

ATTACHMENT C

RESPONDENT(S) ARGUMENT(S)

October 31, 2019

Respondent Argument against Proposed Decision

Ref. No. 2018-1147

NOV = 5 2019

Vlavianos/Macanas vs CalPERS

RE: The matter of the appeal for the return of benefits

Regarding the question of whether Ms. Vlavianos actually completed the forms.

At the time she was not able to and did not complete any forms online or otherwise. Medical records were submitted previously with Ms. Vlavianos medical condition. She had a stroke and could not fill out paperwork any longer. I asked CalPERS to please investigate this as well as the validity of the beneficiary who due to these reasons I had reason to believe was fraudulent. Although they said that they did investigate when I asked specific questions they could not answer. I asked if they knew if my mother had in fact even had access to at a computer to set up her online account at her assisted living at the time or if she even knew how to use one. They had no answer to this because they had not looked into it. I know for a fact that not only did she never learn how to use a computer she did not have access to one. This seems to be the pattern with all issues they said they "investigated".

The next the matter of Pam Craighead being removed as her power of attorney.

I was substituted as my mother's power of attorney due to Pam Craighead being removed as her power of attorney when she relocated to California and abandoning Ms. Vlavianos in Arkansas.

My mother and I requested many times by phone and in writing that we needed help to log on to her CalPERS online account, as Ms. Craighead had set up her account and was the only one with the password. I was refused helped over the phone and CalPERS would not respond in writing. Proof of this has already been submitted. Per Government code section 21491:

"A survivor may revoke his or her beneficiary designation at any time." But we were denied access.

Regarding the tax returns that Ms. Craighead had completed incorrectly while she was her power of attorney. It took years for me to get my mother's taxes handled which resulted in her over payment of nearly \$10k in refund overpayments. Her account was frozen and took years to be paid back. This is where my mother's mistrust began.

Regarding phone call on December 1, 2017 to CalPERS.

I notified CalPERS that my mother had passed away on November 21st. I was told all payments were retro, thus that was my mother's money and I could use it to pay for her final expenses. I have requested that phone records be recovered from December 1st. CalPERS recording states that your call is being recorded, although, they cannot seem to find that recording.

I have no problem paying back the amount owed from the date of her death till the end of November, 2017 minus that is the \$302. that CalPERS has already paid themselves from my state income tax before any hearings or decisions were held.

CalPERS have continually refused to work with me on this matter. I have also asked if the judgement is decided that I will need to pay back the total amount that they money is taken out of my CalPERS account, which I pay into.

My mother and father passed away believing that the money was theirs while they were living belonged to them.

Recipients and families are unaware that CalPERS demands to be payed back for the payment of the beneficiary's last month of life. I feel the CalPERS is very underhanded in the way they treat their people. I would like this case to set a precedent so as they are no longer allowed to steal the last benefit from deceased beneficiaries and families.

Documents for all points of argument have been submitted at the last hearing and should be on file.

Thank you for your consideration in this matter.

Sincerely,

Anna Macanas

A handwritten signature in black ink that reads "Anna Macanas". The signature is written in a cursive style with a large, decorative flourish at the end.



California Public Employees' Retirement System
Legal Office

P. O. Box 942707, Sacramento, CA 94229-2707 | Phone: (916) 795-3675 | Fax: (916) 795-3659
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NOV - 5 2019

September 12, 2019

Ref. No. 2018-1147

Certified Mail – Return Receipt Requested

Anna Macanas

Subject: In the Matter of the Appeal for the Return of Benefits Paid Upon the Death of SUZANNE B. VLAVIANOS, by ANNA MACANAS, Respondent.

Dear Ms. Macanas:

This is to forward a photocopy of the Proposed Decision of the Administrative Law Judge in the above-named matter. In accordance with the Administrative Procedure Act, it has no force or effect until the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) takes formal action to either adopt it, remand it, or decline to adopt it in favor of its own decision.

Your appeal has been calendared for consideration by the Board at its regular meeting on November 20, 2019. **Although oral argument is not allowed, the parties may submit written argument for or against the Proposed Decision.**

As part of this argument, you may also ask the Board to designate the decision as **precedent**, in whole or in part, if it is adopted. The purpose of designating precedent is to provide guidance to the Board and other parties in future appeals, where the disputed law and issues are the same. This designation has no effect on the binding outcome of your appeal. CalPERS staff routinely submits written argument, and may make this same request of the Board. Or, the Board may choose to designate a given decision as precedent, on its own motion. For this reason, although you are not required to take a position, if you have a preference against precedential status you should explain why in your written argument to the Board.

In deciding whether to designate precedent, the Board will always consider: *Does the decision contain a significant legal or policy determination of general application that is likely to recur? Does it include a clear and complete analysis of the issues in sufficient detail so that interested parties can understand why the findings of fact were made, and how the law was applied?*

All precedential decisions will be **published** with a cumulative index, and made available free of charge on the CalPERS website (<http://www.calpers.ca.gov>). They will also be available in "hard copy" upon written request to this office. Any precedential decision may be de-published at

the request of an interested party, after an opportunity for public comment and at the sole discretion of the Board.

Your written argument should be no longer than six pages, and must be received by CalPERS no later than November 6, 2019. Please note, even if you miss this deadline the Board will still act on the Proposed Decision. All written argument will be included in the agenda item, and mailed simultaneously to the Board and all parties. Your argument will not be disclosed to the attorney assigned to this matter until then. Please redact personal information, as Respondent Arguments become a public document when included in the agenda item. **As mentioned earlier, parties will not be allowed to orally respond to the Board on the merits of written argument.** Please title your submission as "Respondent's Argument" and send it to:

Cheree Swedensky, Assistant to the Board
CalPERS Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701
Fax: (916) 795-3972

If you have any questions about this procedure, you may contact Preet Kaur, Senior Attorney, at (916) 795-1054.

Sincerely,



Kady Pasley
Legal Secretary
Legal Office

KMP

Enclosure