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# San Diego City Attorney Jan I. Goldsmith

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## NEWS RELEASE

**FOR IMMEDIATE RELEASE  
NOVEMBER 10, 2011**

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### **APPELLATE COURT SENDS “SUBSTANTIALLY EQUAL” PENSION LAWSUIT BACK TO SAN DIEGO**

**San Diego, CA (Nov. 10, 2011):** An appellate court has ruled that a key lawsuit filed by the City of San Diego against the City’s retirement system should be heard in San Diego, not Los Angeles.

The case has to do with interpreting the City Charter regarding how much City employees must pay into the retirement fund. The San Diego City Employees Retirement System (SDCERS) and several local labor unions had requested a change of venue to Los Angeles, which was initially granted by the lower court.

However, the California Court of Appeal 4th Appellate District Division 1 issued a ruling today reversing that decision, which sends the case back to San Diego Superior Court.

The lawsuit was filed by the City in 2010 to compel SDCERS to follow the City Charter, which sets forth that the City and employees pay a “substantially equal” amount into the pension plan to cover normal retirement allowances promised under the pension plan.

The Assistant City Attorney who wrote the “substantially equal” provision in 1954 explained at the time that the City and employees’ contributions would change as investment returns change and that they are supposed to be “substantially equal.” Notwithstanding this provision in the law, SDCERS has required the City to pay significantly more into the fund than employees.

In September, 2010, SDCERS’ motion to dismiss, testing the legal sufficiency of the City’s claim, was denied. At that point, SDCERS turned to procedural maneuvers aimed at delaying or denying a full hearing on the merits.

“Recently, Governor Jerry Brown and others have proposed to reform pensions by requiring equal contributions between the employer and employees. San Diego has had that requirement in the law for 57 years, but the pension board refuses to enforce it,” said City Attorney Jan Goldsmith. “It is time to put an end to the procedural maneuvering and let this important case move forward on the merits.”

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