

MEMORANDUM

December 21, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: EDWIN LEWIS
Manning & Marder, Kass, Ellrod, Ramirez

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RE: Elvira Rodriguez v. County of Los Angeles
United States District Court Case No. CV 03-6883 RSWL

DATE OF INCIDENT: December 21, 2002

AUTHORITY REQUESTED: \$175,000

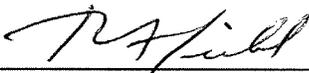
COUNTY DEPARTMENT: Sheriff's Department

CLAIMS BOARD ACTION:

Approve

Disapprove

Recommend to Board of Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on January 10, 2006

SUMMARY

This is a recommendation to settle for \$175,000 the federal civil rights lawsuit of Elvira Rodriguez, who alleges that she was subjected to the use of excessive force by a Sheriff's Deputy.

LEGAL PRINCIPLES

A peace officer may be held liable for the violation of a person's federally protected civil rights when the officer makes an arrest that is not based on probable cause, or uses excessive force in making an arrest.

The prevailing party in a lawsuit brought under the Federal Civil Rights Act is entitled to an award of reasonable attorneys' fees.

SUMMARY OF FACTS

On December 21, 2002, a Sheriff's Deputy investigating identity theft and credit card fraud went to the apartment of Elvira Rodriguez, whose address surfaced during the investigation. Someone was making purchases over the internet with a stolen credit card. The purchases were delivered to Ms. Rodriguez's address.

The Sheriff's Deputy informed Ms. Rodriguez of his investigation, and asked for her internet address. She gave the address which matched the one from which the illegal purchases were made. She then told the Sheriff's Deputy she had no further information for him. The Sheriff's Deputy made the decision to arrest her, based on the fact that her internet address was the source of the illegal purchases, and the deliveries were made to her apartment.

The Sheriff's Deputy told Ms. Rodriguez that she was under arrest, and ordered her to put her hands behind her back to be handcuffed. She refused. The Sheriff's Deputy repeatedly asked her to comply with his order, and she refused each time. When the Sheriff's Deputy finally reached for her arm to handcuff her, she kicked the Sheriff's Deputy in the groin.

In response to the kick, the Sheriff's Deputy struck Ms. Rodriguez in the face with his hand, forced her to the ground and handcuffed her. She was arrested for resisting a peace officer by force, battery on a peace officer and being under the influence of methamphetamine. As part of a plea agreement, Ms. Rodriguez pleaded no contest to the methamphetamine charge in exchange for the dismissal of the other charges.

Ms. Rodriguez sued the County of Los Angeles and the Sheriff's Deputy for false arrest, unlawful entry into her apartment and the use of excessive force. Pursuant to a motion by our attorneys, the claims for false arrest and unlawful entry were dismissed.

The matter proceeded to trial on the liability issue only, and the jury returned a verdict that found the Sheriff's Deputy liable for the use of excessive force. This proposed settlement was reached before the damages phase of the trial.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Medical expenses	\$ 5,200
Pain and suffering	\$100,000
Attorneys' fees	<u>\$250,000</u>
Total	<u>\$355,200</u>

The settlement calls for the County to pay \$75,000 to Ms. Rodriguez, and \$100,000 to her attorney for all of her claims for damages, costs, and attorneys' fees.

STATUS OF CASE

The issues of liability and damages were bifurcated for trial. As noted above, trial of the liability issue has concluded. Trial on the issue of damages has been postponed, pending consideration of this settlement proposal.

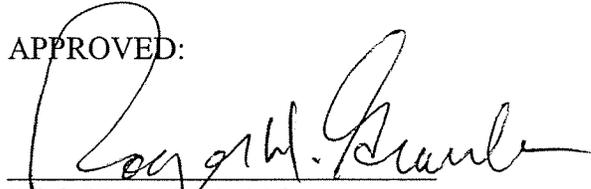
Expenses incurred by the County in defense of this matter are attorneys' fees of \$95,221 and \$5,908 in costs.

EVALUATION

This is a case of contested liability. The Sheriff's Deputy contends that he only used force after he had been kicked by Ms. Rodriguez. Our attorney spoke to one of the jurors after the liability phase of the trial and learned that the jury believed that Ms. Rodriguez resisted arrest, but that the Sheriff's Deputy should have used other means to arrest her. While we could appeal the verdict, a reasonable settlement at this time will avoid further litigation costs and a potential damages verdict that could exceed the proposed settlement.

We join with our private counsel, Manning & Marder, Kass, Ellrod, Ramirez, in recommending a settlement of this matter in the amount of \$175,000. The Sheriff's Department concurs in this settlement recommendation.

APPROVED:

A handwritten signature in black ink, appearing to read "Roger H. Granbo", written over a horizontal line.

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RHG:scr