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INVERSE CONDEMNATION - CALIFORNIA

The Inland Oversight Committee v. County of San Bernardino

Court of Appeal, Fourth District, Division 2, California - August 17, 2015 - 190 Cal.Rptr.3d 884 - 2015 Daily Journal D.A.R. 9509

Objectors brought action against county and landowner to challenge an inverse condemnation settlement agreement under the statute forbidding public officers from being financially interested in any contract made by them in their official capacity. The Superior Court denied landowner's anti-strategic lawsuit against public participation (SLAPP) motion. Landowner appealed.

The Court of Appeal held that:

- Objectors' action was "necessary" under the public interest exception to the anti-SLAPP statute, and
- Objectors adequately addressed the "necessity" element in their trial court briefing.

Objectors' action against county and landowner to challenge an inverse condemnation settlement agreement under the statute forbidding public officers from being financially interested in any contract made by them in their official capacity was "necessary" under the public interest exception to the anti-strategic lawsuit against public participation (SLAPP) statute, even if county was still evaluating whether to bring an action to recover the settlement funds, even if no demand had been made on the county, and regardless of the merits of objectors' claims, where no public entity had sought to enforce the rights the objectors sought to vindicate in their lawsuit.

Plaintiffs adequately addressed the issue of the "necessity" element of the public interest exception to the anti-strategic lawsuit against public participation (SLAPP) statute in their briefing in the trial court, thus preserving the issue for appeal, where plaintiffs' opposition to defendants' anti-SLAPP motion began with the argument that "it is undisputed that there has been no public enforcement for the disgorgement of the money illegally paid" under the settlement agreement that the plaintiffs challenged under the statute forbidding public officers from being financially interested in any contract made by them in their official capacity.