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California Association of Professional Scientists  
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7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF SACRAMENTO  
10

11 CALIFORNIA ASSOCIATION OF )  
12 PROFESSIONAL SCIENTISTS )

13 Petitioner,  
14 )

15 v. )

16 STATE OF CALIFORNIA DEPARTMENT OF )  
PERSONNEL ADMINISTRATION; DAVID )  
17 GILB, DIRECTOR OF DEPARTMENT OF )  
PERSONNEL ADMINISTRATION; STATE )  
18 OF CALIFORNIA DEPARTMENT OF )  
FINANCE; MICHAEL GENEST, DIRECTOR )  
19 OF FINANCE; STATE CONTROLLER JOHN )  
CHIANG; and DOES 1 THROUGH 10, )  
20 INCLUSIVE )

21 Respondents.  
22 )  
23 )

CASE NO.  
34-2008-00014476-CU-WM-GDS

Judge Lloyd G. Connelly  
Department 33

**[PROPOSED]  
JUDGMENT FOR PETITIONER**

24 The above-entitled cause came on regularly for hearing on September 19, 2008, at 3:00  
25 p.m., in Department 33, the Honorable Lloyd G. Connelly, presiding, pursuant to the verified  
26 petition of the California Association of Professional Scientists. Gerald James appeared as  
27 attorney for petitioner, California Association of Professional Scientists, Jennifer M. Garten  
28 appeared as attorney for respondents Department of Personnel Administration and David Gilb as

1 Director of the Department of Personnel Administration, and Kimberly Graham appeared as  
2 attorney for respondents Department of Finance, Michael Genest as Director of the Department  
3 of Finance, and State Controller John Chiang. Over objections of Respondents, this Court  
4 granted Petitioner additional time to conduct discovery.

5 This matter came on for a second hearing on April 24, 2009, at 10:30 a.m. in Department  
6 33, the Honorable Lloyd G. Connelly, presiding, pursuant to the verified petition of the  
7 California Association of Professional Scientists and with the same counsel listed above  
8 appearing.

9 Having considered the entire record in this matter, including the pleadings, briefs, oral  
10 argument and all other evidence submitted to the Court, this Court hereby renders its final  
11 judgment in this case.

12 Beginning in 2005, the California Association of Professional Scientists made an  
13 appropriate request for salary adjustments for state supervisory scientists. A formal request for  
14 salary adjustments and a request for a quasi-legislative hearing for fourteen classifications of  
15 state supervisory scientists was made by CAPS on November 3, 2006. Following a quasi-  
16 legislative salary hearing, the DPA issued a written decision dated April 28, 2008 concluding that  
17 salary adjustments should be made to fourteen classifications of state supervisory scientists to  
18 restore salary relationships with certain state supervisory engineering classifications as the duties  
19 and responsibilities of the supervisory scientists are similar but not identical to the supervising  
20 engineers.

21 The concept of comparable pay for comparable duties is embodied in Government Code  
22 section 19826 and is reflective of a constitutional obligation that the State has to its employees  
23 under the civil service provisions of the California Constitution. The DPA has a constitutional  
24 and statutory obligation to assure that State employees are paid a fair salary. Implied in Section  
25 19826 is that when the DPA makes a determination that salary adjustments are necessary to  
26 comport with the State Constitution and the requirement that like salaries be paid for comparable  
27 duties, the DPA has an implied obligation to present that finding with an appropriate request for  
28 funding to the Legislature for its consideration. It is in this context that the Legislature can

1 accept or deny the salary increase.

2           As here the DPA has determined that the fourteen classifications of state supervisory  
3 scientists are not being paid the appropriate salary and a salary increase is required, DPA must  
4 approach the Legislature to seek the funds necessary through an appropriation to meet the State's  
5 salary obligation for those classifications of employees. DPA cannot make a determination that  
6 salary increases are required and then concurrently be the state department which assembles a  
7 Budget Act Log containing the funding necessary to compensate state employees wherein that  
8 Budget Act Log does not seek an appropriation required to meet the obligation to increase state  
9 supervisory scientists salaries. DPA could seek the necessary funding from the Legislature  
10 through the Budget Act Log, although there may be other ways to present the funding request for  
11 salary increases to the Legislature.

12           Petitioner's request that the Court order certain funds in the 9800 Item of the State  
13 Budget Act be immediately spent to comply with the DPA's April 28, 2008 salary determinations  
14 is denied as the 9800 Item funds at issue here are encumbered.

15           Therefore, the Court HEREBY ORDERS, ADJUDGES, AND DECREES as follows:

16           1. That a peremptory writ of mandate issue directing Respondent Department of  
17 Personnel Administration (DPA) to present the DPA's April 28, 2008 salary increase  
18 determinations for fourteen classifications of state supervisory scientists to the Legislature along  
19 with a request for funding for those salary increases and to include a request for funding these  
20 salary increase determinations each time a "Budget Act Log" is prepared for presentation to the  
21 Legislature until the Legislature approves the funds to pay the increased salaries.

22           2. The Court hereby declares that employees in the fourteen classifications are  
23 statutorily and constitutionally entitled to the DPA's April 28, 2008 salary increase  
24 determinations.

25           3. That Petitioner have and recover costs herein in the sum to be submitted and for  
26 such other relief as the Court deems proper.

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1 4. Any and all relief sought against the Department of Finance and the State Controller  
2 is denied.

3  
4 IT IS SO ORDERED:

5  
6  
7 Date:

8 \_\_\_\_\_  
LLOYD G. CONNELLY  
9 Judge of the Superior Court  
10

11 APPROVED AS TO FORM:

12  
13 Dated: \_\_\_\_\_

14 By: \_\_\_\_\_  
15 JENNIFER M. GARTEN  
16 Attorney for Department of  
Personnel Administration and  
Director David Gilb

17 Dated: \_\_\_\_\_

18 By: \_\_\_\_\_  
19 KIMBERLY GRAHAM  
20 Attorney for Department of  
21 Finance, Director Michael  
22 Genest, and State Controller  
23 John Chiang  
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