

ATTACHMENT B

STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Cassandra G. Sanders (Respondent) began working for the California State Bar (State Bar) on June 10, 2013, as a Program Manager I. By virtue of her employment, Respondent was a state miscellaneous member of CalPERS.

On March 24, 2023, the State Bar served Respondent with a Notice of Termination, which notified her that effective March 27, 2023, she would be terminated from her position. The Notice of Termination explained, "[t]he general reasons for your termination are that your performance and conduct have not met the expectations of your Program Manager I position." The notice went on to describe specific deficiencies in Respondent's work, including her lack of managerial judgment, insubordination following her supervisor's repeated directives, and failure to follow the appropriate chain of command.

Respondent and the State Bar signed a Separation Agreement and General Release of All Claims (Separation Agreement) on March 27, 2023. One of the terms of the Separation Agreement provided, "[Respondent] and the State Bar mutually agree to end their employment relationship at the close of business on Monday, March 27, 2023."

Shortly after resigning from the State Bar, Respondent applied for Disability Retirement based on a her alleged "Post Concussion Syndrome." Respondent claimed her disability occurred on October 19, 2022, after she "sustained a concussion and post-concussion syndrome when [she] tripped on a stack of firewood at home." She explained her injuries caused her to miss work from October 2022 through February 1, 2023.

On April 25, 2023, CalPERS notified Respondent that it had cancelled her Disability Retirement application because she had not submitted the required information. On November 16, 2023, Respondent submitted a second Disability Retirement Application. In it, she identified her specific disabilities as "Brain Injury, Post Concussion Syndrome, Seizure Disorder." She indicated her injuries occurred on October 19, 2022, when she "fell headfirst into a wall." She attributed her injuries to problems with "memory, anger, dizziness, [and being] unable to look at screens for long." She explained her injuries affected her ability to do her job because, "Customer [service] position takes feedback from angry [and] suicidal callers. My job [is] highly stressful and requires concentration." She also stated, "I've lost my filter with people internally (who waste my time)."

CalPERS contacted Respondent and requested additional information to support her application for disability retirement. Respondent provided additional information in January 2024, including an email chain between her and the State Bar from March 27, 2023, which indicated in relevant part: "I need time to see my doctors and neurologist. What if my behavior is being caused by my post-concussion syndrome? What if I returned from my leave too soon? Would you be willing to extend my paid administrative leave for a few weeks while I rest and get checked out?"

On March 21, 2024, CalPERS sent Respondent a letter stating that she is not eligible for disability retirement because her employment ended for reasons not related to a disabling medical condition. CalPERS determined that Respondent was precluded from applying for disability retirement pursuant to the holdings in *Haywood v. American River Fire Protection District* (1998) 67 Cal.App.4th 1292; *Martinez v. Public Employees Retirement System* (2019) 33 Cal.App.5th 1156; and *In the Matter of the Application for Industrial Disability Retirement of Robert Vandergoot* (2013) CalPERS Precedential Decision No. 13-01.

The *Haywood* court found that a complete severance of the employment relationship extinguishes the right to receive a disability retirement where (1) the severance is not due to a disabling medical condition, or (2) preempts a vested and matured right to a disability retirement. A disability retirement is only a “temporary separation” from public service, and a complete severance would create a legal anomaly – a “temporary separation” that can never be reversed. Therefore, the courts have found disability retirement and a complete severance to be legally incompatible.

The *Martinez* court affirmed the holding in *Haywood* and refused to overturn more than twenty years of legal precedent. The *Martinez* court also affirmed the *Vandergoot* Precedential Decision as a logical application of the *Haywood* and *Smith v. City of Napa* (2004) 120 Cal.App.4th 194. In *Vandergoot*, the Board held that “a necessary requisite for disability retirement is the potential reinstatement of the employment relationship” with the employer if it is ultimately determined by CalPERS that the employee is no longer disabled. The Board concluded that an employee’s resignation was tantamount to a dismissal when the employee resigned pursuant to a settlement agreement entered in to resolve a dismissal action and agreed to waive all rights to return to his former employer. Both *Martinez* and *Vandergoot* involved employees who agreed to resign following a Notice of Termination.

Respondent appealed this 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 July 22, 2025. Respondent represented herself at the hearing. The State Bar did not appear at the hearing, and a default was taken as to the State Bar only pursuant to Government Code section 11520.

Prior to the hearing, CalPERS explained the hearing process to Respondent and the need to support her case with witnesses and documents. CalPERS provided Respondent with a copy of the administrative hearing process pamphlet, answered Respondent’s questions, and clarified how to obtain further information on the process.

At the hearing, a program analyst from CalPERS explained how CalPERS processed Respondent’s second Disability Retirement application. The analyst explained that CalPERS reviewed the information provided by Respondent, including her email to the State Bar suggesting a possible link between her termination and the allegations in her disability retirement application. However, CalPERS considered Respondent’s

suggestion that there may be a link between her alleged disability and the behavior leading to her termination speculative.

The Director of Human Resources for the State Bar (Director) testified at the hearing about the facts leading to the Notice of Termination served on Respondent. He testified that Respondent was on medical leave from late October 2022 until February 1, 2023. In her absence, her supervisor managed one of her subordinates. After Respondent returned to work in February 2023, the subordinate's regular performance evaluation was due. Respondent completed it and sent it to her supervisor for review. Respondent's supervisor provided edits and feedback and asked Respondent to revise the evaluation to incorporate his input. Instead of doing so, Respondent submitted her original evaluation to human resources and added several paragraphs in the comments section explaining why she disagreed with her supervisor's observations.

The Director also testified that he did not believe that Respondent stopped working because of a disabling condition. He stated that the State Bar's prior Chief Administrative Officer requested that Respondent receive a counseling memo in January 2021. The request was based on emails that Respondent sent complaining the State Bar was using "disrespectful and unethical (bait and switch) tactics" regarding her subordinate's job assignments. Moreover, he testified that on January 24, 2023, Respondent submitted a letter from her medical provider stating that she could "return to work with no restrictions on February 1, 2023."

At the hearing, Respondent disputed the State Bar's characterization of her employment history. Respondent believes the State Bar viewed her as an emerging leader. Nevertheless, Respondent also believes her supervisor purposefully put her in stressful situations to set her up to fail. She testified that she did not initially understand the full extent of her injuries when she returned to work. Although she emailed the State Bar on March 27, 2023, and suggested her injuries contributed to her behavior, it was not until a few months later that she became convinced of the connection. She believes that she is entitled to apply for disability retirement because her post-fall injuries contributed to her behavior, which in turn contributed to her separation from employment.

After considering all the evidence introduced, as well as arguments by the parties, the ALJ denied Respondent's appeal. Respondent argued the first exception under *Haywood* applies to her. However, she presented no evidence that her separation from state service was the ultimate result of a disabling condition. Although she questioned whether a link existed between her injuries and her behavior, she did not support that theory with any reliable evidence. Rather, the persuasive evidence established that the State Bar considered Respondent's behavior to be insubordinate both before and after her fall in October 2022. Additionally, her medical provider returned her to work with no restrictions as of February 1, 2023. Respondent also failed to establish that the second exception under *Haywood* applied – she did not apply for disability retirement until after her employment relationship ended.

In the Proposed Decision, the ALJ concluded that Respondent did not establish that did not establish that any of the exceptions to *Haywood* apply. Thus, CalPERS properly determined that she was precluded from applying for disability retirement. Consequently, her appeal must be denied.

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

September 17, 2025

Austa Wakily
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