

SUPERIOR COURT OF CALIFORNIA, COUNTY OF NAPA



and

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021



Memorandum of Understanding
Public Services Employee Unit

July 1, 2007-June 30, 2011

WEINGARTEN RULES AND RIGHTS

A worker who is called to an interview with his or her employer which may lead to some disciplinary action is entitled to Union representation.

In NLRB v. Weingarten and its companion case ILGWU v. Quality Mfg. Co., the Supreme Court agreed with the NLRB that an employee has the right to Union representation at an investigatory interview the employee reasonably believes will result in disciplinary action.

The following rules apply when an investigatory interview occurs:

- The worker must make a clear request for Union representation before or during the interview.
- Worker's right to representation may not interfere with Employer's right to conduct an interview without undue delay (in certain circumstances.)
- The Steward has a right to consult with the worker before the interview.
- When the worker requests Union representation, the Employer has 3 options:
 1. Grant the request and delay questioning until the Union representative is available.
 2. Deny the request and end the interview.
 3. Give the worker a choice of:
 - (a) Having the interview without representation or
 - (b) Ending the interview.

It is the Steward's right and the Steward's duty to assist and counsel workers during investigatory interviews. Steward's right during investigatory interviews include:

- The right to be informed of the subject matter of the interview (i.e., the charges).
- The right to consult with the worker before the questioning begins.
- The right to speak during the interview.
- The Steward can request the Supervisor clarify a question.
- After a question is asked, the Steward can give advice on how to answer.
- When the questioning ends, the Steward can provide additional information to the Supervisor.

If Weingarten rules are complied with, stewards have no right to tell workers not to answer questions, or to give false answers.

Stewards should explain Weingarten rights to co-workers. The following statement is useful for workers who may be asked to attend an investigatory meeting:

"I request to have a Union representative present on my behalf during this meeting because I believe it may lead to disciplinary action being taken against me. If I am denied my right to have a Union representative present, I will refuse to answer accusational questions and any I believe may lead to discipline."

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF NAPA
SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021

This agreement is entered into by the Superior Court of California, County of Napa, hereinafter referred to as the "Court" and the Service Employees International Union, Local 1021, hereinafter referred to as the "Union."

1.0 Recognition

The Superior Court of California, County of Napa hereby formally recognizes the Service Employees International Union, Local 1021 as the exclusive representative of the Court Employees in the Napa County Superior Court Public Services Unit. The term "employee" or "employees" as used herein shall refer to those persons in the unit in the employee classifications listed in Appendix A.

2.0 Implementation and Compliance

2.1 Upon ratification by the Union, this Memorandum of Understanding constitutes a mutual recommendation to be submitted to the Napa County Superior Court Bench. This Memorandum of Understanding shall not be binding on the parties either in whole or in part unless and until approved.

2.2 If the Court fails to take the actions required to timely implement the provisions of this Memorandum, either party may request the resumption of negotiations.

3.0 Term

This Memorandum becomes effective when all the conditions of Article 2.0 (Implementation and Compliance) are met and shall remain in full force and effect from July 1, 2007, except where specified otherwise, to and including June 30, 2011 and from year to year thereafter provided, however, either party may serve written notice and initial proposals on the other not later than March 1, 2011 of its desire to terminate or amend this Memorandum.

4.0 Discrimination

4.1 The Court will not interfere with the right of its employees to become members of the Union. Neither the Court nor any of its agents will discriminate against, interfere with, restrain, or coerce any employee in the unit because of Union membership. However, this Article shall not affect the normal administrative processes nor shall it affect the right of the Court to discipline employees. Furthermore, Court employees are accountable first and foremost for their duties and responsibilities of employment, and Union activities shall not interfere with carrying out of those obligations except as otherwise noted in Articles 7.0 and 8.0 of this Memorandum of Understanding.

4.2 The provisions of this Memorandum of Understanding shall be applied equally to all employees in the unit regardless of race, gender, color, age, national origin, ancestry, marital status, physical disability, mental disability, medical condition, sexual preference, political affiliation, religious belief, or any basis protected by law.

4.3 The Court and the Union recognize that the Court has an obligation under law to meet with individual employees who allege a need for reasonable accommodations in the work place because of a disability. The Union will be advised of any proposed accommodations prior to implementation by the Court if such accommodations impact directly on wage, hours, or

working conditions of other unit members. The Union may consult with the Court about the consequences of the accommodation and their impact on the wages, hours, and other terms and conditions of employment as set forth in the respective Memorandums of Understanding.

5.0 Grievance Procedure

5.1 The purpose of the grievance procedure is to provide a just and equitable method for the resolution of grievances without discrimination, coercion, restraint, or reprisal against any employee or employees who may submit or be involved in a grievance.

5.2 Definition, Format, and Exclusions

(a) Whenever used, the term "employee" means either employee or employees as appropriate.

(b) As used herein "workdays" means days the Court normally is in session in accordance with the California Code of Civil Procedure Section 135 or other days designated as workdays by this agreement.

(c) A "grievance," except as provided in Article 5.2(e), means:

(1) A complaint over the interpretation, application, or compliance with established Personnel Rules and Policies, or Memorandums of Understanding, or

(2) An allegation by an employee or a group of employees that the Court has taken disciplinary action without just cause.

(3) "Discipline" consists of dismissal, suspension, letter of reprimand, demotion, reduction in class, or a salary grade/step reduction. Probationary releases are excluded from this definition. "Discipline" shall not include a demotion or reduction in class or salary grade/step reduction which is (a) voluntarily requested or consented to by an employee, or (b) necessitated by factors other than the employee's performance, or (c) implemented due to an employee's inability to satisfactorily perform the assigned duties and responsibilities of the job. The Court shall give the employee and the Union notice of such demotion, together with the reasons for the demotion.

[a] Notice of Discipline – When disciplinary action, other than a letter of reprimand, is contemplated, an employee will be provided with a "Notice of Intent to Discipline," which will state what the employee is alleged to have done wrong and what action the Court is proposing to take in response. This notice shall inform an employee of their right to appeal such proposed action through the grievance process described in Sections 5 and 6 of the MOU, and that they have a right to a "Skelly" meeting if the employee desires. Along with this notice, an employee will be provided copies of evidence that the Court believes justifies taking such action against an employee.

[b] When a Court employee is subjected to an investigative interview or meeting with the Court, where the employee reasonably believes that this could result in disciplinary action,

the employee, at his/her request, may have a union representative present.

- (4) The Management Rights Provision, Article 42.0, is neither grievable nor arbitrable.
- (d) The grievance shall be submitted on a form prescribed by the Court. Each written grievance shall include a statement of the problem, the date upon which the problem occurred, the section of this Memorandum, rule, policy, or applicable law alleged to have been violated, a statement of the proposed remedy, the date the grievance was filed and the signature of the grieving party.
 - (1) A complaint is not reviewable under the grievance procedure if it is a matter which is handled under some other administrative procedure.
 - (2) Any employee who elects the remedy of filing a complaint on an otherwise grievable issue with an administrative agency/tribunal, whether state or federal, thereby waives, abandons, and voids any rights to arbitrate the matter. The employee may, however, grieve the issue up to the Court Executive Officer level.
 - (3) Article 5.2(e) shall not be operable under this Article.
- (e) The union may grieve disagreements over the interpretation, application, or compliance with the terms and conditions of this Memorandum of Understanding.
- (f) The employee has the right to the assistance of a representative in the preparation of a written grievance and to be represented in formal grievance meetings, as described in Articles 5.3(e)(2) and 5.3(e)(3). Furthermore, at his/her request, the employee may have a representative present at a meeting of an investigatory nature between him/her and the Court if it may reasonably be concluded from all the circumstances that the meeting may lead to the suspension, demotion, reduction in class, or dismissal of the employee.

5.3 Waivers and Time Limits

- (a) Failure of a grieving party to initiate a grievance within the time limit specified in Article 5.3(e) shall void the grieving party's right to grieve the matter. Failure by management to reply to the grievance within the time limits specified automatically grants to the grieving party the right to process the grievance to the next level. Failure on the part of the grieving party to respond within the time limits specified shall constitute an abandonment of said grievance.
- (b) Any level or review, or any time limits established in this procedure may be waived or extended by mutual agreement confirmed in writing. If a particular grievance is of an unusual or unique nature which may place it outside the scope of authority of an immediate supervisor, the grieving party may contact the Human Resources Manager to determine the appropriate level for filing such grievance. The determination of the Human Resources Manager in this regard shall be final and the implementation of the provision shall not constitute a waiver of the time limits contained in this Article.
- (c) If an employee fails to appeal from one level to the next level within the time limits established in this grievance procedure, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.

- (d) By mutual agreement, the grievance may revert to a prior level for reconsideration.
- (e) Grievance Procedure: The following procedure shall be followed by an employee submitting a grievance pursuant to this policy:
 - (1) Discussion with Supervisor: Within ten (10) workdays from the occurrence of the matter on which the grievance is based, or within ten (10) workdays from the time the employee would reasonably be expected to know of the occurrence, the grieving party shall discuss the grievance with the immediate supervisor informally. Within five (5) working days, the supervisor shall give his/her decision to the grieving party orally. However, if the employee cannot discuss it with his/her immediate supervisor, the employee may present the grievance to the next superior above the immediate supervisor without further delay or waiting.
 - (2) Written Grievance to Next Level Supervisor/Manager: If the grieving party is dissatisfied with the solution at the immediate supervisor step, the grieving party may, within five (5) working days after the immediate supervisor has reached a decision or should have so rendered a decision, present the grievance on the prescribed grievance form to the next immediate supervisor. This superior shall hear the grievance and give his/her written decision to the grieving party within five (5) working days after receiving the grievance. If the next level Supervisor/Manager is the Court Executive Officer, another manager would be designated to hear the grievance to maintain the three step grievance procedure.
 - (3) Grievance to Court Executive Officer Department Head: If the grieving party is dissatisfied with the resolution at the previous step, the grieving party may, within five (5) working days of date of receipt, present the grievance in writing to the Court Executive Officer. The Court Executive Officer shall, within ten (10) workdays after receipt of the grievance hear the grievance and render a written final decision unless the grievance is applicable to Article 6 (Grievance Arbitration). This decision shall be set forth in writing to the grieving party with a copy to the Human Resources Manager

6.0 Grievance Arbitration

- 6.1 For a grievance to be reviewable under this section, it must involve a disagreement over the interpretation, application, or compliance with the terms of the Memorandum of Understanding; or involve a disciplinary action of a permanent employee. A disciplined employee shall have five (5) working days from date of action to file a grievance alleging that the action was not for just cause. A written reprimand is excluded from this section.
- 6.2 Steps 5.3(e)(1), 5.3(e)(2), and 5.3(e)(3) above, must be followed before utilizing this section, except for grievance involving the disciplining of an employee, which shall be filed with the Court Executive Officer per step 5.3(e)(3) above.
- 6.3 Within ten (10) working days from the receipt of the decision of the Court Executive Officer, the employee may request arbitration as follows:
 - (a) If both parties mutually agree, a grievance arbitration panel will be assembled comprised of one (1) member appointed by the Court, one (1) member appointed by the employee organization representing the employee, and one (1) member to be appointed by mutual agreement; or

- (b) The matter can be referred to a mutually acceptable arbitrator. If the parties are unable to agree on an arbitrator within fifteen (15) working days from date of request, a list of five (5) arbitrators shall be requested by the Human Resources Manager from the State Mediation and Conciliation Service. Within five (5) working days after receipt of the list and notification of the Union, the parties shall meet to select the arbitrator. The parties shall alternately strike one name from the list until one arbitrator's name remains. The question of which party shall strike the first name shall be determined by a flip of a coin. Unless the time limits contained in this provision are extended per Article 5.3(b), the party who does not abide by the time limits shall be considered in default and the other party shall be permitted to unilaterally select the arbitrator.
- (c) The arbitrator shall render a decision not later than thirty (30) calendar days after submission of or receipt of final written arguments, if any, from the parties. The thirty (30) day period may only be extended by agreement of the parties, mutually arrived at in private.

6.4 Arbitration of a grievance hereunder shall be limited to the formal grievance as provided in Article 5.3(e)(2) as originally filed by the employee to the extent said grievance has not been satisfactorily resolved. Any fees or expenses of the arbitrator, including the cost of the original transcript, if any, shall be shared equally by the parties involved. However, all other expenses including, but not limited to, fees for witnesses, and similar costs incurred by the parties during such arbitration will be the responsibility of the individual party involved.

6.5 The written decision by the panel or arbitrator resulting from any arbitration of grievances hereunder shall be binding upon the parties hereto.

6.6 The decision of the panel or arbitrator resulting from any arbitration of grievances hereunder shall not add to, subtract from, or otherwise modify, the terms and conditions of the Memorandum of Understanding agreed to by the parties involved.

7.0 Stewards

7.1 It is agreed by the parties the Union may select a total of three (3) stewards for this unit. Such stewards must be employees within this unit. It is also agreed that the Union shall not appoint an employee serving an initial probationary period with the Court.

7.2 Within thirty days of approving a Memorandum of Understanding or when there is a change, the Union shall give to the Human Resources Manager the name of the employees who have been designated as stewards. Only the designated employees shall be allowed to act as stewards as defined by this Article.

7.3 Union agrees, whenever investigation or processing of a grievance is to be transacted during working hours, only that amount of time necessary to bring about a prompt disposition of the matter will be utilized. The stewards may spend a reasonable amount of time to promptly and expeditiously investigate and process formal grievances, as provided in Article 5.3(e)(2), without loss of pay. Only one steward will be released for processing or investigating a grievance. When leaving his/her work location or assignment to act as steward, he/she must first obtain permission from his/her immediate supervisor and inform the supervisor of the nature of their business. Permission to leave will be granted promptly unless absence would cause an undue interruption of work. Time shall be made available no later than the end of the following workday.

- 7.4 Upon entering the work location, the steward shall inform the proper supervisor of the general nature of the steward's business. Permission to leave the job will be granted promptly to the employee involved unless such absence would cause an undue interruption of work. Time shall be made available no later than the end of the following workday.
- 7.5 Each steward may have four (4) hours with pay for each contract year for stewardship training. Such time off must be requested in writing at least three (3) weeks in advance of the date of the scheduled training and will be approved unless the time off would cause severe operational problems. Requests made with less than three (3) weeks notice will be considered and approved if operations permit.

8.0 Release Time

- 8.1 The union shall be allowed no more than three (3) employee representatives when bargaining occurs during the meet and confer process.
- 8.2 The Union shall, at least ten (10) workdays before the first scheduled negotiation meeting, provide the Court with the names of the employees who have been designated to serve as employee representatives in the regular meet and confer process.

9.0 Work Access

- 9.1 A Union representative desiring access to a work location hereunder shall state the purpose of the visit and request the Human Resources Manager's authorization prior to the intended visit. If authorization for such access is not granted, the Union representative will be informed when time will be made available. Time shall be made available not later than the end of the following workday. Authorized Union representatives may be given access to a work location during working hours solely for the purpose of conducting grievance investigations and observing working conditions. The Union agrees its representatives will not interfere with operations of the Court.
- 9.2 Union shall give to the Human Resources Manager a list of all of its authorized representatives, which list shall be kept current by the Union. Access to work locations will only be granted to representatives on the current list.

10.0 Bulletin Boards

- 10.1 The Court shall furnish reasonable bulletin board space to Union at all work locations. The boards may be used for the following subjects:
- (a) Union recreational, social and related Union news bulletin;
 - (b) Scheduled Union meetings;
 - (c) Information concerning Union election or results thereof;
 - (d) Reports of official business of Union, including newsletters and reports of committees; and
 - (e) Any other written material must first be approved and initialed by the Human Resources Manager.

10.2 Material which may properly be posted shall be posted and removed by the Union steward or other Union representatives.

10.3 Electronic Bulletin Board: The Court shall create a "shared folder" for use by the Union for the duration of this contract. This shared folder may be used for subjects identified in 10.1 (a) through (e). Any other material posted shall first be approved by the Human Resources Manager. All items will be limited to text only and text files will be purged after 60 days. As a shared folder, there shall be no expectation of confidentiality of the information posted. The Union shall designate, and identify for the Court, two Union members who shall have exclusive ability to post items to the shared folder. Only the designated members shall be allowed to post information to the folder. The use of a shared folder shall be discontinued if it is determined by the Court that the folder has been used in a manner other than described, or if use and/or access of the folder by employees is deemed to be disruptive to the workplace.

10.4 The parties may mutually waive the provision of this Article if a satisfactory posting policy on bulletin boards is currently in effect.

11.0 Lunch Hour Meetings

Union may use Court facilities for lunch hour meetings when space is available if they first make a written request from the Union Business Agent to the Court Executive Officer requesting such approval. The Court agrees to reply by the next Court business day. The Union agrees that Court facilities will be left as they are found.

12.0 Union Security

12.1 (a) All represented employees who are employed during the term of this Agreement shall, as a condition of continuing employment with the Court and, in the case of a newly hired employee, within sixty (60) calendar days of employment, execute a payroll deduction authorization form as furnished by the Union, and thereby become and remain a member in good standing of the Union; or execute a payroll deduction authorization form as furnished by the Union, and thereby pay to the Union an Agency Shop Service Fee; or, in the case of employees who certify that they are members of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting employee organizations, execute a payroll deduction authorization form as furnished by the Union, and thereby pay sums equal to the Agency Shop Service Fee to (1) the Napa-Solano United Way; or (2) the Napa Emergency Women's Shelter (NEWS); or (3) the Napa Food Bank.

(b) Any employee covered by this agreement who is employed by the Court at the time this MOU is implemented, who does not have an active payroll deduction authorizing payment of either union dues, Agency Shop Service Fee, or payment to a charitable organization as described in paragraph 12.1(a) above, shall be notified of the requirement to submit completed paperwork by April 2, 2002 sufficient to accomplish one of these actions. The Court will provide employees with specific notice of this requirement and the consequences for failure to comply as identified in paragraph 12.2. Completed forms will be forwarded to the Court Accounting Manager.

(c) On a monthly basis, the Court will verify status of payroll deductions for union dues, Agency Shop Service Fees, or charitable contributions by certified conscientious objectors to monitor compliance with this agreement.

- 12.2 Within fourteen (14) days of the Court becoming aware that a represented employee described in Section 12.1 above has failed to maintain the employee's membership in good standing or has failed to maintain the employee's current Agency Shop Service Fee payments or has failed to maintain the employee's current charitable contribution payments to one of the charities designated above, the Court shall (1) counsel the employee of his/her obligation under this provision, and (2) inform the employee that further failure to maintain the appropriate payments will require the Court to initiate a discharge process. Such discharge actions in accordance with this agreement will be completed within 60 days.
- 12.3 No later than July 1 of each calendar year the Union shall provide each employee who is an Agency Shop Service Fee payer or who is making charitable contributions pursuant to Section 12.1, above, with an explanation of the Agency Shop Service Fee.
- (a) The explanation shall include all information currently required by the laws regulating Agency Shop provisions including, the major categories of Union expenses, those expenses related to the Union's duty as the exclusive bargaining agent, the amount of the Agency Shop Service Fee and the method by which the fee was calculated. The Union shall keep an itemized record of its financial transactions adequate to satisfy the requirements of this section.
 - (b) The Union shall provide a reasonable opportunity to challenge the amount of the fee before an impartial decision-maker not chosen by the Union and will make provision for an escrow account to hold amounts in dispute while challenges are pending.
 - (c) The Union, if required to file financial reports under the Labor-Management Disclosure Act of 1959 covering employees governed by this agreement, or if required to file financial reports under Section 3546.5 of the Government Code, shall provide the Court with a copy of such financial reports.
- 12.4 The amount to be deducted for Union dues and Agency Shop Service Fees shall not be changed by the Union more frequently than once each fiscal year.
- (a) If the Union does change dues, the Court shall begin collecting such modified Union dues or Agency Shop Service Fees on the first day of the pay period that is nearest to thirty (30) calendar days from the date upon which the Court received written notification of such change from the Union.
 - (b) Union dues, Agency Shop Service Fees and charitable contributions shall not be collected more than twice per month or during periods where the employee's wages are insufficient to cover the entire amount of such payments. All other authorized payroll deductions that are legally mandated or necessary to maintain employee benefits shall take precedence over Union dues and Agency Shop Service Fees and charitable contributions made pursuant to this Article.
 - (c) If the Court erroneously fails to deduct or under-deducts Union dues, Agency Shop Service Fees or charitable contributions, the Union may require the Court to collect any past due amounts from the affected employee(s). At the employee's option, past due amounts may be paid by payroll deduction spread over the same period of time that the Court failed to withhold the amounts due.
 - (d) Union agrees to refund, upon demand, any amounts erroneously deducted or over-deducted.

12.5 COPE Deduction: The Court agrees to the establishment of a payroll deduction program for voluntary employee contributions to the Union's Committee on Political Education (COPE) subject to the following conditions:

- (a) Voluntary deduction for COPE shall be withheld only if the employee so authorizes on a form provided by the Union and approved by the Court.
- (b) Payroll deductions shall commence on the second pay period following receipt of the signed authorization by the Courts.
- (c) Employees may sign up, change the amount of their contribution or discontinue their contributions at any time; and
- (d) The Union shall promptly refund to the Court any COPE amounts paid to the Union in error.

12.6 Union agrees to indemnify, defend and hold the court harmless against any and all claims, suits, orders, judgments, costs or attorney's fees brought or issued against the court as a result of any action pursuant to the provisions of this article, including, but not limited to, claims of improper deductions of fees, maintenance of records, illegal disclosure, or improper reporting.

13.0 Salaries and Retirement

13.1 (a) Based on the results of the CalPERS valuation reports applicable to the fiscal years covered by this MOU, the Court and Bargaining Unit will share retirement costs as follows:

Employer

The Court will continue to pay 13.937%. Court costs* above this amount will be evenly split between the Court and the employees.

Employee

The employee will continue to pay additional 1% of employee cost. Court cost above 13.937% will be evenly split between the Court and the employee

Pursuant to State and Federal law, the Court will agree to follow the County's agreement with the Bargaining Unit on how these contributions are reported and taxed.

*Court costs include employer share plus employer pick-up of employee share.

13.2 The Court shall pay only a proportionate contribution to Public Employees' Retirement (PERS) described in Article 13.1 for an employee in less than a full-time paid status. Employees who are in a paid status less than full-time in a biweekly payroll period, shall receive such Court contributions in the same ratio as their less than full-time status relates to full-time employment.

13.3 The percentage cost to the Court for the payment described in Article 13.1 shall be considered part of the total compensation paid to an employee. Such cost shall be calculated on base salaries only, exclusive of statutory costs and other fringe benefits.

13.4 (a) Pursuant to the Public Employees' Retirement System contract, service credit for unused sick leave (Government Code Section 20965) is available.

- (b) An employee may elect to use Article 13.4 (a) in any of the following ways:
- (1) Apply all accumulated sick leave upon retirement towards this provision;
or
 - (2) Apply a portion of accumulated sick leave upon retirement towards this provision and use the remaining balance in accordance with Article 15.6;
or
 - (3) Apply accumulated sick leave in excess of one thousand two hundred forty-eight (1248) hours at retirement towards this provision.
- 13.5 All eligible represented employees shall be enrolled in the PERS "2.5% at 55" retirement plan. The percentage cost to the Court for the plan, and the plan described in Article 13.6, shall be considered as part of the total compensation paid to represented employees. Such cost is calculated on base salaries only, exclusive of statutory costs and other fringe benefits.
- 13.6 All employees hired after September 1, 1992, shall be under a separate "2.5% at 55" retirement plan from Article 13.5 which will contain the three (3) year highest compensation provision and the 1959 Survivors Benefit.
- 13.7 Effective July 5, 2003, the Court concurs with the Napa County amendment of the PERS contract to add the Pre-Retirement Optional Settlement 2 Death Benefit.
- 13.8 Effective July 5, 2003, the Court concurs with the Napa County amendment of the PERS contract to increase the 1959 Survivor Benefit from Level 3 to Level 4.
- 13.9 During the term of this agreement, the Court concurs with the implementation of changes in retirement benefits and other retirement enhancements that are agreed to and implemented by Napa County for PSE represented employees as a result of recent retirement legislation.
- 13.10 The Court concurs with the Napa County amendment of the PERS contract to allow the "buy-back" for hours worked as extra-help, under the following conditions:
- (a) Employees hired as full-time extra-help, have worked more than six months within the fiscal year, or
 - (b) Employees hired as part-time extra-help have worked at least 1000 hours within the fiscal year.
- 13.11 The Court concurs with the Napa County implementation of the reporting of the PERS Employer Paid Member Contribution for retirement plan benefit purposes (hereinafter "reporting benefit") so long as this is at no cost to the Court. It is agreed that all tax liability, if any, created as a result of implementing this Article, including, but not limited to, tax liability for the additional PERS contribution for this reporting benefit, shall be the sole responsibility and liability of the employee and shall be paid by the employee
- 13.12 (a) Effective July 2, 2007, employees whose salaries have not been Y-rated shall receive a salary increase of four (4%) percent calculated at the grade/step five (5) of the current salary schedule.
- (b) Effective the first day of the first full pay period in July 2008, employees whose salaries have not been Y-rated, shall receive a salary increase of three and one-half (3.5%) percent calculated at the grade/step five (5) of the current salary schedule.

- (c) Effective the first day of the first full pay period in July 2009, employees whose salaries have not been Y-rated, shall receive a salary increase of three (3%) percent calculated at the grade/step five (5) of the current salary schedule.
- (d) Effective the first day of the first full pay period in July 2010, employees whose salaries have not been Y-rated, shall receive a salary increase of three and one-half (3.5%) percent calculated at the grade/step five (5) of the current salary schedule.
- (e) Compensation surveys will include Alameda, Contra Costa, Marin, Sacramento, Sonoma and Solano Courts as well as other agencies, by mutual consent. Effective the first full pay period in January 2008, the Court will implement 100% equity adjustments for all classes based upon the comparability survey conducted in May 2007.
- (f) Effective January 12, 2008, the following classifications in the bargaining unit whose salaries were found to be "below market" will receive 100% equity adjustment based upon an equity survey jointly produced by the Union and the Court using Alameda, Contra Costa, Marin, Sacramento, Sonoma and Solano Courts as comparables.

1. Administrative Analyst	4.4%
2. Family Court Program Specialist	4.4%
3. Family Mediator	4.4%
4. Court Systems Technician	8.9%
5. Court Systems Coordinator	1.3%
6. Technology Analyst	4.4%
7. Sr. Technology Analyst	9.8%
8. Judicial Assistant 3	1.3%
9. Judicial Assistant 4	1.3%
10. Court Division Specialist	1.3%
11. Court Reporter	2.8%
- (g) A compensation survey of the agencies identified in 13.12(e) above will be conducted in May 2009. The Court will meet with the Union to review and discuss survey results. Classifications in the bargaining unit whose salaries are found to be "below market" will receive equity adjustment.

13.13 During the term of this MOU, the Court agrees to maintain pay differential as follows for the specific positions identified below:

- (a) The Step 5 of the Court Division Specialist will be a minimum of 5% above the Step 5 of the Judicial Assistant IV.
- (b) The Step 5 of the Judicial Assistant IV will be a minimum of 10% above the Step 5 of the Judicial Assistant III.
- (c) The Step 5 of the Judicial Assistant III will be a minimum of 2.5% above the Step 5 of the Judicial Assistant II.

13.14 Performance Evaluations/Step Increases

- (a) Effective January 1, 2005, if the performance evaluation of an employee who is scheduled to receive a salary step increase is not completed by the end of the second pay period following the due date of the evaluation, the employee shall automatically receive his/her step increase, retroactive to the original due date.
- (b) An employee who believes that his/her performance evaluation contains factually inaccurate information may, within fifteen (15) days of receipt of the evaluation, appeal the rating in writing to the Court Executive Officer. Within fifteen (15) days of receipt of the appeal, the Court Executive Officer will schedule a meeting to hear the employee's appeal. The appellant may be represented by the Union. The scope of appeal meetings shall be limited to factual disputes. Following the appeal meeting, the Court Executive Officer may take whatever action he/she deems appropriate.

14.0 Overtime

- 14.1 Overtime is defined for all employees subject to this Memorandum as any actual hours worked in excess of eight (8) hours in a consecutive twenty-four (24) hour period or forty (40) hours of work in an employee's standard workweek, except that for employees who work four (4) ten (10) hour days, overtime is defined as any actual hours worked in excess of ten (10) hours in a consecutive twenty-four (24) hour period or forty (40) hours in an employee's standard workweek.
- 14.2
 - (a) Employees subject to the Fair Labor Standards Act (FLSA) shall be compensated for all overtime hours worked at the rate of time and one-half (1½). The employee may select compensation at the rate of time and one-half (1½) times the employee's regular hourly rate in either cash or compensatory time off.
 - (b) The regular hourly rate for cash payment is the employee's standard hourly rate plus any compensation earned pursuant to Articles 17.1, 17.2, 17.4 and 41.0
- 14.3 When an employee who is exempt from FLSA is required and authorized to work overtime by an Assistant Court Executive Officer, such employee shall be compensated by time and one-half (1½) for all overtime hours worked. The employee may select either compensation at the rate of time and one-half (1½) times the employee's standard hourly rate in cash or compensatory time off at the rate of time and one-half (1½) for each hour of overtime worked.
- 14.4 Every effort shall be made by the employee and the Court to utilize compensatory time off earned within the fiscal year it is accumulated. All compensatory time off remaining on record on the last day of the fiscal year in which it is accumulated must be taken off no later than the second pay period in October following the fiscal year. Any remaining balance from the prior fiscal year shall be paid to the employee at the rate earned as of the end of the prior fiscal year.
- 14.5 The Court shall compensate overtime to an employee who works more than five (5) normal workdays during a normal workweek, except that no overtime shall be paid for such work to an employee who is absent from work for more than one (1) normal workday in a normal workweek due to vacation, compensatory time, holiday, sick leave, any other paid leave, or a combination thereof. An employee working four (4) ten (10) hour days shall be eligible under this provision on his/her fifth, sixth, or seventh workday.

- 14.6 An employee shall designate his/her choice of cash or compensatory time by entering the hours worked on the time card for the pay period in which the overtime was worked.

15.0 Health, Dental, and Life Insurance

- 15.1 All deductions paid by employees for health insurance premiums shall be made on a biweekly basis but no more than twice in a calendar month. Furthermore, all Court contributions for employee health insurance premiums shall be made on a biweekly basis no more than twice in a calendar month.

- 15.2 (a) The Court shall increase the employer health benefit contribution by up to twelve percent (12%) annually. The annual rate of increase will be determined by the cost increase percentage that applies to the base rate of the most commonly used CalPERS health plan. The new contribution level will be calculated by applying the annual rate of increase to the sum of the previous employer contribution plus the cost of vision.

- (b) In the event the Court notifies the Union that a change in health plan provider is necessary or advantageous, the Union agrees to meet to discuss the issue.

- (c) Employees who satisfactorily demonstrate medical coverage through another source, and elect not to participate as an employee in the Court's health plan may elect to receive one hundred and twenty-five dollars (\$125) per month (or a prorated amount for part time employees) in lieu of participation in the health plan. Election of this option shall occur at time of employment or open enrollment only.

- 15.3 The California Dental Service Plan coverage shall include a six (6) month waiting period for new employees, 100% payment for diagnostic/preventive, and 80/20% co-payment for routine dental work. The cost of such coverage shall be paid by the Court. Effective Sep 1, 2001 the annual dental plan maximum coverage will be increased to \$2000 and the lifetime orthodontic maximum coverage will be increased to \$2000.

- 15.4 The Court will pay for any premium increases for the dental and life insurance plans through the term of this agreement.

- 15.5 Effective January 1, 2008, the Court shall provide Forty Thousand Dollars (\$40,000) of term life insurance for each employee with an option for the employee to purchase up to One Hundred Thousand (\$100,000) of additional term life insurance at the employee's own expense in Ten Thousand (\$10,000) increments at the prevailing group rate.

- 15.6 Retirement Provisions:

- (a) Sick Leave Conversion

The Court shall pay one (1) month single-party health (at the mostly commonly enrolled active employee plan rate) or dental coverage upon retirement for each eight (8) hours of accumulated sick leave in excess of one hundred twenty (120) hours, up to a maximum of one thousand two hundred forty eight (1248) hours. Employees exceeding the one hundred twenty (120) hour threshold may apply the one hundred twenty (120) hours towards this benefit. An employee shall make a one (1) time only choice of receiving either health or dental coverage upon retirement under this provision; sick leave conversion may not be banked to obtain such coverage at a time later than upon retirement. For qualifying retirees electing to participate in the most commonly enrolled active employee plan, the Court shall

contribute an amount equal to the most commonly enrolled active employee premium for Subscriber only. For qualifying retirees electing to participate in a CalPERS PEMHCA health plan, the Court shall contribute an amount equal to the most commonly enrolled active employee premium for Subscriber only which shall be deemed to include the Court contribution for such retirees as mandated under PEMHCA. Retirees may switch plans during the CalPERS open enrollment period. As used herein, retirement means that an employee has both been separated from active permanent service with the Court and will actually begin receiving monthly benefits from the Public Employee's Retirement System not later than the first of the month following said separation.

(b) Long-Term Service Conversion

In lieu of any other health coverage provisions set forth in this Article 15.6, a retiring employee may elect the following: An employee who retires with the equivalent of twenty (20) years or more of continuous, full-time Napa County/Court service shall be eligible for Court-paid single party health coverage (at the most commonly enrolled active employee plan rate) until age 65. For qualifying retirees electing to participate in the most commonly enrolled active employee plan, the Court shall contribute an amount equal to the most commonly enrolled active employee plan premium for Subscriber only. For qualifying retirees electing to participate in a CalPERS PEMHCA health plan, the Court shall contribute an amount equal to the most commonly enrolled active employee plan premium for Subscriber only which shall be deemed to include the Court contribution for such retirees as mandated under PEMHCA. Retirees may switch plans during the CalPERS open enrollment period.

15.7 Less Than Full-Time Schedule – Impact on Benefits:

- (a) Except where a leave of absence without pay for medical reasons or covered by the Family Medical Leave Act is authorized by the Court, an employee must be in a paid status at least forty (40) hours each biweekly pay period to be entitled to Court contribution towards health, dental, and life insurance plans.
- (b) Part-Time employees: Part-time employees working forty (40) hours or more bi-weekly shall be eligible to participate in the health insurance programs on a prorata basis. Prorations shall be based upon the allocation for the employee's position as designated in the Court Allocation list. Election to participate shall be made during the employee's initial enrollment period with the County.
- (c) The employee who is in a paid status less than forty (40) hours each biweekly pay period may elect to personally pay the Court's share of such contribution towards said plans.
- (d) An employee who is on an authorized leave without pay for medical reasons must be in a paid status at least six (6) hours each biweekly pay period in which medical and other similar benefits are deducted to be entitled to Court contribution for that month.
- (e) When terminating from Court service an employee must be in a paid status at least fifteen (15) working days in a month in order to have Court contribution for dental insurance for that month.

15.8 Employee Assistance Program

The Court will provide an Employee Assistance Program with five (5) total sessions per qualifying incident for each employee and family member per fiscal year.

15.9 IRS Section 125 and 129 Plans

The Court agrees to the maintenance of IRS Sections 125 and 129 Plans. Any fees or administrative costs associated with these Plans shall be borne solely by the participating employee.

15.10 Domestic Partner Benefits

Employees who are registered domestic partners, as defined by state law, shall have the same benefits as married employees.

16.0 Sick Leave

16.1 Sick leave means an absence from work due to illness, injury, a doctor's appointment or other closely related preventative health care, or other causes as provided for in Articles 16.9, 22.0 and 29.4(b). Sick leave is not an unconditional right to be absent from work. It shall only be allowed by an employee's supervisor when the conditions described in the definition above have been met.

16.2 Each represented employee, except as otherwise provided herein, is entitled to 3.8 working hours of sick leave with pay for each biweekly pay period of service with an unlimited accumulation of sick leave hours. For the purpose of computing sick leave, each employee shall be considered to work not more than five (5) days each week.

16.3 Conversion of vacation to sick leave. If an employee on vacation becomes ill, he/she may request a conversion of his/her vacation time to sick leave with pay if the illness is three (3) or more working days in duration and is supported by a statement from an accredited physician, or is hospitalized for any period due to accident or illness.

16.4 A former employee who is reappointed to the Court service shall not be entitled to have restored to his/her credit any sick leave balance remaining at the time of his/her separation from Court service with the exception of a former employee whose reinstatement was covered by the provisions identified in Article 31e.

16.5 Sick leave with pay, up to the amount of the employee's accrued sick leave, shall be granted to an employee unable to perform the duties of his/her job because of illness, injury, or pregnancy.

16.6 Any employee requesting sick leave shall, upon request of an Assistant Court Executive Officer, furnish a certificate signed by the licensed attending physician as proof of illness, indicating the general nature of the illness and the length of time the employee was, or can expect to be, off work.

16.7 However, a physician's certificate shall not be requested unless the employee's sick leave absence exceeded or will exceed three (3) consecutive working days, or unless the employee has no accrued sick leave balance, or where the employee's sick leave balance is insufficient to cover the period of actual or anticipated absence.

16.8 However, any employee who, in the opinion of management, is abusing or has abused sick leave privileges, may be required to furnish medical verification as per Article 16.7 above, and may be subject to disciplinary action as defined in Article 5.2(c)(3).

- 16.9 In any calendar year, pursuant to Labor Code Sec 233, an employee may use his or her accrued and available sick leave benefits, up to a maximum of forty-eight (48) hours for the care of his or her ill spouse, registered domestic partner, child or parent. For purposes of this Article, "spouse" means a partner in marriage as defined in California Family Code Section 3000; "registered domestic partner" means a partner in a domestic partnership as defined in Family Code Section 297; "child" means a biological, foster or adopted child, a stepchild, a legal ward or a child of a person standing in loco parentis; or a child of a registered domestic partner; and "parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian. The Court may, at its discretion, require substantiation of illness or injury by a licensed physician's statement.

17.0 Special Pay Practices

- 17.1 A split shift shall mean an assigned work shift of eight (8) hours or more accomplished in a period of not less than twelve (12) nor more than twenty-four (24) consecutive hours. An employee shall receive \$.25 an hour over and above his/her normal hourly rate when working a split shift as defined above.
- 17.2 Night Shift Premium. Employees who are required to work and who actually work between 6:00 PM and 6:00 AM as part of their normal tour of duty shall be paid at the rate of \$.60 per hour over and above the employee's standard hourly rate. This rate shall apply only to those hours worked between 6:00 PM and 6:00 AM and shall be applied to overtime hours. Payment of night shift compensation shall be made on a biweekly basis.
- 17.3 Employees who use their personal vehicles in the performance of their job duties shall be reimbursed for mileage at the then current rate established by the Court Executive Committee. An employee who intends to use his/her personal vehicle to conduct Court business must first (a) complete and file the proper forms stating the intention to use his/her personal vehicle; and (b) have the prior written approval of Court management
- 17.4 Bilingual Pay. The Court will initiate enhanced standards and testing for bilingual compensation. Any employee qualifying for payment under the enhanced testing shall receive fifty dollars (\$50) per biweekly pay period or pro-rata amount for part-time employees in the same ratio as the part-time status relates to full-time. Court employees who currently receive bilingual pay and who elect not to be retested will continue to be compensated at forty dollars (\$40) per biweekly pay period or a pro-rata amount for part-time employees
- 17.5 The Court shall pay up to Five Hundred Dollars (\$500) per year of the State Bar dues of persons employed in positions requiring membership in the California Bar. In order to be reimbursed, an Attorney shall have been employed for one full year prior to the March 1 in question, and shall submit evidence of payment satisfactory to the Court. The Court shall pay for any increases in dues, up to 10% above the amount stated herein, through the term of this agreement.
- 17.6 Real-Time Differential. The Court will pay a 6% differential to Court Reporters who have or attain a national certification for real-time court reporting and who are performing real-time court reporting in the Napa Court. The Court will pay a 3% differential to Court Reporters who meet the Court's established real-time capable requirement and who are performing real-time court reporting in the Napa Court. The Court agrees to reopen to review and discuss Court Reporter real-time differential rates in Year 3 of this Agreement.

18.0 Probationary Period

18.1 Appointments to budgeted positions appearing on the Court Allocation List shall be subject to a probationary period. Upon written request of an employee's appointing authority, the Court may approve counting some temporary, extra help, or provisional service prior to appointment as part of the probationary period, but not to exceed a total of four (4) months. An employee's appointing authority may refuse to consider time worked in a temporary, extra help, or provisional status for job-related reasons. In order for such prior service to be counted, the temporary, extra help, or provisional service must satisfy all of the following conditions:

- (a) It must have been in the same classification and department as that to which the new appointment is made;
- (b) It must have been full time;
- (c) It must have been separated by no more than four (4) calendar days from the date of the new appointment.

Notwithstanding satisfaction of all the foregoing conditions, the Court may, with good cause, disapprove counting such prior temporary, extra help, or provisional service as part of the probationary period of an employee.

18.2 The probationary period shall be for twelve (12) months for all employees except hereinafter provided, and shall begin on the first date of employment. The probationary period shall be six (6) months upon promotion but may be extended up to twelve (12) months as provided in Article 18.3.

18.3 In cases where it is believed that the Court has had insufficient time to evaluate the employee accurately or in cases where it is believed that additional time on probation might allow the retention of the employee or for other exceptional reasons, the appointing power may request an extension of the probationary period up to a total of twelve (12) months on an employee. Written extension requests are to be submitted for review and recommendation to the Human Resources Manager at least ten (10) working days prior to the end of the probationary period. The request shall contain the reasons and justification for the extension, duration of extension, and be accompanied by the employee's six month performance report. The Human Resources Manager will make a recommendation to the Court Executive Officer. If approved by the Court Executive Officer, the employee shall be notified in writing by his appointing power of the extension of his probationary period. An employee attains permanent status unless otherwise notified prior to completion of the probationary period. When unusual circumstances occur during the last ten (10) days of the probationary period the Court Executive Officer shall have the authority to extend the probationary period by thirty (30) calendar days.

19.0 Work Schedule

19.1 Purpose: This Article is intended to define the normal hours of work and shall not be construed as a guarantee of hours of work per day or per week, or of days of work per week.

19.2 Workday - The normal workday shall be eight (8) consecutive hours of work, exclusive of at least a thirty (30) minute lunch period, in a consecutive twenty-four (24) hour period, except as provided in Article 19.6, (Emergencies), and except as provided in Article 19.4 for child care. Each eight (8) hour shift may, in the option of the employee, include two (2) fifteen (15) minute rest periods, as provided in Article 27.0.

19.3 Workweek: The normal workweek shall be five (5) consecutive workdays and two (2) days of rest in a seven-consecutive-day period except as provided in Article 19.6 (Emergencies).

- 19.4 **Work Shifts:** Employees shall be scheduled to work on regular work shifts having regular starting and quitting times. Except for emergencies (see Article 19.6) employees' work shifts shall not be changed without twenty-four (24) hour prior notice to the employee. (An overtime assignment does not constitute a change in work shift.) However, an employee may, for child care, request on a temporary basis that he/she have a different starting and ending time each workday during the current workweek. Furthermore, such employee may also request to work more than eight (8) hours in a workday to make-up for time missed for child care reasons during the current workweek. Different starting and ending times and make-up time under this provision shall not be considered as overtime except when total actual hours worked exceeds forty (40) in a week.
- 19.5 **Work Schedule:** A work schedule is the specifically named days of the week which comprise an employee's normal workweek. Except for emergencies (see Article 19.6) employee's work schedules shall not be changed without twenty-four (24) hour prior notice to the employee.
- 19.6 **Emergencies:** Nothing herein shall be construed to limit the authority of management to make temporary assignments to different or additional locations, shifts, or work duties for the purpose of meeting emergencies. However, such emergency assignments shall not extend beyond the period of such emergency.
- 19.7 **Alternative Work Schedule – In Court Divisions** where employees are interested in pursuing consideration of an alternative work schedule, the following procedure will be followed:
- (a) Division employees and their supervisor will meet to develop a group proposal for submission to the appropriate Court Manager. Consideration should be given in the proposal to the degree the schedule change would impact the Court in either a positive or negative manner (i.e. phone coverage, front counter coverage, etc.) Human Resources should be consulted on timekeeping issues (i.e., leave, Holidays, overtime, etc.)
 - (b) The completed proposal is presented to the appropriate Court Manager for review. The Court Manager has 30 calendar days to make a determination as to what kind of impact the proposed alternative work schedule will have on Court operations. In order to be considered further, any work schedule variation must be found to have a positive impact on the operations of the Court. If a positive finding is made, the proposed work schedule will be presented to the Court Executive Officer (or his designee) for consideration of implementation for up to a six (6) month trial work schedule.
 - (c) The Court Executive Officer will review the group proposal along with the management finding and make a decision on implementation of the proposed schedule within 30 calendar days of receipt. Any variation in work shift, work week or work schedule must be approved in writing by the Court Executive Officer prior to implementation. If the proposal is rejected, the Court will provide the reason for denial.
 - (d) If the Court Executive Officer approves the group proposal, the Court will implement the alternative work schedule on a trial basis for a period of up to six (6) months.
 - (e) If the Court determines during the period of the trial work schedule that the schedule adversely affects customer service or Court operations, the Court will have the right to determine that the trial schedule should be terminated. In this event, the Court will provide notice to the Union and allow a 30-day

period during which the Union will have the opportunity to provide feedback on the decision.

- (f) At the end of the 30-day notice period, the Court Executive Officer will consider the results of the trial work schedule along with the input from the Union and make a final decision as to whether to terminate or continue with the adjusted work schedule. If a decision is made to terminate the alternate work schedule, employees will be given one full pay period notice prior to reverting back to the regular work schedule.
- (g) Overtime for purposes of this Article shall be defined as actual hours worked in excess of the employee's alternate work shift, work week or work schedule.
- (h) It is the understanding that the provisions of this item are not subject to the grievance procedure in the Memorandum of Understanding.

19.8 The Court agrees to maintain the voluntary Job Sharing policy.

20.0 Equipment Provisions

- 20.1 Safety Glasses - Whenever their use is required by the Court, the Court shall provide safety glasses at no cost to the employee.
- 20.2 In the event the Court should mandate real-time reporting, the Court shall provide all necessary equipment, software and training necessary to enable Court Reporters to provide this service in the courtroom.
- 20.3 The Court will form a labor-management committee to make recommendations on real-time equipment, software and procedures for use in the Napa Court.
- 20.4 The Court agrees to form a labor-management committee to discuss providing "back-up" steno machines for Court Reporters to use should their equipment fail while performing Court business.

21.0 Personnel Files

- 21.1 An employee, or his/her Union representative with the written consent of the employee, may inspect that employee's personnel file with the exception of all material obtained from other employers and agencies at the time the employee was hired.
- 21.2 An employee shall be entitled to read any statement of an adverse nature which is to be placed in his/her personnel file. For the purposes of this Article, adverse nature includes, but is not limited to, documents evidencing discipline, as defined in Article 5.2(c)(3) of this Memorandum of Understanding. Whenever possible, the employee shall acknowledge that he/she has read such material by affixing his/her manual signature on the actual copy to be filed, with the understanding that such signature merely signifies that he/she has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign, the supervisor shall note his/her refusal on the copy to be filed along with the supervisor's manual signature and the manual signature of a witness to the employee's refusal to sign. An employee or the Union representative at his/her option shall be entitled to a copy of any document to be placed in the employee's file. An employee may provide written comments to any item contained in his/her personnel file. Such comments will at the employee's option be placed in his/her file for future reference.

- 21.3 All materials submitted to the Human Resources Office without the signatures required by Article 21.2 shall be returned to the appropriate manager/supervisor for those signatures.
- 21.4 A letter of reprimand shall remain in an employee's open file for two (2) years. If there are other similar incidents within the two (2) year period, then another two (2) year period begins from the date of the most recent incident. However, if there are no other similar incidents during the two (2) year period, the letter of reprimand shall, upon the employee's request, be sealed and remain in the employee's file. The Court shall be able to rely on the letter of reprimand for progressive discipline purposes for a total of five (5) years from the original date of each such letter.

22.0 Pregnancy Leave

- 22.1 The parties agree that the Court shall grant a leave of absence without pay to any probationary or permanent employee who becomes disabled as a result of pregnancy, which disability prevents her from performing the duties of her position. Such employee may, but the employee does not have to, first use any accrued vacation or compensatory time off, before electing to go on leave of absence without pay under this provision. Prior to the employee's beginning pregnancy leave, the employee shall submit a request for vacation, compensatory time off, or sick leave to be utilized during said leave, if any. Once the request has been submitted by the employee and a leave schedule (with or without use of requested accrued benefits) has been approved by the Court Executive Officer such schedule shall not be changed without the approval of the Court Executive Officer. Such leave schedule shall not permit the alternating of paid leave (vacation, sick leave, or compensatory time off) with leave without pay. Such leave of absence without pay shall not exceed one hundred twenty (120) calendar days, whether or not it is combined with sick leave, vacation, or compensatory time off.
- 22.2 The use of Article 22.1 does not preclude an employee from utilizing the Family Care and Medical Leave Act.
- 22.3 Any employee who grieves Article 22.2 shall only be allowed to pursue such grievance up to and including the Court Executive Officer.

23.0 Salary on Reduction

- 23.1 When an employee requests and accepts a voluntary reduction to a position with a lower salary range maximum, the salary of the employee shall be adjusted to the next lower grade/step not less than one full grade/step in the salary range for the employee's new class unless it would be below the minimum of the new salary range. In such instance, the salary would be the minimum of the new range. After the one (1) full grade/step adjustment, an employee's salary may fall within the salary range of the new class but not necessarily on an established grade/step in the new range. In such event, the employee's salary may be adjusted to the nearest higher salary grade/step in the new range at a subsequent salary anniversary date of such employee. If, after the one (1) full grade/step adjustment, the employee's salary remains above the salary range maximum of the new class, said employee's salary shall be adjusted to that maximum. In such cases, the employee shall retain the same salary anniversary date.
- 23.2 When an employee is adjusted to a position with a lower salary range maximum for reasons of unsatisfactory performance or disciplinary reasons, the employee's salary shall be adjusted to the next lower grade/step not less than one full grade/step in the new salary range unless it would be below the minimum of the new range. In such instances, the salary would be the minimum of the new range. After the one (1) full grade/step adjustment, an employee's

salary may fall within the salary range of the new class but not necessarily on an established grade/step in the new range. In such event, the employee's salary may be adjusted to the nearest higher salary grade/step in the new range at a subsequent salary anniversary date of such employee. If, after the one (1) full grade/step adjustment, the employee's salary remains above the salary range maximum of the new class, said employee's salary shall be adjusted to that maximum. The effective date of the action shall become the employee's new salary anniversary date.

- 23.3 When an employee accepts a demotion to a vacant lower class in a different series in lieu of layoff and the employee does not have prior seniority status in the lower class and the employee's current salary exceeds the salary range maximum of the lower class, the salary shall be adjusted to the salary range maximum in the lower class. The employee's current salary may fall within the salary range of the lower class but not necessarily on an established grade/step in the new range. In such event, the employee's salary shall not change and may be adjusted to the nearest higher salary grade/step in the new range at a subsequent salary anniversary date of such employee. The employee shall retain the same salary anniversary date.

24.0 Employment of Relatives

The employment of a member of any employee's immediate family shall only be permitted when (1) the related employee is not supervised by, or supervises, the relative, and when (2) the course and nature of their work is independent and does not cause interaction or a close working relationship. An employee's immediate family shall be considered for this provision as spouse, domestic partner as defined in California Family Code section 297, child, mother, father, grandparent, or grandchild, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, or a corresponding step-relationship.

25.0 Timekeeping: Part-Time Employees

- 25.1 Sick leave, vacation, compensatory time off, paid leave, etc. may be utilized and shall be charged against employee records to the nearest one-tenth (.10) of an hour.
- 25.2 For purposes of this Memorandum of Understanding, the fiscal year shall begin at 12:01 AM on the first Saturday in July and end at 12:00 Midnight on Friday, fifty-two (52) weeks later.
- 25.3 Except as provided herein, part-time employees shall earn pay, leave, and related benefits accorded to full-time employees in the same ratio as their part-time employment relates to full-time employment. Such pro-rata treatment shall not apply to the establishing of initial eligibility for health, dental, life, or other insurance programs or timing of merit grade/step increases or vacation accrual rate on behalf of part-time employees. For this purpose, a part-time employee is an employee whose position is listed as less than full-time on the Court allocation list.

26.0 Call Back

- 26.1 An employee called back to work shall be compensated at time and one-half (1½) for all hours actually worked portal-to-portal. The employee shall choose between compensatory time off or cash payment. The time difference between hours actually worked converted to time and one-half (1½) and a three (3) hour minimum for call-back shall be recorded as straight time cash or compensatory time off.

26.2 An employee exempt from FLSA called back to work shall be credited with a minimum of three (3) hours at straight time and shall be compensated portal-to-portal.

26.3 An employee shall be compensated for call-back upon meeting conditions (a) and (b), or (a) and (c):

- (a) The call-back work period is more than two (2) hours separated from the employee's normal work shift.
- (b) Employee has departed from his/her work location.
- (c) The employee is required to make a job-related court appearance scheduled during off-duty hours. For this purpose, off-duty hours are those hours outside an employee's normal work shift.

Call-back pay for court appearance purposes shall not apply when the appearance occurs two (2) or less hours before the beginning, or two (2) or less hours after the end of an employee's normal work shift. Any such court appearance time in these instances beyond the employee's normal work shift, would be considered time worked for overtime computation purposes.

26.4 Call-back compensation shall not apply under any of the following conditions:

- (a) When it occurs within two (2) hours or less before the employee's regular starting time on the next regularly scheduled shift.
- (b) Employee is called back to work a second time within four (4) hours of time worked under 26.3 above.
- (c) Employee is notified he/she will be required to work additional hours beyond the ending time of his/her normal daily work shift, and such notice is given twenty-four (24) or more hours in advance of the time worked.
- (d) When a job-related court appearance during off-duty hours is scheduled two (2) or fewer hours before the beginning, or two (2) or fewer hours after the end, of an employee's normal work shift.

26.5 Time worked under 26.4 above and time for staff meetings and training sessions shall be compensated on an hour-for-hour basis.

26.6 All compensation for work under this provision shall be made in accordance with Article 14.0 (Overtime).

26.7 An employee who otherwise qualifies for call-back under this Article and is not on standby duty, shall be compensated at time and one-half (1½) for all actual hours worked on call-back.

27.0 Rest Periods

Every employee may be granted a rest period of not to exceed fifteen (15) minutes during each four (4) hours or major fraction thereof of a working period, but the total for any day shall not exceed thirty (30) minutes. The manager/supervisor shall determine the time when the rest period is to be taken. Insofar as practicable, the rest period shall be granted in the middle of each work period. Rest period time shall not be accumulated. No wage deduction for time off shall be made or charged for an authorized rest period. Nor shall any rights accrue for overtime if a rest period is not taken.

28.0 On-the-Job Injury

Whenever any person who is holding a position provided by this Article is injured in the course of employment, he/she shall be compensated in accordance with the provisions of the Workers' Compensation Act. It shall be Court policy to apply a pro-rata share of accrued sick leave to equal the difference between the compensation to which the employee is entitled under the Workers' Compensation Act and his/her regular pay, not to exceed the amount of accrued sick leave. An employee may also elect to use any accrued vacation time and equivalent time off for overtime in like manner after his/her sick leave is exhausted.

29.0 Miscellaneous Leaves of Absence With Pay

Leaves of absence with pay, pursuant to subparagraphs 29.1 and 29.2, shall not be chargeable to accrued vacation credits.

29.1 Military leaves of absence. Every represented employee shall be entitled to such leaves of absence with pay and other benefits as are provided in Division 2, Part 1, Chapter 7 of the Military and Veteran's Code.

29.2 Leaves of absence for judicial purposes.

- (a) A represented employee shall be entitled to leaves of absence to appear as a witness in court other than as a litigant, in a court which has jurisdiction to compel his/her presence for reasons not brought about through the connivance or misconduct of such employee.
- (b) Every represented employee shall be entitled to leaves of absence when regularly called for jury duty in the manner provided by law.
- (c) Such leaves of absence shall be granted with pay, up to the amount of the difference between the regular earnings of said employee, and any amount he/she received for jury or witness fees, except that when an employee serves on jury duty outside the County of Napa, the employee may retain the travel expenses received from the court.
- (d) Employees who are empaneled on a jury in the Napa Superior Court are excused from work as described herein. The employee will report to work at their regular start time unless the jury is scheduled to meet within the first two (2) hours of the work day. The employee will report to work when the jury is dismissed unless there are less than two hours remaining in the employee's work day. If, during the day, the jury is not in session for a 2-hour period or longer, excluding the lunch hour and concurrent with the employee's work schedule, the employee is required to return to work.

29.3 Voting Time. An employee who is eligible to vote in primary and general elections shall be granted adequate time at the start or the end of the work schedule to vote, not to exceed two (2) hours, at a time when the polls are open and in accordance with California state law. This section is limited to those employees whose regular work schedule severely limits access to the polls, and is subject to approval by the Court. Employees shall provide their supervisor with a written request for this special leave no later than two workdays before the election.

29.4 Absence Due to Death or Critical Illness in Family

- (a) Any permanent or probationary employee may be absent from duty by reason of the death of a member of his/her immediate family. Such bereavement leave shall be with pay for a total not to exceed forty (40) hours per incidence. In the event additional leave is needed, the employee may request the use of vacation or sick leave. Immediate family for this provision shall be limited to spouse, domestic partner as defined in California Family Code section 297, child, mother, father, grandparent or grandchild, brother, sister, the corresponding step-relationship, mother-in-law, father-in-law, sister-in-law, or brother-in-law. Such leave shall not be charged against accumulated sick leave or vacation.
- (b) Whenever any permanent employee is absent from duty by reason of the critical illness, where death appears imminent, of a member of his/her immediate family, he/she shall be entitled to leave with pay, not to exceed forty-eight (48) hours in a fiscal year, chargeable to sick leave.

29.5 Voluntary Time Off (VTO) Program. The Court and the Union agree to offer the current VTO program each year of this agreement. Current program components, including the 80 hour limit for each fiscal year, will remain in place. The parties understand that approval of VTO is at the sole discretion of Court management and that the Court has noticed the Union that VTO will not be afforded as a leave option effective July 1, 2007 and for the remainder of the term of the Agreement.

30.0 Leave of Absence Without Pay

- 30.1 Upon written request, an employee may be granted a leave of absence without pay, provided such request receives the approval of the Court Executive Officer. A leave without pay request may be granted for any of the following reasons:
- (a) Illness or disability.
 - (b) To take a course of study which will increase the employee's usefulness on his/her return to the position.
 - (c) For personal reasons acceptable to the concurring and approving authority as set forth above.
 - (d) Child care.
- 30.2 A copy of any approved request for leave of absence without pay shall be delivered promptly to the Court Human Resources Manager.
- 30.3 A leave of absence without pay may be for a period not to exceed one (1) year, provided the Court Executive Officer may extend such leave for an additional period not to exceed one (1) year. Procedure in granting extensions shall be the same as that in granting the original leave, provided that said extension must be made not later than fourteen (14) days before the expiration of the original leave.
- 30.4 Whenever an employee who has been granted a leave without pay desires to return before expiration of such leave, he/she shall notify his/her Assistant Court Executive Officer as soon as possible in advance of the return. The Court Human Resources Manager shall be notified promptly of such return. Moreover, the Assistant Court Executive Officer shall give the employee filling the position temporarily at least two (2) weeks notice prior to terminating his/her employment.

- 30.5 An employee taking leave without pay shall earn sick leave and vacation leave during the week in which the leave of absence occurs according to the following weekly schedule. Such sick leave and vacation accruals shall be calculated to the nearest hundredth.

<u>Hours LWOP</u>	<u>Percentage of Accrual</u>
2 - 3.9	90
4 - 7.9	80
8 - 11.9	70
12 - 15.9	60
16 - 19.9	50
20 - 23.9	40
24 - 27.9	30
28 - 31.9	20
32 - 35.9	10
36 - 40.0	0

- 30.6 Any employee who is absent without proper authorization for three (3) work days or more may be automatically terminated from Court employment.

- 30.7 The granting of any authorized leave of absence without pay shall cause an employee's salary anniversary date to be adjusted by the number of pay periods equal to the nearest number of pay periods for which the leave is granted in accordance with the schedule shown below. Leave without pay hours considered in a salary anniversary date adjustment are not counted again for later salary anniversary date adjustments.

<u>Hours Without Pay</u>	<u>Anniversary Date Extended</u>
0 - 56	No Change
57 - 120	One Pay Period
121 - 200	Two Pay Periods
201 - 280	Three Pay Periods
281 - 360	Four Pay Periods
Etc.	

- 30.8 Every employee must expend all of his/her accumulated vacation leave in excess of eighty (80) hours and all of his/her compensatory time prior to commencing an approved leave of absence without pay. Every employee who, having less than eighty (80) hours of accumulated vacation leave, chooses to expend his/her accumulated vacation leave in connection with the taking of approved leave of absence without pay, must expend said accrued vacation prior to commencing his/her leave of absence without pay.

- 30.9 Except for an employee who is off work and receiving State Disability Insurance (SDI) payments, no employee shall be permitted to alternate the use of paid leave (vacation, sick leave, compensatory time off, etc.) with leave without pay.

- 30.10 An employee shall earn holiday credit in accordance with the table in Article 30.5 whenever he/she is on leave without pay during a week when the Court observes a holiday.

31.0 Vacation

- (a) Every employee in a permanent full-time position provided for by this Article shall accrue vacation leave as provided in the following schedule:

Vacation Leave Accruals		
Yrs of Continuous Service	Accrual per Pay Period	Maximum Accrual Allowed
1 to 3 Yrs	3.8 hrs	240 maximum hrs
4 to 10 Yrs	4.8 hrs	300 maximum hrs
11 to 20 Yrs	6.2 hrs	400 maximum hrs
21 or more Yrs	8.0 hrs	400 maximum hrs

- (1) An employee's new vacation accrual rate will be effective the first day of the first full pay period of continuous service indicated in the above schedule.
- (2) Each employee may, with approval of their supervisor take vacation privileges as they are earned.
- (3) An employee shall have his/her vacation accrual date adjusted in accordance with the schedule set forth in Article 30.7 when he/she is on leave without pay. Such adjustments shall be made during each fiscal year in accordance with said schedule.
- (b) Part-time employees working in a position listed on the Court Allocation List shall earn vacation benefits on a pro-rata basis, proportional to full-time employment.
- (c) Employees whose continuous temporary or provisional service has been applied towards their probationary period in accordance with Article 18.1 shall begin earning vacation benefits from date of hire in a probationary status.
- (d) Any person separating from Court service shall be entitled to payment in lieu of earned vacation equal to salary otherwise payable for such period. Compensation for terminal vacation shall be computed at the hourly rate of the range and grade/step applicable to the position on the last day upon which the employee shall have been in a paid status, exclusive of the terminal vacation period, and shall be only for accrued vacation not taken.
- (e) A permanent employee who voluntarily separates from Court employment while in good standing but who is reinstated to the same position on or after January 1, 2001 within twelve (12) months of such separation, shall return with the same vacation accrual rate and unused sick leave that the employee had upon separation. If the rehired employee had elected to use his or her accrued unused sick leave for either service credit or for payment of health or dental insurance premiums upon the employee's previous retirement, the employee shall not have his or her prior sick leave balance restored. The adjusted vacation accrual rate will begin to accrue no later than 60 days after the effective date of this MOU.
- (f) No person shall be permitted to work for compensation for the Court in any capacity during the time of his/her paid vacation.
- (g) An employee may cash out no less than 8 hours and no more than 60 hours of accrued vacation on December 1 of each year, provided that the employee has taken no less than 80 hours of vacation during the prior twelve months and has at least 40 hours remaining after the cash out.

32.0 Holidays

(a) The following listed holidays are generally observed by the Court.

1. January 1 (New Year's Day)
2. The third Monday in January (King's Birthday)
3. The third Monday in February (Washington's Birthday)
4. Cesar Chavez Day (March 31)
5. The last Monday in May (Memorial Day)
6. July 4 (Independence Day)
7. The first Monday in September (Labor Day)
8. The second Monday in October (Columbus Day)
9. November 11 (Armistice Day)
10. The fourth Thursday in November (Thanksgiving Day)
11. The day following Thanksgiving Day
12. Every day appointed by the President of the United States or the Governor of the State of California for a public holiday, thanksgiving, or fast when:

- a. By the terms of such appointment, such day will not occur thereafter on an annual basis and such day is also observed by employees of the State of California pursuant to a collective bargaining agreement between the State of California and SEIU, Local 1000 or its successor organization or when;
- b. By the terms of such appointment, such day will thereafter recur on an annual basis, such day may be observed following meeting and conferring and mutual agreement by the Court and the Union, provided that if such a holiday is mutually agreed upon, then it shall only be observed if the Court Executive Committee formally approves the holiday.

13. December 25 (Christmas Day)

Except as to subdivision (a) 12 a., in the event any of the above holidays fall upon a Sunday, the Monday following is a holiday in lieu thereof.

Except as to subdivision (a) 12 a., in the event any of the above holidays fall upon a Saturday, Friday preceding is a holiday in lieu thereof.

- (b) Number of holidays for shift workers and part-time employees. Employees assigned to shift work and employees on a less than full-time work schedule as listed on the Court Allocation List shall not receive a greater or lesser number of holidays in any calendar year than regular, full-time assigned employees.
- (c) In order to be eligible to receive compensation for a holiday, an employee must work, or be in a paid status previously approved by the employee's manager/supervisor, at least four (4) hours the workday immediately before, and four (4) hours the first workday immediately after that holiday. Part-time employees whose regular work schedule is in conflict with the foregoing are exempt, providing they work or are in an approved paid status according to their schedule immediately before and immediately following such holiday.
- (d) Employees in this unit shall be entitled to four (4) hours paid leave on the afternoon before Christmas Day or New Year's Day, except that no such paid leave shall be granted when Christmas Day or New Year's Day falls on a Saturday, Sunday, or Monday.
- (e) An employee who is scheduled to work on a paid holiday, but who, for medical reasons, is unable to do so shall receive equivalent straight time compensatory leave. Such

compensatory leave may be taken only with prior supervisory approval and must be taken within the fiscal year.

- (f) Part-time employees working in a position listed on the Court Allocation List shall, where otherwise eligible, receive holiday benefits on a pro-rata basis, proportional to full-time employment.
- (g) All employees in this unit shall receive three (3) hours of personal leave each fiscal year which may be used to attend religious services or for other personal reasons. Personal leave will be the first leave balance to be debited whenever an employee requests discretionary leave other than Sick Leave. Personal Leave will continue to be available for use until October 1 of the subsequent Fiscal Year. The Court will cash out any unused Personal Leave remaining after October 1 of the following Fiscal Year.
- (h) During the first pay period of the fiscal year, full-time employees shall be granted eight (8) hours of personal leave in lieu of Admission Day (September 9); and, effective July 1, 2002, eight (8) hours of personal leave in lieu of Lincoln's Birthday (February 12). This leave must be used as specified in paragraph 32 (g) above. Subsection 32(f) regarding eligibility of part-time employees for holiday benefits on a pro-rata basis shall be applicable to this subsection.

33.0 Pay-Setting Procedure

33.1 Salary on Promotion

Any employee who is appointed to a class having a higher salary range than the class which he/she formerly occupied shall receive the nearest higher biweekly salary not less than one full grade/step in the new salary range, but not to exceed the salary range maximum as of the date upon which the promotion becomes effective. In such cases, the employee shall receive a new salary anniversary date.

33.2 Salary on Transfer

Any employee who is transferred from one position to another shall be compensated at the same grade/step of the salary range as he/she previously received if such transfer is to the same class or to another class having the same salary range. In such cases, the employee shall retain the same salary anniversary date.

33.3 Changes in Salary Allocation

The salary of an employee who has permanent status in a class which is reallocated to a new salary range shall be determined as follows:

- (a) If the class is reallocated to a higher salary range, the employee shall be compensated at the same grade/step in the salary range as he/she was receiving in the range to which the class was previously allocated on the effective date of such action.
- (b) If the position is reallocated to a lower salary range, the employee shall continue to receive the same compensation he/she received in his/her former class on the effective date of such action.
- (c) In both cases, the employee shall retain the same salary anniversary date.

33.4 Salary on Position Reclassification

The salary of an employee whose position is reclassified shall be determined as follows:

- (a) If the position is reclassified to a class having the same salary range, the salary of the employee shall not change and neither shall his/her anniversary date.
- (b) If the position is reclassified to a class which has a higher salary range, the salary of the employee so affected shall be the nearest higher monthly salary not less than one full grade/step in the new range. The effective date of the reclassification shall be the new salary anniversary date of said employee for further merit grade/step increases within the salary range.
- (c) If the position is reclassified to a class having a lower salary range, the salary of the employee shall not change and neither shall his/her anniversary date.

33.5 Neither the Union nor any employee may grieve or demand arbitration of a disagreement regarding the allocation of a salary or salary range of any class pertaining to an employee or employees in the personnel transactions described in Articles 33.1, 33.2, 33.3 or 33.4.

33.6 Salary Anniversary Date

"Salary Anniversary Date" shall mean the effective date of appointment, promotion, demotion, or reclassification, if such is the first working day of a biweekly pay period. If the appointment is effective on a date other than the first working day of a biweekly pay period, the salary anniversary date shall be the first day of the biweekly pay period following such appointment.

33.7 The effective date of any change occurring in connection with Articles 33.1, 33.2, 33.3 and 33.4 shall be the first day of the biweekly pay period in which the change occurs.

34.0 Furlough/Layoff Procedure

34.1 The Court shall have the authority to eliminate budgeted positions and thereby lay off or furlough employees for any of the following reasons: lack of work, lack of funds, or in the interest of economy. Interest of economy includes operational concerns such as the apportionment of functions/services in the manner deemed to be the most appropriate and does not necessarily equate to the least expensive apportionment of functions/services.

34.2 The Court shall determine the number of budgeted positions to be eliminated and the classification in which layoffs or furloughs are to be made and the number of employees to be affected.

(a) As soon thereafter as possible, the Court shall consult with the Union about such layoffs.

(b) The Court agrees to meet and confer with the Union on implementing a mandatory furlough in lieu of layoffs in the event personnel cost reductions are needed.

34.3 Once a layoff list is developed by the Court, a list of affected persons shall be sent to the Union.

34.4 Definitions -

(a) A layoff is defined as actual separation from Court service, an involuntary reduction in work hours, or a demotion in lieu of layoff for any of the reasons described in Article 34.1 above.

- (b) For the purposes of this provision, a class is defined as any position or group of positions with the same classification title.
- (c) A series is defined as a number of classes related to one another in terms of ascending difficulty, authority and/or responsibility within the same occupational field. (The classes that constitute a series shall be determined by the Court following consultation with the Union.)
- (d) Seniority in a class under this provision shall mean continuous-paid service in limited-term, probationary, and regular status in a class; time worked in a Napa County department in the same class; time worked in the Court in another closely related class that was abolished and not replaced; and time worked in a temporary out-of-class assignment. An employee's seniority shall not be broken during a leave of absence without pay. The time during such leave of absence, however, shall not be counted towards seniority. The computation of seniority for part-time employees in regular allocated positions shall be based on the total number of hours worked in a class.
- (e) Seniority in a series under this provision shall mean continuous-paid service in limited-term, probationary, and permanent status in a series; time worked in a temporary out-of-class assignment; time worked in the Court in another closely related class that was abolished and not replaced. An employee's seniority shall not be broken during a leave of absence without pay. The time during such leave of absence, however, shall not be counted towards seniority. Time worked in a Napa County department in the same series shall be used to determine the right of an employee to displace another employee in a lower class in the same series in the Court.
- (f) Displacement right means the right of an employee with more seniority to cause an employee with less seniority to be demoted to a lower level position or to be laid off. When no lower level position exists, the employee with less seniority is laid off.
- (g) Higher level employee under this provision means an employee in a class with a higher salary range maximum than another employee in a class with a lower salary range maximum within the same series.
- (h) Flex staff position means a position which is budgeted and thereby eligible to be filled either at the entry or at the journey level in a series. In determining seniority when all employees in a flexibly staffed class series occupy the highest class in the series, the total length of time each employee worked in the series shall be considered as time worked in the current class. When all employees in a flexibly staffed class series do not occupy the highest class in the series, the classes shall be considered as allocated and budgeted at each level.
- (i) Right of first refusal means a former or current employee on the Re-employment List has the first right to employment in a vacant position and that others will not be offered employment in such position until such former or current employee has declined appointment as provided in Article 34.11 (e).

34.5 An employee who has been selectively certified to a position requiring special qualifications shall be considered in a separate classification for purposes of layoff. The only positions for which this provision shall apply will be: (a) those requiring special qualification by law in order to be eligible to receive funds; and (b) those by job necessity that require either a male or female employee; and (c) those positions that necessitate a bilingual speaking employee.

Subsection (c) shall not apply if there is another employee in the Court who possesses both the special qualifications required to perform the job and greater seniority than the specially certified employee.

34.6 A layoff in one classification series shall not affect employees working in any other series, unless an employee had prior limited-term, probationary, or permanent status in a class within another series. In such instance such employee, who would otherwise be laid off, may displace an employee in another series as long as he/she has more seniority in the prior or in a lower level class in the same series in accordance with Article 34.7 (a).

34.7 (a) Where layoffs or demotions are to occur they shall be initiated with employees having the least seniority within a class and shall progress through employees having the most seniority within a class. When there is more than one employee with the same seniority, the order of layoff shall be determined by considering the employees' most recent performance evaluation, with the employee receiving the lower evaluation being laid off before the employee receiving the higher evaluation.

(b) After determining the class, the appointing authority shall designate the persons to be laid off according to the following criteria:

All layoffs, as determined by the Court, shall be made in the following order: firstly, those employees hired under emergency conditions; then temporary employees; then limited term, then probationary, and finally employees holding regular status.

(c) An employee who acquires probationary status in a class shall be given seniority credit for the prior continuous temporary service which had been approved for application towards the completion of the probationary period. This provision only applies if the prior continuous temporary service was approved under Article 18.1.

(d) Union may consult with the Court where both layoffs are scheduled to occur and services are provided by contract. Such consultation shall involve only those job classifications, by budget unit, in which layoffs are scheduled to occur and in which the same duties are performed under contract. Following consultation, and provided that it involves the breach of no contract, the appointing authority may recommend the termination of contracts in lieu of the layoff of employees.

34.8 (a) An employee who has been designated for layoff may displace an employee in a lower class in the same series in accordance with his/her standing as listed in Articles 34.7 (a) and 34.7 (b). In the same manner, the employee thus displaced may likewise displace another employee, and so on. A higher level employee who has been designated for layoff, or an employee who has otherwise been demoted from higher level class in the same series, shall retain his/her seniority accrued in a higher level class and have same counted towards seniority in a lower class. When no lower level budgeted position exists, the employee with the least seniority is laid off.

(b) An employee who was promoted or reclassified and whose former class was abolished or replaced shall have displacement rights to the class that replaced his/her former class. In this instance, an employee who would otherwise be laid off may displace another employee in the existing class if he/she has more seniority in the class.

(c) The Court and the Union may agree that an employee who is subject to layoff may cause a reduction in hours to another employee in a lower class in the same series in accordance with his/her standing as listed in Articles 34.7 (a) and 34.7 (b) in lieu of

layoff. In order for such agreement to be implemented, it must also be agreed to by the simple majority of affected employees.

- (d) Employees may consult with the Court regarding the sharing of positions among them in lieu of layoff. All affected employees must agree to such an arrangement. Furthermore, the sharing of positions must be approved by the Court Executive Officer before it may be implemented.
- 34.9
- (a) An employee to be laid off shall be given not less than ten (10) working days advance written notice of the effective date of such layoff by the appointing authority. The notice may be either personally delivered to the employee or sent by certified mail to the employee's last known address. The last known address shall be considered as being the address which is in the personnel file of the employee. The notice shall be deemed served on the date it is personally delivered to the employee or on the date it is mailed to his or her last known address.
 - (b) To be considered for demotion in lieu of layoff, an employee must notify his/her appointing authority in writing of his/her decision not later than five (5) working days after receiving the notice of layoff.
- 34.10
- (a) The names of employees laid off or demoted under this procedure, arranged in the order of greatest to least seniority, by class, shall constitute a Re-employment List for the class. The person's name shall remain on the Re-employment List for two (2) years from the effective date of layoff of such employee. An employee who is rehired within the two (2) year period shall retain his/her seniority, and shall retain his/her years of service for vacation refusal accrual as the same existed on the date of layoff.
 - (b) Individuals identified on a Re-employment List shall have the right of first refusal for appointment to fill a vacancy in the same class from which the employee was laid off. A person who accepts such reappointment within one (1) year of the date of layoff or demotion shall be rehired at the same employment status (probationary or permanent) held as of the date of such layoff or demotion. A person who accepts such reappointment after one (1) year of the date of layoff or demotion and within two (2) years of the date of such action shall serve a six (6) month probationary period. The person's salary shall be at the same salary grade/step held as of date of layoff or demotion. Such re-employment shall establish a new salary anniversary date for an employee who actually separated from Court service under this Article.
 - (c) A person on the appropriate Re-employment List as determined herein who has requested in writing an appointment to a lower class in the same series from which he/she was laid off, shall be offered employment in order of seniority in the series. This provision shall take precedence over Article 34.10(a). A person who accepts such reappointment within one (1) year of the date of layoff or demotion shall be rehired at the same employment status (probationary or permanent) held as of the date of such layoff or demotion. A person who accepts such reappointment after one (1) year of the date of layoff or demotion and within two (2) years of the date of such action shall serve a six (6) month probationary period. The person's salary shall be at the same salary grade/step held as of date of layoff or demotion. Such re-employment shall establish a new salary anniversary date.
 - (d) An employee who was demoted in lieu of layoff and who accepts reappointment in the same class from which the employee was demoted shall (1) retain his/her seniority in the class from which he/she was demoted as of the date of reappointment, and (2) such reappointment shall not establish a new salary

anniversary date. When an employee's salary was Y-rated at the time of demotion, the employee upon reappointment shall be placed in the same salary grade/step as was held as of date of demotion.

- (e) An employee, in order to be returned to employment under this provision, must meet all the minimum qualifications for the class.

34.11 The names of persons shall be deemed removed from Re-employment Lists and their entitlement to appointment from such lists terminated, as follows:

- (a) Upon the expiration of two (2) years following the effective date of layoff of such person.
- (b) Upon being appointed to a regular position within Court service in a class which is the same as the one for which the list exists, or which, at the time of appointment, is equal to or higher in salary (grade/step 5) than the class for which the Re-employment List exists.
- (c) Employees shall not be deemed removed from a Re-employment List as a consequence of being appointed to any temporary or limited-term position in any class, or for acceptance of employment in a lower level class (lower grade/step 5 salary than the class for which the re-employment list exists).
- (d) Upon declining an offer of reappointment (except in instances where the person states in writing that he/she is temporarily medically incapacitated).
- (e) In the event a person states in writing that he/she does not desire reappointment, or fails to file a written statement expressing his/her desire for reappointment within five (5) calendar days following personal delivery or the date of certified mailing to his/her last known address. A person may, upon written request, be granted a temporary waiver or reappointment for a period of up to thirty (30) calendar days. A denial of a temporary waiver may only be for good cause.

34.12 This layoff procedure shall apply to all represented employees

35.0 Provisions of Law

It is understood and agreed that this Memorandum of Understanding is subject to all current and future applicable federal and state laws and regulations, and all current lawful rules, policies, and regulations of the Court, except as the same are expressly modified by this Memorandum. If any term, clause, or provision of this Memorandum of Understanding is determined to be in conflict or inconsistent with any such applicable law, rule, and regulation or is otherwise held to be invalid or unenforceable by a tribunal of competent jurisdiction, such term, clause, or provision may be suspended or superseded by such applicable law, rule, or regulation, and the remainder of this Memorandum of Understanding shall not be affected thereby, but shall continue in full force and effect, it being the intention of the parties that this Memorandum be implemented notwithstanding and the parties shall enter into negotiations for the sole purpose of arriving at a mutually satisfactory replacement for such provision.

36.0 Full Understanding, Modifications, Waiver

36.1 This Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

36.2 It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required to negotiate with respect to any matter covered herein or with respect to any other matters within the scope of negotiations during the terms of this Memorandum of Understanding.

36.3 No agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall, in any manner, be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by Court Executive Committee.

36.4 The waiver of any breach, term, or condition of this Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

37.0 Authorized Agents

For the purpose of administering the terms and provisions of this Memorandum of Understanding:

Management's principal authorized agent shall be the Court Executive Officer, or his duly authorized representative (Address: 825 Brown Street, Napa CA 94559; Telephone: (707) 299-1110), except where a particular management representative is specifically designated in connection with the performance of a specified function or obligation set forth herein.

Union's principal authorized agent shall be the President of NAPE, Local 1021, Service Employees International Union. The address is 1810 Jefferson Street, Napa, CA 94559. The telephone number is (707) 255-1718. The President may designate a duly authorized representative.

38.0 Meal Allowance

38.1 The reimbursement for meals is as follows:

Breakfast	- \$8.00
Lunch	- \$12.00
Dinner	- \$18.00

38.2 Any employee who, during the course of his/her regular duties, is required to attend a meeting within the Court at which a meal is served shall be reimbursed for the cost of said meal in accordance with Article 38.1 above. With prior notice and upon request of management, an employee shall be required to provide a receipt for the cost of meals.

38.3 Any employee who, during the course of his/her regular duties, is required to either attend a meeting or conduct Court business outside the Court, shall be reimbursed for the cost of meals in accordance with Article 38.1 above. If an employee has no practical choice where he/she may eat meals, the Court shall reimburse him/her for the actual cost of meals. With prior notice and upon request of management, an employee shall be required to provide a receipt for the cost of meals.

39.0 Interruption of Work

39.1 Union agrees that during the term of this Memorandum of Understanding, neither its officers, employees, agents, or members will, directly or indirectly, initiate, engage in, encourage, sanction, support, instigate, or suggest any strike, slow down, mass resignation,

mass absenteeism, sick-ins, picketing, or similar concerted activity which would suspend, interfere with, or interrupt the normal work and operations of the Court. In the event that any Union member participates in such activity in violation of this provision, the Union shall immediately notify the member or members so engaged to cease and desist from such activities, and shall further direct such member to promptly return to his or her normal duties.

- 39.2 The Court shall have the right to deny all usage of sick leave by any employee if management has reasonable cause to believe the sick leave usage is related to a sick-out or any other form of concerted activity. This provision shall be interpreted so as to limit the denial of sick leave for the time in question.

40.0 Training and Education

- 40.1 (a) Subject to the availability of funds, the Court will reimburse employees a maximum of \$1000 per year for the cost of education and training programs completed on the employee's own time.

Reimbursement for Court Reporters will be as follows:

- (1) 50% of the cost of Court Reporting continuing education courses;
- (2) 100% of the cost of Real-Time training courses;
- (3) Total annual reimbursement for Court Reporters will be capped at an individual maximum of \$1000 per year.

The Court will budget funds for this purpose and notify the Union of any planned reduction in the budgeted amount.

- (b) Specific programs covered will be identified by the Court and will include:
- (1) Paralegal Certificates offered by local Community Colleges or other State accredited educational institutions;
 - (2) Courses required for a Degree in Administration of Justice;
 - (3) Membership and/or tuition for courses offered by the California Court Clerks Association (effective July 1, 2007);
 - (4) Courses required for CCA certification;
 - (5) Other Court-related courses that are determined to be relevant to job performance or development in the employee's career field. Requests for tuition reimbursement must be submitted and approved prior to the start of training. The Court shall make every reasonable effort to approve the request at least one week prior to the end of the registration deadline, whenever possible.
- (c) The Court will provide a link on CourtNet to the CCA website and will include a notice that the cost of CCA membership and tuition for CCA courses can be submitted to Human Resources for reimbursement in accordance with procedures described in 40.1(b) above.
- (d) A team of management and employees will meet and agree on non-mandatory training proposals for the Court's annual Training Day held on February 12 .

40.2 The Court agrees to allow eight (8) hours paid leave each fiscal year to professional employees for work-related education or training. When such employees are off on such leave, they will not be entitled to reimbursement for mileage, tuition or fee reimbursement, or other associated expenses.

40.3 The Court agrees to provide two (2) copies of the following periodicals in the CCB and HCH breakrooms:

- (1) Court News – Weekly update
- (2) Court Review – Quarterly Publication
- (3) The Capitol Connection – Quarterly publication

41.0 Out-of-Class Assignment

41.1 Definition

An out-of-class assignment is the assignment of an employee in a lower job classification to the full-time performance of most of the significant duties, as determined by the Court, of a higher job classification (listed on the Court Allocation List) due to the absence of the employee in the higher classification for any reason.

41.2 Responsibilities

- (a) An out-of-class assignment shall be made in writing by the Court Executive Officer only, or his/her designated representative, and it shall include a description of the most significant duties to be performed by the employee which qualify him/her for the assignment.
- (b) After an employee has performed an out-of-class assignment for five (5) working days during the current fiscal year, such employee shall receive five percent (5%) more than his/her standard hourly rate for any further full day out-of-class assignments during the remainder of such current fiscal year.
- (c) An employee who has been assigned and is receiving payment for an out-of-class assignment for less than thirty (30) consecutive workdays shall not receive such payment for any day or portion of a day when said employee is off on vacation, sick leave, holiday, compensatory time off, or other leave with pay status, but shall receive his/her standard hourly rate in those instances. Furthermore, an employee who terminates from Court service while serving an out-of-class assignment shall only receive his/her standard hourly rate for payoff of accrued vacation or compensatory time off.

41.3 Waivers and Exceptions

- (a) Nothing in this Article shall be construed as limiting the Court's authority to make out-of-class assignments not exceeding thirty (30) consecutive workdays in a fiscal year for vacation relief, or for meeting emergencies or peak work assignments.
- (b) Nothing in this Article shall be construed as limiting the Court's authority to make out-of-class assignments not exceeding sixty (60) consecutive workdays in a fiscal year. Any such assignment may be for the purpose of training an employee.

Except as provided in Article 41.3 (c), any such assignment exceeding sixty (60) consecutive workdays in a fiscal year shall be subject to the following:

- (1) Written consent by the employee; and a copy of such notice will be provided to Human Resources and the Union;
 - (2) Placement of such written consent in the employee's personnel file at his/her request;
 - (3) The employee whose name appears on a Court eligibility list for appointment shall be given due consideration for promotions when such opportunities occur in the Court
 - (4) Any employee working out-of-class in accordance with this Article for six (6) months or more shall at the time of any promotion receive the nearest higher grade/step placement in new range above the out-of-class payment.
- (c) Employees under filling positions are exempt from this Article when performing duties in the lower class.
- (d) Employees performing the duties in an entry or trainee level class within a classification series which has been established to permit advancement to the journey level. Once the employees are qualified are exempt from this Article.
- (e) An employee who is performing higher level duties in an under filled capacity while acquiring the required qualifications and training for promotion to the higher level class is exempt from this Article.

41.4 Requests for Classification Reviews may be submitted to Human Resources anytime during the year. Requests received by April 1 will be evaluated at that time. Human Resources will provide a response to these requests by May 31.

42.0 Management Rights

42.1 Subject only to the limitations set forth in this agreement, the Court's right to direct the work force shall be unimpaired. These rights shall include, but are not limited to, the following:

To manage and direct Court business and personnel; to manage, control, and determine the mission of the Court, its building facilities and operations; to create, change, combine or abolish jobs, Court services and facilities in whole or in part; to relieve its employees from duty or to reduce or adjust such duties because of lack of work or for other reasons considered by the Court to be legitimate; to direct the work force; to set standards of service; to maintain the efficiency of Court operations; to increase or decrease the work force and determine the number of employees needed; to hire, train, transfer, and promote employees; to take disciplinary actions; to determine the procedures and standards of selection for employment and promotion; to establish work standards, schedules of operation and reasonable workload; to specify or assign work requirements and overtime; to schedule working hours and shifts; to adopt rules of conduct and penalties for violation, thereof; to determine the content of job specifications and classifications; to determine the type and scope of work to be performed and the services to be provided; to determine the methods, processes, means, and places of providing services; to take all necessary actions to carry out its mission in emergencies; and to make reasonable rules and regulations pertaining to employees consistent with this agreement.

42.2 The exercise of such rights by the Court shall not preclude the Union from communicating with the Court about the consequences that the decisions concerning these matters may have on wages, hours, and other terms and conditions of employment.

42.3 Whenever Article 42.0 is cited in response to a grievance, a copy of the response shall be provided to the Union by the responding party.

43.0 State Disability Insurance

43.1 Contributions for State Disability Insurance (SDI) shall be deducted from the salary of each employee. Contributions for SDI shall be made solely by the employee.

43.2 An employee shall apply for SDI benefits as soon as he/she is eligible to receive them; and, at the same time, he/she shall notify the Court. If an employee who is eligible to receive SDI benefits chooses not to apply for them, he/she shall notify the Court of the fact in writing, who shall notify the Court Human Resources Office. Otherwise deductions shall automatically be made from his/her salary by the Court Human Resources Office in the amount he/she would receive in SDI benefits.

43.3 An employee who receives SDI benefits shall use his/her accrued sick leave, if any, in conjunction with SDI benefits. When his/her sick leave, if any, is exhausted, an employee may use his/her accrued vacation or compensatory time off, if any, in conjunction with SDI benefits in accordance with Article 30.8. The employee must promptly notify the Human Resources Manager in writing if he/she wishes to use vacation or compensatory time off in conjunction with SDI benefits. The gross salary of an employee using accrued sick leave, or vacation, or compensatory time off, if any, shall be reduced by the SDI benefits received by him/her in accordance with the SDI Benefit Schedule.

43.4 The Court shall continue to contribute to the health, life, and dental insurance of an employee who is receiving SDI benefits so long as he/she is in a payroll status in accordance with Article 15.7. An employee is in a payroll status so long as he/she is using accrued sick leave, vacation, or compensatory time off in conjunction with SDI benefits.

43.5 An employee shall earn sick leave and vacation benefits during any full biweekly pay period in which he/she receives SDI benefits (in accordance with Article 30.5). Furthermore, an employee shall receive service credit for seniority and merit grade/step increases during such a period so long as he/she is in a payroll status. Service credit for seniority and merit grade/step increases shall be counted on a pro-rata basis for the time the employee was in a payroll status.

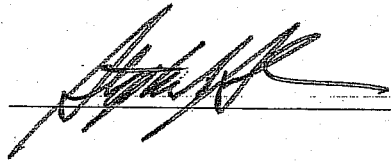
43.6 Absence from work by an employee who is receiving SDI benefits, but who is not in a payroll status, shall be deemed an approved leave without pay, not to exceed thirty (30) working days, without further approval of the Court Executive Officer. Absence from work by an employee who is receiving SDI benefits, but who is in a payroll status, shall be deemed an approved leave without pay in the same ratio as the ratio between SDI benefits received by the employee and his/her full gross salary. When an employee who is receiving SDI benefits is not in a payroll status, the Court shall contribute to the health, life, and dental insurance in accordance with Article 15.7. The eligibility of the employee for seniority, grade/step increases, the completion of probation, and other benefits shall be the same as any other employee on an approved leave without pay.

43.7 No employee shall receive his/her full salary from the Court while at the same time receiving SDI benefits.

SIGNATURES

DATED: 4-4-08

For the NAPA COUNTY SUPERIOR COURT:

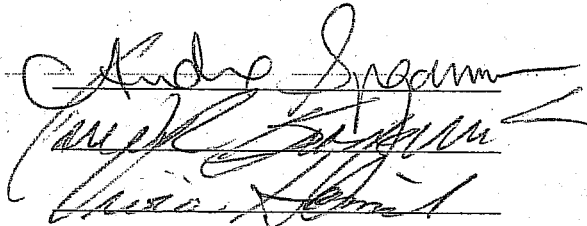


Mayleen Larson

Don Miller

Dr. Joan Buchanan

For the NAPA ASSOCIATION OF PUBLIC
EMPLOYEES, SEIU, LOCAL 1021:



Andre Spigam

Appendix A

Administrative Analyst
Court Accounting Technician
Court Division Specialist
Court Reporter
Court Systems Coordinator
Court Systems Technician
Family Court Program Specialist
Family Mediator
Judicial Assistant Series
Senior Technology Analyst
Technology Analyst

**NAPA COUNTY SUPERIOR COURT
and
SEIU LOCAL 1021**

**SIDE LETTER OF AGREEMENT
(Public Services Employees Unit)**

CLASSIFICATION REVIEW OF JA-2 POSITIONS

1. The Court agrees to conduct a classification review of current JA-2 positions to identify staff performing tasks with a level of complexity or required knowledge that exceeds the Journey level (JA-2) of the Legal Processing series. Reclassification of a position above the Journey level would typically involve one or more of the following –
 - Employee is regularly assigned more difficult or complex work
 - Employee performs more difficult or complex tasks with an increasing level of independent decision-making and minimum supervision
 - Employee is regularly tasked to assign work, train or perform as lead to other JA-2s
2. In addition, the Court agrees to review staffing in Court Operations Divisions to determine if the efficiency of Court operations would benefit from the establishment of new positions assigned technical lead responsibilities in specific areas or functions.
3. The Court agrees to initiate the reclassification study no later than two (2) months after the signing of this MOU and agrees to share study conclusions no later than twenty (20) working days after the completion of the study. Any reclassifications or salary adjustments resulting from this study will become effective no later than thirty (30) calendar days after the final meeting to discuss results. Vacancy announcements for any new positions will be initiated no later than sixty (60) calendar days after the final meeting. If this classification study results in the Court establishing new positions which are not occupied by an incumbent employee, the new positions shall be made available to internal candidates before opening any vacancies to the public. The Court will not abolish any encumbered positions as a result of this study.
4. Staff who wish to appeal a classification decision resulting from this study should initiate the appeal procedure identified below:
 - Employee submits a completed Appeal Request form to their immediate supervisor within ten (10) working days of notification of reclassification study results. The Appeal Request form may be obtained from Human Resources and should identify the specific duties or responsibilities that the employee believes justify the request for appeal.
 - Immediate Supervisor makes a recommendation to the appropriate Court manager within five (5) working days of receipt of appeal.
 - Court manager adds their recommendation and passes along to Court Human Resources within five (5) working days of receipt from the Immediate Supervisor.
 - Court Human Resources adds recommendation and passes along to the Court Executive Officer within ten (10) working days of receipt from the Court manager.

- Court Executive Officer makes final decision within fifteen (15) working days of receipt from Court Human Resources.
5. If the employee's Appeal Request is successful and their position is reclassified, the effective date of the reclassification action will be the earlier of the following two dates:
- No later than the beginning of the pay period following the final decision
 - Or forty-five (45) working days following the submission of the Appeal Request form

J. Van Buehnan
C. J. Spang

NOTES



Service Employees International Union
Local 1021
100 Oak Street
Oakland, California 94607
510-350-4527

Field Representative _____

Union Steward _____

Telephone Number _____