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Saving at the cost of our retirees

LETTERS TO THE EDITOR COLUMN

In a Corporate Counsel Q&A on Aug. 17, the Daily Journal interviewed Don Drozd, General Counsel for Orange County's largest public employee labor union, the Orange County Employees' Association, or OCEA. In that profile, Drozd trumpets OCEA's role in "restructuring our retiree medical program," thereby saving the county "tens of millions of dollars." What needs to be pointed out, however, is that those savings to the county came *not* from concessions made either by the county or by employee unions such as OCEA. Rather, what Drozd calls a retiree medical "restructuring" was the county's elimination of a critically-important retiree medical benefit that had been promised and provided for an uninterrupted 23 years. OCEA and the other county employee unions agreed to surrender that benefit on behalf of active employees, in exchange for substantial wage and other monetary concessions from the county.

However, *retired* employees were not represented by OCEA or any other union during these negotiations. The county could have, at a very modest cost, continued to provide this important benefit to those employees who had already retired when the restructuring took effect. That group - and the cost of providing the benefit to them - would have shrunk rapidly over time, as many of them moved into Medicare coverage, and as mortality took its toll. But the county looked at this vulnerable population, older men and women who lacked union representation or any sort of bargaining power, and saw a target of convenience. It simply eliminated this benefit from current retirees, unilaterally and without providing one penny in exchange, thereby shifting tens of millions of dollars in health care costs onto their backs. *That* is the source of the "savings" to which Drozd refers.

The Retired Employees Association of Orange County is challenging the county's action in a federal lawsuit that was filed in Santa Ana in November 2007, entitled *Retired Employees Association of Orange County v. County of Orange*. In July of last year the 9th U.S. Circuit Court of Appeals held that the central state-law question in that case - whether retired employees have a contract right to receive this benefit - was unsettled, and asked the state Supreme Court to provide clarification. The parties (and public sector employers and retirees state-wide) are waiting for the Court to schedule oral argument in that certification proceeding.

At the time the county took this action, Gov. Arnold Schwarzenegger convened the California Public Employee Post-Employment Benefits Commission, to examine fiscal issues related to public employee retirement benefits. That bipartisan commission took a harshly critical view of Orange County's sudden decision to off-load these millions of dollars of costs onto its retired employees. In its 2007 report, the commission observed that retiree health care benefits "have become an integral component of retirement planning," and that it is "devastating" to retirees "when health care benefits are changed after they retire, since the cost of health services can easily deplete a retiree's income." It observed that, "[u]nlike many of the other agencies profiled in this report," Orange County addressed its retirement health benefit liabilities "by choosing to *drastically* change the structure of its retiree health plan to lower costs *rather than to fund previous obligations*." It noted that the county's decision will "greatly increase...the premium for retirees," and that "[t]he consequences for retirees...are likely to be both negative and significant."

Sadly, the commission's predictions have proven prophetic. Because of the "restructuring" of retirees' health benefits in 2008, the rate of retiree premium inflation has more than *quadrupled*, to an average increase of 20 percent per year. At that rate, retiree premiums have doubled in just four years, and that alarming trend is worsening over time. Today a retiree with one dependent enrolled in the county's PPO plan pays more than \$24,000 per year in premiums; for Kaiser HMO coverage the premium is more than \$15,000. These massive cost increases are being borne by a population whose pension income averages just \$30,000 per year. Orange County's retired employees are literally being priced out of the insurance coverage that they were promised as part of their post-employment benefits package, and that they rely on for their health care.

In short, retirees were mere spectators to the process that "restructured" a critical medical benefit out of existence. Their only role was to shoulder the cost of that restructuring, to the tune of "tens of millions of dollars."

LINDA ROBINSON AND DOUG STORM

CO-PRESIDENTS, RETIRED EMPLOYEES ASSOCIATION OF ORANGE COUNTY

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Government

San Francisco court woes lead to finger-pointing

Momentum is growing for state legislators to bail out San Francisco County Superior Court - as is blame for who is responsible for the court's fiscal problems.

Litigation

Alleged rape victim, dating website agree to settle suit

Lawyers for Match.com LLC told a judge Tuesday the company now complies with all the demands of a Los Angeles woman who sued after she was raped by a man she says she met through the popular dating site.

Environmental

Water agencies sue over sucker fish

A slew of Southern California water agencies sued the U.S. Fish and Wildlife Service, arguing its move to protect the Santa Ana sucker fish is based on bad science and threatens to slash local water supplies.

Intellectual Property

Zynga battles competitor in two countries

Social media gamemaker Zynga Inc. has taken its legal battle against Brazilian competitor Vostu Ltd. to Brazil, a move that Vostu's attorneys on Tuesday asked a federal judge to stop.

Litigation

L.A. court plans big layoffs next two years

As many as 1,250 layoffs are in store for Los Angeles County Superior Court in the next two fiscal years thanks to a budget deficit of hundreds of millions of dollars, according to a revised budget reduction plan approved Tuesday by the court's Executive Committee.

MGA settles other Bratz-related cases

While remaining locked in a bitter courtroom brawl with rival Mattel Inc. over its famous Bratz dolls, MGA Entertainment Inc. has been busy clearing other litigation from its plate.

Government Contracts

Lawyer under fire sues AG

A lawyer shut down last week by state prosecutors for allegedly duping homeowners into paying thousands of dollars to join lawsuits promising mortgage relief, has filed a lawsuit against California Attorney General Kamala Harris.

Litigation

Tort reform group says voters want change

California voters would support candidates who favor changing the litigation system, according to a new survey from tort-reform advocacy group California Citizens Against Lawsuit Abuse.

Criminal

Girls Gone Wild producer charged in assault

The founder of "Girls Gone Wild" production company Mantra Films Inc. was charged Monday in connection with the assault of three women in his Bel Air home after a college graduation party in Hollywood in late January.

Government

Judicial Council to consider fee proposal

The Judicial Council has agreed to consider a proposal at its meeting Friday that would allow cash-strapped courts to charge a new fee in