



# San Diego City Attorney Jan I. Goldsmith

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## NEWS RELEASE

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### **City Not Responsible When Wild Animals Poop** *Judge dismisses La Jollans' lawsuit blaming City for sea lions' behavior*

A Superior Court judge today agreed with the City Attorney's Office that San Diego has no legal duty to clean up after the sea lions in La Jolla Cove, even if the odor of their poop nauseates some La Jollans.

In upholding his tentative ruling issued Thursday, Judge Timothy Taylor said the problem created by the sea lions was an issue that the Mayor and City Council should properly address, not the courts.

"This belongs in the political realm," Judge Timothy Taylor told attorneys for Citizens for Odor Nuisance Abatement. "The courts don't run society."

Taylor granted the City's motion for summary judgment, meaning the matter will not go to trial. Deputy City Attorney Glenn Spitzer argued the case for the City.

CONA alleged that the City had allowed a public nuisance to persist in the form of sea lion excrement and cormorant droppings on the rocky outcroppings in and near La Jolla Cove. The situation had given rise to noxious odors that CONA argued had led to nausea and illness among La Jolla residents and visitors.

The City Attorney's Office countered that such odors were part of the risk-benefit of being situated near a marine environment and that the City could not be held liable for the actions of wild animals.

**"Sea lions are proliferating throughout California, and that is neither the fault nor the responsibility of San Diego,"** City Attorney Jan Goldsmith said following the court hearing. **"The City can address the pooping habits of wild animals as a policy matter, but it cannot be compelled to do so by the courts."**

As part of his ruling, Judge Taylor noted that sheltered La Jolla Cove is "an ideal location for sea lions" and that the sea lions cannot be considered a nuisance as they are protected by federal statute.

Refuting a key argument of CONA's, Taylor found that the City's erection of a fence near the cove was not a "substantive factor" in the growth of the sea lion population. CONA argued that the fence, by denying human access to the rocks, encourages their occupation by the sea lions. CONA additionally argued that a gate in the fence, by permitting human access to the rocks, encourages their occupation by the sea lions, because it acclimates the animals to humans. Taylor found neither argument persuasive.

Taylor noted that the declaration of CONA's key expert "does not discuss the accretive impact of years of federal species protection, population trends, behavior issues, food sources, or the geographic benefits of the La Jolla Cove" – areas the City covered in its arguments.

"The solution to the problem CONA's members confront must come in the political arena," Judge Taylor wrote, "because only there may the delicate balancing of wildlife needs vs. human desires be conducted."

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