

**ATTACHMENT C**

**RESPONDENT(S) ARGUMENT(S)**

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DATE SUBMITTED : 8/26/2020 AUG 27 2020  
 RE : Regina T. Schueneman Appeal  
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 FROM : David R. Flyer  
 DESTINATION : Cheree Swedensky, Asst. to the Board  
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**SENDER COMMENTS:**

Disk to follow by regular mail.

**TO RECIPIENT:**

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**David Flyer 949-622-8444**

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August 26, 2020

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CalPERS Executive Office  
P.O. Box 942701  
Sacramento, CA 94229-2701

Via Fax and U.S. Mail: (916) 795-3972

RE: In the matter of the Appeal for an Earlier Effective Date of Disability Retirement of: Regina T. Schueneman and Department of Motor Vehicles, Respondents  
Agency Case No.: 2019-1094  
OAH No.: 2020030181  
Our File No.: A1898.01

Dear Ms. Swedensky:

On behalf of our client, Regina T. Schueneman, we submit our Appellate Brief by fax. The entire court reporter's transcript for the June 29, 2020 hearing before the Administrative Law Judge, material excerpts of which are identified in the Brief, has been placed on a disk and is being sent to you by regular mail.

Thank you.

Respectfully yours,

  
David R. Flyer

DRF:w  
[\\WKST1\AI Files\A1898.01\CalPERS.ltr-01ltr.wpd]  
enclosure: disk of reporter's transcript

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5 Attorneys for Respondent  
 REGINA T. SCHUENEMAN

8 CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
 9 STATE OF CALIFORNIA

11 REGINA T. SCHUENEMAN,

12 Respondent,

13 and

14 DEPARTMENT OF MOTOR VEHICLES,

15 Complainant.

) Agency Case No. 2019-1094  
 OAH No. 2020030181

) **RESPONDENT'S APPELLATE BRIEF  
 AFTER ALJ RULING; DECLARATION  
 OF DAVID R. FLYER**

17 TO THE BOARD OF ADMINISTRATION OF CALPERS:

18 COMES NOW Respondent Regina T. Schueneman and appeals the Decision of  
 19 Debra D. Nye-Perkins, Administrative Law Judge, entered on July 27, 2020. The said  
 20 Decision denied Respondent an earlier disability retirement date of September 8, 2015.

21 **1. OVERVIEW OF MATERIAL FACTS**

22 The agreed facts are: [1] Respondent was employed by the Department of Motor  
 23 Vehicles for 15 years before sustaining on-the-job related injuries due to the presence of  
 24 toxic mold at her workplace which caused her to be totally disabled from employment, see  
 25 ALJ Decision ¶2, and Ex. B. [2] Respondent's place of employment with DMV was closed  
 26 down to employees and the public due to mold contamination, Id. [3] Respondent was  
 27 disabled from employment as of September 8, 2015, Id., ¶21. [4] DMV agrees her  
 28 disability retirement should be effective from September 8, 2015, Id., ¶¶4 and 19(5), Ex. 22

1 letter stating: "The DMV is in agreement with the earlier requested effective date of  
2 retirement of September 8, 2015," and the Court Reporter Transcript ("CR") 58:9-63:10.  
3 [5] Respondent was hospitalized 7 times, she sustained 7 vertebrae and 3 rib fractures due  
4 to high doses of prednisone, she couldn't care for herself, feed herself or even walk, she  
5 was confined to skilled nursing facility, and cancer twice metastasized in her body,  
6 Decision ¶¶4, 17, 22, 23 and 26, Exs. A and B, and CR 70:21-76:3. [6] Respondent was  
7 granted disability retirement on June 1, 2019. Since then, she has been receiving benefits,  
8 Id., ¶2. [7] Respondent received letters and applications from Complainant describing the  
9 procedure for obtaining disability retirement benefits, ¶¶7-13. [8] Respondent did not apply  
10 for benefits earlier due to her invidiously adverse medical condition, and the intrusive  
11 nature of the required treatment provided to her by her physicians including Adam C.  
12 Rhodes, M.D., who wrote in his report: "[Respondent's] medical condition was so severe  
13 related to her diminished lung function with no clear reason to suspect she would improve  
14 enough to return to work after 7/2013.... During this time she was in the hospital frequently  
15 and had multiple ICU stays and it was exceptionally challenging for her to deal with these  
16 [retirement] decisions," Id., ¶24, and Ex. B.

## 17 **2. LEGAL ANALYSIS**

### 18 **A. Statutory Grounds for Correcting the Effective Date of Retirement**

19 Government Code §20160 provides in pertinent part:

20 (a) ...the board may, in its discretion and upon any terms it  
21 deems just, correct errors or omissions of any active or retired  
22 member ... provided that all of the following facts exist:

22 (1) The request ... to correct the error or omission is made by  
23 the party seeking correction within a reasonable time after  
24 discovery of the right to make the correction, which in no case  
25 shall exceed six months after discovery of this right.

24 (2) The error or omission was the result of mistake,  
25 inadvertence, surprise, or excusable neglect, as each of those  
26 terms is used in Section 473 of the Code of Civil Procedure.

25 (3) The correction will not provide the party seeking correction  
26 with a status, right, or obligation not otherwise available under  
27 this part.

27 CalPERS has a Constitutional mandate to discharge its duties "solely in the interest  
28 of, and for the exclusive purposes of providing benefits to, participants and their

1 beneficiaries ...," Cal. Const. ArtXVI, Sec. 17. Courts have interpreted the Constitutional  
2 duty to provide benefits for members and retirees and the law, to permit correction of  
3 technical errors. Illustrative of case law interpreting the power to make right now what  
4 should have been done in the past is *City of Oakland v. PERS* (2002) 95 Cal.App.4th 29,  
5 45-46 (airport employees who were classified as "miscellaneous," were retroactively  
6 reclassified as "firefighters" since that was the job they were performing, which had the  
7 effect of increasing their pensions):

8       The PERS Board's determination that reclassification was not subject to any  
9 statute of limitations because of its ongoing duty to its members is not  
10 arbitrary or irrational. The PERS Board's decision advances the policy  
11 immanent in the California Constitution, to ensure the rights of members and  
12 retirees to their full, earned, benefits.

13       ...

14       The Legislature has expressed a preference for retroactive corrections.  
15 Section 20160, quoted above, provides the Board "shall correct all actions  
16 taken as a result of errors or omissions of ... any contracting agency, or this  
17 system."

18       *City of Oakland v. PERS*, instructs that "to ensure the rights of retirees to their full,  
19 earned, benefits," a claim for correction can certainly be made and sustained years after  
20 the fact so the government worker will receive the proper retirement benefits. The  
21 correction statute, Government Code §20160(b) is mandatory, imposing on the Board an  
22 obligation to correct errors in benefits: "... the board shall correct all actions taken as a  
23 result of errors or omissions by ... any state agency or department ..." And see, *Welch v.*  
24 *State Teachers' Ret. Sys.* (2012) 203 Cal.App.4th 1, 27-28 (analyzing legislative history in  
25 concluding that the PERS statute intentionally relied on the word "shall" compared to the  
26 STRS statute which relied on the permissive word, "may").

27       In our case, Respondent's employer, the DMV and Complainant's representative,  
28 both concur that she was disabled since September 8, 2015; she simply didn't timely  
complete the forms for correcting her effective date for retirement.

#### 29 **B. Factual Grounds for Correction based on Excusable Neglect**

30       Government Code §20160(a)(2) demands that the grounds for seeking correction  
31 caused by "mistake, inadvertence, surprise or excusable neglect," should be given the

1 same meaning as found in Code of Civil Procedure §473 [which was derived from the  
2 same terms and with virtually identical interpretation, in Federal Rules of Civil Procedure,  
3 Rule 60(b)(1)]. There is a very rich history of what qualifies for relief under the law.

4 The U.S. Supreme Court instructs that the law must be liberally interpreted for  
5 purposes of insuring that just results are obtained, favoring substance over form. See  
6 *Klapprott v. United States*, 335 U.S. 601, 613–614, 69 S.Ct. 384, 390 (1949) (petitioner  
7 was prevented from filing a timely appeal due to incarceration, ill health, and other factors  
8 beyond his reasonable control, such that four years after default judgment was entered, he  
9 was permitted to reopen the matter under Rule 60(b)(1)), holding: “But petitioner’s  
10 allegations set up an extraordinary situation which cannot fairly or logically be classified as  
11 mere ‘neglect’ on his part. The undenied facts set out in the petition reveal far more than a  
12 failure to defend ... due to inadvertence, indifference, or careless disregard of  
13 consequences.”

14 Suffering from potentially fatal health conditions and being cognitively impaired due  
15 to compliance with medical procedures mandating ingestion of drugs, have served to  
16 excuse compliance with time deadlines and procedural requirements. In *Minick v. City of*  
17 *Petaluma* (2016) 3 Cal.App.5th 15, 28 (bicyclist’s case against city was dismissed, but  
18 reinstated, when his attorney conceded that failure to properly oppose city’s motion was  
19 due to his failure to recognize his own cognitive impairment), the appellate court held:

20 The [trial] court specifically found the relevant neglect was [the attorney]  
21 Watson’s failure to appreciate his own impairment, which was a mistake  
22 anyone could have made, not a failure of legal skill. Watson’s cognitive  
23 impairment, to be sure, certainly *caused* his feeble lawyering—there was a  
24 specific finding on that point as well—but professional incompetence, per se,  
25 was not the neglect the court found to be excusable.

26 In *Barragan v. County of Los Angeles* (2010) 184 Cal.App.4th 1373, 1384, a woman  
27 who was seriously injured in a motor vehicle accident, hospitalized for three months and  
28 then virtually bed-ridden for the next seven months was excused from timely compliance  
with the Tort Claims Act requirement of notification to the governing entity within six months  
of the occurrence. The appellate court found that her failure to comply with the time

1 requirement was due to excusable neglect, that she was eligible for relief under the  
2 remedial statute and ruled:

3 "It is the well-recognized policy of the law to liberally construe remedial  
4 statutes designed to protect persons within their purview, and the modern  
5 trend of judicial decisions favors granting relief unless absolutely forbidden by  
6 statute."

6 *Klapprott, Minick, and Barragan* teach that physical disability and/or cognitive  
7 impairment can meet the statutory threshold of excusable neglect. Here Respondent did  
8 her best under the circumstances of her crushing challenges simply to wake up every day.  
9 She contacted her workers' compensation attorney. She contacted co-workers and the  
10 human resources representative at DMV. She received misinformation, but she could not  
11 have been expected to do more. Dr. Rose stated: "During this time she was in the hospital  
12 frequently and had multiple ICU stays and it was exceptionally challenging for her to deal  
13 with these [retirement] decisions," Ex. B. The testimony at the hearing shows that  
14 Respondent, who was testifying remotely from her residence in assisted care, was  
15 confused throughout the proceedings. She is still cognitively impaired and her prior good  
16 health has not been restored.

### 17 3. CONCLUSIONS

18 The parties agree that Respondent was disabled at the time she left work at the  
19 DMV. DMV, her employer also concurs that the effective date of disability retirement  
20 should be backdated to September 8, 2015. Respondent tried to get advice on disability  
21 from human resources and her workers' compensation attorneys, to no avail. She was too  
22 disabled herself coupled with cognitive impairment, to complete the necessary forms.  
23 Under our Constitution and by statute, CalPERS is mandated to correct the record of date  
24 of eligibility for disability retirement. Paraphrasing Portia's plea, "The quality of mercy is not  
25 strained" by favoring substance over form. Respondent was disabled at least as early as  
26 September 8, 2015. There is no prejudice to the system by entering her effective disability  
27 retirement date nunc pro tunc.

28 ///

1 Wherefore, Respondent prays that the decision of the Administrative Law Judge be  
2 reversed, the effective date of retirement be set as September 8, 2015, and for such  
3 further relief as may be proper.

4 Respectfully submitted,

5 FLYER AND FLYER, A PROFESSIONAL  
6 LAW CORPORATION

7 Dated: August 25, 2020

By:   
8 David R. Flyer, Raquel Flyer Dachner  
9 Attorneys for Respondent  
10 REGINA T. SCHUENEMAN

11 **DECLARATION OF DAVID R. FLYER**

12 I, David R. Flyer, declare:

13 1. I am an attorney-at-law, duly licensed to practice before all of the State and  
14 Federal Courts in California. I represent Respondent REGINA T. SCHUENEMAN. I could  
15 and would testify of my own personal knowledge to the following if called on to do so:

16 2. Attached as Ex. "D," is a certified copy of the Transcript of proceedings before  
17 the Administrative Law Judge on June 29, 2020. The following testimony was received:

18 Q What is this document?

19 A This is a letter dated August 22nd, 2019, from the  
20 Department of Motor Vehicles to the analyst and disability  
21 retirement (phonetic) Alka Nguyen providing us the responses  
22 from the letter dated July 18, 2019, to the Department of Motor  
23 Vehicles.

24 Q So is this something CalPERS reviewed in making  
25 its ultimate determination in this matter?

26 A Yes.

27 Q And did CalPERS then consider the information --  
28 (Interruption in the proceedings)

BY MR. GLAUBERMAN:

Q Did CalPERS consider the information it reviewed  
in this letter?

A Yes.

Q Did the information in this letter alter CalPERS'  
decision for this matter?

A No, it did not.

Q Why didn't this alter the decision?

A Because it was determined through our customer  
touch-point notes and the information that was given to the  
member -- the Publication 35 -- that she was well aware about

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disability retirement back as early as 2014 which was about five years and five months prior to when she submitted her application for disability retirement.

Q Your Honor, CalPERS -- strike that.

Does this appear to be a true and accurate copy of the letter CalPERS received from Ms. Schueneman's employer, DMV, in response to the correspondence?

A Yes.

MR. GLAUBERMAN: Your Honor, CalPERS requests introduction of Exhibit 22 into evidence.

ADMINISTRATIVE LAW JUDGE: Ms. Schueneman, do you have any objections?

MS. SCHUENEMAN: No, your Honor.

ADMINISTRATIVE LAW JUDGE: Okay. 22 is admitted.

(Exhibit 22 was received in evidence.)

BY MR. GLAUBERMAN:

Q Mr. Grigsby, if I could have you turn to the final exhibit in the binder, Exhibit 23, PERS 231.

A Okay.

Q And it's a set of documents -- what looks like some sort of notes.

Can you explain what these are?

A Yes. This is our customer touch-point notes. They are stored in our My CalPERS system. These are notes that are from the incoming calls from the member, the employer. And they are usually taken by the call center, and they are immediately inputted into the system after the conversation is made.

Q You say it's immediately put into the system after the conversation is made. Is that a requirement from CalPERS to its employees that all notes like this have to be done pretty much immediately after a conversation?

A Yes.

Q Can the note itself be changed following its entry?

A No, it cannot.

Q I'm going to direct you to page PERS 240, and I'm going to ask you to explain how to read these notes just so everybody is clear on how to interpret what's in a note.

A Okay.

Q And if we can just look at the top of the page -- the first full note on the page. So it says, "Kevin Abram," and then underneath it says, "8/1/2016."

A Okay.

Q So what can you -- before reading the note text at the bottom -- we don't need to read that out loud, but can you just explain how to read what information you can garner as a CalPERS employee from this note?

(Interruption in the proceedings)

(Discussion off the record)

ADMINISTRATIVE LAW JUDGE: Mr. Grigsby?

THE WITNESS: Yes. So what it is -- this is a note from Kevin Abram. So this -- Mr. Abram received a call from Ms. Schueneman on August 1st, 2016.

BY MR. GLAUBERMAN:

Q And so it says, "Category type." What does that mean?

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A Disability. So that means that Ms. Schueneman called to inquire about disability retirement on August 1st, 2016.

Q Then it says, "Note type: participant." What does that mean?

A That's a type of category. There's various categories that you can put there, but usually we put participant as a category there.

Q What does that mean?

A I mean -- actually, I don't know. I don't know exactly what that means.

Q Okay. And then the note text -- is that just describing what transpired during the call?

A Yes.

Q So on this call it looks like there was a disability retirement conversation, and a Pub. 35 would have been sent?

A That is correct.

Q Do these notes in Exhibit 23 appear to be a true and complete copy of the participant notes for Ms. Schueneman's account with CalPERS?

A Yes. Yes.

MR. GLAUBERMAN: Your Honor, CalPERS requests admission of Exhibit 23 into evidence.

ADMINISTRATIVE LAW JUDGE: Any objection, Ms. Schueneman?

MS. SCHUENEMAN: No, your Honor.

ADMINISTRATIVE LAW JUDGE: Okay. Exhibit 23 is admitted.

(Exhibit 23 was received in evidence.)

BY MR. GLAUBERMAN:

Q Mr. Grigsby, Ms. Schueneman we've discussed has been granted a disability retirement by CalPERS?

A Yes.

Q And in granting that disability retirement, did CalPERS have to confirm that she was disabled from the date she left her state service to the date that she applied for disability retirement?

A Yes.

Q And that's one of the requirements of section 21154 I believe?

A That's correct.

Q So CalPERS doesn't dispute that Ms. Schueneman was disabled when she left work?

(Interruption in the proceedings)

THE WITNESS: We are not disputing that.

CR 58:9-63:10

ADMINISTRATIVE LAW JUDGE: Okay. So can we look at what I marked as Exhibit A? Do you see that document? It's a March 21, 2017 typewritten letter.

THE WITNESS: Yeah. That's the letter that I wrote because the DMV --

ADMINISTRATIVE LAW JUDGE: This is a letter that you wrote to the DMV?

THE WITNESS: Yes. I received a letter from the Department of Motor Vehicles and -- stating that I was taken off, you know, the payroll. And I had -- anyway, I was taken off the

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payroll, and I was temporarily taken off and not permanently taken off. And I got very confused, so I wrote a letter stating that I want to resign.

And the reason why I did this letter is because I thought that if I wrote this letter that I would get my health insurance. It has nothing really to do with the CalPERS retirement honestly. It was all about getting my health insurance from 2015. I lost it, and all I wanted was my health insurance.

ADMINISTRATIVE LAW JUDGE: Okay.

THE WITNESS: And the Department of Motor Vehicles didn't help me at all.

ADMINISTRATIVE LAW JUDGE: Okay. And so why did you bring this Exhibit A today? This letter from March 21st, 2017?

THE WITNESS: Pardon me?

ADMINISTRATIVE LAW JUDGE: Why did you bring the letter today from March 21st, 2017? What did you want to show me with this letter?

THE WITNESS: I think what I want to show you is the fact that I noted March 21st, 2017, I think because I just was real sick. And I was in a skilled nursing prior to that for six months and I almost died and I needed to get my health insurance. That's why I wrote the letter was just to get my health insurance. So I figure if I resign from the DMV, they'll give me my health insurance.

ADMINISTRATIVE LAW JUDGE: Okay. All right.

THE WITNESS: I was -- at this time I had just gotten out of ICU. I had gone home. I had a nurse for three weeks, and I just got too sick. Ended up back in the hospital, and my family put me in this assisted living here -- care. I couldn't dress myself or walk or shower. I couldn't do anything.

ADMINISTRATIVE LAW JUDGE: When were you placed in assisted living?

THE WITNESS: In April of --

ADMINISTRATIVE LAW JUDGE: What year?

THE WITNESS: -- 2017. 2017.

ADMINISTRATIVE LAW JUDGE: Okay. All right. Let's take a look at Exhibit B, and that is the Scripps Clinic at Carmel Valley Family Medicine letter.

THE WITNESS: Yes.

ADMINISTRATIVE LAW JUDGE: Can you tell me what that is?

THE WITNESS: Yes. This is -- my doctor -- he has been my primary care doctor for many years, and he's overseen me regarding the Department of Motor Vehicles --

(Interruption in the proceedings)

THE WITNESS: -- and the exposure to mold.

ADMINISTRATIVE LAW JUDGE: Exposure to mold?

THE WITNESS: Yes. The building was shut down for -- Department of Motor Vehicles in Escondido was shut down due to the mold. Many people got sick. I just --

(Interruption in the proceedings)

THE WITNESS: Many people were sick. I just was one of the worst ones. I think, you know --

ADMINISTRATIVE LAW JUDGE: Okay. So is this letter from your physician?

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THE WITNESS: Yes. This letter is from Dr. Adam Rhodes.

ADMINISTRATIVE LAW JUDGE: And why did you bring this letter today?

THE WITNESS: I brought it to the attention because I don't think that it's being understood how sick I've been since 2013. And I've never -- and I do agree with Mr. Glauberman, and they did send me out packets -- the packets and that, but I couldn't mentally comprehend that. I just couldn't.

Right after I moved in here, I got cancer, so I was going through chemotherapy for the rest of the year of 2017. But there were a lot of times I'd be in the hospital and I would think, "Oh, maybe I should call CalPERS. Maybe I could get help." I would just do that.

I don't -- I never really comprehended too much of what any of them -- I didn't comprehend the process of the DMV and CalPERS. No matter how many times they could have told me, I didn't understand at all. I just didn't.

ADMINISTRATIVE LAW JUDGE: When was your last day of work at the DMV?

THE WITNESS: My last day -- I tried a couple times to work, but I believe my last day was July. I went to work for four days, but I ended up in the hospital.

ADMINISTRATIVE LAW JUDGE: July? July what year?

THE WITNESS: July of 2013.

ADMINISTRATIVE LAW JUDGE: You worked at the DMV until sometime in July of 2013?

THE WITNESS: Yes.

ADMINISTRATIVE LAW JUDGE: Okay.

THE WITNESS: July -- at the end of July. I think it was the 25th. Somewhere in there. 2013 was my last day of work. I went to Temecula at that time.

ADMINISTRATIVE LAW JUDGE: Okay. And when did you first become ill?

THE WITNESS: I became ill probably -- well, 2013 is when I found out --

(Interruption in the proceedings)

THE WITNESS: I said that I found out that it was because of mold. I didn't know why I was sick. We went -- I -- we were all sick. We thought we were passing a cold back and forth. Chronic sinusitis I ended up with, too.

ADMINISTRATIVE LAW JUDGE: Okay. So when did you first -- when did you first become ill?

THE WITNESS: I would say in 2012.

ADMINISTRATIVE LAW JUDGE: Okay. And you said you coughed a lot? I'm sorry.

THE WITNESS: Oh, yes.

ADMINISTRATIVE LAW JUDGE: When were you coughing a lot?

THE WITNESS: Yeah. I was -- let's see. In 2013 January, 2013 March, 2013 May and June -- both months -- 2013 July, 2013 August, and 2013 in November.

ADMINISTRATIVE LAW JUDGE: Okay. And why did you cough a lot?

THE WITNESS: Respiratory. I -- they didn't know what was wrong with me when I first went. It was my respiratory. I

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had --  
(Interruption in the proceedings)  
THE WITNESS: I had -- white cell count was real high.  
ADMINISTRATIVE LAW JUDGE: Okay.  
THE WITNESS: My respiratory. And constant  
pneumonia. On every hospital intake, I had -- my oxygen was  
in the 80s and my -- and I had pneumonia --

70:21-76:3

3. Attached as Ex. "22," is a true copy of the exhibit entered at said proceedings,  
being the letter dated 8/22/19 from DMV to CalPERS.

4. Attached as Ex. "A," is a true copy of Respondent's letter dated 3/21/17 to DMV,  
her employer in San Marcos, CA, received in evidence.

5. Attached as Ex. "B," is a true copy of letter from Adam C. Rhodes, M.D., dated  
11/12/19, which was received by CalPERS and entered in evidence.

I declare under penalty of perjury under the laws of the State of California, that the  
foregoing is true and correct; executed at Newport Beach, California on August 24, 2020.

  
\_\_\_\_\_  
David R. Flyer

**EXHIBIT 22**

PERS228

2019/08/28 07:43

CALIFORNIA STATE TRANSPORTATION AGENCY  
DEPARTMENT OF MOTOR VEHICLES  
HUMAN RESOURCES BRANCH  
P O BOX 832915 MAIL STATION A203  
SACRAMENTO CA 94232 3150

CAVIN BERRYMAN, Governor

RECEIVED  
SACRAMENTO  
2019 AUG 27 PM 2:11



August 22 2019



Alka Nguyen  
California Public Employees' Retirement System  
Disability Retirement Section  
P O Box 2796  
Sacramento CA 95812-2796

Dear Ms Nguyen

This letter is in response to your request for additional information, CalPERS ID [REDACTED] we received for former Department of Motor Vehicles (DMV) employee Regina T Schueneman

The DMV's Human Resources Branch (HRB) reached out to the assigned HRB Workers' Compensation Payroll Specialist and the San Marcos Drivers License Processing Center (DLPC) Office Manager to request the additional information required. After review of their records the following information was provided:

1. Did the member indicate that she was retiring because she was too disabled to continue working? If so when?
  - Effective September 8 2015 Ms Schueneman resigned from her position due to illness (San Marcos DLPC Manager)
2. What did the member state as the reason for stopping work?
  - Ms Schueneman stopped working (resigned) from her position due to illness (San Marcos DLPC Manager)
3. At the time the member stopped working was an industrial injury/illness claim pending or filed within the preceding three years? If so what is the complete name and address of the workers' compensation insurer and what is the claim number?
  - No Ms Schueneman did not submit or file a claim in the three (3) years preceding her resignation/separation (Workers' Compensation Payroll Specialist)

California Relay Telephone Service for the deaf or hard of hearing from TDD Phones 1 800 735 2629 from Voice Phones 1 800 735 2822

FORM 1401 (REV. 12/01) 02/01/02

A Public Service Agency

PERS229

2019/08/25 07:43:11 58 587

2019/08/25 07:43:11 58 587

R Schueneman  
Page 2  
August 22 2019

- 4 Was the member given information or counseling regarding disability retirement? If so, when and what information was provided to the member?
  - The San Marcos DLPC Office does not recall providing Ms Schueneman with any information regarding disability retirement prior to her resignation separation (San Marcos DLPC Manager)
  
- 5 Would the Department of Motor Vehicles be in agreement if we grant the earlier effective date of retirement? If no why not?
  - Ms Schueneman was on an approved medical leave of absence (LOA) beginning July 20, 2013, and remained off pay status until her resignation separation effective, September 8 2015 During her LOA Ms Schueneman received Temporary Disability (TD) payments for a 2011 claim The DMV is in agreement with the earlier requested effective date of retirement of September 8 2015

If you have any questions or need additional information, you may contact Jessica Koeber, of my staff, at (916) 403-8308

Sincerely



NEDRA BRYAN Transactions Operations Manager  
Human Resources Branch

**EXHIBIT A**

San Marcos DMV

March 21<sup>st</sup>, 2017

To Whom It May Concern,

I received the attached paperwork showing that I was separated per notice of action and taken off the payroll effective 9/08/2015. It states that I have been temporarily taken off the payroll. I am permanently disabled and have been since 2013. I am on a breathing machine, confined to a wheelchair with compound fractures in my back and unable to cook a meal, bathe or comb my own hair.

I am resigning effective as of 9/08/2015 as the DMV has been kept abreast of my illness and inability to work since 2013. Please make this effective and send me notification that you have received this letter an my resignation dated 9/08/2015. This was the last day I received a paycheck from the DMV and a workers comp check from my original injury of 2013. (per Dr. Parash Jay). I appreciate confrmation of my resignation from the DMV.

Thank you,

Regina Scheuneman

**EXHIBIT B**



SCRIPPS CLINIC CARMEL VALLEY FAMILY MEDICINE  
3811 VALLEY CENTRE DRIVE  
SAN DIEGO CA 92130-3318  
Phone: 858-764-3000  
Fax: 858-764-9078

November 12, 2019

Patient: **Regina T Schueneman**  
Date of Birth: [REDACTED]  
Date of Visit: **11/12/2019**

To Whom It May Concern:

Regina Schueneman was seen in my clinic on 11/12/2019 at 10:00 am. I have seen her many times due to her ongoing medical condition that appears in all ways to be related to her occupational exposure to mold that was found to be in the DMV office where she worked for approximately 15 years. Her medical condition was so severe related to her diminished lung function with no clear reason to suspect she would improve enough to return to work after 7/2013. It was also very clear that she would require medical insurance. At one point she tells me she was encouraged to resign her position by Sonia Alvarado (not sure of name) who is a human resources back to work coordinator. Mrs. Schueneman believes strongly that she was told this would allow her to have insurance paid through her state benefits. In retrospect, she feels she would have had paid insurance had she retired instead of resigning. She is certain that retirement was not discussed as a good option. During this time she was in the hospital frequently and had multiple ICU stays and it was exceptionally challenging for her to deal with these decisions. She would have benefited from having someone give her good advice and based on her description of what happened it does not appear that this was done.

Sincerely,

Adam Christopher Rhodes, MD

CC: No Recipients

BEFORE THE BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
STATE OF CALIFORNIA  
DEBRA NYE-PERKINS, ADMINISTRATIVE LAW JUDGE

In the Matter of the Appeal )  
for an earlier effective Date ) OAH No. 2020030181  
of Disability Retirement of: )  
)  
REGINA T. SCHUENEMAN, ) Case No. 2019-1094  
)  
Respondent, )  
)  
- and - )  
)  
DEPARTMENT OF MOTOR VEHICLES, )  
)  
Respondent. )  
\_\_\_\_\_ )

CERTIFIED COPY

TRANSCRIPT OF TELECONFERENCE PROCEEDINGS

Monday, June 29, 2020

Reported by:

ERIN WINN-KENNEDY,  
CSR No. 13579

Job No. :  
27299 OSD

1                   BEFORE THE BOARD OF ADMINISTRATION  
2                   CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
3                   STATE OF CALIFORNIA  
4                   DEBRA NYE-PERKINS, ADMINISTRATIVE LAW JUDGE  
5  
6

7   In the Matter of the Appeal            )  
8   for an earlier effective Date        )   OAH No. 2020030181  
9   of Disability Retirement of:         )  
10    )  
11   REGINA T. SCHUENEMAN,                )   Case No. 2019-1094  
12    )  
13                   Respondent,            )  
14    )  
15                   - and -                 )  
16    )  
17   DEPARTMENT OF MOTOR VEHICLES,       )  
18    )  
19                   Respondent.            )  
20                   \_\_\_\_\_                )  
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17                   TRANSCRIPT OF TELECONFERENCE PROCEEDINGS,  
18                   taken via teleconference, commencing at 9:10 a.m.  
19                   on Monday, June 29, 2020, heard before  
20                   DEBRA NYE-PERKINS, Administrative Law Judge,  
21                   reported by ERIN WINN-KENNEDY, CSR No. 13579,  
22                   a Certified Shorthand Reporter in and for  
23                   the State of California.  
24  
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APPEARANCES :

For the COMPLAINANT: CALIFORNIA PUBLIC EMPLOYEES '  
RETIREMENT SYSTEM  
BY: CHARLES GLAUBERMAN  
400 Q Street  
Sacramento, California  
95811

For the RESPONDENT: IN PROPRIA PERSONA

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I N D E X

COMPLAINANT'S Witness:	Direct	Cross	Redirect	Recross
Timothy Grigsby	24			
RESPONDENT'S Witness:				
Regina Schueneman	69			

E X H I B I T S

COMPLAINANT'S:	Marked for Identification	Received in Evidence
1 - Statement of Issues	14	68
2 - Notice of hearing	15	68
3 - Notice of telephonic hearing	15	68
4 - Disability retirement election application for R. Schueneman	15	50
5 - Letter dated 9/24/19 from CalPERS to R. Schueneman	15	64
6 - Letter dated 9/24/19 to R. Schueneman	16	65
7 - Letter dated 9/24/19 to R. Schueneman with attachments	16	67
8 - Letter dated 1/31/14 from CalPERS to R. Schueneman	16	33

E X H I B I T S (Continued)

COMPLAINANT'S:	Marked for Identification	Received in Evidence
9 - Disability retirement election application guide	17	35
10 - Letter dated 9/9/15	17	37
11 - Guide to service retirement election application	17	39
12 - Letter dated 1/8/16	17	41
13 - Letter dated 8/1/16 from CalPERS to R. Schueneman	17	42
14 - Letter dated 11/14/16 from CalPERS to R. Schueneman	18	44
15 - Letter dated 4/14/2017 from CalPERS to R. Schueneman	18	46
16 - Letter dated 10/4/17 from CalPERS to R. Schueneman	18	47
17 - Letter dated 6/5/19 from CalPERS to R. Schueneman	18	52
18 - Letter dated 6/6/19 from CalPERS to R. Schueneman	18	53
19 - Letter dated 7/18/19 from CalPERS to R. Schueneman	19	54
20 - Undated typed letter with a fax date of 8/5/2019	19	56

E X H I B I T S (Continued)

COMPLAINANT'S:	Marked for Identification	Received in Evidence
21 - Letter dated 7/18/19 from CalPERS to R. Schueneman and DMV	19	57
22 - Letter dated 8/22/19 to Ms. Alka Nguyen	19	59
23 - Customer touch-point report for R. Schueneman from CalPERS	19	62
RESPONDENT'S:		
A - Letter dated 3/21/17 from R. Schueneman to San Marcos DMV	22	77
B - Letter from Scripps Clinic Carmel Valley Family Medicine for date of visit of 11/12/2019	22	77
C - E-mail from R. Schueneman to Law Offices of Cohen & Blitz	22	77

1 Monday, June 29, 2020

2 9:10 a.m.

3  
4  
5 ADMINISTRATIVE LAW JUDGE: I will open the record in  
6 the matter of the appeal for an earlier effective date of  
7 industrial disability retirement of Regina T.  
8 Schueneman -- that's S-C-H-U-E-N-E-M-A-N -- and the  
9 California Department of Motor Vehicles. This bears  
10 Office of Administrative Hearings number 2020030181,  
11 agency case number 20191094. This matter is heard before  
12 the Board of Administration for the California Public  
13 Employees' Retirement System.

14 My name is Debra Nye-Perkins. I am an  
15 Administrative Law Judge with the State of California's  
16 Office of Administrative Hearings, and I'm not affiliated  
17 with the Board of Administration or the California Public  
18 Employees' Retirement System. I've been assigned to hear  
19 this matter today. This hearing is taking place  
20 telephonically at 9:00 a.m. on June 29th, 2020.

21 May I take appearance of counsel for the record,  
22 please?

23 MR. GLAUBERMAN: Yes, your Honor. Good morning. This  
24 is Charles Glauberman, G-L-A-U-B, as in "boy," E-R-M-A-N,  
25 on behalf of CalPERS.

1 ADMINISTRATIVE LAW JUDGE: Good morning,  
2 Mr. Glauberman.

3 Ms. Schueneman, do you have anyone representing  
4 you today? You're representing yourself; correct?

5 MS. SCHUENEMAN: Yes. Yes, your Honor.

6 ADMINISTRATIVE LAW JUDGE: Okay. All right. So  
7 Ms. Schueneman, before we get started, let me give you a  
8 little basic information as to how this proceeding is  
9 going to go; okay?

10 MS. SCHUENEMAN: Okay. Yeah.

11 ADMINISTRATIVE LAW JUDGE: So as you heard -- as you  
12 heard, we have a court reporter on the line recording  
13 everything just as if we were all sitting in court, and  
14 she's sitting in front of you at a stenography machine;  
15 okay?

16 MS. SCHUENEMAN: Uh-huh.

17 ADMINISTRATIVE LAW JUDGE: So I'm going to ask if you  
18 could please wait for a question to finish before  
19 providing your answer. You need to give a little bit of a  
20 pause; otherwise, we're going to be speaking over each  
21 other, and it makes her job essentially impossible.

22 Now, in addition to that, I'm also taking my own  
23 notes. You may hear me typing a little bit. So I'm  
24 sometimes not the fastest typist, so I may ask you to slow  
25 down -- okay -- or repeat yourself. All right?

1 MS. SCHUENEMAN: Uh-huh.

2 ADMINISTRATIVE LAW JUDGE: Do you understand? Okay.

3 MS. SCHUENEMAN: I understand.

4 ADMINISTRATIVE LAW JUDGE: All right. So --

5 MS. SCHUENEMAN: Your Honor?

6 ADMINISTRATIVE LAW JUDGE: Yes?

7 MS. SCHUENEMAN: My e-mails came back. You know where  
8 it says the Daemon thing where it says invalid e-mail  
9 address?

10 ADMINISTRATIVE LAW JUDGE: Okay. All right. Hold on  
11 a second.

12 Mr. Glauberman, can you just send her an e-mail  
13 so she can reply with the documents?

14 MR. GLAUBERMAN: I am doing that as we speak,  
15 your Honor.

16 ADMINISTRATIVE LAW JUDGE: Okay. So Ms. Schueneman,  
17 let me explain a little bit about the hearing itself. So  
18 as you know, this is about whether or not you have an  
19 effective earlier date of industrial disability  
20 retirement.

21 And Mr. Glauberman, are you on the same page as I  
22 am with regard to burden of proof here? That means that  
23 Ms. Schueneman has the burden to prove that she's entitled  
24 to that earlier date.

25 MR. GLAUBERMAN: Yes, your Honor.

1 ADMINISTRATIVE LAW JUDGE: Has anything changed on  
2 that?

3 MR. GLAUBERMAN: No, your Honor.

4 ADMINISTRATIVE LAW JUDGE: And has the California  
5 Department of Motor Vehicles filed a notice of defense or  
6 made any type of appearance in this matter?

7 MR. GLAUBERMAN: No, your Honor.

8 ADMINISTRATIVE LAW JUDGE: Okay. All right. So  
9 Ms. Schueneman, what that means is Mr. Glauberman --  
10 typically parties with the burden present their evidence  
11 first, but that's not what we're going to do here today  
12 because it's the least efficient way to go.

13 So what we're going to do is Mr. Glauberman is  
14 going to present his evidence first. He's going to do so  
15 in the form of documents -- you already have that  
16 packet -- and witness testimony. And you will have an  
17 opportunity to object to any of those documents, and  
18 you'll have an opportunity to cross-examine his witnesses.

19 After he's finished, then it's your opportunity  
20 to present your evidence. You may do so in the form of  
21 your own testimony, any other witness testimony, and your  
22 own documents as well. And Mr. Glauberman has the same  
23 rights as you with regard to cross-examination of  
24 witnesses and objection to documents.

25 Do you understand?

1 MS. SCHUENEMAN: Uh-huh.

2 ADMINISTRATIVE LAW JUDGE: I'm going to need a "yes"  
3 or "no."

4 MS. SCHUENEMAN: Yes.

5 ADMINISTRATIVE LAW JUDGE: Okay.

6 MS. SCHUENEMAN: Yes, your Honor.

7 ADMINISTRATIVE LAW JUDGE: So if you have any  
8 questions about procedure, Ms. Schueneman, please let me  
9 know. I'm happy to help as best I can. I cannot,  
10 however, provide you with any legal advice; okay?

11 MS. SCHUENEMAN: Okay.

12 ADMINISTRATIVE LAW JUDGE: All right. Okay. So  
13 before we get started, my preference is to mark documents.

14 And Ms. Schueneman, did you get that e-mail from  
15 Mr. Glauberman yet?

16 MS. SCHUENEMAN: Yeah. I just got it.

17 ADMINISTRATIVE LAW JUDGE: Okay. If you want to reply  
18 to that and attach the documents --

19 MS. SCHUENEMAN: Yeah.

20 ADMINISTRATIVE LAW JUDGE: -- that's probably the  
21 easiest.

22 MS. SCHUENEMAN: Yeah. That's what I think, too.

23 ADMINISTRATIVE LAW JUDGE: All right. So I'm going to  
24 go ahead then -- Ms. Schueneman, let me know when you're  
25 done sending that e-mail.

1 MS. SCHUENEMAN: Okay. Oh, gosh. I think I'm just so  
2 overwhelmed right now, I'm not thinking straight. This  
3 is -- okay.

4 ADMINISTRATIVE LAW JUDGE: Ms. Schueneman?

5 MS. SCHUENEMAN: Yes?

6 ADMINISTRATIVE LAW JUDGE: Have you sent the e-mail  
7 yet?

8 MS. SCHUENEMAN: I'm doing it now. Oh, boy. Okay.  
9 Darn it.

10 ADMINISTRATIVE LAW JUDGE: Did you send it?

11 MS. SCHUENEMAN: No. No. I'm having a hard time.

12 ADMINISTRATIVE LAW JUDGE: Okay.

13 MS. SCHUENEMAN: I'm just trying to -- I'm sorry.

14 ADMINISTRATIVE LAW JUDGE: That's okay. Let's go  
15 ahead and we'll mark the other documents. We'll deal with  
16 those after we're done doing that; okay? All right.

17 So do you have that packet in front of you?

18 MS. SCHUENEMAN: Yes.

19 ADMINISTRATIVE LAW JUDGE: Sorry?

20 MS. SCHUENEMAN: I do, your Honor.

21 ADMINISTRATIVE LAW JUDGE: All right. We're going to  
22 mark those for identification purposes only; okay,  
23 Ms. Schueneman? I'm not admitting them at this point.  
24 I'm just marking them for identification.

25 MS. SCHUENEMAN: Okay.

1 ADMINISTRATIVE LAW JUDGE: They should correspond  
2 to -- I'm assuming that's a tabbed notebook,  
3 Mr. Glauberman?

4 MR. GLAUBERMAN: Yes, your Honor.

5 ADMINISTRATIVE LAW JUDGE: All right. So they  
6 should -- these numbers should correspond to the tabs,  
7 Ms. Schueneman; okay?

8 MS. SCHUENEMAN: Okay.

9 ADMINISTRATIVE LAW JUDGE: So the first document I'm  
10 going to mark as Exhibit 1 is the statement of issues.  
11 Hold on a second here. It's a statement of issues.

12 MR. GLAUBERMAN: Your Honor --

13 ADMINISTRATIVE LAW JUDGE: Yes?

14 MR. GLAUBERMAN: -- about that document, when you  
15 announced the case and the caption of the case as the  
16 matter of appeal for earlier effective date of industrial  
17 disability retirement --

18 ADMINISTRATIVE LAW JUDGE: Yes.

19 MR. GLAUBERMAN: -- industrial is an error. It should  
20 just be disability retirement, and that's indicated in the  
21 statement of issues, but the caption there is incorrect.

22 ADMINISTRATIVE LAW JUDGE: Oh, the caption is wrong.  
23 Understood. All right.

24 MS. SCHUENEMAN: I was wondering -- yeah. That's very  
25 confusing.

1 ADMINISTRATIVE LAW JUDGE: Okay. All right,  
2 Ms. Schueneman. Okay. So I'll note that this is really  
3 an effective date of -- or earlier effective date of  
4 disability retirement and not industrial disability  
5 retirement.

6 (Exhibit 1 was marked for identification.)

7 ADMINISTRATIVE LAW JUDGE: Okay. Moving on.  
8 Exhibit 2 is the next document I'm going to mark, and it  
9 is the notice of hearing. And it's one, two, three --  
10 four pages in length, and it's actually Bates numbered.  
11 So Ms. Schueneman, if you look at the top of the page --  
12 top right corner of each of these pages --

13 MS. SCHUENEMAN: Yes.

14 ADMINISTRATIVE LAW JUDGE: -- it says PERS 015.  
15 That's called a Bates number.

16 MS. SCHUENEMAN: Oh, okay.

17 ADMINISTRATIVE LAW JUDGE: The document is Bates  
18 numbered. Do you see it?

19 MS. SCHUENEMAN: You want me to go to 15?

20 ADMINISTRATIVE LAW JUDGE: Okay. Yes. So I'm marking  
21 it for identification. So the second document I'm going  
22 to mark as Exhibit 2 has a Bates number on it on the top  
23 right-hand corner that says PERS 015 on the first page,  
24 and that goes all the way through to -- hold on --  
25 PERS 019. All that is going to be Exhibit 2.

1 (Exhibit 2 was marked for identification.)

2 MS. SCHUENEMAN: Okay. Yeah. 015 I've got.

3 ADMINISTRATIVE LAW JUDGE: Right. Okay. The next  
4 document I'm going to mark as Exhibit 3 is a notice of  
5 telephonic hearing. It's Bates numbered at the top  
6 PERS 021 through -- an attached order converting it to  
7 telephonic hearing, the proof of service -- that's going  
8 to be all the way through PERS 028.

9 (Exhibit 3 was marked for identification.)

10 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
11 to mark is Exhibit 4. It's a redacted document that is a  
12 disability retirement election application for  
13 Ms. Schueneman. It's Bates marked at the top PERS 030  
14 through PERS 041. That's all going to be marked as  
15 Exhibit 4.

16 (Exhibit 4 was marked for identification.)

17 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
18 to mark for identification as Exhibit 5 is a letter dated  
19 September 24, 2019, from CalPERS to Ms. Schueneman. It's  
20 Bates marked at the top right-hand corner PERS 043 through  
21 044. It's a two-page letter. That's Exhibit 5.

22 (Exhibit 5 was marked for identification.)

23 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
24 to mark as Exhibit 6 is a letter dated September 24, 2019,  
25 to Ms. Schueneman. It's Bates marked in the top

1 right-hand corner PERS 046, and it's a two-page letter  
2 with an attachment. And the attachment is a single page,  
3 so the Bates marks go through PERS 048. That's Exhibit 6.

4 (Exhibit 6 was marked for identification.)

5 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
6 to mark -- are you there, Ms. Schueneman?

7 MS. SCHUENEMAN: Oh, I'm here. Yeah.

8 ADMINISTRATIVE LAW JUDGE: Okay. The next document --

9 MS. SCHUENEMAN: I'm at Exhibit 7 you're going into.

10 ADMINISTRATIVE LAW JUDGE: Right. The next document  
11 I'm going to mark as Exhibit 7 is a September 24, 2019  
12 letter to Ms. Schueneman with attachments I believe, and  
13 it is Bates marked PERS 050 through 052.

14 (Exhibit 7 was marked for identification.)

15 ADMINISTRATIVE LAW JUDGE: Next document I'm going to  
16 mark is Exhibit 8. It's a letter dated January 31st,  
17 2014, from CalPERS to Ms. Schueneman. It's Bates marked  
18 PERS 054.

19 (Exhibit 8 was marked for identification.)

20 ADMINISTRATIVE LAW JUDGE: Next document I'm going to  
21 mark as Exhibit 9 is a disability retirement election  
22 application guide, and it's a number of pages in length.  
23 It's Bates marked PERS 056 through -- hold on. It's  
24 marked through PERS 129. That's all going to be marked as  
25 Exhibit 9.

1 (Exhibit 9 was marked for identification.)

2 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
3 to mark as Exhibit 10 is a letter dated September 9, 2015,  
4 Bates marked PERS 131 through 132.

5 (Exhibit 10 was marked for identification.)

6 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
7 to mark as Exhibit 11 is a guide to service retirement  
8 election application document. It is Bates marked  
9 PERS 133 through -- hold on a second -- through PERS 182.  
10 That's all Exhibit 11.

11 (Exhibit 11 was marked for identification.)

12 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
13 to mark as Exhibit 12 is a letter dated January 8, 2016,  
14 Bates marked PERS 184 through PERS 189. That's  
15 Exhibit 12.

16 (Exhibit 12 was marked for identification.)

17 ADMINISTRATIVE LAW JUDGE: The next stack of documents  
18 I'm going to mark next as Exhibit 13 is a letter dated  
19 August 1st, 2016, from CalPERS to Ms. Schueneman  
20 Bates marked PERS 191, and that's a single page document.

21 (Exhibit 13 was marked for identification.)

22 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
23 to mark as Exhibit 14 is a letter dated November 14, 2016,  
24 from CalPERS to Ms. Schueneman. It's Bates marked  
25 PERS 193, and it's a single page document.

1 (Exhibit 14 was marked for identification.)

2 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
3 to mark as Exhibit 15 is a letter dated April 14, 2017,  
4 from CalPERS to Ms. Schueneman, and it's Bates marked  
5 PERS 195 through 198.

6 (Exhibit 15 was marked for identification.)

7 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
8 to mark as Exhibit 16 is a letter dated October 4, 2017,  
9 from CalPERS to Ms. Schueneman. It's Bates marked  
10 PERS 200, and it's actually a disability retirement  
11 election application. It's blank, and it continues  
12 through to -- just a second. It continues through to  
13 PERS 209. That's all going to be marked as Exhibit 16.

14 (Exhibit 16 was marked for identification.)

15 ADMINISTRATIVE LAW JUDGE: The next document I'm going  
16 to mark as Exhibit 17 is a letter dated June 5, 2019, from  
17 CalPERS to Ms. Schueneman. It's Bates marked PERS 211  
18 through 212.

19 (Exhibit 17 was marked for identification.)

20 ADMINISTRATIVE LAW JUDGE: The next document I'll mark  
21 as Exhibit 18 is a letter from CalPERS dated June 6, 2019,  
22 to Ms. Schueneman Bates marked PERS 214 through 215.

23 (Exhibit 18 was marked for identification.)

24 ADMINISTRATIVE LAW JUDGE: The next document I'll mark  
25 as Exhibit 19 is a letter dated July 18, 2019, from

1 CalPERS to Ms. Schueneman Bates marked PERS 217 through  
2 218.

3 (Exhibit 19 was marked for identification.)

4 ADMINISTRATIVE LAW JUDGE: The next document I'll mark  
5 as Exhibit 20 is a typed letter that is -- appears to be  
6 undated. It's got a fax date on it of 8/5/2019, and it is  
7 one, two -- three pages in length. And it is Bates marked  
8 PERS 220 to 222, and I'll mark that as Exhibit 20.

9 (Exhibit 20 was marked for identification.)

10 ADMINISTRATIVE LAW JUDGE: The next document I will  
11 mark as Exhibit 21 is a letter from CalPERS dated July 18,  
12 2019, to Ms. Schueneman and the Department of Motor  
13 Vehicles, and it is Bates marked PERS 224 through 226.

14 (Exhibit 21 was marked for identification.)

15 ADMINISTRATIVE LAW JUDGE: The next document I'll mark  
16 as Exhibit 22 is a letter dated August 22nd, 2019, that  
17 has been redacted, and it is to Ms. Alka Nguyen,  
18 N-G-U-Y-E-N. And it's Bates marked PERS 228 through 229.  
19 I'll mark that as Exhibit 22.

20 (Exhibit 22 was marked for identification.)

21 ADMINISTRATIVE LAW JUDGE: And the last document I'll  
22 mark as Exhibit 23 is a customer touch-point report for  
23 Regina Schueneman from CalPERS. It's Bates marked PERS  
24 231 through 245, and that's marked as Exhibit 23.

25 (Exhibit 23 was marked for identification.)

1 ADMINISTRATIVE LAW JUDGE: Any further documents to  
2 mark, Mr. Glauberman?

3 MR. GLAUBERMAN: Nothing further at this time,  
4 your Honor.

5 ADMINISTRATIVE LAW JUDGE: Okay. All right.

6 Ms. Schueneman, are you there?

7 MS. SCHUENEMAN: Yes, I'm here.

8 ADMINISTRATIVE LAW JUDGE: Okay. You think if I gave  
9 you a couple of minutes to try to send that e-mail to  
10 Mr. Glauberman you'd be able to get that out for us?

11 MS. SCHUENEMAN: Could he check and make sure that he  
12 got it?

13 ADMINISTRATIVE LAW JUDGE: Oh, did you send it  
14 already?

15 MS. SCHUENEMAN: I think I did.

16 ADMINISTRATIVE LAW JUDGE: Mr. Glauberman?

17 MS. SCHUENEMAN: I don't think it came back again.

18 MR. GLAUBERMAN: I have not received anything yet.  
19 I'm checking right now as you speak. And I don't see it  
20 yet, but I will keep my eye out for it.

21 MS. SCHUENEMAN: Yeah. There's three, and it didn't  
22 come back, so --

23 ADMINISTRATIVE LAW JUDGE: Okay. All right. Hold on  
24 here. Let's see if I can find a way to get that.

25 MS. SCHUENEMAN: I think it's right. Oh, my gosh.

1 ADMINISTRATIVE LAW JUDGE: Ms. Schueneman, did you  
2 reply to the e-mail that he sent to you?

3 MS. SCHUENEMAN: Well, what -- well, yeah. I've  
4 got -- I've got his e-mail. I had to get, you know, what  
5 I sent, so I was trying to change what I sent. I mean,  
6 I -- okay. Whatever I sent by -- instead of putting a  
7 "dot," I put an "at" by mistake.

8 ADMINISTRATIVE LAW JUDGE: Okay. So instead of typing  
9 in his e-mail address -- Ms. Schueneman, instead of typing  
10 in his e-mail address, can you just hit "reply" to the  
11 e-mail that he sent to you and attach those three  
12 documents?

13 MS. SCHUENEMAN: Oh, okay. Can I -- okay. So --  
14 okay. And then -- okay. Okay. Reply -- I don't know how  
15 to attach them, though.

16 ADMINISTRATIVE LAW JUDGE: Okay. You don't know how  
17 to -- can you drop and drag?

18 MS. SCHUENEMAN: Like I've got his address -- his  
19 correct address, but what I need to do now is -- the  
20 documents that I already sent I'm trying to resend with  
21 the correct e-mail address, but that didn't work either.

22 ADMINISTRATIVE LAW JUDGE: Okay. All right. Hold on  
23 a second. Let's go off the record for about five seconds.

24 (Off the record)

25 ADMINISTRATIVE LAW JUDGE: We are back on the record

1 after the break and some clarification of documents. I'm  
2 now going to mark Respondent's documents in order, and the  
3 first document I'm going to mark as Exhibit A, as in  
4 "apple," is a single page letter dated March 21st, 2017,  
5 from Ms. Schueneman to the San Marcos DMV. I'll mark that  
6 document as Exhibit A, as in "apple."

7 (Exhibit A was marked for identification.)

8 ADMINISTRATIVE LAW JUDGE: And the Department of  
9 Motor Vehicles document I'm going to mark as Exhibit B is  
10 an e-mail from Jenny Schueneman -- well, it's actually a  
11 letter actually from Scripps Clinic Carmel Valley Family  
12 Medicine for a date of visit 11/12/2019. It is three  
13 pages in length. And the last page it says, "Sent from my  
14 iPhone," but it's a letter from Adam Christopher Rhodes.  
15 I'm going to mark that entire document as Exhibit B, as in  
16 "boy."

17 (Exhibit B was marked for identification.)

18 ADMINISTRATIVE LAW JUDGE: And then the last document  
19 I have to mark is -- I'll mark as Exhibit C, as in "cat."  
20 And it is an e-mail from Ms. Schueneman to the Law Offices  
21 of Cohen & Blitz, and it is a two-page document. I'll  
22 mark that as Exhibit C, as in "cat."

23 (Exhibit C was marked for identification.)

24 ADMINISTRATIVE LAW JUDGE: All right. Ms. Schueneman,  
25 any further documents you want to rely on today that we

1 haven't marked?

2 MS. SCHUENEMAN: No, your Honor.

3 ADMINISTRATIVE LAW JUDGE: Okay. All right. So with  
4 that, Mr. Glauberman, would you like to provide an opening  
5 statement?

6 MR. GLAUBERMAN: No opening statement, your Honor.

7 ADMINISTRATIVE LAW JUDGE: All right. Ms. Schueneman,  
8 you're entitled to an opening statement, which is  
9 essentially nothing more than a summary of what it is  
10 you're going to testify about, but I warn you I can't  
11 consider it as evidence because you're not yet under oath.  
12 As a result, most folks choose to waive their opening and  
13 provide me that evidence once they are under oath, but I  
14 give you the choice of how you want to proceed.

15 MS. SCHUENEMAN: No. That's fine. I'll wait, too.

16 ADMINISTRATIVE LAW JUDGE: Okay. Mr. Glauberman, your  
17 first witness?

18 MR. GLAUBERMAN: Thank you, your Honor. CalPERS calls  
19 Timothy Grigsby as its witness.

20 ADMINISTRATIVE LAW JUDGE: All right. Mr. Grigsby,  
21 are you there?

22 MR. GRIGSBY: Yes, I am.

23 ADMINISTRATIVE LAW JUDGE: I'm going to place you  
24 under oath. I know this is a little strange because we're  
25 over the phone, but I'm going to ask you to raise your

1 right hand for me.

2 MR. GRIGSBY: Okay.

3

4 TIMOTHY GRIGSBY,  
5 called as a witness, having first been duly sworn, was  
6 examined and testified as follows:

7 THE WITNESS: Yes, I do.

8 ADMINISTRATIVE LAW JUDGE: All right. I'm going to  
9 ask you to state and spell your full name for me, please.

10 THE WITNESS: Sure. Timothy, T-I-M-O-T-H-Y, and my  
11 last name is Grigsby, G-R-I-G-S-B, as in "boy," Y.

12 ADMINISTRATIVE LAW JUDGE: Thank you, Mr. Grigsby.

13 Mr. Glauberaman?

14 MR. GLAUBERMAN: Thank you, your Honor.

15

16 DIRECT EXAMINATION

17 BY MR. GLAUBERMAN:

18 Q Where do you work, Mr. Grigsby?

19 A I work for CalPERS.

20 Q How long have you worked for CalPERS?

21 A Since September of 2016.

22 Q What is your current position at CalPERS?

23 A I am an AGPA which is otherwise known as  
24 associate governmental program analyst.

25 Q What are your general duties as an AGPA?

1           A     What I do is I review incoming IDR and DR  
2 applications, and what we do is we determine if they are  
3 eligible for IDR or disability retirement.

4           Q     And you said IDR or DR. A moment ago you said  
5 disability retirement.

6                     Does "DR" stand for disability retirement?

7           A     Yes.

8           Q     And "IDR" stands for industrial disability  
9 retirement?

10          A     Yes.

11          Q     And what is your role in reviewing applications  
12 for disability retirement or industrial disability  
13 retirement?

14          A     What we do is I -- once -- once the determination  
15 side makes their adjudication on the case, if a member  
16 appeals that case, what I do is I take that, I review the  
17 contents of the member's appeal, and then what I do is I  
18 gather the file to send it up for administrative hearing  
19 to --

20                     (Interruption in the proceedings)

21          ADMINISTRATIVE LAW JUDGE: I didn't hear what you  
22 said. I apologize.

23                     Ms. Winn, I know you're trying to get  
24 clarification.

25                     Mr. Grigsby, I didn't hear the last part of what

1 you said. Can you repeat yourself?

2 THE WITNESS: Sure. No problem. I just said what I  
3 do is I get the member -- when a member is denied, I get  
4 their appeal, I review the basis of their appeal, and I  
5 gather the facts regarding their appeal from their file in  
6 the My CalPERS system and send it up to our legal office  
7 to set for administrative hearing.

8 ADMINISTRATIVE LAW JUDGE: Before you move on,  
9 Mr. Glauberman, I know, Ms. Winn, you're probably hearing  
10 my keyboard unfortunately because it's right next to the  
11 speaker.

12 Is it distracting you too much?

13 THE REPORTER: No, your Honor.

14 ADMINISTRATIVE LAW JUDGE: Okay. All right. If it  
15 does, let me know, and I'll mute myself. But it makes it  
16 difficult for me to mute and unmute when I need to talk,  
17 but just let me know.

18 All right. Mr. Glauberman?

19 MR. GLAUBERMAN: Thank you, your Honor.

20 BY MR. GLAUBERMAN:

21 Q Mr. Grigsby, are you familiar with the appeal for  
22 Ms. Schueneman?

23 A Yes, I am.

24 Q Have you reviewed the appeal file for  
25 Ms. Schueneman?

1           A     Yes, I have.

2           Q     And in general can you just give a brief  
3 explanation of Ms. Schueneman's -- the subject of  
4 Ms. Schueneman's appeal?

5           A     Yes. What Ms. Schueneman is wanting to do -- she  
6 is wanting an early effective retirement date for her  
7 disability retirement.

8           Q     So Ms. Schueneman has already been granted a  
9 disability retirement by CalPERS?

10          A     Yes.

11          Q     So what does it mean she wants an earlier  
12 effective retirement date?

13          A     We needed to determine if we can grant  
14 Ms. Schueneman's request for an early effective retirement  
15 date. She submitted her application June 3rd, 2019, and  
16 she requested an earlier retirement date of September 8,  
17 2015.

18          Q     Is somebody ordinarily able to -- a CalPERS  
19 member or retiree -- are they ordinarily able to choose a  
20 retirement date that's four years earlier than when they  
21 filed their application?

22          A     They can, but we have to go back and see if we  
23 can grant that request.

24          Q     Are there rules or laws that dictate when  
25 someone's retirement date will be?

1           A       Yes.  We use Government Code 21252, which is the  
2  earlier effective retirement date code.  And basically  
3  what it says is if the application is submitted more than  
4  nine months from the discontinuance of the state service,  
5  which Ms. Schueneman's --

6           ADMINISTRATIVE LAW JUDGE:  All right.  I'm going to  
7  slow you down.  Mr. Grigsby, I cannot type that fast.

8           THE WITNESS:  I'm sorry.

9           ADMINISTRATIVE LAW JUDGE:  You're going a little fast.

10          THE WITNESS:  Sorry about that.

11          ADMINISTRATIVE LAW JUDGE:  Submitted more than nine  
12  months prior to --

13          THE WITNESS:  If the application is submitted more  
14  than nine months from the discontinuation of state  
15  service --

16          ADMINISTRATIVE LAW JUDGE:  Okay.

17          THE WITNESS:  Okay.  The effective retirement date  
18  shall be the first date -- first day of the month in which  
19  the application is received by CalPERS.

20          ADMINISTRATIVE LAW JUDGE:  Okay.

21  BY MR. GLAUBERMAN:

22          Q       And you stated that Ms. Schueneman's retirement  
23  application was in June of 2019?

24          A       Yes.

25          Q       So based on the Government Code you recently

1 described, when would her effective retirement date be  
2 based on that section?

3 A It would be June 1st, 2019.

4 Q And so Ms. Schueneman wants a retirement date  
5 then in 2015?

6 A That's correct.

7 Q So is CalPERS able to give her that date?

8 A What we do -- we go back and do another  
9 Government Code. We go to our mistake statute, which is  
10 Government Code 20160, to determine if mistake can be  
11 corrected.

12 Q What do you mean by mistake?

13 A We want to see if we can grant the member an  
14 early retirement date of September 2015.

15 Q And was CalPERS able to do that here?

16 A No, we were not.

17 Q Why not?

18 A Because the application submitted by  
19 Ms. Schueneman was not received by CalPERS within nine  
20 months of discontinuation of --

21 (Interruption in the proceedings)

22 THE WITNESS: -- state service.

23 BY MR. GLAUBERMAN:

24 Q When did Ms. Schueneman discontinue her state  
25 service?

1 A September 9th, 2015.

2 Q You've talked about the mistake statute, and you  
3 said CalPERS reviews for a mistake.

4 Like what is CalPERS looking for?

5 A What we do is we send out information to the  
6 member and to the employer. We send out letters  
7 requesting additional information to see if we can grant  
8 an early effective retirement date.

9 Q What sort of additional information?

10 A We send out letters to both the member and to the  
11 employer.

12 Q CalPERS sends out letters. What kind of  
13 information is CalPERS looking for, though?

14 A We're looking to see basically when the member  
15 knew about disability retirement and if it -- if she knew  
16 about disability retirement in a reasonable amount of time  
17 from when she submitted her application.

18 Q Can I ask you to -- first I'm going to make sure  
19 that you have an exhibit binder in front of you.

20 A Yes, I do.

21 Q And have you reviewed the binder before the  
22 hearing today?

23 A Yes, I have.

24 Q And the documents in the binder from what you  
25 reviewed are documents pertaining to Ms. Schueneman's

1 account with CalPERS?

2 A Yes.

3 Q And how are the documents for Ms. Schueneman's  
4 account maintained by CalPERS?

5 A They are stored in our My CalPERS system. We  
6 have various documents received stored in the My CalPERS  
7 system as well as communications between the member, the  
8 employer. Any time that a member or an employer will call  
9 into CalPERS, they will speak to a call center  
10 representative, and those interactions are documented in  
11 our customer touch-point notes typically right after the  
12 conversation is made.

13 Q And when it comes to letters and correspondence  
14 related to an individual member like Ms. Schueneman, are  
15 those saved in the individual file with CalPERS?

16 A Yes.

17 Q Can I ask you to turn to Exhibit 8 in CalPERS'  
18 exhibit binder? And it's page number PERS 054.

19 ADMINISTRATIVE LAW JUDGE: Which exhibit was that?

20 MR. GLAUBERMAN: Exhibit 8, your Honor.

21 BY MR. GLAUBERMAN:

22 Q Do you recognize this document?

23 A Yes, I do. This is a cover sheet dated  
24 January 31st, 2014, a letter to Ms. Schueneman showing  
25 that we mailed a guide to completing a Disability

1 Retirement Publication 35 to Ms. Schueneman on that date.

2 Q What's a guide to completing disability  
3 retirement?

4 A It gives the member information about how to  
5 complete a disability retirement application, what forms  
6 are necessary for a complete disability retirement  
7 package, and the time frames in order to get those  
8 documents in to CalPERS.

9 Q And is this letter -- the January 31, 2014  
10 letter -- is this a standard letter that CalPERS sends  
11 with that publication -- with that guide?

12 A Yes. It's a cover letter showing that we mailed  
13 it out through our My CalPERS system to the member.

14 Q And is this a true and accurate copy of the  
15 letter from January 31, 2014, for Ms. Schueneman's  
16 account?

17 A Yes.

18 Q Can I ask you to turn to Exhibit 9 in CalPERS'  
19 exhibit binder, page PERS 056?

20 ADMINISTRATIVE LAW JUDGE: Mr. Glauberman, do you want  
21 to admit these as we go along or just at the end?

22 MR. GLAUBERMAN: We can admit them as we go along.  
23 Yeah. So your Honor, CalPERS requests admission of  
24 Exhibit 8 into evidence.

25 ADMINISTRATIVE LAW JUDGE: Okay. Ms. Schueneman, are

1 you there?

2 MS. SCHUENEMAN: Yes.

3 ADMINISTRATIVE LAW JUDGE: Do you have any objections  
4 to my receiving Exhibit 8 into evidence?

5 MS. SCHUENEMAN: Well, no. I understand it all is the  
6 disability packet.

7 ADMINISTRATIVE LAW JUDGE: Okay. 8 is admitted.

8 (Exhibit 8 was received in evidence.)

9 ADMINISTRATIVE LAW JUDGE: Mr. Glauberman?

10 MR. GLAUBERMAN: Thank you, your Honor.

11 BY MR. GLAUBERMAN:

12 Q Mr. Grigsby, I mentioned it before we admitted  
13 the document, but can you turn to Exhibit 9, please,  
14 PERS 056? And let me know when you're there.

15 A I am there.

16 Q Do you recognize this document -- this exhibit?

17 A Yes. This is the actual Publication 35 booklet  
18 that was mailed to Ms. Schueneman.

19 Q And is there any way to tell if this document is  
20 dated or, you know, if it corresponds with the letter --  
21 the timing of the letter, or is it a later version of the  
22 document?

23 A You can tell the date of the document on the  
24 publication of the version it is. It's on PERS 129.

25 Q You're at the very last page of the exhibit now?

1           A     Very last page of the exhibit, and it's the  
2     Publication 35 which has the issue date of December 2012,  
3     which is the effective date of this publication at that  
4     time.

5           Q     Back to the beginning of the publication, is  
6     there any information in this publication that indicates  
7     when somebody should apply for a disability retirement  
8     from CalPERS' perspective?

9           A     Yes, it does.

10          Q     Where are you looking in this publication for  
11     that information?

12          A     If you can turn to PERS 060, and we're looking at  
13     the second paragraph.

14          Q     And I don't need you to read the entire paragraph  
15     out loud, but can you explain what this indicates about  
16     applying for disability retirement?

17          A     It's basically to state that you should apply for  
18     disability or industrial disability retirement as soon as  
19     you believe you're unable to -- unable to perform your job  
20     duties.

21          Q     Can I ask you to turn to page PERS 062 in this  
22     exhibit?

23          A     Okay.

24          Q     And in the margin -- the far right margin of this  
25     page, there's a little paragraph.

1 Do you see that?

2 A Yes.

3 Q And so that indicates that CalPERS doesn't want  
4 people to wait for a workers' comp claim to settle before  
5 people apply for disability retirement?

6 A That's correct. You should not wait for your  
7 workers' compensation claim to settle before you apply for  
8 disability retirement through CalPERS.

9 Q Okay. Is this Exhibit 9 a true and accurate copy  
10 of Pub. 35 from 2014 that was sent to Ms. Schueneman?

11 A Yes, it is.

12 MR. GLAUBERMAN: Your Honor, CalPERS requests  
13 admission of Exhibit 9 into evidence.

14 ADMINISTRATIVE LAW JUDGE: Ms. Schueneman, do you have  
15 any objections to my receiving Exhibit 9?

16 MS. SCHUENEMAN: No. I --

17 ADMINISTRATIVE LAW JUDGE: Okay. Thank you. 9 is  
18 admitted.

19 (Exhibit 9 was received in evidence.)

20 BY MR. GLAUBERMAN:

21 Q In Exhibit 9 is there -- if I can have you turn  
22 to page PERS 090.

23 A Okay. I am there.

24 Q And on page 090 that's a blank disability  
25 retirement application?

1           A     Yes.  This is what is included inside the  
2  Publication 35.  It's a blank disability retirement  
3  application.

4           Q     Can I ask you to turn to Exhibit 10 in CalPERS'  
5  exhibit binder?

6           A     Okay.

7           Q     Do you recognize this document?  I'm on PERS 131.

8           A     Okay.

9           Q     You're on 131?

10          A     Yes, I am.

11          Q     Do you recognize this document?

12          A     Yes.  This is another cover letter dated  
13  September 9, 2015, showing that we mailed out another  
14  Publication 35 for disability retirement application as  
15  well as a service retirement application Pub. 43 to  
16  Ms. Schueneman.

17          Q     And what's the service retirement publication?

18          A     It's a general guide as well to how to apply for  
19  service retirement.

20          Q     Is this a true and accurate copy of the letter  
21  that went out with the publication on September 9, 2015,  
22  to Ms. Schueneman?

23          A     Yes.

24          MR. GLAUBERMAN:  Your Honor, CalPERS requests  
25  admission of Exhibit 10 into evidence.

1 ADMINISTRATIVE LAW JUDGE: Any objections,  
2 Ms. Schueneman?

3 MS. SCHUENEMAN: No, because I don't remember all that  
4 anyway, you know.

5 ADMINISTRATIVE LAW JUDGE: Okay. 10 is admitted.  
6 (Exhibit 10 was received in evidence.)

7 MR. GLAUBERMAN: Thank you, your Honor.

8 ADMINISTRATIVE LAW JUDGE: 10 is admitted.

9 BY MR. GLAUBERMAN:

10 Q Can I ask you to turn to page PERS 133,  
11 Mr. Grigsby, in Exhibit 11, please?

12 A I am there.

13 Q And do you recognize this document?

14 A Yes. This is our Publication 43 which is the  
15 service retirement election application publication that  
16 was sent to Ms. Schueneman.

17 Q And so what sort of information is included in  
18 this packet?

19 A When you can apply for service retirement. It  
20 also mentions in there --

21 (Interruption in the proceedings)

22 ADMINISTRATIVE LAW JUDGE: Yeah. I hear a lot of  
23 paper flipping.

24 THE WITNESS: Sorry about that.

25 ADMINISTRATIVE LAW JUDGE: Okay.

1 THE WITNESS: If you can turn to page PERS 138.

2 BY MR. GLAUBERMAN:

3 Q Why turn to page 138, Mr. Grigsby?

4 A Because it talks about there in the bottom of  
5 section 2 in the notes section -- it gives a little bit of  
6 information about an early effective retirement date and  
7 what your effective retirement will be based on --  
8 time frames. So it mentions effective date of retirement  
9 cannot be earlier than your last day on payroll as long as  
10 your application is received by CalPERS within nine  
11 months. If not -- if it's not received within nine  
12 months, the application -- the retirement date can be no  
13 earlier than the 1st of the month in which CalPERS  
14 receives the application.

15 Q So that's kind of restating that section that you  
16 were talking about earlier -- I think it was 21252 --  
17 regarding the effective date of retirement?

18 A That is correct.

19 Q Is this Exhibit 11 a true and accurate copy of  
20 the Publication 43 that was sent to Ms. Schueneman in  
21 2015?

22 A That is correct.

23 Q And we can tell when this publication was from  
24 based on the last page on page PERS 182 similar to how we  
25 can tell on the previous publication we looked at?

1 A Yes.

2 Q So on this one, PERS 182, there's a date of  
3 March 2015?

4 A Yes. This would be a publication that was in  
5 effect at that time.

6 MR. GLAUBERMAN: Your Honor, CalPERS requests  
7 admission of Exhibit 11 into evidence.

8 ADMINISTRATIVE LAW JUDGE: Any objection,  
9 Ms. Schueneman?

10 MS. SCHUENEMAN: No.

11 ADMINISTRATIVE LAW JUDGE: Okay. 11 is admitted.

12 (Exhibit 11 was received in evidence.)

13 BY MR. GLAUBERMAN:

14 Q Similar, Mr. Grigsby, to the Publication 35 that  
15 had the disability retirement application, the  
16 Publication 43 has copies of the retirement application?

17 A Yes.

18 Q Can I ask you to turn to Exhibit 12? And that's  
19 PERS 184.

20 A Okay.

21 Q Do you recognize this document?

22 A Yes, I do.

23 Q What is this document?

24 A This is another cover letter dated January 8,  
25 2016, to Ms. Schueneman showing that we mailed out another

1 Publication 35 disability retirement election application  
2 publication to her.

3 Q And is this a true and accurate copy of the  
4 letter showing that the document was sent?

5 A Yes.

6 Q And PERS 18 -- or PERS 185 appears to be an  
7 excerpt of the Publication 35?

8 A Yes.

9 Q And so is this a different version in Exhibit 12  
10 of the Publication 35 than was in the previous exhibit --  
11 I believe it was Exhibit 9?

12 A Yes.

13 Q You can tell the different version by looking at  
14 the date on page PERS 189?

15 A That's correct.

16 (Interruption in the proceedings)

17 THE WITNESS: March 2015 is the effective date of this  
18 publication that was sent at that time.

19 BY MR. GLAUBERMAN:

20 Q And on page 3 of this -- or on page 3 at the  
21 bottom, but it's PERS 188 in the top right corner.  
22 There's language in this publication that appears to  
23 almost mirror the language in the previous Pub. 35 about  
24 the timing of filing a disability retirement application?

25 A That's correct. It also mentions that she

1 should -- he or she should apply for disability retirement  
2 as soon as they believe they're unable to perform their  
3 job duties.

4 Q Are the documents in Exhibit 12, the cover letter  
5 and then the excerpt from the Publication 35 -- are these  
6 true and accurate representations of documents that were  
7 sent to Ms. Schueneman?

8 A Yes.

9 Q And maintained by CalPERS?

10 A Yes.

11 MR. GLAUBERMAN: Your Honor, CalPERS requests  
12 admission of Exhibit 12 into evidence.

13 ADMINISTRATIVE LAW JUDGE: Any objection,  
14 Ms. Schueneman?

15 MS. SCHUENEMAN: No.

16 ADMINISTRATIVE LAW JUDGE: Okay. Exhibit 12 is  
17 admitted.

18 (Exhibit 12 was received in evidence.)

19 BY MR. GLAUBERMAN:

20 Q Excuse me. Mr. Grigsby, can I have you turn to  
21 the next exhibit in the binder, Exhibit 13, page PERS 191?

22 A Okay. I'm there.

23 Q Do you recognize this document?

24 A Yes, I do.

25 Q What is this?

1           A       This is another cover letter dated August 1st,  
2 2015, sent to Ms. Schueneman showing that we sent another  
3 Publication 35 disability retirement election application  
4 to her.

5           Q       And is this a true and accurate copy of the cover  
6 letter for that publication?

7           A       Yes.

8           Q       And this letter is maintained by CalPERS?

9           A       Yes, it is.

10          MR. GLAUBERMAN: Your Honor, CalPERS requests  
11 admission of Exhibit 13 into evidence.

12          ADMINISTRATIVE LAW JUDGE: Any objection,  
13 Ms. Schueneman?

14          MS. SCHUENEMAN: No. I was in the hospital, so no.

15          ADMINISTRATIVE LAW JUDGE: Okay. Exhibit 13 is  
16 admitted.

17                   (Exhibit 13 was received in evidence.)

18 BY MR. GLAUBERMAN:

19          Q       And Exhibit 14 -- if I can have you turn to  
20 that -- page PERS 193.

21          A       Okay.

22          Q       Do you recognize this document?

23          A       Yes.

24          Q       And what is this?

25          A       This is a cover letter dated November 14, 2015,

1 to Ms. Schueneman showing that we mailed out a  
2 Publication 35 disability retirement election application  
3 to her.

4 Q And is this a true and accurate copy of the  
5 letter that accompanied Publication 35?

6 A Yes.

7 Q And we've reviewed a handful of these Pub. 35  
8 letters that went out.

9 And it's your testimony that with each of these  
10 letters a Publication 35 was sent out with the -- with the  
11 letter?

12 A Yes.

13 Q Did CalPERS receive any disability retirement  
14 applications in the time following the sending of these  
15 letters and publications?

16 A No.

17 Q Did CalPERS receive a service retirement  
18 application from Ms. Schueneman following the  
19 Publication 43 that was sent?

20 A No.

21 Q Do you know when the first time CalPERS received  
22 an application from Ms. Schueneman was?

23 A Yes.

24 Q When was that?

25 A June 3rd, 2019.

1 MR. GLAUBERMAN: Your Honor, CalPERS requests  
2 admission of Exhibit 14 into evidence.

3 ADMINISTRATIVE LAW JUDGE: Any objection,  
4 Ms. Schueneman?

5 MS. SCHUENEMAN: No.

6 ADMINISTRATIVE LAW JUDGE: 14 is admitted.

7 (Exhibit 14 was received in evidence.)

8 ADMINISTRATIVE LAW JUDGE: I'm not sure what that  
9 noise is, but there's something rubbing against the phone  
10 or some noise. Okay.

11 BY MR. GLAUBERMAN:

12 Q Can I ask you to turn to Exhibit 15, Mr. Grigsby,  
13 page PERS 195?

14 A Yes.

15 Q Do you recognize this document?

16 A Yes.

17 Q What is this?

18 A This is an options letter sent out to  
19 Ms. Schueneman dated April 4, 2017. It is a letter  
20 generated by the system when we have not received any  
21 updated payroll from the member in a period of time. I do  
22 not know the exact period of time, but it is a system-  
23 generated letter.

24 Q When you say updated payroll, what do you mean?

25 A When CalPERS does not receive any updated payroll

1 information to update her last day on pay, CalPERS sends  
2 out an options letter in the future giving them  
3 information about what to do at separation from CalPERS  
4 employment.

5 Q So when you say updated payroll, does that mean  
6 an employer is no longer reporting payroll to CalPERS for  
7 an individual?

8 A Correct.

9 Q So this is a true and accurate copy of that  
10 letter from CalPERS to Ms. Schueneman?

11 A Yes.

12 Q Is there anything in this letter about disability  
13 retirement or service retirement?

14 A Yes. It's going to be on the next page,  
15 PERS 196.

16 Q Can you just point to the portion of the page  
17 that you're referring to?

18 A Yes. It's going to be about the middle of the  
19 page. You'll see a bold sentence that says, "If you have  
20 at least five years of service credit and are under the  
21 age 50." If you look at that last sentence, it says, "If  
22 you are disabled regardless of age, you may be eligible  
23 for disability retirement."

24 MR. GLAUBERMAN: Your Honor, CalPERS requests  
25 introduction of Exhibit 15 into evidence.

1 ADMINISTRATIVE LAW JUDGE: Any objection,  
2 Ms. Schueneman?

3 MS. SCHUENEMAN: No. I just have a question on that  
4 page.

5 ADMINISTRATIVE LAW JUDGE: Okay. Well, you'll get an  
6 opportunity to testify about that when it's your turn --

7 MS. SCHUENEMAN: Okay.

8 ADMINISTRATIVE LAW JUDGE: -- and to cross-examine as  
9 well. So 15 is admitted. All right.

10 (Exhibit 15 was received in evidence.)

11 MR. GLAUBERMAN: Thank you, your Honor.

12 BY MR. GLAUBERMAN:

13 Q Mr. Grigsby, can I have you turn to Exhibit 16,  
14 please, PERS 200?

15 A Okay.

16 Q Do you recognize this document?

17 A Yes, I do.

18 Q What is this?

19 A This is a blank disability retirement election  
20 application. It was mailed to Ms. Schueneman on  
21 October 4, 2017.

22 Q Mailed by CalPERS?

23 A Yes.

24 Q And do you know if CalPERS received the  
25 disability retirement application from Ms. Schueneman

1 following the mailing of this letter?

2 A CalPERS did not receive an application from  
3 Ms. Schueneman.

4 Q And is this a true and accurate copy of a blank  
5 application CalPERS sent to Ms. Schueneman October 4,  
6 2017?

7 A Yes.

8 MR. GLAUBERMAN: Your Honor, CalPERS requests  
9 admission of Exhibit 16 into evidence.

10 ADMINISTRATIVE LAW JUDGE: Any objection,  
11 Ms. Schueneman?

12 MS. SCHUENEMAN: No.

13 ADMINISTRATIVE LAW JUDGE: Okay. 16 is admitted.

14 (Exhibit 16 was received in evidence.)

15 BY MR. GLAUBERMAN:

16 Q Mr. Grigsby, can I have you turn to Exhibit 17 in  
17 CalPERS' exhibit binder? Page PERS 211.

18 Do you recognize this document?

19 A Yes.

20 Q And what is this?

21 A This is a letter dated June 5th to Ms. Schueneman  
22 letting her know that we received her application for  
23 service retirement pending disability retirement.

24 Q What does that mean? Service retirement pending  
25 disability retirement?

1           A     It means that a member will want to start their  
2 service retirement and then wait for the adjudication  
3 process for their disability retirement.

4           Q     So CalPERS can grant someone a service retirement  
5 while they're waiting to find out if they're going to  
6 qualify for disability retirement?

7           A     That's correct.

8           Q     If I can have you turn to PERS 030, Exhibit 4, in  
9 CalPERS' exhibit binder.

10          ADMINISTRATIVE LAW JUDGE:   Which exhibit was that,  
11 Mr. Glauberman?

12          MR. GLAUBERMAN:   4, your Honor.

13          ADMINISTRATIVE LAW JUDGE:   Exhibit 4?

14          MR. GLAUBERMAN:   Yes, your Honor.

15          ADMINISTRATIVE LAW JUDGE:   Okay.

16          MS. SCHUENEMAN:   Oh.

17          ADMINISTRATIVE LAW JUDGE:   Hold on. Ms. Schueneman?

18          MS. SCHUENEMAN:   Yes?

19          ADMINISTRATIVE LAW JUDGE:   Are you there?

20          MS. SCHUENEMAN:   Yes, your Honor.

21          ADMINISTRATIVE LAW JUDGE:   Okay. So --

22          MS. SCHUENEMAN:   No. I'm here.

23          ADMINISTRATIVE LAW JUDGE:   Okay. All right,  
24 Mr. Glauberman.

25          MR. GLAUBERMAN:   Thank you.

1 BY MR. GLAUBERMAN:

2 Q Do you recognize this document, Mr. Grigsby?

3 A Yes. This is the disability retirement election  
4 application that was submitted by Ms. Schueneman, and it  
5 was received by CalPERS on June 3rd, 2019.

6 Q You mentioned a moment ago a service retirement  
7 application pending disability retirement.

8 A Correct.

9 Q Is that what this is?

10 A Yes, it is.

11 Q How can you tell?

12 A She checkbox'd the application type in the top of  
13 the retirement application: service pending disability  
14 retirement.

15 Q And there's a date in the middle of the page:  
16 9/8/2015.

17 Do you see that?

18 A Yes.

19 Q What's that date?

20 A That is Ms. Schueneman's requested retirement  
21 date.

22 Q So that's the date that is the subject of this  
23 appeal?

24 A That's correct.

25 Q And is that when Ms. Schueneman stopped working

1 for her employer, the Department of Motor Vehicles?

2 A She stopped -- or according to the employer and  
3 according to CalPERS, her separation date was September 9,  
4 2015, one day after her requested retirement date.

5 Q And this is a true and accurate copy of the  
6 application CalPERS received for Ms. Schueneman's  
7 disability retirement request?

8 A Yes, it is.

9 MR. GLAUBERMAN: Your Honor, CalPERS requests  
10 introduction of Exhibit 4 into evidence.

11 ADMINISTRATIVE LAW JUDGE: Any objection,  
12 Ms. Schueneman?

13 MS. SCHUENEMAN: Oh, okay. I got kind of confused.  
14 Okay. Sure. Okay. I thought we were at -- okay.

15 ADMINISTRATIVE LAW JUDGE: Do you have any objection  
16 to Exhibit 4?

17 MS. SCHUENEMAN: Yeah. I didn't realize we were back  
18 on 4 again.

19 ADMINISTRATIVE LAW JUDGE: Okay. Do you have any  
20 objection to my receiving Exhibit 4?

21 MS. SCHUENEMAN: No.

22 ADMINISTRATIVE LAW JUDGE: Okay. 4 is admitted.

23 (Exhibit 4 was received in evidence.)

24 BY MR. GLAUBERMAN:

25 Q So based on that application, Mr. Grigsby,

1 Ms. Schueneman was in fact given a disability retirement  
2 by CalPERS?

3 A Yes, she was.

4 Q Okay. And if I can have you turn back. We were  
5 on 17 I believe, PERS 211.

6 ADMINISTRATIVE LAW JUDGE: Exhibit 17?

7 MR. GLAUBERMAN: Exhibit 17, your Honor, PERS 211.

8 ADMINISTRATIVE LAW JUDGE: Okay.

9 BY MR. GLAUBERMAN:

10 Q So this was a letter that was sent out,  
11 Mr. Grigsby, by CalPERS after it received the disability  
12 retirement application?

13 A Yes.

14 Q And this is a letter that was generated by the  
15 system after CalPERS receives something like a disability  
16 retirement application or a service retirement  
17 application?

18 A Yes.

19 Q And is this a true and accurate copy of that  
20 letter for Ms. Schueneman's account?

21 A Yes, it is.

22 MR. GLAUBERMAN: Your Honor, CalPERS requests  
23 introduction of Exhibit 17 into evidence.

24 ADMINISTRATIVE LAW JUDGE: Any objection,  
25 Ms. Schueneman?

1 MS. SCHUENEMAN: No.

2 ADMINISTRATIVE LAW JUDGE: 17 is admitted.

3 (Exhibit 17 was received in evidence.)

4 BY MR. GLAUBERMAN:

5 Q And Mr. Grigsby, if I can have you look at the  
6 first sentence on page PERS 211 in Exhibit 17, it  
7 indicates the effective date of that retirement  
8 application or the retirement would be June 1st, 2019.

9 Do you see that?

10 A That's correct, yes.

11 Q Why is that the effective date of the retirement  
12 if the application requests a date of 2015?

13 A Because of the Government Code 21252. The  
14 application was received more than nine months from the  
15 discontinuation of state service, so we used the 1st --  
16 the application is then deemed by CalPERS as the 1st of  
17 the month in which the application was received. So we  
18 received it June 3rd, 2019, so the earliest effective  
19 retirement day that she can have is June 1st, 2019.

20 Q Thank you. If I can ask you to turn to the next  
21 exhibit in the binder, PERS -- or Exhibit 18, PERS 214.

22 A Okay. I'm there.

23 Q Do you recognize this document?

24 A Yes, I do.

25 Q What is this document?

1           A       This is letter dated June 6, 2019, to  
2 Ms. Schueneman showing that we had processed her service  
3 retirement portion of the application.

4                   (Interruption in the proceedings)

5                   (Discussion off the record)

6           THE WITNESS: Okay. I'm sorry about that. This is a  
7 letter dated June 6th, 2019, to Ms. Schueneman showing  
8 that we had processed her service retirement portion of  
9 the application.

10 BY MR. GLAUBERMAN:

11           Q       And this is a true and accurate copy of the  
12 letter CalPERS sent to Ms. Schueneman dated June 6, 2019?

13           A       Yes, it is.

14           MR. GLAUBERMAN: Your Honor, CalPERS requests  
15 admission of Exhibit 18 into evidence.

16           ADMINISTRATIVE LAW JUDGE: Any objection,  
17 Ms. Schueneman?

18           MS. SCHUENEMAN: No.

19           ADMINISTRATIVE LAW JUDGE: 18 is admitted.

20                   (Exhibit 18 was received in evidence.)

21 BY MR. GLAUBERMAN:

22           Q       Mr. Grigsby, can I have you turn to Exhibit 19 in  
23 CalPERS' exhibit binder?

24           A       Okay.

25           Q       Do you recognize this document?

1 A Yes, I do.

2 Q What is this document?

3 A This is a letter dated July 8, 2019, from CalPERS  
4 to Ms. Schueneman requesting additional information to see  
5 if we can grant an early effective retirement date.

6 Q So you discussed earlier in your testimony about  
7 CalPERS sending or requesting information from parties to  
8 see if they can grant that earlier effective retirement  
9 date.

10 Is this what that letter is doing? Is this what  
11 you referenced earlier in your testimony?

12 A Yes.

13 Q And this is a true and accurate copy of the  
14 letter CalPERS sent to Ms. Schueneman?

15 A Yes, it is.

16 MR. GLAUBERMAN: Your Honor, CalPERS requests  
17 admission of Exhibit 19 into evidence.

18 ADMINISTRATIVE LAW JUDGE: Any objection,  
19 Ms. Schueneman?

20 MS. SCHUENEMAN: No.

21 ADMINISTRATIVE LAW JUDGE: 19 is admitted.

22 (Exhibit 19 was received in evidence.)

23 BY MR. GLAUBERMAN:

24 Q Can I ask you to turn to Exhibit 20,  
25 page PERS 220?

1 A Okay. I'm there.

2 Q Do you recognize this document?

3 A Yes, I do.

4 Q What is this document?

5 A This is a letter typed by Ms. Schueneman in  
6 response to our letter dated -- the previous exhibit -- of  
7 July 18, 2019. It's her responses.

8 Q Is this a document that CalPERS reviewed in  
9 making its determination here?

10 A Yes.

11 Q And did CalPERS consider this document in making  
12 its determination?

13 A Yes.

14 Q Did this letter cause CalPERS to change its  
15 opinion and allow Ms. Schueneman to have an earlier  
16 effective retirement date?

17 A No.

18 Q Why not?

19 A Because what we do is we look at what the member  
20 wrote down. Then we also look at what's stored in the  
21 My CalPERS system about the communications to see when she  
22 actually knew about disability retirement.

23 Q And so --

24 A We -- we -- sorry.

25 Q I'm in the middle of the question. And so why

1 didn't this letter affect CalPERS' decision then?

2 A After review of the file, it was determined that  
3 Ms. Schueneman was aware of disability retirement as early  
4 as January 31st, 2014.

5 Q So CalPERS didn't find that there was a mistake  
6 made or correctable mistake by Ms. Schueneman?

7 A That's correct.

8 Q And is Exhibit 20 the correspondence from  
9 Ms. Schueneman? Does this appear to be a true and  
10 accurate copy of what CalPERS received in response to its  
11 letter dated July 18, 2019?

12 A Yes, it is.

13 MR. GLAUBERMAN: Your Honor, CalPERS requests  
14 admission of Exhibit 20 into evidence.

15 ADMINISTRATIVE LAW JUDGE: Any objection to my  
16 receiving Exhibit 20, Ms. Schueneman?

17 MS. SCHUENEMAN: No, your Honor.

18 ADMINISTRATIVE LAW JUDGE: Okay. 20 is admitted.

19 (Exhibit 20 was received in evidence.)

20 BY MR. GLAUBERMAN:

21 Q Can I ask you to turn to Exhibit 21, please,  
22 PERS 224?

23 A Okay. I'm there.

24 Q Do you recognize this document?

25 A Yes.

1 Q What is this?

2 A This is a letter dated July 18, 2019, to  
3 Department of Motor Vehicles also requesting information  
4 to see what the employer gave Ms. Schueneman about an  
5 early effective retirement date or any information about  
6 disability retirement.

7 Q Why does CalPERS send something to the employer?

8 A We like to gather all the -- all the facts from  
9 the member and the employer to see what information was  
10 given outside of CalPERS.

11 Q And is this a true and accurate copy of the  
12 letter CalPERS sent to the employer in this case?

13 A Yes.

14 MR. GLAUBERMAN: Your Honor, CalPERS requests  
15 admission of Exhibit 21 into evidence.

16 ADMINISTRATIVE LAW JUDGE: Any objection,  
17 Ms. Schueneman?

18 MS. SCHUENEMAN: No. The only thing I -- there's no  
19 response to it. They're all questions, but there's -- I  
20 don't see my response to the question.

21 ADMINISTRATIVE LAW JUDGE: Okay. This was sent to the  
22 DMV instead of you, but I'm going to admit the document;  
23 okay? So Exhibit 21.

24 (Exhibit 21 was received in evidence.)

25 MS. SCHUENEMAN: Okay. Yes, your Honor.

1 ADMINISTRATIVE LAW JUDGE: All right. Mr. Glauberman?

2 MR. GLAUBERMAN: Thank you, your Honor.

3 BY MR. GLAUBERMAN:

4 Q Can I have you turn to Exhibit 22, Mr. Grigsby,  
5 page PERS 228?

6 A Okay.

7 Q Do you recognize this document?

8 A Yes, I do.

9 Q What is this document?

10 A This is a letter dated August 22nd, 2019, from  
11 the Department of Motor Vehicles to the analyst and  
12 disability retirement (phonetic) Alka Nguyen providing us  
13 the responses from the letter dated July 18, 2019, to the  
14 Department of Motor Vehicles.

15 Q So is this something CalPERS reviewed in making  
16 its ultimate determination in this matter?

17 A Yes.

18 Q And did CalPERS then consider the information --  
19 (Interruption in the proceedings)

20 BY MR. GLAUBERMAN:

21 Q Did CalPERS consider the information it reviewed  
22 in this letter?

23 A Yes.

24 Q Did the information in this letter alter CalPERS'  
25 decision for this matter?

1 A No, it did not.

2 Q Why didn't this alter the decision?

3 A Because it was determined through our customer  
4 touch-point notes and the information that was given to  
5 the member -- the Publication 35 -- that she was well  
6 aware about disability retirement back as early as 2014  
7 which was about five years and five months prior to when  
8 she submitted her application for disability retirement.

9 Q Your Honor, CalPERS -- strike that.

10 Does this appear to be a true and accurate copy  
11 of the letter CalPERS received from Ms. Schueneman's  
12 employer, DMV, in response to the correspondence?

13 A Yes.

14 MR. GLAUBERMAN: Your Honor, CalPERS requests  
15 introduction of Exhibit 22 into evidence.

16 ADMINISTRATIVE LAW JUDGE: Ms. Schueneman, do you have  
17 any objections?

18 MS. SCHUENEMAN: No, your Honor.

19 ADMINISTRATIVE LAW JUDGE: Okay. 22 is admitted.

20 (Exhibit 22 was received in evidence.)

21 BY MR. GLAUBERMAN:

22 Q Mr. Grigsby, if I could have you turn to the  
23 final exhibit in the binder, Exhibit 23, PERS 231.

24 A Okay.

25 Q And it's a set of documents -- what looks like

1 some sort of notes.

2 Can you explain what these are?

3 A Yes. This is our customer touch-point notes.  
4 They are stored in our My CalPERS system. These are notes  
5 that are from the incoming calls from the member, the  
6 employer. And they are usually taken by the call center,  
7 and they are immediately inputted into the system after  
8 the conversation is made.

9 Q You say it's immediately put into the system  
10 after the conversation is made.

11 Is that a requirement from CalPERS to its  
12 employees that all notes like this have to be done pretty  
13 much immediately after a conversation?

14 A Yes.

15 Q Can the note itself be changed following its  
16 entry?

17 A No, it cannot.

18 Q I'm going to direct you to page PERS 240, and I'm  
19 going to ask you to explain how to read these notes just  
20 so everybody is clear on how to interpret what's in a  
21 note.

22 A Okay.

23 Q And if we can just look at the top of the page --  
24 the first full note on the page. So it says,  
25 "Kevin Abram," and then underneath it says, "8/1/2016."

1           A     Okay.

2           Q     So what can you -- before reading the note text  
3 at the bottom -- we don't need to read that out loud, but  
4 can you just explain how to read what information you can  
5 garner as a CalPERS employee from this note?

6                     (Interruption in the proceedings)

7                     (Discussion off the record)

8           ADMINISTRATIVE LAW JUDGE:  Mr. Grigsby?

9           THE WITNESS:  Yes.  So what it is -- this is a note  
10 from Kevin Abram.  So this -- Mr. Abram received a call  
11 from Ms. Schueneman on August 1st, 2016.

12 BY MR. GLAUBERMAN:

13          Q     And so it says, "Category type."  What does that  
14 mean?

15          A     Disability.  So that means that Ms. Schueneman  
16 called to inquire about disability retirement on  
17 August 1st, 2016.

18          Q     Then it says, "Note type:  participant."  
19                     What does that mean?

20          A     That's a type of category.  There's various  
21 categories that you can put there, but usually we put  
22 participant as a category there.

23          Q     What does that mean?

24          A     I mean -- actually, I don't know.  I don't know  
25 exactly what that means.

1 Q Okay. And then the note text -- is that just  
2 describing what transpired during the call?

3 A Yes.

4 Q So on this call it looks like there was a  
5 disability retirement conversation, and a Pub. 35 would  
6 have been sent?

7 A That is correct.

8 Q Do these notes in Exhibit 23 appear to be a true  
9 and complete copy of the participant notes for  
10 Ms. Schueneman's account with CalPERS?

11 A Yes. Yes.

12 MR. GLAUBERMAN: Your Honor, CalPERS requests  
13 admission of Exhibit 23 into evidence.

14 ADMINISTRATIVE LAW JUDGE: Any objection,  
15 Ms. Schueneman?

16 MS. SCHUENEMAN: No, your Honor.

17 ADMINISTRATIVE LAW JUDGE: Okay. Exhibit 23 is  
18 admitted.

19 (Exhibit 23 was received in evidence.)

20 BY MR. GLAUBERMAN:

21 Q Mr. Grigsby, Ms. Schueneman we've discussed has  
22 been granted a disability retirement by CalPERS?

23 A Yes.

24 Q And in granting that disability retirement, did  
25 CalPERS have to confirm that she was disabled from the

1 date she left her state service to the date that she  
2 applied for disability retirement?

3 A Yes.

4 Q And that's one of the requirements of  
5 section 21154 I believe?

6 A That's correct.

7 Q So CalPERS doesn't dispute that Ms. Schueneman  
8 was disabled when she left work?

9 (Interruption in the proceedings)

10 THE WITNESS: We are not disputing that.

11 BY MR. GLAUBERMAN:

12 Q Very briefly, Mr. Grigsby, if I could direct you  
13 to Exhibit 5 in CalPERS' exhibit binder. That's PERS 043.

14 A Okay.

15 Q Do you recognize this letter?

16 A Yes, I do.

17 Q What is this letter?

18 A This is a letter dated September 24th, 2019, to  
19 Ms. Schueneman letting her know that we have approved her  
20 disability retirement application.

21 Q Is this a standard letter sent out by CalPERS  
22 after it approves somebody's disability retirement?

23 A Yes.

24 Q And is this a true and accurate copy of the  
25 letter CalPERS sent to Ms. Schueneman for her disability

1 retirement?

2 A Yes, it is.

3 MR. GLAUBERMAN: Your Honor, CalPERS requests  
4 admission of Exhibit 5 into evidence.

5 ADMINISTRATIVE LAW JUDGE: Any objection,  
6 Ms. Schueneman?

7 MS. SCHUENEMAN: No, your Honor.

8 ADMINISTRATIVE LAW JUDGE: All right. 5 is admitted.  
9 (Exhibit 5 was received in evidence.)

10 BY MR. GLAUBERMAN:

11 Q Can I ask you to turn to Exhibit 6,  
12 page PERS 046? Do you recognize this document,  
13 Mr. Grigsby?

14 A Yes, I do.

15 Q What is this document?

16 A This is a letter dated September 24th, 2019, to  
17 Ms. Schueneman letting her know we had denied her request  
18 for an earlier retirement date.

19 Q And is this a true and accurate copy of a letter  
20 CalPERS sent to Ms. Schueneman on September 24, 2019?

21 A Yes, it is.

22 Q And this letter looks like -- looks like it  
23 explains the reasons why CalPERS denied the earlier  
24 effective retirement date?

25 A Yes.

1 Q And it says, "Industrial disability retirement,"  
2 on the first line.

3 Do you see that?

4 A Yes, I do.

5 Q And that's an incorrect statement. It was just  
6 disability retirement?

7 A That's correct.

8 MR. GLAUBERMAN: Your Honor, CalPERS requests  
9 introduction of Exhibit 6 in evidence.

10 ADMINISTRATIVE LAW JUDGE: Any objection,  
11 Ms. Schueneman?

12 MS. SCHUENEMAN: No, your Honor.

13 ADMINISTRATIVE LAW JUDGE: It's admitted.

14 (Exhibit 6 was received in evidence.)

15 BY MR. GLAUBERMAN:

16 Q And lastly, Mr. Grigsby, can I have you turn to  
17 Exhibit 7, please, PERS 050?

18 A Okay.

19 Q Do you recognize this document?

20 A Yes, I do.

21 Q And what is this?

22 A This is just it looks like another -- another  
23 duplicate copy of the denial letter for her industrial --  
24 I'm sorry -- her early effective retirement date, and  
25 behind that she submitted her appeal letter.

1 Q And did CalPERS review --

2 (Interruption in the proceedings)

3 ADMINISTRATIVE LAW JUDGE: There's a lot of background  
4 noise.

5 (Interruption in the proceedings)

6 BY MR. GLAUBERMAN:

7 Q I asked -- sorry. I asked if CalPERS reviewed  
8 the information in the appeal letter.

9 A Yes.

10 Q And was the information -- did it change CalPERS'  
11 mind regarding the determination?

12 A No, it did not.

13 Q Why not?

14 A Because as I stated in my previous testimony --  
15 that Ms. Schueneman had nine months to submit her  
16 application for disability retirement within nine months  
17 of discontinuing state service. If that didn't happen,  
18 the application is deemed to be received within the first  
19 month in which the application was received by CalPERS  
20 (phonetic).

21 Q Is Exhibit 7 a true and accurate copy of the  
22 appeal letter received by CalPERS from Ms. Schueneman?

23 A Yes.

24 Q So it's CalPERS' position in this matter that  
25 there was no mistake correctable under 20160 made by

1 Ms. Schueneman?

2 A That is correct.

3 MR. GLAUBERMAN: Your Honor, I have no more questions  
4 for Mr. Grigsby.

5 ADMINISTRATIVE LAW JUDGE: Did you want to admit  
6 Exhibit 7?

7 MR. GLAUBERMAN: Yes, your Honor.

8 ADMINISTRATIVE LAW JUDGE: Any objection,  
9 Ms. Schueneman?

10 MS. SCHUENEMAN: No, your Honor. Could you hold on?  
11 I'm in assisted living, and there's stuff going on  
12 outside. Can I tell them to be quiet?

13 ADMINISTRATIVE LAW JUDGE: I don't hear anything in  
14 the hallway outside actually, but I'm not sure if you are  
15 distracted by it but --

16 MS. SCHUENEMAN: Yeah. I'm distracted.

17 ADMINISTRATIVE LAW JUDGE: Okay. If you need to take  
18 a second, that's fine. We'll go off the record for a  
19 second.

20 (Off the record)

21 ADMINISTRATIVE LAW JUDGE: We're back on the record.  
22 Exhibit 7 is admitted.

23 (Exhibit 7 was received in evidence.)

24 ADMINISTRATIVE LAW JUDGE: Mr. Glauberman, I note that  
25 you have Exhibits 1, 2, and 3.

1 Do you want to admit those for jurisdictional  
2 purposes?

3 MR. GLAUBERMAN: Yes, your Honor.

4 ADMINISTRATIVE LAW JUDGE: And Ms. Schueneman, that  
5 basically means really to explain why we're here today but  
6 not the truth of what's alleged in those documents.

7 Do you have any objection to my receiving those  
8 documents for jurisdictional purposes?

9 MS. SCHUENEMAN: No, your Honor.

10 ADMINISTRATIVE LAW JUDGE: Okay. Exhibits 1, 2, and 3  
11 are admitted for jurisdictional purposes.

12 (Exhibits 1, 2, and 3 were received in evidence.)

13 ADMINISTRATIVE LAW JUDGE: All right. All right. So  
14 Ms. Schueneman, now is your opportunity to  
15 cross-examine -- for cross-examination of Mr. Grigsby if  
16 you have any -- that means really just if you have any  
17 questions for him. It's not your opportunity to testify,  
18 I caution you. You'll have that opportunity in a moment.

19 But do you have any questions for Mr. Grigsby  
20 with regard to what he just testified about?

21 MS. SCHUENEMAN: No, your Honor, I don't.

22 ADMINISTRATIVE LAW JUDGE: No? Okay. All right. In  
23 that case, Mr. Grigsby, you -- I would say step down, but  
24 you're not on the witness stand. But you may be released.

25 Mr. Glauberman, do you have any further

1 witnesses?

2 MR. GLAUBERMAN: No more witnesses, your Honor.

3 ADMINISTRATIVE LAW JUDGE: All right. Ms. Schueneman?

4 MS. SCHUENEMAN: Yes, your Honor?

5 ADMINISTRATIVE LAW JUDGE: That means it's your  
6 opportunity to provide your evidence, so the first thing  
7 I'm going to do is I'm going to place you under oath;  
8 okay?

9 MS. SCHUENEMAN: Yes, your Honor.

10 ADMINISTRATIVE LAW JUDGE: All right. I know this is  
11 a little weird because we're over the phone, but I'm going  
12 to ask you to raise your right hand for me, please.

13 MS. SCHUENEMAN: Yes.

14  
15 REGINA SCHUENEMAN,  
16 called as a witness, having first been duly sworn, was  
17 examined and testified as follows:

18 THE WITNESS: Yes, I do.

19 ADMINISTRATIVE LAW JUDGE: Okay. All right. Now I  
20 have this information, Ms. Schueneman, but I'm going to  
21 ask you to state and spell your full name for me.

22 THE WITNESS: It's Regina, R-E-G-I-N-A, Schueneman,  
23 S-C-H-U-E-N-E-M-A-N.

24 ADMINISTRATIVE LAW JUDGE: Thank you, Ms. Schueneman.

25 And Ms. Schueneman, what is your current age?

1 THE WITNESS: I am 65.

2 ADMINISTRATIVE LAW JUDGE: 65. Okay. What would you  
3 like to tell me today about why we are here?

4 THE WITNESS: Well, we're here because what I did was  
5 I -- I resigned from the Department of Motor Vehicles  
6 and -- thinking that I would get my retirement to follow  
7 right after, and it just didn't work out that way.

8 ADMINISTRATIVE LAW JUDGE: Okay. When did you resign?

9 THE WITNESS: I resigned -- I sent a letter  
10 March 21st, 2017.

11 (Interruption in the proceedings)

12 THE WITNESS: March 21st, 2017 --

13 ADMINISTRATIVE LAW JUDGE: Okay.

14 MS. SCHUENEMAN: -- I sent a letter -- I sent a letter  
15 to the -- well, actually, I didn't. I was brought to the  
16 Department of Motor Vehicles to bring a letter.

17 ADMINISTRATIVE LAW JUDGE: Let's take a look at your  
18 exhibits.

19 Do you have those?

20 THE WITNESS: Okay. Yes, your Honor.

21 ADMINISTRATIVE LAW JUDGE: Okay. So can we look at  
22 what I marked as Exhibit A? Do you see that document?  
23 It's a March 21, 2017 typewritten letter.

24 THE WITNESS: Yeah. That's the letter that I wrote  
25 because the DMV --

1 ADMINISTRATIVE LAW JUDGE: This is a letter that you  
2 wrote to the DMV?

3 THE WITNESS: Yes. I received a letter from the  
4 Department of Motor Vehicles and -- stating that I was  
5 taken off, you know, the payroll. And I had -- anyway, I  
6 was taken off the payroll, and I was temporarily taken off  
7 and not permanently taken off. And I got very confused,  
8 so I wrote a letter stating that I want to resign.

9 And the reason why I did this letter is because I  
10 thought that if I wrote this letter that I would get my  
11 health insurance. It has nothing really to do with the  
12 CalPERS retirement honestly. It was all about getting my  
13 health insurance from 2015. I lost it, and all I wanted  
14 was my health insurance.

15 ADMINISTRATIVE LAW JUDGE: Okay.

16 THE WITNESS: And the Department of Motor Vehicles  
17 didn't help me at all.

18 ADMINISTRATIVE LAW JUDGE: Okay. And so why did you  
19 bring this Exhibit A today? This letter from March 21st,  
20 2017?

21 THE WITNESS: Pardon me?

22 ADMINISTRATIVE LAW JUDGE: Why did you bring the  
23 letter today from March 21st, 2017? What did you want to  
24 show me with this letter?

25 THE WITNESS: I think what I want to show you is the

1 fact that I noted March 21st, 2017, I think because I just  
2 was real sick. And I was in a skilled nursing prior to  
3 that for six months and I almost died and I needed to get  
4 my health insurance. That's why I wrote the letter was  
5 just to get my health insurance. So I figure if I resign  
6 from the DMV, they'll give me my health insurance.

7 ADMINISTRATIVE LAW JUDGE: Okay. All right.

8 THE WITNESS: I was -- at this time I had just gotten  
9 out of ICU. I had gone home. I had a nurse for three  
10 weeks, and I just got too sick. Ended up back in the  
11 hospital, and my family put me in this assisted living  
12 here -- care. I couldn't dress myself or walk or shower.  
13 I couldn't do anything.

14 ADMINISTRATIVE LAW JUDGE: When were you placed in  
15 assisted living?

16 THE WITNESS: In April of --

17 ADMINISTRATIVE LAW JUDGE: What year?

18 THE WITNESS: -- 2017. 2017.

19 ADMINISTRATIVE LAW JUDGE: Okay. All right. Let's  
20 take a look at Exhibit B, and that is the Scripps Clinic  
21 at Carmel Valley Family Medicine letter.

22 THE WITNESS: Yes.

23 ADMINISTRATIVE LAW JUDGE: Can you tell me what that  
24 is?

25 THE WITNESS: Yes. This is -- my doctor -- he has

1 been my primary care doctor for many years, and he's  
2 overseen me regarding the Department of Motor Vehicles --

3 (Interruption in the proceedings)

4 THE WITNESS: -- and the exposure to mold.

5 ADMINISTRATIVE LAW JUDGE: Exposure to mold?

6 THE WITNESS: Yes. The building was shut down for --  
7 Department of Motor Vehicles in Escondido was shut down  
8 due to the mold. Many people got sick. I just --

9 (Interruption in the proceedings)

10 THE WITNESS: Many people were sick. I just was one  
11 of the worst ones. I think, you know --

12 ADMINISTRATIVE LAW JUDGE: Okay. So is this letter  
13 from your physician?

14 THE WITNESS: Yes. This letter is from  
15 Dr. Adam Rhodes.

16 ADMINISTRATIVE LAW JUDGE: And why did you bring this  
17 letter today?

18 THE WITNESS: I brought it to the attention because I  
19 don't think that it's being understood how sick I've been  
20 since 2013. And I've never -- and I do agree with  
21 Mr. Glauberman, and they did send me out packets -- the  
22 packets and that, but I couldn't mentally comprehend that.  
23 I just couldn't.

24 Right after I moved in here, I got cancer, so I  
25 was going through chemotherapy for the rest of the year of

1 2017. But there were a lot of times I'd be in the  
2 hospital and I would think, "Oh, maybe I should call  
3 CalPERS. Maybe I could get help." I would just do that.

4 I don't -- I never really comprehended too much  
5 of what any of them -- I didn't comprehend the process of  
6 the DMV and CalPERS. No matter how many times they could  
7 have told me, I didn't understand at all. I just didn't.

8 ADMINISTRATIVE LAW JUDGE: When was your last day of  
9 work at the DMV?

10 THE WITNESS: My last day -- I tried a couple times to  
11 work, but I believe my last day was July. I went to work  
12 for four days, but I ended up in the hospital.

13 ADMINISTRATIVE LAW JUDGE: July? July what year?

14 THE WITNESS: July of 2013.

15 ADMINISTRATIVE LAW JUDGE: You worked at the DMV until  
16 sometime in July of 2013?

17 THE WITNESS: Yes.

18 ADMINISTRATIVE LAW JUDGE: Okay.

19 THE WITNESS: July -- at the end of July. I think it  
20 was the 25th. Somewhere in there. 2013 was my last day  
21 of work. I went to Temecula at that time.

22 ADMINISTRATIVE LAW JUDGE: Okay. And when did you  
23 first become ill?

24 THE WITNESS: I became ill probably -- well, 2013 is  
25 when I found out --

1 (Interruption in the proceedings)

2 THE WITNESS: I said that I found out that it was  
3 because of mold. I didn't know why I was sick. We  
4 went -- I -- we were all sick. We thought we were passing  
5 a cold back and forth. Chronic sinusitis I ended up with,  
6 too.

7 ADMINISTRATIVE LAW JUDGE: Okay. So when did you  
8 first -- when did you first become ill?

9 THE WITNESS: I would say in 2012.

10 ADMINISTRATIVE LAW JUDGE: Okay. And you said you  
11 coughed a lot? I'm sorry.

12 THE WITNESS: Oh, yes.

13 ADMINISTRATIVE LAW JUDGE: When were you coughing a  
14 lot?

15 THE WITNESS: Yeah. I was -- let's see. In 2013  
16 January, 2013 March, 2013 May and June -- both months --  
17 2013 July, 2013 August, and 2013 in November.

18 ADMINISTRATIVE LAW JUDGE: Okay. And why did you  
19 cough a lot?

20 THE WITNESS: Respiratory. I -- they didn't know what  
21 was wrong with me when I first went. It was my  
22 respiratory. I had --

23 (Interruption in the proceedings)

24 THE WITNESS: I had -- white cell count was real high.

25 ADMINISTRATIVE LAW JUDGE: Okay.

1 THE WITNESS: My respiratory. And constant pneumonia.  
2 On every hospital intake, I had -- my oxygen was in the  
3 80s and my -- and I had pneumonia --

4 ADMINISTRATIVE LAW JUDGE: Okay.

5 THE WITNESS: -- several times.

6 ADMINISTRATIVE LAW JUDGE: All right. Can we take a  
7 look at what is Exhibit C? It looks like an e-mail from  
8 you to the Law Offices of Cohen & Blitz from March 16,  
9 2017.

10 THE WITNESS: Yeah.

11 ADMINISTRATIVE LAW JUDGE: Can you tell me what that  
12 is?

13 THE WITNESS: Yeah. This is -- this is a letter that  
14 I had filled out some forms and -- to my lawyer, and I was  
15 explaining what a difficult time I was going through and  
16 that I was going to resign. I'm going to -- I told him I  
17 was going to send a letter of resignation to the DMV, and  
18 then hopefully CalPERS can come to me to retire from the  
19 state. I --

20 ADMINISTRATIVE LAW JUDGE: Are you there?

21 THE WITNESS: Yes.

22 ADMINISTRATIVE LAW JUDGE: Okay.

23 (Interruption in the proceedings)

24 THE WITNESS: Yes. In my letter I wrote hopefully  
25 CalPERS can come to me to retire from the state. I think

1 what I was -- what I was saying is I was expecting CalPERS  
2 to, you know, retire me at that time. Hopefully they'll  
3 approve me to retire. That's what I was thinking.

4 ADMINISTRATIVE LAW JUDGE: Okay.

5 THE WITNESS: At least I believe that's what I was  
6 thinking.

7 ADMINISTRATIVE LAW JUDGE: Okay. And is that why you  
8 brought this letter in today? So that I could see what  
9 you were thinking?

10 THE WITNESS: Yeah. I just wanted -- I just wanted  
11 you to be aware that -- you know, that I did tell my  
12 workers' comp lawyer that I was sending a letter of  
13 resignation to the DMV and that just hopefully -- that  
14 they would come to me so I could retire and get my  
15 benefits. All I cared about was my health insurance.  
16 That's it. That's -- every letter is about health  
17 insurance.

18 ADMINISTRATIVE LAW JUDGE: Okay. All right.

19 Mr. Glauberman, do you have any objections to my  
20 receiving Exhibits A, B, and C into evidence?

21 MR. GLAUBERMAN: No objections, your Honor.

22 ADMINISTRATIVE LAW JUDGE: All right. Exhibits A, B,  
23 and C are admitted.

24 (Exhibits A, B, and C were received in evidence.)

25 ADMINISTRATIVE LAW JUDGE: All right. Ms. Schueneman,

1 anything else you want to tell me?

2 THE WITNESS: Well, no, your Honor. I just -- I  
3 just -- I had sent all my medical records from 2013 to  
4 present. And I've been hospitalized so many times. I've  
5 had cancer twice. I've got to go through treatment again,  
6 and I'm still not well. I -- that's why -- I wish I could  
7 not be in assisted living, but I just have to be because I  
8 can't take care of myself.

9 Mentally I'm not -- mentally I'm really not well.  
10 Not crazy not well, but I'm just not well with my thought  
11 process. I just don't make proper decisions. And my  
12 doctor feels when you're under so much health conditions,  
13 it's very difficult for me to really make any clear  
14 decisions.

15 I wish I did have someone to help me make a  
16 decision. I asked for help with the DMV, but nobody was  
17 there to help me. My lawyer didn't help me with workers'  
18 comp either. And that's still pending, and it's seven  
19 years later. I still haven't received anything, and it's  
20 been seven years. All I want is my health insurance.

21 ADMINISTRATIVE LAW JUDGE: Okay. All right then.

22 Cross-examination, Mr. Glauberman?

23 MR. GLAUBERMAN: No questions, your Honor.

24 ADMINISTRATIVE LAW JUDGE: Okay. It looks like I have  
25 admitted all of the documents, so at this point I'm going

1 to allow -- Ms. Schueneman, I'm going to allow  
2 Mr. Glauberman to have a closing statement, and then I'll  
3 allow you to have a closing statement; okay?

4 MS. SCHUENEMAN: Yes, your Honor.

5 ADMINISTRATIVE LAW JUDGE: All right. Mr. Glauberman?

6 MR. GLAUBERMAN: Thank you, your Honor. CalPERS --  
7 you know, it does not dispute, as stated through  
8 Mr. Grigsby's testimony, that Ms. Schueneman is disabled  
9 and has had a rough go of it. But 21252 of the  
10 Government Code requires the application be -- if it's not  
11 received within nine months of retirement that the  
12 effective retirement date be the first day of the month on  
13 which it's received.

14 Here that's -- the separation from service was  
15 2015. Application was not received until June 2019, so  
16 that has to be the effective retirement date -- retirement  
17 date.

18 Analyzing this matter under Government  
19 Code 20160, there was no mistake correctable by that  
20 section here. CalPERS sent Ms. Schueneman all the  
21 information necessary to apply for a disability retirement  
22 or apply for a retirement in a timely manner, and that was  
23 not done. It's CalPERS' position that that is not  
24 reasonable under the circumstances here. Because of that,  
25 CalPERS can't grant the earlier effective retirement date.

1           And in addition, just for purposes of reflecting  
2 in the record the section that governs insurance in the  
3 retirement, it's regulation -- I believe it's California  
4 Code of Regulations 599.501 section D. And that states  
5 that the member cannot have health insurance into  
6 retirement unless they retire within -- their effective  
7 date of retirement is within four months I believe of  
8 separating from state service, and so that would preclude  
9 unfortunately the insurance coverage for Ms. Schueneman  
10 also.

11           With that, your Honor, we request you uphold our  
12 determination and deny Ms. Schueneman's appeal.

13           ADMINISTRATIVE LAW JUDGE: Okay. Hold on a second.

14           Ms. Schueneman?

15           MS. SCHUENEMAN: Yes, your Honor?

16           ADMINISTRATIVE LAW JUDGE: Okay.

17           MS. SCHUENEMAN: Yes.

18           ADMINISTRATIVE LAW JUDGE: It's your opportunity to  
19 provide me a closing statement if you'd like.

20           MS. SCHUENEMAN: Well, it's -- well, just like  
21 Mr. Glauberman said, it's all about getting my retirement  
22 date to 2015. And it wasn't really about the retirement  
23 date as I stated. It really was about the insurance.

24           I -- I -- what I expect -- what I thought is  
25 CalPERS has my insurance title, you know. So I thought

1 that if they were to back me up on the retirement, then I  
2 would be able to have my regular retirement date. I  
3 didn't really care about the 2015 date backdated. All I  
4 want was my health insurance.

5 So I know that doesn't really kind of go with  
6 what Mr. Glauberman said because as far as my date back to  
7 2015, I don't know why it didn't send any red flags to  
8 anybody actually -- backdate anything from 2017 to 2015.  
9 Why on earth would the DMV accept something like that  
10 knowing I wasn't retired and --

11 (Interruption in the proceedings)

12 MS. SCHUENEMAN: Why the DMV would accept a letter  
13 dated March 21st to backdate knowing on all parties --  
14 knowing that I would not receive my retirement (phonetic).  
15 It didn't send any red flags to anybody. No one  
16 responded, "Are you sure you want to backdate to 2015?  
17 Because you won't get anything."

18 And I wish I had an advocate. I wish somebody  
19 was an advocate for me regarding it, and I had nobody.

20 ADMINISTRATIVE LAW JUDGE: Okay. All right. So  
21 Ms. Schueneman, let me give you some information as to how  
22 this is going to proceed from this point.

23 MS. SCHUENEMAN: Yes. Yes, your Honor.

24 ADMINISTRATIVE LAW JUDGE: So in just a second I'll  
25 have the record closed. Everything has been submitted.

1 And after that point, I will have 30 days with which to  
2 provide my proposed decision to CalPERS. They can accept  
3 my decision, they can reject it, or they can amend it, but  
4 at some point thereafter you'll get the final decision  
5 directly from CalPERS; okay?

6 MS. SCHUENEMAN: Yes, your Honor.

7 ADMINISTRATIVE LAW JUDGE: All right. Thank you. I'm  
8 sorry. Go ahead.

9 MS. SCHUENEMAN: I mean, I'll take the September --  
10 you know, the September date or the June 1st date. I'm  
11 kind of confused because the 1st of June I'm retired, and  
12 then in September I'm retired. There was a woman that  
13 told me that I would have my insurance now that I retired.  
14 That's when I kind of found out about the 2015 and  
15 shouldn't have done that.

16 ADMINISTRATIVE LAW JUDGE: Okay. So I want to  
17 thank you for your time and effort today. I know this is  
18 a lot to put together, particularly over the telephone.  
19 But with that, the matter is submitted and the record is  
20 closed.

21 (Hearing concluded at 10:56 a.m.)  
22  
23  
24  
25

1 REPORTER'S CERTIFICATION

2  
3 I, the undersigned, a Certified Shorthand  
4 Reporter of the State of California, do hereby certify:

5 That the foregoing proceedings were taken before  
6 me at the time and place herein set forth; that any  
7 witnesses in the foregoing proceedings, prior to  
8 testifying, were duly sworn; that a record of the  
9 proceedings was made by me using machine shorthand, which  
10 was thereafter transcribed under my direction; that the  
11 foregoing transcript is a true record of the testimony  
12 given.

13 Further, that if the foregoing pertains to the  
14 original transcript of a deposition in a federal case,  
15 before completion of the proceedings, review of the  
16 transcript was not requested.

17 I further certify I am neither financially  
18 interested in the action nor a relative or employee of any  
19 attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date subscribed  
21 my name.

22 Dated: August 18, 2020

23   
24 \_\_\_\_\_  
Erin Winn, CSR No. 13579  
Certified Shorthand Reporter  
For The State Of California

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