

ATTACHMENT C

RESPONDENT(S) ARGUMENT(S)

Fax Transmission

To: CalPERS Executive Office

From: Raff Law, APC

Fax: 19167953972

Date: 1/26/2022 5:25:34 PM PST

RE: 2021-0305

Pages: 12

Comments:



RAFF LAW
A PROFESSIONAL CORPORATION

The Grace Building
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Petaluma, California 94952
Office: 707.879.8040
Fax: 707.674.5600
www.rafflawoffice.com

FAX COVERSHEET

TO:	Cheree Swedensky Asst. to the Board CalPERS Executive Office	FROM:	Edwin Bradley for Melissa Thompson (office@rafflawoffice.com)
VIA:	(916) 795-3972	RE:	Ref. No. 2021-0305 IMO Jenny A. Donovan Death Benefits
PGS:	Coversheet + 10	DATE:	January 26, 2022

RESPONDENT'S ARGUMENT

EB/MT::hlg

cc: Steven H. Spiegelman, Esq., Attorney for Donna Starr
(Via Email: steve@stevespiegelmanlaw.com)

To The CalPERS Decision Board:

I request that the CalPERS board reconsider the proposed decision with regards to my late wife Jenny A Donovan's CalPERS ID: [REDACTED] Life Option Beneficiary / Survivor Continuance monthly allowance – Case No. 2021-0305, OAH No. 2021060583.

While I understand that CalPERS follows procedures to manage retirement funds in an orderly fashion, in this case there can be no doubt about what Jenny wished to happen with her retirement benefits upon her death. The evidence at the hearing proved beyond doubt that Jenny strove until her last day of life to prevent Donna Starr (aka Donovan) from receiving these death benefits.

There is no dispute in the hearing evidence as to what my deceased wife attempted to do with her retirement benefits; Jenny's wishes are in fact diametrically opposite of what will happen unless the Board steps in to give effect to Jenny's written, notarized directions. Everyone agrees that my wife was engaged in the process to change the paperwork to reflect her wishes. As it has been stated, Jenny had three options to change her beneficiary. She did complete the FL160 paperwork, (attachment A) which shows the separation of assets, but when she realized she would need to involve Donna Starr, she decided to take the third option and reapply to the state (attachment B). It is clear that Jenny was actively attempting to change the paperwork and tragically that process was cut short.

What I believe is lacking in considering this decision and the creation of the various laws that informed this decision, are the real-life experiences that influenced Jenny's options in moving forward to change the paperwork to reflect her wishes. To put it simply; CalPERS processes were too onerous considering the people involved and the processes required. It has been established that Jenny and Donna had a contentious and fraught relationship that ended badly. It is through Donna's actions (her DUI arrest) that Jenny was terminated and forced into early retirement in 2013. Donna has proven herself to be liar on multiple occasions. Donna falsely stated that Jenny retired because it was her time to retire. When questioned about her DUI, Donna falsely denied being arrested for DUI. Donna, who has been remarried for some

time, admitted that she did not attend Jenny's memorial service and yet she now claims that my wife intended for her to benefit from her 19 years of state employment.

Please understand that my intent is not to slander Mrs. Starr, but to illuminate the factors CalPERS processes do not take into account. Mrs. Starr's established pattern of volatile, manipulative and vindictive behavior made it vastly more difficult for Jenny to comply with CalPERS processes and paperwork related to her former marriage to Donna. Additionally, at any point Mrs. Starr could do what we all know is right and not take this benefit, yet she is choosing not to. Jenny actively worked to change that and, again, because of the burdensome processes needed and the person involved (Mrs. Starr) the end result is not what all of us have acknowledged Jenny clearly wanted.

Whilst I understand and respect there are policies and procedures in place, I would hope that with all the evidence, and the fact that Jenny continued to make efforts to remove Mrs. Starr and designate me as her rightful beneficiary, right up until the day before she passed away in our shared home, she was STILL trying to ensure that her final wish, which was for me, as her surviving spouse, to be her sole beneficiary NOT Mrs. Starr. Jenny thought she had time to sort this out, no one could have predicted my wife passing at the young age of 54.

How is this a fair system when one must engage in such difficult processes to simply have their wishes respected? Where the facts of Jenny's wishes are so clear, so certainly understood, it is not enough to just shrug and say, "yes, but those are the rules" or, "Jenny knew what needed to be done." Taking all this into consideration, I beseech the Board to reconsider this proposed decision. I lost my wife in May 2020 and have been unable to properly grieve her as I have been fighting this for almost two years, and I will continue to fight to see that my late wife's wishes are fulfilled.

Thank you and kind regards,



Melissa Thompson

ATTACHMENT A

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: Jennifer Donovan FIRM NAME: STREET ADDRESS: [REDACTED] CITY: [REDACTED] STATE: Ca ZIP CODE: [REDACTED] TELEPHONE NO.: [REDACTED] FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER:
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 3055 Cleveland Ave MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, Ca 95403 BRANCH NAME: Family Law Division	
PETITIONER: Jennifer A Donovan RESPONDENT: Donna M Donovan OTHER PARENT/PARTY:	
<input checked="" type="checkbox"/> PETITIONER'S <input type="checkbox"/> RESPONDENT'S <input type="checkbox"/> COMMUNITY AND QUASI-COMMUNITY PROPERTY DECLARATION <input checked="" type="checkbox"/> SEPARATE PROPERTY DECLARATION	
CASE NUMBER 77537	

See *Instructions* on page 4 for information about completing this form. For additional space, use *Continuation of Property Declaration* (form FL-161).

A	B	C	-	D	=	E	F	
ITEM NO.	DATE ACQUIRED	GROSS FAIR MARKET VALUE		AMOUNT OF DEBT		NET FAIR MARKET VALUE	PROPOSAL FOR DIVISION Award or Confirm to:	
BRIEF DESCRIPTION							PETITIONER	RESPONDENT
1. REAL ESTATE		\$		\$		\$		
[REDACTED]	10/2010	425,000		257,500		118,000	100%	
Second Mortgage	10/2016	0		49,440				
2. HOUSEHOLD FURNITURE, FURNISHINGS, APPLIANCES								
Bed	8/2015	7,000		4,000		3,000	100%	
Couches	8/2016	2,440				1,500	100%	
3. JEWELRY, ANTIQUES, ART, COIN COLLECTIONS, etc.								
4. VEHICLES, BOATS, TRAILERS								
5. SAVINGS ACCOUNTS								
Redwood Credit	2009	600				600	100%	
6. CHECKING ACCOUNTS								
Redwood Credit	2009	3,000				3,000	100%	

A		B	C	-	D	=	E	F	
ITEM NO.	BRIEF DESCRIPTION	DATE ACQUIRED	GROSS FAIR MARKET VALUE		AMOUNT OF DEBT		NET FAIR MARKET VALUE	PROPOSAL FOR DIVISION Award or Confirm to:	PETITIONER RESPONDENT
7.	CREDIT UNION, OTHER DEPOSITORY ACCOUNTS		\$		\$		\$	\$	\$
8.	CASH								
9.	TAX REFUND								
10.	LIFE INSURANCE WITH CASH SURRENDER OR LOAN VALUE								
11.	STOCKS, BONDS, SECURED NOTES, MUTUAL FUNDS Morgan Stanley	Feb. 2007	N/A					100%	
12.	RETIREMENT AND PENSIONS Cal Pers	10/2015	5,083 /mo.					100%	
	457 & 401K	1994	Gross unknown					100%	
13.	PROFIT-SHARING, IRAS, DEFERRED COMPENSATION, ANNUITIES								
14.	ACCOUNTS RECEIVABLE, UNSECURED NOTES								
15.	PARTNERSHIP, OTHER BUSINESS INTERESTS								
16.	OTHER ASSETS								
17.	ASSETS FROM CONTINUATION SHEET								
18.	TOTAL ASSETS						\$126,200	\$126,200	

A		B	C	D	
ITEM NO.	DEBTS--- SHOW TO WHOM OWED	DATE INCURRED	TOTAL OWING	PROPOSAL FOR DIVISION Award or Confirm to: PETITIONER RESPONDENT	
19.	STUDENT LOANS Respondents Student Loans	Prior to partnership	\$ Unknown	\$	100%
20.	TAXES Unknown if Respondent has filed taxes for 2015 or 2016. Petitioner has filed every year.	Filed single 2015 Filed single 2016	Unknown Unknown	100% of my tax 100% of mine	100% of hers 100% of hers
21.	SUPPORT ARREARAGES				
22.	LOANS—UNSECURED				
23.	CREDIT CARDS Home Depot Capital One Synchrony Citibank	2016/2017 Monthly 8/15 Monthly	5,000 varies 4,000 Varies	100% 100% 100% 100%	
24.	OTHER DEBTS				
25.	OTHER DEBTS FROM CONTINUATION SHEET				
26.	TOTAL DEBTS		\$320,000.00	100%	100%


A Continuation of Property Declaration (form FL-161) is attached and incorporated by reference.

I declare under penalty of perjury under the laws of the State of California that, to the best of my knowledge, the foregoing is a true and correct listing of assets and obligations and the amounts shown are correct.

Date: 11/30/17

Jennifer A Donovan

 (TYPE OR PRINT NAME)



 SIGNATURE

INFORMATION AND INSTRUCTIONS FOR COMPLETING FORM FL-160

Property Declaration (form FL-160) is a multipurpose form, which may be filed with the court as an attachment to a *Petition* or *Response* or served on the other party to comply with disclosure requirements in place of a *Schedule of Assets and Debts* (form FL-142). Courts may also require a party to file a *Property Declaration* as an attachment to a *Request to Enter Default* (form FL-165) or *Judgment* (form FL-180).

When filing a *Property Declaration* with the court, do not include private financial documents listed below.

Identify the type of declaration completed

1. Check "Community and Quasi-Community Property Declaration" on page 1 to use *Property Declaration* (form FL-160) to provide a combined list of community and quasi-community property assets and debts. Quasi-community property is property you own outside of California that would be community property if it were located in California.
2. Do not combine a separate property declaration with a community and quasi-community property declaration. Check "Separate Property Declaration" on page 1 when using *Property Declaration* to provide a list of separate property assets and debts.

Description of the Property Declaration chart

Pages 1 and 2

1. Column A is used to provide a brief description of each item of separate or community or quasi-community property.
2. Column B is used to list the date the item was acquired.
3. Column C is used to list the item's gross fair market value (an estimate of the amount of money you could get if you sold the item to another person through an advertisement).
4. Column D is used to list the amount owed on the item.
5. Column E is used to indicate the net fair market value of each item. The net fair market value is calculated by subtracting the dollar amount in column D from the amount in column C ("C minus D").
6. Column F is used to show a proposal on how to divide (or confirm) the item described in column A.

Page 3

1. Column A is used to provide a brief description of each separate or community or quasi-community property debt.
2. Column B is used to list the date the debt was acquired.
3. Column C is used to list the total amount of money owed on the debt.
4. Column D is used to show a proposal on how to divide (or confirm) the item of debt described in column A.

When using this form only as an attachment to a *Petition* or *Response*

1. Attach a *Separate Property Declaration* (form FL-160) to respond to item 9. Only columns A and F on pages 1 and 2 and columns A and D on page 3 are required.
2. Attach a *Community or Quasi-Community Declaration* (form FL-160) to respond to item 10, and complete column A on all pages.

When serving this form on the other party as an attachment to *Declaration of Disclosure* (form FL-140)

1. Complete columns A through E on pages 1 and 2, and columns A through C on page 3.
2. Copies of the following documents must be attached and served on the other party:
 - (a) *For real estate* (item 1): deeds with legal descriptions and the latest lender's statement.
 - (b) *For vehicles, boats, trailers* (item 4): the title documents.
 - (c) *For all bank accounts* (item 5, 6, 7): the latest statement.
 - (d) *For life insurance policies with cash surrender or loan value* (item 10): the latest declaration page.
 - (e) *For stocks, bonds, secured notes, mutual funds* (item 11): the certificate or latest statement.
 - (f) *For retirement and pensions* (item 12): the latest summary plan document and latest benefit statement.
 - (g) *For profit-sharing, IRAs, deferred compensation, and annuities* (item 13): the latest statement.
 - (h) *For each account receivable and unsecured note* (item 14): documentation of the account receivable or note.
 - (i) *For partnerships and other business interests* (item 15): the most current K-1 and Schedule C.
 - (j) *For other assets* (item 16): the most current statement, title document, or declaration.
 - (k) *For support arrearages* (item 21): orders and statements.
 - (l) *For credit cards and other debts* (items 23 and 24): the latest statement.
3. Do not file copies of the above private financial documents with the court.

When filing this form with the court as a attachment to *Request to Enter Default* (FL-165) or *Judgment* (FL-180)

Complete all columns on the form.

For more information about forms required to process and obtain a judgment in dissolution, legal separation, and nullity cases, see <http://www.courts.ca.gov/8218.htm>.

ATTACHMENT B

Hello,

I would like to return to State Service and be allowed to apply for State jobs. I am currently interested in the Supervising Special Investigator I position Job Code -147132, position 402-460-8549-xxx in Sonoma County.

I was terminated from State Service on September 5th, 2013 as a Peace Officer State Park Superintendent I for an incident that happened off duty outside of work hours on October 21, 2012. This incident was deemed to be Failure of good behavior, Government Code section 1572 (t) As a Peace Officer I had a duty to act with a higher standard. I was the passenger of a vehicle where the driver was arrested for Driving Under the Influence and I was subsequently arrested for Public Intoxication when I exited the car. I realize and accept I made a poor judgment decision that night.

I completed 8 hours of community service and my record was cleared. I have always been a law abiding citizen and have not had any contact with law enforcement for any reason except when I work in cooperation with them during special events I volunteer at. I do not have any substance abuse problems and never have.

I had 19 years of outstanding service on my record with a special recognition award from the Director of State Parks for saving the life of another employee. I have letters of recommendations from several people whom I worked with from 2013, however I have not worked since that time.

I retired in 2015 and have been volunteering for various organizations but feel as if I still have lots of valuable skills and education that I would like to use. I have 19 years of investigative training and this particular job opening sounds like I could thrive in the position with my past training.

Thank you for your consideration,



Jenny Donovan
3/7/2019



Personnel Management Division

Personnel Management Division
1515 S Street, North Building, Suite 500
Sacramento, CA 95811
(916) 324-9381 Fax (916) 327-1888

Governor Gavin Newsom
Secretary, Government Operations Agency Marybel Baljer
Director Eraina Ortega

0455
March 26, 2019

Jenny Donovan


Subject: 211.2 Petition Jenny Donovan Log No.: 169

Dear Ms. Donovan,

The California Department of Human Resources (CalHR) acknowledges receipt of your petition on March 11, 2019 to participate in the Supervising Special Investigator I (Non Peace-Officer) state civil service examination for which the petitioner meets the minimum qualifications.

Pursuant to the provisions of the California Code of Regulations, title 2, section 211.2 (a) "Where the Board issues a decision or resolution concerning an adverse action dismissing an employee from state civil service and the Board sustains the dismissal, the employee shall not thereafter be permitted to take any state civil service examination or be certified from an eligible list to any position in the state civil service absent the approval of the Executive Officer." In addition, the petition to participate in examinations after a State Personnel Board (SPB) decision must be in writing and filed with the SPB Executive Officer, with a copy of the petition served on CalHR and agency that initially served the notice of adverse action of dismissal.

Therefore, this matter falls under SPB's jurisdiction pursuant to the regulation. Below is the contact information for your convenience.

State Personnel Board
801 Capitol Mall
Sacramento, CA 95814

Sincerely,

Stephanie Haskett, Personnel Program Consultant
Personnel Management Division

MATT. IMAI @ SPB.CA.GOV
916 653-1123

ATTACHMENT C

FAX COVER SHEET

TO	Cheree Swedensky
COMPANY	CalPERS Executive Office
FAX NUMBER	19167953972
FROM	408 College Ave Law Offices
DATE	2022-01-27 23:52:30 GMT
RE	RESPONDENT's, DONNADONOVAN, ARGUMENT/Case No. 2021-0305/ IMO Jenny A. Donovan DeathBenefits

COVER MESSAGE

Dear Ms. Swedensky, Assistant to the CalPERS Board:

Please find Respondent's, Donna Donovan (aka Donna Starr), Argument regarding the matter of the appeal of lifetime monthly benefit payable upon death of Jenny A. Donovan by Melissa Thompson. Should you have any questions or concerns, please do not hesitate in forwarding them to our office's immediate attention. We can be reached at (707) 331-6935. Thank you for your attention and assistance on this matter. We greatly appreciate your courtesy.

Steven H. Spiegelman, Esq
Law Office of Steven H. Spiegelman
 703 2nd Street, Suite 4011
 Santa Rosa, CA 95404
 Phone: (707) 545-0368 Fax: (707) 324-6796
 Email: steve@stevespiegelmanlaw.com

January 27, 2022

Sent via Fax: (916) 795-3972

Cheree Swedensky, Assistant to the Board
 CalPERS Executive Office
 P.O. Box 942701
 Sacramento, CA 94229-2701

Re: Respondent's Argument

Case No. 2021-0305/ OAH No. 2021060583

Jenny A. Donovan's Life Option Beneficiary/ Survivor Continuance Monthly Allowance

**Subject: In the Matter of the Appeal of Lifetime Monthly Benefit Payable Upon Death of
 Jenny A. Donovan, by Melissa Thompson**

Our Client	:	Donna A. Donovan (aka Donna Starr)
Decedent	:	Jenny A. Donovan
Jenny A. Donovan's CalPERS ID	:	

Dear Honorable Board of Administration of the California Public Employee's Retirement System:

We respectfully urge the Board of Administration of the California Public Employee's Retirement System (CalPERS) to take formal action to adopt the **PROPOSED DECISION** of Administrative Law Judge Regina Brown.

When Jennifer Donovan (decedent) retired she chose a payment option for a continuing monthly benefit to a named beneficiary, Donna Donovan (aka Donna Starr).

Neither a divorce court order awarding decedent 100% interest in her retirement benefits nor a signed waiver form was received by CalPERS. Therefore, no changes have been made to decedent's Option election or Option beneficiary designated. Thus, there is no monthly allowance payable to Respondent, Melissa Thompson.

Moreover, pursuant to Government Code § 20160, subdivision (a), CalPERS may correct the errors or omissions of a retired member provided that:

The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

Here, failure by decedent to take the action or actions or make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

Page: 2

Case No. 2021-0305/ OAH No. 2021060583

Re: Respondent's, Donna Starr, Argument

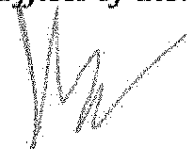
Case No. 2021-0305/ OAH No. 2021060583

Therefore, CalPERS should take formal action to adopt the **PROPOSED DECISION** of Administrative Law Judge Regina Brown.

Respectfully submitted.

Very truly yours,

Law Offices of Steven H. Spiegelman



Steven H. Spiegelman, Esq.

Attorney for Respondent

Donna Donovan (aka Donna Starr)