

ATTACHMENT C
RESPONDENT'S ARGUMENT

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8 BOARD OF ADMINISTRATION
9 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

10
11 Walter G. Howell

CASE : 9197

12 Employee/ Retiree

RESPONDENT'S ARGUMENT

13 vs.

DATE: 2/20/14

14 CalPers
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17 On behalf of Employee/Retiree/Claimant, Walter G. Howell, this counsel would urge the
18 Board to revise the Proposed Decision.

19 If there is a Nine Month Rule requiring retirees to apply for CalPers disability retirement
20 within the last day of employment, it is reasonable that the Nine Month Rule be set forth in the
21 printed information given to or available to retiree/employees.

22 The burden to CalPers to do so does not outweigh the right of the employee to have
23 information about his/her wages and benefits. A simple sentence, such as "If you do not apply
24 for disability retirement within 9 months of your last day of work, your start date of retirement
25 benefits will coincide with your application date and NOT your last date worked." would
26 suffice. It is not difficult to add to the web site. Adding it to print materials can be done over
27 time as print materials need to be replaced.

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1 The benefit is to give clear guidance to employees, and employERS for that matter.
2 When there is a disability affecting the person's ability to work, there are many competing
3 processes happening at the same time. There are doctor appointments, doctor evaluations,
4 possibly workers compensation proceedings, EDD/SDI considerations, Federal Social Security
5 considerations, possible wrongful termination actions, and other unknown factors. Often, the
6 employee, as well as the employer, are waiting on decisions from other persons or entities.

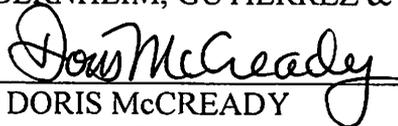
7 The Administrative Law Judge in this case, finds that the "reasonable person" standard
8 would include an immediate inquiry to CalPers by the injured/disabled employee. In fact, there
9 is no requirement that the inquiry be immediate; the only time rule that is crucial is the 9 Month
10 Rule. Further, there is no proof that the staff of CalPers would adequately inform the injured /
11 disabled party of the 9 Month Rule if the employee did not specifically ask, and there is no
12 reason to assert that all people should know to call CalPers within 9 months. A reasonable
13 person could believe that CalPers is available at any time.

14 Mr. Howell simply requests that the information in the CalPers pamphlet(s) and website
15 be changed to clearly inform all interested persons of the Nine Month Rule.

16 We do not request that the decision be designated as precedent.

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Dated: Feb. 3, 2014

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