



# California Corporate & Securities Law

## Court To Decide CalPERS' Demurrer Today

August 12, 2011

On April 19, 2011, this [petition](#) for a writ of mandamus was filed against the CalPERS Board of Administration, its President (Robert Feckner), and its Chief Executive Officer (Anne Stausboll) for allegedly laundering the salary of a receiver, J. Clark Kelso, appointed by the U.S. District Court through the state's [Administrative Office of the Courts](#) (AOC). CalPERS has filed a demurrer and a motion to strike. CalPERS demurred on the grounds that the Petitioner failed to:

- Exhaust his administrative remedies (Code Civ. Proc. § 430.10);
- Join the necessary parties – the receiver, the AOC and California Prison Health Care Receivership Corporation (Code Civ. Proc. § 430.10(d)); and
- Establish standing.

In this [tentative ruling](#), Sacramento Superior Court Judge Allen Sumner overruled the Respondents' demurrer as to failure to exhaust administrative remedies and sustained the Respondents' demurrer on the failure to join necessary parties. Judge Sumner ordered the Petitioner to amend its petition to include the omitted parties and to serve them within 30 days. Finally, Judge Sumner asked for further briefing on the Petitioner's standing to bring the action.

A hearing is scheduled for 1:30 p.m. today on the demurrer and motion to strike.

Today's post is a good example of the trilingual roots of our legal vocabulary. "Writ" is from the Old English, a language written and spoken from about 450 to 1100 (think Beowulf). In contrast, "mandamus" is Latin and "demurrer" is Anglo-French. Latin first entered England with Julius Caesar's invasion in 55 B.C.E. and again in the sixth century with Christian missionaries. Beginning in the 11th century, Anglo-French became the legal and administrative language of England. Why were the English using French? The blame (or credit) goes to Duke William II of Normandy who invaded England in 1066. The Normans also used Latin – thereby giving the English language another dose of Latin.

Although the [Pleadings in English Act of 1362](#), 36 Edw. III, c. 15, provided that all pleas "shall be pleaded, shewed, defended, answered, debated and judged in the English Tongue", the act required that they be "entered and inrolled" in Latin. Almost four centuries would pass before the Proceedings in Courts of Justice Act of 1730, 4 Geo. II, c.26, mandated English (instead of Latin or French) in all courts of England.

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