# ATTACHMENT C

# RESPONDENT'S ARGUMENT

Received
FEB 9 2017
CalPERS Board Unit

January 25, 2017

"Respondent's Argument" - Laura A Williams Ref No. 2015-0061

To Whom It May Concern:

I am writing to ask CalPERS to reconsider my request for access to my pension due to disability. I am doing so because I was disabled in January, 2014 and could no longer work. This has been recognized by the recent judgement of Administrative Law Judge Carol L. Buck who has determined, on January 9, 2017, that I have "been under a disability as defined in the Social Security Act since January 27, 2014." The date of the onset of my disability was proved to be at the beginning of 2014, not 2016, as CalPERS has maintained. I know that the requirements for Social Security disability are different from CalPERS. A favorable Social Security decision usually is more difficult because a person must be disabled from all jobs whereas CalPERS a person must prove they cannot do the job they were last employed at. However, I reference the Social Security ruling because they both have the same date of disability being January 2014.

I had an established, successful work history with the California School Board Association for 20 years. I was motivated to work and enjoyed my work. I claimed disability beginning on April 12, 2012 due to a combination of impairments which had manifested themselves in that year. I was diagnosed with Type 2 diabetes in or about 2002 when I began to experience fatigue, hair loss, polyuria and polydipsia. By 2012 I had documented a worsening of my diabetes control and was evaluated by Dr. Laidlaw, an endocrinologist. He diagnosed latent autoimmune diabetes in adulthood. I tried to return to work but it was on a part-time basis with many restrictions.

Under Dr. Laidlaw's supervision, I began supervised changes in my insulin regimen and diet but continued to have wildly erratic glucose levels that ranged from very high in the 400s to as lows as the 50s. Dr. Laidlaw opined that "stress from her (my) job had a major negative impact on her (my) glucose levels." By 2013 I had reported that I often awoke with extremely low blood sugar levels requiring several hours from which to recover. I reported difficulty with cognitive function, fatigue, and verbal communication. My words were slurring, my vision was impaired, I had difficulty concentrating, and I experienced mood swings and anxiety. However, I continued treatment with Dr. Diaz (Sutter) and when my insurance changed; I began treatment with Dr. Phatak (UC Davis). All of them (Endocrinologists) agreed that my Diabetes was not "textbook" but finding out the cause and treatment would be challenging.

In January, 2014, I was forced to take early retirement based on my disability due to uncontrolled diabetes, peripheral neuropathy, headaches, hypertension, insomnia, thyroid disorder, neutropenia, frequent infections, fatigue, confusion and halo vision. Other factors were the decrease in my work performance along with many workday breaks and absences that lead to my employer asking for my resignation. In October, 2014, my primary care provider Shannon Krisa, PA-C, completed a functional capacity questionnaire which documented that I had received treatment regularly for Type 1 uncontrolled diabetes, with symptoms including blurry vision, weakness, burning in my feet, fatigue, poor concentration, poor focus, memory issues, insomnia, and a lowered immune response. Ms. Krisa concluded that I "was unable to perform any job with reasonable continuity due to unpredictable and rapid fluctuations in glucose levels." She repeated my assessment in March, 2015, and it yielded similar results.

CalPERS employed Sophie Cole, M.D. to examine me and my medical records. She authored seven reports based on her examination of me and my voluminous medical records. Initially she determined that my impairments were not disabling. It was not until September, 2016, that I had "incapacitating problems with exogenous insulin therapy and failure of insulin-based management to prevent complications..." Finally, Dr. Cole noted that because of my frequent and labile swings in my blood sugar, I would feel "fatigued, dizziness, blurry vision, headaches and inability to focus and concentrate on tasks." **<u>I had these same symptoms back in 2012-2014</u>!**

My metabolic abnormalities existed in January 2014. <u>They simply were not fully understood but they were documented and they prevented me from working.</u> I had precisely the same blood glucose swings and resulting symptoms as Dr. Cole described in 2016. The mood swings, balance issues, lightheadedness, weakness, metabolic abnormalities, etc. were all there and documented in my medical records in January, 2014, when I had to stop working. I was disabled then.

In the judgement issued by the Social Security ALJ, she recognized that evidence was present that I met the definition of disability and had done so from January 27, 2014. She found that my "medically determinable impairments could reasonably be expected to cause the alleged symptoms. (My) The claimant's statements concerning the intensity, persistence and limiting effects of these symptoms are reasonably consistent with the medical evidence and other evidence for the reasons explained in this decision." She cited records of the treatment I sought in 2012, 2013, and 2014 and the "objective findings in the medical records" from that period. She wrote that "the record documents worsening of diabetic control since 2012."

Shannon Krisa PA-C and her supervisor, Julie Baur, DO, had written in September 2013 and later in January, May, and June, 2014, that I "was unable to sustain sedentary work due to uncontrollable diabetes with daily fluctuations in glucose causing blurry vision, weakness, fatigue, and cognitive deficits." They followed my progress and theirs are longitudinal observations and diagnoses which support my claim of disability.

They placed less significance on the early opinions of CalPERS contracted physician, Dr. Sophie Cole. Cole had originally opined that my impairments were not disabling. Her opinions changed after I was referred for pancreas transplantation. Then she said I was "medically unstable due to persistent, labile, uncontrolled diabetes causing persistent lightheadedness, weakness and episodic abnormality; this medical instability caused the claimant to be mentally and physically incapacitated." Looking back over my cumulative medical records, they believed that "longitudinal record (shows) the claimant's diabetes (to be) uncontrolled and symptomatic despite strict compliance with insulin treatment and use of an insulin pump."

In her conclusion the judge, believed that my claim of disability was supported by my diligence in seeking medical treatments "including undergoing various forms of treatments and frequent medication adjustments." In addition, she believed that my allegations were supported by my "established work history." She noted that "the claimant has an excellent work history for the same employer for the past 20 years, which suggests good work motivation and lends further support to the allegations of disabling symptoms. Additionally, the claimant's allegations are consistent with her activities of daily living. The symptoms and limitations the claimant has provided has (sic) generally been consistent and persuasive, The claimant's responses while testifying were straightforward and candid, and left the impression that (she) was being truthful. Finally the claimant's allegations have been corroborated by other which lend further support of the allegations of disabling symptoms."

It was said by my doctors and even the Vocational expert at the Social Security hearing that no job exists in the work force that would allow for the documented physical problems I have or for the numerous breaks or absences I would incur in a month due to my uncontrolled Diabetes. The Hartford insurance company agreed that there were no jobs I could perform with reasonable continuity noting that even the simplest of jobs would require an employee to work set hours, be there on time and be able to keep a work schedule. With my allergies to insulin (metabolic abnormalities), fluctuations of my blood sugar change on a day to day, hour to hour basis.

Please consider that the facts and evidence that are in my "hearsay" medical records. The medical records show that I had the same symptoms in 2014 Dr. Cole mentioned in her final IME dated 2016. I ask you to grant me access to my CalPERS pension benefits on the basis of my proven disability.

Sincerely,

Laura Ann Williams