



Metropolitan Cases

San Diego County Water Authority v. MWD **(Los Angeles County Superior Court)**

Metropolitan filed its Answer to the San Diego County Water Authority's (SDCWA) Petition for Writ of Mandate and Complaint for Declaratory Relief on July 30, 2010. SDCWA's action alleges that Metropolitan's System Access Rate is invalid to the extent it includes State Water Project (SWP) conveyance costs and that the Water Stewardship Rate should not be charged to entities wishing to wheel non-Metropolitan water through Metropolitan's system. Other persons interested in Metropolitan's System Access Rate were served by publication and have until August 20, 2010 to answer. (See General Counsel's June 2010 Monthly Activity Report)

AFSCME Local 1902 v. Metropolitan (MOU Hearing Officer Appeal)

On July 17, 2010, Hearing Officer Kenneth A. Perea issued his decision in response to an appeal of Metropolitan's denial of five consolidated grievances. The AFSCME grievances challenged the outcome of five individual job audits. The job audits, performed by Human Resources staff, concluded that the employees have been appropriately classified as Maintenance Mechanic I's during the relevant time period. In his decision, the Hearing Officer determined that Human Resources properly adhered to the job audit process, and that the grievants have been appropriately classified. Accordingly, AFSCME failed to meet its burden of establishing any violation of the AFSCME MOU and Mr. Perea upheld Metropolitan's denial of the grievances. The Legal Department represented Metropolitan in this matter.

Andrew James Ellsworth, Jr. v. Metropolitan, et al. (Los Angeles County Superior Court)

The parties attended a court-ordered mediation on August 5, 2010. The parties were unable to settle.

As previously reported, plaintiff, a Metropolitan employee, filed his initial complaint against Metropolitan and four employees in Los Angeles County Superior Court on September 8, 2009. Plaintiff alleges seven causes of action:

discrimination based on race, national origin, ancestry, and age in violation of the Fair Employment and Housing Act (FEHA); harassment based on race, national origin, ancestry, and age in violation of FEHA; retaliation for opposing discrimination and harassment in violation of FEHA; disability discrimination and failure to accommodate in violation of FEHA; failure to engage in the interactive process in violation of FEHA; failure to prevent harassment, discrimination, and retaliation in violation of FEHA; and defamation. All causes of action are asserted against Metropolitan, and the harassment and defamation causes of action are also asserted against the individual defendants. Metropolitan successfully demurred to an eighth cause of action for wrongful failure to promote in violation of public policy, and it was dismissed on February 1, 2010. The court scheduled a jury trial commencing February 14, 2011, scheduled a mandatory settlement conference for January 26, 2011, and ordered the parties to complete mediation by August 19, 2010. The parties are engaged in discovery.

Metropolitan's Legal Department is providing legal representation for all defendants. (See General Counsel's January and April 2010 Activity Reports)

Jena Minor v. Metropolitan (Los Angeles County Superior Court)

The parties appeared at the first Case Management Conference on August 4, 2010. The court set the case for a 14-day jury trial commencing June 29, 2011. The court also scheduled a Final Status Conference on June 10, 2011 and ordered the parties to mediation, to be completed by May 1, 2011. The parties currently are engaged in discovery.

As previously reported, on March 26, 2010, plaintiff, a Metropolitan employee, filed a complaint in Los Angeles County Superior Court against Metropolitan. On April 2, plaintiff filed an amended complaint. Plaintiff alleges one cause of action: retaliation in violation of FEHA for having engaged in the protected activity of complaining about gender and race discrimination and sexual harassment, and for having complained about retaliation. Plaintiff served the summons and



amended complaint on April 6. Metropolitan filed a Notice of Related Case on April 14 concerning plaintiff's previous complaint against Metropolitan containing the same claim, which plaintiff filed in June 2009 and then dismissed without prejudice in October 2009, after missing a discovery deadline. On April 26, 2010, the court ordered that the two cases are related, resulting in a change in judicial assignment to the Honorable Daniel J. Buckley.

On May 6, Metropolitan filed its answer to plaintiff's first amended complaint, containing a general denial and affirmative defenses.

Metropolitan's Legal Department is providing legal representation for Metropolitan. (See General Counsel's April, May and June 2010 Activity Reports)

Matters Involving Metropolitan

State Water Resources Control Board Bay-Delta Flow Criteria

As more fully reported in the General Manager's communication dated July 23, 2010, the State Water Resources Control Board (SWRCB) released its draft *Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem* (Report) on July 21, 2010. The Report is the result of direction to the SWRCB in last year's Delta Reform Act to develop Delta general flow criteria to protect public resources in the Bay-Delta for the

purpose of informing planning decisions in the Delta Plan, the Bay Delta Conservation Plan and future regulatory proceedings. The SWRCB considered and adopted the Report at its regularly scheduled August 3, 2010 meeting. Metropolitan staff prepared and filed comments regarding the Report on behalf of Metropolitan and assisted in preparation of comments by the State Water Contractors and the State and Federal Contractors Water Agency.

Items of Interest

Finances

Metropolitan's \$88,845,000 Water Revenue Refunding Bonds, 2010 Series B, closed on July 22, 2010. These fixed rate bonds refunded \$100 million of variable rate bonds supported by a standby bond purchase agreement expiring on July 27, 2010. Legal Department staff assisted Finance staff and outside bond counsel with the bond documents and closing documents and prepared Appendix A to the Official Statement.

On that same date, Metropolitan confirmed the novation of four interest rate swap transactions, transferring all obligations under those transactions from UBS to Deutsche Bank. Legal Department staff worked with outside bond counsel and tax counsel to document the novation.

Staff attorneys assisted Finance staff on the extension of a standby bond purchase agreement with JPMorgan Chase Bank that provides liquidity support for Metropolitan's Water Revenue Refunding Bonds, 2004 Series A-1 and A-2. The standby bond purchase agreement was scheduled to terminate on July 31, 2010. Metropolitan obtained an interim extension of the agreement

through September 2010 and is negotiating for a longer-term extension.