

# Daily Journal Verdicts Submission Form

Please complete this form and email as an attachment to [verdicts@dailyjournal.com](mailto:verdicts@dailyjournal.com) or print and fax to (213) 617-1029 Attn: Verdicts.

SUBMITTING PARTY	
<b>*Your Name</b>	Janean Acevedo Daniels
<b>Association</b>	
<b>Firm/Company</b>	Law Office of Janean Acevedo Daniels
<b>Address</b>	505 Bath Street
<b>City/State/Zip Code</b>	Santa Barbara, CA 93101
<b>Telephone</b>	(805) 963-4694
<b>Fax</b>	(805) 564-2081
<b>Email</b>	<a href="mailto:janean@jadanielslaw.com">janean@jadanielslaw.com</a>

CASE INFORMATION	
<b>*Case Name</b>	Ruben Lino v. City of Santa Barbara
<b>*Case Number</b>	1159182
<b>Case Type</b>	Employment (Retaliation – FEHA)
<b>Verdict for</b>	Plaintiff
<b>Amount</b>	\$431,000
<b>Topics</b>	Sexual Orientation Discrimination, Harassment, Retaliation
<b>Court</b>	Santa Barbara Superior Court
<b>Filing Date</b>	August 18, 2004
<b>*Result Date</b>	May 1, 2006
<b>Trial Length</b>	16 days
<b>Length of Deliberation</b>	2 ½ days
<b>Result/Trial Notes</b>	On retaliation claim, jury voted 9-3 on liability and 12-0 on damages, and award plaintiff \$386,000 for past and future economic loss and \$45,000 for noneconomic damages. Jury deadlocked 7-5 for plaintiff on sexual orientation discrimination and failure to prevent discrimination claims.
<b>Poll(s)/Issue(s)</b>	
<b>Settlement Conference Notes</b>	Parties underwent two court-ordered settlement conferences with court-appointed mediators Judy Rubenstein and -----, as well as private mediation with Kevin McGivers, all of which were unsuccessful.
<b>Post Trial Motions</b>	Plaintiff will seek a post-judgment award of costs and attorney's fees.

**PLAINTIFF ATTORNEYS**

<b>Attorney #1</b>	Name: Janean Acevedo Daniels Firm: Law Office of Janean Acevedo Daniels Address: 505 Bath Street, Santa Barbara, CA 93101 Telephone: (805) 963-4694 Fax: (805) 564-2081 Email: <a href="mailto:janean@jadanielslaw.com">janean@jadanielslaw.com</a> If more than one plaintiff, representing which plaintiff:
<b>Attorney #2</b>	Name: Firm: Address: Telephone: Fax: Email: If more than one plaintiff, representing which plaintiff: [press the tab key to enter additional attorneys]

**DEFENDANT ATTORNEYS**

<b>Attorney #1</b>	Name: Tom R. Shapiro Firm: Santa Barbara City Attorney's Office Address: Post Office Box 1990, Santa Barbara, CA 93102 Telephone: (805) 564-5331 Fax: (805) 897-2532 Email: <a href="mailto:tshapiro@SantaBarbaraCA.gov">tshapiro@SantaBarbaraCA.gov</a> If more than one defendant, representing which defendant:
<b>Attorney #2</b>	Name: Firm: Address: Telephone: Fax: Email: If more than one defendant, representing which defendant: [press the tab key to enter additional attorneys]

**JUDGE, ARBITRATOR, MEDIATOR**

<b>Name</b>	Judge: Hon. Thomas P. Anderle Private Mediator: Kevin McIvers
<b>In capacity as</b>	Private Mediator
<b>Firm/Company</b>	McIvers & Slater
<b>Address</b>	211 East Anapamu Street
<b>City/State/Zip Code</b>	Santa Barbara, CA 93101
<b>Telephone</b>	(805) 897-3843
<b>Fax</b>	(805) 897-3844
<b>Email</b>	<a href="mailto:kmcivers@mciversandslater.com">kmcivers@mciversandslater.com</a>

<b>Name</b>	Judith Rubenstein
<b>In capacity as</b>	Court Appointed Settlement Master
<b>Firm/Company</b>	Conflict Management Institute
<b>Address</b>	2629 Montrose Place
<b>City/State/Zip Code</b>	Santa Barbara, CA 93105
<b>Telephone</b>	(805) 569-2747
<b>Fax</b>	(805) 569-2758
<b>Email</b>	jmediate@cox.net

## EXPERTS

<b>Expert #1</b>	<p>Name: Doug Thiel (retired Santa Barbara Police Department Sergeant on plaintiff's qualifications and SBPD hiring/background investigation policies and practices)</p> <p>Representing: Plaintiff Ruben Lino</p> <p>Company: Doug Thiel</p> <p>Address: 613 S. La Luna Street, Ojai, CA 93023</p> <p>Telephone: (805) 649-3720 Fax: (805) 646-5069</p>
<b>Expert #2</b>	<p>Name: John E. Nordstrand, M.A.. (economist)</p> <p>Representing: Plaintiff Ruben Lino</p> <p>Company: John E. Nordstrand, Economic Consulting</p> <p>Address: P.O. Box 30343, Santa Barbara, CA 93130</p> <p>Telephone: (805) 685-7119 Fax: (805) 685-1498</p>

<b>Expert #3</b>	<p>Name: Sid Smith (on California Commission on Peace Officers Standards and Training Hiring and Background Investigation Standards)  Representing: Defendant City of Santa Barbara  Company: Designs in Modern Learning, Inc. dba Systems for Public Safety  Address: P.O. Box 5522, San Mateo, CA 94402  Telephone: (650) 592-0940 Fax: (650) 632-4481</p> <p>City also called former POST employee Steve Chaney as an expert and percipient witness on these issues</p>
<b>Expert #4</b>	<p>Name: Barbara Zoloth, PhD (credit expert)  Representing: Defendant City of Santa Barbara  Company:  Address: 1726 A Hearst Ave, Berkeley, CA 94703  Telephone: (415) 396-2767 Fax:</p>
<b>Expert #5</b>	<p>Name: Michael Beiley, Ph.D. (forensic psychologist)  Representing: Defendant City of Santa Barbara  Company: Anxiety and Panic Disorders Clinic of Santa Barbara  Address: 115 West Arrellaga Street, Santa Barbara, CA 93101  Telephone: (805) 962-2869 Fax: (805) 962-2408</p>
<b>Expert #6</b>	<p>Name: John C. Meyers, M.A., C.R.C. (vocational expert)  Representing: Defendant City of Santa Barbara  Company:  Address: P.O. Box 7365, Ventura, CA 93005  Telephone: (805) 650-0836 Fax: (805) 650-1574</p>
<b>Expert #5</b>	<p>Name: Kristine Schmidt (on City's anti-discrimination and harassment training and policies, and City's initial investigation of Plaintiff's complaint reported to the City's Human Resources Department)  Representing: Defendant City of Santa Barbara  Company: Employee Relations Manager, City of Santa Barbara Administrator's Office</p>

## CASE FACTS

**Facts leading up to the lawsuit**

Plaintiff is a former Police Officer with the City of Santa Barbara who has began his service with the Santa Barbara Police Department (“SBPD”) in 1992 at the age of 14 as an Explorer, earning recognition and honors as National Youth Chairman of the Explorer Program and later becoming a cadet and reserve officer. In 2000, Plaintiff was hired at the Department as a sworn officer, where he performed well and received positive performance evaluations and commendations.

In 2002, Plaintiff was called to give deposition testimony in Edwards v. City of Santa Barbara, a civil case alleging sexual orientation discrimination brought against the City by a homosexual employee of the City’s Public Works Department, who was a friend of plaintiff’s. Plaintiff testified that during his employment with the SBPD, he witnessed a fellow officer and supervisor engaging in inappropriate conduct and making offensive comments regarding homosexual citizens during Department watch briefings which other officers in attendance laughed at, and during the investigation of a sexual assault case involving a homosexual juvenile victim. The Assistant City Attorney defending the City in the Edwards case submitted a memo re Plaintiff’s deposition testimony to Chief of Police Camerino Sanchez, who thereafter called Plaintiff in to meet with him regarding his testimony. Plaintiff reiterated his concerns regarding the conduct he had testified to during his deposition, and reported that he found the conduct offensive and in violation of the City’s Non-Discrimination and Harassment Policy. Plaintiff requested that appropriate corrective action be taken, and the Chief agreed to do so. Plaintiff contended that he revealed his status as a gay officer to the Chief during the meeting, but the Chief denied such discussion, and denied having any suspicions that Plaintiff was gay after learning of Plaintiff’s deposition testimony or his reported concerns.

The Chief subsequently briefed the Department command staff regarding Plaintiff’s testimony and instructed a Captain to speak to the supervisor who had engaged in the reported misconduct. The supervisor was told by a Lieutenant that he had been named as being present when inappropriate comments were made in violation of the City’s discrimination and harassment policy and had failed to take appropriate corrective action, but was given no other specifics regarding the claim. The Chief reported to Plaintiff that the supervisor was apologetic and remorseful for his actions. No responsive or corrective action was taken toward the officer who made the offensive comments at the briefing.

Plaintiff claimed that as a result of his deposition testimony, he was subject to discrimination, hostility, harassment, and retaliation.

	<p>tion by his supervisors and fellow officers. Ultimately, Plaintiff elected to resign his position at the SBPD to pursue his education on the East Coast. Before his departure, Plaintiff was assured by the Chief that he could return to his job if things did not work out.</p> <p>A month later, Plaintiff contacted the Chief and requested to return to his position. After receiving authorization to return by the Chief and the City Administrator, Plaintiff was told he would be required to undergo the full application and background investigation process. After passing the other phases of the background process, including psychological and polygraph exams, Plaintiff was denied re-hire with the Department, allegedly based on his credit. Plaintiff claimed that the Department's decision to disqualify him was done with discriminatory and retaliatory intent, given that he had credit problems in 2000 when he was initially hired as an officer, and given that personnel records obtained in response to Plaintiff's <i>Pitchess</i> motion established that the Department had hired other individuals for sworn and non-sworn positions with comparable or worse credit than Plaintiff. Plaintiff further claimed that the City violated its own Non-Discrimination and Harassment policy when it failed to investigate his complaint or take appropriate corrective action.</p> <p>The City contended that the Department disqualified Plaintiff from hire based solely on his credit problems and the pattern of behavior such problems reflected. The City further contended that it did not investigate Plaintiff's complaint because Plaintiff had requested that his identity be kept confidential, and the City was unable under the Police Officer's Bill of Rights to conduct an investigation without revealing Plaintiff's identity to the officers accused of misconduct.</p>
<p><b>Cause(s) of action</b></p>	<p>Plaintiff brought claims for retaliation, discrimination, hostile work environment harassment, and failure to prevent discrimination and harassment under the Fair Employment and Housing Act ("FEHA"). After the close of plaintiff's case and during the City's case, the Court granted the City's motion for nonsuit as to the hostile work environment harassment claim.</p>
<p><b>Plaintiff Contentions</b></p>	

<b>Defendant Contentions</b>	
------------------------------	--

<b>INJURIES/DAMAGES</b>	
-------------------------	--

<b>Award Amounts</b>	Economic: \$386,000 Non-economic: \$45,000 Punitive: not available Total award: \$431,000
----------------------	--

<b>Comparative Liability Breakdown</b>	
--	--

<b>Specials in Evidence</b>	MED Current: None MED Future: None LOE Current: See Injuries/Damages LOE Future:
-----------------------------	---

<b>Settlement Discussions</b>	Plaintiff served City with a CCP 998 settlement offer for \$97,500 on February 23, 2005 to which the City never responded. Thereafter, the parties engaged in two mandatory settlement conference sessions and a private mediation, all of which were unsuccessful.
-------------------------------	---

<b>Injuries/Damages</b>	Plaintiff claimed \$150,300 in past lost earnings and benefits. Assuming plaintiff would continue to work as a sales representative and would be unable to return to law enforcement, plaintiff claimed future lost earnings, employment benefits and retirement benefits ranging from \$1.9 to \$2.4 million. Plaintiff also claimed pain and suffering, humiliation, loss of a rewarding job and career, and harm to his reputation.
-------------------------	--

<b>Result</b>	The jury concluded that based upon Plaintiff's success in overcoming adversity during his life and his commitment to law enforcement, Plaintiff would likely succeed in securing a sworn officer position at another law enforcement agency and would lose approximately five years of earnings and employment benefits.
---------------	--

<b>Other Information</b>	<b>Post-Trial</b> Defense counsel's motions for JNOV and a new trial were denied. Defense counsel then filed a notice of appeal. Plaintiff's counsel filed a memorandum for statutory costs of \$42,489, which defense counsel did not oppose. Plaintiff's counsel also filed a motion for attorney fees of \$632,628--with a multiplier of 1.5 to 2 requested--plus additional, necessary litigation costs of \$6,322.62. The motion will be heard on Aug. 22, 2006.
--------------------------	--

