

# **Bond Case Briefs**

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## **EMPLOYMENT - CALIFORNIA**

### **Poole v. Orange County Fire Authority**

**Supreme Court of California - August 24, 2015 - P.3d - 2015 WL 4998965**

Under the Firefighters Procedural Bill of Rights Act a firefighter has the right to review and respond to any negative comment that is “entered in his or her personnel file, or any other file used for any personnel purposes by his or her employer.” (§ 3255.) This case presented the question whether section 3255 gives an employee the right to review and respond to negative comments in a supervisor’s daily log, consisting of notes that memorialize the supervisor’s thoughts and observations concerning an employee, which the supervisor uses as a memory aid in preparing performance plans and reviews.

Firefighter and union filed petition and verified complaint, seeking writ of mandate directing county fire authority to include adverse comments in firefighter’s files only after complying with FireFighters Procedural Bill of Rights (FFBOR), and requesting declaratory relief, injunctive relief, civil penalties, and damages. The Superior Court denied relief. Firefighter and union appealed, and the Court of Appeal reversed and remanded. The Supreme Court granted review, superseding the opinion of the Court of Appeal.

The Supreme Court of California held that daily log kept by fire captain was not a “personnel file” or a file “used for any personnel purposes by his or her employer” subject to FFBOR.

Daily log kept by fire captain was not a “personnel file” or a file “used for any personnel purposes by his or her employer” subject to FireFighters Procedural Bill of Rights (FFBOR), even though captain used the log in the performance of his duties as a supervisor, and thus firefighter did not have any right to review and respond to negative comments in the log. Captain did not share his log with anyone but merely discussed with others some of the incidents that he had observed and also recorded in his log, preliminary to completing firefighter’s evaluations and performance improvement plan, log was used to help captain remember past events, and captain did not have authority to take adverse disciplinary actions and thus his comments could adversely affect firefighters only if and when they were placed in a personnel file.