



SAN DIEGO CITY ATTORNEY JAN I. GOLDSMITH

NEWS RELEASE

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**Contact: Carmen Sandoval
(619) 236-6220**

City Wins Key Pension Ruling

San Diego, CA: The City of San Diego has defeated a \$259 million claim by the San Diego City Employees' Retirement System (SDCERS) that the City underfunded its obligations under the City's pension plan. On, March 16, 2010, Judge Jeffrey B. Barton granted the City's motion for judgment on the claim that was based upon the San Diego City Charter, although the judge allowed SDCERS a chance to raise other legal theories should it choose to try.

[see August 5, 2009 UT news article attached]

“SDCERS needs to read the San Diego City Charter and follow it,” said San Diego City Attorney Jan Goldsmith. “Our City Charter is our local constitution and the City, as well as SDCERS, are bound to follow it.”

Judge Barton found that SDCERS failed to comply with Charter section 143 in demanding payment from the City when SDCERS' own Board of Administration did not approve a requirement that the City make the payment:

“The City contends board approval is an element required to state a cause of action in a suit by the Board of Administration itself against the City based on an alleged failure to make required contributions under section 143. Both the plain meaning of the statute and a common sense interpretation of the statutory provisions compels the conclusion that, in a cause of action for breach of section 143 in a case by the Board of Administration itself, the statute requires cross-complainant allege that the City failed to contribute an amount certified by the actuary and approved by the Board....”
The current cross-complaint does not make such an allegation in the second cause of action and thus fails to state a cause of action.”

Goldsmith pointed out that underfunding pursuant to MP 1 and MP 2 agreements between the City and SDCERS in 1996 and 2002 was resolved through settlement of two

lawsuits over five years ago and that the City is paying the amounts required under the settlements. “SDCERS has wasted pension fund assets on legal fees for this frivolous lawsuit, ignored previous class action settlements and failed to read the City Charter,” Goldsmith said. “I think they should get back to the basics of managing a pension fund and stop it with the political agenda.”

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