

1 JEFFREY B. DEMAIN (SBN 126715)
EVE H. CERVANTEZ (SBN 164709)
2 P. CASEY PITTS (SBN 262463)
Altshuler Berzon LLP
3 177 Post Street, Suite 300
San Francisco, California 94108
4 Telephone: (415) 421-7151
Facsimile: (415) 362-8064
5 jdemain@altshulerberzon.com
ecervantez@altshulerberzon.com
6 cpitts@altshulerberzon.com

7 YORK J. CHANG (SBN 220415)
ANNE M. GIESE (SBN 143934)
8 SEIU Local 1000
1808 14th Street
9 Sacramento, California 95811
Telephone: (916) 554-1279
10 Facsimile: (916) 554-1292
ychang@seiu1000.org
11 agiese@seiu1000.org

12 Attorneys for Defendant
Service Employees International Union, Local 1000
13

14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF CALIFORNIA
16

17 KOUROSH KENNETH HAMIDI, et al., AND)
18 THE CLASS THEY SEEK TO REPRESENT)
19 Plaintiffs,)
20 v.)
21 SERVICE EMPLOYEES INTERNATIONAL)
UNION, LOCAL 1000, et al.;)
22 Defendants.)
23

No. 2:14-cv-00319-WBS-KJN

**STIPULATED REQUEST TO STAY
PROCEEDINGS; PROPOSED ORDER
THEREON**

Hearing Date: N/A
Time: N/A
Courtroom: N/A
Judge: Hon. William B. Shubb

Stipulated Request to Stay Proceedings; Proposed Order Thereon

Hamidi, et al. v. SEIU Local 1000, et al., Case No. 2:14-cv-00319-WBS-KJN

1 **TO THE COURT:**

2 The parties to the above-captioned case hereby submit the following stipulated request to stay
3 all further proceedings in the case, specifically summary judgment, all further pretrial proceedings, and
4 trial, pending a decision from the U.S. Supreme Court in the case *Friedrichs v. California Teachers*
5 *Ass'n*, Case No. 14-915, *cert. granted*, 2015 WL 407687 (Mem), 83 USLW 3653 (June 30, 2015),
6 which raises *inter alia* the same issue of the constitutionality of the opt-out procedure for fair share fee
7 objections that is at the heart of the present case. The Supreme Court granted a petition for writ of
8 *certiorari* on June 30, 2015, *see id.*, and its decision is anticipated by the end of the October 2015 term,
9 that is, by June 30, 2016. In support of this stipulated request, the parties provide the following
10 showing of good cause:

11 1. Plaintiffs filed their Complaint in this case on January 31, 2014. Docket No. 1.

12 2. Both defendants, Service Employees International Union, Local 1000 (“Local 1000”)
13 and the State Controller, answered the Complaint on April 25, 2014. Docket Nos. 17 & 18.

14 3. The Court issued a Status (Pretrial Scheduling) Order, Docket No. 21, on July 31, 2014,
15 setting the following pretrial and trial schedule:

16 August 4, 2014	Initial disclosures
17 January 5, 2015	Initial expert reports
18 April 2, 2015	Rebuttal expert reports
19 June 1, 2015	Discovery cut-off
20 November 2, 2015	Motion cut-off
21 February 1, 2016	Final pretrial conference
22 March 29, 2016	Trial

23 4. Pursuant to that schedule, initial disclosures were exchanged and discovery has closed.
24 (No expert reports were exchanged, so none of the parties will be proffering expert testimony.)

25 Moreover, although not set by the foregoing schedule, Plaintiffs filed a motion for class certification,
26 which the Court granted in part and denied in part on May 22, 2015. *See* Docket No. 53; *see also*
27 Docket No. 55 (Order Amending Class Definition). All that remains is summary judgment and, if
28 necessary, trial.

Stipulated Request to Stay Proceedings; Proposed Order Thereon

Hamidi, et al. v. SEIU Local 1000, et al., Case No. 2:14-cv-00319-WBS-KJN

1 5. However, summary judgment and/or trial in the present case may be rendered
2 unnecessary, or at the least the scope of any summary judgment and/or trial will likely be substantially
3 narrowed, by the Supreme Court’s eventual decision in *Friedrichs*. The present case challenges the
4 constitutionality of Defendant SEIU Local 1000’s opt-out system that requires non-members to take
5 affirmative action and submit fee objections in order to prevent the deductions of SEIU Local 1000’s
6 non-chargeable expenses from their wages. That same question is raised in *Friedrichs*. (*Friedrichs*
7 also raises another question not raised by the present case: whether the fair share fee system in general
8 is unconstitutional, i.e., whether the First Amendment prohibits any requirement that non-member
9 public employees financially support the union that represents them in collective bargaining, including
10 both chargeable and non-chargeable expenses.)

11 6. It is likely that, whichever way the Supreme Court rules in *Friedrichs*, summary
12 judgment and/or trial will not be necessary in this case, or at least the scope of any such summary
13 judgment and/or trial will likely be substantially narrowed. Upon the Supreme Court’s decision in
14 *Friedrichs*, the parties will meet to discuss how to resolve this case in light of that decision and inform
15 the Court of their suggestion(s). If this Court does not stay the proceedings in the present case, the
16 parties and the Court will be required to expend time and resources that, in all likelihood, will be
17 wasted effort because this Court’s decision ultimately will either be affirmed or reversed based on the
18 Supreme Court’s decision in *Friedrichs*. On the other hand, nothing will be lost, and no party will be
19 harmed, by awaiting the Supreme Court’s decision in *Friedrichs*.

20 For the foregoing reasons, the undersigned parties hereby respectfully request this Court to stay
21 all remaining proceedings in this case, specifically summary judgment, all further pretrial proceedings,
22 and trial, pending the Supreme Court’s decision in *Friedrichs*, and to vacate the scheduled dates for the
23 motion cut-off, final pretrial conference, and the trial. When the Supreme Court issues its decision in
24 *Friedrichs*, the parties will so inform this Court and will meet and confer to present this Court with a
25 joint status statement discussing what they believe is left to be done in this case and how they believe
26 this Court should proceed.

27 ///

28 ///

1 Dated: July 24 2015.

Respectfully submitted,

2 JEFFREY B. DEMAIN
3 EVE H. CERVANTEZ
4 P. CASEY PITTS
Altshuler Berzon LLP

5 YORK J. CHANG
6 ANNE M. GIESE
SEIU Local 1000

7 By: /s/ Jeffrey B. Demain
Jeffrey B. Demain

8 Attorneys for Defendant Service Employees
9 International Union, Local 1000

10 KAMALA D. HARRIS
Attorney General of California
11 MARK R. BECKINGTON
Supervising Deputy Attorney General
12 KIM L. NGUYEN
Deputy Attorney General
13 State Bar No. 209524
300 South Spring Street, Suite 1702
14 Los Angeles, CA 90013
Telephone: (213) 897-5677
15 Facsimile: (213) 897-5775
E-mail: Kim.Nguyen@doj.ca.gov

16 By: /s/ Kim Nguyen (as authorized on July 24, 2015)
17 Kim Nguyen

18 Attorneys for Defendant California State Controller

19 W. JAMES YOUNG, Esq. (admitted *pro hac vice*)
c/o National Right to Work Legal Defense Foundation, Inc.
20 8001 Braddock Road, Suite 600
Springfield, Virginia 22160
21 (703) 321-8510

22 STEVEN R. BURLINGHAM, Esq.
California Bar No. 88544
23 Gary, Till & Burlingham
5330 Madison Avenue, Suite F
24 Sacramento, California 95841
Telephone: (916) 332-8122
25 Facsimile: (916) 332-8153

26 By: /s/ W. James Young (as authorized on July 24, 2015)
W. James Young

27 Attorneys for Plaintiffs and the Class They Represent

28 **Stipulated Request to Stay Proceedings; Proposed Order Thereon**

Hamidi, et al. v. SEIU Local 1000, et al., Case No. 2:14-cv-00319-WBS-KJN

ORDER

IT IS SO ORDERED.

Dated: July 27, 2015



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28