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www.wired.com

www.reuters.com

DILLUNS, 15 SETEMBRE 2003

Court rejects Dems' redistricting lawsuit

AUSTIN, Texas (AP) -- A three-judge federal appeals panel dismissed a lawsuit filed by senate Democrats hoping to derail a new round of Republican-led congressional redistricting in Texas.

The Democrats argued that Senate rule changes by Republicans to further the redistricting effort violated federal law. The judges, who listened to two hours of arguments Thursday in Laredo, dismissed those claims.

The ruling represented another setback for Democrats who have been fighting for several months to thwart GOP efforts to redraw the state's congressional map. They say it would hurt minority representation in Congress.

Eleven Democratic senators fled to New Mexico on July 28, shortly before Republican Gov. Rick Perry called lawmakers back for a second special legislative session to deal with redistricting. The senators went across the state line so Texas law officers could not arrest them and force them back to the Capitol.

The boycott brought the Senate to a standstill because not enough senators in the 31-member chamber were present to make a quorum, killing the redistricting effort.

But after the session ended, one of the Democrats, Sen. John Whitmire of Houston, defected from the group and returned to Texas, saying he would attend the next special session -- set to start Monday.

The remaining Democrats returned to Texas this week to attend the hearing on their lawsuit.

In court Thursday, judges closely questioned the Democrats' attorney, Paul Smith, who argued that dropping a Senate rule requiring two-thirds of the 31 members to agree to debate a bill violated the federal Voting Rights Act, enacted to protect minority voters.

The court withheld a decision on a complaint of threats to arrest Democrats and require them to pay fees for their failure to appear at the second special session.

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<http://www.cnn.com/2003/LAW/09/12/texas.redistricting.ap/index.html>

N.C. Jury Clears HP in Printer Lawsuit

HILLSBOROUGH, N.C. (AP)—A state jury determined that Hewlett-Packard Co. did not try to fool consumers into believing ink cartridges packed with its printers were full.

Similar class-action lawsuits have been filed in 34 states. In the first to go to trial, jurors on Thursday rejected the lawsuit brought by a Chapel Hill man who claimed the company cheated customers by selling half-filled inkjet cartridges.

Plaintiffs' attorneys accused the Palo Alto, Calif.-based computer maker of a scheme that would force consumers to buy replacement cartridges sooner. The lawsuit sought \$11.5 million in damages on behalf of 223,706 North Carolinians who bought HP printers between Aug. 1, 1998, and Nov. 30, 2000.

The printer packaging did not mention the actual volume of ink included in the starter cartridges. But attorneys for Hewlett-Packard showed the jury brochures and packages that came inside the printer box that indicated the "economy" cartridges contained half the ink.

"HP is pleased with the decision and is confident that it will succeed on the merits in other states with copycat lawsuits on the same grounds," HP spokeswoman Rebeca Robboys said.

HP, which no longer sells economy cartridges, sold three out of every five printers in the United States last year. Although the company is the top seller of notebook computers and servers, profit from printers and peripheral equipment, such as ink, frequently surpass HP's overall quarterly profit.

The Orange County jury found that HP disclosed adequate information about the cartridges enclosed with the printers, and that consumers did not have expectations that something else would be included.

During closing statements on Thursday, plaintiff's attorney Richard McCune said since consumers only received half-filled cartridges, the true price of the printers was \$20 to \$40 higher than was advertised, depending on whether the printer contained one or two cartridges.

Bob Cooper, representing Hewlett-Packard, told jurors that HP was responding to competition by lowering the prices of its printers and including economy cartridges in the printer's box.

Cooper and plaintiff's attorney Adam Stein did not return calls seeking comment Friday.

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<http://www.eweek.com/article2/0,4149,1267065,00.asp>

Court frees Iranian envoy wanted by Argentina

By Matthew Beard

A High Court judge said yesterday there was "no clear evidence" that an Iranian diplomat arrested in Britain was involved in a bomb attack in Argentina nine years ago.

Hade Soleimanpour, the former Iranian ambassador to Argentina, was freed on bail of £700,000 pending an extradition hearing next week.

After reading two investigators' reports into the 1994 car bomb attack on a Jewish cultural centre in Buenos Aires that killed 85 people, Mr Justice Royce concluded: "The report doesn't lead to any clear evidence demonstrating his involvement in the attacks."

Mr Soleimanpour, who was ambassador to Argentina between June 1991 and August 1994, is to fight an extradition request issued by the Argentinian government at Bow Street magistrates' court in London next Friday. He wants to complete his PhD studies at Durham, where he lives with his family.

Mr Soleimanpour's lawyers, led by Alun Jones QC, say claims that he helped organise the car bombing were based on "innuendo" and meant Iran was supporting terrorism through its embassy. Mr Soleimanpour was not in Argentina at the time of the bombing, but Argentina claims he provided support for the terrorists who were allegedly linked to the Iranian embassy.

Mr Justice Royce said Mr Soleimanpour, 47, could be freed because he had known about an extradition request since March and "clearly could have departed these shores by now".

Argentina's intention seems to be to secure extradition so Mr Soleimanpour could be interrogated rather than put on trial, said Mr Jones.

His arrest last month has strained Anglo-Iranian relations in a way unseen since a fatwa was issued against the novelist Salman Rushdie in 1989. Iran's ambassador was ordered back to Tehran last weekend after Mr Soleimanpour was refused bail. And stones were thrown at the UK embassy in Tehran, prompting the evacuation of some staff.

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<http://news.independent.co.uk/uk/legal/story.jsp?story=442900>

Palo Alto teen gets jail for fatal hit-and-run

Judge downplays her expression of remorse

Cringing and shaking, a Palo Alto teenager received a maximum sentence of a year in county jail Thursday for running down two girls in her station wagon -- killing one and injuring the other -- and then fleeing the scene.

Megan Joelle Coughran, 18, sat silently as Santa Clara Superior Court Judge Diane Northway explained why she imposed the stiffest punishment she could under a plea bargain, which also includes five years' probation, \$10,000 restitution and 1,000 hours of community service.

The judge flatly rejected Coughran's statement of remorse. "I think (the victims) are just asking for simple humanity from the author of their sorrows, " Northway said. "When I hear that (Coughran's) sorry, I feel that a lot of her sorrow is for herself."

The judgment ended an emotionally intense, seven-hour sentencing hearing in Palo Alto during which witnesses described the pain caused by the Jan. 28 crash on Miranda Avenue that killed Amy Malzbender, 6, and severely injured her friend, Chloe McAusland, 10. The girls had been riding their bicycles to school that morning when they were struck.

In a plea deal, Coughran pleaded guilty June 2 to felony hit-and-run and misdemeanor vehicular manslaughter on condition she not be sentenced to more than a year in jail. But many in the shattered Miranda Avenue neighborhood -- where Amy sold Girl Scout cookies and Coughran baby-sat Chloe -- believed that Coughran failed to accept responsibility for her actions.

During the hearing, Amy's father, Tom Malzbender, described how his little girl died in his arms. He said it was "unbelievable" that Coughran will not face prison time for leaving after the crash and driving to school instead of stopping to help.

"If she would have stopped, I could have loaded Amy and Chloe into Megan's car and rushed her to the VA hospital about a mile away," he said, as Coughran trembled in her seat. "I believe the extra 15 minutes might have saved Amy's life."

Malzbender also criticized Coughran's failure to visit the family and apologize.

Amy's mother, Debbie Melmon, began speaking after placing a small picture of her daughter with the dates of her birth and death on the defense table where Coughran's lowered eyes fell.

"This is the kind of grief and suffering that causes people to go insane," she said at the beginning of a 40-minute statement that often broke with tears or rose with anger as she accused Coughran of lying about the crash and her parents of failing to help their daughter accept responsibility.

"I will wait -- if need be, my whole life -- for an authentic apology," she said.

Chloe's mother, Carol Ann McAusland, walked Coughran through her agonizing recollection of Jan. 28 -- details she said were etched in her mind by post-traumatic stress -- and five surgeries and weeks of hospitalization her daughter underwent to repair a shattered leg.

"I'm telling you this because you need to hear our story," she told Coughran. "You need to know how you devastated us and our family."

"You say you feel guilty, but we haven't seen any evidence of it," Chloe's mother said in a 35-minute presentation during which she often addressed Coughran directly -- insisting that the defendant look her in the eye.

Sheryl Humble, a family friend of the Malzbenders, dedicated her presentation to quotes from family members, teachers and friends that she said tried to capture "the essence of Amy."

Arranging seven enlarged photos of Amy along the box where jurors normally sit in judgment, Humble recalled the little girl who built fairy houses, played quirky games like "Indian princesses who deliver the mail," and had picked out a birthday puppy the day before she died.

Humble wept as she recounted how her 7-year-old son, who said Amy was "sort of my girlfriend," keeps a photo of the girl under his bunk to look at when he is sad.

"Megan, what do you say to a child that tells you he wishes he was dead so he could go to heaven and play with Amy?" she asked the defendant.

When Coughran took the stand briefly, she offered an apology in a statement often interrupted by tears.

"I wanted to come up here to apologize. I've almost been looking forward to it," she said. "I am so very sorry I didn't stop and help . . . but I'm here now to say I really, really am sorry for what I did, that I killed Amy."

Nearly 100 people had sent letters about the case to Judge Northway. Some wrote to describe Coughran as a decent, religious, intelligent young woman who loved children and was devastated by what had happened. Others expressed anger at Coughran's lack of a public apology.

Coughran herself wrote a letter to the judge, saying she was sorry for what had happened but insisting she had no memory of hitting the girls. Coughran's parents did not speak, but other family members, friends and church members did, testifying to the defendant's character, her love for children, and her genuine grief.

Several also said the defendant and her family had tried to apologize to the victims -- but were unable, for legal and practical reasons.

Patricia Wyatt, a grief counselor at the Centre for Living with Dying, said Coughran has shown her tenderness in volunteer work at the organization since beginning volunteer work there in July, and had talked to other counselors about the crash.

"She has shared with us her tremendous remorse and regret for Amy's death and Chloe's injury. She has talked about how difficult it has been to be asked not to approach the family," she said. "That has eaten away at her heart and soul."

After the sentencing, Coughran was immediately taken into custody.

Afterward, Amy's mother said a measure of justice had been done.

"None of us are walking out of this happy," she said. "This is an issue of accountability. When you make a mistake in life, you have to take responsibility for it.

"You don't hit children and run."

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www.sfgate.com/cgi-bin/article.cgi?f=/chronicle/archive/2003/09/12/BA50017.DTL

DIMARTS, 16 SETEMBRE 2003

Appeals court blocks California recall

Voting equipment 'defects' cited

SAN FRANCISCO, California (CNN) -- A federal appeals court Monday ordered California officials to halt preparations for the October 7 gubernatorial recall election, citing concerns about a "hurried, constitutionally infirm" process.

Specifically, a three-judge panel of the 9th Circuit Court of Appeals said the state needed to upgrade its voting equipment first.

"The inherent defects in the system are such that approximately 40,000 voters who travel to the polls and cast their ballot will not have their vote counted at all," the court ruled, citing voting machines that the secretary of state's office has declared unfit.

Voters had been scheduled to go to the polls October 7 to decide whether to remove California Gov. Gray Davis, a Democrat.

The battle may head next to the U.S. Supreme Court as an attorney for the man who initiated the recall effort said his client would file an appeal to the nation's top court. The lower court stayed its order for seven days to allow appeals.

If Monday's ruling stands, the recall vote could be moved to March 2004, when it would share space on the ballot with California's presidential primary.

Davis, who Monday spent a second day campaigning with former President Clinton, said he was "prepared to conduct this election whenever the courts tell me the election is going to occur."

Davis had pushed for the recall vote to take place in March, when the state's presidential primary was expected to draw a higher Democratic turnout.

"It seems to me that the more people think about the recall, the more that decide to oppose it," he said.

ACLU objections

The ruling follows a hearing last week at which the American Civil Liberties Union argued that election officials should have more time to replace antiquated voting machines in several California counties.

The ACLU said the punch-card system could disenfranchise voters in six counties, including Los Angeles, the state's largest. Those six counties include 44 percent of state voters and have heavy concentrations of minority voters.

A lower court last month had rejected the request, but the appeals court disagreed.

"In sum, in assessing the public interest, the balance falls heavily in favor of postponing the election for a few months," the court concluded, citing the U.S. Supreme Court's Bush v. Gore decision that settled the 2000 presidential election.

"The choice between holding a hurried, constitutionally infirm election and one held a short time later that assures voters that the 'rudimentary requirements of equal treatment and fundamental fairness are satisfied' is clear."

Mark Rosenbaum, a lawyer for the ACLU, called the decision "a masterpiece."

"To those who say this will upset things, I suppose one answer is in fact this is going to give the voters of California more time to consider the issues and the character and the substance of the candidates," Rosenbaum said.

The 9th Circuit has a reputation as being one of the most liberal appellate courts in the federal judiciary, and its decisions are often reversed by the Supreme Court.

Appeal vowed

An attorney for Ted Costa, who initiated the recall effort, said he will file an appeal within two days to the U.S. Supreme Court.

Costa will bypass the standard federal appeals process and go straight to the nation's highest court, his attorney Chuck Diamond said.

Costa is head of a Sacramento-based activist group called People's Advocate. The recall effort was largely bankrolled by Darrell Issa, a GOP congressman and millionaire businessman.

Actor Arnold Schwarzenegger -- the leading Republican candidate to replace Davis should the recall succeed -- said he would continue his campaign for governor and called on Secretary of State Kevin Shelley to appeal the decision immediately.

"Historically, the courts have upheld the rights of voters, and I expect that the court will do so again in this case," he said.

Lt. Gov. Cruz Bustamante, the leading Democrat among the 135 replacement candidates on the ballot, said he was confident the court would reach "a carefully thought out and considered decision.

"We will continue our campaign until there is finality in the courts," he said in a written statement after the decision.

But state Sen. Tom McClintock, one of the Republican candidates hoping to replace Davis should the recall succeed, said the ruling is "simply a distraction and will have no bearing on this election."

McClintock said the 9th Circuit "has become a national laughing stock" for previous rulings, such as one that found the words "under God" in the Pledge of Allegiance amounted to an unconstitutional establishment of religion.

"I have every confidence that, in a short time, the U.S. Supreme Court will allow this election to go forward," he said.

McClintock trails both Bustamante and Schwarzenegger in recent polls.

In Washington, officials at the Justice Department and the White House declined comment.

16-09-2003

<http://www.cnn.com/2003/ALLPOLITICS/09/15/recall.delay/index.html>

House Plans Wednesday Vote on Internet Tax Ban

By Roy Mark

The U.S. House of Representatives is expected to vote on legislation Wednesday to permanently extend the existing temporary ban on Internet access taxes that expires on Nov. 1. The bill amends the Internet Tax Freedom Act (IFTA), which imposes a federal moratorium on state and local taxes on Internet access services and certain Internet-based sales transactions.

The Internet Tax Nondiscrimination Act (H.R. 49), sponsored by Rep. Christopher Cox (R.-Calif.), also would also eliminate a grandfather clause in the original legislation that gives 10 states that were already taxing Internet access an exemption from the moratorium.

The Congressional Budget Office (CBO) estimates that repealing the grandfather clause would result in revenue losses for the 10 states and for several local governments totaling between \$80 million and \$120 million annually beginning in 2004.

Similar legislation was approved by the Senate Commerce Committee in late July but has not been scheduled for a floor vote.

"Twice Congress has said that new taxes discriminating against Internet users would be regressive, unfair, and destructive to our economy and our society. It is time to permanently ban them," Cox said in a statement to internetnews.com. "Ensuring that Internet access is not subject to unfair and discriminatory taxes is a priority in the House, and we expect movement on the House floor this week."

If the legislation is ultimately passed by Congress, it would not, in all probability, apply to the growing movement to enforce sales taxes on Internet sales.

Currently, sales and use taxes are owed on all online transactions, but states are prohibited from requiring remote sellers to collect and remit those levies. A 1992 U.S. Supreme Court decision said states can only require sellers that have a physical presence or "nexus" in the same state as the consumer to collect so-called use taxes.

The court ruled that the current patchwork of roughly 7,500 taxing jurisdictions across the country is too complex and burdensome for online retailers to charge and collect sales taxes. In order to collect the taxes, the court ruled, states would need to first simplify the existing system.

In November, representatives from 32 states approved model legislation designed to create a system to tax Web sales. Spearheaded by the National Governors Association (NGA), the Streamlined Sales Tax Project (SSTP) would require participating states to have only one tax rate for personal property or services effective by the end of 2005. Included in those services would be online sales.

The coalition of states voted to require participating state and local governments to have only one statewide tax rate by 2006 for each type of product taxed.

Cox, along with Sen. Ron Wyden (D. Ore.) sponsored the original three-year moratorium on Internet access taxes in 1998. It was extended for another two years in 2001 on legislation sponsored by Wyden and Cox.

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<http://dc.internet.com/news/article.php/3077201>

Justice for all

White-collar criminals get lighter sentences than blue-collar ones. Robert Verkaik reports on moves to correct the imbalance

16 September 2003

Justice is supposed to be blind. Yet a fraudster in pinstripes with an important job in the City might expect a more lenient sentence than a single mother who cheats the benefit system.

The Government finally faced up to this uncomfortable fact last week when the Attorney General, Lord Goldsmith QC, said too many businessmen and members of the professional classes were getting off with light sentences.

Lord Goldsmith told an audience of lawyers and law enforcement agents at a conference on economic crime: "It is notable how often [white-collar] defendants receive non-custodial and suspended sentences despite committing serious economic crime."

He said the time had come for a more "even-handed" approach to fraud because "social equality requires that we bear down on white-collar crime as effectively as on blue-collar crime, such as fraud in obtaining social security."

There was, said Lord Goldsmith, a real "social dimension" to white-collar crime.

Official data shows crime committed by people from deprived areas is being tackled with great vigour. Between 1997 and 2002 prosecutions for benefit fraud rose from under 12,000 to nearly 27,000.

Now, argues the Attorney General, "we need to match this approach in white-collar crime. Justice must be even-handed".

Lord Goldsmith had already referred the sentence of Stephen Hinchliffe, the former chairman of the Facia retail group, to the Court of Appeal for a second opinion.

Hinchliffe, 53, pleaded guilty to conspiracy to defraud and admitted making £1.75m from the fraud.

The Lord Justices accepted that Hinchliffe's crime merited immediate custody and that his original 15-month suspended sentence had been too lenient. They replaced his suspended sentence with one of 18 months in custody.

Hinchliffe's initial lenient treatment contrasts with that of Kanta Singh, 41, a Birmingham mother of five. She was sentenced to 12 months' imprisonment, suspended for 12 months, for dishonestly claiming £14,000 in housing benefit after her husband left her.

Sentencing her at Birmingham Crown Court in 2000, Mr Recorder Anthony Smith said taking that much money would normally result in a prison term, but he accepted Singh had had a hard life and was left to bring up her children alone.

The Attorney General told the conference: "To put it bluntly the risk of detection, investigation, prosecution and conviction of an offence of fraud is small and if you are unlucky enough to be caught the sentence is probably tolerable for the gains you have made; whereas trafficking in drugs or people or arms may result in increased risk of detection and certainly more severe penalties."

This renewed assault on white-collar crime received a mixed response from the professions and from the business community.

Richard Wilson, a policy adviser at the Institute of Directors (IOD), says in the "public mind and the view of our membership violent crime is more shocking". Nevertheless, he concedes that Lord Goldsmith's initiative is "entirely reasonable" as many members of the IOD are also fraud victims.

Rod Armitage, head of company affairs at the Confederation of British Industry, says: "Companies strongly support any measures to reduce fraud and current corporate governance codes already require firms to report risks and weaknesses in their internal control systems. But business would applaud more effective procedures and greater resources available to bring criminals to justice."

Matthias Kelly QC, chairman of the Bar, broadly welcomes the initiative and says the Attorney General should be applauded for his willingness to face up to the lenient sentencing of white-collar crime.

Janet Paraskeva, chief executive of the Law Society, adds: "We believe that this sort of crime can have equally damaging consequences for victims as other sorts of crime. This is why the Society opposes the Government's plan to remove jury trial for complex fraud cases."

But Lawrence Davies, chairman of the Employment Law Practitioners Association, wants the Attorney General to go further and let the courts impose "punitive fines" on white-collar criminals.

There are other examples of class code justice in the legal system. There are real concerns about "advice deserts", parts of the country where people who qualify for free legal advice can't find a solicitor to do the work.

Ms Paraskeva says: "Everyone, no matter what their income, should have access to legal advice."

She asks: "If someone is charged with committing a criminal offence, or needs guidance in a civil matter, a solicitor should be there to help - what could be more socially inclusive than that?"

16-09-2003

<http://news.independent.co.uk/uk/legal/story.jsp?story=443924>

FTC may drop antitrust scrutiny of Intel

By Paul Davidson, USA TODAY

Antitrust enforcers are investigating claims that Intel, the world's largest chipmaker, bullies computer makers to discourage them from doing business with its chief rival, Advanced Micro Devices, say people familiar with the matter.

However, some Federal Trade Commission investigators are skeptical of the complaints, and the agency may be close to dropping the probe, these people say.

Launched nearly two years ago, it focuses on the battle between Intel and AMD in lucrative corporate sales. It picked up steam the past year as AMD made strides in the nascent market for 64-bit chips, which are more powerful than industry-standard 32-bit chips.

The European Commission since 2000 has been looking into a complaint by AMD that Intel has used similar tactics in the consumer market. That year, the FTC and Intel settled separate charges of anti-competitive conduct and the FTC closed another antitrust probe of Intel.

"Intel believes our business practices are both lawful and fair," says company spokesman Chuck Mulloy. An AMD spokesman would not comment.

Intel has about 85% share of the market for PC chips, and AMD has about 15%, says research firm Insight 64. Chips, or microprocessors, are the brains that run computers. For years, AMD has mostly challenged Intel in low-end consumer PCs by offering cut-rate prices. But in the past two years, AMD has made small inroads in the corporate PC space.

Chips in that market yield much higher profit margins. Investigators are examining whether that has prompted Intel to intensify any hardball tactics. The probe focuses on whether Intel may threaten or punish some PC makers to dissuade them from choosing AMD chips.

Because the makers depend on Intel for their key part, Intel can indirectly or explicitly threaten to withhold chip rebates and marketing funds, say people familiar with the matter. Intel also can deny makers access to technical information or curtail chip supplies, these people say.

Hewlett-Packard was set to use AMD chips for corporate PCs in the last year but backed off, they say. H-P officials did not return calls.

Authorities are probing whether Intel may be stepping up the pressure this year as AMD challenges Intel's 64-bit chip, called Itanium, for servers — computers that run corporate networks. In April, AMD rolled out its own 64-bit server chip, Opteron. It threatens Itanium because it works more smoothly with older software applications and, at \$2,500 to \$5,000, is less than half the price, says Insight 64 analyst Nathan Brookwood.

"Before, Intel had that segment all to itself," Brookwood says. He expects AMD's market share in server chips to rise from 2% to about 17% in three years.

Next week, AMD is slated to roll out a 64-bit chip for PCs called Athlon 64 that Brookwood says has a slight edge over Intel's comparable 32-bit chip, Pentium 4.

16-09-2003

www.usatoday.com/tech/techinvestor/techcorporatenews/2003-09-16-intel_x.htm

DIMECRES, 17 SETEMBRE 2003

Teen indicted for Internet 'Blaster' worm

Thursday, September 18, 2003 Posted: 12:21 PM EDT (1621 GMT)

U.S. Assistant Attorney Floyd Short, left, talks to reporters after attending the hearing of Jeffery Parson.

SEATTLE, Washington (Reuters) -- Jeffrey Lee Parson, the teenager suspected of creating a variant of the destructive Blaster worm, appeared in a Seattle court Wednesday to face one count of causing damage to a computer.

Parson, 18, a burly high school senior from Hopkins, Minnesota, pleaded not guilty to the charge of intentionally causing or attempting to cause damage to a computer. He faces a maximum of 10 years in prison and a \$250,000 fine if convicted.

According to a complaint filed in the Western District of Washington, Parson had told law enforcement officials that he created a variant of the worm, which exploited a flaw in Microsoft Corp.'s Windows software.

Blaster and its variants are self-replicating Internet worms that bore through a Windows security hole, harnessing computers to launch concerted data attacks via the Internet.

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Parson, flanked by two federal public defenders, appeared in a gray T-shirt, jeans and sneakers. Standing over 6 feet tall and weighing over 300 pounds, he sported a bleach-blond Mohawk haircut and occasionally wiped sweat from his forehead.

Judge Mary Alice Theiler set the next court date for November 17.

Judge Theiler ordered that Parson continue to be held under house arrest, although his attorneys secured an amendment that would allow him to leave home to work in addition to being able to leave to attend school.

Parson was banned from using the Internet, surfing the World Wide Web or using messaging services during his trial.

17-09-2003

<http://www.cnn.com/2003/LAW/09/18/blaster.indictment.reut/index.html>

This Europe: Anti-binge law gives brewers a headache

By Elizabeth Nash in Madrid

17 September 2003

A law intended to curb underage drinking in the street has angered Spain's cider and beer producers. They complain that wine makers have been unfairly exempted while beer and cider are lumped with spirits.

The draft law forbids those under 18 from buying alcohol in the street, and penalises shops selling alcohol to underage drinkers. The aim is to stop rowdy teenagers getting drunk in squares, disturbing neighbours and leaving detritus, a phenomenon known as the botellon, or big bottle.

The Brewers of Spain and the Spanish Ciders Association want the restrictions to apply only to drinks with an alcohol content of more than 20 per cent, and demand the same right to promote their drinks as wine producers have.

The agriculture ministry - presumably responding to pressure from wine producers - insists wine is a special case, an "agricultural product" that should be exempted. Beer and cider - whose alcoholic content is about 5 per cent - are condemned to the same curbs as whisky and gin.

Brewers and sidreras say their products are just as "agricultural" as wine, but are less likely to cause al fresco drunkenness.

Spaniards have a curious attitude to booze, regarding beer and especially wine as not really alcoholic. A former interior minister, caught at a football match with a leather wineskin or bota, was reminded that his own ministry banned alcohol in stadiums. But, protested the culprit, surely a bota didn't count?

The beer and cider lobby's most telling criticism is that teenagers don't usually buy spirits. They're too expensive. They prefer a cocktail known as calimocho that they mix and swig from large plastic bottles. It's a blend of cola and ... wine.

17-09-2003

<http://news.independent.co.uk/europe/story.jsp?story=444099>

Medical privacy laws frustrate police investigations across the nation

Sgt. Andrew Gallagher knew the 9-year-old boy was hospitalized, but that was about all. The Stamford police investigator tried to reason with a nurse: He was investigating a car accident. He needed to know the boy's condition.

Not a chance, he was told. The hospital could not even confirm the boy was in the building.

So Gallagher drove to the hospital, 45 minutes away, figuring a uniformed officer would have better luck in person. A Yale-New Haven Hospital security guard stopped him in the lobby and said Gallagher needed to see a hospital attorney in another building.

This is life under the Health Insurance Portability and Accountability Act, a sweeping overhaul of the federal health care privacy laws that took seven years to craft.

Since the law took effect in April, some investigators who once had easy access to hospital emergency rooms have found even the most basic information hard to come by.

A small-town Kansas police chief says he could not verify the whereabouts of two patients, even though both were wanted for murder.

Nurses in South Carolina refused to tell a detective whether a shooting victim was alive, and said that even if he was he could not be questioned without his family's approval.

Privacy advocates say police have the same access to information as before the law took effect and can get anything they need with a warrant. But police predict it is only a matter of time until a case falls apart or a suspect escapes because of bureaucratic roadblocks.

HIPAA specifically allows hospitals to release information if police believe a crime has been committed. But legal experts say the new rules are so dense and the threat of liability so great that most hospitals are choosing silence in the name of HIPAA.

"I said, 'Do you want somebody who has just been charged with first-degree murder walking around your city after walking out of your hospital?'" Great Bend, Kan., Police Chief Dean Akins remembers asking a nurse in May, while trying to locate two suspects wounded in a shoot-out.

Akins said the nurse responded: "That's our problem."

A hospital is the first stop for many police investigations. Medical records can pinpoint a suspect -- or clear one. Family and friends gather at the victim's bedside, all but lined up to be interviewed while their memories are fresh. Witnesses and suspects who might disappear tomorrow can be found in a hospital emergency room.

Before HIPAA, access to these sources was not a legal question because health care privacy was not spelled out. Now that it is a matter of law, hospitals are guarding information that used to flow freely.

"In staff training, you're told that if you don't know the answer, if you don't know whether you can answer, send them to so-and-so. Send it back upstream for someone else," said Kimberly

Greaves, a Georgia health care attorney who provides HIPAA training and advice to doctors and hospitals.

Still, she predicted that both sides will get used to the new rule.

The HIPAA coordinator at Yale-New Haven Hospital declined to comment for this story, saying she needed to review the questions with other departments.

Gallagher said Yale-New Haven's attorney eventually reached the 9-year-old's mother, who agreed to be interviewed. He said he has no idea what would have happened if she had declined.

North Charleston, S.C., Detective Chris Widmer was investigating a shooting during a botched robbery in June. The victim could help identify the shooter, but hospital administrators refused even to say whether the man had survived.

"Here you have somebody who's shot, who's the victim of a crime, and we have to get authorization from the victim and the victim's daughter to talk to him?" Widmer said.

Peter Swire, who served as former President Bill Clinton's counselor on HIPAA policy and helped craft key parts of the law enforcement exceptions, said patients are getting the benefit of the doubt that investigators used to enjoy.

If police find that frustrating, he said, they can get a warrant for a patient's arrest or for any evidence they need.

"Many people don't want to talk to police, and we have due process before they have to talk," Swire said.

Doctors see a medical benefit to the law. If medical records are potential police records, patients will be less likely to see a doctor and more likely to lie, said Dr. Donald Palmisano, president of the American Medical Association.

17-09-2003

www.sfgate.com/cgi-bin/article.cgi?f=/news/archive/2003/09/17/national0406EDT0470.DTL

Judge says Georgia county can't be held liable for newly elected sheriff's murder

The county where a newly elected sheriff was murdered in a plot spawned by his predecessor cannot be held liable for his death, a judge ruled.

Phyllis Brown, the widow of slain DeKalb County Sheriff-elect Derwin Brown, had been seeking \$50 million in damages from the county government, the former sheriff convicted in his murder and other former officers.

Her lawsuit claimed the local government was responsible for the actions of former Sheriff Sidney Dorsey, who was found guilty last year and sentenced to life in prison for masterminding Brown's Dec. 15, 2000, assassination.

Superior Court Judge Melodie Snell Conner wrote in a Sept. 11 order that the county could not be held liable because the lawsuit "failed to show that the sheriff of DeKalb County is a county policymaker."

The suit had argued that Dorsey was an agent of the county and had hired county workers to plot and carry out the killing. Brown's lawyer, Steven Leibel, said he would appeal the ruling.

Brown was gunned down in his driveway three days before he was to take office after beating Dorsey in a bitter runoff election. He had promised to rid the department of corruption.

Also named in the lawsuit, which was filed in neighboring Gwinnett County, were Dorsey, former Deputy Melvin Walker, David Ramsey, and confessed Brown murder conspirators Paul Skyers and former Deputy Patrick Cuffy.

Cuffy and Skyers testified against Walker, Ramsey and Dorsey. Walker and Ramsey were acquitted in March 2002 but are under investigation by a federal grand jury considering separate federal charges.

Prosecutors had argued that Dorsey recruited men to kill Brown, 46, so he could retake the sheriff's post in a special election.

17-09-2003

www.sfgate.com/cgi-bin/article.cgi?f=/news/archive/2003/09/17/national1007EDT0540.DTL

DIJOURS, 18 SETEMBRE 2003

State high court to hear Philip Morris appeal

SPRINGFIELD, Illinois (AP) -- The Illinois Supreme Court has agreed to hear Philip Morris' appeal of a \$10.1 billion verdict in a class-action lawsuit claiming the company misled smokers about the dangers of light cigarettes.

The court Tuesday also kept the appeal bond that the tobacco giant must post at about \$6 billion, rather than the \$12 billion set initially. Philip Morris argued the higher bond would drive it into bankruptcy and force it to default on a \$206 billion, 25-year nationwide tobacco settlement.

The huge bond had damaged the credit rating of Philip Morris' parent company, Altria Group, and forced it to cancel a share repurchase program. The prospect of losing the settlement money also worried state officials across the country.

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\$10.1B Judgment: Price v. Philip Morris (FindLaw, PDF)[external link](#)

The court's orders, issued without written opinions, are the latest in a post-trial battle that started with a March decision by state Judge Nicholas Byron to charge the company \$10.1 billion for misleading Illinois smokers into believing light cigarettes are less harmful than regular brands.

The case was the first consumer class-action lawsuit over light cigarettes to go to trial.

Plaintiffs want the company to post \$14.64 billion in cash or surety bonds to secure the judgment and cover interest and costs while appeals proceed.

Byron initially ordered Philip Morris to post a \$12 billion bond, but later reduced that by nearly half after Philip Morris said it would be driven out of business.

An appeals court then ordered the judge to reconsider the reduction, but the state Supreme Court has now blocked that, keeping the bond at its reduced level of about \$6 billion.

The court's agreement to hear the company's appeal -- something it had declined to do in the past -- means the case skips the appellate level.

William S. Ohlemeyer, Philip Morris USA vice president and associate general counsel, said Tuesday's decision "is in the best interest of all parties involved because it expedites the ultimate resolution on the merits."

The plaintiffs "look forward to a full (state) Supreme Court review of the evidence," said Joy Howell, spokeswoman for attorney Steven Tillery.

Altria shares surged more than 10 percent, to \$44.60, in after-hours trading on the New York Stock Exchange after the decision was announced.

18-09-2003

<http://www.cnn.com/2003/LAW/09/17/cigarette.lawsuit.ap/index.html>

Garage Doors Raise DMCA Questions

Manufacturers of a seemingly innocuous product -- a garage door opener -- are embroiled in a battle that tests the limits of a controversial copyright law.

Skylink Technologies manufactures a universal garage door opener that can be used to open and shut any type of garage door. Its competitor, the Chamberlain Group, claims that Skylink violates the Digital Millennium Copyright Act, or DMCA, by selling such a product.
Special Partner Promotion

Chamberlain alleges Skylink's handheld portable transmitter can activate Chamberlain's garage door openers and, in doing so, unlawfully bypasses a technology-protection measure built into the device's software.

Skylink disagrees, and recently filed a motion in the U.S. District Court for the Northern District of Illinois for summary judgment, whereby a judge decides the case instead of going to trial.

"When Chamberlain sells (its) garage door openers, there is no restriction prohibiting the consumer from operating the garage door with a third-party transmitter," said David Djavaherian, an attorney for Skylink. "For a violation to occur under the DMCA, access to the copyright work must be unauthorized."

Neither representatives of Chamberlain nor its lawyers returned repeated calls for comment.

The case has been closely monitored by digital rights groups like the Electronic Frontier Foundation, which has argued that the DMCA is being abused by companies that want to stifle their competitors. The DMCA, the groups contend, also impedes innovation.

Congress initially passed the DMCA to address copyright issues in the digital age. Under the law, it is illegal to circumvent a technology that controls access to copyright works, and any tools used to circumvent that technology also are forbidden.

Chamberlain uses special software, called rolling code, in its garage door openers. It argues that this is copyright code. The garage door opener consists of a handheld portable transmitter and a garage door opening device, which is attached to the garage ceiling. Since Skylink's handheld portable transmitters also can make Chamberlain's garage door openers operate by activating Chamberlain's code, Chamberlain claims Skylink is violating the DMCA.

Skylink contends that consumers should be able to open their garage doors any way they please, and states in the motion that "Chamberlain has never imposed any limitations on homeowners who purchase its rolling code (garage door openers) -- either in manuals, packaging, instructions or elsewhere -- regarding which type of replacement or additional transmitter they may or may not use to access the (openers)."

"Because there is no unauthorized access to the software used in Chamberlain's garage door openers, there can be no DMCA violation," Djavaherian said.

Djavaherian also said there were several other reasons the judge should rule in Skylink's favor, namely, that Skylink's transmitters cause the internal computer processes of Chamberlain's product to operate, and this process should not be considered access to a copyright work.

He added that Skylink's product falls within a DMCA provision that permits interoperability.

In December 2002, Chamberlain filed a motion for summary judgment that was denied by Judge Rebecca Pallmeyer in August. In her ruling, Pallmeyer suggested that Skylink, rather than Chamberlain, might have a better chance of pursuing summary judgment in the matter.

The case illustrates the unintended consequences of the DMCA, critics say.

"Congress didn't intend that the DMCA should prevent me from entering my own garage," said Gwen Hinze, a staff attorney with the Electronic Frontier Foundation. "The Chamberlain garage door opener company doesn't have the right to dictate what brand of clicker I must buy to open my garage, even if they own the copyright on the software used to control the garage opener."

"By enacting the DMCA, Congress meant to protect copyright, not to prevent companies from developing devices that can interoperate with copyright software," Hinze said.

Other companies are fighting similar DMCA-related battles. Lexmark International sued Static Control Components, alleging that the aftermarket toner cartridge company illegally remanufactures cartridges to make them compatible with Lexmark printers. Static Control is countersuing Lexmark for unfair trade practices.

Joe Kraus, co-founder of DigitalConsumer.org, said the Lexmark and Skylink cases demonstrate how the DMCA is being misused by businesses.

"A law that was really intended to stop people from renting a DVD at Blockbuster and making a personal copy is instead being used by incumbents to stop innovations in fields as mundane as garage door openers and printers," he said. "If Chamberlain or Lexmark are successful, it's very worrisome for the future of innovation."

18-09-2003

<http://www.wired.com/news/technology/0,1282,60383,00.html>

Appeals Court Might Review Postponement Of Calif. Recall

LOS ANGELES, Sept. 16 -- The federal appeals court that has postponed California's recall election said today it may review that decision, introducing yet another plot twist into the state's extraordinary political drama.

The U.S. Court of Appeals for the 9th Circuit invited all parties in the lawsuit that led to the delay of the recall to file papers by Wednesday afternoon setting forth their views on whether the court should reconsider the action three of its judges unanimously took on Monday.

That step came on another tumultuous day in the recall campaign. Candidates continued courting the electorate, but under a new cloud of uncertainty. Beleaguered election officials, who have been scrambling to prepare for an Oct. 7 vote, braced for a wave of new complications. And voters struggled to make sense of the latest dizzying events.

Today's announcement by the court sets the stage for a possible replay of the arguments before the federal panel over the fairness of staging the recall election next month even though six urban counties in California plan to use older punch-card ballots instead of new scanners and touch-screen voting machines.

On Monday, the three-judge panel, composed of Democratic appointees, sided with the American Civil Liberties Union's contention that the election should be postponed because the use of punch cards could lead to many ballots' being misread or discarded, as happened in Florida's presidential election debacle in 2000. That decision could delay the recall until March, when California holds its presidential primary.

But California Secretary of State Kevin Shelley, a Democrat who is the state's top election official, said today that he will ask the court to reconsider its Monday decision and to hold the election as scheduled on Oct. 7.

"I believe it is in everyone's best interest that this case be heard swiftly and considered thoroughly, so the court can resolve these legal issues with the finality that the voters expect and deserve," Shelley said in a statement this afternoon.

Chuck Diamond, an attorney representing Ted Costa, the Republican activist who launched the recall campaign against Gov. Gray Davis (D) earlier this year, applauded the federal appeals court's announcement and said that, at least for the time being, there is no need to bring the case to the U.S. Supreme Court.

"This is a very promising indication," Diamond said. "We're confident the case will be reheard by the 9th Circuit. There is no reason to go to the Supreme Court yet."

Richard L. Hasen, a professor at Loyola Marymount University who is a specialist in election law, said that the appeals court is "not shy about rethinking things," but that there is no telling yet whether it would reconsider delaying the election. He said the court will likely resolve the matter this week.

The action by the appellate court today was not unusual. The 26 members of the 9th Circuit Court are often divided into panels of three judges to handle the workload of cases. After a ruling by a three-judge panel, the whole court sometimes decides to rehear a case, on its own volition or after being asked to do so by a losing party. Then, 11 members are selected to hear the case "en banc," meaning full bench.

Some California election officials said today that postponing the recall until the state's presidential primary in March could engulf the vote in new chaos.

In Los Angeles County, which has nearly 4 million registered voters, it may be impossible to fit the names of the 135 recall replacement candidates and the names of all the candidates in the other political races already scheduled for the March primary on the optical-scan voting system that must replace the punch-card machines next year. After the Florida vote, California was sued by civil rights groups over its use of punch-card ballots, and it subsequently agreed, as part of a consent decree, to phase out those ballots by March 2004.

Other counties in the state are expressing similar fears that their voting systems might be overwhelmed if the elections are combined.

"The new ballot we're going to use has a limited amount of real estate," said Kristin Heffron, the deputy registrar of Los Angeles County. "There just would not be room for everything. We don't know what we could do. We don't have a Plan B at this point."

Heffron said her county, by far the largest in the state, could be forced to use two separate voting systems if the recall election is rescheduled for March. "But that would create lots of opportunities for errors and confusion and anger among voters," she said.

The size of the recall field could also get larger if the vote is delayed. Some election officials expect many new candidates to seek entry into the race because state law allows qualifying to continue until 59 days before the election. But it is unclear whether that rule would be relevant if the decision to reschedule the recall is upheld.

In yet another predicament, election officials around the state say that they have no idea what to do with the more than 300,000 absentee ballots they have received. Los Angeles County, for example, has already received 30,000 of the 240,000 absentee ballots that it mailed to voters earlier this month.

"We're all struggling with the same difficult issues," Heffron said. "This is uncharted territory."

As registrars fretted, the recall campaigns kept rolling, though in a somewhat surreal state.

Davis continued to stage joint appearances with high-profile Democrats and pledged to campaign as if the recall vote were still taking place on Oct. 7.

In Los Angeles this morning, Davis stood beside Sen. Bob Graham (D-Fla.), a presidential contender, who applauded Monday's court ruling delaying the recall, saying that it will ensure that "all voters in California will have an equal opportunity to vote and that all votes will be counted."

Graham echoed one of Davis's central attacks against the recall, warning that, if it succeeds, it would set a dangerous precedent for politicians across the country.

"It is difficult for politicians to be courageous under any circumstance, but if a pattern is established that a political leader who has not committed some misdeed or some personal indiscretion, but because of a difference in policy that leader is subject to a recall," Graham said, "there will be a massive race to the bottom of political courage in this country."

Republican candidates also soldiered on. Hollywood actor Arnold Schwarzenegger and state Sen. Tom McClintock each met privately today with Peter Ueberroth, the former major-league baseball commissioner who dropped out of the recall race last week. Schwarzenegger and McClintock are seeking an endorsement from Ueberroth, who praised both men today.

Schwarzenegger, who staged a town hall meeting with voters in Los Angeles this evening, did not appear in public with Ueberroth. But McClintock stood beside him at a news conference and praised him as "simply brilliant."

Ueberroth never polled above single digits before he abandoned his candidacy. He vowed today not to return to the race if it is delayed until March. But another Republican candidate who dropped out, businessman Bill Simon, has hinted that he might return to the field.

Ueberroth said the possible delay in the recall would add "more devastation" to the state by allowing Davis to have control over another year's budget. More jobs will leave the state, Ueberroth said, and Wall Street and other investors will become more nervous.

McClintock assailed the 9th Circuit Court's postponement as a kind of left-wing conspiracy. He said the judicial panel's order to delay the recall was based on "politics and not on the law."

Conservatives across the state and the nation expressed similar denunciations of the federal court's action on radio talk shows and before reporters.

Rep. Darrell Issa (R-Calif.), who bankrolled the recall petition drive, called the ruling a "judicial hijacking."

House Majority Leader Tom DeLay (R-Tex.) called the 9th Circuit appeals court "outrageous, outlandish, out of control."

18-09-2003

<http://www.washingtonpost.com/wp-dyn/articles/A19541-2003Sep16.html>

Appeal judge astonished that Ellis trial lasted only one day

By Terry Kirby Chief Reporter

18 September 2003

A senior judge expressed his astonishment yesterday that the 1955 Old Bailey trial of Ruth Ellis, the last woman to be executed in Britain after being convicted of murder, had lasted just one day.

Lord Justice Kay told the Court of Appeal: "The fact the whole trial was so short was astonishing. It would just not happen today, there would be hours of cross examination." Another judge hearing the appeal against the murder conviction, Mr Justice Leveson, highlighted the unusual fact that Ellis's barrister had advised her against an appeal, despite one being granted automatically in such cases,

But both judges acknowledged the difficulty in judging practices in 1955 by today's standards, particularly where the death penalty was involved. "We have never had to live with these pressures, and that makes it very difficult to understand," said Lord Justice Kay. The jury convicted Ellis, then 28, a nightclub hostess, after a 15-minute retirement and she was hanged in Holloway prison in July 1955, 13 weeks after shooting dead her lover, the racing driver David Blakely, in Hampstead.

The appeal has been told by Michael Mansfield QC, representing the Ellis family, that the trial took place under a misunderstanding of the law by all the barristers and the judge, who believed that if Ellis admitted her intention to kill Blakely it removed her defence that she was provoked by his abusive behaviour.

The appeal is considering if Ellis's conviction for murder should be replaced by one for manslaughter, for which provocation would have to be proved. The judges refused to hear evidence from a medical expert that Ellis had been the victim of "battered women syndrome" - a condition recognised by other courts as a defence for murder of a spouse or partner. The court also refused to admit in evidence a statement from a new witness who claimed she saw Ellis "wild-eyed and talking abstractly" before the killing.

The court reserved its judgment until a later date.

18-09-2003

<http://news.independent.co.uk/uk/legal/story.jsp?story=444499>

DIVENDRES, 19 SETEMBRE 2003

Cuban hijacker sentenced to 20 years

MIAMI, Florida (Reuters) -- A Cuban who used fake grenades to hijack a Cuban passenger plane to Florida was sentenced Friday to 20 years in prison for air piracy, a federal prosecutor said.

Adermis Wilson Gonzalez, 34, boarded the Cubana Airlines flight with his common-law wife and 3-year-old son in Cuba's Isle of Youth on March 31. It was bound for Havana with 46 passengers and five-member crew aboard.

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Wilson carried home-made ceramic parts designed to look like grenades, assembling them during the flight with metal pins his wife had hidden in her hair. Twenty minutes into the flight, Wilson announced he was carrying live grenades and threatened to detonate them unless the plane went to Florida.

The plane did not have enough fuel for the trip and the pilot landed in Havana, where Wilson allowed about half of the passengers to disembark during an all-night standoff with Cuban authorities. The plane flew to Key West, Florida, the next day and Wilson surrendered to authorities.

His wife was not charged, and she has settled in Florida.

The hijacking was one of three in March and April by Cubans trying to flee communist-run Cuba for the United States. Cuba executed three hijackers who commandeered a Havana ferry with 50 passengers on board on April 2.

Although Havana and Washington have no diplomatic ties, Havana allowed the Cuban pilot of the hijacked plane to travel to Key West to testify at Wilson's trial in July.

19-09-2003

<http://www.cnn.com/2003/LAW/09/19/cuban.hijacker.reut/index.html>

Britain Cracks Down on Spammers with New Privacy Law

LONDON (Reuters) - Britain Thursday became the second country in Europe to criminalize spam, the unwanted barrage of e-mail and mobile phone text messages promising riches, cheap home loans and a better sex life.

The unsolicited messages, which industry groups say account for more than half of all e-mails sent, have become a time- and resource-wasting scourge of Internet users everywhere.

Under the new British law, spammers face an \$8,057 fine if convicted in a magistrates court. The fine from a jury trial would be unlimited. Spammers would not face prison, according to the new law, introduced by Communications Minister Stephen Timms Thursday.

Spam is defined under the law as any messages sent to consumers without having first established a consensual customer relationship.

"These regulations will help combat the global nuisance of unsolicited e-mails and texts by enshrining in law rights that give consumers more say over who can use their personal details," Timms said in a statement.

Britain's Office of the Information Commissioner will enforce the regulations, which go into effect on Dec. 11.

The law does not however cover workplace e-mail addresses. Anti-spam proponents had been calling for a blanket law that would criminalize all forms of spam.

The European Union passed a directive last year and Italian lawmakers this month imposed tough new regulations to fine spammers up to \$101,600 and impose a maximum prison term of three years.

19-09-2003

<http://www.reuters.com/newsArticle.jhtml;?storyID=3468271>

Widow savours victory over naming of father

By Robert Verkaik, Legal Affairs Correspondent

19 September 2003

Diane Blood, the widow who won the right to have children using her dead husband's sperm, went to the House of Lords yesterday to witness the change in the law that will allow her late partner to be legally recognised as the father.

Mrs Blood, 36, from Worksop, Nottinghamshire, sat in the upper chamber for the third reading and Royal Assent of the Human Fertilisation and Embryology (Deceased Fathers) Bill. The legislation means the dead fathers of children born from frozen sperm are recognised on birth certificates.

Mrs Blood has fought a long battle to have her husband recognised as the father of her children, Liam, aged four, and Joel, one. Stephen died from bacterial meningitis in 1995. She wanted his name listed as the father of her children on their birth certificates. At the moment their paternal details are left blank, as if they were unknown.

Under the Human Fertilisation and Embryology Act 1990, which controls all test-tube births, when the sperm of a man or an embryo created after his death is used he is not considered the father of the child.

The Government eventually accepted that the law was "incompatible" with the European Convention on Human Rights. The breakthrough came at the High Court in March of this year. Mrs Blood was joined in her claim by Joanne Tarbuck, from Higher Kinnerton, near Chester, whose five-year-old son, Jonathan, was conceived with the sperm of her dead husband, Martin.

Mrs Blood and Mrs Tarbuck, who were not legally aided, claimed the law had rendered their children "legally fatherless for all purposes". The judge hearing the case criticised Alan Milburn, the Secretary of State for Health, for opposing their claim until legal action was launched. The new law allows the children to have their father's name entered on their birth certificates.

19-09-2003

<http://news.independent.co.uk/uk/legal/story.jsp?story=444813>

Judge orders Indian tribe to pay \$5.3 million to architect

The Associated Press

LOS ANGELES --

A Los Angeles Superior Court judge has ordered the Santa Rosa Rancheria Tachi-Yokut tribe and its casino operators to pay \$5.3 million to an architectural firm hired to design its casino expansion.

The judge upheld an arbitrator's order earlier this year that tribal leaders near Fresno waived their sovereign immunity when they entered into the contract with Presnell Associates Inc.

The Louisville, Ky., firm planned the Palace Indian Gaming Center in Lemoore in 1999 and was working on a \$250 million expansion when tribal leaders ended the contract and refused to pay for services already rendered, according to the company's lawsuit.

Judge Elihu M. Berle denied a motion by the tribe to vacate arbitration Tuesday and confirmed the award.

Only J. Schulte, an attorney for the tribe and its casino, said the casino likely would take the case to a state appeals court.

Tribal lawyers argued the contract was invalid because the firm failed to secure a federal gaming license and federal approval before contracting to do work for the casino.

Tribal leaders filed a separate suit in federal court in Fresno to recover \$8.5 million they had paid the architects to design the original casino.

Charles Antonen, another attorney for the tribe, said Presnell designed the expansion without the tribe's authorization. He said the company had designed the casino under an early contract "and kept on going."

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