

# News from around the world

## Conservatives sue the city of San Jose

A conservative legal group said Wednesday it has sued the city of San Jose, accusing it of violating a controversial California law barring affirmative action programs based on race or sex.

The Sacramento-based Pacific Legal Foundation alleged in the lawsuit, filed Tuesday in Santa Clara County Superior Court, that rules adopted by San Jose that direct a share of city contracts to minority- and women-owned businesses violate the new state law, also known as Proposition

209.

The lawsuit is a key legal test of the effect of Proposition 209 on California cities.

"This is a new era for individual rights in California," Michele Justin, an attorney with the Pacific Legal Foundation, said. "We are moving quickly to enforce Proposition 209 and to restore true equal opportunity in the state."

Last November, California voters passed Proposition 209, which prohibits state and local governments

from granting preferential treatment on the basis of race or sex in public education, employment and contracting.

Challenged by civil rights groups, Proposition 209 was put on hold by a U.S. district judge soon after it passed. It took effect last month after a federal appeals court ruled that it was constitutional. The civil rights groups are appealing to the U.S. Supreme Court.

The Pacific Legal Foundation's lawsuit challenged a San Jose resolution, adopted on Nov. 21, that the founda-

tion said required general contractors to grant preferential treatment to subcontractors on the basis of race and gender when bidding on city contracts over \$50,000.

The foundation sued on behalf of Power Providers, a Rancho Cordova, Calif.-based general contracting firm that the foundation said was denied a contract to supply a circuit switcher for the city's sewage treatment plant.

The city rejected the contractor's \$198,760 bid in favor of a \$202,314 bid by another firm because Power Pro-

viders intended to complete the project entirely with its own in-house work force, the foundation said.

To comply with the city's resolution, Power Providers would have had to subcontract some of the work to minority-owned firms, it said.

"Although the city's resolution purports to comply with Proposition 209, it is in fact a veiled attempt to entrench the same type of race/gender preference program Proposition 209 is designed to abolish — all at taxpayer expense," Justin said.

San Jose City Attorney Joan Gallo said the city's program did not discriminate against anybody or provide any preference.

"The city's position is that there needs to be inclusion, that Proposition 209 ... protects minorities and women as well as white males," she said.

"We will vigorously defend this suit in court," she added.

## Over Proposition 209

## Civil War Memorial Honoring African-American servicemen.

Margot Webb, a retired professor living in North Miami Beach, has spent the last two years poring over military records, scanning census data and looking through soldier names on a hunch that her great-grandfather served in a black troop during the Civil War.

She has whittled down her options to six "Isaac Smiths" but still doesn't know which one is her ancestor.

"I'm having a hard time getting to

the right one," said Webb, 87, a genealogist. "If I just had an idea of what company he was in."

The African-American Civil War Memorial Foundation estimates at least 7 million blacks are descended from Civil War servicemen. For some, like Webb, tracing roots can prove difficult.

But a new memorial and heritage center in the nation's capital aims to shed light on history's forgotten

troops. The African-American Civil War Memorial Foundation broke ground Thursday on a \$2 million project to salute black servicemen.

"We've come here to start the process of setting the record straight," said memorial chairman Frank Smith Jr., a District of Columbia councilman.

The 9-foot-high, 2-ton bronze sculpture, called the Spirit of Freedom, depicts a group of soldiers in service. Two stone walls around the statue will

bear the names of an estimated 209,000 soldiers who served in the United States Colored Troops.

The project, above a subway stop in Washington's Shaw neighborhood, is scheduled to be dedicated next spring.

The memorial is a "thank you to colored soldiers for fighting for freedom, for fighting even when people didn't want them to," said Mayor Marion Barry.

The National Park Service, which is building a database of Civil War soldiers from National Archives records, is providing the names for the memorial.

The foundation is also working on a Family Heritage Center, to be housed in the Garnet-Patterson Middle School near the memorial, which will include computers and searchable databases.

Harold Ashby, a 49-year-old college teacher in Honolulu, said he be-

lieves the project will give blacks a stronger sense of cultural identity.

"I think it's important for a younger generation, especially a younger black generation, to have some grounding," said Ashby, who keeps the discharge papers of his great-grandfather, George Ashby, in his bedroom.

Ashby is still investigating where George Ashby was born and how he got to Trenton, N.J., where he enlisted in 1864.

## Judge accused of sexually harassing women with his dog

A Connecticut judge sexually harassed women and obstructed their access to courts by allowing his dog to go up behind them and put its snout under their skirts, a lawyer alleged Thursday.

In an unusual case before the prestigious U.S. 2nd Circuit Court of Appeals, the lawyer argued that a district judge erred in throwing out the case by saying the female plaintiff was "barking up the wrong tree."

The Second Circuit handles federal

appeals from New York, Connecticut and Vermont.

The class action suit was filed last year on behalf of all women who were allegedly attacked in Connecticut Superior Court in Danbury by Kodak, a golden retriever.

The dog allegedly "aggressively nuzzled" the lead plaintiff, raised her skirt and "projected its snout upward toward the plaintiff's crotch," according to the suit.

The suit alleges that the plaintiff's

constitutional rights were violated because the judge was acting in his official capacity when he allowed the dog to assault women and interfere with their access to the courthouse.

A federal judge in Connecticut had dismissed the suit, finding that Superior Court Judge Howard Moraghan was not acting "under color of state law" but as a private citizen when he brought the dog into the courthouse.

Nancy Burton, the plaintiff's lawyer who was also attacked by the dog,

disagreed and told the appeals court that Moraghan was able to bring his pet into the courthouse because he is a judge and that allowing the animal to harass women was an "extension of his judicial persona."

"This was not a casual, random act on the part of the judge ... it was ritualized," Burton told the panel.

She said the judge would bring the dog into the clerk's office, unleashed and unmuzzled, and watch "with a smirk on his face" as it harassed

women.

Burton said the suit also alleges gender discrimination because the dog only went after women wearing skirts.

Robert Cooney, Moraghan's lawyer, argued that the district's judge's ruling should be upheld because his client was not acting in his official capacity when he brought the dog to the courthouse.

Circuit Judges Ralph Winter and Jon Newman questioned Cooney as to whether the dog was allowed into

the courthouse only because Moraghan is a judge.

Cooney said that Moraghan was not performing any judicial function at the time, and was merely walking to his office.

"He wasn't trying to keep anyone out of the clerk's office," he said.

But Newman responded that the case is not about a judge keeping a dog by his side.

"This case is about a dog harassing women," he said.

## ATTACKING CANCER Harvard Medical School researchers find new weapon

A gene similar to one blamed for many types of cancer could open up a new way of attacking the killer disease, American scientists said last week.

William Kaelin Jr. and researchers at the Dana Farber Cancer Institute and Harvard Medical School examined the properties of p73, a gene which is a close cousin to the tumor suppressor gene p53 linked to more than 50 percent of all cancer cases.

When p53, the most important suppressor gene known, is mutated or not working, tumors can develop.

In a report in the scientific journal Nature, Kaelin said that p73 can mimic the work of p53 — inducing cancer cells to die.

"Our study shows that in principle there is actually another gene which is very similar to p53 and which could perform the functions normally performed by p53," he said in an interview.

Kaelin said that one of the rea-

sons cancer cells don't die, and with a lot of genetic damage they should, is because they were smart enough to inactivate p53 which would ordinarily induce the damaged cells to commit suicide.

"What our study shows is that when you activate this unknown p53 homologue, p73, it will likewise induce cancer to undergo cell death."

The discovery of what p73 does could lead to the development of new drugs that would activate the expression of the p73 gene, which

so far does not appear to be frequently mutated in human cancer.

"You may have a copy of the p53-like gene that is in a somewhat dormant state that could then be activated by a drug," he said.

"Our study shows that if you did induce the expression of p73 in a cancer cell you could reasonably expect that the cell would undergo cell suicide (apoptosis)."

Another important aspect of the study is the possibility that there

may be additional p53 family members which have not been identified.

"I think it is another foot in the door," said Kaelin, when asked if p73 was an additional clue to the mystery of how to combat cancer.

"It certainly opens up an avenue of attack that we didn't know existed."

The problem is most drugs work by inactivating something, not by activating something.

Here we are saying there is an additional approach, that there

was a copy of p53 there all along that would be capable of doing p53's job if we were just smart enough to figure out how to reinduce its expression."

Kaelin said the next steps would be to find out what signals normally regulate the expression of p73 and to find out whether the gene is mutated in certain cancers.

"I think it is very important to determine whether this gene is mutated and to find out in what tissues it normally functions."

## Kenya under attack from raiders

One person was killed and two were wounded last Thursday in an exchange of fire between police patrol units and unidentified raiders in Ukunda area, south of the port city of Mombasa, police said.

A police spokesman said one police officer was also shot in the arm.

The police gave no further details on the incident in which the raiders attacked a popular bar in Ukunda.

Last Friday, up to five people, including a two-year child, were hacked to death by unidentified raiders in Mombasa's Likoni suburb.

In last Friday's incident, the heavily armed raiders also left some 20 people seriously wounded.

Areas around Mombasa have since August been hit by a wave of violence which President Daniel arap Moi, 73 and in power for 19 years, blames on the opposition and ethnic feuds.

Thousands of people have fled the port city of Mombasa and surrounding areas after Moi ordered a police crackdown on the unexplained violence which has left more than 40 people dead.

Moi accuses the opposition of fuelling tribal tensions before a general election this year. But many "upcountry" people leaving the coast say the government wants them out because they would only vote for the opposition.



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