



## LOS ANGELES CITY EMPLOYEE RELATIONS BOARD

200 NORTH MAIN STREET, SUITE 1100  
LOS ANGELES, CALIFORNIA 90012-4124  
TELEPHONE: (213) 473-9700  
TDD: (213) 485-5136  
FAX: (213) 473-7751

.Edna E.J. Francis  
Chairman  
R. Douglas Collins  
Fredric R. Horowitz  
Manuel M. Melgoza  
H. Anthony Miller  
Robert R. Bergeson  
Executive Director

September 13, 2011

David Sanders, City Regional Director  
Service Employees International Union Local 721  
500 South Virgil Avenue  
Los Angeles, CA 90020

RE: UERP NO. 1838

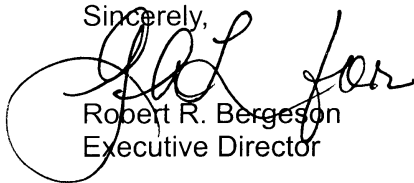
Dear Mr. Sanders:

The above referenced unfair employee relations practice claim was filed by Los Angeles City Attorneys Association on April 13, 2011, amended on June 14, 2011, and a second amendment filed on August 18, 2011, alleging that the department has violated Section 4.860 of the Los Angeles Administrative Code. Copies of the original claim and the amendments are attached.

Employee Relations Board Rule 8 provides that the parties are to review a claim in joint session within 14 calendar days of the date it was filed or longer if so instructed by the executive director. The department must therefore meet with the claimant or the claimant's representative no later than **Tuesday, September 27, 2011**. Rule 8 also specifies that the charged party is to file a written response (original and eight copies) to the claim within 21 calendar days of its filing unless the executive director orders otherwise. Accordingly, in the absence of notice from this office to the contrary, the department's response is to be filed no later than **Tuesday, October 4, 2011**.

Because Rule 8 requires claims to be filed within 90 days of the date the charging party first became aware or should have become aware of the act(s) upon which they are based, if the department believes the claim was not filed within that time period, its response should so assert. That response should also address each unresolved allegation contained in the claim and should include a specific admission, denial, or explanation of each unresolved allegation. The response may contain affirmative defenses.

Sincerely,



Robert R. Bergeson  
Executive Director

RRB:gl

cc: Maritta Aspen, CAO/ERD  
Carolyn Cooper, CAO/ERD  
Oscar R. Winslow, LACAA Board President



**CITY OF LOS ANGELES  
EMPLOYEE RELATIONS BOARD**  
200 NORTH MAIN STREET, SUITE 1100  
LOS ANGELES, CALIFORNIA 90012  
(213) 473-9700

**UNFAIR EMPLOYEE RELATIONS  
PRACTICE CLAIM AGAINST  
MANAGEMENT**

1. *Who May File a Claim:* In accordance with 54.860 C of the Los Angeles City Employee Relations Ordinance, a claim of unfair employee relations practice may be filed against management by an employee representative, an individual employee or a group of employees, or by a management representative. 2. *How to File:* Within 90 days after the occurrence of the alleged unfair employee relations practice, file a typewritten original and eight copies of the claim with the Employee Relations Board and simultaneously serve one copy of the claim directly on the party or parties against whom the claim is directed. Use additional sheets if necessary. You may file the claim in person or by mail; you may not file a claim by fax. Refer to Employee Relations Board Rule 8 for additional requirements and procedures.

3. Name of Claimant:  
Los Angeles City Attorneys Association (LACAA)

4. Claimant's Address:  
LACAA—c/o SEIU Local 721  
500 S. Virgil Avenue  
Los Angeles, CA 90020

5. Claimant's Telephone Number:  
(323) 877-3333

6. Claimant's Representative (e.g., attorney):  
Oscar Winslow, President

7. Claimant's Representative's Address:  
Oscar Winslow  
Office of the City Attorney  
City Hall East, Rm. 916  
200 N. Main Street  
Los Angeles, CA 90012

8. Claimant's Representative's Telephone Number:  
(323) 877-3333

9. Name of Employer Charged:  
City Administrative Officer

10. Employer's Address:  
Miguel Santana, City Administrative Officer  
Office of the City Administrator  
City Hall East—15<sup>th</sup> Floor  
200 N. Main Street  
Los Angeles, CA 90012

11. Employer's Telephone Number:  
(213) 473-7534

12. Management has violated and/or is violating the following sections of the Los Angeles City Employee Relations Ordinance (check all boxes that apply): 54.860 A, 1 , 2 , 3 , 4 , and/or 5 .

13. Basis of this claim (be specific about facts, names, dates, and places; use additional sheets if needed):  
See attached.

14. Other attempts to remedy this alleged violation, and the results of those attempts.

15. I declare that I have read this charge and that the statements herein are true and factual to the best of my knowledge and belief. LACAA BOARD  
By: OSCAR R. WINSLOW PRESIDENT  
(Claimant) (Title)  
[Signature] Apr 12, 2011  
(Signature) (Date)

DO NOT WRITE IN THIS BLOCK CLAIM NUMBER:  
UERP 1838  
DATE FILED:  
04-13-11

NOTE: If this claim is filed by more than one party, the signatures of the additional parties must be provided on an attached sheet.

RECORDED  
EMPLOYEE RELATIONS BOARD  
APR 19 AM 11:44

**CITY OF LOS ANGELES  
EMPLOYEE RELATIONS BOARD**  
200 NORTH MAIN STREET, SUITE 1100  
LOS ANGELES, CALIFORNIA 90012  
(213) 473-9700

**UNFAIR EMPLOYEE RELATIONS  
PRACTICE CLAIM AGAINST  
MANAGEMENT**

1. *Who May File a Claim:* In accordance with §4.860 C of the Los Angeles City Employee Relations Ordinance, a claim of unfair employee relations practice may be filed against management by an employee representative, an individual employee or a group of employees, or by a management representative. 2. *How to File:* Within 90 days after the occurrence of the alleged unfair employee relations practice, file a typewritten original and eight copies of the claim with the Employee Relations Board and simultaneously serve one copy of the claim directly on the party or parties against whom the claim is directed. Use additional sheets if necessary. You may file the claim in person or by mail; you may not file a claim by fax. Refer to Employee Relations Board Rule 8 for additional requirements and procedures.

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4. Claimant's Address:  
LACAA—c/o SEIU Local 721  
500 S. Virgil Avenue  
Los Angeles, CA 90020

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Oscar Winslow, President

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Oscar Winslow  
Office of the City Attorney  
City Hall East, Rm. 916  
200 N. Main Street  
Los Angeles, CA 90012

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(323) 877-3333

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City Administrative Officer

10. Employer's Address:  
Miguel Santana, City Administrative Officer  
Office of the City Administrator  
City Hall East—15<sup>th</sup> Floor  
200 N. Main Street  
Los Angeles, CA 90012

11. Employer's Telephone Number:  
(213) 473-7534

12. Management has violated and/or is violating the following sections of the Los Angeles City Employee Relations Ordinance (check all boxes that apply): §4.860 A, 1 , 2 , 3 , 4 , and/or 5 .

13. Basis of this claim (be specific about facts, names, dates, and places; use additional sheets if needed):  
See attached.

14. Other attempts to remedy this alleged violation, and the results of those attempts.

15. I declare that I have read this charge and that the statements herein are true and factual to the best of my knowledge and belief. LACAA BOARD

By: OSCAR R. WINSLOW  
(Claimant)

PRESIDENT  
(Title)

(Signature)

Apr 12, 2011  
(Date)

DO NOT WRITE IN THIS BLOCK CLAIM NUMBER:

UERP 1838

DATE FILED:

04-13-11

NOTE: If this claim is filed by more than one party, the signatures of the additional parties must be provided on an attached sheet.

RECEIVED  
 EMPLOYEE RELATIONS BOARD  
 APR 13 AM 9:17

**UERP Claim**  
***LACAA and the City Administrative Officer***

**Basis of Claim**

The Los Angeles City Attorneys Association (LACAA) is the duly recognized employee organization for approximately 450 Attorneys in the Office of the City Attorney, excluding Attorneys classified as Confidential and Management. The City Administrative Officer (CAO) is responsible for the coordination of labor relations matters within the City. This claim concerns CAO actions occurring at the time of a membership ratification vote on amendments to the existing LACAA Memorandum of Understanding (MOU).

On or about April 1, 2011, the CAO reached a tentative agreement with the Coalition of LA City Unions (Coalition) on amendments to a previous Letter of Agreement [October 26, 2009]. This previous Letter of Agreement, which also modified certain provisions of the existing MOU, was ratified by the LACAA membership which was covered by its terms. The new tentative agreement required ratification by the LACAA membership before it could become effective upon the respective bargaining unit.

Beginning on April 1, 2011 and continuing to this date, LACAA has taken steps to submit the tentative agreement to its members for ratification. These steps included publishing the terms of the tentative agreement, providing summaries of the tentative agreement, scheduling information meetings and mailing ratification ballots. The tentative agreement, *inter alia*, included provisions which would affect the amount of subsidy for retiree health insurance and implement contributions from current employees for this subsidy program.

On or about April 7, 2011, while the ratification process was taking place and just prior to the mailing of ballots, the CAO announced a proposed ordinance which would cap the retiree health insurance subsidy for any current employee who retired after July 1, 2011. The proposed ordinance would presumably not apply to any employee in a bargaining unit which ratified the tentative agreement. The CAO also released statements to the local media with respect to the capping of the retiree health insurance subsidy.

The LACAA members have the right under the Meyers-Milias-Brown Act and Employee Relations Ordinance to exercise their free choice on whether to ratify a tentative agreement. The actions of the CAO in proposing and publicizing the capping of the Retiree Health Insurance Subsidy have the tendency to interfere with, discourage, or coerce LACAA members as they exercise their right to vote on the ratification question. Consequently, the CAO has violated Section 4.860(a)(1) of the Employee Relations Ordinance.

LACAA respectfully requests that the Employee Relations Board find that the CAO has violated the ERO and issue an appropriate remedy.

**CITY OF LOS ANGELES  
EMPLOYEE RELATIONS BOARD**  
200 NORTH MAIN STREET, SUITE 1100  
LOS ANGELES, CALIFORNIA 90012  
(213) 473-9700

AMENDED **UNFAIR  
EMPLOYEE RELATIONS  
PRACTICE CLAIM AGAINST  
MANAGEMENT**

- Who May File a Claim:** In accordance with §4.860 C of the Los Angeles City Employee Relations Ordinance, a claim of unfair employee relations practice may be filed against management by an employee representative, an individual employee or a group of employees, or by a management representative.
- How to File:** Within 90 days after the occurrence of the alleged unfair employee relations practice, file a typewritten original and eight copies of the claim with the Employee Relations Board and simultaneously serve one copy of the claim directly on the party or parties against whom the claim is directed. Use additional sheets if necessary. You may file the claim in person or by mail; you may not file a claim by fax. Refer to Employee Relations Board Rule 8 for additional requirements and procedures.

3. **Name of Claimant:**  
Los Angeles City Attorneys  
Association (LACAA)

4. **Claimant's Address:**  
LACAA - c/o SEIU Local 721  
500 S. Virgil Avenue  
Los Angeles, CA 90020

5. **Claimant's Telephone Number:**  
(323) 877-3333

6. **Claimant's Representative (e.g., attorney):**  
Robert M. Dohrmann, Esq.

7. **Claimant's Representative's Address:**  
Schwartz, Steinsapir, Dohrmann  
& Sommers LLP  
6300 Wilshire Bl., Suite 2000  
Los Angeles, CA 90048-5268

8. **Claimant's Representative's Telephone Number:**  
(323) 655-4700

9. **Name of Employer Charged:**  
City Administrative Officer  
City Council  
City Attorney

10. **Employer's Address:**  
See attached Proof of Service

11. **Employer's Telephone Number:**  
(213) 473-7534

12. Management has violated and/or is violating the following sections of the Los Angeles City Employee Relations Ordinance (check all boxes that apply): §4.860 A, 1 , 2 , 3 , 4 , and/or 5 .

13. **Basis of this claim (be specific about facts, names, dates, and places; use additional sheets if needed):**

See attached Basis of Claim

14. **Other attempts to remedy this alleged violation, and the results of those attempts.**

15. I declare that I have read this charge and that the statements herein are true and factual to the best of my knowledge and belief.  
By: SCHWARTZ, STEINSAPIR, DOHRMANN & SOMMERS LLP  
ROBERT M. DOHRMANN (Signature) Attorneys (Title)  
for Claimant  
June 14, 2011 (Date)

**DO NOT WRITE IN THIS BLOCK**  
**CLAIM NUMBER:**

Amendment  
UERP 1838

**DATE FILED:**

06-14-11

**NOTE:** If this claim is filed by more than one party, the signatures of the additional parties must be provided on an attached sheet.

EMPLOYEE RELATIONS BOARD

11 JUN 14 PM 3:24

which ratifies the tentative Coalition agreement. The CAO also released statements to the local media with respect to the capping of the vested retiree health insurance subsidy, making clear it would have effect only for employees whose bargaining units rejected the proposal.

Under the Meyers-Milias-Brown Act and the ERO, LACAA members have the right to exercise their choice on whether to ratify a tentative agreement, free from threats, intimidation or coercion. The actions of the CAO in threatening and publicizing the capping of the vested retiree health subsidy, limited to members of bargaining units not accepting the tentative agreement, interfered with, discouraged, and/or coerced LACAA members even as they were exercising their right to vote on the ratification question. Moreover, the CAO has, on and after April 7, 2011, engaged in a scheme of coercion and intimidation of LACAA members through his threats to impose a ruinous freeze on their eventual ability to receive the vested retiree health care they were promised as a condition of employment. Consequently, the CAO has violated Section 4.860(a) (1) of the Employee Relations Ordinance.

LACAA respectfully requests that the Employee Relations Board find that the CAO has violated the ERO and issue an appropriate remedy directing the CAO to immediately cease and desist from engaging in these threats and other coercive activity and take affirmative written action to disavow such threats and coercive activity.

## **2. The City Council**

In furtherance of the scheme of coercion and intimidation first commenced by the CAO, the City Council made numerous oral and written threats to impose, commencing July 1, 2011, the aforesaid freeze on the vested retiree health subsidy and also to impose thirty six (36) furlough days on employees in non-ratifying bargaining units.

On April 26, 2011, LACAA members overwhelmingly rejected the Coalition agreement. Unlike other Coalition bargaining units which rejected the proposal, however, LACAA did not submit to a re-vote. LACAA demanded to meet and confer with the City over its stated intent to permanently freeze the vested retiree health subsidy guaranteed its members as a condition of employment and also demanded to meet and confer over the City's stated intent to impose thirty six furlough days on LACAA members. On or around May 5, 2011, the CAO and LACAA began to meet and confer on these issues.

But, on June, 3, 2011, during the CAO's ongoing negotiations with LACAA, the City Council acted unilaterally to adopt an ordinance imposing the retiree health subsidy freeze on LACAA members. The Council has also, in a separate action, passed a resolution declaring a purported fiscal emergency, the purpose of which is to attempt to justify the imposition on and after July 1, 2011 of thirty six furlough days on LACAA members.

LACAA respectfully requests that the Employee Relations Board find that the Council has violated the ERO and issue an appropriate remedy directing the City Council to immediately cease and desist from engaging in these unilateral actions without first bargaining to impasse or

agreement over those decisions and its other coercive activities and take affirmative written action to disavow its unilaterally promulgated freeze and furlough impositions.

### 3. The City Attorney

On or about May 25, 2011, the City Attorney notified LACAA that his office would unilaterally and without bargaining with LACAA impose the equivalent of thirty six furlough days on LACAA members, further directing that the members must report to work five days a week and work a reduced number of hours each day. The City Attorney offers in that letter only to meet and confer over the impact of his “furlough operational plan.” The City Attorney is required, on demand, to negotiate his **decision** to alter existing work schedules. See: *Firefighters Union vs. City of Vallejo* (1974) 12 Cal. 3d 608. This he is refusing to do.

Since July 1, 2010, the City has imposed twenty six furlough days on about half of the Coalition employees, including most of the City Attorney’s Office. During FY 2010-2011, the City Attorney required employees in his office to take one furlough day per pay period. However, in light of their ethical and professional obligations as attorneys, LACAA members have been allowed some flexibility in how and when they meet their furlough obligations during the pay period. Further, flexing of work schedules is provided for in LACAA’s MOU.

The City Attorney has in writing declared his intention to impose unilateral changes to the furlough schedule in retaliation against LACAA’s members for its refusal to ratify the tentative agreement and in contravention of his obligations under the LACAA MOU, thus violating both Sections 4.860(a)(1) and 4.860(a)(3) of the ERO. Further, by his actions, the City Attorney is attempting to coerce members of LACAA to re-vote for the Coalition proposal as, on May 10, 2011, he publicly promised the Budget and Finance Committee that he would do.

LACAA respectfully requests that the Employee Relations Board find that the City Attorney has violated the ERO and issue an appropriate remedy directing the City Attorney to immediately cease and desist from engaging in these unilateral actions without first bargaining to impasse or agreement over his asserted decisions to alter existing work schedules and his other coercive activities and further to take affirmative written action to disavow those actions.

**PROOF OF SERVICE BY PERSONAL DELIVERY**

**UERP 1838**

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MARY LOUISE KELLEY certifies as follows:

I am employed in the County of Los Angeles, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 6300 Wilshire Boulevard, Suite 2000, Los Angeles, California 90048-5268.

On June 14, 2011, I caused the foregoing document(s) described as

**AMENDED UERP CLAIM – UERP 1838**

to be served by personal delivery upon the person(s) shown below, by placing a true and correct copy (copies) thereof in an envelope (envelopes) addressed as follows:

Miguel A. Santana  
City Administrative Officer  
Office of the City Administrative Officer  
200 North Main Street, Room 1500  
Los Angeles, California 90012

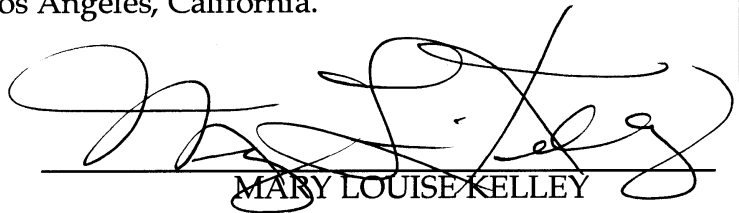
Los Angeles City Council  
c/o Office of the City Clerk  
200 North Spring Street, Room 395  
Los Angeles, California 90012

William W. Carter  
Chief Deputy City Attorney  
Office of the City Attorney  
200 North Main Street, Room 800  
Los Angeles, California 90012

X **BY PERSONAL DELIVERY:** And by then sealing said envelope(s) and causing them to be personally delivered by messenger to each of the addressees.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on June 14, 2011, at Los Angeles, California.

  
\_\_\_\_\_  
MARY LOUISE KELLEY

**CITY OF LOS ANGELES  
EMPLOYEE RELATIONS BOARD**  
200 NORTH MAIN STREET, SUITE 1100  
LOS ANGELES, CALIFORNIA 90012  
(213) 485-2066

**SECOND  
AMENDED UNFAIR  
EMPLOYEE RELATIONS  
PRACTICE CLAIM AGAINST  
MANAGEMENT**

- Who May File a Claim:** In accordance with §4.860 C of the Los Angeles City Employee Relations Ordinance, a claim of unfair employee relations practice may be filed against management by an employee representative, an individual employee or a group of employees, or by a management representative.
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**3. Name of Claimant:**  
Los Angeles City Attorneys Association (LACAA)

**4. Claimant's Address:**  
LACAA - c/o Levy, Ford & Wallach  
3660 Wilshire Blvd., Suite 600  
Los Angeles, CA 90010

**5. Claimant's Telephone Number:**  
323-877-3333

**6. Claimant's Representative (e.g., attorney):**  
Lewis N. Levy, Attorney

**7. Claimant's Representative's Address:**  
Levy, Ford & Wallach  
3660 Wilshire Blvd., Suite 600  
Los Angeles, California 90010

**8. Claimant's Representative's Telephone Number:**  
213-380-3140

**9. Name of Employer Charged:**  
City Administrative Officer, City Council, City Attorney

**10. Employer's Address:**  
See attached Proof of service

**11. Employer's Telephone Number:**  
213-473-7534

**12. Management has violated and/or is violating the following sections of the Los Angeles City Employee Relations Ordinance (check all boxes that apply):** §4.860 A, 1 , 2 , 3 , 4 , and/or 5 .

**13. Basis of this claim (be specific about facts, names, dates, and places; use additional sheets if needed):**  
See Attached Basis of Charge.

**14. Other attempts to remedy this alleged violation, and the results of those attempts.**

**15. I declare that I have read this charge and that the statements herein are true and factual to the best of my knowledge and belief.**

By: Lewis N. Levy, Esq. Attorney  
(Claimant) (Title)

[Signature] August 16, 2011  
(Signature) (Date)

**NOTE: If this claim is filed by more than one party, the signatures of the additional parties must be provided on an attached sheet.**

**DO NOT WRITE IN THIS BLOCK  
CLAIM NUMBER:**

Second Amendment  
UERP 1838

**DATE FILED:**

08-18-11

EMPLOYEE RELATIONS BOARD

11 AUG 18 PM 2:12

**SECOND AMENDED**  
**UERP Claim - UERP 1838**  
*LACAA and the City Administrative Officer, the City Council*  
*and the City Attorney*

**Basis of Claim**

The Los Angeles City Attorneys Association (LACAA) is the duly recognized employee organization for approximately 450 Attorneys in the Office of the City Attorney, excluding Attorneys classified as Confidential and Management. LACAA has an affiliation with SEIU Local 721, a member of the Coalition of City Unions (Coalition). The City Administrative Officer (CAO) is responsible for the coordination of labor relations matters within the City and, in this regard, represents the Office of the Mayor. The City Council exercises all legislative powers of the City. Pursuant to certain provisions of the City Charter, the City Attorney exercises the power of the City to appoint, set terms and conditions of employment, and remove attorneys represented by LACAA.

LACAA brings this claim against numerous City officials who have engaged in a scheme to intimidate, coerce and retaliate against LACAA members during the lawful exercise of their rights under the City's Employee Relation Ordinance (the "ERO"), including, but not limited to, the right to engage in the meet and confer process and the right to participate in union activities. Specifically, the CAO, the City Council and the City Attorney have attempted to intimidate and coerce LACAA members during three separate membership ratification votes – one of which was unauthorized and was eventually cancelled based upon LACAA's judicial application for a temporary restraining order – on amendments to the existing LACAA Memorandum Of Understanding (the "MOU") with the City. The City Council has taken unilateral action to change the terms and conditions of employment for LACAA members during on-going bargaining. The City Attorney has retaliated against LACAA members for declining to accept further concessions to their MOU by unilaterally changing the terms and conditions of employment. We address each of these below.

**1. The CAO**

On or about April 1, 2011, the CAO reached a tentative agreement with the

Coalition on amendments to a previous Letter of Agreement [October 26, 2009]. The previous Letter of Agreement had modified certain provisions of the existing affiliate MOUs, and it was ratified by the LACAA membership. The new tentative agreement required ratification by the LACAA membership before it could become effective upon their bargaining unit.'

Beginning on April 1, 2011, LACAA took steps to submit the tentative agreement to its members for ratification. Those steps included publishing the terms of the tentative agreement, providing summaries of the tentative agreement, scheduling information meetings and mailing ratification ballots. The tentative agreement included, among other things, a provision which would increase employee pension contributions by 4%, ostensibly to provide a right to increases in the vested retiree health insurance subsidy.

On or about April 7, 2011, while this ratification process was taking place and just prior to the mailing of ballots, the CAO announced a proposal to permanently cap the vested retiree health insurance subsidy for any current employee who retires after July 1, 2011. According to the CAO's announcement, this proposed capping of the vested retiree health subsidy would not apply to any employee in a bargaining unit which agreed to ratify the tentative Coalition agreement. The CAO also released statements to the local media with respect to the capping of the vested retiree health insurance subsidy, making clear it would have effect only for employees whose bargaining units rejected the proposal.

Under the Meyers-Milias-Brown Act and the ERO, LACAA members have the right to exercise their choice on whether to ratify a tentative agreement, free from threats, intimidation or coercion. The actions of the CAO in threatening and publicizing the capping of the vested retiree health insurance subsidy, limited to members of bargaining units not accepting the tentative agreement, interfered with, discouraged, and/or coerced LACAA members even as they were exercising their right to vote on the ratification question. Moreover, the CAO has, on and after April 7, 2011, engaged in a scheme of coercion and intimidation of LACAA members through his threats to impose a ruinous freeze on their eventual ability to receive the vested retiree health insurance subsidy they were promised as a condition of employment. Consequently, the CAO has violated Sections 4.860(a) (1) and (3) of the Employee Relations Ordinance.

LACAA respectfully requests that the Employee Relations Board find that the CAO has violated the ERO and issue an appropriate remedy directing the CAO to immediately cease and desist from engaging in these threats and other coercive activity and take affirmative written action to disavow such threats and coercive activity.

## 2. The City Council

In furtherance of the scheme of coercion and intimidation first commenced by the CAO, the City Council made numerous oral and written threats to impose, commencing July 1, 2011, the aforesaid freeze on the vested retiree health subsidy and also to impose thirty-six (36) furlough days on employees in non-ratifying bargaining units.

On April 26, 2011, LACAA members overwhelmingly rejected the Coalition agreement. Unlike other Coalition bargaining units which rejected the proposal, however, LACAA did not submit the agreement to a re-vote. LACAA demanded to meet and confer with the City over its stated intent to permanently freeze the vested retiree health insurance subsidy guaranteed its members as a condition of employment and also demanded to meet and confer over the City's stated intent to impose thirty six furlough days on LACAA members.

Subsequently, on or around May 5, 2011, the CAO and LACAA began additional meet and confer session regarding the above issues. But, on June, 3, 2011, during the CAO's ongoing negotiations with LACAA, and before LACAA could submit any purported agreement to yet another ratification vote of its membership, the City Council acted unilaterally to adopt an ordinance imposing a permanent freeze on the retiree health insurance subsidy for active employees who retire after June 30, 2011. Such a permanent freeze will directly impact the LACAA bargaining unit membership. The Council has also, in a separate action, passed a resolution declaring a purported fiscal emergency, the purpose of which is to attempt to justify the imposition on and after July 1, 2011 of thirty six furlough days on LACAA members.

The afore-referenced actions of the City Council were also designed to coerce and intimidate the LACAA bargaining unit with respect to its second – which was cancelled in response to LACAA's application for a judicial TRO – and third votes to

ratify the proffered amendments to the MOU and the CAO's proposed agreement with LACAA. Such conduct and actions by the City Council tended to, and did, coerce and intimidate the LACAA bargaining unit, with respect to the rights accorded to them under the ERO. This is so because the eventual votes to ratify or reject the amendments to the MOU and the other agreement(s) reached between the CAO and the Coalition, as well as the CAO's proposed agreement with LACAA, were held under the direct threat, should ratification not occur in accord with the wishes of the City Council, that substantial and severe economic reprisals would be unilaterally imposed on the LACAA bargaining unit.

LACAA respectfully requests that the Employee Relations Board find that the Council has violated the ERO and issue an appropriate remedy directing the City Council to immediately cease and desist from engaging in these unilateral actions without first bargaining to impasse or agreement over those decisions and its other coercive activities and take affirmative written action to disavow its unilaterally promulgated freeze and furlough impositions.

### **3. The City Attorney**

#### **A. Unilateral Imposition of Terms and Conditions of Employment Without Providing LACAA with Adequate Notice and an Opportunity to Bargain**

On or about May 25, 2011, the City Attorney notified LACAA that his office would unilaterally and without bargaining with LACAA impose the equivalent of thirty six furlough days on LACAA members, further directing that the members must report to work five days a week and work a reduced number of hours each day. The City Attorney offers in that letter only to meet and confer over the impact of his "furlough operational plan." The City Attorney is required, on demand, to negotiate his decision to alter existing work schedules. See: *Firefighters Union vs. City of Vallejo (1974)* 12 Cal. 3d 608. This he is refusing to do.

Since July 1, 2010, the City has imposed twenty six furlough days On about half of the Coalition employees, including most of the City Attorney's Office. During FY 2010-2011, the City Attorney required employees in his office to take one furlough day per pay period. However, in light of their ethical and professional obligations as attorneys, LACAA members have been allowed some flexibility in

how and when they meet their furlough obligations during the pay period Further, flexing of work schedules is provided for in LACAA's MOU.

The City Attorney has in writing declared his intention to impose unilateral changes to the furlough schedule in retaliation against LACAA's members for its refusal to ratify the tentative agreement and in contravention of his obligations under the LACAA MOU, thus violating both Sections 4.860(a)(1) and 4.860(a)(3) of the ERO. Further, and by his actions, the City Attorney has coerced members of LACAA to re-vote for the Coalition proposal as, on May 10,2011, he publicly promised the Budget and Finance Committee that he would do.

LACAA respectfully requests that the Employee Relations Board find that the City Attorney has violated the ERO and issue an appropriate remedy directing the City Attorney to immediately cease and desist from engaging in these unilateral actions without first bargaining to impasse or agreement over his asserted decisions to alter existing work schedules and his other coercive activities and further to take affirmative written action to disavow those actions.

**B. Restraint and Coercion in Connection With the Votes to Ratify or Reject the Agreement Between the CAO and the Coalition**

As referenced, *supra*, the question of whether or not to ratify the agreement between the CAO and the Coalition and/or the proposed agreement between the CAO and LACAA was put to no less than three (one of them unauthorized) votes of the LACAA membership. The most recent such votes were conducted during the months of June and July, 2011. However, during the critical period when ballots for these votes were being distributed to and returned by the LACAA membership, numerous coercive statements were undertaken by the City Attorney in an effort to influence these referenda.

For example, on June 3<sup>rd</sup>, the City Attorney circulated an e-mail to all LACAA bargaining unit members reiterating and amplifying the threat that in the event the LACAA bargaining unit did not ratify the agreement between the CAO and the Coalition, furloughs amounting to 36 days per year would be imposed on the LACAA bargaining unit. Further, on June 20<sup>th</sup> and June 29<sup>th</sup>, the City Attorney's office circulated separate written memoranda to all LACAA bargaining unit employees that again confirmed the threat that the City would unilaterally impose a

36 day a year furlough regime on the LACAA bargaining unit if the agreement between the CAO and the Coalition and/or the CAO's proposed agreement with LACAA was not ratified. Additionally, the City Attorney also allowed use of its internal electronic mail system for the purpose of campaigning in favor of ratifying the agreement(s). Finally, managerial employees campaigned in favor of ratification by coercing bargaining unit employees through threats that the 36 furlough days would be implemented, without any additional bargaining between LACAA and the CAO and/or the CAO and LACAA, in the event the agreement(s) was/were not ratified.

By these and other actions, the City Attorney has restrained, coerced and threatened LACAA bargaining unit employees in the free exercise of the rights granted to them under the ERO. As such, LACAA respectfully requests the ERB to find that the City Attorney has violated the ERO and to enter an order requiring the City Attorney to cease and desist from restraining, coercing and threatening LACAA bargaining unit employees with regard to their exercise of the rights and entitlements set forth in the ERO.

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the  
4 age of 18 and not a party to the within action; my business address is 3660 Wilshire  
5 Boulevard, Suite 600, Los Angeles, California 90010. I declare that I am employed in the  
6 office of a member of the bar of this Court at whose direction this service was made.

7 On August 16, 2011, I served the following document(s): **SECOND AMENDED**  
8 **UNFAIR EMPLOYEE RELATIONS PRACTICE CLAIM AGAINST MANAGEMENT**  
9 on interested parties in this action:

10

via email:

11

12 by placing the document listed above in a sealed envelope with  
13 postage thereon fully prepaid, in the United States Mail at Los  
Angeles, California addressed as set forth below.

14

15 by personally delivering the document(s) listed above to the  
person(s) at the address(es) set forth below.

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16 **SEE ATTACHED SERVICE LIST**

17 I am "readily familiar" with the firm's practice of service of process. Under  
18 that practice it would be deposited with U.S. postal service on that same day with  
19 postage thereon fully prepaid at Los Angeles California in the ordinary course of  
20 business.

21 I declare under penalty of perjury that the above is true and correct.

22 Executed on August 16, 2011, at Los Angeles, California.

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25 Diane Morgenstern

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**SERVICE LIST**

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