

April 20, 1988

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
ROBERT SPAHLE v. CITY OF SAN DIEGO
San Diego Superior Court Case No. 538652

Plaintiff was injured in a scuffle with two San Diego police officers who were assigned to crowd control duties on Mission Boulevard in the Pacific Beach area following the San Diego Padres' defeat of the Chicago Cubs for the 1984 National League pennant. Plaintiff filed suit in San Diego Superior Court, alleging that he was falsely detained and imprisoned, that he was assaulted and battered before and during his arrest, and that the police were negligent in failing to warn plaintiff to disperse and in using force in contacting, apprehending and transporting plaintiff. The case was tried by jury, with a verdict returned in favor of defendant City of San Diego.

FACTS

On October 7, 1984, plaintiff, a 32 year-old electronic technician, was part of a very large crowd gathered in the beach area to celebrate the Padres' clinching of the National League pennant. Plaintiff contended that, upon being shoved from behind, he turned defensively with his arms and palms outstretched, only to discover that his alleged "assailant" was a police officer. A second officer, seeing plaintiff's actions, came up behind plaintiff, twisted his hands behind his back, and whisked him out of the crowd towards a parked police car. However, both plaintiff and the officer stumbled and fell to the pavement enroute to the car. Plaintiff was arrested and transported to a temporary police command post, but was released without being booked; criminal charges were never filed. Plaintiff suffered cartilage and ligament damage to his left knee in the incident.

LITIGATION

The five day trial was by jury before the Honorable James A. Malkus. Plaintiff's counsel asked the jury to award plaintiff medical damages of \$9,000.68, lost wages of \$764.50, and general

damages of \$100,000.00. The jury returned a verdict in favor of defendant City of San Diego on all causes of action. Deputy City Attorney Francis M. Devaney tried the case on behalf of the City.

Respectfully submitted,

JOHN W. WITT
City Attorney

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RC-88-27