

UPDATE ON PPOACCC PENSION LAWSUIT

May 25, 2013

This is an update from Goyette & Associates for the Assembly Bill 197 lawsuit. On May 24, 2013, a hearing was held for the named Plaintiffs' and Intervenors' demurrers, which challenged the State's complaint in intervention. A Defendant's complaint in intervention is essentially an answer, and the demurrers argued that the State's answer did not address the Petitioners' allegations. The judge had released a tentative decision overruling the demurrer. After the hearing, however, the judge changed its decision and sustained the demurrer with leave to amend. This means the State has 30 days to amend its complaint in intervention so that it actually responds to the complaint, instead of bringing in issues that were not in dispute.

On May 29, 2013, the State made a motion to consolidate. The State is seeking to coordinate the actions pending in the 4 counties (Contra Costa, Marin, Merced, Alameda) claiming there are overlapping legal issues and if the courts rule differently in each case, there could be conflicting rulings. Attorneys from all four counties, as well as attorneys from the State and the Retirement Associations attended the hearing in person and via Court Call. After waiting 30 minutes for other matters to be called, the hearing on the motion lasted almost two hours. Each party presented its argument in favor or against consolidation, and responded to the judge's questions. The judge's questions challenged both sides' arguments, and the judge finally decided that he would carefully consider the arguments made, but did not provide a date for his decision. The outcome of this motion has less of an effect in our Contra Costa County than it does for others, because if the matter is consolidated, it will proceed in Contra Costa County. There will be 4 times the number of attorneys and employees involved, so it will become a much larger and complex lawsuit, but we at least would be able to avoid the inconvenience that other counties employees association will suffer by having to travel to a different county's superior court.

As of now, we will wait to see what the judge rules in terms of whether he will consolidate the actions. Hopefully, he will decline and we will proceed as we have been, in four separate lawsuits. This makes the most sense because we are challenging Assembly Bill 197 as applied by each Retirement Association to the members, and each set of facts are unique.