

From Goyette & Associates Law Firm

April 18, 2013

This is an update regarding the CCCDSA v. CCCERA pension lawsuit, for which PPOACCC is participating as an intervening Petitioner. The State filed a Complaint in Intervention last month, alleging that it has an interest in defending the laws of the state and establishing that AB197 is constitutional "on its face." Because the State has intervened as a Defendant, their Complaint in Intervention is essentially viewed by the court as an Answer to our Petition.

There have been two demurrers filed by Petitioners, alleging that the State's Answer has expanded the issues of the lawsuit and does not respond to the allegations presented in the Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief. Petitioners have each alleged that AB197 is unconstitutional as applied by CCCERA, not that the statute itself is unconstitutional independently, and therefore the State has not responded to Petitioner's arguments so their Answer should be "thrown out."

Both demurrers have been reviewed and determined that they have fully addressed the problems of the State's Answer. Pursuant to the California Code of Civil Procedure, PPOACCC is not required to file its own response to the Complaint in Intervention, and to conserve resources, Goyette & Associates will not be filing a demurrer to the State's Answer. However, Goyette & Associates will remain attentive to the procedural developments as they are decided. A case management conference is scheduled for May 9, 2013 at 9:30 a.m., and the hearing on the demurrer is scheduled for May 13, 2013 at 9:30 a.m.

Currently, there are a total of four pending lawsuits relating to AB197:

- Alameda County Deputy Sheriff's Association, et al. v. Alameda County Employees' Retirement Association, et al. (Alameda County Superior Court, Case No. RG12658890);
- Contra Costa County Deputy Sheriff's Association, et al. v. Contra Costa County Employees' Retirement Association, et al. (Contra Costa County Superior Court Case No. MSN12-1870);
- American Federation of State, County & Municipal Employees, et al. v. Merced County Employees' Retirement Association, et al. (Merced County Superior Court Case No. CV003073); and
- Marin Association of Public Employees, et al. v. Marin County Employees' Retirement Association, et al. (Marin County Superior Court Case No. CIV 1300318).

The State intends on filing a motion to transfer the Alameda, Merced, and Marin cases to Contra Costa County Superior Court. The hearing for the State's motion to transfer and consolidate the cases is set for Wednesday, May 29, 2013, at 9:00 a.m. in Contra Costa County Superior Court. Goyette & Associates will keep the PPOACCC updated as the Court decides how this lawsuit will proceed.