

January 26, 2022

Thank you for the opportunity to submit information regarding Liebert Cassidy Whitmore's negotiation services. Provided below is a summary of our public sector labor relations practice.

Liebert Cassidy Whitmore has offices in Los Angeles, San Francisco, Sacramento, Fresno and San Diego and has been in existence since 1980. We have nearly 100 attorneys, two labor relations consultants and four paralegals on staff.

Statement of Qualifications

Liebert Cassidy Whitmore provides responsive and highly competent legal advice, representation, litigation services, negotiations and training to public entities throughout California. Our competitive advantage over other firms is that we focus our practice on public sector labor relations and employment law and are committed to providing high quality, cost effective and practical solutions for the challenges faced by California's public agencies. One particular area of expertise is our labor relations representation services in all forms of collective bargaining and impasse resolution processes, such as mediation, factfinding and interest arbitration. Our negotiators are well-versed at handling multiple bargaining tables and are experienced in utilization of different bargaining techniques in order to successfully conclude negotiations.

We believe that our experienced and practical approach to negotiations, as well as our problem-solving orientation, results in a smoother and more expeditious negotiating process, fewer sustainable grievances or unfair labor practice charges, and ultimately, a more cost-effective method of collective bargaining.

Members of our firm have negotiated literally hundreds of memoranda of understanding with all varieties of general and safety employee groups including labor unions such as: AFSCME, IBEW, IUOE, SEIU, Teamsters, and various police, fire and general employee associations. We have negotiated virtually every issue within the scope of bargaining, including such issues as: wages, hours, health and retirement benefits, leaves and discipline.

Our Approach to Negotiations:

Our approach to negotiations will be guided by the philosophy, goals and objectives of our clients, the financial situation in which our client finds itself, as well as a number of other factors. In general however, our approach includes the following:

- We work through the Fire Chief and their designated staff, and work with and for the Board of Directors. We provide professional advice to assist the Department

in determining its policy goals and objectives, which then become our goals and objectives; we see our job as applying our best efforts and skills to achieving them.

- We believe in carefully organizing for negotiations, with goals and objectives kept well in mind. The negotiating process, we believe, consists of definable stages, from preparatory activities to the preliminary bargaining phases, good faith bargaining, and finally to agreement or impasse procedure. Each stage of the process requires an organized approach in order to maximize the chances of attaining bargaining objectives.
- Where we reasonably anticipate adversarial bargaining, concession bargaining, factfinding/binding arbitration, unilateral implementation, or other particularly challenging bargaining issues, we work closely with our clients to ensure they are best prepared and positioned for a successful outcome when agreements cannot be reached. We stress that preparation for an impasse hearing process must occur throughout all stages of bargaining where factfinding or binding interest arbitration is required.
- We assist our clients in identifying and obtaining practical solutions to the financial difficulties public agencies are experiencing.
- Our philosophy is not one of “union busting,” but rather one of using a professional approach that seeks to achieve and maintain professional relationships, notwithstanding the adversarial aspects of the process. We attempt to contribute positively to the long-standing labor relationship between our clients and their employee organizations; however, we are experienced with and prepared to respond to the hard-line approach and tactics used by certain employee organizations.
- We assist our clients in protecting and maximizing their management rights and the discretion to set standards of service and retain the prerogative to direct, assign, evaluate, hire, fire and reorganize.
- We see the conclusion of negotiations as a framework for establishing a constructive employer-employee, organization-employee relations structure, which requires management training and ongoing involvement with agency management on our part.

#### Services Provided

The services offered by our LCW negotiators are generally as follows, subject to the particular preferences of any agency which can and do bring about modifications to

our role:

- Meet with Department staff and elected officials prior to commencement of negotiations in order to best understand (and perhaps formulate) the goals and objectives of the Department in addressing the potential bargaining issues, and to be made aware of the financial/political limitations upon reaching those goals and objectives.
- Provide leadership in formulating the strategies, which will be employed in meeting the goals and objectives at the bargaining table. (This may include asking that various Department negotiation team members or resource personnel prepare budget presentations, detailed cost/revenue analyses or other financial data that may be discussed during negotiations).
- Administer and/or oversee classification and compensation studies to gather the data necessary to formulate and present the agency's bargaining objectives and proposals.
- Review and analyze all pertinent charter provisions, codes, ordinances, rules and regulations, and existing memoranda of understanding, in order to verify their impact upon the goals and objectives that are being pursued.
- Act as principal spokesperson and strategist during the bargaining process.
- Participate in closed sessions to provide guidance to and receive direction from elected officials.
- Represent the Department at impasse proceedings (including preparation and representation through the impasse process, preparation of press releases, supervising media relations, meeting with elected officials, and making those appearances provided for by the Department employee relations ordinance, as requested by the Department).

#### *Labor Relations Consulting*

In addition to conducting negotiations for public employers, we continually work with public agencies that employ staff to do their own negotiations. This arrangement has involved all aspects of consultation and related services, including preparation of initial bargaining proposals, reviewing counter-proposals, providing training and advice concerning negotiating strategies, representation through impasse procedures and giving general advice when particular problems arise.

These services include:

- MOU reviews/audits to identify issues for legal compliance, provide suggestions to increase clarity and reduce ambiguity by improving contract language, and offer suggestions/alternatives to be considered in contract negotiations.
- Training on costing labor contracts, compiling demographic data, preparing for impasse processes, and other training programs to develop skills for internal staff.
- Strategy development and advice on key areas including FLSA items, cost restructuring, pension issues, employee benefits, and discipline/appeal processes. Provide advice and consultation on the scope of meet and confer subjects and alternative approaches to manage meet and confer obligations.
- Drafting contract language compliant with legal parameters and consulting on the preparation and presentation of proposals.
- Conducting or reviewing salary/compensation survey data, market comparable agencies, and options for inclusion of information during the meet and confer process.

#### Subject Matter Expertise

LCW negotiators have expertise in the following key subject areas:

**Retirement Benefits** - The firm's negotiators are trained in the implementation of the laws and regulations pertaining to public employee retirement plans, including the Public Employee Retirement System ("PERS"), the County 1937 Retirement Act, and local agency retirement laws, as well as on retiree health benefit issues. In particular, LCW negotiators know the details of the new Public Employees' Pension Reform Act of 2013 ("PEPRA") and how the new law impacts agency obligations at the bargaining table regarding retirement formulas, employer-employee pension contributions and rules on reportable compensation. In addition, our negotiators regularly provide advice and counsel on how to negotiate pension contract amendments, disability retirement procedures and obligations, service credit, GASB issues, unfunded liability issues, retiree health benefits and vested rights issues.

**Impasse Resolution** – LCW negotiators have been directly involved in hundreds of impasse resolution proceedings, including mediation, fact-finding and interest arbitrations. Related to this area, our firm has conducted numerous trainings and briefings on the fact-finding requirements imposed by AB 646 for agencies subject to the Meyers-Milias-Brown Act, and our negotiators have handled a fair number of actual fact-findings under the law. In addition, our labor negotiations practice group has developed

strategic plans for navigating the laws and regulations on impasse resolution procedures, including unilateral implementation of the agency’s last, best and final offer.

**Fair Labor Standards Act** - LCW has a thriving practice advising public agencies on compliance with the Fair Labor Standards Act (“FLSA”) and our negotiators have particular expertise addressing FLSA issues at the bargaining table. This includes knowledge on the extent to which FLSA issues are subject to negotiation, identification of higher overtime benefits provided by the labor agreement, overtime exemption challenges and regular rate of pay issues.

**Benefits and Leaves of Absence** – Our labor relations experts have experience with a multitude of benefit programs subject to meet and confer and included in labor agreements. These include medical plans, including the CalPERS PEMHCA programs, Affordable Care Act compliance, Section 125 plan structures, along with ancillary benefits (e.g. Dental, vision, life insurance, disability plans, deferred compensation plans, etc.). In addition, leave of absence provisions both as required under the law and as negotiated via collective bargaining is an area where we have depth of knowledge and experience.

**Unfair Labor Practices** - Members of the firm have many years of experience representing our clients in all phases of proceedings before the Public Employment Relations Board (“PERB”), from consultation and responses to unfair labor practice charges through PERB hearings and court appeals. This experience is utilized by the firm’s negotiators to identify bargaining practices and positions that could compromise the agency’s position before PERB. And, if our clients are charged with an unfair labor practice, LCW is able to provide the full range of representational services in defending the charge before PERB.

**Municipal Bankruptcy** - LCW negotiators have been involved in negotiations with public agencies in, or contemplating, municipal bankruptcy. This includes working with agencies to develop creative labor relations solutions and alternatives to avoid bankruptcy as well as advice and counsel on the impact on labor relations matters in the event an agency files for bankruptcy protection. Our aim in this area is to promote a disciplined and cautious approach, with the goal to avoid bankruptcy, even in times of fiscal distress.

### Proposed Staff

Our negotiators are all highly skilled, experienced and effective. They are also creative, practical and excel in effective communications (written and oral presentations, listening skills). They have negotiated with both safety and miscellaneous employees bargaining units. They work hard to reach an agreement while also preparing to be in the

best position in the event of impasse, fact-finding or unilateral implementation.

We recognize that having the right fit between client and negotiator is an important component of successful negotiations. One of the distinguishing characteristics of our firm is that we have a variety of personalities and styles from which our clients can choose to find the right person for their negotiating needs. As a result, we recommend the following negotiators from our San Francisco office: partner [Donna Williamson](#) and associate [Lisa Charbonneau](#). We invite you to interview either of these negotiators, either in person or via telephone, at no cost to the Department. Their resumes are included for your reference.

#### Rate and Service Structure

The firm bills in increments of one tenth of an hour. Invoices are payable upon receipt and due within 30 days. Our rates reflect the nature of our public sector work and take into consideration the inherent budgetary limitations of our public sector clients. Our firm evaluates our rates on an annual basis and occasionally makes modest rate increases. We understand the need to manage the cost of legal services and frequently work with clients to create budgets and cost strategies that suit them. We have a proven track record of fairly accurately estimating costs, given the many variables inherent in each matter.

We share briefs, motions, points and authorities, research memos and opinion letters with our colleagues statewide to reduce research overlap and to stay abreast of nuances in the law. Pricing offered on a time-and-materials basis would be based on the standard hourly rates listed below:

Donna Williamson .....\$390  
Lisa Charbonneau .....\$310

#### Expenses

Unlike many firms, we do not bill for secretarial time or telephone charges. Facsimile transmissions are billed at the rate of \$.25 per page for outgoing faxes only. Documents are sent electronically unless specifically requested otherwise, or when electronic transmission is not an option. Copying is charged at fifteen cents (\$.15) per page. Additional prints, postage and special deliveries (i.e. Fed-Ex, UPS, DHL, messenger service), and other hired deliveries completed at the request of the client or necessary to comply with court or other deadlines will also be billed to the client.

Our firm bills for travel time at the negotiator's hourly rate - for the time it takes to travel from the office to our client and back, or the time it takes from the negotiator's

residence to our client and back, whichever is less. Importantly, we do not double bill for our travel time; our travel billing is prorated by the time we spend on billable work for the agency or other clients, like phone calls and dictation.

Professional travel has been significantly affected by the pandemic and our labor relations practitioners are fully trained and experienced in conducting virtual proceedings through Zoom, Microsoft and other virtual conferencing platforms. Our proposed negotiators are also ready, willing and able to meet in person as well as being cognizant and complying with all safety and health guidelines.

### Additional Services

As a best practice, we recommend completing an MOU audit prior to the start of negotiations if you have not reviewed/updated your MOU for best practices, legal compliance and to ensure the elimination of ambiguous language since the last round of negotiations.

An audit ensures that contract language accurately reflects changes in the law since the contract was last negotiated [eg. new state laws regarding sick leave, health insurance (ACA), retirement (PEPRA), unlawful discrimination, leave rights, arbitration and release time for union representatives.] It also ensures that contract language not only complies with state and federal laws, but that it maximizes the agency's opportunity for cost effectiveness.

The audit will reveal all of the changes we suggest for legal compliance, to eliminate ambiguities and ensure best practices. The analysis also includes the identification of MOU language/provisions to target during the upcoming negotiations. Careful preparation allows you to set the bargaining agenda, rather than simple being reactive as well as avoids the inefficiencies of an ad hoc approach where disputes and mistakes often occur.

Audits are billed on an hourly basis and can be scheduled whether or not LCW conducts your negotiations.

### Conclusion

We recognize that your purpose is to serve the needs of the community and so our goal is to help you achieve this mission. We are most rewarded when we have the opportunity to collaborate with our clients to create solutions that make them successful.

We offer the Department a broad range of experienced labor relations services including negotiations, training, advice and representation. We bring both historical and

current experience working with public entities to aid the Department. We also offer a range of rates to fit the Department's budget. Finally, we offer our commitment to the Department to provide it with superior service, timely and efficient work product and professional people with whom to work. In short, we would welcome the opportunity to work with you on these negotiations.

For more information about our firm, please visit our website at [www.lcwlegal.com](http://www.lcwlegal.com). If we can answer additional questions, please contact Donna Williamson at 415-512-3000 or [dwilliamson@lcwlegal.com](mailto:dwilliamson@lcwlegal.com).



# LCW

## Donna Williamson

### Partner

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Donna Williamson, a partner in Liebert Cassidy Whitmore's San Francisco and Sacramento offices, has represented educational institutions and public agencies for over thirty years. Her areas of expertise include employment, student and board issues, labor relations, labor negotiations, contract administration, employment discrimination, harassment, employee discipline and investigations. Donna also provides training on all of these areas and speaks regularly at conferences on topics related to her practice.

As chief labor negotiator, Donna has successfully negotiated hundreds of labor contracts throughout the years. She is experienced in traditional as well as interest based bargaining, mediation, fact-finding, binding interest arbitration, PERB and NLRB proceedings. Donna has represented clients on matters involving union grievances, arbitrations, unfair labor practices, strikes, unilateral implementation and other labor issues.

With years of experience working for and representing independent and private schools and public schools and colleges. Donna has a deep understanding of the issues and needs our education clients. Donna has also served as in-house Labor Counsel for a large public high school district, as the assistant head of a boarding school and as a board member on independent school boards. Donna co-authors the firm's monthly newsletter, *Private Education Matters*.

### Expertise

- Labor Relations
- Public Safety
- Wage and Hour
- Employment Law

### Education

JD, Santa Clara University School of Law  
BA, Northeastern University

# Representative Matters

## Negotiations

***San Lorenzo Valley Unified School District*** – Teachers and Classified Units.

***Franklin-McKinley Unified School District***– Teachers and Classified Units.

***San Jose Evergreen Valley Unified School District*** – Faculty Unit.

***Ecole Bilingue de Berkeley***– Teacher Unit.

***Escuela Bilingue Internacionale*** – Teachers and Non-teaching Units.

***Chabot Los Positas Community College District***– Classified Unit.

***County of Contra Costa*** – General Units.

***County of Mendocino***– Police, Safety Management, and General Units.

***County of Nevada*** – Police Units.

***Mendocino County Public Authority*** – General Unit.

***City of Daly City*** – Police, Fire, Safety Management and General Units.

***State Bar Association of California***– Attorney and Non-Attorney Units.

***City of Seaside***– Police, Fire, Safety Management and General Units.

***City of Salinas*** – Police, Fire, Safety Management and General Units.

***City of Marina*** – Police Unit.

***City of Pacific Grove***– Police Unit.

***The Accelerated School***– Negotiated their first contract with both the Teachers and Classified Units.

# Publications

09/02/2021

**Gov. Approves AB 272, Allowing Minors to Disaffirm Provisions in Enrollment Agreements that Require Arbitration of Claims of Criminal Sexual Assault & Sexual Battery**

*LCW Special Bulletin*

04/14/2020

**What Private Schools Should Know About Layoffs And Furloughs**

*LCW Special Bulletin*

04/13/2020

**Ensuring That Employees with Reduced Hours Qualify for Federal Pandemic Unemployment Compensation (“FPUC”) under the CARES Act for Non-Profit Employers**

*LCW Special Bulletin*

# LCW

## Lisa S. Charbonneau

### Associate

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Lisa represents cities, counties, authorities, and special districts throughout the state as a negotiator, litigator, and trusted advisor in all matters pertaining to labor and employment law. She has extensive experience in Fair Labor Standards Act (FLSA) and wage and hour compliance, labor relations, collective bargaining, PERB practice, and public employee disciplinary matters. She also represents independent schools and non-profits in wage and hour matters.

Lisa has served as chief negotiator for small and large public agencies in labor negotiations with law enforcement associations, various Teamsters locals, SEIU 2015 Long Term Care Workers, the International Association of Fire Fighters, and numerous other employee associations and organizations. Lisa takes a hands-on approach to bargaining and strives to be highly responsive to the unique needs of each client and their governing body.

Lisa has secured successful results for clients in litigation matters ranging from wage and hour to First Amendment retaliation. As one of the firm's FLSA litigators, over the past five years alone, Lisa has represented over a dozen cities, counties, or special districts in FLSA collective actions brought in federal court in the Central, Eastern, and Northern Districts. She has also represented clients in arbitrations and fact-finding hearings, as well as before the Public Employee Relations Board, the California Labor Commissioner, the U.S. Department of Labor, the California Department of Fair Employment and Housing, and the Equal Employment Opportunity Commission.

A significant part of Lisa's advice and counsel work involves counseling clients on the meet and confer process and FLSA issues. She also conducts FLSA audits for clients, which range in scope from reviewing employer compliance with discrete wage and hour laws to assisting with payroll system upgrades and modifications to achieve compliance with wage and hour laws. Her practice also includes training on such subjects as ethics, risk management, discrimination and harassment, and FLSA compliance.

Lisa S. Charbonneau | © 2022 Liebert Cassidy Whitmore. All rights reserved.

Lisa received her JD from U.C. Hastings College of the Law in 2006 and was admitted to the California State Bar in December of that year. While at Hastings, Lisa served as an Equal Justice America fellow and received a grant to work on community economic development issues for the City of Detroit. Lisa earned her Bachelor of Arts with Honors in Government from Wesleyan University in Middletown, Connecticut, and soon after that worked at a political magazine, *The American Prospect*, until she began to pursue her law degree.

## Expertise

- Labor Relations
- Employment Law
- Public Safety
- Litigation
- Wage and Hour
- Internal Compliance Audit Services

## Education

JD, University of California, Hastings College of Law

BA, Wesleyan University

## Representative Matters

### Negotiations

***City of Campbell (current)*** – Non-Safety Units

***City of Citrus Heights(current)*** – Safety and Non-Safety Units

***City of Los Altos(2019-current)*** – Safety and Non-Safety Units

***County of Mendocino (2019)*** – Safety and Non-Safety Units, IHSS Unit

***County of Marin Public Authority (current)*** – IHSS Unit

***County of Marin Housing Authority(2020-current)*** – SEIU 1021

***Monterey County Regional Fire District (2020-present)*** – IAFF Unit and Miscellaneous Unit

## Litigation

***Burris v. City of Petaluma (2019)*** – U.S. District Court, Northern District. Fair Labor Standards Act collective action involving firefighter overtime. Court approved settlement and case dismissed with prejudice.

***Valentine et al. v. Sacramento Metropolitan Fire District (2019)*** – U.S. District Court, Eastern District. Fair Labor Standards Act collective action involving more than five hundred firefighters. Court approved settlement and case dismissed with prejudice.

***Spiller v. City of Petaluma (2018)*** – U.S. District Court, Northern District. Fair Labor Standards Act collective action involving police department employees. Court approved settlement and case dismissed with prejudice.

***Baskin et al. v. City of San Luis Obispo (2018)*** – U.S. District Court, Central District. Multi-plaintiff Fair Labor Standards Act case. Court approved settlement and case dismissed with prejudice.

***Hoffman v. County of Butte (2017)*** – U.S. District Court, Eastern District. Fair Labor Standards Act collective action brought by sheriff's department employees. Court approved settlement and case dismissed with prejudice.

***Stewart v. County of Amador (2017)*** – U.S. District Court, Eastern District. Fair Labor Standards Act collective action. Court approved settlement and case dismissed with prejudice.

***Alviso et al. v. City of San Rafael (2017)*** – U.S. District Court, Northern District. Fair Labor Standards Act collective action. Court approved settlement and case dismissed with prejudice.

***Anderson et al. v. Marinwood Community Services District (2017)*** – U.S. District Court, Northern District. Multi-plaintiff Fair Labor Standards Act case. Court approved settlement and case dismissed with prejudice.

***Drobish et al. v. City of Citrus Heights (2017)*** – U.S. District Court, Eastern District. Fair Labor Standards Act collective action. Court approved settlement and case dismissed with prejudice.

***Maner v. County of Stanislaus, Birgit Fladager (2016)*** – U.S. District Court, Eastern District. Represented County and District Attorney. Secured complete summary judgment for County and District Attorney in first amendment retaliation claim brought by a former deputy district attorney.

***James et. al. v. City of Santa Clara (2016)*** – Santa Clara County Superior Court. Represented City and secured complete summary judgment for City in age discrimination claim brought by three plaintiffs.

# Publications

12/30/2021

**CDC Shortens Isolation/Quarantine Period**

*LCW Special Bulletin*

07/27/2021

**Wage & Hour: The Difference & Nuance of Call-Back & Standby**

*California Public Agency Labor & Employment Blog*

01/11/2021

**The US Department of Labor Sets Forth New Guidance Regarding the Classification of Independent Contractors Under the Fair Labor Standards Act**

*LCW Special Bulletin*

09/13/2019

**DOL May Update Overtime Rate Regulations for First Time in 50 Years**

*The Daily Journal*

09/19/2016

**Public Employers Need To Be Vigilant About Overtime Rules**

*The Daily Journal*