

County Counsel
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ACCORDING TO PRISONER MAILBOX RULE

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This mail was inspected and sealed in the presence of an on duty correctional officer in a fully pre-paid addressed envelope. The envelope was addressed as follows,

SUPERIOR COURT
247 W. THIRD
CIVIL
S.B. CA. 92415

COUNTY COUNSEL
385 N. ARROWHEAD
S.B. CA. 92415

This service contained the following ,

JUDICIAL NOTICE

This service was conducted by an adult over the age of 18 years of age and mailed according to ordinary daily mail routines to be delivered by the United States postal service, for the city of, from,

SAN DIEGO
City

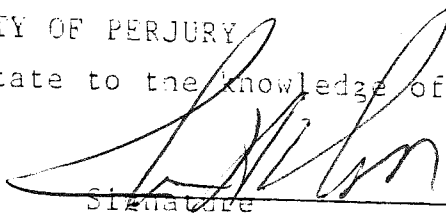
92179
Zip Code

ACCORDING TO PRISONERS MAILBOX RULE
THIS SERVICE IS DEEMED FILED WITH THE COURTS ON THIS DAY

UNDER THE PENALTY OF PERJURY

The forgoing is the truth and accurate to the knowledge of

Joan Henry Yablonsky


Signature

My address is, box 480 ALTA S.D. CA. 92179

1 John Henry Yablonsky AL-0373
2 018-129
3 480 Alta rd.
4 San Diego ca.92179

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7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF SANBERNARDINO

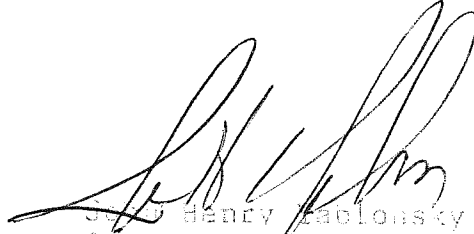
9 John Henry Yablonsky,
10 plaintiff,

11 vs.

12
13
14
15 Michael Ramos et al.,
16 defendant/s

CASE NO. #CIVDS 1505664
NOTICE OF MOTION
AND MOTION FOR THIS COURT
TO TAKE JUDICIAL NOTICE
OF THE FACTS, PURSUANT TO
C.C.P. § 437(b) ~~(b)~~
CA. EV. CODE §§ 452(d)(h), 453, 454
Time: 8:30 a.m. Dept: 632
Date 11-17-16 <<<<<
The Honorable Judge Wilfred
Schneider.

17
18 TRIAL SETTING CONFERENCE/ORDER TO SHOW CAUSE
19 JUDICIAL NOTICE
20 UNDER CA. EV. CODE 452(b)(h), 453
21 C.C.P. § 437

22
23
24
25 
26 John Henry Yablonsky AL-0373
27 In propria persona
28

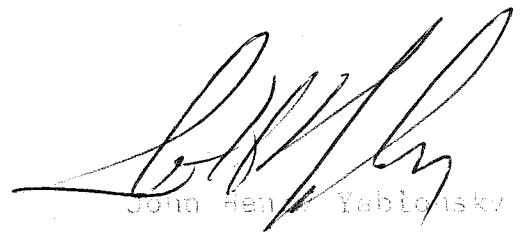
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Plaintiff filed civil complaints in this Court on
May 11, 2015 naming several parties regarding injuries sustained
by professional characters of the county employment staff, to include
the county district attorney, deputy district attorney, sheriff
of the county, several sheriff's deputies, and the law firm of the
Public Defenders office from the Victorville division of San Bernar-
dino county. The injuries included gross negligence, professional
negligence, false light and manufacturing evidence that was [used]
in a hearing where plaintiff suffered egregious injuries as a direct
result of the county employed professionals

Plaintiff filed [numerous] pleading with this court that
were rejected erroneously for mistatements of the California Rules
of Court, denied by the court under erroneous applications of law
that were the results, mistatements of facts, and law, where at least
one party failed to file timely which resulted in a default.

~~XXXXXXXXXX~~ Plaintiffs grounds are with merit, as the
two parties claimed immunity clausued erroneously, and held these
grounds under the HECK rule. Plaintiff moves this court to take
judicial notice of [facts] regarding court recognized records ~~herein~~
therein.

Date 10/25/16


John Henry Yablonsky

STATUTE AND AUTHORITY

1
2 California Code of Civil Procedure
3 Section 340.6.....26
4 Section 437.....1,3,27
5 Section 452.....1,3,28
6 Section 453.....1,3,28
7 Federal Rules of civil procedure 60(b)(3).....26
8 Penal Code sections
9 95.....26
10 134.....27
11 1054.9.....26

AUTHORITY

12 Yablonsky v Ramos, EDCV-14-00197-PA(DTB).....5
13 Yablonsky v Fraeuheim, EDCV-14-01877-PA(DTB).....26
14 Yablonsky v Sanders, 14-17946.....17
15 People vs
16 Bamberg, 175 Cal.App.4th 618(2009).....27
17 Harowitz, 70 Cal.App.2d 675(1945).....27
18 McKenna, 11 Cal.2d 327(1938).....27
19 _____
20 In Re Tyler, 64 Cal 434, 1 p.848.....26
21 Heck v Humphrey, 512 US 486.....29
22 Fantazia v County of Stanislaus, 41 Cal.App.4th 1444(1996).....26
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANBERNARDINO

John Henry Yablonsky,
Plaintiff,

CASE NO. CIVDS 1505554

vs.

NOTICE OF MOTION AND MOTION
TO TAKE JUDICIAL NOTICE UNDER
C.C.P. § 437(b) and Ca. Ev. CODE
SECTION 452(d)(h) and 453 ⁴⁵¹
points and authorities herein

Michael Ramos, et al.,
Defendant/s

Plaintiff filed complaint with this Court naming numerous parties regarding injuries sustained as a direct result of their gross negligence. Plaintiff moves this court on November 17, 2016 at 8:30 a.m. in department S32 or as soon thereafter this may be heard, moving this court to take judicial notice of [certain] facts that are court related to the plaintiffs complaint and other court actions(emphasis added)

SHORT TITLE OF THE CASE

Criminal complaints were filed against plaintiff on March 3, 2009 where charges were filed for 1st degree murder of Rita Mahel Cobb, a crime that occurred on or about September 20, 1985, twenty five years before this [arrest] and charge.

1 The parties named in this complaint participated and
2 or assisted the party's acting on behalf of the State of California
3 violating [numerous] laws beginning on March 4, 2009 when an arrest
4 warrant was issued as a direct result of an affidavit filed by
5 defendant Robert Alexander (sheriff deputy of San Bernardino)

6 Plaintiff was injured beginning on March 8, 2009 as a direct
7 result of the interrogations that occurred outside the plaintiff
8 fourth amendment right to be secure in his [person] outside MIRANDA

9 The parties listed here, intentionally and deliberately
10 participated in a conspiracy to injure the plaintiff for a crime
11 they knew he had not committed. Plaintiff invoked his right to a
12 trial, where these named parties presented false information to
13 a panel of jurists that made decisions regarding these informations
14 to include, but not limited to,

- 15 a) false testimony by Bruce Nash
- 16 b) False testimony by John Sullivan
- 17 c) false testimony by Robert Alexander
- 18 d) false testimony by Daryll Kramer
- 19 e) Manufactured evidence of the interrogation recording transcript
- 20 f) Presentation of illegal evidence and presented against plaintiff's
right from compulsory witness against self
- 21 g) refusal to provide [confidential] communications to counsel
- 22 h) influence to the jury by way of libel (County District Attorney
Michael Ramos)
- 23 i) retaliation for plaintiff's exercise of first amendment
- 24 j) Moral turpitude by trial counsel (many occurrences)

25 These facts were withheld and hidden by the trial counsel
26 defendant David Sanders until three years after the trial and
27 direct appeal had occurred and been refused for the lack of these
28 material and relevant facts (emphasis added)

1 Petitioner sought through diligence and the state bar
2 seeking these facts and evidences that were then rejected by post
3 trial challenges as a result of The Anti Effective Death Penalty
4 Act(AEDPA) because of the counsels conduct and participation in
5 the conspiracy. Plaintiff filed civil complaints in the United States
6 District Court case no. #EBCV-15-00197(DTB) where plaintiff was
7 granted leave of court to amend the complaint under the language
8 of HECK. That the success of the plaintiffs success in civil action
9 would have invalidated the state of California's conviction ^{*FV1900518}
10 (emphasis added)

11 A Plaintiff filed a timely amended complaint, and then
12 suffered a stroke, that disabled him and placed him into medical
13 housing in the state prison Centinela CDCR. Plaintiff suffered
14 a stroke that crippled his reading ability with [double] vision
15 while the courts had set as rigorous deadline for the plaintiffs
16 second amended complaint. Plaintiff had not received the courts
17 orders denying the first amended complaint and did not know what
18 law or language the courts made the second order to allow plaintiff
19 time to amend his complaint. Even the second order included the
20 language of HECK, As a direct result of the medical impairment
21 of double vision, and lack of the courts records, plaintiff was
22 forece to file a motion to dismiss without prejudice for the
23 temporary disablement, which was granted. This case was based on
24 federal laws, and federal statutes(only)

25 Simultaneously plaintiff had filed civil complaint in
26 this court under state law and state constitution only that was
27 filed on May 11, 2015. Plaintiff suffered the stroke on October
28 8, 2015. The court had been scheduled for a demurrer hearing on

1 November 29, 2015 at 8.30 am. in department S32 where the plaintiffs
2 pleadings had not been accepted by the court in defense of the
3 Rafaela Ramos and Thomas demurrer, which included a defaulted
4 party named Sanders (Michael Ramos) (Ramos) (John Thomas) (Thomas)
5 (David Sammers) (Sanders)

6 The court granted plaintiff time to amend the complaint
7 in state courts on November 29, 2015. Plaintiff filed the first amended
8 complaint timely from a different prison after transfer on or about
9 December 2015, which defendants filed demurrers. Plaintiff case
10 in chief is that these parties participated in a conspiracy to
11 commit fraud, and to cause injury to, plaintiff permanently
12 (emphasis added) and them to hide these facts until the entire
13 state round of direct appeals had expired behind the wall of (AEDPA)

14
15 STATEMENT OF THE FACTS

16 Plaintiff had been involved with Rita Cobb (Tcial transcript
17 case FVI900518) (RT317) (RT490) on or about ~~March~~ ^{June} of 1985 and
18 had last been with Rita Cobb on September 18, 1985, just prior to
19 her being murdered. (emphasis [prior]) On September 20, 1985 Rita
20 Cobb had been at a party at the Sullivan Mini Spring Ranch
21 (RT409, 425) She attended the party [alone] (emphasis) The party was
22 held two days after her last known encounter with the plaintiff
23 Jablonsky (RT317) (RT490) and was found on her bed by her son that
24 following Monday September 23, 1985 (murdered) (RT104) Friends and
25 seen Rita Cobb (COBB) at the ranch drinking more than usual (RT407)
26 her friend Bruce Nash (NASH) seen that she was more drunk than
27 usual and offered to drive her home after the party (around 2145
28 hours) where COBB refused his offer, stating that she was not going

1 home but was going to a bar instead(RT398-400,410). COBBS son found
2 her that following Monday after calling her work and finding she
3 had not arrived. On September 23, 1985.

4 COBBS son ran from the house believing his mother committed
5 suicide screaming(RT119) Evidences were collected from the scene
6 by deputy McCoy(RT213) who drew diagrams of the scene(RT221) stating
7 that COBB had been found in a moderate state of decomposition(RT232)
8 and locating a watchband pin that was recorded(RT237) determining
9 that there was no forcible entry in the COBB residence(RT242-43)
10 That same day criminalist Donald Jones arrived and collected
11 evidences from the immediate crime scene(RT254) including the watchband
12 pin next to the victims head(RT255,293) and collected DNA samples
13 from the victims inside of her body cavity(RT250,252). There were
14 also blood samples on the bedroom door(RT264,293). The criminalist
15 testified during the trial that he had not ~~collected~~ ^{MATCHED} DNA from the
16 watchband pin ~~to~~ to plaintiff, and the DNA that was collected
17 from inside the victim matching plaintiff was the result of an
18 encounter that occurred [several] days before her death(RT317)
19 (emphasis added) Doctor Saukel the pathologist from the coroners
20 office found white shorts in Cobbs mouth(RT439) and opined that
21 the body had been dead for ~~two~~ two days or longer(RT440). The
22 Dr. Also stated that the bruises located could have been from
23 a hand or ~~blividity~~ (RT443) and that a wire hanger had been located
24 around the victims neck=(RT464,465) and also determined that there
25 was no scientific or physical evidence that a rape occurred regard-
26 ing the death(RT468,490,491)

27 The doctor then determined that the sexual ~~act~~ encounter
28 that produced the DNA found matching the plaintiff was the result

1 of [a] sexual encounter that occurred more than one and a half days
2 before COBBS death(emphasis added)(RT490) The doctor then added
3 that this specific DNA was fairly hardy and would live longer
4 than ordinary DNA. He then commented about the evidence that was
5 found matching petitioner, that DNA of this type (sperm) lasts
6 more than one full day, and that they start to lose their tails
7 after a day or two(emphasis added) and in this case all the tails
8 had been broken off. (RT491)

9 On September 23, 1985 evidence was collected from the
10 crime scene and witnesses were interviewed. A watchband pin was
11 collected from next to the victims head(CT13) and the DNA located
12 on this item did not match plaintiff. The victims son made a comment
13 that his mother COBB had a jekyll and hyde personality when she
14 drank(CT51) There was blood smears located on the victims door
15 jamb and had a fingerprint smudges in it((CT9-10) The DNA ,located
16 in the blood did not match plaintiff, nor were the print smudges
17 matched to plaintiff(emphasis added).It was determined that her
18 favorite drink was bourbon(CT770) and COBBS son told the detectives
19 that she had been sexually involved with the neighbor John Sullivan
20 (CT30-82)Daryll then stated that he had married his step sister, and
21 that the last time he and his wife/sister had been to the residence
22 was six weeks before she had been killed(CT74-76)

23 COBBS neighbor Don Stow stated that he had seen a person
24 in COBBS front yard and a flat bed truck on the 19th or 20th of
25 September 1985(CT114) and that she was a real ball buster when
26 she got drunk. In his opinion COBB was an alcoholic(emphasis)

27 John Sullivan admitted that he had drank white lightning
28 with COBB that night she was killed(RT255)

1 On September 23, 1985 he told the detectives the same
2 thing ⁹⁶ ~~that~~ his wife Francesca Drake Sullivan that the night of
3 the party he had fallen asleep at 10:30 p.m., before COBB had left
4 his party (CT65) but on the stand Sullivan stated that he now twenty
5 five years later remembers better than three days after the crime,
6 and now remembers that he was not asleep the night COBB left his
7 party and that he seen Bruce Nash giving COBB a ride home the night
8 she had been killed (RI432).

9 The other party goer Bruce Nash told the detectives in 1985
10 that he had RECALLED SEEING COBB at the party drunker than usual, and
11 offered her a ride home, which she refused and told him that she
12 was not going home, and that she was going to go to the bar called
13 the Zodiac Lounge or another bar. He stated that he left the party
14 about 10:00 p.m. after SULLIVAN had fallen asleep ((CT270-271)
15 On the stand NASH testified differently, and stated that
16 he was denied the ride offer to COBB, but that he thought she was
17 heading to her home that night after the party (RI412-13, 417).
18 Ironically twenty five years after the crime he even admitted
19 to the detectives that he offered COBB the ride home and that she
20 refused him stating that she was not going home, and was in fact
21 headed to the bar called the Zodiac lounge (CT117)(CT271)

22 Two days after the body was located a mysterious
23 man entered the sheriff's station and offered his (expertise) in
24 solving the crime. Saying that he heard the sheriff's were looking
25 for his assistance, and decided to come in voluntarily (CT650)(CT68)
26 and decided to tell the police that he had not been sexually involved
27 with COBB, and that they had dated. He then offered that he had
28 not been to the COBB home for at least two weeks before her death
(emphasis)(CT58)

1 Three years after the crime this mysterious man went to
2 a ~~op~~ party and bragged ~~xxxxxx~~ about -- now he met COBB at the Zodiac
3 Lounge on September 20, 1985 and took her home. That they got into
4 a fight over COBB being sexually turned off by him so he killed
5 her (emphasis added). He then detailed very descriptively how
6 he killed her by strangulation.....until she turned black, and
7 then he raped her (emphasis added). The confession was then reported
8 to the Westleg organization (CT66-67) on August 8, 1988.

9 This report was assigned to detective Palacios who then ordered
10 rush forensics evidence to be processed for the crime scene of COBB
11 (CT973) on August 10, 1988. On August 11, 1988 det. Palacios entered
12 the trailer of Gregory Randolph and began a response interview.
13 ~~where~~ he determined credibility of suspicious conduct (CT219)
14 and filed a probable cause affidavit for an arrest warrant of Gregory
15 Randolph who was then offered a code name William Backhoff to protect
16 the investigation because Backhoff was a county coroner (CT220)
17 On September 17, 1988 Backhoff was arrested for the murder of COBB
18 but because of laboratory delays that arrest was released to
19 await credible forensics results (emphasis) (CT973) The police had
20 corroborated that arrest by their interrogation transcripts (CT221)
21 (CT225) (DR#1331036-07 [H100-85] fifth page first question [Besides
22 this arrest have you ever been arrested before] (emphasis)

23 The crime scene techs located eight cigarette butts
24 from an ashtray in the dining area of COBB's home on the day the
25 scene was processed ((CT753) that were then matched to Backhoff
26 at a later time (CT373-379). Inconsequentially Backhoff committed
27 suicide on June 1, 1999 and the lab made the connection in November
28 1999 (CT910 (CT895) (01-82 matched to A-20 and A-21) (Gregory Randolph)

1 When Backhoff's suicide scene was processed they located
2 several dozen trophies at his residence in the form of photographs
3 of murdered women (emphasis added) (CT446/447).

4 The detectives collected fingerprints from the crime scene
5 with positive results, matching Joseph Saunders and the victim only
6 COBB. When the detectives had first interviewed SAUNDERS had stated
7 that he was at the COBB residence, and when he went there after
8 she being ~~co~~ coached on how to find her home, he went uninvited
9 and parked on the highway over 100 yards ~~down~~ downhill from the
10 residence and walked up the driveway on September 20, 1995. He stated
11 that COBB had invited him to her friends party at the SULLIVANS
12 later that evening, and he met her there. He stated that when he
13 got there COBB mentioned that she was not interested in anything
14 but a platonic relationship, and that she offered him to come
15 to her house after the party, which he denied ever going ((CT146)
16 Mr. SAUNDERS committed suicide a few weeks after the COBB murder
17 and the sheriffs had thought there would be some connections (emphas

18 The sheriffs interviewed MRS Brodous who stated that
19 COBB would enter the MOOSE lodge and could be picked up by anyone
20 who bought her a drink (CT106) Another bartender in town stated
21 that the last time she seen her (COBB) she was very intoxicated
22 (CTCT107) The sheriffs then interviewed a man that was COBB's propane
23 man, who ~~st~~ stated that the last time he was ~~at~~ at the COBB residence
24 he had interrupted COBB while being violently beaten, and it was
25 not until he stopped her attack that he found out the person who
26 was attacking her had been COBB's son Daryl (CT107) They then spoke
27 to another bartender who stated that he ~~ha~~ had been sexually involved
28 with COBB on at least two separate occasions (CT185, 217) and that

1 at least two of the other bartenders had been sexually involve-ve
2 with COBB as well (emphasis added). The detectives then spoke to
3 COBB employer who stated that COBB had been sexually involved
4 with at least two of the coworkers of COBB, at work ((CT124).

5 Several years later the forensic laboratory receive a
6 hit on CODIS to John Henry Yablonsky on or about October 2008 from
7 DNA samples that had been collected on a release for a warrant from
8 Downey California. As a direct result of the DNA matched to the
9 scene, the detectives from the San Bernardino cold case division
10 filed an affidavit for arrest of John Henry Yablonsky for the
11 murder of Rita Mabel Cobb at his residence. Detective Robert Aleman
12 and Greg Nyler arrived about 0900 hours with several other agencies
13 and began interrogating plaintiff in his home in front of his wife
14 of ten years, and mother in law, daughter of 14 years of age, daughter
15 of 16 years of age, and niece of 21 years of age about his carnal
16 relationship with a murdered woman he had been involved with.
17 The detectives altered this recording and altered plaintiff's answer
18 in [many] locations and then played the altered version to the
19 jury with out his permission. The interrogation occurred outside

20 MIRANDA

21
22 THE DNA QUALITY EVIDENCE FROM THIS CRIME SCENE
23 DR#133103607 and item numbers are as follows.

THAT WAS NOT USED IN TRIAL

24 1) Item A1D a ^{PIN} watchband that was collected from next to the victim's
25 head, this item was qualified by experts to have DNA, the DNA
26 on this item was not matched to plaintiff, the prosecutor deter-
27 mined this was the result of the actual crime, and that the victim
28 COBB dropped this from her assailant (emphasis added)
(not examined by trial attorney) THIS DNA WILL NOT MATCH PLAINTIFF
(DC EXHIBIT D, 112)

- 1 2) A red hair with the entire roots attached, and was located on
 2 the victims torso. (plaintiff is blonde) The state experts
 3 determined this type of evidence was DNA qualified and the
 4 DNA from this item was not matched to plaintiff (item A5)
 (not examined by trial counsel) (DC-EXHIBIT J)
- 5 3) Item A20 -A21 cigarette butts located in the dining room as tray
 6 on September 23, 1985, three days after the murder. These items
 7 were DNA magnificant and were matched to Gregory Randolph/
 8 Backhoff, six months after he committed suicide, and eleven years
 9 after he confessed to the crime. (DC-EXHIBIT D)
 10 (not examined by trial counsel) (These DNA will not match plaintiff)
- 11 4) Item A1 p lab reports showing that these hairs were red, and had
 12 been processed for DNA. The DNA on these hairs located on the victim
 13 torso will not match plaintiff (DC EXHIBIT J)
 14 (these reports were never examined by trial counsel)
- 15 5) Item A18, a brown felt pad, a desk blotter that was located under
 16 a quilt. Petitioner's DNA was located on this item, along with
 17 the DNA of CORB but the evidence was a 36 inch by 24 inch pad
 18 that had been damaged. (DC EXHIBIT J)
 (This was not examined by the trial counsel)
- 19 6) Fingerprint report (CT) while these items were not presented
 20 to the jury and the detective stated he did not know if they
 21 even existed, and if they did, did not know whose prints were
 22 on it, if at all (emphasis added) (plaintiff's prints were not found)
 23 (trial counsel did not challenge the false statement) (DC EXHIBIT F)
- 24 7) Item A1 hairs located from the victims torso, the state expert
 25 testified these were DNA qualified and the DNA on these hairs
 26 will not match plaintiff (DC EXHIBIT D, J)
 (trial counsel did not examine these hairs)
- 27 8) Item A3 the weapon. This was located around the victims neck
 28 and is DNA qualified by the states experts, and the DNA on this
 item will not match plaintiff (trial counsel did not examine this)
 (DC EXHIBIT D, J, 9)

1 10) Item A13(a) The white pillow the victim was laying on. This
2 item will be DNA qualified and the DNA located on this item will
3 not a match plaintiff (DC EXHIBIT D, J)

4 (this item was not examined by trial counsel)

5 11) Items A6 tape liftings off the victims body. These items will
6 be DNA qualified and the DNA on these items will not match
7 petitioner. (DC EXHIBIT D)

8 (trial counsel never examined these evidences)

9 12) Item A17 are white shorts that were collected from inside the
10 victims mouth, and will be DNA qualified. The DNA on this
11 item will not match plaintiff. (DC EXHIBIT D, J)

12 (trial counsel never examined these evidences)

13

14 INTERROGATION RECORDINGS

15 There were three separate and different recording
16 devices created on March 8, 2009 one by Det. Alexander and one
17 by Det. Myler, and then one cam corder that was created at the
18 Signal Hill police station. The interrogation lasted four hours,
19 and was transcribed on November 23, 2010 after petitioner filed
20 a lawsuit against the county district attorney Michael Ramos for
21 influencing the jurors. Michael Ramos ordered John Thomas and
22 Robert Alexander to alter plaintiffs answers in retaliation for
23 suing the district attorney, which was agreed to by trial counsel
24 David Sunder, by altering plaintiffs answers in several locations
25 but specifically where the plaintiff was asked about having a key
26 to CORBs house, which he replied (NO). The answers were then altered
27 to (Um yes) creating an intent ^{of perpetrating} to commit the crime. These were
28 placed into the state records as exhibit 49 and 49A (emphasis added)

1 The recording shown and played to the jury by audio
2 and visual techniques included the altered answers with (sound)
3 matching the new (dfabricated) answers (states exhibit 49A) The
4 state then placed exhibit 49A into the states records along with
5 the states [copy] of the three separate recordings as (states
6 exhibit 49)(compact disc).

7 The DDA Thomas ,defendant here personally altered the record
8 ings and made these admissions on states records(RT402)(...there
9 is reference at the end of the interview that Yablonsky is invoking
10 MIRANDA.I was planning on taking that out, unless you want to keep
11 it in)"(emphasis added)(RT403)("So I gotta go through everyuthing
12 and find out where I gotta to cut the interview out and make sure
13 it [sounds] good?)"(emphasis added)(FF RT403;13)("No, I have to do
14 it because I have to ensure that everythings taken out that
15 [NEEDS] to be taken out. I dont want to leave that up to somebody
16 else") (emphasis added) The state then presented this to the jury
17 after fabrication by the prosecutor, knowingly by the detective
18 Alexander, and attorney Sandersas authentic.(RT499)("I got
19 to put detective Alexander on the stand first then I can hit
20 the play button"):(emphasis added)Defendants Thomas,Alexander
21 and Sanders participated in the fraud under federal laws Federal
22 Rules of Civil Procedure Rule 60(b)(3)(intrinsic ~~fraud~~ fraud)

23
24 THE STATE OF CALIFORNIA'S [THEORY]

25 (RT32:13;22)The ~~prop/esa~~ position is that Mr.Yablonsky
26 interview he was given at ~~least~~ four ~~times~~ opportunities
27 to say he had sex with the victim...we dont care if you had
28 sex with the victim.If you had sex with the victim we need to

KNOW (MIRANDA)!!

1 (RT35:28)(So if he admitted he had sex with the victim
2 I had consensual sex he would have been admitting that he killed
3 her) (Emphasis added) (RT317 criminalist Jones-Several days PASSED
4 and then she ~~passed~~ ^{DIED}...I am fairly certain of that)(emphasis
5 added (RT490)DR.SAUKEL "DEFENDANT'S DNA IS MORE THAN ONE
6 AND A HALF DAYS [OLDER] THAN WHEN COBB WAS KILLED "
7

8 PLAINTIFFS EFFORTS TO ACCESS THE STATES EVIDENCE

9 1) ON March 23,2009 plaintiff asked his trial attorney for the
10 states entire records regarding the charge against him.(Canty_)
11 this was recorded and a copy of the request filed (United
12 States District Court)(DC) (DC exhibit D-1)

13 2)On June trial counsel released three hundred pages of the
14 five thousand pages and told plaintiff that was all; there
15 was, except for the plaintiffs DNA graphs .Lying about the
16 states file to hide from his fiduciary obligations to investigate
17 things his client specifically requests of the states records
18 (DC exhibit D-3) MORAL TURPITUDE

19 3) Upon the first day of trial plaintiff was made aware of the
20 [volumes] of discovery that had been withheld from plaintiff
21 and plaintiff made a formal demand in person for the entire
22 file to the case(DC exhibit D-4)Where trial counsel defendant
23 Sanders admitted on the records that his client had to beg
24 for the file, and that he only released three hundred pages
25 before the trial, and then asked his clients questions about
26 the states investigations from an incomplete file he had
27 hid from his client(emphasis added)stating that a every time
28 he would ask his client if he was good.Knowing that his client
had no,knowledge of the a) facts b) evidences inside the
withheld records, withholding a second adifferent copy of the
interrogation transcripts(twenty three pages different)(transcript
on the same day.....allegedly November 23,2010)(emphasis)

MORAL TURPITUDE

- 1 4) On June 2012 plaintiff filed habeas corpus in Superior Court
 2 WHCSS1200311 demanding the courts to order the release of
 3 the file(DC D-5) This demand was denied
- 4 5)On or about March 2011 trial counsel released another 1300
 5 pages that were different than the first three hundred, revealing
 6 to his client that he was still being dishonest about the
 7 states records, and lied to the courts stated that he [again]
 8 made copies of the file and released them(DC D-4)
 9 *MORAL TURPITUDE*
- 10 6)In August 2013 plaintiff again filed motions, to the 4th
 11 Appellate District Court #Eo60202 twice for the release of
 12 these state files that the trial counsel had hidden from his
 13 client. this movement was while the state records was still
 14 being developed and direct review in State Supreme was being
 15 conducted(sufficient time to develop)(AEDPA) but the request
 16 was denied (DC exhibit D-11)
- 17 7)In January 2014 plaintiff filed with the state bar regarding
 18 the plaintiffs file under P.C. 1054.9 case no. 14-17946 where
 19 the state bar ordered the release of the state file in the
 20 possession of the trial counsel(DC exhibit D-8)
- 21 8)On July 22, 2014 trial counsel David Sanders (defendant)
 22 provided the plaintiff with another 1600 pages to the clients
 23 file. different pages that the first three hundred in June
 24 2009 and different than the second thirteen hundred in March
 25 2011. Telling the state bar that this was all the states records
 26 (emphasis added)(DC exhibit ~~XXXXX~~ D-18) *MORAL TURPITUDE*
- 27 9)On February 2016 plaintiff received the entire state file,
 28 including the compact disc of the interrogation recording
 that had been copies of the three separate interrogation
 recordings. Releasing 5000 pages to plaintiff showing moral
 turpitude of defendant Sanders(DC exhibit D-19)
PROOF OF TRIAL ATTORNEY GRAVITY FIDUCIARY VIOLATIONS

DEFENDANTS SANDERS, SHOUP, ZWYICIEL, AND CANTY WITHELD

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- 1) The second 136 page transcript to ~~hide~~ prevent his client from knowing that they had been altered and that their intent was to defraud the client of rights to [facts] that would assist in his defense. So when they presented the 113 page version the client had nothing to establish how much they had been altered. . . . before trial ever started. *TO HIDE THE FRAUD, 113 PGS 2HR 50 MIN 136 PGS 3HR 48 MIN HIDING THESE FACTS UNTIL AFTER TRIAL UNTIL JULY 2014! AFTER DIRECT APPEAL*
- 2) They withheld the 2009 statements by Bruce Nash so that when he testified the client could not force the attorney to object when the witness Nash stated he believed the victim was headed home. The 1985 statement by Nash stated that he left before the victim, only. The 2009 statement showed that he knew she was not headed home, so when the attorney did not challenge the ~~fact~~ false statement his client could not either, intelligibly. *BECAUSE HE NEVER KNEW THE 2009 STATEMENTS EXISTED, UNTIL AFTER TRIAL MARCH 2011*
- 3) They withheld that there was a confession to the crime and an arrest of Gregory Randolph along with the many DNA reports that place him at the crime scene around the time the crime was committed. They withheld these to prevent the client from asking for specific investigations that would lead a jury to acquittal. *HIDING THESE FACTS UNTIL JULY 2014 AFTER DIRECT APPEAL, AND FULL DISCLOSURE OF FEB. 2016!*
- 4) They withheld the DNA lab reports from the client to hide that there were severe errors in protocols and that the reports were not a 100% match and had several factors that would have forced the client into asking for specific investigations that would have shown the stated DNA reports were [contaminated] and therefore unusable in a hearing as reliable. *HIDING THIS UNTIL JULY 2014*
- 5) They withheld that the statement by John Sullivan in 2009 was different than his 1985 statement. His 1985 statement was that he had fallen asleep. Everyone at the party agreed with the 1985 statement by Sullivan. But the 2009 statement impeaches his 1985 statement, that he had fallen asleep before Rita Cobb left his party, which places his statement as false and because the client did not know this he could not have asked the attorney

1 to impeach the testimony of Sullivan who testified differently
2 than Nash who state he did not give COBB a ride home, while
3 Sullivan stated to the jury he seen Nash giving the victima
4 ride home. PREVENTING HIS CLIENT FROM KNOWING THIS WITNESS
5 WAS NOT CREDIBLE AND WOULD BE USED TO CONTRADICT
6 NASH'S TESTIMONY

7 6) They withheld the FBI lab reports and profile worksheets to
8 prevent the client from asking for specific investigations
9 into Robert Mark Edwards culpability regarding his involvement
10 in a string of murders that included five women, as well as COBB,
11 WHO HAD BEEN BEEN CONVICTED OF ONE OF THE FIVE
12 SERIAL MURDERS TRACED BY FBI PROFILERS

13 7) They withheld the DNA reports of the a) weapon B) the watchy
14 band pin c) The red hair with the roots attached. They withheld
15 these to prevent the client from proving the murder was not
16 committed by the client, so they could negotiate an arrangement
17 with the state prosecutor for a brady violation that occurred
18 in this case regarding the sworn affidavit by Det. Palacios
19 for the arrest of Gregory Randolph for the murder of Rita Cobb
20 and other Brady violation, or some other mysterious deal making
21 scheme, which results in the client's right to a fair trial
22 being placed onto the roulette wheel for chance, chance, chance
23 , chance, chance, chance????????????????? KNOWING THAT IF DNA NOT
24 MATCHING CLIENT WOULD BE FOUND ON THESE THAT THE
25 JURY WOULD NOT HAVE CONVICTED THE CLIENT MOST CERTAINLY.

26 THEY WITHELD THE DISCOVERY TO PREVENT THE NEEDED INVESTIGATION
27 BY WITHELDING 4700 PAGES OUT OF 5000 OF THE STATES PAGES
28 MAXIMIZED THE INTENT AND DEGREE OF MORAL TURPITUDE LYING
29 TO THEIR CLIENT SAYING 300 PAGES WAS ALL THE EVIDENCE TO THE
30 CASE, HIDING THEIR CLIENTS RIGHT TO A DEFENSE

31 THEY WITHELD 4700 PAGES AND RELEASED ONLY #300 BEFORE TRIAL!!
32 TO ALLOW THE STATE TO HIDE BEHIND AEDPA THE
33 GRAVITY OF PROFESSIONAL NEGLIGENCE BY STATE SHERIFFS AND
34 PROSECUTOR, TO CRIPPLE THEIR CLIENTS RIGHT TO A DEFENSE

35 THEY WITHELD 97% OF THE FILE AND THEN ASKED THE CLIENT IF HE HAD
36 ANY QUESTIONS ABOUT THE CASE!!!!

37 DISPLAYS THEIR INTENT TO RECKLESSLY AND DELIBERATELY
38 FORFEIT CLIENTS RIGHTS, TO PREVENT HAVING TO ANSWER RIGHT QUESTION

39 THEY WITHELD THAT MUCH TO HELP THE STATE FROM ALLOWING THE STATE
40 RECORDS THAT WOULD HAVE SUPPORTED INNOCENCE BEHIND THE WALLS OF
41 AEDPA and the HECK V HUMPHREY'S

42 CLEAR VIOLATIONS TO CLIENTS UNITED STATES CONSTITUTIONAL: RI
43 RIGHTS !!!

1 EVIDENCES THAT WERE INVESTIGATED BY TRIAL COUNSEL

2
3 NO INVESTIGATIONS WERE CONDUCTED AT-ALL!!!

4 REGARDING DNA OR TANGIBLE DISCOVERIES RELEASED TO TRIAL COUNSEL
5 TRIAL COUNSEL ASSISTED THE STATE IN FABRICATION AND PRESENTATION
6 OF THE FABRICATED TRANSCRIPTS!!!

7 ALL EXCULPATING WITNESSES WERE NOT INTERVIEWED OR INVESTIGATED!

8 WITNESSES THAT TESTIFIED AT TRIAL

9 1) (RT417) Bruce Nash testified contrary to his three
10 previous statements to police and defendants investigator that
11 he now believes the victim was headed home after the Sullivan
12 drinking party and COBBs refusal of a ride home after the
13 party (giving false testimony without challenge) (DC exhibit 1G2)

14 2) (RI430) John Sullivan testified contrary to his
15 wife Francesca Drake/Sullivan that he was not asleep when Nash
16 left the party and that he seen Nash giving COBB a ride home
17 after th party (Giving false testimony without challenge)
18 (DC exhibit 1H4)

19 3) (RT317) Criminalist Donald Jones stated that the DNA
20 found at the scen matching plaintiff was the result of an encounter
21 that occurred several days before Rita Cobb had been killed and
22 that he was certain of this (This testimony was not challenged)

23 4) (RT490) Pathologist Drt. Saukel testified that the
24 DNA that was located that matched plaintiff was the result of
25 a sexual encounter that occurred more than one full day before
26 Rita Cobb had been killed (This testimony was not challenged)

27 5) (RT8688) Detective Alexander stated that he did not
28 know if there was a fingerprint report, or what any results may

1 be if there was a fingerprint report(This was not challenged by
2 the trial attorney and was false)(The fingerprint report does exist)
3 (DC exhibit EX- F) The detective then stated that the exhibit
4 49A and 49 were exact copies(RT508-509) and [ACCURATE](DC: EXHIBIT C)
5 (BOTH FALSE STATEMENTS AND NOT CHALLENGED BY TRIAL ATTORNEY)

6 6)(RT303-XX 317)Criminalist Dobald Jones testified t
7 that he collected a watchband pin from next to the victims head
8 and that he had not matched the DNA from this item to plaintiff
9 Yablonsky(RT596 the DDA Thomas told the jury that he had matched
10 the dna to the defendant Yablonsky (emphasis added)

11 The criminalist then testified that he had collected and examined
12 the DNA from inside the victim that was matched to the plaintiff
13 Yablonsky(RT317)("THAT'S PROBABLY TRUE, I WOULD SAY IT PROBABLY
14 WASNT DAYS BEFORE SHE IN TERMS OF SHE HAD INTERCOURSE[SEVERAL
15 DAYS AND PASSED AND THEN SHE DIED, I AM FAIRLY CERTAIN OF THAT(EMPHASIS
16 ADDED)

17 THE STATE NOR THE TRIAL COUNSEL CHALLENGED THIS TESTIMONY!!

18
19 7)(RT490) Pathologist Dr. Saukel testified that the DNA
20 matching plaintiff was fairly hardy and would live longer than
21 ordinary DNA of this type, and in this case they start to lose
22 their tails after a day or two(emphasis) and in this case all their
23 tails had been broken off(Emphasis added)The pathologist then
24 stated that the DNA collected from inside COBB was the result of
25 a sexual encounter that occurred more than one and a half days before
26 her death)emphasis added BEFORE)

27 (THE STATE NOR TRIAL ATTORNEY CHALLENGED THIS WITNESS)

28

1 EVIDENCES USED IN TRIAL TANGIBLE AND TESTIMONY

- 2 1) Witness Daryl Kramer (victims son)(found victim)
3 2) Witness Dianne Flagg(see silver pinto)(plaintiffs was, BLI
4 3) Bruce Nash (Last person to see or speak to victim)
5 4) John Sullivan(seen victim at his party before he fell
6 5) Francesca Drake/Sullivan(seen victim leave party 11:45)
7 6) Marta Kramer(Step daughter/Daughter in law)(found victim)
8 7)Monica Siewertson(DNA CODIS specialist)
9 8)Criminalist Donald Jones(found evidence expert opinion)
10 9)Dr. Saukel(found evidence made expert opinion)
11 10)Detective Robert Alexander(made arrest, authenticate)
12 A) DNA found inside the victim (ONLY)
13 B) Interrogation transcript copy(exhibit 49A

14 ~~XXXXXXXXXX~~

15 RESPONSES BY STATE DEFENDERS A.G./APP. DIV. D A

16 HABEAS CORPUS HEARINGS

17 (i) 18 SUPERIOR COURT HABEAS CORPUS WHCSS# 1200311 (DDA Ferguson)

19 Habeas corpus state(HCS)

20 (HCS:6)That the criminalist located the watchband pin
21 next to the victims head and blood smears in the hall way. That
22 the criminalist revisited the samples using (PCR)RT265-266)

23 (NOT REVEALING THE DNA FINDINGS OF PETITIONERS DNA)

24 (RT317-several days passed and then she died)

25 (HCS10(IT44)The DDA then stated that petitioner admitted
26 to having a key to Rita Cobbs house(emphasis added).That this
27 was settled because the state presented a hard copy to the jury
28 exhibit 49A for deliberations purposes.That these evidences
were shown to the jury by way of an overhead projector and audio
speakers.

1 (HCS17) That the trial attorney sought funding by the state
2 superiors court for DNA examinations but the courts [denied] the
3 request as tactfully being rejected, correctly so)

4 (HCS19) That Greg Myler had given evidence to the attorney
5 that was DNA incredible, but there was no reference anywhere in
6 the records transcripts that ~~any~~ evidences were ever tested)

7 (HCS20-21)(That the state argued that because Petitioner
8 could not prove the red hair located on the victims body belonged
9 to Gregory Randolph/Backhoff his argument should fail, stating
10 that even if there was [another] mans DNA on an item, that does
11 not show they ~~xxxxxxx~~ were suspect to [a] murder. Then stating
12 about the watch band kept that was located under the same language
13 that because petitioner could not prove who DNA was on the item
14 his argument fails, and then injected that maybe MRS COBB collected
15 watch band pins (emphasis added)

16

(2)

17 4th District Court of Appeals#E055850

18 (Court of Appeals)(COA)

19 (COA17)(Although we conclude the trial court erred in
20 excluding the Nash testimony regarding COBBs statement the error
21 only requires reversal if the error was prejudicial. Accordingly
22 the forensics evidence Cobb dies no later than noon Saturday
23 but she could have had sex with (A) as much as a day and a half
24 before her death, therefore she could have had sex with (A)
25 (Yablonsky) on Thursday night but then had been killed no later
26 than Saturday Noon by (B)(Anyone else).The flaw in the states theory
27 was that Cobb could have gone to a different bar the night she
28 was killed, or had gone to the same bar, and been waylaid by someone
else in the parking lot(emphasis added)

(3)

1 District Court of the United States Central District

2 (DC)

3 (DC5;8-13)[Petitioners] DNA from the sperm cells found
4 in the victim swab taken from Rita Cobb body cavity folloing an
5 apparent murder in 1985 [petitioners] DNAS and the fact that when
6 he was interviewed by law enforcement officers [petitioners] admitted
7 he knew Rita Cobb but denied having sex with her, is the evidence
8 that connects the [petitioner] with the murder and therefore the
9 evidence on which the jury relied to find [petitioner] guilty")

10 (DC38:20-21)(regarding Jones analysis)(He did not conduct
11 DNA testing of the watchband pin and acknowledged that hair could
12 be tested for DNA if it had good roots(see RT297,313)Jones also
13 testified that its best collected of sperm as soon as possible,
14 however he could not estimate how long the sperm had been present,
15 but thought the sex with the victim he did not think it was days
16 earlier(RT317-17)The expert did say that [several] days passed
17 and then n she died(RT317)

18 (DC40:21-23)("Additionally,petitioner has not ptovided
19 and evidence to suggest that the DNA testinmg would have loinked
20 another individual to the murder.Petitioner collusory allegations
21 ,without more, are insufficient to warrant habeas relief")

22

(4)

23 California attorney General (AG)

24 (AG65:17-25)("Petitioner had failed to show that there
25 was actual DNA on the watchband pin to [test].He also fails to show
26 that there was actual results to test,it would have shown who this
27 oither person was(emphasis added).Additionally,even if these]]
28 was another persons DNA on the watchband pin. that does not show
that

1 thaty the person was linked top [a] murder since there is nothing
2 to indicatre when the DNA was put on the watchband pin, or that
3 the victim may have found the watch band pin and kept it. Finally, it
4 is pure speculation that simply having another DNA at the scene
5 on an item found in the bedroom amount to credibility evidence that
6 a thidrd party killed the victim as opposes to petitioners DNA ob
7 the body(PETITIONERS DNA WAS NOT FOUND ON THE VICTIMS BODY OUTSIDE
8 OF THE VICTIM, AND ONLY INSIDE(RT317)(several days before the murder
9 and then she died, I am fairly certain of that)(RT490)(petitioners
10 DNA was more than one and a hlaf day older than the crime)

11 (AG67:24-26)(Theres apparently no physical evidence that , link
12 Backhoff to the murder scene, and the claimed DNA connection was
13 not substancialted by the informnation petitioner provided)

14 (AG68:21-28)(No referencee appears in the trial transcripts
15 that this item was tested for DNA (res hair with root). It is therefor
16 unknowen whether any matched Backhoff/Randolph, but it any case
17 petitiioenr failed to show that obtaining testing would have altered
18 the outcome of his trial. First he assetrts that specific hair was
19 found on the body was [red], and that this matched Backhoff. However,
20 he offers no useful support for either claim. From the record and
21 the exhibits provided, there is no confirmation that the hair was
22 indeed [red], or that this hair was Backhoffs hair color(emphasis
23 added)

24
25 DDA THOMAS STATEMENT TO JURY ABOUT WATCHBAND PIN

26 (RT96:3-18)(DDA John Thomas)(What about the watchband
27 pin ? That's important because look whare it is. It's abover her
28 right side. It's like if somebody were to hold her hand--if a male
were to hold her hand, and she was struggling, She might have gotten
the watch band pin out. **[IT WAS THE DEFENDANTS]**

1 you heard the testimony, that watchband pin does not
2 match the watch band Rita had. Look at the size. I would argue
3 its a males pin that would show additional signs of a struggle and
4 show additional signs that she was in fact raped and this was non
5 consensual(emphasis added).

6
7 PLAINTIFFS CASE IN CHIEF

8 Upon sentencing plaintiff filed claims with the county
9 for \$500,000,000.00 Five hundred Million Dollars regarding the state
10 conspiracy in concert by the defendants here regarding ,

- 11 a) refusal to release the state records to client before trial
12 b) refusal to release the state records to client after trial
13 c) County jail facility commander refusal of confidential communic-
14 ations between a pretrial detainees and his counsel for several
15 months before trial, and during trial
16 d) County District Attorney influence upon the jury by false light
17 e) County District attorney in retaliation of plaintiffs exercise
18 of his first amendment to manufacture evidence
19 f) Conspiracy between counsel, detectives and prosecutor to alter
20 interrogation transcripts (altering answers)
21 g) Interrogating plaintiff outside the fourth amendment and then
22 violating plaintiffs right to be free from self compulsory
23 witness against self
24 h) Violations to fiduciary obligations to plaintiff in the amount
25 of moral turpitude (many lies about evidence and investigations

26 Plaintiff filed suit for the discovery aspects of the
27 civil courts to develop the state [fraudulent records] and recovery
28 of loss in the amount of financial compensation (reasonable)

1 The trial court granted defendants Ramos, Thomas and
2 Sanders a blanket of protections from disclosure of (discovery)
3 on November 30, 2015 [erroneously] because the defendants claimed
4 [they were government employees]. Plaintiff's opposition motion was
5 rejected by the court clerk, stating that corrections fluid is
6 not accepted by this court. There was no materials covered by the
7 corrections fluid that determines this document was in error, and
8 therefore erroneously rejected [Plaintiff used corrections tape
9 of misspellings (only) and not anything the CRC states as unacceptable

10 The court allowed an defendant to file demurrer while in
11 default, David Sanders, knowing the request for default notice was
12 filed timely.

13 The Court granted leave to file an amended complaint, until
14 December 30, 2015. Plaintiff case in District Court was dismissed
15 on December 3, 2015 four days after the state courts grant to file
16 an amended complaint and before first amended complaint was filed
17 on December 25, 2015. The defendant's case in chief in demurrer was
18 that plaintiff committed fraud upon the state court and federal court
19 for failing to inform the federal courts that a state complaint
20 had been filed. (This assumption is incorrect and false to every
21 degree) OBJECTION ENTERED.

22 Defendants other arguments was that these parties were
23 immune from civil liabilities which was accepted by this court
24 erroneously, being that the court would not allow plaintiff to file
25 an opposition while there stood [good cause] for an expansion
26 of time, that was rejected [erroneously]. Briggs v Lawrence, 230 Cal
27 App. 3d 605 (1991) shows that the [public] defender was not immune
28 from suit and must be held to a threshold of professional service

1 Defendant David Sanders did not even come close to that
2 threshold (emphasis added) But, instead defendant Sanders participated
3 in an act under C.C.P. § 340.6(a)(3)(4) willfully concealing [facts]
4 constituting a wrongful act. (An) action against an attorney for
5 wrongful act or omission other than actual fraud, arising in the
6 performance of professional services.....(emphasis added) Fantazia
7 v County of Stanislaus, 41 Cal.App.4th 1444 (1996)

8 Which trial counsel Sander and other defendants participated
9 in a conspiracy to commit fraud upon the state trial court #FVI900518
10 and federal court EDCV 14-01877-PA(DTB) by altering answers of
11 the plaintiffs interrogation and then presenting this to the jury
12 under federal rules of civil procedure rule 60(b)(3) Intrinsic
13 fraud (emphasis added), and then hid the records until the time had
14 expired by direct appeal and habeas corpus in state courts (emphasis
15 added) (emphasis added) until July 2014 (emphasis added)

16 ~~xxxxx~~ Michael Ramos's actions were not immune. He clearly
17 and deliberately acted outside his scope of authority and actually
18 influenced the plaintiffs entire trial with bias and prejudicial
19 materials by promising to convict an innocent man and then placing
20 him under false light before the trial ever occurred by stating
21 he filed (19 murder charges against John Henry Yablonsky) and then
22 mailing them to personal address of the counties registered voters
23 after his prosecutor scheduled trial dates (emphasis added) The immu-
24 nity falls under In Re Tyler, 64 Cal 434, 1 p 884, 1884 Cal LEXIS 383 (1884)
25 and Penal code section §95, improper influence upon a panel of jurors
26 ("Attempting to influence a jury by means of (1 p 886) of promise
27 or assurances of [any] pecuniary or advantage, or by means of any
28 threat, intimidation, persuasion, or entreaty

1 or by [any] copmmunications], oral or written, had with him, except
2 inthe oprdinary course or proceedings in respect to a verdict
3 (64 Cal.436) Clearly acting outside his advocacy role as county, D.A.

4 John Thomas, Robert Alexander and Sanders under the instruc
5 of Michael Ramos then altered a recording that was designated to
6 injur the plaøintiff permanently PenalxCode section §134 wuith specif
7 intent. People v Horowitz(~~198~~ 1945 CAL APP)70 Cal. App.2d 675, 161
8 p.2d 283. Falsity under P.C. 134 is not an absolute quality, it can
9 turn upopn whgat the evidence is offered to prove. People v Bamberg
10 (20091st dist.)175 Cal.App.4th 618, 96 Cal Rpar 3d 139. Altered and
11 fabricated documents ,consisting of a letter and purported assignem,e
12 of impottance were material, and supported by [charge] of preparing
13 an offering [false] evidence where they were prepared and offered
14 in consolidation acrtions for the plaintiff. People v McKenna(1938)
15 11 Cal.2d 327, 79 p.2d 1065, !938 LEXIS 307.

16 These acts were committed by state parties acting oputsøde
17 their duty as officers of the courts, and professional obligations
18 tothe people and client. Therefore immunity is only base on qualified
19 immunity. The defendant conspired outside of his [duty] by taking
20 personal interests and activity to alter these recordings by switching
21 the answerdss .Clearly acting outside their advocacy scope od duties

22 C.C.P. § 437(b)

23 Where the motion to strike is badsed on matter of which
24 the ckourt may take judicial notice pursuant to section 452
25 and 453 of the evidence copde, such matter should be sepecificed
26 in the notice of motion, or in the supporting points and
27 authorities, excpet as the Court msay otherwise permit

28 *PRIOR CASE AND RELEVANCE TO (IAC) WATKINSON V. ARIZ-
MENDIZ (1967) 256 CAL APP. 2d 130; IN RE USCIOTI (1996) 14 CAL 4th
325; REKDEY USCIOTI V. CALIFORNIA (1999) 521 US 1124*
JUDICIAL NOTICE -27-

Judicial notice may be taken of the following the extent
tythat they are not embraced with section 451(d)records of
(1) any court of this state or(2)any court of record of the
United Sattes or any sttae of the united States.

(h)facts and ptopositions that are not reasonable;y subject
to dispute and are capable of immediate and [accurate] deter-
mination by resort to sources of reasonably indisputabel
accuracy

Subdivision (h) p~~ro~~vides for judicial notice of
indisputable facts ultimately immediatley ascertainable
by referemce to sources of reasonably indiscputabel accuracy
In othe rwords, the facts need not be actually known if they
are readily ascertainable and indisputabel.Sources of "reas-
anabvly indisputable accuracy"include not only ~~xxxxxx~~
treatises .encyclopedias,almanacs, and the like but also
persons learned inthe subject matter.This would be limited
to consultation by the judge and tha parties for the purpouse
of determining whether or not to take judicial notice and
determrining the tenor of the matter mentioned.(emphasis)

C.E.V.C. §451 UNDER 42 USCS §1983
SHOEMAKER V. HARRIS (214 CAL APP 4TH 1210 (2013))

PLAINTIFFS REQUEST OF THIS COURT

- 1) That the Cal.App. 4th District holds jurisdiction at this time
90 DAYS FROM SEPTEMBER 12, 2016
- 2) That the matters discussed in this motion are accurate records
that are filed in courts of the United States *AND THIS COURT*
- 3) That the state and federal arguments disputing plaintiff habeas
coppus are *[related to facts]* discussed here in this complaint
- 4) -That the records filed here in this court and the District
Court are state generated records (subject to authentication)
- 5) That these facts if true, would suppoort plaintiff case in chief
UNDER 1ST AMENDMENT
- 6) Any other findings this courts find appropriate

~~John Henry Yablonsky~~

John Henry Yablonsky

- 1 7) That plaintiffs motion to District Court for dismissal without
2 prejudice before the demurrere hearing on November 29, 2015-or, 30th
- 3 8) That discovery filed herein and therein are directly related
4 to DR#1331036-07 and case #FVI900518
- 5 9) That there was at least two separate transcripts created on
6 Novem, bers 23 2010 by Robert Alexander DR#1331036 07
- 7
- 8 10) That exhibits filed herein as exhibit A through N are on their
9 face related to the complaintk filed here under Case CIVDS1503664
- 10 11) That the defendants here have not denied the accusations and
11 claim immunity under HECK v HUMPHREY, 512 US at 486-87
- 12 12) That the District Courts Ruling on May 23, 2015 was that [if]
13 plaintiff does not file third amended complaintk (emphasis)
14 oin the language [IF] places the burden not yet settled
- 15 13) That defendant David Sanders did not file demurrere with the
16 defendants Ramos and Thomas für demurrer filed
- 17 14) That defendant David Sanders filed his demurrere on the thrity
18 sixth day after service, and after motion to enter default
19 against defendant Sanders on 9/14/16 as a direct result of
20 service C.C.P. 415.20
- 21 15) That defendants Ramos, Thomas and Sanders filed erroneous claims
22 by declaration of Rick Castanon that declared there was only
23 one claim filed and swore this under penalty of perjury
24 falsely, because there were two. Plaintiffs motion to strike
25 the false declaration was rejected by the courts.

26
27 date

10/27/16



John Henry Yablonsky

1 SWORN DECLARATION OF JOHN HENRY YABLONSKY

2
3 I John Henry Yablonsky, a party to this action swear
4 the following under penalty of perjury. That the facts and statements
5 made here in this motion to take judicial notice are the truth
6 as I know them. The evidences in this complaint and motion
7 filed here are accurate state documents that were surrendered to
8 me by state employed parties and are a United States records in
9 cases (Superior Court habeas corpus #WHCSS1200311) and Federal
10 District Court Habeas #EDCV 14-01877-PA(DTB)) and the United States
11 Court of Appeals in the Ninth Circuit Court of Appeals Case # 16-
12 55441.

13 That the parties in the complaint here in this court
14 injured the plaintiff violation of state and federal constitutions
15 while acting outside their duties as state officials and officers
16 of the court, or state causing permanent injury from March 8, 2009
17 until the current date of October 25, 2016, and expected to further
18 injure the plaintiff for the remainder of his life because of
19 the injuries caused to plaintiff by Captain Wickam, the county
20 jail commander (sheriff deputy of San Bernardino) termination of
21 official confidential communications.

22 The sheriff of the county as the senior officer of Captain
23 Wick and Robert Alexander and Greg Myler, and responsible for
24 maintaining the conduct of his officers.

25 That Greg Myler and Robert Alexander recorded an interrogation
26 illegally without proper MIRANDA and then played the contents against
27 plaintiff right to be free from self compulsory witness against
28 himself.

 That Robert Alexander, John Thomas and David Sanders did
fabricate evidence and used that manufactured material in a hearing
to influence the opinions of the jurors of the facts in a hearing.

 That David Sanders lied to his client, plaintiff about the
amount of evidence in the case he represented him to hide the facts
from his client that was made to beg for the discovery, and kept
the evidences hidden until after the direct appeal had expired
and the state records had been developed.

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That the County District attorney used plaintiffs case under false light to expose him in an egregious manner to win votes of an upcoming election as the County District Attorney for Sanbernardino without plaintiffs permission, and mailed a t least three copies to every registered voters homes after he and orderde his deputy district attorney to place the case on calander to begin trial on April 2,2010 and began his mailings before the trial started on May 15,2010 whenthe trial was to stact on June 12,2010. Telling the entire community that he had filed NINETEEN MURDER CHARGES AGAINST THE PLAINTIFF John Henry yablonsky, placing plaintiffs facial photo omn every campaign flyer he sent violating plaintiff right to a fair trial.

That David sander,Phil Zwyiciel,Geoffery Canty,Mark Shoup made decisiions regarding plaintiffs interests about a cased they had not discussed the sase to their client and forfeited [numerous] rights of plaintiff against their fiduciary obligations to plaintiff for a hearing which resulted in adverse results as a direct result of their errors.

I john Henry Yablonsky swear this to be the truth ads I know it, and in the manner I had been made wa aware of these factds under the penalty of persjury.

Date 10/27/16


John Henry Yablonsky