



January 21, 2011

Re: *Newton v. Schwarzenegger*, No C 09-5887

Dear Plaintiffs and Consenters:

This purpose of this letter is to inform you of the District Court's decision in the *Newton v. Schwarzenegger*, Fair Labor Standards Act (FLSA) case.

On January 13, 2011, Judge Vaughn R. Walker heard the parties' arguments in U.S. District Court for the Northern District of California, San Francisco. On January 14, 2011, the Court issued its decision. (**Insert link here**)

On the positive side, we were successful in overcoming the Defendants' 11th Amendment immunity arguments and the Court reached the merits of the case, i.e. whether Defendants' failed to comply with the FLSA by not paying Plaintiff's and Contester's for all the non overtime hours they worked in pay periods in which they worked overtime.

Unfortunately, in deciding the case, the Court followed the California Supreme Court's recent decision in *Professional Engineers in California Government v. Schwarzenegger*, which holds that "the furlough program is a reduction in Plaintiffs' wages for all hours worked." The court then determined that there was no FLSA violation as "Plaintiffs are compensated for all time worked, and because that compensation exceeds federal minimum standards, Plaintiffs' claim for violation of FLSA fails." The Court then granted Defendants motion for summary judgment.

Your legal team is currently reviewing the Court's decision and applicable law to determine what options are available.

Sincerely,

Daniel M. Lindsay
Chief Counsel
California Correctional
Peace Officers Association