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Defense alleges prosecutor misconduct in Santa Clara Waste case



Credit: Anthony Plascencia

ANTHONY PLASCENCIA/THE STAR Smoke billows above the scene of an explosion near Mission Rock Road in Santa Paula, where Ventura County Hazmat teams tried to contain a spill of organic peroxide. 11/18/14

By *Marjorie Hernandez* of the Ventura County Star

Updated: 4:52 p.m.



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An arraignment Tuesday for Santa Clara Waste Water Co. and its officials facing criminal charges related to a toxic explosion last year near Santa Paula was continued to January.

Meanwhile, defense attorneys are calling for sanctions against prosecutors for allegedly making "misleading statements" in court.

Santa Clara Waste Water officials and employees, including CEO William Mitzel, appeared Tuesday before Ventura County Superior Court Judge David Hirsch for arraignment on 71 counts of various criminal offenses connected to a Nov. 18, 2014, explosion at the company's plant at 815 Mission Rock Road.

A Ventura County grand jury issued an indictment in August against Santa Clara Waste Water, its parent company Green Compass, and nine company officials and employees. The counts include conspiracy to commit a crime, disposal of hazardous waste, recklessly handling hazardous waste, known failure to warn of serious concealed danger and causing impairment to an employee's body.

On Tuesday, nine of the original 11 defendants indicted in the case were told to return to court Jan. 14 for arraignment and other motions.

The other two defendants, managers Mark Avila and Brock Gustin Baker, pleaded guilty last month to some of the charges.

Barry Groveman, who represents the company and Mitzel, maintains the explosion was an industrial accident. The company handled wastewater from sources such as chemical toilets, industrial uses, and some oil and natural gas operations.

Last week, the company filed a motion to sanction the District Attorney's Office. The company alleges Senior Deputy District Attorney Christopher Harman made "misleading statements" to the court regarding an employee file seized by investigators. Prosecutors "made repeated inaccurate representations to this

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court that were knowingly and cynically designed" to lead the court and the defense to believe prosecutors did not have the file, Groveman wrote in the motion.

Santa Clara attorneys also filed a motion with the state Second District Court of Appeals to get documents including various search warrants and employee files. Prosecutors argued the documents should be sealed before arraignment of the defendants because of the ongoing criminal investigation.

In a decision dated Sept. 11, the appellate court found the District Attorney's Office "acted unreasonably" in refusing access to the employee file.

"This court is concerned that there might have been a deliberate attempt to evade ... by improperly withholding access to an employee file," the appellate court said.

Groveman also wrote a letter to District Attorney Greg Totten dated Sept. 15 detailing alleged misconduct by prosecutors Chris Harman and Karen Wold. Totten responded Sept. 30 and said Harman was reassigned and would no longer prosecute the case.

Last week, California Attorney General Kamala Harris announced state attorneys will help county officials prosecute the case.

Groveman said he is "pleased" the state is getting involved in the case.

"It's disturbing that the District Attorney has put out a statement attempting to knowingly mislead the public into thinking this case suddenly became more serious and required resources from the Attorney General, when, in fact, this was a calculated effort to avoid disqualification and embarrassment," Groveman said.

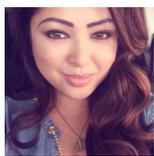
But Jan Maurizi, county chief assistant district attorney, said the sanctions motion filed by the defense involves "old allegations" already denied by the court.



Maurizi said Harman's removal from the case had "absolutely nothing" to do with defense claims that Harman withheld evidence. Maurizi said she could not comment on why Harman was reassigned because it is a personnel manner.

She also said the Attorney General's Office was brought in because of the case's complexity and that Santa Clara Waste continues to operate in other counties.

"(Groverman) was making a giant assumption about the fact that one prosecutor was reassigned," Maurizi said. "The more we have delved into this case, the more complex it is and the more egregious the actions. People could have died ... It made sense for the attorney general to join us."



About Marjorie Hernandez

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