

JOHN G. DESIMONE, LLC
ATTORNEYS AT LAW

22 North Broad Street
P.O. Box 237
Woodbury, New Jersey 08096-7057

(856) 848-8800
FAX (856) 848-8939

www.desimonelawyer.com

John G. DeSimone

Samuel G. DeSimone
Counselor to the Firm

June 25, 2001

Clerk of the Appellate Division
Hughes Justice Complex
P.O. Box 006
Trenton, New Jersey 08625-0006

Re: G. Philip Lewis
Agency No.: 1065648

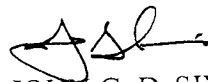
Dear Clerk:

Please find herein a Notice of Appeal, Superior Court of New Jersey Appellate Division, in the above-captioned matter.

This is a State Agency action for which we would like the Superior Court of New Jersey's Appellate Division to hear.

Additionally, please find herein a Civil Case Information Statement and attached thereto a copy of the final administrative determination made by the Board of Trustees of the Public Employees Retirement System (PERS Board).

Very truly yours,



JOHN G. DeSIMONE, ESQUIRE

JGD/skd

Enclosures

c: Wendy Jamison, Board of Trustees Public Employees Retirement System (w/encl. via regular and certified mail)
Susanne Culliton, Esquire, Attorney General for the State of New Jersey (w/encl. via regular and certified mail)
Mr. G. Philip Lewis (w/encl.)

**NOTICE OF APPEAL
SUPERIOR COURT OF NEW JERSEY – APPELLATE DIVISION**

JOHN G. DeSIMONE, ESQUIRE
JOHN G. DeSIMONE, LLC
Attorneys-at-Law
22 North Broad Street
Woodbury, NJ 08096

Attorney for G. Philip Lewis, Appellant

ON APPEAL FROM:

PUBLIC EMPLOYEE'S RETIREMENT SYSTEM
STATE AGENCY

PERS #1065648
AGENCY NUMBER

NONE
TRIAL COURT JUDGE

CIVIL [] CRIMINAL [] JUVENILE []
ADMINISTRATIVE [X]

NOTICE IS HEREBY GIVEN THAT G. PHILIP LEWIS APPEALS TO THE SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, FROM THE JUDGMENT [] ORDER [X] STATE AGENCY DECISION [X] ENTERED IN THIS ACTION ON MAY 17, 2001.

IF NOT APPEALING THE ENTIRE JUDGMENT, ORDER OR AGENCY DECISION, SPECIFY WHAT PARTS OF PARAGRAPHS ARE BEING APPEALED:

Paragraph 1 of Final Administrative Determination to Purchase Additional Service Credit in the PERS from September 19, 1986 until April 1, 1993.

HAVE ALL ISSUES AS TO ALL PARTIES BEEN DISPOSED OF IN THIS ACTION IN THE TRIAL COURT OR AGENCY? YES [X] NO []

IF NOT, HAS THE ORDER BEEN CERTIFIED AS FINAL PURSUANT TO R. 4:42-2?
YES [] NO []

IN CRIMINAL, QUASI-CRIMINAL, AND JUVENILE CASES: N/A
GIVE A CONCISE STATEMENT OF THE OFFENSE AND OF THE JUDGMENT, DATE ENTERED AND ANY SENTENCE OR DISPOSITION IMPOSED.

IS DEFENDANT INCARCERATED? YES [] NO [] N/A
WAS BAIL GRANTED OR THE SENTENCE OR DISPOSITION STAYED? YES [] NO []
IF IN CUSTODY, GIVE THE PLAE OF CONFINEMENT _____.

NOTICE OF APPEAL AND ANNEXED CASE INFORMATION STATEMENT HAVE BEEN SERVED ON:

TRIAL COURT JUDGE N/A . N/A . DATE OF SERVICE
TRIAL COURT CLERK OR STATE AGENCY: Wendy Jamison, Secretary
ATTORNEY GENERAL OF THE STATE OF NEW JERSEY
PURSUANT TO R. 2:5-1(a), (e) or (h) R. 2:5-1(e) . _____

OTHER PARTIES:

NAME AND DESIGNATION	ATTORNEY NAME, ADDRESS AND TELEPHONE NUMBER	DATE OF SERVICE
<u>N/A</u>	_____	_____
_____	_____	_____
_____	_____	_____

ANNEXED TRANSCRIPT REQUEST FORM HAS BEEN SERVED ON:

NAME	DATE OF SERVICE	AMOUNT OF DEPOSIT
COURT REPORTER'S SUPERVISOR, CLERK OF COURT OR AGENCY <u>N/A</u>	_____	_____
COURT REPORTER _____	_____	_____

EXEMPT FROM ANNEXING THE TRANSCRIPT REQUEST FORM DUE TO THE FOLLOWING:

- NO VERBATIM RECORD, ADMINISTRATIVE AGENCY: PURSUANT TO R.2:5-1(f)(2), AGENCY DECISION ATTACHED HERETO
- TRANSCRIPT IN POSSESSION OF ATTORNEY OR PRO SE LITIGANT. [FOUR COPIES, ALONG WITH THE COMPUTER DISKETTE FROM THE TRANSCRIPT PREPARER, MUST BE SUBMITTED]
- MOTION FOR ABBREVIATION OF TRANSCRIPT FILED WITH THE COURT OR AGENCY BELOW
- MOTION FOR FREE TRANSCRIPT FILED WITH THE COURT BELOW

I CERTIFY THAT THE FOREGOING STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. I ALSO CERTIFY THAT, UNLESS EXEMPT, THE FILING FEE REQUIRED BY N.J.S. 22A:2 HAS BEEN PAID.

06/22/01
DATE


SIGNATURE OF ATTORNEY

JOHN G. DeSIMONE, LLC
ATTORNEY AT LAW
22 North Broad Street – 2nd Floor
P.O. Box 237
Woodbury, NJ 08096
Phone: (856) 848-8800
Fax: (856) 848-8939

TITLE IN FULL:
IN RE: G. Philip Lewis

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

AGENCY NUMBER: 1065648

APPELLANT'S ATTORNEY: Plaintiff ___ Defendant ___ Other (Specify)

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>	<u>CLIENT</u>
JOHN G. DeSIMONE Esquire	JOHN G. DeSIMONE, LLC 22 N. Broad Street Woodbury, NJ 08096	856-848-8800	G. PHILIP LEWIS

RESPONDENT'S ATTORNEY*:

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>	<u>CLIENT</u>
SUSANNE CULLITON Esquire	OFFICE OF THE ATTORNEY GENERAL P.O. BOX 080 TRENTON, NJ 08625-0030	609-292-4925	PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS BOARD)

[*Indicate which parties, if any, did not participate below or were no longer parties to the action at the time of entry of the judgment or decision being appealed.]

GIVE DATE AND SUMMARY OF JUDGMENT OR DECISION BEING APPEALED AND ATTACH A COPY:

Are there any claims against any party below, either in this or a consolidated action, which have not been disposed of, including counterclaims, cross-claims, third-party claims and applications for counsel fees?

Yes ___ No X.

If so, has the order been certified as final pursuant to R. 4:42-2? (If not, leave to appeal must be sought. R. 2:2-4, 2:5-6.)

Yes ___ No X.

Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(h)).

Yes X No ___.

GIVE A BRIEF STATEMENT OF THE FACTS AND PROCEDURAL HISTORY:

Following Appellant Lewis' honorable discharge from the United States Navy, he domiciled in the County of Salem, State of New Jersey. On December 23, 1974, Mr. Lewis was employed under the Comprehensive Employee Training Act as a teacher's aide. His employment involved approximately a 26-year career of employment in different capacities when he retired on June 30, 2000, accepting a lay-off/retirement.

Shortly thereafter, he applied to purchase additional service credit in the PERS program, which was denied, having originally been accepted.

This denial resulted in an appeal before the Board of Trustees which was heard in a meeting of March 21, 2001 where the PERS Board considered submissions and granted an extension of one month to permit production of documentation and to an argument as to why *N.J.S.A.* 43:15A-7(h) was inapplicable to Mr. Lewis' request. On April 3, 2001, the Board of Trustees of the Public Employees Retirement System received answers to five issues asked by the PERS Board following the March 21, 2001 proceeding.

At its meeting of April 18, 2001, the PERS Board reviewed the Appellant's correspondence and voted again to deny the request to allow Appellant Lewis to purchase a portion of his JTPA employment from September 1986 through April 1, 1993, wherein the Appellant requested a hearing in the Office of Administrative Law. That request was also denied resulting in the letter, attached hereto, dated May 17, 2001 sent to the Appellant.

On May 17, 2001, final administrative determination was forwarded to the Appellant. This letter is the subject of this appeal.

TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THIS APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant only.)

1. Whether or not G. Philip Lewis' Job Training Partnership Act (JTPA) time should not be considered under the provisions of *N.J.S.A.* 43:15-7 et. seq.

IF YOU ARE APPEALING FROM A JUDGMENT ENTERED BY A TRIAL JUDGE SITTING WITHOUT A JURY OR FROM AN ORDER OF THE TRIAL COURT, COMPLETE THE FOLLOWING:

1. Did the trial judge issue oral findings or opinion? Yes ___ No ___
If so, on what date? N/A

2. Did the trial judge issue written findings or opinion? Yes ___ No ___
If so, on what date? N/A

Caution: Before you indicate that there was neither an opinion nor findings, you should inquire of the trial judge to determine whether findings or an opinion was placed on the record out of counsel's presence or whether the judge will be filing a statement or opinion pursuant to R. 2:5-1(b).

Date of your inquiry: N/A

Will the trial judge be filing a statement or opinion pursuant to R. 2:5-1(b)?

Yes ___ No ___

Civil appeals are screened under the Civil Appeals Settlement Program to determine their potential for settlement or, in the alternative, a simplification of the issues and any other matters that may aid in the disposition or handling of the appeal. Please consider these when responding to the following question. A negative response will not necessarily rule out the scheduling of a preargument conference.

State whether you think this case may benefit from a conference. Yes ___ No X.

Explain your answer:

Interpretation of *N.J.S.A. 43:15A-7 et seq.* is being asked of the Appellate Division.

1. IS THERE ANY CASE NOW PENDING OR ABOUT TO BE BROUGHT BEFORE THIS COURT WHICH:

(A) Arises from substantially the same case or controversy as this appeal? Yes ___ No X.

(B) Involves an issue that is substantially the same, similar or related to an issue in this appeal? Yes ___ No X.

2. WAS THERE ANY PRIOR APPEAL INVOLVING THIS CASE OR CONTROVERSY? Yes ___ No X.

IF THE ANSWER TO EITHER 1 OR 2 ABOVE IS YES, STATE:

Case Name

Appellate Division Docket Number

:

N/A

G. Phillip Lewis
Name of Appellant

John G. Desimore, Esq.
Name of Counsel of Record

Date

Signature of Counsel of Record