



1 Edward Gregory (State Bar No. 128375)  
2 Jason Levin (State Bar No. 161807)  
3 Lisa Petrovsky (State Bar No. 239539)  
4 STEPTOE & JOHNSON LLP  
5 633 West Fifth Street, Suite 700  
6 Los Angeles, California 90071  
7 Telephone: (213) 439-9400  
8 Facsimile: (213) 439-9599  
9 *egregory@steptoe.com*  
10 *jlevin@steptoe.com*  
11 *lpetrovsky@steptoe.com*

12 Attorneys for  
13 California Public Employees'  
14 Retirement System (CalPERS)

15 **BOARD OF ADMINISTRATION**  
16 **CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**  
17 **STATE OF CALIFORNIA**

18 In the Matter of the Calculation of Final Compensation of: ) **CASE NO. 2012-0671**  
19 BRUCE MALKENHORST, SR., )  
20 Respondent, ) **OAH NO. 2013080917**  
21 and. ) **CALPERS OPPOSITION TO**  
22 CITY OF VERNON, ) **MALKENHORST'S MOTION IN**  
23 Respondent. ) **LIMINE NO. 1**  
24 )  
25 )  
26 )  
27 )  
28 )  
29 )  
30 )  
31 )  
32 )  
33 )  
34 )  
35 )  
36 )  
37 )  
38 )  
39 )  
40 )  
41 )  
42 )  
43 )  
44 )  
45 )  
46 )  
47 )  
48 )  
49 )  
50 )  
51 )  
52 )  
53 )  
54 )  
55 )  
56 )  
57 )  
58 )  
59 )  
60 )  
61 )  
62 )  
63 )  
64 )  
65 )  
66 )  
67 )  
68 )  
69 )  
70 )  
71 )  
72 )  
73 )  
74 )  
75 )  
76 )  
77 )  
78 )  
79 )  
80 )  
81 )  
82 )  
83 )  
84 )  
85 )  
86 )  
87 )  
88 )  
89 )  
90 )  
91 )  
92 )  
93 )  
94 )  
95 )  
96 )  
97 )  
98 )  
99 )  
100 )

1  
2 **MOTION IN LIMINE NO. 1 SHOULD BE DENIED**

3 This administrative proceeding concerns the determination of Malkenhorst's retirement  
4 allowance under the Public Employees' Retirement Law (Government Code section 20000, et  
5 seq.). Malkenhorst appealed CalPERS' determination, and in response, CalPERS initiated this  
6 administrative process by filing a Statement of Issues.

7 Malkenhorst argues that the Statement of Issues is defective, that CalPERS should have  
8 proceeded by accusation, and, as a result, CalPERS should be barred from introducing "any  
9 and all evidence." CalPERS previously responded to this same argument by filing  
10 "CALPERS' RESPONSE TO MALKENHORST'S MOTION 'TO FORCE CALPERS TO  
11 PROCEED BY ACCUSATION, BEAR BURDEN OF PROOF AND BURDEN OF  
12 PERSUASION,'" filed May 29, 2014.) CalPERS adopts its prior response as its Opposition to  
13 this motion and, based on that response, urges the OAH to deny the Motion.

14  
15 DATED: June 9, 2014

STEPTOE & JOHNSON LLP

16  
17  
18 By:  \_\_\_\_\_  
19 Jason Levin

20 Attorneys for Complainant CalPERS