

**“ Judge shall be faithful to the law...”**

**Cal Code Jud Ethics 3B(2)**

**“The rule of law must never be confused with tyranny of the courts”**

**Anonymous**

## **9. Actions in California Court of Appeal, 2<sup>nd</sup> District**

### **A. Overview of Appeals**

Zernik’s various requests to the California Court of Appeal, 2<sup>nd</sup> District, from May to August 2008, relative to Notices of Appeals from:

- 1. Connor’s 8/9/08 Judgment by Court pursuant to CCP §437c**
- 2. Segal’s 11/9/08 Order Appointing Receiver**

Neither the Judgment, nor the Order that were the subjects of the appeals were entered. As part of the Judgment fraud, built around the hiding of the Book of Judgments and Sustain, and keeping them “off limits” to the public, both the Judgment and the Order were treated by the LASC as if they were effectual.

However, the California Court of Appeal is known for its adherence to the time frames for appeal. Numerous appeals are denied for being late one day after the 60 days allowed by law from date of entry. Numerous opinions were published regarding all possible circumstances around the date of entry of the judgment. And the Pre-Docket clerks at the Court of Appeal are specifically trained to review this question at the time of filing of new appeals. Appeals that are late are not filed at all.

According to California Rules of Court, rule # xxxx, the notices here were considered **“PREMATURE NOTICES OF APPEAL”**, and all time frames relative to the appeal would be initiated **ONLY** once the judgment or appealable order were entered. **But noticing the appeal prior to Entry of Judgment is allowed. Noticing the Appeal later than 60 days after Entry of Judgment is not allowed. In either case, the Entry of Judgment, and with it, the Book of Judgments, which by definition is a Public Record, are all critical for the integrity of this procedure.**

Here the California Court of Appeal was in an inconvenient position, since if the Court was to follow the law, then the Appeal would not take place, and a Notice of Appeal, with Status Pending would have remained forever on the docket. Such situation surely would have raised questions and concerns.

Requests attempted - and failed – to secure minimal Due Process conditions at the California Court of Appeal, 2<sup>nd</sup> District,, e.g.:

1. Adequately listing the Parties as Parties - otherwise they do not have to respond at all – the court refused to designate the LASC as a party to the appeal at all.
2. Judicial Notice of Trial Court litigation Records filed with the Court of Appeal – the court refused to grant judicial notice of the LASC Minute Orders. The reason was that Zernik filed tow books of minute orders, demonstrating that almost each minute order had two different date for Entry Date, one the true date of entry, and the other- an arbitrary date entered by the Court.
3. Removal from the record of false records provided by the LASC. Zernik obtained Verified statement from his Counsel – Ed Hoffman<sup>1</sup>, that
4. Zernik’s access to his own trial court litigation records;
5. Zernik’s access to Court of Appeal Books of Court

<sup>1</sup> App 07-08-21 Declaration of Att Ed Hoffman in re: Court Proceeding of Aug 21, 2007.

6. Justices of the Court of Appeal to act upon their duties pursuant to the California Code of Judicial Ethics, and since they are fully informed of unethical (probably criminal) conduct of judges of LASC, follow the Canon 3E(1)- requiring them to report it to the authorities and to initiate corrective action.

ALL REQUESTS WERE DENIED WITH NO EXPLANATION AT ALL.

- Particularly abusive was the “denial” of notice of demand to LASC for access to records per CRC 8.124(c). Zernik’s reading is that the court was not allowed to “DENY” this notice. If it all – it was allowed to STRIKE or DISMISS such notice, with adequate reasons.
- The denial of Requests for Reconsideration of some of the most abusive denials was signed by one judge only – P. Turner – Presiding Judge of the Court of Appeal, 2<sup>nd</sup> District.

Therefore, the California Court of Appeal, 2<sup>nd</sup> District, showed the same pattern of conduct as did the LASC, where the Supervising Judge and the Presiding Judge’s Office were willing able and ready to engage in violations of the law to cover up Connor’s criminal conduct, in other words – Obstruction of Justice.

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**B. The California Court of Appeal seemed to have forgotten the basic notions that are at the foundation of its review jurisdiction and authority in this case, and in fact supported Judge Connor’s Judgment Fraud in its conduct.**

**1. a. Samaan’s Cross Appeal (13, 19-27)**

- a) The Court allowed Samaan to file a cross -appeal from thin air – without listing any judgment or appealable order that was the foundation for the appeal.
- b) Therefore, there also was no date of entry listed for such non-order/non-judgment.
- c) Therefore, there was not way to rule on timeliness of the cross appeal which was late.

A reasonable person reviewing the case as a whole would entertain the doubt or even conclude that Keshavarzi would never had engaged in such fraud unless it was coordinated in advance with court of appeal.

**2. b. Zernik’s Premature Notices of Appeals (13, 19-27)**

The Court insisted on treating Zernik’s premature notices of appeal as if the judgment had been entered, with that – providing support to Connor’s judgment fraud.

- a) Zernik never filed evidence to show entry of judgment, and never provided the data for date of judgment.
- b) Zernik argued that the judgment was never entered.
- c) No party argued the opposite.
- d) And yet the court, with no explanation at all, registered “date” and dismissed the notices of appeal, as if Judgment had been entered.

The conduct of the Court of Appeal regarding the Notices of judgment in Aug- Sept, confirmed what Zernik claimed in previous petitions and motions to the Justices of the Court of Appeal, 2<sup>nd</sup> District – That the Justices and even the senior staff of the California Court of Appeal were fully familiar with the details of Connor’s Judgment Fraud all along. But the Honorable Justices, instead of acting upon their duties per California Code of Judicial Ethics, to take corrective action, colluded with the racket at the lower court, by denying 7 petitions that documented the abuse step by step.

### **3. *LASC Filed False and Misleading Roister of Actions***

- a) Both in California Court of Appeal and the U.S. District Court, the LASC filed as evidence a false and deliberately misleading record as the Register of Actions.
- b) Obviously – that fact alone demonstrates the depth of the corruption at the LASC, and the significance of the hiding of the Books of Court.
- c) The California Court of Appeal, just like the U.S. District Court, was ready, willing, and able to go along with the fraud.
- d) And in both cases, the response after Zernik objected was of the same type – cover up on the LASC attempt to defraud the Court and Zernik.
  - i. At the Court of Appeal, the Court asked the Clerk of the LASC to withdraw the filing. Therefore, the Court of appeal did not have to rule against the LASC.
  - ii. At the U.S. District Court, Judge Woehrle simply refused to rule on the issue. It was the only record that the Defendants filed in support of their motion to dismiss. Obviously the LASC considered it essential. And so did Plaintiff. But Woehrle refused to adjudicate on the issue.
- e) And once the LASC withdrew the filing of the false record, the California Court of Appeal forgot altogether to require that the LASC file the correct record instead; since the clerk of the LASC is required to file such record for the appeal – again 0-0 the Register is the essential formal, authoritative record of the trial Court litigation.

A reasonable person reviewing the case as a whole would likely conclude that the Justices of the California Court of Appeal know in great detail the fraud in Sustain, and collude with it.

### **4. *The California Court of Appeal Demanded that Zernik File Opening Brief, but Refused to allow him access to Trial Court Litigation Records.***

- a) In conduct that was identical to that of the U.S. District Court, the California Court of Appeal demanded a rapid litigation calendar, demanded that Zernik file an opening brief on a judgment that had never been entered. But with that – surely would not allow Zernik to access, to inspect and to copy trial court litigation records..
- b) Zernik suspected well in advance that the justices of the Court of Appeal are familiar in great detail with the frauds at the LASC, and collude with it. Therefore, since had he argued the case, he would have argued against SUSTAIN, he asked that judges that served in LASC, at a time Sustain was already in operation recuse. The Justice denied the request.
- c) The denial itself was enacted in a manner that is out of compliance with the law. Zernik filed a “Notice” of his demand that LASC provide the records, pursuant to the California Rules of Court. The Court of Appeal felt the need not to allow the LASC to even be tempted to cooperate and comply with the law, and the court of appeal diligently :Denied: the notice. Zernik doubts that such is a valid ruling.

A reasonable person who reviews this case must come to the conclusion that the California Court of Appeal is colluding with the racket at the LASC in abuse of civil rights under the color of law. It is the very same section of the U.S. Code that that Overseer, Judge Fees is entrusted in the safeguard of.

### **5. *The California Court of Appeal Refused to Allow Zernik access to Inspect and to Copy the Book of Court of the Court of Appeal Itself***

Once it became apparent that the California Court of Appeal would not uphold Zernik’s Constitutional rights, on the contrary, it would collude with the racket, Zernik asked to inspect and to copy the Books of Court of the California Court of Appeal. As might be expected, the Court of Appeal denied the request.

Therefore, if the Department of Justice insists on not enforcing the First Amendment, then Zernik must conclude that the oaths, the writing the celebrations of the constitutional protections are only lip service, and was never intended in reality.

The combination of events makes it abundantly clear that Zernik's claims are sound:

That the Books of Courts, for generations, were the major safeguard to the integrity of the courts, and for that purpose they were some of the very first Public records ever.

There simply is no honest reason to hide the books of court.

In the case at hand, it is abundantly clear that the hiding of the Books of Court is the basis to a racketeering fraud that has been played over and over many times in southern California by the courts, in collusion with corrupt attorneys, such as Keshavarzi and large law firms like Sheppard Mullin.

Refusal to open the Books of Court is not only support for the fraud against me, it is an affront to the civil rights of 9.5 millions, who are supposed to be served by this court. It also makes that appointment of the Overseer to the Consent Decree, an affected lip service, with little of substance to support it.

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	40(3)	5/22/08	Request to Designate case by proper name	
	40(4)	5/22/08	Request to Docket Correspondence by Countrywide	
	#43	5/22/08	Request for recusals of Justices that served in LASC and used Sustain	
	#44	5/22/08	Request for Judicial Notice: CMS and Comparison of Sustain Case History to Courtnet Case Summary.	
	#45	5/22/08	Request to Rescind filing of Records on Appeal Filed by the Superior Court 1) Reporters Transcript 2) Clerk's Transcript Both are false and misleading	
	#47	5/11/08	Request to correct erroneous online docketing Information	
<b>9d</b>	#48(1)	05-29-08	Request for Judicial Notice of Minute Orders from Paper Court File	
<b>9e</b>	#48(2)	05-29-08	Request for Judicial Notice of Minute Orders from Electronic Court File	
<b>9f</b>	#48(3)	05-29-08	Request for Judicial Notice of Sustain Case History -Register of Action	
<b>9g</b>	#49	05-29-08	Request that the California Court of Appeal Designate the LASC Primary Respondent in Appeal(s) on B203063	
<b>9h</b>	#50	05-29-08	Request to Remove any Filing not Bearing Counsel Signature per CCP §128.7	
<b>9i</b>	#51	05-29-08	Appellant's Filing, per CRC Rule #8.124(C), for the Purpose of Obtaining Records Possessed by LASC and not Provided to Appellant So Far	
	#54	05-30-08		<b>C. Order by Court of Appeal: Pertaining to #45</b> 1) Vacating filing of Clerk's Transcript 2) Directing Clerk to remove that record 3) Denying Request to Rescind (#45) as Moot Denying Request to Remove papers with no signature as moot.
	#55	05-30-08	ff	<b>D. Order by Court or Appeal:</b> <b>E. 1) Denial of Requests for Recusals (#43)</b> 2) <b>Denial of Judicial Notice in re: CMS</b>

				<b>(#44)</b>
#57			<b>F.</b> Request for Reconsideration on Request for Records (#51).	
#58	6/9/08		<b>G.</b> Request to correct the listing of Parties	
#59	6/9/08		<b>H.</b> Request for Reconsideration of Request to Rescind filing of Records on Appeal filed by LASC that are false and misleading	
#60	6/10/08		<b>I.</b> Notice to Reliably Inform the Justices and request immediate Corrective Action Pursuant to Canons of California Code of Judicial Ethics 3D(1)	
#63	6/10/08		<b>J.</b> Request to allow access to Court of Appeal Books of Court	
#64	6/10/08		<b>K.</b>	<b>ORDER FILED:</b> 1) Req for Reconsideration of Notice to Obtain Records from LASC DENIED 2) adf
#71	8/14/08		<b>L.</b> Motion to Suspend Appeal	
#72	8/18/08		<b>M.</b>	<b><i>I. ORDER FILED: REQUEST TO SUSPEND DENIED</i></b>
#75	9/3/09		<b>N.</b>	<b>ORDER FILED: APPEAL DISMISSED</b>