

they are going to be talking with EDD about that to be sure that it is.

5. Board Member Reports:

Vice Chair Allen had no report other than to once again thank the great staff for their good work and his fellow board members for their dedication and commitment to working together.

Member Adkisson noted that the number of cases that are coming their way are indeed on a trajectory downward and he would recommend that staff consider setting aside some of the fine talent among the ALJs to assist Chief Counsel Levy in reviewing the standard paragraphs. He would also think that at the same time that they might spend some more time working on precedents because we are still not considering the dozens and dozens of cases that need to be considered under employment law in California for precedents here.

Chair Dresser stated that he will be looking at it, but always keeping in mind the need to make our time lapse and case aging and comply with federal standards in order to make sure the parties gets their case on time but to the extent there is some discretion they will definitely do that. He thinks those are worthy goals.

6. Public Comment:

No public comment.

7. Chief ALJ/Executive Director Report:

Chief ALJ/Executive Director Gonzales reported that the workload, consistent with their projections, has been dropping. The projections and dropping workload is what caused CUIAB to enter into the reduction in force so they now have hopefully the appropriate amount of ALJs to handle the workload that there is right now. Because of the use of excess leave and other programs, and people going on reduced time base to help with the reduction in force, we are pretty much staffed with what we believe is needed to get the work done. Staff met the timeliness standards but they are much closer than they have been in terms of percentages than in the past. To address that, one of the things that has happened is the field has been doing mass calendars and they will be doing those for the next few months to get some of the older cases out and probably a possibility of going up to the maximum caseload if need be in order to make the timeliness standards in the coming year. She knows that AO has also added cases to the caseload. What's happened is a little bit of an inconsistency in the field, some offices have extra

staff, extra judges and some need staff. So they are in the process of redistributing the work. For example, Murrieta that is halfway between San Diego and Inland is all switched over to Inland who has extra judges and no longer judges from San Diego are going there. Because they continue to lose staff, and that was part of the plan to make the budget through attrition they are not filling behind anyone, so that some offices are very low on staff. So they are taking cases that would normally be registered in those offices and sending them to an office that doesn't have so much work and using the staff there for the distributed cases. They are also using other staff members that are currently working on projects to work on registrations and other things. It's a continual daily task moving things around, moving people around, moving workload around, moving zip codes around, and Hugh Harrison is instrumental in doing that. She reported that the field has made all of the standards this month and that is their continued goal. They have the PALJs continuing to monitor their individual offices for timeliness and make sure that the judges are complying.

Vice Chair Allen commented that it is not unusual that after there has been a reduction in force there is always the struggle to try to make sure that things are right sized because a lot of this is based upon best estimates and projections. He asked whether the mass calendaring and the possibility of increasing caseload, is contemplated by the contract with CASE, without the need to meet and confer with the Union.

Chief ALJ/Executive Director Gonzales stated that was correct. Although the side letter agreement that was rolled over into the new contract is very specific, we don't have to meet and confer if it is within the terms of the contract. Notably, the mass calendars in the field are calendars that judges volunteer to do, but in the contract, ALJIs may be required to do two mass calendars a month. Generally, that is not a problem because judges like them because they get an extra day off if they do three days in a row of hearings. She stated that while we don't anticipate the need to impose case-loads that require a meet and confer under the side letter, we are conducting a meet and confer on the timeliness standards because the old contract addressed case aging as the standard and now they have to comply with case aging and timeliness. We have a meeting on November 17 with CalHR who is representing CUIAB.

8. Chief ALJ of Appellate Operations, Elise Rose Report:

Chief ALJ of Appellate Operations Rose reported that registrations in AO were up 240 cases from last month, however AO's dispositions fell 350 dispositions. They attribute that to the loss of AO ALJs, four from the downsizing and three from

retirements. AO's balance of open cases has gone up 300 cases so the trend is developing a backlog which has negatively impacted their time lapse. They have been able to keep AO's case aging under 40 days. AO is in compliance with the time lapse except for the 45-day measure where they have been struggling. They have noticed an increase in the appeal rate from FO to AO. The appeal rate for UI cases is now 8.7% which is the highest it's been since she has been here, overall it is 8.4% and the average is 7%. That is a 2.3% jump just from last month. The other notable thing is the field offices are getting the cases up to AO pretty quick, of course they have fewer cases to get up here so that makes sense too. Chief Rose reported that they have raised the caseload to the maximum for the ALJs. They haven't yet imposed mass calendars, but as AO starts to receive more cases from the field they may need to do that eventually as well. They do have a meet and confer scheduled to discuss the pilot program that they had entered into pertaining to the ALJs choosing to listen to audios as opposed to reading transcripts, and the number of case credits they were getting because they were willing to listen to the audios. They will be meeting on that issue later this week.

9. Project Director, Lori Kurosaka Report:

Project Director Kurosaka updated the board on the top three priorities in IT at this time. First, the eCATS and eFILE enhancements are going along on schedule and are in testing. Their scheduled completion is on schedule for late December and January. Secondly, the Appeals Case Scheduling System development is rolling along smoothly as well and the anticipated completion is early spring 2015 on that application for Field Operations. Lastly, the telecommunication staff completed the addition of the phone menu options for the field offices. She thanked Jeff Kumanchik on the telecommunication staff for his work on that effort.

10. Chief Administrative Services, Robert Silva Report:

Chief Silva directed the board to the Monthly Overtime/Lump Sum Payout Report in the board packets. Chief Silva reported that in the month of September there was a minimal amount of overtime used, \$358. There were just a small number of hours used in both Appellate Operations and Field Operations. He mentioned at the last board meeting that there would be a large lump sum payout expenditure in September and the total for the month was \$402,000 which represents 90% of leave paid out to employees that separated due to the SROA process. The bottom of the document shows that September's high amount of expenditures in this category has brought the total expenditures to \$696,000 which is 61% of the allocations for the entire year. However, they were prepared for this one time hit to this expenditure category and have budgeted the remaining lump sum costs for

2014/15 based on the average over the last five fiscal years. They expect greatly reduced lump sum expenditures as the fiscal year progresses and they should see what appears now to be a \$1.6 million shortfall gradually disappear as the year progresses. He reported that generally speaking CUIAB is heading in the right direction with regard to personnel expenditures in order to meet budget for 2014/15. They unfortunately do not have any expenditure dollar reports yet for September. They expect to get them next week. However, what they do have is position usage. He reported at the last board meeting during the budget presentation that CUIAB needed to average 517.8 positions in order to meet the personnel dollar budget of \$41.487 million for the fiscal year. If you factor out the position equivalent that were associated with the onetime lump sum dollar payout referred to for the SROA process in September, it would bring CUIAB's average position usage for the first quarter of 2014/15 to 524.7 positions. That is just 6.9 positions over that previously reported monthly goal of 517.8. The first month of true position usage without the atypical lump sum expenditures that happened in September will be October. They expect that financial data in mid-December so at that time they will be able to see what the expenditures were in October and perhaps be able to revisit the current internal hiring freeze and not backfilling behind attritions, and maybe be able to revisit the concept of backfilling a few needed positions in the agency.

Chief Silva reported that in the current month, November, they are conducting the Biannual Bilingual Audit, in which employees receiving or seeking to receive bilingual pay differentials complete time ladders to assess whether they are using their bilingual skills at the 10% threshold. This project has become even more important as CUIAB loses bilingual support staff due to attrition. CUIAB has lost nine bilingual staff in the last six months leaving only 54 current employees agency wide receiving the bilingual pay differential, predominantly support staff but a few ALJs receive it as well. So basically they need to make sure that field offices don't get into a situation where there is deficit with bilingual employees to continue to assist the public at every office. There are several processes where the workload can be shifted around but they still want to make sure that each field office has a good number of bilingual employees to assist.

Chair Dresser asked if there had been any complaints that bilingual services are not being rendered to the public. Chief Silva responded that he has heard no complaints whatsoever.

Chief Silva reported that the first hearings at the Red Bluff facility will happen next week. This long process, which was actually a consolidation process, two years ago closed a two room site in Redding and with the opening of the three room site

in Red Bluff next week they have now closed the two room site in Chico. So they consolidated from a total of four rooms in to separate sites to three rooms at one central location and the first hearing is this coming Monday.

Vice Chair Allen commented that with the agreement with EDD to take a lot of the HR functions, there was a budget shift. His concern is that CUIAB's management team does not have adequate HR support. He was told that either it was going to be addressed budgetary with EDD, or it was either going to result in money shifting or bodies shifting to help. So he was wondering if there had been any discussion with EDD.

Chief Silva responded that the only update he can give is that the Service Level Agreement between the agencies has expired and a draft proposal of augmented language is in the review process here at CUIAB. As soon as that review process is gone through they can then float it to EDD and hopefully through the updated Service Level Agreement address some of the issues Vice Chair Allen is bringing up with regard to HR support. He did say in all candor that no matter the success of the update of the Service Level Agreement, this agency is used to a very hands on sort of HR support previous to the EDD consolidation and their business model is simply different business model than CUIAB's. We could just simply run upstairs or make a phone call and have something done just like that. They don't have as many HR employees as we did per employee so resources are somewhat spread thin there. They are trying to assess some of the specifics but he thinks generally the culture is different and he's not sure how it can be repaired through the Service Level Agreement.

Chair Dresser stated that they would be talking about that at the meeting that afternoon with EDD as well.

Member Adkisson asked if CUIAB has an EEO officer as required by state law. Chief Silva responded that CUIAB does. Member Adkisson asked if that person actually performed some of the HR functions.

Chief Silva stated that CUIAB's EEO Officer is Martha Silva and he does not know to what extent what HR functions she performs.

Member Adkisson stated that HR is typically the department that is going to respond to civil rights issues that arise and often there is a duplication between EEO officer and the HR function, and most departments have a little bit of trouble with that. He asked if CUIAB's EEO officer stepped up.

Chief Silva replied that he knows CUIAB's EEO officer works in concert with the legal office here and he also knows there is a change in procedure currently pending. He stated that he does not know to the extent that that has been rectified at this point.

Chief ALJ/Executive Director Gonzales commented that CUIAB's EEO officer and former Chief Counsel Steinhardt worked out a program where Rochelle Beaver who works in Admin Services takes in any complaints. Martha Silva as the officer works with Staff Attorney Kim Hickox and Rochelle Beaver to bring in any requests for reasonable accommodation, complaints about hostile work environments, and so on. Ms. Silva is the person to take in the complaints and will investigate the complaints and Rochelle in Admin Services will document them; be the person that keeps the records of them so that we keep track of how they are handled. Geneva Wong, ALJ II, confidential in San Jose also assists in writing the letters for the reasonable accommodations process because she is a judge and can assist in appropriately requesting information. It has been a process that started when Kim Steinhardt started a year ago and they are fine tuning it now.

11. Chief Counsel's Report:

Chief Counsel Levy directed the board to the Litigation Report in the board packets, the written caseload tally. He called one to the board's attention; *Irving v. CUIAB*, which is a published decision out of the Second District Court of Appeal. Notable apparently because it contains somewhat of an implied criticism at the superior court for having engaged without cause in taking extra record evidence at the proceedings notwithstanding no allegations or findings that CUIAB didn't manage the process appropriately.

Chief Counsel Levy reported that he met with Senior Assistant Attorney General, Julie Weng-Gutierrez and two of her SDAGs to discuss litigation management and strategic considerations.

Chief Counsel Levy reported that an issue came up recently about a tax settlement request that will be noticed for executive session during the December board meeting.

Lastly, Chief Counsel Levy reported that everyone should have completed their bi-annual Ethics Training at this point in time. If the board has any questions about the legal issues raised in the AG's training please let him know and he can go over them with them as well.

Chair Dresser thanked Chief Counsel Levy for meeting with SAAG Julie Weng-Gutierrez. He thinks that is important to do. He asked the number of DAGs she is supervising.

Chief Counsel Levy responded 70 DAGs across California handle most of CUIAB's writ cases.

Member Adkisson commented that the Litigation Reports reflects few new cases, and he asked if this was unusual or if it was the pattern for a long time or just for a short time. He stated that there are so many cases pending and he wouldn't think these would take very long to resolve at superior court so he is wondering if there has been a reduction or any other reason why there are so few cases being challenged.

Chief Counsel Levy responded that fewer appeals will yield fewer petitions but in terms of numbers this month he thinks it is relatively low this month. CUIAB gets about 25 to 50 a year on average, but the length of time to litigate depends upon both the DAG and the petitioner, and the judge's calendar.

Member Adkisson thanked Chief Counsel Levy for keeping the board up to date on the outcome of cases that he has sent to the board. That is a very valuable service and much appreciated by everyone he's sure. In fact, he's seen comments by other board members appreciating that. Finally, he stated that they did have a problem, he won't mention which case or what the circumstances were, with a very important precedent case that was worked on dozens and dozens perhaps hundreds of hours by all the people who worked on the case only to find out when it was finally ready for board approval as a precedent that they had already litigated a similar issue although under a different argument. He stated that after poking around, the best idea he heard to avoid that from happening again was to regularly check the database to be sure that even litigation that ends at the superior court, as this one did, be found before beginning an important precedent decision. Whatever Chief Counsel Levy can to facilitate that he thinks would be helpful.

Chief Counsel Levy agreed and stated that he will make it a practice of keeping everybody apprised of the cases as they come in and are disposed of.

Member Adkisson replied that that was excellent but he also asked that whenever a precedent decision was about to be embarked upon that there be a practice that the database be searched to see if a similar issue had been decided by the court

at any level to determine if that would affect the approach the board would take on an important time-consuming decision.

Chief Counsel Levy replied that he would do that.

12. Unfinished and New Business:

13. Closed Session:

The Board went into closed session. No votes were reported.

Adjournment 12:00 noon.