BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of	)	
	)	
K.C	)	OAH No. 25-3095-PER
	)	

DECISION AND ORDER

I. INTRODUCTION

K.C is a Tier III member of the Alaska Public Employees Retirement System (PERS) who requested the Division of Retirement and Benefits (DRB) retroactively reclassify jobs she held in the 1980s and 90s as PERS-eligible. By doing so, Ms. C intended to increase her retirement benefits by becoming eligible for PERS Tier I membership. DRB denied her request and Ms. C appealed the decision to the Office of Administrative Hearings (OAH). DRB seeks dismissal, arguing that Ms. C is barred by the doctrine of laches from seeking reclassification given the passage of decades since those jobs ended. Ms. C opposes.

After careful consideration of the parties' arguments, the administrative record, and applicable laws, this Decision and Order ("Decision") concludes that Ms. C's suit is barred. Ms. C was or should have been aware of all of the facts underlying her claim since at least 2005. She failed to seek relief for at least seventeen years. That delay far exceeds any potential statute of limitation, and this Decision finds the delay here undue and without justification. Litigation of this claim at this late date would unfairly prejudice DRB by potentially requiring retroactive funding of Ms. C's increased benefits decades after Ms. C could have timely brought her claim and compelling a decades-distant audit of Ms. C's prior employers. Accordingly, the Motion to Dismiss is GRANTED.

II. BACKGROUND AND PROCEDURAL HISTORY

a. The PERS Benefit System

DRB administers PERS and manages PERS accounts.[1] PERS offers retirement benefits to employees of the State of Alaska and many local government entities. PERS currently has four tiers of benefits, with the date of hire determining the tier to which an individual employee belongs. "Tier 1 includes employees who started before July 1986; Tier 2, before July 1996; Tier 3, before July 2006; and Tier 4, since July 2006."[2] Generally speaking, the earlier employment

[1] *See generally* AS 39.35, 2 AAC 35.
[2] *Wanner-Brown v. Brown*, 312 P.3d 1106, 1107 n.1 (Alaska 2013).

tiers offered more employee-advantageous benefits.[3] Under all four tiers, employees make mandatory contributions that are paid to PERS, which are then matched by their employer pursuant to a statutory framework.[4]

However, it is important to note that not every individual receiving a paycheck from an PERS employer is eligible for PERS. To qualify, an individual must be a seasonal, permanent full-time, or permanent part-time employee that is making contributions to the plan. A temporary or non-permanent worker is not PERS-eligible, does not pay or earn contributions to the plan, and is not entitled to benefits.[5] Positions are classified by the employer as temporary, or another classification, and DRB retains authority to audit those classifications.[6] A temporary employee who subsequently attains PERS eligibility may receive retroactive "time-in-service" credit for prior, non-PERS-eligible temporary work.[7] However, this credit does not retroactively adjust the date of initial PERS eligibility, nor does it retroactively establish eligibility in a prior PERS tier.[8]

b. Factual Background

As a teenager, between 1983 and 1986, Ms. C worked part time for the City and Bureau of City A at the local swimming pool.[9] Then, from 1986 to 1991 and from 1996 to 1998 she worked for a few months a year as a data processing clerk for the Department of Revenue, Permanent Fund Dividend Division (PFDD).[10] As both positions were classified as "temporary" by her employers neither job was considered "PERS-eligible service."[11] Indeed, it appears that Ms. C did not contribute to the PERS system during her tenure in these positions between 1983 and 1998,[12] and neither party has suggested otherwise. Though some of the remaining records have been rendered illegible by the passage of time, the timecards Ms. C signed indicated she was assigned various position identifiers during her CBJ positions.[13] Similarly, the record contains

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[3] *See, e.g,* DRB, "Public Employees' Retirement System (PERS) Plan Comparison Chart," https://drb.alaska.gov/docs/materials/PERSTierChart.pdf.
[4] *See e.g.*, AS 39.35.170, AS 39.35.255.
[5] AS 39.35.680(1), (22); AS 39.25.200.
[6] The parties dispute the degree to which DRB can reclassify Ms. C's prior employment. Given this decision holds this case to be barred by the doctrine of laches, it is unnecessary to resolve that dispute here.
[7] AS 39.35.345(a).
[8] AS 39.35.345(d).
[9] At different places in the record Ms. C alternatively lists her first employment period as 1983 – 1986 or 1984 –1985. Which set of dates is correct is unimportant to the decision here. *Compare* R. 36 *with* R.44.
[10] R. 37. The record also suggests some very brief temporary service with ADFG in 1991 but contains no detail as to what that entailed. Ms. C does not plainly appear to be claiming that position was misclassified, but it would not change the analysis here even if she was. *See* R. 36.
[11] AS 39.35.680(1).
[12] Though it is important to note that Ms. C was employed in PERS-eligible positions during non-overlapping times in 1997 and 1998 as well, and did pay into PERS during those roles. *See* R. 57.
[13] *See, e.g.,* R. 98, 129, 135.

what appears to be the signature pages for two "termination" evaluations for Ms. C's annual PFDD positions.[14] Her lack of PERS contributions, changing position identifiers, and termination paperwork indicates Ms. C may have been aware of the temporary nature of her positions during her employment with CBJ and PFDD.

The temporary nature of her prior positions should have become even more apparent to Ms. C in 1997, when Ms. C was hired into a full-time PERS-eligible position by the State of Alaska. At that point she became a Tier III member of PERS.[15] That triggered—for the first time—Ms. C's PERS payroll contributions. This payroll activity would have alerted Ms. C that her post-1997 employment triggered benefit eligibility, and that her previous employment had been classified in a substantially different way.

Then, in 2005, Ms. C claimed PERS credited service based upon her PFDD employment. She raised no claim at that time based upon her 1980's CBJ employment.[16] This service claim demonstrates Ms. C had received guidance regarding PERS retirement planning and the implications of prior temporary work as it related to her PERS eligibility. Ms. C submitted two "Temporary Service Verification/Claims," verified she wanted to claim credit for her prior temporary service, and paid down her associated indebtedness based upon the fact that she had not contemporaneously paid into PERS during those years.[17] Having taken such steps, by 2005, Ms. C knew or should have known that her previous work was deemed to be temporary, non-PERS-eligible employment.

In August 2022, Ms. C appears, for the first time, to have formally disputed her PERS Tier status.[18] Ms. C sought retroactive PERS classification based upon a claim her 1986 – 1998 PFDD positions should have been classified as seasonal, which she contended established PERS Tier I eligibility.[19] This request was denied. Ms. C requested DRB's Deputy Director give her more time to make her case and appeal the decision.[20] In her request she contended that other similarly-situated former co-workers were seeking similar retroactive reclassification.[21] The Deputy Director did not grant any extension to build a case for appeal and, on September 30, 2022,

[14] R. 95, 96.
[15] R. 42.
[16] R. 78 – 89.
[17] *Id.*
[18] R. 75.
[19] *Id.*
[20] R. 71 – 76.
[21] R. 73.

instead directed her to other state agencies if she wanted to build a case she was improperly classified. Nothing in the record suggests Ms. C requested a hearing on the matter at that time.

c. Procedural Background

In 2025, Ms. C retired and applied for benefits.[22] Then she again submitted a request to DRB to retroactively reclassify her historical positions, this time requesting reclassification of both her CBJ and PFDD work. On September 5, 2025, DRB issued its final denial of Ms. C's second request for the reclassification of her prior positions.[23] Ms. C appealed that decision to the Office of Administrative Hearings, which began the instant case.[24]

On December 19, 2025, DRB sought summary adjudication in its favor. DRB argued that Ms. C's historical positions were appropriately classified as temporary pursuant to the relevant PERS statutes. Moreover, it asserted—as job designations are the sole responsibility of employers, not DRB—that DRB did not cause the injury Ms. C alleges, and that DRB is unable to provide the relief that she seeks. Accordingly, DRB asserted that Ms. C lacked standing to appeal, and argued she should seek redress directly from her former employers. Ms. C opposed, alleging there were numerous disputed issues of fact preventing any grant of summary adjudication and contending that she did have standing. Reviewing the evidence in the light most favorable to the Petitioner, the tribunal denied DRB's motion. The tribunal then set a schedule for prehearing briefs and a contested hearing.

At a prehearing conference on March 27, 2026, the undersigned identified various issues for the parties to focus on at hearing and in their written closings. One of those issues was the applicability of the doctrine of laches given prior decisions at OAH addressing laches in similar PERS contexts. In the following days, DRB filed an unopposed motion to vacate the hearing and complete dispositive briefing on the applicability of laches. That motion was granted and the parties agreed to simultaneous motion practice.

In its briefing, DRB asserted that laches requires the dismissal of Ms. C's request. DRB contended that Ms. C's decades-long delay in challenging her alleged misclassification was unreasonable and that litigation of the claim at this point would be prejudicial given the significant administrative and financial burdens DRB would suffer as a result of permitting such a stale claim to proceed. In contrast, Ms. C argued that disputed issues of material fact preclude

[22] R. 61.
[23] R. 4 – 5.
[24] R. 7.

summary dismissal. Ms. C claimed that the motion would thus not satisfy the requirements for a summary dismissal under the Alaska Rules of Civil Procedure, though she failed to articulate how specific civil procedure rules govern this administrative dispute. Ms. C also asserted that the complexity of the PERS system may mean that Ms. C only recently learned that she may have been misclassified, and that, because that delay may have been the result of DRB's complex regulations, DRB is estopped from using the defense of laches against Ms. C. She also claimed that the financial implications of reclassification are insufficient to prejudice DRB, and that DRB failed to identify specific evidence that has gone stale to support its claim of case-specific prejudice.

III. Discussion

a. Burden of Proof

Laches is an affirmative defense and here it is being brought by motion. The moving party and the proponent of an affirmative defense both have the burden of proof. That means DRB has the burden of proving by a preponderance of evidence that Ms. C's claim is barred by laches.

b. Historical Application of Laches in PERS Context

As the parties both acknowledge, laches is an equitable doctrine that applies when two elements are met: (1) Ms. C unreasonably delayed seeking relief, and (2) this delay has resulted in prejudice to the defendant.[25] Courts require specific findings on both elements, and mere passage of time or administrative inconvenience is insufficient.[26] The defense of laches has been raised in previous PERS litigation before OAH, and before OAH's predecessor in deciding these matters, the PERS Board:

In the Matter of B.A., an employee asserted that their service with the Department of Public Safety should have been classified as peace officer service—which would grant them more favorable benefits. The employee in that case had been in the position from 1986 to 1990 and requested the reclassification of their earned PERS service credit in 2005. The tribunal there analyzed the PERS Board's rationale in a previous case, *In the Matter of the Appeal of R.M.S.,*[27]

[25] *Corkery v. Mun. of Anchorage*, 426 P.3d 1078, 1084 (Alaska 2018).
[26] *Kollander v. Kollander*, 322 P.3d 897, 903 (Alaska 2014).
[27] DRB's brief cites directly to "*In the Matter of the Appeal of R.M.S.,* Decision 03-18 (PERS Board February 18, 1992)", a historical decision of the PERS Board heavily discussed in *B.A.* But DRB has provided no copy of the actual *R.M.S*. decision. Both DRB's and *B.A.*'s citations to the case appear flawed—with a quoted passage in *B.A*. discussing statutes enacted in 1997 in a case cited as supposedly being decided in 1992. Accordingly, it is impossible for the tribunal to determine precisely when the case is from and obtain a copy. Accordingly, as there is no meaningful way for this tribunal or Ms. C to confront or distinguish that case. It is mentioned here for historical context and how it informed the *B.A.* decision, but this Decision does not rest upon *R.M.S*. or regard that case as binding authority.

and found a party acted unreasonably for purposes of laches if they delayed assertion of their claim for a period exceeding the potentially applicable statutes of limitations unless they had a special justification.

B.A. held that the measurement of delay for laches in a reclassification dispute could begin at the time of employment when the petitioner was aware of their employment classification.[28] Applying this, it found that the petitioner's delay of at least fifteen years was unreasonable as it exceeded any potentially-applicable statute of limitations. Additionally, *B.A.* held the second prong of laches—prejudice—was established because belated reclassification would create an increased state liability for the duration of the petitioner's life and that the delay rendered the burden more acute than it would have been if the matter had been timely brought. *B.A.* also held that the passage of time eroded DRB's ability to produce evidence, further establishing prejudice.[29]

That case was followed by *In the Matter of K.M.*, which followed the logic of *B.A.* and found that the doctrine of laches barred another similar suit.[30] *K.M.* resolved litigation regarding an asserted 1984 classification error, which was litigated in 2010. Despite the petitioner's claim that they had long been actively pursuing a remedy, the tribunal in *K.M.* found that various actions taken by the petitioner prior to bringing the suit that led to that OAH hearing were insufficient to toll the laches clock. These actions included sending letters, accepting credits under protest, and trying to get answers from DRB or the petitioner's union. Accordingly, the tribunal found that the period of delay exceeded twenty-five years, finding that the delay exceeded any potentially-applicable statutes of limitation. In evaluating the reasonableness of the delay, the tribunal also considered the petitioner's busy schedule and attempts to rectify the issue prior to bringing the case. However, OAH determined that such excuses might possibly excuse a delay of a year or two but did not excuse a delay of twenty-five years.[31]

K.M. also followed *B.A.* in its examination of prejudice. *K.M.* concluded that belated retroactive reclassification would require an abrupt increase in financial liability to the retirement system. *K.M.* found that DRB could have prepared for that increase over the previous decades if the matter was raised timely, and that twenty-five years' worth of stale evidence, faded memories

[28] *In the Matter of B.A.*, OAH No. 06-0829-PER, 5 (Nov. 14, 2007), https://aws.state.ak.us/OAH/Decision/Display?rec=4982.
[29] *Id.*
[30] *In the Matter of K.M.*, OAH No. 09-0643-PER, (May 20, 2010), https://aws.state.ak.us/OAH/Decision/Display?rec=5013.
[31] *Id.*

and missing documents also precluded orderly litigation of the claim. It also found that permitting such a stale claim to proceed could have serious consequences on PERS and state employers by removing their ability to plan and budget by making retirement obligations unpredictable.[32]

In the instant case, the tribunal directed the parties to address OAH precedent on laches in the PERS context because of this matter's similarity to *B.A.* and *K.M.*[33] Ms. C dedicated a single paragraph to these authorities, claiming they were distinguishable, because those claimants were "aware of their PERS status throughout"[34] Yet, the evidence shows Ms. C also knew or should have known of her true PERS status throughout.

Ms. C also tries to claim that *B.A.* and *K.M*. are distinct because they involve disputes about reclassification within PERS and Ms. C's case is about being PERS eligible at all.[35] She does not explain why this means the decisions' frameworks are inapt. Indeed, it seems as if Ms. C's scenario of not being a PERS member at all provided her even clearer notice of her status than those petitioners received. Accordingly, this Decision finds that Ms. C's attempt to distinguish herself from these cases is unpersuasive. They guide the analysis here.

c. Analysis

i. Ms. C Delayed At Least Seventeen Years.

The first step of a laches analysis is determining the length of the delay; a step that requires identification of its beginning and end.[36] As Ms. C argues, "assessing when delay becomes unreasonable depends on when the claimant discovered or reasonably should have discovered the relevant facts."[37] Nonetheless, Ms. C argues that the delay must be measured from the point at which she subjectively realized that she had a cognizable legal claim regarding her misclassification. She then asserts that she only recently discovered this misclassification, contending that she lacked the specialized knowledge to contemporaneously grasp the magnitude of the error.[38] However, as Ms. C herself stated, the standard is not simply her subjective realization of her probable success in court, but rather, when she objectively knew or should have known the facts underlying the alleged injustice.[39]

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[32] *Id.*
[33] Prehearing Conference, March 27, 2026.
[34] Petitioner's Opp. to Motion to Dismiss at 14.
[35] *Id.*
[36] While in some cases this kind of analysis may call for precision, the timespans here are of significant length and will be spoken of generally as years.
[37] Petitioner's Opp. to Motion to Dismiss at 5.
[38] *Id.* at 8.
[39] Moreover, in Alaska, the right to benefits vests on employment, so her alleged injury did not merely occur when she retired, but occurred when she was hired decades ago *See, e.g., Metcalfe v. State*, 484 P.3d 93 (2021).

As the tribunal held in *B.A*., where the underlying issue in a case is whether an individual received the correct service credit and the individual knew or should have known the nature of the credit they were receiving, the time period of a laches analysis begins to run at the time the credit was or should have been received with each pay period.[40] This principle applies here. In the instant case, Ms. C claims she did not receive the appropriate retirement credit. In fact, she received no credit at all and she knew or should have known that. As for when precisely that became true, there are a range of potentially reasonable options reviewed below. Ms. C argues that a fact-finding hearing is necessary to determine the precise time at which it became true, however, the precise date is irrelevant here as no matter which of the reasonable options is selected, all of them result in a very significant delay.

Because Ms. C challenges various classification decisions by CBJ and PFDD that began in August 1983 and continued until 1998, Ms. C arguably knew or should have known she was classified as a temporary employee in each of her roles in the 1980s and 90s. This is because she signed forms and timesheets listing her positions were temporary, she continued her temporary employment for over a decade, and she never paid into PERS for that work.[41] As the Alaska Supreme Court has held, "[a]n aggrieved party must file suit promptly once it is clear the transgressor has committed to an irrevocable course of conduct […]" Here, there is no question that DRB and her employers clearly treated her position as temporary and had no intention of changing.[42] All evidence shows that Ms. C likely knew she was employed in a temporary position and did not object to that classification, particularly because she kept returning for more temporary work. It is thus reasonable under the standard set by *B.A*. and *K.M.* to consider the delay for each position to have begun when Ms. C received her final paychecks in each position. This would result in a range of dates at which each potential claim accrued from 1983 to 1998—roughly 27 to 42 years before this case was filed.

Ms. C does not claim she was unaware these were temporary non-PERS-eligible positions when she was employed. However, even if she did and even if that claim were to be credited by the tribunal, there can be no reasonable dispute that she was aware of the distinction between temporary and permanent employment by 2005, when she applied for temporary service credit for

[40] *ITMO B.A.,* OAH No. 06-0829-PER, at 5.
[41] *See, e.g.,* R. 95, 123.
[42] *Kollander v. Kollander*, 322 P.3d 897, 904 (Alaska 2014) (quoting *Kohl v. Legoullon*, 936 P.2d 514, 517 (Alaska 1997)).

her PFDD work.[43] While straining credulity somewhat, that represents the furthest bounds at which a reasonable person could be unaware their prior work was temporary and did not qualify for PERS.

As for when the period of delay ended, Ms. C first formally requested her temporary employment be reclassified in 2022.[44] DRB denied that request, and, instead of appealing, Ms. C waited until 2025 to petition DRB again.[45] When she brought this action after her 2025 request was again denied, she finally pursued her potential remedies in a manner that should stop the clock on laches based on the analysis of *K.M*. Ms. C's 2005 service credit application pre-dates the filing of the instant claim by almost twenty years. But, like above, whether this Decision settles upon 2022 or 2025 as the point at which the laches clock stops is irrelevant. Even stopping in 2022 and using the most generous of calculations, Ms. C's delay from knowing she was classified as temporary and bringing an action to challenge that classification still amounts to seventeen years.

ii. Ms. C's Delay Was Unreasonable.

Title 9, Chapter 10, of the Alaska Statutes includes various statutes of limitation.[46] Though some of them have changed since this cause of action arguably accrued over forty years ago, [47] no potentially applicable limit approaches seventeen years. In *B.A*., the tribunal determined a fifteen-year delay was unreasonable, arriving at that conclusion by finding the delay far exceeded potentially applicable statutes of limitation.[48] *K.M.* applied the same logic and similarly concluded that a twenty-five-year delay was unreasonable notwithstanding a petitioner's lack of time, high-pressure job, and confusion over which agency could remedy the petitioner's concerns.[49] No argument has been presented that the statutes of limitations examined in *B.A.* and *K.M.* differ from the relevant ones here.[50] Moreover, no party identified any relevant statute of

[43] *See, e.g.,* R. 78.
[44] R. 75
[45] R.51.
[46] These cover a broad range of years and subject matter. AS 09.10.070 limits claims for personal property and statutory liability to two years; AS 09.10.053 limits contract actions to three years; and AS 09.10.100 sets a statute of limitations on any action not specified to be limited to ten years.
[47] *See, e.g.,* AS 09.10.053 (as prior to 1997 contract actions could be brought within six years, instead of three.)
[48] *ITMO B.A.,* OAH No. 06-0829-PER, at 6.
[49] *ITMO K.M*., OAH No. 09-0643-PER at 10.
[50] *See, e.g., id*. ("Actions on many liabilities created by statute must be brought within two years. Before 1997, actions on contracts were required to be brought within six years of the time the cause accrued. After 1997, contract claims were required to be brought within three years of the time that the cause accrued.") (internal citations omitted).

limitations even approaching a seventeen-year delay. That is strong evidence that the delay was unreasonable.

However, a laches analysis requires more than mathematical comparison of statutes of limitations and a defense may be established where a justification for the delay is shown. Even so, Ms. C has provided no reasonable justifications for her delay which greatly exceeds any potential statutes of limitation. A teenager who fails to grasp the distinction between temporary and permanent employment or the implications of not paying into a retirement plan might be plausible, and could, in theory, bolster Ms. C's equitable argument. However, the tribunal's generous assumption of only a seventeen-year delay here already gives Ms. C decades from when her temporary work began. The laches clock thus only began here when she was taking affirmative steps regarding her retirement planning and knew how her prior temporary employment impacted that retirement. It is not reasonable to believe someone with over twenty years of temporary and permanent state employment, and who has received enough retirement guidance to be paying her indebtedness to claim credit for temporary service, is somehow unaware that her PFDD and CBJ positions were temporary and not PERS-eligible.

Ms. C advocates for a different analysis. She posits that, rather than measuring from the point at which she became aware of the fact she was classified as a temporary employee, the tribunal should measure the delay from when she determined her classification was legally flawed.[51] In making that argument she cites *Anderson v. Department of Administration, Division of Motor Vehicles*, as supporting the idea that the timeframe for laches begins at discovery of a legal issue instead of a factual error.[52]

Anderson applied laches to bar a motorist's claim that the Department of Motor Vehicles had mishandled his 1993 interstate motorcycle endorsement—a claim he did not pursue until 2017.[53] But Ms. C's reliance upon *Anderson* is unpersuasive for two reasons. First, *Anderson* merely generously credited the motorist's claim of ignorance regarding the fact he was not licensed to drive a motorcycle, while simultaneously citing reasons why that ignorance was unreasonable.[54] More importantly, however, the *Anderson* motorist asserted fifteen years of factual ignorance justified his delay—not fifteen years of ignorance that he might have a legal

[51] Petitioner's Opp. to Motion to Dismiss at 6.
[52] *Id*., at 6.
[53] *Anderson v. Dep't of Admin., Div. of Motor Vehicles*, 440 P.3d 217, 221 (Alaska 2019).
[54] *Id.* (stating that laches still applies even if the court assumes Anderson was unaware of something for fifteen years while simultaneously citing various cases holding regulated parties are expected to know the law and license requirements.)

claim. The motorist claimed he did not know the DMV failed to include his motorcycle endorsement on his license. The parallel situation here would not be—as Ms. C wishes it was—a party recently learning she had a colorable legal claim. Instead, the parallel would be Ms. C recently learning she was classified as a temporary employee. As discussed above, Ms. C does not make a reasonable claim that she was unaware her work at CBJ and PFDD was temporary. Thus, Ms. C's reliance upon *Anderson* fails. Ms. C cited no authority supporting her claim that her ignorance of the law justifies her delay.

Ms. C also attempts to defend her delay by arguing that DRB bears responsibility for it. Yet, it is not clear from her brief why she believes DRB bears responsibility for delay. Certainly, no affirmative agency misrepresentation or allegations of fraud or concealment are found in this record. Ms. C does not expressly argue otherwise.[55] Instead, it appears that Ms. C claims that, because DRB is responsible for PERS administration and regulations, the agency bears overall equitable responsibility for her subjective confusion. But Ms. C's argument is cut from whole cloth. She cites no legal authority supporting the idea that legal confusion might justify her delay. And, some of the cases she does cite, such as *Anderson*, support the opposite result: "[i]t is both just and accurate to presume that all reasonable drivers know and obey the law."[56] Moreover, a party's claim that they lacked the resources or expert help to more promptly litigate their claim is insufficient to defeat a laches defense.[57] Accordingly, if Ms. C is trying to claim her failure to solicit sufficient retirement guidance earlier in her career justifies her delay, that argument also fails. If ignorance, confusion and strained finances were all that were required to excuse a decades-long litigation delay, the affirmative defense of laches would be susceptible to at-will gutting in every case. Such a rule would encourage parties to deliberately remain ignorant of their legal rights and responsibilities and reward those who did so. That result is contrary to sound public policy.

Other than vague claims that the PERS system is complex, Ms. C has thus not made any attempt to show how a reasonable person who knew their job was classified as temporary and did not count towards retirement justifiably waited decades to pursue the contrary claim. Ms. C has long been on notice that her positions decades ago were temporary and did not establish PERS

[55] Even if the tribunal treats the Petitioner's claim of misclassification as an accusation of fraud, it is not a fraud on the part of DRB, but that of Ms. C's employers who are not parties here.
[56] *Anderson,* at 221 n.19 (Alaska 2019) (quoting *Ferrell v. Baxter*, 484 P.2d 250, 263 (Alaska 1971)).
[57] *City & Borough of Juneau v. Breck*, 706 P.2d 313, 316 (Alaska 1985) (holding a lack of petitioner knowledge or a petitioner doing the best they could under the circumstances did not necessarily justify a delay in a laches analysis).

eligibility. She signed forms and timesheets listing her various positions spanning over a decade were temporary, she investigated the impact of those temporary jobs on her retirement, and she signed an agreement and paid her indebtedness for that temporary service to be counted towards her retirement.[58] Ms. C's delay of (at least) seventeen years after her 2005 investigation of the impact of her temporary employment upon her retirement is not reasonable. The PERS system's purported complexity does not excuse such an egregious delay.

iii. The Delay Burdens DRB

The final factor in a laches analysis is prejudice.[59] The Alaska Supreme Court has found "where there is a long delay, a lesser degree of prejudice will be required."[60] Accordingly, as the delay here greatly exceeds the potential statutes of limitation without justification, there need not be a high showing of prejudice.

Prejudice can take many forms, and, in many laches disputes, prejudice is generally established by a showing of lost evidence and absent witnesses. Ms. C thus claims DRB failed to meet its burden to demonstrate prejudice because DRB allegedly maintains accurate historical records. Ms. C contends that DRB failed to identify specific witnesses or documents that have been lost in a manner that would impede a fair hearing. A laches prejudice analysis can indeed be reliant on nuanced facts about witnesses or documents needing a hearing to uncover. However, such a hearing is unnecessary here.[61] This is because prejudice to DRB is shown for a far simpler reason: cost.[62]

As Ms. C herself calculates in her instant appeal notice, this appeal would potentially increase her benefits by approximately $2,000 per month, decrease her medical expenditures by over $16,000 dollars, and delay cost of living adjustments until she turns 65.[63] Ms. C asserts without citation that the administrative burden of recalculation and awarding proper benefits is inherent to DRB's responsibilities as PERS administrator. However, the prejudice considered by a laches analysis is not from DRB having to complete a recalculation or pay the alleged appropriate

[58] *See, e.g.,* R. 86, 95, 123.
[59] *See e.g., Anderson*, at 221 (finding that decades-delayed litigation would prejudice the agency).
[60] *City & Borough of Juneau v. Breck,* at 317 n.16 (quoting *Pavlik v. State*, 637 P.2d 1045, 1048 (Alaska 1981)).
[61] That is not to say there is no evidence here of faded memories or lost evidence and witnesses, though. A hearing is not necessary to see that documents in the record have been rendered illegible*, see, e.g.*, R. 102, or to know that memories fade over the course of over forty years. There very easily could be more evidentiary issues here as well, it is just not necessary to explore them at hearing given the extant facts.
[62] *See* e.g., *City and Borough of Juneau v. Breck*, 706 P.2d 313, 316 (Alaska 1985) (finding a suit barred by laches where belated litigation would impose a substantial burden upon taxpayers).
[63] R. 8.

benefits at all, it stems from DRB having to complete a recalculation and set aside assets to fund benefits at least seventeen years later than would have been the case had Ms. C acted promptly.[64]

Just as in *B.A.*, reclassification here would result in an increased liability of the PERS system for the duration of Ms. C's life. Ms. C has already retired. She is already collecting retirement benefits. Therefore, any retroactive adjustment to her benefits would fall due immediately. If Ms. C had timely brought her claim DRB would have had more than a decade to ensure those benefits were funded—that loss of time to prepare is prejudice.[65] As *K.M.* held, while DRB might ultimately be entitled able to seek reimbursement from Ms. C's previous municipal employers, that does not eliminate the burden. The retroactive adjustment Ms. C demands would surely trigger a dispute—and perhaps litigation—between the PERS system and Ms. C's previous municipal employers. A stale audit is more difficult to complete and more susceptible to challenge.[66] These factors similarly establish prejudice. Combined, that prejudice is more than sufficient to meet the low bar for prejudice in a matter such as this with a very significant delay.[67]

IV. CONCLUSION

Laches bars Ms. C's suit here. Ms. C has been or should have been aware of all of the facts underlying her claim since at least 2005. She has failed to pursue relief for at least seventeen years. The delay here is unjustified and far exceeds any potential statute of limitation. Belated litigation of this claim unfairly prejudices DRB. Accordingly, the Motion to Dismiss is GRANTED.

DATED: May 21, 2026.

By: *Signed*
Garrison A. Todd
Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]

[64] *See ITMO B.A.*, OAH No. 06-0829-PER, at 4 (holding prejudice occurred when suit could result in sudden liability that could have been budgeted for long ago if suit had been timely brought).
[65] *Id.*
[66] *ITMO K.M.*, OAH No. 09-0643-PER, at 10.
[67] *See Pavlik v. State*, 637 P.2d 1045, 1048 (Alaska 1981) (holding a long delay required less prejudice to find laches barred suit).