

## **ATTACHMENT B**

### **Staff Argument**

## **STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION**

Leslie H. Zoeller (Decedent) was employed as a Police Officer from 1973 to 2002 by the City of Gardena and the City of Beverly Hills. By virtue of his employment, Decedent was a CalPERS local safety member.

Decedent and Audrey Zoeller married in 1980 and divorced on May 18, 1999.

In 1997, Decedent and Lisa Frantz (Respondent) became romantically involved, and they began cohabiting in early 1998.

On January 11, 2000, Decedent and Respondent attempted to register their domestic partnership with the Secretary of State. Their registration was denied because they were opposite sex partners and were under the age of 62 years. At the time, California only recognized domestic partners who were either members of the same sex, or where one partner was over the age of 62.

On November 2, 2001, Decedent applied for service retirement (SR). He elected Option 2W, and designated Respondent as his beneficiary for the Option 2W lifetime allowance and Retired Death Benefit. On January 4, 2002, Decedent service retired. Because he listed an eligible survivor on his SR application, his retirement calculation included his Post-Retirement Survivor Allowance (PRSA) benefit, and he received the PRSA benefit in his monthly allowance.

Decedent and Respondent filed a Statement of Domestic Partnership with Los Angeles County on May 18, 2009, which registered their domestic partnership with the County of Los Angeles. Decedent and Respondent remained domestic partners until they married on December 1, 2017.

On August 4, 2021, Decedent passed away.

On August 29, 2021, Respondent submitted an Application for Retired Member/Payee Survivor Benefits to CalPERS. On the application, she listed herself as "Spouse" with the date of marriage, and the information that they were married at the time of his death.

On September 1, 2021, CalPERS informed Respondent that she was eligible to receive Decedent's monthly Option 2W allowance, a pro-rata sum, and the lump sum Retired Death Benefit. CalPERS mailed these benefits to Respondent on September 7, 2021.

On September 8 and 9, 2021, Respondent called CalPERS to dispute the amount of her Option 2W allowance. CalPERS informed Respondent that she was ineligible for the PRSA benefit because she and Decedent did not marry until after Decedent's retirement, so she did not meet the criteria of being married at least one year prior to Decedent's retirement.

On September 22, 2021, Respondent requested that CalPERS review her eligibility for the PRSA benefit as Decedent's domestic partner. Thereafter, there were numerous communications regarding the nature and timing of the domestic partnership.

On May 6, 2022, CalPERS informed Respondent that she was not eligible to receive the PRSA benefit as Decedent's surviving domestic partner because their domestic partnership was neither (1) registered for one year prior to Decedent's SR and continuously until the date of Decedent's death, nor (2) a state-registered domestic partnership. CalPERS informed Respondent of her appeal rights.

On May 23, 2022, Respondent appealed CalPERS' determination and exercised her right to a hearing before an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH). A hearing was held on March 6, 2025. Respondent was represented by counsel at the hearing.

Sometime between May 2022 and October 28, 2024, Respondent attempted to file the Declaration of Domestic Partnership she and Decedent signed on January 11, 2000, with the Secretary of State. It was rejected on October 28, 2024. From October 28, 2024, to February 4, 2025, Respondent made several additional attempts to file the Declaration of Domestic Partnership, all of which were unsuccessful.

At the hearing, Respondent testified that she and Decedent were in a domestic partnership beginning in January 2000, when they first attempted to file a Statement of Domestic Partnership with the Secretary of State. Respondent asserts that they were unable to register their partnership at that time because of age restrictions. Respondent argued that CalPERS should accept other evidence of her domestic partnership with Decedent. She asserts that the County of Los Angeles Statement of Domestic Partnership filed in May 2009, is evidence that they were domestic partners long before he retired. According to Respondent, the "putative" domestic partnership they formed at least one year prior to Decedent's retirement is sufficient.

CalPERS presented evidence and testimony that it correctly denied Respondent's PRSA benefits claim because she fails to meet the requirements of Public Employees' Retirement Law (PERL) section 21626.5, which requires either (1) a registered domestic partnership one year prior to Decedent's SR date; or (2) proof they were in a domestic partnership registered with the Secretary of State. CalPERS also refuted Respondent's claim of "putative" domestic partner because there is no provision in the PERL providing for putative spouses.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. The ALJ found that Respondent held the burden of proof, and she did not prove by a preponderance of the evidence that she is entitled to the PRSA benefit. The ALJ found the PERL statutes governing the rights of a spouse or domestic partner to spousal benefits are clear and must be applied as written. Under PERL section 21624, a surviving spouse is eligible to receive a PRSA benefit if she was married to the Decedent at least one year before the member's retirement. Here Decedent retired in 2002. Respondent was not married to Decedent until 2017, 15 years after he retired. Thus, she is not eligible to receive a PRSA benefit based on her marriage. The ALJ found that Respondent did not meet the requirements of PERL

section 21626.5, because she did not prove that she and Decedent were in a registered domestic partnership at least one year before Decedent retired in 2002, and because she was never in a domestic partnership registered with the Secretary of State. In the Proposed Decision, the ALJ concludes that the PERL sets forth specific criteria under which a domestic partner can become eligible for retirement benefits earned by her partner. Respondent failed to show she satisfies those criteria. Consequently, Respondent does not qualify for Decedent's PRSA benefits, and CalPERS' denial of her request for those benefits is affirmed.

For all the above reasons, staff argues that the Proposed Decision should be adopted by the Board.

June 18, 2025

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