

BEFORE THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
STATE OF CALIFORNIA

In the Matter of the Calculation of Final
Compensation of:

RICHARD LEWIS,

Respondent,

and

CITY OF SAN BERNARDINO,

Respondent.

Case No. 2014-0256

OAH No. 2014040945

ORDER DENYING RICHARD LEWIS'S
MOTION TO PRESENT HIS
COLLATERAL ESTOPPEL/RES
JUDICATA CLAIMS AT THE OUTSET
OF THE HEARING

On June 13, 2014, Administrative Law Judge Beth Faber Jacobs issued an order denying Richard Lewis's Motion Regarding Jurisdictional Challenge, without prejudice. ALJ Jacobs ruled that the issues may be addressed at hearing after evidence is received and the matter addressed in the proposed decision issued by the trial judge.

In the instant motion, Mr. Lewis requests presenting these issues first.

In its Statement of issues, CalPERS seeks to reduce Mr. Lewis's retirement compensation. As CalPERS noted, the appeal is "limited to the issue of whether 'Temporary Upgrade Pay' and the value of Employer Paid Member Contributions can be included in the calculation of Mr. Lewis's final compensation." CalPERS contends that they cannot be included. CalPERS bears the burden of proof on that issue. Some of Mr. Lewis's defenses to CalPERS's position are based on theories of res judicata and collateral estoppel.

In light of those respective positions, and consistent with the burden of proof, CalPERS shall present its case in chief first. Mr. Lewis shall raise his defenses during his case in chief or during his cross-examination of CalPERS's witnesses. All issues will be heard and addressed in the final decision.

DATED: _____

MARY AGNES MATYSZEWSKI
Administrative Law Judge
Office of Administrative Hearings

