

Bond Case Briefs

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PENSIONS - CALIFORNIA

San Diego Municipal Employees Association v. City of San Diego

Court of Appeal, Fourth District, Division 1, California - February 9, 2016 - Cal.Rptr.3d - 2016 WL 490175

City petitioned for writ of mandate to compel its public employee retirement agency to equalize employee contributions to match those of the city after the retirement system suffered investment losses. City employees' unions intervened. The Superior Court allowed the unions to intervene, denied judgment on pleadings for city, entered judgment on settlement agreement, and denied the private attorney general fee motion. Unions appealed.

The Court of Appeal held that:

- To recover private attorney general fees, unions were required to show their intervention was material to the ultimate result, and
- Unions failed to establish that their intervention was material to the ultimate result.

To recover attorney fees under the Private Attorneys General Act (PAGA) for intervening to oppose city's petition for writ of mandate to compel its public employee retirement agency to equalize employee contributions to match those of the city after the retirement system suffered investment losses, public employee unions were required to show their intervention was material to the ultimate result, since the public employee retirement agency was not acting as a volunteer in responding to the litigation, because the retirement agency's job and function was to ensure the soundness of the city retirement system.

Trial court acted within its discretion in concluding that public employees' unions' intervention to oppose city's petition for writ of mandate, which sought to compel city's public employee retirement agency to equalize employee contributions to match those of the city after the retirement system suffered investment losses, was not necessary to the settlement outcome achieved, in denying attorney fees under Private Attorneys General Act (PAGA), even though the unions took the lead in deposing key city witnesses during discovery and prepared a separate statement with many undisputed statements of fact, where the retirement agency itself submitted points and authorities and a separate statement of disputed material facts in opposition to city's motion for summary judgment, and the summary judgment motion was based on the same legal theory as the city's earlier unsuccessful motion for judgment on the pleadings.