



Roberto L. Peña
Retirement Administrator

**FRESNO COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
BOARD OF RETIREMENT**

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January 31, 2006

Dear Member:

Several times over the last couple of years, we have provided updates on the final compensation lawsuit, most recently in February 2005. The litigation process continued throughout the year until last December 2005, when FCERA received notice of the October 25, 2005 Judgment entered by Judge Golden in the "Final Compensation" litigation over calculating retiree allowances. The final Judgment in this case means that Judge Golden's previous tentative rulings have now become final. Those rulings were:

- (1) the previous method of calculating retirement allowances, sometimes known as the "Fresno Method", was never permitted by law. A member's "final compensation must be calculated on the basis of a continuous 365-day year, not 26 highest pay periods for biweekly payroll or 24 highest for semi-monthly payroll;
- (2) members do not have a right to have the improper "Fresno Method" continued, even if they relied on it in the past, because it has never been permitted by law; and
- (3) the County did not give up the right to challenge the "Fresno Method" when it entered into the "Ventura benefits" settlement agreement. That agreement dealt with the elements of compensation that must be included in "compensation earnable", not the method for calculating "final compensation".

Judge Golden denied the County's request for a writ of mandate against FCERA, to force FCERA to change its method of calculating allowances, because the Retirement Board had already changed its policies in April 2004. If the Board were ever to revert back to the improper method, however, Judge Golden left the door open for the County to come back and again seek to halt the practice. Please visit FCERA's website at www.FCERA.org for additional information on the "Fresno Method" and final compensation recalculation process.

The Final Judgment also provides that all further claims against FCERA filed on behalf of members, for damages or other relief arising out of FCERA's change away from using the "Fresno Method", must be suspended, at least until any appeal from the Final Judgment had been decided by the appellate courts. Accordingly, all pending claims against FCERA are now frozen by order of the Court, and no further claims against FCERA may be filed. Judge Golden retained jurisdiction over such claims in order to enforce his suspension.

In addition to the County and FCERA, the Court's Judgment also binds the Fresno Deputy Sheriffs' Association (FDSA) and the Service Employees International Union (SEIU). The parties to the final compensation litigation had until the first week of February in which to file any appeals from the Final Judgment. On January 17, 2006, counsel for the FDSA notified the parties that the Association had filed an appeal from the Final Judgment. During the next year or so, the parties will be briefing and arguing the matter before the appellate court. A decision on appeal will likely be at least 18 months away.

Please note that a copy of the Court's judgment is posted on the FCERA web-site for your reference. The Board of Retirement and staff of FCERA appreciate your patience throughout this arduous process.

Sincerely,

Roberto L. Peña
Retirement Administrator