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**ELECTRONICALLY
FILED**
*Superior Court of California,
County of San Francisco*
12/02/2015
Clerk of the Court
BY: JUDITH NUNEZ
Deputy Clerk

7 Attorneys for Defendants and Respondents
CITY AND COUNTY OF SAN FRANCISCO
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO
11 UNLIMITED JURISDICTION

12 PROTECT OUR BENEFITS,

13 Plaintiff and Petitioner,

14 vs.

15 CITY AND COUNTY OF SAN
16 FRANCISCO, DOES 1-5,

17 Defendants and Respondents.
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19
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Case No. CPF-13-512788

**DEFENDANT CITY AND COUNTY OF SAN
FRANCISCO'S RETURN TO WRIT OF
MANDATE**

Hearing Date: December 9, 2015
Hearing Judge: Hon. Mary E. Wiss
Time: 9:30 a.m.
Place: Dept. 305

Attached Documents: Decl. of Jay Huish In
Support of Return to Writ of
Mandate

1 **RETURN TO PEREMPTORY WRIT OF MANDATE**

2 Defendant the City and County of San Francisco respectfully submits this Return to the
3 Peremptory Writ of Mandate issued under seal of the Court on October 26, 2015.

4 The City has determined that it will not appeal from the Court’s Amended Judgment filed on
5 October 26, 2015 or from the peremptory writ issued pursuant to that judgment. The City instead will
6 comply with the Court’s orders contained in the peremptory writ, including the order to make
7 retroactive payments of supplemental COLA benefits required by the City Charter but not paid,
8 together with interest thereon as required by law, to the retirees identified in the peremptory writ.

9 As explained more fully in the accompanying Declaration of Jay Huish in Support of the City
10 and County of San Francisco’s Return to Writ of Mandate, the process of determining which retirees
11 are eligible to receive such retroactive payments and in what amounts, and of making the correct
12 payments to retirees or to other legally eligible payees, is highly complex. In brief, in order to make
13 such retroactive payments, the San Francisco Employees Retirement System (“SFERS”) must identify
14 the retirees eligible to receive one or both of the two years’ retroactive payments in question, and also
15 must determine which of such retirees fall within any one of a number of specific subgroups that
16 require special treatment to assure that retroactive payments are made correctly. SFERS began the
17 task of identifying such eligible retirees and subgroups requiring special handling immediately after
18 learning that the City would not be filing an appeal. SFERS has now identified more than 18,600
19 post-1996 retirees currently being paid benefits, as well as more than 660 deceased post-1996 retirees
20 to whom one or both of the retroactive supplemental COLA benefits are payable pursuant to the
21 peremptory writ.

22 SFERS is still analyzing the methodology to make the retroactive payments to ensure that the
23 benefit adjustments are correctly calculated and appropriately documented in the SFERS benefit
24 payment application. With respect to the more than 660 deceased post-1996 retirees, SFERS will need
25 to identify to whom the retroactive supplemental COLA benefits are payable; the agency anticipates
26 that many of those deceased retirees’ estates will have been closed, requiring it to determine other
27 legally eligible payees. With respect to the more than 18,000 post-1996 retirees currently receiving
28 monthly SFERS retirement benefits, SFERS must determine which fall into any of the aforementioned

1 subgroups that will require individual reconciliation to ensure payments are properly made. Even with
2 respect to post-1996 retirees who do not fall within any such subgroup, SFERS will be required to
3 make a series of calculations and benefit adjustments for each such retiree, largely because there are
4 multiple years of retroactive payments at issue and because supplemental COLAs are a compounding
5 benefit – in other words, each retroactive payment in turn requires recalculation of base benefit
6 amounts and also requires recalculation of amounts of other benefits that, in turn, are determined from
7 that recalculated base benefit.

8 SFERS has not yet made the retroactive payments of supplemental COLA benefits and interest
9 to post-1996 retirees. SFERS expects that it will make those retroactive supplemental COLA payments
10 to post-1996 retirees who are currently receiving SFERS retirement benefits on or about February 28,
11 2016. Because of limitations in SFERS’ payment application – SFERS never contemplated the need
12 to calculate and/or accrue interest on retroactive benefit adjustments, and thus did not include those
13 functions in the design or implementation of its payment application – the pre- and post-judgment
14 interest payable as a result of the retroactive supplemental COLA benefits will be calculated and paid
15 separately from the retroactive supplemental COLA adjustments. SFERS expects that it will make
16 those interest payments to post-1996 retirees who are currently receiving SFERS benefits on or about
17 April 30, 2016. SFERS expect it will take until February 28, 2016 to make the retroactive
18 supplemental COLA payment, and until April 30, 2016 to make the interest payment, because of the
19 number and complexity of the tasks SFERS must perform, and because of the other, ongoing duties
20 SFERS also must perform at the same time, such as year-end closing and tax reporting.

21 Dated: December 2, 2015

DENNIS J. HERRERA
City Attorney

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23 By: /s/Wayne Snodgrass
WAYNE SNODGRASS

24 Attorneys for Defendant and Respondent
25 CITY AND COUNTY OF SAN FRANCISCO
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