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Public Law Update – CA Court of Appeal Clarifies the Unavailability of Class Actions under the California Public Records Act

The California Public Records Act ("CPRA") governs access to public records and requires that public agencies make certain non-exempt public records available upon request. On March 28, 2025, the California Court of Appeal issued an opinion in *Desolina Di Lauro v. City of Burbank* that sheds new light on the availability of class action claims under the CPRA. Notably, the Court's opinion suggests that class claims are essentially unavailable under the CPRA.

Background of the Case

The City of Burbank ("City") has a website and an email address that members of the public can submit CPRA requests to. The City's Department of Water and Power ("DWP"), on the other hand, did not provide a specific webpage or information about how to submit CPRA requests. The plaintiff received a water bill from DWP that she believed to be erroneous and submitted multiple CPRA requests for her past bills via the Contract page on the DWP's website.

Plaintiff then filed the complaint, alleging a cause of action for violation of the CPRA and California Constitution based on the City's alleged failure to respond to the CPRA request with the statutory timeframe and the absence of any means to make a records request through the DWP website. The plaintiff asserted these claims on behalf of herself and two classes: (1) the "Timeliness Class," defined as all persons who requested records from the City but the City did not meet the relevant CPRA deadline; and (2) the "Burbank Class," defined as all residents of the City who had been prohibited or deterred from submitting a CPRA request because the DWP and other specific departments within the City do not offer a means to submit a CPRA request. The trial court sustained the City's demurrer, holding that plaintiff did not have either a class claim or individual claim, and plaintiff appealed.

The Court of Appeal Denies the Class Action Claim under the CPRA

The Court of Appeal affirmed the trial court's ruling that the CPRA's enforcement provisions preclude a plaintiff from pursuing class relief for a CPRA violation. Although California law encourages courts to

liberally permit parties to pursue class actions, the Court pointed out that where a statute such as the CPRA precludes a party from bringing a claim on behalf of another person, this general policy is insufficient to permit the class action. Any person may enforce the CPRA; however, the statutory language expressly states that the right being enforced belongs solely to the person who made the request. Thus, the Court pointed out that the CPRA does not contemplate class action relief.

The Court also stated that existing caselaw emphasizes that the purpose of the judicial enforcement provisions of the CPRA is "limited to ensuring expeditious resolution of any dispute over a requesting party's right to access." The Court stated that a class action under the CPRA would not further this right of access to records, absent some indication that a public agency "is consistently and erroneously claiming that some category of records is exempt from disclosure."

The Court of Appeal went on to state that even if class claims are technically permissible under the CPRA, the plaintiff's allegations were insufficient to meet the requirements for class certification. Specifically, the plaintiff made no allegations about what other members of the class have experienced, including what public records they might be seeking. Without those allegations, it would be impossible to determine who might be included in the alleged subclass. Further, the Court suggested that class actions are logistically incompatible with CPRA claims because a trial court would still need to consider the details of each records request made by members of the class, including the response by the agency and the records sought.

The Court of Appeal Permits the Individual Claim

The Court of Appeal, while rejecting the class claim, held that the plaintiff did adequately allege an individual claim under the CPRA. The plaintiff had alleged that she made a request for records to the City and that the City did not send her a response within the statutory timeframe. While the City and DWP submitted evidence that plaintiff had not actually submitted records requests to the DWP, the Court stated that this evidence only created a factual dispute that did not affect the adequacy of plaintiff's complaint. Thus, the Court held that the demurrer as to the individual claim was improperly granted and the claim should be decided on the merits.

While the trial court had reasoned that the statutory duty under the CPRA does not clearly require entities to post information about how to submit CPRA requests online, the Court of Appeal looked solely at the complaint to determine that plaintiff had still alleged sufficient facts to state a claim because she alleged that the City failed to timely respond to her records request.

Di Lauro's Implications for Public Entities and the CPRA

The *Di Lauro* case reiterates and builds upon existing caselaw to clarify that class action claims under the CPRA are difficult, if not impossible, to make under the statutory scheme. While this case makes clear that risk of class action claims under the CPRA is low, public agencies should be mindful of the Court's suggestion that a public agency's consistent practice of designating certain categories of records as exempt may give rise to a class claim if the agency's practice is erroneous. Thus, public agencies should always review the available exemptions under the CPRA to make record determinations and avoid brightline policies for applying exemptions if the policy could be subject to challenge.

Additionally, *Di Lauro* reiterates that public agencies must be mindful of adhering to the statutory deadlines for responding to public records requests. Missing the response deadline can easily result in litigation by the requester, even if the public agency would have otherwise produced the records. While *Di Lauro* did not create any new requirement about posting CPRA information online, public agencies should consider having a portion of their websites dedicated to explaining how to make records requests. This can help avoid confusion among the public and streamline records requests by funneling them through a standard link, online form, or email address. As always, public agencies should be attentive to public records requests and routinely review requests to ensure that the agency complies with the statutory deadlines.

Burke, Williams & Sorensen, LLP regularly advises clients on legal matters relating to the Public Records Act.