

# Opinion: Nutting and his shenanigans

By Larry Weitzman

Last column I promised more discussion regarding Ray Nutting's claim against the county for "malicious prosecution, abuse of process and numerous other torts" as Nutting identified in his own claim against El Dorado County filed Dec. 5, 2014, receiving case number 14.00096.

All the documents are readily available via the Public Records Act or with a little research. Remember all these documents are public as the county is a public entity and should operate with complete transparency, with very few exceptions. Unfortunately it doesn't, but that's another story and a basic problem with all government.



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Nutting's claim goes back to a criminal grand jury indictment of several felonies based on filing false documents to obtain taxpayer funded Proposition 40 grant money, failure to disclose income, perjury and conflicts of interest in voting for over \$600,000 of EDC funds to conservation districts whose boards that have authority over Prop. 40 Grants, along with some misdemeanors. Nutting was found not guilty on all but one of the felonies, as the jury was hung (7-5 for conviction) on that remaining felony, and he was convicted on six of seven of the misdemeanor charges. Because of the acquittals Nutting

thinks he can sue for malicious prosecution.

The fact is anybody can sue anybody for anything, but to be successful in a lawsuit a litigant needs a good and viable claim (cause of action) and Nutting has none as the filing of charges by a criminal grand jury creates "probable cause" and bars the filing of a civil suit or claim as Nutting is doing here in the case of an acquittal. Supporting that absolute defense is the fact that in a motion to dismiss the case before the trial based on the facts that the criminal grand jury indictments were improperly obtained among other claims was also dismissed. A reading of the response to that motion gives one a real insight into this case.

That defense motion to dismiss the Nutting case was heard Sept. 20, 2013, and denied. That denial was upheld in Court of Appeal. The violation of Nutting rights during the criminal grand jury proceedings were thoroughly litigated and reviewed by several extremely competent judges and found to be meritless.

But that doesn't stop Nutting. In a single spaced, densely worded attachment to his claim, he alleges in paragraph 25 that he was invited by the criminal grand jury to submit exculpatory evidence. Nutting says he submitted 141 pages of what he claims was exculpatory evidence, and that the district attorney did not properly present such evidence to the criminal grand jury, therefore prejudicing the criminal grand jury.

Before I go any further, understand that this claim was filed on Dec. 5, 2014, and was denied by the county on Jan. 20, 2015. Nutting had six months to file a lawsuit, which according to the county has not been filed or served. But in another twist the denial of the claim was based on the fact that the claim itself wasn't filed within six months of its occurrence and therefore barred by the statute of limitations. So before any suit could be filed Nutting would first have to

file a lawsuit to allow the filing of a claim. Nutting's claim is essentially null and void.

But the Nutting case and arguments says a lot about Nutting. Outside of this criminal case, Nutting claims to be a smart guy, a graduate of a California State University, a supervisor and thinker entrusted to make important decisions for the county, some of them with far reaching ramifications that require study and thought, a guy with lots of common sense.

At the trial, which was jointly prosecuted by the state Attorney General's Office and our local district attorney, Nutting portrayed himself as a no nothing, inept at paperwork and that he had no intention of trying to do something dishonest, they were all unintentional, inadvertent mistakes. Like he was too dumb to file a false document. Nutting's defense attorney said the facts of the case were not in dispute and he as much as said so during his closing argument.

"Obviously a woodsman, he can make mistakes, he can bumble, " argued David Weiner. Nutting's attorney described him as "not a polished witness."

A conviction on a felony count would have certainly ended Nutting's career on the BOS. He would have been removed. But a lesser misdemeanor conviction that Nutting received left his tenure on the BOS up to the judge in his trial. Perhaps the judge's decision to remove Nutting from his board seat is an indication that the judge, the so to speak 13 juror in the room, thought Nutting wasn't as truthful as he claimed when he found Nutting unqualified to continue his term. Perhaps he thought Nutting's story of being a country bumble not believable. In a recent BOS meeting, many of Nutting's supporters continued unabated with false claims and blaming others for his political downfall. It was ugly "political theater." The bad acting never stops.

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