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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 JERRI JUDD IN**  
16 v. ) **SUPPORT OF PETITION FOR WRIT OF**  
17 JOHN CHIANG, sued herein in his official ) **MANDATE (CCP § 1085); COMPLAINT**  
capacity only, CALIFORNIA STATE ) **FOR INJUNCTIVE AND DECLARATORY**  
18 CONTROLLER'S OFFICE, ) **RELIEF**  
19 Respondents/Defendants. ) Date:  
Time:  
20 Dept:  
Trial Date:  
21 ) **Exempt from Fees**  
(Gov. Code § 6103)

22 I, JERRI JUDD, do hereby say and declare as follows:

23 1. I am employed as the Personnel Program Manager in the Labor Relations Division  
24 ("LRD") of the Department of Personnel Administration ("DPA"). I have served in this position  
25 since 1981. My duties and responsibilities include the following activities: serving as DPA's  
26 Statewide Layoff Coordinator and Statewide Salary and Leave Administrator.

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1           2.       From 1979 until my move to DPA in 1981, I held a similar position with the State  
2 Personnel Board (“SPB”) where I had substantially the same duties and responsibilities as I now  
3 have with DPA.

4           3.       I came to DPA as part of the Governor’s Reorganization Plan that created DPA in  
5 1981.

6           4.       Since its creation in 1981, DPA has issued documents known as pay letters. A pay  
7 letter is the historical administrative document issued by DPA and its predecessor SPB.

8           5.       The purpose of a pay letter is to provide the State Controller with notice and  
9 instructions concerning the implementation of any changes to the salary of classifications and the  
10 impact on employee compensation, thus triggering the Controller’s duty to perform his ministerial  
11 duties regarding the payment of employee salaries.

12          6.       Once a pay letter is put together by DPA, it is normally sent over to the Controller in  
13 draft form. The Controller then reviews it and may suggest changes to it. The pay letter may be  
14 modified before it is officially released.

15          7.       As part of my duties, I am the manager responsible for the issuance of pay letters as  
16 well as working with the Controller to implement the changes made by the pay letters.

17          8.       On or about July 31, 2008, I received and reviewed a copy of the Governor’s  
18 Executive Order S-09-08.

19          9.       On or about August 5, 2008, in compliance with Executive Order S-09-08 and at the  
20 direction of Dave Gilb, Director of DPA, I prepared Pay Letter 08-23. (A true and correct copy of  
21 Pay Letter 08-23 is attached hereto as Exhibit A.)

22          10.       On or about August 5, 2008, DPA sent Pay Letter 08-23 to State Controller John  
23 Chiang (Controller).

24          11.       On or about August 7, 2008, at the direction of Dave Gilb, I drafted three additional  
25 draft pay letters. Each of these pay letters presents a different means of implementing Pay Letter 08-  
26 23. (True and accurate copies of the three draft pay letters dated August 7, 2008 are attached to the  
27 Declaration of Julie Chapman as Exhibits B, C, and D.)

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1           12.     On or about August 7, 2008, I, along with three other DPA representatives: Julie  
2 Chapman, Deputy Director of Labor Relations (LRD), Bernice Torrey, Personnel Program Analyst  
3 in the LRD and Theresa White, Staff Services Analyst of LRD, met with Representatives from the  
4 Controller's office to discuss implementation of Pay Letter 08-23. I attended the meeting as a subject  
5 matter expert to facilitate the discussion of three viable options for implementing Pay Letter 08-23.  
6 Also present at the meeting were representatives from the Department of Finance (DOF), and the  
7 Office of the State Chief of Information Officer (OCIO). During the meeting Julie Chapman and I  
8 presented three options for implementing Pay Letter 08-23. We provided all attendees of the meeting  
9 with copies of the draft pay letters, discussed above, corresponding to each of the three options we  
10 presented.

11           13.     I believe each of the options presented are a viable means of implementing the  
12 changes required by Executive Order S-09-08 and Pay Letter 08-23.

13           14.     The first option involved establishing pay differentials. Pay differentials represent pay  
14 established for compensation, different than the regular monthly payroll payments that a particular  
15 employee would otherwise receive. Specifically, the first option suggested establishing a pay  
16 differential to reflect the minimum wage of \$1,153 for Workweek Group 2 employees, \$2,003 for  
17 Workweek Group E employees; and \$0.00 for Workweek Group SE employees. Next, a pay  
18 differential would be established to minus out the minimum wage for these groups once the budget is  
19 signed.

20           15.     I believe the first option is viable because we have successfully established 373 pay  
21 differentials since 1981. Prior to 1981, the State had two pay differential established, one was for  
22 bilingual pay and the other was for night shift. I have been responsible for the establishment of 373  
23 pay differentials since 1981. During the personnel leave program I worked with the State  
24 Controller's Office on the development of a pay differential to reduce employee's pay by one day in  
25 an effort to save money. In exchange for the one day pay, employee's accrued an additional leave  
26 day. The pay differential reduced employee's pay by 4.75% the equivalent to one day's pay based  
27 on an average of all employees' salaries in State service. We still have such a pay differential in  
28 place for the voluntary leave program where an employee's pay is reduced by up to two days for

1 additional leave days. The first option established a positive pay differential to pay minimum wage,  
2 and once the budget is signed a negative pay differential would be established to off-set the positive  
3 payment from the employee's master pay warrant.

4 16. The second option presented suggested that the Controller change the salary ranges  
5 for classes to the new minimum wage rates and then change employees to the minimum wage rate.

6 17. I believe the second option is viable because we have reduced and added  
7 compensation to salary ranges many times since 1981. I have drafted many pay letters that change  
8 salary ranges of classes and then the salary for employees are adjusted appropriately. By reducing  
9 the salary ranges to the minimum wage while there is no budget, the classification would reflect  
10 minimum wage and then the employee's salary would be reduced to the minimum wage. Once the  
11 budget is signed DPA would then request that the salary ranges be adjusted retroactive to the date we  
12 reduced the salary ranges and employee's pay would be reinstated back to the salary rate received  
13 prior to the minimum wage. We successfully achieved a similar process during the supervisor and  
14 managerial reduction program when we reduced all supervisor and managerial classes by 5% and  
15 then reinstated the ranges and the employee's salaries.

16 18. The third option suggested adding an Alternate Range 9 to each class to reflect a  
17 range which provided the minimum rate. The Controller would move employees, by a 335  
18 transaction (Range Change), subject to minimum wage into the new alternate range. Those  
19 employees not subject to the minimum wage based on an exemption to Executive Order S-09-08  
20 would be retained in their current range. The 335 transaction would be voided, as of the effective  
21 date of the original 335 transaction when the budget is signed.

22 19. I believe the third option is viable because we would add an alternate range to all  
23 classifications to reflect the minimum wage. All employees in classifications, regardless of what  
24 range they currently are in, would move to the new Range 9 to reflect minimum range. Once the  
25 budget is signed we would void out the range movement and the employees would automatically  
26 return to the range and salary they received prior to the range movement to the minimum wage. We  
27 have established alternate ranges for many purposes and they have been successful. We established  
28 Alternate Range 285 in 2003 that adds ranges to classifications when excluded and rank and file

1 employee are in the same class. Rank and file employees are in the rank and file ranges and  
2 excluded employees are in the excluded ranges. If we negotiate salary range increases for rank and  
3 file employees that may be different than excluded employees we are able to pay employees in the  
4 class based on the negotiated increases. We have had these ranges in place since July 1, 2003.

5 20. During the August 7, 2008 meeting, the representatives from the Controller's Office  
6 did not make any suggestions or present any additional options that would assist them in complying  
7 with the California Supreme Court's decision in *White v. Davis*.

8 21. All state employees, except certain appointees and high level executives, received  
9 payment of their full salaries for the "July pay period" (July 1 through July 30.)

10 22. Only employees falling within the parameters of *White v. Davis* will receive a partial  
11 payment of their salaries for the "August pay period" (July 31 through August 31.)

12 23. This partial payment of wages is only a temporary condition. Once a budget is  
13 adopted, they will receive their full salaries including any unpaid wages due.

14 24. The Controller traditionally establishes a "cutoff" date after which no further payroll  
15 adjustments may be submitted for the current pay period.

16 25. The "cutoff" date for the current pay period is on or about August 21, 2008 with  
17 payday on August 29, 2008.

18 I have personal knowledge of the facts set forth herein and if called as a witness would testify  
19 competently thereto. I declare under penalty of perjury, under the laws of the State of California,  
20 that the foregoing is true and correct.

21 Executed August 11, 2008, at Sacramento, California.

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23 \_\_\_\_\_  
24 JERRI JUDD  
25 Personnel Program Manager  
26 Labor Relations Division  
27 Department of Personnel Administration  
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