

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



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**VIA OVERNIGHT DELIVERY**

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

**Re: Agency Case No.2012-0289; OAH No. 2014010471**

Dear Ms. Swedensky:

We represent Respondent, Christine Monsen, in the above noted case. This letter is submitted in support of Administrative Law Judge Mary-Margaret Andersen's Proposed Decision in the aforementioned case stating that Ms. Monsen's final compensation was properly set at \$17,104.92 for pension purposes. Judge Andersen conducted a thorough one and a half day hearing. We respectfully request the Board affirm the well-reasoned decision.

We believe Judge Andersen's decision is thorough and comprehensive. The Proposed Decision finds that Ms. Monsen's salary was increased in 2007 by three percent plus \$20,500. The Proposed Decision also finds that Ms. Monsen retained the choice whether or not to contribute the \$20,500 each year, or any other lesser amount, to a deferred compensation plan. She could have spent it differently--while she chose to deposit that amount to a 457 account, she had the ability not to do so. As California Government Code section 20636(b)(2)(A) states, amounts that a member directs be diverted from salary for participation in a deferred compensation plan are included in a member's pay rate.

The Proposed Decision also found that the evidence demonstrated that Ms. Monsen's salary of \$17,104.92 per month was published and publically available as required by PERL.

Finally and perhaps most importantly, the Proposed Decision found that Ms. Monsen had no plans to retire in 2007 and there was no evidence to demonstrate that the raise was given in contemplation of retirement. This clearly distinguishes this matter from others that the Board has considered, including the published decision cited by the CalPers lawyer.

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WENDEL, ROSEN, BLACK & DEAN LLP

On the facts and findings before the Board, we request the Board affirm the Proposed Decision. The evidence unequivocally demonstrates that Ms. Monsen's final compensation was correctly set at \$17,104.92.

Very truly yours,

WENDEL, ROSEN, BLACK & DEAN LLP

A handwritten signature in black ink, appearing to read 'R. Zachary Wasserman', with a long horizontal line extending to the right.

R. Zachary Wasserman

RZW/ADC