

**IN THE SUPREME COURT OF NEW JERSEY
DOCKET NO.: 089370**

KEITH ISAAC (deceased),

v.

BOARD OF TRUSTEES OF
THE POLICE AND
FIREMEN'S RETIREMENT
SYSTEM OF NEW JERSEY

**APPELLATE DIVISION
DOCKET NO.: A-003489-21
SUPERIOR COURT OF NEW JERSEY**

**ON APPEAL FROM A FINAL AGENCY
DECISION OF THE POLICE AND
FIREMEN'S RETIREMENT SYSTEM
OAL DOCKET: TYP 01396-19
AGENCY DOCKET: PFRS-3-10-53304**

SAT BELOW:

**JUDGES SABATINO
JUDGE MARCZYK
JUDGE CHASE**

**BRIEF IN SUPPORT OF PETITION FOR CERTIFICATION ON BEHALF
OF KEITH ISAAC, DECEASED (ESTATE OF KEITH ISAAC)**

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Date of Submission: May 24, 2024

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STATEMENT OF THE MATTER INVOLVED

Introductory Statement

On April 27, 2022, the Administrative Law Judge (“ALJ”) entered a decision upholding the decision of the Board of Trustees of the Police and Firemen’s Retirement System (the “Board”) to pay the decedent, Keith Isaac’s (“Decedent”) unpaid pension funds, vested in and due and owing to him at the time of his death, to his estranged spouse. The ALJ reasoned that the Board’s determination was consistent with the automatic Survivor’s Pension provided to surviving spouses by statute. On April 1, 2024 the Appellate Division vacated the ALJ’s determination, finding that the Decedent’s retirement application form did not constitute a beneficiary designation in favor of his estranged spouse, and concluding that the ALJ had misconstrued the statutes, noting that the statute directing the payment of a decedent’s unpaid pension benefits to a decedent’s estate in absence of a beneficiary designation is at odds with the Survivor’s Pension statute, which is an automatic death benefit provided by statute. However, rather than enter judgment awarding the Retro Funds to the Estate as required by the statute and in accordance with the Decedent’s vested property rights and his intentions as expressed in his Last Will and Testament, the Appellate Division remanded the seven year old matter back to the ALJ for an

evidentiary hearing focused on the Decedent's probable intent as to whether the Decedent likely would have intended his identification of his estranged spouse on the retirement form to convey a desire that she receive any unpaid retirement funds due to him upon his death. For the reasons which follow, the Estate respectfully submits that the Appellate Division erred in remanding the matter to the ALJ for a further evidentiary hearing focused on the Decedent's probable intent. The matter has a long procedural history, all relevant facts have been jointly stipulated to by the parties, and the applicable statutory and case law, as well as the Decedent's intent as expressed in his will, require payment of the Retro Funds to the Estate. Supreme Court involvement is necessary in the interests of justice to ensure the Legislature's mandate is upheld, protect the Decedent's vested property rights which have been usurped and unilaterally terminated by the Board, and ensure the Decedent's plain intentions as to the disposition of his property is honored.

Summary of Relevant Facts

By way of factual background, Decedent Keith Isaac, a former Lieutenant in the Newark Police Department, died on October 23, 2016. The Decedent submitted an application for retirement on March 13, 2013 (the "Retirement Application") to the Police and Firemen's Retirement System ("PFRS"). (Pa36-37). The Retirement Application did not identify the Decedent's estranged spouse, Roxanne Isaac ("Roxanne") in any beneficial capacity. Rather, her

name was simply identified for informational purposes under the section titled “Marital/Survivor Information.” The identification of the spouse was not an affirmative beneficiary designation by the Decedent of any unpaid pension benefits in favor of his wife. In fact, as observed by the Appellate Division and admitted by the Board, the Retirement Application, by its plain terms, did not provide for a beneficiary designation to be made with respect to the Decedent’s unpaid pension benefits. In the rest of the form the Decedent designated four of his children as beneficiaries of his group life insurance death benefit, and Roxanne.

The Decedent’s application for retirement was tabled and remained pending for two years as he was serving as the Municipal Emergency Management Coordinator for the City of Newark, and later was involved in a lawsuit with the City over his alleged wrongful termination from that position.

Prior to his death, on September 12, 2016, the Board of Trustees of the Police and Firemen’s Retirement System (the “Board” and “PFRS”) approved his retirement from the police force retroactive to August 1, 2014 and awarded him pension benefits for that nearly two year period. The pension benefits which became due, payable, and vested in Keith Isaac during his lifetime totaled \$208,950 (“Retro Funds”). On October 15, 2016, the Decedent created a last

will and testament which did not include his wife as a beneficiary. He died on October 23, 2016.

At the time of Decedent's death, the Division of Pensions and Benefits (the "Division") had not yet paid Mr. Isaac his vested pension benefits. It then proceeded to pay his Retro Funds, which the parties stipulate were due, owing, and vested in the Decedent at the time of his death, but not yet paid to him, directly to his spouse, Roxanne, from whom he was estranged. The Board acted beyond the scope of its authority and in direct contravention of the Decedent's stated intentions and vested ownership rights when, over the Estate's objection, it upheld the payment of Retro Funds to Roxanne. As the New Jersey Supreme Court has previously opined, and as the statutes governing the PFRS unambiguously state, such vested funds belong and should have been paid to the Decedent's Estate.

The arbitrary and capricious manner in which the Board has acted is manifest in the myriad and internally inconsistent reasons offered by the Board to purportedly justify the payment of the Retro Funds to Roxanne, none of which is in accord with controlling case and statutory law as detailed herein. For example, the Division first incorrectly claimed "[s]ince Mr. Isaac was approved for his retirement after his retirement date and after his passing, Roxanne Isaac was entitled to and received all of the retro money that would have been paid to

[the Decedent] . . .” However, this reasoning is false as evidenced by the Parties’ stipulations that the Decedent was actually approved for retirement before his passing and that the Decedent’s right to receive the Retro Funds vested in him during his lifetime.

Then, in upholding the Division’s decision to pay the Decedent’s Retro Funds to his spouse instead of his Estate, the Board changed the Division’s reasoning and instead claimed that by “listing Roxanne Isaac as his spouse, Keith Isaac nominated and designated her as his beneficiary” and that “[t]his designation is consistent with the entire PFRS statutory scheme. . .” (Pa35). However, as set forth infra, there is no document which affirmatively names Roxanne as the beneficiary of the Decedent’s unpaid pension benefits as required by the Legislature at N.J.S.A. 43:16A-12.2.

The Board then improperly relied on an inapplicable statute, N.J.S.A. 43:16A-12.1, called the Widows’ Pension. Citing to it, the Board claimed that merely “[b]y listing his spouse on his retirement application, Mr. Isaac designated her as his beneficiary.” In support of its assertion, the Board incorrectly relied on N.J.S.A. 43:16A-12.1, which is an automatic Widow’s Pension (Pa86). However, as detailed infra, the Widows’ Pension does not govern the disposition of unpaid benefits due to a deceased retirant. Rather, it is an automatic statutory pension paid to surviving spouses. Unlike unpaid

pension benefits, which the Legislature at N.J.S.A. 43:16A-12.2 specifically granted a decedent/retirant with the right to wholly control the disposition of, either by explicit beneficiary designation or by and through his estate, a retirant does not have the ability to name a beneficiary for the Widows' Pension. Roxanne receives the Widows' Pension in the amount of \$5,833 per month for the duration of her lifetime.

The Estate challenged the Board's decision, and the matter was referred to the Office of Administrative Law in or around November 2018. In connection with the proceedings in the Office of Administrative Law – which took place over the span of nearly four years – the parties jointly stipulated to all the relevant facts and agreed that an evidentiary hearing was not necessary to determine the appropriate payment of the Decedent's Retro Funds.

The Board then adopted the position set forth in the Administrative Law Judge's Initial decision that payment of Decedent's vested Retro Funds to Roxanne was in accordance with the PFRS "statutory framework" to benefit a surviving spouse. The Board's statutory construction was incorrect given the clear and unambiguous mandate of the Legislature. The Decedent had the unqualified right to utilize and dispose of his vested Retro Funds in whatever manner he chose as the property belonged solely to him. The Board had no authority, either from the Decedent or pursuant to the clear and unambiguous

statutes governing the PFRS, to unilaterally undermine the Decedent's intentions and vested ownership rights and direct the payment of his vested Retro Funds to his spouse instead of his Estate.

The Estate timely filed an appeal of the ALJ's Decision. The Appellate Court rendered an opinion on April, 1 2024 which vacated the ALJ's decision and remanded the matter for an "an evidentiary administrative hearing focused on the decedent's probable intent" so that the "ALJ shall make a factual determination as to whether the decedent likely would have intended his identification of his estranged spouse on the retirement form to convey a desire that she receive any unpaid retirement funds due to him upon his death." Keith Isaac, deceased, Petitioner-Appellant, v. Board of Trustees, Police And Firemen's Retirement System, Respondent-Respondent. Roxanne Isaac, Intervenor-Respondent., A-3489-21, at *2 and *10 (N.J. Super. Ct. App. Div. Apr. 1, 2024). In vacating the ALJ's decision, the Appellate Court found that

“[t]he retirement application form that decedent completed does not state anywhere that the member who fills it out and who, as requested, identifies the member's spouse, is designating that spouse as the recipient of any pension benefits that may be unpaid at the time of the member's death.” Id. at *8.

Additionally, the Court emphasized that “[Decedent's] identification of his spouse's name on the form should not be over-read to signify that he was choosing her to receive any unpaid pension benefits.” Id. at 9. The Appellate Court further

noted that the Decedent did not even have the ability to nominate a beneficiary for his unpaid pension benefits on his Retirement Application, as follows:

As explained by the Board’s counsel in her certification to this court, the materials show that, unlike members in some other pension systems, PFRS members do not have an “option to designate a beneficiary of the receipt of outstanding uncashed pension checks as of the death of the member in their applications for retirement benefits.” *Id.* (emphasis added).

In light of the governing law and the findings by the Appellate Division, it is respectfully submitted that an evidentiary hearing as to “whether the decedent likely would have intended his identification of his estranged spouse on the retirement form to convey a desire that she receive any unpaid retirement funds due to him upon his death,” is an unnecessary inquiry given the Decedent’s manifest intent as demonstrated by his will as to the disposition of his Retro Funds, and runs counter to the relevant controlling statutes that mandates payment of the Retro Funds to the Estate, where, as here the Appellate Division found that there was no beneficiary designation in place, and if permitted, will constitute unprecedented and improper expansion of the probable intent doctrine.

QUESTIONS PRESENTED

1. Whether the Appellate Division erred in remanding the matter for “an evidentiary administrative hearing focused on the decedent’s probable intent” so that the “ALJ shall make a factual determination as to whether the decedent

likely would have intended his identification of his estranged spouse on the retirement form to convey a desire that she receive any unpaid retirement funds due to him upon his death.”

- a. Whether an evidentiary hearing regarding the Decedent’s probable intent is necessary in light of the legislature’s mandate that the Decedent’s unpaid Retro Funds be paid to his Estate absent a beneficiary designation.
 - b. Whether an evidentiary hearing regarding the Decedent’s probable intent is necessary in light of the Decedent’s manifest intent as to the disposition of his assets as set forth in the Last Will and Testament he executed after learning he was going to receive the Retro Funds.
2. Whether the Appellate Division improperly expanded the application of the doctrine of probable intent to the retirement application form submitted by the Decedent.

ERRORS COMPLAINED OF

1. The Appellate Division erred in remanding the matter for an evidentiary hearing regarding the Decedent’s probable intent because such an evidentiary is unnecessary where, as the Appellate Court found, the Decedent’s retirement application did not reflect a beneficiary designation by Decedent in favor of Roxanne with respect to his unpaid pension benefits,

and “[Decedent’s] identification of his spouse’s name on the form should not be over-read to signify that he was choosing her to receive any unpaid pension benefits.”

2. The Appellate Division erred in remanding the matter for an evidentiary hearing regarding the Decedent’s probable intent because our Legislature has mandated at N.J.S.A. 43:16A-12.2 that, as a matter of law, if a deceased retirant has failed to nominate a beneficiary for his unpaid pension benefits, those benefits shall be paid to his estate.
3. The Appellate Division erred in remanding the matter for an evidentiary hearing regarding the Decedent’s probable intent because the Board has confirmed that a retirant does not have the ability to nominate a beneficiary for his or her unpaid pension benefits on his or her retirement application.
4. The Appellate Division erred by expanding the judicial doctrine of probable intent to the Decedent’s retirement application form.
5. The Appellate Division erred by remanding the matter to the ALJ for a probable intent based hearing where the Decedent clearly manifested his intentions in his duly executed and probated Last Will and Testament.

**COMMENTS WITH RESPECT TO THE APPELLATE DIVISION
OPINION**

A. An Evidentiary Hearing Regarding the Decedent’s Probable Intent is Unnecessary where it is Undisputed that the Decedent did not Designate a Beneficiary for his Retro Funds and Runs Counter to the Statutory Scheme Mandating Payment to the Estate.

An evidentiary hearing as to the Decedent’s probable intent is unwarranted given the Court’s ruling that the Decedent’s retirement application did not reflect a beneficiary designation by Decedent in favor of Roxanne with respect to his unpaid pension benefits. Specifically, the Appellate Division in its opinion found:

“[t]he retirement application form that decedent completed does not state anywhere that the member who fills it out and who, as requested, identifies the member's spouse, is designating that spouse as the recipient of any pension benefits that may be unpaid at the time of the member's death.” Keith Isaac, deceased, Petitioner-Appellant, v. Board of Trustees, Police And Firemen’s Retirement System, Respondent-Respondent. Roxanne Isaac, Intervenor-Respondent., A-3489-21, at *8 (N.J. Super. Ct. App. Div. Apr. 1, 2024).

Additionally, the Appellate Court emphasized that “[Decedent’s] identification of his spouse’s name on the form should not be over-read to signify that he was choosing her to receive any unpaid pension benefits.” Id. at 9. The New Jersey Supreme Court has held that funds vested in but not yet paid to a decedent are his to dispose of as he chooses and cannot be summarily divested by agency intervention. See Cureton v. Joma Plumbing & Heating Co., 38 N.J. 326 (1962). The

Legislature implemented statutes plainly confirming that a PFRS retirant may dispose of his vested but unpaid benefits as he chooses by providing at N.J.S.A. 43:16A-12.2 that in circumstances such as this, where a retirant has not affirmatively made a beneficiary designation for his unpaid pension benefits, any unpaid pension benefits due a deceased retirant shall be paid to the retirant's Estate. Specifically, N.J.S.A 43:16A-12.2 provides that "[u]pon the death of a retirant, any unpaid benefits due him shall be paid in one lump sum to such person, if living, as he shall have nominated by written designation duly executed and filed with the board of trustees, otherwise to the executor or administrator of the retirant's estate." N.J.S.A. 43:16A-12.2. The Appellate Division found that the ALJ's decision that the "agency's position was in harmony with the statutory framework, which provides for future pension benefits to a retired member's spouse and children after his/her death []" was incorrect, noting that "Section 12.3 affording members a right to choose a beneficiary is at odds with the automatic nature of the survivor's pension under Section 12.1." Keith Isaac, deceased, Petitioner-Appellant, v. Board of Trustees, Police And Firemen's Retirement System, Respondent-Respondent. Roxanne Isaac, Intervenor-Respondent., A-3489-21, at *9 (N.J. Super. Ct. App. Div. Apr. 1, 2024).

However, the remand to the ALJ for an evidentiary hearing focused on the Decedent's probable intent "as to whether decedent likely would have intended his identification of his estranged spouse on the retirement form to convey a desire that

she receive any unpaid retirement funds due to him upon his death,” should be irrelevant because as the Appellate Division recognized and the Board conceded, the Decedent did not have the option on the retirement application to designate a beneficiary for any unpaid pension benefits on the retirement application. This Court observed as much, noting:

As explained by the Board’s counsel in her certification to this court, the materials show that, unlike members in some other pension systems, PFRS members do not have an “option to designate a beneficiary of the receipt of outstanding uncashed pension checks as of the death of the member in their applications for retirement benefits.” Keith Isaac, deceased, Petitioner-Appellant, v. Board of Trustees, Police And Firemen’s Retirement System, Respondent-Respondent. Roxanne Isaac, Intervenor-Respondent., A-3489-21, at *9 (N.J. Super. Ct. App. Div. Apr. 1, 2024) (emphasis added).

Given the absence of any provision or instruction within the application suggesting a beneficiary designation for unpaid pension benefits, and where the form was “barren of any explanatory text that informs the applicant,” an evidentiary hearing aimed at discerning the Decedent’s probable intent would be unfair to the Estate as it places a burden on the Estate to disprove an intention that did not exist within the context of the application’s design. Id. at 8. There is no nexus between the retirement application and the disposition of the Decedent’s unpaid pension benefits.

B. The Appellate Division’s Remand for a Probable Intent Based Hearing is an Improper Expansion of the Doctrine of Probable Intent to the Retirement Application Form.

The doctrine of probable intent is a judicial doctrine which permits “the reformation of a will in light of a testator’s probable intent by searching out the probable meaning intended by the words and phrases in the will.” In re Estate of Flood, 417 N.J. Super. 378, 381 (App. Div. 2010) (emphasis added) (internal quotations omitted). It is typically applied in the context of wills, which are testamentary instruments. There is no instance under which the doctrine of probable intent has been expanded to a retirement application form. This delineation was reaffirmed in the recent case of Quick v. Stanley, A-0443-21, 2023 WL 4241644, at *7 (N.J. Super. Ct. App. Div. June 29, 2023), where the Appellate Division agreed with the trial court’s refusal to expand the application of the doctrine of probable intent to construe a beneficiary designation a decedent made on a ROTH IRA account because the beneficiary designation was not a will.¹

¹ In that case, the Appellate Division noted that there is one reported decision, Stephenson v. Spiegle, 429 N.J. Super. 378 (App. Div. 2013), which seems to apply the doctrine of probable intent to a non-probate matter, specifically a beneficiary designation executed by a decedent in connection with a bank account he established. The Court noted that in Stephenson, there were exceptional factual circumstances where the beneficiary designation was in favor of the decedent’s attorney, with whom he had no special relationship, and further observed that the relief in that case was predicated on rescission based on unilateral mistake and not necessarily probable intent.

The law provides that the doctrine should be “applied sparingly” and “cannot be used to conjure up an interpretation or derive a missing testamentary provision out of whole cloth.” In re Estate of Gabrellian, 372 N.J. Super. 432, 441 (App. Div. 2004) *citing* In re Munger’s Estate, 63 N.J. 514, 521 (1973); *see also* In re Estate of Burke, 48 N.J. 50, 64 (1966) (stating that “probable intent cannot be used to write a will that the testator did not write”) (citing Estate of Cook, 44 N.J. 1, 12 (1965)).

In this instance, where the retirement application form entirely lacked a provision for designating a beneficiary for unpaid pension benefits (and where no such benefits were due to the Decedent at the time he filled out the application), it is implausible for the ALJ to infer any intent on the Decedent’s part to designate Roxanne (or anyone else) as the beneficiary of his unpaid pension benefits, without essentially inventing such a designation.

Moreover, as stipulated by the parties, at the time the Decedent filled out his retirement application in March 2013, he did not have any entitlement to his Retro Funds. Since there were no unpaid pension benefits due to the Decedent at the time the Decedent filled out his retirement application in March 2013 and because the retirement application itself did not provide for the Decedent to designate any such beneficiary, asking the ALJ to divine the Decedent’s intent at a time when no such intent existed would have the effect of allowing the ALJ to create multiple layers of speculation where the statute is clear that in the absence of such designation, the

Retro Funds shall be paid to the Estate. Additionally, the Decedent's intent is plain where, as set forth below, he created his Last Will and Testament, excluding Roxanne as a beneficiary, shortly after he was notified he was entitled to and would be receiving the Retro Funds.

C. A Probable Intent Analysis is Unnecessary where the Record Clearly Establishes that the Decedent did not Intend Roxanne to Receive his Assets.

It is already established from the facts stipulated to by the parties and evidence already in the record (which includes the Decedent's entire PFRS file), that the Decedent had no intention for Roxanne to receive any of his assets, including his Retro Funds.

Specifically, as the Appellate Division observed, on the retirement application form itself, the Decedent did not identify Roxanne as the beneficiary of his group life insurance death benefit (the only beneficiary designation that appears on the retirement application). Instead, he merely identified her as a spouse in the marital information section, which was not an affirmative beneficiary designation on his part; a point underscored by the Court's ruling that "his identification of his spouse's name on the form should not be over-read to signify that he was choosing her to receive any unpaid pension benefits." Keith Isaac, deceased, Petitioner-Appellant, v. Board of Trustees, Police And Firemen's Retirement System, Respondent-

Respondent. Roxanne Isaac, Intervenor-Respondent., A-3489-21, at *9 (N.J. Super. Ct. App. Div. Apr. 1, 2024).

Moreover, the Decedent's exclusion of Roxanne as a beneficiary in his Last Will and Testament, executed shortly after being informed of his entitlement to the Retro Funds, is the best evidence of the Decedent's actual, not just probable, intent. The following chronology of events reinforces the Estate's position and establishes the Decedent's intent:

- March 12, 2013: Decedent files his application for retirement. At this time, he has not yet been approved for retirement and there were no unpaid pension benefits vested in him. Additionally, the retirement application made no provision for the designation of a beneficiary for unpaid pension benefits due the Decedent at death. Therefore, it is implausible that Decedent had any intention to name a beneficiary for unpaid pension benefits at the time he filled out and filed the retirement application. (Pa23, ¶2).
- September 12, 2016: Over three years after filing the retirement application form, the Board at its meeting approved the Decedent for retirement, retroactive to August 1, 2014. (Pa24, ¶ 8-9).
- September 20, 2016: Letter from the Board to Decedent formally notifying him that his retirement was approved retroactive to April 1, 2014 and that he would be paid the unpaid pension benefits retroactive to that date. Thus, it was not until September 2016 that his unpaid pension benefits became vested in and due and payable to him. (Pa24-Pa25, ¶10).
- October 15, 2016: After recently being notified he would receive Retro Funds, Decedent created a Last Will and Testament² which laid out his wishes

² While the Last Will and Testament was not included in the appendix, a copy was supplied to the Board in discovery. It was also admitted to probate with the Surrogate of Essex County and is a matter of public record. For reference, it is appended to the Certification of Counsel submitted herewith at Exhibit A.

as to how his assets should be distributed and which excluded Roxanne as a beneficiary of his Estate. (Pa26, ¶ 21-22).

Accordingly, to the extent that this Court deems the intent inquiry warranted, which we respectfully argue it should not, the Decedent's Last Will and Testament executed in close proximity to his becoming aware that he was to receive his Retro Funds establishes the Decedent's intent with respect to his Retro Funds.

In light of these facts, remanding the matter for an evidentiary hearing regarding the Decedent's probable intentions would unduly burden the Estate and would reject the directives set forth at N.J.S.A. 43:16A-12.2, which provides for the Estate to receive the Retro Funds where there is no beneficiary designation (as the Appellate Division has already found).

REASONS WHY CERTIFICATION SHOULD BE ALLOWED

It is in the interest of justice that the Supreme Court grant the Petition for Certification, reverse the order of the Appellate Division remanding the matter for "an evidentiary administrative hearing focused on the decedent's probable intent" so that the "ALJ shall make a factual determination as to whether the decedent likely would have intended his identification of his estranged spouse on the retirement form to convey a desire that she receive any unpaid retirement funds due to him upon his death," and require the Board to pay the Retro Funds to the Estate consistent with the Decedent's vested property rights, unambiguous intent, and the Legislature's

mandate at N.J.S.A. 43:16A-12.2. The Appellate Division's decision stands in direct conflict with:

- Its own factual and legal findings that “[t]he retirement application form that decedent completed does not state anywhere that the member who fills it out and who, as requested, identifies the member's spouse, is designating that spouse as the recipient of any pension benefits that may be unpaid at the time of the member's death[]” and “ “[Decedent’s] identification of his spouse’s name on the form should not be over-read to signify that he was choosing her to receive any unpaid pension benefits.” Id. at 9;
- The Board’s admission, noted by the Appellate Court, that “PFRS members do not have an option to designate a beneficiary of the receipt of outstanding uncashed pension checks as of the death of the member in their applications for retirement benefits.” Id.;
- Governing statutory law that provides that as a matter of law, if a deceased retirant has failed to nominate a beneficiary for his unpaid pension benefits, those benefits shall be paid to his estate, consistent with his vested ownership rights;
- The well established judicial limitations on the application of the doctrine of probable intent, which provide that the doctrine should be applied sparingly, cannot be used to conjure up a provision out of whole cloth, and which Courts have failed to expand beyond the context of wills; and
- The Decedent’s plain and manifest intentions as set forth in his duly executed and probated Last Will and Testament.

Supreme Court involvement in this is necessary to uphold and protect an individual’s vested property rights, as previously set forth by the Supreme Court in Cureton v. Joma Plumbing & Heating Co., 38 N.J. 326 (1962), uphold the clear intent of the Legislature regarding the disposition of retirant’s unpaid pension benefits, and to uphold the plain intent of the Decedent to dispose of his property pursuant to the terms of his Last Will and Testament. The long procedural history

and the divergent conclusions reached by the Board, the ALJ and the Appellate Division catalogued above, further underscore the need for clarity and Supreme Court Involvement to ensure that retirees from the PFRS are entitled to and may dispose of their vested property as they choose, without improper divestment and redirection as happened here.

CONCLUSION

For the foregoing reasons, the Supreme Court should grant Certification, reverse the remand and enter judgment awarding the retro funds to the estate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. Carosia', with a stylized flourish at the end.

ERIC A. CAROSIA