

Affirmative Litigation Course Reading Packet

Class 1: Overview and Introduction to Affirmative Litigation in San Francisco

- Memo from Owen Clements to Affirmative Litigation Students re: Types of Affirmative Litigation Filed by San Francisco – attached
- Example of Affirmative Litigation: **Tobacco Litigation**
 - *City and County of San Francisco v. Philip Morris*, LEXIS 3071 (N.D. Cal. Mar. 3, 1998) (attached)
 - Tobacco Master Settlement Agreement Summary, available at: <http://ag.ca.gov/tobacco/resources/msasumm.php>

Class 2: San Francisco – A Charter City

- San Francisco Charter sections 1.101, Charter section 6.102 available at <http://www.municode.com/Resources/gateway.asp?pid=14130&sid=5>

Attached cases:

- *Birkenfeld v. City of Berkeley*, 17 Cal.3d. 129, 140-142 (1976)
- *West Coast Advertising v. City and County of San Francisco*, 14 Cal.2d 516 (1939)
- *Doe v. CCSF*, 136 Cal.App3d 509 (1982)
- *Johnson v. Bradley*, 4 Cal.4th 389, 394-397 (1992)
- *County of Riverside v. Superior Court*, 30 Cal.4th 278 (2003)
- *Ex Parte Lane*, 58 Cal.2d. 99 (1962)
- *Ward v. Superior Court*, 70 Cal.App. 3d 23 (1977)
- *Civil Service Commission v. Superior Court*, 163 Cal.App.3d 70 (1984)
- CA Eth. Op. 2001-156

Class 3: Examples of Affirmative Litigation in San Francisco

Planned Parenthood

- Partial Birth Abortion Act, 18 USC § 1531 (attached)
- *Stenberg v. Carhart*, 530 U.S. 914 (2000) (attached)

Same Sex Marriage Case

Mandatory Reading:

- Court Decisions
 - California Supreme Court: *Lockyer v. City and County of San Francisco*, 33 Cal. 4th 1055 (2004) (attached)
 - Court of Appeal: *In re Marriage Cases*, 143 Cal. App. 4th 873 (2006) (attached)

Recommended Reading:

- City and County of San Francisco's main brief in *Lockyer v. CCSF* (attached)

- City of San Francisco's Response Brief filed Against the State in the Court of Appeals (November 9, 2005) available at http://www.sfgov.org/site/cityattorney_index.asp
- Trial Court: *In re Marriage Cases*, No. 4365 (Cal. Trial Ct. Mar. 14, 2005) – Judge Kramer's decision, available at: http://www.sfgov.org/site/cityattorney_index.asp
- Materials from Trial Court (available in the Marriage Case Archives at http://www.sfgov.org/site/cityattorney_page.asp?id=28545)
 - Declarations in Support of the City's Constitutional Challenge (September 2, 2004)
 - Focus on the declarations of Ed Harrington (San Francisco City Controller); Cynthia Goldstein (San Francisco Human Rights Commission)
 - Joint Supplemental Case Management Statement (October 25, 2004)

Class 4

- **Unlawful prong of B&P § 17200**
 - *Stop Youth Addicton v. Lucky Stores*, 17 Cal. 4th 553
 - Please just read the summary, headnotes 2-4 and 6, and pp. 558-60
 - Note that the case describes the pre-Prop. 64 state of the law regarding standing for private enforcement
 - *Hewlett v. Squaw Valley*, 54 Cal. App. 4th 499
- **Evolving test for unfair business practices**
 - *Cel-Tech Communications v. Los Angeles Cellular*, 20 Cal. 4th 163
 - Please read the summary, headnotes 2-4, and pp. 178-87 (discussing test for unfairness in cases brought by competitors)
 - *Gregory v. Albertsons*, 104 Cal. App. 4th 845
 - This case applies the *Cel-Tech* test in a consumer case, and rejects an interesting claim that intentionally keeping an anchor store vacant is an unfair business practice
 - *Progressive West Insurance V. Superior Court*, 135 Cal. App. 4th 263
 - Please read the summary, headnotes 13-18, and pp. 283-88 (discussing all three prongs of 17200 and refusing to apply the *Cel-Tech* test to a consumer claim)
- **Deceptive business practices**
 - *Committee on Children's Television v. General Foods*, 35 Cal. 3d 197
 - Please read the summary, headnotes 2-4 and 7, and pp. 209-13 (discussing the test for deceptive business practices, which (we hope) still applies for public prosecutions)
- **Public nuisance**
 - *People ex rel Gallo v. Acuna*, 14 Cal. 4th 1090
 - Please read the summary, headnotes 1-3, and pp. 1102-09
 - *Connecticut v. American Electric Power Co.*, 406 F. Supp. 2d 265
 - The court in this case dismisses the case on political question grounds. That is interesting, but not relevant to this class. Instead,

you should focus on the nature of the case, and the complaint filed the state Attorneys General.

- Attorney General's Complaint – *People of California v. General Motors*
- **Writs**
 - Cal. Code Civ. Proc. § 1085
 - Cal. Code Civ. Proc. § 1094.5
 - *Green v. Obledo*, 29 Cal. 3d 126
 - Please read the summary, headnote 5, and the text of section III of the opinion (pp. 143-145)

Class 5: Issues Affecting Children, Youth & Families

- Child & Youth Issues Overview (Feb. 7 lecture)
- Persons subject to jurisdiction of juvenile court, CAL. WELF. & INST. CODE § 300 (Deering 2005)
- *Cynthia D. v. San Diego Superior Court*, 5 Cal. 4th 242 (1993)
- *Fry v. Saenz*, 98 Cal. App. 4th 256 (Ct. App. 2002)
- *Rosie D. v. Romney*, 410 F. Supp. 2d 18 (D. Mass 2006)