



**SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO**

Coordination Proceeding Special Title (Rule 1550(b))
RETIREMENT CASES

TEAMSTERS UNION LOCAL 856, AFL-CIO;
WILLIAM BRITSCHGI; ROBERT CASSETTA;
JOSEPH MARTINELLI; NANCY GREEN,

Petitioners,

vs.

BOARD OF RETIREMENT OF SAN MATEO
COUNTY EMPLOYEES RETIREMENT
ASSOCIATION; COUNTY OF SAN MATEO,

Respondents.

JUDICIAL COUNCIL
COORDINATION PROCEEDING NO. 4049

Case No. 404187

**NOTICE OF PENDENCY OF
CLASS ACTION**
[Code Civ. Proc., § 382]

JUDGE: Honorable Stuart R. Pollak

NOTICE IS HEREBY GIVEN TO (1) ALL INDIVIDUALS WHO ARE PAST, PRESENT OR FUTURE MEMBERS OF THE SAN MATEO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION ("SamCERA") INCLUDING RETIREES, DEFERRED RETIREES AND ACTIVE EMPLOYEES AND TO THEIR SURVIVORS, BENEFICIARIES, AGENTS AND ASSIGNS; AND (2) THE LABOR ORGANIZATIONS RECOGNIZED AS THE BARGAINING AGENTS FOR THE ACTIVE EMPLOYEE MEMBERS OF SAMCERA:

You are (or you represent if you are a labor organization) a member of the petitioners' class in the above-entitled action, *Teamsters Union Local 856, AFL-CIO et al. v. Board of Retirement of San Mateo County Employees Retirement Association* ("SamCERA") et al. (San Mateo Superior Court Case No. 404187) concerning the implementation of the California Supreme Court case entitled *Ventura County Deputy Sheriffs' Assn. v. Board of Retirement* (1997) 16 Cal.4th 483 (hereinafter referred to as the "Ventura decision"), which seeks rulings from this Court as to whether the *Ventura* decision should be applied to the calculation of benefits for class members

who retired prior to the *Ventura* decision, and to the collection of contributions from all members, whether active or retired, that were not collected prior to the *Ventura* decision; and whether certain additional benefits should be included in "compensation earnable" and "final compensation" for purposes of calculating retirement benefits for all past, present and future members of SamCERA (and their survivors, beneficiaries, agents, assigns and successors in interest).

The above entitled action concerning SamCERA has been certified as a class action under California Code of Civil Procedure Section 382 in the nature of an action brought under Rules 23(b)(1) and 23(b)(2) of the Federal Rules of Civil Procedure. Thus, if you are a member of the petitioners' class, you have no right to opt out of the class. However, you should read this notice because the pending litigation may affect your rights, particularly the amount of your pension benefits, and may affect the amount of contributions you are required to pay SamCERA.

This Notice is not an expression of any opinion by the Court as to the merits of any of the claims or defenses asserted by either side in this litigation. The sole purpose of this notice is to inform you of the

lawsuit and the general issues concerning it.

BACKGROUND OF CASE

A coordinated proceeding is pending in San Francisco Superior Court involving certain California counties that have established county employee retirement plans pursuant to the County Employees Retirement Law of 1937 ("CERL"), Government Code section 31450, et seq. Generally speaking, the underlying court actions that have been coordinated in this proceeding were brought by various employee labor organizations and individuals (as petitioners), on behalf of members, both active employees and retirees, of the CERL retirement systems. Petitioners brought these actions against the respective CERL county retirement boards, as respondents, and CERL counties, as respondents or as real parties-in-interest, to determine: (1) whether certain items of employee compensation and benefits should be included in "compensation earnable" and "final compensation" under Government Code sections 31460 and 31461 as those sections were interpreted in the *Ventura* decision; and (2) whether the *Ventura* decision should be applied retroactively.

One of the actions coordinated before this Court was filed in San Mateo County. On March 19, 1998, San Mateo County Superior Court Case No. 404187 was filed against *SamCERA* and the County of San Mateo, respondents, by petitioners Teamsters Union Local 856, AFL-CIO, William Britschgi, Robert Cassetta, Joseph Martinelli, and Nancy Greene.

This Court has certified the above entitled action concerning *SamCERA* to proceed as a class action. This means that the named petitioners will litigate this case not only on behalf of themselves, but also on behalf of all class members, including all past, present and future members including: retirees, deferred retirees and active employees and all of their survivors, beneficiaries, agents, assigns and successors in interest.

The *Ventura* decision was an action brought against the Ventura County Employees' Retirement Association ("VCERA"). In its decision, the California Supreme Court required the Board of Retirement ("Retirement Board") of VCERA to classify certain payments made by the County of Ventura (the "County") to its employees over and

above their basic salaries as "compensation earnable" and to include those payments in "final compensation" used to calculate the amount of monthly pension benefits pursuant to CERL. After the *Ventura* decision was decided, retirement boards in Ventura and the other CERL counties, including the *SamCERA* board, passed resolutions implementing the *Ventura* decision. As concerns the above entitled action concerning *SamCERA*, the *SamCERA* board began including in "compensation earnable" and "final compensation" certain items that previously had been excluded. However, *SamCERA* has made adjustments only with respect to those portions of "final compensation periods" occurring on or after October 1, 1997, the day the *Ventura* decision became final. In other words, *SAMCERA* has given the *Ventura* decision no retroactive application.

NATURE OF THE CLAIMS

Petitioners in the above entitled action concerning *SamCERA* have challenged the *SamCERA* board's implementation of the *Ventura* decision in two basic respects. First, they contend that the *SamCERA* board should have applied the *Ventura* decision retroactively. Second, they contend that the *SamCERA* board should include in "compensation earnable" and "final compensation" additional items of remuneration that still are not included for any *SamCERA* member. *SamCERA* and the County of San Mateo deny petitioners' entitlement to the relief requested.

In the above entitled action concerning *SamCERA*, the principal item of remuneration that petitioners contend should be included is termination pay. Generally speaking, termination pay consists of unused time off, such as vacation or sick leave, that is converted to cash upon an employee's separation from service. If you would like more detail concerning the specific items of remuneration at issue in the above entitled action concerning *SamCERA*, you are free to consult your class counsel, identified below.

The judgment, whether favorable or not, will include and be binding on all class members. Depending upon the judgment, certain class members may be required to make additional contributions to *SamCERA* as precondition to receiving increased retirement benefits. Further, if the Court determines that the *Ventura* decision should apply retroactively, then active members may be required to make

additional contributions to make up for those contributions not made prior to October 1, 1997, even if their retirement benefits are not increased.

The amount of increase in pension benefits or the increase in "final compensation," if any, will vary with each member depending upon: (1) the items that ultimately are included in "final compensation"; and (2) whether those items actually are or were received as part of a particular member's "final compensation."

YOUR CLASS COUNSEL

This class action will be maintained on your behalf by: Stewart Weinberg, Van Bourg, Weinberg, Roger & Rosenfeld, 180 Grand Avenue, Suite 1400, Oakland, CA 94612, the attorneys for the petitioners. You do not have the right to opt out of the class action. If you feel that your interests or concerns are, for any reason, not being adequately presented to the Court, you are encouraged to consult an attorney of your own choosing concerning any rights or remedies you may have.

NOTICE TO ATTORNEYS OF RECORD

If you file any documents in this litigation copies should be sent to the following counsel:

For Plan Members:

Christopher D. Burdick
Carroll, Burdick & McDonough
44 Montgomery, Suite 400
San Francisco, CA 94104-4606

For CERL Retirement Systems:

Brenda B. Carlson, Deputy County Counsel
San Mateo County Counsel Office
Hall of Justice and Records
400 County Center
Redwood City, CA 94063-1662

For CERL Counties:

Elwood Lui
Scott D. Bertzyk
Erin L. Burke
Jones, Day, Reavis & Pogue
555 West Fifth Street, Suite 4600
Los Angeles, CA 90013-1025

For Orange County Employees' Retirement System:

Harvey L. Leiderman
Ashley K. Ilangwa
Steefal, Levitt & Weiss
One Embarcadero Center, 30th Floor

San Francisco, CA 94111

CHANGE OF ADDRESS

If you move after receiving this notice or if it was misaddressed, if you are a deferred or retired member, survivor, beneficiary, agent, assignee or successor in interest you should supply your name and correct address to the San Mateo County Employees Retirement Association, 702 Marshall Street, Suite 280, Redwood City, California, 94063. If you are an active member, you should supply this information to your payroll clerk within your department or agency. **THIS IS IMPORTANT SO THAT FUTURE NOTICES REACH YOU.**

The pleadings and all other records of this litigation may be examined and copied any time during regular office hours in the Office of the Clerk at 400 McAllister Street, San Francisco, CA 94102

DO NOT CALL OR WRITE TO THE COURT OR THE CLERK OF THE COURT.

ADDRESS ALL INQUIRIES IN WRITING TO YOUR CLASS COUNSEL, VAN BOURG, WEINBERG, ROGER & ROSENFELD.

DATED: November 22, 1999

HONORABLE STUART R. POLLAK
JUDGE, SUPERIOR COURT

San Mateo County Employees' Retirement Association
Attn: Sid McCausland, Chief Executive Officer, RET 141
702 Marshall, Suite 280, Redwood City, California 94063-1823

Important

NOTICE OF CLASS ACTION

Read and Retain

Direct Deposit Works Well

Each month more *SamCERA* retirees and beneficiaries elect to have their *SamCERA* benefits deposited directly into their checking accounts. It saves them a trip to the bank, credit union or savings and loan. It also eliminates the possibility of their check getting lost or stolen in the mail.

More than 85% of *SamCERA*'s retirees and beneficiaries are currently using direct deposit.

If you are one of the less-than-15% who have not tried direct deposit, please make it a New Year's Resolution to learn more about joining *SamCERA*'s convenient and safe direct deposit program.

Member Annual Statements

Annual Statements were mailed to all Active and Deferred *SamCERA* Members on November 30, 1999. **[Plan 3 & Retired members do not receive annual statements.]** The statements were based on June 30th Account Balances. All future statements will be issued based upon June 30th balances at the conclusion of *SamCERA*'s fiscal year.

Web Site Coming in 2000

Sometime around the beginning of the New Year you will be able to log onto www.samcera.org to find out just about everything you might need know about your *SamCERA* benefits. Check us out.

Tax Forms to be Mailed January 31, 2000

Tax return time is coming soon. *SamCERA* will be issuing 1099R's to most retirees and beneficiaries on January 31, 2000.

Please do not call to ask us where your 1099R is until at least February 4th. *SamCERA* only has seven employees and we need to devote our time to solving real problems. So please wait patiently.

How May I Help You?

That friendly voice answering *SamCERA*'s 363-4581 telephone belongs to Janell LaBlanc, our new Office Assistant II. We were lucky to lure Janell away from the private sector and hope you will welcome her to the County the next time you need to give us a call.

YOUR BOARD OF RETIREMENT

Dennis J. Cosgrove, Chair
Aron H. Hoffman, Vice Chair
Tom E. Bryan, Secretary
Lee Buffington
John J. Carberry
Donna Wills Colson
William R. Cottle
Michael E. McMahon
Bette Perroton Stuart