

1 Steven S. Rosenthal (SBN 109739)  
2 Marc S. Cohen (SBN 65486)  
3 KAYE SCHOLER LLP  
4 1999 Avenue of the Stars, Suite 1700  
5 Los Angeles, California 90067  
6 Telephone: (310) 788-1000  
7 Facsimile: (310) 788-1200  
8 Email: srosenthal@kayescholer.com  
9 mcohen@kayescholer.com

6 Richard J. Chivaro (SBN 124391)  
7 OFFICE OF THE STATE CONTROLLER  
8 300 Capitol Mall, Suite 1850  
9 Sacramento, California 95814  
10 Telephone: (916) 445-6854  
11 Facsimile: (916) 322-1220  
12 Email: rchivaro@sco.ca.gov

10 Attorneys for Defendants/Respondents

11 Brian P. Walter (SBN 171429)  
12 Morin I. Jacob (SBN 204598)  
13 LIEBERT CASSIDY WHITMORE  
14 6033 W. Century Boulevard, Suite 500  
15 Los Angeles, CA 90045  
16 Telephone: (310) 981-2000  
17 Facsimile: (310) 337-0837

15 K. William Curtis (SBN 095753)  
16 Christopher E. Thomas (SBN 186075)  
17 Department of Personnel Administration  
18 1515 S Street, North Building, Suite 400  
19 Sacramento, CA 95811-7258  
20 Telephone: (916) 324-0512  
21 Facsimile: (916) 323-4723

19 Attorneys for Petitioners/Plaintiffs

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
21 **FOR THE COUNTY OF SACRAMENTO**

22 DEBBIE L. ENDSLEY, CALIFORNIA ) Case No. 34-2010-80000591  
23 DEPARTMENT OF PERSONNEL )  
24 ADMINISTRATION, ) **STIPULATION RE DISMISSAL**  
25 )  
26 Petitioners/Plaintiffs ) Hon. Patrick Marlette  
27 )  
28 v. )  
29 )  
30 JOHN CHIANG, sued herein in his ) Exempt from Fees  
31 official capacity only; OFFICE OF THE ) (Gov. Code § 6103)  
32 STATE CONTROLLER )  
33 )  
34 Respondents/Defendants. )

1           Whereas, on July 6, 2010, Debbie Endsley, in her official capacity as the Director of the  
2 California Department of Personnel Administration, and the California Department of Personnel  
3 Administration (collectively, “DPA”) filed a Complaint and Petition for Writ of Mandate naming  
4 as defendants John Chiang, sued in his official capacity as the Controller of the State of California  
5 and the Office of the State Controller (collectively, “SCO”), seeking to compel SCO to implement  
6 DPA’s Pay Letter 2010-XX (the “Pay Letter”), which directed the Controller to pay certain state  
7 employees nothing, and others minimum wage, until the passage of a budget;

8           Whereas, on July 7, 2010, SCO filed a Cross-Complaint against DPA, seeking declaratory  
9 relief and asking that the Court find, inter alia, that SCO’s implementation of the Pay Letter would  
10 violate State and Federal laws and would be infeasible;

11           Whereas, DPA believed, at the time of the filing of its Complaint, that SCO’s legacy  
12 payroll system was capable of implementing the Pay Letter in a lawful and timely fashion and at  
13 minimal expense and risk to the State;

14           Whereas, pursuant to its own study and analysis of the issue, SCO believed, at the time of  
15 the filing of its Cross-Complaint, that its legacy payroll system was not capable of implementing  
16 the Pay Letter in a lawful and timely fashion and at reasonable expense, and that any attempt at  
17 implementing the Pay Letter would risk serious operational and legal consequences to the State;

18           Whereas, SCO’s retained experts, who analyzed the legacy payroll system over a period of  
19 six months, came to the conclusion that it was impossible to fully implement the Pay Letter in a  
20 lawful fashion, and that even partial implementation would require a significant expenditure of  
21 time and money;

22           Whereas, discovery in the case, including DPA’s commissioning of an independent expert’s  
23 study, revealed that that the legacy payroll system in place in 2010 was not capable of compliance  
24 with the Pay Letter without modification and potentially significant cost;

25           Whereas, SCO, DPA, and the other members of the MyCalPays steering committee are  
26 currently working together to deploy the MyCalPays system, which will replace the legacy payroll  
27 system;

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Whereas, SCO and DPA are working together collaboratively to address issues of mutual concern with respect to the payment of the State’s employees going forward, and such an approach will be a more effective and efficient means of addressing the State’s needs;

DPA and SCO therefore wish to dismiss the entire litigation, and are filing concurrently with this stipulation voluntary dismissals, without prejudice, of DPA’s Complaint/Petition and SCO’s Cross-Complaint. All parties will bear their own fees and costs.

Dated: \_\_\_\_\_, 2011

Respectfully submitted,

OFFICE OF THE STATE CONTROLLER

By: \_\_\_\_\_

Steven S. Rosenthal  
KAYE SCHOLER LLP  
Attorneys for Respondents/Defendants and  
Cross-Complainants JOHN CHIANG, in his  
official capacity as CONTROLLER OF THE  
STATE OF CALIFORNIA; and the OFFICE OF  
THE STATE CONTROLLER

DEPARTMENT OF PERSONNEL  
ADMINISTRATION

By: \_\_\_\_\_

Brian P. Walter  
LIEBERT CASSIDY WHITMORE  
Attorneys for Plaintiff/Petitioners DEBBIE L.  
ENDSLEY, CALIFORNIA DEPARTMENT OF  
PERSONNEL ADMINISTRATION