

# CPM Client City of San Jose Files Motion to Expedite Federal Appeal Against MLB

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On January 29, 2014, the City of San José filed a Motion to Expedite its Federal Appeal in the City's antitrust case against Major League Baseball and Commissioner Bud Selig. The Motion, filed before the Ninth Circuit Court of Appeals in San Francisco, CA, seeks speedy review of the trial court's order dismissing the City's antitrust and unfair competition claims.

Counsel for the City of San José, **Philip Gregory** of Cotchett, Pitre & McCarthy, stated: "The City hopes the Court of Appeal will promptly consider San José's antitrust claims that MLB and Commissioner Selig are preventing relocation of the A's to San José. As Judge Ronald W. Whyte ruled in Federal Court, '[T]he A's are unable to exercise the option due to MLB's delay in conducting the vote to approve or deny relocation ... MLB [was] aware of the Option Contract and has engaged in acts ... indicating an intent to frustrate the contract.'"

On June 18, 2013, the City sued MLB in federal court for antitrust violations and interference with the City's Option Agreement with the A's. The appeal is from the order by Judge Whyte, who decided MLB was exempt from federal and state antitrust laws. "Judge Whyte determined our antitrust claims fall under the antitrust exemption for the business of baseball," stated **Joseph Cotchett**. "We look forward to testing the continuing validity of this exemption with the Court of Appeals. We believe Major League Baseball is subject to the same antitrust rules that apply to all other sports." The district court previously held that the court was bound by a Supreme Court case, but questioned the continued validity of that case.

On January 23, 2014, the City of San José filed claims for tortious interference against MLB and Commissioner Selig in Santa Cruz County Superior Court. That new complaint contained allegations concerning a secret letter, allegedly sent to Lew Wolff (managing partner of the A's) by Commissioner Selig on June 17, 2013. According to the complaint,

## Attorneys

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## Practice Areas

Antitrust & Global Competition

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MLB claims Commissioner Selig secretly denied the A's request to relocate to San José. Mr. Gregory stated: "The City has not seen this purportedly secret denial and MLB refuses to release the contents of the letter to the City or the public."

Cotchett, Pitre & McCarthy, LLP, along with the Office of the City Attorney, represent Plaintiffs the City of San José and the San José Diridon Development Authority.

Please click below to view the Motion to Expedite Appeal.