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CALIFORNIA SUPERIOR COURT  
SAN DIEGO COUNTY

**CITY OF SAN DIEGO**

**Petitioner/Cross-Respondent**

**v.**

**SAN DIEGO POLICE OFFICERS  
ASSOCIATION**

**Respondent/Cross-Petitioner**

**Case No. 2009-86499-CTL**

**ORDER DENYING SAN DIEGO  
MUNICIPAL EMPLOYEES  
ASSOCIATION'S APPLICATION  
TO INTERVENE**

**Judge David B. Oberholtzer  
Department 67**

The San Diego Municipal Employees Association has applied to intervene in the City of San Diego's Petition for a Writ of Mandamus and the San Diego Police Officers Association's cross-petition for an injunction, hearings for which are set for June 25, 2009. For reasons stated below, the court denies the application.

The City has imposed contract terms on its police officers following a bargaining impasse and the City's last, best and final offer.<sup>1</sup> Among other things, the Police Officers Association challenges that portion of the imposed contract lowering the interest rate paid on annuity funds deposited into a Deferred Retirement Option Program. The City's petition for a writ of mandamus prays for, among other things, an order compelling the Police Officers Association to meet and confer with the city on changes to DROP. The court's decision on the writ will turn on a finding DROP is an employee benefit (as asserted by the City), or a vested pension benefit (as asserted by the Police Officers Association).

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<sup>1</sup> The Police Officers Association contests the legitimacy of the impasse.

1 The Municipal Employees Association wants a seat at the table through intervention.  
2 CCP §387, subdivision (b). It negotiated a two year Memorandum of Understanding, effective July  
3 1, 2009, conceding some of the points at issue in the opposing petitions, but asserts an interest in  
4 these proceedings nonetheless, because the City agreed to reopen negotiations if a "court of  
5 competent jurisdiction" rejects its assertion DROP is an employee benefit.<sup>2</sup>

6 The court recognizes the Municipal Employees Association is interested in the case, which  
7 may change the interest paid on members' annuity funds, but the Municipal Employees  
8 Association is disinterested in the judgment, which will affect it only indirectly. Although the  
9 Municipal Employees Association is not required to have "standing" to intervene, the possibility of  
10 renegotiating its employment contract with the City is not enough.

11 The court has considered some of the following in denying the application:

- 12 • As stated, the Municipal Employees Association's interest is not direct or immediate.
- 13 • The fact the Municipal Employees Association has reached a memorandum of  
14 understanding with the City adds unnecessary issues to the dispute.
- 15 • The Police Officers Association has the right to conduct its own presentation without  
16 interference, no matter how well intentioned.
- 17 • Res judicata and collateral estoppel issues (if any) resulting from the Ninth Circuit's  
18 decision in *San Diego Police Officers Association v. San Diego City Employees*  
19 *Retirement System*, June 10, 2009, affect Municipal Employees Association differently.
- 20 • The Police Officers Association and its counsel are motivated and able to pursue these  
21 issues without assistance.  
22

23 For reasons stated, the application of the Municipal Employees Association is DENIED.  
24

25 Dated: June 15, 2009

David B. Oberholtzer  
David B. Oberholtzer  
Judge of the Superior Court

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27  
28 <sup>2</sup> The Municipal Employees Association does not propose a complaint in intervention. It wants only to support the Police Officers Association in presenting its case.