

**ATTACHMENT C**

**RESPONDENT(S) ARGUMENT(S)**

1 THOMAS MANGALATHIL

2 [REDACTED]

3 [REDACTED]

4 In Pro per

5 RESPONDENTS' ARGUMENT

6 I. Introduction

7 Mr. Mangalathil suffers not only with physical but mental disability as well. On 8/9/2021,  
8 Mr. Mangalathil submitted disability retirement application, two years after he service retired.

9 On August 11, 2021, CALPERS denied application [*See attached Exb 26 A307 non-*  
10 *beneficial letter dated Aug 11, 2021*] stating that:

11 *We have determined, based on your age and years of service at retirement, the*  
12 *service retirement benefit is higher than the disability retirement benefit. Your estimated*  
13 *monthly service retirement benefit will be \$2,359.07. Your estimated monthly disability*  
14 *retirement benefit will be \$2,358.35.*

15 *Since there is no advantage to a disability retirement with CalPERS, you will*  
16 *continue to receive your service retirement benefit.*

17 *If you still wish to pursue disability retirement, please contact us within 30 days.*

18 Thomas reapplied for disability pension instead of service pension, which was again  
19 denied on Dec 24, 2021, by CALPERS stating that: *The evidence suggests you had knowledge of*  
20 *the application process and, therefore, we are unable to establish that a correctable mistake was*  
21 *made.*

22 As Board has power to correct the errors and omissions of any active or retired member,  
23 Mr. Mangalathil pleads to this board to exercise its discretion and upon any terms it deems just.

24 II. Dispute

25 The work history and disability are not a matter of dispute here. On 9/13/2019 and  
26 9/16/2019, CALPERS received a Physical Requirements of Occupation Title/Position form, job  
27 duty statement, and a Physician's Report on Disability dated 9/13/19 from Konrad NG, M.D.  
28 indicating that Thomas was substantially incapacitated on a permanent basis.

1 The real dispute is that Thomas wants disability pension, despite the Agencies calculation  
2 and difference of only 72 cents. *[Your estimated monthly service retirement benefit will be*  
3 *\$2,359.07. Your estimated monthly disability retirement benefit will be \$2,358.35.] [See attached*  
4 *Exb 26 A307 non-beneficial letter dated Aug 11, 2021.]*

5 Mr. Mangalathil received email on 10/11/2022 and was able to access evidence submitted  
6 by Calpers. The supplemental issues raised here is for Exb 3, Exb 15 and Exb16.

7 Customer Touch Point Report Exb 3 page 5, has notes from staff, which mentions  
8 mailing of letters on 08/11/2021:

9 *“closing application DR is not beneficial to member”*

10 *“the not beneficial letter mailed to the member”*

11 *CalPERS is ignoring the fact of wrong denial of disability pension on by this non-*  
12 *beneficial letter dated Aug 11, 2021 and ignoring the fact that Thomas still wants this Disability*  
13 *pension.*

14 Ignoring the previous timely application, by letter dated December 23, 2021, CalPERS  
15 refused to accept respondent's application for disability retirement, by stating that it was  
16 untimely.

17 **III. Statement Of Facts**

18 1. Mr. Thomas Mangalathil worked as a Psychiatric Technician at the California Medical  
19 Facility for about 19 years Mr. Mangalathil over the years was forced to push heavy  
20 medication carts, and he suffered low back pain in association with that work.

21 2. In addition to other previous injuries,

22 a. on 08/15/2017, he fell from a chair which rolled on castors, experiencing notable  
23 back pain.

24 b. on 08/23/2017, during work activities pushing medication cart, his back pain  
25 became so severe that he needed to seek medical attention.

26 3. These injuries necessitated his excuse from work, and he was later declared unfit to  
27 resume duties.

- 1 4. Mr. Mangalathil was informed he may file for service retirement. He has about 19 years  
2 of service.
- 3 5. He was informed that a disability retirement case is a process that takes time to get a  
4 decision. It may get denied, then he needs to appeal and that may take months.
- 5 6. In 2019, before his retirement, he came to the CALPERS Regional office, and He asked  
6 the option.
- 7 7. CALPERS informed him he can file for Service Retirement and collect my service  
8 retirement money and gather all the documents, then file for Disability retirement  
9 Election Application.
- 10 8. CALPERS told him he can file any time.
- 11 9. Filing by himself was very overwhelming and stressful and may cause a lot of money so I  
12 decided to file himself.
- 13 10. The pandemic Covid-19 and my mental and emotional status was affected my memory  
14 was also affected due to the Trauma.
- 15 11. On September 3,2019 I called the CalPERS office and requested a copy of the booklet.  
16 Few days later I received the book.
- 17 12. On September 5, 2019, I applied for service retirement allowance estimate request for  
18 service retirement and disability retirement at CalPERS.
- 19 13. On September 9,2019 CalPERS acknowledged the receipt of service retirement  
20 application and informed I am entitled to a disability retirement.
  - 21 a. CalPERS staff informed about the delay in receiving the disability retirement  
22 application and its lengthy submitting procedure.
  - 23 b. I was not well informed, and I didn't get any help from anybody like the  
24 workmen's Lawyer or union rep.
  - 25 c. I followed instructions of CalPERS staff in filing and filing application.
  - 26 d. CalPERS staff never informed me that Disability retirement application  
27 submission have a deadline.
  - 28 e. CalPERS staff told me I can file any time.

1 14. On Sept 9, 2019, I am retired for service retirement, effective August 14,2019.

2 15. CalPERS may have received documents directly from my employer, or I collected from  
3 my employer and send to them, but I didn't recall [due to my current mental health and  
4 disability.]

5 16. I don't recall receiving any disability retirement estimates. CalPERS staff did not inform  
6 that Dis ability retirement application submission is Time sensitive process.

7 17. I was Gathering the required documents from different agencies and offices. I asked for  
8 another copy, because I overwrote on that application.

9 a. Covid-19 affected me and my family.

10 18. I may have called CalPERS on mentioned dates.

11 a. The pandemic Covid-19 and my mental and emotional status was affected my  
12 memory was also affected due to the Trauma.

13 b. They clarified some of my doubt.

14 c. Probably on June 18,2021 or July 8,2021 One of the CalPERS staff told me that I  
15 am late to file the application.

16 d. Staff also informed about a provision to file late.

17 e. I rushed to gather the documents

18 f. Due to Covid Protocol it took more time to gather the required documents.

19 19. On August 9,2021, I submitted the application for disability retirement dated July 30th,  
20 2021. In filing the application, disability was claimed on the basis of lower back, spine  
21 and psychological conditions.

22 Mr. Mangalathil received email on 10/11/2022 and was able to access evidence submitted  
23 by Calpers. The supplemental issues raised here is for Exb 3, Exb 15 and Exb16.

24 Customer Touch Point Report Exb 3 page 5, has notes from staff, which mentions  
25 mailing of letters on 08/11/2021:

26 *“closing application DR is not beneficial to member”*

27 *“the not beneficial letter mailed to the member”*

1  
2 **IV. Mr. Mangalathil is disabled**

3 Section 22126, defines disability as

4 *"any medically determinable physical or mental impairment that is permanent or*  
5 *that can be expected to last continuously for at least 12 months, measured from*  
6 *the onset of the disability, but no earlier than the day following the last day of*  
7 *actual performance of service that prevents a member from performing the*  
8 *member's usual duties for the member's employer, the member's usual duties for*  
9 *the member's employer with reasonable modifications, or the duties of a*  
10 *comparable level position for which the member is qualified or can become*  
11 *qualified within a reasonable period of time by education, training, or*  
12 *experience."*

13 CALPERS received a Physical Requirements of Occupation Title/Position form, job duty  
14 statement, and a Physician's Report on Disability dated 9/13/19 from Konrad NG, M.D.  
15 indicating you were substantially incapacitated on a permanent basis.

16 Therefore, here Mr. Mangalathil is a disabled person.

17 **V. Medical Qualifications for Disability Retirement**

18 If the member cannot substantially perform the duties of the position, then he or she is  
19 disabled for CalPERS retirement purposes; otherwise, the member is not disabled. A CalPERS  
20 disability retirement must be based upon an actual and present (not prospective) inability to  
21 substantially perform the member's actual and usual job duties. Furthermore, prophylactic  
22 restrictions are not a basis for a disability retirement. If a disability is not currently present but  
23 just may occur in the future, the member is presently ineligible for a CalPERS disability  
24 retirement.

25 Here Mr. Mangalathil who suffers with physical and mental disability is eligible for  
26 CalPERS disability retirement.

1 Here, CALPERS ignored all the substantial evidence presented by Mr. Thomas, which is  
2 relevant, reasonable, and credible evidence. Evidence that a reasonable disabled person might  
3 present.

4 **VI. COVID-19 Pandemic**

5 The pandemic Covid-19 and my mental and emotional status was affected my memory  
6 was also affected due to the Trauma.

7 In a short period of time, COVID-19 rapidly spread throughout California, necessitating  
8 updated and more stringent guidance from federal, state, and local public health official.

9 On March 4, 2020, California Governor proclaimed a State of Emergency to exist in  
10 California as a result of the threat of COVID-19 [ Executive Order N-33-20.]  
11 <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>

12 Due to COVID restrictions, safety protocols, CDC guidelines, of people to keep safe  
13 distances from one another, to reduce the number of infections and ease the strain on  
14 overwhelmed local health systems, Thomas was not able to file this application on time.

15 **VII. Conclusion**

16 Thomas requests this Board of Administration California Public Employees' Retirement  
17 System, to uses its inherent powers and kindly condone the delay.

18 *[Your estimated monthly service retirement benefit will be \$2,359.07. Your estimated*  
19 *monthly disability retirement benefit will be \$2,358.35.] [See attached Exb 26 A307 non-*  
20 *beneficial letter dated Aug 11, 2021.]*

21 Even if both calculations are same, Thomas would still prefer to receive disabled pension.  
22 Thomas may be able to receive other benefits once Thomas is declared a disabled person by  
23 CalPERS

24 Thomas requests this Board of Administration California Public Employees' Retirement  
25 System, to uses its inherent powers and kindly approve the disabled pension.

26 Submitted.



27  
28 Thomas Mangalathil



A307

California Public Employees' Retirement System  
Retirement Benefits Services Division  
P.O. Box 942711 Sacramento, CA 94229-2711 | Fax: (916) 795-0385  
888 CalPERS (or 888-225-7377) | TTY: (877) 249-7442 | [www.calpers.ca.gov](http://www.calpers.ca.gov)

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Thomas J Mangalathil



August 11, 2021

Reply To: 422

Refer To: 

Dear Thomas J Mangalathil,

We have received your disability retirement application with an effective date of August 14, 2019. After careful review, we have determined CalPERS would provide no additional monetary, tax or health vesting benefit if you were approved for disability retirement.

We have determined, based on your age and years of service at retirement, the service retirement benefit is higher than the disability retirement benefit. Your estimated monthly service retirement benefit will be \$2,359.07. Your estimated monthly disability retirement benefit will be \$2,358.35.

There is no tax advantage to receiving a non-industrial disability retirement. The only "tax exempt" pension that we report to the tax authorities is the industrial disability retirement benefit, which applies to safety category employees, such as police and firefighters, where the job itself requires risk to their personal safety. We report all non-industrial disability retirement income as ordinary income.

Since there is no advantage to a disability retirement with CalPERS, you will continue to receive your service retirement benefit.

If you still wish to pursue disability retirement, please contact us within 30 days. You may visit our website at [www.calpers.ca.gov](http://www.calpers.ca.gov), or you may call us toll free at **888 CalPERS** (or **888-225-7377**).

Disability Retirement & Estimates Processing Unit