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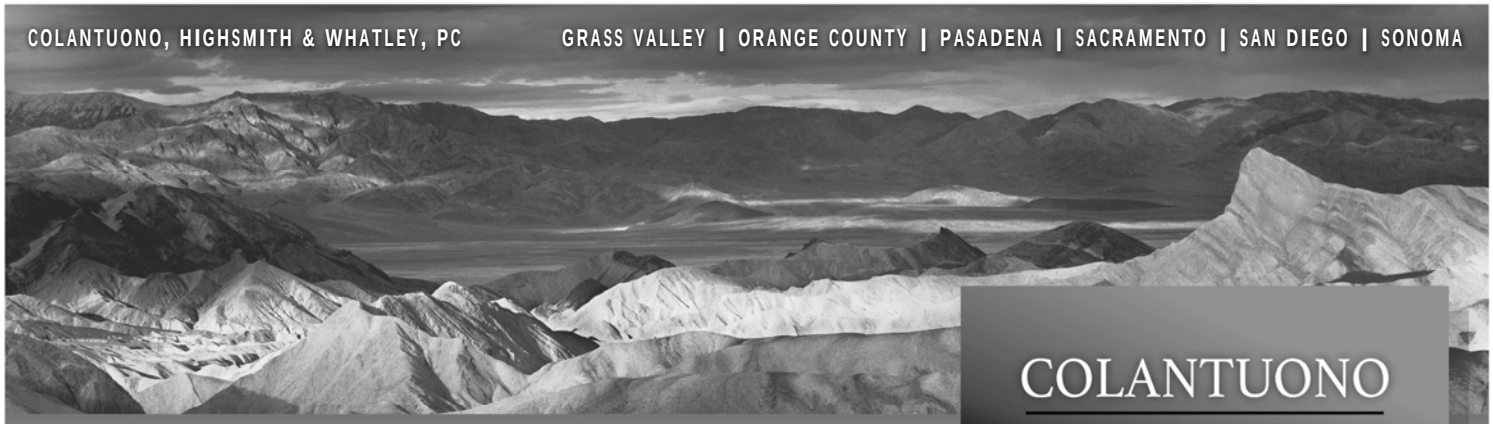

COLANTUONO HIGHSMITH WHATLEY, PC

Newsletter | Spring 2026

Update on Public Law

Court Clarifies Rules for Withholding Law Enforcement Records

By Sara Lopez, Esq. and Jon R. DiCristina, Esq.

Two recent cases clarify that agencies have more responsibility to release law enforcement records under recent amendments to the Public Records Act and *Pitchess* statutes. A pending criminal trial is not a basis to withhold records of a "critical incident," and agencies must release enough video or audio to show an incident's context—not just when shots are fired. The court also broadened the records of officer-involved shootings that must be released.

The PRA requires release of body camera footage related to "critical incidents," i.e., incidents involving the discharge of a firearm or the use of force causing death or great bodily injury. Disclosure is not required if it would "substantially interfere" with "an active criminal or administrative investigation." The PRA also requires disclosure of personnel records "relating to" investigation of an incident involving the discharge of a firearm.

In *Sacramento Television Stations, Inc. v. Superior Court*, the Sacramento Court of Appeal clarified these rules. After a shootout, Sac TV asked for body camera and other footage. The City of Roseville released 39 seconds of video, arguing that the balance was not part of the "critical incident" and exempt from disclosure because of an ongoing criminal prosecution. The court disagreed, holding the agency must disclose enough footage to allow a requestor "to fully, completely, and accurately comprehend" a critical incident. The court explained that a criminal prosecution is not an "active investigation" justifying withholding recordings.

In *City of Vallejo v. Superior Court*, the ACLU requested records of a Vallejo Police Department investigation of allegations that some officers were bending a point on their badges after officer-involved shootings. The City withheld the records, claiming they were only "indirectly related" to any particular officer-involved shooting, citing the PRA's personnel records exemption.

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CHW Admits New Shareholders

The new year brought new faces to CHW's shareholder ranks.

The firm elevated **David Ruderman** to shareholder and his peers elected him to the firm's Board of Directors, the five-member group that leads the firm. David is an experienced public lawyer who serves as City Attorney of Grass Valley and Sonoma and serves a number of community choice aggregators, which provide alternative power supplies to those who choose these services over those of investor-owned utilities like PG&E or So. Cal. Edison.

Also elevated to shareholder are **Aleks Giragosian**, City Attorney of Sierra Madre and General Counsel to a number of special districts; **Pamela Graham**, a leader in our public law litigation practice; **Andrew Jared**, City Attorney of Barstow, Etna, Fort Jones, Montague, and General Counsel of the Goleta Water District and the Indian Valley CSD; and **Ajit Thind**, City Attorney of Encinitas and La Palma.

Congratulations to these new leaders!

Crown Castle Right-Sizes its Tower Lease Portfolio

By Robert ("Tripp") May, Esq.

Crown Castle's $8.5 billion (with a "b") sale of its fiber and small cell businesses represents a strategic shift to focus on macro towers. Crown appears motivated by significant lost revenues from consolidations of its wireless customers and significant potential new revenues from edge computing collocations at tower sites. "Edge computing" refers to data processing and storage deployed closer to end users—like at wireless towers—to increase network speed and efficiency. The equipment is often deployed in shipping-container-sized modules.

In practical terms, Crown aims to downsize or eliminate some sites and significantly expand others. This choice provides insights as to how Crown's plans may affect cities, counties and other local governments which lease antenna sites to Crown.

Crown Castle will likely intensify its rent optimization program with credible termination threats. "Rent optimization" programs euphemistically describe schemes by which tenants plead poverty and threaten to terminate leases unless landlords reduce the rent. These threats are mostly—but not always—empty.

Landlords should expect a more aggressive optimization effort as Crown seeks to cut costs to offset lost revenues. Crown reported a $50 million revenue reduction after T-Mobile acquired Sprint and decommissioned redundant sites. DISH Wireless's recent decision to scrap its ground network could reduce Crown's 2026 revenue by another $220 million and has triggered a $3.5 billion lawsuit.

Crown's need to reduce costs lends credibility to some termination threats. To assess such a threat, lessors should consider:

- how many stable customers operate at a site;
- likelihood of additional or replacement customers;
- whether Crown could relocate customers to a nearby site; and
- actual rent compared to market rent, and how many years remain on a lease's term.

For sites at risk of termination, landlords should still negotiate. A credible termination threat also creates leverage for the landlord because Crown needs to reduce rent.

Public agencies should expect Crown to leverage Section 6409 of the Spectrum Act to streamline expansions for edge computing facilities. Section 6409 requires local governments to approve additions and modifications to existing wireless towers or base stations that do not substantially change their size. The FCC interprets this to allow footprint expansion of up to 40 feet in any direction—approximately the space needed for edge-computing equipment.

Importantly, Section 6409 does not compel public agencies to approve **leasehold** expansions needed for the new equipment. It regulates land use regulators, not landlords. This creates opportunities for greater control over expansion and participation in increased revenues. Landlords should consider:

- strictly separating leasing and permitting functions, perhaps using different staff;
- requiring providers to secure leasehold rights before submitting permit applications; and
- determining fair market value for proposed expansions.

Landlords might also consider changes to lease agreements to maintain control over expansions, such as express restrictions or required consents for uses, subleases and/or equipment modifications.

For more information on this subject, please contact Tripp at RMay@chwlaw.us or 858.379.0188.

Court Clarifies Rules for Withholding Law Enforcement Records

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The San Francisco Court of Appeal ruled for the ACLU. It concluded the law must be interpreted to have "the broadest possible meaning to encompass the records in this case."

The law demands increasing transparency as to officer-involved shootings and other critical incidents. And courts are not open to interpretations which protect police behavior from scrutiny given the apparent legislative purpose of these laws. Disclosure raises concerns, too, for the privacy of officers and bystanders, for the integrity of criminal investigations and prosecutions, and the integrity of internal affairs investigations. So, careful review and legal advice is needed when responding to requests under these new laws.

For more information on this subject, please contact Sara at SLopez@chwlaw.us or 530.346.4966 or Jon at JDiCristina@chwlaw.us or 530.798.2991.

9th Circuit Upholds Local Campaign Finance Limits

By Holly O. Whatley, Esq.

The Ninth Circuit's recent en banc decision in *Moving Oxnard Forward, Inc. v. Lopez* reaffirms the constitutionality of local campaign contribution limits when supported by a documented anti-corruption rationale. The 9–2 decision affirmed summary judgment for the City of Oxnard, upholding its voter-approved campaign finance measure and rejecting a First Amendment challenge to per-candidate and total contribution limits.

The majority applied the U.S. Supreme Court's two-step analysis established in *Buckley v. Valeo* and refined in *Randall v. Sorrell* and *McCutcheon v. FEC*. First, the Court found Oxnard adequately demonstrated a sufficiently important governmental interest in preventing the substance or appearance of *quid pro quo* ("this for that") corruption, i.e., bribery or influence-peddling. Citing Ninth Circuit precedent, the majority characterized that burden as a "low bar," concluding Oxnard had provided "more than enough evidence" to establish the appearance of corruption. The court cited Oxnard's history of ethics scandals, including allegations of gifts, private jet travel, and business dealings between city officials and developers. Especially helpful was a district attorney investigation detailing repeated instances in which city officials accepted substantial benefits from entities doing business with the City. The Court also found persuasive that 77% of surveyed Oxnard residents supported government accountability reforms and 82% of voters approved the campaign finance measure.

Second, the majority analyzed whether the contribution limits were "closely drawn" to the City's anti-corruption interests. Applying *Randall*, the majority found no sign of three of the traditional "danger signs" associated with unconstitutionally low contribution limits. Oxnard's limits were imposed per candidate, per election and not per election cycle (i.e., a two- or four-year period), they did not apply to political parties, and they were not the lowest in the nation. But the majority assumed, without deciding, that the fourth danger sign **was** present—that the limits were below those the Supreme Court has upheld in the past. As *Randall* instructed, the majority independently analyzed the record, focusing on five issues: it found the limits did not restrict challengers from mounting effective campaigns, did not restrict political party contributions, exempted volunteer activity, and were adjusted for inflation. Because Oxnard's limits satisfied the first four considerations, the Court found the fifth—whether special circumstances justified limits—irrelevant, and found Oxnard's limits were closely related to its anti-corruption concerns.

Cities and counties need not prove actual corruption to justify donation limits—you can lock the barn before the horse is gone. And this case provides valuable guidance to agencies considering campaign contribution limits regarding evidence to include in the legislative record to support the need to combat *quid pro quo* corruption or its appearance.

For more information on this subject, please contact Holly at HWhatley@chwlaw.us or 213.542.5704.

Supreme Court Takes Tiered Water Rates Case

By Michael G. Colantuono, Esq.

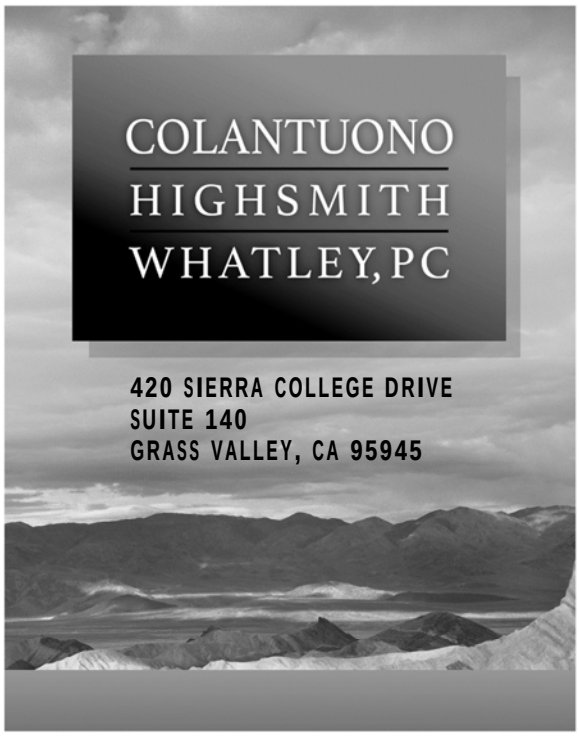
Challenges to water rates under Propositions 218 (retail rates) and 26 (groundwater and other wholesale rates) have proliferated, driven by the demanding standard of review articulated in *Capistrano Taxpayers Assn. v. City of San Juan Capistrano*, a 2015 decision striking down tiered water rates, and the prospect of generous class-action fees for plaintiffs' counsel. Although local governments won some cases after *Capistrano*, most victories were unpublished. Appellate cases invalidated rates of the City of San Diego and the Otay Water District, which serves areas south and east of San Diego.

Late last year, the Court of Appeal upheld tiered rates in *Dreher v. Los Angeles Department of Water and Power*, finding the City had adequately shown the rising cost to serve water use from the efficient to the profligate. But the Supreme Court granted review in *Dreher*, making the decision persuasive, but not binding, authority. *Dreher* is being briefed in the Supreme Court and a decision is not likely before 2027. In the meantime, how are water agencies to make rates?

Here are some tips: First, avoid controversy if you can. Plaintiffs' lawyers find clients on the internet. Second, don't make rates too often. The Legislature provided short statutes of limitations for challenges, but every ratemaking opens a new window for suit. If you can wait the five-year life of a Proposition 218 ratemaking to make new rates, do. Third, trigger the duty to exhaust administrative remedies, by stating in a notice of a ratemaking hearing that challengers must object to rates in writing and state their legal basis before the rates are made, and by responding to objections in writing as Government Code § 53759.1 requires. Fourth, make a strong record to support your rates, including a cost-of-service analysis reviewed by a lawyer. Make sure you can explain your rates to someone whose preferred mode of thinking is words, not math. Include a slide show to make your reasoning transparent. Fifth, cite and rely on two (perhaps, soon to be three) statutes supporting tiered rates. (Gov. Code, § 53750.6, Water Code, § 366(b)(1); AB 2180 [Ward, D-San Diego].) Sixth, assert available defenses if challenged, including the duty to pay under protest under Health & Safety Code, § 5472, the duty to file a timely claim under the Government Claims Act, and the duty to pay first and litigate later under the Constitution. Finally, assert Government Code, § 53758.5's new bar on refunds, as opposed to an offsetting credit in a future ratemaking.

Ratemaking is challenging under the current, divided cases. Clarity may come in *Dreher*. Until then, keep your lawyers close!

For more information on this subject, please contact Michael at MColantuono@chwlaw.us or 530.432.7357.



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