

Call with Sergeant Darrin Joe, Part 3

Recording Name:

[E26 NBPD– COMPLAINT TO SGT. DARRIN JOE PART 3
OF 4 111821]

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1 Bereki: Hey, Darrin, how you doin'? Thanks for calling.

2 Joe: P- -- of course, of course. Pretty good. I apologize

3 for -- for my delay. We've been swamped here. Been a

4 little under-staffed over the last week and a half.

5 Uh --

6 Bereki: Okay.

7 Joe: Uh, how are things?

8 Bereki: Um, things -- things are okay. Th- -- they're

9 progressing, getting more crazy by the -- by the day,

10 though. Um --

11 Joe: I'm sure.

12 Bereki: Um, yeah, I'm --

13 Joe: I'm sure.

14 Bereki: -- because my license has been suspended indefinitely,

15 I obviously can't work in my job, and I can't pay the

16 property taxes, and I can't pay the, uh, mortgage. So

17 --

18 Joe: Uh-huh.

19 Bereki: -- I guess it's inevitable that I'll be facing

20 foreclosure at some point in the near future.

21 Joe: You have any -- I mean, this is kind of beside the

22 point, and I'm just, uh, makin' conversation, more or

23 less. You have no other forms of -- of income, or

24 means to -- to work?

25 Bereki: Well, I -- I do have, uh, a retirement from when I was



1 a police officer. I was medically retired. And --

2 Joe: Oh, okay.

3 Bereki: -- um, the other problem is that I -- I need to be

4 able to, uh, study law, because I cannot afford an

5 attorney.

6 Joe: Right.

7 Bereki: So someone has to write papers and represent me,

8 otherwise no one else is gonna do it. I mean, um --

9 Joe: Mm-hmm.

10 Bereki: -- I didn't go to law school. And so far, anyone that

11 I've reached out to help for government, is not

12 helping.

13 Joe: Oh.

14 Bereki: Um, so, I -- I'm kind of backed into a corner, and

15 yeah, that -- that's the situation. I mean, the other

16 thing is, you know, I don't have training in any other

17 occupation. I mean, so I guess if I tried to go out

18 and work as a contractor on my own, well that would be

19 a criminal violation because I don't have a license.

20 Joe: No license, right.

21 Bereki: Um, I suppose I could work for someone else at -- at -

22 - at a reduced rate or, you know, all of that, but

23 then that will leave all of my legal stuff in the air,

24 and yeah. It -- it --

25 Joe: Yeah.



1 Bereki: -- it's definitely a -- a really, um, unfortunate
2 situation, to say the least.

3 Joe: Right. Okay. Um, just to update you on m- -- on my
4 research. Um, and, you know, up front, I didn't -- I
5 didn't fine-tooth comb all the case law that you had
6 sent me. Um, I -- I frankly couldn't carve out enough
7 time. But what I did do is I -- I did research, um,
8 your appeal to the -- the California Court of Appeals,
9 Fourth -- Fourth District, um, and we had talked about
10 it a little bit. Uh, it looks like to me, the -- the
11 judge in the case addressed the -- the points of your
12 concern, and, I mean, you know, bein' -- bein' a lay
13 person, workin' in the Executive Branch of government,
14 um, it's -- it's not up to me to -- to interpret his -
15 - his decisions, or his interpretations of the codes.
16 But, um, I mean, I'm -- I'm sure you've gotten a copy
17 of this, or -- or maybe you were a part of it. Um,
18 and -- and I know you disagree with it, but, uh, it's
19 -- it's all right here. And he's -- he himself cited
20 different case law to -- to back up his decisions.

21 Bereki: O- -- okay. I hear what you're saying, yes. I
22 absolutely have read it, uh, many times, and gone over
23 it with a fine- --

24 Joe: I'm sure.

25 Bereki: -- fine-tooth comb.



1 Joe: I'm sure.

2 Bereki: Um, but -- but, uh, as you'll notice in that, um,
3 appeal that I made --

4 Joe: Mm-hmm.

5 Bereki: -- the d- -- the determination in that case was
6 whether the -- we'll just call it a fine for right
7 now. Whether -- let's just say the court's judgment
8 was --

9 Joe: Uh-huh.

10 Bereki: -- was equitable, meaning that it was to remedy
11 damages that I had done, or if it was a fine. And the
12 court -- if you'll recall in there, the court said,
13 this is not a fine, it's something called disgorgement
14 --

15 Joe: Right.

16 Bereki: -- and it's therefore not subject to the Excessive
17 Fines Clause.

18 Joe: Right.

19 Bereki: Right? Rem- --

20 Joe: I did read that, yes.

21 Bereki: Okay, perfect. So we're there. So the question then
22 is, what does the term "disgorgement" mean? Okay, um
23 --

24 Joe: Mm-hmm.

25 Bereki: -- about two years after my case, what I discovered



1 was that the courts have been using the term
2 "disgorgement" to punish people, but it's not a pu- --
3 it's not an action that a- -- that allows for
4 punishment. So, let me give you example of what I --
5 what I mean by that. There's courts of law and courts
6 of equity. Courts of law have authority to punish
7 people for violations of -- of crimes and public
8 offenses.

9 Joe: Mm-hmm.

10 Bereki: They can straight-up say, here's a fine for a thousand
11 bucks. You didn't do this, and you were supposed to
12 do it. Okay?

13 Joe: Mm-hmm.

14 Bereki: A court of equity is different. A court of equity
15 generally deals with contracts and trusts. Um, and it
16 does -- it -- it has no authority to -- to order
17 punishment. So the first question that every court
18 has to look at, or any in any type of case, is what
19 type of action is coming before the court? Is it a --
20 is it a case at law? Or is it a case at equity?
21 Okay, so, um, what I'm getting at is that
22 disgorgement, um, two years later was defined by the
23 Supreme Court to mean an equitable action only
24 relating to profits that were illegally obtained.
25 Okay. That's the United States Supreme Court.



1 Joe: Okay.

2 Bereki: So even if the Court of Appeals said, "This is what
3 disgorgement means" --

4 Joe: Mm-hmm.

5 Bereki: -- the United States Supreme Court said, "That's not
6 what it means. This is what it means." Okay? So
7 what they said is that disgorgement is an action in
8 equity, meaning that a person who does some illegal
9 act and obtains profits from that illegal act has to
10 give up those profits. It's really not much different
11 than a bank robber who illegally profits from robbing
12 a bank --

13 Joe: Yeah.

14 Bereki: -- who has to make restitution to the bank by giving
15 up those illegal profits. So how that would apply to
16 my case, if they had done it properly, was the
17 Humphreys would have had to go to court, and they
18 would've had to say, "Uh, look Judge, we hired this
19 guy. He -- we found out he didn't have a license.
20 Um, he charged us 848 bucks, um, and here's the amount
21 of legal -- uh, or the amount of profits that he
22 illegally obtained from this contract, and that we're
23 entitled to receive 'restitution or disgorgement of.'" Right? Well, none of that evidence was presented at
24 trial. The only evidence that was presented at trial



1 was how much they paid me. Okay? That's not my
2 profit, because if I went out and I bought \$850,000 of
3 materials, lab- -- um -- um, drywall, nails, two by
4 fours, you know, whatever --

5 Joe: Mm-hmm.

6 Bereki: -- and I paid people a lot of money to, uh, do the
7 remodel work that they requested, well then that money
8 -- number one, that money's already been given back to
9 them, and number two, that's not my profit, because I
10 didn't profit out of any of that. I ga- -- I

11 basically built them -- remodeled the house that they
12 asked to be remodeled. Okay? So without evidence
13 that I profited anything, the court has no authority
14 to order disgorgement of anything, because there's no
15 evidence that I profited that amount. Okay? And I --

16 Joe: That's -- that interpretation's different than -- than
17 what they're citing in this -- this Alatraste case
18 where it -- it says, "Except as provided in
19 subdivision E, a person who -- who utilizes the
20 services of an unlicensed contractor may bring an
21 action in any court of competent jurisdiction in this
22 state to recover all compensation paid to the
23 unlicensed contractor for performance of any act or
24 contract."

25 Bereki: Okay.



1 Joe: So they're not talking about profit, or anything like
2 that.

3 Bereki: O- -- okay.

4 Joe: (Inaudible - 00:08:25) on this.

5 Bereki: So -- so -- no, you're -- you're hitting on something
6 very, very important. Yes, you're -- you're
7 absolutely right, Darrin. You're -- you're -- you're
8 hitting the nail on the head. Okay?

9 Joe: Okay.

10 Bereki: So that's why I said in my last email, I said, "Look
11 at Section 7031(b), and -- and tell me what action
12 does it prescribe. Does it prescribe a fine? Does it
13 prescribe disgorgement? Does it prescribe damages?
14 Or does it prescribe a forfeiture? If you read it, it
15 only -- it doesn't say anything about disgorgement, so
16 the --

17 Joe: Mm-hmm.

18 Bereki: -- so the first question is, why is the Appellate
19 Court calling it disgorgement when the statute doesn't
20 say anything about disgorgement? That's the first
21 issue that's like, what's going on here?

22 Joe: Okay.

23 Bereki: The second thing is, it -- what it says is you can get
24 a return of all compensation paid.

25 Joe: Mm-hmm.



1 Bereki: That's a forfeiture. Okay?

2 Joe: Okay.

3 Bereki: And in law, the -- the -- the first congress of the
4 United States used the term forfeiture to refer to a
5 fine. Okay?

6 Joe: Mm-hmm.

7 Bereki: And in California, uh, let me see if I can find it
8 here. Um, I need to read you this, because it's very
9 important. Um --

10 Joe: Okay.

11 Bereki: Uh, I'm gonna find it. Uh, Supreme -- it's, uh, it's
12 a -- a California case, and it talks about exactly
13 determining, um, how to determine the difference
14 between an illegal penalty and all of that. But let
15 me, um, find it here. Just one more second.

16 Joe: Yeah, no, take your time. I -- I purposely set aside
17 some time for us today.

18 Bereki: Oh, thank you. I'm so grateful. Um, mm. Okay,
19 "Under California law, any provision by which money or
20 property is to be forfeited without regard to the
21 actual damage suffered calls for a penalty."

22 Joe: Okay.

23 Bereki: Okay, so if you read 7031(b), it says basically if you
24 -- if you're a customer and an unlicensed -- you found
25 out that your contractor is unlicensed, you can go to



1 the court and get a full refund of everything you paid
2 that contractor. Do you agree with me on that?

3 Joe: That's the way it -- it sounds, yeah.

4 Bereki: Okay. That's -- that's what it sounds. Okay. But,
5 so that's -- that's in law what's called a forfeiture.
6 You're forfeiting everything, without regard --

7 Joe: Right.

8 Bereki: -- to the damage suffered. Okay. So, in this -- this
9 case, the courts have said, "Any provision by which
10 money or property is to be forfeited without regard to
11 the damage suffered calls for a penalty." So again,
12 if you read 7031(b), it doesn't talk anything about
13 disgorgement of profits. It doesn't say anything
14 about damages, right? There's nothing that's in there
15 that says that the -- that the d- -- that the
16 plaintiff has to evidence how much injury was caused
17 by the unlicensed contractor.

18 Joe: Mm-hmm.

19 Bereki: It just says that the unlicensed contractor has to
20 forfeit everything that was paid to them. So what
21 that means is that that's a penalty to me.

22 Joe: Okay.

23 Bereki: And that's what -- penalty, meaning penal, penal.
24 Fine, punishment. Okay?

25 Joe: Okay.



1 Bereki: So if it's punishment, then what has to happen is the
2 Excessive Fines Clause has to kick in, because now I'm
3 being fined for a vio- -- for committing a public
4 offense of contracting without a license.

5 Joe: Mm.

6 Bereki: That's -- that's the first thing. Okay, so now, the
7 Excessive Fines Clause --

8 Joe: Okay.

9 Bereki: -- there's a couple of things that go along with that.
10 There's like four criteria that the court has to take
11 into account before they fine someone. And all of
12 those criteria are in the People v Callen (ph) case
13 that I sent you. But two of them basically are, the
14 fine has to be proportionate to the offense, and you
15 have to take into account the person's ability to pay.

16 Joe: Mm-hmm.

17 Bereki: So --

18 Joe: But that's -- that's based on the Constitution.

19 Bereki: Yeah. Yeah.

20 Joe: I agree with you on that.

21 Bereki: Yeah, that- -- that's constitutional law. I mean --

22 Joe: Mm-hmm.

23 Bereki: -- the judge doesn't have discretion on whether they
24 do it or not. That's what they have to do.

25 Joe: Mm-hmm.



1 Bereki: Um, so -- so those are the, um -- that's what I'm
2 saying that they didn't do. I -- I wasn't -- I --
3 this was not an action for disgorgement. It was not
4 an action from my profits. There's no evidence of
5 profits in the case whatsoever, period.

6 Joe: Mm-hmm. Right.

7 Bereki: I was straight-up fined almost \$850,000, and they
8 refused to take into account the protections of the
9 Excessive Fines Clause. Hence, that's why I've been
10 excessively fined.

11 Joe: Okay.

12 Bereki: Now, there's also another problem. Okay? And that is
13 that the -- because this is a -- a -- I was punished
14 for committing a public offense, that is contracting
15 without a license, that action had to be brought by
16 the District Attorney, not by a private party.
17 Because under the California Constitution, the
18 Executive power of California is vested entirely in
19 the Governor, to see that the law is faithfully
20 executed. And under the Governor is where the police
21 and the District Attorney come to, uh, make
22 prosecutions for, um, crimes or public offenses. So,
23 that --

24 Joe: Okay.

25 Bereki: -- comparably, you could say, you know, like if I



1 found out you were driving without a license, I
2 couldn't prosecute you for that, in the same way that
3 these private people have no authority to prosecute me
4 for, um, contracting without a license.

5 Joe: Mm.

6 Bereki: Now, what they can do is they can go to the
7 administrative agency, which is the Contractor State
8 License Board, and they can say, "Uh, look, Mr.
9 Registrar of Contractors, this guy's doing work. He
10 doesn't have a license." And under that, based on
11 their complaint, the registrar can issue an
12 administrative citation, can do an investigation, and
13 do all of that. Well they did none of that. They
14 went straight to the court and prosecuted me
15 illegally, and then got an 800- -- near \$850,000
16 forfeiture, which they had -- the court had no
17 authority to issue either, because they didn't have
18 authority to prosecute me, and the court had no
19 authority to issue an excessive fine without taking
20 into account all of the conditions of the Excessive
21 Fines Clause. So, what I'm sharing with you in the
22 bigger context is that this just isn't happening in my
23 case.

24 Joe: Right.

25 Bereki: This is happening -- this has been happening for at



1 least 30 years, since 7031(b) has been en- -- uh, um,
2 enacted. It was enacted in 2001.

3 Joe: Mm-hmm.

4 Bereki: But 7031(a), which is another part of my case that
5 happened, which we won't get into right now, has been
6 in existence since 1929.

7 Joe: Okay.

8 Bereki: So what is going on here, in other words, is that
9 these judges are exercising the judicial power of
10 California to take people's money, property, and
11 liberty without any constitutional authority
12 whatsoever. And when they do that, when they don't
13 have authority to take the action what -- that they're
14 doing, they're acting as an ordinary person on the
15 street, except they're hiding behind the judicial
16 power of the State. It -- it's no different than --
17 than like you would not have lawful authority to take
18 someone's property or liberty if they hadn't committed
19 a crime.

20 Joe: Right.

21 Bereki: That's the nature, the simple nature of jurisdiction,
22 right? You actually have to have a crime committed,
23 or probable cause that a crime was committed in order
24 to begin taking, um, Executive action.

25 Joe: Mm-hmm.



1 Bereki: And the same -- same works for a judge. So everything
2 that the judge. So everything that the judge does has
3 to have authority vested -- vested in them by the
4 constitution or by a statute. If it's not there, then
5 they're not acting as a judge. They're acting without
6 authority. It's called ultra vires, and as a private
7 person. That's -- that's where all this is coming in.
8 So now, as a result of that illegal judgment, my
9 license was, um, or my company's license was, um,
10 suspended indefinitely until I either pay the illegal
11 fine or I file bankruptcy. Um --

12 Joe: This was fine -- just, uh, we're still talking about
13 the 850?

14 Bereki: Yes.

15 Joe: Approximately?

16 Bereki: Yes.

17 Joe: Okay, okay.

18 Bereki: Yes, that's the fine.

19 Joe: Is that what you need to do in order to get your --
20 your contractor's license back?

21 Bereki: Well those are -- from my understanding yes. There's
22 a section called 7071.17.

23 Joe: Uh-huh.

24 Bereki: That's the Business and Professions Code. And it
25 talks about in there how you can basically restore



1 your license.

2 Joe: Okay.

3 Bereki: From -- from what I remember, one, you -- you pay the
4 fine.

5 Joe: Uh-huh.

6 Bereki: Two, you file bankruptcy, or three, you come to an
7 agreement with the other party.

8 Joe: Gotcha.

9 Bereki: Um, so those are the things. So I -- I obviously do
10 not have \$850,000 to pay.

11 Joe: Mm-hmm.

12 Bereki: Um, the fine is totally illegal to begin with, so I'm
13 not paying that, even if I did have the money.

14 Joe: Mm-hmm.

15 Bereki: And two, the other option is to force me into
16 bankruptcy right now. Um, which may be an option that
17 I -- that I have to go down. But again, the point of
18 all of this -- and why I'm coming to you, is because
19 it's the duty of the Executive Branch of government
20 under the Constitution to see that the law is
21 faithfully executed. That means all law,
22 constitutional law, statutory law, criminal law, all
23 of it. And there is no other agency in California
24 that does that, other than local municipal police and
25 sheriff's departments that I am aware of. Yes, there



1 are other agencies like the Department of Justice that
2 does have some criminal law enforcement authority.
3 But there's nowhere else to go.

4 Joe: Right.

5 Bereki: N- -- nowhere. I mean, literally -- like we talked
6 about, the -- the Commission on Judicial Performance,
7 that -- from my understanding, and I've done some
8 research about it, it's an administrative agency, and
9 they do not have criminal law enforcement power.

10 Joe: Okay.

11 Bereki: Um, so --

12 Joe: But I think -- here's -- and, I mean, not -- you're --
13 you're spot on with a lot of this stuff. Where --
14 where the disconnect is occurring, I think, and, you
15 know, obviously, Adam, you and I are just having like
16 a conversation. I think -- so the -- the Judicial
17 Branch is -- is responsible for interpreting these
18 laws. Like you said, the Executive Branch enforces
19 the laws, the Legislative Branch makes the laws. What
20 we're -- what we're having here, this -- this
21 situation is it's a discussion over the interpretation
22 of the law, not the enforcement of the law. So this
23 still needs to go back to the Judicial Branch. And
24 I'll give you an example of why this is a -- a
25 discussion of the interpretation. Um, in the -- in



1 the appeal, the -- the judge ruled that disgorgement -
2 - or, well what you're dealing with -- let's not call
3 it disgorgement, um, it's a civil consequence. So
4 they're -- they're avoiding calling it a fine or a
5 penalty or a punishment. And even in quotes they
6 wrote, "It's an equitable remedy." Which, I mean, it
7 -- I -- I guess a rose by any other name. But they
8 still didn't call it, uh, damages, fine, or penalty.
9 And they -- they cited this S.E.C. versus Huffman
10 case. Um, maybe that's how they're dancing around the
11 issue, but they're hangin' their hat on it, you know
12 what I mean?

13 Bereki: Um, so I -- I understand what you're saying about
14 interpretation. Um, but at some point -- well, the --
15 the fact is we have a tripartite form of government,
16 meaning there's three branches, as you mentioned, and
17 that each of those branches are a check and balance to
18 the other. That's the whole point of dividing and
19 separating the powers, is so that one branch -- when-
20 -- whenever one branch violates the constitution or a
21 law or a statute --

22 Joe: Mm-hmm.

23 Bereki: -- the other branch can -- can come in to remedy the
24 situation and protect the people's rights, liberty,
25 and property from tyranny.



1 Joe: Mm-hmm.

2 Bereki: Because when you put all of the power into one branch
3 of government, that's essentially a king, and the king
4 can do --

5 Joe: Yeah.

6 Bereki: -- whatever he wants, and whatever he says.

7 Joe: Okay.

8 Bereki: So, um, yes, to some degree, there is a matter of
9 interpretation on what's going on here. And what I'm
10 sharing with you, um -- I -- I believe I've sent you
11 the case of Liu v S.E.C., and that is the case of the
12 highest court in our country, the Supreme Court,
13 defining exactly what disgorgement is. And it's not
14 what the California Fourth District Court of Appeal is
15 saying it is. In fact, I -- I -- I think I shared
16 this case with you before, but I'll, um, just kinda
17 review it, because it's really pertinent here.

18 Joe: Okay.

19 Bereki: Um, by the way, I -- I just want to commend you and --
20 and -- and say that you're digesting this stuff very
21 quickly and you're -- it feels to me like you're
22 really starting to see what's -- what's going on here.
23 Um, but --

24 Joe: I'm just tryin' to learn.

25 Bereki: Yeah, you're doin' great --



1 Joe: Just -- you and I -- you don't have law degree.

2 Bereki: Yeah, you're -- you're -- you're -- you're doin'
3 great. You're doin' great. Um --

4 Joe: Thank you.

5 Bereki: So -- you're welcome. So in this Liu case, what
6 happened is, um, these people solicited about -- I
7 think it was about \$30 million in money from Chinese
8 investors to build a cancer center in, um, California.
9 Uh, what happened was these people, the Liu's, ended
10 up -- in their contract with these investors, there
11 was -- to my recollection, there was nothing in the
12 contract, um, for them to take any profits. So, um,
13 they started taking money for profits, like millions
14 of dollars. And, um, someone found out about it and
15 ratted them out to the Securities and Exchange
16 Commission. Well, the Securities and Exchange
17 Commission brought a civil action in Federal District
18 Court, and they sought disgorgement of the entire \$30
19 million dollars that the Liu's were paid, and the
20 judge awarded it to them. And then they went from the
21 Central District Court -- or the Federal District
22 Court to the Ninth Circuit Court of Appeals on appeal.
23 And the Ninth Circuit affirmed the trial court's
24 holding, m- -- basically giving them a total
25 forfeiture of the \$30 million. Well, it got to the



1 U.S. Supreme Court, this was in 2020, and the court
2 said, whoa, wait a minute. First of all, what is this
3 disgorgement word? What does it mean? It's not a
4 word that has any fixed meaning, blah, blah, blah,
5 blah, blah. So they then defined it. And what they
6 said is that disgorgement is an equitable remedy
7 designed to strip the wrongdoer of illegal profits.
8 That's the key word, "profits." It doesn't say
9 anything about the entire forfeiture of the entire
10 transaction. It talks only about profits.

11 Joe: Mm-hmm.

12 Bereki: So, the c- -- the U.S. Supreme Court voided the
13 judgment, meaning this judgment has no authority
14 anymore, and it remanded the case back to the Ninth
15 Circuit, who then remanded it back to the District
16 Court to determine what the actual person's pro- --
17 the Liu's profits were.

18 Joe: Mm.

19 Bereki: Because the court said, look, you gave the Lius \$30
20 million dollars. And while they may have taken more
21 money than they were supposed to, they also started
22 building you a cancer center. So they've already
23 returned that money to you. So how can you then go
24 and ask that they return it again. That's a penalty.
25 That's a fine. You're punishing them now. That's not



1 an equitable remedy. E- -- equity -- the court of
2 equity, as I was mentioning earlier, is essentially
3 it's about balance and fairness.

4 Joe: Mm.

5 Bereki: It's about returning people to the position they
6 occupied before the, um, illegal acts were taken upon
7 them. But if you apply that to the case with me and
8 the Humphreys, well they got \$850,000 worth of work.

9 Joe: Okay.

10 Bereki: So then why am I being ordered to pay another \$850,000
11 on top of that? That -- that's -- that's not --

12 Joe: Mm-hmm.

13 Bereki: -- that's not equity. That's penalty. Okay? So --

14 Joe: Mm-hmm.

15 Bereki: -- I can send you the Liu v S.E.C. case, if you
16 haven't already, and you can see exactly what
17 disgorgement is. And when -- when and if that
18 happens, you will see that what the court of appeal,
19 Fourth -- Fourth District Court of Appeal is hanging
20 their hat on, is not what disgorgement is. So -- so,
21 well -- well let me back up a minute. They're
22 actually using the term disgorgement correctly.
23 Disgorgement is an equitable remedy, and it only
24 applies to profits. But what they're doing in my case
25 is there's no evidence of any profits. They're saying



1 that the whole transaction, the whole 850,000 is what
2 disgorgement applies to, and that's not true, it
3 doesn't.

4 Joe: Oh.

5 Bereki: It only applies to profits. So that's --

6 Joe: Okay.

7 Bereki: So they are saying some things that are correct. That
8 is -- disgorgement is an equitable remedy, and it does
9 -- it does apply to profits. But --

10 Joe: Mm-hmm.

11 Bereki: -- they're not using it properly. Okay? And then if
12 you go back to 7031(b), the statute that I was
13 prosecuted under, it doesn't say anything about
14 disgorgement.

15 Joe: It doesn't say anything about disgorgement, yeah.

16 Bereki: E- -- exactly. It -- it just says --

17 Joe: So --

18 Bereki: -- total forfeiture.

19 Joe: So here's the -- the issue that I think we're talkin'
20 about. Disgorgement gets defined by the Supreme Court
21 case, the Liu Supreme Court case in 2020, right?

22 Bereki: Right.

23 Joe: Your -- and your decision in this appeal came down in
24 2018.

25 Bereki: Correct.



1 Joe: Right?

2 Bereki: Correct.

3 Joe: And the actual, uh, the first case got initiated --

4 and correct me if I'm wrong, 2015, 2017?

5 Bereki: Yeah, 2017 is when the judgement came out.

6 Joe: So it sounds like you need to go back to court to have

7 -- I mean, I don't know if it can happen

8 retroactively. I imagine it can. Um, you'd have to

9 go back into court to argue that the term disgorgement

10 has now been defined by the Supreme -- Supreme Court,

11 and --

12 Bereki: So -- so Darrin --

13 Joe: -- and now the 850K is moot, right?

14 Bereki: I did that, and they threw my case out, saying it was

15 frivolous.

16 Joe: When?

17 Bereki: Uh, that was back -- hm, let me look real quick. So I

18 filed an action in the United States District Court,

19 which is Federal Court.

20 Joe: Mm-hmm.

21 Bereki: In -- oh my, um, let me look here. I'm looking in my

22 -- right around, uh, 2019.

23 Joe: Okay.

24 Bereki: And that court said --

25 Joe: So --



1 Bereki: -- um --

2 Joe: -- that's still before the Liu 2020 d- -- decision has
3 been published.

4 Bereki: Okay. But then my case went to the Ninth Circuit
5 Court of Appeal right after that, and while my case
6 was pending in the Ninth Circuit Court of Appeal, the
7 United States Supreme Court remanded the case back to
8 the Ninth Circuit in the Liu case.

9 Joe: Okay.

10 Bereki: My case was still before that court. And then --

11 Joe: Okay.

12 Bereki: -- even after that, they dismissed my appeal as
13 frivolous.

14 Joe: So I -- I don't know how the -- the judicial system
15 works, if -- if it's not like -- not unlike law
16 enforcement, where we're constantly getting case
17 updates, um, and decisions. I imagine it's similar,
18 but if it's not, maybe 2021 is a long enough grace
19 period to -- to revisit the issue --

20 Bereki: You -- you -- you --

21 Joe: -- that you're -- you're bringing to me.

22 Bereki: You -- you -- you can't. See, once they adjudicate
23 things like this, that's it.

24 Joe: But they didn't adjudicate you. They -- they just --
25 they didn't even hear the case. They wouldn't -- they



1 dismissed it as frivolous.

2 Bereki: E- -- exactly. There's no going back. You -- you --
3 a lot of these things --

4 Joe: Why not?

5 Bereki: Because that's it. You don't get do-overs in court.

6 Joe: But I -- I don't think so, because it didn't even go
7 to court.

8 Bereki: It -- it did go to court. And when they dismiss it as
9 frivolous, that's their dismissal. They're saying, we
10 don't have authority to do anything about this. This
11 is frivolous, get out.

12 Joe: But the authority has changed. Circumstances have
13 changed. It'd be like, you know, this is might be a
14 bad example, but slavery was okay 160 years ago, it's
15 not now.

16 Bereki: Correct.

17 Joe: So -- so, um, that's what I'm saying though, is that
18 my case was in the Ninth Circuit Court of Appeals when
19 the United States Supreme Court remanded the Liu case
20 to them, defining exactly what disgorgement was. And
21 even though the case threw -- the court threw the
22 court -- the case back to the Ninth Circuit, they
23 still threw my case out as frivolous. So even after
24 the d- -- the Supreme Court defined what disgorgement
25 was, and demonstrated that I was not subject to



1 disgorgement in -- in my case in California, they
2 still threw it out as frivolous. What I'm talking
3 about, Darrin -- I know it sounds -- you -- you
4 mentioned it one time, and -- and I get it. I hear
5 where you're coming from, that it sounds
6 conspiratorial. But this is -- this is a very huge
7 thing. You have over a hundred years, or pretty darn
8 close to it, of judges taking what I estimate and can,
9 you know, substantiate to be millions and millions of
10 dollars from people without any lawful authority. And
11 so right now, they're covering it up, because you
12 can't let something like this out. The minute that
13 one court makes a decision about this, it changes
14 every case in history. And every single person who's
15 had millions of dollars taken from them can now bring
16 a claim in court and sue the judges personally because
17 they acted without authority, and get restitution and
18 damages, which are probably gonna be upwards of, you
19 know, potentially 10 times the amount of their loss.
20 It's huge.

21 Joe: So, that kind of proves my point. Why can't you go
22 back and do it again, if you're talkin' about you
23 wanna come back and do it?

24 Bereki: Well, 1- -- let -- because here's why, first off, you
25 have to -- potentially, if you're gonna do a Class



1 Action, you -- you have to have a lawyer represent
2 you. No lawyer that I talked to, or anyone that I can
3 possibly surmise is gonna sue judges and do this type
4 of thing. That's -- that's one thing. Second off,
5 these lawyers don't even understand the concepts that
6 you and I are talking about right now. I'm not joking
7 you. Th- -- they are the ones, the lawyers and the
8 Judicial Council of California are the ones making the
9 jury instructions for this action, and they refuse to
10 see that it's a penalty, that it's actually a fine,
11 even though the United States Supreme Court has said
12 that. The second thing is that, um, after my appeal -
13 - I haven't shared this with you yet.

14 Joe: Okay.

15 Bereki: After my appeal, I went back to the Superior Court,
16 and I said, you need -- I -- I filed a motion to
17 vacate the void judgment because at that time the
18 court -- the United States Supreme Court had come out
19 with another case on disgorgement, and that was called
20 Kokesch v S.E.C.. You don't need to remember this
21 right now, but --

22 Joe: Okay. I hadn't seen that one.

23 Bereki: -- they basically -- they basically, uh, said
24 something very similar, that the -- the S.E.C. was
25 trying to punish people --



1 Joe: Mm-hmm.

2 Bereki: -- and, uh, that's not what disgorgement was. So
3 basically, I used that case. And -- and in that case,
4 the court had the duty to vacate the void judgment,
5 because it was in violation of both the California
6 Constitution and the United States Constitution. But
7 instead, what the court did, is it abused it's
8 authority, and it said, hey look, the judgment may be
9 illegal, but we can't overrule the Court of Appeal, so
10 it stands. So I can't go back into Superior Court now
11 and have them overrule the Court of Appeal.

12 Joe: Okay.

13 Bereki: So -- so I'm done. So the only other place to go is
14 to Federal Court. And I've been to Federal Court, and
15 they threw my case out and said they had no authority
16 to do anything about it, and that it was frivolous.
17 So, my last place to go is to the United States
18 Supreme Court. And so, I'm there now --

19 Joe: Okay.

20 Bereki: -- and I was just on the phone with the Clerk of Court
21 yesterday, who doesn't even know what the jurisdiction
22 of the court extends to, if you believe that.

23 Joe: Hm.

24 Bereki: It -- it -- it's mind-blowing. Mind-blowing. He told
25 me --



1 Joe: Man.

2 Bereki: -- he told me --

3 Joe: (Inaudible - 00:34:04).

4 Bereki: Yeah. I -- I mean, I -- I'll tell you, like, you
5 know, I sometimes thought that my agency that I worked
6 for in police department, that we were kind of like a
7 frat house, and we had problems, and things like that.
8 But when I look back on the professionalism of -- of
9 law enforcement when I was involved it, and -- and
10 what I see going on in the court system now, it's --
11 it's not even comparable. Like law enforcement in
12 Southern California, as I've come to know it, like is
13 -- you can't get away with this type of stuff.

14 Joe: No.

15 Bereki: I mean, yeah, there were -- there were, you know,
16 minor things where maybe somebody went a little far on
17 a search, or, you know, there was some controversial
18 issue about whether you can shoot the dog when you go
19 in on a Search Warrant, or whatever the case may be.

20 Joe: Sure.

21 Bereki: Some minor little thing like that. But we're talkin'
22 about gross violations of authority and power that's
23 going on here. And I can't even imagine something
24 like this happen in law enforcement. I mean, the
25 whole police department would be shut down instantly



1 if something like this were going on.

2 Joe: Right. I mean, we're -- we're fortunate in California
3 to -- I don't know, being able to do our -- our jobs
4 properly, I guess. And --

5 Bereki: Yeah. And -- and -- and Newport is a very respected
6 organization, you know? Um, so much so that it's even
7 -- you know, when -- back in my day it was talked
8 about as being, you know, too by the book, if you
9 will.

10 Joe: Mm-hmm.

11 Bereki: Um, but that's fine, you know. At least you guys are
12 interested in saying, hey, you know, what's the --
13 what's the legal proper way of doing this, and -- and
14 are we doing it? Um, but something else is going on
15 with the court system here, and it's -- it's -- yeah,
16 it's really affecting a lot of people's lives in this
17 way, and now it's come to my attention. And, you
18 know, other people have tried to do something about
19 it. They've gone to their legislators, they've made
20 complaints, and -- and nothing happens. Um, you can't
21 -- you can't get the changes. Um, and -- and -- and I
22 can share with you, um, I have made complaints to the
23 legislature, both to the senator and the, um, the
24 assemblywoman in my district, and nothing. One of
25 them -- the senator said, uh -- uh, "Look, we have a



1 democratically run legislature right now, and there's
2 nothing I can do about this. We know that there's a
3 lot of unconstitutional stuff happening, almost
4 everything that comes out of this building is
5 unconstitutional. But until a court says otherwise,
6 we can't do anything about it. Your case is closed,
7 Adam." The assemblywoman told me that she was gonna
8 conduct an investigation into it and she'd get back
9 with me in two weeks. I never heard anything again
10 from her. And I followed up with all these people.
11 I've made complaints to the Commission on Judicial
12 Performance. I've made complaints to the Judicial
13 Council. I've gone to, you know, seven or so
14 different courts in California and in the United
15 States. Not one of them wants to recognize what's
16 going on here. And, um, you know, like I said, i- --
17 it's -- it's only getting worse, because the next
18 thing that's gonna happen is, you know, I could be
19 forced into bankruptcy, in foreclosure, and, you know,
20 as I see it, it's -- it's pretty darn simple that this
21 is what the law is, this is what the -- what the
22 Supreme Court has said disgorgement is, this is what
23 an action for damages is, this is what an action for a
24 fine or a forfeiture is, and my case fits nice and
25 snugly into what the fine or the forfeiture is, and so



1 they had no lawful authority to do it. And it's that
2 simple. Um, now I know you have brought up the issue
3 about, well if this were a crime, um, you know, there
4 -- this would be a no-brainer.

5 Joe: Right.

6 Bereki: Well, I see it as a crime. They're -- they're --
7 they're taking my money, property, and liberty by
8 force without lawful authority. It's that simple.
9 Because the moment that they start taking things from
10 people and they don't have authority to do it, they're
11 not acting as a public official. They're not acting
12 under law, or color of law, as the term is used.

13 Joe: Mm-hmm.

14 Bereki: They're -- they're acting just as a private person, in
15 the same way that like, you know, if I pulled a car
16 stop on somebody and I saw a nice camera in the back,
17 and I took it out of the back of the car, and said,
18 "Oh, I like this. I'll have this." I can't do that.
19 I'm not acting with authority. And the same thing
20 here. And -- and as I've shared, they're -- they're
21 ordering literally millions of dollars. Um, one guy,
22 he, um, he built some part of the Disneyland Hotel for
23 I think it was like \$1.9 million. Um, and the Disney
24 Corporation, or some subcontractor thereof, sued him.

25 Joe: Mm-hmm.



1 Bereki: And the same judge that's in my case denied that
2 contractor the right to about, I think it was o- --
3 about \$1.9 million in compensation. I could be wrong
4 about that amount. So basically, this guy did all
5 this steel erection for the Disneyland Hotel and was
6 never paid. He had a license, but it was the wrong
7 category of license for that work. Can you imagine --
8 Joe: Okay.
9 Bereki: -- 10 -- 10 years of interest on \$1.9 million? Plus
10 damages?
11 Joe: Yeah, that'd be quite a bit.
12 Bereki: And guess what? That is the same moronic judge that
13 was the trial judge in my case. And that case also
14 went to the Fourth District Court of Appeal. And that
15 same case also went to the Supreme Court of
16 California. And guess what the Supreme Court of
17 California said?
18 Joe: I'm guessin' somethin' similar to your case.
19 Bereki: It's a penalty.
20 Joe: Okay.
21 Bereki: They said it's a penalty. Now, they did not -- the
22 Supreme Court of California in every single case I've
23 read, they have never said that 7031(b) is an action
24 for disgorgement. Ever. They have said that it's a
25 penalty. But at no time have they ever applied the



1 Excessive Fines Clause to it. Actually, the Supreme
2 Court has also said it's a forfeiture. They've said
3 it's both a penalty and a forfeiture.

4 Joe: Right.

5 Bereki: And a forfeiture is a penalty, because it's a fine.
6 So, it's not so much that all the courts are against
7 me in California. The Supreme Court is actually
8 saying what I'm saying. It's these lower courts and
9 judges that are doing whacky st- -- so here's another
10 thing that -- that keeps coming back to mind. If you
11 look at the Judgment Order in my case from the trial
12 court --

13 Joe: Mm-hmm.

14 Bereki: -- it doesn't say disgorgement. It says damages.

15 Joe: Right. But I -- I -- I considered that. I looked at
16 it. And, um, it's a checkbox. I -- I -- you know,
17 it's a poorly -- poorly laid-out form that they --

18 Bereki: But there's also a box for Other there that -- that
19 can --

20 Joe: And I -- yeah, I suppose they could've put it in
21 Other.

22 Bereki: And -- and here's the thing, it's -- I -- I get what
23 you're saying, I -- that there could be a little bit
24 of latitude in that way.

25 Joe: Sure.



1 Bereki: But there's a very distinct thing between an action
2 for damages and fining someone \$850,000. In the
3 damages action, there was actual evidence that someone
4 was harmed. And so that -- that money goes to
5 compensating the person for the a- -- for the -- the
6 actual harm that they received. It's another thing
7 entirely if you punish someone and you fine them for
8 doing an illegal act. So, that -- that term,
9 "damages," is very specific. And what -- what is --
10 what is happening right now, is that that term is
11 being used to cover up that I and many other people
12 potentially have actually been fined
13 unconstitutionally and not that there was any award of
14 damages whatsoever. I mean, that's --

15 Joe: Have you tried reaching out to any of these other --
16 other people that have gone through this?

17 Bereki: Yes, and Darrin --

18 Joe: To maybe form a -- a Class Action of some sort?

19 Bereki: Again, we need a lawyer to do that. And number two,
20 most of them are terrified. They're ter- --

21 Joe: What, the -- I'm sorry?

22 Bereki: Terrified. Terrified.

23 Joe: I thought you said terrible.

24 Bereki: No, no, no.

25 Joe: Are you talkin' about law- -- lawyers, or the people



1 that are going through what you're going through?

2 Bereki: Both. Both. Yeah, um, I have a -- a -- a number of
3 close friends that are lawyers, and I -- uh, business
4 trial lawyers, including even lawyers that do, um,
5 construction litigation.

6 Joe: Mm-hmm.

7 Bereki: And, yeah, they won't even talk about this. Um, and
8 the people that I have talked to, they're -- they're -
9 - they're so scared to put their name on any of the
10 complaints or anything like that. Even they -- though
11 they know it's right and something is com- --
12 completely wrong, um, they're scared. Um, you know,
13 because the -- the g- -- the power of the government
14 is awesome. And you -- you -- I'm -- I'm doing this
15 because, you know, there's a saying, this is --
16 freedom is basically nothing -- having nothing left to
17 lose. That's what -- I've been forced into this
18 corner where I can't just kinda walk away and say,
19 "Oh, you know, they just made a mistake," and this and
20 that. No. Everything that I have and have worked my
21 life for is being -- threatened to be taken away right
22 now.

23 Joe: Mm-hmm.

24 Bereki: By unlawful action. And I -- I've literally gone to -
25 - to -- I've done all the steps that -- that are



1 allowed within the constitution and statute, to make
2 complaints, to, um, local law enforcement, to file a
3 Petition for Redress of Grievance, to, um, complained
4 to the Judicial Council, to do your appeals, to do all
5 these things, and no one, no one is helping me. And I
6 can evidence clearly that this is not lawful. It's
7 not within the constitution, it's not within statutory
8 law. It's -- it's -- it's -- yeah, in every way it's
9 unconstitutional, and there's no authority for it
10 whatever. So, um, that's why I'm with you, is I have
11 nowhere else to go.

12 Joe: Mm-hmm.

13 Bereki: I mean, I -- I am -- I -- I am pursuing action in the
14 Supreme Court of California. But right now I have to
15 sue the Clerk of the United States Supreme Court
16 because he doesn't even know what the constitution
17 says about accepting my case. I'll just share a
18 little bit about that with you really quickly.

19 Joe: Sure.

20 Bereki: In the Supreme Court, uh, if you look at Article 3,
21 Section 2 of the Constitution, the Constitution allows
22 for two different types of actions to be brought
23 before the court. Um, one is any case at law or
24 equity arising under the constitution, that's one.
25 And the other is, if you're a certain class or a



1 certain party, like a foreign minister or a consul, or
2 your estate -- so quite often, the -- the Supreme
3 Court doesn't usually entertain original lawsuits.
4 Those usually get initiated in State Courts and in
5 Federal Courts.

6 Joe: A lower court?

7 Bereki: Exactly.

8 Joe: Okay.

9 Bereki: And so the -- the Supreme Court generally only
10 exercises it's appellate jurisdiction, meaning it
11 reviews cases after the o- -- after it's gone up the -
12 - the chain. Okay?

13 Joe: Mm-hmm.

14 Bereki: Um, but when it comes to estate suing estate, that
15 goes to the court's original jurisdiction, where you
16 can actually file a lawsuit in the Supreme Court.

17 Joe: Okay.

18 Bereki: Um, so when I called the clerk to file my case because
19 they rejected it very recently, um, I said, "Well,
20 wait I minute, w- -- what about this other part? That
21 the -- the constitution allows for two different
22 actions for the court to file the case." And he said,
23 "You -- we are not going to accept your case because
24 it does not fall under this statute." And I said to
25 him, "My case doesn't fall under statute. I'm not one



1 of those parties. I'm not a foreign minister, I'm not
2 a consul, I'm not any of that. I'm bringing my case
3 to the court because it's a case at law or equity
4 arising under the constitution." And he told me, "Uh,
5 well, you know, we've been denying cases like -- just
6 what -- like what you're talking about for a long
7 time."

8 Joe: Mm-hmm.

9 Bereki: And -- and he said -- he ended the conversation and
10 said, "Well, I'll get back to you and I'll give
11 examples of some of these cases." Well, he's not
12 gotten back to me. It's been several days. I -- I --
13 I sent a, uh, or I left a follow-up message for him --

14 Joe: Mm-hmm.

15 Bereki: -- and he's not calling back. Um, so basically now
16 I'm at the point where I can't even file my case in
17 potentially then only court that could help me because
18 the --

19 Joe: That could actually hear it, yeah.

20 Bereki: Yes, because the Clerk of the Court is the -- is the
21 gatekeeper to the justices seeing any of the cases.

22 Joe: Mm-hmm.

23 Bereki: Now -- now -- now I want you to -- I'm gonna share
24 something else with -- with you really quick. Um, I'm
25 gonna read to you Federal Rules of Civil Procedure,



1 uh, um, um, so this is -- in -- in Federal Courts,
2 Federal Courts have the Federal Rules of Civil
3 Procedure, and there's -- this rule governs the filing
4 of complaints in all Federal Courts, with the
5 exception of the Supreme Court, obviously. It says,
6 "Acceptance by the Clerk. The Clerk must not refuse
7 to file a paper solely because it is not in the form
8 prescribed by these rules or by a local rule or
9 practice." So what I'm -- what I'm sharing with you
10 is that basically, because the clerk of the United
11 States Supreme Court does not even know the
12 jurisdiction that the -- that, uh, applies to the
13 Supreme Court, they're throwing out cases that never
14 get the opportunity to get to the justices. And you
15 have no way to reach the justices to talk about this,
16 because the clerk is the gatekeeper denying the cases.
17 So the only way that I can do anything in this
18 instance is sue the clerk of the United States Supreme
19 Court in the District Court for the District of
20 Columbia and see what happens. It -- it's between him
21 -- between that case and you right now.

22 Joe: Okay.

23 Bereki: So, um, you know, how- -- however I can help you -- I
24 -- I -- obviously I've come to know the Constitution
25 and law very darn well at this point.



1 Joe: Mm-hmm.

2 Bereki: So, I can be of tremendous help to you, and you can
3 research and look up what I'm sharing. Or, um, you
4 know, I wanna work with you, um, and -- and get
5 resolution to this. Um, I even thought about, you
6 know, y- -- talking to the judges. Let's do something
7 like just have a roundtable, get people together and
8 let's talk about this. And the problem with that is
9 they're gonna say they can't talk because it's a
10 matter pending before the court, or they --

11 Joe: Sure.

12 Bereki: -- they could potentially incriminate themselves.

13 Joe: Right.

14 Bereki: So -- so to even do something that could actually
15 resolve the situation and to just amicably be adult
16 human beings and talk about it, they're not gonna do
17 it. So --

18 Joe: Right.

19 Bereki: -- um, you know, it's gonna take something more than -
20 - than that. I mean, I've made complaints to Gavin
21 Newsom. His office -- they won't even respond. He's
22 the one that --

23 Joe: Hm.

24 Bereki: -- has the real duty to do that.

25 Joe: Yeah, that's actually true, based on what -- what you



1 sent me earlier.

2 Bereki: Yeah. Uh, and Darrin, I -- I -- I will share with
3 you, I did go to Santa Ana PD. They won't even talk
4 to me about it. They refused to investigate. So I
5 filed a --

6 Joe: Did they go as far as I've gone?

7 Bereki: No, not even remotely. Not even remotely. They
8 talked to me -- I talked to two different sergeants on
9 the phone --

10 Joe: Mm-hmm.

11 Bereki: -- and they both refused to do anything, both refused
12 to take a crime report or an info report. And so I
13 beefed both of them in a ci- -- in a complaint, and
14 that -- uh, the sergeant that took the complaint, uh,
15 said, "We're not going to investigate you complaint
16 against these judges." And I said, "So then how are
17 you saying you're actually gonna investigate my -- my
18 IA complaint, because my IA complaint depends upon
19 whether those cops had a duty to investigate this
20 crime and deprivation of rights that I'm reporting to
21 you?" And she says, "Well, we're gonna investigate
22 it, but we're not gonna investigate that." So bottom
23 line, of course, I got a result of their "IA
24 investigation," and it basically said there was no
25 wrongdoing. Of course there wasn't. So, um, then I



1 also went to the Orange County Sheriff's Department.
2 They -- uh, the first time they refused to do anything
3 and told me it was a civil matter. It's clearly not.
4 Uh, I went to the court and complained to the, um, the
5 officers that were -- the deputies that were there,
6 the sergeant. And when they wouldn't do anything, I
7 called the Watch Commander and said, you know, I want
8 something done about this. So they set up a -- um,
9 for me to come down to the station, and I took an info
10 re- -- or they took an info report. So then it went
11 to an investigator, and he called the Department of
12 Justice, and that investigator apparently told him,
13 "Oh yeah, we had a complaint by this guy, but because
14 the, um, uh, the intake people didn't see that there
15 was any viability to it, we didn't investigate it."
16 Well, that is not true. I never complained to them
17 about this issue.

18 Joe: Mm-hmm.

19 Bereki: All -- all I did was call and ask them where I need to
20 report the issue so that I can make a complaint. And
21 so th- -- so ultimately what happened was the -- the
22 Sheriff's Department made these inquiries to the DOJ,
23 and the DOJ responded, but what the DOJ told them
24 wasn't even true. So then they dismissed my case
25 based upon that. So, um -- or they said there -- we



1 cannot find any e- -- evidence of criminal wrongdoing.
2 So basically, what it seems like is that the sheriff's
3 investigator tried to reach out to people who may have
4 more knowledge on this subject than him, and they were
5 given -- the sheriff's department was given bogus
6 information by these morons, and then, based upon that
7 bogus information, the sheriff's department closed its
8 complaint. So then I went back to the, um, the
9 commander that was overseeing the investigation, and
10 he -- I told him, I said, "Look, here's the
11 deficiencies in your investigator's complaint, and
12 here's the evidence that shows that I never made a
13 complaint to the DOJ and that this is viable." And he
14 said, "Okay, I'll look into it." Well, that was
15 months ago, and he's never looked into it.

16 Joe: Okay.

17 Bereki: So, um, I called the sheriff's office, and I set up --
18 tried to set up a meeting to speak with him and --
19 and, you know, say, hey look, I'm really tryin' to
20 help you guys out and show you, you know. And the
21 woman that was on the phone said, "He doesn't wanna
22 talk to you. If you wanna -- you wanna have -- tell a
23 problem, file a complaint." So, that's why I'm with
24 you. And so far, you have been the most reasonable,
25 um, I -- I'm even hearing the word compassionate



1 person that -- that is actually interested in -- I
2 sense that you know something's wrong. Um, it's just
3 a matter of what to do about it at this point. Um,
4 and so this -- this is where I'm at, with you, and I'm
5 also pursuing the -- the action of now suing the Clerk
6 of the Supreme Court. Um, but there is no- -- no one
7 in California that will help me with this. Like I
8 said, I've gone to every court. I've gone to the
9 legislature. I've gone to the sheriff's department
10 and the, um, Santa Ana Police Department, who are
11 both, you know where this -- the -- the jur- -- the
12 agency where these, uh, actions occurred. No help.
13 Refusal. Um, and if you want to see the work that
14 I've done, p- -- you can go to, um,
15 thespiritoflaw.com.

16 Joe: What -- what is that?

17 Bereki: It's my website, and it has the procedural history of
18 everything that I've done. All of the documents are
19 there on line, you can download all of them. You can
20 also go to the exhibits and see all of the, uh,
21 complaints and government tort claims that I've made.

22 Joe: Mm-hmm.

23 Bereki: There's tens of thousands of pages. It's all there.
24 Do you see it?

25 Joe: Let me just see. Uh, did I put -- oh, I think I put



1 in the wrong -- yeah. Yeah, it's, uh, are you sure
2 it's spiritoflaw.com?
3 Bereki: It's thespiritoflaw.
4 Joe: Oh, okay. I was gonna say, it looks like a Japanese
5 page kind of.
6 Bereki: Oh.
7 Joe: Um, yeah, it -- I'm putting it in my Google browser.
8 I also put it into the search bar itself.
9 Bereki: Yeah.
10 Joe: Okay, there's an H.G. Wells quote at the very top?
11 Bereki: Yes, so if you click on Procedural History --
12 Joe: Mm-hmm.
13 Bereki: -- you'll see everything, from the Trial Court Minute
14 Orders, to the Judgment, to the Clerk's Transcript, to
15 the -- all of the briefs that were submitted on -- on
16 appeal, oral argument, everything, all the way down
17 through the Federal Courts, all of it. It's all
18 there. And then, if you go back up and you click on
19 Exhibits, you'll see, um, Public Records Act Request
20 and responses that I've made, and Exhibit D is
21 Complaints and Government Tort Claims. And you can go
22 under there and see all of the, um, complaints that I
23 made to Santa Ana, to the Orange County Sheriff's
24 Department, to government -- uh -- uh, Governor Gavin
25 Newsom. I mean, there's literally thousands of pages



1 there, and it's not brok- -- it's all jumbled into one
2 major exhibit.

3 Joe: Okay.

4 Bereki: Um, but yeah, it's --

5 Joe: Yeah, 571 pages.

6 Bereki: Yeah.

7 Joe: It gets --

8 Bereki: So you can see that I've done my due diligence and
9 that these people are full of shit, and, um, yeah,
10 they don't -- they don't wanna fess up to it. And so
11 everywhere you go to make a complaint -- because
12 they're all -- the legislature's involved, the gov- --
13 the governor's involved, and the courts are involved.
14 And you cannot go to any of them, because they're all
15 involved. It -- it -- it's mind-blowing. And -- and,
16 um, yeah, now the Federal Courts are -- the Federal
17 Courts had been -- there are some times that these
18 cases go to Federal Court, because there's also a
19 Federal constitution issue involved, and even in
20 Federal Court, the Federal Courts are doing the same
21 things as the State Courts. So, um, yeah. Uh, if you
22 go back to the home page of my website and you scroll
23 down a little bit, you're gonna see a complaint that
24 says "Emergency Petition for Writ of Error and Non-
25 Statutory Habeas Corpus?" Do you see that?



1 Joe: Uh --

2 Bereki: It's -- it's under the H.G. -- H.G. Wells quote.

3 Joe: Uh, yeah, I do. I --

4 Bereki: Okay, do you see, like when you put your --

5 Joe: Is it -- oh, okay, the image. The image is the actual
6 like --

7 Bereki: Yes.

8 Joe: -- first page of the --

9 Bereki: If you click on that, this is the complaint, the Non-
10 Statutory Habeas Corpus that I filed in the Supreme
11 Court that the Clerk of the United States Supreme
12 Court threw out.

13 Joe: That's the one that threw o- -- that one out, okay.

14 Bereki: And if go, um, down to -- let me see what page is it
15 in here. Um, let's see here. I'm looking for it.
16 Oh, here it is. It is -- it's Page 24, and it's under
17 "Trial."

18 Joe: Okay.

19 Bereki: You -- you will see that I lay out every single code,
20 every single court case in California, the legislative
21 history of this statute, everything. It's all laid
22 out in black and white, including the Liu v S.E.C.
23 case. And it shows exactly how the whole thing is
24 being done, and that it's a complete fraud.

25 Joe: Okay.



1 Bereki: Um, it also cites other cases in there, I picked out
2 five. Um, some of them are State Court, some of them
3 are Federal Court, and it lays it all out there. That
4 -- that's just five that I was able to find. Now --
5 Joe: Sure.
6 Bereki: -- just to let you know, there's no way that you can
7 go to a Superior Court and search a case by the
8 statute. Like, you know, you could probably go --
9 Joe: Right.
10 Bereki: -- into your records database and see, you know, any
11 arrests that were made for a 459, or something.
12 Joe: Right.
13 Bereki: They can't do that at the court.
14 Joe: Okay.
15 Bereki: So you have no way to know.
16 Joe: Yeah.
17 Bereki: Um, yeah. So the only way right now that you can
18 potentially tell is to go into something called
19 LexusNexus or Westlaw --
20 Joe: Mm-hmm.
21 Bereki: -- and you can see which cases were appealed. And
22 that will give you some idea of how many cases these
23 are.
24 Joe: Okay.
25 Bereki: Um, there's a lot of them. Um, yeah. And like I



1 said, I -- I -- um, I -- I actually -- I can send you
2 the audio tape of the FBI saying, you know, "Your
3 rights haven't been violated," click. No
4 investigation. Um --

5 Joe: Mm-hmm.

6 Bereki: -- in those documents, you'll see that I sent letters
7 of complaint to the Department of Justice. They've
8 done nothing. Um, there's nowhere to go.

9 Joe: Yeah.

10 Bereki: Nowhere.

11 Joe: Okay. Uh, this -- this certainly has been
12 enlightening. Um --

13 Bereki: Here, you wanna try something? Try as an ordinary
14 citizen to call one of these congress people or the
15 senator, and they won't call you back, let alone help
16 you.

17 Joe: Mm-hmm.

18 Bereki: It's mind-blowing.

19 Joe: Yeah, it's -- uh, it seems to run counter to all the -
20 - the campaigns that they -- they try to shove down
21 our throats --

22 Bereki: Yeah.

23 Joe: -- every four years. That's -- that's for certain.

24 Bereki: And frankly, the only people that I actually heartfelt
25 feel could help me with this is you, like the police



1 department. I mean, there's nobody else here that has
2 authority to do anything about it, frank- -- there
3 isn't. So, this is -- this is it, as far as
4 California goes, as far as I can tell. Um, but if
5 there were to be someone that had the integrity to do
6 this, it would be local law enforcement, um, because -
7 - yeah. Th- -- this -- it's -- it's -- the issue
8 involving disgorgement isn't just in California. The
9 Federal Courts have been abusing it as well.

10 Joe: Mm-hmm.

11 Bereki: That's why the case actually made it to the Supreme
12 Court, because it got out of control, and the court
13 said enough. I mean, here -- here's a interesting
14 quote right here by, um, Justice Thomas, um, in the
15 Liu case. He s- -- uh, here's what I wrote. I said,
16 "In his descent in Liu, Justice Thomas saw the writing
17 on the wall surrounding the nationwide abuses of
18 disgorgement. He said, 'The term disgorgement invites
19 abuse because it is a word with no fixed meaning. As
20 long as courts continue to award disgorgement, they
21 will continue to have a license to expand their own
22 power.'"

23 Joe: Yeah, that's -- that's dynamite. Th- -- that sounds
24 like something that needs to be heard in court.

25 Bereki: Yeah, well, you're seeing what my -- my, um -- if you



1 go to Page --

2 Joe: The fruits of your labor, that's for certain.

3 Bereki: Yeah, you'd -- if you go to, um, let me see here. Um,
4 it's like Page 14 of that lawsuit that -- in the
5 Supreme Court that I sent you.

6 Joe: Mm-hmm.

7 Bereki: It's an annotated procedural history, and you will see
8 all of the courts that I've been to. And there's
9 links there that you can click on to see any of the
10 exhibits of any of the things that I filed and what
11 the courts have said about it.

12 Joe: Uh-huh.

13 Bereki: And see, I've been everywhere. Yeah. So that's why
14 again, I'm -- I'm with you, and the Executive power to
15 see that the law is faithfully executed. So the
16 Executive Branch has to enforce the law, and clearly
17 the courts are -- are way out of line here. And
18 they're not doing it.

19 Joe: Okay. Yeah, I -- I -- I'm seein' what you're showin'
20 me. The -- I -- I don't think I'm the -- I'm your
21 last stop, because this -- this is coming down to
22 interpretation still. It's not -- not the enforcement
23 of -- of the law. Because --

24 Bereki: Well, if -- if -- if -- if the Supreme Court defined
25 what disgorgement is, right? And the Appellate Court



1 in California is saying that I was ordered
2 disgorgement, and it's clear to you that I was not
3 ordered disgorgement, that I was fined, then that's
4 not a matter of interpretation. I mean, they have --
5 they have interpreted --

6 Joe: No.

7 Bereki: -- the law for you.

8 Joe: No, that's not -- that's not clear to me, Adam.

9 That's not what I'm saying. I -- I'm seeing -- I
10 gotta play it down the middle, right? I can't take
11 your side, I can't take anyone's side b- -- if I'm
12 gonna, you know, do this investigation properly. And
13 the other side to this is what the -- the judge is
14 saying and -- in not calling it a fine or a penalty.

15 Bereki: Right. And so that's why I'm saying, I -- I -- I
16 definitely am not asking you to take any sides. I
17 want you to remain --

18 Joe: Okay.

19 Bereki: -- subjective as possible. And so --

20 Joe: Thank you.

21 Bereki: -- the only think that I'm asking you to do is to read
22 what the courts have said the law is. That's it. And
23 so, the United States Supreme Court trumps the
24 California Court of Appeal. So, if you read the Liu
25 case, it will define for you exactly what disgorgement



1 is. And you can look and read and see, Business and
2 Professions Code 7031(b) does not say anything about a
3 court issuing disgorgement. If -- you can even look
4 in California statutory law. Go on, um, like, um, the
5 -- the state courts, or the state's, um, statute
6 website. I think it's called Leg Info, Legislative
7 Info.

8 Joe: Mm-hmm.

9 Bereki: And you can click all of the statutes there, and you
10 will not find any definition for disgorgement in there
11 anywhere.

12 Joe: Right, and because of that, my hands are tied as to
13 what law enforcement, local law enforcement can do for
14 you in this matter.

15 Bereki: Mm.

16 Joe: This is -- this is a court matter. This is a court
17 interpretation matter. And I'm seeing everything that
18 you're showing me. And, you know, like -- like we
19 just said two minutes ago, I can't agree or disagree,
20 per se. But, th- -- it's not something that I -- I --

21 Bereki: So --

22 Joe: -- do an investigation, (inaudible - 01:07:17) the
23 DA's office and say, "Okay, go -- go get 'em boys."
24 Like this isn't that type of thing. This is a -- an
25 interpretation of law and is not an enforcement of



1 law.

2 Bereki: It -- I -- in -- on one aspect, I hear you, and I see
3 where you're coming from. But there's also the side
4 where my rights are being violated and property is
5 being taken without lawful authority. So if -- if --
6 let's say --

7 Joe: Let -- let me cut you -- let me cut you off there,
8 Adam. And I -- I'm not tryin' to be rude about it.
9 But that is also an interpretation of whether or not
10 your -- your rights are being violated and things
11 taken unlawfully.

12 Bereki: So -- so -- so let's -- let's hypothetically say that,
13 um, one of your officers pulls somebody over, and they
14 come and, um, they commit a crime against that person,
15 an un- -- they do some unlawful or unconstitutional
16 act. Are you gonna say to that person, "Oh, you know,
17 well, this may be a crime or it may not. It's a
18 matter of whether the court interprets it being a
19 crime or it doesn't, and we're not gonna investigate
20 because it's really a matter of court interpretation."

21 Joe: No, it -- that -- there would be a -- a codified penal
22 code against whatever (inaudible - 01:08:34).

23 Bereki: W- -- well, there -- there are codi- --

24 Joe: -- (inaudible - 01:08:36) that the officer did.

25 Bereki: Th- -- well there are.



1 Joe: Or that --

2 Bereki: There are codified penal codes for --

3 Joe: (Inaudible - 01:08:43).

4 Bereki: -- for fraud, theft under false pretenses, and the

5 taking of property without lawful authority. And

6 there's also constitutional provisions that are m- --

7 Joe: You're -- you don't -- we -- we talked about this

8 before, Adam, that these don't fall under any of the

9 fraud sections that -- that the police department

10 investigations.

11 Bereki: H- -- h- -- could you explain how that would be the

12 case, because I -- I don't see that. I -- I think all

13 of those penal codes apply to public officials that

14 are acting without authority as much as they do to

15 private citizens.

16 Joe: But they are acting with authority that's vested in

17 them by the judiciary.

18 Bereki: No, no. No, no. No, no. No, they're not. So if the

19 Constitution says, right -- and -- and correct me if

20 you see it differently. I'd love to talk about it

21 with you.

22 Joe: Okay.

23 Bereki: If the Constitution says that no excessive fine shall

24 be imposed, and the judges im- -- imposes an excessive

25 fine, where is the judge getting that authority? He's



1 not. He has none. It's the same thing as you cannot
2 pull some -- you cannot make an arrest without
3 probable cause. It's -- it's the same thing as like
4 if your -- one of your officers made up a crime of you
5 can't wear a public shirt -- a pink shirt on Friday
6 and pulled someone over. Well now they've been
7 unlawfully detained. You can't punish someone, you
8 can't take something from someone without lawful
9 authority. Even if the guy's wearing a black robe and
10 he's sitting on the bench and it seems like he's a
11 judge, he cannot do it. If you look at, I think it's
12 Article 1, Section 26 of the California Constitution,
13 it says, "The provisions of this constitution are
14 mandatory and prohibitory." Meaning there's no
15 discretion. They don't get to, you know, decide one
16 day whether they get to do one thing and another day
17 something else. They are forbidden from doing it.

18 Joe: So, the judge in your appeal, as you know, he stated
19 that it's -- the decisions didn't implicate the
20 Excessive Fines Clause of the Eighth Amendment of the
21 U.S. Constitution, because he's still calling it an
22 equitable remedy, and he's still calling it
23 disgorgement and not punishment. You know, circa
24 2018, obviously, but --

25 Bereki: Right.



1 Joe: And he's citing the U.S. v Philip Morris case.

2 Bereki: Right. Did you --

3 Joe: So --

4 Bereki: Go read Philip Morris.

5 Joe: -- that's -- that's where he's coming from on that.

6 Okay, on -- those are his words, not mine.

7 Bereki: Right, okay.

8 Joe: So that -- we -- I'd -- I'd love to help you. I'd

9 love to do more for you. I wish there was more I

10 could do. But I'm not the -- the right person for

11 this. You -- you need to go back to court with this.

12 And I -- I understand the -- the hardship of hiring --

13 hiring an attorney. That's why I suggested maybe

14 getting a class action together with all the other

15 people that have fallen victim to any type of negative

16 disgorgement assessments, but, um 'cause there are

17 strength is numbers, and you do have that -- that

18 avenue of the Supreme Court, it sounds like still,

19 especially once you get past this -- this wonky

20 gatekeeper.

21 Bereki: But --

22 Joe: But it's -- it's -- I can't do these things that

23 you're asking, because they're -- they're matters of

24 interpretation.

25 Bereki: So what I'm asking you to do is to simply ensure that



1 my money, property, liberty, and by -- by property, I
2 mean, my rights, are not taken without lawful
3 authority. That is clearly within the scope of the
4 duties that you are sworn to uphold.

5 Joe: Absolutely, and I --

6 Bereki: And --

7 Joe: That's why I -- I've been with you thus far.

8 Bereki: Okay.

9 Joe: But I didn't get a chance to read the -- the appeals
10 case the last time we had spoken. And that -- that
11 was the promise I made to you, to do exactly what you
12 just asked me to do. And now that I'm seeing it in --
13 in black and white, adjudicated by an Appeals Court, I
14 know that it's -- it's not unlawful.

15 Bereki: No, Darrin, that's -- that's where the I think the rub
16 is coming from. If a court adjudicates it --

17 Joe: Because it's just your interpretation.

18 Bereki: No, no. No, no. If a court adjudicates something and
19 they don't have the authority to do what they did,
20 that's not lawful. Even if they -- it -- it's -- it's
21 like if I put on a police uniform and -- and drove
22 around the city pretending to be a policeman, would it
23 be lawful because I adjudicated something and I was
24 wearing a -- a uniform? Of -- of course not. So
25 everything that the court does, just like everything



1 that a police officer does, and everything that a
2 legislator does, and everything that a governor does,
3 has to be traceful (ph) -- traced back to some
4 provision within the constitution giving them
5 authority to do it. If the don't have it, they --
6 they don't have it. Even if they're sitting there,
7 even if they've been appointed as a judge. It -- it's
8 no different than -- than on a car stop, uh, a police
9 officer can't violate someone's rights or do some
10 illegal act that they don't have authority to do.
11 Because the moment that they do that, even though they
12 were vested with the Executive power five minutes
13 before to -- maybe they did do a lawful car stop, but
14 the moment they start taking illegal activity, they
15 are no longer exercising the Executive power of the
16 state, because they don't have it. That's why cops
17 end up in court, and they end up losing their job, you
18 know?

19 Joe: Yeah, Adam, I agree with that.

20 Bereki: It -- it -- it's for -- okay. So now, now I'm --

21 Joe: But here's -- okay, go ahead.

22 Bereki: So I'm saying to you that these judges, yep, there's
23 an Appellate Court there, and these judges are
24 employed by the State of California. But what they're
25 doing, the way that they're adjudicating these cases



1 and taking people's money, property, and liberty
2 without lawful authority unconstitutionally, they
3 don't have authority to do that. And that's what I'm
4 coming to you to investigate. And what it seems like
5 you're saying to me is, yeah, Adam, I hear you, but
6 they adjudicated the case. And I'm saying, yes, they
7 adjudicated it, but there's no authority for them to
8 issue the order that they did. Just like --

9 Joe: Right.

10 Bereki: -- there's no authority for the policeman to take
11 someone's property that they don't have a right to
12 take. It's -- it's the same thing. It's like
13 straight across the board.

14 Joe: Yeah, and y- -- y- -- you're -- yeah, that -- that
15 sums it up.

16 Bereki: So -- so, I do hear you. I do hear you that there is
17 an interpretation of the law. But what I've given you
18 is the evidence that that law has been properly
19 interpreted by the highest court in the United States,
20 which is the Supreme Court of the United States, and
21 they've defined what disgorgement is.

22 Joe: Mm-hmm.

23 Bereki: And it is not what they're doing in California. And -
24 -

25 Joe: That's exactly why I think the Supreme Court, or any



1 other court for that matter, is the branch that is
2 supposed to rule on this, not Executive.

3 Bereki: Well they have ruled on it.

4 Joe: Right, and they need to hear this. They need to hear
5 what you're going through.

6 Bereki: Well, but if they don't, I have no control over that.
7 You've seen that I've tried to bring my case to them
8 many times, and say, "Hey look, I'm trying to --
9 trying to just have you people tell the truth," and
10 they throw it out. I -- I mean, I don't have control
11 over that. But --

12 Joe: Right, but you -- Adam, you need to consider -- take a
13 step back for a second, and you need to consider the
14 remote possibility that you could be wrong.

15 Bereki: Well, then what you're saying is the Supreme Court is
16 wrong, because I'm only relying upon what they have
17 said. There's nothing here that I can tell, and I
18 would be honest with you and tell -- I think you know
19 that by now, Darrin.

20 Joe: Mm-hmm. Yeah, yeah, yeah,

21 Bereki: If -- if -- if there was something that I was giving
22 you that was frivolous, that was like, oh, you know,
23 I'm just making this up, I would tell you, "Hey, look,
24 this is where I think I'm -- I'm a little bit shaky
25 because I don't have any authority for this." But



1 there's nothing.

2 Joe: Mm-hmm.

3 Bereki: Everything that I've given you is exactly what the
4 courts are saying. There's nothing in there that I've
5 said, "Oh, this is Adam's authority. Adam just thinks
6 this is the way that it should be." A- -- I'm r- --
7 giving you the Supreme Court of the United States d- -
8 - determination of what disgorgement is, and it has
9 nothing to do with my case. There was no evidence
10 that I profited even one dollar in my case, and that's
11 the only thing that disgorgement applies to.
12 Moreover, the statute --

13 Joe: Yeah, that might -- that might actually be what is
14 pulling me back on the criminal aspect, or even seeing
15 a criminal aspect, or -- or, uh, noticing any probable
16 cause is what's -- what's in it for these courts and
17 judges to make these decisions that they're making
18 that don't favor people in your situation?

19 Bereki: You know Darrin, I've thought long and hard about
20 that. It's -- it's --

21 Joe: Mm-hmm.

22 Bereki: -- actually been something that's very -- that's
23 troubled me for a long time, because it's hard to wrap
24 your mind around somebody doing something like this
25 intentionally. But here's the thing about that. I --



1 I honestly do not know the answer to that.

2 Joe: Mm-hmm.

3 Bereki: But I can tell you what I've done, all right? Every
4 s- -- I've gone to s- -- at least seven different
5 courts, and I've said, "Look, here's what -- here's
6 what the truth of the matter is. Here's what evidence
7 was presented, here's what wasn't. Here's an
8 opportunity to fix it." Nobody's fixing it. They
9 keep throwing the case out.

10 Joe: Mm-hmm.

11 Bereki: Um, I've written letters to the judges in their
12 individual capacity, all of them. Well the -- the
13 Appellate Justices.

14 Joe: Right.

15 Bereki: No one is -- at any point in time now, right? Even
16 after the Supreme Court's uh, um, decision in Liu.
17 Any one of these judges can go into court, and by
18 their own action, by the authority of them vested as a
19 judge, they can immediately throw the case out. Has
20 any one of them done it? No. So they can -- they can
21 come to me, and they can say, "Look, Adam, hey, I made
22 a big mistake. I'm gonna be here and help you fix it.
23 What can we do together?" Or they can do their duty,
24 which they have sworn to do, and they can go right on
25 to the bench, and they can make an action, what's



1 called sua sponte, they can raise the motion right
2 there and submit it and adjudicate it right there.
3 They can fix it. They haven't, nobody's done any of
4 that. Okay? And they've all been told about this.
5 They -- now here's the other thing. They have a duty
6 to know what the law is. This is not a simple -- this
7 is not a -- a -- a -- a -- a -- a complex thing. Was
8 there any damages? No. Was there any profits? No.
9 It's a fine. It's simple. They know what the
10 definition between a fine and damages is. I mean,
11 that's like day one, week one of law school.

12 Joe: Mm-hmm.

13 Bereki: They know what a forfeiture is. And I can even show
14 you in my case where the judge discussed, saying,
15 "This is a forfeiture and I'm ordering disgorgement."
16 He literally thought disgorgement is a forfeiture. If
17 it's a forfeiture, why didn't you apply the Excessive
18 Fines Clause? So, I've given them opportunities to
19 fix it, like a -- a -- a sane human being would do.
20 Like if -- if -- if --

21 Joe: Mm-hmm.

22 Bereki: -- I came to you and I said, "Darrin, you're harming
23 me," I get the sense that you're a good guy and you
24 would say, "Oh my gosh, I am so sorry. What can I do
25 to fix that?" And you would help me remedy the



1 situation. Not these people. So this is why I'm --
2 there's -- that's some of where I'm -- I'm getting
3 some of the intent. The other thing is that the
4 Supreme Court has said that it doesn't matter what the
5 intent is. If you rights are being violated, your
6 rights are being violated. There's nothing in the
7 Constitution that talks anything about intent. Now, I
8 know that intent comes into statutes, and in -- in
9 some of the penal statutes that we've discussed. And I
10 think you have intent based upon the fact that they
11 have -- I mean, I have evidence of all the letters
12 that I've written to them. I have evidence of all the
13 court cases that I've gone to, and any time these
14 people can do -- take action to stop what they are
15 doing, and they're not doing it. Even after the
16 Supreme Court came down with its ruling in Liu, still
17 not doing it. Even after I've made complaints to the
18 Judicial Council, to the -- the governor, to the
19 legislature, no one's doing it. No one will even
20 perform an investigation. A legitimate one.

21 Joe: Mm-hmm.

22 Bereki: To determine if something was unlawful. But even if,
23 hypothetically, that there was nothing criminal here,
24 the Executive Branch still has a sworn duty to see
25 that the law is faithfully executed and to protect my



1 rights, liberty, and property from being taken
2 unlawfully. Even if. Now, I know that that may be
3 something new for law enforcement, but it's really s-
4 -- it's really simple. Your duty is to protect me
5 from unlawful government action. Now in a civil case,
6 in a civil instance, right, you don't have a duty to
7 protect one citizen against another. You don't have
8 to show up on that call if you don't want to,
9 essentially. There's no law that says that you do.
10 But when it comes to government action, that's a
11 totally different story. There's no discretion. It's
12 not whether you think, you know, some other branch
13 should handle it, or whether you agree that it's, you
14 know, this or that, you have to take action. It's
15 mandatory. That's what your sworn duty to do is.
16 Now, what does that action mean? I don't know. I put
17 myself in the -- um, well I do know. I've put myself
18 in -- in your situation many times and thought about
19 it. And the first thing I would do is -- would take
20 some -- some kind of Incident Report. And then, you
21 know, I would begin reaching out to, uh, you know,
22 potentially other people that are -- maybe have more
23 experience in law, the DA, the DOJ, um, and -- and --
24 and go that route. Um, but also, the City Attorney
25 could be, uh, an impor- -- uh, a w- -- a important



1 part of that, in that they can file, uh, a complaint
2 for an injunction to stop this unlawful behavior from
3 taking place. That would be another thing that can be
4 done. Um, and doing all of that would actually
5 protect the City of Newport Beach from liability.
6 That is -- that's how it should be done.

7 Joe: Sure.

8 Bereki: Um, because the -- you know, I don't -- I don't wanna
9 put this out there, because I -- I feel you've been so
10 helpful to me, but if everybody that I go to has a
11 duty to help me under the Constitution and they don't
12 help me, they're getting sued.

13 Joe: Yeah, no, you made that pretty clear in the --

14 Bereki: Um, and believe me, like you said, this -- this is
15 something that there's gonna be a movie made out of,
16 or that there could be. And, you know, either --
17 essentially the Newport Beach Police Department is
18 gonna end up as a hero or a zero in this. Um, and you
19 guys have that potential right now to -- you know,
20 like I said, and it's not just me, Darrin. It's many
21 other people that are going through this. And, you
22 know, I -- I gave you my website that has all that
23 information on there. I'll -- I -- I don't know if my
24 affidavit is on there authenticating all of it under
25 penalty of perjury, but it's all legit and accurate.



1 There's -- there's no funny business going on there.

2 Joe: Okay.

3 Bereki: You know? Um.

4 Joe: Yeah, I wouldn't imagine.

5 Bereki: Um, you know, and so this is where I am.

6 Joe: Yeah. So the action that -- that I have taken

7 affirmatively in this matter, is I've -- you know,

8 documentably, I've dedicated over five hours of -- of

9 my -- my time at work to looking into this matter, and

10 to include discussing this matter with you. So it's -

11 - it's not like I'm doing nothing. And --

12 Bereki: No, no, I -- I have never -- never --

13 Joe: -- (inaudible - 01:25:25) --

14 Bereki: -- made that accusation. In fact, I have actually,

15 you know, been very gracious of your help, and -- and,

16 um, yeah, commended you for that, because you've gone

17 further than anyone else has, by far.

18 Joe: Thank -- thank you. And that- -- that's the least I

19 can do. And, yeah, I think I might have said that at

20 the very, very first conversation. The -- the hangup

21 is -- is the lawfulness. Uh, I'm looking at it -- or

22 the lawfulness of the court. I'm looking at it as a -

23 - a matter of interpretation. The -- it -- it's --

24 it's like this. If -- if I were wearing, you know,

25 sunglasses that were tinted red, and I told everybody



1 that -- that what I'm seeing, the sky is red, and
2 everybody's saying the -- the sky is blue, then I -- I
3 wouldn't be wrong, but it -- it's because of my -- my
4 red-tinted sunglasses. That's -- that's where I -- I
5 can't pull the trigger and -- and march all the way
6 forward with this. I mean, it's --

7 Bereki: But you -- you -- there's no -- there's nobody that's
8 -- so, I understand what you're saying about the --
9 the -- the interpretation part. But that
10 interpretation has been handled by the Supreme Court
11 of the United States. So like when you --

12 Joe: And it still needs to be sorted out by them, it sounds
13 like. Because if -- especially if judges are still,
14 um, well they actually haven't ruled in yours just yet
15 because of -- like we talked about, the time -- the
16 timing of -- of everything. This needs to go back to
17 them.

18 Bereki: Well, I -- I don't disagree. I don't disagree.
19 There's a major problem here. Um, but -- that that
20 doesn't -- so when you get case law, and you guys
21 maybe have briefing, and -- and you talk about some
22 new case that came down from the Supreme Court about
23 search and seizure, that's your highest authority.
24 And you begin to follow it because that's the
25 authority of the highest court in the country. I'm



1 giving you -- or I gave you the highest -- the case
2 pertaining to disgorgement in the highest court of the
3 county. Wait, let me back up a minute. I gave you
4 the Supreme Court case -- oh, wait I didn't, of M.W.
5 Erectors. That's the one where the Supreme Court of
6 California --

7 Joe: Uh, is that the -- okay.

8 Bereki: Uh -- oh, wait a minute. Let -- let me -- let me back
9 up here. I have to, um, share something with you.
10 Um, uh, there's a case here, E-I-S-E-N. This is a
11 California case that happened in 2020 from a
12 California Appeal Court.

13 Joe: Mm-hmm.

14 Bereki: And here's what they said. "The disgorgement mandated
15 by Section 7031(b) is not designed to compl- -- to
16 compensate the plaintiff for any harm, but is intended
17 to punish the unlicensed contractor. The fact that a
18 contractor does not have a license does not by itself
19 cause the plaintiff any harm, other than perhaps some
20 psy- -- psychological harm in knowing that he or sh- -
21 - that knowing that he or she hired someone who is not
22 in compliance with the law."

23 Joe: I feel like I read that somewhere.

24 Bereki: You probably did, 'cause I sent it to you already.

25 Joe: Okay.



1 Bereki: So there they are right there, saying that 7031(b) is
2 not for damages, and it's not an equitable action for
3 -- it's not an equitable remedy. It's punishment.
4 That is exactly what I'm saying. So if it's
5 punishment, then Excessive Fines Clause. Game over.

6 Joe: So you're saying that -- I highlighted it. So, uh,
7 now that had -- that was a 2020 case?

8 Bereki: Yeah, that -- California 2020 case.

9 Joe: So -- so your judge in your -- in your appeal in the
10 Fourth District, um, he cited a 2001 case back in 2018
11 again.

12 Bereki: Right.

13 Joe: And it's -- it's the Alatraste case where, uh, he
14 said, "By adding the remedy, the legislature sought to
15 further section 7031(a), policy of deterring
16 violations in licensing requirements by allowing
17 persons to utilize unlicensed contrac- -- contractors
18 to recover compensation paid to the contractor for
19 performing unlicensed work." Um, "Both Alatraste and
20 White concluded that legislature concluded that
21 legislature intended the courts interpret Section
22 7031(a) and (b) in a consistent manner, resulting in
23 the same." Uh, that doesn't matter. Um --

24 Bereki: So there was a --

25 Joe: But again, the --



1 Bereki: -- the --

2 Joe: -- again, it's a 2020 case that will supersede the
3 2018 decision, which would be in your favor. That
4 doesn't mean that these judges were unlawful, it just
5 means that things changed.

6 Bereki: No. What they did --

7 Joe: No?

8 Bereki: -- was never the law.

9 Joe: It was their interpretation of the law, right?

10 Bereki: No. Because --

11 Joe: That's what the judiciary does.

12 Bereki: Okay. So, whenever -- yes. But the judiciary can't
13 make the law up. They have to interpret what the --

14 Joe: But that's what case law is.

15 Bereki: No, it's really not. It's really not. Okay? So --
16 so, l- -- right now, if you go back to the --

17 Joe: It means jurisprudence.

18 Bereki: So -- so -- so if you go to, um, the case of M.W.
19 Erectors, which I haven't sent you.

20 Joe: Mm-hmm.

21 Bereki: That case originated in the trial court where my case
22 ari- -- originated under the exact same judge. It
23 went to the Fourth District Court of Appeal. I think
24 one of the same justices in that court sat in on that
25 case. And then it went to the Supreme Court of



1 California. The Supreme Court of California, in that
2 case, held that the -- what is mandated by 7031(b) is
3 -- is a penalty. So that's -- that's what the Supreme
4 Court of California has said. Now, the Fourth
5 District Court of Appeal can't go, "Oh, it's not a
6 penalty, it's disgorgement," when the Supreme Court of
7 California has said that it's a penalty.

8 Joe: But that happened in 2020, right?

9 Bereki: No.

10 Joe: Your case was in 2018.

11 Bereki: No, no, no. No, no, no. The M.W. Erectors case,
12 which I have not sent you, I've only referred to it,
13 that case happened in -- M.W. -- I'm gonna tell you
14 right now, 2005.

15 Joe: Oh, okay. I thought you -- you mentioned 2020.

16 Bereki: Well, it -- the -- the one that I just read you, the
17 Eisenberg (ph) case where they said that it's designed
18 to punish the unlicensed contractor, that was in 2020.

19 Joe: Right.

20 Bereki: But the one where the court said that it was a penalty
21 was in 2005. So what you have is the highest court of
22 California saying it's a penalty, and some other lower
23 Appellate Court coming in and saying, "Oh, no, it's
24 not a penalty, it's an equitable remedy. It's not
25 punishment."



1 Joe: So --

2 Bereki: So what they're doing is they're not following the law
3 by the highest court of the country. They're making
4 up their own. They're not --

5 Joe: Okay, and again, that -- because of, uh, a -- a
6 misinterpretation of law doesn't make it a crime.
7 That's a mistake of law, and --

8 Bereki: It does when they don't have authority to do it.

9 Joe: They do have authority to interpret the law, they just
10 did it wrong.

11 Bereki: No.

12 Joe: Doesn't make it a crime.

13 Bereki: That -- no, that's where it becomes different, okay?
14 So the way that a court gets its -- its authority is
15 by filing pleadings that are within constitutional
16 bounds. So, everything that -- like in -- if you take
17 it within a police officer's -- the same thing, a
18 police officer has jurisdiction, right? Authority
19 under the law to perform certain acts. If that
20 officer does anything that is within his jurisdiction,
21 within the law, he is protected by immunity, and he's
22 -- he's within the scope of his job. He has authority
23 to do it. But the moment that he starts doing things
24 that are without constitutional authority, he's not
25 acting within the law. He's not just making an error.



1 You know, you wouldn't say that a -- a police officer
2 who took someone's camera out of the back of their car
3 because he wanted a new camera was just making an
4 error at law. Okay? Every --

5 Joe: Yeah, but that's a crime. That's a -- that's a 487.

6 Bereki: O- -- okay, great. Now, when you have a judge who
7 takes money and property from someone and gives it
8 some -- to someone else, that's called an unlawful
9 seizure. That's forbidden by the constitution. It's
10 also -- there's something also called the Takings
11 Clause. You can't take property from this person and
12 give it to that person without lawful -- unl- --
13 without lawful authority. That's theft. Theft is the
14 taking of property without lawful authority, whether
15 it's done by a judge or a private person, it makes no
16 difference. If you don't have authority to do it, you
17 don't have authority to do it. Again, if you're
18 wearing a uniform or a black robe or whatever. Every
19 act of a judge or a police officer or any official in
20 government has to be traceable to the constitution.
21 So where the judge doesn't get authority to do
22 something is if someone comes into court and they do
23 something illegal. The judge has to act within the
24 constitution and statute every step of the way. If
25 they go without that, sometimes there are issues of



1 procedure that a judge can err upon just because he
2 misinterpreted something the wrong way. I get that.

3 Joe: Mm-hmm.

4 Bereki: That's -- that -- that happens in law enforcement too.

5 Joe: Right.

6 Bereki: But there's no mistaking a policeman taking someone
7 else's camera. And there's no mistaking a judge --
8 when -- when multiple highest courts throughout the
9 countr- -- I mean, this has been law for hundreds of
10 years of what an equitable remedy is and what a
11 forfeiture is. These people know what this is. And
12 even -- even if they didn't, Darrin, even if they
13 said, "Look, I fucked up, I made a mistake," well then
14 why aren't you fixin' it? Even -- I mean, I've
15 written them personal letters. I -- I've -- it's no
16 my job to send them all of the lawsuits that I file
17 because they're not involved with 'em, I do it
18 complementary. I send it to them. Do you think any
19 one of them has contacted me? "How can I help you fix
20 this?" "Hey, let me go to court and make my own
21 motion and -- and -- and solve this." No. They're
22 covering it up.

23 Joe: Or they either don't think they're doing anything
24 wrong, or they're not doing anything wrong and that's
25 why they're not reaching back out to you.



1 Bereki: Well, you know what? If -- if I accused you of doing
2 something that was highly unconstitutional, I'm sure
3 that I would be the first phone call that you would
4 make.

5 Joe: Unless --

6 Bereki: I know you -- if --

7 Joe: -- well yeah, obviously --

8 Bereki: Unless you thought I was a nut job.

9 Joe: -- unless I didn't do anything wrong.

10 Bereki: Right.

11 Joe: No, no, no, no. No, not that. Unless it's, "I didn't
12 do anything wrong," or, uh -- yeah, "I didn't think I
13 did anything wrong."

14 Bereki: Yeah.

15 Joe: But you wouldn't get a call back from me. But that's
16 -- that's the difference between, you know, me and
17 maybe somebody else, is that I -- I take great pride
18 in the work I do, and to be accused of -- of any
19 wrongdoing or not doing the best I could would be an
20 insult to my career.

21 Bereki: Yeah, I agree. Same here. Same here. So -- so, um,
22 basically what I'm making the distinction of, is you
23 said that even though they make an error, it's still
24 within their authority. No. There are certain things
25 that the -- the court cannot do because they are



1 deprived of authority to do it. That's why you've
2 heard of Section -- um, let me read it to you right
3 here, 18 USC 241, I think it is. Uh, let's try 242,
4 let's see. "Whoever, under color of any law, statute,
5 ordinance, regulation, or custom, willfully subjects
6 any person in any state, territory, commonwealth
7 possession," blah, blah, blah, blah, "to any
8 punishments, pains, penalties," blah, blah, blah, blah
9 -- basically what this is saying is it's -- it's a c-
10 -- it's a crime. It's a federal crime to deprive
11 someone of their rights. And the same thing goes in
12 the civil context for 42 USC 1983. And that is the,
13 um, civil action for deprivation of rights.

14 Joe: Uh-huh.

15 Bereki: So, public officials cannot deprive people of their
16 rights and take -- take their money, property, or
17 liberty without lawful authority. That's the whole
18 basis of our constitution, is defining --

19 Joe: Uh-huh.

20 Bereki: -- and limiting the powers by which government can
21 act. So if what you're saying is that, "Oh, the judge
22 can force you into bankruptcy, take your home and
23 property, and oh, he just made a mistake." No. No.
24 Not when there's been multiple complaints made,
25 multiple appeals made, and the highest court of the



1 country has said exactly what I'm saying is correct.
2 It -- uh, yeah, there's no lawful authority to
3 excessively fine me. There's no lawful authority for
4 the -- for private parties to prosecute me in a civil
5 case. There's no lawful authority for the court to --
6 to deprive me of the right to a counsel or to a jury
7 trial. There's no lawful authority to cruelly and,
8 uh, unusually punish me. None of it. They can't do
9 any of it. And all of these things deprive the court
10 of authority to do anything. If you want another
11 case, you can look up, um, Johnson V Zerbst. The U- -
12 - U.S. Supreme Court said that if you don't admonish
13 someone of having the -- the -- the, uh, right to an
14 attorney, it deprives the court of authority to even
15 conduct the trial. They can't do anything. So I had
16 no jury trial. I had no lawyer. I had no heightened
17 protections of the, uh, criminal proceedings, like the
18 burden of proof. Um, yeah. And then, on top of that,
19 I was prosecuted in a -- in a civil case by private
20 parties who have no authority to do that. It has to
21 be done by the DA. And then on top of that, I was
22 excessively cruelly and unusually punished. None of
23 that is authority. That's not -- that's not something
24 that falls along the lines of harmless judicial error
25 where a judge can just, you know, make an error and



1 it's not, uh -- uh, a criminal or deprivation of
2 rights violation. It can't just get passed off like
3 that. So, but even if -- even if there were no
4 criminal action able to be determined from this, which
5 if there weren't, I'd be mind-blown. I mean, um, I
6 think I sent you the -- a quote from the, um -- um,
7 let me see if I can find it here. Topeka -- here's a
8 quote from the United States Supreme Court. "To lay
9 with one hand the power of government on the property
10 of the citizen, and with the other bestow it upon
11 favored individuals to aid private enterprises and
12 build up private fortunes is nonetheless a robbery
13 because it is done under the forms of law." And if
14 you read that case -- that was a case, if I remember
15 correctly, about takings where the court was taking
16 property from one person unlawfully and giving it to
17 another. And so where's -- where would you say the
18 intent is in that? It's in doing it. They have the -
19 - the judge has a duty to know what the law is, and
20 they cannot take property without lawful authority and
21 give it to other people.

22 Joe: Okay, send me -- send me that 2005 Now case. Uh, I'm
23 not -- was that the one you were talkin' about?

24 Bereki: The, um -- wait, which one? Where the court said it
25 was a penalty?



1 Joe: I think that was the one you were referring to. The
2 one that -- that I misspoke for being a 2020 case, but
3 you're -- you're tellin' me is a 20- -- (inaudible -
4 01:42:14) case.

5 Bereki: Oh, a 2005 case. Yes, that is from --

6 Joe: Yeah.

7 Bereki: -- the Supreme Court of California. And, um --

8 Joe: Okay.

9 Bereki: Let me see if I can find --

10 Joe: What I'll do is I'll see if I can find that, and I can
11 use that to further the, uh, theory that this was an
12 unlawful action by the judge. And then we can go from
13 there.

14 Bereki: So, okay, in this case, they said they're intercepting
15 what the -- the -- what the legislature's intent was.
16 They said, "The legislature's obvious intent to impose
17 a stiff all-or-nothing penalty for unlicensed work."
18 It says it right there. It's a penalty.

19 Joe: Okay.

20 Bereki: It's not disgorgement. It's not damages. And here's
21 the other one, um, is, um -- I'll send you two. The
22 other one had to do with what I quoted you earlier
23 about, um, any provision by which money or, uh,
24 property is forfeited without regard to damages is a
25 penalty.



1 Joe: Okay. Yeah, send me that one too.

2 Bereki: So -- yeah, if they don't provide evidence of damages,
3 then it's a penalty. Um, so yeah, both of those are
4 Supreme Court cases of California.

5 Joe: Okay. And then send me anything that you have on what
6 we just discussed. The taking of -- of one person's
7 property and, uh, giving it to another person by the
8 government.

9 Bereki: Okay.

10 Joe: And then I'll -- I'll -- give me -- give me a chance
11 to read it. And then I'll see if I can make heads or
12 tails of something criminal --

13 Bereki: Okay.

14 Joe: -- for you.

15 Bereki: Um --

16 Joe: Fair enough?

17 Bereki: Totally fair. Thank -- thank you, thank you so much.
18 And I -- I appreciate your objectivity, Darrin. I --
19 I really would never want to, you know, imply
20 otherwise. So I'm -- I'm -- thank you for looking at
21 this and -- and being open. I, um, I'm very grateful.

22 Joe: Sure.

23 Bereki: Okay.

24 Joe: Try to enjoy the rest of your week and -- and into
25 your weekend, okay, Adam?



1 Berekì: I --
2 Joe: And, um, I'll -- uh, if I -- if I find somethin' out,
3 I -- I will give you a call.
4 Berekì: Sounds wonderful. I'll look forward to hearing from
5 you, and I'll -- I'll get this to you as soon as I
6 can.
7 Joe: All right.
8 Berekì: Thanks, brother.
9 Joe: Thank you.
10 Berekì: Okay. Bye-bye.

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