

State Supreme Court Reinstates Earlier Dismissed Charges In Colonies Case

SACRAMENTO—The California Supreme Court on December 23 reestablished the essential elements of the Colonies Lawsuit Settlement Public Corruption Prosecution, granting the gist of prosecutors' appeal more than a year and two months after the Fourth District Court of Appeal in Riverside dismissed the most crucial charges



Jeff Burum

lodged against developer Jeff Burum, the central

defendant in the case.

In February 2010, a grand jury indicted former county supervisor/county assessor Bill Postmus and one of his political associates, Jim Erwin, who had been the head of the county sheriff's deputies union before he was appointed by Postmus to serve as assistant assessor. Five others were identified



Jim Erwin

as unnamed co-conspirators in that indictment,

which charged Postmus with a host of crimes, including conspiracy, soliciting bribes, accepting bribes, perjury, filing falsified documents and other violations of the public trust. The charges were filed in connection with his November 2006 vote, while he was still chairman of the county board of supervisors, to approve a \$102 million

County Set To Privatize Park Operations At Lake Gregory

The county of San Bernardino has entered into a three-year pilot program with a Northern California-based private company for the operation of the recreation facilities at Lake Gregory Regional Park near Crestline.

For several years the county has been losing money at the park. The deal brokered with California Parks, which will do business in San Bernardino County as Urban Parks Concessionaires, will provide 15 new recreational programs at the park and lay the ground for Urban Parks Concessionaires' potential long-term or permanent management of the amenity.

According to Keith Lee, the director of the county's regional parks department, "[T]his 3-year agreement (effective January 1, 2014) with Urban Parks Concessionaires (operator) will provide for outsourcing the daily management and operations of Lake Gregory Regional Park. During this agreement period, the operator will complete a feasibility study to be used as the basis of a business plan for a longer term agreement. The operator will be responsible to staff and operate the park at its expense, and in return will collect and retain all fees and revenues generated by programs/services offered at the park. The operator will also be paid management fees by the department for the first two years, with the department receiving a share of the revenues beginning in the third year."

Lee told the board of supervisors, "In January 2012, the department released

With Budget Panel Failing To Reach Accord, Upland Lurches Toward Bankruptcy

Steadily and methodically, the city of Upland appears headed toward bankruptcy, as management in the City of Gracious Living and its newly commissioned panel of advisers appear unable to resolve differences among them with regard to less dramatic options to address the municipality's budget crisis.

While Upland City Manager Stephen Dunn had hopes of persuading the city council to okay asking city residents to approve a sales tax to generate revenue, support for the taxing alternative is not even tepid among the members of the city's recently-formed budget advisory task force. Going back for more than a decade,



Stephen Dunn

city residents have rejected every taxing proposal

previous city councils in Upland placed before the voters.

Dunn appears to be unwilling or perhaps unable to make substantive cuts from this point forward with regard to staff and its accompanying payroll and benefit liability. And a host of other cost-cutting or revenue producing measures Dunn has proposed

appear to be insufficient to move the city into the black.

In October, Dunn said his city was on the verge of bankruptcy and after having engaged in a series of fiscal gymnastics to balance the current 2013-14 budget, the city will require at least \$3.5 million in additional revenue annually for the next five years

Apple Valley Ranchos To Purchase Yermo Water Co.

YERMO—The long-troubled Yermo Water Company is in the process of being purchased in its entirety by the Apple Valley Ranchos Water Company.

On December 5, Apple Valley Ranchos and Yermo Water, which has been operated by the Yermo Community Services District since November 2012, jointly filed an advice letter to the Public Utilities Com-

mission preparatory to that takeover.

According to the letter, Apple Valley Ranchos intends to "purchase all of the public utility assets owned by Yermo and used by Yermo to provide public utility water service in San Bernardino County, California" and seeks "commission authorization for a transfer of ownership of an inadequately operat-

State Judicial Council Calls For Upping SB County's Judge Total From 84 to 93

A first step toward increasing the number of judges in San Bernardino County was taken last week when the California Judicial Council ratified upping the number of new judicial officers in both Riverside and San Bernardino counties by nine judges each.

Far-flung San Bernardino County, the largest such political subdivision in the Lower 48 States at 20,105 square

miles, has been particularly hard hit by cutbacks in the state court system, suffering the closures of the Chino courthouse on its southwest extreme, the closure of the Needles courthouse on its northeast end and the Twin Peaks and Big Bear courthouses in its central mountain communities. In addition, operations at the Barstow courthouse have been scaled back to a single courtroom

that is open three days a week. There have been consequent case delays and crowded calendars and courtrooms at all the county's other courthouses.

With its population having now eclipsed 2.1 million, San Bernardino is the second-most judicially understaffed of California's 58 counties.

An uptick in the number of judges would offset some of that

Chino Landowners Petitioning For Major Increase In Residential Density

Two Chino landowners are undertaking a petition drive to have the city rezone eight parcels on 29.6 acres south of Francis Avenue between Benson and Vernon avenues from their current low density residential use to a much more intensive residential land use designation that would allow for up to eight homes per acre.

Ron "Yogi" Brewer

of 11915 Vernon Avenue and Matt Evans of 11867 Vernon Avenue are asking the city's planning division to change the current single family residential (RD1) land use designation, which calls for one unit per acre, to single-family (RD8) allowance, which provides for up to eight units per acre.

Chino, which historically was an agri-

cultural community, has transformed itself into a suburban municipality, but it yet contains a few hundred acres where the distinction between residential and equestrian as well as residential and commercial agricultural uses is blurred. The properties in question have zoning that currently allows horses to be kept there.

Brewer and Evans'

stated rationale in asking for the zone change is that the equestrian uses associated with the current zoning designations on the property have fallen out of favor with many of the nearby non-agricultural residential neighborhoods.

Maintaining that the property has become unsuitable for livestock or horses, Brewer and Evans are seeking the

requisite signatures of 10 percent of Chino's registered voters – in excess of 3,200 – to place a measure on next year's ballot calling for higher density single family homes on the acreage than is permitted there now. Such a change, they claim, will eliminate unpleasant animal odors, flies and unanchored soil that results in dust.

While See P 8

Yermo Water Company
from front page

ed and maintained Class D water utility.”

In August 2012 the California Public Utilities Commission filed to take control of the severely undercapitalized and dilapidating water company. Three months later, the Superior Court entrusted operation of the Yermo Water Company to the Yermo Community Services District and appointed California Public Utilities Commission Attorney John Richardson to act as receiver. The Yermo Community Services District has made \$40,000 in emergency renovations to the

system to keep it functioning.

Last month, Richardson chose Apple Valley Ranchos Water to be the buyer of the company and he petitioned the Public Utilities Commission for a water rate increase.

The Yermo Water Company, formerly owned by Donald Walker, fell into severe disrepair early last decade, a situation which was exacerbated by Walker’s departure to Florida, making it difficult for his company’s customers to contact him.

As the absentee owner, Walker did not have a licensed operator available to operate the system. During the summer

of 2006, the primary water tank serving the Yermo community’s water system developed a leak and customers were without water for a week in the small community near Barstow, where temperatures exceeded 100 degrees every day. The California Department of Health and the California Public Utilities Commission initiated an investigation into the matter in 2007.

A decision to pursue the appointment of a receiver was issued in May of 2009. At that time, however, a community-based prospective buyer had surfaced and the receivership was suspended while it appeared that a sale of the system was

possible.

After more than two years of negotiations, Walker refused to inform the prospective buyer how much he owed in back taxes and fines to the California Department of Health. As a result, the sale fell through. The receivership arrangement that took place in November 2012 was contested by Walker’s family. His wife, Charlene, filed an opposition to the appointment of a receiver, raising a number of claims that were ultimately denied by the Superior Court on March 6, 2013.

In July, Apple Valley Ranchos bid \$300,000 on the purchase of the

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Yermo Water Company. On the company’s website, Bob Smith, president of the Yermo Community Services District, informed customers of Richardson’s decision

to accept Apple Valley Ranchos’ offer, telling them they should have or would soon receive a letter spelling out the particulars, including the proposed rate increase.

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Glimpse Of SBC's Past

A New Year's Resolution: End The 3-Minute Rule/Restore Robert's Rule

By Ruth Musser-Lopez

Historically, governments of the United States of America abided by Robert's Rules of Order in conducting their meetings: a motion, a second, discussion and then comments by the public before a vote. Twenty-four years ago, the San Bernardino County Board of Supervisors, which then included Bob Hammock, Marcia Turoci, Jon Mikels, Larry Walker and Barbara Riordan, instituted a 3-minute rule, limiting the time a member of the public was allowed to address issues, including items on the agenda or issues of concern to the speaker.

The "3-Minute Rule," as most traditionally knew it, was a phrase concerning the amount of time one should leave eggs in boiling water. In a metaphorical sense, it still is in the minds of our elected officials who continue to enforce it. Three minutes in their mind is enough for their constituents to "stew" before them.

Those who dared to come before the board with complaints on how

the county government was being run, those brave enough to comment for the public record on an item on or off the agenda, were limited to 3 minutes all up front before a motion was even made.

Between 1989 and 2004 on 157 occasions, the meeting gavel procured the arrest and/or removal of various speakers from San Bernardino County government meetings for breaching the 3 minute rule and commenting without being recognized by the gavel according to Bob Nelson who has faithfully kept a running tally (Ephemeral Press, 9/24/13). Those who broke the rule were not just in hot water; they were actually arrested and imprisoned, sometimes for months. Indeed, Jeff Wright, a recurrent speaker before the board, once spent six months in jail for having exceeded the time a member of the public was permitted to speak in the forum of a board meeting.

Definition of Draconian: adjective meaning great severity, that

derives from Draco, an Athenian law scribe under whom small offences had heavy punishments (Draconian laws).

Beginning on June 12, 1989, Bob Nelson was the first to be arrested and censored for violation of PC403, then a 5 minute rule. A month later the 3 Minute Rule was in place and on July 24, 1989 Bob Nelson was arrested and censored for violation of it.

Supervisor Mikels, who was also a member of the South Coast Air Quality Control District Board, is believed to be the first official to apply the speaking limit standard explored by San Bernardino County, when as chairman of the air quality panel, he applied it at one of the district meetings. The idea spread to other local government representatives throughout the southland. After the San Bernardino County Board of Supervisors adopted the rule, local governments throughout the county followed suit. The idea was even adopted by local government outside of the County of San Bernardino.

Champions publicly protesting governmental waste, abuse, fraud, poor planning, bad decisions and corruption have been a reality throughout our country's history, but the silencing of speech (i.e., freedom) in the world via arrest was something that World War II was to have ended.

In San Bernardino County, resident concerned citizens began to be arrested or removed from public meetings for their speech beginning in 1989: Bob Nelson, Craig Himmler, Jeff Wright, Larry Singleton, Grace Lester, Marjorie Mikels, Shirley Goodwin, Dennis Pankey and even, on one occasion, yours truly, me, the author of this column, Ruth Musser-Lopez. Jeff Wright spent the maximum six months in prison for breaking the 3 minute rule while exposing Supervisor Gerald Eaves' unlawful

activities while in office. Eaves was subsequently the target of both federal and state indictments on political corruption charges, which ultimately resulted in his removal from office.

On September 24, 2003, the Los Angeles Times, in an article titled "Freedom's Test or Just a Pest" reported "arrests and removal in San Bernardino County have involved about a dozen regulars, some of who are known to pepper the board with nonsensical ravings."

The author of that article, Hugo Martin, relied on the representations made about these so-called regular gadflies by the county's politicians, who in many cases were the object of the protests inherent in the gadflies' comments. Others had a different opinion with regard to the content and relevancy of the speech. In my view, all nine arrested were cogent, intelligent people who were raising legitimate issues and objecting to actions and a culture of corruption during an extended period of time - nearly two decades - that included Eaves' tenure, and those of indicted and convicted former county administrative officer Harry Mays, indicted and convicted former county administrator James Hlawek, indicted and convicted former county treasurer Tom O'Donnell, indicted and convicted former county investment officer Sol Levin and indicted and convicted former San Bernardino County Board of Supervisors Chairman Bill Postmus. Of those arrested for too-longwinded speaking at the meetings, not all were "regulars." Some were arrested for having made a single impassioned presentation on an issue of public importance. Some of these gadflies were downright eloquent. Others were articulate. Some were fullsome in their commentary. All were sincere. None merited having

their First Amendment rights to express themselves and petition their government for a redress of grievances denied.

Initially, it was just one person being arrested--Robert "Bob" Nelson. Characteristically "reserved" and soft spoken in speech, this retired systems analyst and long time resident of Summit Valley was 48 years old upon when he first resisted the county's speech rule in 1989. He was arrested at 9 more meetings, tried and found guilty 3 times in 1989 and 1990 spending three months in jail for violation of the 3-minute rule. But on August 3, 1993 others joined him. Nelson was arrested along with Craig Himmler who was removed for content of speech and Jeff Wright for words from the floor. In the 10 months that followed Nelson was arrested 9 more times, Wright, a retired United States Air Force veteran, was arrested 5 more times. At that point, it was indeed true that Wright and Nelson qualified as "regulars." Nevertheless, the number of citizens whose intimidated speech was cut short or who chose not to speak at all for fear of arrest are countless.

Five years after its institution by the county, the city of San Bernardino on May 17, 1994 started arresting people for violation of the 3-minute rule. Mr. Larry Singleton refused to yield the rostrum after three minutes and insisted on being formally arrested if he was to be ejected from the meeting. The mayor and a retired peace officer, left the dais and grabbed Singleton from behind. According to Nelson (Ephemeral Press, 9/24/2013) "all three men wound up wrestling on the floor...about the time the mace went off...with a class of grade school children in attendance (with tears in their eyes) to see their government in action." Using Fire

Department fans it took two hours to clear the chambers of the mace set off by the arresting officer (id bid).

I was next. My personal experience was that on June 13, 1995 I was pulled away from my seven-year old daughter sitting quietly next to me. A uniformed officer took me by the arm to escort me to the back of the room where, once out of sight of the camera, I was put in a totally unnecessary and excruciatingly painful hammerlock, then handcuffed. The only thing that those left in the chambers heard was my scream of agony during the officer's hammerlock move on me. The offence? I had protested when it was announced that there would be no opportunity for public comment on the agenda item I came to speak on. My then-seven-year-old daughter and I had just driven four hours across the desert from eastern San Bernardino County to protest the dumping of radioactive waste in San Bernardino County. She was left crying in her chair next to her aunt, my sister Marjorie Mikels.

Marjorie Mikels, a graduate of UCLA School of Law scoring at the top of her class in constitutional law, a long time Upland attorney and resident, was removed from the chambers of the San Bernardino County Board of Supervisors on March 25, 1997 after speaking on time donated by another person in the audience... donation of time is apparently not provided for in the 3-minute rule.

A year later, on October 20, 1998, Supervisor Eaves, then the board chairman, had Marjorie arrested prior to the expiration of her allotted 3 minute speaking time as she was weighing in against the proposed Ward Valley nuclear waste dump. Three months later, while her husband Jon was serv-

Continued on Page 6

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State Supreme Court Says Aiding & Abetting Charges In Colonies Prosecution Possible *from front page*

million legal settlement between the county and the Colonies Partners, which was controlled and managed by Burum and Dan Richards.

Erwin, who had been instrumental in vectoring monetary support from the sheriff's deputies' union to Postmus's supervisory and assessor campaigns and was subsequently appointed to one of two assistant assessor positions Postmus established after his election as assessor, was charged with conspiracy, extortion and bribery, perjury, filing falsified public documents and tax evasion. Prosecutors



Bill Postmus

alleged that Erwin, who was working as a consultant for the Colonies Partners in 2006, threatened to disclose damaging information relating to both Postmus and his then-board colleague Paul Biane before Postmus, Biane and a third member of the board, Gary Ovitt, voted to approve the \$102 million settlement of the lawsuit the Colonies Partners had brought against the county over flood control issues at the company's Colonies at San Antonio residential and Colonies Crossroads commercial projects in northeast Upland. After the settlement was approved in November 2006, according to prosecutors, Burum rewarded Postmus, Biane, Erwin and Ovitt's chief of staff, Mark Kirk, with \$100,000 each in contributions to political action committees they controlled.

Initially Postmus and Erwin both pleaded not guilty to those charges. But in March 2011, Post-

mus pleaded guilty to all fourteen counts contained in the indictment against him along with one other unrelated drug possession count and agreed to turn state's evidence. He was the star witness before a newly-impaneled grand jury that heard evidence and testimony from a total of 45 witnesses in April 2011. In May 2011, that grand jury handed down a superseding 29-count indictment that collectively charged Erwin, Burum, Biane and Kirk with conspiracy relating to the alleged bribery scheme. Erwin was hammered with multiple counts, including receiving a bribe, acting as Burum's agent, perjury, filing falsified documents and tax evasion. Biane was charged with soliciting and receiving a bribe in exchange for his vote. Kirk was charged with receiving a bribe in exchange for influencing his boss, Ovitt, to vote to approve the settlement. Burum was not charged with bribery. Rather, prosecutors fashioned charges against him that alleged aiding and abetting Postmus, Biane and Kirk in receiving bribes. The defendants were also charged with conflict-of-interest and misappropriating public funds. No substantive counts of extortion were charged in the superseding indictment and the extortion counts against



Paul Biane

Erwin in the February 2010 indictment were dispensed with, although extortion allegations were wrapped into the broad conspiracy count contained in the May 2011 indictment.

Defense attorneys filed demurrers on behalf of their clients, motions which called into question the legal sufficiency of the charges against the defendants. Cited in

those demurrers were the cases of People v. Davis, People vs. Clapp and People vs. Wolden, all of which bore upon the inability of prosecutors to charge a defendant with conspiracy or aiding and abetting a crime when that individual stands accused of a crime that necessarily involves the involvement of another individual.

In August 2011, Judge Brian McCarville granted several of the defendants' demurrers in what has become known as the Colonies Lawsuit Settlement Public Corruption Prosecution, ruling that a defendant such as Burum who was essentially accused of giving bribes cannot also be charged with aiding and abetting the receipt of bribes, and he dismissed all four bribery counts and one of misappropriation of public funds against the Rancho Cucamonga-based developer, leaving only two of the original seven charges against the figure at the center of the case intact. McCarville further dismissed one felony count of misappropriation of public funds for each of the other defendants. The prosecution, consisting of both the California Attorney General's office and the San Bernardino County District

Attorney's office, appealed McCarville's ruling to the Fourth District Court of Appeal in Riverside, which in October 2012 upheld McCarville with regard to the four bribery counts against Burum that had been tossed, and also threw out a conflict-of-interest count McCarville had let stand. The appeals court did, however, reinstate the misappropriation of public funds charge against Burum that McCarville had dismissed.

Prosecutors then made a last-minute appeal of the Fourth District's ruling to the California Supreme Court on



Mark Kirk

December 10, 2012.

The defense teams for Erwin, Biane and Kirk followed in the wake of the legal trail blazed by Burum's attorney, former U.S. District Court Judge Stephen Larson. It was Larson who had formulated the defense that rested upon the Davis, Clapp and Wolden precedents, which Mc-

Carville and later the Forth District Court of Appeal utilized in their respective decisions to eviscerate the prosecution's case.

In the case of People v. Davis, the court ruled that "the giver and receiver of a bribe are no longer accomplices one to the other."

The Clapp case, from 1944, pertained to three women accused of involvement in an abortion, which at that time was illegal, and the conviction of the woman on whom the abortion was performed. The court held the woman submitting to an abortion was not punishable as a principal under one section of the penal code because her conduct was prohibited under another section. As such she was deemed not to be an accomplice in the crime of the other parties.

The case of People v. Wolden, which in itself relied upon the precedent of the Clapp Case, related to the case of Russell Wolden, the one-time assessor of San Francisco County who was indicted on 10 counts of accepting bribes and one count of conspiracy to accept bribes. Wolden was convicted on the conspiracy charge and eight counts of accepting bribes. Upon appeal,

it was determined that the giver and receiver of a bribe are not guilty of a conspiracy, because the two crimes require different motives or purposes and that the giver of the bribe is not an accomplice in the "separate and distinct crime" of bribe taking.

Moreover, McCarville and the Fourth District Court of Appeal rejected the application of conspiracy statutes to Burum's action, applying a principle of law that holds that two individuals who are alleged to have engaged in a crime that necessarily involves two parties cannot be charged with conspiracy merely on the basis of that crime having taken place.

Citing Davis, Clapp and Wolden, Stephen Larson, in arguing before California's highest court, repeated the arguments he had made before the lower courts, stating prosecutors had engaged in "an impermissible charging scheme" that "ignores the legislative history and judicial interpretations."

The prosecution, arguing on behalf of both the state of California and the county of the San Bernardino, propounded the argument

Continued on Page 7

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MOST CARDS ACCEPTED

Upland Slouching Toward Bankruptcy from front page

to continue to provide city residents and businesses with the same level of service the city is currently providing.

As of October, Dunn said, the city's general fund is hard-stretched to cover Upland's bare operating expenses. Funding for street repairs, equipment and vehicle maintenance, post-employment benefits, equipment replacement, economic development and solutions to the city's growing homeless problem has been entirely depleted.

Its fiscal condition is a blow to Upland's prestige, which is the second-most affluent of San Bernardino County's 24 cities, measured by median household income.

The general fund accounts for most of the city's services. It funds 73 activities related to the basic function of municipal government. Dunn said.

In October, Dunn said that the only alternative to drastic service cutbacks consisted of revenue enhancement, most specifically a tax that would need to be approved by a majority of the city's voters. To emphasize his point and support his case, Dunn referenced a 2012 auditor's opinion from the certified public accounting firm Mayer Hoffman and McCann and Standard and Poor's intended downgrading of the city's credit rating. Mayer Hoffman and McCann said there are serious questions with regard to the city's solvency to the point that in a short while "it will be unable to continue as a going

concern." According to Standard and Poor's, the city, which has already been downgraded from an AA credit rating to an A+, is in danger of seeing its credit rating eroding even further. A municipality's credit rating directly impacts the interest rate it must pay when borrowing money.

To balance the city's current \$39 million budget, Dunn said Upland's entire municipal operation is borrowing heavily from rapidly evaporating reserves, while relying on income from two of the city's enterprise funds which remain in the black, its water and sewer service funds.

The upshot of Dunn's presentation was to convince the council to consent to placing a tax measure before city voters next year, either on the June primary ballot or during the November general election. The council, however, shied from embracing on its own authority the taxing solution and instead created a budget balancing task force committee, consisting of two members appointed by each council member. The stated intent of the ten-member committee is to examine the full range of means by which the city is to come to terms with its fiscal crisis and then provide recommendations.

Only reluctantly did Dunn accept the formation of the committee and there have already been indications that some of the committee members are strongly in favor in moving in a direction Dunn did not want to go, namely wholesale layoff of staff.

The disagreement over which path the city should take out of the financial abyss is a fundamental one.

One contingent is calling for the city to embark on cost cutting efforts including streamlining and making more efficient its processes and functions and eliminating services and redundant or nonproductive personnel. Another school of thought advocates the city generating revenue to sustain the current

level of service, its current payroll and preparing for future retirement obligation costs.

Those seeking firings, layoffs and streamlining maintain City Hall is bloated and manned by a number of employees who have been disloyal to the community and its taxpayers. This is an outgrowth of the expansion of city staff during the first decade of the millennium, as well as concessions made to the city's employees' bargaining units during the tenure of former mayor John Pomierski, who was heavily supported by all of the city's employee unions. Under Pomierski and his hand-picked city manager, Robb Quincey, the city increased salary and benefit packages for employees markedly. Subsequently, Pomierski was indicted by a federal grand jury for his involvement in a political corruption scheme that involved his taking bribes in exchange for using his influence as an elected official to forge backroom deals and arrange favorable outcomes for individuals and businesses with projects or applications being processed at City Hall. Pomierski pleaded guilty and is now serving a sentence in a federal penitentiary. Quincey has been indicted and charged with three felony corruption charges, including unlawful misappropriation of public money, gaining personal benefit from an official contract, and giving false testimony under oath. He has pleaded not guilty and is maintaining his innocence.

This complex of circumstances has led to open expression by some Upland residents that the runaway labor and pension costs that are plaguing Upland are vestiges of the ethos of public trust violations that occurred under Pomierski and Quincey. The implication is that employee contract terms favorable to Upland's city employees were given to the mayor as part of an understanding and arrangement which al-

lowed Pomierski's depredations to take place. In plain terms, many believe the generous salary and benefit packages city employees are now getting were provided to those workers because they were willing to look the other way while Pomierski and his cronies enriched themselves. For that reason there is a reluctance on the part of a sizeable contingent of Upland's residents to impose on themselves any municipal tax that will be used to pay for the perpetuation of generous pensions for retired city employees.

A manifestation of this attitude came in the form of two recommendations by budget task force committee member Robert Nelson, a certified public accountant appointed by councilman Glen Bozar, who suggested that the city impose a hiring freeze and that it freeze wage increases.

Dunn opposed both moves, stating that "The appearance of going to the employees to correct the city's fiscal position will affect morale, cause better employees to leave, and make it difficult to recruit quality candidates" and "A further reduction in the city workforce will slow response times to our citizens."

Dunn has also rejected several other recommendations made so far by the task force, including: ending acceptance of stray animals from surrounding communities into Upland's animal shelter; combining the police and fire department's dispatch services; selling the city's cell towers, which currently generate annual revenue of roughly \$200,000, for \$2.775 million; increasing the rate the city charges to lease its cell towers; selling the fire department's ladder truck, which is valued at roughly \$600,000, for the approximately \$50,000 the market will bear; selling Old St. Mark's Church and the surrounding property it occupies on 18th Street for between \$804,000 and \$1.263 million; sell-

ing Upland's interest in the Whispering Lakes Golf course for approximately \$1 million; asking voters to approve a lighting and landscape maintenance district to generate as much as \$2.5 million per year; asking the city's voters to approve a special parcel tax for public safety, the library or street maintenance; creating new fees for existing city services now rendered for free, generating as much as \$380,000 annually; imposing labor concessions on employees; eliminating the city's quarterly newsletter to provide a savings of \$3,000 or simply turning it into a web-based publication; outsourcing the fire department; closing a fire station; eliminating the fire department's paramedic program; outsourcing the police department; regionalizing the police department by merging with the Ontario or Montclair departments; eliminating the city's recreation division; eliminating the city library; reducing library hours; and eliminating the city council members' benefits.

Dunn did, however, recommend considering outsourcing the management of the library; regionalizing fire service through a merger with the Montclair Fire Department; "browning out" a fire station during times of lesser risk; outsourcing development services; outsourcing fleet maintenance; outsourcing street maintenance; outsourcing engineering services; eliminating the position of the facilities maintenance superintendent; seeking, during labor negotiations, concessions from the city's employee unions; reworking the city's contract with Burrtec for trash service; privatizing the management and operation of the city's water and sewer assets; asking voters to up business license fees; asking voters to approve a half cent sales tax; selling the city-owned parking lot at the southwest corner of C Street and 3rd Avenue; raising water rates;

and negotiating the conversion of pension plans with the city's employee unions.

With little or no prospect that the options Dunn is recommending will make up the \$3.5 million in additional annual revenue or operational cost reductions he is seeking, the city appears to be inexorably moving toward exploring, if not outright embracing, a municipal bankruptcy option.

Committee member find daunting the consideration that the state's public employees' retirement system will require Upland in the upcoming 2014-15 fiscal year to increase by \$1.5 million the \$6.5 million it is already currently paying annually into its employees' pension fund. Actuarial tables show that virtually any increase in revenue the city is likely to experience in the future will not go to increasing or even sustaining services but to covering increases in pension payments.

The *Sentinel* has learned that at least four of the budget task force members are entertaining the concept of a city bankruptcy filing. Three others did not appear to flinch when the idea was broached.

One committee member stated that such a filing seemed inevitable, given city management's inability to rein in current personnel and future retirement costs, which account for nearly 80 percent of the city budget. Another member said a bankruptcy filing would prove "cleansing," allowing the city to dispense with impediments it has accumulated over the past decade-and-a-half, including commitments made during the Pomierski regime to city labor unions which were the heaviest donors, collectively, to the political campaigns of the city's council members.

Current municipal bankruptcies, including those in Detroit and San Bernardino, have explored heretofore uncharted fiscal territory, including reducing pension payments to retired employees.

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Three-Minute Speaking Rule

from page 3

ing as board chairman, she was escorted out of the hearing chambers by deputies for speaking on an issue that was not contained in the meeting agenda. According to the Los Angeles Times (Martin, 2003) "Mikels now rarely attends the meetings, saying the arrest lost her a job as a Sunday school teacher. 'They are using the meeting rules to gut the 1st Amendment,' she said."

Grace Lester had become a "regular" at the board meetings with protest signs exposing a local judge as a pedophile after her own grandchildren, involved in a custody dispute, were awarded to an alleged child molester. On November 17, 1998, Lester was arrested for "words from the floor" when she briefly expressed her indignation after Supervisor Eaves told a speaker he had no standing to comment on how the board spent taxpayer dollars because the speaker was "unemployed." The district attorney's office charged Lester with disturbing a public meeting but a judge dismissed the case before trial when it was

revealed that the volume had been tampered with on the videotape deputy district attorney Beth Houser intended to use as evidence against the then 59-year old grandmother. (Hesperia Reporter, 7/1/1999).

The arrests continued between 1998 and 2002 most on Jeff Wright made for unstated reasons or content but occasionally included Nelson, Mikels and Lester. However, in 2000, Shirley Goodwin was arrested. The interesting thing about this arrest is that she was cited on the first removal under PC 148/403 for words from the floor. Significant to this arrest was its effect upon her career. Goodwin was distinguished as being the first woman sheriff sergeant in San Bernardino County. She became aware of the corruption in the county when she refused to cover up an internal crime.

"In 2000, reports of those arrests earned the board of supervisors the "Black Hole" award, a dubious distinction given by the California First Amendment Coalition to public agencies and officials that the group says show disregard for open government and 1st Amendment rights," accord-

ing to the Los Angeles Times. (Martin, 2003).

Admission of the true problem finally came after the arrest of former county administrative officer James Hlawek, for having taken bribes. In his confession to the Federal Bureau of Investigation (FBI) on September 21, 2000, Hlawek said that Wright was a particularly unwelcome speaker at board meetings because he exposed a "longstanding, wide-ranging culture of corruption...involving conflicts of interest, sweetheart deals and payoffs" operated out of the County Administrative Office. (Source: Ephemeral Press 9/24/2013 "as reported in the San Bernardino Sun, August 30, 2001").

Through 2003 and 2004, the pace of arrests and removals at San Bernardino County supervisors' meetings increased to about one per month mainly because of Grace Lester being arrested a dozen times, but Jeff Wright, Bob Nelson, Marjorie Mikels and additionally Dennis Pankey were also arrested during that period, with most speakers being removed for content, mainly failing to stick to the agenda and then refusing to surrender the lectern.

At the November 5, 2002 board meeting, Wright was arrested when, after the board chairman expressed surprise that no speakers had shown up for a public hearing on that day's agenda, Wright blurted, "Maybe they weren't notified."

Terry Francke, general counsel for the California First Amendment Coalition, told the *Los Angeles Times* at that point "I haven't heard of anybody nearly as restrictive as San Bernardino County." Francke expressed concern that the arrests were stifling free speech and discouraging citizens from bringing grievances before their elected officials.

Ramona Ripston, executive director of the ACLU of Southern California said 'If you are a member of the board of supervisors, you have to be willing to listen to your constituents and give them some leeway to say what they want to say.'

The *Los Angeles Times* noted in 2003 that San Bernardino County supervisors were limiting the public's ability to comment on public issues by placing nearly 90% of its meeting items on the consent calendar, which does not require a public hearing." (Martin

2003).

Finally bringing an end to enforcement via arrest was the trial of Bob Nelson that grew out of his breach of the 3-Minute Rule on June 29, 2004 when he expressed concerns regarding items on the "consent calendar," numerous items to be approved in total with one vote of the supervisors. The case filed on that arrest was dismissed at it's first court appearance.

Beginning with the board's September 21, 2004 meeting, the 3-Minute Rule was no longer enforced by arrest. Instead a kill switch on the rostrum mike is now used as enforcement. While the board currently gives some leeway as an additional 30 seconds or as deemed appropriate, this is not the case for every local governing body or city council.

Persisting, however, is something far worse than the 3-minute rule. At some point during the late 1990s, the 3-Minute Rule came into such prominence in San Bernardino County local government that it morphed into a 3 Minute Rule of Order replacing Robert's Rules of Order. Before his passing, William "Bill" Kemp, a Santa Fe Railroad engi-

neer and former Mayor of Needles became a "regular" in the audience at the city's council meetings protesting the discarding of Robert's Rules and warning of speech rights violations.

Instead of 3 minutes per agenda item...the beleaguered member of the public got 3 minutes up front of the meeting and no time at all after the explanation and discussion on the subject by officials prior to the vote. Robert's Rules of Order, once taught in our public schools as the standard of public meeting governance, was yanked. Robert's Rules of Order, a tool of civility and assurance that citizens can express their viewpoint with regard to the framing of official public policy, has been replaced in San Bernardino County by the 3-Minute Rule for the past 24 years.

Not only does the 3-minute rule abbreviate and curtail comment, it makes it difficult or impossible for cogent and timely debate to take place. Robert's Rules of Order provides for the instructs the introduction of an item, a motion, a second, a discussion by the voting members, and then a time for comment by the public before the actual vote. The 3-minute rule allows public comment before the dialogue among voting members commences. It does not allow the public to actually participate in the discussion with their elected officials.

I believe a fitting New Year's Resolution for 2014 would be to restore the historic Robert's Rules of Order to the local governments in the County of San Bernardino everywhere. Using whatever civil action that one can take—hold signs, wear buttons, tell others, use public comment time at government meetings, even protest events. Let's insist that candidates for office include restoration of Robert's Rules on their campaign platform. If we make this a universal campaign issue, we can then vote in 2014 only for those who will "restore Robert's Rules."

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Colonies Case
from page 4

that Burum's alleged bribery of Postmus, Biane, and Kirk went beyond a simple exchange of money for votes and involved an elaborate set of circumstances involving threats, extortion, and intermediaries acting on Burum's behalf in



Dan Richards

addition to the provision of the alleged bribes.

Led by deputy attorney general Melissa Mandel, the prosecution referenced the action of Erwin, who was described in the indictment as Burum's "agent," "mule" and "underling," to propound the theory that his action in having prepared with public relations consultant Patrick O'Reilly, prior to the 2006 election, never-delivered mailers and handbills which dwelled on derogatory information relating to Postmus and Biane, constituted blackmail and extortion that paved the way for the bribes that were delivered to Postmus and Biane after the vote conferring the \$102 million settlement on the Colonies Partners. The combination of the bribes, extortion, blackmail and the use of a third party, i.e., Erwin, in this regard, Mandel suggested, constituted a facilitation of the crime that went beyond mere bribery.

Burum, she said, utilized his "enormous political power and financial resources to coerce the public officials into accepting his bribes."

In its review of the matter, the California Supreme Court, composed of Chief Justice Tani Gorre Cantil-Sakauye, and justices Joyce Kennard, Marvin Baxter, Kathryn Mickle Werdegar, and Goodwin Liu, Ming Chin and Carol Corrigan, found other precedent-setting political corruption cases, those of *People v. Gonzales and Solis* and *Calhoun v. Superior Court*, to be more relevant than the *Davis*, *Clapp* and *Wolden* cases to the circumstances involved in the Colonies Lawsuit Settlement Public Corruption Prosecution than was presumed by *McCarville* and the Fourth District Court of Appeal.

"We conclude that the Court of Appeal erred," Justice Baxter wrote in an opinion with which all of his colleagues concurred. "Although neither the offer nor payment of a bribe in itself can establish that the offeror aided and abetted the separate crime of receiving the same bribe, the status of being the offeror or payor of a bribe does not disqualify that person, as a matter of law, from complicity in the offense of receiving the bribe. Whether the offeror is guilty of aiding and abetting the receipt of the bribe depends on whether there is evidence that, in addition to the offer or payment of the bribe, the offeror 'with (1) knowledge of the unlawful

purpose of the perpetrator; and (2) the intent or purpose of committing, encouraging, or facilitating the commission of the offense, (3) by act or advice aids, promotes, encourages or instigates, the commission of the crime.' (*People v. Gonzales and Solis* (2011) 52 Cal.4th 254, 295-296.) Similarly, being the offeror or payor of a bribe does not disqualify that person, as a matter of law, from culpability for participating in a conspiracy to accept that same bribe."

The ruling further states, "Because the



Melissa Mandel

Court of Appeal sustained the demurrer based on its incorrect understanding of the law, we reverse that part of the judgment of the Court of Appeal and remand for further proceedings."

Deeper within the 21-page opinion, Baxter wrote, "The Court of Appeal held that neither Burum (the offeror of the bribes) nor Erwin (Burum's agent) could be charged with aiding or abetting the receipt of the bribes. Its conclusion rested on the theory that the offeror of a bribe cannot 'as a matter of law' aid and abet another person in receiving the bribe. The Court of

Appeal was mistaken. Whether the offeror of a bribe may be charged with aiding and abetting another in the crime of receiving the bribe depends on whether the offeror's conduct, beyond merely offering or paying a bribe, satisfies the elements of aiding and abetting the receipt of the bribe."

Baxter shed further light on the court's reasoning.

"The Court of Appeal's analysis with respect to the target crimes of bribery in the conspiracy charge was very brief and rested on its erroneous conclusion that defendants, as a matter of law, could not be charged with aiding and abetting the recipients of the bribes. Thus, in the Court of Appeal's view, Burum's demurrer should have been sustained as to the target crimes of bribery in the conspiracy charge 'because the crimes defendant Burum allegedly conspired to commit are ones the law states he cannot commit.' Similarly, because Erwin could not be charged with aiding and abetting Biane in receiving or accepting bribes, he could not be charged with conspiring to commit those crimes. The sole authority cited was *Wolden*, which declared that the giver and the receiver of a bribe cannot be 'guilty of conspiracy, because the two crimes require different motives or purposes.' This part of *Wolden*, though, suffers from the same infirmity as the argument rejected in the preceding part that the offeror of a bribe can never aid and abet the receipt of a bribe. Although the giver and receiver of a bribe may have different intents, it is not required, as a matter of law, that they must have different intents. After all, it is well established that an individual may entertain multiple criminal objectives simultaneously."

Specifically, Baxter wrote, the case of *Calhoun v. Superior Court* establishes a bribery scheme can entail a conspiracy if it involves

enough factors and individuals.

"Indeed, *Calhoun v. Superior Court* (1955) 46 Cal.2d 18 (*Calhoun*) sustained a charge of conspiracy in closely analogous circumstances," the opinion states. "Calhoun, acting on behalf of various wholesale and retail liquor distributors, arranged to use trade association money to donate to the political campaign of a candidate for the Board of Equalization, which issued licenses to sell alcoholic beverages. Although such contributions appeared to be prohibited by Government Code section 5002.6, Calhoun was alleged instead to have conspired with the candidate and others to solicit and receive political contributions from those who were regulated by the Board of Equalization in violation of Elections Code section 5002.5. Calhoun, like defendants here, argued that donors and recipients of contri-



Stephen Larson

butions could not conspire to commit the same substantive offense as a matter of law, relying on the opinion of this court in denying a petition for hearing in *People v. Keyes*. Over the objections of a dissenting justice that 'there can be no conspiracy between the donor and the donee' and that a conspiracy requires 'there be a common unlawful motive,' a majority of this court nonetheless permitted the prosecution to go forward. We rested our decision on the particular facts of the case—i.e., evidence presented to the grand jury of 'an elaborate conspiracy to utilize contributions from both retail and wholesale liquor licenses to finance [the candidate's] political campaigns.' In light of that evidence, we reasoned that a trier

of fact could have concluded that Calhoun had 'a much more intimate participation in [the official's] campaign than that of one who acted solely as a donor.'

"Here, as in *Calhoun*, the indictment alleges that Burum and Erwin participated in a conspiracy that was more elaborate than the mere agreement that a particular bribe be accepted, but involved and depended on the conduct of numerous parties to ensure that at least three supervisors be influenced to approve the \$102 million litigation settlement," Baxter wrote. "The Court of Appeal thus erred in ruling that Burum and Erwin, as a matter of law, could not conspire to commit the target bribery offenses. We therefore reverse the order sustaining the demurrer as to these target crimes in count 1 and remand to the Court of Appeal to consider, in the first instance, defendants' remaining grounds for demurrer."

Thus, it is now not only possible but probable that Burum will be headed to trial on charges of conspiracy, the aiding and abetting of bribery, and misappropriation of funds.

Likewise, the conspiracy count and the charges of engaging in a conflict of interest and aiding and abetting Biane in his reception of a bribe that had earlier been dismissed against Erwin, who also faces 15 additional charges, were reinstated.

The appellate court's dismissals of aiding and abetting of a conflict of interest against both Burum and Erwin were upheld by the Supreme Court.

While the prosecution was savoring the reinstatement of the charges, it yet faces the burden of proving the case in a courtroom. It must also return to the Fourth District Court of Appeal to establish that the allegations in the indictment indeed match the presumption that aiding and abetting of the various crimes alleged actually

Continued on Page 10



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San Bernardino County Coroner Reports

Coroner Case #701309373 – On 12/23/2013, at 3:25 PM San Bernardino County Sheriff-Rancho Station received a 911 call regarding a motorcycle collision. Sheriff's deputies and emergency medical personnel arrived to find Anthony D. Larocque, a 53 year-old resident of Upland, who was the helmeted operator of a 2001 Suzuki GSX motorcycle that had been travelling eastbound on Foothill Boulevard just east of Archibald Avenue in the City of Rancho Cucamonga, had collided with a raised curb partition on the south side of the roadway. He was ejected from his motorcycle and struck several vehicles. He was transported by ambulance from the scene to San Antonio Community Hospital where he succumbed to his injuries and was pronounced dead at 4:15 PM on 12/23/2013. The Major Accident Investigation Team is investigating the incident. [12242013 0005 EM]

Coroner case # 701309329 – On 12/22/13, at about 3:00 AM, a 39 year-old San Bernardino man was at a residence in the 1200 block of Union Street, San Bernardino, when he was in a physical altercation. He died from his injuries on 12-22-13 at 12:15 PM. The San Bernardino Police Department is investigating the death. The man's name will be released once identity is confirmed and the family is notified of the death. Anyone with information is urged to contact the Police Department at (909) 384-5742 or WeTip (800) 78CRIME [122213 1445 TC]

Coroner case #701309319 and #701309320 – On 12/22/2013, at 12:59 a.m., the driver of a silver 2003 Nissan Altima left the roadway in the 3800 blk. of N. Ridge Line Dr., in San Bernardino. The vehicle rolled down a 200' embankment. The two rear passengers, 24 year-old Cesar Andrew Caro of San Bernardino and 19 year-old Jennifer Blancas of Banning, were pronounced dead at the scene. The San Bernardino Police Department is investigating the accident. [122213 1442 TC]

Coroner case #701309314 – On 12/21/2013 at 7:02 PM, Daniel Keddy, a 48 year old resident of Yucaipa was driving a 2013 Harley motorcycle eastbound on Oak Glen Rd., when he collided with a Honda SUV at Stonewood Street. Keddy was transported to Loma Linda University Medical Center where he was later pronounced dead at 7:54 PM. The San Bernardino County Sheriff's Department is investigating the collision. (122232013 CN 0140)

Coroner Case #701309264 – On 12/20/2013, at 4:54 AM, San Bernardino County Sheriff Department and American Medical Response personnel were called to the area of Pawnee Road near Biloxi Avenue, Apple Valley. Upon arrival they found that Steve Allen Brown, a 65 year old resident of Apple Valley, had been stuck by a white 2007 Chevrolet pick-up while entering the roadway on foot. Brown suffered upper body trauma and was declared dead on scene by American Medical Response personnel. The San Bernardino County Sheriff Department Major Accident Investigation Team is investigating the incident. (12202013 CN 1943)

The Coroner Reports are reproduced in their original format as authored by department personnel.

Chino Zone Change Requested from front page

Brewer and Evans have stated that the rezoning they seek would guarantee high quality homes are constructed and that they are not asking the city to allow them to construct apartments, some opposition to their

agenda has formed, including that of former mayor and current Chino councilwoman Eunice Ulloa.

Some of those in opposition to the zone change claim Brewer and Evans are actually trying to manipulate the city's zoning code to engineer a quadrupling in the value of the property.



Lake Gregory Park Privatization from front page

a request for proposal (RFP) for the maintenance and operations of Lake Gregory Regional Park. A pre-bid conference was conducted and eight responsive parties from the local area and Southern California attended. Only two of those parties submitted proposals for final con-

sideration (Rim of the World Recreation and Park District, and Urban Park Concessionaires). An evaluation committee for proposal review was comprised of staff from San Bernardino County Regional Parks administration, [county] public works department, [county] economic development agency, Los Angeles County Parks, Riverside County Parks, Lake Gregory Improvement Committee, and

the Crestline Chamber of Commerce. The committee determined that the Urban Park Concessionaires proposal would best meet the county needs. Urban Parks Concessionaires is a corporate division of The California Parks Company. In business since 1975, the company has been partners with local, state and national agencies, providing service in the hospitality management and in operating a variety of recreation-oriented facilities at 22 locations. The corporate headquarters are in Red Bluff, CA with satellite offices in Pleasanton, Hemet, and in Nevada. Key business services they will be able to provide to Lake Gregory include management of the park, retail (including food and beverage), special event and wedding services, recreation, inspection for invasive species and fee collection. The county will initially pay Urban Parks Concessionaires a management fee of \$300,000 for the first year and \$250,000 for the second year of park operation, with the provision that the county receive revenue in the amount of 10 percent of gross income

or \$100,000 (whichever is greater) for the third year, and an exclusive option for Urban Parks Concessionaires to enter into a new long-term concession lease prior to December 31, 2016."

In approving the arrangement, the board of supervisors made a finding that the contract with Urban Park Concessionaires would advance the county's efforts to "operate in a fiscally-responsible and business-like manner." Lee said "The recommendation to outsource the park is primarily based on significant actual operating losses experienced over the past fiscal years: a net loss of \$798,435 during 2010-11, and a net loss of \$632,734 during 2011-12. Executing this park management agreement, will likely result in continued but declining operational losses during the upcoming fiscal years. A net loss of \$405,000 is projected for 2014-15, and net loss of \$172,000 is projected for 2015-16. A net gain of \$36,000 is projected for 2016-17, based on determinable cost estimates, and revenue growth projections provided by the operator."

Frank Guzman

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County Wildlife Corner

The Bewick's Wren (*Thryomanes Bewickii*)

Noisy, indeed hyper-active, Bewick's Wrens are small birds with bold white eyebrows. They make a practice of flicking their long tails as they hop from branch to branch. Males warble mightily, trill ener-

getically and punctuate these with short whistles and burrs in an effort to attract mates. They defend their territory with raspy calls. Once generally distributed throughout much of the United States, they have pretty

much vanished from the East, while remaining scattered over much of western North America. They are commonly encountered in San Ber-



nardino County's Big Morongo Canyon Preserve, where they are year-round residents.

While they are small in comparison to birds in general at about 5.5 inches long, Bewick's

Wrens are medium-sized among wrens, with a slender body and a strikingly long tail that is often held upright. Their bills are equally slender, though long and slightly downcurved.

Bewick's Wrens are a subdued brown-and-gray in color, with an accentuated brow-like white stripe over their eyes. Their backs and wings are plain brown



and their underparts are gray-white. A Bewick's Wren tail is barred with black and tipped with white spots. Males and

females are pretty much indistinguishable visually.

In the wild, they prefer to dwell in dry brushy areas, chaparral, scrub, thickets in open country, and open woodlands



near rivers and streams. Nevertheless, they can coexist with the human population, and will nest near gardens in residential areas or trees and bushes in parks.

A female lays five to seven eggs that are white with brown spots, producing two broods in a season. Pairs are generally monogamous during the breeding season, but are solitary throughout the winter.

These birds strut and skulk, cocking their tails up over their backs with



a flourish and will flick them from side to side or fan them during their forays in search of insects and spiders.

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California Style Season Up

By Grace Bernal

George Bernard Shaw said, "A fashion is nothing but an induced epidemic. Right now, everything is dripping in Christmas decorations and festivities.. After the



Santacon bar hop and the Christmas shopping, it's time to focus on just winter. Yes, we have



approached and now exceeded winter's thresh-



time of year, from head to toe. If you're heading

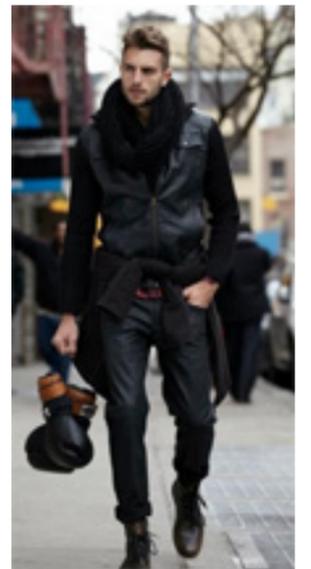


to the snow, try wearing black. Something about



black is unchallengeable. It's pretty phenomenal and nothing can dominate it. Black makes you look like a silhouette and the contrast comes through with just a tad of color. You can imagine

from 8 a.m. 'til sunset, it's all black this season. Get your black on and ring in the New Year making black creative. The whole season is special, but the New Year is about new beginnings. Stay Black!



"I feel intimidated by fashion" -Megan Fox

As always, if there's anything you need, I'd love to hear from you: Greygris@aol.com or visit my page I Love Your Style on Facebook Copyright Grace Bernal all rights reserved

Supreme Court Decision from page 7

took place. Though the California Supreme Court rejected the Fourth District's reasoning that the alleged offeror of a bribe cannot be charged simultaneously with aiding and abetting in the reception of the same bribe

categorically as a matter of law, it sent the matter back to the Fourth District to have that panel determine if the circumstances laid out in the indictment indeed indicate that aiding and abetting took place. If such a determination is made, the aiding and abetting charges will stand. If

not, they could again be dismissed. "We express no opinion as to the validity of other defenses asserted by defendants in their demurrers," the Supreme Court decision states. "We hold only that, at the demurrer stage, the bribery counts and the related portions of the

conspiracy count are not barred as a matter of law merely because the indictment alleges that defendant Burum was the offeror of the bribes or that defendant Erwin acted as Burum's agent." With the pre-trial jousting over the legal sufficiency and appropriate form of the charges

now closed, Larson said he is anxious to move to trial, where the focus on the facts of the case will redound to his client's vindication. "Unfortunately the Supreme Court was legally required to accept the government's unfounded and fabricated allegations as true, but

we look forward to the case being remanded back to the Superior Court where we can finally present the facts and where we will prevail," Larson said. "Today's decision marks the beginning of the end for this politically-motivated prosecution."



Request For More County Judges from front page

problem, although the nine approved by the Judicial Council would have San Bernardino County, which now has 84 Superior Court judges and commissioners, well short of the number, pegged at 156, deemed appropriate for a county of its size and population. Moreover, even if the nine new judges were to materialize, the county itself would probably need to cover some of the cost of providing the

additional courthouse staffing to allow those judges to be functional. Over the last six years, court staff in the county has been severely downsized. While the Judicial Council made the recommendation, it does not have budgetary appropriation authority to actually put those recommendations into actuality. The state legislature would have to free up the funding for the judge expansion. And though it is arguably the most needy of the state's counties, San Bernardino County

is but one of dozens lagging with regard to adequate criminal and civil court resources. Providing a new judge is an expensive proposition, entailing costs of over a million dollars per year. The cost of a judgeship entails the \$181,292 in salary each is paid by the state, plus clerks, secretaries and bailiffs, representing a total package, once established of at least \$950,000 per year. The start-up cost for the first year is considerably higher, around \$1.65 million. In addition, several

counties, including San Bernardino County, supplement judges' pay with stipends. In San Bernardino County, that add-on runs to \$20,000 per year. That practice has come under severe criticism, including charges that it compromises the integrity of the judges, who often hear cases in which the county is a plaintiff or a defendant. The legislature, which several years ago committed to a program of expanding judges throughout the state but reneged on that about

one third of the way through the process when funding dried up, will need to approve the

financing of the Judicial Council's request, which it titled its "2014 Legislative Priority."

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