

AGENDA

COMMITTEE OF THE WHOLE

Meeting: 10:00 a.m. Tuesday, September 20, 2005
Glenn S. Dumke Auditorium

Murray L. Galinson, Chair
Roberta Achtenberg, Vice Chair
Jeffrey L. Bleich
Herbert L. Carter
Carol R. Chandler
Moctesuma Esparza
Debra S. Farar
Bob Foster
George G. Gowgani
William Hauck
Raymond W. Holdsworth
Ricardo F. Icaza
Corey A. Jackson
A. Robert Linscheid
Melinda Guzman Moore
Charles B. Reed, Chancellor
Craig R. Smith
Kyriakos Tsakopoulos

Consent Item

Approval of Minutes of Meeting of March 15, 2005

Discussion Items

1. Litigation Report No. 22, *Information*

**MINUTES OF THE MEETING OF
COMMITTEE OF THE WHOLE**

**Trustees of The California State University
Glenn S. Dumke Conference Center
401 Golden Shore
Long Beach, California**

March 15, 2005

Members Present

Murray L. Galinson, Chair
Roberta Achtenberg, Vice Chair
Larry L. Adamson
Jeffrey L. Bleich
Herbert L. Carter
Carol R. Chandler
Moctesuma Esparza
Debra S. Farar
Bob Foster
George G. Gowgani
Eric Z. Guerra
William Hauck
Raymond W. Holdsworth
Corey A. Jackson
Kathleen E. Kaiser
Shailesh J. Mehta
Melinda Guzman Moore
Charles B. Reed, Chancellor
Anthony M. Vitti

Approval of Minutes of November 17, 2004

Chair Galinson stated that the Minutes of November 17, 2004 was a consent item. He stated that unless there was an objection, the consent item would be accepted. There were no comments and the minutes were approved as submitted.

Discussion Items

Litigation Report No. 21

Chair Galinson asked Christine Helwick, General Counsel, to present the item. Ms. Helwick updated Trustees on two cases. She stated that there had been much press on the Ohton Case, San Diego State University, in which a strength and conditioning coach provided information to the CSU auditor and then claimed that he had been retaliated against as a result. She reported

that CSU's Motion for Summary Judgment had been granted since the agenda materials had been prepared and the case had been dismissed. In the CSU Monterey Bay case against the Fort Ord Reuse Authority and the City of Marina, the important case before the California Supreme Court involving the issue of whether environmental mitigation responsibilities can overcome the CSU's immunity from contributing to the costs of local infrastructure, Ms. Helwick reported that the case is still pending before the court and a date for oral argument had not yet been set, but was expected eminently.

Ms. Helwick introduced a PowerPoint report that displayed overall statistics of CSU litigation. The first slide, she reported, depicts the continuous decent in the volume of CSU case activity. She noted that, from a high of 300 active cases, CSU currently had only 94 active cases throughout the system. The second slide demonstrated how the impact of the drop in case activity affects overall legal fees. The third slide presented the kinds of current cases against CSU. Ms. Helwick stated that employment continues to be CSU's biggest exposure area, both in terms of volume and actual cost. The final slide depicted how CSU cases are being resolved. She reported that in the past 6 months 32 cases had been brought to closure. CSU prevailed in 10 of those cases, plaintiffs prevailed in 2 and 20 cases were settled. She called for questions from the Trustees.

In response to a question regarding the historic trend of types of cases, Ms. Helwick answered that there had not been any significant change. The number of employment cases have risen slightly, she said; a trend that is reflected in most major institutions across the nation. She promised the Board she would bring attention to any significant deviation in case type.

Mention was made of a Chronicle of Education article authored by Ms. Helwick regarding potential legal "spikes" facing higher education, and she was asked if there was anyway CSU could prepare for those issues. Ms. Helwick said that administrators work at looking at trends not only in how they reflect in litigation but also in other work that does not end up in the courts. The article talked about the significant legal issues facing institutions such as the tension caused by the desire for public information and the competing desire for maintaining privacy interests of individuals. Another area of concern, she said, was the graying of the workforce and the many legal implications that occur in consequence.

Chancellor Reed stated that, in response to concerns raised by Trustees Vitti, Foster and Hauck several years ago, he had started working with Ms. Helwick in managing CSU's litigation and that he felt tremendous strides had been made. In partnership with CSU's Risk Management and HR offices, good decisions have been formed that have made a huge difference. He commended Ms. Helwick on her good leadership.

Chair Galinson thanked Ms. Helwick for the report on CSU's litigation exposure. He announced that the business of the Committee of the Whole was concluded and the meeting was adjourned.

COMMITTEE OF THE WHOLE

Litigation Report No. 22

Presentation By

Christine Helwick
General Counsel

Summary

This is the biannual report on the status of significant litigation confronting the CSU, which is presented for information. "Significant" for purposes of this report is defined as litigation: (1) with the potential for a systemwide impact on the CSU; (2) which raises public policy issues of significant interest or concern; (3) brought by or against another public agency; or (4) which, for other reasons, has a high profile or is likely to generate widespread publicity. *New information since the date of the last report is printed in italics.*

The cases contained in this report have been selected from 93 currently active litigation files.

New Cases

CFA v. CSU, et al. - Sonoma County Superior Court

Sonoma State softball coach, Christine Elze, did not timely elect to pursue a challenge to discipline before either the American Arbitration Association or the State Personnel Board, as required by the CFA contract, and respected by the union in the past as a necessary prerequisite to any appeal. As a part of the election process, the faculty member is also required to state the basis for the appeal. Instead, CFA here simply submitted the discipline to the American Arbitration Association without any stated basis at all. CSU objected. CFA filed this petition to compel the arbitration. The dispute will be heard on August 31, 2005.

CSU v. CFA - Los Angeles County Superior Court

The 1998-2002 faculty merit increase program allowed faculty to challenge a President's final award through an appeals process. Where an appeal was sustained, CSU imposed a ceiling on the amount of increase available, at the highest amount recommended by any of the lower levels of review. The reason for this ceiling was so that faculty who took appeals were not rewarded with greater access to the merit pool than those who did not. The result was that some faculty received lower increases than the appeals committees awarded. CFA filed a grievance over this ceiling, and the arbitrator ruled in CFA's favor. CSU filed a petition to vacate, and CFA filed a cross-petition to confirm the award. Both petitions are scheduled for hearing on September 12, 2005.

Costello v. SFSU, et al. – San Francisco County Superior Court

Costello was a Presidential Scholar at San Francisco State University. During the Presidential Scholars Retreat at the Marin Headlands, he fell from a cliff and died. His parents filed this lawsuit to recover damages for wrongful death due to lack of supervision. Trial has been set for February 21, 2006. The case is in the discovery stage.

Enron Energy Services, Inc., et al. v. California State University – U.S. Bankruptcy Court, Southern District of New York

CSU and UC jointly contracted with Enron for the purchase of electricity before Enron's 2001 bankruptcy. CSU filed two claims in the bankruptcy for approximately \$240 million. UC filed a similar claim. In March 2005, Enron filed approximately \$21 million in counter-claims for unbilled or incorrectly billed power delivered to CSU and payments allegedly made by Enron to California electric utilities on CSU's behalf. CSU and UC have jointly filed a motion to dismiss Enron's counter-claims on the basis of sovereign immunity from claims in the Federal Court. The parties are scheduled for mediation on August 23, 2005 in New York.

Machado v. CSU, et al. --- Santa Clara County Superior Court

Natalia Machado, attending classes on the San Jose State campus during the summer of 2003 at 15 years of age, alleges that she was stalked and followed by a faculty member who purportedly cornered her in a stairwell, prevented her from leaving, put his arm around her, pulled her toward him against her will, and told her he wanted to take her out. She alleges assault and battery and infliction of emotional distress against the faculty member, and asserts those same claims and negligent supervision against the university. The case is in the pleading stage.

Roth v. California State University Los Angeles, et al. --- Los Angeles County Superior Court
Tamaki, et al. v. California State University Los Angeles Auxiliary Services, et al. --- Los Angeles County Superior Court

Instructors employed by CSULA University Auxiliary Services, Inc. in the university's American Culture and Language Program have filed these two actions for recovery of unpaid wages. The second is a class action lawsuit on behalf of approximately 60 persons. Plaintiffs claim that they were paid for some, but not all, classroom preparation time, office hours, photocopying, grading, attending meetings, preparing evaluations, and accompanying students to events and outings. Plaintiff Roth is also suing for age, national origin, gender, and race discrimination and for improper reduction in his work hours which he characterizes as "wrongful termination." Roth also claims that his employer was the university, and not the auxiliary. The cases are in the discovery phase.

Students Against War et al. v. SFSU, et al. – San Francisco County Superior Court

On March 9, 2005, two San Francisco State University student organizations, Students Against War and the International Socialist Organization, protested the Army Corp of Engineers' participation in a campus Career Fair because of the military's "don't ask, don't tell" policy. The campus Student Organizations Hearing Panel recommended that these organizations be put

on probation for one year. The lawsuit requests the court to set aside these sanctions. The case is in the pleading stage.

Trujillo v. CSU, et al. -- Santa Clara County Superior Court

Donna Trujillo, a San Jose resident, alleges that San Jose State University Police denied her entry to the SJSU-City of San Jose joint library and subsequently arrested her because she was accompanied by a dog that she claims was a service animal. She alleges that the University, the City of San Jose, and a number of SJSU police officers and other individuals violated her access rights under disability law. The case is in the pleading stage.

Wells v. CSU, et al. – U.S. District Court, San Francisco

Former Humboldt State track coach David Wells complains that his contract was not renewed because he complained about the mishandling of funds in the athletic department and unequal spending on women's athletics. This matter is in the pleading stage.

Construction Cases

CSU v. Huntcor et al. -- Los Angeles County Superior Court

CSU filed this action to redress construction defects that have appeared in Cal Poly Pomona's Classroom, Laboratory and Administration Building, completed in 1992. There is significant water infiltration throughout the building and the exterior skin is not holding up. This case has been settled for \$13,300,000, which will cover the full cost of reconstruction of the defects in the building.

Renovation and Restoration, LLC v. SDSU Foundation, SDSU, et al. -- San Diego County Superior Court

Plaintiff Renovation and Restoration, which owns property adjacent to the San Diego State University campus and Aztec Walk, filed an action seeking to permanently enjoin SDSU from building a fence on campus property along Aztec Walk that would prevent plaintiff's access to the campus from its residential/commercial development project. This matter has settled at no cost to CSU.

Employment Cases

Brown v. California State University - Fresno County Superior Court

Horsford, et al. v. California State University - Fresno County Superior Court

Snow v. California State University – Fresno County Superior Court

Auwana Brown, a former employee in the CSU Fresno Police Department, filed a lawsuit claiming to have been sexually harassed by the former chief of police, Willie Shell. As a part of the settlement of this lawsuit, Brown agreed to resign her university employment. After Brown's resignation became effective, however, she petitioned the State Personnel Board to reinstate her. The State Personnel Board refused, and Brown then asked the Court of Appeal to order the State Personnel Board to set aside her resignation. The court instead sent the case back to the State

Personnel Board for further findings. The State Personnel Board has not scheduled a new hearing. Brown subsequently filed yet another action, which seeks monetary damages and to rescind her resignation under the settlement agreement. The court has stayed all further proceedings in this action until the State Personnel Board case has been completed. Brown is represented in the current actions by the same attorneys who represented her in the earlier sexual harassment case, and who also represent the plaintiffs in the Horsford and Snow cases.

Daniel Horsford and five other employees or former employees in the CSU Fresno Police Department filed a separate lawsuit claiming that a variety of actions in the CSU Fresno Police Department while Shell was chief constituted reverse discrimination. The plaintiffs in this action are white, Hispanic and Asian; Shell is black. Shell resigned his employment at CSU Fresno before any of the lawsuits were filed, and later pled no contest to felony charges of misconduct while he was chief of police at CSU Bakersfield before coming to Fresno. CSU filed motions for summary judgment against all six plaintiffs. Three were granted. The other three were granted in part, leaving significant but narrowed issues for trial. The trial of this case began in May and continued through August 2000. The jury rendered a verdict for plaintiffs in the total amount of \$4.25 million. In December 2000, the court reduced this verdict to \$1.17 million. The court awarded plaintiffs' attorneys \$1.2 million in fees. Both the verdict and the attorneys' fee award are on appeal. In May 2004, the parties tried to mediate a settlement of this case and the new Snow case (described below), but did not reach agreement. *Oral argument on the appeal of the verdict and attorney's fees is set for August 25, 2005.*

Richard Snow, one of the Horsford plaintiffs, suffered a work-related hip fracture in November 2000 and was deemed disabled as a police sergeant in subsequent workers' compensation proceedings. His disability retirement became effective in February 2003. Snow filed a new lawsuit shortly thereafter, alleging that the university discriminated against him because of his disability, failed to accommodate him, and retaliated against him because of the Horsford verdict and other protected activities. *The court has dismissed several of Snow's pleading attempts, but gave him one more chance to set out facts to make a viable claim. CSU's response to his Fourth Amended Complaint is due September 15, 2005.*

Giovannetti v. Trustees-- U.S. District Court, San Francisco

Joseph Giovannetti, a tenured professor in Native American studies, alleges that Humboldt State University subjected him to discriminatory treatment based on his ethnicity as a Native American. He alleges that HSU also retaliated against him for complaining about discrimination by unlawfully removing him as Chair of the Native American Studies Department, refusing to hire additional faculty for the department as promised in an earlier settlement, and canceling some of Plaintiff's courses. Giovannetti and two other complainants had an earlier lawsuit for similar discrimination claims that was settled. This case is in the *discovery* stage. *On August 3, 2005, the parties participated in a mediation, which was adjourned to allow plaintiff to consider CSU's settlement proposal. A trial date has been set for September 11, 2006.*

Green v. SFSU -- San Francisco County Superior Court

Marcia Green, a 15 year Lecturer at San Francisco State University, was not hired into a tenure track position and subsequently was not rehired as a Lecturer. She alleged that she was the victim of discrimination on the basis of her Polish ancestry, marital status and age. The case was tried for three weeks in August and September 2000. The jury returned a verdict in favor of CSU on the discrimination claim, but awarded Green \$1.56 million for retaliation. CSU appealed. Judgment was affirmed on October 1, 2002 and has been paid. A settlement agreement for attorneys' fees and costs in the amount of \$375,000 was reached in April 2003 and has been paid.

Green and her husband, Geoffrey, who is also a professor at SFSU, filed a second lawsuit in which they claim to have been retaliated against following the verdict in Ms. Green's first lawsuit. After a two week trial in April 2004, the jury returned a verdict in favor of the University. Plaintiffs filed an appeal. *The appellate briefs are filed, and the case is awaiting assignment for oral argument.*

May v. Trustees – Monterey County Superior Court

James May is a former faculty member at CSU Monterey Bay who retired in 2000. He alleged that he was forced to take an early retirement due to continuing mistreatment, race, disability and age discrimination, harassment, retaliation, failure to prevent discrimination, and wrongful termination. In February 2002, the jury returned a \$375,000 verdict in favor of May for harassment and retaliation on the basis of race and national origin. In May 2002, the court granted CSU's motion for a new trial. May appealed both the trial court's grant of a new trial and the defense verdict on his discrimination claims. *On February 28, 2005, the Court of Appeal affirmed the trial court's ruling and the defense verdict. On June 8, 2005, the California Supreme Court granted May's petition for review. The issue of interest to the Supreme Court is the standard for granting a new trial, which is the same issue raised in the Oakland Raiders v. National Football League case. The Court has postponed briefing in the May case pending decision in that other case.*

Milutinovich v. CSU – Fresno County Superior Court

Diane Milutinovich, formerly Associate Athletics Director and Senior Women's Administrator at CSU Fresno, was reassigned to be Director of the University Student Union after her position was eliminated in an effort to cut administrative costs through reorganization. Milutinovich's first lawsuit for wrongful termination was dismissed because she failed to file a government tort claim. She refiled this second action, asserting statutory claims that she was fired because of her alleged efforts to achieve Title IX compliance and in retaliation for her advocacy of gender equity issues in employment and athletics. This case is in the discovery stage.

Mokhtari-Shargri v. CSUCI - Ventura County Superior Court

Shariar Mokhtari-Shargri was a temporary lecturer in the Mathematics Department at CSU Channel Islands. He applied, but was not selected for, a tenure-track position in the same department. Plaintiff alleges that his non-selection was discriminatory and based on his religion

(Muslim) and national origin (Middle-Eastern). *On May 16, 2005 the court granted CSU's motion for summary judgment on the grounds that plaintiff had failed to exhaust his administrative remedies. The plaintiff has appealed.*

Ohton v. CSU, et al. – San Diego Superior Court

David Ohton, San Diego State University's Athletics Department strength and fitness coach, has sued the CSU and various individuals for alleged retaliation under the state "whistleblower" statute, claiming he was retaliated against for statements he made in the context of the CSU's investigative audit of alleged improprieties in the SDSU Athletics Department and its equipment room. *The trial court granted CSU's motion for summary judgment. Ohton has appealed.*

Quan v. California State University -- Los Angeles County Superior Court

Randal Quan, the former Cal Poly Pomona campus police chief who was non-retained, filed this action complaining that he was terminated because he objected to hiring an African American female. *The case has been settled for \$32,000 and was dismissed in June, 2005.*

Taylor, et al. v. CSU, et al. – Los Angeles County Superior Court

Plaintiffs, Jessica Taylor, Reyna Tenorio, and Tyra Colar, were temporary student employees in the Department of Educational Leadership and Policy Studies in the College of Education at CSU Northridge. Plaintiffs claim they were sexually harassed, subjected to a hostile work environment, and constructively terminated as a result of the conduct of their then-supervisor, defendant, Liza Kraay. *CSU settled this matter for \$129,000 (\$45,000 each to plaintiffs Tenorio and Colar, and \$39,000 to plaintiff Taylor). Facing dismissal, former supervisor Kraay agreed to resign and is no longer employed by the CSU.*

Villanueva v. California State University Monterey Bay, et al. - Monterey County Superior Court

Henry Villanueva is a former Associate Vice President at CSU Monterey Bay who was not retained in summer 2003. He alleges that he was let go for recommending the discipline of other employees and for reporting waste of public funds. He also claims that his former subordinates attempted to undermine efforts to obtain new employment by distributing false and personal information about him. He states claims of wrongful termination in violation of public policy, defamation, violation of the Information Practices Act, and invasion of privacy. The case is in the discovery stage.

Washington v. CSU, et al. – San Diego County Superior Court

Pat Washington, an African-American woman and former San Diego State University tenure-track faculty member in the Women's Studies Department, sued the University and the Women's Studies Department Chair alleging she was improperly denied tenure because of racial discrimination and retaliation. *CSU's motion for summary judgment was granted. Washington has appealed.*

Environmental Cases

City of Marina v. CSU, et al. – Monterey County Superior Court

Fort Ord Reuse Authority v. CSU, et al. – Monterey County Superior Court

Plaintiffs in these two lawsuits are challenging the adequacy of the final environmental impact report prepared for CSU Monterey Bay's Master Plan. They allege that the city and FORA will suffer unmitigated adverse impacts if the plan is implemented and that the CSU improperly fails to recognize the jurisdiction of FORA over campus development that does not involve education or research. The trial court issued a decision in favor of the City of Marina and FORA. CSU appealed. In June 2003, the Court of Appeal reversed the trial court and ruled that CSU is not required to contribute to the cost of local infrastructure improvements, notwithstanding the mitigation requirements of environmental law. This opinion could have far-reaching implications for all CSU campuses. A petition for rehearing was denied. FORA filed a petition with the California Supreme Court, which was granted. The case has not yet been scheduled for oral argument.

Personal Injury Cases

Eriksson v. California State University, Fresno, et al. – Fresno County Superior Court

Stan and Karan Eriksson are the parents of an equestrian student-athlete at CSU Fresno, who died as a result of massive head injuries suffered when her own horse fell on her, after being startled by a herd of cows in a pen. At the time of the accident, the student-athlete was on a recreational ride in an agricultural area of the campus. The parents allege that the university negligently failed to supervise and train their daughter, failed to warn her about the presence of the animals, maintained a dangerous condition of property in that the cows were "violent and aggressive," and failed to provide appropriate emergency medical assistance. The case is in the discovery stage.

Styskal v. CSU – Fresno County Superior Court

Amanda Styskal, an equestrian student-athlete at CSU Fresno, stopped as she walked past the equestrian center on her way to class to observe a male horse in his pen. The horse lunged and bit off a significant portion of Styskal's ear. She is claiming that the University was negligent because it had knowledge that the horse was "dangerous" and "vicious" since he was used for breeding purposes. As a result, plaintiff claims that the horse should have been double-penned so that he could not make contact with individuals. Styskal is claiming approximately \$82,000 for medical expenses that are primarily for cosmetic surgery for her ear. *The case has been settled for \$150,000 and waiver of three semesters tuition and student health insurance costs.*

Sy, et al. v. Union Pacific Railroad Company, et al., San Luis Obispo County Superior Court

Plaintiffs, Enrique Sy (father), Amelia Finocchio (mother) and Erika Sy (sister and personal representative), filed this action for the wrongful death of Cal Poly San Luis Obispo student Jason Sy, who, while riding his bike to attend classes at Cal Poly, was struck by a freight train at a grade crossing located adjacent to the campus and killed. The defendants are the landowner

Union Pacific Railroad Company, and adjacent landowners, CSU, The Church of Jesus Christ of Latter Day Saints, First Worthing Company, and City of San Luis Obispo. Causes of action against CSU include dangerous condition of public property and nuisance.

The court granted CSU's motion for dismissal. Plaintiffs appealed. *The Court of Appeal has affirmed the dismissal of this case. Plaintiffs have agreed to waive their right to petition the California Supreme Court in exchange for a waiver of costs. This matter is now closed.*

Student Cases

Garcia, et al. v. California Polytechnic State University, San Luis Obispo, et al. -- San Luis Obispo County Superior Court

Plaintiffs, Rita Garcia, Erika Medina, Miguel Puente are three unsuccessful applicants for admission to Cal Poly San Luis Obispo. Along with one taxpayer and the League of United Latin American Citizens, they seek injunctive and declaratory relief from Cal Poly's admissions process. They claim that it adversely affects minority applicants because it gives (1) unlawful preference to students residing in the campus' service area; and (2) unlawful weight to SAT or ACT scores, which are inherently discriminatory.

The court granted CSU's motion to dismiss the case on the ground that no viable claim existed against the university. Plaintiffs appealed. *On August 15, 2005, the Court of Appeals affirmed the decision to dismiss this case.*

Other Cases

Bartel v. CSU, et al. – San Diego County Superior Court

Stephen Bartel, the former San Diego State University Athletics Department equipment room manager, has sued the CSU and various individuals on a variety of legal theories, including defamation, invasion of privacy, gender and age discrimination and harassment, for statements made in connection with the audit investigation of alleged improprieties in the equipment room. CSU prevailed on portions of an anti-slapp motion, arguing that statements made to the university auditor are privileged. *One defendant has been dismissed on summary judgment, and additional summary judgment motions will be heard in September. Trial is set for October 28, 2005.*

Board of Trustees v. Bello's Sporting Goods – San Luis Obispo County Superior Court

This lawsuit sought a permanent injunction to prevent Bello's Sporting Goods, a store in San Luis Obispo, from engaging in further sales of clothing and other merchandise bearing the "Cal Poly" name. Bello's contends that it has a right to do so because: (1) it sold clothing with the "Cal Poly" name before CSU began doing so; and (2) CSU waived its rights by not filing suit earlier. Bello's filed a cross complaint for damages against CSU and Cal Poly Foundation.

In July 2001, the trial court denied most of the relief sought by CSU in a decision that ruled the phrase "CAL POLY" is not protected under trademark law because it is not understood by the public as a name for a particular educational institution but instead is a generic term that identifies and refers to all polytechnic or technical schools located in California. Thus, Bello's Sporting Goods can continue using the phrase because it is generic. However, the court did enter a limited injunctive order directing that Bello's Sporting Goods place labels on all goods indicating that the CSU did not approve, sponsor or authorize the clothing goods sold by Bello's that are marked with the words CAL POLY. Both CSU and Bello's appealed this ruling.

Effective January 2, 2002, the Legislature amended the Education Code to clarify that the name "Cal Poly" and other abbreviated campus names are state property and may not be used without CSU's express permission.

In July 2003, the Court of Appeal issued a decision that reversed the trial court's ruling and remanded the matter for further hearing on the newly enacted Education Code provision. Bello's Sporting Goods petitioned for review to the California Supreme Court, which denied this request. The case went back to the trial court, but no dates were ever scheduled for further hearing.

Bello's recently closed its store. CSU has proposed that this case be dismissed by mutual agreement, and is awaiting Bello's response.

The Copley Press dba The San Diego Union-Tribune v. CSU - San Diego County Superior Court

The San Diego Union Tribune made a Public Records Act request for all correspondence between CSU attorneys and opposing counsel and all deposition transcripts in the Bartel and Ohton cases (described above). CSU asserted various exemptions to disclosure, including allowing a public entity to withhold documents created in pending litigation until the case is resolved. The newspaper succeeded on an application for a court order to compel CSU to surrender the documents. *CSU appealed. The case was argued in July 2005.*

LAUSD v. LADWP, and related cross-claims- Los Angeles County Superior Court

The Los Angeles Unified School District filed this action against the Los Angeles Department of Water and Power to recover capital facilities fees and to invalidate a new ordinance imposing those fees as a part of a June 2004 water rate increase. The University of California and CSU, which are also subject to these new fees, joined LAUSD and cross-complained against LADWP. California law only permits LADWP to impose new capital facilities fees on educational institutions with consent and after negotiations between the parties. *The court denied LADWP's early motion to dismiss. The case is in the discovery stage.*