

MUNICIPAL LAW INSTITUTE OF THE LEAGUE OF CALIFORNIA CITIES: CURRENT DEVELOPMENTS ON PENSION AND BENEFITS

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Legal Issue Survey: Vested Rights Litigation

- ***Contra Costa County Deputy Sheriffs' Ass'n et al. v. Contra Costa County Employees' Retirement Ass'n, et al.***, Contra Costa Superior Court Case No. N12-1870, tentative decision Dec. 17, 2013 (contract clause, equitable estoppel challenge AB 197 anti-spiking revisions to CERL → argue retirement boards cannot comply w/law by changing previous policies that allowed spiking (inclusion of e.g. on call pay, standby pay, terminal pay, accrued leave in final compensation))
- ***Harris et al. v. County of Orange***, Ninth Circuit No. 13-56061, argued Feb. 6, 2014 (federal and CA contract clause; FEHA age discrimination due to splitting pool of retiree and active insurance; implied contract to grant subsidy retiree medical benefit and pooling of retiree and active medical insurance)
- ***International Brotherhood, etc. v. City of Redding***, 210 Cal. App. 4th 1114 (2012), Cal. Court of Appeal, 3rd Appellate Dist., Case No. C067709 (at demurrer stage, union could proceed with vested rights challenge to retiree health benefit reform; problematic language suggesting that merely because MOU language at issue concerned a “future benefit,” City intended to confer a vested right)

Legal Issue Survey: Vested Rights Litigation

- ***Los Angeles City Attorneys' Association v. City of Los Angeles***, Los Angeles Superior Court, Case No. BS135294, Decision and Order, September 13, 2013, federal and CA contract clause challenge to ordinance freezing retiree medical subsidy; pet. Unions were hold outs that refused to agree to contribute 4 percent of their paychecks to the Los Angeles City Employees' Retirement System)
- ***Protect Our Benefits v. City and County of San Francisco***, San Francisco Superior Court Case No. CPF-13-512788, Statement of Decision, Sept. 10, 2013 (charter amendment - no supplemental COLAs paid unless retirement system fully funded based on the market value of the assets for the previous year; contract clause challenge rejected under *Allen v. Board of Administration*, 34 Cal. 3d 114 (1983), exception – no vested right if reform returns benefit to its original purpose)
- ***Retired Employees Association of Orange County, Inc. v. County of Orange***, Ninth Circuit Case No. 12-56706, argued Nov. 4, 2013 (appeal from second MSJ for county; vested rights based on implied contract to pooling of retiree and active medical benefits)
- ***Retiree Support Group of Contra Costa County v. Contra Costa County***, N.D. Cal. Case No. 12-cv-00944-JST (alleged implied contract that county would pay 80% cost of retiree health care benefits for retiree and dependent for retiree lifetime; motion to dismiss denied in May 2013 based on SCARE and REAOC standard)

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- ***Sacramento County Retired Employees' Association v. County of Sacramento***, E. D. Cal. Case No. CIV S-11-0355 KJM-EFB, September 30, 2013 (retiree medical and dental subsidy frozen or eliminated; applied REAOC implied contract standard; turns of legislative intent evidence; here evidence fell short, court stressed reservation of rights clauses)
- ***San Jose Police Officers' Ass'n et al. v. City of San Jose***, Santa Clara County Superior Court, tentative decision Dec. 20, 2013 (challenge to charter measure B; upheld 10 out of 15 sections – severable – including Reservation of Voter Authority over any pension plan changes; Reforms to the definition and administration of disability retirement benefits; Elimination of SRBR; Employee payment toward unfunded liabilities in the City's retiree health program; Wage reduction in lieu of increased contributions toward pension costs. Found unlawful: mandatory increased contribution toward retirement unfunded liabilities and associated Voluntary Election Program; section permitting City to reduce the COLA if there is a future fiscal emergency; certain healthcare provisions)
- ***Sonoma County Ass'n of Retired Employees v. Sonoma County***, 708 F.3d 1109 (9th Cir. 2013) (vested right to healthcare benefits; implied contract theory; remand to allow Ass'n to amend to identify resolution/ordinance that created alleged contract) → on remand in ND Cal, Case No. C 09-4432 CW, motion to dismiss granted in part denied in part. All claims based on non-union employees dismissed; claims for retirees based on MOUs starting in 1990 may proceed but only for those hired after 1990