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FILED MAY 20 2015

BY E. Dean
Deputy

7 Attorney for Plaintiff Dan Dellinger

Assigned to
Judge Warren C. Stracene
For all purposes

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF EL DORADO

10 UNLIMITED JURISDICTION

11 DAN DELLINGER, individually and doing
12 business as DAN DELLINGER
13 CONSULTING,
14 Plaintiff

Case No.: **PC 20150251**
COMPLAINT FOR DAMAGES

15 vs.

16 JOE HARN, individually and acting as EL
17 DORADO COUNTY AUDITOR-
18 CONTROLLER under contract to the
19 PIONEER FIRE PROTECTION DISTRICT;
20 the COUNTY OF EL DORADO; the
21 PIONEER FIRE PROTECTION DISTRICT;
22 and DOES 1-10

23 Defendants

1 **I. PARTIES/JURISDICTION/VENUE**

2 1. Plaintiff DAN DELLINGER is and was at all relevant times a self-employed
3 government relations and political consultant living in El Dorado County, California and doing
4 business as DAN DELLINGER CONSULTING a sole proprietorship with its principal place of
5 business in EL Dorado County, California.
6

7 2. At all times mentioned herein, Defendant JOE HARN is and was the elected
8 AUDITOR-CONTROLLER for the COUNTY OF EL DORADO obligated under contract with the
9 PIONEER FIRE PROTECTION DISTRICT to provide routine ministerial banking services,
10 including disbursement of checks and warrants, for the purpose of paying debts incurred by the
11 PIONEER FIRE PROTECTION DISTRICT.
12

13 3. At all times mentioned herein, VERN PIERSON is and was the elected District
14 Attorney for the COUNTY OF EL DORADO.

15 4. At all times mentioned herein, Defendant COUNTY OF EL DORADO is and was a
16 government entity obligated under contract with the PIONEER FIRE PROTECTION DISTRICT for
17 the performance of the District's routine ministerial banking functions, such as paying debts incurred
18 by Defendant the PIONEER FIRE PROTECTION DISTRICT, and the employer paying the salaries
19 of Defendant Auditor-Controller JOE HARN and District Attorney VERN PIERSON.
20

21 5. At all times mentioned herein, Defendant PIONEER FIRE PROTECTION
22 DISTRICT, is and was a government entity constituted as a special district that provides fire
23 prevention and suppression to a large geographic portion of southern El Dorado County, is and was
24 operating under contract with EL DORADO COUNTY AUDITOR CONTROLLER JOE HARN for
25 the performance of the District's routine ministerial banking functions, such as paying debts incurred
26 by the PIONEER FIRE PROTECTION DISTRICT.
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1 6. Plaintiff is unaware of the true names and capacities of defendants sued herein as
2 DOES 1 through 10, inclusive, and therefore sues these defendants by such fictitious names. Plaintiff
3 believes that each fictitiously sued defendant was in some way responsible for the acts alleged in this
4 complaint.
5

6 7. This action is not subject to Civil Code §1812.10 or §2984.4. This action is subject to
7 Code of Civil Procedure §395. The obligation was entered into in, and/or when the obligation was
8 entered into the defendant(s) resided in, and/or when this action was commenced the defendant(s)
9 resided in, this judicial district.
10

11 8. All torts alleged in this Complaint were committed in El Dorado County, California.

12 9. Plaintiff's written claim for debt payment and damages was duly submitted to the
13 Defendants in accordance with Government Code Title I, Article 1 and was rejected and/or deemed
14 rejected by the Defendants, thus necessitating this litigation in the interests of justice.
15

16 **II. FACTUAL BACKGROUND** 17

18 10. A political rivalry has existed for many years between the plaintiff and defendant Joe
19 Harn and Vern Pierson. Defendant Joe Harn and Vern Pierson have often endorsed and/or actively
20 campaigned for public office candidates in opposition to rival candidates who had retained
21 Dellinger's professional services, some of which had lost to Dellinger's clients. Dellinger sometimes
22 advocated for public policy decisions contrary to the policy outcomes desired by Pierson and Harn.
23

24 11. In early 2011, the County of El Dorado eliminated a supplemental funding program
25 assisting small community-based fire protection districts known as "Aide-to-Fire" effective the
26 following year. Shortly thereafter, the Pioneer Fire Protection District (hereinafter PFPD) estimated
27 that even with prudent and austere management and spending practices, PFPD would be lacking over
28 one-fourth of the District's annual operating revenue as a result of the pending loss of supplemental

1 “Aide-to-Fire” program funding. Faced with this problem, the PFPD Board of Directors took action
2 to explore enacting a Parcel Tax or Benefit Assessment Fee and then determined to retain the services
3 of a professional consultant to assist with such political process and following consideration of a
4 number of proposals, executed a written contract with DAN DELLINGER CONSULTING, on or
5 about June 2, 2011. The consideration to be paid DELLINGER for his services totaled \$22,000, plus
6 reimbursement for out of pocket expenses; \$10,000 to be paid prior to the November election and the
7 remainder thereafter, but only if funds were available as a result of the tax assessment vote.
8

9 12. The PFPD Board of Directors, with Dellinger’s consultation, considered four options
10 and subsequently chose to submit a parcel tax to the voters to offset the pending loss of County
11 funding, which became Measure F. In August, 2011, two months after Dellinger’s first payment was
12 due and much work performed by Dellinger, Defendant Joe Harn (hereinafter Harn) had failed to
13 perform his routine ministerial duty of paying Dellinger as instructed by PFPD. In response to
14 Dellinger’s inquiry into Harn’s failure to perform his ministerial duty of paying Dellinger, on or
15 about August 12, 2011, Harn claimed he was checking into the legality of the PFPD-Dellinger
16 contract with El Dorado County Counsel, expressing concern over the lawfulness of the \$12,000 final
17 payment clause as a “bonus”. Shortly thereafter, on or about August 30, 2011 Harn insisted upon
18 modifications to the PFPD-Dellinger contract before he would honor PFPD’s contract and pay
19 Dellinger. Through an Open Records Act Request, on or about April 14, 2014, plaintiff learned that
20 the County of El Dorado did not have any policy addressing bonuses for businesses entering into
21 contracts with the County. Furthermore, subsequent research has proved Dellinger’s performance
22 based bonus did not violate any State law, County or PFPD policy as alleged by Harn at that time.
23

24 13. Dellinger preformed services as required by the aforesaid contracts. At the election in
25 November 2011, Measure F passed with nearly 80% of the vote.
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1 14. On or about December 20, 2011 Dellinger received two payments totaling \$10,000
2 issued under the signature of Auditor-Controller Joe Harn on County of El Dorado checks; the initial
3 \$2,000 payment which had been due him in June 2011 over 180 days late, and the second \$8,000
4 payment due prior to the November Election over 30 days late. The final payment for \$12,000 would
5 become due Dellinger in March 2013.
6

7 15. Subsequently, a complaint was made to the County Civil Grand Jury regarding the
8 services provided under the aforesaid PFPD District-Dellinger contract. On or about May 11, 2012,
9 El Dorado County Assistant District Attorney James Clinchard attempted to pressure and coerce
10 Dellinger into perjuring himself by pleading guilty to a false charge and forgoing the remaining
11 \$12,000 due Dellinger in March 2013 in a so called "plea bargain" to avoid a costly and
12 professionally destructive civil suit which Clinchard threatened to file against Dellinger on behalf of
13 his boss the District Attorney.
14

15 16. On or about May 15, 2012, Harn sent a letter on official El Dorado County stationary
16 to the PFPD stating that he "did not intend to process any further payments to Mr. Dellinger".
17

18 17. Subsequently, the County Civil Grand Jury, with the Assistant District Attorney James
19 Clinchard as its legal counsel, issued an order to the District Attorney to seek recovery of the \$10,000
20 the Pioneer Fire Protection District and El Dorado County Auditor-Controller Harn had paid
21 Dellinger and recommended that the additional \$12,000 not be paid.
22

23 18. On or about July 27, 2012, District Attorney Vern Pierson (hereinafter Pierson) filed
24 *People of the State of California vs. Dan Dellinger et al.*, Case No.: PC20120428 (hereinafter *People*
25 *v. Dellinger*), which sought to take the \$10,000 fee payment, already paid Dellinger and bar Dellinger
26 from receiving the remaining \$12,000 installment still owed Dellinger under the terms of the
27 aforesaid PFPD-Dellinger contract. In filing this litigation District Attorney Vern Pierson ignored
28

1 widely followed case law and sought recovery on a legal theory which was untenable under the facts
2 known to him at that time.

3 19. On or about July 27, 2012, District Attorney Vern Pierson issued a widely distributed
4 news release, on County stationary, about this civil suit designed to injure Dellinger's reputation and
5 intimidate potential business clients.
6

7 20. On or about March 15, 2013, during the litigation of *People v. Dellinger*, Dellinger
8 billed PFPD for the remaining \$12,000 due Dellinger under the terms of the PFPD-Dellinger
9 contract, but did not receive payment.
10

11 21. On May 22, 2014, the three day trial *People v. Dellinger* concluded with an
12 approximately 47 minute unanimous verdict in Dellinger's favor.

13 22. On or about June 16, 2014, after the litigation of *People v. Dellinger* in Dellinger's
14 favor, plaintiff billed the Pioneer Fire Protection District for the remaining \$12,000 due Dellinger
15 under the terms of the PFPD-Dellinger contract, and the PFPD instructed Harn to pay Dellinger.
16

17 23. On or about June 20, 2014, after the litigation of *People v. Dellinger* in Dellinger's
18 favor, Dellinger billed the County of El Dorado for the remaining \$12,000 due Dellinger under the
19 terms of the PFPD-Dellinger contract, legal rate interest on the unpaid principal, and modest \$500
20 collection fee, but did not receive payment.

21 24. On or about August 8, 2014 Dellinger obtained copies of communication between the
22 Pioneer Fire Protection District and Joe Harn, from PFPD, demonstrating that PFPD had been
23 instructing Harn to perform his routine ministerial duty and pay the remaining \$12,000 due Dellinger.
24

25 25. On or about November 10, 2014 Dellinger obtained a copy of the August 29, 2014 El
26 Dorado County - PFPD form "Vouchers #1Paybles Interface CV1" instructing Harn to perform his
27 routine ministerial duty and pay 11 debts incurred by PFPD including \$12,000 to Dellinger.
28

1 26. On or about November 20, 2014 Dellinger had still not received payment and
2 submitted a claim to the County of El Dorado and the Pioneer Fire Protection District in compliance
3 with the California Tort Claims Act.

4 27. On or about January 5, 2015, the County of El Dorado rejected Dellinger's claim and,
5 without response, PFPD deemed Dellinger's claim rejected, thus necessitating this litigation.

6 28. Vern Pierson and defendant Joe Harn acted with fraud, oppression, and malice
7 throughout the process of bringing suit and prosecuting the vexatious litigation, *People v. Dellinger*,
8 against the plaintiff; including abuse of the El Dorado County Civil Grand Jury.
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12 **III. CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **Unjust Enrichment against Joe Harn, County of El Dorado,**
15 **Pioneer Fire Protection District, and Does 1-10**

16 29. Plaintiff incorporates herein by this reference all allegations in paragraphs 1-28 above
17 as though fully set forth at this point.
18

19 30. Vern Pierson and defendant Joe Harn received valuable publicity which greatly helped
20 the pair's political campaign efforts and allowed both politicians to successfully retain their six figure
21 salaried jobs by pursuing bad faith litigation in *People v. Dellinger* which caused destructive injury to
22 plaintiff's reputation and major harm to plaintiff's business.

23 31. Defendant Joe Harn and the County of El Dorado have failed to perform their routine
24 ministerial duty of discharging the \$12,000 debt owed plaintiff by the PFPD, as ordered by the
25 Pioneer Fire Protection District, causing injury and harm to plaintiff's business and reputation.
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27 32. Defendant Joe Harn acted with fraud, oppression, and malice towards the plaintiff
28 during the plaintiff's successful discharge of his contractual obligations to the PFPD.

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SECOND CAUSE OF ACTION

Intentional Interference with a Contract against Joe Harn and County of El Dorado

33. Plaintiff incorporates herein by this reference all allegations in paragraphs 1-32 above as though fully set forth at this point.

34. Defendant Harn's insistence upon the PFPD and plaintiff amending the terms of their aforementioned PFPD/Dellinger contract before defendant Harn would pay Plaintiff caused plaintiff's contract performance to be more expensive and burdensome.

35. Defendant Harn's failure to pay plaintiff as instructed by the PFPD, under the terms of the aforementioned PFPD/Dellinger contract caused plaintiff's contract performance to be more expensive and burdensome.

THIRD CAUSE OF ACTION

Deceit and Bad Faith against Joe Harn and County of El Dorado

36. Plaintiff incorporates herein by this reference all allegations in paragraphs 1-35 above as though fully set forth at this point.

37. On or about August 30, 2011, Harn claimed to have checked into the legality of the PFPD-Dellinger contract with El Dorado County Counsel and falsely represented to Dellinger that bonuses, such as the \$12,000 final payment clause in the PFPD-Dellinger contract, were "gifts of public funds" and thereby illegal in government contracts. Harn further claimed that by amending the \$12,000 final payment clause to link it to performing some future compliance work which PFPD would be required to complete in order to collect future Measure F fees, the contract would then be legal and that he (Harn) would then honor the PFPD-Dellinger contract and pay Dellinger.

1 Accordingly, on or about August 30, 2011 the PFPD-Dellinger contract was modified with Harn's
2 amendments.

3 **38.** On or about May 15, 2012, Harn sent a letter to the PFPD citing Harn's own
4 amendment as reason why he did not intend to process any further payments to Mr. Dellinger and
5 submitted a copy of this letter to the Civil Grand Jury in coordination with Pierson's efforts to coerce
6 plaintiff Dellinger into a destructive plea bargain.
7

8 **39.** During the May 20-22 2014 *People v. Dellinger* trial, defendant Harn testified to have
9 made a complaint to the Civil Grand Jury regarding plaintiff's contract with PFPD.
10

11 **FOURTH CAUSE OF ACTION**

12 **Intentional Interference with Prospective Economic Advantage against Joe Harn,**

13 **County of El Dorado, and Does 1-10**

14 **40.** Plaintiff incorporates herein by this reference all allegations in paragraphs 1-39 above
15 as though fully set forth at this point.
16

17 **41.** Both Vern Pierson and defendant Joe Harn would be required to run for re-election in
18 order to retain their six figure salaried jobs in the 2014 June Primary Election and plaintiff would
19 likely be retained by candidates opposing Harn and/or Pierson unless plaintiff's reputation were
20 damaged.
21

22 **42.** Plaintiff would likely be retained by PFPD or other fire districts to perform similar
23 services as he had for PFPD unless plaintiff's reputation had been damaged.
24

25 **FIFTH CAUSE OF ACTION**

26 **Conversion against Joe Harn and County of El Dorado**

1 43. Plaintiff incorporates herein by this reference all allegations in paragraphs 1-42 above
2 as though fully set forth at this point.

3 44. Despite plaintiff's aforementioned March 15, 2013 billing to PFPD and PFPD's
4 directions to Harn to pay plaintiff the specific and identifiable sum of \$12,000, and, plaintiff's
5 aforementioned June 20, 2014 and November 20, 2014 attempts with the County of El Dorado to
6 collect this debt, defendant Harn and the County of El Dorado wrongfully denied plaintiff the right to
7 own and possess his property.
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10 **SIXTH CAUSE OF ACTION**

11 **Abuse of Process against Joe Harn, County of El Dorado, and Does 1-10**

12 45. Plaintiff incorporates herein by this reference all allegations in paragraphs 1-44 above
13 as though fully set forth at this point.
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15 46. On or about the afternoon of April 19, 2011 plaintiff was summoned to appear before
16 the El Dorado County Civil Grand Jury the following morning without any notification of subject
17 matter of inquiry or opportunity to prepare information or exculpatory evidence to any accusations.
18

19 47. On or about the morning of April 20, 2011, plaintiff was questioned by Assistant
20 District Attorney James Clinchard, without legal counsel, in front of El Dorado County Civil Grand
21 Jury members regarding two of plaintiff's clients; the PFPD and County Supervisor Ray Nutting.
22 Nutting was a political rival of both defendants Pierson and Harn. Plaintiff was not given any
23 opportunity to return and present any exculpatory evidence to the Civil Grand Jury.
24

25 48. Assistant District James Clinchard, acting as legal counsel to the Civil Grand Jury
26 under direction of Pierson, concealed, misled or negligently explained relevant State law and case
27 law governing the subject matter of the PFPD-Dellinger contract work to the Civil Grand Jury
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1 members which would have demonstrated that the work performed for PFPD by the plaintiff was
2 lawful.

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5 **SEVENTH CAUSE OF ACTION**

6 **Violation Of Civil Rights Pursuant To Section 1983 Of Title 42 Of The United States Code**
7 **and California State Civil Code Section 52.1 Arising From Bad Faith Prosecution against**
8 **Joe Harn, County of El Dorado, and Does 1-10**

9 49. Plaintiff incorporates herein by this reference all allegations in paragraphs 1-48 above
10 as though fully set forth at this point.

11 50. The litigation *People v. Dellinger* was fabricated and prosecuted by defendant Harn
12 and District Attorney Vern Pierson for the purpose of destroying the plaintiff and his business
13 because the plaintiff has been a successful political enemy.

14 51. Throughout the litigation of *People v. Dellinger* Pierson and defendant Harn acted
15 under the color of law.

16 52. Throughout the litigation of *People v. Dellinger* District Attorney Vern Pierson,
17 Assistant District Attorney James Clinchard, and Defendant Harn interfered or attempted to interfere
18 by threat, intimidation, or coercion with the exercise or enjoyment by plaintiff of his rights secured
19 by the United States Constitution and the California State Constitution.

20 53. To date, no other consultant working for a school, fire protection, or special district in
21 a similar capacity as the plaintiff was for PFPD has been sued by either Harn or Pierson for the
22 violations falsely alleged in *People v. Dellinger*.

23 54. Since March 15, 2013 defendant Harn and the County of El Dorado have denied
24 plaintiff the right to use his money, the specific sum of \$12,000, for his legal defense during the
25 litigation of *People v. Dellinger*, which terminated decisively in plaintiff's favor.

1 55. The El Dorado County Civil Grand Jury's policy or custom of relying upon the bias
2 and prejudice of a politicized District Attorney and his obedient staff for comprehensive legal
3 guidance and interpretation of law, rather than independent legal counsel, during the fabrication and
4 prosecution of *People v. Dellinger* deprived plaintiff of equal protection under the law.
5

6 56. Throughout the litigation of *People v. Dellinger* Vern Pierson, along with, James
7 Clinchard and Brandon Erickson, the two Assistant District Attorneys assigned by Pierson to
8 prosecute Dellinger, disregarded governing State codes and case law demonstrating that the work
9 performed for PFPD by Dellinger was lawful. On or about May 15, 2014 Pierson and his assistants,
10 James Clinchard and Brandon Erickson, filed a motion in limine to keep the Appellate Court ruling
11 *Santa Barbara County Coalition Against Automobile Subsidies v. Santa Barbara County Association*
12 *of Governments* out of evidence in *People v. Dellinger* because this established case law clearly
13 proved that the work performed for PFPD by the Dellinger was lawful and that *People v. Dellinger*
14 was brought without probable cause in violation of due process norms.
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18 **EIGHTH CAUSE OF ACTION**

19 **Invasion Of Privacy, The Depiction Of The Plaintiff In A False Light against Joe Harn, County**
20 **of El Dorado, and Does 1-10**

21 57. Plaintiff incorporates herein by this reference all allegations in paragraphs 1-56 above
22 as though fully set forth at this point.

23 58. During the litigation of *People v. Dellinger*, Pierson and defendant Harn used the
24 power of their elected office to obtain self-promoting publicity which damaged the reputation of the
25 plaintiff and injured his ability recruit business clients by disseminating news releases, placing stories
26 with reporters, and disparaging plaintiff in front of County residents.
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1 59. During the litigation of *People v. Dellinger*, Pierson attempted to abuse the rules of
2 discovery to allow his employees to take possession of all of the Dellinger's computers, cell phones,
3 electronic storage devices and computer disks for the purpose of copying all of Dellinger's personal
4 and business information, including lists of persons politically opposed to Pierson and Harn.
5

6 60. During the litigation of *People v. Dellinger*, Pierson attempted to use the rules of
7 discovery to gain access to all of Dellinger's banking, credit card account and financial records.
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10 **IV. PRAYER FOR RELIEF**

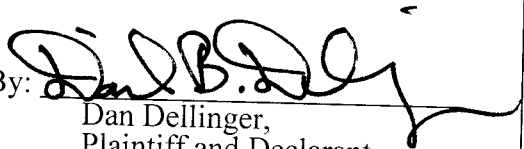
11 WHEREFORE plaintiff prays for judgment from the defendants as follows:

- 12 (1.) payment of \$12,000 for an unpaid debt;
13 (2.) general damages according to proof;
14 (3.) special damages at the legal rate interest (10%) on the unpaid debt commencing from
15 March 15, 2013, reimbursement for expenses plaintiff incurred defending *People v.*
16 *Dellinger* civil suit, and other damages according to proof;
17 (4.) punitive damages;
18 (5.) cost of suit and other and further relief as this Court may deem just and proper.
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21 **V. VERIFICATION**

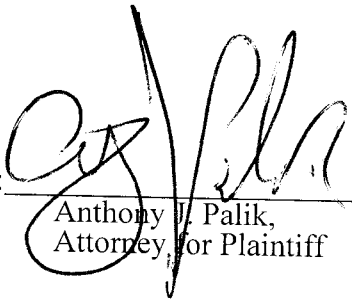
22 I, DAN DELLINGER, declare under penalty of perjury pursuant to the Laws of the State of
23 California that the foregoing is true and correct.
24

25 DATED: 5/19/15

26 By: 
27 Dan Dellinger,
28 Plaintiff and Declarant

1 RESPECTFULLY SUBMITTED,

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3 DATED: 5/18/15

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5 By: 
6 Anthony J. Palik,
7 Attorney for Plaintiff

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