## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO CENTRAL

## MINUTE ORDER

DATE: 07/31/2012

TIME: 01:22:00 PM

DEPT: C-63

JUDICIAL OFFICER PRESIDING: Luis R. Vargas

CLERK: Richard Cersosimo REPORTER/ERM: Not Reported BAILIFF/COURT ATTENDANT:

CASE NO: 37-2012-00092205-CU-MC-CTL CASE INIT.DATE: 02/14/2012

CASE TITLE: Public Employment Relations Board vs. City of San Diego [IMAGED]

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Misc Complaints - Other

**EVENT TYPE: Motion Hearing (Civil)** 

## APPEARANCES

The Court, having read and considered the Application, Supporting Declarations, Points and Authorities on file, the evidence submitted at the hearing, oral argument of the parties, and other pleadings and papers on file in this action, and having taken the matter under submission on July 27, 2012, hereby DENIES Public Employment Relations Board's ("PERB") Request for Preliminary Injunction ("Injunction") against the City of San Diego ("City") and PERB's Motion to Strike City's Supplemental Brief and Declarations in opposition to PERB's Request for Injunction.

The voters of the City of San Diego overwhelmingly approved Proposition "B", the Comprehensive Pension Reform Initiative ("CPRI"). The court now denies further efforts to enjoin implementation of the CPRI.

Since this Court granted the Temporary Restraining Order, the City of San Diego, and the San Diego Municipal Employees Association ("MEA"), have demonstrated effective advancement in their meet and confer efforts regarding priority implementation of time sensitive issues of the CPRI. The denial of the Injunction would not halt continued meet and confer efforts, nor should it affect MEA and the City of San Diego's obligation to complete PERB administrative proceedings.

Though PERB has initial jurisdiction to determine an unfair labor practice claim made by the San Diego Municipal Employees Association ("MEA"), this Court retains jurisdiction regarding implementation of the CPRI. (See San Diego Municipal Employees Association, v. Superior Court, (2012) 206 Cal.App.4th 1447, 1456, 1458 [143 Cal.Rptr.3d 49, 56, 58] [affirming that PERB has exclusive initial jurisdiction to adjudicate the unfair labor practice claim made by MEA].) When considering injunctive relief, Public Employment Relations Bd. v. Modesto City Schools Dist., (1982) 136 Cal.App.3d 881, 896 [186 Cal.Rptr. 634], requires this Court to determine whether there is "reasonable cause to believe an unfair labor practice has been committed and the relief sought is just and proper [citation]."

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The Court exercises its discretion to deny relief under the "just and proper" prong of *Modesto* based on "traditional equitable considerations." *Id.* The Court finds traditional equitable considerations now weigh in favor of the voters, the City of San Diego and of a proper and orderly implementation of the CPRI.

The court is satisfied substantial progress is being made towards implementation of a proposition placed on the ballot by nearly 116,000 citizens and supported by a significant voter majority. The PERB hearing has now taken place and is pending decision. A City of San Diego proposal has been advanced for an interim Defined Contribution Plan and has been responded to by MEA. The court is persuaded that if Proposition "B" is ultimately found invalid, pension benefits conferred upon new employees can be reverted as required by law.

## IT IS HEREBY ORDERED THAT:

The Public Employment Relations Board's Request for Preliminary Injunction is denied.

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO COUNTY COURTHOUSE, 229 W. BROADWAY, SAN DIEGO, CA 92101-3814 HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 FAMILY COURT, 1555 6TH AVE, SAN DIEGO, CA 92101-3294 MADGE BRADLEY BLDG., 1409 4TH AVE., SAN DIEGO, CA 92101-3105 KEARNY MESA BRANCH, 8950 CLAIREMONT MESA BLVD., SAN DIEGO, CA 92123-1187 NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92083-6643 EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649 JUVENILE COURT, 2851 MEADOW LARK DR., SAN DIEGO, CA 92123-2792 JUVENILE COURT, 325 S. MELROSE DR., VISTA, CA 92083-5634 PLAINTIFF(S)/PETITIONER(S) PUBLIC EMPLOYEES RELATIONS BOARD	FOR COURT USE ONLY
DEFENDANT(S)/RESPONDENT(S)	JUDGE: LUIS R; VARGAS
CITY OF SAN DIEGO	
CLERK'S CERTIFICATE OF SERVICE BY MAIL (CCP 1013a(4))	DEPT: 63  CASE NUMBER  37-2012-00092205-CU-MC-CTL
I, certify that: I am not a party to the above-entitled case; that on the date shown below, I served the following document(s):	
on the parties shown below by placing a true copy in a separate envelope, addressed as shown below, each envelope was then sealed and, with postage thereon fully prepaid, deposited in the United States Postal Service at:	
NAME & ADDRESS	NAME & ADDRESS
WENDI L. ROSS PUBLIC EMPLOYMENT RELATIONS BOARD 1031 18 <sup>TH</sup> STREET SACRAMENTO, CA 95811-4124	
JAN I. GOLDSMITH OFFICE OF THE CITY ATTORNEY CITY OF SAN DIEGO 1200 THIRD AVENUE SAN DIEGO, CA 92101	
ANN M. SMITH TOSDAL, SMITH, STEINER & WAX 401 A. STREET, SUITE #320 SAN DIEGO, CA 92101	
CLERK OF	THE SUPERIOR COURT
Date:	PSOSIMO Deputy

CLERK'S CERTIFICATE OF SERVICE BY MAIL

SDSC CIV-285(Rev. 12-02)