



SHATTERING THE LAZY ACRES GROOVE

CUSTOMER LAWSUIT LOOKS TO BRING DOWN SANTA BARBARA GROCERY

by Matt Kettmann

Juicy, plump fruits. Certified organic veggies. Free-range, non-hormonally-enhanced meat. Fresh wild-caught fish. Cutting-edge, new-age vitamins. An impressive selection of syrahs, sauvignons, and chardonnays. Cold, hard-to-find beers. Savory, creative deli. Helpful, good-looking, and smiling staff.

It's no wonder that a healthy cross-section of Santa Barbarans—especially the environmentally minded and upper class—cruise up to the Mesa to shop for food and more at Lazy Acres, the South Coast's coolest, place-to-be-seen store since it opened its doors on Meigs Avenue in 1991, on the site of what was once a small Mexican market. In a town that prides itself on health and style, Lazy Acres plays a welcome headquarters, providing a forum where both wealthy celebrities and poor students can mingle in the aisles and dine at the laid-back patio café. Compared to other megamarkets, Lazy Acres' village-like appeal prompts more than a few long conversations among shoppers, blissfully blurring the line between grocery store and social scene.

But what if that enticing list of products, services, and hometown feel also included an assault on your

civil rights? Would Lazy Acres still be the grooviest grocer if a trip down their aisles included being roughed up and detained by overzealous and unlicensed security guards? Would the grocer still rake in upwards of \$28 million in sales annually—more than \$500,000 a week, according to a 2003 report—if Santa Barbarans had to fear for their freedom and safety every time they took an afternoon jaunt to pick up some grass-fed

set to begin October 26, Courts and his attorney John Richards are alleging that Courts was unlawfully detained and abused by one of Lazy Acres' security guards—contracted through Premiere Protective Services—after being set up for a shoplifting charge by upper management and at least one owner. So why not just sue the security guard or security company, which has already folded after being named in this case? Because, as

shut down. Perhaps most telling, the lawsuit has caused the Lazy Acres owners—Jimmy Searcy, Irwin Carasso, and Hugo Van Seenus—to hire none other than self-proclaimed “emergency room” attorney Barry Cappello, the high-paid lawyer often called in when the proverbial mess hits the fan. The lawsuit's wide scope has also uncovered an at-times murky underbelly to Lazy Acres, though not quite so murky as Courts

Lazy Acres rules as Santa Barbara's grooviest grocer, but its owners find themselves on the defense as a lawsuit claiming conspiracy and negligence threatens to mar the Mesa market's image.

team. He's fit and handsome, confident and wealthy—all the elements required for living the bachelor lifestyle in style. Though he spends most of his time in Colorado—where his investment business is based—Courts travels to Santa Barbara frequently and has lived here sporadically over the past six years. Lazy Acres was always the obvious choice for him when it came to buying healthy food and vitamins. As such, Courts made trips to Lazy Acres almost daily when he was living here semi-regularly last year, spending, by his estimate, at least \$1,500 per month in the store. Most often, Courts would eat lunch in the cozy café that's connected to the grocery store, a place he'd spent so much time in that he knew the waiters and waitresses, always left gargantuan tips, and even engaged in the occasional flirtation with a female server or two. But on March 26 of last year, Courts' confidence in his favorite store took a downturn, all over a bottle of juice.

Would Lazy Acres still be the grooviest grocer if a trip down their aisles included being roughed up and detained by overzealous and unlicensed security guards?

sirloin and organic baby artichokes at their favorite market?

One former Lazy Acres regular hopes not. Ever since a very tall financial investor named Scott Courts endured a troubling—and, he claims, well-planned—incident in the spring of 2003 after being accused of shoplifting, the 6'9" millionaire and former college basketball superstar has been on a legal crusade to dethrone the reigning king of Santa Barbara's market market. In a lawsuit

the suit alleges in part of its 10 complaints, the owners and management of Lazy Acres were aware of the problem security guard—due to previous complaints—and did nothing to stop the potential for abuse of their customers.

It's no average lawsuit. Courts' charges of high-level conspiracy have embroiled the triumvirate of Lazy Acres owners, targeted a number of employees, and already caused an entire security guard company to

would like to believe; after a lengthy investigation, the three owners appear to be upstanding citizens, if a bit non-mainstream at times.

FULL COURT PRESS

Scott Courts' great height isn't his only noticeable trait—though he did use it to his advantage when he was a part of the 1978 national champion University of Kentucky basketball

Lazy Acres continued on pg. 24 ►

◀ **Lazy Acres** *continued from pg. 23*

For lunch that day, Courts grabbed a bottle of Naked Juice from inside the grocery store and entered the café, which is a common practice accepted by the café staff, though not necessarily encouraged by the management because it can cause confusion over what's been paid for and what hasn't. Courts sat down and ordered his usual—a turkey burger—ate it, then ordered another turkey burger because he was still hungry. Upon receiving the bill he realized that he'd only been charged for one turkey burger by his waitress, Adelle Linau. He informed her of the error, she fixed it, and then he paid for the two turkey burgers. But despite leaving a \$14 tip, he forgot to pay for the bottle of juice because it wasn't on the bill, a mistake on both Courts' and Linau's part that would shatter their customer/server relationship.

As he left the store, Courts claims he was nearly tackled by a security guard named Johnny Lopez, who then handcuffed him and took him upstairs to an office room as owner Hugo Van Seenus watched. While detained, Courts claims that Lopez—identified in at least one, possibly two similar complaints prior to that day—searched Courts' pockets, punched him in the testicles, and swung his fists in intimidation as he tried to coerce Courts into signing an admission of guilt and paying a small fine (\$200-\$500) in exchange for his freedom. (Collecting such punitive fines ostensibly pads the pockets of the security company, according to Richards.) Not one to be intimidated, Courts encouraged Lopez to call the police. When officers arrived, they filed a shoplifting report and set Courts free. Courts was told by Lazy Acres management never to enter the store again.

Courts was embarrassed and outraged. He demanded an apology and requested the right to shop at Lazy Acres again. He was denied. Lazy Acres offered only the chance to exchange a mutual apology, but Courts knew he hadn't done anything wrong. He contacted the media, hired his attorney, and began a search both for fellow victims and a competing healthy foods grocer to bring to town, so intent was he on bringing down his new nemesis.

Via the legal discovery process, Courts and his attorney found two other longtime customers who had been victimized by Johnny Lopez or another security guard hired by Premiere Protective Services, the subcontractor owned by David Flannery that Lazy Acres relied upon for "loss prevention services." In one such case involving a renowned professor at a nearby college, who was aggressively detained by Lopez for

shoplifting in June 2002 after stepping outside to grab a newspaper, the professor hired an attorney and Lazy Acres owners were officially notified of the problem. This is a linchpin to Courts' charge of negligence: Lazy Acres owners could be liable if they knew of a problem with their subcontractor's employees but did nothing to protect their customers.

In the second incident, an employee of another local university was detained in February 2002 by an aggressive and intimidating guard. (Whether or not that guard was actually Lopez or another Premiere Protective guard is a point of dispute.) Store management in that case immediately apologized, gave the victim a \$100 gift certificate, explaining that it wasn't the first time they'd had trouble with the guard, and promised that the guard would no longer patrol their store. Courts claims that Lazy Acres owners and management were well aware of the problem they had with their security guards, yet did nothing about it.

The security problems go deeper. Upon further investigation, Courts and Richards determined that Premiere Protective Services was not a licensed agency and that Johnny Lopez—who, incidentally, has a violent criminal history—was considered to be a major liability by the person who trained him. That concern was passed on to Premiere owner Flannery, according to the lawsuit, but was presumably not relayed to anyone at Lazy Acres. Furthermore, the man who trained Lopez has also reported that Flannery engaged in sexual activities and drug use in the store. Nevertheless, the lawsuit is lumping together these realizations in an attempt to show the general lack of care that Lazy Acres took in contracting its security services.

More damaging to individual Lazy Acres owners and employees is the testimony of Bruce Jimenez—a reluctant witness who was scared to testify because he feared retaliation against his father, who was still working for Lazy Acres and had worked at the market for many years. His fears rang true, according to Richards, because Jimenez's father was indeed let go two months after his son gave his deposition.

According to that deposition, the younger Jimenez was working in the café that fateful day and said he had a clear view of what went down. In that pre-trial interview Bruce Jimenez, who had since been fired from Lazy Acres in an unrelated incident, said that Adelle Linau—whom he described as flirtatious with numerous male customers—frequently encouraged Courts to bring in a bottle of juice from the market when he ate at the café. On the day of the shoplifting, Jimenez recalled telling Linau specifically not to forget Courts' juice

F E A T U R E

when she rang up his bill. Jimenez also reported that store manager Paul Shields had previously informed the staff that it was in fact permissible to allow customers to bring market items into the café. Jimenez offered further the hearsay opinion that he believed Shields disliked Courts personally. In addition, Jimenez claimed to have seen owner Hugo Van Seenus sitting at a café table with a “Hispanic security officer,” apparently observing Courts and, with the help of Linau and Shields, “purposely” setting up Courts for a shoplifting charge.

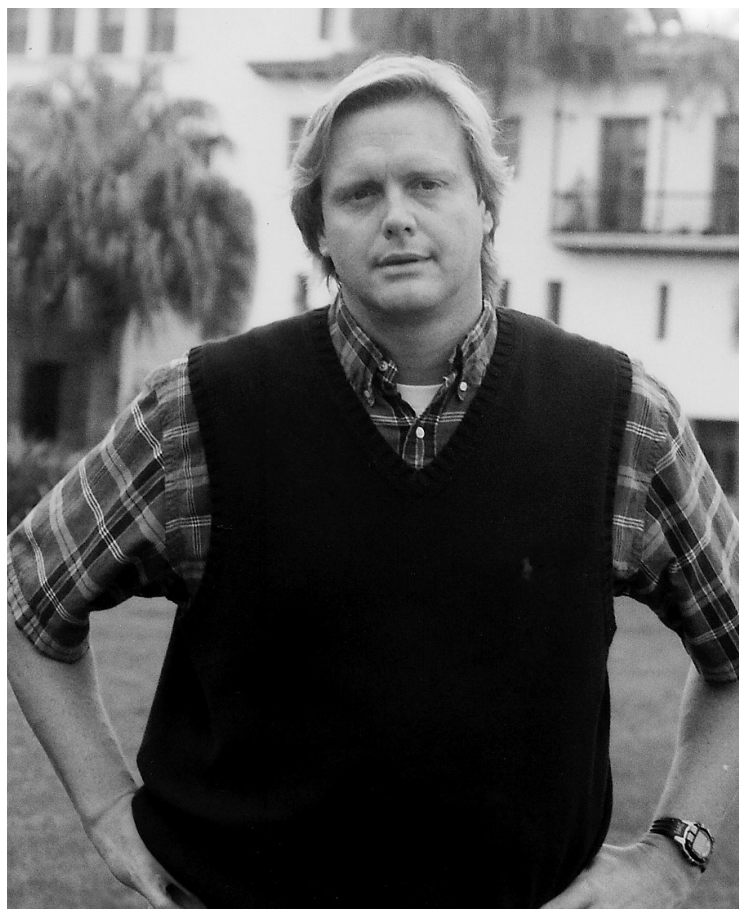
So what does Scott Courts want? “It’s laughable there would be an assertion that I was doing this for money,” Courts said. “We’re trying to get a major change in the way Lazy Acres does business. We want to make it safe so the public can shop in the grocery store without being assaulted and taken down by criminals. They had the chance to solve this with a letter [to all the employees] and an apology. Anything beyond my legal expense is going to a charity.”

As part of any possible pre-trial settlement, Richards is clear that all they want—other than expenses—is four things: one, hire a licensed security company; two, hire licensed guards; three, always have a witness during interrogations, and four, put in a videotape in the interrogation room. “Why won’t they just agree to that?” Richards asks with no lack of confusion, adding, “Other than a lawsuit, what mechanism do we have to effect change here?”

But bigger questions come to mind: Why would Lazy Acres owners and management engage in a conspiracy to take down one of their most reliable customers? If they believed he was a shoplifter, why wouldn’t they simply ask him to leave and never come back, a right enjoyed by all private businesses? And even if there was no conspiracy, why would they have allowed Courts to be physically detained, alone in an upstairs room with Johnny Lopez, a known hothead with a criminal record who had a history of being aggressive and threatening with other customers in the past?

HIRING THE BIG GUN

Hard questions and harder answers are the specialty of Barry Cappello, the hotshot attorney who cut his teeth fighting for the City of Santa Barbara after the 1969 oil spill against Unocal and later represented small-business owners against large banks. His success is evident both in his list of clients—including international rock star Courtney Love to S.B. waterfront developer Bill Levy—and in the stylish décor of his large office. Boasting polished wood, fancy rugs,



MATT KETTMANN

Standing an imposing 6’9”, Scott Courts isn’t easily intimidated. But after an overzealous Lazy Acres security guard gave him the scare of a lifetime, he’s gone on the attack.

“We’re trying to get a major change in the way Lazy Acres does business. We want to make it safe so the public can shop in the grocery store without being assaulted and taken down by criminals.”

pricey paintings, wet bar, chandelier, and windows that overlook the bustling corner of State and Canon Perdido streets, Cappello is arguably the king of attorneys in a town thick with high-priced lawyers.

“The case is complete bullshit—you can print that,” said Cappello from behind his desk, adding such additional phrases as “malarkey” and “oversold” to bolster his claim. Cappello added that it’s ridiculous for this lawsuit to attack the individual owners and employees of Lazy Acres, since California law dictates that corporations should be treated as individuals and that the umbrella of a business tends to protect its workers. Cappello admits that if the owners knew there was a problem and were negligent in fixing it, there’s potential liability, then exclaimed, “Richards doesn’t have that case. When Richards sues individual shareholders without any basis, that’s asking for malicious prosecution.” (By mean-

ingless coincidence, Scott Courts’ attorney John Richards had his first lawyer job in Cappello’s office.)

According to Cappello, the real question is: Did Scott Courts pay for the juice? “The answer is no.” As for the conspiracy claim—a charge Cappello says is the hardest thing to prove in civil court because a plaintiff must prove forethought, action, and follow-through of the plan—Cappello asked, “Why make the assumption that businesspeople with an unblemished track record would conspire to work in a criminal way?”

If the case is all bullshit and malarkey, why was Cappello—the “emergency-room” attorney—called in by the trio of Lazy Acres owners? After explaining that he’s in a place in his career where he “can take the cases that interest me,” Cappello said that the triumvirate of owners contacted him from the very beginning. But

FILE PHOTO PAUL WELLMAN



John Richards admits that it's only himself and the other attorneys who stand to make money on this case. What he wants is for Lazy Acres to promise to hire a licensed security company and ensure that a witness is present during interrogations of alleged shoplifters.

“Why didn’t they just apologize?”

after reviewing the case, he saw it as a cut-and-dried situation of Lazy Acres being misled into contracting subpar, if not totally bogus loss prevention services from Premiere Protective Services. Premiere owner Flannery’s lack of oversight led to the hiring of problem guards, so Premiere’s insurance company should pay for the problem. That’s why Cappello initially let the insurance company’s attorneys take the case.

Fast forward a few months and as the evidence mounted in favor of Courts’ claim, it became clear that, in Cappello’s words, “An imbalance occurred in the litigation and all we’re trying to do is get some balance so everyone is playing fair.” According to Cappello, the lawyers for Lazy Acres and Premiere weren’t up to snuff and were also potentially creating a troublesome conflict of interest, as one law firm was representing both the store and the security company—an ethically and legally questionable practice, considering the fact that Lazy Acres might have cause to sue Premiere.

In the meantime, Cappello—according to the plaintiffs—has hired private investigators to get the dirt on Scott Courts because he’s charging emotional distress, a claim that Cappello says leaves a plaintiff open for the most probing investi-

gation of character, sanity, and motive. Courts’ mother and close friends have also been served with subpoenas. Pulling out all the stops, the litigator has also apparently subpoenaed women Courts has had relationships with—one who has claimed that Courts raped her. Cappello has also attacked the credibility of star conspiracy witness Bruce Jimenez, so it’s clear that Cappello is more than prepared for the October 26 courtroom showdown.

“All this could have been worked out,” Cappello explained, “but someone wants money, John [Richards] or Scott [Courts] or both, because that’s what’s driving this case.” Not so, according to Richards, who explained that Courts doesn’t stand to make a dime on this case, admitting that it’s only he, Cappello, and the other lawyers who are making any money. Richards said that in the very beginning, all Courts wanted was to regain his shopping privileges and get an official apology from the owners. But instead of cutting their losses and swallowing their pride, according to Richards, Cappello and the owners offered a mutual apology agreement, one that had Courts admitting some level of guilt. That’s not what Courts was looking for, so he brought his well-funded wrath.

F E A T U R E

LAZY ACRES LOWDOWN

But do the owners deserve it? Are Jimmy Searcy, Irwin Carasso, and Hugo Van Seenus evil? Whether they deserve the blame and the related economic penalties that may arise from Courts' charges will be up to the jury to answer. But so far they seem to pass all basic decency tests.

When first contacted for this article in the summer of 2003, Searcy was open to talking, explaining quite bluntly that neither he nor his contracted security company were involved in the false imprisonment business. Yet as the case proceeded and depositions were taken, Searcy and crew stopped returning phone calls, even ignoring requests for an interview solely about the store's history and not about the Courts case. Nor would their attorneys—specifically a lawyer named Terrence Bonham, who referred to *The Santa Barbara Independent* in one deposition as a “throw-away” paper one puts in their birdcage—return calls other than to say they wouldn't say anything.

An exhaustive Internet search found that in 2003, *Specialty Food* magazine ran a story on the trio of owners entitled “Lazy Acres Market: A Powerhouse in Santa Barbara.” According to that report, “the market records a sizzling \$26.90 per square foot per week ... in a city of only 90,000,” which translates to \$28 million annually and nearly \$540,000 per week while employing more than 220 people. The article credits the smashing success to the collective experience and expertise of Jimmy Searcy, who operated a West Coast distribution company called the Marty Bellman Co.; Irwin Carasso, who founded Tree of Life in St. Augustine, Florida, one of the world's largest organic food dealers; and Hugo Van Seenus, who owned the very popular Hugo's market and deli in Washington, D.C. How the three came to Santa Barbara and opened Lazy Acres on the site of a Mexican grocery store remains a mystery because of their silence. The store expanded in 1997 from 11,000 to 28,000 square feet, which included the patio café where the Courts incident went down.

Google searches on the individual owners' names revealed an interesting side to Irwin Carasso, the majority shareholder who blurted out in his deposition related to this case that he didn't care about his customers. Last May, and in years prior, Carasso and his wife Marilyn hosted the annual meeting of the Institute for Individual and World Peace (IIWP) at his bluff-top mansion. In attendance were John-Roger and John Morton, the leaders of the IIWP movement that seeks to “bring peace more present in our lives.” Photographs from the event reveal Carasso's beautiful home and a



FILE PHOTO PAUL WELLMAN

Reigning as the king of Santa Barbara's numerous high-profile attorneys, self-proclaimed “emergency room” lawyer Barry Cappello is helping to defend Lazy Acre's reputation.

Did Scott Courts pay for the juice?

“The answer is no.”

crowd of 200 or so of all ages, often wearing headphones and holding a tape-playing device that, one can surmise after further research, is playing the informational audiotapes sold by the IIWP on their Web site (*iiwp.org*).

The group's leader, John-Roger—born Roger Delano Hinkins in Utah to a Mormon family—found his spiritual calling, according to one religious movement Web site, after falling into a coma during a kidney stone procedure and waking up nine days later to find a separate soul with a higher consciousness named John living inside him. He changed his name to John-Roger and walked along a varied spiritual path until he found his way to Santa Barbara in 1968, where he began giving seminar talks. Out of these seminars came written documents, the basis of which formed John-Roger's Movement of Spiritual Inner Awareness. In 1982, John-Roger founded the nonprofit IIWP, which is focused on the study and implementation of peace worldwide, and also operates a retreat center at Windermere Ranch off of West Camino Cielo Road in the Santa Ynez Mountains.

Does Carasso's support of John-Roger and the IIWP have any bearing on the operation of Lazy Acres? Or does Hugo Van Seenus' involvement in a trip to China with the

IIWP group a few years ago—also available on the Web site of the *New Day Herald* (*ndh.org*)—have anything to do with this current lawsuit? Probably not, but customers of Lazy Acres may find it interesting that their monies may be going toward John-Roger and his organization.

Also, while researching this article, sources suggested that the Lazy Acres owners may be, God forbid, Republican. Upon examination of their donations to political campaigns over the past decade, the owners' political leanings seem varied, with money going to Republicans such as Andrea Seastrand and Michael Huffington, but most recently landing in the coffers of Rep. Lois Capps, a Democrat.

So it appears that the owners are all upstanding businessmen, eager to please and make some money, with nothing more sinister than some colorful quirkiness. It wouldn't be too hard to believe that—save for the odd conspiracy allegation—this whole lawsuit was just a matter of a bad-apple security guard having been turned loose on Lazy Acres by a disreputable security company that messed with the wrong man this time. But the question remains: Why not simply apologize to Courts from the outset and let this whole thing pass? ■