

CLAIM AGAINST THE CALIFORNIA STATE TEACHERS'
RETIREMENT SYSTEM ("CALSTRS")
(Government Code Section 910, *et seq.*)

Claimant: John Frugoni, on behalf of himself and a class of others similarly situated

Address: c/o Law Office of Michael A. Conger
PO Box 9374
Rancho Santa Fe, CA 92067

Phone No: (858) 759-0200

**Name, address and phone
number of person to receive
notices and correspondence related
to this claim:**

Michael A. Conger, Esquire
Law Office of Michael A. Conger
P.O. Box 9374
Rancho Santa Fe, CA 92067
Telephone: (858) 759-0200
Facsimile: (858) 759-1906
Congermike@aol.com

**Date and time when damage
or injury occurred:** Approximately August 2012

Location of occurrence: CalSTRS' offices

Circumstances of occurrence: CalSTRS has notified claimant, and others similarly situated, that it intends to reduce claimant's pension (and those of others similarly situated). CalSTRS contends that it only recently discovered that the Cajon Valley Union School District (CVUSD) "incorrectly reported (coded) [claimant's] retirement incentive payment . . . as credible compensation to the Defined Benefit (DB) Program . . . [and] thus, it does not count toward the calculation of [claimant's] DB retirement allowance."

CalSTRS lacks legal justification for this position, and/or it was negligent, and or breached its fiduciary duty because, at a minimum:

(1) its recent change of position is incorrect as a matter of law;

- (2) it was negligent and breached its fiduciary duty in its dealings with the CVUSD in previously determining that the compensation paid to claimant (and others similarly situated) was properly to be included as compensation to be included in claimant's (and others similarly situated) pension;
- (3) alternatively, it was negligent and breached its fiduciary duty in failing to previously determine that the compensation paid to claimant (and others similarly situated) was improperly proposed by the CVUSD to be included as compensation to be included in claimant's (and others similarly situated) pension before claimant (and others similarly situated) made indelible, permanent retirement decisions;
- (4) it was negligent and breached its fiduciary duty in its dealings with claimant (and others similarly situated) in stating that the claimant's pension (and the pensions of others similarly situated) would be a certain amount, knowing that claimant (and others similarly situated) would rely on CalSTRS' determinations of that pension before making indelible, permanent retirement decisions;
- (5) alternatively, it was negligent and breached its fiduciary duty in its dealings with claimant (and others similarly situated) in failing to determine that the compensation paid to claimant (and others similarly situated) by the CVUSD was improperly included as compensation to be used in determining claimant's (and others similarly situated) pension before claimant (and others similarly situated) made indelible, permanent retirement decisions
- (6) the statute of limitations has run against CalSTRS preventing it from changing its position regarding claimant's pension (and the pensions of others similarly situated); and
- (7) it is barred by the doctrines of laches, estoppel, and unclean hands from, at this late date, from changing its position regarding claimant's pension (and the pensions of others similarly situated) because claimant (and others similarly situated) have already made indelible, permanent retirement decisions.

Description of loss, damage or injury:

Pursuant to Government Code Section 910, Subdivision (f) the amount exceeds \$10,000 and would not be a limited civil case.

Name(s) of CALSTRS' employee(s) causing injury, damage or loss, if known:

Unknown, but based on information and belief this would include primarily CalSTRS and CVUSD employees or agents

Witnesses:

Unknown, but based on information and belief this would include primarily CalSTRS and CVUSD employees or agents

Amount claimed at present including estimated amount of any prospective loss:

Pursuant to Government Code Section 910, Subdivision (f) the amount exceeds \$10,000 and would not be a limited civil case.

Dated: November 19, 2012



John Frugoni