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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

Terry C. Cooley, on behalf of
himself and all others similarly
situated,

Plaintiff,

v.

**California Statewide Law
Enforcement Association;
California Association of Law
Enforcement Employees**, as an
individual defendant and as
representative of the class of all
affiliate associations of the California
Statewide Law Enforcement
Association, **Edmund G. Brown**, in
his official capacity of Governor of
the State of California; **Xavier
Becerra**, in his official capacity as

Case No. _____

**Plaintiff's Class-Action Complaint
Jury Trial Demanded**

Attorney General of the State of California; **Eric Banks, Priscilla Winslow, Erich Shiners**, and **Arthur A. Krantz**, in their official capacities as chair and members of the California Public Employment Relations Board,

Defendants.

1 Terry C. Cooley is a former member of the California Statewide Law Enforce-
2 ment Association (CSLEA). He brings this class action on behalf of himself and oth-
3 ers similarly situated, seeking redress for the defendants' past and ongoing violations
4 of his constitutionally protected rights. The defendants have violated Mr. Cooley's
5 constitutional rights by establishing an "agency shop," where employees were com-
6 pelled to pay money to the CSLEA and its affiliates as a condition of employment.
7 *See Agreement Between the State of California and California Statewide Law En-*
8 *forcement Association (CSLEA) Governing Bargaining Unit 7, article 3.1A (at-*
9 *tached as Exhibit 1).* And the defendants are continuing to violate Mr. Cooley's
10 rights by deducting union dues from his paycheck—even after he clearly and une-
11 quivocally communicated to both the union and his employer that he wants to ter-
12 minate his union membership and halt the payroll deductions of union-related fees.

13 Mr. Cooley sues on behalf of three separate classes. The first class consists of all
14 public employees who were compelled to subsidize the CSLEA or its affiliates
15 against their will on account of this unconstitutional agency-shop arrangement. The
16 class includes: (1) employees who refused to join the union and paid "fair share ser-
17 vice fees"; (2) employees who joined the union because they were never informed of
18 their constitutional right to decline union membership and pay a reduced amount in
19 "fair share service fees"; and (3) employees who reluctantly joined the CSLEA or its
20 affiliates but who never would have joined or paid any money to the union had they

1 not been compelled to work in an unconstitutional agency shop. Mr. Cooley seeks a
2 refund of all money that the class members unwillingly paid to the CSLEA or its af-
3 filiates as a condition of their employment—regardless of whether a class member
4 retained or resigned his union membership.

5 The second class consists of public employees who resigned or attempted to re-
6 sign their membership in the CSLEA or its affiliates—yet remained subject to the
7 payroll deduction of union dues because the union refused to honor their resigna-
8 tion or defied their instructions to stop tapping their paycheck. Mr. Cooley, for ex-
9 ample, quit the union after *Janus v. American Federation of State, County, and Mu-*
10 *nicipal Employees, Council 31*, 138 S. Ct. 2448 (2018), and demanded that the un-
11 ion stop taking money from his paycheck. But the union refused to accept his resig-
12 nation and continues to tap his paycheck for membership dues in violation of *Janus*,
13 which forbids public-employee unions to touch the paycheck of a non-union mem-
14 ber unless the employee “clearly and affirmatively consent[s] before any money is
15 taken.” *Janus*, 138 S. Ct. at 2486. Mr. Cooley sues on behalf of all public employ-
16 ees whose paychecks were tapped by the CSLEA or its affiliates after announcing
17 their resignation from the union, and he seeks a refund of these illegally collected
18 membership dues as well as an injunction and punitive damages.

19 The third class consists of all employees in bargaining units represented by the
20 CSLEA or its affiliates who: (1) want to resign their union membership and termi-
21 nate financial support of the union; (2) would choose to leave the union and termi-
22 nate financial support if they were fully informed of their constitutional right to do
23 so; or (3) would decline to opt in to union membership by providing “clear and af-
24 firmative assent” if they were fully informed of their constitutional rights under *Ja-*
25 *nus*. Some of these class members have already tried to quit the union and halt un-
26 ion-related payroll deductions but have been thwarted by the union or by their em-

1 ployer. And all of these class members have been subjected to union-related payroll
2 deductions that they have not knowingly and freely consented to. Mr. Cooley is
3 seeking damages and injunctive relief on behalf of this class, and he asks the Court
4 to enjoin the CSLEA or its affiliates from taking money from any public employee
5 until the union obtains a freely given and fully informed waiver of the employee's
6 constitutional rights under *Janus*.

7 JURISDICTION AND VENUE

8 1. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331, 28
9 U.S.C. § 1343, and 28 U.S.C. § 1367.

10 2. Venue is proper because at least one defendant resides or has its offices locat-
11 ed in this judicial district. *See* 28 U.S.C. § 1391(b)(2).

12 PARTIES

13 3. Plaintiff Terry C. Cooley resides in Sacramento County, California.

14 4. Defendant California Statewide Law Enforcement Association (CSLEA) is a
15 labor union whose offices are located at 2029 H Street, Sacramento, California
16 95811.

17 5. Defendant California Association of Law Enforcement Employees (CALEE)
18 is an affiliate association within CSLEA. It can be served at CSLEA headquarters at
19 2029 H Street, Sacramento, California 95811. It is sued as an individual defendant
20 and as representative of the class of all affiliate associations within the CSLEA.

21 6. Defendant Edmund G. Brown is the governor of California. His office is lo-
22 cated at the State Capitol, Suite 1173, Sacramento, California, 95814. Governor
23 Brown is the representative of the State and is sued in his official capacity.

24 7. Defendant Xavier Becerra is the Attorney General of California. His office is
25 located at 1300 I Street, Sacramento, California 95814-2919. Attorney General
26 Becerra is the chief law officer of the State and is charged with enforcing the State's

1 laws—including section 1157.12(b) of the California Government Code, which the
2 plaintiff is challenging as unconstitutional. Attorney General Becerra is sued in his
3 official capacity.

4 8. Defendants Eric Banks, Priscilla Winslow, Erich Shiners, and Arthur A.
5 Krantz are members of the California Public Employment Relations Board, the enti-
6 ty that oversees public-sector collective bargaining in California and administers the
7 State’s labor and collective-bargaining laws, including section 1157.12(b) of the
8 California Government Code, which the plaintiff is challenging as unconstitutional.
9 Their offices are located at 1031 18th Street, Sacramento, California 95811-4124.
10 They are all sued in their official capacities.

11 **CLAIM NO. 1—UNCONSTITUTIONAL AGENCY SHOP**

12 9. Plaintiff Terry C. Cooley is employed as a police officer by California
13 Exposition, or Cal Expo. He began his employment in June of 2007 as a permanent
14 intermittant employee.

15 10. Before the Supreme Court’s ruling in *Janus*, Mr. Cooley worked in an
16 “agency shop,” where employees were forced to either join the CSLEA and pay full
17 membership dues, or else pay “fair share service fees” to the union as a condition of
18 their employment. *See* Agreement Between the State of California and California
19 Statewide Law Enforcement Association (CSLEA) Governing Bargaining Unit 7,
20 article 3.1A (attached as Exhibit 1).

21 11. Mr. Cooley was enrolled in union membership upon accepting his job with
22 Cal Expo. Mr. Cooley does not recall signing a union-membership card when he
23 started working for Cal Expo and believes that he was automatically enrolled in un-
24 ion membership—although he acknowledges that he may have signed a union-
25 membership card in the stack of paperwork he was given at the outset of his em-
26 ployment. Mr. Cooley is certain, however, that he was never informed of his right to

1 decline union membership and pay “fair-share service fees” when the union enrolled
2 him in membership.

3 12. Mr. Cooley opposed and continues to oppose paying dues to the CSLEA
4 because he disapproves of the CSLEA’s representation of him and feels there is no
5 benefit derived from membership in the union.

6 13. Nevertheless, Mr. Cooley joined in the union at the outset of his employ-
7 ment because no one had informed him of his right to decline union membership.
8 And when Mr. Cooley eventually learned of this option from his fellow police offic-
9 ers, he remained in the union because the difference between the cost of full union
10 membership and the compulsory “fair-share service fees” was so minimal as to be
11 immaterial from a financial standpoint.

12 14. The compelled subsidy that Mr. Cooley and his fellow class members were
13 forced to pay to the CSLEA and its affiliates violated their constitutional rights—
14 regardless of whether they chose to remain in the union and pay full membership
15 dues (as Mr. Cooley did) or resign their membership and pay “fair share service
16 fees” (as others had done). *See Janus v. American Federation of State, County, and*
17 *Municipal Employees, Council 31*, 138 S. Ct. 2448 (2018).

18 15. The Supreme Court’s ruling in *Janus* is retroactive. *See Harper v. Virginia*
19 *Dep’t of Taxation*, 509 U.S. 86, 96 (1993) (“[A] rule of federal law, once an-
20 nounced and applied to the parties to the controversy, must be given fullretroactive
21 effect by all courts adjudicating federal law.”).

22 16. The CSLEA and its affiliates were acting under color of state law by impos-
23 ing these mandatory union payments on Mr. Cooley and his fellow class members.
24 *See, e.g.,* Cal Gov’t Code § 3502.5; *Lugar v. Edmondson Oil Co. Inc.*, 457 U.S. 922
25 (1982).

1 17. Mr. Cooley is suing on behalf of all current and former public employees
2 who were compelled to subsidize the CSLEA or its affiliates against their will on ac-
3 count of this unconstitutional agency-shop arrangement. The class includes: (1) em-
4 ployees who refused to join the union and paid “fair share service fees”; (2) employ-
5 ees who joined the union because they were never informed of their constitutional
6 right to decline union membership and pay a reduced amount in “fair share service
7 fees”; and (3) employees who reluctantly joined the CSLEA or its affiliates but who
8 never would have joined or paid any money to the union had they not been com-
9 pelled to work in an unconstitutional agency shop.

10 18. Mr. Cooley and his fellow class members are entitled to a refund in the
11 amount of the “fair share service fees” that they were forced to pay regardless of
12 whether they retained or resigned his union membership.

13 19. Mr. Cooley has Article III standing to bring these claims. He has suffered
14 injury in fact because he was forced to pay money to the CSLEA as a condition of
15 his employment. The injury was caused by the unconstitutional behavior of the de-
16 fendants, and the injury will be redressed by refunding the money that the union
17 unconstitutionally extracted from Mr. Cooley and his fellow class members.

18 **CLAIM NO. 2—UNCONSTITUTIONAL GARNISHMENT OF WAGES**

19 20. After the Supreme Court’s ruling in *Janus*, Mr. Cooley resigned his union
20 membership and demanded that the union stop all union-related payroll deductions.
21 But the union refused to honor his resignation and continued to take membership
22 dues from his paycheck.

23 21. On July 19, 2018, Mr. Cooley mailed a letter to the CSLEA’s headquarters
24 that announced: “With this letter I am resigning my membership in the union. In
25 accordance with my rights under the Supreme Court’s decision in *Janus v AFSCME*
26 and/or any right-to-work laws or other similar laws of my state, I no longer wish to

1 pay dues or fees to the union. Therefore, I am immediately terminating my mem-
2 bership in the union and all of its affiliates and revoking any previous dues authori-
3 zation, check off, or continuing membership form that I may have signed.” *See Ex-*
4 *hibit 2.*

5 22. The CSLEA refused to honor Mr. Cooley’s resignation or stop the payroll
6 deduction of union dues. Instead, the union wrote back to Mr. Cooley on July 30,
7 2018, and told him that the union’s agreement with the State of California prohibits
8 members of CSLEA from leaving the union until 30 days before the agreement ex-
9 pires on July 1, 2019. The union wrote: “We are unable to cancel your membership
10 with CSLEA as you are a full paying member. Please be advised that the Janus deci-
11 sion did not invalidate the window period for changes in membership status. Pursu-
12 ant to Article 3.1A1 of the Unit 7 Contract, the next opportunity to opt out of
13 membership is the thirty (30) day period prior to expiration of the current MOU,
14 i.e. June 2019. I am hoping your involvement in the next round of negotiations will
15 cause you to reconsider your intentions at that time.” *See Exhibit 3.*

16 23. Article 3.1A1 of the agreement between the CSLEA and the State provides:
17 “[A]ny employee may withdraw from CSLEA by sending a signed withdrawal letter
18 to CSLEA within thirty (30) calendar days prior to the expiration of this Contract.
19 Employees who withdraw from CSLEA under this provision shall be subject to pay-
20 ing a CSLEA Fair Share fee as provided above.” *See Exhibit 1.*

21 24. One day later, on July 31, 2018, the union again took membership dues
22 from Mr. Cooley’s paycheck despite Mr. Cooley’s resignation, and in defiance of his
23 instructions to halt the payroll deduction of union fees. The union took \$91.62
24 from Mr. Cooley’s paycheck of July 31, 2018—approximately 13% of his taxable
25 gross income for that pay period. The same pay stub reveals the union had taken
26 \$350.23 from Mr. Cooley year-to-date, which amounts to 20% of Mr. Cooley’s tax-

1 able gross income for the same period. Fully *one fifth* of Mr. Cooley's earned in-
2 come over the previous year has been diverted to the CSLEA. *See* Exhibit 4.

3 25. After the union ignored his resignation and defied his instructions to stop
4 taking membership dues from his paycheck, Mr. Cooley e-mailed Cal Expo's Hu-
5 man Resources department on September 5, 2018. He wrote: "I have resigned my
6 membership in the California Statewide Law Enforcement Association. The union,
7 however, refuses to accept my resignation because it says I am not allowed to resign
8 until June 2019, and it appears that they intend to keep tapping my paycheck for
9 union dues until then. Because the union will not honor my resignation letter, I ask
10 you to immediately stop diverting my paycheck to the union. I am no longer au-
11 thorizing any payroll deduction of union-related fees, and I revoke any previous
12 consent that I may have given to union-related payroll deductions. I have attached
13 my union-resignation letter and the union's response. Please let me know if there is
14 anything further I need to do to stop the union from taking my wages." *See* Exhibit
15 5.

16 26. The Human Resources department at Cal Expo has not acknowledged or
17 responded to Mr. Cooley's e-mail of September 5, 2018.

18 27. The union's refusal to honor Mr. Cooley's resignation letter violates the
19 Speech Clause and the Supreme Court's ruling in *Janus*. Public employees have a
20 constitutional right resign from their union at any time, and this right cannot be
21 limited by a collective-bargaining agreement negotiated between the union and a
22 public employer. Even before *Janus*, public employees had a constitutional right to
23 quit their union membership and pay fair-share fees instead of membership dues. *See*
24 *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977). The union's belief that
25 it can force an employee to remain a member and prevent him from resigning would
26 not prevail even under the Supreme Court's pre-*Janus* case law.

1 28. The union’s continued garnishment of Mr. Cooley’s wages after he an-
2 nounced his resignation from the union also violates the Speech Clause. *Janus* holds
3 that public-employee unions are forbidden to collect money from a nonmember’s
4 wages unless the employee “clearly and affirmatively consent[s] before any money is
5 taken.” *Janus*, 138 S. Ct. at 2486. Mr. Cooley ceased to be a member of the
6 CSLEA and its affiliates when the union received his resignation letter of July 18,
7 2018. *See* Exhibit 2. Now that Mr. Cooley has quit the union, the union is forbid-
8 den to touch his paycheck unless it secures Mr. Cooley’s clear, affirmative, and freely
9 given consent in advance.

10 29. A union cannot negotiate away the *Janus* rights of its employees in a collec-
11 tive-bargaining agreement with a public employer.

12 30. The CSLEA has committed the torts of conversion and trespass to chattels
13 by taking and redirecting money from Mr. Cooley’s paycheck without securing his
14 clear, affirmative, and freely given consent—and they are continuing to commit
15 those torts by taking union membership dues from Mr. Cooley against his clearly
16 expressed wishes.

17 31. The union’s defiance of Mr. Cooley’s instructions to terminate his union
18 membership and halt the payroll deductions of union dues exposes the union to pu-
19 nitive damages.

20 32. Section 1157.12(b) of the California Government Code requires public em-
21 ployers to “[d]irect employee requests to cancel or change deductions for employee
22 organizations to the employee organization, rather than to the public employers.”
23 *See* Exhibit 6. Section 1157.12(b) also requires public employers to “rely on infor-
24 mation provided by the [union] regarding whether deductions for [a union] were
25 properly canceled or changed, and the [union] shall indemnify the public employer
26 for any claims made by the employee for deductions made in reliance on that infor-

1 mation.” *Id.* Finally, section 1157.12(b) provides that payroll deductions “may be
2 revoked only pursuant to the terms of the employee’s written authorization.” *Id.*

3 33. Each of these provisions in section 1157.12(b) is unconstitutional. A public
4 employer must immediately halt union-related payroll deductions upon learning that
5 an employee has withdrawn his “affirmative consent” to those assessments—
6 regardless of whether the employee funnels his request through the union or sub-
7 mits his request directly to the public employer. *See Janus*, 138 S. Ct. at 2486. It is
8 equally unconstitutional to limit a public employee’s right to terminate payments to
9 a union that he no longer supports. *See Janus*, 138 S. Ct. at 2486.

10 34. Mr. Cooley is suing on behalf of all employees in bargaining units represent-
11 ed by the CSLEA or its affiliates who, at any time after *Janus*: (1) informed the un-
12 ion or their employer that they wished to terminate their union membership or the
13 payroll deduction of union fees; and (2) had union fees diverted from their paycheck
14 after informing the union or their employer of their desire to terminate union mem-
15 bership or halt the diversion of union fees. The class includes anyone who comes
16 within the class definition at any time before the conclusion of this action.

17 35. Mr. Cooley has Article III standing to bring these claims. He has suffered
18 injury in fact because the union and his employer have taken money from his
19 paycheck after he informed them that he wanted these payroll deductions to stop.
20 These injuries are caused by the unconstitutional behavior of the defendants, and
21 the injury will be redressed by a refund of money that the union unlawfully took
22 from Mr. Cooley and his fellow class members, as well as an injunction that bars the
23 collection of membership dues from any employee who has not knowingly and vol-
24 untarily waived his constitutional right to withhold payments from the union.

**CLAIM NO. 3—FAILURE TO SECURE FREELY GIVEN
AND FULLY INFORMED CONSENT**

36. Mr. Cooley has never provided his freely given and fully informed consent to the payment of union membership dues. When Mr. Cooley was enrolled in union membership at the time of his hiring, he was never informed of his constitutional right to decline union membership and pay a reduced amount in “fair share service fees.” Mr. Cooley was led to believe that union membership was a mandatory condition of his employment, and he joined the union under that mistaken understanding.

37. Mr. Cooley also believes that he was automatically enrolled in the union at the time of his hiring, although he acknowledges that he may have filled out a union-membership card in his stack of new-hire documents. But even if Mr. Cooley had signed a union-membership card, he did not provide his fully informed consent because he was not told and did not know that union membership was optional.

38. In addition, Mr. Cooley “agreed” to become a union member and pay membership dues while working in an unconstitutional agency shop, where he was compelled to pay *at least* the amount of “fair share service fees” to the union regardless of whether he joined. An employee who joins the union under these circumstances has consented to pay only the *difference* between full membership dues and the “fair share service fees” that would have been imposed whether they joined the union or not. Any agreement by Mr. Cooley to pay that difference does not represent “consent” to pay full membership dues in a right-to-work situation.

39. Finally, a waiver of constitutional rights cannot be presumed, and must be “freely given and shown by ‘clear and compelling’ evidence.” *Janus*, 138 S. Ct. at 2486. The union cannot tap Mr. Cooley’s paycheck—or any other employee’s paycheck—unless it can show that the employee has *waived* his constitutional right

1 to withhold payments to a public employee union, and such a waiver must be “freely
2 given and shown by ‘clear and compelling’ evidence.” *Janus*, 138 S. Ct. at 2486.
3 The unions cannot make this showing when Mr. Cooley was neither informed nor
4 aware of his constitutional right to decline union membership when he joined the
5 union.

6 40. The CSLEA cannot treat a public employee’s pre-*Janus* consent to union
7 membership as a “freely given” waiver of that employee’s constitutional right to
8 withhold payments to the union in a post-*Janus*, right-to-work setting. Any such
9 waiver of a public employee’s *Janus* rights must be fully informed, freely given, and
10 shown by clear and compelling evidence. *See Janus*, 138 S. Ct. at 2486. The Court
11 should therefore: (1) Declare that Mr. Cooley’s consent to pay union-membership
12 dues while working in an unconstitutional agency shop is legally insufficient to allow
13 payroll deductions to continue in a post-*Janus*, right-to-work environment; and (2)
14 Enjoin the CSLEA from deducting union-related fees from an employee’s paycheck
15 until the employee provides written authorization that: (a) post-dates the Supreme
16 Court’s ruling in *Janus*; and (b) shows that the employee knowingly and freely
17 waived his or her constitutional right to resign from union membership and with-
18 hold payments to the union.

19 41. Mr. Cooley is suing on behalf of all employees in bargaining units represent-
20 ed by the CSLEA or its affiliates who: (1) want to resign or have attempted to resign
21 their union membership and terminate financial support of the union; or (2) would
22 choose to leave or would have chosen to leave the union and terminate financial
23 support if they were fully informed of their constitutional right to do so; or (3)
24 would decline to opt in to union membership by providing “clear and affirmative
25 assent” if they were fully informed of their constitutional rights under *Janus*. The

1 class includes anyone who comes within the class definition at any time before the
2 conclusion of this action.

3 42. Mr. Cooley has Article III standing to bring these claims. He has suffered
4 injury in fact because the union and his employer have taken money from his
5 paychecks without securing his fully informed and freely given consent. These inju-
6 ries are caused by the unconstitutional behavior of the defendants, and the injury
7 will be redressed by a refund of money that the union unlawfully collected from the
8 plaintiff and his fellow class members, as well as an injunction that bars the collec-
9 tion of membership dues from any employee who has not knowingly and voluntarily
10 waived his constitutional right to withhold payments from the union.

11 CAUSES OF ACTION

12 43. Mr. Cooley is suing the defendants under 42 U.S.C. § 1983 and the Declar-
13 atory Judgment Act, 28 U.S.C. § 2201, each of which supplies a cause of action for
14 the individual and class-wide relief that they are requesting.

15 44. Mr. Cooley is also suing the CSLEA and its affiliates under the state-law
16 torts of conversion, trespass to chattels, replevin, and any other state-law cause of
17 action that offers relief for this unlawful seizure of his personal property. Mr. Cooley
18 invokes the supplemental jurisdiction of this court over these pendent state-law
19 claims. *See* 28 U.S.C. § 1367.

20 DEMAND FOR RELIEF—CLAIM NO. 1

21 45. Mr. Cooley respectfully requests that the court:

- 22 a. certify a plaintiff class of all public employees who were compelled to
23 subsidize the CSLEA or its affiliates against their will on account of
24 the union's unconstitutional agency-shop arrangements;
- 25 b. certify a defendant class of all unions affiliated with the CSLEA;

- c. order the CSLEA and its affiliates to refund to every class member an amount equal to the “fair share service fees” that each class member was forced to pay regardless of whether they retained or resigned their union membership, along with pre-judgment and post-judgment interest;
- d. award costs and attorneys’ fees under 42 U.S.C. § 1988;
- e. grant all other relief that the Court may deem just, proper, or equitable.

DEMAND FOR RELIEF—CLAIM NO. 2

46. Mr. Cooley respectfully requests that the court:

- a. certify a plaintiff class of all employees in bargaining units represented by the CSLEA or its affiliates who, at any time after *Janus*: (1) informed the union or their employer that they wished to terminate their union membership or the payroll deduction of union fees; and (2) had union fees diverted from their paycheck after informing the union or their employer of their desire to terminate union membership or halt the diversion of union fees;
- b. certify a defendant class of all unions affiliated with the CSLEA;
- c. declare that the CSLEA is violating Mr. Cooley’s constitutional rights by taking union membership dues from his paycheck after he had clearly communicated his desire to resign his union membership and stop the payroll deductions of union-related fees;
- d. declare that the CSLEA is violating state tort law by garnishing and redirecting the wages of Mr. Cooley and his fellow class members without first obtaining their knowing, written, and freely given consent, and that any federal or state law or collective-bargaining

1 agreement that purports to override these protections of state tort
2 law is unconstitutional, void, and without legal effect;

3 e. declare that Cal. Gov't Code § 1157.12(b) violates the constitution-
4 al rights of Mr. Cooley and his fellow class members, and perma-
5 nently enjoin the defendants from enforcing it;

6 f. declare that all provisions in collective-bargaining agreements nego-
7 tiated by the CSLEA and its affiliates that instruct a public employer
8 to deduct union-related fees from an employee's paycheck upon the
9 union's request and without regard to whether the employee has
10 "clearly and affirmatively consented" to these payroll deductions are
11 unconstitutional, void, and without legal effect;

12 g. declare that article 3.1A1 of the Agreement Between the State of
13 California and California Statewide Law Enforcement Association
14 (CSLEA) Governing Bargaining Unit 7, article 3.1A is unconstitu-
15 tional, void, and without legal effect, and permanently enjoin the
16 defendants from enforcing it;

17 h. permanently enjoin the defendants, along with their officers, agents,
18 servants, employees, attorneys, and any other person or entity in ac-
19 tive concert or participation with them, from entering into or en-
20 forcing any collective bargaining agreement that purports to limit an
21 employee's constitutional right to resign his union membership in
22 any way, or that purports to limit an employee's constitutional right
23 to withdraw financial support from the union upon resigning his un-
24 ion membership, regardless of the time of year that the employee as-
25 serts that right;

- i. order the CSLEA and its affiliates to refund all union-related fees that they took or re-directed from Mr. Cooley and his fellow class members after they had announced their desire to resign from the union or to withdraw financial support, along with pre-judgment and post-judgment interest;
- j. order the CSLEA and its affiliates to pay punitive damages to Mr. Cooley and other class members who, at any time after *Janus*, clearly communicated their desire to resign from the union or instructed the union to stop taking money from their paychecks, and whose instructions were disregarded or ignored;
- k. order the CSLEA and its affiliates to immediately honor and enforce a public employee's decision to resign from the union and withdraw financial support, regardless of the time of year that the decision is made and regardless of any law or previous agreement that purports to limit the employee's ability to resign from the union or halt the payment of union-related fees;
- l. permanently enjoin the CSLEA and its affiliates, along with their officers, agents, servants, employees, attorneys, and any other person or entity in active concert or participation with them, from taking or redirecting any money from any public employee who has announced their resignation from union membership, regardless of the time of year that the decision is made, regardless of how the employee chooses to communicate the resignation, and regardless of any law or previous agreement that purports to limit the employee's ability to quit the union or withdraw financial support from the union, unless and until that employee provides written consent to

1 those payroll deductions that post-dates the Supreme Court's ruling
2 in *Janus* and that includes the following language: "I understand
3 that I am not required to join the union or pay money to the union
4 as a condition of my employment. I further understand that I have a
5 constitutional right to withhold all monetary payments to the union
6 simply by resigning my union membership, and I understand that
7 the union owes me a duty of fair representation regardless of whether
8 I remain a member of the union or give money to the union.
9 Nevertheless, I am freely choosing to waive my constitutional rights
10 under the Supreme Court's ruling in *Janus v. American Federation*
11 *of State, County, and Municipal Employees, Council 31*, 138 S. Ct.
12 2448 (2018), and I knowingly and freely consent to union member-
13 ship and to the payroll deduction of union membership dues. I un-
14 derstand that I may revoke my consent to the payroll deductions of
15 union membership dues at any time by notifying my employer's pay-
16 roll department in person, in writing, or over e-mail."

17 m. award costs and attorneys' fees under 42 U.S.C. § 1988;

18 n. grant all other relief that the Court may deem just, proper, or equi-
19 table.

20 **DEMAND FOR RELIEF—CLAIM NO. 3**

21 47. Mr. Cooley respectfully requests that the court:

22 a. certify a plaintiff class of all employees in bargaining units represent-
23 ed by CSLEA or its affiliates who either: (1) want to resign or have
24 attempted to resign their union membership and terminate financial
25 support of the union; or (2) would choose to leave or would have
26 chosen to leave the union and terminate financial support if they

1 were fully informed of their constitutional right to do so; or (3)
2 would decline to opt in to union membership by providing “clear
3 and affirmative assent” if they were fully informed of their constitu-
4 tional rights under *Janus*;

5 b. certify a defendant class of all unions affiliated with CSLEA;

6 c. declare that the CSLEA and its affiliates have violated the constitu-
7 tional rights of Mr. Cooley and his fellow class members by failing
8 to inform them of their constitutional right to decline union mem-
9 bership and pay “fair share service fees” before enrolling them in un-
10 ion membership and diverting union-membership dues from their
11 paychecks before *Janus*;

12 d. order the CSLEA and its affiliates to refund the difference between
13 full membership dues and “fair share service fees” that they collected
14 from any class members who would have opted for “fair share ser-
15 vice fees” had they been informed of their constitutional right to do
16 so, along with pre-judgment and post-judgment interest;

17 e. permanently enjoin the defendants, along with their officers, agents,
18 servants, employees, attorneys, and any other person or entity in ac-
19 tive concert or participation with them, from deducting or collecting
20 union membership dues from the paychecks of public employees un-
21 less and until that employee provides written consent to those pay-
22 roll deductions that post-dates the Supreme Court’s ruling in *Janus*
23 and that includes the following language: “I understand that I am
24 not required to join the union or pay money to the union as a con-
25 dition of my employment. I further understand that a have a consti-
26 tutional right to withhold all monetary payments to the union simp-

1 ly by resigning my union membership, and I understand that the
2 union owes me a duty of fair representation regardless of whether I
3 remain a member of the union or give money to the union. Never-
4 theless, I am freely choosing to waive my constitutional rights under
5 the Supreme Court's ruling in *Janus v. American Federation of*
6 *State, County, and Municipal Employees, Council 31*, 138 S. Ct.
7 2448 (2018), and I knowingly and freely consent to union member-
8 ship and to the payroll deduction of union membership dues. I un-
9 derstand that I may revoke my consent to the payroll deductions of
10 union membership dues at any time by notifying my employer's pay-
11 roll department in person, in writing, or over e-mail."

12 f. award costs and attorneys' fees under 42 U.S.C. § 1988;

13 g. grant all other relief that the Court may deem just, proper, or equi-
14 table.

Respectfully submitted.

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* *pro hac vice* application
forthcoming

Dated: November 13, 2018

*Counsel for Plaintiff and
the Proposed Classes*



Agreement Between

The State of California and

California Statewide Law Enforcement Association (CSLEA)

covering

BARGAINING UNIT 7

PROTECTIVE SERVICES AND PUBLIC SAFETY

Effective

July 2, 2016 through July 1, 2019

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hold harmless the State of California or agencies thereof, from both workers' compensation liability and any costs of legal defense incurred as a result of the filing of the claim.

ARTICLE 3 – DUES DEDUCTION/ORGANIZATIONAL SECURITY

3.1 Union Security

- A. The State agrees to deduct and transmit to CSLEA all membership dues authorized on a form provided by the Union. Effective with the beginning of the first pay period following ratification of this agreement by the Legislature and the Union the State agrees to deduct and transmit to the Union Fair Share fees from State employees in Unit 7 who do not become members of CSLEA. The State and CSLEA agree that a system of authorized dues deductions and a system of Fair Share deductions shall be operated in accordance with Government Code sections 3513(h), 3513(j), 3515, 3515.6, 3515.7, and 3515.8, subject to the following provisions:
1. A written authorization for CSLEA dues deductions in effect on the effective date of this Contract or thereafter submitted shall continue in full force and effect during the life of this Contract; provided, however, that any employee may withdraw from CSLEA by sending a signed withdrawal letter to CSLEA within thirty (30) calendar days prior to the expiration of this Contract. Employees who withdraw from CSLEA under this provision shall be subject to paying a CSLEA Fair Share fee as provided above.
 2. The amount of membership dues, Fair Share fees and other lawful deductions shall be set by CSLEA and changed by the State upon written notice from CSLEA. CSLEA agrees to notice all affected employees any time there is a change in membership dues, Fair Share fees or other deductions.
 3. CSLEA agrees to indemnify, defend and hold the State harmless against any claims made of any nature and against any suit instituted against the State arising from its check-off for CSLEA deductions. CSLEA further agrees that the State employer shall not be liable in any action brought by a State employee seeking recovery of, or damages for, improper use or calculation of Fair Share fees and CSLEA agrees to hold the State employer harmless for any such action. Under no circumstances is membership in CSLEA or payment of CSLEA Fair Share fees a condition of State employment for employees covered by this Contract.
 4. Pursuant to Government Code section 3515.7(c), any employee who is a member of a religious body whose traditional tenets or teachings include objections to joining or financially supporting employee organizations shall not be required to financially support CSLEA. That employee, in lieu of a membership fee or a Fair Share fee deduction, shall instruct the State employer, via a means prescribed by the State Controller, to deduct and pay

sums equal to the Fair Share fee to a non-religious, non-labor organization, charitable fund approved by the California Victim Compensation and Government Claims Board for receipt of charitable contributions by payroll deductions.

If an employee who holds conscientious objections pursuant to this item requests individual representation in a grievance, arbitration, or administrative hearing from CSLEA, CSLEA may charge the employee for the reasonable cost of such representation.

5. An employee who pays a Fair Share fee shall be entitled to fair and impartial representation by CSLEA. A breach of this duty shall be deemed to have occurred if CSLEA's conduct in representation is arbitrary, discriminatory, or in bad faith.
6. CSLEA agrees to keep an adequate record of its financial transactions and shall make available annually, to the Public Employment Relations Board (PERB) and to employees in Unit 7, within ninety (90) days after the end of its fiscal year, a detailed written financial report in the form of a balance sheet and an operating statement, certified as to accuracy by the president and treasurer or comparable officers of CSLEA. In the event of failure to comply with this section, any employee or the State employer in Unit 7 may petition the PERB for an order compelling compliance.
7. CSLEA agrees to notify any State employee who pays a Fair Share fee, and who has not previously received such notification, of his/her right to demand and receive from CSLEA a return of any part of that fee paid by him/her which represents the employee's traditional prorated share of expenditures by CSLEA that is either in aid of activities or of a partisan political or ideological nature only incidentally related to the employee's terms and conditions of employment, or applied toward the cost of any other benefits available only to members of CSLEA.
8. A Fair Share form of organizational security enacted pursuant to this section may be rescinded by a majority of those votes cast by employees in Unit 7, provided that:
 - a. A request for such a vote is supported by a petition containing the signature of at least thirty percent (30%) of the permanent full-time employees in the unit;
 - b. The vote is by secret ballot; and
 - c. The vote may be taken at any time during the term of this Agreement.

If the PERB determines that the appropriate number of signatures have been collected, it shall conduct the vote in a manner which it shall prescribe.

9. CSLEA agrees to fulfill the administrative requirements of the State Controller's Office in conjunction with this provision, and to pay administrative costs incurred by the State Controller, consistent with the provisions of Government Code 1153, section B, provided however, that any increase in such costs shall be applied to CSLEA on a basis consistent with their applications to other recognized bargaining agents.
10. No provisions of this Article nor any disputes arising thereunder shall be subject to the grievance and arbitration procedure contained in this Contract.

3.2 Release of Home Addresses

A. Home Addresses - Generally

Consistent with PERB regulations and State law, the State shall continue to provide CSLEA with home addresses on a monthly basis for all non-law enforcement related employees covered by this contract until it expires.

Notwithstanding any other provision of this agreement, any employee may have his/her home address withheld from the union at any time by submitting a written request to his/her appointing power on a form provided by the State.

B. Home Address Withholding By Non-Law Enforcement Related Employees

Effective one (1) month following ratification of this agreement by both parties, the State will no longer use an Employee Action Request form that provides Unit 7 employees who perform non-law enforcement related functions with the option of having their home address withheld from CSLEA. Instead, employees who perform non-law enforcement related functions will, upon request, be given a separate form by their appointing power that permits two (2) choices: (1) withhold their address from CSLEA, or (2) to cancel a previous withhold request thereby permitting release of their home address to CSLEA.

C. Home Address Withhold Notification to Non-Law Enforcement Related Employees

Within one (1) month following ratification of this agreement by both parties, the State will send a letter to all Unit 7 employees who perform non-law enforcement related functions who have previously requested that their home address remain confidential. The letter will provide said employees with the option to cancel their previous withhold request thereby permitting release of their home address to CSLEA. Home address withhold requests from employees who do not respond to the letter will continue to be honored by the parties.

D. Release and Use of Addresses

The State Controller's Office will send CSLEA a list of all Unit 7 employees who, pursuant to subsection (C) above, either did not respond or responded by

California Statewide Law Enforcement Association
2029 H Street
Sacramento, CA 95811

To whom it may concern:

I am employed by California State Fair & Exposition Police Department. With this letter I am resigning my membership in the union. In accordance with my rights under the Supreme Court's decision in *Janus v AFSCME* and/or any right-to-work laws or other similar laws of my state, I no longer wish to pay dues or fees to the union. Therefore, I am immediately terminating my membership in the union and all of its affiliates and revoking any previous dues authorization, check off, or continuing membership form that I may have signed. I understand that I may rejoin at a later time if I believe that membership is in the best interests of me, my family, and those in my work environment who rely on me.

If you refuse to accept my resignation at this time and/or refuse to cease charging me dues and/or fees, I request that you hold this letter until such time as you believe that I can resign effectively, and honor this letter and my resignation and revocation request at that time. If you refuse to accept my resignation at this time and/or refuse to cease charging dues and/or fees, please inform me of the reason or reasons why I cannot resign immediately, and the date(s) at which you believe I can effectively resign, along with any further steps that are necessary. If there is a "window" period during which I can resign or revoke any withholding authorizations or checkoffs, please send me a copy of all controlling documents which state what this window period is for me, such as any bylaws, checkoff cards and/or authorizations.

Please be aware that my right to refrain from paying fees to the union is a constitutional right to free speech protected under *Janus*. If I am denied that right, I may take legal action to enforce my rights.

Sincerely,

Terry Cooley
Galt, CA 95632



Signature: Ta Dated: 7-18-18

1ST LETTER SENT:
7-19-18 VIA USPS

CALIFORNIA STATEWIDE LAW ENFORCEMENT ASSOCIATION

2029 H STREET, SACRAMENTO, CALIFORNIA 95811

WWW.CSLEA.COM



PH. 916447.5262
800.522.2873
FAX 916492.0504

July 30th, 2018

To: Terry Cooley

From: CSLEA Headquarters
2029 H. Street
Sacramento, CA. 95824

Subject: 2018 Membership

Terry,

We are unable to cancel your membership with CSLEA as you are a full paying member. Please be advised that the Janus decision did not invalidate the window period for changes in membership status. Pursuant to Article 3.1A1 of the Unit 7 Contract, the next opportunity to opt out of membership is the thirty (30) day period prior to expiration of the current MOU. i.e. June 2019. I am hoping your involvement in the next round of negotiations will cause you to reconsider your intentions at that time.

If there are specific concerns which prompted your request, please contact me at fbassiouny@cslea.com so that I may address them. I would also encourage you to visit www.cslea.com to remain up to date on all issues affecting our members and to appreciate the importance of union membership.

Faith Bassiouny
Membership Coordinator
fbassiouny@CSLEA.com

P.O. BOX 15649
SACRAMENTO, CA 95852-1649

Terry C. Cooley

Check Date: 10/15/2018

Period End: 9/30/2018

Account #	Amount
***0005	439.90

Dept # 600
Employee # 18457

USA Taxes: M - 3

CA Taxes: M - 3 - 0

	Amount	YTD Amount
Net Pay	439.90	3,561.89
Taxable Gross	589.72	4,613.72

Pay	Qty	Rate	Amount	YTD Amount
Reg Hourly	22.00	25.64	564.08	4,249.81
Overtime		38.47		134.65
Holiday	1	25.64	25.64	204.12
ITO		25.14		25.14
Pay Totals	23.00		589.72	4,613.72

Deductions	Amount	YTD Amount	Deductions	Amount	YTD Amount
Federal Tax	44.33	433.33			
State Tax	5.32	109.75			
Medicare	8.55	66.90			
CLSEA Dues	91.62	441.85			
CERBT (OPEB)	0.00	0.00			
Ded Totals				149.82	1,051.83

Employer Contributions	Amount	YTD Amount
Medicare	8.55	66.90
CERBT (OPEB) ER		0.00
Employer Totals	8.55	66.90

Leave Balances

	As of 9/15/2018	Earned Sep 2018	Used 9/16-9/30	As of 10/01/2018
Holiday Credit	1.00			1.00
Personal Holiday	1.00			1.00
Personal Development Days	2.00			2.00
PLP 2012 for R12 - No Cash Out	5.00			5.00
Sick Leave	48.00			48.00
Service Months	7.00			7.00
Vacation	31.25			31.25

Please verify that the Personnel Office has a valid mailing address on file for delivering form W-2s. You may login to Cal Expo's self-serve to review your current address. For any changes, please contact the Personnel Office at (916)263-3114

CASickWell is available for use after 90 employed days. Check with Supervisor for eligibility.

If you have questions regarding your payroll, please call the Payroll Department at (916) 263-2329 or email at payroll@calexpo.com.

Please consult your individual bargaining unit contract at <http://www.calhr.ca.gov/state-hr-professionals/Pages/bargaining-contracts.aspx> for descriptions of leave and how to earn and use your leave.

Personal Development Days need to be used by June 30th each year or this time is forfeited.

From: Terry C Cooley [REDACTED]

Subject: Resigned my membership in the California Statewide Law Enforcement Association

Date: September 5, 2018 at 5:05:06 PM PDT

To: personnel@calexpo.com

Dear Cal Expo Human Resources:

I have resigned my membership in the California Statewide Law Enforcement Association. The union, however, refuses to accept my resignation because it says I am not allowed to resign until June 2019, and it appears that they intend to keep tapping my paycheck for union dues until then.

Because the union will not honor my resignation letter, I ask you to immediately stop diverting my paycheck to the union. I am no longer authorizing any payroll deduction of union-related fees, and I revoke any previous consent that I may have given to union-related payroll deductions.

I have attached my union-resignation letter and the union's response. Please let me know if there is anything further I need to do to stop the union from taking my wages.

Sincerely,

Terry Cooley

West's Annotated California Codes
Government Code (Refs & Annos)
Title 1. General
Division 4. Public Officers and Employees (Refs & Annos)
Chapter 1. General
Article 6. Salary and Wage Deductions (Refs & Annos)

West's Ann.Cal.Gov.Code § 1157.12

§ 1157.12. Public employers other than the state; administration procedures

Effective: June 27, 2018

[Currentness](#)

Public employers other than the state that provide for the administration of payroll deductions authorized by employees for employee organizations as set forth in [Sections 1152](#) and [1157.3](#) or pursuant to other public employee labor relations statutes, shall:

(a) Rely on a certification from any employee organization requesting a deduction or reduction that they have and will maintain an authorization, signed by the individual from whose salary or wages the deduction or reduction is to be made. An employee organization that certifies that it has and will maintain individual employee authorizations shall not be required to provide a copy of an individual authorization to the public employer unless a dispute arises about the existence or terms of the authorization. The employee organization shall indemnify the public employer for any claims made by the employee for deductions made in reliance on that certification.

(b) Direct employee requests to cancel or change deductions for employee organizations to the employee organization, rather than to the public employer. The public employer shall rely on information provided by the employee organization regarding whether deductions for an employee organization were properly canceled or changed, and the employee organization shall indemnify the public employer for any claims made by the employee for deductions made in reliance on that information. Deductions may be revoked only pursuant to the terms of the employee's written authorization.

Credits

(Added by [Stats.2018, c. 53 \(S.B.866\)](#), § 10, eff. June 27, 2018.)

West's Ann. Cal. Gov. Code § 1157.12, CA GOVT § 1157.12

Current with urgency legislation through Ch. 1016 of 2018 Reg.Sess, and all propositions on 2018 ballot.

End of Document

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