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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 FOR THE COUNTY OF SAN JOAQUIN

17 Edward Allum and Pauline Toy, on behalf of
18 themselves and all others similarly situated,

19 Plaintiffs,

20 v.

21 San Joaquin County Employees' Retirement
22 Association; Board of Retirement of the San
23 Joaquin County Employees' Retirement
24 Association and DOES 1-30, inclusive,

25 Defendants.

26 San Joaquin County Employees' Retirement
27 Association; Board Of Retirement Of The San
28 Joaquin County Employees' Retirement
Association,

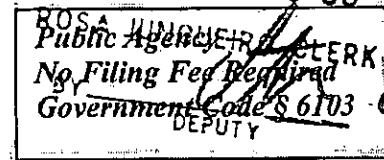
Cross-Complainants,

v.

The County Of San Joaquin,

Cross-Defendants.

FILED
18 DEC 21 PH 3:50



Case No: STK-CV-UBC-2017-10696

Assigned for all purposes to:
Hon. Carter P. Holly

**DEFENDANTS' ANSWER TO
PLAINTIFFS' SECOND AMENDED
COMPLAINT**

Date Action Filed: October 13, 2017

FILE BY FAX

DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT

1 Defendants San Joaquin County Employees' Retirement Association and Board of
2 Retirement of the San Joaquin County Employees' Retirement Association (collectively,
3 "SJCERA") hereby answer Plaintiffs' Second Amended Complaint as follows:

4 **GENERAL DENIAL**

5 Pursuant to Code of Civil Procedure section 431.30, subdivision (d), SJCERA denies
6 each and every allegation contained in the Second Amended Complaint ("SAC"), and each
7 purported cause of action contained therein, and further denies that Plaintiffs are entitled to any
8 relief whatsoever.

9 **AFFIRMATIVE DEFENSES**

10 SJCERA asserts the following affirmative defenses, each of which is a separate and
11 distinct affirmative defense to the SAC and to each claim set forth therein.

12
13 **FIRST AFFIRMATIVE DEFENSE**

14 **(Statute of Limitations)**

15 1. The SAC, and each purported cause of action contained therein, is barred, in
16 whole or in part, by all applicable statutes of limitation.

17 **SECOND AFFIRMATIVE DEFENSE**

18 **(Laches)**

19 2. The SAC, and each purported cause of action contained therein, is barred, in
20 whole or in part, by the doctrine of laches.

21 **THIRD AFFIRMATIVE DEFENSE**

22 **(Failure to Join Necessary Parties)**

23 3. Plaintiffs have failed to join a party or parties necessary to this action whose
24 interests are impacted by the claims alleged in the SAC and the requested relief, and have further
25 omitted to state any reasons for such failure.

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FOURTH AFFIRMATIVE DEFENSE

(Discretionary Authority)

4. Plaintiffs are not entitled to the relief requested on the ground that it requests the Court to compel SJCERA's Board to exercise its discretionary authority in a particular manner.

FIFTH AFFIRMATIVE DEFENSE

(Justification and Privilege)

5. SJCERA alleges that it and its Board were justified and privileged in taking the actions that Plaintiffs are now challenging.

SIXTH AFFIRMATIVE DEFENSE

(Acts in Accordance With Law and Substantial Evidence)

6. SJCERA through its governing Board did not act arbitrarily, capriciously, or wholly without evidentiary support; did not abuse its discretion; and made all required findings, which supported SJCERA's actions and were supported by substantial evidence.

SEVENTH AFFIRMATIVE DEFENSE

(Statutory Compliance)

7. Plaintiffs are not entitled to the relief requested on the ground that SJCERA at all times acted in accordance with the applicable laws and statutes.

EIGHTH AFFIRMATIVE DEFENSE

(Good Faith)

8. Plaintiffs are not entitled to the relief requested on the ground that SJCERA at all times acted in good faith.

NINTH AFFIRMATIVE DEFENSE

(Failure to State a Cause of Action)

9. The SAC, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action against SJCERA.

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TENTH AFFIRMATIVE DEFENSE

(Estoppel)

10. Plaintiffs, through their conduct, acts and omissions, and/or through the conduct, acts and omissions of Plaintiffs' agents or representatives, are estopped from recovering any relief under any of the causes of action alleged against Defendants.

ELEVENTH AFFIRMATIVE DEFENSE

(Ratification)

11. Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' and/or Plaintiffs' agents or representatives' participation in, approval of or ratification of the conduct upon which the claims are based.

TWELFTH AFFIRMATIVE DEFENSE

(Waiver)

12. Plaintiffs, through their conduct, acts and omissions, and/or through the conduct, acts and omissions of Plaintiffs' agents or representatives, have waived their right to relief under any of the causes of action alleged against SJCERA.

THIRTEENTH AFFIRMATIVE DEFENSE

(Unclean Hands)

13. Plaintiffs, through their conduct, acts and omissions, and/or through the conduct, acts and omissions of Plaintiffs' agents or representatives, are barred, in whole or in part, by the doctrine of unclean hands from recovering any relief under any of the causes of action alleged in the SAC.

FOURTEENTH AFFIRMATIVE DEFENSE

(Consent)

14. The SAC, and each purported cause of action contained therein, is barred, in whole or in part, by the doctrine of consent.

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FIFTEENTH AFFIRMATIVE DEFENSE

(Mootness)

15. The SAC, and each purported cause of action contained therein, in whole or in part, fails to state a claim upon which relief can be granted because the claims are moot.

SIXTEENTH AFFIRMATIVE DEFENSE

(No Damages)

16. Plaintiffs have suffered no legally cognizable damages caused by any conduct of SJCERA.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Illegality)

17. Plaintiffs seek imprudent actions by SJCERA that if ordered would be illegal and thus Plaintiffs have no basis in law to obtain the relief sought.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Further Affirmative Defenses Reserved)

18. SJCERA presently has insufficient knowledge or information on which to form a belief as to whether it may have additional affirmative defenses that cannot be articulated at this time. SJCERA reserves the right to assert, and hereby gives notice that it intends to rely upon, any other defense that may become available during discovery or otherwise and reserves the right to amend its Answer to assert any such defense.

WHEREFORE, SJCERA prays that:

1. The SAC and all claims and prayers for relief therein be denied in their entirety;
2. That this Court dismiss this case, and all causes of action therein, with prejudice;
3. That this Court award SJCERA its costs;

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4. That this Court award SJCERA such other and further relief as may be deemed just and proper.

Dated: December 21, 2018

NOSSAMAN LLP

By: 
Ashley K. Dunning

Attorneys for Defendants San Joaquin County
Employees' Retirement Association and Board of
Retirement of the San Joaquin County Employees'
Retirement Association

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PROOF OF SERVICE

The undersigned declares:

I am employed in the County of San Francisco, State of California. I am over the age of 18 and am not a party to the within action; my business address is c/o Nossaman LLP, 50 California Street, 34th Floor, San Francisco, CA 94111.

On December 21, 2018, I served the foregoing:

DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT

on parties to the within action as follows:

- (By U.S. Mail) On the same date, at my said place of business, Copy enclosed in a sealed envelope, addressed as shown on the attached service list was placed for collection and mailing following the usual business practice of my said employer. I am readily familiar with my said employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service, and, pursuant to that practice, the correspondence would be deposited with the United States Postal Service, with postage thereon fully prepaid, on the same date at San Francisco, California.
- (By Electronic Service). By emailing true and correct copies to the persons at the electronic notification address(es) shown on the accompanying service list. The document(s) was/were served electronically and the transmission was reported as complete and without error.
- (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Rica Ureta

SERVICE LIST

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