



# San Diego City Attorney Jan I. Goldsmith

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## NEWS RELEASE

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### **ALJ Overrules EDD & Grants Unemployment Benefits to Retired Police Officer** *Employee voluntarily retires then seeks unemployment benefits*

**San Diego, CA:** After an unfavorable ruling by an Administrative Law Judge (ALJ) granting unemployment benefits to a retired City employee, the City Attorney's Office will be taking the lead on the appeal to the California Unemployment Insurance Appeals Board (CUIAB). This week, the City Attorney's Office learned that an ALJ overruled the Employment Development Department (EDD) in favor of a retired San Diego Police Officer who seeks unemployment benefits after voluntarily retiring from City employment.

Claimant Jorge Leon worked for 29 years as a police officer. In June of 2008, Leon voluntarily entered into the City's Deferred Retirement Option Plan, known as DROP. DROP is a voluntary program provided to city employees who were hired before 2005. When an employee enters DROP they voluntarily agree to retire within 60 months. In June of 2013, after 60 months, Leon's voluntary participation in DROP ended. He then applied for unemployment benefits, which were ultimately granted. This matter was handled by an outside contractor, Corporate Cost Control, Inc. (CCC) retained by the Personnel Department who has handled unemployment claims and cases for the City for years.

According to the ALJ, the basis for their decision (attached) to grant benefits is that Mr. Leon opened his claim for unemployment benefits effective June 2013, after completing 60 months of the DROP agreement. He did not quit voluntarily nor was he discharged for misconduct. The ALJ failed to recognize that Leon did leave his employment voluntarily and that his decision to voluntarily retire was made when he voluntarily entered the DROP program five years prior. The fact that his DROP participation came to an end does not, in any way, change the voluntariness of his decision to enter DROP and retire in June of 2013.

"Employees that retire voluntarily are not eligible for unemployment benefits. The fact that Mr. Leon voluntarily entered DROP does not change his situation that his retirement was still voluntary. That an employee, after maxing out his pension, would then try to game the system to receive unemployment benefits is outrageous. DROP is voluntary. To pay for benefits to people who aren't eligible is tantamount to unemployment fraud," said City Attorney Jan Goldsmith.

(More)

The City Attorney's Office learned that this is the second case where a DROP participant was granted unemployment benefits. The first case was also handled by the CCC without the office's involvement or knowledge.

Goldsmith added, "The lead lawyer in charge of the case is Assistant City Attorney Paul Cooper. Our office is committed to ending this abuse."

"We will take the Leon case through the court system where the rule of law applies with Superior Court judges. We plan to vigorously represent the City's interest in front of the CUIAB, which is the next step," said Assistant City Attorney Paul Cooper. "If that is unsuccessful, we will file a writ with Superior Court. We strongly believe that they are wrong on the law. However, if in the end the ruling is upheld, we will seek to change the law. This cannot be allowed to stand."

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