

ATTACHMENT C
RESPONDENT(S) ARGUMENT(S)



Gavrilov & Brooks
A Full Service Practice

ATTACHMENT A

Sacramento Office

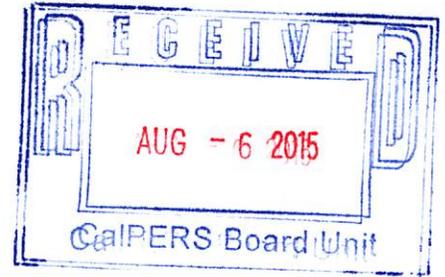
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August 5, 2015

Sent via U.S. Mail and facsimile to (916) 795-3972

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



Re: RESPONDENT ROBERT C. PACUINAS' ARGUMENT
In the Matter of the Reinstatement from Industrial Disability Retirement
Of ROBERT C. PACUINAS, Respondent, and DEPARTMENT OF
CALIFORNIA HIGHWAY PATROL, Respondent.
Case no. 2012-0773
OAH No. 2013010633

Dear Ms. Swedensky:

My office does not object to the Proposed Decision signed by the Honorable Ed Washington on July 3, 2015, with one exception. Judge Washington mistakenly indicates that my client, Robert Pacuinas, appealed CalPERS' determination that he was no longer substantially incapacitated from performing the job duties of an "Officer" for CHP. In fact, Mr. Pacuinas did not appeal the determination of CalPERS. Rather, it was CHP that appealed the determination of CalPERS (as indicated in paragraph 10 of the Proposed Decision).

As such, I respectfully request the Proposed Decision be amended as follows:

1. Paragraph 11 under **FACTUAL FINDINGS** (page 3), second line, should be amended to read "The Accusation specifies that **CHP's** appeal is limited as to..." The sentence as it currently reads states that it was Mr. Pacuinas' appeal and is therefore inaccurate.
2. Paragraph 15 under **FACTUAL FINDINGS** (page 4), last line, should be amended to read "**CHP's** appeal from CalPERS' determination that **Mr. Pacuinas** be reinstated to his former position as a Traffic Officer with CHP must be granted." The sentence as it currently reads states that Mr. Pacuinas' appeal from CalPERS' determination that he be reinstated and is therefore inaccurate.
3. Paragraph 8 under **LEGAL CONCLUSIONS** (page 7), last line, should be amended to read "**CHP's** appeal from complainant's determination that **Mr. Pacuinas** should be reinstated to his former position must be granted." The sentence as it currently reads states that Mr. Pacuinas' appeal from complainant's determination that he be reinstated to his former position must be granted and is therefore inaccurate.
4. The paragraph under **ORDER** (page 7), first line, should be amended to read "Respondent **Department of California Highway Patrol's** appeal from CalPERS' determination that **Mr. Pacuinas** is no longer disabled



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or incapacitated from performance of his usual duties as a Traffic Officer for the California Department of Highway Patrol is GRANTED." The sentence as it currently reads states that Respondent Robert C. Pacuinas' appeal from CalPERS' determination that he is no longer disabled or incapacitated from performance of his usual duties as a Traffic Officer for the California Department of Highway Patrol is GRANTED and is therefore inaccurate.

Thank you for your attention to this matter. Please do not hesitate to contact me should you have any questions or concerns.

Very truly yours,

GAVRILOV & BROOKS

A handwritten signature in cursive script that reads "Amanda Gimbel". The signature is written in black ink and is positioned above the printed name.

AMANDA R. GIMBEL
Attorney at Law

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To: Cheree Swedensky

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Pages: 3

Re: Robert C. Paculna's Argume

Date: August 06, 2015

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