

State court orders Cal-OSHA hearing

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SACRAMENTO — A state appellate court has ordered a hearing on two petitions to reverse the Deukmejian administration's controversial dismantling of the state's Occupational Safety and Health Administration (Cal-OSHA).

California Rural Legal Assistance, a statewide legal services organization serving the rural poor, primarily farm workers, and the California State Employees Association filed the petitions for a writ of mandate. The Third District Court of Appeals last week granted a hearing on both cases, which were consolidated by the court for purposes of oral argument, to be held Oct. 19.

Attorneys for both groups of plaintiffs hailed the action as a major victory in a flurry of so far unsuccessful legal efforts — to halt or reverse the governor's action.

"The burden is on the administration to prove to the court that state management had the legal authority to dismantle [a program] that was created by the Legislature," said state employees President Patrick J. Monahan.

Ralph Abascal, general counsel of the legal assistance program in San Francisco, said the action "represents a judgment by the court that it is at least an important issue — important enough to interrupt their busy schedule to hear

it in the first instance."

The court's decision to hear the matter is unusual, since the court's intervention is entirely discretionary and the matter could have been referred to trial courts where other suits against the Cal-OSHA dismantling are pending, he said.

The court denied requests for a temporary stay of the governor's action, which took effect with the new state budget July 1.

CRLA attorneys said they may appeal the denial to the state Supreme Court.

The state Supreme Court last week denied the California Labor Federation's request to halt the governor's action — one of five suits filed in various courts. The labor federation's petition can be refiled in the appellate court.

In addition, two lawsuits filed by state labor groups are pending in San Francisco and Sacramento Superior Courts, awaiting the outcome of the appellate and Supreme Court petitions.

In both Superior Court suits, judges have declined to halt the governor's action. Sacramento Superior Court Judge Roger Warren ruled in May that Deukmejian did not have the authority to dismantle the program without legislative concurrence — but Warren said he did not have the authority to tell the governor what to do.

The CRLA petition was filed on behalf of four farm workers, a garment industry worker and a power sewing

machine operator. Joining in the petition are the Legal Aid Foundation of Los Angeles and the Asian Law Caucus of Oakland.

Among the many Cal-OSHA protections Abascal contends have been lost under Deukmejian's transfer of worker safety programs to federal OSHA enforcement are standards banning the short-handled hoe and requiring toilets and drinking water in the fields.

The state agency, decimated by employee resignations and layoffs, retains jurisdiction over public sector worker safety complaints and is assisting in the transition to federal enforcement. In a move widely criticized by legislative and labor leaders, the state attorney general, environmentalists, prosecutors and even representatives of the business community, the governor cut 366 positions from Cal-OSHA's 500-employee staff, saving an estimated \$7 million in the 1987-88 budget year.

Critics say the move is foolish and ultimately will result in higher costs due to increased worker accidents.

The U.S. Labor Department, which administers the federal OSHA program, insists it will provide active enforcement of worker safety laws. The federal agency has assumed "concurrent jurisdiction" with the state over the program, pending resolution of the various court actions.