

CLIENT NEWS BRIEF

Public Agencies Can Be Liable For Attorney's Fees In Reverse-CPRA Actions

The risks involved in asking a court to halt the disclosure of documents sought under a California Public Records Act (CPRA) request were just expanded to public agencies. About a year ago, we reported that a pair of court decisions held that *private* parties who lose in a lawsuit, to prevent government agencies from disclosing personal information, may be required to pay the requester's attorney's fees (see [2018 Client News Brief Number 35](#)). In the recent case of *City of Los Angeles v. Metropolitan Water District of Southern California* (November 19, 2019, B272169) __Cal.App.5th__, this rule has now been extended to third-party *public agencies* seeking to prevent the disclosure of governmental records.

Background

During a time of severe drought in California, the Metropolitan Water District (Metropolitan) implemented a rebate program for customers who replaced their grass with drought tolerant landscaping. The City of Los Angeles Department of Water and Power (DWP) is a member agency of Metropolitan, and has customers who received rebates through Metropolitan's program.

On May 19, 2019, a reporter from the San Diego Union Tribune (Tribune) wanted to research allegations that the rebate program was favoring affluent communities. The reporter made a CPRA request to Metropolitan for information about the rebate recipients, seeking information including recipients' names, addresses, and rebate amounts. Before responding to the request, Metropolitan provided DWP with a copy of the request. Metropolitan and DWP agreed to limit the response to only generalized block numbers, and Metropolitan's share of the rebate amount (member agencies had the option of supplementing customer rebates). Tribune objected to the withholding of information, and DWP filed a "reverse-CPRA" lawsuit, seeking to broadly prevent Metropolitan from releasing customer information about anyone who participated in the rebate program. At trial, the court ruled in Tribune's favor, determining that the records in dispute must be disclosed. The trial court required Metropolitan to pay about \$25,000 to Tribune for attorney's fees under the CPRA. The court further awarded Tribune about \$136,700 in attorney's fees under California's Private Attorneys General Act (PAGA) (Code Civ. Proc., § 1021.5), to be paid by DWP and other intervening utilities. PAGA allows a court to grant attorney's fees in favor of a party who seeks to enforce an important public right, such as the disclosure of records concerning public expenditures.

On appeal, the court affirmed for the first time that governmental agencies risk liability for attorney's fees under PAGA if the agency loses a lawsuit challenging the agency's decision to withhold public records. Here, DWP lost its appeal to withhold its customer's information, and the trial court affirmed the initial attorney's fees and added an additional \$12,350 to the award.

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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Takeaways

City of Los Angeles should serve as a cautionary tale for public agencies considering intervening in CPRA disputes, to prevent disclosure of public records. The financial risks involved in such intervention have now significantly increased for public agencies, and the court has reaffirmed the general stance favoring the broad disclosure of information. When a public agency is at risk of having its information disclosed in another agency's response to a CPRA request, seek legal assistance in conducting a careful analysis of how to proceed.

If you have any questions about the *City of Los Angeles* case, the CPRA or PAGA in general, 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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