



San Diego City Attorney

Jan I. Goldsmith

NEWS RELEASE

FOR IMMEDIATE RELEASE: April 13, 2015

Contact: [Gerry Braun](mailto:gbraun@saniego.gov), Director of Communications: gbraun@saniego.gov (619) 533-4782

Court issues decision in Briggs case vs. City Attorney *Claim of illegal "waste" dismissed. Court denies email claim against City Attorney*

Superior Court Judge Joel Wohlfeil issued a decision (attached) in the case brought by attorney Cory Briggs against City Attorney Jan Goldsmith, personally, seeking a finding of so-called illegal "waste" and an order that the City Attorney produce emails. The illegal "waste" claim was dismissed and the judge refused to issue an order directed at the City Attorney.

However, Judge Wohlfeil found that the City of San Diego violated the California Public Records Act by failing to seek clarification from Briggs of his request for documents. Wohlfeil also ordered the City to produce 176 emails that had been withheld under a claim of exemption. Of the 176 emails, 175 are email communications from the League of California Cities. The League contends the emails are confidential under the attorney-client privilege and is expected to appeal the order.

In the decision, Judge Wohlfeil:

- confirmed that Briggs' claim aimed at the City Attorney, personally, accusing the City Attorney of illegal "waste," was dismissed;
- denied Briggs' claim for an order aimed at the City Attorney, personally, finding that the Public Records Act was complied with as to the City Attorney's private email account;
- found that City staff violated the California Public Records Act by failing to work with Briggs to resolve confusion over his Public Records Act request; and
- ordered that 176 additional emails be produced, 175 of which are member communications of the League of California Cities regarding League legal positions in court.

ILLEGAL "WASTE" CLAIM DISMISSAL

Briggs' claim of illegal "waste" sought damages personally against the City Attorney for such things as speaking with the media. As recited by Judge Wohlfeil, Briggs made the claim in March 2014, and it was dismissed in November 2014. During the interim, Briggs and a very active blogging supporter made much of the claim. Briggs even attended a City Council meeting threatening that the City Attorney would be forced to pay damages. The claim was dismissed "with prejudice," meaning it cannot be filed again.

Recent City Attorney media releases can be accessed on the San Diego City Attorney's home page located on the Internet at <http://www.sandiegocityattorney.org>

1200 Third Avenue, Suite 1620, San Diego, California 92101-4188 (619) 236-6220

PUBLIC RECORDS ACT DECISION

1. Failure to ask for clarification as violation of the Public Records Act

This dispute began in January 2014 when Briggs filed a Public Records Act with the City of San Diego seeking copies of any emails to or from Goldsmith's private email account. City staff, mistakenly believed that Briggs was not seeking emails in the City's email system, rejected the request. Briggs immediately sued, alleging that he was seeking emails in the City's email system.

Once the true nature of Briggs' request became clear, City staff provided Briggs with hundreds of emails in the City's email system spanning six years. Many of the emails were sent by Goldsmith from his personal email system to the City's email system which was his practice over the years. Accordingly, those emails were found in the City's system.

Judge Wohlfeil found that City staff initially misread the Public Records Act request and should have clarified with Briggs what he was seeking. That initial misreading, according to the judge, violated the City's obligation under the Public Records Act.

2. The 176 emails ordered released.

City staff held back emails that they claimed were exempt from release under the law. Briggs challenged the City's claim of exemption on 176 emails.

Of the 176 emails, one was sent to Goldsmith by one of his children in 2009 (who was in college at the time) asking if a friend could volunteer in the City Attorney's Office. The friend did not seek the volunteer position. Judge Wohlfeil determined this email was City business and ordered it released. It will be released.

The balance of 175 emails was also ordered released. The 175 League of California emails span six years and include the legal analyses of city attorneys from around the state, as well as attachments, amounting to over 8,600 pages. These emails involve decisions of the Legal Advocacy Committee of the League on whether to file *amicus curie* briefs. The League believes these are confidential under the attorney-client privilege because the cities are members of the League and have a right to discuss confidential legal matters with the League's lawyers. Briggs, whose practice consists largely of suing California municipalities, has expressed his eagerness to see them.

It is expected that the League of California Cities will appeal this decision, with cooperation from the City of San Diego, in order to protect the attorney-client privilege.

"This is a big deal not only for the League but for all trade associations and advocacy groups that seek member input on whether to file lawsuits or amicus curie briefs," Goldsmith said. "There are hundreds of emails from the League in which city attorneys from cities across the state are providing input on whether the League should become involved in a case."

###