

California Justice System in Crisis – Presentation Notes

Tell the county supervisors you want them to stop paying for judges who are already on state salary as that payment is an enticement to be under the county's influence and therefore a bribe.

Ask them to pass an ordinance that any judge who receives money from the county cannot sit as a judge in the county. Now you have accomplished this without getting the courts involved and the judges' are circumvented. They can't sit in the county where they got the money. Put the pressure on the supervisors because you elect them. You get out there with a campaign against the judges and show how much illegal money they have been given; they must return this illegal money to the people.

Richard is 73 years old, and was born in Wisconsin; he went to the University of Chicago School of Law; 1961-1964. He has a Ph.D. from the Univ. of London, London School of Economics & Political Science in International Law.

He was disbarred in California in 2009 for proving all LA judges took bribes from LA County. In 2011, the California State Bar admitted in documents filed in the 9th Circuit that the disbarment was a fraud. In March, 2013, the California State Bar wrote the justices of the California Supreme Court informing them that the California State Bar was not opposing Fine's motion to set aside the void 2009 order of disbarment on the grounds of fraud upon the court.

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Richard I. Fine, an "antitrust attorney" with a Doctor of Law, a Ph.D. (Law- International Law), a Higher Diploma of Comparative Law, and Certificates of Comparative Law, Private International Law and Public International Law described his career as a prosecutor for the U.S. Dept., of Justice, Special Counsel to the Governmental Efficiency Committee of the LA City Council and Founder and Chief of the Antitrust Section of the LA City Attorney's Office [the First Municipal Antitrust Section in the country] and in private practice.

Fine explained how he found out about the illegal LA County payments to California judges.

He was called by LACOEHS — the union of LA County employees who do environmental inspections for swimming pools, restaurants etc. LA County was taking the inspection funds and putting them in the General Fund of the County. The county was taking \$45 million a year and state law says the fees are to be segregated in a separated fund. Fine won and took \$11 million of the environmental fees left in the General Fund, established a "special fund" and froze all the inspection fees. The new fees went into the special fund. The judge refused to pay Richard Fine. That was 1999.

In 1997 there were budget crises in CA and small minority businesses were going broke. The legislators and governor were paying themselves anyway. Fine brought suit. In 1998 he brought the lawsuit again and Howard Jarvis joined in and they got an injunction and closed down the government. The next day the Legislature passed a \$19 million emergency bill, but the suit kept going up and this stopped everyone's salaries including the judges' salaries. That was the suit that ticked off the judges.

In 1999, Fine was retained by John Silva who had a friendly divorce for his wife. John was making the entire child support payments and the DA was taking the money and keeping it and not paying it out. The DA was holding John's money and \$14 million that was supposed to go to women and children. The DA can only hold the money for 6 months and has to give it out or give it back. Fine sued the DA in the case of *Silva v. Garcetti*, and the DA admitted that he had the money.

The judge dismissed the case. Next Fine found out about the payments.

California Supreme Court Chief Justice Ronald M. George gave a speech in 2000 to the California Judges Association's Annual Meeting in San Diego. He stated that judges in LA County should pay for everyone's lunch as the money they are getting is wrong and may be unconstitutional. The statements were 'reported' in the Metropolitan News with a circulation of 3000. The CA constitution says that only the state legislature can prescribe the compensation to judges.

Fine raised the issue in the appeal of the case of *Silva v. Garcetti*, in which the LA Superior Court Judge James C. Chalfant dismissed the case in trial after the LA District Attorneys' Office admitted to illegally withholding \$14 million of child support payments from the intended women and children. In 2002, Fine sued Judge Chalfant, the judge who dismissed the Silva case, Justice Kathryn Doi Todd, a then recently appointed appellate judge sitting on the appeal of the Silva case who received money from LA County when she was on the LA Superior Court, Justices Boren and Nott other appellate justices sitting on the appeal of the *Silva* case who concealed the illegal LA County payments to Justice Todd and Bruce E. Mitchell, a LA Superior Court Commissioner sitting in the eminent domain department of the LA Superior Court and not disclosing payments he was getting from LA County.

In 2003 the Chief Judge of LA Superior Court went to the California State Bar to get Fine disbarred. Fine moved for summary judgment against the State Bar, and the day before the trial the State Bar dropped the charges.

In 2004 Mitchell secretly went to State Bar to complain again, and the State Bar never told Fine. During that time he was hired by the Coalition to Save the Marina to save the Marina from being exploited by the County of LA with respect to leasing Marina Del Rey to private developers.

Marina Del Rey is the largest private yacht harbor in America with 400 acres of water and 400 acres of land owned by LA County. LA County leased the land to private developers who put apartment buildings on the land and collected the rents. This violated the California constitution's provision of giving public property to private individuals.

Fine had numerous cases against LA County regarding the misuse of Marina Del Rey and the loss of revenue of up to \$1 billion to the taxpayers of LA County.

Judge Yaffe put Fine in solitary, coercive confinement in the LA County Jail for 18 months for proving LA judges openly took bribes. Yaffe should never have been sitting on that case.

In November, 2012, Alan Parachini, the Public Information Officer of the LA Superior Court from 2002- November, 2010 admitted in an interview with Leslie Dutton of the Full Disclosure Network that the judges of the LA Superior Court, including Judge David P. Yaffe, had a "visceral hatred" against Fine, wanted "revenge" against Fine", wanted to "silence" Fine, and wanted to "take Fine out of circulation" for bringing cases against them and keeping the issue of the "bribes" from the counties before the courts and the legislature.

In January, 2013, Fine went to the CA Supreme Court to set aside the void March 13, 2009 Disbarment on the grounds of fraud upon the court. The State Bar wrote to the justices of the California Supreme Court informing them that the State Bar was not opposing the motion, and the CA Supreme Court once again denied the motion. California Rules of Court, Rule 8.54 ©, says that the failure to oppose a motion may be deemed to be a consent to the granting of the motion. The California Supreme Court refused to follow its own rule.

What about the payments? The payments were held to be unconstitutional and illegal in the case called *Sturgeon vs. County of LA*: the payments violate Article 6 section 19 of the CA Constitution. Right after that decision, the California Judicial Council and the California Judges' Association went to the legislature and got SBX 211 passed and enacted Feb. 20, 2009. SBX 2 11 said that the payments to judges who were in office on July 1, 2008 could continue while they were currently in office on the same terms and conditions as existed on July 1, 2008.

The second case, *Sturgeon II*, challenged SBX-211 and the court said the payments are still illegal under Article 6, section 19, but the temporary payments are a temporary solution until the Legislature figures out a new solution. That was in 2010.

Section 5 of SBX 2 11 said: governmental entities and governmental employees [judges] got retroactive immunity from criminal prosecution, civil liability and disciplinary action even though they

took all the illegal payments that were made. The people that gave them the payments got the retroactive immunity. *Sturgeon II* did not challenge Section 5 of SBX 2 11.

Now you have the State Legislature saying the payments were illegal and criminal because the Legislature is giving the judges retroactive immunity from criminal prosecution for the payments. That decision was made by the State Legislature.

What about the payments with affecting someone appearing in front of a judge? Canon 4-D-1 of the Code of Judicial Ethics says that a judge cannot accept a payment from anyone appearing in front of him or likely to appear in front of him? US LAW says at 18 USC 1346: the intangible right to honest services: a judge cannot take a payment from somebody; it is a bribe. You have *US vs. Adams*, *US vs. Malkus*), and *US vs Frega* where good old judge Adams took payments from a lawyer and a car dealer who was appearing in front of him. Those cases hold that under the California bribery statute these cases were bribes and the judge was guilty of violating the intangible right to honest services.

Any judges who were taking these payments were violating US Law. Article 6 Clause 2 of the US Constitution says state judges must follow federal law, so the state judges who were taking payments, irrespective of what the state might be doing, were violating federal law.

We are now in 2013 and the Legislature has done nothing. SBX-211 was passed unanimously with the exception of a few votes by the entire State Senate and the entire State Assembly, and Gov.

Schwarzenegger signed it. That gives you the idea of where we are. Most recently there was a case challenging these payments: *Goble vs. Fuller* and it came down on March 7, 2013 in the 4th Appellate District division 3, where 3 judges who received these illegal payments decided the payments are okay. Goble challenged the judges and said that the judges got payments from Orange County when they were Superior Court judges. That case will go to the CA Supreme court and then into federal court.

This gives you an idea of how corrupt things are because 30 of 58 counties in CA are making illegal payments to the judges. According to the report that came out in 2009 from the Judicial Council, that represents 90% of the Superior Court judges in California. Now take the people who were Superior Court judges who became appellate court judges and you are dealing with approximately another 90%. Then when you take it up to the California Supreme Court you are dealing with 4 out of the 7 judges. The 5th judge wrote SBX-211. This includes the new chief justice of California Supreme Court. The old court judges were Ronald George and Moreno. George resigned right after Yaffe resigned, when it turned out that Yaffe had made the illegal order.

If you run into a judge who is sitting on your case and your case has anything to do with the county that is making these payments, you ask the judge if he has anything he has to tell you, such as are you getting any payments from the county? Yes? Judge, under Canon 3 E (2) you have to disclose anything that might be relevant to this case whether you think it is relevant or not. Under Canon 3 E (1) you have to disqualify yourself if you are violating the law and under Code of Civil Procedure, Section 170.1(a) 6 and (iii) you are disqualified if a reasonable person thinks that you cannot be objective. So, judge, you are out---get out of my case.

If you have a case against the county and even if the county was involved as a witness, then if any one of these judges who did this were sitting on that case, under California Civil Procedure Section 473 (d) you bring a motion to void out the judge's decision and that motion can be brought at any time because that judge committed fraud upon the court. He was disqualified from the very beginning and there is a case called *Russco* that upholds this result.

Those are what you have with cases. Now let's go back to where we started. How are we going to clean up the system? You will do this as a political body. You go in to your Board of Supervisors and tell them to cut out the payments. Then you also say that they must pass an ordinance to say that any judge that has received these payments or are receiving them cannot sit as a judge in this county. Your

Supervisors might say they can't do that because the state controls the judges. But you can stop those judges from sitting in your county. They can go sit in some other county. But, if you do this in all the counties, then these judges are OUT. We may have some lame duck judges who have no place to sit and that is okay, too. The pressure will be on them to resign.

Case 09-56073 is the case where Richard Fine is suing the judges. The State Bar is now admitting they were wrong to disbar Richard Fine. That is how you 'skin the cat' when somebody is controlling the system. The judges think they have the system under control.

What about the election of judges? Thirty-nine states elect judges. Those judges always win because no one registers to run against them. In California, if no one registers to run against a judge, then the judge is automatically put in.

Many states have laws that say a legislature can remove judges and judges have never been removed by the legislature except recently in New Hampshire, where 2 Supreme Court justices were removed by the legislature.

In the federal system 17 federal judges have been removed, 3 resigned before they were voted out by the Senate, and 14 were actually voted out. As to federal judges who have accepted illegal payments, the most recent impeachment came in relation to a judge in New Orleans who took an illegal payment from someone that was in front of him as a party while he was a state judge. That is the same situation with Federal judges here who have taken money from LA County or other counties. No one has gone after them, and chances are these judges haven't disclosed this during their hearings.