

ATTACHMENT C
RESPONDENT(S) ARGUMENT(S)

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November 5, 2013

VIA FACSIMILE AND REGULAR U.S. MAIL

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Cheree Swedensky
Assistant to the Board
CalPERS Executive Office
P.O. Box 942701
Sacramento, CA 94229-2701



Re: In the Matter of the Application for Disability Retirement of Marc Blackman

Ms. Swedensky:

We are in receipt of the Proposed Decision and will be filing no objections thereto.

If you have any questions, please contact me at (760) 451-7377.

Very Truly Yours,

A handwritten signature in black ink that reads "Jane Oatman". The signature is fluid and cursive, with the first name "Jane" and last name "Oatman" clearly visible.

Jane H. Oatman

JHO/rr

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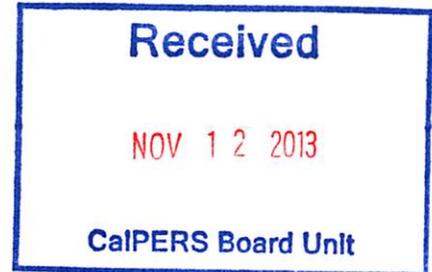
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November 6, 2013

EMPLOYER STATEMENT

VIA FAX AND U.S. MAIL

Cheree Swedensky, Assistant to the Board
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Re: In the Matter of Accepting the Application for Disability Retirement of MARC BLACKMAN, Respondent – OAH No. 2012080111 – Agency No. 2011 1014

Dear Ms. Swedensky:

Respondent Blackman's former employer, Los Angeles County Sanitation District No. 2, was not advised that Blackman had filed for disability retirement until long after his separation from the District, and therefore has taken no position on the propriety of his application or, consequently, whether the pending appeal should be granted or denied, or whether the Board should adopt the proposed decision, remand it, or decline to adopt it in favor of its own decision.

The District does, however, oppose designating the decision as precedent, because it is based on incomplete and inaccurate facts. The District did not enter a formal appearance at the hearing, or present any argument or evidence that could have altered the Judge's findings, such as the signed return receipt showing that Blackman in fact received notice of his termination. Counsel was present merely to facilitate the attendance of the particular District-affiliated witnesses who were subpoenaed by Respondent Blackman to testify. The administrative law judge was presented with only a partial picture of Blackman's employment, and based his findings on that incomplete picture.

The District also opposes designating the decision as precedent because it does not contain a significant legal policy determination of general application that is likely to recur, and does not include a sufficiently clear and complete analysis of the issues, even if the proposed factual findings were accurate, which they are not.

Very truly yours,

A handwritten signature in black ink, appearing to be "Adam L. Johnson", written over a horizontal line.

Adam L. Johnson
for MUSICK, PEELER & GARRETT LLP

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