

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*



9 Attorneys for
10 California Public Employees'
11 Retirement System (CalPERS)

12 **BOARD OF ADMINISTRATION**
13 **CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**
14 **STATE OF CALIFORNIA**

15 In the Matter of the Calculation of Final) **CASE NO. 2012-0671**
16 Compensation of:)
17) **OAH NO. 2013080917**
18 BRUCE MALKENHORST, SR.,)
19 Respondent,) **CALPERS OPPOSITION TO**
20 and.) **MALKENHORST'S MOTION IN**
21 CITY OF VERNON,) **LIMINE NO. 4**
22) **Hearing: June 13, 2014, 9:00 a.m.**
23 Respondent.)
24)
25)
26)
27)
28)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MOTION IN LIMINE NO. 4 SHOULD BE DENIED

This administrative proceeding concerns the determination of Malkenhorst's retirement allowance under the Public Employees' Retirement Law ("the PERL," Government Code section 20000, et seq.). CalPERS determined Malkenhorst's retirement allowance based on documents produced by Malkenhorst's former employer, the City of Vernon, and City employee Joaquin Leon has been designated as a witness to discuss that document production.

In his Motion in Limine No. 4, Malkenhorst speculates that Leon will provide evidence on matters about which he lacks personal knowledge, or for which a proper foundation cannot be laid. However, the Motion fails to identify any specific evidence that must be excluded. "A motion in limine to exclude evidence is not a sufficient objection unless it was directed to a particular, identifiable body of evidence" (*Boeken v. Philip Morris Inc.* (2005) 127 Cal.App.4th 1640, 1675.) General objections like those asserted by Malkenhorst are best left until the Hearing, when the ALJ can "determine the evidentiary question in its appropriate context." (*Id.*) Accordingly, the Motion should be denied.

DATED: June 1, 2014

STEPTOE & JOHNSON LLP

By: _____


Jason Levin

Attorneys for Complainant CalPERS