

- October

[Print](#) | [Email](#)[CLE Center](#)[About California Lawyer](#)[2007 Editorial Calendar](#)[2006 Editorial Calendar](#)[2005 Editorial Index](#)[2004 Editorial Index](#)[2003 Editorial Index](#)

The Pellicano Effect

By Martin Lasden

What does the Pellicano scandal say about private investigators and the lawyers who hire them?

Of the more than 2,000 licensed private investigators working in Los Angeles County right now, one of the most colorful is John Nazarian, a slightly scary looking mountain of a man who enjoys a fair amount of media exposure. Recently, in fact, Extra, one of the slicker tabloid TV news shows, hired and then followed the five-foot-eleven-inch, 250-pound gumshoe around as he set out in search of Olivia Newton-John's missing boyfriend.

The boyfriend had disappeared off a boat a little less than a year ago and was rumored to be hiding out in Mexico to escape child-support payments he owed his ex-wife. Nazarian's search, as described by the show's bright-eyed blond announcer, took him to Baja, "along Mexico's spectacular western coastline, past sparkling beaches and rundown pueblos, to the small town of Pescadero and to a local watering hole called The Sandbar," where employees said they had recognized Newton-John's boyfriend from a missing-person poster.

With microphone in hand and a cameraman in tow, Nazarian then made his way to Marina's Café, where the owner not only said she had spotted the subject with another woman but also produced a pink visor, which she said he left at the table.

Appearing on camera wearing all black and a pair of designer sunglasses, Nazarian mused about the DNA that could be found on that visor: "Enough DNA," he said, "to fill a bathtub."

"This could be the smoking gun that breaks this case wide open," he added.

It was high drama that bordered, at times, on farce. However, for the sleuthing and security work that Nazarian does off-camera-work he says he's paid \$395 an hour for this 54-year-old ex-cop with a shaved head draws rave reviews from a stable of high-profile lawyers. Lawyers like Lisa Meyer, who represented Lisa Bonder Kerkorian during a custody and child-support dispute with billionaire Kirk Kerkorian; Sorrell Trope, who represented Nicole Kidman in her divorce from Tom Cruise; and Cary Goldstein, who as a younger man practiced family law alongside Marvin Michelson. They and others say Nazarian is dependable. That he's resourceful. And that he can be trusted not to do anything illegal or stupid. Which is no small thing these days-especially after what happened with Anthony Pellicano.

Pellicano was, of course, the ultimate L.A. fixer, and therefore exactly the sort of PI so many lawyers wanted on their side when their famous clients found themselves in a jam. Tom Cruise, Kevin Costner, Ed McMahon, Roseanne Barr, Farrah Fawcett, James Woods, Michael Jackson, Chris Rock, Michael Ovitz, and Brad Grey all have reportedly used him at one time or another to deal with pesky business partners, spurned lovers, or other threats to their ever-so-carefully-crafted images. But four years ago it was Pellicano, then 58, who suddenly found himself in serious trouble. That's when, in response to a bizarre threat made against a *Los Angeles Times* reporter, FBI agents raided Pellicano's West Hollywood offices. In his safe they found two hand grenades and enough C-4 military-grade plastic explosives to take down a commercial jet. They also found cards, letters, CD-ROMs, electronic notebooks and smart

cards, address books, pager numbers, \$200,000 in cash, and encrypted computer disks.

Pellicano pleaded guilty to federal weapons charges, for which he got a 30-month prison sentence. Then, just as he was completing his sentence, the feds filed a far more extensive indictment, charging him with racketeering, wiretapping, and witness intimidation, among other things. Also named in the indictment were two police officers, a computer programmer, and a former Pacific Bell employee.

Nine days later another indictment was issued—this one against Terry Christensen, a Los Angeles litigator well known for his hardball tactics. ("Sometimes we have to get in the other guy's face," he once told a *Business Week* reporter.) According to the indictment, Christensen paid Pellicano at least \$100,000 to illegally intercept phone conversations on behalf of Kirk Kerkorian, his client.

In the weeks and months to follow, Hollywood seemed to teeter on the edge of a massive scandal that threatened to take down some of its most prominent citizens—including, perhaps, the most feared entertainment lawyer of them all, Bert Fields. Fields had not only used Pellicano for years but also vouched for his integrity in the strongest possible terms. "I would bet my life and my child's life that Anthony would never betray someone he was working for," he told a *Vanity Fair* reporter in 1993.

Meanwhile, Nazarian, for his own reasons, was keeping a close watch on the case. Like so many PIs in L.A., he had a certain respect for Pellicano; he even thought of him as a role model. But he was wary of him too.

"We never met face-to-face," Nazarian says. "But we did work on opposite sides on a few cases. And we yelled and screamed at each other over the phone a few times. I also got very close to his front door one time. What happened was he sent some papers to my house. The son of a bitch knew I had an office, but he was making a point. I was being sued by a former client, and his wife was Tony's bookkeeper. So Tony wanted all my records. Too bad for him I don't keep any records. But the fact that he sent the letter to my house was very disturbing to me because of the reputation he had. So for a long time I would not go outside to do any yard work without keeping a pistol-grip shotgun in my wheelbarrow."

Nazarian lives in the Toluca Lake district of Los Angeles, in a 4,000-square-foot house. There is no front door to knock on. Nor is there anything that resembles a welcome mat—just three signs on the lawn that promise intruders an "armed response." But when he's in his kitchen, Nazarian can observe every inch of his 18,000-square-foot property just by glancing up at a security monitor. And if he wants to let someone in, he simply pushes a button that opens the big wooden gate to his driveway.

Nazarian obviously values his privacy. Yet, so much about the man screams out for attention. Like the beard that follows his jaw line, then spikes up sharply toward his cheekbones. He also wears a lot of bulky jewelry and drives a couple of very fancy cars. One is a silver Rolls-Royce; the other is a white Bentley with a license plate that reads "SPYGAMES." In addition, he owns two limousines; a Hummer, which he likes to drive to the gym; and a GMC Yukon. "I have an image to maintain," he explains. But his driveway also harbors a Toyota Scion, which he says is the perfect vehicle for those occasional nighttime runs to go through other people's garbage. "It's low and quiet, and its doors open up wide," he says.

When I first visited Nazarian, in early April, the news coming out of the Pellicano case was all about complex legal maneuvering and a growing number of guilty pleas.

"As new indictments loom in the widening Hollywood wiretapping scandal," the *New York Times* reported on April 6, "a behind-the-scenes battle is brewing between defense lawyers and prosecutors over evidence that may be used against some of those ensnared in the federal

investigation."

That same week, the *Los Angeles Times* reported that a former music company executive had pleaded guilty to "paying Hollywood private investigator Anthony Pellicano at least \$125,000 to illegally wiretap an ex-girlfriend who had testified against him in a business dispute."

The coverage was relentless. And for groups like the California Association of Licensed Investigators (CALI), which lobbies on behalf of PIs, it was more than a little painful. As then-President Sean Walsh acknowledged, "Our industry is under the gun right now."

Yet, in the midst of the burgeoning scandal, Nazarian felt no inclination to portray his fellow PIs in a favorable light. Nor, for that matter, was he inclined to present himself as a Goody Two-shoes.

"You talk to the people at CALI, they'll tell you that we're doing God's work and saving little boys. That's bullshit," he says. "Most are bastards. The problem with Tony is that he gave them a black eye."

He goes on: "We're not nice people. We get shit on people. That's what we do. If I have a happy client, someone else is not happy. I remember one time in court a judge told the lawyer on the other side, 'Mr. Nazarian has devastated you and your client.' That, to me, was a great day.

"See, this is not a profession. It's a racket. And the people who are in this racket are the biggest gaggle of misfits you'd ever want to meet. The pious bastards will say Anthony Pellicano did this or did that. But half of them would have sold their children to be in the position he was in when he was riding high."

Sitting with me at his kitchen table, Nazarian talks like this for about an hour. Then he takes a call on his cell phone from an insurance agent. "I want to know how to insure my watches," he tells her. "One of them is a Rolex that's worth close to \$30,000. Then I got a Pirate Corum for my son that's worth \$4,000. I wear a Panerai every day; that's \$8,000 or \$9,000. Then I have a gold Panerai that I wear occasionally. ... Jesus, I can't believe I've spent this much money on fucking watches, now that I'm talking about it. But, you know, a nice watch is a nice thing to have."

When Nazarian gets off the phone I ask him what, if anything, makes him different from Pellicano. "I think the biggest thing," he answers, "is that I know when to duck. Pellicano didn't duck. I mean, during my 15 years as a private investigator, I've never kept records. Never. And the material I do collect I regularly burn. In fact, there are times at three or four in the morning when the LAPD could be flying by in their helicopter and they'd be able to pick up a heat signal from my fireplace. But Tony-Jesus, someone once told me he kept better records than Hitler.

"Look," he adds, a note of concern entering his voice, "I have some sympathy for Tony. And I have a ton of sympathy for the attorneys he worked for, because they paid for his services never suspecting that they'd be so compromised-right or wrong. I would never jeopardize my freedom or the freedom of my clients. And most important of all to me are the lawyers I associate with. Without them I'd be driving a Toyota Camry and living in South Central."

Pellicano too owes much of his success to the lawyers he did business with. In fact, when he moved to Los Angeles in the early '80s, his first big break was when attorney Howard Weitzman hired him to work on the defense of John DeLorean, the one-time auto industry magnate who, on government videotapes, appeared to have been caught red-handed selling cocaine to undercover agents. However, the government's case suffered when Pellicano was able to digitally enhance the audio on the tapes, turning garble into coherent conversation. He also dated and digitized DeLorean's phone records, making it easier for Weitzman to cross-examine government witnesses. In the end, DeLorean was

acquitted, and to this day Weitzman says that Pellicano did a great job for him.

According to press accounts, Pellicano came from a lower-middle-class neighborhood just outside Chicago. He dropped out of high school at age 16, then joined the U.S. Army Signal Corps, where he got his GED and worked as a cryptographer. Back in Chicago in the sixties, he took a job as a skip tracer with Spiegel, the catalog retailer. At one point he assumed the name Tony Fortune. He became a full-time private investigator in 1969.

From the outset, Pellicano specialized in debt collections and in finding missing persons. He also showed an affinity for technology, and by 1978 he had, in what he liked to call his "bat cave," more than \$200,000 worth of electronic equipment.

He promoted himself as an audio forensics expert, and in 1974 he got his first taste of national publicity when, at the height of the Watergate scandal, the attorneys for President Nixon's secretary, Rose Mary Woods, hired him to analyze the infamous eighteen-and-a-half-minute gap in a recorded conversation between Nixon and his White House chief of staff. (According to Pellicano, the gap was not an intentional erasure but rather a "faulty bridge rectifier in the bias oscillator circuit.") Pellicano later testified before the U.S. House of Representatives' Select Committee on Assassinations about audio recordings taken from the presidential motorcade in Dallas the day President Kennedy was assassinated. (His analysis supported the government's conclusion that no more than three shots were fired.) In the following years, the government repeatedly called on Pellicano to testify as an expert witness. In one big case, he helped convict a former Ku Klux Klansman by enhancing a 40-year-old tape recording in which the Klansman told his wife about a meeting that led directly to the 1963 bombing of a Birmingham, Alabama, church in which four African-American girls were killed.

But it was the DeLorean case that gave Pellicano entrée into some of L.A.'s most elite circles, and before too long big-name stars started calling on him. For Roseanne Barr, he found a daughter she had placed for adoption 18 years earlier. For Ed McMahon, he helped get a spurned lover off his back by digging up enough dirt to intimidate her. And for Chris Rock, he investigated a Hungarian model who claimed to be carrying the comedian's child.

Pellicano claimed to be a member of Mensa. He also claimed to be an expert in judo and Kung Fu. Meanwhile, others claimed that he had connections to organized crime. One oft-cited example: In a 1974 bankruptcy filing, he listed as one of his debts a \$30,000 loan from a reputed organized-crime figure. Later, though, it was his off-the-wall comments to tenacious reporters that raised eyebrows. One chilling exchange was recorded in 1994, in a *Los Angeles* magazine article by John Connolly, who is now writing a book about Pellicano.

"Early last summer," Connolly wrote, "I received a telephone call from Anthony Pellicano, who informed me that he was working for Steven Seagal, about whom I had just written an unflattering article for *Spy* magazine. Pellicano said he was 'going to get' me and then began a tirade, calling me every name in the book and linking curse words in couplets I had never heard before. I interrupted him long enough to ask if he always spoke to people he'd never met in such an obnoxious manner. He responded by screaming that I was a 'cockroach,' and went on to say I should be glad I was in New York and not on his turf in L.A. I asked Pellicano if he was always a tough guy. 'I'm not only a tough guy,' he said, 'I'm connected to the right people, you asshole.' "

Eight years later another reporter working on yet another story about Seagal and his reputed ties to mobsters found on the windshield of her silver Audi a bullet hole, a dead fish with a rose in its mouth, and a

cardboard sign with the word "Stop." This was the threat that prompted the investigation that eventually led the FBI to Pellicano's offices.

By the time I started working on this story, Pellicano had been moved from the Taft Correctional Institute in Bakersfield to the Metropolitan Detention Center in Los Angeles. He was being held there without bail and was, according to his attorney, Steven Gruel, in no position to talk to reporters. However, I was able to interview a number of people who had crossed paths with him over the years. Howard Weitzman, for one, worked with Pellicano up through 1989, and briefly again in 1993 in defending Michael Jackson after the pop star was sued for allegedly sexually molesting a child. Pellicano, he tells me, was "intense" but never unhinged or thuggish. "Investigators have to be tenacious, patient, and have good communication skills," he says. "And Anthony had all those qualities."

Richard Di Sabatino, a security consultant, met Pellicano in 1992, and at one point they talked about going into business together. The business relationship went nowhere, but they started palling around with each other anyway. "We were both single at the time," he explains. "So we went to restaurants and prowled around for women. He was a lot of fun to be with.

"He is not a big man," Di Sabatino remembers, "five-five, maybe five-six. He has very small hands, small features. I used to go out with him sometimes to a restaurant, and he'd throw an occasional temper tantrum because the steak was not prepared to his liking. But the waiter would invariably tower over him, and it would never amount to anything. I thought it was pretty amazing when I'd talk to these lawyers who'd tell me what a tough guy Tony was. I would laugh and say, 'Are we talking about the same guy?' "

Denise Ward, an ex-cop who worked for Pellicano as a freelance investigator for a couple of years, sees yet another side to the man. "I met Richard [Di Sabatino] and Anthony at a bar one night in Beverly Hills," she recalls. "Richie came up, picked the check off my table, and said, 'Come talk to us.' I said, 'You got it.' And that's how I met Anthony. He asked me what I did for a living, and I told him I was a private investigator. He seemed to think that was pretty humorous. He said, 'Do you know who I am?' I thought he was going to tell me he was an actor or something. But what he said was, 'I'm the best private investigator in the world.' The next day he called me with an assignment."

Because she and Pellicano worked such odd hours, they often had dinner together. "Anthony was a strange person," she acknowledges. "He had a very volatile personality. He probably was bipolar. And the girls he hired for the office never stayed very long. You could see the stress on their faces after they worked there a week or two. But because I worked in the field, I was spared all that. And he paid me quite well. I remember once on the spur of the moment he took me shopping at a store in Beverly Hills and in 15 minutes bought me \$1,000 worth of clothes."

Of all the people I interviewed about Anthony Pellicano, though, Paul Barresi had the most-vivid stories to tell. A former porn star who quit the business in 1989 because he was afraid of getting AIDS, Barresi worked for a while as a sales rep for a courier service. He also capitalized on his Hollywood contacts by occasionally selling information to the tabloids, and later he got back into the porn business as a producer. He met Pellicano in 1993.

"I found out about Pellicano through what I read in the media," he says. "I knew he was [Michael] Jackson's PI. I also knew that we had certain things in common. For one thing, we were both Sicilian. And when I saw him on TV, he acted a lot like the kids I grew up with. I said to myself, 'I should get along with this guy.' So I called him up and said, 'Look, I can't discuss this over the phone, but I got something that will be useful to you in the Michael Jackson case.' "

The next day, Barresi sat on a black leather sofa in Pellicano's office,

describing the contents of two surreptitiously recorded conversations he had had with one of Jackson's cooks, Philip LeMarque, and his wife, Stella. The LeMarques, Barresi says, claimed they observed Jackson molesting child actor Macaulay Culkin. They also told him they wanted to sell their story to the tabloids. Barresi agreed to act as their broker, and he quickly secured a \$150,000 offer from the *National Enquirer*, with the understanding that he would get a 15 percent cut. The deal turned sour, though, when the LeMarques hired an attorney who promised to get them half a million dollars instead. Naturally, Barresi was upset, and he wanted to get back at them if he could. This was where the tapes came in.

When the LeMarques first told Barresi their story, they said they saw Jackson's hand over Culkin's pants. But as time passed, their narrative evolved and had Jackson's hand *inside* the boy's pants. Barresi had this discrepancy on tape, and now he was alerting Pellicano.

"He was very attentive," Barresi says of that first meeting. "He looked at the transcripts, evaluated what I had to say about the inconsistencies between one transcript and another. ... I could tell he liked my handiwork. That is how the relationship started."

For the next ten years, Pellicano hired Barresi from time to time to dig up dirt on famous people. Barresi says he was always paid in crisp \$100 bills and was never told the reason for a particular assignment. There was one instance, however, when Pellicano gave Barresi the strong impression that the target of the investigation was also the paying customer. That target was Arnold Schwarzenegger.

The year was 2001, and Schwarzenegger was thinking seriously about running for governor. But a lot of nasty rumors were floating around about the movie star's personal life. What might an enterprising investigator find out about him if he really tried? Barresi believes he was hired to go through that exercise. (Two weeks after Barresi submitted his report, which has never been leaked to the public, Schwarzenegger announced that he wasn't going to run, and it wasn't until the summer of 2003, when then-Gov. Gray Davis was in complete meltdown, that he changed his mind.)

In his last assignment, Barresi had brought to Pellicano's attention a young man who was trying to sell a book detailing sexual encounters he said he'd had with several movie stars, including Tom Cruise. "The kid claimed that he knew of another guy who had a similar experience with Cruise," Barresi remembers. "I called up Pellicano, and he said, 'You need to bring him into my office so I can interrogate him.' So I brought the kid up to Tony's office. Tony must have questioned him for at least two hours without taking a single note. I figured, either Tony has an incredible memory, or that chair was bugged. Anyway, after the kid left, Tony said, 'Good work. This will be worth \$60,000 in your pocket.' I said, 'Well, \$60,000 sounds like a good price for saving a movie star's ass.' "

A couple days later, Cruise's lawyer, Bert Fields, sent the young man a threatening letter. "Whatever you may be paid for writing any book or giving any interview including this false story," Fields wrote, "will be vastly exceeded by the damages a jury will award against you." This-along with suspicious clicks the young man started hearing on his phone and the strange man in a van parked outside his apartment-apparently persuaded him to pack up and leave town. But when Barresi tried to contact Pellicano to collect his fee, he couldn't reach him. He tried several times and got the distinct impression that Pellicano was trying to avoid him. Shortly after that Pellicano was arrested.

In April, on the day before I interview Barresi in person, he wants to make sure that I am who I say I am. "You're not going to kill me, are you?" he asks me over the phone. I tell him that I won't. But I also feel compelled to point out that if I were going to try to kill him, I wouldn't be so dumb as to

give him a heads up. "How big are you?" he demands to know. "Five-ten and about 160 pounds," I say. "Okay," he responds, his voice softening some, "but any funny business and I'll turn my five-foot-one wife on you."

Barresi, 58, lives in Rancho Cucamonga with his wife of 14 years. He has a pleasant manner and, though not the chiseled porn star he once was, still appears to be in reasonably good shape.

We meet in a conference room near his home. Barresi has already been interviewed by both the *New York Times* and the *Los Angeles Times*. *Geraldo's* people were calling. So was ABC's *Prime Time*. And in late February two men working on Bert Fields's behalf flew down from San Francisco to meet with him. One was Fields's attorney, John Kecker; the other was a private investigator, David Fechheimer. They came because they had heard about some taped conversations Barresi had acquired from the widow of a chain-smoking tabloid reporter named Jim Mitteager.

Mitteager had been a friend of Barresi's since 1990, when they met at the Two Bunch Palms resort in Desert Hot Springs. Mitteager was with the *National Enquirer* at the time, working on a story about Frank Sinatra. Late one afternoon, the two struck up a conversation by the pool. Barresi regaled Mitteager with tales of his days as a porn star. He also boasted that he knew a lot about what he called the "underbelly" of Hollywood. "I'm in that world all the time," he told Mitteager. "I'm constantly seeing people you'd recognize: celebrities, Hollywood moguls, people who present themselves in a certain light, who are respected and revered. They're doing things behind closed doors that would make me look like a Boy Scout."

Flash forward to 1996. Mitteager is dying of lung cancer. But in his final months he reveals to Barresi that he's contemplating a career change: Instead of working for the tabloid industry, he'd like to work against it, by offering his expertise to entertainment lawyers litigating against such publications as the *National Enquirer* and the *Globe*. Mitteager also tells Barresi about some tapes he has in his possession that contain recorded conversations between himself and his sources. Mitteager even gives Barresi three of these tapes to listen to.

The tapes show how low some tabloid reporters will go to find dirt on people, even so far as to make stuff up. This is nothing new to Barresi. But five years later, after Pellicano's arrest, it occurs to him that there may be other tapes lying around that have some bearing on the Pellicano case. So, he calls Mitteager's widow and asks what she has. Turns out, there are hundreds of hours of recordings. And she is more than happy to send them along. "Jim wanted you to have them," Barresi recounts her telling him.

As Barresi discovers, a couple of hours of the tapes have Mitteager talking directly with Pellicano. In one exchange, for example, Pellicano is on the phone with both Mitteager and another reporter, trying to get the name of a source who told the *Globe* about a medical procedure that comedian Whoopi Goldberg reportedly had just gone through. Mitteager and his colleague say they know who that source is and are willing to give Pellicano the name for \$5,000. Pellicano balks, but he indicates that as part of a package deal he will give them information about one of his new clients, actor Jean-Claude Van Damme. "Guys, listen to me closely," Pellicano says. "Every chance I get, I put money in your pocket. Every single fucking chance I get. I can't do better than that. Every chance I get, I give you money. And when there is some possibility, I tell you about possibilities. I just gave you Van Damme. Now, Whoopi is a very close friend of mine. This really pisses me off. So I'm willing to take money out of my pocket ... not her pocket ... to give to you. Now, you want to give me a more reasonable number, the answer is yes. Five thousand is crazy."

"The thing you need to understand about Pellicano," Barresi tells me, "is that he used dirt either to insinuate himself into the good graces of the

celebrities who hired him or to keep his enterprise going. He lit the fires as well as put out the fires. He was the arsonist *and* the fire chief."

The Mitteager tapes also seem in parts to support Bert Fields's claim that he had no knowledge of anything illegal that Pellicano might have done, which is what Kecker and Fechheimer were hoping for when they met with Barresi.

"See, the nice thing about me is I don't take orders from nobody," Pellicano says on one tape. And in an apparent reference to his most favored customers—who presumably include Fields—he says this: "... I don't tell them these things. I have a cash slush fund that I use. And that's what you guys have been getting."

At their meeting Barresi guided Kecker and Fechheimer through those taped discussions. He also suggested that they make him a paid consultant. But Fechheimer, at Kecker's prompting, poured cold water on the idea. "Well, Paul," Barresi remembers him saying, "you may be called as a witness, and if you are, your credibility would probably be hurt if we paid you for information."

Of course, this was not what Barresi wanted to hear. Nor is he at all pleased when, sometime later, I inform him of Pellicano's latest denial, which is that he never hired Barresi to do *any* investigative work for him. My source on this is Steven Gruel, Pellicano's attorney. But, as I say to Barresi, it's not a claim I take seriously. Not with the emails and faxes Barresi has shared with me that document the relationship. And then there are all the other people I've talked to who vouch for Pellicano and Barresi's association. Yet Barresi is still upset. And so the next day he sits down and writes Pellicano a letter.

"Look, I got proof I worked for you," Barresi writes. "Proof positive. You paid one of my sources in cash yourself. You mailed him money, \$200 cash, in an envelope. ... How about that male hustler who said he was with Tom Cruise? I brought him to your office on your instruction. You said you needed to interrogate him. I still get e-mails from that cocksucker, all pissed off at me. Also, several of your secretaries, who John Connolly spoke with, and other people associated with you confirmed I did jobs for you.

"Reflect on this, please. Be honest. Write me back."

Even if Fields is never indicted on criminal charges stemming from his ties to Pellicano, he and his law firm, Greenberg Glusker, may still be vulnerable to civil suits such as the one filed last spring by screenwriter and producer Bo Zenga.

In 2001, prosecutors allege, Pellicano surreptitiously recorded phone conversations between Zenga and his attorney, Gregory Dovel, after Zenga filed a breach of contract suit against *Scary Movie* producer Brad Grey. In Zenga's current lawsuit, he now accuses Grey and his lawyer, Fields, of invasion of privacy, illegal wiretapping, and negligence through their use of Pellicano.

Privacy experts say Fields at the very least could be made to pay on a theory of vicarious invasion-of-privacy liability. Moreover, Fields could be judged liable even if he explicitly told Pellicano not to wiretap anyone. "It's like when a truck driver exceeds the speed limit," says John S. Caragozian, a business and privacy litigator in Los Angeles who has written on the subject. "The trucking company doesn't get off the hook just because it told its drivers not to go too fast."

Caragozian believes that lawyers are more responsible for the misdeeds of their private investigators than they'd like to think. He also believes that private investigators are legally constrained in ways that go largely ignored. In this vein he cites *Wayne v. Bureau of Private Investigators & Adjusters*, a 1962 case in which an insurance company investigator misled but didn't actually lie to claimants about who he worked

for. Was the investigator in violation of the state's Business and Professions Code, which prohibits fraud and dishonesty? The court ruled that he was. "There is no doubt," the court observed, "that a false impression may consist in a concealment of what is true as well as the assertion of what is false. The causing or the bringing about of false impressions under the circumstances constitutes fraud." (201 Cal. App 2d at 437.)

Caragozian notes further that in 1971 the California Supreme Court both affirmed and extended *Wayne* in *Redner v. Workmen's Compensation Appeals Board*. In that case the investigator for a workers comp carrier hired someone to befriend an injured worker, ply him with alcohol, and persuade him to go horseback riding. The ride was then captured on film. "The carrier should not profit from its own deceitful conduct," the court ruled unanimously. (5 Cal. 3d at 94.)

In Caragozian's mind, these precedents raise a fundamental question: Does California case law effectively preclude *all* investigations that involve mislead-ing someone? (In PI circles, they call it "pretexting.") The California Association of Licensed Investigators, predictably enough, thinks not. Interestingly, so does the Bureau of Security and Investigative Services (BSIS), the regulating agency that succeeded the Bureau of Private Investigators & Adjusters. "My understanding is that an investigator can pretend to be someone else as long as they're not pretending to be either a police officer or a government official," says Kevin Flanagan of the BSIS.

This strikes Caragozian as rather odd. "With all due respect to the BSIS's spokesperson, I disagree with him," he says. "As long as you can read the English language and know what those cases say, then at the very least there's a question here as to whether undercover work where there is an element of deception is ever lawful."

When I visit Nazarian for a second time, in May, he promises me the chance to see him in action. But it's not as exciting as I imagined it would be. In fact, we spend much of the afternoon in his SUV, hovering around an exclusive private elementary school to watch over one of its students. As Nazarian explains, the boy's very rich mother once had an unsavory boyfriend. And now that the guy is out of prison, she is concerned about her son's safety. "I don't want to waste your money," Nazarian tells her over his cell phone at one point during the surveillance. "But," he adds, "if you want me to keep at it, I will."

At nightfall, Nazarian and I head off to Bel Air for a garbage run. (As Nazarian points out, there's nothing illegal about going through people's garbage, so long as the targeted trash is sitting out on the street.) Earlier, Nazarian had shown off some of the items he collected during a previous run. In one ziplock bag there's a used tampon (good for DNA, he explains). And in another, there's a wrapper from an over-the-counter medication for hangovers. ("Obviously," he says, "you're not going to find *that* product in a nunnery.")

Nazarian also gets help from housekeepers who, for relatively small amounts of money, will supply him with used bedsheets and other personal items. "I love minimum-wage earners," he smiles. And he completely dismisses the idea that going undercover is wrong. "I'll dress up as Santa Claus to get the information I need," he declares.

The night's garbage run, though, turns out to be something of a bust, since, in the neighborhood we go to, the garbage truck has already come and gone.

Nazarian is obviously tired at this point, and he admits he needs a good night's sleep. But he doesn't seem too disappointed. "The good thing about garbage is that it's kind of like giving somebody a haircut," he says. "It'll always grow back."

"I don't ever want to play fair," Nazarian tells me later. "Why would I want to play fair? People don't come to John Nazarian because they want to play fair. Or nice. Come on, who we kidding?"