

## Judge upholds tentative ruling, declines to throw out \$3.9M Dell'Anno verdict or order new trial

By [Jeff McDonald](#)

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The judge who oversaw the wrongful-termination lawsuit filed by a former prosecutor against the city of San Diego has upheld his tentative ruling that declined to throw out the jury's verdict or grant a new trial.

Judge Kevin Enright issued his final ruling Friday, one day after a Superior Court hearing at which city lawyers said evidence in the lawsuit brought by former prosecutor Marlea Dell'Anno was wrongly kept from the jury.

"The court, having taken the above-entitled matter under submission on 6/2/2022 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

"The court confirms the tentative ruling given on June 2, 2022," Enright wrote.

Dell'Anno was a senior official in the City Attorney's Office before she was fired by former City Attorney Jan Goldsmith in late 2015.

The mid-career prosecutor was allegedly terminated for mishandling scores of domestic-violence cases, but claimed in a 2017 lawsuit that she was fired for refusing to proceed with cases she deemed were political.

The case went to trial earlier this year and a jury agreed with Dell'Anno's allegations. She was awarded \$3.9 million in damages.

In the wake of the verdict, lawyers for City Attorney Mara Elliott filed a motion asking the judge to overturn the jury's decision -- or to at least grant the city a new trial.

Among other assertions, San Diego defense attorneys argued that Enright had wrongly allowed some evidence to be presented at trial and improperly excluded specific records they said would have boosted their case.

They also said at the hearing Thursday that the jury awarded too much in future economic damages to Dell'Anno.

The judge rejected all of the city's arguments.

Elliott's office did not immediately respond to a request for comment on Friday. A spokeswoman also declined to say whether the city plans to appeal the jury verdict or judge's ruling.

## The San Diego Union-Tribune

# In tentative ruling, judge rejects motion to set aside \$3.9M verdict in City Attorney's Office case

By [Jeff McDonald](#)

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A San Diego Superior Court judge has so far rejected a request to throw out a nearly \$4 million jury award in favor of a former City Attorney's Office prosecutor who was fired almost seven years ago.

Judge Kevin Enright also declined to order a second trial as sought by the city of San Diego, finding there was no reason to retry a case that took almost six weeks to adjudicate earlier this year.

"A new trial may only be granted in California if a miscarriage of justice occurred," the judge wrote in a tentative ruling that was released before the hearing Thursday afternoon.

The office of City Attorney Mara Elliott filed the motion to set aside the verdict after a jury awarded \$3.9 million to former Assistant City Attorney Marlea Dell'Anno in late March.

Enright listened to arguments from both sides Thursday about the appropriateness of the financial damages awarded to Dell'Anno and his decision to exclude certain documents from evidence. He said he would issue a final ruling soon.

"I'd like to consider this further," he said at the conclusion of the hearing.

Dell'Anno was terminated in 2015, allegedly for mishandling scores of domestic violence cases.

But she won a wrongful-termination lawsuit she filed against the city and former City Attorney Jan Goldsmith, whom she accused of retaliating against her for refusing to prosecute cases she felt were unwarranted.

Lawyers for the city of San Diego argued that Dell'Anno was properly disciplined.

They said in a court filing after the verdict that the judge wrongly allowed some evidence into the trial and improperly excluded other material. They also argued that Dell'Anno's claims were unsubstantiated and the city was immune from damages.

But the judge rejected those arguments.

"It appears that the jury was presented with ample testimony and evidence during the trial to support the verdict," Enright ruled.

"There was substantial evidence that plaintiff reported or refused to participate in activities which would violate the California Rules of Professional Conduct and Government Code," he added. "... Defendant has not established that there was no substantial evidence to support the verdict."

Dell'Anno was awarded \$3.4 million in past and future economic losses and \$500,000 in non-economic damages such as the emotional distress associated with her termination.

She also is likely to be awarded attorney fees, costs that could run into the hundreds of thousands of dollars if the verdict and ruling are upheld.

But Mark Meyerhoff, one of the lawyers defending the city in the Dell'Anno case, said the jury got it wrong when the panel awarded the plaintiff some \$2.6 million in future economic losses as part of its overall award.

"We do believe the future loss (award) was excessive," Meyerhoff told the judge. "Future losses were based on speculation."

But Josh Gruenberg, who represented the former city prosecutor at trial, said the jury correctly evaluated his client's future economic losses. He said jurors properly considered the difficulty a 50-year-old woman may encounter when seeking a job in a law firm.

"Ms. Dell'Anno will never recover from this," he said. "Even with the jury's verdict, she will never be made whole."

Enright is expected to issue a final ruling in the next several days. It remains unclear if the city will appeal the decision to a higher court.

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