



Paul G. Mast, hereby declares as follows:

### **GENESIS OF THE SETTLEMENT AGREEMENT**

In early 1995 Declarant contacted the Judges Retirement System (JRS) to confirm that his retirement benefits would begin on his upcoming birthday and to determine what the amount of those benefits would be.

Declarant was surprised that his benefits would not include Cost of Living Adjustments as his benefits had vested during the period when, pursuant to the then existing provision of Government Code §68203 (GC §68203), and as stated in *Olson v. Cory, I (Olson)* judicial retirees would receive COLA retirement benefits for their entire period of service up until the end of what they called the “protected period”.

Declarant was aware of the holding of *Olson* as several years earlier Declarant had been contacted by a Judge in the Inglewood Municipal Court who requested that Declarant prepare an analysis of *Olson* for presentation to the annual California Judges Conference. Declarant did so.

After various letters and contacts with JRS, Declarant submitted a Claim that his retirement benefits should be adjusted in accordance with the provisions of GC §68203 which were vested for his entire service according to *Olson*.

Said Claim was denied and an Appeal was then filed. Declarant’s rights to COLA retirement benefits, including the ruling in *Olson* were fully set forth in both the Claim and the Appeal. Subsequent to the filing of the Appeal, Declarant received a call from Maureen Reilly, an attorney for JRS. Initially Ms. Reilly did not think Declarant’s appeal was warranted, however, after our discussion she stated she would research it and read *Olson*. Declarant later received another call from Ms. Reilly who said she had researched GC §68203 and *Olson*, and that she agreed with my Appeal and that I should receive COLA retirement benefits. She stated, however, that she could not agree with my Claim and it would have to be litigated, in that it were agreed to by Ms. Reilly, JRS would be forced to pay other

judges about 400 million dollars. She did not want to do that. In response, I stated that would not have to be a problem, as I would enter into a non-disclosure agreement.

She then stated that she could not make that decision, and would file the Statement of Issues, which she did.

Declarant had not thought about the amount due to other judicial retirees, and had no way of knowing the amount that JRS would have to pay them. The amount, as well as the subject of paying other judicial retirees came from Ms. Reilly.

After the Statement of Issues was filed, one of more telephone discussions took place without a resolution of the matter. This culminated in the letter that Declarant wrote to JRS and Ms. Reilly, wherein Declarant stated he could not understand the failure to settle the matter in light of the 400 million dollar exposure and considering that Declarant had agreed to the non-disclosure provision. This resulted in The Settlement Agreement being entered into.

At no time did Declarant say or believe that The Settlement Agreement or its terms were immoral. Quite the contrary, the terms of The Settlement Agreement were based upon and in accordance with the law.

Approximately ten years later, in a letter to JRS, Declarant did say that in hindsight, his actions in entering into the non-disclosure agreement, thereby abandoning other judicial retirees, and thinking only of himself, was personally immoral. He never at this time said or intimidated that the agreement entered into was immoral – it was not.

The only prior issue as to the amount of the benefits was that JRS by Pamela Montgomery, asserted that the COLA be adjusted in accordance with the CPI index CCPI-W (urban workers) rather than CCPI-U (all California consumers). Prior to Ms. Montgomery becoming Manager of JRS, CCPI-U had

always been used. CCPI-U was also the index used and approved by the Supreme Court in *Olson*.

### **APRIL 6, 2012 EMAILS**

On April 6, 2012 Petitioner's Attorney initiated an email to Respondent. Respondent answered this email and Petitioner's Attorney responded with another email. At no time was the subject of the recoupment of retirement benefits mentioned or discussed. It was not then and it never before was an issue.

On April 6, 2012 Respondent's Claim was about 20 months old. It had been ignored and allowed to languish by JRS. It was now old, and to proceed a new claim should have been filed. The only thing that was said in the emails was that Respondent would allow the claim to be placed "on hold".

The issues in the claim were not the same as the issues in the then pending *Staniforth* case. Respondent did believe that the proper conclusion of the *Staniforth* case would allow Respondent's Claim to be concluded in an expeditious manner.

### **PETITIONER'S ATTORNEY'S UNILATERAL AND UNLAWFUL ORDER TO JRS TO REDUCE RESPONDENT'S RETIREMENT BENEFITS**

This matter is currently before the Board of CalPERS. The entire case is under submission and no orders have been made other than remand to the Office of Administrative Hearing, which is the subject of this proceeding.

In its Proposed Order, this Court did recommend that Petitioner be enjoined from seeking any recoupment of previously paid retirement benefits.

Despite this, Petitioner's Attorney issued an "order" to JRS for it to reduce Declarant's retirement benefits, and to recoup on a monthly benefits amounts that Petitioner's Attorney has unilaterally determined have been over-paid. See the letter from Jennifer Watson, Exhibit H to Respondent's Reply Brief. This has

resulted in Declarant's retirement benefits being lowered by \$868.18 in June, 2016.

Declarant has been advised that the genesis of this letter was a communication from Petitioner's Attorney directing JRS to take this action. This action of Petitioner's Attorney is vindictive, unethical, immoral, and malicious.

No such order, procedure, or action is lawful or permitted prior to a FINAL order of the CalPERS Board. Such an order becomes final only after a hearing on a writ for judicial review in a Superior Court, or in the alternative, the passage or the requisite time for filing for such a writ, if a petition for such a writ is not filed.

Declarant has attempted to address this matter with the CalPERS Board, however only received a curt reply from an attorney that such a communication is not a proper procedure and will not be considered.

#### **AUTHENTICATION OF EXHIBITS**

Exhibit A is a portion of the Transcript of the April 20, 2016 meeting of the Board of CalPERS. It was provided by CalPERS.

Exhibits B, C, D, and E are records provided by JRS and identified by Declarant as true and correct copies.

Exhibit F is an analysis of *Olson* prepared by Declarant.

Exhibit G is a true and correct copy of the Judgment in the Mallano case.

Exhibit H is a letter from JRS received by Declarant.

Paul G. Mast hereby declares under penalty of perjury that the foregoing is true and correct, at Orange County, California on July 11, 2016.

*Paul G Mast*

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Paul 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]

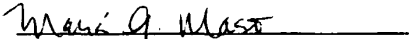
On JULY 11, 2016 I served the following document(s) by the method indicated below:

DECLARATION OF PAUL G. MAST

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 JULY 11 2016 at Irvine, CA.

  
Marci G. Mast