

## THE GAME IS RIGGED!!

Wednesday  
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To make an incredibly long story short, I recently suffered a permanent physical injury as the direct result of an act of negligence committed by several employees working in the prison pharmacy. The entire incident could have been avoided had they practiced even the most basic of safeguards, such as providing me with information about the medication I was taking, which usually come in the form of informational brochures called package inserts. They contain everything you need to know, from the ingredients contained in the medication, how often the medication's supposed to be taken and what side effects to look out for, including which ones are particularly dangerous and require immediate medical attention. Unfortunately, because the prison pharmacy refuses to provide any of its patients with this information, I took the medication issued to me, as instructed, during which time I suffered an allergic reaction resulting in a permanent physical injury.

The reactions started gradually, almost imperceptible at first, and then grew with increasing intensity, which is probably why I never attributed them as a side effect to the medication I was taking. In March of 2013, during a follow-up with my Primary Care Provider (PCP), I mentioned the problem to my PCP. After a brief review of the medications I was taking, he discovered that I was taking a medication that not only had he not prescribed, but for which no other physician had even seen me, and immediately discontinued it. Unfortunately, the damage had already been done, and my only recourse was to file an inmate appeal in the hopes of getting them to acknowledge, and correct it, which is what I immediately did.

I was interviewed a short time later by the Head Pharmacist II, Pharmacist-in-Charge of Pharmacies, who apologized profusely. She went on to explain that the mistake had been made by a pharmacist performing some sort of data entry, and that the system of checks and balances, of which she was a part, failed to operate in the way they were intended, resulting in my being issued a medication containing ingredients I was known to be allergic to. While this certainly didn't do anything to correct the damage which had been done, I was nevertheless grateful that someone in a position of authority had stepped up to the plate and accepted responsibility, which is more than what they normally do. When asked what I wanted to resolve the issue, I explained that I wasn't seeking to become a millionaire, I just wanted the damage to be fixed or treated. If this meant surgery, then perform the surgery, and if it meant a lifetime of medication, then ensure that I'd get it, without cost. When I received my inmate appeal, I seen that it had been granted, in full, and that they'd acknowledged that they'd made a mistake. Shortly thereafter, the prison began the long, grueling process of sending me out for various examinations and tests, all of which confirmed the nature, extent and cause of my injuries. Finally, at long last, they agreed to send me out for surgery, but at the last minute, they informed me that their bosses in Sacramento had denied their recommendations for surgery on the grounds that it was considered "cosmetic." Never mind the fact that it was needed to correct damages they'd caused, or the fact that it was a permanent physical injury, one resulting in a disability. So, as a result, I went ahead and filed my first ever lawsuit.

I'm not an attorney, not by any stretch of the imagination, but right is right, and wrong is wrong. In my naive mind, the attorneys for the opposition were going to take one look at this case, realize that the facts weren't in dispute, and recommend that their clients settle the matter out of court, but so far, the exact opposite has happened. Instead of continuing to accept responsibility for what happened, the attorney is now trying to argue over which one of the employees is responsible, even though, at the end of the day, it changes nothing about who pays for the damages, as all of the employees are insured by the same entity, the California Department of Corrections and Rehabilitation (CDCR).

Still, I can understand trying to provide your client with the best defense possible. Perhaps if more people had attorneys like that, the prisons wouldn't be so overcrowded. What really gets me though is the fact that it's not opposing counsel who's fighting me so hard, but is instead the Clerk of the Court for the San Luis Obispo County Superior Court (California). Just about every time I attempt to file a motion, it's returned to me, unfiled. On a few of those occasions, there was a notation scrawled on a scrap piece of paper (yea, they really run a professional organization there, don't they??), saying that they wouldn't file it because I hadn't made my monthly payment. I responded, showing them receipts proving that I'd done so, but most of my letters were completely ignored, and those that weren't only had responses to other items I'd mentioned. It took me several months to get to the bottom of things, but at the end of the day, it turns out that the prison was deducting the money from my prison account, providing me with a receipt, and then refusing to mail the money into the courts. Was this intentional, knowing that doing so would prevent me from continuing to litigate my case? Or was this a result of some other scam, like an employee trying to stash money in some secret account to earn interest for as long as possible before turning it in? A few dollars here and there might not result in much interest, but when you're dealing with several thousand deductions per month, it can add up to a tremendous amount in a relatively short period of time.

While this particular error was finally clarified, it didn't do anything to undo the damage which had already been done, nor did it do anything to clarify an accounting error made by the court. I wrote to them, several times, trying to point out that I'd sent them a money order from an outside source for \$25, but while they'd provided me with a receipt acknowledging it, they'd failed, even refused, to apply it towards my overall balance, which they'd later used against me as a reason to refuse to file my motions.

So, here I am, once again getting into it with this Clerk, whose name I still don't know, mainly because all I have are some scrawled notes on scrap pieces of paper. This time, we're battling about the subpoena process.

Section 1985(c) of the California Code of Civil Procedures (CCP) is crystal clear that "[t]he clerk, or a judge, **shall** issue a subpoena or subpoena duces tecum **signed and sealed but otherwise in blank to a party requesting it, who shall fill it in before service.**" (Emphasis added.) Simply put, it means that if I need a subpoena, all I have to do is make the request, and the clerk, or a judge, **shall**, "shall" being mandatory, "may" being permissive, issue it, signed and sealed, but otherwise in blank, and when I, the requesting party, receive it, it's my responsibility to fill it in before having it served. Sounds simple enough, right? So, having already been informed that they won't respond to me unless I include a self addressed stamped envelope, I mailed them my request, asking that I be given 10 blank subpoena duces tecums.

So here they get my request, accompanied by a SASE, and do they provide me with 10 signed and sealed, but otherwise blank subpoenas, as the law requires? Hell no. Instead, they send me one (1) completely blank subpoena with no instructions whatsoever. In desperation, I draft a motion, accompanied by a letter asking them to file it, in which I asked that the Judge issue an order to the clerk to provide me with the 10 signed and sealed, b<sup>u</sup>t otherwise blank, subpoenas.

If you're trying to figure out what happened next, and said that someone in the Clerk's Office contrived some sort of excuse to refuse to file my motion, then you've hit the nail right on the proverbial head. Instead of filing my motion, the Clerk sends it back to me with yet another note scrawled on it, saying that they'd provided me with a blank subpoena for me to fill out, at which time I was to mail it in to them, where they'd sign it and then mail it out, at which time I'd have to mail it to someone to serve on my behalf.

Some may be scratching your heads and asking "what's the big deal? Just make the copies, fill them out, send them in and take it from there," but this overlooks several things. First and foremost, the law is crystal clear on procedure, and for a good reason. I can't physically come down anytime I need, which means that I need to rely on the United States Postal Service (USPS), and while the USPS has definitely made improvements over the speed of their delivery when compared to the days of the Pony Express, it's still called "snail mail" for a reason, especially when you add on another week or two for the prison to process the incoming mail. Secondly, I was recently transferred to another prison, resulting in the loss of my "top paying job" at my former institution, a position where I made \$0.85 an hour, before the mandatory 75% deductions. That being said, without a job, I simply have no way of paying for postage, and while the prison is required to provide me with free, unlimited postage to the courts, they refuse to provide me with any postage from the courts to me, nor will the Clerk of the Court cover those costs, which means that I simply have no way of paying for all of that return postage. And even if, by some miracle, I could cover all of that postage coming and going, what then? At the end of the day, I'm in the middle of a lawsuit, which means that I'm always working under some sort of legally imposed deadline, a deadline which has come and gone long before this process of getting a properly signed subpoena has passed, let alone the time it takes to serve it and wait for a response.

Section 1985(c) of the CCP goes on to state that "[a]n attorney at law who is the attorney of record in an action or proceeding may sign and issue a subpoena duces tecum to require production of the matters or things described in the subpoena." Unfortunately, I'm not an attorney at law, and since the Clerk of the Court refused to file my motion, I was left with only two choices. I could comply with their ludicrous demand, even though the law was clearly on my side, or I could issue my own subpoena, which could possibly provide the person served with a reason to legally ignore it. Rather than choosing to put all of my eggs into a single basket, I instead chose both options, trying to plan for the future. I made a copy of my fee waiver, which clearly says that the fees for copies are to be waived, and then filled out a blank subpoena, after which time I sent it in. Enclosed with this was a letter instructing the Clerk of the Court to make copies, at no cost to me, per the attached fee waiver, and then sign and return all ten to me so I could have them served. At the same time, I went ahead and signed my own blank subpoenas, just as if I were an attorney at law, before sending them out to the San Luis Obispo County Sheriff's Department to be served.

Included with the subpoenas was a blank fee waiver and a letter of instruction, per their requirements. Instead of serving the subpoenas though, they returned them to me, saying that they couldn't because the recipients were either 1.) out of the county, or 2.) they didn't want to go through the subpoenas to find the subpoena that was in the county. Never mind the fact that each set of subpoenas was separated by a divider to make their task easier, to make it easier to find a particular subpoena, they just didn't want to serve them.

Even under the best of circumstances, I knew it was going to be difficult to litigate my case, which is why I tried to retain counsel. Unfortunately, the prison found out what I was doing and confiscated my phone books, claiming that they were a "threat to the safety and security of the facility." I've asked people here and there for attorney referrals, but most of the people in here only have attorney contact information for criminal attorneys, not attorneys who handle civil litigation, and even then, most attorneys don't want to represent an inmate suing an employee of a state prison. Still, I persist, not only to find an attorney, but also to continue with my case, even though I'm starting to see that the game truly is rigged. Every now and then, you hear about someone without any money taking on the big guys and winning, but for the most part, those stories seem to be few and far between, something to give the rest of us a false sense of hope, which is why I say, once again, that the game is rigged!

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