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7 Alameda County Deputy Sheriff's Association;
Jon Rudolph; James D. Nelson; Darlene Hornsby;
8 Rocky Medeiros; and Alameda County
Management Employees' Association

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11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 FOR THE COUNTY OF CONTRA COSTA
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14 CONTRA COSTA COUNTY DEPUTY
SHERIFFS ASSOCIATION; UNITED
15 PROFESSIONAL FIRE FIGHTERS OF
CONTRA COSTA COUNTY, LOCAL 1230;
16 KEN WESTERMANN; SEAN FAWELL,

17 Petitioners,

18 v.

19 CONTRA COSTA COUNTY EMPLOYEES'
RETIREMENT ASSOCIATION; BOARD
20 OF RETIREMENT OF THE CONTRA
COSTA COUNTY EMPLOYEES'
21 RETIREMENT ASSOCIATION; et al.,

22 Defendants-Respondents.

23 AND RELATED PETITIONS IN
24 INTERVENTION AND CONSOLIDATED
ACTIONS TRANSFERRED FROM OTHER
25 COURTS

Case No. MSN12-1870

JUDGMENT

Honorable Edward G. Weil

Department 39

1 JUDGMENT

2 This action involves three consolidated cases brought against the county employees’
3 retirement associations in Alameda, Contra Costa, and Merced Counties. This Judgment solely
4 applies to the action brought by Petitioners Alameda County Deputy Sheriffs’ Association, Jon
5 Rudolph, James D. Nelson, Darlene Hornsby, Robert Brock, Rocky Medeiros; Service Employees
6 International Union, Local 1021 and Amy Dooha; Alameda County Management Employees’
7 Association; International Federation of Professional and Technical Engineers, Local 21; Teamsters
8 Local 856, Hasani Tabari and Daniel Lister; Building Trades Council of Alameda County and Mike
9 Harteau (collectively, “Petitioners and Intervenors”) against Respondents Alameda County
10 Employees’ Retirement Association and the Board of Retirement of the Alameda County
11 Employees’ Retirement Association (collectively, “ACERA”).

12 Petitioners and Intervenors sought a judgment that AB 197 (2012), and the actions of
13 ACERA to implement AB 197, constituted an unconstitutional impairment of vested, contractual
14 rights of active ACERA members hired before January 1, 2013 (“Legacy Members”) represented by
15 Petitioners and Intervenors. Petitioners and Intervenors also sought a Writ of Mandate from this
16 Court, commanding ACERA to continue to calculate Legacy Members’ retirement allowances in
17 accordance with ACERA’s policies and procedures in place prior to the implementation of AB 197.
18 Petitioners and Intervenors also sought injunctive relief prohibiting ACERA from further
19 implementing AB 197.

20 ACERA answered in defense of their Board’s actions, and took no position on the
21 constitutionality of AB 197. The State of California intervened to defend the constitutionality of AB
22 197. Participating employers were joined as real parties in interest.

23 On or about December 13, 2012, the Court entered its Stay Order, enjoining ACERA from
24 implementing the provisions of AB 197 as to Legacy Members retiring on and after January 1, 2013
25 until further ordered by the Court. No party appealed from the Stay Order or sought it to be
26 modified. When the Stay Order was later dissolved, by its own terms, the Stay Order was dissolved
27 as of that date and not *nunc pro tunc*.

28 On or about March 18, 2014, the Court entered its Decision Upon All Issues (“Decision”).

1 Based upon that Decision, on or about May 12, 2014, the Court entered its Judgment and on or about
2 July 10, 2014 the Court entered its Writ of Mandate, both effective as of July 12, 2014. The
3 Judgment and Writ dissolved the Stay Order and commanded ACERA to implement AB 197
4 pursuant to the terms of the Judgment and Writ.

5 Various parties appealed from the Court's Judgment and Writ. On or about January 8, 2018,
6 the First District Court of Appeal issued its decision, reported at 19 Cal.App.5th 61, affirming in part
7 and reversing in part the Judgment, vacating the Writ to the extent inconsistent with the its decision,
8 and remanding the action to this Court for further determinations.

9 Various parties petitioned for review of the appellate decision by the California Supreme
10 Court. The high court granted review and, on or about July 30, 2020, issued its Opinion, reported at
11 9 Cal.5th 1032, reversing the decision of the Court of Appeals, remanding the matter to that court,
12 with directions to remand to this Court to vacate the Judgment and Writ and to conduct further
13 proceedings consistent with the Opinion. This Judgment is based on the Supreme Court's Opinion
14 and is intended to be consistent with the Opinion.

15 On remand, Intervenor the State of California has requested to be dismissed from the case.
16 Petitioners and ACERA have filed a Joint Motion for Entry of Judgment submitting that there are no
17 further issues that require resolution by this Court.

18 Good cause appearing therefor,

19 IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

20 1. The Judgment and Writ entered on or about May 12, 2014 and July 10, 2014,
21 respectively, hereby are vacated *ab initio*.

22 2. The Stay Order in effect from December 13, 2012 to July 12, 2014 is unaffected by
23 this Judgment.

24 3. Petitioners' and Intervenors' request that AB 197, and the actions of ACERA to
25 implement AB 197 as to ACERA's Legacy Members, be declared unconstitutional impairments of
26 vested contractual rights to have included in their "compensation earnable" (as defined in Govt.
27 Code § 31461 both prior to and after passage of AB 197) the value of accrued leave cash-outs
28 exceeding the amount that was both earned and payable during their "final compensation" period (as

1 defined in Govt. Code § § 31462 and 31462.1), is DENIED.

2 4. Petitioners' and Intervenors' request that the provisions of AB 197 that exclude
3 payments for additional services rendered outside normal working hours from "compensation
4 earnable" (Govt. Code § 31461, subd. (b)(3)), and ACERA's implementation of those provisions, be
5 declared unconstitutional impairments of vested contractual rights of ACERA Legacy Members is
6 DENIED.

7 5. Petitioners' and Intervenors' request that the provisions of AB 197 that authorize
8 exclusion from "compensation earnable" of any compensation found by a retirement board to have
9 been paid to enhance a member's retirement benefit (Govt. Code § 31461, subd. (b)(1)) and
10 ACERA's implementation of those provisions, be declared unconstitutional impairments of the
11 vested contractual rights of ACERA Legacy Members is DENIED, without prejudice to the rights of
12 the Petitioners and Intervenors in the future to challenge any such determinations as set forth in
13 Government Code section 31542 and ACERA's policies and procedures adopted pursuant to
14 Government Code section 31542.

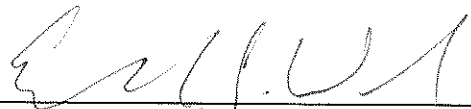
15 6. No declaration, writ of mandamus, judgment, injunction or other relief shall issue in
16 favor of Petitioners and Intervenors.

17 7. The Court hereby enters Judgment in favor of Respondent ACERA and against
18 Petitioners and Intervenors. Petitioners and Intervenors shall take nothing by reason of their
19 petitions and complaints filed herein.

20 8. To the extent any party requests any relief which is not expressly addressed in this
21 Judgment, such relief is DENIED.

22 9. All parties shall bear their own attorneys' fees and costs of suit herein.

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24
25 DATED: November 22, 2021

26 By: 
The Honorable Edward G. Weil
Judge of the Superior Court