



Retiree Support Group
of Contra Costa County
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P.O.Box 3165
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**"Protecting the Earned and Promised Rights and Benefits
of Contra Costa's Public Retirees"**

Chair: Pat Patterson
Vice Chair: Douglas Pipes
Secretary: Elaine Grothmann
Treasurer: Terry Mann

Director-at-Large: Louie Kroll
Director-at-Large: Glenda Edwards
Director-at-Large: Jack Funk

**Between Meetings Newsletter
January 2018**

Appellate Court Decision in DSA Vs CCCERA SIGNIFICANT PENSION VICTORY

On Monday January 9, 2018, California's First Appellate District issued a published opinion in *Alameda County Deputy Sheriffs' Association, et al. v. Alameda County Employees' Retirement Association, et al.* (2018) (#A141913), which recognizes and protects promised pension benefits for all public employees in Alameda, Contra Costa and Merced counties who began employment prior to January 1, 2013.

"The Alameda decision is a significant victory for public employees of the three county retirement systems and for public employee pension rights in California" said Rains Lucia Stern St. Phalle & Silver partner Timothy Talbot, who argued the case and helped secure the victory.

The case involved a challenge to certain provisions of the Public Employees' Pension Reform Act of 2013 ("PEPRA") made applicable to "legacy" employees who were hired prior to the enactment of PEPRA. After PEPRA was enacted, the retirement systems in Alameda, Contra Costa and Merced counties implemented PEPRA's exclusion of certain pay items from the calculation of pension benefits for both new and legacy employees. The legacy employees, however, had been promised pension benefits calculated on the inclusion of the pay items before PEPRA sought to eliminate them.

The *Alameda* Court of Appeal determined that some of the pay items at issue were vested and protected by the California Rule. However, the Court of Appeal also held that leave cash outs provided at the time of retirement, also known as terminal pay, were not vested. Nonetheless, the *Alameda* Court of Appeal concluded that principles of equity "tip decidedly in favor" of all legacy employees receiving terminal pay in the calculation of their pension benefits. The Court of Appeal found that all legacy members should be entitled to include terminal pay in compensation earnable to the limited extent that pay was designated as pensionable by their relevant *Post-Ventura* Settlement Agreement.

"The *Alameda* Court of Appeal understood the legal and moral significance of the promises made to the impacted employees and landed on the right side of the equation," according to Talbot.

Finally, and perhaps most importantly for all of California's public employees, the Court of Appeal in *Alameda* declined to follow the *Marin* decision.

We expect that the State of California will appeal the decision to the California Supreme Court.

Outreach to new members

Welcome to all our new members. Starting in the week of October 23, 2017, RSG sent a mailing to all non RSG members who were eligible for membership in RSG. The mailing went out to approximately 6,200 people who are receiving retirement or survivor benefits through CCCERA. As a result of this mailing RSG has added more than 180 new members. The larger we are the stronger we are, and the better we will be able to fight to protect the rights and benefits of Contra Costa Retirees.

December 7, 2017 Membership meeting

The meeting was called to order at 10:10 AM by Vice-Chair Doug Pipes. There was a quorum present and our Chair Pat Patterson, who was ill, remained in the back room to avoid "sharing" germs, for which we are all grateful.

Four new members, all who retired from the Public Works Department, were welcomed.

A motion was made and seconded to accept the minutes from the October 5, 2017, meeting. The motion passed by a unanimous vote.

Terry Mann gave the Treasurer's Report. All bills have been paid, all checks have been deposited, and seventy-two new members were added to our membership rolls in November as a result of our member recruitment mailer that cost RSG \$6,000.00 for printing and mailing.

Doug Pipes discussed the issue of monthly dues being reduced after we reach a goal of \$500,000.00 in the RSG legal fund. It is anticipated it will take a couple of years to reach this goal. Pipes feels that there will be future attacks on our pensions, and there are currently three lawsuits pending regarding various public employee pensions. It is important for us to remain prepared to defend against possible and probable attacks on public employee pensions

Our former volunteer coffee maker can no longer continue with these duties, so we continue to need a new volunteer to pick up the baton. Glenda Edwards could stop and get boxes of coffee from Starbucks, at \$15.00 a box, as an alternative to making our own coffee. Frank Scudero has volunteered to take up these duties for one meeting (February 1, 2018) until a permanent solution is found.

Louis Kroll was absent from the December meeting. He has arranged for Nathan Johnson from the County Veteran's Service Office to speak about veterans' benefits at our February 2018 meeting.

Doug Pipes announced that DSA's pensions lawsuit against CCCERA is still pending in the Court of Appeal more than three years after it first reached that Court. This lawsuit arose from the decision by the CCCERA Board of Retirement to apply the Public Employee Pension Reform Act (called PEPRA) to all County employee members of CCCERA who had not yet retired prior to January 1, 2013. PEPRA greatly restricted the types of compensation that can be counted by a public employee in computing that employee's final compensation for purposes of establishing the employee's retirement allowance. Litigation over CCCERA's decision to apply PEPRA's restricted compensation formula to existing employees has resulted in a five-year legal fight. **See the separate article above on the important new development about this suit.**

Steve Ojena informed the group that Contra Costa County started 2018 health insurance deductions, in some cases, a month early. You should examine your November pension check stub to see if any errors were made in your December pension amount. The County's Benefits Division is aware of the problem and has taken steps to correct the problem.

Mike Sloan, the President of the Contra Costa County Retired Employees Association (CCCREA) explained the status of the pending lawsuit against CalPERS over the CalPERS long-term disability insurance plan. The trial is currently set for November of 2018, but the trial could be delayed into early 2019. Refer to the December 2017 minutes for more details and dates.

Glenda Edwards does plan to continue her position on the RSG Board of Directors, thereby avoiding the need for a special election to fill that position.

Jack Funk spoke regarding the ongoing "Clawback" hearings. The hearings are not going to take place because the Retirement Board has apparently decided to terminate the Clawback program. It is important for RSG members to know that the DSA v. CCCERA lawsuit does not involve an effort to change retirement allowances for persons who have retired prior to January 1, 2013.

Our guest speaker was Sharon Hiner Funk, M.D. who is a retired County physician and the spouse of Jack Funk, an RSG board member.

Dr. Hiner was very knowledgeable and informed the group of valuable information regarding elder wellness, diet, nutrition, exercise and current developments in cancer screening and treatment. She discussed various approaches to geriatric care and staying healthy and active as we age. She distributed a handout about Screening, Prevention and Counseling Recommendations for adults who are 65 and older.

Dr. Funk also stressed the importance of having an Advance Directive regarding your personal medical care.

Group Information Sharing

Steve Salveras asked if he could obtain contact information of recent retirees effective January 2016.

Contra Costa County did not notify its employees on many issues affecting these retirees, including the projected costs of their health care. Apparently, this was a most unpleasant shock to those employees who were not told that they should retire prior to January 1, 2016, in order to be covered by the settlement of RSG's health insurance lawsuit.

Doug Pipes explained the history regarding the caps on County contributions toward health care premiums. After mediation, the County agreed to a "floor" below which they would not reduce the County's premium contributions. The County insisted that the health insurance lawsuit settlement would apply only to persons who had retired from public employment prior to January 1, 2016. There will be increasing numbers of RSG members whose health insurance benefits are different because they retired on or after January 1, 2016. Doug asked Mr. Salveras to speak with him later to discuss this issue further.

A member asked how cost-of-living increases for retiree pensions are determined and when the 2018 cost-of-living increase will be announced. Doug advised that the COLA for 2018 will be determined based on changes to the Bay Area Consumer Price Index as calculated by the Bureau of Labor Statistics (BLS) in early January of 2018. We will advise RSG members of the expected COLA as soon as BLS releases its CPI report on January 12, 2018.

Glenda Edwards
The Roving Reporter,
Director-at-large

Are you ready to help your fellow retirees?

Do you have any suggestions for the group on how we can better meet our goal to protect the earned and promised rights and benefits of Contra Costa Retirees? Not only do we need ideas (that is the easy part), but we need volunteers to step up and turn these ideas into actions. Most of the current officers and volunteers of RSG have held their positions for several years. It is time for more members to become involved and help RSG evolve as new needs arise. Please consider being one of those who will be willing to help move RSG into the future. Take a little time to let us know if you are willing to help. You can contact us at rsgccc@gmail.com. We need you to provide whatever help you can, and urge you to remember what you do today will benefit others for years to come.