

March 26, 2009

Page 1

BEFORE THE STATE OF CALIFORNIA  
PUBLIC EMPLOYMENT RELATIONS BOARD

|                                   |   |                 |
|-----------------------------------|---|-----------------|
| In the Matter of:                 | ) |                 |
|                                   | ) |                 |
| STATE OF CALIFORNIA, Employer,    | ) | Unfair Practice |
| and PEACE OFFICERS OF CALIFORNIA, | ) | Charge No.      |
| Petitioner, and CALIFORNIA        | ) | SA-SV-171-S     |
| STATEWIDE LAW ENFORCEMENT ASSOC., | ) |                 |
| Exclusive Representative.         | ) |                 |
|                                   | ) |                 |
| _____                             | ) |                 |

MARCH 26, 2009

SHAWN CLOUGHESY  
Administrative Law Judge

PUBLIC EMPLOYMENT RELATIONS BOARD  
1031 18th Street, Room 214  
Sacramento, CA

Transcribed by: Leisa M. Miller

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APPEARANCES

Administrative Law Judge

SHAWN CLOUGHESY

Representing Employer:

SHANNAN TRUONG  
Labor Relations Counsel

Department of Personnel Administration  
1515 "S" Street, North Building, Suite 400  
Sacramento, CA 95811

Representing CSLEA:

GARY MESSING, Esq.  
Carroll, Burdick & McDonough, LLP  
1007 7th Street, Suite 200  
Sacramento, CA 95814-3409

Representing Peace Offices of California (POC):

JOE ROSE, Esq.  
Peace Officers of California  
2240 East Bidwell Street  
Folsom, CA 95630

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21  
22  
23  
24  
25

INDEX OF WITNESSES

--oOo--

| Petitioner's Witnesses             | Page |
|------------------------------------|------|
| PATRICIA HUNTER                    |      |
| Direct Examination by Mr. Rose     | 7    |
| Cross-Examination by Mr. Messing   | 16   |
| Redirect Examination by Mr. Rose   | 19   |
| Recross-Examination by Mr. Messing | 20   |

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX OF EXHIBITS

--oOo--

| Employer's Exhibits    | Ident. | Evid. |
|------------------------|--------|-------|
| 2 Unpublished Decision | 27     | 27    |

1  
2  
3  
4  
5  
6  
7  
8  
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12  
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14  
15  
16  
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20  
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PROCEEDINGS - MARCH 26, 2009

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ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
We're back on the record. The date is March 26th, 2009.  
The time is approximately 9:05/9:10 a.m.

Day 10 of the proceedings of the Bargaining Unit 7  
severance, PERB case No. SA-SV-171-S.

We are at the Public Employment Relations Board,  
1031 18th Street, Sacramento, California.

My name is Shawn Cloughesy. I'm the Administrative  
Law Judge assigned to hear this case on behalf of the  
PERB. The Petitioner, Peace Officers of California, the  
Employer, State of California, and the Exclusive  
Representative, California Statewide Law Enforcement  
Association.

If I can have the parties state their appearances for  
the record, beginning with the Exclusive Rep?

MR. MESSING: Gary Messing for CSLEA. And with me is  
Kasey Clark, Chief Counsel for CSLEA.

ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
State Employer?

MS. TRUONG: Shannan Truong, Legal Counsel for  
Department of Personnel Administration. With me is Linda  
Mayhew, Assistant Chief Counsel for the DPA, and Kristine  
Rodrigues, Labor Relations Officer for the DPA.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And Petitioner.

2 MR. ROSE: Good morning. Joe Rose for Peace Officers  
3 of California. Seated to my left at counsel table is  
4 Diane Sabonis.

5 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
6 We're going to be in a sense jumping back into the  
7 Petitioner's case in chief to take one of their remaining  
8 witnesses. I'm going to ask you to raise your right  
9 hand.

10 THE WITNESS: I swear.

11 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Please state  
12 your name for the record, spelling your last name.

13 THE WITNESS: Tricia Hunter. H-U-N-T-E-R.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Why don't you  
15 spell your first name also.

16 THE WITNESS: It's Patricia. P-A-T-R-I-C-I-A.

17 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

18 THE WITNESS: But I go by Tricia.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. Fair  
20 enough. And with that, a couple preliminary questions  
21 I've asked everyone. I don't expect you to answer yes to  
22 any of these, but in regard -- have you read the  
23 transcripts of any of the prior proceedings of this  
24 matter?

25 THE WITNESS: No.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you know an  
2 individual by the name of James Cline?

3 THE WITNESS: No.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose.

5 TESTIMONY OF  
6 PATRICIA HUNTER,

7 Having been duly and regularly sworn, testified as  
8 follows:

9 DIRECT EXAMINATION

10 BY MR. ROSE:

11 Q. Good morning, Ms. Hunter.

12 A. Not that I know of. Good morning.

13 Q. Thank you for allowing us to inconvenience you  
14 for your appearance here this morning. You're here  
15 pursuant to a Subpoena?

16 A. Yes.

17 Q. Can you tell us what your current occupation is?

18 A. I'm a Lobbyist/Health Care Consultant. I own my  
19 own firm with a partner, Government Relations Group.

20 Q. And how long have you been a Lobbyist or  
21 Legislative Advocate?

22 A. Since 1996. End of 1996. December of 1996. I  
23 lost my election in November of 1996, and joined a firm  
24 after that.

25 Q. What -- you mentioned you lost your election.

1 What election did you lose?

2 A. State Assembly.

3 Q. Did you ever hold a public office?

4 A. Yes. I was in the State Assembly from 1989  
5 through 1992.

6 Q. And after -- oh, by the way, is your current  
7 firm, your lobbying and health care consulting firm, in  
8 any way contracting with the California Statewide Law  
9 Enforcement Association?

10 A. No.

11 Q. Are you in any way contracting with the Peace  
12 Officers of California?

13 A. No.

14 Q. Are you -- have you -- at what firm did you work  
15 for in December of 1996 after you lost your Assembly  
16 election?

17 A. It was called the Flannery Group. It was a  
18 company out of San Diego that did lobbying, public  
19 relations and health care. Or not health care. I  
20 brought the health care piece to them. But did general  
21 public relations, lobbying, both city of San Diego, state  
22 of California.

23 Q. How long did you work for the Flannery Group?

24 A. I believe I left them it was either 2001 or 2002.  
25 They went bankrupt.

1 Q. Now, when you were at the Flannery Group, did you  
2 ever have an occasion to do any work for what is now the  
3 California Statewide Law Enforcement Association, but at  
4 that time was known as CAUSE, C-A-U-S-E?

5 A. Yeah. I was -- I was a Contract Lobbyist for  
6 CAUSE.

7 Q. Now, what type of activities did you perform as a  
8 Contract Lobbyist for CAUSE, and when did you do that?

9 A. I'm going to apologize. I don't remember the  
10 exact years. It's been too long ago. But if you go to  
11 the FPPC website, it's a public record -- I want to say  
12 it was 1997 through '99.

13 Q. Okay. And during the years that you recall doing  
14 that work, can you just give us a summary of the kinds of  
15 work that you did on behalf of CAUSE?

16 A. Well, they had a number of big issues that were  
17 going on at the time. They had hospital police officers  
18 that wanted to be able to carry guns when they were doing  
19 their jobs, especially in the hospitals that had  
20 criminals that were being looked at for mentally insane.  
21 So we were carrying legislation related to that.

22 We were -- there was a lot of issues with the Dental  
23 Board at that time. Again, the investigators were part  
24 of CAUSE, and they were trying to eliminate those  
25 positions, so we were doing that. We carried some

1 legislation related to the 911 operators. In general,  
2 legislation and policy that was going on at the time.

3 Q. Did you do anything other than legislation and  
4 policy at any time?

5 A. Well, I mean they -- if -- I had very close to  
6 ties to Governor Wilson's office. I basically lost my  
7 election because I had voted for the largest tax increase  
8 in the history of the state of California previously, and  
9 had carried the budget on behalf of the Governor when I  
10 was in office. I carried major parts of legislation for  
11 them that nobody else would carry. So I had very close  
12 ties to the Governor's Office.

13 And so when we got -- when CAUSE -- the Governor was  
14 not giving anybody contracts. He was making it very  
15 difficult. And all of a sudden he gave contracts to the  
16 peace officers. He gave contracts to CCPOA. He gave a  
17 contract to the Highway Patrol. I believe the  
18 firefighters, though I'm not 100 percent sure on that.  
19 But he was giving contracts to peace officers and nobody  
20 else.

21 And so CAUSE asked me if I could call the Governor's  
22 Office and see if there was a potential, since they  
23 represented peace officers, that we could get a contract.  
24 And so I did call people I knew within the horseshoe.  
25 The actual Governor's Office is where I would have been

1 talking to people. And I called people within the  
2 horseshoe on their behalf.

3 Q. Do you recall who you called?

4 A. I believe one of the people was Jeff Randall.  
5 But there was a number of people we were talking to at  
6 the time.

7 Q. Do you know a gentleman by the name of Craig  
8 Brown?

9 A. I know Craig Brown. I can't swear whether he was  
10 part of the conversations or not.

11 Q. Okay. And in your conversations with persons in  
12 the Governor -- in Governor Wilson's office at that time,  
13 well, you said you estimated 97 to 99 was the range of  
14 time that you did the work. Can you narrow down for us  
15 about the time in that range that you were actually in  
16 communication with the Governor's Office about the issue  
17 of the contracts?

18 A. The only thing that I remember is that it was at  
19 the end of the session. I'm going to -- I believe it was  
20 '98, because the session ends earlier in an election year  
21 than it does in a non-election year. They go into  
22 September and go longer in non-election years. It was  
23 late in the session. They -- to do something, we were  
24 going to have to get a bill together really fast, because  
25 you have to get it into language and waive all the rules

1 to get it on the floor. And so I know that we were on a  
2 very, very short timeframe in trying to get something  
3 done in that legislative year. And I know it was the end  
4 of the session.

5 Q. All right. And so what was it that -- if  
6 anything, that you learned in speaking with  
7 representatives of the Governor's Office about the issue  
8 of whether CAUSE could get a contract?

9 A. The Governor, and I don't remember all the  
10 specifics, but had a lot of issues with what was going on  
11 with a lot of the unions. And they were very favorable  
12 to supporting peace officers. They weren't favorable to  
13 giving contracts to anybody else.

14 Q. Did you ever receive any type of actual offer?

15 A. We did towards the end. We -- there were  
16 numerous phone calls and, again, over a matter of a few  
17 nights. Because we were at the end of session. And we  
18 were offered a contract for the peace officers.

19 Q. Do you recall the terms that -- of the offer for  
20 the peace officers?

21 A. I just know that it was an increase in pay, and  
22 basically the same terms that CCPOA and CHP, which is,  
23 again, public record. Whatever the peace officers had  
24 gotten for those two other associations we could have got  
25 for CAUSE peace officers. But we couldn't get it for

1 anybody else.

2 Q. So how, if -- what -- can you explain in a little  
3 bit more detail about what you mean you couldn't get it  
4 for anybody else?

5 A. Well, CAUSE represents a group, if I remember  
6 right, that I know -- like the 911 operators, that's the  
7 ones I remember that are non-peace officers. As well as  
8 they represented people with the Dental Investigation  
9 Board and others that were POST-carrying peace officers.  
10 And so they had a dilemma that they were representing  
11 people within both groups, and the Governor's Office was  
12 only -- for whatever their political reasons were, was  
13 only willing to negotiate on the peace officer side, not  
14 the other.

15 Q. Okay. And so were there -- what specifically  
16 were they offering with respect to the peace officers, if  
17 you recall?

18 A. Whatever was offered CHP. You'd have to go back  
19 and look at the bills. Whatever was offered CCPOA and  
20 the Highway Patrol at that time. I know it was a pay  
21 increase. I think it had something to do with  
22 retirement.

23 Q. And what did -- what did you learn from CAUSE, if  
24 anything, in response to that offer?

25 A. CAUSE chose not to take the offer because it

1 divided their members.

2 Q. And what do you mean when you say it divided  
3 their members?

4 A. Well, they would be taking a contract for part of  
5 their members and not part of their members.

6 Q. And who do you -- how did you know that, or learn  
7 that?

8 A. Because I called the Governor's Office back and  
9 told them we weren't going to take the offer.

10 Q. But how did you know the reasoning was because of  
11 the dividing of the members? That the reason that the  
12 contract was not accepted --

13 A. It was in the discussions that I had with -- in  
14 the -- I mean I remember being on the phone frequently  
15 with John. I was on the phone with Gary some of the  
16 time. But I can't tell you who was involved in which  
17 conversation. It's too long ago. But John Miller was my  
18 primary contact with CAUSE.

19 Q. Okay. And so did you -- what did you communicate  
20 to the Governor's Office specifically with respect to the  
21 offer?

22 A. That we just wouldn't be taking it. I didn't do  
23 any detail.

24 Q. He did not give an explanation?

25 A. No.

1 Q. All right. Did you learn from your conversations  
2 with John Miller, or anyone else at CAUSE, any other  
3 reasoning for the -- for not accepting the offer of pay  
4 raises for peace officers only?

5 A. Not in the part I was involved with. I was  
6 involved with the negotiating with the Governor's Office  
7 deployment of it. I wouldn't have been involved in my --  
8 in detail beyond the issues that I was calling the  
9 Governor's Office on their behalf for. And those were  
10 the issues that we were discussing.

11 Q. Around the same time do you recall a concept or  
12 label known as pay for performance?

13 A. Sure.

14 Q. What was that, or what is your understanding of  
15 what that was at that time?

16 A. The Governor had a number of things on the table  
17 that he wanted from his view, reforms done in the  
18 contracts for all the State employees. But I don't  
19 remember which ones of those or which issues CHP took or  
20 CCPOA took, or whether they didn't. I just know what we  
21 were offered was the same for peace officers as what  
22 CCPOA and CHP got.

23 Q. To what extent was your understanding of the pay  
24 for performance reforms a factor in CAUSE's decision to  
25 reject the offer?

1           A. I wouldn't have been involved in those  
2 discussions. I don't remember that being a part of it.

3           Q. Okay.

4           A. But I was, again, in a very limited piece.

5           MR. ROSE: All right. Nothing further.

6           ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

7 Ready for cross-exam, sir?

8           MR. MESSING: Yes. Just a few questions, Ms. Hunter.

9 Okay. Actually, could I take a quick break before we --

10          ADMINISTRATIVE LAW JUDGE CLOUGHESY: Absolutely.

11          MR. MESSING: -- do cross?

12          ADMINISTRATIVE LAW JUDGE CLOUGHESY: Off the record.

13          MR. MESSING: Thank you.

14                   (Off the record.)

15          ADMINISTRATIVE LAW JUDGE CLOUGHESY: We are back on  
16 the record ready for cross-exam.

17          MR. MESSING: Okay. Just two questions.

18                                   CROSS-EXAMINATION

19 BY MR. MESSING:

20          Q. First of all, are you positive as you sit here  
21 today that CHP took a contract in the period that you're  
22 discussing?

23          A. No.

24          Q. Okay.

25          A. I thought it was -- I thought it was CHP and

1 CCPOA.

2 Q. Okay.

3 A. But it's been a long time ago.

4 Q. Okay.

5 A. I just know they negotiated a peace officers  
6 contract, and that it's in legislation somewhere, that we  
7 were offered a similar.

8 Q. Okay. So you're a little vague on the details.  
9 I want to see if I can refresh your recollection. Isn't  
10 it true that the non-peace officer bargaining units were  
11 offered a three percent pay raise?

12 A. I don't remember.

13 Q. Okay. Do you remember that the proposal that was  
14 given to CAUSE included five percent for peace officers  
15 and three percent for non-peace officers?

16 A. I know that it carried a difference. That there  
17 was a different amount for peace officers versus non-  
18 peace officers.

19 Q. Okay. And you are aware that pay for performance  
20 was a condition of getting the pay increases?

21 A. No, I don't. I just know it was part of the  
22 discussions of the politics at the time. I was not a  
23 big -- I was doing one piece. I was doing the political  
24 piece for CAUSE. I am not a contract negotiator. I do  
25 not do union contracting.

1 Q. Okay. So you were not --

2 A. So --

3 Q. I'm sorry.

4 A. I was not privy to all the major details. It was  
5 came down to I was asked to call the Governor's Office  
6 and see if I could get a deal.

7 Q. Okay. And then so you were not in the Board  
8 meeting of --

9 A. No.

10 Q. -- CAUSE when the proposal from the Governor's  
11 Office was discussed and rejected?

12 A. No.

13 Q. And you -- and you indicated that -- oh. By no,  
14 you are saying no, you were not there, or yes, you were  
15 there?

16 A. I wasn't -- I don't remember being in any  
17 meetings where any -- I was on the phone call with --  
18 phone with key -- like John Miller. I assume Alan was on  
19 the phone call because they were like glued together.  
20 But I can't -- I don't remember. I know talking to you a  
21 couple times.

22 Q. Okay. Just one last thing. So you don't know  
23 the degree to which pay for performance was a motivating  
24 factor in CAUSE rejecting the offer?

25 A. The only thing I know about is the conversation

1 that I had that then I called the Governor's Office.

2 Q. Were you aware that -- you mentioned that CCPOA  
3 made a deal, and you're not -- it doesn't sound like  
4 you're positive about CHP.

5 A. I'd have to go back and look.

6 Q. Okay. Were you aware that all of the other State  
7 groups turned down --

8 A. Yes.

9 Q. -- proposals at that time?

10 A. Yes.

11 Q. Okay.

12 A. I was.

13 MR. MESSING: Thanks. Nothing further at this time.

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Employer?

15 MS. TRUONG: Nothing from us.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

17 MR. ROSE: I just wanted to clear a couple things up.

18 REDIRECT EXAMINATION

19 BY MR. ROSE:

20 Q. You mentioned the name Alan. Who are you  
21 referring to?

22 A. Uh-hmm. Alan Barcelona.

23 Q. And you mentioned the name Gary. Who are you  
24 referring to?

25 A. The attorney here.

1 Q. Gary Messing?

2 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Gary Messing?

3 THE WITNESS: Yeah. He was the negotiator, union  
4 contract negotiator, at the time. And so we were doing  
5 late night calls. And he was on a couple of those phone  
6 calls.

7 BY MR. ROSE:

8 Q. All right. And in any of the communications from  
9 CAUSE to you did you learn that CSL -- that CAUSE was  
10 rejecting the contract because of pay for performance?

11 A. The conversations that I understood when I called  
12 the Governor's back -- Office back and turned it down was  
13 related to the splitting of the benefit. That one group  
14 was getting a higher benefit than the other. I mean  
15 that's what I understood why we told the Governor's  
16 Office no.

17 Q. And the one group that was getting the higher  
18 benefit was which group?

19 A. The peace officers.

20 Q. Thank you. Nothing further.

21 RECROSS-EXAMINATION

22 BY MR. MESSING:

23 Q. And who do you say told you that that was the  
24 reason for CAUSE turning down the proposal?

25 A. I was on the phone with John Miller. I assume,

1 like I said, Alan. It was a conference call. I don't  
2 know who everybody was on the phone when we were talking.  
3 But my primary contact was John Miller.

4 Q. Okay.

5 A. I mean it was John who I would be returning the  
6 call to and talking to when I -- and then there'd be a  
7 whole bunch of people on the phone. But I have no idea  
8 who was there. Alan, I assume, was on the phone. He  
9 always was on the phone when we were doing major stuff,  
10 so --

11 Q. Okay.

12 A. It's a long time ago.

13 Q. Okay. So did whoever -- well, first of all, so  
14 you're not clear who told you this; is that correct?

15 A. I know that John Miller was on the phone. That I  
16 could tell you.

17 Q. Okay. So --

18 A. Because that's who I would have called.

19 Q. So when you're trying to broker this deal with  
20 the Governor's Office, did somebody from CSLEA say that  
21 if they gave the non-sworn people the same percentage  
22 increase as the sworn that they would accept the  
23 Governor's proposal?

24 A. It was CAUSE then. And my impression was yes.

25 Q. I didn't ask you about your impression. I asked

1 you if you were told that if the --

2 A. You know, it's my --

3 Q. Well, let me finish the question.

4 A. Okay.

5 Q. Because there's a transcript that's being made.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: And you're  
7 trying to be helpful, and I appreciate that.

8 THE WITNESS: Okay. All right.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: But you got to  
10 wait 'til the end of the question.

11 THE WITNESS: Okay.

12 BY MR. MESSING:

13 Q. Were you specifically told that CAUSE would take  
14 the same -- would take the contract if the same pay  
15 increase were given to the non-sworn as to sworn?

16 A. Yes.

17 Q. And who told you that?

18 A. I don't remember. But I know I made that call to  
19 the Governor's Office, and I wouldn't have done that on  
20 my own.

21 Q. And who did -- who did you talk to at the  
22 Governor's Office?

23 A. You know, I talked to a lot of people, but I  
24 believe it was Jeff Randall that we were doing most of  
25 the final negotiations with. But we were talking to a

1 number of people in the office. And again, they'd bring  
2 their people in on the conference call. Because they  
3 wanted to negotiate a contract.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: They meaning?

5 THE WITNESS: The Governor's Office.

6 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you.

7 BY MR. MESSING:

8 Q. Okay. What discussions did you have, if any,  
9 with the Governor's Office regarding pay for performance  
10 as a condition for reaching a contract?

11 A. None that I remember.

12 Q. Okay. Now, when you say none that you remember,  
13 do you think that there were discussions about pay for  
14 performance?

15 MR. ROSE: Objection. Lacks foundation.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you know?

17 THE WITNESS: No.

18 MR. MESSING: Okay.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

20 BY MR. MESSING:

21 Q. But as you sit here today, you are aware that pay  
22 for performance was put on the table for all the other  
23 bargaining units?

24 A. I remember the publicity everybody else read in  
25 the newspaper. There was a whole bunch of stuff that was

1 put on, just like this Governor has put a whole bunch of  
2 stuff on that they say publicly. But when you get down  
3 to negotiations with what actually comes out in the bills  
4 that we used to see as legislators, never was in them.  
5 There was always a bunch of stuff put on the table. All  
6 I know, I was -- what I was doing was at the very end it  
7 was a very minor piece trying to get a contract through.

8 MR. MESSING: Nothing further.

9 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Mr. Rose?

10 MR. ROSE: Nothing further.

11 MS. TRUONG: Nothing.

12 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Thank you very  
13 much. And I think that's it. So we'll go off the  
14 record.

15 (Off the record.)

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Back on the  
17 record. Ms. Hunter is back. And I just want to remind  
18 you not to discuss your testimony with any of the other  
19 witnesses.

20 THE WITNESS: Okay.

21 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I doubt you come  
22 in contact with any of them. But regardless of that,  
23 you're free, of course, to talk about your testimony with  
24 anyone at these three tables.

25 THE WITNESS: Okay.

1 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Do you  
2 understand the admonition?

3 THE WITNESS: Yes.

4 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.  
5 Thank you very much.

6 THE WITNESS: I don't know who I'd be talking to.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: That's probably  
8 true. Off the record.

9 (Off the record.)

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We're back on  
11 the record. Anything further for today that we --

12 MR. ROSE: Nothing here.

13 MR. MESSING: No.

14 MS. TRUONG: Nothing.

15 ADMINISTRATIVE LAW JUDGE CLOUGHESY: So April 22nd.  
16 I do have -- I don't know if I marked on it, but I do  
17 have a copy of the unpublished decision. I can make a  
18 copy and give it to all the parties.

19 MR. ROSE: Or just the cite, and we can pull it.

20 MS. TRUONG: I have the copies right here.

21 MR. ROSE: Oh, you do?

22 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Oh, okay. Well,  
23 if I can --

24 MR. MESSING: Can we make an exhibit of them?

25 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Yeah. We'll

1 just make it Employer 2, or something like --

2 MR. ROSE: Oh, I object to them being admitted as an  
3 exhibit. They're unpublished. It's an unpublished  
4 decision.

5 MR. MESSING: It's not being offered for the -- for  
6 the validity of the opinion.

7 ADMINISTRATIVE LAW JUDGE CLOUGHESY: I have to agree.  
8 It's not being cited necessarily for proof as so much as  
9 it's been brought up a number of times in this  
10 proceeding. And even for purposes of having a entire  
11 record or a whole record it would be admitted. But if  
12 you got the document, I can just mark it as Employer's 2.

13 MR. ROSE: Are we on the record now?

14 ADMINISTRATIVE LAW JUDGE CLOUGHESY: We are.

15 MR. ROSE: Oh, okay.

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right.

17 Mark --

18 MR. MESSING: Oh, is there something else.

19 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Marking as  
20 Employer Exhibit 2 what appears to be an unpublished  
21 Court of Appeal Opinion in regards to California Fish and  
22 Game Warden Supervisors and Managers against the  
23 Department of Personnel Administration. The document  
24 appears to go for seven pages in length. It is  
25 unpublished.

1 (Employer's Exhibit No. 2 marked for  
2 identification.)

3 ADMINISTRATIVE LAW JUDGE CLOUGHESY: You have an  
4 objection to its admission, sir, just so we have it for  
5 the record?

6 MR. ROSE: I do. I would just maintain my objection  
7 to its admission.

8 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Okay.

9 MR. ROSE: And I understand the ruling.

10 ADMINISTRATIVE LAW JUDGE CLOUGHESY: All right. And  
11 any objection on your part, Mr. Messing?

12 MR. MESSING: No.

13 ADMINISTRATIVE LAW JUDGE CLOUGHESY: With that,  
14 Employer's Exhibit 2 is admitted.

15 (Employer's Exhibit No. 2 received in evidence.)

16 ADMINISTRATIVE LAW JUDGE CLOUGHESY: Let me just take  
17 a quick -- while we're here, see if I have any loose  
18 hairs hanging. All right. That's it. All right. Well,  
19 with nothing further for today, day 10 of these  
20 proceedings is concluded. We're off the record.

21 (Proceedings concluded.)

22

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CERTIFICATION AND  
DECLARATION OF TRANSCRIBER

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2  
3  
4 I, Leisa M. Miller, a duly designated transcriber of  
5 Vine, McKinnon & Hall, do hereby declare and certify  
6 under penalty of perjury that I have transcribed from a  
7 CD recording the proceedings in the matter of STATE OF  
8 CALIFORNIA, Employer, and PEACE OFFICERS OF CALIFORNIA,  
9 Petitioner, and CALIFORNIA STATEWIDE LAW ENFORCEMENT  
10 ASSOCIATION, Exclusive Representative, Unfair Practice  
11 Charge No. SA-SV-171-S, which recording was duly recorded  
12 at Sacramento, California on March 26, 2009, and that the  
13 foregoing pages 1 through 28 constitute a true, complete  
14 and accurate transcription of the aforementioned  
15 recording to the best of my ability.

16 Dated this 14th day of April, 2009, at Dixon,  
17 California.

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