

Santa Barbara hires big firm for appeal

Heavy-hitting Horvitz & Levy will fight police sex-discrimination verdict

By JOSHUA MOLINA
NEWS-PRESS STAFF WRITER

The city of Santa Barbara has hired the largest civil appellate law firm in California to fight a \$2.7 million sex-discrimination verdict handed down against the city's police department a year ago.

Encino-based Horvitz & Levy LLP will try to get the court to reverse judgments of \$1.5 million for Sgt. Juanita Smith and \$1.2 million for former officer Margaret Hause.

The firm has defended some of the most well-known companies in the world from multimillion-dollar verdicts, including Lockheed Martin, Warner Bros. and ExxonMobil.

The two women won stunning decisions against the city on May 7, 2002, after successfully arguing they were harassed and discriminated against by the city and police department because of their gender.

In handling the appeal, the attorneys said they have not yet worked out a fee arrangement with the city or its insurer. The city would pay the first \$500,000, and then its insurance company, American International Group, will pick up the remainder if the appeal ultimately goes against the city.

Since the verdict, the plaintiffs have been earning 10 percent annual interest on the judgment — or about \$150,000 apiece to date — and that amount will grow until the appeal is decided. In addition to attorney fees, the cost of defending the lawsuit is well over \$5 million so far.

The women and their attorneys expect the appeal to go just as the trial did — in their favor. Sgt. Smith, a parking enforcement supervisor, wonders how much money the city is willing to spend to fight her.

"Everybody keeps saying that they want to move on," Sgt. Smith said. "People have admitted that they have made mistakes and it seems like they keep making mistakes. But if they could just close this, we could all move on."

City Attorney Dan Wallace said the case is now in the insurance company's



Margaret Hause



Sgt. Juanita Smith

hands and it was the insurer's decision to appeal. American International Group did not return calls Tuesday.

In siding with the two women, jurors in the trial also believed that after the female officers complained about promotion practices, members of the department retaliated against them.

Tracy Turner, one of three attorneys with Horvitz & Levy who will argue the appeal on behalf of the city, said that some evidence at the trial unfairly prejudiced the jury and the outcome of the case.

"The trial court made a number of evidentiary errors," she said, but didn't outline what those might be.

The first legal briefs are due to the court June 27. The appeal will be heard at the 2nd District Court of Appeals in Ventura, where Horvitz & Levy routinely handles cases.

The original judgment jolted the police department and embarrassed the upper brass at City Hall, especially after the City Council had rejected a settlement offer by the plaintiffs for \$149,000 each a year before the trial.

After the verdict, the city's motion for a new trial was denied, but attorneys successfully lobbied the court to reduce the original combined award from \$3.2 million to \$2.7 million.

Now the city is banking on Horvitz & Levy, appeals specialists, who say they have a 75 percent success rate at reversing blockbuster judgments.

In 2001, the firm got \$760 million in judgments against Lockheed Martin reversed. More than 600 former workers had sued over injuries they claimed to have suffered from exposure to chemicals used at a Lockheed

workplace.

In the same year, the firm defended Warner Bros. and convinced the court to throw out a \$60 million punitive damages award won by Francis Ford Coppola, who sued the movie studio over a film version of "Pinocchio."

Some of the company's clients include Fox Entertainment Group, General Dynamics Corp. and public agencies, such as the California State University and San Diego Gas & Electric.

In the past decade, the firm has obtained the reversal or reduction of more than \$2 billion in damage awards it has challenged on appeal, according to its Web site.

In Santa Barbara County, the firm has represented Fire Insurance Exchange, State Farm Insurance Company and several Santa Barbara doctors in medical malpractice cases, according to Curt Cutting, another attorney on the team representing the city.

Sgt. Smith said she is not worried about the appeals process because she believes she and Ms. Hause had a strong case going in and have a strong case now.

"I don't think the appellate case is going to be any different," she said.

Her work conditions haven't changed much since the verdict, she said.

"I come to my work, I do a good job and I go home," she said. "I don't take it with me. It's up to the city to close this. It's up to the city to put this to rest. It is not in our hands anymore."

Ms. Hause left the department last year.

Janean Acevedo Daniels, who along with David Nye represents the plaintiffs, said the city's retention of Horvitz & Levy to handle the appeal is an indication of how worried the city is.

"We think it's unfortunate that the city is spending its resources paying high-priced appellate lawyers to try to overturn a verdict that was supported by overwhelming evidence, rather than accepting responsibility for its actions and making the changes that need to be made within the police department," Ms. Daniels said. "We remain confident that the verdict will stand on appeal."

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