

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
SOUKEA MENG V. DANIEL BIRD, CITY OF SAN DIEGO, ET AL.
Superior Court Case No. 602908

The City recently won a personal injury lawsuit which resulted from an accident on 54th Street at its intersection with Trojan Avenue.

On June 1, 1988, at approximately 12:25 p.m., plaintiff, a 7 1/2 year old elementary school student and a Cambodian refugee, was on his way home from Jackson Elementary School when he crossed the northbound lanes of 54th Street to the center median against a red traffic signal at the intersection with Trojan Avenue. He briefly stopped on the center median and then, still against a red light, ran in front of a vehicle stopped in the left turn lane and into the path of a southbound van on 54th Street which struck him in the head. The van was going about 41 miles per hour. The speed limit for 54th Street is normally 35 miles per hour but is posted with standard Caltrans specified "School, 25 mph, When Children Are Present" signs.

Plaintiff alleged the intersection created a dangerous condition because the school zone was inadequately posted with signs and roadway markings informing drivers to slow down, that the left turn signal and a sign on the signal pole on the median blocked the view of children on the median and southbound drivers of each other and that it was foreseeable children would dart out against a red light.

The City contended the intersection was posted for a school zone in full accordance with State specifications, that children could see and be seen on the median, that children would not be on the median unless they crossed against a red light, and that although it is foreseeable people will violate red lights, a City is only liable for conditions that create substantial risks of injury when used with due care. Additionally, the driver who struck plaintiff was fully aware of the school and that children were present in the area and he knew of the applicable 25 miles

per hour speed limit but still proceeded at about 41 miles per hour.

Plaintiff suffered a brain injury that manifests itself by diminished mental abilities and a seizure disorder. Plaintiff also suffered a broken hip which has resulted in the injured leg being 3/4" shorter. Plaintiff settled with the driver for \$50,000 policy limits and asked the jury to award \$1,000,000

against the City.

The case proceeded to trial in San Diego Superior Court on February 7, 1990 before a jury and Judge Milton Milkes. On February 27, 1990, the jury returned a verdict declaring that the property did not constitute a dangerous condition and rendered its verdict in favor of the City.

Deputy City Attorney Sim von Kalinowski tried the case on behalf of the City of San Diego.

Respectfully submitted,
JOHN W. WITT
City Attorney

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