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# San Diego City Attorney

## Jan I. Goldsmith

### NEWS RELEASE

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### APPELLATE COURT SIDES WITH CITY ON PRESIDENTIAL LEAVE SUIT

**San Diego, CA:** An appellate court has upheld a lower court's ruling that pension benefits granted improperly by former City officials can and should be reversed. The decision is attached.

The Court of Appeal, Fourth Appellate District, affirmed a Superior Court ruling that the City could lawfully repeal a portion of former firefighters union head Ronald Saathoff's pension because it had been granted in violation of the City Charter, which is the City's constitution.

"In the case of a charter city, the charter represents the supreme law of the City, subject only to conflicting provisions in the federal and state Constitutions and to preemptive state law," according to the ruling on page 15. "[A] contract entered into by a governmental entity without the requisite constitutional or statutory authority is void and unenforceable." [page 16]

The 41-page published ruling, released today, can serve as precedent for future decisions.

Noting the unusually lengthy and detailed ruling, City Attorney Jan Goldsmith said, "The Appellate Court is sending a firm and clear message that our City Charter must be enforced."

The pensions of Saathoff and other union leaders had been calculated using the so-called "Presidential Leave" formula that combined their City and union salaries. The City retroactively cancelled that benefit in 2007 after the Internal Revenue Service said applying the union salary violated federal law. San Diego City Firefighters, Local 145, IAFF, AFL-CIO filed suit in 2009 on Saathoff's behalf to have the benefit reinstated.

A Superior Court judge in 2010 became the second judge in as many years to throw out the Presidential Leave benefit, which was approved through labor negotiations but never ratified by ordinance by the San Diego City Employees Retirement System (SDCERS) or approved by its members, as required by the City Charter.

"...(E)ven if a jointly prepared memorandum of understanding existed that satisfied [state labor law], that agreement could not be given effect because doing so would conflict with the city charter requirement that amendments to the SDCERS be adopted by ordinance and be approved by a vote of the SDCERS members (*Domar, supra*, 9 Cal.4th at p. 171 ["Any act that is violative of or not in compliance with the charter is void."].) [page 18]," the appellate court ruled.

Since 2008, the City Attorney's Office has consistently won pension and retiree health cases, resulting in projected savings of more than \$800 million. "We have focused on enforcing the City Charter," said Goldsmith. "This appellate court decision reinforces that strategy. This city must obey its City Charter."

Prop. B on the June ballot would amend the City Charter and incorporate new pension terms, if approved.