SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

DATE/TIME **JUDGE**	**July 9, 2010 9:00 a.m.** **HON. ALLEN SUMNER**	**DEPT. NO** **CLERK**	**42** **M. GARCIA**
SACRAMENTO BEE, FIRST AMENDMENT COALITION **Petitioners,** **v.** **SACRAMENTO COUNTY EMPLOYEES' RETIREMENT SYSTEM** **Respondent.**		**Case No.: 34-2010-80000514**	
Nature of Proceedings:	**PETITION FOR WRIT OF MANDATE UNDER PUBLIC RECORDS ACT**		

The petition by the Sacramento Bee and First Amendment Coalition to compel Respondent Sacramento County Employees' Retirement System ("SCERS") to disclose pension records requested pursuant to the California Public Records Act is granted.

The court finds the information requested, including names and amounts paid to individual retirees, are public records. These records are not exempt from disclosure, and the public interest in disclosing this information outweighs any interest in keeping it secret.

BACKGROUND

Petitioners, the Sacramento Bee and the First Amendment Coalition, submitted requests pursuant to the California Public Records Act (Gov. Code § 6250 et seq. ["Public Records Act"]) seeking information regarding individual members of SCERS, including the benefits paid to retirees or their beneficiaries (collectively "retirees"). [1]

In response, SCERS provided information on 250 individuals who received $100,000 or more in 2009.[2] SCERS refused to produce any information linking the names of individual retirees with their benefits.

Petitioners seek a writ of mandate to compel SCERS to disclose the individual names and pension information sought in their various Public Records Act requests.

Respondent SCERS opposes the petition. It argues: (1) the records are specifically exempt from disclosure under sections 31532 and 6254(k); (2) the records are also exempt under the "catchall" exemption in section 6255; and (3) petitioners are collaterally estopped by the decision in *The McClatchy Company v. County of Sacramento* (Super. Ct. Sacramento County, 2005, No. 04CS01398) from again litigating the issue in this case.

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[1] All statutory references are to the Government Code, unless otherwise indicated.

[2] The Sacramento Bee initially requested information on each retiree who received $100,000 or more per year, including name, department retired from, position held at time of retirement and date of retirement. (Request of May 6, 2009; Exhibit A to petition for writ of mandate.) Subsequently, in February of 2010, the Sacramento Bee expanded its request to include all persons receiving any pension benefits from SCERS in calendar year 2009, including name of the recipient, date of retirement, department retired from, position held at time of retirement, years of credited service, base allowance, cost of living adjustment, health allowance and the total monthly benefit received. (Exhibit E to petition.)

The First Amendment Coalition requested a list of all SCERS beneficiaries who received $100,000 a year or more in pension benefits, along with the department they retired from and their past position. (Exhibit H to petition.)

Following briefing, the court issued a tentative decision July 8, 2010, granting the petition. The matter was heard July 9, 2010. Having considered the pleadings and argument presented, the court grants the petition. [3]

DISCUSSION

Courts have long recognized that openness in government is essential to the functioning of a democracy. (*International Federation of Professional and Technical Engineers v. Superior Court* (2007) 42 Cal.4th 319, 328 ["*International Federation*"].) "Implicit in the democratic process is the notion that government should be accountable for its actions. In order to verify accountability, individuals must have access to government files. Such access permits checks against the arbitrary exercise of official power and secrecy in the political process." (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 651.)

The Legislature codified the public's right of access to government records with the Public Records Act, providing a comprehensive statutory scheme requiring release of public records. In enacting the Public Records Act, the Legislature declared that access to information concerning the conduct of the people's business is "a fundamental and necessary right of every person in this state." (§ 6250.)

In 2004, the voters enshrined their right of access to public records in the California Constitution by adopting Proposition 59, adding article I, section 3, declaring: "The people have the right of access to information concerning the conduct of the people's business and, therefore, the . . . writings of public officials and agencies shall be open to public scrutiny." (Cal. Const., art. I, § 3(b); *Commission on Peace Officer Standards and Training v. Superior Court* (2007) 42 Cal.4th 278, 288.)

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[3] Respondent SCERS' objections to petitioners' evidence are sustained as to paragraphs 6 and 8 of Mr. Olson's declaration, but otherwise overruled. Although the court overrules the objections to Exhibits A and B of Mr. Olson's declaration, the court notes those exhibits have no evidentiary or precedential value, and little - if any - relevance.

The court overrules all of petitioners' evidentiary objections. However, the court has disregarded the improper legal conclusions and argument included in the proffered evidence.

The ballot arguments in support of Proposition 59 explained: “Proposition 59 is about open and responsible government. A government that can hide what it does will never be accountable to the public it is supposed to serve. We need to know what the government is doing and how decisions are made in order to make government work for us.” (Ballot Pamp., Gen. Elec. (Nov. 4, 2004), argument in favor of Prop. 59.) The ballot argument quoted James Madison: “Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives.” (*Ibid.*)

Even before Proposition 59, case law established that statutory exemptions from disclosure under the Public Records Act must be narrowly construed. Proposition 59 added this presumption to California Constitution, providing that statutes shall be broadly construed if they further the people's right of access to public records and narrowly construed if they limit the right of access. (Cal. Const., art. I, § 3(b).)

The Public Records Act embodies a strong policy favoring disclosure of public records. (*California State University v. Superior* Court (2001) 90 Cal.App.4th 810, 831.) Any claim to deny disclosure must be based upon the specific exceptions enumerated in the Act. (*Id*.; see also *Register Div. of Freedom Newspapers v. County of Orange* (1984) 158 Cal.App.3d 893, 901.)

Under the Public Records Act, records may be exempt from disclosure in only two ways. (*California State University, supra,* 90 Cal.App.4th at p.831.) First, materials may be withheld pursuant to one of the express, categorical exemptions set forth in the Act. (§ 6254.) Second, materials may be withheld under the catchall exemption in section 6255, which allows a government agency to withhold records if it can demonstrate, on the facts of a particular case, that the public interest served by withholding the information clearly outweighs the public interest in disclosure. (§ 6255.)

In this case, the parties agree the records at issue are “public records” as defined by the Act. (§ 6252(d).) The records therefore must be disclosed unless one of the statutory exemptions applies. SCERS, as the party seeking to withhold public records,

bears the burden of demonstrating an exemption applies. (§ 6255; *California State University, supra,* 90 Cal.App.4th at p.831.)

Respondent SCERS argues the information requested is exempt from disclosure pursuant to both a categorical exemption under sections 6254(k) and 31532, and pursuant to the catchall exemption of section 6255.

The court finds the information requested, including the amount of benefits paid retirees, is not exempt and must be released.

1. The information requested is not specifically exempted from disclosure by section 31532.

Section 6254, subdivision (k), of the Public Records Act exempts records from disclosure if release is prohibited pursuant to federal or state law. Of relevance here, the Act specifically refers to records of county employee retirement systems designated confidential by section 31532. (§§ 6276 and 6276.12.)

Section 31532 in turn provides: "Sworn statements and *individual records* of members shall be confidential and shall not be disclosed to anyone except insofar as may be necessary for the administration of this chapter or upon order of a court of competent jurisdiction, or upon written authorization by the member." (§ 31532 [emphasis added].) The question, then, is what records are considered "individual records" of members exempted from disclosure? This is a question of statutory construction.

The term "individual records" is not defined in section 31532 or elsewhere in the County Employees Retirement Law. (§ 31450 et seq.) Respondent SCERS argues under a plain reading of section 31532, the term "individual records" of members applies to all records matched to individual retirees, including their benefits. Petitioners argue the exemption applies only to records filed *by* members – not records showing the benefits paid *to* members, which is public information.

The statutory exemptions from disclosure under the Act are narrowly construed, and the burden is on respondent to establish an exemption allowing SCERS to withhold this information. (*California State University, supra,* 90 Cal.App. 4th at p.831; § 6255.) Thus, SCERS has the burden of demonstrating that section 31532 must be construed to exempt these records. The presumption of disclosure and constitutional mandate to narrowly construe any restriction on public access guides the court's analysis of how to construe the phrase "individual records" in section 31532.

SCERS' position that the requested information, including individual retirement benefits, is confidential fails for several reasons. First, SCERS' argument is contrary to the Attorney General's longstanding interpretation of this statute.

In 1977, the Attorney General addressed the specific question of whether section 31532 prevents the county controller from disclosing the name and amount received by county retirees. (*County Payroll Records as Public Records*, 60 Ops.Cal.Atty.Gen. 110 (1977).) The Attorney General concluded the names and amounts paid to county retirees are public records subject to disclosure. (*Ibid*.) The Attorney General opined that section 31532 does not create any exemption from the Public Records Act for records held by the county controller showing the names and amounts paid to retirees. (*Ibid*.)

This was consistent with the Attorney General's decision 20 years earlier that the benefits paid to state retirees is also public information. (*State Employees' Retirement Act*, 25 Ops.Cal.Atty.Gen. 90 (1955) ["Granted that the statute intends to safeguard certain personal information, nevertheless it is a fact that the name of every public officer and employee, as well as the amount of his salary, is a matter of public record. Thus, state-paid income of a retired person is no less open to public gaze than the income of any active state officer or employee."].)

The Attorney General's opinions are entitled to considerable weight. (*Cal. ex rel. State Lands Com v. Superior Court* (1995) 11 Cal.4th 50, 71.) Indeed, these two opinions have been cited with approval by the California Supreme Court, "The Attorney General's longstanding position that government payroll information is public is

consistent with the widespread practice of federal, state and local governments. (*International Federation, supra,* 42 Cal.4th at 331; see also *Commission on Peace Officer Standards and Training, supra,* 42 Cal.4th at 296.)

Respondent argues the Attorney General's opinions address only public access to retiree benefits after that information is provided to the controller for issuing payment. Relying upon a 1956 Attorney General opinion regarding state retirement records, respondent argues information on individual retirees is confidential while in SCERS' possession, and public only when provided to the controller. (*State Employees' Retirement System*, 27 Ops.Cal.Atty.Gen. 267 (1956).)

As petitioners noted, our Supreme Court has rejected similar arguments in construing the Public Records Act: Documents are not confidential based on their location. Rather, it is the document's content that determines if it must be disclosed. (*Commission on Peace Officer Standards and Training, supra,* 42 Cal.4th at 291.)[4]

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[4] At first blush, there does appear to be some ambiguity in the Attorney General's opinions.

On the one hand, the Attorney General's 1956 opinion seems to hold that, under former section 20134 (which is similar to current section 20230), benefits paid retirees are confidential when part of the retirement system's records. On the other hand, the Attorney General's 1955 opinion concluded the names and amount of individual payments can be divulged by the controller.

On closer inspection, there is no inconsistency. The Attorney General concluded that while the retirement system's individual records may be confidential, the names of payees and amounts of payments is not confidential, even if contained in or derived from the system's records. The Attorney General subsequently recognized this information is available to the public regardless of whether it is in the hands of the controller or the retirement system:

> [T]he names and amounts shown on the [Retirement System's] roll are open to public inspection. Consequently, the identical information shown in the Controller's warrant records is also open to inspection by citizens of the State. (*County Payroll Records as Public Records*, 60 Ops.Cal.Atty.Gen. 110 (1977).)

Moreover, even if the Attorney General's earlier opinions are construed to hold information on individual retirees is confidential when in the hands of the retirement system, subsequent case law directs that exemptions from the Public Records Act look to the content of the document, not its location. (*Commission on Peace Officer Standards and Training, supra,* 42 Cal.4th at p.291 ["We consider it unlikely the Legislature intended to render documents confidential based on their location, rather than their content."]; *International Federation of Professional and Technical Engineers, supra,* 42 Cal.4th at p.328 [the Public Records Act was intended to apply in the same way to comparable records maintained by comparable governmental entities]; *Black Panther Party v. Kehoe* (1974) 42 Cal.App.3d 645, 656 [records are either completely public or completely confidential].) To the extent the Attorney General's earlier opinions may be inconsistent with this rule, the court declines to follow them.

SCERS next argues the wording of section 20230, regarding the confidentiality of records maintained by the Public Employees Retirement System (PERS) for state retirees, shows the Legislature intended the same information regarding county retirees be confidential. It does not.

Section 20230 is similar to section 31532 in stating "individual records" of members shall not be divulged. However, unlike section 31532, section 20230 explicitly states that benefit payments paid to state retirees are not confidential and may be released to the public.[5] SCERS argues the Legislature's failure to include similar language in section 31532 shows the Legislature intended to treat county retirees differently and prohibit disclosure of their benefit records.

SCERS' argument assumes the additional language in section 20230 was intended to change the law applicable to the state employee retirement system. This assumption is unsupported. When the Legislature enacted section 20230, the Attorney General had opined that the names and pension amounts of *both* state and county pensioners were public information. (See discussion, *supra*.) The Legislature is presumed to have acted with knowledge of the Attorney General's opinions. (*Burden v. Snowden* (1992) 2 Cal.4th 556, 564.) Thus, the language in section 20230 providing that benefits paid state retirees is public simply confirmed existing law.

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[5] Section 20230 provides:

> Data filed by any member or beneficiary with the board is confidential, and no individual record shall be divulged by any official or employee having access to it to any person other than the member to whom the information relates or his or her authorized representative, the contracting agency or school district by which he or she is employed, any state department or agency, or the university. The information shall be used by the board for the sole purpose of carrying into effect the provisions of this part. Any information that is requested for retirement purposes by any public agency shall be treated as confidential by the agency.
>
> The gross amount of any benefit or any refund of a PERS contribution due to a member or beneficiary is not confidential and may be released upon request to the board.
>
> The board may seek reimbursement for reasonable administrative expenses incurred when providing that information. Except as provided by this section, no member's, beneficiary's or annuitant's address, home telephone number, or other personal information shall be released.
>
> For purposes of this section, "authorized representative" includes the spouse or beneficiary of a member when no contrary appointment has been made and when, in the opinion of the board, the member is prevented from appointing an authorized representative because of mental or physical incapacity or death.

The fact that the Legislature has not amended section 31532 to include similar language is of no import. Something more than mere silence is required before legislative inaction is elevated into implied legislation. (*Ventura County Deputy Sheriffs' Ass'n v. Bd. of Ret.* (1997) 16 Cal.4th 483, 506.)

Respondent additionally argues it has traditionally treated retiree benefits as confidential, and the court should consider SCERS' construction of section 31532 in interpreting the statute. Although SCERS' interpretation of the statute is entitled to some deference, the Supreme Court rejects the view that an agency's past practices determine whether a public record shall be disclosed: "Whether or not a particular type of record is exempt should not depend upon the peculiar practice of the government entity at issue – otherwise, an agency could transform public records into private ones simply by refusing to disclose them over a period of time." (*International Federation supra,* 42 Cal.4th at p.336.)

Respondent argues the court must make a plain or literal reading of section 31532. As discussed above, under SCERS' interpretation of "individual records," all information in SCERS' possession would be confidential, even if the same information is public when provided to the county controller.

The Supreme Court has rejected similar arguments, if giving a statute a literal interpretation as respondent urges would result in "absurd consequences" unintended by the Legislature. (*Commission of Peace Officer Standards and Training, supra,* 42 Cal.4th at 290. ["Where more than one statutory construction is arguably possible, our policy has long been to favor the construction that leads to the more reasonable result."].)

In construing similar statutory exemptions excluding records from disclosure under section 6254(k), the Supreme Court has repeatedly given a narrow construction to what records are considered "individual" and "personal." (*Commission of Peace Officer Standards and Training, supra,* 42 Cal.4th at 295-296 [fact that information was identifiable to an individual, alone, does not exempt the record from disclosure]; and *International Federation, supra,* 42 Cal.4th at 341 ["personal" record relating to a

particular person, alone, does not exempt the record. "A public employee's salary relates to a particular person, but … it is a matter of public interest and not primarily a matter of the individual's private business."].)

Because section 31532 limits the public's right of access, the scope of the phrase "individual records" must be given a similarly narrow construction to assure the broadest possible public access to these public records.

Finally, in considering the scope given to exemptions from disclosure of public records, the Supreme Court also considers whether disclosure would constitute an unwarranted invasion of personal privacy. (*International Federation, supra*, 42 Cal.4th at 344.) In its seminal decision in *International Federation,* the Supreme Court thoroughly analyzed the public's right of access to the compensation paid public employees. The Court considered and rejected the same arguments respondent now raises.

In *International Federation*, the press requested the City of Oakland disclose the names and salaries of employees earning $100,000 or more per year. (*International Federation, supra,* 42 Cal.4th at p. 319.) The City argued salaries paid its employees were "personnel" records, the disclosure of which would be an unwarranted invasion of the employees' privacy. (§ 6254(c).)

In rejecting the City's argument, the Supreme Court explained the importance of disclosing public employee salaries. The Supreme Court observed that while many public employees may be uncomfortable having their compensation made public, "[n]onetheless, in light of the strong public policy supporting transparency in government, an individual's expectation of privacy in a salary earned in public employment is significantly less than the privacy expectation regarding income earned in the private sector." (*International Federation, supra,* 42 Cal.4th at p.331.) The Supreme Court then explained why disclosing the compensation paid to public employees serves a significant public interest:

> Salaries and other terms of compensation constitute municipal budgetary matters of substantial public interest warranting open discussion and eventual electoral … ratification. Public visibility breeds public awareness which in turn fosters public activism,

> politically and subtly encouraging the governmental entity to permit public participation in the discussion process. It is difficult to imagine a more critical time for public scrutiny of its governmental decision-making process than when the latter is determining how it shall public funds. (*Id.* at p.334.)

Respondent attempts to distinguish this case from *International Federation* by noting the Supreme Court was construing a different statute than section 31532. SCERS argues the definition of "individual records" exempted under section 31532 should be given broader scope than the "personnel" records exempted under section 6254(c). The court does not agree.

The public has the same interest in disclosure of retiree benefits as in disclosure of salaries paid current public employees, including identifying potential nepotism, favoritism or financial mismanagement. (See *International Federation, supra,* 42 Cal.4th at p.334.) Indeed, as an example of the questionable use of public funds justifying disclosure, the Supreme Court noted changes in a school district's pension system resulting in large pension increases to some of the district's top administrators. (*Ibid.*) The Court also cited with approval cases from other jurisdictions showing disclosure of public employee compensation is the "norm." At least one of those cases involved disclosure of retiree pensions. (*Id.* at p.332, fn. 5 [citing *Pulitzer Pub. v. MOSERS* (Mo.Ct.App. 1996) 927 S.W.2d 447].)

Given the broad mandate of article I, section 3 of the California Constitution, the Supreme Court's thorough analysis of a similar question in *International Federation,* and the Attorney General's opinions that retiree benefits are public records, SCERS has failed to show the confidentiality of "individual records" under section 31532 precludes disclosing the information requested, including benefits paid to retirees.

Respondent SCERS requests that the court specify which records are not considered "individual records" under section 31532, and thus not exempt from disclosure. The court, however, addresses only the information that petitioners seek in their Public Records Act request here at issue. (Exhibit E to petition.) For each retiree SCERS was asked to provide:

- Name
- Date of retirement
- Department retired from
- Position at time of retirement
- Years of service
- Base allowance
- Cost of living adjustment
- Total health allowance; and
- Monthly benefit.

This does not disclose "contact" information, such as home address or telephone number; nor does it disclose information concerning the retiree's personal life and financial decisions, such as the retiree's type of medical coverage or financial decisions, in which the public has no "legitimate and traditionally recognized interest." (*International Federal, supra,* 42 Cal.4th at 339 and 343.)

For the foregoing reasons, the court concludes the requested information is not exempted under sections 6245(k) and 31532, and thus must be released.

2. The information requested is not exempted from disclosure by section 6255.

Respondent SCERS alternatively argues the catchall exemption of section 6255 applies to individual retirement records, permitting respondent to withhold this information if it demonstrates the public interest served by withholding it "clearly outweighs" the public interest in disclosure. As the party seeking to withhold the records, SCERS must demonstrate "a clear overbalance on the side of confidentiality." (*County of Santa Clara v. Superior Court* (2009) 170 Cal.App.4th 1301, 1329; *California State University, supra,* 90 Cal.App.4th at p.831.)

Again, the presumption favors disclosure of records relating to the public's business. As the Supreme Court explained:

> The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. (*International Federation, supra,* 42 Cal.4th at p.333, fn. 6 [quoting § 54950].)

Secrecy in government is antithetical to a democratic system of government of the people, by the people and for the people. (*California State University, supra,* 90 Cal.App.4th at p.824.)

SCERS argues retirees have an overriding constitutional right of privacy in their financial information. (Cal. Const. art. I, § 1.) However, the Supreme Court rejected this argument in *International Federation,* ruling that compensation paid public employees is information regarding the operation of government, the disclosure of which "contributes to the public's understanding and oversight" of government and the expenditure of public funds. The Court thus concluded disclosure does not violate the employee's right of privacy protected by the California Constitution. (*International Federation, supra,* 42 Cal.4th at p.340.)

The same analysis applies here – with the same result. SCERS fails to meet its burden of demonstrating the public interest in withholding these records "clearly" outweighs the public interest in disclosing such information.

SCERS also argues disclosure of information such as the benefits paid would expose retirees to possible identity theft and unwanted solicitations. Again, the Supreme Court rejected a similar argument in *International Federation*. First, no contact information, such as home addresses or telephone numbers, is being released, and no evidence has been presented supporting the assertion that releasing the names and benefit payments alone is likely to be exploited in a manner invading the retirees' privacy. (See *International Federation, supra,* 42 Cal.4th at pp.338 - 339.) Second, the retirees' interest in avoiding unwanted solicitations is comparatively weak compared to

the public's interest in disclosure. (*Ibid.*) Additionally, disclosure of individual benefits allows the public to determine if there has been favoritism or unusual advantage. (See, e.g., *California State University, supra,* 90 Cal.App.4th at p.833.)[6]

Finally, SCERS argues the public interest in disclosure is weak because a portion of retirement benefits simply returns the retiree's own contributions. However, the vast majority of pension benefits are funded by public contributions. Therefore, even if a portion of benefits are derived from employee contributions, the public still has a strong interest in disclosure. (See, e.g., *Pulitzer Pub. v. MOSERS, supra,* 927 S.W.2d 447, 483; see also *California State University, supra,* 90 Cal.App.4th at p.825 [the fact that no public funds were expended from private donations to a university fund did not exclude the records from disclosure under the Act: "The word 'public' means of, pertaining to, or affecting, the people at large or the community."].)

For the foregoing reasons, the court finds the information requested is not exempted by the catchall exclusion of section 6255.

3. Petitioners are not collaterally estopped by the 2005 litigation from requesting these records.

In 2004 the Sacramento Bee made a Public Records Act request for, *inter alia*, the pension amounts paid everyone retiring from Sacramento County in fiscal year 2003. Litigation followed when the request was denied. On March 7, 2005, the trial court granted many of the Bee's requests for information, including a list of the positions and pensions paid of every county employee who retired in the 2003-04 fiscal year. However, the trial court did not order disclosure of the retirees' names. (*The McClatchy Company v. County of Sacramento* (Super. Ct. Sacramento County, 2005, No. 04CS01398).)

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[6] The Supreme Court recognized that, upon an appropriate showing that disclosure would endanger the recipient or otherwise outweigh the public interest in release of the information, disclosure can be withheld on a case-by-case basis under section 6522(a). (*International Federation, supra,* 42 Cal.4th at pp.337 - 338.) The same protection would be available here on an individual showing.

SCERS argues the Sacramento Bee is now collaterally estopped from reiterating the same issue by this suit seeking release of similar information. The court finds petitioners are not collaterally estopped by the prior litigation.[7]

The doctrine of collateral estoppel precludes relitigation of an issue previously adjudicated when the following requirements are satisfied: (i) the issue sought to be precluded is identical to that decided in the prior proceeding; (ii) the issue was actually litigated in the prior proceeding; (iii) the issue was decided in the prior proceeding; (iv) the decision in the former proceeding is final and on the merits; and (v) the party against whom estoppel is asserted is the same or in privity with the party to the prior proceeding. (*Hernandez v. City of Pomona* (2009) 46 Cal.4th 501, 511.)

Even if these requirements are met, however, collateral estoppel does not apply if the previous decision rests on a "different factual or legal foundation," such as changed conditions, new facts or a change in the law. (*United States Golf Assn. v. Arroyo Software Corp*. (1999) 69 Cal.App.4th 607, 616.)

In this case, the trial court's ruling in *McClatchy Company* predated the Supreme Court's controlling analysis in *International Federation*, and relied upon an earlier appellate court decision (*City of Los Angeles v. Superior Court* (2003) 111 Cal.App.3d 883, 892) in finding a protected privacy interest in potential retirement income.

As petitioners point out, the Supreme Court's intervening decision in *International Federation* significantly changed the legal atmosphere. Additionally, the Supreme Court in *International Federation* found the appellate court's reasoning in *City of Los Angeles* unpersuasive and disapproved it. (*International Federation, supra,* 42 Cal.4th at p.345.)

Because the trial court's 2005 decision in *McClatchy Company* predates the Supreme Court's opinion, and relies upon authority subsequently disapproved by the Supreme Court, the *McClatchy Company* decision does not collaterally estop petitioners

[7] The parties submit considerable briefing and evidence arguing whether petitioner First Amendment Coalition is also bound by the prior litigation. In view of the court's ruling that the Sacramento Bee is not estopped, it need not address whether the prior ruling also estops the First Amendment Coalition.

from bringing the current action. (See *Commissioner of Internal Revenue v. Sunnen* (1948) 333 U.S. 591, 600-602.)

CONCLUSION

Sacramento County faces difficult budget decisions. Its reduction of critical services has generated significant public debate. The public has a strong interest in knowing how government is spending their money, and a constitutional right to such information.

The court finds the information requested, including names and amounts paid to individual retirees, are public records: They are not exempt from disclosure, and the public interest in disclosing the information outweighs any interest in keeping this information secret.

Therefore, the petition for writ of mandate is granted. Respondent SCERS is ordered to disclose the records requested in the Bee's Public Record Act request.