

**STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD**



STATIONARY ENGINEERS LOCAL 39,

Charging Party,

v.

TEHAMA COUNTY SUPERIOR COURT,

Respondent.

Case No. SA-CE-7-C

PERB Decision No. 1957-C

May 27, 2008

Appearances: Weinberg, Roger & Rosenfeld by Stewart Weinberg, Attorney, for Stationary Engineers Local 39; Wiley, Price & Radulovich by Joseph E. Wiley, Attorney, for Tehama County Superior Court.

Before Neuwald, Chair; McKeag and Rystrom, Members.

DECISION

RYSTROM, Member: This case is before the Public Employment Relations Board (PERB or Board) on appeal by the Tehama County Superior Court (Court) of an administrative law judge's (ALJ) proposed decision (attached). The ALJ found that the Court violated the Trial Court Employment Protection and Governance Act (Trial Court Act)¹ by rejecting Stationary Engineers Local 39's (Local 39) petition for recognition as the representative for a bargaining unit composed of managerial employees based on the Court's local rule.

The Court filed a timely appeal. We have reviewed the entire record, including but not limited to the unfair practice complaint, the proposed decision, the Court's exceptions² thereto,

¹The Trial Court Act is codified at Government Code section 71600, et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

²The Court's request for oral argument was previously denied pursuant to PERB Regulation 32315.* The Board has historically denied requests for oral argument where an adequate record has been prepared, and the parties had an ample opportunity to brief and did,

and Local 39's response to the Court's exceptions. Based on this review, we adopt the ALJ's proposed decision combined with the following for the decision of the Board.

DISCUSSION

On September 27, 2006, Local 39, which at the time represented a bargaining unit composed of non-managerial employees, filed a petition for recognition on behalf of a bargaining unit composed of managerial employees. On October 16, 2006, the Court denied the petition on the ground that Employer/Employee Relations Policy (EERP) Article 3.0 of its local rules prohibited the same employee organization from representing both managerial and non-management employees of the Court.³

Local 39 filed an unfair practice charge against the Court on October 17, 2006, which alleged that the Court violated Section 71636.3 of the Trial Court Act by failing to respond to Local 39's September 27, 2006, amended petition for recognition of a bargaining unit composed of managerial employees. In its amended charge filed on December 15, 2006, Local 39 alleged that EERP Article 3.0 was an unreasonable local rule in that it impermissibly conflicted with Section 71637.1 of the Trial Court Act. Section 71637.1 provides that:

and the issue before the Board is sufficiently clear to make oral argument unnecessary. (United Teachers of Los Angeles (Valadez, et al.) (2001) PERB Decision No. 1453; Montgomery County Office of Education (1991) PERB Decision No. 913.) (*PERB regs. are codified at Cal. Code Regs., tit. 8, sec. 31001, et seq.)

³EERP Article 3.0 provided:

Managerial and confidential employees shall be designated by the court based upon the definitions set forth in section 2 of these Rules. Such employees may not represent any employee organization that represents other employees of the court on matters within the scope of representation. No employee organization . . . representing non-management, non-confidential employees shall be recognized as the representative of any bargaining unit of managerial and/or confidential employees. (Emphasis added.)

For purposes of this article, in addition to those rules and regulations that a trial court may adopt pursuant to, and in the same manner as set forth in, Section 71636, any trial court may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the trial court and restricting those employees from representing any employee organization that represents other employees of the trial court, on matters within the scope of representation. Except as specifically provided otherwise in this article, this section does not otherwise limit the right of employees to be members of, and to hold office in, an employee organization. [Emphasis added.]

Local 39 alleged that this section does not permit the Court to adopt a local rule prohibiting Local 39 from simultaneously representing units of non-managerial and managerial court employees. We find that Local 39's position on this issue is correct.

Throughout this proceeding the Court has justified its actions by arguing that even though the Trial Court Act does not specifically prohibit an employee organization from representing both management and non-management employees, the Court's local rule should nonetheless be found reasonable because such representation is prohibited in three other related labor relations statutes: the Higher Education Employer-Employee Relations Act (HEERA);⁴ the Educational Employment Relations Act (EERA);⁵ and the Ralph C. Dills Act (Dills Act).⁶ The ALJ's ruling that this argument is without merit is correct.

⁴HEERA is codified at Government Code section 3560, et seq. HEERA section 3580 provides, in pertinent part, that "supervisory employees shall not have the rights, or be covered by, any provision or definition established by this chapter."

⁵EERA is codified at Government Code section 3540, et seq. EERA section 3545(b)(2) provides, in pertinent part, that "a negotiating unit of supervisory employees . . . shall not be represented by the same employee organization as employees whom the supervisory employees supervise."

⁶The Dills Act is codified at Government Code section 3512, et seq. Dills Act section 3513(c) provides, in pertinent part, that "'State employee' means any civil service employee of the state . . . except managerial employees, confidential employees [and] supervisory employees" Dills Act section 3518.7 provides, in pertinent part, that

The ALJ held that the Court's reliance on Article 3.0 of its EERP in denying Local 39's recognition petition violated Sections 71636, 71636.3 and 71637.1 of the Trial Court Act and was an unfair practice under Section 71639.1(c) and PERB Regulation 32606(f).

The ALJ found this local rule impermissibly conflicted with the Trial Court Act section 71637.1 by preventing Local 39 from representing both management and non-management employees.

The Court filed three exceptions to the ALJ's decision:

- (1) The ALJ's reliance on Reinbold v. City of Santa Monica (1976) 63 Cal.App.3d 433 [133 Cal.Rptr. 874] (Reinbold) for his conclusion of law that Trial Court Act section 71637.1 does not preclude management from being represented by the same employee organization that represents non-management employees was erroneous.
- (2) The ALJ's failure to address and apply Organization of Deputy Sheriffs v. County of San Mateo (1975) 48 Cal.App.3d 331 [122 Cal.Rptr. 210] (San Mateo) was erroneous.
- (3) The ALJ's finding that EERP Article 3.0 impermissibly conflicts with Trial Court Act section 71637.1 was erroneous.

We find that none of the Court's exceptions has merit. We hold that the ALJ's interpretation of Section 71637.1 based on Reinbold is correct and that San Mateo does not change this result. We agree with the ALJ's analysis that the Court's local rule impermissibly conflicts with the Trial Court Act section 71637.1. We add the following to this analysis.

"Managerial employees and confidential employees shall be prohibited from holding elective office in an employee organization which also represents 'state employees,' as defined in subdivision (c) of Section 3513."

Legislative intent consistent with the ALJ's interpretation of Section 71637.1 is shown by the Legislature's inclusion of a prohibition on employee organizations representing both management and non-management employees in EERA, HEERA and the Dills Act and the failure to include that prohibition in the Trial Court Act. (See Regents of University of California v. Public Employment Relations Bd. (1985) 168 Cal.App.3d 937, 945 [214 Cal.Rptr. 698].)

Additionally, when provisions in a statute have been judicially construed, a subsequent statute on the same subject, using the same language, is generally given a similar interpretation. (County Sanitation Dist. No. 2 v. Los Angeles County Employees' Assn. (1985) 38 Cal.3d 564, 592 [214 Cal.Rptr. 424]; Moreland v. Department of Corporations (1987) 194 Cal.App.3d 506, 512 [239 Cal.Rptr. 558].)

Such is the case regarding Trial Court Act section 71637.1 which became effective January 1, 2001. (Added Stats. 2000, ch. 1010, sec. 14 (SB 2140).) Section 71637.1 contains the same language as the Meyers-Milias-Brown Act (MMBA) section 3507.5,⁷ which has existed as presently written since being amended in 1969. (Added by Stats. 1968, ch. 1277, sec. 1.) In Reinbold, MMBA section 3507.5 was interpreted as follows:

Section 3507.5 merely precludes management from representing nonmanagement [sic] employees; the language does not preclude management from being represented by the bargaining organization. Any concern that there may be a conflict of interest between management and the other employees, is obviated by the fact that it is not management representing the employees.

The above-referenced interpretation of the identical language at issue in this case existed more than 30 years before the Legislature enacted Trial Court Act section 71637.1.

⁷MMBA is codified at Government Code section 3500, et seq.

This suggests a legislative intent that Section 71637.1 should be similarly interpreted and we so hold.

CONCLUSION

The Board finds the proposed decision to be a correct statement of the law and well-reasoned. Accordingly, we adopt it as the decision of the Board with the addition of the above.

ORDER

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, it is found that the Tehama County Superior Court (Court) violated the Trial Court Employment Protection and Governance Act (Trial Court Act), Government Code section 71600, et seq. The Court violated the Trial Court Act by rejecting the petition for recognition submitted by Stationary Engineers Local 39 (Local 39).

Pursuant to Section 71639.1(c) of the Trial Court Act, it is hereby ORDERED that the Court and its representative shall:

A. CEASE AND DESIST FROM:

1. Rejecting Local 39's petition for recognition for a bargaining unit of managerial employees because Local 39 currently represents a bargaining unit of the Court's non-managerial employees.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE TRIAL COURT ACT:

1. Process and consider Local 39's petition for recognition without consideration of whether the managerial bargaining unit would be represented by the same employee organization that represents a bargaining unit of non-managerial employees.
2. Rescind that part of Article 3.0 of the Court's Employer/Employee Relations Policy that prohibits an employee organization that is a recognized employee

organization representing non-management, non-confidential employees from being recognized as the representative of any bargaining unit of managerial and/or confidential employees.

3. Within ten (10) workdays of the service of a final decision in this matter, post at all work locations where notices to managerial employees customarily are posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the Court, indicating that it will comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material.

4. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board, or the General Counsel's designee. All reports regarding compliance with this Order shall be concurrently served on Local 39.

Chair Neuwald and Member McKeag joined in this Decision.

**NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California**



After a hearing in Unfair Practice Case No. SA-CE-7-C, Stationary Engineers Local 39 v. Tehama County Superior Court in which all parties had the right to participate, it has been found that the Tehama County Superior Court (Court) violated the Trial Court Employment Protection and Governance Act, Government Code section 71600, et seq. by rejecting the petition for recognition for managerial employees submitted by Stationary Engineers Local 39 (Local 39).

As a result of this conduct, we have been ordered to post this Notice and we will:

A. CEASE AND DESIST FROM:

1. Rejecting Local 39's petition for recognition for a bargaining unit of managerial employees because Local 39 currently represents a bargaining unit of the Court's non-managerial employees.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE TRIAL COURT ACT:

1. Process and consider Local 39's petition for recognition without consideration of whether the managerial bargaining unit would be represented by the same employee organization that represents a bargaining unit of non-managerial employees.

2. Rescind that part of Article 3.0 of the Court's Employer/Employee Relations Policy that prohibits an employee organization that is a recognized employee organization representing non-management, non-confidential employees from being recognized as the representative of any bargaining unit of managerial and/or confidential employees.

Dated: _____

TEHAMA COUNTY SUPERIOR COURT

By: _____
Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.

**STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD**



STATIONARY ENGINEERS LOCAL 39,

Charging Party,

v.

TEHAMA COUNTY SUPERIOR COURT,

Respondent.

UNFAIR PRACTICE
CASE NO. SA-CE-7-C

PROPOSED DECISION
(9/28/2007)

Appearances: Weinberg, Roger & Rosenfeld, by Stewart Weinberg and W. Daniel Boone, Attorneys for Stationary Engineers Local 39; Wiley, Price & Radulovich, by Joseph E. Wiley, Attorney for Tehama County Superior Court.

Before Bernard McMonigle, Chief Administrative Law Judge.

PROCEDURAL HISTORY

This case was initiated on October 17, 2006, when Stationary Engineers Local 39 (Union) filed an unfair practice charge against the Tehama County Superior Court (Court). On January 11, 2007, the Office of the General Counsel of the Public Employment Relations Board (PERB or Board) issued a complaint alleging the Court violated the Trial Court Employment Protection and Governance Act (TCEPGA or Act) when it rejected the Union's petition for recognition¹. With this conduct the complaint also alleges that the Court specifically violated sections 71636, 71636.3 and 71637.1 of the Act and is an unfair practice under section 71639.1(c) and PERB Regulation 32606(f)². The conduct was also alleged to derivatively violate employee and employee organization rights under the Act.

On January 24, 2007, the Court filed its answer to the complaint generally denying the allegations. A Board agent conducted a settlement conference on February 23, 2007, but the

¹ The TCEPGA is codified at Government Code section 71600 et. seq.

² Unless otherwise indicated, all statutory references are to the Government Code. PERB regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

matter was not resolved. The undersigned conducted a formal hearing in this matter on June 29, 2007. With the receipt of briefs on August 20, 2007, the matter was submitted for a proposed decision.

FINDINGS OF FACT

The Union is an employee organization within the meaning of TCEPGA section 71601(b) and PERB Regulation 32033(b); the Court is a trial court within the meaning of section 71601(k) and PERB Regulation 32033(a).

On September 27, 2006, Robert Belgeri, a business representative for the Union, submitted to the Court an amended request for recognition as the exclusive representative of a bargaining unit of managerial employees. In relevant part, that request stated:

Unit Description and Showing of Interest:

a. Local 39 seeks to be certified as the exclusive representative of the employees in the unit claimed to be appropriate herein (see paragraph b, below).

b. The unit sought to be represented includes those Court employees holding classifications included within Section 24.0 ("Exhibit B: Managerial Employees") of the EERP.

c. As to the showing of interest, Local 39 makes the affirmative representation that it possesses a showing of interest by way of Local 39 membership applications for over fifty percent (50%) of the unit sought to be represented. Therefore, with this letter Local 39 requests immediate recognition of the unit. If, however, the Court requires further verification, Local 39 is prepared to provide proof of support to the State Mediation and Conciliation Service (hereinafter "SMCS") as an uninterested third party that can conduct the verification process pursuant to Government Code Section 71636.3(c).

On October 16, 2008, the Court through its attorney, Joseph E. Wiley, replied:

Although the Amended Request for Recognition addresses one of the two concerns raised by the Court in its August 25, 2006 response to the original Petition, it does not address the conflict of interest issue set forth in Article 3.0 of the Court's Employer/Employee Relations Policy. That article provides in relevant part: "No employee organization that is a recognized employee organization representing non-management, non-

confidential employees shall be recognized as the representative of any bargaining unit of managerial and/or confidential employees". Inasmuch as Local 39 is the recognized employee organization representing the Court's non-managerial employees, it may not also be recognized as the representative for confidential and managerial employees.

Article 3.0 of the Court's Employer/Employee Relations Policy, referenced by Wiley, states:

Managerial and confidential employees shall be designated by the court based upon the definitions set forth in section 2 of these Rules. Such employees may not represent any employee organization that represents other employees of the court on matters within the scope of representation. No employee organization that is a recognized employee organization representing non-management, non-confidential employees shall be recognized as the representative of any bargaining unit of managerial and/or confidential employees.

As described in the October 16 letter, Stationary Engineers Local 39 currently represents a bargaining unit of the Court's non-managerial employees. For that bargaining unit, the parties are signatory to a memorandum of understanding (MOU), effective October 1, 2006, to September 30, 2011. Section 2.1 of the MOU states:

The Court recognizes the Union as the Exclusive Representative of all of the employees of the Court who hold a classification listed on Exhibit "A" of this Memorandum of Understanding, who are regularly scheduled to work one-half time or more. Excluded from this unit of employees are all, management, confidential, and temporary employees. The provisions of this Memorandum of Understanding hereinafter set forth shall apply only to those employees of the Court for whom the Union is the established Exclusive Representative.

ISSUE

Did the Court violate the Act when it refused to recognize the Union as the exclusive representative of a bargaining unit of managerial employees because the Union represents non-managerial employees?

CONCLUSIONS OF LAW

Initially the Court compares section 3.0 of its policy to section 3545(b)(2) of the Educational Employment Relations Act (EERA)³ which states,

Except as provided in subdivision (c), a negotiating unit of supervisory employees shall not be appropriate unless it includes all supervisory employees employed by the district and shall not be represented by the same employee organization as employees whom the supervisory employees supervise.

The Court contends that EERA reflects the inherent conflicts of interest that exist when managers are represented by the same union that represents non-managers of the same employer. According to the Court, such conflicts include a grievance procedure that may require an employee to confront or appeal a grievance to a manager, and the varying interests that may exist between the two groups in MOU negotiations.

PERB follows the cited provision in EERA and PERB decisions have recognized the legislative purposes behind it. (See Sacramento City Unified School District (1980) PERB Decision No. 122; Los Angeles Unified School District/Lynwood Unified School District (1984) PERB Decision No. 424.)

However, in this case the recently enacted TCEPGA⁴ is at issue and will decide the matter. When the Board is interpreting a statute section within its jurisdiction for the first time it will look to cases decided under the other statutes administered.⁵ Where “the similarity of language and purpose” is found, the Board will generally follow earlier decisions with similar issues. (State of California (California Department of Corrections) (1980) PERB Decision

³ EERA is the collective bargaining statute covering California's public schools (K-12) and community colleges.

⁴ The TCEPGA became effective August 2004.

⁵ PERB currently administers seven public sector collective bargaining statutes.

No. 127-S.) The Board uses its decisional authority to harmonize the various statutes where appropriate. (City of San Rafael (2004) PERB Decision No. 1698-M.)

However, “in the face of strong evidence of a contrary intent,” the Board is “not free to rewrite the statute.” (Regents of University of California v. Public Employment Relations Bd. (1985) 168 Cal.App.3d 937; 214 Cal.Rptr. 698.) As one court has stated, “The Legislature would be rendered nearly powerless to make changes in law if we were to permit the Board to interpret this obvious change as a attempt to continue the same legal relationships” in the other statutes under its jurisdiction. (Supra.)

Section 71637.1 of the Trial Court Employment Protection and Governance Act states:

For purposes of this article, in addition to those rules and regulations that a trial court may adopt pursuant to, and in the same manner as set forth in, Section 71636, any trial court may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the trial court and restricting those employees from representing any employee organization that represents other employees of the trial court, on matters within the scope of representation. Except as specifically provided otherwise in this article, this section does not otherwise limit the right of employees to be members of, and to hold office in, an employee organization. (Emphasis added.)

The language is clear and the Legislature’s intent is unambiguous. The concepts developed under a statute with dissimilar language has no application here.

However, another of the statutes administered by PERB does contain a provision similar to the one at issue. The Meyers-Milias-Brown Act (MMBA),⁶ the collective bargaining statute covering other county employees in California, states at section 3507.5:

In addition to those rules and regulations a public agency may adopt pursuant to and in the same manner as in Section 3507, any such agency may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the public agency and restricting such employees

⁶ Government Code section 3500 et seq.

from representing any employee organization, which represents other employees of the public agency, on matters within the scope of representation. Except as specifically provided otherwise in this chapter, this section does not otherwise limit the right of employees to be members of and to hold office in an employee organization.

This section of the MMBA has been interpreted to “merely [preclude] management from representing nonmanagement (sic) employees; the language does not preclude management from being represented by the [same] bargaining organization.” (Reinbold v. City of Santa Monica (1976) 63 Cal.App.3d 433.)⁷

The Court also argues that Employer/Employee Relations Policy section 3.0 is authorized by sections 71636(a) and 71637.1 of the Act. There the TCEPGA authorizes the Court to “adopt reasonable rules and regulations” to administer employment relations in addition to the rule found in section 71637.1.

While it is true that the TCEPGA permits an employer to adopt additional reasonable rules, it does not authorize rules that are in conflict with the Act. Rules adopted by the Court must not “frustrate the declared policies and purposes” of the Act. (International Brotherhood of Electrical Workers v. City of Gridley (1983) 34 Cal.3d 191, 202 [193 Cal.Rptr. 518].) Rule 3.0 is in direct conflict with the Legislature’s directive that, “Except as specifically provided in this article, this section does not otherwise limit the right of {management} employees to be members of, and to hold office in, an employee organization.” Accordingly, section 3.0 frustrates the policies of the Act and constitutes an unreasonable regulation.

For these reasons, the Court’s reliance on Employer/Employee Relations Rule 3.0 to reject the Union’s petition for recognition violates the TCEPGA at sections 71636, 71636.3 and 71637.1 and is an unfair practice under section 71639.1(c) and PERB Regulation 32606(f).

⁷ Section 71639.3 of the Act directs PERB to follow judicial interpretations of the MMBA where the language is “the same or substantially the same.”

PROPOSED ORDER

Upon the foregoing findings of fact and conclusions of law, and the entire record in this case, it is found that the Tehama County Superior Court (Court) violated the Trial Court Employment Protection and Governance Act (Act), Government Code section 71600 et seq. The Court violated the Act by rejecting petition for recognition submitted by Stationary Engineers Local 39 (Union).

Pursuant to section 71639.1(c) of the Government Code, it is hereby ORDERED that the Court and its representative shall:

A. CEASE AND DESIST FROM:

1. Rejecting the Union's petition for recognition for a bargaining unit of managerial employees because the Union currently represents a bargaining unit of the Court's non-managerial employees.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Process and consider the Union's petition for recognition without consideration of whether the managerial bargaining unit would be represented by the same employee organization that represents a bargaining unit of non-managerial employees.

2. Rescind that part of Article 3.0 of the Court's Employer/Employee Relations Policy that prohibits an employee organization that is a recognized employee organization representing non-management, non-confidential employees from being recognized as the representative of any bargaining unit of managerial and/or confidential employees.

3. Within ten (10) workdays of the service of a final decision in this matter, post at all work locations where notices to managerial employees customarily are posted,

copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the Court, indicating that it will comply with the terms of this Order. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable step shall be taken to ensure that the Notice is not reduced in size, altered, defaced or covered with any other material.

4. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board (PERB or Board), or the General Counsel's designee. All reports regarding compliance with this Order shall be concurrently served on Stationary Engineers Local 39.

Pursuant to California Code of Regulations, title 8, section 32305, this Proposed Decision and Order shall become final unless a party files a statement of exceptions with the Public Employment Relations Board (PERB or Board) itself within 20 days of service of this Decision. The Board's address is:

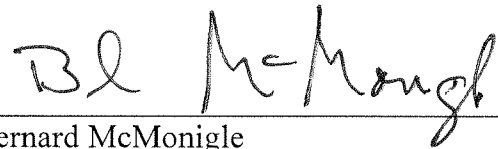
Public Employment Relations Board
Attention: Appeals Assistant
1031 18th Street
Sacramento, CA 95811-4124
(916) 322-8231
FAX: (916) 327-7960

In accordance with PERB regulations, the statement of exceptions should identify by page citation or exhibit number the portions of the record, if any, relied upon for such exceptions. (Cal. Code Regs., tit. 8, sec. 32300.)

A document is considered "filed" when actually received during a regular PERB business day. (Cal. Code Regs., tit. 8, secs. 32135(a) and 32130; see also Government Code sec. 11020(a).) A document is also considered "filed" when received by facsimile transmission before the close of business together with a Facsimile Transmission Cover Sheet which meets

the requirements of California Code of Regulations, title 8, section 32135(d), provided the filing party also places the original, together with the required number of copies and proof of service, in the U.S. mail. (Cal. Code Regs., tit. 8, sec. 32135(b), (c) and (d); see also Cal. Code Regs., tit. 8, secs. 32090 and 32130.)

Any statement of exceptions and supporting brief must be served concurrently with its filing upon each party to this proceeding. Proof of service shall accompany each copy served on a party or filed with the Board itself. (See Cal. Code Regs., tit. 8, secs. 32300, 32305, 32140, and 32135(c).)

A handwritten signature in dark ink, appearing to read "Bl McMonigle", is written over a horizontal line.

Bernard McMonigle
Chief Administrative Law Judge