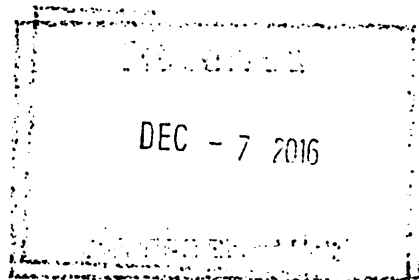


ATTACHMENT C
RESPONDENT(S) ARGUMENT(S)

Grace S. Herrera
December 6, 2016

Subject: "Respondent's Argument"
Cheree Swedensky, Assistant to the Board
CalPERS Executive Office



I am writing this letter to appeal the board's proposed decision to decline my application for disability retirement. After reviewing the factual findings and legal conclusions here is my written statement.

Under factual findings section four, it states that I was "dismissed from employment with CSUS for cause, not disabling medical condition." I was terminated from my job at Sonoma State University when I was found asleep at my desk due to my medical disabilities. I had documented doctor's notes that were provided to my employers in the Human Resource Department from a medical professional, Dr. Mounir Belcadi, explaining this behavior. I contribute the mistakes made at work as being a result from my medical disabilities (bipolar disorder, schizophrenia, and ADHD.)

Section six mentions that I was "reassigned to the Accounts Payable Department" and also noted "experienced difficulty and stress adjusting to [her] new assignment." Working in the Accounts Payable Department was an extremely emotionally stressful work environment that resulted in my mental breakdown, because I had difficulty adjusting to my new work environment. My psychiatrists, Dr. Jane Ellen Heath and Dr. Belcadi ordered for me to take several leaves of absences from work to be hospitalized for my mental health conditions during the time of my employment there.

Section seven of factual findings has contradictory information regarding my medical diagnosis. In the letter, section seven has a misleading statement

“However, the evidence did not establish that respondent had been diagnosed with ADHD, schizophrenia or that she had suffered a brain injury.” My psychiatrist Dr. Heath diagnosed me with bipolar disorder and schizophrenia. This section failed to mention my other doctors, my psychiatrist Dr. Belcadi who determined that I suffered from a brain injury, and my psychiatrist Dr. John Jackson who diagnosed me with ADHD. All of the supporting medical records were submitted to the Human Resource Department at Sonoma State. My psychiatrists diagnosed me with these disorders, but Sonoma State has contradictory findings in their evidence, claiming that I was not diagnosed with ADHD, schizophrenia, and did not suffer from a brain injury. My employers had record of this, which is why I was allowed the opportunity for the medically prescribed workplace accommodations for my disabilities.

Section eight lists the accommodations I required at work through the Americans with Disabilities Act (ADA). It mentions that I had difficulties with “attention, focus and concentrating in the workplace” which are all primary symptoms of ADHD and bipolar disorder. All of the accommodations; such as a note taker, emotional support, more time to finish tasks, and being able to walk around the workplace; were prescribed to me by a medical professional. The workplace modifications were mainly to help accommodate my ADHD and bipolar disorder to help minimize anxiety, stress, and distractions.

Section nine discusses the discrimination I started to endure by my supervisor beginning in July of 2007 in the Accounts Payable Department. My supervisor was discriminating against me based on my disabilities, and was failing to fulfil my prescribed accommodations, so much so that I had to file a grievance with CSUS. One example was when I would ask for help on a task and the supervisor would tell me to figure things out on my own, but I struggled to do so

because of my disabilities, which is why it was a necessity for me to have accommodations at work.

Section ten and eleven goes into detail about doctor's evaluations performed for Sonoma State. There was a neuropsychological evaluation performed by Dr. Peggy O' Toole through the Department of Rehabilitation (DOR) in April 2009. Although Dr. O' Toole stated that my cognitive functioning was within normal limits, my "depression, anxiety, and stress levels interfered with [her] daily ability to attend to tasks at work." This evaluation was scheduled after I had taken a leave of absence from work, and was in an emotionally stable state of mind. Once I returned back to work is when my depression and anxiety would be at its highest. Regarding the Dr. Smith evaluation, mentioned in section eleven, he deemed I was capable of performing all the components of my job, but once again, the evaluation was scheduled and performed after I was prescribed to take a leave of absence due to my mental instability. This was caused by excessive harassment and bullying from management and coworkers, which caused me to feel frightened, unsafe, and emotionally distraught at work; resulting in an ordered leave of absence by a medical professional. All of the psychological examinations performed by Sonoma State were scheduled after having had time away from work. When I would finally return to work, all of those feelings would reemerge and my symptoms would flare up, due to experiencing the harassment and bullying. In conclusion, these evaluations appeared to be in the best interest of Sonoma State, based on the fact that they were always performed after I had been off for a few months, and had time to recuperate from the extreme stress and harassment I experienced in my department. Instead, the evaluations should have been performed beforehand when I was having flare ups of my symptoms and was performing poorly at work.

I do not deny anything stated for the reasons listed on why I was terminated in section thirteen. The reasons being "attendance problems, poor performance,

and sleeping on the job." I did have signed doctor's notes to excuse my tardiness that were given to Sonoma State, and the poor performance and sleeping on the job was due to was bipolar disorder, depression, anxiety, and ADHD; which is why I was prescribed so many work place accommodations and modifications in order to do my job efficiently.

When I was hired at Sonoma State in 2000, I did not have these mental health issues. The onset occurred after being employed at Sonoma State for five years. These mental health disabilities have greatly affected my personal and professional life. My symptoms were improved by the support from the ADA in the form of workplace accommodations and modifications that my doctors recommended, because these disorders greatly affected the way I was able to perform the duties of my job description. My disabilities limit my opportunity to live a normal life because they are mental handicaps that leave me at a great disadvantage.

Sincerely,
Grace S. Herrera

Case No. 2016-0482



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