

**ATTACHMENT C**  
**RESPONDENT(S) ARGUMENT(S)**

## Respondent's Argument

Received

MAY - Date: 4/25/2014

To: Board of CalPERS

From: Robert P. Valenzuela

Case #2012-0979

OAH #2013050126

CalPERS Board Unit

I, Robert P. Valenzuela, a disabled member since 2002, am responding to a proposed decision from Judge Abraham M. Levy, A.L.J., who presided this case on March 6, 2014. I am asking that the board carefully, legally, morally and ethically consider other facts regarding my strength and ability status.

- 1) State paid (IME) Dr. Neil Halbridge but he didn't look at my dominant left, disabled elbow, more than two minutes. He had me lift both arms, then said "Okay" and left the room. A lady came in and said he would give his findings—not a real thorough, unbiased exam from a neutral professional physician.
- 2) Dr. Ahmad, a neutral orthopedic was thorough, including scans, photos sent to CalPERS, attached with his findings, and knew my limitations, including an ultrasound of my disabled elbow.
- 3) Dr. Neil Halbridge did nothing to show his medical knowledge or concern for such an injury—3 surgeries—and disability.
- 4) In fact Dr. Halbridge failed as a superior witness, to even appear on the date to give 'live testimony' after three breaks and numerous calls. Dr. Halbridge never called nor appeared.

In court, if the police officer fails to appear, the case is dismissed, which is what the attorney, Elizabeth Yelland suggested. However, she wanted to run it by her superior. After another delay, Mrs. Yelland stated that she suggested we use her medical report as 'live evidence' and I could use the medical findings from a doctor I saw only once and he didn't know about my history, disabilities, or even ask about anyone video taping me. He was an orthopedic surgeon just giving his sound medical advice. He had proof on his photos, ultrasound, unlike Dr. Halbridge. He had a video from four years ago to assist his biased report and also Dr. Ahmad's report of honest findings were discovered a year after Dr. Halbridge initially said that I am okay to return to work.

I think it is honest to say: after three surgical procedures, and 13 years since the initial injury, one's dominant arm has gotten much weaker, scar tissue, arthritis, sore, painful — not better!!

Judge Levy's findings that Dr. Halbridge's medical reviews and video surveillance were given more 'weight' than an orthopedic doctors, are not the whole story of facts. Dr. Ahmad was never allowed, nor was I even given a copy of video as I requested. Dr. Ahmad was a doctor, a specialist who proved with report and photos.

The current state of disability on my injury: It's difficult to imagine that Dr. Halbridge was able to review the first eight years of medical disabilities, limitations that were recommended by the first primary surgeon, Dr. T. Easley.

Judge Levy failed, or omitted, the other finding in the surveillance video: that under oath, Mark Hatter the private investigator, stated he videoed me with a plastic bottle and I was struggling just to open the lid. Shocked, the judge and attorney were asking questions to the investigator and both asked, "Are you saying Mr. Valenzuela was struggling to open a plastic bottle?" Mark Hatter stated, "Yes, it does appear he was struggling."

These conflicting video testimonies prove the inconsistent strength/weakness in my dominant injured arm.

I never get the opportunity to cross examine Dr. Halbridge, as again he failed to show! I actually instructed by the judge to give my statements, before the doctor which is a violation. I was there to answer Dr. Halbridge's findings in person, not testify without CalPERS star witness who met me once!

Judge Levy stated we could have a continuation, but if Dr. Halbridge appears next hearing, it wouldn't be good for me, that Dr. Halbridge not being at the hearing doesn't look good for CalPERS. Judge Levy stated, "It's better for me to allow the judge to weigh both doctors' reports as 'live evidence' than to have a continuance!"

Having read this "True Respondent's Argument" I am asking the board to please: consider the facts, the moral truthfulness, and the fact that no 'live doctor' appeared, as subpoenaed, thus no case should have ever been considered.

Again, thanks for your positive consideration.

In Christ,

Robert P. Valenzuela