Case No. E063736

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT, DIVISION TWO

COUNTY OF SAN BERNARDINO
Petitioner,

v.

PUBLIC EMPLOYMENT RELATIONS BOARD,
Respondent,

SAN BERNARDINO COUNTY PUBLIC ATTORNEYS ASSOCIATION,
Real Party in Interest.

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND PROPOSED AMICUS CURIAE BRIEF OF THE CALIFORNIA STATE ASSOCIATION OF COUNTIES AND THE LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF PETITIONER, COUNTY OF SAN BERNARDINO

Appeal of Public Employment Relations Board Decision No. 2423-M
(PERB Case Nos. LA-CE-431-M and LA-CE-554-M)

Jennifer Bacon Henning (SBN 193915)
Janis Lynn Herbstman (SBN 228488)
California State Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814-3941
Telephone: (916) 327-7535
Facsimile: (916) 443-8867
jhenning@counties.org

Attorneys for Amici Curiae California State Association of Counties and
League of California Cities

The California State Association of Counties (CSAC) and the League of California Cities (League) seek leave to file the attached amicus brief in support of Petitioner, County of San Bernardino.[1]

CSAC is a non-profit organization. The membership consists of 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties.

The League is an association of 474 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, which is comprised of 24 city attorneys from all regions of the State. The Committee monitors litigation of concern to municipalities, and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance.

[1] No party or counsel for a party authored the attached brief, in whole or in part. No one made a monetary contribution intended to fund the preparation or submission of this brief.

CSAC and the League believe the decision of the Public Employment Relations Board (Board), at issue in this case, raises important public policy issues with statewide implications.

First, the Board's interpretation of the collective bargaining agreement between Petitioner and Real Party in Interest is inconsistent with basic principles of contract interpretation. Provisions in a contract should not be interpreted in a manner that is contrary to existing law. Here, the Board failed to find that representation of public defenders by district attorneys is contrary to state law. Instead, in place of essential and well-established disciplinary practices, the Board is forcing a public employer to accept limiting and impractical alternatives that were never contemplated by the parties.

Second, the Board's decision does not properly balance the operational needs of employers with the rights of employees. Instead the decision interferes with the duties and obligations of public officials by impeding an employer's ability to secure an accounting of an employee's work performance.

Amici have reviewed the briefing submitted by both parties in this matter. The proposed amicus brief does not duplicate the arguments, but is intended to assist this court in deciding the matter by providing additional arguments that focus on the statewide implications of the Board's decision. It is our view that the Board's decision should be overturned.

Dated: Respectfully submitted,

By:

____

JENNIFER BACON HENNING

Attorney for Amici Curiae
California State Association of Counties
and League of California Cities

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California State Association of Counties
1100 K Street, Suite 101
Sacramento, CA 95814-3941
Telephone: (916) 327-7535
Facsimile: (916) 443-8867
jhenning@counties.org

Attorneys for Amici Curiae California State Association of Counties and League of California Cities

TABLE OF CONTENTS

TABLE OF AUTHORITIES 7

I. INTRODUCTION 10

II. INTEREST OF AMICI CURIAE 12

III. ARGUMENT 13

A. The Board's Interpretation of the Agreement is Clearly Erroneous Because it Conflicts with Well-Established Rules of Contract Interpretation 13

1. The Board's interpretation of the contract is contrary to state law. 14

2. The Board's interpretation does not effect the intent of the parties because the County did not intend to authorize deputy district attorneys to represent deputy public defenders. 18

B. The Board's Decision is Contrary to Public Policy and Unworkable for Public Employers. 20

1. The Board's decision fails to balance the interests of the parties, resulting in the Public Defender's inability to discipline her staff. 21

2. Canceling interviews altogether threatens effective management of public employees and local resources by failing to consider the interests and obligations of public employers. 23

IV. CONCLUSION 26

CERTIFICATION OF COMPLIANCE 29

TABLE OF AUTHORITIES

Cases

Bostean v. Los Angeles Unified School Dist. (1998) 63 Cal.App.4th 95 25

California Fair Employment & Housing Com. v. Gemini Aluminum Corp. (2004) 122 Cal.App.4th 1004 23

California State Employees' Assn. v. Public Employment Relations Board (1996) 51 Cal.App.4th 923 13

Department of Transportation v. State Personnel Bd. (2009) 178 Cal.App.4th 568 24

Estate of Jerry A. Amaro v. City of Oakland, 2010 U.S.Dist.LEXIS 15573 (N.D. Cal. Feb. 23, 2010 20

In Re Jordan (1974) 12 Cal.3d 575 13

Marin Storage & Trucking, Inc. v. Benco Contracting & Engineering, Inc. (2001) 89 Cal.App.4th 1042 18

Martinez v. County of Tulare (1987) 190 Cal.App.3d 1430 25

Mendoza v. Western Medical Center Santa Ana (2014) 222 Cal.App.4th 1334 23

Northrop Grumman Corp. v. Workers' Comp. Appeals Bd. (2002) 103 Cal.App.4th 1021 23

Public Employees Assn. v. Board of Supervisors (1985) 167 Cal.App.3d 797 20

Santa Clara County Counsel Attys. Assn. v. Woodside (1994) 7 Cal.4th 525 .... 15, 18, 20

Schelb v. Stein (2010) 190 Cal.App.4th 1440 15

Skelly v. State Personnel Board (1975) 15 Cal.3d 194 22

Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 20

Townsel v. San Diego Metropolitan Transit Development Bd.
(1998) 65 Cal.App.4th 940 22

Wellpoint Health Networks, Inc. v. Superior Court
(1997) 59 Cal.App.4th 110 23

Statutes

Bus. & Prof. Code, § 6068 .... 13, 14

Civ. Code, § 1635 13

Civ. Code, § 1636 17

Civ. Code, § 1638 19

Civ. Code, § 1643 13

Civ. Code, § 1647 13

Civ. Code, § 3534 15

Gov. Code, § 12940 23

Gov. Code, § 3500 14

Gov. Code, § 3503 15

Other Authorities

San Bernardino County Public Attorneys Association v. County of San Bernardino (Office of the Public Defender) (2015) PERB Decision No. 2423-M .... passim

Rules

Rules Prof. Conduct, rule 3-110 16

Rules Prof. Conduct, rule 3-500 16

I. INTRODUCTION

The decision of the Public Employment Relations Board (Board) in this case is clearly erroneous because it conflicts with well-established rules of contract interpretation and is contrary to public policy. Amici Curiae, the California Association of Counties (CSAC) and League of California Cities (League), therefore respectfully request this court vacate the Board's erroneous decision.

Well-established rules of contract interpretation protect the interests of parties to a contract by giving effect to their intent at the time the contract was executed. It is also well-established that contracts should not be interpreted in a manner that is contrary to state law. Here, Board has interpreted the collective bargaining agreement between the County of San Bernardino (County) and the San Bernardino County Public Attorneys Association (Association) to mean something the parties did not intend. The Board's interpretation also allows the Association to assert rights in violation of state law. By interpreting the provision to allow the Association to select any representative it desires despite legal and ethical concerns, the Board has violated basic rules of contract interpretation, and created uncertainty for parties entering into labor agreements.

The Board's decision is also contrary to public policy and leads to an unworkable result for public employers. The Board found that the

Public Defender's policy was justified, and that professional standards of legal practice create an inherent conflict in the representation of public defenders by district attorneys. Nonetheless, the Board determined that the Public Defender acted unreasonably because she failed to establish that she had no alternative courses of action except to meet with employees to discuss performance issues without Association representation. The Board offers three possible "alternatives:" 1) appointment of outside counsel, 2) redaction of confidential information, and 3) canceling the interview. The alternatives are unworkable and fail to alleviate the Public Defender's justifiable ethical concerns. In addition, the third alternative unreasonably interferes with the Public Defender's ability to effectively discipline her staff and her obligations as a supervising attorney and a public official.

Public employers have obligations to their employees, clients, constituents and the general public. To fulfill those obligations, public employers must have the ability to conduct disciplinary interviews of their employees to correct inappropriate behavior. Whether those obligations pertain to protecting their employees from sexual harassment and workplace violence, or protecting their constituents and the general public from incompetent or negligent work or services, the ability to discipline employees when necessary is fundamental to the effective and efficient operation of local governments.

II. INTEREST OF AMICI CURIAE

CSAC is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties.

The League is an association of 474 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhance the quality of life for all Californians. The League is advised by its Legal Advocacy Committee, which is comprised of 24 city attorneys from all regions of the State. The Committee monitors litigation of concern to municipalities, and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance.

Specifically, Amici are concerned that the Board's interpretation of the collective bargaining agreement at issue in this case has broader implications. Collective bargaining agreements are not entered into lightly – most are the result of multiple rounds of negotiation involving give and take between the parties. The Board's interpretation not only fails to effect

the mutual intent of the parties, it also creates an ethical and legal quandary for public employers. Given the Board's finding that there was an inherent conflict with district attorneys representing public defenders, the Board should have read the contract language to avoid conflict with rules pertaining to professional conduct. While public employers, like public employee associations, should be held to the terms they have agreed to in collective bargaining, they should not be forced to accept impractical alternatives that were never contemplated by the parties in labor negotiations.

Amici are also concerned that the Board's decision may have implications for other employment settings, creating new barriers between public employers and their employees. Public employers must be able to make sound, timely and fact-based decisions when disciplining employees and the ability to interview employees is a crucial step in administering fair and effective discipline.

III. ARGUMENT

A. The Board's Interpretation of the Agreement is Clearly Erroneous Because it Conflicts with Well-Established Rules of Contract Interpretation

While "clearly erroneous" is a high standard to meet, this court must conclude that the Board's interpretation of the contract between the County and the association is clearly erroneous under the governing law of contract construction. (*California State Employees' Assn. v. Public*

Employment Relations Board (1996) 51 Cal.App.4th 923, 933, 939 ["To give [a] term a significance not clearly intended or expressed by the parties could wreak havoc, rather than promote harmony, in employer-employee labor relations...".].)

1. The Board's interpretation of the contract is contrary to state law.

All contracts, whether public or private, are to be interpreted by the same rules. (Civ. Code, § 1635.) A contract must receive such an interpretation as will make it lawful, operative, definite, reasonable, and capable of being carried into effect. (Civ. Code, § 1643.) A contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates. (Civ. Code, § 1647.)

Attorney confidentiality is governed by the Business and Professions Code. Specifically, it is the duty of an attorney "[t]o maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client." (Bus. & Prof. Code, § 6068, subd. (e)(1). (Section 6068).) An attorney's duty to preserve the confidentiality of client information involves "public policies of paramount importance." (*In Re Jordan* (1974) 12 Cal.3d 575, 580.)

Contrary to the rules of statutory construction stated above, the Board adopted an interpretation of the agreement between the parties that would allow a deputy district attorney to attend a deputy public defender's

disciplinary interview, in violation of Section 6068.[2] A disciplinary interview regarding a public defender's work performance must, by definition, include some discussion of the public defender's work. Public Defenders represent criminal defendants. That is their job, all of the time. In contrast, a district attorney prosecutes criminal defendants. In the Board's words:

> The Public Defender's justifications for its policy are all based on the inherent adversarial relationship between the interests of the client of the DA (the state) and the clients of the Public Defender – one seeks to prosecute alleged criminal conduct, and the other is dedicated to defending against such prosecution.

(*San Bernardino County Public Attorneys Association v. County of San Bernardino (Office of the Public Defender)* (2015) PERB Decision No. 2423-M, pp. 39-40 ("PERB Decision".) The Board erred when it interpreted the agreement to permit the Association select representatives, but it is not permitted to select representatives that, by simply being in the room, result in violations of state law.

The Board argues that the Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.), provides the Association with a right to represent its members in this manner independent from the labor agreement

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[2] The language at issue is cited in Respondent's Brief, pp. 18-19.

at issue. (PERB Decision, p. 53.)[3] The MMBA, however, does not provide an unfettered right of representation at the expense of upholding other laws. (See Civ. Code, § 3534 [particular expressions qualify those which are general]; *Schelb v. Stein* (2010) 190 Cal.App.4th 1440, 1448 ["[A] specific statutory provision relating to a particular subject controls over a more general provision."].) The law governing attorney confidentiality should control over the more general provision of the MMBA. (*Santa Clara County Counsel Attys. Assn. v. Woodside* (1994) 7 Cal.4th 525, 553 [MMBA must be exercised in a way that does not violate attorney ethical duties] ("*Woodside*").) Thus, the Association has the right to appoint representatives under the MMBA, but its choice of representatives cannot violate other laws.

The Board notes that the language in the section at issue did not change in future agreements. (Respond. Brief, pp. 19, 41.) Although the Board does not provide much commentary on this fact, it appears to be mentioned to support the Board's interpretation of the agreement and, purportedly, the County's agreement with that interpretation. A different perspective, and one that is more consistent with the Civil Code sections cited above, is that the County did not need to renegotiate terms based on a flawed interpretation that violates current law and ethical duties.

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[3] Section 3503 of the MMBA provides in part: "Recognized employee organizations shall have the right to represent their members in their employment relations with public agencies." (Gov. Code, § 3503.)

The Board contends that it has suggested viable options that would allow district attorneys to lawfully represent public defenders. With all due respect, the Board misses the mark. Each option fails to alleviate the Public Defender's ethical concerns about protecting the interests of the clients her office serves. Redaction works in litigation because the documents already exist. One can review those documents, redact certain content and the documents can be produced without violating any ethical standards. But content is much more difficult to control in an interactive setting, and things stated in an interview cannot be unheard. The Board's suggestion that an outside attorney might be appointed to represent the employee also does not adequately address the conflict between keeping information about the Public Defender's cases in confidence and an outside attorney's duty to keep its client informed. (Rules Prof. Conduct, rule 3-500.) Not interviewing employees interferes with the Public Defender's required supervision of her staff to ensure competent representation for the accused. (Rules Prof. Conduct, rule 3-110.)

The Board disagrees that work processes constitute work product (PERB Decision, p. 40), but the conflict is "inherent" and present in the core of the work that both the Public Defender and the District Attorney offices perform. What is merely process as opposed to substantive issues? The content and the ethical duties cannot be separated.

2. **The Board's interpretation does not effect the intent of the parties because the County did not intend to authorize deputy district attorneys to represent deputy public defenders.**

The Board held the County's prohibition against representation of public defenders by district attorneys was destructive of employees' rights to be represented and the Association's right to represent its members. (PERB Decision, p. 37.) But based on the record and established rules of contract interpretation,[4] neither the Association, on behalf of its member employees, nor the Public Defender negotiated the right to appoint a representative that would violate state law or ethical obligations. After the initial agreement between the parties was executed, the Association appointed public defenders to represent other public defenders. (Opening Brief, p. 6, fn. 4.) This dispute arose when public defenders were no longer appointed to represent public defenders.

The change in policy was the Association's failure to appoint or recruit, whatever the case may be, public defenders to represent other public defenders. (Respond. Brief, p. 18 ["The agreement at issue was effective from June 25, 2005, until June 20, 2008.] and p. 19 ["Between July 2007 and March 2009, the Association's only Authorized Employee Representatives…were DDAs; no deputy DPDs served as representatives

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[4] A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. (Civ. Code, § 1636.)

for the Association…This was not always the case. In the past two DPDs served as representatives for the Association; however, they resigned prior to July 2007."].) However, an alleged shortage of suitable representatives, even if this allegation is true, years after the agreement took effect, does not change the fact that the parties never intended for district attorneys to represent public defenders.

The Board erred by finding that "[r]egardless of any alleged past practice between the parties, the Association was within its rights to insist that its statutory right to represent the members of the bargaining unit be honored." (PERB Decision, p. 53.) As stated above, the MMBA should not be interpreted to allow the Association to represent its members in a manner that violates state law or ethical obligations. (*Woodside*, *supra,* 7 Cal.4th at 553.) The parties' past practices are relevant for interpreting the contract provision at issue and determining the intent of the parties. (*Marin Storage & Trucking, Inc. v. Benco Contracting & Engineering, Inc*. (2001) 89 Cal.App.4th 1042, 1051 ["Parties' prior course of dealings may determine the meaning of a contract term or may add an agreed but unstated term."].) The Board erred by failing to consider this in its decision.

The Board's manner of interpreting the agreement vis-à-vis deputy district attorneys representing deputy public defenders is not limited to this situation. Under the Board's interpretative approach, the agreement also does not expressly prohibit the Association appointing as a representative a

unit member who is a co-suspect in the matter being investigated, or who is disruptive during the investigative interview, or who is a percipient witness. Yet following the Board's approach in interpreting the agreement, the Public Defender would have to honor the request for any of these appointed representatives, even though they are obviously inappropriate, or else forego the interview. The Board's approach to interpreting the agreement lead to an absurd result. This is contrary to the canon of contract interpretation set forth in the Civil Code. (Civ. Code, § 1638 ["The language of a contract is to govern its interpretation, if the language is clear and explicit, and does not involve an absurdity."].)

The County and the Association agreed to let the Association appoint the representatives – the County did not agree to let district attorneys represent public defenders. Therefore, Board's interpretation of the contract should not stand.

B. The Board's Decision is Contrary to Public Policy and Unworkable for Public Employers.

Cities and counties employ thousands of public employees. As public employers, they are obligated to respect the rights of their employees, maintain a safe work environment and ensure that employees receive the direction, training and supervision required for the job. "[A] public employer must be able to act promptly and freely, in its administrative capacity, to investigate and remedy misconduct and breaches

of trust by those serving on the public payroll." (*Spielbauer v. County of Santa Clara* (2009) 45 Cal.4th 704, 729.) In addition, public employers are required to serve the public in such a manner that the public's rights are protected, health and safety is preserved, and the integrity of the public fisc is maintained. (*Estate of Jerry A. Amaro v. City of Oakland*, 2010 U.S.Dist.LEXIS 15573 (N.D. Cal. Feb. 23, 2010), citing *Spielbauer, supra,* 45 Cal.4th at 725 ["In performing their official functions, government officers and employees owe unique duties of loyalty, trust, and candor to their employers, and to the public at large."].)

1. **The Board's decision fails to balance the interests of the parties, resulting in the Public Defender's inability to discipline her staff.**

The Board's decision requires rescission of a policy that the Board found justified and reasonable. (PERB Decision, p. 55.) Such an order is inconsistent with a reasonable balancing of all the interests involved. (*Woodside, supra,* at p. 636; *Public Employees Assn. v. Board of Supervisors* (1985) 167 Cal.App.3d 797.) The Board found that "[b]ecause the Public Defender had no power over whom the Association appointed as stewards or representatives, or over the fact that the Association had not appointed any DPDs as labor representatives, it is clear that the policy was occasioned by circumstances beyond the employer's control." (PERB Decision, p. 4). However, the Board downplayed the seriousness of the issues raised by finding that a "no interview" alternative is viable. The

Board argued in its brief to this court that it balanced the interests in such a way that no party was denied rights. (Respond. Brief, p. 45.) Amici respectfully disagree. With only District Attorneys appointed as representatives under the Board's decision, the Public Defender may not engage in disciplinary interviews with any of her attorneys without jeopardizing her ethical obligations or her clients' cases.

Disciplinary interviews are necessary for public employers such as the Public Defender to correct improper or unacceptable employee actions or behavior. Employers cannot take appropriate corrective action without a full understanding of what occurred and why. As a result, the Board's decision has the practical effect of preventing the Public Defender from disciplining her employees at all. [5] The Board rejects the Public Defender's argument that it is legally obligated to interview an employee as part of its disciplinary investigation. (PERB Decision, p. 52.) While Amici take issue with the Board's position on that point, [6] it is the Board's failure to properly

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[5] The Association agrees that for Board's decision to work, the Public Defender needs forego discipline: "…the Office need only forego using the interview as an investigatory vehicle for disciplinary purposes. It need not forego meetings for any other purpose, including case management and assuring the Office's clients are receiving the representation they deserve. It is only the Office's insistence that disciplinary consequences be on the table during an interview that creates the dispute over representation." (Association's Responsive Brief, p. 39-40.)

[6] The Board maintains that an employee may waive their due process rights under *Weingarten.* ("…[E[mployees that decline the interview in effect waive their right to later complain they had no opportunity to give their

consider the practical ramifications of its decision that is even more troubling. To the extent the Board's decision is generally accepted as a barrier to employee interviews, it has broader implications than the Board considered in its decision.

2. **Canceling interviews altogether threatens effective management of public employees and local resources by failing to consider the interests and obligations of public employers.**

In addition to the arguments presented above and in the County's brief, Amici urge the court to consider the broader impact of the Board's proposed remedy. The Board's finding that an employer may forego a disciplinary interview altogether is an impractical result for public employers. It interferes with a local entity's ability to fulfill its obligations to its employees and the public at large.

As the Board acknowledges, the decision not to interview carries risks for both employers and employees.

> When an employer exercises that option, it foregoes the possibility of discovery exculpatory evidence or considering policy reasons not to discipline an employee before investigating significant resources in preparing for the disciplinary procedures. Likewise, if an employee exercises

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version of events." (Respond. Brief, p. 59.).) However, the Board fails to address a public employee's broader due process rights to challenge any disciplinary action against him or her in a full evidentiary hearing, and the fact that the governmental employer bears the burden of proof in that proceeding. (See *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194; *Townsel v. San Diego Metropolitan Transit Development Bd.* (1998) 65 Cal.App.4th 940.)

> his or her option not to be interviewed, he or she loses the potential for early exoneration.

(PERB Decision, p. 38.) This court provided a cautionary tale to private and public employers alike in *Mendoza v. Western Medical Center Santa Ana* (2014) 222 Cal.App.4th 1334. The court held that inadequate investigation of a complaint is evidence of pretext in a retaliation case. The court stated that "[t]he lack of a rigorous investigation by defendants is evidence suggesting that defendants did not value the discovery of the truth so much as a way to clean up the mess…." (*Id.,* p. 1344.) The court noted that the employer did not immediately interview one of the subject employees. (*Id.*, p. 1337.) The Board's decision therefore exposes employers to greater liability for retaliation.

In addition, employers, public and private alike, are under a legal duty to promptly investigate allegations of workplace discrimination and harassment. (Gov. Code, § 12940, subd. (j)(1); *California Fair Employment & Housing Com. v. Gemini Aluminum Corp.* (2004) 122 Cal.App.4th 1004, 1024 [holding that an employer's statutory obligation to prevent discrimination includes a requirement that the employer promptly investigate a discrimination claim]; *Northrop Grumman Corp. v. Workers' Comp. Appeals Bd.* (2002) 103 Cal.App.4th 1021, 1035-1036 [similar]; *Wellpoint Health Networks, Inc. v. Superior Court* (1997) 59 Cal.App.4th 110, 126 [remedial action reasonably calculated to end harassment "is

unlikely to take shape in the absence of a thorough investigation of the alleged acts of harassment."]) Here, the Board argues that the Public Defender can investigate through other means (Respond. Brief, p. 44), but conducting a prompt and thorough investigation requires an employer to have access to its employees.[7]

The Board's decision raises concerns for any employee action, but grievances involving personal safety are especially problematic. As the Second District acknowledged in addressing discipline of a state worker: "the public is entitled to be protected from a state worker who uses illegal drugs and carries a concealed weapon. And public employees are entitled to protection from a potentially dangerous coworker." (*Department of Transportation v. State Personnel Bd.* (2009) 178 Cal.App.4th 568, 578.) Failure to respond appropriately to allegations of sexual harassment or workplace violence inexcusably puts others in unnecessary danger.

Public employers must also guard against incompetent work. Local governments have a fiduciary obligation to preserve the integrity of public service and that obligation requires removal of an employee that fails to

[7] The Board's guidance is unhelpful: "An investigatory interview is only one tool of many for a supervisor to investigate and discipline employees. Nothing in PERB's decision restricts the Public Defender from collecting information from other sources, such as other employees who may be percipient witnesses, documentary evidence, etc." (Respond. Brief, p. 34.)

meet the standards for employment. (See *Martinez v. County of Tulare* (1987) 190 Cal.App.3d 1430, 1440.)

A public employer is also obligated to protect the public fisc. Therefore, public employers are obligated to work quickly to minimize the expense associated with employee investigations, but they must also ensure that the rights of their workforce and the public at large are maintained. Some employee investigations come at a greater cost. If the allegations prompting an investigation are of such a nature that the employee should be dismissed from the workplace pending the investigation (i.e., sexual harassment or workplace violence allegations), the employee must be compensated until the investigation is completed and discipline imposed in accordance with the due process requirements set forth in *Skelly*. (See *Bostean v. Los Angeles Unified School Dist.* (1998) 63 Cal.App.4th 95, 110 [holding unpaid leave is tantamount to discipline].) This process often takes a considerable amount of time and public resources, and to the extent the public employer is barred from interviewing the employee, the investigation and resulting discipline will likely be delayed at the expense of the taxpaying public the employee was hired to serve.

IV. CONCLUSION

As an initial matter, Amici request that this court find that the Board's interpretation of the collective bargaining agreement is not consistent with basic principles of contract interpretation. Provisions in a

contract should not be interpreted in a manner that conflicts with state law. It should not be assumed that the parties intended a provision to conflict with state law. The Public Defender's actions when faced with the Association's decision to send district attorneys to public defender interviews indicates that the Public Defender did not intend to allow district attorneys to attend and, certainly, it cannot be assumed that, by entering into the agreement, the County was knowingly giving up the opportunity to interview any of its public defenders. A collective bargaining agreement should not be interpreted in such a manner and by doing so the Board undermines all of the agreements currently in effect in California, many that were painstakingly reached with careful crafting and hours of negotiation.

Additionally, the Board's decision does not properly balance the operational needs of employers with the rights of employees. In cases, such as here, where the public employee is justified in its policy of excluding a union representative from a personnel interview, the Board's suggested remedy ties the hands of the public employer, preventing it from fulfilling its obligations to its employees, constituents and the general public. Because communication between the employer and employee is essential for discipline, it effectively prevents the employer from investigating wrongdoing and disciplining as appropriate and as required and expected of

an employer that is responsible for service to the public. Amici respectfully ask this court to overturn the Board's decision.

Dated: Respectfully submitted,

By:

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JENNIFER BACON HENNING

Attorney for Amici Curiae
California State Association of Counties
and League of California Cities

CERTIFICATION OF COMPLIANCE WITH CALIFORNIA RULES OF COURT, RULE 8.204(c)(1)

I hereby certify that this brief has been prepared using proportionately double-spaced 13 point Times New Roman typeface. According to the word count feature in my Microsoft Word software, this brief contains 4,155 words.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ___ day of December, 2015 in Sacramento, California.

Respectfully submitted,

By: ___________________________

JENNIFER BACON HENNING
Attorney for Amici Curiae

Proof of Service by Mail

County of San Bernardino v. Public Employment Relations Board
(San Bernardino County Public Attorneys Association)
Case No. E063736

I, Ashley Rafford, declare:

That I am, and was at the time of the service of the papers herein referred to, over the age of eighteen years, and not a party to the within action; and I am employed in the County of Sacramento, California, within which county the subject mailing occurred. My business address is 1100 K Street, Suite 101, Sacramento, California, 95814. I served the within **APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF AND PROPOSED AMICUS CURIAE BRIEF OF THE CALIFORNIA STATE ASSOCIATION OF COUNTIES AND THE LEAGUE OF CALIFORNIA CITIES IN SUPPORT OF PETITIONER, COUNTY OF SAN BERNARDINO** by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

Proof of Service List

Party	Attorney
County of San Bernardino : Petitioner	Kenneth Charles Hardy Office of the County Counsel 385 N. Arrowhead Avenue, 4th Floor San Bernardino, CA 92415-0140 Erich Wilhelm Shiners Renne Sloan Holtzman Sakai, LLP 555 Capitol Mall, Suite 600 Sacramento, CA 95814
Public Employment Relations Board : Respondent	Jessica S. Kim Public Employment Relations Board 1031 18th Street Sacramento, CA 95811
San Bernardino County Public Attorneys Association : Real Party in Interest	Marianne Reinhold Reich, Adell & Cvitan 2670 North Main Street, Suite 300 Santa Ana, CA 92705
California Supreme Court (1 copy served electronically)	Served Electronically Per Calif Rules of Court, rule 8.212(c)(2)

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on ________________________, at Sacramento, California.

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ASHLEY RAFFORD