

ORIGINAL

FILED
San Francisco County Superior Court

MAY 2 2000

ALAN CARLSON, Clerk

BY: *Alan Carlson* Deputy Clerk

1 LOUISE H. RENNE, State Bar #36508
City Attorney
2 PATRICK J. MAHONEY, State Bar #42464
Chief Trial Attorney
3 BRIAN GEARINGER, State Bar #146125
Deputy City Attorney
4 Fox Plaza
1390 Market Street, 6th Floor
5 San Francisco, California 94102-5408
Telephone: (415) 554-3800
6 Facsimile: (415) 554-3738

7
8 Attorneys for Defendant
CITY AND COUNTY OF SAN FRANCISCO

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 CITY AND COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION

12 CATHERINE DRAPER AS GUARDIAN
AD LITEM FOR MINOR EBONY
13 GRAY,

14 Plaintiff,

15 vs.

16 CITY AND COUNTY OF SAN
FRANCISCO AND DOE ONE
17 THROUGH DOE FIFTY,

18 Defendants.

Case No. 998-682

AC
**[PROPOSED] JUDGMENT ON
SPECIAL VERDICT**

Date Action Filed: October 21, 1998

Trial Date: April 10, 2000

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20 This action came on regularly for trial on April 10, 2000 in Department 305 of the
21 Superior Court for the City and County of San Francisco, the Honorable Paul H. Alvarado,
22 presiding. Deputy City Attorney Brian Gearinger appeared on behalf of defendant City and
23 County of San Francisco. James O'Donnell, Esq. of O'Donnell & Smith appeared on behalf of
24 plaintiff Catherine Draper as guardian ad litem for minor Ebony Gray.

25 A jury of twelve persons was regularly impaneled and sworn. Witnesses were sworn and
26 testified. Evidence was admitted. After hearing the evidence and arguments of counsel, this
27 Court instructed the jury and the cause was submitted to the jury with directions to return a
28 verdict on special issues. The first issue was as follows: "Was defendant negligent in failing to

1 prevent the assault on the plaintiff by a fellow passenger on February 16, 1998?" By a vote of
2 10-2, the jury answered the first question as follows: "Yes."

3 The second issue was as follows: "If you find that defendant was negligent, was such
4 negligence a cause of injury to the plaintiff?" By a vote of 10-2, the jury answered the second
5 question as follows: "No."


6 This Court then polled the jury and confirmed the above votes. A copy of the Special
7 Verdict is attached as Exhibit A.

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

9 1. That defendant City and County of San Francisco have judgment in its favor and
10 that plaintiff Catherine Draper as guardian ad litem for minor Ebony Gray take nothing from
11 defendant City and County of San Francisco as a result of this judgment; and

12 2. That defendant City and County of San Francisco shall recover its costs from
13 plaintiff Catherine Draper as guardian ad litem for minor Ebony Gray, pursuant to Code of Civil
14 Procedure Sections 1032, 1033.5 and 1141.21(a), as shall be submitted in defendant City and
15 County of San Francisco's Memorandum of Costs.

16 Dated: ^{May} ~~April~~ 1, 2000

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18 
19 The Honorable Paul H. Alvarado
20 JUDGE OF THE SUPERIOR COURT
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1 If your answer to question no. 1 was "yes," then answer question no. 2.

2 Question No. 2: If you find that defendant was negligent, was such negligence a
3 cause of injury to the plaintiff?

4 Yes

No

5 Answer (check one):

~~_____~~

6 If your answer to question no. 2 was "no," sign and return this verdict.

7 If your answer to question no. 2 was "yes," then answer question no. 3.

8 Question No. 3: Without taking into consideration the reduction of damages due
9 to the negligence of the plaintiff, if any, what do you find to be the total amount of damages, if
10 any, suffered by the plaintiff as a result of the assault by a fellow passenger on February 16,
11 1998?

12 Economic Damages \$ _____

13 Non-economic Damages \$ _____

14 Total \$ _____

15 If your answer to question no. 3 was "zero," sign and return this verdict.

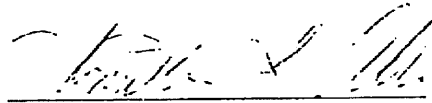
16 If your answer to question no. 3 was anything other than "zero", then answer
17 question no. 4.

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Question No. 4: Assuming that 100 percent represents the total cause of the plaintiff's injury, what percentage of this 100 percent is due to the fault of defendant and what percentage is due to the negligence of plaintiff, or wrongful conduct of the fellow passenger who assaulted the plaintiff?

The negligence of defendant	_____%
The negligence of the plaintiff	_____%
The wrongful conduct of the fellow passenger who assaulted the plaintiff	_____%
Total	100%

Dated: April 13, 2000



Jury Foreperson

PROOF OF SERVICE

I, MARIA M. CARMODY, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Sixth Floor, San Francisco, CA 94102.

On April 24, 2000, I served the attached:

[PROPOSED] JUDGMENT ON SPECIAL VERDICT

on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:

JAMES J. O'DONNELL, ESQ.
O'Donnell & Smith
1776 Ygnacio Valley Rd., Suite 200
Walnut Creek, CA 94598

and served the named document in the manner indicated below:

BY MAIL: I caused true and correct copies of the above documents, by following ordinary business practices, to be placed and sealed in envelope(s) addressed to the addressee(s), at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, City and County of San Francisco, California, 94102, for collection and mailing with the United States Postal Service, and in the ordinary course of business, correspondence placed for collection on a particular day is deposited with the United States Postal Service that same day.

BY PERSONAL SERVICE: I caused true and correct copies of the above documents to be placed and sealed in envelope(s) addressed to the addressee(s) and I caused such envelope(s) to be delivered by hand on the office(s) of the addressee(s).

BY EXPRESS SERVICES OVERNITE: I caused true and correct copies of the above documents to be placed and sealed in envelope(s) addressed to the addressee(s) and I caused such envelope(s) to be delivered to EXPRESS SERVICES OVERNITE for overnight courier service to the office(s) of the addressee(s).

BY FACSIMILE: I caused a copy(ies) of such document(s) to be transmitted via facsimile machine.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed April 24, 2000, at San Francisco, California.


MARIA M. CARMODY