



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Jun-04-2009 4:41 pm

Case Number: CPF-09-509205

Filing Date: Jun-04-2009 4:41

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ORDER

CALIFORNIA ATTORNEYS ADMINISTRATIVE LAW JUDGES et al VS. ARNOLD SCHWARZENE

001C02516907

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FILED

Superior Court of California
County of San Francisco

JUN - 4 2009

GORDON PARK-LI, Clerk

BY: *Andrew* Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CALIFORNIA ATTORNEYS,
ADMINISTRATIVE LAW JUDGES AND
HEARING OFFICERS IN STATE
EMPLOYMENT, GLEN GROSSMAN,
MARK HENDERSON, GEOFFREY SIMS,
and DOES 1-500,

Petitioners/Plaintiffs,

vs.

ARNOLD SCHWARZENEGGER as Governor
of the State of California; DAVID GILB as
Director of the Department of Personnel
Administration; JOHN CHIANG, as Controller
of the State of California; JAN FRANK, as
President of STATE COMPENSATION
INSURANCE FUND, and DOES 1-50,

Defendants/Respondents.

Case No. CPF-09-509205

**ORDER GRANTING WRIT OF
MANDATE**

The above-entitled cause came on regularly for hearing on April 15, 2009, at 9:30 p.m. in Department 301, Hon. Peter J. Busch, presiding, with counsel present as indicated on the record. The matter was tried without a jury and submitted to the court. The court, having considered all of the oral and documentary evidence submitted, as well as the written and oral arguments of counsel,

1 Having considered the entire record in this matter, including the pleadings, briefs, oral
2 argument, and all other evidence submitted to the Court, this Court hereby renders its final
3 decision in this case.

4 The Court finds that the doctrine of exclusive concurrent jurisdiction does not apply in
5 this case. Although a similar action was filed in Sacramento Superior Court, case no. 34-2009-
6 80000134 (the "Sacramento Action"), Judge Marlette's February 4, 2009 minute order states that
7 the Sacramento Action was limited to the effect of Respondent Governor Arnold
8 Schwarzenegger's Executive Order S-16-08 (the "Executive Order") on employees of executive
9 branch agencies. Therefore, the Sacramento Action did not adjudicate the effect of the Executive
10 Order on employees who were not employed by executive branch agencies. The State
11 Compensation Insurance Fund ("State Fund") is not an executive branch agency. Therefore, the
12 doctrine of exclusive concurrent jurisdiction is not applicable to this case.

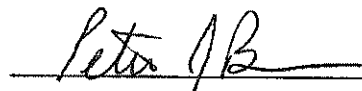
13 Turning to the merits, the Court finds that based upon the common sense meaning of the
14 phrase "staff cutback" as used in Insurance Code §11873(c), and as informed by the policy
15 concerns expressed in the legislative history of the adoption of that section, a "furlough" reduces
16 the availability of staff and therefore constitutes a "staff cutback" for purposes of the statute.
17 Thus, State Fund employees represented by the California Attorneys, Administrative Law Judges
18 and Hearing Officers in State Employment ("CASE") are exempt from the Executive Order S-
19 16-08.

20 Therefore, those portions of the Governor's Executive Order S-16-08, insofar as they will
21 and have resulted in furloughs and salary reductions for State Fund employees represented in this
22 action, does not apply to petitioners.

23 The petition is granted, judgment shall be entered accordingly and the writ shall issue.

24 It is so ordered.

25 Dated: June 4, 2009



Hon. Peter J. Busch
Judge of the Superior Court

California Superior Court
City and County of San Francisco
Law & Motion Department • Room 301

No. 509205

Certificate of Service by Mail
(CCP § 1013a(4))

CALIFORNIA ATTORNEYS,
ADMINISTRATIVE LAW JUDGES AND
HEARING OFFICERS IN STATE
EMPLOYMENT, GLEN GROSSMAN,
MARK HENDERSON, GEOFFREY SIMS,
and DOES 1-500,

Petitioners/Plaintiffs,

vs.

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Governor of the State of California; DAVID
GILB as Director of the Department of
Personnel Administration; JOHN CHIANG,
as Controller of the State of California; JAN
FRANK, as President of STATE
COMPENSATION INSURANCE FUND,
and DOES 1-50,

I, Gordon Park-Li, Clerk of the Superior Court of the City and County of San Francisco, certify that:

1) I am not a party to the within action;

2) On JUN -4 2009, I served the attached:

ORDER GRANTING WRIT OF MANDATE

JUDGMENT FOR PETITIONER

PEREMPTORY WRIT OF MANDATE

by placing a copy thereof in a sealed envelope, addressed to the following:

Patrick Whalen

Law Offices of Brooks Ellison

1725 Capital Avenue

Sacramento, CA 95814

Ronal Chivaro

Office of the State Controller

300 Captial Mall, Suit 1850

Sacramento, CA 94814

David Tyra
Kronick, Moskovitz, Tiedemann & Girard
400 Capital Mall, 27th Floor
Sacramento, CA 95814

Ronald Turovsky
Manatt, Phelps & Philips
11355 West Olympic Blvd.
Los Angeles, CA 9006

and,

3) I then placed the sealed envelope in the outgoing mail at 400 McAllister St., San Francisco , CA 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practice.

Dated: JUN - 4 2009

GORDON PARK-LI, Clerk

By: 
deputy
AUDREY HUIE



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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TEXT JUDGMENT

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001C02516909

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GORDON PARK-LI, Clerk
BY: *Gordon Park-Li*
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

CALIFORNIA ATTORNEYS,
ADMINISTRATIVE LAW JUDGES AND
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Defendants/Respondents.

Case No. CPF-09-509205

JUDGMENT FOR PETITIONER

The above-entitled cause came on regularly for hearing on April 15, 2009, at 9:30 p.m. in Department 301, Hon. Peter J. Busch, presiding, pursuant to the verified petition petitioners, with counsel present as indicated on the record.

The cause was heard and both oral and documentary evidence was received.

1 The cause having been argued and submitted for decision, the Court being fully advised,
2 the Court having directed that judgment and a peremptory writ of mandate should issue in the
3 cause;

4 It is ORDERED, ADJUDGED AND DECREED

5 1. Judgment is entered in favor of petitioners.


6 2. That a peremptory writ of mandate issue commanding Respondents/Defendants
7 Governor Schwarzenegger and Director Gilb to set aside the portions of the Governor's
8 Executive Order S-16-08 calling for a furlough and salary reduction for State Fund employees
9 represented by the California Attorneys, Administrative Law Judges and Hearing Officers in
10 State Employment ("CASE");

11 3. That a peremptory writ of mandate issue commanding Respondent/Defendant
12 Controller Chiang to immediately pay petitioners their full salary without any reductions
13 pursuant to the illegal furlough directed by the unlawful Executive Order;

14 4. Those portions of the Governor's Executive Order S-16-08, insofar as they will
15 and have resulted in furloughs and salary reductions for State Fund employees represented in this
16 action, does not apply to petitioners;

17 5. That a preliminary and permanent injunction is hereby issued directing the Governor,
18 DPA, Jan Frank as President of State Fund, and the Controller to cease and desist taking any
19 action to furlough petitioners by reducing their hours and reducing their pay under the
20 aforementioned unlawful executive order.

21
22 Date: June 4, 2009

23 
24 Peter J. Busch, Judge of the Superior Court