



THE CITY OF MONTEREY

FOR IMMEDIATE RELEASE

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DISCOVERY CHARTERS, INC. V. CITY OF MONTEREY Superior Court of Monterey County Rules in Favor of City: City Awarded Over \$250,000 in Attorneys' Fees

Monterey, CA. – In September 2021, the City of Monterey prevailed after a bench trial in a lawsuit filed by Discovery Charters, Inc. On Friday, January 21, 2022, the Monterey County Superior Court awarded over \$250,000 to the City of Monterey to recover its attorneys' fees as the prevailing party.

Discovery Charters, Inc., leases water space from the city for use as a fishing charter operation at Wharf #1 in the Monterey Harbor. Discovery Charters claimed that the City breached the lease when it refused to allow a 91' boat for a 75' space. The court found that neither the express terms of the lease, nor the decades-long conduct of the parties to the lease, obliged the City to provide greater than 75 feet in length at Concession 19. Consequently, Discovery Charters did not prove that the city breached the lease.

In ruling in favor of the City on its motion to recover attorneys' fees, the court found that the City's hours spent on the case, and the requested market rates, to be reasonable for both in-house and outside counsel. The court awarded the City \$253,587.15 in attorneys' fees. This amount will be entered as a judgment against Discovery Charters, Inc. - a 10% reduction in the overall cost of the litigation.

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Mayor Clyde Roberson said, "Over the past six months, and in three different lawsuits, the courts have repeatedly ruled in favor of the City of Monterey. The favorable judgments demonstrate that our city organization is working lawfully and ethically."

"We are pleased with the court's decision to reimburse the taxpayers of Monterey for the costs incurred in defending this case," said City of Monterey Attorney Christine Davi.

BACKGROUND

In response to a lawsuit filed by Discovery Charters, Inc., on May 3, 2021 the Superior Court of Monterey County set a trial to discover (1) whether a valid lease of the property that Plaintiff claims exists; (2) if so, whether Defendant breached the lease, and (3) affirmative defenses relating to issues (1) and (2). The contract at issue is a lease of three water spaces, known as Concessions 19, 24, and 26, and one pier space, known as Concession 25, all for use as a fishing charter operation at Wharf #1 in the Monterey Harbor. The Court concluded that no breach of contract occurred under the facts elicited at trial. Read the full [Statement of Decision](#).

The two other lawsuits referenced by Mayor Roberson are as follows:

- (1) Bryce Morgan v. City of Monterey: defense verdict for the city after a two-week jury trial. Morgan asked the jury to award over \$2.5 million
- (2) City of Monterey v. Monterey Peninsula Airport District: the city was the prevailing party in a CEQA lawsuit challenge. The city will be seeking its attorneys' fees in this case as well.

Additionally, in a 2018 lawsuit brought by a former wharf tenant, the City prevailed and was awarded \$111,173.20 in its in-house attorneys' fees. (Balesteri v. City of Monterey)

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