

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



14-3

During the oral communication section of the agenda for Tuesday, February 11, 2014, Robert Mabee read his statement into the record.

**ATTACHMENTS FILED WITH
CLERK OF THE BOARD**

**AGENDA NO.
14-3**

**Riverside County Board of Supervisors
Request to Speak**

Submit request to Clerk of Board (right of podium),
Speakers are entitled to three (3) minutes, subject
to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Robert MABEE

Address: 3086 MILBURN ST
(only if follow-up mail response requested)

City: Riverside **Zip:** 92506

Phone #: 786-4858

Date: 2-11-14 **Agenda #** _____

PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

_____ **Support** _____ **Oppose** _____ **Neutral**

ORAL COMMUNICATIONS

Note: If you are here for an agenda item that is filed
for "Appeal", please state separately your position on
the appeal below:

_____ **Support** _____ **Oppose** _____ **Neutral**

I give my 3 minutes to: _____

BOARD RULES

Requests to Address Board on "Agenda" Items:

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

Requests to Address Board on items that are "NOT" on the Agenda:

Notwithstanding any other provisions of these rules, member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES.

Power Point Presentations/Printed Material:

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please insure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

Individual Speaker Limits:

Individual speakers are limited to a maximum of three (3) minutes. Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. **Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.**

Group/Organized Presentations:

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the front bottom of the form.

Addressing the Board & Acknowledgement by Chairman:

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman may result in removal from the Board Chambers by Sheriff Deputies.



**THE STATE BAR
OF CALIFORNIA**

**OFFICE OF THE CHIEF TRIAL COUNSEL
INTAKE**

Dane Dauphine, Assistant Chief Trial Counsel

1149 SOUTH HILL STREET, LOS ANGELES, CALIFORNIA 90015-2299

TELEPHONE: (213) 765-1000

FAX: (213) 765-1168

<http://www.calbar.ca.gov>

November 20, 2013

Robert Mabee
3086 Miguel St.
Riverside, CA 92506

RE: Inquiry Number: 13-28487
Respondents: Pamela Walls and Bruce Disenhouse

Dear Mr. Mabee:

The State Bar's Office of the Chief Trial Counsel has reviewed your complaint against Pamela Walls and Bruce Disenhouse to determine whether there are sufficient grounds to prosecute a possible violation of the State Bar Act and/or Rules of Professional Conduct.

In your complaint, you alleged that Mr. Disenhouse represents the County of Riverside. You stated that you have had a long legal dispute with the County of Riverside concerning an easement. You alleged that Mr. Disenhouse represented to the courts in his filings that you had the opportunity to inspect the recording of certain deed(s) of easement at all times since 1995, and that the recording of deeds is part of the public record and readily available at all times since 1995. You alleged that Mr. Disenhouse misrepresented to the court that an easement had been granted and recorded, when the easement had never been recorded. You stated that the misrepresentation is contained in his Reply to Plaintiffs' Opposition to Defendant's Demurrer to Plaintiff's First Amended Complaint dated July 2, 2013 (*Mabee v. Riverside County* Case No. RIC 1214529.) You further alleged that Ms. Walls, County Counsel for the County of Riverside, perpetuated Mr. Disenhouse's misrepresentation in a Memorandum dated August 19, 2013, to the Board of Supervisors.

Accordingly, we contacted Pamela Walls and Bruce Disenhouse regarding your allegations. In response to your complaint, Mr. Disenhouse stated that he did not prepare the pleading in question but rather it was prepared for his signature. In addition, Mr. Disenhouse states that while he was not the author of the Reply, he takes full responsibility for it because he affixed his name to it and that he did review the entire Reply, including the portion of the Reply that you complain about.

Mr. Disenhouse states that he read, reviewed, and analyzed the portions of the reply that related to the Tort Claims Act noncompliance, and he interpreted Mr. Poull's comments entirely within the context of those defenses. In other words, Mr. Disenhouse argued that you knew easements of this type should have been recorded, were public records, were subject to inspection, and you could have begun your investigation into the recordation in 1995, when the proposed settlement easement was first discussed. Because you did not do so for more than 12 years, the statute of limitations as well as Tort Claims Act noncompliance barred your claims. Mr. Disenhouse asserts that he did not construe Mr. Poull's verbiage in the passage in question to admit or even imply the 1995 draft easement had ever been recorded. Mr.

Submitted by Robert Mabee
2/11/14 Item ORAL
(date)

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Disenhouse states that he knew it had never been recorded, because the condition precedent to its being recorded, a settlement, had never occurred. Moreover, Mr. Disenhouse assumed that if it had been recorded, your lawsuit predicated on the easement not ever being recorded, would have never been filed as it would have been patently meritless.

Mr. Disenhouse does not believe the Court, in sustaining the demurrer, did or could have construed the passages in question to mean that a deed had in fact been recorded in 1995. Mr. Disenhouse explains that would have been entirely illogical for the Court to have reached that conclusion based on a reading of the pleadings and would render the lawsuit meaningless.

In support of Mr. Disenhouse's response, Mr. Poull acknowledges that he was the associate assigned to draft the subject Reply to Plaintiff's Opposition to Defendant's Demurrer, which was filed on July 2, 2013. In making the relevant arguments, Mr. Poull states that he did not represent to the Court that an easement had ever been filed, despite what you have alleged. Instead, he argued that plaintiff had the opportunity to inspect whether the easement had ever been recorded and had a duty to perform such reasonable diligence beginning in 1995. Mr. Poull maintains that the reference to 1995 is not the date of any alleged recording, but rather, the date in which plaintiff first had the duty to diligently investigate their rights.

In regards to Pamela Walls, Ms. Walls states that County Counsel was not the attorney of record in *Mabee v. Riverside County*, Case No. RIC 1214529, and they do not supervise or have any involvement with this case. Ms. Walls explains that their Risk Management Department hires outside counsel, in this case, Bruce Disenhouse, to represent the County. Ms. Walls acknowledges that her office was asked by a member of the Board of Supervisors to look into the allegations you made and prepared the staff report and memorandum to the Board in accordance with their request. Ms. Walls reported to the Board that a review of the Reply, along with the Demurrer and the transcript of the Demurrer hearing, revealed defense counsel contended that you had received the easement offer in September 1995 in conjunction with a settlement offer, which you rejected. According to Ms. Walls, the report stated that you could have checked the County Clerk Recorder's Office to determine if the easement had been recorded or not, and your lack of diligence barred your ability to pursue the action. Further, since you rejected the County's settlement offer in 1995, it should not have been a surprise that the easement was not recorded.

We reviewed your complaint and supporting documents and considered the response and supporting documents provided by Pamela Walls and Bruce Disenhouse. In order to obtain discipline, the State Bar must establish that the attorney sought to mislead the court with a false statement of fact or law or by concealing a material fact. We must establish not only that an attorney's statement was untrue but also that the attorney intended to mislead. Although the context in which the statement was made may provide circumstantial evidence of intent, we cannot assume such intent merely because of the existence of the adversarial relationship between the parties in litigation. You have indicated that you are appealing the court's ruling in your matter, if the court makes a finding that the attorney(s) has/have acted improperly, you may bring that ruling to our attention for further review. Based upon this information and our evaluation of the matter, we have determined that no further action is warranted at this time.

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For these reasons, the State Bar is closing this matter.

If you have any questions or disagree with the decision to close your complaint or have new information or other allegations not included in your initial complaint, you have two options. If you have new information about your complaint or additional allegations, you may speak directly with a Complaint Analyst. You may leave a voice message with Complaint Analyst Hugo Gonzalez at (213) 765-1217. Be sure to clearly identify the lawyer complained of, the case number assigned, and your telephone number including the area code in your voice message. The Complaint Analyst will return your call within two business days.

Otherwise, you may request the State Bar's Audit & Review Unit to review your complaint. An attorney may re-open your complaint if he or she determines that you presented new, significant evidence about your complaint or that the State Bar closed your complaint without any basis. You must submit your request for review with the new evidence or a showing that closing your complaint was made without any basis. To request review, you must submit your request in writing, together with any new evidence, post-marked within 90 days of the date of this letter, to:


State Bar of California
Audit & Review Unit
1149 South Hill Street
Los Angeles, CA 90015-2299.

Please note that telephonic requests for review will not be accepted.

The State Bar cannot give you legal advice. If you wish to consult an attorney about any other remedies available to you, a certified lawyer referral service can provide the names of attorneys who may be able to assist you. In order to find a certified lawyer referral service, you may call our automated Lawyer Referral Services Directory at 1-866-442-2529 (toll free in California) or 415-538-2250 (from outside California) or access the State Bar's website at www.calbar.ca.gov and look for information on lawyer referral services.

Thank you for bringing your concerns to the attention of the State Bar.

Very truly yours,


Robert Mabee
Deputy Trial Counsel

/hg

1 wait, he is on it, okay. There were two of them, Mr.
2 Disenhouse.

3 MR. DISENHOUSE: There were?

4 THE COURT: Yeah, one filed October 16th, and one filed
5 September 17th.

6 MR. DISENHOUSE: What's he going to testify to, Your
7 Honor, other than the survey showed that access was blocked?
8 We've already stipulated to it.

9 THE COURT: Is that what you want to prove?

10 MR. MABEE: He's going to testify that there wasn't any
11 way for anybody to know it was blocked until the survey was
12 done.

13 THE COURT: All right, bring him in. What else?

14 MR. MABEE: The other is Gerald Stayner, Riverside
15 County Surveyor.

16 THE COURT: What is he going to testify to?

17 MR. MABEE: He's going to testify, I believe, that no
18 one, even the county surveyor, based upon the documents that we
19 have, could tell that it was blocked, much less plaintiffs.

20 THE COURT: Now, Mr. Mabee, has Mr. Stayner done any
21 survey work there?

22 MR. MABEE: He's the county surveyor, Your Honor.

23 THE COURT: No, no.

24 MR. MABEE: He's reviewed all these documents.

25 THE COURT: Mr. Mabee, that isn't enough. I mean, he is
26 the surveyor. Do you think he knows every survey that's taken
27 place in this county?

28 MR. MABEE: He's probably more knowledgeable than