

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL  
MINUTE ORDER**

Date: 12/11/2009

Time: 10:30:00 AM

Dept: C-68

Judicial Officer Presiding: Judge Judith F. Hayes  
Clerk: Carmen Walker

Bailiff/Court Attendant: Rene de la Cruz

ERM:

Reporter: Marvel S. Votaw, CSR #2817

Case Init. Date: 07/30/2009

Case No: 37-2009-00095057-CU-WM-CTL Case Title: Associated General Contractors of America, San Diego Chapter, Inc. vs. San Diego Unified School District

Case Category: Civil - Unlimited

Case Type: Writ of Mandate

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Event Type: Motion Hearing (Civil)

Moving Party: Associated General Contractors of America, San Diego Chapter, Inc.

Causal Document & Date Filed: Motion - Other, 08/31/2009

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**Appearances:**

At 4:20 p.m. on this date, there are no appearances.

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The Court, having taken the above-entitled matter under submission on 12/11/2009 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The Petition of Petitioner Associated General Contractors of America, San Diego Chapter, Inc. for Writ of Mandate is DENIED. (*Building and Construction Trades Council v. Associated Builders and Contractors of Massachusetts/Rhode Island (Boston Harbor)* (1993) 507 U.S. 218, *Associated Builders and Contractors, Inc. v. San Francisco Airports Commission* (1999) 21 Cal.4<sup>th</sup> 352) Petitioner's request for injunctive relief is denied. The Court declares the District's Resolution, the PSA and the District's apprenticeship provisions contained therein are legal and do not violate state law.

The Court overrules Petitioner's evidentiary objections to the declaration of Elyn Moscovitz. The Court grants the District's request for judicial notice, but only to take notice of the existence of the documents and not the facts asserted therein.

The Court finds Petitioner's standing is unclear on the facts presented. Even if standing were clear, the Court would deny the petition in any event.

The Court finds the contractual apprenticeship provisions in the District's PSA are consistent with the Labor Code and do not circumvent legislative authority. The District acted in its proprietary interests in adopting the PSA. The PSA is specific to the Prop. S projects and does not discriminate against non-union contractors.

Thus the Petition is denied, and the action is dismissed. Although a statement of decision is not required under the Code, the Court grants the District's request and directs the District to prepare a proposed statement of decision.

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