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Federal Judge Rules That the Central Claims in Police Officers' Lawsuit Against the City of San Diego Remain and Sets Further Hearings on the Case

IRVINE, Calif. May 20, 2007 – Jackson|DeMarco|Tidus|Petersen|Peckenpaugh (“JD|T|P|P”) announced that on May 18, 2007, in the case of *SDPOA. v. Aguirre, City of San Diego, et al.*, the U.S. District Court for the Southern District of California held a hearing on the twelve motions for summary judgment filed by the parties in the case. The Court announced its ruling on the motions, which addressed just some of the seventeen claims made by the San Diego Police Officers Association against the City and various individual defendants. Judge Marilyn L. Huff’s ruling dismissed some of the SDPOA’s claims in their entirety, dismissed other claims as to certain defendants and left other claims whole. Contrary to the City Attorney’s recent comments in the press, the claims at the heart of the case, the pension underfunding, remain. Judge Huff has requested additional briefings and replies on certain claims over the next three weeks and has scheduled further hearings for June 25, 2007.

The filing of a Motion for Summary Judgment is a common occurrence in complex trials. Either party to a lawsuit can file a Motion for Summary Judgment, which serves to narrow the focus of the case as it proceeds to trial. In considering a Motion for Summary Judgment, the judge reviews the undisputed facts and determines which claims should proceed further. The court’s May 18th ruling addressed twelve Motions for Summary Judgment, which in turn addressed portions of only a few of the seventeen claims.

The primary issues of concern to the SDPOA that were addressed in the Court’s ruling were the complex statute of limitations issues. The Court’s ruling denied the majority of the claims made by the defense that the case was barred by the statute of limitations. Additionally, Judge Huff determined that, as to the SDPOA’s claim against Mr. Aguirre for conspiracy to retaliate against the POA during the 2005 labor negotiations, Mr. Aguirre’s participation and actions at a meeting with the POA and leaders of other unions didn’t rise to the level of actionable misconduct in the face of Mr. Aguirre’s First Amendment Rights.

Gregory G. Petersen, Chair of the Complex Litigation Group at JD|T|P|P stated, “While as a result of today’s ruling, Mr. Aguirre’s bravado and meddlesome behavior will escape judgment in this court, his actions will continue to be judged harshly in the court of public opinion. However, the issue of Mr. Aguirre’s actions in 2005 is not central to the SDPOA’s claims of breach of fiduciary duty, breach of contract, breach of trust and acts of misconduct, when considered in the scope of the pension underfunding, which the City has estimated at one to three billion dollars.” Mr. Petersen added, “Mr. Aguirre’s comments regarding his intention to now strip the Police Officers, and thousands of other City employees, of their contractually negotiated and agreed upon pension and health benefits only serves to ensure that the Police Officers will fight his attempts to do so in court in what is sure be a long drawn out and costly battle for the City. This course of action will likely unify all of the unions that represent thousands of San Diego city employees.”

About Jackson|DeMarco|Tidus|Petersen|Peckenpaugh

The law firm of Jackson|DeMarco|Tidus|Petersen|Peckenpaugh, headquartered in Irvine, California, with a second office in Westlake Village, is recognized as a preeminent California full service law firm, offering high quality, innovative, responsive and cost-effective solutions to meet client needs. JD|T|P|P provides practical advice and representation in a wide range of legal practice areas, encompassing business and tax law, employment law, intellectual property, common interest subdivision, land use and environmental regulation, real estate, construction law, commercial leases, financing, immigration and represents clients in key industries, such as technology, life sciences, software development, electronics, agriculture, energy and oil, financial and banking, manufacturing, distribution, real estate, and hospitality. More information on Jackson|DeMarco|Tidus|Petersen|Peckenpaugh can be found at www.jdtplaw.com.

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