

CALPERS LONG TERM CARE LAWSUIT UPDATE

by Mike Sloan, Contra Costa County Retired Employees Association

This lawsuit was initially filed in December 2013, and finally five years later, we have some definitive information as to when the trial will begin.

Responding to my request, attorney Michael Bidart contacted me late in the afternoon on 02/06/2019 regarding the CalPERS case. Mr. Bidart is the lead attorney for Sheroff, Bidart & Echeverria; the law firm suing CalPERS on behalf of the class.

Bidart met with CalPERS late last year in Sacramento, at their request, to discuss a settlement of the suit. CalPERS' only offer was no offer. They were willing to pay for general costs and attorney fees, but no financial settlement for the class. Needless to say, Bidart rejected their offer.

Bidart said his office has completed the expert depositions for CalPERS, and CalPERS should finish their depositions of our expert witnesses in mid-February.

Bidart also said that the judge who has been involved in this case since the beginning (Jane Johnson) has retired, and a new judge (Ann Jones) has taken over the case. He is very comfortable with her qualifications and he believes she will be sympathetic to our issues.

The trial is scheduled to begin on June 10, and it is expected to last about two weeks. He also said that between now and then there would be readiness hearings and additional legal maneuverings by CalPERS, but he did not think the judge would allow any procedural delays. In fact, the judge has been emphatic that she wants this case either settled or in trial by June 10th.

CalPERS has apparently filed an appeal with the California 2nd District Court of Appeals to have the decision by the Superior Court, to deny the class decertification request, rescinded. I could not find any information on the Internet giving an indication as to how that appeal has progressed.

Bidart said that, relying on the figures of the actuaries working for us, he believes that the final settlement for those persons who had lifetime benefits and inflation protection, and who stayed with the program even after the 85% increase in premiums, could expect a maximum \$500 million. All the rest of the class, including those who dropped the insurance because they could no longer afford it, could receive up to \$750 million.

I have been asked how much each participant could expect to receive if we win the lawsuit. My answer is that the law firm will probably get a minimum of 30% before any distribution. Divide the remaining settlement amount by 122,000, and that should give you a ball park figure of what could be expected.

Bidart is requesting that members of CRCEA (California Retired County Employees Association) assist him in finding interested parties who would be willing to attend the court proceedings. He is aware that no one would be able to attend every session for two weeks, but the most important times would be the first day of the trial and the last day(s). He would like to have as many "seniors" in the audience as possible.

I asked him about travel expenses, and although he hedged on this issue somewhat, he said that the issue would be open for discussion.

Some concerned members have asked whether participants could expect to be reinstated to their original status after the settlement. This would include those who had to drop their policies because they could not afford the 85% increase. Bidart said the court has decided the lawsuit can be based only on one issue and that is breach of contract. The result of this decision means that there will be no action regarding restoring policy holders to their original status.

Finally, Bidart mentioned that there were approximately 20,000 people who were sent checks from the Towers Watson settlement who have not yet cashed their checks. Bidart's office had advised everyone that recipients had until January 31, 2018 to cash the checks or they would be invalidated.