CLIENT NEWS BRIEF

Court of Appeal Issues Opinion in School Districts' Favor in Latest Round of P.E. Minutes Litigation

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In the latest chapter of litigation over physical education (P.E.) minutes, the Court of Appeal recently issued an unpublished opinion in Cal200, Inc. v. Apple Valley Unified School District. The opinion is notable for two reasons. First, the court sets forth a comprehensive analysis of when a party has standing to seek injunctive relief in a matter. Second, the opinion addresses the unique set of circumstances where a party affirmatively requests for a court to issue judgment against itself, ordering the exact relief which the opposing party seeks.

Background

Cal200, Inc. (Cal200) is a corporation purporting to advocate for the right of children to P.E. instructional minutes in California's elementary schools. Cal200 does not claim it has been personally harmed or aggrieved in any manner by the respondent districts' alleged conduct of providing less than 200 minutes of P.E. instruction every ten school days for pupils in first through sixth grades, pursuant to Education Code section 51210, subdivision (a)(7). However, to date, Cal200 has sued over 125 California school districts in multiple, costly, lawsuits spanning many years, all premised upon the same theory and seeking to remedy alleged public harm arising from these alleged violations.

The Court's Opinion

In this latest iteration, Cal200 sued Apple Valley Unified School District and 87 others school districts, seeking a writ of mandate ordering the districts to provide the required number of P.E. minutes. A writ is a legal remedy that requires a public agency to act as directed by the court. The crux of Cal200's appeal in the present matter was that they were entitled to more relief than that granted by the superior court. Specifically, Cal200 contended they were entitled to an injunction. However, the superior court had already issued a writ against five of the districts (pursuant to the districts' own motion).

Although in most cases a party must have a beneficial interest in a matter in order to have standing to litigate that matter before a court, Civil Code section 1086 contains a narrow "public interest" exception permitting any member of the public to seek a writ against a public officer or entity in appropriate circumstances. In rejecting Cal200's arguments, the Court of Appeal distinguished between a party's standing to seek a writ in the "public interest" and the standing required for a party to be entitled to an injunction against a public agency where the party alleges no particularized harm as to itself apart from that alleged as to the public at large. Relying upon appellate case law, the court confirmed that standing to seek an injunction is only available where a party has been personally "aggrieved by certain torts or other wrongful acts[,]" and is able to show "an actual or threatened injury to property or personal

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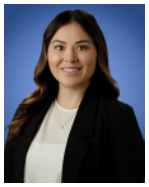

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rights." The court stressed that injunctive relief bears its own beneficial interest requirement, the absence of which is dispositive—that is, to have standing to obtain an injunction, "a party must be beneficially interested in the controversy[,]" "as to himself." Thus, a party may have standing to seek a writ, while lacking the particularized harm that would entitle that party to an injunction.

In the unique circumstances of this case, the districts affirmatively requested that the superior court issue the writ sought by Cal200, which simply had the effect of requiring the districts to comply with applicable law. When the superior court did so, Cal200 appealed, arguing that such action by the superior court was improper without Cal200's consent, or some evidentiary proceeding confirming propriety of writ issuance. The Court of Appeal disagreed, confirming that, generally speaking, there are no procedural or evidentiary requisites that must be satisfied before judgment may be entered in an opposing party's favor.

On this point, the opinion provides an important analysis helpful to future litigants, who may see strategic value in requesting a court to enter judgment against themselves, in an opposing party's favor, and the opinion confirms that a party need not necessarily satisfy specific evidentiary or procedural prerequisites before requesting such action from a court, especially in litigation designated as "complex." By extension, the opinion further demonstrates the broad universe of remedies available in a complex litigation matter, including issuance of a judgment or order not expressly delineated by statute or common law.

Takeaways

The court's opinion was initially published. However, after Cal200 sought review of the opinion by the California Supreme Court, the state's high court denied review, but determined not to publish the case. As such, the unpublished opinion cannot be relied upon directly as future precedent. The opinion, however, still provides a helpful analysis of the difference between the applicable standards for seeking writ and injunctive relief against a public entity or officer. This case marks the latest in the series of cases against school districts around the state by the appellants, the purpose of which largely appears to be seeking attorneys' fees from school districts. Four of the five school districts involved in this appeal were represented by Lozano Smith attorneys Sloan Simmons, Anne Collins, Steve Ngo and Erin Hamor.

For additional information regarding the court's decision in these cases and its unpublished opinion, please contact the authors of this Client News Brief or an attorney at one of our eight offices located statewide. You can also subscribe to our podcast, follow us on Facebook, Twitter and LinkedIn or download our mobile app.

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