



Happy Holidays

CSLEA ALERT

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Furlough, shift-change rulings favor state employees

Two important judicial and arbitration decisions rendered in December put a little something in the Christmas stockings of state employees, but bigger prizes were not under 2009's tree.

In the more publicized of the two decisions, Alameda Superior Court Judge Frank Roesch on Dec. 17 ruled that the manner in which Gov. Arnold Schwarzenegger has furloughed thousands of correctional officers violates the state's labor and wage laws.

This was a big victory for the California Correctional Peace Officers Association, which brought the suit, but Judge Roesch's decision might also help keep the grand prize out of all state employees' association's reach, because he did not rule for or against the governor's general power to furlough.

"Judge Roesch's essential ruling is this: The furlough program as implemented for CCPOA constitutes an unlawful reduction in salary," said Kasey Christopher Clark, CSLEA's Chief Counsel. "In this case, the court did not hold the governor is without the authority to furlough. That authority will be further defined as other decisions are rendered in Alameda, as well as in the appellate courts."

Clark said the direct impact of the decision is that state employees must either be furloughed during the month in which they are receiving reduced compensation or be permitted to use



Photo courtesy of governor's Web site

CSLEA salutes its Medal of Valor winners

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accrued furlough leave within a reasonable period from the accrual. Because prisons are 24/7 hour operations, correctional officers have been on self-directed furloughs, which have reduced their pay around 15 percent a month, and under the gun to redeem or lose their furlough credits by June 2012.

"This decision is entirely about the process of furloughs, not the governor's power to issue them," said Clark. "The power of the governor to issue them at all is an issue which is part of 24 lawsuits that state employee associations, state agencies, and public officials have filed. Roesch himself has three more furlough cases to decide. So the matter is far from settled."

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On Dec. 18, another superior court judge across the bay in San Francisco ruled against the California Public Employees' Retirement System, which sought to have its employees exempted from the governor's furlough order. That court ruled in regard to CalPERS employees that the Governor acted reasonably in furloughing all employees to save funds and preserve parity.

Both of these cases will likely be appealed by the losing party.

The case CSLEA is a party to, *Gilb v. Chiang*, seeks to answer an equally significant question as the rights of the parties relative to furloughs: Does the governor have the right to reduce state employees' salaries to the minimum wage when the state is without a budget? Check the CSLEA Web site and future editions of the CSLEA Alert for the progress of the suit.

CSLEA wins shift-change ruling

Furloughs and minimum-wage cases aside, the everyday toying – either intentionally or accidentally – that managements enjoy playing with state employees continues. The CSLEA legal team is proud to have disrupted another game.

On Dec. 14, Arbitrator Catherine Harris ruled in favor of CSLEA on a grievance it brought against the Medical Board of California on behalf of CSLEA-member investigators. Harris found the Medical Board had violated the Unit 7 contract by failing to provide notice of a temporary shift-change by the required 24 hours.

The grievance stemmed from an annual low-light, range-qualification test that investigators are required to take. The seven participating investigators were notified 35 days in advance when and where the training was to occur, but the notice did not tell them how they should alter their normal work schedules to avoid falling into overtime. It was not until 22 hours prior to the

time of the training that Board management sent out an e-mail advising investigators how to flex their normal schedules.

“This case is an example of how important it is for CSLEA to enforce the Unit 7 contract even where the violation is technical in nature,” said Clark. “It is also an example of the amount of money the state will spend defending its position, regardless of merits. The Medical Board could have resolved the whole matter by giving the seven investigators four hours of overtime, which would have amounted to a couple hundred of dollars. Instead, the Board chose to pay Department of Personnel Administration attorneys and half of the arbiter's fees to hear the case, which amounted to between \$7,500 and \$10,000. MBC elected to pursue the matter to arbitration despite the fact that DPA had granted the grievance. As the saying goes, if the state were a private business, it would be out of business.”



You can also find CSLEA on:



Ballot initiative assault on public employee PACs begins

Another attempt to limit the political action of public-employee unions has started. This time, however, proponents of paycheck protection – the term they use for killing a union’s First Amendment rights – have submitted two ballot measures to the Secretary of State’s office to begin gathering signatures.

The first ballot measure is a constitutional amendment and the second merely changes existing statute. The former requires 694,354 signatures and the latter 433,971. If gathered and certified, both would be on the November 2010 ballot for voter consideration.

Below is their title and summary from the Attorney General’s office:

MAKES ILLEGAL THE USE OF PUBLIC EMPLOYEE WAGE DEDUCTIONS FOR POLITICAL ACTIVITIES. INITIATIVE CONSTITUTIONAL AMENDMENT.

Amends the California Constitution to make it illegal to deduct from wages or earnings of a public employee any amount that will be used for political activities as defined. Prohibits any membership organization that receives public employee wage deductions from using those funds for any political activities, but does not apply to deductions for charitable organizations, health, life or disability insurance, or other purposes directly benefitting the public employee. Authorizes the Legislature and Fair Political Practices Commission to adopt related laws and regulations. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Probably minor state and local government implementation costs, potentially offset in part by revenues from fines and/or fees.

IMPOSES POLITICAL CONTRIBUTION RESTRICTIONS ON PUBLIC EMPLOYEE LABOR ORGANIZATIONS. INITIATIVE STATUTE.

Prohibits public employee labor organizations from using member dues or nonmember fees for disbursements to political committees unless the employee provides prior annual written consent



The term ‘paycheck protection’ ranks right up there with the leading misnomers of the campaign finance debate. Paycheck protection proposals are in reality efforts to reduce the representation of labor in politics ... paycheck protection would substantially enhance the clout of business over labor in the policy arena.”

on a particular form. Does not apply to dues or fees collected for charitable organizations, health care insurance, or other purposes directly benefitting the public employee. Requires public employee labor organizations to maintain and, upon request, submit to designated government authority, records of authorization, employee funds withheld and transferred to political committees, which records are not subject to disclosure under Public Records Act. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Probably minor state and local government implementation costs, potentially offset in part by revenues from fines and/or fees.

The listed proponents and sponsors of these two initiatives is The Citizen Power Campaign, which has this on its Web site: “...did you know that the Public Employee Unions are now the most powerful special-interest group in Sacramento because they have special powers that no one else has? It’s these ‘special’ powers that create the problems we now face.”

Some “special” power. Most state employees are

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already facing three furloughs days a month, and now this group wants to take away the only weapon state-employee unions have to fight back against those who seek to do us even more harm. If this initiative passes, it would cripple our ability to protect our pensions, which are again under attack. Our political action dollars help us voice our views during a campaign. This First Amendment right was upheld by a Washington State Supreme Court in a case brought by the Washington Education Association, but it was eventually undercut by the U.S. Supreme Court in its 2007 *Davenport v Washington Education Association* and *Washington v Washington Education Association* decisions.

In 2005, Gov. Arnold Schwarzenegger called a special election for a vote on a package of what he termed “reform” initiatives, which included the same attempt to quash free speech (Proposition 75) by prohibiting public-employee unions from using their members’ dues money for political purposes without the written consent of the member. CSLEA and other public-

employee groups defeated it, with the electorate voting 54 percent No to 46 percent Yes.

Public employee hate groups such as The Citizen Power Campaign believe that state workers are overpaid with pensions that are too rich. Clearly, no members of these groups have ever worked at a state agency. Otherwise, they would find almost all state employees:

- are operating under back-logged case loads
- are compensated less than their private-sector counter parts
- are being furloughed
- receive an average pension paying only \$2,000 a month.

No matter. The state’s economy is a mess, and political entrepreneurs like Citizen Power are looking to capitalize on it by, like the final scene

in Casablanca, rounding up the usual and innocent suspects.

CSLEA will do everything it can to fight this assault. Please make a habit to check the CSLEA Website and the CSLEA Alert for more information as this attack unfolds.

CSLEA salutes its four Medal of Valor winners



This year’s Medal of Valor ceremony was the 50th commemorating state employees who, said Gov. Arnold Schwarzenegger, “selflessly put service and sacrifice above all else.” The four CSLEA members honored among the 27 recipients were:

- Stephen Charles Guarino of Sacramento, a CAL FIRE employee who rescued a man from a burning vehicle
- Edward Bass, Jr. of Patton, a Department of Mental Health police officer at Patton State Hospital, who stopped a distraught and armed man from killing his family and himself.
- James Northhelfer and Timothy Fellars, both state park police officers from Half Moon Bay, who rescued six victims from the ocean after their boat capsized.

A new Medal of Valor kiosk was unveiled at the Dec. 10 ceremony. The Department of Personnel Administration has created a new Web site with the same information as the kiosk, www.medalofvalor.ca.gov.

LRE Connection

With 600 Licensing Registration Examiners in 170 Department of Motor Vehicles offices throughout the state, communicating with one another is essential. And now, it's a little easier.

The COLRE Forum is a networking link that is operated specifically for the LRE's. The Forum allows examiners to send messages, update their profiles, and notify fellow LRE's about what is going on at the other DMV regions.

To sign up:

① E-mail Ken Fair at kfair@cslea.com with your full name and last 4 digits of your social security number. Ken will check and make sure you are a COLRE member and then send you a username and password by e-mail.

② Click on the *COLRE Forum* link on the left side of the COLRE Web site, <http://www.cslea.com/Affiliates/COLRE>. You will be taken to the front page of the COLRE Forum where you will type in the username and password.

③ Click on the words COLRE MESSAGE BOARD in the center of the page to start reading posts in the COLRE Forum. Once you are in the forum, you can post a message by clicking "New Topic" at the top of the page.

This valuable tool allows us to bring the far-flung COLRE family closer together for the purposes of helping one another out and uniting us to present a much stronger front for the working conditions, salaries, and benefits we deserve.

The COLRE Board of Directors also encourages members to read the bi-weekly *CSLEA Alert* newsletter regularly for additional information on matters vital to state employment.



CSLEA, COLRE member meeting in Oakland a huge success

On December 1, Licensing Registration Examiners in DMV's Region II office in Oakland heard from CSLEA Legal Counsel Ryan Navarre, CSLEA Director of Member Services Paul Satkowski, COLRE President Francine Toth and Vice President Bernadette Gonzales

Ignorant remarks by county supervisor proving valuable lobbying tool

Patton visit, Mayberg meeting top busy CSLEA December agenda for HPAC members

The ignorant and insulting remarks of San Bernardino County Supervisor Neil Derry are serving as more drumbeats in the battle to get Department of Mental Health Director Stephen Mayberg to increase hospital police staffing and arm his officers.

On December 16, CSLEA legal representatives David De La Riva and Ryan Navarre, Legislative and Political Liaison Coby Pizzotti and Hospital Police Association of California President Lorenzo Indick visited Patton State Hospital to collect additional information for Pizzotti's and Indick's meeting with Dr. Mayberg on Monday, Dec. 21 in Sacramento.

In commenting on staffing cuts to correctional officers, Derry said, "The state of California made a promise to the people of San Bernardino and Highland that this facility [Patton] would be adequately guarded to protect public safety. I am not going to sit back and allow the only buffer between a violent felon and an innocent civilian be an untrained, unarmed Department of Mental Health employee." In a November 11 article in the Riverside Press Enterprise, Derry went as far as to call the police at Patton as a group of "rent-a-cops."

After CSLEA applied some media heat, Derry backed off, but only slightly, wondering in another *Press-Enterprise* report on Nov. 19 if hospital police were as effective as other law enforcement officers.

After touring Patton, the CSLEA crew learned that cutting 13 correctional officers doesn't seem to be the real issue at hand, but rather the staffing levels of hospital police officers should be of greater concern to Derry. Patton's budget calls for 48 hospital police officers, but there are only 25 currently on duty. This shortage of HPO's has

forced hospital administrators to resort to minimal coverage, especially during graveyard shifts. In fact, during one four-hour period in the early morning, there is only one HPO on duty to cover the entire hospital. This dangerous lack of staffing not only leaves patients in critical danger from attacks by other patients, but also the absence of care staff on duty during this period further exacerbates the situation. Derry has not accepted CSLEA's sincere offer to join forces to lobby for better safety.



Would you enjoy sharing your expertise with the public?

The CSLEA Foundation's *Schemes, Scams, and Rip-offs* seminar is looking to develop a roster of speakers willing to volunteer their time to educate the public on how to better protect themselves.

These popular seminars are not only a big hit with the public, but also are favorites of the legislators who sponsor them. And they go a long way to building the type of relationships with lawmakers that will help in future negotiations for member salaries and benefits.

As part of a panel of other CSLEA public-safety professionals, you would share your expertise for 10 to 15 minutes at each of the seminars. Every CSLEA member has something to offer the public that will help it guard against being taken, or to help protect it against crime or fire hazards as well.

To learn more, send an e-mail CSLEA Vice President Bruce Hotchkiss at bruce.hotchkiss@gmail.com.

Meet Your CSLEA Field Representative

In addition to its own in-house legal team, CSLEA also has four field representatives to handle member needs, ranging from help with a difficult supervisor to reminding them of their many benefits to being a CSLEA member. They travel long distances, spend many sleepless nights at discount motels, and have stomachs constantly sloshing with slices of Domino's pizza and Safeway cola, and they are of incalculable value to CSLEA members.

Previous Alerts have profiled Richard Cota, Dave Fernandez, and Chris Scrimiger.

*This edition of the CSLEA Alert profiles **John Knight**.*

Ask the average person to name two public safety jobs with the highest number of life-saving heroics and almost invariably police and firefighters will be their immediate answers. John Knight, however, likes to remind people of another group of professional rescuers: Lifeguards.

Knight knows of what he speaks. For 26 years he had been the god-sent relief swimmers, surfers, and boaters prayed for when they came to the stark realization that their lives were seconds away from ending. In fact, his favorite rescues were the ones he got to right at the time people knew they were in trouble. But the most stomach-turning, grizzly ones are not in the water, but in the auto accidents Knight has had to respond to along the stretches of Highway 101 that run next to the state beaches he patrolled for more than a quarter decade in San Diego County from Torrey Pines State Beach to Carlsbad State Beach.

Knight has another rich vein of experience, one that CSLEA was eager to tap into the minute he retired this year, and that is how the state of California treats its employees and the myriad of games it plays with their livelihoods. After years of back-breaking spade work, Knight and CSLEA finally succeeded in getting the

Department of Personnel Administration to create a new classification of lifeguards so they could start receiving long-overdue health benefits. But the battle to include every lifeguard in that classification continues.

That California has staffed all its state beaches with seasonal lifeguards for this long, while next-door county and municipal beaches provide full-time

lifeguards is a public safety scandal, Knight believes. People are in need of rescue all year round, he says, not just during vacation season. The cost in lives far outweighs the few pennies in budgetary savings. Knight has been sounding the alarm on this for more than a decade and as the newest field representative for CSLEA, he can continue to do so for not only the lifeguards, but also for every public safety classification in the association.

An avid surfer, competitive swimmer, and water polo player throughout his childhood and college years, Knight operated a

landscaping business during and after his college years at Cal State Hayward, where he received a bachelor's of science degree in Kinesiology. But the passing of his mother left a profound lesson in him on the shortness of life, so Knight gave up his business and turned to one that was a perfect marriage to his passions. Today, Knight and his wife and three children make their home in San Diego, and CSLEA is happy to have his experience and dedication on its team.

