

# California Government Regularly Engages In Retribution, Reprisals And Vendettas As In CA State Porn Ring

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The attorney who represented a former Caltrans employee in a salacious workplace pornography lawsuit is taking credit for the resignations of two high-ranking state executives and requesting millions of dollars in legal fees for his work over the past five years.

The recent [resignations of California Department of Transportation Director Malcolm Dougherty](#) and [Chief Deputy Director Kome Ajise](#) coincided with milestones in the lawsuit. Dougherty testified in the case. Ajise was on the witness list, but did not testify.

Both former Caltrans leaders have moved on to new jobs, Ajise with the Southern California Association of Governments and Dougherty with engineering firm Michael Baker International.

A Caltrans spokesman said their departures were unrelated to the case. It's common for senior state executives to look for new career opportunities in the last year of a governor's term. Gov. Jerry Brown is in his last year in office.

In November, a San Joaquin County jury awarded [former Caltrans employee Rachel Elizondo \\$605,000](#). She claimed she experienced retaliation after blowing the whistle on a group of almost two dozen Caltrans employees who shared and stored pornography on their work computers.

Her attorney, John Shepardson, now is asking a judge to award him \$4.6 million in fees for his [time and the risk he took in suing Caltrans](#). The trial alone lasted more than 30 days.

Had he lost the case, Elizondo would have been on the hook for tens of thousands of dollars in Caltrans legal expenses.

Elizondo “took tremendous risk” in pursuing the case “and hopefully this will bring change to Caltrans,” Shepardson said.

The case was Elizondo’s second lawsuit against Caltrans. In the first, she reported that she felt ostracized after reporting financial mismanagement. A jury sided with Caltrans in that 2009 case.

That year, a supervisor asked her to check his computer and she discovered a cache of pornography.

Elizondo reported the pornography to another supervisor and asked to have her complaint remain confidential. Instead, her co-workers quickly learned that she drew attention to the pornography that some of them shared on state-owned computers, according to her lawsuit and a Caltrans investigation.

Caltrans in 2009 affirmed her complaint, finding that a group of more than 20 employees at its Stockton office acknowledged sharing

or receiving receiving pornographic material and other unprofessional messages. One of them, former project manager Scott Guidi, received a disciplinary letter, according to court records.

Over the next few years, Elizondo, 62, said her colleagues isolated and intimidated her. Some of them told her friends not to talk to her; others “glared” at her. The car she drove to work was damaged twice in that time frame, too, she said.

“It was brutal. It was very hard to go to work being in that type of environment,” she said.

Several of Elizondo's co-workers wrote in sworn statements that they noticed the harassment, and that colleagues had told them to ignore Elizondo. Elizondo also was passed over for a promotion following her complaint, the lawsuit alleges.

The behavior sent a message in the office that employees could suffer retaliation by following the rules, Elizondo and Sherpardson said.

“They’re a clique,” said Jaqueline McCollum, 56, a former Caltrans right-of-way agent and shop steward for Service Employees International Union Local 1000. “People were like, ‘Don’t talk to her. She’s a troublemaker.’ We weren’t getting any justice.”

Ajise was the regional director overseeing the Stockton office at the time. Dougherty was a regional director in the Southern San Joaquin Valley, although he also had oversight of some of the Stockton employees. Elizondo filed her lawsuit in 2013.

At the trial, Dougherty acknowledged that he was aware of the complaint during a period in late 2009 when he was moving back and forth between assignments at Caltrans headquarters in Sacramento and a regional office in Fresno.

Shepardson pressed him on whether he handed down specific guidance directing employees not to retaliate against Elizondo.

Dougherty did not take that step. He said he didn't think the key employees in the case fell under his chain of command at the time.

"I have 1,700 employees. I don't know that that individual worked for me at the time," he said, according to a court transcript.

Shepardson does not have proof that Elizondo's lawsuit led Ajise and Dougherty to leave Caltrans. He's asserting that the case played a factor because Ajise moved on during the trial and Dougherty announced his departure after the Stockton Record newspaper wrote several stories about the case, [including one that mentioned Dougherty](#).

Caltrans spokesman Matt Roco said their departures had nothing to do with the lawsuit.

"With more than 40 years combined experience as transportation leaders and distinguished careers at Caltrans, both Dougherty and Ajise left the department on their own accord. Their decision to pursue other opportunities was entirely unrelated to this litigation," Rocco said.

Elizondo won her case in November and a judge in January rejected Caltrans' request for a new trial. The \$605,000 verdict in her favor was meant to compensate her for the misconduct she experienced.

Because he won the case, Shepardson can ask a judge to compel Caltrans to pay his fees and costs. He's asking for a multiplier on those fees because of the complexity of the case and because it exposed government misconduct.

He cites Ajise and Dougherty in his request, arguing they "failed to prevent systemic porn on state computers and the retaliation against Rachel for reporting it."

Shepardson and Caltrans attorneys have been negotiating a settlement. Rocco said the department would fight the \$4.6 million request. Caltrans "believes the request for attorneys fees and costs to be excessive and plans to assert all legal challenges available to it," he said.

New Caltrans director Laurie Berman in an interview with The Bee last month said the department had opened new channels for employees to report sexual harassment. "There is no place for it and we will deal with it appropriately," she said.