

Former Police Lieutenants, City Of Santa Maria Settle Federal Lawsuit

City officials refuse to provide details of the agreement to end the case filed by Dan Ast, James Ginter and Norm Com  



A federal whistle-blower lawsuit filed by Dan Ast, above, and two other former officers against the city of Santa Maria and its Police Department has been settled. (Janene Scully / Noozhawk file photo)

By Janene Scully, Noozhawk North County Editor | [@JaneneScully](#) | Published on 01.15.2016 5:49 p.m.

A federal whistleblower lawsuit filed by three former lieutenants with the [Santa Maria Police Department](#) has been settled, but the terms of the deal were not released.

[Judge Jay C. Gandhi](#) on Thursday dismissed the lawsuit "with prejudice, in its entirety," according to federal court documents.

The plaintiffs and defendants agreed to the dismissal, the court documents said.

Fired lieutenant Dan Ast along with lieutenants James Ginter and Norm Com   filed the lawsuit April 15, 2014, against the [city of Santa Maria](#), the Police Department and several individual members of the staff, claiming wrongful termination and other employment-related allegations.

City Manager Rick Haydon and Police Chief Ralph Martin also were listed as defendants as well as former deputy city manager Alicia Lara and former police chief Danny Macagni.

The plaintiffs, who were represented by Santa Barbara-based law firm, [Nye Peabody, Stirling, Hale & Miller](#), had sought \$5 million before the case was terminated.

"The matter has been resolved to the Parties' mutual satisfaction. Beyond that, we have no comment," said plaintiffs' attorney Jonathan Miller.

City officials said did not comment on details of the settlement, releasing a statement that echoed the one given by the former police officers' attorney.

"The matter has been resolved to the parties' mutual satisfaction," said Assistant City Attorney Philip Sinco.

The city had exhausted its \$1 million self-insured retention so the decision to settle rested with the [California State Association of Counties Excess Insurance Authority](#), Sinco added.

The dismissal of the lawsuit occurred more than a month after the [Santa Maria City Council](#) met behind closed doors Dec. 2 to discuss the case.

It also comes after Ginter, the only plaintiff still working for the Police Department, retired Dec. 23, the agency announced on [Twitter](#).

"Last morning with Lt. J. Ginter as he rides off to the sunset! Twenty nine years of service. Have a good one!"

The trial date, once planned for last month, had been postponed twice as settlement talks occurred.

The lawsuit cited 12 causes of action, including alleged violations of [California Labor Code](#) prohibiting retaliation, violation of the Law Enforcement Officers' Bill of Rights, violation of laws about disability discrimination, and intentional infliction of emotional distress.

"The overall environment at the Santa Maria Police Department has been fraught with dissension, mistrust and 'camps' for a long period of time under Chief Macagni," the complaint asserts. "Chief Macagni was openly hostile toward those who offered differing opinions from his and rewarded favors to those who supported his confrontational leadership style."

Specifically, the three lieutenants reported police officers working beyond the 16-hour fatigue factor, officers drunk on the shooting range, a failure to investigate vehicle crashes involving friends of the former police chief, "trumped-up" internal affairs investigations, and "general favoritism" by the former chief, who reportedly issued concealed-weapon permits "to individuals not qualified to have such permits."

Two days after three lieutenants filed their second grievance with the city, an officer said Macagni thanked him for "going after plaintiffs, giving him a shiny gold coin for his actions in bringing complaints against plaintiffs." However, the letter wasn't included in the investigation into the lieutenants' grievances, the lawsuit said.

The plaintiffs contend some eight internal affairs investigations were filed against them in the case.

In response to the lawsuit, the city's attorneys cited more than 45 defenses, including expired statute of limitations, failure to exhaust internal grievance procedures and absolute privilege under a law relating to public employees.

They also contend some claims were barred by statutes of limitation and the "doctrine of unclean hands," a rule of law that contends a plaintiff must be innocent of wrongdoing or unfair conduct relating to the subject matter of the claim.

A later amendment of the lawsuit added an allegation of wrongful termination related to the fact the city refused to restore Ast to his job.

Ast contended he was fired in March 2013 after making whistleblower complaints about problems in the department.

City officials contended he was fired for his role in the fatal shooting of [Officer Albert Covarrubias](#) on Jan. 28, 2012, as his colleagues tried to arrest him for having a sexual relationship with a teen girl who was part of the department's Explorer Scout program.

After several days of testimony during a public hearing in 2014, an arbitrator recommended the city reinstate Ast, but city officials declined to do so.

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