

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL

RE: RECENT LITIGATION - Patrick Provencio v. City of San Diego
Superior Case No. 487274

Plaintiff was a passenger in a vehicle which lost control at the foot of a steep hill and collided with a utility pole.

Plaintiff, who was seriously injured as a result of the accident, filed suit in San Diego Superior Court, alleging that the City had failed to adequately warn motorists of the existence of a dangerous condition which was a cause of the accident. The case was tried before a jury which returned a verdict in favor of the City.

FACTS

At approximately 7:30 p.m. on August 21, 1981 Catherine Beckman-Romer was travelling in her 1971 Datsun in a generally northerly direction on Knoxville Street in the Bay Park area. Plaintiff Patrick Provencio was a passenger in the car. At the point where Knoxville Street crosses Gardena Avenue, the street becomes Illion Street. Illion Street just north of Gardena Avenue is a steep hill (approximately 26 percent grade) and the road angles to the west or to the left for northbound traffic. Beckman-Romer travelled through the intersection at a high rate of speed and as she started up the hill her car "bottomed out". She lost control of her car and after the car bounced off the east curb on Illion Street, it struck a utility pole located next to the road about 55 feet north of Gardena Avenue. The estimates of the speed of the vehicle as it went through the intersection ranged from 40-50 miles per hour. The speed limit for northbound vehicles on Knoxville Street approaching Gardena Avenue is posted at 25 m.p.h.

Evidence produced at the trial showed that the driver of the car was very familiar with the unusual configuration of the roadway and that a small amount of alcohol and drugs were present in the driver's blood at the time of the accident.

The most serious of the multiple injuries sustained by plaintiff is permanent brain damage which has caused long and short-term memory loss and an inability to recognize faces. Plaintiff produced evidence at the trial that the economic damages were approximately \$3,000,000 and the non-economic damages were at least \$2,000,000.

LITIGATION

Plaintiff through his conservator filed a timely claim with the

City and a lawsuit in San Diego Superior Court alleging that the roadway at the time and place of the accident constituted a "dangerous condition" of public property due to the abrupt change of grade at the bottom of the steep hill coupled with the horizontal angle of the road and that the City had failed to adequately warn motorists of the condition.

The case proceeded to trial before a jury in the courtroom of the Honorable Carlos A. Cazares. After a twelve (12) day trial, the jury returned a verdict on April 9, 1987 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

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RC-87-14