

SONOMA COUNTY BAR ASSOCIATION THE BAR JOURNAL

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Petaluma Dairy Farm at Sunset

President's Message: Discovering Pride • From the Editors: Passing the Baton & E.B. White on Democracy

2nd Annual Judge's Jubilee • 50 Years of Empire Law School Graduates

Law Week '23: "Cornerstones of Democracy"

MCLE: Leveling the Playing Field Through Employment Legislation, Part Two

Hon. Oscar A. Pardo: "A Face of Hope and Inspiration"

Legal Tech-nicalities: What to Look For in Case Management Software

Remembering Mike Senneff • One Lawyer's Long Journey Toward Justice • Gone Solo: Work-Life Balance

Dean's List: Report from Empire College School of Law • Court Opens New Civil Self-Help Center

One Lawyer's Long Journey Toward Justice

Does anyone remember what happened on Thursday, December 19, 2019?¹ I remember driving from my office in Santa Rosa to the San Francisco office of my colleague Joseph May to meet with prospective clients. Aasylei Loggervale, Aasylei Hardge-Loggervale, and Aaottae Loggervale were three African American women—a mother and her two teenage daughters—who had been detained while seated in their vehicle in a parking lot outside of a Starbucks in Castro Valley by deputies from the Alameda County Sheriff's Office.

Joseph and I have co-counseled on a dozen or so cases over the past ten years. As much as possible, I try to collaborate with attorneys who are more talented than I am, and Joseph fits that description. Plus, we both enjoy the challenge of a righteous civil rights case.

Joseph and I are solo practitioners. We work together for a variety of reasons including: (1) we have complementary skills, (2) we are better able to analyze and strategize together than when working in a solitary fashion, and (3) it is a way to hedge the risk when taking on difficult contingency fee cases; that is, we can better absorb the loss of our time and costs if it is a shared risk.

Joseph had sent me an email earlier that week that provided in pertinent part: "Here are some cases I came across... *Since there was never reasonable suspicion to suspect the Loggervale family of any crimes, I can't see how their detention, handcuffing, and the subsequent search was in any way justified.*" (Italics mine.)

On Wednesday, March 1, 2023, a federal jury in San Francisco completely agreed with Joseph's initial analysis about the lack of reasonable suspicion. The jury found the deputies liable for civil rights violations against the Loggervales. The jury awarded the family a total of \$8.25 million, with the primary deputy liable for \$2.75 million to Aasylei Loggervale (mother) and \$2 million each to Aaottae Loggervale (daughter) and Aasylei Hardge-Loggervale (daughter). The jury also

found the secondary deputy liable for \$750,000 to each of the daughters. Finally, the jury found that the County of Alameda County was liable for ratifying the unconstitutional actions of the deputies.

Much happened in the 1,168 days between our first meeting with our clients and the sweet vindication of the multi-million dollar verdict.

Around 6:30 A.M. on Sept. 20, 2019, the Loggervales were in a parked vehicle in a strip shopping center located in Castro Valley waiting to enter a Starbucks. Aasylei Loggervale had driven overnight with her two daughters from her home in Las Vegas. The purpose of the trip was to take Aasylei Hardge-Loggervale to her first test at Berkeley Community College at which she had recently enrolled after graduating from high school.

The family was parked in a disabled spot and had a disability placard placed in a window when Alameda County Deputies Steven Holland and Monica Pope approached the family's vehicle. Following a brief conversation in which Holland advised her that there recently had been auto burglaries at that location, he abruptly asked Ms. Loggervale to see her identification. Ms. Loggervale initially reached for her purse, but then asked what crime she had committed simply by sitting in her parked car outside of a Starbucks. Deputy Holland merely responded that she must produce her ID to him. Ms. Loggervale simply continued to ask what she had done to require her to produce her ID.

Holland refused to answer her question. During this back-and-forth between Holland and Ms. Loggervale, Aasylei Hardge-Loggervale exited the vehicle in order to attempt to use the restroom. Holland responded by stating that all three of the women were detained, and he called for backup. Multiple deputies responded, and Holland ordered that all three women be handcuffed. Each were placed in the back of a separate patrol car.

While the women were detained, Holland and Pope searched the vehicle for the identifications of the three women. The Loggervales did not consent to the searches. The supervisor of Holland and Pope arrived, talked separately with each of the three women, and

1. This was the lead story that day in the *New York Times*: *Trump Impeached for Abuse of Power and Obstruction of Congress*.

One Lawyer's Long Journey Toward Justice (continued from page 20)

eventually removed their handcuffs and released them from the patrol cars. The women were in handcuffs for approximately one hour and thirty minutes. Holland did not charge any of the three women with a crime or a violation of the Vehicle Code and released them.

The journey from that parking lot to a federal courtroom encompassed the following events:

- Fifteen depositions
- Responding to seventy-six requests for admissions for each plaintiff
- Opposing a motion to dismiss the complaint and a motion for summary judgment
- Filing five discovery motions for abusive and/or improper conduct by counsel for Defendants—each of which was granted.

At 8:00 A.M. on February 13, 2023, we stated our appearances to the Court for the start of trial. For the remainder of the five-day trial, the Court took the bench every morning promptly at 7:30 A.M.² Joseph and I brought in our friend Craig Peters to assist us in trying the case. I have been an attorney for over 32 years, and I am the son and grandson of trial attorneys. As such, it takes a lot for a lawyer to impress me. Craig impressed me.

Among Craig's many contributions to our success, he gave a magnificent closing argument. Here is a snippet:

And what Martin Luther King and many others were talking about when he talks about how we're all tied together in this network of mutuality or when he talks about the arc of the moral universe—right?—bending towards justice, what he's talking about isn't that you just sit back and this will all happen. It's that we're all active participants in it. We all play a role in it. We all say, "Yeah, we're willing to make a stand. We're willing to stand up." Right?

And you know what's hard? Standing up. Standing up is hard. Saying, "This isn't right and I'm actually going to put my time and effort towards correcting it," that's hard. It's inconvenient.

That's what the Loggervales have done. They said, "You know, we trust the system. We think the system can correct us." They're not picking up baseball bats or doing—you know, trying to solve these problems themselves. They say, "I'm going to do it through the system."

Rosa Parks said: "Stand for something or you will fall for anything. Today's mighty oak is yesterday's nut that held its ground. I knew someone had to take the first step, and I made up my mind not to move."

Now, we all know who Rosa Parks is. We've all heard of her; right? I think a revered person. We all think: Wow, what a courageous thing she did.

I can tell you, back at the time, there were plenty of people, like, "Just move. Like, what's the big deal? Just go to a different seat. Like, why are we making such a big deal out of this?" Right? There were people like that.

And that was, you know, not completely out of the realm of what people were thinking. Right? I mean, that's—she took a stand and she changed things. She changed things for everybody. That one little, small act. Right? It's what Martin Luther King was talking about how the moral arc of the universe is long, but it bends towards justice. Why? Because people are each doing their part. Juries are doing their parts. Juries say, "We are going to hold people accountable. There is a hard line; and if you cross it, we're going to tell you you crossed it.

Now, we are at the post-trial motion phase. Defendants have moved for a judgment as a matter of law, a new trial, and/or a remittitur of the verdict to \$150,000 per plaintiff; that is, a combined \$450,000. Defense counsel has not been chastened by the verdict. Instead, in one of Defendants' post-trial briefs, counsel argued that (Continued on page 23)

2. I stayed at a nearby hotel six blocks away from the Federal Building located at 450 Golden Gate Avenue, San Francisco. Make this short walk twice a day before you complain about the homeless situation in Santa Rosa.

Gone Solo: Work-Life Balance (continued from page 22)

However, I did notice that when I started working from home, it was really easy to just sit on my couch with my laptop and work without taking breaks. This is not healthy.

Now I make sure to—at a minimum—take a lunch break for at least an hour. You need time to eat, move your body, look at something other than a computer screen, and just generally rest your brain. So strive to take a short morning break to walk for 10 minutes, drink water, meditate, play with your dogs—something to stop looking at a screen and move your body.

Attorneys tend to work long hours and can get burned out. That risk increases when you don't leave your home to work. It is important to ensure that you establish firm boundaries between work life and home life. I've been following these five boundary and self-care tips for the last few years and it has really made a difference in my quality of life. ☺

By Beki Berrey

Beki Berrey is a solo practicing attorney at Beki Berrey Family Law, who practices exclusively family law in Sonoma and Mendocino Counties.

One Lawyer's Long Journey Toward Justice (continued from page 21)

"Plaintiffs are clearly implying that it would be racist for the Court to reduce the award or order a new trial, and such extortionist tactics should not be tolerated."

At the same time, as prevailing parties, we filed a motion for attorneys' fees (hours multiplied by market rates) totaling \$1,831,305. We also requested an upward multiplier of 2.0, which we justified by the contingent nature of the fee, the difficulty of the case, the skill of counsel, the preclusion of other opportunities, and the success achieved. Thus, the total amount of fees that we requested is \$3,662,610.

Of course, Defendants already have filed a Notice of Appeal. So, with apologies to Robert Frost, I—along

with my colleagues Joseph and Craig—have "miles to go before I sleep."³ ☺

3. Frost, Robert, "Stopping by Woods on a Snowy Evening," in *New Hampshire, A Poem; with Notes and Grace Notes*. Henry Holt and Company, (New York, 1923).

By Brian Gearing

Brian Gearing is the Principal of Gearing Law Group, representing injured individuals, primarily in Sonoma County Superior Court. Outside of the office, Brian enjoys attending his son's soccer matches, growing grapes and maintaining honeybees on his property.

SCBA Summer '23 "Movers & Shakers"

If you have news about yourself or any other SCBA member, please send to SCBA "Movers & Shakers" at info@sonomacountybar.org. Include position changes, awards, recognitions, promotions, appointments, office moves, or anything else newsworthy. If your firm sends out notices to the media, please add info@sonomacountybar.org to the distribution list.

Susannah Edwards is now with Clement, Fitzpatrick, Kenworthy in Santa Rosa... **Roy Johnston** has changed his firm name to Johnston & Associates, Attorneys at Law, P.C... **Adam Eberts** is the co-founder & CEO of Illuminote, Eberts Law Group is no more... **Monica Lehre** is now with Berry & Fritzing Law, P.C. in Santa Rosa... **Mike Mullins**, former Dean of the Empire College of Law, has been selected as the new President of

The Amicus Committee of the Sonoma County Law Library, succeeding Justin Milligan, founding President of Amicus... **Sheri Chlebowski** is now with Vandyk Law PC in Santa Rosa... **Nancy Clark** is now with YWCA in Santa Rosa... **Michael Melton** is now with the Sonoma County Public Defender's Office in Santa Rosa... **Bill Adams** is now Principal Counsel for William L. Adams, P.C.