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Injured Worker Charges Smear in Federal Suit: 12/02/05

A California injured worker who filed a lawsuit accusing her former employer of racketeering filed a new action this week in federal court, going after her claims adjuster, the defense attorney and a high-ranking state official.

Barbara Clark of Tehachapi is pointing to a federal law that was passed to stifle Ku Klux Klan scare tactics to support her claim against claims adjuster Carol Pope, attorney Dennis Hershewe and acting Department of Industrial Relations Director John Rea. She charges that Pope and Hershewe used intimidation, harassment, coercion of witnesses and obstruction of justice to deprive her of due process and prompt medical care, and that Rea ignored her repeated pleas to investigate the matter.

"The Pope & Hershewe schemes were designed to drive the plaintiff out of the local Bakersfield community, much like the Klu Klux Klan tactics of the 1960's Civil Rights movement, in violation of 42 USC 1983 and 1985, only with a white-collar twist to the harassment and intimidation," her lawsuit states.

The lawsuit, filed Wednesday in the U.S. District Court in Sacramento, charges that the conspiracy extends all the way up to Gov. Arnold Schwarzenegger, who accepted \$123,000 in campaign contributions from American International Group. An AIG subsidiary, National Union Fire Insurance Company of Pittsburgh, is indirectly liable for Clark's claim through an excess insurance policy sold to her former employer, the suit alleges.

Clark also charges that all or some of the defendants denied her due process rights, retaliated against her for seeking a federal remedy and violated the American with Disabilities Act. She is seeking \$20 million in compensatory and \$20 million in punitive damages.

Clark has another lawsuit pending before California's Fifth District Court of Appeals that accuses Adventist Health Systems/West of violating the Racketeering and Corrupt Organizations Act (RICO) by conducting a smear campaign to discredit her and deny medical benefits. Clark was injured while working as a nurse practitioner for Adventist's San Joaquin Community Hospital in Bakersfield when a patient who was delivering a baby kicked her in the jaw, causing Clark to strike her head against a concrete wall.

In both lawsuits, Clark alleges that Hershewe and Pope sent a report about her mental condition written by a psychologist who was hired by her former employer in an attempt to smear her reputation in the Bakersfield area.

The state courts have thrown out most of Clark's complaint against

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Adventist, but left alive her RICO action in a seventh amended complaint.

Adventist referred questions about the federal suit to Los Angeles attorney Michael Denison, who is defending the hospital chain against the action in state courts. He declined to comment on any "substantive issues" in the case, but said his client did not participate in any conspiracy. He said he is surprised that Clark's lawsuit in state court has survived judicial scrutiny because, in his opinion, the claim should fall under the exclusive remedy of the workers' compensation system.

Denison is not representing Pope or Hershewe in the federal suit. However, he said after a cursory reading, it appears that Clark is basing her federal action on the same set of alleged facts as she did her suit in state court.

A spokeswoman for the Department of Industrial Relations said Rea declined to comment on the case because he had not yet seen it on Thursday. Pope did not return a call seeking comment.

To download a copy of Clark's complaint, click [here](#).

--By Jim Sams, WCC senior editor



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