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Police Officers' Lawsuit Against the City of San Diego for Breach of Contract, Fiduciary Duty and Trust in Underfunding Its Pension Moves Closer to Trial

IRVINE, Calif. June 11, 2007 – Jackson | DeMarco | Tidus | Petersen | Peckenpaugh (“JDTPP”) announced today that, in the case of *Aaron, et al. v. Aguirre, City of San Diego, et al.*, the U.S. District Court for the Southern District of California issued its ruling on several motions filed by the various parties in the case. The trial judge, the Honorable Marilyn L. Huff, found the police officers' allegations – that the City of San Diego and certain individuals acted in a manner in which rendered the city employee pension fund actuarially unsound, illegally diverted the Police Officers' pension contributions to other purposes and failed to make contractually required payments to the fund – were sufficient to proceed to trial. Judge Huff has set July 2, 2007 as the deadline for the defendants to answer what is now the operative complaint.

Today's ruling by the court addressed four motions to dismiss made by the various defendants. The four motions in turn addressed only ten of the 17 claims made by over 1,600 police officers against the City and various individual defendants. Judge Huff dismissed some of the officers' claims in their entirety, dismissed other claims as to certain defendants and left other claims whole. The central claims of the case: breach of contract, breach of fiduciary duty, breach of trust, and conversion, all remain and are expected to go to trial later this year. Additionally, the court denied City Attorney Michael Aguirre's motion to be dismissed from the conspiracy and other claims. The court also denied Mr. Aguirre's claim of legislative immunity.

Gregory G. Petersen, Chair of the Complex Litigation Group at JDTPP stated, “Judge Huff's ruling today is consistent with our expectations and her ruling last month in a related case, *SDPOA v. Aguirre, City of San Diego, et al.*, which has similar claims. When initially reviewing the *Aaron* and *SDPOA* cases in August of 2005, we looked at all possible avenues of relief and developed and pursued an aggressive list of remedies. The court, through its ruling today and in the recent past, has worked to narrow the focus of the case to the central issues and participants. While we feel we have strong support for all of our original claims, including fraud as to the named parties, we respect the court's decision and are confident about presenting the officers' case to a jury with the central and critical claims that remain. The individuals and claims that were dismissed today are not essential to the Officer's claims of breach of fiduciary duty, breach of contract, breach of trust, conspiracy and conversion committed by the City and its leaders in the billion dollar underfunding of the City Employee Retirement System.”

More information about the *Aaron, et al. v. Aguirre, City of San Diego, et al.* lawsuit can be found at http://www.jdtplaw.com/litigation/Lit_Aaron.html. More information about the two related cases *SDPOA v. Aguirre, City of San Diego, et al.* and *Abbe, et al. v. City of San Diego* can be found at <http://www.jdtplaw.com/litigation/litigation2.html>.

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. JDTP|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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