

High court to decide whether to hear CPM client San Jose's antitrust challenge to MLB

San Francisco Chronicle
2015

The Oakland A's, who didn't go far on the baseball diamond this season, may soon hear from the U.S. Supreme Court whether they're going anywhere off the field.

The court could announce as early as Monday whether it will take up a challenge by the city of San Jose to Major League Baseball's 93-year-old antitrust exemption that has allowed the big leagues to block the A's proposed move to the South Bay city.

The team's owners have been talking with Oakland Mayor Libby Schaaf about a better ballpark in Oakland, either a spruced-up Coliseum or a new stadium at the site. They signed a new 10-year lease for the aging coliseum in July 2014, but retained a right to opt out in four years. Four months later, the owners, who have long preferred a move to a more lucrative location, renewed an option agreement with San Jose to build a stadium near the city's downtown Diridon train station.

But under the major leagues' rules, the San Francisco Giants can — and probably will — block the move to San Jose because they have territorial rights there. To overcome that potential roadblock, the A's would need approval from three-fourths of Major League Baseball's team owners, which is unlikely.

Those rules that prevent a team's owners from relocating on their own are grounded, in turn, on the Supreme Court's 1922 ruling that said antitrust laws restricting monopoly enterprises didn't apply to big-league baseball. Though the basis of that ruling — that baseball is not interstate commerce subject to federal regulation — was eventually repudiated by the court in other cases, the justices reaffirmed the sport's antitrust exemption in 1953 and 1972, saying Congress had

Attorneys

Joseph W. Cotchett

Practice Areas

Antitrust & Global Competition

HIGH COURT TO DECIDE WHETHER TO HEAR CPM CLIENT SAN JOSE'S ANTITRUST CHALLENGE TO MLB

acquiesced by leaving the laws intact since 1922.

That was also the message from the Ninth U.S. Circuit Court of Appeals in a January ruling refusing to reinstate San Jose's 2013 lawsuit against the major leagues, which a federal judge had dismissed.

"Only Congress and the Supreme Court are empowered to question the continued vitality (of the 1972 ruling) and with it, the fate of baseball's singular and historic exemption from the antitrust laws," Judge Alex Kozinski said in the 3-0 decision.

San Jose took up the invitation, urging the high court to reconsider its previous rulings.

"Baseball as a sport emphasizes competition," said Philip Gregory, a lawyer for the city. "MLB as a business refuses to believe it is subject to the same antitrust rules that apply to all other professional sports — football, basketball and hockey."

In its court filing, San Jose said the antitrust exemption "is causing ever-increasing harm to baseball fans and their local communities." San Jose Mayor Sam Liccardo issued a statement decrying "the sense of entitlement displayed by the league's billionaire owners."

The case was among the appeals considered by the justices Monday in a closed-door conference to select lower-court rulings to review in the 2015-16 term, which begins next Monday. On Thursday, the court announced its first group of cases that were granted review by votes of at least four of the nine justices, but the A's case was not among them... *(To read the entire article, please click [HERE](#))*