



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 7

MEETING DATE: March 17, 2021

SUBJECT: Report on Resolution of Subrogation Claim

SUBMITTED FOR: ___ Consent ___ Deliberation and Action X Receive and File

Executive Summary

Pursuant to SCERS' Subrogation Claims Policy, this memo reports on recent action taken by staff in connection with a potential subrogation claim against member Henry DeWulf. In November 2020, DeWulf submitted a service-connected disability retirement application related to a 2019 vehicular accident. Exercising its subrogation rights, SCERS filed a lien in DeWulf's personal injury suit against a third-party driver. Subsequently, DeWulf agreed to withdraw his disability retirement application in consideration for SCERS' withdrawal of its lien.

Facts Giving Rise to Subrogation Claim

Henry DeWulf is a SCERS member who worked for the Sacramento County Department of General Services. DeWulf alleges that, in April 2019, he was driving on County-related business when a third-party driver collided with him. Subsequently, the County paid worker's compensation benefits to DeWulf. Two lawsuits followed. In the first lawsuit, filed in October 2019, the County sued the third-party driver seeking reimbursement for the cost of worker's compensation benefits paid to DeWulf. In the second lawsuit, filed in November 2020, DeWulf sued the third-party driver for damages related to his injuries.

In November 2020, DeWulf filed a service-connected disability retirement application citing injuries he sustained in the accident. Upon learning about the accident and related litigation, and recognizing that SCERS has subrogation rights against the third-party driver, SCERS filed a "Notice of Application for Lien" in DeWulf's lawsuit.

Resolution of Subrogation Claim

In February 2021, DeWulf's attorney contacted SCERS' counsel about the lien. Soon thereafter, the parties reached an agreement whereby: (1) DeWulf would withdraw his disability retirement application with prejudice and waive any disability retirement benefits in connection with the accident, and (2) SCERS would withdraw its application for lien. The parties formally executed that agreement on February 18, 2021. DeWulf has already formally withdrawn his disability retirement application. The matter is now concluded, and no further legal action is expected.

Prepared by:

/S/

Stephen Lau
General Counsel

Reviewed by:

/S/

Eric Stern
Chief Executive Officer