

June 25, 2001

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

SAMIR ANTOUN v. JANICE TEIXEIRA, et al.
SAN DIEGO SUPERIOR COURT CASE NO. GIC735095

INTRODUCTION

The City of San Diego recently prevailed in a personal injury lawsuit brought by a bicyclist who suffered severe brain injuries in a collision with a car where the on-ramp from Famosa Boulevard merges into Nimitz Boulevard. This case came before closed session of the City Council on April 3, 2001 and May 1, 2001.

FACTS

On June 7, 1999, at approximately 10:30 a.m., Plaintiff, a 42 year-old man, was struck by a van while riding his bicycle on northbound Nimitz Boulevard at the Famosa Boulevard on-ramp. There is a striped, signed bike lane on Nimitz Boulevard, which terminates at the merge area, and picks up again on the right shoulder of the on-ramp. A cyclist must cross the on-ramp to re-enter the bike lane.

As Plaintiff approached the area of the accident, Defendant Silva was driving his pick-up truck down the Famosa on-ramp to northbound Nimitz and Defendant Teixeira was driving her minivan behind Silva's truck. Both vehicles were traveling 30 to 40 miles per hour. Silva saw Plaintiff suddenly turn his bicycle to the right, into the on-ramp, and directly into the truck's path. To avoid hitting Plaintiff, Silva turned his truck sharply to the left, crossing the number two lane and turning into the number one lane of Nimitz. Teixeira did not see Plaintiff, but saw Silva turn sharply and assumed he was turning to avoid something, so Teixeira also turned her van sharply to the left. In the process, she struck Plaintiff, who had turned his bicycle back towards the painted gore between the on-ramp and Nimitz. The force of the impact sent Plaintiff across the van into the windshield. He then rolled off the windshield, fell to the roadway, and tumbled before coming to rest. Plaintiff sustained a major closed-head injury. He was not wearing a helmet.

The Nimitz bikeway was designed and constructed in 1986 and 1987. The construction drawings called for the installation of a bicycle crossing sign at the top of the on-ramp. The sign consists of a large yellow sign with a bicycle symbol on it, and the "XING" designation under it. At the time of the subject accident, the sign was not in place. It is not known if the sign was ever

installed, or if installed, why and when it was taken down.

Plaintiff alleged the roadway was a dangerous condition of public property because of three factors: 1) a high speed merge between traffic on Nimitz and traffic on the ramp from Famosa, with bicyclists caught in the middle; 2) the absence of the bicycle crossing sign at the top of the on-ramp; and, 3) the absence of signage telling bicyclists on Nimitz how to navigate the merge area.

CIVIL TRIAL

The case proceeded to a jury trial on April 25, 2001, before the Honorable William Pate. The jury returned its verdict on May 8, 2001, finding in favor of the City. Although the jury found that the roadway was a dangerous condition, they found that the dangerous condition of the roadway was not the cause of the accident.

Deputy City Attorney Mark Stiffler tried the case on behalf of the City of San Diego.

Respectfully submitted,

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City Attorney

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