## DESIMONE LAW OFFICES

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October 25, 2002

James M. Flynn, Clerk Superior Court of New Jersey, Appellate Division Richard J. Hughes Justice Complex 25 Market Street P.O. Box 006 Trenton, New Jersey 08625-0006

Re: In the Matter of G. Philip Lewis

Dear Mr. Flynn:

Enclosed please find the original and five copies of a new Notice of Appeal to be assigned a new Docket Number on behalf of Appellant, G. Philip Lewis and Proof of Mailing, in the above captioned matter. Also enclosed is this firm's check in the amount of \$175.00 for the filing of same.

Would you kindly file the Notice of Appeal and Proof of Mailing and return a conformed copy in the self-addressed stamped envelope provided herein for your convenience.

If you have any questions, please feel free to contact the undersigned.

Respectfully submitted,

JOHN G. DeSIMONE, ESQUIRE

JGD/jld

cc:

Enclosures

Patricia Janiszewski, Case Manager

David Denbe, SDAG

Kathleen Coates, CEBS, Secretary, Board of Trustees of PERS

Debra A. Allen, DAG

G. Philip Lewis, w/enclosure

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

JOHN G. DeSIMONE, ESQUIRE JOHN G. DeSIMONE, LLC Attorneys-at-Law 66 Euclid Street, Suite B Woodbury, NJ 08096

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 [] STATE AGENC DECISION [X] ENTERED IN THIS ACTION ON AUGUST 23, 2002 AND SEPTEMBER 19, 2002.
IF NOT APPEALING THE ENTIRE JUDGMENT, ORDER OR AGENCY DECISION, SPECIFY WHAT PARTS OF PARAGRAPHS ARE BEING APPEALED:
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

(If not, leave to appeal must be sought. R. 2:2-4, 2:5-6.)	
Is the validity of a statute, regulation, executive order, franchise or constitutional provision of this State being questioned? (R. 2:5-1(h)).	Yes_XNo
GIVE A BRIEF STATEMENT OF THE FACTS AND PROC This is the second Appeal that has been taken by Appel matter. On May 17, 2001, a Final Administrative Determination who took an Appeal and on June 24, 2002, the Appellate Divis BOARD'S decision for a further proceeding.  The further proceeding was conducted on August 21, 20 decision being provided to counsel affirming the PERS SYSTE Determination of May 16, 2001 (the subject of an original Appel Appellant the purchase of additional service credit in the PERS August 23, 2002 letter, the Appellant filed an Interlocutory Appel	EDURAL HISTORY: llant, G. Philip Lewis, in this on was forwarded to the Appellant ion reversed and remanded PERS  002, which resulted in an interim lMS Final Administrative eal), specifically denying the
August 23, 2002 letter, the Appellant filed an Interlocutory App on September 11, 2002 entitled Docket No. AM-63-02T5. The responded to this Interlocutory Appeal on September 23, 2002 a behalf of Appellant, G. Philip Lewis, and forwarded October 2, While the Notice of Motion for Leave to Appeal for an Inthe PERS Board forwarded a Final Administrative Determination The Appellant's Notice of Motion for Leave of Interlocutory Appthe Appellant requests the Final Administrative Determination determination of the subject of this Appeal.	Attorney General's Office and a Reply Brief was filed on 2002.  Atterlocutory Order was pending, and dated September 19, 2002.
TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES APPEAL AS THEY WILL BE DESCRIBED IN APPROPRIATE PURSUANT TO R. 2:6-2(a)(5). (Appellant or cross-appellant onless).  Whether or not N.J.S.A. 43:15-7(h) carves out an absolute Veteran G. Philip Lewis of membership benefits as provided by Posystem (PERS), entitled N.J.S.A. 43:15-7(a-h).	E POINT HEADINGS ly.)
IF YOU ARE APPEALING FROM A JUDGMENT ENTERED IS SITTING WITHOUT A JURY OR FROM AN ORDER OF THE THE FOLLOWING:	BY A TRIAL JUDGE TRIAL COURT, COMPLETE
<ol> <li>Did the trial judge issue oral findings or opinion?         If so, on what date? N/A</li> <li>Did the trial judge issue written findings or opinion?         If so, on what date? N/A         Caution: Before you indicate that there was neither an opinion nor of the trial judge to determine whether findings or an opinion was an opinion when the property of the trial judge to determine whether findings or an opinion was an opinion.</li> </ol>	YesNo  YesNo
of the trial judge to determine whether findings or an opinion was p	laced on the record out of

1(b).	e filing a statement or opinion pursuant to R. 2:5-
Date of your inquiry: N/A Will the trial judge be filing a statement or opi pursuant to R. 2:5-1(b)?	nion Yes No
	eals Settlement Program to determine their simplification of the issues and any other matters are appeal. Please consider these when responding will not necessarily rule out the scheduling of a
State whether you think this case may benefit fr Explain your answer:	om a conference. YesNo_X
Interpretation of <i>N.J.S.A.</i> 43:15A-7 et seq. is bei	ng asked of the Appellate Division.
1. IS THERE ANY CASE NOW PENDING OF COURT WHICH:	R ABOUT TO BE BROUGHT BEFORE THIS
<ul><li>(A) Arises from substantially the same case of this appeal?</li><li>(B) Involves an issue that is substantially the issue in this appeal?</li></ul>	X7
Presently there stands before this Court a Interlocutory Appeal. The issues in that Notice o or related to the issue in this appeal.	Notice of Motion For Leave to File an f Motion involve substantially the same, similar
2. WAS THERE ANY PRIOR APPEAL INVOL CONTROVERSY?	VING THIS CASE OR  Yes_X_No
IF THE ANSWER TO EITHER 1 OR 2 ABOVE	IS YES, STATE:
<u>Case Name</u>	Appellate Division Docket Number:
G. Philip Lewis v. Board of Trustees Public Employees Retirement System	Docket No. A-005660-00T3 (Closed)

2:5-

NOTICE (	OF APPEAL AND A	ANNEXED CAS	SE INFORMATION S	STATEMENT HAV	E BEEN
				DATE OF SERVICE	
TRIAL CO Trustees for ATTORNE	URT JUDGE URT CLERK OR S or Public Employee Y GENERAL OF T T TO R. 2:5-1(a), (e	TATE AGENC  Retirement S  THE STATE OF	MEW TED CEXT	<u>N/A</u> , CEBS Secretary,	Board of
27/4	RTIES:  D DESIGNATION	AND TELEPI	NAME, ADDRESS HONE NUMBER	DATE OF SERVICE	
COUR CLER	1 T REPORTER'S SU K OF COURT OR A	NAME UPERVISOR,	HAS BEEN SERVED	DATE OF SERVICE	AMOUNT OF DEPOSIT
EXEMPT FROM [X]  [ ]  [ ]	NO VERBATIM I 1(f)(2), AGENCY TRANSCRIPT IN LITIGANT. [FOU DISKETTE FROM SUBMITTED] MOTION FOR AE FILED WITH THE	RECORD, ADM DECISION AT POSSESSION R COPIES, AL THE TRANS BBREVIATION COURT OR A	PT REQUEST FORM MINISTRATIVE AGE TTACHED HERETO OF ATTORNEY OR ONG WITH THE CO CRIPT PREPARER, I OF TRANSCRIPT AGENCY BELOW IPT FILED WITH THE	ENCY: PURSUANT PRO SE MPUTER MUST BE	
	EQUIRED BY N.J.S	S. 22A:2 HAS B	ENTS ARE TRUE TO ALSO CERTIFY THE EEN PAID. ATTORNEY	THE BEST OF MY IAT, UNLESS EXEN	MPT, THE

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TITLE IN FULL:

IN RE: G. Philip Lewis

SUPERIOR COURT OF NEW JERSEY

APPELLATE DIVISION

AGENCY NUMBER: 1065648

APPELLANT'S ATTORNEY: X Plaintiff Defendant Other (Specify) NAME **ADDRESS** TELEPHONE CLIENT JOHN G. DeSIMONE JOHN G. DeSIMONE, LLC 856-848-8800 G. PHILIP LEWIS Esquire 66 Euclid Street, Suite B Woodbury, NJ 08096 RESPONDENT'S ATTORNEY\*: <u>NAME</u> **ADDRESS TELEPHONE CLIENT** DAVID DENBE, SDAG OFFICE OF THE 609-292-4925 PUBLIC ATTORNEY GENERAL **EMPLOYEES** P.O. BOX 080 RETIREMENT TRENTON, NJ 08625-0030 SYSTEM (PERS BOARD) DEBORAH ALLEN, DAG OFFICE OF THE 609-292-4925 **PUBLIC** ATTORNEY GENERAL **EMPLOYEES** P.O. BOX 080 RETIREMENT TRENTON, NJ 08625-0030 **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?

If so, has the order been certified as final pursuant to  $\underline{R}$ . 4:42-2?

Yes No X. Yes\_\_\_No\_X\_.

G. Philip Lewis v. Board of Trustees	
Public Employees Retirement System	

Docket No. AM-63-02T5

\_ 60 28 62 Date

ignature of Counsel of Record