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9 Maryanne G. Gilliard, et al.

10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

11

12 MARYANNE G. GILLIARD, Individually
13 and On Behalf of a Class of Similarly
14 Situated Persons,

14 Plaintiff and Petitioner,

15

v.

16 CALIFORNIA DEPARTMENT OF
17 HUMAN RESOURCES, ERAINA
18 ORTEGA, in her official capacity as the
19 DIRECTOR OF THE CALIFORNIA
20 DEPARTMENT OF HUMAN RESOURCES,
21 MALIA COHEN, in her official capacity as
22 the CONTROLLER OF THE STATE OF
23 CALIFORNIA, CALIFORNIA PUBLIC
24 EMPLOYEES' RETIREMENT SYSTEM,
25 the BOARD OF ADMINISTRATION OF
26 CALIFORNIA PUBLIC EMPLOYEES'
27 RETIREMENT SYSTEM, in its official
28 capacity as Administrator of THE JUDGES'
RETIREMENT SYSTEM and THE
JUDGES' RETIREMENT SYSTEM II, THE
JUDGES' RETIREMENT SYSTEM, THE
JUDGES' RETIREMENT SYSTEM II, and
DOES 1 THROUGH 100, INCLUSIVE,

Defendants and Respondents.

CASE NO.:

CLASS ACTION

VERIFIED COMPLAINT FOR
DECLARATORY RELIEF AND
VERIFIED PETITION FOR
WRIT OF MANDATE

28

1 Plaintiff and Petitioner Maryanne G. Gilliard (“Plaintiff”), individually, and on behalf of
2 California judges and justices similarly situated, alleges the following:

3 **INTRODUCTION**

4 1. Judges and justices play a critical role in our society. Yet, for years, the judges and
5 justices serving California’s court system—the largest in the nation—have been knowingly
6 underpaid by Defendant the California Department of Human Resources (“CalHR”), which is
7 responsible for all issues related to the salaries of California state employees, including active jurists.
8 Since 2019, Defendant CalHR has been led by Respondent Eraina Ortega, CalHR’s Director
9 (“Director”). Defendant CalHR’s miscalculation of judicial salaries has adversely impacted jurists.

10 2. Because of Defendant CalHR’s miscalculation, Respondent Malia Cohen, the
11 Controller of the State of California (“Controller”), who administers the payroll system for California
12 employees, has failed to pay the full salaries provided for active jurists under California law.

13 3. Respondent California Public Employees’ Retirement System (“CalPERS”) provides
14 and administers a variety of benefit programs and services for California state employees.

15 4. Respondent CalPERS is managed and controlled by Respondent the Board of
16 Administration of CalPERS (“CalPERS Board”), which consists of 13 members who are elected,
17 appointed, or hold office ex officio, including both Respondents Director and Controller.

18 5. Respondent CalPERS Board administers Respondents the Judges’ Retirement System
19 (“JRS”) and Judges’ Retirement System II (“JRS II”), which provide retirement, disability, death,
20 and survivor benefits to retired judges and justices, as well as their beneficiaries and survivors.

21 6. Because of Defendant CalHR’s miscalculation, Respondents CalPERS, CalPERS
22 Board, JRS, and JRS II have failed to pay retirement, disability, death, and survivor benefits—based
23 on properly calculated salaries—to retired judges and justices and their beneficiaries and survivors.

24 7. By the instant action, Plaintiff seeks to obtain the full salaries and benefits provided
25 for judges and justices, as well as their beneficiaries and survivors, under California law.

26 8. The California Constitution authorizes the Legislature to “prescribe increases” to “the
27 base salary of a judge of a court of record,” but prohibits it from “reduc[ing]” such salary “below the
28 highest level paid during that term of office.” Cal. Const. art. III, § 4(b).

1 9. In 1979, the Legislature specified that judicial salaries were to be increased, on an
2 annual basis, by reference to the salary increases of other California employees.

3 10. Specifically, Section 68203 of the Government Code requires that “the salary of each
4 justice and judge . . . shall be increased by the amount that is produced by multiplying the then current
5 salary of each justice or judge by the *average percentage salary increase* for the current fiscal year
6 for California state employees.” Cal. Gov’t Code § 68203(a) (emphasis added).

7 11. Section 68203 explains that the “average percentage salary increases for California
8 state employees” are to be “those increases as reported by the Department of Human Resources to
9 the State Controller in a pay letter.” *Id.* § 68203(b)(1). Once Respondent Director has reported the
10 “average percentage salary increase” to Respondent Controller in a pay letter, Respondent Controller
11 then issues payment to each judge and justice based on the pay letter.

12 12. There are multiple categories of increases provided to California state employees.

13 13. After Section 68203 was enacted, Defendant CalHR included at least two different
14 categories of salary increases in its calculation of the “average percentage salary increase” (the
15 “calculation”): (1) general salary increases (“GSIs”) and (2) special salary adjustments (“SSAs”).

16 14. GSIs are salary increases that apply to all eligible employees in a bargaining unit.

17 15. SSAs are salary increases that apply only to certain “classifications” of employees.

18 16. Additional categories of salary increases include, but are not limited to, increases
19 authorized to meet recruiting challenges, increases to obtain qualified employees, increases to correct
20 salary inequities, and increases to give credit for prior state service.

21 17. In drafting Section 68203, the Legislature could have articulated limitations as to
22 which categories of salary increases should be included in the calculation, if that is what the
23 Legislature had intended to do. But the Legislature imposed no such limitations.

24 18. And the Legislature had numerous other opportunities to restrict the categories of
25 salary increase to be included in the calculation. After 1979, Section 68203 was amended at least
26 six times: in 2000, 2006, 2012, 2016, and twice again in 2017. At no point did the Legislature ever
27 restrict the calculation in Section 68203 to one specific category of salary increases.

28 19. Despite the absence of any limitation as to which categories of salaries should be

1 included in this calculation, since the 2006-07 fiscal year, Defendant CalHR has only used one
2 category of salary increases—GSIs—to calculate the “average percentage salary increase.”

3 20. Defendant CalHR’s exclusion of SSAs from the calculation of “average percentage
4 salary increase” has resulted in miscalculated increases being reported to Respondent Controller
5 which has caused judges and justices to be paid less than they are entitled to under California law.

6 21. Plaintiff, individually, and on behalf of a class of active judges and justices, judicial
7 retirees, judicial pension beneficiaries and survivors (collectively, the “Class Members”), seeks a
8 declaration that Defendant CalHR must include all categories of salary increases, including SSAs, in
9 the calculation of the “average percentage salary increase” under Section 68203(a).

10 22. Additionally, Plaintiff, individually, and on behalf of the Class Members, seeks a writ
11 of mandate as to Respondents Director, Controller, CalPERS, CalPERS Board, JRS, and JRS II.

12 23. *First*, Plaintiff, individually, and on behalf of the Class Members, seeks a writ of
13 mandate requiring that, for each fiscal year of underpayment from 2016-17 to present, Respondent
14 Director must fulfill her duties by reporting the accurate “average percentage salary increase,”
15 including SSAs, to Respondent Controller in an amended pay letter pursuant to Section 68203(b)(1).

16 24. *Second*, Plaintiff, individually, and on behalf of the Class Members, seeks a writ of
17 mandate requiring that, for each fiscal year of underpayment from 2016-17 to present, Respondent
18 Controller must fulfill her duties by paying properly calculated salaries to judges and justices.

19 25. *Third*, Plaintiff, individually, and on behalf of the Class Members, seeks a writ of
20 mandate requiring that, for each fiscal year of underpayment from 2016-17 to present, Respondents
21 CalPERS, CalPERS Board, JRS, and JRS II must fulfill their duties by providing benefits—based
22 on properly calculated salaries—to retired judges and justices and their beneficiaries and survivors.

23 **THE PARTIES**

24 26. Plaintiff is a Judge of the Superior Court of California, County of Sacramento.

25 27. Plaintiff has faithfully served the State of California throughout the entirety of her
26 legal career—for almost four decades in total. Between 1987 and 1991, Plaintiff served as a Deputy
27 District Attorney in the Sacramento County District Attorney’s Office. Between 1991 and 1998,
28 Plaintiff served the Governor of California in various capacities. Finally, since 1998, Plaintiff has

1 served as a Judge, including as Presiding Judge of the Appellate Department.

2 28. Plaintiff will file an application for retirement with JRS II, effective August 15, 2025.

3 29. Plaintiff seeks to represent a class of persons (“the Class”) defined as follows:

4 All California state active judges and justices, all California state retired judges and
5 justices, all JRS judicial pension beneficiaries and survivors, all JRS II judges and
6 justices who retired after the beginning of the 2016-17 fiscal year, and all judicial
7 pension beneficiaries and survivors of JRS II judges and justices whose final salary
8 was paid after the beginning of the 2016-17 fiscal year.

9 30. Defendant CalHR has statewide duties and responsibilities, including representing the
10 Governor as the employer in all matters concerning California state human resources and employer-
11 employee relations. In particular, Defendant CalHR is responsible for calculating the “average
12 percentage salary increase” under Section 68203 of the Government Code.

13 31. Defendant CalHR was created in 2012 by a reorganization plan that consolidated the
14 California Department of Personnel Administration with certain programs of the State Personnel
15 Board. References to Defendant CalHR may also be references to the predecessor entities.

16 32. Respondent Director, in her official capacity as the head of Defendant CalHR, has the
17 duty to report the “average percentage salary increase” to Respondent Controller.

18 33. Respondent Controller, in her official capacity as the head of the California State
19 Controller’s Office, has the duty to administer the payroll system for judges and justices.

20 34. Respondent CalPERS, through Respondent CalPERS Board, administers
21 Respondents JRS and JRS II, and has the duty to demand that Respondent Controller draw warrants
22 for all payments from the Judges’ Retirement Fund and Judges’ Retirement Fund II.

23 35. Respondents JRS and JRS II are the judges’ retirement systems, which provide retired
24 judges and justices, as well as their beneficiaries and survivors including the widows, widowers, and
25 orphans of deceased jurists, with retirement, disability, death, and/or survivor benefits.

26 36. Under Respondent JRS, which applies to judges and justices who were appointed or
27 elected to their positions before November 9, 1994, payments in each year to judicial retirees, pension
28 beneficiaries, and survivors are based on the salaries of active jurists in that year.

37. Under Respondent JRS II, which applies to judges and justices who were appointed
or elected to their positions on or after November 9, 1994, payments in each year to judicial retirees,

1 pension beneficiaries, and survivors are based on the salaries of active jurists in that year.

2 38. Plaintiff is unaware of the true names or capacities of Defendants and Respondents
3 Does 1 through 100, inclusive, and therefore sues these defendants and respondents, and each of
4 them, by fictitious names. Plaintiff will seek leave of Court to amend this Complaint and Petition to
5 allege the true names and capacities of Defendants and Respondents Does 1 through 100 when those
6 names and capacities have been ascertained. Plaintiff is informed and believes and thereon alleges
7 that each of these fictitiously named defendants and respondents is responsible and liable in some
8 manner for the claims, demands, losses, and acts alleged herein.

9 **JURISDICTION**

10 39. Jurisdiction is proper under Section 88 of the Code of Civil Procedure because this
11 case involves an action for declaratory relief that does not fall within Section 86(a)(7). The Court
12 has jurisdiction to issue writs of mandate pursuant to Section 1085 of the Code of Civil Procedure.

13 40. This Court can hear the action under the rule of necessity because, although “[i]t is
14 immediately apparent that all California judges have at least an involuntary financial interest in this
15 case[,] [t]o disqualify one would disqualify all, depriving them and their surviving spouses of
16 opportunity to litigate their case. This [C]ourt as now constituted is qualified to hear and determine
17 the issues before [the Court].” *Olson v. Cory*, 27 Cal. 3d 532, 537 (1980) (en banc).

18 **VENUE**

19 41. Venue is appropriate in Los Angeles County under Section 401 of the Code of Civil
20 Procedure because this action is brought against a department of the State of California, may be
21 commenced in Sacramento County, and the Attorney General has an office in Los Angeles.

22 **FACTUAL ALLEGATIONS**

23 42. SSAs are a defined category of salaries under California law. In fact, SSAs appear to
24 have been first provided for by the State Civil Service Act, which was enacted in 1937.

25 43. The existence of SSAs therefore predates the creation of the Government Code.

26 44. SSAs were subsequently incorporated into the Government Code in 1945.

27 45. By 1979, when Section 68203 of the Government Code was amended to require that
28 judicial salaries were to be increased on an annual basis by reference to the salary increases of other

1 California state employees, there was no question that SSAs were a form of salary increases.

2 46. The language used by the Legislature in enacting Section 68203 is clear and
3 unambiguous: the phrase “average percentage salary increase” means exactly what it says.

4 47. “Average percentage salary increase” refers to the “average” of all “salary increases”
5 for California state employees, which are expressed as “percentage[s].”

6 48. Moreover, it is well-established that statutes governing conditions of employment, as
7 here, are to be construed broadly in favor of protecting employees.

8 49. The legislative history of Senate Bill 53, which would later become codified as the
9 amended Section 68203 of the Government Code, does not impose any limits as to which types of
10 salary increases should be included in the calculation of “average percentage salary increase.” Nor
11 does it specify that any types of salary increases should be excluded.

12 50. Critically, the legislative history of the amended Section 68203 contains no
13 suggestion that any such calculation should be limited to GSIs only.

14 51. Instead, a digest of the amended Section 68203 specifies that “the cost-of-living raise
15 for judges will be the percentage of the average salary increase for state employees.”

16 52. In the absence of any guidance from, or modification by, the Legislature, “average
17 percentage salary increase” plainly means including all categories of salary increases.

18 53. Moreover, under the fixed meaning canon of construction, the words used in a statute
19 must be given the meaning they had when the text was adopted.

20 54. At the time that Section 68203 was amended, other provisions of the Government
21 Code recognized and spoke of the different categories of salary increases. For example, Section
22 18859 provided that “[o]ther salary adjustments,” i.e., special “salary adjustments . . . may be made
23 upon the application of the appointing power and with the approval of the Director of Finance.” *See*
24 *Cal. Gov’t Code § 18859, repealed by Stats. 1981, ch. 230, § 32, Cal. Gov’t Code § 19836.*

25 55. Thus, should the Legislature have wished to restrict the calculation of Section 68203
26 to one specific category of salary increases, it could have done so.

27 56. Indeed, over the past four decades, the Legislature has had six other opportunities to
28 limit the inputs to the calculation of “average percentage salary increase.” But it has not done so.

1 57. Consistent therewith, for a period of time between 1979 and 2003, on information and
2 belief, both SSAs and GSIs were included in the calculation of “average percentage salary increase.”

3 58. Defendant CalHR has admitted that it included both SSAs and GSIs in its calculation
4 of “average percentage salary increase” during the 2006-07 fiscal year. Plaintiff believes that, after
5 the 2006-07 fiscal year, SSAs have since been omitted from the calculation.

6 59. Despite diligent efforts, Plaintiff has been unable to determine exactly when, and why,
7 Defendant CalHR made the unlawful decision to exclude SSAs from the calculation.

8 60. Defendant CalHR does not appear to have publicly disclosed the fact that SSAs have
9 been, and continue to be, excluded from the calculation of the “average percentage salary increase.”

10 61. Indeed, none of the memoranda issued by Defendant CalHR or other state agencies
11 regarding judicial salaries, from the 2016-17 fiscal year to the present, expressly states that SSAs
12 have been excluded from the calculation of the “average percentage salary increase.”

13 62. Plaintiff had no reason to suspect that Defendant CalHR had failed to act in good faith
14 in accurately calculating the “average percentage salary increase” as required by Section 68203.

15 63. Specifically, Plaintiff had no reason to believe that Defendant CalHR had failed to
16 include SSAs in the calculation based on prior practice and the statute’s clear language.

17 64. Consequently, Plaintiff had no reason to discover that Defendant CalHR had stopped
18 including SSAs in the calculation of “average percentage salary increase.”

19 65. Plaintiff also would have been unable to discover with reasonable diligence that
20 Defendant CalHR had stopped including SSAs in the calculation of “average percentage salary
21 increase,” given that Defendant CalHR made no disclosure to that effect.

22 66. Similarly, on information and belief, the Class Members had no knowledge, and no
23 means to discover, that Defendant CalHR had stopped including SSAs in the calculation of “average
24 percentage salary increase,” because Defendant CalHR made no disclosure to that effect.

25 67. In August 2023, Plaintiff first became aware that Defendant CalHR may have
26 miscalculated the “average percentage salary increase” under Section 68203.

27 68. Because Plaintiff and the Class Members did not, and had no reason to, discover the
28 exclusion of SSAs from the calculation until in or around August 2023, they should benefit from the

1 delayed discovery rule and any relevant statute of limitations should be tolled.

2 69. After Plaintiff’s discovery, inquiries were made to the Judicial Council of California
3 and Defendant CalHR. In the course of correspondence, Defendant CalHR confirmed that SSAs
4 were not included in the calculation of “average percentage salary increase.”

5 70. Specifically, the Administrative Director of the Judicial Council of California, on
6 behalf of the Class Members, met with Respondent Director in or around April 2024 to discuss the
7 failure to include SSAs in the calculation of “average percentage salary increase.”

8 71. According to Respondent Director, Defendant CalHR “ha[d] consistently used the
9 same methodology for calculating judge salaries for many years”—an implicit acknowledgment that
10 Defendant CalHR had, at some point, used a different methodology which did include SSAs.

11 72. Respondent Director stated that Defendant CalHR believed it was “appropriate” to
12 exclude SSAs from the calculation “based on the language of the applicable statute.”

13 73. In particular, Respondent Director took the position that Section 68203 does not
14 require inclusion of “other types of pay increases besides [GSIs] in its annual calculations.”

15 74. Consequently, Respondent Director “d[id] not believe any changes to its methodology
16 [were] warranted”—despite prior practice and the clear language of Section 68203.

17 75. On August 7, 2024, Respondent Director reaffirmed that CalHR “believes it has used
18 an appropriate methodology for computing judicial salaries under Government Code section [68203]
19 by including [GSIs] in its annual calculations, and by not including [SSAs] in those calculations.”

20 76. In light of Defendant CalHR’s prior practice (as implicitly acknowledged by
21 Respondent Director) to include SSAs in the calculation, its current position is dubious.

22 77. Defendant CalHR has intentionally modified the inputs to the calculation such that
23 active judges and justices are paid less than the salaries to which they are entitled (and retired jurists
24 and their beneficiaries and survivors, receive less than the benefits to which they are entitled).

25 78. The Legislature treats any knowingly improper withholding of wages with the highest
26 level of seriousness and concern. *See, e.g.*, Cal. Penal Code § 487m.

27 79. Judges and justices, like all other employees, are entitled to receive their full and fair
28 wages. The Legislature has placed a great premium on the fair treatment of employees.

CLASS ACTION ALLEGATIONS

80. Plaintiff brings this action as a class action pursuant to Section 382 of the Code of Civil Procedure because the Class Members are numerous, such that it is impracticable to bring them all before the court; thus, Plaintiff may sue for the benefit of all.

81. Numerosity: Plaintiff is informed and believes that there are approximately 1,800 currently sitting Superior Court judges and Court of Appeal and Supreme Court justices. Plaintiff is further informed and believes that there are at least 4,000 people receiving benefits under Respondents JRS and JRS II. These judicial retirees, judicial pension beneficiaries, and survivors consist of Court of Appeal and Supreme Court justices and Municipal and Superior Court judges who retired prior to or during the aforementioned fiscal years, beneficiaries of judicial pensions, and survivors of deceased judges and justices, including widows, widowers, and their orphans.

82. Common Questions: There exist multiple questions of law and fact common to all members of the Class, which predominate over any questions pertaining to individual Class Members. Common legal and factual questions include, but are not limited to:

- a. Whether, pursuant to Section 68203(a) of the Government Code, Defendant CalHR must include all categories of salary increases, including SSAs, in calculating the “average percentage salary increase for California state employees”?
- b. Whether, pursuant to Section 68203(b)(1) of the Government Code, Respondent Director must report the properly calculated “average percentage salary increase” to Respondent Controller in an amended pay letter, as required by Section 68203(b)(1), for each fiscal year of underpayment, from 2016-17 to the present?
- c. Whether Respondent Controller must pay the properly calculated salaries to judges and justices for each fiscal year of underpayment, from 2016-17 to the present?
- d. Whether Respondents CalPERS, CalPERS Board, JRS, and JRS II must provide retirement, disability, death, and survivor benefits based on the above-referenced properly calculated salaries to retired judges and justices, as well as their beneficiaries and survivors, from 2016-17 to the present?

83. Typicality: Plaintiff’s claims are typical of the claims of the Class, inasmuch as all such claims arise out of Defendant CalHR’s statutory obligation under Section 68203 of the Government Code to provide active judges and justices with a salary increase, from the 2016-17 fiscal year to present, in the “amount that is produced by multiplying the then current salary of each

1 justice or judge by the average percentage salary increase for the current fiscal year for California
2 state employees.” Payments to retired judges and justices and judicial pension beneficiaries and
3 survivors are derived from the salary of active jurists or from the retired jurist’s final salary.

4 84. Adequacy of Representation: Plaintiff will fairly and adequately protect the interests
5 of the Class. Plaintiff has no interests that conflict with the Class and has retained attorneys who are
6 experienced in complex class action litigation in California state courts.

7 85. Community of Interest: Questions of law or fact common to the Class predominate
8 over any questions affecting only individual members. The issues raised in this action involve
9 whether each Class Member is entitled to a salary or pension benefit based on the amount that is
10 produced by multiplying the then-current salary of each judge or justice by the average percentage
11 salary increase for California state employees, which includes all categories of salary increases, in
12 fiscal years beginning with 2016-17 and continuing through the present.

13 86. Superiority of the Class Action Procedure: Class treatment of the claims asserted by
14 Plaintiff is superior to other methods of adjudicating claims of the Class in that:

- 15 a. The prosecution of separate outcomes by individual members of the Class would create
16 a foreseeable risk of inconsistent or varying adjudications, which would establish
incompatible results and standards of conduct for Defendant CalHR;
- 17 b. Class action treatment avoids the waste and duplication inherent in hundreds, or even
18 over thousands, of individual actions and conserves the resources of the courts;
- 19 c. Plaintiff is unaware of any litigation that has been commenced by or against members of
the Class relating to the issues addressed in this litigation;
- 20 d. There are no difficulties that arise from the concentration of the claims asserted herein in
21 a single forum, and there are considerable economies in such concentration; and
- 22 e. There are no difficulties in managing this action because of the virtual identity of legal
and factual issues required to be resolved for Plaintiff and the Class.

23 87. Accordingly, this case should be maintained as a class action.

24 **FIRST CAUSE OF ACTION**
25 **DECLARATORY RELIEF**
26 (As Against Defendant CalHR)

27 88. Plaintiff incorporates herein by reference all of the allegations in this Complaint.

28 89. A dispute has arisen between Plaintiff and the Class Members, on one hand, and

1 Defendant CalHR, on the other, as to whether Section 68203(a) requires Defendant CalHR to include
2 all categories of salary increases in its calculation of the “average percentage salary increase.”

3 90. A declaration of the Plaintiff’s, Class Members’, and Defendant CalHR’s rights on a
4 class basis is necessary to avoid time, expense, and potential risk of inconsistent or varying
5 adjudications if the parties’ dispute were resolved through individual actions.

6 **SECOND CAUSE OF ACTION**
7 **WRIT OF MANDATE**

8 (As Against Respondents Director, Controller, CalPERS, CalPERS Board, JRS, and JRS II)

9 91. Plaintiff incorporates herein by reference all of the allegations in this Petition.

10 92. Plaintiff and the Class Members have no plain, speedy, and adequate remedy at law.

11 93. Respondent Director has a clear, present, and ministerial duty to report the properly
12 calculated “average percentage salary increase,” including SSAs, to Respondent Controller in an
13 amended pay letter for each fiscal year of underpayment, from 2016-17 to present, pursuant to
14 Section 68203(b)(1). Plaintiff and Class Members have a clear, present, and beneficial right to the
15 performance of such duty. Respondent Director has failed to perform her duty.

16 94. Based on Respondent Director’s need to issue an amended pay letter under Section
17 68203(b)(1) (*see supra* ¶ 93), Respondent Controller has a clear, present, and ministerial duty to pay
18 properly calculated salaries to Plaintiff and Class Members for each fiscal year of underpayment,
19 from 2016-17 to present. Plaintiff and Class Members have a clear, present, and beneficial right to
20 the performance of such duty. Respondent Controller has failed to perform its duty.

21 95. Based on Respondent Director’s need to issue an amended pay letter (*see supra* ¶ 93),
22 Respondents CalPERS, CalPERS Board, and JRS have a clear, present, and ministerial duty to
23 provide retirement, disability, death, and survivor benefits based on properly calculated salaries to
24 all JRS judicial pension beneficiaries and survivors for each fiscal year of underpayment, from 2016-
25 17 to present. Such benefits are derived from the salary of active jurists or from the retired jurist’s
26 final salary. Plaintiff and eligible Class Members have a clear, present, and beneficial right to the
27 performance of such duty. Respondents have failed to perform their duties.

28 96. Based on Respondent Director’s need to issue an amended pay letter under Section
68203(b)(1) (*see supra* ¶ 93), Respondents CalPERS, CalPERS Board, and JRS II have a clear,

1 present, and ministerial duty to provide retirement, disability, death, and survivor benefits based on
2 properly calculated salaries to all JRS II judges and justices who retired after the beginning of the
3 2016-17 fiscal year, and all judicial pension beneficiaries and survivors of JRS II judges and justices
4 whose final salary was paid after the beginning of the 2016-17 fiscal year for each fiscal year of
5 underpayment, from 2016-17 to present. Such benefits are derived from the salary of active jurists
6 or from the retired jurist's final salary. Plaintiff and eligible Class Members have a clear, present,
7 and beneficial right to the performance of such duty. Respondents have failed to perform their duties.

8 97. Plaintiff and the Class Members request that this Court issue a writ of mandate
9 directing Respondents Director, Controller, CalPERS, CalPERS Board, JRS, and JRS II to perform
10 their duty to compensate Plaintiff and the Class Members for each fiscal year of underpayment with
11 properly calculated salaries and benefits based thereon from 2016-17 to present.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff respectfully prays for relief as follows:

14 1. For a declaration that Defendant CalHR must include all categories of salary increases
15 in the calculation of "average percentage salary increase" pursuant to Section 68203.

16 2. For a writ of mandate that Respondent Director must report the properly calculated
17 "average percentage salary increase" to Respondent Controller in amended pay letters for the 2016-
18 17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 2022-23, and 2023-24 fiscal years.

19 3. For a writ of mandate that Respondent Controller must, as a result of the amended
20 pay letters for the 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 2022-23, and 2023-24
21 fiscal years, perform its duty by paying properly calculated salaries to Plaintiff and Class Members.

22 4. For a writ of mandate that Respondents CalPERS, CalPERS Board, and JRS must, as
23 a result of the amended pay letters for the 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22,
24 2022-23, and 2023-24 fiscal years, perform their duties by providing benefits, based on properly
25 calculated salaries, to all JRS judicial pension beneficiaries and survivors.


26 5. For a writ of mandate that Respondents CalPERS, CalPERS Board, and JRS II must,
27 as a result of the amended pay letters for the 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-
28 22, 2022-23, and 2023-24 fiscal years, perform their duties by providing benefits, based on properly

1 calculated salaries, to Plaintiff and eligible Class Members including all JRS II judges and justices
2 who retired after the beginning of the 2016-17 fiscal year and all judicial pension beneficiaries and
3 survivors of JRS II jurists whose final salary was paid after the beginning of the 2016-17 fiscal year.

- 4 6. For pre-judgment and post-judgment interest on any such relief;
- 5 7. For an award of Plaintiff's attorneys' fees and costs in this action; and
- 6 8. For such other relief as this Court deems just and proper.

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DATED: September 3, 2024 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: 

JACK P. DICANIO
Attorneys for Plaintiff and Petitioner,
Maryanne G. Gilliard, et al.

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VERIFICATION

I, Maryanne G. Gilliard, declare:

I am the plaintiff and petitioner in the above-entitled matter.

I have read the foregoing Complaint and Petition and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed in Newcastle, California, this 30th day of August, 2024.

By: 
_____ MARYANNE G. GILLIARD