

FILED

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K. JAMES CHERRY, CLERK OF SUPERIOR COURT  
CONTRA COSTA COUNTY, CALIFORNIA  
BY *[Signature]*  
Deputy Clerk

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19 Attorneys for Petitioner  
20 **UNITED PROFESSIONAL FIRE FIGHTERS**  
21 **OF CONTRA COSTA COUNTY, LOCAL 1230**

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
23 **CONTRA COSTA COUNTY**

24 **CONTRA COSTA COUNTY DEPUTY**  
25 **SHERIFFS ASSOCIATION; UNITED**  
26 **PROFESSIONAL FIRE FIGHTERS OF**  
27 **CONTRA COSTA COUNTY, LOCAL 1230;**  
28 **KEN WESTERMANN; SEAN FAWELL,**

CASE NO. N12-1870

**STAY ORDER**

Petitioners,

vs.

**CONTRA COSTA COUNTY EMPLOYEES'**  
**RETIREMENT ASSOCIATION; BOARD OF**  
**RETIREMENT OF THE CONTRA COSTA**  
**COUNTY EMPLOYEES' RETIREMENT**  
**ASSOCIATION; DOES I-V,**

Respondents.

1 TO: RESPONDENTS CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT  
2 ASSOCIATION ("CCCERA") AND THE BOARD OF RETIREMENT OF THE  
3 CONTRA COSTA COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

4 WHEREAS it is alleged by the verified petition of Petitioners Contra Costa County Deputy  
5 Sheriffs Association ("DSA"), United Professional Firefighters of Contra Costa County, Local 1230  
6 ("Local 1230"), Ken Westermann and Sean Fawell that your implementation of Government Code  
7 section 31461, as amended by the State Legislature in AB 197, effective January 1, 2013, is contrary to  
8 the promises made to employees since 1997 and improperly impairs their vested rights;

9 WHEREAS, it appears that Petitioners are parties beneficially interested in this proceeding;

10 WHEREAS, it appears from the verified petition that Petitioners have no plain, speedy or  
11 adequate remedy in the ordinary course of law and that a stay pendent lite should issue; and,

12 WHEREAS, on reading the verified petition in this action and the accompanying declarations  
13 and memorandum, as well as the arguments and the stipulations of the parties made at the hearing on  
14 November 28, 2012, it appears to the satisfaction of the Court that this is a proper case for granting stay  
15 to preserve the status quo, and that, unless the stay as described below is granted, great and irreparable  
16 harm will be suffered as to those employees represented by petitioners and other active and deferred  
17 members of CCCERA, both general and safety, before the matter can be heard on the merits.

18 NOW THEREFORE, you are also commanded immediately to take all necessary actions to stay  
19 the implementation of all aspects of Assembly Bill 197 ("AB 197") that concern the definition of  
20 "compensation earnable" under Section 31461 of the County Employees Retirement Law ("CERL") and  
21 to continue implementing the policy attached as Exhibit H to the Verified Petition herein pursuant to the  
22 following:

23 1. The stay shall be effective immediately and remain in place for sixty (60) days following  
24 the date of entry of judgment in this action.

25 2. The stay shall operate to suspend implementation of all aspects of AB 197 that concern  
26 the definition of "compensation earnable" under CERL.

27 3. The stay shall operate to suspend implementation of AB 197 as to all active and deferred  
28 members of CCCERA, including both general and safety members.

1 4. When the stay is dissolved, it shall be dissolved effective on that date, not nunc pro tunc  
2 to January 1, 2013.

3 5. The hearing on the merits of Petitioners' claims will be scheduled as expeditiously as  
4 possible, and submitted on stipulated facts to the greatest extent possible.

5 6. Petitioners are required to notify real parties in interest, and the Court will liberally grant  
6 requests for intervention.

7 7. In the event of disposition of this matter prior to entry of judgment on the merits, the stay  
8 will be dissolved by further order of this Court, following a noticed hearing.

9 8. The Court reserves the right to modify this Order for good cause, upon notice and a  
10 hearing.

11 9. The parties shall convene with this Court, Department 6, on December 19, 2012 at  
12 9:00AM for an initial case status conference.

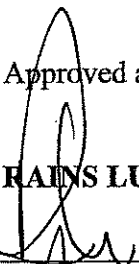
13 Let the foregoing order issue.

14  
15 Dated: November 29, 2012

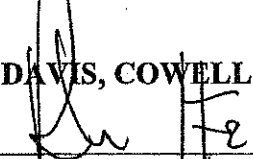
  
HONORABLE DAVID FLINN,  
SUPERIOR COURT OF CONTRA COSTA COUNTY

16  
17 Approved as to form:

18 **RAINS LUCIA STERN, PC**

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20 \_\_\_\_\_  
21 Rockne A. Lucia, Jr.

22 **DAVIS, COWELL & BOWE, LLP**

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24 \_\_\_\_\_  
25 W. David Holsberry

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1 REED SMITH, LLP

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3 Harvey L. Leiderman

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