

***MEMORANDUM OF UNDERSTANDING  
BETWEEN***

***SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MERCED***

***AND***

***MERCED COUNTY TRIAL COURT EMPLOYEES  
LOCAL 1, AFSCME Council 57***



**January 24, 2023 – November 15, 2025**

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## **PREAMBLE**

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as the MOU), entered into by the Superior Court of California, County of Merced (hereinafter referred to as the Court) and the Merced County Trial Court Employees, Local 1, AFSCME Council 57, pursuant to the Trial Court Employment Protection and Governance Act, has as its purpose the promotion of harmonious labor relations between the Court and the Union; establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and other conditions of employment.

## **ARTICLE 1 – RECOGNITION & REPRESENTATION**

### **1.01 RECOGNITION**

- A. As required under the Trial Court Employment and Governance Act, the Court recognizes the Merced County Trial Court Employees, Local 1, AFSCME Council 57 (hereinafter referred to as the Union) as the exclusive negotiating agent for all employees in the Court Office Technical Unit for the following classifications:

Administrative Assistant I/II <sup>1</sup>	Court Technology Analyst I <sup>2</sup>
Court Processing Clerk I/II	Court Technology Technician I/II <sup>3</sup>
Court Reporter	Senior Court Processing Clerk
Courtroom Clerk I/II/III	Senior Courtroom Clerk
Court Collections Technician <sup>4</sup>	Financial Clerk <sup>5</sup>
Senior Court Collections Technician	Senior Court Reporter

- B. As required under the Trial Court Employment and Governance Act, Union recognizes the Court Executive Officer or their designee as the negotiating agent for the Court and shall negotiate exclusively with the Court Executive Officer or their designee.

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<sup>1</sup> The bargaining unit Court Legal Secretaries are now Administrative Assistants.

<sup>2</sup> This classification is currently vacant and non-budgeted. The Court does not have imminent plans to fill this position as of April 2020, but in the event the Court has the need, it will fill the position.

<sup>3</sup> This reference to Court Technology Technician II supersedes and replaces the parties' side letter of June 21, 2006. This classification is currently vacant and non-budgeted. The Court does not have imminent plans to fill this position as of April 2020, but in the event the Court has the need, it will fill the position.

<sup>4</sup> This reference to Court Collections Technician supersedes and replaces the parties' side letter of March 20, 2015.

<sup>5</sup> This reference to Financial Clerk supersedes and replaces the parties' side letter of March 20, 2015.

## **1.02 FAIR AND EQUAL REPRESENTATION**

It is recognized that Union owes the same responsibilities to all employees in the representation unit and has a duty to provide fair and equal representation to all employees in all classifications in the unit whether or not they are members of Union.

## **ARTICLE 2 – TITLE & DEFINITIONS**

### **2.01 TITLE AND DEFINITIONS**

#### **A. Title:**

This Memorandum of Understanding shall be cited as the **MEMORANDUM OF UNDERSTANDING BETWEEN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF MERCED, AND THE MERCED COUNTY TRIAL COURT EMPLOYEES, LOCAL 1.**

#### **B. Language and Definitions:**

1. **Words** used in the present tense include the future, except where the natural construction of this resolution otherwise indicates. Words in the singular number include the plural, and words in the plural number include the singular; and the word “shall” is mandatory and not discretionary. Gender neutral language will be used for inclusivity.
2. **“Anniversary Date”** shall mean the date upon which a step advance in salary may become effective under the provisions of the Personnel Policies.
3. **“Court Executive Officer”** means the person appointed by the Judges of the Superior Court to act on their behalf.
4. **“Division Supervisor”** shall mean the person(s) appointed as supervisor(s) in each division of the Superior Court. This position may be, but is not limited to, a Supervising Clerk of the Superior Court.
5. **“Introductory Employee”** shall mean any employee who has not yet successfully completed their introductory period.
6. **“Pay Period”** shall mean fourteen (14) calendar days from 12:01 A.M. Monday through midnight the second Sunday thereafter.
7. **“Regular Full-time Employee”** shall mean an employee who has satisfactorily completed their introductory period and is regularly scheduled to work forty (40) or more hours per week.

8. **“Regular Part-time Employee”** shall mean a regular employee who has satisfactorily completed their introductory period and is regularly scheduled to work less than forty (40) hours per week but no less than thirty-two (32) hours per biweekly pay period.
9. **“Regular Position”** means a position established by order of the Superior Court on a continuing basis, as distinct from temporary, intern, at-will and contract positions.

## **ARTICLE 3 – NONDISCRIMINATION**

### **3.01 NONDISCRIMINATION**

The Court does not discriminate against qualified employees or applicants for employment on the basis of race, color, religion, sex, gender, perception of gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis protected by law, or on the basis of a perception that an individual has any characteristic protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics. The Court will provide equal employment opportunity to all qualified applicants or employees with respect to compensation and all terms and conditions of employment, including hiring, training, promotion, transfer, discipline, and termination.

## **ARTICLE 4 – MANAGEMENT RIGHTS**

### **4.01 MANAGEMENT RIGHTS**

- A. The Court’s rights and functions, except those which are expressly abridged by this MOU, shall remain vested with the Court.
- B. The rights of the Court include, but are not limited to, the exclusive right to determine the methods, means, and personnel by which the Court operations are to be conducted. This includes the right to determine policies, standards, and procedures subject to any meet and confer obligation as specified in Government Code Section 71634. The Court retains the right to hire, retain, promote, transfer, assign, classify positions, determine/modify job specifications; suspend, demote, discharge, or take other disciplinary action against employees; and to determine the need for workforce reductions initiated because of lack of work, lack of funds, or organizational changes including the elimination or modification of programs.
- C. Consistent with Government Code Section 71634 (a), the scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms

and conditions of employment. However, the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

- D. Consistent with Government Code Section 71634 (b), in view of the unique and special responsibilities of the trial courts in the administration of justice, decisions regarding the following matters shall not be included within the scope of representation:
1. The merits and administration of the Court system.
  2. Coordination, consolidation, and merger of the Court's organization and staffing.
  3. Automation, including, but not limited to, fax filing, electronic recording, and implementation of information systems.
  4. Design, construction, and location of Court facilities.
  5. Delivery of Court services.
  6. Hours of operation of the Court.
- E. Consistent with Government Code Section 71634 (c) the impact from matters in paragraph "D" above, shall be included within the scope of representation as those matters affect wages, hours, and terms and conditions of employment of trial court employees. The Court shall be required to meet and confer in good faith with respect to that impact.
- F. Consistent with Government Code Section 71634 (d) the trial court shall continue to have the right to determine assignments and transfers of trial court employees; provided that the process, procedures, and criteria for assignments and transfers shall be included within the scope of representation.
- G. The Court retains the right to determine the need to implement changes in rules, policies and procedures to meet an emergency situation. Consistent with Government Code Section 71634.1, the Court will provide notice to the Union, and an opportunity to meet at the earliest practicable time following the adoption of the emergency rule, policy or procedure. If applicable, the Court will provide notice of an emergency situation by phone or email to the affected employees as soon as possible.
- H. Nothing in this MOU shall be construed to interfere with the Court's right to manage its operation in the most economical and efficient manner consistent with the best interest of all the citizens of Merced County.

## **ARTICLE 5 – UNION RIGHTS**

### **5.01 UNION SECURITY**

- A. It is the intent of this section to provide for payroll deductions of bargaining unit members to be deducted from their biweekly salary insofar as permitted by law. The Court agrees to deduct and transmit to Union, Local 1 all authorized deductions from members of the Court Office Technical Unit. Authorized deductions shall mean that the Court has received email notification from Union to start dues deduction of a member. In the event the Court misses one or more payroll deductions in a payroll period, due to no fault on the part of Union, the Court will correct the error and remit all monies due in the next biweekly pay period, if possible, when notified by Union in writing.
- B. Employees who are currently members of the union or are new or returning members may authorize via the Union, deductions of member or unit fund dues, initiation fees and/or assessments and shall have such automatically deducted from paychecks by the Court, unless the Union provides an email notification to cease deductions from a non-member.
- C. The approved dues deducted from unit members' biweekly salary and the deductions for this purpose shall be changed by the Court only upon an email notification from the Union. Union shall be the custodian of dues and shall be responsible for processing any changes, cancellations, and will maintain employees' written authorizations for dues deductions. Union shall notify Human Resources which employees will have dues deducted from their paychecks and the amount to be deducted, as well as any changes or cancellations. On a bi-weekly basis, Human Resources shall send Union a Membership Dues report, which encompasses the pay date, name, title, gross pay for the pay period, and dues paid.
- D. Union agrees to indemnify, defend and hold the Court harmless against any claims made of any nature and against any suit instituted against the Court arising from its deduction of the service fees and dues of Union.

### **5.02 LIST OF EMPLOYEES AND REPRESENTATION INFORMATION**

- A. The Court shall provide Union with the information listed below.
  - 1. When the following actions occur, the Court will provide the information specified:
    - a. When employees are newly assigned into the Court Office Technical Unit the Court will provide a listing of the newly assigned employees.

- b. When employees in the Court Office Technical Unit have terminated Court service, the Court will provide a listing of those employees terminating Court service.
- c. When employees in the Court Office Technical Unit transfer to a classification outside of the Court Office Technical Unit, the Court will provide a listing of those employees transferring out of the Court Office Technical Unit.

2. Every quarter, the Court will provide the following information:

- a. Names, job titles, departments, work locations, work, home, and personal cellular telephone numbers, and personal email addresses on file of represented employees currently employed by the Court in the Court Office Technical Unit.
- b. Current biweekly base salary of represented employees in the Court Office Technical Unit.
- c. The above mailing addresses that are provided to Union are given to Union for its exclusive use for the sole purpose of conducting union business and are to be kept confidential. Union agrees not to release any employee mailing address to any other party without the written consent of the employee.

B. Any questions regarding any reports provided under this section shall be made in writing to the Court Human Resources Manager. The Court Human Resources Manager shall respond in writing to Union questions.

### **5.03 PERSONNEL POLICIES**

The Court agrees to provide Union copies of Court Personnel Policies officially adopted by the Court.

### **5.04 COPIES OF AGREEMENT**

- A. The Court shall post the ratified MOU on the Court's intranet. Bargaining unit members who would like to have a copy of the MOU are permitted to print one copy of the MOU for them at the Court. The Court shall provide a printed hard copy of this Agreement to all newly hired bargaining unit employees at the employee's New Hire Orientation.
- B. Union shall be invited to attend any "New Hire Orientation" involving new bargaining unit members to meet and greet the new employees. The Union representative, or designee, shall be allowed thirty (30) minutes with the

employee during the New Hire Orientation. This Union participation shall be without loss of compensation. If the Union anticipates needing more time to meet with new employees because of the number of employees at the orientation, then this time may be extended upon request.

- C. The Court shall notify the Union President of dates and times for “New Hire Orientation” as well as the number, names, and Division of the new hires attending orientation. Union shall notify Human Resources, in advance, of the Representative attending.

#### **5.05 COURT TELEPHONE DIRECTORY**

When the Court Telephone Directory is updated it shall contain the name, location and telephone number of the Union designated business office during the term of this Agreement. Use of the Union telephone number shall not result in additional cost (i.e. long distance changes) to the Court. It is the responsibility of Union to notify the Court of any changes in address or telephone number.

#### **5.06 UNION ACCESS**

- A. Duly authorized representatives of Union shall be permitted access to members of the Court Office Technical Unit during working hours with reasonable notice and approval of Human Resources. Such access shall be for representational purposes pursuant to this Agreement.
- B. Union shall not be permitted to enter work locations during working hours unless specifically authorized by the Court Executive Officer or designee. Access shall not be unreasonably denied.

#### **5.07 UNION USE OF MEETING ROOMS**

- A. Union must make an advance request by email to Human Resources prior to the use of Court facilities.
- B. Union shall be allowed to use specific meeting areas, if available, in Court facilities for official business related to representational activities. Specific meeting areas shall be determined by the Court. Such use shall occur during lunchtime or non-business hours, shall not result in additional cost to the Court, and shall not interfere with Court operations. It is understood that such use is subject to Court operational needs and that the Union may be asked to leave the meeting area at any time.
- C. Human Resources will inform Union that the request has been approved or denied. If the request is denied due to unavailability of the space, Human Resources will work with Union to accommodate the request.

## **5.08 UNION, LOCAL 1 REPRESENTATION**

- A. A written list of employees designated by Union as Union stewards, broken down by work location shall be furnished to the Court immediately after their designation, and Union shall notify the Court promptly of any changes of such stewards. Union stewards shall not be recognized by the Court until such lists or changes thereto are received.
- B. The number of stewards shall not exceed one representative for every twenty (20) filled positions in the Court Office Technical Unit. Union shall provide a list to the Court Human Resources Manager when stewards are assigned an area of responsibility yearly. The area of responsibility for a steward is defined as their work location, i.e. Merced or Los Banos. Normally, representation activities of a steward will be performed in their area of responsibility and will not necessitate travel to another work location. However, the Court recognizes that if a Los Banos steward is not available it may be necessary for a Merced steward to provide representation via telephone, appear remotely or attend meetings in the employee's work location. Release time for representational activities will be in accordance with the Grievance Section of this MOU.
- C. The Court recognizes and agrees to meet and confer, upon request, with the designated representatives of Union on all matters relating to the interpretation, application, or enforcement of the express terms of this Agreement. With prior approval of the Court, up to three (3) Union representatives shall be released for this purpose without loss of compensation. When Union membership reaches one hundred and twenty (120) members, up to four (4) Union representatives will be released without loss of compensation. Upon advance request by Union, an additional member may be released to participate in meet and confer meetings based on operational needs.

## **5.09 UNION USE OF INTERNAL MAIL SYSTEM**

- A. Union may have reasonable use of the Court's existing internal mail system (including e-mail) for the limited purpose of communicating with employees who have been designated, in writing by Union, as officers and/or stewards. Such internal mail system may also be used by Union to communicate with an individual grievant or group of specifically named grievants.
- B. Except as provided in the Court's Information Systems Usage Policy, Union and bargaining unit employees may not use the Court's e-mail (including broadcast e-mails) for purposes other than the normal business of the Court. This paragraph does not affect Union's right to use the Electronic Bulletin Board as described in Article 5.13(C).

## **5.10 UNION USE OF BULLETIN BOARDS**

- A. Union may use designated bulletin board space to post official business of the Employee Organization. Inappropriate or offensive material will not be permitted. A copy of the material being posted will be provided to the Court Executive Officer, or designee, at the same time the material is posted, unless the material deals with the content of MOU negotiations.
- B. Union may request additional bulletin boards and/or secure bulletin boards. Union shall pay the cost of the additional or secured bulletin boards and the cost of installation.
- C. Union may use the Court's Electronic Bulletin Board to notify their members of Union meetings (including Labor/Management Committee meetings), elections, and events. Any notices posted by the Union on the Court's Electronic Bulletin Board must be sent to the Court's Human Resources Division for approval prior to posting.

Subject Line shall be "Electronic Bulletin Board – Union Information."

## **5.11 CLASSIFICATION CHANGES**

- A. The Court agrees to notify Union in writing of any planned classification changes at least twenty-one (21) calendar days in advance of implementing such changes. Upon notification in writing from Union, the Court agrees to meet and confer over the impact of the planned changes prior to implementation. The Union agrees to provide this written notification within seven (7) calendar days of receiving notification from the Court.
- B. If after the meet and confer is held pursuant to paragraph A. above, Union still disagrees with the planned classification changes, Union may file a written appeal to the Court Executive Officer within fourteen (14) calendar days of the conclusion of the meet and confer.
- C. Within fourteen (14) calendar days of receipt of the appeal, the Court Executive Officer shall hold a meeting to discuss the appeal and render a final and binding decision within seven (7) calendar days of the meeting. The parties may mutually agree on a case-by-case basis to modify this timeframe.
- D. The timeframes listed in paragraphs A through C above may be modified in exigent circumstances, upon written notice to the other party of the need for a change.

## **ARTICLE 6 – JOINT LABOR/MANAGEMENT COMMITTEE**

### **6.01 JOINT LABOR/MANAGEMENT COMMITTEE**

A. In order to encourage open communication, promote harmonious labor relations, and discuss matters of mutual concern, the parties agree to create a joint Labor-Management Committee. The Committee will be governed by the following principles:

1. The Committee will meet quarterly on the last week of January, April, July, and October (or as soon as possible thereafter), or more often if mutually agreed to by the parties.
2. By the 15<sup>th</sup> of the months referenced in paragraph 1, the Union and the Court will exchange agenda items, submit up to (5) employee representatives for release, and propose times and dates. The agenda for each meeting will be decided five working days in advance of the meeting, unless otherwise mutually agreed to by the parties.
3. The Court will release up to five (5) employee representatives selected by Union to attend the quarterly Joint Labor-Management Committee meetings. Such release is subject to Court operational needs. Release time does include travel time to and from the meeting location for all employee representatives.
4. The meetings will be scheduled for a maximum of two (2) hours.
5. The Joint Labor-Management Committee has no authority to enter into agreements that are subject to the negotiations/meet and confer process. The Committee may make recommendations to the Court Executive Officer, or designee. The Court Executive Officer will respond to recommendations or proposals made by the Committee within thirty (30) days or unless a different timeline is requested by either party.
6. Safety Representative: The Union shall appoint an active unit member who will serve as Safety Representative in order to help address workplace safety issues and make written recommendations addressing such issues to the Court Executive Officer, their designee, and the Joint Labor Management Committee as described in Article 6.01.

Workplace Safety Issues: In addition to raising safety concerns with their direct supervisors as described in the Court's "Injury and Illness Prevention Program" and the Court's "Code of Safe Practices," bargaining unit members will have the option of informing the Safety Representative of their workplace safety concerns. The Safety Representative will have regular contact with the Joint Labor/Management Committee, and may attend Joint

Labor/Management Committee meetings whenever outstanding workplace safety issues exist as one of the five (5) employee representatives.

## **ARTICLE 7 – EMPLOYMENT**

### **7.01 INTRODUCTORY PERIOD**

#### **A. New Employees**

1. All full-time and part-time regular status employees must complete an introductory period of 2080 regular paid hours not including overtime or time off on Workers' Compensation status, beginning on the date of hire. This period is used to determine whether the employment relationship should continue.
2. Employees who receive an overall unsatisfactory evaluation rating may have, at the Court Executive Officer's, or designee discretion, the introductory period extended an additional five hundred and twenty (520) paid work status hours, not including overtime or time off on Workers' Compensation status.
3. Upon satisfactory completion of the introductory period, the employee shall become a regular status employee.
4. The Court may extend an employee's introductory period commensurate with any leave taken by the employee during the introductory period.

#### **B. Release During the Introductory Period**

1. Release during the introductory period may be with or without cause and requires no advance notice. No due process rights attach to a release of an employee during the introductory period.
2. Any such release shall be without right of appeal or grievance.

#### **C. Promoted Employees**

1. Any employee who is promoted will serve an introductory period of up to 1040 regularly paid hours in their new position. A formal performance evaluation will be conducted at the end of 520 regular paid work hours and before reaching the end of 1040 regular paid work hours.
2. At the Court Executive Officer or designee discretion, e.g., for an employee who has received an overall unsatisfactory evaluation, the promotional introductory period may be extended an additional five hundred and twenty

(520) paid work status hours, not including overtime or time off on Workers' Compensation status.

3. Any employee who does not satisfactorily complete the introductory period following a promotion shall be placed back in a classification which they held prior to the promotion with a salary at the same level as the salary they received prior to promotion.
4. If an employee returns to a former classification in which the employee previously held regular status, the employee's seniority date in the former classification shall be the date of original appointment to the former classification. Time spent in the higher level classification will not be counted for seniority purposes.

## **7.02 TRANSFER AND PROMOTIONS**

### **A. Voluntary Transfer**

1. A regular Court employee who desires to initiate a request for a transfer within the same classification to another Court division shall be given consideration pursuant to Government Code 71642.
2. Upon notice of a vacancy in any division, Human Resources or a designee shall post a notice on the intranet. Human Resources will email employees regarding job opportunities posted to the intranet.
3. Employees who wish to be considered for a lateral transfer shall submit a Transfer Request form to Human Resources within fourteen (14) calendar days of the posting of the transfer opportunity notice.
4. Eligible regular status employees shall be interviewed for these openings before recruitment is initiated or before names from the Eligibility List are provided.
5. The selection decision of the Division Supervisor is final if in accordance with Government Code 71644.
6. An employee who is transferred from one position to another in the same job classification shall be compensated at the same step in the salary range as previously received. For purposes of further merit increases within the salary range, their anniversary date shall remain the same as it was before the transfer. The effective date of all transfers shall be the first working day of a pay period.

B. Reassignments

1. Employees may be reassigned from one position to another position within the Court either on a permanent or temporary basis, provided the positions are in the same job classification and the employee possesses the minimum qualifications for the new position. Temporary assignments generally will not be more than one hundred eighty (180) days unless the Court Executive Officer specifically authorizes a longer period. At the end of the temporary reassignment, the employee shall return to their former position.

C. Promotional Opportunity

1. Upon notice of a vacancy in any division, Human Resources or a designee shall post a notice of any promotional opportunity on the intranet. Human Resources will email employees regarding job opportunities posted to the intranet.
2. Regular status employees are entitled to take the necessary time off with pay for the purpose of taking qualifying and/or promotional examinations and appearing for scheduled interviews.
3. In the appointment process, consideration shall be given to relative ability, knowledge and skills pursuant to Government Code 71642.
4. Salary on promotion shall be in accordance with established salary schedules.

D. New Bargaining Unit Classifications

1. The Court agrees to notify Union in writing of all new bargaining unit classifications at least twenty-one (21) calendar days in advance of posting the position in the newly created classification. Upon notification in writing from Union, the Court agrees to meet and confer regarding minimum qualifications, classification, job duties, and salary range prior to posting the new position. The Union agrees to provide this written notification within seven (7) calendar days of receiving notification from the Court.
2. If after the meet and confer is held pursuant to paragraph 1 above, Union is in disagreement with any portion of the new bargaining unit classification's minimum qualifications, classification, job duties, or salary range, Union may file a written appeal to the Court Executive Officer within fourteen (14) calendar days of the conclusion of the meet and confer.
3. Within fourteen (14) calendar days of receipt of the appeal, the Court Executive Officer will hold a meeting to discuss the appeal and render a final and binding decision within seven (7) calendar days of the appeal meeting.

The parties may mutually agree on a case-by-case basis to modify this timeframe.

4. The timeframes listed in paragraphs 1 through 3 above may be modified in exigent circumstances, upon written notice to the other party of the need for a change.

### **7.03 SENIORITY**

- A. Seniority shall be determined by length of continuous paid employment within a classification (or series, if applicable), within the Court. Time on unpaid leave or suspension shall not be included in calculating seniority. For purposes of this Section, time on approved leave will be included in calculating seniority to the extent the approved leave benefit is being coordinated with the employee's vacation, sick leave, or compensatory time off. Likewise, for purposes of this Section, time on State Disability Insurance (SDI) will be included in calculating seniority to the extent the SDI benefit is being coordinated with the employee's vacation, sick leave, or compensatory time off. Time off payroll while on SDI, unpaid leave or suspension shall not be included in calculating seniority. Employees using donated catastrophic leave hours shall not have such hours counted towards seniority.
- B. If the length of service within a classification is the same for two or more employees, seniority shall be determined by the length of continuous paid employment from original date of hire. If the length of seniority within the same classification is the same for two or more employees and the original date of hire is the same, seniority will be determined by the total previous clerical or technical (depending on classification) experience at the time of hire with the most previous clerical or technical experience being given seniority preference.
  1. Seniority shall be recognized in the event of:
    - a. Reduction in Force
    - b. Reinstatement
    - c. Assignment of Shifts
    - d. Scheduling of vacations
    - e. Demotions
    - f. Overtime Assignment
  2. Overtime shall be assigned, to the extent possible, on an equal basis except in those cases where continuity of services is required. Volunteers will be requested first and selected based on seniority. When sufficient volunteers are not available to cover overtime requirements, the overtime will be assigned using inverse seniority.

3. The rules of seniority shall apply to all employees covered by this memorandum of understanding.
4. Notwithstanding the foregoing, if the Court determines that the application of seniority during a reduction in force will result in critical skills not being available to maintain critical services to the public, the order of layoff shall be adjusted. Critical skills include, for example, knowledge and experience in essential court services. This application shall not be used in a capricious or arbitrary manner.
5. The rules of seniority may be set aside to provide accommodation for placement of a disabled employee in the event of shift assignments or work site location changes.
6. If a current employee returns to a former classification in which the employee previously held regular status, the employee's seniority date in the former classification shall be the date of original appointment to the former classification. Time spent in the higher level classification will not be counted for seniority purposes.
7. Seniority may be used by the Court as one of several factors in determining assignment of employees.

#### **7.04 REDUCTION IN FORCE**

##### **A. Application**

Whenever it is necessary because of lack of work or funds, or whenever it is advisable in the interest of economy to reduce the number of employees, the Court may layoff employees pursuant to this section.

##### **B. Scope of Layoff**

The Court will determine the area of layoff (e.g. court-wide, division) and the classification(s) subject to layoff. The decision to reduce the number of positions in a classification in the Court and the reasons for any such reduction shall be within the sole and exclusive discretion of the Court. Once the scope of layoff is determined, employees will generally be laid off by seniority in the following order:

1. Contracted Employees
2. Temporary Employees
3. Introductory Employees
4. Regular Part-Time Employees
5. Regular Full-Time Employees

Employees on an approved leave of absence will be notified that they are subject to layoff under these procedures. If they are selected for layoff, their leave will be terminated and they will be converted to layoff status as described in “Layoff Status”, paragraph F. below.

C. Notice of Layoff

1. Each employee subject to layoff shall be given written Notice of Layoff. The notice shall prescribe the effective date of layoff. The written notice shall either be personally handed to the employee or sent by certified mail to employee’s last known address. The last known address shall be deemed to be that address which is within the personnel file of the employee. The notice shall be deemed served on the date it is personally handed to the employee, or delivered by certified mail.
2. The effective date of layoff shall be not earlier than the 14<sup>th</sup> calendar day following the date of service of the Notice of Layoff.
3. Each time a layoff is ordered, the Court shall mail to Union, not later than the date of service of the last Notice of Layoff, each seniority list by classification in which an employee covered by this Agreement is to be laid off. Each such list shall identify the employees to be laid off and show the date of service of the Notice of Layoff to each employee who is to be laid off.

D. Seniority Calculation

For the purposes of this procedure, seniority is determined by the length of continuous paid employment within the Court in the classification of layoff.

1. Time on unpaid leave or suspension shall not be included in calculating seniority.
2. Time on State Disability Insurance (SDI) will be included in calculating seniority to the extent that SDI is being coordinated with the employee’s vacation, sick leave, or compensatory time off. Time off payroll while on SDI will not be included in calculation of seniority.
3. If the length of service within a classification is the same for two or more employees, seniority will be determined by the length of continuous paid employment from the employee’s original date of hire.
4. If the length of service is the same as determined by application of paragraph “3.” above, seniority will be determined by the total previous clerical or technical experience (depending on the classification) at the time of hire with

the most previous clerical or technical experience being given seniority preference.

5. Notwithstanding the provisions of paragraph “1.” through “4.” above, a person appointed to a position requiring special qualifications or skills shall continue in the position unless a more senior employee has the same qualifications or skills to perform the work in the specific position. Such exceptions to the order of layoff shall require express approval of the Court Executive Officer. The Court may administer such tests as deemed necessary to determine possession of the special qualifications and skills.

#### E. Alternatives to Layoff

1. Bumping – In lieu of layoff, a regular employee who is laid off shall have the right, within the area of layoff (e.g. division) to “bump” a less senior employee in a lower classification (i.e. one with a lower salary rate) in which the employee who is bumping had previously achieved regular status. The employee who is bumped shall be the employee with the least seniority in the lower classification. An employee who is bumped shall also have the right to bump a less senior employee in a lower classification in which the employee who is bumping had previously achieved regular status. Any employee who exercises bumping rights shall enjoy the pay, benefit, and terms and conditions of employment of the classification to which he or she bumps.
2. Voluntary Reduction in Hours – The Court may, as an alternative to, or in conjunction with a layoff, call for volunteers, from amongst the members of the classification in which layoff is contemplated, to work reduced hours in lieu of layoff and/or the elimination of a full-time position.
3. Voluntary Leave of Absence Without Pay – The Court may, as an alternative to or in conjunction with a layoff, call for volunteers from amongst the members of the classification in which layoff is contemplated, to take a leave of absence without pay for a period of time mutually agreed upon between the employee and the Court. No such leave of absence without pay shall extend beyond one year.
4. Voluntary Furlough –The Court may develop and implement a voluntary furlough program open to all Court employees. Upon request, the parties shall meet and confer as to any impact/effects of such program on bargaining unit employees. Prior to implementation, the Court will supply the details of the voluntary furlough program and related forms to the Union and the represented employees.
5. Involuntary Furlough – In the event the Court finds it necessary to implement a furlough program in order to achieve salary savings needed to avoid employee layoffs, the Court will notify the Union of its decision and will

meet and confer over the impact and structure of the furlough program (# of days, frequency, and other parameters). Any resulting tentative agreement on the subject shall be subject to membership ratification and Court approval at that time. If the Union votes to reject the proposed furlough program, the Court may not unilaterally implement a furlough program.

F. Layoff Status

1. Employees laid off will be separated from Court payroll effective the date of layoff. They will be paid their accrued vacation balance. During the layoff period, employees do not accrue any benefits such as vacation, holiday pay, sick leave, or seniority.

G. Recall

1. The names of employees laid off pursuant to this policy shall be placed on a court-wide reemployment list, by classification, for a period of twelve (12) months from the effective date of the layoff. The order of the reemployment list shall be highest seniority employee on the top of the list to the lowest senior employee on the bottom of the list. If a position is vacated or established in the classification from which the employee was laid off, such position will be offered to employees on the reemployment list in list order, prior to the position being posted.
2. If an employee accepts a recall and reports to work in a timely manner, the employee will be given a new anniversary date that reflects the amount of time they were on layoff status. Sick leave accrual attained by the employee at the time of layoff, if any, shall be reinstated upon re-employment. The vacation accrual rate the employee had prior to layoff will be reinstated upon re-employment.
3. To be eligible for recall, an employee must keep the Court notified as to his or her current address. Recall notices will be sent by certified mail to the employee's last known address as reflected in the Court's records. The employee must, within fourteen (14) calendar days from the date the notice was mailed, notify the Court of their intent to return to work on the date specified in the recall notice and must thereafter return to work on such date. If an employee refuses a recall offer, does not respond to a recall offer within the time specified in this policy, or does not return to work on the date specified in the recall offer, they will be removed from the reemployment list and will not be eligible for further recalls.

## **ARTICLE 8 – BENEFITS**

### **8.01 RETIREMENT**

- A. The Court agrees to remain in the County of Merced's Retirement Plan as implemented by the County of Merced. The Court will continue to pay 100% of the employer's share and the employees will continue to pay 100% of the employee's share of the retirement contribution. Rates are set forth by Government Code Section 31453 as amended. To the extent permitted by applicable law, all member employee contributions shall be deducted from the employees' compensation on a pretax basis. These contributions shall become part of the employees' accumulated retirement contributions on deposit with the Retirement fund.
- B. Retired employees may, in accordance with the normal retirement age provisions of the Merced County Employees Retirement Association, be re-employed in a position requiring special skills or knowledge, for a period not to exceed one hundred and twenty (120) working days or nine hundred and sixty (960) hours, whichever is greater, in any one (1) fiscal year.

### **8.02 LIFE INSURANCE**

Each employee shall be provided twenty thousand dollars (\$20,000) in term life insurance, with premiums paid by the Court. Additional insurance may be obtained by an employee. However, the employee shall pay premium costs for premiums above the amount for the provided twenty thousand dollars (\$20,000).

## **ARTICLE 9 – HOURS OF WORK, OVERTIME**

### **9.01 REGULAR WORK WEEK**

- A. The regular workweek shall commence at 12:01 a.m. on Monday and extend through Sunday midnight, eight hours per day, five days per week for a total of forty (40) hours, which includes authorized absences with pay.
- B. The hours of work, including authorized absences with pay, of all part-time regular employees shall be less than forty (40) hours per week, but no less than thirty-two (32) hours per biweekly pay period.

### **9.02 OVERTIME**

- A. "Overtime" shall be defined as time actually worked beyond eight (8) hours in a workday, or forty (40) hours in a workweek. A Division Supervisor may require an employee in their division to work in excess of eight (8) hours per day or forty (40) hours per week for operational needs.

- B. When overtime is required in a Division, the Court will first ask for volunteers from all those Division employees qualified for the overtime assignment. If insufficient volunteers are available, the Court will assign overtime to qualified employees based on inverse seniority consistent with Article 7, Section 7.03, entitled "Seniority". Overtime will be assigned, to the extent possible, on an equal basis except in those cases where continuity of services is required.
- C. Holidays and Compensating Time Off (CTO) shall be considered hours worked.
- D. Overtime worked for pay or CTO must be approved in advance by the Court Executive Officer or designee. In the event that CTO is disapproved by the Court Executive Officer, or designee, the employee shall be paid overtime at the applicable rate. On occasion, overtime may be restricted to payment only. For example, due to budgetary situations.
- E. Approved overtime will be compensated for pay at one and one-half (1½) times the employee's base rate of pay including any differentials but not any other special pays, or by CTO on the basis of one and one-half (1½) hours Compensating Time Earned (CTE) credit for each hour of overtime worked.
- F. Overtime will be earned in one quarter (1/4) hour increments, rounded to the nearest one quarter (1/4) hour.
- G. Overtime earned that would increase the employee's CTE balance beyond eighty (80) hours will be paid within two (2) pay periods after either the bargaining unit member notifies Human Resources or Human Resources notifies the bargaining unit member that the CTE balance has exceeded eighty (80) hours.
- H. Employees will be permitted to use accrued CTE as requested, provided it is requested with adequate advance notice and does not unduly disrupt department operations.
- I. If an employee is unable to take CTO within the fiscal year in which it is accrued due to workload in the department, the employee shall be paid overtime at the rate of time and one-half (1 ½) of their regular rate of pay including differential, but no other special pays. This CTO will be paid within two (2) pay periods after the bargaining unit member notifies Human Resources.
- J. CTE shall be used for approved time off prior to using earned vacation time. Division supervisors shall deny use of vacation hours to cover approved time off whenever the affected employee has an unused CTE balance to substitute for all or part of the approved time off.

### **9.03 ALTERNATIVE WORK HOURS**

- A. The Court shall continue to offer alternate work hours under the following conditions:
  - 1. The Court will determine staffing levels necessary to meet public service and workload needs.
  - 2. The Court will determine set schedules for available alternate work hours.
  - 3. Employee preferences will be considered in staffing available set schedules.
- B. Court Reporters may be released as early as 4:00p.m. provided that court has concluded for the day, and the Court Reporter has received approval from their supervisor, manager, or designee.

### **9.04 NOTICE OF CHANGES IN ASSIGNMENT, HOURS, OR WORK LOCATION**

- A. Regular employees shall be given at least seven (7) calendar days for reassignment within the same work location. Regular employees shall be given at least fourteen (14) calendar days written notice prior to a permanent change in their assigned hours of work or work location (i.e. Merced or Los Banos). The notice requirement shall not apply to temporary or emergency assignments. Temporary or emergency assignments are those changes in assigned hours or work locations of less than fifteen (15) calendar days duration.
- B. If the proposed change in location or shift creates a hardship for an employee in terms of child care, carpool, or other such arrangements, the employee may request an extension of an additional seven (7) calendar days or more if absolutely required. No extensions will be provided for reassignments within the same work location.
- C. Changes in hours or transfers shall be based on Court operational needs.

### **9.05 MEAL PERIOD**

A bargaining unit employee will be allowed a meal period of not less than thirty (30) minutes, nor more than one (1) hour, scheduled approximately at the midpoint or middle of the work shift. The specific meal period schedule is subject to the supervisor's approval.

## **9.06 REST PERIODS**

- A. All employees shall be allowed rest periods of fifteen (15) minutes during each one-half (1/2) work shift. Rest periods are to be scheduled at the middle of each one-half (1/2) shift whenever feasible, unless otherwise provided in an approved alternate work schedule.
- B. In general, employees may not combine rest and meal periods nor use them in lieu of leave time at the beginning or end of the workday. However, if an employee is prevented from taking their rest period due to workload, they may request to combine the rest period with the meal period or request to leave work fifteen (15) minutes early.
- C. In addition, division supervisors, on rare occasions, may grant permission for an employee to add their rest period to the meal period or authorize using the rest period time to leave work fifteen (15) minutes early.

## **ARTICLE 10 – COMPENSATION, SPECIAL PAY, REIMBURSEMENTS**

### **10.01 SALARIES**

- A. Employees will continue to receive step increases.
- B. All bargaining unit classifications will receive a 4% salary increase in the first full pay period following ratification, a 3% salary increase in the first full pay period of January 2024 and a 3% salary increase in the first full pay period of January 2025. Regular, full-time employees will receive a \$1,750 one-time payment in the first full pay period following ratification. Part-time employees will receive a \$875 one-time payment in the first full pay period following ratification.
- C. Employees who left the Court's employment prior to the date of ratification of this agreement, whether voluntary or involuntary, are not entitled to either the one-time payment, or any salary increase, and will not be entitled to receive funds from the Court for either program.
- D. The Court's obligation to perform the economic provisions of this MOU remain contingent upon the receipt of adequate funding from the JCC.
- E. Towards the end of each fiscal year, the Court Executive Officer shall have the sole discretion to determine if, and in what amount, a one-time, non-base building Lump Sum Payment will be provided to all bargaining unit employees. If the Court Executive Officer determines that a one-time, non-base building Lump Sum Payment will be provided to all bargaining unit employees, the Court and the Union will meet and confer regarding how the predetermined amount will be

distributed to all bargaining unit employees. The Court Executive Officer's action pursuant to this section shall not be subject to the Grievance Procedure.

- F. The Court agrees to conduct a class and comp study during the term of the MOU as it relates to the Court Processing Clerk classification series only. The results of the study will be shared with the Union after its completion by November 15, 2024. The results of the study shall be used for deliberative and informative purposes only.

#### **10.02 TEMPORARY PROMOTION PAY DIFFERENTIAL**

- A. The purpose of this provision is to permit compensation of an employee who is assigned to perform fifty percent (50%) or more of the duties that are unique to the higher classified position for relief necessitated by the temporary vacancy caused by the incumbent's absence or pending the filling of a vacant position.
- B. An employee who is temporarily promoted shall receive a salary that is approximately ten percent (10%) higher than their present salary.
- C. The differential applies only if all the following conditions are met:
  - 1. The employee meets the minimum qualifications of the higher level classification, unless waived by the Court Executive Officer or designee; and
  - 2. The Court Executive Officer or designee formally authorizes the assignment in writing specifying the period of the assignment.
- D. The ten percent (10%) differential shall cease when:
  - 1. The absent incumbent returns to duty; or
  - 2. The position becomes vacant (i.e., where the incumbent does not return) and the position is filled accordingly; or
  - 3. When the assignment is terminated by the Court Executive Officer, or designee, whichever occurs first.
- E. However, under no circumstances may any temporary assignment or related pay differential continue in excess of one hundred twenty (120) workdays, unless so authorized in writing by the Court Executive Officer or designee.

#### **10.03 STANDBY AND CALL BACK COMPENSATION**

- A. Standby Compensation

1. "Standby" is defined as the Court requiring an employee to be available to return to work, if called, after they have completed their normal workday and departed from their work site.
2. Any employee who is required to remain on standby for emergency work shall be paid the equivalent of two hours straight time pay for each eight-hour standby shift, whether or they are called to work. A standby shift of four hours or less shall be compensated at one hour.
3. To receive standby compensation, the employee must be available to be contacted by the Court while on standby status, they must respond if called to return to work, and they must return to the work site in a reasonable amount of time after being contacted by the Court.

**B. Call Back Compensation**

1. "Call back" is when an employee is required to return to work to perform duties following completion of the employee's workday and departure from the employee's work site.
2. To qualify for call back compensation, an employee must leave the place from which the employee is called and actually report to a work site. Neither change in a shift or work schedule shall constitute call back work.
3. If an employee is called back to work they shall be compensated a minimum of two (2) hours pay at straight time or at the overtime rate if applicable in addition to any standby pay to which such employee is entitled pursuant to paragraph A. above.

**C. Employees shall not be disciplined for reporting to their scheduled location at their scheduled start time if: (1) the change to their location and/or reporting time was sent to them outside their normal scheduled work hours, and (2) the employee did not confirm the change to the schedule and/or reporting time.**

**10.04 REAL TIME DIFFERENTIAL**

- A.** Employees in the classification of Court Reporter who hold a current National Court Reporters' Association Certified Real Time Reporter (CRR) certification in good standing shall receive a ten percent (10%) per hour pay differential for all regular hours worked in each pay period in which "real time" services are provided to the Merced Superior Court. A Court Reporter who declines to provide real time reporting will not be eligible to receive the differential for that pay period.

- B. Employees in the classification of Court Reporter who do not possess a current National Court Reporters' Association Certified Real Time Reporter (CRR) certification in good standing shall receive a seven percent (7%) per hour pay differential for all regular hours worked in each pay period in which "real time" services are provided to the Merced Superior Court. A Court Reporter who declines to provide real time reporting will not be eligible to receive the differential for that pay period. The employee must demonstrate basic proficiency at a level deemed sufficient by the Court.
- C. The Court reserves the right to limit or expand the number of certified or non-certified real time reporters receiving the CRR differential depending on Court needs. The CRR differential for an employee may be eliminated when the Court determines there is no longer a need for the services; when an employee refuses to use their real time skills as directed; or when the level of service does not meet the Court's needs.

#### **10.05 EDUCATION INCENTIVES**

- A. Requests to receive an Educational Allowance Reimbursement must be submitted to Human Resources in advance of taking the class or training to allow sufficient time for evaluation. Employees will be notified in writing of the decision of Human Resources. It shall be within the sole discretion of the Court whether to grant an Education Allowance Reimbursement.
- B. Employees who request Educational Allowance Reimbursement to attend college courses or training sessions on non-work hours will be reimbursed up to one thousand five hundred dollars (\$1,500) per employee per fiscal year to cover expenses as described in paragraph C below. Such courses or training must relate to the employee's current job and be likely to improve the employee's job knowledge and/or skills.
- C. An employee who has prior written approval for receiving Educational Allowance Reimbursement may be reimbursed for the cost of tuition, registration, lab fees and books or educational materials required for the class, upon proof of successful completion of the course or training. Receipts are required for all costs. Travel time, meals, parking, lodging or any expense not specified above will not be compensated under the allowance.
- D. The Court reserves the right to suspend or terminate the Educational Allowance Reimbursement at any time for budgetary reasons. Reasonable notice will be provided to employees and Union should the program be suspended or terminated. The Court will honor any allowances approved prior to the effective date of the suspension or termination of the program.

#### **10.06 TRAINING, CONFERENCES AND SEMINARS**

- A. The Court offers opportunities for Court related training and training to fulfill applicable mandatory minimum education requirements under California Rules of Court (including attending conferences and seminars, as funding permits). To qualify for reimbursement for expenses related to this section, the training must be pre-approved by Human Resources.
- B. An employee who, without good cause, fails to attend a conference, seminar, or training session/meeting for which the Court has paid a nonrefundable registration fee or other fee shall be liable to refund the Court for the full amount of the registration fee and/or other fee.
- C. Training request must be submitted to Human Resources in advance on a form provided by the Court.
- D. Reimbursement for training costs will be in accordance with the Court's current Personnel Policies.

#### **10.07 TRAINING TRAVEL COMPENSATION**

- A. Employees required to attend job-related training sessions shall be compensated at the time and one-half (1 ½) rate for time spent in training sessions in excess of eight (8) hours in any single workday, or forty (40) hours in any work week. Travel time to and from such training sessions shall be compensated in accordance with FLSA provisions.
- B. Employees attending optional job-related training sessions shall not receive additional compensation for time spent in excess of eight (8) hours in any single workday, or forty (40) hours in any work week, including travel time to and from such training sessions, unless required under FLSA provisions.
- C. Employees required to use their personal vehicle to attend training shall be paid for the actual mileage traveled at the approved IRS mileage rate as specified by the Court based on Judicial Council of California directive.
- D. When more than one employee is required to attend job-related training, employees are expected to carpool and mileage will only be paid to the driver of the carpool vehicle.
- E. Employees driving to job-related or optional training must have a valid driver's license, automobile insurance, an acceptable driving record and have an approved DMV Certified Authorization for Driving on Official Court Business form on file.

## **10.08 HEALTH BENEFIT CONTRIBUTIONS**

For health benefit coverage effective January 1, 2023, and continuing through the term of this Agreement (November 15, 2025), the Court agrees to pay one hundred percent (100%) of the total cost of health benefits for employee coverage for each employee. For dependent coverage, the Court will pay fifty percent (50%) of the total cost of health benefit coverage for dependents.

## **10.09 BILINGUAL PAY**

- A. Employees shall be approved for bilingual pay if:
  - 1. The Court Executive Officer or designee determines that bilingual skill is a recurring requirement of the employee's position, and
  - 2. The employee agrees to utilize his or her bilingual ability on the job, and
  - 3. The employee is able to demonstrate bilingual proficiency that is satisfactory to the Court.
- B. Sign language may be treated as a bilingual skill pursuant to this subsection.
- C. Employees who qualify, pursuant to the above, shall be paid a differential of one dollar (\$1.00) per hour for all regular hours worked including overtime and training hours.

## **10.10 COURT REPORTER LICENSE FEE**

Full-time Court Reporters may request reimbursement up to \$225 for the annual Certified Shorthand Reporter (CSR) license fee. When requesting the reimbursement, the full-time Court Reporter will need to provide proof of payment of the CSR annual license fee.

# **ARTICLE 11 – LEAVES & OTHER TIME OFF**

## **11.01 VACATION**

- A. Every employee in a regular full time position (including Introductory Period Employees) shall be entitled to paid vacations of approximately eleven (11) days per year during the first five (5) years of continuous employment, sixteen (16) days during the second five (5) years of continuous employment, twenty-one (21) days after ten (10) years of continuous employment, twenty-three (23) days after fifteen (15) years of continuous employment, and twenty-six (26) days after twenty (20) years of continuous employment. Said vacation shall be earned and credited on a paid regular scheduled work hour basis as hereinafter provided:

<b>Years of Continuous Service</b>	<b>Vacation Hrs. Per Work Hour Accrual</b>	<b>Days Per Year Earned</b>	<b>Maximum Allowable Hours</b>
<b>0 – 5 Years</b>	.04231	11	240
<b>5+ - 10</b>	.06154	16	320
<b>10+-15</b>	.08077	21	320
<b>15+-20</b>	.08846	23	320
<b>20+</b>	.10000	26	320

5 years = 10,400 regular scheduled work hours  
 10 years = 20,800 regular scheduled work hours<sup>6</sup>  
 15 years = 31,200 regular scheduled work hours  
 20 years = 41,600 regular scheduled work hours

It is important to note that only paid regularly scheduled work hours are counted for vacation accrual. Unpaid leave, or receiving SDI Coordination of Benefits that result in the employee having less than the required hours noted above, will affect eligibility for accrual rates.

B. Employees engaged in regular continuous part-time service shall be allowed vacations by reducing the amount of vacation earned in direct proportion as such part-time service bears to regular full-time service. Temporary employees shall not be entitled to any paid vacation.

C. Vacation Scheduling

1. Each division supervisor and/or department head shall be responsible for scheduling the vacation of employees in such a manner as to achieve the most efficient functioning of the division and the Court.
2. Commencing in November of each year, and for a period of thirty (30) calendar days, employees may designate on a form (which may be physical or electronic) provided by their division supervisor, their preferences for scheduled vacation leave for the year beginning February 1st and ending January 31st. The form provided by the division supervisor will indicate

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<sup>6</sup>For current Court employees hired on or before January 1, 2010, the Court agrees to maintain its current practice of crediting employees on a one-time basis with forty (40) additional hours of vacation upon completion of 10,400 regular scheduled work hours and upon completion of 20,800 regular scheduled work hours. Further, effective not earlier than ninety (90) days after ratification, current Court employees hired on or before January 1, 2010 will be credited on a one-time basis with forty (40) additional hours of vacation upon completion (or past completion) of 41,600 regular scheduled work hours, provided the employee's then current accrual is at least forty (40) hours below the maximum allowable hours. (See chart in section 11.01 A above.)

those dates, if any, when employees in the bargaining unit may not take vacation.

3. When a conflict exists among the designated preferences of bargaining unit employees in the same division, seniority shall prevail in order to resolve such conflicts, unless in the judgment of the division supervisor such scheduling would adversely affect the efficient operation of the division during the period requested.
4. The vacation/time off request schedule shall be posted on the G drive, by division, within thirty (30) days after completion of the selection period, or no later than January 5<sup>th</sup>. Once posted on the G drive, each supervisor/senior shall make every reasonable effort to update the Time Off Request Calendar upon receipt of new time off requests or on a weekly basis.
5. The division supervisor or department head shall have the right to deny vacation requests if such requests conflict with the essential functioning of the division and the Court. It shall be the obligation of the division supervisor or department head or their designated representative to notify the affected employee as soon as possible after said conflict becomes known to the division supervisor/department head. No employee shall lose any vacation time due to such action.
6. If a waiting list exists for any specific date, the employee whose vacation was approved for that date must give at least five (5) days advance notice of cancellation of their approved vacation. If the employee does not give the required notice in this situation, they may not be allowed to cancel the time off. When an employee cancels their vacation in accordance with the above, the employee whose name appears on the top of the vacation waiting list for that date will be offered vacation time off. If that person does not want vacation for that date, the date will be offered to the next interested employee on the list.
7. Notification of all cancellations will be given, in writing, to the Division Supervisor so that the master calendar may be kept up to date.
8. All employees shall complete a time off request and submit it to the Division Supervisor for approval at the time Vacation Leave is requested, or in emergency situations, immediately upon return to work. In any use of vacation, the minimum charge to the employee's vacation account shall be one quarter hour, while any additional actual absence over one quarter hour shall be charged to the nearest quarter hour increment.
9. No person shall be permitted to work for compensation for the Court in any capacity during the time of their paid vacation from the Court.

10. An employee who becomes ill or injured during their vacation leave will not be charged vacation leave time for the period of illness or injury provided a physician's statement is furnished as proof of such illness or injury, to the division supervisor upon return to work and provided that the employee has sick leave that can be used for the absence.
11. If a designated holiday occurs during the workweek in which vacation leave is taken by the employee, the holiday shall not be charged to vacation leave.
12. If an employee transfers, promotes, etc. into a new division or classification and has scheduled vacation that conflicts with the new division's or classification's schedule, the division supervisor will attempt to accommodate both employees' scheduled vacations. However, if no accommodation can be made, the employee with the most seniority will prevail.
13. An employee is not permitted to borrow on future vacation benefits.

D. Vacation Buy Back

1. Bargaining Unit Employees shall have the option of participating in a plan to sell back a portion of their accumulated vacation leave hours upon meeting the specific criteria outlined below.
2.
  - a. Employees who have a vacation leave balance of at least one hundred (100) hours at the end of Pay Period 24 may, at their option, request conversion into cash payment of up to a maximum of twenty-five (25) hours of vacation time. Payment for this vacation time will be based on the hourly wage rate of the employee at the end of Pay Period 24, and issued with paychecks for Pay Period 25.
  - b. For example, an employee with a vacation leave balance of one hundred (100) hours or more would be eligible to cash out up to twenty-five (25) hours. If the employee's hourly salary rate at the end of Pay Period 24 was \$20 per hour, the employee would receive a gross payment of up to \$500. This cash out will be based on the employee's regular rate of pay and will not include any special pays.
3. The Court will take all necessary steps to prepare for the financial impact of an annual vacation buy-back program that will permit employees who meet the conditions in 11.01 (D)(1)(a) to cash out an additional fifteen (15) hours of vacation time – up to a total of forty (40) hours maximum per employee. The Court reserves the right to suspend the employee's option of cashing out

the additional fifteen (15) hours during any year where it is faced with a reduced budget allocation or other exigent financial circumstance. Reasonable notice will be provided to employees and Union should the employee's option of cashing out the additional fifteen (15) hours be suspended in any given year. Notice will be provided to employees as early as possible, but no later than the end of Pay Period 23.

## **11.02 SICK LEAVE**

### **A. Accumulation of Sick Leave Credit**

1. Each regular full-time employee (including Introductory Period employees) of the Court shall earn .0462 hours of sick leave with pay for each paid regularly scheduled working hour to a maximum of 3.696 hours in a biweekly pay period.

80 Hours Worked =  $.0462 \times 80 = 3.696$  hours

32 Hours Worked =  $.0462 \times 32 = 1.478$  hours

2. Sick leave earned shall be added to the employee's sick leave accumulation account on the completion of the pay period and may be accumulated without limitation. No credit to be applied during the progress of a pay period.
3. In the event an employee's regular work week is changed, any sick leave balance accumulated at the time of such change shall be converted to an equivalent balance under the employee's new regular work week.
4. Employees will be paid their accumulated unused sick leave upon service retirement, excluding deferred retirement, and upon disability retirement or death as follows:
  - a. After five (5) years of continuous service, 25% of their accumulated sick leave up to a maximum of three hundred twenty (320) hours, with the remainder credited toward service time as of the date of retirement.
  - b. After ten (10) years of continuous service, 50% of their accumulated sick leave up to a maximum of four hundred sixty (460) hours, with the remainder credited toward service time as of the date of retirement.
  - c. Instead of a. or b. above, the employee may elect to credit 100% of their accumulated sick leave toward service time as of the date of their retirement, with that time added to their service credit.<sup>7</sup>

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<sup>7</sup> The above supersedes and replaces the parties' December 2005 side letter.

B. Use of Sick Leave Credits for Employee

1. An employee has the obligation to personally notify their immediate supervisor before leaving the job because of sickness or illness. In an emergency, the notification can be to their manager or Human Resources. The employee has the obligation to notify the immediate supervisor daily of any continued absence unless the employee has stated an estimated date of return to work.
2. When authorized in advance by a Division Supervisor, accumulated sick leave credit may be used for absence caused by illness or injury of an employee. When authorized in advance, sick leave credits may also be used for medical, dental, optical, audio office calls, or other treatment by a licensed physician, when the absence is during working hours.
  - a. Under unusual or emergency circumstances, the Division Supervisor may waive the advance authorization provision.
3. Part-time employees may use sick leave for those days the employee is scheduled to work and may not exceed eight (8) hours in a day or forty (40) hours in a biweekly pay period. In any biweekly pay period, total paid regular work hours when added to paid sick leave hours may not exceed eighty (80) hours.
4. In instances involving the use of a fraction of a day's sick leave, the minimum charge to the employee's sick leave account shall be one quarter (1/4) hour while any additional actual absence over one quarter (1/4) hour shall be charged to the nearest one quarter (1/4) hour increment. Such sick leave with pay can only be granted upon authorization of a Division Supervisor.
5. With advance notice, employees may use sick leave for a period of time, not to exceed four (4) hours, to donate blood. Absence from duty for donating blood will be approved only upon return to the supervisor of an official receipt reflecting the donation.

C. Use of Sick Leave Credits for Family Members

- An employee may take paid leave for employee's own diagnosis, care or treatment of an existing health condition or preventative care or that of a family member. Accrued sick leave may be used by an employee when an illness or injury of an employee's family member is serious enough to require the employee to be absent from duty to personally care for such a person. Consistent with the provisions a and b below and in accordance with Labor Code 245.5 as amended, a family member includes:

- A child means a biological, adopted, or foster child, stepchild, legal ward, or a child to who the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
  - A biological, adoptive, or foster parent, stepparent or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was minor child.
  - A spouse
  - A registered domestic partner
  - A grandparent
  - A grandchild
  - A sibling
- a. Accrued sick leave may be used to care for an immediate family member (including son-in-law, daughter-in-law, and "legally dependent" relations) who permanently reside in the employee's household, when the immediate family member's illness or injury is serious enough to require the employee to be absent from duty to personally care for such a person.
- b. Accrued sick leave may be used for a parent-in-law who permanently resides in the employee's household, when the parent-in-law's illness or injury is serious enough to require the employee to be absent from duty to personally care for such a person.
- (1) If the parent-in-law does not reside with the employee, use of sick leave credit is subject to the employee providing a physician's written statement certifying the need for the employee's presence to provide care of a family member, and stating the number of days such care is required.
  - (2) Such use of sick leave requires advance authorization by the Division Supervisor. Under unusual or emergency circumstances, the Division Supervisor may waive the advance authorization provision.
  - (3) A Division Supervisor may require verification of the need to use family sick leave if they have reason to believe the time off is for an unauthorized purpose.
  - (4) Family sick leave may be used in conjunction with approved Family Medical Leave to the extent provided by law.

**D. Verification of Sick Leave Usage**

1. All employees shall complete a time off request and submit it to the Division Supervisor for approval. In the event the request is not submitted, the time away from work will be charged to either accumulated vacation credits, or leave without pay if the employee has insufficient vacation credits to cover the time off. No sick leave will be honored without submission of a time off request.
2. When an employee is absent for more than four (4) consecutive working days, the employee shall present a statement by the employee's physician releasing the employee for normal duty. Without this release, the employee can not be allowed to work.
3. An employee who becomes ill or injured during their vacation leave will not be charged vacation leave time for the period of illness or injury provided a physician's statement is furnished as proof of such illness or injury, to the Division Supervisor upon return to work and provided that the employee has sick leave that can be used for the absence.

**11.03 MISCELLANEOUS LEAVES**

The Court provides the following leaves of absence in accordance with its existing personnel policies:

- 1) Family Medical Leave;
- 2) California Family Rights Act Leave;
- 3) Pregnancy Disability Leave;
- 4) Crime Victims Leave;
- 5) Domestic Violence and Sexual Assault Victim Leave;
- 6) Military Service Leave;
- 7) School Activities Leave; and
- 8) Volunteer Civil Service Leave.
- 9) Any other leaves as required by law.

In accordance with Article 16, Section 16.01 B.2., the above referenced leave policies, including their enabling statutes and regulations, shall not be subject to the parties' grievance procedure beyond Step Two.

**11.04 LEAVE OF ABSENCE WITHOUT PAY**

- A. Any Bargaining Unit Employee holding a regular position may request a leave of absence without pay for any of the following reasons, and approval or denial of such requests will be based on Court operational needs and/or law:

1. Illness, disability, pregnancy, or injury.
  2. To take a course of study which will increase the employee's usefulness on return to their position.
  3. For personal reasons acceptable to the Court Executive Officer or designee.
  4. Attendance at official Union functions as an authorized delegate.
  5. Serious illness for a child, parent, or spouse under FMLA or CFRA.
  6. School Activity Leave (Labor Code 230.7 and 230.8)
- B. The above is exclusive of Military Leave and Workers' Compensation.
- C. Any leave of absence without pay granted under this Section for thirty (30) continuous calendar days or less, shall require Division Supervisor approval. Any leave of absence without pay granted under this Section in excess of thirty (30) continuous calendar days shall require approval of the Court Executive Officer or designee whose decision is final and not subject to appeal. Denial of the leave request will be based on Court operational needs.
- D. All requests for leave of absence without pay shall be in writing and submitted to the employee's immediate supervisor. The request shall include a reason for the request, and the date such leave is to commence and end.
- E. Any employee returning from one (1) full year leave of absence without pay may not be granted an additional full year leave of absence unless they have resumed their duties for a period of not less than ninety (90) calendar days, and the leave extension is approved by the Court Executive Officer or designee. To the extent permitted by applicable law, employees who have exhausted all available leaves and related accruals may be released from employment by the Court, with notice to the employee's last known address on file with the Court. Such release from employment shall be considered a voluntary resignation, unless the employee requests a due process hearing
- F. Employees who are granted a leave of absence without pay shall be subject to use of accumulated leave prior to beginning their leave as follows:
1. If the unpaid leave of absence is for pregnancy, childbirth or related medical conditions, the employee must exhaust all accumulated sick leave credits prior to beginning the unpaid leave of absence.
  2. For FMLA used for the employee personally, use of leave during the twelve (12) weeks is in accordance with the Court's personnel policies and

procedures on FMLA and 11.03 Miscellaneous Leaves. If an employee's illness extends beyond twelve (12) weeks, all accrued leave must be exhausted prior to beginning an unpaid leave of absence.

3. For FMLA used for the employee's child, parent, or spouse, use of leave during the twelve (12) weeks is in accordance with the Court's personnel policies and procedures on FMLA and 11.03 Miscellaneous Leaves. If the employee's FMLA use for child, parent, or spouse extends beyond twelve (12) weeks, the employee is required to exhaust all accumulated vacation and CTE prior to beginning an unpaid leave of absence.
  4. If the unpaid leave of absence is for CFRA, the same provisions outlined in paragraphs 2, and 3 above, apply.
  5. If the unpaid leave of absence is for educational purposes, employees do not have to exhaust accumulated leave credits prior to beginning the unpaid leave of absence.
  6. If the unpaid leave of absence is for a School Activities Leave, all applicable leave accruals must be exhausted prior to beginning the unpaid leave of absence.
  7. If the unpaid leave of absence is for any other reason, the employee must exhaust all accumulated vacation and CTE credits prior to beginning the unpaid leave of absence.
- G. Whenever an employee who has been granted a leave of absence without pay desires to return before expiration of such leave, they shall notify Human Resources as soon as possible in advance of the return.
- H. An employee on leave of absence without pay due to illness or injury for a period of five (5) or more consecutive workdays shall present a statement by the employee's physician releasing the employee for normal duty prior to returning to work.

#### **11.05 BEREAVEMENT LEAVE**

- A. The Court shall authorize Bereavement Leave with pay for regular, part-time, or introductory employees, when needed, due to the death of their:
1. Spouse by current marriage or former marriage;<sup>8</sup>

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<sup>8</sup> The term marriage as used in this section is intended to include Registered Domestic Partnerships.

2. Child by current or former marriage;
  3. Stepchild by current or former marriage;
  4. Parent, stepparent, foster parent, or guardian, or a person to whom the employee stands in loco parentis;
  5. Grandparent;
  6. Grandchild;
  7. Brother, Sister;
  8. Brother-in-law, Sister-in-law by current marriage;
  9. Parent-in-law by current or former marriage;
  10. Any child or close relative who resided with the employee at the time of death;
  11. Grandparent-in-law by current marriage;
  12. Registered Domestic Partner;
  13. Registered Domestic Partner's child or stepchild;
  14. Other Parent of employee's children.
  15. Next of kin or person for whom employee is legally responsible. Employee must request approval by the Court Executive Officer or designee.
- B. The employee shall give notice to their immediate supervisor prior to taking such leave.
- C. A full-time employee shall be entitled to five (5) days of Bereavement Leave, consisting of three (3) days of paid Bereavement Leave and two (2) days of unpaid Bereavement Leave, except that an employee may use accrued vacation, personal leave, sick leave, or compensatory time off that is otherwise available to the employee.
- D. Bereavement Leave may be taken non-consecutively.
- E. Under circumstances necessitated by travel distance of over 250 miles one way, an employee may be authorized by the Court Executive Officer to take up to an additional two (2) regularly scheduled working days off on paid Bereavement Leave.
- F. Employees on unpaid leaves are not eligible for paid bereavement leave.
- G. Part-time employees shall receive bereavement leave on a pro-rata basis based on their current work schedule.

#### **11.06 CATASTROPHIC LEAVE PROGRAM**

All bargaining unit employees shall be eligible to participate in the Court's Catastrophic Leave Program.

## **11.07 JURY/WITNESS DUTY**

### **A. Jury Duty**

1. A regular status employee (including an introductory period employee) who is summoned for attendance to any Trial Court for jury duty during their normal working hours shall be deemed to be on duty. There shall be no loss in compensation. The employee will not receive jury duty fees, however they will be paid travel expenses in accordance with Court policy and the law.
2. An employee on jury duty shall report to work for their regularly assigned shift prior to reporting for jury duty, or receive prior approval from their supervisor to report directly to jury duty. An employee released from jury duty during their normal duty hours shall report back to their division.
3. Employees on jury duty must complete and submit a Time Off Request to their Division Supervisor as soon as they are notified of jury duty or a subpoena.
4. Employees on leave are not deemed to be on duty within the meaning of paragraph 1 above. However, if an employee actually appears for jury duty on a scheduled vacation day, the employee will not be charged vacation leave time; upon return to work, the employee must furnish to the Division Supervisor or designee proof of such jury duty, including the date and time.

### **B. Witness Duty**

1. A regular status employee who is served with a subpoena which compels their presence as a witness during their scheduled work hours shall be deemed to be in a leave of absence with pay status, unless they are a party or expert witness. The party at whose request the subpoena is issued shall reimburse the Trial Court in accordance with Government Code Section 68096.1. An employee released from witness duty during their normal duty hours shall report back to their division.
2. Employees on witness duty must complete and submit a Time Off Request to their division supervisor as soon as they are notified of witness duty or a subpoena.
3. During working hours, any regular status employee who is required as a result of their Court employment, to be a witness in a Court or official administrative hearing shall receive their regular rate of pay.

- a. Any employee who shall be called as a witness at such hearing arising out of and in the course of their Court employment, during their off-duty hours, shall be compensated in accordance with Court policy for the time spent at their normal rate of pay, including overtime or compensatory time off if applicable, or shall be compensated for a one (1) hour minimum, whichever is greater.
  - b. In such actions where the Court is not a party, the employee shall be compensated for preparation time, travel time and actual appearance time as indicated above. The party at whose request the subpoena was issued shall reimburse the Trial Court in accordance with the provisions of Government code Section 68096.1.
4. Any regular status employee called as a witness in a private or civil matter between other parties, shall not be compensated by the Court.

## **ARTICLE 12 – HOLIDAYS**

### **12.01 HOLIDAYS**

#### **A. General Provisions:**

1. A new employee whose first working day is the day after a paid holiday shall not be paid for that holiday.
2. An employee who is terminating his employment for reasons other than paid Court retirement and whose last day as a paid employee is the day before a holiday, shall not be paid for that holiday.
3. An employee who is on a leave of absence without pay in such a way that they are not authorized any pay for both the regularly scheduled working day before the holiday and after the holiday shall not be paid for that holiday.
4. An employee required to work on a holiday shall receive overtime compensation in addition to the holiday pay reflected in their paycheck. In lieu of overtime compensation, an employee can choose to receive Compensating Time Earned (CTE).
5. In the case of employees working under an alternate work schedule, Holidays as contained in this Section shall be determined to consist of eight (8) working hours, unless otherwise provided in the alternate work schedule.
6. Part time employees will receive four (4) hours for a Holiday or Personal Holiday until they have worked six (6) full pay periods for the Court. After six (6) full pay periods of work with the Court, a part time employee will

receive holiday pay equal to the average daily hours worked based on the prior six (6) full pay periods.

- B. The following days are established as holidays for all full-time regular status Court employees, but are subject to change as laws are amended:

January 1	New Year's Day
Third Monday in January	Martin Luther King's Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
March 31	Cesar Chavez Day
Last Monday in May	Memorial Day
June 19	Juneteenth
July 4	Independence Day
First Monday in September	Labor Day
Fourth Friday in September	Native American Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
The Day after Thanksgiving	
December 25	Christmas Day

- C. Every Friday preceding a Saturday which falls on January 1, February 12, March 31, July 4, November 11, and December 25 shall be designated the holiday.
- D. Every Monday following a Sunday which falls on January 1, February 12, March 31, July 4, November 11, and December 25 shall be designated the holiday.
- E. In addition to the holidays enumerated above, the Court shall provide Personal Holidays that are any working days during the fiscal year selected by the employee consistent with the following provisions:
1. Selection of Personal Holiday(s) by the employee shall be requested at least fifteen (15) days prior to the date requested, except in cases of emergency and for special circumstances which would require immediate approval by the Division Supervisor.
  2. It is intended these holidays shall take care of days that have special significance to particular employees such as religious holidays, birthdays, and the like.
  3. Any employee who has requested, in writing, their personal holidays within the prescribed time frames, and had them denied due to divisional workload constraints, and upon repeated attempts by the employee to secure satisfactory date(s) prior to June 30<sup>th</sup>, shall be paid for those days in the first pay period following the end of the fiscal year.

- F. The above constitutes the official designated holidays for the Merced Superior Court with the exception of special days declared/designated as a holiday by the President of the United States or the Governor of the State of California, provided the Court is closed in observance of the holiday so declared/designated.

## **ARTICLE 13 – HEALTH & SAFETY**

### **13.01 HEALTHY AND SAFE WORKPLACES**

- A. Employees may request an ergonomic review of their workstation. The Court will endeavor to conduct an evaluation in a reasonable timely manner, recognizing that resource constraints may impact the ability to perform these evaluations.
- B. The Joint Labor/Management Committee described in the MOU Article 6 – Joint Labor/Management Committee may make recommendations to the Court Executive Officer or designee on the development and implementation of a Court ergonomic program.

### **13.02 PREVENTATIVE HEALTH**

- A. The Joint Labor/Management Committee will have as one of its objectives developing voluntary programs for improving health and safety in the workplace.
- B. The Joint Labor/Management Committee may develop a program with community partners that may include programs designed to improve the health and well-being of employees such as health fairs. The Committee may make recommendations to the Court Executive Officer, or designee regarding such programs.
- C. No employee shall be required to participate or suffer adverse consequences for not participating in programs developed under paragraph B. above.
- D. All decisions on implementation will reside with the Court Executive Officer, or designee. Nothing within the purview of the Committee may be subject to the Grievance and Arbitration procedure found in the MOU section entitled, “Grievance Procedure” of this Agreement.

### **13.03 WORKPLACE VIOLENCE POLICY**

- A. The Court is firmly committed to providing a secure workplace free from acts or threats of violence. To achieve this goal, the Court requests the support of all employees. Compliance with this policy and with the Court’s commitment to zero tolerance of workplace violence is every employee’s responsibility.

- B. Employees are required to report any incident involving a threat or act of violence immediately to their supervisor. The Court will review the matter and take necessary corrective action. This may include disciplining, and possibly dismissing, any employee who violates the Workplace Violence Policy or obtaining a workplace Temporary Restraining Order (TRO), where appropriate.
- C. Employees who become aware of any workplace violence incident should report that information to their supervisor. The Court will not tolerate retaliation against any employee who provides any information or reports to the Court under this policy.
- D. Please refer to the Workplace Violence policy in the Personnel Manual for the most up-to-date policy language. Any questions regarding this policy may be directed to the Court Executive Officer.

## **ARTICLE 14 – POLITICAL ACTIVITY**

### **14.01 POLITICAL ACTIVITY**

- A. No bargaining unit employee shall during their working hours seek election, nomination or appointment as an officer of a political campaign favoring or opposing any candidate for election; or distribute badges, pamphlets, dodgers or handbills of any kind favoring or opposing any candidate for election or for nomination to any public office. This does not prevent any such officer or employee from becoming or continuing to be a member of a political club or organization, from attending political meetings, or from seeking or accepting election or appointment to a public office during their off-duty hours, nor does it prevent the display of campaign advertisement on personal vehicles.
- B. Violation of any of the provisions of this agreement shall make the employee subject to disciplinary action.

## **ARTICLE 15 – DISCIPLINE & APPEALS**

### **15.01 DISCIPLINARY ACTION**

- A. Types of Disciplinary Action
  - 1. “Disciplinary Action” includes written reprimand, suspension, reduction in pay, demotion, and dismissal.

B. Cause for Disciplinary Action

1. The Court's employment protection system includes progressive discipline pursuant to Government Code 71621, as amended.
2. Any Regular employee of the Court may be disciplined for just cause. "Just cause" is defined as any facts which, based on relevant circumstances, may be reasonably relied upon by the Court as a basis for disciplinary action. Cause for disciplinary action includes, but is not limited to:
  - a. Incompetence
  - b. Inefficiency
  - c. Insubordination
  - d. Neglect of duties
  - e. Absence without leave
  - f. Dishonesty
  - g. Tardiness
  - h. Fraud in securing employment
  - i. Discourteous treatment of the public or co-workers
  - j. Conviction of any felony or misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of the employee's position.
  - k. Conduct unbecoming a public employee or reflecting discredit upon the Court
  - l. Willful abuse or damaging of public property
  - m. Unlawful discrimination including but not limited to Sexual Harassment
  - n. Violation of the Workplace Violence Policy
  - o. Violation of the Illness, Injury and Prevention Policy (IIPP)
  - p. Violation of any personnel policy issue
  - q. Loss (including failure to renew) of any license or certification necessary for the performance of one's job duties

C. Notice Requirement

1. For disciplinary actions that involve suspension, reduction in pay, demotion or dismissal, the Court will provide the notice of proposed disciplinary action to the employee at least ten (10) working days prior to the effective date of the proposed action. The proposed action shall not be implemented prior to a pre-deprivation meeting provided one has been requested by the employee. Such notice shall be served upon the employee either personally, or by certified or registered mail, return receipt requested with a "cc" to Union, Local 1, to the last known address of record in the court personnel file. If notice is provided by certified or registered mail, the notice shall be deemed to have been received five days after the date of mailing.

It is understood that written reprimands are not subject to this procedure.

2. The notice of proposed disciplinary action shall include a statement describing the proposed action to be taken, the date the action is intended to become effective, facts supporting the action, and a statement advising the employee of the right to request a pre-deprivation (“Skelly”) meeting. The Court will specify the date no less than ten (10) working days by which a written or verbal request for the meeting must be made by the employee. The notice will also inform the employee of their right to representation.
3. To be considered timely, a request for a pre-deprivation meeting must be received by an authorized representative of the Court within ten (10) working days of the employee’s receipt of the notice of proposed disciplinary action as described above. If the employee does not respond to the notice of proposed disciplinary action within the time specified in the notice, the action will be considered conclusive and shall take effect as specified in said notice.
4. The Court may at any time place the employee on paid administrative leave pending resolution of the action.

D. Pre-Deprivation (“Skelly”) Meeting & Representation

1. Upon timely request of the employee or their representative, the Court will schedule a pre-deprivation meeting no later than ten (10) working days after the request is received. The purpose of said pre-deprivation meeting is to provide the employee with an opportunity to respond to the notice of proposed disciplinary action. Such a meeting shall be rescheduled by mutual agreement. Release time to attend the meeting, without loss of compensation, will be provided for the employee and the representative (if a Court employee).
2. Within a reasonable time following any such pre-deprivation meeting, the Court will notify the employee in writing of its final disciplinary decision and the effective date thereof. The final decision will have been subject to review by one other than the decision maker(s) before it is issued. It is understood that the Court retains the right at this stage of the process to affirm, modify, or rescind the disciplinary action.

This timeframe is intentionally open-ended to give the “Skelly Officer” time to review the Court’s decision and for the Court to issue the decision in its final form.

3. The employee has a right to appeal as set forth in section 15.02 below.

## **15.02 APPEALS PROCEDURE DISCIPLINARY ACTION**

### **A. Employee Right to Appeal**

1. An employee who is subject to disciplinary action that involves suspension, reduction in pay, demotion, or dismissal shall have the right, within fifteen (15) calendar days after receiving the Court's final notice of disciplinary action, to appeal such action by filing a written notice of appeal signed by the employee and the employee's representative with the Court Human Resources Manager or designee. The notice of appeal shall contain the name and address of the person to whom all written communication regarding such appeal shall be sent.
2. The Court Human Resources Manager shall promptly provide the Court Executive Officer or designee with a copy of the employee's notice of appeal.
3. An employee who files a notice of appeal as provided herein shall be entitled to a hearing, as provided in this section and no other remedy.
4. An appeal of a disciplinary action is a complaint of a regular full time or part-time employee regarding whether there was good cause for the disciplinary action taken against that employee.
5. If the employee who was served with the final notice of disciplinary action fails to file a notice of appeal within the time specified in paragraph 1 of this section, the disciplinary action shall become final without further action.

### **B. Evidentiary Due Process Hearing**

1. Selection of Hearing Officer
  - a. The parties to the hearing and to the selection of the hearing officer shall be the employee, who may be represented by Union or independent counsel, and the Court.
  - b. The parties will make reasonable efforts to select a hearing officer by mutual agreement within fifteen (15) calendar days from the date of the employee's notice of appeal.
  - c. If the parties are unable to mutually agree upon the hearing officer, one shall be selected from a list of seven (7) names provided by the State Mediation and Conciliation Service ("SMCS"). Unless otherwise agreed, the employee's representative shall make a written request for a list from SMCS. The parties shall alternately strike

names from the list until one name remains unless they agree otherwise.

## 2. Hearing Procedures

- a. Unless the Hearing Officer's schedule dictates otherwise, the Hearing Officer shall schedule and hold a hearing within thirty (30) calendar days of selection.
- b. The Hearing Officer shall review written materials submitted by the parties and interview parties deemed pertinent to the appeal and shall render a written recommendation within thirty (30) calendar days of the close of the hearing. The Hearing Officer's recommendation shall include an appropriate record with a written report that has findings of fact and conclusions that reference the evidence.
- c. The employee and the Court shall have the right to call witnesses and present evidence. The Court shall release Trial Court employees to testify at the hearing without loss of compensation.
- d. The Hearing Officer shall have the right to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence as provided in Section 1282.6 of the Code of Civil Procedure.
- e. If the Hearing Officer disagrees with the Trial Court's disciplinary decision, the Trial Court shall furnish a certified copy of the record of proceedings before the Hearing Officer to the employee, or if the employee is represented by a recognized employee organization or counsel, to that representative, without cost.
- f. The Court and the Union will each be responsible for one-half (1/2) of any costs of the Hearing Officer's fee, and any court reporter fee. Any cost for transcripts will be borne by the party requesting the transcript. If the Hearing Officer requests that a transcript be prepared, both parties shall equally share the cost of the transcript. The parties shall each bear their own costs for any attorney's fees.

## C. Review of Hearing Officer's Report

1. The Court (one other than the disciplining officer) shall have thirty (30) calendar days from receipt of the Hearing Officer's report or receipt of the record of the hearing, whichever is later, to issue a written decision accepting, rejecting or modifying the Hearing Officer's report or recommendation, unless the Court and employee mutually agree to a different timeframe.
2. In making a decision under paragraph 1 above, the Court shall be bound by the factual findings of the Hearing Officer, except factual findings that are not supported by substantial evidence, and the Court shall give substantial deference to the recommended disposition of the Hearing Officer.
3. If the Court rejects or modifies the Hearing Officer's recommendation, the Court shall specify the reason or reasons why the recommended disposition is rejected in a written statement which shall have direct reference to the facts found and shall specify whether the material factual findings are supported by substantial evidence. The Court may reject or modify the recommendation of the Hearing Officer only if the material factual findings are not supported by substantial evidence, or for any of the following reasons or reasons of substantially similar gravity or significance.
  - a. The recommendation places an employee or the public at an unacceptable risk of physical harm from an objective point of view.
  - b. The recommendation requires an act contrary to law.
  - c. The recommendation obstructs the Court from performing its constitutional or statutory function from an objective point of view.
  - d. The recommendation disagrees with the Court's penalty determination, but the Hearing Officer has not identified material, substantial evidence in the record that provides the basis for that disagreement.
  - e. The recommendation is contrary to past practices in similar situations presented to the Hearing Officer that the Hearing Officer has failed to consider or distinguish.
  - f. From an objective point of view and applied by the Court in a good faith manner, the recommendation exposes the Court to present or future legal liability other than the financial liability of the actual remedy proposed by the Hearing Officer.

D. Basic Rules

1. In the case of employees working an alternate work schedule, the term "working days" as referred to in this Section shall mean Monday through

Friday during the Court's regular work week. Holidays are excluded from this period of time.

2. If an employee does not present their appeal within the prescribed time limits, or fails to appear, unless an unforeseeable emergency arises, at any scheduled hearing date, the appeal shall be considered resolved in favor of the Court.
3. The Court Executive Officer may temporarily suspend appeal processing on a Division-wide or Court-wide basis in an emergency situation.
4. Upon written consent of both parties to an appeal, the time limitations at any level in the procedure may be extended.

## **ARTICLE 16 – GRIEVANCE PROCEDURE**

### **16.01 GRIEVANCE PROCEDURE**

#### **A. Purpose**

1. The grievance procedure shall be used to process and resolve grievances arising under this Contract. The purpose of this procedure is:
  - a. To resolve grievances informally at the lowest possible level, and;
  - b. To provide an orderly procedure for reviewing and resolving grievances in a timely manner.

#### **B. Scope**

1. A grievance is a dispute of one or more employees, or a dispute between Union and the Court, involving the interpretation, application, or enforcement of the express terms of this MOU.
2. A grievance shall not be used to review Court operational administrative procedures or policies, classification or classification specification issues, recruitment and selection issues, counseling memos, disciplinary actions (including written reprimand, termination, suspension, or reduction in pay, demotion), or performance evaluations.
3. A written reprimand may be reviewed in person with Human Resources or designee within ten (10) working days of receipt of said reprimand by the employee.

C. Representation

1. An employee may represent themselves, request representation by Union, or request the assistance of another person of their choosing to act as a representative during any stage of the Grievance process.
2. The employee and the representative (if a Court employee) may have reasonable time off, without loss of compensation, to participate in the informal discussion step of this procedure.
3. The employee and the representative (if a Court employee) may use a maximum of two (2) hours of work time to prepare the written grievance at Step Two of this procedure.
4. Time off granted under paragraph 2. and 3 above, must be approved in advance by the employees' supervisor(s) and is subject to Court operational needs. Approval will not be unreasonably denied.

D. Time Limits

1. Each party involved in a grievance shall act quickly to resolve the grievance within the timelines outlined for each step of the procedure. However, the timelines may be extended by mutual agreement of the parties.
2. Failure on the part of the party filing a grievance to proceed to the next step of the process within stated time limits at any level shall terminate the process and the grievance shall be considered resolved. If the Court does not respond within the appropriate time limits, the employee may move to the next step of the grievance procedure.

E. Waiver of Steps

1. The parties may mutually agree to waive any step of the grievance procedure. With mutual consent of the parties, the grievance may be remanded to a prior level of review for reconsideration.

F. Grievance Settlement

1. The employee and the Court may settle a grievance on such terms as are mutually agreeable at any time during the grievance procedure. Such terms shall not be considered precedential and shall not grant rights inconsistent with this MOU. Settlement shall terminate the process. Failure of the grievant to attend scheduled arbitration hearings shall terminate the process except where the grievant had unforeseeable emergency circumstances that prevented their attendance at the arbitration hearing.

G. Step One – Informal Discussion

1. An employee's grievance shall be discussed initially with their immediate supervisor as soon as possible but not later than ten (10) working days after the act or event that is the basis of the grievance. The supervisor shall investigate the matter, attempt to resolve it, and communicate a decision to the employee within ten (10) working days after the discussion.

H. Step Two – Formal Process

1. If the employee is not satisfied with the supervisor's decision, the employee may file a written formal grievance with the Court Executive Officer or designee, by completing the Grievance Form and submitting it to the Court Executive Officer, or designee within ten (10) working days of the supervisor's decision or non-response.
2. A formal grievance must specifically identify the section of the MOU that is the subject of the asserted violation and state the remedy being sought.
3. The Court Executive Officer or designee will review the formal grievance and render a decision. The decision will be in writing and will be given to the grievant and to the Union representative within thirty (30) calendar days after the Grievance Form was received by the Court Executive Officer or designee.

I. Step Three – Arbitration

1. If the grievance is not resolved at Step Two, Union may appeal by providing written notice to the Court Executive Officer, or designee within ten (10) working days after the decision of the Court Executive Officer was received. If the Court Executive Officer does not issue a decision under paragraph H.3. above, Union may appeal the issue to arbitration within ten (10) working days after the decision of the Court Executive Officer was due. If Union does not request the grievance be submitted to arbitration within ten (10) working days from the date that the decision was received, the grievance shall be considered withdrawn.
2. When the Court Executive Officer or designee receives the notice requesting the grievance be submitted to arbitration, the Court and Union shall select an impartial arbitrator. If the parties are unable to mutually agree upon the arbitrator, one shall be selected from a list of seven (7) names provided by the State Mediation and Conciliation Service. The parties shall alternately strike names from the list until one name remains unless they agree otherwise.

3. The arbitrator shall, within thirty (30) days of his or her selection, schedule a date for hearing. The arbitrator shall review written materials submitted by the parties and interview parties deemed pertinent to the grievance. The arbitrator shall render a written decision, which will include a finding of facts, within thirty (30) days after the hearing. The decision of the arbitrator shall be final and binding on the parties, but the decision will not be a mandatory precedent for future decisions.
4. The arbitrator shall have no authority to add to, delete or alter any provision of this MOU nor shall the arbitrator substitute their discretion in any case where the Court is given or retains such discretion. The arbitrator shall limit their decision to the application and interpretation of the provisions of this MOU.
5. The Court and the Union will each be responsible for one-half of any costs of the arbitrator's fee, and any court reporter fee. Any cost for transcripts will be borne by the party requesting the transcript. If the arbitrator requests that a transcript be prepared, both parties shall equally share the cost of the transcript. The parties shall each bear their own costs for any attorney's fees.

## **ARTICLE 17 – STRIKES AND LOCKOUTS**

### **17.01 STRIKES AND LOCKOUTS**

- A. The Merced County Trial Court Employees, Local 1 (Union) agrees that during the term of this MOU, neither it nor its officers, employees or members will encourage, sanction, support, or engage in a strike or job action that would interfere with the normal work of the Court. Job actions include work stoppages, boycotts, slow downs, mass resignations, mass absenteeism, rolling sick outs, picketing, or any similar action that interferes with Court operations. In the event that Union members participate in such activities in violation of this provision, the Union shall notify those members so engaged to cease and desist from such activities and shall instruct the members to return to their normal duties.
- B. The Court shall not institute a lockout of employees during the term of this MOU.

## **ARTICLE 18 – SUPERSESSION & MODIFICATION CLAUSE**

### **18.01 SUPERSESSION AND MODIFICATION CLAUSE**

- A. This MOU sets forth the full and entire understanding of the parties regarding the matters contained herein, and any other prior or existing understanding or agreement by the parties, whether formal or informal, regarding any such matters is hereby superseded.

- B. No subsequent agreement or modification of any of the terms or provisions contained in this MOU shall be binding unless it is made and executed, in writing, by both parties.

## **ARTICLE 19 – SEVERABILITY CLAUSE**

### **19.01 SEVERABILITY CLAUSE**

If any paragraph, sentence, clause, or phrase of this MOU for any reason is held to be unconstitutional or invalid, such shall not affect the remaining portions of this MOU.

## **ARTICLE 20 – TERM**

### **20.01 TERM OF MOU**

The term of this MOU shall be the date of ratification of this agreement through November 15, 2025.

**Memorandum of Understanding  
Between  
Superior Court of California, County of Merced  
And  
Merced County Trial Court Employees, Local 1**

*Mark V. Bacciarini*

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Mark Bacciarini  
Presiding Judge

*Jeff Apkarian*

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Jeff Apkarian  
Union Representative

*Amanda Toste*

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Amanda Toste  
Court Executive Officer

*Ruth Gallagher*

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Ruth Gallagher  
Union Vice President

*Renee D. Bays*

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Renee Bays  
Union Board Member

*Angelo Villanueva*

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Angelo Villanueva  
Union Member