



Metropolitan Cases

Steven Pettit, as personal representative of Brian Pettit, deceased v. Metropolitan, et al. (Los Angeles Superior Court)

On May 4, 2018, Steven Pettit, the son of deceased Metropolitan employee, Brian Pettit, filed a complaint in the Los Angeles Superior Court against Metropolitan, the OC Medical Center, Thomas Parsa, M.D., Amanda Paranda, PA-C, Brian Kutsunai, M.D., and John Yong, M.D. Brian Pettit died on February 5, 2017, as the result of an acute cardiac event that occurred while he was driving to a Metropolitan work location.

The lawsuit alleges causes of action against Metropolitan pursuant to the Fair Employment and Housing Act (FEHA) for employment discrimination, failure to accommodate, and failure to engage in the interactive process. The lawsuit alleges a single cause of action for medical malpractice against the remaining defendants, who are under contract with Metropolitan to perform annual physicals of Metropolitan employees who may be required to wear respirators as part of their job duties due to potential exposure to substances like lead and asbestos. Plaintiff is seeking attorney's fees and unspecified general/special damages from Metropolitan and the other defendants.

Metropolitan demurred to the complaint, and on December 13, 2018, the Honorable Dalila C. Lyons sustained Metropolitan's demurrer. The court agreed that the complaint did not adequately allege either an adverse employment action or any request for a reasonable accommodation. Plaintiff has ten days to amend the complaint and this matter is set for a case management conference on January 3, 2019. The Legal Department is representing Metropolitan.

Brian May v. Metropolitan, et al. (Los Angeles Superior Court)

As previously reported, Metropolitan employee, Brian May, filed a complaint for damages and other relief on April 13, 2017, in Los Angeles Superior Court against Metropolitan. The complaint alleges five causes of action in violation of FEHA: (1) disability discrimination; (2) retaliation; (3) failure to prevent unlawful discrimination;

(4) failure to accommodate disability; and (5) failure to engage in the interactive process.

Metropolitan filed its answer denying the allegations on July 21, 2017, and a trial was set for February 11, 2019. On October 31, 2018, Metropolitan filed a motion for summary judgment seeking dismissal of the lawsuit. While a formal day of mediation on February 1, 2018, did not resolve the lawsuit, the parties reengaged the mediator in December for further discussions and a settlement was achieved within the authority granted to the General Manager and General Counsel pursuant to the Administrative Code. Accordingly, a settlement agreement was executed on December 15, and a request for dismissal was filed on December 21 and entered on December 24.

Key terms of the settlement include no admission of wrongdoing, a general release by Mr. May, and his separation from Metropolitan employment. Atkinson Andelson Loya Ruud & Romo and the Legal Department represented Metropolitan. (See General Counsel's May 2018 Activity Report.)

Williams v. State of Arizona, Metropolitan, et al. (USDC, District of Arizona)

On October 23, 2017, Metropolitan received a complaint filed by an individual, James Lee Williams. Mr. Williams filed the action in federal court in Phoenix, Arizona, and named the United States, the States of California and Arizona, and Metropolitan. Mr. Williams alleges that the federal and state governments and Metropolitan are discriminating against him and several other African American tenants and depriving them of their right to own the land and related water rights of property they lease near Yuma, Arizona.

The land in question is located in California, owned by the State of Arizona, and leased to him by the Arizona State Lands Department for agricultural use. The area is referred to as the "Yuma Island" because it is an "island" lying between the original bed of the Colorado River and its current eastern bank. In 1920, the Colorado River moved in a historic flood moving the state boundary with it and trapping the Arizona-owned lands within the State



of California. Mr. Williams has an agricultural lease on Yuma Island.

Mr. Williams appears to assert that Metropolitan's agreement with the Quechan Indians interferes with his water rights. Under the Quechan settlement agreement, Metropolitan pays the Quechan tribe to forego delivery of its water, allowing Metropolitan to use it. However, these rights are tied to lands outside of Yuma Island that do not include Mr. Williams' leasehold.

Metropolitan filed a motion to dismiss on February 6, 2018 asserting that the court in Arizona lacks jurisdiction because the lands and water at issue are in California, and any claim to Colorado River water rights may only be resolved by the U.S. Supreme Court.

The States of California and Arizona also filed motions to dismiss based on the States' rights under the Eleventh Amendment to the U.S. Constitution, which provides states with immunity from being sued in federal court without their consent.

On June 22, 2018, the court issued a ruling dismissing the States based on their sovereign immunity and granting Metropolitan's and the United States' motions. The court ordered

Mr. Williams to file an amended complaint by July 23, 2018.

Mr. Williams filed an amended complaint on July 16, 2018. The amended complaint failed to correct any of the prior defects and failed to address the legal issues raised by the defendants. Between July and August 2018, the parties, including Metropolitan, resubmitted their motions to dismiss.

On December 17, 2018, the court granted all the motions to dismiss, but allowed Mr. Williams another opportunity to file an amended complaint. In reaching its ruling, the court held: (1) the court lacks jurisdiction over the States of California and Arizona because the Eleventh Amendment to the U.S. Constitution provides the States with sovereign immunity; (2) as the owner of the property at issue, Arizona is a necessary and indispensable party; (3) joinder of Arizona is not feasible in light of its sovereign immunity; and (4) the court cannot grant relief in Arizona's absence without harming or prejudicing its interests in the land and water at issue in this case.

Staff expects Mr. Williams will file an amended complaint, and that Metropolitan and the other parties will have to file responses. It is anticipated that the court will dismiss any further complaints, and not allow any further amendments.

Other Matters

Finance

Legal Department staff worked with finance staff, bank counsel, outside bond counsel and disclosure counsel to prepare the offering statements and other disclosure documents and to negotiate and provide the agreements, notices, certifications and opinions necessary for closing of the Water Revenue Refunding Bonds, 2018 Series B on December 20, 2018 to refund outstanding Water Revenue Bonds originally issued in 2008.

On December 26, 2018, Legal Department staff posted Metropolitan's annual financial information filings for fiscal year ended June 30, 2018,

pursuant to continuing disclosure requirements for outstanding revenue and general obligation bond issues. These filings include the Official Statement for Metropolitan's Water Revenue Refunding Bonds, 2018 Series B, including Basic Financial Statements and Management's Discussion and Analysis as of and for the Years Ended June 30, 2018 and 2017; the Comprehensive Annual Financial Report for Fiscal Years Ended June 30, 2018 and 2017, and the Continuing Disclosure Information Statement – General Obligation Bonds. They are available at <http://emma.msrb.org> (the Electronic Municipal Market Access system maintained by the Municipal Securities Rulemaking Board).



Matters Received by the Legal Department

<u>Category</u>	<u>Received</u>	<u>Description</u>	
Government Code Claims	2	Claim and subrogation claim relating to auto accidents involving MWD vehicles	
Requests Pursuant to the Public Records Act	9	<u>Requestor</u>	<u>Documents Requested</u>
		Acme Construction Supply	Details for pipe supports purchased by MWD
		City of Beverly Hills	GIS data showing MWD infrastructure in and around the City of Beverly Hills
		Keller Williams Realty	Location of water access to property in City of Hemet
		Private Citizens (2 requests)	(1) Application for turf removal rebate submitted by San Vicente Golf Course, and (2) turf removal rebate data relating to homeowner associations located in Riverside County
		TAIT	Records showing any utilities near the proposed project in City of Riverside
		Teal Consulting Group	Check and backup records for payment to NEO Solutions
Voice of San Diego	City of San Diego LRP application		
WestAir Gases & Equipment	Pricing information in MWD's contract for the supply of liquid oxygen		



California WaterFix Litigation	
Subject	Status
CDWR Environmental Impact Cases Sacramento Superior Ct. Case No. JCCP 4942 (20 Coordinated Cases – 1 Validation; 17 CEQA; 2 CESA) (Judge Culhane)	
Validation Action <i>DWR v. All Persons Interested</i> Sacramento County Superior Ct.	<ul style="list-style-type: none"> Parties meeting and conferring on list of purely legal issues that the Court can decide without waiting for the administrative record Parties meeting and conferring on the contents of the administrative record
CEQA 17 cases Sacramento County Superior Ct.	<ul style="list-style-type: none"> Metropolitan’s and SWC’s motions to intervene as defendant/respondents granted DWR circulated draft 6000-page index of the administrative record (over 2.5 million pages in draft record) Parties meeting and conferring on contents of administrative record Answers/Motions to Dismiss due 30 days after administrative record is lodged
CESA/Incidental Take Permit 2 cases Sacramento County Superior Ct.	<ul style="list-style-type: none"> Metropolitan’s and SWC’s motions to intervene as defendant/respondents granted DFW anticipates completion of administrative record by early 2019 Answers/Motions to Dismiss due 30 days after administrative record is lodged
ESA/BiOps <i>Golden Gate Salmon Ass’n v. Ross (NMFS)</i> <i>Bay.org v. Zinke (USFWS)</i> Eastern District of California (Judge O’Neill)	<ul style="list-style-type: none"> <i>GGSA v. Ross (NMFS)</i> - Plaintiffs and Defendants have filed cross-motions for summary judgment; Defendants’ reply briefs were due Jan. 15, 2019, but the federal defendants have moved for a stay pending Congress appropriating funding for the Department of Justice <i>Bay.org v. Zinke (FWS)</i> – Defendants filed motion to strike extra-record evidence and alternative motion to consider additional extra-record evidence on Nov. 30; Plaintiffs’ MSJ due Jan. 15, 2019; Defendants’ opposition/cross-motion for MSJ due Feb. 19, 2019; replies due March 12, 2019 and April 2, 2019
Breach of Contract <i>City of Antioch v. DWR</i> Sacramento County Superior Ct. (Judge De Alba)	<ul style="list-style-type: none"> Parties’ joint motion to continue trial date and associated dates off calendar and reschedule granted in light of potential for settlement before trial New trial date and mandatory settlement conference date TBD



Subject	Status
<p>Delta Plan Amendments and Program EIR</p> <p><i>North Coast Rivers Alliance, et al. v. Delta Stewardship Council</i></p> <p><i>Central Delta Water Agency, et al. v. Delta Stewardship Council</i></p> <p><i>Friends of the River, et al. v. Delta Stewardship Council</i></p> <p><i>California Water Impact Network, et al. v. Delta Stewardship Council</i></p> <p>Sacramento County Superior Ct. (Judge Sumner)</p>	<ul style="list-style-type: none"> • Cases challenge, among other things, the Delta Plan Updates recommending dual conveyance as the best means to update the SWP Delta conveyance infrastructure to further the coequal goals • Allegations relating to “Delta pool” water rights theory and public trust doctrine raise concerns for SWP and CVP water supplies • Cases related and assigned to Judge Sumner • Parties stipulated to extend time to prepare the administrative record to Jan. 22, 2019 • San Luis & Delta Mendota Water Authority’s and Westlands Water District’s motion to intervene granted

***CESA claims also alleged in the CEQA petition filed by County of San Joaquin, et al.; California Sportfishing Protection Alliance, et al. allege violation of the fully protected species statutes.