



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA**

1100 ANACAPA STREET, SANTA BARBARA, CA 93101

**DARREL E. PARKER**

EXECUTIVE OFFICER – JURY COMMISSIONER – CLERK OF THE COURT

(805) 614-6636

**NOTICE OF PUBLIC HEARING**

**January 10, 2017**

**12:15 p.m.**

**VIDEO CONFERENCE**

**312 East Cook Street, Santa Maria, CA**

**Judicial Conference Room adjacent to Dept. 3 off Cook Street**

**&**

**118 East Figueroa Street**

**Santa Barbara, CA**

**Judicial Conference Room off main lobby**

**REQUEST TO GRANT CRITICALLY NEEDED EXCEPTION TO 180-DAY “SIT-OUT”  
RULE PURSUANT TO PEPPA FOR THE POSITIONS OF INFORMATION  
TECHNOLOGY DIRECTOR & CHILD SUPPORT COMMISSIONER**

The Public Employee Pension Reform Act of 2103, also known as PEPPA, requires public agency retirees to wait 180 days after retirement before returning to work for a public agency. This waiting period can be waived should the Superior Court Executive Committee determine it is critical to fill a specific need. Two critical vacancies are occurring during a time the court lacks the resources to swiftly recruit, select, train and replace the incumbents in the positions of Information Technology Director and Child Support Commissioner. Therefore the Executive Officer seeks to waive the 180 day waiting period and gain authorization to re-hire the incumbents for approximately 60 days following their planned retirements. A request to grant this exception will be heard at this meeting on January 10, 2017 at 12:15 p.m. at the locations indicated above.

Requests to be heard on the subject and written comments may be submitted to:

Darrel E. Parker  
Superior Court Executive Officer  
1100 Anacapa Street, Santa Barbara, CA 93101  
805-614-6636

Materials may be found on the Court's Website at [www.sbcourts.org](http://www.sbcourts.org)



**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA**

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**DARREL E. PARKER**

EXECUTIVE OFFICER – JURY COMMISSIONER – CLERK OF THE COURT

(805) 614-6636

January 5, 2017

TO: Executive Committee  
FROM: Darrel E. Parker  
RE: Request to Grant Critically Needed Exception to 180-Day “Sit-Out” Rule Pursuant to Government Code § 7522.56

The Court Executive Officer seeks certification from the Presiding Judge of the California Superior Court, County of Santa Barbara, that the appointment of James Brock, Information Technology Director and Denise Motter, Commissioner, in an extra help capacity is justified due to the critically-needed nature of these positions as described in Government Code § 7522.56. This certification will waive the requirement that the employees “sit-out” any re-employment for 180 days following retirement.

**Issue:**

The court has received notification of the intent to retire from the Court IT Director, James Brock, and the Court Commissioner, Denise Motter. There are insufficient court resources to conclude recruitments for their successors prior to their retirement dates. Mr. Brock is set to retire on January 27, 2017. Ms. Motter is set to retire on January 28, 2017. Both of these positions are critically important positions to the court.

The Court is actively engaged in the implementation of a new case management system, which is vital to the operation of the court. Mr. Brock’s role as the head of the Information Technology Department is critical to the success of that project. Further, Commissioner Denise Motter serves as the sole commissioner of the Superior Court. Her assignment is in adjudicating issues related to child support under Title IV – D. Her experience, knowledge, and expertise are critical in the execution of those duties and cannot be readily duplicated in the community. A finding by the Presiding Judge that these are critically-needed positions will waive the “180 day sit out” period and allow these employees to be hired as “extra help” workers immediately following their scheduled retirements.

**Rule**

California Public Employee’s Pension Reform Act of 2013 prohibits re-employment of retirees before the expiration of 180 days. An exception can be made under Government Code § 7522.56.

- (a) This section shall apply to any person who is receiving a pension benefit from a public retirement system and shall supersede any other provision in conflict with this section.
- (b) A retired person shall not serve, be employed by, or be employed through a contract directly by, a public employer in the same public retirement system from which the retiree receives the benefit without reinstatement from retirement, except as permitted by this section.
- (c) A person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing power of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.
- (d) Appointments of the person authorized under this section shall not exceed a total for all employers in that public retirement system of 960 hours or other equivalent limit, in a calendar or fiscal year, depending

on the administrator of the system. The rate of pay for the employment shall not be less than the minimum, nor exceed the maximum, paid by the employer to other employees performing comparable duties, divided by 173.333 to equal an hourly rate. A retired person whose employment without reinstatement is authorized by this section shall acquire no service credit or retirement rights under this section with respect to the employment unless he or she reinstates from retirement.

(e)(1) Notwithstanding subdivision (c), any retired person shall not be eligible to serve or be employed by a public employer if, during the 12-month period prior to an appointment described in this section, the retired person received any unemployment insurance compensation arising out of prior employment subject to this section with a public employer. A retiree shall certify in writing to the employer upon accepting an offer of employment that he or she is in compliance with this requirement.

(2) A retired person who accepts an appointment after receiving unemployment insurance compensation as described in this subdivision shall terminate that employment on the last day of the current pay period and shall not be eligible for reappointment subject to this section for a period of 12 months following the last day of employment.

(f) A retired person shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement unless he or she meets one of the following conditions:

(1) The employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days has passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar.

(2) The state employer certifies the nature of the employment and that the appointment is necessary to fill a critically needed state employment position before 180 days has passed and the appointment has been approved by the Department of Human Resources. The department may establish a process to delegate appointing authority to individual state agencies, but shall audit the process to determine if abuses of the system occur. If necessary, the department may assume an agency's appointing authority for retired workers and may charge the department an appropriate amount for administering that authority.

(3) The retiree is eligible to participate in the Faculty Early Retirement Program pursuant to a collective bargaining agreement with the California State University that existed prior to January 1, 2013, or has been included in subsequent agreements.

(4) The retiree is a public safety officer of firefighter.

(g) A retired person who accepted a retirement incentive upon retirement shall not be eligible to be employed pursuant to this section for a period of 180 days following the date of retirement and subdivision (f) shall not apply.

(h) This section shall not apply to a person who is retired from the State Teachers' Retirement System, and who is subject to Section 24214, 24214.5, or 26812 of the Education Code.

(i) This section shall not apply to (1) a subordinate judicial officer whose position, upon retirement, is converted to a judgeship pursuant to Section 69615, and he or she returns to work in the converted position, and the employer is a trial court, or (2) a retiree who takes office as a judge of a court of record pursuant to Article VI of the California Constitution or a retiree of the Judges' Retirement System I or the Judges' Retirement System II who is appointed to serve as a retired judge.

#### **ANALYSIS:**

**James Brock – Information Technology Director:** Mr. Brock has been employed with the Court for over 30 years. He has served as the IT Director since 2001. For over 15 years he has developed the technological infrastructure, telephony, security systems physical plant, and virtual plant. During his first 15 years with the Court he served in a number of positions gaining a familiarity with operations, which has made the application of technological solutions to operational difficulties easily digestible, comprehended, and effective. His exceptional combination of both operational and technological skills uniquely qualify him to serve as the IT Director of the Superior Court.

Mr. Brock's retirement date is set for January 27, 2017. He has achieved a combination of age and years of service which permit him to retire at this time. The Court is implementing a new case management system and will "go live" with the second phase of its implementation regarding criminal, traffic, and juvenile cases on January 18, 2017. While significant planning and preparation have gone into the

implementation, unforeseen challenges are likely to emerge, which will require a unique combination of operational and technological expertise; and expertise that is possessed by Mr. James Brock.

While Mr. Brock had previously announced his intention to retire, an unexpected loss of personnel in the Court’s Human Resources Division has left the court without the ability to recruit, select, and train Mr. Brock’s successor. The Court will require Mr. Brock’s services to assist with the implementation of the new case management system, troubleshooting any issues which may emerge, and assisting in on-boarding and training his successor. The Court will require Mr. Brock’s critical services for 30-60 days, but will not exceed the maximum hours permitted under G.C. § 7522.56.

**Commissioner Denise Motter** – Commissioner Motter serves as the sole commissioner of the Santa Barbara Superior Court in the position of Child Support Commissioner. Assembly Bill 1058 (Stats. 1996, ch. 957), signed by Governor Wilson in September 1996, established the child support commissioner and family law facilitator program in California. The primary function of the child support commissioner must be the handling of matters related to child support. Commissioner Motter has served as the child support commissioner for the Superior Court for the past decade. She has attended the requisite training on the role of Child Support Commissioner each year she has worked for the court. The intricacies and nuances of dealing with child support, benefits, and insurance, as well as the on-going relationship with the Department of Child Support Services uniquely qualifies her to fill this position.

Commissioner Motter’s retirement date is currently set for January 28, 2017. The Court lacks the resources to complete the recruitment, selection, and training necessary to bring a successor on board prior to Commissioner Motter’s retirement. The Court requires the unique services of Commissioner Denise Motter in training her replacement after her retirement. Further, given the probability that a replacement would need to wrap up a law practice or other employment issues it is not possible to adequately train a replacement prior to Commissioner Motter’s retirement.

Therefore, the Court must offer “extra help” employment status to Commissioner Motter, immediately following her retirement. She will stay on with the court to transition the selected candidate into the role of child support commissioner, familiarizing the successor with the participants in the system, the law surrounding this unique class of cases and the relationships necessary to succeed as the next child support commissioner. It is anticipated that this extra help employment will last 30-60 days, but will not exceed the maximum of 960 hours as restricted under G.C. § 7522.56.

## **CONCLUSION**

The Executive Committee should find and the Presiding Judge should certify the nature of the employment of James Brock and Denise Motter and that the appointments are necessary to fill critically needed positions before 180 days from their retirements have passed and the appointments have been approved by the Executive Committee and Presiding Judge during a public meeting.



**RESOLUTION WAIVING THE 180 DAY SIT-OUT PERIOD FOR A SUPERIOR COURT  
RETIREE TO PERFORM THE DUTIES COURT COMMISSIONER**

WHEREAS, the State Legislature has adopted AB 340 in order to implement comprehensive pension reform through the enactment of the California Employees' Pension Reform Act of 2013 (PEPRA) as well as other statutory changes; and

WHEREAS, PEPRA applies to all public employers that participate in the County Employees Retirement Law of 1937 (and others) on or after January 1, 2013; and

WHEREAS, California Government Code section 7522.56(f), as enacted in PEPRA, requires newly retired persons to sit out for at least 180 days before returning to work for an employer in the same retirement system in which they receive a retirement allowance; and

WHEREAS, an exception can be made if the Superior Court Executive Committee (as the Employer) certifies that the nature of the employment and the appointment is necessary to fill a critically-needed position and the 180 days has not yet passed; and

WHEREAS, Denise Motter was employed by the Superior Court for 10 years, most recently as the Child Support Commissioner, and will be retiring January 28, 2017; and

WHEREAS, as Ms. Motter has acquired a unique combination of skills, education, judicial demeanor, and subject matter expertise; and

WHEREAS, Ms. Motter can perform this role without requiring any additional training; and

WHEREAS, it is proposed that Denise Motter fill the Child Support Commissioner position at the hourly rate established for the position; and

WHEREAS, it is requested that the 180-day waiting period be waived to allow Denise Motter to return to work after her retirement date for approximately three months;

NOW, THEREFORE, the Executive Committee of the Superior Court of Santa Barbara County HEREBY RESOLVES that:

1. Denise Motter, through her specific knowledge and experience as the Superior Court's Child Support Commissioner, is uniquely qualified to provide essential and critical functions with no additional training.
2. The Superior Court Executive Committee certifies that the employment of Denise Motter is necessary to fill a critically-needed position before the 180-day sit-out period required by Government Code section 7522.56 has passed.

**RESOLUTION WAIVING 180-DAY SIT OUT  
RE CHILD SUPPORT COMMISSIONER  
PAGE 2 OF 2**

3. This Resolution is adopted at a properly noticed public meeting and was not placed on the consent calendar, in compliance with Government Code section 7522.56(f) (1).
4. This Resolution shall be effective immediately upon its adoption.

Signed:

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PATRICIA L. KELLY, PRESIDING JUDGE  
Superior Court of Santa Barbara County

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DATE



**RESOLUTION WAIVING THE 180-DAY SIT-OUT PERIOD FOR A SUPERIOR COURT RETIREE TO  
PERFORM THE DUTIES OF INFORMATION TECHNOLOGY DIRECTOR**

WHEREAS, the State Legislature has adopted AB 340 in order to implement comprehensive pension reform through the enactment of the California Employees' Pension Reform Act of 2013 (PEPRA), as well as other statutory changes; and

WHEREAS, PEPRA applies to all public employers that participate in the County Employees Retirement Law of 1937 (and others) on or after January 1, 2013; and

WHEREAS, California Government Code section 7522.56(f), as enacted in PEPRA, requires newly retired persons to sit out for at least 180 days before returning to work for an employer in the same retirement system in which they receive a retirement allowance; and

WHEREAS, an exception can be made if the Superior Court Executive Committee (as the Employer) certifies that the nature of the employment and the appointment is necessary to fill a critically-needed position and the 180 days has not yet passed; and

WHEREAS, James Brock was employed by the Superior Court for 30 years and most recently as the Information Technology Director for the past 17 years and will be retiring January 27, 2017; and

WHEREAS, critical technology projects are planned for implementation in the first quarter of 2017; and

WHEREAS, Mr. Brock can perform this role without requiring additional training; and

WHEREAS, it is proposed that Mr. Brock fill the Information Technology Director position at the hourly rate established for the position; and

WHEREAS, it is requested that the 180-day waiting period be waived to allow Mr. Brock to return to work after his retirement date for approximately two to three months;

NOW, THEREFORE, the Executive Committee of the Superior Court of Santa Barbara County HEREBY RESOLVES that:

1. James Brock, through his specific knowledge and experience as the Superior Court's Information Technology Director, is qualified to provide essential and critical functions with a minimum of training.
2. The Superior Court Executive Committee certifies that the employment of James Brock is necessary to fill a critically-needed position before the 180-day sit-out period required by Government Code section 7522.56 has passed.

**RESOLUTION WAIVING 180-DAY SIT OUT  
RE INFORMATION TECHNOLOGY DIRECTOR**

**Page 2 of 2**

3. This Resolution is adopted at a properly noticed public meeting and was not placed on the consent calendar, in compliance with Government Code section 7522.56(f) (1).
4. This Resolution shall be effective immediately upon its adoption.

Signed:

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PATRICIA L. KELLY, PRESIDING JUDGE  
Superior Court of Santa Barbara County

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DATE