

AGREEMENT

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SANTA BARBARA NEWS-PRESS



OUR 158TH YEAR

FRIDAY, APRIL 18, 2014

75¢

Victim's parents to sue Capps, government, DUI driver

By ANGEL PACHECO
NEWS-PRESS STAFF WRITER

Parents of the late Mallory Rae Dies will be taking on Rep. Lois Capps and the U.S. government in federal court, as they are expected to file a wrongful death lawsuit today for the fatal DUI collision at the hands of former congressional aide Raymond Morua.

Matt and Raena Dies plan to claim negligence by Mrs. Capps, the United States and Mr. Morua in connection with the Dec. 6 collision that led to the death of their daughter.

After spending the evening drinking at a downtown Christmas party, Mr. Morua, 32, who worked for Mrs. Capps as a district representative, drove into Ms. Dies, 27, on Anacapa Street and sped off.

While Mr. Morua pleaded guilty Tuesday to gross vehicular manslaughter while intoxicated, Mrs. Capps has maintained he was not representing her that evening and was not on the job, which would free her of liability and leave the Dies family responsible for hundreds of thousands of dollars in medical bills from days that Mallory Dies spent on life support.

But attorney Robert Stoll Jr., representing the Dies family, told the News-Press he doesn't believe the evidence supports Mrs. Capps' position.

"They didn't want to sue," Mr. Stoll said of Matt and Raena Dies. "They simply wanted to be fairly compensated without a lawsuit, but the government has said 'zero' and left the Dies family with no other choice."

In addition to losing their daughter, the Dieses have lost their "financial security and their future," said Mr. Stoll.

But Mr. Dies said the lawsuit isn't about the money.

"It's about the Congress person doing the right thing, taking responsibility," said Mr. Dies.

Mr. Dies said he was hoping the situation wouldn't escalate to a lawsuit, but also is glad the community can learn about what is going on within Mrs. Capps' office.

He specifically pointed to details uncovered by investigative journalist Peter Lance in a series of articles published in the News-Press about Ms. Dies' death, and the efforts Mrs. Capps took to separate herself from Mr. Morua.



MICHAEL MORIATIS/NEWS-PRESS FILE
Raymond Morua

Please see SUIT on A14

Raymond Morua

Explosive safely destroyed

Authorities trying to learn who put 105 mm artillery shell in Solvang alley

By SCOTT STEEPLTON and ELIZABETH HAMILTON
NEWS-PRESS STAFF WRITERS

A 105 mm artillery shell that led to the evacuation of hundreds of people Wednesday in Solvang was destroyed Thursday morning by explosives experts.

But it's unclear whether the 18-inch-long, 4-inch-diameter piece of military ordnance was live or inert.

Another unanswered question: Whose shell is it, anyway?

A seven-hour closure of a large swath of the city that displaced hundreds of residents and visitors concluded at about 12:04 a.m. Thursday when authorities removed the shell from where it was discovered nearly nine hours earlier, lying amid trash in an enclosed area of an alleyway behind several businesses in the 1600 block of Copenhagen Drive, said Kelly Hoover, spokeswoman for the Santa Barbara County Sheriff's Department.

The mandatory evacuation ordered by the Sheriff's Department affected residents and businesses south of Laurel Avenue, west of Alisal Road, north of Birch Drive and east of 5th Street.

Please see SOLVANG on A14



COURTESY PHOTO

A 105 mm artillery shell lies amid trash in an alley off Copenhagen Drive. Its discovery led to the evacuation of much of downtown Solvang for nine hours Wednesday.

Capps far ahead in campaign cash

By ZACH NOBLE
NEWS-PRESS CORRESPONDENT

There may be eight dissatisfied citizens lining up to try to take her job, but Rep. Lois Capps, D-Santa Barbara, got some good news this week: according to Federal Election Commission filings, she has raised more money than all of her challengers combined so far this year.

Mrs. Capps raised more than \$325,000 in the first three months of this year and had more than \$1.1 million in cash on hand as of March 31.

Mrs. Capps represents California's 24th Congressional District, which includes Santa Barbara and San Luis Obispo counties along with part of Ventura County.

The first-quarter campaign finance filings of four of her opponents were available on the FEC website, showing that none came close to the congresswoman's fundraising clout.

Republican candidate and recent UCLA grad Justin Fareded raised more than \$65,000 in the first quarter, and he has poured \$100,000 of his own money into the campaign, leaving him with a \$167,000 war chest as of March 31.

Mrs. Capps raised more than \$325,000 in the first three months of this year and had more than \$1.1 million in cash on hand as of March 31.

Please see CASH on A14

ACLU sues over delays for immigrants seeking US protection

By KATE LINTHICUM
MCCLATCHY NEWS SERVICE

Thousands of immigrants seeking protection in the United States have spent months in detention waiting for the government to determine whether they may have legitimate cases, even though regulations say they should receive a determination within 10 days, according to a class action lawsuit filed Thursday by the American Civil Liberties Union and other groups.

The lawsuit accuses the government of violating the law and says tens of millions of taxpayer dollars have been needlessly spent on detention.

Claire Nicholson, a spokeswoman for U.S. Citizenship and Immi-

gration Services, said she could not comment on pending litigation.

The case, which was filed in the U.S. District Court in San Francisco, pertains to a subset of immigrants who illegally re-entered the United States after previously being deported and who now face deportation again.

Repeat immigration offenders are ineligible for hearings before an immigration judge because of the outcome of their prior cases.

But those who claim they have a fear of persecution or torture if they return to their home countries are guaranteed a hearing with an asylum officer. Government regulations say that within 10 days claimants must receive what is known as a "reasonable fear determina-

tion," which dictates whether they can proceed with a hearing on their application for protection.

The lawsuit filed Thursday alleges the government violated this law in thousands of cases, with individuals waiting in detention for a determination for many months and occasionally more than a year.

One of them is Marco Antonio Alfaro Garcia, a native of El Salvador who was deported at the border while trying to cross into the United States in 2005. He tried again two years later and has lived in the Los Angeles area ever since. He has three American-born children with his partner, who is a U.S. citizen.

In January, Mr. Garcia was ar-

Please see ACLU on A8

Former official admits embezzling from firefighter union

By ANGEL PACHECO
NEWS-PRESS STAFF WRITER

A retired county fire captain admitted Thursday to embezzling more than \$100,000 from a local firefighters union and filing false tax returns.

Robert Perez, 55, appeared before Superior Court Judge Jean Dandona and pleaded no contest to grand theft and filing false tax returns from 2007 to 2012.

He also admitted white collar crime enhancements, and that more than \$100,000 was taken from the Santa Barbara County Carpinteria-Summerland Fire Fighters Local 2046.

His plea deal calls for a sentence of three years in state prison.

The thefts occurred from 2006 to

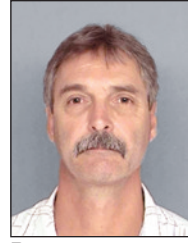
2013 while Mr. Perez was the insurance administrator of Local 2046.

The union reported the thefts to the Santa Barbara County Sheriff's Department in March 2013, leading to a four-month investigation that resulted in Mr. Perez's arrest in September.

Mr. Perez retired from the Santa Barbara County Fire Department last year.

Mr. Perez, who is out of custody, admitted to all of the allegations and enhancements against him, but he was facing an additional one year and eight months in prison had he been convicted in trial.

In addition to the prison time, Mr. Perez must pay restitution to the union and the California Franchise Tax Board for unpaid taxes and various penalties. Authorities say loss-



Perez

es to the union are in the area of \$124,000.

The Probation Department will recommend a restitution amount, and attorneys in the case will argue whether or not the figure is correct when Mr. Perez is sentenced June 19.

Defense attorney Steve Balash said there's no doubt Mr. Perez took \$38,000 to pay personal bills. The former firefighter was in a financial bind, as his wife has lupus and he adopted his two grandchildren, who both have disabilities, Mr.

Please see OFFICIAL on A14



INSIDE

Business B4-5
California A10-13
Classified D3-6
Comics D2

Crossword D1
Dear Abby D1
Local A3, A8-11
Lottery A2

Movies SCENE
Nation/World B1-3
Obituaries B2
Sports C1-8

Sudoku D1
TV SCENE
Voices A6-7
Weather B6

OUTSIDE

Partly cloudy
Coast: 65/49 Inland: 68/47
COMPLETE FORECAST B6

MARKETS

Dow Jones 16,405.54 (-16.31)
Nasdaq 4,095.52 (+9.29)
GAS PRICES BUSINESS B4

Capps raises more money this year than all eight challengers combined



Lois Capps

CASH

Continued from Page A1

Actor and businessman Chris Mitchum, also a Republican, raised about \$15,000 in the first quarter and loaned his campaign \$60,000 of his own money. Mr. Mitchum told the News-Press that the filing, covering the period until March 31, doesn't reflect a recent uptick in donations.

"We're cranking it up this month," Mr. Mitchum said.

Santa Barbara City Councilman Dale Francisco led Republican fundraising, bringing in \$81,675 in the first quarter of 2014, his filing showed, for a total of nearly \$108,000 this election cycle.

Unlike Mr. Mitchum and Mr. Fareed, Mr. Francisco has not put his own money into his campaign, his filing showed.

Democrat challenger Paul Coyne struggled in the first quarter, raising a mere \$1,925, and had less than \$1,000 on hand on March 31.

Mr. Coyne has been campaigning for more than a year, but has raised less than \$11,000 over the course of the election cycle while loaning his campaign nearly \$54,000 of his own money.

Filings were not available for the other four candidates: Republicans Dr. Bradley Allen and Alexis Stuart, Democrat Sandra Marshall and independent Steve Isakson.

Dr. Allen filed a paper first-quarter report, a spokesman for his campaign said, explaining why the report was not available on the FEC website Thursday.

Dr. Allen's spokesman said the heart surgeon's campaign had

raised roughly \$4,000, which he attributed to Dr. Allen's late entry into the race.

A spokesman for Ms. Stuart's campaign told the News-Press she had probably filed, but he couldn't be sure. Ms. Stuart's spokesman said he didn't have the campaign finance numbers in front of him, and that Ms. Stuart's campaign "is not about raising money, it's about supporting local businesses."

Ms. Marshall told the News-Press she had not filed a first-quarter report because she thought the deadline was in May.

First-quarter campaign finance reports were due April 15.

Mr. Isakson said he hadn't raised the amount of money that requires filing a report.

"I have not reached the required reporting limit," the Atascadero resident told the News-Press, making the point that, "Much (campaigning) can be done for free."

Mr. Isakson questioned the other candidates' filings, saying, "A lot of the reporting I have seen in previous elections has been manipulation of funds into and out of the accounts just to make the accounts look larger."

Whether or not such manipulation is taking place, Mrs. Capps has a clear financial lead heading toward the primary.

The statewide direct primary election is June 3.

email: news@newspress.com

SOLVANG

Continued from Page A1

In addition to sheriff's bomb squad personnel, the Vandenberg Air Force Base Explosive Ordnance Disposal Team responded.

According to Ms. Hoover, reverse 9-1-1 calls went out to about 400 phone numbers at 5:20 p.m. At 8 p.m., another 600 phone numbers were called explaining the situation and urging people to evacuate.

In all, 500 to 700 homes and businesses, including several hotels, received instructions to leave.

Ms. Hoover said sheriff's search and rescue personnel went door to door notifying residents of the evacuation, and the American Red Cross set up a shelter at the Veterans Memorial Building on Mission Drive to handle as many displaced people as possible.

The evacuation took several hours.

Just after midnight, said Ms. Hoover, authorities removed the shell, and the evacuation was lifted.

Ms. Hoover said explosives personnel determined the shell had been fired but the fusing system was still in place and could cause widespread damage if it exploded. They transported the device to a remote location at about 1:30 a.m. "and destroyed it with a controlled detonation."

"Right now, it's unknown where the military ordnance came from," she said. "Even though they are not meant for public use, they can be purchased online."

As the investigation continued Thursday, people affected by the evacuation were sharing their stories.

"We took the dog and ran!" said Julie Vandecar, innkeeper at Solvang Inn and Cottages, which was in the evacuation zone.

She was only half-joking; when they received the first evacuation

Device had fuse system still in place



COURTESY PHOTO

Pieces of the shell are laid out after explosives experts destroyed it early Thursday.

call, she and her husband Rick Vandecar called the some 50 guests staying at their hotel and directed them to the Memorial Building before calmly taking their dog to the Memorial Building themselves.

"It was a smooth evacuation," said Mr. Vandecar. "It didn't shake us up at all."

He said most of the people at the Memorial Building were just "visiting and getting to know everybody."

Christian Faulkenberry, her hus-

band and three kids, were visiting Solvang from Fresno on Wednesday when the evacuation call came.

They had gone out to taste wine around 5 p.m. in the heart of the evacuation zone when a police officer suggested they evacuate because there was an explosive military device in the vicinity.

The Faulkenberrys returned to their hotel and assumed the threat had passed until they received a phone call from the hotel lobby around 8 p.m. asking them to

evacuate.

At that point, the Memorial Building was full, so the family of five drove outside the evacuation zone and parked. The kids slept in the car while their parents watched the #Solvang Twitter feed to find out when they could return to their hotel.

"We weren't worried," said Dr. Faulkenberry. "But I'd rather evacuate than something happen. And the kids were a little scared, especially my oldest, who understands that sometimes bad things can happen."

Grace Lebecka, co-owner of Actor's Corner Café, located within a block of where the shell was discovered, said she was scared.

"It (the shell) was very close to us," she said. "There were police and firemen coming down the street."

Ms. Lebecka commended deputies for their efficiency and communication with the public.

"They were so professional and really the sheriff did a tremendous job," she said. "We were very well informed."

Her restaurant co-owner, Santo Cervello, said he was never worried.

"I knew it was going to be OK," he said. "They weren't panicking. If there's panic, it's a whole different show."

After evacuating their restaurant, the two of them went out for pizza.

Authorities issued a warning for people to be cautious when purchasing and storing military ordnance or ammunition because over time it can become unstable and dangerous.

Anyone who wishes to safely dispose of military ordnance or who is concerned about someone who has such items that may be dangerous is asked to contact the Santa Barbara County Sheriff's Department at 681-4100.

email: news@newspress.com

Defense: Perez could have gotten OK for some expenses

OFFICIAL

Continued from Page A1

Balash said.

As for the rest of the funds, Mr. Balash said the union board likely would have approved the expenses had Mr. Perez gone to them. Mr. Perez reportedly used union funds to cover phone and home office expenses, as they were both used for union business.

"The problem is he just did these things without asking and that's considered embezzlement," said Mr. Balash.

Mr. Perez was unaware he had to get board permission, but ignorance of the law isn't an excuse, Mr. Balash said.

The defense will be able to bring the issue up during the restitution hearing.

However, Senior Deputy District Attorney Brian Cota said the insurance administrator before Mr. Perez explained that board approval was required for expenses. And Mr. Perez at times even went through the process.

The prosecutor described Mr. Perez's ignorance claim as an excuse made up after the fact to explain "pure and simple theft."

Some of the expenses Mr. Perez put to the union account included credit card payments, a jewelry shop purchase and cash withdrawals.

Mr. Perez received \$4,800 a year to manage the union insurance account, and Mr. Cota said it's ridic-

ulous to argue that Mr. Perez believed he was entitled to expenses that would have quadrupled that amount.

Had the charges legitimately been for union expenses, Mr. Perez would have been required to report them on his taxes, which he failed to do, said Mr. Cota.

The investigation into Mr. Perez also contradicted that he was struggling to make ends meet, the prosecutor said.

Mr. Perez sold his home and purchased a more expensive one during the period, and a recreational vehicle worth more than \$150,000 was purchased during the theft time frame and is still sitting in Mr. Perez's driveway, Mr. Cota said.

"He wanted to live a lifestyle he

couldn't afford."

As for his adopted children, Mr. Cota said Mr. Perez was receiving state funding for them.

The prosecutor said he doesn't believe restitution owed to the union will go below \$100,000, as Mr. Perez has already admitted he took more than that.

The union account is not associated with taxpayer money or the county Fire Department.

Before Mr. Perez is sentenced, he will testify in a Santa Maria murder trial, Mr. Balash said.

Mr. Perez was among the initial responders and declared the victim dead.

email: apacheco@newspress.com

Claim filed with House of Representatives

SUIT

Continued from Page A1

The Dieses contend Mrs. Capps and the government knew about Mr. Morua's history of DUI convictions when they hired him to a position that required him to drive, according to the lawsuit that will be filed in a Los Angeles federal courthouse.

Considering Mr. Morua's past, it was "highly foreseeable" that he could cause a serious crash, which could involve a serious injury or death, using the vehicle required for the job.

The Dieses contend that in addition to hiring Mr. Morua to operate the vehicle, Mrs. Capps and the gov-

ernment didn't monitor his driving or intervene with his drug and alcohol use while employed.

It will be up to a jury to decide the damages in the case, but the Dieses have already pledged most of the cash for the Vow4Mal Foundation.

Mr. Dies said the focus of the program will be to make drinking and driving an unthinkable option. He hopes the program can be used in other cities with similar demographics and vibrant downtowns, like San Luis Obispo.

"That's where a lot of these tragedies start," Mr. Dies said.

Soon after the incident, Mr. Morua told his attorney, Darryl Genis, that he wanted to take responsibility

for the fatal hit-and-run. His guilty plea earlier this week included an enhancement for fleeing the scene of the crime.

Mr. Morua will receive 20 years to life in state prison when he is sentenced May 28.

Mr. Stoll said that with the guilty plea, Mr. Morua admitted "full and unconditional fault."

"Mr. Genis kept his word and Mr. Morua kept his word, and I am grateful to both of them for their honesty," Mr. Stoll said.

But it means little in terms of compensating the Dies family for massive medical bills, as Mr. Morua had little in the way of assets and only a \$15,000 insurance policy, Mr. Stoll said.

Following Ms. Dies' death, Mr. Stoll filed a claim with House Speaker John Boehner. That claim has been denied, paving the way for the lawsuit.

Mrs. Capps' spokesman, Chris Meagher, in a previous email to the News-Press said Mr. Morua was not representing the congresswoman that evening at the Christmas party, hosted by the Santa Barbara Independent.

"The annual gathering brings together hundreds of people from around Santa Barbara and he was there on his own time and of his own volition," Mr. Meagher said.

email: apacheco@newspress.com

BOOKS

Reviews Best Sellers Events

Sunday's Life section

Beach closed for parking lot repaving

By SHELLY CONE NEWS-PRESS CORRESPONDENT

A popular surf and camping beach will close for two weeks for repaving of its parking lot, just in time for the summer season.

The Jalama State Beach Road will be closed Monday through May 2 for maintenance and parking lot repaving, said Paddy Langlands, deputy parks director for Santa Barbara County.

The county set the dates seven months ago and posted information on its website so campers couldn't make reservations during that time,

Mr. Langlands said.

However, some beach-goers believe the county didn't have to close the entire park, which lies west of Gaviota and south of Lompoc.

In an email sent to county representatives, Alan Howard said the public would never accept a total closure of a place like Arroyo Burro Beach Park and asked why the county didn't close just a portion of Jalama while still allowing some day use.

"The past has indicated that proper planning can allow a limited number of day-use users," Mr. Howard wrote. "The last time pav-

ing and park maintenance was done, in the 1980s a total closure was not performed."

Mr. Langlands said the county considered that but decided against it.

"We looked at that and there's going to be heavy equipment moving around, hot tar being poured. It would be smelly and sticky and rollers moving around all day, it was in the best interest (of visitors). We didn't want people to be unhappy," Mr. Langlands said.

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LETTERS TO THE EDITOR

Daily in the

Editorial

Page

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