

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
RECENT LITIGATION

LOPEZ, et al. v. CITY OF SAN DIEGO, et al.

Plaintiffs sued the City of San Diego, and others, over deaths and injuries arising from the tragedy at the McDonald's restaurant in San Ysidro in July of 1984. Judgment was awarded the City in pre-trial motions and the Court of Appeal and Supreme Court have upheld that ruling.

FACTS

On July 18, 1984, a great tragedy occurred in the community of San Ysidro, California: James Huberty opened fire with several weapons in a crowded McDonald's restaurant, killing 21 and wounding many more. Plaintiffs in these cases are either survivors of the attack or members of the families of individuals who did not survive the attack.

In two separate cases, the plaintiffs sued the City of San Diego, Roger Hedgecock (then Mayor of San Diego) and William Kolender (Police Chief of San Diego) among others.

The five causes of action in the original complaints against the City were for: 1) negligent rescue; 2) negligent training and supervision regarding rescue operations; 3) negligent implementation of certain procedures; 4) negligent hiring; and 5) negligent response time.

LITIGATION

In pre-trial proceedings brought by the City, judgment was awarded the City, Mr. Hedgecock and Chief Kolender on the ground that, as a matter of law, based upon the facts as alleged by plaintiffs, the defendants owed no duty of care to plaintiffs and therefore could not be held liable for the injuries suffered at the hands of Mr. Huberty. Plaintiffs appealed both decisions.

The Court of Appeal upheld the ruling of the lower court. The Court held that, absent specific assurances by the police, upon which the plaintiffs detrimentally relied, no liability attaches to the action of the City in attempting the rescue of the plaintiffs. The Court further held that it was apparent no such assurances existed in this case.

Plaintiffs petitioned the California Supreme Court to review the case but the Court declined to do so, letting the Court of Appeal decision stand.

Deputy City Attorney Leslie J. Girard represented the City, Mr. Hedgecock and Chief Kolender in these cases.

Respectfully submitted,

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