

City ordered to pay over \$1 million to MALDEF lawyers

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The attorneys who successfully sued the city of Watsonville to change its policy of at-large elections earned twice their normal wage for the effort, and the city is going to have to pay up to the tune of more than \$1 million, a federal judge has ruled.

The city owes the Mexican American Legal Defense Fund lawyers a total of \$1,045,952 in fees, and \$30,249 in expenses.

"This could have been avoided," City Councilman Oscar Rios said yesterday. He blamed it on the "stubborn city council" at the time, which, he said, "refused to see changes."

Rios is one of six brand-new council members, and the only Latino, who came into power under the new district system. Councilwoman Betty Murphy was the only incumbent to be re-elected.

The attorneys in the landmark lawsuit, including lead attorney Joaquin Avila, appeared in U.S. District Court in San Jose Dec. 5 in connection with the fees issue. By coincidence, it was the same day the first district elections in the city's history were taking place.

The plaintiffs in the case, Cruz Gomez, Patricia Leal and Waldo Rodriguez, claimed that at-large elections discriminated against Latinos by watering down their voting power. They won their case when the Ninth Circuit U.S. Court of Appeals agreed in 1988.

The 10 attorneys representing them argued that they should be paid three times their normal hourly rate for their work on the three-year case. For Avila, that would mean he would be earning \$750 an hour.

The judge ruled last week that they should get twice the normal rate, or an "enhancer" of two, due to "the novelty of the issues in this action ... the demonstrated lack of any other competent counsel available in the area, and the resounding success of the plaintiffs' counsel's conducting of the case."

The U.S. Supreme Court has said that enhancers can be granted in civil rights cases. Avila has argued that such cases are risky and require a narrow specialty, and attorneys will not take them on unless there is the possibility of some reward.

According to court papers filed on the attorneys' fees issue, the idea for the lawsuit on district elections came up in 1983 when community activist Cruz Gomez attended a voting rights conference in Los Angeles. Todd McFarren, now Watsonville's mayor and also one of the 10 MALDEF attorneys who worked on the case, testified in the court papers that it was two years before an attorney could be found to take the lead in filing the lawsuit.

Watsonville City Attorney Luis Hernandez said yesterday that the city is glad that the court did not award the attorneys the nearly \$1.7 million they were asking for. Still, he said, \$1 million is a lot of money.

"I think it's at the high end of reasonable," he said.

The new city council will have to decide whether to appeal the decision. McFarren may have to disqualify himself from discussion on the issue, he said, as he has since he was elected.

McFarren said he won't be getting any money for his work on the case, as he hasn't submitted any claims.