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PUBLIC RECORDS - CALIFORNIA

Pasadena Police Officers Association v. City of Pasadena

Court of Appeal, Second District, Division 1, California - April 12, 2018 - 22 Cal.App.5th 147 - 231 Cal.Rptr.3d 292 - 18 Cal. Daily Op. Serv. 3365 - 2018 Daily Journal D.A.R. 3242

After records requesters filed Public Records Act (PRA) request with city seeking disclosure of report regarding officer-involved shooting of unarmed teenager, two individual police officers and their law enforcement union initiated reverse-PRA action seeking to enjoin disclosure of report.

After granting newspaper publisher and other requesters leave to intervene, the Superior Court granted in part officers' and union's request for injunction against disclosure, finding only certain portions of report exempt from disclosure. Officers and union filed petition for writ of mandate, seeking review of disclosure order. The Court of Appeal denied petition and remanded with directions. On remand, the Superior Court conducted additional proceedings, entered amended judgment, and subsequently granted in part publisher's motion for attorney's fees against the city under PRA, but denied publisher's request for fees against officers and union under private attorney general statute. Publisher appealed.

The Court of Appeal held that:

- Publisher was not collaterally estopped from seeking fee award under private attorney general statute;
- Publisher's recovery of attorney fees under private attorney general statute was not barred by exception related to determination of only private rights;
- No substantial causal connection existed between publisher's intervention and city's initial release of redacted report, and thus publisher was not entitled to attorney fees under PRA for that portion of litigation; and
- Trial court acted within its discretion in reducing attorney fee award under PRA for duplicative attorney efforts.

Newspaper publisher was not collaterally estopped from recovering attorney fees under private attorney general statute, in reverse-Public Records Act (PRA) action, in which publisher had intervened, by two officers and law enforcement union seeking to preclude city's disclosure of report regarding officer-involved shooting, by ruling in prior case in which publisher successfully sued to compel disclosure of public records and court in that case denied publisher fees against union under private attorney general act and PRA; prior case was different case involving different union, and conclusion in prior case that fees were unavailable under PRA was entirely consistent with conclusion that such fees were available under private attorney general statute following reverse PRA-action.

Recovery of attorney's fees under private attorney general statute by publisher of newspaper against two police officers and law enforcement union was not barred by exception to fee award applicable when an individual sought a judgment that determined only his or her private rights, in reverse-Public Records Act (PRA) action by officers and union seeking to prohibit city's disclosure of report regarding officer-involved shooting to publisher and other requesters, though officers were private

individuals; publisher's opposition directly affected public, officers were public officials, officers' intent in seeking to prevent disclosure was immaterial, union and officers sought expansion of PRA's privilege, and union was public organization that sought judgment determining rights of all of its members.

No substantial causal relationship existed between newspaper publisher's intervention in reverse-Public Records Act (PRA) action, in which two police officers and law enforcement union sought to prevent city's disclosure of report regarding officer-involved shooting, and city's initial decision to release redacted version of report, and thus publisher was not prevailing party entitled to attorney fees under PRA for that portion of litigation, though there was substantial connection between publisher's intervention and city's release of additional pages of report following appellate mandamus proceeding and additional proceedings on remand, where publisher did not seek to compel release of report without city's proposed redactions until approximately two weeks after other parties first requested report under PRA.

Trial court acted within its discretion in reducing prevailing-party attorney fee award to publisher of newspaper by 50% based on duplicative efforts by separate counsel for publisher and other requesters, in reverse-Public Records Act (PRA) action, in which two police officers and law enforcement union sought to preclude city's disclosure of report regarding officer-involved shooting and newspaper and other requesters intervened, though publisher could not more precisely tailor its arguments given lack of access to withheld portions of report; trial court noted that publisher and other requesters raised same unredaction issue, and that both filed separate letter briefs and separately appeared at oral argument, overlapping on multiple arguments, and publisher conceded certain arguments were duplicative.