

## **Newdorf Legal and City Attorney Win 12-0 Jury Verdict That Clears Two San Francisco Police Officers Of Alleged Excessive Force And Civil Rights Violations.**

SAN FRANCISCO ( December 22, 2008) -- Following a one-week civil rights trial, a San Francisco jury took only ten minutes Friday to vote 12-0 to clear two San Francisco police officers of wrongdoing in a lawsuit brought by a 76-year-old man who had been arrested for threatening his wife and resisting arrest.

The San Francisco Superior Court jury of nine women and three men in *Miller v. City and County of San Francisco*, No. 459169, deliberated for only 10 minutes before finding in favor of the officers in the unusual case filed by Raymond J. Miller, a retired City electrician, who accused officers of barging into his house and breaking his arm while he was peacefully watching pornography. Mr. Miller's estranged wife, who still shared a home with Mr. Miller, called 911 after Mr. Miller allegedly became enraged when his wife refused to watch the movie "Asian Co-ed Butt Babes". Mr. Miller at the time was 5' 9" tall and weighed 275 pounds and had been drinking. His wife was 4'11" tall and weighed 100 pounds.

San Francisco Trial Attorney David Newdorf of Newdorf Legal, who defended the officers along with the San Francisco City Attorney's Office, said: "The police officers that night did their job and followed their training in arresting Mr. Miller to protect a potential domestic violence victim. Although Mr. Miller's claims of excessive force lacked any merit, San Francisco takes these claims seriously. When the evidence shows no wrongdoing by police, it is gratifying to be able to present the facts to a jury of citizens so that officers' reputations will not be stained by baseless accusations."

The jury heard evidence at trial that the officers involved immediately called paramedics, who treated and released Mr. Miller for minor wrist lacerations due to handcuffing. The officers notified their supervisor about the arrest and documented a "bar-arm takedown" that the officers used when Mr. Miller refused to put his hands behind his back and advanced angrily at the officers. The officers took photographs of Mr. Miller's injuries. X-rays taken later that evening at San Francisco General Hospital

showed a possible hairline fracture of the radial head, one of the bones of the elbow joint.

The jury also heard testimony from Don Cameron, an expert in police training and use of force who demonstrated the bar-arm take down and hand-cuffing on Mr. Newdorf for the jury. "Jurors said the demonstration of the actual technique used to guide Mr. Miller to the ground and the handcuffing corroborated the officer's testimony and dispelled the plaintiff's claims that the force was unreasonable," Mr. Newdorf said.

Mr. Miller claimed officers used excessive force the night of Jan. 7, 2006, after his wife called 911 from their Potrero Hill home. He claimed he was sitting in an easy chair in the living room of his home on Texas Street, drinking vodka and watching the movie when the officers burst in, pushed him to the ground and handcuffed him. Mr. Miller's attorney asked the jury for \$50,000 in damages because, he said, the officers broke his arm and cut his wrists.

Miller testified during the trial that he had simply invited his wife of 35 years, Jean Miller, to watch a "sexually explicit" movie, but that she decided she didn't like it and instead called 911 for "no reason."

Mrs. Miller testified that she and her husband had long been separated and that she had refused his request to sit on his lap and have sex while he watched pornography. He became angry, she said, and pushed furniture at her and threatened to kill her. When she called 911, she said, her husband wrestled the telephone away and hung up, which he denied. Police emergency dispatch records showed a 911 call was made and it was disconnected, which automatically prompted a police response to their home.

When officers arrived, Mr. Miller, who appeared to have been drinking, was wearing only swim trunks and watching pornography, according to court testimony. He told the officers "Get the f--- out of my house!" and did not comply with a verbal command to place his hands behind his back. He then advanced toward the officers and attempted to pull away from their grasp, prompting the takedown.

"We're gratified that a San Francisco jury needed only 10 minutes to clear the officers from Mr. Miller's outrageous allegations," said Deputy City Attorney Daniel Zaheer, who represented the officers with Newdorf Legal. "We felt that Mr. Miller's allegations had no foundation at all and we're thankful that good cops can protect the safety of domestic abuse victims like Mrs. Miller without having to fear frivolous lawsuits."

## **ABOUT NEWDORF LEGAL**

Newdorf Legal represents businesses and public entities in trials and appeals. David Newdorf has been a trial lawyer in San Francisco for 14 years. He recently obtained a \$3.4 million judgment for attorney's fees and cost for his client, San Francisco International Airport, in a dispute with a Houston developer. He was a litigator at the San Francisco office of O'Melveny & Myers LLP and a trial attorney and supervisor at the San Francisco City Attorney's Office. He has been lead counsel in hundreds of lawsuits, including class actions and high-stakes commercial disputes. He founded Newdorf Legal to provide business and public entities large-firm results combined with small-firm service and attention. For more information, visit the firm's website, <http://www.newdorflegal.com>.

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