

Frivolous litigation lights up courts

By Peter Hartlaub
Daily News Staff Writer

Stu Goodman was standing on the pitcher's mound in Granada Hills when he was served with the lawsuit.

The former youth league baseball president says the kid suing him held a video camera and giggled when the complaint was delivered, and Goodman suddenly faced the possibility of a lengthy, costly court battle.

All because Goodman asked another parent not to smoke near the dugout.

"If, God forbid, it were to happen and I were to owe a \$25,000 judgment, I would no longer own my company and no longer own my home," says the Canoga Park resident. "I'm like 85 percent of the citizens of this country now. I'm a day-to-day guy."

More than a few sleepless nights later, a judge called the arguments in the lawsuit frivolous and threw it out of court, but Goodman can't help but think that he was more than a little lucky.

Because not everyone's story has a happy ending, Gov. Pete Wilson declared last week Lawsuit Abuse Awareness Week.

Loony lawsuits

He got some of his ammunition from Sarah Cheure and Robin Lossing, who run Citizens Against Lawsuit Abuse, a nonprofit group that collects wacky stories like Goodman's and publicizes its "Loony Lawsuit of the Month" out of a small office in Torrance.

Cheure claims there is a strange double standard in a country where citizens are innocent until proven guilty in criminal court, but a prisoner in Texas was able to sue the state because he was served chunky peanut butter, instead of the smooth variety.

"If the police think you have (committed) a crime, they have to have some evidence before they come knocking on your door," Cheure says. "Lawsuits work the other way. You file it, then try to find the evidence."

Deborah David, president of the Consumer Attorneys Association of Los Angeles, sympathizes with people like Goodman, but thinks the governor has misguidedly embraced CALA's fodder because it makes for a great sound bite.

"This is an election year. . . . They have found a theme that, for whatever reason, they think works with the voters," David says. "The statistics simply don't bear out any litigation crisis or explosion. It simply isn't there."

"If the police think you have (committed) a crime, they have to have some evidence before they come knocking on your door. Lawsuits work the other way. You file it, then try to find the evidence."

— Sarah Cheure
Citizens Against Lawsuit Abuse

Still, some of the lawsuits *are* kind of fun to read . . . if you're not on the receiving end.

Cheure and Lossing put them together in convenient playing-card form and proudly distribute the "52 Reasons We Need Legal Reform" to the media and community leaders.

In the Little League smoking case, Robert Westbrook sued Goodman, his brother Jeff and two others last year for the alleged "emotional distress" his boy suffered after league officials ordered the father to stop smoking near the game or leave.

Case thrown out

Stu Goodman said he trusted his lawyer, Joshua Ritz, who took the case pro bono. But the family man who owns a lighting business wondered if the baseball league's insurance or his homeowner's insurance would cover him if he lost.

Six months later, court records show, the case was thrown out after a Superior Court judge decided the facts weren't strong enough to go to trial. The judge said Westbrook's arguments were "frivolous and without legal foundation," and the plaintiff was ordered to pay about \$2,500 in attorneys costs and sanctions.

Contacted by phone, Westbrook says he now lives out of the state, then declined further comment.

Not surprisingly, the deck is stacked with other frivolous cases from the Southland.

Blender accident

Among them is that of Janette Weiss, who sued a Kmart in Northridge after a bevy of blenders fell on

her head. She said the store should have warned customers not to take stock from the upper shelves.

Kmart's lawyer said she's still trying to locate the Valley woman, who owes her client more than \$11,000 in attorneys costs after a jury deliberating for less than 30 minutes ruled 12-0 for the defense.

David says personal injury lawsuits are down 44 percent in the past 10 years and suggested that targeting insurance companies and litigious corporations would be a better way to save taxpayers' money.

"There are already remedies on the books for the filing of frivolous lawsuits," David says. "This is a solution in search of a problem."

She's right, to a point. Robert Pugsley, professor of legal ethics at Southwestern University School of Law, says judges in California have the *discretion* to award attorneys costs and fees to victims of frivolous lawsuits but don't have to do it as a matter of law.

Fines for frivolity

Judges can also fine plaintiffs and lawyers, but Pugsley said a lack of a "flat and firm rule" to punish litigation-happy citizens gives some personal injury lawyers the feeling they have "nothing to lose."

"By definition, a frivolous lawsuit is a parasite on the legal system," Pugsley says. "I'm not talking about meritorious lawsuits, I'm talking about ones that can be seen through like a transparent shower curtain."

Cheure says CALA's primary job is to educate, although the group does have a wish list for legislation that would hopefully trim unnecessary litigation. Cheure says CALA would like juries to have the option to decide if a lawsuit is frivolous and order the loser to pay court costs and attorneys' fees.

David criticizes CALA for oversimplifying the issues. Consider the infamous McDonald's spilled coffee case from New Mexico. The lawsuit made headlines across the nation and was renowned enough to be mocked on a "Seinfeld" episode.

The CALA literature asserts: "A jury awarded \$2.7 million to a woman who burned herself after buying coffee at a drive-through window and putting it between her legs. The award was later reduced to \$480,000."

David claims the liquid was heated 40 degrees higher than most competitors' to get more coffee in the cup, and said the fast food chain ignored complaints asking to cool it down.

The moral of the story, David says, is that a two-week trial can't fit on a 2-by-3-inch playing card.