



Metropolitan Cases

Keith Barrows v. Southern California Gas Co., et al. (Los Angeles County Superior Court)

Metropolitan was named as a defendant in this personal injury case arising from a solo motorcycle accident on Sepulveda Boulevard. The plaintiff alleged the accident was caused by a dip in the road pavement and sued the city of Los Angeles, which is responsible for the roadway, as well as the owners of each utility line located in the street right-of-way. Metropolitan maintains the Sepulveda Feeder in the street underlying the location of the accident. The potential damages were significant as the plaintiff suffered severe injuries and lost his job due to his inability to return to work.

Metropolitan requested a dismissal from the action due to plaintiff's failure to submit a timely claim prior to filing the lawsuit. The plaintiff argued that he was entitled to rely on a separate claim that the co-defendant city presented to Metropolitan for indemnity. When the plaintiff refused to dismiss Metropolitan from the action, a motion for summary judgment was filed arguing that the plaintiff's position was contrary to California case law. The plaintiff failed to oppose the motion, and it was granted by the court on March 24. The Legal Department represented Metropolitan in this matter. (See General Counsel's March and April 2009 Activity Reports)

Management and Professional Employees Association, AFSCME Local 1001 v. Metropolitan (Public Employment Relations Board)

As previously reported, the Management and Professional Employees Association (MAPA) filed a Public Employment Relations Board (PERB) unfair practice charge on August 31, 2009, alleging Metropolitan violated the Meyers-Milias-Brown Act (MMBA) by purportedly engaging in anti-union conduct towards MAPA employees on 15 occasions. PERB directed MAPA to amend the charge, which MAPA did on January 29, 2010. On February 11, 2010, the Legal Department lodged a position statement seeking dismissal of the amended charge. Of the claimed 15 incidents, PERB dismissed ten, and PERB issued a

complaint on the remaining five incidents. The complaint alleges Management interfered with, intimidated, retaliated, coerced or discriminated against MAPA employees. On March 22, 2009, Metropolitan filed an answer denying the allegations. On March 30, 2009, PERB held an informal conference. While a settlement could not be reached and PERB will calendar a trial for July 2010, the parties agreed to engage in further discussions seeking a resolution. The Legal Department represents Metropolitan. (See General Counsel's August 2009 and March 2010 Activity Reports.)

AFSCME Local 1902 v. Metropolitan (Public Employment Relations Board)

On March 25, 2010, AFSCME filed a PERB unfair practice charge against Metropolitan. The charge alleges Metropolitan violated the MMBA by requiring administrative analysts and senior administrative analysts to perform procurement duties without first meeting and conferring with Local 1902. Metropolitan will respond by lodging a position statement seeking dismissal of the charge. The Legal Department represents Metropolitan in this matter.

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

On February 26, 2010, Hearing Officer David Hart issued his decision denying Metropolitan's request to dismiss two Local 1902 grievances. The grievances seek CalPERS credit for certain overtime worked by a desert crew of maintenance workers. The overtime resulted from the assignment of irregular 12.5 hour shifts for a period of 12 months in connection with Metropolitan's effort to control the Quagga mussel infestation. Metropolitan objected to a hearing on the merits under the theory that CalPERS has primary jurisdiction to determine whether overtime hours can be credited towards CalPERS retirement. This matter will now proceed to a hearing on the merits. It has been and remains Management's position that the overtime in question does not qualify as compensation or service hours that can be used towards calculating pension benefits. The Legal Department represents Metropolitan.



Items of Interest

Finances

Metropolitan's Water Revenue Refunding Bonds (Index Mode), 2009 Series A-1, were successfully remarketed on March 5, 2010. These bonds bear interest at a rate that is reset at least annually through remarketing of the bonds. Legal Department staff worked with Finance staff and outside bond counsel to review the legal requirements for each remarketing, provide notices, certifications and opinions and prepare a remarketing statement (similar to the Official Statement for a new bond issue).

Rates

Legal Department attorneys worked with Finance staff on rate structure proposals, including legal requirements for a two-year rate and proposed changes to the property tax limitation in section 124.5 of the MWD Act. Legal staff helped respond to comments on the rate proposals.