

**ATTACHMENT C**

**RESPONDENT'S ARGUMENT REGARDING THE  
PETITION FOR RECONSIDERATION**

## ATTACHMENT C

Respondent's Argument

April 30, 2014

Cheree Swedensky, Assistant to the Board  
Executive Office  
California Public employees' Retirement System  
P.O. 942701  
Sacramento, CA 94229-2701

Ref No. 9703

Dear Members of the Board's Decision,

Thank you for reviewing my case.

My name is Maria Rosa Rivera. On August 10, 2005, I was employed with the Los Angeles Unified School District as a special education assistant and worked with children with autism. When I was ready to start class and sit down, one of the children pulled out my chair from under me. I fell and hit my bottom, back, and the back of the head on the floor. My head was spinning and everything went black. I was unable to walk for a few months. I was eating and taking analgesics for the pain, and laying down. This is when I developed the diabetes. My diabetes is not genetic because my mother is 86 years old and has no signs of diabetes.

When I wrote the report, I made the mistake of not writing about my neck problems and pain that occurred in the aforementioned situation. During my visits after the accident with Dr. Puri, I notified him about my neck pain. I worked on and off with neck and back pain for three years.

In February of 2008, I was ordered to help in Physical Education class. The pain in my lower back and neck became more intense. My head hurt when I would bend my neck as well as during simple activities such as reading. I tried ignoring the pain because I love my job and the sacrifice seemed worth it, so I could continue working with children.

On March 29, 2008, as I was supervising the students on the playground, a student came running towards me and hugged me tightly, wrapping his arms around my waist and his legs around my calves. He put all of his weight on me and he continued to cling on me. This event exacerbated the pain that had resulted from August of 2005. This student has hugged the assistant principal in a similar manner on other occasions.

On September 1, 2008, the student who I worked with one-to-one entered the third grade classroom which is located on the second floor of the school. I asked the principal to give me a key to access the elevator, so I could avoid using the stairs because the daily climb caused me great pain and discomfort. The principal refused to give me an elevator key and said, "I only have two elevator keys, one for the main office and the other for the new assistant principal". My condition worsened and I felt very ill with the daily strain on my body.

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I went to Emergency with Dr. Scott, and she gave me many restrictions: "no lifting more than five pounds, no pushing, no pulling, will sit, stand, or walk at will, and avoid climbing stairs". I told Dr. Scott that I felt great pain, and she told me to take Vicodin, take a few days off, and then continue going to work. I asked her how I could drive since Vicodin is a strong medicine which causes dizziness and affects you while operating a car. She advised that I take Tylenol during the day and Vicodin at night. I did what I was told and went to work. However, the principal saw all the restrictions that my doctor had placed on me and she told me to go home.

Since Dr. Scott never listened to my complaints of neck pain, I never received medical attention for this problem. On February 23, 2010, I went to the Emergency room and the doctors found something wrong with my neck: cervical disc bulges and disc protrusions.

On top of everything I now have ulcerative colitis and my heart arrhythmias has returned, which had been treated by a mechanical heart valve implant on March 28, 1997. I had been told that this surgery would fix the arrhythmias for 30 years. Unfortunately, the pain, heightened blood pressure, and high blood sugar levels have caused the arrhythmias to return. It has only been 17 years since I had the open heart surgery for the valve implant. Any pain I have elevates my blood sugars.

When I have the arrhythmias, I feel very weak and I cannot even open my eyes. Sometimes I stay in bed for more than one day because of the additional pain I have. I am currently taking many medications for my health problems, including Flexeril for spasm. How could I have returned to work with all these problems?

A CT scan of lumbar spine on November 16, 2007 revealed: Spondylosis at L5/S1, and small disc protrusions at L3/L4 and L4/L5. The report further reads "the patient was made P&S on September 11, 2006 by Dr. Peter Newton for lumbar strain, L5/S1 spondylosis and small disc protrusions at the L3/L4 and L4/L5 levels with intermittent radiculopathy".

Dr. Alfonso on October 15, 2008 diagnosed me with depression and prescribed Celexa. I was diagnosed with Ulcerative Colitis in November 2009.

On September 2008, I started with the ulcer problems. This resulted from an event with the principal, Mrs. Thibodeau, at my school. When I went into the school office in August 2008 to check in, she was rude and humiliated me in front of all my co-workers. This is when the symptoms of hematochezia (rectal bleeding) began due to the stress and anxiety. In November of 2009 I started taking Asacol due to the continued stress of this event. I was also diagnosed with ulcerative colitis due to stress.

The last date I worked was 9-4-08 because the principal was unable to accommodate my permanent work restrictions which were no lifting more than 5 pounds, no pushing, pulling, bending or twisting.

On February 23, 2010 I went to the emergency room at Kaiser. I was dizzy and my tongue was numb and I had neck pain. They did a CT scan Cervical Spine without contrast. This is what the files states they found: There are disc bulges without large epidural mass or hematoma at the L2-3 and L3-4 levels, there

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are mild disc bulges at C4-5, the disc bulge is mildly eccentric to the left suggesting a small disc protrusion.

On April 4, 2006, I told Dr. Peter Newton about the pain in my neck and head. The pain radiates to my upper back and scapular area, sharp pain in my head while reading or repetitive motions increase the pain. I also told him about the pain in my lower back and pain and numbness in my legs.

On June 9, 2006, I had a pelvic ultrasound exam. My gynecologist, Dr. Medders told me that I have a couple of uterine fibroids partially calcified in size range of 3.1 cm, 3 cm and 3.2 cm. He told me not to worry and I told him they do not bother me.

In December of 2009 and continuing into 2010 I was very depressed and considered suicide 3 times. On March or April of 2010 I had an appointment with my gynecologist and I was very upset and crying. I told him that I did not want to live and he made me promise that I was going to seek help and counseling.

Most recently I went to see a CalPERS doctor. I am attaching page 17 of his report which again states my limitations and restrictions. Although Dr. Bleeker and Dr. More say that I do not have disabilities, there are ex-rays and scans of my spine to say differently.

My update is that I still have pain. I have to be careful in the way I walk and the way I lay down to sleep because every movement hurts and my entire body hurts. If my body is not in pain, then I am feeling numbness in my right arms and hand as well as my right and left leg. I also suffer from depression that leaves me feeling sad and feeling that sometimes my life has no value especially since I am unable to do so many things I use to enjoy.

Because I am unable to get Cortizone shots for pain due to my heart condition and other medications I take, I have to learn to live with this pain. I pray, meditate and my husband gives me back massages every other day. I use hot and cold compresses and I am taking Flexeril for spasm, Lisinapril for blood pressure, digoxin for the heart, Atovastatin for cholestreral, Maxide diuretic Glipizide and metformin for diabetes, Liada for ulcers, Citolopram for depression and Warfarin blood thinner. Dr. Daniel Capen told me that I cannot have back surgery because of my heart condition. I have had 2 open heart surgeries; one comisurotomy; one double balloon valvulo plastic surgery, and one mechanical heart valve implant.

Dr. Alfonso told me that I cannot have injections for pain in my back because the anticoagulant that I am taking. That is why I have to learn to live with the pain.

The insurance refused to give me more aquatic physical therapy. The last time I was provided this therapy was January 26, 2012. This therapy was assisting me with lowering my blood sugar because I was getting physical exercise which was less straining. Any other type of physical exercise including walking caused me great pain. The pain is worse when I try to do chores around my house. The pain has also affected my marriage because I cannot be intimate with my husband.

As stated before the pain is constantly there and has affect my life greatly no matter where I am or what time it is.

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I have paperwork related to this case that I sent to the social security office in 2010. As a matter of fact, they were the ones who granted me disability insurance.

I was hired with the Los Angeles School District on October 29, 1986, and as stated in their letter dated May 22, 2008 I am eligible to retire with District paid-benefits "Anytime".

I am including two attachments with this letter: 1) Physician's Documentation and 2) Page 17 from Dr. Perelman files.

Once again Members of the Board's Decision, thank you for your time and attention to this matter.

Respectfully,

A handwritten signature in cursive script that reads "Maria Rosa Rivera". The signature is written in black ink and is positioned below the word "Respectfully,".

From: Dr. Ronald B. Perelman  
October 29, 2013

Reference No. 9703

RIVERA, Maria  
August 12, 2013

Page 17  
ACCT#:

Objectively, there are findings in my physical examination.

**WORK RESTRICTIONS AND/OR LOSS OF PREINJURY CAPACITY:**

She is precluded from very heavy work ( no lifting greater than 20 pounds).

**FUTURE MEDICAL CARE:**

Ms. Rivera should have access to orthopaedic re-evaluations and physical therapy or chiropractic and acupuncture, 2-3 times a year for 4-6 weeks, per MTUS. No injections and no surgery.

**APPORTIONMENT:**

In accordance with SB899 and Labor Codes 4663/4664, 90 percent of the patient's cervical and lumbar spine permanent disability/permanent medical impairment was caused by injury arising out of and occurring in the course of her employment with Los Angeles Unified School District and ten percent is apportioned to pre-existing degenerative changes.

I find no other basis for apportionment.

**VOCATIONAL REHABILITATION:**

If the patient is unable to return to work with the above restrictions, she would be eligible for Supplemental Job Displacement Allowance.

**AMA PERMANENT MEDICAL IMPAIRMENT**

Rivera Maria Reference No. 9703

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SECTION C  
PHYSICIAN'S DOCUMENTATION

PHYSICIAN'S STATEMENT

PHYSICIAN'S NAME: JOCELYNE TURNICIL MEDICAL LICENSE NO: 652670  
TITLE: Cardiologist SPECIALITY: Cardiology  
TELEPHONE: 818: 719-3560 FAX: \_\_\_\_\_  
ADDRESS: 7601 Desha Ave, Van Nuys, Ca 91367

**PLEASE BE SPECIFIC. PRINT OR TYPE LEGIBLY. AND DO NOT USE ABBREVIATIONS OR ACRONYMS.**

CURRENT DIAGNOSIS: MULTIPLE Myeloma, Abundant, HATN  
severe MULTIPLE myeloma  
EXPECTED DURATION OF TREATMENT: Life long

PROGNOSIS: guarded

DOES THIS PATIENT REQUIRE ANY ASSISTANCE WITH MAJOR DAILY LIFE ACTIVITIES? IF SO, WHAT TYPE OF ASSISTANCE: \_\_\_\_\_

WHAT DISABILITY IS CAUSED BY THIS DIAGNOSIS THAT PREVENTS THE PATIENT FROM SERVING AS A JUROR? PL His severe ARTHRITIS of spine AND IS ON DISABILITY

- IS THIS A PERMANENT CONDITION? YES  NO
- IS PATIENT EMPLOYED? YES  NO
- IS PATIENT EMPLOYABLE? YES  NO
- IS PATIENT PERMANENTLY HOME BOUND? YES  NO
- IS PATIENT PERMANENTLY BED BOUND? YES  NO
- IS PATIENT IN HOSPICE, NURSING HOME, OR ASSISTED LIVING CENTER  
IF SO, INCLUDE NAME AND ADDRESS OF FACILITY  
WHEN WAS PATIENT ADMITTED? YES  NO

I certify under penalty of perjury, under the laws of the State of California that the foregoing is true and correct (CCP Sec. 2015.5(b)).

Signature of Physician: [Signature] Date: 3-3-10