

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 86

HON. DAVID P. YAFFE, JUDGE

MARINA STRAND COLONY II,

PETITIONER,

VS.

COUNTY OF LOS ANGELES,

RESPONDENT.

NO. BS 109420

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, MARCH 4, 2009

APPEARANCES:

FOR THE REAL
PARTY IN INTEREST:

JOSHUA L. ROSEN
ATTORNEY AT LAW
5905 SHERBOURNE DRIVE
LOS ANGELES, CALIFORNIA 90056
(310) 649-0063

ARMBRUSTER & GOLDSMITH
BY: R. J. COMER
ATTORNEY AT LAW
10940 WILSHIRE BOULEVARD
SUITE 2100
LOS ANGELES, CALIFORNIA 90024
(310) 209-8800

ALSO PRESENT:

RICHARD I. FINE
IN PROPRIA PERSONA

ORIGINAL

CYNTHIA S. CRUZ, CSR #9095
OFFICIAL COURT REPORTER

1 LOS ANGELES, CALIFORNIA; WED., MARCH 4, 2009; A.M. SESSION
2 DEPARTMENT NO. 86 HON. DAVID P. YAFFE, JUDGE
3 APPEARANCES:

4 (THE REAL PARTY IN INTEREST WITH THEIR COUNSEL,
5 JOSHUA L. ROSEN AND R. J. COMER, ATTORNEYS AT
6 LAW; RICHARD I. FINE, IN PROPRIA PERSONA.)

7 (CYNTHIA S. CRUZ, C.S.R. 9095, OFFICIAL
8 REPORTER.)

9 (THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN
10 COURT:)

11
12 THE COURT: MARINA STRAND COLONY II AGAINST THE
13 COUNTY OF LOS ANGELES.

14 MR. FINE: MORNING, YOUR HONOR. RICHARD FINE.

15 MR. ROSEN: JOSHUA ROSEN.

16 MR. COMER: R. J. COMER FOR DEL REY SHORES. C-O-M-E-
17 R.

18 THE COURT: ALL RIGHT. THIS IS A PROBATION AND
19 SENTENCING HEARING. WE ALSO HAVE A MOTION BY THE
20 INITIATING PARTY AT THE CONTEMPT PROCEEDING HERE FOR
21 ATTORNEY FEES INCURRED IN THE CONTEMPT PROCEEDING. THE
22 COURT HAS ISSUED A TENTATIVE RULING ON THAT.

23 ARE BOTH OF YOU -- ALL OF YOU HAD AN OPPORTUNITY
24 TO READ IT?

25 MR. FINE: I HAVE READ IT, YOUR HONOR.

26 MR. COMER: YES.

27 THE COURT: ALL RIGHT. LET'S FIND OUT FIRST FROM MR.
28 COMER OR MR. ROSEN, DO YOU HAVE ANY ARGUMENT YOU WANT TO

1 MAKE WITH RESPECT TO --

2 MR. ROSEN: WELL, THE STATUTE, UNFORTUNATELY, IS NOT
3 A STATUTE THAT HAS MUCH INTERPRETATION. FROM WHAT I
4 GATHER YOUR HONOR'S RULING TO BE, YOU CAN ONLY GIVE THE
5 FEES ON A COUNT THAT HAD TO DO WITH DISOBEYING AN ORDER.

6 THE COURT: THAT'S WHAT -- THAT'S THE WAY IT SEEMED
7 TO ME. YOU CAN TRY TO ARGUE ME OUT OF IT IF YOU WANT TO,
8 BUT THAT'S THE WAY IT -- WHAT THE STATUTE SEEMS TO SAY.
9 AND I DON'T KNOW WHY IT SAYS THAT, EITHER, BUT IF -- WHY
10 IT DISTINGUISHED BETWEEN ONE KIND OF CONTEMPT AND ANOTHER,
11 BUT IT CERTAINLY SEEMS TO.

12 MR. ROSEN: WELL, AND UNFORTUNATELY, THERE IS NO CASE
13 LAW ON THIS STATUTE. BUT I WOULD TAKE THE POSITION, YOUR
14 HONOR, THAT WHAT THE STATUTE -- THE STATUTE SAYS:

15 "IN ADDITION, A PERSON WHO IS SUBJECT TO A COURT
16 ORDER AS A PARTY TO THE ACTION, OR ANY ACT OF
17 THIS PERSON WHO'S ADJUDGED GUILTY OF CONTEMPT
18 FOR VIOLATING A COURT ORDER, MAY BE ORDERED TO
19 PAY THE PARTY INITIATING THE CONTEMPT PROCEEDING
20 A REASONABLE," BLAH, BLAH, BLAH, ET CETERA.

21 I'M NOT -- I'M NOT GOING TO STAND HERE AND ARGUE
22 TO YOU THAT IT'S CRYSTAL CLEAR THAT YOU CAN AWARD IT ON
23 ALL, BUT IT DOES NOT -- IT DOES NOT SAY, EITHER, THAT YOU
24 CAN ONLY AWARD IT ON -- I THINK AN EQUALLY REASONABLE
25 INTERPRETATION OF THE STATUTE WOULD BE THAT IF, FOR
26 EXAMPLE, IF THE ONLY CHARGE THE -- THE ONLY CHARGE WERE
27 THE HOLDING-OUT CHARGE, THAT YOU COULDN'T COURT ORDER IT
28 AT ALL. BUT --

1 THE COURT: SO YOUR ARGUMENT IS, THEN, THAT AS LONG
2 AS THERE IS A CHARGE --

3 MR. ROSEN: CORRECT.

4 THE COURT: -- FOR VIOLATING A COURT ORDER, ALL
5 ATTORNEY FEES INCURRED IN THE PROCEEDING ARE RECOVERED?

6 MR. ROSEN: THE SECTION DOES NOT SEEM TO -- THE
7 SECTION SAYS:

8 "MAY BE ORDERED TO PAY TO THE PARTY INITIATING
9 THE CONTEMPT PROCEEDING THE REASONABLE
10 ATTORNEY'S FEES."

11 AND THAT DOESN'T REALLY ADDRESS THE ISSUE OF
12 WHETHER THERE ARE MULTIPLE CHARGES IN A CONTEMPT
13 PROCEEDING. WE'RE DEALING WITH A STATUTE THAT'S ONLY BEEN
14 IN EFFECT FOR 13 YEARS AND NEVER HAD ANY CASE DECIDED
15 UNDER IT EXCEPT FOR ONE WHICH HAS NOTHING TO DO WITH THIS
16 ISSUE.

17 THE COURT: WELL, THERE MAY BE ONE, BUT I THINK -- I
18 THINK THAT'S THE MOST SENSIBLE WAY I CAN READ THE STATUTE,
19 SO I'M GOING TO REJECT THAT INTERPRETATION.

20 ANYTHING ELSE?

21 MR. ROSEN: AS TO -- IF THAT'S THE INTERPRETATION
22 THAT THE COURT IS GOING TO ADOPT, THE ONLY OTHER THING I
23 WOULD SAY IS THAT I THINK THAT --

24 THE COURT: ANY OTHER BASIS UPON WHICH YOU CONTEND I
25 SHOULD ALLOCATE OTHER THAN JUST THAT'S WHAT I WAS GOING TO
26 SAY?

27 MR. ROSEN: YES. I THINK WE SPENT MORE THAN 20 --
28 THERE WERE FIVE CHARGES, BUT I THINK WE SPENT MORE THAN 20

1 PERCENT OF OUR TIME IN THIS PROCEEDING ON THE FAILURE TO
2 ANSWER QUESTIONS.

3 THE COURT: I COULDN'T DISCERN THAT FROM ANY OF THE
4 PAPERS THAT I HAD. DID I MISS SOMETHING?

5 MR. ROSEN: NO, WE DIDN'T -- WE DIDN'T ARGUE THAT.
6 NO, WE DID NOT ARGUE THAT.

7 THE COURT: ALL RIGHT. MR. FINE --

8 MR. FINE: WELL --

9 THE COURT: -- ON THE MOTION.

10 MR. FINE: YES. FIRST OF ALL, YOUR HONOR, IT SAYS
11 THAT "THE PERSON HAS TO PAY AS A PARTY." THIS IS AN
12 ANCILLARY PROCEEDING. CONTEMPT IS AN ANCILLARY PROCEEDING
13 TO THE CASE AND I'M NOT A PARTY TO THE CASE. SO UNDER THE
14 STATUTE, I DON'T EVEN QUALIFY AS SOMEONE THAT HAS TO PAY
15 ATTORNEY'S FEES. AS NOT --

16 THE COURT: YOU DON'T QUALIFY AS SOMEBODY THAT HAS TO
17 PAY ATTORNEY'S FEES FOR THE CONTEMPT PROCEEDING?

18 MR. FINE: BECAUSE THE STATUTE SAYS THAT "A PARTY TO
19 THE -- PARTY TO THE PROCEEDING, THE CONTEMPT, IS ANCILLARY
20 TO THE CASE." THE PARTIES TO THE CASE ARE MARINA STRAND
21 COLONY II AND THE COUNTY OF LOS ANGELES.

22 THE COURT: YOU CONSTRUE A STATUTE THAT IS TALKING
23 ABOUT RECOVERING ATTORNEY'S FEES IN A CONTEMPT PROCEEDING
24 WHEN IT SAYS IN THE PROCEEDING IT'S NOT REFERRING TO THE
25 CONTEMPT PROCEEDING.

26 MR. FINE: THAT'S CORRECT BECAUSE THE PARTIES -- THE
27 CONTEMPT PROCEEDING IS ANCILLARY TO THE CASE AND THE
28 CONTEMPT PROCEEDING IS TO ENFORCE AN ORDER THAT WAS ISSUED

1 IN THE CASE. THE ORDER THAT THEY'RE TRYING TO ENFORCE,
2 WHICH IS THE ILLEGAL ORDER HERE, THE JANUARY 8TH ORDER, IS
3 AN ORDER THAT YOU ISSUED IN THE CASE ILLEGALLY.

4 THE COURT: ALL RIGHT. I THINK IT'S CLEAR, MR. FINE,
5 THAT THE STATUTE SAYS AND MEANS THAT SINCE YOU ARE THE
6 CONTEMNOR IN THE CONTEMPT PROCEEDING, YOU'RE THE GUY THAT
7 PAYS THE ATTORNEY FEES.

8 MR. FINE: ALL DUE RESPECT, YOUR HONOR, THERE IS NO
9 CASE THAT HOLDS --

10 THE COURT: ALL RIGHT. WHAT ELSE?

11 MR. FINE: THE SECOND THING IS THAT THERE WEREN'T
12 FIVE CHARGES, THERE WERE 16 CHARGES IN THIS CASE. YOU
13 HAPPENED TO HAVE GROUPED THEM INTO FIVE CATEGORIES, BUT
14 THERE WERE 16 CHARGES.

15 THE COURT: I DIDN'T GROUP THEM. THE COUNSEL FOR THE
16 INITIATING PARTY GROUPED THEM AT THE OUTSET OF THE
17 HEARING.

18 MR. FINE: DOESN'T MATTER. THE ORDER TO SHOW CAUSE
19 HAD 16 CHARGES. ONE CHARGE WAS REFUSING TO ANSWER THE
20 QUESTIONS OF COMMISSIONER GROSS. SO WE DON'T HAVE ONE-
21 FIFTH HERE, WE HAVE ONE-SIXTEENTH. SO AT THE OUTSET,
22 WE'RE DEALING, IF YOU'RE EVEN THINKING ABOUT ATTORNEY'S
23 FEES, OF ONE-SIXTEENTH. THAT'S NO. 1. SO WE AREN'T
24 DEALING WITH A FIFTH, WE'RE DEALING WITH A SIXTEENTH.

25 THE COURT: WHAT'S NO. 2?

26 MR. FINE: NO. 2, WHEN YOU LOOK AT THE ATTORNEY'S
27 FEES, THERE IS NO IDENTIFICATION OF WHAT WAS DONE WITH
28 RESPECT TO THAT ONE-SIXTEENTH. THEY DON'T BREAK OUT WHAT

1 THEY DID WITH RESPECT TO THAT ONE CHARGE. THEY DON'T --
2 THE COURT: THAT'S WHY THE TENTATIVE RULING SAYS
3 THAT:

4 "THE ONLY BASIS THAT I HAVE TO APPORTION IS WITH
5 RESPECT TO THE PERCENTAGE OF THE CHARGES THAT
6 THIS CONSTITUTES."

7 MR. FINE: WELL, YOU CAN'T APPORTION THAT BECAUSE YOU
8 DON'T HAVE A BASIS TO DO IT BECAUSE YOU DON'T KNOW WHAT
9 THEY DID. THEY DON'T TELL YOU, AND IT WAS THEIR BURDEN TO
10 TELL YOU. WHAT BRIEF DID THEY WRITE THAT REFERRED TO THAT
11 ONE CHARGE? WHAT PART OF THE BRIEF DID THEY WRITE THAT
12 REFERRED TO THAT ONE CHARGE? HOW MUCH TIME DID THEY SPEND
13 ON THIS PARTICULAR BRIEF THAT REFERRED TO THAT ONE CHARGE?
14 WHAT PART OF THE ACTUAL CONTEMPT TRIAL WERE THEY INVOLVED
15 IN THAT REFERRED TO THAT ONE CHARGE?

16 NOW, THEY CAN'T COUNT THE TESTIMONY OF MR. ROSEN
17 OR MR. COMER. THEY CAN'T COUNT, BASICALLY, WHAT WAS DONE
18 AS TO ANY OTHER CHARGE. THEY CAN'T COUNT ANYTHING OTHER
19 THAN THOSE FEW MINUTES THAT WERE SPENT WITH RESPECT TO THE
20 ONE CHARGE. THEY DIDN'T MEET THEIR BURDEN. THERE IS
21 NOTHING IN THOSE PAPERS THAT SHOWED YOU WHAT THEY DID. IT
22 WAS THEIR BURDEN TO COME FORWARD AND DO THAT. IT'S NOT UP
23 TO THE COURT TO TRY AND DIVINE OUT OF EITHER WHAT THESE
24 GUYS DID. THEY HAVE TO COME IN AND TELL YOU THAT, BUT
25 THEY DIDN'T.

26 AND YOU, WITH ALL DUE RESPECT, TRIED TO DIVINE
27 IT AS TO BE ONE-FIFTH. WELL, THERE IS NO BASIS FOR THIS
28 BECAUSE YOU HAD TO HAVE A REASONABLE BASIS AS TO WHAT THEY

1 DID. THEY DIDN'T GIVE YOU A REASONABLE BASIS. YOU CAN'T
2 COME OUT OF EITHER AND SAY THEY DID. AT BEST, YOU TRIED
3 TO MAKE IT ONE-FIFTH. WE KNOW IT'S ONLY ONE-SIXTEENTH.
4 AND EVEN THAT ONE-SIXTEENTH DOESN'T HAVE A REASONABLE
5 BASIS.

6 BOTTOM LINE, YOU CAN'T AWARD ATTORNEY'S FEES
7 EVEN ASSUMING I WERE A PARTY.

8 THE COURT: ALL RIGHT. I'M GOING TO STICK WITH THE
9 TENTATIVE AND GRANT THE ATTORNEY'S FEES IN THE SUM OF
10 \$24,135.73.

11 ALL RIGHT. LET'S GO TO THE PROBATION AND
12 SENTENCING HEARING.

13 MR. FINE, HAVE YOU PURGED YOURSELF OF THE
14 CONTEMPT BY ANSWERING THE QUESTIONS PUT TO YOU BY
15 COMMISSIONER -- WHAT'S HIS NAME?

16 MR. COMER: GROSS, YOUR HONOR.

17 THE COURT: COMMISSIONER GROSS IN THE JUDGMENT DEBTOR
18 PROCEEDING?

19 MR. FINE: NO, YOUR HONOR, AND I WOULD INFORM YOU
20 THAT THERE IS PRESENTLY BEFORE THE CALIFORNIA SUPREME
21 COURT A PETITION FOR WRIT OF HABEAS CORPUS WITH REQUEST
22 FOR A STAY, AND I JUST TALKED TO THE SUPREME COURT THIS
23 MORNING, AND THE CASE NUMBER IS 170933. THE PAPERS HAVE
24 BEEN DELIVERED TO YOUR CLERK THIS MORNING, AND WE'RE
25 WAITING TO HEAR IF THE SUPREME COURT IS GRANTING THE STAY
26 OR NOT. AND THEY ARE PRESENTLY CONSIDERING IT, SO I DON'T
27 THINK THAT IN THAT PARTICULAR POSITION, YOU'RE IN A --
28 WELL, YOU'RE IN A POSITION TO REALLY GO FORWARD AND DO ANY

1 TYPE OF A SENTENCING BECAUSE THIS WHOLE THING MAY GET
2 THROWN OUT.

3 IF THE SUPREME COURT DOESN'T DO IT, I'LL MOVE
4 INTO THE UNITED STATES DISTRICT COURT WITH A PETITION FOR
5 A WRIT OF HABEAS CORPUS BECAUSE AS THE COURT KNOWS, ALL
6 YOUR ACTIONS WERE ILLEGAL. THEY AREN'T GOING TO STAND UP,
7 SO YOU MIGHT AS WELL JUST DISPENSE WITH THIS PART OF THE
8 ACTION.

9 THE COURT: ALL RIGHT. WHEN A HIGHER COURT IN THIS
10 STATE WANTS TO STAY THIS COURT FROM DOING SOMETHING, IT
11 FINDS A WAY TO NOTIFY THE COURT THAT ITS ACTION IS STAYED.
12 WE HAVE RECEIVED NO SUCH NOTIFICATION FROM EITHER THE
13 COURT OF APPEAL OR THE SUPREME COURT. SO UNLESS AND UNTIL
14 WE DO, WE WILL PROCEED WITH THIS PROCEEDING.

15 DO YOU HAVE ANY INTENTION OF ANSWERING THESE
16 QUESTIONS THAT YOU WERE ORDERED TO ANSWER BY COMMISSIONER
17 GROSS?

18 MR. FINE: YOUR HONOR, I WILL NOT ANSWER THOSE
19 QUESTIONS UNTIL SUCH TIME AS WE HAVE FINISHED THE WRITS OF
20 HABEAS CORPUS BECAUSE THOSE ARE MY RIGHTS AND I FIRMLY
21 BELIEVE THAT THIS ENTIRE PROCEEDING WAS ILLEGAL; THAT YOU
22 VIOLATED THE UNITED STATES CONSTITUTION, AS WELL AS THE
23 LAWS OF THE STATE OF CALIFORNIA. YOUR ACTIONS WERE
24 ILLEGAL FROM THE BEGINNING BECAUSE YOU TOOK MONEY FROM THE
25 COUNTY OF LOS ANGELES. YOU THEN DECIDED THINGS IN FAVOR
26 OF THE COUNTY OF LOS ANGELES AND YOU HAVE BEEN GIVEN
27 IMMUNITY FOR HAVING DONE THOSE ACTS UNDER SENATE BILL SBX
28 211.

1 WE'RE DEALING IN ENTIRE ACTIONS AND,
2 CONSEQUENTIALLY, I AM EXERCISING MY RIGHTS OF PETITION FOR
3 HABEAS CORPUS. AT SUCH TIMES, THOSE RIGHTS ARE ENTIRELY
4 FINISHED. IF, IN FACT, I LOSE WITH THOSE WRITS, THEN I
5 WOULD ANSWER THE QUESTIONS. BUT IF I WIN IN THOSE WRITS,
6 AND THAT'S WHAT'S REMAINING OF THIS PROCEEDING WHICH I NOW
7 GATHER IS ONLY ONE CONTEMPT CHARGE, WHICH EVIDENTIALLY,
8 YOU HAVE FOUND ME NOT GUILTY NOW OF THE CONTEMPT CHARGE OF
9 PRACTICING LAW WITHOUT A LICENSE SINCE THAT DOESN'T SEEM
10 TO BE IN YOUR RULING ANYMORE.

11 THE COURT: DOESN'T SEEM TO BE -- IN WHAT RULING?

12 MR. FINE: YOU SAY THERE IS ONLY ONE CONTEMPT CHARGE.

13 THE COURT: ONLY ONE CONTEMPT CHARGE THAT CONSTITUTES
14 THE VIOLATION OF A COURT ORDER, MR. FINE.

15 MR. FINE: DEALING WITH TWO CONTEMPT CHARGES OR ONE?

16 THE COURT: TWO.

17 MR. FINE: BACK TO TWO.

18 THE COURT: ONE VIOLATION AFTER COURT ORDER AND THE
19 OTHER WHICH DOES NOT --

20 MR. FINE: OKAY. THAT WASN'T CLEAR FROM YOUR
21 TENTATIVE BECAUSE IF PRACTICING LAW WITHOUT A LICENSE
22 WOULD HAVE BEEN A VIOLATION AFTER COURT ORDER --

23 THE COURT: ONE --

24 MR. FINE: WELL, IF A LICENSE WAS TAKEN AWAY --

25 THE COURT: I DIDN'T THINK THERE WAS A COURT ORDER
26 THAT YOU VIOLATED ON THIS --

27 MR. FINE: THERE WASN'T. THERE WAS NOT A COURT
28 ORDER. IF YOU WERE TRYING TO SAY THAT I WAS PRACTICING

1 LAW WITHOUT A LICENSE, YOU WOULD HAVE TO HAVE FOUND THERE
2 WAS A COURT ORDER THAT HAD TAKEN THAT LICENSE AWAY.

3 THE COURT: ALL RIGHT. MR. FINE, I UNDERSTAND YOUR
4 ARGUMENT. WHAT ELSE?

5 MR. FINE: OKAY. SO BASICALLY, GOING BACK TO WHERE
6 WE ARE AT SUCH TIME AS TO MY RIGHTS OF APPEAL THROUGH A
7 PETITION FOR WRIT OF HABEAS CORPUS ARE EXHAUSTED AND I
8 LOSE, THEN I WOULD ANSWER THE QUESTIONS. UNTIL SUCH TIME
9 THAT THOSE RIGHTS ARE NOT EXHAUSTED, I'M NOT ANSWERING
10 QUESTIONS. SO WE'RE IN AN INTERIM PROCEDURE HERE, YOUR
11 HONOR, AND IF YOU WANT TO TRY AND THROW ME IN JAIL DURING
12 INTERIM PROCEDURE, YOU MAY BE DOING ANOTHER ILLEGAL ACT.
13 YOU KNOW THAT IS YOUR POSITION. YOU'VE ALREADY DONE
14 ILLEGAL ACTS. IF YOU WANT TO CONTINUE DOWN THAT ROAD,
15 THAT IS A POSITION THAT OBVIOUSLY YOU HAVE TAKEN BEFORE
16 AND MAY WISH TO CONTINUE TAKING, BUT HIGHER COURTS MAY
17 COME DOWN ON YOU.

18 THE COURT: ALL RIGHT. I'VE TAKEN THE PROPOSED
19 JUDGMENT THAT WAS SUBMITTED BY MR. ROSEN AND MR. COMER AND
20 I'VE MODIFIED IT. SOME PARTS OF IT BY INTERLINEATION AND
21 OTHER PARTS BY SUBSTITUTING PAGES FOR THOSE THAT WERE IN
22 THE PROPOSED ORDER. I HAVE INSTRUCTED THE CLERK TO MAKE
23 COPIES OF THE ORDER THAT -- AS I HAVE MODIFIED IT TO BOTH
24 OF YOU. SO SHE WILL DO THAT AT THIS TIME. YOU CAN FOLLOW
25 ALONG AS WE GO THROUGH IT.

26 MR. ROSEN: WE DON'T HAVE TO INTERLINEATE OUR COPY?

27 THE COURT: NO.

28 ALL RIGHT. THE FIRST CHANGE IS ON PAGE 6, WHICH

1 AS YOU CAN SEE, I HAVE ADDED A FINDING THAT IS FINDING 9A:

2 "ON MARCH 25TH, 2008, FINE FILED A NOTICE OF
3 DISQUALIFICATION OF JUDGE YAFFE FOR CAUSE. AND
4 ON MARCH 27TH, 2008, JUDGE YAFFE STRUCK THE
5 NOTICE OF DISQUALIFICATION."

6 FINDING NO. 10 I HAVE MODIFIED BY STRIKING THE
7 WORDS, "MAKE AN APPEARANCE ON," AND SUBSTITUTED THE WORDS,
8 "PROCEED WITH," SO THAT IT NOW READS:

9 "ON APRIL 10TH, 2008, A HEARING WAS HELD ON BOTH
10 OF FINE'S MOTIONS. FINE REFUSED TO PROCEED WITH
11 THE MOTIONS, ASSERTING THAT THE COURT HAD BEEN
12 DISQUALIFIED AND COULD NOT HEAR THE MOTIONS.
13 THE COURT TOOK THE MOTIONS OFF CALENDAR."

14 I HAVE INTERLINEATED A FINDING 10A WHICH STATES
15 THAT:

16 "ON APRIL 11TH, 2008, FINE FILED ANOTHER NOTICE
17 OF DISQUALIFICATION, BUT A COPY WAS NOT SERVED
18 ON JUDGE YAFFE."

19 AND I HAVE ADDED -- WELL, I HAVE CHANGED FINDING
20 11 TO READ:

21 "ON APRIL 15TH, 2008, THIS COURT SIGNED AN ORDER
22 AWARDING REAL PARTIES \$46,329.01 IN COMPENSATORY
23 ATTORNEY FEES AND COSTS (THE 'APRIL 15 ORDER').
24 THE ORDER HAD BEEN SUBMITTED TO JUDGE YAFFE BY
25 COUNSEL FOR THE INITIATING PARTY ON APRIL 11TH,
26 2008, WITH A PROOF OF SERVICE SHOWING THAT A
27 COPY HAD BEEN SERVED UPON FINE."

28 THE NEXT CHANGE IS ON PAGE 11 AT LINES 19, 23

1 AND 26 AND 27 IN WHICH I HAVE STRUCK THE FINDING THAT:

2 "THE COURT FINDS FINE GUILTY OF CONTEMPT CHARGE
3 1 BEYOND A REASONABLE DOUBT BASED ON THE WILLFUL
4 DISOBEDIENCE OF THE COURT'S APRIL 15TH ORDER."

5 I HAVE DONE THAT BECAUSE I DO NOT BELIEVE THAT
6 MR. FINE CAN BE PUNISHED FOR CONTEMPT FOR THE FAILURE TO
7 PAY SANCTIONS.

8 THE NEXT CHANGE IS ON PAGE 12, LINE 26, WHERE
9 I'VE CHANGED "IS" TO "WAS." SO IT STATES:

10 "THIS MATTER WAS CONTINUED TO MARCH 4TH, 2008, AT
11 9:30 A.M. IN DEPARTMENT 86 OF THIS COURT FOR
12 SENTENCING."

13 ALL RIGHT. THE OTHER CHANGES ARE CONTAINED ON
14 PAGES 13 AND 14 WHICH I HAVE SUBSTITUTED FOR REMAINING
15 PAGES IN THE PROPOSED ORDER. PARAGRAPH 1 ON PAGE 13
16 STATES:

17 "THE COURT HAS CONSIDERED AND REJECTS FINE'S
18 EXPLANATION THAT HE WAS ENTITLED TO REFUSE TO
19 COMPLY WITH THE ORDER BY COMMISSIONER GROSS THAT
20 HE ANSWER THE QUESTIONS PUT TO HIM IN THE
21 JUDGMENT DEBTOR'S EXAMINATION BECAUSE
22 COMMISSIONER GROSS DID NOT HAVE THE AUTHORITY TO
23 MAKE THAT ORDER AS HE WAS NOT, QUOTE, 'A REFEREE
24 APPOINTED BY THE COURT,' WITHIN THE MEANING OF
25 SECTION 708.140(A) OF THE CODE OF CIVIL
26 PROCEDURE. THIS CONTENTION HAS NO MERIT FOR THE
27 FOLLOWING REASONS: JUDGMENT DEBTOR PROCEEDINGS
28 IN CASES PENDING IN THE CENTRAL DISTRICT OF THIS

1 COURT ARE ASSIGNED TO DEPARTMENT 1A OF THE
2 CENTRAL DISTRICT BY LOCAL RULE 2.5(D), AS IN
3 'DOG.' IN JANUARY OF 2008, COMMISSIONER GROSS
4 WAS ASSIGNED TO PRESIDE IN DEPARTMENT 1A FOR THE
5 CALENDAR YEAR 2008. THE FACT THAT COMMISSIONER
6 GROSS IS ALSO A COMMISSIONER OF THIS COURT DOES
7 NOT DISQUALIFY HIM FROM BEING THE, QUOTE,
8 'REFEREE,' END QUOTE, REFERRED TO IN CODE OF
9 CIVIL PROCEDURE SECTION 708.140(A). THAT
10 STATUTE EXPRESSLY AUTHORIZES THE REFEREE TO
11 ORDER WITNESSES TO ATTEND AND TESTIFY AT A
12 JUDGMENT DEBTOR PROCEEDING, BUT ONLY THE COURT
13 MAY PUNISH SUCH A WITNESS FOR DISOBEYING THE
14 ORDER OF THE REFEREE."

15 PARAGRAPH 2 STATES:

16 "THE COURT HAS ALSO CONSIDERED AND REJECTED MR.
17 FINE'S CONTENTION THAT HE CAN DISQUALIFY JUDGE
18 YAFFE FROM HEARING A CONTEMPT PROCEEDING AGAINST
19 HIM AND FROM PUNISHING HIM FOR CONTEMPT BECAUSE
20 PART OF JUDGE YAFFE'S REMUNERATION AS JUDGE IS
21 PAID BY THE COUNTY OF LOS ANGELES. THE
22 CONTENTION HAS NO MERIT BECAUSE MR. FINE DID NOT
23 PRESENT A STATEMENT OF DISQUALIFICATION ON THAT
24 GROUND AT THE EARLIEST, PRACTICABLE OPPORTUNITY
25 AFTER DISCOVERY OF FACTS CONSTITUTING THE GROUND
26 FOR DISQUALIFICATION AS REQUIRED BY CODE OF
27 CIVIL PROCEDURE SECTION 170.3(C)(1). MR. FINE
28 KNEW THAT ALL THE JUDGES OF THIS COURT RECEIVED

1 COMPENSATION FROM THE COUNTY OF LOS ANGELES ON
2 JUNE 14TH, 2007, WHEN HE FILED THE UNDERLYING
3 CASE, BS 109420, ON BEHALF OF THE PETITIONER
4 MARINA STRAND COLONY II HOMEOWNERS ASSOCIATION.
5 HE DID NOT URGE THE GROUND FOR DISQUALIFICATION
6 UNTIL 10 MONTHS LATER AFTER JUDGE YAFFE HAD
7 ORDERED HIM TO PAY SANCTIONS UNDER THE MANDATORY
8 PROVISIONS OF SECTION 473(B) OF THE CODE OF
9 CIVIL PROCEDURE."

10 PARAGRAPH 3:

11 "THE COURT FINDS BEYOND A REASONABLE DOUBT THAT
12 (A) MR. FINE IS GUILTY OF CONTEMPT OF COURT IN
13 VIOLATION OF SECTION 1209(A) (5) OF THE CODE OF
14 CIVIL PROCEDURE; (B) MR. FINE HAD KNOWLEDGE OF
15 THE ORDERS ISSUED BY COMMISSIONER GROSS AT THE
16 JUDGMENT DEBTOR HEARING; (C) MR. FINE WAS ABLE
17 TO COMPLY WITH THE ORDERS MADE BY COMMISSIONER
18 GROSS AT THE TIME THEY WERE MADE; (D) MR. FINE
19 CONTINUES TO HAVE SUCH ABILITY TO COMPLY WITH
20 SAID ORDERS. (E) MR. FINE HAS WILLFULLY REFUSED
21 TO COMPLY WITH SAID ORDERS; AND (F) MR. FINE
22 CONTINUES TO WILLFULLY FAIL TO COMPLY WITH SAID
23 ORDERS."

24 PARAGRAPH 4:

25 "PURSUANT TO SECTION 1219(A) OF THE CODE OF
26 CIVIL PROCEDURE, MR. FINE IS SENTENCED TO
27 CONFINEMENT IN THE COUNTY JAIL UNTIL HE PROVIDES
28 ALL OF THE INFORMATION THAT HE HAS BEEN ORDERED

1 TO PROVIDE OR IS HEREAFTER ORDERED TO PROVIDE BY
2 THE COMMISSIONER THAT IS ASSIGNED BY THE
3 PRESIDING JUDGE TO PRESIDE OVER DEPARTMENT 1A OF
4 THE CENTRAL DISTRICT OF THIS COURT."

5 PARAGRAPH 5:

6 "THE PROCEDURE BY WHICH MR. FINE MAY END HIS
7 CONFINEMENT IS AS FOLLOWS: (1) MR. FINE MAY, AT
8 ANY TIME, FILE IN THIS DEPARTMENT A DECLARATION
9 UNDER PENALTY OF PERJURY STATING THAT HE IS
10 WILLING TO ANSWER ALL QUESTIONS PUT TO HIM IN
11 THE JUDGMENT DEBTOR PROCEEDING WHICH HE HAS BEEN
12 ORDERED, OR IS ORDERED, TO ANSWER BY THE
13 COMMISSIONER ASSIGNED TO DEPARTMENT 1A OF THIS
14 COURT; (2) UPON RECEIPT OF SAID DECLARATION,
15 THIS COURT WILL SET A DATE AND TIME FOR THE
16 RESUMPTION OF THE JUDGMENT DEBTOR PROCEEDING,
17 NOTIFY OPPOSING COUNSEL THEREOF, AND AUTHORIZE
18 THE SHERIFF TO TRANSPORT MR. FINE TO SAID
19 PROCEEDING; (3) IF MR. FINE DOES NOT REFUSE TO
20 ANSWER ANY QUESTION AFTER BEING ORDERED TO DO SO
21 BY THE COMMISSIONER ASSIGNED TO DEPARTMENT 1A,
22 THIS COURT WILL AUTHORIZE THE SHERIFF TO RELEASE
23 MR. FINE FROM CUSTODY."

24 PARAGRAPH 6:

25 "INITIATING PARTY SHALL RECOVER ATTORNEY'S FEES
26 IN THE AMOUNT OF" -- AND IN THE BLANK SPACE
27 PROVIDED THERE, THE COURT WILL INSERT THE SUM OF
28 \$24,135.73 -- "AS AUTHORIZED BY SECTION 1218(A)

1 OF THE CODE OF CIVIL PROCEDURE AND COSTS IN THE
2 AMOUNT OF AN AMOUNT -- A SUM THAT IS LEFT BLANK
3 IN THE JUDGMENT."

4 PARAGRAPH 7:

5 "PURSUANT TO SECTION 6127 OF THE BUSINESS AND
6 PROFESSIONS CODE, MR. FINE IS SENTENCED TO PAY A
7 FINE OF \$1,000.00 OR TO SPEND FIVE DAYS IN THE
8 COUNTY JAIL FOR ADVERTISING OR HOLDING HIMSELF
9 OUT AS PRACTICING OR AS ENTITLED TO PRACTICE
10 LAW, AND FOR PRACTICING LAW IN THIS COURT
11 WITHOUT BEING AN ACTIVE MEMBER OF THE STATE BAR.
12 THE FIVE DAYS TO BE SPENT IN THE COUNTY JAIL IS
13 TO BE CONSECUTIVE WITH THE TIME SPENT IN SAID
14 JAIL ON THE PREVIOUS CHARGE."

15 ALL RIGHT. MR. FINE, I WILL GIVE YOU AN
16 OPPORTUNITY TO COMMENT ON THE CHANGES BEFORE I IMPOSE
17 SENTENCE.

18 MR. FINE: FIRST OF ALL, YOUR HONOR, AS YOUR HONOR IS
19 AWARE, GIVEN SENATE BILL SBX 211, THE PAYMENTS THAT YOU
20 RECEIVED ARE UNCONSTITUTIONAL AND, CONSEQUENTLY, YOU WILL
21 BE GIVEN IMMUNITY FOR RECEIVING THOSE PAYMENTS AND ANY
22 ACTION YOU HAVE DONE RECEIVING THOSE PAYMENTS. THEREFORE,
23 THE ACTION THAT YOU'VE TAKEN IN THIS CONTEMPT PROCEEDING
24 IS ILLEGAL.

25 THE REASONS THAT YOU'RE SAYING AS NOT HAVING
26 BROUGHT UP THE DISQUALIFICATION OF YOU IN THE UNDERLYING
27 CASE ARE, THEREFORE, INVALID BECAUSE OF THE FACT THAT,
28 GIVEN THE BILL AND THE DISQUALIFICATION AND THE IMMUNITY

1 THAT YOU'RE GIVEN AND THE FACT OF THE STURGEON CASE, WHICH
2 SAYS THE PAYMENTS ARE UNCONSTITUTIONAL, I WAS NOT UNDER
3 ANY OBLIGATION TO BRING UP THE DISQUALIFICATION ON BEHALF
4 OF MY CLIENT WITH RESPECT TO YOU IF THE CLIENT DIDN'T WANT
5 TO HAVE THIS DONE.

6 SO THEREFORE, WHAT YOU ARE TALKING ABOUT AS AN
7 EARLIER DISQUALIFICATION OF YOU IN THE UNDERLYING CASE
8 REALLY DOESN'T HAVE ANY RELEVANCE. WE ARE NOW IN THE
9 SITUATION OF YOU'RE ORDERING SANCTIONS AGAINST ME
10 PERSONALLY AND THE PAYMENTS OF MONEY BY ME PERSONALLY TO
11 THE COUNTY OF LOS ANGELES, AN ORDER WHICH YOU ISSUED
12 WITHOUT NOTICE OR HEARING WHICH IS UNCONSTITUTIONAL IN AND
13 OF ITSELF. THAT ORDER IS ILLEGAL AND INVALID AND AN ORDER
14 FOR WHICH THE STATE LEGISLATURE HAS FOUND THAT YOU DID AN
15 ILLEGAL ACT.

16 SO IN DEALING IN THAT PART OF IT WHERE YOU'RE
17 NOW SAYING THAT I SHOULD HAVE DISQUALIFIED YOU IN THE
18 UNDERLYING CASE, THAT REASONING DOESN'T HOLD WATER. SO
19 CONSEQUENTLY, ON THIS PART OF YOUR JUDGMENT, YOU'RE
20 ENTIRELY WRONG AND THAT PART, NEEDLESS TO SAY, WOULD GET
21 OVERTURNED.

22 WITH RESPECT TO THE ISSUE OF YOU NOT BEING
23 SERVED WITH A COPY OF THE APRIL 11TH DISQUALIFICATION,
24 UNLESS I'M MISTAKEN, I BELIEVE, AND I THINK WE CAN PULL
25 IT, THAT THE APRIL 11TH DISQUALIFICATION SHOWS THAT YOUR
26 HONOR HAD PROOF OF SERVICE. I MAY BE WRONG ON THIS, BUT
27 I'M PRETTY SURE THAT IT DOES, IN FACT -- IT WAS FILED IN
28 THIS COURT, SO YOU KNEW ABOUT IT. YOU KNEW THAT YOU WERE

1 DISQUALIFIED, AND THE FACT OF THE MATTER IS, EVEN IF YOU
2 HADN'T BEEN SERVED WITH IT, YOU WERE DISQUALIFIED UNDER
3 SECTION 170.3(C)(4), BY LAW, BECAUSE OF THE FACT THAT YOU
4 DID NOT RESPOND TO THE MARCH 25TH C.C.P. 170.3 OBJECTION
5 THAT WAS PERSONALLY SERVED UPON YOU.

6 SO CONSEQUENTLY, YOU ARE OUT. THERE IS NOTHING
7 THAT YOU CAN REALLY DO ABOUT IT. SO YOU DIDN'T HAVE ANY
8 JURISDICTION TO GO FORWARD AND MAKE ANY TYPE OF ORDERS.

9 NOW, GRANTED, YOU HAVE NOW SHOWN IN HERE THAT
10 THE APRIL 15TH ORDER THAT IS THE ORDER THAT ACTUALLY MADE
11 AN ORDER OF \$46,000.00 TO BE PAID TO REAL PARTY IN
12 INTEREST, WHICH IS THE PARTY THAT MR. COMER AND MR. ROSEN
13 REPRESENT, THAT ORDER YOU ARE NOT RELYING UPON HERE. SO
14 REALLY, WHAT WE HAVE IN THIS CASE IS WE HAVE AN ORDER OF -
15 - JANUARY 8TH IS THE ONLY ORDER THAT IS EXISTING THAT SAYS
16 THAT I SHOULD PAY ANY ATTORNEY'S FEES AND THAT ORDER DOES
17 HAVE AN AMOUNT IN IT.

18 SO WHAT YOU'VE GOT HERE IS YOU'VE GOT A JUDGMENT
19 WHERE YOU ARE HOLDING ME IN CONTEMPT FOR AN ORDER THAT WAS
20 UNCONSTITUTIONAL AND ALSO INVALID AND ALSO WHICH THE STATE
21 LEGISLATURE AND THE GOVERNOR SAY IS ILLEGAL TO PAY MONEY
22 OF A NON-EXISTENT SUM TO PEOPLE WHERE YOU ARE NOW SAYING I
23 AM IN CONTEMPT BASED UPON AN ORDER OF A COMMISSIONER WHO
24 HAS NOT BEEN APPOINTED AS A REFEREE BECAUSE -- JUST
25 BECAUSE SOMEONE IS ASSIGNED TO A DEPARTMENT, BECAUSE A
26 COMMISSIONER IS ASSIGNED TO A DEPARTMENT, DOES NOT MEAN
27 THAT HE HAS THE ABILITY TO PRESIDE IN THE DEPARTMENT
28 BECAUSE BEING ASSIGNED TO A DEPARTMENT DOESN'T MEAN HE'S

1 SITTING THERE.

2 IN ORDER TO PRESIDE IN THE DEPARTMENT, HE'S
3 EITHER GOING TO BE A TEMPORARY JUDGE OR HE HAS TO HAVE THE
4 STIPULATION OF THE PARTIES, LITIGANTS, UNDER SECTION --
5 ARTICLE 6, SECTION 21 OF THE CALIFORNIA CONSTITUTION, OR
6 C.C.P. SECTION 259(D), WHICH COMMISSIONER GROSS DID NOT
7 HAVE OR HE HAS TO RECEIVE AN APPOINTMENT AS A REFEREE.
8 AND YOU DO NOT EVEN SHOW THAT HE HAD RECEIVED ANY
9 APPOINTMENT AS A REFEREE. YOU DON'T EVEN REFER TO THAT IN
10 HERE. YOU JUST SAY HE'S APPOINTED TO PRESIDE IN THE
11 DEPARTMENT. THAT DOES NOT MAKE HIM A REFEREE.

12 AND THERE ARE SPECIFIC SECTIONS. IN ORDER TO BE
13 A REFEREE YOU HAVE TO BE APPOINTED AS A REFEREE. THERE IS
14 NO ORDER IN THIS CASE WHICH SHOWS THAT COMMISSIONER GROSS
15 WAS APPOINTED AS A REFEREE. AND IN FACT, WHEN WE DEALT
16 WITH THE OBJECTIONS AND SO FORTH -- AND, IN FACT, THE
17 MOTION TO QUASH THE SUBPOENA, MOTION TO QUASH THE WRIT,
18 COMMISSIONER GROSS DIDN'T EVEN HANDLE THAT. HE SENT IT
19 OUT.

20 USING YOUR THEORY, IF HE WERE, IN FACT, THE
21 REFEREE IN THE CASE, HE WOULD HAVE HAD THE ABILITY TO DEAL
22 WITH THAT PARTICULAR ISSUE BECAUSE HE WOULD HAVE THE
23 ABILITY TO DEAL WITH THE QUESTIONS. HE WOULD HAVE THE
24 ABILITY TO DEAL WITH WHETHER, IN FACT, THE WRIT WAS
25 PROPERLY ISSUED. BUT HE DIDN'T. HE SENT IT OUT. SO
26 CONSEQUENTLY, WE HAVE A SITUATION THAT WE HAVE A PERSON
27 THAT IS A COMMISSIONER WHO IS NOT A REFEREE AND WHOM YOU
28 EVEN ADMIT THERE IS NO SPECIFIC ORDER MAKING HIM A

1 REFEREE. SO YOU'RE WRONG THROUGHOUT THIS JUDGMENT. IT IS
2 HIGHLY FALLACIOUS.

3 NOW, WE GET TO THE OTHER PART OF THE JUDGMENT
4 WHICH IS DEALING WITH THE FACTS OF PRACTICING LAW WITHOUT
5 A LICENSE OR HOLDING HIMSELF OUT AS PRACTICING LAW, OR
6 ENTITLED TO PRACTICE LAW. THERE IS NO ORDER IN THIS
7 PARTICULAR TRIAL WHICH SAYS THAT I WAS ORDERED INACTIVE.
8 THERE IS NO ORDER THAT SAYS THAT MY LICENSE WAS TAKEN
9 AWAY. THAT'S NOT EVEN EXISTING. AND IN FACT, YOU DON'T
10 EVEN REFER IN THIS JUDGMENT TO ANY EVIDENCE THAT SAYS
11 THAT.

12 AND IF, HYPOTHETICALLY, THERE HAD BEEN SUCH AN
13 ORDER ENTERED, THAT WOULD HAVE BEEN INVALID BECAUSE OF THE
14 FACT THAT THE UNDERLYING STATE BAR PROCEEDING WAS
15 INVOLVING THE ISSUE OF MY HAVING BROUGHT THE LACAYOS
16 (PHONETIC) CASE AND THE SILVA VERSUS THE COUNTY OF LOS
17 ANGELES CASE, WHICH ALLEGED THAT THE L.A. COUNTY PAYMENTS
18 TO JUDGES WERE UNCONSTITUTIONAL AS A VIOLATION OF ARTICLE
19 6, SECTION 18, OF THE CALIFORNIA CONSTITUTION AND
20 UNCONSTITUTIONAL UNDER THE UNITED STATES CONSTITUTION OF
21 ARTICLE 1 AND ARTICLE 14.

22 NOW, AS WE KNOW, THE STURGEON CASE HELD THAT
23 THOSE PAYMENTS WERE UNCONSTITUTIONAL UNDER ARTICLE 6,
24 SECTION 19, OF THE CALIFORNIA CONSTITUTION. SENATE BILL
25 SBX 211 AFFIRMED THE STURGEON CASE AND GAVE THE
26 GOVERNMENTS, THE PUBLIC OFFICIALS, THE GOVERNMENT
27 EMPLOYEES AND EVERYONE IMMUNITY FOR ACTIONS RELATING TO
28 THOSE GOVERNMENT PAYMENTS. THE STATE BAR, WHO IS THE

1 AUTHORIZED ADMINISTRATIVE ARM OF THE CALIFORNIA SUPREME
2 COURT, CALIFORNIA SUPREME COURT BEING A GOVERNMENT ENTITY,
3 ENDS UP PROSECUTING ME FOR HAVING FILED THOSE CASES
4 CLAIMING THAT THE FILING OF THOSE CASES WAS FRIVOLOUS AND,
5 THEREFORE, IT WAS MORAL TURPITUDE. THEY GOT IMMUNITY FOR
6 THAT ILLEGAL ACT.

7 WHAT I DID IS I APPEALED THE HEARING JUDGE'S
8 STATEMENT OR CONCLUSION THAT THOSE WERE FRIVOLOUS AND
9 RECOMMENDATIONS OF DISBARMENT AND AN ORDER BEING INACTIVE
10 THAT WENT TO THE CALIFORNIA SUPREME COURT. THE CALIFORNIA
11 SUPREME COURT DID NOT ORDER ME TO BE INACTIVE AND ONLY
12 DENIED THE PETITION FOR REVIEW UNDER B&P CODE 6084(A).
13 THE CALIFORNIA SUPREME COURT HAS TO ENTER AN ORDER, AND ON
14 THE CASE OF TN RE ROSE, IT SPECIFICALLY SAYS THAT WHEN ONE
15 MAKES A TIMELY PETITION FOR REVIEW, THE COURT MUST ENTER
16 THE ORDER. THEY MUST INDEPENDENTLY REVIEW THE SITUATION.
17 SO THERE IS NO ORDER BY THE CALIFORNIA SUPREME COURT.

18 BUT IT GOES EVEN FURTHER BECAUSE THREE MEMBERS
19 OF THE CALIFORNIA SUPREME COURT RECEIVED IMMUNITY BY
20 HAVING BEEN JUDGES THAT RECEIVED PAYMENTS FROM THEIR
21 COUNTIES, AND THESE JUDGES WERE CHIN, CORRIGAN AND MORENO.
22 SO THEY WERE EVEN OUT FROM EVEN BEING ABLE TO DECIDE THAT
23 ISSUE.

24 AND IN ADDITION TO THAT, YOU HAVE THE CHIEF
25 JUSTICE GEORGE AND JUSTICE BAXTER WHO ARE THE JUDICIAL
26 COUNCIL WHO ARE THE GROUP THAT WROTE SENATE BILL SBX 211,
27 SO THEY'RE OUT BECAUSE OF THE FACT THAT THEY WERE
28 PREJUDICED BECAUSE OF THE FACT THEY WROTE THE BILL THAT

1 GAVE THE COMMUNITY TO THE JUDGES. SO EVEN IF THERE HAD
2 BEEN SOME TYPE OF A DECISION, THE SUPREME COURT WAS OUT ON
3 IT. SO BASICALLY, WHAT YOU HAVE, IF THEY EVEN HAD PUT IN
4 THE ORDER, THE ORDER DIDN'T WORK, (A).

5 THE COURT: IS THERE ANY JUDGE OR JUSTICE IN
6 CALIFORNIA THAT CAN ORDER YOU TO DO ANYTHING?

7 MR. FINE: YES, THERE IS, AND BASICALLY, THOSE ARE
8 THE JUDGES THAT (1) ARE IN SAN FRANCISCO COUNTY WHO DID
9 NOT RECEIVE THE PAYMENTS. THE JUDGES IN YOLO COUNTY WHO
10 DID NOT RECEIVE THE PAYMENTS. THE JUDGES IN MENDOCINO
11 COUNTY WHO DID NOT RECEIVE THE PAYMENTS. THE JUSTICES ON
12 THE CALIFORNIA COURT OF APPEAL WHO DID NOT RECEIVE THE
13 PAYMENTS. THE JUSTICES ON THE CALIFORNIA COURT OF APPEAL
14 WHO DID NOT RECEIVE THE PAYMENTS. AND TWO JUDGES ON THE
15 CALIFORNIA SUPREME COURT, JUDGE WORDAGER (PHONETIC), AND
16 JUDGE KANARD (PHONETIC), HAVING BEEN IN THE LOS ANGELES
17 SUPERIOR COURT IN 1988 AND EVEN THOUGHT THE PAYMENTS
18 STARTED IN 1988, SHE, I BELIEVE, LEFT THE LOS ANGELES
19 SUPERIOR COURT IN AUGUST OF 1988 AND, THEREFORE, MAY HAVE
20 BEEN OFF THE COURT BEFORE THE PAYMENTS BEGAN.

21 SO THE ANSWER TO YOUR QUESTION IS YES, THERE ARE
22 JUDGES WITHIN THE COUNTY -- CALIFORNIA JUDICIAL SYSTEM
23 THAT CAN ORDER ME TO DO SOMETHING. YOU ARE NOT ONE OF
24 THEM. AND APPROXIMATELY 1,600 OF THESE SUPERIOR COURT
25 JUDGES ARE NOT ONE OF THEM. AND A CERTAIN AMOUNT OF COURT
26 OF APPEAL JUSTICES ARE NOT PART OF THEM. AND A MINIMAL
27 THREE TO FIVE JUSTICES OF THE CALIFORNIA SUPREME COURT ARE
28 NOT ONE OF THEM.

1 YES, THERE ARE PEOPLE IN THE CALIFORNIA JUDICIAL
2 SYSTEM WHO ARE CLEAN. THERE ARE A LOT OF PEOPLE WHO ARE
3 NOT CLEAN, AND THOSE ARE THE PEOPLE WHO CANNOT ORDER ME TO
4 DO SOMETHING WITH RESPECT TO THIS PARTICULAR CASE AND WHO
5 CANNOT ORDER PEOPLE TO DO THINGS INVOLVING PAYMENTS FROM
6 COUNTIES. UNFORTUNATELY, YOUR HONOR, YOU ARE IN THIS
7 GROUP THAT IS DISQUALIFIED. NOW BY ME AND NOT BY MY
8 OPINION, BUT BY THE OPINION OF THE LEGISLATURE OF THE
9 STATE OF CALIFORNIA AND THE GOVERNOR OF CALIFORNIA WHO
10 HAVE PASSED THE LAW THAT HAVE GIVEN YOU IMMUNITY FOR YOUR
11 ILLEGAL ACTS.

12 SO ESSENTIALLY, THE JUDGMENT THAT YOU HAVE
13 TENDERED IS BASICALLY VOID BECAUSE OF THE FACT THAT YOU DO
14 NOT HAVE THE JURISDICTION TO GO OUT AND ENTER THIS
15 JUDGMENT. YOU DIDN'T HAVE JURISDICTION TO SIT ON THIS
16 CASE, AND NO MATTER HOW MUCH YOU WANT TO TRY AND GET
17 AROUND THAT AND NO MATTER HOW MUCH YOU WANT TO DANCE
18 AROUND IT, LEGALLY SPEAKING, AND NO MATTER HOW MUCH YOU
19 WANT TO AVOID AN ACT OF THE LEGISLATURE OF THE STATE OF
20 CALIFORNIA AND SIGNED BY THE GOVERNOR OF THE STATE OF
21 CALIFORNIA, YOU CANNOT DO IT.

22 WE ARE NO LONGER DEALING IN YOUR INTERPRETATION
23 OF LAW VERSUS MY INTERPRETATION OF LAW. WE ARE NOW
24 DEALING WITH THE LAW OF THE STATE OF CALIFORNIA WHICH SAID
25 THAT THE ACTS THAT YOU HAVE DONE ARE ILLEGAL. THEY GAVE
26 YOU THE IMMUNITY FOR IT. YOU CANNOT BE PROSECUTED
27 CRIMINALLY IN THE STATE OF CALIFORNIA FOR YOUR ACTS. YOU
28 ARE NOT -- YOU CANNOT BE HELD CIVILLY LIABLE IN THE STATE

1 OF CALIFORNIA FOR YOUR ACTS. YOU CANNOT BE PUNISHED BY
2 THE COMMISSION ON JUDICIAL PERFORMANCE IN THE STATE OF
3 CALIFORNIA FOR YOUR ACTS.

4 ON THE OTHER HAND, IN THE FEDERAL SYSTEM, IT'S A
5 DIFFERENT STORY. THERE, UNDER 18 UNITED STATES CODE
6 SECTION 1346, YOU CAN BE HELD LIABLE FOR THE VIOLATIONS OF
7 THE IMPLIED OR INTANGIBLE RIGHT TO PERFORM HONEST
8 SERVICES. YOU ARE STILL SUBJECT TO FEDERAL CRIMINAL
9 PROSECUTION AND YOU ARE STILL SUBJECT TO FEDERAL
10 LIABILITY. SO THAT IS WHERE WE ARE SITTING.

11 NOW, YOU MAY TAKE YOUR POSITION, WHICH YOU
12 OBVIOUSLY HAVE, AGAINST THE FEDERAL LAW. YOU MAY TAKE
13 YOUR POSITION WITH RESPECT TO CLAIMS THAT YOU HAVE
14 JURISDICTION TO DO SOMETHING. I HAVE MY POSITION, WHICH
15 IS TAKING YOU UP THROUGH THE COURTS AND GOING INTO THE
16 WRITS OF HABEAS CORPUS, WHICH WILL ULTIMATELY DECIDE THESE
17 PARTICULAR ISSUES. YOU HAVE DONE YOUR THING HERE AND I AM
18 RESPECTFULLY ADVISING YOU THAT IT'S VOID; THAT IT IS
19 ILLEGAL AND IT'S AN ILLEGAL JUDGMENT.

20 THE COURT: ALL RIGHT. THANK YOU, MR. FINE.

21 MR. FINE: AND THAT IS WHERE WE ARE SITTING. I
22 RESPECTFULLY SUGGEST TO YOU THAT IF YOU'RE THINKING OF ANY
23 TYPE OF IMPOSING OF A SENTENCE AND -- WHICH YOU ARE
24 INDICATING IN HERE, I SUGGEST THAT YOU MAY WANT TO DELAY
25 THE ACTUAL SERVING OF THAT SENTENCE UNTIL SUCH TIME AS WE
26 END UP FINISHING OFF ALL THE WRITS BECAUSE OF THE FACT
27 THAT WHAT DOES HAPPEN IS THAT EVEN THOUGH YOU MAY HAVE
28 IMMUNITIES UNDER STATE LAWS, YOU DON'T HAVE IMMUNITIES

1 UNDER FEDERAL LAWS FOR ANY TYPE OF FALSE IMPRISONMENT OR
2 ANYTHING ELSE ON THIS PARTICULAR ORDER. SO WE'RE BOTH
3 DEALING IN RISK HERE.

4 THE COURT: ALL RIGHT. THANK YOU, MR. FINE.

5 ANYTHING, COUNSEL?

6 MR. COMER: YES, THANK YOU, YOUR HONOR.

7 MOST OF THE ARGUMENTS YOU HEARD BEFORE AND I
8 DON'T NEED TO RESPOND TO THOSE. WE WOULD ASK THE COURT TO
9 ENACT SENTENCING TODAY, AND ON ONE AMENDMENT TO THE RULING
10 IS PARAGRAPH 7 OF PAGE 14. WE RESPECTFULLY REQUEST THE
11 COURT TO AMEND THAT SENTENCING TODAY AND ORDER MR. FINE TO
12 TAKE DOWN THE WEBSITE WWW.RICHARDEFINELAW.COM, WHICH IS
13 STILL UP TO DATE.

14 MR. FINE: WELL, YOUR HONOR, IN RESPONSE TO THAT,
15 YOUR HONOR, THE STATE BAR'S, QUOTE, "DISBARMENT ORDER,"
16 HAS NOT GONE INTO EFFECT. SO CONSEQUENTLY, THERE IS NO
17 DISBARMENT OF ME AS OF THE PRESENT TIME ACCORDING TO THE
18 CALIFORNIA SUPREME COURT, SEE, BECAUSE YOU ARE DEALING
19 ONLY ON WHAT IS BEING CONSIDERED AN ORDER OF THE STATE BAR
20 OF CALIFORNIA, WHICH ITSELF IS AN INVALID ORDER. AND IF
21 THEY ARE TRYING TO GO BY ANYTHING DONE BY THE CALIFORNIA
22 SUPREME COURT, THAT ORDER DOESN'T GO INTO EFFECT UNTIL, I
23 BELIEVE IT'S MARCH 13TH.

24 THE COURT: I DON'T THINK THIS IS THE APPROPRIATE
25 TIME FOR ME TO ORDER THE CONTEMNOR TO DO OTHER THINGS
26 BECAUSE THEN WHAT IF HE DOESN'T DO THOSE AND, YOU KNOW,
27 THIS PROCEEDING --

28 MR. COMER: THANK YOU, YOUR HONOR.

1 THE COURT: -- PROCEEDING HAS GOT TO HAVE A
2 TERMINATING POINT, AND I THINK THIS IS IT.

3 MR. COMER: THEN WE HAVE NOTHING FURTHER, YOUR HONOR.

4 THE COURT: ALL RIGHT. THE COURT IS THEN SIGNING THE
5 JUDGMENT THAT HAS BEEN PARTIALLY READ TO COUNSEL TODAY.

6 MR. FINE IS ORDERED TO THE CUSTODY OF THE SHERIFF.

7 (THE FOREGOING PROCEEDINGS WERE CONCLUDED.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

2

FOR THE COUNTY OF LOS ANGELES

3

DEPARTMENT NO. 86

HON. DAVID P. YAFFE, JUDGE

4

5

MARINA STRAND COLONY II,

)

6

PETITIONER,

)

)

7

VS.

)

NO. BS 109420

8

COUNTY OF LOS ANGELES,

)

)

REPORTER'S

9

RESPONDENT.

)

)

CERTIFICATE

)

10

STATE OF CALIFORNIA

)

11

)

SS

12

COUNTY OF LOS ANGELES

)

13

14

15

I, CYNTHIA S. CRUZ, OFFICIAL REPORTER OF THE SUPERIOR

16

COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS

17

ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1

18

THROUGH 26, COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF

19

THE PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER ON MARCH 4,

20

2009.

21

22

23

DATED THIS 31ST DAY OF MARCH, 2009.

24

25

Cynthia S. Cruz

, CSR #9095

26

OFFICIAL REPORTER

27