

Conversation with Deputy Foster and Deputy Milbery

Recording Name:

[E12 090220 OCSD- INTERVIEW FOR REPORT.m4a]

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1 Foster: Uh, so, here's -- here's, kind of, before we keep
2 getting deeper and deeper, right?

3 Bereki: Uh-huh.

4 Foster: I know -- 'cause I know we can. Obviously, you've got
5 stacks and stacks of paperwork here. Um, uh, I will --
6 -- I will say, my -- my personal opinion is, I --

7 Bereki: Mm-hmm.

8 Foster: -- don't know if, necessarily, this is the best route
9 for you, if this is what you want to do and go
10 criminal, um, we can do that. I don't -- no problem.
11 I'll take all your paperwork, we'll document that, and
12 we'll go from there. Um, just, with my knowledge of
13 how you challenge the court --

14 Bereki: Mm-hmm.

15 Foster: -- is not usually this way. You would retain an
16 attorney, and you don't have money for that, but --
17 you know what I mean? Like, you would have to have an
18 attorney file the proper -- and -- you know, and maybe
19 you do, like, a class action suit, or -- you know what
20 I mean? Like, if there's hundreds of people that this
21 is happening to, you know what I mean, you do a -- uh,
22 a class action suit against the state, or something.
23 You know what I mean? I -- I don't know if that's
24 even feasible, or -- or what. You know, I've never
25 heard of that -- something like that before, but --



1 Berekhi: Right.

2 Foster: -- I mean, that's how constitutional amendments get
3 made. You know what I mean, is, you do it through the
4 -- the -- the court process, that way. Um, so, if you
5 -- at -- at this point, I'm probably gonna stop you,
6 and it's not because I don't want to know more,
7 'cause, uh, it's in- -- it's interesting to me, and I
8 -- I -- I'd like to get my head around it more, but I
9 think, uh, I -- I can't make that decision for you.

10 Berekhi: Right.

11 Foster: I'm an information gatherer.

12 Berekhi: Right.

13 Foster: Right? Okay. So, I will gather your information.
14 You can give me a basic timeline of events, right?

15 Berekhi: Mm-hmm.

16 Foster: I will take -- I will make photocopies of all the
17 paperwork that you have, that way you can retain your
18 stuff, unless --

19 Berekhi: Right.

20 Foster: -- this is for you to give us. I'll -- I'll take it,
21 and I'll -- we'll submit everything. Um, I think I'm
22 not gonna take, uh, a crime report at this time.

23 Berekhi: Okay.

24 Foster: That doesn't mean it can't go that way, uh, but I
25 think it would be best if we did it as an information



1 report at this point, um, because I -- one, uh,
2 there's so much to go through that I cannot even
3 verify that a crime has occurred yet, right?

4 Bereki: Right. So -- so --

5 Foster: So -- so, somebody -- so, somebody with more time that
6 can look at this stuff, who can review it, um, and
7 will confer with -- probably with -- I mean, I would -
8 - if I was the investigator, right, I'm -- I'm h- --
9 I'm actually gonna be an investigator soon.

10 Bereki: Mm-hmm.

11 Foster: What I would do is, I would review it, and I'd walk
12 over to the District Attorney's Office, and I'd sit
13 down with somebody that does quasi-civil criminal, and
14 we'd review it all together and say, okay, do we have
15 something or not?

16 Bereki: Right.

17 Foster: Um, so, based off all what I've just said, what do you
18 want to do?

19 Bereki: Um, I hear what you're saying.

20 Foster: Mm-hmm.

21 Bereki: Uh, the issue is that you're the last resort, right?
22 I -- I've been to the courts, and they, so far, don't
23 want to listen. I've gone to the legislature, right?
24 You have an unconstitutional law, you right them and
25 say hey, what's up with this, how can you do this?



1 They don't want to respond. Like --

2 Foster: Okay.

3 Bereki: -- so -- so, just, take --

4 Foster: Well, like I said, if you --

5 Bereki: -- you -- you --

6 Foster: -- if you want to go this route, let's do that, that's

7 fine.

8 Bereki: Okay.

9 Foster: I'm just --

10 Bereki: So --

11 Foster: I'm just saying --

12 Bereki: Right. I -- uh, I --

13 Foster: -- there's o- -- you have options.

14 Bereki: Right.

15 Foster: My -- I think -- I think the best course would be you

16 to -- to retain an attorney.

17 Bereki: Yeah. There's -- I don't have any money to do that.

18 Foster: Right. And --

19 Bereki: So --

20 Foster: -- you -- so, yeah.

21 Bereki: -- s- -- so, th- th- -- that's -- that's out of the

22 question.

23 Foster: Okay.

24 Bereki: Um --

25 Foster: I just want you to understand, there's a very real



1 possibility that we take all this --

2 Bereki: Right.

3 Foster: And all that happens and you get nothing out of it.

4 Bereki: Th- -- that's how it's gotta be.

5 Foster: Okay.

6 Bereki: But right now, the issue of coming here is, one, to
7 stop this unlawful behavior, i- -- assuming it is,
8 right? I'm just gonna talk and say that it is.

9 Number one, to stop this from happening to other
10 people, to stop it from happening to me.

11 Foster: Mm-hmm.

12 Bereki: Get the lien taken off of th- -- the house that my
13 mother owns and that I'm --

14 Foster: Mm-hmm.

15 Bereki: -- the legal title holder to.

16 Foster: Mm-hmm.

17 Bereki: And wh- -- whatever that -- whatever becomes of that,
18 fine. If there's a civil issue that I can bring a
19 suit for damages or restitution, then fine, I'll do
20 that.

21 Foster: Mm-hmm.

22 Bereki: Um, uh, sometimes, I know that the state does that,
23 but I -- uh, I -- I don't know if that will be the
24 case. So, I -- given my history in law enforcement, I
25 get what an information report is, and the general



1 thing is, is that someone's gonna look at it and go
2 this -- shit, this looks complicated, I can't do
3 nothing with it, and it's gonna go in the file. I
4 mean, I get that.

5 Foster: Well, but if -- uh, even if I take it as a -- as a
6 crime report --

7 Bereki: Right.

8 Foster: -- investigator might look at it and be like, oh, it's
9 unfounded, and it goes away.

10 Bereki: Right.

11 Foster: There's that possibility too. Uh --

12 Bereki: But here's the thing, and I want to make this very
13 clear.

14 Foster: Mm-hmm.

15 Bereki: I am gonna hold the sheriff's department accountable
16 for what they do and don't do.

17 Foster: Okay.

18 Bereki: That's it. Like, I -- everybody's getting held
19 accountable, because this is bullshit. And it's not
20 your fault, and it's not your fault, but they don't
21 get to just treat people this way. That's not what
22 the law is about.

23 Foster: Yeah. I understand.

24 Bereki: And -- and so, if --

25 Foster: And i- -- and if you have a legitimate claim, then



1 we'll investigate it. I mean, my lieutenant knows, my
2 investigative sergeant knows.

3 Bereki: Right.

4 Foster: They're gonna g- -- they're gonna give it to a
5 competent investigator and they're gonna do their due
6 diligence.

7 Bereki: So --

8 Foster: Okay.

9 Bereki: -- what I would like with you, you asked what can you
10 do? I don't expect you to be here all day, of course,
11 but I expect you to at least finish what we're talking
12 about and be grounded enough in what I'm sharing with
13 you so that you can at least see what's going on here,
14 and then th- -- have that ability to write a report.
15 Because if you just write a report and you say on this
16 day he did this, this day he did this, there's not
17 real s- -- much substance to that. You have to be
18 able to explain how it's an excessive fine, how these
19 constitutional rights are being violated by that.
20 Those are just, like, the basic prerequisites.

21 Foster: Yeah, I understand.

22 Bereki: Uh, and so, the other -- the other point that I'm here
23 with is, under the California Constitution, you can
24 petition any branch of government for redress of
25 grievance. That means I can go to the legislature, I



1 can go to you, as part of the Executive Branch, and I
2 can say here's this problem. The other two branches
3 of government aren't doing their job and they're
4 acting unconstitutionally.

5 Foster: Mm-hmm.

6 Bereki: And then, you have to take action based upon that.

7 Foster: Mm-hmm.

8 Bereki: So, whether that's in the nature of a crime report, or
9 you want to call it an information report, that's the
10 other aspect of, while I'm here, is that
11 constitutional right to have something done about this
12 illegal action. This isn't like a \$500.00 fine, it's
13 my entire net worth.

14 Foster: I understand.

15 Bereki: So, I mean --

16 Foster: I'm not -- and I'm not trying to -- to blow you off,
17 okay?

18 Bereki: Right. Uh, I don't feel that you are, but I -- I know
19 you're trying to, like, tell me the realistic aspect
20 of it, and -- and I get that, uh, you know? A- -- and
21 --

22 Foster: I mean, that's what's going to happen.

23 Bereki: Right. I know.

24 Foster: And I want -- want you to be aware --

25 Bereki: And I know that the DA is a -- a politician, and



1 they're not gonna want to prosecute a judge. I know
2 that. You know, like, and even the sheriff's
3 department is probably not going to want to put a
4 criminal case together because of the issue of the
5 judges.

6 Foster: I just -- I -- and, again, this is my personal
7 opinion, okay?

8 Bereki: Mm-hmm.

9 Foster: I think you're going to have a very hard time proving
10 a crime against you, in terms of 484 or whatever.

11 Bereki: Right.

12 Foster: Because you're -- you're implying that the judge knows
13 that what he's doing is illegal and he's still doing
14 it anyway.

15 Bereki: Oh, exactly. So, let me ask you this. If y- -- you
16 go out on your job, and you have -- you're performing
17 a function, and that function requires that you take
18 certain steps, otherwise, if you don't take those
19 steps, that -- that action becomes illegal. You know
20 what in the hell you're doing. Like, you know that
21 you have to -- to perform certain things that the law
22 requires, otherwise you'll be outside your legal
23 authority.

24 Foster: But what -- what benefit does the judge have in doing
25 this?



1 Bereki: It -- it -- it -- I don't know, power, ego, something.
2 I -- I mean, why would they do this?
3 Foster: But to -- but to prove a crime --
4 Bereki: Right.
5 Foster: -- right, there -- there would have to be --
6 especially for, like, theft.
7 Bereki: Right.
8 Foster: Right? There's no gain for them.
9 Bereki: Doesn't --
10 Foster: It -- it -- of the money.
11 Bereki: Right.
12 Foster: If I'm stealing money from you --
13 Bereki: Right.
14 Foster: -- I'm gaining, right?
15 Bereki: Right.
16 Foster: What are -- I mean, are you alleging they're getting
17 kickbacks from people?
18 Bereki: No, not at all.
19 Foster: You know what I'm saying?
20 Bereki: I don't think any of that's going on.
21 Foster: Like, do you think there's some type of --
22 Bereki: No.
23 Foster: -- collusion?
24 Bereki: I don't -- well, I -- I -- I don't. Put it this way.
25 Like, why is the licensing law there in the first



1 place? I -- I don't know all the parameters of it. I

2 --

3 Foster: I would guess --

4 Bereki: -- haven't done all the research.

5 Foster: I would guess it's to make sure that you have quality,
6 competent work all the time.

7 Bereki: Mm, that's what they put on the surface of it, but, in
8 reality, what it actually does is, it excludes about
9 50 percent of the people that actually want to do
10 work, that might actually be competent. It's -- it's
11 a measure that -- if you start looking into it, yes,
12 there is an aspect of having competency and quality
13 work, all right? But they don't -- when you take the
14 licensing exam, they don't say to the cabinet maker,
15 hey, come here and just build me a cabinet. No. It's
16 a licensing exam about law.

17 Foster: Mm-hmm.

18 Bereki: They don't ask you -- you know, like, when you go to a
19 driver's exam --

20 Foster: Yes. I understand.

21 Bereki: -- for your license --

22 Foster: I understand.

23 Bereki: But, so -- so --

24 Foster: But it -- but it's -- it's designed as a system to
25 exclude criminal, uh --



1 Berek: Mm --

2 Foster: -- and -- or fraudulent work, fraudulent workers --

3 Berek: Mm --

4 Foster: -- who would come in and do a shoddy job, and then ha-

5 --

6 Berek: Kind of.

7 Foster: -- and then, there's no recourse against that.

8 Berek: Kind of, but y- -- I mean, uh, unless you're actually

9 doing -- I mean, this is philosophical, but unless

10 you're actually, like, going to have an electrician

11 come down and wire some outlets in the room for you,

12 or have a c- -- cabinet maker build the -- the

13 cabinet. You can't examine someone's competency to do

14 that. That's why, like, people don't go to their --

15 Foster: But that's why they have building inspectors.

16 Berek: -- state's -- exactly. So, then, why are we out a

17 license? Why do we need a license? The building

18 inspectors gonna come and -- and inspect.

19 Foster: Well, 'cause people do work out of -- well, out of

20 inspection without pulling permits.

21 Berek: But that's nothing to do with the license.

22 Foster: Well, and not everything needs to be inspected.

23 Berek: Yeah, but we're talking about the license. Why does

24 the -- so -- so, what I'm getting at is --

25 Foster: Okay.



1 Berekí: -- is -- is the -- the roundabout answer to your
2 question, and I cannot substantiate this, is that
3 there are political reasons why certain laws are
4 enacted, and those political reasons are driven by
5 special interest groups --

6 Foster: Mm-hmm.

7 Berekí: -- which could be construction companies, big
8 construction companies that want to keep the
9 competition down, so they make these licensing
10 requirements, and they make them strict, and then they
11 keep 50 to 75 percent of the actual competition out of
12 the industry.

13 Foster: Okay.

14 Berekí: And -- okay.

15 Foster: Well, you're --

16 Berekí: So -- so --

17 Foster: Yeah. You're not -- you're not gonna change that,
18 though.

19 Berekí: No.

20 Foster: I mean --

21 Berekí: Okay. So, that -- just keeping that in the
22 background.

23 Foster: Okay.

24 Berekí: Now, you have -- you have the authority of the state
25 that's going to enforce that, that paradigm that



1 they're adopting as the law.

2 Foster: Mm-hmm.

3 Bereki: And so, the judges don't get, quote/unquote a
4 kickback. I'm not saying, again, that there's a bribe
5 or something going on, but they all work for the
6 state. They have to do what the state says and not
7 challenge the state's authority, otherwise, they're
8 not gonna be in office very long. You know, i- i- i-
9 -- uh, how long -- yeah. A judge is not gonna last.

10 Foster: Sure. I -- I understand that, but the -- I d- -- I
11 don't -- I -- I -- I don't know. I'm not -- I'm not a
12 -- I'm not a -- a prosecutor, right. I d- -- I
13 haven't been to law school, right? Been in law
14 enforcement for a number of years --

15 Bereki: Yeah, but you're a very intelligent being. You know -
16 -

17 Foster: So --

18 Bereki: -- exactly what we're talking about here.

19 Foster: I -- I'm just gonna say I -- I don't think you're
20 gonna get -- you're not gonna get anywhere going
21 criminal on this. It j- -- you know, if you're -- if
22 you're saying that there's a -- uh -- um, a
23 miscarriage of justice in -- in terms of the -- the
24 law is written incorrectly, having a -- charging a
25 judge with a crime, I don't think, is how you change -



1 - I mean, wh- -- why do you think we have the Supreme
2 Court? Why do we have Roe v. Wade, you know, where
3 you challenge the abortion law, or something like
4 that, you know what I mean? Like, you challenge --
5 Bereki: Uh, I do.
6 Foster: -- the law, to change it.
7 Bereki: I do.
8 Foster: You do it through the court process, and -- uh, and --
9 Bereki: Okay. So -- so, I hear you.
10 Foster: Mm-hmm.
11 Bereki: When I was a cop, before I went through all of this,
12 that's what I thought too, but that's not how it works
13 in the real world. Like, you're telling me real world
14 stuff. And here's -- here, I'll explain it to you.
15 This is the law in California. There is no changing
16 it. Where do you go?
17 Foster: What do you mean there's no changing it?
18 Bereki: There's no changing it.
19 Foster: So, laws are just, that's it, we're done?
20 Bereki: Well, I've been through the process. Yeah.
21 Foster: Well, you --
22 Bereki: S- -- so -- so --
23 Foster: Yes. You have, as John Q. Citizen. But, like, you --
24 normally, you have an attorney who files motions. You
25 know, I mean, how do you even know that you're doing



1 it correctly?

2 Bereki: Because I do. I mean --

3 Foster: Okay. Well --

4 Bereki: I -- I -- I'm -- I -- I'm very, very, very, very

5 smart, and I sit here --

6 Foster: Yeah. I mean --

7 Bereki: -- for three years --

8 Foster: -- you seem smart, you know, and you've -- you have a

9 --

10 Bereki: -- I've read the law, and I've researched, and I've

11 had firsthand experience about what goes on and how it

12 goes on.

13 Foster: Okay. Well, so, I- -- like I said, we -- we can keep

14 debating this, and --

15 Bereki: S- s- -- that's fine.

16 Foster: -- and whatnot.

17 Bereki: So, here's the other aspect of why I'm here. If it's

18 not criminal, and you don't think it'd go that way,

19 I'm fine with that.

20 Foster: Mm-hmm.

21 Bereki: But there's another thing, petition for redress of

22 grievance. And in that capacity, I don't know what

23 your duties are with regard to that, but --

24 Foster: I have no idea, either.

25 Bereki: -- if I'm bringing the petition to you for deprivation



1 of rights, I don't know what you have to do with it,
2 but something.

3 Foster: I mean, maybe --

4 Bereki: There has to be a remedy. So, if it's not a criminal
5 action, well, then, someone's trespassing on my
6 property and get them the hell off, whatever you gotta
7 do to do it.

8 Foster: Okay.

9 Bereki: Um --

10 Foster: Well, yeah --

11 Bereki: -- so --

12 Foster: -- I -- I don't either. So, let's do this. Let's --
13 um, I'm gonna have my partner here, we're gon- --
14 we're gonna kind of walk through --

15 Bereki: Okay.

16 Foster: And we'll take some notes. Um, so, I want you to tell
17 me, first, let's start with, um, names, addresses, you
18 know what it mean? Like, every -- everything from the
19 initial -- from this.

20 Bereki: Okay.

21 Foster: Okay? So, that way, we know -- 'cause, essentially,
22 you're -- you're saying you got sued, which is -- are
23 -- are you saying the suit was legal?

24 Bereki: No.

25 Foster: Okay. So, you got sued under what --



1 Bereki: I got sued under an unconstitutional law that you
2 cannot --

3 Foster: No, no, no, no, no. What -- what -- what did they use
4 as the terms to say that they could recoup their cost?
5 Is there -- is there a B&P section that they said you
6 violated, right?

7 Bereki: Yes.

8 Foster: Was it this -- this one, right?

9 Bereki: Yes.

10 Foster: Okay.

11 Bereki: 7031(b).

12 Foster: Okay. So, they -- they brought a suit against you,
13 saying you violated B&P 7031(b), right? Okay.

14 Bereki: Yes.

15 Milbery: Do you have a driver's license on you?

16 Bereki: I don't. I'm happy to --

17 Milbery: May you spell your last name for me?

18 Bereki: Yes. B-E-R-E-K-I.

19 Milbery: E-K-I.

20 Bereki: First name Adam.

21 Milbery: And a middle?

22 Bereki: Allen. 6/18/79.

23 Milbery: A-L-L-E-N?

24 Bereki: A-L-A-N.

25 Milbery: And date of birth one more time?



1 Bereki: 6/18/79.
2 Milbery: Do you happen to know your driver's license?
3 Bereki: B6970543.
4 Milbery: 543. And your address?
5 Bereki: 818 Spirit.
6 Milbery: 818 --
7 Bereki: Spirit.
8 Milbery: -- Spirit.
9 Bereki: And then, there's nothing after that, and it's Costa
10 Mesa, 92626.
11 Milbery: And a good contact?
12 Bereki: (949)241-6693.
13 Milbery: 6693. Good email?
14 Bereki: Uh, my first initial, last name. So, A-B-E-R- --
15 Milbery: A-B-E-R- --
16 Bereki: -- EKI@gmail.com. Are you in training?
17 Milbery: I am.
18 Bereki: Congratulations.
19 Milbery: I'm at the end.
20 Bereki: Wow. Good for you. What a case to get at the end of
21 your --
22 Milbery: I've been in -- we start at the jail, so I've been
23 around for a minute.
24 Bereki: Oh, okay.
25 Milbery: I'm just finally out.



1 Berekhi: Yeah, cool.

2 Foster: Uh --

3 Berekhi: So, you -- you're out of -- getting out of the jail?

4 Milbery: I'm out of the jail.

5 Berekhi: And going into patrol?

6 Milbery: Mm-hmm.

7 Berekhi: Congratulations.

8 Milbery: Thank you. Thank you.

9 Berekhi: That's so cool. Good for you.

10 Milbery: I'm excited, yeah.

11 Foster: So, the name of your company was what?

12 Berekhi: Uh --

13 Foster: The Spartan Associates? Is that you?

14 Berekhi: S- S- -- Spartan Associates -- The Spartan Associates,

15 or Spartan Construction. You can use either one.

16 Foster: Okay. I'm gonna have you just write down this case

17 number right here, so we have that. Um, can I just --

18 is this for us, or is this --

19 Berekhi: Yeah. But I --

20 Foster: -- copies?

21 Berekhi: No. I'm going to give it to you, most of it, but, um,

22 I -- I'd like to -- it's all in order, so I'd like to

23 go over it with you and -- and share it with you.

24 Foster: Um, okay.

25 Berekhi: So you understand what it -- what it is. Oops, sorry.



1 Foster: Um, you're gonna give me all of this?

2 Bereki: Yeah.

3 Foster: Okay. 'Cause what I want to do is, I want to --

4 'cause I'm gonna -- I'm gonna have to book it, but I -

5 - what I want to do is make copies to give to the

6 investigator, so if they --

7 Bereki: Okay. So --

8 Foster: -- they can just --

9 Bereki: -- I'll help you sort out --

10 Foster: Okay.

11 Bereki: -- at least, initially, what you'll need and what you

12 won't, but --

13 Foster: What is all this?

14 Bereki: It's -- it's -- it -- my appeal is here, um, other

15 case law is here to substantiate what I'm saying, the

16 judgement from the appellate court, judgment from the

17 supreme court. It's -- it's the judgment about --

18 Foster: So, this is all court --

19 Bereki: These are court judgments, yes, that -- that show all

20 the law that I'm saying is true and correct,

21 basically. So, you don't -- may not want to book

22 that, but --

23 Foster: Is this stuff that you have filed, or these are just -

24 - this is case law?

25 Bereki: No. These are -- these are -- these are case law.



1 Foster: Oh.

2 Bereki: This case says, in this situation, you do this. When
3 you have an excessive fine, you go through these four
4 steps and, like I said, they didn't do it. Here's the
5 case law, 2020. It's that simple.

6 Foster: All right. So, this is everything that you've done,
7 and this is --

8 Bereki: No --

9 Foster: -- your --

10 Bereki: No --

11 Foster: Well, mostly.

12 Bereki: Yeah. There's s- -- there's select stuff in here.

13 Foster: Okay.

14 Bereki: I whittled it down to give you the bare bones, to
15 substantiate --

16 Foster: Okay.

17 Bereki: -- what I -- what I've got.

18 Foster: And then, this is your referencing -- reference
19 material?

20 Bereki: Mostly. Mostly, yeah. There's some evidentiary stuff
21 in here, but, uh --

22 Foster: Yeah.

23 Bereki: -- (inaudible - 00:18:00) --

24 Milbery: And we're only speaking of Judge David?

25 Bereki: David Chaffee (ph).



1 Milbery: Ellihan (ph), right?
2 Bereki: Right now, yes. He's retired.
3 Milbery: He's now retired?
4 Bereki: Yes.
5 Milbery: When did he retire?
6 Bereki: Um, I believe in 2019. The trial date that we had was
7 March, um, I believe it was 27th and 28th of 2017.
8 Milbery: These are the owners of the house, Gary and Karen?
9 Bereki: Yes. Yes.
10 Milbery: What does Spartan have (inaudible - 00:19:01) just
11 basically (inaudible - 00:19:01)?
12 Bereki: Um, Spartan is my company.
13 Milbery: Yeah. The -- you own Spartan?
14 Bereki: Yeah, yeah.
15 Milbery: Oh, okay.
16 Bereki: Yeah, yeah. It's my company.
17 Milbery: I didn't catch that.
18 Bereki: So, that's the company that -- uh --
19 Milbery: So, you are the owner of Spartan?
20 Bereki: Yes.
21 Milbery: Okay.
22 Bereki: Yeah. So, basically, what happened was, when you go
23 to make application for a license --
24 Milbery: Mm-hmm.
25 Bereki: -- you put the name of your company, or --



1 Milbery: Right.

2 Bereki: -- yourself, and then the qualifying person is there.

3 Milbery: Mm-hmm.

4 Bereki: So, the license got issued in my company's name.

5 Milbery: Spartan.

6 Bereki: So, um, I don't know if you'd want to put it, but it

7 was license 927244.

8 Milbery: All right. And what was the number again?

9 Bereki: 927244. Um, uh, if you want these, you're welcome to

10 them. So, this is my application.

11 Milbery: Mm-hmm.

12 Bereki: This is a printout from the state that shows it was my

13 license, and here's the thing that shows that my

14 company is licensed.

15 Milbery: How long were you with your department?

16 Bereki: Um, as a cop? Almost 10 years, but I started as an

17 explorer.

18 Milbery: Oh, nice.

19 Bereki: And then, was a cadet, and then did all that.

20 Milbery: Yeah. I never did those things, cadet and explorers.

21 Bereki: Oh, okay.

22 Milbery: Yeah.

23 Bereki: How long have you been here?

24 Milbery: Um, started in 2015.

25 Bereki: Oh my gosh.



1 Milbery: Yes.

2 Bereki: Wow. So, only five years in the jail?

3 Milbery: Mm-hmm.

4 Bereki: That's great.

5 Milbery: Yeah. It's actually short now. Most people are doing

6 three.

7 Bereki: Are you serious?

8 Milbery: Uh-huh.

9 Bereki: Before you go out to patrol, there's some --

10 Milbery: Yeah. And some peo- --

11 Bereki: -- like, out -- specialty?

12 Milbery: Before my time, it used to take, like, seven to 10

13 years.

14 Bereki: Right.

15 Milbery: Now, it's three to five.

16 Bereki: Wow.

17 Milbery: Yeah.

18 Bereki: Do you think it's 'cause, like, the mass exodus of,

19 like, all the other old timers retiring, or?

20 Milbery: The retirement rate right now, yes.

21 Bereki: Mm-hmm.

22 Milbery: And they're just -- spots keep opening. So, there's

23 always been a list, and it just moves. And right now,

24 it's just (inaudible - 00:21:18) --

25 Bereki: Wow.



1 Milbery: Yeah.
2 Bereki: Cool.
3 Milbery: And everybody's promoting and moving on.
4 Bereki: Right.
5 Milbery: So, there's just been so many spots opening
6 everywhere.
7 Bereki: Wow.
8 Milbery: Yeah. It's been cool.
9 Bereki: Great.
10 Milbery: Um, we got lucky.
11 Bereki: Yeah. Do you know where you're gonna be assigned yet,
12 or --
13 Milbery: I'll be assigned here.
14 Bereki: Oh, okay.
15 Milbery: To north operations.
16 Bereki: Okay.
17 Milbery: Mm-hmm.
18 Bereki: Cool. Yeah. I -- um, I don't know, looking back, I
19 wish that there had been a lot more training on mental
20 health.
21 Milbery: Yeah. It's -- I never knew how much mental health
22 issues were in the jail until I got there.
23 Bereki: Mm-hmm.
24 Milbery: Yeah. I was a (inaudible - 00:21:56) --
25 Bereki: Yeah. Well, I mean more for cops.



1 Foster: Okay.

2 Milbery: Oh.

3 Bereki: Yeah.

4 Foster: All right. So, this is how we're gonna kind of --
5 let's get a -- let's get a timeline of what you've
6 done, okay? Let's start there, and then we can kind
7 of add in what we need to, where. Okay? So, when did
8 you -- you did the work for these people when?

9 Bereki: Okay. The -- the project started -- uh, or was from
10 April of 2012 to August of 2013.

11 Foster: Okay. And you had a \$1 million contract?

12 Bereki: Well, n- -- no. I- i- -- it was a job to basically
13 just do a remodel on one part of the condominium. So,
14 this building, it -- it's, like, a, um, condo complex.

15 Foster: Mm-hmm.

16 Bereki: There were two units up above and one unit down below.
17 They owned the upstairs top unit.

18 Foster: Mm-hmm.

19 Bereki: And they just wanted to do, like, a facelift remodel.

20 Foster: Mm-hmm.

21 Bereki: So, I gave them an estimate for, like, \$75,000.00, and
22 I told them that I would do it, uh, time and
23 materials, meaning whatever time it takes and whatever
24 the costs are, you just reimburse me for that, and
25 that's it.



1 Foster: Mm-hmm.

2 Bereki: But the estimate was around \$75,000.00. Um, so, after
3 that, they, um, ended up buying the other unit
4 upstairs and they wanted to tear down the wall between
5 the two units and then make it one big unit (inaudible
6 - 00:23:15) --

7 Foster: So, it started as a small project and it (inaudible -
8 00:23:16) --

9 Bereki: Turned into an enormous project, yes.

10 Foster: Okay. All right.

11 Bereki: So.

12 Foster: So, you did this work for them, and then, in --

13 Bereki: August of 2013, uh, they, um, basically -- they
14 terminated Spartan, um --

15 Foster: So, they -- they fired you?

16 Bereki: Yeah.

17 Foster: Okay.

18 Bereki: Yeah. M- -- well, they fired Spartan, not me.

19 Foster: I understand.

20 Bereki: Right.

21 Milbery: But you are Spartan.

22 Foster: Well --

23 Bereki: Well, legally, the --

24 Milbery: 'Cause you're the owner.

25 Bereki: Yes. But in law, you have two legal entities.



1 Milbery: Okay.

2 Bereki: So, I'm not Spartan. I'm the owner of it, but that's
3 a separate legal entity. It gets sued separately and
4 has separate responsibility. So, uh, the terminated
5 Spartan, not me, um, and, uh, at that time, there was,
6 uh, about a \$82,000.00 bill that was due. Um, w- -- I
7 tried to negotiate with them for a couple of years.
8 Uh, that included up to, like, I think even making an
9 offer for \$20,000.00, um, and they refused it.

10 Foster: Why did they terminate you?

11 Bereki: Um, they said that the project was taking too long and
12 costing too much.

13 Foster: Okay.

14 Bereki: So, they brought in a new contractor who was a friend
15 of the people down below, and --

16 Foster: Mm-hmm.

17 Bereki: -- that person took over the project and did the rest
18 of the job.

19 Foster: Okay.

20 Bereki: Um, so, um, yeah. They -- uh, they fired Spartan.
21 So, there's a two year statute of limitations to bring
22 an action for recovery of, um, compensation. So, in
23 August of 2015, Spartan filed a lawsuit against them.

24 Foster: And that's what initiated this?

25 Bereki: That's what initiated the whole of everything.



1 Foster: Okay. 'Cause you're the plaintiff and they're the
2 defendant?

3 Bereki: Yes. And Spartan's lawsuit was, um, just for the time
4 and materials that was owed that they didn't pay, very
5 simple.

6 Foster: So, you were suing them just for the \$82,000.00?

7 Bereki: Correct.

8 Foster: Okay.

9 Bereki: Correct.

10 Foster: But then, in return, instead, you got -- you got a
11 reverse judgment against you stating you owed them
12 \$848,000.00?

13 Bereki: Correct.

14 Foster: Okay.

15 Bereki: That's the long of it, yeah.

16 Foster: Yes.

17 Bereki: So, right after the lawsuit gets filed, they file a
18 cross complaint, and they make whatever allegations
19 they make. And early on, they went to file something
20 which is called a, uh, motion for summary judgment,
21 and this is basically to say hey, look, um, there's no
22 disputed issues of fact. This guy didn't do some of
23 the things that he was supposed to do, and because of
24 that, they don't have -- uh, Spartan doesn't have a
25 right to get the compensation that it's paid.



1 Foster: Mm-hmm.

2 Bereki: So, I want to just -- you to notice something here,
3 very interestingly, and that is, it says here, this
4 motion is made on the grounds that the undisputed
5 facts are this. In 2012, Spartan was doing business
6 as a contractor. In April 2012, Karen and Gary
7 Humphries owned a condominium unit, blah, blah, blah,
8 blah, blah. In April of 2012, Spartan entered into an
9 agreement with the Humphries for the performance of
10 home improvement work on their condominium unit.

11 Foster: Mm-hmm.

12 Bereki: The home improvement work to be performed by Spartan
13 had an excessive value of \$500.00. The agreement
14 between Spartan and the Humphries --

15 Foster: Mm-hmm.

16 Bereki: So, this is what they tried, initially, to get the
17 case thrown out on.

18 Foster: Mm-hmm.

19 Bereki: So, they said that the agreement was with Humphries in
20 the beginning -- or, with Spartan in the beginning.

21 Foster: Mm-hmm.

22 Bereki: And so, then, you fast forward to --

23 Foster: Which, uh -- this is -- so, was --

24 Bereki: You -- which is the motion for summary judgment.

25 Foster: So, the -- they filed a motion -- write this down,



1 motion for summary judgment.

2 Milbery: That was August 2015, after he --

3 Foster: This was --

4 Milbery: -- (inaudible - 00:27:18).

5 Foster: Yeah. So, they filed -- where -- and just write it

6 down that they -- they -- uh --

7 Milbery: They, as in the Humphries?

8 Bereki: Yes.

9 Foster: Yeah. The Humphries asserted that they entered into

10 an agreement with Spartan Industries, for -- or,

11 Spartan Assoc- -- what is it? Spartan --

12 Bereki: It's The Spartan Associates.

13 Foster: Yeah. To -- for construction work, who is a licensed

14 -- right?

15 Bereki: Yes.

16 Foster: The license is under --

17 Bereki: Exactly. You're exactly right.

18 Foster: Okay.

19 Bereki: So --

20 Foster: I'm trying to -- trying to understand what you're

21 trying to tell me.

22 Bereki: Yes. No, you're right on.

23 Foster: Okay.

24 Bereki: So, just so -- if this w- --

25 Milbery: Humphries asserted they entered into agreement with



1 Spartan --

2 Bereki: For construction on their condo. It -- so, this is

3 the date of that motion, 2/17/16, and I'm just going

4 to underline, Humphries entered into an agreement --

5 Milbery: For --

6 Bereki: -- for work to be performed by The Spartan Associates.

7 Why -- the work to be performed is important because

8 y- -- that's part of the elements of the crime -- of

9 the -- elements of the offense. It has to be not

10 performed by an unlicensed contractor.

11 Foster: I understand.

12 Bereki: All right? So, um, I don't know if you --

13 Foster: That's part of this, right, the 7031(b)?

14 Bereki: Yes.

15 Foster: Okay.

16 Bereki: Yes.

17 Foster: All right.

18 Bereki: They have to allege that they did -- that -- un- --

19 unlicensed contractor did work.

20 Foster: Mm-hmm.

21 Bereki: So, how can that be if a licensed contractor was doing

22 the work? That's the first part.

23 Milbery: Did all the checks get cashed to Spartan?

24 Bereki: Okay. So, um, I'll share more about that with you --

25 Milbery: Okay.



1 Bereki: -- in just a sec. So, um, I don't know, we'll keep
2 just --
3 Foster: Let's keep timelining.
4 Bereki: Yes.
5 Foster: Okay.
6 Bereki: Okay.
7 Milbery: Uh-huh.
8 Bereki: So, they filed that. So, then, um, I don't know when
9 the exact day of this was, but early 2017, they filed
10 an amended -- a first amended cross complaint. That's
11 this. And all they're saying is look, we have new
12 information and we want to amend our charges a- -- or,
13 complaint against him.
14 Foster: Mm-hmm.
15 Bereki: So, the new information that they have is, we never
16 contracted with Spartan, we contracted with Adam, and
17 because of that we want our \$848,000.00 back.
18 Foster: Mm-hmm. Okay.
19 Bereki: All right? So --
20 Foster: Do you have this contract with them?
21 Bereki: Um, I don't have it here with me, no. It's not in the
22 -- it's emails, thousands of emails going back and
23 forth between them, what do you want me to do?
24 Foster: Do you have an actual signed contract?
25 Bereki: No, it's all email.



1 Foster: So --

2 Bereki: It's all email, yes, yes.

3 Foster: -- so, what's the -- the basis of your claim, you

4 can't prove the basis of your claim.

5 Bereki: That's not my claim.

6 Foster: But your claim is that -- initially -- let's back i- -

7 - just to this suit, right?

8 Bereki: Mm-hmm.

9 Foster: Your claim is that they did work with your company.

10 Bereki: Right.

11 Foster: And then, they -- but then, they're saying they did

12 work with you, but you can't prove --

13 Bereki: Even if I can't, that has nothing to do with this

14 complaint here.

15 Foster: Well, it does, because you're stating the -- the --

16 the w- --

17 Bereki: I'm here strictly on --

18 Foster: -- ju- -- at -- at the -- at the -- at the core --

19 Bereki: Right.

20 Foster: -- of this --

21 Bereki: Yeah.

22 Foster: -- right, is, you're saying -- you're claiming you did

23 not violate this section of the B&P code, right?

24 Bereki: No, I'm not saying that.

25 Foster: So, you're saying you did violate it?



1 Berekí: I am saying that, but -- I am saying that, but I'm not
2 saying that that has anything to do with this right
3 here.

4 Foster: Well, this is the initial triggering action, because
5 if you were not in violation of this, nothing else
6 would have happened.

7 Berekí: Correct.

8 Foster: Right? You would have been given money by them.

9 Berekí: Mm, not -- well, if we had a civil --

10 Foster: Possibly.

11 Berekí: -- yes.

12 Foster: Possibly.

13 Berekí: Yes. Yes.

14 Foster: Right?

15 Berekí: Yes. Yeah.

16 Foster: So, this i- -- this -- this violation --

17 Berekí: Right.

18 Foster: -- is the core, right, of your --

19 Berekí: No.

20 Foster: Of -- hold on, l- --

21 Berekí: I -- I hear what you're saying.

22 Foster: Listen to what I'm saying. This starts -- this is the
23 triggering action that -- that carries everything
24 forward for you.

25 Berekí: Okay.



1 Foster: Right?

2 Bereki: Yes.

3 Foster: Is that correct?

4 Bereki: Um, yeah. You could say that.

5 Foster: Okay. So --

6 Bereki: But I'm not here with you -- I know that this is
7 relevant to your report but I'm not here with you,
8 disputing this. What I'm disputing is their authority
9 to do this. That's what I'm here for.

10 Foster: Their authority to do what?

11 Bereki: T- -- to, number one, make this section. Number two,
12 to make it in- -- uh, unconstitutional and fine me \$1
13 million. I -- I'm not here --

14 Foster: But that's -- but that's not a crime.

15 Bereki: The hell it's not.

16 Foster: How is that a crime? How -- how are you --

17 Bereki: All right. Let me show you.

18 Foster: How -- how are my --

19 Bereki: Let me show you.

20 Foster: How am I going to investigate a crime that the state
21 enacted a law that you don't think is correct?

22 Bereki: Hang on one second, I'll show you. Just give me one
23 second. I don't know where the papers went. I
24 printed them out. Uh, I'll have to read it to you.
25 Hang on one second. Now, this is not a state crime,



1 but I'm just going to show you the criminal nature of
2 it.

3 Foster: Well, if it's not a state crime, then how -- how can
4 we enforce it?

5 Bereki: I'll -- uh I -- I -- I'll share with you that --

6 Foster: Okay.

7 Bereki: -- in just a second. It's called 18USC242,
8 deprivation of rights under color of law.

9 Foster: Okay. Hold on.

10 Bereki: Who --

11 Foster: Just -- yeah, write -- write down so we can reference
12 it later. What is it?

13 Bereki: 18USC242.

14 Milbery: 18USC --

15 Bereki: 242.

16 Milbery: And what is this?

17 Bereki: Yeah. It's the United States Code.

18 Milbery: Okay.

19 Bereki: And it's for deprivation of rights under color of law.
20 I have it printed out, and I will -- when I find it
21 again, I'll give it to you so you can see it. It says
22 whoever, under color of any statute, law, ordinance,
23 regulations, blah, blah, blah, subjects any person in
24 any state, territory, blah, blah, blah, to the
25 deprivation of any rights or privileges secured or



1 protected by the Constitution or laws of the United
2 States or to different punishments, pains, or
3 penalties on account of such person, blah, blah, blah,
4 blah, blah, blah, blah, blah, blah, blah. Basically,
5 if you violate someone's constitutional rights, shall
6 be fined under this title or imprisoned for any term
7 of years, or for life, or both, maybe sentenced to
8 death.

9 Foster: Okay. So, I -- I get -- I get that, right?

10 Bereki: Okay.

11 Foster: So, what -- let me make sure I understand. This is --
12 you are -- that section --

13 Bereki: Right.

14 Foster: -- is what is -- you think you're being violated,
15 right?

16 Bereki: Um, no.

17 Foster: Is that the ultimate section?

18 Bereki: No. No, no. that is a federal statute that you can't
19 enforce, and I'm --

20 Foster: Correct.

21 Bereki: -- just giving you an example of the criminality of
22 deprivation of rights.

23 Foster: Okay. I understand that.

24 Bereki: Okay.

25 Foster: I'm trying to figure out how to explain what's going



1 through my head.

2 Bereki: J- -- uh, just spit it out.

3 Foster: Well --

4 Bereki: It's all good. We'll figure it out.

5 Foster: Yeah. So, there -- this i- -- you're -- you're

6 challenging a law, right?

7 Bereki: Mm-hmm.

8 Foster: That's enacted by the California legislature, right?

9 Bereki: Okay.

10 Foster: Okay. Is that what you're doing? That what you want

11 to do?

12 Bereki: Essentially, yeah.

13 Foster: Okay. How is attempting to file a criminal charge

14 against a single judge going to change the law? The

15 judge is a -- um, they -- they -- they act at behest

16 of the legislature, right? They're appointed --

17 Bereki: No.

18 Foster: -- by the governor.

19 Bereki: No.

20 Foster: They -- they're -- they're -- they're following the

21 laws that are on the books.

22 Bereki: Okay. So --

23 Foster: Okay?

24 Bereki: -- what is --

25 Foster: So, if -- so, if you're saying --



1 Bereki: -- supreme law? What is the supreme law?
2 Foster: I --
3 Bereki: On the book -- the supreme law is the Constitution.
4 Foster: Okay. Well, yeah. Okay. So, but what I'm saying is,
5 if you're saying that a judge is -- is committing a
6 crime against you --
7 Bereki: Right, by violating the law.
8 Foster: -- but he -- but he is -- hold on, let me finish.
9 Bereki: Okay. Sorry.
10 Foster: If he's committing a crime against you by enforcing
11 the laws that are on the books, how is -- how is that
12 a crime, uh, by him?
13 Bereki: Okay. (Inaudible - 00:36:02) --
14 Foster: Okay. So -- so, let -- let -- let's take -- let's
15 take today's climate, right? Political climate,
16 right?
17 Bereki: Well, we -- we -- let's st- -- let's stop with what
18 you just said there, because there's a fatality -- uh,
19 there's a flaw in what you're saying. You said that
20 the judge is enforcing the law that's on the books.
21 Foster: Correct.
22 Bereki: No. The judge --
23 Foster: He's not?
24 Bereki: -- has a duty to enforce -- yes, he does have a duty
25 to enforce a law, but the highest law is the



1 Constitution. So, if a law -- if the legislature
2 passes a law and it's unconstitutional. It -- it does
3 not abide with the Constitution.

4 Foster: So, your recourse is to go to the next highest court.

5 Bereki: Okay. So, I've done that all throughout California.

6 Foster: And --

7 Bereki: And I even went to --

8 Foster: -- then, you're done.

9 Bereki: -- the Supreme Court of the United States. No, I'm
10 not. That's why I'm here.

11 Foster: The -- but what I'm saying is, we're below.

12 Bereki: No, you're not.

13 Foster: Well, okay, but --

14 Bereki: You are absolutely a co-equal branch --

15 Foster: -- how -- how -- how --

16 Bereki: -- of government.

17 Foster: Yes. I understand that. But how is -- how is this
18 going to change the law for you?

19 Bereki: I -- I don't know. I -- uh, I don't know anything --

20 Foster: Are you just --

21 Bereki: -- until it just happens.

22 Foster: -- just shooting in the dark --

23 Bereki: No.

24 Foster: -- hoping something sticks?

25 Bereki: No. No. No. Okay. There's -- there's two things.



1 One, the criminal aspect of it, which, we have to get
2 in to see that, so you can see more of the intent and
3 all of that, but fine. There's also the -- the -- the
4 petition for redress of grievance. That means that
5 every single one of California's branches of
6 government, there's a judicial branch, a legislative
7 branch, and a Executive Branch.

8 Foster: Right.

9 Bereki: They're co-equal, and they are checks and balances on
10 one another so that one does not become a tyrant.

11 Foster: Mm-hmm.

12 Bereki: That's the whole point.

13 Foster: Mm-hmm.

14 Bereki: To have them separate.

15 Foster: Mm-hmm.

16 Bereki: S- -- separation of powers.

17 Foster: Mm-hmm.

18 Bereki: All right? So, now, what I'm sharing with you is that
19 the other two branches are doing something that is
20 unconstitutional and illegal.

21 Foster: Mm-hmm.

22 Bereki: And so, because of that, it is your duty to protect my
23 rights and property because the other two branches are
24 doing something illegal. Whether that action is
25 criminal or not, it's depriving me of my rights under



1 the Constitution. This is not a private party doing
2 that, which you may not have a duty to protect me
3 from, but I'm talking about actions from the state.

4 Foster: Mm-hmm.

5 Bereki: Okay? So, then, second, I've gone to all of the
6 courts in California --

7 Foster: Mm-hmm.

8 Bereki: -- to affect that remedy, to say, hey, time out,
9 something's wrong here, let's just talk about it, look
10 at it, and I've done that.

11 Foster: Mm-hmm.

12 Bereki: I've also contacted the s- -- the legislator in my
13 area, Cottie Petrie-Norris, she doesn't respond to me
14 anymore.

15 Foster: Mm-hmm.

16 Bereki: I also called the Senator and filed the petition with
17 him. They're not writing back.

18 Foster: Mm-hmm.

19 Bereki: So, I've taken all the legislative steps and I've
20 taken all of the judicial steps.

21 Foster: Mm-hmm.

22 Bereki: So, now, what does that leave me? The Executive
23 Branch. So, I don't know what you're going to do. I
24 --

25 Foster: Okay.



1 Berekhi: -- I -- I can tell you --
2 Foster: That's fine. Yeah. I --
3 Berekhi: -- what I think you should do, but --
4 Foster: -- I just -- based -- based off -- based off what I'm
5 seeing, I -- I don't see a crime. So, again --
6 Berekhi: That's fine.
7 Foster: Yeah. So, let's --
8 Berekhi: So -- so, if you get out of the criminal mindset and
9 say, okay, his rights are being violated, what do we
10 have a duty to do in that situation?
11 Foster: Okay. Well -- okay. So, um, so, they filed -- where
12 -- where -- where was the last thing I heard, the --
13 the amendment, right?
14 Berekhi: The -- the -- they filed --
15 Foster: They filed the amen- -- where's the amendment?
16 Berekhi: Um, let me get it for you, here. They filed the
17 amended complaint. That was, like, sometime in early
18 2020.
19 Foster: Mm-hmm. Okay. So, they filed -- they filed an
20 amended complaint and, basically, what they changed
21 here was that --
22 Berekhi: Uh, so --
23 Foster: -- instead of -- they -- they claimed, at this point,
24 that they weren't doing business with your company,
25 they were doing business with you, who is --



1 Berek: Correct.

2 Foster: -- an unlicensed contractor?

3 Berek: Correct.

4 Foster: Okay.

5 Berek: And so, they saw --

6 Foster: Do you have that? So, this first amendment, right?

7 Yeah, the --

8 Berek: First amended complaint.

9 Milbery: The motion?

10 Foster: Yes.

11 Berek: Yeah.

12 Foster: This is the first amended complaint to the original

13 motion, right?

14 Milbery: So -- so, I have 2015 is when it started. Then, next

15 was the motion for the summary?

16 Foster: Yeah. So, then, now, we're gonna go to --

17 Milbery: And then, the next thing --

18 Foster: So, this was filed on --

19 Milbery: -- was, they filed the first --

20 Foster: -- August 21st.

21 Milbery: -- amended complaint?

22 Berek: Yes.

23 Foster: Yeah.

24 Milbery: Then, it was a cross complaint in early 2017?

25 Foster: So, the new information that -- the change was, they



1 changed from stating --

2 Milbery: Yes.

3 Foster: -- that they (inaudible - 00:40:06) --

4 Milbery: New info, wants to amend that the -- contracted with

5 Adam, not Spartan.

6 Foster: Okay. So -- so we got that.

7 Bereki: Correct. And so, this is where they make the claim of

8 Business and Professions Code 7031(b).

9 Foster: Okay.

10 Milbery: What was the number again?

11 Bereki: 7031.

12 Milbery: 7031.

13 Bereki: And then --

14 Foster: And parentheticals --

15 Bereki: -- parentheses, b. Yeah.

16 Foster: Small b.

17 Bereki: Um --

18 Foster: Okay.

19 Bereki: -- so, I'm gonna put this second. That's here.

20 Milbery: So, this was the first claim of BPC?

21 Bereki: Yes.

22 Foster: Okay.

23 Bereki: So, I don't know if you want to do this, but would it

24 help you if we numbered these 1, 2, so that you can go

25 right back to them?



1 Foster: No, it's fine.

2 Bereki: All right. Fine. So, next thing. We -- um, we have
3 a trial.

4 Foster: Uh-huh.

5 Bereki: March 17th.

6 Foster: Trial by court, right?

7 Bereki: Yes. I believe -- let me just double check the date.
8 Yeah. The 27th and the 28th of 2017.

9 Milbery: March 27, 28, 2017.

10 Bereki: Yes. You did.

11 Milbery: Yeah.

12 Bereki: That (inaudible - 00:41:11).

13 Foster: Two years later.

14 Bereki: Yeah.

15 Foster: Okay.

16 Bereki: So, um, during the trial, uh, they presented evidence
17 that they paid, um, Spartan, I believe it's
18 \$759,000.00 and that they paid me \$90,000.00.

19 Milbery: And Adam \$90,000.00.

20 Bereki: Right. So, the total of that should equal
21 \$848,000.00. I think it -- that comes out to be
22 right. Here's that document that is the evidence that
23 they presented. So, if you look here, here's the
24 payees but not all of these payees are correct. Okay?
25 So, you were looking at those checks earlier.



1 Milbery: Yes.

2 Bereki: If you go back, these are the checks that they
3 presented as evidence. You'll see that some of them -
4 - so, like, just take this one, for example. Spartan
5 Construction, on 11/15/12. 11/15/12, Spartan. So,
6 then, the next check says they made it to Adam, that's
7 correct. The next check to Adam. Next check -- okay.
8 This one says Adam, Spartan Construction, but, yet, on
9 here, it only says Adam. So, then, they counted this,
10 whatever amount that was, to me. So, this is not
11 accurate. I don't know what that matters, but,
12 anyways.

13 Foster: Did you bring all this up at your --

14 Bereki: Yeah.

15 Foster: -- court trial?

16 Bereki: Yes.

17 Foster: Okay.

18 Bereki: Yes. So, uh, that's the evidence they presented, and
19 none of that's disputed. It's all fine and fair. So,
20 then, the court -- uh, so, this document right here
21 is, uh, this is the full transcript of the second day
22 of trial, and I'm gonna talk about a little excerpt of
23 it here. So, Spartan's attorney says this is a big
24 forfeiture issue, judge, it's draconian, meaning it's
25 harsh and excessive. The judge goes on to say the



1 court now finds that this contract was between Mr.
2 Humphries and Mr. Bereki, individually.

3 Foster: Mm-hmm.

4 Bereki: All right? So, it's not a contract with Spartan. I
5 would just like you lawyers to look at a case entitled
6 MW Erectors v. Niederhauser. It's a California
7 Supreme Court case. Uh, it's considered to be the
8 bellwether case on the issue of contractor
9 responsibility or unlicensed contractor
10 responsibility. He goes on to say the Supreme Court
11 found that these contractor's license is draconian,
12 meaning harsh and es- -- effective -- harsh and
13 excessive in its effect, but that's the intent of the
14 legislature. The legislature expects contractors to
15 be licensed at all times during the performance of
16 work and in failing to be licensed at any point in
17 time, subject to forfeiture. Okay? And so, in my
18 opinion, the forfeiture re- -- required here, and that
19 is discouragement. All right. So, I want you to
20 keep track of those two words, discouragement and
21 forfeiture. So, that's what the judge said. Now, the
22 case he relied upon was MW Erectors v. Niedermeyer.
23 It's a California Supreme Court case and, in there,
24 they find that this is a penalty. Penalties are
25 subject to the excessive funds clause, because they're



1 penal, they punish. So, um, this case was actually a
2 case that Chaffee had that went all the way to the
3 Supreme Court. So, that's why he's referring to it in
4 his judgment, 'cause he's intimately familiar with it.

5 Foster: Mm-hmm.

6 Bereki: Um, so, uh, I'm going to read you something now from
7 the 9th Circuit. This is it. So, just to give you --
8 uh, I -- I'm kind of going off of the -- what we were
9 talking about, but, um, this is a case from the
10 Supreme Court of Arizona. I know it's not California,
11 but I just want to share about what they're talking
12 about, about discouragements. It's a criminal
13 discouragement case. They say a rule of total
14 discouragement, regardless of any benefit conferred on
15 the victim may lead to absurd or troubling results,
16 like, in this case, a \$1 million fine. So, what
17 happened in this case was, um, this guy got hired by
18 an elderly lady to do construction work, he wasn't
19 licensed, and, um, he did the work, and they brought
20 an action against him for criminal unlicensed
21 contracting. So, they said we find no significant
22 difference between returning cash, one form of value,
23 and returning other forms of value such as permits,
24 child services, or other property, blah, blah, blah,
25 blah, blah. The starting point for determining



1 restitution, other words discouragement, was the
2 amount embezzled from the victim. From this amount,
3 the court subtracted expenditures made on improvements
4 to the victim's home. The c- c- -- the court
5 concluded that such expenditures did not differ in
6 principal from taking the money out of one of the
7 victim's bank accounts and depositing it in the other.
8 Do you understand what they're saying there?

9 Milbery: Yeah. The tools, and the supplies, and the labor was
10 subtracted from the fine.

11 Bereki: Supposed to be subtracted, correct. All right. So,
12 they didn't do that. The -- Chaffee did not do that.

13 Foster: But that's Arizona.

14 Bereki: That's --

15 Foster: The law in California states --

16 Bereki: No.

17 Foster: It does. It says it right there.

18 Bereki: I know. We're gonna get into that, but this Arizona
19 case is actually what the law is across the United
20 States, and they're not doing it correctly in
21 California, resulting in all of this.

22 Foster: Mm-hmm.

23 Bereki: So, now, you heard the word -- Chaffee used the word,
24 the for- -- th- -- this is a forfeiture, okay?
25 There's two kinds of forfeitures in law. One is a



1 forfeiture in rem, and one's a forfeiture in persona.
2 So, what they do, like, in, um, civil RICO cases,
3 like, let's say you have a big drug ring, or something
4 like that, and they're -- they have millions of
5 dollars in cars, and all this. You bring a civil RICO
6 action against them, and y- -- and it's a in rem
7 forfeiture, so all of the proceeds of their -- um,
8 their, uh, criminal activities are forfeited, but the
9 action is against the property itself, not against the
10 person.

11 Foster: Mm-hmm.

12 Bereki: So, that's the difference between in rem and in
13 persona, a- -- whether the action's against the
14 property or the person. So, I'll share with you what
15 the 9th Circuit, which is a court in our juris- --
16 federal court in our jurisdiction says about
17 forfeiture. Okay.

18 Foster: I, uh, meant to talk to you for a second. Just had a
19 thought. So, you're -- you're coming to the sheriff's
20 department that we are supposed to hold checks and
21 balances, right?

22 Bereki: One aspect of it, yeah.

23 Foster: Okay. So, we're a county agency.

24 Bereki: Right.

25 Foster: And your issue is with the state.



1 Berekhi: You are a state agency. There -- the county is the
2 state.

3 Foster: Well --

4 Berekhi: No, there's -- the -- the county is the state, that's
5 it. In law, the county is the state.

6 Foster: Uh -- uh, I don't -- I -- I don't know. Uh, I mean,
7 maybe. You might be right. I'm not sure.

8 Berekhi: Yeah. So -- so, the 9th Circuit, which is a federal
9 court, they say this. The classic distinction between
10 civil and criminal forfeiture is founded upon whether
11 the penalty assessed is against the person or against
12 the property, the thing. Forfeiture against the
13 person operates in personam and requires a conviction
14 before the property can be arrested from the
15 defendant. Such forfeitures are regarded as criminal
16 in nature because they are penal, they primarily
17 sought to punish. Forfeiture against a thing was in
18 rem and the forfeiture was based upon the awf- --
19 unlawful use of the property, irrespective of the
20 owner's culpability. These forfeitures re- -- were
21 regarded as civil, their purpose was remedial. So,
22 did they bring an action against me or the property?
23 They brought an action against me, so it was an in
24 personam forfeiture. And right here, the 9th Circuit
25 is saying that that is a criminal forfeiture. So,



1 they go on to say if the forfeiture is criminal, the
2 criminal forfeiture statutes and the rules of criminal
3 procedure should have been followed. They were
4 clearly not followed and, therefore, they don't have
5 jurisdiction. So, what that means is that, in a civil
6 case, you don't have all of the heightened protections
7 that you do in a criminal case. You have the right to
8 appointment of counsel, you have a higher burden of
9 proof, which is, um, proof beyond a reasonable doubt,
10 you -- uh, I mean, it just -- it goes on and on. But
11 the right to know the true nature and cause of the
12 accusation, all of these things have to be done before
13 they put on a trial. They did none of it --

14 Foster: Mm-hmm.

15 Bereki: -- and they're trying to do it in the civil context.
16 Are you following me?

17 Foster: Mm-hmm.

18 Bereki: Okay.

19 Foster: Yeah. Sorry. I'm just trying to look something up
20 real quick.

21 Bereki: Oh.

22 Foster: Have you gone to the Governor's office?

23 Bereki: Yep.

24 Foster: What did they tell you?

25 Bereki: They don't reply. This is not like you can go down to



1 the court and just talk with the judge and say hey,
2 what the heck? It doesn't work like that, sadly.

3 Foster: Mm-hmm. So, you're saying we're -- we're on par with
4 the judicial and the --

5 Bereki: Absolutely, you are.

6 Foster: -- and the le- -- and the, uh --

7 Bereki: Absolutely, you are. Your duty -- well, the
8 Governor's duty, under Article 5, Section 1, is to
9 ensure that the law is faithfully executed, and that
10 means constitutional law as well. So, you are
11 basically s- -- under the -- the Governor's duty to
12 ensure that the law is faithfully executed. And so,
13 that's law enforcement. So, basically, the -- the
14 little bit of research that I'm doing, they never
15 taught this in the academy, but, um, police have --

16 Foster: What --

17 Bereki: -- no duty to --

18 Foster: Wh- -- I -- I'm --

19 Bereki: -- protect --

20 Foster: Wouldn't it be better to go to, like, the Attorney
21 General's office?

22 Bereki: Um, no. I've tried to make a complaint there, and
23 they don't investigate any of the other branches.

24 Foster: Well, we don't really either. I mean, I -- it just --

25 Bereki: The whole point of this, too -- what's your name,



1 again? Sorry.

2 Foster: Foster, Dan.

3 Bereki: Dan, is to bring attention to this, too. It's not --

4 Foster: Uh --

5 Bereki: And it -- and it -- it will. So, uh --

6 Foster: So, you went down to the Attorney General's office?

7 Bereki: No. I wrote them a letter and said here's the problem

8 going on with unconstitutional law being enforced by

9 the courts in this unconstitutional law promulgated by

10 the legislature.

11 Foster: Mm-hmm.

12 Bereki: And they sent back something to the effect of, um, we

13 don't investigate the other branches, sorry, we can't

14 help you. The Attorney General is actually under the

15 -- I think it's actually under the Governor, now that

16 I think about it.

17 Foster: Which is part of the Executive Branch.

18 Bereki: Right. Yes.

19 Foster: I mean, I -- I j- -- I don't know. I just -- I don't

20 -- I don't know how to -- I don't know where this is

21 gonna go, but -- 'cause --

22 Bereki: Uh, it --

23 Foster: -- I don't see us doing -- I mean, y- -- I never -- I

24 don't know what's gonna happen, but I just don't see

25 us doing anything more than saying were you a victim



1 of 484? And they're probably gonna say no. You know
2 what I mean?

3 Bereki: That's fine. Let them do it. But I'm going -- so --
4 so, you know that when you're investigating something
5 that's -- we'll just use the -- the criminal. You
6 look for the paper trail, right? You have to look and
7 see what people did, and when they did it. So, I'm
8 establishing the paper trail right now that I went to
9 every branch of government in California.

10 Foster: Mm-hmm.

11 Bereki: And all of them did nothing.

12 Foster: Well, I wouldn't say we did nothing.

13 Bereki: Well, that's where I'm at this far, nothing. Nothing.
14 I -- the judgment's still there, and the other
15 branches are saying --

16 Foster: Well, they did nothing --

17 Bereki: They're -- they're flat out ignoring --

18 Foster: -- because they found your claim to be baseless.

19 Bereki: Mm, I don't think so. Nobody's actually said -- well,
20 the appellate court said my claim was baseless, but.

21 Foster: They seem pretty smart. Uh, they wouldn't have got
22 there if they weren't.

23 Bereki: Okay. So, let's take what you just said there.

24 Foster: Yeah.

25 Bereki: Okay. Now, so, the appellate court -- let me just



1 show you --

2 Foster: And you showed them everything that you're showing us
3 here today?

4 Bereki: No, because some of this wasn't -- uh, well, it's --
5 it's always been law, but they -- I don't know what
6 the -- I'll -- I'll share with you what they did. So,
7 the appellate court basically said yeah, he's
8 challenged all these things and there's no merit to
9 any of it. So --

10 Foster: Mm-hmm.

11 Bereki: -- here. Bereki contends the discouragement remedy is
12 penal in nature and, therefore, a contractor must be
13 afforded all criminal rights and protections. Not so.
14 Discouragement is a civil consequence and equitable
15 remedy for performing work without a contractor's
16 license. Then, they go on to say discouragement is
17 not punishment and, therefore, it does not implicate
18 the excessive fines clause of the 8th Amendment
19 Constitution.

20 Foster: Mm-hmm.

21 Bereki: Uh, the exact opposite of everything I'm sharing with
22 you. Um --

23 Foster: So, they're affirming the judge's decision?

24 Bereki: They're affirming the judge's decision. And there's
25 another part in here, I can find it later, where they



1 say that I challenge the issue of offset, meaning what
2 we were talking about, about all the labor and
3 materials and all the value, and they say that doesn't
4 apply. Okay.

5 Foster: Okay.

6 Bereki: So, now, June 22nd, 2020.

7 Foster: Mm-hmm.

8 Bereki: A very similar case hits the United States Supreme
9 Court. This is a case that came out of the 9th
10 Circuit for discouragement. It's under the Securities
11 and Exchange Commission. So, the Securities and
12 Exchange Commission prosecuted somebody in a civil
13 case. It's -- from what I remember of it, don't quote
14 me on this, um, some people got wealthy Chinese
15 investors to invest in building a cancer treatment
16 center in the US.

17 Foster: Mm-hmm.

18 Bereki: I think they got about \$30 million bucks. In the
19 contract with these people, there was no, um,
20 provisions for their profit. So, they pissed off
21 someone in the company and that person went to all the
22 other investors and they told the SEC, hey, these
23 people are taking profit and there's nothing in our
24 contract that says you could take profit. So, the SEC
25 brought a discouragement action against them.



1 Foster: Mm-hmm.

2 Bereki: And what the judge said was, you got \$30 million
3 bucks, give them the \$30 million back and we are not
4 taking into account any of the benefits that you -- y-
5 y- -- you -- if you built this facility, we're not
6 taking it into account. Any people you hired, any, uh
7 -- uh, materials you purchased, we're not taking any
8 of it into account.

9 Foster: Mm-hmm.

10 Bereki: So, that person that -- that got them \$30 million
11 fine, they, um, went to the 9th Circuit Court of
12 Appeal, 'cause it started as a federal case, federal
13 district court. Went to the 9th Circuit, the 9th
14 Circuit said yep, the district court is right, this is
15 discouragement, give them all \$30 million back with no
16 offsets for any material or labor, the exact same
17 thing they did to me, and the -- however many other
18 people in California, same principal.

19 Foster: Mm-hmm.

20 Bereki: Case goes to the Supreme Court. Supreme Court says
21 no, your judgment is void, we're remanding it back to
22 you, you have no authority to do it.

23 Foster: Then go back -- then go back to the Supreme -- then go
24 back --

25 Bereki: I can't.



1 Foster: Why?

2 Bereki: Because it's over. You can only make an appeal and
3 they choose whether they want to appeal it or not --
4 whether they want to take it.

5 Foster: Well, then, what -- it -- so --

6 Bereki: So, in this case, they explain exactly what
7 discouragement is, and they sent it back to the other
8 court because the judgment was void, and said, look,
9 these people can --

10 Foster: You should have a new basis for reappeal.

11 Bereki: There is no reappeal.

12 Foster: I'm saying, y- -- you -- to be heard again, based off
13 of a new court decision, right?

14 Bereki: Mm --

15 Foster: That if it states -- if it's the same law that was on
16 the books when you were dealing with this --

17 Bereki: So -- so, here's --

18 Foster: -- and now he -- now, it's been changed --

19 Bereki: -- here's --

20 Foster: -- by the -- there's -- there's -- if there -- so, if
21 you're saying there's no retroactiveness, then what
22 we're doing here is -- is moot.

23 Bereki: No, I'm not saying there's no retroactiveness. What
24 I'm saying is, is there -- do the courts in California
25 want to recognize this? This isn't new law. This has



1 been the law for hundreds of years.

2 Foster: Mm-hmm.

3 Bereki: But it's only that the Supreme -- so, a long time ago,
4 a remedy was created in a -- in a part of court, it's
5 called equity.

6 Foster: Yeah.

7 Bereki: And that remedy is, you can't keep the profits of when
8 you do s- -- when you violate the law.

9 Foster: Okay.

10 Bereki: It's that simple.

11 Foster: So -- okay. So, uh, I'm sorry, I'm just gonna stop
12 you. Here -- here's -- here's -- I think -- I -- I --
13 I get what you're trying to do. We'll s- -- we'll s-
14 -- take -- take the report, if you want, um, and that
15 -- you know, we'll -- we'll -- we'll document it, but
16 the -- the basic crux is, if you're saying that what
17 they're -- uh, I get what you're saying, that y- --
18 you're basically -- the difference between what you
19 weren't getting paid, and what you didn't get paid,
20 and what you spent on materials, that's what you're
21 looking for back, right? And it -- and you're saying
22 that they should have taken that into account,
23 correct?

24 Bereki: Uh, i- -- put in different words, if they actually
25 followed what the law should be, not what this law is



1 -- this law is totally unconstitutional. If they
2 actually brought an action for discouragement --
3 Foster: Mm-hmm.
4 Bereki: -- the only thing they were entitled to was my profit.
5 Foster: Okay.
6 Bereki: And there's no evidence in the case --
7 Foster: Okay.
8 Bereki: -- that I even profited a dime.
9 Foster: Okay.
10 Bereki: So, they're not entitled to anything.
11 Foster: Okay.
12 Bereki: So -- but that's not what they did.
13 Foster: Okay.
14 Bereki: They called -- they called this action discouragement,
15 but this is a criminal forfeiture.
16 Foster: Okay. But you -- you don't -- the -- i- -- if the
17 court made a mistake, you -- there's no -- y- --
18 you're claiming it's intent, right, that it's a crime?
19 Bereki: Okay. If --
20 Foster: You're -- you're saying that this judge, Ch- --
21 Chaffee --
22 Bereki: Right.
23 Foster: -- said you know what, I know that what this says is
24 wrong but I'm gonna do it anyway.
25 Bereki: Okay.



1 Foster: Right?

2 Bereki: Let me put it in a different context. Do -- a fine
3 for driving a car without a license is \$250.00 bucks.

4 Foster: Mm-hmm.

5 Bereki: He's been a judge for 30 years.

6 Foster: Mm-hmm.

7 Bereki: He knows what criminal -- he knows what a punishment
8 is and he knows what a remedial restitutionary action
9 is.

10 Foster: Mm-hmm.

11 Bereki: He ordered, and he says right here, I'm ordering the
12 forfeiture. Forfeiture only comes in two kinds.
13 Basic law, it either comes in a criminal aspect or the
14 civil aspect. Exactly what the 9th Circuit said.

15 Foster: Mm-hmm.

16 Bereki: So, you're telling me that he's been a judge for 30
17 years, he's served on, uh -- uh -- uh, all different
18 types of positions within the county, county council,
19 all this other thing, and he doesn't know what a fine
20 is? He doesn't understand that he fined me \$1 million
21 and there's no constitutional authority to do it.

22 Foster: Well, obviously, every court in the state is doing
23 this.

24 Bereki: Okay. So, how is that possible?

25 Foster: I don't know.



1 Berekhi: Okay. So --

2 Foster: I don't work in the courts.

3 Berekhi: Okay.

4 Foster: I'm not a civil guy.

5 Berekhi: Well, that's my problem, they're not following the
6 law. And so, they need to follow the law.

7 Foster: Okay.

8 Berekhi: And so, I went to the court to have them follow the
9 law, and they don't want to follow the law. So, then,
10 I went to the legislature, to have them follow the
11 law. They don't want to follow the law. So, now,
12 who's the person that enforces the law? The Executive
13 Branch.

14 Foster: So, uh, did you ever reach out to these attorneys?

15 Berekhi: Um, no. I can't -- I can't afford that.

16 Foster: Well, I'm just saying call and --

17 Berekhi: Uh, I said congratulations, thanks for the hard work
18 you did, because you won my case for me. They did.
19 But now, that judgment's still sitting there. Didn't
20 v- -- disappear.

21 Foster: Mm-hmm.

22 Berekhi: It's not going anywhere. No one came and said, oh,
23 the Supreme Court said this, we better undo the last
24 hundred years of all these judgments. No. They could
25 come -- these people -- the Humphries can come and



1 foreclose on my house tomorrow.

2 Foster: Mm-hmm.

3 Bereki: That's how it works.

4 Foster: Okay. Well, uh, yeah. I mean, l- -- okay. So, let's

5 write -- just so we --

6 Bereki: So, hang on one sec. Let me give you this other one

7 first. This is the 9th Circuit --

8 Foster: Which is the one that describes the discouragement?

9 Bereki: Hang on one sec.

10 Foster: Uh --

11 Bereki: This is the forfeiture case.

12 Foster: Okay.

13 Bereki: For the 9th Circuit -- uh, forfeiture description.

14 Foster: Okay.

15 Bereki: And this coincides with what Chaffee, the judge, said

16 in the case. I'm ordering a forfeiture of

17 discouragement.

18 Foster: Mm-hmm.

19 Bereki: You -- you with me?

20 Foster: Mm-hmm.

21 Bereki: Okay. So, that's that. So, then, this is the dis- --

22 um, US --

23 Foster: Can you, like, highlight the area that --

24 Bereki: Yeah.

25 Foster: I gotta go use the restroom.



1 Bereki: Are you following what I'm saying?

2 Milbery: For the most part. A lot of it --

3 Bereki: Okay.

4 Milbery: -- is a lot of things that I've never dove into.

5 Bereki: Yeah. So, I don't -- I -- I kn- -- I went to the

6 academy in 2000.

7 Milbery: Did you go to the one in (inaudible - 01:06:59) --

8 Bereki: Golden West. Golden West. I know.

9 Milbery: Just kidding.

10 Bereki: Yeah. Yeah. Um, they don't actually really teach you

11 constitutional law there.

12 Milbery: Mm-hmm.

13 Bereki: And if you remember, like, they don't teach you where

14 the authority for all the law comes from. And without

15 that, it's kind of like -- it's hard to understand

16 what -- how law works. (Inaudible - 01:07:18) --

17 Milbery: Or if you keep up with it, it's hard to understand as

18 well.

19 Bereki: What do you mean?

20 Milbery: Like, if you have to keep up with the laws, or what --

21 to understand a lot of this.

22 Bereki: Yes. Like -- like, the -- one of the basic things

23 that I think they should do in the academy is show you

24 how to do legal research. They don't do that. Like,

25 this is what an actual court case loo- --



1 Milbery: Which one is that one? That one's the US v. --

2 Bereki: This is -- so, how you would write this is literally

3 SEC, and then you can just refer to it, uh --

4 Milbery: Literally, uh, the --

5 Bereki: Yeah. It's been decided.

6 Milbery: Discouragement case.

7 Bereki: Yes. Okay. So, in this --

8 Foster: Okay.

9 Bereki: -- in this Lou case, I highlighted the things here.

10 So, another word for what we're talking about here is

11 called unjust enrichment.

12 Foster: Mm-hmm.

13 Bereki: Basically, you profit from your own wrong, you're

14 unjustly enriched. It's the same thing as

15 discouragement. So, what they say is that a wrongdoer

16 should not profit from his wrong.

17 Foster: Mm-hmm. Well --

18 Bereki: They say --

19 Foster: -- who's the wrongdoer here?

20 Bereki: Uh, s- -- a- -- allegedly, me. They say

21 discouragement of profits is meant to avoid

22 transforming it into a penalty outside their equitable

23 powers, meaning you can't -- discouragement as taking

24 profits only is not a penalty.

25 Foster: Yeah.



1 Bereki: But if you take more than the profits, it's a penalty.
2 Foster: Okay.
3 Bereki: You following me?
4 Foster: Yes.
5 Bereki: Okay. So, limited to the awards of net profits for
6 wrongdoing, that is the gain made upon any business or
7 investment when both the receipts and payments are
8 taken into account. So, that means you have to take
9 the payments and the receipts off the top, and
10 whatever profit is actually evidence, that's the
11 discouragement.
12 Foster: Yeah. I (inaudible - 01:08:54). Okay.
13 Bereki: You do?
14 Foster: All right. I got it.
15 Bereki: Okay. So --
16 Foster: Okay. So, let's get -- um --
17 Bereki: This is the actual judgment that the court made.
18 Foster: This?
19 Bereki: This.
20 Foster: I'm saying --
21 Bereki: Well, that -- that --
22 Foster: -- but it's related to this?
23 Bereki: -- that and this.
24 Foster: Yeah.
25 Bereki: Yes. This is -- this is the minute order.



1 Foster: Mm-hmm.

2 Bereki: Discouragement of funds paid. And in this judgment,
3 he actually did two things. So, basically, what he
4 did here is, he said I find that the contract was with
5 you and not your company, so you have to pay back the
6 \$84,000.00 but you also are not -- have no right to
7 get the \$82,000.00 because you're not a licensed
8 contractor.

9 Foster: Sure.

10 Bereki: So, if you add those two together, we get \$930,000.00
11 is the fine.

12 Foster: Uh, but you never got that \$82,000.00?

13 Bereki: Correct, but because I have -- they're saying that I
14 have no right to it, it's a fine to me, right? I have
15 a -- uh, I have a right to my time and labor, right?
16 If you go do some work, you have a right to get paid,
17 correct?

18 Foster: Yeah. But you never received the profits, or did you
19 --

20 Bereki: Correct, but I did the work. I bought the materials
21 and labor.

22 Foster: Yeah.

23 Bereki: And I put the work into their house. So they have --

24 Foster: Oh.

25 Bereki: -- \$82,000.00 worth of work sitting in their house



1 that I was never paid for, or my company was never
2 paid for.

3 Foster: How much money did you actually get from them, total?

4 Bereki: Me, personally, or my company?

5 Foster: No, no, no, in --

6 Bereki: Generally?

7 Foster: Uh, w- --

8 Bereki: \$848,000.00.

9 Foster: Okay. So, you got -- you have to return the
10 \$848,000.00 plus the additional --

11 Bereki: I have to f- --

12 Foster: -- that you were supposed to get --

13 Bereki: -- forfeit --

14 Foster: -- that you never r- --

15 Bereki: No. I don't have to give that to them, I forfeit it.

16 Foster: How do you forfeit something you never got?

17 Bereki: Mm-hmm. Because I -- so, per the agreement we had, I
18 went out and bought \$82,000.00 worth of la- --
19 materials, and hired con- -- contractors, or other
20 sub-employees to do the work, and we put that into
21 their house. So, my company lost \$82,000.00.

22 Foster: Mm-hmm.

23 Bereki: So, I have to forfeit that because I -- the court said
24 --

25 Foster: Gotcha.



1 Berekhi: -- that because --

2 Foster: It was considered a profit.

3 Berekhi: Well, not that it was considered a profit. It -- it -

4 - it was considered -- the court said that -- that I

5 was the contractor and not my company.

6 Foster: Okay. Um, okay.

7 Berekhi: So -- and then --

8 Foster: So, you owe the -- you owe the \$848,000.00 plus --

9 Berekhi: Plus, I lost the \$82,000.00.

10 Foster: Uh-huh.

11 Berekhi: So, this judgment says \$848,000.00 but the whole other

12 \$82,000.00 is not even reflected on there.

13 Foster: Isn't that baked into the \$848,000.00?

14 Berekhi: No. The \$82,000.00 is an additional, on top of this.

15 Foster: Okay.

16 Berekhi: Okay? So, my actual --

17 Foster: So, do you have that --

18 Berekhi: -- total loss is --

19 Foster: -- those numbers right? Uh --

20 Berekhi: -- \$930,000.00.

21 Foster: Okay.

22 Milbery: So, were these -- the beginning numbers that I took

23 down, that were paid to Spartan, \$759,000.00, Adam

24 \$90,000.00, total of \$848,000.00 --

25 Berekhi: Those are -- those are correct in the amount that they



1 paid.

2 Milbery: Right.

3 Bereki: Okay? Now, this other \$82,000.00 is money that

4 Spartan did work for but didn't get paid.

5 Milbery: So, \$82,000.00 is what you took them to court for?

6 Bereki: Correct.

7 Milbery: Okay.

8 Bereki: Correct. And because I wasn't --

9 Foster: You should have just taken that as a loss.

10 Bereki: Yeah, seriously. Seriously. Yeah.

11 Foster: Okay.

12 Bereki: Okay. So, I'm going to put this and this together.

13 Foster: Mm-hmm.

14 Bereki: This is the minute order by Chaffee, and this is for,

15 um -- see, their first cause of action for

16 discouragement --

17 Foster: Mm-hmm.

18 Bereki: -- that is 7031(b). And then --

19 Foster: Okay.

20 Bereki: Anyways.

21 Foster: Yeah.

22 Bereki: 7031(a) is also in here too. I don't know if you --

23 Foster: That's fine. We have those still. We --

24 Bereki: Okay.

25 Foster: -- have it right there.



1 Bereki: So, here is this. And, again, the \$82,000.00 is not
2 on here. So, the actual judgment total should be
3 \$930,000.00. It's nowhere there. Anyways. Okay.
4 So, those are those two. Um, afterwards --
5 Foster: Mm-hmm.
6 Bereki: -- this is the suspension --
7 Foster: Of your license.
8 Bereki: -- of license. Until you either pay the fine or
9 declare bankruptcy.
10 Foster: Mm-hmm.
11 Bereki: No appeal process.
12 Foster: Have you --
13 Bereki: No hearing.
14 Foster: Uh, have you declared bankruptcy?
15 Bereki: No. I'm trying to avoid doing that.
16 Foster: Yeah.
17 Bereki: Um, so, um, I think now would be -- so, do you have an
18 -- at least a -- enough of an understanding that what
19 happened here was a fine? Are you -- are you cool
20 with that?
21 Foster: Um, I mean, I get what you're saying.
22 Bereki: Okay.
23 Foster: I don't know if I agree with it or not.
24 Bereki: Okay.
25 Foster: I can't -- I don't -- I'm not a -- I'm not an



1 attorney. I --

2 Bereki: I -- I'm --

3 Foster: -- I can't say --

4 Bereki: -- not --

5 Foster: -- whether you're right or not.

6 Bereki: I -- I'm not asking you to --

7 Foster: I understand what you're saying.

8 Bereki: Okay.

9 Foster: That -- you're claiming that you were fined for

10 violation of -- for, I don't know -- know the word, I

11 guess a criminal statute.

12 Bereki: For violation of this. Whatever. At the end of the

13 day, I got fined for violating this.

14 Foster: Correct.

15 Bereki: And my fine's \$930,000.00 bucks.

16 Foster: Correct.

17 Bereki: Okay.

18 Foster: But it should have been -- it should have been

19 whatever your total profit was for the job.

20 Bereki: If this was a constitutional stat- -- statute, yes.

21 Yes. 'Cause if you read this -- so, discouragement is

22 a -- like, a kind of --

23 Foster: So, essentially, you're just saying that 7031(b) is

24 unconstitutional and, because of that --

25 Bereki: Correct.



1 Foster: -- you've been -- your rights have been violated?
2 Bereki: Yes.
3 Foster: Okay.
4 Bereki: Yes. So, in here, if you read this --
5 Foster: Mm-hmm.
6 Bereki: -- it doesn't say anything about discouragement.
7 Foster: I understand. Gotcha.
8 Bereki: So, how can they bring an action in for discouragement
9 when this is not a cause of action for discouragement?
10 Foster: I don't know.
11 Bereki: But this is -- this just is a layer of what --
12 Foster: I don't -- I don't know.
13 Bereki: -- I'm sharing with you.
14 Foster: Well, I'm just saying, maybe they don't need to put it
15 in there. I -- I don't know.
16 Bereki: Right.
17 Foster: I'm just playing devil's advocate.
18 Bereki: But I -- I -- I'm just saying --
19 Foster: I don't know if they're required to or not.
20 Bereki: No. It -- it -- it's not an action for
21 discouragement, and the word discouragement does not
22 even appear there.
23 Foster: Mm-hmm.
24 Bereki: Okay. So, now, I don't -- let me see, maybe I can
25 read this real quick (inaudible - 01:15:47). Okay.



1 This is another California case from May -- March
2 27th, 2020. This guy gets arrested for burglary and
3 the sentencing court fines him court operation and
4 facilities fees without giving him an opportunity to
5 present evidence and argue his ability to pay, blah,
6 blah, blah, blah, blah. In this whole thing -- so,
7 basically, this guy committed burglary and he got
8 fined \$147.00 for court fees and he says I'm indigent
9 and I can't pay the fees and, therefore, the fine is
10 excessive, \$147.00.

11 Foster: Mm-hmm.

12 Bereki: The court says the touchstone of constitutional
13 inquiry under the excessive fines clause is that
14 princ- -- principle of proportionality. The following
15 considerations bear on proportionality, the
16 defendant's culpability, the relationship between the
17 harm and the penalty, the penalties imposed in similar
18 statutes, and the defendant's ability to pay. So, if
19 Chaffee's gonna fine me \$930,000.00, he has to follow
20 this simple rule under the California Constitution and
21 the Constitution for the United States, and that says
22 you have to take these four things into account.

23 Foster: What rule is this?

24 Bereki: This is either Article 1, Section 17, or the 8th
25 Amendment to the Constitution for the United States.



1 Foster: Article 1 of what?

2 Bereki: Article --

3 Foster: California --

4 Bereki: Article 1, Section 17 --

5 Foster: -- California Constitution?

6 Bereki: -- of the California Constitution. So, that is right

7 here. Cruel or unusual punishment may not be

8 inflicted or excessive fines imposed.

9 Foster: Okay. So, they're the same. It's essentially a

10 carbon copy --

11 Bereki: It's a --

12 Foster: -- of the 8th Amendment?

13 Bereki: Exactly.

14 Foster: Okay.

15 Bereki: However, in California, the -- the -- the, um, tests

16 that the court has to go to are a little bit stricter.

17 I don't think that the, um, ability to pay one is in

18 the 8th Amendment, but, regardless.

19 Foster: Probably.

20 Bereki: Okay. So, the re- -- the result of this is that the -

21 - the fine is 146 times -- I think it's e- -- one four

22 -- no, 86 times my net worth.

23 Foster: Mm-hmm.

24 Bereki: Okay. So, that's excessive.

25 Foster: I don't know what that is, but --



1 Berekhi: I -- uh, I know --

2 Foster: I know you feel it's excessive.

3 Berekhi: I -- I --

4 Foster: That doesn't mean it is.

5 Berekhi: -- I think it's excessive. I think you do too, but

6 come on.

7 Foster: I -- it sounds excessive, but --

8 Berekhi: Yeah.

9 Foster: -- I don't -- I don't know what the standard test is

10 for that, so -- you know what I mean?

11 Berekhi: Well, this is it.

12 Foster: Well, I'm just saying.

13 Berekhi: Right. So, you have to have your ability to pay. So,

14 if it goes beyond what I'm -- ability to pay, that's

15 excessive. It's in excess of what I'm capable of

16 doing.

17 Foster: Uh, did you have to prove that in court?

18 Berekhi: Prove what?

19 Foster: Did they ask for a statement of your net worth?

20 Berekhi: No. This is what they're supposed to do, and they

21 didn't do it.

22 Foster: Okay. Okay.

23 Berekhi: You see what I'm saying?

24 Foster: All right. That's --

25 Milbery: So, this guy didn't have to pay the \$147.00?



1 Berekhi: No.

2 Milbery: And how --

3 Berekhi: They had to take into account how -- how much he could

4 pay, and they didn't --

5 Milbery: So, what did he pay?

6 Berekhi: I don't know. I have to read the case.

7 Milbery: Mm-hmm.

8 Berekhi: You're welcome to read it if you want.

9 Milbery: And how come he was able to do this and you weren't?

10 Berekhi: 'Cause they're following the law.

11 Foster: Okay. What else you got?

12 Berekhi: Good question. All right. So, are you cool with

13 this? This is the, um, excessive fines case law, and

14 I put that there so you know exactly what it is. All

15 right. So -- um, so, the court -- I don't know if you

16 put that in your notes, but the court did not, um,

17 impose any of the qualifications for the excessive

18 fines clause. So, more cruel and unusual punishment.

19 So, then, um, I filed this on the 4/18/2017 and this

20 is a challenge to the court's authority to excessively

21 fine me.

22 Foster: Okay. So, this is your -- you filed this with who?

23 Berekhi: The -- the court.

24 Foster: The county court?

25 Berekhi: The court, yeah, Chaffee's court.



1 Foster: Okay.

2 Bereki: The Superior Court.

3 Foster: Okay.

4 Milbery: So, what date is this?

5 Bereki: Uh, 4/18/17. And you can just call it challenge
6 jurisdiction of court. And in there, I said
7 California Constitution cannot impose this and I
8 consider it cruel, unusual punishment. So, uh -- and
9 that I -- I challenged -- under Article 1, Section 17,
10 which is the, um, excessive --

11 Foster: And where did --

12 Bereki: -- fines clause in --

13 Foster: And what was the response you got?

14 Bereki: This is the response I got. The court deny your
15 request to vacate the judgment. This is the paper
16 that they gave me --

17 Foster: Mm-hmm.

18 Bereki: -- that -- where the court did nothing. I mean, they
19 threw my thing out --

20 Foster: Yeah.

21 Bereki: -- but the judge never did a hearing. You're supposed
22 to get a hearing, and the other side is supposed to
23 respond. The other side never responded, and the
24 court never gave me a hearing. I get this in the
25 email.



1 Foster: Well, I don't know if they're required. Are they
2 required --

3 Bereki: Yeah, they are.

4 Foster: -- to give you a hearing?

5 Bereki: Yes.

6 Milbery: Is there something in the email saying they did not
7 vacate the judgment?

8 Bereki: So, the court -- here, let me put it right here. The
9 court deny the request to vacate judgment, and the
10 judge issued no orders on the record.

11 Foster: So, essentially, everything you've told us today, we
12 could have just read this and been done?

13 Bereki: Yeah. Mm-hmm. Okay. So, that's -- so, when I didn't
14 get an answer, I filed another one.

15 Milbery: What date?

16 Bereki: Um, June 28th, 2017. Shortly after that, I got fined
17 about \$1,500.00, I think it was.

18 Milbery: So, you filed another challenge to --

19 Bereki: Challenge to jurisdiction, yes. And under there, it
20 basically said what is your authority to do this?

21 Milbery: And then, shortly after, you were fined?

22 Bereki: Fined, yeah.

23 Foster: For what?

24 Bereki: Sanctioned --

25 Foster: Wasting the court's time?



1 Berekhi: Sanctioned -- yeah. Sanctioned for abusive discovery.
2 Milbery: Approximately \$1,500.00?
3 Berekhi: Yeah. So, then, um, this is backing up a little bit,
4 but this is the notice from the, um, clerk of the
5 county that there's an abstract judgment filed and
6 this attaches to that Spirit property, um, which is
7 the judgment for the \$848,000.00.
8 Foster: Sorry, what is that?
9 Berekhi: It's called a abstract of judgment.
10 Foster: What is it?
11 Berekhi: So, basically, after the judgment happens, they do
12 this thing called an abstract, and that -- that's what
13 gets filed with the county --
14 Foster: Oh.
15 Berekhi: -- recorder.
16 Foster: Okay.
17 Berekhi: And then, that's when they attach it to real property.
18 Foster: Okay. So, they can now put a lien on your house?
19 Berekhi: W- -- no, the --
20 Milbery: Is this the --
21 Berekhi: -- lien's there.
22 Milbery: -- address of the --
23 Foster: Oh, that is the lien?
24 Milbery: -- condominium?
25 Berekhi: Th- -- n- n- -- my house.



1 Milbery: Oh, your house.
2 Bereki: Where I'm living, yeah.
3 Milbery: The lien.
4 Bereki: This is where the lien is, yes.
5 Foster: Oh, okay. Gotcha.
6 Bereki: Yes. Okay. So, immediately after that, because my
7 mom's the -- the real owner of the house, um, I had
8 her file to them a notice of trespass and a notice to
9 cease and desist, and they haven't done anything.
10 Foster: Okay.
11 Bereki: They said that the judgment's 100 percent accurate,
12 and fully sanctioned under the law, and we're not
13 removing it.
14 Foster: Okay.
15 Bereki: So, uh, notice of trespass.
16 Milbery: And what is your mom's name that owns the home?
17 Bereki: Roseanne
18 Milbery: R- --
19 Bereki: S-E- --
20 Milbery: -- S-E --
21 Bereki: -- A-N-N-E --
22 Milbery: -- A-N-N-E?
23 Bereki: Yeah. Same last name.
24 Foster: Two words?
25 Bereki: B-E-R- --



1 Foster: Two words or one?
2 Bereki: No, one word.
3 Foster: Okay.
4 Milbery: B-E-R- --
5 Bereki: E-K-I.
6 Milbery: -- E-K-I.
7 Bereki: Yeah.
8 Milbery: And owner of the house?
9 Bereki: Yes.
10 Milbery: What is --
11 Bereki: She's -- she's the actual owner. I'm on the legal
12 title.
13 Milbery: How long have you guys owned it before?
14 Bereki: Um, I want to say way -- probably around 2005.
15 Milbery: 2005?
16 Bereki: Yeah. Think she took ownership -- let me see.
17 Milbery: What is her date of birth?
18 Bereki: Um, 9/25/53. So, she took ownership in November of
19 2010.
20 Milbery: From who?
21 Bereki: From me.
22 Milbery: So, you used to be the actual owner, but --
23 Bereki: Yes.
24 Milbery: -- in 2010, she became the actual --
25 Bereki: Yes. She's the actual owner. I still have legal



1 title, meaning I'm on the property record as the --
2 uh, these are (inaudible - 01:25:57).

3 Foster: Okay. Anything else that you need to give us?

4 Bereki: Yeah, there's a lot. Sorry. Uh, I don't know if you
5 want this, but this is the appeal that I filed.

6 Foster: With who?

7 Bereki: With the appellate court?

8 Foster: Okay. We'll take it.

9 Bereki: Um, so, this is the appeal.

10 Foster: This is with the California --

11 Bereki: Yeah, 4th District Court of Appeal that's right over
12 here in Santa Ana.

13 Milbery: What date did you do that?

14 Bereki: Um, 1/10 of '18. This is the appeal court judgment.
15 So, in this, they find that the statute was
16 discouragement and, again, there's no discouragement
17 there. And they say it's not an excessive fine, and
18 it absolutely is a fine. Um, I highlighted this stuff
19 in there for you. Oh, the date should be up in the
20 top.

21 Milbery: And they just basically rejected your appeal?

22 Bereki: M- -- th- -- they didn't reject it. They said it had
23 -- all of the arguments that it made had no merit.
24 The supreme court obviously thinks otherwise. So, I
25 want to just -- this is the Supre- -- the California



1 Supreme Court case that Chaffee mentioned in the --
2 um, the transcript that I gave you?

3 Foster: Mm-hmm.

4 Bereki: And this is where they say that the legislature had an
5 intent to impose a stiffer, all or nothing penalty.
6 Penalty means excessive fines clause.

7 Foster: Mm-hmm.

8 Bereki: This court says it's not a penalty.

9 Foster: Mm-hmm.

10 Bereki: So, the Supreme Court says it's a penalty and this
11 court says it's not a penalty.

12 Foster: Okay.

13 Bereki: So, they're supposed to follow the rules of the other
14 court, and they're not doing it.

15 Foster: Mm-hmm.

16 Bereki: So, um, I don't know. Do you want this?

17 Milbery: You could put it with -- mm, it's all gonna get
18 forwarded to investigations.

19 Bereki: Okay. California Supreme Court 7031(b), equals
20 penalty. All right. This is an example of another
21 case of the same appeal court doing the same thing.
22 The guy said it's a penalty and you have to recognize
23 my rights, and they said no.

24 Foster: Um, we'll just take the one. We don't need multiple -
25 - if you have one case that says it, uh, you know what



1 I mean?

2 Bereki: What do you mean one case that says --

3 Foster: Well, you have a -- you're -- those are the same,

4 right? They're --

5 Bereki: No.

6 Foster: -- giving you the same --

7 Bereki: No.

8 Foster: -- conclusion?

9 Bereki: No, no, no. No. This is the California Supreme Court

10 saying that this section is a penalty.

11 Foster: Mm-hmm.

12 Bereki: The 4th District Court of Appeal is out in their own

13 world, saying it's not a penalty.

14 Foster: Mm-hmm.

15 Bereki: And so, every case that comes through this court that

16 goes through the appellate court, they deny everyone's

17 constitutional rights because they say it's not a

18 penalty.

19 Foster: Mm-hmm.

20 Bereki: Do you understand?

21 Foster: Mm-hmm.

22 Bereki: Okay. So, this is another case just like mine that

23 happened seven years before. They fined this guy

24 \$602,000.00.

25 Foster: Mm-hmm. Um, did he get it -- did it get reversed, or



1 what?

2 Bereki: No.

3 Foster: So, they --

4 Bereki: These --

5 Foster: -- up- -- they upheld this?

6 Bereki: Yeah.

7 Foster: Okay.

8 Bereki: Yeah. Do you want this?

9 Milbery: You -- like I said, you could put it with it. It's

10 all gonna get forwarded to investigations.

11 Bereki: Right. But if they don't know what it is, like,

12 'cause you don't mention it, they're not gonna know

13 what it is.

14 Foster: Well, put a -- put a note on the top.

15 Milbery: Do you want to put a -- yeah, like you did with this

16 one?

17 Bereki: Um --

18 Foster: So, that case affirmed this --

19 Bereki: Uh --

20 Foster: -- by the 4th District?

21 Bereki: It didn't affirm it, they just -- hmm. So, this case

22 was in the 4th District, and then it went to the

23 Supreme Court.

24 Foster: Mm-hmm.

25 Bereki: And the Supreme Court upheld it.



1 Foster: The -- the --
2 Bereki: So, even --
3 Foster: -- US Supreme Court?
4 Bereki: No, the California Supreme Court.
5 Foster: Okay.
6 Bereki: So, then, after this case comes -- and they say it's a
7 penalty.
8 Foster: Do you want to --
9 Bereki: MW Erectors.
10 Foster: Okay.
11 Bereki: That case was also done by Chaffee.
12 Foster: Okay.
13 Bereki: So, after that, this Rambo case comes along. He gets
14 prosecuted for 7031, and he says time out, this is a
15 penalty. California Supreme Court said it was a
16 penalty, and they said no, it's not a penalty, and
17 we're not giving you any constitutional protections.
18 Foster: Mm-hmm. And he --
19 Bereki: So, he got fined --
20 Foster: -- didn't take that to the -- to the --
21 Bereki: No.
22 Foster: -- 9th Circuit?
23 Bereki: He ga- -- gave up. Yeah. Most of these people do.
24 Foster: Mm-hmm.
25 Bereki: Can't afford the lawyer to get an -- get an appeal is



1 probably \$100,000.00.

2 Foster: Mm-hmm.

3 Bereki: So, you're dead. I mean, you get a \$600,000.00 fine,
4 and then the -- the lawyers wants, uh, another
5 \$100,000.00 and you have 100 years of case law of them
6 doing the same thing over and over, you're -- you
7 probably have no chance.

8 Foster: Mm-hmm.

9 Bereki: So, um, here's another case. This is the Judicial
10 Council of California, this is the body that manages
11 the court system. They went after someone for about
12 \$27 million.

13 Foster: Mm-hmm.

14 Bereki: Same statute.

15 Foster: Okay.

16 Bereki: \$27 million.

17 Foster: Mm-hmm.

18 Bereki: Crazy.

19 Foster: And what did they do?

20 Bereki: Um, the appellate court upheld it, it went back to
21 the, um, superior court, and the superior court judge
22 found, under this exception, that they had
23 substantially complied with the licensing requirement
24 and they didn't impose the fine.

25 Foster: Okay.



1 Berekhi: But this is just -- so, the judicial council spent
2 millions of dollars prosecuting these people trying to
3 steal \$27 million from them when they have no
4 authority to do it.

5 Foster: Okay.

6 Berekhi: So.

7 Foster: I don't think that -- I mean, I -- I get what you're
8 trying to do, but I don't -- yeah. Let's take, uh,
9 what facts to yours --

10 Berekhi: Okay. This is another guy, just another case like
11 that. He got fined \$917,000.00 --

12 Foster: Mm-hmm.

13 Berekhi: -- and he went to bankruptcy and lost his home.

14 Foster: Okay. I don't -- I don't want any examples -- more
15 examples of your case. Let's just stick to your case,
16 you know what I mean?

17 Berekhi: Okay. But I want to give you these because this shows
18 a pattern and practice of criminal behavior and
19 they're not fixing it.

20 Foster: No, I -- I'm sure -- I'm sure it -- you can probably
21 give me a -- a carton of those. You know what I mean?
22 Like --

23 Berekhi: Correct.

24 Foster: -- so, uh, yeah, le- -- we got one. We got you.
25 Let's focus on you.



1 Berekí: Okay. Fine.

2 Foster: And -- and I'll just -- we'll say this is -- there's
3 numerous cases that you stated, right, that meet your
4 criteria.

5 Berekí: Okay.

6 Foster: Okay.

7 Berekí: So, you don't want this?

8 Foster: No.

9 Berekí: Okay. Um, this is just another case from the 4th
10 District. It's a unrelated case, but let me share
11 with you why I brought it to share with you. Because
12 the judge that wrote my decision on the appeal court
13 wrote -- was involved in this case.

14 Foster: Okay.

15 Berekí: Okay. So, remember how I said that another name for
16 discouragement is unjust enrichment?

17 Foster: Mm-hmm.

18 Berekí: They say here, the elements of an unjust enrichment
19 claim are the receipt of the benefit and the unjust
20 and -- and retention of the benefit at the expense of
21 another. The mere fact that a person benefits is not
22 itself sufficient to require the other person to make
23 restitution. There is no equitable res- -- uh, reason
24 for invoking restitution when the plaintiff gets the
25 exchange that he or she expected.



1 Foster: Mm-hmm.

2 Bereki: Okay. So, they got --

3 Foster: They got the --

4 Bereki: -- house.

5 Foster: -- construction work. Yeah. Okay.

6 Bereki: Same judge.

7 Foster: Yeah.

8 Bereki: Uh, I don't know if you want this, but my case, as it

9 stands right now, I went to federal court --

10 Foster: Mm-hmm.

11 Bereki: -- and I tried to do what you say and take more, uh,

12 judicial action. This woman threw my case out of the

13 court, uh, in federal court, trying to get help --

14 Foster: Where -- where were you at?

15 Bereki: Federal District --

16 Foster: Right here? On --

17 Bereki: -- Court, Santa Ana.

18 Foster: Oh, okay.

19 Bereki: Her court- -- courtroom's in LA. Uh --

20 Foster: Okay.

21 Bereki: -- but, um, I don't know if you want any of that. It

22 -- there's a whole federal side to this, too, that is

23 going on. Uh --

24 Foster: And why did they reject this?

25 Bereki: She said that it's bad faith and frivolous.



1 Foster: Okay. Yeah, we can take it, so -- what is that,
2 number --
3 Bereki: It's -- I'll get it to you.
4 Foster: -- 2019, I think, is the --
5 Milbery: Mm-hmm.
6 Bereki: Yeah. That's it. So, you could say that I filed a
7 case in the United States District Court, Central
8 District of California, and that's the case number.
9 Milbery: When did you do this?
10 Bereki: Um --
11 Foster: There was a date on the --
12 Milbery: October 31st, 2019?
13 Bereki: Um, no. It was before their --
14 Foster: It's on there. It's on that one. Mm-hmm.
15 Bereki: Um --
16 Foster: (Inaudible - 01:36:00).
17 Bereki: Oh, you're put -- maybe up here. Oh, f- -- that was -
18 - um, no, that's -- that's later. Sometime in, um --
19 I can look it up for you real quick. Let me just look
20 it up.
21 Foster: The 2/10?
22 Bereki: No. That's something e- -- October -- oh, use that
23 one. That's fine. Plaintiff filed a complaint in
24 this action October twenty (inaudible - 01:36:29).
25 Foster: Okay.



1 Berek: All right. So, I asked her for an attorney and she
2 denied it. And then, this is her throwing out of the
3 case and saying -- or, the court and saying you don't
4 even have a right to an appeal and that's bad faith
5 and frivolous.

6 Foster: Okay. I think we've got a pretty good gist. We can
7 take all this, right?

8 Berek: Yes.

9 Foster: Okay. Um, so, I think we're gonna -- we'll write up --
10 -- obviously, you gave us a lot of information, okay --

11 Berek: Yeah.

12 Foster: -- so, we're gonna do our best to try to be as
13 accurate in our report, you know?

14 Berek: Right.

15 Foster: Um, we're not gonna get, like, crazy intimate detailed
16 but we're gonna list what you gave us and --

17 Berek: Okay.

18 Foster: -- um, how it pertains to the --

19 Berek: Right.

20 Foster: -- alleged rights that you feel have been violated.

21 Berek: Right. So, which rights have I been viola- -- which
22 rights have been violated?

23 Foster: Well, your -- the excessive fine, right?

24 Berek: Under both California and the United States
25 Constitution. So, the Article --



1 Foster: Mm-hmm.

2 Bereki: -- 1, Section 17 --

3 Foster: Yeah.

4 Bereki: -- and the 8th Amendment.

5 Foster: And the 8th Amendment. Yeah. Correct.

6 Bereki: Okay.

7 Foster: So, excessive fine, and that, um -- well, we'll list
8 that you think, you know, that you -- you -- that it's
9 a violation of the penal co- co- -- code, right?

10 Bereki: Right.

11 Foster: Uh, for the 484, and -- what else -- what'd you say?

12 Bereki: So --

13 Foster: So --

14 Bereki: -- let me just read you this. I mean, it's not gonna
15 make any difference, but I just want to anyways.
16 Here's what the United States Supreme Court says. To
17 lay, with one hand, the power of the government on the
18 property of the citizen and, with the other, to bestow
19 it upon favored in- -- individuals to aid private
20 enterprises and build up private fortunes is
21 nonetheless a robbery because it is done under the
22 forms of law and is called taxation.

23 Foster: Okay.

24 Bereki: So, they're flatly admitting there that if you pass an
25 unconstitutional statute that takes the property from



1 one person and gives it to another, that you're using
2 the force of the government that it -- there is no
3 lawful authority to do --

4 Foster: Mm-hmm.

5 Bereki: -- and thereby depriving a person of their property,
6 and that is robbery.

7 Foster: Okay. So --

8 Bereki: So, it's --

9 Foster: -- yeah. We'll -- I mean, we'll list that, you know,
10 you feel that the government is using -- is forcefully
11 taking your property and --

12 Bereki: Perfect.

13 Foster: -- trying to give it to the Humphries.

14 Bereki: Perfect.

15 Foster: Um, I mean, I think -- and -- and you're saying that
16 this 731(b) is an unconstitutional --

17 Milbery: Unconstitutional.

18 Foster: -- law.

19 Bereki: Right.

20 Foster: Right.

21 Bereki: Because it's a forfeiture.

22 Foster: Correct.

23 Bereki: It's a criminal forfeiture. And when you do a
24 criminal forfeiture, you have to give someone the
25 rights of criminal proceedings.



1 Foster: Gotcha.

2 Bereki: They're very different than in civil case.

3 Foster: You got all that?

4 Milbery: No.

5 Foster: Let's make sure we --

6 Milbery: So --

7 Foster: -- ma- -- make sure we -- we --

8 Milbery: -- what do you -- what do you want, exactly?

9 Foster: -- document his -- his --

10 Milbery: There was a lot in that.

11 Foster: -- alleged --

12 Milbery: Yeah. So --

13 Foster: -- violations.

14 Milbery: -- start from the beginning.

15 Foster: So, let's start with Article 7 -- uh --

16 Bereki: Article 1, Section 17.

17 Foster: -- 17 of the California, um, Constitution.

18 Bereki: Constitution.

19 Foster: And then, also, in --

20 Milbery: So, what about that?

21 Foster: -- in tandem with that is the 8th Amendment.

22 Milbery: 8th Amendment. Yeah. So --

23 Foster: Right. So --

24 Milbery: -- what about that?

25 Foster: -- un- -- un -- uh, excessive fines. Well, it's an



1 excessive fine, which is cruel and unusual punishment.

2 Bereki: Both.

3 Milbery: So, you want me to put that Article 1, Section 17 is -

4 -

5 Foster: They're essentially the same, but the California

6 Constitution is a little more restrictive.

7 Milbery: Yeah. I understand what they are, but what --

8 Foster: Yeah.

9 Milbery: -- do you want me to put about them?

10 Bereki: So --

11 Foster: That he's saying the -- his -- those rights have been

12 violated. Those are his rights that have been

13 afforded by the constitutions that have been violated.

14 Bereki: In both respects to excessive fines and cruel and

15 unusual punishment. They're two separate things.

16 Foster: Okay. And then --

17 Bereki: Um --

18 Foster: -- it -- and then -- so, in regard to the fines, he's

19 stating -- well, let me know when you're done writing.

20 Milbery: Okay.

21 Foster: Okay. So, in regard to the fines, he's stating that a

22 fine can only be levied if, uh, he was charged with a

23 crime when he's -- his violation -- alleged violation

24 was a civil statute. So, the fine is

25 unconstitutional, I guess, or, how would you describe



1 --

2 Milbery: Well, there -- what is he alleging that's a fine?

3 Foster: He's -- he --

4 Milbery: 'Cause there's no actual fine.

5 Foster: So, the -- the amount of money that the judgment,

6 right, wa- -- the eight -- \$900,000.00 and --

7 Bereki: \$30,000.00 --

8 Milbery: And what was that called in that paperwork,

9 restitution?

10 Foster: No, dis- -- discouragement.

11 Milbery: Discouragement.

12 Foster: You're saying -- you're saying discouragement is a

13 fine?

14 Bereki: I'm -- okay.

15 Milbery: So, what do they call the --

16 Bereki: Okay.

17 Milbery: -- amount of money you have to pay?

18 Bereki: They called it discouragement.

19 Milbery: Discouragement.

20 Bereki: But it's not discouragement. That's the --

21 Milbery: You're --

22 Foster: Okay. So, he --

23 Bereki: -- law --

24 Milbery: Yeah. You believe that --

25 Foster: So, the -- so, the -- the judgment --



1 Milbery: -- discouragement's a fine?
2 Foster: -- describes it as discouragement, but --
3 Bereki: It's --
4 Foster: -- he's stating that the amount owed is a fine --
5 Bereki: Correct.
6 Foster: -- that has been levied by the court, which can only
7 be, um -- can only be given in a criminal --
8 Bereki: And w- --
9 Foster: -- s- -- situation, right?
10 Bereki: Well, I -- I wouldn't say that, it -- that it has to
11 be under the provisions of the excessive fines clause.
12 Remember those four criteria?
13 Foster: Mm-hmm. Yeah.
14 Bereki: So, if you go back --
15 Foster: So, in reality, I mean, you're not saying that this
16 judge committed 484. You're saying the government
17 did?
18 Bereki: No.
19 Foster: And he's an agent of the --
20 Bereki: I'm saying they're all --
21 Foster: -- government?
22 Bereki: -- doing it. Yeah. They're --
23 Foster: Well --
24 Bereki: -- all a part of --
25 Foster: Okay. All right. So, you got the -- the fine, right?



1 Bereki: And so, if you want to put the four criteria, that's
2 this case, People v. County.
3 Foster: Oh, did you (inaudible - 01:42:46) --
4 Milbery: No. I did write (inaudible - 01:42:48) I'm trying to
5 find out where I wrote it.
6 Foster: There it is, right there. So, that's --
7 Milbery: Four criteria for what?
8 Bereki: Right. For the -- w- -- when you in- -- impose an
9 excessive fine. And I -- what I s- -- I put a box
10 around it, right here, for you. That's the --
11 Foster: Okay.
12 Bereki: Okay. So, um, the other thing is that, uh, this is a
13 public offense that -- oh, wait, we -- you were -- you
14 were mentioning something about forfeiture. This is a
15 criminal forfeiture, that's what I'm alleging, is that
16 this is a criminal forfeiture and that the, um,
17 procedures --
18 Milbery: That this -- this, uh, B&P code is criminal
19 forfeiture?
20 Bereki: Yeah. That 7031(b) is a criminal for- -- imposes a
21 criminal forfeiture, and the heightened protections --
22 I'll let you finish.
23 Milbery: Okay.
24 Bereki: Uh, and the heightened protections of criminal
25 proceedings were all denied, which is a violation of -



1 - I don't know what California's are, but the 5th,
2 6th, and 7th Amendment to the US Constitution. 5th,
3 6th, 7th, and 14th, actually. Okay. Um, that's fine.
4 We could go on for days, but --
5 Foster: Okay.
6 Bereki: -- that's -- uh, you have the general gist of it.
7 Foster: Okay.
8 Bereki: So, this is your 7031 paper.
9 Foster: Yeah, we'll take that, just so --
10 Bereki: Uh --
11 Foster: -- (inaudible - 01:44:44).
12 Bereki: -- do you -- uh, you're welcome to have this if you
13 want. This is the declaration of rights in the
14 California Constitution, if you want to refer to it.
15 Foster: No, that's okay.
16 Bereki: No? Okay.
17 Foster: We have -- we have that too.
18 Bereki: All right.
19 Foster: Um --
20 Bereki: So, what I am saying is that -- well, do you want to
21 put in there the -- the attempts that I have made with
22 the legislature and all of the courts? And --
23 Foster: Yeah.
24 Bereki: -- I mean, I feel that that's re- -- relevant that
25 I've done all that and that's why I'm here, I mean,



1 because, I mean --

2 Foster: Yeah. I'm gonna write -- we'll write in there that
3 you've -- you've exhausted all of your, um, I guess,
4 recourse in t- -- regards to filing motions, and you
5 feel that you want the Executive Branch of the
6 California government to examine, in a checks and
7 balances way, the --

8 Bereki: Right.

9 Foster: -- judicial and legislative branch.

10 Bereki: Correct.

11 Foster: Right? Is that about --

12 Bereki: I --

13 Foster: Is that right?

14 Bereki: Perfect. Yeah.

15 Foster: Okay.

16 Bereki: That's good.

17 Foster: Good luck with that.

18 Milbery: Thank you.

19 Bereki: Sorry.

20 Foster: Um --

21 Milbery: This is ours, I don't have to make copies?

22 Bereki: Yep. Correct. Correct.

23 Milbery: All right.

24 Foster: So, uh, I'm just gonna -- you've given us a lot,
25 right?



1 Berek: Mm-hmm.

2 Foster: So, I'm assuming you're probably going to get a copy
3 of our report?

4 Berek: Oh, yeah.

5 Foster: If we're a little off, right?

6 Berek: I'm not --

7 Foster: Okay.

8 Berek: -- gonna get upset about it.

9 Foster: Just, we're gonna do our best to --

10 Berek: Right.

11 Foster: -- try to do this, you know --

12 Berek: Right.

13 Foster: I'm gonna guess you're gonna -- you're -- you're gonna
14 have to do more follow up with the investigator that
15 gets --

16 Berek: Right.

17 Foster: -- assigned to this.

18 Berek: Yeah.

19 Foster: Um, you might have to come back and re-explain it.

20 Berek: Okay.

21 Foster: You know, because it's -- it's a lot.

22 Berek: Right.

23 Foster: You know, and we're not attorneys, and --

24 Berek: Right.

25 Foster: -- reading all that's gonna take a long time. You've



1 already read it.

2 Bereki: Right.

3 Foster: Right? Um --

4 Bereki: Right.

5 Foster: -- I d- -- I don't know. So, just -- um --

6 Bereki: If you guys have questions while you're writing it,

7 just call me.

8 Foster: Okay.

9 Bereki: That number is my cell phone, and I'm happy to just

10 give you a quick ad lib of something if you need it.

11 Foster: Okay.

12 Bereki: There's no sense in -- I mean --

13 Foster: Yeah. We'll --

14 Bereki: -- struggling --

15 Foster: Um, today's our Friday, so we'll try to get this done

16 today.

17 Bereki: Okay.

18 Foster: Um, and then, um, you know, you'll -- you'll get --

19 you'll have to do follow up with investigations and

20 see --

21 Bereki: Right.

22 Foster: -- what, if anything, we're gonna do. I don't know.

23 Bereki: Right.

24 Foster: I -- I've never s- -- I've never seen somebody try to

25 do this or heard --



1 Berekhi: Right.

2 Foster: -- of anybody try to do this.

3 Berekhi: I know.

4 Foster: So, I don't know -- even know if you're within your
5 legal right to do it or what that entails.

6 Berekhi: Perfect.

7 Foster: So --

8 Berekhi: Perfect. Thank you.

9 Foster: -- that's all I can tell you.

10 Berekhi: (Inaudible - 01:47:08).

11 Foster: Uh, yeah. She'll get that for you. And, again, we're
12 just gonna write an information report.

13 Berekhi: I get it.

14 Foster: Okay.

15 Berekhi: I get it.

16 Foster: Okay.

17 Berekhi: That's all your decisions.

18

19

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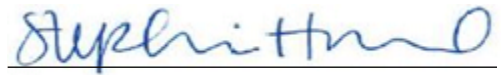
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