

# **MEMORANDUM OF UNDERSTANDING**

**2013-2015**

**SEIU LOCAL 521**

Between

**Superior Court of California, County of Monterey  
(Supervisory Unit)**

And

**Service Employees International Union Local 521**

**October 1, 2013—September 30, 2015**

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## **1 PARTIES**

This Memorandum of Understanding (MOU) is made and entered into between the Superior Court of California, County of Monterey (herein called the "Court"), and the Service Employees International Union, Local 521 (SEIU), or it's lawful SEIU successor (herein called the "Union").

It is agreed by and between the parties that any provision of this MOU requiring legislative action to permit its implementation by amendment of law or by the act of providing the appropriate legislation shall not become effective until the effective date of such action.

## **2 TERM**

The term of this Memorandum of Understanding is from October 1, 2012 to September 30, 2015, when said Memorandum shall expire and be of no further force or effect.

## **3 RECOGNITION**

The Court recognizes the Union as the sole and exclusive bargaining agent for all regular and limited-term employees in classifications in the Court Supervisory Employees' representation unit.

## **4 NONDISCRIMINATION**

The provisions of this MOU shall be applied equally to all employees covered hereby without discrimination because of race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, Union membership or any other basis protected by law.

Employees may elect to exercise their right to join and participate in the activities of the Union for the purposes of representation in all matters of their working conditions and employer-employee relations. The parties agree that there shall be no restraint, coercion, or interference with any employee with respect to or because of the employee's membership in said Union. The Court and the Union agree that each employee shall be treated equally, fairly and with dignity and respect.

The Union and the Court agree to support the Equal Opportunity Policy established by the Court and that there shall be no discrimination within their respective organizations because of race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis protected by law.

Any party alleging a violation of this article shall have the burden of providing the existence of a discriminatory act or acts and/or proving that, but for such act or acts, the alleged injury or damage to the grievant would not have occurred.

Complaints based on age, race, color, religion, gender, national origin, marital status, ancestry, disability or sexual orientation shall not be subject to the grievance or arbitration provisions of this agreement. Such complaints shall be processed utilizing the discrimination complaint procedure provided by the Court's Personnel Policies. Discrimination complaints based on Union membership

and/or activity shall continue to be subject to the grievance procedure and arbitration.

## **5 UNION RIGHTS**

### **5.1 Representation**

The Union has the right to represent employees in the representation unit as specified by State law and pursuant to the Labor Relations Rules of the Court's Personnel Policies. The Union will notify the Court and maintain such notice during the term of this MOU of its elected officers and directors as well as its staff employees.

### **5.2 Union Official Representatives**

Union official representatives who are Court employees may utilize time during normal working hours for meeting and conferring with authorized representatives of the Court subject to advanced scheduling.

Union official representatives shall represent the Union in jointly scheduled meetings with the Court to address matters of mutual concern.

In addition, with prior mutual agreement, up to two (2) employees directly affected by the matters under consideration, may participate in these joint scheduled meetings.

The Union may select up to two (2) such official representatives in addition to its staff members and will notify the Court as to those individuals so selected.

### **5.3 Steward Program**

Union stewards shall mean regular employees of the Court within the same bargaining unit, who are members of, and are designated by, the Union to assist employees in this unit for the purposes of processing grievances. The Court Supervisory Employee Unit may select up to four (4) stewards.

The Union agrees to notify the Court Executive Officer (CEO) or designee in writing of the names and titles of the steward(s) representing employees in the Court and shall send a copy of such notice to the Human Resources Director or designee. Changes to the listing of stewards will be provided by Union as they occur. Only employees named on the current list will be recognized by the Court as stewards of Union.

Stewards shall be subject to the following:

- A. Stewards shall be authorized a reasonable amount of time off without loss of pay to investigate and prepare grievances and disciplinary appeals of Court Supervisory unit employees in the Court to which the steward(s) are assigned subject to the restrictions in I below.



- B. Stewards shall have the right to serve as a representative for employees in grievance matters in accordance with the grievance and disciplinary appeals provisions of the Agreement. No more than one (1) steward may assist in the investigation or processing of a grievance.
- C. Before performing grievance and disciplinary appeal work, the steward will obtain the verbal permission of his/her supervisor and shall report back to his/her supervisor when the grievance or disciplinary work is completed.
- D. After receiving approval of his/her immediate supervisor, a steward shall be allowed reasonable time off during working hours, without loss of time or pay, to investigate, prepare and present such grievances and appeals. The immediate supervisor will authorize the steward to leave his/her work whenever the supervisor determines that the steward's absence will not interfere with the work of the unit. Where immediate approval is not granted, the supervisor shall inform the steward and establish an alternate time when the steward can be released from his/her work assignment.
- E. When a steward desires to contact an employee, the steward shall first contact the immediate supervisor of that employee, advise the supervisor of the nature of the business, and obtain release by the supervisor to meet with the employee. When, in the best judgment of the supervisor, the investigation would interfere with the work of the unit, the supervisor will notify the steward when he/she can reasonably expect to contact the employee.
- F. Stewards shall receive no overtime for time spent performing a function of a steward.
- G. Stewards shall not conduct Union business on Court time, except as specifically authorized by this Memorandum of Understanding.
- H. Stewards shall be responsible for the full and prompt performance of their work load.
- I. Stewards may represent employees against whom disciplinary action is pending subject to the following restrictions:
  - 1. The steward agrees that the issues which gave rise to the proposed disciplinary action are confidential in nature and will not be discussed with other employees, representatives or the news media, or others who do not have a direct need to know the details of the proposed discipline. The Court may refuse to recognize or to deal with a steward who violates this confidentiality.
  - 2. Court management may require that disciplinary representation in a particular disciplinary appeal be accorded only through stewards or by a Union staff representative.

- J. A Court Supervisory Unit steward shall represent only employees in the Court Supervisory Unit. Other than the Supervisory Unit steward, elected officers from the SEIU Local Chapter may represent the Supervisory Unit employees.
- K. There shall be no solicitation of grievances by a Court Supervisory Unit steward on release time, provided this prohibition on solicitation shall not impair a steward's right to investigate a grievance asserted by a unit member.
- L. A Court Supervisory Unit steward shall not process any grievance or represent any unit employee in any matter where the grievant or appellant employee is a subordinate of the steward.

#### **5.4 Union Access**

Authorized Union official representatives shall have reasonable access to work locations in which employees covered hereby are employed for the purpose of transmitting information or representation purposes. Authorized Union official representatives desiring such access shall first request permission from the appropriate management representative, at which time the authorized representative shall inform said management representative of the purpose of the visit. Said management representative may deny access to the work location if in his or her judgment it is deemed that a visit at that time will interfere with the operations of the Court or facility thereof, in which event said management representative will offer an alternative time and/or location for the visit.

Union shall give to the CEO or designee, the Human Resources Manager or designee, a written list of the names of all authorized Union official representatives, which shall be kept current by the Union. Access to work locations shall be granted only to Union official representatives on the current list.

#### **5.5 Bulletin Board**

The Court will furnish for the use of the Union, reasonable bulletin board space at reasonable locations. Such bulletin board space shall be used only for the following subjects:

- Union recreational, social, and related news bulletins;
- Scheduled Union meetings;
- Information concerning Union elections or the results thereof;
- Reports of official business of Union including reports of committees or the Board of Directors; and

All material shall clearly state that it is prepared and authorized by the Union.

Union agrees that notices posted on Court bulletin boards shall not contain anything which may reasonably be construed as maligning the Court or its representatives.

#### **5.6 Dues Deduction/Maintenance of Membership**

- A. Each employee in the bargaining unit who, on the effective date of this MOU, is a member in good standing of the Union shall maintain such membership for the duration of this MOU, except as provided herein, to the extent of paying the periodic dues uniformly required by the Union as a condition of retaining membership.
- B. Any employee in the unit who becomes a member of the Union shall thereafter maintain such membership for the duration of the MOU, except as otherwise provided herein.
- C. Any employee in the unit who, on the effective date of this MOU, was a member of the Union, and any employee who subsequently becomes a member, may, during the period beginning May 1 through May 20 of any year resign such membership. Resignations shall be in writing addressed to the Union with a copy to the Court's Human Resources Division. Failure to timely notify the Union shall be deemed an abandonment of the right to revocation until the next appropriate time period.
- D. In the event any employee in the unit who was a member on the effective date of this MOU, or who became a member thereafter refrains from paying the periodic dues, then the sole remedy shall be involuntary deduction of such dues from such employee's pay check.

#### **5.7 Hold Harmless**

The Union agrees to indemnify and defend the Court and its officers, employees and agents against any and all claims, proceedings, and liabilities that arise out of any actions taken or not taken by, or on behalf of, the Court under this article

#### **5.8 Use of Court Mail System**

The Union may use the Court mail system for the following limited purposes:

- 1. To send communications to the CEO or designee; and
- 2. To send communications to Union official representatives, officially designated shop stewards, or designated division point person for distribution to members.

#### **5.9 Court Meetings**

Upon agreement regarding an agenda which has been reviewed by the Human Resources

Manager or designee and the SEIU Local 521 Executive Director, the CEO or designee and designated Court Union stewards may meet two times per year to discuss issues of mutual concern. If agreeable to both the CEO and the stewards, meetings may be more frequent. Meetings shall be held during the Court's normal business hours. A steward attending such a meeting during other than his/her normal assigned shift hours shall be paid straight time pay not to exceed two hours. This article is not subject to the grievance procedure.

#### **5.10 New Employee Orientation**

Effective with the ratification of this contract, the Court will notify Union when new employees are being oriented. The Union shall be allowed up to fifteen (15) minutes during the Court New Employee Orientation to present information regarding Union membership.

#### **5.11 iCourt Community Page**

The Court will create a specific section on the iCourt Community Page where Union directors and officers will be allowed to post information to inform employees of union meetings. The Court will also provide information on iCourt regarding accessing employee MOUs.

### **6 SAFETY**

#### **6.1 Work Environment**

The Court recognizes its obligation and is committed to providing a safe place of employment for its employees. To assist in accomplishing this goal, it is agreed that the Court reserves the right to adopt reasonable departmental rules and regulations which become effective when posted.

The Union agrees that it is the duty of all employees to comply with all reasonable rules and regulations and to be alert to all unsafe places, equipment and conditions and to report any such unsafe practices or conditions to their immediate supervisor.

Stewards shall have reasonable access to work locations of unit employees within the Court to inspect that site for the purpose of ensuring a safe work place. Such access shall be administered in accordance with Section 5.3 above.

This article is not subject to the grievance procedure.

### **7 MANAGEMENT RIGHTS**

The Court will continue to have, whether exercised or not, all the rights, powers and authority heretofore existing, including, but not limited to the following: Determine the standards of services to be offered by the Court; determine the standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; issue and enforce rules and regulations; maintain the efficiency of Court operations; determine the methods, means and personnel by which the Court operations are to be conducted;

determine job classifications of Court employees; exercise complete control and discretion over its work and fulfill all of its legal responsibilities. All the rights, responsibilities and prerogatives that are inherent in the Court by virtue of all federal, State, and local laws and regulations provisions cannot be subject to any grievance or arbitration proceeding.

The exercise of the foregoing powers, rights, authority, duties, and responsibilities by the Court Executive Committee, the adoption of policies, rules, regulations and practices in furtherance thereof, and the use of judgment and discretion in connection therewith shall be limited only by the specific and express terms of this MOU and then only to the extent such specific and express terms hereof are in conformance with the Constitution and Laws of the United States and the Constitution and Laws of the State of California.

The exercise by the Court through its Court Executive Committee and management representatives of its right hereunder shall not in any way, directly or indirectly, be subject to the grievance procedure set forth herein.

## **8 WAGES**

### **8.1 Negotiated Salary Increases**

If during the term of this MOU the court receives an additional allocation from the Judicial Council specifically and exclusively for Negotiated Salary Increases (NSI's), the Court agrees to distribute the full amount to all Court employees the first pay period following receipt of said funding.

### **8.2 One Time Offset**

In recognition of:

1. the employees' prior agreement to pay the employee share of PERS contributions in January 2013 (2.5% total), July 2013 (5.0% total) and December 2013 (7.0% total), and
2. the potential medical, dental and vision care cost increases that may occur under this contract,

The Court agrees to a separate one-time payment off the salary schedule as follows:

\$5,000.00 for each employee, payable not later than the first full pay period that begins ten (10) business days after MOU ratification.

To be eligible for this payment, employees must be on the payroll (in either paid or unpaid status) at the start of the applicable pay period. Employees with less than a full 1.0 FTE time-base will receive a pro-rata payment.

### **8.3 One Time Longevity Pay**

In recognition of the dedication and sacrifice of the longer tenured Court employees who have not been eligible for step increases over the past several years, the Court agrees to a one-time payment off the salary schedule of:

- a) \$1,000.00 for each employee with fifteen (15) or more years of service;

- b) \$500.00 for each employee with ten (10) or more years of service;
- c) \$250.00 for each employee with five (5) or more years of service.

The one-time longevity payment will be issued in the first full pay period that begins ten (10) business days after MOU ratification. To be eligible for this payment, employees must be on the payroll (in either paid or unpaid status) at the start of the applicable pay period. Employees with less than a full 1.0 FTE time-base will receive a pro-rata payment.

Each employee's years of service will be calculated as of October 1, 2013.

## **9 OVERTIME**

If in the judgment of the CEO or designee, extra hours are required to be worked by an employee for the accomplishment of Court business, the CEO or designee may authorize and require the performance of said extra hours.

Overtime shall be defined as time actually worked in excess of forty (40) hours in a work week.

For the purposes of this section, all paid hours whether actually worked or not, shall be considered hours worked for the purpose of determining overtime. An individual employee's work schedule shall not be altered for the purpose of eliminating overtime compensation equal to that earned as a result of the employee using approved paid time off hours.

- A. Employees in overtime eligible classes shall be compensated for overtime authorized by the CEO or designee by either 1) compensatory time off at the rate of one and one-half (1-1/2) hours credit for each hour of overtime or, 2) in cash at the rate of one and one-half (1-1/2) times the employee's base rate of pay.
  - 1. An employee shall not be allowed to accumulate more than eighty (80) hours of compensatory time off above which maximum all overtime compensation shall be paid in cash.
  - 2. Credit for compensatory time off shall be reported through electronic payroll reporting submitted to the payroll administrator each pay period, and a balance shall be reported on the employee's check stub. The use of compensatory time off shall be administered by the CEO or designee.

## **10 SPECIAL PAY PRACTICES**

Language will be placed in the personnel policies (H.1.4 Request for Time Off) stating that an employee will receive a response to leave request within five (5) business days. This shall apply to, but not limited to, vacation request, flex time request, sick time request, and leave without pay request.

### **10.1 Bilingual Skill Pay**

#### **10.1.1 Bilingual Position Designations**

**Bilingual Positions:** Those that are required to utilize bilingual skills on a regular basis equal to ten percent (10%) of an employee's regularly scheduled hours on an average basis. A bilingual designation is assigned to a position, not an incumbent, and in the event the incumbent moves to another position or if the bilingual designation of the position is removed because the duties of the position no longer meet the criteria for such designation, his/her bilingual pay will cease.

### **10.1.2 Qualifications**

Ability to qualify for certification of demonstrated proficiency in the required language shall be a requirement for employment in a bilingual position, and obtaining certification by the Human Resources Division of demonstrated proficiency appropriate for the position within the initial thirty (30) days of employment shall be a condition of continued employment.

An employee who has received certification of proficiency appropriate for one position may be required to meet new proficiency requirements if he/she moves to a bilingual designated position that utilizes a different specialized or technical vocabulary. An employee certified as proficient shall be required to obtain renewal of his/her proficiency certification every five (5) years.

### **10.1.3 Bilingual Pay**

**Bilingual Pay:** Bilingual pay shall be paid to an employee occupying a designated bilingual position who has certification of proficiency in the required language as appropriate for the position starting with the first full pay period following certification.

An employee occupying a bilingual designated position shall be paid a bilingual pay differential of forty-two dollars (\$42.00) per pay period.

The CEO or designee is responsible for administration of the bilingual program including approval of bilingual position designations and proficiency testing and certification.

Administration responsibilities shall also include a periodic review of the number and location of bilingual position designations.

## **10.2 Unplanned Facility Closure**

In the event that the Court is closed due to unforeseen circumstances out of the Court's control, and the Court decides that the affected division or any part thereof may no longer operate because of those circumstances, the Court will reassign those affected employees as business needs require. If there is no operational need to reassign those affected employees those employees will be released and will be paid for their regularly scheduled work hours.

### **10.3 Y-Rate Procedure**

"Y-rating" is a procedure whereby an employee who is reclassified to a class having a lower salary range than his/her current class may retain his/her current salary after the reclassification to the lower class. The employee's salary at the time of the Y-rate shall not increase until such time as the maximum salary of the class to which the employee was reclassified exceeds the employee's salary.

When an employee's current rate of pay falls between the step authorized for the lower paid class, he or she shall continue to receive the current rate of pay until such time as an authorized increase in pay or step increase can be granted which places the employee at a step in the range without increasing his/her salary by an amount more than that normally provided by the salary increase or step advancement.

The salary on Y-rate shall be only the rate of pay in effect for the employee's class and step on the day prior to the effective date of the Y-rate action

Bilingual skill pay shall not be added to the Y-rate.

The CEO or designee shall have the sole authority to approve or deny a Y-rate for an employee who is reclassified to a lower class.

A regular employee with over one (1) year of continuous service and who is not on probation in a class at the time of his/her reclassification to a lower class, who is denied the application of a Y-rate by the CEO or designee, may appeal such denial to a joint committee consisting of a designee of the CEO or designee, a representative chosen by the Union and a third party chosen by the first two appointees. All other employees not Y-rated shall have no appeal. Y-rating is not subject to the grievance procedure.

### **10.4 Deferred Compensation**

The deferred compensation program shall be made available to regular employees in the Supervisory Unit.

### **10.5 Mileage Allowance**

A unit employee who is required to operate his or her own or a privately-owned automobile for the execution of official duties, shall be allowed, reimbursed and paid the AOC rate, for each mile necessarily traveled each month.

No claim for mileage allowance shall be allowed by Court Financial Division unless and until it is accompanied by such report and form as may be required by the CEO.

### **10.6 Professional Development Stipend**



On the first pay period of each new calendar year, unit employees will receive a professional development stipend of \$100 which shall be taxable. The professional development stipend shall not be considered in the calculation of highest year of pay for PERS retirement purposes.

## **11 NO PYRAMIDING**

Premium rates that are expressed as a percentage of an employee's rate of pay, such as time and one-half (1-1/2) overtime which equals one hundred fifty percent (150%), shall be calculated based on the basic rate of pay as set forth in Attachment A – Salary Listing. Special pay benefits (such as shift differential, bilingual, etc.) to which an employee may be entitled shall not be added to the pay base for the purpose of determining pay premiums based on a percentage of base pay. Further, except for special pay benefits expressed in flat dollar amounts, time and one-half (1-1/2) shall be the maximum rate of pay to which an employee may be entitled even though some portion of time worked may qualify for premium pay under more than one (1) provision.

## **12 CLASSIFICATION PLAN MAINTENANCE**

### **12.1 Classification Study Requests**

In response to a written request from the Union for a reclassification study on a form prescribed by the Human Resources Division, the Human Resources Division shall acknowledge receipt of said request, and if a study is justified, indicate the target date for completion of the study, within thirty (30) calendar days of receipt of said request.

If the request for a study is denied or if the results of a completed study are not satisfactory to the Union, the Union may file a written appeal of the denial or the results with the Human Resources Manager or designee. Written appeals must be received by the Human Resources Manager or designee within ten (10) working days of receipt of the denial or results of the study.

If the denial or results of a study are not satisfactorily resolved with the Human Resources Manager or designee, the Union may appeal in writing to the CEO or designee indicating the specific justification for appeal of the Human Resources Manager's decision. Written appeals must be received by the Human Resources Manager or the CEO or designees within ten (10) working days of the Union's receipt of a response at the previous level. The decision of the CEO or designee shall be final.

The CEO or designee will periodically review the status of pending classification studies requests with a staff member of the Union. This review will be scheduled to allow at least two (2) weeks between the time of review and the time of any action by the Court Executive Committee.

The provisions of this section shall not be subject to the grievance procedure article of this MOU.

## **12.2 Working Out of Class Pay**

In order for an employee to receive working out of class pay all of the following criteria must be met:

- A. The employee must be assigned to a higher classification whose salary range is at least five percent (5%) higher than the range of the employee's regular classification.
- B. The assignment must be to a vacant regular position or to a regular position whose incumbent is absent from work.
- C. The assignment must be for over twenty (20) consecutive working days.
- D. The employee must perform all of the duties of the higher classification.

For working out of class the employee shall be compensated at the step in the higher classification that provides an increase to the assigned employee of at least five percent (5%). Such compensation shall begin on the twenty-first (21st) working day after the assignment to the higher classification.

## **13 INSURANCE**

### **13.1 Medical Insurance**

To be eligible to receive health, dental, vision and life insurance benefit options, the employee must work a minimum of twenty (20) hours per week or forty (40) hours per pay period.

The Court will assume up to 12% of the increase in medical premiums for calendar year 2013.

### **13.2 Dental**

Court agrees to pay the employee-only premium for dental insurance during the term of this MOU.

### **13.3 Vision**

Court agrees to pay the employee-only premium for vision insurance during the term of this MOU.

### **13.4 Vision Examination and Glasses for VDT Operators**

The Court will provide through the Vision Service Plan an option for a second (2nd) pair of glasses tinted and designed for use with video display terminals (VDT's) for an employee whose manager certifies in writing to the Human Resources Manager that the employee uses a VDT 60% or more of his/her normal work time in order to perform duties. Manager certification and

endorsement of eligibility for VDT glasses by the Human Resources Director must occur prior to an eye examination for an employee to be eligible for the VDT option. The employee shall pay an additional \$10.00 deductible for an exam which includes the VDT option.

### **13.5 Life**

The Court agrees to provide twenty-five thousand dollars (\$25,000) in life insurance for employees. In addition, subject to the terms and conditions of the underwriters, an employee shall have the option to purchase additional life insurance through the Court's third party administrator.

### **13.6 All Insurance**

The Court has the right and the obligation to administer the various insurance programs. These rights and obligations include but are not limited to the right to select the carriers and insurance claims administrators after prior meeting and consultation with the Union. Changes in insurance carriers or administrators shall not result in any appreciable reduction in benefits. In the event a change in insurance carriers is made resulting in an appreciable reduction in benefits, an open enrollment period will be authorized. The Court shall provide Union and employees with thirty (30) calendar day written notice for premium rate changes by U.S. mail or with paycheck distribution.

### **13.7 Health Insurance Review Committee**

Upon request by the Union, the Court and Union agree to the formation of a committee composed of equal members from the Union and management to meet on an as needed basis each year of the contract to review health insurance costs containment measures and explore less expensive alternatives to the existing health insurance plans.

### **13.8 Conditional Re-opener**

In the event the Union or Human Resource Manager recommends plan modification to the CEO and the parties (i.e., Union and the Court) agree on the modifications, the parties will reopen this MOU to allow implementation of the agreed upon modifications.

### **13.9 Disability Leave of Absence**

#### **State Disability Income Protection (SDI) Leave**

It is agreed that unit employees shall be covered by the State Disability Income (SDI) Protection Plan at their expense. The SDI benefit will be integrated with Court sick leave benefits.

When an employee is on leave of absence and is receiving State Disability Insurance (SDI) benefits, in addition to the period of time for which Court contributions to health insurance continue as a result of the employee's use of twenty (20) hours or more sick leave per pay

period, he/she shall receive one additional month of Court paid medical insurance for the employee only for every eighty (80) hours of sick leave accrual balance he/she had as of the first day of continuous absence resulting from the condition which qualifies him/her for SDI benefits.

### **13.10 Workers Compensation**

When an employee on leave of absence is receiving Workers Compensation payments and is utilizing integration of accrued sick leave to equal normal salary, he/she shall receive Court paid medical insurance and regular Court contribution toward dependent medical insurance, if any, until there is a zero (0) sick leave accrual balance.

### **13.11 Long-Term Disability Insurance**

The Court will facilitate the provision of voluntary long-term insurance via the payroll deduction process. It is understood that long term disability insurance is wholly voluntary between the employee and the insuring company and that provision of such insurance is subject to the conditions set by the insurance company and may be cancelled by the insurer if its minimum enrollment standards are not met. In the event of cancellation, the Court will no longer facilitate long term disability insurance.

## **14 HOLIDAYS**

The following listed days shall be observed during the term of this MOU as legal holidays:

January 1	New Year's Day
Third Monday in January	Martin Luther King JR's Birthday
February 12	Lincoln's Day
Third Monday in February	Presidents' Day
March 31	Cesar Chavez' Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veterans Day
Fourth Thursday in November	Thanksgiving
Fourth Friday in November	Day After Thanksgiving
December 25	Christmas
Holiday Half Day	Christmas Eve or New Year's Eve (Suspended in 2012 & 2013)

Due to the agreed upon furlough days, the Holiday Half-day provision will be suspended in 2012 and 2013.

If any of the above listed holidays falls on a Saturday, the preceding Friday shall be the holiday in lieu of the day observed. If one of the above listed holidays falls on a Sunday, the following Monday shall be

the holiday in lieu of the day observed.

[Suspended in 2012 and 2013]

Christmas Eve or New Year's Eve will be observed as Holiday Half Day provision. When Christmas or New Year's Day falls on a Saturday and the holiday is observed on the preceding Friday, the Holiday Half Day will be taken on the preceding Thursday. When Christmas or New Year's Day falls on a Sunday and the holiday is observed on the following Monday the Holiday Half Day provision will be taken on the preceding Friday.

Because neither Christmas Eve nor New Year's Eve is a judicial holiday, sufficient employees must be available to staff Court operations. If an employee cannot be released on a Christmas Eve, that employee will be scheduled for a Holiday Half Day on New Year's Eve. Whenever possible, seniority within classification will determine preferred day off. This Holiday Half Day provision must be used and may not be banked.

Overtime eligible employees who, are authorized by the CEO or designee and work on a holiday, shall be entitled to compensation by either 1) compensatory time off at the rate of two (2) hours credit for each hour worked or, 2) in pay at the rate of two (2) times the employee's base rate of pay for each hour worked.

## **15 FURLOUGH DAYS**

In each year of the agreement, employees will take a total of four (4) days off (one (1) day will be paid, and three (3) will be unpaid furloughs) which will be scheduled at the discretion of the Court with a preference around the Holidays (in 2012, the weeks of December 24 or December 31; in 2013, the weeks of December 23, or December 30). To lessen the economic impact, the Court will use smoothing as it did previously when employees had furlough days.

Because employees will be given this time off, the half-day holiday provision will be suspended in 2012 and 2013.

For calendar year 2014, employees will take a total of four (4) paid furlough days off, scheduled at the discretion of the Court, with a preference around the Holidays, the weeks of December 22 or December 29. The separate half-day holiday provision will also be suspended for 2014. This furlough day section will no longer apply after the 2014 period.

## **16 VACATION**

For employees appointed to a regular or limited-term position, the following vacation schedule shall apply:

0-3 years of service	3.70 hours per pay period (12 days per year)
After 3 years of service	4.62 hours per pay period (15 days per year)
After 5 years of service	5.54 hours per pay period (18 days per year)
After 10 years of service	6.16 hours per pay period (20 days per year)
After 15 years of service	7.08 hours per pay period (23 days per year)

After 20 years of service	7.39 hours per pay period (24 days per year)
After 25 years of service	7.70 hours per pay period (25 days per year)

Employees with service hours between two (2) and three (3) years as of November 1, 2004 will continue to receive their current accrual rate. The maximum accrual for employees shall be three hundred (320) hours.

### 16.1 Vacation Buy Back

Court Supervisory Unit employees may receive a straight-time cash payment for up to forty (40) hours of vacation per calendar year. This vacation buy back shall be subject to the following requirements.

- A. Vacation shall be cashed out only in increments of eight (8) hours
- B. The employee must have taken ten (10) vacation days during the previous calendar year.

## 17 SICK LEAVE

### 17.1 Accrual Rate

All unit employees hired prior to February 18, 1984, shall accrue sick leave at a rate of 3.70 hours per pay period. Unit Employees hired after February 18, 1984, shall continue to earn sick leave at the rate of 3.08 hours per pay period.

### 17.2 Retirement Payoff

Upon retirement or death, an employee shall be paid his/her accumulated sick leave up to a maximum of seven hundred fifty (750) hours subject to the following restrictions:

- a) Service Retirement The employee must be at least fifty (50) years of age and have a minimum of five (5) years service during which he or she was a member of the Public Employees Retirement System (PERS) and in addition must either:
  - 1) Actually retire concurrently with his or her separation from Court service by submitting a retirement application to PERS or
  - 2) Upon separation from court service concurrently withdraw his or her accumulated contribution from PERS
- b) Disability Retirement The employee must have a minimum of five (5) years service during which he or she was a member of the Public Employees Retirement System (PERS) and retirement results from mental or physical incapacity to perform the duties of his or her job. Disability need not be job related.

- c) Payment shall be made under the provisions of paragraphs (a) and (b) above only after the Court is notified and can confirm the employee's retirement or the withdrawal of his or her contributions.
- d) In the event of the death of the employee, the payment shall be made to the person entitled to the employee's death benefit.

### **17.3 Family Sick Leave**

Regular and limited-term employees may be granted use of Family Sick Leave by their Manager because of illness of a father, mother, brother, sister, wife, husband, child, grandparent, or grandchild, provided in the judgment of the Court, a medical condition exists which warrants the employee's personal attendance. Such leave may be granted by the Court for illness of father-in-law, or mother-in-law when it can be demonstrated that a bonafide illness exists that warrants his/her personal attendance during his/her normally scheduled work hours. The Court may require a physician's certificate or other substantiating evidence that such a medical condition exists. Such absence by the employee shall be limited to fifteen (15) working days in any calendar year when used for such purpose. Upon approval of the appointing authority and subject to Court procedure, additional sick leave may be approved on a case-by-case basis, subject to the employee having an available sick leave balance.

### **17.4 Bereavement Leave**

Regular employees shall be granted use of accumulated sick leave by the Court Executive Officer or designee because of the death of a parent, spouse, sibling, domestic partner, child, grandparent or grandchild. Such absence by the employee shall be limited to five (5) working days per occurrence of paid leave. As a condition of granting leave for bereavement purposes, the Court Executive Officer or designee may request verification of the loss. At the discretion of the Court Executive Officer or designee, such leave may be granted in other cases such as the death of a mother-in-law, father-in-law, daughter-in-law, son-in-law, step-parent, step-sibling, step-child, aunt, uncle, niece or nephew.

Part-time employees will be eligible for bereavement leave on a pro-rata basis, based on the employees' fractional time base.

### **17.5 Parental Leave**

#### **17.5.1 Maternity**

Normal pregnancy and/or complications arising from pregnancy shall be considered an illness and shall be included within the provisions of this section. An employee shall be eligible for leave of absence without pay for maternity leave of up to six (6) months regardless of whether or not said employee has used all accrued sick, vacation and paid-time-off leave. Said leaves of absence shall be approved in accordance with the provisions for approval of other types of leaves of absence without pay.

### **17.5.2 Other Parental Leave**

A unit employee may request a leave of absence without pay in addition to any vacation or sick leave taken in the event of the birth of a son or daughter or the adoption of a son or daughter less than six (6) years of age. Said leave shall:

- Not be granted in addition to any maternity leave.
- Be granted to any one employee no more than one (1) time in any two (2) year period.
- Be granted to no more than one (1) employee as a result of the same birth or adoption.

Said leave shall be approved in accordance with the provisions for approval of other types of leaves of absence without pay.

### **17.6 Verification of Sick Leave**

The Court may require medical certification or other substantiating evidence of illness for any period of time for which sick leave is sought. Medical certification or an absence of a single day will be required only if a pattern of abuse or excessive use of sick leave exists which requires said certification. During negotiations for a successor MOU between the parties, the Court shall have the authority to require a doctor's note for any employee calling sick on a day where the absentee rate for current represented employees goes above twenty percent (20%).

## **18 INVOLUNTARY LEAVE WITH PAY**

An employee may be placed on involuntary leave with pay and benefits for a period not to exceed twenty (20) working days upon a determination by the CEO that circumstances exist that make the immediate removal of the employee to be in the best interests of the Court and that the employee cannot be effectively used in his/her job classification within the Court.

## **19 SUPERVISORY EMPLOYEES LEAVE**

During each twelve (12) month period beginning January 1, employees in the supervisory unit may, with prior approval of their Court, take up to three (3) days of supervisory leave with pay. This leave may be taken only during the twelve (12) month period in which it was granted and it may not be carried over into any subsequent year. No payment or other compensation for unused Court supervisory leave shall be allowed.

During the twelve (12) month period, one (1) additional day of educational leave may be taken by an employee for training or activities related to his/her career interests. The employee shall give reasonable notice for the use of such educational leave and approval shall not be unreasonably



withheld.

Approval by the Court for leave which is used for training or educational purposes shall not in any way be construed to imply that the costs of the educational or training program shall be paid for by the Court or that the employee shall be eligible for tuition reimbursement.

The decision of the Court in approving or denying requests for Court supervisory leave shall not be subject to the grievance procedure.

## **20 PERSONAL PROPERTY REIMBURSEMENT**

Whenever an employee engaged in assigned official duties on behalf of the Court sustains a loss of personal property, through no fault of the employee, that employee shall be eligible for reimbursement for such personal property.

A request for reimbursement must be submitted by claim to the appointing authority no later than thirty (30) calendar days from the date of loss. Management shall review the claim and when circumstances warrant, reimbursement shall be made.

- A. Claims based on cash losses or losses due to lost or stolen credit cards shall not be considered.
- B. Claims based upon damage to automobiles are subject to the following provisions. All four (4) conditions must be met before consideration will be given:
  - 1. An employee, who drives his/her car incident to employment, shall have named the Court as an additional insured on his/her automobile insurance policy as of the date the employee sustained the loss of his/her automobile.
  - 2. Evidence of the required insurance coverage must be presented.
  - 3. Invoice for work completed must be submitted. Reimbursement is limited to Two Hundred Dollars (\$200).
  - 4. The damage must have occurred while the employee was actually using the automobile on authorized Court business, away from the employee's work place.
- C. No reimbursement shall be granted for losses covered by some other source, insurance policy or agency.
- D. A maximum limit of two hundred dollars (\$200) per incident shall apply to all claims for reimbursement.
- E. No claims for reimbursement for items having a present value of less than ten dollars (\$10) shall be considered.

## **21 RETIREMENT**

Effective on the following dates, the employees will begin contributing the following toward employee share of PERS contribution for an eventual total of seven percent (7%):

January	2013: 2.5%
July	2013: 5.0%
December	2013: 7.0%

Employees hired on or after January 1, 2013 shall receive retirement benefits consistent with the Public Employee's Pension Reform Act (PEPRA) or other applicable legislation. For these new hires, the employee contributions through payroll deductions will be consistent with CalPERS regulations, PEPRA, or other applicable legislation.

## **22 JURY DUTY**

It is understood that employees represented by Union shall continue to be covered by the provisions of the Court Personnel Policies Manual dealing with Jury or Witness Duty.

## **23 GRIEVANCE PROCEDURE**

### **23.1 Grievance Defined**

A grievance is defined as a dispute over the interpretation or application of this Memorandum of Understanding by an employee adversely affected thereby, but shall not include the following:

- A. Disciplinary actions as defined herein which shall be subject to appeal through the procedure contained in this Agreement for the appeal of disciplinary actions;
- B. Complaints regarding Equal Opportunity, Occupational Health and Safety, Workers' Compensation or discrimination complaints based on age, race, color, religion, sex, national origin, marital status, ancestry, disability or sexual orientation or the applicable procedures for such complaints;
- C. The exercise of any Court rights as specified in this Memorandum, so long as the exercise of such rights does not conflict with other provisions of this Agreement;
- D. Any impasse or dispute in the meeting and conferring process, or any matter within the scope of representation;
- E. Any matter for which a different appeals procedure is provided either by statutes, ordinances, resolutions, or agreements.

The Union shall be entitled to file a grievance on behalf of an employee adversely affected by a grievable matter.

The Union may file a grievance on its own behalf only on those matters which pertain to the rights of the Union as an organization as specified in Article 5 of this Agreement.

### **23.2 Complaint Procedure**

An employee shall be entitled to file a grievance which alleges that the Court has failed to provide a specific condition of employment which is established by the Court Personnel Policies Manual provided that the enjoyment of such right is not made subject to the discretion of the CEO and the Court, and provided further that the condition of employment which is the subject matter of the grievance is a matter within the scope of representation as defined in California Government Code Section 3504. Such limited grievances may not be appealed to arbitration.

### **23.3 No Discrimination**

There shall be no restraint, interference, coercion, discrimination or reprisal against any employee for exercising any rights under the grievance procedure.

### **23.4 Time Limits**

The time limits set forth herein are essential to the grievance procedure and shall be strictly observed. The time limits may be extended by agreement of the parties; however, any such extension must be confirmed in writing.

The grievant has the right to promptly proceed to the next step within the prescribed time limits if the appropriate management representative fails to respond within the time limits specified.

Failure of the aggrieved employee to file an appeal within the prescribed time limits for any step of the procedure shall constitute abandonment of the grievance.

### **23.5 Grievance Procedure Steps**

#### **Step 1 Discussion with Immediate Supervisor**

- A. The grievant shall first discuss the grievance informally with his/her immediate supervisor. The discussion shall be held within fifteen (15) working days of the action causing the grievance or of the date the action reasonably could have been expected to be known to the grievant. In no event shall any grievance be accepted for consideration more than six (6) months from the date of the action causing the grievance, regardless of the date the action became known to the grievant.
- B. Every reasonable effort shall be made to resolve the grievance at this level. The immediate supervisor shall verbally respond to the grievant within five (5) working days of the informal discussion between the grievant and supervisor.

## **Step 2 Formal Written Grievances**

**In the event the employee believes the grievance has not been satisfactorily resolved, the employee shall submit the grievance in writing on an agreed to prescribed form to their manager within ten (10) working days after receipt of the immediate supervisor's verbal response. The grievant shall file one (1) copy with the Human Resources Division. Such written grievance shall:**

- A. Fully describe the grievance and how the employee(s) was/were adversely affected;**
- B. Set forth the section(s) of the MOU; allegedly violated;**
- C. Indicate the date(s) of the incident(s) grieved;**
- D. Specify the remedy or solution to the grievance sought by the employee(s);**
- E. Identify the grievant and be signed by the grievant;**
- F. Identify the person, if any, chosen by the grievant to be his/her representative.**

**No modifications in the basic violation being alleged pursuant to this grievance procedure shall be made subsequent to filing of a grievance unless mutually agreed to by both the Court and the grievant or the grievant's representative. However, corrections in citations or other clarifying amendments can be made at any time by the grievant or the grievant's representative.**

**The manager or designee shall hold a meeting with the grievant within seven (7) working days of the receipt of the appeal. The manager or designee shall deliver a written decision to the grievant and/or his/her official Union representative within three (3) working days of the date of the grievance meeting. The manager's or designee's decision shall include the reasons on which the decision is based and the remedy or correction which has been offered, if any, to the grievant.**

## **Step 3 Court Executive Officer Mediation**

- A. If a grievance is not settled at Step 2 of the procedure, the grievance may be appealed, in writing to the CEO or designee within ten (10) working days from the receipt of the manager's or designee's written decision. Said grievance appeal must specifically set forth the reason the answer(s) previously provided by management is/are not satisfactory. A meeting may be held by mutual agreement of the parties.**
- B. The CEO or designee shall hold a meeting with the grievant within seven (7) working days of the receipt of the appeal. The CEO or designee shall deliver a**

written decision within ten (10) working days of the date of the meeting.

- C. In the event a represented employee chooses to waive a hearing by the CEO or designee, the Union on behalf of the employee shall, within the ten (10) day appeal period, make a written request to the CEO or designee to seek within ten (10) working days the assistance of a mediator from the State Conciliation Service in an attempt to resolve the grievance. The mediator shall have no authority to resolve the grievance except by agreement of the Union and the Court. In the event the grievance is not resolved, neither evidence nor concessions agreed to or offered during mediation shall be admissible at the subsequent hearing.

If the grievance is not resolved through mediation, the CEO or designee shall issue a written decision.

#### **Step 4 Arbitration**

- A. If a grievance is not settled at Step 3 of the procedure, the Union and only the Union may appeal the grievance in writing to the CEO or designee within ten (10) working days from the receipt of the CEO or designee's written decision. This appeal shall be for the purpose of notifying the Court that the Union wishes to move the grievance to arbitration.
- B. The parties shall meet to select a mutually acceptable arbitrator. Following selection of a mutually agreed upon arbitrator, a date for the arbitration shall be mutually agreed upon within ninety (90) days of the Union's request for arbitration. The fees and expenses of the arbitrator; the transcript for the arbitrator; and the court reporter shall be shared equally by the parties, it being understood and agreed that all other expenses including, but not limited to, fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration, will be the responsibility of the individual party involved.
- C. The decision of an arbitrator shall be final and binding upon the parties but shall not add to, subtract from, nor otherwise modify the terms and conditions of this MOU.
- D. An arbitration date shall be established within ninety (90) days following selection of a mutually acceptable arbitrator.

#### **23.6 Notice of Meetings**

The Court and the grievant or the grievant's representative shall give at least a twenty-four (24) hour notice prior to meetings and conferences regarding a grievance.

#### **23.7 Representation**

- A. The grievant has the right to the assistance of one (1) employee representative/job steward in addition to a staff representative of the Union in the preparation and/or presentation of his/her grievance in Steps 1 through 4 of this procedure provided, however, that Court supervisory employees shall not represent non-Court supervisory employees.
- B. A grievant is entitled to represent him/herself individually at any step of the grievance procedure, except in the arbitration procedure outlined in this Agreement. Only the Union may file for arbitration of a grievance.

### **23.8 Grievance Withdrawal**

The grievant and his/her representative may withdraw the grievance at any stage of the grievance procedure by giving written notice to the Court representative who last took action on the grievance, with the Human Resources Division.

### **23.9 Grievance Resolution**

If a grievance is resolved at Step 2 or 3 in the procedure, the grievant shall indicate acceptance of the resolution by affixing his/her signature in the appropriate space indicated. If the employee has been represented by the Union at the step of the procedure at which a resolution is reached, the Union representative shall also sign the appropriate document acknowledging that the employee has accepted the resolution.

Decisions on grievances where an employee represents him/herself shall not be considered precedent setting or binding with regard to any future grievances filed with respect to the same or similar matters.

### **23.10 Consolidation**

When the Court determines the grievances represent substantially similar issues, grievances may be consolidated.

The Union may file group grievances at the second step of the grievance procedure by listing each person who claims to be adversely affected and all other data required in this article.

### **23.11 Processing Grievances**

The grievant shall be granted reasonable time off with pay from regularly scheduled duty hours to process a grievance, provided that the time off will be devoted to the prompt and efficient investigation and handling of grievances, subject to the following:

Neither a grievant nor a grievant's representative who is a Court employee shall suffer any lost pay for attending any regularly scheduled grievance hearing required by the procedure herein set forth.

- A. A grievant and a grievant's representative shall notify their supervisor as soon as possible of scheduled grievance hearings and of any changes in the time or date of scheduled hearings in which they must participate.
- B. In no event shall a grievant be represented by more than one Court employee at a grievance hearing.

## **24 LAYOFF PROCEDURES**

### **24.1 Policy**

The Court may layoff an employee because of lack of work, lack of funds, material change in duties or organization, or in the interest of economy or causes outside the Court's direct control.

The Court shall inform the Union regarding the effects of any planned reduction in force or layoffs which will affect the Court's work force.

The Court shall contact the Union and offer to discuss the possible reduction and to invite suggestions for possible cost saving alternatives to layoffs. If alternatives to layoffs are not developed by the time the Court determines a layoff should occur, the procedure outlined in Section 23.2 below shall be followed.

### **24.2 Procedure**

In the event of a layoff, the CEO shall designate the classes, positions, and number of employees to be eliminated. The Court at this time shall provide the Union with a current seniority list for those employees and classes affected.

Layoffs shall be made among all representation unit employees in the same class series within in the following order:

- Temporary employees
- Probationary new employees (excluding promotional probationary employees.)
- Limited-term employees
- Regular employees

No regular employee within the Court shall be laid off in any class if there are temporary employees in an active status in the same class.

Layoff shall be by ranking sequence of employees except as otherwise provided herein.

#### **24.3 Rank in Class Defined**

For purposes of layoff rank shall be defined as the length of continuous service in a class series as determined by Human Resources records while occupying a regular position within the Court. Continuous service for purposes of ranking for layoff shall be defined to include work related injury leave of up to one (1) year's duration.

#### **24.4 Order of Layoff, Exception to Ranking Sequence**

Layoffs of employees within each category of employment status within a class series shall be based on ranking sequence unless it can be demonstrated that: 1) an employee possesses special skills, training, or abilities, or 2) the employee's past job performance or disciplinary record justifies an alternative ranking, or 3) the employee may be, by virtue of ranking sequence subject to disparate treatment.

#### **24.5 Ranking in Previous Class**

A regular full-time employee shall be ranked with employees in any class with the same or lower salary in which the employee has served in regular status in the Court service.

#### **24.6 Demotion in Lieu of Layoff**

In lieu of layoff, the Court may offer a regular employee a demotion or lateral appointment to any class for which the employee meets the minimum qualifications qualified. Employees demoted in lieu of layoff pursuant to this paragraph shall not be eligible for the "Y" rating procedure. An employee who accepts a demotion in lieu of layoff shall have the right of restoration to his or her former class when an opening occurs and his or her ranking sequence warrants restoration subject to the provisions of Section 23.8 below.

#### **24.7 Notice**

Written notice of layoff shall be served on the affected employees in person or mailed through the United States Postal Service to the employee's latest address on file with the Court. The layoff notice shall be served or mailed at least twenty-one (21) calendar days prior to the expected effective date of separation unless delay results from consideration of demotion under the provisions of Section 23.6. The notice shall include:

- A. The reason for the layoff.
- B. The effective date of the action.
- C. A reference to the provisions governing reemployment.



- D. Notice that employment counseling is available through the Court Human Resources Division.

A copy of the notice shall be given to the Union.

#### **24.8 Reemployment of Employees Laid Off**

The names of persons laid off under these procedures shall be maintained on a Court recall list for the class series from which the employee was laid off for a period of one (1) year from the date of layoff. When using the Court recall list to fill a position in a class from which layoffs have occurred within the one (1) year recall period, the Court shall reemploy laid off employees from the Court recall list in inverse order of layoff. During the one (1) year recall period, no new employee shall be hired nor shall any employee be promoted to a class from which layoffs have occurred until all employees on layoff status in that class have had the opportunity to return to work.

However, when the best interest of the Court requires an employee with demonstrated special qualifications, skills or training, or for affirmative action considerations, the Court may make an exception to the above order of recall in order to appoint an employee out of ranking sequence.

Every employee given notice of layoff may request employment counseling and evaluation by the Court Human Resources Division in order to determine those job classes with salary rates equal to or less than the employee's current job classification within the Court for which the employee meets employment eligibility requirements and desires to be considered for employment from a preferred eligible list. Such counseling and evaluation shall be available by appointment in order of request. Following the counseling and evaluation, a laid off employee's name shall be placed on a preferred eligible list for each class designated by Human Resources as a result of the counseling and evaluation. When Human Resources receives a request to refer applicants to a department for a vacant position in a class for which there exists a preferred eligible list, the laid off employee on the list shall be considered for employment prior to any job applicant. A competitive job-related selection process may be used to determine the order in which laid off employees on a preferred eligible list for a class will be referred for an interview.

A laid off employee may be removed from a Court recall list or a preferred eligible list for any of the following reasons:

- The expiration of one (1) year from the date of layoff;
- Reemployment within the Court in any job classification;
- Failure to accept employment or report to work;
- Failure to appear for a job interview after notification by telephone or by

mail addressed to the employee's last address on file with the Court.

- Failure to respond within seven (7) calendar days to a communication regarding availability of employment;
- Request in writing by the laid off employee to be removed from the list.

#### **24.9 Status of Employees Reemployed From a Preferred Eligible List**

Employees who are reemployed from a preferred eligible list shall serve a new probationary period, and otherwise be treated as a new employee with the following exceptions:

Former employees who are hired from a preferred eligible list shall be entitled to:

- A. Placement at up to step 6 of the salary range in the class into which they are hired provided that the salary upon rehire does not exceed the salary the employee was receiving at the time of layoff,
- B. Reinstatement of credit for service time (ranking) as of the date of separation from Court service,
- C. Credit for continuous Court service for the purpose of determining vacation and sick leave accrual rates, and
- D. restoration of any sick leave balance credited to the employee's account on the date of layoff.

#### **24.10 Restoration of Benefit for Recalled Employees**

Any employee who has been laid off and is hired from the Court recall list under the terms of this article within one (1) year from the date of layoff shall be entitled to:

- A. Restoration of regular status for employees who are rehired from the Court recall list and class from which they were laid off, and who have completed their probationary period. For employees who have not completed their probationary period, credit for that portion which has been completed shall be given if rehired from the Court recall list.
- B. Restoration of all sick leave credited to the employee's account on the date he was laid off.
- C. Credit for all prior continuous Court service for the purpose of determining vacation accrual rates.
- D. Placement in the same step of the salary range in the classification the employee

held at the time of layoff.

- E. Reinstatement of credit for continuous Court service time (ranking) as of the date of layoff.

#### **24.11 Insurance Coverage**

Each regular employee who is enrolled in the Court Health Plan at the time of layoff may, prior to the effective date of the layoff, elect to enroll in a health insurance conversion plan offered by current health plan administrative carrier. In the event the laid off employee so elects, the Court will pay an amount equal to two (2) times the employee-only premium at the time of layoff toward the cost of the health insurance conversion plan. The above insurance provision does not apply to employees who retire coincidental to their layoff.

#### **24.12 Appeal Procedure**

An employee directly affected by the operation of this Section of the MOU may, within five (5) working days after a notice of layoff is received, request a meeting with the CEO or designee to review the application of this Section of the MOU as it affects the employee's status. The employee may be accompanied by a representative of the Union.

The Union, and only the Union, after making an attempt to resolve the matter informally, may within seven (7) days of the date of an alleged violation of this policy file a grievance for final consideration and determination at the CEO level in accordance with the provisions of the grievance procedure in effect between the Court and the Union. A grievance filed in accordance with this paragraph shall not be subject to Article 22.5, step 4, "Arbitration," of this Agreement.

### **25 DISCIPLINE**

#### **25.1 Disciplinary Actions**

The CEO or designee may take disciplinary action against any employee in the service of the Court provided that the rules and regulations prescribed herein are followed and that any regular or limited-term employee who is not on any form of probationary status has the right to appeal pursuant to this section, except as herein provided. As used in this section, "disciplinary action" shall mean dismissal, involuntary leave, disciplinary demotion, reduction in salary, or written reprimand.

#### **25.2 Notice of Proposed Disciplinary Action**

In order to institute disciplinary action the CEO or designee shall serve notice of the proposed disciplinary action in accordance with the following procedures.

Except as otherwise provided herein or when emergency or other special circumstances require immediate action, a notice of proposed disciplinary action (other than for written reprimands) shall be delivered to the employee, either personally or by the United States Postal Service, to the current address listed on the employee's most recent personnel action form, no less than five (5) calendar days prior to the effective date of any disciplinary action against the employee.

The notice of proposed disciplinary action shall include the following:

- A. The nature of the disciplinary action;
- B. The effective date of the action;
- C. The causes for the action in ordinary, concise language with the dates and places thereof, when known;
- D. A statement that identifies the material upon which the action is based and states that it is available for inspection; and
- E. A statement advising the employee of his/her right to respond either verbally or in writing to the CEO or designee imposing the disciplinary action prior to the effective date, the right to be represented in that response, and that members of the bargaining unit are represented by SEIU Local 521, and the address and telephone number of the Union office.

### **25.3 Notice of Implementation of Discipline**

In the case of an involuntary leave without pay of three (3) working days or less or an involuntary leave with pay of twenty (20) working days or less, the involuntary leave may be imposed by a single notice containing items A, B, C and D of Section 24.2 above. This notice shall be delivered to the employee on or as soon after the effective date of the suspension as possible.

Except as provided above, in order to implement the proposed disciplinary action or a lesser disciplinary action based on the same cause(s), a notice of disciplinary action shall be delivered to the employee, either personally or by the United States Postal Service to the current address listed on the employee's most recent Personnel Action form, on or before the effective date of the disciplinary action.

The notice of disciplinary action shall contain the information in items A, B, C and D of Section 24.2.

### **25.4 Written Reprimand**

The CEO or designee may reprimand an employee by furnishing the employee with a

statement, in writing, of the specific reasons for such reprimand. A copy of notice of the reprimand shall be given to the Human Resources Manager for inclusion in the employee's personnel file, and shall not be subject to appeal. The employee and/or his/her representative shall have the right to discuss the reprimand with the CEO or designee. The CEO or designee may correct the reprimand, or notice of reprimand, at his/her discretion. The employee may submit a written response that shall be placed in his/her personnel file.

#### **25.5 Involuntary Leave Without Pay**

Any involuntary leave without pay invoked as a disciplinary action under this section against any employee in the Court service, whether for one or more periods, shall not exceed sixty (60) calendar days in any one (1) calendar year; provided, however, that where an employee is placed on involuntary leave without pay because of criminal information or indictment filed against such employee, the period of involuntary leave may exceed sixty (60) calendar days and continue until, but not after, the expiration of thirty (30) calendar days after the dropping of charges, or the judgment or conviction or acquittal of the offense charged in the complaint, or indictment has become final. An employee placed on such involuntary leave shall forfeit all rights, privileges, and salary while on involuntary leave.

The sixty (60) day restriction shall apply only to managerial imposition of discipline and is not intended to restrict the ability of a third party neutral to invoke a greater period of involuntary leave.

#### **25.6 Administrative Leave Pending Investigation for Disciplinary Action**

The CEO or designee may place an employee under his/her control on involuntary leave from his/her position at any time for reasons of investigation for disciplinary action. Such involuntary leave may be either with or without pay subject to the limits set forth in this section.

Written notice of such involuntary leave shall be given to the employee as soon as possible but not later than seventy-two (72) hours after such action is taken. Such involuntary leave is not a disciplinary action and shall not be subject to appeal unless it, or any portion of it, subsequently becomes a disciplinary action. In the event an employee is placed on involuntary leave without pay under this section and the appointing authority takes no disciplinary action, he/she shall reinstate the employee to his/her position and restore all rights and privileges and back pay for the time lost during the involuntary leave.

### **25.7 Reduction in Salary**

The CEO or designee may reduce the salary of an employee, for disciplinary reasons, provided that such reduction shall be to a step within the salary range of the classification held by the employee. An employee so reduced in salary shall retain his/her anniversary date but shall not be eligible for advancement to a higher step in the salary range of his/her job classification for a period of six (6) months from the date such reduction in salary became effective.

### **25.8 Disciplinary Demotion**

The CEO or designee may demote an employee, for disciplinary reasons, to any classification with a lower salary range, provided the employee meets minimum qualifications for the lower-level classification. Such demoted employee shall not be eligible for promotion for a period of six (6) calendar months.

### **25.9 Dismissal**

The continued tenure of each employee who has regular status shall be subject to his/her satisfactory conduct and performance. Should the cause for disciplinary action so warrant, an employee may be dismissed.

### **25.10 Absence Without Leave Separation**

An employee absent from duty for a period which exceeds three (3) working days without authorized leave shall be considered to have abandoned his/her position and to have automatically resigned.

Such resignation shall be rescinded by the CEO or designee if the employee can show to the satisfaction of the appointing authority that it was impossible to contact the Court, provided the employee contacts the Court within five (5) working days of notice of separation under this section through United States Postal Service.

### **25.11 Statute of Limitations**

Any disciplinary action for cause against a Court employee shall not be valid unless the notice of disciplinary action is served within one (1) year of the date of discovery of the event which gave rise to the cause of discipline. Matters of serious nature (e.g., fraud, embezzlement, falsification of records) shall require written notice to the employee of disciplinary action within three (3) years after discovery of the event which gave rise to the disciplinary action.

Nothing herein shall preclude the Court from disciplining an employee for cause which consists of a course of improper conduct or history of below standard performance that began more than three (3) years prior to the notice of disciplinary action. Such

disciplinary and/or performance record of beyond three (3) years shall be used only to determine the disciplinary penalty to be imposed.

#### **25.12 Appeals from Disciplinary Action**

Only regular employees, or limited-term employees with more than one (1) year of service, and who are not on probation, shall have the right of appeal from disciplinary actions other than written reprimands.

The written notice of appeal must:

- A. State the basis of the appeal and contain a specific admission or denial of each of the material allegations contained in the notice of disciplinary action, and;
- B. Be filed with the CEO within ten (10) working days of the effective date of the disciplinary action, and;

Appeals from disciplinary action to arbitration shall only be filed by the Union.

Failure to appeal within the time limit set forth in this section shall constitute an irrevocable waiver of the right to process the appeal to arbitration.

Within ninety (90) calendar days of the receipt of the appeal to the CEO, the Court and the Union shall agree upon a mutually acceptable arbitrator and an arbitration hearing date.

The decision of the arbitrator shall be final and binding.

The fees and expenses of the arbitrator shall be shared equally by the parties, it being understood and agreed that all other expenses including, but not limited to, fees for witnesses, transcripts and similar costs incurred by the parties during such arbitration, will be the responsibility of the party requesting the services.

## **26 PROBATIONARY PERIOD**

### **26.1 Term of Probationary Period**

Upon each appointment to a regular position, except as outlined below, an employee shall serve a probationary period of nine (9) months dating from the date of his/her appointment. During the probation period, an employee has no right to appeal and serves at the pleasure of the CEO or designee.

Prior to the conclusion of the nine (9) month probationary period and with approval of the CEO, the manager, may, for cause, extend the probationary period upon furnishing the employee with a statement of the reasons for such extension and the standards that

must be met in order for the employee to successfully complete the probationary period.

During the nine (9) month probationary period, a minimum of two (2) performance evaluations shall be completed no later than three (3) and six (6) months after the initial appointment date.

An employee who has successfully completed the probationary period will be eligible for advancement to the next higher step in a salary range upon completion of 2080 hours of continuous service in his/her class. If the Court determines that due to administrative or clerical error or omission an employee failed to receive a step advancement on the date on which he/she was otherwise eligible, the employee shall be advanced one step effective on the date he/she became eligible.

## **26.2 Employees Terminated During Probation in a Promotional Class**

The parties reaffirm their understanding that employees, who have been promoted and thereafter are dismissed during probation in such promotional class, enjoy no procedural or substantive rights. However, to lessen the impact of a dismissal on such employees, and so that the skills possessed by such employees may be available to the Court, the parties agree that such dismissed employees may be returned to their former class if a vacant position exists in that class. If an employee is not returned to his former class, s/he may elect to follow the procedures outlined in section 24.4 "Reemployment of Employees Laid Off" paragraph 3 of this Memorandum of Understanding for placement on a preferred eligible list. An employee electing to pursue placement on a preferred eligible list must notify the Human Resources Manager of his desire to do so within five (5) working days of notification that s/he will not be returned to his former class.

The decision to place such a dismissed employee on a preferred eligible list shall be in the sole, exclusive, and unreviewable discretion of the Court. No action taken by the Court concerning an employee dismissed while serving a probationary period shall be subject to appeal, review, or to any grievance procedure or arbitration procedure whether such procedure be contained in this Memorandum of Understanding, the Court Personnel Policies Manual, the Labor Relations Rules, or any other statute, ordinance, resolution or MOU.

This article shall not impair the liberty interest rights of any employee.

## **27 PERSONNEL RECORDS**

Personnel records are not subject to public inspection.

All personnel records are and remain the property of the Court.

Employees shall have the right to inspect and review any record relating to his/her performance which



is kept or maintained by the Court.

When any comment adverse to an employee's interest is entered in his/her official personnel records, the employee shall have opportunity to read the adverse entry.

Notwithstanding any other provision of this item, an employee is not entitled to inspect or review such documents as reference letters, background investigations, records pertaining to investigation of a possible criminal offense, or material designated confidential by law.

At his/her request, an employee shall be provided one (1) copy of any document placed in the employee's official personnel file except for employment applications and those documents listed above.

An employee, or a staff representative of the Union with the written consent of the employee, may schedule an appointment to inspect that employee's personnel records during regular business hours.

All performance related materials contained within an employee's personnel records may provide support for disciplinary actions. Nothing in this MOU shall preclude the use of any material in an employee's personnel record from being used in any proceeding involving the action of the Court to take disciplinary action against the employee.

## **28 TRANSFERS**

### **28.1 Court-Initiated Transfers**

The Court retains the sole right to transfer employees from a work site to another. Employees shall receive notice five (5) working days prior to the effective date of the transfer except when an immediate transfer is necessary to meet the requirements of the Court.

### **28.2 Employee-Initiated Transfers**

An employee who desires to be transferred within his/her respective job class to a specific worksite within the Court may submit a written request for transfer to the Human Resources Manager. Transfer requests shall be retained for a period of one (1) year from date of filing and must be renewed by the employee he/she still desires to be considered for transfer. The Court shall respond to the request for transfer by notifying the employee of the status of their request within ninety (90) calendar days of its receipt.

When the Court contemplates filling vacancies and/or openings by transferring employees from one work site to a different work site, the Court will consider the following criteria:

- The overall needs of the Court
- Requirements of job
- Ability to perform job

- The duration and/or permanence of the transfer
- Length of service with the Court

## **29 USE OF VOLUNTEERS**

No volunteer program shall have the effect of displacing any Court employee. The Court shall meet with the Union to discuss any Court -wide volunteer program before implementing such a program.

## **30 CONTRACTING OUT**

The Court may, in the interest of economy, efficiency and/or emergency, perform any or all of the services, projects, or work assignments through the use of its own employees, the employees of other governmental agencies, or through the use of contractual agreements.

The Court shall give the Union 30 day notice prior to the implementation of any proposed contracting wherein such contracting results in the layoff of any regular bargaining unit employee and shall consult with the Union in good faith regarding the effects of such contracting. Consultation shall not be required where the contracting will not result in the layoff of any regular bargaining unit employee.

## **31 POLYGRAPH EXAMS**

No bargaining unit employee shall be required to cooperate with, participate in or submit to any polygraph examinations as a condition of continuing employment.

## **32 EMERGENCY AUTHORITY**

Nothing contained herein shall be construed to limit the authority of the Court to make changes for the purpose of preparing for or meeting an emergency. For the purposes of this article, any change in law or circumstances that significantly reduces currently existing or anticipated revenue levels, shall be included within the definition of an emergency. Such emergency actions shall not extend beyond the period of the emergency.

Whenever practicable, the Court will meet and consult with the Union prior to taking action under the authority of this section. After taking action under the authority of this section, the Court, upon request, will meet and confer with the Union over the practical consequences that the emergency action taken had on those terms and conditions of employment that are within the scope of representation.

## **33 REST PERIODS**

Employees are entitled to a fifteen (15) minutes duty free rest period during each four (4) hours of continuous work. A rest period shall count as fifteen (15) minutes of time worked for calculation of pay.

Rest periods may be suspended when unusual emergency conditions require continuous performance

of duties in order to protect or preserve life or property.

Rest periods may be suspended for up to five (5) continuous days when short term staffing shortages require continuous work in order to provide essential services; additional suspension of rest periods within thirty (30) days due to staffing shortages requires approval by the CEO or designee.

### **34 PERFORMANCE EVALUATIONS**

An employee who does not agree with the overall rating which he/she receives on his/her written performance evaluation shall discuss and attempt to resolve the differences with his/her immediate supervisor.

If discussion with his/her immediate supervisor does not result in resolution of the differences, the employee may file a written request to meet with the next level of management. Said request shall state the unresolved issues and the specific changes in the written performance evaluation which the employee is seeking. The appropriate manager shall meet with the employee to discuss the unresolved issues.

If the issues are not resolved to the employee's satisfaction following discussion with the appropriate manager, the employee may within ten (10) working days file a written request for a meeting with the CEO. Within ten (10) working days of receipt of a written request stating the unresolved issues and the desired changes in the written performance evaluation, the CEO shall meet with the employee to discuss the issues. Within ten (10) working days of said meeting, the CEO or designee shall respond in writing to the employee. The decision of the CEO or designee shall be final and not subject to the grievance procedure.

### **35 COURT DRESS-DOWN DAY**

Effective with the ratification of this contract, Court employees shall observe Section I.4, Personal Appearance, of the Court's Personnel Policies Manual except that on Fridays, employees may wear Court-approved logo shirts with slacks, black jeans or skirts

### **36 CONCERTED ACTIVITIES**

The parties to this MOU recognize and acknowledge that the services performed by the Court employees covered by this MOU are essential to the public health, safety, and general welfare of the residents of the County of Monterey. Under no circumstances will the Union recommend, encourage, cause or permit its members to initiate, participate, or take part in, any strike, sit-down, stay-in, sick-out, slow-down, or picketing (hereinafter collectively referred to as work-stoppage), in any office or department of the Court, or to curtail any work or restrict any production, or interfere with any operation of the Court. In the event of any such work-stoppage by any member of the bargaining unit, the Court shall not be required to negotiate on the merits of any dispute which may have given rise to such work-stoppage until said work-stoppage has ceased.

In the event of any work-stoppage, during the term of this MOU, whether by the Union or by any employee, the Union shall immediately declare in writing and publicize that such work-stoppage is

illegal and unauthorized and further direct its members in writing to cease the said conduct and resume work. Copies of such written declaration shall be immediately provided to the Court. In the event of any work-stoppage the Union shall promptly and in good faith perform the obligations of this section, and providing the Union had not otherwise authorized such work-stoppage, the Union shall not be liable for any damages caused by the violation of this provision.

The Court shall have the right to discipline, up to and including discharge, any employee who instigates, participates in, or gives leadership to, any work-stoppage activity herein prohibited, and the Court shall also have the right to seek full legal redress, including damages against any such employee.

### **37 SEPARABILITY**

If any section, subsection, paragraph, clause or phrase of this MOU is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this MOU. It is expressly declared that this document, each section, subsection, paragraph, sentence, clause and phrase had been adopted irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

### **38 FULL UNDERSTANDING MODIFICATION, WAIVER**

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

Existing matters within the scope of representation which are not referenced in the MOU and which are subject to the meet and confer process shall continue without change unless modified subject to the meet and confer process. The Court assures the Union that unless changes are warranted by operational necessity it does not intend, nor does it anticipate, during the term of this Memorandum of Understanding any change, modification or cancellation of wages, hours, and working conditions which are subject to meet and confer and which are presently in effect or contained in the MOU.

Except as specifically provided herein, it is agreed and understood that each party voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required, although they may mutually agree otherwise, to negotiate with respect to any subject or matter covered herein or with respect to any other matter within the scope of negotiations, during the term of this MOU.

Any MOU, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the Court Executive Committee.

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

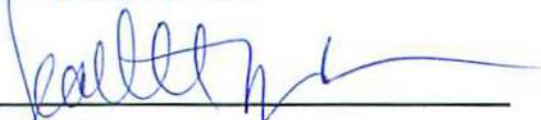
**39 ECONOMIC RE-OPENER**

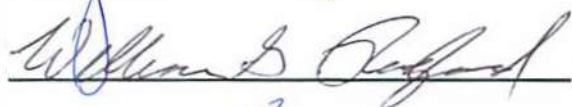
Within thirty (30) calendar days after the Court submits its FY 13-14 4<sup>th</sup> Quarter Quarterly Financial Statement (QFS) to the Judicial Council and the Union, upon request of either party at that time, the Court and Union will re-open the contract and meet and confer on all economic terms of the MOU. In addition, each side may re-open on three non-economic items (i.e., three MOU articles). The parties agree that such meet and confer process must take place within a reasonable timeframe not to exceed ninety (90) calendar days from the above-referenced request from one or both parties.

MEMORANDUM OF UNDERSTANDING  
SUPERVISORY (F) REPRESENTATION UNIT

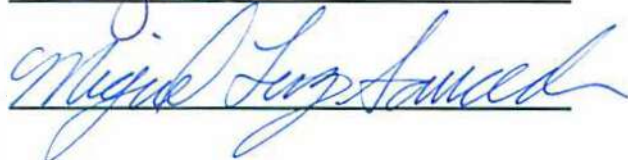
October 1, 2013—September 30, 2015

For SEIU Local 521







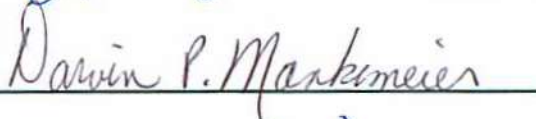


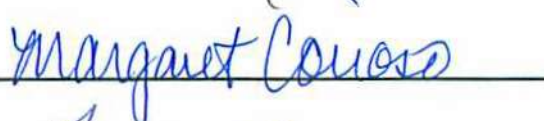
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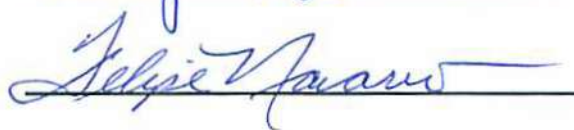
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For Superior Court of Monterey





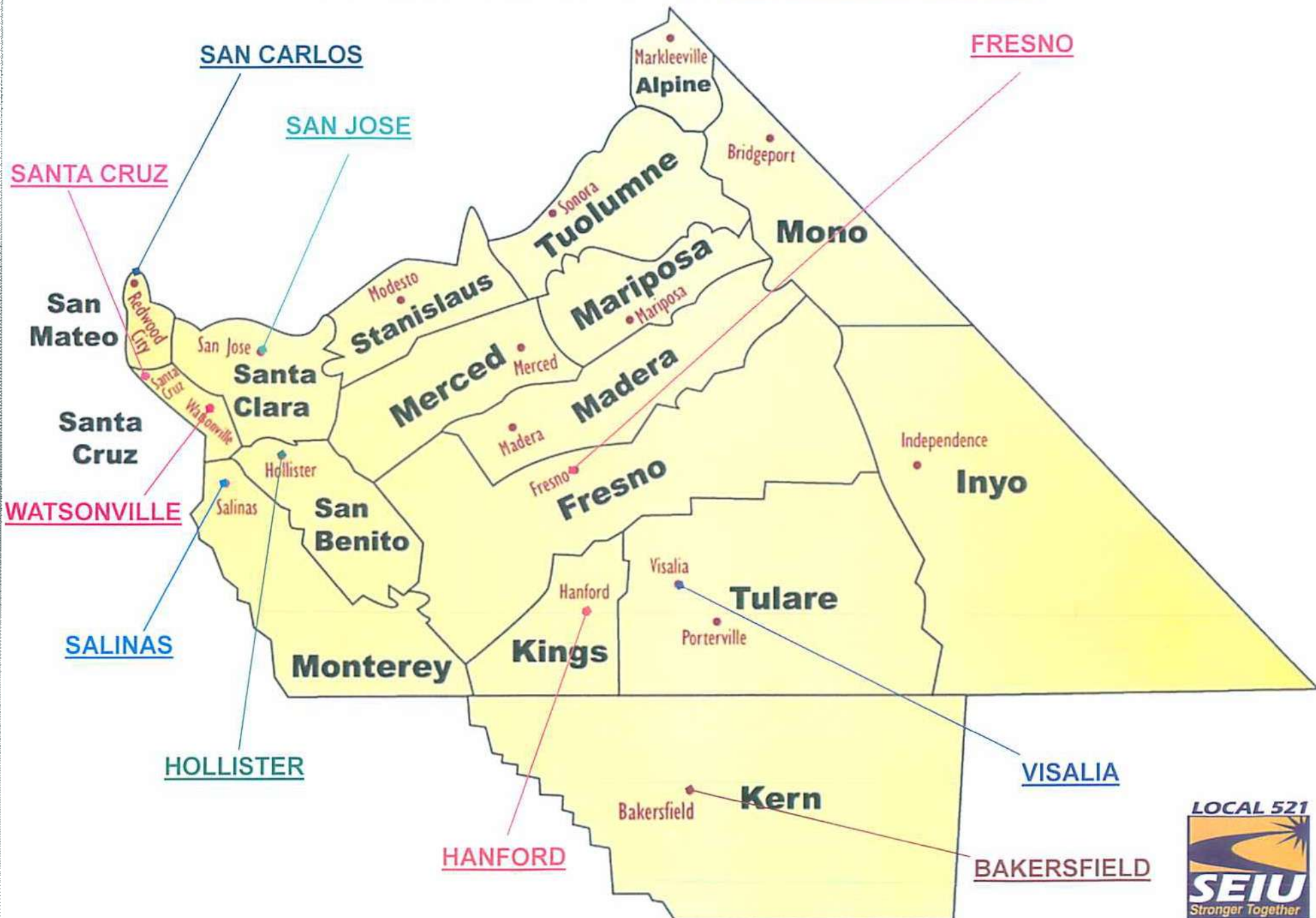




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# SEIU Local 521 Counties & REGIONAL OFFICES





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