

August 12, 1986

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
LEE PURSER v. THE CITY OF SAN DIEGO
San Diego Superior Court Case No. 475054

On January 16, 1981, at approximately midnight, Lee Purser, returning from a party, was travelling southbound on El Camino Real towards Via de La Valle in her 1978 Fiat convertible. The rural-residential area was unfamiliar to her. It was a clear evening with some patches of fog. The streets formed a "T" intersection. As she approached the intersection, she failed to see the stop sign and went off the "T" intersection into a ditch.

Lee Purser filed a claim against the City of San Diego on April 9, 1981, for damages in the amount of \$200,000.00, and on July 16, 1981, she filed a complaint for damages against the City. Plaintiff alleged that the subject intersection was in a dangerous condition because the City failed to warn oncoming motorists of the abrupt ending of the southbound street or of the upcoming stop sign. She also alleged the City had actual notice of this dangerous condition and had notice of similar accidents shortly before.

As a result of the accident, plaintiff claimed she incurred physical injuries, medical expenses, loss of wages and property damage.

On September 5, 1985, an arbitration hearing was held before Arbitrator Russell B. Wagner. Plaintiff was represented by Attorney Eric Freedus; defendant City was represented by Deputy City Attorney Cristie McGuire. On October 4, 1985, the arbitrator issued his findings and awarded plaintiff \$21,405.95.

The City filed its request for trial de novo on November 1, 1985, and also submitted its offer to settle in the amount of \$5,000.00 to plaintiff, pursuant to Code of Civil Procedure Section 998.

A jury trial began on June 16, 1986, before the Honorable Ross G. Tharp. Plaintiff asked the jury to award her \$113,000.00. Plaintiff's doctor stated she suffered possible concussion and brain injury, memory loss, intermittent headaches and other physical and mental suffering. Defendant contended there was no dangerous condition at the "T" intersection, because the stop sign was clearly visible to a driver exercising due

care.

The trial lasted 10 days with the jury out for one and one-half days. The jury verdict was in favor of the City and against the plaintiff. As prevailing party, the City is entitled to recover many of its costs under C.C.P. Sections 1032 and 998.

The City was represented in these proceedings by Deputy City Attorney Cristie C. McGuire.

Respectfully submitted,
JOHN W. WITT
City Attorney

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RC-86-21