

BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

In the Matter of Applicability of Government
Code Section 20638 to Member Fred Guido:

FRED GUIDO,

Respondent,

CITY OF CUDAHY,

Respondent.

Case No. 9711

OAH No. 2012030387

**PREHEARING CONFERENCE
ORDER**

On October 12, 2012, a Prehearing Conference was held before Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles.

Jeffrey R. Rieger, Esq., represented Petitioner CalPERS.

John Michael Jensen, Esq., represented Respondent Fred Guido.

Juanda Lowder Daniel, Esq., represented Respondent City of Cudahy.

After considering the Pre-Hearing Conference statements filed by the parties, the papers and records on file, discussion with the parties, and the authority set forth in Government Code section 11511.5, good cause was established, and this Order relating to the hearing is made:

1. Hearing & Pleadings:

The hearing in this matter shall be held at the place, dates and times previously set by notice. ALJ Eric Sawyer is currently assigned to hear this matter, but that assignment is subject to change at the discretion of the Presiding Administrative Law Judge.

The factual and legal issues to be decided in the case are as set forth in the Statement of Issues and the Notice of Defenses.

Complainant does not anticipate pleading amendments at this time. Any request to file amended or supplemental pleadings shall be done according to Government Code section 11507. With regard to any new substantive issues raised therein, the hearing judge may order their bifurcation and hearing at a later time, absent stipulation of the parties.

2. Discovery

The parties have completed discovery.

3. Hearing Document Exchange:

By no later than 5:00 p.m. of **November 2, 2012**, the parties shall exchange with each other their final witness list, exhibit list and exhibits; except that Respondent City of Cudahy shall have until **November 7, 2012**, to exchange those documents.

The final witness lists shall indicate which witnesses are expected to testify as experts, and their respective curricula vitae are to be served concurrently.

Except for good cause shown, impeachment, or for rebuttal, and at the discretion of the Administrative Law Judge assigned for hearing, no exhibit not included in the exhibit list may be marked for identification or admitted into evidence at the hearing, and no witness not included in the witness list may testify at the hearing.

Cumulative character and/or expert witnesses will not be allowed to testify, except upon a showing of good cause. Three character witnesses is the usual maximum.

4. Pre-Hearing Motions:

All pre-hearing motions are to be made in writing, accompanied by appropriate points and authorities, and declarations, if needed, and served and filed by no later than 5:00 p.m. of **October 29, 2012**. The opposing party shall serve and file a written opposition, if any, by no later than **November 7, 2012**. The motions shall be heard at the beginning of the hearing, prior to the commencement of the case, unless otherwise set by the assigned ALJ.

5. Meet & Confer:

On or before the **tenth court day before hearing**, the parties should meet and confer regarding factual and evidentiary stipulations. By no later than the **fifth court day before hearing**, the parties should file a joint statement of any executed stipulations.

6. Hearing Briefs:

The parties may, but need not, submit hearing briefs, which shall be served on the other party(s), with a copy to the hearing judge, by no later than **two court days before the hearing begins**. Briefs filed later than that day may not be read before the hearing starts.

7. Conduct:

At the hearing, the parties are to have multiple sets of their respective exhibits, so that a copy will be before the court, each counsel and the testifying witness when such exhibits

are the subjects of testimony. The exhibits shall be placed in binders if a party will use more than twenty (20).

Any exhibit more than three pages in length must be internally paginated. Exhibits are to be marked as follows: Complainant is to use *numbers 1-200*, Respondent Guido shall use *numbers 201-on*, and Respondent City of Cudahy shall use *letters*.

The parties are directed to schedule their witnesses so as to avoid any delays in the hearing and so as to accommodate the witnesses' schedules and to eliminate the need to take witnesses out of order. Counsel are encouraged to confer, during hearing, regarding the timing of witness appearances in order to prevent the absence of witnesses and requests for early adjournment or late commencement times.

The parties shall comply with Government Code section 11514 with respect to the introduction of any evidence by affidavit.

Cellular telephones, pagers, and all other noise making devises shall be turned off while the hearing is in session.

Courtesy toward and by everyone in the hearing room is required at all times, without exception. Counsel are to use courtesy titles when addressing witnesses and each other. While on the record, objections, requests to go off-record, or requests for record read-backs are to be directed to the Administrative Law Judge. When making objections, counsel shall state the legal grounds but should not present argument in support of any objection, unless requested to do so by the Administrative Law Judge.

IT IS SO ORDERED.

DATED: October 12, 2012



ERIC SAWYER
Administrative Law Judge
Office of Administrative Hearings

DECLARATION OF SERVICE

Case Name: Guido, Fred

OAH No.: 2012030387

I, Tasha Rowland, declare as follows: I am over 18 years of age and am not a party to this action. I am employed by the Office of Administrative Hearings. My business address is 320 West Fourth Street, Suite 630, Los Angeles, CA 90013. On October 15, 2012, I served a copy of the following document(s) in the action entitled above:

PREHEARING CONFERENCE ORDER

to each of the person(s) named below at the addresses listed after each name by the following method(s):

Juanda L. Daniel
Attorney at Law
1100 S. Flower Street, Suite 2200
Los Angeles, CA 90015

Jeffrey R Rieger, Attorney at Law
Reed Smith LLP
101 Second Street, Suite 1800
San Francisco, CA 94105-3659

John M. Jensen
Attorney at Law
11500 W. Olympic Blvd., Suite 550
Los Angeles, CA 90064

United States Mail. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above, and placed the envelope or package for collection and mailing, in accordance with the Office of Administrative Hearings' ordinary business practices, in Los Angeles, California. I am readily familiar with the Office of Administrative Hearings' practice for collecting and processing documents for mailing. Correspondences are deposited in the ordinary course of business with the United States Postal Service in a sealed envelope or package with postage fully prepaid. [by certified mail].

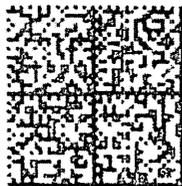
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. This declaration was executed at Los Angeles, California on October 15, 2012.



Tasha Rowland, Declarant

Office of Administrative Hearings
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Los Angeles, CA 90013

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