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California Department of Personnel Administration and the
10 Department of Personnel Administration

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF SACRAMENTO

13 DAVID GILB, CALIFORNIA DEPARTMENT) Case No.
14 OF PERSONNEL ADMINISTRATION,)
15 Petitioners/Plaintiffs,) DECLARATION OF JULIE CHAPMAN IN
16 v.) SUPPORT OF PETITION FOR WRIT OF
17 JOHN CHIANG, sued herein in his official) MANDATE (CCP § 1085); COMPLAINT FOR
18 capacity only, CALIFORNIA STATE) INJUNCTIVE AND DECLARATORY RELIEF
19 CONTROLLER'S OFFICE,)
20 Respondents/Defendants.) Date:
21) Time:
22) Dept:
23) Trial Date:
24)
25) **Exempt from Fees**
26) **(Gov. Code § 6103)**

27 I, JULIE CHAPMAN, declare as follows:

28 1. I am presently employed by the California Department of Personnel Administration
(DPA) as the Deputy Director of Labor Relations. I have been employed by DPA since
approximately October 16, 2000 as an Assistant Labor Relations Officer, Senior Labor Relations
Officer or Assistant Chief of Labor Relations. I have been involved in labor relations with the State
of California for the last fourteen years.

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1 2. As part of my regular duties as the Deputy Director for the department's Labor
2 Relations Division, I review pay letters before they are submitted to the State Controller's Office
3 (SCO) for implementation. Additionally, I meet with SCO representatives to discuss the
4 implementation of these pay letters.

5 3. I reviewed Pay Letter 08-23 prior to it being sent over to the State Controller John
6 Chiang (Controller) for implementation.

7 4. A true and accurate copy of Pay Letter 08-23 that I reviewed is attached to the
8 Declaration of David Gilb as Exhibit C.

9 5. On or about August 7, 2008, I attended a meeting at SCO. Present at the meeting
10 were the following representatives from DPA: Jerri Judd, Personnel Program Manager in the Labor
11 Relations Division (LRD); Bernice Torres from the LRD; and Theresa White, Staff Services Analyst
12 from the LRD. Representatives from the SCO, Department of Finance (DOF), and the Office of the
13 State Chief Information Officer (OCIO) were also present at this meeting. Don Scheppmann, Chief
14 of the SCO's Personnel and Payroll Services, was present at this meeting.

15 6. Theresa White was responsible for keeping a record of the discussions that occurred
16 at the meeting described above in paragraph 5. As such, she took contemporaneous handwritten
17 notes of these discussions.

18 7. Jerri Judd attended the meeting as the subject-matter expert on the viable options for
19 implementing Pay Letter 08-23.

20 8. The purpose of the meeting described in paragraph 5 was to discuss Pay Letter 08-23
21 and its implementation with representatives from SCO. In fact, the parties spent over two (2) hours
22 discussing Pay Letter 08-23 and the implementation of Pay Letter 08-23.

23 9. I explained to the SCO representatives the salary to be paid, as outlined in Pay Letter
24 08-23, to the following categories of employees: Work Week Group E, Work Week Group 2, and
25 Work Week Group SE employees. I discussed the departments and programs in which Work Week
26 Group 2 employees are not subject to minimum wage payments in Pay Letter 08-23. Further, I
27 discussed that Pay Letter 08-23 commences with the August 2008 pay period.

28 10. I discussed the deductions that would be taken from the salaries paid to the employees

1 discussed in paragraph 9. Specifically, I informed the SCO representatives that no deductions for
2 health benefits, dental benefits, vision benefits, CalPERS retirement benefits, or Savings Plus
3 Program contributions would be taken. I further advised the SCO representatives that the affected
4 employees' health benefits, dental benefits, and vision benefits would continue uninterrupted. I
5 advised the SCO representatives that only mandatory deductions would be taken from these salaries
6 e.g. Social Security, Medicare, and income tax deductions.

7 11. SCO representatives advised me that wage garnishments, such as child-support
8 payments, may be a mandatory deduction. I was further advised that it may be difficult for the SCO
9 payroll system to factor in these varying wage garnishment deductions from the salaries paid to the
10 employees pursuant to Pay Letter 08-23. However, SCO representatives did not say it was
11 impossible for them to factor in these varying wage garnishment deductions. Additionally, SCO
12 representatives did not offer solutions for the SCO payroll system to factor in these varying wage
13 garnishment deductions.

14 12. I discussed the rationale supporting the salaries paid to the employees subject to Pay
15 Letter 08-23. This particular discussion was primarily a question and answer session where we
16 provided answers to all of the SCO representatives' questions on this issue.

17 13. During the meeting described above in paragraph 5, Don Scheppmann asserted that
18 shortly after the California Supreme Court's ruling in *White v. Davis*, SCO spent eight to ten months
19 working on solutions to comply with the *White v. Davis* opinion to pay federal minimum wage to
20 those employees not exempt from the Fair Labor Standards Act (FLSA) who did not work overtime.

21 14. At no point during this meeting did any representative from SCO allege that it was
22 impossible for the SCO to comply with *White v. Davis* and implement Pay Letter 08-23.

23 15. At the meeting described above in paragraph 5, I submitted a memorandum to Don
24 Scheppmann. This memorandum presented three options to the SCO for implementing Pay Letter
25 08-23.

26 16. A true and accurate copy of the August 7, 2008, memorandum I submitted to Don
27 Scheppmann described in paragraph 15 is attached hereto as Exhibit A.

28 17. At no point during this meeting did any SCO representative allege that it was

1 impossible for the SCO to implement any of these three options. Additionally, SCO representatives
2 did not offer alternative solutions to implement Pay Letter 08-23.

3 18. At the meeting described above in paragraph 5, I also submitted three separate draft
4 pay letters to Don Scheppmann for each of the options identified in the August 7, 2008, memo
5 referenced in paragraph 15.

6 19. A true and accurate copy of the draft pay letter for the first option identified in the
7 August 7, 2008, memorandum to Don Scheppmann is attached hereto as Exhibit B.

8 20. A true and accurate copy of the draft pay letter for the second option identified in the
9 August 7, 2008, memorandum to Don Scheppmann is attached hereto as Exhibit C.

10 21. A true and accurate copy of the draft pay letter for the third option identified in the
11 August 7, 2008, memorandum to Don Scheppmann is attached hereto as Exhibit D.

12 22. The first option identified in the August 7, 2008, memorandum to Don Scheppmann
13 establishes a pay differential to reflect the minimum wage paid to the following categories of
14 employees: Work Week Group E, Work Week Group 2, and Work Week Group SE employees.
15 Another pay differential would be established once a budget is reached and regular pay is issued. In
16 this option, SCO suspends the affected employees' regular pay. Instead, the employee is paid the
17 pay differential that reflects their minimum wage. Then this pay differential is reversed when a
18 budget is reached and regular pay is issued. These pay differentials are similar to the thousands of
19 other pay differentials SCO currently uses to administer special pay requirements every month. This
20 same process was used in the past to reduce the pay of all state employees under the personal leave
21 program and currently is used to reduce the pay of individual employees under the voluntary
22 personal leave program. Currently, SCO is able to suspend the pay of legislative employees and
23 exempt employees of the Executive Branch when there is no budget in place.

24 23. In response to the first option identified in the August 7, 2008, memorandum to Don
25 Scheppmann, SCO representatives stated that SCO is able to pay the suggested minimum wage pay
26 differential. SCO representatives further advised me that it may be difficult for the SCO payroll
27 system to suspend the affected employees' regular pay. However, SCO representatives did not say
28 that it was impossible for the SCO to suspend the affected employees' regular pay. Additionally,

1 SCO representatives did not offer alternative solutions to implement Pay Letter 08-23.

2 24. The second option identified in the August 7, 2008, memorandum to Don
3 Scheppmann changes the salary ranges for classes to the new minimum wage rate and then moves
4 the employees to the new minimum wage rate.

5 25. In response to the second option identified in the August 7, 2008, memorandum to
6 Don Scheppmann, SCO representatives stated generally that it may be difficult to implement
7 changes to the SCO payroll system. However, SCO representatives did not say that it was
8 impossible to implement changes to the SCO payroll system. Additionally, SCO representatives did
9 not offer alternative solutions to implement Pay Letter 08-23.

10 26. The third option identified in the August 7, 2008, memorandum to Don Scheppmann
11 adds an alternate Range 9 to each class to reflect minimum wage rates. Employees are then moved
12 to the new alternate range by a 355 transaction (Range Change). The 355 transaction (Range
13 Change) would be voided when a budget is reached.

14 27. In response to the third option identified in the August 7, 2008, memorandum to Don
15 Scheppmann, SCO representatives stated generally that it may be difficult to implement changes to
16 the SCO payroll system. However, SCO representatives did not say that it was impossible to
17 implement changes to the SCO payroll system. Additionally, SCO representatives did not offer
18 alternative solutions to implement Pay Letter 08-23.

19 28. As discussed above in paragraph 13, Don Scheppmann asserted that shortly after the
20 California Supreme Court's ruling in *White v. Davis*, SCO spent eight to ten months working on
21 solutions to comply with the *White v. Davis* opinion to pay federal minimum wage to those
22 nonexempt FLSA employees who did not work overtime. SCO looked specifically at using an
23 alternate range process similar to the third option identified in the August 7, 2008, memorandum.
24 SCO abandoned the alternate range process as not viable. SCO representatives advised me that
25 difficulties were experienced in the recovery period when the payroll was reverted back to paying
26 employees' their normal wages. SCO representatives did not say if there were any difficulties with
27 the system in making the initial minimum wage payment. SCO representatives also indicated that
28 the alternative range process that was tested was not reviewed under the circumstances of a hiring

1 freeze, limitation of overtime, and suspension of transfers between departments. Additionally, SCO
2 representatives did not offer alternative solutions to implement Pay Letter 08-23.

3 29. At the conclusion of the meeting described above in paragraph 5, I asked SCO
4 representatives if any of the options identified in the August 7, 2008, memorandum to Don
5 Scheppmann were viable. SCO representatives responded by stating that they have not determined
6 if any of the options are viable. They further responded by saying that time was needed to review
7 the options. I requested Don Scheppmann to provide me a response on whether the options were
8 viable by the next day. Don Scheppmann said he did not believe he could respond by the next day
9 but he would provide a response as soon as possible.

10 30. Before concluding the meeting described above in paragraph 5, I asked the SCO
11 representatives if SCO had any suggested solutions to implement Pay Letter 08-23. SCO
12 representatives did not offer alternative solutions to implement Pay Letter 08-23.

13 31. On or about August 8, 2008, I sent another memorandum to Don Scheppmann. This
14 memorandum documented the prior day's meeting at SCO described above in paragraph 5. I also
15 requested a response on whether any of the options presented at the prior day's meeting were viable.
16 Alternatively, I asked Don Scheppmann for alternative solutions to implementing Pay Letter 08-23.
17 I closed the letter by requesting that Don Scheppmann provide a response by 12:00 noon, Monday,
18 August 11, 2008.

19 32. A true and accurate copy of the August 8, 2008, memorandum I sent to Don
20 Scheppmann described above in paragraph 31 is attached hereto as Exhibit E.

21 33. On or about August 11, 2008, I received a response from Don Scheppmann.

22 34. A true and accurate copy of the response I received from Don Scheppmann described
23 in paragraph 33 is attached hereto as Exhibit F.

24 35. The Controller's August 11, 2008 letter is consistent with his prior statements
25 indicating he will not comply with his legal duties under *White v. Davis* (2003) 30 Cal.4th 528.
26 Instead he purports to identify a number of scenarios that he considers obstacles to his ability to
27 comply with *White v. Davis*.

28 36. Each purported obstacle, however, is something that can be resolved by the options I

1 presented on August 7, 2008, or alternatively is something the Controller has had over 5 years to
2 address.

3 37. The August 11, 2008 letter suggests the Controller has taken virtually no action since
4 the 2003 *White v. Davis* decision to address these problems.

5 38. Assuming the obstacles raised in the August 11, 2008 letter have some validity (a fact
6 I dispute) action is needed by the court to compel the Controller to fulfill his responsibility to
7 comply with the law.

8 I declare under penalty of perjury under the laws of the State of California that the foregoing
9 is true and correct, except as to those matters stated on information or belief, and as to those matters
10 I believe it to be true. Executed this 11th day of August 2008 in Sacramento, California.

11
12
13 By: _____
Julie Chapman