

**ATTACHMENT B**  
**STAFF'S ARGUMENT**

## **STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION**

Respondent Victoria Wedgeworth (Respondent) applied for service pending Industrial Disability Retirement (IDR) on the basis of orthopedic conditions to her right ankle and foot. By virtue of her employment as a Materials + Stores Supervisor I (M+SS I) for Respondent California State Prison-Los Angeles County, Department of Corrections (DOC), Respondent is a state safety member of CalPERS. Respondent appealed CalPERS' denial of her application for IDR. A hearing was held on December 9, 2014.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent's questions and clarified how to obtain further information on the process.

As part of CalPERS' review of her medical condition, Respondent was sent for an Independent Medical Examination (IME) to Clive Segil, M.D., board-certified Orthopedic Surgeon. Dr. Segil interviewed Respondent, and obtained Respondent's summary of her medical history, treatment, work history and present complaints. Dr. Segil also performed a comprehensive physical exam.

Dr. Segil testified at the hearing. Dr. Segil prepared a report that indicated Respondent is not substantially incapacitated in the performance of her usual duties. Dr. Segil indicated that he had reviewed the job description and physical requirements of Respondent's position, specifically referencing the duties of an Automotive Equipment Operator I (AEO I). (However, at the time of Respondent's retirement application, she held the position of M+SS I.) Dr. Segil further testified that Respondent had told him she retired because her position was not available to her.

Respondent represented herself at the hearing and, in addition to her own testimony, offered the testimony of her supervisor, David Seitz, and her treating physician Dr. Taha Ahmad. Mr. Seitz testified that due to medical restrictions, he was instructed to find a position other than an AEO I that Respondent could perform, which was an M+SS I.

Dr. Ahmad testified that Respondent's surgery "was not a complete fix" and that he did not believe she would fully recover from her injuries. Dr. Ahmad filled out the Physician's Report on Disability as part of the retirement application submitted by Respondent and checked the portions of the form indicating that Respondent was substantially incapacitated permanently from the performance of her usual duties.

Respondent testified that she did not tell Dr. Segil that she retired because her position had been removed. Rather, he asked why she had pain but could still work, and she told Dr. Segil about a Training and Development assignment that did not lead to a permanent position because the position was eliminated.

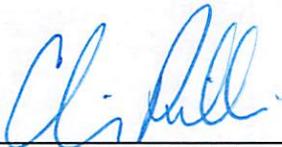
The Administrative Law Judge (ALJ) found Respondent's testimony, her supervisor Mr. Seitz' testimony, and Dr. Ahmad's testimony to be credible at the hearing. Further, the ALJ found with respect to Dr. Segil's testimony, that an expert's opinions are as good as the information upon which they rely. The ALJ noted that Dr. Segil was not clear about Respondent's job duties, as he specially listed only the AEO I responsibilities and made no reference to the job duties listed for the M+SS I position.

The ALJ concluded that substantial evidence supports the conclusion that Respondent is substantially incapacitated from the performance of her usual duties. Respondent had the continuing duty to push and pull laundry carts well in excess of 100 pounds and was unable to do so when assistance was unavailable.

The ALJ concluded that Respondent's appeal should be granted. The Proposed Decision is supported by the law and the facts. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

February 19, 2015



---

CHRISTOPHER PHILLIPS  
Staff Attorney