



# RECENT CASES OF INTEREST

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## Recent Cases of Note

### RECENT CASES OF NOTE

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|--------------|----------------|
| • LaFland    | • O'Hare       |
| • White      | • Burgess-Hill |
| • Vernava    | • Mason        |
| • Simonelli  | • Callahan     |
| • Bell       | • Daley        |
| • Newton     | • Boelter      |
| • Nelson     | • Saunders     |
| • Manning    | • Lydon        |
| • Dell'Isola | • Randall      |



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### *LaFland v. MTRS*

- Case No. CR-15-546 (DALA)
- Decision Date: February 16, 2018
- In a nutshell: Member was entitled to a medical panel for ordinary disability even though she was on sick leave when her back injury became disabling.
- Appealed to CRAB.

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#### NOTES:

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## ***White v. Chelsea***

- **Case No.** CR-11-517 (CRAB)
- **Decision Date:** November 29, 2017
- **In a nutshell:** A member must undergo reasonable medical procedures. However, a procedure that may result in a new disability is not “reasonable”.

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## ***Vernava***

### ***PERAC v. CRAB and Swampscott & Others***

- **Case No.** 478 Mass. 832 (SJC)
- **Decision Date:** February 13, 2018
- **In a nutshell:** Supplemental payments taken in conjunction with the receipt of Workers' Compensation are not regular compensation for purposes of establishing an Accidental Disability Retirement date.

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## ***Simonelli v. Malden***

- **Case No.** CR-16-224 (DALA)
- **Decision Date:** January 12, 2018
- **In a nutshell:** A member must be injured while in the performance of his duties in order to qualify for ADR.
- Appealed to CRAB

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## ***Bell v. Franklin Regional Ret. Board***

- **Case No.** CR-15-600 (DALA)
- **Decision Date:** August 11, 2017
- **In a nutshell:** In order for a beneficiary to receive Section 9 death benefits it must be shown that the member died of the cause for which he was retired, in this case heart disease.
- Appealed to CRAB.

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### **NOTES:**

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## ***Newton Ret. Board v. State Ret. Board***

- Case No. CR-12-527 and CR-17-205 (DALA)
- Decision Date: July 21, 2017
- In a nutshell: G.L. c. 32, s. 3(2)(g) requires that retirement boards classify members in a group within 30 days of the member beginning employment.
- Appealed to CRAB.

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## ***Nelson v. State Retirement Board***

- Case No. CR-15-10 (DALA)
- Decision Date: September 22, 2017
- In a nutshell: Members who entered service on or before April 2, 2012 must retire as an active employee if they wish to utilize the optional pro-rating of group classification. Inactive members are classified based on the position from which the member was last employed.
- Appealed: No appeal filed.

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## ***Manning v. Plymouth County Ret. Board***

- **Case No.** CR-15-557 (DALA)
- **Decision Date:** May 12, 2017
- **In a nutshell:** In order to qualify for ADR a member must be permanently disabled as the result of an injury sustained in the performance of their duties. The injury must be what disables the person not an underlying medical condition that is not job related.
- Appealed to CRAB.

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## ***Dell'Isola v. State Board of Retirement***

- **Case No.** 92 Mass. App. Ct. 547 (Appeals Court)
- **Decision Date:** Dec. 15, 2017
- **In a nutshell:** Corrections Officer's pension could be forfeited under § 15(4), even though he was only convicted of the misdemeanor of possession of cocaine while off-duty, because there was a **direct link** between his position as a C.O. and the crime for which he was convicted.
- Remanded for consideration of his 8<sup>th</sup> Amendment claim that forfeiture of his pension is an excessive fine.
- Further appellate review denied.

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### **NOTES:**

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## ***O'Hare v. State Board of Retirement***

- **Case No.** 92 Mass. App. Ct. 555 (Appeals Court)
- **Decision Date:** Dec. 15, 2017
- **In a nutshell:** State Trooper's pension could be forfeited under § 15(4) for using the internet to entice a minor, even though the Trooper was off-duty and using a home computer, because there was a *legal link* between his crime and his official duties and the codes of conduct he must follow as a police officer.
- Appealed to the Supreme Judicial Court.

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## ***Burgess-Hill v. State Board of Retirement***

- **Case No.** CR-15-665 (DALA)
- **Decision Date:** March 24, 2017
- **In a nutshell:** Member was able to prove that she was injured "while in the performance of [her] duties" because she was driving from one work obligation to another work obligation, despite the evidence that the car accident seemingly occurred closer to a non-work obligation.
- Final decision.

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### **NOTES:**

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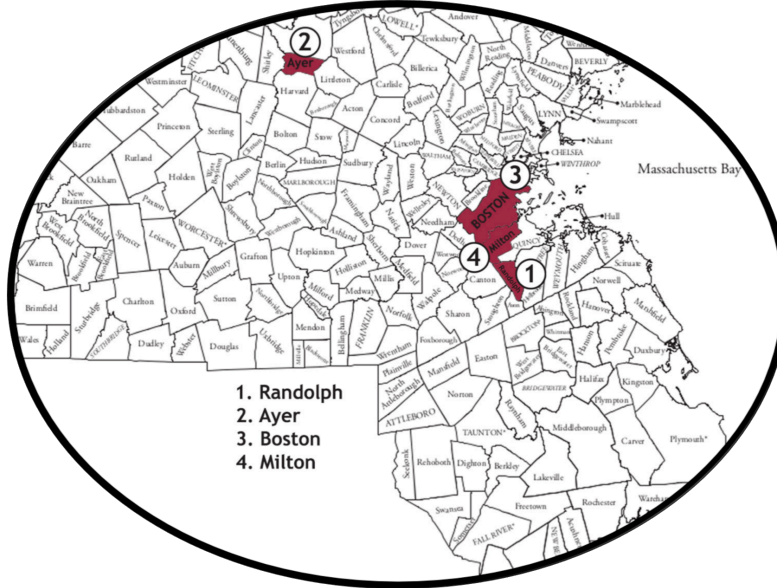
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## Massachusetts Map



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## *Mason v. Teachers Retirement System*

- Case No. CR-16-20 (DALA)
- Decision Date: May 26, 2017
- In a nutshell: The DRO provision that the Payee must elect Option C “provided that the Alternate Payee is living and has not remarried at the time of her retirement” required the Payee to choose Option C, even though the Alternate Payee remarried and divorced prior to the Payee’s retirement.
- Appealed to CRAB.

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### NOTES:

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## ***Callahan v. Revere Ret. Board***

- **Case No.** CR-12-523 (DALA)
- **Decision Date:** Aug. 25, 2017
- **In a nutshell:** An employee who was paid from grant funds was entitled to purchase her pre-membership service, because she was regularly employed in the service of the city and her work was controlled by her city employer, and because the source of funds used to pay an employee is not what makes an “employee.”
- Final decision.

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## ***Plymouth Ret. Board v. Daley, et al***

- **Case No.** 17-P-23 (Appeals Court - Rule 1:28 decision)
- **Decision Date:** Feb. 16, 2018
- **In a nutshell:** Independent contractors and consultants are subject to the earnings limitations of § 91(b), as amended by Chapter 21 of the Acts of 2009, and CRAB’s decision to allow the Board to recover retirement benefits paid to the overearning retiree was reasonable (while the Board’s contention that it was entitled to the \$350,000 in gross payments made to the retiree’s consulting company “exceed[ed] the bounds of reasonableness”).
- Final decision.

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## ***Boelter v. Wayland Board of Selectman***

- Case No. SJC-12353 (Supreme Judicial Court)
- Decision Date: April 5, 2018
- In a nutshell: Selectmen's individual and composite performance reviews of town administrator contained opinions and thus did not fall within the exemption for "deliberations" contained in the Open Meeting Law (G.L. c. 28, § 18; G.L. c. 30A, § 18).
- Final decision.

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## ***Saunders v. Beverly Retirement Board***

- Case No. CR-15-488 (DALA)
- Decision Date: Feb. 16, 2018
- In a nutshell: The Board properly determined that the member was not entitled to receive interest on a refund of his call firefighter service purchased in error, because § 20(5)(c) (2) does not provide for interest to correct errors in service purchases.
- Final decision.

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## ***Lydon v. Quincy Retirement Board***

- **Case No.** CR-16-479 (DALA)
- **Decision Date:** Nov. 24, 2017
- **In a nutshell:** The Board properly determined that the member was not entitled to receive interest on a refund of excess deductions, because § 20(5)(c)(2) only requires the Board to “correct such error” with no mention of interest.
- Final decision.

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## ***Randall v. Franklin Reg. Ret. Board***

- **Case No.** CR-12-277 (DALA)
- **Decision Date:** Feb. 24, 2017
- **In a nutshell:** The petitioner was not entitled to receive member-survivor benefits pursuant to § 12(2)(d) in an amount greater than the salary his late wife was being paid at the time of her death. Further, the Board did not abuse its discretion in denying his request for a waiver of repayment of the overpaid benefits, pursuant to § 20(5)(c)(3).
- Final decision.

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