

HUMBOLDT COUNTY'S ABUSIVE CODE ENFORCEMENT

Landowners in Humboldt County challenge harsh fines and a lack of due process, Filing a class action law suit.

"We filed this class action to put an end to Humboldt's abusive code-enforcement regime,"

"The county issues life-ruining fines to innocent people without proof or process." The plaintiffs' attorney Jared McClain of the **Institute for Justice** said.

After California legalized marijuana for recreational use in 2016, Humboldt County created an abatement program to fine landowners that have "committed traditional nuisances and permitting violations" to grow marijuana without a permit. The county then blindly correlated code violations with the assumption of marijuana growing, exponentially increasing the fines from initial violations.

For example, violations such as building a temporary greenhouse without a permit suddenly carries a daily fine between \$6,000 and \$10,000, yet the county bases their allegations of marijuana farming off of crude aerial images without probable cause.

"Based solely on that image, the county will issue a \$10,000 fine for the greenhouse, plus another \$10,000 fine for un-permitted cultivation because the county will allege — again, without any proof or investigation — that the greenhouse must have illegal marijuana inside," the plaintiffs say in their lawsuit.

Adding insult to injury, the county often adds another \$10,000 per day by claiming the owner couldn't have built a greenhouse without also doing un-permitted grading of their land. The county's code enforcement affected demonstrably innocent landowners, including plaintiff Blu Graham, who faced \$900,000 in fines for growing marijuana when he was actually growing vegetables for his restaurant.

Receiving a gigantic fine is onerous, but the county then refuses to issue appropriate permits until they cure their violation. The county has refused to drop fines when the accused provides evidence that there is no marijuana growing on their property, making landowners wait years for a hearing to defend themselves for which they must pay \$4,500. Thus, by delaying the hearing and refusing to issue permits for the property, the county pressures landowners to settle.

"The county accuses anyone with a greenhouse or garden plot of growing marijuana without a permit and forces them to prove their innocence at a hearing the county never provides," McClain said. *"The county's dragnet sweeps up innocent people who just bought their property, and others who are guilty of nothing more than growing asparagus or lavender. People have a right to grow food on their land without having to prove to the government that they aren't growing marijuana."*

When the county does schedule an administrative hearing, the plaintiffs say the county *"does not let a jury decide whether the landowner violated the code in order to cultivate cannabis — a factual determination that*

can multiply the landowner's penalty by 10 times or more." Instead, the county has hired a law firm to decide the cases.

"County officials brag that the administrative judges they hire have never ruled against the county," McClain said. "That's why every American has a right to a jury of their peers."

Local Reporter Credited by Legal Team

McClain tweeted *"This lawsuit would not have happened without local journalism, Humboldt County officials have behaved like they thought no one was watching. But @kymKemp and Nikki Norris have been a shining light on their extortive code enforcement from the beginning."*

Frequent **Greenfuse** contributor, Norris, also known as Shakti writes: *"Having my articles and radio segments ignored by every local media outlet for years, is a bit more palatable today. It only took a federal class action lawsuit, and now every news agency wants to cover the abatement program, five years later and after millions lost."*

McClain explained why it took so long for the Institute for Justice to hear about the Humboldt County abatement issue: **"a lack of Media attention."**

"One of my proudest moments and a testament of the power of local investigative reporting... This is a critical element to this story, that can teach us a lot moving forward." Shakti explains further:

"I diligently emailed every local news outlet my abatement stories for years, only to be ignored or flat turned down, except by Kym Kemp." (local news blog **Red-headed Blackbelt** kymkemp.com)

"I can attest there was a lack of attention on the abatement program because local reporters were prevented from covering the issue from the perspective of the victims. The only coverage that was acceptable was the government narrative, so my reporting on the victims was consistently called unbalanced or misinformation."

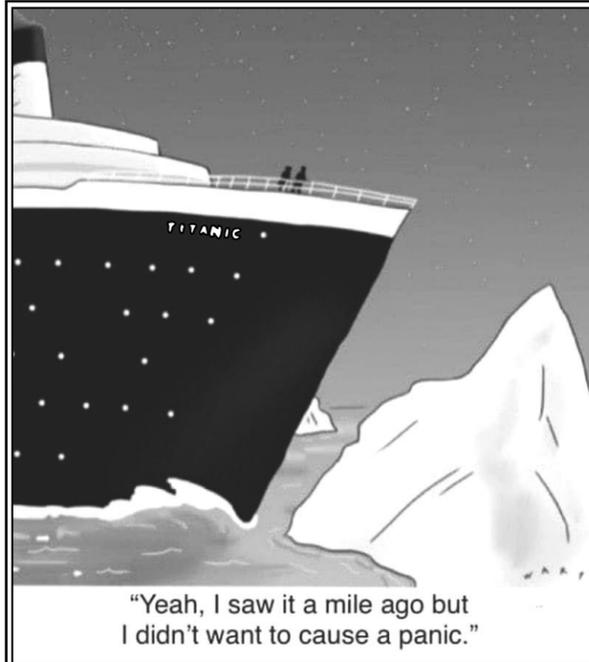
"I worked with innocent abatement victims who sometimes took their lives or died from stress related issues. I felt like I was their advocate in these news rooms trying to share their stories, only to discover no one cared. It was heartbreaking. How can they not care, I thought, it makes no sense, this is your community too? Why not prevent unnecessary suffering wherever you can?"

Humboldt County has fined landowners hundreds of thousands of dollars — and in the case of one couple, over \$1 million — for allegedly cultivating marijuana without a permit, and is doing so without an investigation or the opportunity for landowners to defend themselves.

The plaintiffs seek class certification and a declaration that Humboldt County's cannabis-related code enforcement policies and practices violate due process guarantees of the 14th Amendment and the fines are excessive and violate the Eighth Amendment.

Based on the county's data, McClain expects the class to represent at least 49 landowners and possibly more.

A GREENFUSE RADICAL REMIX



"Yeah, I saw it a mile ago but I didn't want to cause a panic."

"We are in an age when people think they should have opinions about everything,

and they rush past the facts to get there, pass judgment without basis, and then spread the judgment as fact when the facts have never been uncovered or sifted through or verified.

A lot of times you can't reach a firm conclusion from an action or connection or statement or association, and you shouldn't try to.

We don't need to have opinions about everything, and every opinion we do have needs to be on a solid foundation of fact. "I don't know" is a really good position to take, and it's often the most honest and accurate one available.

And we need to recognize the difference between an opinion and a fact, an inkling (or prejudice) and a settled truth, & etc.

One thing that I recognize more & more is that public falsehoods (aka fake news) are not something foisted on us; they are something we must be active collaborators with, by accepting and repeating the unchecked lie / rumor / over-interpretation.

Or we can be their enemy, refusing to accept and repeat unless we know, and accepting that often we do not know."

— Rebecca Solnit

OPPOSING HERBICIDES

PG&E plans to spray herbicides along its transmission easements in Humboldt County awakened a sleeping giant, with locals recalling the hard fought **"NO SPRAY"** campaigns of decades past, once again raised their voices in outrage. PG&E contractors chose to withdraw and postpone spraying, and the County was forced to take a stand on this long simmering topic.

Humboldt County has long held an unofficial policy against the use of herbicides on county land. Private land owners often post 'No Spray' signs, discouraging but not preventing spraying. State law limits the power of local jurisdictions to regulate pesticide use. In response to local ordinances in the 1970s and early 1980s, lawmakers removed that power. The California Department of Pesticide Regulation is the agency that regulates herbicide application.

Following public testimony, and continuing the **feel-good-policy** that agrees with the outraged populace, yet carries very few regulatory teeth, the Humboldt County Board of Supervisors has voted unanimously on an official policy **"opposing"** the use of herbicides on county property - - -

unless there is no other alternative. (?)



Be still, and the world is bound to turn herself inside out to entertain you.

Everywhere you look, joyful noise is clanging to drown out quiet desperation.

— Barbara Kingsolver

