

ATTACHMENT C
RESPONDENT(S) ARGUMENT(S)

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TO: CHEREE SWEDENSKY,
ASSISTANT, CALPERS EXECUTIVE FROM: STACEY ALLEN
FAX OFFICE
NUMBER: 916-795-3972 SENDER'S PHONE #: 530 312-1237
DATE: 2-5-13 # OF PAGES: 4

CUSTOMER'S NOTES:
RESPONDENTS ARGUMENT IN THE MATTER
OF APPEAL FOR STACEY ALLEN

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CUSTOMER SIGNATURE (REQUIRED):

Stacey Allen

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RESPONDENT'S ARGUMENT

Please accept this as my written argument to the Proposed Decision concerning the Matter of Appeal in the Disability Retirement of Stacey Allen.

First at hand, I would like to extend my sincere apology to the court for my non attendance at the court hearing. It was never my intention to miss such an important date and I in no way take the court's time for granted.

Going forward, I would like to explain in my own words, the continued medical problems that have reduced my ability to continue my current employment with the Department of Motor Vehicles. My original injury was sustained on September 09, 2005. I followed doctors orders and completed physical therapy. There was no improvement in my shoulder movement. The doctor at that time suggested surgery as an alternative to help relieve the constant pain and the ever increasing lack of range of motion.

Unfortunately, in October of 2005, my husband was involved in roll over car accident, which rendered him a quadriplegic. Needless to say all my time and attention was placed on him and his extremely critical circumstances. He remained hospitalized until 2009 and passed away January 2011.

I did undergo surgery on my right shoulder. The effects of this surgery have left me with a severely frozen shoulder. My range of motion is extremely limited. I have completed all the therapy that was recommended, including acupuncture, to no relief.

I returned to work in 2011 as a matter of financial necessity. My doctor increased the amount of pain medication that I took daily to help relieve the mounting pain and the increased swelling in my shoulder. I continued to work for the next year under doctor's supervision.

I was allowed to have an evaluation of my workstation and was fitted with a chair, a special mouse, a document holder and a foot rest. I was measured and my station was setup to my specific needs.

Unfortunately, my current office manager, Ms. Brenda Bourassa, was absolutely unwilling to allow me to continue to use the same station that was set up for me. Even after providing the management with two prescription notices that my station should remain in the same place that the initial evaluation was done and set up. She continued to make me move stations, I was responsible to move all my own equipment which included crawling on the floor to plug and unplug my equipment.

The unrelenting nature of the office manager required that I move my station so as not to be reported as insubordinate.

The increasing pressure on me at work and the ever continuous pain in my right arm prompted me to go forward with the Ulnar Nerve surgery, from which I am currently recuperating.

I am unsure at this time if this surgery was in fact successful.

I do believe that it is impossible to do my job utilizing only my left arm for reaching, pushing and pulling. The mere setup of the DMV counter makes this not alternative. It would be ridiculous to presume that this would be any type of alternative to the current situation.

I implore the court to use rational in regards to this. I respectfully ask the court to imagine losing the use of your dominate hand, arm, shoulder and providing the same quality of service. It is ridiculous to believe that this would be a practical solution to this matter.

I would further like the court to know that this type of disability also has an effect on the mental psyche. I have been receiving treatment for this as well. I have been prescribed pain pills and mood enhancing drugs, as well as medication for severe anxiety, all which have there own effects on memory and the mind, as well.

As the mounting pressure from region to service our customers quickly and efficiently builds, so does the pressure from our management on us. I fully believe that if I return to my previous position with the lack of physical and mental ability that I now have, that I will be written up and eventually excused from my position for my inability to be the good technician I once was.

With all do respect to Dr. Fisher and his opinion, it is just that, his opinion. The court has been provided with multitudes of reports from my doctors who treated me on a continuous basis.

Dr. Fisher is a paid consultant and his purpose is to disallow claims. I have been seriously injured for 8 years and have seen my medical professionals numerous times, whereas Dr. Fisher spoke with me briefly once.

At this point of closing, I would like the court to know that the fact of being unable to support myself from a job that I took so much satisfaction in and was truly exceptional at, ways very heavily on my mind.

I am asking the court to please use their full rationale and allow my retirement from the state as I have physically and mental given all I have to give.

Sincerely,

A handwritten signature in black ink that reads "Stacey L. Allen". The signature is written in a cursive, flowing style.

Stacey L. Allen.



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CalPERS Board Unit

Ref No. 2010-0556

December 31, 2012

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Stacey Allen

SUBJECT: In the Matter of the Appeal of the Disability Retirement of STACEY ALLEN, Respondent, and CALIFORNIA DEPARTMENT OF MOTOR VEHICLES, Respondent

Dear Ms. Allen:

This is to forward a photocopy of the Proposed Decision of the Administrative Law Judge in the above-named matter. In accordance with the Administrative Procedure Act, it has no force or effect until the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) takes formal action to either adopt it, remand it, or decline to adopt it in favor of its own decision.

Your appeal has been calendared for consideration by the Board at its regular meeting on February 21, 2013. **Although oral argument is not allowed, the parties may submit written argument for or against the Proposed Decision.**

As part of this argument, you may also ask the Board to designate the decision as **precedent**, in whole or in part, if it is adopted. The purpose of designating precedent is to provide guidance to the Board and other parties in future appeals, where the disputed law and issues are the same. This designation has no effect on the binding outcome of your appeal. CalPERS staff routinely submits written argument, and may make this same request of the Board. Or, the Board may choose to designate a given decision as precedent, on its own motion. For this reason, although you are not required to take a position, if you have a preference against precedential status you should explain why in your written argument to the Board.

In deciding whether to designate precedent, the Board will always consider: *Does the decision contain a significant legal or policy determination of general application that is likely to recur? Does it include a clear and complete analysis of the issues in sufficient detail so that interested parties can understand why the findings of fact were made, and how the law was applied?*