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Scientist, gagged by UCLA, wins a round in court

By The Bakersfield Californian

I was glad to learn a federal judge ruled recently that a former UCLA faculty member's civil rights lawsuit can go forward against the school.

By all appearances UCLA did, in fact, violate Jim Enstrom's first amendment rights, not to mention his 14th amendment rights, and purposely deprived him of the funding he needed just to shut him up on issues of air pollution.

He has stood by his own and others' studies that show Californians are not dying in droves because of air pollution, specifically PM2.5, tiny bits of particulate matter such as dust and soot.

But that isn't the opinion of the majority of Enstrom's former colleagues in UCLA's Environmental Health Sciences Department, many of whom enjoy lucrative grants from the California Air Resources Board (CARB) to churn out study after study claiming the state's ever shrinking pollution levels are causing ever greater harm.

Rather than proving Enstrom's studies wrong (which no one has done) with their own science, his colleagues voted him off the island, so to speak.

He appealed to the university to no avail and finally sued.

UCLA tried twice to the get case dismissed and lost both times.

Most recently, on March 18, Federal District Judge Jesus Bernal ruled that Enstrom's allegations have enough significance for the case to go forward.

Good for Enstrom, who may finally get some personal justice after three years of having his name dragged through the mud and his career left in tatters.

Other than that, however, this sordid tale has been bad for the rest of us. Bad for the notion of academic freedom, bad for increased, unnecessary regulations and bad for plain old-fashioned science.

For all those reasons, this case will be important to watch.

I first wrote about Enstrom's pending firing in August 2010.

Enstrom, who holds a Ph.D. in physics, had worked as a researcher at UCLA for 34 years without a single professional blemish.

As a non-tenured researcher he had to bring in his own money through grants and other awards to fund his salary and studies. UCLA administered the money and took a fee for its trouble.

Funny thing happened to all that money, about \$280,000 back in 2008 when Enstrom began to get more vocal about what he felt was fraud being perpetrated by the CARB. (He was right, by the way, but more on that in a bit.)

His money disappeared, said his attorney David French with the American Center for Law and Justice, a conservative civil rights group that's representing Enstrom at no charge.

Turns out UCLA was paying Enstrom's salary out of the wrong account without notifying him and the school was charging him for on-campus office space, which he never had. Not only that, the school closed one account in May, 2009 but didn't bother to tell him until early 2010.

Enstrom tried to get a full accounting of exactly what happened to his various funds but was stonewalled, French said.

"More than a year after his first request for an accounting, the school rebuked him for not taking care of the problem," French said. "How could he when he didn't know about it and had not control over the funds?"

"UCLA took more than \$100,000 from his accounts. That's why they were drained."

That's important because not only was it a breach of fiduciary duty by UCLA, according to French, it was also used by Enstrom's colleagues as one of the reasons they were giving him the boot.

As a faculty researcher, Enstrom must fund himself or he's out, unlike tenured faculty who are paid by the state.

Calls to UCLA's attorney, Allen Zuckerman, were not returned.

When Enstrom pointed out UCLA was responsible for his funding troubles, that reason for his firing was withdrawn, French said.

That started a sort of merry-go-round of justifications.

He was told he wasn't productive enough. In fact, he was as productive or more so than the tenured professors who were trying to fire him, so that reason was withdrawn.

Then he was told he'd misrepresented his title as a research professor. That's the title in UCLA's own promotional materials, so, again that reason was withdrawn.

Eventually he was told he was being canned because his work "doesn't align with the mission of the department." Also not true when you read the mission statement of the department.

But I think that's the closest to the truth if you substitute "mission of the department" with "group think of the other faculty."

They simply didn't like Enstrom's science.

Particularly a 2003 study he did that showed second hand cigarette smoke doesn't kill people. And his 2005 study looking at elderly Californians that showed no link between premature deaths and exposure to PM2.5.

And they certainly didn't like that he stepped into the political realm to call others out on their own questionable science and outright fraud.

It was Enstrom who blew the whistle on an CARB "scientist" who lied about having a Ph.D. And he exposed CARB Chair Mary Nichols who knew about the faked credentials but covered it up from other board members until after they voted on critical new truck exhaust rules.

Enstrom also uncovered information that UCLA colleague John Froines had been serving on the Scientific Review Panel (which determines what is or isn't a toxic air contaminant) illegally for more than 20 years.

Enstrom's former Department Chair Richard Jackson alluded to Enstrom's agitating when I spoke with him back in 2010, saying the faculty was troubled by Enstrom's presentation at a CARB symposium in February of that year.

At that symposium Enstrom challenged the thinking on air pollution and health effects, showing that even some studies relied on by CARB showed no link in California between PM2.5 and premature deaths. He noted that many studies, including his own, that have not found a correlation between pollution and premature deaths have been ignored or misquoted.

Enstrom basically embarrassed the air pollution cabal, French said.

"It was humiliating for CARB and UCLA," French said. "But rather than prove him wrong with their own science, they punished the whistleblower.

"If they're so confident he's wrong, then challenge his science."

Funny how that never seems to be an option.

Opinions expressed in this column are those of Lois Henry, not The Bakersfield Californian. Her column appears Wednesdays and Sundays. Comment at <http://www.bakersfield.com>, call her at (661) 395-7373 or e-mail lhenry@bakersfield.com

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