

General Municipal Litigation Update

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Agenda

- Municipal Finance
- Government Claims Act
- Elections
- Open Government
- Miscellaneous

Municipal Finance

Palmer v. City of Anaheim



- Applied *Fair REU Rates* to allow 1.5% right-of-way fee because agency had non-rate revenue to cover.
- Confirmed that electorate approved overcharge for general fund transfer when it approved section 1221. Electorate specifically approved above-cost of service rates.
- Electorate may approve a general fund transfer from a utility as a tax.



Municipal Finance

Campana v. East Bay Municipal Utility District

- Upholds 120-day limitations period to challenge water rates. Public Utilities Code § 14402.
- Rejecting *Howard Jarvis Taxpayers Assn. v. La Habra's* rolling statute of limitations – Prop. 218 does not authorize a new legal challenge with a new statute of limitations every time the utility collects charges.
- Did not reach the merits of the tiered water rates challenge.



Govt Claims Act

Hernandez v. City of Stockton

- A government claim must identify the proper factual basis for recovery.
- Injury from an “uplifted sidewalk” is not the same as injury from falling in an empty tree well.
- Courts defer to the purpose of the Government Claims Act – to allow proper notice to investigate and potentially settle the claim.



Govt Claims Act

County of Santa Clara v. Superior Court

- Govt Claims Act does not immunize the County from a hospital providers' quantum meruit claim for reimbursement of the reasonable cost of EMS.
- The Government Claims Act is directed to torts, not "every conceivable claim that might be pressed against a public entity."
- The California Supreme Court rejected a 2-tier system with different recourse against private vs. public plans.



Elections

Pico Neighborhood Assn v. City of Santa Monica



- Interpreting the prong of the CVRA allowing a party to establish dilution by showing an “ability ... to elect candidates of its choice.”
- Not required to show that you would have a majority in a district to win a dilution claim. It is about showing the potential to elect preferred candidate with cross over voters.

Elections

San Bernardino County Board of Supervisors v. Monell

- One Term Limit: Not a severe restriction on voting rights because it allowed incumbent to seek other office and limit protected against incumbent gaining excessive power. Did not impose a retroactive term limit because did not oust incumbents.
- Comp. Cap: Within electorate's power to set comp cap and did not violate wage laws. Not retroactive and did not apply to concurrently elected supervisors.



Elections

Coalition of County Unions v. L.A. County Bd. of Supervisors

Upholds voter-approved charter amendment requiring Board to allocate at least 10% of unrestricted general fund to community investment alternatives to law enforcement and incarceration.

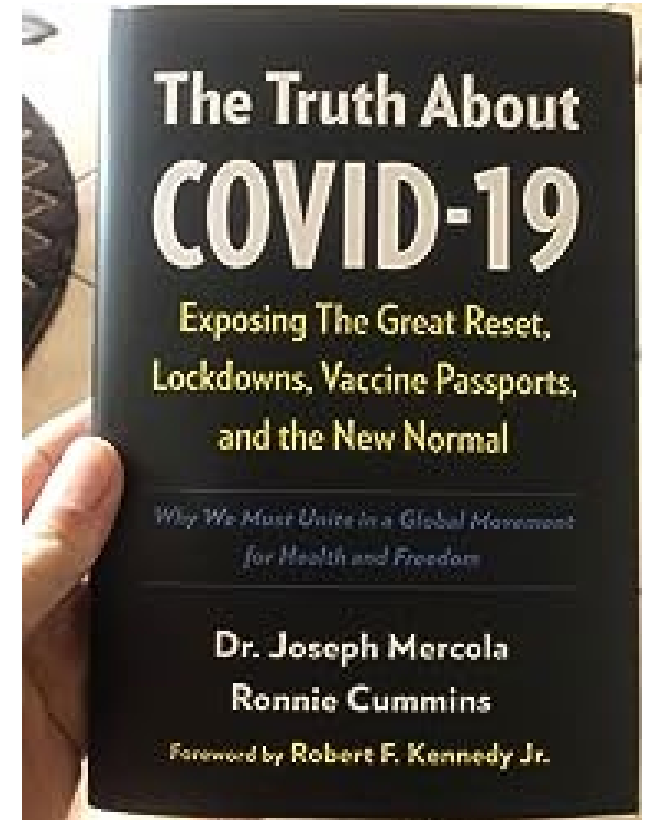
- Does not improperly incapacitate the county or its officers from performing required functions.
- Does not violate constitutional provisions governing the county charters.
- Not preempted by County Budget Act or Public Safety Augmentation Fund.



Open Government

Kennedy v. Warren

- Authors of a book criticizing COVID-19 policies were not entitled to a preliminary injunction to protect their First Amendment rights.
- Sen. Warren's letter asking Amazon to stop using algorithms and its best seller list to promote the book was persuasive government speech, not coercive government censorship.
- One Senator's letter was not an actual or threatened imposition of government power.



Open Government

Edais v. Superior Court of San Mateo County

- A coroner's investigation files and autopsy photos may be public records within the CPRA.
- Public vs. privacy interests must be weighed. And this is a factual inquiry.
- The parents' interests in an independent forensic review of the officer's cause of death and the coroner's competency trumped.

COUNTY OF LOS ANGELES DEPARTMENT OF CORONER

12 **AUTOPSY REPORT** No. [REDACTED]

I performed an autopsy on the body of [REDACTED] →

at THE DEPARTMENT OF CORONER

Los Angeles, California on [REDACTED] (Date) [REDACTED] (Time)

From the anatomic findings and pertinent history I ascribe the death to:

(A) [REDACTED]
DUE TO OR AS A CONSEQUENCE OF

(B) [REDACTED]
DUE TO OR AS A CONSEQUENCE OF

(C) [REDACTED]
DUE TO OR AS A CONSEQUENCE OF

(D) OTHER CONDITIONS CONTRIBUTING BUT NOT RELATED TO THE IMMEDIATE CAUSE OF DEATH:
[REDACTED]

Anatomical Summary:

I. [REDACTED]
a. [REDACTED]
b. [REDACTED]
c. [REDACTED]

II. [REDACTED]
a. [REDACTED]

III. [REDACTED]
a. [REDACTED]

Miscellaneous



California Restaurant Assoc. v. Berkeley

- City's ban on natural gas facilities in new construction preempted by the federal Energy Policy and Conservation Act (EPCA).
- ECPA preemption clause bars regulations concerning "energy use." City's regulation concerned energy use in that it mandated zero usage.
- Rejected Fed's amicus argument that City regulation not preempted because it did not concern energy conservation standards for covered appliances.

Miscellaneous



Discovery Builders v. Oakland

- Holds that a contract with a city cannot be interpreted to infringe upon the City's constitutional police power to protect public health and safety.
- City could impose new fees under police power even if contract with developer purported to quantify all fees owing.
- Case has broad implications beyond the land use context. Example: Franchise Agreements

Questions?

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