

November 18, 1986

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

RE: RECENT LITIGATION - Katrina Butler v. City of San Diego,  
et. al., Superior Case No. 505980

Plaintiff was seriously injured as a result of a head-on collision on Friars Road. She filed suit in San Diego Superior Court alleging that the absence of a median barrier on the roadway was a cause of her injuries. The case was tried before a jury which returned a verdict in favor of the City.

FACTS

Shortly after noontime on May 9, 1983, defendant, Cathleen Simmons, was driving an automobile owned by her sister, defendant, Mary Quinlan, in an easterly direction on Friars Road. As defendant Simmons approached Stadium Way, she crossed over a ten (10) foot wide painted center median and collided with an automobile driven by plaintiff, a 19-year-old woman. At the location of the accident, Friars Road consists of three lanes in each direction separated by the painted median. The point of impact of the two vehicles was the middle lane of the three westbound lanes. There was no evidence of pre-collision braking or any other evasive action on the part of Ms. Simmons. Plaintiff applied her brakes shortly before impact which caused her car to slow from approximately 50 m.p.h. to 30 m.p.h. The Simmons' vehicle was probably travelling about 50 m.p.h. at impact.

Defendant Simmons was charged criminally with felony drunk driving. Her blood alcohol level was .31%. She has no recollection of being on Friars Road at the time of the accident or being involved in the accident. Her driver's license had been suspended since 1976 and she had previously been convicted of drunk driving on four occasions between 1976 and 1981. As a result of this accident, she entered a plea to felony drunk driving, was sentenced to three years in prison and actually served 21 months in prison.

As a result of the accident, plaintiff sustained serious injuries to her mouth, head, chest, abdomen, pelvis, left foot and right leg. During the three and one-half years following the accident, plaintiff made an excellent recovery from her injuries but she presently has and will continue to experience problems with her upper jaw, right leg and left foot. Her pelvic injuries

may inhibit natural childbirth.

LITIGATION

Plaintiff filed a timely claim with the City and a lawsuit in San Diego Superior Court alleging that Friars Road at the time and place of the accident constituted a "dangerous condition" of public property due to the absence of a median barrier which would virtually prevent cross-median accidents. The case proceeded to trial before a jury in the courtroom of The Honorable Jack R. Levitt.

After a four (4) day trial, the jury returned a verdict on November 6, 1986 in favor of The City of San Diego.

Chief Deputy City Attorney Eugene P. Gordon tried the case on behalf of The City of San Diego.

Respectfully submitted,

JOHN W. WITT

City Attorney

EPG:st:Lit.

RC-86-30