

*The U.S. Equal Employment Opportunity Commission*

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*Left to right: EEOC Senior Trial Attorney David Offen-Brown, Private Counsel Steven R. Pingel, EEOC Trial Attorney Raymond Cheung, District Director Susan L. McDuffie, Regional Attorney William R. Tamayo*

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## DISABLED PUBLIC SAFETY OFFICERS TO RECEIVE BENEFITS IN HISTORIC EEOC SETTLEMENT FOR AGE DISCRIMINATION

SAN FRANCISCO - The U.S. Equal Employment Opportunity Commission (EEOC) today announced a major litigation settlement compensating more than 1,700 retired state and local public safety officers who were subjected to age discrimination by the California Public Employees' Retirement System (CalPERS), the nation's largest public retirement fund, and California state and local government employers of public safety officers. Under the Consent Decree approved by Federal District Court Judge Charles Breyer, the class of former employees will receive benefits estimated at \$250 million, most of which will be paid in increments over the lifetimes of the individual recipients.

"We are pleased that CalPERS worked cooperatively with the EEOC in bringing a satisfactory resolution to this case," said Commission Chair Cari M. Dominguez. "Through the negotiated settlement process, we were able to jointly come up with a solution that protects the rights of all disabled retirees without

discriminating on the basis of age."

The lawsuit, filed under the Age Discrimination In Employment Act of 1967 (ADEA), alleged that the officers suffered discrimination because their industrial disability retirement (IDR) benefits were reduced in proportion to their age at hire. In 1995, former Fremont police officer Ron Arnett and six other disabled retirees challenged CalPERS' enforcement of the California Government Code Section 21417, by filing the lawsuit resolved by today's settlement.

For each year over age 30 that a public safety officer was hired, Section 21417 reduced the amount of industrial disability pensions below the 50% of compensation standard - in essence, the more years over age 30 at hire, the less one was entitled to receive if seriously injured on the job. Thus, Mr. Arnett, who joined the police at age 43, was given 32% instead of 50% of his salary for his IDR benefit when he suffered permanently disabling injuries after five years of service.

By contrast, if Mr. Arnett had simply been 30 at his time of hire - 14 years younger but with the same work record, the same contributions to CalPERS over the same period of time, and the same injuries - he would have been entitled to half his pay.

"I was forced to retire from the Fremont Police Department because of back injuries received in the line of duty, ending a career I loved," said Mr. Arnett. "Upon my disability retirement I was first led to believe that I would get half my salary as a disability pension. I was devastated to learn that I would only get about one-third of my salary. Not only did this cause my family financial hardship, but the unfairness of getting shortchanged just because of my age was a bitter pill to swallow."

He added: "After almost nine years of challenging this in the courts, it is a relief to finally have closure on this case. This settlement rights the wrong that was done to all police officers and firefighters who had the double misfortune of getting seriously injured and being discriminated against because they were older when they were hired."

The settlement of the case (*Arnett and EEOC v. California Public Employee Retirement System*, Northern District of California, Civil No. 95-03022 CRB) provides approximately \$50 million to the state and local public safety officers for reduced IDR benefits in the past. In addition, CalPERS will adjust future payments to eliminate the age-related disparity, calculated at approximately \$200 million (present value) to be paid out over the remainder of the officers' lifetimes.

William R. Tamayo, Regional Attorney for the EEOC's San Francisco District Office, said: "The Commission intervened in this case in the public interest to protect the rights of these individuals and to obtain monetary relief. Recent Supreme Court rulings preclude individuals from recovering monetary relief from state governments for age bias. Thus, the EEOC was the sole entity available to obtain justice for these public safety officer who were injured in the line of duty."

In addition to the ADEA, the EEOC also enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, and national origin; sections of the Civil Rights Act of 1991; the Equal Pay Act; Title I of the Americans with Disabilities Act; and the Rehabilitation Act of 1973's prohibitions against disability discrimination in the federal government. The San Francisco District's jurisdiction includes Northern and Central California, Hawaii, Guam, American Samoa, Wake Island and the Commonwealth of the Northern Mariana Islands. For more information about EEOC, please visit [www.eeoc.gov](http://www.eeoc.gov).

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