

CITY COUNCIL MEETING

JULY 20, 1983

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CLAIMS

On recommendation of the City Attorney and R. L. Kautz and Company, Council, on motion of Mayor Pro Tempore Snider, Pinkerton second, denied the following claims and referred them back to R. L. Kautz and Company:

Roberta Miles

DOL 3/10/83



R. L. KAUTZ & CO.
INSURANCE MANAGEMENT
NO. 8 UNION SQUARE BLVD. • (415) 487-4940
UNION CITY, CALIFORNIA 94587

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ALICE M. REMCHE
CITY CLERK
CITY OF LODI

July 6, 1983

Mr. Ron Stein
City Attorney
City of Lodi
221 West Pine Street
Lodi, CA 95240

RE: Roberta Miles vs. City of Lodi
Date of Loss: 3/10/83

Dear Ron:

I have now had the opportunity to review the police report and speak with the arresting officer in reference to the arrest of Roberta Miles on 3/10/83. Based upon the information gathered, we do feel Officer Hegwer had probable cause to stop the claimant and subsequently arrest her.

FACTS

On the above date, Officer Hegwer observed the claimant run a red light at the intersection of School and Pine Streets. When Officer Hegwer stopped the claimant to issue a citation, he detected an odor of alcohol on her breath and decided to have her perform a field sobriety test. Five items were requested to be performed, all five she failed to pass to the officer's satisfaction. Thereafter, a decision was made to arrest the claimant for violation of Section 23152 of the California Vehicle Code, Driving Under the Influence.

Upon arrival at the Lodi Police Department, the claimant opted to provide a urine sample for analysis of her blood alcohol level and the results came back showing a 0.01 blood alcohol level.

The claimant, through her attorney, Dean Cooper, alleges in the claim filed against the City that Ms. Miles was wrongfully stopped and falsely arrested by Officer Hegwer.

DAMAGES

The claimant alleges she sustained damage to her reputation and has sustained and continues to sustain an injury to her nervous system.



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The claimant seeks both general and punitive damages against the City of Lodi and Officer Hegwer.

LIABILITY

We view this as a doubtful case of liability against the City of Lodi and Officer Hegwer.

I spoke with Officer Hegwer on July 1, 1983 and he advised me that the claimant was convicted of running a red light at the intersection of School and Pine Streets.

Although the claimant's blood alcohol level was only 0.01 percent and therefore far below the previously presumed state of intoxication of .10, the urine analysis did confirm the claimant did have alcohol in her system and therefore presumably the odor of alcohol on her breath.

Although I am not a toxicologist or neurologist, we feel from experience that it has been established that alcohol has a different effect on a person's neurological system as well as his breath. The claimant in this situation is sixty years old and quite possibly the age of the claimant and the amount of alcohol consumed may have had a significant impact on her abilities to perform the field sobriety test.

Therefore, the claimant's allegation she was wrongfully stopped has been proven to be in error since she was convicted of this infraction.

We feel Officer Hegwer acted reasonably and with probable cause in arresting the claimant for driving under the influence and therefore conclude he was acting well within the bounds of his authority and thirteen-plus years of experience as a law enforcement officer.



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RECOMMENDATIONS

We would therefore recommend to your City Council that the claim by Roberta Miles be denied at this time.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Bill Benson'.

Bill Benson
Liability Claims Supervisor

BB/wd

cc: Ms. Alice Reimche

