

1 PAUL G. MAST (CA Bar No. 28390)

2 [REDACTED]

3 Telephone: [REDACTED]

4 Email: [REDACTED]

5 Respondent

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BOARD OF ADMINISTRATION

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CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

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11 In the matter of the Amount of Proper)
12 Benefits Payable to)

AGENCY CASE NO. 2010-0825

13 PAUL G. MAST, Judge, Ret.)

OAH NO. 2015-030996

14)

**RESPONDENT'S TRIAL BRIEF
DECLARATION OF MARCI MAST**

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Hearing Date: November 30, 2015
Hearing Location: Los Angeles, CA

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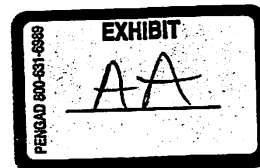
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DECLARATION OF MARCI G. MAST

Declarant is Marci G. Mast, the wife of Paul G. Mast.

Declarant is an attorney, holding an inactive California State Bar License. Beginning January 6, 2009, Declarant made a number of calls to the Judges' Retirement System (JRS). Declarant made contemporaneous notes from which she constructs this Declaration.

January 6, 2009

On January 6, 2009 at approximately 1 PM Eastern Standard Time Declarant spoke with Pam Montgomery (Pam).

Pam said that Paul last spoke with her in July 2008. She summarized where things stood stating that Paul thinks he is underpaid and the State thinks he is overpaid. She has not heard from the attorneys. She said that in several conversations with Paul he referred to a letter dated October 24, 2003 from Anne Woodward. Paul has no recollection of this letter, and as shown in Respondent's Trial Brief, referred to below, the letter does not relate to him or to his deferred retirement benefits.

At this time Pam suggests that Paul write his own letter to Pam Montgomery. She said she would forward the letter to the attorney and request that the attorney contact Paul.

Pam said that there are a couple of new points. She said that the agreement is "rather vague" in that it does not outline the cost of living index. She said that the actuaries cannot confirm the numbers for Paul. They have done research and submitted it to legal. They do not know how to resolve the numbers. Was Mast underpaid or overpaid?

Declarant's notes say, "Calculate as if case had come into being, you know?" Declarant believes that means that Pam said that they wanted to recalculate from the inception of the initial case.

Declarant's notes say, "I said, legislative." Declarant believes that means that Pam was asking if they should use the legislative index.

She said there is legislative and there is PERS. There are a lot of different

indexes. The legislative is "probably not the right index." A judge's salary is no longer tied to specific indexes. Paul should write a letter to her for legal office. Paul can be assured that "we have done a lot of work." The State says, "We can't validate his figures."

Pam questioned the Settlement Agreement. "What did the Settlement bind us to? What did the Settlement bind him to?" She mentioned legal issues, accounting, Paul's figures, and Settlement Agreement.

When Paul last spoke with Pam, her staff had looked at it. The case was sent to the attorney at the request of Paul last July. Case has been "up there." Paul to send a letter to her to forward to attorney for her to hopefully contact Paul. She would include a copy of the October 24, 2003 letter from Anne Woodward, described by Pam as "a small missing link." They have done a lot of work. Pam says, they used the wrong index and they use the index incorrectly. What did the parties agreed to? What is the best path forward?

Be assured they have made progress because they forwarded case to legal. Pam's guess is that legal has not looked at the case yet. "What did agreements say?" "Third-party looking back at it." "Should have been more specific."

In regard to the October 24, 2003 letter from Anne Woodward, described by Pam as "a small missing link," that letter is not material as stated in Respondent's Trial Brief:

Petitioner has served notice in these proceedings that it would be introducing a letter of October 24, 2003, from Anne Woodward, Manager of the Judges' Retirement System, addressed [not to Respondent individually] to Retirees and Annuitants of the Judges' Retirement System, informing them that there would be a 2.9% salary increase for active judges and that retirees would receive a comparable increase in retirement benefits. Respondent does not know if he received this letter, but it is clear that Respondent did not receive this increase. Respondent's gross retirement benefits from January 1, 2003 until April 30, 2005 was static at \$6,652.93. There was one additional amount paid on December 31, 2003. Respondent did not receive, and **should not have received** the 2.9% increase as he was to receive COLA, not enhancements when sitting judicial officer's salaries were increased. Said October 24, 2003 letter is therefore irrelevant to these proceedings.

June 5, 2009

On June 5, 2009 at approximately 1:45 Eastern Standard Time, Declarant left a message for Pam which was taken by Vince.

June 11, 2009

On June 11, 2009 Declarant spoke with Nick. He informed Declarant that Pam Montgomery spoke with the attorney last week. The attorney is starting to work on the case. There are limited attorney resources. They will start the review. Pam will call her and ask her to send Paul an acknowledgment.

July 20, 2009

On July 20, 2009 Declarant spoke with Pam Montgomery. Pam told Declarant that the attorney reviewed their original work. There advice to her is confidential. The case is up there and they are working on it. There is no official denial yet. Pam asked for advice. My notes recite several issues that Pam outlined: The letter written by Paul Mast; the original agreement; what they did right/wrong; legal issue regarding Agreement.

Pam said, "Everyone who was there then is no longer here." She sent Paul's work and something from actuaries. She asked whether there is a legal issue. She told Declarant, "She can take their advice or not." She "knows" they have picked up file. She said she can either take their advice or not. She hopes they can use it to get to a resolution.

2010

Declarant called JRS in 2010. Declarant does not find any notes. However Declarant can remember where she was when calling. Declarant was only there from January to September 2010. Declarant can remember her motivation and feelings.

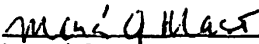
Declarant found 6 pages of notes Declarant wrote when editing a final version of something Paul wrote. On the bottom of page two at "Review Facts"

Declarant wrote the following:

- Steve B. said he didn't know how to do it.
- No one knows what to do because it was a unique situation.
- Now know what to do but refusing to do it.

Those notes refresh Declarant's recollection about telephone conversations. As Pam told Declarant on July 20, 2009, "Everyone who was there is no longer here." Consequently no one knew what to do. Apparently Steve B. had been assigned the task and said that he did not know how to do it. Subsequently, Pam advised Declarant that they now know what to do but are refusing to do it.

I hereby declare under penalty of perjury that the foregoing Declaration is true and correct. Irvine, California, November 20, 2015.



Marci G. Mast

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PROOF OF SERVICE

**In the matter of the Amount of Proper Benefits Payable to PAUL G. MAST, Judge, Ret.
AGENCY CASE NO. 2010-0825 OAH NO. 2015-030996**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is [REDACTED]

On Nov 20, 2015 I served the following document(s) by the method indicated below:

**RESPONDENT'S TRIAL BRIEF, RESPONDENT'S EXHIBITS TO TRIAL BRIEF,
DECLARATION OF PAUL G. MAST, DECLARATION OF MARCI MAST,**

by placing the document(s) listed above in a sealed envelope(s) with postage fully prepaid and deposited it with the United States Postal Service at Irvine, California addressed as set forth below.

**Jeff Rieger
Harvey L. Leiderman, Esq.
Reed Smith LLP
101 Second Street, Suite 1800
San Francisco, CA 94105**

By email to JRieger@ReedSmith.com

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on November 20, 2015 at Irvine., CA.

Marci G. Mast
Marci G. Mast