



San Diego City Attorney Jan I. Goldsmith

NEWS RELEASE

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SUBSTANTIALLY EQUAL CASE TRANSFERRED TO LOS ANGELES OVER CITY'S OBJECTIONS

Superior Court Judge Joan Lewis has transferred the City of San Diego's case seeking to enforce the "substantially equal" clause of the City Charter to Los Angeles Superior Court over the City's strong objections. The case was scheduled to be tried in Judge Lewis' courtroom on April 29. Judge Lewis' decision will vacate that trial date.

Judge Lewis' decision was based upon a request from SDCERS. The City's labor unions joined the request. Under the law, a local government litigant may obtain transfer of a case to another county under certain circumstances, but the request must be timely and not made for purposes of delay. The City contended the request was not timely as the case was filed nearly a year ago and that the motion's obvious purpose was to delay the upcoming trial date.

Under the law, Judge Lewis could have preserved the trial date by asking the Judicial Council to designate a judge from another county to come to San Diego on April 29 to conduct the trial. Judge Lewis refused the City's request to take that path and, instead, ruled that the case will be transferred to Los Angeles County.

"We will be asking the Court of Appeal to intervene and overturn this ruling," said City Attorney Jan Goldsmith. "Our City is entitled to a timely trial date and we're going to fight for it. All I want is a decision on the merits because Charter section 143 is very clear and enforceable. The labor unions and their supporters see this case as such a threat that they pulled out all the stops to delay, confuse and bury it---anything to avoid a decision on the merits. They are only delaying the inevitable."

The "substantially equal" case was filed in May, 2010, to enforce Charter section 143 which states that the "City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount." The lawsuit alleges that SDCERS, which manages the City's pension plan, has refused to follow this Charter provision because it charges the City far more than employee contributions for normal retirement allowances. As a result, the City has been overcharged by tens of millions of dollars annually. The City Charter is the City's Constitution and must be followed. SDCERS and the labor unions claim that they have charged the City more than employees for many years and should be allowed to continue that practice.

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