

Source: Student Press Law Center

See also: "Jury Finds Police Violated a Newspaper's Rights, *New York Times*, Sept. 18, 1994; "Hongisto guilty of violating rights of paper," *San Francisco Examiner*, Sept. 16, 1994, p. 1.

Police chief's confiscation of "free" newspaper violates publisher's civil rights

Court orders payments totaling more than \$338,000

SAN FRANCISCO — A federal district court jury ruled that former San Francisco Police Chief Richard Hongisto and two police officers violated a free newspaper publisher's First Amendment rights by seizing approximately 2,000 copies of the publication.

In its verdict, handed down Sept. 16, 1994, the jury awarded \$5,600 to the newspaper, *The Bay Times*, for economic losses and \$30,000 to its publisher for emotional distress.

On March 6, 1995, the judge awarded the newspaper and publisher just over \$302,000 for attorney fees and court costs.

The newspaper claimed that Hongisto ordered officers to confiscate the paper after the May 7, 1992, edition of *The Bay Times*, a gay weekly distributed free throughout the San Francisco area, criticized and mocked the police chief for ordering the arrest of 2,000 demonstrators following the verdict in the first trial of four Los Angeles policemen accused of beating motorist Rodney King.

The front page showed the police chief suggestively holding a nightstick between his legs next to a headline that said, "Dick's Cool New Tool: Martial Law."

Police officers seized approximately 2,000 copies of the paper, which has a press run of 40,000, from multiple newsracks around the city. The papers were returned four days later.

The San Francisco Police Commission dismissed Hongisto a week after the incident and suspended three police officers.

Hongisto testified that he had not ordered the large-scale confiscation of the newspaper, but rather, had simply wanted enough copies so that other officers could read the article.

The decision is believed to be the first in the country holding that the taking of a "free" newspaper violates a publisher's civil rights.

Case: *Coming Up, Inc. et al v. San Francisco County*, et al, 92-CV-3714, (N.D. Calif. Sept. 16, 1994)

Docket as of June 5, 2000 9:17 pm

Web PACER (v2.3)

U.S. District Court

U.S. District for the Northern District of California (S.F.)

CIVIL DOCKET FOR CASE #: 92-CV-3714

Coming Up, Inc., et al v. San Francisco County, et al

Filed: 09/09/92
 Assigned to: Judge D. Lowell Jensen
 Jury demand: Both
 Referred to: Mag. Judge Phyllis J. Hamilton
 Demand: \$0,000
 Nature of Suit: 440
 Lead Docket: None
 Jurisdiction: Federal Question
 Dkt# in other court: None
 Cause: 42:1983 Civil Rights Act

COMING UP, INC.
 Plaintiff

David Nied
 Below Address Terminated on 5/21/96
 [COR LD NTC]
 William Bennett Turner
 [COR LD NTC]
 Merri A. Baldwin
 [COR LD NTC]
 Rogers Joseph O'Donnell & Quinn
 311 California St 10th Flr
 San Francisco, CA 94104
 (415) 956-2828

KIM CORSARO
 Plaintiff

David Nied
 Below Address Terminated on 5/21/96
 (See above)
 [COR LD NTC]
 William Bennett Turner
 (See above)
 [COR LD NTC]
 Merri A. Baldwin
 (See above)
 [COR LD NTC]

v.
 SAN FRANCISCO CITY AND COUNTY
 defendant

Matthew D. Davis
 415/554-3948
 [COR LD NTC]
 City Attorney's Office
 City and County of San
 Francisco
 City Hall Rm 234
 1 Dr. Carlton B. Goodlett Place
 San Francisco, CA 94102-4682

9/12/94 322 PROPOSED ADDITIONAL JURY INSTRUCTIONS re: Rights of the Officers submitted by defendant Richard Hongisto [3:92-cv-03714] (fw) [Entry date 09/15/94]

9/12/94 323 RESPONSE by defendant Tom Yuen, defendant Jerry Golz, defendant Gary Delagnes re motion pursuant to Rule 50 (b) for judgment as a matter of law on issues of liability and immunity. [319-1] [3:92-cv-03714] (fw) [Entry date 09/15/94]

9/12/94 324 TRIAL MINUTES: (C/R Candace Yount) denying Defendant Delagnes & Yuen's motion for entry of judgment [247-1] denying plaintiff's motion pursuant to Rule 50 (b) for judgment as a matter of law on issues of liability and immunity. [319-1]; denying defendant Hongisto's Rule 50 motion. [3:92-cv-03714] (fw) [Entry date 09/15/94]

9/16/94 325 TRIAL MINUTES: of 9/13/94 (C/R Candace Yount) Further trial 9/16/94. [3:92-cv-03714] (fw) [Entry date 09/20/94]

9/16/94 326 TRIAL MINUTES: (C/R Candace Yount) Further trial 9/19/94 at 2:00pm. Phase I of trial completed. Jurors instructed to report 9/19/94 at 2:00pm for phase 2 of this trial. Verdict as to plaintiff Kim Corsaro- for plaintiff. Verdict as to plaintiff Coming Up Inc. - for plaintiff. Verdict as to City and County of San Francisco--. Counsel are to return 9/19/94 at 10:00am for motions re damages. Exhibits maintained by clerk for phase 2 of trial. DLJ [3:92-cv-03714] (fw) [Entry date 09/20/94]

9/16/94 327 JURY INSTRUCTIONS [3:92-cv-03714] (fw) [Entry date 09/20/94]

9/16/94 328 ORDER by Judge D. L. Jensen Joseph Byrne is excused from further service as a juror in this case. (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/20/94]

9/16/94 329 VERDICT as to City and County of San Francisco. [3:92-cv-03714] (fw) [Entry date 09/20/94]

9/16/94 330 VERDICT as to Plaintiff Coming Up, Inc. [3:92-cv-03714] (fw) [Entry date 09/20/94]

9/16/94 331 VERDICT as to Plaintiff Kim Corsaro [3:92-cv-03714] (fw) [Entry date 09/20/94]

9/19/94 339 TRIAL MINUTES: (C/R Candace Yount) Phase 2 Trial began 9/19/94. Further trial 9/20/94 at 2:00pm. (oral) Hongisto's Rule 50 Motion denied. Jurors instructed to report 9/20/94 at 2:00pm. [3:92-cv-03714] (fw) [Entry date 09/21/94]

9/20/94 334 TRIAL MINUTES: (C/R Candace Yount) Plaintiff provided opening for phase 2 re: Punitive damages and defendant provided opening. Closing. Verdict: the jurors find that defendant Hongisto does not have to pay punitive damages. Jury trial ended [3:92-cv-03714] (fw) [Entry date 09/21/94]

9/20/94 335 JURY INSTRUCTIONS on Punitive Damages [3:92-cv-03714] (fw) [Entry date 09/21/94]

9/20/94 336 VERDICT - Defendant Richard Hongisto does not have to pay punitive damages to plaintiffs. [3:92-cv-03714] (fw) [Entry date 09/21/94]

9/20/94 337 JURY NOTE(S) [3:92-cv-03714] (fw) [Entry date 09/21/94]

9/20/94 338 TRIAL Sheet [3:92-cv-03714] (fw) [Entry date 09/21/94]

- 9/21/94 -- EXHIBIT LOCATION for Plf and Dft: stored at Shelf No. CSA Work Station; (No. envelope: 2 Expandos: One expando of Admitted Trial Exhibits of Plf and Dft; One Expando of Not admitted trial exhibits. No. charts: 6 - 2 plf and 4 dft charts - in exhibit room) [3:92-cv-03714] (fw) [Entry date 09/21/94]
- 9/26/94 340 JUDGMENT: by Judge D. L. Jensen In accordance with jury verdict of 9/16/94, Court ENTERS JUDGMENT in favor of plaintiff Kim Corsaro against defendant Tom Yuen in amount of \$30,000. Amount payable as joint and several liability with co-defendants Richard Hongisto and Gary Delagnes according to corresponding judgment entered against them; dismissing case ; appeal filing ddl 10/28/94 (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 341 JUDGMENT: by Judge D. L. Jensen In accordance with jury verdict of 9/16/94, Court ENTERS JUDGMENT in favor of plaintiff Kim Corsaro against defendant Gary Delagnes in amount of \$30,000. The amount shall be payable as joint and several liability with co-defendants Richard Hongisto and Tom Yuen according to the corresponding judgments entered against them. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 342 JUDGMENT: by Judge D. L. Jensen In accordance with jury verdicts of 9/16/94 and 9/20/94, Court ENTERS JUDGMENT in favor of plaintiff Kim Corsaro against defendant Richard Hongisto in amount of \$30,000. This amount shall be payable as joint and several liability with defendants Gary Delagnes and Tom Yuen according to the corresponding judgments entered against them. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 343 JUDGMENT: by Judge D. L. Jensen In accordance with verdicts of jury of 9/16/94 and 9/20/94, Court ENTERS JUDGMENT in favor of plaintiff Coming Up, Inc. against defendant Richard Hongisto in amount of \$5,600. The amount shall be payable as joint and several liability with co-defendants Tom Yuen and Gary Delagnes according to the corresponding judgments entered against them.(Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 344 JUDGMENT: by Judge D. L. Jensen In accordance with verdict of jury of 9/16/94, Court ENTERS JUDGMENT in favor of plaintiff Coming Up, Inc. and against Gary Delagnes in amount of \$5,600. The amount shall be payable as joint and several liability with co-defendants Richard Hongisto and Tom Yuen according to the corresponding judgments entered against them. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 345 JUDGMENT: by Judge D. L. Jensen In accordance with verdict of jury of 9/16/94, Court ENTERS JUDGMENT in favor of plaintiff Coming Up, Inc. and against defendant Tom Yuen in amount of \$5,600. The amount shall be payable as joint and several liability with co-defendants Richard Hongisto and Gary Delagnes according to the corresponding judgments entered against them. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 346 JUDGMENT: by Judge D. L. Jensen In accordance with Order

- of 3/9/94, Court ENTERS JUDGMENT requiring the City and County of San Francisco to indemnify Gary Delagnes for costs of his defense and damages found against him. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 347 JUDGMENT: by Judge D. L. Jensen In accordance with its Order of 3/9/94, Court ENTERS JUDGMENT requiring the City and County of San Francisco to indemnify Tom Yuen for the costs of his defense and damages found against him. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 348 JUDGMENT: by Judge D. L. Jensen In accordance with its Order of 3/9/94, Court ENTERS JUDGMENT requiring the City and County of San Francisco to indemnify Jerry Golz for the costs of his defense. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 349 JUDGMENT: by Judge D. L. Jensen In accordance with verdict of jury of 9/16/94, Court ENTERS JUDGMENT requiring the City and County of San Francisco to indemnify Richard Hongisto for the costs of his defense and damages found against him. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 350 JUDGMENT: by Judge D. L. Jensen In accordance with the Orders of this Court of 8/6/93, 3/9/94, and 6/21/94, JUDGMENT is entered in favor of defendant City and County of San Francisco and against plaintiffs. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 351 JUDGMENT: by Judge D. L. Jensen In accordance with Order of this Court of 3/9/94, JUDGMENT is entered in favor of defendant Anthony Ribera and against plaintiffs. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 9/26/94 352 JUDGMENT: by Judge D. L. Jensen In accordance with the Order of this Court of 3/9/94, JUDGMENT is entered in favor of defendant Jerry Golz and against plaintiffs. (Date Entered: 9/28/94) (cc: all counsel) [3:92-cv-03714] (fw) [Entry date 09/28/94]
- 10/5/94 353 BILL OF COSTS submitted by Plaintiff Kim Corsaro, Plaintiff Coming Up, Inc. re judgment [345-1], re judgment [344-1], re judgment [343-1] [3:92-cv-03714] (fw) [Entry date 10/07/94]
- 10/7/94 354 NOTICE OF MOTION AND MOTION before Judge D. L. Jensen by Plaintiff Kim Corsaro, Plaintiff Coming Up, Inc. for judgment awarding attorney fees, costs and expense with Notice set for 11/9/94 at 10:00am [3:92-cv-03714] (fw) [Entry date 10/12/94]
- 10/7/94 355 MEMORANDUM by Plaintiff Kim Corsaro, Plaintiff Coming Up, Inc. in support of motion for judgment awarding attorney fees, costs and expense [354-1] [3:92-cv-03714] (fw) [Entry date 10/12/94]
- 10/7/94 356 DECLARATION by William Bennett Turner on behalf of Plaintiff Kim Corsaro, Plaintiff Coming Up, Inc. re motion for judgment awarding attorney fees, costs and expense [354-1] [3:92-cv-03714] (fw) [Entry date 10/12/94]

attorney fees [402-1] [3:92-cv-03714] (mh)
[Entry date 02/03/95]

2/1/95 417 JOINDER by dft Richard Hongisto in the reply memorandum in support of Gary Delagnes & Tom Yuen's motion for award of attys' fees, costs & expenses [3:92-cv-03714] (mh)
[Entry date 02/03/95]

2/1/95 418 DECLARATION by Robert R. Moore on behalf of defendant Richard Hongisto re motion reply [417-1] [3:92-cv-03714] (mh) [Entry date 02/03/95]

2/1/95 419 PROOF OF SERVICE by dft Richard Hongisto of #417 & #418 [3:92-cv-03714] (mh) [Entry date 02/03/95]

2/3/95 421 MOTION before Judge D. L. Jensen by dft SF City & County to strike plas' unauthorized memo re officers' 7 Hongisto's motions for attys' fees with Notice set for 2/8/95 at 10am [3:92-cv-03714] (mh) [Entry date 02/07/95]

2/6/95 420 DECLARATION by Laura Schlichtmann on behalf of Cross-defendant Tom Yuen, Cross-defendant Jerry Golz, Cross-defendant Gary Delagnes in support of dfts' motion for award of attys' fees, costs & expenses [3:92-cv-03714] (mh) [Entry date 02/06/95]

2/8/95 422 SUPPLEMENTAL DECLARATION by Robert R. Moore on behalf of dft Richard Hongisto in support of reply memorandum for award of atty's fees, costs & expenses [3:92-cv-03714] (mh) [Entry date 02/08/95]

2/8/95 423 PROOF OF SERVICE by dft Richard Hongisto of #422 [3:92-cv-03714] (mh) [Entry date 02/08/95]

2/8/95 424 REPLY MEMORANDUM by dfts Tom Yuen, Jerry Golz & Gary Delagnes to motion for attorney fees [402-1] [3:92-cv-03714] (mh) [Entry date 02/08/95]

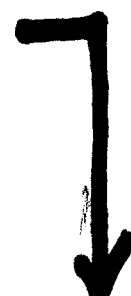
2/8/95 425 LETTER to Judge Jensen dated 2/7/95 from Vince Courtney re missing pages from reply memo filed 2/1/95 [3:92-cv-03714] (mh) [Entry date 02/15/95]

2/8/95 426 MINUTES: (C/R Carol Karen) hearing held that the motion to strike plas' unauthorized memo re officers' 7 Hongisto's motions for attys' fees [421-1] is submitted, that the motion for attorney fees [402-1] is submitted, that the motion for attorney fees [396-1] is submitted [3:92-cv-03714] (mh) [Entry date 02/15/95]

2/17/95 427 RESPONSE by dft SF City & County to supplemental declarations filed in support of the motions by the officers & Hongisto for award of attys' fees, costs & expenses [3:92-cv-03714] (mh) [Entry date 02/23/95]

2/24/95 428 REPLY by Cross-dfts Tom Yuen, Jerry Golz, & Gary Delagnes to response of City & County of SF to Officers' supplemental declaration in support of motion for fees, costs & expenses [3:92-cv-03714] (mh) [Entry date 02/27/95]

3/6/95 429 ORDER by Judge D. L. Jensen On Nov. 16, 1994, the Court heard dft Hongisto's motion for judgment notwithstanding the verdict or for a new trial & plas' motion for attys fees; Pla Coming Up & Kim Corsaro are prevailing parties w/in the meaning of Section 1988; The Court GRANTS plas' motion for attorney fees in the amount of \$295,000 (Date Entered: 3/8/95) (cc: all counsel) [3:92-cv-03714] (mh)



[Entry date 03/08/95]

- 3/6/95 430 ORDER by Judge D. L. Jensen On Feb. 8, 1995, the Court heard dfts Delagnes, Golz, Yuen & Hongisto's motions for attorney fees; Hongisto & the Officers are not entitled to atts' fees at a rate higher than the rate counsel was actually paid; In all other respect, however, dfts' request for fees is justified; dfts shall be reimbursed for fees spent litigating their right to indemnity by the City; The City is hereby ORDERED to pay Hongisto \$207,831.25 in attys' fees & costs, & to pay the Officer \$177,831.09 in attys' fees & costs (Date Entered: 3/8/95) (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 03/08/95]
- 3/20/95 -- COSTS taxed for Plas Kim Corsaro & Coming Up, Inc. in the amount of \$ 7,433.19 against dfts Tom Yuen, Gary Delagnes & Richard Hongisto (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 03/20/95]
- 3/20/95 -- COSTS taxed for dfts Tom Yuen, Jerry Golz & Gary Delagnes in the amount of \$ 2,665.83 against Cross-dft SF City & County (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 03/20/95]
- 3/20/95 -- COSTS taxed for dft Richard Hongisto in the amount of \$ 2,567.08 against dft SF City & County (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 03/20/95]
- 3/20/95 431 JUDGMENT: by Judge D. L. Jensen judgment requiring the City & County of San Francisco to indemnify dfts Hongisto, Delagnes & Yuen for this award of attys' fees & costs entered against them (Date Entered: 3/23/95) (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 03/23/95]
- 3/20/95 432 JUDGMENT: by Judge D. L. Jensen judgment on dfts Delagnes, Golz & Yuen's motion for attys' fees & costs, in favor of dfts Delagnes, Golz & Yuen & against dft City & County of San Francisco, in the amount \$177,831.09 in attys' fees & costs (Date Entered: 3/23/95) (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 03/23/95]
- 3/20/95 433 JUDGMENT: by Judge D. L. Jensen judgment in favor of dft Hongisto & against dft City & County of San Francisco, in the amount of \$207,831.25 in attys' fees & costs (Date Entered: 3/23/95) (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 03/23/95]
- 3/31/95 434 AMENDED STIPULATION and ORDER by Judge D. L. Jensen : correcting amounts awarded dft Hongisto & dft Officers as costs; On the judgment awarding attys' fees & costs to dft Hongisto, at line 14, correct the amount to read "\$213,880.41"; On the judgment awarding attys' fees & costs to the Officers, at line 14, correct the amount to read "\$182,136.98" (cc: all counsel) [3:92-cv-03714] (mh) [Entry date 04/05/95]
- 4/4/95 436 NOTICE OF APPEAL by defendant SF City & County, defendant Anthony Ribera from Dist. Court decision judgment [433-2] fee paid #36115 [3:92-cv-03714] (kk) [Entry date 04/13/95] [Edit date 05/04/00]
- 4/5/95 435 PROOF OF SERVICE by dfts by mail [3:92-cv-03714] (mh) [Entry date 04/10/95]
- 4/13/95 -- Docket fee notification form and case information sheet to USCA [436-1] [3:92-cv-03714] (kk) [Entry date 04/13/95]