

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

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

Respondent Edward J. Stuckenschneider (Respondent Stuckenschneider) worked as a Special Agent for Respondent California Department of Corrections & Rehabilitation (CDCR). By reason of his employment, Respondent Stuckenschneider is a state safety member of the California Public Employees' Retirement System (CalPERS).

On June 19, 2014, Respondent Stuckenschneider applied for Industrial Disability Retirement based on his orthopedic bi-lateral carpal tunnel condition.

CalPERS requested an Independent Medical Evaluation (IME) from, Neil T. Katz, M.D., a board-certified orthopedic surgeon, to evaluate Respondent Stuckenschneider's orthopedic conditions. Dr. Katz performed an IME of Respondent Stuckenschneider on September 24, 2014. Dr. Katz reviewed medical records, interviewed Respondent Stuckenschneider, conducted a physical examination and authored a report. He concluded that Respondent Stuckenschneider was not substantially incapacitated from performing his usual and customary duties as a Special Agent.

Based on relevant medical evidence, CalPERS determined that Respondent Stuckenschneider was not permanently disabled or incapacitated from performing the usual and customary duties of a Special Agent when he filed his application for an Industrial Disability Retirement.

CalPERS notified Respondent Stuckenschneider of its determination by letter dated November 5, 2014. Respondent Stuckenschneider filed a timely written appeal, and a hearing was held before an Administrative Law Judge (ALJ) on September 26, 2016.

To be eligible for disability retirement an individual must demonstrate, through competent medical evidence, that he or she is substantially incapacitated from performing the usual and customary duties of his or her position. The injury or condition that is the basis for the claimed disability must be permanent or of an uncertain and extended duration

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

At the hearing, Dr. Katz described his findings upon physical examination of Respondent Stuckenschneider. Dr. Katz testified that there were no job duties that Respondent Stuckenschneider could not perform because of his bi-lateral carpal tunnel condition.


Respondent Stuckenschneider testified at the hearing regarding his job duties and the physical limitations imposed by his bi-lateral carpal tunnel condition. He also offered medical records and reports from his workers compensation case.

The ALJ concluded that Respondent Stuckenschneider's appeal should be denied because he did not demonstrate through competent medical evidence that he is unable to perform the usual functions of his job as a Special Agent for CDCR.

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.

November 16, 2016

  
AUSTA WAKILY  
Senior Staff Attorney