SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

HAROLD P. STURGEON,

Plaintiff,

v.

LOS ANGELES COUNTY; GLORIA MOLINA, in her official capacity as a member of the Los Angeles County Board of Supervisors; YVONNE B. BURKE, in her official capacity as a member of the Los Angeles County Board of Supervisors; ZEV YAROSLAVSKY, in his official capacity as a member of the Los Angeles County Board of Supervisors, DON KNABE, in his official capacity as a member of the Board of Supervisors; MICHAEL D. ANTONOVICH, in his official capacity as member of the Los Angeles County Board of Supervisors; J. TYLER McCAULEY, in his official capacity as Auditor-Controller for Los Angeles County; LARRY GONZALEZ, in his official capacity as Division Chief of the Countywide Payroll Division of the Los Angeles County Department of Auditor-Controller; and DAVID E. JANSSEN, in his capacity as Chief Administrative Officer of Los Angeles County,

Defendants.

LOS ANGELES SUPERIOR COURT,

Intervenor.

CASE NO. BC351286

Assigned for all purposes to the Hon. James A. Richman

Complaint Filed: April 24, 2006

[~~PROPOSED~~] JUDGMENT

On July 13, 2009, the following motions came on for hearing before the above-entitled Court: (i) Plaintiff's Motion for Summary Judgment; (ii) Defendants' Motion for Summary Judgment; and (iii) Intervenor's Motion for Summary Judgment. All appearances were noted on the record.

The Court, having read and considered the papers submitted by the parties, and having heard oral argument thereon, and good cause appearing therefore, GRANTED Defendants' and Intervenor's motions and declared Defendants' payment of local judicial benefits to Los Angeles Superior Court judges to be constitutional for the reasons explained in its July 27, 2009 Order, which is attached hereto as Exhibit A.

IT IS HEREBY ORDERED AND ADJUDGED BY THE COURT that judgment be entered in favor of Defendants and Intervenors and against Plaintiff, that Plaintiff take nothing, that the Complaint be dismissed with prejudice, and that Defendants and Intervenors recover their costs of suit.

IT IS SO ORDERED.

Dated: August 20, 2009

By: _____
Justice James A. Richman
Sitting by Assignment as a
Judge of the Superior Court of California,
County of Los Angeles

Prepared by:

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By: _____
Brian D. Hershman

Attorneys for Defendants

LAI-3043329v1

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

HAROLD P. STURGEON, Plaintiff, vs. LOS ANGELES COUNTY et al., Defendants, and SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES, Intervenors.	Case No.: BC351286 ORDER

I. BACKGROUND AND SETTING

This lawsuit involves a complaint by Harold Sturgeon (Plaintiff), a taxpayer and resident of the County of Los Angeles, seeking declaratory and injunctive relief. The suit names nine defendants: the County of Los Angeles; the five members of the County's Board of Supervisors; the County's Chief Executive Officer; the County's Auditor Controller; and the Division Chief of the Payroll Division (collectively "Defendants"). Relying upon Code of Civil Procedure section 526a, Plaintiff's suit seeks to enjoin defendants from supplementing the compensation received by judges of the Los Angeles County Superior Court.

On January 9, 2007, this court issued an Order granting Defendants' Motion For Summary Judgment. Judgment for defendants was thereafter entered, from which plaintiff timely appealed.

That judgment was reversed by the Court of Appeal in *Sturgeon v. County of Los Angeles* (2008) 167 Cal.App.4th 630 (*Sturgeon*). There, the court described the nature of the benefits Plaintiff claimed were being illegally provided the judges:

"[A]t some point in the late 1980's the county began providing its superior and municipal court judges with employment benefits in addition to the salary prescribed by the Legislature. Over the years the program has been expanded and altered as the county has modified the benefits its provides its salaried employees.

"[T]he largest component of benefits provided to judges is the county's contribution to its MegaFlex Cafeteria Benefit Plan (MegaFlex). The county pays its salaried employees an amount equal to 19 percent of their monthly salary in the form of a

tax free contribution to MegaFlex. Each employee can use the county's contribution to purchase medical, dental and vision coverage or life and disability insurances. Any portion of the county's contribution that is not used to purchase benefits is paid to the employee as taxable income. The county treats its superior court judges as salaried employees of the county for purpose of MegaFlex contributions and thus the county's superior court judges receive MegaFlex contributions equal to 19 percent of their salary.

"In addition to the MegaFlex contributions, the county provides its judges with a Professional Development Allowance (PDA). According to the county, the PDA permits judges to participate in educational and professional development programs. Each judge is given discretion in the manner in which his or her PDA is expended. In fiscal year 2007 the PDA amounted to $6,876 per judge.

"The county will also match the contribution of each of its salaried employees to a '401(k)' program for four percent of his of her salary. In fiscal year 2007 this amounted to an additional $6,880, the judges were eligible to receive. Finally, the record indicates that since July 1, 1997, the judges have also received employment benefits provided by the state.

"In sum, in addition to the salary, benefits and retirement prescribed by the Legislature, in fiscal year 2007 each superior court judge in Los Angeles was eligible to receive $46,436 in benefits from the county. This amount represented approximately 27 percent of their prescribed salary and cost the county approximately $21 million in fiscal 2007." (*Sturgeon, supra,* 167 Cal.App.4th 630, 635-636, fns. omitted)."

Although the *Sturgeon* court noted that "there can be little doubt the benefits that the county provides its judges enhance the recruitment and retention of judges who serve in Los Angeles" (*Sturgeon, supra,* 167 Cal.App.4th 630, 639), it nevertheless concluded that the benefits challenged by Plaintiff were being improperly provided by Defendants. The court reasoning behind this conclusion was that the provision of the benefits did not comply with article VI, section 19 of the California Constitution (article VI, section 19), which provides: "The Legislature shall prescribe compensation for judges of courts of record."

The *Sturgeon* court quoted a 1926 Supreme Court decision as to the meaning of what is now article VI, section 19: " 'There is no room for doubt as to the interpretation to be given to this clause in . . . the constitution, since its makes manifest as tersely and clearly as words could do the intent of the framers thereof that the entire matter of the compensation of justices and judges of courts of record in this state, both as to the amount thereof and as to the time and manner of payment thereof, should be transferred from the constitution and reposed in the legislature. This is made all the more manifest when we take note of the meaning of the word "prescribed" as employed therein. The term "prescribe" is defined by lexicographers as meaning, "To lay down beforehand as a rule of action; to ordain, appoint, define authoritatively." [Citation.] "To lay down beforehand as a guide, direction, or rule of action; to impose as a preemptory order; to dictate, appoint, direct, ordain." ' " (*Sturgeon, supra,* 167 Cal.App.4th 630, 642-43, quoting *Sevier v. Riley* (1926) 198 Cal. 170, 14-175.)

The *Sturgeon* court concluded that existing legislation was not sufficiently precise to comply with the constitutional command—which could not be delegated—and thus "the employment benefits provided by the county are part of each judge's compensation and therefore must be prescribed by the Legislature." (*Sturgeon, supra*, 167 Cal.App.4th 630, 645; see also, id., at pp. 652-654.)

But, the court finally concluded, the situation could easily be remedied by the Legislature: "As we have noted, there are valid reasons the county provides its judges with generous employment benefits beyond the employment benefits provided by the state. However, the defect we have found in the method by which those benefits have been provided is itself substantial and important. Under our constitutional scheme, judicial compensation is a matter of statewide concern and the Legislature must set policy with respect to all aspects of judicial compensation. As the cases we have discussed demonstrate, the Legislature's obligation to 'prescribe judicial compensation' requires that it set forth standards or safeguards which assure that fundamental policy is implemented . . . . The obligation is not onerous, but does require that the Legislature consider the specific issue and, at a minimum, establish or reference identifiable standards." (*Sturgeon, supra*, 167 Cal.App.4th 630, 657.)

The Legislature did respond, though the context of its response was unusual. On December 1, 2008, the Governor convened the Legislature to meet in extraordinary session "for the following purpose and to legislate upon the following subjects:

"1. To consider and act upon legislation to address the economy, including, but not limited to efforts to stimulate California's economy, create and retain jobs, and streamline the operations of state and local governments.

"2. To consider and act upon legislation to address the housing mortgage crisis.

"3. To consider and act upon legislation to address the solvency of the Unemployment Insurance Fund."

Acting expressly to address *Sturgeon*, and noting that "Numerous counties and courts established local or court supplemental benefits to retain qualified applicants for judicial office, and trial court reliance upon the existence of these longstanding supplemental benefits provided by the counties or the court," the Legislature enacted Senate Bill 11 which added sections 68220 and 68221 to the Government Code. These sections provide:

"(a) Judges of a court whose judges received supplemental judicial benefits provided by the county or court, or both, as of July 1, 2008, shall continue to receive supplemental benefits from the county or court then paying the benefits on the same terms and conditions as were in effect on that date.

"(b) A county may terminate its obligations to provide benefits under this section upon providing the Administrative Director of the Courts and the impacted judges with 189s' written notice. The termination shall not be effective as to any judge during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office. The county is also authorized to elect to provide benefits for all judges in the county." (Gov. Code, S 68220.)

"To clarify ambiguities and inconsistencies in terms with regard to judges and justice and to ensure uniformity statewide, the following shall apply for purposes of Sections 68220 to 68222, inclusive:.

"(a) 'Benefits' and 'benefit' shall include federally regulated benefits, as described in Section 71627, and deferred compensation plan benefits, such as 401(k) and 457 plans, as described in Section 71628, and may also include professional development allowances.

"(b) 'Salary' and 'compensation' shall have the meaning set forth in Section 1241." (Gov. Code, S 68221.)

In an uncodified provision, Senate Bill 11 directs the Judicial Council to report to the senate and Assembly budget committees "on or before December 31, 2009, analyzing the statewide benefits inconsistencies."

II. THE CURRENT MOTIONS

On March 6, 2009, a Status/Case Management conference was held. At the conference the court granted Intervenor's Motion to Intervene. Following that conference, the parties agreed that they would file motions for summary judgment, which they each did on April 21, 2009.

This order addresses those three motions, those of: (1) Plaintiff; (2) Defendants; and (3) Intervenor, which motions came on regularly for hearing on July 13, 2009 in Department 1 of the above-entitled court, the Honorable James A. Richman presiding. Sterling E. Norris and Paul J. Orfanedes appeared for Plaintiff; Elwood Lui and Brian D.

Hershman appeared for Defendants; and Theodore J. Boutrous, Jr. appeared for Intervenor.

Plaintiff's motion asserts three grounds. Plaintiff first challenges the fundamental legality of Senate Bill 1, arguing that "The California Legislature Lacked Authority To Enact Senate Bill 11" in that it addressed a subject—judicial compensation—that was not among the specified subjects for which the Governor called the Legislature into the extraordinary session at which Senate Bill 11 was passed. Second, Plaintiff argues that "Senate Bill 11 Fails To 'Prescribe' The Benefits At Issue," because it "neither establishes nor reflects a fundamental policy choice of the Legislature," nor does it "reflect, establish, or otherwise provide any standards or safeguards to assure that a fundamental policy choice of the Legislature is being carried out effectively." Third, Plaintiff argues that Senate Bill 11 "Violates Fundamental Tenets of Equal Protection."

Defendants moved for summary judgment on the ground that under Senate Bill 11 "the County's supplemental judicial benefits . . . .easily satisfy [article VI, section 19] as the Court of Appeal interpreted it" in *Sturgeon*.

Intervenor moved for summary judgment on the ground that "the constitutionality of local judicial benefits paid by the County of Los Angeles . . . is not genuinely in dispute. Specifically, there is no triable issue as to whether the California Legislature has validly 'prescribed' these benefits within the meaning of article VI, section 19 of the California Constitution—and thus plaintiff's sole remaining claim necessarily fails as a matter of law."

Intervenor also filed two requests for judicial notice in support of its motion. No opposition was filed and, good cause appearing, Intervenor's requests for judicial notice are granted.

All parties agree that the fundamental facts are undisputed, each party's response to the other's separate statement expressly so admitting. The issues before the court are likewise agreed upon, issues that have been argued at length by able counsel, in the papers and at the hearing on the motions. The court now turns to resolution of those issues.

III. ANALYSIS

A. The Enactment of Senate Bill 11 Was Not Invalid

Section 3(b) of article IV of the California Constitution provides: "On extraordinary occasions the Governor by proclamation may cause the Legislature to assemble in special session. When so assembled it has power to legislate only on subjects specified in the proclamation but may provide for expenses and other matters incidental to the session."

The leading precedent on the constitutional provision is *Martin v. Riley* (1942) 20 Cal.2d 28, where our Supreme Court held: "The duty of the Legislature in special session to confine itself to the subject matter of the call is of course mandatory. It has no power to legislate on any subject not specified in the proclamation. [Citations.] But when the governor has submitted a subject to the Legislature, the designation of that subject opens for legislative consideration matters relating to, germane to and having a natural connection with the subject power. [Citation.] Any matter of restriction or

limitation becomes advisory only and not binding on the Legislature. . . . [¶] The same presumptions in favor of the constitutionality of an act passed at regular session apply to acts passed at a special session. (*Long v. State* (1910) 58 Tex. Crim. 209.) In the last cited case it was said that when the Legislature acting under a special call, undertakes 'to consider subjects and pass laws in response thereto, and such laws receive the approval of the executive, courts are and should of right be reluctant to hold that such action is not embraced in such call, and will not so declare unless the subject manifestly and clearly is not embraced therein. [¶] Inasmuch as the presumptions are in favor of the constitutionality of the act, it will be held to be constitutional if by any reasonable construction of the language of the proclamation it can be said that the subject of legislation is embraced therein. [Citations.]" (*Id.* at pp. 39-40.)

The Governor's proclamation called for the Legislature "[t]o consider and act upon legislation to address the economy, including but not limited to efforts to stimulate California's economy, create and retain jobs, and streamline the operations of state and local government." Plaintiff argues that because the proclamation does not expressly refer to "judicial compensation," or "supplemental benefits," or *Sturgeon*, Senate Bill 11 is invalid. The court is not persuaded.

It is true, as Plaintiff points out, that the subject of judicial compensation was not specifically identified as one of the subjects for which the Governor called the Legislature into the extraordinary session. Nevertheless, when the Legislature addressed the subject by enacting Senate Bill 11, it is presumed to have deemed that subject subsumed within one or more of the specific objectives of the Governor's proclamation.

It is further presumed that when the Governor signed the bill, he too believed it was embraced within the scope of his proclamation.

Indeed, *Sturgeon* noted that "there can be little doubt the benefits that the county provides its judgers enhance the recruitment and retention of judges who serve Los Angeles." (*Sturgeon, supra,* 167 Cal.App.4th 630, 639.) The bill's provisions cannot be deemed unrelated to the subject of "retain[ing] jobs," one of the subjects for which the Legislature was called into special session. This is a "reasonable construction of the language of the proclamation." (*Martin v. Riley, supra,* 20 Cal.2d 28, 40.) It thus defeats Plaintiff's argument.

B. <u>Senate Bill Complies with Article VI, Section 19 as Interpreted in *Sturgeon*</u>

The major point of contention between the parties is whether the provisions of Senate Bill 11 suffices to comply with *Sturgeon*, that is, whether they "prescribe" the fundamental policy of judicial compensation, with "standards or safeguards which assure that the . . . fundamental policy is effectively carried out." (*Sturgeon, supra,* 167 Cal.App.4th 630, 653.).

Defendants and Intervenor argue that the measure satisfies *Sturgeon*. Plaintiff argues that it does not. In his words: "Far from establishing a 'fundamental policy choice' and providing standards or safeguards to assure that that its choice is carried out effectively, the Legislature has done exactly the opposite. It has ratified the policy choices of each of the fifty-eight (58) counties in California about whether to supplement state trial court judges' compensation with additional benefits and the level at which such supplemental benefits should be provided." Then, after citing some of the disparities

among counties' level of supplemental judicial benefits, Plaintiff concludes: "Senate Bill11 purports to legalize the status quo before the Court of Appeal's ruling. It fails to do so, however, because the statute neither establishes nor reflects a fundamental policy choice of the Legislature. While the County of Los Angeles pays state trial court judges $46,436 per year in supplemental benefits, other counties, such as Santa Barbara and San Diego County, pay nothing. Nor does the statute reflect, establish, or otherwise provide any standards or safeguards to assure that a fundamental policy choice of the Legislature is being carried out effectively. Instead, it purports to legalize judicial compensation chaos. It is complete abdication of the Legislature's duty to prescribe the compensation of judges." (Citations omitted.) Plaintiff's argument is unavailing.

Sturgeon stated that compliance with article VI, section 19 was hardly a formidable task: "[T]he Legislature's obligation to 'prescribe judicial compensation' requires that it set forth standards or safeguards which assure that fundamental policy is implemented . . . . The obligation is not onerous, but does require that the Legislature consider the specific issue and, at a minimum, establish or reference identifiable standards." (*Sturgeon, supra,* 167 Cal.App.4th 630, 657.) The passage of Senate Bill 11 shows that the Legislature obviously "considered" the problem identified in *Sturgeon.* Senate Bill 11 also addressed the "fundamental policy" of judicial compensation: In addition to the state-wide salary specified by Government Code section 68202, it prescribes that judges may receive supplemental benefits; it also specifies the nature of those limits, in effect limiting benefits to those specified.

That the Legislature did not ordain a uniform state-wide amount of the total salary, compensation, and benefits does not show the "abdication" that Plaintiff so vigorously decries. The fundamental policy of the state is established, but it incorporates a measure of local variation should counties opt to take up the burden of underwriting the expense of providing judges with the benefits specified in Government Code section 68221. Yet it specifies how those benefits may be terminated. In short, Senate Bill 11 does "establish identifiable standards" as that term was used in *Sturgeon*.

Nor is Plaintiff warranted in asserting that Senate Bill 11 fails to establish safeguards. As Intervenor details: "The Legislature also included three separate safeguards in [Senate Bill] 11. First, on or before December 31, 2009, the Judicial Council must report to the Legislature, 'analyzing the statewide benefits inconsistencies.' Second, counties must give written notice to both the Administrative Director of the Courts and affected judges 180 days before discontinuing payment of the benefits at the end of a judge's term or tenure in office. Third, counties may not terminate a judge's benefits 'during his or her current term while that judge continues to serve as a judge in that court or, at the election of the county, when that judge leaves office.' This third safeguard ensures that any county acting within its powers under [Senate Bill] 11 complies with Article III, section 4 of the California Constitution, which prohibits judges' salaries from being reduced during their terms of office." (Citations omitted.)

In light of the foregoing, this court concludes, as a matter of law, that Senate Bill 11 satisfies article VI, section 19 in a manner fully consistent with *Sturgeon*.

C. <u>Senate Bill 11 Does Not Violate Equal Protection</u>

Plaintiff argues that Senate Bill 11 violates equal protection because it involves a fundamental interest—"the administration of justice throughout the State"—and yet it allows discrimination between classes of superior court judges based on whether the respective unit of county government has elected to provide supplemental benefits as permitted by the bill. This argument is without merit.

Preliminarily, there is the issue of whether the argument is properly raised at this time. Intervenor asserts that it is not, because Plaintiff did not identify the issue of equal protection in his complaint. While this is literally correct, this court is not insensitive to the unusual posture of the case at this time. It is hardly the ordinary progression of litigation for it to involve a legislative enactment adding new statutes that are pertinent to the decision of a case following in the wake of a reversal of the original judgment. Moreover, the issue arises in the context of motions for summary judgment where all parties agree that there is no dispute about any facts that qualifies as material. In short, the issue is a pure one of law.

Intervenor also argues that Plaintiff, who is a taxpayer, not a sitting superior court judge, in effect has no standing to press the claim that Senate Bill 11 violates equal protection by treating classes of superior court judges differently. It is true, as Intervenor points out, that our Supreme Court has said that "To challenge the constitutionality of a statute on the ground that it is discriminatory, the party complaining must show that he is a party aggrieved or a member of the class discriminated against." (*Estate of Horman* (1971) 5 Cal.3d 62, 77-78.) However, *Connerly v. State Personnel Board* (2001) 92 Cal.App.4th 16 held that a taxpayer has standing to bring an action to restrain or

prevent an illegal expenditure of public money without a showing of special damage. (Id., at p. 29.) The court thus concludes that Plaintiff can assert the claim—which claim, however, fails on the merits.

" 'The first prerequisite to a meritorious claim under the equal protection clause is a showing that the state has adopted a classification that affects two or more similarly situated groups in an unequal manner.' " (*People v. Hofsheier* (2006) 37 Cal.4th 1185, 1199, quoting *In re Eric J.* (1979) 25 Cal.3d 522, 530.) The next step, assuming that disparate treatment be shown, is to fix the standard of review.

"As explained in *Warden v. State Bar* (1999) 21 Cal.4th 628, there are 'two principal standards or tests that generally have been applied by the courts of this state and the United States Supreme Court in reviewing classifications that are challenged under the equal protection clause of the Fourteenth Amendment of the United States Constitution or article I, section 7, of the California Constitution. . . . "The first is the basic and conventional standard for reviewing economic and social legislation in which there is a 'discrimination' or differentiation of treatment between classes or individuals. It manifests restraint by the judiciary in relation to the discretionary act of a co-equal branch of government; in so doing it invests legislation involving such differentiated treatment with a presumption of constitutionality and 'require[es] merely that distinctions drawn by a challenged statute bear some rational relationship to a conceivable legitimate state purpose.' [Citation.] . . . Moreover, the burden of demonstrating the invalidity of a classification under this standard rests squarely on the party who assails it.' " ' (*Warden,*

supra, 21 Cal.4th at pp. 640-641.) This first basic equal protection standard generally is referred to as the 'rational relationship' or 'rational basis' standard.

"As further explained in *Warden,* . . ., the second equal protection standard is ' "[a] more stringent test [that] is applied . . . in cases involving 'suspect classifications' or touching on "fundamental interests." Here, the courts adopt 'an attitude of active and critical analysis, subjecting the classifications to strict scrutiny. [Citations.] Under the strict standard applied in such cases, the state bears the burden of establishing not only that it has a compelling interest which justifies the law but that the distinctions drawn by the law are necessary to further its purpose.' [Citation.]" ' (*Warden, supra,* 21 Cal.4th at p. 641.) This second standard generally is referred to the 'strict scrutiny' standard." (*Hernandez v. City of Hanford* (2007) 41 Cal.4th 279, 298-299.)

Plaintiff insists that "state trial judges in Los Angeles receive up to $46,000 per year in supplemental compensation, while state trial judges in other high-cost counties, such as San Diego County and Santa Barbara County, receive nothing." This, he maintains, shows disparate impact, as well as the absence of any " 'compelling state interest' in authorizing such gross disparities in compensation . . . . It simply cannot be said that there is a compelling state interest in differentiating between state trial court judges based on . . . . the county in which they sit."

The court concludes that Senate Bill 11 does not violate equal protection. The measure does not, by itself, establish differing levels of compensation for superior court judges on a county basis. As previously shown, Senate Bill 11 merely states that the policy of the state will permit localities to provide supplement benefits to superior court

judges, at the county's option to commence, continue, or discontinue those benefits. It is only in the context of what action various counties may or may not take that an equal protection can get any traction. But Senate Bill 11 does not in and of itself establish differing levels of judicial compensation.

Moreover, assuming that Senate Bill 11 was responsible for disparate standards of judicial compensation, it would still survive Plaintiff's challenge. It must be remembered that the subject of the legislation is the compensation or remuneration for services provided to the public. Put otherwise, it involves pay or salary, a subject traditionally upheld if a rational basis is asserted. (See, e.g., *American Federation of Teachers v. Los Angeles Community College Dist.* (1980) 111 Cal.App.3d 942, 945-946 & fn. 1; *California State Employees' Assn. v. Flournoy* (1973) 32 Cal.App.3d 219, 237.) The last reported comment on the subject by an appellate court in California took it as a given that "disparate treatment on the basis of [judicial] income level is of no constitutional significance because . . . no fundamental right is . . . involved." (*Rittenband v. Cory* (1984) 159 Cal.App.3d 410, 417, fn. 21.)

Plaintiff attempts to argue that a fundamental right is present because "The compensation paid by [*sic*] state trial court judges involves the administration of justice throughout the State." That attempt fails. The administration of justice is undoubtedly of fundamental importance to all citizens of California. Yet the level of judicial compensation is but one aspect of that broad subject. While people have a fundamental due process right in access to the courts (*Boddie v. Connecticut* (1971) 401 U.S. 371, 277), the existence of an inflexibly uniform, state-wide standard for judicial

compensation is not a part of that right. And, as the *Sturgeon* court repeatedly noted, there is a connection between "the recruitment and retention of judges" and the provision of supplemental judicial benefits. (*Sturgeon, supra,* 167 Cal.App.4th 430, 439, 452, 457.) In following through on that interest by enacting Senate Bill 11, the Legislature did not violate equal protection.

" 'In cases where a classification burdens neither a suspect group nor a fundamental interest, "courts are quite reluctant to overturn governmental action on the ground that it denies equal protection of the laws." ' [Citations.]" (*Bowens v. Superior Court* (1991) 1 Cal.4th 36, 43.) Plaintiff has not convinced this court to overcome that reluctance.

III. DISPOSITION

For each, and all, of the reasons set forth above, the court concludes as follows: (1) Plaintiff's motion for summary judgment is denied, and (2) Defendants' and Intervenor's motions for summary judgment are granted. Counsel for Defendants shall prepare a judgment in accordance with this order.

Dated: July 27, 2009

By: _____
Hon. James A. Richman

PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Fiftieth Floor, Los Angeles, California 90071-2300. I am readily familiar with this firm's practice for collection and processing of correspondence for mailing with the United States Postal Service. On August 4, 2009, I placed with this firm at the above address for deposit with the United States Postal Service a true and correct copy of the within document(s):

[PROPOSED] JUDGMENT

in a sealed envelope, postage fully paid, addressed as follows:

Theodore J. Boutrous Jr., Esq.
Kahn A. Scolnick, Esq.
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071

Sterling E. Norris, Esq.
Paul J. Orfanedes
JUDICIAL WATCH, INC.
2540 Huntington Drive, Suite 201
San Marino, CA 91108

Following ordinary business practices, the envelope was sealed and placed for collection and mailing on this date, and would, in the ordinary course of business, be deposited with the United States Postal Service on this date.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 4, 2009, at Los Angeles, California.

Susan Ballard

Susan Ballard