



## CDCAN REPORT

**#001-2010 JANUARY 1, 2010 – EARLY FRIDAY**

**CALIFORNIA DISABILITY COMMUNITY ACTION NETWORK**

**ADVOCACY WITHOUT BORDERS: ONE COMMUNITY –**

**ACCOUNTABILITY WITH ACTION**

*California Disability Community Action Network Disability Rights News goes out to over 50,000 people with disabilities, mental health needs, seniors, traumatic brain & other injuries, veterans with disabilities and mental health needs, their families, workers, community organizations, including those in Asian/Pacific Islander, Latino, African American communities, policy makers and others across California.*

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### **State Budget Crisis:**

## **STATE COURT ORDERS END OF FURLOUGHES FOR THOUSANDS OF STATE EMPLOYEES – SAYS GOVERNOR OVERSTEPPED LEGAL AUTHORITY**

***State Superior Court Judge Roesch's New Year's Eve Order Impacts SEIU Represented State Employees Who Are Not Funded by State General Fund Money and State Employees in "Special Fund" Agencies – Two Other State Employee Unions Impacted By Order***

SACRAMENTO, CALIF (CDCAN) [Updated 01/01//10 12:40 AM (Pacific Time)] - In another major legal setback for Governor Arnold Schwarzenegger, State Superior Court Judge Frank Roesch issued an order late afternoon on New Year's Eve, ordering the Governor and other state officials to "cease and desist" the mandatory furloughs for tens of thousands of state employees represented by SEIU (Service Employees International Union) who are paid through funding other than the State General Fund and state employees who in "special fund" state agencies. The judge's order, which said that the Governor overstepped his legal authority, also impacts two other state employee unions.

The Governor's office said the State will appeal the judge's decision.

The Alameda County Superior Court judge issued the order in the lawsuit "*Service Employees International Union Local 1000 and Yvonne Walker v. Arnold Schwarzenegger, et al.*" (case #RG09456750), that was heard on November 16, 2009 and combined with two other similar state lawsuits filed by the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE), and the Union of American Physicians and Dentists (UAPD). The case is one of at least 20 different lawsuits filed to stop the mandatory furloughs. [a copy of the judge's 16 page order can be viewed and downloaded from the CDCAN website at [www.cdcan.us](http://www.cdcan.us) ]

The employees covered by the judge's order include those that have direct impact on people with disabilities, mental health needs, the blind and seniors.

**Same Judge Ruled Against State On IHSS Worker Felony Conviction Requirements**

Judge Roesch is the same superior court judge who on November 24<sup>th</sup> ruled against the State in *Ellis v. Wagner* that – at least until a court hearing on January 29<sup>th</sup> - stopped the Schwarzenegger Administration from implementing new In-Home Supportive Services (IHSS) worker requirements that would prohibit a person with a felony conviction from working as an IHSS worker.

### **Concluding Paragraphs of the Judge’s 16 page Order**

- Commanded that the respondents (the Governor and other named state officials) to “*set aside those portions of Executive Orders S-16-08 and S-13-09 effecting SEIU represented employees which were issued in violation of mandatory duties in Government Code [Section] 16310(a) and 19851(a) and to cease and desist the furloughs of SEIU-represented employees.*”
- Wrote in his order that the “*declaratory and injunctive relief sought in the operative Second Amended Petition and Complaint is entirely duplicative of the writ relief granted herein.*”
- The Judge ordered that the petitioners (the organizations and persons filing the lawsuit) “*shall prepare a form of judgment for execution by the Court and a form of writ for approval as to form by the Court and execution by the Clerk of the Court.*”

### **What Happens Next**

- The judge still has to approve the details of when and how his order will take effect and the mandatory furloughs of those impacted by the lawsuit, still remains in effect until that happens. The petitioners (the organizations and individual who filed the lawsuit) have to present their proposed plan and details to the court for approval.
- Governor’s press representative said the State would appeal the court’s decision – and also expected the State Supreme Court would decide the issue with a more favorable ruling.
- The ruling will have a major impact on the state budget crisis – with the deficit for the current budget year and the 2010-2011 state budget year projected at over \$21 billion.
- There were strong indications – prior to the court’s decision - that the Governor’s proposed 2010-2011 State Budget to be released January 8<sup>th</sup>, intends to include provisions that would extend the mandatory furloughs beyond June 30, 2010 in addition to possible lay-offs of state employees. It is not clear how this court decision – and the recent court decision impacting correctional officers – will impact the Governor’s intention to continue mandatory furloughs beyond June 2010.

### **Who Is Impacted By The Judge’s Order**

- State employees represented by SEIU Local 1000 (and also two other unions whose separate lawsuits were combined with the SEIU case) who are paid with funding other than State General Funds and state employees who are working in “special fund” agencies. It is not clear yet what specific employees in what specific state departments and agencies are impacted.
- While no precise numbers are yet available, it appears the judge’s ruling could impact over 50,000 of the over 200,000 state employees who are required to take the mandatory 3 day a month furloughs, which began last February.

- The 3 day a month mandatory furloughs represents about a 15% reduction in their monthly paycheck, with total savings to the State of over \$2 billion by June 30, 2010 (assuming that the mandatory furlough program continues as is).

### **What the Judge Wrote About Governor Overstepping His Authority**

*“The Governor has relied upon several provisions concerning emergency measures that the Governor may take in issuing both the Executive Orders and accompanying emergency proclamations, including provisions of the California Emergency Services Act. The authorities offered by the Governor in his Executive Orders do not appear to allow the Governor to implement furloughs if they would violate other provisions of the law. Nor does the California Emergency Services Act appear to contemplate the Governor declaring an “emergency” and suspending regular Legislative authority, for more than a temporary period... The Executive Orders themselves appear to recognize that the emergency necessitating them was the failure of the Legislature to pass the budgets, though the reach of the orders extended long after those budgets were subsequently passed and signed into law”*

**URGENT!!!!**

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To continue the CDCAN website, the CDCAN News Reports. sent out and read by over 50,000 people and organizations, policy makers and media across California and to continue the CDCAN Townhall Telemeetings which since December 2003 have connected thousands of people with disabilities, seniors, mental health needs, people with MS and other disorders, people with traumatic brain and other injuries to public policy makers, legislators, and issues.

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#### **CDCAN**

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paypal on the CDCAN site is not yet working – will be soon.

MANY, MANY THANKS TO the CALIFORNIA ASSOCIATION OF ADULT DAY HEALTH CENTERS, Valley Mountain Regional Center, Toward Maximum Independence, Inc (TMI), Friends of Children with Special Needs, UCP of Los Angeles, Ventura and Santa Barbara Counties, Southside Arts Center, San Francisco Bay Area Autism Society of America, Hope Services in San Jose, FEAT of Sacramento (Families for Early Autism Treatment), RESCoalition, Sacramento Gray Panthers, Easter Seals of Southern California, Tri-Counties Regional Center, Westside Regional Center, Regional Center of the East Bay, UCP of Orange County, Alta California Regional Center, Life Steps, Parents Helping Parents, Work Training, Foothill Autism Alliance, Arc Contra Costa, Pause4Kids, Manteca CAPS, Training Toward Self Reliance, UCP, California NAELA, Californians for Disability Rights, Inc (CDR) including CDR chapters, CHANCE Inc, , Strategies To Empower People (STEP), Harbor Regional Center, Asian American parents groups, Resources for Independent Living and many other Independent Living Centers, several regional centers, People First chapters, IHSS workers, other self advocacy and family support groups, developmental center families, adoption assistance program families and children, and others across California

