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And Hearing Officers in State Employment
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10 SUPERIOR COURT OF CALIFORNIA
11 COUNTY OF ALAMEDA

12 CALIFORNIA ATTORNEYS,
13 ADMINISTRATIVE LAW JUDGES AND
14 HEARING OFFICERS IN STATE
EMPLOYMENT,

15 Petitioner/Plaintiff,

16 vs.

17 ARNOLD SCHWARZENEGGER as, Governor
18 of the State of California; DAVID GILB as
Director of the Department of Personnel
19 Administration; JOHN CHIANG, Controller of
20 the State of California; EDMUND G. BROWN
JR., Attorney General of the State of California;
21 STEVE POIZNER, Insurance Commissioner of
the State of California; PRESTON
22 DUFAUCHARD, Corporations Commissioner
23 of the Department of Corporations; CINDY
EHNES, Director of the Department of
24 Managed Health Care; JEFF DAVI, Real Estate
Commissioner of the Department of Real
25 Estate; CARRIE LOPEZ, Director of the
Department of Consumer Affairs; GEORGE
26 VALVERDE, Director of the Department of
27 Motor Vehicles; ANNE STAUSBOLL, Chief
Executive Officer of the Public Employees'
28 Retirement System; RONALD P. SCHAFER,

Case No. RG09453982

**DECLARATION OF PETER FLORES,
JR. IN SUPPORT OF MOTION FOR
RELIEF FROM AUTOMATIC STAY**

Code of Civil Procedure §1110b

Date: March 23, 2010
Time: 9:00 a.m.
Dept.: 31

1 Chairperson of the Santa Monica Mountains
2 Conservancy; DOUGLAS BOSCO, Chairman
3 of the California State Coastal Conservancy;
4 JULIE NAUMAN, Executive Officer of the
5 Victim Compensation and Government Claims
6 Board; ALAN KERZIN, Executive Director of
7 the State Council on Developmental
8 Disabilities; MARY-ANN WARMERDAM,
9 Director of the Department of Pesticide
10 Regulation; JACK EHNES, Chief Executive
11 Officer of the State Teachers' Retirement
12 System; GLENN POMEROY, Chief Executive
13 Officer of the California Earthquake Authority;
14 WILLIAM HARAF, Commissioner of the
15 Department of Financial Institutions; STEVE
16 HARDY, Director of the Department of
17 Alcoholic Beverage Control; FRED
18 ARMENDARIZ, Chairman of the Alcoholic
19 Beverage Control Appeals Board; RAYNOR T.
20 TSUNEYOSHI, Director of the Department of
21 Boating and Waterways; TERRI CIAU,
22 Executive Director of the Gambling Control
23 Commission; JOHN P. DONNELLY, Executive
24 Director of the Wildlife Conservation Board; J.
25 A. FARROW, Commissioner of the California
26 Highway Patrol; KIRK BREED, Executive
27 Director of the California Horse Racing Board;
28 JOAN BORUCKI, Director of the California
State Lottery Commission; LLOYD THRONE,
Director of the Department of Community
Services and Development; L. STEVEN
SPEARS, Acting Executive Director of the
California Housing Finance Agency; MARK
LEARY, Executive Director of the California
Integrated Waste Management Board; RON
DIEDRICH, Director of the Office of
Administrative Hearings; DESTIE
OVERPECK, Acting Chief Deputy
Administrative Director of the Division of
Workers Compensation; DON KOCK, Director
of the Department of Fish and Game; CALEB
CHEUNG, Commission Chair of the
Commission on Teacher Credentialing;
BONNIE GARCIA, Chair of the California
Unemployment Insurance Appeals Board;
TONY SAUER, Director of the Department of

1 Rehabilitation; MARY D. NICHOLS, Chairman
2 of the Air Resources Board; LYNN JACOBS,
3 Director of the Department of Housing and
4 Community Development; PATRICK
5 HENNING, Director of the Employment
6 Development Department; LESTER SNOW,
7 Director of the Department of Water Resources;
8 PATRICK WRIGHT, Executive Director of the
9 California Tahoe Conservancy; BRIDGETT
10 LUTHER, Director of the Department of
11 Conservation; DOROTHY RICE, Executive
12 Director of the State Water Resources Control
13 Board; DAVID MAXWELL-JOLLY, Director
14 of the Department of Health Care Services;
15 MARK HORTON, Director of the Department
16 of Public Health; JOHN A. WAGNER, Director
17 of the Department of Social Services; WILL
18 KEMPTON, Director of the California
19 Department of Transportation; MAZIAR
20 MOVASSAGHI, Acting Director of the
21 Department of Toxic Substances Control; JON
22 DUNCAN, Director of the Department of
23 Industrial Relations; LYNN DAUCHER,
24 Director of the California Department of Aging;
25 RUTH COLEMAN, Director of the Department
26 of Parks and Recreation; DALE BONNER,
27 Secretary of the Business, Transportation, and
28 Housing Agency; KAREN HUMPHREY,
Executive Director of the California
Postsecondary Education Commission;
JOSEPH MILLER, Chairman of the Workers'
Compensation Appeals Board; DEBRA
BOWEN, Secretary of State for the State of
California; CHARLES PATILLO, General
Manager of the California Prison Industry
Authority; TOM FLESH, President of the New
Motor Vehicle Board; PAUL D. THAYER,
Executive Officer of the California State Lands
Commission; STEVE THARRATT, M.D.,
Director of the Emergency Medical Services
Authority; A. G. KAWAMURA, Secretary of
the California Department of Food and
Agriculture; WILL BUSH, Director of the
Department of General Services; ROGER
BRAUTIGAN, Acting Secretary of the
Department of Veterans Affairs; LESLEY

1 CUMMINGS, Executive Director of the
2 Managed Risk Medical Insurance Board, and
3 DOES 1 through 100,

4 Defendants/Respondents.
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1 I, Peter Flores, Jr., declare as follows:

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3 1. I am President of Petitioner/Plaintiff California Attorneys, Administrative Law
4 Judges and Hearing Officers in State Employment (CASE). CASE is the exclusive collective
5 bargaining representative of legal professionals in State Bargaining Unit 2 pursuant to
6 Government Code section 3520.5. CASE represents approximately 3,400 legal professionals in
7 more than 80 different state departments, boards, and commissions. Approximately 3,200
8 members are attorneys, administrative law judges, and hearing officers who are exempt from the
9 Fair Labor Standards Act (FLSA).

10 2. The furloughs were first implemented in February, 2009. For the first five
11 months of their implementation, Most CASE members were furloughed two days per month.
12 Starting on July 1, 2009, the furloughs were increased to three days per month. Each furlough
13 day results in a pay reduction of 4.62% of the salary for all impacted CASE members. Since
14 July 2009, the salaries of furloughed CASE members has been reduced approximately 14% per
15 month, every month.

16 3. Approximately 1,900 of our members are currently laboring under the Governor's
17 3-furlough-days-per-month plan. Some CASE members work in departments that are closed
18 three Fridays per month. Other members work in agencies which have "self-directed" furloughs.
19 In these departments, the departments are not closed on "furlough Fridays" and the employees
20 are given the option of taking unpaid days off as operational needs permit, or banking the days
21 for use later. However, by terms of the Executive Order, the furlough days must be used by June
22 30, 2012, or lost forever.

23 4. CASE is currently in the process of negotiating a successor memorandum of
24 understanding ("MOU") to the MOU which expired on June 30, 2007. Pursuant to Government
25 Code section 3517.8, the previous MOU remains in effect until a successor MOU is negotiated,
26 or until impasse is reached. I am familiar with the contents of the MOU which is presently in
27 effect. A true and correct copy of the MOU is attached to this Declaration as Exhibit A.

28
Declaration of Peter Flores, Jr. in Support of Motion for Relief from Stay

1 5. Section 6.3 of the MOU between the State and the legal professionals in State
2 Bargaining Unit 2 provides that legal professionals who are exempt from the FLSA “are
3 expected to work all hours necessary to accomplish their assignments and fulfill their
4 responsibilities.” That same section provides that all exempt legal professionals in CASE shall
5 work an average of 40 hours per week. Section 6.2 of the same MOU provides that “the regular
6 rate of pay is *full compensation* for all time that is required” to complete the duties. (Emphasis
7 added.)

8 6. Since the furloughs have been implemented, none of our members have had a
9 reduction in their case load or legal case assignments; rather, the vast majority have seen an
10 increase. Under section 6.3 of the MOU, CASE members are contractually obligated to continue
11 working all hours necessary to complete their duties. As members of the California State Bar,
12 they are also ethically obligated to continue to represent their client to the best of their ability.
13 Many members work in fields of law which have state and federal mandates that they must meet,
14 which makes their work very time sensitive. As a result of these obligations, the vast majority of
15 CASE members have not enjoyed any reduction in their hours.

16 7. CASE members at departments that are actually closed three Fridays per month
17 frequently work on weekends, evenings, or, commonly, on “furlough Fridays” just to keep up
18 with the State’s pressing legal work. CASE members at departments on self-directed furloughs
19 have little opportunity to take any time off.

20 8. In my capacity as President of CASE, I have had an opportunity to meet hundreds
21 of CASE members, and I have discussed with them the impact the furloughs have had on their
22 workplaces and their lives. I am familiar with the precarious financial situation many CASE
23 members are presently enduring.

24 9. The salaries for legal professionals lag behind that of other public sector legal
25 employers by as much 50%. The starting salaries for state legal professionals is so low that most
26 cannot afford in the expensive urban areas where most CASE members are headquartered,
27 including Los Angeles, San Diego, and San Francisco. Furloughs and pay reductions for these
28 CASE members cause extreme financial hardship.

Declaration of Peter Flores, Jr. in Support of Motion for Relief from Stay

1 10. Because CASE members must attend four-year colleges followed by three-year
2 law degree programs, CASE members generally start their careers at a later age, and typically
3 have greater financial obligations relative to other employees of similar seniority. Many
4 members have over \$100,000 in educational debt including both undergraduate college and law
5 school. Many have financial responsibility for their elder parents, and must at the same time
6 budget for the college expenses of their own children. The salary reduction imposed as a result
7 of the furloughs has placed many members in very precarious financial situations.

8 11. As President, I see all of the emails CASE receives from our members. I also
9 receive numerous phone calls from our members. By far, the single most frequent topic in
10 member communications is the furloughs and the financial hardship it has caused and is
11 continuing to cause our members. I have personally read hundreds of such emails, and have
12 personally received dozens of such phone calls. Because our members structured their budgets
13 for mortgage payments, car payments, and student loan payments in reliance upon their receipt
14 of the full salary to which they are entitled, many of our members are suffering extreme financial
15 hardship as a result of the furloughs.

16 12. While some members have been able to make adjustments to their personal
17 budgets, many members have been falling further and further behind in their payments to various
18 creditors. Continuation of the furloughs will result in some members defaulting on various
19 debts, and put them at risk for foreclosure of their homes, repossession of their cars, as well as
20 irreparable damage to their credit.

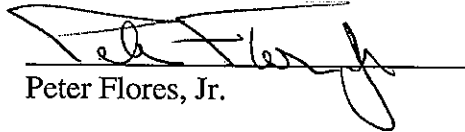
21 13. Section 13.2 of the CASE MOU prohibits CASE members from engaging in any
22 outside employment which conflicts with the department's incompatible activity policy. In my
23 capacity as CASE President, I have reviewed the incompatible activity policies of the majority of
24 the departments where CASE members are employed. While there is some variation among the
25 different policies, many of the policies prohibit lawyers from engaging in the outside practice of
26 law.

27 14. As a result of the these policies, many of our members are unable to generate any
28 additional income via their license to practice law, because doing so would be a violation of their

1 contractual obligations and would expose them to potential discipline by their employer.
2 Accordingly, our members are unable to mitigate the financial impact of the furloughs.
3

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct and based on my personal knowledge, and if called to testify to
6 these facts, I would do so competently and truthfully.

7 Executed this 2nd day of March, 2010, in San Francisco, California.

8 
9 Peter Flores, Jr.