



## CITY ATTORNEY UPDATE

### Settlement of *Janet Wood v. City of San Diego*

On February 3, 2015, the City Council will consider two actions to end more than a decade of litigation concerning the pension system's Surviving Spouse Continuance Benefit.

The first Council action is an extension of the contract with outside law firm Sullivan Hill Rez & Engel to bring total authorized payments to the firm to about \$2.1 million. The second is a settlement of about \$70,000 to the plaintiff Janet Wood.

In response to media inquiries concerning these two actions, Chief Deputy City Attorney Joe Cordileone issued the following statement:

"This dispute has been going since 2000. In that time it spawned two federal lawsuits, two federal appeals, and a state-court action. The City prevailed in both federal actions, including a published opinion issued by the Ninth Circuit rejecting the plaintiffs' claims on the merits. See *Wood v. City of San Diego*, 678 F.3d 1075 (9<sup>th</sup> Cir. 2012). Notwithstanding, the plaintiff continued to pursue her claims in state court.

"The amount of damages alleged by the plaintiffs varied over time; however, had the claim prevailed, the damages would have included an annual increase of \$1.5 million to \$3.5 million in the City's required contribution to SDCERS (to fund requested increased benefits to active employees). The City also would have had to contribute an additional payment for each person who retired unmarried from the City after 1998. (The amount owing would have, according to the plaintiff, been measured by the difference in actuarial value between retiree's Refund Benefit and the Surviving Spouse Continuance Benefit that the retiree would have been eligible to confer on a surviving spouse had the person retired married.) Those damages were never quantified, but easily could have been tens of millions of dollars.

"Further, Mr. Conger sought substantial attorney fees. His most recent calculation was that he should get a minimum of \$2 million and that the Court should then multiply that figure by a factor between 1.5 and 2 -- for a total of \$3 to \$4 million. There was never a time that Mr. Conger ever offered to exclude his attorney's fees to settle the case. Instead, on the eve of trial, Mr. Conger and his client opted to waive any right to recover attorneys' fees and accept the \$68,000 that the City offered in exchange for a dismissal with prejudice.

"This was an outstanding victory for the City."

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