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2017 NOV 29 A 10:13

K. JACOBSON, CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA, CALIF.
BY: *[Signature]*
Clerk of the Superior Court

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16 Attorneys for Petitioner
17 **UNITED PROFESSIONAL FIRE FIGHTERS
18 OF CONTRA COSTA COUNTY, LOCAL 1230**

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

20 **CONTRA COSTA COUNTY**

21 **CONTRA COSTA COUNTY DEPUTY
22 SHERIFFS ASSOCIATION; UNITED
23 PROFESSIONAL FIRE FIGHTERS OF
24 CONTRA COSTA COUNTY, LOCAL 1230;
25 KEN WESTERMANN; SEAN FAWELL,**

26 **Petitioners,**

27 **vs.**

28 **CONTRA COSTA COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION; BOARD OF
RETIREMENT OF THE CONTRA COSTA
COUNTY EMPLOYEES' RETIREMENT
ASSOCIATION; DOES I-V,**

Respondents.

CASE NO. N12-1870

STAY ORDER

1 TO: RESPONDENTS CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT
2 ASSOCIATION ("CCCERA") AND THE BOARD OF RETIREMENT OF THE
3 CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

4 WHEREAS it is alleged by the verified petition of Petitioners Contra Costa County Deputy
5 Sheriffs Association ("DSA"), United Professional Firefighters of Contra Costa County, Local 1230
6 ("Local 1230"), Ken Westermann and Sean Fawell that your implementation of Government Code
7 section 31461, as amended by the State Legislature in AB 197, effective January 1, 2013, is contrary to
8 the promises made to employees since 1997 and improperly impairs their vested rights;

9 WHEREAS, it appears that Petitioners are parties beneficially interested in this proceeding;

10 WHEREAS, it appears from the verified petition that Petitioners have no plain, speedy or
11 adequate remedy in the ordinary course of law and that a stay pendent lite should issue; and,

12 WHEREAS, on reading the verified petition in this action and the accompanying declarations
13 and memorandum, as well as the arguments and the stipulations of the parties made at the hearing on
14 November 28, 2012, it appears to the satisfaction of the Court that this is a proper case for granting stay
15 to preserve the status quo, and that, unless the stay as described below is granted, great and irreparable
16 harm will be suffered as to those employees represented by petitioners and other active and deferred
17 members of CCCERA, both general and safety, before the matter can be heard on the merits.

18 NOW THEREFORE, you are also commanded immediately to take all necessary actions to stay
19 the implementation of all aspects of Assembly Bill 197 ("AB 197") that concern the definition of
20 "compensation earnable" under Section 31461 of the County Employees Retirement Law ("CERL") and
21 to continue implementing the policy attached as Exhibit H to the Verified Petition herein pursuant to the
22 following:

23 1. The stay shall be effective immediately and remain in place for sixty (60) days following
24 the date of entry of judgment in this action.

25 2. The stay shall operate to suspend implementation of all aspects of AB 197 that concern
26 the definition of "compensation earnable" under CERL.

27 3. The stay shall operate to suspend implementation of AB 197 as to all active and deferred
28 members of CCCERA, including both general and safety members.

1 4. When the stay is dissolved, it shall be dissolved effective on that date, not nunc pro tunc
2 to January 1, 2013.

3 5. The hearing on the merits of Petitioners' claims will be scheduled as expeditiously as
4 possible, and submitted on stipulated facts to the greatest extent possible.

5 6. Petitioners are required to notify real parties in interest, and the Court will liberally grant
6 requests for intervention.


7 7. In the event of disposition of this matter prior to entry of judgment on the merits, the stay
8 will be dissolved by further order of this Court, following a noticed hearing.

9 8. The Court reserves the right to modify this Order for good cause, upon notice and a
10 hearing.

11 9. The parties shall convene with this Court, Department 6, on December 19, 2012 at
12 9:00AM for an initial case status conference.


13 Let the foregoing order issue.

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15 Dated: November 29, 2012

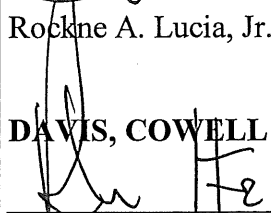

HONORABLE DAVID FLINN,
SUPERIOR COURT OF CONTRA COSTA COUNTY

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17 Approved as to form:

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19 **RAINS LUCIA STERN, PC**

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Rockne A. Lucia, Jr.

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22 **DAVIS, COWELL & BOWE, LLP**

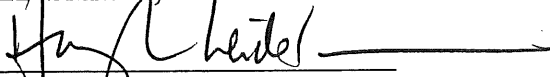
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24 W. David Holsberry

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1 REED SMITH, LLP

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4 Harvey L. Leiderman

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