

## EXHIBIT [E26]

### PLAINTIFF'S COMPLAINT TO SGT. DARRIN JOE OF THE NEWPORT BEACH POLICE DEPARTMENT<sup>1</sup>

PART 3 of 4

NOVEMBER 18, 2021

[(0:00)] Plaintiff: Hey Darrin, how are you doing? Thanks for calling.

[(0:04)] Sgt Darrin Joe: Of course. Pretty good. I apologize for my delay. We didn't swap here. Been a little understaffed over the last week and a half. How are things?

[(0:14)] Plaintiff: Things are okay. They're progressing. Getting more crazy by the day though.

[(0:20)] Sgt Darrin Joe: Sure, sure.

[(0:23)] Plaintiff: Because my license has been suspended indefinitely, I obviously can't work in my job and I can't pay the property taxes and I can't pay the mortgage. So I guess it's inevitable that I'll be facing foreclosure at some point in the near future.

[(0:42)] Sgt Darrin Joe: This is kind of beside the point, I'm just making conversation more or less. Do you have no other forms of income or means to work?

[(0:54)] Plaintiff: Well, I do have a retirement from when I was a police officer. I was medically retired. And the other problem is that I need to be able to study law because I cannot afford an attorney. So someone has to write papers and represent me, otherwise, no one else is going to do it. I didn't go to law school and so far, anyone that I've reached out to help for government is not helping. So I'm kind of backed into a corner and yeah, that's the situation. The other thing is I don't have training in any other occupation. So I guess if I tried to go out and work as a contractor on my own, that would be a criminal violation because I don't have a license.

[(1:48)] Sgt Darrin Joe: No, that sounds right.

[(1:50)] Plaintiff: I suppose I could work for someone else at a reduced rate or all of that. But then that will leave all of my legal stuff in the air. It's definitely a really unfortunate situation, to say the least.

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<sup>1</sup> NOTE: All efforts have been made to ensure this transcript's accuracy. However, it was created by a third-party transcription company. It is not a verbatim transcript in that 'words' such as "um" and "uh", stuttering, and other 'abnormalities' inconsistent with written speech have been excluded. Because neither the transcriber nor Plaintiff's assistant (who reviewed the transcript for accuracy) were present during the call, there may be slight discrepancies. The actual audio recording should be relied upon for best evidence.

[(2:08)] Sgt Darrin Joe: Right. Okay. Just to update you on my research, upfront I did not find all the cases that you sent me. Frankly, I couldn't carve out enough time, but what I did do is I did research your appeal to the California Court of Appeals, Fourth District. And we have talked about it a little bit. It looks like, to me, the judge in the case addressed the points of your concern. I mean, being a lay person working in the executive branch of government, it's not up to me to interpret his decisions or interpretations of the codes. But I'm sure you've gotten a copy of this or ever you're a part of it. And I know you disagree with it, but it's all right here. He, himself, cited different cases to back up his decisions.

[(3:22)] Plaintiff: Okay. I hear what you're saying. Yes, I absolutely have read it many times and gone over it with a fine-tooth comb. But as you'll notice in that appeal that I made, the determination, in that case, was whether the - we'll just call it a fine for right now. Let's just say the court's judgment was equitable, meaning that it was to remedy damages that I had done, or if it was a fine. And the court, if you'll recall in there, the court said, "This is not a fine, it's something called disgorgement, and it's therefore not subject to the excessive fine's clause."

[(4:09)] Sgt Darrin Joe: Right, I did read that.

[(4:11)] Plaintiff: Okay. Perfect. So we're there. The question then is, what does the term disgorgement mean? Okay. About 2 years after my case, what I discovered was that the courts have been using the term disgorgement to punish people. But it's not an action that allows for punishment. So, let me give you an example of what I mean by that. There are courts of law and courts of equity. Courts of law have authority to punish people for violations of crimes and public offenses. They can straight up say, "Here's a fine for \$1,000. You didn't do this, and you were supposed to do it." Okay? A court of equity is different. A court of equity generally deals with contracts and trust, and it has no authority to order punishment.

The first question that every court has to look at, or anyone in any type of case, is what type of action is coming before the court? Is it a case of law or is it a case at equity? Okay, so what I'm getting at is disgorgement, 2 years later, was defined by the Supreme Court to mean an equitable action, only relating to profits that were illegally obtained. Okay? That's the United States Supreme Court. So even if the Court of Appeals said, "This is what disgorgement means," the United States Supreme Court said, "That's not what it means. This is what it means." Okay? So, what they said is that disgorgement is an action and equity, meaning that a person who does some illegal act and obtains profits from that illegal act has to give up those profits. It's really not much different than a bank robber who illegally profits from robbing a bank, who has to make restitution to the bank by giving up those illegal profits.

So, how that would apply to my case if they had done it properly, was the Humphreys would have had to go to court. And they would have had to say, "Look, Judge, we hired this guy. We found out he didn't have a license. He charged us \$848,000. And here's the amount of profits that he illegally obtained from this contract and that were entitled to receive "restitution or disgorgement of", right?" Well, none of that evidence was presented at trial. The only evidence that was presented at trial was how much they paid me. Okay? That's not my profit because if I went out and I bought \$815,000 of materials, drywall, nails, two-by-fours, or whatever. And I

paid people a lot of money to do the remodel work that they requested. Well, number one, that money's already been given back to them. And number two, that's not my profit because I didn't profit out of any of that. I basically remodeled the house that they asked to be remodeled, okay? So, without evidence that I profited anything, the court has no authority to order disgorgement of anything because there's no evidence that I profited that amount. Okay?

[(7:54)] Sgt Darrin Joe: That interpretation is different than what they're citing in this Alatraste case where it says, 'Except as provided in subdivision (e), a person who utilizes the services of an unlicensed contractor may bring an action in any court of competent jurisdiction in this state to recover all compensation paid to the unlicensed contractor for performance of any act or contract.'

[(8:21)] Plaintiff: Okay.

[(8:22)] Sgt Darrin Joe: So, they're not talking about profit or anything like that.

[(8:24)] Plaintiff: No, you're hitting on something very, very important. Yes, you're absolutely right there. You're hitting the nail on the head, okay? So, that's why I said in my last email, I said, "Look at section 7031 (b) and tell me what action does it prescribe?" Does it prescribe a fine? Does it prescribe disgorgement? Does it prescribe damages? Or does it prescribe a forfeiture? If you read it, it doesn't say anything about disgorgement. So the first question is, why is the Appellate Court calling it disgorgement? When the statute doesn't say anything about disgorgement. That's the first issue that's like what's going on here? The second thing, what it says, is you can get a return of all compensation paid. That's a forfeiture. Okay? And in law, the First Congress of the United States used the term forfeiture to refer to a fine. And in California, let me see if I can find it here. I need to read you this because it's very important. I'm going to find it... Supreme. It's a California case, and it talks about exactly determining the difference between an illegal penalty and all of that. But let me find it here. Just one more second.

[(10:07)] Sgt Darrin Joe: Yeah. Take your time. I purposely set aside a time for us today.

[(10:11)] Plaintiff: Thank you. I'm so grateful. Okay, under California Law, any provision by which money or property is to be forfeited without regard to the actual damage suffered, calls for a penalty.

[(10:48)] Okay.

[(10:49)] Okay. So if you read 7031 (b), it says basically, if you're a customer, and you found out that your contractor is unlicensed, you can go to the court and get a full refund of everything you paid that contractor. Do you agree with me on that?

[(11:09)] Sgt Darrin Joe: That's the way it did sound. Yeah.

[(11:10)] Plaintiff: Okay. That's what it sounds, okay. That's in law what's called a forfeiture. You're forfeiting everything without regard to the damage suffered. Okay? In this case, the court have said, "Any provision by which money or property is to be forfeited without regard to the

damage suffered calls for a penalty." So again, if you read 7031 (b), it doesn't talk anything about disgorgement of profits. It doesn't say anything about damages, right? There's nothing in there that says that the plaintiff has to evidence how much injury was caused by the unlicensed contractor. It just says that the unlicensed contractor has to forfeit everything that was paid to them.

What that means is that that's a penalty to me. Penalty meaning penal, fine, punishment, okay? So if it's punishment, then what has to happen is the Excessive Fines Clause has to kick in. Because now, I'm being fined for committing a public offense of contracting without a license. That's the first thing, okay? Now the Excessive Fines Clause, there's a couple of things that go along with that. There are 4 criteria that the court has to take into account before they fine someone. And all of those criteria are in the *People v. Calvin* case that I sent you. But 2 of them basically are, the fine has to be proportionate to the offense and you have to take into account the person's ability to pay.

[(12:49)] Sgt Darrin Joe: That's based on the Constitution. I agree with you on that.

[(12:51)] Plaintiff: Yeah. That's Constitutional Law. The judge doesn't have discretion on whether they do it or not, that's what they have to do. That's what I am saying that they didn't do. This was not an action for disgorgement. It was not an action for my profits. There's no evidence of profits in the case, whatsoever. Period. I was straight up fined almost \$850,000, and they refuse to take into account the protections of the Excessive Fines Clause. Hence, that's why I've been excessively fined. Now, there's also another problem. Because I was punished for committing a public offense, that is contracting without a license, that action had to be brought by the district attorney, not by a private party. Because under the California Constitution, the executive power of California is vested entirely in the Governor to see that the law is faithfully executed. And under the Governor is where the police and the district attorney come to make prosecutions for crimes or public offenses.

Comparably, you could say, if I found out you were driving without a license, I couldn't prosecute you for that. In the same way that these private people have no authority to prosecute me for contracting without a license. Now, what they can do is they can go to the administrative agency which is the Contractor State License Board, and they can say, "Look Mister Registrar of contractors, this guy's doing work. He doesn't have a license." And under that, based on their complaint, the registrar can issue an administrative citation, can do an investigation, and do all of that. Well, they did none of that. They went straight to the court and prosecuted me illegally. Then got a near \$850,000 forfeiture which the court had no authority to issue either because they didn't have authority to prosecute me. And the court had no authority to issue an excessive fine without taking into account all of the conditions of the Excessive Fines Clause.

So, what I'm sharing with you, in the bigger context, is that this just doesn't happening in my case. This has been happening for at least 30 years since 7031 (b) has been enacted. It was enacted in 2001, but 7031 (a) which is another part of my case that happened, which we won't get into right now, has been in existence since 1929.

[(15:42)] Sgt Darrin Joe: Okay.

[(15:43)] Plaintiff: So, what is going on here, in other words, is that these judges are exercising the judicial power of California to take people's money, property, and liberty without any constitutional authority whatsoever. And when they do that, when they don't have authority to take the action that they're doing, they're acting as an ordinary person on the street, except they're hiding behind the judicial power of the state. It's no different than you would not have lawful authority to take someone's property or liberty if they hadn't committed a crime. That's the simple nature of jurisdiction, right? You actually have to have a crime committed or probable cause that a crime was committed in order to begin taking executive action. Same works for a judge. Everything that the judge does has to have authority vested in them by the constitution or by a statute. If it's not there, then they're not acting as a judge. They're acting without authority, it's called ultra vires and as a private person. That's where all this is coming in. Now, as a result of that illegal judgment, my company's license was suspended indefinitely until I either pay the illegal fine or I file bankruptcy.

[(17:16)] Sgt Darrin Joe: We're still talking about the 850? Approximately?

[(17:20)] Plaintiff: 850. Yes. That's the fine.

[(17:22)] Sgt Darrin Joe: Is that what you need to do in order to get your contractor's license back?

[(17:25)] Plaintiff: From my understanding, yes. There's a section called 7071.17, that's the Business and Professions Code. And it talks about in there how you can basically restore your license. From what I remember, one, you pay the fine. Two, you file bankruptcy. Or, three, you come to an agreement with the other party.

[(17:47)] Sgt Darrin Joe: Got you.

[(17:50)] Plaintiff: So those are the things. I obviously do not have \$850,000 to pay. The fine is totally illegal to begin with. I'm not paying that, even if I did have the money. And, two, the other option is to force me into bankruptcy right now, which may be an option that I have to go down. But again the point of all of this is, and why I'm coming to you, is because it's the duty of the executive branch of government under the Constitution to see that the law is faithfully executed. That means all law, Constitutional law, Statutory law, Criminal law, all of it. And there is no other agency in California, that does that other than local, municipal, police, and Sheriff's Department that I am aware of. Yes, there are other agencies like the Department of Justice that does have some Criminal Law Enforcement Authority. But there's nowhere else to go. Nowhere. I mean literally, like we talked about the Commission on Judicial Performance that, from my understanding, and I've done some research about it, it's an administrative agency, and they do not have criminal law enforcement power.

[(19:14)] Sgt Darrin Joe: I think... You're spot on with a lot of this stuff. Where the disconnect is occurring, I think, obviously [inaudible] the conversation. The Judicial branch is responsible for interpreting these laws. The Executive branch enforces the laws. The Legislative branch makes the laws. What we're having in this situation is a discussion over the interpretation of the law, not

the enforcement of the law. So, this still needs to go back to the Judicial branch. I'll give you an example of why this is a discussion on the interpretation. In the appeal, the judge ruled that disgorgement, or what you're dealing with, which I call disgorgement, is a civil consequence. They are avoiding calling it a fine or penalty or punishment. And even in quotes, they wrote it's an equitable remedy in which, I guess, by any other name. But they still didn't call it damages, fine, or penalty. And they cited this SEC v. Hochman[?] case. Maybe that's how they're dancing around the issue, but they're hanging their hat on it. You know what I mean?

[(20:47)] Plaintiff: So I understand what you're saying about interpretation. The fact is, we have a tripartite form of government. Meaning, there are 3 branches, as you mentioned, and each of those branches are check-in balance to the other. That's the whole point of dividing and separating the powers. So that whenever one branch violates the constitution or a law or a statute, the other branch can come in to remedy the situation, and protect the people's rights, liberty, and property from tyranny. Because when you put all of the power into one branch of government, that's essentially a king. And the king can do whatever he wants and whatever he says.

Yes, to some degree there is a matter of interpretation on what's going on here. And what I'm sharing with you, I believe I've sent you the case of Liu v. SEC. That is the case of the highest court in our country, the Supreme Court, defining exactly what disgorgement is. And it's not what the California Fourth District Court of Appeal is saying it is. In fact, I think I shared this case with you before, but I'll just kind of review it because it's really pertinent here. By the way, I just want to commend you and say that you're digesting this stuff very quickly, and and it feels to me like you're really starting to see what's going on here.

[(22:31)] Sgt Darrin Joe: I'm just trying to work. Unlike you, I don't have a law degree

[(22:36)] Plaintiff: You're doing great. You're doing great.

[(22:39)] Sgt Darrin Joe: Thank you.

[(22:40)] Plaintiff: You're welcome. So in this Liu case, what happened is, these people solicited about \$30 million in money from Chinese investors to build a Cancer Center in California. What happened was these people, the Lius', ended up in their contract with these investors. To my recollection, there was nothing in the contract for them to take any profits. So they started taking money for profits like millions of dollars and someone found out about it and ratted them out to the Securities and Exchange Commission. Well, the Securities and Exchange Commission, brought a civil action in federal district court, and they sought disgorgement of the entire \$30 million that the Lius' were paid. And the judge awarded it to them. And then they went from the central district court, or the federal district court to the Ninth Circuit Court of Appeals on appeal, and the Ninth Circuit affirmed the trial court's holding. Basically giving them total forfeiture of the \$30 million. Well, it got to the US Supreme Court. This was in 2020. And the court said, "Whoa, wait a minute. First of all. What is this disgorgement word? What does it mean? It's not a word that has any fixed, meaning, blah, blah, blah, blah, blah."

They then defined it, and what they said is that disgorgement is an equitable remedy designed to strip the wrongdoer of illegal profits. That's the keyword, profits. It doesn't say anything about

the entire forfeiture of the entire transaction. It talks only about profits. So the US Supreme Court, voided the judgment meaning this judgment has no authority anymore, and it remanded the case back to the Ninth Circuit, who then remanded it back to the district court to determine what the actual Lius' profits were. Because the court said, look, you gave the Lius \$30 million, and while he may have taken more money than they were supposed to. They also started building you a Cancer Center, so they've already returned that money to you. So how can you then go and ask that they return it again? That's a penalty. That's a fine. You're punishing them now. That's not an equitable remedy. The Court of Equity, as I was mentioning earlier, is essentially about balance and fairness. It's about returning people to the position they occupied before the illegal acts were taken upon them. But if you apply that to the case with me in the Humphreys, they got \$850,000 worth of work. So then, why am I being ordered to pay another \$850,000 on top of that? That's not equity, that's penalty. Okay?

So I can send you the Liu v. SEC case, if you haven't already, you can see exactly what disgorgement is. If that happens, you will see that what the Fourth District Court of Appeal is hanging their hat on is not what disgorgement is. Let me back up a minute. They're actually using the term disgorgement correctly. Disgorgement is an equitable remedy, and it only applies to profits. But what they're doing in my case is there's no evidence of any profits. they're saying that the whole transaction, the whole \$850,000, is what disgorgement applies to and that's not true. It doesn't. It only applies to profits. So they are saying some things that are correct. That is disgorgement is an equitable remedy and it does apply to profits but they're not using it properly, okay? And then if you go back to 7031 (b), the statute that I was prosecuted under, it doesn't say anything about disgorgement.

[(26:59)] Sgt Darrin Joe: It doesn't say anything about disgorgement?

[(27:01)] Plaintiff: Exactly. It just says total forfeiture.

[(27:06)] Sgt Darrin Joe: So here's the issue that, I think, we're talking about. Disgorgement gets defined by the Supreme Court Case, the Liu's Supreme Court Case in 2020, right?

[(27:15)] Plaintiff: Right.

[(27:16)] Sgt Darrin Joe: Your decision in this appeal came down in 2018, right?

[(27:20)] Plaintiff: Correct.

[(27:24)] Sgt Darrin Joe: The first case got initiated at around 2015, 2017?

[(27:30)] Plaintiff: Yeah. 2017 is when the judgment came out.

[(27:36)] Sgt Darrin Joe: Sounds like you need to go back to court to argue that the term disgorgement has now been defined by the Supreme Court.

[(27:54)] Plaintiff: So, Darrin, I did that and they threw my case out saying it was frivolous.

[(28:04)] Sgt Darrin Joe: When?

[(28:07)] Plaintiff: That was back... Let me look real quick. So I filed an action in the United States District Court, which is federal court... Let me look here. Right around 2019, and that Court said...

[(28:45)] Sgt Darrin Joe: Before the Liu 2020 decision has been published.

[(28:49)] Plaintiff: Okay? But then my case went to the Ninth Circuit Court of Appeal right after that. And while my case was pending in the Ninth Circuit Court of Appeal, the United States Supreme Court remanded the case back to the Ninth Circuit in the Liu case. My case was still before that court. And then even after that, they dismissed my appeal as frivolous

[(29:18)] Sgt Darrin Joe: I don't know how the judicial system works, if it's not unlike Law Enforcement where we're constantly getting case updates and decisions. I imagine it's similar, but if it is not, maybe 2021 is a long enough grace period to revisit the issue. You're bringing them in?

[(29:42)] Plaintiff: You can't. See, once they adjudicate things like this, that's it.

[(29:48)] Sgt Darrin Joe: But they didn't adjudicate you, they didn't even sheer the case. They dismissed it as frivolous.

[(29:55)] Plaintiff: Exactly. There's no going back. A lot of these things...

[(29:59)] Sgt Darrin Joe: Why not?

[(30:00)] Plaintiff: Because that's it. You don't get do-overs in court.

[(30:05)] Sgt Darrin Joe: I don't think so. Because it didn't even go to court.

[(30:07)] Plaintiff: It did go to court, and when they dismiss it as frivolous, that's their dismissal. They're saying, we don't have authority to do anything about this. This is frivolous. Get out.

[(30:16)] Sgt Darrin Joe: But the authority has changed. Circumstances have changed. This might be a bad example but slavery was okay, 160 years ago, it's not now.

[(30:28)] Plaintiff: Correct. That's what I'm saying though, is that my case was in the Ninth Circuit Court of Appeals when the United States Supreme Court remanded the Liu case to them, defining exactly what disgorgement was. And even though the court threw the case back to the Ninth Circuit, they still threw my case out as frivolous. So even after the Supreme Court defined what disgorgement was and demonstrated that I was not subject to disgorgement in my case in California, they still threw it out as frivolous. What I'm talking about Darrin, you mentioned it one time and I get it, I hear where you're coming from. That it sounds conspiratorial, but this is a very huge thing. You have over 100 years, or pretty darn close to it, of judges taking what I estimate and can substantiate to be millions and millions of dollars from people without any



lawful authority. And so right now they're covering it up because you can't let something like this out. The minute that one Court makes a decision about this. It changes every case in history and every single person who's had millions of dollars taken from them, can now bring a claim in court and sue the judges, personally, because they acted without authority and get restitution and damages which are probably going to be upwards of, you know, potentially 10 times the amount of their loss. It's huge.

[(32:04)] Sgt Darrin Joe: So, that kind of proves my point. Why don't you go back and do it again? We're talking about people that come back and do it.

[(32:13)] Plaintiff: Because here's why, potentially if you're going to do a class action, you have to have a lawyer represent. No lawyer that I've talked to or anyone that I can possibly surmise is going to sue judges and do this type of thing. That's one thing. Second, these lawyers don't even understand the concepts that you and I are talking about right now. I'm not joking you. They are the ones, the lawyers, and the Judicial Council of California are the ones making the jury instructions for this action and they refuse to see that it's a penalty. That it's actually a fine. Even though the United States Supreme Court has said that. The second thing is that, after my appeal, I haven't shared this with you yet, I went back to this Superior Court and I filed a motion to vacate the void judgment because at that time, the United States Supreme Court had come out with another case on disgorgement and that was called *Kokesh v. SEC*. You don't need to remember this right now. They basically said something very similar that the SEC was trying to punish people and that's not what disgorgement was.

Basically, I used that case and in that case, the court had the duty to vacate the void judgment because it was in violation of both the California Constitution and the United States Constitution. But instead what the court did is it abused its authority, and it said, "Hey look the judgment may be illegal but we can't overrule the Court of Appeal." So it stands, so I can't go back into Superior Court now and have them overrule the Court of Appeal, so I'm done. So the only other place to go is the Federal Court and I've been to federal court and they threw my case out and said they had no authority to do anything about it and that it was frivolous. So my last place to go is to the United States Supreme Court. And so I'm there now, and I was just on the phone with the Clerk of Court yesterday, who doesn't even know what the jurisdiction of the Court extends to, if you can believe that. It's mind-blowing. He told me..

[(34:39)] Sgt Darrin Joe: That it doesn't work?

[(34:40)] Plaintiff: Yeah. I sometimes thought that my agency that I work for in police department that we were kind of like a frat house and we had problems and things like that. But when I look back on the professionalism of law enforcement, when I was involved in it, and what I see going on in the court system now, it's not even comparable. Law enforcement in Southern California, as I've come to know it is, you can't get away with this type of stuff, I mean. Yeah. There were minor things where maybe somebody went a little far on a search or there was some controversial issue about whether you can shoot the dog, when you go on a search warrant, or whatever the case may be. Some minor, little thing like that. But we're talking about gross violations of authority and power that's going on here. And I can't even imagine something like this happen in law enforcement. I mean, the whole Police Department would be shut down

instantly if something like this were going on.

[(35:46)] Sgt Darrin Joe: We're fortunate in California to be able to do our job properly again.

[(35:56)] Plaintiff: Yeah. Newport is very respected organization. So much so that it's even, when back in my day, it was talked about as being too by the book, if you will. But that's fine. At least you guys are interested in saying, "Hey, you know, what's the legal proper way of doing this? And are we doing it?" But something else is going on with the court system here. And it's really affecting a lot of people's lives in this way. And now it's come to my attention. Other people have tried to do something about it. They've gone to their legislators. They've made complaints and nothing happens. You can't get the changes. And I can share with you, I have made complaints to the legislature, both to the senator and the assemblywoman in my district, and nothing.

The senator said, "Look, we have a democratically run legislature right now and there's nothing I can do about this. We know that there's a lot of unconstitutional stuff happening. Almost everything that comes out of this building is unconstitutional. But until a court says, otherwise, we can't do anything about it. Your case is closed Adam." The Assemblywoman told me that she was going to conduct an investigation into it, and she'd get back with me in 2 weeks. I never heard anything again from her, and I followed up with all these people. I've made complaints to the Commission on Judicial Performance. I've made complaints to the judicial council. I've gone to 7 or so different courts in California and in the United States. Not one of them wants to recognize what's going on here.

Like I said, it's only getting worse because the next thing that's going to happen is I could be forced into bankruptcy and foreclosure. As I see it, it's pretty darn simple. That this is what the law is. This is the what the supreme court has said disgorgement is. This is what an action for damages is. This is what an action for a fine or forfeiture is. And my case fits nice and snugly into what the fine or forfeiture is, and so they had no lawful authority to do it. It's that simple. Now, I know you have brought up the issue, if this were a crime, this would be a no-brainer. Well, I see it as a crime. They're taking my money, property, and liberty by force without lawful authority. It's that simple. Because the moment that they start taking things from people, and they don't have authority to do it, they're not acting as a public official, they're not acting under law or color of law, as the term is used. They're acting just as a private person.

In the same way, I pulled a car stopped on somebody and I saw a nice camera in the back and I took it out of the back of the car and said, "I like this. I'll have this." I can't do that. I'm not acting with authority and the same thing here. As I've shared, they're ordering literally millions of dollars. One guy, he built some part of the Disneyland Hotel for \$1.9 million, and the Disney Corporation, or some subcontractor thereof, sued him. And the same judge that's in my case denied that contractor the right to about \$1.9 million in compensation, I could be wrong about that in the amount. So basically, this guy did all this steel erection for the Disneyland Hotel and was never paid. He had a license, but it was the wrong category of license for that work. Can you imagine 10 years of interest on \$1.9 million, plus damages?

[(40:16)] Sgt Darrin Joe: That would be quite a bit.

[(40:18)] Plaintiff: And guess what? That is the same moronic judge that was the trial judge in my case. That case also went to the Fourth District Court of Appeal. That same case also went to the Supreme Court of California. And guess what the Supreme Court of California said.

[(40:37)] Sgt Darrin Joe: I guess, it's something similar to yours.

[(40:39)] Plaintiff: It's a penalty. They said it's a penalty. The Supreme Court of California, in every single case I've read, they have never said that 7031 (b) is an action for disgorgement ever. They have said that it's a penalty, but at no time, have they ever applied the Excessive Fines Clause to it. Actually, the Supreme Court has also said, it's a forfeiture. They've said it's both a penalty and a forfeiture, and a forfeiture is a penalty because it's a fine. It's not so much that all the courts are against me in California. The Supreme Court is actually saying what I'm saying. It's these lower courts and judges that are doing wacky. Here's another thing that keeps coming back to mind. If you look at the judgment order, in my case, from the trial court, it doesn't say disgorgement, it says damages.

[(41:38)] Sgt Darrin Joe: Right. But as I look at it, it's a check box. It's a poorly laid out form [crosstalk]

[(41:49)] Plaintiff: But there's also a box for other there that...

[(41:53)] Sgt Darrin Joe: I supposed they could have put it in other.

[(41:55)] Plaintiff: And here's the thing, I get what you're saying, that there could be a little bit of latitude in that way, but there's a very distinct thing between an action for damages and fining someone \$850,000. In the damages action, there was actual evidence that someone was harmed and so a money goes to compensating the person for the actual harm that they received. It's another thing entirely, if you punish someone, and you fine them for doing an illegal act. That term damages is very specific, and what's happening right now is that term is being used to cover up that I and many other people, potentially, have actually been fined unconstitutionally and not that there was any award of damages, whatsoever.

[(43:02)] Sgt Darrin Joe: Have you been reaching out to any of these other people out of contest[?]

[(43:07)] Plaintiff: Yes, and Darrin...

[(43:08)] Sgt Darrin Joe: Maybe form a [inaudible], or some sort?

[(43:11)]: Plaintiff: Again, we need a lawyer to do that, and number two, most of them are terrified. They're terrified.

[(43:17)] Sgt Darrin Joe: I'm sorry?

[(43:18)] Plaintiff: Terrified. Terrified.

[(43:20)] Sgt Darrin Joe: Oh, that is terrible. Both lawyers or people that are going through what you're going through?

[(43:26)] Plaintiff: Both. Yeah, I have a number of close friends that are lawyers, business trial lawyers, including even lawyers that do construction litigation. They won't even talk about this. The people that I have talked to, they're so scared to put their name on any of the complaints or anything like that, even though they know it's right and something is completely wrong. They're scared because the power of the government is awesome. And I'm doing this because there's a saying that's freedom is basically nothing have and nothing left to lose. That's why I've been forced into this corner where I can't just kind of walk away and say, "Oh, you know, they just made a mistake and this and that." No, everything that I have and have worked my life for is being threatened to be taken away right now by unlawful action.

I've literally done all the steps that are allowed within the constitution and statute to make complaints to local law enforcement, to file a petition for redress of grievance, to complain to the judicial council, to do your appeals, to do all these things. And no one, no one is helping me. I can evidence, clearly, that this is not lawful. It's not within the Constitution. It's not within statutory law. Yeah. In every way, it's unconstitutional, and there's no authority for it whatsoever. So, that's why I'm with you, I have nowhere else to go. I mean, I am pursuing action in the Supreme Court of California, but right now I have to sue the clerk of the United States Supreme Court because he doesn't even know what the Constitution says about accepting my case. I'll just share a little bit about that with you really quickly.

[(45:47)] Sgt Darrin Joe: Sure.

[(45:48)] Plaintiff: In the Supreme Court, if you look at article 3, section 2 of The Constitution, the constitution allows for 2 different types of actions to be brought before the court. One is, any case at law or equity arising under the constitution. That's one, and the other is, if you are certain class or a certain party, like a foreign minister a console, or your a state. So, quite often that the Supreme Court doesn't usually entertain original lawsuits. Those usually get initiated in state courts and in federal courts.

[(46:24)] Sgt Darrin Joe: Federal Courts?

[(46:25)] Plaintiff: Exactly. And so the supreme court, generally, only exercises its appellate jurisdiction, meaning it reviews cases after it's gone up the chain, okay? But when it comes to a state suing a state that goes to the court's original jurisdiction where you can actually file a lawsuit in the Supreme Court. When I called the clerk to file my case because they rejected it very recently, I said, "Well, wait a minute. What about this other part that the constitution allows for 2 different actions for the court to file the case." And he said, "We are not going to accept your case because it does not fall under this statute." I said to him, "My case doesn't fall under statute. I'm not one of those parties. I'm not a foreign minister. I'm not a console, I'm not any of that. I'm bringing my case to the court because it's a case at law or equity arising under the constitution." And he told me, "Well, we've been denying cases, just like what you're talking about, for a long time." He ended the conversation and said, "Well, I'll get back to you, and I'll

give you examples of some of these cases." Well, he's not gotten back to me. It's been several days. I left a follow-up message for him, and he's not calling back. Basically, now I'm at the point where I can't even file my case, in potentially, the only court that could help me because...

[(48:04)] Sgt Darrin Joe: That can actually hear it, yeah.

[(48:05)] Plaintiff: Yes. Because the clerk of the court is the gatekeeper to the justices that's seeing any of the cases. Now, I'm going to share something else with you really quick. I'm going to read to you the federal rules of civil procedure. So federal courts have the federal rules of civil procedure. And there's this rule governs the filing of complaints in all federal courts with the exception of the Supreme Court, obviously. It says, "Acceptance by the clerk, the clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local ruler practice." So, what I'm sharing with you is that, basically, because the clerk of the United States Supreme Court does not even know the jurisdiction that applies to the Supreme Court, they're throwing out cases that never get the opportunity to get to the justices. And you have no way to reach the justices to talk about this. Because the clerk is the gatekeeper, denying the cases. The only way that I can do anything in this instance is sue the clerk of the United States Supreme Court in the district court for the District of Columbia, and see what happens. It's between him, between that case, and you right now.

[(49:47)] Sgt Darrin Joe: Okay.

[(49:49)] Plaintiff: However, I can help you, obviously, I've come to know the constitution and law very darn well at this point. So I can be of tremendous help to you, and you can research and look up what I'm sharing. I want to work with you and get resolution to this. I even thought about talking to the judges. Let's do something like just have a roundtable, get people together and let's talk about this. The problem with that is they're going to say, they can't talk because it's a matter of pending before the court or they could potentially incriminate themselves. So, to even do something that could actually resolve this situation and to just amicably be adult human beings and talk about it, they're not going to do it. It's going to take something more than that. I mean, I've made complaints to Gavin Newsom. His office, they won't even respond. He's the one that has the real duty to do this.

[(51:03)] Sgt Darrin Joe: Yeah, that's actually true. Based on what you sent me earlier.

[(51:07)] Plaintiff: Yeah, and Darrin, I will share with you. I did go to Santa Ana PD. They won't even talk to me about it. They refused to investigate, so I filed them [crosstalk]

[(51:19)] Sgt Darrin Joe: [inaudible]

[(51:20)] Plaintiff: No, not even remotely. Not even remotely. They talk to me. I talk to 2 different sergeants on the phone, and they both refused to do anything. Both refused to take a crime reporter or an info report. And so, I beef both of them in a complaint, and the sergeant that took the complaint said, "We're not going to investigate your complaint against these judges," and I said, "So then, how are you saying you'll actually go and investigate my IA complaint because my IA complaint depends upon whether those cops had a duty to investigate this prime

and deprivation of rights that I'm reporting to you. And she says, "Well, we're going to investigate it, but we're not going to investigate that." Bottom line, of course, I got a result of their IA investigation in quotes, and it basically said there was no wrongdoing. Of course, there wasn't.

Then, I also went to the Orange County Sheriff's Department. The first time, they refuse to do anything and told me it was a civil matter, it's clearly not. I went to the court and complain to the officers, the deputies that were there, the sergeant. And when they wouldn't do anything, I called the watch commander and said, "I want something done about this." So, they set up for me to come down to the station, and they took an info report. Then it went to an investigator, and he called the Department of Justice and that investigator apparently told him, "Oh yeah, we had a complaint by this guy but because the intake people didn't see that there was any viability to it, we didn't investigate it." Well, that is not true. I never complain to them about this issue. All I did was call and ask them where I need to report the issue so that I can make a complaint. And so, ultimately, what happened was that the sheriff's department made these inquiries to the DOJ, and the DOJ responded, but what the DOJ told them wasn't even true. So then, they dismiss my case based upon that. They said, "We cannot find any evidence of criminal wrongdoing."

Basically, what it seems like is that the Sheriff's investigator tried to reach out to people who may have more knowledge on this subject than him, and the Sheriff's Department was given bogus information by these morons. And then, based upon that bogus information, the sheriff's department closed its complaint. Then I went back to the commander that was overseeing the investigation and I told him, I said, "Look, here's the deficiencies in your investigator's complaint, and here's the evidence that shows that I never made a complaint to the DOJ and that this is viable." And he said, "Okay, I'll look into it." Well, that was months ago, and he's never looked into it. So I called the Sheriff's Office and I tried to set up a meeting to speak with him and say, "Hey look, I'm really trying to help you guys out and show you," and the woman that was on the phone said, "He doesn't want to talk to you. If you want to tell a problem, file a complaint."

So, that's why I'm with you, and so far, you have been the most reasonable, I'm even hearing the word compassionate, person that is actually interested in. I sense that you know something's wrong, it's just a matter of what to do about it at this point. And so this is where I'm at, with you, and I'm also pursuing the action of now suing the clerk of the Supreme Court. But there is no one in California that will help me with this. Like I said, I've gone to every court. I've gone to the legislature. I've gone to the Sheriff's department and the Santa Ana Police Department, who are both, where these agency, where these actions occurred, no help, refusal. And if you want to see the work that I've done, you can go to [thespiritoflaw.com](http://thespiritoflaw.com).

[(55:53)] Sgt Darrin Joe: All right. What is that?

[(55:54)] Plaintiff: It's my website and it has the procedural history of everything that I've done. All of the documents are there. Online, you can download all of them. You can also go to the exhibits and see all of the complaints and government tort claims that I've made. There's tens of thousands of pages. It's all there. Do you see it?

[(56:44)]: Sgt Darrin Joe: Yeah, it said... are you sure its spiritoflaw.com?

[(56:50)] Plaintiff: It's thespiritoflaw.

[(56:52)] Sgt Darrin Joe: Oh, okay. [inaudible] page. Yeah, I'm putting it in a little browser so I can put it in a search bar.

[(57:15)] Plaintiff: Yeah.

[(57:20)] Sgt Darrin Joe: Okay, there's an HG Wells close up at the very top

[(57:22)] Plaintiff: Yes, so if you click on procedural history,

[(57:26)]: Sgt Darrin Joe: Mm-hmm.

[(57:27)] Plaintiff: You'll see everything, from the trial court minute orders, to the judgment, to the clerk's transcript, to all of the briefs that were submitted on appeal, oral argument. Everything, all the way down through the federal courts, all of it, it's all there. And then, if you go back up and you click on exhibits, you'll see public records act requests and responses that I've made and exhibit D is complaints and government tort claims. And you can go under there and see all of the complaints that I made to Santa Ana, to the Orange County Sheriff's Department, to Governor Gavin Newsom. I mean, there's literally thousands of pages there, and it's all jumbled into one major exhibit.

[(58:17)]: Sgt Darrin Joe: Okay. 971 pages.

[(58:21)] Plaintiff: Yeah. You can see that I've done my due diligence, and that these people are full of shit. They don't want to fess up to it. So everywhere you go to make a complaint because the legislator's involve, the governor's involved and the courts are involved, and you cannot go to any of them because they're all involved. It's mind-blowing. Now the federal courts have been, there are some times that these cases go to federal court because there's also a federal constitutional issue involved. Even in federal court, the federal courts are doing the same things as the state courts. So, yeah. If you go back to the homepage of my website and you scroll down a little bit, you're going to see a complaint that says, "Emergency Petition for Writs of Error and Non-statutory Habeas Corpus. Do you see that? It's under the HG Wells quote.

[(59:36)] Sgt Darrin Joe: Yeah, I do.

[(59:39)] Plaintiff: Okay. Do you see when you put your...

[(59:41)] Sgt Darrin Joe: Oh, okay. The images of the actual pages.

[(59:45)] Plaintiff: Yes, if you click on that, this is the complaint. The non-statutory habeas corpus that I filed in the Supreme Court, that the clerk of the United States Supreme Court threw out. And if you go down to - let me see what page it is in here. Let's see here. I'm looking for it. Oh, here it is. It's page 24, and it's under trial.

[(60:27)] Sgt Darrin Joe: Okay.

[(60:28)] Plaintiff: You will see that I lay out every single code, every single court case in California, the legislative history of this statute, everything. It's all laid out in black and white, including the Liu V. SEC case. It shows exactly how the whole thing is being done, and that it's a complete fraud.

[(61:02)] Sgt Darrin Joe: Okay.

[(61:03)] Plaintiff: It also cites other cases in there. I picked out 5. Some of them are State Court, some of them are federal courts, and it lays it all out there. That's just 5 that I was able to find. Now, just to let you know, there's no way that you can go to a superior court and search a case by the statute. You could probably go into your records database and see any arrests that were made for a 459 or something. They can't do that at the court. So you have no way to know. The only way right now that you can potentially tell is to go into something called LexisNexis or Westlaw, and you can see which cases were appealed. That will give you some idea of how many of these cases are. There's a lot of them. And like I said, I actually can send you the audio tape of the FBI saying, your rights have been violated, click no investigation. In those documents, you'll see that I sent letters of complaint to the Department of Justice. They've done nothing. There's nowhere to go.

[(62:36)] Sgt Darrin Joe: Yeah.

[(62:39)] Plaintiff: Nowhere.

[(62:42)] Sgt Darrin Joe: Okay. This certainly has been enlightning.

[(62:49)] Plaintiff: You want to try something? Try as an ordinary citizen to call one of these congress people or the senator, and they won't call you back. Let alone help you. It's mind-blowing.

[(63:06)] Sgt Darrin Joe: Yeah. It keeps the red counters[?] all, like the campaign's that they trying to shove down our throats for 54 years, that's for certain.

[(63:15)] Plaintiff: And frankly, the only people that I actually heartfelt feel, could help me with this, is you, like the police department. I mean, there's nobody else here that has authority to do anything about it. There isn't, so this is it, as far as California goes, as far as I can tell. But if there were to be someone that had the integrity to do this, it would be local law enforcement because the issue involving disgorgement isn't just in California. The federal courts have been abusing it as well. That's why the case actually made it to the Supreme Court because it got out of control, and the court said, "Enough." I mean, here's an interesting quote, right here by Justice Thomas, in the Liu case. Here's what I wrote, I said, "In his dissent, in lieu, Justice Thomas saw the writing on the wall surrounding the nationwide abuses of disgorgement. He said the term disgorgement invites abuse because it is a word with no fixed meaning, as long as courts, continue to award disgorgement, they will continue to have a license to expand their own



power."

[(64:40)] Sgt Darrin Joe: Yeah, that's dynamite. That sounds like something that needs to be heard in court.

[(64:48)] Plaintiff: Yeah. Well, you're seeing what my... if you go to page.

[(64:53)] Sgt Darrin Joe: The fruit of your labor, that's for certain.

[(64:55)] Plaintiff: Yeah, if you go to... Let me see here. It's like, page 14 of that lawsuit that in the Supreme Court that I sent you. It's an annotated procedural history, and you will see all of the courts that I've been to. There's links there that you can click on to see any of the exhibits of any of the things that I filed, and what the courts have said about it. See, I've been everywhere. Yeah, so that's why, again, I'm with you and the executive power to see that the law is faithfully executed. The executive branch has to enforce the law, and clearly, the courts are way out of line here, and they're not doing it.

[(65:52)] Sgt Darrin Joe: Okay. Yeah, I'm seeing what you're showing me. I don't think I'm your last stop because this is coming down to interpretations, though. That's not the enforcement of the law.

[(66:12)] Plaintiff: If the Supreme Court defined what disgorgement is, right? And the Appellate Court in California saying that I was ordered disgorgement. And it's clear to you that I was not ordered disgorgement that I was fined, then that's not a matter of interpretation. I mean, they have interpreted the law for you.

[(66:32)] Sgt Darrin Joe: No, no. That's not clear to me. That's not what I'm saying. I got to play down the middle, right? I can't take your side, I can't take anyone's side if I'm going to do this investigation properly. The other side to this is what the judge is saying, in not calling it a fine or accountancy[?].

[(66:55)] Plaintiff: Right. And so that's why I'm saying, I definitely am not asking you to take any sides. I want you to remain as subjective as possible, and so the only thing that I'm asking you to do is to read what the courts have said the law is. That's it. So the United States Supreme Court trumps the California Court of Appeal. If you read the Liu case, it will define for you exactly what disgorgement is, and you can look and read and see business and professions code 7031(b), does not say anything about a court issuing disgorgement. You can even look in California Statutory law, go on like that the state courts are the state's statute website. I think it's called, leginfo, legislative information. And you can click all of the statutes there, and you will not find any definition for disgorgement in there, anywhere.

[(67:59)] Sgt Darrin Joe: Right, and because of that my hands are tied as to what the law enforcement can do for you in this matter. This is a court matter, this is a court interpretation matter. I'm seeing everything that you're showing me and like you just said 2 minutes ago, I can't agree or disagree, per se. It's not something that an investigation that pop up in the DA's office and say, "Okay, go get them, boys." This isn't that kind of th, this is an interpretation of law and

not an enforcement of law.

[(68:39)] Plaintiff: On one aspect, I hear you and I see where you're coming from, but there's also the side where my rights have been violated and property is being taken without lawful authority.

[(68:51)] Sgt Darrin Joe: Let me catch you up there, Adam. I'm not trying to be rude about it but that is also an interpretation of whether or not your rights are being violated and things taken unlawfully.

[(69:07)] Plaintiff: Let's hypothetically say that one of your officers pulls somebody over and they come, and they commit a crime against that person. They do some unlawful or unconstitutional acts. Are you going to say to that person, "Oh, you know, well, this may be a crime, or it may not. It's a matter of whether the court interprets it being a crime or it doesn't. And we're not going to investigate because it's really a matter of court interpretation."

[(69:39)] Sgt Darrin Joe: No. There will be codified penal code against whatever [crosstalk], technically, that the officer did.

[(69:43)] Plaintiff: Well, there are. Well, there are codified penal codes for fraud, theft under false pretenses, and the taking of property without lawful authority. And there's also constitutional provisions that are...

[(70:04)] Sgt Darrin Joe: We talked about this before, Adam. They don't fall under any of the fraud sections that the police department investigate.

[(70:14)] Plaintiff: Could you explain how that would be the case? Because I don't see that. I think all of those penal codes apply to public officials that are acting without authority as much as they do to private citizens.

[(70:27)] Sgt Darrin Joe: But they are acting with authority that's given by the judiciary.

[(70:32)] Plaintiff: No, no, no, no. No, they're not. So if the Constitution says, right? And correct me if you see it differently, I'd love to talk about it with you. If the Constitution says that no excessive fine shall be imposed and the judges impose an excessive fine. Where is the judge getting that authority? He's not, he has none. It's the same thing, as you cannot make an arrest without probable cause. It's the same thing as like if you're one of your officers made up a crime of, you can't wear a pink shirt on Friday, and pulled someone over. Well, now, they've been unlawfully detained. You can't punish someone, you can't take something from somebody without lawful authority. Even if the guy is wearing a black robe, and he's sitting on the bench, and it seems like he's a judge, he cannot do it. If you look at, I think it's Article 1, Section 26 of the California Constitution, it says, "The provisions of this constitution are mandatory and prohibitory." Meaning, there's no discretion. They don't get to decide one day whether they get to do one thing and, another day, something else. They are forbidden from doing it

[(71:50)] Sgt Darrin Joe: So, the judge in your appeal, as you know, he stated that the decision didn't implicate the Excessive Fines Clause [inaudible] of the constitution. He said, he's still

calling it equipable remedy and he's still calling disgorgement a punishment. It's like 2018, obviously. And you citing the US v. Philip Morris Case. [crosstalk]

[(72:16)] Plaintiff: Right. Go read Phillip Morris.

[(72:18)] Sgt Darrin Joe: [inaudible] These are his words not mine.

[(72:22)] Plaintiff: Right. Okay.

[(72:25)] Sgt Darrin Joe: I'd love to help you, I'd love to do more for you. I wish there was more I could do. But I'm not the right person for this. You need to get back to court with this. I understand the hardship of hiring an attorney, that's why I suggest that, maybe, getting a class action together with all the other people that have fall on victim to you. Any type of negative disgorgement assessments that - there are strengths in numbers. You do have that avenue of the Supreme Court, especially, once you get past this gatekeeper. I can't do these things that you're asking because they are matters of interpretation.

[(73:15)] Plaintiff: So what I'm asking you to do is to simply ensure that my money, property, liberty, by property I mean my rights, are not taken without lawful authority. That is clearly within the scope of the duties that you are sworn to uphold.

[(73:39)] Sgt Darrin Joe: Absolutely. That's why I've been with you this far. But I didn't get the chance to read the appeal's case, the last time we've spoken. That was the promise I made to you, and do exactly what you just asked me to do. Now that I'm seeing it in black and white, adjudicated by an Appeal's Court, I know that it's not unlawful.

[(74:06)] Plaintiff: No, Darrin. That's where, I think, the rub is coming from. [Crosstalk] If a court adjudicates it.

[(74:12)] Sgt Darrin Joe: It's a matter of interpretation.

[(74:14)] Plaintiff: No, no, no, no. If a court adjudicates something, and they don't have the authority to do what they did, that's not lawful. It's like if I put on a police uniform and drove around the city pretending to be a policeman, would it be lawful because I adjudicated something and I was wearing a uniform? Of course not. So, everything that the court does, just like everything that a police officer does, everything that a legislator does, and everything that a governor does has to be traced back to some provision within the constitution giving them authority to do it. If they don't have it, they don't have it. Even if they're sitting there, even if they've been appointed as a judge. It's no different than on a car stop - a police officer can't violate someone's rights, or do some illegal act that they don't have authority to do. Because the moment that they do that, even though they were vested with the executive power 5 minutes before to, maybe they did do a lawful car stopped. But the moment they start taking illegal activity, they are no longer exercising the executive power of the state because they don't have it. That's why cops end up in court, and they end up losing their job.

So, I'm saying to you that these judges, yes, there's an appellate court there and these judges are

employed by the State of California. But what they're doing, the way that they're adjudicating these cases and taking people's money, property and liberty without lawful authority, unconstitutionally, they don't have authority to do that. That's what I'm coming to you to investigate, and what it seems like you're saying to me is, "Yeah, Adam, I hear you, but they adjudicated the case." And I'm saying, "Yes, they adjudicated it, but there's no authority for them to issue the order that they did. Just like there's no authority for the policeman to take someone's property that they don't have a right to take. It's the same thing. It's like straight across the board.

[(76:28)] Sgt Darrin Joe: Yeah, that sums it up.

[(76:34)] Plaintiff: I do hear you. I do hear you, that there is an interpretation of the law. But what I've given you is the evidence that that law has been properly interpreted by the highest court in the United States, which is the Supreme Court of the United States. And they've defined what disgorgement is, and it is not what they're doing in California.

[(76:56)] Sgt Darrin Joe: That's exactly why I think the supreme court or any other court for that matter is the branch that is supposed to rule on this, not the executive.

[(77:07)] Plaintiff: Well, they have ruled on it.

[(77:09)] Sgt Darrin Joe: Right, and they need to hear this, and they need to hear what you're going through.

[(77:13)] Plaintiff: Well, but if they don't, I have no control over that. You've seen that, I've tried to bring my case to them many times and say, "Hey, look, I'm trying to just have you people tell the truth," and they throw it out. I mean, I don't have control over that, but

[(77:33)] Sgt Darrin Joe: Adam, you need to consider, take a step back for a second, and you need to consider the remote possibility that you could be wrong.

[(77:45)] Plaintiff: Well, then what you're saying is the Supreme Court is wrong because I'm only relying upon what they have said. There's nothing here that I can tell, and I would be honest with you until, I think you know that by now, Darrin. If there was something that I was giving you that was frivolous, that was like, "Oh, you know, I'm just making this up." I would tell you, "Hey, look this is where I think I'm a little bit shaky because I don't have any authority for this," but there's nothing. Everything that I've given you is exactly what the courts are saying. There's nothing in there that I've said, "Oh, this is Adam's Authority. Adam just thinks this is the way that it should be. I'm really giving you the Supreme Court of the United States' determination of what disgorgement is. It has nothing to do with my case. There was no evidence that I profited even \$1 in my case, and that's the only thing that disgorgement applies to. Moreover, the statute...

[(78:42)] Sgt Darrin Joe: That might actually be what is pulling me back on the criminal aspect or not seeing any probable causes. What's in it for these courts and judges to make this decision that they're making that don't favor people in your situation.

[(79:03)] Plaintiff: You know, Darrin, I thought long and hard about that. It's actually been something that's troubled me for a long time because it's hard to wrap your mind around somebody doing something like this, intentionally. But here's the thing about that, I honestly do not know the answer to that, but I can tell you what I've done. All right? I've gone to at least 7 different courts, and I've said, "Look, here's what the truth of the matter is, here's what evidence was presented, here's what wasn't, here's an opportunity to fix it." Nobody's fixing it, they keep throwing the case out. I've written letters to the judges in their individual capacity, all of them. Well, the appellate justices. At any point in time now, right? Even after the Supreme Court's decision in Liu any one of these judges can go into court and by their own action, by the authority of them vested as a judge, they can immediately throw the case out. Has any one of them done it? No.

They can come to me, and they can say, "Look, Adam, hey, I made a big mistake. I'm going to be here and help you fix it. What can we do together?" Or they can do their duty, which they have sworn to do, and they can go right onto the bench, and they can make an action, what's called Sua Sponte. They can raise the motion right there and submit it and adjudicate it right there. They can fix it. They haven't, nobody's done any of that. Okay? They've all been told about this. Here's the other thing, they have a duty to know what the law is. This is not a simple, this is not a complex thing. Was there any damages? No. Was there any profits? No, it's a fine. It's simple. They know what the definition between a fine and damages is. I mean, that's like day one, week one of law school. They know what a forfeiture is. And I can even show you in my case where the judge discussed saying this is a forfeiture, and I'm ordering disgorgement. He literally thought disgorgement is a forfeiture.

If it's a forfeiture, why didn't you apply the Excessive Fines Clause? So I've given them opportunities to fix it, like a sane human being would do. If I came to you and I said, "Darrin, you're harming me." I get the sense that you're a good guy, and you would say, "Oh my gosh, I'm so sorry. What can I do to fix that," and you would help me remedy the situation. Not these people. So that's some of where I'm getting some of the intent. The other thing is that the Supreme Court has said, that it doesn't matter what the intent is. If your rights are being violated, your rights are being violated. There's nothing in the constitution that talks anything about intent. Now, I know that intent comes into statutes and in some of the penal statutes that we've discussed, and I think you have intent based upon the fact that they have, I mean, I have evidence of all the letters that I've written to them. I have evidence of all the court cases that I've gone to. And any time these people can take action to stop what they are doing, and they're not doing it.

Even after the Supreme Court came down with its ruling in Liu, still not doing it. Even after I've made complaints to the judicial council, to the governor, to the legislature. No one's doing it. No one will even perform an investigation, a legitimate one. To determine if something was unlawful. Even if, hypothetically, that there was nothing criminal here, the executive branch still has a sworn duty to see that the law is faithfully executed and to protect my rights, liberty, and property from being taken unlawfully. Now, I know that that may be something new for law enforcement, but it's really simple. Your duty is to protect me from unlawful government action. Now, in a civil case, in a civil instance, right? You don't have a duty to protect one citizen against another. You don't have to show up on that call if you don't want to, essentially. There's no law that says that you do, but when it comes to government action, that's a totally different

story. There's no discretion. It's not whether you think some other branch should handle it or whether you agree that it's this or that, you have to take action. It's mandatory. That's what your sworn duty to do.

Now, what does that action mean? I don't know. I've put myself in the, well, I do know, I've put myself in your situation many times and thought about it. And the first thing I would do is, would take some kind of incident report, then I would begin reaching out to, potentially, other people that maybe have more experience in law, the DA, the DOJ, and go that route. Also, the city attorney could be an important part of that in that they can file a complaint for an injunction, to stop this unlawful behavior from taking place. That would be another thing that can be done. Doing all of that would actually protect the City of Newport Beach from liability. That's how it should be done.

[(85:25)] Sgt Darrin Joe: Sure.

[(85:27)] Plaintiff: I don't want to put this out there because I feel you've been so helpful to me, but if everybody that I go to has a duty to help me under the constitution and they don't help me, they're getting sued.

[(85:41)] Sgt Darrin Joe: Yeah, you made that pretty clear.

[(85:44)] Plaintiff: And believe me, like you said, this is something that there's going to be a movie made out of, that there could be. Either that, this actually the Newport Beach Police Department is going to end up as a hero or a zero in this. Like I said, and it's not just me Darrin, it's many other people that are going through this. I gave you my website that has all that information on there. I don't know if my affidavit is on there. Authenticating all of it under penalty of perjury, but it's all legit and accurate. There's no funny business going on there.

[(86:22)] Sgt Darrin Joe: Okay.

[(86:23)] Plaintiff: So, this is where I am.

[(86:32)] Sgt Darrin Joe: So, the action that I've taken, affirmatively, in this matter is documentary, I've dedicated 5 hours of time at work to look into this matter and to include discussing this matter with you. So, it's not like I'm not doing nothing.

[(86:56)] Plaintiff: No, no. I have never made that accusation. In fact, I have actually been very gracious of your help and commended you for that because you've gone further than anyone else has, by far.

[(87:10)] Sgt Darrin Joe: Thank you. That's the least I could do, I think I said that, the very, very first conversation. The hang-up is the lawfulness, I'm looking at it for the lawfulness of the court. I'm looking at it as a matter of interpretation. It's like this, if I'm wearing sunglasses that were tinted red, and I told everybody that I'm seeing is the sky is red. Everybody's saying the sky is blue, then I would be wrong, but it's because of my tinted sunglasses. That's where I can't pull the trigger and march all the way forward with this.

[(88:04)] Plaintiff: But there's nobody that's... So I understand what you're saying about the interpretation part, but that interpretation has been handled by the Supreme Court of the United States. So, when you...

[(88:18)] Sgt Darrin Joe: But it still need to be sorted out, it sounds like, especially, if judges are still - or they actually haven't ruled out yours, just yet. Because we talked about the timing of everything. This needs to go back to them.

[(88:36)] Plaintiff: Well, I don't disagree, I don't disagree. There's a major problem here. So, when you get case law and you guys maybe have briefing and you talk about some new case that came down from the Supreme Court about search and seizure, that's your highest authority. And you begin to follow it because that's the authority of the highest court in the country. I'm giving you, or I gave you the case pertaining to disgorgement in the highest court of the country. Wait, let me back up a minute. I gave you the Supreme Court case. Wait, I didn't, of MW Erectors. That's the one where the Supreme Court of California. Oh, wait a minute. Let me, let me back up here. I have to share something with you. There's a case here. This is a California case that happened in 2020 from a California appeal court and here's what they said, "The disgorgement mandated by section 7031(b) is not designed to compensate the plaintiff for any harm but is intended to punish the unlicensed contractor. The fact that a contractor does not have a license, does not, by itself, cause the plaintiff any harm other than, perhaps, some sort of psychological harm in knowing that he or she hired someone who was not in compliance with the law."

[(90:14)] Sgt Darrin Joe: I feel like I've read that somewhere.

[(90:16)] Plaintiff: You probably did because I sent it to you already. So there they are, right there saying that 7031(b) is not for damages and it's not an equitable remedy, its punishment. That is exactly what I'm saying. So if it's punishment then Excessive Fines Clause. Game over.

[(90:41)] Sgt Darrin Joe: I think I've highlighted it. That was the 2020 case?

[(90:47)] Plaintiff: Yeah, that California 2020 case.

[(90:49)] Sgt Darrin Joe: So, your judge in here, in your appeal, the court district, he sided a 3001 case, back in 2018[?]. He says, "By adding the remedy, the legislature saw to further section 7031 subsection (a) policy of deterring violations and licensing requirements by allowing persons who utilize unlicensed contractors to recover compensation paid to the contractor for performing unlicensed work. Both [inaudible] concluded that the legislature intended the courts interpret section 7031 (a) and (b), and consistent manner." Resulting in the same - doesn't matter. Again, it's a 2020 case will supersede the 2018 decision, which will be in your favor. That doesn't mean that these judges were unlawful, it just means that things have changed.

[(92:00)] Plaintiff: No, what they did was never the law.

[(92:06)] Sgt Darrin Joe: It was their interpretation as a law because that's what the judiciary does.

[(92:11)] Plaintiff: Okay, so whenever, yes, but the Judiciary can't make the law up. They have to interpret what...

[(92:17)] Sgt Darrin Joe: But that's what chief law is.

[(92:19)] Plaintiff: No, it's really not. It's really not. Okay. So, right now, if you go back to the [crosstalk], if you go to the case of MW Erectors, which I haven't sent you, that case originated in the trial court where my case originated under the exact same judge. It went to the Fourth District Court of Appeal. I think, one of the same justices in that court, sat in on that case, and then it went to the Supreme Court of California. The Supreme Court of California, in that case, held that what is mandated by 7031(b) is a penalty. That's what the Supreme Court of California has said. Now, the Fourth District Court of Appeal can't go, "Oh, it's not a penalty, it's disgorgement." When the Supreme Court of California has said that it's a penalty.

[(93:21)] Sgt Darrin Joe: But that happened in 2020, right? [inaudible] in 2018.

[(93:24)] Plaintiff: No, no, no. The MW Erectors case, which I have not sent you, I've only referred to it, that case happened in... I'm going to tell you right now. In 2005.

[(93:41)]Sgt Darrin Joe: Okay. I thought you mentioned 2020.

[(93:43)] Plaintiff: Well, the one that I just read you, the Eisenberg case, where they said that it's designed to punish the unlicensed contractor, that was in 2020. But the one where the court said that it was a penalty was in 2005. So, what you have is the highest Court of California saying it's a penalty and some other lower appellate court coming in and saying, "Oh no, it's not a penalty. It's an equitable remedy." It's not punishment. What they're doing is they're not following the law by the highest court of the country, they're making up their own. They're not in...

[(94:17)] Sgt Darrin Joe: And again, because of misinterpretation of law, doesn't make it a crime. It's not a mistake of law.

[(94:29)] Plaintiff: It does when they don't have authority to do it.

[(94:34)] Sgt Darrin Joe: They do have the authority to interpret the law, they just did it wrong. It doesn't make it a crime.

[(94:40)] Plaintiff: No, that's where it becomes different. Okay. So the way that a court gets its authority, is by filing pleadings that are within constitutional bounds. Everything that, like if you take it within a police officer, the same thing, a police officer has jurisdiction right? Authority under the law to perform certain acts. If that officer does anything that is within his jurisdiction, within the law, he is protected by immunity and he's within the scope of his job, he has authority to do it. But the moment that he starts doing things that are without constitutional authority, he's not acting within the law. He's not just making an air. You wouldn't say that a police officer who took someone's camera out of the back of their car because he wanted a new camera, was just making an error at law.



[(95:40)] Sgt Darrin Joe: yeah, but that's not a crime, [inaudible].

[(95:43)] Plaintiff: Okay, great. Now, when you have a judge who takes money and property from someone and gives some to someone else that's called an unlawful seizure, That's forbidden by the constitution. There's something also called the Takings Clause. You can't take property from this person and give it to that person without lawful authority. That's theft. Theft is the taking of property without lawful authority. Whether it's done by a judge or a private person, it makes no difference. If you don't have authority to do it, you don't have authority to do it. Again, if you're wearing a uniform or a black robe or whatever. Every act of a judge or a police officer, or any official in government, has to be traceable to the constitution. So where the judge doesn't get authority to do something is if someone comes into court, and they do something illegal. The judge has to act within the constitution and statute every step of the way. If they go without that, sometimes there are issues of procedure that a judge can air upon just because he misinterpreted something the wrong way. I get that.

That happens in law enforcement too. But there's no mistaking, a policeman taking someone else's camera and there's no mistaking, a judge when multiple hiatt's[?] courts throughout the country. I mean, this has been law for hundreds of years, of what an equitable remedy is, and what a forfeiture is. These people know what this is. Even if they didn't, Darrin, even if they said, "Look, I fucked up. I made a mistake." Well then, why aren't you fixing it? I mean, I've written them personal letters. It's not my job to send them all of the lawsuits that I file because they're not involved in them, I do it, complimentary, I send it to them. Do you think any one of them has contacted me? "How can I help you fix this? Hey, let me go to court and make my own motion and solve this." No, they're covering it up.

[(97:53)]: Sgt Darrin Joe: Or they either don't think they're doing anything wrong or they're not doing anything wrong. And that's why they're not reaching back out to you.

[(98:03)] Plaintiff: Well, you know what? If I accused you of doing something that was highly unconstitutional, I'm sure that I would be the first phone call that you would make.

[(98:13)] Sgt Darrin Joe: Well, yeah, obviously. [crosstalk] I didn't do anything wrong.

[(98:14)] Plaintiff: Unless you thought I was a nut job, right?

[(98:18)] Sgt Darrin Joe: No, no, no. Not that. I didn't do anything wrong, or I didn't think I did anything wrong. That's why you didn't get a call back from me. But that's the difference between me and maybe somebody else', is that I take great pride in what I do, and I didn't get accused of any wrongdoings, or not doing the best I could, would be an insult to my career.

[(98:41)] Plaintiff: Yeah, I agree. Same here, same here. So, basically, what I'm making the distinction of is you said that even though they make an error, it's still within their authority. No. There are certain things that the court cannot do because they are deprived of authority to do it. That's why you've heard of section - let me read it to you right here, 18 USC, 241, I think it is. Let's try 242. Let's see. Whoever under color of any law, statute, ordinance, regulation, or

custom, willfully subjects, any person in any State, Territory, Commonwealth, Possession, blah blah, blah, blah, to any punishment, pains, penalties, blah, blah, blah, blah, blah. Basically, what this is saying is, it's a crime, it's a federal crime to deprive someone of their rights. The same thing goes in the Civil context for 42 USC, 1983. And that is the civil action for deprivation of rights. So, public officials cannot deprive people of their rights and take their money, property, or liberty without lawful authority.

That's the whole basis of our constitution, is defining and limiting the powers by which government can act. If what you're saying is that, "Oh, the judge can force you into bankruptcy, take your home and property, and oh, he just made a mistake." No. No. Not when there's been multiple complaints made, multiple appeals made and the highest court of the country has said, exactly what I'm saying is correct. Yeah, there's no lawful authority to excessively fine me. There's no lawful authority for private parties to prosecute me in a civil case. There's no lawful authority for the court to deprive me of the right to a council or to a jury trial. There's no lawful authority to cruelly and unusually punish me. None of it. They can't do any of it. And all of these things deprive the court of authority to do anything. If you want another case, you can look up *Johnson v. Zerbst*. The US Supreme Court said that if you don't admonish someone of having the right to an attorney, it deprives the court of authority to even conduct the trial. They can't do anything.

So, I had no jury trial. I had no lawyer. I had no heightened protections of the criminal proceedings, like the burden of proof. Yeah. And then, on top of that, I was prosecuted in a civil case by private parties who have no authority to do that, it has to be done by the DA. And then on top of that, I was excessively cruel and unusually punished. None of that is authority. That's not something that falls along the lines of harmless judicial air, where a judge can just make an error and it's not a criminal or deprivation of rights violation. It can't just get passed off like that. Even if there were no criminal actions able to be determined from this, which if there weren't, I'd be mind blown. I mean, I think I sent you a quote from the... Let me see if I can find it here, Topeka. Here's a quote from the United States Supreme Court, "To lay with one hand, the power of government on the property of the citizen, and with the other bestow it upon favorite individuals to aid private enterprises and build-up private fortunes is nonetheless a robbery because it is done under the forms of law."

And if you read that case, that was a case, if I remember correctly, about takings, where the court was taking property from one person unlawfully, and giving it to another. And so, where's where would you say the intent is in that, it's in doing it. The judge has a duty to know what the law is, and they cannot take property without lawful authority and give it to other people.

[(103:33)] Sgt Darrin Joe: Okay, send me that 2005 null case. Is that the one you're talking about?

[(103:42)] Plaintiff: Which one, where the court said it was a penalty?

[(103:48)] Sgt Darrin Joe: I think that was the one you're referring to. The one I mistook for being a 2020 case, but you're telling me, it's the...

[(103:57)] Plaintiff: Oh, 2005 case. Yes, that is from the Supreme Court of California, and let me see if I can find it.

[(104:07)] Sgt Darrin Joe: What I'll do is I'll read that, and I'll see if I can use that to further the theory that this was an unlawful action by the judge, and then we can go from there.

[(104:23)] Plaintiff: Okay. In this case, they said they were interpreting what the legislature's intent was, they said the legislator's obvious intent to impose a stiff all-or-nothing penalty for unlicensed work. It says it, right there. It's a penalty, it's not disgorgement, it's not damages. And here's the other one. I'll send you 2, the other one had to do with what I quoted you earlier about any provision by which money or property is forfeited without regard to damages is a penalty.

[(105:04)] Sgt Darrin Joe: Okay, send me that one too.

[(105:05)] Plaintiff: Yeah, if they don't provide evidence of damages, then it's a penalty. So yeah, both of those are Supreme Court Cases of California.

[(105:16)] Sgt Darrin Joe: And then send me anything that you have on what we just discussed. The taking of one person's property and giving it to another person by the government.

[(105:31)] Plaintiff: Okay.

[(105:33)] Sgt Darrin Joe: Give me a chance to read it, and I'll see if I can make heads or tails of something criminal. Fair enough?

[(105:42)] Plaintiff: Okay. Totally fair. Thank you, thank you so much and I appreciate your objectivity, Darrin. I really would never want to imply otherwise. So, thank you for looking at this and and being open. I'm very grateful.

[(106:02)] Sgt Darrin Joe: Sure. Try to enjoy the rest of your week and it's your weekend, okay Adam? And if I find something out. I will give you a call.

[(106:11)] Plaintiff: Sounds wonderful. I'll look forward to hearing from you and I'll get this to you as soon as I can.

[(106:17)] Sgt Darrin Joe: All right. Thank you.

[(106:18)] Plaintiff: Thanks, brother. Okay. Bye-bye.

[END]