June 22, 1995

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
RE: RONALD CERVANTES v. CITY OF SAN DIEGO, et al.

On June 13, 1995, a United States District Court jury returned a unanimous defense verdict in favor of three San Diego Police Department officers in the case of Ronald Cervantes v. City of San Diego, et al. (The City of San Diego and the San Diego Police Department were dismissed during the trial.) The verdict came after a three-week Federal Court trial in front of the Honorable Rudi Brewster.

This case stemmed from a June, 1988, investigation and arrest of Ronald Cervantes, then a Captain in the San Diego Fire Department's Community Education section. The investigation, conducted by members of the San Diego Police Department's Narcotics Street Team, was the initial step in the highly publicized inquiry into drug use by members of the San Diego Fire Department. During the investigation, a confidential informant purchased methamphetamine from plaintiff and his brother which led to service of a search warrant, at which time drugs, paraphernalia, weapons and explosives were seized from plaintiff's home. Plaintiff was also arrested for driving under the influence, in a Fire Department vehicle and tested positive for methamphetamine and alcohol.

Cervantes was prosecuted for various federal offenses and entered into a plea bargained agreement. He was fired by the Fire Department and the termination was upheld by the Civil Service Commission and the Superior Court.

Cervantes, through his attorneys, then filed this multi-million dollar civil rights action against the parties mentioned above. Initially, the case was dismissed on statute of limitations grounds. That dismissal was overturned by the Ninth Circuit Court of Appeals which remanded the case back to the trial court .

The issues in the case were complex and perplexing. The plaintiff called, as his witness, the confidential informant who had been used by police officers to purchase drugs from plaintiff. The confidential informant testified that he had been ordered to falsify a drug buy because officers wanted to frame plaintiff. He further testified that he had made fake buys on numerous other occasions at the direction of the same officers, that he overheard conversations among the officers regarding how they were going to frame the plaintiff, and that he was coerced to testify falsely at plaintiff's termination hearing before the

Civil Service Commission.

One of plaintiff's friends also testified that he saw a police officer "spike" plaintiff's beer with methamphetamine on the day that plaintiff was arrested for driving under the influence. The plaintiff testified that the drugs and paraphernalia recovered at the time of service of the search warrant were either planted in his home or belonged to his brother, and that he had never before seen any of the items nor had he ever used drugs in his life.

Plaintiff asked the jury to award over $2 million representing lost earnings as a fire captain, psychiatric treatment for depression, and general damages for humiliation and loss of reputation.

Defending the case required extensive witness interviews in order to effectively impeach plaintiff and his witnesses. It also involved complex legal issues concerning res judicata and collateral estoppel with respect to issues litigated at the Civil Service Commission hearings and in state court.

Our investigative staff interviewed and re-interviewed dozens of plaintiff's friends and former friends and were successful in obtaining witness statements and, ultimately, trial testimony, which was compelling and dramatic in its impact.

Successful defense of the case also avoided statutory costs and attorney's fees which would have approached $100,000.00 given the length of the trial and the four years of pre-trial litigation including the intervening appeal to the Ninth Circuit Court of Appeals.

The case was handled at both the trial and appellate level by Deputy City Attorney James M. Chapin and investigation was handled by Principal Litigation Investigator Robert Abel.

Respectfully submitted,
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City Attorney

JMC:vtc:Lit.
RC-95-16