ORIGINAL



LOUISE H. RENNE, State Bar #36508 1 City Attorney JOANNE HOEPER, State Bar #114961 2 **Chief Trial Attorney** 3 BRIAN GEARINGER, State Bar #146125 **Deputy City Attorney** 4 Fox Plaza 1390 Market Street, Sixth Floor San Francisco, California 94102-5408 5 (415) 554-3914 Telephone: (415) 554-3837 6 Facsimile: 7 Attorneys for Defendants CITY AND COUNTY OF SAN FRANCISCO 8 and OFFICER MICHELLE A. KERN 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA 10 COUNTY OF SAN FRANCISCO 11 12 Case No. 304-718 TOM MURPHY, 13 Plaintiff, ED ORDER AND 14 VS. 15 CITY AND COUNTY OF SAN [C.C.P. § 581d] FRANCISCO, et al., 16 Date Action Filed: Trial Date: 17 Defendants. 18 This action came on regularly for trial on December 11, 2000 in Department 503 of the 19 20 21 22 on behalf of plaintiff Tom Murphy ("Murphy"). 23 24 25 intentional infliction of emotional distress. 26 111 27

JAN 1 6 2001

GORDON PARK-LI, Clerk

JUDGMENT GRANTING NONSUIT AS TO DEFENDANT OFFICER

MICHELLE A. KERN

July 7, 1999

December 11, 2000

Superior Court for the City and County of San Francisco, the Honorable Joseph A. Desmond, presiding. Deputy City Attorney Brian Gearinger appeared on behalf of defendant Officer Michelle A. Kern ("Officer Kern"). Mary McNamara, Esq. of Swanson & McNamara appeared

After Plaintiff presented all of his evidence to the jury, this Court granted Officer Kern's motion for a nonsuit as to Murphy's sole remaining cause of action against Officer Kern, that is,

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ORDER AND JUDGMENT GRANTING NONSUIT

SAN FRANCISCO SUPERIOR COURT CASE NO. 304-718

- 1. That Officer Kern have judgment in her favor and that Murphy take nothing from Officer Kern as a result of this judgment; and
- 2. That Officer Kern shall recover her costs from Murphy, pursuant to Code of Civil Procedure Sections 1032 and 1033.5 has shall be submitted in Officer Kern's Memorandum of Costs.

Dated: January 11, 2001

The Honorable Joseph A. Desmond
JUDGE OF THE SUPERIOR COURT

ORDER AND JUDGMENT GRANTING NONSULT

PROOF OF SERVICE

I, MARIA M. CARMODY, declare as follows:

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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 January 9, 2001, I served the attached:

SAN FRANCISCO SUPERIOR COURT CASE NO. 304-718

7	TO DEFENDANT OFFICER MICHELLE A. KERN
8	on the interested parties in said action, by placing a true copy thereof in sealed envelope(s) addressed as follows:
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o	
1	Mary McNamara Swanson & McNamara LLP
2	433 Turk Street San Francisco, CA 94102
3	Telephone: (415) 409-6267 Facsimile: (415) 409-6268
14	
15	and served the named document in the manner indicated below:
16	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
17	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
18	business, correspondence placed for collection on a particular day is deposited with the United States Posta Service that same day.
19	BY PERSONAL SERVICE: I caused true and correct copies of the above documents to be placed
20	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).
21	BY FACSIMILE: I caused a copy(ies) of such document(s) to be transmitted via facsimile machine.
22	I declare under penalty of perjury under the laws of the State of California that the
23	foregoing is true and correct.
24	Executed January 9, 2001, at San Francisco, California.
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26	MARIA M. CARMODY
27	
28	ORDER AND JUDGMENT GRANTING NONSUIT 3

Superior Court of California

County of San Francisco

Tom Murphy

Plaintiff(s)

VS.

City & County of San Francisco, A Municipal Corporation, Fred Lau, in his official and individual capacities, Officer Michelle A. Kern, in her individual capacity and Does 1-50

Defendant(s)

Case Number: 304718

NOTICE OF ENTRY OF ORDER

(CCP §664.5), (CCP §668.5)

TO: COUNSEL FOR PLAINTIFF(S) AND DEFENDANT(S):

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that an order has been filed in the above entitled case pursuant to CCP §668.5.

DATED: January 16, 2001

GORDON PARK-LI, Clerk

Kevin Lee, Deputy Clerk

DECLARATION OF SERVICE BY MAIL

I, Kevin Lee, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action. On January 16, 2001 I served the above notice by placing a copy thereof in a sealed envelope, addressed as follows:

Mary McNamara 550 Kearny Street, Suite #505 San Francisco, Calif. 94108

Brian Gearinger 1390 Market Street, Sixth Floor San Francisco, Calif. 94102

I then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage. and mailing on that date following standard court practices.

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

Executed on January 16, 2001, at San Francisco, California.

GORDON PARK-LI, Clerk

By: Kevin Lee, Deputy Clerk