

1 **THE COURT:** All right. Thank you. As you
2 all have noted, this is a complicated matter. It's
3 been litigated heavily, and I appreciate your
4 presentations here. Fortunately, I had all of your
5 materials ahead of time and I was able to review the
6 matters that we're referring to and, in particular,
7 the opinions of the higher courts.

8 Citizen's initiatives are important in the
9 California legal system and the constitution. And
10 when they are standalone and the citizens are
11 attempting to do something that the government
12 refuses to do or attempting to undo something that
13 the government has done, that's one thing. That is
14 the type of citizen's initiative that is highly
15 defended.

16 Here we have something a little different,
17 and that's why I don't think this case necessarily
18 sets any precedent other than as to a case where the
19 facts are identical, because here the unusual thing
20 is we have a mayor acting in a manner in conjunction
21 with the citizens to accomplish something that, as
22 the Supreme Court says, purposely evade the
23 meet-and-confer requirements of the MMBA.

24 And it would make no sense to me, at least,
25 that if governmental leaders could undertake to
26 avoid the MMBA and then act in league with citizens
27 who are tied in with him, as the facts of this case
28 show, and if their action therefore let the mayor

1 off the hook, so to speak, it would totally
2 frustrate the purposes of an MMBA.

3 As Ms. Smith says, the CPRI is a violation,
4 because it's the end of the chain of what was to be
5 accomplished. And according to the mayor,
6 of course, he wanted to avoid complications of meet
7 and confer and collective bargaining and those
8 things so that he could get it on the ballot, as
9 Ms. Smith says, which he -- in an election year that
10 he thought would be beneficial to him.

11 If the MMBA violation stayed by itself, as
12 Ms. Shamos and Mr. Lounsbery would like to look at
13 it, as opposed to the citizen's initiative -- so
14 they're not tied together in any way -- then the
15 violation would be -- meet and confer would only be
16 an inconsequential unfair labor practice if
17 nothing's coming out of it, but it's not standing by
18 itself. It's in the citizen's initiative. And from
19 all the facts -- I'm not going to repeat everything
20 that's in the record, but it's clear that they were
21 tied together.

22 I don't think that the argument that if the
23 initiative applied to everybody, but the attack, so
24 to speak, by the unions only applies to 93 percent,
25 therefore, it's valid as to 7 percent, and if it's
26 valid as to 7 percent, then it's valid as to
27 100 percent -- I don't think so. I think all sides
28 have indicated that it cannot be severed. And the

1 corollary to the argument is if it's invalid as to
2 93 percent, it's invalid as to everybody. I think
3 that's the better analysis.

4 Overall, I agree with Ms. Smith's analysis
5 as laid out in a daylong record here. I think that
6 judgment invalidity is appropriate, and that's my
7 determination for all the reasons stated.

8 Ms. Smith, if you would please prepare the
9 necessary paperwork.

10 (The Court's ruling concluded at 3:05 p.m.)

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