

Bond Case Briefs

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WATER DISTRICTS - CALIFORNIA

California-American Water Company v. Marina Coast Water District

Court of Appeal, First District, Division 2, California - December 28, 2022 - Cal.Rptr.3d - 2022 WL 17973690

County water resources agency and investor-owned water utility brought action against public water district alleging that parties' regional desalination project failed as result of negligence of water district's employees and independent contractors in retaining and supervising member of county water resources agency's board, despite his illegal conflict of interest.

The Superior Court granted water district's motion for summary adjudication, and plaintiffs appealed.

The Court of Appeal held that:

- Fact issues remained as to whether water district waived utility's compliance with Government Claims Act's claims presentation requirement;
- Fact issues remained as to whether water district's attorney had apparent authority to waive its right to statutory notice of claim;
- Trial court's grant of water district's motion for summary adjudication did not comply with its obligation to state its reasons for any determination made in summary judgment order; and
- Summary judgment on limitations grounds was not warranted on county agency's negligence claim against water district.

Genuine issue of material fact as to whether public water district waived investor-owned water utility's compliance with Government Claims Act's claims presentation requirement precluded summary judgment on that basis in utility's negligence action against water district.

Genuine issue of material fact as to whether public water district's attorney had apparent authority to waive district's right to statutory notice of claim precluded summary judgment in investor-owned water utility's negligence action against water district on ground that utility for failure to comply with Government Claims Act's claims presentation requirement.

Trial court's grant of public water district's motion for summary adjudication in investor-owned water utility's negligence action on ground that dispute resolution provision in parties' water purchase agreement did not relieve utility of its obligation to comply with Government Claims Act's claims presentation requirement on ground that agreement "was declared void" in prior action failed to comply with trial court's obligation to state its reasons for any determination made in summary judgment order; trial court had recognized in subsequent ruling that its earlier decision was wrong, and failed to address utility's argument that agreement's ab initio status did not retroactively render dispute resolution procedure in that agreement inapplicable.

Genuine issue of material fact as to when public water district became aware that its general manager's negligent supervision of county water resources agency's board member that district had

hired to facilitate approval of regional desalinization project caused agency harm precluded summary judgment on limitations grounds in agency's negligence action against district predicated on subsequent voiding of parties' water purchase agreement as result of board member's illegal conflict of interest.