

Statement to Be Read To Judge Coleman on Nov. 29th

Your Honor:

When you took over this case in 2010, I welcomed your arrival, because I knew you had a reputation for impeccable honesty. For this reason, I was very surprised when your first action on this case was to dismiss my expert witness without ever asking him in person how he had arrived at the numbers he used to estimate the cost of repairing my house. There was something about the situation that was just a little too pat, a little too convenient for Toll – especially since Toll’s attorneys are desperate to keep this case from ever getting to trial, and had already gotten rid of two expert witnesses prior to Mr. Dowling. I became even more concerned when I ran all of the related documentation – including your ruling – past several of my attorney friends, one of whom is an acknowledge expert on net opinion. To a person, these attorneys have asserted that you were wrong on the law, and that you would be overturned on appeal – which you were. This raises two questions: how could a judge with your experience be so wrong on the law, unless in fact he or she wanted to be, and what possible reason could there be for a judge to want to be?

I have been dealing with Toll Brothers and their attorneys for 11 long years, and have been investigating them since 2003, when I began to write a book about this entire travesty of justice. In the process, I have located – and turned over to the FBI – irrefutable proof of what I believe to be seriously unethical behavior on the part of Toll Brothers executives and the attorneys who represent Toll Brothers in lawsuits brought against them by homeowners across the country. Sadly, there is considerable evidence to the effect that Toll often attempts to exercise “undue influence” upon judges hearing the cases. On October 22, 2010, one former Toll employee went so far as to tell me exactly what form this influence takes. Since an investigative reporter for one of the major networks began his investigation into Toll, he has uncovered additional evidence, and also several additional witnesses:

This brings us back to my case. As I mentioned earlier, Toll is desperate to keep this case from ever getting anywhere near a jury, because they know that the testimony will be extremely damaging to their image – and that is all they care about, their image, as that is how they make their money: by marketing a completely contrived image. What better way to keep this case from getting to trial than to get rid of my expert witness again? It’s worked for them three times in the past – why not give it one more shot?

At this point, I regret that I cannot be absolutely certain that Toll has not exercised undue influence upon you as well, Your Honor. On November 18th, I listened in this courtroom as Jim Kozachek, Toll’s attorney – the same attorney who knowingly and

deliberately lied to you and to my attorney about the status of the Supreme Court's decision as to whether to hear Toll's petition – explained to you, the presiding judge, what he says is the relevant law in this matter. You appeared to accept his version of the law as gospel, and immediately took steps to act in accordance with it. This is very convenient for Toll, since it allows you once again to dismiss my expert witness on nebulous grounds ahead of trial, and ensure that the trial never takes place!

But that is not the only reason why I am concerned about a lack of impartiality. When you finally read your decision regarding the limit to damages, it became immediately apparent that Toll's attorney's had known what your decision would be in advance – otherwise, I seriously doubt whether they would have made such a ridiculously low offer. I should add that, when I refused their offer, they then threatened me and tried to blackmail me into accepting it. I have since reported this to the appropriate authorities.

There is also the fact that Mr. Kozachek has withdrawn his request to visit my house to check for "staging"-- this after making a huge fuss when told he might not have access on the 26th, as previously scheduled. I can only conclude that he is no longer worried about staging because he already knows that a jury will never get to see this house, as it has already been decided that my expert witness will be disqualified and there will be no trial.

Lastly, there is the fact that Doug Yearley, CEO of Toll Brothers, was himself in court on the 18th. He and his entourage were clearly there ahead of everyone else, which gave them plenty of opportunity to ask a favor of the court. Interestingly, he sat in the rear of the courtroom, as far removed as possible from his five attorneys, and when I asked him later if he were in fact Doug Yearley, he denied it outright, even though it was most definitely he. If he had a legitimate reason for being there, why did he not sit with his attorneys, and why did he deny who he is? And why, after I asked him, did he get up and walk out of the building, to wait for his attorneys outside?

I understand that I am not entitled to pick and choose judges. But I also understand that I am entitled to a judge whom I can trust absolutely to be fair and impartial and impervious to political or other outside influences, a judge who will base his or her decisions solely on the facts of the case. I have tremendous respect for the work you did as County Prosecutor, and also as a judge in Criminal Court. From all indications, your conduct was always 100% above reproach. However, under the circumstances, I cannot have complete confidence that you are capable of being completely fair and impartial and impervious to outside influence in this case. For this reason, I must ask you to recuse yourself.