

**ATTACHMENT C**  
**RESPONDENT'S ARGUMENT**

ATTACHMENT C

Eugene L. Blanck, Jr.  
370 Weymouth St.  
Cambria, CA 93428

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

February 6, 2014

Dear Ms. Swedensky,

Following is the correspondence received from CalPERS legal office and the "Respondent's Argument", as requested, without identifying information.

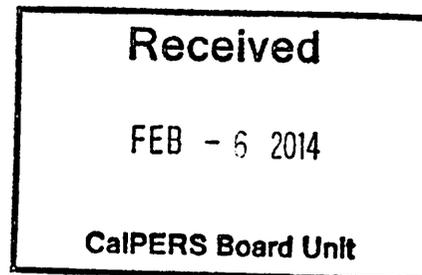
This correspondence is regarding Case No. 2010-0359 and OAH Case No. 2013010376.

Following this page are the 2 page December 10, 2013 CalPERS letter and the 1 page "Respondent's Argument".

Sincerely,



Eugene L. Blanck, Jr.





California Public Employees' Retirement System  
Legal Office  
P.O. Box 942707  
Sacramento, CA 94229-2707  
TTY: (877) 249-7442  
(916) 795-3675 phone • (916) 795-3659 fax  
www.calpers.ca.gov

Ref No. 2010-0359

December 10, 2013

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

Eugene L. Blanck, Jr.  
370 Weymouth Street  
Cambria, CA 93428

**SUBJECT: In the Matter of the Application for Disability Retirement of  
EUGENE L. BLANCK, JR., Respondent and WATER  
RESOURCES CONTROL BOARD, Respondent.**

Dear Mr. Blanck:

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 20, 2014. **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?*

Eugene L. Blanck, Jr.  
December 10, 2013  
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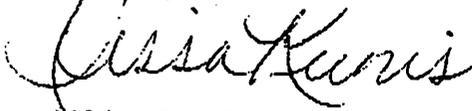
All precedential decisions will be published with a cumulative index, and made available free of charge on the CalPERS website (<http://www.calpers.ca.gov>). They will also be available in "hard copy" upon written request to this office. Any precedential decision may be de-published at the request of an interested party, after an opportunity for public comment and at the sole discretion of the Board.

**Your written argument should be no longer than six pages, and must be received by CalPERS no later than February 7, 2014.** Please note, even if you miss this deadline the Board will still act on the Proposed Decision. All written argument will be included in the agenda item, and mailed simultaneously to the Board and all parties. Your argument will not be disclosed to the attorney assigned to this matter until then. Please redact personal information, as Respondent Arguments become a public document when included in the agenda item. **As mentioned earlier, parties will not be allowed to orally respond to the Board on the merits of written argument.** Please title your submission as "Respondent's Argument" and send it to:

Cheree Swedensky, Assistant to the Board  
CalPERS Executive Office  
P.O. Box 942701  
Sacramento, CA 94229-2701  
FAX: (916) 795-3972

If you have any questions about this procedure, you may contact Rory J. Coffey, Senior Staff Attorney, at (916) 795-3938.

Sincerely,



LISSA KUNIS  
Legal Office

Enclosure

cc: Water Resources Control Board

### RESPONDENT'S ARGUMENT

The CalPERS member in this case continues to be bedridden and on antibiotics for most of the last decade and is too ill to make a complete submission for the Board. Since the Administrative hearing, this CalPERS member has been diagnosed with adrenal failure and has suffered with swine flu since the Saturday after Thanksgiving.

The Administrative Law Judge's decision was based on a misinterpretation of a statement in Dr. Dobbs written report.

The CalPERS member was denied complete medical records from CalPERS (i.e., Physician's Reports of Disability) even though they were requested in writing at least twice and three additional times verbally.

The CalPERS member was entrapped into the process of applying for and pursuing a Disability Retirement based on inconsistent and conflicting information about the potential benefits of the process provided by the retirement advisor and the attorney representing CalPERS in the Administrative Hearing. The member now has been informed of the apparent institutionalized age discrimination of 1.8 percent at 55 for a disability retirement being less than the 2 percent at 55 he received when forced by illness to retire at 55.