

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR JACKSON COUNTY

UNITED STATES OF
AMERICA, INC.

Plaintiff,

v.

BARTON BUHTZ

Defendant,

Case No. CR 05-30047-PA

AMICUS CURIAE

JUDICIAL NOTICE
RE: WITNESS TAMPERING

COMES NOW Janet Phelan, friend of the court, under necessity, to give the Court judicial notice of facts known and unknown as to witness tampering in respect to Case No. CR 05-30047-PA, to wit:

1) On October 4, 2007, I was in the Federal Courthouse in Medford, Oregon, covering the Barton Buhtz trial for The American's Bulletin, where I work as an investigative reporter. I left the courtroom and went to sit in the adjacent waiting area. Defense witness Walker F. Todd was sitting on the bench across from me. I was only there a couple of minutes when I witnessed the Prosecutor, Assistant U.S. Attorney Fitzgerald, come out of the courtroom and ask Mr. Todd the following question: "You are not going to testify that these accounts exist, are you?" Mr. Todd assured him that he would not do so. Mr. Fitzgerald then said, "I just wanted to make sure of this." He then went back into the courtroom.

2) Thinking I may have witnessed something improper, I immediately located Mr. Fredericks, the attorney for defendant Steve Schollenberg, and told him what I had heard. Mr. Fredericks gave me a worried look, and said, "We'll see what he testifies." I also located Mr. Buhtz, and imparted to him what I had heard.

3) On the witness stand, Mr. Todd was asked by Barton Buhtz's attorney, Lynn Shepard, if his testimony had been influenced by the fact that Mr. Buhtz was not paying his expert witness fees, but that he was paid by some government fund. Mr. Todd responded, "I wouldn't want to make the DOJ unhappy with me."

4) I followed Mr. Todd out of the courtroom and asked him to expand on the above statement. He told me that his expert witness fees are paid by the Department of Justice, and if the DOJ doesn't like his testimony, they won't be employing him in this capacity any longer. At that point I had substantial concern that Mr. Todd was tailoring his testimony to satisfy the prosecution, and that what I had witnessed in the waiting area was the DOJ attorney making sure that Mr. Todd would testify as DOJ Attorney Fitzgerald wished.

5) After the trial ended, I contacted the U.S. Attorney's office, the Medford FBI, and other Oregon offices of the FBI, as I now understand that what I saw and heard constitutes improper behavior by the Prosecution, possibly termed "witness tampering."

6) I was told by the FBI to contact Attorney Shepard and Judge Panner.

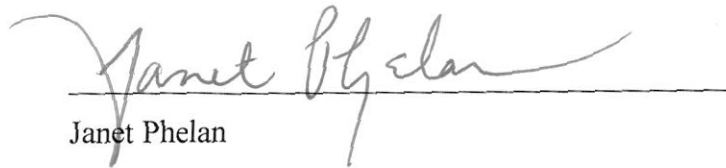
7) I have tried on at least five occasions now to reach Ms. Shepard by phone, beginning in October of 2007. As she never called me back, I sent her a certified letter last week, postmarked on January 30, 2008. I have attached the letter and a copy of the certified receipt.

8) Ms. Shepard's receptionist verbally acknowledged receipt of the letter on February 1, 2008, when I called her office again on that date, but Shepard has never returned my calls nor responded to my email.

9) It does appear to me that Attorney Shepard has not supplied her client, Barton Buhtz, with effective assistance of counsel.

Friend of the Court herein requests that the Court, upon the facts above and upon its own investigation, declare the Criminal Trial of Barton Buhtz a mistrial and/or dismiss and/or vacate the criminal charges and the guilty verdict in this instant matter in the interest of justice.

Dated this 7th day of February, 2008


Janet Phelan

Janet Phelan
Investigative Reporter
The American's Bulletin
P.O. Box 3096
Central Point, Oregon 97502

Lynn Shepard
Shepard Law Offices PC
66 Club Rd Ste 200
Eugene OR 97401

Dear Ms. Shepard,

I have made numerous attempts to reach you by phone, but have been repeatedly told by your receptionist that you are unavailable. I have left my phone number on your voice mail, but have not heard back from you.

I covered the Buhtz trial in Federal Court in Medford (see enclosed article). After witnessing the verbal behavior described within by Assistant Attorney General Fitzpatrick, I contacted the Federal Bureau of Investigation. I had been unsure if what I saw take place constituted witness tampering, but several attorneys of my acquaintance assured me that it did.

I was told by the FBI to contact you. I have repeatedly attempted to do so, and am now sending you this by certified mail. I have been told by Richard Palmquist, who is a long time friend of Barton's, that Mr. Buhtz is expecting the issue of alleged witness tampering to come before the court. In the interests of justice, I am attempting to come forward.

Sincerely,

Janet C. Phelan

Cc: U.S. Attorney/Portland
Barton Buhtz
Federal Bureau of Investigation/Medford office

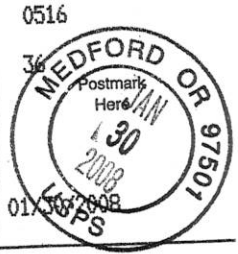
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Janet Phelan
Investigative Reporter
The American's Bulletin
P.O. Box 3096
Central Point, Oregon 97502

Lynn Shepard
Shepard Law Offices PC
66 Club Rd Ste 200
Eugene OR 97401

February 7, 2008

Dear Ms. Shepard,

I have made numerous attempts to reach you by phone, but have been repeatedly told by your receptionist that you are unavailable. I have left my phone number on your voice mail, but have not heard back from you.

I covered the Buhtz trial in Federal Court in Medford (see enclosed article). After witnessing the verbal behavior described within by Assistant Attorney General Fitzpatrick, I contacted the Federal Bureau of Investigation. I had been unsure if what I saw take place constituted witness tampering, but several attorneys of my acquaintance assured me that it did.

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Janet C. Phelan