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Sent: Thursday, February 26, 2004 7:48 AM
To: 'REDRESS2@redressinc.org'
Subject: JUDICIAL MISCONDUCT IN ORANGE COUNTY, CA

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Ladies and Gentlemen of Redress, Inc.:

Below is a story of judicial misconduct that you might want to publish and circulate:

Judge James H. Poole, of the Central Justice Center of the Orange County Superior Court, 700 Civic Center Drive West, Santa Ana, CA 92701, IGNORED key facts of my case and ruled CONTRARY to legal precedents (doctrine of "stare decisis") in my Small Claims lawsuit against the City of Irvine, CA, for their police department's malicious prosecution of me for a totally groundless charge of making annoying phone calls. Their malicious prosecution cost me \$5,000.00 in attorney fees, for which I sued them. This was Case Number 03CS007196, which went to trial on 18 December 2003 at Division C61 of the Orange County, CA Superior Court.

In order to win our case against the Irvine Police Department (IPD), we had to prove four (4) points, per the criteria established in the case of Sheldon Appel Co. v. Albert & Olikier [254 Cal.Rptr. 336, 47 Cal.3d 863]:

Point 1: "Prosecution was commenced at direction of Defendant." This is proved by statement of IPD Investigator Cristal Hayes in IPD Police Report DR 01-19823.

Point 2: "Prosecution was pursued to legal termination in my favor." This is proved by the D.A.'s unilateral dismissal of the charge against me in the prior case; see the Docket Report for (prior) Case IR02HM00216.

Point 3: "Prosecution was brought without probable cause." This is proved by IPD Police Report DR 01-19823, which shows that IPD had NO evidence that I made any phone calls. Yet Judge James H. Poole writes, "[Plaintiff's] primary basis for malic[ious prosecution] was failure of Irvine P[olice] to contact him for his side of story. = Not Malice." [See his handwritten statement on Plaintiff's Claim form, from Docket for Case #03CS007196.] He COMPLETELY IGNORED the legal precedent of the case of Puryear v. Golden Bear Insurance Company [66 Cal.App.4th 1188, 78 Cal.Rptr.2d 507], which establishes that THERE IS NO PROBABLE CAUSE WITHOUT EVIDENCE AS TO WHO DID IT. The IPD needed to contact me in order to know WHO DID IT, because all that their two phone traps indicated is that a call occurred from one phone number to another, not WHO the caller was.

Point 4: "Prosecution was initiated with malice." Judge James H. Poole writes, "[Plaintiff's] primary basis for malic[ious prosecution] was failure of Irvine P[olice] to contact him for his side of story. = Not Malice." [See his handwritten statement on Plaintiff's Claim form, from Docket for Case #03CS007196.] He COMPLETELY IGNORED the legal precedent of the case of Baker v. Gawthorne [82 Cal.App.2d 496, 186 P.2d 981], which establishes inference of malice from REFUSAL TO DO RESEARCH before filing a complaint. The IPD refused to contact me to find out whether or not they had a case against me.

To further substantiate Point 4, "initiated with malice," I also addressed to Judge James H. Poole the very different treatment the IPD gave to Melinda Sidor, victim of (annoying?) calls consisting of munching potato chips, a child playing with a toy, and inaudible mumbling (See D.A. evidence tape.), versus treatment the IPD gave us, victim of a violent next-door neighbor, Sean Robert Norton, who attempted to batter my wife and vandalized our property. These two cases occurred CONCURRENTLY. Yet:

(a) The IPD, at VICTIM'S REQUEST (see IPD Report DR 01-19823), PROSECUTED me. But despite OUR REPEATED REQUESTS, the IPD refused to EVEN SPEAK to our violent next-door neighbor. (see IPD Report DR 02-06198)

(b) I, the suspect of the annoying phone call case, have NO criminal record. But our neighbor, the suspect of vandalism to our property and attempted battery, has A CRIMINAL RECORD of which the IPD is aware because they arrested him (IPD Report 99-05576). Sean Robert Norton was convicted for being under the influence of methamphetamine (Docket for Case #99HM03522).

(c) The IPD had NO evidence against me that I made any annoying phone calls to Melinda Sidor. All they had were two (2) phone traps on my home phone while I was at work 30 miles away. (See Sprint phone bill, letters from team leader and cube-mate, and lab report.) They had four (4) postcards containing no threats or obscene language (see IPD Report DR 01-19823) without ANY evidence that they came from me. But the IPD had my wife's EYEWITNESS statement that she was the victim of an attempted assault and battery, and they had photos of our kicked-in front door and a photo placed on our car threatening to steal or vandalize it.

(d) Melinda Sidor ONLY HAD TO CHANGE HER PHONE NUMBER. But (i) since we could not file a restraining order against our violent next-door neighbor who continued to harass us because we shared the only stairwell to our front and only doors, and (ii) since the IPD refused to contact him, OUT OF DURESS WE MOVED, costing us \$2,392.64 (See hotel and storage invoices.) in emergency moving costs. The IPD wanted to cover up the fact that they never contacted our violent next-door neighbor, so they REFUSED, despite our repeated requests, to give us a proper copy of the police report (See our letters to IPD dated 9/19/02, 9/27/02, and 10/18/02, and IPD letter dated 9/25/02.), (i) for which we paid the \$15.00 processing fee, (ii) in which we were victims, and (iii) to which California Government Code 6254(f) says we are entitled. A proper copy would include the suspect's statement, which would show that the IPD at least contacted the violent next-door neighbor. Instead, all they gave us was a copy of IPD Police Report DR 02-06198 WHICH ONLY HAD OUR OWN NARRATIVE IN IT!

Yet Judge James H. Poole COMPLETELY IGNORED this CONTRAST in the IPD's handling of these two concurrent cases. The contrast of the two concurrent cases shows a DOUBLE STANDARD and BIAS against my family, which proves Point 4, "initiated with malice."

In any fair and legal court, I would have won my case, because I proved all four points via hard evidence needed to substantiate malicious prosecution. Is this how corrupt judges get away with rendering corrupt verdicts - by ignoring the pertinent facts of a case and breaking legal precedents? Especially in Small Claims court, where there is no word-for-word record of the hearing so that the judge never goes on record, and a plaintiff cannot appeal?

Judge James H. Poole writes, "[Plaintiff] failed to prove malice - Note phone t[r]aps." [See his handwritten statement on Plaintiff's Claim form, from Docket for Case #03CS007196.] Does he say this because he wants people to believe that I cannot prove malicious prosecution just because two phone traps existed - which could be phoney? This is false because IPD never proved WHO made the calls.

The ruling in this case, Laham v. City of Irvine, sends the message to all that it is OK for a judge to rule AGAINST THE LAW by breaking legal precedents (doctrine of "stare decisis"), and for police to escape accountability for their actions. This means that any police agency can harass any innocent law-abiding citizen they do not like with absurd, unsubstantiated charges and make them spend thousands of dollars on attorney fees or go to jail and lose their jobs if they cannot afford a decent attorney.

One can rationalize, "This only happens to bad people," but it happened to me, Michael Laham, a law-abiding professional who lives in an upper middle-class neighborhood. And one can rationalize, "This only happens to a few people." We always had a lot of respect for the police because we believed that they risk their lives to protect the innocent, but our life EXPERIENCES with them have unfortunately taught us otherwise. Unless we Americans UNITE, ORGANIZE, and COLLECTIVELY FIGHT to stop this sort of police misconduct and malicious persecution, anybody in this land of the free and home of the brave could be next!

Anyone who wishes further information can contact me (Michael Laham) at P. O. Box 5248, Orange, CA 92863-5248.

I hope this story is of interest and use to you all at the Redress, Inc.

Michael Laham