



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

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City Attorney's Office Successfully Recovers Costs *U.S. District Court Denies Plaintiffs' Motion for Relief, Employees on hook for over \$200K*

San Diego, CA: In a ruling yesterday (attached), the United States District Court upheld the City's cost judgment of \$208,402 against a group of current and former San Diego police officers who previously sued the City for benefits they were not entitled. After the City prevailed in the litigation all plaintiff employees were given the opportunity to settle and get out of the litigation without having to pay costs. However, a small group rejected the City's offer and continued their appeal. They lost. These employees will now be required to pay the entire cost judgment to the City. This action today brings an end to a very expensive litigation in which the City was successful at every step of the way.

This case involves a lawsuit brought against the City by 1,409 former and current police officers for violation of the Fair Labor Standards Act. Among other claims, the police officers said they should have been compensated for the time they spent "donning and doffing" their police uniforms and gear at their personal residences before and after reporting to work. They initially demanded \$250 million in compensation and lost. On December 16, 2009, the U.S. District Court awarded a \$208,402.71 cost judgment to the City of San Diego as the prevailing party in *Marcus Abbe, et al., v. City of San Diego*.

In March 2010, the City agreed to waive its right to collect the cost award if the plaintiff employees agreed to end the litigation. A small group of 143 employees rejected the City's offer to waive costs and they continued with the litigation. In April 2010, the 143 remaining plaintiffs filed a motion with the Appellate Court and unsuccessfully pursued the case all the way to the U.S. Supreme Court which ultimately refused to hear their case. The Court agreed that this group of employees is responsible for reimbursing the City for its litigation costs.

"This was a case conjured up by some lawyers scheming to fleece taxpayers," said City Attorney Jan Goldsmith. "Those lawyers haven't done too well against the City over the past 5 years. It is unfortunate that 143 plaintiffs will now have to pick up the tab. I wish they had accepted our offer."

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