

Law Office of GARY L. ZERMAN
5821 Hickory Drive, Suite D
Agoura, California 91301
(818)991-7108

December 31, 1992

Mr. Thomas Plate
L.A. Times
Editor - Editorial Page
Times Mirror Square
LA, CA 90053

T. Sumner Robinson
Editor-in-Chief
Associate Publisher
Daily Journal
210 S. Spring Street
LA, CA 90012

Re: Ornelas v. Malcom Lucas, et al., U.S.D.C. Case No. 92 7246 RG

BLACK ROBE CRIME -- A COVER-UP

Gentlemen:

Please tell me and the public what is going on here?

On December 8, 1992 I filed the above-referenced complaint in federal court against Malcom Lucas - California Supreme Court Chief Justice, the other six (6) Associate Justices, three (3) appellate justices and a trial judge. The basis of the complaint is that these California judges intentionally failed to follow the law with the purpose of protecting blatant attorney and judicial misconduct, thereby obstructing justice and violating the civil rights of my clients Maria Ornelas and Fabiola Castro, as well as my civil rights, when they presided over the trial and appeals in the legal malpractice case of Ornelas v. Browne Greene, Melvin Belli, et al., LA Superior Court Case No. C596304, Court of Appeal Case No. B052519, and Supreme Court Case No. S026070.

On September 9, 1992 I sent a most comprehensive letter to the Supreme Court, with supporting facts/law detailing the attorney/judicial fraud and cover-up that occurred. As both of you (your papers) were also sent a copy of that letter, I will not repeat that evidence again here. In brief though, I will provide the following capsule summary.

Two (2) very prominent California attorneys (Browne Greene and Melvin Belli, each a past president of CTLA) arrogantly and blatantly committed fraud on their clients (by ignoring, failing to advise their clients of, and failing to assert a most obvious foundational conflict of interest - representing driver Ventura Munoz and passengers Maria Ornelas and Fabiola Castro in a single-vehicle roll over crash-fire accident, thereby

breaching Rules of Professional Conduct, including Rule 5-102 and fundamental fiduciary duties) causing the clients to lose a \$2,000,000 settlement offer for their extremely serious injuries, by presenting the conflict and a losing case at trial. The clients then bring suit against attorneys Greene and Belli for that misconduct, only to have those attorneys threaten the new attorney. When the fraud is brought before the trial judge - Henry Nelson, he assaults the messenger (the new attorney), ignores the fraud (despite a written law - Evidence Code section 451(c) that requires judicial notice be taken) and he then fabricates bogus/illegal rulings to prevent the jury (the people) from hearing and seeing the case - the truth. That judge then holds bogus sanction hearings against the new attorney. Next, when the case is brought to the appellate court, it also attacks the messenger, it also ignores the fraud (again despite the written law requiring it take judicial notice) and then it - Justice Joan Klein, writes a fraudulent decision (of course unpublished so the people do not hear and see). Finally, when the matter is brought before our glorious Supreme Court then (again despite the written law requiring that it take judicial notice) it simply does nothing; it just turns its collective head and pretends it does not see. Note, the trial court determined as a matter of law that there was a conflict of interest; that was affirmed by the appellate court, who also determined "Munoz alone caused the accident"; and ignored by the Supreme Court. With the conflict established, under even a perfunctory application of California law, the clients have put forth a prima facie case.

One would think that this is a news worthy item. That it had, maybe just a little public interest value? One would think that the public, your readers, should be told about this event. One would think that you and your respective papers, would have both a professional and a public obligation to report this event. (Both of your papers wrote extensive articles earlier on the underlying case; see LA Times 3-26 & 29-85. Although, both of your papers, like attorneys Greene and Belli, also failed to recognize and report about the blatant conflict of interest issue).

Yet to the contrary, for some inexplicable reason you and your respective papers have continually failed to tell the people about this matter and report what is going on. What has happened to the freedom of the press - the right of the people to know - that you journalists champion so? Somehow it seems to have a deaf, hollow ring here.

Mr. Plate, on December 8, 1992 after filing the complaint I hand delivered a conformed copy of the complaint to LA Times for legal affairs writer Penelope McMillan. Then on December 9, 1992 I sent a letter to Times' reporter Davan Maharaja, with a conformed copy of the complaint. I spoke with each of them at length, both before and after I filed the complaint - they both claimed at the time they were interested in the story and each requested I send them a copy of the complaint. Mr. Plate, you should also be aware that while this matter was on appeal in the state court I spoke on several occasions with several other Times' reporters and provided them with numerous documents (including Appellants' Petition for Review - APR, Appellants' Petition for Review to the Supreme Court - APRSC, and my 9-9-92 letter to the Supreme Court entitled **BLACK ROBE CRIME - A COVER-UP**). The Times' reporters include Philip Hager, Garry Abrahms, Sheryl Stolberg and Mark Platte. In fact, I even met with Mr. Abrahms at your facility in April of 1992. Should you desire I can provide you even further detail of my conversations with and the documents provided to your reporters.

Mr. Robinson, on December 15, 1992 I spoke with LA Daily Journal reporter Susan Seager and advised her I had filed this complaint and then gave her the date, the court and case number. As you are aware Mr. Robinson, while this matter was on appeal in the state court I also spoke several times with and then wrote to your reporter Ms. Blau on 8-1-90 and your managing editor Stephen Trousdale on 9-24-91 and 1-29-92. Neither ever replied to my letters. Recall that I wrote to Ms. Blau and then, Mr. Trousdale and requested that a further article be written "to set the record straight", or alternatively that an explanation be provided to me, as to why the articles written by Ms. Blau on 6-26-90 - Judge Threatening Sanctions (\$165,000) in Belli Legal-Malpractice Case and 7-13-90 - Don't Mess with Mel, omitted some very important material facts. To wit: 1) that Judge Nelson in fact determined as a matter of law that there existed a conflict of interest; 2) that the conflict was never recognized/asserted by attorneys Greene and Belli; 3) that Judge Nelson would not allow plaintiffs to call their expert legal witnesses (one who was an ex California State Bar Prosecutor), yet Judge Nelson baldly claimed that no attorney would bring the case I was bringing; 4) that Judge Nelson repeatedly refused to state the basis of the sanction charges he was bringing against me; 5) that Judge Nelson refused to even read a challenge filed against him presiding over the sanction hearing, then failed to file a mandatory answer to that challenge, and instead arrogantly proceeded in violation of the law; 6) that Judge Nelson then threatened my attorney at the sanction hearing with sanctions; 7) that Judge Nelson was rated "unqualified" by the LA County Bar in 1988 and was rated "one of then worst judges in the state" by California Lawyer magazine in 1989. In fact Mr. Robinson, as you are aware I personally advised you of the above-mentioned letters, in our conversation on 9-16-92, and you advised you were aware of them and my conversations with Mr. Trousdale. Then, when we also discussed my 9-9-92 letter to the Supreme Court, you stated you had read that letter and that you were "not interested in the allegations in that letter" and then you stated "you can quote me on that." I have. Should you desire, I can provide you even further detail of my conversations with and the documents provided to your staff.

Mr. Plate and Mr. Robinson, the reason that I wrote to your papers was to try to get this matter in the open - to get some light shed upon it. To let the public know what is happening in the California legal system. I realized from the beginning that the case against attorneys Greene and Belli was controversial, embarrassing and disgraceful to the legal community. I also realized that Mr. Greene and Mr. Belli were very prominent attorneys that had some influence in the legal community. I guess I never realized just how much. However, after the purported trial of this matter, and then even more so after the appellate hearing, it became certain to me that the entire California legal system was somewhat corrupt. Therefore, I feared that if public exposure and public pressure was not focused upon this matter, the involved judges, like attorneys Greene and Belli earlier, might also choose to ignore the law, and simply do as they pleased. That is why I contacted your staffs and requested that you investigate this matter, appear at the oral appellate hearing, report this matter and let the people know. You failed to investigate. You failed to attend the hearing. You failed to report. Unfortunately, I was right - the judges did what they wanted, regardless of the law.

Do you believe that there would have been a Watergate - that President Nixon would have been forced to resign, without the hard investigative reporting and resultant public disclosure that occurred? Do you believe that there would have been a Rodney King prosecution if there was not a video tape and that it was then disclosed to the public? Gentlemen, I provided you both (your papers) the equivalent of a video tape - summaries of the trial transcript (and I advised your staff that I would provide you with the transcripts) and a copy of the fraudulent appellate decision written by Justice Klein; and

more. Your papers should have done some investigating reporting.

Need I advise you that judges do not need to resort to the use of weapons to physically assault someone; their arsenal is somewhat more subtle and consists of words and the ability not to follow the law or to issue illegal rulings. It has been said that judges are next to god. (See 3-30-92 LA Daily Journal Article entitled "Taking the Hard Knocks of Judicial Immunity - LEGAL ETHICS: Although it is obvious that judges must enjoy a broad immunity, when there is an accusation of extreme misconduct the plaintiff deserves to have his case heard on the merits."). Only more reason why they need to be watched ever so carefully.

You should not feel alone in your failure to have done your journalistic duty and to have upheld your professional and public responsibilities. I actually have tried numerous times to get numerous others in the journalistic, governmental, and legal communities to investigate and report on this matter. Yours is just simply the worst. The others, where they responded, mostly said that this was a good story, one that needed to be told, but they were too busy at the time, or that it was just not their particular area. Amazingly, though they have all related no surprise at the apathy, favoritism, pretense, corruption, deceit and outright lies, rampant in our legal system.

Although, maybe it really is no surprise when you read Mr. William Greider's book *Who will tell the People? The Betrayal of Democracy*. The following quote is found in the forward of the book:

"Democracy is in deep trouble, trouble more serious than we realize. The very fabric of our system--the meaning of self-government, the values that have sustained us--is unraveling quickly, dangerously and perhaps irrevocably.

* * * *

"And where are the institutions designed to represent the people? Where are the unions? The political parties? The press? Gone, Greider writes, or transformed so radically that they no longer speak faithfully for the people. . . Reporters write to please the people whose values they share--the guys at the top . . ."

Or when you read the 9-10-92 LA Times article by Richard Reeves in the Op/Ed section entitled *The Lie, Big and Small: 20th-Century Americana; Ethics: How did we become so tolerant of lying?* A pertinent part of that article states:

"If the worst is true and the United States is indeed destroying itself economically or ecologically, politically or spiritually, this will be our epitaph: "They lied!"

* * * *

"It's killing us. How can government of the people survive if the people believe or accept things that are not true, and that they may know are not true?"

"Even leaving President Bush and Bill Clinton out of this, lies are personal and public betrayals more certain to overthrow a country than violence; and if there are more of them now at all levels of American life, it means we are in greater trouble than we think."

What is going on gentlemen? Why have you not reported this matter? Have you become so tolerant of lying?

I learned on December 29, 1990 that the following article entitled **Make Public Judicial Probe** appeared on December 14, 1992 in the Op/Ed section of The San Diego Union-Tribune.

"Allegations of wrongdoing by public servants are usually aired in public. Federal officials are subject to highly visible probes by special prosecutors. Even secretive grand juries often end investigations with scathing reports blasting public officials. And when punishment is meted out, it's front page news.

"Judges, however, somehow escape all this.

"Allegations of misconduct involving Superior Court judges in California are referred to the state Commission on Judicial Performance, which keeps secret all charges, evidence, investigations and almost all punishment of judges. The only public disclosures the commission routinely makes are its annual reports.

"The reports for 1991 said the commission received 712 complaints against judges. Of that number, 621 were rejected after initial review. Of the remainder, 29 judges received advisory letters, the mildest form of discipline. And that's it. No names or misdeeds are told . . .

"Investigations into judicial wrong doing should be made in the public light. Judges are public servants whose salaries are paid with public money. They should be publicly accountable . . .

"An honest judiciary is an underpinning of liberty. When judges go astray, the public has a right to know."

I can bear witness to the truth of that article. This case can. Regarding this matter, I had to file a complaint against Judge Nelson and Justice Klein with the Commission on Judicial Performance. Clearly, the Commission for quite sometime repeatedly failed to take action against renegade rogue jurist Nelson, so it is actually not too surprising when it did absolutely no meaningful investigation of either of those complaints. I have the documents and will make them available, if there is a reporter out there that is interested. The Commission's purported investigation was simply pitiful.

As the Commission failed to even notify the State Bar when Judge Nelson left the bench (rather than face a long overdue scheduled disciplinary hearing) and planned to return to private practice; I therefore was compelled to file a complaint against him with the State Bar, focusing upon his undisclosed ex parte communications during the trial with Mr. Greene. Like the Commission, the State Bar has done nothing on that complaint, as well complaints I had to file against attorneys Greene and Belli for ignoring the conflict of interest (among numerous other acts of misconduct). I have the documents and will make them available, if there is a reporter out there that is interested. The State Bar's purported investigations are simply pitiful.

I make it my policy to always try to avoid name calling and instead try to use the facts, the law and logic when conversing and writing. I always try to comport myself as a gentleman and a professional. I have done that throughout the handling of this litigation, which includes all the past dealings with you and the staffs of your papers. I however, must breach that policy momentarily here.

Mr. Robinson, you have failed to comport yourself as a responsible journalist. The same must be said about your paper. In fact, it must be said that you are a hypocrite. You sir are a phony. The above San Diego Union-Tribune article also appeared in the 12-29-92 edition of the LA Daily Journal on page 6, the Open Forum section. Why has your paper failed to report this case? What is going on Mr. Robinson? Please explain.

Mr. Plate, you possibly are ignorant of what has occurred, if your staff has failed to advise you of this matter. If that is in fact the case though, you and your paper are then remiss for not having policies and procedures in place that would make sure that such important stories are brought to your attention. If you in fact have not been ignorant of this story and it was brought to your attention, you and your paper are then on a par with Mr. Robinson. Regardless, you know now.

Enclosed also are copies of two (2) recent "Letter to the Editor" letters that appeared in the LA TIMES:

1) 12-7-92 by Harvey I. Saferstein, President of the State Bar of California, entitled James D. Gunderson, that concerned a California attorney "who allegedly received millions of dollars from the estates of elderly clients whose wills and trusts he prepared". Times reporter Davan Maharaja wrote articles on 11-24-92, 12-12 & 20-92 about attorney Gunderson and I believe some similar articles also appeared in the LA Daily Journal. In his letter, Mr. Saferstein wrote:

That the Bar has "waived confidentiality in this particular proceeding . . . This disturbing account provides me an opportunity to stress how important it is for any person who questions the actions of an attorney to report this behavior to the State Bar's intake unit . . . it is critical for the public to let us know immediately if they suspect any dishonest or unethical behavior on the part of an attorney."

2) 12-25-92 by Walter Weber, entitled State Bar, responded to Mr. Saferstein's letter. Mr. Weber wrote:

"The California Bar Assn. is not and will never be, an effective organization for addressing the problem of unethical or dishonest lawyers. The purpose of the State Bar is a public-relations organization to foster the perception that lawyers themselves are capable of protecting the public from other lawyers. This is an inherent conflict of interest and therefore not probable. The confidentiality that the president refers to is a device to hide complaints. The Bar is acting in its own self-interest in dropping the confidentiality provision in this complaint. If Californians want action in regard to unethical or dishonest lawyers, then they must find other organizations besides the State Bar. I suggest a good start would be to ask for legislation against lawyers writing themselves into their clients' wills. Most other states have already done this."

Gentlemen, which letter do you think the public thinks is more accurate? I note that your respective papers on 12-11-92, each published an article about a recent study that concluded a substantial number of Californians see their court system as unfair. Gosh, I wonder if anyone is surprised? What is going on Mr. Plate and Mr. Robinson? Why have you and your papers failed to report this case? Please explain.

Gentlemen, for your information, I also reference a 12-17-92 LA Daily Journal article by Michael deCoursey Hinds, New York Times News Service, entitled **Supreme Court Set For Crisis - Special Probe Targets Pennsylvania Justices**. That article tells of a Supreme Court Justice that was reprimanded by two (2) of his brethren for violating canons of judicial ethics. That justice then turned around and gave a sworn statement accusing his two brethren of "fixing cases and accepting kickbacks." The state's attorney general is quoted stating that it is the duty of his office ". . .to go wherever the evidence leads, and let the chips fall where they may. Nothing is off limits. Nothing is preordained. There will be no whitewash and there will be no lynching." Gentlemen, that article is an example of investigative reporting. That article is an example of what happens when individuals do their jobs.

Finally, regarding this complaint, for your information, counsel for the Justices of the Supreme Court, the state's attorney general office, has filed a motion to dismiss this complaint. The hearing on that motion is scheduled to be heard on January 25, 1993 at 10:00 a.m., in courtroom 16, if there is a reporter out there that is interested. Enclosed, also find a copy of an 11-2-92 from the Governor's Office, responding to my 10-17-92 joint letter to the Governor's Office and Assemblyman Philip Eisenberg, Chairman Judiciary Committee. Contrast that letter with the above comments attributed to the Pennsylvania Attorney General's Office. Well, at least the Governor's Office responded; I still have not received anything from Mr. Eisenberg.

To conclude, **EXTRA, EXTRA, read all about it! Bull.**

Who will tell the people? Apparently not you gentlemen. Not your papers.

Nonetheless, I would again request that you do your duty and print an article about this matter. Do your journalistic and public duty - let the people know. Please.

Gentlemen, please show this letter to your supervisor or who ever it is that you are responsible for reporting to. Then I would request an explanation why you have not reported this matter. Please respond within ten (10) days.

GLZ/ms


GARY L. ZERMAN

cc

Andy Guy & Felix Christopher, CJP
Thomas Brom, California Lawyer
Ed Bradley, 60 Minutes
Harvey Saferstein, State Bar
The Editors, ABA Journal
Jeanne Gray, ABA Ethics Section
David Kaplan, Center for Investigative Reporting

Ruth Holton, Common Cause
Gail Cox, American Lawyer
Sam Donaldson, Prime-Time Live
Doug Rittenhouse, CBS TV
Karen Nikos, Daily News
Bob Woodward, Washington Post
Walter Weber

NT 12-29-92 PG OPEN forum

Make Public Judicial Probes

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Investigations into judicial wrongdoing should be made in the public light. Judges are public servants whose salaries are paid with public money. They should be publicly accountable. . .

An honest judiciary is an underpinning of liberty. When judges go astray, the public has a right to know.

- The San Diego Union-Tribune

LETTERS TO THE TIMES 12-7-92 BM

James D. Gunderson

■ As president of the State Bar of California, I feel a great sense of responsibility to assure the public that the Bar has been, and will continue, investigating the circumstances relayed in your story concerning Orange County attorney James D. Gunderson, who allegedly has received millions of dollars from the estates of elderly clients whose wills and trusts he prepared (Nov. 22).

The State Bar's chief trial counsel has waived confidentiality in this particular proceedings so that I may disclose publicly that an extensive and thorough State Bar investigation has been under way since these allegations were brought to the Bar's attention.

This disturbing account provides me with an opportunity to stress how important it is for any person who questions the actions of an attorney to report this behavior immediately to the State Bar's complaint intake unit. The toll-free number of this hotline is 1-(800)-843-9053. For the State Bar to carry out its commitment to public protection, it is critical for the public to let us know immediately if they suspect any dishonest or unethical behavior on the part of an attorney.

HARVEY I. SAFERSTEIN
President, State Bar of California

LA TIMES 12-25-92 P. B10

State Bar

■ In response to the letter from the California State Bar president (Dec. 7):

The California Bar Assn. is not, and will never be, an effective organization for addressing the problem of unethical or dishonest lawyers. The purpose of the State Bar is a public-relations organization to foster the perception that lawyers themselves are capable of protecting the public from other lawyers. This is an inherent conflict of interest and therefore not probable. The confidentiality that the president refers to is a device to hide complaints. The Bar is acting in its own self-interest in dropping the confidentiality provision in this complaint.

If Californians want action in regard to unethical or dishonest lawyers, then they must find other organizations besides the State Bar. I suggest a good start would be to ask for legislation against lawyers writing themselves into their clients' wills. Most other states have already done this.

WALT WEBER
Saugus



GOVERNOR'S OFFICE

November 2, 1992

Gary L. Zerman, Esq.
Attorney at Law
5821 Hickory Drive, Suite D
Agoura, California 91301

Dear Mr. Zerman:

Thank you for your correspondence to Governor Wilson concerning your complaint against Justice Klien. As the Governor's Chief Deputy Legal Affairs Secretary, I have been asked to respond.

While the Governor appreciates your bringing this matter to his attention, under the separation of powers doctrine of our constitution, the Governor has no authority or jurisdiction over the judicial branch of government. Since you have already filed a complaint with the Commission on Judicial Performance and the California Supreme Court, there is little we can suggest further.

In addition, the Governor has no supervisory authority over the Commission on Judicial Performance. Therefore, we cannot address the issue as to whether or not the Commission failed to investigate the complaint against Justice Klien.

I am sorry we cannot be of direct assistance, but I hope this information has clarified the Governor's role.

Sincerely,

A handwritten signature in cursive script that reads "Patricia C. Esgro".

Patricia C. Esgro
Chief Deputy
Legal Affairs Secretary