

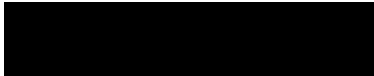


California Public Employees' Retirement System
Legal Office
P.O. Box 942707
Sacramento, CA 94229-2707
TTY: (877) 249-7442
(916) 795-3675 phone • (916) 795-3659 fax
www.calpers.ca.gov

Ref. No. 2015-0243

March 13, 2015

Sheldon Scarber



Subject: In the Matter of the Cancellation of the Application for Industrial Disability Retirement of SHELDON K. SCARBER, Respondent, and CALIFORNIA HIGHWAY PATROL, Respondent.

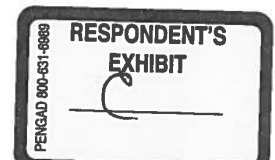
Dear Mr. Scarber:

This is to acknowledge that your case was received in the California Public Employees' Retirement System's (CalPERS') Legal Office on March 6, 2015. We will notify you when your case has been assigned to an attorney who will represent CalPERS regarding your appeal. As your appeal proceeds to hearing, CalPERS will request a hearing date from the Office of Administrative Hearings, and will serve you with our Statement of Issues and a Notice of Hearing.

Please send all future correspondence regarding this matter to the above post office box.

In the hearing on your case, a lawyer from the CalPERS Legal Office will be present to represent CalPERS. We recommend that you retain a lawyer to represent your interests at the hearing. If you decide to seek representation by an attorney, we suggest that you do so as soon as possible, as most attorneys' calendars are filled months in advance. Continuances are not favored generally under the law, and that CalPERS specifically disfavors continuances. If an attorney is representing you, please provide us with your attorney's name and address.

Enclosed is a CalPERS brochure entitled "General Procedures for Administrative Hearings" that you may find useful if you decide to represent yourself. Also enclosed are similar brochures published by the Office of Administrative Hearings. If you intend to represent yourself in this proceeding, you should be aware of certain legal principles which impact significantly upon your chances of success. First and foremost, keep in mind that you carry the "burden of proof" in this appeal. This means that you must present competent medical evidence of disability to the Administrative Law Judge who conducts your hearing. In order to do this, it is very important that you arrange for live testimony by at least one doctor who has evaluated the same medical condition for which you are applying for disability retirement from CalPERS. If you do not present live witness testimony by such a doctor, and only present his/her written report as



Sheldon Scarber
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evidence, the written report will only be considered "hearsay" under the hearing rules of evidence. If you only present "hearsay evidence" to establish your disability, and CalPERS presents live witness testimony of its Independent Medical Examiner(s) to support CalPERS' denial of your application for disability retirement, it will be difficult for you to win your case. CalPERS makes every effort to present live doctor testimony at these hearings. Therefore, you are well advised to do the same. Please also be aware that your doctor will require payment for appearing and testifying. This cost is borne by you, and not by CalPERS.

CalPERS makes every effort to present live doctor testimony at these hearings. Therefore, you are well advised to do the same. If you do not present live witness testimony by such a doctor, and only present his/her written report as evidence, the written report will only be considered "hearsay" under the hearing rules of evidence. If you only present "hearsay evidence" to establish your disability, and CalPERS presents live witness testimony of its Independent Medical Examiner(s) to support CalPERS' denial of your application for disability retirement, it will be difficult for you to win your case. Please also be aware that your doctor will require payment for appearing and testifying. This cost is borne by you, and not by CalPERS.

While the attorney representing CalPERS cannot give you legal advice as to how to present your case at hearing, he/she can assist you with the procedural aspects of the hearing if you do not have counsel of your own. Accordingly, as questions come up about how to do something that is required as part of the hearing process, you may seek assistance from the CalPERS attorney assigned to represent CalPERS in your case.

If you have any questions about this letter, you may contact the Legal Office directly at (916) 795-3675.

Sincerely,



CalPERS Legal Office

Enclosures

cc: Tim Castle, California Highway Patrol



California Public Employees' Retirement System
P.O. Box 942707, Sacramento, CA 94229-2707

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Sheldon Scarber



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