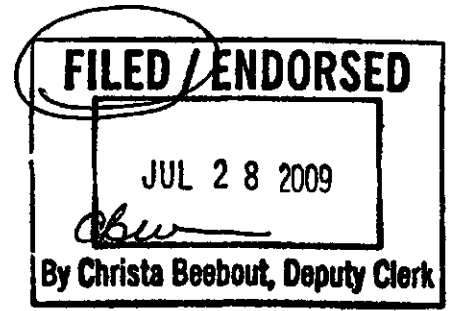


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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

CALIFORNIA ASSOCIATION OF  
PROFESSIONAL SCIENTISTS,

Case No. 34-2008-00014476-CU-WM-GDS  
Department 33

Petitioner,

v.

JUDGMENT

STATE OF CALIFORNIA DEPARTMENT  
OF PERSONNEL ADMINISTRATION;  
DAVID GILB, DIRECTOR OF  
DEPARTMENT OF PERSONNEL  
ADMINISTRATION; STATE OF  
CALIFORNIA DEPARTMENT OF  
FINANCE; MICHAEL GENEST,  
DIRECTOR OF FINANCE; STATE  
CONTROLLER JOHN CHIANG; and  
DOES 1 THROUGH 10, INCLUSIVE,

Respondents.

The above-entitled cause came on regularly for hearing on September 19, 2008, and April 24, 2009, in Department 33 of the above-entitled court, the Honorable Lloyd G. Connelly presiding. Attorney Gerald James appeared for petitioner; Labor Relations Counsel Jennifer M. Garten appeared for respondents State of California Department of Personnel Administration and David Gilb; and Deputy Attorney General Kimberly J. Graham appeared for respondents State of California Department of Finance, Michael Genest, and State Controller John Chiang.

After considering the pleadings, evidence and written and oral arguments presented by the parties, the court orally stated its decision to partially grant petitioner's claim. As more

1 fully set forth in the hearing transcript, the court found that that respondents have a duty to  
2 implement a recommendation for adjustments to the salary ranges for 14 supervising scientist  
3 classifications in the state civil service, made by respondent Director of the Department of  
4 Personnel Administration on April 28, 2008, pursuant to the principle in subdivision (a) of  
5 Government Code section 19826 “that like salaries shall be paid for comparable duties and  
6 responsibilities.”

7           The court recognized that the Department of Personnel Administration was  
8 precluded by section 19826 from making the recommended salary adjustments for the  
9 supervising scientist classifications in the absence of existing appropriations that could be used  
10 for salary increase purposes. The evidence presented by the parties established that the  
11 recommended salary adjustments would require expenditures in excess of existing appropriations  
12 in Budget Item 9800, the provision of the Budget Act containing legislative appropriations for  
13 state employees’ salary increases. The appropriations remaining in Budget Item 9800, based on a  
14 Budget Act Log previously compiled by the Department of Finance from information about state  
15 employee salary increases negotiated and recommended by the Department of Personnel, were  
16 fully obligated.

17           The court found that, in the absence of existing appropriations to make the  
18 recommended salary adjustments for the supervising scientist classifications, respondents must  
19 take all feasible steps to present the recommended salary adjustments to the Legislature for  
20 consideration of whether to appropriate funds needed to make the adjustments. The Department  
21 of Personnel Administration is statutorily responsible for insuring like pay for like work,  
22 specifically under the like-pay-for-like-work principle stated in subdivision (a) of section 19826  
23 and broadly under the legislative purpose stated in subdivision (c)(1) of Government Code  
24 section 18500, to provide a state civil service system in which positions involving comparable  
25 duties and responsibilities are similarly classified and compensated. Pursuant to this statutory  
26 responsibility and legislative purpose, the Department of Personnel Administration must inform  
27 the Legislature of the need for funds to make the salary adjustments recommended on the basis of  
28 the statutory like-pay-for-like-work principle. Likewise, in the course of preparing the

1 Governor's Budget, the Department of Finance must include accurate information provided by  
2 the Department of Personnel Administration regarding the amount of funds needed for the  
3 recommended salary adjustments in a Budget Act Log or other document presented to the  
4 Legislature for its consideration in appropriating funds for state employees' salary increases.  
5 Withholding that information from the Legislature and allowing the recommended salary  
6 adjustments to founder would degrade the statutory like-pay-for-like-work principle section  
7 19862 and defeat the related legislative purpose in section 18500. (See *State Trial Attorneys'*  
8 *Association v. State of California* (1976) 63 Cal.App.3d 298, 303-305.)

9 WHEREFORE IT IS ORDERED, ADJUDGED AND DECREED that:

10 1. A peremptory writ of mandate shall issue from this court requiring respondents  
11 to perform the following acts:

12 a. Respondents Department of Personnel Administration and Director of the  
13 Department of Personnel Administration shall to make salary adjustments for the 14 supervisory  
14 scientist classifications recommended by the Director of the Department on April 28, 2008,  
15 pursuant to the like-pay-for-like-work principle in subdivision (a) of Government Code section  
16 19826 to the extent that the adjustments do not require expenditures in excess of existing  
17 appropriations that may be used for salary purposes.


18 b. For as long as the adjustments recommended for the 14 supervisory scientist  
19 classifications require expenditures in excess of existing appropriations that may be used for  
20 salary purposes, respondents Department of Finance and the Director of Finance shall include  
21 accurate information furnished by respondent Department of Personnel Administration about the  
22 amount of funds needed for the salary adjustments in a Budget Act Log or other document  
23 presented to the Legislature for its consideration in appropriating funds for state employees'  
24 salary increases. Respondents shall continue to present this information to the Legislature in a  
25 suitable document until the Legislature appropriates funds needed to implement the  
26 recommended adjustments pursuant to the like-pay-for-like-work principle in subdivision (a) of  
27 Government Code section 19826 or until respondents Department of Personnel Administration  
28 and Director of the Department of Personnel Administration determine in an appropriate quasi-

1 legislative proceeding that the factual basis for the recommended salary adjustments is no longer  
2 valid. Respondents shall apprise petitioner of their actions pursuant to this paragraph six months  
3 after they receive personal service of this writ and no less than every six months thereafter until  
4 the Legislature appropriates the funds needed to make recommended salary adjustments or until  
5 respondents Department of Personnel Administration and Director of the Department of  
6 Personnel Administration determine in an appropriate quasi-legislative proceeding that the  
7 factual basis for the recommended salary adjustments is no longer valid.

8 3. Petitioner shall recover its costs of suit pursuant to rule 3.1700 of the California  
9 Rules of Court.

10 Dated: JUL 28 2009



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13 LLOYD G. CONNELLY  
14 Judge of the Superior Court  
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