Fiscal Year 2012

| | Prior Periods | Aug-12 | Sep-12 | Oct-12 | Nov-12 | Total |
|--|---------------|---------------|---------------|---------------|---------------|-----------------|
| Referral Fee Summary | | | | | | |
| Total # of Referral Tows | | 4,748 | 3,740 | 4,546 | 3,477 | 16,506 |
| Less: Total # of Waivers | | (201) | (172) | (192) | (187) | (752) |
| Net # of Referral Fee Tows | | 4,547 | 3,568 | 4,354 | 3,290 | 15,759 |
| Referral Fee | | \$ 23.75 | \$ 23.75 | \$ 23.75 | \$ 23.75 | \$ 23.75 |
| Gross Referral Fee Amount | | \$ 107,991.25 | \$ 84,740.00 | \$ 102,407.50 | \$ 78,018.75 | \$ 374,157.50 |
| Differences: Amounts (owed to)/due from City based on reconciliation of Daily to Monthly Reports | \$ | \$ 95.00 | \$ 23.75 | \$ | \$ (23.75) | \$ 95.00 |
| Net Referral Fee Amount Paid | | \$ 108,086.25 | \$ 84,763.75 | \$ 103,407.50 | \$ 77,995.00 | \$ 374,252.50 |
| Admin Fee Summary | | | | | | |
| Total # of Vehicles Released: Before adjustments | | 4,075 | 3,567 | 4,201 | 3,295 | 15,142 |
| Less: # of invoices processed for which admin fee not due | | (74) | (126) | (116) | (106) | (422) |
| Total # of Vehicles Released | | 4,001 | 3,441 | 4,085 | 3,189 | 14,720 |
| Less: Non-Referral Tow Releases (Excl Courtesy) | | (44) | (31) | (42) | (42) | (159) |
| Less: Releases with Waivers | | (201) | (172) | (192) | (187) | (752) |
| Net # of Vehicles - Admin Fee Collected | | 3,756 | 3,238 | 3,851 | 3,060 | 13,805 |
| Average Admin Fee | | \$ 260.28 | \$ 248.07 | \$ 254.37 | \$ 248.21 | \$ 253.18 |
| Net Admin Fee Owed | | \$ 978,649.75 | \$ 803,250.50 | \$ 979,582.30 | \$ 734,606.25 | \$ 3,496,180.80 |
| Differences: Amounts (owed to)/due from City based on reconciliation of Daily to Monthly Reports | \$ | \$ 298.55 | \$ 67.15 | \$ 772.75 | \$ 245.60 | \$ 1,384.05 |
| Net Admin Fee Paid | | \$ 978,948.30 | \$ 803,317.65 | \$ 980,355.05 | \$ 734,851.85 | \$ 3,497,564.85 |
| # of Waivers Submitted By Type | | | | | | |
| SFPD | | 151 | 130 | 122 | 122 | 525 |
| AutoReturn | | 46 | 37 | 59 | 62 | 204 |
| DPT | | 4 | 5 | 11 | 3 | 23 |
| Total | | 201 | 172 | 192 | 187 | 752 |
| Gross Amount of Waivers - By Type | | | | | | |
| SFPD & Admin Waiver | | \$ 57,591.25 | \$ 49,209.75 | \$ 45,472.75 | \$ 33,159.00 | \$ 191,512.75 |
| AutoReturn | | \$ 78,631.25 | \$ 82,102.00 | \$ 124,134.75 | \$ 174,897.75 | \$ 459,765.75 |
| DPT | | \$ 2,930.25 | \$ 5,395.50 | \$ 9,746.75 | \$ 5,256.50 | \$ 24,329.00 |
| Total | | \$ 139,152.75 | \$ 136,707.25 | \$ 179,354.25 | \$ 220,313.25 | \$ 675,607.50 |
| Waiver Amounts Billed to the Controller's Office | | | | | | |
| SFPD (excludes Admin) | | \$ 12,235.75 | \$ 9,026.25 | \$ 8,047.25 | \$ 6,218.75 | \$ 35,528.00 |
| DPT | | \$ 1,206.25 | \$ 1,538.00 | \$ 3,458.25 | \$ 1,505.50 | \$ 7,708.00 |
| Total | | \$ 13,442.00 | \$ 10,564.25 | \$ 11,505.50 | \$ 7,724.25 | \$ 43,236.00 |
| Waiver Amounts Written-off | | | | | | |
| SFPD | | \$ 45,355.50 | \$ 40,263.50 | \$ 37,425.50 | \$ 32,940.25 | \$ 155,984.75 |
| AutoReturn | | \$ 78,631.25 | \$ 82,102.00 | \$ 124,134.75 | \$ 174,897.75 | \$ 459,765.75 |
| DPT | | \$ 1,724.00 | \$ 3,857.50 | \$ 6,288.50 | \$ 4,751.00 | \$ 16,621.00 |
| Total | | \$ 125,710.75 | \$ 126,223.00 | \$ 167,848.75 | \$ 212,589.00 | \$ 632,371.50 |

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
BEFORE THE HONORABLE WILLIAM J. ELLIOTT, JUDGE
DEPARTMENT NO. 3
---OOO---

PATRICK A. MISSUD,)
PLAINTIFF(S),) CASE NO.:
-VS-) CGC-14-536981
LUCY ARRENTARIZ, ET AL.,)
DEFENDANT(S).)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
HELD ON OCTOBER 3, 2014

APPEARANCES:
FOR THE PLAINTIFF: IN PROPRIA PERSONA
FOR THE DEFENDANTS: DANIELLE A. LEE, ATTORNEY AT LAW
KIMBERLY M. CRAKE, ATTORNEY AT LAW
OFFICIAL COURT REPORTER: JEANIE CAYABAN-ALMA
CSR #10920
CCR #143
---OOO---

talking to the Feds. I can guarantee that over half the people in this room will also be doing Federal prison time for the crimes that are already in the records.

THE COURT: All right. You've had enough opportunity to explain your position regarding the demurrer.

Ms. Lee, anything else you want to say about your demurrer?

MS. LEE: No, your Honor.

THE COURT: All right. That will be submitted.

MS. LFF: Submitted.

THE COURT: There was one other motion which was filed, and that was filed by Mr. Missud. It's a motion for summary judgment. Ms. Lee has filed a motion to strike that, and I want to hear arguments on the motion to strike before we possibly consider the motion for summary judgment.

So, Ms. Lee, I did read your papers regarding the motion to strike and the reasons why you take that position. Anything else you'd like to add regarding that?

MS. LEE: No, your Honor.

THE COURT: All right. So, Mr. Missud, anything you want to say about the motion to strike, your motion for summary judgment?

THE PLAINTIFF: Absolutely. Now, if you will recall, Judge Elfving, you stated on September 5th that

San Francisco AutoReturn - Monthly Operational Summary
Tow Summary by Category

[illegible]

San Francisco AutoReturn - Monthly Operational Summary

Monthly Towing, Release and Lien Sale Data

| | Jan-2012 | Feb-2012 | Mar-2012 | Apr-2012 | May-2012 | Jun-2012 | Jul-2012 | Aug-2012 | Sep-2012 | Oct-2012 | Nov-2012 | Dec-2012 | Total |
|--|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| Total Release Tows | 4,039 | 3,821 | 4,216 | 4,012 | 4,347 | 4,205 | 4,398 | 4,748 | 3,740 | 4,546 | 3,472 | 0 | 45,538 |
| Private Property (PP) Tows | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Owner Request Tows | 33 | 44 | 38 | 29 | 41 | 38 | 35 | 34 | 29 | 37 | 35 | 0 | 393 |
| Outlets Tows | 55 | 34 | 56 | 53 | 42 | 33 | 36 | 54 | 32 | 51 | 42 | 0 | 490 |
| Relocation Tows | 8 | 10 | 9 | 4 | 7 | 3 | 4 | 10 | 2 | 5 | 6 | 0 | 87 |
| Total Tows | 4,125 | 3,908 | 4,320 | 4,086 | 4,437 | 4,283 | 4,473 | 4,846 | 3,803 | 4,638 | 3,556 | 0 | 46,488 |
| Total Non-impounded Vehicles | 96 | 88 | 104 | 86 | 90 | 74 | 75 | 96 | 63 | 60 | 83 | 0 | 950 |
| Total Impounded Vehicles | 4,029 | 3,821 | 4,216 | 4,012 | 4,347 | 4,209 | 4,398 | 4,748 | 3,740 | 4,546 | 3,472 | 0 | 45,538 |
| Total Released Vehicles | (3,789) | (3,588) | (3,930) | (3,764) | (4,051) | (4,133) | (4,079) | (3,567) | (3,832) | (3,255) | (2,904) | 0 | (42,102) |
| Total Vehicles Sold at Auction to Public | (301) | (322) | (266) | (215) | (416) | (210) | (265) | (319) | (223) | (252) | (204) | 0 | (2,965) |
| Total Vehicles Sold to Dealers | (66) | (58) | (30) | (6) | (23) | (18) | (11) | (16) | (11) | (17) | (24) | 0 | (279) |
| Total Released and Sold | (4,156) | (3,978) | (4,226) | (3,904) | (4,492) | (4,192) | (4,409) | (4,414) | (3,801) | (4,201) | (3,523) | 0 | (45,376) |

Notes Regarding Sold Vehicles

- 1) Quantities reflect lien sale payment processing activity for the given calendar month
- 2) Quantities do not include payments posted for past months that were processed during the current month
- 3) Quantities do not include vehicles shipped to dealerships but not yet invoiced

| | | | | | | | | | | | | |
|---|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|----|
| Per 70 Physical Inventory Count | 1,245 | 1,289 | 1,334 | 1,366 | 1,281 | 1,301 | 1,228 | 1,188 | 1,163 | 1,123 | 1,123 | 0 |
| Per 70 Street System Inventory Count | na | na | na | na | na | na | na | na | na | na | na | na |
| Per 70 Street System Inventory Count | na | na | na | na | na | na | na | na | na | na | na | na |
| Advis. Lien Hold System Inventory Count | na | na | na | na | na | na | na | na | na | na | na | na |
| Total Month End Inventory | 125 | 124 | 124 | 124 | 124 | 124 | 124 | 124 | 124 | 124 | 124 | 0 |

Notes Regarding Inventory Count Data

Per 70 physical count will typically differ from the system count due to normal lags in data processing of vehicle sales data and due to vehicles that have been processed as released but are awaiting customer pickup

Additionally, the physical inventory count takes time to complete and the inventory changes due to the normal "arrival" and "departure" of vehicles that occurs throughout the timeframe of the physical counting exercise

Finally, the physical inventory counts are conducted on Saturday mornings. The physical count number provided in this report is from the Saturday count that is closest to the month end date

1 none of my 135 subpoenas had been honored for that day's
2 hearing. Well, it just so happens that I again
3 subpoenaed a whole lot of documents for today's hearing.
4 As a matter of fact, not only did I subpoena them, I
5 requested them under County Sunshine Ordinances, State
6 Open Government Statutes and in support of my state and
7 Federal rights to due process, fairness and right to
8 petition this very grievance.

9 Now, Brian Ceballo, San Francisco City
10 Attorney, is sitting behind me. I was just wondering if
11 he was kind enough to bring any documents that I
12 requested under Sunshine, demands that I have before me,
13 proof of service I also brought with me. According to
14 the USPS, he got them.

15 THE COURT: That issue is not before the Court
16 at this time, so I'm not going to ask counsel for the
17 City to explain what he's doing or not doing. I want you
18 to direct your remarks to the motion to strike, your
19 motion for summary judgment.

20 THE PLAINTIFF: Absolutely. Now, the evidence
21 that I propounded that was due, as a matter of fact I
22 believe yesterday, under County Sunshine Ordinances would
23 have supported this very motion, my motion for summary
24 judgment. As a matter of fact, I even included in the
25 motion if those public documents are not supplied for
26 today's hearing, that that in and of itself de facto as a
27 prima facie case that you should rule in favor of my
28 summary judgment. You should grant it because the city

1 and state are withholding public records even when they
 2 are subpoenaed. By the way, state -- Federal subpoenas
 3 were flaunted and being flaunted under four other means
 4 to get the public records to which I am entitled.

5 So I would like for this Court to make a
 6 statement like it did last time on September 5th whether
 7 it received any evidence whatsoever that was either
 8 subpoenaed or requested under City Sunshine or open
 9 government or my due process rights.

10 THE COURT: Well, I'm not obliged to answer
 11 that, but I will. I haven't received any subpoenaed
 12 records.

13 THE PLAINTIFF: Yes. Those would have been the
 14 records in support of my motion for summary judgment that
 15 were absolutely due by yesterday. So I guess I really
 16 can't assert my right to petition this very grievance and
 17 forward this motion for summary judgment because I don't
 18 have the records that I was asking for.

19 Oh, by the way, Brian Ceballo behind me, he
 20 made an admission on official state letterhead that he
 21 didn't have financial records, which I already had in my
 22 possession. He lied about not having stuff that I
 23 already had, unbeknownst to him. This is the kind of
 24 stuff that I've been dealing with for the past five years
 25 and which the Federal Department of Justice relishes.
 26 Because you don't have to prove intent; you just have to
 27 show one document full of lies.

28 THE COURT: All right. Ms. Lee, anything else

CITY AND COUNTY OF SAN FRANCISCO


OFFICE OF THE CITY ATTORNEY

Letter to Patrick Missud
 Page 2
 June 13, 2014

For all of these reasons, the Defendant will not be producing documents in response to
 your subpoenas.

Very truly yours,

DENNIS J. HERRERA
 City Attorney


 BRIAN P. CEBALLO
 Deputy City Attorney

CITY AND COUNTY OF SAN FRANCISCO



DENNIS J. HERRERA
City Attorney

OFFICE OF THE CITY ATTORNEY

BRIAN P. CEBALLO
Deputy City Attorney

Direct Dial: (415) 554-3911
Email: brian.cebalo@sfgov.org

June 13, 2014

Patrick Missud
[REDACTED]

Re: Patrick Missud v. City and County of San Francisco, et al.
United States District Court Case No. C 14-01503 EMC

MEET AND CONFER

Dear Mr. Missud:

This meet and confer letter concerns the Subpoenas to Produce Documents you prepared in the above entitled case. I am following up in writing because you have refused to return any of my phone calls and today you stated via email that you would not meet and confer until United States District Judge Edward M. Chen is indicted.

The subpoenas are dated June 2, 2014 and are directed to Tom Nolan and the San Francisco Municipal Transit Authority ("SFMTA"). Each subpoena seeks the production of records.

The subpoenas for Tom Nolan and the SFMTA seek the following:

A financial statement declaring Auto>Returns profits made by lien-selling cars twice-monthly for the City and County of San Francisco. Also see the attached "Demand for Production of Documents by 4-Year Federal: 18 USC 1513 Informant; and Public Integrity Unit Inside Attorney."

This letter will serve as a written objection to the subpoenas as follows:

- (1) You served these subpoenas as a party to the action. Service of the subpoenas shall be by a non-party pursuant to the Federal Rule of Civil Procedure 45(b)(1).
- (2) You have failed to comply with the Federal Rule of Civil Procedure 45(a)(1)(iv).
- (3) The Court has not issued an Order formally opening discovery in this action.
- (4) You are seeking documents i.e., financial statements, that are not in the possession of the Defendant.

Subject: RICO Indictments for the City's Police Chief, Mayor, Attorney's, and \$#!load of others

From: pat missud (missudpat@yahoo.com)

To: dherrera@sfgov.org, cityattorney@sfgov.org, bpceballo@yahoo.com, brian.ceballo@sfgov.org, colleen.garrett@sfgov.org, Kelly.kruger@sfgov.org, david.pine@sfdph.org, SFPDSouthernStation@sfgov.org, sfpd.commission@sfgov.org, SFPDIngleSideStation@sfgov.org, sheriff@sfgov.org, mark.nicco@sfgov.org, kconger@sfxaminer.com, jkwong@sfxaminer.com, jsabatini@sfxaminer.com, ldudnick@sfxaminer.com, crcberts@sfxaminer.com, magle@sfxaminer.com, akoskey@sfxaminer.com, lkatz@sfxaminer.com, maldax@sfxaminer.com, newstips@sfxaminer.com, mbillings@sfxaminer.com, sdrumwright@sfxaminer.com, mdenike@sfxaminer.com, jmyers@kqed.org,

Cc: begelko@sfcronicle.com, esernoffsky@sfcronicle.com, who@sfcronicle.com, metro@sfcronicle.com, aabney@sfcronicle.com, dbaker@sfcronicle.com, bbeck@sfcronicle.com, pbronstein@sfcronicle.com, dbulwa@sfcronicle.com, tbyrne@sfcronicle.com, mcabanatuan@sfcronicle.com, vcolliver@sfcronicle.com, accoper@sfcronicle.com, jcoote@sfcronicle.com, bevangelista@sfcronicle.com, klagan@sfcronicle.com, pfimite@sfcronicle.com, lgarchik@sfcronicle.com, jguthne@sfcronicle.com, chjohnson@sfcronicle.com, carolyjones@sfcronicle.com, hknights@sfcronicle.com, mlagos@sfcronicle.com, hlee@sfcronicle.com, jloren@sfcronicle.com, CLochhead@sfcronicle.com, cmaninucci@sfcronicle.com, pmater@sfcronicle.com, mmay@sfcronicle.com, cwnevius@sfcronicle.com, kpender@sfcronicle.com, trobertson@sfcronicle.com, asross@sfcronicle.com, csaid@sfcronicle.com, sespinosa@sfcronicle.com, jucker@sfcronicle.com, jvanderbeken@sfcronicle.com, kgo@sfcronicle.com, jwildermuth@sfcronicle.com, rshaw@beyondchron.org, editor@sfcitizen.com,

Date: Tuesday, January 6, 2015 11:11 AM

Attention Soon-to-be-convicted City Attorney's Herrera and Ceballo-

Please take notice of the following three items and all attachments:

(1) Find attached your subpoena which must be fulfilled by 10AM this Friday. Production will be in Dept. 3 of the Santa Clara Superior Court. Per the below USPS record, you were legally-served and positively received it. Note that according to the official court docket for City racketeering case CGC-14-537723, production of these simple & discoverable public records (which must be produced within 10 days' demand even without any subpoena) were already flaunted 4 times on 6-13, 7-15, 7-21, and 8-25-14, in violation of the Sunshine Ordinance and my rights to fairly petition this grievance, due process, and equality. In addition, find attached Ceballo's 6-13-14 lie\$ about not having the very financial records which I already had since two years ago, -but for which I only need updates.

(2) Also contained in the official court docket per the 12-10-14 entry, is that a date for my Motion for Summary Judgment will be set this Friday January 9th. Recall that I thrice-tried to get such a date, but was rebuffed for Some Strange reaSon on 9-26, 10-22, and 10-27-14. A preliminary/incomplete copy of that Motion is already registered in the case:

| | | |
|-------------|---|------|
| DEC-10-2014 | MANDATORY JUDICIAL NOTICE THAT A HEARING DATE FOR SUMMARY JUDGMENT IN THIS CASE WILL BE ASSIGNED BY JUDGE ELFVING AT THE JANUARY 9TH 2015 HEARING HELD FOR CGC-14-536981 FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED | View |
|-------------|---|------|

(3) Also find attached the December 26, 2014 Order Continuing the Case Management Conference. Note that I never got a copy, but rather had to download it from the docket. Do you see where the court lie\$ that the Conference is required to determine whether I "served the 1st Amended Complaint and brought the case

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

400 MCALLISTER STREET, SAN FRANCISCO, CA 94102-4514

PATRICK A. MISSUD, AND THOSE SIMILARLY
SITUATED

PLAINTIFF (S)

VS

STATE OF CALIFORNIA et al

DEFENDANT (S)

**Case Management Department 610
Case Management Order**

NO. CGC-14-537723

**Order Continuing Case
Management Conference**

TO: ALL COUNSEL AND SELF-REPRESENTED LITIGANTS

The Jan-07-2015 CASE MANAGEMENT CONFERENCE is canceled, and it is hereby ordered:

This case is set for a case management conference on Mar-04-2015 in Department 610 at 10:30 am for plaintiff to serve 1st amended complaint and bring case at issue.

CRC 3.725 requires the filing and service of a case management statement form CM-110 no later than fifteen (15) days before the case management conference. However, it would facilitate the issuance of a case management order without an appearance at the case management conference if the case management statement is filed, served and lodged in Department 610 twenty-five (25) days before the case management conference.

PLAINTIFF(S) must serve a copy of this notice on all parties not listed on the attached proof of service within five (5) days of the date of this order.

DATED: DEC-26-2014

JOHN K. STEWART

JUDGE OF THE SUPERIOR COURT

| | | | |
|-------------|--|----------------------|--------|
| MAR-03-2014 | 1ST AMENDED COMPLAINT FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED AS TO DEFENDANT STATE OF CALIFORNIA CITY AND COUNTY OF SAN FRANCISCO SAN FRANCISCO POLICE DEPARTMENT GREG SUHR INDIVIDUALLY SAN FRANCISCO MUNICIPAL TRANSPORTATION AUTHORITY TOM NOLAN INDIVIDUALLY AUTO RETURN JOHN WICKER INDIVIDUALLY SAN FRANCISCO TRIAL COURTS CYNTHIA LEE INDIVIDUALLY XEROX SOLUTIONS LDC COLLECTIONS DAVID CUMMINS INDIVIDUALLY DOES 1 TO 200 | View | |
| FEB-28-2014 | NOTICE TO PLAINTIFF | View | |
| FEB-28-2014 | FRAUD, COMPLAINT FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED AS TO DEFENDANT STATE OF CALIFORNIA CITY AND COUNTY OF SAN FRANCISCO SAN FRANCISCO POLICE DEPARTMENT GREG SUHR INDIVIDUALLY SAN FRANCISCO MUNICIPAL TRANSPORTATION AUTHORITY TOM NOLAN INDIVIDUALLY AUTO RETURN JOHN WICKER INDIVIDUALLY SAN FRANCISCO TRIAL COURTS CYNTHIA LEE INDIVIDUALLY XEROX SOLUTIONS LDC COLLECTIONS DAVID CUMMINS INDIVIDUALLY DOES 1 TO 200 NO SUMMONS ISSUED, JUDICIAL COUNCIL CIVIL CASE COVER SHEET FILED CASE MANAGEMENT CONFERENCE SCHEDULED FOR JUL-30-2014 PROOF OF SERVICE DUE ON APR-29-2014 CASE MANAGEMENT STATEMENT DUE ON JUL-07-2014 | View | 450.00 |

at issue?" Now refer back to the official docket where on April 1st 2014 Police Chief Greg Suhr answered the 1st Amended Complaint and removed the case to District court to get some federal cover for his criminally-proven racketeering. Now See the July 11th entry where it says that the case at issue, -for which Greg Suhr and all other Defendants were already served and are presently litigating, was remanded back to the Same Superior Court which lied it wasn't served. Is it just me, or is the court trying to rig case dismissal by lying that the Complaint wasn't served and that I failed to prosecute this criminally-proven case of Bell-CA racketeering on steroid\$??

By the way, if on Friday judge Elfving doesn't assign a Summary Motion date, this will be the 3rd case and 6th hearing he rigged to treacherously subvert democracy, and government of and by the people, to instead allow officials and judges to financially prey on the people. Even if Elfving were a cat with nine lives, he'll get himself killed on Friday if he doesn't follow the law, but rather undermines the foundations of democracy and subverts justice.

I'm looking to get Elfving sentenced to death,
 Patrick Missud
Current BSME, MSCE, CSLB IE, GC, jd,
 Consumer-Civil Rights Attorney;
 CCP §1021.5 California Private Attorney General;
Former 5-year Federal Mole;
 18 USC §1513 Federal Informant;
 31 USC §3279 Federal Qui-Tam Relator
http://www.fbi.gov/news/stories/2004/march/greylord_031504 and
<http://www.chicagotribune.com/news/nationworld/politics/chi-chicagoday-greylord-story-story.html> and
http://www.ask.com/wiki/Operation_Greylord?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com

On Tuesday, January 6, 2015 6:01 AM, "US_Postal_Service@usps.com" <US_Postal_Service@usps.com> wrote:

This is a post-only message. Please do not respond.

Federal Mole Missud Who'll Get Herrera Indicted has requested that you receive the current USPS Tracking™ information, as shown below.

Current USPS Tracking™ e-mail information provided by the U.S. Postal Service.

Label Number: 7011297000369009781

Service Type: Certified Mail™

| Shipment Activity | Location | Date & Time |
|---------------------------------|-------------------------|-----------------------------|
| Delivered | SAN FRANCISCO, CA 94102 | January 5, 2015
10:32 am |
| Arrived at Unit | SAN FRANCISCO, CA 94124 | January 5, 2015
8:04 am |
| Arrived at USPS Origin Facility | SAN FRANCISCO, CA 94188 | January 3, 2015
10:34 pm |

Acceptance

SAN FRANCISCO, CA 94128

January 3, 2015
3:57 pm

USPS has not verified the validity of any email addresses submitted via its online USPS Tracking™ tool.

For more information, or if you have additional questions on USPS Tracking™ services and features, please visit the Frequently Asked Questions (FAQs) section of our USPS Tracking™ site at <http://www.usps.com/shipping/trackandconfirm.htm>

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You can track your packages using USPS Text Tracking™ by texting your tracking number to 28777 (2USPS™) or selecting the Text Update option on our USPS Tracking™ site.

For more information go to <https://www.usps.com/text-tracking/welcome.htm>

| | | | |
|-------------|---|----------------------|--------|
| SEP-26-2014 | REQUEST FOR JUDICIAL NOTICE THAT A RESERVATION NUMBER WAS DEMANDED FOR NOTICE OF MOTION, MOTION, DECLARATION IN SUPPORT OF SUMMARY JUDGMENT AND/OR ADJUDICATION FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | |
| SEP-24-2014 | CASE MANAGEMENT CONFERENCE OF OCT-01-2014 CONTINUED TO JAN-07-2015 AT 10:30 AM IN DEPARTMENT 610. NOTICE SENT BY COURT | View | |
| SEP-22-2014 | NOTICE OF DEMAND FOR LRC 1.150 PERSONAL RECORDING OF THE 9/24/14 TRAFFIC DEPT "A" 9A HEARING FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | |
| AUG-25-2014 | REQUEST FOR JUDICIAL NOTICE OF SERVICE OF 135 SUBPOENAS ON 45 WITNESSES FOR PRODUCTION OF EVIDENCE FILED BY PLAINTIFF | | |
| AUG-25-2014 | SUBPOENA DUCES TECUM ISSUED TO PATRICK MISSUD | | |
| AUG-21-2014 | REQUEST FOR JUDICIAL NOTICE THAT THE SFMTA WILL BE SET-UP TODAY AT AN ADMINISTRATIVE HEARING AT 11 SOUTH VAN NESS REGARDING FRAUDULENTLY ISSUED CITATION 842899621 AND RIGGED "REVIEW" OF THE SAME FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | |
| JUL-28-2014 | NOTICE OF DISTRICT COURT MOTION FOR: RECONSIDERATION OF ORDER OF DISMISSAL AND AN EMERGENCY TRO WHICH THIS SUPERIOR COURT PURPOSELY FAILED TO ISSUE AFTER THE JULY 25, 2014 EX PARTE HEARING FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | |
| JUL-24-2014 | EX PARTE APPLICATION FOR ORDER IN SUPP OF TRO FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | 60.00 |
| JUL-21-2014 | EX PARTE APPLICATION FOR ORDER TO COMPEL THE CITY TO DISCLOSE AND PRODUCE SUNSHINE ORDINANCE PUBLIC DOCS FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | 60.00 |
| JUL-16-2014 | ORDER SETTING CASE MANAGEMENT CONFERENCE SENT BY COURT | View | |
| JUL-16-2014 | ADDED TO CALENDAR FOR CASE MANAGEMENT CONFERENCE HEARING SET FOR OCT-01-2014 AT 10:30 AM IN DEPT 610 | | |
| JUL-15-2014 | DECLARATION RE: SERVICE OF SUBPOENA ON CITY ATTORNEY DENNIS HERRERA FOR PRODUCTION OF SIMPLE AND PUBLIC SUNSHINE DOCUMENTS DUE ON JUL 18TH 2014 FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | |
| JUL-15-2014 | NOTICE OF ENTRY OF JUN 8, 14 DISTRICT COURT REMAND TO THIS STATE SUPERIOR COURT FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | | |
| JUL-14-2014 | CASE MANAGEMENT CONFERENCE OF JUL-30-2014 IS OFF CALENDAR. NOTICE OF REMOVAL FILED. NOTICE SENT BY COURT | View | |
| JUL-11-2014 | RECORD REMANDED BACK TO SUPERIOR COURT CERTIFIED COPIES OF DOCKET | View | |
| APR-01-2014 | NOTICE OF REMOVAL FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO GREG SUHR INDIVIDUALLY | | EXEMPT |
| APR-01-2014 | ANSWER TO 1ST AMENDED COMPLAINT FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO | View | EXEMPT |
| MAR-03-2014 | SUMMONS ISSUED TO PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | View | |
| MAR-03-2014 | DECLARATION IN SUPPORT OF COMPLAINT FILED BY PLAINTIFF PATRICK A. MISSUD. AND THOSE SIMILARLY SITUATED | View | |

Superior Court of California, County of San Francisco

Case Number: CGC 14 537723

Title: PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED VS. STATE OF CALIFORNIA et al

Cause of Action: FRAUD

Generated: Jan-06-2015 5:43 am

[Register of Actions](#) [Parties](#) [Attorneys](#) [Calendar](#) [Payments](#) [Documents](#)


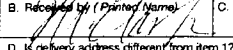
Register of Actions

Date Range: First Date FEB-28-2014 Last Date DEC-26-2014 (Dates must be entered as MMM-DD-YYYY)

Descending Date Sequence

[Submit](#)

| Date | Proceedings | Document | Fee |
|-------------|--|----------------------|-----|
| DEC-26-2014 | NOTICE OF UNAVAILABILITY OF FEDERAL INFORMANT AND QUI TAM RELATOR MISSUD FROM DECEMBER 29-31, 2014 FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED | View | |
| DEC-26-2014 | CASE MANAGEMENT CONFERENCE OF JAN-07-2015 CONTINUED TO MAR-04-2015 AT 10:30 AM IN DEPARTMENT 610 FOR PLAINTIFF TO SERVE 1ST AMENDED COMPLAINT AND BRING CASE AT ISSUE. NOTICE SENT BY COURT. | View | |
| DEC-23-2014 | MANDATORY JUDICIAL TNC OF THE FMTA PURPOSEFUL IGNORANCE OF SELF-AUTHENTICATING STATE RECORDS TO INSTEAD RIG IT 12-22-14 CITY TOW HEARING FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED | View | |
| DEC-22-2014 | MANDATORY JUDICIAL NOTICE THAT AN SFMTA TOW HEARING HELD TODAY 12-22-2014 SUA SPONTE EXPOSED THESE DEFENDANTS' RACKETEERING (CASE TRANSFERRED TO SANTA CLARA SUPERIOR COURT PER ORDER; HEARING ON 01-09-2015 AT 10:00 A.M.) FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED | View | |
| DEC-16-2014 | SUBMISSION OF CALIFORNIA RULES OF EVIDENCE 450 AND BETTER PROOF THAT MUST BE CONSIDERED FOR THE JAN 9 2015 HEARING FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED | | |
| DEC-15-2014 | MANDATORY JUDICIAL NTC OF THE CITY VIOLATION OF FEDERAL LAW: RETALIATION TODAY AGAINST FIVE YEAR FEDERAL MOLE MISSUD FOR HIS EXPOSURE OF CITY RACKETEERING FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED | | |
| DEC-11-2014 | NOTICE OF UNAVAILABILITY OF CEBALLO, BRIAN P. ON DEC-16-2014 THROUGH JAN-02-2015 JANUARY 26, 2015 THROUGH JANUARY 30, 2015 (TRANSACTION ID # 56455770) FILED BY DEFENDANT CITY AND COUNTY OF SAN FRANCISCO | View | |
| DEC-10-2014 | MANDATORY JUDICIAL NOTICE THAT A HEARING DATE FOR SUMMARY JUDGMENT IN THIS CASE WILL BE ASSIGNED BY JUDGE ELF-VING AT THE JANUARY 9TH 2015 HEARING HELD FOR CGC-14-536981 FILED BY PLAINTIFF PATRICK A. MISSUD, AND THOSE SIMILARLY SITUATED | View | |
| NOV-10-2014 | REQUEST FOR JUDICIAL NOTICE SENT TO DEMANDING COMPLIANCE WITH LRC RULES 8.2 AND 8.7 | | |
| OCT-27-2014 | REQUEST FOR JUDICIAL NOTICE FILED BY PLTF | | |
| OCT-22-2014 | REQUEST FOR JUDICIAL NOTICE (SECOND) THAT RESERVATION NUMBER WAS AGAIN DEMANDED FOR NTC OF MTN FOR SUMM JUDGMNT | | |

| SENDER: COMPLETE THIS SECTION | | COMPLETE THIS SECTION ON DELIVERY | |
|--|--|--|--|
| ■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
■ Print your name and address on the reverse so that we can return the card to you.
■ Attach this card to the back of the mailpiece, or on the front if space permits. | | A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee
B. Received by (Printed Name)  C. Date of Delivery
D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input type="checkbox"/> No
If YES, enter delivery address below: | |
| 1. Article Addressed to:
CITY ATTORNEY DENNIS HERRERA
1390 MARKET ST 6th Floor
SAN FRANCISCO, CA, 94102-5408 | | 3. Service Type
<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail
<input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes | |
| 2. Article Number
(Transfer from service label) | | 7011 2970 0003 6900 9781 | |
| PS Form 3811, February 2004 | | Domestic Return Receipt 102595-02-44-1540 | |

SUBP-002

| | | |
|---|--|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and address)
Patrick Missud, 219614
[REDACTED] 51
[REDACTED]
MAILING ADDRESS
[REDACTED]
BRANCH NAME Superior Court of San Francisco
PLAINTIFF/PETITIONER PATRICK A. MISSUD
DEFENDANT/RESPONDENT STATE OF CALIFORNIA et al | | FOR COURT USE ONLY

CASE NUMBER
CGC-14-537723 |
| CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION | | |

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):

CITY ATTORNEY BRIAN CEBALLO (CA BAR #243828), and See attached Witness List

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below.

a. Date January 9, 2015 Time 10:00AM ☒ Dept. 3 ☒ Div. ☒ Room
 b. Address 191 North First Street, San Jose, CA 95113

2. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

3. YOU ARE (item a or b must be checked):

- a. ☒ Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
- b. ☐ Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number, your name, and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

4. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

Name of subpoenaing party or attorney: Federal Informant Missud b. Telephone number: 415-845-5540

Witness Fees: You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued 1-2-2015

WAYNE PARINAS

(TYPE OR PRINT NAME)

SIGNATURE OF PERSON ISSUING SUBPOENA

COURT ADMINISTRATOR

(TITLE)

Declaration in support of subpoena (if reverse)

Page 1 of 3

Form Approved for Mandatory Use
 Judicial Branch of California
 SUBP-002 (Rev. January 1, 2015)

CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

Code of Civil Procedure
 § 1985 et seq.
 www.court.ca.gov

SUBMITTED TO KILL ELFVING and save democracy.

Patrick Missud:

Current BSME; MSCE; CSLB IE; GC, jd.

Consumer-Civil Rights Attorney.

CCP §1021.5 California Private Attorney General;

Former 5-year Federal Mole;

18 USC §1513 Federal Informant;

31 USC §3279 Federal Qui-Tam Relator;

http://www.fbi.gov/news/stories/2004/march/greylord_031504 and<http://www.chicagotribune.com/news/nationworld/politics/chi-chicagodays-greylord-story-story.html> andhttp://www.ask.com/wiki/Operation_Greylord?o=2800&qsrc=999&ad=doubleDown&an=apn&ap=ask.com

Served by Tracked USPS Cert. RR #7011 2970 0003 6900 9781 to guarantee:

(a) Delivery and

(b) Indictments of Herrera and Ceballo for Honest Services Fraud and other crimes

(3) Good cause exists for the Wime\$\$e\$ to produce the Documents since they are self-incriminating *public records which must be produced* under Open Government, Sunshine and this subpoena. Once produced, these Documents will prevent judge Elfving from otherwise rigging a quick-and-dirty case di\$mi\$\$al like already done with 13-533811 & 14-536981. Missud needs the Documents to get Elfving *further convicted* of additional crimes including Treason for which he will be legally murdered. Elfving already rigged at least 5 hearings in his Dept: 3, and railroaded 2 case di\$mi\$\$al\$ under color-of-law. He thereby already subverted democracy, and twice-undermined "government of and by the people." Elfving will once again ignore the Documents and prima-facie proof of financial predation of the public in 537723. He'll again wrest this 3rd criminally-proven case from a neutral jury of peers so that he and corrupt official\$ & traffic court judge\$ can continue financially preying on the public. Elfving will thusly be convicted a 3rd time for purposely overthrowing government of and by the people to in\$tead further Bell-CA style racketeering happening in SF, -but on a scale 20x larger

(4) Production of the Documents is material to the issues in this case because Missud already proved that just a few corrupt official\$ and judge\$ think they're above the law and can brazenly steal from 850,000 San Franciscans at-will as if they were ISIL members rolling into Mosul to rape, pillage, and burn. If given further opportunities, judge Elfving, Brian Ceballo, Dennis Herrera, and other Defendants in this case would execute members of the public and take their heads off like terrorists to keep the money flowing. To stop these Defendants' racketeering and financial predation of the public I have to guarantee that judge ELFVING IS KILLED by any and all legal means: (a) He'll hopefully be sentenced to capital punishment and then executed for treason and other high crimes; or (b) He'll at least be imprisoned for 12 years like Bell City Manager Rizzo and likely murdered by fellow inmates; and/or (c) the Documents will be posted online along with the rest during Elfving's criminal prosecution for High-Crimes so that anyone reading them will have all the necessary proof that Elfving is a treacherous judge who already subverted America and ought to be justifiably killed in the streets during his trial to save the nation and its democracy. After all, -if he's actually allowed to post bail by another self-interested colleague-judge, then that corrupt colleague-judge will al\$o likely want to acquit Elfving for his highest of crimes against this nation. Since I can't allow Elfving or any other judge\$ to destroy America, I'll exercise my 1st Amendment speech to protect 318 Million Americans from all ultra-corrupt "ab\$olutely judicially immune" judge\$ who act as Al Quada terrorists destroying American democracy

http://www.huffingtonpost.com/2015/01/14/anti-overtime-pay_n_2475154.html and
<http://www.ktvu.com/news/news/2-investigates-fighting-unjust-parking-tickets-ngfMtz/> and
<http://www.ktvu.com/videos/news/thursdays-on-ktvu-channel-2-news-at-5-unjust-4nF4R/> and
<http://www.ktvu.com/videos/news/san-francisco-scrutinizes-for-double-parking-to-vC13nK/> and
<http://www.ktvu.com/videos/news/2-investigates-parking-ticket-patterns-in-sfp/cX2rQ/> and
<http://www.ktvu.com/documents/2014/aug/14/14-de-notice-tickets/> and
<http://www.ktvu.com/news/news/local/2-investigates-uncoverts-systematic-parking-ticket-ng3H5/> and
<http://www.bldg.org/greater-san-francisco-business-review/collection-agencies/de-collection-systems-in-san-francisco-en-314858> and
<http://www.yelp.com/biz/truth-court-san-francisco> and

| | | |
|---|--|------------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Patrick Missud, 219614
[REDACTED] 251 | | FOR COURT USE ONLY |
| E-MAIL ADDRESS
missudpat@yahoo.com
ATTORNEY FOR: Name: Patrick Missud, Pro-Se | | |
| NAME OF COURT
Superior Court
STREET ADDRESS
400 McAllister St.
MAILING ADDRESS
CITY AND ZIP CODE
San Francisco, CA, 94102 | | |
| BRANCH NAME
Superior Court of San Francisco | | |
| PLAINTIFF/PETITIONER
PATRICK A. MISSUD | | |
| DEFENDANT/RESPONDENT
STATE OF CALIFORNIA et al. | | |
| CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION | | CASE NUMBER
CGC-14-537723 |

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of witness, if known):

CITY ATTORNEY BRIAN CEBALLO (CA BAR #243828); and See attached Witness List

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below UNLESS your appearance is excused as indicated in box 3b below or you make an agreement with the person named in item 4 below.

a. Date: January 9, 2015 Time: 10:00AM ☒ Dept: 3 ☒ Div: ☒ Room:
b. Address: 191 North First Street, San Jose, CA, 95113

2. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.

3. YOU ARE (item a or b must be checked)

- a. ☒ Ordered to appear in person and to produce the records described in the declaration on page two or the attached declaration or affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
- b. ☐ Not required to appear in person if you produce (i) the records described in the declaration on page two or the attached declaration or affidavit and (ii) a completed declaration of custodian of records in compliance with Evidence Code sections 1560, 1561, 1562, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose the original declaration of the custodian with the records. Seal the envelope. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number, your name, and the date, time, and place from item 1 in the box above. (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party listed at the top of this form.

4. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE YOU ARE TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name of subpoenaing party or attorney: Federal Informant Missud b. Telephone number: 415-845-5540

5. **Witness Fees:** You are entitled to witness fees and mileage actually traveled both ways, as provided by law, if you request them at the time of service. You may request them before your scheduled appearance from the person named in item 4.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: 1-1-2015

Patrick Missud; 31 USC 3279 Qui Tam Relator

(TYPE OR PRINT NAME)

(SIGNATURE OF PERSON SERVING SUBPOENA)
18 USC §513 Federal Informant

(Declaration in support of subpoena on reverse)

(TITLE)

Page 1 of 3

Form Approved for Mandatory Use
Judicial Council of California
SUBP-002 (Rev. January 1, 2012)

CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

Code of Civil Procedure,
§ 1965 et seq.
www.court.ca.gov

| | |
|--|---------------|
| PLAINTIFF/PETITIONER: PATRICK A. MISSUD | CASE NUMBER |
| DEFENDANT/RESPONDENT: STATE OF CALIFORNIA et al. | CGC-14-537723 |

The production of the documents, electronically stored information, or other things sought by the subpoena on page one is supported by (check one).

- ☐ the attached affidavit or ☒ the following declaration

DECLARATION IN SUPPORT OF CIVIL SUBPOENA (DUCES TECUM) FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS AT TRIAL OR HEARING
(Code Civ. Proc., §§ 1985, 1987.5)

1. I, the undersigned, declare I am the ☒ plaintiff ☐ defendant ☐ petitioner ☐ respondent
☐ attorney for (specify): ☒ other (specify): CCP 1021.5 Private Attorney General
in the above-entitled action

2. The witness has possession or control of the documents, electronically stored information, or other things listed below, and shall produce them at the time and place specified in the Civil Subpoena for Personal Appearance and Production of Records at Trial or Hearing on page one of this form (specify the exact documents or other things to be produced; if electronically stored information is demanded, the form or forms in which each type of information is to be produced may be specified):

City Attorneys Herrera & Ceballo and other Witnesses have access to public information that they already illegally withheld. They MUST under this subpoena AND Sunshine Section 67.25 Produce Documents to Federal Informant Missud within 10 days so he can petition his grievances before Santa Clara Superior Court judge Elfving -who already committed High Crimes and Treason for which he'll soon be killed.

☒ Continued on Attachment 2

3. Good cause exists for the production of the documents, electronically stored information, or other things described in paragraph 2 for the following reasons:

Responses are required for two cases and a Hearing scheduled on January 9th 2015 in Santa Clara's Superior Court. Missud's due process rights, equal protections, and right to petition both grievances will again be brazenly violated if these Witnesses fail to follow their very own Sunshine Ordinance and flaunt production under this state subpoena.

☒ Continued on Attachment 3

4. The documents, electronically stored information, or other things described in paragraph 2 are material to the issues involved in this case for the following reasons:

Responses are material because they'll further prove to criminal standards that San Francisco and its many agencies including Attorney's Office, MTA, and SFPD run the same RICO schemes already exposed in Bell California. Recall- Bell was federally-raided for corruption & violations of citizens' sacrosanct fundamental rights. In addition, SF's Superior Courts- Traffic & Civil Division\$ give the City cover for its racketeering.

☒ Continued on Attachment 4

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 1-2-2015

Patrick Missud; 18USC1513 Federal Informant

(TYPE OR PRINT NAME)

(SIGNATURE OF)

☒

SUBPOENAING PARTY

☐

ATTORNEY FOR SUBPOENAING PARTY

Request for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the date on which you are to appear. Contact the clerk's office or go to www.courts.ca.gov/forms for Request for Accommodations by Persons With Disabilities and Response (form MC-410) (Civil Code, § 54.8.)



(Print of service on page 3)

CIVIL SUBPOENA (DUCES TECUM) for Personal Appearance and Production of Documents, Electronically Stored Information, and Things at Trial or Hearing and DECLARATION

Page 2 of 3

Attachments 2, 3 & 4 to January 1st 2014 SUBP-002 Subpoenas directed to Brian Ceballo and other Witnesses...

NOTE THAT THIS SUBPOENA IS ALSO A CALIFORNIA PUBLIC RECORDS DEMAND AND/OR SAN FRANCISCO SUNSHINE REQUEST. AS SUCH, ALL PUBLIC RECORDS MUST BY-LAW BE PRODUCED *WITHIN 10 DAYS* RECEIPT. Further note that production is already waaaaay overdue and all documents should have already been turned-over to Missud before June 2014. The demands will be produced under this 8-day extension of time since they were already illegally withheld for months. Failure to timely produce the already months-tardy records for the January 9th 2015 hearing before judge Elfving will cause Brian Ceballo and Denis Herrera to be indicted for corruption, honest services fraud, co-conspirator racketeering, ..., and other state and federal crimes for which they will be imprisoned for decade\$.

Other Witne\$Se\$ include the SFMTA, Director Tom Nolan, AutoReturn, CEO John Wicker, City and County of San Francisco, Mayor Ed Lee, -each of whom have access to the Demanded Documents and Information.

- (2) As the Witne\$Se\$' Defense Attorneys, Herrera & Ceballo have access to all the official City and County Records sought under this subpoena. The Demands include:
(a) "Monthly DPT Reporting- Financial Data" from December 2012 until the present; and
(b) "San Francisco-AutoReturn- Monthly Operational Summary" from December 2012 until the present. Recall that on June 3rd 2014 Ceballo and Herrera lied about not having these documents which are now months overdue.
(c) Also demanded are specific answers/facts regarding the 12-15-14 Tow of Saab 6LAL792. Per the 12-29-14 AutoReturn "Notice of Stored Vehicle/Amnesty Offer" Towing Fees totaled \$533.25, Storage costs \$66.75 Per Day, and Lien Processing cost \$70. Information sought includes- what profits did the Defendants/Witne\$Se\$ make on those three items? Recall that after Bell-CA¹ was raided & 7 City Managers indicted for racketeering, Honest Services Fraud, and Corruption, trials followed during which time government witnesses testified that municipalities like Bell and San Francisco can't impermissibly profit from tow-related activities because that causes enormous financial conflicts of interests and incentivizes them to illegally tow and ticket vehicles like my registered Saab which was stolen under color-of-law on December 15th 2014.²

¹ http://www.sfpd.org/news/2011/08/01/15719/bell-scandal-last-of-7-officials-sentenced-to-1-year/eq=8147b5b2d0e478d0a6568f023eb92&eq_campaignid=8168 and <http://www.foxnews.com/topics/robert-rizzo-13-million-dollar-man.htm> and <http://articles.latimes.com/2011/feb/28/local/la-me-u3-01-bell-baseball-20110301> and <http://articles.latimes.com/2011/may/30/local/la-me-1107-bell-randy-adams-201107> <http://www.sfpd.com/hz/autoreturn-san-francisco> and ...

² <http://www.sfdemocrat.com/sanfrancisco/parking-citation-officer-going-rogue-with-unwarranted-tickets-neighbors-say/content?cid=2840137> and <http://www.bizjournals.com/sanfrancisco/blog/2013/09/san-francisco-autoreturn-tow-tourism.html?range=all> and <http://washingtonexaminer.com/exography-19-u-s-cities-have-proportionately-bigger-workforces-than-bankrupt-detroit/article/2533338> and See item #13 <http://archives.sfdemocrat.com/sfdemocrat/SFMTABoardApril72012agenda.htm> and