

Testimony Presented to the Board of Supervisors Rules Committee

March 7, 2013

Testimony of Derek Kerr, MD, CNA

Today, you are reviewing a whistleblower retaliation settlement titled *Dr. Derek Kerr v. CCSF*.

I am the plaintiff — and I didn't want to sue the city. But Dr. Maria Rivero and I stumbled upon wrongdoing — involving Laguna Honda's CEO — that we couldn't ignore.

After notifying the whistleblower program, I received a unique “permanent layoff” — while Dr. Rivero was harassed. We reported the retaliation to the Ethics Commission. But ethics did nothing to protect my career.

Instead, I was told to get a lawyer.

Then, Ethics took two years to complete their investigation. In retrospect, a lawsuit was our only hope. Because Ethics hasn't sustained a single whistleblower retaliation Claim since it was founded — not one.

Many studies have shown that reprisals against whistleblowers are common, with rates up to 90%. But with our Ethics Commission, the retaliation rate is always zero. That's why we're here today.

We hope some public benefit will come of this, and offer two suggestions to prevent future lawsuits:

- 1) Ask why the Ethics Commission dismisses every retaliation complaint it receives.
- 2) Ask the [City] Controller to perform a whistleblower satisfaction survey.

Testimony of Maria Rivero, MD, FACGS

I am Dra. Maria Rivero. Dr. Derek Kerr and I blew the whistle on misappropriations from the Laguna Honda Gift Fund and tainted DPH contracts. Then after 20 year at Laguna Honda I was bullied and forced out. Dr. Kerr was terminated.

The \$750,000 settlement of his wrongful termination lawsuit will be reviewed today.

Mivic Hirose, Laguna Honda's CEO, has admitted that she made the decision to terminate Dr. Kerr's employment.

What is the message you send when a CEO who retaliated against a whistleblower is still in office? It shows that you condone whistleblower retaliation and violations of Laws that protect whistleblowers.

It shows that you will accept executives that pilfer public funds donated to the poorest of the poor, violating a sacred trust. It shows you condone spending public funds on rigged contracts awarded to cronies. It shows that you will collude with driving ethical and committed workers out of Laguna Honda and replacing them with toadies who rise to the top because they won't dare to discuss problems.

It shows you support a culture of dishonesty and incompetence at Laguna Honda Hospital.

Mivic Hirose has said she stands by her decision to terminate Dr. Kerr, who was a dedicated 20-year employee, Attending Physician of the renowned Laguna Honda Hospice, and a whistleblower.

Mivic Hirose obviously doesn't “get it.” Please consider this.