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JAN FRANK

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF SAN FRANCISCO
12

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

17 Petitioners/Plaintiffs,

18 vs.

19 ARNOLD SCHWARZENEGGER as,
Governor of the State of California;
20 DAVID GILB as Director of the
Department of Personnel Administration;
21 JOHN CHIANG, Controller of the State of
California; JAN FRANK, as President of
22 STATE COMPENSATION INSURANCE
FUND, and DOES 1-50,
23

24 Defendants/Respondents.

Case No. CPF-09-509205

**RESPONDENT AND DEFENDANT JAN
FRANK'S RESPONSE TO CASE'S
MOTION FOR RELIEF FROM
AUTOMATIC STAY AND REQUEST FOR
CLARIFICATION OF JUDGMENT**

Date: July 9, 2009
Time: 9:30 a.m.
Department: 301

1 Respondent Jan Frank (“Frank”), in her official capacity as President of the State
2 Compensation Insurance Fund (“State Fund”), submits this document in response to the Motion
3 for Relief From Automatic Stay and Request for Clarification of Judgment filed by Petitioners
4 California Attorneys, Administrative Law Judges and Hearing Officers in State Employment
5 (“CASE”), Glen Grossman, etc. (collectively “Petitioners”), in order to clarify that Frank is not in
6 any way “failing to honor the injunction” and is not acting in disregard of the Court’s June 4,
7 2009 Order, as the motion may suggest. Frank understands that CASE employees employed by
8 State Fund at present will not be paid their full salaries and instead will be paid salaries reduced
9 to reflect the furlough order while this litigation is on appeal because Respondent State Controller
10 John Chiang (the “Controller”) apparently has concluded at least at this point that the Court’s
11 Order is stayed pending appeal. To the extent the motion filed by CASE might suggest the
12 contrary, this suggestion is inaccurate.¹

13 Specifically, at page 3, line 27 to page 4, line 6, Petitioners write:

14 . . . Respondents intend to continue reducing the paychecks of
15 Petitioners during the pendency of the appeal By failing to
16 honor the injunction (i.e. by reducing wages or hours under the
17 unlawful executive order) a party would expose itself to contempt.
18 [Citation omitted]. In an effort to avoid the need to seek citations
for contempt, Petitioners urge this Court to give Respondents
direction that the prohibitory injunction is not stayed pending
appeal, and must therefore be complied with immediately.

19 This characterization may create the impression that Frank is ignoring the Court’s Order. This is
20 not the case. While State Fund provides the moneys so that the Controller will pay State Fund
21 employees, the checks themselves are issued by the Controller, not by State Fund. The Controller
22 has apparently concluded at this stage that the Court’s Order is stayed pending appeal. As result,
23 the Controller apparently intends thus far to issue pay warrants reduced by 9.2% to Unit 2
24 members employed at State Fund during the pendency of the appeal, unless this Court orders
25 otherwise. This was a decision made by the Controller, not Frank or the State Fund. Put another
26 way, Frank has no ability to comply with the Order. *See Conn. v. Superior Court (Farmers*

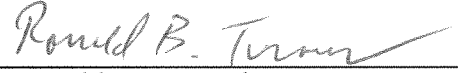
27 _____
28 ¹ Additionally, the motion refers to an appeal by “Respondents.” Frank has not filed a notice of
appeal.

1 *Group*), 196 Cal.App.3d 774, 784 (ability to comply with order one of the required elements of
2 contempt).

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Dated: July 6, 2009

MANATT, PHELPS & PHILLIPS, LLP
Ronald B. Turovsky
Alison Sultan White

By: 
Ronald B. Turovsky
Attorneys for Defendant/Respondent
JAN FRANK

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1 **PROOF OF SERVICE**

2 I, Linda M. Allen, declare as follows:

3 I am employed in Los Angeles County, California. I am over the age of eighteen
4 years and not a party to this action. My business address is Manatt, Phelps & Phillips, LLP, One
5 Embarcadero Center, 30th Floor, San Francisco, California 94111. On July 7, 2009, I served the
6 within: **RESPONDENT AND DEFENDANT JAN FRANK'S RESPONSE TO CASE'S
7 MOTION FOR RELIEF FROM AUTOMATIC STAY AND REQUEST FOR
8 CLARIFICATION OF JUDGMENT.**

9 on the interested parties in this action addressed as follows:

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19 **(BY ELECTRONIC MAIL)** By transmitting such document(s) electronically at
20 approximately 10:15 a.m. from my e-mail address, lallen@manatt.com at Manatt,
21 Phelps & Phillips, LLP, San Francisco, California, to the person(s) at the electronic
22 mail addresses listed above. The transmission was reported as complete and
23 without error.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct and that this declaration was executed on July 7, 2009, at San
26 Francisco, California.

27 

28 Linda M. allen

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