

BY FACSIMILE AND E-MAIL TRANSMISSION

The Honorable John M. Vittone
Chief Administrative Law Judge
U.S. Department of Labor
800 K Street, N.W., Suite 400
Washington, D.C. 20001-8002

Re: U.S. Department of Labor, Office of Apprenticeship Training, Employer and Labor Services v. California Department of Industrial Relations, Case Nos. 2002-CCP-1, 2003-CCP-1

Dear Judge Vittone:

I write to clarify Prosecuting Party Office of Apprenticeship Training, Employer and Labor Services' ("OATELS") position on Respondent California Department of Industrial Relations' ("CDIR") July 29, 2003 request for an extension until August 7 to respond to OATELS' motion for leave to file a reply brief and to the reply brief itself. CDIR's request represents that OATELS agreed to this extension to file both responses. In fact, CDIR's July 25 e-mail to OATELS requested the extension only for CDIR's response to OATELS' motion for leave to file a reply brief, and stated that CDIR would oppose OATELS' motion. OATELS replied on July 28 that it had no objection to the requested extension to respond to the motion.¹

CDIR did not ask OATELS for, and OATELS did not agree to, an extension to file a response to OATELS' reply brief. The distinction between CDIR's response to the motion and the state agency's response to the reply brief is important because, under the Office of Administrative Law Judges rules that govern this proceeding, an answer to a motion is an authorized response, but a surreply requires the approval of the ALJ. See 29 C.F.R. § 18.6(b) (2003). Because a surreply is

¹ Respondent California Apprenticeship Council's ("CAC") July 30 request for an extension represents that OATELS agreed to CAC's request for an extension to respond to OATELS' motion to compel. In fact, on July 25, CAC asked OATELS for the same extension that CDIR requested, i.e., to respond to OATELS' motion for leave to file a reply brief (CAC has already responded to OATELS' motion to compel). OATELS told both respondents that it had no objection to their requested extensions to respond to OATELS' motion for leave to file a reply brief.

not an authorized response, OATELS takes no position on CDIR's and CAC's requests for an extension to file such a response. OATELS also reserves the right to object to CDIR's and CAC's submissions of a surreply.

Sincerely,

CHARLES D. RAYMOND
Associate Solicitor for
Employment and Training
Legal Services

By: _____
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