

CPM Client City of San Jose Files State Court Action Against MLB and Appeals Antitrust Ruling

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On January 23, 2014, the City of San José filed claims for tortious interference with contract against Major League Baseball and Commissioner Bud Selig in Santa Cruz County Superior Court. At the same time, the City filed its Notice of Appeal to the Ninth Circuit Court of Appeals 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 is moving forward with its claims that MLB and Commissioner Selig are preventing relocation of the A's to San José under an Option Agreement. 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.

The complaint contains new 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 new complaint,

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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." Gregory also observed: "This supposed denial of the A's request to move to San Jose did not prevent the A's from extending the Option Agreement. On September 26, 2013, the A's extended the Option Agreement's exercise period through November 8, 2014 by paying the extension fee of \$25,000 to the City."

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