

March 5, 2007

Honorable Mayor and Members of
The Hermosa Beach City Council

Regular Meeting of
March 13, 2007

RECOMMENDATION TO DENY CLAIM

Recommendation:

It is recommended that City Council deny the following claim and refer it to the City's Liability Claims Administrator:

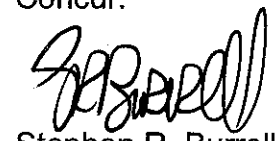
1. Claimant: Mark J. Pompano
 Date of Loss: 08-11-06
 Date Filed: 02-08-07
 Allegation: Violation of civil rights

A copy of these claims are on file in the City Clerk's office.

Respectfully Submitted,


Michael A. Earl, Director
Personnel & Risk Management

Concur:


Stephen R. Burrell
City Manager

1 Mark J. Pompano
2 2904 Laurel Avenue
3 Manhattan Beach, CA 90266

4 Claimant in pro per

5 **In re**

6 Mark J. Pompano

7
8 Claimant,

9 vs.

10 CITY OF HERMOSA BEACH,
11 HERMOSA BEACH POLICE DEPT,
12 OFFICER MICHAEL FRILOT

CLAIM FOR DAMAGES:



California Government Code Section 910

13
14 Claimant hereby makes a claim against the CITY OF HERMOSA BEACH, CA pursuant to
15 Government Code Section 910, et. Seq.

16 A) Claimant Name and Address: Mark J. Pompano, 2904 Laurel Avenue, Manhattan Beach,
17 California 90266.

18 B) Notices concerning this claim may be sent to: Mark J. Pompano, 2904 Laurel Avenue,
19 Manhattan Beach, California 90266.

20 C) Date and Situs: On or about February 8, 2005, Hermosa Beach Police Officers Michael Frilot,
21 Todd Lewitt, and Raul Saldana contacted Claimant's employer (City of Los Angeles) and made a
22 personnel complaint against Claimant. The officers alleged that on or about February 3, 2005,
23 Claimant inappropriately entered the courtroom and observed a portion of the criminal trial of
24 *People v Nolan, et al*, at Torrance Superior Court, Department 4, with the intent to influence the
25 jury's verdict in favor of the defendants. The officers also alleged that Claimant inappropriately
26 told two co-workers about the trial, resulting in the co-workers going and observing a portion of
27 the trial at a later date in another attempt to influence the jury's verdict in favor of the defendants.

28 As a result of this complaint, Claimant's employer conducted a personnel investigation of
Claimant and the two employees. The investigation determined at the onset that neither Officer

1 Lewitt nor Officer Saldana was present inside the courtroom during the time that Claimant and/or
2 the other employees committed the alleged misconduct. Nor did either of them have firsthand
3 knowledge as to what, if anything occurred in the courtroom in regards to the Claimant's and/or
4 the other employees. These two officers provided tape-recorded statements to the City of Los
5 Angeles investigators based on the information that Officer Frilot provided to them.¹ Officer
6 Frilot also provided a tape-recorded statement. To address Officer Frilot's allegations, Claimant
7 exercised his employment rights and requested that an Administrative Board (herein after referred
8 to as the "Board") hear the matter.

9 On or about August 11, 2006, Officer Frilot, dressed in his Hermosa Beach Police Department
10 (HBPD) uniform, testified before the Board. The Court Reporter administered him the oath, and
11 he swore to tell the truth. Officer Frilot testified that he made the complaint against Claimant and
12 the two employees because the following occurred on or about February 3, 2005, while he was on
13 the witness stand testifying in the matter of *People v. Nolan*; 1) The two employees entered the
14 courtroom as Frilot was answering a question by the Defense Attorney, causing a distraction that
15 the attorney halted the trial and demanded to know why they were there, 2) the three defendants
16 immediately stood up and told the Judge that the two employees were friends of theirs and were
17 there to support them, 3) the defendants turned toward the employees and waved to them, 4) the
18 two employees responded by nodding their heads approvingly and waving back to the defendants,
19 and, 5) all these events occurred in front of the jury.

20 In addition to hearing Officer Frilot's testimony and the tape-recorded statements, the Board
21 heard testimony and/or the tape-recorded statements of many additional witnesses, including the
22 Claimant, the two city employees, the three defendants, the two defense attorneys, and the Jury
23 Foreperson. Investigative inquiries were also apparently made to the Judge, Court Clerk, Court
24 Reporter, and Bailiff, all of whom were present in the courtroom when Officer Frilot was on the
25 witness stand. Not one of these individuals testified or stated that they observed and/or heard any
26 of the activities, behaviors or communications that Officer Frilot alleged to have occurred in the
27 courtroom, nor anything that could be reasonably perceived as such. As a result, the Board fully
28 exonerated Claimant and the employees of any misconduct or impropriety.

During his testimony before the Board, as well as in his statements to investigators, Officer
Frilot acknowledged that at the time he made the aforementioned complaint, he was aware that
Claimant had pending litigation against other HBPD members as the result of an incident that
occurred in 2003. Officer Frilot acknowledged that he was also aware that the Federal Bureau of
Investigation (FBI) was conducting a preliminary investigation of the HBPD in response to the
Claimant's concerns that his civil rights were violated during the 2003 incident.

Claimant asserts that Officer Frilot knowingly made the frivolous aforementioned complaint
as an instrument; 1) to intimidate, threaten, and/or dissuade Claimant from cooperating with the
FBI, 2) to intimidate, threaten, and/or to dissuade Claimant into forgoing ongoing civil litigation
against the City of Hermosa Beach, and, 3) to harm Claimant's overall health and well being, as
well as Claimant's ability to care for himself and his family by negatively impacting Claimant's
employment.

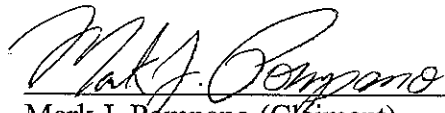
¹ Based on this reason, Officers Lewitt and Saldana are not a party to this claim at this time.

This claim is made for deprivations of Federal Statutes and Civil Rights, California Civil Rights, invasion of privacy, conspiracy to obstruct justice, conspiracy to deprive civil rights, violations of California Penal Code Sections 132 (Offering False Evidence) 136 (Intimidating Witnesses), 136.1 (Preventing and Dissuading Witnesses), and Government Code Section 1031 (Duty to investigate hires), negligent employment of police officers, negligent retention and supervision of peace officers, intentional and negligent infliction of emotional distress; official customs, policies, procedures and practices of the City of Hermosa Beach, Hermosa Beach Police Department pattern, practice and custom to ignore complaints of police misconduct, failure to impartially investigate such claims in accordance with acceptable law enforcement standards, tacit condemnation of and approval of police officer illegality, brutality, corruption, dishonest, a peace officers' code of silence, failure to report known or suspected incidents of police officer misconduct to the California Department of Justice, and failure to maintain necessary and reasonable peace officer personnel records correlating misconduct to personnel performance reviews.

D) Personal injuries, defense costs, attorneys fees and general damages to Claimant in excess of \$10,000.00.

E) Other than those identified above, the identities of each officer responsible are not presently known.

Dated: February 9, 2006


Mark J. Rompano (Claimant)