ATTACHMENT C

RESPONDENT'S ARGUMENT

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December 30, 2021

Cherie Swedensky, Assistant to the Board
CalPERS Executive Office
Fax (916) 795-3972

RE: Respondent's Argument/Ref. No. 2020-1258

Dear Board:

My industrial disability retirement has been denied and below are facts and questions to address the basis for denial.

On January 12, 2018 my application for industrial retirement was approved. The findings were that I am substantially incapacitated from the performance of my usual duties as Psychiatric Technician with the Department of State Hospitals Metropolitan based on my urological condition(s).

On August 2, 2020 CalPERS sent me a letter requesting information to determine if my condition remains. From the time that I was deemed substantially incapacitated, on January 12, 2018, to August 2, 2020 to present, I have not received treatment to correct the condition that originally deemed me substantially incapacitated to perform my usual duties. My condition has not changed nor improved. Therefore, I ask you Board how it would benefit patients to be under my care. Further, how would it benefit my health to return to work when I am not able to perform my usual duties as Psychiatric Technician.

I am not physically nor mentally capable to substantially perform my usual and customary duties due to my urological conditions (among other things that I am currently in treatment for and still need treatment for.) Currently, I am undergoing psychiatric treatments. Further, just a few months ago I was seen by a urologist that listed urological issues and suggested some treatment options that to date have not been approved by State Fund; why?

In the denial of benefits determination, it states the following:

> 9. A document entitled, "Physical Requirements of Position/Occupational Title" was submitted as evidence. The document identifies those job duties for a psychiatric technician that are considered occasional (up to 3 hours), frequent (3 to 6 hours), constant (over 6 hours), and never. Both respondent and a representative for his employer signed the document agreeing with its contents in April 2017. The document identifies activities that are occasionally required to be performed as sitting, standing, walking, crawling, kneeling, climbing, squatting, bending at the neck and waist, twisting at the neck and waist, reaching above the shoulder, reaching below the shoulder, fine manipulation, power grasping, simple grasping, repetitive use of hands, pushing & pulling, keyboard use, mouse use, lifting and carrying up to 50 pounds, and working with biohazards. The document identifies frequent activities as standing only. The document identified the following activities as never required to be performed:

10. A document entitled "Duty Statement, Department of Mental Health, Metropolitan State Hospital" was also submitted as evidence. That document generally describes the duties of a psychiatric technician, who is responsible for providing a basic level of general behavioral and psychiatric nursing care to facilitate the rehabilitation of individuals. The essential functions of the psychiatric technician include: providing a basic level of general and psychiatric nursing care to mentally ill and emotionally disturbed individuals, providing emergency care to patients, administering medications and treatments, observing and recording signs, symptoms, behavior, and response to medications, and collaborating with members of the treatment team to develop and implement wellness and recovery interventions.

Below is an excerpt stating that Dr. Moseley "the traumatic epididymitis was completely resolved prior to returning to work in 2010."

Dr. Moseley also stated that his review of the records, as well as his interview with respondent, showed that respondent's traumatic epididymitis had been completely resolved prior to respondent returning to work in 2010. Dr. Moseley explained that traumatic epididymitis was an inflammation of the area of the epididymis, which is a structure behind the testicle that stores sperm. During his examination, respondent showed no pain in the epididymis and there was no evidence that any further treatment of the epididymis was necessary.

This appears to be an inaccurate statement. In 2021 when seen by a urologist Dr. Liu, he states the following:

Signature: Paul David Lui, MD (E-sig)
Executed at: Loma Linda, California

Date:7/12/2021
Name: Paul David Lui, MD Specialty: Urology

Brian Dalhover

7/12/2021 1:45 PM Video Visit
Description: 44 year old male
Provider: Lui, Paul David, MD Department: Fmc Urology

If you have a visit with a different provider before your next appointment, please provide them this summary of your care.

Allergies as of 7/12/2021

Iodine

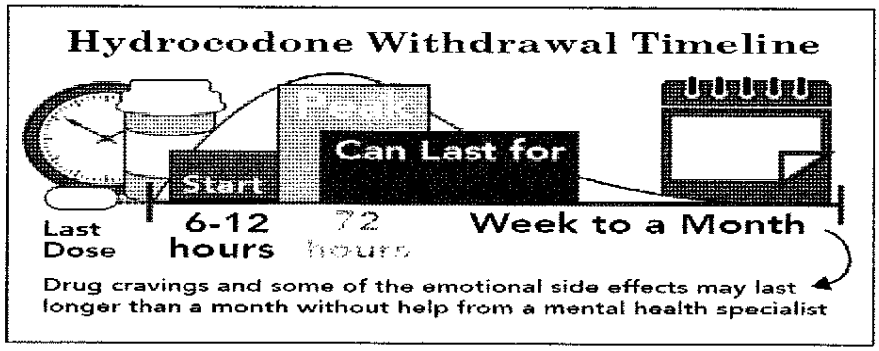
Diagnoses This Visit

	Codes	Comments
Chronic epididymitis Traumatic - Primary	N45.1	
Right testicular pain	N50.811	
Lower urinary tract symptoms	R39.9	
Lower abdominal pain	R10.30	

I am and have been in debilitating pain. Through that pain it is difficult to concentrate and laying down and/or napping throughout the day are essential to assist with a viable level of comfort. A few months ago, State Fund abruptly denied refilling Hydrocodone which I have been taking for years. Taking me off a pain medication that I had taken for years made me extremely ill and jeopardized my health and life. There was no guidance nor assistance during the withdrawal process of the opioid that I had taken for years:
Hydrocodone Withdrawal Symptoms
Side effects of hydrocodone withdrawal range from mild to moderate to severe and may differ from person to person. Just as the withdrawal timeline can be influenced by the level of dependency the brain exhibits to hydrocodone, so can the intensity and variety of withdrawal symptoms.

Opiate drugs bind to the multiple opioid receptors throughout the brain and central nervous system, and *they act to depress certain physiological processes—resulting in a reduction in breathing rate, heart rate, blood pressure, and body temperature. When someone is dependent on an opioid drug like hydrocodone, the sudden removal of it can have distressing consequences as the brain and body work in overdrive to recover. Blood pressure, respiration, body temperature, and heart rate may all spike if hydrocodone use or abuse is stopped suddenly. It is therefore not recommended to stop taking a hydrocodone product "cold turkey" or without medical supervision and input.*

Specific withdrawal symptoms when stopping hydrocodone may include:
Muscle aches/*Runny nose/Excessive tearing/Nausea and abdominal cramps/Sweating/Chills/Goosebumps/Trouble sleeping/Yawning/Vomiting/Diarrhea/Irregular heart rate/****Difficulties focusing or concentrating/Anxiety***
Irritability/Headache/*Restlessness/Mood swings/Trouble feeling pleasure/Depression/Agitation/Night sweats/Fatigue/****High blood pressure/****Drug cravings/****Thoughts of suicide***



https://americanaddictioncenters.org/withdrawal-timelines-treatments/hydrocodone

Part of my job duties is as follows:

ABILITY TO
Learn and apply sound judgment for situations including the protection of persons and property apply basic nursing knowledge skills and attitudes establish effective therapeutic relationships with mentally disordered individuals recognize symptoms requiring medical or psychiatric attention think and act quickly in emergencies work with a treatment team to provide occupational recreational vocational and educational Wellness and Recovery Plan programs for individuals follow directions **keep appropriate records** develop clear and concise reports of incidents analyze situations accurately and take effective action

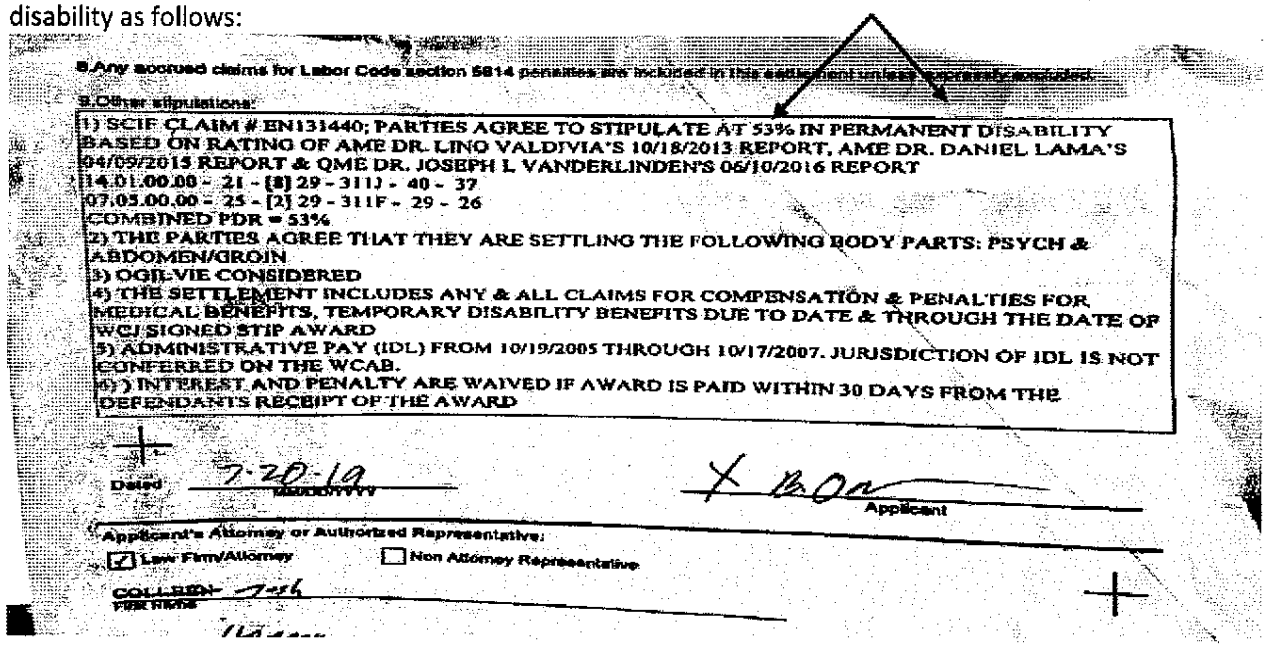
Given the chronic pain that I am in, I find it *unethical* to place patients under my care when I am testifying that I am in debilitating pain that to date is unresolved.

In a statement made by Dr. Mosely, he states another inaccurate statement:

Let is serve for the [redacted]. At the time of my evaluation, he wa[redacted]or

He relates that he has right lower quadrant pain

Per item number 9 (other stipulations) of DWC-CA Form 10214 (a) page 7, I am rated at 53% permanent disability as follows:



Lastly, please make note of the work restrictions documented by Dr. Chan which was submitted to CalPERS and approved in 2019 which conflict with the requirements to perform my usual duties as Psychiatric Technician with the Department of State Hospitals Metropolitan due to urological issues.

Dr. Chan states that I cannot life more than 30 pounds, bend, stoop or reach repeatedly, sit for longer than 30 minutes consecutively, etc. Further, please see my current post void residual results, below, which are high (results from 2021 visit with Dr. Liu [Urologist]). To date there has been no further exploration of chronic prostatitis/male pelvic pain syndrome.

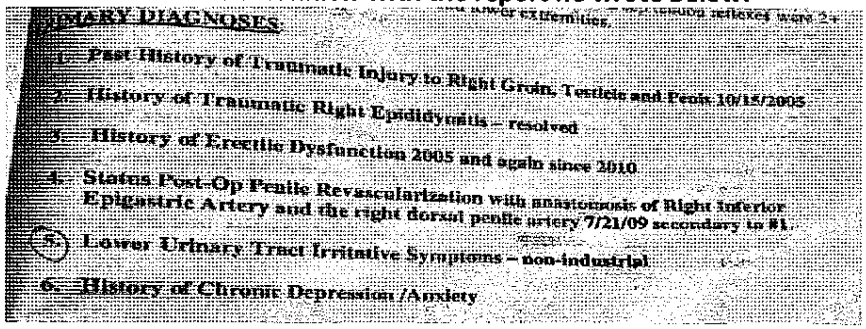
He voids every 2 hours, Noct 3-4X. He has dysuria and aching, perhaps suggestive of a chronic prostatitis/male pelvic pain syndrome. He has urinary urgency and post void dribbling. He has never been on alpha blockers. **Today UA no infection. Post void residual 238 cc**
I recommend a trial of tamsulosin

What is a normal post void residual volume?
Postvoid Residual Measurement

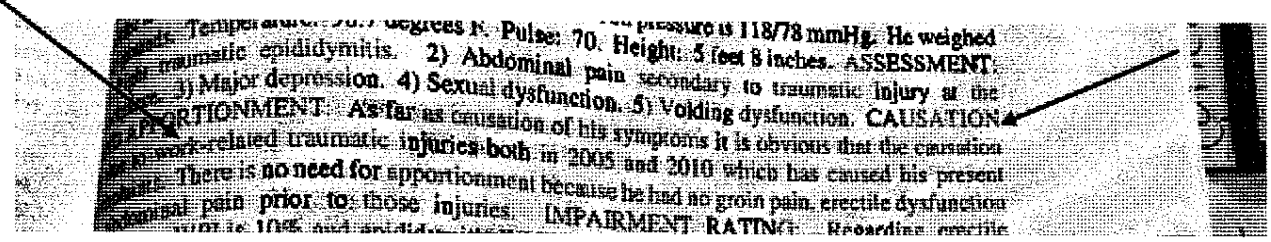
Less than 50 mL of residual urine is normal, and 200 mL or greater is abnormal (Nitti and Blaivas, 2007). Portable ultrasound units can also estimate postvoid residual urine.

Viagra symptoms of voiding dysfunction including urgency [illegible] suprapubic, penile and right scrotal pain. He has the work restriction on a Urological basis of needing to interrupt work every forty-five minutes to go to the bathroom to urinate, and to have the bathroom reality available to that he can reach it quickly and easily. The AMA Guides to the [illegible] are not yet applicable because patient is not yet

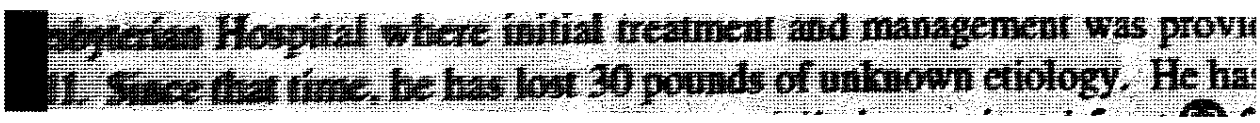
However, Dr. Mosely's report dated 8/19/20 indicates in the lower urinary tract irritative symptom is Non-Industrial which conflicts with the report he wrote below:


PRIMARY DIAGNOSES:
1. Past History of Traumatic Injury to Right Groin, Testicle and Penis 10/15/2005
2. History of Traumatic Right Epididymitis – resolved
3. History of Erectile Dysfunction 2005 and again since 2010
4. Status Post-Op Penile Revascularization with anastomosis of Right Inferior Epigastric Artery and the right dorsal penile artery 7/21/09 secondary to #1.
5. Lower Urinary Tract Irritative Symptoms – non-industrial
6. History of Chronic Depression/Anxiety

Excerpt from 8/28/20 Mosely Report


Temperature [illegible] degrees F. Pulse: 70. Height: 5 feet 8 inches. ASSESSMENT: traumatic epididymitis. 2) Abdominal pain secondary to traumatic injury at the 3) Major depression. 4) Sexual dysfunction. 5) Voiding dysfunction. CAUSATION PORTIONMENT. As far as causation of his symptoms it is obvious that the causation work-related traumatic injuries both in 2005 and 2010 which has caused his present There is no need for apportionment because he had no groin pain, erectile dysfunction dorsal pain prior to those injuries. IMPAIRMENT RATING: Regarding erectile

From Mosley's report:


[illegible] Hospital where initial treatment and management was provi
[illegible]. Since that time, he has lost 30 pounds of unknown etiology. He ha