

21-126

No.

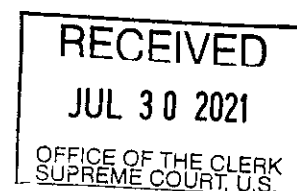
SUPREME COURT OF THE UNITED STATES

Case: Lucio A. Barroga V. Board Of Admiistration
California Public Employees
Retirement System (PERS)

PETITION FOR WRIT OF CERTIORARI

IN THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

LUCIO A. BARROGA
P.O. BOX 2516
LONG BEACH, CA 90801
TEL 562-560-7863



SUPREME COURT OF THE UNITED STATES

QUESTION

A) DID the refusal or denial of the MEMORANDUM of Feb. 23, 2021 and the ORDER of May 26, 2021 to interpret the issues of questions of laws, ISSUES I, II, III, IV and V in the p.2-5 MOTION FOR RELIEF of October 22, 2019, February 8, 2020 and the p.2-5 PETITION FOR REHEARING of March 5, 2021, regarding retirement benefits with the California Public Employees' Retirement System, PERS, "departed from accepted and usual course of judicial proceedings" U.S. Supreme Court Rule 10, in violation of laws?

a) 5 U.S. Code § 706.Scope of review

To the extent necessary to decision and when presented, **the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, . .** (Emphasis added.)

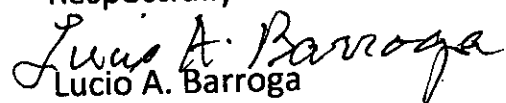
b) Fifth Amendment : No person shall be . . deprived of life, liberty or property, without due process of law

c) Code of Conduct for U.S. Judges

Canon 2 (A) *Respect for Law*. A judge should respect and comply with the law . .

Date: July 26, 2021

Respectfully submitted:


Lucio A. Barroga

PARTIES OF PROCEEDING

LUCIO A. BARROGA, Plaintiff-Appellant

P.O. Box 2516

Long Beach, CA 90801

Tel 562-560-7863

Board of Administration, Defendant-Appellee

California Public Employees' Retirement System, PERS

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Barroga v. PERS

FROM: May 22, 2019 (19 CV 00921) COMPLAINT FOR DECLARATORY RELIEF UNDER CAL CODE OF CIV. PROC. SEC. 1062 ON NEW OR SAME ACTION BASED ON THE SAME FACTS WHICH OVERCOME RES JUDICATA

p.1,7 Statute of limitation: California Code of Civ. Code Sec. 20164
Duration of obligation; limitation of actions

(b)(2) In cases where the system owes money to a member or beneficiary, the period of limitation shall not apply.

p. 3 California Code of Civ. Proc. 657

Relief available on motion for new trial, causes:

4. Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence, have discovered and produced at the trial.

6. Insufficiency of evidence to justify the . . . decision, or the decision is against the law.

ISSUES OR CAUSES OF ACTION

p.4 California (Cal) Gov't Code Sec. 20340 Condition of cessation

A person ceases to be a member:

(b) if he or she is paid his or her "normal contributions".

The employer's contributions in my behalf is not paid and remain in deposit with PERS.

p.4 ISSUE I: ARE THE EMPLOYERS' CONTRIBUTIONS TO THE RETIREMENT FUND ON BEHALF OF MEMBERS 'NORMAL CONTRIBUTIONS' . . . ?

p.4 Cal Gov't Code Sec. 20691. Payment of member normal contributions by contracting agencies or school employer.

Notwithstanding any other provision of law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. The payment shall be reported simply as normal contributions and shall be credited to member accounts.

p.8 Cal Gov't Code Sec. 20053 **Normal Contributions**
(2nd Part) "Normal contributions" also include contributions required to be paid by a member that are in fact paid on behalf of member by an employer. .

The employer's contributions are explicit "normal contributions", therefore I am still a member of PERS.

p.5 **ISSUES II:** IS PERS'S ALTERNATIVE OFFER FOR THE WITHDRAWAL OF THE ACCUMULATED MEMBER CONTRIBUTIONS TO DEPRIVE PLAINTIFF OF LIFETIME RETIREMENT ALLOWANCE AFTER PLAINTIFF HAD QUALIFIED FOR RETIREMENT AFTER REACHING 50 YEARS OLD, A VIOLATION OF CAL GOV'T CODE SEC. 21259?

p.5 Cal Gov't Code Sec. 21259. Nonforfeiture after qualification for retirement.

Subject to compliance with this part, after a member has qualified as to age and service for retirement for service, nothing shall deprive him or her of the right to retirement allowance as determined under this part.

p.5 **ISSUES III:** IS PERS'S DENIAL FOR CONSIDERING THE WITHDRAWN MEMBER CONTRIBUTIONS AS LOAN A VIOLATION OF PERS'S LOAN LAWS WHICH ALLOW WITHDRAWALS AS LOAN? OR DISCRIMINATORY?

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. . . . member may file an election with the board to redeposit in the retirement fund in lump sum or by installment payment (1) an amount equal to the accumulated contributions. . . withdrawn, and (2) an amount equal to the interest. . , and (3) if he or she elects to redeposit in other than one sum, interest on the unpaid balance at date of election to redeposit.

p.6 Cal Gov't Code Sec. 20202 Natural disaster relief loan.

Cal Gov't Code Sec. 20201 Secured home loan.

p.6 **ISSUE IV:** AMENDMENT 13, PROHIBITION OF SLAVERY IS VIOLATED. PERS HAS DENIED PLAINTIFF RETIREMENT BENEFITS DERIVED FROM EMPLOYER'S CONTRIBUTIONS TO THE RETIREMENT FUND ON MY BEHALF.

p.6 Amendment 13, Section 1. Neither slavery nor involuntary servitude shall exist within the United States. .

**(ISSUE V): California CONSTITUTION Article 3, Sec. 6(d) PREVAILS OVER
11TH AMENDMENT IMMUNITY**

p.2,10 California CONSTITUTION Article 3, Sec. 6(d):

Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of California shall have standing to sue the State of California to enforce this action.

p.6 Cal Gov't Code Sec. 20731 . .retirement allowance.

After qualification of the member for retirement by reason of age. .
the member shall be entitled to receive a retirement allowance
based upon the amount of member's accumulated contributions
and service. . . and on the employer's contributions held for the
member and calculated in the same manner as for the other
members.

p.7 RES JUDICATA DOES NOT APPLY UNDER DECLARATORY RELIEF LAW

p.7 Cal Code of Civ. Proc. Sec. 1062 Cumulative remedy

The remedies provided by this chapter are cumulative, and shall not
be construed as restricting any remedy, provisional or otherwise,
provided by law for the benefit of any party to such action, and no
judgment under this chapter shall preclude any party from obtaining
additional relief based upon the same facts.

**p.7 Cal Code of Civil Proc. Sec. 657 Relief available on motion for
new trial, causes . .**

4. Newly discovered evidence, material for the party making the
application which he could not, with reasonable diligence, have
discovered and produced at the trial.

6. Insufficiency of evidence to justify. .decision or the decision is
against law.

**p.8 BEING CALLED A VEXATIOUS LITIGANT IS WRONG BECAUSE THE ISSUES
. .ARE. . . NEVER DETERMINED BY ANY COURT, VIOLATING VEXATIOUS
LITIGANT LAW**

p.8 CAL Code of Civ. Proc. Sec. 391

(b) "Vexatious litigant" means a person who does any of the following:

(2) After a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant . . as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant . .

p.10 FRAP 60 GROUNDS FOR RELIEF

(b) GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR PROCEEDING.;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial

(4) the judgment is void;

(d) OTHER POWERS TO GRANT RELIEF. This rule does not limit a court's power to: (3) set aside a judgment for fraud on the court.

p.10 PLAINTIFF PERMITTED TO CONDUCT CASE PERSONALLY

p.10 28 USC Sec. 1654: In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

p.11 Cal Code of Civ. Proc. 170 A judge has the duty to decide any proceeding in which he or she is not disqualified.

p.12 **Code** Of Conduct For United States Judges

Canon 2: A judge should respect and comply with the law. .

2) From: Aug.1, 2019 (19-CV 0921) OBJECTION TO DEFENDANT'S MOTION TO DISMISS

p.7 28 US Code Sec. 1652 STATE LAWS AS RULES OF DECISION

p.9 CANON 2: B. *Outside influence*. A judge should not allow family, social, political, financial, or other relationship to influence judicial conduct or judgment.

3) From: Feb. 8, 2020 (19-17418) MOTION FOR RELIEF FROM ORDER OF SEPT. 30, 2019

p.9 US Court of Appeals' ORDER of Apr. 25, 2018 for Magistrate Judge . . Newman's violation of rendering judgment without authority:

(9th Cir. 1992) holding that absent consent, a federal magistrate judge lacked authority to a post-judgment decision that has dispositive effect. .

p.11 FIFTH AMENDMENT: No person shall be .deprived of . . property without due process of law.

4) From: June 11, 2020 (19-17418) OBJECTION TO APPELLEE'S BRIEF OF MAY 29, 2020

p.7 CANON 3. (2) A judge should hear and decide matters assigned, unless disqualified. . .

5) From: Mar 5, 2021 (19-17418) PETITION FOR REHEARING UNDER FRAP 40

p.1-2 5 U.S. Code 706 Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant question of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall

(2) hold unlawful and set aside agency action, findings, and conclusions found to be –

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations or short of statutory right:

(D) without observance of procedure required by law;

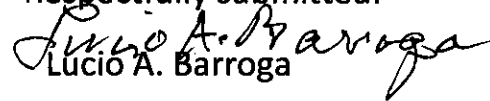
In making the foregoing determination, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (Emphasis added).

p.6 CANON 3: CALIFORNIA CODE OF JUDICIAL ETHICS:

A judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.

Date: July 26 2021

Respectfully submitted:


Lucio A. Barroga

CITATION OF REPORTS OF OPINIONS AND ORDERS

Barroga v. PES

Sept. 9, 2019 (19-CV-00921) FINDINGS AND RECOMMENDATIONS TO DISMISS .
.by Magistrate Judge Newman; (No. 4 on APPENDIX)

I p.3 Barroga's claims fail on the same ground as in the 2012 action.

II p.3 Barroga should be deemed a vexatious litigant, and pre-filing order
should be imposed.

p.15 RECOMMENDATIONS:

1. Defendant's Motion to Dismiss (ECF20) be GRANTED.
2. Defendant's Motion to Declare Plaintiff Vexatious be GRANTED IN PART
and DENIED IN PART;
3. Plaintiff be DECLARED a vexatious litigant; and
4. The Court ISSUE a pre-filing order . .

Note: The Findings and Recommendation did NOT decide and interpret the
ISSUES.

Answering: Sept. 20, 2019 (19 CV 00921) OBJECTION TO MAGISTRATE JUDGE
NEWMAN'S FINDINGS AND RECOMMENDATIONS (No. 5 on APPENDIX)

p.2 California Constitution Article 3, Sec. 6(d) That Provides Any Person
Who Is A Resident Of. . California Shall Have Standing To Sue The State Of
California . . Prevails Over 11th Amendment Immunity As Basis For The
Dismissal Of Order Of December 19, 2012.

P.4 Refusing To Determine And Interpret The Issues And Controversies
Before Charging Vexatious Litigant Is Plain Obstruction Of Justice.

p.5 Because the issues of facts and laws in the complaint were never
determined, there is no vexatious litigant.

Sept. 30, 2019 (19 CV 00921) ORDER, (No. 6 on APPENDIX)

- p.2 1. The findings and recommendations . .are ADOPTED in full.
2. Defendant's Motion to Dismiss . .is GRANTED.
3. Defendant's Motion to Declare Plaintiff Vexatious . .is GRANTED in part and DENIED in part.
4. Plaintiff is hereby DECLARED a vexatious litigant, and
5. The Court ISSUES a pre-filing order as described in Sec. II.D of the Magistrate Judge's findings and recommendations, and
6. The Clerk of the Court is directed to CLOSE this case.

Answering: Oct. 22, 2019; Feb. 2, 2020 (19-17418) MOTION FOR RELIEF FROM ORDER OF SEPT. 30, 2019. (No. 7 in APPENDIX)

p.1, 10 Because the ORDER of Sept. 30, 2019 adopted in full the and Recommendations, therefore . the OBJECTIONS. . TO FINDINGS AND RECOMMENDATIONS of Sept. 20, 2019 also answer the ORDER of Sept. 30.

p.11 PERS depriving me of benefits derived from the employer's contributions,. .is violaion of Fifth Amendment:
. "No person shall be. .deprived . .of property, without due process of law."

p.11-12 Cal Code of Civil Proc. Sec. 391:

(2) After a litigation has been finally determined against the person, repeatedly re-liigate . .against the same defendant . .

p.11. . the ISSUES I, II, III, IV and Calif Constitution Article 3, Sec. 6(d) were never determined and interpreted by any court, therefore. . . the charge of vexatious litigant is false and wrong.

Notice: The ORDER did NOT decide and interpret the ISSUES.

Feb. 23, 2021 (19-17418) **MEMORANDUM**, AFFIRMED. (No. 10 on APPENDIX)

p.2 (a)The district court. . dismissed . .action on the basis of claim preclusion because the action involved the same primary rights raised in prior administrative proceeding on state court case that resulted in a final judgment . .

p.2 The district court did not abuse its discretion by declaring Barroga a vexatious litigant . .

Answering: Mar. 5, 2021 (19-17418) PETITION FOR REHEARING UNDER FRAP 40 (No. 11 on APPENDIX)

p.1 5 U.S. Code 706 Scope of review
... **the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions.** .(The MEMORANDUM did comply.)

p.2 Judicial Notice: The panel judges did not address to **"decide all relevant questions of law, interpret constitutional and statutory provisions"** as mandated by 5 U.S. Code Sec. 706.

p.8 Code Of Conduct For U.S. Judges
CANON 2. (A) *Respect for Law.* A judge should respect and comply with the law.

p.5 The MEMORANDUM regarding claim preclusion, overlooked . .that prior administrative judge and state judges were wrong in deciding that I ceased to be a member when I withdrew the . .member contributions.. . . See wrong arguments of PERS, which was the basis of prior court dismissal orders, . .letter dated Apr. 18, 1996 by Richard H. Koppes, Deputy Executive Officer and General Counsel.

Notice: In p.3 ISSUE I, I am still a member of PERS because the employers' contributions on my behalf remain with PERS and are "normal contributions." Also, please, see ISSUE I on p 1-2 TABLE OF AUTHORITIES.

p. 7-8. The MEMORANDUM overlooked the fact that plaintiff is not a vexatious litigant under . .Cal Code of Civ. Proc. Sec.391.

The . .litigant law requires that issues must be first addressed and finally determined, but judges refused to interpret the laws in dispute, so there is no basis for charge of vexatious litigant.

May 26, 2021 (19-17418) ORDER by panel judges denying rehearing. (No. 12 on APPENDIX)

Date: July 26, 2021

3 *Lucio A. Barroga*
Lucio A. Barroga

BASIS OF JURISDICTION

Dates:

Barroga v. PERS

February 23, 2021 MEMORANDUM of Circuit Judges.

May 26, 2021 ORDER of Circuit Judges, denying petition for rehearing.

July 2, 2021 Date of letter from clerk requiring correction of petition for writ .

In violation of laws, the MEMORANDUM of February 23, 2021 and the ORDER of May 26, 2021 had "departed from the accepted and usual course of judicial proceedings", U.S. Supreme Court Rule 10, **for not interpreting issues of laws**, ISSUES I, II, III, IV, & V California Constitution Article 3, Sec. 6(d) on the p.2-5 MOTION FOR RELIEF FROM THE ORDER OF SEPT. 30, 2019 of October 22, 2019, February 8, 2020 and on the p.2-5 PETITION FOR REHEARING UNDER FRAP 40 of March 5, 2021 on my complaint with the California Public Employees' Retirement System, PERS regarding denial of right to retirement benefits, in violation of laws:

a) 5 U.S. Code § 706.Scope of review

To the extent necessary to decision and when presented, **the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions**, . . (Emphasis added.)

b) FIFTH AMENDMENT: No person shall. . . be deprived of life, liberty or property, without due process of law. .

c) Code of Conduct for U.S. Judges

Canon 2 (A) *Respect for Law*. A judge should respect and comply with the law .

Date: July 26, 2021

Respectfully submitted:

Lucio A. Barroga
Lucio A. Barroga

CONSTITUTIONS AND STATUTES

Statute of limitation: California Code of Civ. Code Sec. 20164 Duration of obligation; limitation of actions

(b)(2) In cases where the system owes money to a member or beneficiary, the period of limitation shall not apply.

California Code of Civ. Proc. 657

Relief available on motion for new trial, causes:

4. Newly discovered evidence, material for the party making the application, which he could not with reasonable diligence, have discovered and produced at the trial.

6. Insufficiency of evidence to justify the . . . decision, or the decision is against the law.

California (Cal) Gov't Code Sec. 20340 Condition of cessation

A person ceases to be a member:

(b) if he or she is paid his or her "normal contributions".

Cal Gov't Code Sec. 20691. Payment of member normal contributions by contracting agencies or school employer. Notwithstanding any other provision of law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. The payment shall be reported simply as normal contributions and shall be credited to member accounts.

Cal Gov't Code Sec. 20053 Normal Contributions

(2nd Part) "Normal contributions" also include contributions required to be paid by a member that are in fact paid on behalf of member by an employer.

Cal Gov't Code Sec. 21259. Nonforfeiture after qualification for retirement. Subject to compliance with this part, after a member has qualified as to age and service for retirement for service, nothing shall deprive him or her of the right to retirement allowance as determined under this part.

Cal Gov't Code Sec. 20750. Redeposit of withdrawals, interest.

. . . . member may file an election with the board to redeposit in the

retirement fund in lump sum or by installment payment (1) an amount equal to the accumulated contributions. . . withdrawn, and (2) an amount equal to the interest. . . , and (3) if he or she elects to redeposit in other than one sum, interest on the unpaid balance at date of election to redeposit.

Cal Gov't Code Sec. 20202 Natural disaster relief loan.

Cal Gov't Code Sec. 20201 Secured home loan.

Amendment 13, Section 1. Neither slavery nor involuntary servitude shall exist within the United States. .

California CONSTITUTION Article 3, Sec. 6(d):

Personal

Right of Action and Jurisdiction of Courts.

Any person

who is a resident of or doing business in the State of California shall have standing to sue the State of California to enforce this action.

Cal Gov't Code Sec. 20731 . . retirement allowance.

After qualification of the member for retirement by reason of age. . the member shall be entitled to receive a retirement allowance based upon the amount of member's accumulated contributions and service. . . and on the employer's contributions held for the member and calculated in the same manner as for the other members.

Cal Code of Civ. Proc. Sec. 1062 **Cumulative remedy**

The remedies provided by this chapter are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party to such action, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts.

Cal Code of Civil Proc. Sec. 657 **Relief available on motion for new trial, causes . .**

4. Newly discovered evidence, material for the party making the application which he could not, with reasonable diligence, have discovered and produced at the trial.

6. Insufficiency of evidence to justify. . decision or the decision is against law.

CAL Code of Civ. Proc. Sec. 391

(b) "Vexatious litigant" means a person who does any of the following:

(2) After a litigation has been finally determined against the person,

repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant . . as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant . .

FRAP 60 GROUNDS FOR RELIEF

(b) GROUNDS FOR RELIEF FROM A FINAL JUDGMENT, ORDER, OR PROCEEDING.;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial

(4) the judgment is void;

(d) OTHER POWERS TO GRANT RELIEF. This rule does not limit a court's power to:
(3) set aside a judgment for fraud on the court.

28 USC Sec. 1654: In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

Cal Code of Civ. Proc. 170 A judge has the duty to decide any proceeding in which he or she is not disqualified.

Code Of Conduct For United States Judges

Canon 2: A judge should respect and comply with the law. .

28 US Code Sec. 1652 STATE LAWS AS RULES OF DECISION

CANON 2: B. *Outside influence.* A judge should not allow family, social, political, financial, or other relationship to influence judicial conduct or judgment.

(9th Cir. 1992) holding that absent consent, a federal magistrate judge lacked authority to a post-judgment decision that has dispositive effect. .

FIFTH AMENDMENT: No person shall be . . deprived of . . property without due process of law.

CANON 3. (2) A judge should hear and decide matters assigned, unless disqualified. . .

5 U.S. Code 706 Scope of review

To the extent necessary to decision and when presented, **the reviewing court shall decide all relevant question of law, interpret constitutional and statutory provisions**, and determine the meaning or applicability of the terms of an agency action. **The reviewing court shall (2) hold unlawful and set aside agency action, findings, and conclusions found to be –**

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations or short of statutory right;

(D) without observance of procedure required by law;

In making the foregoing determination, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error. (Emphasis added).

CANON 3: CALIFORNIA CODE OF JUDICIAL ETHICS:

A
judge shall hear and decide all matters assigned to the judge except those in which he or she is disqualified.

Date: July 26, 2021

Respectfully submitted:

Lucio A. Barroga
Lucio A. Barroga

FACTS

Barroga v. PERS

After reaching 50 year old in April 1979 and retirable, I submitted an application for retirement pensions with the CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, PERS for previous services with the City of El Segundo. PERS offered me two choices: 1) to receive a monthly pension of \$135, or 2) as alternative, to receive a lump sum of my member contributions (approx. 7% of salaries), but the employer's contributions on my behalf (approx. 7.75% of salaries under Gov't Code Sec. 20750.1 [new 20795]), will remain with PERS. I received approximately \$10,000 of my accumulated member contributions, with the employer's contributions on my behalf remaining in deposit with PERS.

Later in some years, I requested that the offered monthly pension shall pay and redeposit for the withdrawn member contributions as a loan which PERS maliciously omitted to inform the monthly pension can redeposit per statute (Cal) Gov't Code Sec. 20750 Redeposit of Withdrawals, and when the loan or withdrawal is fully paid with interest, then monthly pension will start to me. But PERS claimed the employer's contributions which have remained with PERS are NOT "normal contributions", therefore I ceased to be a member when the member contributions were withdrawn, and I am not anymore entitled any pension benefits. I have contended that I am still a PERS member, because the

employer's contributions on my behalf have remained in deposit with PERS and are "normal contributions" under the laws, and therefore, I am entitled to retirement benefits.

So, complaints against PERS with issues of laws of right to retirement benefits, since the employer's contributions on my behalf were not paid and still remain in deposit with PERS, were filed in courts, but courts refused to interpret the issues. See ISSUES I, II, III, IV and V Cal Constitution Article 3 Sec. 6(d) on the p.2-5 MOTION FOR RELIEF of October 22, 2019, February 8, 2020 and on the p.2-5 PETITION FOR REHEARING of March 5, 2021,

ISSUE I: ARE EMPLOYERS' CONTRIBUTION "NORMAL CONTRIBUTIONS"?
(Cal) Gov't Code Sec. 20691. Payment of member normal contributions by contracting agencies or school employer.

Notwithstanding any other provision of law, a contracting agency or school employer may pay all or a portion of the normal contributions required to be paid by a member. The payment shall be reported simply as normal contributions and shall be credited to member accounts.

Cal Gov't Code Sec. 20053 **Normal Contributions**, p.8 COMPLAINT 5/22/19 (2nd Part) "Normal contributions" also include contributions required to be paid by a member that are in fact paid on behalf of member by an employer.

ISSUE II: NONFORFEITURE AFTER QUALIFICATION FOR RETIREMENT
Gov't Code Sec. 21203 (new 21259) Nonforfeiture after qualification for retirement

Subject to compliance with this part, after a member has qualified as to age and service for retirement for service, nothing shall deprive him or her of the right to retirement allowance as determined under this part.

ISSUE III: REDEPOSIT OF WITHDRAWALS

(Cal) Gov't Code Sec. 20654 (new 20750) Redeposit of withdrawals, interest.

. . .member may file an election with the board to redeposit in the retirement fund, in lump sum or by installment payment (1) an amount equal to the accumulated contributions.. .withdrawn, and (2) an amount equal to the interest. .

(Cal) Gov't Code Sec. 20211 (new 20202) Natural disaster relief loan.

(Cal) Gov't Code Sec. 20215 (new 20200) Home financing program

ISSUE IV: AMENDMENT 13, PROHIBITION OF SLAVERY

Amendment 13, Section 1. Neither slavery nor involuntary servitude . .
.shall exist within the United States, . .

**ISSUE V: CALIFORNIA CONSTITUTION PREVAILS OVER 11th AMENDMENT
IMMUNITY**

California Constitution Article 3, Sec. 6 (d)

(d) Personal Right of Action and Jurisdiction of Courts.

Any person who is a resident of or doing business in the State of California
shall have standing to sue the State of California to enforce this section,

Date: July 26, 2021

Respectfully submitted:


Lucio A. Barroga

REASONS FOR GRANTING THE WRIT

Barroga v. PERS

The panel Circuit judges' MEMORANDUM of February 23, 2021 and ORDER of May 26, 2021 refused to decide and interpret the ISSUES I, II, III, IV, & V Cal Constitution Article 3, Sec. 6(d) on the p.2-5 MOTION FOR RELIEF FROM ORDER OF SEPT. 30, 2019. of October 22, 2019, February 8, 2020 and on the p.2-5 PETITION FOR REHEARING of March 5, 2021, in violations of laws:

a) 5 U.S. Code Sec. 706 Scope of review

To the extent necessary to decision and when presented, **the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and.** (Emphasis added)

b) Fifth Amendment: No person shall be . . . deprived of life, liberty or property, without due process of law.

PERS argued arbitrarily that I ceased to be a PERS member when the accumulated member contributions were withdrawn, see letter of Apr 18, 1996 by Richard Koppes, Deputy Executive Officer and General Counsel of PERS, MS APPENDIX, and I am not anymore entitled retirement benefits. But, laws prove PERS is wrong. On ISSUE I, Cal Gov't Code Sec. 20691. Payment of member normal contributions by contracting agencies or school employer and Cal Gov't Code Sec. 20053 **Normal Contributions**, see p.1-2 AUTHORITIES, show the employer's contributions remaining in deposit with PERS are "normal contributions", therefore I am still a PERS member and entitled retirement benefits. On ISSUE II,

Cal Gov't Code Sec. 21259. Nonforfeiture after qualification for retirement ,
please see p.2 AUTHORITIES, shows that after reaching 50 years old and qualified
to retire, nothing can deprived me of lifetime allowance. PERS's offering me to
withdraw the accumulated member contributions is fraud. On ISSUE III, Cal Gov't
Code Sec. 20750. Redeposit of withdrawals, see p.2 AUTHORITIES, the law
provides loans can be redeposited in lump sum or installment payment, but in
violation of law, PERS would not accept the withdrawn member contributions as a
loan, and that is discriminatory. On ISSUE IV, AMENDMENT 13, Prohibition of
slavery, see p.3 AUTHORITIES, PERS has denied me benefits derived from the
employer's contributions on my behalf remaining in deposit with PERS, which
employer's contributions I had worked and toiled for. Courts and defendant's
assertion that defendant PERS is immune from suit under Eleventh Amendment
because it is a public agency is prevailed by California Constitution Article 3, Sec.
6(d), see p.3 AUTHORITIES, providing that "Any. . resident .of California has
standing to sue the State of California." Because PERS refused to comply with the
ISSUES of laws and the courts refused to decide and interpret the issues of laws,
ISSUES I, II, III, IV and V of the complaint, there is no basis for the charges of res
judicata or vexatious litigant.

The refusal or denial of the panel circuit judges of the MEMORANDUM of Feb. 23, 2021 to interpret the ISSUES of laws is "departed from the accepted and usual course of judicial proceedings", Rule 10 of Supreme Court of U.S. , therefore this court should grant the petition for writ of certiorari and reverse the MEMORANDUM of Feb. 23, 2021 and ORDER of May 26, 2021.

Date: July 26, 2021

Respectfully submitted:


Lucio A. Barroga