

Russo Staffs Up

By Jahna Berry

RECORDER STAFF WRITER

Oakland's new city attorney brings on heavy hitters in Barzaghi case. Just a few short months into his term as Oakland city attorney, John Russo is up to his eyebrows in high-profile headaches.

This week it appeared he may have to defend the city in court against an employee's allegation that she was sexually harassed by a high-level advisor to Mayor Jerry Brown.

Jacques Barzaghi is accused of making sexual comments to the woman when she, Barzaghi and Brown traveled to Mexico for the inauguration of President Vincente Fox. The woman has been on leave since Barzaghi returned from a reported suspension stemming from an internal city investigation of the complaint, said Andrew Schwartz, one of her attorneys. The city has not publicly revealed the results of its probe — including whether Barzaghi was punished.



JOHN RUSSO

On Thursday the employee's attorneys took an important step toward filing a lawsuit. And today, Russo said, the city will formally

retain big guns from San Francisco — John Kecker to represent Barzaghi and Gary Lafayette to represent the city — to protect Oakland's interests.

"We are staffing this case up," said Russo.

Kecker, of Kecker & Van Nest, is the politically connected criminal defense attorney best known for being a prosecutor during the Iran-Contra scandal. He was also hired to represent Zula Jones, a San Francisco Human Rights Commission official who was indicted by a federal grand jury last spring for her alleged role in a minority contracting scheme.

"From my understanding of it, it's really a silly case," said Kecker, who was asked by Barzaghi to take the Oakland case. Kecker said that he would like to see the matter settle to avoid further embarrassing news accounts.

"It's a shame that it has gotten so much publicity."

Lafayette, of Lafayette & Kumagai, has defended and investigated discrimination complaints on behalf of several public agencies. Lafayette most recently represented the Oakland Housing Authority when the Ninth Circuit U.S. Court of Appeals

blasted its policy of evicting tenants whose friends or relatives are involved in drug activity. Lafayette did not return calls seeking comment.

While Russo was recruiting across the Bay, Casper, Meadows & Schwartz attorneys filed a claim with the state Department of Fair Employment and Housing — a precursor of filing a lawsuit — which alleges that Barzaghi had sexually pursued their client since she began working for the city in the fall.

The agency issued a "right to sue" letter on Thursday, said Schwartz. Schwartz and Michael Meadows, both partners at the Walnut Creek firm, represent the employee.

"From day one ... Mr. Barzaghi was demanding sexual favors and threatened her employment if she did not comply," said Schwartz.

The state claim also alleges that Barzaghi moved the woman's office so that she would be closer to him and made a rule that she had to keep her office door open so that he could stare at her, Schwartz said.

"He was horrible," said Schwartz.

On Thursday he was not optimistic about negotiations. "We will see what happens, but we are prepared to litigate," he said. "It seems like the city is prepared to fight."

Russo, on the other hand, said he's still willing to resolve the case out of court, but he accused the attorneys of trying to "extort" a settlement from the city. Some of the allegations that the Casper, Meadows attorneys have aired in the press conflict with what their client has told the city, Russo said. He declined to elaborate.

"They have demanded \$500,000 for this claim," said Russo. "If their strategy is to extort money by trying this in the press, they have severely miscalculated."

Further, Russo said Casper, Meadows attorneys are attempting to embarrass Mayor Brown. However, the City Council — not the mayor — will ultimately decide whether to go to trial or to settle, he said.

As Oakland officials inched toward a court fight in the Barzaghi matter, they have moved quickly to settle the last of several lawsuits linked to the Clayton Collins scandal that rocked the city a few years ago.

"This is an era that we want to put behind us and something we want to get out of our system," said Randolph Hall, litigation supervisor at the city attorney's office.

Collins, who is now in prison, was a youth counselor and registered sex offender who was accused of sexually assaulting women and sexually harassing a fellow employee. One of the suits alleged that Collins was shielded by the city because some politicians favored him.

The city was roundly criticized at the time by councilman-turned-city-attorney-candidate Russo for mishandling the suits. One case, *Alice A. v. City of Oakland*, 982D00290, was settled for \$825,000, and the city also shelled out \$60,000 to Collins in a wrongful termination settlement.

In the latest round of settlements, the city agreed to pay \$80,000 to Tonya Russell, a former city employee who said that Collins sexually harassed her in 1995. It's likely the City Council will decide whether to approve a negotiated settlement for *Tonsa B. v. City of Oakland*, 99-2164 — a federal suit filed on behalf of a girl who was allegedly raped by Collins when she was 15 — on March 13, he said. Both cases were scheduled to go to trial this year.

Hall and *Tonsa B.*'s attorney, Pamela Price, declined to give details of the settlement pending the council's decision. Hall says that the city faced little legal exposure, but chose to

settle both suits for economic reasons. The Russell case would have cost more to litigate than to settle, and the city faced a potentially expensive discovery process in *Tonsa B.*, he said.

George Holland, Russell's attorney, disagreed.

"They had a lot to lose" if the case went to trial, he said. "People's lives were destroyed."

Russo took credit for boosting the city's risk-management procedures, noting that the city now handles such complaints — including the Barzaghi allegations — swiftly.

"There is no comparison," between how the city reacted to the Barzaghi matter and the Collins scandal, he said. The city has acted in accordance with its "zero-tolerance" harassment policy, "but just because someone was disciplined doesn't mean that they broke the law," he said.

"The real lesson here is that no one is exempt."