

Appeal No. G055075

In the California Court of Appeal
Fourth Appellate District, Division Three

Adam Bereki
Defendant Below and Appellant

v

Karen and Gary Humphreys
Plaintiffs Below and Respondents

Appeal from the Superior Court County of Orange
Case No. 30-2015-00805807
Hon. David Chaffee

REPLY TO OPPOSITION OF MOTION TO CONSIDER NEW EVIDENCE

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In Reply to Respondents Opposition:

Nowhere in Appellant's Notice and Motion is there any indication he desires to covert this Appellate Court into a Trial Court for the purpose of admitting new evidence on the merits as indicated in Respondent's Opposition.

Appellant's Request to Submit New Evidence is based on his claims – as made in his Opening Brief, Reply Brief, and the Record of this case – that Respondents and their Counsel committed Fraud on the Trial Court to procure jurisdiction and deny Adam's Rights to substantive due and judicial process

Any challenge to the court's jurisdiction¹ is purely an administrative proceeding wherein the court is wholly lacking in judicial discretion. Customary judicial functions are absolutely unavailable to the court. The court has but one duty: to examine the record in the instant case, and, if in the determination that the face of the record reveals so much as one jurisdictional failing (e.g. fraud on the court) or abridgment of a substantive right, the court has a non-discretionary duty to provide the relief sought, minimally including quashing the judgement order, dismissal of this action and complete exoneration of Appellant.

Appellant believes it is in the inherent power of the Court to accept evidence as part of it's duty to investigate fraud and other criminal acts committed both upon it and Appellant whether authorized by statute or not. See "Hazel", supra, (ARB Beginning Page 7).

Respondents once again mention the issue of "timing" wherein they allege this evidence should have been presented at trial. Hazel also speaks to this matter as stated in ARB, Page 8, quoted here fore convenience:

"Even if [Appellant] failed to exercise due diligence to uncover the fraud, relief may not be denied on that ground alone, since public interests are involved."

¹ See Appellants Opening and Reply Briefs

Here, even if we consider nothing but [Respondents] sworn admissions, we find a deliberately planned and carefully executed scheme to defraud not only [Adam Berek], but the [Superior Court of the State of California]. Proof of the scheme, and of its complete success up to date, is conclusive. We cannot easily understand how, under the admitted facts, [Appellant] should have been expected to do more than it did to uncover the fraud. But even if [Appellant] did not exercise the highest degree of diligence, [Respondents] fraud cannot be condoned for that reason alone.

This matter does not concern only private parties. There are issues of great moment to the public in a [regulatory suit] (citations omitted). Furthermore, tampering with the administration of justice in the manner indisputably shown here involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot complacently be tolerated consistently with the good order of society. Surely it cannot be that preservation of the integrity of the judicial process must always wait upon the diligence of litigants. The public welfare demands that the agencies of public justice be not so impotent that they must always be mute and helpless victims of deception and fraud.

"The rule, springing from the nature and limits of the judicial power of the united states, is inflexible and without exception which requires this Court of its own motion to deny its own jurisdiction, and, in the exercise of its appellate power, that of all other courts of the United States in all cases where such jurisdiction does not affirmatively appear in the record on which, in the exercise of that power, it is called to act. On every writ of error or appeal, the first and fundamental question is that of jurisdiction -- first of this Court and then of the court from which the record comes."²

² King Bridge Co. v Otoe County, 120 US 225 (1887)

Appellant's evidence is NOT about the merits. It's evidence of crimes committed on the Court by Respondents and their counsel effecting the Trial Court's jurisdiction which this court has a duty to investigate.

March 7, 2018

Respectfully Submitted,

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

Adam Bereki