

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

TRINITY COUNTY SUPERIOR COURT

AND THE

UNITED PUBLIC EMPLOYEES OF
CALIFORNIA, LIUNA

GENERAL UNIT

January 2006 THROUGH DECEMBER 31, 2008

ARTICLE 1. PARTIES.

1.1. This Agreement is entered into by and between the Trinity County Superior Court (hereinafter referred to as "Court") and the United Public Employees of California (hereinafter referred to as "General Unit," UPEC, or Union").

1.2. Unless otherwise defined, all references to "days" shall mean calendar days.

ARTICLE 2. AUTHORIZED AGENTS.

For the purpose of administering the terms and provisions of this agreement, the following agents or his/her designee have been identified:

2.1. Court's principal authorized agent shall be:

Court Executive Officer (CEO)
Trinity County Superior Court
P.O. Box 1258
Weaverville, CA 96093-1258
Telephone: (530) 623-1208
FAX: (530) 623-8397

2.2. Union's principal authorized agent shall be:

United Public Employees of California (UPEC)
225 Locust Street, Suite 200
Redding, CA 96001
Telephone: (530) 245-1890
FAX #: (530) 246-1651

ARTICLE 3. RECOGNITION.

The Court recognizes the Union as the exclusive collective bargaining agent for all regular full-time and part-time employees (½ time or more) in the General Unit, excluding all management, supervisory, safety, limited term, extra help, and confidential employees.

ARTICLE 4. TERM.

The term of this agreement is from, January 1, 2006, to and inclusive of December 31, 2008, except as otherwise provided. Unless otherwise provided herein, any changes caused by the approval of this agreement shall be implemented as of the first of the payroll period immediately following its formal adoption. During the month of September of the final year of this agreement, either party may serve notice to commence negotiations on a successor agreement. If notice is served by either party negotiations shall begin no later than ninety (90) days prior to the term of this agreement or on a later date by mutual agreement.

ARTICLE 5. UNION RIGHTS

5.1. RELEASE TIME

5.1.1 Stewards.

The Court shall recognize one (1) employee designated by the Union as Steward. A Court employee who is designated as a Steward shall be provided a reasonable amount of release time for meetings with Court management. After notifying his/her immediate supervisor as far in advance as reasonably possible, the Steward shall be permitted to leave the regular work area. Permission for such use of work time shall not be unreasonably withheld.

5.1.2 Meet and Confer.

In meetings with Court management for the purpose of meeting and conferring on matters within the scope of bargaining, the Union may be represented by not more than two (2) employees. Meetings shall be scheduled so as not to unreasonably interfere with the operation of any Court department.

5.2. BULLETIN BOARDS.

In each physical building where Court employees are normally assigned; the Court Executive Officer (CEO) shall designate at least one posting space on a Court Bulletin Board for use by the Union. No posting shall be made on Court premises on space other than that provided except for postings relating solely to social activities of the Union. Bulletin boards shall be used only to inform employees of the procedure for joining the Union, notification of meetings, internal organizational elections or other similar internal business matters. Bulletin boards shall not be used for presenting arguments, making charges, or for matters which may adversely reflect upon the effectiveness of the Court.

5.3. ACCESS TO EMPLOYEES/COURT FACILITIES.

The Union shall, upon request, be granted the use of general meeting space by Court management before or after the regular work shift, except in cases in which such permission will interfere with the duties of the Court.

The Court Executive Officer shall, upon reasonable advance notice, permit authorized employee representatives to contact individual employees in Court facilities during working hours if such contact is not disruptive to Court business and does not occur with undue frequency.

Membership solicitation, collection of dues, or other general organizational business shall not be conducted on Court time, nor in areas generally not open to the public except as may occur during scheduled meetings before or after a regular work shift.

5.4. PAYROLL DEDUCTION.

The Union shall have regular dues, service fees, and insurance premiums deducted from employee's pay warrants. Payroll deductions shall be made only upon written authorization of the individual employee on a form acceptable to the County Auditor-Controller. The County shall make the deductions and provide reports of these transactions to the Union.

5.5 INDEMNIFY AND HOLD HARMLESS.

UPEC fully indemnifies and holds harmless and agrees to defend the Court, its officers, agents, and employees acting on behalf of the Court against any and all claims, demands, suits, and from liabilities of any nature which may arise out of or by reason of any action taken or not taken by the Court under provisions of this article.

ARTICLE 6. COURT'S RIGHTS AND RESPONSIBILITIES.

Court retains, solely and exclusively, all the rights, powers and authority exercised or held prior to the execution of this Agreement, except as expressly limited by a specific provision of this Agreement. Without limiting the generality of the foregoing, the rights, powers, and authority retained solely and exclusively by Court and not abridged herein, include, but are not limited to the following:

- A. To manage and direct its business and personnel.
- B. To manage, control, and determine the mission of its departments, building facilities, and operations.
- C. To create, change, combine or abolish jobs, policies, departments and facilities in whole or in part.
- D. To subcontract or discontinue work for economic or operational reasons.
- E. To lay off employees.
- F. To direct the work force.
- G. To increase or decrease the work force and determine the number of employees needed.
- H. To hire, assign, transfer, promote, and maintain the discipline and efficiency of its employees.
- I. To establish work standards, schedules of operation and reasonable work loads.
- J. To specify or assign work requirements and require overtime.
- K. To determine the hours of operation and schedule working hours and shifts.
- L. To adopt rules of conduct and penalties for violation thereof.
- M. To determine the type and scope of work to be performed by Court employees and the services to be provided.
- N. To classify positions.
- O. To establish initial salaries of new classifications after notification to the Union.
- P. To determine the methods, processes, means, and places of providing services.
- Q. To determine the merits and administration of the trial court system.
- R. To determine the extent of automation utilized by the Court, including, but not limited to, fax filling, electronic recording, and implementation of information systems.
- S. To take whatever action necessary to prepare for and operate in an emergency.

Except in an emergency, Court decisions shall not supersede the provisions of this agreement. Actions taken by the Court to meet an emergency that are not in compliance with this agreement shall be in effect only for the duration of the emergency.

The exercise of such rights shall not preclude the Union from conferring with Court representatives about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment.

ARTICLE 7. NON-DISCRIMINATION

7.1 The Court and the Union agree that they shall not unlawfully discriminate against any employee on the basis of race, color, religion, sex, national origin, ancestry, age, medical condition, disability, veteran status, marital status, or any other characteristic protected by state or federal law. Discrimination on the basis of sex, age, medical condition or disability is prohibited except where specific sex, age, medical and/or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient administration of Court business.

7.2 Employees shall have the right to form, join and participate in the activities of the Union or the right to refuse to join or participate in such activities. Employees shall not be interfered with, intimidated, restrained, coerced, or discriminated against because of their exercise of these rights.

7.3 Any employee alleging a violation of this article shall have the burden of proving the existence of a discriminatory act or acts and of proving that but for such act or acts the alleged injury or damage to the employee would not have occurred.

7.4 Any complaints or accusations of discrimination shall be handled through the policies established through the applicable Court Personnel Rules.

ARTICLE 8. WAGES AND PAY RELATED ISSUES.

8.1 WAGE INCREASE.

The Court will implement wage adjustments as follows:

<i>Classification</i>	<i>2006 NSI</i>	<i>2007 NSI</i>	<i>2008 NSI</i>
Court Services Clerk I	9%	4%	2%
Court Services Clerk II	9%	4%	2%
Court Services Clerk III	9%	4%	2%

The 2006 range adjustment shall be effective on January 1, 2006; the 2007 and 2008 ranges shall be effective as of January 1 of those years.

8.2 CONVERSION OF SALARY TO INDUSTRIAL PENSION CONTRIBUTION

On January 1, of any year, cost of living salary increases can be applied entirely or in part to increase the union Industrial Pension contribution, based upon a majority vote of the unit members provided that the vote is completed prior to January 1st in order to meet IRS requirement that the salary increase is not constructively received. Increases applied to pension contributions will be treated the same as salary increases for the purposes of future Consumer Price Index and salary calculations.

ARTICLE 9. HOURS OF WORK

9.1 WORK PERIODS AND HOURS OF WORK

The regular work week shall consist of five (5) working days of eight (8) hours each from and including Sunday through the following Saturday. The first shift of the work

week shall be the first shift wherein the majority of its scheduled hours follow 12:01 AM Sunday.

9.2. REST PERIODS.

When practical, employees shall be granted a fifteen (15) minute paid rest period during each half of a work shift of four hours or longer. Unless otherwise approved by the employee's supervisor, such breaks shall not be taken within one (1) hour of the employee's starting time, quitting time, or meal break and shall not be accumulated or used to supplement meal breaks, arrive at work late, or leave work early.

9.3. MEAL PERIODS.

An unpaid meal period of up to one hour shall be part of the normal daily work schedule for a full-time employee. Such meal period shall occur at approximately the midpoint (after 4 hours) of the shift and be approved by the employee's supervisor. Some work schedules may include a meal period within the scheduled duty hours. In such cases the employee shall be so notified in writing and no specific off duty meal time shall be granted.

9.4. OVERTIME.

All regular full-time employees covered by this agreement shall be compensated for overtime in accordance with the following provisions:

9.4.1 Work beyond the assigned work period described in Section C below must be expressly approved by the Court Executive Officer or his/her designee in advance. Unless specifically authorized in advance, employees may not begin work prior to the regular starting time, take work home, or otherwise engage in overtime work.

9.4.2 All eligible employees shall be entitled to overtime compensation at a rate of one-and-one-half (1-1/2) times each hour more than forty (40) hours worked in a seven (7) day work period.

9.4.3 Overtime will be computed on actual minutes worked, adjusted to the nearest increment of six (6) minutes. Only those hours actually worked shall be used to qualify for overtime compensation. However, all time lost as a result of a job related injury or illness will be considered as hours worked for purposes of overtime compensation. Vacation time, personal leave, compensatory time taken, holiday time, and/or sick leave will not count toward the overtime calculation.

9.4.4 Eligible employees shall be entitled to compensatory time off or cash payment as overtime compensation. The CEO/designee shall determine the form of overtime compensation based on operational needs. Cash payments shall be made in the pay period in which the overtime is earned. Compensatory time off shall accrue and may be used upon approval of the CEO or his/her designee. Compensatory time off may be accumulated up to sixty (60) hours (forty [40] hours at time-and-one-half). Hours accumulated in excess of the maximum accruals shall be paid in cash at the appropriate overtime rate.

9.4.5 Upon separation from Court employment or transfer to a management classification, employees shall be paid in cash for accumulated compensatory time off at the appropriate rate.

9.4.6 Unless otherwise provided, the workweek on which overtime calculations will be based shall begin each Sunday at midnight (12:01 AM).

ARTICLE 10. HEALTH AND WELFARE BENEFITS.

10.1. MEDICAL PLAN.

Employees and their eligible dependents may select medical insurance coverage from the available options under the Court-approved Medical Plans. Eligibility, participation and enrollment shall be in accordance with the requirements set forth by the Court.

10.2. DENTAL PLAN.

The Court will provide a dental plan for all regular full time and regular part time employees. Employees and dependents may participate in the plan in accordance with the requirements set forth by Delta Dental. The Court will pay the premium for employee and family dental coverage.

10.3. BENEFIT AND CONTRIBUTION WAITING PERIOD.

Eligibility for medical and dental insurance shall begin the first of the month following employment unless otherwise required by the insurance provider(s). Court contributions towards medical and dental, as provided above, shall commence the first of the month following six (6) months of employment unless otherwise required by the insurance provider(s). Employees who are otherwise eligible for insurance coverage during their first six (6) months of employment and elect such coverage shall pay the insurance premium(s) through payroll deductions

10.4 COURT CONTRIBUTIONS TO MEDICAL PLAN.

The Court maximum health contributions to the PERS medical and the Court maximum dental contributions during the term shall be:

<u>Category</u>	<u>Monthly Medical Contribution</u>
<i>Effective</i>	<i>JAN 2006</i>
Employee Only	\$420.61

If PERS increases the premium rates of the PERS Choice Plan in 2007, and/or 2008, the Court shall increase its contribution to the monthly cost for Employee Only by the amount necessary to pay the full premium cost.

Notwithstanding any of the above, the Court may explore alternative health care plans including those offered by the Administrative Office of the Court (AOC) and propose a change from the current system of offering health coverage during the term of this Agreement.

10.5 VISION PLAN.

The Court will provide a vision plan for all regular full-time employees and regular part-time employees using the California Vision Plan A (\$15 deductible) as the minimum standard. The Court shall pay the premiums for all regular full-time and

regular part-time employees. Employees may enroll their eligible dependents in the vision care program and pay the premiums through payroll deductions.

10.6 LIFE AND ACCIDENTAL DEATH & DISMEMBERMENT INSURANCE.

The Court shall pay the premium for a \$25,000 life insurance policy and a \$25,000 AD&D insurance policy for each employee in the unit.

10.7. STATE DISABILITY INSURANCE.

Disability insurance benefits shall be extended to employees in accordance with the terms and conditions of the State Disability Insurance Program. Each employee shall contribute to the plan through payroll deductions. Accrued sick leave shall be used to supplement the disability benefit and must be exhausted prior to the use of other accrued leave balances. An employee may elect, in advance, to use accrued vacation, compensatory time off or holiday time to supplement the disability benefit. The total compensation from accrued leaves and disability benefits shall not exceed the employee's base salary at the time of disability. Disability benefits will be considered the primary benefit and used leave accruals will be treated as secondary to supplement the employee's earnings.

10.8 IRS SECTION 125 BENEFIT PLAN.

Employees shall sign appropriate authorization forms to establish or decline participation in payroll deductions of pre-tax earnings for payment by the Court of employees' medical and dental insurance premiums and flexible spending accounts (including child and dependent care expenses and unreimbursed medical expenses) in accordance with Section 125 of the Internal Revenue Code.

ARTICLE 11. RETIREMENT.

11.1. PERS MISCELLANEOUS EMPLOYEES.

The Court shall provide all eligible miscellaneous employees under PERS the 2% @ age 55 service retirement formula. The employee shall pay any increase in the employee contribution. The Court shall pay all of the employer contributions associated with this formula as determined by PERS.

In January 2008, General Unit employees shall have their PERS retirement formula enhanced to 2.5%@ 55. The employee shall pay any increase in the employee contribution.

11.2. PERS MISCELLANEOUS EMPLOYEES – EMPLOYEE CONTRIBUTIONS.

11.2.1 Employee contributions towards the retirement system shall be made in the following manner:

Employees shall participate by contributing, through payroll deductions, the employee contribution of seven percent (7%) on wages subject to PERS contributions. After one (1) continuous year of service, the Court shall contribute on behalf of the employee the employee contribution of seven percent (7%) on wages subject to PERS contributions. Notwithstanding the above, the Court shall pay the employee's contribution commencing the date of employment for CalPERS pension

plan for all new hires who are currently enrolled in CalPERS through their prior employment on the date they become employed by the Court.

11.2.2 The Laborers International Union of North America (LIUNA) Industrial Pension Plan is designated as the supplemental plan and shall not impact any employee's CalPERS benefits.

A. In the event an employee's combined benefits exceed the IRS Section 415 limits, benefits under the LIUNA Supplemental Plan shall be reduced, but not below zero, to the extent necessary to satisfy Section 415, before adjustments to benefits under CalPERS are made.

B. The Court shall make contributions to the LIUNA Industrial Pension Fund in the amount of \$99.20 for each full-time employee commencing with the date of employment. Part-time employees shall receive a prorated amount of the \$99.20 to be reported to the Fund in such manner stipulated by the Fund to keep the hourly pension benefit amount identical as that for full-time employees (\$.62 per hour). The following calculations are illustrative and may not describe all situations:

Full time	\$99.20 (for 160 hours per month)
$\frac{3}{4}$ time	\$74.40 (for 120 hours per month)
$\frac{1}{2}$ time	\$49.60 (for 80 hours per month)

C. Contributions shall be made only for regular employees, not for extra help, or similar positions.

D. In the event that the contributions required by LIUNA to the plan exceed the amount of the contributions required to be paid by the Court under this MOU, the Association and UPEC shall save and hold harmless the Court from all claims and demands of LIUNA from said demands excess of the amount required under this MOU, and shall defend any action and pay all attorney's fees required in defense of any claim or action arising out of said demand for additional sums.

ARTICLE 12. PAID LEAVES.

12.1. HOLIDAYS.

Official Holidays. The following are established as official holidays for regular full-time and regular part-time employees:

- 1 – January 1st, New Year's Day
- 2 – The third Monday in January, Martin Luther King, Jr. Day
- 3 – February 12, Lincoln's Birthday
- 4 – The third Monday in February, Presidents' Day
- 5 – March 31, Cesar Chavez' Birthday
- 6 – The last Monday in May, "Memorial Day"
- 7 – July 4th, Independence Day
- 8 – The first Monday in September, "Labor Day"
- 9 – The second Monday in October, "Columbus Day"
- 10 – November 11, Veterans Day
- 11 – The fourth Thursday in November, "Thanksgiving Day"
- 12 – The day following Thanksgiving Day
- 13 – December 25th, Christmas Day

12.1.2 Annual Holiday Schedule.

The annual holiday schedule shall be announced by the Court Executive Officer/designee prior to January of each year, but such announcement shall not alter any provision of this article.

12.1.3 Maximum Holiday Hours.

Each holiday listed above shall be treated as the full-time equivalent of eight (8) hours. No employee shall be compensated more than once for each of the above listed holidays, (i.e., maximum of 104 hours per year).

12.1.4 Observed Holidays.

The official holidays listed above shall be treated as observed holidays when the following occur:

A. When an official holiday listed above falls on Sunday, Monday will be observed as the paid holiday.

B. When an official holiday listed above falls on a Saturday, the preceding Friday shall be observed as the paid holiday.

12.1.5. Holiday Compensation.

A. Those employees working a five-day per week schedule with Saturdays and Sundays as normal days off shall receive cash payment for eight (8) hours per holiday subject to the conditions of this article.

B. An employee who does not work on the holiday must be in a paid status the working day before and the working day after the holiday to be eligible to receive credit for the holiday.

12.2. SICK LEAVE.

12.2.1 Accrual.

Regular full-time and part-time employees shall accrue .0462 hours of sick leave for each regularly scheduled hour in a paid status (one day per month of full-time service), excluding overtime hours worked.

12.2.2 Usage.

Paid sick leave can only be granted in cases of bona fide illness, injury, or an appointment and/or treatment by an approved licensed medical practitioner, in the event of illness/medical appointments in the employee's immediate family.

12.2.3 Sick Leave Usage in Lieu of Vacation.

An employee who becomes ill while on vacation leave and wishes to be placed on sick leave shall make such request to the Court Executive Officer/designee immediately or as soon as possible. The CEO/designee shall then make a determination whether to approve such request based on the criteria normally utilized in approving sick leave.

12.2.4 Family Illness/Medical Appointments/Family Sick Leave.

Sick leave granted because of illness in the immediate family or because of scheduled doctor/dentist, appointments for members of the immediate family shall normally be limited to fifty-six (56) working hours per calendar year for all incidents. Additional accrued sick leave can be authorized to be used for reasons held to be sufficient by the Court Executive Officer/designee. Immediate family means those identified by Article 4.1.6 in the Court's Personnel Rules and Policies.

12.2.5 Verification of Illness.

Written verification by an approved licensed medical practitioner or other satisfactory proof of illness or family illness may be required at the discretion of the Court Executive Officer.

12.3 SICK LEAVE – PERS SERVICE CREDIT CONVERSION.

12.3.1 Employees who were employed by the County as of March 19, 1996, and who have a minimum of ten (10) years of continuous service at the time of separation in good standing from County employment, shall have the option to be compensated for unused sick hours up to a maximum of 50% of 960 hours and conversion of any remaining hours to PERS retirement; or to convert all unused sick hours to PERS retirement; or any combination thereof.

12.3.2 The Court's PERS contract for miscellaneous employees contains a benefit whereby an employee may convert some or all of his/her accumulated but unused sick leave to PERS service credit upon retirement. Any sick leave utilized for cash payment (for those hired prior to March 19, 1996) as provided in the above section shall not be available for such conversion.

12.4 BEREAVEMENT LEAVE.

12.4.1 Regular full-time and regular part-time employees shall be entitled to bereavement leave without loss of pay or charge against sick leave up to a maximum of twenty-four (24) working hours (three (3) working days) for each non-concurrent death in the immediate family, including the immediate family of the spouse; provided however, that not more than two (2) additional working days chargeable against accumulated sick leave may be granted for reasons deemed sufficient by the Court Executive Officer; provided further that such leave with pay shall not be authorized for time expended in business or estate matters. Immediate family means husband, wife, father, mother, son, daughter, sister, brother, grandparent, grandchild, foster child, stepparent, stepchild, stepsister, stepbrother, step grandparent, step grandchild, or qualified domestic partner.

12.4.2 Verification of Bereavement Leave. Satisfactory proof of death may be required at the discretion of the Court Executive Officer/designee for any use of Bereavement Leave.

12.5 VACATION.

12.5.1 Accrual.

Regular full-time and regular part-time employees paid on an hourly basis shall accrue the following hour's vacation time for each paid regularly scheduled working hour not to exceed eighty (80) regularly scheduled working hours in any one pay period. An employee with a minimum of six (6) months of Court service shall

become eligible to use vacation up to the maximum time accrued as of the date such vacation is taken.

Years of Continuous Service	Vacation Hours Accrued per Hour	Equivalent Days per Year	Maximum Hours Accrued
0 through 4	.0385	10	192
5 through 9	.0577	15	232
10 through 14	.0654	17	248
15 and thereafter	.0769	20	272

12.5.2 Use of Vacation.

A. It is Court policy that employees take their accrued vacation each year at such time or times as may be approved by their supervisor, provided, however, that for reasons deemed sufficient by the Court Executive Officer, an employee may take less than the accrued vacation one year and a correspondingly longer vacation the following year. No employee shall be allowed paid vacation time off in excess of that accrued.

B. The maximum time limits for vacation accrual shall be extended by the appointing authority according to standards in the Personnel Manual.

12.5.3 Payment for Vacation Upon Separation.

Any employee separating from Court employment, or who is granted military leave of absence, other than temporary military leave for a period not exceeding six months, shall be paid off for any accrued but unused vacation.

12.5.4 Use At Retirement.

Persons retiring under the provisions of the Public Employees' Retirement System may remain on the payroll on vacation status until such accrued vacation time for which they are eligible has been exhausted. An employee using vacation time prior to retirement shall not accrue additional leave balances while exhausting existing vacation.

ARTICLE 13. PROBATIONARY PERIOD.

13.1. INITIAL PROBATION.

Upon initial appointment, all unit employees shall serve the equivalent of twelve (12) complete months of full-time service as a probationary period, during which time the employee may be dismissed without cause or right of appeal.

13.2. PROMOTIONAL PROBATION.

Upon promotion to a classification with a higher salary schedule, a unit employee shall serve the equivalent of six (6) months of full-time service as a probationary period, during which time the employee may be returned to his/her previous classification without cause or right of appeal, provided the employee had successfully attained permanent status in the previous class.

13.3. EXTENSION OF PROBATIONARY PERIODS.

Any accumulated time absent during the probationary period for a period of more than five (5) working days shall serve to extend the employee's probationary period for the total period of absence. Probation shall not be extended for any other reason.

13.4 REJECTION FROM PROBATION.

Rejection during a probationary period is not a disciplinary action.

ARTICLE 14. DISCIPLINARY ACTION.

14.1 GENERAL

Disciplinary actions will usually follow a progressive discipline procedure. Progressive discipline will normally include one or more warnings (oral and/or written) and/or a suspension before a termination is imposed. However, deviations from this procedure may occur whenever the Court determines circumstances warrant that one or more steps in the progressive discipline procedure be skipped. Accordingly, circumstances may warrant an immediate suspension or termination.

With the exception of layoffs for organizational necessity, discipline, up to and including termination, shall be for cause. For purposes of this policy, "for cause" shall have the same meaning as that set forth in Government Code section 71651(b).

Examples of misconduct that may lead to discipline for cause include, but are not limited to, the following:

- A. Misstatement of facts contained in the employee's application/resume or otherwise during the hiring process;
- B. Falsifying or making a material omission on any Court document (e.g., time card, Court records);
- C. Disclosure of confidential information;
- D. Insubordination;
- E. Excessive absence/tardiness or absence without leave;
- F. Discourteous or rude conduct;
- G. Unauthorized possession or bringing firearms, weapons, or hazardous or dangerous devices onto Court property;
- H. Being at work while under the influence of alcohol or illegal drugs, or possessing illegal drugs while on Court property;
- I. Theft of Court property or unauthorized possession of property that belongs to the Court or another employee;
- J. Misconduct;
- K. Unsatisfactory job performance;
- L. Violation of the Judicial Council Code of Ethics; or
- M. Violation of any Court rule, policy, or procedure.

14.2 BASIS FOR OTHER TERMINATION FOR CAUSE (NOT DISCIPLINARY IN NATURE).

Any employee covered by this agreement can be terminated from Court employment because of mental or physical inability to perform the essential functions of the employee's job, as determined by a medical or mental examination. Voluntary resignation by abandonment of position as indicated by three consecutive days of absence without leave shall also be a non-disciplinary termination for cause. Proposed terminations for cause which are non-disciplinary shall receive the benefit of notice and response contained in Sections 14.3.2.1, 14.3.2.2, and 14.3.2.3 below.

14.3 TYPES OF DISCIPLINARY ACTION

14.3.1 Minor Discipline

In the event that the Court imposes disciplinary action consisting of a suspension without pay of five (5) days or less or written reprimand, the affected employee may appeal such discipline in the manner set forth in this section.

14.3.2 Written Reprimands

Within ten [10] calendar days of the date an employee receives a written reprimand, he or she may request reconsideration by his/her division manager. If no change is made, he/she may submit a written response to the reprimand, which will be maintained in the employee's personnel file along with the reprimand.

14.3.3 Suspensions of Five (5) Days or Less

A. Within seven (7) calendar days of the date the employee received the written notice of a suspension of five (5) days or less, the employee may file a written appeal with his or her manager. The manager shall schedule a meeting with the employee and, where applicable, his or her representative, to discuss the appeal.

B. Within ten (10) days after that meeting, or such longer period as the manager or designee may determine is required to investigate the matter, the manager or designee shall provide the employee with a written response to the appeal.

C. If the employee is not satisfied with the step one response, he or she may appeal to the Court Executive Officer/designee. The appeal must be submitted within seven (7) days of the step one response and shall consist of the employee's step one appeal, the step one response, and a statement from the employee explaining his or her disagreement with the step one response.

D. The Court Executive Officer/designee shall schedule a meeting with the employee and, where applicable, his or her representative, to discuss the appeal. Within ten (10) days after that meeting, or such longer period as the Court Executive Officer/designee may determine is required to investigate the matter, the Court Executive Officer/designee shall provide the employee with a written decision regarding the appeal matter which decision shall be final and binding.

14.3.4 Major Discipline

14.4.2.1 Notice of Discipline/Discharge

When the Court is considering taking disciplinary action consisting of a suspension without pay for more than five days, a termination, or a demotion/reduction in pay,

the affected employee shall be given written notice of the proposed disciplinary action.

The notice of proposed disciplinary action shall include:

- A, the proposed action to be taken, the date it is intended to become effective and the specific grounds and particular facts upon which the proposed disciplinary action will be taken;
- B. the materials upon which the charge(s) is based or a statement indicating where the materials upon which the charge is based are available for inspection, or a combination of the two;
- C. a statement informing the employee of his or her right to respond, either orally or in writing, to the charge(s), by the date specified in the notice;
- D. A statement that the employee may be represented by an employee organization representative or other counsel at the predisciplinary meeting or in written response to the charges.

The Court may, at any time during the time when a charge(s) is pending against an employee, place the employee on paid administrative leave.

Service shall be made in person or by U. S. Postal Service Certified Mail, return receipt requested. If mail is undeliverable or rejected, such notice shall be considered delivered as of the final attempt to deliver by the U. S. Postal Service or the date service is refused by addressee.

14.3.4.2 Without Response Proposed Action Considered Conclusive

If the employee does not respond to the charge(s) within the time specified in the notice of proposed disciplinary action, the proposed disciplinary action will be considered conclusive and shall take effect as described in the notice of proposed disciplinary action.

14.3.4.3 Response

If the employee does respond to the charge(s) within the time specified in the notice of proposed disciplinary action, the Court Executive Officer shall consider the employee's response and all of the information upon which the charge(s) is based. The Court Executive Officer shall then issue a determination on the notice of proposed disciplinary action. If the determination includes disciplinary action consisting of a suspension, a termination, or a demotion/reduction in pay, the employee may appeal such determination in writing, within seven (7) calendar days of the date that the Court Executive Officer issued the determination. If no such appeal is in a timely manner filed, the determination of disciplinary action shall stand.

14.3.5 Hearing to Review Disciplinary Decisions

In the event that an employee in a timely manner files an appeal as described in section 14.3.2.3 above, an evidentiary due process hearing within the meaning of Government Code section 71653 (conforming to sections b through f) will take place.

14.3.5.1 Selection of Arbitrator

Within 10 days of the date that the employee files the notice of appeal, the Court Executive Officer and the employee, or if the employee is represented, the employee's representative, shall attempt mutually to agree on an experienced labor arbitrator to serve as the impartial hearing officer. The parties may extend this date

by mutual consent. If the parties are unable mutually to select an arbitrator, they shall request a list of seven experienced labor arbitrators from the State Mediation and Conciliation Service. After receiving such a list, the parties shall alternately strike names with the first party to strike to be determined by lot.

14.3.5.2 Release of Witnesses

Court witnesses released to testify at the hearing under Government Code section 71653(c) shall be released with pay for the time necessary to give testimony, unless the employee makes prior arrangements to use accrued vacation time.

14.3.6 Review of Hearing Officer's Report and Recommendation

The decision of the hearing officer shall be reviewed as provided in Government Code sections 71654 (a) through (d).

14.3.7 Arbitrator's Authority

The arbitrator shall have no authority to add to, detract from, alter, amend, or modify any of the Court's rules, policies, procedures or Memoranda of Understanding.

ARTICLE 15. GRIEVANCE PROCEDURE

15.1. DEFINITIONS.

A. **Grievance.** A grievance is a claimed violation, misapplication, misinterpretation of a specific provision of this Agreement or one of the policies listed in negotiable sections of the Personnel Manual, which adversely affects the grievant.

Disciplinary actions, performance evaluations, preambles, purpose clauses and the exercise or lack of exercise of Court Rights shall not be grievable, nor shall any complaint be grievable for which a separate appeal process is established.

B. **Grievant.** A grievant is an employee covered by the agreement who is filing a grievance as defined above. Individual grievances with alleged violations, misapplication, or misinterpretations affecting more than one employee in a substantially similar manner may be consolidated at the discretion of management as a group grievance and shall thereafter be represented by a single grievant.

15.2. INFORMAL RESOLUTION.

Within twenty (20) days from the event giving rise to a grievance or from the date the employee could reasonably have been expected to have had knowledge of such event, the grievant shall orally discuss his/her grievance with his/her immediate supervisor. The supervisor shall have seven (7) days within which to respond. If the employee is dissatisfied with the response to his/her complaint, or if s/he receives no response, the complaint may, within fourteen (14) days after the supervisor's response was due, be formally submitted as a grievance in accordance with the following procedure.

15.3. FORMAL PROCESS.

Step 1: If a grievant is not satisfied with the resolution proposed at the informal level, s/he may within fourteen (14) days after the supervisor's response was due file a formal written grievance with his/her manager on a form provided by the Court Human Resources Office containing a statement describing the grievance, the

section of this Agreement allegedly violated, and remedy requested. The manager (or designee) shall, within seven (7) days have a meeting with the grievant and within seven (7) days thereafter give a written answer to the grievant.

Step 2: If the grievant is not satisfied with the written answer from his/her manager, the grievant may, within seven (7) days from the receipt of such answer, file a written appeal to the Court Executive Officer. Within fourteen (14) days of receipt of the written appeal, the Court Executive Officer or his/her designee, shall investigate the grievance, which may include a meeting with the concerned parties and, thereafter give written answer to the grievant within seven (7) days.

Step 3: If the grievant is not satisfied with the written answer from the Court Executive Officer, the grievant may, within seven (7) days from the receipt of such answer, file a written appeal to arbitration.

15.4 ARBITRATION.

15.4.1 Selection of Arbitrator

Within 10 days of the date that the employee files the notice of appeal, the Court Executive Officer and the employee, or if the employee is represented, the employee's representative, shall attempt mutually to agree on an experienced labor arbitrator to serve as the impartial hearing officer. The parties may extend this date by mutual consent. If the parties are unable mutually to select an arbitrator, they shall request a list of seven experienced labor arbitrators from the State Mediation and Conciliation Service. After receiving such a list, the parties shall alternately strike names with the first party to strike to be determined by lot.

15.4.2 Release of Witnesses

Court witnesses released to testify at the hearing under Government Code section 71653(c) shall be released with pay for the time necessary to give testimony, unless the employee makes prior arrangements to use accrued vacation time.

15.4.3 Review of Arbitrator's Report and Recommendation

The decision of the Arbitrator shall be reviewed as provided in Government Code sections 71654 (a) through (d).

15.4.4 Arbitrator's Authority

The arbitrator shall have no authority to add to, detract from, alter, amend, or modify any of the Court's rules, policies, procedures or Memoranda of Understanding.

15.5. GENERAL PROVISIONS.

15.5.1 If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized.

15.5.2 If a manager fails to respond with an answer within the given time period, the grievant may appeal his/her grievance to the next higher level as if a negative response had been received on the final day for the decision.

15.5.3 The grievant may be represented by a person of his/her choice at any formal level of this procedure.

15.5.4 Prior to or during the steps of the grievance procedure, the grievant or his/her representative, supervisor(s), or department head may consult with the Court Executive Officer.

15.5.6 Time limits and formal steps may be waived by mutual written consent of the parties.

15.5.7 Proof of service shall be accomplished by certified mail or personal service.

15.5.8 The Court shall serve as the repository for all grievances filed, regardless of the step in the procedure at which each is resolved. A copy of all grievances, written replies, appeals, decisions and other supportive material should be submitted to the Court Executive Officer.

ARTICLE 16. PEACEFUL PERFORMANCE

16.1. NO STRIKES OR LOCKOUTS

16.1.1 During the term of this agreement, neither the Union nor its agents, or any employees, individually or collectively, shall call, sanction, support or participate in any strike, work stoppage, picketing, sit down, slowdown, or any refusal to enter the Employer's premises, or any other interference with any of the Employer's services or operations, or with movement or transportation of persons or goods to or from the Employer's premises. The Employer shall not engage in a lockout or any other deprivation of work as a means of obtaining the Union's or its members' agreement to a change in working conditions.

16.1.2 The prohibitions of this Section shall apply whether or not (i) the dispute giving rise to the prohibited conduct is subject to any dispute resolution procedure provided under this agreement, (ii) such conduct is in support of or in sympathy with a work stoppage or picketing conducted by the Union, any other labor organization, or any other group of employees, or (iii) such conduct is for any other reason, including but not limited to protest of an alleged violation of any state or federal law, political protest, civil rights protests, consumer protest, or environmental protest. However, picketing with respect to issues in (iii) above for the sole purpose of providing information to the public is permissible; provided that the picket signs clearly state that the picketing is informational only.

16.1.3 If any conduct prohibited by this Section occurs, the Union shall immediately make every reasonable effort to terminate such conduct. If the Union makes such an effort to terminate, and does not in any way encourage any of the activities prohibited by this Section, which were not instigated by the Union or its staff, the Union will not be liable for damages to the Employer caused by such activities.

16.2. DISCIPLINE FOR VIOLATION.

Any employee who participates in any activity prohibited by Section 16.1 of this Article shall be subject to discharge or any lesser discipline as the Employer shall determine. Such discharge or discipline shall be subject to Article 14 Disciplinary Action.

16.3 REMEDIES FOR BREACH.

The Employer and the Union shall be entitled to seek all appropriate remedies, including but not limited to injunctive relief and damages, if Section 16.1 of this Article is violated, without prior resort to any dispute resolution procedure provided under this agreement, and whether or not the dispute giving rise to the conduct which violates such Section is subject to such procedures.

ARTICLE 17. FULL UNDERSTANDING, MODIFICATION AND WAIVER

17.1. FULL UNDERSTANDING.

It is intended that this Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein and all other topics subject to bargaining, and therefore any other prior or existing understanding or Agreement by the parties, whether formal or informal, written or unwritten, regarding such matters is hereby superseded or terminated in their entirety.

17.2. NO INTERIM BARGAINING.

17.2.1 It is agreed and understood that during the negotiations which culminated in this Agreement each party enjoyed and exercised without restraint, except as provided by law, the right and opportunity to make demands and proposals or counter-proposals with respect to any matter subject to bargaining and that the understandings and agreements arrived at after the exercise of that right are set forth in this Agreement. Except as may be otherwise provided herein, matters agreed to in this agreement shall remain in full force and effect for the term of this agreement.

17.2.3 Except as specifically provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right, and agrees that the other shall not be required to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of representation during the term of this agreement.

17.3. MODIFICATION.

17.3.1 Any agreement, alteration, understanding, waiver, or modification of any of the terms or provisions contained in this Agreement shall not be binding on the parties unless made and signed in writing by all of the parties to this Agreement, and if required, approved and implemented by the Court Executive Officer.

17.3.2 In the event any new practice, subject, or matter arises during the term of this Agreement that is within the scope of meet and confer, and an action is proposed by the Court, the Union shall be afforded all possible advance notice and shall have the right to meet and confer upon request. In the absence of an agreement on such a proposed action, the Court reserves the right to take necessary action in accordance with provisions of the law.

17.4. WAIVER.

The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

17.5. CONTROLLING AUTHORITY.

This Memorandum of Understanding shall supersede any documents unilaterally adopted by the Court where conflicts exist regarding a subject covered herein.

17.6 SAVINGS PROVISION.

If any provisions of this agreement are held to be contrary to law by a court of competent jurisdiction, or if there are any statutory or regulatory changes affecting this agreement, then such provisions shall not be deemed valid and subsisting, except to the extent permitted by law, but all other provisions shall continue in full force and effect. Notwithstanding this Article, should a provision or application be deemed invalid by a court of competent jurisdiction or as the result of a statutory or regulatory change, the parties shall, upon written request of either party, meet not later than thirty (30) days after such court or legislative change to renegotiate the provision or provisions so affected.

January 12, 2006
DATE

1-18-06
DATE

FOR TRINITY SUPERIOR COURT

FOR UNITED PUBLIC EMPLOYEES OF CALIFORNIA,

Donna Regnani
Donna Regnani, Chief Negotiator/
Court Executive Officer

[Signature]
Steve Allen, Chief Negotiator

Shelley Razo 1-12-06
Shelley Razo, Negotiating Team Member

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