

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

Petition for Reconsideration

To: Board of Administration, California Public Employees' Retirement System (CalPERS)

Re: Case No. 2024-0353; OAH No. 2025020216

Respondent: Valerio Josif a.k.a. Valeriu Iosif

Date: November 26, 2025

I. Introduction

Pursuant to Government Code section 11521, I, Valerio Josif, respectfully petition the Board of Administration of CalPERS to reconsider its adoption of the Proposed Decision dated August 26, 2025, which denied my application for industrial disability retirement. This denial is based on a misapplication of law, incomplete consideration of medical evidence, and disregard for equitable principles established in California case law. As a local safety member, I am entitled to retirement for industrial disability under Government Code section 21151(a) upon proof of incapacity. This petition is timely filed under Government Code section 11521(a).

II. Factual Background

- **Employment Status:** I served as a Deputy Sheriff with the City and County of San Francisco (CCSF), qualifying as a local safety member under CalPERS.
- **Separation Circumstances:** The City's amended certification (April 5, 2024) confirmed that I was not terminated for cause, did not resign in lieu of termination, and had no adverse action pending.
- **Medical Evidence:**
 - Dr. Richard F. Gravina (Agreed Medical Examiner) determined that all my injuries were 100% industrially caused and classified me as temporarily disabled on December 8, 2022.
 - On November 6, 2023, Dr. Gravina concluded that my cumulative trauma injuries (lumbar/cervical spine, bilateral carpal tunnel, plantar fasciitis) were permanent and stationary, rendering me unable to return to duty as a deputy sheriff.
- **Worker's Compensation:** My claim was accepted by CCSF, confirming permanent disability.
- **Pending Litigation:** I am a plaintiff in *Debrunner v. City and County of San Francisco*, alleging religious and disability discrimination. The lawsuit seeks reinstatement, which CalPERS has acknowledged would restore eligibility.

- **Policy Changes:** The City rescinded its broad vaccination mandate in August 2023, underscoring the temporary and non-disciplinary nature of my separation.

III. Grounds for Reconsideration

A. Misapplication of the Haywood Rule

The Proposed Decision erroneously relied on *Haywood v. American River Fire Protection Dist.* (1998) 67 Cal.App.4th 1292, which held that termination for cause severs the employment relationship and bars disability retirement. My separation was **not for cause**; the City's amended certification (April 5, 2024) explicitly corrected its records to reflect that none of the disqualifying conditions applied. *Haywood* does not apply to non-disciplinary separations. The Proposed Decision failed to distinguish between an unwilling and an unable employee, and CalPERS's attorney applied *Haywood* indiscriminately, without articulating its relevance to my case. All key elements in *Haywood* are absent here.

B. Failure to Consider Medical Evidence

Government Code section 21151(a) provides:

"Any member who is incapacitated for the performance of duty as the result of an industrial disability shall be retired for disability regardless of age."

Dr. Gravina's findings constitute competent medical opinion establishing permanent incapacity. The Proposed Decision improperly discounted this evidence, contrary to statutory requirements.

C. Equitable Principles under *Smith v. City of Napa*

In *Smith v. City of Napa* (2004) 120 Cal.App.4th 194, the court recognized exceptions to *Haywood* where equity demands preservation of disability retirement rights. The court noted that a claim may survive dismissal if there is "undisputed evidence" of eligibility or if a ruling was delayed through no fault of the employee. My case fits these exceptions: medical evidence confirms incapacity, and my application was delayed due to procedural circumstances, not misconduct.

D. Legislative Intent

The Public Employees' Retirement Law (PERL) reflects legislative intent to protect safety members incapacitated by industrial injury. As the *Haywood* court itself acknowledged:

"PERL reflects a legislative intent that a claimed disability bears a causal relationship to the discontinuance of service." (67 Cal.App.4th at 1307).

My discontinuance of service was directly tied to cumulative trauma injuries, not misconduct. Denying disability retirement undermines PERL's protective purpose.

IV. Request for Relief

I respectfully request that the CalPERS Board of Administration:

- Vacate or modify its adoption of the Proposed Decision dated August 26, 2025.
- Recognize my eligibility to apply for industrial disability retirement under Government Code section 21151(a).
- Remand the matter for proper consideration of medical evidence and equitable factors, or alternatively, grant my application outright.

V. Conclusion

The denial of my application rests on procedural technicalities rather than the substantive reality of my disabling industrial injuries. My separation was not for cause, non-disciplinary, my medical incapacity is well-documented, and equity demands reconsideration. I urge the Board to act in the interest of fairness, statutory compliance, and justice.

Respectfully submitted,

Valerio Josif