

FILED
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By P. CRESCENTI
Deputy Clerk

1 JONATHAN WEISSGLASS (SBN 185008)
2 BARBARA J. CHISHOLM (SBN 224656)
3 PEDER J. V. THOREEN (SBN 217081)
4 Altshuler Berzon LLP
5 177 Post Street, Suite 300
6 San Francisco, California 94108
7 Telephone: (415) 421-7151
8 Facsimile: (415) 362-8064
9 E-Mail: jweissglass@altshulerberzon.com
10 bchisholm@altshulerberzon.com
11 pthoreen@altshulerberzon.com

7 GERALD JAMES (SBN 179258)
8 455 Capitol Mall, Suite 501
9 Sacramento, CA 95814
10 Telephone: (916) 446-0400
11 Facsimile: (916) 446-0489
12 E-mail: gjames@pecg.org

11 Attorneys for Intervenors
12 PROFESSIONAL ENGINEERS IN CALIFORNIA
13 GOVERNMENT; CALIFORNIA ASSOCIATION
14 OF PROFESSIONAL SCIENTISTS

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SACRAMENTO

16 DEBBIE L. ENDSLEY; CALIFORNIA
17 DEPARTMENT OF PERSONNEL
18 ADMINISTRATION,

18 Petitioners/Plaintiffs,

19 v.

20 JOHN CHIANG, sued herein in his official capacity
21 only; OFFICE OF THE STATE CONTROLLER,

21 Respondents/Defendants.

23 JOHN CHIANG, in his official capacity as
24 CONTROLLER OF THE STATE OF CALIFORNIA;
25 OFFICE OF THE STATE CONTROLLER,

26 Cross-Complainants,

27 v.

27 DEBBIE L. ENDSLEY, sued herein in her official
28 capacity only; CALIFORNIA DEPARTMENT OF
PERSONNEL ADMINISTRATION,

28 Cross-Defendants.

Case No. 34-2010-80000591

**DECLARATION OF TED
TOPPIN IN SUPPORT OF EX
PARTE APPLICATION FOR
LEAVE TO INTERVENE AND
IN SUPPORT OF OPPOSITION
TO APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

Hearing Date: July 16, 2010
Time: 11 a.m.
Dept.: 19
Judge: Hon. Patrick Marlette

Action Filed: July 6, 2010

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CALIFORNIA ASSOCIATION OF PROFESSIONAL
SCIENTISTS; PROFESSIONAL ENGINEERS IN
CALIFORNIA GOVERNMENT,

Intervenors.

1 I, TED TOPPIN, declare:

2 1. I am a lobbyist for the California Association of Professional Scientists
3 (“CAPS”) and the Professional Engineers in California Government (“PECG”). I have served
4 as a lobbyist for CAPS and for PECG for the past six (6) years and have been CAPS’
5 Legislative Director and PECG’s Legislative Director for the past eleven (11) years. As a
6 lobbyist for CAPS and for PECG, my duties include lobbying the executive branch and the
7 legislative branch of the State on items affecting the terms and conditions of employment for
8 CAPS and PECG represented employees.

9 2. This declaration is being filed concurrently with CAPS’ and PECG’s ex parte
10 application for leave to intervene in the above-captioned matter. I am familiar with the facts
11 stated in this declaration, and if called as a witness, I could and would testify competently to
12 these facts.

13 3. Based on my duties as a lobbyist and Legislative Director of CAPS and PECG, I
14 am familiar with both organizations’ memberships.

15 4. PECG is the duly certified exclusive collective bargaining representative of the
16 nearly 10,000 state employed engineers in State Bargaining Unit 9, the Professional Engineers
17 unit. PECG is also a verified supervisory organization under Government Code section 3527
18 subdivision (c) representing state supervisory engineers in their employment relations with the
19 state. PECG represents the employment interest of its members. In total, PECG represents
20 approximately 13,876 professional engineers and related employees employed by the State of
21 California.

22 5. CAPS is the duly certified collective bargaining representative of the nearly
23 3,000 state employed scientists in State Bargaining Unit 10, the Professional Scientific unit.
24 CAPS is also a verified supervisory organization under Government Code section 3527
25 subdivision (c) representing state supervisory scientists in their employment relations with the
26 state. CAPS represents the employment interest of its members. In total, CAPS represents just
27 over 3,000 professional scientists employed by the State of California.

28 6. On July 1, 2010, the California Department of Personnel Administration

1 (“DPA”) transmitted a letter and draft pay letter to State Controller John Chiang. The draft pay
2 letter instructs the Controller to reduce the salaries and wages of most state employees,
3 including thousands of employees represented by each of the Intervenor, to \$7.25 per hour –
4 the minimum wage mandated under the FLSA – or to \$455 per week.

5 7. DPA’s July 1 pay letter would dramatically reduce the wages and salaries of
6 thousands of CAPS’ and PECG’s members, with some members receiving approximately 10%
7 of their normal salaries. If DPA’s July 1 pay letter were implemented, many CAPS and PECG
8 members will suffer irreparable harm. I am aware that dozens of members have contacted
9 CAPS and PECG indicating that if their wages are reduced as contemplated by the July 1 pay
10 letter for just one month, those members will be unable to make their housing payments, auto
11 payments, and otherwise stay current in paying their bills while providing for necessary food
12 and shelter for their families.

13 8. In my position as lobbyist and Legislative Director, I am generally familiar with
14 the funding sources for the state agencies and departments in which PECG’s and CAPS’
15 members are employed. Although I am not aware of the exact number, it is my understanding
16 that a majority of the employees represented by PECG and CAPS work in positions that are
17 “continuously appropriated” meaning that payment of those employees’ monthly salaries is
18 made from funds that are continuously appropriated and are not contingent upon passage of the
19 annual State Budget Act.

20 9. For example, the Department of Transportation (“Caltrans”) employs close to
21 9,000 PECG-represented engineers, land surveyors and related employees. The vast majority of
22 these employees work in the Caltrans’ “Capital Outlay Support” program. Within Caltrans,
23 “Capital Outlay Support” is the work required to produce capital outlay projects. Before a
24 capital outlay project is constructed, the project’s environmental impact must be assessed,
25 rights-of-way must be acquired, and a project must be designed and engineered. PECG-
26 represented employees perform these functions. Engineering functions and services for Capital
27 Outlay Support also continue during project construction. The budget for Caltrans’ Capital
28 Outlay Support consists primarily of the salaries, wages, benefits, and operating expenses of the

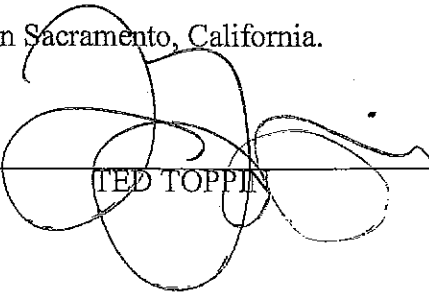
1 state staff who perform these functions and the cost of consultants who perform a portion of this
2 work. The Capital Outlay Support program is funded primarily by the State Highway Account,
3 State Transportation Fund (0042). This fund is continuously appropriated as are at least eight
4 other funds at Caltrans.

5 10. Similar continuous appropriations exist throughout state government for state
6 scientists and professional engineers employed by various departments and divisions of the
7 State. For example, hundreds of state scientists represented by CAPS work at the Department of
8 Fish and Game ("Fish and Game"). Fish and Game receives funding from several continuously
9 appropriated funds including the Fish and Wildlife Pollution Account (0207), the Oil Spill
10 Response Trust Fund (0321), and the Upper Newport Bay Ecological Reserve Maintenance and
11 Preservation Fund (0643), which are used to compensate the salaries of state scientists working
12 at the Department. Hundreds of other state scientists and state engineers represented by CAPS
13 and PECG at state agencies such as the Department of Public Health, the Department of Toxic
14 Substances Control, and the State Water Resources Control Board, are paid from funds that
15 have been continuously appropriated by the Legislature.

16 11. I am familiar with the working hours and conditions of many PECG and CAPS
17 members. I am aware of PECG and CAPS members who have already worked overtime hours
18 in July 2010. Based on my knowledge of PECG and CAPS members' work, it is my belief that
19 many PECG and CAPS members are likely to continue to work overtime hours in July. For
20 example, many PECG members work on infrastructure projects that will result in overtime
21 hours in connection with construction inspection duties. Many CAPS members will work
22 overtime in connection with environmental issues, including oil spill response efforts.

23
24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct.

26 Executed this 12th day of July 2010, in Sacramento, California.

27
28

TED TOPPIN