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Re: Draft of Appellate Letter Brief II

Dear John,

I have reviewed the draft of the letter brief faxed down by your office this afternoon and have a couple of small things I noted.

- p. 3, Statement of Facts, 3rd paragraph, 2nd sentence - "The Appellant and _____? made a request..." There is something missing here.
- p. 5, last paragraph, 1st sentence - Shouldn't 'cannon' be 'canon' ?
- p. 6, 1st paragraph, 2nd sentence - should read "N.J.S.A. 43:15A-7(b) is clear and unambiguous on its face..."
- p. 6, 2nd paragraph, 3rd sentence - reads that a "temporary employee with at least one year's continuous service is considered a member..." As I read the statute, it goes beyond "considered a member" and is more like, "is required to be a member (compulsory enrollment)"

[Here we are building toward the fact that the statute also requires the employer to pay one-half of the buy-back if they fail to enroll an employee who is required to be enrolled. While I intend to pursue this issue AFTER I get to buy back my service time and start receiving a pension payment by direct deposit, since I have not yet been denied this 'benefit,' I don't see the issue as ripe for argument at this time. However, I fully anticipate having the PERS Board say that the County is not responsible for some reason or other - I believe the County is responsible and should be held responsible. I just don't see how I can pursue this until someone, either the PERS or the County, denies the obligation.

"N.J.S.A. 43:15A-7.1. Delinquent enrollment for compulsory membership; payment by employee and employer

- a. In the case of any person who was required to become a member of the retirement system as a condition of employment, and whose application for enrollment in the retirement system or whose application for transfer from one employer to another within the system was filed beyond the effective date for his compulsory enrollment in the system...
- b. If more than 1 year has elapsed from the time that contributions would have been required

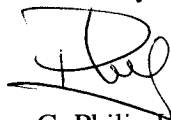
from such person, 1/2 of the employee's cost, established by the computation provided by subsection a. of this section, will be required of his employer and shall be included in the next budget subsequent to the certification of this special liability by the retirement system..."

Even though I don't see the issue as ripe now, it would be nice to push the Appellate Division toward a finding that I should indeed have been enrolled in 1976, after one full year of service, as a compulsory enrollment.]

- p. 7, 1st paragraph, end of 1st sentence - here again, it reads, "... is automatic for veterans" and I think a bit more emphasis, "... is automatic and compulsory for veterans" would stress the point a bit more.
- p. 7, last paragraph, next to last sentence - "...Appellant has no choice; enrollment for a Veteran is automatic." How about, "... enrollment for a Veteran is automatic and mandatory."
- p. 8, 1st paragraph, 2nd sentence, just after the two citations - "... where they emphasize..." (Reads 'emphasis')
- p. 8, 1st paragraph, last sentence - just doesn't read right to me. Not sure what is missing but it appears that something is.
- p. 9, last paragraph, 3rd line up from bottom of page, the word "as" doesn't appear to belong - did you mean "as to" ?
- p. 10, first full paragraph, following the quote from 43:15A-7(b), "... plainly and unanimously..." should read, "... plainly and unambiguously..." ?

I sure do hope the Court moves quickly on this! Thanks again,

Sincerely,



G. Philip Lewis