Pursuant to Executive Order N-29-20, certain provisions of the Brown Act are suspended due to a State of Emergency in response to the COVID-19 pandemic. Consistent with the Executive Order, this meeting will be conducted by video/teleconference only. None of the locations from which the Board members will participate will be open to the public.

Members of the public who wish to observe and/or participate in the meeting may do so via the Zoom app or via telephone. Members of the public who wish to provide comment during the meeting may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad.

### OCERS Zoom Video/Teleconference information

<table>
<thead>
<tr>
<th>Join Using Zoom App (Video &amp; Audio)</th>
<th>Join by Telephone (Audio Only)</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="https://ocers.zoom.us/j/95760809775">https://ocers.zoom.us/j/95760809775</a></td>
<td>Dial by your location</td>
</tr>
</tbody>
</table>
| **Meeting ID:** 946 3969 3775  
**Password:** 244979 | +1 669 900 6833 US (San Jose) |
| [https://www.zoom.us/download](https://www.zoom.us/download) to download Zoom app before meeting  
[https://zoom.us](https://zoom.us) to connect online using any browser. | +1 346 248 7799 US (Houston) |
| | +1 253 215 8782 US |
| | +1 301 715 8592 US |
| | +1 312 626 6799 US (Chicago) |
| | +1 929 436 2866 US (New York) |
| **Meeting ID:** 946 3969 3775  
**Password:** 244979 |

A [Zoom Meeting Participant Guide](#) is available on OCERS website [Board & Committee meetings page](#).

### AGENDA

The Orange County Board of Retirement welcomes you to this meeting. This agenda contains a brief general description of each item to be considered. The Board of Retirement may take action on any item included in the following agenda; however, except as otherwise provided by law, no action shall be taken on any item not appearing on the agenda. The Board of Retirement may consider matters included on the agenda in any order, and not necessarily in the order listed.

**CALL MEETING TO ORDER AND ROLL CALL**

**PUBLIC COMMENTS**
At this time, members of the public may comment on (1) matters not included on the agenda, provided that the matter is within the subject matter jurisdiction of the Board; and (2) any matter appearing on the Consent Agenda. Members of the public who wish to provide comment at this time may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9 on your telephone keypad. When addressing the Board, please state your name for the record prior to providing your comments. Speakers will be limited to three (3) minutes.

In addition, public comment on matters listed on this agenda will be taken at the time the item is addressed.

CONSENT AGENDA

All matters on the Consent Agenda are to be approved by one action unless a Board Member requests separate action on a specific item.

BENEFITS

C-1 OPTION 4 RETIREMENT ELECTION

Recommendation: Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.
- GERLYN BOWMAN
- ROBERT HUNT
- MICHAEL WALLACE
- HARRIET MYERS FAIN

ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes August 17, 2020

Recommendation: Approve summary.

C-3 OUTCOMES OF THE DISABILITY COMMITTEE MEETING ON AUGUST 17, 2020

Recommendation: The Disability Committee recommends that the Board:
(1) Approve a new OCERS Administrative Procedure for Determining Disability Retirement Effective Dates
CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA
9:30 AM

AGENDA

NOTE: WHEN CONSIDERING DISABILITY RETIREMENT APPLICATIONS OR MEMBER APPEALS OF BENEFIT OR DISABILITY RETIREMENT DETERMINATIONS, THE BOARD MAY ADJOURN TO CLOSED SESSION TO DISCUSS MATTERS RELATING TO THE MEMBER’S APPLICATION OR APPEAL, PURSUANT TO GOVERNMENT CODE SECTIONS 54957 OR 54956.9. IF THE MATTER IS A DISABILITY APPLICATION UNDER SECTION 54957, THE MEMBER MAY REQUEST THAT THE DISCUSSION BE IN PUBLIC.

OPEN SESSION

CONSENT ITEMS

All matters on the Consent Agenda are to be approved by one action unless a Board member requires separate action on a specific item. If separate action is requested, the item will be discussed during agenda item DA-1.

DC-1: BRIAN HOPP
Firefighter, Orange County Fire Authority

Recommendation: The Disability Committee recommends that the Board deny service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate. (Safety Member)

DC-2: JANE MARTORANA
Senior Social Worker, Orange County Social Services Agency

Recommendation: The Disability Committee recommends that the Board deny service connected disability retirement due to insufficient evidence of permanent incapacity and job causation. (General Member)

DC-3: BAO VINH
Senior Social Worker, Orange County Social Services Agency

Recommendation: The Disability Committee recommends that the Board deny service connected disability retirement due to insufficient evidence of job causation. (General Member)

DC-4: JENNIFER COLE
Deputy Sheriff I, Orange County Sheriff’s Department

Recommendation: The Disability Committee recommends that the Board grant service connected
disability retirement with an effective date of the day after the last day of regular compensation.  
(Safety Member)

DC-5:  RONALD ROSAS  
Plumber, Orange County Sheriff’s Department

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of October 11, 2019. (General Member)

DC-6:  CALINH VU  
Employment and Eligibility Specialist, Orange County Social Services Agency

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of September 27, 2019. (General Member)

DC-7:  DANIEL MACKAY  
Fire Captain, Orange County Fire Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of November 30, 2019. (Safety Member)

DC-8:  TERESA McCONKEY  
Group Counselor II, Orange County Social Services Agency

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of August 30, 2019; find the applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65; Grant a supplemental disability retirement payment allowance effective August 30, 2019. (General Member)

**CLOSED SESSION**

**Government Code section 54957**

Adjourn to Closed Session under Government Code section 54957 to consider member disability applications and to discuss member medical records submitted in connection therewith. The applicant may waive confidentiality and request his or her disability application to be considered in Open Session.

**ACTION ITEMS:**

DA-1:  INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA
DISABILITY/MEMBER BENEFITS AGENDA

DA-2: DISABILITY APPEAL – PAULA SNYDER
Office Services Specialist, Orange County Fire Authority

**Recommendation:** Approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations dated July 7, 2020 (Recommendations), wherein the Hearing Officer recommends that the Board deny service connected disability retirement based upon the fact that Applicant Paula Snyder was found not to be substantially incapacitated to perform her usual and customary job duties.

DA-3: DISABILITY APPEAL – LYNN HONG
Service Worker, Orange County Transportation Authority

**Recommendation:** Approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Proposed Decision dated August 17, 2020 (Recommendations) wherein the Hearing Officer recommended (1) that the application of Lynn Hong (Applicant) for service connected disability retirement based on the orthopedic injury to Applicant’s left shoulder be granted with an effective date of October 23, 2013; and (2) that the application for service-connected and non-service connected disability retirement based on the orthopedic injuries to Applicant’s right shoulder and lumbar spine be denied.

OPEN SESSION

REPORT OF ACTIONS TAKEN IN CLOSED SESSION

ACTION ITEMS

NOTE: Public comment on matters listed in this agenda will be taken at the time the item is addressed, prior to the Board’s discussion of the item. *Members of the public who wish to provide comment in connection with any matter listed in this agenda may do so by “raising your hand” in the Zoom app, or if joining by telephone, by pressing * 9, at the time the item is called.*

A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA

A-2 OCERS 2021-2023 STRATEGIC PLAN
*Presentation by Steve Delaney, Chief Executive Officer, OCERS*

**Recommendation:** Approve OCERS 2021-2023 Strategic Plan.
OCERS 2021 BUSINESS PLAN

Presentation by Steve Delaney, Chief Executive Officer, and Brenda Shott, Assistant CEO Internal Operations, OCERS


INFORMATION ITEMS

I-1 MEMBER MATERIALS DISTRIBUTED
Written Report

Application Notices October 19, 2020
Death Notices October 19, 2020

I-2 COMMITTEE MEETING MINUTES
- None

I-3 CEO FUTURE AGENDAS AND 2020 OCERS BOARD WORK PLAN
Written Report

I-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS
Written Report

I-5 BOARD COMMUNICATIONS
Written Report

I-6 STATE AND FEDERAL LEGISLATIVE UPDATE
Written Report

I-7 THIRD QUARTER 2020 TRAVEL AND TRAINING EXPENSE REPORT
Written Report

I-8 THE EVOLUTION OF THE OCERS UAAL (2020 EDITION)
Written Report

I-9 MEMBER SERVICES PROGRESS ON PROCESSING COUNTY OF ORANGE VOLUNTARY INCENTIVE PROGRAM RETIREMENTS
Written Report

I-10 OUTCOMES OF THE PERSONNEL COMMITTEE MEETING ON AUGUST 19, 2020
Presentation by Brenda Shott and Steve Delaney

I-11 UPDATE ON STAFFS PROGRESS IN RESPONSE TO THE ALAMEDA COUNTY DECISION IN Alameda County Deputy Sheriff's Assoc. et al., v. Alameda County Employees' Retirement Assn., et al
Presentation by Suzanne Jenike and Steve Delaney
I-12 COVID-19 UPDATE  
Presentation by Steve Delaney, Chief Executive Officer, OCERS

** ** ** END OF INFORMATION ITEMS AGENDA ** ** **

CLOSED SESSION ITEMS

E-1 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER)  
(GOVERNMENT CODE SECTION 54956.9)  
Adjourn pursuant to Government Code section 54956.9(d)(2)

Recommendation: Take appropriate action.

BOARD MEMBER COMMENTS

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS

COUNSEL COMMENTS

***************

ADJOURNMENT: (IN MEMORY OF THE ACTIVE MEMBERS, RETIRED MEMBERS, AND SURVIVING SPOUSES WHO PASSED AWAY THIS PAST MONTH)

NOTICE OF NEXT MEETINGS

INVESTMENT COMMITTEE MEETING  
October 28, 2020  
9:30 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM  
2223 E. WELLINGTON AVENUE, SUITE 100  
SANTA ANA, CA 92701

DISABILITY COMMITTEE MEETING  
November 16, 2020  
8:30 A.M.
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701

REGULAR BOARD MEETING
November 16, 2020
9:30 A.M.

ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM
2223 E. WELLINGTON AVENUE, SUITE 100
SANTA ANA, CA 92701

All supporting documentation is available for public review in the retirement office during regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Thursday and 8:00 a.m. – 4:30 p.m. on Friday.

It is OCERS' intention to comply with the Americans with Disabilities Act ("ADA") in all respects. If, as an attendee or participant at this meeting, you will need any special assistance beyond that normally provided, OCERS will attempt to accommodate your needs in a reasonable manner. Please contact OCERS via email at adminsupport@ocers.org or call 714-558-6200 as soon as possible prior to the meeting to tell us about your needs and to determine if accommodation is feasible. We would appreciate at least 48 hours’ notice, if possible. Please also advise us if you plan to attend meetings on a regular basis.
DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: OPTION 4 RETIREMENT ELECTION – GERLYN BOWMAN

Recommendation

Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

Background/Discussion

This member elected Option 4 as the benefit payment option for her service retirement allowance as required by her Domestic Relations Order (DRO), effective August 14, 2020. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter as well as the allowance payable to the member’s ex-spouse.

Submitted by:

A. B. – APPROVED
Adina Bercaru
Member Services Manager
September 28, 2020

Ms. Adina Bercaru
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

Re: Orange County Employees Retirement System (OCERS)
    Option 4 Calculation for Gerlyn Bowman

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Gerlyn Bowman and her ex-spouse based on the unmodified benefit and other information provided in the System’s request dated September 23, 2020.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

Member’s Date of Birth
Ex-Spouse’s Date of Birth
Date of Retirement August 14, 2020
Plan of Membership General Plan J
Monthly Unmodified Benefit $5,008.71
Ex-Spouse’s Share of Monthly Unmodified Benefit 19.65%
Retirement Type Service Retirement
We calculated the adjustment to the member’s unmodified benefit to provide a 19.65% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

<table>
<thead>
<tr>
<th>Monthly benefit payable to member</th>
<th>Payable while the Member is Alive</th>
<th>Payable After the Member’s Death</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annuity:</td>
<td>$1,561.10</td>
<td></td>
</tr>
<tr>
<td>Pension:</td>
<td>2,463.40</td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td>$4,024.50</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

| Monthly benefit payable to ex-spouse | $885.87 | $885.87 |

**ACTUARIAL ASSUMPTIONS**

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 40% male and 60% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 60% male and 40% female for beneficiaries.

The actuarial calculations contained in this letter were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, Enrolled Actuary, who is a member of the American Academy of Actuaries and who meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

---

1 This is equal to 19.65% of the member’s unmodified benefit (i.e., 19.65% * $5,008.71 or $984.21) adjusted further to provide a benefit payable over the ex-spouse’s lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.
Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan’s Legal Counsel.

Sincerely,

Molly Calcagno, ASA, MAAA, EA
Actuary

JY/hy
September 28, 2020

Gerlyn G. Bowman
(address removed)

Re: Retirement Election Confirmation – Option 4

Dear Ms. BOWMAN:

You have elected Option 4 as your retirement option. This option will provide a 19.65% of your monthly benefit, for the life of the benefit, to:

DOUGLAS DAVID GLIDDEN

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 19.65% continuance to DOUGLAS DAVID GLIDDEN.

[Signature]

Member Signature / Date

Sincerely,

Zaida Miramontes
Retirement Program Specialist

Received Sept. 28th, 2020
DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: OPTION 4 RETIREMENT ELECTION – ROBERT HUNT

Recommendation
Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

Background/Discussion
This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective October 11, 2019. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter as well as the allowance payable to the member’s ex-spouse.

Submitted by:

A. B. – APPROVED
Adina Bercaru
Member Services Manager
September 23, 2020

Ms. Adina Bercaru  
Member Services Manager  
Orange County Employees Retirement System  
2223 Wellington Avenue  
Santa Ana, CA 92701-3101

Re: Orange County Employees Retirement System  
Option 4 Calculation for Robert W. Hunt

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Robert W. Hunt and his ex-spouse based on the unmodified benefit and other information provided in the System’s request dated September 14, 2020.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

<table>
<thead>
<tr>
<th>Member’s Date of Birth</th>
<th>October 11, 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ex-Spouse’s Date of Birth</td>
<td></td>
</tr>
<tr>
<td>Date of Retirement</td>
<td></td>
</tr>
<tr>
<td>Plan of Membership</td>
<td>Safety Plan F</td>
</tr>
<tr>
<td>Monthly Unmodified Benefit</td>
<td>$9,043.79</td>
</tr>
<tr>
<td>Ex-Spouse’s Share of Monthly Unmodified Benefit</td>
<td>40.58%</td>
</tr>
<tr>
<td>Retirement Type</td>
<td>Service Retirement</td>
</tr>
</tbody>
</table>
As instructed by OCERS, the member and the ex-spouse bear the cost of the Option 4 reduction equally.

<table>
<thead>
<tr>
<th>Payable while the Member is Alive</th>
<th>Payable After the Member’s Death</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Monthly benefit payable to member</strong>¹</td>
<td></td>
</tr>
<tr>
<td>Annuity:</td>
<td>$1,064.28</td>
</tr>
<tr>
<td>Pension:</td>
<td>4,104.54</td>
</tr>
<tr>
<td>Total:</td>
<td>$5,168.82</td>
</tr>
<tr>
<td><strong>Monthly benefit payable to ex-spouse</strong>²</td>
<td>$3,464.97</td>
</tr>
</tbody>
</table>

**ACTUARIAL ASSUMPTIONS**

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016 set back four years, weighted 80% male and 20% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 20% male and 80% female for beneficiaries.

¹ The member’s benefit payable is equal to 59.42% of the member’s unmodified benefit (i.e., 59.42% * $9,043.79 or $5,373.82) adjusted by $205.00 to provide a benefit payable over the ex-spouse’s lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.

² The ex-spouse’s benefit payable is equal to 40.58% of the member’s unmodified benefit (i.e., 40.58% * $9,043.79 or $3,669.97) adjusted by $205.00 to provide a benefit payable over the ex-spouse’s lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.
Ms. Adina Bercaru  
September 23, 2020  
Page 3

The actuarial calculations contained in this letter were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, Enrolled Actuary, who is a member of the American Academy of Actuaries and who meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan’s Legal Counsel.

Sincerely,

Molly Calcagno, ASA, MAAA, EA  
Actuary

JY/hy
September 29, 2020

Robert W. Hunt

Re: Retirement Election Confirmation – Option 4

Dear Mr. HUNT:

You have elected Option 4 as your retirement option. This option will provide a 40.58% of your monthly benefit, for the life of the benefit, to:

DANA HUNT

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 40.58% continuaue to DANA HUNT.

Robert W. Hunt 9:30 20

Member Signature/Date

Sincerely,

Ricardo Serrano
Retirement Program Specialist
DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: OPTION 4 RETIREMENT ELECTION – MICHAEL WALLACE

**Recommendation**

Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

**Background/Discussion**

This member elected Option 4 as the benefit payment option for his service retirement allowance as required by his Domestic Relations Order (DRO), effective October 11, 2019. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter as well as the allowance payable to the member’s ex-spouse.

**Submitted by:**

A. B. – APPROVED
Adina Bercaru
Member Services Manager
September 23, 2020

Ms. Adina Bercaru  
Member Services Manager  
Orange County Employees Retirement System  
2223 Wellington Avenue  
Santa Ana, CA 92701-3101

Re: Orange County Employees Retirement System  
Option 4 Calculation for Michael Wallace

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Michael Wallace and his ex-spouse based on the unmodified benefit and other information provided in the System’s request dated September 17, 2020.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

<table>
<thead>
<tr>
<th>Member’s Date of Birth</th>
<th>Ex-Spouse’s Date of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Retirement</td>
<td>August 14, 2020</td>
</tr>
<tr>
<td>Plan of Membership</td>
<td>General Plan J</td>
</tr>
<tr>
<td>Monthly Unmodified Benefit</td>
<td>$5,309.34</td>
</tr>
<tr>
<td>Ex-Spouse’s Share of Monthly Unmodified Benefit</td>
<td>17.45%</td>
</tr>
<tr>
<td>Retirement Type</td>
<td>Service Retirement</td>
</tr>
</tbody>
</table>
We calculated the adjustment to the member’s unmodified benefit to provide a 17.45% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

<table>
<thead>
<tr>
<th>Monthly benefit payable to member</th>
<th>Payable while the Member is Alive</th>
<th>Payable After the Member’s Death</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annuity</td>
<td>$1,374.31</td>
<td></td>
</tr>
<tr>
<td>Pension</td>
<td>3,008.55</td>
<td>$0.00</td>
</tr>
<tr>
<td>Total</td>
<td>$4,382.86</td>
<td>$0.00</td>
</tr>
<tr>
<td>Monthly benefit payable to ex-spouse</td>
<td>$800.58</td>
<td>$800.58</td>
</tr>
</tbody>
</table>

**ACTUARIAL ASSUMPTIONS**

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 40% male and 60% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 60% male and 40% female for beneficiaries.

The actuarial calculations contained in this letter were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, Enrolled Actuary, who is a member of the American Academy of Actuaries and who meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

---

1 This is equal to 17.45% of the member’s unmodified benefit (i.e., 17.45% * $5,309.34 or $926.48) adjusted further to provide a benefit payable over the ex-spouse’s lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.
Ms. Adina Bercaru  
September 23, 2020  
Page 3  

Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan’s Legal Counsel.

Sincerely,

Molly Calcagno  
Actuary

JY/jl
September 29, 2020

Michael T. Wallace

Re: Retirement Election Confirmation – Option 4

Dear Mr. WALLACE:

You have elected Option 4 as your retirement option. This option will provide a 17.45% of your monthly benefit, for the life of the benefit, to:

BRENDA WALLACE

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

( ) I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 17.45% continuance to BRENDA WALLACE.

Member Signature/Date

Sincerely,

Ricardo Serrano
Retirement Program Specialist

Received 10/01/2020
Memorandum

DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Adina Bercaru, Member Services Manager
SUBJECT: OPTION 4 RETIREMENT ELECTION – HARRIET MYERS FAIN

Recommendation

Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

Background/Discussion

This member elected Option 4 as the benefit payment option for her service retirement allowance as required by her Domestic Relations Order (DRO), effective August 14, 2020. The Orange County Employees Retirement System (OCERS) was joined in the member’s dissolution of marriage and under the terms of the DRO, the member’s ex-spouse was awarded a lifetime continuance as a percentage of the member’s allowance.

The approval of Option 4 will not increase OCERS liability because the cost of this Option 4 benefit is proportional to the cost of the other benefit plans. Segal Consulting has calculated the member’s monthly allowance as indicated in the attached letter as well as the allowance payable to the member’s ex-spouse.

Submitted by:

A. B. – APPROVED
Adina Bercaru
Member Services Manager
September 28, 2020

Ms. Adina Bercaru
Member Services Manager
Orange County Employees Retirement System
2223 Wellington Avenue
Santa Ana, CA 92701-3101

Re: Orange County Employees Retirement System (OCERS)
Option 4 Calculation for Harriet Myers Fain

Dear Adina:

Pursuant to your request, we have determined the Option 4 benefits payable to Harriet Myers Fain and her ex-spouse based on the unmodified benefit and other information provided in the System’s request dated September 23, 2020.

The monthly benefits payable to the member and the ex-spouse and the data we used for our calculations are as follows:

Member’s Date of Birth
Ex-Spouse’s Date of Birth
Date of Retirement August 10, 2020
Plan of Membership General Plan J
Monthly Unmodified Benefit $2,785.26
Ex-Spouse’s Share of Monthly Unmodified Benefit 17.48%
Retirement Type Service Retirement

1 We understand in preparing this calculation that the member is entitled to a service retirement benefit even though the member has only 8.5286 years of service.
We calculated the adjustment to the member’s unmodified benefit to provide a 17.48% continuance to the ex-spouse. As instructed by OCERS, the cost to provide the continuance benefit to the ex-spouse is paid for entirely by the ex-spouse.

<table>
<thead>
<tr>
<th>Monthly benefit payable to member</th>
<th>Payable while the Member is Alive</th>
<th>Payable After the Member’s Death</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annuity:</td>
<td>$1,065.15</td>
<td></td>
</tr>
<tr>
<td>Pension:</td>
<td>1,233.25</td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td>$2,298.40</td>
<td>$0.00</td>
</tr>
<tr>
<td>Monthly benefit payable to ex-spouse²</td>
<td>$434.46</td>
<td>$434.46</td>
</tr>
</tbody>
</table>

**ACTUARIAL ASSUMPTIONS**

Effective interest rate of 4.136253% per year, which is calculated using an investment return assumption of 7.00% per year together with a cost-of-living adjustment assumption of 2.75% per year.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 40% male and 60% female for members.

Headcount-Weighted RP-2014 Healthy Annuitant Mortality Table projected 20 years with the two-dimensional mortality improvement scale MP-2016, weighted 60% male and 40% female for beneficiaries.

The actuarial calculations contained in this letter were prepared under the supervision of Andy Yeung, ASA, MAAA, FCA, Enrolled Actuary, who is a member of the American Academy of Actuaries and who meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

² This is equal to 17.48% of the member’s unmodified benefit (i.e., 17.48% * $2,785.26 or $486.86) adjusted further to provide a benefit payable over the ex-spouse’s lifetime or to the estate of the ex-spouse if the ex-spouse pre-deceases the member.
Please let us know if you have any comments or questions. As in all matters pertaining to the interpretation and application of the law, Plan, or individual Option 4 Calculation provisions, you should be guided by the advice of the Plan’s Legal Counsel.

Sincerely,

Molly Calcagno, ASA, MAAA, EA
Actuary

JY/hy
September 28, 2020

Harriet Myers Fain

Re: Retirement Election Confirmation – Option 4

Dear Ms. MYERS FAIN:

You have elected Option 4 as your retirement option. This option will provide a 17.48% of your monthly benefit, for the life of the benefit, to:

PER TVEDT

This designation is irrevocable; you will not be allowed to change your retirement option or designated beneficiary.

Please complete this form and return to OCERS as soon as possible.

( ) I understand that my retirement option is irrevocable; by choosing Option 4 I will take a monthly reduction in order to provide a 17.48% continuance to PER TVEDT.

Member Signature/Date

Sincerely,

Adina Bercaru
Member Services Manager
Chair Hilton called the meeting to order at 9:36 a.m.

Sonal Sharma administered the Roll Call attendance.

Attendance was as follows:

Present via Zoom video teleconference pursuant to Executive Order N-29-20 issued by Governor Newsom on March 17, 2020:

Roger Hilton, Chair; Shawn Dewane, Vice-Chair; Shari Freidenrich, Adele Tagaloa, Charles Packard, Chris Prevatt, Arthur Hidalgo, Frank Eley and Wayne Lindholm

Also Present via Zoom: Steve Delaney, Chief Executive Officer; Brenda Shott, Assistant CEO, Internal Operations; Suzanne Jenike, Assistant CEO, External Operations; Gina Ratto, General Counsel; Jenny Sadoski, Director of Information Technology, Anthony Beltran, Visual Technician; Sonal Sharma; Recording Secretary

Guests via Zoom: Harvey Leiderman, ReedSmith

Absent: Jeremy Vallone

CONSENT AGENDA

MOTION by Eley, seconded by Packard, to approve staff’s recommendation on all of the following items on the Consent Agenda:

C-1  OPTION 4 RETIREMENT ELECTION

Recommendation: Grant election of retirement benefit payment, Option 4, based on Segal Consulting’s actuarial report.

- None
ADMINISTRATION

C-2 BOARD MEETING MINUTES

Regular Board Meeting Minutes July 20, 2020

Recommendation: Approve minutes.

C-3 OUTCOMES OF THE GOVERNANCE COMMITTEE MEETING ON AUGUST 4, 2020

Recommendation: The Governance Committee recommends that the Board:
(1) Adopt the proposed revisions to the Actuarial Valuation Policy as presented;
(2) Adopt the proposed revisions to the Securities Litigation Policy as presented;
(3) Adopt the proposed revisions to OCERS’ Conflict of Interest Code as presented; and
(4) Adopt the proposed revisions to the Adjudication Policy and Administrative Hearing Rules, including renaming the policy as the Administrative Review and Hearing Policy, as presented.

The motion passed unanimously.

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CONSENT ITEMS: DISABILITY/MEMBER BENEFITS AGENDA

OPEN SESSION

CONSENT ITEMS

MOTION by Dewane, seconded by Lindholm, to approve staff’s recommendation on all of the following items on the Consent Agenda:

DC-1: CHRISTINA QUINTERO
Property Tax Technician, Orange County Treasurer-Tax Collector

Recommendation: The Disability Committee recommends that the Board deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity. (General Member)

This item was pulled from the agenda.

DC-2: STACY ANDROUS
Deputy Juvenile Correctional Officer II, Orange County Probation Department
**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of May 10, 2019. (Safety Member)

**DC-3: ROBERT BARNARD**  
Fire Apparatus Engineer, Orange County Fire Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of August 2, 2019. (Safety Member)

**DC-4: ANTHONY BOMMARITO**  
Fire Captain, Orange County Fire Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of February 28, 2020. (Safety Member)

**DC-5: RUSSELL CARINGER**  
Fire Apparatus Engineer, Orange County Fire Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of March 30, 2018. (Safety Member)

**DC-6: DOUGLAS LEONARD**  
Deputy Sheriff II, Orange County Sheriff’s Department

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of March 15, 2019. (Safety Member)

**DC-7: WILLIAM LOCKHART**  
Battalion Chief, Orange County Fire Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of March 29, 2019. (Safety Member)

**DC-8: CHRISTOPHER SHERWOOD**  
Firefighter, Orange County Fire Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of June 7, 2019. (Safety Member)

**DC-9: JAMES THURMAN**  
Coach Operator, Orange County Transportation Authority

**Recommendation:** The Disability Committee recommends that the Board grant service connected disability retirement with an effective date of September 30, 2018. (General Member)

The motion passed **unanimously**.
INFORMATION ITEMS

I-14 UPDATE ON RECENT CALIFORNIA SUPREME COURT DECISION IN Alameda County Deputy Sheriff’s Assoc. et al., v. Alameda County Employees’ Retirement Assn., et al
Presentation by Harvey Leiderman, Partner, Reed Smith

Mr. Leiderman presented the Alameda County case.

The following members of the public commented on I-14:
- Kent McBride – OC Sheriff’s Department, Bomb Squad Member
- Juan Viramontes – Sargent, OC Sheriff’s Department
- Craig Jensen – OC Sheriff’s Department, Bomb Squad Member
- Paul Bartlett – Executive Director, AOCDS
- Jacob Kalinski – Rains Lucia Stern St. Phalle & Silver, Attorney, Orange County Deputy Sheriffs Department

James Thurman, Disability Retirement Member, thanked the Board for approving his disability retirement.

Chair Hilton stated that he sits on both the AOCDS and OCERS Boards. Because of possible litigation and conflicts that could occur, he will recuse himself from the AOCDS Board with regard to any matters relating to this issue. This way he can give his full attention in this matter to the OCERS Board.

The Board adjourned into closed session at 11:20 a.m.
The Board reconvened into open session at 1:03 p.m.

CLOSED SESSION ITEMS

E-1 CONFERENCE REGARDING LITIGATION THAT HAS BEEN INITIATED (GOVERNMENT CODE SECTION 54956.9(d)(1)) OCERS v. Al Mijares, et al., CA Superior Court, Los Angeles County, (Case No. 19STCP04023)
Adjourn pursuant to Government Code Section 54956.9(d)(1).

Recommendation: Take appropriate action.

No reportable action taken.

E-2 CONFERENCE REGARDING SIGNIFICANT EXPOSURE TO LITIGATION (ONE MATTER) (GOVERNMENT CODE SECTION 54956.9)
Adjourn pursuant to Government Code section 54956.9(d)(2)

Recommendation: Take appropriate action.

No reportable action taken.
ACTION ITEMS

A-1 INDIVIDUAL ACTION ON ANY ITEM TRAILED FROM THE CONSENT AGENDA
N/A

A-2 TRIENNIAL STUDY OF ACTUARIAL ASSUMPTIONS
Presentation by Paul Angelo and Andy Yeung, Segal Consulting

Recommendation: Approve demographic and economic actuarial assumptions based on the recommendations and alternatives included in the Actuarial Experience Study of the period January 1, 2017 through December 31, 2019 prepared by Segal.

Mr. Angelo and Mr. Yeung presented the Triennial Study of Actuarial Assumptions.

After discussion, a MOTION was made by Hilton for the alternative assumption. The motion died for a lack of a second.

MOTION was made by Prevatt, seconded by Packard to approve demographic and economic actuarial assumptions based on the recommendations and alternatives included in the Actuarial Experience Study of the period January 1, 2017 through December 31, 2019 prepared by Segal.

Motion passed 8-1 with Chair Hilton voting No.

A-3 ADDITION OF EXTRA HELP POSITION IN THE MEMBER SERVICES DEPARTMENT
Presentation by Suzanne Jenike, Assistant CEO, OCERS

Recommendation:
1) Approve the addition of three Extra Help positions, classified as a Retirement Program Specialist(s) in the Member Services department.
2) Authorize the CEO to send the attached memorandum to the County of Orange to request the addition of three Extra Help positions.

Ms. Jenike presented the Addition Of Extra Help Position In The Member Services Department.

After board discussion, a MOTION was made by Packard, seconded by Prevatt, to approve the addition of three Extra Help positions, classified as a Retirement Program Specialist(s) in the Member Services department and to authorize the CEO to send the attached memorandum to the County of Orange to request the addition of three Extra Help positions.

The motion passed unanimously.

The Board took a break at 2:37 p.m. to open Personnel Committee meeting.

The Board closed Personnel Committee meeting at 2:37 p.m.

The Board resumed the Regular Board Meeting at 2:38 p.m.
INFORMATION ITEMS

I-1 MEMBER MATERIALS DISTRIBUTED
Written Report

Application Notices August 17, 2020
Death Notices August 17, 2020

I-2 COMMITTEE MEETING MINUTES
- N/A

I-3 CEO FUTURE AGENDAS AND 2020 OCERS BOARD WORK PLAN
Written Report

I-4 QUIET PERIOD – NON-INVESTMENT CONTRACTS
Written Report

I-5 BOARD COMMUNICATIONS
Written Report

I-6 STATE AND FEDERAL LEGISLATIVE UPDATE
Written Report

I-7 SECOND QUARTER UNAUDITED FINANCIAL STATEMENTS FOR THE SIX MONTHS ENDED JUNE 30, 2020
Written Report

I-8 SECOND QUARTER 2020 BUDGET TO ACTUALS REPORT
Written Report

I-9 OCERS BY THE NUMBERS (2020 EDITION)
Written Report

I-10 THE EVOLUTION OF THE OCERS UAAL (2020 EDITION)
Written Report

This item was pulled from the agenda.

I-11 2020 EMPLOYER AND EMPLOYEE CONTRIBUTIONS MATRIX
Written Report

I-12 2020 STRATEGIC PLANNING WORKSHOP AGENDA
Written Report

I-13 OCERS STAFFING UPDATE
Presentation by Cynthia Hockless, Director of Administrative Services, Admin/HR, OCERS
This item was changed to a “Written Report” instead of a “Presentation” item.

I-15 COVID-19 UPDATE
*Presentation by Steve Delaney, Chief Executive Officer, OCERS*

Mr. Delaney presented the COVID-19 update for the month of August. He informed the Board that while OCERS staff continue to work remotely until the end of August, in line with current County Health Department advice emphasizing telework wherever possible, that decision is revisited by himself and the Crisis Management team every month.

**END OF INFORMATION ITEMS AGENDA**

BOARD MEMBER COMMENTS
Mr. Lindholm thanked Ms. Jenike for the Employer/Employee matrix information that was provided.

CHIEF EXECUTIVE OFFICER/STAFF COMMENTS
Mr. Delaney stated that Mr. Yeung will be reiterating the same information presented at this Board meeting at the Informational Update meeting on August 19, 2020.

Mr. Delaney stated that the hard copy of the CAFR has arrived. If anyone would like a hard copy mailed to them, OCERS will make that arrangement.

Mr. Delaney provided the updates to the September Strategic Planning Workshop agenda.

COUNSEL COMMENTS
N/A

***************

Chair Hilton adjourned in memory of the active members, retired members, and surviving spouses who passed away during the past month. The meeting **ADJOURNED** at 2:47 p.m.

Submitted by: Approved by:

_________________________ ____________________________
Steve Delaney Roger Hilton
Secretary to the Board Chairman
Memorandum

DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO External Operations
SUBJECT: OUTCOMES OF THE DISABILITY COMMITTEE MEETING ON AUGUST 17, 2020

Recommendation

The Disability Committee recommends that the Board adopt a new OCERS Administrative Procedure for Disability Retirement Effective Date determinations.

Background/Discussion

On August 17, 2020 the Disability Committee reviewed the newly created OCERS Administrative Procedure for Disability Retirement Effective Date determinations. The Committee was appreciative of staffs work on making Administrative Procedures for complicated matters comprehensive and understandable for the membership.

When disability retirement applications are approved the benefit effective date of the retirement allowance is typically the later of: 1) the date the completed application is filed with OCERS; or 2) the day following the last day for which the member received regular compensation. The statute also contemplates the situation when a member may request an earlier effective date, which if approved concludes that the date of the application is “deemed filed” earlier that the date actually received by OCERS. In order to qualify for their application to be deemed filed at an earlier date the member must show that their disability retirement application was delayed due to administrative oversight or their inability to ascertain the permanency of their incapacity.

There are also complicated definitions of regular compensation which must be considered when evaluating a members disability retirement effective date. OCERS Team created this administrative procedure to help clarify the laws that govern disability retirement effective date determinations as well as the process that is used to compress regular compensation hours that have been paid intermittently into full pay periods.

The Disability Committee reviewed the OAP and did not recommended any changes. Therefore Staff, with the support of the Disability Committee, recommends that the Board approve the new OCERS Administrative Procedure for Disability Retirement Effective Date determinations.

Submitted by:

Suzanne Jenike
Assistant Chief Executive Officer, External Operations
OCERS Administrative Procedure (OAP)
Effective Date of Disability Retirement Allowance

I. Purpose

This OCERS Administrative Procedure (“OAP”) describes the applicable legal standards and processes for determining the effective date of a member’s disability retirement.

II. Authority

This OAP is established by OCERS’ Chief Executive Officer (“CEO”) pursuant to the CEO Charter, in conformance with applicable Board policies and in compliance with the provisions of the County Employees Retirement Law (Title 3, Division 4, Part 3, Chapter 3 & 3.9 of the California Government Code, sections 31450, et seq.) (“CERL”). The primary legal authority governing the effective date of a disability retirement is Government Code Section 31724 (“Section 31724”), which provides that if the Board approves a disability retirement application, the Effective Date of disability retirement will generally be the later of:

   a) The Application Date (as defined in Section III below); or
   b) The day following the last day for which the member received Regular Compensation (as defined by the CERL and Sections III and IV below).

III. Definitions

The terms used in this OAP are defined below.

- **4850 Pay** means any compensation paid to a member for a leave of absence pursuant to California Labor Code section 4850. 4850 Pay is usually paid only to safety members.

- **Application Date** means the date a completed application for disability retirement is filed with OCERS.

- **Earlier Effective Date** means the date an application for disability retirement is "deemed filed" under the second paragraph of Section 31724 due to delay in the filing of the application by reason of administrative oversight on the part of OCERS or the inability of the member to ascertain the permanency of their incapacity until after the date following the day for which the member last received Regular Compensation.

- **Effective Date** means the date on which a disability retirement becomes effective and the date from which a disability retirement allowance is first payable.

- **Regular Compensation -- Types of Pay Considered to be Regular Compensation**

   In addition to the member’s Regular Pay, Regular Compensation also includes the following types of pay received while the member is on leave:
   a) 4850 Pay;
   b) annual leave/sick leave/vacation pay when received for time taken off;
OCERS Administrative Procedure (OAP)

Effective Date of Disability Retirement Allowance

c) holiday pay, comp time, or other paid time off;
d) catastrophic leave pay donated by co-workers, provided contributions are withheld; and
e) supplemental Workers’ Compensation pay in excess of Temporary Total Disability payable pursuant to Workers’ Compensation (TTD), provided contributions are withheld.

- Regular Compensation -- Types of Pay Not Considered to be Regular Compensation

The types of pay that are NOT considered Regular Compensation include:
a) TTD payments;
b) accrued time paid in a lump sum (e.g., terminal pay, OCTA hardship pay); and
c) any other pay for which no contributions are withheld and/or work for which service credit is not earned.

- Regular Pay

is a type of Regular Compensation and means compensation of any kind or amount that the employer pays to the member:
a) at the member’s regular rate of pay;
b) for employment in the member's regular position;
c) for actually working or for an absence from work; and
d) for which contributions are withheld and service credit is earned.

IV. Determining Disability Effective Date

General Rule -- Application Date is the Effective Date

In most cases, the Effective Date will be the Application Date.

EXAMPLE 1
a) Member receives Regular Compensation for regular pay periods through December 1, 2017.
b) Member submits application for disability retirement on February 1, 2018.
c) Member was granted a disability retirement (and the allowance will be payable) with an Effective Date of February 1, 2018 (unless granted an earlier effective date as detailed below).

Exception – Day After Final Date of Regular Compensation is the Effective Date

If, after the Application Date, the member continues to receive Regular Compensation (as defined in Section III above), then the Effective Date will be the day after the last day of Regular Compensation.

EXAMPLE 2
a) Member submits application for disability retirement on February 1, 2018.
b) Member continues to receive Regular Compensation through June 1, 2018.
c) Member will be granted a disability retirement with an Effective Date of June 2, 2018.
Compression of Hours – Delay in Final Date of Regular Compensation

When a member is away from work due to illness or injury for an extended period of time and receives Regular Compensation intermittently or in amounts less than the full amount of the member’s Regular Pay for a single pay period (usually 80 hours), the intermittent nature of the Regular Compensation may unreasonably extend the Effective Date of the disability retirement allowance under a strict interpretation of the language of Section 31724.

OCERS has determined that such intermittent Regular Compensation should be “compressed” by aggregating the hours for which intermittent Regular Compensation was received into full Regular Pay periods, typically 80 hours a pay period. This form of aggregation or compression provides a fair and accurate Effective Date without resulting in an unfair advantage or overstating a member’s disability allowance.

EXAMPLE 3 – Effective Date as the day after the last day of Regular Compensation without compression:

a) Member submits application for disability retirement on February 1, 2020.

b) Member received last full Regular Pay for the 80-hour pay period ending on February 13, 2020.

c) Member continues to receive Regular Compensation in the form of intermittent payments of annual leave and catastrophic leave payments equal to 160 hours through the pay period ending on June 4, 2020.

d) Effective Date would be June 5, 2020.

EXAMPLE 4 – Effective Date the day after last day of Regular Compensation with compression:

a) Member submits application for disability retirement on February 1, 2020.

b) Member received last full Regular Pay for the 80-hour pay period ending on February 13, 2020.

c) Member continues to receive Regular Compensation in the form of intermittent payments of annual leave and catastrophic leave totaling 160 hours through the pay period ending on June 4, 2020.

d) The 160 hours of intermittent payments are compressed into two full 80 hour pay periods and added to the period ending March 12, 2020.

e) The Effective Date becomes March 13, 2020, eighty three days earlier than without compression.

Compressing the hours associated with intermittent payments of Regular Compensation into full 80 hour pay periods results in an earlier last Regular Compensation date and thus an earlier Effective Date; and disability benefits start sooner. This compression process protects a member from the adverse impact intermittent Regular Compensation would otherwise have on their Effective Date.
OCERS Administrative Procedure (OAP)

Effective Date of Disability Retirement Allowance

Request for an Earlier Effective Date

Pursuant to Section 31724, a member may request the Board approve an earlier Effective Date if the member can establish that the delay in filing the member’s application was due to 1) an administrative oversight on the part of OCERS; or 2) an inability on the part of the member to ascertain the permanency of their incapacity until after the date following the day for which the member last received Regular Compensation.

Delay due to administrative oversight. If a member is able to demonstrate that the timely filing of their disability retirement application was delayed or not recognized due to administrative error on the part of OCERS or the member's employer, an earlier Effective Date will be granted, and the Effective Date will be the day after the last day of Regular Compensation.

Inability to ascertain permanent incapacity. If a member is able to demonstrate that the member was not able to ascertain the permanency of their incapacity until after the date the member last received Regular Compensation, an earlier Effective Date will be granted; and the Effective Date will be the day after the last day of Regular Compensation. However, if the Board determines that the member unreasonably delayed in filing the disability retirement application until after the member knew or should have known of the permanency of their incapacity, the Board may conclude that entitlement to an earlier Effective Date has not been established.

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1 The second paragraph of Section 31724 states:

When it has been demonstrated to the satisfaction of the board that the filing of the member’s application was delayed by administrative oversight or by inability to ascertain the permanency of the member’s incapacity until after the date following the day for which the member last received regular compensation, such date will be deemed to be the date the application was filed.
MEMORANDUM

TO: Board of Retirement
FROM: Disability Committee
RE: Agenda Item DC-1: Brian K. Hopp

RECOMMENDATION:

Deny service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate.

Alternatives: Other action the Board is authorized to perform:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:

Firefighter, Orange County Fire Authority
Date of employer filed application for service and non-service connected disability retirement: 03/16/2020
Date of entry to OCERS: 04/20/2012
Total years of OCERS service: 6.7127
Last day of regular compensation: 11/07/2019
Attorney Designation: Pro Per

DISABILITY COMMITTEE ACTION:

On June 15, 2020, the Disability Committee considered the application for service and non-service connected disability retirement and by unanimous vote recommend that the Board deny both service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate. No party has filed a Request for Administrative Hearing regarding the disability retirement application.
STAFF ANALYSIS:

On March 16, 2020, Orange County Fire Authority submitted an application for service and non-service connected disability retirement on behalf of the member. OCERS invited the member to join in on the application process giving him thirty days to submit the application or contact our office. As of today’s date, the member has failed to join in the disability retirement application process.

Staff recommendation is to deny service and non-service connected disability retirement without prejudice due to the member’s failure to cooperate.

Prepared by:     Approved by:
_____________________________ ___________________________
Isabel Linares    Megan Cortez  
Disability Investigator   Disability Manager
October 19, 2020

MEMORANDUM

TO: Board of Retirement

FROM: Disability Committee

RE: Agenda Item DC-2: Jane Martorana

RECOMMENDATION:
Find the Applicant is not permanently incapacitated from the duties of a Senior Social Worker.

Deny service connected disability retirement due to insufficient evidence of permanent incapacity and job causation.

Alternatives: Other action the Board is authorized to perform:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:
Senior Social Worker, Social Services Agency
Date of employee filed application for service connected disability retirement: 02/22/2019
Date of entry to OCERS: 12/20/1993
Total years of OCERS service: 24.1276
Last day of regular compensation: 08/30/2018
Date of service retirement: 10/23/2018
Attorney Designation: Pro Per

DISABILITY COMMITTEE ACTION:

On June 15, 2020, the Disability Committee considered the application for service connected disability retirement and by unanimous vote recommend that the Board deny a service connected disability retirement due to insufficient evidence of permanent incapacity and job causation. No party has filed a Request for Administrative Hearing regarding the disability retirement application.
STAFF ANALYSIS:
Ms. Martorana is a retired Senior Social Worker who has applied for service connected
disability retirement based on orthopedic complaints.

Is the member permanently incapacitated? No.
Although Dr. Ross opines that Ms. Martorana has some impairment, which requires
restrictions related to weight bearing and lifting, the Orange County Social Services
Agency could accommodate the restrictions.

Is there a real and measurable connection to the member's employment? No.
It is the opinion of Dr. Ross that Ms. Martorana's impairment would have existed absent
her employment as a Senior Social Worker.

What is the effective date of disability retirement? N/A

Prepared by:  Approved by:

David Acuna  Megan Cortez
Disability Investigator  Disability Manager

MC-Approved
Dr. Ross, evaluating medical panelist in the field of orthopedic surgery, addressed the Applicant’s disability claim of orthopedic complaints in his medical report dated December 4, 2019, stating:

“With regard to her functional abilities, the totality of Ms. Martorana’s orthopedic condition… should be associated with a preclusion against weightbearing [sic] over 30 minutes per hour during the course of a full-time workday, as well as against repetitive lifting of objects over 25 pounds or occasional lifting of over 35 pounds.” (Page 67-68)

“Furthermore, with regard to the matter of causation, respectfully, it is apparent that the etiology of her conditions (and associated activity limitations) are not realistically of an industrial nature. Although it is understood that a rear end motor vehicle incident transpired during the course of her employment in 1999 (for which no emergent or significant initial medical attention was necessitated), the infinitely more substantial mechanistic evidence is indicative of a nonoccupational process. The original spinal injury motor vehicle accident of 1988, caused for the surgery to be performed in 1992, for which it is well demonstrated that she thereafter experienced significant, recurrent low back and right hip/iliac crest region pain exacerbations, in addition to a couple of additional nonindustrial traffic collisions and nonoccupationally related non-motor vehicle flareups [sic].” (Page 68)

“Finally, with regard to her right ankle, the development of a relatively small lesion of osteochondritis dissecans, is not realistically a result of the ‘80-85%’ period of time in which she was on her feet at work. Such disorder is known to etiologically generally be idiopathically derived, and/or associated with repeated trauma/microtrauma.” (Page 68)

Definition of idiopathic: Relating to or denoting any disease or condition which arises spontaneously or for which the cause is unknown.

“Based on the totality of the available evidence, it is my opinion that the totality of Ms. Martorana’s current orthopedic predicament (neck, back and extremity conditions), would realistically exist as it does, absent her position as a senior social worker (generally nonphysical and largely semi-sedentary line of employment.”(Page 68)

Additional records submitted for review and addressed in a supplemental report dated February 23, 2020, did not change Dr. Ross’ previously rendered opinion.
Accommodations:

Orange County Social Services Agency has addressed the restrictions stated above and was able to accommodate.
Confidential Medical Report
December 4, 2019

Orange County Employees Retirement System
2223 East Wellington Avenue
Suite 100
Santa Ana, California 92701

Attention: David Acuna

RE: MARTORANA, Jane
DOB: XXX-XX
SS#: Social Services Agency
EMP: December 4, 2019
EXAM:

ORTHOPEDIC INDEPENDENT MEDICAL EVALUATION

Dear Mr. Acuna:

INTRODUCTION:

Per your request, I have interviewed and evaluated Ms. Jane Martorana today December 4, 2019, at 2703 North Bristol Street, Suite 11-2, in Santa Ana, California, for the purpose of providing this Orthopedic independent Medical Evaluation Report.
HISTORY OF INJURY AS PRESENTED BY THE PATIENT:

Ms. Martorana is a 60-year-old individual who has a very lengthy and complex history as to orthopedic difficulties and treatment dating back over three decades. For the purpose of my current evaluation, Ms. Martorana focused upon events in June and July 2018.

Ms. Martorana spoke of longstanding limitations associated with a chronic spinal condition. On June 26, 2018, she states that, as her workstation was not setup to comply with the restrictions (a sit to stand station), she necessarily had to weight bear for 80-85% of the day, in order to assess two different monitors of two different heights. On that date, she attributes that predicament to have caused for the development of neck, back and hip pain. On July 12, 2018, she states that while she started to walk from a standing position at work, her right ankle "locked up." She states that her right ankle pain would be provoked if she tried to walk nonnally.

Ms. Martorana states that she first presented her increased neck, back and hip symptoms to her longstanding spinal treating physician, Dr. Gregory Carlson, on June 26, 2018. She states that she then informed Dr. Carlson's office PA of her right ankle symptoms on July 16, 2018. She was the□ statedly seen at an urgent care clinic on July 21, 2018.

Ms. Martorana states that she was then seen by a Workers' Compensation physician named Dr. Gillman, on August 15, 2018, for a simple evaluation. No formal treatment was afforded at that time, although previously she was statedly treated via medications a□d therapy. Her care was then transferred to an orthopedic foot and ankle specialist, namely Dr. Scott Fonnan. She recalls having treated with Dr. Fonnan between October 1, 2018 and February I, 2019. Two different MRIs were performed, the first of which she recalls had displayed no significant abnonnality. She states that the second right ankle MRI (with contrast), revealed pathology, and her care was then transferred to another lower extremity orthopedist, namely Dr. Tocci. Dr. Tocci ultimately undertook a right ankle arthroscopic procedure at his affiliated ambulatory surgical center on May 6, 2019.

Ms. Martorana states that she had initially experienced a fair amount of improvement from the surgery and postoperative care, but that last week when she
was walking, and again earlier this week while doing stairs at home, her pain flared. As a result, although she was statedly released by Dr. Tocci from active treatment on July 25, 2019, she is now scheduled to be seen by him again in January 2020.

Of note is that although the aforementioned information primarily focuses upon Ms. Martorana's right ankle, she also discussed a very lengthy history of injuries, pathology and treatment dating back over three decades. This will be described further within her orthopedic history.

From an employment standpoint, Ms. Martorana states that she has been out of work since July 12, 2018, in association with her right ankle condition, and implicitly in association with her chronic neck, back and hip difficulties.

CHIEF COMPLAINT:

Low/mid back pain, neck pain and right ankle pain. She reports no extremity neurologic symptoms.

JOB DESCRIPTION (As presented by the patient):

In addition to documents that were reviewed by me that depict Ms. Martorana's employment functions, she provided a brief accounting of her job as a senior social worker for the county of Orange. She spoke of the need to take calls to assess child/elder abuse, to perform evaluations and write reports, to set forth emergency responses, etc. She states that she was rarely required to perform any lifting, with a maximum weight on such rare basis of 25-30 pounds. She was rarely required to perform overhead reaching, nor to perform repetitive gripping or grasping tasks with her hands. She spoke of an occasional need for stooping. She states that her job was full time, namely eight hours a day and five days per week. She did however reference unpredictable lunch and break times.
ORTHOPEDIC HISTORY:

Ms. Martorana states that she incurred an injury when she was struck by a car while in a parking lot while with a prior employer in 1983. She spoke of an injury to her left knee at that time, for which she was statedly addressed for a meniscus tear in 1984.

Ms. Martorana states that in 1998, a traffic collision transpired when a car turned left in front of her. Due to spinal symptoms that failed to improve from multiple forms of conservative treatment, in 1992 (evidently, June 16th per a review of provided records), an LS-SI instrumented spinal fusion and decompression was undertaken.

Ms. Martorana then referenced an injury in 1997 or 1998, when she was rear ended, for which she developed a right shoulder condition for which she ultimately underwent a surgery in 1999.

Ms. Martorana states that in 1999, she was involved in a freeway rear end collision while on the job, upon which she experienced neck pain via a whiplash mechanism, as well as low back and left shoulder pain. In addition to conservative treatment for those injuries, a left shoulder surgery was undertaken in the year 2000.

It is noted that, during my subsequent, very lengthy review of medical records, the 1997/1998 traffic accident may be that which was depicted as transpiring on October 15, 1997. Although she referenced only a right shoulder injury and associated right shoulder surgery from that event, the medical records do in fact describe injuries to her neck and lower back from that traffic collision, as well.

Additionally, the medical records demonstrate an August 18, 1994 motor vehicle accident, for which, per the reporting of Dr. Jon White the following day, her spinal symptoms significantly increased. That August 18, 1994 motor vehicle accident appears to have been of a nonoccupational nature.
RE: MARTORANA, Jane  
December 4, 2019  

Grip Strength (In Kilograms): Right: 30/27/20 Left: 22/19/24  

PAST SURGICAL HISTORY:  


PAST MEDICAL HISTORY:  

Hashimoto's disease.  

CURRENT MEDICATIONS:  

Levothyroxine, ibuprofen, Naturethroid, venlafaxine, hormone replacement therapy, Norco, p.r.n., and Larnictal.  

MEDICATION ALLERGIES:  

None known.  

SOCIAL HISTORY:  

Ms. Martorana states that she does not smoke. She considers herself to be an occasional to moderate ingester of alcohol. She is divorced and has no children.  

PHYSICAL EXAMINATION:  

Height: 62"  
Weight: 127 pounds  

Grip Strength (In Kilograms): Right: 30/27/20  Left: 22/19/24
RE: MARTORANA, Jane

December 4, 2019

Measurements:

<table>
<thead>
<tr>
<th></th>
<th>RIGHT</th>
<th>LEFT</th>
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<tr>
<td>Ann:</td>
<td>11&quot;</td>
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<tr>
<td>Forearm:</td>
<td>9&quot;</td>
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<td>Thigh:</td>
<td>15&quot;</td>
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<tr>
<td>Calves:</td>
<td>13&quot;</td>
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Gait:

On physical examination, Ms. Martorana is noticed to ambulate with a mild right-sided antalgic gait pattern, with no associated handheld assistive device.

Spinal Axis:

Palpation of her cervical spine displays left greater than right suboccipital and paracervical tenderness that extends somewhat into her medial left trapezial region. There is no tenderness laterally from this point bilaterally, namely into her shoulder areas. Distally, tenderness is reported to palpation about the thoracic midline and lower thoracic paraspinal areas. More distally, tenderness is reported to palpation about her mid lumbar region, and extending into the bilateral paralumbar and proximal gluteal areas. An approximately 10 cm lower midline lumbar scar is noticed to correlate with her history of operative intervention. There is no specific peri-incisional tenderness, as the discomfort in these areas appears to be more laterally on both sides, and extends into the right gluteal region without specific tenderness to palpation of the sciatic notch. Pain is reported posterolaterally about the right hip region and, she also reports right groin pain on right hip movement. Range of motion of her cervical spine displays moderate restrictions, and thoracolumbar range of motion is slightly restricted, as well. There is no paraspinal spasm anywhere about the length of her spinal axis. Neurologic assessment of her four extremities demonstrates symmetric and intact deep tendon reflexes about the biceps, triceps,
brachioradialis, patellae and Achilles. Sensation is intact in all upper and lower extremity dermatomes. Noting that the left knee displays an approximately 4 cm medial scar and arthroscopy scars, she spoke of a slight patch of left knee paresthesias that is not dermatomally related, but may in fact have resulted from the surgical incision. As she reports no current shoulder or knee concerns, the only extremity region of clinical focus is that of regarding her right ankle.

Right Ankle:

There appear to be two standard ankle arthroscopy scars, as well as a third scar at the distal tibia that, per the medical reporting, may relate to the site of a biopsy and debridement of an OCD defect. Motion of her right ankle and hindfoot is intact and normal, although she reports palpatory discomfort anteriorly. There is no instability on ankle drawer testing nor on varus or valgus stress assessment of the ankle and subtalar joint. There is no swelling visualized or palpated about her right ankle.

Cervical Range of Motion:

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<thead>
<tr>
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<th>On Exam</th>
<th>Normal</th>
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<tbody>
<tr>
<td>Flexion:</td>
<td>30°</td>
<td>50°</td>
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<tr>
<td><strong>Extension:</strong></td>
<td>35°</td>
<td>60°</td>
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<tr>
<td>Right Rotation:</td>
<td>50°</td>
<td>80°</td>
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<tr>
<td>Left Rotation:</td>
<td>50°</td>
<td>80°</td>
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<tr>
<td>Right Bending:</td>
<td>25°</td>
<td>45°</td>
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<tr>
<td>Left Bending:</td>
<td>25°</td>
<td>45°</td>
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Thoracolumbar Range of Motion:

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<th></th>
<th>On Exam</th>
<th>Normal</th>
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<tbody>
<tr>
<td>Forward flexion:</td>
<td>70°</td>
<td>90°</td>
</tr>
<tr>
<td><strong>Extension:</strong></td>
<td>20°</td>
<td>25°</td>
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<tr>
<td>Right Lateral Bending:</td>
<td>20°</td>
<td>25°</td>
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<tr>
<td>Left Lateral Bending:</td>
<td>20°</td>
<td>25°</td>
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</table>
REVIEW OF MEDICAL RECORDS:

I was presented with an approximately three inch stack of medical records, namely those which were afforded within what may have been separate mailings and/or documents brought by the patient to me. It is noted that, per the patient's request, I held off on my report for a few weeks, as she communicated with my office on a few different occasions, her intent to have additional medical records forwarded to me via her chiropractor, and I complied with her request accordingly. However, it appears that, at this time of completion of my report, no formal records have been received, although e-mail communications from Ms. Martorana were forwarded to my office.

A two-page, September 23, 2019 cover letter is provided. This references Ms. Martorana's Service-Connected Disability Retirement Application as a senior social worker for the Social Services Agency:

This cover letter is accompanied by a multipage Medical Record Index. This references extensive reporting which appears to begin on December 6, 1993, and to extend thru to what appears to be April 22, 2019.

Reviewing the medical records as they are now arranged in a rather large stack, which are perhaps from OCERS and many of which directly provided by the patient, begins with a fascicle with an MRI of the cervical spine dated December 11, 2009. On that date, the radiologist described the following:

1. Since the previous exam, there has been no interval change.

2. At C5-6, left greater than right asymmetric disc bulge with uncinate hypertrophy and left facet hypertrophy moderately narrow the left neural foramen.

3. At C3-4, uncinate hypertrophy and facet hypertrophy mildly narrow the neural foramen.

4. At C4-5, minor discogenic disease without canal or foraminal stenosis.
At C6-7, minor discogenic disease without canal or foraminal stenosis. The specific details within that two-page MRI are thereupon appreciated.

A lumbar MRI interpretation from the same date of December 11, 2009, affords the following:

1. At L5-S I, status post laminectomy and posterior fusion without canal or foraminal stenosis.

2. At L4-5, there appears to be a slight anterolisthesis although there is inhomogeneity distortion due to the metallic hardware. There is no canal or foraminal stenosis at this level.

A Procedure Report from a pain management practitioner from his affiliated ambulatory surgical center is dated April 29, 2010. This affords the following post-procedure diagnoses:

1. Severe cervical pain syndrome/bilateral foraminal neuritis.

2. Cervical stenosis most significant C5-6.

3. Multiple cervicothoracic trigger points bilaterally.

The procedure undertaken by the pain management clinician is as follows:

1. Fluoroscopically-guided cervical epidural steroid injection with epidurogram.

2. Fluoroscopic guidance.


4. Bilateral cervicothoracic trigger point injections with local anesthetic and steroid.
5. **Moderate intravenous sedation.**

The history and the procedure details are reviewed.

A *June 4, 2010 Procedure Report* from the same pain management clinician (Dr. Donald Ruhland) from his affiliated ambulatory surgical center affords fairly similar information:

The postoperative diagnoses relate to a couple of different cervical spine bits of information, and the procedure afforded includes a similar description, with a focus at the CS-6 segment.

A *Procedure Report* from that same pain management practitioner dated November 3, 2012, ensues. The post-procedure diagnosis from Dr. Ruhland at his affiliated ambulatory surgical center on that date is as follows:

1. Severe low back pain/lumbar facet syndrome bilateral L4-5.
2. Facet arthropathy bilateral L4-5 facets.
3. History of LS-S1 spinal instrumentation and fusion.
4. Spondylolisthesis at L4-5.

The procedures undertaken are as follows:

1. Fluoroscopically-guided bilateral L4-5 facet injections with local anesthetic and steroid.
2. Fluoroscopic guidance, radiologic interpretation and needle localization.
3. Moderate intravenous sedation.
A Procedure Report from Dr. Ruhland from his affiliated ambulatory surgical center dated May 9, 2013, further describes similar diagnoses and similar procedure information:

Of note is that each of these Procedure Reports reference a referral to Dr. Ruhland from Dr. Gregory Carlson.

A typewritten report dated November 13, 2015, of Dr. Gregory Carlson is presented. In this document, Dr. Carlson stated that the patient had a long history of lower back and neck problems:

This states that she had undergone a lumbar fusion years ago with hardware via Dr. Gibson. This describes her chief complaint of pain that is relatively conserving from her lower back toward her right SI joint and down her right lateral thigh. She had been working with a physical therapist and had tried different things. In that document, there are brief physical examination findings listed, and it is stated that x-rays displayed LS-SI pedicle screw hardware with an indistinct margin of the right SI joint bringing the question up of SI joint dysfunction. The assessments of Dr. Carlson on that date are as follows:

1. Low back pain.
2. LS-SI fusion.
3. SI joint pain on the right.
4. Possible adjacent segment degenerative changes.

On the second page of that report, he recommended a new MRI to evaluate the L4-5 segment. He also recommended a pain management referral to address the sacroiliac joint.

A referral document dated June 25, 2013, is presented.
A typewritten report from Dr. Gregory Carlson dated February 7, 2011, is reviewed. This notes increasing symptoms to include pain radiating from her neck into both of her arms:

The symptoms had markedly increased over the past several months. This describes neurogenic medication management. The diagnosis afforded on that date is that of cervical spondylosis with stenosis and with an aggravation. Dr. Carlson slated that x-rays showed cervical spondylotic disease.

A Procedure Report which appears to be from February 14, 2011, from Dr. Ruhland from his affiliated ambulatory surgical center affords similar pain management diagnoses and procedural information pursuant to a cervical spine condition, particularly referencing the CS-6 segment.

Selected, less informative documents from that affiliated ambulatory surgical center of Dr. Ruhland are sporadically noted.

A June 12, 2013, typewritten Progress Report of Dr. Burak Ozgur is provided. This references the patient's history of having undergone an L5-S fusion after a motor vehicle accident in the late 1980s, by another surgeon:

Alter that, she was having a lot of back pain and felt better after the surgery, but more recently had developed new symptoms. This describes burning and tightness radiating into her right hip with occasional radiation into her bilateral lower extremities and ankles, but not her feet. That had been getting worse since February. This describes a history of paresthesias and her responses to multiple pain management injections. On the second page of that report, the physical examination opinions ensue. The diagnoses afforded by Dr. Ozgur on the mid part of the second page are as follows:

1. Degeneration of lumbar or lumbosacral intervertebral disc.

2. Lumbosacral spondylosis without myelopathy.

3. Lumbago.
4. Lumbar sprain and strain.
5. Thoracic or lumbosacral neuritis or radiculitis.

A tapering dose of oral corticosteroids was recommended by that clinician on that date.

Additional reporting from what appears to be about that point in time ensues, primarily with regard to diagnostic and coding information.

A June 19, 2013 lumbar MRI interpretation is provided. The radiologist overall stated that there was no change from the prior study of October 5, 2012. There was no central canal or neural foraminal stenosis above the L5-S1 fusion.

Another Procedure Report (two pages) from Dr. Ruhland from his affiliated ambulatory surgical center is dated July 12, 2013. On that date, the post-procedure diagnoses are listed as follows:

1. Right sacroiliitis.
2. History of lumbar spinal instrumentation and fusion at LS-SI.

The procedures performed are as follows:

1. Fluoroscopically-guided right sacroiliac joint injection with local anesthetic and steroid.
2. Fluoroscopic guidance with tissue needle localization.
3. Moderate intravenous sedation.

Another Procedure Report authored by Dr. Ruhland at his affiliated ambulatory surgical center dated August 16, 2013, is presented:

On that date, a similar pain management procedure is undertaken, specifically to address the L4 to SI changes.
A CT myelogram interpretation dated September 27, 2013, is provided. Within this document, the LI to L4 segments are described to be unremarkable:

At L4-5, there is described to be a 4-5 mm circumferential disc bulge and hypertrophy of the facets with buckling of the ligamentum flavum. Overall, there is mild central spinal stenosis and mild bilateral neural foraminal narrowing. At LS-SI, it is stated that there has been prior anterior and posterior fusion. The central spinal canal and neural foramina are patent. The posterior body fusion is intact. The left LS pedicle screw is broken. There is a pseudarthrosis at the disc space bone graft. The overall conclusion is as follows:

1. Prior anterior posterior fusion at L5-S I with fractured LS pedicle screw and a pseudarthrosis of the bone graft.

2. Acquired degenerative disc disease at L4-5 results in spinal stenosis.

A lumbosacral myelogram report dated September 27, 2013, references the location, the contrast, and the patient's history of having undergone a prior L5-S fusion.

A typewritten Initial Report of an osteopath dated November 22, 2013, is presented. Within this multiple page report, there is a description of the patient's increased low back pain February 2012, while she was exercising:

This describes a painful sensation when ascending stairs taking two steps at a time. This notes several treatments to include chiropractic therapy, acupuncture, osteopathic manipulation, multiple pain management injections, multiple surgical consultations with an option given as to a possible LS-SI re-fusion with extension of the fusion to L4-5, etc. This states that her lower back was not bothering her since the lumbar fusion in 1992, but that she also reports that she was involved in a motor vehicle accident one year prior to this onset of back pain, in which she treated primarily for her neck. This thereupon references radicular symptomatology. Additional historical information ensues, and later in the report, the physical examination opinions are described. Radiographic studies are depicted on the assessment page, namely with regard
to thoracolumbar x-rays, a lumbar MRI, and a September 27, 2007 CT scan. The treatment options are discussed, nwnely primarily of a conservative nature.

A November 22, 2013 lumbosacral spine bending x-ray study is reviewed. This describes a laminectomy at LS with transpedicular screw fixation at LS and St, with longitudinal rods posteriorly and a transverse stabilizing bar:

This states that the screws appeared to be in satisfactory position with no evidence of breakage, loosening or infection. There is stated to be 2 mm of anterolisthesis at L5-S1 that are stable in llexion, neutral and extension. The lumbosacral lordotic curve is otherwise smooth and physiologic. The vertebral heights appear generally maintained. A mild S-shaped scoliosis convexed to the left near L3-4 and to the right near T11. There is mild generalized osteopenia without focal lytic lesions. Mild left and mild-to-moderate right degenerative changes of the sacroiliac joints are noted.

A thoracic spine x-ray interpretation of that same date of November 22, 2013, describes mild dextroscoliosis centered near T10, as well as a thoracic kyphotic curve that was smooth and physiologic:

There is mild generalized osteopenia without focal lytic lesions. Mild wedging is seen at T9.

A multipage, typewritten report from the osteopathic rehabilitation clinician is presented from November 25, 2013. This describes continued symptoms with regard to back, right hip and right thigh pain:

Within this report, the assessments are multiple, namely:

1. Lumbar disc degeneration.
2. Lower back pain.
3. Sacroiliitis.
4. Thoracic disc displacement.
MRI studies were advised, and the treatment plan is specifically noticed on the third page of that four-page report.

**A thoracic MRI interpretation dated December 5, 2013, affords the following overall conclusions:**

1. Minimal anterolisthesis of T2 on T3 and a mild S-shaped curvature of the thoracolumbar spine.

2. No levels of high-grade spinal canal or neural foramina1 stenosis.

3. Prominent cerebral spinal fluid signal within the right middle cranial fossa suggestive of an arachnoid cyst. This is partially elevated on the left field of view sagittal images.

A multipage, typewritten report from the rehabilitation osteopath dated December 13, 2013, is presented. Again, there is a discussion of the patient's thoracolumbar condition with reference to conservative care.

A typewritten, multipage report from the rehabilitation osteopath is presented from January 10, 2014. Again, there is mention of the patient's back and right hip region symptoms:

This describes MRI testing and makes reference to a right-sided pam **management procedure**.


A typewritten, multipage initial physical therapy evaluation report dated January 22, 2012, is presented.

Questionnaire information ensues with regard to activities of daily living.
A multipage report from the rehabilitative osteopath, Claudio Carvalho, D.O., is presented from April 14, 2014. This continues to describe the patient's mid to lower back symptoms radiating into the right lower extremity:

This notes treatment in the past to include chiropractic and therapy. The treatment advice again references pain management injection and conservative care measures.

An April 25, 2014 MRI interpretation describes a clinical indication of right hip pain:

1. In this document, there is suggested to be mild chondral labral separation of the superior and anterior superior right acetabular labrum from the 12 to 2 o'clock positions. Possible intrasubstance tearing of the right acetabular labrum. MRJ arthrogram of the right hip may be helpful if clinically indicated.

2. Chondral labral separation of the posterior inferior right acetabular labrum, may represent nonnal variant sulcus.

A two-page Osteopathic Report references physical therapy and is dated May 7, 2014. This is from Dr. Oaudio Carvalho.

A May 20, 2014 Procedure Report from Dr. Claudio Carvalho ensues. This describes a multilevel, right-sided thoracolumbar junction medial branch procedure.

A June 27, 2014, three-page Progress Report from Dr. Claudio Carvalho is provided. This again notes the patient's prior Procedure Report, upon which it is stated that she had significant, over 80% pain relief:

This references five different diagnoses on that date as follows:

1. Hip derangement.

2. Altered gait.
3. Lumbar spondylosis.

4. Thoracic disc disease.

5. Lumbosacral radiculitis.

Conservative, therapeutic measures are detailed.

An August 19, 2015, typewritten report from a clinician named Dr. Donald Dulle is presented, via which there again is reference to the patient's history of low back pain and right-sided radicular symptomatology:

Conservative care, to include physical therapy and ibuprofen, was advised at that time. This report appears to have been provided to me in duplicate.

A November 13, 2015 report from Dr. Gregory Carlson further references the patient's long history of low back and neck related symptoms, to include her history of having undergone an L5-S1 fusion:

This describes radicular right lower extremity symptomatology. Imaging studies were discussed. Dr. Carlson recommended a new lumbar MRI to assess the L4-5 segment.

An MRI interpretation of the lumbar spine dated November 24, 2015, references postsurgical changes at L5-S1, with extensive adjacent susceptibility artifact:

There is mild spondylosis of L4-5 without significant narrowing of the thecal sac, lateral recess or neural foramina.

A May 23, 2016, two-page, typewritten Progress Report from Dr. Gregory Carlson is reviewed and references treatment that the patient bad sought under the direction of another clinician who felt that she had a limb length discrepancy:

A pain management procedure was advised, with reference to L4 and L5 nerve blocks and involvement of the sacroiliac joint.
A June 20, 2016, two-page Procedure Report from Dr. Gregory Carlson is presented. This references cervical and lumbar MRI testing:

A referral to another pain management clinician for a pain management procedure is described.

A diagnostic study dated January 9, 2017, is reviewed pursuant to a right hip MRI arthrogram. The impression listed on that date is as follows:

1. No acute fracture, osteonecrosis or stress response.
2. Mild degenerative undersurface tearing of the anterior labrum with MR features of CAM type femoral acetabular impingement.
3. No acute tendon or muscle injury.

A February 24, 2017 Lumbar MRI interpretation is reviewed:

This non-contrast study was interpreted to reference the prior fusion from LS to the pelvis, and minimal degenerative disease without significant central canal or foraminal stenosis.

A thoracic MRI interpretation dated February 24, 2017, describes a chronic 15\% compression deformity of the superior endplate of T9, in addition to minimal degenerative disc changes with no significant canal or foraminal stenosis.

A two-page report from Dr. Steve Mora dated February 20, 2017, is reviewed. This references an MRI arthrogram of January 9, 2017:

This notes a couple of steroid injections and a referral to that clinician by what appears to have been a pain management practitioner. Unspecified right hip pain is described, and it was stated that intraarticular transient pain relief had been derived from an injection. It was stated that there was groin-related symptoms. This states that an MRI revealed a small labral tear. Dr. Mora spoke of treatment options to include platelets, bone marrow stem cells, and
surgery. She wanted to proceed with surgery, and authorization for a right hip arthroscopy with labral debridement versus repair would be undertaken.

A March 2, 2017, four-page, typewritten report from Dr. Eric Chang is presented. Of note is that multiple physicians appear to be associates within a particular office, namely Dr. Mora, Dr. Chang, Dr. Carlson and others:

On that date, there is reference to the patient's back and right hip symptoms. This provides extensive accounting of pain management and diagnostic testing over time. This notes management with a physical therapist, as well. On the third page of this report, there is an accounting of cervical and lumbar MRI analyses, and the overall assessments are listed by that clinician as follows:

1. Primary right hip osteoarthritis.
2. Right hip pain.
3. Right iliopsoas bursitis.
4. Low back pain.
5. Lumbar radiculopathy.
6. L4-5 degenerative disc disease adjacent segment.
7. Sacroiliac joint dysfunction.
8. L4-5 facet arthropathy.

In that report, physical therapy, diagnostic testing, orthotics, medications, and pain management is referenced.
A typewritten, multipage report dated March 20, 2017, is presented from the office of Dr. Warren Kramer:

This notes the patient's ongoing complaints of right hip pain with symptoms that were described to have gradually progressed over three to six years. This references an incident in which she was rear ended at a stop light. This describes a variety of forms of treatment, and the physical examination findings of that clinician ensue. Dr. Kramer commented as to multiple diagnostic considerations and he advised as to treatment that is largely of a conservative nature.

A March 29, 2017, typewritten, multipage report from Dr. Chang is provided. In this report, there again is reference to multiple hip and spinal diagnoses, namely pursuant to her cervical and lumbar sacral regions:

The forms of treatment at that time appear to primarily be conservative, and there is reference to further pain management injection intervention.

A prescription for physical therapy from Dr. Kramer dated March 20, 2017, is presented.

A typewritten report from Dr. Kramer dated April 24, 2017, is presented. This particular report is from Dr. Sten Kramer, versus the prior reporting from Dr. Warren Kramer:

Of note is that Dr. Warren Kramer is listed as an orthopedic surgeon, and Dr. Sten Kramer as an orthopedic medicine specialist. Nevertheless, the treatment advice and diagnostic information conveyed by those physicians are repeatedly appreciated within these various reports.

A typewritten, two-page report from Dr. Sten Kramer dated May 19, 2017, is presented,
A Procedure Report from the affiliated ambulatory surgical center of Dr. Sten Kramer is dated May 5, 2017. On that date, Dr. Kramer afforded the following diagnoses:

1. Right sacroiliac joint dysfunction.
2. Spondylosis without myelopathy.
3. Status post instrumented fusion.
4. Chronic low back pain.

The procedures undertaken are as follows:

1. Right sacroiliac joint injection.
2. Lumbar facet primary dorsal ramus block at right LS.
3. Fluoroscopic guidance.

A typewritten report from Dr. Sten Kramer dated May 19, 2017, is presented. On that date, about ten or so diagnoses are listed to describe the multiple regions of symptomatology.

A similar, two-page report from Dr. Sten Kramer with about ten diagnosis is provided from June 5, 2017.

A May 26, 2017 Procedure Report from Dr. Sten Kramer's affiliated ambulatory surgical center again references the specifics of his injection procedure and diagnostic information.

A two-page, typewritten, June 5, 2017 report from Dr. Sten Kramer appears to have been presented to me in duplicate, and continues to reference similar information.
RE: MARTORANA, Jane
December 4, 2019
xxx-xx-
Page 23

A Procedure Report from Dr. Sten Kramer dated June 9, 2017, again, references multiple diagnoses and his pain management procedure.

A typewritten Progress Report from Dr. Sten Kramer dated June 26, 2017, is presented for review.

A typewritten Progress Report from Dr. Sten Kramer dated July 10, 2017, is presented for review.

A Status Report from Dr. Sten Kramer from that same date of July 10, 2017, is presented.

A typewritten report and accompanying Status Report from Dr. Sten Kramer is reviewed from August 11, 2017. Of note is that significant activity limitations were applied by Dr. Kramer at that time.

A July 21, 2017 Procedure Report from Dr. Sten Kramer from within his affiliated ambulatory surgical center is provided for review.

A two-page, typewritten, October 2, 2017 report from Dr. Gregory Carlson is presented. This notes the interim history of having received treatment from Dr. Sten Kramer to include pain management injections:

Multiple diagnoses again are listed, and there is further reference to conservative care/physical therapy.

A three-page report from a clinician named Josh Miller is presented from October 18, 2017, namely another associate within that same medical practice:

This references the treatment that had been received to include Dr. Kramer's injections. At that time, another cervical spine MRI was advised.
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An MRI Procedure Report dated November 9, 2017, is presented. This notes multiple impressions as follows:

1. Multilevel moderate spondylosis in the mid cervical spine without significant central stenosis.

2. The cervical cord is normal in signal and caliber.

3. Multilevel facet and uncovertebral joint spondylosis with severe narrowing of the left C3-4, bilateral C4-5, and left CS-6 foramina. Other moderate foraminal narrowings are described above, upon which I have in fact reviewed that information from those multiple mid segments.

4. Partial visualization of non-orthopedic proximal regions.

A typewritten, January 8, 2018 report from Dr. Gregory Carlson is presented:

This three-page document consistently describes the patient's back and neck conditions, and on that date, there is mention of a review of a cervical spine MRI. Again, conservative forms of treatment are advised, to include therapy and followup care with Dr. Marc Cheng.

A corresponding referral document is presented from Dr. Gregory Carlson:

In fact, two such referral documents from January 8, 2018, reference referrals for physical therapy and a referral to the pain management clinician, namely Dr. Marc Cheng.

A duplicated, two-page report from Dr. Josh Miller is presented from April 2, 2018. This report indicates that Dr. Miller was seeing the patient as a general surgical consultant:

In this report, there is again reference to the history of spinal radiculopathic symptomatology, to include mention of the patient's neck and lower back. An oral narcotic analgesic was prescribed on that date.
An April 12, 2018, typewritten, multipage Pain Management Report is presented from what appears to be another entity:

On that date, it is stated that the patient was afflicted with the following:

1. Fibromyalgia.
2. Cervical spondylosis.
3. Sacroiliitis.
4. Lumbosacral spondylosis.

There is reference to a surgical history to include the following:


Further within that report, other historical topics and physical examination findings are detailed. In that document, there is reference to a pain management procedure and additional conservative care. That report is from Dr. Marc Cheng.

Billing and other financial topics are sporadically noticed in these records, which, at this point, include reference to a pain management procedure.

A June 20, 2018, two-page, typewritten report from Josh Miller is presented for review.

A July 16, 2018, two-page, typewritten report from Josh Miller is presented for review.
A right ankle x-ray interpretation dated July 21, 2018, is provided. On that date, it is stated that she was having pain in her right ankle for ten days with no trauma or injury. The x-ray was interpreted on that date to be normal.

Ao MRJ of the right ankle dated August 6, 2018, is provided. At that time, the radiologist set forth the following impressions:

1. 1.6 cm ganglion cyst adjacent to the inferior extensor retinaculum.
2. Focal subchondral marrow edema at the central tibial plafond, likely related to overlying chondral abnormality.
3. 5 mm ganglion cyst at the dorsal aspect of the navicular.

A three-page, typewritten Progress Report from Dr. Gregory Carlson dated September 26, 2018, is reviewed. Within this report, there again is reference to neck and back symptomatology to include radicular findings:

This notes pain management intervention with reference to treatment with Dr. Marc Cheng. On the third page of that report, it is stated that the patient was encouraged to give some time regarding her neck, and it was indicated that Dr. Carlson had reviewed cervical spine x-ray and TV1R.I studies. He encouraged her not to undergo any type of surgical procedure at that point.

Ao Orthopedic Report from Dr. Scott Forman dated October 1, 2018, is presented. On that date, Dr. Forman stated that on July 12, 2018, she had immediate onset of pain in her right ankle with no history of trauma:

This states that she had a workup with a podiatric consultant, to include a couple of cortisone injections, as well as x-ray and MRI analyses, with reference to the testing of August 6, 2018. This states that a ganglion cyst in the inferior extensor retinaculum, as well as the dorsal aspect of the navicular, was not clinically significant, and that there was a finding of bone marrow edema in the central portion of the tibial plafond with an overlying chondral fissure. This states that she was about 50% better than she had been 2-3 weeks previously. On his physical examination, he stated that there was no particular
effusion of the ankle, and that she had near full range of motion of ankle, subtalar, metatarsophalangeal greater and lesser toe movement. This describes a 0.5 cm discrepancy on calf circumferential measurement. This states that she had a slight antalgic gait pattern favoring the right compared to the left. This notes x-rays of both ankles to show slight pes cavus deformity, and otherwise unremarkable. Dr. Forman discussed his review of the MRJ. His assessment was that there was a possible subchondral insufficiency fracture of the tibial plafond of the right ankle versus a flare of arthritis. At that time, he offered to place her in a cast, which of course would prevent her from driving. He discussed this and a two week followup appointment to consider another cast versus increased weightbearing at such point. Should her symptoms persist, he discussed possibly candidacy for a right ankle CT study.

A prescription from Dr. Forman dated October 4, 2018, references crutches and a knee crutch or a knee scooter.

A two-page, typewritten report from Dr. Scott Forman dated October 17, 2018, is provided. This again notes his impression of a bone contusion of the tibial plafond. He statedly placed her in a nonweightbearing short leg cast:

He provided further information and his diagnosis later is stated to be that of a microfracture of the tibial plafond or distal tibia of her right lower leg.

An October 17, 2018 Status Report from Dr. Scott Forman describes a two week period of disability with a release to normal employment on November 19, 2018.

An October 31, 2018, two-page, narrative report of Dr. Scott Forman further references bis diagnoses, the provision of an oral medication, and an ankle injection,

A November 14, 2018, two-page report from Dr. Forman describes an impression of a tibial plafond contusion seen on MRI. Activity limitations and a six week followup appointment were described.
A two-page report from Dr. Scott Forman dated December 19, 2018, references 70% improvement and attendance to a course of physical therapy with regard to her right ankle condition.

A disability insurance document dated December 20, 2018, is presented, which appears to have the signature affixed of Dr. Forman. Activity limitations were provided on that particular date of service:

He noted that he had most recently seen her the day before, and his planned conservative course of treatment to include protected weightbearing, is depicted. Specifically on that date, Dr. Forman stated that her right ankle condition was not related to her employment, and that he did not complete a Workers' Compensation form.

A February 1, 2019, two-page report from Dr. Scott Forman lists an assessment via which an error is stated to have been dictated, with regard to a July 12, 2018 trip and fall:

Otherwise, the information conveyed within that document is similar, to include immobilization and physical examination information specific to the ankle. A repeat MRI arthrogram was to be obtained.

A prescription for the right ankle MRI arthrogram is provided accordingly, upon which it was advised that the study be compared to the previous.

A February 11, 2019, four-page report from Dr. Gregory Carlson is presented. On that date, Dr. Carlson referenced the interim care received from Dr. Marc Cheng, and notes her spinal and radiculopathic symptom reporting:

On the third page of that document, Dr. Carlson affords the following diagnoses:

1. Low back pain.

2. Lumbar intervertebral disc disorder with radiculopathy.
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3. Sacroiliitis.

4 Thoracic pain.

5. Lumbar facet arthropathy.

In that document, he stated that he did not see need for additional surgery. He spoke of a lumbar MRJ scan showing an L5-S1 fusion with disc levels being open. He stated that she needed active treatment for her foot condition which she was receiving.

An Addendum Report dated February 22, 2019, pertains to an assessment of a right ankle MRI arthrogram. The conclusion is that of an approximately 1.1 cm x 0.9 cm anterolateral tibial plafond lesion:

There is associated bone marrow edema of the anterolateral distal tibia extending to the tibial plafond measuring 1.5 cm x 2.4 cm x 3.1 cm. Above within the report, the initial sentence of information under the description of #1, is of a ganglion cyst adjacent to the lateral inferior retinaculum.

An arthrogram interpretation of the right ankle from that same date is provided, describing a successful injection of the contrast material.

A multipage, typewritten, March 26, 2019 report is provided from Dr. Stephen Tocci. This appears to be an orthopedist in Mission Viejo:

Within that report, it is stated that in approximately July 2018, she noticed locking in her right ankle. This states that the pain continued to get worse so she rested from activity for a week. Her pain increased during July and October 2018, and she pointed to it at the anterolateral aspect of the ankle. This states that she experienced intermittent burning, and that she was treated by Dr. Fornman. This describes six weeks of nonweightbearing and increased pain while pushing on the gas pedal. This states that she noted a prior Work Comp injury that she dismissed related to the right ankle. Her pain is stated to be mild-to-moderate and intermittent, and worse with activity and better with rest. The review of systems describes a history of weight gain, gait
disturbance, neck and low back pain, and edema. The physical examination opinions follow, with a description of right ankle tenderness. This states that the ankle is stable to anterior drawer testing, and that she had good ankle and subtalar motion. Tenderness was reported at the lateral aspect of the ankle and to palpation of the sinus tarsi. She had good eversion, dorsiflexion and inversion. X-rays were obtained, statedly showing a cavovarus deformity. There is reference to the MRI interpretations of February 22, 2019 and August 16, 2018. The impression afforded by Dr. Stephen Tocci is that of right tibial plafond OCD. Dr. Tocci recommended surgery in the form of an OCD debridement with a tibial biopsy due to the large amount of edema. This could be performed in conjunction with a stem cell or PRP injection.

A four-page History & Physical Examination Report from what appears to be the affiliated ambulatory surgical center of Dr. Tocci ensues:

Within that report, the historical information involves the noticing of locking in the right ankle in July 2018. This recounts similar information with regard to a prior Work Comp injury that she dismissed relating to the right ankle.

The Procedure Report from Dr. Tucci's affiliated ambulatory surgical center dated May 6, 2019, is presented. On that date, Dr. Tucci provided the following postoperative diagnoses:

1. Right distal tibial plafond osteochondritis dissecans.
2. Right ankle synovitis.
3. Right ankle impingement.
4. Anterior tibial plafond bone marrow edema.

The procedures undertaken on that date are as follows:

1. Right ankle arthroscopy with debridement of distal tibial osteochondritis dissecans.
2. Right ankle arthroscopic debridement of impinging soft tissue.

3. Right ankle arthroscopic synovectomy.

4. Bone biopsy of the right distal tibia.

5. Postoperative regional anesthetic ankle blockade.

The specifics of that procedure ensue, to include debridement of the OCD to healthy bleeding bone. A fluoroscopic guidance of a needle culture is further detailed.

A three-page, May 13, 2019, one week postoperative report from Dr. Stephen Tocci is presented for review.

A June 25, 2019, seven week postoperative report from the physician's assistant of Dr. Tocci is provided for review:

On that date, she was discussing right knee pain which was felt to potentially result from a gait disturbance while wearing the boot postoperatively.

A physician's assistant's report describing an 11 week postoperative status is dated July 25, 2019. This states that the pathology from the ankle procedure displayed only fibrosis interspersed with normal bone, with no signs of malignancy:

The benefits of a cortisone injection were described, upon which such procedure was statedly afforded.

A Status Report on county of Orange letterhead dated November 15, 1993, is provided for review. It appears that two such reports of that same date were seen, via which activity limitations in association with what likely was a back condition, are noticed.

A county of Orange Status Report dated September 22, 1998, was provided for review.
A county of Orange Status Report dated November 4, 1998, was provided for review.

A county of Orange Status Report dated August 9, 1999, was provided for review.

*Of note is that it appears that I now, recently, entered into a large, approximately two inch separate fascicle of medical records.*

Within this particular fascicle, multiple Status Reports are encountered, namely now from dates of service in January and February of the year 2000.

A Status Report on a county of Orange form from a May 11, 2001 date of service was provided for review.

A Status Report on a county of Orange form from a May 14, 2001 date of service was provided for review.

A Status Report on a county of Orange form from a June 4, 2001 date of service was provided for review.

A Status Report on a county of Orange form from an unclear date of service which may be July 8, 2011, was provided for review.

A county of Orange Work Status Notice dated September 4, 2001, is provided for review.

A document from an applicant Workers' Compensation clinician dated October 31, 2001, is presented:

>'[bis notes multiple diagnostic codes in association with the patient's cervical spine, thoracic and lumbar spine, as well as with reference to a history of a fusion and an arthroscopy. This lists a separate date of January 29, 1999, and is from Dr. Styner.'
A typewritten, multipage report from a Workers' Compensation orthopedist named Dr. Larry Danzig is presented. This is directed to the Workers' Compensation claims administrator and to a couple of attorneys:

This is a Workers' Compensation Agreed Medical Examination, and pertains to a July 29, 1999 date of service. In this report, the employment history is appreciated with regard to her service as a senior social worker. The history of present illness portion of that report begins on the mid part of the fourth page. This states that she had been doing her usual and customary job duties on July 29, 1999. She was driving in stop and go traffic when a collision ensued. The damage to the patient's car was estimated at $300.00. This states that she had reported neck and back pain. Treatment under the direction of a chiropractor and three different spinal surgeons ensue. Two of these are orthopedic spine surgeons, and one is a neurosurgeon. Conservative care was thereupon referenced with Dr. Sten Kramer, and it is stated that she had a left shoulder arthroscopy by Dr. Scott Fischer, in approximately July 2000. This then references attendance to physical therapy. The historical topics within that report are noticed to begin on the lower part of the seventh page. This describes a 1997 rear end vehicle accident injuring her neck and right shoulder, to include a right shoulder surgery. This references treatment at that time and a settlement of $15,000.00. There is then mention of a 1988 automobile accident, and a history of a single-level fusion in 1992. This states that the patient had reported that subsequent to 1992 and 1993, she always had stiffness in her lower back, and that she reported that her lower back pain was currently the same as it had been for the last seven or eight years. On the ninth page of this document it is stated that in 1984, she had been involved in a motor vehicle accident while working for the Claim Jumper. This references a left knee injury and a financial settlement. The prior motor vehicle accident history is further recounted on the mid part of the 19th page, pursuant to traffic collisions in 1988, 1997 and 1999. The 1988 injury statedly involved her lower back, the 1997 injury involved her neck and right shoulder, and the 1999 accident involved her neck, lower back and left shoulder. The ensuing pages provide further information, and on the 11th page, Dr. Danzig begins his physical examination. The physical examination is multiple pages and includes tabulations. Extensive medical records ensue. The records begin on the lower part of the 14th page. This begins with a document on November 15, 1993,
with regard to work restrictions at that time. The reporting includes chiropractic records, reporting from the applicant Workers' Compensation
clinician, Dr. James Styner, and multiple others. X-rays were reviewed by Dr. Danzig on the upper to mid part of the 29th page. He then set forth three
different diagnoses, namely that with regard to a cervical spine condition with mention of discogenic changes on an MRI, the history of having undergone an
LS-SI decompression and instrumented fusion, and the history of having undergone a left shoulder arthroscopic subacromial decompression and distal
clavicle excision on July 7, 2000. The lumbar spine fusion was statedly
performed on June 16, 1992. Under causation, Dr. Danzig opined that she had incurred injuries to her neck, lower back and left shoulder, when she was
involved in the automobile accident on July 29, 1999. His opinions with regard
to factors for disability are detailed on the 30th and 31st pages. His work
restriction commentary is depicted on the upper part of the 32nd page, namely
that with regard to a 25 pound prophylactic lifting restriction and a prophylactic
restriction against overhead use of the left upper extremity. His future medical
care commentary ensues. Under apportionment, he referenced her prior low
back surgery in 1992. He took her word on stating that prior to the 1988 motor
vehicle accident, she was able to lift 40 pounds. The available medical records
indicated to Dr. Danzig that, on November 15, 1993, she had been given a 30
pound restriction. The patient stated on the date of Dr. Danzig's appointment,
that the November 15, 1993 accident was associated with a 25 pound
restriction. On that particular date of service, Dr. Danzig stated that, just prior
to January 29, 1999, she was able to lift 35 pounds, such as a scuba tank. In
her deposition of March 31, 2000, she was statedly able to lift the 35 pound
tank with air. Notwithstanding the occupationally related injury of July 29,
1999, but rather due to the prior 1988 automobile accident, Dr. Danzig stated
that it was medically probable that at the present time, the patient would have
had disability. He thereupon presented three different scenarios. Upon
reviewing the scenarios, his apportionment commentary follows. He referred
to the Trier-Of-Fact as to which of the three scenarios was to be accurate. That
report is signed by Dr. Danzig on both the 35th and 36th pages.

A reimbursement agreement from Dr. Danzig's office dated October 22, 2001, is
provided for review.
An Summary Finding Form and a status document from early 2002, follow.

A September 21, 2004 Supplemental AME Report from Dr. Danzig is noticed. Within this report, be further discussed the matter of apportionment and hypothetical information:

'Ibis document is signed by Dr. Danzig on both the third and fourth pages.

A Summary Finding Form dated October 5, 2004, is presented.

An October 11, 2006 Interim Orthopedic Workers' Compensation Treating Physician's Evaluation of Dr. Gregory Carlson is provided:

This notes a work-related condition of October 11, 2006. This pertains to neck w1d radiating symptoms and mentions pain management with Dr. Ruhland. A cervical spondylosis diagnosis is afforded.

A prescription from Dr. Carlson for a trigger point injection is provided from October 30, 2006.

A December 10, 2007, typewritten, three-page Interim Report from Dr. Gregory Carlson is provided. This notes a corticosteroid trigger point injection in association with a multilevel process of cervical spondylosis.

A typewritten report from Dr. Carlson dated January 28, 2008, is presented and again references the cervical spine condition.

A MRI interpretation of the cervical spine describes multilevel spondylosis, namely from CJ to C6, to include stenotic/degenerative features. This MRI is dated February 21, 2008.

A March 12, 2008, two-page, typewritten report from Dr. Gregory Carlson references the patient's cervical spine condition to include a radiculopathy,
An April 24, 2008 Procedure Report from Dr. Ruhl and from within his affiliated ambulatory surgical center describes the provision of a cervical epidural injection.

A two-page, typewritten, May 12, 2008 report from Dr. Gregory Carlson is provided for review in association with the cervical spine condition.

A two-page report from Dr. Gregory Carlson again references the cervical spine condition in association with the 1999 industrial injury claim.

A two-page, typewritten report from Dr. Carlson from July 7, 2008, again references her neck condition pursuant to the July 29, 1999 injury claim.

An August 7, 2008, multipage report from Dr. Aubry Swartz, an orthopedist, is reviewed. This report provides a case summary with specific reference to the management of Dr. Carlson:

That utilization review document affords a recommendation that the proposed procedure recommended by Dr. Carlson not be certified as medically necessary. This pertains to a proposed, two-level, C4 to C6 fusion. The basis for this appears to be well reasoned, as per available information to include diagnostic testing and pain management procedure response.

A two-page report from Dr. Gregory Carlson dated August 27, 2008, is reviewed.

A two-page report from Dr. Gregory Carlson dated November 7, 2008, is reviewed.

A three-page, November 25, 2009, typewritten report from Dr. Gregory Carlson is reviewed. This describes neck and lower back conditions. These reports consistently refer to the July 1999 injury claim.

I have now encountered a variety of additional county of Orange status reporting which depicts multiple dates of service in the mid to latter part of the year 2013.
Continuing with these Status Reports, I have noticed additional documents from the years 2014, 2015 and several dates or service to 2017:

These reports are generated by a few different medical providers, to include a couple of registered nurses, and Dr. Scott Hardy.

A typewritten Initial Consultation Report dated July 25, 2018, from the multi-practitioner office with Dr. Carlson and others, is reviewed. This refers to a June 26, 2018 injury claim:

This references the patient's right ankle symptoms, for which she was statedly painful for approximately two weeks. This notes a reported right ankle incident of July 12, 2018, when, as she started to walk after standing for a few hours, her right ankle locked. This notes her prior history of three different orthopedic surgical procedures, namely her left knee in 1984, her shoulder in 1998, and her back in 1992. This then describes an antalgic gait pattern, and clinical findings specific to her right ankle. The diagnoses afforded by Dr. Carlson on that date are as follows:

1. Right ankle pain.
2. Right ankle sprain.
3. Probable ligament injury of right ankle.
4. Osteopenia.

This describes unremarkable x-ray analysis. Conservative treatment was afforded at that point.

A typewritten, two-page, August 2, 2018 report from Dr. Gregory Carlson is presented. An MRI of the right ankle is referenced.

A status note dated August 2, 2018, is presented.
A couple of additional status notations from the employer's agency are presented from dates of service to mid 2018.

A typewritten Initial Consultation Report from another affiliate within the same orthopedic office as Dr. Carlson, Dr. Mora and Dr. Cheng is provided from August 15, 2018:

Within this report, there is reference to an injury claim of June 26, 2018. This describes a chief complaint of right ankle and foot pain. This states that she had increasing amounts of pain related to her lumbar work-related injury, likely due to performing prolonged standing as part of her job duties, because she could not sit related to her lumbar spine. This describes her right ankle physical examination findings with three diagnoses afforded as such. In that report, Dr. Gillman stated that she must wear a cam brace and that she could stand up to 30 minutes per hour during a workday. He anticipated a one month need for temporary partial limitations.

An Addendum Report from Dr. Gillman from that same date of August 15, 2018, describes a subsequent interaction on that same date of service:

Dr. Gillman stated that she became very hostile toward him when he recommended that she could continue to weight bear, use her brace and be provided with a 30 minute sitting break at work. He stated that she certainly did not need to be on further restrictions based on his examination and the MRI findings, and he therefore recommended a second opinion at that point, to assess her foot and ankle.

A couple of additional status notations are noticed at this point, namely from dates of service to September 2018:

One such notice from September 5th, states that she had been approved to return to work with temporary restrictions on September 6, 2018, and that she physically returned to work on August 21, 2018.

The second status notation dated September 20, 2018, stated that she had been approved to return to work with temporary restrictions on September 26, 2018,
and that she could have returned to work on August 15, 2018, but that she did not.

A four-page, handwritten Physician's Statement of Disability document is signed by Dr. Gregory Carlson on February 12, 2018, on an OCERS form:

On the fourth page of that report, Dr. Carlson stated that she was permanently disabled for the duties of her occupation. He stated that she was able to sit and stand for 30 minutes, in an eight-hour shift, five days per week, without separate note regarding the eight hour shift and five days per week added by the patient herself. The 30 minutes of sitting and standing per the information of Dr. Carlson, is therefore not clear on itself. In that document, Dr. Carlson opined as to her spinal condition, and he listed an assortment of responses to specific physical activities. That report focuses upon her lower back, with subsequent diagnoses applicable for her right hip and her right ankle.

Au Employee's Statement of Disability is provided. This references treatment information to include description of management under the direction of Dr. Carlson and Dr. Forrman,

A two-page, typewritten attachment to that first handwritten page on an OCERS document, ensues. Ms. Martorana's statement of disability details multiple events and/or basis for her description of limitations.

In the ensuing records, I have noticed additional OCERS and county of Orange documents, to include status information conveyed by Dr. Scott Hardy on January 10, 2018.

A Workers' Compensation information request document is dated March 8, 2019, on an OCERS page.

An e-mail communication dated April 12, 2019, refers to an attachment answering questions.
What appears to be the attachment from the county of Orange human resources service describes further information as to Ms. Martorana's disability retirement claim. This is from a work manager in the Social Services Agency:

This notes the period of time that the manager supervised Ms. Martorana, and a description of the usual and customary duties of her job. This states that she was frequently out of the office on a leave of absence. This states that she later presented medical restrictions relating to the amount of time that she could drive, sit and spend typing each day, that could not be accommodated in her position. As a result, it is stated that she was frequently assigned to temporary assignments. This then describes awareness of work restrictions and a statement that she struggled to complete her job duties unless she had a reduced caseload.

Another statement ensues in association with an April 11, 2019 e-mail communication. In this document, there is further description of her usual and customary jobs and awareness of work restrictions:

This is from another individual who is a supervisor for the county of Orange.

A document that depicts numerous dates of service in 2018, describes Ms. Martorana's attendance. This details numerous dates in which there was a no-call or no-show, sickness or a leave of absence:

Prior to such time, there are multiple other dates which appear to originate on May 4, 2018, in which she was absent, late, called off or took an early or extended lunch. Some of these indicate that no explanation was given. The other information within this document is nevertheless appreciated.

An Employer's Statement of Disability is provided. This is on an OCERS form and is typewritten and multiple pages in length. This repeatedly refers to an attachment.

The described, multipage attachment to the Employer's Statement of Disability is now viewed. This describes aspects of her employment, for which I have paid particular attention to the physical tasks required.
As I continue to move through these documents, there is noticed to be a description of restrictions for numerous points in time dating back several years.

Another attachment refers to a picture of Ms. Manorana, statedly in Roatan, Honduras. This states that she is the individual in a white helmet/sunglasses with a zip line harness around her:

Another page refers to what would place the time of that trip to be in September 2018, regarding the island of Roatan, Honduras. Another page appears to further reference this same information, and as I continue to review these documents, it appears that there is quite a bit of travel information, as such. These documents include financial figures for selected travel. A diving excursion is referenced.

There are multiple communications that refer to a trip to Roatan, to include what appears to be lodging. Up to nine pages of such information are noticed.

One such document from August 15, 2018, references diving activity and dates thereupon.

Returning to the document that references statuses on multiple dates lo 2018, and extending to this period in which her travel appears to coincide, it is stated that there were employer observations or knowledge of extracurricular activities which appear to coincide with these attachments.

Another attachment statedly depicts Ms. Martorana with her boyfriend in Roatan, Honduras, in 2018, celebrating an owner of an adventure dive group's birthday. The attached picture is appreciated, and is suboptimally photocopied.

An attachment III that also states to depict Ms. Manorana on her trip between September 7th and September 14, 2018, statedly displays her standing in dive clothes after their first dive of a Saturday morning arrival to the Honduras dive trip.
Additional pages of information appear to continue to refer to that vacation, and include multiple photographs. One such photograph is listed as a fourth attachment at Laguna Sea Dwellers:

One photograph however at this point appears to actually pertain to another point in time, rather than the actual dive trip to Roatan. This is an attachment statedly placing Ms. Martorana at Laguna Sea Dwellers Holiday Christmas party in 2017. There is an attachment of her statedly posted on January 29, 2018, by another individual, in association with that Christmas party.

Another document appears to pertain to an invitation to that event and the activities that it would entail. Other pages of information further detail that holiday party.

A fifth attachment is statedly from Facebook, at Laguna Beach Sea Dwellers on September 7, 2017, in which there is stated to be an individual reporting that there are two spots left on the October 2017 scuba dive trip, and that Jane responded that she would like those two spots:

This indicates another individual booked her accordingly.

A variety of additional forms of information that may pertain to that evidence is noticed to follow.

A few documents that reference a gathering at a brewery in Costa Mesa are noticed pursuant to an event that appears to be from February 10, 2017, with regard to the Laguna Sea Dwellers.

A six-page attachment states that Ms. Martorana is listed as the membership chair. There is reference to a picture of her and her boyfriend on a boat, with backs leaning against the boat cabin sitting on the boat Ooor.

Pages of information that pertain to diving with that organization follow.

Subsequently, there are pages of information that pertain to various board members. Specifically, her name is in fact listed as one of these members.
One such page may in fact appear to display her with a gentleman sitting, both of whom are wearing sunglasses.

Another attachment listed as #7, is stated to be from 2013, from a La Paz, Mexico scuba diving trip.

One such photograph statedly depicts her sitting and drinking at a pool. Multiple photographs are thereupon attached, one of which has an indication handwritten on September 13, 2013.

Multiple photographs continue to be reviewed at this point, depicting dates in 2013, evidently with a scuba diving organization.

An attachment #8 statedly pertains to a May 2012 newsletter from Laguna Sea Dwellers, thanking Ms. Martorana in association with a third annual Easter egg hunt.

As I continue to review these documents, it appears that Ms. Martorana was in fact an active participant in that diving organization, for many years, at this stage, evidently in 2013.

One such document references financial donations from multiple individuals. I am perusing these documents for information that, apparently, noting the fact that this was sent to me, would specify her involvement.

These pages of information continue to extend thru additional dates.

Now at this point, I see multiple diving references and photographs in May 2012.

At this point, I notice a calendar of events and newsletter information with that organization.

A ninth attachment is statedly from a trip to the Philippines or Fiji, in 2011. This states that Ms. Martorana commented that the trip to Fiji was great.

A few different photographs follow, evidently from that particular trip.
Another segment references a Philippine trip in 2012, a Cazumel trip in 2016, and trips to other island locations to include Palau.

The majority of these documents appear to be from others, and, the trips appear to go backwards in time to the Bahamas in 2012, and to St. Lucia, in 2012, as well.

There is reference to a Fiji trip in 2011.

Further communications describe trips to locations I am not familiar with, but nevertheless reference the South Pacific island of Palau again within multiple communications.

Specifically, I am attempting to review these documents one by one, in order to assess what involvement may be directed to my attention in the matter of Ms. Martorana.

These documents go back further and further in time, now upon which I see references to trips to other exotic locations in 2006 and 2005.

At this point, I notice that these trip references extend back into 2004, to include travel to La Paz.

Once again, as these documents were presented to me, I am searching them for references to Ms. Martorana.

Now I notice that the trips appear to extend back to 2003, to the Bahamas and La Paz, as well as to Fiji and Cazumel in 2002.

A tenth page attachment refers to a May 2011 Laguna Sea Dwellers newsletter. This thanks Jane for heading up the efforts for staffing a booth.

The following pages appear to reference that newsletter, and a calendar of events follows.

Member birthdays are then listed, and there is reference to upcoming boat dives.
These documents are quite extensive as to this information and an attachment #11, references to 2006 scuba diving adventure in Fiji, in which Ms. Martorana is statedly pictured on the right and sitting on a bench in a white T-shirt.

The picture of multiple individuals sitting on a bench and others standing behind them, is noticed accordingly.

At this point, it appears that those travel/diving group documents have been completed, as I now see medical/industrial injury records from 1999.

An August 5, 1999 Doctor's First Report of Occupational Injury or Illness is reviewed. This references a vehicle accident on July 29, 1999. This states that she was experiencing symptomatology about her neck and back, with radiation into her extremities:

The diagnoses afforded at that time pertain to the cervical, thoracic and lumbar region. This document is from a chiropractor. It appears that a second page attachment may be from that same chiropractor from that year of service.

An August 20, 1999 MRI interpretation of the brain is provided for review.

A cervical spine MRI interpretation of August 20, 1999, ensues, via which there is reference to a 3 mm C5-6 bulge and 1-2 mm bulging at the C3-4 and C4-5 segments.

An August 25, 1999 Neurosurgical Re-Evaluation Report is reviewed. In this document, there is mention of the July 29, 1999 automobile accident and there is mention of the cervical and brain MRI studies.

The discussion section of that report states that there was nothing to suggest that the MRI changes were exacerbated, aggravated or further advanced by the automobile accident. Conservative care was nevertheless recommended.

A lumbar MRI interpretation dated September 14, 2019, references the L5-S1 pedicle screw fixatioo construct, as well as a description of limited evaluation of the L4 to S1 segments due to the hardware.
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A September 16, 1999 Neurosurgical Re-Evaluation Report is reviewed. This refers to the July 29, 1999 event, as well as her clinical examination findings and cervical, thoracic and lumbar diagnoses:

This references the extensive metal artifacts.

A typewritten Primary Treating Physician's PR-2 Progress Report from a chiropractor is provided from September 16, 1999, and has a second page attachment.

A multipage Initial Physical Medicine/Non-Orthopedic-Surgical Evaluation Report from Dr. Sten Kramer is provided from October 28, 1999. This refers to the July 1999 date of injury and references the historical topics to include the 1992 LS-SI procedure.

That clinician opined that the 1992 procedure was a simple laminectomy, with no reference to awareness of an instrumented fusion. The ensuing pages do however reference a radiological assessment of the cervical spine. This later describes the fact that the 1992 procedure was in fact a fusion, noting the information conveyed on the bottom of the fifth page. This also describes cervical and thoracolumbar diagnoses. At that time, a variety of forms of medical management were listed, to include diagnostic testing, medications and possible EMG analysis. This notes that she had a previous history of degenerative disc disease in the neck and lower back, for which she presented with a 12 week history of pain.

Additional reporting that appears to be from Dr. Sten Kramer ensues.

Additional reporting from Dr. Scott Fischer is thereupon noted. In Dr. Fischer's reporting from dates of service in the early part of the year 2000, he focuses upon her left shoulder condition.

Progress reporting from Dr. Fischer from the year 2000, is provided.
Dr. Fischer's Operative Report from his affiliated ambulatory surgical center dated July 7, 2000, is noticed:

This describes a left shoulder arthroscopic subacromial decompression and distal clavicle excision, in association with AC joint arthritis, subacromial impingement and bursal-sided rotator cuff fraying, as well as coracoacromial ligament fraying and mild anterior glenohumeral instability.

A two-page, typewritten History & Physical Examination Report from Dr. Scott Fischer dated July 7, 2000, is presented.

A July 12, 2000 Primary Treating Physician's Report from Dr. Fischer is reviewed.

A July 18, 2000 Primary Treating Physician's Report from Dr. Fischer is reviewed.

A psychological pain management report from a psychologist from August 18, 2000, is provided.

A Spine Surgery Report dated September 13, 2000, from Dr. Cynthia Murphy references the July 29, 1999 injury. This sets forth multiple impressions as follows:

1. Myofascial pain syndrome.
2. Status post left shoulder surgery.
3. Chronic cervical, thoracic, lumbar strain/sprain.
4. Left shoulder instability.
5. Chronic pain syndrome.
6. Degenerative joint disease.
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7. History of left elbow neuropraxia, mild.

8. History of lumbar laminectomy.

On that date, there is reference to the temporary total disability status afforded at that time by her primary treating physician, as well as followup psychiatric or psychological treatment.

A Primary Treating Physician's Progress Report dated September 28, 2000, is reviewed.

A Primary Treating Physician's Progress Report dated August 26, 2000, is reviewed.

A Primary Treating Physician's Progress Report dated December 7, 2000, is reviewed.

A PR-2 Progress Report dated January 3, 2001, is reviewed from Dr. Murphy.

A February 6, 2001 Orthopedic Permanent and Stationary Report from Dr. Scott Fischer pertains to the July 1999 injury, upon which he stated that there was no shoulder work restriction necessary. That report is four pages in length.

A Psychological Pain Management Report dated March 6, 2001, is reviewed.

A PR-2 Report dated September 12, 2001, is provided.

A prescription for a bone scan to assess for LS-S1 spondylolysis is presented from June 17, 1988.

A normal bone scan is associated with that study of June 21, 1988.

Reporting from SL Jude Hospital in Fullerton ensues.

These documents appear to reference the assessment at that time of her lumbosacral condition.
A CT report or the lumbosacral spine dated March 10, 1989, is provided. This describes only mild diffuse bulging at LS-SI, with no evidence of a pars defect.

As I continue to review these records from St. Jude Medical Center, I have noticed a race sheet a consent form and other documents.

One particular document from August 14, 1991, pertains to a lumbar discogram at L4-S and at LS-SI, for which a post-procedure diagnosis of degenerative lumbosacral disc disease and bulging of that disc is described.

An August 14, 1991 CT report or the lumbosacral spine describes a small central disc protrusion or the contrast at LS-St with no definite mass effect upon the SI nerve roots or the thecal sac:

There is stated to be a tract extending from the nucleus pulposus to the right lateral margin of the L4-5 disc space which could represent either a fissure or it could represent contrast within a tract created by the needle which was used to perform the procedure. Clinical correlation was recommended.

There appears to be another description or the discography that is not involving the CT scan, namely from that date of procedure or August 14, 1991.

As I continue within this particular segment or the records, there is further reference to the discography that was undertaken.

A January 13, 1992, typewritten report from Dr. Brown who is described to be a spinal orthopedic surgeon, is reviewed. This is directed to another clinician:

This states that Ms. Martorana at that time was a case worker for a developmental disability agency who was seeking a second opinion regarding low back ache. This notes a May 1988 automobile accident. This describes the conservative care that she had received, as well as MRI testing of September 25, 1990, as well as a CT discogram. Based on those studies, there is reference to an L5-S I discectomy and fusion. Dr. Brown concurred with the referral physician, that the only alternative would appear to be that she undergo an L5-SI discectomy and fusion. However, she was told that in a case like hers where
the symptoms were not classical, there was absolutely no guarantee or warranty that could be given regarding the success of the surgery.

A few additional documents reference a May 1988 date of injury. This actually is a multipage, handwritten note from Dr. Joo White:

This appears to be a history document from him, in which multiple handwritten forms of information are detailed. The diagnostic impression is listed as LS-SI spondylosis. This states that she would be referred for an epidural injection and that she would probably need an LS-SI fusion.

A pain diagram completed by Ms. Martorana (with a different last name, as well depicted), is dated June 6, 1992:

This describes mid to low back and buttock pain, with pain in her bilateral groin and anterolateral thighs, as well as about the distal aspect of her right lower extremity.

Another page of information at that time describes the motor vehicle accident and specifically states that this was not a work-related event.

A typewritten, multipage Initial Evaluation Report from Dr. Jon White dated June 5, 1992, ensues. This describes low back and bilateral thigh pain:

This references the treatment following the May 1988 accident, to include chiropractic care, treatment via Dr. Gibson who advised as to a spinal surgery referral, a second opinion with Dr. Brown who concurred with Dr. Gibson's surgical plan, and a review of medical records. The physical examination findings ensue. Dr. White concluded that she had a diagnosis of LS-SJ internal disc disruption. Dr. White fell Iha! her symptoms and findings were consistent with such diagnosis. He spoke of imaging studies that he felt consistent with advanced discogenic degeneration at LS-SI, and he referred to the discogram. He felt that, considering the chronicity of her symptoms and failure to respond to conservative measures, she had two alternatives, to include an injection or the possibility of an LS-S I fusion.
A few additional documents pertain to procurement of diagnostic testing and/or mention of treatment advice in October 1992.

A typewritten report from Dr. White dated October 12, 1992, provides further depiction of the hardware:

This notes pedicle screw instrumentation at L5-S I. This states that the screw position was anatomic, and that there was residuals of a complete laminectomy defect at L5. He stated that it was still too early to comment as to the fusion status.

A brief, typewritten report from Dr. White dated October 26, 1992, ensues.

As I continue to review this segment within the records, there appears to be multiple handwritten notations in dates of service toward the end of that year, to include that which specifically references her post fusion condition.

The records extending into 1993, now describe symptom persistence, for which medications were listed to include an oral anti-inflammatory medication, an anti-depressant medication, and rare taking of Vicodin,

An April 26, 1993 note states that she is now ten months the instrumented fusion, and that she returned to work in a full-time capacity at her prior occupation in January of 1993:

This states however that her symptoms increased for the first couple of months after she returned to work, but that her pain had diminished to a 2-6/10, and was tolerable. At this point, this states that she was occasionally taking Vicodin, and that she was taking Motrin.

An August 19, 1994 report from Dr. White states that she had not been seen for over a year, and that she had been working full time in social work and was doing relatively well with very little problems in her lower back:

This states that she was involved in a motor vehicle accident yesterday, implicitly on August 18, 1994. She was the restrained driver when she was
rear ended by another vehicle. This statedly precipitated the onset of severe low back pain and right anterolateral thigh pain.

A typewritten report dated September 23, 1994, describes improvement of her lower back condition and a response to physical therapy.

A September 23, 1994 pain diagram references posterior right shoulder and right lumbosacral/sacroiliac region pain, as well as a stabbing pain sensation in the anterolateral aspect of her right ankle,

A couple of handwritten notations ensue, as well as multiple pages of coding information.

A typewritten report from Dr. White dated December 21, 1994, references recurrent pain over the right iliac crest bone banesting site which started about a month previously. An injection was deferred and physical therapy was prescribed.

A March 1, 1995 pain diagram depicts cervical spine, trapezias and bilateral upper extremity symptomatology.

A March 1, 1995 document states that Jane was cleaning her house a week previously which precipitated the onset of severe neck pain with bilateral arm radicular pain which was traveling from the shoulders to the hands:

This also notes ongoing right iliac crest, right flank and low back discomfort as a result of her accident from August 1994.

A typewritten, April 24, 1995 report from Dr. White describes tenderness over the superior iliac spine on the right, where the donor bone graft was harvested by her other surgeon.

Again, I have noted sporadic handwritten notations and coding documents, These documents appear to be from Dr. White's office, and reference dates of service in 1995 and in 1996.
A report from Dr. White dated February 9, 1995, states that he had last seen her in April 1995, and that she had been doing relatively well. She was working full time in her prior job:

This states that she was playing on the floor with her boyfriend two weeks previously, and that her back was hyper-extended. This precipitated the onset of severe low back pain and spasms.

An October 24, 1997 report from Dr. White states that she had a new problem in association with an October 15, 1997 motor vehicle accident. This states that she was the restrained driver when rear ended by another vehicle:

This states that she was forcefully thrown forwards and backwards. This statedly precipitated the onset of severe neck and right arm pain, and exacerbated her back pain.

Additional handwritten documents and coding documents from dates of service in 1997, are now identified.

A pain diagram completed by Ms. Martorana dated October 24, 1997, describes pain about the back of her head, her neck, her trapezial regions, her medial superior clavicle origins, her right arm and elbow, as well as her lower back:

This therefore appears to be nine days out from that nonindustrial motor vehicle accident of October 15, 1997.

A communication from Dr. Scott Fischer directed to Dr. White is provided from March 23, 1998.

A report from Dr. Fischer from that date is quite extensive, and references the October 15, 1997 motor vehicle accident:

This references injuries from that accident to involve her neck and shoulder, for which treatment was obtained by a chiropractor, followed by a referral to a couple of physicians to include Dr. White and Dr. Franks. It appears that Dr.
Fischer's reporting specifically addresses her right shoulder, although there is also stated to be peri-scapular muscle dysfunction.

A handwritten history document that appears to be dated April 15, 1999, is presented. This particular document notes her reporting of neck and trapezial region pain within a small pain diagram.

A symptom survey document that may be from that point in time ensues. This describes a variety of symptoms reported, to include a description of past knee and hip problems and joint grinding.

As I continue to move through this portion of the records, this appears to reflect documents from a chiropractor. In fact, chiropractic notations from numerous dates of service are depicted, evidently in 1999.

A vehicle accident report is now reviewed. This particular document is dated August 9, 1999, and is on a county of Orange form. This describes the traffic collision at that time.

An August 10, 1999 Employee's Claim Form refers to the July 29, 1999 traffic collision in which she was rear ended and incurred injuries to her neck and back.

A telephone conversation document dated August 12, 1999, is provided. This references the automobile accident of July 29, 1999. This notes the filing of a Workers' Compensation claim.

An August 17, 1999 report from Dr. Jeffrey Deckey is presented. This notes a history of chronic low back and right shoulder problems:

This states that these date back to 1992, at which time she underwent an LS-S1 fusion and laminectomy performed by Dr. Gibson. This spoke of a motor vehicle accident in 1998, for which she underwent a right shoulder surgery. This then references the July 29, 1999 motor vehicle accident while driving for an appointment. She was stopped on the freeway and was hit from behind. She was seat belted with a shoulder harness, and she was complaining of neck and bilateral shoulder pain, as well as back and right buttock pain. This
indicates that chiropractic care had been sought, and that she was also complaining of nausea and headaches. This states that the majority of her symptoms were concentrated in her neck and shoulder region. The physical examination findings ensue, and there is reference to an x-ray only of the cervical spine. There are multiple diagnoses afforded, the first three of which pertain to the cervical spine, the fourth pertaining to the rule out of a head trauma, and the fifth of low back pain. In that document, a neurological referral was advised.

An August 17, 1999 pain diagram depicts neck, upper pectoral, thoracolumbar and right buttock pain.

A not-completely-legible handwritten note that is from Dr. Deckey is provided. This appears to reference the information in typewriting that I have already reviewed from that date of service of August 17, 1999.

At this point, I note that selected documents were presented to me by Ms. Martorana and/or transmitted to my office subsequent to my evaluation of her.

A partial medical record statement that is nine pages in length that was given to my office, evidently at the time of my evaluation of Ms. Martorana. This recounts medical reporting dating back to December 11, 2009:

This refers to reporting of Dr. Carlson and Dr. Ruhland, namely on multiple dates of service between 2009 and 2013. This then notes reporting of Dr. Ozgur, and again reporting of Dr. Carlson. This then references reporting of Dr. Carvalho, from multiple dates of service, and thereupon there is reference to reporting of Dr. Cheng, Dr. Smith and both of the doctors Kramers. As I am reviewing this document, much of this information is somewhat familiar to me as to the voluminous medical records that I have been reviewing. More recently, reporting of Dr. Forrman and Dr. Tocci is described.
A few different e-mail communications directed to my office from Ms. Martorana are noticed. In fact, it appears that three different e-mails were sent to me between December 13\textsuperscript{th} and December 16\textsuperscript{th} 2019:

The first states that during her evaluation in my office on December 4\textsuperscript{th} she forgot to provide medical records from her chiropractor, namely Dr. Kerwin. She had statedly been seeing Dr. Kerwin since May 2016, for adjustments for her back, neck and hip pain. She stated that she requested records from him, but that it might take two weeks. She states that Dr. Kerwin was willing to write a short note to confirm that he had been treating her, for which she requested that I delay sending my medical report.

There does not appear to be much in the way of actual information on the communications from a latter hour on December 13\textsuperscript{th}, nor on December 16, 2019.  

This concludes a summary review of the submitted records.

**X-RAYS:**

Cervical spine series displays moderate multilevel spondylosis, namely from C3 to C7. At these intervals, the intervertebral heights are decreased, and there are marginal spurs. Otherwise, the overall lordosis is intact, and there is no subluxation nor posttraumatic abnormality. The visualized motion segments extend from the occiput proximally to the C7-T1 interspace distally.

Thoracic spine series displays a mild scoliotic attitude and mild diffuse degeneration. No kyphotic curvature deformity is identified, and no posttraumatic abnormality is seen.

Lumbar spine series reveals residuals of an instrumented LS-SI spinal fusion procedure, to include pedicle screw fixation and transverse cross-linking. Despite limited, AP and lateral projections, there appears to be a single broke screw at the LS. Better visualization and confirmation of this would be via a CT scan, or at very least, oblique projections. There is very slight L4-S degenerative anterolisthesis. No posttraumatic osseous abnormality is appreciated, nor is there any discernible acute nor subacute finding.
Sacrococcygeal spine series demonstrates no discernible lytic, blastic. nor appreciable posttraumatic abnormality. The aforementioned LS-SI changes are additionally appreciated.

Right hip series demonstrates the femoral and acetabular relationships to be intact. The subchondral interfaces are congruent. The chondral height is well maintained. There is no other finding of degeneration. No posttraumatic hip abnormality is identified.

Left knee series displays minimal degenerative changes and otherwise unremarkable anatomy. The three articular compartments of the knee are intact, with no acute, subacute nor posttraumatic finding. The soft tissues surrounding the left knee are radiographically free of any significant degree of effusion.

Right ankle and right foot series demonstrates the tibiotalar relationships to be intact without disruption of the mortise nor of the syndesmosis. No other posttraumatic ankle abnormality is seen, nor is there evidence of degeneration. Despite a history of operative intervention, there is no obvious postoperative finding. The interosseous relationships of the right foot are intact without malalignment and without any discernible posttraumatic process. There is no significant degree of degeneration within the foot articulations.

OJAGNOSTIC JMPRESS(QN):

1. Status post right ankle arthroscopy and osteochondritis dissecans lesion debridement.

2. Status post LS-SI decompression and Instrumented spinal fusion with broken hardware and history of recurrent radiculopathy.


4. Right hip labral lesion.
Ms. Martorana is a 60-year-old individual who, as I noted earlier in this report, statedly last worked on July 12, 2018, in association with what she feels to have been an industrially-derived right ankle condition and in association with reported exacerbation of a chronic spinal condition.

Since she last worked, Ms. Martorana has treated for her right lower extremity via a few different physicians. After failing to improve from conservative treatment measures, a right ankle procedure was undertaken on May 6, 2019. That procedure appears to have involved an arthroscopy and debridement of an osteochondritis dissecans lesion. She states that the surgeon released her from active treatment on July 25, 2019 (i.e., slightly over two and a half months post arthroscopy), but that she recently developed a pain flareup, for which she is scheduled for a re-evaluation next month.

Separately, Ms. Martorana referenced only very limited treatment for her chronic neck, back and hip conditions since she last worked.

Historically, Ms. Martorana's spinal difficulties date back over three decades. Ms. Martorana referenced an initial back injury from a 1988 motor vehicle accident, for which she failed to derive improvement from a fair amount of conservative treatment. This ultimately led to a June 16, 1992 L5-S1 instrumented spinal fusion and decompression surgery.

Ms. Martorana informed me of a couple of subsequent motor vehicle accidents (late 1990s and in 1999), and the medical records appear to demonstrate yet another motor vehicle accident on August 18, 1994. The 1994 and 1997 (August 19, 1994 and October 15, 1997) injuries were nonoccupational, and the 1999 incident transpired during the course of her employment. These events and associated treatment will be delved into farther within this discussion, to include via a review of relevant medical records.

Nevertheless, clinically at this time, Ms. Martorana displays subjective tenderness about her cervical and thoracolumbar regions, in addition to motion
limitations. At the present time, there is no spasm nor is there evidence of any extremity radiculopathy.

Corresponding x-rays demonstrate moderate multilevel cervical degenerative disc disease, as well as residuals of the L5-S1 instrumented fusion procedure. X-rays in my office demonstrate the fixation to have been appropriately positioned (in 1992), although one of the pedicle screws had broken at some subsequent and undetermined point in time. Ms. Martorana informed me that a prior clinician had long ago told her of that broken screw, but that she was never advised to formally consider a second, implicitly more complex re-operation. Of note is that the lumbar spine x-rays, as expected, demonstrate a very slight degree of degenerative anterolisthesis at L4-5, namely immediately proximal to the chronically fused segment.

X-rays of Ms. Martorana's symptomatic lower extremity regions were found to be rather unremarkable, specifically to include that involving her right ankle. As such the ankle mortise and syndesmosis are intact without any posttraumatic abnormality and without evidence of any significant degree of degeneration. There is no specific postoperative residual, as well.

Rather voluminous medical records were presented to me. These documents demonstrate a very complicated history regarding her musculoskeletal pathology.

Ms. Martorana reports no significant left knee sequelae subsequent to a 1983 car versus pedestrian parking lot incident, upon which a 1984 meniscus procedure was descriptively successful. In that regard, only a patch of paresthesias was clinically appreciated upon sensory assessment of her left knee at this time, and she reports no pain or instability specific to that region. Her history of that knee procedure is recounted within many of the medical records, although the most remarkable information is that which ensues the 1988 motor vehicle accident. It is noted that that accident and significant treatment to include the spinal fusion transpired before she began to work for the county of Orange, noting that she conveyed to me that her date of employment originated in 1993.

Within treatment and diagnostic testing from the late 1980s and early 1990s, her lower back and radicular lower extremity condition was assessed via a couple of forms of advanced diagnostic testing. However, despite fairly unremarkable CT
studies (to include March 10, 1989 and in 1991), it appears that, only based on the reporting of discography and associated CT analysis, was it felt that the etiology of her chronic and progressive back condition was realized. Within August 14, 1991 studies, it was felt that the primary pathology was identified within a discogram at LS-SI, without significant pathology at the L4-S control segment.

Reporting referencing opinions of a couple of spinal surgeons (Dr. Brown and Dr. Gibson), from the early 1990s, describes her significant symptoms to be such that the LS-SI surgery was offered to her. A variety of reports appear to describe the etiology of her symptoms, at that time, to have emanated from that motor vehicle accident.

Shortly before the instrumented spinal fusion and decompression surgery was undertaken on June 16, 1992, Ms. Martorana completed a pain diagram (June 6, 1992). At that time, fairly similar symptomatology is depicted, as compared to subsequent and current documentation. On June 6, 1992, mid to low back, buttock and right greater than left thigh pain was reported, as well as right calf symptoms.

After undergoing the lumbosacral surgery by Dr. Gibson, her care was then transferred to another spine specialist, namely Dr. Jon White.

The records appear to demonstrate early improvement from the surgery, albeit with subsequent pain exacerbations before the operative anniversary date. As an example, on April 26, 1993, Dr. White noted her quantification of low back pain at a 2/10 (i.e., ten months postoperative). Approximately 14 months postsurgical, Dr. White described another motor vehicle accident one day previously, namely on August 18, 1994. This statedly precipitated the onset of severe lower back pain and right anterolateral thigh pain, which she quantified as a 7/10. That again appears to have been a nonindustrial motor vehicle accident.

On September 23, 1994, Ms. Martorana completed another pain diagram, at which point right-sided lumbosacral/sacroiliac symptoms are recounted, as well as posterior right parascapular/shoulder region pain. On that date, she also described pain in her anterolateral right ankle, namely in a fairly similar fashion to the medical reporting from well over two decades later.
On December 21, 1994, Dr. White spoke of recurrent pain at the right-sided iliac crest bone graft harvesting site (i.e., the posterior iliac crest/pain diagram region from a couple of months previously).

On March 1, 1995, neck and bilateral upper extremity symptoms were recounted by Ms. Martorana within another pain diagram that she completed. On that same date, Dr. White stated that the onset of her neck and bilateral arm radicular pain was described to be severe, in association with housecleaning a week previously. He also referenced her continued right iliac crest pain to include involvement of her right flank and lower back. This was statedly associated with the August 1994 nonindustrial motor vehicle accident.

On February 9, 1996, Dr. White noted that she had not required a followup visit for many months, but that a low back pain flareup resulted from horseplay with her boyfriend a couple of weeks previously, when her back was hyper-extended. At that point, it was stated that such incident precipitated the onset of low back pain and spasms.

On October 24, 1997, another nonindustrial motor vehicle accident (of October 15, 1997) was stated to have precipitated the onset of severe neck and right arm pain, and to have exacerbated her back pain. In that report, Dr. White appears to have conveyed her description of being forcefully thrown forward and backward during the rear end vehicle collision. A pain diagram from that October 24, 1997 evaluation, as appears to have been completed by Ms. Martorana, describes neck, bilateral trapezia!, right shoulder/arm and low back pain.

The aforementioned records therefore clearly demonstrate a chronic, recurrent cervical and lumbosacral spinal condition, namely that which was periodically described to be quite significant, well before the first description of any spinal industrial involvement from a 1999 traffic incident. Specific to the July 29, 1999 industrial injury, quite a bit of treatment and medical reporting appears to have led to the eventual Workers' Compensation AME reporting of an applicant Workers' Compensation orthopedist, namely Dr. Danzig. In that report, Dr. Danzig appears to have provided a rather detailed history, which includes a description of her job duties, as well as her history of multiple prior motor vehicle accidents. Such reporting appears to depict no requirement for an emergency room visit on the day of injury, but
instead initial treatment beginning several days later via a chiropractor. Dr. Danzig recounted the fact that she was then assessed by a couple of spinal surgeons, albeit without any perceived recommendation for operative intervention. At that point however, her right shoulder appears to have been a focus of care, upon which Dr. Danzig conveyed the fact that a right shoulder arthroscopy was ultimately undertaken by Dr. Scott Fischer. Such information appears to coincide with that which Ms. Martorana directly conveyed to me.

On the eighth page of Dr. Danzig's Workers' Compensation AME Report, he stated that Ms. Martorana informed him that, subsequent to 1993, her lower back had always displayed stiffness, and that her 2002 symptoms were the same as it had been for the last seven or eight years. At that point, Dr. Danzig opined that activity limitations should be abided by, specifically a lifting restriction of 25 pounds, avoidance from repetitive bending, and a prophylactic preclusion from left upper extremity above shoulder activities (32" page). He provided very detailed commentary as to apportionment, upon which he listed three different scenarios. In that regard, he referenced reporting inconsistencies to include with respect to lifting. On the bottom of the 32"J page, Dr. Danzig stated that Ms. Martorana had informed him that a 25 pound restriction had been applied in November 1993, although he stated that medical reporting listed a 30 pound restriction. Before the 1999 injury, she stated that she was able to lift a 35 pound scuba tank, which is information that was also evidently conveyed within a March 31, 2000 deposition transcript. This reference to scuba equipment appears to have quite a bit of relevance, as I will discuss further, to include up until fairly recently.

The ensuing medical record., namely those which pertain to her spinal condition, depicts a rather extensive amount of medical management, to include the procurement of multiple diagnostic studies and quite a bit of pain management. Although records from the 1990s set forth opinions that the fixation hardware was intact, and, similarly, fairly recent records may have also missed the fracture and relatively nondisplaced pedicle screw that was noticed within x-rays taken in my office, a September 27, 2013 CT myelogram describes the broken left-sided L5 pedicle screw, in addition to a pseudarthrosis. Within that and other diagnostic studies obtained through the years, the onset of L4-5 changes is recounted. The failure of prior and subsequent diagnostic testing to identify the fractured pedicle screw, likely
resulted from metallic artifact on such analyses, as well as the relatively nondisplaced nature of that focal hardware region of failure.

In addition to the multiple forms of nonindustrial events that were causative of her chronic recurrent spinal condition, a November 22, 2013 report of Dr. Carvalho references a February 2012 low back pain flareup from exercising. Consistent with the repetitive description of a predominantly right-sided condition, her lower back pain at that point was statedly provoked while ascending stairs. Although the only industrial description of spinal involvement was that from 1999, Dr. Carvalho conveyed her statement that a motor vehicle accident about a year before the early 2012 symptom provocation, was causative of back symptoms, for which he had primarily treated for her neck. Such timeline is not clearly understood, noting the multiple motor vehicle accidents that have been documented in this matter.

In the interim, her right hip region symptomatology was further assessed via one or more advanced diagnostic studies, to include an April 25, 2014 MRI. Although the radiologist described that study to be suboptimal in association with the extensive susceptibility artifact from the L5-S1 instrumentation, there was nevertheless a description of mild labral pathology.

Identification of the exact etiology of her chronic recurrent low back symptom reporting is inferred within numerous pain management reports. Several injection procedures were afforded in order to implicitly diagnose and treat her lower back, to include facet blocks, nerve blocks, epidural injections, etc. From these records, it is apparent that temporary and limited results were effected by all of that pain management intervention.

Noting Ms. Martorana's industrial focus on her right ankle condition from mid 2018 (as well a description of increased neck, back and hip pain from about that same point in time), reporting that follows her last described final date of presentation to work is relevant.

Within a July 25, 2018 report of Dr. Carlson, he describes the right ankle symptom onset on July 12, 2018, when she started to walk after standing for a few hours, at which point she sensed a locking sensation of her ankle. Dr. Carlson found that right ankle and foot x-rays were unremarkable, and he advised as to use of a cam
walking boot and as to the procurement of an MRJ. On that date, Dr. Carlson recommended only a sit-down job and use of the cam walking boot, namely before the MRJ study had been undertaken.

Within an August 15, 2018 report from Dr. Michael Gillman, he listed a June 26, 2018 date of industrial injury. This appears to be the events that Ms. Martorana conveyed to me, namely a belief that prolonged standing required of her job had caused for the onset of ankle pain (which she informed me had instead transpired on July 12, 2018). At that time, Dr. Gillman referenced MRI findings, for which he advised conservative treatment to include ibuprofen and continued use of a cam walker. He stated that she could work while using the cam brace, but he nevertheless stated that she was physically capable of standing for up to 30 minutes per hour during the course of a workday.

Later that same day, Dr. Gillman spoke of a subsequent interaction with Ms. Martorana. He stated that she became hostile with him, with regard to such brace use and 30 minutes per hour sitting breaks. He stated that she did not require any further restriction based on his clinical examination and the MRI findings. He recommended that her care be transferred elsewhere, pursuant to a second opinion.

If Ms. Martorana's statement that she last actually worked on July 12, 2018, is correct, then, regardless of any workplace accommodation in the face of Dr. Gillman's advice, she has since remained out of the labor force.

On October 1, 2018, Dr. Forman referenced a ganglion cyst within the ankle MRI that was undertaken about three weeks after her pain originated, but he did not find that to be clinically significant. He did however note a focal region of bone marrow edema within the tibial plafond. The August 6, 2018 MRI described that ganglion cystic lesion and the tibial plafond signal change, and a prior plain x-ray of July 21, 2018, was radiologically interpreted to be normal.
For unclear reasons, a December 20, 2018 private disability insurance statement was completed by Dr. Forman, upon which he stated that she was out of work and treating for her right ankle, due to a nonindustrial condition. Specifically, he responded, "No", as to whether or not the condition was related to her employment. At that time, he stated that she was incapable of walking, standing, climbing or driving.

Within a February 22, 2019 right ankle MRI arthrogram interpretation, an approximately 1 cm x 1 cm anterolateral tibial plafond lesion was appreciated. Evidently based on that study and her symptom persistence, Dr. Tocci recommended an arthroscopy. Such procedure was undertaken with Dr. Tocci's affiliated ambulatory surgical center on May 5, 2019. His ProcedUte Report of that date describes fairly limited arthroscopy findings, albeit for the region of apparent MRI signal changes, namely that of an osteochondritis dissecans lesion.

Within a July 25, 2019 report, it is stated that the pathology report from the procedure reflected a fibrosis interspersed with nonnal bone, i.e., without any significant pathology concern.

Within a Physician's Statement of Disability certification signed by Dr. Carlson on February 12, 2019 (i.e., before she underwent the ankle procedUte), specific to her spinal condition, he stated that she only had the "ability to sit and stand 30 min."

Ms. Martorana provided her own handwritten information to state that such 30 minutes related only to "... an eight hoUt shift; five days a week." Of note is that prior reference to a 30 minute limitation (i.e., perhaps that of Dr. Gillman) related to an hourly basis, and with regard to her ankle. Nevertheless, quite a bit of reporting that appears to have been generated in association with her filing of a Disability Retirement Application, appears to demonstrate concern over the veracity of her functional inabilities/abilities.

A docUtnent that depicts Ms. Martorana's workplace attendance beginning several weeks before the alleged, late June thru mid July 2018 injury claims, is noted. This indicates that, on about a dozen occasions prior to June 26, 2018, she called out sick, arrived late, left late and/or attended physician appointments. On the date that she describes the provocation of neck, back and hip symptomatology (June 26, 2018), it is stated that she put in an 11 hour, 45 minute day, with reference to exceeding of
her hourly work restrictions. Thereafter, her back and hip symptoms are repeatedly referenced in association with several dates of calling out sick, taking extended lunch breaks and/or having a car battery problem (namely, on July 11, 2018). On July 13th (one day after the described onset of right ankle pain), it is stated that she described her workstation not having been set up, to have caused her ankle condition. The ensuing numerous dates of documentation appear to confirm that she was thereafter out of work on a leave of absence, beginning in mid July, and extending through at least the latter part of October 2018.

On February 20, 2019, Ms. Martorana provided a detailed, two-page statement. She spoke of permanent work restrictions requiring her to alternate sitting and standing. This includes reference to eight hour shifts that require her to be able to stand for a minimum of four hours per shift, in association with ankle, knee, hip, back and left shoulder symptomatology.

Within a separate, multipage document, an accounting of her workplace restrictions ("from York") are detailed. This states that, for the months that ensued her last date of work (consistently through at least October 4, 2018), it is stated that she "must wear the cam brace," and that she was able to stand for only up to 30 minutes per hour during a workday. Within the last entry between August 15, 2018 and October 4, 2018, it is stated that the department was able to accommodate the temporary restrictions, but that Ms. Martorana "...refused reasonable accommodations and chose to remain off work." Further to the point of such stated, "reasonable accommodations" that were refused by Ms. Martorana, it is stated the Agency was able to permanently accommodate her by being reassigned as a senior social worker to another department.

Within a document entitled Notice of Temporary Medical Restrictions, which was dated September 20, 2018, it is confirmed that she "could have been returned to work on August 15, 2018, but did not." This pertained to the stated period of temporary restrictions between August 15, 2018 and October 4, 2018, pursuant to use of a cam brace and standing up to 30 minutes per hour during the course of a work day.

A variety of documents were thereupon provided to me which depicts Ms. Martorana's apparently rather active and numerous year involvement in scuba diving.
This demonstrates a variety of dive trips to an assortment of exotic locations. Perhaps most relevant to her having declined to work within the aforementioned restricted duty job capacity, and in association with her subsequent depiction of subjectively rather substantial pain and functional detriment, is a dive trip taken to the island of Roatan, a short distance from the coast of Honduras. The dates of travel to that world renowned dive location appear to have spanned the period between September 7 and September 14, 2018. Copies of photographs that are stated to display Ms. Martorana on that trip appear to include viewing on a dive boat and with a harness/gear for zip lining.

Although I normally intend to dictate and complete reporting such as this within days and, at most, a couple of weeks from any patient's evaluation, Ms. Martorana communicated with my office on a few different occasions, via which she requested that I hold off on my reporting until she was able to provide me with records and/or a statement from her treating chiropractor. Therefore, although I began to compile her records and prepare for this dictation, very shortly after I interviewed and evaluated her on December 4, 2019, as no statement or records were provided to my office by the end of the day of December 30, 2019, this report is being formulated at this time accordingly. From Ms. Martorana's e-mail communication to my office staff on December 13, 2019, she stated that she had been seeing her chiropractor, Dr. Kerwin, since May 2016, for adjustments to her back, neck and hip. My office staff informed her that, regardless of whether or not this report were to be completed, I could certainly dictate a supplemental document upon receipt of Dr. Kerwin's records.

In order to avoid delay of this report any further, I feel that I honored her request appropriately, and that, once again, I would be happy to author a supplemental statement at a future point upon receipt of such information. However, respectfully, although I would certainly give any additional medical information due diligence, the abundance of information that is now available to me, is such that I respectfully feel that a functional and causation determination is now able to be determined in a comprehensive fashion.

With regard to functional abilities, the totality of Ms. Martorana's orthopedic condition (multilevel cervical disc degeneration, her history of an instrumented lumbar spin fusion with repetitive, recurrent low back and radicular reporting associated with progressive pathology in the form of L4-5 spondylolisthesis, a
fractured pedicle screw along with concerns over a pseudarthrosis, and for her hip and right ankle conditions, should be associated with a preclusion against weightbearing over 30 minutes per hour during the course of a full-time workday, as well as against repetitive lifting of objects over 25 pounds or occasional lifting of over 35 pounds. Such limitations appear to generally coincide with the medical reporting that was presented to me, as well as that which appears to coincide with her demonstrated recreational endeavors. As her employer was able to accommodate her with such limitations (but for her refusal), it is my opinion that a disability retirement, in this circumstance, should not apply.

Furthermore, with regard to the matter of causation, respectfully, it is apparent that the etiology of her conditions (and associated activity limitations) are not realistically of an industrial nature. Although it is understood that a rear end motor vehicle incident transpired during the course of her employment in 1999 (for which no emergent or significant initial medical attention was necessitated), the infinitely more substantial mechanistic evidence is indicative of a nonoccupational process. The original spinal injury motor vehicle accident of 1988, caused for the surgery to be performed in 1992, for which it is well demonstrated that she thereafter experienced significant, recurrent low back and right hip/iliac crest region pain exacerbations, in addition to a couple of additional nonindustrial traffic collisions and non-occupationally related non-motor vehicle flareups.

Finally, with regard to her right ankle, the development of a relatively small lesion of osteochondritis dissecans, is not realistically a result of the "80-85%" period of time in which she was on her feet at work. Such disorder is known to etiologically generally be idiopathically derived, and/or associated with repeated trauma/microtrauma. If there were to be a strong association with ankle OCD in the face of simple moderately prolonged weightbearing, than this disorder would be far more recounted within the medical literature, especially noting the many millions of jobs that entail full time standing, walking and other far more strenuous vacations.

Based on the totality of the available evidence, it is my opinion that the totality of Ms. Martorana's current orthopedic predicament (neck, back and extremity conditions), would realistically exist as it does, absent her position as a senior social worker (generally nonphysical and largely semi-sedentary line of employment).
My opinion as to the matter of causation would however appear to be moot in this particular case, noting my prior determination as to her functional status.

Should additional information be required of me, please feel free to contact my office.

Sincerely,

Timothy Ross, M.D.
Diplomate, American Board of Orthopaedic Surgery
Fellow, American Academy of Orthopaedic Surgeons
Qualified Medical Evaluator - State of California

TKR:jg
February 23, 2020

Orange County Employees Retirement System
2223 East Wellington Avenue
Suite I 00
Santa Ana, California 92701

Attention: David Acuna

RE: MARTORANA, Jane
DOB: xx.xx.-
SS#: Social Services Agency
EMP: 

Dear Mr. Acuna:

I am in receipt of your February 10, 2020 communication in which you have asked that I review additional information in the matter of Ms. Jane Martorana, and that I comment thereupon within this Supplemental Orthopedic Independent Medical Evaluation Report.

REVIEW OF MEDICAi RECORDS:

I reviewed my December 4, 2019, very lengthy Orthopedic Independent Medical Evaluation Report, to re-familiarize myself with the relevant information in this
matter. In the initial pages, historical information is conveyed, and my physical examination findings ensue:

I then reviewed extensive medical records, namely up until the 56rh page of my report. My diagnoses are thereupon listed on the bottom of the 57th page, with regard to multiple bodily regions, to include her right ankle, lower back, cervical spine and her right hip. Within the discussion section of my report, I recounted aspects of her condition, initially with regard to in association with industrially-derived right ankle symptoms. She felt that her right ankle condition exacerbated her chronic spinal condition. She had treated via a few different physicians for her right ankle, and she had been released from active care by the surgeon on July 25, 2019. A pain flareup however had transpired, for which she was scheduled for an upcoming re-evaluation. I noted her spinal difficulties dated back over three decades. She underwent an LS-SI instrumented spinal fusion and decompression surgery in 1992. I noted subsequent motor vehicle accidents, and my physical examination findings were then briefly recounted. I referenced notable x-ray changes to include via lumbar spine films. Broken hardware was noticed thereupon. I then referenced relevant medical records, namely within the ensuing several pages. Deeper into that report, I referenced additional documents that were presented to me, to include that with regard to recreational endeavors. I found that her neck, lower back, hip and ankle conditions were such that activity limitations were indicated, namely pursuant to my reporting on the 61st and 68th pages. From a causation standpoint, I did not feel that her overall activity limitations were occupationally derived. I felt that her overall orthopedic predicament would realistically be the same absent her non-strenuous activities for the county of Orange Social Services Agency.

A February 10, 2020 communication from the disability investigator in this matter is reviewed. This references additional records and diagnostic imaging, for which I was asked to issue a supplemental report.

I was presented with 16 different CDs.

The first CD, in order of submission to my office, is that which is listed as being dated February 10, 2020, in association with additional med records." Upon
opening this CD, I note a listing of medical reports with a date on the top of February 7, 2020:

This depicts documents which appear to date back to 2013 and to extend to what would appear to be February 2019.

An April 14, 2016 right hip non-contrast MRI displays a normal hip study with reference to a possible abnormal signal in the right iliac bone adjacent to the sacroiliac joint:

It does not appear that the radiologist may have been aware of the surgery that was undertaken to include that which was likely associated with a posterior iliac crest bone graft donor site.

A February 28, 2017, two-page report from Dr. Steve Mora is presented in association with her right hip condition:

This notes that she had two steroid injections and her responses, as well as referencing the rvfRI study that statedly revealed a small labral tear.

A two-page report from Dr. Gregory Carlson dated November 15, 2017, describes the last three months of reported neck pain. This includes reference to a cervical spine MRI and diagnoses that include her lower back and neck:

The potential for a cervical epidural injection and other pain management procedures was discussed.

A typewritten, multipage initial physical therapy examination report dated March 6, 2015, is presented.

Handwritten information that pertains to chiropractic care from May 2016, is thereupon noticed. This includes routine information, as well as a pain diagram. The pain diagram depicts back and right hip region symptomatology.

There are several pages of chiropractic notations, to include several documents that appear to reflect chiropractic treatment sessions.
A June 28, 2016, typewritten, multipage physical therapy progress report is presented.

Another multipage initial physical therapy examination document is that which is dated July 16, 2016.

As I continue to peruse these ensuing documents, there are multiple pages of physical therapy progress reports. These documents are fairly extensive, and as I peruse these, it is noted that evaluations thru early 2019, are depicted.

The final document in this 65-page segment of records is another typewritten physical therapy progress note, namely dated January 16, 2019.

The next CD is that which is listed as containing cervical and lumbar x-rays, namely with two dates of service of February 21, 2008 and May 2, 2013.

The lumbar spine films depicted within this CD display residuals of an L5-S1 decompression and instrumented fusion procedure, namely pedicle screw resection. Bone graft is noticed to be present between the LS transverse processes and the sacral ala:

Due to the existence of the hardware, complete osseous detail is difficult to visualize. A wide posterior decompressive laminectomy is however appreciated, especially within the anterior/posterior projection. Perhaps a millimeter or two of degenerative L4-5 anterolisthesis is displayed. and the intervertebral heights extending proximally from LS to T12, are adequately maintained. At L5-S 1, namely the surgically addressed segment, the intervertebral height is moderately decreased. A very slight lateral curve is noticed without true scoliosis.

Thoracic spine films are now visualized, via which fairly incidental diffuse degenerative changes are displayed. The anterior/posterior projection displays a minimal lateral curve.
Cervical spine films on this CD demonstrate multilevel mid segment spondylosis. These changes are most remarkable from C4 to C7, although minimal changes are displayed at C3-4:

These degenerative changes variably consist of marginal spurs and decreased intervertebral heights, as well as decreased mid segment lordosis from a degenerative vantage point. No posnraumatic abnormality is visualized. The motion segments seen extend from the occ1put proximally to T1 distally. It is noted that Oexion and extension films were also included, in addition to the anterior/posterior and lateral projections, via which the!ere is no finding of instability.

The next CD is depicted to he a June 19, 2013 lumbar !ffRJ. Of note is that J have now attempted to open this CD on a couple of occasions, with difficulty encountered, for which I will make a reattempt after reviewing the following CDs.

The next CD is listed as being a lumbar myelogram, wmenly dated September 27, 2013. The same difficulty is encountered, upo11 which I haYe noticed that the following CD is a CT myelogram of the lumbar spine from the same date, namely September 27, 2013.

At this point, I have encountered CT myelogram reporting of September 27, 2013:

The radiologist descrne<l residuals of the prior anterior and posterior fusion at LS-S 1 with a fractured left L5 pedicle screw and a pseudarthrosis at the bone graft. There is stated to be acquired degenerative disease at L4-5 resulting in stenosis. Specifically, the radiologist stated that there is a 4-5 cm bulge with hypertrophy of the facets and buckling of the ligamentum Oavum.

I have now encountered a lumbosacral myelogram interpretation which describes the post conventional myelogram needle/substance injection via intravenous sedation.
Another radiographic interpretation is that of a lumbar MRI without contrast, dated June 19, 2013. The radiological description references early changes from L2 to LS, with the L4-5 anatomy partially obscured by metallic artifact:

At L5-S1, there is further brief discussion via which it is stated that there was no change from the prior study of October 5, 2012. Noting that the prior disc was descriptively that of a lumbar spine study of the same date of September 27, 2013, it would appear that this encompasses such reporting. The actual radiographic images however were unable to be opened.

The next disk is depicted to be x-rays of the thoracic and lumbar spine from November 22, 2013. Again, difficulty is encountered in opening this particular CD with regard to images contained.

The next disk is described to contain two thoracic and two lumbar studies from dates of November 22, 2013, December 5, 2013, and April 24, 2014.

At this point, I have now discovered a method to review the actual images contained, via which I note x-rays of the thoracolumbosacral region, as well as thoracic and what is described to be lower extremity MRIs:

The lower extremity MRI images display the hips and pelvic structures. Orthopedically, the hip chondral heights appear to be intact and congruent bilaterally.

The next CD is described to be an MRI of the thoracic spine from December 5, 2013. The thoracic spine images are able to be reviewed, upon which the spinal alignment is grossly intact, with no significant posttraumatic osseous or discogenic abnormality readily identified.

Due to difficulty in opening the pictures contained within these studies, the most relevant images were delved into with regard to this particular orthopedic matter.

The **next** CD is described to be an MRI of the right hip from April 25, 2014. The study itself, upon opening the images, is described to be an MRI of the lower
RE: MARTORANA, Jane
February 23, 2020
xxx-xx
Page?

extremities, via which this appears familiar, namely the bilateral hip/pe.Jvic study.

The next CD is labeled as an x-ray of the lumbar spine from November 13, 2015, and of a lumbar MRI of November 24, 2015. Again, a fair amount of difficulty is encountered in opening this particular disk with regard to the images statedly conveyed.

For this process of reviewing these numerous CDs, I have attempted use of both a desktop and a laptop computer, both of which are of 2018 or 2019 vintage.

The files encountered pertain to a November 24 2015 non-contrast lumbar MRI procured by Dr. Carlson, and a November 13, 2015, five-view lumbar x-ray study that was also procured by Dr. Carlson:

The lumbar spine images display residuals of LS-S1 pedicle screw fixation. This study is able to be opened completely. Noting the date of this study, at this point. I am deciding to not attempt to further open the prior lumbar studies that I was unable to do. as this is the most recent, and therefore most relevant, study. Metal artifact is noticed, as to be expected with regard to the pedicle screw instrumentation at the LS and the SI segments. The L1 to LS intervals, overall, are rather unremarkable for any significant abnormality, although early L4-5 degenerative changes are again visualized. The five-view lumbar spine x-rays again demonstrate the LS-S1 pedicle screw fixation, with no gross instability exhibited within the flexion and extension projections. A minimal lateral curve is again noticed without true scoliosis. The films also display, as expected, the wide LS-S1 posterior decompression. Once again, there is very minimal anterior translation of L4 on L5. which is not significantly altered between the flexion and extension films, namely no sign of L4-5 instability. The L4-5 and the proximal disc heights, are adequately maintained throughout.

The next disk is labeled as an April 4, 2016 right hip MRI. Again, some difficulty is associated with launching of the viewer for this study. Due to the difficulty and significant effort required to review these studies, I will likely shortly elect to instead review the most relevant, recent CDs, and, as such, this particular CD is now being removed,
As I notice that the ensuing studies, most relevantly, consist of a right ankle MRI arthrogram from February 22, 2019, I will therefore place priority in launching and reviewing this CD:

Upon opening this particular CD, a right ankle arthrogram and, most relevantly, a right ankle MRI arthrogram study is encountered. Fortunately, I am able to visualize the actual images, via which the contrast is abundant and appears to have not only been inserted into the joint, but, as well, as noticed about the anterior soft tissues. Overall, the subchondral configurations are grossly intact. A signal change is noticed within the anterior tibial metaphysis which has irregular margins and which would appear to pertain to the findings of the radiologist who reviewed the study, per my prior report, with reference to the tibial plafond and the three-dimensional qualifications of the lesion.

I am now opening the July 25, 2018 CD which depicts an x-ray of the right ankle. It is noted that AP, lateral and oblique ankle x-rays exist, as well as AP and oblique projections of the foot:

The ankle mortise and syndesmosis are found to be intact, to include within the oblique/syndesmotic projection. There is no interosseous disruption, degeneration nor posttraumatic abnormality. The interosseous configurations of the ankle and foot are again found to be grossly intact.

I am now arriving at the last two CDs, namely studies that are stated to pertain to thoracic and lumbar MRIs undertaken on February 24, 2017:

The lumbar MRI is the most relevant, given this particular manner. Once again, a fair amount of time was required to launch the viewer. The disk labeled lumbar spine actually has both the thoracic and lumbar studies on it. Again, as expected, these studies demonstrate significant metallic artifact with regard to the L5-S1 pedicle screw instrumentation. The posterior soft tissues demonstrate expected scar residuals with regard to the surgical approach, laminectomy and bone grafting. These images again are obscured by these postsurgical changes. As I move proximally within the sagittal images, the intervertebral relationships become more and more normal, extending to the thoracolumbar junction. Similarly, the sagittal projections upon moving from
image within the sequence side to side, displays notable LS S1 artifact, as well as the minimal anterior translation of L4 on LS, which is associated with slight uncovering/pseudobulging of the disc. The images are not particularly remarkable, as per the prior studies that I have reviewed at this time, and upon comparison with the information conveyed within the medical records that I previously reviewed, to include radiographic descriptions.

I was provided with multiple fluoroscopy images that pertain to what appears to be multiple pain management procedures undertaken by Dr. Donald Ruhland.

Two oblique fluoroscopy projections dated November 3, 2012, display the pedicle screw fixation at LS-St, as well as, centrally within the images, the localization of an epidural needle at the L4-5 segment.

A single, AP nuoroscopy image is noticed from August 16, 2013, via which a unilateral nerve block appears to have been placed above the hardware, namely involving the L4 nerve root as it traverses below its corresponding pedicle:

The needle and contrast solution is noticed thereupon. This film further displays the posterior pedicle screw fixation and the wide laminectomy procedure.

A December 15 2017 anterior/posterior cervical spine nuoroscopy image is noticed to display the presence of what appears to be an epidural needle for another pain management procedure.

Finally, two AP fluoroscopy images are noticed on letterhead from Restore Orthopedics & Spine Center:

These two images display the unilateral localization of two epidural needles, which appear, at least involving the L4 nerve root, depict nerve root blocks. Distally, these two images further display the pedicle screw fixation and the wide laminectomy procedure residuals.

This concludes a summary review of the submitted records.
DISCUSSION:

Today I have had the opportunity to spend a couple of hours reviewing numerous radiographic studies, to include plain x-rays, MRIs contrast studies, etc. During this process, I have cross-referenced this information with that which I detailed within my prior reporting, to include my own radiographic study interpretations (multiple x-rays), as well as radiological interpretations of many of these same studies I visualized at this time. The totality of the information conveyed within these thoracic, lumbar, hip, foot and ankle studies is essentially that which I was very aware of at the time of formulating my prior report.

Based on the totality of the information that has been brought to my attention in this matter, I continue to find that my prior functional and causation determinations are accurate.

If I can be of further assistance in this matter, please again feel free to contact my office.

Sincerely,

Timothy K. Ross, M.D.
Diplomate, American Board of Orthopaedic Surgery
Fellow, American Academy of Orthopaedic Surgery
Qualified Medical Evaluator - State of California

TKR:jg
End of Confidential Medical Report
Physician's Statement of Disability
**PHYSICIAN'S STATEMENT 01' DISABILITY**

1. **Patient Information**
   - Last Name: Martorella
   - First Name: Jane

2. **History:**
   a. When did symptoms first appear or accident happen? 
   b. Has patient ever had the same/similar condition? 0 Yes, if No

3. **Presentation:**
   a. Subjective Symptoms: 
   b. Objective Findings: 
   c. Have any of the following tests been conducted?

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4. **Diagnosis:**
   a. Primary diagnosis affecting work ability - Including ICD or DSM Codes: 
   b. Secondary diagnosis affecting work ability - Including ICD or DSM Codes: 
   c. Other known injuries/active diseases affecting work ability: Primary

Fonn D1S203.5c (11/01)
### Treatment for primary condition affecting ability

|   |   |   |   |   
|---|---|---|---|---
| a | Date of first visit? |  |
| b | Date of last visit? |  |
| c | Frequency of visits | D Weekly, monthly 9
| d | When did you last examine patient? | T 9
| e | Date and type of any completed surgical procedure | hJSIQ L.S-S
| f | Prognosis, use of treatment | tzm\,0_...,
| g | Progress: | 0 Improved, E: Improved, Unimproved, 0 Retrogressed, D Other
| h | Was this patient referred to another physician for treatment or evaluation? | Zt
| i | If yes, to whom and at what address? |  

### Limitations

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Medical evidence to support limitations:

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</tbody>
</table>

Medical evidence to support limitations:
7. Psychological:
Is there a past or present psychological problem that might interfere with patient's ability to work?  
D Yes  P No  D Not Determined  If yes, please list your findings according to DSM-DIR:
Axis I:  
Axis II:  
Axis III:  
Axis IV:  

8. Can:liac:
  a. Functional Capacity (American Heart Association):
     - Class 1 (No limitation)  D Class 2 (Slight limitation)
     - Class 3 (Marked limitation)  0 Class 4 (Complete limitation)
  b. Blood Pressure: ____________

9. VISUlll pairment (Complete only if visual impairment contributes to applicant's disability):
  a. What was vision at last observation:
     With glasses: O.D. ____________ Q.S. ____________ Date: ____________
     Without glasses: O.D. ____________ O.S. ____________ Date: ____________
  b. If fields of vision are contracted, show contraction on chart:
     QS. ____________
     O.O. ____________
  c. Date corrected vision was irrecoverably reduced to 20/200 or less in the better eye:
     ____________ Date: ____________ O.D. ____________ O.S. ____________
Is patient now permanently disabled for the duties of his/her occupation?

- Yes
- No
- Cannot Determine

If yes, what accommodation is needed to resume the duties of his/her occupation?

- Lenses
- Treatment
- Surgery
- Not restorable

Disability Evaluation:

- Vision can be restored in whole or in part:
  - O.D.
  - O.D.

Physician's identifying information:

- Typed or printed name
- Address
- Board certified specialty

Data

Signature

ORANGE COUNTY EMPLOYEES BENJ JREME Li1 TS SY Si W

If you have any questions, please call (714) 966-200 and ask for the Disability Benefits Administrator.
Employee's Statement of Disability
1. Member Information

2. Statement of Disability

3. Medical History

Please see instructions on reverse.

---

**1. Member Information**

- **Last Name**: Maricarana
- **First Name**: Jare
- **Job Title**: Senior Social Worker
- **Employing Agency**: County of Orange, SSA

---

**2. Statement of Disability**

1. What are the illnesses, injuries, or conditions that limit your ability to perform the duties of your position?
   - Lumbar Fusion w/ L5; Lumbosacral Stenosis; Spondylosis; Left hip instability; Fracture (boy collision), Tibia fracture w/ adjacent cysts, and in left ankle, with swelling. Steal type effusion, pain in left knee & pain.

2. How does the injury or illness limit your ability to perform the duties of your position?
   
   3. When did you first experience symptoms of your illness, injury, or limiting condition and/or how did it occur?
   
   4. When did you first become unable to perform the duties of your position?

5. What specific job duties does this injury or illness prevent you from doing?

6. Did another party contribute to or cause your injury or illness?
   - Yes

**IF YES, IT IS YOUR RESPONSIBILITY TO KEEP THIS OFFICE INFORMED OF THE PROGRESS AND FINAL OUTCOME OF ANY PENDING LAWSUITS.**

---

**3. Medical History**

List each DOCTOR/HMO/THERAPIST you have seen in connection with your injury/illness (List current treating physician first)

1. **Name**: Dr. Gregory Carlson
   - **Street Address**: 1120 W. La Veta Ave., Ste. 300
   - **City**: Orange
   - **State**: CA
   - **Zip**: 92866
   - **Phone**: 714-598-1745
   - **Reasons for Visit**: Follow-up back/hip pain
   - **Date of First Visit**: 2/11/11
   - **Date Last Seen**: 2/11/18

2. **Name**: Dr. Scott Fornara
   - **Street Address**: 360 San Miguel, Ste. 701
   - **City**: Newport Beach
   - **State**: CA
   - **Zip**: 92660
   - **Phone**: 449-759-3600
   - **Reasons for Visit**: Follow-up right ankle pain
   - **Date of First Visit**: 10/11/18
   - **Date Last Seen**: 2/11/19

---

List each HOSPITAL/CLINIC that has examined or treated you in connection with your injury/illness

1. **Name**: Dana Point P.T.
   - **Street Address**: 2741 Pacific Coast Hwy
   - **City**: Dana Point
   - **State**: CA
   - **Zip**: 92629-3845
   - **Phone**: 774-496-3896
   - **Reasons for Visit**: P.T. for ankle #2 (over) sartorius
   - **Date(s) of Outpatient Treatment(s)**: 12/18 to 2/19

---

Form OIS202 (08111)
Employee’s Statement of Disability

February 20, 2019

Jane Martorana (SS# xxx-xx-)

Sec. 2. Statement of Disability

1. What are the illnesses, injuries, or conditions that limit your ability to perform the duties of your position?

Lumbar and cervical spinal stenosis/spondylosis; Lumbar fusion LS-S1; hip/SI joint instability; intermittent radiating pain down legs. Fractures/contusion of right tibial plafond and two ganglion cysts in ankle joint. There is consistent pain and swelling in my ankle joint as well as right knee pain and intermittent hip, back, neck and occasional left shoulder pain.

2. How does the injury or illness limit your ability to perform the duties of your position?

I have a permanent work restriction to alternate sitting and standing at my work station and my sitting is limited to 30 minutes. I am unable to stand, answering Hotline calls typing the caller's statements and typing up reports. An 8-hour shift requires standing a minimum of 4 hours per shift or more standing if I cannot sit 30 minutes due to back/hip pain. I am unable to stand and work as standing increases swelling and nerve pain in my ankle/foot, and causes more pain in my ankle, knee, hip and back because of instability I believe. Further, the pain makes me unable to concentrate on task at work.

3. When did you first experience symptoms of your illness, injury or limiting condition and/or how did it occur?

On July 29, 1999, I was rear-ended on the freeway while driving during work. This was a Worker's Compensation case with the County of Orange. The accident affected my back, neck and left shoulder and resulted in me having surgery on my left shoulder and three compressed discs (stenosis) on the left side of my neck. When I returned to work in May 2001, I was unable to sit for more than 30 minutes at a time. As time went on my sitting limit was increased to no more than 60 minutes. In 2012, due to long working hours and strict deadlines, my back pain increased. In March 2013, I was moved out of that job (Intake position) because they could not accommodate my new medical restriction of typing sitting or standing only 50% of the day and being able to move as needed (field work). Between 2015 and 2018, I had increased back, neck and now ongoing hip pain due to high caseloads, driving to visits and working long hours 10+ hours). In April 2017, a medical restriction on driving to see clients was added due to back and right hip and leg pain. Because of this medical issue, the County did not have a position to...
accommodate my restriction, and I was put on unpaid leave. On May 4, 2018, I was placed at the County Hotline. On July 12, 2018, while in this position, I started to walk, around midday at work, and I had immediate onset of pain in my right ankle pain without any specific cause.

4. When did you first become unable to perform the duties of your position?

On July 12, 2018, I was unable to perform my duties as I am unable to stand. On July 29, 1999, a car accident during work limited my ability to sit more than 30 minutes and caused back, hip, leg, shoulder pain and made it necessary for me to stand while working.

5. What specific job duties does this injury or illness prevent you from doing?

Standing a minimum of 4 hours per 8-hour shift answering Hotline calls and typing statements of the caller while on the phone, then typing detailed reports, and keyboarding information into the data base. Additionally, I need to be able to stand at least every 30 minutes as I have a work restriction to limit sitting to 30 minutes.

6. Did another party contribute to or cause your injury or illness?

Yes, I believe the County of Orange. I filled a Worker’s Compensation claim on 7/12/18 (CTOZ-044048), but due to maltreatment by the Worker’s Comp. doctor, and lack of appropriate medical care, I dismissed the case. (My understanding is that a case can be filed within a year of the injury which I may do.) The reason I believe the County to be negligent is that when I began working at a new assignment at the Hotline on May 5, 2018, it an accommodation due to my back and hip issues and the inability to drive long distances for work. In the new assignment, I was supposed to have a sit and stand work station. However, as of July 12, 2018 (over two months) my work station had not been set up so that I could sit and stand (with a moveable keyboard and monitors on arms that moved up and down). The job required two monitors. I was standing approximately 80% of the day because one monitor was set up on 3 or 4 rims of paper so I could see while standing and the other sat on the desk which I could see by looking down. When I sat down to work, I had to look up to the left to view one monitor, which caused neck pain within a short amount of time. I believe that the prolonged standing at my work station caused my ankle injury.

Additionally, on 7/29/99, I was involved in a car accident while working for the County of Orange which was a Worker’s Compensation case which has left me with back, hip, neck and shoulder issue. I have permanent work restrictions: Sit no more than 30 minutes at a time; Alternate sitting/standing at work station throughout the day; Limit repetitive activity of pushing with right leg to no more than one hour per 10-hour shift; No lifting/carrying, pushing, pulling over 30 pounds. Now with the ankle injury and knee pain, I am unable to work standing and cannot adhere to the work restriction of sitting no more than 30 minutes. Due to the above stated circumstances, I have been unable to work, and that the County was unable to accommodate me.

Jane Martinez
2/20/19
NAME: JANE MARTORANA

SSN: XXX-XX

Date: 01/10/2018

Agency: SSA 063

Title: Senior Social Worker

RETURN TO WORK WITH THE FOLLOWING RESTRICTIONS ON: 1/8/2018

1. ALTERNATE SITTING/STANDING AT WORK STATION THROUGHOUT THE DAY.
2. LIMIT SITTING TO 30 MINUTES; CHANGE POSITION AS NEEDED.
3. LIMIT REPETITIVE ACTIVITY OF PUSHING WITH RIGHT LEG TO NO MORE THAN 1 HOUR PER 10 HOUR SHIFT, DUE TO MEDICAL CONDITION. (FOR EXAMPLE, AS IN DRIVING A CAR)
4. PERMANENT RESTRICTIONS FROM 1993 STILL APPLY - NO LIFTING, CARRYING, PUSHING OR PULLING OVER 30 LBS.
5. PERMANENT RESTRICTIONS FROM 3/6/2017 STILL APPLY: LIMIT SITTING TO 60 MINUTES AT A TIME; CHANGE POSITION FREQUENTLY, ATTEND PHYSICAL THERAPY AS DIRECTED, MAXIMUM OF 10 HOURS OF WORK.

THE ABOVE RESTRICTIONS ARE PERMANENT

Signature of Physician/Nurse

Date: 01/10/2018

EMPLOYEE NOTIFICATION OF MEDICAL RESTRICTION:

I, the undersigned, have been advised by the County of Orange Employee Health Services, that a medical restriction has been placed on my activities while performing any duties within the scope of my employment with the County of Orange. I have read and understand the medical restriction to refrain from specific activities as detailed above. I further understand that it is my responsibility not to violate this restriction without specific authorization from the County of Orange Employee Health Services. I further understand that if County supervision requires that I perform duties that would violate this restriction, I will immediately advise that supervisor and County management if necessary, of my restriction before performing the requested duties. I understand that violation of this restriction may result in disciplinary action.

Signature of Employee

Date: 1/10/18

Department has been and has accepted the above individual with the identified work restriction(s).

Authorized By:

Print Name

Signature

Date
4. Medical Testing
List all medical tests or surgical procedures that you have had relating to your injury or illness?
(See instructions on reverse for test numbers)

<table>
<thead>
<tr>
<th>Test Number</th>
<th>Date</th>
<th>Attending Physician</th>
<th>Type of Surgery</th>
<th>Date</th>
<th>Attending Physician</th>
</tr>
</thead>
<tbody>
<tr>
<td>12</td>
<td>7/25/18</td>
<td>Reside DeCastro</td>
<td>Left Shoulder</td>
<td>2/20/20</td>
<td>Dr. Fisher</td>
</tr>
<tr>
<td>2</td>
<td>8/6/18</td>
<td></td>
<td>RFA Neck</td>
<td>5/18/20</td>
<td>Dr. Cheng</td>
</tr>
<tr>
<td>3</td>
<td>11/21/15</td>
<td></td>
<td>Epiglottal Back Ship</td>
<td>2017</td>
<td>Dr. Kramer</td>
</tr>
<tr>
<td>4</td>
<td>9/27/13</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5. Employment History
1. Are you currently working?  D Yes  No
   If yes, please complete the following:
   Employer: __________________________ Telephone: __________________________
   Job Title: __________________________
   Name of Supervisor: __________________________
   When did you stop working? __________
   When were you last paid? __________
   Are you receiving 4850 pay?  D Yes  [ ] No  If yes, effective date __________
   2. Excluding County or District employment, list all employment you have had during or after your employment with the County or District.
   Employer: __________________________ Telephone: __________________________
   Address: __________________________
   Dates of employment: From: __________ To: __________ Supervisor: __________________________
   Job Classification: __________________________ Reason for Leaving: __________________________

6. Work Restrictions/ Accommodation
What work restrictions have you provided to your employer? __________________________
[e. ee., nef /]tsfr/t- _______ dated 1 10/18
Was your employer able to temporarily or permanently accommodate the work restrictions you provided?

Are you working or have you worked light duty? If yes, please describe __________________________

Would you consider rehabilitation in other County or District employment? __________________________

Did you participate in the interactive process with your employer? __________________________

7. Employee Signature
I DECLARE THAT THE STATEMENTS I HAVE MADE ON THIS FORM ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

______________________________  __________________________
Employer’s Statement of Disability
Employer’s Statement of Disability

1. Member Information
   - Last Name: Martorana
   - First Name: Jane
   - M.I.: Social Security No.
   - Job Title: Senior Social Worker
   - Employing Agency: Social Services (Previously employed)

2. Information About Last Position Held
   List “usual and customary” job duties:
   See Attachment

   Describe the physical requirements of the applicant’s job:
   See Attachment

   How frequently does the applicant have to perform each physical requirement?
   See Attachment

   List applicant’s current and prior supervisor (please include current telephone number and dates supervised):
   See Attachment

3. Information About Work Related Injuries and Illnesses
   Did the applicant report a work related injury/illness to your agency? Yes ☑ No ☐ If no, please skip to section 4.
   If yes, please complete the following for each separate injury/illness reported by the applicant:

   Date of Injury: ____________________________
   See Attachment

   Date Injury Reported: ____________________________
   Phone Number: ____________________________

   Circumstances of Injury: ____________________________
   See Attachment

   Name of person who witnessed the injury: ____________________________

   Date of Injury: ____________________________
   See Attachment

   Date Injury Reported: ____________________________
   Phone Number: ____________________________

   Circumstances of Injury: ____________________________
   See Attachment

   Name of person who witnessed the injury: ____________________________

Form DIS 2020 07/2004 While - OCERS Goldenrod - Employer
### 3. Information About Work Related Injuries and Illnesses

<table>
<thead>
<tr>
<th>Date of Injury:</th>
<th>Reporting Supervisor:</th>
</tr>
</thead>
<tbody>
<tr>
<td>See Attachment</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Circumstances of Injury/Illness:</th>
</tr>
</thead>
<tbody>
<tr>
<td>See Attachment</td>
</tr>
</tbody>
</table>

### 4. Information About Non-Work Related Injuries and Illnesses

<table>
<thead>
<tr>
<th>Date of Injury:</th>
<th>Name of person who witnessed the injury:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Circumstances of Injury/Illness:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Describe how the applicant's injury/illness interferes with the performance or specific job duties.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date of Injury:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Circumstances of Injury/Illness:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Describe how the applicant's injury/illness interferes with the performance of specific job duties.</td>
</tr>
</tbody>
</table>

Please attach a separate piece of paper if there are additional injuries

Continue to Section 5
S. Interactive Process/Work Restritions/Accommodation

Please attach a NARRATIVE REPORT regarding the Interactive Process performed by your Agency/Department with supporting documentation and a JOB ANALYSIS.

Accommodation

What work restrictions has the applicant provided to your agency?

See Attachment

See Attachment

Was your agency able to temporarily or permanently accommodate the restrictions provided by the applicant within the same job classification? Please explain.

See Attachment

Has the applicant been reassigned to a "light duty" or a temporary position? Please explain.

See Attachment

6. Personnel Issues

(Please answer the following questions if in your opinion it relates to applicant's disability)

Is the applicant’s conduct unsatisfactory? If yes, please explain. If no, annotate NIA and continue to the next section.

Yes; please see disciplinary documents in personnel file

Has disciplinary action been taken against the applicant? If yes, please explain. If no, annotate NIA and continue to the next section.

Yes; please see disciplinary documents in personnel file
<table>
<thead>
<tr>
<th>7. Employee Status</th>
<th>What do your records show as the applicant's last day of work?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8/21/2019</td>
</tr>
<tr>
<td></td>
<td>Is the applicant an active or terminated employee?</td>
</tr>
<tr>
<td></td>
<td>Inactive</td>
</tr>
<tr>
<td></td>
<td><strong>ff employment has terminated:</strong></td>
</tr>
<tr>
<td></td>
<td>Did the applicant resign, retire or was the applicant terminated?</td>
</tr>
<tr>
<td></td>
<td>Retired from County employment effective 10/23/2018</td>
</tr>
<tr>
<td></td>
<td>Date of resignation/retirement/termination: 10/23/2018</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8. Payment Status</th>
<th>Fast day of county pay:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Type of pay:</td>
</tr>
<tr>
<td></td>
<td>Is the applicant receiving 4850 pay? No</td>
</tr>
<tr>
<td></td>
<td>Yes, when does 4850 pay expire? N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>9. Employer Observations or N/A Knowledge of Extracurricular Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has the applicant demonstrated any physical or mentally disabling conditions?</td>
</tr>
<tr>
<td>If yes, Please describe observations made by employer?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>V-f</th>
<th>What information or knowledge do you have regarding applicant's extracurricular activities, such as outside jobs or activities that are physically demanding?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>This is a certificated artes dancer and belongs to a club called the L'etage Theatre. She goes on unique vacations, including sailing long plane flights to different activities, including the Philippines, Fiji and Honduras, to name a few.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Please see additional attachments re: Jane's extracurricular activities:</th>
</tr>
</thead>
</table>

| Please review the Employee's Statement of Disability, and provide any additional information to support or refute the statement made by the applicant. |

**Employee Signature:**

**Date:** 1/22/2019

**Approved:**

**Date:** 4/29/2019

**Orange County:**

**Goldenrod:**

**Employer:**
Attachment for Employer’s Statement of Disability

(Former) Employee: Jane Martorana, Senior Social Worker   SSN:

1. Member information - see application

2. Information About Last Position Held:

Definition:

Under direction, identify and treat complex individual or family social problems in order to develop or restore social functioning; and perform other duties as required.

Class Characteristics:

This class is responsible for the identification, assessment and treatment of a variety of complex social problems associated with such areas as child abuse dependency, adoptions, guardianship to the mentally disabled, individual protective services and individual and/or family social dysfunctioning. Incumbents analyze, evaluate and treat individual and family groups in which a variety of social and economic problems are typically involved.

EXAMPLES OF DUTIES:

1. Assess complex social service cases of applicants and recipients with a variety of social and economic problems by gathering relevant data from interviews, home calls, professional staff and various other informational sources; determine the type and extent of client social dysfunction; identify underlying social psychological causes of dysfunctioning.

2. Formulate complex case plans and alternative plans of action designed to develop and/or restore individual and/or family social functioning that may be reviewed by the courts or regulatory agencies; make decisions which impact the potential safety and well-being of clients; prepare social histories, counseling schedules, and summaries of major social and psychological causes of dysfunctioning.

3. Provide treatment services for a variety of complex client social service needs; monitor progress of case plan implementation by evaluating client behavior change and by consultation with other professionals regarding client progress; redefine and alter case plans as necessary to meet changing social service needs of clients; terminate services or refer clients to other agencies when appropriate.

4. Reject inappropriate social services referrals and refer case to other staff or agencies when client problems are not within the position functional assignment area.

5. Monitor placement facilities to ensure compliance with contracts; advise providers of deficiencies in services; recommend cancellation of contract or non placement if deficiencies are not corrected; consult with placement workers to determine type of care facilities needed; advise placement workers on care available at facilities.
6. Provide information to individuals and public and private agencies on Agency programs, policies, rules and regulations. Inform private attorneys, public defenders and County Counsel regarding child welfare codes and regulations and explain recommendations.

7. Develop, use and coordinate Agency and community resources to meet social service needs of clients. Innovation is sometimes required to locate or create suitable referrals.

8. Prepare complex case records, detailed and legally sound court reports and related Agency and program reports within designated time frames.

9. Take into custody neglected, abandoned, abused, or drug exposed children for placement.

10. Compile statistical data concerning child abuse, contacts and disposition of cases.

11. Comply with and implement specific court orders related to the presentation and disposition of cases, which may include detailed research, notification of missing parents and transporting minors out of state.

12. Enter data accurately on-line into one or more computer systems; utilize and understand various computer software programs.

Describe the Physical Requirements of the Applicant's Job:

- Body mobility to climb stairs, stand, walk, run, bend, twist and/or kneel in the course of making visits to client homes, transporting children and their possessions.

- Ability to sit for up to two hours with little movement while driving or performing paperwork.

- Hear and smell sufficiently to detect sounds and odors within a home.

- Vision sufficient to read lengthy documents, identify and distinguish between colors of a bruise or wound and visually appraise living conditions of a home.

- Ability to speak and hear well enough to communicate clearly in person or on the telephone.

- Manual dexterity sufficient to operate office equipment such as computer keyboard or to take field notes.

Minimum Qualifications:

Thorough knowledge of

- Established techniques, casework methods and theories used to diagnose individuals and families with a variety of complex social service problems or combination of problems.
• **Dynamics of human behavior including problems of individuals and families with various social, psychological and economic problems.**

• **Various treatment modalities and alternatives for individuals and families with a variety of complex social, psychological and economic problems.**

**General knowledge of**

• Principles and techniques of interviewing necessary to determine facts and to clarify perceived relevant and significant information from hostile and/or reluctant individuals.

• **Public and private agencies and the community resources available to meet client social service needs.**

• Methods and techniques of counseling.

• Child and elder/dependent adult abuse reporting requirements.

• Adult psychopathology, psychology of families, child development and the assessment, management and treatment techniques for children and adults with a wide variety of social, psychological, medical and economic problems,

• Cross-cultural differences in family and social functioning.

• Federal, state and local legislation and codes governing the administration of social programs.

• Computer keyboarding related to entering and retrieving data.

**Ability to**

• **Identify complex social service needs and the resources available to meet these needs.**

• Evaluate relevant case data to determine the cause(s) of individual or family social dysfunction.

• **Learn court and mediation procedures.**

• Establish and maintain effective working relationships with clients, public and private agencies and departmental staff.

• Interview effectively to obtain case-related data from hostile and/or reluctant clients.

• Counsel clients to recognize the causes of individual and family social dysfunctioning and support their efforts toward self-sufficiency and healthy, stable family relationships.
• **Explain departmental social services programs and policies, rules and regulations to individuals and**
  public and private agencies.
• **Develop, use and coordinate departmental and community resources to meet client needs.**
• **Communicate effectively in English, both orally and in writing.**
• **Prepare clear, concise and legally acceptable reports and records.**
• **Organize and maintain accurate case records.**
• **Learn the Child Welfare System (CWS) case management computer application system.**
• **Use a computer keyboard to enter case data access and maintain case file information and prepare**
  court reports.

**License Requirements**

• Possession of or ability to obtain a valid California driver’s license by the date of appointment.

**How Frequently Does the applicant Have to Perform Each Physical Requirement:**

• Varies, depending on activities

**List Applicant's Current and Prior Supervisor:**


• Jane Collier is the Program Manager that oversaw Jane Martorana for almost 5 years but did not
directly supervise.

**3. Information About Work Related Injuries and Illnesses**

• 7/31/1999 - 8/20/1999: Occupational Medical LOA

**4. Information About Non-Work Related Injuries and Illnesses**

• 10/31/2001 - 12/12/2001: Non-Occupational Medical Leave of Absence (LOA)

• 11/7/2016 - 3/7/2017: Non-Occupational Medical Leave of Absence (LOA)
5. Interactive Process/work Restrictions/Accommodations

What work restrictions has the applicant provided to your agency?

*11/15/1993: Permanent restrictions from Employee Health
  • No lifting, carrying, pushing or pulling over 30 lbs,
  • Limit sitting to 60 minutes at a time; change position periodically
  • Use of back support as needed
Accommodations: accommodated within same job classification with modifications to her regular assignment
Jane presented these restrictions to Employee Health Services prior to her starting work with the County on December 20, 1993.

  • No lifting, pushing, pulling or carrying more than 2 - 3 lbs.
  • No driving of county vehicles of any kind or driving private vehicle on county business
  • No use of right arm
  • Provide headset for phone use
  • Permanent restrictions from 11/15/1993 still apply
Accommodations: accommodated within same job classification with modifications to her regular assignment

10/20/1998 12/14/1998: Temporary restrictions from Employee Health
  • No lifting, pushing, pulling or carrying more than 2 - 3 lbs with right arm
  • May drive automatic transmission vehicle for work
  • Permanent restrictions from 11/15/1993 still apply
Accommodations: accommodated within same job classification with modifications to her regular assignment

  • No lifting, pushing, pulling, carrying more than 25 lbs,
  • No repeated bending, stooping or twisting
  • Limit keyboarding and writing to 30 minutes at a time with a 2 minute break
  • Permanent restrictions from 11/15/1993 still apply
Accommodations: accommodated within same job classification with modifications to her regular assignment
- No lifting, carrying, pushing or pulling more than 20 lbs
- Limit standing and walking to 30 minutes at a time; bench or desk work preferred
- Limit sitting to 30 minutes at a time; change position periodically
- No working with either arm above shoulder level
- Attend physical therapy 3 times per week
- To work no more than 4 hours per day
- Permanent restrictions from 11/15/1993 still apply

Accommodations: accommodated within same job classification with modifications to her regular assignment

- No lifting, carrying, pulling or pushing greater than 20 lbs.
- No repeated bending of neck or right elbow
- Limit sitting to 30 minutes at a time; change position periodically
- Limit keyboarding and writing to 10 minutes at a time with a 2 minute stretch break
- Attend physical therapy 3 times per week
- To work no more than 4 hours per day
- Permanent restrictions from 11/15/1993 still apply

Accommodations accommodated within same job classification with modifications to her regular assignment

5/1/2001 - 6/1/2001: Temporary restrictions from Employee Health
- Limit lifting or carrying to 25 lbs.
- Limit keyboarding to 30 minutes at a time with 2-3 minute stretch breaks
- Permanent restrictions from 11/15/93 apply
- To work 4 hours per day

Accommodations: accommodated within same job classification with modifications to her regular assignment

5/25/2001 - 6/15/2001: Temporary restrictions from Employee Health
- Limit lifting or carrying to 25 lbs.
- Permanent restrictions from 11/15/93 apply
- To work 4 hours per day

Accommodations: accommodated within same job classification with modifications to her regular assignment

6/25/2001 - 7/24/2001: Temporary restrictions from Employee Health
- Limit lifting or carrying to 25 lbs.
- Limit keyboarding to 30 minutes at a time. Alternate with other duties.
- No work with either arm above shoulder level
- Attend physical therapy 3 times per week
- Permanent restrictions from 11/15/93 apply
• To work 4 hours per day
• Change position, sitting/standing, as tolerated

Accommodations: accommodated within same job classification with modifications to her regular assignment

8/27/2001-10/2/2001: Temporary restrictions from Employee Health
• Limit lifting or carrying to 25 lbs.
• Limit sitting and standing to as tolerated; change position periodically
• Limit keyboarding to 30 minutes at a time with 2 - 3 minute stretch breaks
• Attend physical therapy 3 times per week
• Permanent restrictions from 11/15/93 apply
• To work 4 hours per day
• No overhead lifting

Accommodations: accommodated within same job classification with modifications to her regular assignment

• Limit lifting and carrying to 25 lbs. (PERMANENT)
• No work with left arm above shoulder level (PERMANENT)
• Permanent restrictions from 11/15/93 apply
• Limit sitting to 30 minutes at a time; change position periodically (TEMPORARY until 4/3/2002)

Accommodations: accommodated within same job classification with modifications to her regular assignment

8/8/2013-9/6/2013: Temporary restrictions from Employee Health
• Attend physical therapy as directed - may need flexible schedule
• Limit sitting and standing in a typing position to 50% of time
• Change position frequently - every hour
• Work no more than 10 hours per day

Accommodations: accommodated within same job classification with modifications to her regular assignment

9/6/2013-10/18/2013: Temporary restrictions from Employee Health
• Reduce caseload by 50%
• Attend physical therapy as directed - may need flexible schedule
• Limit sitting and standing in a typing position to 50% of time
• Change position frequently - every hour
• Work no more than 10 hours per day

Accommodations: accommodated within same job classification with modifications to her regular assignment

10/21/2013-1/15/2014: Temporary restrictions from Employee Health
• Attend physical therapy as directed
• Limit sitting and standing in a typing position to 50% of time
• Change position frequently - every hour
• Work no more than 10 hours per day
• Permanent restrictions from 11/15/1993 still apply

Accommodations: accommodated within same job classification with modifications to her regular assignment

1/16/2014 - 8/5/2014: Temporary restrictions from Employee Health
• Alternate sitting and standing. Change positions hourly
• Attend physical therapy as needed
• Avoid typing greater than 50% of work time
• Work maximum of 10 hours daily
• Permanent restrictions from 11/15/1993 still apply

Accommodations: accommodated within same job classification with modifications to her regular assignment

• Change positions frequently
• Attend physical therapy as needed
• Limit sitting and standing in a typing position to 50% of time
• Maximum of 10 hours of work per day
• Permanent restrictions from 11/15/1993 still apply

Accommodations: accommodated within same job classification with modifications to her regular assignment

1/16/2015 - 7/16/2015: Temporary restrictions from Employee Health
• Change positions frequently
• Attend physical therapy as needed
• Limit sitting or standing in a typing position to 50% of time
• Maximum of 10 hours of work per day
• Permanent restrictions from 11/15/1993 still apply

Accommodations: accommodated within same job classification with modifications to her regular assignment

3/16/2016: Permanent restrictions from Employee Health
• Limit sitting to 60 minutes at a time; change position frequently
• Limit keyboarding to 50% of shift; alternate with other activities
• Attend physical therapy as needed
• Maximum of 10 hours of work per day
• Permanent restrictions from 11/15/1993 still apply

Accommodations: accommodated within same job classification with modifications to her regular assignment

3/6/2017 - 4/6/2017: Temporary and Permanent restrictions from Employee Health
• Limit driving to 20 minutes/pushing right leg while driving (TEMPORARY until 4/6/2017)
• Limit sitting to 60 minutes at a time; change position frequently (PERMANENT)
• Limit keyboarding to 50% of shift; alternate with other duties (PERMANENT)
• Attend physical therapy as needed (PERMANENT)
• Maximum of 10 hours of work per day (PERMANENT)
• Permanent restrictions from 11/15/1993 still apply

**Accommodations:** accommodated in a Transitional Work Assignment as a temporary accommodation

**4/7/2017 - 4/26/2017:** Temporary restrictions from Employee Health
- Limit driving to 20 minutes/pushing right leg while driving
- Permanent restrictions from 11/15/1993 still apply
- Permanent restrictions from 3/16/2016 still apply

**Accommodations:** accommodated in a Transitional Work Assignment as a temporary accommodation

**4/28/2017 - 7/11/2017:** Temporary restrictions from Employee Health
- Limit driving to 2-0 minutes at a time due to medical condition
- Permanent restrictions from 11/15/1993 still apply
- Permanent restrictions from 3/16/2016 still apply

**Accommodations:** accommodated in a Transitional Work Assignment as a temporary accommodation

**6/7/2017 - 7/12/2017:** Temporary restrictions from Employee Health
- Attend physical therapy as directed
- Limit driving to 20 minutes at a time due to medical condition
- Permanent restrictions from 11/15/1993 still apply
- Permanent restrictions from 3/16/2016 still apply

**Accommodations:** accommodated within same job classification with modifications to her regular assignment

**7/10/2017 - 10/25/2017:** Temporary restrictions from Employee Health
- Limit sitting to 30 minutes at a time: change position periodically
- No driving more than 1 hour in a 10 hour shift

**Accommodations:** accommodated in a Transitional Work Assignment as a temporary accommodation

**10/18/2017 - 1/17/2018 - Temporary restrictions from Employee Health**
- Alternate sitting/standing at work station throughout the day
- Limit sitting to 30 minutes. Change position as needed
- Limit driving to 1 hour per 10 hour shift
- Permanent restrictions from 11/15/1993 still apply
- Permanent restrictions from 3/16/2016 still apply

**Accommodations:** accommodated in a Transitional Work Assignment as a temporary accommodation

**7/25/2018 - 8/2/2018:** Temporary restrictions from York
- Sit down job. Please allow patient frequent change of position for comfort
- Must wear the CAM walker

**Accommodations:** Jane was off work due to a non-occupational medical condition from 7/16/2018 - 8/6/2018
8/2/2018 - 8/20/2018: Temporary restrictions from York
• Sit down job only
• Must wear CAM walker
• Allow frequent change of position
Accommodations: dept was able to accommodate these restrictions but NOT able to accommodate non-occupational, permanent restrictions previously provided by Jane.

8/2/2018- 8/20/2018: Temporary restrictions from York
• Sit down job only
• Must wear the CAM walker
• Allow frequent change of position
Accommodations: Leave of Absence due to dept not being able to accommodate non-occupational medical restrictions at the same time.

• Must wear the CAM brace
• Must stand up to 30 minutes per hour during the work day
Accommodations: accommodated in a Transitional Work Assignment as a temporary accommodation

8/15/2018- 9/20/2018: Temporary restrictions from York
• Must wear CAM brace
• Must stand up 30 minutes per hour during the work day
Accommodations: accommodated in a Transitional Work Assignment as a temporary accommodation

8/15/2018- 9/20/2018 (AMENDED): Temporary restrictions from York
• Must wear the CAM brace
• May stand up to 30 minutes per hour during work day
Accommodations: accommodated in a Transitional Work Assignment as a temporary accommodation

8/15/2018-10/4/2018: Temporary restrictions from York
• Must wear the CAM brace
• May stand up to 30 minutes per hour during the work day
Accommodations: dept able to accommodate the temporary restrictions. Jane refused reasonable accommodations and chose to remain off work.

Was your agency able to temporarily or permanently accommodate the restrictions provided by the applicant within the same job classification? Please explain.

The Agency was able to permanently accommodate Jane by reassigning her as a Senior Social Worker to another department within the Children and Family Services division of SSA where she would not be expected to maintain a caseload or perform immediate response field work. The only time the dept was unable to accommodate Jane’s restrictions was when she provided both occupational and non-occupational medical restrictions that conflicted and she was not able to sit or stand to perform job duties.
Has the applicant been reassigned to a "light duty" or temporary position? Please explain.

Jane resigned from County employment effective October 23, 2018.

6. Personnel Issues - YES - See Additional information provided
7. Employee Status - See Disability Application
8. Payment Status - See Disability Application
9. Employer Observations or Knowledge of extracurricular Activities - YES - See additional sheets attached

Attachment: Employer's Statement of Disability - Additional Sheets
Supervisor's Statements (2: Sharon Collins & Jane Collier)
Personnel File
Medical File
Website and Personal Info found online
ATTACHMENT 1

2018 Roatan Honduras
Picture of Jane Martorana standing in right side of photo
A white helmet, sunglasses with the zip line harness around her
Our Roatan Pre-Trip Party is tonight. Most of our group have travelled with each other on a past trip, but we have some new divers that need to be introduced! It will be Taco Tuesday at the party at the home of Kathy Ellis!

Immersed Imaging
Company

Neverdry Divers Maui
The V-1 & T-3"sp; o.111

Travel Agencies in Riverside, California

Gorman Dive Adventures and Travel

 рож

Z NIGHT RESORT - 6 DAYS OF 3 TANK DIVES and MEALS & AlcohQI

• PACKAGE I INCL. 65; 1 Night, Dive (lnd NitRO) to v-U11te

• Package 1 is for 6 guests, 4 tanks each day, night diving, and Nitrox.

• All tanks are filled with Nitrox, 40% to 70%.

• 25% Nitrox fee on all dives.

• All prices are in US dollars.

• Package includes airfare.

$1049.00 dlbl. ocean view
$962.00 dlbl. garden view

Cont. Tom Gorman
(714) 319-7577

tom@di\c11ventures.11ct

NOTE: Gorman Dive Adventures and Travel are not responsible for providing rooming for any time not in attendance of the dive. All rooming is to be arranged individually.

Move forward and keep on diving Great to be back on top of the world.

https://www.facebook.com/23l8935\0349/photos/p.10156574349275350/10156574349275350...
We still have a few Garden View units... - Gorman Dive Adventures and Travel

Js on an Adventures of a t1f

Sept atr-stti, 2018

See more of Gorman Dive Adventures and Travel on Facebook
Our Roatan Pu, Trip Po y + tonig911! Most of our group have nt
came with
oach other on apa111p, but we have some nowl, verses 11111 now 111p
Wrol b1. I see, If Sunday at h 8 PM at h O home Q Ka thy Ellal

Like, Comment

Kathleen Suradi and Sherry McCauley Herbert like this

Gorman Dive Adventures and Travel

1

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Gorman Dive Adventures and Travel

Jul 14 days 1111 we lea8 for Hor dahus ad my grullp goa diving n Tree
Canebean nrof RoatKen. ShO bef a rub and follow by "P" for mo. adfly no
diving! We ...i1 be flowering RI TunquaqBe Bay Raso

Like Comment

Dorcas Andrew, Chris Sennon and 2 others like this

See more of Gorman ove Adventures and Travel on Facebook

Gorman Dive Adventures and Travel added 7 new photos
August 10 at 10:34 AM

Here are a few pics from my recent trip to Malapascua Island.

Was a great trip. My 15 clients had a great time and I lock onto to the next one.

See more of Gorman Dive Adventures and Travel on Facebook

Gorman Dive Adventures and Travel - Posts | Facebook

See more of Gorman Dive Adventures and Travel on Facebook

We just have 2 weeks to make final decisions about traveling to Honduras and need to decide on a few rooms available: 1.0.00m. Views a1112 Garden View units. Usually bookable/made available for the Dive trip to прид. [1 plan on being there even with some uncertainty.\n
Just a few months away from travel to Roatan, Honduras and we just have a few options available. 1.0.00m. Views a1112 Garden View units. Usually bookable/made available for the Dive trip to прид. [1 plan on being there even with some uncertainty.

Headed to Honduras for a week of diving and snorkeling. Will be staying at the famous Blue Frog Resort. Will meet up with a new group of friends 10 1111 to monitor the new adventure and 00 to thorn and dye with B & J Divers and 1111 at Tom, 1111 Ros on G no to let's eat and drink and talk.

See more or Gorman Dive Adventures and Travel on Facebook.
We just have 2 rooms available for our trip to Roatan, Honduras. One Ocean View and one Garden View. Flights are cheap right now: American Air $700+ and gal in around 11 am to catch the shuttle. Come and visit us on the 2nd largest living barrier reef in the world!

Happy Easter to all! And for my Jewish friends, Happy Passover!

See more of Gorman Dive Adventures and Travel
So back to the Rasouce Groal PIIOIO

Keith Gmirkhn Gom<veos

We still have a few G1ndon View units left for our trip to Rasfan In September. OaWili are September 8th - 15th. See attached for mor

informaton!

Don’t forget to sign up for OUI up to Rasfan Sat. Jar April 2019. Noed
depotis in now so bal as of 11cMJ HiUSI#Hf, C0711-16, Speddr and

a mentioni Schoob. OJ Jng Clinter Gorman G0V:

Gorman Dive Actvonwrdillflll1g1al H1d c-1 2 snp photos

See more of Gorman Dive Adventures and Travel on Facebook
Go to the website: www.divewanderlust.net and check it out! Has lots of info on trips, reef dives, Pearls, and our trips come to a close!  

German Dive Adventures and Travel added 8 new photos  
February 7  

We still have an Ocean View unit and 2 Garden View units available, our trip to Rarotonga, Homua s111yr.g at Turquoise Bay Beach Resort! Come and 1010 us for a great week! (119 mg)
Can't wait for our trip back to the Maldives May!

Gorman Dive Adventures and Travel

See more of Gorman Dive Adventures and Travel on Facebook

Login or Create New Account

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See more of Gorman Dive Adventures and Travel on Facebook

See more of Gorman Dive Adventures and Travel on Facebook
Find us elsewhere

LocalWeather

77°F
LAGUNA BEACH, CA

Recent Tweets

Club Dive: Saturday 1/3@ 9:00AM. Meet at the top l)f Shaw's Cove with your tel/ow dive club members.

6 days

Next Owe Cluo Meeting: Wednesday, 112:1 @ 6:30 PM I Newport Beach Tennis Club. l1ttp://t.co/XCWgn3tYZ5

6 days

# Follow us on Twitter

Headlines

Beach Diving Basics Part II - Entries and Elms
February 28, 2014

Beach Dlv1ng Basics Part I - Wave Mechanics
February 28, 201c1
ATTACHMENT 2

2018 Roatan Honduras

Picture of Jane Martorana with her boyfriend

Celebrating Tom Gorman owner of Adventure Dives birthday in Honduras
ATTACHMENT 3

2018 Roatan Honduras

Picture of Jane Martorana and her boyfriend

Standing in their dive clothes after their first dive of Saturday morning arrival to the Honduras Dive Trip.

This was in September 7, 2018 through the return of their trip September 14, 2018
Marcy Peck: Have a great time! :)
Like Reply 12w

Cynthia Baird: Miss you guys! Wish I was there with you! GM! my man a hug for me!
Like Reply 12w

Debbie Cook: Glad you're having so much fun! :)
Like Reply 12w

Jane Miltorana: Hope you're having a wonderful time ;). Ind diving is fantastic!
Like Reply 11w

Tom Gorman III: Doing ok. Knees are having fun and so is back!
But diving today was good. We had great vis and little current.
Intro

Tom Gorman III checked in to Orange County Global Medical Center.
July 1, Santa Ana, CA

25 days just here at OCBC! Had surgery the other day, but will be here longer because the IO/Ner part of my leg did not heal as much as they hoped for. Next surgery is Friday letting the lower leg heal a bit more! Had several friends visit today, Jane Martorana, Marli Jensen, and Gary Williams. Gary just left and I am looking for a little sleep. But, at 3:00 pm I am getting up for a little PT!
ATTACHMENT 4

• Jane Martarona at a Laguna Sea Dwellers Holiday Christmas Party 2017 Pictured on the right in the photo
DESCRIPTION

Join us for the annual Laguna Sea Dwellers Holiday party! Come and celebrate the season with other club members, family and friends with a great dinner, gift exchange, DJ and dancing. Everyone is welcome!

This year’s menu includes:

Starter: Assorted cheese, crackers and veggie platter
Salad: Caesar Salad
Entree: Chateaubriand and River Salmon served with oven roasted potatoes with sauteed mixed vegetables
Dessert Cheesecake and Chocolate Cake
Beverages: Unlimited soft drinks and coffee station

Bring a gift for the gift exchange ($20 maximum value),

There will be a cash bar or you can bring in your own wine with a $15.00 per bottle corkage fee.

Buy your tickets early! No tickets will be available at the door.

TAGS

Things To Do In Newport Beach, CA  Gata  Holiday

DATE AND TIME

Sat. December 2, 2017
7:00 PM - 11:30 PM PST
Add to Calendar

LOCATION

Newport Beach Tennis Club
2601 Eastbluff Drive
Newport Beach, CA 92660
View Map

https://www.eventbrite.com/e/laguna-sea-dwellers-holiday-party-tickets-38559917752  8/15/2018
Laguna Sea Dwellers Holiday Party

Organizer of Laguna Sea Dwellers Holiday Party

FOLLOW CONTACT

Laguna Sea Dwellers Holiday Party
at
Newport Beach Tennis Club
2601 Eastbluff Drive, Newport Beach, CA 92660

https://www.eventbrite.com/e/laguna-sea-dwellers-holiday-party-tickets-38559917752 8/15/2018
ATTACHMENT 5

- Facebook/Laguna Beach Sea Dwellers talks in September 7, 2017 individual stating there are two spots left on the October 2017 scuba diving trip: Jane Responded: I'd like the 2 spots. I was on LAD website when I saw your message. Individual responds you are booked, just send us the money

July 12, 2017

Jane: Had a really good time sharing with fellow club scuba divers at Goat Hill Tavern happy hour yesterday! Thanks to our president Carlos for setting it up.

- Laguna Sea Dwellers, INC By-Laws

Section 111.

- February 10, 2017 Karl Strauss Brewery mixer Jane replying, I'll be there!
Hi Page Ilkoo, 11»

Khrystyna Cusimano
- South: 11/19/17

Two Veys. Only 2 spots left out. October, 14th. Trip. Grab them while they are here. We are head-ing to the Rookery 11-11-11

Jane M1r1tor11ne: I'd like it, a 2 spool. I wu on the LAD woh-e when I saw you. message L1 o -AW

Khrystyna Cusimano: You are booked!! - Just send us the S. -'

BlllPBOll
Jul18,18,2017

Fm those who have l(i) hoard, &i did trol know. That 11; never a charge for air fills at Orange County Scuba Center on Tu tln Avenue. You can also get Nitrox and Toe fills for higho, oxygen mixes UI,0FC as well.

Adam Helborg, Sandy Chlo, Trav l• Dlo nson ond 10 others Ii<,, tnb .

•if Khrystyna Cusimano W 0ts lhe sha r ss?
L1 7he t, w

T11Iv11t D1c1J14es fnyte m..ung and so kl>CI. Prdfic W:1dc1n11SS$ used to be the " - (11111 1 1 PCm, biawow lMin.11 MW m? I m08r.
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Kimborly Grubbe-la11casler
Sepwr er 6, 1017

Yes Khrystyna Cusimano we have priiorly or spo left fo1 Farnsworth on Sund onu wo1,ld love to have you ou! and yom buddy! Keep spmadlng lhe wonJt

Kimborly Grubbe-la11casler
Sepwr er 6, 1017

Yes Khrystyna Cusimano we have priiorly or spo left fo1 Farnsworth on Sund onu wo1,ld love to have you ou! and yom buddy! Keep spmadlng lhe wonJt

KJmMyly Glut,be@hot199er "Hi size 30 uro doni, we l1aw u
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...s u up lls our W14. e a... MF(1g is mydefic14) l con BI111111 to H4)
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Khrystyna Cusimano
Scriaria, a 13, 2017

Sunday it looks like I'm, d,v. ng lhe CeoRay anyone "can lo loa 1 me? Patty
L11111111111, Juoni JRF Haar,a, P111113 Dumas,Jnson Schwenz77? TM more like
1,fa.mari

https://www.facebook.com/groups/86892505367 8/IS/?2011-1
Had a really good time sharing with fellow Club scuba divers at Goal HI Tavern happy hour yesterday. Thanks to our president Carlos for selling it up.

Tom Gormon III, John Zarvos, Coolio 0.8em and J other, he has

Carlos Gomoz

Awe some time $here/ly ny all. Papa J/lllos d lwo, eo on time. Tro found out wo won #019 and came out 10 moo, is. He's looking lowa d to lleep wa,er r/nmx and!!!11111111 diving with L SD.

Khristyna Cusimano

July2

One spot. Just came up on the Fe.mswo h Trip on August 4th. If you want to go private message me. $140

Anastasia tday ii 65 IMS

Q. RJ Onl shnted Brantcori G Cole's puls.

Hi friends! Lasl a knife al Shaw's in laguna on our divs- Tday, n's a cress, s o.r, 1011 Itanl m koire. 11as no shealh it lol 0.11 If anyone happens to find it plenso contac1 either one 01 us. Hopingills allached Un work. lol.

K Successful CJ Cola WC Sault-a Center Club

Juni 30

Hi nyorooh l1dso C, - 111111111, kni/e (n, = th) at Shaw's I toal II 11,e. 11115
J711en THREADS w.d V1-L1 r. , R., , IJo-111.

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Ri Or11 rapt'd 2 R. pr os
LAGUNA SEA DWELLERS, INC.
BY-LAWS

A California Non-Profit Organization

Article I
OFFICES

Section I. Principal Office: The principal office of the Corporation is hereby fixed at 220 Newport Center Drive, #11-182, Newport Beach, CA 92660. The Corporation officers are hereby granted full power and authority to change said principal office from location to another in the County of Orange.

Article II
CLASSIFICATION OF MEMBERS

Section I. There shall be one (1) class of members to this corporation.

Section II. ELIGIBILITY FOR MEMBERS. Any person, who has an interest in scuba diving or is a holder of a recognized certifying agency dive card, shall be eligible to apply for regular membership in the corporation. Minors (those under 18) need to join with a parent or guardian. All members are required to follow Fish & Game regulations; therefore, a license will be required to fish or hunt with the corporation.

Section III. QUALIFICATION AND ADMISSION OF MEMBERS. In order to become a member of the corporation, a prospective member must express his/her willingness to take an active part in the corporation activities and pay an initial membership fee. He/She must abide by all dive safety rules and regulations and attend regular meetings.

Section IV. TERMINATION OF MEMBERSHIP. A membership is not transferable and any membership shall terminate upon the death or resignation of the member. A membership may be terminated for any reasonable cause, including but not limited to, non-payment of dues and/or initiation fees, non-payment for trips or events sponsored or organized by Laguna Sea Dwellers, Inc., continual disregard of safety rules, non-attendance of at least three (3) annual meetings, or for any other reasonable causes. If a majority of the Board of Directors votes to terminate a membership, the Board of Directors must provide written notice to the member with a minimum of 15 days prior notice of the termination and the reasons therefore; and the Board of Directors must also provide an opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the termination by the general membership which can then decide by a majority vote of a quorum of those members present at a monthly membership meeting that the proposed termination not take place.

Section V. DUES AND INITIATION FEES. All members are subject to an initiation fee, payable to the treasurer upon gaining membership status. The initiation fee for individual memberships is $50.00. The initiation fee for family memberships is $80.00. Dues for out-of-area members (outside of Orange County, Los Angeles County, San Bernardino, Riverside, and San Diego Counties) are $25 for Individual and $40 for family memberships. Family membership consists of husband and wife and an unlimited number of children under the age of 18. Individual membership includes one t-shirt, cap, license plate frame (or similar LSD logo’d token), and family membership will include two t-shirts, caps or license plate frames (or similar LSD logo’d token). Annual renewal dues will be payable on 15th of April each year they are a member. The renewal dues for an individual are $40.00, and $60.00 for family membership renewals. Renewal dues for out-of-area members are the same as initial dues. Dues not paid by June 1st will be subject to full new initiation fee without obtaining another t-shirt, cap or license plate frame (or similar LSD logo’d token). If the initial membership occurs between November 1st and April 30th, renewal is not due until April 1st of the following year. Initiation fees and annual renewal dues shall be determined solely by the Board of Directors.

Section VI. MEETINGS OF MEMBERS. The annual meeting of members shall be held in January of each year. The Laguna Sea Dwellers, Inc. meets monthly on the 3rd Wednesday of each month. The Laguna Sea Dwellers board meets on the 3rd Wednesday of each month at a location agreed upon by the corporation officers.

Revised 111B12
Section VII. VOTING
All members age 18 or older shall have equal voting and other rights. Each member shall be entitled to one (1) vote per corporation officer position, which may be cast in person or by proxy. The presence in person or by proxy of one third of the regular members of the corporation shall constitute a quorum for the transaction of the business as a meeting of regular members. Voting for Officers may be conducted using an Internet-based voting/survey program at the discretion of the Board of Directors. Voting for officers shall be conducted by a Voting Committee selected by the Board of Directors and shall consist of 3 members who are not candidates for any current office. The Voting Committee shall dissolve immediately after the election results are accepted by the Board of Directors.

Article III
OFFICERS

Section I. OFFICERS
The officers of the corporation shall be a President, Vice President, Treasurer, Secretary, and Membership Chairperson. The term of each office shall be one (1) year.

Section II. ELECTIONS
The officers shall be chosen annually by the regular members and each shall hold his/her office for one year. A member may accept nomination of, and occupy, only one officer position. An officer can be removed or disqualified by himself or herself, or by the Board of Directors (2/3) vote of the regular membership. Vacancies can be filled by appointment by the President to fulfill the balance of the term of the removed or disqualified officer. In the event of a tie vote for any of the officer positions, another election shall be held by the Voting Committee within 30 days of the general election. In the event of another tie vote at the second election, selection of the officer shall be by a coin-flip directed by a member of the Voting Committee and held at the first membership meeting following the results of the second election.

Section III. PRESIDENT
The President shall have general supervision, direction and control of the affairs of the corporation. He/She shall preside at all meetings and meetings of corporation officers. He/She shall attend a majority of the Corporation's meetings and functions. He/She shall hold the deciding vote in case there is a tie, except in the event of tie vote. For any officer of the corporation (see Article II, Section VII above). He/She shall be responsible for obtaining a speaker for the monthly meeting, or will appoint a member for that purpose. He/She shall assist in the writing of the Corporation Newsletter.

Section IV. VICE-PRESIDENT
The Vice-President shall, in the absence or disability of the President, perform all the duties of the President, and when so acting, shall have the powers of, and be subject to the restrictions upon, the President. He/She shall attend a majority of the corporation's meeting and functions, and shall act as the corporation's Recruitment chairperson, promoting the corporation to new divers. He/She shall be in charge of the phone/email committee, and will be responsible for appointing other members to these duties. He/She will be responsible for providing a monthly contribution to the corporation's newsletter, working with the President, and he/she shall be responsible for introducing new members to the corporation at all corporation monthly meetings.

Section V. TREASURER
The Treasurer shall, at the request of the corporation's officers open the corporation's bank account, keep and maintain adequate and correct books of accounts showing the receipts and disbursements of the corporation. Such books of accounts shall at reasonable times, be open to the Inspection by any member or corporation officers. The Treasurer shall provide a monthly financial report to the Board of Directors. He/She shall disburse the funds of the corporation as may be ordered by the corporation's officers, and shall render to the president or corporation officers, upon request, statements of the financial conditions of the corporation. The Treasurer shall collect dues and notify members when they are delinquent.

Section VI. SECRETARY
The Secretary shall keep the book of minutes of all meetings, shall be responsible for a monthly article to the newsletters or appoint such person to write the article. He/She shall be responsible for all correspondence and official documents of the corporation.

Section VII. MEMBERSHIP CHAIRPERSON
The Membership Chairperson will be responsible for collecting applications and disbursing new member packages. He/She will also be responsible for maintaining the
Article IV  
MISCELLANEOUS  

Section 1. COMMITTEE CHAIRPERSONS  The Board of Directors shall be responsible for selecting the chairperson of all committees.  

Section II. INSPECTION OF THE BY-LAWS  LSDI shall keep at its principal office a copy of its articles and bylaws as amended to date, which shall be open to inspection by the members at all reasonable hours. LSDI shall, upon the written request of any member, furnish to such member a copy of the articles or bylaws as amended to date. 

Section III. LSDI PROPRIETARY INFORMATION  The LSDI website, which includes the LSDI logo and all website content, including but not limited to, all pictures, images, and database information containing each member’s personal data, are considered proprietary ("LSDI proprietary information") for the exclusive use and benefit of the LSDI organization. If any member, committee member, member-at-large, or any officer misappropriates or uses any of the LSDI proprietary Information for their personal use or for any business use, or uses any of the LSDI proprietary Information without the express written consent of the LSDI Board of Directors, the member, committee member, member-at-large, or any officer is subject to termination from LSDI in accordance with Article II Section 4 of these Bylaws. 

Article V  
AMENDMENTS  

Section I. Bylaws may be adopted, amended or repealed by the Board of Directors unless the action would: 

1. Materially and adversely affect the rights of members as to voting, dissolution, redemption, or transfer;  
2. Increase or decrease the number of members authorized in total or for any class;  
3. Effect an exchange, reclassification or cancellation of all or part of the memberships; or  
4. Authorize a new class of membership.  

For Items 1 through 4 above, a vote of the majority of a quorum at a meeting of the members called for the purpose of amending the Articles of Incorporation or Bylaws. Such voting may be conducted by electronic methods. 

Article V  

Section I.  
A) All members signing up for corporation activities will be held liable for their amount of financial obligation, unless their name is removed from the list two (2) weeks in advance of the activity.  
B) All non-members will be required to pay for corporation-sponsored activities in advance.  
C) All dues and financial obligations must be up-to-date. In order for a member to be eligible for corporation-sponsored “free trips” or other corporation benefits, dinners, etc. All corporation benefits are corporation-owned, and are not transferable.  

Certification of the Secretary  
I, the undersigned, do hereby certify that I am the duly elected and/or acting Secretary of the Laguna Sea Dwellers, Inc., a non-profit organization, and that the foregoing by-laws comprise of the three (3) pages, inclusive, constitute the by-laws of the said Corporation as duly adopted.  

IN WITNESS WHEREOF, I have hereunto subscribed my name this Day of ___, 2012. 

Revised 11/18/12
Secretary
Friday: February 10th
5:00 pm to ????

2017 Club Mixer

Let's Share some Fun'
at

Karl Strauss Brewery Co.

901A S Coast O, Costa Mesa CA 92626
(714) 546-2739

Come and party with your buddy's!

It's an end to a long week, step out and party!

Fun, laughter and Happy Hour drinks!
Bring your Buddy's and join in on the fun!

Laguna Sea Dwellers, Inc.
Join your fellow Club Members at the Karl Strauss Brewery this Friday between 5 & 7 for Happy Hour on the patio. Bring a friend!

Friday: February 10th
5:00 pm to ???
2017 Club Mixer

Tom Gorman III
Laguna Sea Dwellers
February 8, 2017

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Friday: February 10th
5:00 pm to ???
2017 Club Mixer

Tom Gorman III
Laguna Sea Dwellers
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Laguna Sea Dwellers, Inc.

Beautiful Bonaire
From Bonaire Island <> Underwater Imagery of m.sh. Lif"l In hair naYr I ha lai. Tarpon, Barasuda, Spanish Ho-lsh, P<.>e<.>cu ma$h, "lonrish. Goil Thei<.>

https://www.facebook.com/photo.php?fbid=10211142531332912&set=gm.101581200156... 8/15/2018
9. Tom Gorman III

February 10th, 5:00 pm to ???

2017 Club Mixer

 àsShare some Fun!

Karl Strauss Brewery Co.

901 A Coast Ct, Costa Mesa CA 92626
(714) 566-7739

Come and relax with your active bodies.
It's an end to a long week, step out and party!

Laguna Sea Dwellers, Inc.
ATTACHMENT 6

2015 Laguna Sea Dwellers Board:

Jane is listed as the Membership Chair

Page 5 of 9

- January 31, 2015 A picture of Jane and her boyfriend on a boat, backs leaning against the boat cabin, sitting on the boat floor.
About Us
Meet the Laguna Sea Dwellers Dive Club

Ready to Dive with LSD?

We dive all over the place...But most of the time, we dive in Laguna Beach! We meet at least two Saturdays every month for a club dive. We rendezvous at the top of Shaw's Cove or Heisler Park in the morning for a quick survey of the different coves and we head for one of them for one or two dives. Tuesday nights are our scheduled night dives with Scott and Robb. Meet at 6:30pm at the top of Shaw's Cove. Check the calendar for upcoming planned dives, and if you are a member, watch your email for notification of additional planned club dives! Popular dive spots that we frequent include Shaw's Cove, Diver's Cove, Fisherman's, Heisler Park and further south Montage and Woods Cove.
LSD At a Glance

/ Where We Dive

/ Club Meetings

Membership Benefits

/ Paperwork

Club Meeting Location | Newport Beach Tennis Club

Our monthly club meetings are held every 3rd Wednesday of the month at the Newport Beach Tennis Club starting at 6:30pm on the patio. Dive club meetings are open to anyone and is a great opportunity...
to meet new dive buddies or discuss membership, upcoming events or any topic of interest with our Board Members.

Each month we invite one or more guest speakers to discuss a dive-related subject. In the past we've had world famous Dan Orr from the Divers Alert Network (DAN), IMAX 3D Underwater filmmaker Dave Forsythe, renowned photographer Andy Sallmen, local celebrity Dr. Bill Bushing and more! We also hold a raffle at each meeting for the opportunity to win great prizes.

2015 Board


Gary Williams

Nulla sed ligula nunc. Donec sed risus eget libero fringilla aliquam sit amet ac nibh. Nulla scelerisque, diam ac lacinia.

Dianne Buckner
Secretaty
Fusee in metus orci, ac laoreet lea. In hac habitasse platea dictumst. NuHam condimentum velit a arcu accumsan in pretium.
Jane Martorana

PhaseJlus nee magna nee enim egestas tincidunt. Quisque lverra scelerisque pulvinar. In pretium dignissim adipiscing.

Kirk Woloshyn

---

Dan Eisenbeisz

Newsletter Editor

Nulla sed ligula nunc. Donec sed risus eget libero fr in gilla aliquam sit amet ac nibh. Nulla scelerisque, diam ac lacinia.
Roeland Papen
Boil Tip Committee Chair

Fusee in metus orci, ac laoreet leo. In hac habitasse platea dictumst. Nullam condimentum velit a arcu arcumsan in pretium.

Joe Uburdi
Photo Chair

Phasellus nee magna nee enim egestas tincidunt. Quisque viverra scelerisque pulvinar. In pretium dignissim adipiscing.

Ready to Dive with Laguna Sea Dwellers? Join Today!

http://www.lagunasd.com/about/

8/15/2018
ATTACHMENT 7
Jane Martorana in 2013 La Paz Mexico Scuba Diving Trip, Sitting in a pool drinking
(Multiple pictures attached)
AI Gorman Dive Adventures and Travel La Paz, Mexico Scuba Trip.

Scuba Diving Center Gorman Dive Adventures and Travel Photo

Português (Brasil) Italiano Deutsch English

Create Page Developers Careers Privacy Cookies

9/13 2013
At Gorman Dive Adventures and Travel La Paz,,
Mexico Scuba Trip.

Scuba Diving Center  Gorman Dive Adventures and Travel  Photos

Portugues (Brasil) Italiano  한국어  Deutsch  ไทย

Create Ad  Create Page  Develop  Careers  Privacy  Company
ATTACHMENT 8

Laguna Sea Dwellers Newsletter May 2012

(Page 2)

Thanking Jane LSD members who staff the booth at the 3rd Annual Easter Egg Hunt
Upcoming Events:

- 5/1 • Night Dive@ Shaws Cove BPM
- 6/2 . Chamber Day/Chamber Eve
- 6/4- Happy Hour at Gulfream, Newport Beach 6:30
- 515 . Dive @ Shaws Cove BPM
- 5/1 -SeaBasa • Palos Verdes 7AM
- 6/16. Club Meeting@ NBTC 6:30PM
- 5/19. Club dive 8AM © ShEwls. Picnic , Heisler Park @ 1 FM1 with SOCD.
- 6/1. Happy Hour at Muldoon's, Newport S..ach 5:30
- 6 12 . Dive@ Shaws Cove LIAM

Inside this issue:

- Luau
- President's Message
- Dive Photo Winners
- Easter Egg Hunt
- Board Members
- Easter winners
- In Case You Missed it
- M y Birthdays
- SCUBA Travel Planner
- Boat Dive Report
- April Winners
- Milestones
- Bullets to Bubbles
- Travel Deals
- Guest Speaker
- Letters from Editor
- Dive Deals
- Calendar
- In Case You Missed it

Boats: Cee Ray, MaEldan, Sea Bai;
Depart 6:30 A.M. Return approx. 8:00 P.M.
COST: $135 for divers $95 for non-divers $25 PP
private boat
Reservations: contact boats@lagunaseadwellers.com
..e web site: www.LagunaSea Owe llers.com.
.o•Limited spots available: Tlllose on the list that have not paid may go to the waiting list...
Greetings from Cathy, LSD President

April was a busy month! We had a bowling mixer, filling 5 lanes again! Prizes went to: Dan Eisenbeisz for the Most Strikes, Steve Craig for the Highest Score, Makena Rogers for Most Gutter (it was a close call for several of us), Jason Middyett for the Best/Smoothest Style, and Laura Swanson for the Most Determination. A GREAT time was had by all! Watch for LSD Bowling in October!

The next day was our Annual Easter Egg Hunt and...thanks to Sue and Bill Manrow, Nancy Kluve, John Staats, Mark Bogart, Dan Eisenbeisz, Kirk Woloshy and Laura Bazerman for all their help with the Annual Easter Egg Hunt. Mark and Yvonne Angel whipped up fabulous sausage s, past and fresh-baked bread (with help from John Lee and Bill Manrow); and the very generous sponsors for the Easter Egg Hunt including Scuba World, Beach Cities/Laguna Sea Sports, Dive & Photo, Olivegear, Magician, Humboldt, Bluewater Photo, Newport Beach Tennis Club, the Manrows, Jane Martorana, Gary Williams, Mark Bogart, John Staats, Gary Sanders, Martha Edge, Diane Deturmeny, and me! Congratulations to the winners of all the prizes! We hid 42 eggs and 34 came back that day. There were 70+ prizes for the egg winners and the regular raffle. All-in-all, a good day!

KelpFest on the 21st drew a big crowd to Main Beach in Laguna including several LSD members who staffed our booth! Thanks to Jane Martorana and Julie Steers for heading up the effort for LSD’s part and to Bill Manrow and Tom Gorman for entertaining the kids and others that stopped by, Dan Eisenbeisz, Martha Edge; and Oebbie & Derek Karimoto for lending a hand throughout. The Bean Bag toss was again a hit.

This is my volunteer appreciation article and I’d like to acknowledge and thank a bunch of people for all the contributions to club events and initiatives so far this year. The volunteerism has been fantastic again in 2012, and it is truly very generous! Thank you to Gary Williams and Gary Sanders for all the boat trip planning; Robb Evans and Scott Auchmoody for leading the monthly Tuesday night dives; thanks in advance to Gary King, Jon Haddan and Joe Laskowski for recently volunteering to treat the ones on the twice-monthly Saturday morning beach dives; Ed Mickus for lining up speakers for our meetings; John Staats, Scott Auchmoody, Mark and Yvonne Angel for our wonderful BBQs and Dan Eisenbeisz, Martha Edge, and John. Lee for securing the picnic table; Kevin Boyd for our terrific newsletter; Jean Yves Couleaud & Sherry Cubillos for the creation of our beautiful, functional website; Gary Williams for managing the website; Nancy Kluve for keeping membership organized and cheerfully welcoming new members; Kirk Woloshy for ta king our money and donating the new wireless microphone for our meetings; Dianne Buckner, Xandra Laskowski, and Julianne Steers for the fantastic raffle sales; Dianne Buckner for documenting the meetings and photo s at the events; John Lee and Bill Manrow for expert handling of the AV for the club meetings; Bruce McKeon for help with the alcohol permits and other odds and ends; Ed Mickus has done a fantastic job lining up the speakers this year and last; Craig Staller and Tom Penn have been awesome at helping to round up volunteers and lending a hand when needed; Debbie Karimoto for helping to run the club meetings and her contributions to the newsletter; Julianne Steers for leading the Special Projects Committee; and Joe Liburd for running the Photo Contest.

Our Luau planning is off to a great start! If you aren’t signed up yet, there’s still room! We have secured 3 boats (Magician, Cee R., Sea Bass). We are planning for 70 people again including mostly divers and some non-divers. Get your name on the list and the sooner you pay, the sooner you secure your spot! This is an event you do not want to miss! Thanks to Dianne Buckner, Kirk Woloshy, Konrad Fry, Bill and Sue Manrow, Martha Edge, Diane Deturmeny, Tom Penn, Jerry Lewis, and Gary Williams for planning the food, boat logistics, and activities. Also, private boaters are welcome at the Luau and for them, it is only $25 per person!

Whew! That is a lot of acknowledging! If I have forgotten anyone, it wasn’t intentional. Please let me know, and I will be sure to get your name in next time.

With Spring and Summer under way, we still have a full calendar over the next few months. Plenty of fun diving and diving-related activities! Your club membership puts you first in line to participate! We have a good start to our renewals for 2012 but there are some stragglers. If you have not renewed yet, will you please take a few minutes now to make your payment? We really appreciate you and want to be sure you continue to get all the club news and perks! Please don’t be a stranger and renew now! Thanks!

Thank you to you, the club members, for continuing your membership, buying raffle tickets, attending all the events and activities, and making all the efforts everyone puts forward fun and worthwhile! Hope to see you on the beach, at our BBQs, at a mixer, at the LUAU in July, any of our boat trips, monthly meetings, and oh yes: bowling again, too! Have a great month, and always, DIVE SAFELY and Have FUN!

Cathy Solomon
President
president@lagunaseadwellers.com
Cindy Shaw
1st Place
Birds, etc.

1st Place
Computer Art
Patrick Smith

We Photo Winners
Meet your Laguna Sea Dweller Board Members

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>President</td>
<td>Cathy Solomon</td>
<td><a href="mailto:president@lagunaseadwellers.com">president@lagunaseadwellers.com</a></td>
</tr>
<tr>
<td>Vice-President</td>
<td>Debbie Karlimoto</td>
<td><a href="mailto:vp@lagunaseadwellers.com">vp@lagunaseadwellers.com</a></td>
</tr>
<tr>
<td>Secretary</td>
<td>Dianne Buckner</td>
<td><a href="mailto:secretary@lagunaseadwellers.com">secretary@lagunaseadwellers.com</a></td>
</tr>
<tr>
<td>Membership</td>
<td>Nancy Kluve</td>
<td><a href="mailto:membership@lagunaseadwellers.com">membership@lagunaseadwellers.com</a></td>
</tr>
<tr>
<td>Treasurer</td>
<td>Kirk Woloshyn</td>
<td><a href="mailto:treasurer@lagunaseadwellers.com">treasurer@lagunaseadwellers.com</a></td>
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</tbody>
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Member.1-t-Large
- Dan Eisenbeisz
- Bill Manrow
- Sue Manrow
- Bruce McKcon
- Ed Mickus
- Craig Staller

Boat Trip Committee
- Tom Penn
- John Lee
- Julianne Steers
- John Staats
- Gary Sanders

Newsletter Editor
- Kevin Boyd
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<th>Prize</th>
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**Mt@WW JU@ru @@O][Y @][Ji]@][Y 8**
Our April meeting at the Newport Beach Tennis Club was a nice one with the weather pretty decent/cooperative so we didn’t freeze! Announcements of upcoming events were discussed and, as usual, we have a lot of fun things in store (see the website for calendar of events).

Before our main speaker took the stage Ken Kollwitz took a few minutes to inform us about Channel Island Dive Adventures. His company offers well-organized dive trips to unique and interesting destinations with a dive/travel guide present to educate you about the dives you will be taking. This also helps foster new friendships with other like-minded divers and promotes safe, fun diving. GIDA currently charters the Raptor, Peace, Pacific Star, and the Lois Ann for their trips.

Our speaker for the evening was Monica Bradley - OM and RN. We learned about Emergency Management - a presentation for the certified diver of all levels to assist in maintaining a safer dive environment.

About Monica: PADI Dive Master 2004, PADI Instructor 2011, over 20 years Emergency Department experience, 10 years working for fire departments, responsible for the education of paramedics and EMT’s. Six years working providing the education for Catalina Island Baywatch, LA County and Avalon Fire Department. EMT’s and Paramedics.

Monica encourages us to practice potential emergencies as a group so that if one were to actually occur then we will be better prepared. We learned a lot from her presentation. If you weren’t there, I’m sorry that you missed it.

Next month the speaker will be Ralph Collier - Shark Research Committee.

Our raffle this month included some pretty nice prizes, including a two-for-one boat dive trip that was donated by Ken Kollwitz. See elsewhere in this newsletter for the winners of the regular raffle.

The May meeting will be on the 16th at the usual place - NBTC. Hope to see YOU there!
Less than stellar local spring diving conditions often inspire divers to head for warm water destinations and this year is no exception. With many of us packing dive gear for upcoming O2 trips I thought I'd list some ideas that can be useful or even critical for a successful dive trip, especially when switching from local diving to travel diving. It is not comprehensive but I hope these suggestions can assist with your dive travel planning and packing!

- Place photocopies of your passport in each of your bags along with contact info.
- Keep an electronic copy of your passport with someone at home.
- Weigh your packed gear before you leave to avoid costly surprises at check-in.
- I usually carry-on my camera gear and regulator but couldn't for the puddle jumper to Little Cayman so be sure yours is packed securely for checking if you'll be on that type of flight.
- Don't forget your C-card, logbook and your valid DAN card!
- Franko map for your diving destination?
- Safety sausage, unbreakable mirror and whistle
- If you have a weight-integrated BCD, remember to pack your BCD weight pockets! Yep. I forgot mine once!
- If you dive a DIN regulator here then you'll probably want to switch to a yoke reg connection or pack a DIN to Yoke Adapter.
- Will your fins fit properly over the footwear you plan to wear in tropical water? If you normally wear a drysuit or have spring straps then your fins may be too big for travel booties or, do you need some neoprene socks to reduce chafing from full foot fins? Something to ponder!
- Will you want a skn or a thinner wetsuit? Most of us will want at least some protection from cold and from hazardous marine life. Keep your head warm, especially during night dives!
- Will you want a reef hook or a muck stick? These can be very useful in currents.
- Extras or backups?
  Hoses, mask, light
  Memory cars, portable HD, batteries, strobe sync cords
  Rescue tape - you can purchase it at Scuba Show!
- Will you want a travel cell plan and/or wi-fi access? Skype for phone calls can be a money-saver, as can Facebook if you will have wi-fi access. Don't forget to set your phone to the proper settings if you don't want to receive roaming calls.
- I sometimes create a special email address to share with immediate family for emergencies. It helps me stay away from mundane emails when trying to relax while knowing that I can be easily reached if needed!
- Chargers, rechargeable batteries, a power strip and int'l voltage adaptors. If needed
- Critter ID apps? Check to see if there are smartphone or tablet apps to replace the bulky critter ID book6 for your travel region.
- More swimsuits. Fewer street clothes than you think you'll need.
- A windbreaker and hat, especially for boat or night diving, even if it's warm there!
- If you're a drysuit diver don't forget to reattach your drysuit hose to your regulator after you return to cool waters! (Sadly, this affected Joel and Jeanne this week, but thanks for the helpful hint!)

As you can see, some of these items are obvious and others are a little obscure. Hopefully my suggestions will assist you in switching from local to travel diving and then back again!

Please share some of your pix for our club newsletter. When you return! If you're tempted to share your trip report with OCdiving that would be terrific, too! If you're not already an OCdiving News subscriber you may sign up for free by sending an email to news-subscribe@OCdiving.com and responding to the confirmation email. (Local dive news and info is its focus but travel reports are a fun diversion!)

If you have not yet planned a travel dive trip for this year, perhaps it's time! Where do you want to go? Some of our club members and dive shop partners are also dive travel professionals so there is an abundance of information and opportunity waiting for you. And hey, have a great time! ~Debbie
still have room left on the Palos Verdes dive and the Anacapa Island dive.

You can now sign up for the Luau. We will not be assigning bunks yet, because we have not yet determined which boat will take the food to the island. For divers, the price is $135, and for non-divers, the price has been lowered to $95. For those going over in private boats, the price remains the same at $25.

Beyond the Luau, you can also sign up for the Catalina/San Clemente Island trip in August. Remember, this will be strictly limited to 20 people, and will sell out.

Tip for you: After you sign up for a trip and have paid for it, when you go to "My Membership Status" and see the list of trips you have paid for, under the Activity Date, upcoming trips have a hyperlink where you can click and the site will send a calendar item to your email so you can automatically put it in your calendar!

We hope to see you on future dive trips!

May 11th  
June 9th  
July 14th  
August 11th, 12th  
September 22nd  
October 27th  
November 17th

Palos Verdes  
Anacapa  
Luau  
Catalina/San Clemente combo  
Farn's N'Orth  
San Clemente Island  
TBD

Sea Bass  
Peace  
Magician, Cee Ray and Sea Bass  
Magician  
Magician  
Magician

News from Kevin Lee

I'll be exhibiting photos, alongside Graterman's fantastic slug sculptures, in Connecticut in June.

More info: www.diverkevin.com

Milestones

Thomas Penn - 40 dives  
Patricia Hirsch - Dry Suit certification  
Joe Schneider - Dry Suit Certification

New Members

Dale, Eden, Aubrey & Coleson Cowart  
Sean Sydnor  
Isaac Gesser  
Greg Tengan  
Elizabeth Waller

April Prize Winners

Dry Bag - John Zarvos  
Magnetic Sfate - Brian Oltman  
SCUBA dive mat - Brian Oltman  
Tank Banger - Brian Oltman  
SCUBAPro mask - Isaac Gesser  
Sauvignon Blanc - Gary Sanders  
2lor1 dive trip - Greg Parra (Donated by Ken Kollwitz)  
Resusitation mask - Larry Harris (donated by Monica Bradley)  
Dive light - Isaac Gesser

ScubaPro bag - Vic Rodriguez  
Sierra Sweater - Joyce Legate  
Dive Sausage - Brian Oltman  
Insulated Bag - Cathy Solomon  
Movie Tickets - Larry Harris  
Cabernet Sauvignon - Kevin Boyd
Imagine waking up from a dream and finding yourself having mental and emotional difficulties, loss of sight or hearing, severed arm or foot, or the loss of a complete limb. Imagine waking up and seeking the compassion, support and welcoming of others and not getting it from those that you fought to protect. Imagine your life turned upside down with nothing to turn to except the darkness of your room in a Veterans hospital. Imagine! How would you feel? How would you go on?

Now for a moment imagine a group of men and women, SUS divers, coming towards you to support you, to offer their hand of friendship... a group that is alive with the enthusiasm and passion that you once had, welcoming you into their circle of friends and the excitement of SCUBA diving.

Today, thousands of men and women who went to Vietnam, Iraq, Iran, Afghanistan and dozens of other places around the world to protect our freedom and the freedom of other soldiers have or are coming back to us out of their dreams and nightmare seeking a welcome. Many are coming back with mangled bodies and minds. Some, we can see the evidence of being in battle. Others, those images are simply in the altered minds of those who were in the depths of the fight. But all are scared in some way.

They transition from the safety of the communities they once came from, trained to be warriors, and experienced the eternal adrenalin of being on the edge of war. No. the adrenalin rush is no longer there, there is no directed focus, but their disabilities are most in their minds.

When we SCUBA divers enter the water, we know the exhilaration that comes from being in that place of not knowing. Our adrenalin rushes and we seem to forget the trials and tribulations of our daily routine. We become one with nature and our spiritual well-being is nourished by those underwater creatures that live in the place that we visit under the waterline. We are in place of peace and tranquility. Imagine!

Imagine if the nightmare of war and the scares of battle could for a moment be replaced with the rush of adrenalin that comes from being buoyant in the water and being at peace with the ebb and flow of the tides and kelp.

The Disabled Veterans SCUBA Project (DVSP), founded by Lieutenant Colonel (Retired) Melvin Pasley, U.S. Army, doing just that for our disabled men and women veterans in Southern California. And, most recently Dr. Debra A. Hii, MD produced a documentary on the efforts of DVSP. In a movie called "From Bullets to Bubbles," I experienced the movie at Divers Day at the Long Beach Aquarium and was moved and touched by the words and pictures offered.

The Mission of the Disabled Veterans SCUBA Project is "To serve disabled Veterans by helping them experience the camaraderie of SCUBA diving and the wonders of the underwater world.

The disabled veterans SCUBA Project was started by veterans for veterans and is dedicated to providing SCUBA diving instruction and certification to veterans with a disability. They recognize that a veteran has served their country and the many sacrifices that came with that service. Their first priority is to the combat wounded veterans including those suffering from Traumatic Brain Injury (TBI is the signature wound of Iraq and Afghanistan), Post Traumatic Stress Disorder (PTSD) and poly-trauma (multiple injuries) in addition to the blind, paralyzed or amputees.

In the water, interesting things happen to some divers with spinal injuries. Some report being able to feel things in paralyzed areas of their bodies. others report a lack of pain. Each has a different experience, but all have felt and get to be out of their wheelchair, participating for a time as just another individual enjoying a sport with their friends. The Veterans Administration is currently planning a medical study of the physical and psychological "benefits" of SCUBA diving on individuals with spinal injuries and SCUBA diving is regularly used as physical and mental therapy.
So why have I taken the time to share this story with you. We live in interesting times. There is crime in the streets, the economy has affected all of us, and the politics of the world and our Nation are in a state of flux. Our veterans are coming home. The Disabled Veterans SCUBA Project is a place that we can all make a difference. These Veterans have sacrificed much for all of us without asking for anything in return. Many are all alone and are not asking for handouts, but simply the hand of a friend. We at Laguna Sea Dwellers are fortunate that we can go out on a Saturday or Sunday and experience the blue waters of Laguna Beach. Catalina or other Southern California dive spots. We are fortunate that we can easily travel anywhere around the world and experience the excitement of diving in uncharted waters. We have "ability" while they have "disability". But when they enter the water, just like us, there is no difference between them and us as we experience our underwater world with our buddy.

I feel so strongly in support of the DVSP program that I want to invite the members of the Laguna Sea Dwellers to join me in supporting this effort. This might include offering dive support in the water, instructional support in the classrooms, and most importantly dollars to pay for the incidental costs of dive equipment, air fills, boat operations, travel costs, etc.

I hope that in the future, I can share more in a monthly meeting and offer the screening of "From Bullets to Bubbles". Until that time comes, I invite you to go to http://www.disabledveteransscubaproject.org/ and find out more about the Disabled Veterans SCUBA Project. If you are interested in joining me to begin to form an initiative around supporting the DVSP program, then please contact me at marshallkrupp@communitysystemsassociates.com or at 714-838-9900 or 714-624-4552 (cell).

Imagine how you and I can make a difference!
Travel Deals

Happenings at

You'll See the Most Fabulous Faces in La Paz!

August 29 to September 3, 2012

Hotel & Diving

5 Nights, 6 Days
3 Days Diving
$113

4 Days Diving
$129

Epic Computer $699.95 (reg $999.95)
T3 computer for $649.95 (reg $899.95)

Dive and Photo will be at the SCUBA show, booth 404. Stop by, say hello and see the specials.

Santa Barbara trip on the Magician, May 20th.
Epic Computer $699.95 (reg $999.95)
T3 computer for $649.95 (reg $899.95)

Socorro Island’s Trip $2899.00

8 Nights Live Aboard, meals & beverages included, deluxe cabins have twin beds and single bed above, private shower and bathroom in each cabin,
6 Days of 3 to 4 dives per day

*PRICE DOES NOT INCLUDE: R/T Airfare from LAX to Cabo to LAX, $25 National Marine Park Fee, $15 Chamber fee due on boat, shuttle service to boat and gratuity.

*NITROX (EAN) is also available for an additional $100 per week!

PRICES SUBJECT TO CHANGE UNTIL CONFIRMED BY DEPOSIT
Contact: Tom Gorman at tom@diveadventures.net or (714) 319-7577
We have 4 spots open for our Philippine Trip in Nov; 1st - 15th.
7 Nights on the Azores and 4 night at Atlantis Oumaguete Resort! See website!
Call for information or go to my website: www.diveadventures.net

Looking to Dive Papua New Guinea in 2014
Ralph Collier of the Shark Research Committee

“Great White Shark - Villain or Victim?”

We will look at the Great White Shark, from its first ancestors 400 million years ago, until today. We'll discuss its sensory systems and the diversity of all shark species today, including the giant whale shark, basking, thresher, and goblin sharks, to mention but a few. We'll refute the many myths about sharks and their interactions with humans, including the 5 shark attacks in 6 days at Sharm El-Sheik, Egypt in 2010. Finally, we will present the status of sharks worldwide and the consequences to the ocean ecosystems at the present rate of exploitation.

Annual Membership Dues

Dues Renewal! It's May, and if you have not renewed yet, we still want you! Just a gentle reminder to renew now! We hope you will! Annual renewal dues are $40 single. $60 family. Cash, check, or credit card are accepted. Several ways to pay - you may renew by credit card online at our website, www.lagunaseadwellers.com. Or, you can mail a check to Laguna Sea Dwellers, 220 Newport Center Drive, #11-182, Newport Beach, CA 92660. If you joined on 11/1/11 or after, you do not have to renew now. If you have any questions, email membership@lagunaseadwellers.com. Thank you!

May Guest Speaker

Laguna Sea Dweller monthly meetings are held at Newport Beach Tennis Club
2601 Eastbluff Newport Beach, CA 92660

Our table is full! But, Beach Cities still has space available. If you wish to go, sign up at www.chamberday.org.

We hope to see you there!

A note from the Editor

Well, this is the month that seems to kick off the “diving season” for the year, especially here in Southern California. Many divers wait until the weather changes to begin diving.

With the Chamber Day/Chamber Eve this past Wednesday and the Dive show on Saturday and Sunday, we can all begin to feel truly ready to dive.

BUT, remember this is also the usual time of year to get your equipment checked. Regulators. BC’s, tanks. hoses, etc. These are literally our lifeline. Neglect nothing.

With the dive show coming up, look into new equipment if you are ready or pick up items like dive sausages or whistles for emergencies.

Dive safe and enjoy the sport we have come to love.

Kevin Boyd
## Member Savings at Dive Shops

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<th>Name</th>
<th>City</th>
<th>Air Card</th>
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<tr>
<td>SCUBA World</td>
<td>Orange</td>
<td>$30/12</td>
<td>No</td>
<td>10% off reg 10% off parts Yes Five (5) free air fills for new members. See Nancy or shop for cards.</td>
</tr>
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<td>$20/10</td>
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<td>10% off 10% off 5% off 10% off 10% off Yes See Nancy or the shop for cards.</td>
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All links and logos are clickable.
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<td></td>
<td></td>
<td>1 Night dive Shaws Cove 7 PM</td>
<td>2 Chamber Nite at AOP 7 PM</td>
<td>3</td>
<td>4 Happy Hour - Gulfstream in NB 5:30 PM</td>
<td>5 Beach dive canceled. SCUBA Show LBCC</td>
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<td>6 SCUBA Show continues LBCC</td>
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<td>12 Dive - Sea Bass - Palos Verdes 7 AM</td>
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<td>15</td>
<td>16 Club Meeting NBTC 6:30 PM</td>
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<td>18</td>
<td>19 Dive Shaws Cove 8 AM - BBQ @ Heisler 11 AM to 1 PM</td>
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<td>8 Dive - Peace - Anacapa 7 AM</td>
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<td>29 Crystal Cove cottage</td>
<td>30 Crystal Cove diving</td>
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Welcome to the first edition of Joe's photo tips and treats designed to keep you informed of what's happening in the wonderful world of Digital Photography and Video for divers. I hope you find the information of interest. If you have a specific topic you would like me to cover in future editions, please let me know.

In the beginning there was a hole in the wall that allowed light from outdoors to pass through into a room that was completely darkened. This ray of light projecting on the opposite wall created obscure views of the scene outside. Thus was born the first camera. We've come a long way. Technical advances in the booming digital age is traveling at warp speed. Yes, our generation is indeed fortunate to have cameras that produce outstanding results, and yes, many of us are learning how to create scenes of everlasting beauty. Capture the moment. Share the adventure. Express yourself. You can do it!

That being said, I would like to begin this first volume with the starter camera system. Are you ready? If so, let me enlighten you on how to select a digital camera system that will fit your needs and budget. Buying right the first time saves money and many heartaches in the future.

There are few ways a beginner can go.

**Amphibious cameras** do not require a separate waterproof housing. They are constructed within a waterproof housing. This is the best buy for the budget-minded person. In addition, these cameras are compact and have the ability to expand with external strobes, video lights, and external conversion lens.

**Compact land cameras** can be housed in a waterproof housing. Keep in mind that these camera systems are produced with many bells and whistles and come with a higher price tag. Many of these systems can also be expanded with external strobes, etc. When you make up your mind on which system to purchase, I recommend you do the following:

1. Visit your pro dive store retailer who is knowledgeable about underwater imaging and current with all the latest products for the beginner. New buyers have a tendency to research mail order or other bargain basement deals thinking cheaper is better. Not so. The best buy and best camera for the money is at a pro underwater retailer. The cost factor s minim al between mail order and the pro dive retailer.

2. Purchase from the retailer that gives a free private lesson on how to use and care for the system you purchase. Knowing how to set up and use the system will definitely prevent malfunction due to user error and possible flooding.

Club members are invited to call me at 949-448-0599 or email: orca2@cox.net for advice on any camera problem or purchase.

**LSD Quarterly Photo Contest:** Old and new underwater photo bugs are invited to enter the LSD Quarterly Photo Contest. Get that itching trigger finger working on that camera shutter release and snap some pictures for the next contest that will be held June 20. Get your entries in for entry by May 31. The underwater theme for June is “Fis t.” The people theme is “open,” anything goes.

The contest has been revised and improved! It now has two divisions:

- **Novice.** Exclusively for beginners and those who have never won a photo contest. (Once a participant wins first place twice in the Novice Division, he or she must advance to OPEN.)

- **Open.** Everyone **may** enter regardless of skill level.
Good morning Fiji buddies, It was truly a wonderful vacations and each of you added to my great experience. It was a pleasure meeting new dive buddies, and I hope to share time with you guys again very soon, Tom, thank you for taking care of us and making sure we had a good time. Take care everyone and keep the Fiji diving smiles alive! Jane Martorana, Senior Social Worker.
Subject: Philippine Trip 2017

From: Sharon DePriester
To: Gorman Dive Adventures
Date: 11/7/2017

I recently went to Puerto Galleria (sp?) with Tom Gorman Dive Adventures. the reefs were colourful and in great shape. the food was good and the staff, both at the resort and on the dive boat, were welcoming and wonderful. great trip.

Subject: Marco Vincent Resort, Philippines 2017

From: Sharon DePriester
To: Tom Gorman III
Date: 11/3/2017

thanks for putting together a great trip!! glad we’re buddies:)

Subject: Cozumel Trip 2016

From: Merideth Tyburczy
To: Gorman Dive Adventures and Travel
Date: 5/28/2016

Hi Tom, Thanks for a great trip. Blowing bubbles is always a wonderful way to spend time with friends. We got home at 4:30AM (3 hour delay in Dallas) but home at last. Joe went to work 3 hours later. Bleh, but he came home by noon. Hope you had a good trip home and that you are well rested. Thanks again, Merry and Joe

Subject: Cozumel 2016

From: Sarah Hatfield
To: Gorman Dive Adventures and Travel
Date: 5/28/2016

I had a blast on the trip! Wish I didn't have to go back to reality
Subject: Cozumel, Mexico 2016

From: Marcia Pena-Grumbles
To: Gorman Dive Adventures and Travel
Date: 5/28/2016

Jeff and I had a wonderful time spending our honeymoon with old friends (no offense, David and Tom), and new friends. Although we did not dive, we spent time traveling to Chichen Itza, XPLOR, and snorkeling at Columbia and Palancar. Our trip began as it ended-rocky :-) by way of losing my passport and sleeping at the airport, but none of that put a damper on our honeymoon!!! It was a pleasure meeting all of you and I predict it won't be the last we see of each other!

Subject: Trip to TUFI Resort, PNG 2014

From: Sharon dePreister
To: Gorman Dive Adventures
Date: 5/15/2014

It took 24 hours and several flights to get there. The resort is all alone on a bluff overlooking the water, surrounded by rainforest. Storms had been coming through, so the water was pretty rough. Tons of tropical fish, more variety than I'd seen in other places. Not many bigger fish. Am pretty sure the natives are eating those. The most spectacular things under "W'ater were probably the clams. Gorgeous colors and quite large. One we saw was at least 3 feet tall and 3-4 feet wide, even saw a few sharks, which is always a plus. The dive guides came from nearby (?) villages. They hiked an hour and a half through the rainforest to the water and then paddled over in outriggers made from hollowed-out trees. We got to ride outriggers to a settlement on the water, watching the natives dance, make flour from palms and fire from sticks. The natives around the resort were very friendly. Good thing:)
but his coaching made me a much better diver. Let the folks at NECO know what an asset he is in their operation. The Blue Corner was fabulous. But The Blue Holes, Virgin Blue Hole and German Channel were outstanding also. Swimming with the Manta Rays was simply breathtaking. I look forward to the next time. Thanks for your help arranging the trip. Best, Jeff

Subject: Philippine trip Nov 2012

From: Mark Jensen
To: Tom Gorman, Gorman Dive Adventures
Date: 11/29/2012

Hi Tom, This was one of the best, if not THE best, live-aboard trips I've ever done, and I've done many. My boys and I truly enjoyed the set-up of the ship, the food, the friendly and helpful crew and captain, and the list goes on. The diving was fun, although towards the end I'd had enough of wall dives. But I would return in a week if I could. Having several days of muck diving at Dumaguete was a great diversion and totally enhanced the trip. I will definitely put it on my return list Thanks for getting us there! Mark, Eric, and Grant Jensen

Subject: St. Lucia Trip 2012

From: Cynthia Baird
To: Gorman Dive Adventures
Date: 8/30/2012

Yes, I loved the room and the vacation! It was fabulous! Loved everything about it Thank you soo much! -- Cynthia K. Baird

Subject: St. Lucia 2012

From: Mark Jensen
To: Tom Gorman
Date: 8/29/2012

Hi Tom, Ok. I'll be serious now. I had a great time......as usual. The trip was well planned and the resort was top shelf. I was reluctant to go back to the Caribbean again because of being spoiled by the South Pacific and all the strange and unusual creatures there as well as the healthy nature of nearly all of the reefs in the S.P. Much to my surprise, St. Lucia was wonderful. Healthy reef, very pretty, lots of fish, etc. I would rate it very highly and would indeed return to St. Lucia and stay at the Anse Chastenet (however you spell it). The dive staff was fantastic, friendly, fun and helpful. All in all a super-fun trip and I enjoyed the usual cast of characters you bring together on your
trips. Everyone was very compatible and fun. I’d go again! So when do we leave?!! Looking forward to the Philippines in November!! Mark

Subject: St. Lucia trip Aug. 2012

From: Louise Thornton
To: Gorman Dive Adventures
Date: 8/28/2012

It was a great trip, lovely location and wonderful people. Grateful for your magic once again. Hugs Louise Thornton

Subject: Loved our trip...

From: Pauline Herbert
To: Tom Gorman
Date: 5/14/2012

Hello Tom, I loved our trip and felt your friendly support through the week, as well as everyones. Looking forward to the next one. Sorry, no group photos from me. Enjoyed watching the video. Thanks to you, Pauline

Subject: Thanks for making the Bahamas such a great trip!

From: Tracey Stangarone
To: Tom Gorman Dive Adventures
Date: 5/14/2012

Hi Tom! Great trip! I am still rocking on the boat darn it! But, great memories and looking forward to the survivor party! Thank you for everything!!! Tracey

Subject: BAHAMAS MAY 2012 TRIP

From: GARY WILLIAMS
To: TOM GORMAN
Date: 5/14/2012

Recently, several members of the club went on a trip to the Bahamas aboard the Aquacat. Tom Gorman organized the trip, with Bruce McKean, Martha Edge, Gary Williams, Rich Morrisey, Pauline Herbert, Renee Periera, and Sharon DePriester meeting up in Nassau, Bahamas on May 5th and spending the next week diving the warm beautiful waters of the Exuma Cays. We were blessed with near perfect weather, calm seas, clear waters and great...
camaraderie. The boat was very roomy, with a large dining room and lounge on the second deck. Each cabin could sleep two people, complete with closet and drawer space, and bathrooms with heads and showers. There was always plenty of hot water to rinse off after a dive. And then there was the food! There were so many choices of food that many ate more food than was really needed just because it so good! When we were done diving for the day there was unlimited beer, wine and rum! The boat crew topped it off with great fun. For the first four days, we had the opportunity to dive up to 5 dives. There was a variety of dives to choose from, including wall dives, drift dives, shallow reef dives and night dives. I would say the highlight of the trip was the shark feeding dive, watching six to eight foot reef sharks attack frozen chum. We saw a wide variety of marine life as small as nudibranchs, gobys and jawfish up to reef sharks, nurse sharks, southern sting rays and loggerhead turtles. The crew kept telling us for the first few days that we could see some hammerhead sharks or eagle rays, but those always seemed to elude us. As someone who has logged most of my dives in Southern California, it was such a joy to be going out to the first dive site on Sunday and be able to look down and clearly see the bottom some 40 feet down. Most of the dives had no current or surge, so it was so enjoyable to be able to just float there without getting pushed around. I spent up to 91 minutes under the water on one dive just slowly moving around the reef, looking for the life, and taking pictures. By the time I got back on the boat, showered and dressed, everyone had already starting dinner. Several other dives we extended length dives as well. If you got tired of diving, there were on shore activities as well. On Sunday we all went onto one of the cays to feed grapes to the iguanas. You put a grape on a stick, then put it out there and several iguanas would run up and eat it off the stick. There were trips to remote beaches on the cays, as well as the Exuma Land and Sea Park. In the evenings, we could watch movies on the large TV. The boat captain was named Ron, so one night we watched the 20 year old movie Captain Ron starring Kurt Russell and Martin Short. My only regret on this trip was that it was not long enough! I can confidently say that we all had a fantastic time down there. For anyone looking to spend a week filled with diving and adventure, I would highly recommend a trip aboard the Aquacat And I have to commend Tom Goman on such a fine pick.

Subject: Fiji Trip

From: Tracey Stangarone
To: Tom Gorman Dive Adventures
Date: 11/23/2011

Hi Merry and everyone! I had an absolute ball with all of you! Thank
you for the amazing time and great experience! I'm in for a future trip for sure and I hope to see all of you there too! Tracey

Subject: Great trip to Fiji
From: Jane Martorana
To: Tom Gorman Dive Adventures
Date: 10/24/2011

Good morning Fiji dive buddies, It was truly a wonderful vacation and each of you added to my great experience. It was a pleasure meeting new dive buddies, and I hope to share time with you guys again very soon. Tom, thank you for taking care of us and making sure we had a good time. Take care everyone and keep the Fiji diving smiles alive!
Jane Martorana. Sehjor Social Worker

Subject: Thanks for a great trip! Fiji was fun!
From: Joe & Merry Tyburczy
To: Tom Gorman
Date: 10/22/2011

THANKS, TOM, FOR A WONDERFUL TRIP WITH TRULY SPECIAL PEOPLE. We had a great time. Love, Merry and Joe

Subject: Saba Trip in July
From: Sharon DePriester
To: Tom Gorman Dive Adventures
Date: 8/4/2011

Tom, We had surprisingly good diving for the Caribbean. Lots of life, colorful coral, good accommodations, food, and dive operations plus, very picturesque island with friendly people. Very good trip overall. Tom did a great job coordinating the flights, ferries and layovers.

Subject: Truk & Palau in 2011
From: Sharon DePriester
To: Tom Gorman Dive Adventures
Date: 8/2/2011

Tom, Absolutely worldclass diving. The real thing, challenging, beautiful. Lots of diverse life, deep dives, wrecks. The whole package! I enjoyed the comfort and ease of the liveaboard in Truk, but also the daily boat rides through beautiful scenery in Palau. We
had good food, good quality divemasters, good accommodations. I'd highly recommend this trip to any advanced diver looking for adventure.

Subject: Trip to Saba in Oct. 2011

From: PAULINE HERBERT
To: Tom Gorman Dive Adventures
Date: 7/29/2011

Hello Tom, I loved the trip and would go again. The easy, beautiful diving with lots of variety of animals renewed my joy of diving and has motivated me to do more. Thus, I'm signing up for the Bahamas trip next May. Our friendly and supportive group made it especially fun. I enjoyed the restaurants' tasty food and the comfortable room too. So thanks for making the trip a success for me. I appreciate your help with my computer etc. You are easy to talk to and I feel your support. We could do the post party at my house on some other day than Aug. 6. I'll be gone on a seminar that weekend. Take care.
Pauline

Subject: Palau & Truk Trip 2011 Feed back!

From: Annette Lohman
To: Tom Gorman
Date: 6/12/2011

Hi Tom, Thank you for asking for feedback. I thought the trip was wonderful in most respects. The diving was great -- just beautiful underwater reefs, wrecks, and life. The accommodations, while not luxurious, were fine -- except for lack of hot water and poor internet access at the Blue Lagoon. I do think they need to address this. I understand they are at a remote location but hot water is kind of a basic in a "resort" type of hotel. If it had been a backpacker type of hotel, I might have expected the lapses. Please don't let my comments in any way detract from how great I thought the trip was. I was so glad I went! Thanks, Annette

Subject: Palau & Truk Trip 2011

From: Mark Jensen
To: Gorman Dive Adventures
Date: 6/8/2011

6/8/11 Hi Tom! Eric, Grant and I had a great time. We all gained weight on the trip! So, the food must have been pretty good!! Once home, I tried putting on a pair of blue jeans and found them pretty
tight. Now on a diet to lose those extra pounds and get the pants fitting better. The diving was good too! We enjoyed both venues and Eric and Grant wanted to fly back to Palau for another week. If I didn't need to attend to business back home I might have taken them up on the idea. Thanks for putting together another fun trip. And thanks also for bringing us all, once again, back alive. Looking forward to Saba in July! Mark Jensen

Subject: Palau & Truk Trip 2011
From: Sandra Boyd-Spoden
To: Gorman Dive Adventures
Date: 6/7/2011

Woo Hoo! Was a GREAT trip! Thanks, Tom!!!

Subject: Palau & Truk Trip 2011
From: Michael Kenneth DeWalsche
To: Gorman Dive Adventure
Date: 6/6/2011

"Thanks for another great trip!"

Subject: Thanks for the travel
From: John and Neta Platt
To: Tom Gorman
Date: 11/23/2010

Happy Thank'sgiving to you also. Thank you so much for all you do for all the folks who trust their travel to you. We have enjoyed all our trips we have done with you and they have always been perfect. Looking forward to doing more. Thanks again, Neta and John

Subject: Trip to Saba
From: Bruce McKean
To: Tom Gorman
Date: 11/6/2010

Mixed bag, but worthwhile. Not sure pinnacles at 100+ feet are my thing, although they are beautiful. Some nice reefs, but sea surface can be rough, because the island is too small to have a real "lee".
Because of the geography, you have to schlep between higher-up and the (man-made) harbor, unlike beachside sites. Hiking on the island, with several climate zones compacted into a small space, is very interesting (w/ a guide). The boat ride to and from can be exciting. We drank Heinekens in quantity on the afternoon going over, compliments of the ferry crew, and we hunkered down in the cabin on the morning coming back, quite rough. Just a few comments. Basically a great week. Bruce McKean

Subject: SABA Trip in October
From: Shannon Roys - Texas
To: Tom Gorman
Date: 11/4/2010

Hey Tom, I thoroughly enjoyed the trip! It was nice to go somewhere that has not been invaded by McDonald's and Starbucks. That said, it made it a bit confusing on where to dine and they wanted reservation requests from the get go. We found that Eden's, Brigadoons and Scouts were great places. The Eco Lodge was fun too. The beds at Julianna's left a bit to be desired, but all in all, it was a nice hotel and Wym was great! The "museum" at Wndwardslde was cute, small but cute. The lady that showed us the small house was full of information and happy to have visitors. If you follow the path past the museum by the houses, it leads you to the dive shop, with fewer steep hills than the streets it seemed. The dive operation was fantastic. Steven is a walking encyclopedia of useful and useless knowledge! A very entertaining guy. Sorry you couldn't join us. Hope to see you at the Christmas party! Shannon

Subject: SABA Trip in October
From: Cathy Solomon
To: Tom Gorman
Date: 11/4/2010

"Hi Tom, It was a great trip! I enjoyed getting to know Chico and Jean! Thanks for everything! Cathy"

Subject: Saba Trip 2010
From: lanRichard Morrissey
To: Tom Gorman
Date: 11/1/2010

Hi Tom great trip, I baled early with the Thursday crew and had two
great nights/days in St Maarten. 5 days of diving 3 per day is more than I need. Great trip.

Subject: Bonaire Trip 2010
From: Kris Exton
To: Tom Gorman
Date: 5/6/2010

'Hey Tom! Bonaire was wonderful. Thank you!' Kris

Subject: Bonaire Trip 2010
From: Neta & John Platt
To: Tom Gorman
Date: 5/2/2010

Neta Platt: Thank you so much for a great trip to Bonaire. We really enjoyed ourselves and appreciate all you do to make your trips perfect and easy for us. Neta and John PS: will share photos soon.....

Subject: Trip to Bonaire 2010
From: Shannon Roys - Texas
To: Tom Gorman
Date: 5/2/2010

Shannon T Roys: Another great trip Tomi Thanks!

Subject: Trip to Bonaire 2010
From: Cindy Wager
To: Tom Gorman
Date: 5/2/2010

Cindy Wager: It was fantastic Tom....really enjoyed it and felt better everyday about the diving! Great trip...thanks....can't wait for our next one:-)

Subject: Cozumel Trip in Oct 09
From: DAWN CRITTENDEN
To: Tom Gorman
Date: 11/1/2009

Tom, Thank you so much for a wonderful time.. You did a great job in planning the perfect stress releiving vacation for me. When do we leave for the next one...? Dawn

Subject: Cozumel Trip 2009

From: Cathy Solomon
To: Tom Gorman
Date: 11/1/2009

Hi Tom, Thanks for putting together a really fun trip! Appreciate all you do on those trips! Cathy

Subject: Dominica Trip 2009

From: Neta and John Platt
To: Tom Gorman
Date: 7/9/2009

Neta and John Platt 7/9/2009 We had a great trip with Tom and the other travelers in our group. There is alot to do and see for non divers also. I thoroughly enjoyed the island, it is absolutley beautiful and the people are great. My husband loved diving, the dive master and crew. Thanks again - Tom

Subject: 2008 Cozumel Trip

From: Halley Parsons
To: Tom Gorman
Date: 4/13/2008

4/13/08 Hi Tom~ I didn't get to say goodbye at the airport. I lost you! I just wanted to thank you for an awesome trip! The diving was fantastic and the people were great fun! Can't wait till I can save up to do it again!!! If you need an assistant on your Indo trip, think of me :). If everyone is in to a wrap party, it WOULD be fantastic to see everyone again. Just keep us posted. Take care and I'll come by the shop so0n to say hi! Best, Halley

Subject: Cayman Brae Trip 2008

From: Chuck Katz
To: Tom Gorman
Date: 4/2/2008
Hi Tom, Ryb and I had a great time on the trip and we will hopefully join the Domenica trip next year. You did a great job, given all of the different people and personalities!!

Subject: LA PAZ, BAJA PENICCU\, MEXICO

From: Lynn Willis
To: Tom Gorman
Date: 10/25/2007

TRIP REPORT: October, 2007 LA PAZ, BAJA PENICCU\, MEXICO, diving in the Sea of Cortez by Lynn Willis I recently, along with Mixer and Brunella just returned from diving in the Baja area of Mexico. We joined a group of friends from Laguna Beach Calif. The weather, a balmy 95 degrees, water temps 84 deg., calm seas & darn good vis. We stayed at Club Cantamar, a dive dedicated resort located about 20 min from La Paz. Dive boats depart at 8:30-9 am Mexico offering 3 dives a day on large comfortable boats and lunch. Dive sites were as far as 1-1 ½ hour from resort. Dive Day 1--Out of the dock; and off to locate a Whale Shark a/k/a, Senior Big. The Spotter plane flies above our heads, 15 minutes later we are snorkeling along side of a 25 foot Whale Shark. Spots and all! Our group is given several opportunities to snorkel with these gentle giants. We slide into the water swim like hell to catch up, see the big spots, snap, snap, snap of the cameras and off he swims. What an incredible delight to see them up close! They are filter feeders with their large wide mouths, with large Pilot fish hitching a ride. On to the diving, most dive sites were rocky walls/slopes starting about 50-60 feet deep in the coarse sand, rising up to the top and in some cases small Islands. Most sites had 40-50 feet or more of vis, but some, especially the close in wrecks, had only 20-30 feet or so. Some of the closer in sites also had a great deal of suspended particulate matter which ironically accounts for the abundance of marine life. There was very little current on most dives. Most of the topography was large boulders which had tumbled from a nearby rock formation or just solid bedrock. There was almost no hard coral at all except in a few spots like Suwannee reef, instead there were rocks covered with marine growth. Starfish of many colors were abundant as were sea urchins. Despite the somewhat Spartan appearance of the rock/reefs in the Sea of Cortez, they were crawling with fish. Puffer fish were abundant as were grunts, scads, goatfish, cornet fish, and surgeonfish. Our 1st location, Suwannee, our so called check out dive. Just for starters we had sea lions swimming all around us, octopus walking around the reef, a sea horse, eels, eels and more eels; at least 4 different species hiding in and under the boulders and 2 indigenous angel fish, the Cortez and the King angel. The entire reef was covered with huge schools of fish of all kinds. It was difficult
to get photos of the reef for all the fish around it. Seeing a huge school of baitfish covering a football sized section of reef was quite a remarkable experience. One of my favorite sites here.. Our next dive was the Light House, another great site with schools of bait fish swirling around our heads in different directions. What really fascinated me was that you could swim in and out of them and barely see out the other side. Then a small school of cuda started feeding and that really kicked up the action. This day also brought us a pod on hundreds Dolphin feeding on their way up the sea of Cortez. Dive Day 2~~We head off to dive El Baja, the premier dive spot if the currents are good.. THE CURRENT WAS SCREAMING! For some not a good dive. El Baja "Marisla Seamount"; three underwater peaks, famous for schooling Hammerhead sharks. We are delighted to see an abundance of sea life, mass schooling fish (Amber Jacks, Tuna etc), and the impressive Green Moray Eels. Encounters with Hammerheads are possible but we were not so lucky. So sad to miss the hammerheads. Next,Los Islotes "The Colony"; as soon as we approached the island we could hear them barking and see them playing and rolling in the water. These islets are home to a colony 200-300 California Brown Sea Lions. They were not at all afraid of divers even though they are wild; and we saw tons of them that played and frolicked with us. What fun these amazing and curious creatures are. Situated at tip of Isla Espiritu Santo, two large rock islets one of which has a natural arch. Diving along the natural rock formation is brimming with life. We experienced dense schools of silver Sardines, blue & Gold King Angelfish, yellow surgeonfish amongst golden cup corals. And the Sea Lions continue to eagerly play, showing off and turning circles around our comparatively clumsy underwater movements. Pretty much every diver had one buzz by at a high rate of speed about 6 inches from our masks, and some even were treated to them playing with our gear or camera equipment. Last dive is a dive on the C-59 a US Vf/v/1 destroyer sold to the Mexican Navy. Dive Day #3 We make another visit to Los Islotes, a delightful dive and of course the sea lions.. Next, El Bajito Shallow granite rock reef with abundant sea life attached to it. We explore the huge rock formations and their life; Morays, Cabrilla, Panama graysby, Snapper, Octopus, King Angelfish, Parrotfish. Wreck dive of Fang Ming. On the 18th November 1999, two Chinese metal vessels named Fang Ming were sunk. These vessels were confiscated by the Mexican government for the illegal transportation of immigrants, and remained in their possession until the golden opportunity arose of taking advantage of the situation to create an artificial reef. Dive Day 4-- ISLA CERRALVO La Reyna "The Queen" A rock islet just north of Isla Cerralva with the remains of a lighthouse. A beautiful large reef found populated by Gorgonians of all types, Brain Corals, large schools of brightly colored tropical fish, rays, Green, Zebra and Jeweled Morays. Next, La Reynita 'The Little Queen' This small rock pinnacle located on the west side of the Queen has a constant current in which schools of fish "hang" waiting

http://www.diveadventures.net/adventures/Comments/default.asp
for their dinner to pass, large Groupers, Sea fans, Brain corals, and hundreds of Conger Garden Eels. Final dive and my favorite is Suwannee, we found a 6 inch orange sea horse, several octopus walking boldly on the reef, schools of hundreds of King Angel Fish, Sergeant Majors, and of course millions of sardines, more sea lions, multitudes of eels, huge gardens of Conger Garden Eels, spotted jaw fish, etc, etc, etc.. The our last evening together was spent spinning dive tales, enjoying wine and cervaza, and the best steak in La Paz amongst old and new diving buddies. What a fantastic group of people and I look forward to diving again in La Paz and with all of my fellow divers. BCing U again soon.. Maybe August 2008..

Subject: La Paz Dive Trip

From: Mary Fritz
To: Tom Gorman
Date: 10/18/2007

Thank you Tom for putting together a wonderful trip, we enjoyed the people, the dives, the environment. You did a great job, and we look forward to more fun with you. Mary and Bill Fritz

Subject: Great Trip!

From: Brunella Lucchi
To: Gorman Dive Adventures
Date: 10/17/2007

Thank you Tom, I had a great time and I look forward to more future diving with you and the "gang". Have a nice week, Brunella

Subject: Thanks for a great trip.

From: MARGI FRIEDMAN
To: Gorman Dive Adventures
Date: 10/17/2007

Thank you Tom! I really enjoyed this trip. Great diving, wonderful people to hang out with in between dives...what more could you ask for? I am hoping to be on many more trips in the future! The first weekend in November I'm going to be out of town. If I miss the survivor party I'm hoping I'll still be able to see all the photo's! I agree with Tom's sentiment...Thank you to everyone for making it a great trip! Margi
Subject: La Paz Dive Trip

From: Mixer O'Keefe  
To: Tom Gorman  
Date: 10/17/2007

Had a real good time and interesting dives. Since I won't be able to make the party, perhaps these pictures will serve as a surrogate. Looking forward to the next adventure. mxr

Subject: Thanks for a great trip!

From: PAUL BROGOITTI  
To: Tom Gorman  
Date: 10/17/2007

Tom, Great people, great setting, great diving! Thanks amillion for putting the trip together. All in all I had a SUPER time! 0-) Paul

Subject: Great Trip.

From: Lynn Willis  
To: Tom Gorman  
Date: 10/17/2007

Hi to all great trip and a great bunch of people..has anyone heard from Renee?? Have a great week! Lynn

Subject: Phillipines

From: Eric Eckes  
To: Tom Gorman  
Date: 6/17/2007

I just returned from eleven fantastic days in the Philippines. I shared the trip with three familiar names: Mark, Paul and Tom. We spent five nights in Puerto Galera and five nights in Dumaguete. While in Puerto Galera, we ran into an old friend, Terry O'Dowd. Terry and his partner have a 100 foot boat that is perfect for diving with four state rooms housing eight bunks and all the comforts of Big Blue. On a personal note, Terry's divorce has not gone well as the attached picture attests. Diving the Philippines is very different from Palau and Yap. While I lived with my wide-angle lens in PalauNap, I did not use it once in the Philippines. Everything is on a small scale (nudibranchs everywhere!). I have attached a picture I took of a pygmy seahorse. The seahorse was the size of pencil lead and I caught it using a 105mm macro lens and a 2:1 diopter. It was so small I didn't see it on
the sea fan. Rather, I just panned the fan taking picture after picture. Back on surface I review the pies and found the little guy. Dumaguete is very different from Puerto Valera. Puerto Galera has great reefs with color everywhere. Dumaguete is known for its muck diving. The creatures found in this environment were very weird and blended in nicely with their surroundings, While in Puerto Galera we had hoped to see Steve Fish. Apparently he was in either Indonesia or Papua New Guinea interviewing for another job with the Expedition Fleet. All in all a great trip. I hope to dive with you all soon. Eric

Subject: Fantastic Trip to Philippines
From: Tad Brown
To: Tom Gorman
Date: 6/17/2007

That was a seriously great trip Tom, Probably the best one so far. I had my doubts about the weather and mosquitoes, but it was beautiful with very few insects. The diving was right up there with Malaysia, and the resorts were a lot better, especially Sabang. A real "adult Disneyland" as Mark Jensen put it. That Eileen girl was a real cutie, but the one I met the next night in the smaller place next door was even better. Your girl MJ is also a real sweetheart; such a beautiful smile. Maybe you should make like Steve Roberts and bring her back to the States. I don't know where I'll have to go next to top that. Sometimes I feel really worn out from traveling and certain people in the crowd, but I'm still having a good time in my own way. Towards the end of the trip I felt a lot more confident in my diving skills, and that's what I like most about these trips is that it pushes further than I'd otherwise be, while gaining a greater sense of the world. Sounds cliche, but it's true. Shot a whole bunch of awesome footage that really came together nicely in a 15 minute DVD that I'm finishing up. Just about to mail out a copy to everyone. Tad

Subject: Palau & Yap Dive Trip 07'
From: GUNNAR FERNQVIST
To: Tom Gorman; Dive Adventures and Travel
Date: 3/24/2007

Hi Tom, Here are a few miscellaneous comments. Palau was absolutely great and Big Blue was a very well organised dive boat. Great video by Steve. I don't think one should pay any tips on liveaboards, I think the crew should be paid properly for their job instead, if that is not already so. Comment heard from one of the crew when we left the boat: Next group is German so we won't get any tips then. Bet you they will not get bad service anyway, because then the boat will quickly get a bad name. I know Americans think
differently, but in Europe we prefer an all-in price. 2. Pity we had such poor visibility in Yap. You should schedule trips to Yap at spring tides instead, better chance for clear water (confirmed by Bill Ackermann). Did not appreciate the tight schedule with the lunch pause which pushed me into decompression once and shortened the margins generally. Did not think Mike’s video was so good, bought the Yap Manta videos instead. 3. The return to Europe was a bitch with severe jetlag. Next time we will go the other way around, much shorter. Thanks for the organisation, overall it was a very worthwhile trip Gunnar

Subject: Palau & Yap Dive Trip 07’
From: Eric Eckes
To: Tom Gorman; Dive Adventures and Travel
Date: 3/21/2007

Tom: I posted comments on the two dive operations on your website yesterday. I think you did a great job. However, I think it is bull that the tour operator touts themselves as the Micronesian experts when they have us flying out on Yap Day. What a blunder! With us getting back Thursday morning there was no reason we couldn’t have stayed another day or two. Further, we hit Yap when the tide flow was the wrong way at Miil Channel creating lousy visibility. Again, this could have been managed better. I would love to go back to Yap, just not through that tour operator. Eric

Subject: Utila Dive Trip
From: Steven Sadleir
To: Tom Gorman
Date: 12/21/2006

Good job Tom. Let’s do it again. From the heart, Steven

Subject: Utila Dive Trip
From: Casey Harbison
To: Tom Gorman
Date: 12/19/2006

Hi Tom, We had a great a time on our trip! Thank you for all of your guidance and concern for Lindsey and I! The crew was awesome and I look foreword to getting to know all of you better in the future! As far as the diving goes, I was disappointed with the fact that we didn’t come remotely close to diving with any whale sharks. I understand
that the weather played a big part, but for this time of year, I now understand this weather was not out of the ordinary. I've been reading other people's dive experiences in Utila, and I was shocked to find out that it is actually rare to dive with whale sharks in Utila! One guy even dove for 26 days last month without seeing one! The resort was top notch and I have already wrote a complementing review on the website you referred us to! I appreciated your thoroughness and level of professionalism used in planning our trip! All in all, we had a great time! I feel lucky to have had the opportunity to dive with the LSD Club members, and I look forward to becoming a member myself.

The experience and kindness of the group was an added bonus that we both thoroughly enjoyed! Unfortunately our pictures didn't turn out as well as we hoped, but their are a few good nuggets. All of the pictures taken with my monstrous flash were foggy, and Lindsey tells me we were too far away with most of our underwater shots, as you mentioned to me as well. Thanks again for all of the hard work you put into this trip and our safety. Please let us know as soon as possible when the "survivor party" is so Lindsey and I can coordinate our schedules & hopefully we can both attend. Happy Holidays,

Casey Harbison

Subject: Utila Trip
From: Sharon Powers
To: Tom Gorman
Date: 12/18/2006

Hola from Boulder! You guys are all so fun to dive and hang with. I thank each one of you (especially Tom and Steve for looking out for Dave and me!!) for being your awesome selves and adding color and dimension to our experience. Hope to join you on another adventure before toooo long. I'm slammed at work, so will have to keep this short. Please keep in touch (I'm very interested in seeing everyone's pictures) and have a Merry Christmas! Love, Sharon

Sharon Powers
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Louisville, CO 80027
(303) 819-8502
silkytarmac@hotmail.com
P.S. I hope your no-see-um bites are healed and your tans haven't faded....

Subject: Utila Trip
From: Pauline Doan
To: Tom Gorman
Date: 12/18/2006

It was wonderful meeting each and every one of you! Thanks for contributing to such an awesome trip! Hope to see you again on the next adventure. Sending Love, Pauline Doan
Subject: Fiji Dive Vacation

From: Xandra Laskowski
To: Tom Gorman, Dive Adventures
Date: 10/11/2006

Our amazing seaplane arrival at the resort was just a sample of what we were in store for. The island is beautiful, staff incredibly attentive and friendly, dive shop and dive masters were top notch. We loved our beachfront bure and enjoyed the meals and entertainment. Thanks Tom for planning such a great trip.

Subject: Wananavu Resort

From: Judith Werkstell
To: Tom Gorman
Date: 9/7/2006

dear tom- i absolutely loved wananavu-i loved the warmth that the family run atmosphere gave it- it had a really personal feel to it and obviously the site is beautiful- and of course i also hope i can return someday to experience more of the diving that i only got a taste of.i am particularly grateful for the diver mere- due to my ear problems, it was her quiet expertise and willingness to dive one on one with me as i couldn't go down as fast or as deep as the group, that enabled me to dive at all before i had to stop altogether.wananavu is a gem of a resort -especially for divers- although a couple of the dive masters could have been more in rythym with the various diving styles of the group ours were an accomplished bunch and delightful- one of them provided me with some unexpected help when alerted that i needed to surface a bit ahead of the group- he was officially my buddy on that dive - my 1st after the weird ears! anyway- i'm glad it was the next resort that i was 'beached' at-- but glad it was wananavu that i got to go to first and dive.it is the one that holds the little warm spot in my heart and memory- tho i loved both places a lot.- hope this is the info you wanted- see you soon, judith

Subject: Fiji 2006 - Wananavu & Castaways Resorts

From: Pauline Herbert
To: Tom Gorman
Date: 9/4/2006

My trip to Figi, Aug. 19th - 29th, was outstanding in every way. It was by far the most beautiful diving site I have ever experienced so far. The wonderland of corals and fish made every dive seem almost
magical. I relaxed totally and felt the accommodations at both resorts were excellent and that I was well taken care of. The friendly people will always stand out in my memory as a huge plus. I enjoyed being with our dive group and felt everyone got along well. A big ‘thank you’ to Tom for working

Subject: Hamanais Resort, Belize

From: Louis Thornton
To: Tom Gorman
Date: 5/19/2006

great time, thanks Tom for all you do!! hugs, Weeze

Subject: Malaysia October 2005

From: Kari J. Dobson
To: Gorman Dive Adventures and Travel
Date: 10/21/2005

Tom, I had a FABULOUS time on the trip and thought you did a tremendous job at taking care of all of us! We didn’t even lose our boat! I have been so busy catching up at work that I put this aside to give it proper time and attention! I loved my roommate, food was great, the location and accommodations were great and I can’t wait to go again! For being a new diver I am starting to get experience! I am up to 53 dives after this trip! Carrie and I and maybe John want to take the next classes and will sign up some soon once John completes his helicopter school. One thing at a time! Thanks again for all your hard work on putting together a great 2 weeks! You did a lot of work and it did not go unnoticed! Thanks again Tom! PS I have a little thank you gift for you that I will bring when I see you next! Take care! Kari J. Dobson

Subject: Malaysia

From: Lynn Willis
To: Tom Gorman
Date: 10/11/2005

October 11, 2005 Tom What did I think of Sipadan, Malaysia? Well it was absolutely out of this world….as you know I have dove many places around the world and I have to say Sipadan is at the top of my list, next to Galapagos and Indonesia….It blew my mind on each dive to see something new just about every minute of the dive… I love Kapalai Dive Resort, the staff was excellent…Only one complaint,
they need to hire Gina to do massage...and Kapalai could offer massage & spa services and internet cafe services...! spent too much time diving to relax so I will have to go back to get some relaxation in...Tom thanks for a great destination and for once it was nice for me not to be the trip leader... Lynn Willis Madeira Beach, Florida

Subject: Malaysia 2005 September

From: Brunella Lucchi
To: Tom Gorman
Date: 10/7/2005

Dear Tom, It's been almost two weeks since we've been back from fabulous Kapalai and incredible Sipadan is a movie that's still playing in my head... It's been an absolutely fantastic diving experience. Now I have a perfect destination to escape to when life becomes too difficult or a bit too uninteresting...in a blink of an eye I'll be gliding in the big blue, down deep at Barracuda Point, on any given morning dive... Yes, Malaysia was a great trip to take -- Lisa, Lynn and I even got a kick out of the 10 hour tour in K.L.! We learned a lot and laughed a lot -- I think we even ended up exhausting our patient local guide with our never ending questions about the local life and custom; but I know he enjoyed the experience and at the end of the day we all made it back with a bag full of treasures. I was truly enchanted by Borneo and its natural beauty and by the harmony of a mixed society still struggling for their basic needs, yet light years ahead of us on a human and social level. The flavour of magical Malaysia will definitely stay with me, at least until another big trip comes to the horizon (how about Maldives?) ..... Any decision about the "Survivor Party"? It would be nice to be there but...have fun if I can't make it! Thank you, Tom, for everything and keep in touch! Ciao, Brunella

Subject: Malaysia 2005

From: Lisa George
To: Tom Gorman
Date: 10/3/2005

Hi Tom, The trip was great, it was very well organized. What I liked about it was: I felt very relaxed and comfortable because you basically took care of the brain work it felt like a vacation. The group was very friendly and the company was great. I also liked that all of our rides to and from the airport, boat, and tours were on time, ready and waiting for the group. The #1 and most important thing I liked the most was we had a very awesome, informed and well rounded leader that lead the pack. Tom I noticed I'm not on the mail group can you
Subject: What did you like about the Malaysia Trip?

From: Carrie Holmes
To: Tom at Diveadventures.net
Date: 9/29/2005

Hey Tom, Aside from the obvious, I had a terrific time and absolutely the best diving I've experienced thus far! I thoroughly enjoyed the company of the group and thought we all meshed pretty well together. Although lengthy, the travel wasn't even so bad - BUT, next time lets make sure we seek a customs person before entering the country illegally (hehehe) :) A special thanks again to you for loaning me your dive computer! I just spent 30 minutes reviewing the manual and trying to obtain the information from my dives, and am having major difficulty. I'll be at the shop tomorrow night and will bring it and the manual with me. I'm hopeful you'll be able to assist me with retrieving the data for my dive log. Looking forward to seeing you then. Take Care, Carrie

Subject: Great Trip

From: Joe & Merry Tyburtzy
To: Tom Gorman - Gorman Dive Adventures
Date: 6/27/2005

We had a great trip. Thank you for taking care of all the details and making it a carefree vacation. The resort was fantastic! Joe & Merry

Subject: St. Lucia - What did you think?

From: "Joe & Xandra Laskowski"
To: Tom@DiveAdventures.net
Date: 6/22/2005

Hi Tom, well I loved the island, water, hotel and people. It was a beautiful setting for great beginner diving. I was hoping to see more colorful coral and larger fish, however, the reef geography was great. I loved the..... Hotel...Food at the hotel...Clear warm water Hotel staff and island people...Jonathan and Ponti our dive masters...Hotel room Spectacular beauty of the island and Pitons Our dive group, what lovely people You, for coordinating such a relaxing, enjoyable trip...Could have done without...The bugs! Butt burning climb to the room (although the view was worth it) I can't wait for Belize in May 06. See you at the party. Xandra
Subject: St. Lucia Trip 2005

From: Jan Lawyer  
To: Tom at Dive Adventures  
Date: 6/20/2005

Tom-- I thought it was great!!! Only thing missing was either an elevator or escalator, and a liposuction specialist for after all of that food! Food - WONDERFUL!!!!! Service - EXCELLENT! The diving was pretty good -- Jonathan was a much better divemaster than Ponti. More excited and more willing to spend time looking for things to show us_ I need to come by some time and get that new mask. Thank you SO MUCH for letting me use yours those last few dives. Made all the difference in the world. Thanks for a great trip! Jan

Subject: St. Lucia - What did you think?

From: DPBLaguna@aol.com  
To: Tom at Gorman Dive Adventures and Travel  
Date: 6/17/2005

St. Lucia and the resort, Anse Chastanet, exceeded my expectations in all ways. Our room was beautiful and far more than I anticipated and the view was spectacular. Food great and plentiful and the service and hospitality of the resort was a nice surprise. The diving was wonderful as were the crew and the dive support and facilities and the real joy was not having the hour boat ride to the dive sites. Wonderful drift dives, beautiful coral and fish, and my best experience to date for a wreck dive and a night dive. Loved the whole thing. Only recommendation is for the resort to improve the transportation to the upper rooms. I'd love to go again. You do wonderful trips Tom and I anticipate being on more of them. Nancy Bushnell Please make the party before the 14 of July or after the 22nd. Thanks again Tom for everything. I also appreciated you making those rooms appear in Miami on our way to St. Lucia. Oh the joys of traveling. See you soon_ Nancy

Subject: Cozumel Comments

From: "Laurie Lamberth"  
To: tgorman2@juno.com Gorman Dive Adventures  
Date: 5/3/2005

Comments: a) Great trip, smooth arrangements, no hassles, everything as expected, nice to be able to relax and not have to make any arrangements for myself, b) One suggestion: it would be
very helpful if you could have a "group schedule board" somewhere at the resort, on which you would write/post/staple/etc. each day's schedule including any last-minute changes. In its minimal form, this could even be a clipboard hanging or waiting somewhere (such as at the front desk). Your responsibility would be to keep this current as events unfold, and each participant would be responsible to check the board at least once daily for current schedule and other information (meeting places, etc.). This might help to prevent the situation I experienced, when two days in a row I was razzed by others for being "late" when I was actually both times 15 minutes early vs. the last time I was told the event would begin (it apparently changed in the meantime, but I didn't get the word). Thanks for your hard work to make sure we all had a wonderful and safe time. Laurie Lamberth

Subject: Cozumel Comments

From: Phil.Mangiaracina@averydennison.com
To: Tom Gorman - Gorman Dive Adventures & Travel
Date: 5/2/2005

As for comments: I thought it was a great trip (aside from having my luggage lost for a day!) and ScubaClub was a very good and safe operation. It's a real pleasure diving with folks from the club that know what they are doing ... I've done Cozumel with a different group of divers and it wasn't nearly as fun! The hotel and rooms were exceptionally clean and well maintained. The air conditioners worked very well so the rooms were always cool. I'd heard that the beds were hard, but found them to be very comfortable. The food was excellent, plentiful, and available at a wide range of times ..., no worrying about missing meals if you did a night dive, etc. The service was exceptionally friendly. The dive boat personnel were experienced and friendly....I overheard a few comments about Alberto being a "hottie," but I won't go further into that! Changes I'd make for next time: - Bring more american money in small denominations. The businesses in Cozumel hunger for US currency, so they give you a poorer exchange rate for their currency as an incentive to get you to pay in US $$ instead of Mexican$$... and the ATMs all dispense Mexican $$. This is especially important because far fewer of the businesses accepted credit cards than I expected. As an example, the lobster house (excellent food and ambiance, by the way) didn't accept credit cards, so we had to leave the restaurant, take a taxi to a hotel with an ATM, get$$, and return....they also don't have a phone, so there was no way to know of the problem in advance. - Plan a Ceynote dive day (or two) as part of the package. The day diving the Ceynotes was one of the best and most memorable diving experiences I've ever had, and I'd definately want to have it repeated. - SCC charges extra for diving the wreck, which simply doesn't make any sense because it
doesn't cost them more. I'd push HARD on them to make a 'quiet exception' for our group next time. - I'd probably rent a scooter for multi-days instead of just the half day (which we did). Would I do it again? Absolutely. Cheri, as a non diver, also had a great time. Phil

Subject: La Paz

From: Jim Cloonan
To: Tom at Dive Adventures and Travel
Date: 10/18/2004

Hey Tom, That was a great trip. The diving was great except for the manta and shark no shows, people were great, and the food was great. If you had to change one thi'ng, having time limits on the dives was not cool. Considering the length of the day as it stands, an extra 5-10 minutes per dive really isn't going to make a difference (I know Joe would be a special case).

Subject: Trip Comments

From: Pauline
To: Tom Gorman
Date: 7/18/2004

Hi Tom, This Cozumel trip was the most fun vacation I have ever experienced! Delicious food, comfortable accommodations, fun people to be with, and absolutely fantastic diving. Tom took care of all the details and logistics so I could just enjoy myself and not worry about anything. I can hardly wait to go again. In fact, I liked it so much I bought a time share down there. THANK YOU TOM!!! Pauline

Subject: Comments about the trip

From: Tad Brown
To: Tom Gorman
Date: 7/14/2004

Hi Tom, The trip to Cozumel was awesome. The diving was incredible, and the accommodations were excellent. I had such a great experience, and really improved my diving skills. I would definitely recommend Scuba Club Cozumel and Gorman Dive Adventures. Good food, nice rooms, nice dive boats, friendly crew, and experienced dive masters; a fun, well organized, and reasonably priced vacation. The dollar went a long way. I look forward to the next trip. Tad R Brown
Subject: Comments about the trip

From: "Sharon DePriester" To: Gorman Dive Adventures and Travel
Date: 7/13/2004

I thought it was a great trip. wouldn't hesitate to go back. liked the resort, the food, and, especially, the diving. The only change I'd recommend is forgetting the redeye nights. Some of us need our beauty sleep. August 7th works for me for the Survivor Party. Wlii enjoy seeing everyone again. Thanks for putting everything together. Sharon

Subject: Comments about the trip

From: Louise Thornton
To: Tom Gorman and Gorman Dive Adventures
Date: 7/13/2004

I had a wonderful time! The Scuba Club is a very nice resort, rustic, quaint and clean. The food was excellent and the staff couldn't do enough for us. As a brand new diver, I had a exceptional experience and certainly feel I took full advantage of the adventure with 14 dives. I see the Scuba Club in my future many times! The only thing I would change if it were possible would be the amount of time between planes on the return trip. An hour is not long enough and since we only had 45 minutes I felt I was trying out for the Olympics! I am good for August 7th. Weeze

Subject: Cozumel Trip

From: Nancy Bushnell
To: Tom Gorman
Date: 7/13/2004

I loved the whole thing Tom (not so much the end...)--- and that Aug date is great for the party. You were and are steller. You have not seen the last of me. Hugs, Nancy

Subject: Thanks

From: Kevin Kastoroff
To: Tom Gorman
Date: 7/11/2004

Hello Tom... Just a quick thank you for a GREAT dive trip! I'm looking forward to hooking up with everyone as well as future stuff. Tell me a little about La Paz. Specifically, time spent on boat diving. As you
know Laurie is a non-diver so I would like to spend some time with her. I'm also looking forward to some local diving with Frank. A very special person he is and a pretty good diver. NOT AS GOOD AS YOU THOUGH! I've also got a gentleman at work who wants to get certified and YOU GUYS ARE THE ONE! Anyway, thanks again...it was absolutely incredible! Kevin

Subject: Bonaire

From: "Karen Gonzales" To: tom@diveadventures.net
Date: 5/6/2004

Hi Tom, Here's my feedback. As usual, you planned a great trip for all. It was very well organized and the resort was beautiful. I appreciated the fact that we had a scheduled boat each day, although shore diving was an option. I also liked the breakfast coupon that enabled us to have one free meal at breakfast or lunch. My only concerns with the trip was with some staff at the resort. The dive shop crew were excellent. However, the front desk and restaurant staff were less than accommodating. I thought it was cultural until we went to a restaurant off property and the customer service and people were excellent. The other item that I suggested on the comment card is that they open a beach grill that stayed open late and served quick snacks and burgers for night divers or late diners. Again, thanks for another safe trip! Karen Gonzales

Subject: Bonaire

From: Grady Scallon
To: Tom Gorman
Date: 5/5/2004

Tom, thanks for putting together another great trip. Overall, everything was great. The Bonairian women would take a class in attitude adjustment toward their guests. I enjoyed myself tremendously with the group that was there. See you tonight at the Chamber Dinner. Grady

Subject: Bonaire

From: Gissi, Jane” To: Tom Gorman
Date: 5/4/2004

Tom, Both Mike and I thought the trip was spectacular! I spoke with a friend of mine who went to Bonaire the previous week. She stayed at Buddy Dive. She said her trip was great except for: the cockroaches in the bathroom; there were too many people on the dives that
crowded her site; and that the group was influenced to stay together for dinner. She never did see the town. We though our resort was perfect, close to town, had our freedom as well as a great group of people to hand with, having breakfast available was really good. How about another trip to Bonaire in September? Thanks, Jane

Subject: Bonaire
From: "Laura Bazerman" To: Tom
Date: 5/3/2004

"Ditto" - ok that's cheesy - but I do mean it. Thanks for a wonderful vacation! Laura

Subject: Bonaire
From: Kevin Panizza - kpanizza1@cox.net
To: Tom Gorman
Date: 5/3/2004

Is anybody else wondering why we ever got on the plane home? Kev
Tom, Wendy and I had a fantastic time. I could'nt imagine anything that needed improved upon. Kevin

Subject: Bonair Trip
From: agact@earthlink.net
To: Tom Gorman
Date: 5/3/2004

Hello Everyone, A GREAT trip, great diving, Tom did a nice job on this one... You all made my vacation memorable. Thanks to everyone... Do rent a jeep for adventure - DON'T GETIT STUCK....! And believe it or not I came home without a scratch.... BULA, Chuck

Subject:
From: Mike DeWalsche
To: Tom@diveadventures.net
Date: 5/2/2004

Howdy. I just wanted to take a minute and say thanks to all of the wonderful people that attended the Bonaire dive trip. I had a wonderful time, due in part to the people that attended. I can hardly
wait to schedule my next dive trip. I hope to see and talk with everyone soon. Take care, Mike DeWalsche

Subject: RE: Bahamas Oct. 2003
From: Eric L. Eckes
To: Tom F Gorman III
Date: 10/26/2003

I enjoyed diving with most of the group. They made the trip! Unfortunately, I would not go back there. Stuart appears to be about quantity, not quality. The food was terrible and the value just wasn't there (considering on most dives the Zambizi burned little fuel to reach the sites). I understand the hotel is in bankruptcy which makes sense given it is in disrepair. I truly appreciate your efforts. I felt bad for you the first couple of days as I know you felt personally responsible for the problems. I look forward to diving the opposite of this when we do Truk next May! Eric

Subject: La Paz!
From: Grady Scallon
To: tom@diveadventures.net
Date: 8/6/2003

Tom I had a great time on the La Paz Trip. I thought the dive masters were better than the last time and so was the food. The boat trip was longer but that just gave us more time for socializing and partying. Altogether, I have no complaints about the trip except for Cliff blowing chunks over the side of the boat. I'll see you tonight at Victoria's for the board meeting. Grady

Subject: Cozumel July 2002
From: Garcia, Gary
To: Tom F Gorman III
Date: 8/28/2002

Dude, When is the next Cozumel trip??

Thanks, had a great time - Gary

Subject: Fiji 2002
From: Christy White
To: Tom F Gorman III
Date: 8/27/2002

Great diving together! What a great trip.

Thanks Tom for your leadership and encouragement of responsible diving mixed with just the right amount of fun. Looking forward to the "I survived" photo party. Here are a few photos of SCC and the group in the meantime.

Take care and safe diving. - Christy White

Gorman Diva Adventures and Travel (CST-2065894-40)
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Modified 12/04/2014
ATTACHMENT 10

Laguna Sea Dwellers Newsletter May 2011
(Page 1)

Thanking Jane for heading up the efforts of Laguna
Sea Dwellers by staffing the booth.
Will YOU need it???

Hopefully the answer to that is no. The hyperbaric chamber can be a life saver in a diver’s time of need. May 4th is fast approaching! The event is on May 4th. Hopefully you can attend, but even if not, you can still contribute to this very worthwhile diver support. About 50% of its budget comes from donations and this event. Even if you never need it, you will be supporting a fellow diver when they need it.

CLICK HERE AND SIGN UP FOR CHAMBER DAY & CHAMBER EVE 2011

IAfew words from Cathy, LSD President

Goodness! April was a busy month! We started out Bowling and filled 5 lanes again! Prizes went to: Boh Kakuschke for the Most Strikes (movie ticket ts), Ed Mickus for the Highest Score (Starbucks Card), Jerry Mess for the one who Needs Most Improvement (wine), Jeanette Preston for the Best Style (license plate frame), and Barry Me nze for the first 7’s (movie ticket ts). A GREAT time was had by all ... and, they all want to do it again! Watch for LSD Bowling in October!

KelpFest on the 16th drew a couple thousand people to Main Beach in Laguna, almost 100 snorkelers, and several LSD members who staffed our booth! Thanks to Jane Martorana and Juli Anne Steers for heading up the effort for LSD’s part, and to Bill ‘Manrow, Xandra, Joe, Lacy, and Lucy Laskowski for entertaining the kids and others that stopped by in the morning. Ron and Angi Burkard for entertaining in the afternoon, Gary ICing, Dianne Buckner, I’evin Boyd, and Martha Edge for lending a hand throughout. The Bean Bag toss was again a hit!

Newsletter Date: May 2011

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Upcoming Events:

• 611 - Photo Contests Entries due. Good Luck!

• 613 - Night Dive @ Sharp Cove Mst@7:30

• 514 - Chamber Day & Chamber Eve

• 516 - Rurning Mixer @ Malibu Looma L, h Pub@5:30

• 518 - Humboldt 1d Coronado 1d=ride!

• 5118 - May Meeting@ Newport @ench’Tnfl, Club 6:30 PM

• 5121 - Club Dive md BBQ Hiaa@ Pud. 11-1 nd Bench Clinic
This is my volunteer-appreciation article, and I’d like to acknowledge and thank a bunch of people for all the contributions to club events and initiatives so far this year. The volunteerism has been fantastic again in 2011, and it is truly very generous! Thanks to: Roeland Papen, and Gary Williams for all the boat trip planning; Robb Evans and Scott Auchmoody for leading the monthly Tuesday night dives; Jeff Reitz for leading weekend dives for LSD and SOCDC; Ed. Mickus and John Lee for lining up speakers for our meetings; Mark and Yvonne Angel for our wonderful BBQ’s and John Staats for securing the picnic tables (what a trooper!); Kevin Boyd for our terrific newsletter, the envy of other dive clubs and Eric Eckes and Tom Gorman for past newsletters; Jean Yves Couleaud, Sherri Cubiuos, Gary Williams, and Debbie Karimoto for creating our brand-new, be-autiful, functional website; Craig Staller for always pitching in and for contributing articles to the newsletter; Debbie Karimoto for keeping membership organized and cheerfully welcoming new members; Dianne Buckner, Xandxa Laskowski, and Julianne Steers for the fantastic raffle sales; Dianne Buckner for documenting the meetings and photos at the events; John Lee for expert handling of the AV and helping to run the club meetings; Julianne Steers (a star!) for leading the Special Projects Committee; Joe Liburdi for re-introducing the Photo Contest and FREE Photo Workshops for 2011; and ... thanks to Sue and Bill Manrow, Dianne Buckner, Terese Cara cci o, Robb Evans, Nancy Kluve, Gary Sanders, and Laura Bazerman for all their help with the 3rd Annual Easter Egg Hunt; the sponsors for the Easter Egg Hunt included Beach Cities/Laguna Sea Sports, Scuba World, Liburdi’s Dive & Photo, Magician, Humboldt, SeaSoft, Exhale Scuba, Newport Beach. Tennis Club, [ST, the Manrows, Debbie Karimoto, Jane Martorana, and me!

Our Luau planning is off to a great start! If you aren’t signed up yet, the 1st e’s still room! We are securing a 3rd boat that will take 12 more divers and a few non-divers. At this point, we have at least 50 people signed up and I’m for about 20 more. Get your name on the list, and sooner you pay, the sooner you secure your spot! This is an event you don’t want to miss! Thanks to Dianne Buckner (goodness... we have quite a volunteer in Dianne!), Kirk Woloshyn, Konrad Fry, Russ Follmer, Eileen Weierbach, Cindy Wager, Laura Swanson, Bill and Sue Manrow, Julianne Steers, Craig Staller, Jerry Lewis, and Gary Williams for planning the food and activities... and potentially Angi and Ron Burka and John Mitchell with their private boats helping out. Yes, private boaters are welcome at the Luau, and it is only $25 per person!

Whew! That is a lot of acknowledging! If I have forgotten anyone, it wasn't intentional. Please let me know, and I will be sure to get your name in next time.

So, now Spring and Summer are under way. We have a full calendar over the next few months. Plenty of fun diving and diving-related activities! Your club membership puts you first in line to participate! We have a good start to our renewals for 2011, but, there are some stragglers. If you have not renewed yet, will you please take a few minutes now to make your payment? We really appreciate you and want to be sure you continue to get all the club news and perks! Please don't be a stranger and renew now! Thanks!

Thank you, to you, the club members for continuing your members hip, buying raffle tickets, attending all the events and activities, and making all the efforts everyone puts forward fun and worthwhile! Hope to see you on the beach, at om BBQs, at a mixer, at the LUAU in July, any of our boat trips, monthly meetings, and oh yes... bowling again. too! Have a great month, and always, DIVE SAFELY and have FUN!
### May 2011

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<th>6 Club Mixer Muldoon’s Irish Pub 5:30PM</th>
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### June 2011

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May Birthdays

Jay Thomas, May 4
Alberto Mantovani, May 5
Nick Kurtessis, May 6
Eric Eckes, May 10
Jason Marsh, May 11
Anita Watrin, May 20
Michael Pennino, May 21

Sherri Cubillos, May 21
Tim Hankerd, May 22
Natasha Polanski, May 23
Joe Laskowski, May 24
Jon Haddan, May 27
Joel Geldin, May 30

Did You Know?!?

Speaking of birthdays, Catalina E.tpress has a GREAT birthday deal going on right now. Get a FREE round trip ticket on your birthday! Take a trip to Catalina and enjoy your birthday. The ticket MUST be used on the day of your birthday to go out to Catalina and return is within 30 days. Get all the information online at

http://www.catalinaexpress.com/birthday_price.php

You’ll See the Most Fabulous Faces in La Paz!

August 31 through September 5, 2011

Hotel & Diving
5 Nights, 6 Days
3 Days 3-Tank Diving
S$1079

JoeL@lrd.com
New Member Spot

Still we grow!!!!
Over 180 members. Here are the latest to join LSD:
Patrick Smith
Jeanne Nelson
John Mitchell
Chad Mallam
Carston Mejilbo
Jeannette Preston
Derek Karimoto
Mike McGuire
Steve Larson
Dorothy Larson

Michelle Hoalton-400 Dives
Shane Goodridge-3000 Dives

New Certification
Jeanne Nelson (married Joel Geldin)
Earned her C Card in Fiji

Laguna Sea Dweller monthly meetings are held at
Newport Bench Tennis Club
2601 Eastbluff Newport.Beach, CA 92660
Upcoming Boat Dives

<table>
<thead>
<tr>
<th>Date</th>
<th>Boat</th>
<th>Destination</th>
<th>Departs</th>
<th>Returns</th>
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<td>Coronados</td>
<td>7:30AM</td>
<td>5:00 PM</td>
<td>$125 to LSD</td>
<td>3 tank dive, food, beverages, nitrox</td>
<td>you may preboard the night before after BPM</td>
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<td>Anacapa</td>
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The Dive Report

The trip on the Sundiver Express on April 2nd was a good trip. There were several schools of fish that followed us from one site to another! The first site was Blue Car, where there was one large crab that I think everyone on the dive saw, because it seemed like everyone mentioned seeing it when they surfaced. Next up was Goat Harbor. No Giant Sea Bass there this time. Finally we went to Empire Landing, which was a nice shallow dive along a long reef. A great site for all to visit.

The weather was less than perfect but the diving was good.

The next trip is set for May 14th on the Humboldt to the Coronados Islands. This trip is full, and a report of that trip will be in next month's newsletter.

After that, we have half of the dive boat Peace charted for June 11th to Anacapa Island. We have 2 spots still available on this trip, and the cost is $135. If you have never been there before, the Peace is a comfortable boat. The Channel Islands are known for their many species of nudibranchs, and ling cod.

For the Luau on July 30th, we have already filled up two boats, and will be chartering a third boat. We do expect to fill up the third boat, so if you are undecided about this trip, you need to make up your mind now, because there may not be an available spot if you wait until next month.

Please be sure to go to the web site for the latest information on schedule and availability of dive trips. You must be logged on to make a reservation for a dive trip and pay for a trip. All of the trips have an active PayPal link. If you have any troubles with the reservation process, I want to hear about it. Send comments and problems to luna@luna.com.
In Case You Missed It by Dianne Buckner

Our April meeting was a fun get-together as usual! We surprised Cathy with a birthday cake so free dessert for all!

RAFFLE TIME • Our monthly prize raffle with many great prizes was held as usual....

Information/Updates were given on:
- Our monthly boat trip • Our annual luncheon is fast approaching. Two boats are full, and a third is in the works. If you want to go, you need to sign up • good food, good times will be had, etc!
- just seeing if you are paying attention)
- update on the FREE beach diving clinics by Jerry Meas (along with his volunteer helpers, Tilli Marrow and Cathy Solomon to name a couple of them)
- New members and guests were introduced (there were quite a few!)

There are many activities in the works... sign onto the website to see what's going on! Updates are being made often. Check it out!

Our speaker for the evening was Kurt Leiber of Ocean Defenders. He explained how debris from tridents, fiabags, and other debris is endangering our underwater wildlife.

Did you know nylon line is toxic to plankton and does not deteriorate? It's called 'kill' m!n my sea lions, hawks 111d other mammals! Videos in Kurt's presentation showed sockeye salmon and the eels of Borneo that are used as live bait. Other video clips showed the i-crow of mammals that didn't kill the luck... I'm reeled. Many good questions were asked, and we were rewarded with a donation to the cause. Kurt was very excited by the response from the members of the dive club.

We hope to see you at the next meeting on May 18th! Our speaker will be out. Don't forget about our mixer on the first Friday of the month... May 20th at Muldoon's Irish Pub!! Yo ho, yo ho, the pirate life for me!

LSD UNDER WATER EASTER EGG HUNT & BBQ

The weather was nice, the water temperature fairly comfortable, and the visibility was docent. Add to this several LSD members and guests, and it all makes for a fun time!

Our `eggs layers in the water were called to hide the eggs (Cathy Solomon, Gary Samelson, and Nan Young), and the brief was given by Illi Mill Mu u ow. and the call was made by a team of divers headed off to Shaw's Cove to test their hunting skills. About 12 divers were there, and the weather was beautiful.

After the dive, a BBQ (headed up by our own Mark Angel • chef extraordinaire) was set up to feed the crowd. The menu included meatballs, pasta sauce, and desserts (made by fellow members including Anita Wall, Cindy McGee, Eileen Weierbach) was on the menu.

Everyone had a good time... but we missed those of you who weren't there. Maybe next year.....

Have a good month • see you at the next fone Lion.

Dianne Buckner
### Member Savings at Dive Shops

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**$2976.00 dbl, occ. i,nc. air**

...7 Night PACKAGE INCLUDES: - R/T NONSTOP FIGHT FROM LAX TO FIJI VIA AIR PACIFIC - R/T GROUND & BOAT TRANSFERS - 7 NTS IN A DELUXE AIR CONDITIONED PRIVATE FIJIAN VILLA - FIJIAN GOURMET DINING DAILEY- 5 TWO-TANK BOAT DIVES PLUS UNLIMITED SHORE DIVING - 40T A DIVER - 5 HALF-DAY SURF SESSIONS AT FRIGATE PASS - KAYAKING, HIKING, CLIMB TO A WATERFALL IN THE NEAR BY-1-ILLS- FIJIAN CULTURE & ENTERTAINMENT - FIJI GOVT. TAX

---

**Note:**

1. Please call ahead for Nitrox.
2. No discount for photo.
3. Additional information can be found in the monthly coupon cards provided to members.
May 2011

To the LSD Beach Divers and Wanna-Be Beach Divers!

The 2nd Beach Div. Clime is on for May 21 st. 8-11 AM at Shaw’s PuW. This 11e11sion ... gen rmd for thosr! now co beach diving, ltlve been out of it!! write, und need n refres11t or simply wan! lo prac- lice ...kills ...tide, have fun! Following is an outline of the session:

A) Review of what was covered in the 1st session:
   1) Observe the surf to determine conditions
   2) Check the tide to understand what the water is doing!
   3) Review getting into and out of the surf

   III For those that want to do a dive:

   1) Briefing on hazards in reef including the different channels und dangerous animulns
   2) Aquatic life i.e.: different fish, moray eels, octopus, sea lion and bat rays
   3) Buoyancy control - avoid damaging the reef by controlling buoyancy and proper arrangement
   4) After the dive, debrief participants and discuss observations
   5) Participants will log the dive and sign log books

Gear needed: full dive gear

This session will be led by Jen-y Mestas and Bill Manrow, instructors. If you are interested in attending please contact JenY at jerry8@me.com. Jerry will also provide waivers.

**Please plan to be at Shaw's cove prior to 8 suitd up in wetsuit, booties, gloves and mask, snorkel and fins ready to go.**

If you are a Rescue-certified diver (or Master-Diver, DM, or Instructor, etc.) and would like to help out, please also contact Jerry to let him know your interest.

First, thank you to the many people who have given me feedback on the newsletter. It feels good to be able to bring you the news and information in the dive community. Please, keep the feedback coming and keep looking forward to the next issue installment. Not much has changed yet, but, I am jumping in with both flippers to make this something everyone will like.

Do YOU have something you would like to contribute? We would like to have a few guest columnists in future editions. If time allowed, I could blabber (or is that blubber) all day. But, I like just a quick note to you (for now).

The water felt great for the egg hunt! My first time in since my motorcycle accident. I had put on (ahom) a few pounds since then 50 I was not weighted right. Next time, I'll be sure to adjust, but it served as a reminder to always check everything!

Now, GO GET WET!

Scuba World: 1706 N. Tustin Orange, CA 92865
(714) 998-6382 scubawww@aol.com

Scuba World is offering this computer to LSD for $199, regular retail over $300.00. You must say that you are a Member of Laguna Sea Dwellers! It's great back up computer. compatible and down loadable!
News and Events in Beach Cities Scuba & Laguna Sea Sports

Tri-MB - Oxygen m.d. Aqon falls in Dana Point. Laguna, H untingLOn
Beech and Cy1 vecs Strmng Apr 16, 2021.

Whtll Dry suit Demo Day at Coruna Gis M r Stnt. Uc/eh Atiril 9, 2021.
Mainum /ure r Ri po on wth over 200 dry sues to wY., "ills restrion 3 req<1 ed
www.111500nlacey@hmvow<ehm

N w arival "Seal,ug<-> T ch Gear Lim,"

Riviera n.p. every friday to The wreck of Lhe AG E. and Local kelp
beds Starting AprF 15.

Check our trips to nema11% Cozumul (What's ShReh), Fiji, Trur.k La w on nd
the Red Sea www.mfl<.com rch to nema11

All links and logos are clickable.
ATTACHMENT 11

2006 Scuba diving adventure in Fiji Jane Martorana is in the picture on the right far end sitting on the bench in a white t-shirt
Supervisor Statement
Hi Joelene,

Please find the attachment with the answer to your questions.

Thanks,
Jane
Good afternoon Jane,

OCERS is looking for information relating to Jane Martorana’s request for disability retirement from her previous Senior Social Worker position. There is an evaluation process that OCERS completes in making their recommendation to the Board of Retirement (for denial or approval). You can share information related to job performance and discipline. Please reply to this email with your responses by Thursday, April 11, 2019.

Would you please answer the following questions below, to be included in the paperwork. I realize you did not supervise Jane directly and may not recall specifics, but please answer the questions only as you remember without any additional details. If you truly do not know the answer to a question please respond by saying so. Please note that you may copy and paste these questions into a Word document if that is more convenient:

1. How long did you supervise Jane? What were the specific dates (if known)?
   I was not her Supervisor. I moved to the role of Administrative Manager II over SFS Continuing Program May 1, 2015 and she was already assigned to this program as a Continuing SSW.

2. Briefly describe the “usual and customary” job duties for Jane.
   As a Continuing SSW she was assigned a caseload of Dependent children under the supervision of Juvenile Court receiving either Family Reunification or Family Maintenance services. The SSW is responsible for complying with the orders of Juvenile Court to assist the family in their efforts to reunify. This requires monthly in person contact with each child, parent, and caregiver. The SSW is responsible for providing reasonable services to the family - locating and providing them with services to address the reason the children became dependents. They also must assist with ensuring the children receive the medical, mental health, and education services they require, while ensuring their safety through monthly visits and communication with the caregiver. The SSW is required to document this in monthly contacts in CWS/CMS and also in Status Review Court reports submitted approximately every six months to Juvenile Court.

2. In your opinion, was Jane performing the “usual and customary” job duties prior to her last day of work?
   My observation is that Jane was frequently out of the office on LOA and this required us to transfer her cases to other SSW’s. When she returned to the office we would gradually assign her cases and then she would be out of the office on LOA again. As a result, she only had a full caseload for very short periods of time over a period of approximately 3 1/2 years.

   Later she presented medical restrictions related to the amount of time she could drive (20 minutes), the amount of time she could sit, and the amount of time she could spend typing each day that we could not accommodate in this position. As a result, she was frequently assigned to temporary assignments.

3. Please describe any observations you have made regarding Jane’s injury/illness and her inability to perform her job duties.
As she reported back and leg pain, it would be difficult to observe.

4. Were you aware of any work restrictions she had? If yes, please describe.
She presented with a variety of work restrictions over the years, to include a limit on
time she could spend typing each day (provided with computer programs to assist her
but it did not appear she used them regularly); time she could sit each day; the amount
of weight she could lift, and the amount of time she could drive.

5. Was she able to substantially perform her “usual and customary” job duties w/
accommodations? If no, what duties was she unable to perform and how frequently did
she have to perform those duties?
She struggled to complete her job duties unless she had a reduced caseload as she had
multiple medical appointments each week, and multiple LOA’s.

She was capable of performing the job duties.

6. Did she have any attendance problems?
She frequently was out of the office due to medical appointments, LOA, and calling out
sick.

7. What info or knowledge do you have regarding her extracurricular activities, such as
outside jobs or activities that are physically demanding?
She enjoys Scuba Diving

8. Please list the names of any witnesses or co-workers that may have knowledge of her
inability to perform her job duties.
Vanessa Velasquez, Nancy Genovese, Marlene Telogadas, HR analyst, Union
Representative.

Thank you for your timely response. If you have any questions or require assistance, please let
me know.

Joelene Jubak
SSA Return to Work Manager
Social Services Agency
P: (714) 245-6178 / F: (714) 541-7877
Joelene.Jubak1@ssa.ocgov.com

COUNTY OF ORANGE
HUMAN RESOURCE SERVICES
Jubak, Joelene

From: Collins, Sharon  
Sent: Thursday, April 11, 2019 4:02 PM  
To: Jubak, Joelene  
Cc: Zietz, David  
Subject: FW: Supervisor Statement for OCERS Retirement  
Attachments: Jane Martorana Attendance.docx  
Importance: High  

Jolene,

Please see my responses to questions asked regarding employee in question, below in red. If you should have any other questions, please feel free to contact me.  

(attached is employee attendance document)

Thank you,

/
\fiaron  
Collins, Sharon

Collins, Sharon  
Social Services Supervisor  
County of ChM, 6JL<1/.fgistry/  
July 11 Pmuaiw.Servicru Jt[ini•  
11< 704 '768

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From: Jubak, Joelene <Joelene.Jubakki@ussct.oegov.com>  
Sent: Wednesday, April 3, 2019 2:15 PM  
To: Collins, Sharon <Sharon.Collins@ssa.oegov.com>  
Cc: Zietz, David <David.Zietz@ssa.oegov.com>  
Subject: Supervisor Statement for OCERS Retirement  
Importance: High  

Good afternoon Sharon,  

OCERS is looking for information relating to Jane Martorana's request for disability retirement from her previous Senior Social Worker position. There is an evaluation process that OCERS completes in making their recommendation to the Board of Retirement (for denial or approval). You can share information related to job performance and discipline. Please reply to this email with your responses by Thursday, April 11, 2019.

Would you please answer the following questions below, to be included in the paperwork. I realize you did not supervise Jane for an extended period of time and may not recall specifics, but please answer the questions only as you remember without any additional details. If you truly do not know the answer to a question please respond by saying so. Please note that you may copy and paste these questions into a Word document if that is more convenient:
1. How long did you supervise Jane? What were the specific dates (if known)?
05/04/2018 - 10/22/2018

2. Briefly describe the “usual and customary” job duties for Jane.
   As a CAR/APS Hotline SSW Jane's job duties were to answer hotline calls, screen in information utilizing training materials, P&Ps, SDM, and consultation with SSSS's when needed to determine if a call should be screened in as an Immediate or 10 day response, Information Only (Path 1 or MDCT referral), Evaluated Out to Law Enforcement or other agencies, or duplicate report. Complete all written documentations, CWS and SDM tools utilizing SOP language, and then route the report to the appropriate area for clerical processing.
   Jane was also required to take APS hotline calls, screen calls, use APS AIM II and AGED tools, and complete reports accordingly.

3. In your opinion, was Jane performing the “usual and customary” job duties prior to her last day of work?
   No. Jane did not complete the full Child Abuse Registry and Adult Protective Services Hotline trainings due to Jane being on Leave of Absences for the majority of the time that Jane was in CAR/APS Hotlines she was not able to be fully trained on the CAR/APS hotline procedures.

4. Please describe any observations you have made regarding Jane's injury/illness and her inability to perform her job duties.
   Jane would often times request modifications in her schedule to accommodate doctor/physical therapy appointments. Due to Jane being on LOA for the majority of her time at the CAR/APS hotline's Jane could not be fully trained to complete job functions. When taking hotline calls and completing reports, Jane would take excessive amounts of time and work completed would require revisions and corrections. Jane was not trained to take APS calls/reports as she had not fully grasped the CAR job functions.

5. Were you aware of any work restrictions she had? If yes, please describe.
   Jane had several work restrictions during her time at the hotline, which included a sit/stand work station, changing position often, not being able to stand/sit for more than 30 minutes at a time. There was also work restrictions which required Jane to be off of her foot due to an injury that prevented her from being able to attend work as she had permanent restrictions of not sitting for more than 30 minutes at a time, and frequent change of positions.

6. Was she able to substantially perform her “usual and customary” job duties w/ accommodations? If no, what duties was she unable to perform and how frequently did she have to perform those duties?
   No, due to inability to fully train employee to complete CAR/APS job functions due to employee's lack of attendance I was unable to assess employee's ability to perform "usual and customary" job duties with accomodatoins.

7. Did she have any attendance problems?
   Yes, please see attached attendance report.

8. What info or knowledge do you have regarding her extracurricular activities, such as outside jobs or activities that are physically demanding?
   No first-hand knowledge.

9. Please list the names of any witnesses or co-workers that may have knowledge of her inability to perform her job duties.
   Program Manager David Zietz.
Social Services Supervisor Carlos Gallegos

Thank you for your timely response. If you have any questions or require assistance, please let me know.

Joelene Jubak
SSA Return to Work Manager
Social Services Agency
P: (714) 245-6178 / F: (714) 541-7877
Joelene.Jubakl@ssa.ocgov.com
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<td>5hr</td>
<td>2 hr</td>
<td></td>
<td>No reason provided.</td>
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<tr>
<td>05/15/2018</td>
<td>30 min extended lunch 12:15-1:45</td>
<td></td>
<td></td>
<td></td>
<td>Worked additional 30 mins. Physical Therapy appointment</td>
</tr>
<tr>
<td>05/24/2018</td>
<td>8 hours AL</td>
<td>8 hr</td>
<td></td>
<td></td>
<td>Medical Procedure/Time previously requested</td>
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<tr>
<td>05/25/2018</td>
<td>In at 10:48am</td>
<td></td>
<td></td>
<td></td>
<td>Dr. Appointment</td>
</tr>
<tr>
<td>05/29/2018</td>
<td>Late 15 min</td>
<td></td>
<td></td>
<td></td>
<td>Stay late 15 min</td>
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<tr>
<td>05/30/2018</td>
<td>Call Out Sick</td>
<td>8 hrs.</td>
<td></td>
<td></td>
<td>Appointment</td>
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<tr>
<td>06/01/2018</td>
<td>Left 2:45pm</td>
<td></td>
<td></td>
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<td>Appointment</td>
</tr>
<tr>
<td>06/06/2018</td>
<td>10 min due to traffic accident</td>
<td></td>
<td></td>
<td></td>
<td>Time made up end of shift</td>
</tr>
<tr>
<td>06/07/2018</td>
<td>Extra 30 min lunch 30 min</td>
<td></td>
<td></td>
<td></td>
<td>Dr. Appointment</td>
</tr>
<tr>
<td>06/14/2018</td>
<td>leave early 3:15</td>
<td>1 hr 45 min</td>
<td></td>
<td></td>
<td>Requested time off</td>
</tr>
<tr>
<td>06/18/2018</td>
<td>left 9:00 sick</td>
<td>7 hours</td>
<td></td>
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<td>Went home sick</td>
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<tr>
<td>06/20/2018</td>
<td>Extra 30 min lunch 30min</td>
<td></td>
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<td>Dr. Appointment</td>
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<tr>
<td>06/21/2018</td>
<td>60 min OT</td>
<td></td>
<td></td>
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<td>late referral completion</td>
</tr>
<tr>
<td>06/26/2018</td>
<td>Worked total 11:45 min</td>
<td></td>
<td></td>
<td></td>
<td>Worked 3 hours 45 min over scheduled 8 hour work day on 1 referral exceeding 10 hour work restriction by 3 hrs 45 min.</td>
</tr>
<tr>
<td>06/27/2018</td>
<td>Call off</td>
<td>8 hrs</td>
<td></td>
<td></td>
<td>States hip/back/ spasms Had to be reminded to call sick line.</td>
</tr>
<tr>
<td>06/28/2018</td>
<td>Call Off 3hr40 min 4 hours 20 min</td>
<td></td>
<td></td>
<td></td>
<td>States hip/back spasms</td>
</tr>
<tr>
<td>06/29/2018</td>
<td>Extended lunch 30 min extra</td>
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<td></td>
<td></td>
<td>Worked to 5:30pm late referral</td>
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<tr>
<td>06/29/2018</td>
<td>2 hours over (SOT)</td>
<td></td>
<td></td>
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<td>Worker 2 hours SOT on late referral</td>
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<tr>
<td>07/02/2018</td>
<td>Early lunch extra 30 min</td>
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<td>Worked late time adjusted after being advised could no longer accommodate modifications</td>
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<tr>
<td>07/02/2018</td>
<td>Worked 1 hour 45 min SOT</td>
<td></td>
<td></td>
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<td>Finish report</td>
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<td>07/03/2018</td>
<td>PT Extend lunch 30 min 30min</td>
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<tr>
<td>07/09/2018</td>
<td>Extend lunch 30 min for apt. 30min</td>
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<tr>
<td>Date</td>
<td>Event Description</td>
<td>Duration</td>
<td>Notes</td>
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<tr>
<td>07/11/2018</td>
<td>Call car problems</td>
<td>45 min</td>
<td>Car battery died while out at lunch</td>
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<tr>
<td>07/13/2018</td>
<td>Call off sick</td>
<td>8 hr</td>
<td>States work station not set up now causing ankle pain</td>
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<tr>
<td>07/16/2018</td>
<td>Sent text message at 7:38am called off for 8:00am shift</td>
<td>7.30 min</td>
<td>Sent text message would not be in no explanation given. Did not call sick line until being instructed to do so at 9:55am. Did not notify any OD (5555 Off on this date working OT)</td>
<td></td>
<td></td>
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<tr>
<td>07/17/2018</td>
<td>Email and message to sick line out sick today</td>
<td>8 hrs</td>
<td>Employee on temporary disability LOA until 8/6/18. (Dr. Note retro to 7/113/18).</td>
<td></td>
<td></td>
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<td>07/18/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<tr>
<td>07/19/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<td>07/20/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<tr>
<td>07/23/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<tr>
<td>07/24/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<tr>
<td>07/25/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<tr>
<td>07/26/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<tr>
<td>07/27/2018</td>
<td>LOA</td>
<td>8 hrs</td>
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<td>07/30/2018</td>
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<td>8 hrs</td>
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<td>07/31/2018</td>
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<td>08/01/2018</td>
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<td>8 hrs</td>
<td>LOA</td>
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<td>08/02/2018</td>
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<td>8 hrs</td>
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<tr>
<td>08/03/2018</td>
<td>LOA</td>
<td>8 hrs</td>
<td>LOA</td>
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<tr>
<td>08/06/2018</td>
<td>No Call No Show</td>
<td>8 hours</td>
<td>(later considered LOA 8/10/18)</td>
<td></td>
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</tr>
<tr>
<td>08/07/2018</td>
<td>No Call No Show</td>
<td>8 hours</td>
<td>(later considered LOA 8/10/18)</td>
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<tr>
<td>08/08/2018</td>
<td>No Call No Show</td>
<td>8 Hours</td>
<td>David contacted as advised per return to work and employee advised would not return until spoke to HR would not return until after interactive process</td>
<td></td>
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<td>08/09/2018</td>
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<td>8 Hours</td>
<td>Later considered LOA</td>
<td></td>
<td></td>
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<tr>
<td>08/10/2018</td>
<td>No Call No Show</td>
<td>8 hours</td>
<td>IP/LOA until 8/21/18</td>
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<td>08/13/2018</td>
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<td>8 hours</td>
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<td>08/14/2018</td>
<td>LOA</td>
<td>8 hours</td>
<td>LOA</td>
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<tr>
<td>08/15/2018</td>
<td>LOA</td>
<td>8 hours</td>
<td>LOA</td>
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<tr>
<td>08/16/2018</td>
<td>LOA</td>
<td>8 hours</td>
<td>LOA</td>
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<td>08/17/2018</td>
<td>LOA</td>
<td>8 hours</td>
<td>LOA</td>
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<td>08/20/2018</td>
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<td>8 hours</td>
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<td>8 hours</td>
<td>Cited Ankle pain</td>
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<td>8 hours</td>
<td>Cited ankle pain/hip/back/shoulder</td>
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<td>08/24/2018</td>
<td>SICK</td>
<td>8 hours</td>
<td>No explanation</td>
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<td>08/27/2018</td>
<td>Sick</td>
<td>8 hours</td>
<td>No explanation</td>
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<tr>
<td>Date</td>
<td>Status</td>
<td>Hours</td>
<td>Reason</td>
<td></td>
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<tr>
<td>08/28/2018</td>
<td>No call No Show</td>
<td>8</td>
<td>Communication with David and myself regarding vacation request only</td>
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<tr>
<td>08/30/2018</td>
<td>No call No Show</td>
<td>8</td>
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<td>08/31/2018</td>
<td>No call no show</td>
<td>8</td>
<td>Communication only with regards to retroactively using PIP time to offset being billed for insurance</td>
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<tr>
<td>09/03/2018</td>
<td>HOLIDAY</td>
<td></td>
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<td>09/04/2018</td>
<td>Sick</td>
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<td>09/05/2018</td>
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<tr>
<td>09/06/2018</td>
<td>Sick</td>
<td>8</td>
<td>Later determined to be LOA by HR Return to Wk (advised 9/11)</td>
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<td>09/07/2018</td>
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<td>Later determined to be LOA</td>
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<td>09/10/2018</td>
<td>No Call No Show</td>
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<td>Later determined to be LOA</td>
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<tr>
<td>09/11/2018</td>
<td>No Call No Show</td>
<td>8</td>
<td>Later determined to be LOA</td>
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<td>No Call No Show</td>
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<tr>
<td>09/14/2018</td>
<td>No Call No Show</td>
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<td>10/22/2018</td>
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Workers' Compensation
Information Request
Workers' Compensation Information

Request

Please provide the number and dates of Workers' Compensation claims the above-referenced applicant has filed.

1. CDD-0000100, DI 7/29/99
2. CT02-0010201, DI 6/26/18

Please provide the type of injury and status of each claim i.e. open or closed, accepted or denied.

1. Back neck, left shoulder & headache - accepted, future med.

A. Did the applicant agree to a Vocational Rehabilitation Plan?

No

B. Did the applicant complete a Vocational Rehabilitation Plan?

No

Are there temporary or permanent work restrictions? If yes, what are the temporary or permanent work restrictions?

1. No
2. No

What was the applicant's last day of work?

10/22/18

What was the applicant's last day of pay?

2/12/02 - TTD, (3/21/03 - Permanent Disability)

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APR 05 2019

Type of pay?

Temporary total disability.

Sally Antinoco

Date 3/8/19
Accommodation Letter
Hi David,

Yes, the Agency could have accommodated Jane Martorana on a permanent basis with the listed medical restrictions. While working for SSA, Jane was a Senior Social Worker (SSW) that had been permanently reassigned to the Child Abuse Registry (CAR) unit. As a SSW in CAR Jane answered the calls coming into the hotline and assisted by asking the caller questions, taking reports and documenting the call into the electronic system for the state of California. The Agency provided Jane with a sit to stand work station so that she could change positions throughout her work day, allowing for her to sit when needed. The expectation of having to lift objects 25 lbs or more would be outside of her regular job duties.

Please let me know if you require additional information and/or if I can further assist.

Thank you,

Joelene Jubak
SSA Return to Work Manager
Social Services Agency
P: (714) 245-6178 / F: (714) 541-7877
Joelene.Jubak1@ssa.ocgov.com

From: Acuna, David <dacuna@ocers.org>
Sent: Friday, March 6, 2020 3:25 PM
To: Jubak, Joelene <Joelene.Jubak1@ssa.ocgov.com>
Cc: Griffin, Jeff <Jeff.Griffin@ssa.ocgov.com>; Coronel, Azucena [HOA]\<azucena.coronel@hoa.ocgov.com>
Subject: RE: Jane Martorana - Disability Retirement

Attention: This email originated from outside the County of Orange. Use caution when opening attachments or links.

Apologies, I neglected to CC Azucena.
Good Afternoon Joelene,

Our panel physician has completed his disability evaluation for Ms. Martorana. He is recommending permanent medical restrictions. When you have a moment, please review the attached letter and let us know if the Agency would have been able to accommodate. A brief explanation of why or why not would be very helpful.

Please let me know if you have any questions.

Thank you!

From: Acuna, David
Sent: Friday, March 6, 2020 3:00 PM
To: Jubak, Joelene <Joelene.Jubak1@ssa.ocgov.com>
Cc: Griffin, Jeff <Jeff.Griffin@ssa.ocgov.com>
Subject: Jane Martorana - Disability Retirement
March 6, 2020

Ms. Joelene Jubak
Return-to-Work Manager
Social Services Agency
500 N. State College Blvd., Building 520
Orange, CA 92868

RE: Jane Martorana, Sr. Social Worker, Social Services Agency, Date of Application: February 22, 2019

Dear Ms. Jubak:

A physician specializing in the field of Orthopaedic Surgery has conducted a review of medical records as well as a physical examination and has determined that the above-named applicant should be given the following permanent medical restrictions:

- No standing/walking over 30 minutes per hour
- No lifting over 25 pounds on a repetitive basis
- No lifting over 35 pounds on an occasional basis

Would these restrictions have been accommodated on a permanent basis within the applicant's job classification?

Government Code Sections 31725.5 and 31725.6 allow an employee found to be permanently disabled from performing their usual and customary duties, the ability to accept employment in a rehabilitated, or lower paying position. A supplemental benefit payment of the difference between the two salaries, not to exceed the full disability allowance, would be paid in lieu of a disability allowance, which will be held in abeyance until the employee terminated their Orange County employment.

Please feel free to contact me at (714) 558-6218 or via email at dacuna@ocers.org if you have any questions or concerns. I would be pleased to assist you. Thank you for your cooperation in this matter. We would appreciate receiving your response by March 23, 2020.

Sincerely,

[Signature]

David Acuffa
Disability Investigator

CC: Azucena Coronel
October 19, 2020

MEMORANDUM

TO: Board of Retirement
FROM: Disability Committee
RE: Agenda Item DC-3: Bao Vinh

RECOMMENDATION:

Find the Applicant is permanently incapacitated from the duties of a Senior Social Worker.

Deny service connected disability retirement due to insufficient evidence of job causation.

Alternatives: Other action the Board is authorized to perform:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:
Senior Social Worker, Social Services Agency
Date of employer filed application for service and non-service* connected disability retirement: 12/21/2018
Date of employee filed application for service and non-service connected disability retirement: 04/09/2019
Date of entry to OCERS: 10/02/2015
Total years of OCERS service: 1.209
Last day of regular compensation: 03/30/2017
Attorney Designation: Pro Per

*Ms. Vinh does not have sufficient years of service to qualify for non-service connected disability retirement.

DISABILITY COMMITTEE ACTION:

On July 20, 2020, the Disability Committee considered the application for service and non-service connected disability retirement and by unanimous vote recommend that the Board deny a service connected disability retirement due to insufficient evidence of job causation. No party has filed a Request for Administrative Hearing regarding the disability retirement application.
**STAFF ANALYSIS:**
Ms. Vinh is a Senior Social Worker who has applied for service and non-service connected disability retirement based on psychiatric complaints.

*Is the member permanently incapacitated? Yes.*
Dr. O’Brien states that due to her condition, Ms. Vinh does not have the emotional resiliency to work as a social worker. Ms. Vinh has disabling psychiatric conditions that predate her employment with Social Services Agency.

Ms. Vinh does not have the five years of service required to be eligible to non-service connected disability retirement.

*Is there a real and measurable connection to the member’s employment? No.*
It is the opinion of Dr. O’Brien that Ms. Vinh’s workplace was a passive stage and her preexisting psychiatric conditions would have existed absent her employment as a Senior Social Worker.

*What is the effective date of disability retirement? N/A*

Prepared by: Approved by:

David Acuña  Megan Cortez
Disability Investigator  Disability Manager
CONFIDENTIAL

MEDICAL ANALYSIS:
Dr. O’Brien, evaluating medical panelist in the field of psychiatry, addressed the Applicant’s disability claim of psychiatric complaints in his medical report dated June 15, 2020, stating:

“She is not able to work at all in the capacity of a senior social worker due to recurrent depression with severe psychotic features. In 2018, she was accused of abusing her own children and she wanted to give up on motherhood. Her job description involves dealing with abused children and she was abused from her family of origin, military service and her boyfriend. These issues are not yet resolved and she is prone to psychotic depression. She does not have the emotional resiliency to work as a social worker.” (6)

“Given the severity of her psychotic depression as well as her other comorbid diagnoses, this is likely to be a lifetime problem as it has been since childhood thus far.” (6)

“There is not a real and measurable service connection between Ms. Vinh’s job and her disability. The provided records show her multiple psychiatric diagnoses preexist her employment. The records clearly indicate problems stemming from family of origin, a family history of depression, constitutional disorders such as psychotic depression, obsessive-compulsive disorder, and ADHD, as well as military sexual trauma, domestic violence and current family problems. When she went into treatment in October 2015, it was related to domestic violence and not problems at work as she had just started her employment.” (7)

Accommodations:

N/A
August 17, 2020

MEMORANDUM

TO: Board of Retirement
FROM: Disability Committee
RE: Agenda Item DC-4: Jennifer Cole

RECOMMENDATION:

Find the Applicant is permanently incapacitated from the duties of a Deputy Sheriff I.

Grant service connected disability retirement with an effective date of the day after the last date of regular compensation.

Alternatives: Other action the Board is authorized to perform:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:
Deputy Sheriff I, Orange County Sheriff’s Department
Date of employer filed application for service and non-service connected disability retirement: 10/18/2019
Date of employee filed application for service and non-service connected disability retirement: 10/25/2019
Date of entry to OCERS: 08/20/2012
Total years of OCERS service: 7.7175
Last day of regular compensation: Still receiving compensation
Attorney Designation: Pro Per

DISABILITY COMMITTEE ACTION:

On August 17, 2020, the Disability Committee considered the application for service and non-service connected disability retirement and by unanimous vote recommend that the Board grant a service connected disability retirement with an effective date of the day after the last date of regular compensation. No party has filed a Request for Administrative Hearing regarding the disability retirement application.
STAFF ANALYSIS
Ms. Cole is a Deputy Sheriff I who has applied for service and non-service connected disability retirement based on orthopedic complaints.

Is the member permanently incapacitated? Yes.
Ms. Cole’s orthopedic condition prevents her from performing the usual and customary duties of a Deputy Sheriff I.

Is there a real and measurable connection to the member’s employment? Yes.
Dr. Golden opines that injuries sustained by Ms. Cole during the course of her employment contributed to her permanent incapacity.

What is the effective date of disability retirement? The effective date should be the day after the last date of regular compensation.

Prepared by: 

Approved by: 

______________________________ ___________________________
Isabel Linares    Megan Cortez  
Disability Investigator   Disability Manager
CONFIDENTIAL

MEDICAL ANALYSIS:
Dr. Golden, evaluating medical panelist in the field of orthopedic surgery, evaluated the Applicant’s disability claim of orthopedic complaints in his medical report dated June 22, 2020, stating:

“The member is physically incapacitated from substantially performing the usual duties of her job as a deputy sheriff I. She cannot stand greater than 30 minutes, run, jump, navigate obstacles, or carry greater than 10 pounds.” (7)

“[I] find within a reasonable medical probability that the incapacity is permanent with no expectation of resolution with or without additional treatment.” (7)

“[A]lthough there are pre-existing conditions related to both her spine and her left ankle, I find within a reasonable medical probability that there is a real and measurable connection between the incapacity and her employment as a deputy sheriff I.”(8)

N/A
October 19, 2020

MEMORANDUM

TO: Board of Retirement
FROM: Disability Committee
RE: Agenda Item DC-5: Ronald Rosas

RECOMMENDATION:

Find the Applicant is permanently incapacitated from the duties of a Plumber.

Grant service connected disability retirement with an effective date of October 11, 2019.

Alternatives: Other action the Board is authorized to perform:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:
Plumber, Orange County Sheriff’s Department
Date of employer filed application for service and non-service connected disability retirement: 08/06/2019
Date of employee filed application for service connected disability retirement: 10/07/2019
Date of entry to OCERS: 12/03/1999
Total years of OCERS service: 19.4119
Last day of regular compensation: 10/10/2019
Date of service retirement: 10/11/2019
Attorney Designation: Pro Per

DISABILITY COMMITTEE ACTION:

On August 17, 2020, the Disability Committee considered the application for service and non-service connected disability retirement and by unanimous vote recommend that the Board grant a service connected disability retirement with an effective date of October 11, 2019. No party has filed a Request for Administrative Hearing regarding the disability retirement application.
STAFF ANALYSIS
Mr. Rosas is a retired Plumber who has applied for service and non-service connected disability retirement based on orthopedic complaints.

Is the member permanently incapacitated? Yes.
Mr. Rosas’ left knee condition prevents him from being able to perform the usual and customary duties of a Plumber.

Is there a real and measurable connection to the member’s employment? Yes.
Dr. Klassen opines that the suboptimal result of Mr. Rosas’ left knee surgery is the cause of his permanent incapacity. Mr. Rosas underwent this surgery after he sustained an injury at work in February 2016

What is the effective date of disability retirement? October 11, 2019.
The effective date should be the day after the last day of regular compensation.

Prepared by:     Approved by:

David Acuña     Megan Cortez
Disability Investigator   Disability Manager
MEDICAL ANALYSIS:
Dr. Klassen, evaluating medical panelist in the field of orthopedic surgery, evaluated the Applicant’s disability claim of orthopedic complaints in his medical report dated June 10, 2020, stating:

“[T]he member [sic] physically incapacitated from substantially performing the usual duties of his job [sic] He cannot walk for more than one hour; he cannot kneel, climb, crawl or squat, specifically with the left knee replacement. His lumbar spine and left ankle injuries do not preclude him from working; however, his poor result after knee replacement does preclude him from performing the usual duties of a journeyman plumber.” (9)

“The current condition will not change, and his limitations due to the poor outcome of his left knee replacement are permanent with or without treatment.” (9)

“[T]here is a real and measurable connection between Mr. Rosas’ permanent incapacity and his employment. The left knee condition that is the substantial factor causing a permanent incapacity is causally connected to 02/26/16 when the member slipped while walking in the mechanical boiler room. There were multiple metal pipes on the ground and he stepped on a 3/4 inch pipe, suffering an injury to his left knee and ankle.” (9-10)

Accommodation:

N/A
October 19, 2020

MEMORANDUM

TO: Board of Retirement
FROM: Disability Committee
RE: Agenda Item DC-6: Calinh Vu

RECOMMENDATION:

Find the Applicant is permanently incapacitated from the duties of an Employment and Eligibility Specialist.

Grant service connected disability retirement with an effective date of September 27, 2019.

Alternatives: Other action the Board is authorized to perform:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:
Employment and Eligibility Specialist, Orange County Social Services Agency
Date of employer filed application for service and non-service connected disability retirement: 08/21/2019
Date of employee filed application for service and non-service connected disability retirement: 09/17/2019
Date of entry to OCERS: 03/13/1992
Total years of OCERS service: 27.5567
Last day of regular compensation: 09/26/2019
Date of service retirement: 09/27/2019
Attorney Designation: Pro Per

DISABILITY COMMITTEE ACTION:
On August 17, 2020, the Disability Committee considered the application for service and non-service connected disability retirement and by unanimous vote recommend that the Board grant a service connected disability retirement with an effective date of September 27, 2019. No party has filed a Request for Administrative Hearing regarding the disability retirement application.
STAFF ANALYSIS
Ms. Vu is a retired Employment and Eligibility Specialist who has applied for service and non-service connected disability retirement based on orthopedic complaints.

Is the member permanently incapacitated? Yes.
Ms. Vu’s right hand and wrist condition prevents her from performing the usual and customary duties of an Employment and Eligibility Specialist.

Is there a real and measurable connection to the member’s employment? Yes.
Dr. Klassen attributes Ms. Vu’s permanent incapacity to cumulative trauma from performing key functions of her job.

What is the effective date of disability retirement? September 27, 2019.
The effective date should be the day after the last day of regular compensation.

Prepared by:     Approved by:

David Acuña     Megan Cortez
Disability Investigator   Disability Manager
MEDICAL ANALYSIS:
Dr. Klassen, evaluating medical panelist in the field of orthopedic surgery, evaluated the Applicant’s disability claim of orthopedic complaints in his medical report dated June 10, 2020, stating:

“The member is physically incapacitated from substantially performing the usual duties of her job. The main job that the member has involves interviewing, writing and keyboarding, and she continues to be incapacitated from these activities even though she has been off work for 9 months. The department conducted an interactive meeting on 06/25/14 and was able to accommodate those temporary restrictions. She was assigned to other job duties on a temporary basis while HR and her department reviewed accommodations for permanent medical restrictions. She had an ergonomic workstation adjustment. However, she describes the 90-minute interview that she has to conduct with a client is in the lobby at another desk used by others and it is not ergonomically set up. She still does not use a computer at home and has difficulties with ADLs. I find within a reasonable medical probability that she is permanently incapacitated. (10)

“Yes, there is a real and measurable connection between her employment-related cumulative trauma injury and her permanent incapacity. The causation in her job involves interviewing, writing and keyboarding. She had an ergonomic workstation adjustment, however she described a 90-minute interview with a client in the lobby at another desk used by others and it was not ergonomically set up. The writing and keyboarding is the connection between the member’s permanent incapacity and her employment.” (11)

Accommodation:

N/A
MEMORANDUM

TO: Board of Retirement
FROM: Disability Committee
RE: Agenda Item DC-7: Daniel Mackay

RECOMMENDATION:

Find the Applicant is permanently incapacitated from the duties of a Fire Captain.

Grant service connected disability retirement with an effective date of November 30, 2019.

Alternatives: Other action the Board is authorized to perform:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:
Fire Captain, Orange County Fire Authority
Date of employer filed application for service and non-service connected disability retirement: 07/08/2019
Date of employee filed application for service connected disability retirement: 10/02/2019
Date of entry to OCERS: 11/07/1980
Total years of OCERS service: 39.8901
Last day of regular compensation: 11/29/2019
Date of service retirement: 11/30/2019
Attorney Designation: Pro Per

DISABILITY COMMITTEE ACTION:

On September 21, 2020, the Disability Committee considered the application for service and non-service connected disability retirement and by unanimous vote recommend that the Board grant a service connected disability retirement with an effective date of November 30, 2019. No party has filed a Request for Administrative Hearing regarding the disability retirement application.
STAFF ANALYSIS
Mr. Mackay is a retired Fire Captain who has applied for service and non-service connected disability retirement based on orthopedic complaints.

Is the member permanently incapacitated? Yes.
Dr. Klassen opines that Mr. Mackay’s low back injury precludes him from performing the usual and customary duties of a Fire Captain.

Is there a real and measurable connection to the member’s employment? Yes.
Mr. Mackay injured his lower back during a drill in which he was required to pull a victim out of the way of danger. It is this injury that Dr. Klassen opines is the primary cause of Mr. Mackay’s permanent incapacity.

What is the effective date of disability retirement? November 30, 2019.
The effective date should be the day after the last day of regular compensation.

Prepared by:     Approved by:
_______________________________ ___________________________
David Acuña     Megan Cortez
Disability Investigator   Disability Manager
CONFIDENTIAL

MEDICAL ANALYSIS:
Dr. Klassen, evaluating medical panelist in the field of orthopedic surgery, evaluated the Applicant’s disability claim of orthopedic complaints in his medical report dated July 20, 2020, stating:

“[T]he member is physically incapacitated from substantially performing the usual duties of his job as a fire captain. He is precluded from driving more than 1 hour, climbing, lifting, crawling, stooping and bending.” (9)

“[T]he incapacity is permanent. The above restrictions are permanent and not expected to change with treatment or the passage of time.” (9)

“There is a real and measurable connection between his employment as a fire captain and his permanent incapacity. On 06/28/16, he presented to Dr. Wills, orthopedic surgeon, for a new injury to his back which occurred at work while he was on a fire training drill. The lumbar spine injury is the primary cause of his permanent incapacity.” (9)

Accommodation:

N/A
October 19, 2020

MEMORANDUM

TO: Board of Retirement

FROM: Disability Committee

RE: Agenda Item DC-8: Teresa McConkey

RECOMMENDATION:

Find the Applicant is permanently incapacitated from the duties of a Group Counsellor II.

Grant service connected disability retirement with an effective date of August 30, 2019, the day following the last day of regular compensation as a Group Counselor II.

Find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65.

Grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective August 30, 2019, the date of the position change until the day Ms. McConkey wishes to retire from the new position.

Alternatives: Other actions the Disability Committee is authorized to perform may be one of the following:

1. Refer the matter to a Hearing Officer for an Administrative Hearing.

BACKGROUND:

Group Counselor II, Orange County Social Services Agency
Date of employer filed application for service and non-service connected disability retirement: 08/14/2019
Date of employee filed application for service connected disability retirement: 10/02/2019
Date of entry to OCERS: 01/21/2000
Total years of OCERS service: 19.491
Last day of regular compensation as a Group Counselor II: 08/29/2019
Attorney Designation: Pro Per
DISABILITY COMMITTEE ACTION:
On September 21, 2020, the Disability Committee considered the application for service and non-service connected disability retirement and by unanimous vote recommend that the Board grant service connected disability retirement with an effective date of August 29, 2019, the day following the last day of regular compensation as a Group Counselor II. Also, recommend that the Board find the Applicant is capable of performing other duties in the service of the County of Orange pursuant to Government Code Section 31725.65 and grant a supplemental disability retirement payment allowance in the amount of the salary difference between the higher and lower paying positions effective August 30, 2019, the date of the position change until the day Ms. McConkey wishes to retire from the new position. No party has filed a Request for Administrative Hearing regarding the disability retirement application.

STAFF ANALYSIS
Ms. McConkey was given permanent restrictions while working as a Group Counselor II at Orangewood Children’s Home. The employer, Orange County Social Services Agency, was unable to accommodate those permanent restrictions while keeping Ms. McConkey in the same job classification. The employer was able to find the member a lower paying position as an Office Specialist and the employer also filed for service and non-service connected disability retirement on Ms. McConkey’s behalf.

Is the member permanently incapacitated? Yes.
Dr. Fellars opines that Ms. McConkey is precluded from the walking required of her job as a Group Counselor II, but is able to perform the Office Specialist duties without restriction.

Is there a real and measurable connection to the member’s employment? Yes.
Ms. McConkey was attacked during the course of her job duties. The attack resulted in an ankle injury which required surgery, the results of which were suboptimal.

What is the effective date of disability retirement? August 29, 2019.
The effective date should be the day after the last day of regular compensation as a Group Counselor II.

Prepared by:     Approved by:
_______________________________ ___________________________
David Acuña     Megan Cortez  
Disability Investigator   Disability Manager
MEDICAL ANALYSIS:
Dr. Fellars, evaluating medical panelist in the field of orthopedic surgery, evaluated the Applicant’s disability claim of orthopedic complaints in his medical report dated June 25, 2020, stating:

“The member is physically incapacitated from substantially performing her usual job duties as a Group Counselor II. The main task she cannot perform is the required walking that occurred during her work as a Group Counselor II. Again, however, she can perform the tasks of her current permanent position of an office specialist.” (7)

“The incapacity is permanent. Again, however, the member is only incapacitated from her position of Group Counselor II. She can work full time without restrictions in her current position as an office specialist.” (7)

“[T]here is a real and measurable connection between her incapacity and her employment. Her incapacity is a result of the attack that occurred on 01/10/17.” (8)

Accommodation:

N/A
Memorandum

DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: Agenda Item DA-2: Paula Snyder

Recommendation
Staff recommends that the Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Summary of Evidence, Findings of Fact, Conclusions of Law, and Recommendations dated July 7, 2020 (Recommendations), wherein the Hearing Officer recommends that the Board deny service connected disability retirement based upon the fact that Applicant Paula Snyder was found not to be substantially incapacitated to perform her usual and customary job duties.

Alternatives
California Government Code section 31534 outlines the Board’s options with respect to the Recommendations. Section 31534 states in pertinent part as follows:

Upon receiving the proposed findings of fact and recommendations of the referee, the board may:

(a) Approve and adopt the proposed findings and the recommendations of the referee, or
(b) Require a transcript or summary of all the testimony, plus all other evidence received by the referee. Upon receipt thereof the board shall take such action as in its opinion is indicated by such evidence, or
(c) Refer the matter back with or without instructions to the referee for further proceedings, or
(d) Set the matter for hearing before itself. At such hearing, the board shall hear and decide the matter as if it had not been referred to the referee.

Background
Office Services Specialist, Orange County Fire Authority
Date employee filed application for service connected disability retirement: 10/26/2016
Date of entry into OCERS: 10/04/1999
Total years of OCERS service: 17.0138
Last day of compensation: 10/13/2016
Date of Service Retirement: 10/14/2016
Attorney Designation: Pro Per

**Facts**

The Applicant, Paula Snyder (Applicant), began working for the Orange County Fire Authority (OCFA) on October 4, 1999. On October 13, 2016, Applicant retired under a service retirement. On October 26, 2016, she filed an Application for Service Connected Disability Retirement based on an alleged injury to her right hand that occurred while at work on the morning of June 10, 2015. At that time, Applicant was working as an Office Service Specialist (OSS). She reported her symptoms to her employer and was sent for treatment that same day; a workers’ compensation claim was filed.

On May 14, 2018, the Applicant’s application was presented to the Disability Committee with a staff recommendation to deny the application. The Disability Committee instead referred the application to a Hearing Officer.

On January 16, 2020, the matter was heard by Hearing Officer Jane Kearl, Esq. (Hearing Officer). Nicole McIntosh, Esq. represented OCERS and Applicant represented herself. On July 7, 2020, the Hearing Officer issued her Recommendations and recommended that the Board deny service connected disability retirement based upon the fact that Applicant was found not to be substantially incapacitated to perform her usual and customary job duties.

This matter was adjudicated under the OCERS Board Administrative Hearing Procedures (Rules) dated December 14, 2015. Pursuant to the Rules, the parties were given 30 days from the date of the Recommendations to object. Neither party filed objections.

Staff recommends the Board approve and adopt the Recommendations.

Submitted by:

SJ-Approved

Suzanne Jenike
Assistant CEO, External Operations
BEFORE THE BOARD OF RETIREMENT OF THE
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

In the Matter of the Application for Disability Retirement of

PAULA B. SNYDER,

Applicant.

SUMMARY OF EVIDENCE, FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATIONS

Hearing Date: January 16, 2020
Time: 10:00 a.m.
Hearing Officer: Jane G. Kearl, Esq.

INTRODUCTION

The hearing on the matter of the application for benefit determination of Paula B. Snyder (hereinafter the “Applicant”) commenced on January 16, 2020. The Applicant represented herself, and Respondent Orange County Employees Retirement System (hereinafter “OCERS”) was represented by Nicole A. McIntosh, Esq. The Hearing Officer was Jane G. Kearl, Esq.

Applicant retired on October 13, 2016 with a service retirement from the Orange County Fire Authority (“Department”). (AR 033) On October 26, 2016, Applicant filed her Application for a Service Connected Disability Retirement based on an alleged injury to her right hand developing on June 10, 2015. (AR 001; AR 038) The Board of Retirement (“Board”) referred this matter for administrative hearing, and Hearing Officer Jane Kearl was appointed. (AR 063; 065)

1 All references to AR refer to the Administrative Record page number.
ISSUES

1. Whether the Applicant is permanently incapacitated from the substantial performance of her usual and customary duties?

2. If permanent incapacity is found, whether it arose out of and in the course of the Applicant’s employment, and did that employment contribute substantially to the Applicant’s disability?

3. If permanent incapacity is found, what is the effective date of any potential disability retirement benefits?
TESTIMONY

TESTIMONY FOR APPLICANT

Applicant’s Witness Number 1 - Applicant, Paula Snyder

Applicant testified on her own behalf as her only witness.

Applicant testified that she began working for the Department on October 10, 1999. (HT 21:23-24) From 1999 forward, she has been an office specialist. (HT 22:21-25) Applicant testified that 93 percent of her job was data entry. (HT 26:18-19) Per Applicant, other duties included answering phones, doing filing, working with people regarding their special events, and emailing people. (HT 28:1-6)

Applicant testified that on June 10, 2015 she was working in the Santa Ana duty station of the Department when, at 6:30 a.m., she went to pull files. (HT 8:1-17) After returning to her desk, she noticed that her hand was tingling. (HT 8:17-23) Per Applicant, she then felt a sudden pain in her arm. (HT 29:25) Applicant testified that her hand was “turning colors.” (HT 30:1-2) From that point on, she could not separate her middle and ring fingers. (HT 9:10-16; 34:2-5) Per Applicant, the doctors do not know why she cannot separate the fingers. (HT 9:16-18)

Applicant testified that the day of the injury she went to urgent care and was told that it may be a spider bite. (HT 32:1-3) Applicant went back to work the next day and her hand was still swollen and was black and blue. (HT 32:21-25)

Applicant was then sent to ProCare by Risk Management, where the hand was immobilized, iced, and after a few days, physical therapy begun. (HT 34:21-35:2) Applicant states that she still has some pain today down her forearm into her hand. (HT 36:8-20)

Per Applicant, while she can do “macro” functions with her hand, she has lost strength. (HT 10:5-17) Applicant testified that the “issue is that [her] work required that [she] do[es] a lot of data entry. 95 percent of [her] day is data entry. [She] can’t separate [her] fingers to work that keyboard. [She] adapted after [she] hurt [her] hand in June until Dr. Hay took [her] off to -- fully with this

2 All references to HT refer to the hearing transcript page number.
hand and to use [her] thumb, use [her] first finger, and use [her] little finger on the keyboard”. (HT 11:1-8) Applicant states by the end of the nine-hour day her hand would ache and be swollen. (HT 11:11-14)

Applicant states that when she questioned at work, Jennifer Bower and Rhonda Haynes, she was not told what the plan was for her. Applicant states that she knew she was on a temporary assignment. (HT 15:1-9) Applicant testified that she asked Ms. Haynes how disability retirement and regular retirements worked, and she was told she could retire based on age and years of service. (HT 15:9-16)

Applicant testified that nobody at the Department would help her make a decision not to retire based on years of service and age. (HT 15:22-25)

Applicant states that she had wanted to continue working, but since she could not “get answers from anyone,” she retired based on years of service and age. (HT 16:3-7)

Applicant testified that she worked in the Santa Ana office of the Department, which per Applicant was the busy office; she was later moved to the Irvine office after she came back from temporary disability. (HT 18:1-19:2)

Applicant testified that she was told she was going to get voice-activated software, but that she did not think such software would work with her type of data entry, which was filling in fields. (HT 19:12-20:9)

Applicant testified that since retirement, when she works on her computer at home, she must do it by a “this finger, that finger” method and that her hand aches; she testified that while she can do the work, it is slower. (HT 37:13-20) Per Applicant, she is president of her HOA and writes frequent newsletters, e-mails, and correspondence to other board members, which she can do but causes her to have pain. (HT 45:8-13)

Per Applicant, to this day she cannot separate the fingers. (HT 37:2-5)
Applicant testified as to her treatment with Dr. Hay and other doctors, and her pain medication. (HT 47:7-48:11)

Dr. Hay took Applicant off work in October until the following August 4, 2016, when she returned with modifications, per Applicant. (HT 48:16-51-23) When she returned to work, Applicant testified that she gave her supervisors a copy of the Preliminary Treatment of Disability Information Sheet dated 8/3/16 which restricted her use of her right hand. (HT 51:24-53:16; AR 336)

Applicant testified that once given the information, she was transferred to a different position and told the Department would find her a place based on her classification. (HT 54:20-25)

Per Applicant, when she returned to work there was nothing she was physically unable to complete, but that she was slow doing it. (HT 56:18-21) Applicant’s actual last date worked was September 2, 2016, with vacation time bringing her last date of employment to October 16, 2016. (HT 56:22-57-9) [Per the Administrative Record, Applicant’s last date of work was October 13, 2016. (AR 063)]

Per her testimony, there was not any doctor who told Applicant she permanently could not do her job before she retired. (HT 60:10-13) Per Applicant, there were no permanent restrictions given to her before she retired. (HT 63:10-13)

Applicant concluded her testimony by emphasizing that she only took a service retirement because she did not know what was going to happen to her at work, but admits in her testimony that she did receive a memo stating her temporary assignment was for six months and then they would “see what happens.” (HT 72:18-23)
TESTIMONY FOR RESPONDENT

Respondent Witness Number 1 – Rhonda Haynes, WC Program Manager

Respondent’s first witness was Rhonda Haynes, risk management analyst, worker’s compensation program manager, a seven-year veteran of the Department. (HT 74:21-75:2)

Ms. Haynes testified that as part of her duties, she was involved in the return to work process for Applicant. (HT 76:16-22) Ms. Haynes testified that in June, 2016 she received a report from Dr. Hay that Applicant could return to work full duty. (HT 77:6-16) Ms. Haynes testified that Applicant returned to work on August 4, 2016. (HT 78:9-10)

Ms. Haynes testified that the Department had a report that Applicant was able to return to work full duties, but that “later a report did surface to indicate that [Applicant] had restrictions,” such that she could not use her right hand. (HT 78:23-79:3) Ms. Haynes testified that the Department was able to accommodate that restriction. (HT 79:4-7)

Per the testimony of Ms. Haynes, as part of the accommodation, the hours, job classification and pay rate of Applicant were not changed. (HT 80:4-11)

Ms. Haynes denies that Applicant spoke to her in relation to a permanent accommodation, but states that since no final report had been issued, the Department would not have been able to determine permanent accommodations. (HT 81:2-11) Since the service retirement of Applicant, a final report has been issued with permanent restrictions, per Ms. Haynes. (HT 81:13-15) Ms. Haynes testified that this final report gave restrictions of the right hand, but not an absolute no use. (HT 81:20-25) After reading the report, (AR 027), Ms. Haynes testified that the Department would have been able to accommodate the final restrictions issued. (HT 82:1-16) Ms. Haynes further testified that the Department could also have made accommodations for the restrictions in the later report of Dr. Moheimani, the physician to which OCERS sent Applicant. (HT 83:1-25)

Ms. Haynes testified that she agreed with Applicant’s assessment that her position at the time of her injury consisted of 93% to 95% typing and data entry, but that other OSS Specialist positions would be able to accommodate the limitations. (HT 84:1-85-2)
Respondent Witness Number 2 – Jennifer Bower, Deputy Fire Marshal

Respondent’s second witness was Jennifer Bower, deputy fire marshal in fire prevention and a 29-year veteran of the Department. (HT 89:21-90:2)

Deputy Bower testified that she was made aware of the injury to Applicant’s hand in an all-staff meeting and that she verified with Applicant’s supervisor that the paperwork that needed to be completed was being processed. (HT 92:5-10)

Deputy Bower testified that she received notification from Risk Management that Applicant was released back to duty and she formulated a letter notifying Applicant to return to work. (HT 93:3-13)

Deputy Bower testified that she discussed Applicant’s job duties with Applicant and that she was going to assign Applicant to headquarters as opposed to the field office so that the workload and kind of work could be controlled. (HT 93:24-94:9) Applicant’s duties on her return, per Deputy Bower, consisted of “phone work, quality control, and the variety of software programs for inspection, review of paperwork, and some quality control in paperwork.” Deputy Bower testified that Applicant was able to complete those tasks without complaint. (HT 94:12-21)

Deputy Bower testified that she never received a report with permanent restrictions, and that Applicant never discussed permanent restrictions with her. (HT 95:5-10)

Deputy Bower testified, after review of the restrictions of Dr. Lewis, that the Department could have accommodated those restrictions by moving Applicant to the scheduling office where there is minimal typing. (HT 96:7-25)

Deputy Bower denied being told that Applicant was retiring because she could not do her job. (HT 98:11-14)

Deputy Bower testified that the voice-activated software was not compatible with the proprietary system of the Department, but that even without this software, Applicant would have been permanently accommodated in a job at the Department. (HT 104:11-17; 105:2-6)
EXHIBITS

The Administrative Record, as amended at the hearing with documents 361-362, was received and admitted into evidence by the Hearing Officer without objection by either side and is described below. No proposed documents were excluded from the Administrative Record.

A. DISABILITY RETIREMENT APPLICATION

10/26/16 Disability Retirement Application

Service-Connected Disability Application;
Orange County Fire-Fire Prevention

9/13/16 Physician's Statement of Disability

Panel Qualified Medical Examiner’s Report by Zan Ian Lewis, M.D., Orthopaedic Group of Orange County (Examination on September 1, 2016.)

Video surveillance of April 16, 2016 reviewed.

Applicant reported being right hand major working for OC Fire Authority on October 4, 1999 as an office service specialist, working 9 hrs. per day, 40 hrs. per week. Data entry, writing and answering telephone. Frequent sitting, walking, standing, twisting at the neck and waist. Occasional bending at the waist, squatting, kneeling and crawling. Constant use of both hands for simple grasping, power grasping and fine manipulation. Frequent pushing, pulling and reaching above and below shoulder level with both upper extremities. Lifting demands of job did not exceed 20 lbs.

History of Injury

Applicant reported sustaining injury during course of her employment on June 10, 2015, by reaching into a file drawer and lifting a 3-1/2 to 4 inch thick group of files and pulling them out with her right hand. When she returned to her desk and began to use the computer mouse with right hand, she noted that the dorsum of the right had was black and blue and swollen, and middle and ring fingers started to...
swell, as well as pain in the forearm.

In January 2016 Applicant noted radiation of pain into the right shoulder and tingling of the right middle and ring fingers.

Initially treated on the date of injury at Oso Urgent Care Center. Referred to physical therapy. Temporary benefit from PT. In September 2015, commenced treatment with Dr. David Hay who referred her to California Rehab for additional PT. Last PT on February 2, 2016.

Chief complaint is constant pain in the right hand and wrist and numbness, tingling, and inability to separate the middle and ring fingers of the right hand, as well as weakness of the right hand. Applicant reports increasing pain with writing, tapping with the fingers, making a fist, moving the wrist, and lifting activities. Periodically has swelling of the right hand.

Stopped working on September 30, 2015; returned to work with limitations on August 4, 2016.

Noted that in the right hand, diminished pinprick sensation in the C6 and C* dermatomes, index, middle, ring and little fingers. Pinprick sensation was intact in the C5 dermatome and thumb. In the left hand, pinprick sensation was intact. Noted that no active separation of the right middle and ring fingers. Passively, there was full separation.

Xray of right hand noted osteopenia, with none in left hand.

Notes that objective findings were consistent with a lesser degree of subjective complaints.

Applicant’s condition reached permanent and stationary status and the point of maximum medical improvement on September 1, 2016.

**Work Restrictions:**

Disability prophylactically precluding her from typing with the right index, middle, and ring fingers and repetitive power grasping with the right hand.
Using AMA Guides, converts injury to 2% hand impairment/whole person for the right middle finger and 1% hand impairment/whole person for the right ring finger. (AR 028) Adds 2% for whole person impairment for burden of pain.

**Ability to Return to Usual and Customary Work:** It is not within the physical capabilities of the Applicant to return to her usual and customary work and not exceed her prophylactic work restrictions.

**Apportionment:** Based on the available medical history, it is medically probable that 100% of the cause of permanent disability and impairment in the Applicant’s right hand was the injury of June 10, 2015, and 0% was caused by nonindustrial factors.

**10/18/16 Employee's Statement of Disability**

Reports cannot separate middle and index fingers.

Cannot do fine manipulative skills or work on a computer keyboard.

Stopped working (retired) 10/13/16; last paid 10/7/16.

Reports that “cannot use right hand” and voice activated software has no application”

**10/26/16 Authorization for Disclosure**

Authorization for Disclosure and Use of Protected Health Information

**12/26/16 Supervisor Statement**

Office Services Specialist; Jennifer Bower supervised applicant for 2 months. Job duties of applicant include data entry, phones, printing, filing, copying.

“[Applicant] was slowed a little by her hand injury.” Not aware of any restrictions. Applicant was performing her job duties.
12/7/16 Worker's Compensation Information Request
OCERS request for information re Applicant’s Workers Compensation Claims.
Permanent work restrictions: no typing with right index, middle or ring fingers, no
repetitive power grasping with right hand.
Last day worked: 10/12/16 (to be confirmed by OCFA)

12/12/16 Employer's Statement of Disability
Applicant’s supervisors: Brian Healy, 8/4/16 - retirement; Cari Purkey, 2015-2016
(retired); Robert Distaso, 2010-2014.
Date of Injury 6/10/15. Initially reported as a spider bite, changed to injury to right hand
while pulling files.
Injury report 6/26/14 – Reported shoulder injury while closing a file drawer; no treatment
sought.
Note of video surveillance and attached report regarding use of hand (report not attached).
Work restrictions: No use of injured extremity (right hand). Resumed prior position with
restrictions on 8/4/16 until retired.
Last date worked: 9/2/16. Retired 10/14/16.
Skills include typing and filing, among others.
Specifications pages for duties of Job Title: Offices Services Specialist: (042)
“Physical Requirements: Positions in this class typically require: reaching, fingering,
grasping, feeling, talking, hearing, seeing and repetitive motions.”

B. CORRESPONDENCE

11/8/16 OCERS Letter to Applicant Re: Receipt of Application
OCERS letter re confirmation of receipt of application for service connected
disability retirement.
11/8/16 OCERS Letter to Employer Re: Receipt of Application
OCERS letter to OC Fire Authority Human Resources Director, Jeremy Hammond, requesting completion and return of Employer’s Statement and Supervisor’s Statement.

11/8/16 OCERS Letter to Corvel Risk Management
OCERS letter requesting all information regarding Applicant’s worker’s compensation claim.

8/14/17 OCERS Letter to Applicant Re: Medical Exam
Letter to Applicant re appointment with Dr. Michael Moheimani on 9/12/17 as reviewing specialist.

8/14/17 OCERS Letter to Dr. Moheimani Re: Medical Exam
OCERS letter to Dr. Moheimani re Service Connected Disability Retirement Evaluation of Applicant, with copies of medical records.

11/11/17 OCERS Letter to Employer Re: Work Restrictions
OCERS letter to OC Fire Authority Human Resources, Rhonda Haynes, asking if the work restrictions recommended by the medical examiner could be provided.

11/14/17 OCERS Letter to Applicant Re: Copy of IME
OCERS transmittal letter to Applicant with IME report of Dr. Moheimani dated 9/12/17.

1/4/18 OCERS Letter to Applicant Re: Medical Exam
OCERS letter to applicant re decision that she be examined by reviewing specialist, Dr. Michael Mahdad. Appointment date of 2/21/18.
1/4/18 OCERS Letter to Dr. Mahdad Re: Medical Exam

OCERS letter to Dr. Mahdad re reevaluation of applicant for Service Connected Disability Retirement Evaluation, Office Service Specialist, OC Fire Authority.

3/8/18 OCERS Letter to Applicant Re: Copy of IME

OCERS transmittal letter to Applicant with copy of IME report of Dr. Mahdad dated 2/21/18.

5/2/18 OCERS Letter to Member Re: Notification of Board Meeting

OCERS letter to Applicant re Board of Retirement meeting on May 14, 2018. Recommendation: Deny service connected disability retirement due to insufficient evidence of permanent incapacity.

5/14/18 OCERS Memo to Board

RECOMMENDATION: Find the Applicant is not permanently incapacitated from the duties of an Office Services Specialist. Applicant 'has permanent restrictions of ability to type with a slower speed, use of voice recognition software, and a custom keyboard. Orange County Fire Authority is able to provide those accommodations and in fact has assigned [Applicant] to a light duty position prior to her service retirement. Deny service connected disability retirement due to insufficient evidence of permanent disability.

5/14/18 Board Meeting Minutes

Office Services Specialist, OC Fire Authority. Date employee filed application for service connected disability retirement: 10/26/16. Recommendation Deny service and non-service connected disability retirement due to insufficient evidence of permanent disability. (General Member)
Matter deferred to hearing officer for further examination.

**5/17/18 Board Release**

Agenda Item #: D-11

RECOMMENDATION:
Deny service connected disability retirement due to insufficient evidence of permanent disability.

**5/17/18 OCERS Letter to Member Re: Board Decision**

OCERS letter to Applicant regarding Board of Retirement decision, referral to a hearing officer.

**5/24/18 OCERS Letter to Member Re: Assignment of Hearing Officer**

OCERS letter to Applicant re appointment of hearing officer Jane Kearl.

**C. MEDICAL REPORTS & RELATED DOCUMENTS**

**2/1/14 Chart Notes – Monarch Healthcare (Oso Family Medical)**

Dog bite reported.

**2/1/14 Physician's Report**

Dog bite to left arm.

**4/22/14 Physician’s Report**

Swelling R7 neck. Rash both forearms.

**6/10/15 Physician's Report** (Oso Family Medical Group)

Right hand injury/pain. Right hand swelling/bruising with decreased range of motion of fingers. Started at work today. Contusion of hand; right hand weakness.
6/10/15 Physician's Report
Right hand swelling; (illegible), right arm toward shoulder; started at work this a.m. Decreased range of motion noted. “Doesn’t remember injury.”

6/10/15 Radiologist's Report
No evidence of fracture, dislocation or lytic or blastic lesions. All digits interspaces as well as the carpals metacarpals and bone of the forearm visualized are all intact. No fracture evident, minor djd noted.

6/16/15 Work Status Form
ProCare Work Injury Center, Herbert D. Jennings, MD, QME. Must wear splint/brace as directed; no use of right hand.

7/6/15 Diagnostic Imaging Report
Findings:
1. Mild dorsal soft tissue edema about the third and fourth MCP joints without vocal fluid collection.
2. No evidence for recent ligamentous/tendinous injury nor fracture.
3. No evidence of annular pulley injury.

8/31/15 Daily Therapy Treatment Note
Hand stiffness at the 3rd/4th MCP joints. Electrical stimulation, hot/cold packs, vasopneumatic device; paraffin bath, massage, joint mobilization, supervised therapeutic exercises, strapping.

9/2/15 Daily Therapy Treatment Note
Hand stiffness at the 3rd/4th MCP joints. Electrical stimulation, hot/cold packs, vasopneumatic device; paraffin bath, massage, joint mobilization, supervised therapeutic exercises, strapping.
**9/17/15 Physical Therapy Re-Evaluation**

7/21/2015 – 9/17/2015, 9 visits, for R wrist and hand, mainly the R hand’s 3rd, 4th fingers.

Electrical stimulation, hot/cold packs, paraffin bath, myofascial release/soft tissue mobilization, supervised therapeutic exercises of R wrist and hand strengthening, strapping, home exercise program, chiropractic. Swelling noted.

**9/17/15 Daily Therapy Treatment Note**

Applicant states gradual decrease in active, positional and resistive achy dull pain over dorsum of the R hand’s 3rd and 4th MCP joints and associated web.

Assessment – improving slower than anticipated.

**9/30/15 Comprehensive Orthopedic Evaluation (David Hay, M.D.)**

Chief complaint is hand pain. Per Dr. Hay, Applicant states “injured hand when she was grabbing files out.”

Right side inspection, palpation, ROM, stability, strength and skin reveals some dorsal tenderness of the 3-4-. Cannot cross digits. Persistent firing of the third, fourth, abductors and adductors here. The MP joints are stable. ROM intact. No lymphedema. Sensation intact. APB, interosseous and EPL intact. Hypothenar is intact. X-rays show no evidence of fracture of dislocation. MRI shows some mild edema in the region of the third and fourth, no evidence of collateral ligament muscle injury, tendon or ligamentous injury.

Assessment and Plan: Discussed with Applicant all diagnostic studies, relatively normal. There is some slight edema here. The plan will be for topical anti-inflammatory medication. Recommend therapy for intrinsic stretching and re-education of the hand. Submit for specific-focus-certified hand therapist.
**9/30/15 Radiological Report** (David Hay, M.D.)


**9/30/15 Preliminary Treatment And Disability Information** (Kerlan-Jobe)

Hand pain. Temporarily totally disabled.

**10/27/15 Initial Evaluation** (California Rehabilitation and Sports Therapy)

Pain in right hand.

Date of injury 6-10-15. While at work Applicant reached for files and upon returning to desk, noticed her hand was swollen and she couldn’t grip her mouse. Sought advice from paramedic captain who said to get it examined. Went to urgent care and PA called in the MD for further examination. MD thought it might be spider bite, told to ice at home. X-rays negative for fracture. A few days later, returned to work but hand continued to present with symptoms of discoloration and stiffness. Supervisor told to see WC clinic (ProCare) and PA said it was not a spider bite. Returned to ProCare a 2nd time and immobilized in splint. Could not work effectively and removed splint to perform the required job duties. Then seen by another MD, ordered MRI on 7-6-15. Chiro referred to hand specialist. Unable to receive her therapy while off from work due to insurance approval issues.

Subjective Examination: Premorbid work status: independent without difficulty.

Current Status: unable to work secondary to dysfunction.

Chief complaint: Pain (6/10), loss of motion/stiffness.
**10/27/15 Plan of Care**

It is recommended that Applicant attend rehabilitative therapy of 2 visits per week with an expected duration of 6 weeks. Interventions during the course of treatment will be directed toward addressing the problems and achieving the goals previously outlined.

**10/28/15 Progress Report**

Chief complaint is hand pain. Recommend certified hand therapy. Remain on Total Temporary Disability. “At the hand she continues to over fire the intrinsics. They are intact but they are tight, guarding. Otherwise range of motion is intact. APB, interosseous, EPL are intact. Sensation intact. WII perfused. No lymphedema.” Return after initiation of therapy.

**10/29/15 Daily Note**

Applicant guards moderately during PROM. Moderate intrinsic tightness in R MF and RF. Mild extrinsic FA tightness in FA flexors. Continue w/current rehabilitation program.

**11/5/15 Daily Note**

No major changes – Applicant continues to guard during PROM. Continue w/current rehabilitation program.

**11/10/15 Daily Note**

Applicant is guarding a lot less today. She is showing a better composite fist as well. Mild intrinsic tightness in R RF, though tightness responds well to passive stretches. Good tolerance to increases in therex. Advance as tolerated.
11/12/15 Daily Note
Mild intrinsic tightness in R IF decreased to minimal post passive stretches. No evidence of dorsal swelling R hand today.
Advance as tolerated. Progress strengthening.

11/17/15 Daily Note
Applicant was guarding mildly during passive stretches today. Mild intrinsic tightness in R RF. Minimal dorsal swelling over MP joints.
Continue strengthening, as well as passive stretches.

11/19/15 Re-Evaluation
Applicant shows good improvement with R digital AROM. Applicant had mild gains in grip strength in R hand and good decrease in pain.
No major swelling during circumferential tape measurements; Applicant reports fluctuating swelling over dorsum of webspaces/MP joints of digits 3 and 4 during her daily activities. Pain is moderate at its worst, occurring over EDC of R RF//MF. Stiffness occurring primarily post AROM or in the morning. Applicant continues to have deficit with grip strength. Mild intrinsic tightness R MF/RF, but WFL overall.
Applicant continues to guard during passive stretching; requires cues to relax hand muscles; once relaxed, passive composite, tight fist can be achieved.
Applicant shows good tolerance to increases in therex.

11/19/15 Plan of Care
Progress strengthening; continue passive stretching of intrinsics; continue with modalities.
11/24/15 Daily Note
Client tolerated today’s treatment/therapeutic activity without complaints of pain or difficulty. Able to make full composite fist post PROM. Advance as tolerated.

12/2/15 Progress Report (David Hay, M.D.)
Continues to have pain, worse with activities, better with rest. Achy stiffness, pain and mild-to-moderate, not improving. Continue to recommend therapy. Continue to be TTD if she feels she cannot do normal and customary duties. MCP sprain, MCP strain, fourth digit; Intrinsic spasm/tightness.

12/5/15 Daily Note
Mild weakness in intrinsics as noted during abduction exercise with soft putty. Pt’s digits were able to be passively abducted without noted stiffness in joints (WFL). Continue strengthening intrinsics to enable stronger digital abduction.

12/15/15 Daily Note
Mild intrinsic tightness appears to decrease well post PROM. Applicant was able to spread her fingers with light resistive therex. Focus on intrinsic strengthening. Per report, Applicant states may have to retire early because can’t work with hand like this….the fingers still aren’t opening.”

12/17/15 Re-Evaluation
Applicant able to make full composite fist now. Initiated putty therex for HEP to increase strength to promote stronger abduction. Applicant reports that she has difficulty abducting digits of R hand; MMT performed, showing 2/5 result for digital abduction; MMT appears closer to 3+4/5 with all digits of R hand. R grip strength continues to have moderate to severe deficit; notable that grip showed little variation during five handle position test.
Applicant continues to guard during PROM of digits, possibly due to discomfort. Full composite fist and passive abduction of digits achievable with cues for relaxation of FA/hand muscles. Applicant is able to extend IP joints of R digits 2-5 without difficulty. Swelling is minimal to none at this point. Mild intrinsic tightness digits 3 and 4 RUE.

**12/17/15 Plan of Care**

Advance as tolerated. Advance/Accelerate: Intrinsic strengthening.

**12/31/15 Daily Note**

Applicant was able to abduct digits during therex today. Good tolerance to therex. Advance as tolerated.

**1/6/16 Progress Report (David Hay, M.D.)**

Recommendation for EMG nerve conduction study. Applicant reports that “has not felt much improvement.” Dr. Hay notes Applicant “does not have frank intrinsic stiffness but she cannot fire with a flicker in the third digit to bring it towards the second but she cannot sustain firing here. Sensation is intact. No instability. No sensory changes. Well perfused. No lymphedema. APB, interosseous, EPL are intact but she cannot fire the interosseous from the third to the second.”

**1/6/16 Preliminary Treatment And Disability Information**

Temporarily totally disabled until 2/10/16.

**1/12/16 Daily Note**

Client tolerated today’s treatment/therapeutic activity without complaints of pain or difficulty. No major changes since last session.
1/14/16 Daily Note
Client tolerated today’s treatment/therapeutic activity without complaints of pain or difficulty. Applicant was able to increase wrist PRE resistance to 5 lb. for wrist extensors/flexors.

1/19/16 Daily Note
Client tolerated today’s treatment/therapeutic activity without complaints of pain or difficulty. Applicant was able to perform golf ball rotation exercise with mild difficulty. Continue with current rehabilitation program.

1/21/16 Daily Note
Client tolerated today’s treatment/therapeutic activity without complaints of pain or difficulty. No major changes. Continue w/current rehabilitation program.

1/28/16 Daily Note
“Absence of guarding, bracing, and pain behaviors during indirect observation of functional tasks as compared to formal observation may indicate inconsistent effort. (i.e. all digits abducted while [Applicant] picked up purse.” Continue with current rehabilitation program. Reassess objective measurements next visit.

2/2/16 Daily Note
No major change since last session – Applicant complains of inability to abduct digit 3 and 4 R hand. Continue with current rehabilitation program.

2/8/16 Electrodiagnostic Study (Precision Occupational Medical Group)
Nerve conduction study of the Right Upper Extremity. Applicant tolerated the exam well.
Impression: This is an abnormal study.
1. There are needle EMG findings of chronic denervation changes in the right first dorsal interossei and right abductor digit mini muscles indicating a possible ulnar neuropathy. However, in light of the normal NCS findings, clinical correlation is recommended. Of note – ulnar inching study across the elbow was normal.

2. No electrodiagnostic evidence of median neuropathy, radial neuropathy, brachial plexopathy or cervical radiculopathy.

2/9/16 Re-Evaluation
Reviewed goals, progress and HEP with client. Inconsistencies noted during 5-point position grip testing. Applicant continues to c/o difficulty abduction digits 3 and 4 of R hand. Applicant is able to make full composite fist as noted during manual tx and during therex. Applicant reports paresthesia during Tinel’s UND just proximal to Guyon’s canal (negative for Phalen’s and elbow flexion rest).
It was recommended to Applicant to return to MD and discuss NCV test to determine if there is further need for skilled OT; Applicant is showing a plateau in progress. Consult with physician; awaiting medical prescription/orders; awaiting insurance authorization.

2/9/16 Plan of Care
It was recommended to Applicant to return to MD and discuss NCV test to determine if there is further need for skilled OT; Applicant is showing a plateau in progress.

2/10/16 Progress Report (David Hay, MD)
No significant change since previous. Still limited painful. EMG nerve conduction study shows motor abnormalities in the hypothenar and interosseous musculature. Some tenderness in the Guyon’s canal. No significant palpable mass. The joints
remain stable at the MCP, but she cannot fire her interossei, otherwise sensation is intact, stable, well perfused and no lymphedema. MRI recommended for wrist; has had MRI of hand.

2/10/16 Preliminary Treatment And Disability Information
Temporarily totally disable until next appointment (3/9/16).

3/7/16 MRI of Right Wrist and without Gadolinium DTPA
Impression:
1. There is a slightly increased signal in the median nerve; neuritis can’t be excluded.
2. There is a small amount of fluid in the radiocarpal joint, probably inflammatory in nature.
3. No other abnormalities are identified.

3/10/16 Progress Report (David Hay, MD)
Applicant returns for hand weakness and with nerve study showing interosseous musculature changes. Review of MRI, which is of insufficient quality. Repeat MRI. Applicant continues to have pain and weakness of the right hand. Applicant could return to a no use of right upper extremity type job. Return after MRI and anticipate a restricted duty, modified duty capacity at that time.

4/6/16 Progress Report
Awaiting repeat MRI. Applicant feels she is unable to perform normal and customary duties and restrictions at work are not followed. Symptoms unchanged from last visit.
4/16/16 MRI of Right Wrist With and Without Contrast
Mild degenerative changes of the wrist as described. Ganglionic cyst volar to the
carpo-ulnar joint space; no abnormalities of the Guyon’s canal are identified.

5/4/16 Progress Report (David Hay, MD)
Discussed with Applicant her symptoms with numbness and motor EMG
disturbances do suggest a Guyon’s canal compression or a deep motor branch
compression, but we do not see findings on the MRI to explain this. Recommend
Applicant have neurologic consultation to rule out any myopathy, stroke or any
non-peripheral cause of her motor weakness in the hand. EMG reported no firing
at the FCU, but she certainly fires her FCU here in clinic today. Discussed with
Applicant, given her findings, the suggestion would be for an isolated compression
of the motor branch of the ulnar nerve of the Guyon’s canal. This is a surgical
treatment. No clear findings in the MRI to suggest etiology for this. Possible but
relatively unusual diagnosis; would also discuss possible second opinion.

6/15/16 Progress Report (David Hay, MD)
Case complicated by video of the Applicant. Applicant reported feels the hand is
worsening but she could not do anything and asked for surgery and further
diagnostic workup has been approved. On questioning, Applicant said “she could
not do anything with the hand” and “could not use the hand at all.” Discussed that
doctor viewed the video of her basically using the hand normally.
MRI does not show any abnormalities in Guyon’s canal or of the muscles. EMG
nerve conduction shows decreased recruitment of some of the hypothenar
musculature without other signs of compression. Doctor explained to the
Applicant that he did not feel comfortable pursuing surgery in a patient if he felt
the Applicant is not accurately or honestly representing their signs and symptoms.
Recommendation is that the Applicant could return to a normal duty capacity.
Applicant again reports that she feels unable to do her normal and customary
duties. Applicant calls lawyer during visit. Will see Applicant back in 1 month.

7/13/16 Progress Report (David Hay, MD)

Applicant feels the hand problem has worsened now for several months, with all
four digits clamped together and difficulty moving apart and she has flexed at the
MP joints. Applicant approved for second opinion.

7/13/16 Preliminary Treatment And Disability Information

Temporarily totally disabled until next appointment (7-13-16).

8/3/16 Progress Report (David Hay, MD)

Discussed video again. Applicant acknowledged she can do some things, but of all
things she cannot use a keyboard. Given the video, it makes it difficult to be
objective with regard to her hand. Surgery not recommended. I think she can
safely return to full duty, but she feels unable to do this. Restriction: “[N]o use of
the right hand”. Return after second opinion. Applicant “acknowledge[d] that she
can do some things, but feels that of all things she feels she cannot use a
keyboard.”

9/12/17 Independent Medical Evaluation Dr. Moheimani

History of injury reported. Current complaints reported, including difficulty using
her hand keyboarding. Pain and swelling, difficulty gripping, grasping and typing.
Notes locking of the digits and persistent swelling. Performed physical
examination. Medical records reviewed.

There is clear medical documentation that her condition and disability began after
a specific event in the course of her work activities. She has loss of dexterous of
right hand and her condition has not improved. It is my opinion that she did not
receive an adequate course of therapy to alleviate her injury. Connection between her work and her current disability is definitely established. It is my opinion that with additional rehabilitation her level of disability would likely substantially diminish if the injured worker is motivated to improve her condition, and is motivated to return to her work activities. Notes only received 12 therapy sessions and was rapidly declared to be permanent and stationary and maximally medically improved. Notes that she “basically has difficulty moving her middle and ring fingers sideways. She is able to fairly flex her digits well, and has nearly full flexion, and also has reduced grip strength, but does have gripping ability present.” Notes that “even in the right hand she has good use of her thumb, index and little fingers, and therefore, if she is trained, she can use those digits well.” “Other activities, such as answering phone calls and filing can still be done, even though she does not have dexterous use of her right hand.”

“Neurodiagnostic testing shows some dysfunction of the muscles that control side to side motion of the digits of the hand. Therefore, this is a very realistic injury and certainly not something that the injured worker is creating.”

With modification to keyboard and voice recognition system, could return to her customary work.

2/21/18 Neurological Independent Medical Evaluation/IME Assessment for Medical Retirement Dr. Mahdad

History of injury reported with treatment history. Job description for Office Service Specialist and functions reported. Past medical history reported. Medical records reviewed.

Impression:
1. Mono-arthritis, right hand; etiology undetermined. 2. Deformed right hand; this appears to be an arthritic hand, mostly a rheumatoid-arthritis look to the hand.
Slight development in the left had as well. No evidence for any neurological involvement or neurological deficit.

Applicant will not be able to effectively type or do word processing. Applicant’s condition appears to be mostly an orthopedic/rheumatologic issue; there is no neurological abnormality.

**3/15/19 Independent Medical Evaluation by Jeff Sarkozi, M.D.**

As the new onset soft tissue injury with bruising and contusion to the dorsum of the right hand which resolved and returned to a normal or re-existing baseline state no later than August 31, 2015 has not caused permanent incapacity, the issue of service connection is not considered at this time. (290)

There is no objective evidence in the history, physical examination, and medical and other records available as reviewed above of any physical, musculoskeletal or rheumatologic functional limitation, impairment, or disability that would preclude Applicant from undertaking her usual life activities including all activities of daily living including at home, in a work setting, in the community, and undertaking recreational activities with appropriate adaptation and accommodation as well as the adaptation and accommodation such as she has already embraced. (315)

“The current, history, physical examination and review and analysis of the entire medical and other records available for review as above at the time of this report failed to identify that Applicant was unable to substantially perform the usual duties of her job due to the onset soft tissue injury with bruising and contusion to the dorsum of the right hand prior to its resolution. Furthermore, the new onset soft tissue injury with bruising and contusion to the dorsum of the right hand resolved and returned to a normal or pre-existing baseline state no later than August 31, 2015 and in no way can be considered a permanent condition.” (315)

As the symptoms and findings involving the small and medium sized joints of her hands and wrists and feet of a reversibly deforming, non-erosive,
noninflammatory, essentially painless (with respect to the small and medium sized joints of her hands and wrists and feet) arthropathy consistent with Jaccoud’s arthropathy and in addition has symptoms and findings compatible with the diagnosis of general zed osteoarthritis including both primary generalized osteoarthritis and secondary osteoarthritis and the active periarticular processes noted have not caused permanent incapacity, the issue of service connection is not considered at this time. (316)

There appear to be significant and relevant medical records pre-existing and subsequent to the reported right hand injury of June 10, 2015 that are not available at the time of this review. (316)

Doctor notes was using smart phone during appointment with both hands without obvious pain, difficulty, discomfort, hesitation, guarding, protective maneuvers, withdrawal, or avoidance pain behaviors. (AR 216)

4/10/15 Physical Exam Report – Saddleback Medical Group

Routine medical exam. Applicant to make appt. with Dr. Codini for colon cancer screening. Hypothyroidism; medication; labs; shingles vax info given to Applicant.

8/31/16 Retirement Benefit Estimate

Estimate Information. Service Retirement

10/10/19 Retirement Summary Printout

2018 OCFA Employee Compensation Report

Calendar Year 2018 Employee Compensation Report

Class Specifications (undated)

Office Services Specialist salary
10/26/16 Preliminary Treatment and Disability Information
Permanent and stationary (date illegible)

8/3/16 Preliminary Treatment and Disability Information
Blank

12/12/16 RJI Investigations email and Surveillance Photos
Surveillance photos of Applicant from April 16, 2016 and email re: same

11/28/17 Letter for OC Fire Authority to OCERS
Applicant’s ability to work in a modified capacity with the following restrictions:
ability to type, but at a slower speed, to work with voice recognition software and
a custom keyboard. Applicant was offered and accepted work in a light duty
position effective August 4, 2016, when she informed the OC Fire Authority that
she would be retiring.

11/1/18 OCERS letter to Jeff Sarkozi, M.D.
OCERS letter to Dr. Sarkozi with applicant’s records re applicant scheduled for
an examination on 12/6/18.

11/5/18 OC Fire Authority letter to OCERS
OCFA does/did have the ability to accommodate Applicant in her same capacity
as an OSS. We could switch Applicant to one of the OSS positions where the
primary responsibility is phone work with minor data entry; there would be no
need for the voice recognition software as tying is limited to an 8-10 digit entry
and the ability to purchase an adjustable keyboard can be purchased by the
OCFA’s IT Department.

4/29/19 OCERS letter to Dr. Moheimani (IME)
OCERS request that Dr. Moheimani review the reports of Dr. Mahdad and Dr.
Sarkozi and provide a supplemental report.

7/8/19 Independent Medical Evaluation Supplemental Report of Dr. Moheimani


It was Dr. Moheimani’s conclusion when he evaluated her that it appeared her condition was primarily arthritic in nature, and had nothing perhaps to do with her reported work injury. Based on these reports, it is his opinion that there is not a real and measurable connection between her reported work injury, which occurred during county employment, and her current reported disability. There are obviously problems with arthritis developing on a non-work-related basis, as well as psychosocial issues, which have contributed to her disability.

Undated Service Retirement Payment Disbursement Printout

8/16/16 Email from Applicant to OCFA re Retirement Paperwork

Applicant states she has submitted her paperwork to OCERS with retirement date of October 13 and separation date of October 14, 2016. Applicant would like to “burn up” some comp time, vacation time and PAL time beginning on September 6. Last day at OCFA will be September 2.

4/16/16 Video Surveillance Footage


Duplicate of 089
DISCUSSION

I. FACTUAL SUMMARY

A. History of Employment of Applicant

Applicant began her employment with the Department on October 4, 1999. (HT 21:23-24)

At service retirement, she was an Office Services Specialist. (HT 22:21-25)

On June 10, 2015, in the course of her work duties, Applicant noticed pain and injury to her right hand upon returning to her desk after pulling certain files. (HT 8:1-17) Applicant could not horizontally separate her middle and third fingers. (HT 9:10-16; 34:2-5) Applicant stated to doctors that she does not recall any specific contusion, bite or significant trauma. (AR 081)

Applicant left work to seek medical care at Oso Family Medical Group (“Oso”). There it was noted right hand swelling and bruising and decreased range of motion between 3, 4 fingers. (AR 070)

Imaging performed at Oso showed no evidence of fracture dislocation or lytic or blastic lesions and that all digit interspaces as well as the carpals metacarpals and bone of forname were intact. (AR 073)

Applicant reported the injury to Risk Management and was referred to ProCare Work Injury Center Irvine (“ProCare”). She began physical therapy on June 12, 2015 with ProCare. (AR 077)

On June 16, 2015, ProCare directed Applicant to wear a splint/brace and issues a work restriction of “no use of right hand.” (AR 074)

The Department could not accommodate this restriction and Applicant was placed on temporary leave on September 30, 2015. (AR 085)

After therapy and medical treatment, as described below, Applicant returned to work on August 6, 2016 with a temporary restriction of no use of right hand. (AR 040 Application) The Department accommodated this temporary work restriction through assignment to a light duty position. (HT 79:4-7; AR 060; 342; 345-346)

Applicant filed an Application for Service Retirement, and her last day of compensation was October 13, 2016. (AR 033; 059) Applicant’s service retirement began October 14, 2016. (AR 059)
On October 26, 2016 Applicant filed an Application for a Service Connected Disability Retirement, citing inability to use her second and third fingers on right hand (“Disability Application”). (AR 059)

In her Disability Application, Applicant states that she “cannot use right hand” and that her employer was “not really” able to accommodate work restrictions in that the voice activated software she was to use was not applicable to her type of work. (AR 033)

B. Duties of Applicant

Usual and customary duties of all Office Service Specialist positions with the Department are as follows:

1. Responds to requests for information from the general public, the media, other internal departments, and/or employees.

2. Processes a variety of forms and paperwork, using established procedures.

3. Performs various clerical duties, utilizing standard office equipment, to include: screening incoming calls; faxing documents; laminating papers; taking and transmitting messages; distributing mail; filing; making photocopies; typing; and word processing.

4. Schedules meetings; prepares meeting agendas; attends meetings and takes minutes; distributes meeting minutes to appropriate individuals.

5. Compiles a variety of data and information and prepares related reports. Monitors and maintains office inventory and supply levels.

6. Assists in coordinating and preparing departmental budgets; tracks and monitors departmental expenditures.

7. Creates presentations for meetings, special events, and/or other related situations.

8. Performs other duties of a similar nature or level. (AR 042)

Physical Requirements for the Department’s Office Service Specialist position are as follows:

1. Positions in the class typically require reaching, fingering, grasping, feeling, talking, hearing, seeing and repetitive motions.
2. Light Work: Exerting up to 20 pounds of force occasionally, and/or up to 10 pounds of force frequently, and/or negligible amount of force constantly to move objects. If the use of arm and/or leg controls requires exertion of forces greater than that for Sedentary Work and the worker sits most of the time, the job is rated for Light Work.

3. Incumbents work in a standard office environment. (AR 045)

Using the computer, filing and typing are included among skills needed for the position at entry. (AR 045)

C. Treatment and Evaluation of Injury

After Applicant had applied for service retirement, Applicant was given permanent restrictions of “ability to type with a slower speed, use of voice recognition software, and custom keyboard.” (AR 060) Thus, Applicant would have again been able to use her right hand at her position, but with these lesser restrictions. There is no evidence to contradict the testimony of the Department’s witnesses that the Department would have been able to accommodate this restriction, nor to contradict the testimony of Deputy Bower stating such accommodation was possible even if voice recognition software was unavailable, as the proposed position would have minimal typing.

(HT 96:7-25) Applicant testified that she was physically able to perform the duties of her position at the time she retired. (HT 56:18-21)

1. Dr. Hay-Treating Physician and Orthopaedic Surgeon

Applicant was seen regularly by Dr. David Hay prior to her retirement. Her first orthopaedic evaluation was on September 30, 2015. (AR 081)

Dr. Hay noted some dorsal tenderness of the third and fourth fingers, and that Applicant could not cross the digits. Dr. Hay found persistent firing of the third, fourth, abductors and adductors, but that the joints are stable and range of motion intact. Sensation, APB, interosseous and EPL, hypothenar and sensation were noted to be intact. (AR 082) X-rays showed no evidence of fracture of dislocation. The MRI showed some mild edema in the region of the third and fourth, but no evidence of collateral ligament muscle injury, tendon or ligamentous injury. (AR 082)
Dr. Hay noted that based on diagnostic studies, the hand was relatively normal except for slight edema. (AR 082) Nonetheless, Dr. Hay referred Applicant to a specific-focus-certified hand therapist. (AR 082)

Initial follow up visits with Dr. Hay during the course of physical therapy were unremarkable in terms of notation of progress. (AR 092, 113, 127) An EMG was ordered on January 6, 2016. (AR 127)

The EMG results noted chronic denervation changes in the right first dorsal interossei and right abductor digiti mini muscles indicating a possible ulnar neuropathy. However, in light of the normal NCS findings, clinical correlation was recommended. “Of note, ulnar inching study across the elbow was normal.” “No electrodiagnostic evidence of median neuropathy, radial neuropathy, brachial plexopathy or cervical radiculopathy.” (AR 143) Dr. Hay noted that this study showed “motor abnormalities in the hypothenar and interosseous musculature.” (AR 154)

2. Treatment by California Rehabilitation & Sports Therapy

Referred to California Rehabilitation & Sports Therapy (“CRST”), Applicant was assessed on October 27, 2015 with range of motion and strength issues, with moderate intrinsic tightness of the right middle and ring finger and mild/moderate extrinsic flexor tightness. (AR 089)

Physical therapy continued with some objective improvement with range of motion and grip strength. (AR 105) However, on January 28, 2016 visit, the therapist noted that there was an “absence of guarding, bracing, and pain behaviors during indirect observation of functional tasks as compared to formal observation may indicate inconsistent effort (i.e., all digits abducted while [Applicant] picked up purse). (AR 139)

On February 22, 2016, CRST recommended Applicant return to doctor to determine further need for skilled therapy as Applicant “showed a plateau in progress.” (AR 150)

This was the last physical therapy Applicant took part in.

3. Further Treatment by Dr. Hay

After plateauing at physical therapy, as noted below, a further MRI was ordered. (AR 155)

That MRI has impressions of slightly increased signal in the median nerve such that neuritis could not be excluded. Also, a small amount of fluid in the radiocarpal joint, probably
inflammatory in nature, with no other abnormalities noted. (AR 159) Flexor tendons on the palmar aspect were within normal limits and there was no abnormal outward bulging of the flexor retinaculum. No abnormalities were seen in the triangular fibrocartilage, no ganglion cyst, and post gadolinium DPTA images showed no abnormalities. (AR 158)

However, unsatisfied with the quality of the MRI, a second MRI was ordered. (AR 160)

The second MRI had impression of mild degenerative changes of the wrist at the trapezium at its articulation with scaphoid. It did note a ganglionic cyst volar to the radiocarpal joint space, measuring 5mm in cephalocaudal dimension and 5mm in AP diameter. However, no abnormalities of the Guyon’s canal were identified. (AR 165)

Dr. Hay reviewed the MRI findings with Applicant on May 4, 2016 and stated that it did not “show any cyst or abnormalities of the Guyon’s canal or the ulnar nerve or any muscle abnormalities.” (AR 167) While ambiguous, from further context this statement regarding cysts is apparently limited to the Guyon’s canal area. (AR 167)

Dr. Hay recommended a neurological consultation to rule out myopathy, stroke or any non-peripheral causes of the motor weakness in the hand. (AR 168)

Dr. Hay also noted that the EMG reported no firing at the FCU, but that Applicant did fire at the FCU (flexor carpi radialis) at the clinic. (AR 168)

A. Video Surveillance Taping

Before the next visit with Dr. Hay, video surveillance was conducted of Applicant on April 16 and 17, 2016.

The surveillance video shows the Applicant using her right arm, and to some extent, her right hand, in an apparently “normal” fashion, without evidence of pain or pain avoidance measures. (AR Exhibit No. 96) Applicant is seen picking up a small dog, carrying groceries, pushing a shopping cart, handling keys, opening car doors, and driving her car. Watching of the video shows Applicant often abducting all fingers on her right hand, making a fist, manipulating keys, manipulating a plastic bag, and, at one point carrying a thermos, plastic bag and keys at the same time in the right hand. (AR Exhibit No. 96 at 2:31, 4:30) Further, the video shows Applicant waiving with her right hand, without apparent pain. (AR Exhibit No. 96 at 7:25-7:29)
Applicant explains this video by stating that while she can do such macro functions, she
cannot use her two fingers on her right hand. (HT 72:1-12)

B. Final Visits with Dr. Hay

Upon viewing of the video, Dr. Hay reports that the “video suggest[s] that there may not
be an organic source for [Applicant’s] pathology.” (AR 170)

Dr. Hay reports that he questioned Applicant at the visit on June 15, 2016, and Applicant
stated that she feels the hand is worsening, she could not do anything with it and asked for surgery.
Upon questioning, Dr. Hay reports that Applicant stated that “she could not do anything with the
hand” and “could not use the hand at all.” (AR 171, quotes in original)

Dr. Hay reports that he explained to the Applicant that he did not feel comfortable pursuing
surgery in a patient if he felt the Applicant is not accurately or honestly representing their signs
and symptoms. Dr. Hay stated that he believes he may need to refer Applicant to another doctor.
He notes the MRI was without any abnormalities in the Guyon’s canal or of the muscles, and the
EMG did not show signs of compression other than decreased recruitment of some of the
hypothenar musculature. (AR 171)

On this visit, it is Dr. Hay’s recommendation that the Applicant could return to a normal
duty capacity. (AR 172)

At the next visit on July 13, 2016, Dr. Hay reports that Applicant states matters have
worsened and that all four fingers are clamped together and that she has flexed at the MP joints.
However, she can “gently” move it at the clinic. Applicant was approved for second opinion. (AR
174)

At the August 3, 2016 visit Dr. Hay reports that Applicant states that she is worsening, but
that she can do some things. Dr. Hay notes that, based on the video, “it does appear she could do
most activities of normal office job.” (AR 177) On physical examination, Applicant “can flex at
the MPs; she can radially abduct the long finger in isolation. She can abduct, adduct the index and
fifth digits. She does not demonstrate abduction, adduction of the fourth digit. She can fully
extend. She reports pain down the forearm.” (AR 177)
In his report, Dr. Hay stated that he thinks she can safely return to full duty, but she feels unable to do so. As Applicant disagrees, Dr. Hay and Applicant agree as a compromise that Applicant can return with “no use of her right hand,” which Applicant did as set forth above. (AR 178)

4. Post-Retirement Evaluations

A. Dr. Zan Lewis

On September 1, 2016, Applicant was seen by Dr. Zan Ian Lewis, diplomate, American Board of Orthopaedic Surgery; Fellow, American Academy of Orthopaedic Surgeons; Fellow, American College of Surgeons, as a panel qualified medical examiner. (AR 002)

Dr. Lewis notes that the visit was for “greater than one hour.” This is the only visit in the Administrative Record by Applicant with Dr. Lewis. (AR 002)

Applicant reported to Dr. Lewis that she did data entry for six or more hours, typing with all ten digits and that her other job duties included writing and answering the telephone. (AR 003). Applicant reported that her work “entailed frequent sitting, walking, standing, twisting at the neck and waist.” (AR 003) Applicant reported that there was occasional bending at the waist, squatting, kneeling and crawling. (AR 003) Finally, Applicant reported that “[t]here was constant use of both hands for simple grasping. There was frequent pushing and pulling, and reaching above and below shoulder level with both upper extremities.” (AR 003)

Dr. Lewis reviewed Applicant’s medical history and the history of the injury. Applicant reported constant pain in the right hand and wrist, numbness, tingling and inability to separate the middle and ring fingers of the right hand, as well as weakness in the right hand. (AR 005) Applicant also reported nonconstant pain radiating from right wrist into right shoulder and increased pain with writing, tapping with the fingers, making a fist, moving the wrist, and lifting activities. (AR 005)

Applicant reported numbness and tingling in the right middle and ring fingers and some swelling of the right hand. (AR 005)
Upon examination, Dr. Lewis noted diminished pinprick sensation in the C6 and C7 dermatomes, index, middle, ring and little fingers. (AR 013) Pinprick sensation was intact in the C5 dermatome and thumb. In the left hand, pinprick sensation was intact. (AR 013)

Other testing showed normal to diminished light touch sensation for both hands. (AR 013)

Motor testing of the arm, wrist and fingers was normal. (AR 014)

Dr. Lewis noted there was slight right thenar atrophy, and mild right hypothenar atrophy, but no evidence of interosseous atrophy on either hand. (AR 015)

Dr. Lewis noted that no active separation of the right middle and ring fingers, but that passively there was full separation. (AR 015)

Other testing was generally within the normal range, except for extension of the middle and ring finger MP joint. (AR 016)

Fingers of both hands were able to flex with fingertips touching the proximal and mid palm. (AR 015)

Dr. Lewis did note that the x-ray study showed osteopenia. (AR 016)

Dr. Lewis’s diagnosis was that Applicant’s status was post soft tissue injury of the dorsum of the right hand with residual flexion contracture of the proximal joints of right middle and ring finger. (AR 027)

Dr. Lewis rated impairment of 2% of the right middle finger, 1% of the right ring finger, and a 2% for added burden of pain. (AR 029)

Although Dr. Lewis declared Applicant stationary and permanent, he also stated she would benefit from therapy and home exercises to improve strength and range of motion. (AR 030)

Based on this diagnosis, Dr. Lewis opined that Applicant had a disability prophylactically precluding her from typing with the right index, middle, and ring fingers and repetitive power grasping with the right hand. (AR 027) Dr. Lewis further opined that is was not within the physical capabilities of the Applicant to return to her usual and customary work and not exceed her prophylactic work restrictions. (AR 027)
B. Dr. Michael Moheimani

One year later, on September 12, 2017, after her retirement, Applicant was seen by Dr. Michael Moheimani, Orthopaedic Surgeon. (AR 180) Objective testing showed Jamar Grip Strength of 10-12 in the right hand and 28-28 in the left. Motor was deemed normal “except that she has difficulty abducting and adducting the right ring and middle fingers.” (AR 184)

Examination of the wrists revealed no specific swelling or tenderness.

Ranges of motion were normal or close to normal, and, notably, the same for left and right hands: Dorsiflexion: 60/60; Palmar flexion: 45/60; Radial deviation: 15/30; Ulnar deviation: 30/30 (AR 185)

Tests for Phalens’, carpal tunnel compression, Tinel’s and Finkelstein’s were negative. (AR 185) Hands tested negative for tenderness. (AR 185)

Dr. Moheimani notes as follows:

She has limitation of function in that she is limited in abducting the fingers. She has difficulty opening the web space between the middle and ring fingers. She has difficulty with abduction of the ring finger, and adduction of the right middle finger.

There is significant swelling of the metacarpal phalangeal joints of the right hand, primarily in the index and middle fingers, and ulnar deviation of all of the digits. There is loss of extension of the metacarpal phalangeal joints of the right and middle fingers, minus 30°, and index finger minus 15°. On flexion she is able to fully flex her digits. She has minor swelling of the MP joint of the left index finger, but also on the left hand, there is also ulnar deviation of the digits. As noted, she has difficulty separating between the ring and middle fingers. (AR 185)

Upon review of x-rays, Dr. Moheimani notes there is soft tissue swelling, but no bond abnormality or corrosive changes in the joints. (AR 186)

Based on personal examination of Applicant, review of medical records, review of diagnostic/imaging studies, and his experience and training as orthopedic surgeon, Dr. Moheimani opined that Applicant’s “[n]eurodiagnostic testing shows some dysfunction of the muscles that
control side to side motion of the digits of the hand. Therefore, this is a very realistic injury and
certainly not something that the injured worker is creating.” (AR 198)

However, the injury is “minor” and her “dysfunction is very minor.” (AR 197) Dr.
Moheimani notes that basically Applicant cannot move her middle and ring fingers sideways. (AR
197). She can however, “fairly flex” the digits, and has some gripping ability. (AR 197)

It was the opinion of Dr. Moheimani that with training, modifications to the keyboard and
voice recognition system, i.e., items that would “limit her requirements for keyboarding,” she
could return to her customary work. (AR 198)

C.  Dr. Michael Mahdad

On February 21, 2018, Applicant was seen by Board Certified Neurologist, Fellow,
American Association of Electrodiagnostic Medicine, Dr. Michael Mahdad, for a neurological
IME. (AR 202)

It was noted that the right hand of Applicant was slightly deformed and that she had ulnar
deviation at the wrist with hypertrophy of the metacarpophalangeal-joints. (AR 204) Dr. Mahdad
notes slight hyper-extension of the interphalangeal joints of the third and fourth fingers and slight
hypertrophy of the left 2nd metacarpophalangeal-joint. (AR 204) Also noted Applicant could not
flex with the right third and fourth fingers, and could not abduct or adduct the same; that interossei
muscles worked fairly well; that there was no atrophy or fasciculation; and no sensory deficit.
Other tests were negative. (AR 204)

Dr. Mahdad’s impression was mono-arthritis of the right hand, of unknown cause, with no
evidence of neurological involvement. (AR 205)

Dr. Mahdad did believe that Applicant could perform some of the essential functions of
her job, but did not believe that she would be able to “effectively type or do word processing.”
(Ar 205)

Dr. Mahdad suggested referral to orthopedic or rheumatologist. (AR 205)
D. Dr. Jeff Sarkozi

On March 15, 2019, Applicant was seen by Dr. Jeff Sarkozi, Fellow, Royal College Physicians and Surgeons, Canada; and Fellow, American College of Rheumatology. (AR 211)

Dr. Sarkozi’s lengthy report, however, is fairly repetitive and does not shed much new light on the condition of Applicant.

It was the opinion of Dr. Sarkozi that the injury did not cause permanent incapacity as function has returned to normal or pre-existing baseline state no later than August 31, 2015. (AR 315)

Dr. Sarkozi stated that “[t]here is no objective evidence in the history, physical examination, and medical and other records available as reviewed above of any physical, musculoskeletal or rheumatologic functional limitation, impairment, or disability that would preclude Applicant from undertaking her usual life activities including all activities of daily living including at home, in a work setting, in the community, and undertaking recreational activities with appropriate adaptation and accommodation as well as the adaptation and accommodation such as she has already embraced. (AR 315)

It was further the opinion of Dr. Sarkozi that the “current history, physical examination, and review and analysis of the entire medical and other records available…failed to identify that [Applicant] was unable to substantially perform the usual duties of her job. (AR 315)

Dr. Sarkozi opined that “the symptoms and findings involving the small and medium sized joints on her hands and wrists and feet of a reversibly deforming, non-erosive, noninflammatory, essentially painless … arthropathy consistent with Jaccoud’s arthropathy and in addition has symptoms and findings compatible with the diagnosis of generalized osteoarthritis including both primary generalized osteoarthritis and secondary osteoarthritis and the active periarticular processes noted have not caused permanent incapacity.” (AR 315)
II. LEGAL DISCUSSION

For this disability matter, it must be determined if Applicant is “permanently incapacitated for the performance of duty.” To determine this, the Hearing Officer must determine: 1) the nature of Applicant’s “usual” duties at the time that she last worked; 2) whether Applicant’s medical condition(s) render her “substantially” unable to perform those “usual” duties; and 3) whether Applicant’s incapacity is permanent. (Mansperger v. Public Employees Retirement System (1970) 6 Cal.App.3d 873, 876.)

An Applicant is not entitled to a disability pension upon application and submission of a favorable doctor’s report. The applicant, instead, must prove the requisite qualifying facts. (Masters v. San Bernardino County Employees Retirement Association, 32 Cal.App.4th 30 (1995))

An incapacity is deemed permanent if further change in the condition is not reasonably anticipated by usual medical standards. (Sweeney v. Industrial Accident Commission (1951) 107 Cal.App.2d 155, 159.) If an employee unreasonably refuses to submit to treatment that has been offered and has a high likelihood of cure with low risk, the employee is not permanently incapacitated. (Reynolds v. City of San Carlos (1981) 126 Cal.App.3d 208, 213, 214.)

Case law holds that a hearing officer and the Board should not consider medical reports as “substantial evidence if they are known to be erroneous, or if they are based on facts no longer germane, or inadequate medical histories and examinations, or inadequate medical histories and examinations, or on incorrect legal theories.” (Hegglin v. Workers’ Comp. App. Bd. (172) 4 Cal.3d, 162, 169.)

The standard for review for determination of service connection is whether the employee’s employment “contributes substantially” to the capacity. “Contributes substantially” means employment was more than “any” and less than the “principal” cause of the incapacity. (Gatewood v. Board of Retirement of San Diego County Employees Retirement Ass’n (1985) 175 Cal.App.3d 311.) Causation cannot be apportioned; it is either service connected or it is not. (Lindsay v. County of San Diego Retirement Board (1964) 231 Cal.App.2d, 156, 161.)
A. Applicant’s Injury Does Not Prevent Performance of Duties Consisting of General Office Work

At hearing, Applicant’s claimed injury was an inability to move her third and fourth fingers on her right with full range of motion and dexterity. Applicant testified that she could use her hand and arm for “macro” functions and further testified that she did some typing on a regular basis for her duties as HOA president. Finally, Applicant testified she could do the physical aspects of her job when she retired, just slower.

In this case, several doctors have given substantial opinions regarding Applicant’s injury, with none agreeing as to the cause, or even if there was an organic cause.

1. Dr. Hay of Opinion Applicant Could Return to Work

Of the evaluating and treating doctors, Dr. Hay worked the longest with Applicant, from September 2015 through August, 2016. Dr. Hay ordered therapy, two MRI’s, and an EMG. No objective reason was found for Applicant’s injury. Further, during the time Dr. Hay was treating Applicant, the therapist, although first observing injury and noted progress, observed Applicant using her hand in an unguarded fashion to a greater extent than shown during therapy, when Applicant was unaware she was being observed.

Finally, after a review of a video tape showing Applicant performing many activities normally with her hand, Dr. Hay was of the opinion that Applicant could work without restriction. While Dr. Hay subsequently issued an apparent compromise restriction of “no use” of the right hand, there is no objective evidence supporting this compromise position in the reports of Dr. Hay. Other evaluating doctors were of the similar opinion, that even with the stated injury, Applicant could return to her position.

2. Dr. Sarkozi of Opinion Applicant Could Return to Work

Similar to Dr. Hay, Dr. Sarkozi believed that Applicant’s injury did not cause permanent incapacity as function has returned to normal or pre-existing baseline state no later than August 31, 2015. (AR 315) Dr. Sarkozi did not believe that Applicant was unable to substantially perform the usual duties of her job. (AR 315)
3. **Dr. Moheimani of Opinion Applicant Could Return to Work with Restrictions**

Dr. Moheimani, who gave a very objectively detailed, comprehensive report, opined that Applicant’s “[n]eurodiagnostic testing shows some dysfunction of the muscles that control side to side motion of the digits of the hand. Therefore, this is a very realistic injury and certainly not something that the injured worker is creating.” (AR 198)

However, per Dr. Moheimani, the injury is “minor” and her “dysfunction is very minor.” (AR 197) Dr. Moheimani notes that basically Applicant cannot move her middle and ring fingers sideways. (AR 197). She can however, “fairly flex” the digits, and has some gripping ability. (AR 197)

It was the opinion of Dr. Moheimani that with training, modifications to the keyboard and voice recognition system, i.e., items that would “limit her requirements for keyboarding,” Applicant could return to her customary work. (AR 198)

The Hearing Officer finds this report of Dr. Moheimani is a well-reasoned and persuasive opinion given his training and experience, use of objective testing, review of Applicant, review of underlying documents, and reasoned consideration of the duties of Applicant.

4. **Dr. Mahdad of Opinion Applicant Could Return to Work but Could Not “Effectively Type”**

Dr. Mahdad, neurologist, diagnosed Applicant with mono-arthritis as set forth above. He did believe that Applicant could perform some of the essential functions of her job, but did not believe that she would be able to “effectively type or do word processing.” (AR 205) However, if the Department could limit the typing, as typing is only one aspect of the usual and customary duties, as it had done when Applicant returned to her position, this concern of Dr. Mahdad was resolved.

5. **Dr. Lewis of Opinion Applicant Could Not Return to Work**

Only Dr. Lewis opined that Applicant was unable to return at all to her position. However, the list of duties provided to Dr. Lewis by Applicant are far more strenuous than the official listing
of duties for the Department, and it does not appear in the record that Dr. Lewis reviewed the official job description.

Further, the injuries and complaints of Applicant in her meeting with Dr. Lewis are more extensive than injury to the middle and ring finger for which Applicant seeks disability herein. For example, to Dr. Lewis, Applicant complained of wrist pain and pain radiating from wrist to shoulder.

The Hearing Officer notes that in explaining why the surveillance video was not evidence that she was exaggerating her injuries, Applicant was quite explicit that she could do the larger functions of using her hand, but that it was only the inability to separate her fingers that hindered her in her functioning. Thus, both the stated injury and the job description on which Dr. Lewis relied on are not the same as the ones in the record.

Further, Dr. Lewis makes no discussion of the activities in the video other than a recitation of some of the events seen therein, and makes no note or correlation of the activities undertaken by Applicant in the video and those complaints of Applicant in the visit.

As such, the Hearing Officer gives greater weight to the report of Dr. Hay - who saw Applicant much more, discussed the video, and had an accurate job description - than the report of Dr. Lewis.

Based on the above opinions, the objective testing contained in the doctors’ reports, the activities Applicant is shown performing in the video, the limited nature of the injury, and the Department’s uncontested evidence that it could accommodate Applicant’s injury, the Hearing Officer does not find that Applicant was “substantially” unable to perform her “usual” duties. As such, the second prong of the of the Mansperger criteria has not been met.

Further, it is far from established that Applicant’s position is permanent given the opinion of Dr. Sarkozi, and Dr. Lewis, even, that Applicant would benefit from therapy and strength exercises. Thus, the third prong of the Mansperger criteria is also not met.
FINDINGS OF FACT

1. Applicant’s injury to her hand on June 10, 2015 did not cause permanent incapacitation from the substantial performance of her usual and customary duties based upon the more reasoned medical opinions, the objective testing contained in the medical reports, the activities Applicant is shown performing in the video, the limited nature of the injury, and the Department’s uncontested evidence that it could accommodate Applicant’s by reducing the typing required of her position.
1. In accordance with Mansperger v. Public Employees Retirement System (1970) 6 Cal.App.3d 873, 876, Applicant was not permanently incapacitated from the substantial performance of her usual and customary duties.
RECOMMENDATIONS

The Hearing Officer recommends that the Board find:

1. Applicant was not permanently incapacitated from the substantial performance of her usual and customary duties and deny service related disability.

Dated: July 7, 2020

Jane G. Kearl, Hearing Officer
DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Suzanne Jenike, Assistant CEO, External Operations
SUBJECT: Agenda Item DA-3: Lynn Hong

Recommendation
Staff recommends the Board approve and adopt the findings and recommendations of the Referee/Hearing Officer as set forth in the Proposed Decision dated August 17, 2020 (Recommendations) wherein the Hearing Officer recommended (1) that the application of Lynn Hong (Applicant) for service connected disability retirement based on the orthopedic injury to Applicant’s left shoulder be granted with an effective date of October 23, 2013; and (2) that the application for service-connected and non-service connected disability retirement based on the orthopedic injuries to Applicant’s right shoulder and lumbar spine be denied.

Alternatives
California Government Code section 31534 outlines the Board’s options with respect to the Recommendations. Section 31534 states in pertinent part as follows:

   Upon receiving the proposed findings of fact and recommendations of the referee, the board may:
   
   (a) Approve and adopt the proposed findings and the recommendations of the referee, or
   
   (b) Require a transcript or summary of all the testimony, plus all other evidence received by
       the referee. Upon receipt thereof the board shall take such action as in its opinion is indicated
       by such evidence, or
   
   (c) Refer the matter back with or without instructions to the referee for further
       proceedings, or
   
   (d) Set the matter for hearing before itself. At such hearing, the board shall hear and decide
       the matter as if it had not been referred to the referee.

Background
Service Worker, Orange County Transportation Authority
Date employer filed application for service and non-service connected disability retirement: 10/23/2013
Date employee filed application for service connected disability retirement: 06/17/2014
Date of entry into OCERS: 01/10/2000
Total years of OCERS service: 9.9641
Applicant is Active on Leave
Facts

On October 23, 2013, the Orange County Transportation Authority (OCTA) filed a disability retirement application on behalf of its employee, Lynn Hong, once OCTA determined that Ms. Hong was no longer physically capable of performing her duties as a Service Worker.

On June 17, 2014, Ms. Hong (hereafter Applicant) filed an application for disability retirement claiming an injury to her bilateral shoulders, myofascial pain syndrome and lumbar spine. OCTA supported Applicant’s position that she was entitled to a disability retirement as she was incapable of performing her usual and customary duties as a Service Worker.

On October 19, 2015, the Board of Retirement denied Applicant’s request for both service and non-service connected disability retirement due to insufficient evidence of permanent incapacity and job causation. On November 16, 2015, Applicant timely filed a request for an administrative hearing. On December 21, 2015, OCTA timely filed a request for administrative hearing on behalf of the Applicant.

An administrative hearing was held on May 13, 2019, August 5, 2019, and March 9, 2020. The Applicant’s appeal was heard by Hearing Officer Michael Diliberto, Esq. (Hearing Officer). OCERS was represented by Dawn Matsuo, Esq., the Applicant was represented by Danny Polhamus, Esq., and OCTA was represented by Keith Dobyns, Esq. On August 17, 2020, the Hearing Officer issued the following Recommendations recommending that:

1. The Applicant’s appeal for service-connected disability retirement for the orthopedic injury to her left shoulder be granted with an effective date of October 23, 2013.
2. The Applicant’s appeal for service and non-service connected disability retirement for her orthopedic injuries to her right shoulder and lumbar spine be denied.

This appeal was adjudicated under the OCERS Board Administrative Hearing Procedures (Rules) dated December 14, 2015. Pursuant to the Rules, the parties had 30 days after the date the Hearing Officer filed the Recommendations to file objections. None of the parties filed objections.

Staff recommends the Board approve and adopt the Recommendations.

Submitted by:

SJ-Approved
Suzanne Jenike
Assistant CEO, External Operations
BEFORE THE
BOARD OF RETIREMENT OF THE
ORANGE COUNTY EMPLOYEES RETIREMENT SYSTEM

In the Matter of the Application for Disability Retirement:
LYNN H. HONG,
Applicant.

PROPOSED DECISION

Michael R. Diliberto, Hearing Officer, Orange County Employees Retirement System, heard this matter on May 13, 2019, August 5, 2019, and March 9, 2020 in Santa Ana, California.

Danny T. Polhamus, Esq., Cantrell Green, represented Lynn H. Hong (Applicant), who appeared at hearing.

Keith R. Dobyns, Esq., Woodruff, Spradlin & Smart, APC, represented the Orange County Transportation Authority (OCTA).

Dawn M. Matsuo, Esq. represented the Board of Retirement of the Orange County Employees Retirement System (OCERS and/or Board).

The record was held open until June 18, 2020 to enable the parties to receive the hearing transcript and submit closing briefs. Applicant and OCTA served their closing briefs on April 24, 2020 and Respondent served its closing brief on May 29, 2020. Applicant and OCTA served reply briefs on June 18, 2020. Oral and documentary evidence was received and the matter was submitted for decision on June 18, 2020. The hearing officer makes his factual findings, legal conclusions and recommendation as follows.

SUMMARY OF ADMINISTRATIVE RECORD

The administrative record (AR) consisted of exhibit pages 1 through 264. The following exhibits were offered by the parties and received into evidence:

Disability Retirement Application and Correspondence

(10/23/13) Application for Disability Retirement (Applicant): Applicant’s application for service-connected disability and nonservice-connected disability filed by the Orange County Transportation Authority. (AR, p. 1.)
(11/27/13) Letter (OCERS): Confirmation of receipt of Applicant’s application for service and non-service connected disability retirement filed by the Orange County Transportation Authority. (AR, p. 2.)

(1/27/14) Letter (OCERS): Confirmation of receipt of Applicant’s application for service and non-service connected disability retirement filed by the Orange County Transportation Authority and request for Applicant’s response. (AR, p. 3.)

(2/19/14) Letter (OCERS): Confirmation of receipt of Applicant’s application for service and non-service connected disability retirement filed by the Orange County Transportation Authority and request for Applicant’s response. (AR, p. 4.)

(4/28/14) Letter (OCERS): Confirmation of receipt of Applicant’s application for service and non-service connected disability retirement filed by the Orange County Transportation Authority and request for Applicant’s response. (AR, p. 5.)

(6/17/14) Application for Disability Retirement (Applicant): Applicant’s application for service-connected disability filed by Applicant. (AR, p. 6.)

(6/17/14) Authorization for Disclosure and Use of Protected Health Information (Applicant): Applicant’s authorization for disclosure and use of protected health information. (AR, pp. 7 and 8.)

(6/17/14) Letter (Applicant): Applicant’s notice to OCERS of designation of attorney of record. (AR, p. 9.)

(6/17/14) Employee’s Statement of Disability (Applicant): Applicant’s statement of disability for “both upper extremities/myofascial pain syndrome; lumbar pain. Symptoms began on December 11, 2008 for the right shoulder and July 14, 2012 for the left shoulder. Applicant became unable to perform the duties of her position on July 14, 2012 and is unable to perform duties that require lifting over 10 pounds, repetitive bending, stooping or squatting, or repetitive pushing or pulling. (AR, pp. 10-12.)


(6/26/14) Letter (OCERS): Confirmation of receipt of Applicant’s application for service-connected disability retirement. (AR, p. 17.)

(6/26/14) Letter (OCERS): Request to Applicant’s employer for Applicant’s medical records and the entire department personnel file. (AR, p. 18.)
(1/9/15) Letter (OCERS): Second request to Applicant’s employer for Applicant’s medical records and the entire department personnel file. (AR, p. 19.)

(3/29/13) Employer’s Statement of Disability (OCERS): Statement summarizing Applicant’s work related injuries, work restrictions and work duties. (AR, pp. 20-26.)

(Undated) Job Description (Orange County Transportation Authority): Job description for the Service Worker II position. (AR, pp. 27 and 28.)

(1/23/15) Workers’ Compensation Information Request (OCERS): Request for information about workers’ compensation claims filed by Applicant. (AR, p. 29.)

(4/6/15) Letter (OCERS): Notice to Applicant with enclosed list of medical records received to date regarding application for disability retirement. (AR, pp. 30 and 31.)

(7/7/15) Letter (OCERS): Letter to Timothy K. Ross, M.D. scheduling examination with Applicant. (AR, pp. 32-37.)

(7/7/15) Letter (OCERS): Letter to Applicant scheduling examination with Timothy K. Ross, M.D. (AR, p. 38.)


(10/9/14) Letter (OCERS): Notice to Applicant of the Board of Retirement’s recommendation to deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity and job causation. (AR, pp. 40 and 41.)

(10/19/15) Minutes (OCERS): OCERS regular board meeting minutes with staff recommendation to deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity and job causation. (AR, p. 42.)

(10/19/15) Board Release (OCERS): OCERS board release with recommendation to deny service and non-service connected disability retirement due to insufficient evidence of permanent incapacity and job causation. (AR, p. 43.)

(10/23/15) Letter (OCERS): Notice to Applicant of OCERS board denying service connected disability retirement due to insufficient evidence of permanent incapacity and job causation. (AR, pp. 44 and 45.)

(11/16/15) Letter (Applicant): Notice to OCERS of Applicant’s appeal of the OCERS board’s denial of Applicant’s disability retirement application. (AR, p. 46.)

(11/23/15) Letter (OCERS): Notice to Applicant’s attorneys of record of OCER’s attorneys of record. (AR, p. 48.)

(12/21/15) Letter (Orange County Transportation Authority): Notice to OCERS of Orange County Transportation Authority’s attorneys of record. (AR, p. 49.)

(1/20/16) Letter (OCERS): Notice to Orange County Transportation Authority of status of Applicant’s pending appeal. (AR, p. 50.)

Medical Reports and Related Documents

(12/16/08) Doctor’s First Report of Occupational Injury or Illness (Emerson S. Mann, M.D.): Applicant described December 11, 2008 injury as “[Applicant] was mopping the floor and [Applicant] developed pain in [her] right shoulder. Applicant can return to work on December 12, 2008 with restrictions of no lifting over 10 pounds, no pushing and/or pulling over 10 pounds of force, no reaching above shoulders, and limited use of right arm. (AR, p. 51.)

(12/29/08) Primary Treating Physician’s Progress Report (Rebecca M. Steinberg, M.D.): Diagnosis: Sprain of unspecified site of shoulder and upper arm and trapezius/rhomboid strain. Applicant can return to modified work on December 29, 2008. (AR, p. 52.)

(1/5/09) Primary Treating Physician’s Progress Report (Emerson S. Mann, M.D.): Diagnosis: Sprain of unspecified site of shoulder, upper arm and trapezius/rhomboid strain, and shoulder impingement. Applicant can return to modified work on January 5, 2009. (AR, p. 53.)

(1/12/09) Primary Treating Physician’s Progress Report (Emerson S. Mann, M.D.): Diagnosis: Sprain of unspecified site of shoulder, upper arm and trapezius/rhomboid strain, and shoulder impingement. Applicant can return to modified work on January 12, 2009. (AR, pp. 54-56.)

(2/3/09) Primary Treating Physician’s Progress Report (Emerson S. Mann, M.D.): Diagnosis: Sprain of unspecified site of shoulder, upper arm and trapezius/rhomboid strain, and shoulder impingement. Applicant can return to modified work on February 4, 2009. (AR, pp. 57 and 58.)

(2/17/09) Primary Treating Physician’s Progress Report (Emerson S. Mann, M.D.): Diagnosis: Sprain of unspecified site of shoulder, upper arm and trapezius/rhomboid strain, and shoulder impingement. Applicant can return to modified work on February 17, 2009. (AR, pp. 59 and 60.)

(3/17/09) Primary Treating Physician’s Progress Report (Emerson S. Mann, M.D.): Diagnosis: Sprain of unspecified site of shoulder, upper arm and trapezius/rhomboid strain,
and shoulder impingement. Applicant can return to modified work on March 17, 2009. (AR, pp. 61 and 62.)

(5/7/09) Primary Treating Physician’s Progress Report (Emerson S. Mann, M.D.): Diagnosis: Sprain of unspecified site of shoulder, upper arm and trapezius/rhomboid strain, and shoulder impingement. Applicant can return to modified work on May 7, 2009. (AR, pp. 63 and 64.)

(5/26/09) MRI of the Right Shoulder (Mark G. Stein, M.D.): Impression: Supraspinatus tendinopathy with a type II acromion. (AR, p. 65.)


(2/9/10) Qualified Medical Examiner’s Report (Bert W. Schweitz, M.D.): Diagnoses: Tendinitis of the supporting structures of the right shoulder as confirmed by MRI studies, and strains and sprains to the supporting structures of the right shoulder and upper back. (AR, pp. 69-75.)

(10/5/04) Doctor’s First Report of Occupational Injury or Illness (Herbert D. Jennings, M.D.): Diagnosis: sprains/strains of the neck, and right shoulder and upper arm. Applicant is not able to perform usual work. (AR, pp. 76 and 77.)

(8/30/10) MRI of Cervical Spine Without Contrast (Joel Levine, M.D.): Impression: Mild to moderate cervical hyperlordosis, mild multilevel disc desiccation without disc protrusion in the cervical spine, and normal spinal cord. (AR, p. 78.)

(9/22/10) Primary Treating Physician’s Permanent and Stationary Report (Herbert D. Jennings, M.D.): Diagnosis: All diagnoses, resolved. Applicant was released to full duty with no limitations or restrictions. AR, pp. 79-85.)

(1/4/11) Qualified Medical Examiner’s Re-Evaluation and Report (Bert W. Schweitz, M.D.): Diagnoses: Tendinitis of the supporting structures of the right shoulder as confirmed by MRI studies, and strains and sprains to the supporting structures of the right shoulder and upper back. (AR, pp. 86-91.)

(5/9/11) Job Analysis Report (The Rehabilitation Group LLC): Job analysis report for the Service Worker position at the Orange County Transportation Authority, Garden Grove Base. (AR, pp. 92-96.)

(5/15/11) Job Analysis Review Form (The Rehabilitation Group LLC): Applicant can return to her position of Service Worker with the following restrictions: No overhead reaching, lifting, pushing, pulling; no heavy lifting (more than 25 pounds), no repetitive lifting of the fuel line. (AR, p. 97.)

(7/14/12) Occurrences Report (Risk Management): Applicant inured her shoulder pulling the farebox vault. (AR, p. 101.)

(7/14/12) Report of Injury (Orange County Transportation Authority): On July 14, 2012, Applicant strained her left shoulder by removing the heavy cashbox from the fare box while servicing a bus. Days away from work are expected. (AR, pp. 102 and 103.)


(7/16/12) Work Status Form (D. Winston Cheshire, M.D., QME): Activity restrictions: Avoid repetitive awkward positions of the left shoulder and no repetitive bending or motions of the left shoulder. (AR, p. 106.)

(7/31/12) Work Status Form (D. Winston Cheshire, M.D., QME): Activity restrictions: Avoid repetitive awkward positions of the left shoulder and no repetitive bending or motions of the left shoulder. (AR, p. 107.)

(8/7/12) Work Status Form (D. Winston Cheshire, M.D., QME): Activity restrictions: Avoid repetitive awkward positions of the left shoulder and no repetitive bending or motions of the left shoulder. (AR, p. 108.)

(8/21/12) Physical Medicine Consultation and Electromyography/Nerve Conduction Studies (Patricia Meredith, M.D., PhD): Impression: Normal EMG of the upper limbs. No cervical nerve root impingement bilateral C5-T1, and normal nerve conduction studies of the upper limbs without electrophysiological findings for nerve entrapments, neuropathy, or plexopathy. (AR, pp. 109-113.)

(8/30/12) Primary Treating Physician’s Progress Report (Herbert D. Jennings, M.D.): Diagnoses: Sprains/strains of the neck and unspecified site of shoulder and upper arm, and lumbar strain. (AR, p. 114.)

(8/30/12) Work Status Form (Herbert D. Jennings, M.D., QME): Activity restrictions: Avoid repetitive awkward positions of the left shoulder and no repetitive bending or motions of the left shoulder. (AR, p. 115.)
(9/6/12) Work Status Form (Herbert D. Jennings, M.D., QME): Activity restrictions: Off the balance of shift on September 6, 2012; return to regular work on September 7, 2012. (AR, p. 116.)

(9/6/12) Qualified Medical Examiner’s Re-Evaluation and Report (Bert W. Schweitz, M.D.): Final Diagnoses: Sprains/strains of the right shoulder and left shoulder, and lumbar strain. Applicant is permanent and stationary as of September 6, 2012. Applicant should not return to her usual and customary occupation because it will probably cause recurrence of her symptomatology and physical findings. Applicant is susceptible to progressive changes in her shoulders, including traumatic arthritis. (AR, pp. 117-121.)

(9/11/12) Qualified Examiner’s Review of Additional Medical Records (Bert W. Schweitz, M.D.): Summary of additional medical records reviewed. (AR, pp. 122-124.)

(9/20/12) Comprehensive Workers’ Compensation Consultation by an Orthopaedic Surgeon. (Bert W. Schweitz, M.D.): Summary of additional medical records reviewed. (AR, pp. 125-133.)

(9/27/12) Work Status Form (Herbert D. Jennings, M.D., QME): Activity restrictions: No lifting or carrying: Not permitted to lift, carry, push or pull more than 10 pounds and no repetitive, awkward positions. Must avoid repetitive bending or motions of the left upper extremity. (AR, p. 134.)

(10/9/12) MRI of the Left Shoulder (Herbert D. Jennings, M.D., QME): Impression: Possible atrophy of the supraspinatus muscle and mild tendinosis of the supraspinatus muscle. (AR, pp. 135 and 136.)

(10/15/12) Primary Treating Physician’s Progress Report (Herbert D. Jennings, M.D.): Diagnoses: Sprains/strains of the neck and unspecified site of shoulder, and upper arm, and lumbar strain. (AR, p. 137.)

(11/5/12) Utilization Review (James Scalone, D.O.): UR Determination: After review of the available information for Applicant with December 11, 2008 injury date, certification is not recommended for the requested treatment plan. (AR, pp. 138-143.)

(11/4/12) Qualified Examiner’s Review of Additional Medical Records Received on November 4, 2012 (Bert W. Schweitz, M.D.): Summary of additional medical records reviewed. (AR, pp. 144-149.)

(12/7/12) Utilization Review (James Scalone, D.O.): UR Determination: After review of the available information for Applicant with December 1, 2008 injury date, certification is recommended for a modified treatment plan, including left shoulder arthroscopy. (AR, pp. 150-156.)
(12/7/12) Workers’ Compensation Supplemental/Change of Status Report by an Orthopaedic Surgeon. (Navid Ghalambor, M.D., QME): Diagnosis: Left shoulder impingement syndrome superimposed on rotator cuff tendinosis. (AR, pp. 157-160.)


(1/23/13) Prescription (Jennifer Judelson, PA-C): Physical therapy prescription for the left shoulder. (AR, p. 164.)

(1/31/13) Letter (Shannon Le, Intercare): Approval for physical therapy for shoulders. (AR, p. 165.)

(2/28/13) Letter (Shannon Le, Intercare): Approval for physical therapy for shoulders. (AR, p. 166.)

(5/9/13) Workers’ Compensation Permanent and Stationary Evaluation/Report by an Orthopaedic Surgeon. (Navid Ghalambor, M.D., QME): Diagnosis: Status post left shoulder arthroscopic subacromial decompression/partial acromioplasty on December 12, 2012 and left shoulder medial scapular myofascial pain syndrome. Disability status for the left shoulder: Applicant is precluded from lifting more than 10 pounds with the left arm. (AR, pp. 167-171.)

(4/19/13) Prescription (Jennifer Judelson, PA-C): Prescription for home TENS unit for left shoulder pain. (AR, p. 172.)

(6/6/13) Qualified Medical Examiner’s Permanent and Stationary Evaluation (Bert W. Schweitz, M.D.): Left shoulder: 100 percent of impairment is apportioned to the July 14, 2012 injury; Right shoulder: 100 percent of impairment is apportioned to the December 11, 2008 injury; Low back: 50 percent of impairment is apportioned to the July 14, 2012 injury. Applicant cannot return to her usual and customary occupation and should be given lighter job duties. (AR, pp. 173-178.)

(7/5/13) Qualified Medical Evaluator’s Findings Summary Form (Bert W. Schweitz, M.D.): Final diagnosis: Supraspinatus tendinopathy with a Type II acromion. (AR, p. 179.)

(7/27/15) Orthopedic Independent Evaluation (Timothy K. Ross, M.D.): There is insufficient objective evidence to support a permanent restriction for Applicant’s employment for the Orange County Transportation Authority. There is insufficient objective evidence to preclude Applicant from the usual and customary duties of her county job position. (AR, pp. 180-198.)

Workers’ Compensation Records
(12/12/08) Workers’ Compensation Claim Form (Applicant): Claim for December 11, 2008 injury to right shoulder, back, internal, depression and sleep issues. (AR, p. 199.)

(7/14/12) Workers’ Compensation Claim Form, Amended (Applicant): Claim for July 14, 2012 injury to right shoulder, back, internal, depression, sleep and cognitive issues. (AR, p. 200.)

(12/18/13) Employer’s Report of Occupational Injury or Illness (Jennifer Costes, Intercare): On July 14, 2012, Applicant reported strain to her left shoulder after removing the cash box from the fare box while servicing buses at the Garden Grove Base. (AR, p. 201.)


(10/29/12) Notice Regarding Permanent Disability Benefits, Payment Termination (Shannon Le, Intercare): Applicant’s workers’ compensation payments are ending for December 11, 2008 injury because Panel Qualified Evaluator Bert W. Schweitz, M.D. declared that Applicant reached maximum medical improvement as of September 6, 2012. (AR, pp. 204 and 205.)

Personnel Records

(7/14/12) Leave of Absence Request (Applicant): Applicant’s request for leave of absence for medical appointment on July 15, 2012. (AR, pp. 206 and 207.)


(12/4/12) Leave of Absence Request (Applicant): Applicant’s request for leave of absence for 20 work days from November 28, 2012, returning on December 26, 2012. (AR, pp. 210 and 211.)

(12/23/13) Leave of Absence Request (Applicant): Applicant’s request for leave of absence for 20 work days from December 26, 2012, returning on February 20, 2013. (AR, pp. 212 and 213.)

(2/20/13) Leave of Absence Request (Applicant): Applicant’s request for leave of absence for 20 work days from February 21, 2013, returning on March 21, 2013. (AR, pp. 214 and 215.)

(3/22/13) Leave of Absence Request (Applicant): Applicant’s request for leave of absence for 20 work days from March 22, 2013, returning on April 19, 2013. (AR, pp. 216 and 217.)
(4/19/13) Leave of Absence Request (Applicant): Applicant’s request for leave of absence for 16 work days from April 19, 2013, returning on May 9, 2013. (AR, pp. 218 and 219.)

(5/9/13) Protected Leave of Absence Request (Applicant): Applicant’s leave of absence request for a medical appointment on May 9, 2013. (AR, pp. 220 and 221.)

(10/24/17) Disability and Retirement Assessment and Report (Ronald E. Glousman, M.D.): Applicant is not capable of returning to her usual and customary job activities as a service worker for the Orange County Transportation Authority without restrictions. Shoulder restrictions: No overhead activities or lifting over 25 pounds, bilaterally. Cervical spine restrictions: No lifting more than 10 pounds. Lumbar spine: No heavy lifting over 25 pounds or repetitive bending activities. (AR, pp. 222-237.)

[AR p. 238 is intentionally omitted.]

(1/2/18) Supplemental Orthopedic IME Report (Timothy K. Ross, M.D.): After reviewing Dr. Glousman’s October 24, 2017 report, Dr. Ross’ office chart and prior IME report in this matter, Dr. Ross finds that his prior report functional determination is historically, clinically and objectively supported. (AR, pp. 239-245.)

(1/16/18) Supplemental Disability and Retirement Assessment and Report (Ronald E. Glousman, M.D.): Applicant’s cervical spine pain is industrial related. It is medically probable that Applicant’s symptoms from 2010 to today have increased as a result of her work activities and work duties. (AR, pp. 246-248.)

(Undated) Physician’s Statement of Disability (Ronald E. Glousman, M.D.): Primary diagnosis regarding December 11, 2008 accident: Left shoulder chronic impingement, distal clavical arthrosis pending surgery, right shoulder impingement/cervical sprain/strain. Secondary diagnosis: Lumbar sprain/strain. Applicant is permanently disabled for the duties or her occupation. Applicant is not capable of performing the following: Bilateral shoulders: no repetitive work. Neck: no lifting over 10 pounds. Lumbar spine: No repetitive bending or lifting over 25 pounds. (AR, pp. 249-252.)

(2/7/18) Amended Application for Disability Retirement (Applicant): Applicant’s application for service-connected disability. (AR, p. 253.)

(Undated) Employee’s Statement of Disability (Applicant): Applicant’s statement of disability for “both upper extremities/myofascial pain syndrome; lumbar pain. Symptoms began on December 11, 2008 for the right shoulder and July 14, 2012 for the left shoulder. Applicant became unable to perform the duties of her position on July 14, 2012 and is unable to perform duties that require lifting over 10 pounds, repetitive bending, stooping or squatting, or repetitive pushing or pulling. (AR, pp. 254 and 255.)
(March 29, 2018) Supplemental Orthopedic IME Report (Timothy K. Ross, M.D.): After review of medical records, there is no objective basis for disability retirement for Applicant’s cervical and lumbar symptomatology, as well as the new claim for Applicant’s neck. The only objective examination finding is shoulder arthroscopy scars. (AR, pp. 256-264.)

FACTUAL FINDINGS

Background

1. Applicant was employed by the OCTA as a bus Service Worker starting on January 11, 2000 until her last work day on July 14, 2012. (AR, p. 182.) Applicant’s last day of compensation was October 6, 2012. (AR, p. 43.) On October 28, 2013, OCTA filed an application for service-connected and nonservice-connected disability retirement on behalf of Applicant. (AR, p. 1.) On June 17, 2014, Applicant filed her application for service-connected disability retirement with the Board claiming injury to her bilateral shoulders, myofascial pain syndrome and lumbar spine. Applicant claimed that she injured her right shoulder on December 11, 2008 while mopping the floor of a bus (AR, p. 51), and injured her left shoulder on July 14, 2012, when she removed a cashbox from a bus farebox. (AR, pp. 10, 21, and 101.) Applicant stated that she first became unable to perform the duties of her position on July 14, 2012. (AR, p. 10.)

2. The Physician’s Statement submitted by Navid Ghalambor, M.D., noted that Applicant was unable to lift more than 10 pounds with her left arm and could not perform prolonged overhead work. (AR, p. 16.) On October 19, 2015, the Board denied Applicant’s application for service-connected disability retirement benefits “due to insufficient evidence of permanent incapacity and job causation.” (AR, p. 44.) On November 16, 2015, Applicant filed her request for hearing on the Board’s decision. (AR, p. 46.) On December 21, 2015, OCTA requested an administrative appeal of the Board’s decision. (AR, p. 49.)

3. Applicant also asserts that she injured her low back in 2008 when she fell while trying to close the engine door at the rear of a bus. (HT 180:14-182:5; 231:18-25; 239:13-16.) Applicant returned to work later that year and experienced sharp pain in her right shoulder while mopping the bus floor. (HT 231:24–232:4; 240:5-241:3.) She stated that the pain originated in her right shoulder and ran down her right wrist (HT 101:12-18) with pain like “pins and needles poking into the bone” of her lower back. (HT 104:5–105:3.) Due to her injury, Applicant was kept off of work for approximately three months. (HT 103:3-9.) Applicant returned to work and eventually worked full duty with no restrictions. (HT 233:21–234:1.)

4. Applicant claims that she began compensating for her right arm pain by using her left arm more (HT 105:18-23) which caused numbness in her left arm. (HT 105:23–106:6.) In 2012, Applicant experienced pain in her hands and arms while reaching to clean handrails on the bus. (HT 101:1-5.) She was taken off work due to the pain and numbness.

1 “HT” refers to the transcript of proceedings and the referenced page and line.
On December 12, 2012, Applicant had surgery to repair her left shoulder. (HT 107:14-25; AR, p. 12.) Applicant did not return to work post-surgery. (HT 133:17-19.) After the surgery, Applicant was advised to avoid heavy lifting. (HT 108:4-11.) Applicant believes that she cannot perform her job duties because the heavy lifting and repetitive bending causes numbness in her arms. (HT 116:18-117:2.) Applicant claims that she is unable to lift the mop to complete her mopping duties. (HT 123:7-12.) Applicant also claims that she cannot squeegee the exterior windows because she cannot lift the squeegee over her head. (HT 124:12-16.)

The issues on appeal are (a) whether Applicant is permanently incapacitated from substantially performing the usual and customary duties of her position; (b) whether any permanent incapacity arose out of and in the course of her employment with the OCTA; and (c) the effective date of any disability retirement benefits Applicant may be entitled to receive.

Applicant’s Usual and Customary Job Duties

The OCTA job description for the Service Worker II position lists nine representative duties, including (a) Inspects vehicles for appropriate level of fuel, oil, water, air, battery water, and replenishes as needed; (b) Performs minor bus cleaning duties such as cleaning interior and exterior of vehicles; (c) Lifts fare boxes and other sizable equipment; and (d) Parks and delivers motor vehicles. (AR, p. 27.)

Leonard Cruz

Leonard Cruz (Cruz) is the Santa Ana Base Maintenance manager and has been employed by OCTA for over 30 years. (HT 9:15-20.) Cruz served as the Santa Ana Base Manager for approximately 12 years overseeing the operations of the maintenance program, including maintaining and servicing the vehicles. (HT 9:21-10:11.) Cruz also served as a Service Worker early in his OCTA career. (HT 10:15-17; 11: 4-7.) According to Cruz, the OCTA maintenance Department is responsible for providing safe, reliable, and clean buses for the bus operators and the general public. (HT 11:18-21.) Cruz never worked directly with Applicant, but he supervised her between 2000 and 2003. (HT 44:19-45:7.) Cruz managed the Garden Grove base from 2014 to 2017. (HT 66:13-16.)

Cruz described a Service Worker’s usual duties. The Service Worker conducts safety inspections of each bus and drives the bus to the service island. The worker removes the cash box from the fare box, and puts it into the vault to empty the cash box. (HT 13:25-14:25.) The Service Worker takes the bus to the fueling station and checks the fluids. (HT 15:1-4.) While the bus is fueled by a designated “fuel person” (HT 61:1-23) the Service Worker vacuums the bus, which does not require heavy lifting. (HT 15:5-12; 22:1-3.) The Service Worker wipes the handrails, the seatbacks, each window, and everything inside of the bus. (HT 15:9-12.)
9. The Service Worker then moves the bus to the cleaning area and mops the bus floor and runs the bus through the automatic wash. (HT 15:13-21.) The mop weighs about seven to eight pounds when wet. (72:12-20.) The Service Worker returns the bus to the parking stall, and squeegees the exterior windows (HT 22–16:1) which are approximately nine feet above ground level. (HT 63:18-21.) Cleaning inside of the bus requires repetitive bending. (HT 23:1-10.) Inspecting the bus requires overhead reaching to dust the handrails inside the bus. (HT 17:24-18:11.) The Service Worker also reaches overhead to squeegee the outside windows of the bus with a relatively light weight squeegee. (HT 18:11-13; 36:9-12; AR, pp. 15-16.)

10. Cruz claimed that as of 2012, OCTA employed approximately eight to ten Service Workers servicing around 160 buses each night, averaging 20 buses per worker. (HT 13:3-21.) Service Workers generally worked from 6:00 p.m. to 2:30 a.m. (HT 12:22-24.) The workers were expected to service the 20 buses within the eight-hour shift (HT 16:3-20), spending on average 15 to 17 minutes per bus. (HT 16:25-17: 5.) If a Service Worker took longer than 17 minutes to service a bus or failed to complete the 20-bus average within the eight-hour shift, OCTA would take the unfinished buses out of service or pay employees overtime to finish the Service Worker’s job. (HT 17:6-16.)

11. Cruz acknowledged that he was not the manager of the Garden Grove base when Applicant worked there in 2010 to 2012, and he did not know how many buses the Service Workers at Garden Grove had to clean during their shift between 2010 to 2012. (HT 66:19-22; 68:18-20; 69:2-21.) His testimony regarding the number of workers and the number of buses to be cleaned was based on his information regarding the Santa Ana base he supervised, not the Garden Grove base. (HT 68:3-16; 70:21-71:1)²

12. Cruz stated that the physical demands of the job require Service Workers to reach overhead to clean the handrails and to squeegee the windows clean to give the drivers a clear view. (HT 18:4-13; 21: 4-7; 24: 2-17; 25: 4-7.) They also have to be able to lift 25 pounds or more to service and clean the wheelchair area. (HT 18:24-19:10.) Service Workers have to lift the flip-up seats in the wheelchair stations and clean them. Approximately 17 to 20 pounds of force is required to lift the seats. (HT 18:24-19:10.) Service Workers must remove the cash and coins from the fare box. (HT 19:14-17; 42:13-16.)

13. Cruz initially estimated that the cash box weighs approximately 50 to 70 pounds when full, and 17 to 25 pounds when empty. (HT 19: 14-17; 52: 7-15; 110: 18-19.) The Service Worker pulls the farebox out of the bus, brings it to the vault station, flips it over, and places it in the vault. (HT 19: 18-24.) This process is repeated 17 to 20 times per shift. (HT 19:25-20: 5.) Cruz later acknowledged that without weighing each box, he did not know how much each cash box weighed, or how many weighed more than or less than 50 pounds. (HT 54:11-17; 56:24-57:9.) Cruz never served as a bus driver. (HT 55:14-15.)

² By comparison, Cruz stated that currently there were 137 buses at the Garden Grove base. (HT 89:19-21.)
14. The Service Worker mops the inside floors of the bus, and removes gum and other objects stuck to the floor. (HT 15:17-18.) Repetitive bending and stooping is required to reach the gum and scrape it off the floor (HT 23:6-10.) OCTA does not have additional staff on hand to assist Service Workers who cannot lift the heavy objects, reach overhead, or stoop repetitively. (HT 25:23-25.)

The Rehabilitation Group LLC

15. The Rehabilitation Group LLC prepared a Job Analysis Report for the position of Service Worker at the Garden Grove base, dated May 9, 2011. Oscar Moreno (Moreno) was listed as the contact person for the report. (AR, pp. 92-96.) Cruz stated that Moreno worked with OCTA for almost 40 years. Moreno started as a supervisor, became an assistant base manager for approximately eight years, and ultimately served as a base manager for over 25 years. Moreno served as Applicant’s base manager. Cruz believed that Moreno was very familiar with the job duties for a Service Worker II position. (HT 93:1-94:17.) The job analysis indicated that a Service Worker would be required to frequently reach overhead (34 to 66 percent of the workday), occasionally lift or carry objects weighing 11 to 25 pounds (17 to 33 percent of the workday), and would not be required to lift or carry more than 25 pounds. (AR, pp. 93-94.)

16. On May 15, 2011, The Rehabilitation Group LLC prepared a Job Analysis Review Form which stated that Applicant can return to her position of Service Worker with the following restrictions: No overhead reaching, no lifting, pushing, or pulling, no heavy lifting more than 25 pounds, and no repetitive lifting of the fuel line. (AR, p. 97.)

Physicians’ Evaluations and Testimony about Applicant’s Condition

Applicant’s Right Shoulder

17. On December 11, 2008, Applicant sustained an injury to her right shoulder. The Employer’s Statement of Disability indicated that Applicant reported that she experienced “[r]ight shoulder strain from removing cashbox farebox.” (AR, p. 21.) She treated the next day with Emerson S. Mann, M.D. who reported that “[Applicant] was mopping the floor and [Applicant] developed pain in [Applicant’s] right shoulder.” Dr. Mann diagnosed Applicant with “Sprain of Unspecified Site of Shoulder and Upper Arm.” (AR, p. 51.)

3 Pursuant to Rule 12 of the Orange County Employees Retirement System Board of Retirement Policy for Administrative Hearings (last revised December 14, 2015) (OCERS Rules), the physicians’ evaluations and testimony was presented through documentary evidence in the form of written medical reports and related documentary evidence identified in the summary of administrative record above.
18. Applicant was released to return to work on December 12, 2008 with restrictions of “No lifting over 10 lbs.- No pushing and/or pulling over 10 lbs. of force - No reaching above shoulders - Limited use of right arm.” (AR, p. 51.) On December 29, 2008, Applicant presented to Rebecca M. Steinberg, M.D. whose diagnoses listed a sprain to Applicant’s Shoulder, Upper Arm and Trapezius/Rhomboid strain. (AR, p. 52.)

19. Applicant presented to Dr. Mann again on January 5, 2009 and January 12, 2009. Dr. Mann’s diagnoses again listed a sprain to Applicant’s Shoulder, Upper Arm and Trapezius/Rhomboid strain, along with Shoulder Impingement. (AR, pp. 53-55.) Dr. Mann’s progress note for the January 12, 2008 examination indicates that Applicant “feels the pattern of symptoms is improving and feels better.” Applicant also “admits having mild pain or sore [right] arm for 2-3 months prior to presenting here but would improve with rest.” Applicant took four days off work to allow her right arm to rest, and “was able to tolerate until the day of her injury.” (AR, p. 55.) She was referred for additional therapy and a physiatrist for consultation. (AR, p. 56.)

20. Applicant treated with Sanjay V. Deshmukh, M.D., a physiatrist, from February 3, 2009 through June 25, 2009. (AR, pp. 57-64 and 66-68.) As of February 17, 2009, Applicant’s right trapezius and rhomboid strain/sprain was improving. (AR, p. 60.) As of a March 17, 2009 examination with Dr. Deshmukh, Applicant had already returned to work, but reported that on the first day back “[Applicant] was lifting a spare [sic] box approximately 70 pounds. When doing so, [Applicant] felt of a cram [sic] pain in her right trapezius [and] right rhomboid. [Applicant] reported the symptoms and came back to Concentra.” (AR, p. 62.)

21. On June 25 2009, Dr. Deshmukh determined Applicant was permanent and stationary and released Applicant to regular duty. (AR, pp. 66-68.) Dr. Deshmukh noted that Applicant’s right trapezius/rhomboid strain was resolved resulting in a “resolution of her symptoms.” “[Applicant] has been doing her regular job duties with no symptoms.” Regarding causation, Dr. Deshmukh stated that “In the absence of any medical records addressing the current injury, based on the patient history, as well her subjective complaints, the strain to the trapezius and rhombo appears to be industrial in nature.” Applicant had full range of motion in the right upper extremity, no muscle atrophy and zero percent whole person impairment. Applicant was advised to continue her home exercise program and use over-the-counter analgesics for flare ups and exacerbation. (AR, p. 66.)

22. On February 9, 2010, Applicant presented to Bert W. Schweitz, M.D., for a comprehensive medical/legal orthopedic evaluation. Dr. Schweitz prepared a qualified medical examiner’s report (AR, pp. 69-75) where he listed the date of injury as December 11, 2008. Applicant’s history indicated that she is “only [five feet] tall” which required her to reach over her head to use the fuel pump and to wash the bus windows with a sponge on a long pole. (AR, p. 69.)

23. Dr. Schweitz recorded Applicant’s statement that on the date of the injury “while refueling a bus, [Applicant] slipped and fell to the cement pavement, striking
[Applicant’s] right shoulder and low back. [ ] [Applicant] began experiencing severe pain in her right shoulder and low back.” (AR, p. 70.) He attributed Applicant’s disability status “entirely to [Applicant’s] injury of December 11, 2008.” (AR, p. 74.) Dr. Schweitz noted Applicant’s complaint of “frequent pain in her right shoulder and intermittent low back pain.” This appears to be the first time Applicant mentioned that she slipped while fueling the bus, and the first complaint of low back pain.4 (AR, pp. 69-70.) Dr. Schweitz also noted that after six months, Applicant returned to work “but no longer has to refuel buses.” (AR, p. 70.)

24. Dr. Schweitz referred to reports by Glen Halverson, M.D., dated January 14, 2009 which indicated that Dr. Halverson treated Applicant based on a referral from Dr. Mann.5 (AR, p. 70.) Applicant stated to Dr. Halverson that while lifting a heavy money box on December 11, 2008, she “felt a pulling sensation in her right shoulder blade.” The diagnosis was a right scapular thoracic strain. (AR, p. 71.) Dr. Schweitz’s physical findings were localized to the cervical spine, right shoulder, and upper back. Range of motion of the right shoulder was within normal limits, although painful. (AR, p. 72.)

25. Dr. Schweitz noted that Applicant complained of frequent pain in her right shoulder with overhead activities, and that she “no longer does refueling of the buses and does not have to reach overhead with the right upper extremity.” Applicant had a moderate pain-related impairment score of 35, and Dr. Schweitz believed that Applicant’s “credibility with her complaints of pain is [plus] 10 (very high).” (AR, p. 73.) Vocational rehabilitation was not prescribed because “[Applicant’s] job duties were modified so that she no longer has to use her right upper extremity repetitively in the overhead position.” (AR, p. 74.)

26. Applicant presented to Dr. Schweitz again on January 4, 2011. (AR, pp. 86-90.) Although Applicant complained of pain in her low back, both shoulders and neck, Dr. Schweitz’s diagnoses was limited to Applicant’s right shoulder and upper back. (AR, pp. 87-88.) Applicant reported working heavy work two or three days per week (consisting of lifting and carrying a fare box weighing up to 70 pounds, lifting a heavy fuel line above head level to refuel the buses and lifting a squeegee attached to a long stick to clean the upper windows of the bus), and light work the remaining days. Dr. Schweitz noted that the physical findings since her February 9, 2010 examination were unchanged. Range of motion for Applicant’s cervical spine and right shoulder were within normal limits. (AR, p. 87.) Dr. Schweitz’s recommendations included the following:

[Applicant] does light work activities quickly and efficiently. [Applicant] is a good worker and would be a more valuable employee for this company if she could completely avoid all heavy work activities such as lifting and carrying the heavy fare boxes, lifting the fuel line, and repetitive overhead activities

4 In the Employer’s Statement of Disability, OCTA did not list Applicant’s back injury as a reported injury that occurred on December 11, 2008, or in any report of a work-related injury. (AR, pp. 20-21.)

5 Dr. Halverson’s report is not in the Administrative Record.
with her right shoulder such as use of the squeegee (sponge) on a long handle to clean the upper windows of the bus. (AR, p. 89.)

27. On July 16, 2012, Applicant presented to D. Winston Cheshire, M.D., QME, with complaints about left shoulder pain. Dr. Cheshire’s objective findings for shoulder range of motion in degrees indicated that in all six categories tested, Applicant’s right shoulder was normal. (AR, p. 105.) On August 21, 2012, Applicant presented to Patricia Meredith, M.D., Ph.D. for electrodiagnostic studies of the upper limbs. Dr. Meredith’s studies indicated normal EMG and normal nerve conduction of the upper limbs. AR, pp. 109-110.)

28. On September 6, 2012, Applicant presented to Dr. Schweitz who noted that she was “no longer experiencing pain in either shoulder. [Applicant] states that her treating physician, Dr. Jennings, released [Applicant] to return to work with no restrictions.” There was no pain to palpation or muscle spasms over the supporting structures of both shoulders. (AR, p. 118.) Range of motion of both shoulders was normal. There was slight weakness on manual muscle examination of abduction of the right shoulder. (AR, p. 119.)

29. Dr. Schweitz noted that manual muscle examination for the shoulder was a 4, which is rated “good,” meaning that she had complete active range of motion against gravity with some resistance. (AR, p. 119.) Applicant had mild pain in both shoulders after repetitive heavy lifting and overhead activities. “Today’s examination shows the patient has significantly improved since her previous examinations in my office.” However, Dr. Schweitz concluded that Applicant should not return to her usual and customary occupation “since it will probably cause recurrence of her symptomatology and physical findings” because Applicant “is susceptible to progressive changes in her shoulders, including traumatic arthritis.” (AR, p. 120.) On September 20, 2012, Applicant told Dr. Ghalambor that she was ready to return to her regular work duties. Dr. Ghalambor released Applicant to return to regular duties on a trial basis. (AR, p. 131.)

Applicant’s Low Back

30. On June 14, 2011, Dr. Schweitz issued an Addendum to Qualified Examiners Re-Evaluation of January 4, 2011. (AR, pp. 98-100.) In the addendum, Dr. Schweitz focused on the description of Applicant’s injury in his January 4, 2011 report: “The injury of December 11, 2008 occurred while [Applicant] was refueling a bus. [Applicant] slipped and fell to the cement pavement, striking her right shoulder and low back.” (AR, p. 98.) He explained that “[Applicant] states that she mentioned low back problems on both of [the February 9, 2010 and January 4, 2011] examinations although I did not include these diagnoses in my report.” (AR, p. 98.) Dr. Schweitz stated that his longhand notes of February 9, 2010 mentioned that Applicant hurt her right shoulder and low back when she fell, and she was off work for about six months. (AR, p. 99.)

31. On June 14, 2011, Applicant informed Dr. Schweitz that she had an MRI scan of the low back three or four years ago while employed at OCTA. Dr. Schweitz had not seen
the MRI, and stated he “would appreciate the advantage of being able to review this MRI.” He advised Applicant to “undergo another MRI of the low back at this time so comparison could be made.” (AR, p. 99.) Dr. Schweitz’s June 14, 2011 diagnoses included his comment that “[Applicant] also informs me that the weight of the 75-pound fare box (when filled with coins) had been reduced to 25 pounds. This information would allow [Applicant] to return to work with no restrictions.” (AR, p. 99.)

32. On June 6, 2013, Applicant presented to Dr. Schweitz for an evaluation that included her lower back. “On examination of the low back, there is some muscle guarding and muscle spasms over the lumbar paravertebral musculature and a positive straight leg-raising test at 70 degrees on the left with pain radiating into the left buttock and corresponding low back area.” His final diagnosis is “sprains/strains of the lumbar spine.” (AR, p. 175.) Applicant’s subjective complaints included intermittent slight to moderate pain in her low back. Dr. Schweitz opined that it was “medically probable that [Applicant’s] low back pain will not improve over the next month or the next year.” (AR, p. 175.) He gave Applicant a five percent whole person impairment for the lumbar spine. (AR, p. 176.)

33. Dr. Schweitz further stated that “[a] program of active orthopedic treatment for [Applicant’s] lumbar spine will not give her any permanent improvement of her present condition. Applicant should be instructed in the use of a TENS unit, moist heat, and appropriate exercises that can be carried out at home.” (AR, p. 177.) Dr. Schweitz completed the Qualified Medical Evaluator’s Findings Summary Form on July 5, 2013 and recorded his subjective findings as follows: “[Applicant’s] present symptomology has improved. Applicant does not have any symptoms in her right shoulder, left shoulder or low back.” (AR, p. 179.)

34. Ronald E. Glousman, M.D. prepared a report dated October 24, 2017, in which he noted that an MRI of Applicant’s lumbar spine on April 22, 2017 was “noted to be unremarkable.” (AR, p. 228.) Dr. Glousman stated in the Physician’s Statement of Disability, (which referenced his October 24, 2017 report) that Applicant is permanently disabled. He issued restrictions for the shoulders of no repetitive work with bilateral shoulders; for the neck, no lifting over 10 pounds; and for the lumbar spine, no repetitive bending or lifting over 25 pounds. (AR, p. 252.)

Applicant’s Left Shoulder

35. Applicant testified that she injured her left shoulder on July 14, 2012 while attempting to clean an interior bus handrail. She reached up with her left arm while holding a cleaning towel and felt “excruciating” pain in her left shoulder. Applicant felt the pain at the top of her shoulder near her neck, with pain radiating down her arm. She also felt some numbness. (HT 153:16-154:2; 154:21-25; 155:2-15; 171:23-172:2.) The pain in her left shoulder caused her to sit down and cry. (HT 165:5-7; 171:18-22.) Before she attempted to clean the handrail, Applicant emptied the bus cash boxes and felt some pain in her left shoulder when she lifted the boxes. She does not recall how many boxes she serviced that day. (HT 172:16-173:5.)
36. A passing co-worker checked on her and asked if she wanted pain medication, which Applicant declined. Applicant then walked to the main office to make a report. The supervisor arranged for Applicant to be driven to a clinic, ProCare Work Injury Center. (AR, p. 101.) The clinic applied ice packs to her left shoulder and neck, pain ointment to her left shoulder, and provided ibuprofen for pain. X-rays were taken. (HT 164:13-169:15.) No medical documentation was provided for this clinic visit.

37. Applicant presented to Dr. Cheshire on July 16, 2012, two days after she injured her left shoulder. (AR, pp. 104-105.) Applicant complained that her shoulder pain had worsened since her last office visit, which prevented her from sleeping on her left side. Dr. Cheshire noted that he reviewed her medical history and performed a review of systems. “[Applicant] reports no significant changes except as noted below.” Dr. Cheshire diagnosed Applicant with sprains/strains neck, unspecified site of shoulder and upper arm and lumbar strain. (AR, p. 104.) His restrictions advised Applicant to avoid repetitive awkward positions of the left shoulder, no overhead work, and no operating a coach. Dr. Cheshire conducted range of motion tests. Applicant’s right shoulder was normal on all tests, and the left shoulder was below normal on all tests except the adduction test. (AR, p. 105.)

38. Applicant was scheduled to meet with Herbert D. Jennings, M.D., QME, on August 16, 2012 (AR, p. 108), September 6, 2012 (AR, p. 115), and September 27, 2012 (AR, p. 116), and presented to Dr. Jennings on August 30, 2012. (AR, p. 114.) It appears that as of September 6, 2012, Dr. Jennings released Applicant to return to work on September 7, 2012 with no restrictions. (AR, pp. 115, 118 and 120.) Applicant presented to Dr. Schweitz on September 6, 2012, whose report notes that he received “no reports from Dr. Jennings and would appreciate the advantage of being able to review any of his medical records.” (AR, p. 120.) He also noted that on September 6, 2012, Applicant stated she was “no longer experiencing pain in either shoulder.” (AR, p. 118.)

39. Dr. Schweitz examined Applicant on September 6, 2012 and found “no evidence of pain to palpation or muscle spasms over the cervical paravertebral musculature or the supporting structures of both shoulders. Range of motion of both shoulders is normal [with] slight weakness on manual muscle examination of abduction of the right and left shoulders.” Range of motion of the lumbar spine was within normal limits. Applicant did not “complain of pain over her shoulders or lumbar spine,” and “[r]ange of motion of [Applicant’s] back is within normal limits and is not painful.” Applicant was declared permanent and stationary. (AR, p. 119.)

40. Dr. Schweitz described Applicant as “significantly improved.” (AR, p. 120.) Dr. Schweitz ultimately concluded that Applicant should not return to her usual and customary duties “since it will probably cause recurrence of her symptomatology and physical findings. (AR, p. 120.) He hoped that OCTA could find work for Applicant that did not involve repetitive overhead activities and heavy lifting. (AR, p. 121.)

41. On September 20, 2012, Applicant presented to Navid Ghalambor, M.D., QME, who prepared a Comprehensive Workers’ Compensation Consultation by an
Orthopaedic Surgeon. (AR, pp. 125-133.) Dr. Ghalambor evaluated Applicant’s left shoulder and cervical spine. (AR, p. 125.) Applicant reported to him that on July 14, 2012, as she lifted a fare box that weighed 40-50 pounds, she felt pain in the left upper trapezial area. (AR, p. 125.)

42. Applicant was seen at ProCare Work Injury Clinic, underwent 12 sessions of physical therapy and electrodiagnostic studies were ordered. Applicant was currently given modified work restrictions. (AR, pp. 125-126.) Regarding disability status, Dr. Ghalambor noted that Applicant believed she could “return back to her regular work duties. Therefore, she can return back to her regular work duties on a trial basis.” (AR, p. 131.) On October 9, 2012, Applicant presented for an MRI of her left shoulder due to “[l]eft shoulder pain radiating down arm, decreased range of motion.” (AR, pp. 135-136.) MRI results showed “[p]ossible atrophy of the supraspinatus muscle [and] [m]ild tendinosis of the supraspinatus muscle.” (AR, p. 135.)

43. On December 12, 2012, Applicant presented to Dr. Ghalambor for an operation for left shoulder impingement syndrome. The operative procedure was left shoulder arthroscopic subacromial decompression/partial acromioplasty. (AR, pp. 161-163.) Dr. Ghalambor’s notes indicate that Applicant was noted to have “extensive subacromial bursitis with inflamed [coraco-acromial] ligament.” After the partial bursectomy was performed, the coraco-acromial ligament was noted to be “quite inflamed.” (AR, p. 162.)

44. Applicant presented to Dr. Ghalambor on May 9, 2013 for a Workers’ Compensation Permanent and Stationary Evaluation/Report by an Orthopaedic Surgeon. (AR, pp. 167-171.) Applicant stated that her left shoulder symptoms had improved since her left shoulder surgery on December 12, 2012, with “some residual pain along the medial aspect of [Applicant’s] left scapula.” She declined steroid injections, and complained of difficulty lifting more than 10 pounds with the left arm. (AR, p. 167.)

45. Dr. Ghalambor found that Applicant’s “condition has plateaued with therapy.” Applicant has a “trigger point along the medial border of her left scapula” and is permanent and stationary. Dr. Ghalambor noted that motor strength measurements are valid only after a year or more has passed since the time of injury or surgery. Applicant has zero upper extremity impairment and zero impairment of the whole person. Dr. Ghalambor precluded Applicant from lifting more than 10 pounds with the left arm. (AR, pp. 169-170.) On June 6, 2013, Applicant presented for further testing of her left shoulder.

6 “Supraspinatus syndrome” (impingement syndrome) is defined as “pain on elevating arm and tenderness on deep pressure over the supraspinatus tendon; due to pressure of an injured or inflamed tendon or inflamed subacromial bursa coming into contact with the overlying acromial process when the arm is elevated over the shoulder level. SYN: impingement syndrome, painful arc syndrome.” (Source: Stedman’s Medical Dictionary, Database updated November 2014.)

7 A trigger point is defined as “a specific point or area where stimulation by touch, pain, or pressure induces a painful response.” (Source: Stedman’s Medical Dictionary, Database updated November 2014.)
2013, Dr. Schweitz determined that 100 percent of the left shoulder impingement should be apportioned to the injury of July 14, 2012. (AR, p. 176.)

Timothy K. Ross, M.D.

46. At the request of OCERS, Timothy K. Ross, M.D. conducted an Orthopedic Independent Medical Evaluation of Applicant on July 27, 2015. (AR pp. 180-198.) Dr. Ross conducted a physical examination of Applicant, and reviewed her medical records, starting with the December 12, 2008 Amended Workers’ Compensation Claim Form through a Workers’ Compensation Information Request Form dated January 23, 2015. (AR, pp. 186-193.) Applicant presented with complaints of left shoulder symptoms and neck and lower back pain. (AR, p. 194.) Dr. Ross noted that Applicant was a “suboptimal historian” and that her husband provided assistance with her history. (AR, p. 181.) Dr. Ross discussed his findings:

Nevertheless, clinically, [Applicant’s] only objective findings are those with relation to left shoulder arthroscopy scars. A nonorganic process was readily identified, noting positive Waddell’s signs. Suboptimal effort was rendered on motion assessment of her neck, back and left shoulder. There was no spasm nor evidence of a radiculopathy. There was no anatomic finding of a tendinopathy nor was there evidence of subacromial symptomatology relating to her history of impingement syndrome. Corresponding x-rays to her statedly symptomatic body parts are rather unremarkable. (AR, p. 195.)

47. Dr. Ross noted Dr. Ghalambor’s report of undertaking routine left shoulder arthroscopic subacromial surgery on December 12, 2012. Dr. Ghalambor’s May 9, 2013 Permanent and Stationary Report listed symmetric mobility of both shoulders, with no finding of any AMA impairment. “However, evidently based upon [Applicant’s] symptom reporting, he precluded [Applicant] from lifting greater than 10 pounds.” Dr. Ghalambor submitted an additional restriction of preclusion from prolonged overhead work. (AR, p. 195.)

48. Applicant’s October 9, 2012 MRI displayed fairly insignificant findings, to include an acromial spur and mild tendinosis. (AR, p. 196.) X-rays taken by Dr. Ross showed that the spur was “adequately operatively addressed.” An electrodiagnostic test of Dr. Meredith was “associated with a normal interpretation.” (AR, p. 196.) Dr. Ross criticized Dr. Schweitz’s impairment rating for Applicant:

Within Dr. Schweitz’ reporting, he applies AMA impairment ratings to three different body parts, namely [Applicant’s] lower back and both of her shoulders (June 6, 2013). Dr. Schweitz spoke of his awareness of Dr. Ghalambor’s findings of a 0% AMA impairment rating. He nevertheless implicitly disagreed, and instead applied a 14% whole person impairment rating.
Curiously, despite Dr. Schweitz’ impairment commentary with respect to her right shoulder, [Applicant] contradicts that opinion. Today she unequivocally stated that her right shoulder has been asymptomatic for quite some time, and her right shoulder physical examination is completely normal. (AR, p. 196.)

49. Dr. Ross described Applicant’s work limitations of no lifting more than 10 pounds and no overhead use of her left arm as “only subjectively applied.” (AR, pp. 196-197.) Dr. Ross noted that Applicant’ left shoulder surgery appeared to be successful:

Dr. Ghalambor described mobility matters at the time of his treatment release, for which he stated that [Applicant’s] shoulder motion bilaterally was symmetric, and that impingement testing was negative (i.e., surgical success). There is no reference to any internal derangement within her shoulder, again noting the preoperative MRI to display fairly mild changes.

50. Dr. Ross concluded by stating:

Taking all available information into consideration, I do not find sufficient objective evidence to support a permanent restriction in conjunction with [Applicant’s] employment for the Orange County Transit Authority. I do not find objective evidence to permanently preclude her from the usual and customary duties of her county job position. (AR, p. 197.)

51. On October 24, 2017, Applicant presented to Dr. Glousman which was memorialized in a Disability and Retirement Assessment and Report. (AR, pp. 222-237.) Applicant complained of ongoing pain in the left shoulder, right shoulder, and cervical and lumbar spine. (AR, p. 223.) Dr. Glousman noted that Dr. Ghalambor performed arthroscopic surgery on Applicant’s left shoulder on December 12, 2012, Applicant completed a rehabilitation program and was discharged on May 9, 2013. At that time, Dr. Ghalambor recommended left shoulder permanent work restrictions of no lifting of more than 10 pounds with the left arm. (AR, p. 223.)

52. Dr. Glousman noted Dr. Schweitz’s recommendation in his report dated June 6, 2013 that Applicant “have light work and not return back to her usual and customary job activities without restrictions. (AR, p. 223.) Dr. Glousman concluded that Applicant was not capable of returning to her usual and customary job activities without restrictions, and recommended shoulder restrictions of no overhead activities or lifting over 25 pounds, bilaterally; neck restrictions of no lifting more than 10 pounds; and lumbar spine restrictions of no heavy lifting over 25 pounds or repetitive activities. (AR, pp. 236-237.)

53. On January 2, 2018, Dr. Ross responded to Dr. Glousman’s October 24, 2017 report in a Supplemental Orthopedic IME Report. (AR, pp. 239-245.) Dr. Ross noted that Dr. Glousman’s report did not indicate whether he is Board Certified in orthopedic surgery or any other specialty. Dr. Glousman had recommended a second surgery for Applicant’s left shoulder, which was denied. Dr. Ross then addressed Dr. Glousman’s “purportedly positive
54. Dr. Ross criticized Dr. Glousman’s reporting, noting that a March 28, 2017 left shoulder MRI was interpreted to display incidental changes, without mention of acromioclavicular joint arthrosis, pursuant to one of his diagnoses; Dr. Glousman did not detail the undertaking of Waddell’s signs, nor nonphysiologic examination findings Dr. Ross set forth, including lack of anatomic tenderness; and Dr. Glousman failed to note the “implausible metastasis of [Applicant’s] symptom reporting” while treating, without provocative employment activity.” (AR, p. 244.)

55. Dr. Ross referred to his July 27, 2015 report, and found:

Within the pain diagram that [Applicant] completed and signed in my office on July 27, 2015, she listed absolutely no right shoulder symptoms. With respect to her left shoulder, only left-sided paracervical and left parascapular pain was reported. Distally, her lower back and left posterior thigh were statedly symptomatic, and she listed no radicular upper or lower extremity symptomatology. Despite such self-reporting, the Workers’ Compensation physicians have opined as to the application of work restrictions, to include to variably reported subjectively symptomatic bodily regions. Dr. Glousman buttresses his opinions on reporting of other Workers’ Compensation clinicians. The Workers’ Compensation system is well known to generously afford the benefit of the doubt on such topics, oftentimes quite excessively (such as in this case). It is incumbent upon me to assess one’s functional abilities utilizing the totality of the available evidence, most importantly objectivity.

Dr. Ross concluded that there is no reason to alter his prior opinions that Applicant can perform her usual and customary duties as a Service Worker. (AR, p. 244.)

LEGAL CONCLUSIONS

Applicable Law

1. Government Code section 31720 provides in relevant part:

   Any member permanently incapacitated for the performance of duty shall be retired for disability regardless of age if, and only if:

   (a) The member’s incapacity is a result of injury or disease arising out of and in the course of the member’s employment, and such employment contributes substantially to such incapacity . . . .

2. “[A]n ‘infinitesimal’ or ‘inconsequential’ connection between employment
and disability would be insufficient for a service-connected disability retirement. Instead, . . .
. ‘while the causal connection between the [job] stress and the disability may be a small part of the causal factors, it must nevertheless be real and measurable. There must be substantial evidence of some connection between the disability and the job.” (Bowen v. Board of Retirement (1986) 42 Cal.3d 572, 578; DePuy v. Board of Retirement (1978) 87 Cal.App.3d 392, 398-399). “Substantial evidence has been defined as ‘relevant evidence that a reasonable mind might accept as adequate to support a conclusion,’ . . .” (Hosford v. State Personnel Bd. (1977) 74 Cal.App.3d 302, 307.)

3. Government Code section 31720.3 states: “[i]n determining whether a member is eligible to retire for disability, the board shall not consider medical opinion unless it is deemed competent . . . .”

4. The Applicant has the burden of proof to prove the incapacity and its relationship to the job by a preponderance of the evidence. (Glover v. Board of Retirement (1989) 214 Cal.App.3d 1327, 1332) (“[L]iberal construction [of pension legislation] cannot be used as an evidentiary device. It does not relieve a party of meeting the burden of proof by a preponderance of the evidence”); Rau v. Sacramento County Retirement Bd. (1966) 247 Cal.App.2d 234, 238 (“[T]he burden of proving an incapacitating condition is on the applicant for a disability retirement, and it is not necessary for the agency to show the negative of the issues when the positive is not proved”); (Lindsay v. County of San Diego Retirement Bd. (1964) 231 Cal.App.2d 156, 160-162.).

5. Government Code section 31721, subdivision (a) states in relevant part:

A member may be retired for disability upon the application of the member, the head of the office or department in which he is or was last employed, the board or its agents, or any other person on his behalf, except that an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any eligible member believed to be disabled . . . .

6. Government Code section 31724 states in relevant part:

If the proof received, including any medical examination, shows to the satisfaction of the board that the member is permanently incapacitated physically or mentally for the performance of his duties in the service, it shall retire him . . . . His disability retirement allowance shall be effective as of the date such application is filed with the board, but not earlier than the day following the last day for which he received regular compensation. Notwithstanding any other provision of this article, the retirement of a member who has been granted or is entitled to sick leave shall not become effective until the expiration of such sick leave with compensation . . . . When it has been demonstrated to the satisfaction of the board that the filing of the member’s application was delayed by administrative oversight or by inability
to ascertain the permanency of the member’s incapacity until after the date following the day for which the member last received regular compensation, such date will be deemed to be the date the application was filed.


Whether Applicant is Permanently Incapacitated

8. Applicant has established that she is permanently incapacitated in regards to her left shoulder injury sustained on July 14, 2012. Applicant has not established that she is permanently incapacitated in regards to her right shoulder injury or lower back injury sustained on December 11, 2008.

Applicant’s Right Shoulder and Lower Back

9. On December 11, 2008, Applicant injured her right shoulder. The Employer’s Statement of Disability indicated that Applicant reported that she experienced “[r]ight shoulder strain from removing cashbox farebox.” The day after the injury, Applicant treated with Dr. Mann who reported that “[Applicant] was mopping the floor and [Applicant] developed pain in [Applicant’s] right shoulder.” Applicant also claims that she injured her lower back on December 11, 2008 while refueling a bus. Dr. Mann’s report did not record any complaint of pain in Applicant’s lower back. Applicant was released to return to work that same day with restrictions of no lifting, pushing or pulling over 10 pounds, no reaching above shoulders, and limited use of right arm. (Factual Findings 1, 17, 18 and 30.)

10. On January 12, 2009, approximately one month later, Applicant reported to Dr. Mann that her symptoms were improving and she felt better. She had mild pain in her right arm for about two to three months before presenting for this examination, which improved with rest. After four days of rest, Applicant “was able to tolerate until the day of her injury.” Applicant treated with physiatrist Dr. Deshmukh in early 2009 for just over four months. On June 25, 2009, Dr. Deshmukh noted that Applicant’s symptoms were resolved, as “[Applicant] has been doing her regular job duties with no symptoms.” He released Applicant to regular duty. Applicant did not report low back pain and was not treated for low back pain at her appointments with Dr. Mann or Dr. Deshmukh. (Factual Findings 19, 20 and 21.)

11. It appears that Applicant first complained of low back pain from a work injury over one year later during a February 9, 2010 examination by Dr. Schweitz, when she stated that she fell on December 11, 2008 while fueling a bus. Dr. Schweitz reviewed reports by Dr. Halverson (whose reports are not in the record), prepared less than one month after the December 11, 2008 injury, which indicate that Applicant described a pulling sensation in her
right shoulder blade while lifting a bus fare box. Dr. Halverson did not record any complaints about Applicant’s low back. (Factual Findings 17-24 and 30.)

12. At Dr. Schweitz’s February 9, 2010 examination, Applicant complained of frequent pain in her right shoulder with overhead activities, but Dr. Schweitz did not prescribe vocational rehabilitation because Applicant’s job duties were modified so that she no longer had to refuel the buses and no longer had to use her right upper extremity in the overhead position. Applicant returned to Dr. Schweitz almost one year later with complaints of pain in her low back, both shoulders and neck, and claimed she was still carrying heavy fare boxes, lifting fuel lines and lifting squeegees overhead. Dr. Schweitz noted that Applicant’s range of motion for her cervical spine and right shoulder were within normal limits. He recommended that Applicant avoid heavy and repetitive overhead work activities. (Factual Findings 23, 25 and 26.)

13. On June 14, 2011, Applicant informed Dr. Schweitz that she had an MRI scan of her low back in 2007 or 2008. Dr. Schweitz did not see that MRI, and advised her to undergo another MRI to compare both results. It appears that Dr. Schweitz was not provided the opportunity to make a comparison of the two MRIs he requested for Applicant’s low back. He also noted that the weight of the fare box had been reduced to 25 pounds, which would allow Applicant to return to work without restrictions. Two years later, On June 6, 2013, Dr. Schweitz noted that Applicant’s symptomology had improved, with no symptoms in her right or left shoulder or low back. (Factual Findings 31-33.)

14. On July 16, 2012, Dr. Cheshire found Applicant’s right shoulder was normal. On August 21, 2012, Dr. Meredith’s studies indicated normal EMG and normal nerve conduction of the upper limbs. By September 6, 2012, Dr. Schweitz noted that Applicant no longer experienced pain in either shoulder. Applicant’s treating physician Dr. Jennings released Applicant to return to work on September 7, 2012 with no restrictions. Dr. Schweitz was not provided the opportunity to review Dr. Jennings’ medical records. (Factual Findings 27 and 38.)

15. On September 6, 2012, Dr. Schweitz concluded that Applicant should not return to her usual and customary occupation because it will “probably cause recurrence of her symptomatology and physical findings” because she “is susceptible to progressive changes in her shoulders, including traumatic arthritis.” Two weeks later, on September 20, 2012, Applicant told Dr. Ghalambor that she was ready to return to her regular work duties. Dr. Ghalambor released Applicant to return to regular duties on a trial basis. (Factual Findings 28 and 29.)

16. On October 24, 2017, Dr. Glousman’s report noted that an MRI of Applicant’s lumbar spine on April 22, 2017 was “unremarkable.” He prepared a Physician’s Statement of Disability which stated that Applicant is permanently disabled. He issued restrictions for the shoulders of no repetitive work for both shoulders, and for the lumbar spine, no repetitive bending or lifting over 25 pounds. (Factual Finding 34.)
17. Regarding Applicant’s right shoulder injury claim, as of September 2012, Dr. Jennings and Dr. Ghalambor released Applicant to return to her regular work duties, yet for reasons not explained, Applicant never returned to her job. Dr. Schweitz noted in 2010 that Applicant’s job duties were modified to avoid refueling the buses or using her right upper extremity in the overhead position. Dr. Schweitz noted a 2011 work modification which reduced the weight of the fare box to 25 pounds, which Dr. Schweitz believed would allow Applicant to return to work without restrictions. (Factual Findings 23, 25, 29, 31 and 38.)

18. Dr. Ross’s examination of Applicant on July 27, 2015 contradicted Dr. Schweitz’s impairment findings. At that examination, Applicant candidly stated that her “right shoulder has been asymptomatic for quite some time.” Dr. Ross examined Applicant’s right shoulder and concluded it was “completely normal.” Taking into consideration the totality of the evidence, including the fact that Applicant was medically cleared by Dr. Jennings and Dr. Ghalambor to return to her regular duties, and Dr. Schweitz believed that Applicant’s modified work duties would allow Applicant to return to work without restrictions, Applicant’s appeal for service-connected and non-service connected disability retirement for her right shoulder must be denied. (Factual Findings 23, 25, 29, 31 and 46-50.)

19. Regarding Applicant’s low back injury claim, the evidence indicates that Applicant did not report a back injury to Dr. Mann during an examination conducted one day after the injury, or at another examination he conducted one month later. Applicant did not report a back injury to Dr. Deshmukh, nor was she treated for a back injury during the four months he treated Applicant in early 2009. Dr. Schweitz reviewed Dr. Halverson’s report prepared approximately one month after the December 11, 2008 injury, which did not record any complaints about Applicant’s low back. It appears that Applicant first reported her back injury to Dr. Schweitz more than one year later on February 9, 2010. (Factual Findings 17-24.)

20. In June 2011, approximately two and one-half years after her fall in 2008, Applicant informed Dr. Schweitz about a low back MRI scan taken in 2007 or 2008, presumably before her fall. Dr. Schweitz never saw that MRI, and was unable to compare the medical condition of Applicant’s back after her fall with that MRI scan taken before her fall, as he had requested. On June 6, 2013, Dr. Schweitz opined that it was “medically probable” that Applicant’s low back pain will not improve over the next month or the next year. One month later, Dr. Schweitz noted in a Qualified Medical Evaluator’s Findings Summary Form that Applicant’s symptomology had improved, and that she had no symptoms in her low back. In October 2017, Dr. Glousman noted that an MRI of Applicant’s lumber spine on April 22, 2017 was “unremarkable.” (Factual Findings 31-34.)

21. Based upon the totality of the evidence, including Applicant’s 14-month delay in reporting a back injury to her treating doctors, the fact that Dr. Schweitz did not have the benefit of reviewing relevant medical records pertaining to Applicant’s low back before her fall, and the fact that Applicant ultimately was determined to have no symptoms in her low back, Applicant’s appeal for service-connected and non-service connected disability retirement for her low back must be denied. (Factual Findings 17-34.)
Applicant’s Left Shoulder

22. Applicant testified that she injured her left shoulder on July 14, 2012. She initially felt pain in her left shoulder that day when she lifted the bus cash boxes. After emptying the cash boxes, Applicant reached up with her left arm to clean an interior bus handrail with a cleaning towel and felt “excruciating” pain in her left shoulder. She was unable to sleep on her left side due to pain. Tests conducted two days later by Dr. Cheshire showed that Applicant’s left shoulder performed below normal on all but one test. On September 6, 2012, Dr. Schweitz noted that Applicant no longer had pain in either shoulder, yet he did not authorize Applicant to return to work. (Factual Findings 1, and 35-39.)

23. An October 9, 2012 MRI scan showed possible atrophy of the supraspinatus muscle and mild tendinosis of the supraspinatus muscle. On December 12, 2012, Dr. Ghalambor performed an operation for left shoulder impingement syndrome. Applicant had “extensive subacromial bursitis with inflamed [coraco-acromial] ligament.” The coraco-acromial ligament was noted to be “quite inflamed. (Factual Findings 41-43.)

24. A follow up examination with Dr. Ghalambor on May 9, 2013 indicated residual pain along the medial aspect of Applicant’s left scapula and a “trigger point” along the medial border of Applicant’s left scapula. Applicant also complained of difficulty in lifting more than 10 pounds with the left arm. Dr. Ghalambor precluded Applicant from lifting more than 10 pounds with the left arm and prolonged overhead work. (Factual Findings 42-44 and 47.)

25. Dr. Ross’ July 27, 2015 report criticized Dr. Ghalambor’s May 9, 2013 report, stating that the restrictions imposed were based on Applicant’s subjective symptom reporting. Dr. Ross believed that the October 9, 2012 MRI results contained “insignificant findings,” but noted that the MRI showed an acromial spur and mild tendinosis. Applicant candidly reported to Dr. Ross that her right shoulder had been asymptomatic for some time. Applicant also reported left shoulder pain. Dr. Ross did not discuss how Applicant would be able to perform her work duties despite the permanent left shoulder restrictions imposed by Dr. Ghalambor, apparently because Dr. Ross believed that the operation on the left shoulder was successful. (Factual Findings 47-49, 51 and 55.)

26. In discerning the medical opinions of Dr. Ghalambor and Dr. Ross, the hearing officer allocates greater weight to the operating surgeon, Dr. Ghalambor, who opined that Applicant should be permanently restricted from lifting more than 10 pounds with her left arm, and should refrain from prolonged overhead work. The Job Analysis Report prepared by The Rehabilitation group, LLC, with the assistance of Moreno, Applicant’s base manager, indicated that the position of Service Worker requires frequent overhead reaching (34 to 66 percent of the workday) and occasional lifting or carrying of objects weighing 11 to 25 pounds (17 to 33 percent of the workday). (Factual Findings 15-16, and 41-51.)

27. It appears that Applicant’s employer attempted to accommodate her medical restrictions. As of February 9, 2010, Applicant’s job duties were modified to avoid refueling
the buses and overhead reaching with her right arm. As of June 14, 2011, the weight of the fare boxes was reduced to 25 pounds. The task of lifting 25-pound fare boxes or 25-pound flip-up seats in the wheelchair area would violate Dr. Ghalambor’s permanent 10-pound lifting restrictions for the left arm. Applicant’s employer, OCTA, believed that Applicant was unable to perform her work duties, and filed for service and non-service connected disability retirement on behalf of Applicant.

28. The hearing officer reasonably infers that OCTA filed for service and non-service connected disability retirement on behalf of Applicant because OCTA determined that it could not accommodate Applicant’s medical restrictions. OCTA’s determination that it could not accommodate Applicant’s restrictions, with no offer of alternative employment, provides additional support to find that Applicant is permanently incapacitated. (Kelly v. County of Los Angeles (2006) 141 Cal.App.4th 910, 924) (Employee would have basis for asserting termination on grounds of permanent disability if County Hospital informed her it was unable to accommodate permanent work restrictions with no indication of alternative employment).

29. Taking into consideration the totality of the evidence, including the permanent weight restrictions imposed by Dr. Ghalambor, the treating doctor who performed the surgery on Applicant’s left shoulder, and the fact that OCTA was unable to accommodate Applicant’s medical restrictions, the hearing officer concludes that Applicant has established that the orthopedic condition of her left shoulder renders her permanently incapacitated and unable to perform her usual and customary work duties. (Factual Findings 1, 12, 15-16, 23, 25, 35-44, 47, and 51.)

Whether Applicant’s Permanent Incapacity is Service Related

30. Applicant has established that she is entitled to service-connected disability retirement, in that Applicant established by a preponderance of the evidence that her permanent incapacity based upon the orthopedic condition of her left shoulder arose out of and in the course of her employment with OCTA. The injury was accepted by OCTA as work-related, and occurred while Applicant was performing her job to remove a cashbox from a farebox in a bus. Dr. Schweitz treated Applicant since February 9, 2010, and found that 100 percent of the left shoulder impingement was apportioned to the July 14, 2012 injury.

31. The hearing officer finds that Applicant is unable to perform her usual job duties, rendering her permanently incapacitated for the performance of her duties as a bus Service Worker. Applicant has established a real and measurable connection between Applicant’s permanent incapacity for her left shoulder and her work duties. (Factual Findings 1, 20, 22-26, 28-33 and 35-51; Legal Conclusions 1 and 2.)

The Effective Date of Service-Connected Disability Retirement
32. Government Code section 31724 provides that a disability retirement allowance shall be effective as of the date such application was filed with the Board. On October 28, 2013, OCTA filed an application for service-connected and nonservice-connected disability retirement on behalf of Applicant. On June 17, 2014, Applicant filed her application for service-connected disability retirement with the Board. The hearing officer finds that the effective date of Applicant’s service-connected disability retirement benefits for her left shoulder orthopedic claim is October 28, 2013, the date such application was filed on her behalf by OCTA. (Factual Finding 1; Legal Conclusions 5 and 6.)

RECOMMENDATION

1. The appeal of Applicant Lynn H. Hong for service-connected disability retirement for the orthopedic injury to her left shoulder is granted. The effective date of Applicant’s service-connected disability retirement benefits is October 28, 2013.

2. The appeal of Applicant Lynn H. Hong for service-connected and nonservice-connected disability retirement for her orthopedic injuries to her right shoulder and lumbar spine is denied.

DATED: August 17, 2020

MICHAEL R. DILIBERTO
Hearing Officer
Board of Retirement, Orange County
Employees Retirement System
DATE: October 8, 2020
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: OCERS 2021-2023 STRATEGIC PLAN

Recommendation
Approve OCERS 2021-2023 Strategic Plan.

Background
Since 2009 OCERS has been working with and modifying the use of a multi-year strategic plan. The formal plan was completely revamped three years ago and we continue the new format for this Strategic Plan which covers the period of January 1, 2021 through December 31, 2023.

OCERS staff reviewed the proposed 2021-2023 Strategic Plan, during OCERS Board’s Strategic Planning Workshop last month. The proposed plan was developed using the OCERS Mission, Vision Statement and Values Statements as our guide. The plan is streamlined and focused on the core goals of the organization:

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance

Each of the goals are supported by objectives that will be pursued by staff to achieve the goals.

An important change added to the Strategic Plan this year is a final section looking out 5-10 years, and serves as a “parking lot” of sorts to capture important objectives for advancing agency goals that may not be immediately relevant. In particular, the future advancement of Artificial Intelligence is called out, as its impact could have significant relevance to our long term goals.

A reminder, the Strategic Plan is not allowed to age. At the Board’s direction we review this document every quarter to ensure it continues relevant and reflective of the OCERS Board’s direction.
Submitted by:

Steve Delaney
Chief Executive Officer

S. D. – APPROVED
MISSION STATEMENT:

We provide secure retirement and disability benefits with the highest standards of excellence.

VISION STATEMENT:

To be a trusted partner providing premier pension administration, distinguished by consistent, quality member experiences and prudent financial stewardship.

VALUES:

- Open and Transparent
- Commitment to Superior Service
- Engaged and Dedicated Workforce
- Reliable and Accurate
- Secure and Sustainable
2021-2023 STRATEGIC GOALS

• Fund Sustainability
• Excellent Service and Support
• Risk Management
• Talent Management
• Effective Governance
STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Objective A: Mitigate the risk of significant investment loss

Objective B: Prudent Use and Security of Resources
ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND PLAN SPONSORS

Objective A: Provide accurate and timely benefits

Objective B: Provide education to our members and plan sponsors

Objective C: Continuously improve business processes and procedures to be efficient and effective
CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Objective A: Provide system and data security and a robust business continuity solution

Objective B: Ensure a safe and secure workplace and public service facility
RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

Objective A: Recruit and retain a high-performing workforce to meet organizational priorities

Objective B: Develop and empower every member of the team

Objective C: Cultivate a collaborative, inclusive and creative culture
EFFECTIVE GOVERNANCE

IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE BOARD AND STAFF BY CLARIFYING ROLES AND RESPONSIBILITIES, IMPROVING OVERSIGHT, CLARIFYING ACCOUNTABILITY AND IMPROVING DECISION MAKING

Objective A: Employ a governance structure that supports a dynamic System

Objective B: Improve the governance and management of OCERS’ records
Objective A: Investment best practices as fund approaches $35 billion

Address by developing investment technology and team resources needed to manage the anticipated Portfolio

Objective B: Preparing for the end of pension administration system (V3)

Address by determining if current pension administrative system is to be upgraded or if new technology will be required

Objective C: Investigate implementation of artificial intelligence (AI) driven Member Self-Service technologies

Objective D: Investigate OCERS management/oversight of member medical coverage upon retirement

Objective E: Short Term (Next 5 Years) – Multi-Factor Authentication for Member and Employer Accounts

Objective F: Long Term (Next 10 Years) – Use of Artificial Intelligence and Machine Learning to Detect Fraudulent Activity and Transactions
Memorandum

DATE: September 30, 2020
TO: Members of the Board of Retirement
FROM: Brenda Shott, Assistant CEO Finance and Internal Operations
SUBJECT: OCERS 2021 BUSINESS PLAN

Recommendation
Approve OCERS 2021 Business Plan.

Background/Discussion

The OCERS 2021 Business Plan is presented to the Board for approval. The OCERS 2021 Business Plan is directly linked to the OCERS 2021-2023 Strategic Plan which was developed using OCERS Mission Statement, Vision and Values as its foundation. The Business Plan is a one year plan that lays out initiatives aimed to move the longer term strategic goals and objectives towards completion.

The Business Plan is also an initial planning step in the 2021 budget process. The goals and initiatives included in the Business Plan, if approved by the Board, become directives for staff to finalize 2021 budget requests. The 2021 Business Plan was first reviewed on September 10, 2020 as part of the annual Strategic Planning Workshop. Included with this report are presentation slides that include estimates of amounts needed in 2021 to fund specific initiatives being proposed in next year’s Business Plan. Actual funding of goals and initiatives are subject to final budget approval by the Board at the regularly scheduled meeting in November.

Prepared by:

Approved by:
MISSION STATEMENT:

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VISION STATEMENT:

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VALUES:

• Open and Transparent
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• Engaged and Dedicated Workforce
• Reliable and Accurate
• Secure and Sustainable
2021-2023 STRATEGIC GOALS

- Fund Sustainability
- Excellent Service and Support
- Risk Management
- Talent Management
- Effective Governance
GOAL: STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Business Plan Initiatives

Objective A: Mitigate the Risk of Significant Investment Loss

*Executive Lead – Molly Murphy*

1. Investment Consultant Contract Reviews
2. Complete implementation of an investment/risk management system (year two)

Objective B: Prudent Use and Security of Resources

*Executive Lead – Molly Murphy*

1. Investigate Custodial Bank Services options
GOAL: ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND PLAN SPONSORS

Business Plan Initiatives

Objective A: Provide Accurate and Timely Benefits

Executive Lead – Suzanne Jenike

1. Streamline the retirement process by implementing:
   a. LEAN action items
   b. Review and improve paper forms
   c. Investigate options to initiate Disability applications online

2. Improve customer service standards by enhancing V3 workflows, monitoring and reporting (multi-year)

3. Investigate phone system options to improve service and reporting

4. Investigate options on developing a Mobile App/Enhanced Self-Service Portal

Objective B: Provide Education to our Members and Employers

Executive Lead – Suzanne Jenike

1. Update annual employer workshop to virtual format

2. Create videos and other online educational resources to enhance education to members and stakeholders about OCERS benefits, administrative operations and investments (multi-year)
Objective C: Continuously Improve Business Processes and Procedures to be Efficient and Effective

*Executive Leads – Brenda Shott and Suzanne Jenike*

1. Explore the process of obtaining LEAN certifications
2. Identify additional business process to implement LEAN principles
3. Implement new Enterprise Resource Planning (ERP) system
4. Migrate to Microsoft 365 infrastructure
GOAL: CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Business Plan Initiatives

Objective A: Enhance Governance of Technology Risks

*Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski*

1. Continue implementation plan for security and operational best practice controls (multi-year)
2. Develop and enhance information security policies
3. Implement project management tools and best practices for use throughout the organization

Objective B: Continuously Assess Technology Environment and Address Risks

*Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski*

1. Implement best practice security controls for Microsoft 365
2. Implement network access control to allow only authorized devices on the internal network
3. Implement network traffic analysis to observe internal network traffic and detect potential intrusions
4. Implement network/server/service monitoring to detect and alert on operational status of systems
5. Implement DNS security solution to protect computer endpoints
6. Evaluate alternative methods of exchanging member identification protocols
Objective C: Ensure Compliance with Industry Frameworks and Best Practices
*Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski*

1. Conduct a data classification study
2. Implement automated inventories for tracking technology assets

Objective D: Provide a Robust Business Continuity Solution
*Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski*

1. Implement new backup solutions to enhance recovery of on premise and cloud systems
2. Implement infrastructure to allow employees to work a hybrid in office and remote environment
3. Adopt policies to support a hybrid work environment

Objective E: Ensure a Safe and Secure Workplace and Public Service Facility
*Executive Lead – Brenda Shott*

1. Investigate and evaluate long term options for OCERS headquarters
2. Implement COVID-19 protocols and worksite plan
3. Upgrade the Board Room audio/visual equipment
GOAL: RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

Business Plan Initiatives

Objective A: Recruit and Retain a Diverse High-Performing Workforce to Meet Organizational Priorities

Executive Leads – Steve Delaney and Cynthia Hockless

1. Review and implement necessary changes onboarding and transitioning of new hires into the organization during remote work conditions

2. Expand advertising and outreach sources in order to continue to encourage diversity in recruitments (multi-year)

3. Complete compensation study and implement recommendations as appropriate

Objective B: Develop and empower every member of the team

Executive Lead – Steve Delaney

1. Design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency

2. Develop a comprehensive standardized library of process and procedure manuals across the organization
Objective C: Cultivate a Collaborative, Inclusive and Creative Culture

*Executive Lead – Steve Delaney*

1. Continue to implement strategies that promote an inclusive workplace
GOAL: IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE BOARD AND STAFF BY CLARIFYING ROLES AND RESPONSIBILITIES, IMPROVING OVERSIGHT, CLARIFYING ACCOUNTABILITY AND IMPROVING DECISION MAKING

Objective A: Employ a Governance Structure that Supports a Dynamic System

*Executive Lead – Steve Delaney*

1. Explore methods of focusing Board and staff time and effort on activities that support or advance OCERS’ Strategic Goals

Objective B: Improve the Governance and Management of OCERS’ Records (multi-year)

*Executive Lead – Gina Ratto*

1. Identify “best practices” in record retention
2. Develop and implement a records retention program that reflects best practices and identifies appropriate retention periods for each category of records
3. Establish storage protocols and automate destruction schedules for electronic mail
4. Establish an alternative “work space” and/or storage place for emails
5. Systematically bring each department within OCERS into compliance with the records retention program
6. Establish procedures to maintain and audit compliance with the record retention program
2021 BUSINESS PLAN

Presented on Thursday, September 10, 2020

by

Steve Delaney & OCERS Management Team
Agenda

• Mission, Vision, Values
• Business Plan Initiatives
• Next Steps
2021 Business Plan
MISSION STATEMENT:
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VISION STATEMENT:
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VALUES:
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- Commitment to Superior Service
- Engaged and Dedicated Workforce
- Reliable and Accurate
- Secure and Sustainable

"We provide secure retirement and disability benefits with the highest standards of excellence."
GOAL: STRENGTHEN THE LONG-TERM STABILITY OF THE PENSION FUND

Business Plan Initiatives

Objective A: Mitigate the Risk of Significant Investment Loss

Executive Lead – Molly Murphy

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2. Complete implementation of an investment/risk management system (year two)

Objective B: Prudent Use and Security of Resources

Executive Lead – Molly Murphy

1. Investigate Custodial Bank Services options
GOAL: ACHIEVE EXCELLENCE IN THE SERVICE AND SUPPORT WE PROVIDE TO OUR MEMBERS AND PLAN SPONSORS

Business Plan Initiatives

Objective A: Provide Accurate and Timely Benefits

Executive Lead – Suzanne Jenike

1. Streamline the retirement process by implementing:
   a. LEAN action items
   b. Review and improve paper forms
   c. Investigate options to initiate Disability applications online

2. Improve customer service standards by enhancing V3 workflows, monitoring and reporting (multi-year)

3. Investigate phone system options to improve service and reporting

4. Investigate options on developing a Mobile App/Enhanced Self Service Portal $300,000
Objective B: Provide Education to our Members and Employers

Executive Lead – Suzanne Jenike

1. Update annual employer workshop to virtual format
2. Create videos and other online educational resources to enhance education to members and stakeholders about OCERS benefits, administrative operations and investments (multi-year) $50,000

Objective C: Continuously Improve Business Processes and Procedures to be Efficient and Effective

Executive Leads – Brenda Shott and Suzanne Jenike

1. Explore the process of obtaining LEAN certifications $10,000
2. Identify additional business process to implement LEAN principles $25,000
3. Implement new Enterprise Resource Planning (ERP) system $150,000
4. Migrate to Microsoft 365 infrastructure $180,000
GOAL: CULTIVATE A RISK-INTELLIGENT ORGANIZATION

Business Plan Initiatives

Objective A: Enhance Governance of Technology Risks

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Continue implementation plan for security and operational best practice controls (multi-year)
2. Develop and enhance information security policies $20,000
3. Implement project management tools and best practices for use throughout the organization $15,000
Objective B: Continuously Assess Technology Environment and Address Risks

*Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski*

1. Implement best practice security controls for Microsoft 365 $20,000
2. Implement network access control to allow only authorized devices on the internal network $10,000
3. Implement network traffic analysis to observe internal network traffic and detect potential intrusions $20,000
4. Implement network/server/service monitoring to detect and alert on operational status of systems $5,000
5. Implement DNS security solution to protect computer endpoints $20,000
6. Evaluate alternative methods of exchanging member identification protocols
Objective C: Ensure Compliance with Industry Frameworks and Best Practices

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Conduct a data classification study $100,000 - $150,000
2. Implement automated inventories for tracking technology assets $75,000 - $100,000

Objective D: Provide a Robust Business Continuity Solution

Executive Leads – Brenda Shott, Matt Eakin & Jenny Sadoski

1. Implement new enterprise backup solutions to enhance recovery of on premise and cloud systems $250,000
2. Implement infrastructure to allow employees to work a hybrid in office and remote environment $25,000
3. Adopt policies to support a hybrid work environment
Objective E: Ensure a Safe and Secure Workplace and Public Service Facility

*Executive Lead – Brenda Shott*

1. Investigate and evaluate long term options for OCERS headquarters
2. Implement COVID-19 protocols and worksite plan
3. Upgrade the Board Room audio/visual equipment. $300,000 - $400,000
GOAL: RECRUIT, RETAIN AND INSPIRE A HIGH-PERFORMING WORKFORCE

Business Plan Initiatives

Objective A: Recruit and Retain a Diverse High-Performing Workforce to Meet Organizational Priorities

Executive Leads – Steve Delaney and Cynthia Hockless

1. Review and implement necessary changes onboarding and transitioning of new hires into the organization during remote work conditions
2. Expand advertising and outreach sources in order to continue to encourage diversity in recruitments (multi-year)
3. Complete compensation study and implement recommendations as appropriate $30,000
Objective B: Develop and empower every member of the team

*Executive Lead – Steve Delaney*

1. Design and develop a comprehensive training program based on individual needs and career goals that embeds a talent management mindset and creates succession plans across the agency **$100,000**

2. Develop a comprehensive standardized library of process and procedure manuals across the organization **$150,000**

Objective C: Cultivate a Collaborative, Inclusive and Creative Culture

*Executive Lead – Steve Delaney*

1. Continue to implement strategies that promote an inclusive workplace
EFFECTIVE GOVERNANCE

GOAL: IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF THE BOARD AND STAFF BY CLARIFYING ROLES AND RESPONSIBILITIES, IMPROVING OVERSIGHT, CLARIFYING ACCOUNTABILITY AND IMPROVING DECISION MAKING

Business Plan Initiatives

Objective A: Employ a Governance Structure that Supports a Dynamic System

Executive Lead – Steve Delaney

1. Explore methods of focusing Board and staff time and effort on activities that support or advance OCERS’ Strategic Goals
Objective B: Improve the Governance and Management of OCERS’ Records (multi-year)

Executive Lead – Gina Ratto

1. Identify “best practices” in record retention
2. Develop and implement a records retention program that reflects best practices and identifies appropriate retention periods for each category of records
3. Establish storage protocols and automate destruction schedules for electronic mail
4. Establish an alternative “work space” and/or storage place for emails
5. Systematically bring each department within OCERS into compliance with the records retention program
6. Establish procedures to maintain and audit compliance with the record retention program
QUESTIONS?
### Orange County Employees Retirement System

#### Retirement Board Meeting

**October 19, 2020**

#### Application Notices

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# Orange County Employees Retirement Retirement Board Meeting October 19, 2020

## Death Notices

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**Surviving Spouses**

- Beevers, Ernestine
- Eberhart, Barbara
- Fellhoelter, Gloria
- Garcia, Gonzalo
- Perreira, Jean
- Quinby, Janet
- Rabago, Cecilia
- Webster, Ray
DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: CEO FUTURE AGENDAS AND 2020 OCERS BOARD WORK PLAN

Written Report

AGENDA TOPICS FOR THE OCERS BOARD OF RETIREMENT

NOVEMBER

- Administrative and Investment OCERS Annual Budget for fiscal year 2021
- CEO Personnel Review and Compensation Discussion
- Election of the Vice-Chair
- List of Next Year’s Committee Members
- Third Quarter Budget to Actuals Report
- Board Education Status Report

DECEMBER

- Adopt Annual Work Plan for Calendar Year 2021
- REAOC Annual Update

JANUARY

- 2020 Year in Review: Communication Plan
- 2020 OCERS Innovations
- 2020 Disability Statistics
- Communication Policy Fact Sheet
- Form 700 Filing Requirements

Submitted by:

Steve Delaney
Chief Executive Officer

SD - Approved
## OCERS RETIREMENT BOARD - 2020 Work Plan

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### Board Governance

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### Regulation / Policies

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(A) = Action  (I) = Information
Memorandum

DATE: October 6, 2020
TO: Members of the Board of Retirement
FROM: Jim Doezie, Contracts, Risk and Performance Administrator
SUBJECT: QUIET PERIOD – NON-INVESTMENT CONTRACTS

Written Report
Background/Discussion

1. Quiet Period Policy Guidelines
   The following guidelines established by the Quiet Period Policy, section 3.c, will govern a search process for any contract to be awarded by OCERS:

   “...Board Members and OCERS staff shall not knowingly communicate with any party financially interested in any prospective contract with OCERS regarding the contract, the services to be provided under the contract or the selection process;”

2. Quiet Period Guidelines
   In addition, the following language is included in all distributed RFP’s:

   “From the date of issuance of this RFP until the selection of one or more respondents is completed and announced, respondents are not permitted to communicate with any OCERS staff member or Board Members regarding this procurement, except through the Point of Contact named herein. Respondents violating the communications prohibition may be disqualified at OCERS’ discretion. Respondents having current business with OCERS must limit their communications to the subject of such business.”

Distributed RFP’s

The RFP’s noted below are subject to the quiet period until such time as a contract(s) is finalized.

- There are no RFP’s in process at this time.

Submitted by:
Jim Doezie
Contracts, Risk and Performance Administrator
Memorandum

DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: BOARD COMMUNICATIONS

Written Report

Background/Discussion

To ensure that the public has free and open access to those items that could have bearing on the decisions of the Trustees of the Board of Retirement, the OCERS Board has directed that all written communications to the entire Board during the interim between regular Board meetings be included in a monthly communications summary.

News Links

The various news and informational articles that have been shared with the full Board are being provided to you here by web link address. By providing the links in this publicly available report, we comply with both the Brown Act public meeting requirements, as well as avoid any copyright issues.

The following news and informational item was provided by staff and the CEO for distribution to the entire Board:

Steve Delaney:

- I had earlier thought the OCERS team would be back in the office by late summer/early fall. Now facing similar concerns addressed in this article, and even though I will continue to consider our options one month at a time, it is looking more and more as though the OCERS team won’t be returning until the new year.
  https://apple.news/AHoBqfQYJSdSKOGaCHqT-Kw

- We may not need to wait 10+ years to begin our transition to AI customer service.
  https://apkmetro.com/an-ai-breaks-the-writing-barrier/

Attached:

- OCERS Activities for July and August 2020
Submitted by:

SD - Approved

Steve Delaney
Chief Executive Officer
To the members of the OCERS Board of Retirement,

The following is my regular monthly summary of OCERS staff activity, starting with an overview of key customer service statistics as well as activity highlights followed by updates for the month of July 2020.

**MEMBER SURVEY RESPONSE**

“I came in to get a copy of my benefits for the Social Security Office. My request was handled promptly and I received exactly what I needed.”

**February 2020**

“OCERS was extremely helpful and very professional. The OCERS representative went above and beyond my expectations.”

**March 2020**

“I want to express my gratitude to OCERS for their efforts in helping me purchase service credit. OCERS team members were courteous, patient, thorough and responsive. They were outstanding!!!”

**April 2020**

“Thank you so much for your kindness on the telephone and your prompt response to my request. Everyone one of you at the Board, and in this case, especially you are amazing.”

**May 2020**

“My retirement appointment was one of the easiest meetings I have ever had.”

**June 2020**

“OCERS is a mom and pop retirement system that has legendary employees from top to bottom.”

**July 2020**

**MEMBER SERVICES TELEPHONE METRICS**

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*Currently configuring reports from new phone system Dialpad to determine calls through Queue versus Direct to Extension.*
ACTIVITIES

OCERS YEAR IN REVIEW

Our annual outreach program began to pick up more steam in July. All meetings this month were accomplished via Zoom.

On July 1 I met with the Executive Director of the Public Law Library.

On July 29 Ms. Shott and Ms. Jenike met with the OC Sanitation Executive Team.

On July 30 we all met with the executive team of the Sanitation Department.

On July 31 we three met with the executive team of OCEA.

While all had questions about the portfolio’s performance due to the closed economy, we also spent much time walking through our COVID-related processes with the OCEA team, as they are obviously very concerned for the safety and wellbeing of our county employees. During the course of our discussion they stated they are not worried about OCERS activities, they have seen us as taking the lead in best practices since the start of the pandemic.

Interestingly the County of Orange Executive Department declined our meeting this year, indicating that my monthly updates have kept them sufficiently apprised of OCERS actions, and they are comfortable with the how OCERS has reacted to the pandemic with its various challenges.

MONTHLY UPDATE MEETINGS

July was the first month that the REAOI executive team requested I join them by Zoom for my monthly updates. To that point they had asked me to provide my updates by way of a written report.

The County Supervisor EAs responded to a poll in July, and indicated they wish me to continue with monthly written OCERS update reports for now, they are not ready yet for Zoom or in-person meetings.

The July 15 OCERS Informational Update meeting via Zoom was a continued success. We have been averaging close to 40 in attendance at these monthly meetings. Segal joined us for that meeting and discussed in detail the December 31, 2018 actuarial valuation.

WEEKLY ALL OCERS TEAM ZOOM CONFERENCE CALL

Our weekly team calls continue to be a highlight, as we bring the entire OCERS team together to share some fun facts as we kick off, and then discuss the challenges and opportunities of that week, with reports from every department so all are aware of what their co-workers are undertaking.

The calls each week have a theme as I have mentioned previously. In early July we concluded our “Decade” theme with a “90s” approach as shown in the photo below.
UPDATES

OCERS INVESTMENTS

Mr. Beeson reports:

As of June 30, 2020, the portfolio year-to-date is down 3.1% net of fees, while the one-year return is up 1.6%. The fund value now stands at $17.1 billion. The OCERS Investment Team continues to work effectively remotely during the coronavirus pandemic. The July 29th Investment Committee meeting took place via video/teleconference on Zoom. The meeting began with guest speaker Ruchir Sharma, Head of Emerging Markets and Chief Global Strategist of Morgan Stanley Investment Management, presenting his views on the post-COVID world. Mr. Sharma discussed how the COVID pandemic was accelerating trends including: de-globalization, rising global debt levels, declining productivity, and the declining working age population growth rate. Next, Molly Murphy presented the monthly manager selections and terminations report. OCERS’ committed $15 million to H.I.G. Capital Partners VI within the private equity buyout space. The strategy has a strong track record of
creating value in complex, undermanaged, and/or underperforming lower middle market companies within the business services, consumer, healthcare, industrial, natural resources, and technology sectors. This is the fourth investment OCERS has made across the H.I.G. platform. David Beeson then presented the real estate asset class review. Mr. Beeson discussed the real estate portfolio structure, recent manager activity, and upcoming portfolio objectives including rebalancing the core portfolio towards the new 7% real estate target. Jack Koch and Felix Fels from Townsend next presented the Q1 2020 real estate performance report. The OCERS real estate portfolio has delivered an 8.1% net return since inception versus 6.3% for the NFI-ODCE benchmark. Jack Koch and Felix Fels then presented the annual OCERS real estate investment plan. The Investment Committee approved the real estate investment plan including: redeeming up to $400 million in the core portfolio to move towards the new 7% real estate target, committing one to two new investments in the non-core portfolio ($75 million per fund), and increasing the non-U.S. real estate portfolio limit from 5% to 10%.

As a reminder you will see this memo included with the BOARD COMMUNICATIONS document as part of the informational agenda for the October 15 meeting of the OCERS Board of Retirement.
Memorandum

DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Gina M. Ratto, General Counsel
SUBJECT: STATE AND FEDERAL LEGISLATIVE UPDATE

Written Report

State Legislative Update

On August 31, 2020, the Legislature adjourned for final recess, marking the end of the second year of the 2019-2020 legislative session. September 30, 2020 was the last day for the Governor to sign or veto bills passed by the Legislature and in the Governor’s possession on or after September 1, 2020.

The list and description of the bills that staff monitored during the second year of the 2019-2020 legislative session is attached. Of all of those bills, only five were passed by the Legislature and signed by Governor Newsom. The five bills are listed below.

SACRS Sponsored Bill

- **AB 2101 (Senate Committee on Labor, Public Employees and Retirement)**
  The provisions of the SACRS’ sponsored “CERL housekeeping” bill were added to the CalPERS’ sponsored annual “PERL housekeeping” bill and the CalSTRS’ sponsored annual “Education Code housekeeping” bill. (See the attachment for a description of the amendments to the PERL and Education Code.)

  The bill amends the CERL to include a statement of legislative affirmation regarding the ruling in *Mijares v. OCERS*, which upheld a retirement board’s plenary authority to recommend adjustments to county and district contributions necessary to ensure the appropriate funding of the retirement system.

  CERL authorizes a member who returns to active service following an uncompensated leave of absence on account of illness to receive service credit for the period of the absence upon payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have accrued. This bill similarly authorizes a member who returns to active service following an uncompensated leave of absence on account of approved parental leave to receive service credit for the period upon payment of contributions and interest. The bill prohibits service credit to be received for such a period of absence from exceeding 12 consecutive months and would prescribe requirements for payments. This provision is operative in a county only if the board of supervisors elect to make it so, and applies to parental leave that begins after the election.
The CERL authorizes a member who resigns or obtains a leave of absence to enter, and who does enter, the Armed Forces of the United States on a voluntary or involuntary basis, under prescribed circumstances, to obtain service credit for the period during which the member was out of county service. This bill recasts these provisions and generally requires that CERL comply with the federal Uniformed Services Employment and Reemployment Rights Act of 1994, as it may be amended. The bill also authorizes a member who does not qualify for reemployment benefits due to the length of military service and who returns to county or district employment within one year of being honorably discharged from the Armed Forces of the United States to receive credit for service for all or any part of the member’s military service upon making specified payments.

The CERL requires boards of retirement to provide for the retirement of members who meet age and service requirements. This bill authorizes a system administrator or other personnel to exercise a board’s power to retire members. The bill requires that service retirements be reported to the board at its next public meeting after the retirement.

The CERL prescribes requirements for calculating the effective date of retirement under different membership conditions, generally providing that the date not be more than 60 days after the date of filing of the application for retirement. This bill prescribes general requirements regarding the effective date of retirement to prohibit it from beginning earlier than the date the application is filed with the board or more than 60 days after the date of filing or more than a number of days that has been approved by the board.

The CERL and other existing laws prescribe requirements for reinstatement after retirement and for service without reinstatement. The CERL prescribes different requirements, to be elected by a county, regarding member status in a retirement system upon reemployment, including how the rate of contributions and retirement allowance are to be calculated upon a subsequent retirement. This bill requires that people who have retired under the CERL following an involuntary termination of employment who are subsequently reinstated to that employment pursuant to a final administrative or judicial proceeding be reinstated from retirement as if there were no intervening period of retirement. The bill requires the person to repay an allowance paid to the person to the retirement system from which they retired in accordance with the retirement system’s repayment policy and that contributions be made for any period for which salary is awarded in the administrative or judicial proceedings in the amount that would have been contributed had the member’s employment not been terminated. The bill requires that the person receive service credit for the period for which salary is awarded. The retirement system is granted discretion regarding the timing of repayment.

The CERL prescribes requirements regarding notification of members who have left service and elected to leave accumulated contributions in the retirement fund or have been deemed to have elected deferred retirement, as specified. Existing law requires the retirement system to start paying the member an unmodified retirement allowance in the year in which the member attains 70 ½ years of age, if the member can be located but does not make proper application for a deferred retirement allowance. Existing law prescribes alternate requirements if a member cannot be located. The CERL establishes the Deferred Retirement Option Program, which a county or district may elect to offer and which provides an additional
benefit on retirement to participating members. This bill requires that members who have left service, as described above, in addition to notification regarding retirement allowances, also be notified regarding their eligibility for a one-time distribution of accumulated contributions and interest. The bill revises the age at which the retirement system is required to provide the above-described notice, as well as when the retirement system must start payment of an unmodified retirement allowance, to 72 years of age. The bill further requires the retirement system at that time to make a one-time distribution of accumulated contributions if the member is ineligible for a deferred retirement allowance, as specified. The bill changes the age threshold from 70 ½ years of age to 72 years of age with regard to requirements that apply when members cannot be located and with reference to when distributions are to be made to members who are participating in a Deferred Retirement Option Program.

The CERL establishes various rights to benefits that accrue to children of members and their surviving spouses under specified circumstances. In these instances, generally, these benefits will accrue provided that the children are under 18 years of age and unmarried and they continue until every child dies, marries, or attains age 18. Existing law authorizes the continuance of the benefits, in specified instances, to children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school. This bill revises the standard applicable to children through the age of 21 to instead be up to the 22nd birthday of the child. The bill makes a related change with regard to a provision that provides an alternative to survivorship benefits under federal social security benefits.

(STATUS: To Engrossing and Enrolling on 08/30/20. Enrolled and presented to the Governor on 09/10/20. Signed by the Governor on 09/29/20.)

Bills That Would Amend the CERL or Other Laws That Apply to OCERS

- **AB 992 (Mullin)**
  The Brown Act generally requires that the meetings of legislative bodies of local agencies be conducted openly. That act defines “meeting” for purposes of the act and prohibits a majority of the members of a legislative body, outside a meeting authorized by the act, from using a series of communications of any kind to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. This bill provides that until January 1, 2026, the prohibition described above does not prevent a member from engaging in separate conversations or communications outside of a meeting authorized by the Brown Act with any person using an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body, provided that a majority of the members do not use the internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body, and that a member shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.

(STATUS: To Engrossing and Enrolling on 08/26/20. Enrolled and presented to the Governor on 08/31/20. Signed by the Governor on 09/18/20.)
Other Bills of Interest

- **AB 1945 (Sala)**
  Under existing law, the California Emergency Services Act, the Governor is authorized to proclaim a state of emergency, as defined, under specified circumstances. The California Emergency Services Act also authorizes the governing body of a city, county, city and county, or an official designated by ordinance adopted by that governing body, to proclaim a local emergency, as defined. Under existing law, the Office of Emergency Services within the Governor’s office is required to, among other things, develop curriculum for first responder training, and to adopt standards and procedures for training first responder instructors. A person who violates any provision of the act is guilty of a misdemeanor. This bill would, for purposes of the California Emergency Services Act, define “first responder” as an employee of the state or a local public agency who provides emergency response services, including a peace officer, firefighter, paramedic, emergency medical technician, public safety dispatcher, public safety telecommunicator. This bill provides that the definition of first responder described above does not confer a right to, or entitlement upon, an employee or prospective employee to obtain a retirement benefit formula for an employment classification that is not included in, or is expressly excluded from, that formula, as specified. The bill prohibits an employer from offering, or indicating an ability to offer to an employee or prospective employee a retirement benefit formula for an employment classification that is not included in, or is expressly excluded from, that formula because of the definition of “first responder.”
  (STATUS: To Engrossing and Enrolling on 08/30/20. Enrolled and presented to the Governor on 09/08/20. Signed by the Governor on 09/11/20.)

- **SB 1159 (Hill)**
  Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of the employment. Existing law governs the procedures for filing a claim for workers’ compensation, including filing a claim form, and provides that an injury is presumed compensable if liability is not rejected within 90 days after the claim form is filed. This bill defines “injury” for an employee to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, until January 1, 2024, and July 1, 2024, for employees generally, and until July 1, 2024, for certain peace officers, firefighters, and health care workers, among others. The bill creates a disputable presumption that the injury arose out of and in the course of the employment and is compensable. The bill limits the applicability of the presumption under certain circumstances. The bill requires an employee to exhaust their paid sick leave benefits and meet specified certification requirements before receiving any temporary disability benefits or, for police officers, firefighters, and other specified employees, a leave of absence. The bill also makes a claim relating to a COVID-19 illness presumptively compensable, as described above, after 30 days rather than 90 days. Until July 1, 2024, the bill allows for a presumption of injury for all employees whose fellow employees at their place of employment experience specified levels of positive testing, and whose employer has five or more employees.
Bills that Apply to CalPERS and/or CalSTRS Only:

- **AB 2967 (O’Donnell)**
  The PERL authorizes a public agency to contract to make all or part of its employees members of PERS, subject to specified conditions, and requires membership in PERS to be compulsory for all employees included under a contract. Existing law prohibits these contracts from providing for the exclusion of some, but not all, firefighters and specified public safety officers. With regard to other groups of employees, existing law requires that they be based on general categories, such as departments or duties, and not on individual employees. This bill deletes provisions of PERL that generally authorize a public agency contracting with PERS to make all or part of its employees members of the system. The bill prohibits exclusions of groups of employees from being made by amendment of a public agency contract with PERS, except as provided. These provisions apply to contracts entered into, amended, or extended on and after January 1, 2021.
  (STATUS: Enrolled and presented to the Governor on 09/11/20. Signed by the Governor on 09/28/20.)
AB 196 (Gonzalez) – DEAD BILL
Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of employment. Existing law establishes procedures for filing a workers’ compensation claim, including a 90-day investigatory period prior to acceptance or denial. Existing law presumes a claim is accepted if it is not denied within the first 90 days after filing. This bill would define “injury,” for certain employees who are employed in an occupation or industry deemed essential in the Governor’s Executive Order of March 19, 2020 (Executive Order N-33-20), except as specified, or who are subsequently deemed essential, to include coronavirus disease 2019 (COVID-19) that develops or manifests itself during a period of employment of those persons in the essential occupation or industry. The bill would apply to injuries occurring on or after March 1, 2020, would create a disputable presumption, as specified, that the injury arose out of and in the course of the employment, and would extend that presumption following termination of service for a period of 90 days, commencing with the last date actually worked. The bill would shorten the investigatory timeframe for denial or presumed acceptance of a claim to 30 days, rather than 90 days.

AB 462 (Rodriguez) – DEAD BILL
This bill would require the Boards of Administration of CalPERS and CalSTRS to each provide a report to the Legislature, commencing March 1, 2021, and annually thereafter, on the status of achieving appropriate objectives and initiatives, to be defined by the boards, regarding participation of emerging managers responsible for asset management within each system’s portfolio of investments. The bill would require that the report be based on contracts that the system enters into on and after January 1, 2020, and be based on information from the prior fiscal year. The bill would require each report to include certain elements and would require the boards to define emerging manager for purposes of these provisions.
AB 664 (Cooper, Bonta and, Gonzalez) Amended in Senate on 08/25/20 – DEAD BILL
Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of employment, and creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of employment. Existing law also allows for a claim to be presumed compensable if it has not been rejected within 90 days of filing, as specified. Existing law makes an employer liable only for the percentage of permanent disability directly caused by the injury arising out of and occurring in the course of employment and requires apportionment of permanent disability to be based on causation and on a physician’s report addressing the issue of permanent disability to include an apportionment determination in order for the report to be considered complete on that issue. Existing law imposes a duty on an employer to provide certain safety materials and adopt safety practices as necessary. A failure to meet this duty, under specified circumstances, is a misdemeanor.

This bill would, until July 1, 2024 define “injury,” for certain state and local firefighting personnel, peace officers, certain hospital employees, correctional and law enforcement personnel, as described, certain health care employees who provide direct patient care at an acute care hospital, and certain fire and rescue services coordinators who work for the Office of Emergency Services to include being exposed to or contracting, on or after January 1, 2020, a communicable disease, including coronavirus disease 2019 (COVID-19). COVID-19 that is the subject of a state or local declaration of a state of public health emergency that is issued on or after January 1, 2020. Illness or death resulting from COVID-19, that is diagnosed on or after January 1, 2020, if certain circumstances apply. The bill would create a disputable presumption, as specified, that the injury arose out of and in the course of the employment. The bill would require a claim to be presumed compensable if not rejected within 30 days. The bill would apply to injuries that occurred prior to the declaration of the state of emergency and would also exempt these provisions from the apportionment requirements. This bill would explicitly add emergency equipment or personal protective equipment as described, to those materials required to be provided by an employer personal protective equipment, as defined. A failure to comply with provision of personal protective equipment employer. A failure to comply with this additional requirement would not constitute a misdemeanor. If passed, this bill would take effect immediately as an urgency statute.

(STATUS: Introduced 02/11/19. Passed out of the Assembly and ordered to the Senate on April 22, 2019. Read second time in the Senate, amended, and re-referred to Com. on RLS. on 05/21/19.)
AB 992 (Mullin) – SIGNED BY GOVERNOR
The Brown Act generally requires that the meetings of legislative bodies of local agencies be conducted openly. That act defines “meeting” for purposes of the act and prohibits a majority of the members of a legislative body, outside a meeting authorized by the act, from using a series of communications of any kind to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body. This bill would provide that until January 1, 2026, the prohibition described above does not prevent a member from engaging in separate conversations or communications outside of a meeting authorized by the Brown Act with any person using an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body, provided that a majority of the members do not use the internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body, and that a member shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.

STATUS: Introduced 02/21/19. Passed out of the Assembly and ordered to the Senate on 01/30/20. Read first time in Senate. Referred to Committee on GOV. & F. on 06/23/20. From committee: Amended and passed as amended on 07/30/20. Read second time in Senate, amended and ordered to third reading on 07/31/20. In Assembly. Concurrence in Senate amendments pending. May be considered on or after August 26 pursuant to Assembly Rule 77 on 08/24/20. Senate amendments concurred in. To Engrossing and Enrolling on 08/26/20. Enrolled and presented to the Governor on 08/31/20. Signed by the Governor on 09/18/20.

AB 1945 (Sala) – SIGNED BY GOVERNOR
Under existing law, the California Emergency Services Act, the Governor is authorized to proclaim a state of emergency under specified circumstances. The California Emergency Services Act also authorizes the governing body of a city, county, city and county, or an official designated by ordinance adopted by that governing body, to proclaim a local emergency. Under existing law, the Office of Emergency Services within the Governor’s office is required to, among other things, develop curriculum for first responder training, and to adopt standards and procedures for training first responder instructors. A person who violates any provision of the act is guilty of a misdemeanor. This bill would, for purposes of the California Emergency Services Act, define “first responder” as an employee of the state or a local public agency who provides emergency response services, including a peace officer, firefighter, paramedic, emergency medical technician, public safety dispatcher, public safety telecommunicator. The bill would provide that the definition of first responder described above does not confer a right to, or entitlement upon, an employee or prospective employee to obtain a retirement benefit formula for an employment classification that is not included in, or is expressly excluded from, that formula, as specified. The bill would prohibit an employer from offering, or indicating an ability to offer to an employee or prospective employee a retirement benefit formula for an employment classification that is not included in, or is expressly excluded from, that formula because of the definition of “first responder.”

AB 1975 (Bigelow) – DEAD BILL
Existing law, the Public Employees’ Medical and Hospital Care Act (PEMHCA), which is administered by the CalPERS board, authorizes the board to contract for health benefit plans for employees and annuitants, as defined, which may include employees and annuitants of contracting agencies. PEMHCA prescribes requirements for the contributions of contracting agencies and their employees and annuitants for these benefits and creates alternative funding formulations for specified counties and districts. This bill would create an alternative funding formulation for employer contributions for postretirement health care benefits for specified employees of the County of Madera. The bill would apply its provisions to unrepresented and extra help employees, appointed department heads, and represented employees, as specified, provided that these employees are otherwise eligible. The bill would require the employees to have a specified minimum amount of service credit, including at least 5 years of service with the county. If the employees are represented, the bill would require a mutually agreed-upon memorandum of understanding regarding contributions for postretirement health benefits consistent with the bill’s provisions to be in place. With regard to unrepresented and extra help employees and appointed department heads, the bill would require a specified resolution to have been adopted by a majority of the county board of supervisors that provides for contributions for postretirement health benefits. Upon satisfaction of these conditions, the bill would prescribe a schedule pursuant to which the county would pay employer contributions for postretirement health care benefits for the employees based on specified percentages associated with the employee’s credited years of service, that would reach 100% when the employee attains 20 years of service. The bill would apply these provisions to employees of the County of Madera first hired and appointed on and after the date the bill becomes effective.
(STATUS: Introduced 02/22/20. Original bill language replaced in full on 05/04/20. From committee chair, with author’s amendments: Amend, and re-refer to Committee on P.E. & R. Read second time and amended on 05/04/20. Re-referred to Committee on P.E. & R. on 05/05/20.)

AB 2101 (Committee on Public Employment and Retirement) – SIGNED BY GOVERNOR
This bill combines CalPERS’ annual “PERL housekeeping bill” and CalSTRS’ annual “Education Code housekeeping bill” and incorporates SACRS’ first sponsored “CERL housekeeping bill” (previously SB 783).

CERL/Government Code Changes:
The California Constitution commits plenary authority for administration of public employee retirement systems, and for the provision of actuarial services for the systems, to their boards of administration. CERL prescribes actuarial requirements for CERL systems and, upon the basis of the investigation, valuation, and recommendation of the actuary, the retirement board is required to recommend to the county board of supervisors the changes in rates of interest, in rates of member contributions, and in county and district appropriations that are necessary. A similar process is prescribed for districts within the system, but that are not governed by the board of supervisors. This bill would make a statement of legislative affirmation regarding the
ruling in *Mijares v. OCERS*, which upheld a retirement board’s plenary authority to recommend adjustments to county and district contributions necessary to ensure the appropriate funding of the retirement system.

CERL authorizes a member who returns to active service following an uncompensated leave of absence on account of illness to receive service credit for the period of the absence upon payment of the contributions that the member would have paid during that period, together with the interest that the contributions would have accrued. This bill would similarly authorize a member who returns to active service following an uncompensated leave of absence on account of approved parental leave to receive service credit for the period upon payment of contributions and interest. The bill would prohibit service credit to be received for such a period of absence from exceeding 12 consecutive months and would prescribe requirements for payments. This provision would be operative in a county only if the board of supervisors elect to make it so, as specified, and would apply to parental leave that begins after the election.

The CERL authorizes a member who resigns or obtains a leave of absence to enter, and who does enter, the Armed Forces of the United States on a voluntary or involuntary basis, under prescribed circumstances, to obtain service credit for the period during which the member was out of county service. This bill would recast these provisions and would generally require that CERL comply with the federal Uniformed Services Employment and Reemployment Rights Act of 1994, as it may be amended. The bill would also authorize a member who does not qualify for reemployment benefits due to the length of military service and who returns to county or district employment within one year of being honorably discharged from the Armed Forces of the United States, to receive credit for service for all or any part of the member’s military service upon making specified payments.

The CERL requires boards of retirement to provide for the retirement of members who meet age and service requirements. This bill would authorize a system administrator or other personnel to exercise a board’s power to retire members as described above. The bill would require that service retirements be reported to the board at its next public meeting after the retirement.

The CERL prescribes requirements for calculating the effective date of retirement under different membership conditions, generally providing that the date not be more than 60 days after the date of filing. This bill would prescribe general requirements regarding the effective date of retirement to prohibit it from beginning earlier than the date the application is filed with the board or more than 60 days after the date of filing or more than a number of days that has been approved by the board.

The CERL and other existing laws prescribe requirements for reinstatement after retirement and for service without reinstatement. The CERL prescribes different requirements, to be elected by a county, regarding member status in a retirement system upon reemployment, including how the rate of contributions and retirement allowance are to be calculated upon a subsequent retirement. This bill would require that people who have retired under the CERL following an involuntary termination of employment who are subsequently reinstated to that employment pursuant to a final administrative or judicial proceeding, as specified, be
reinstated from retirement as if there were no intervening period of retirement. The bill would require the person to repay an allowance paid to the person to the retirement system from which they retired in accordance with the retirement system’s repayment policy and that contributions be made for any period for which salary is awarded in the administrative or judicial proceedings in the amount that would have been contributed had the member’s employment not been terminated. The bill would require that the person receive service credit for the period for which salary is awarded. The retirement system would be granted discretion regarding the timing of repayment.

The CERL prescribes requirements regarding notification of members who have left service and elected to leave accumulated contributions in the retirement fund or have been deemed to have elected deferred retirement, as specified. Existing law requires the retirement system to start paying the member an unmodified retirement allowance in the year in which the member attains 70 ½ years of age, if the member can be located but does not make proper application for a deferred retirement allowance, as specified. Existing law prescribes alternate requirements if a member cannot be located. CERL establishes the Deferred Retirement Option Program, which a county or district may elect to offer and which provides an additional benefit on retirement to participating members. This bill would require that members who have left service, as described above, in addition to notification regarding retirement allowances, also be notified regarding their eligibility for a one-time distribution of accumulated contributions and interest. The bill would revise the age at which the retirement system is required to provide the above-described notice, as well as when the retirement system must start payment of an unmodified retirement allowance, to 72 years of age. The bill would further require the retirement system at that time to make a one-time distribution of accumulated contributions if the member is ineligible for a deferred retirement allowance, as specified. The bill would change the age threshold from 70 ½ years of age to 72 years of age with regard to requirements that apply when members cannot be located and with reference to when distributions are to be made to members who are participating in a Deferred Retirement Option Program.

The CERL establishes various rights to benefits that accrue to children of members and their surviving spouses under specified circumstances. In these instances, generally, these benefits will accrue provided that the children are under 18 years of age and unmarried and they continue until every child dies, marries, or attains age 18. Existing law authorizes the continuance of the benefits, in specified instances, to children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school, as specified. This bill would revise the above-described standard applicable to children through the age of 21 to instead be up to the 22nd birthdays of the children. The bill would make a related change with regard to a provision that provides an alternative to survivorship benefits under federal social security benefits.

PERL/Government Code Changes:
Under existing provisions of the PERL, data filed with the CalPERS board by any member, retired member, beneficiary, or annuitant is confidential. Existing law prohibits system officials and employees from divulging the data except pursuant to specified parties and entities. This bill would make various technical and clarifying changes to these provisions, including specifying that data filed on behalf of any member, retired member,
beneficiary, or annuitant is also confidential and that data may be divulged to other retirement systems that provide reciprocal benefits to members of PERS.

Existing law authorizes a member of PERS, who is credited with less than a certain number of years of service and who enters employment as a member of another public retirement system supported by state funds, within 6 months of leaving state service, to elect to leave their accumulated contributions on deposit in the retirement fund. Existing law specifies that a member’s failure to make an election to withdraw accumulated contributions is deemed an election to leave the member’s accumulated contributions on deposit in the retirement fund. Existing law provides that a member may revoke their election to allow accumulated contributions to remain in the retirement system, except under specified circumstances. Existing law requires a member who is permanently separated from all PERS covered service, who meets specified conditions, and who attains 70 years of age, to be provided with an election to withdraw contributions, or, if vested, an election to either apply for service retirement or to withdraw contributions. This bill would instead require a member permanently separated under the circumstances described above to attain 71 ½ years of age before being provided with those election options.

The PERL contains the State Peace Officers’ and Firefighters’ Defined Contribution Plan as a separate supplemental plan for certain peace officers and firefighters. Under applicable provisions of the PERL, a participant, nonparticipant, spouse, or beneficiary is not permitted to elect a distribution under the plan that does not satisfy specified requirements of federal law related to being a qualified pension trust plan. Existing law requires the beginning date of distributions that reflect the entire interest of the participant, for a lump-sum distribution, to be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 70 ½ or the calendar year in which the participant terminates all employment subject to plan coverage. Existing law also requires, for a distribution to the participant in the form of installment payments or an annuity, that payment begin not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 70 ½ years of age or the calendar year in which the participant terminates all employment subject to plan coverage. Existing law also requires, if a benefit is payable on account of the participant’s death, and the beneficiary is the participant’s spouse, the distributions to commence on or before the later of either December 31 of the calendar year immediately following the calendar year in which the participant dies, or December 31 of the calendar year in which the participant would have attained 70 ½ years of age. This bill would raise the age for required distributions, in the circumstances described above, from 70 ½ years of age to 72 years of age.

Existing law establishes the Supplemental Contributions Program as a defined contribution plan to supplement the benefits provided under PERL. Under existing law, a participant, nonparticipant, spouse, or beneficiary is not permitted to elect a distribution under the plan that does not satisfy federal requirements related to being a qualified pension trust plan. Existing law requires the beginning date of distributions that reflect the entire interest of the participant, for a lump-sum distribution to the participant, to be made not later than April 1 of the calendar year following the later of the calendar year in which the participant attains 70 ½ years of age or the calendar year in which the participant terminates all employment. Existing law requires the beginning date
of distributions, if provided in periodic payments, to begin not later than April 1 of the calendar year following
the later of the calendar year in which the participant attains 70 ½ years of age or the calendar year in which the
participant terminates all employment subject to plan coverage. Existing law also requires, if a benefit is payable
on account of the participant’s death, and the beneficiary is the participant’s spouse, that distributions
commence on or before the later of either December 31 of the calendar year immediately following the
calendar year in which the participant dies or December 31 of the calendar year in which the participant would
have attained 70 ½ years of age. This bill would raise the age for required distributions, in the circumstances
described above, from 70 ½ years of age to 72 years of age.

The Judges’ Retirement Law prescribes retirement benefits for judges, as defined, who were first elected or
appointed to judicial office before November 9, 1994. Existing law also establishes the Extended Service
Incentive Program to provide enhanced retirement benefits for those judges who continue in service beyond
retirement age, as specified, and directs the board of administration of PERS to implement the program. Existing
law prescribes that the required beginning date of distributions that reflect the entire interest of the judge, for a
lump-sum distribution, be made not later than April 1 of the calendar year following the later of the calendar
year in which the judge attains 70 ½ years of age or the calendar year in which the judge terminates
employment. Existing law also requires, if a benefit is payable on account of the judge’s death, and the
beneficiary is the judge’s spouse, that distributions commence on or before the later of December 31 of the
calendar year immediately following the calendar year in which the judge dies or December 31 of the calendar
year in which the judge would have attained 70 ½ years of age. This bill would raise the age for required
distributions, in the circumstances described above, from 70 ½ years of age to 72 years of age.

Education Code Changes:
Existing law authorizes a member to elect continued defined benefit coverage in CalSTRS when taking a position
that provides a defined benefit in another public retirement system, and requires the election to be made in
writing and to be filed with CalSTRS and the other public retirement system. This bill would remove the
requirement that the election be filed with the other public retirement system, and would instead require the
employer to retain a copy of the election form.

Existing law grants a member of CalSTRS service credit at retirement for accumulated and unused sick leave
days, as specified. Existing law defines sick leave days for these purposes to mean the number of days of
accumulated and unused leave of absence for illness or injury, and defines basic sick leave to mean the
equivalent of one day’s paid leave of absence per pay period due to illness or injury. Existing law also grants a
member service credit during the time the member is serving as an elected officer of an employee organization
and is on a compensated leave of absence. This bill would instead define sick leave to be the number of days of
accumulated and unused leave of absence for illness or injury granted by each employer, and would define basic
sick leave to mean the days of paid leave of absence due to illness or injury granted by each employer, not to
exceed 12 days per school year. The bill would specify that a member is prohibited from receiving service credit
for accumulated, unused sick leave that the member receives service credit for in another public retirement
system. The bill would grant a member who is an elected officer of an employee organization on a compensated
leave of absence STRS benefits that the member would have received had the member not been on a compensated leave of absence.

Existing law authorizes an employer, for purposes of CalSTRS, to offer an additional 2 years of service credit to specified members if the member elects to retire in a defined period. Existing law requires a member to forfeit the additional 2 years of service credit if the retired member takes any job within the school district, community college district, or county office of education that granted the member the service credit less than 5 years after receiving the additional credit. This bill would require a member to forfeit the additional 2 years of service credit if the member takes any job within the school district, community college district, or county office of education as an employee, an independent contractor, or an employee of a third party.

Existing law requires a termination benefit under the Defined Benefit Supplement Program and Cash Balance Benefit Program to be payable 6 months after the member terminates employment. This bill would instead require the termination benefit to be payable 180 calendar days after the member terminates employment.

Existing law authorizes the Teachers’ Retirement Board to assess penalties and interest if an employer fails to make a payment of contributions to CalSTRS. This bill would require penalties and interest overpaid to CalSTRS to be considered additional contributions, to be deposited in the Teachers’ Retirement Fund, and to be treated in the same manner as other contributions paid to CalSTRS.

(STATUS: Passed out of the Assembly and ordered to the Senate on 06/08/20. Read second time in Senate, amended, and re-referred to Committee on L., P.E. & R. on 06/29/20. From Committee: That the Senate Amendments be concurred in. Senate amendments concurred in. To Engrossing and Enrolling on 08/30/20. Enrolled and presented to the Governor on 09/10/20. Signed by the Governor on 09/29/20.)

**AB 2226 (Voepel) – DEAD BILL**

The Personal Income Tax Law imposes a tax on individual taxpayers measured by the taxpayer’s taxable income for the taxable year, but excludes certain items of income from the computation of tax, including an exclusion for combat-related special compensation. This bill, for taxable years beginning on or after January 1, 2021, and before January 1, 2031, would exclude from gross income specified amounts of retirement pay received by a taxpayer from the federal government for service performed in the uniformed services, as defined, during the taxable year. Current law requires any bill authorizing a new tax expenditure to contain, among other things, specific goals, purposes, and objectives that the tax expenditure will achieve, detailed performance indicators, and data collection requirements. The bill also would include additional information required for any bill authorizing a new tax expenditure. This bill would take effect immediately as a tax levy.

(STATUS: Introduced 02/12/20. Referred to Committee on REV. and TAX on 02/20/20. Hearing postponed by committee on 03/16/20.)

**AB 2378 (Cooper) – DEAD BILL**

The PERL requires that upon the death of certain members after retirement and while receiving a retirement allowance, a specified sum of money be paid to the member’s designated beneficiary. Existing law provides that
the additional employer contributions required to fund these benefits be computed as a level percentage of member compensation, and requires the contributions to be deposited in the Public Employees’ Retirement Fund. This bill would authorize the CalPERS Board, beginning on or after January 1, 2021, to adjust the death benefit amounts following each actuarial valuation to reflect changes in the All Urban California Consumer Price Index, as specified. By authorizing the board to increase contributions deposited in the Public Employees’ Retirement Fund, this bill would make an appropriation.

(STATUS: Introduced 02/18/20. Referred to Committee on P.E. and R. on 02/24/20.)

AB 2394 (Cooper) – DEAD BILL
Pursuant to the PERL, CalPERS provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. Existing law generally provides that retirement allowances are adjusted annually to reflect increases in the cost of living in relation to the consumer price index, as defined. Existing law defines “consumer price index” for these purposes to mean the United States city average “Consumer Price Index for All Urban Consumers,” effective January 1, 1978. Existing law establishes the Department of Industrial Relations as an instrumentality of California government. This bill would change the definition of “consumer price index,” effective January 1, 2021, to instead refer to the California Consumer Price Index for All Urban Consumers for all items, as determined by the Department of Industrial Relations.

(STATUS: Introduced 02/18/20. Referred to Committee on P.E. and R. on 02/24/20.)

AB 2452 (C. Garcia) – DEAD BILL
Current law authorizes the California State Auditor to establish a high-risk local government agency audit program to identify, audit, and issue reports on any local government agency, including any city, county, or special district, or any publicly created entity that the California State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness. Existing law authorizes the California State Auditor to consult with the Controller, the Attorney General, and other state agencies in identifying local government agencies that are at high risk. Current law also authorizes the legislative body of a local agency or a district to enter into an association for the purposes of attending the Legislature and the Congress of the United States, and any committees thereof, and presenting information regarding legislation that the legislative body or the district deems to be beneficial or detrimental to the local agency or the district. This bill would authorize the California State Auditor to include in the high-risk local government agency audit program any local agency or district association that the California State Auditor identifies as being at high risk for the potential of waste, fraud, abuse, or mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.

(STATUS: Introduced 02/19/20. Referred to Committee on A. & A.R. on 02/27/20.)

AB 2473 (Cooper) – DEAD BILL
The California Public Records Act requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Existing law excludes from the disclosure requirement certain records regarding alternative investments in which public investment funds invest. This bill would
exempt from disclosure under the act specified records regarding an internally managed private loan made directly by a public investment fund, including quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information. (STATUS: Introduced 02/19/20. Passed out of the Assembly and ordered to the Senate on 06/08/20. Read first time in Senate and referred to Committee on RLS for assignment on 06/09/20. Referred to Committee on P.E. & R. on 06/23/20. From committee chair, with author’s amendments: Amend, and re-referred to committee. Read second time, amended, and re-referred to Committee on L., P.E. & R. on 07/28/20. In committee: Hearing postponed by committee on 08/05/20. In Committee: Set, first hearing. Hearing canceled at request of author on 08/10/20.)

AB 2510 (Cooley) – DEAD BILL
The CalSTRS Defined Benefit Program provides a defined benefit to members of the program, based on final compensation, credited service, and age at retirement, subject to certain variations. Current law authorizes the CalSTRS board, upon a finding by the board that necessary investment expertise is not available within existing civil service classifications, and with approval of the State Personnel Board, to contract with qualified investment managers, as provided. This bill would additionally authorize the board to contract with investment advisers, as defined, upon the same finding by the board and approval by the State Personnel Board. The bill would, pursuant to a policy adopted by the board, authorize the board to establish a competitive bidding process and to specify the contract terms and conditions the board solely deems necessary and prudent to contract with qualified investment managers and investment advisers.
(STATUS: Introduced 02/19/20. Referred to Committee on P.E. & R. on 02/27/20. First hearing canceled at the request of author on 05/04/20.)

AB 2659 (Chen) – DEAD BILL
The Information Practices Act of 1977 prescribes a set of requirements, prohibitions, and remedies applicable to public agencies with regard to their collection, storage, and disclosure of personal information. The act specifically requires an agency to establish rules of conduct for persons involved in the design, development, operation, disclosure, or maintenance of records containing personal information and to instruct these people with respect to the rules and the requirements of the act. This bill would require that the above-described rules of conduct include security awareness and training policies and procedures.
(STATUS: Introduced 02/20/20. Referred to Committee on P. & C.P. on 03/12/20.)

AB 2676 (Quirk) – DEAD BILL
Current law exempts from disclosure critical infrastructure information, as defined, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information. This law defines “voluntarily submitted” for that purpose. This bill would remove the restriction that the submission be voluntary, thereby expanding that exemption. Current constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. This bill would make legislative findings to that effect.
The California Constitution also requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose. This bill would make legislative findings to that effect.

(STATUS: Introduced 02/20/20. Referred to Committee on JUD on 03/02/20. Hearing postponed by Committee on 03/17/20.)

**AB 2768 (Kalra) – DEAD BILL**

Existing law authorizes the use of a digital signature in any written communication with a public entity, as defined, in which a signature is required or used. Under existing law, if a public entity elects to use a digital signature, that digital signature has the same force and effect as the use of a manual signature if it embodies all of specified attributes, including being unique to the person using it and conforming to regulations adopted by the Secretary of State. Existing law requires the Secretary of State to have adopted the initial regulations for these provisions no later than January 1, 1997, including seeking the advice of public and private entities in developing these regulations and holding at least one public hearing to receive comments before adopting the regulations. This bill would delete the above-described language requiring the adoption of the initial regulations, as prescribed. The bill would instead require digital signatures to conform to regulations adopted by the Secretary of State pursuant to specified procedures. The bill would further require the Secretary of State to adopt emergency regulations to provide appropriate and timely guidance to public entities and the public generally regarding the signature requirements and to make the regulatory changes needed to update these provisions no later than March 1, 2022, in accordance with the Administrative Procedure Act. The bill would make the emergency regulations adopted pursuant to these provisions effective only until nonemergency, final regulations are adopted and become effective through the regular rulemaking process.

(STATUS: Introduced 02/20/20; original bill language replaced in full on 05/04/20. From committee chair, with author’s amendments: Amend, and re-refer to Committee on JUD. Read second time and amended on 05/04/20. Re-referred to Committee on JUD. on 05/05/20.)

**AB 2780 (Holden) – DEAD BILL**

Existing law, upon the passage of a federal law imposing sanctions on the government of Turkey for failure to officially acknowledge its responsibility for the Armenian Genocide, prohibits the CalPERS and CalSTRS boards from making additional or new investments, or renewing existing investments, of public employee retirement funds in an investment vehicle in the government of Turkey that is issued by the government of Turkey or that is owned by the government of Turkey. Existing law requires the boards to liquidate existing investments in the government of Turkey within 18 months of the passage of the above-described federal law.

This bill, upon the passage of a federal law imposing sanctions on the government of Turkey for imposing an economic blockade of Armenia, would prohibit the boards of CalPERS, CalSTRS, and the General Fund portion of the University of California Retirement Fund from making additional or new investments or renew existing investments of public employee retirement funds in any investment vehicle that is issued or owned by the
government of Azerbaijan or Turkey. The bill would require the boards to liquidate investments in the
government of Azerbaijan or Turkey within 18 months of the passage of the above-described law. The bill would
not apply the above provisions to an investment vehicle if the governing body of the financial institution issuing
the investment vehicle, by resolution, adopts a policy not to renew existing, expand existing, or engage in new,
discriminatory practices in furtherance of or in compliance with the economic blockade of Armenia by the
governments of Turkey and Azerbaijan. The bill would require a copy of the resolution to be submitted to the
Treasurer and the chief administrative officer of each public employee retirement fund, accompanied by a
certification, under penalty of perjury, that the adopted policy is being complied with by the financial institution.
By expanding the scope of the crime of perjury, the bill would impose a state-mandated local program. The bill
would also require these boards to make specified reports to the Legislature and the Governor regarding these
actions within one year of the passage of a federal law imposing those sanctions on the government of
Azerbaijan or Turkey. The bill would specify that its provisions do not require a board to take any action that the
board determines in good faith is inconsistent with its constitutional fiduciary responsibilities to the retirement
system.

The bill would indemnify from the General Fund and hold harmless the present, former, and future board
members, officers, and employees of, and investment managers under contract with, the boards, in connection
with actions relating to these investments. The bill would repeal the above-described prohibited investment and
reporting provisions on January 1, 2026, or if a determination is made by the Legislature, the Department of
State, the Congress of the United States, or another appropriate federal agency that the government of either
Turkey or both Turkey and Azerbaijan has adopted a policy to cease their economic blockade of Armenia.
(STATUS: Introduced 02/20/20. Original bill language replaced in full on 05/04/20. From committee chair, with
author’s amendments: Amend, and re-refer to Committee on P.E. & R. Read second time and amended on
05/04/20. Referred to Committee on P.E. & R. on 05/05/20.)

AB 2937 (Fong) – DEAD BILL
The CERL prescribes the methods for calculating a non-service-connected disability retirement for different
membership classifications and for the purpose of calculating reciprocal benefits. In these instances, the sum of
allowance may vary depending on whether or not the retirement board finds, in its opinion, the member’s
disability is due to intemperate use of alcoholic liquor or drugs, among other things. In this regard, the CERL
conditions the grant of a disability retirement pension by a county or district on a finding by the board that the
member’s disability is not the result of intemperate use of alcoholic liquor or drugs. This bill would create an
optional provision, to be elected by a county board of supervisors, that would remove the retirement board’s
assessment regarding the intemperate use of alcoholic liquor or drugs as a condition to the disability retirement.
(STATUS: Introduced 02/21/20. Read first time 02/24/20. Referred to Committee on P.E. & R. on 03/05/20.)

AB 2967 (O'Donnell) – SIGNED BY GOVERNOR
The PERL authorizes a public agency to contract to make all or part of its employees members of PERS, subject
to specified conditions, and requires membership in PERS to be compulsory for all employees included under a
contract. Existing law prohibits these contracts from providing for the exclusion of some, but not all, firefighters
and specified public safety officers. With regard to other groups of employees, existing law requires that they be based on general categories, such as departments or duties, and not on individual employees. This bill would delete provisions of the PERL that generally authorize a public agency contracting with PERS to make all or part of its employees members of the system. The bill would generally prohibit exclusions of groups of employees from being made by amendment of a public agency contract with PERS, except as provided. The bill would apply these provisions to contracts entered into, amended, or extended on and after January 1, 2021.

(STATUS: Introduced 02/21/20. Original bill language replaced in full on 05/04/20. Passed out of the Assembly and ordered to the Senate on 06/08/20. Read second time in the Senate, amended, and re-referred to Committee on L. P.E. & R. on 06/29/20. From committee chair, with author’s amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Committee on L., P.E. &R. on 07/28/20. From committee: That the Senate Amendments be concurred in. Senate amendments concurred in. To Engrossing and Enrolling on 08/30/20. Enrolled and presented to the Governor on 09/11/20. Signed by the Governor on 09/28/20.)

AB 2998 (Kiley) – DEAD BILL
The CalSTRS Defined Benefit Program provides a defined benefit to members of the program based on final compensation, credited service, and age at retirement, subject to certain variations. Existing law prohibits the governing board of a school district from drawing orders for the salary of any teacher in violation of a salary schedule based on a uniform allowance for years of training and years of experience, or on other criteria agreed to by the school district and the exclusive representative of the certificated employees of the school district. This bill would authorize a school district to offer a defined contribution plan to certificated employees and would exclude a certificated employee who opts into a defined contribution plan from membership in the Defined Benefit Program. The bill would authorize a school district to offer a higher salary or lower contribution rate to a defined contribution plan as an incentive for a certificated employee to opt into a defined contribution plan. The bill would authorize a certificated employee to negotiate a salary or contribution rate for a defined contribution plan outside of the school district’s salary schedule. The bill would provide that, to the extent the bill’s provisions conflict with any provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2021, these provisions do not apply to the school district until the expiration or renewal of that collective bargaining agreement.

(STATUS: Introduced 02/19/20. From committee chair with author’s amendments; re-referred to Committee on P.E. & R.; read second time and amended on 05/04/20. Re-referred to Committee on P.E. & R. on 05/05/20.)

AB 3249 (Fong) – DEAD BILL
Current law requires state and local public retirement systems to submit audited financial statements to the Controller at the earliest practicable opportunity within 6 months of the close of each fiscal year, and requires the Controller, within 12 months of receipt of the information, to compile and publish a report on the financial condition of all state and local public retirement systems. This bill would additionally require the Controller to post the report on the financial condition of all state and local public retirement systems on the Controller’s internet website.
SB 53 (Wilk) – DEAD BILL
The Bagley-Keene Open Meeting Act requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions. This bill would specify that the definition of “state body” includes an advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body that consists of 3 or more individuals, as prescribed, except a board, commission, committee, or similar multimember body on which a member of a body serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation. This bill would declare that it is to take effect immediately as an urgency statute.

(STATUS: Introduced 02/21/2020. Read first time on 02/24/20. Referred to Committee on P.E. & R. on 03/09/20.)

SB 266 (Leyva) – DEAD BILL
Under existing law, CalPERS is responsible for correcting errors and omissions in the administration of the system and the payment of benefits. Existing law requires the board to correct all actions taken as a result of errors or omissions of the state or a contracting agency, in accordance with certain procedures. This bill would establish new procedures under PERL for cases in which CalPERS determines that the benefits of a member or annuitant are, or would be, based on disallowed compensation that conflicts with PEPRA and other specified laws and thus impermissible under PERL. The bill would also apply these procedures retroactively to determinations made on or after January 1, 2017, if an appeal has been filed and the employee member, survivor, or beneficiary has not exhausted their administrative or legal remedies. At the threshold, after determining that compensation for an employee member reported by the state, school employer, or a contracting agency is disallowed, the bill would require the applicable employer to discontinue the reporting of the disallowed compensation. The bill would require that contributions made on the disallowed compensation, for active members, be credited against future contributions on behalf of the state, school employer, or contracting agency that reported the disallowed compensation and would require that the state, school employer, or contracting agency return to the member any contributions paid by the member or on the member’s behalf.

With respect to retired members, survivors, or beneficiaries whose benefits are based on disallowed final compensation, the bill would require PERS to adjust the benefit to reflect the exclusion of the disallowed compensation, and provide that contributions made on the disallowed compensation be credited against future contributions on behalf of the employer entity that reported the disallowed compensation. Additionally, if specified conditions are met, the bill would require the employing entity to refund overpayment costs to the system and to pay retired members, survivors, and beneficiaries whose benefits have been reduced an annuity or a lump sum, as prescribed, that reflects the difference between the monthly allowance that was based on the
disallowed compensation and the adjusted monthly allowance calculated without the disallowed compensation, as provided. The bill would require the system to provide certain notices in this regard. This bill would require the system to provide confidential contact information of retired members, and their survivors and beneficiaries, who are affected by these provisions to the relevant employing entities, the confidentiality of which the entities would be required to maintain.

The bill would authorize the state, a school employer, as specified, or a contracting agency, as applicable, to submit to the system an additional compensation item proposed to be included or contained in a memorandum of understanding or collective bargaining agreement on and after January 1, 2020, that is intended to form the basis of a pension benefit calculation order for PERS to review its consistency with PEPRA and other laws, as specified, and would require PERS to provide guidance regarding the review within 90 days, as specified. The bill would require PERS to publish notices regarding proposed compensation language submitted to the system for review and the guidance given by the system that is connected with it. For educational entities that participate in the system, the final responsibility for funding payments to the system and to retired members, survivors, and beneficiaries would belong to the educational entity that is the actual employer of the employee.

(SB 430 (Wieckowski) – DEAD BILL
PEPRA prohibits a public employer offering a defined benefit pension plan from exceeding specified retirement formulas for new members and prohibits an enhancement of a public employee’s retirement formula or benefit adopted after January 1, 2013, from applying to service performed prior to the operative date of the enhancement. PEPRA defines “new member” to mean, among other things, an individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to date. Existing law creates the Judges’ Retirement System II (JRS II), which is administered by the CalPERS Board, for the provision of retirement and other benefits to specified judges and their beneficiaries. This bill would grant a judge who was elected to office in 2012, but did not take office until on or after January 1, 2013, the option of making a one-time, irrevocable election to have a pre-January 1, 2013, membership status in JRS II for service accrued after on and after July 1, 2020. The bill would require the election to be made during a 30-day period beginning March 1, 2020. A judge making this election would no longer be a new member under specified provisions of PEPRA. The election would apply prospectively only, and membership rights and obligations that accrued based on service subject to PEPRA prior to July 1, 2020, would remain unchanged. The bill would specify that CalPERS is not obligated to inform or locate a person who may be eligible to make the election and that its provisions do not affect the Legislature’s reserved right to increase contributions or reduce benefits for purposes of JRS II.

(STATUS: Introduced 02/12/19. Read third time in Assembly; ordered to the Senate; Senate concurred in amendments; ordered to engrossing and enrolling on 09/12/19. Withdrawn from engrossing and enrolling, and ordered held at the Desk on 09/13/19.)
SB 749 (Durazo) – DEAD BILL
The California Public Records Act provides that nothing in the act requires the disclosure of corporate proprietary information including trade secrets, among other things. This bill would provide that specified records of a private industry employer that are prepared, owned, used, or retained by a public agency are not trade secrets and are public records, including certain records relating to employment terms and conditions of employees working for a private industry employer pursuant to a contract with a public agency, if those wages, benefits, working hours and other employment terms and conditions relate to work performed under the contract, records of compliance with local, state, or federal domestic content requirements, and records of a private industry employer’s compliance with job creation, job quality, or job retention obligations contained in a contract or agreement with a state or local agency. The bill, however, would exclude contracts between a public agency and a private industry employer entered into on or before January 1, 2020, and records that include communications between the state or local agency and specified state or local officials, on matters posing a threat to the security of a public building, a threat to the security of essential public services, or a threat to the public’s right of access to public services or public facilities, from these provisions. Because the bill would require local officials to perform additional duties, it would impose a state-mandated local program.
(STATUS: Introduced 02/22/19. From committee with author’s amendments. Read second time and amended. Re-referred to Committee on JUD. on 09/10/19. Assembly Rule 96 suspended. Withdrawn from committee and ordered to third reading on 09/12/19. Ordered to inactive file on request of Assembly Member Calderon on 09/13/19. Notice of intention to remove from inactive file given by Assembly Member Gonzalez on 08/24/20. From inactive file. Ordered to third reading on 08/25/20.)

SB 931 (Wieckowski) – DEAD BILL
The Brown Act requires meetings of the legislative body of a local agency to be open and public and also requires regular and special meetings of the legislative body to be held within the boundaries of the territory over which the local agency exercises jurisdiction, with specified exceptions. Current law authorizes a person to request that a copy of an agenda, or a copy of all the documents constituting the agenda packet, of any meeting of a legislative body be mailed to that person. This bill would require, if the local agency has an internet website, a legislative body or its designee to email a copy of, or website link to, the agenda or a copy of all the documents constituting the agenda packet if the person requests that the items be delivered by email. The bill would require, where the local agency determines it is technologically infeasible to send a copy of all documents constituting the agenda packet or a website link containing the documents by electronic mail or by other electronic means, the legislative body or its designee to send by electronic mail a copy of the agenda or a website link to the agenda and mail a copy of all other documents constituting the agenda packet in accordance with the mailing requirements.
(STATUS: Introduced 02/05/20. Referred to Committee on GOV. and F. on 02/12/20. From committee with author’s amendments; read second time and amended; re-referred to Committee on GOV. and F. on 04/02/20.)

SB 1042 (Pan) – DEAD BILL
The California Secure Choice Retirement Savings Trust Act establishes the CalSavers Retirement Savings Program to be administered by the California Secure Choice Retirement Savings Investment Board. Existing law requires
the Treasurer, on behalf of the board, to appoint an executive director, who is not a member of the board and who serves at its pleasure. Existing law requires eligible employers to offer a payroll deposit retirement savings arrangement so that eligible employees may contribute a portion of their salary or wages to a retirement savings program account in the program, as specified. Existing law requires the board to take various actions upon implementation of the program and, for up to 3 years following its initial implementation of the program, requires the board to establish managed accounts invested in United States Treasuries, myRAs, or similar investments. This bill would rename the California Secure Choice Retirement Savings Trust Act as the CalSavers Retirement Savings Trust Act, the body that administers the act as the CalSavers Retirement Savings Board, and make conforming changes in this regard. The bill would make various changes in the act to reflect that it has been implemented, including eliminating the requirement to establish managed accounts invested in United States Treasuries, myRAs, or similar investments described above. The bill would authorize the board to delegate rulemaking authority to its executive director. The bill would authorize an employee to opt out of participation in the program by telephone and would eliminate a condition relating to contribution amounts that depends on the length of time that an employee has contributed to the program.

Current law, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA), an initiative measure approved as Proposition 64 at the November 8, 2016, statewide general election, authorizes a person who obtains a state license under AUMA to engage in commercial adult-use cannabis activity pursuant to that license and applicable local ordinances. Existing law, the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), among other things, consolidates the licensure and regulation of commercial medicinal and adult-use cannabis activities. MAUCRSA generally divides responsibility for the state licensure and regulation of commercial cannabis activity among the Department of Food and Agriculture, the State Department of Public Health, and the Bureau of Cannabis Control, which are generally referred to as licensing authorities. This bill would require the licensing authorities described above to provide specified information regarding licensees to the CalSavers Retirement Savings Board upon request by the board.

(STATUS: Introduced on 02/18/20. Referred to Committee on L. P.E. & R. and B., P. & E.D. on 02/27/20. Set for hearing March 25; hearing postponed by committee on 03/18/20. On 05/12/20, referral to Committee on B., P. & E.D. rescinded due to the shortened 2020 Legislative Calendar.)

SB 1159 (Hill) – SIGNED BY GOVERNOR

Existing law establishes a workers’ compensation system, administered by the Administrative Director of the Division of Workers’ Compensation, to compensate an employee for injuries sustained in the course of employment. Existing law creates a disputable presumption that specified injuries sustained in the course of employment of a specified member of law enforcement or a specified first responder arose out of and in the course of the employment. Existing law governs the procedures for filing a claim for workers’ compensation, including filing a claim form, and provides that an injury is presumed compensable if liability is not rejected within 90 days after the claim form is filed. This bill would define “injury” for an employee to include illness or death resulting from the 2019 novel coronavirus disease (COVID-19) under specified circumstances, until January 1, 2024, and July 1, 2024, for employees generally, and until July 1, 2024, for certain peace officers, firefighters, and health care workers, among others. The bill would create a disputable presumption that the
injury arose out of and in the course of the employment and is compensable. The bill would limit the applicability of the presumption under certain circumstances. The bill would require an employee to exhaust their paid sick leave benefits and meet specified certification requirements before receiving any temporary disability benefits or, for police officers, firefighters, and other specified employees, a leave of absence. The bill would also make a claim relating to a COVID-19 illness presumptively compensable, as described above, after 30 days rather than 90 days. Until July 1, 2024, the bill would allow for a presumption of injury for all employees whose fellow employees at their place of employment experience specified levels of positive testing, and whose employer has five or more employees.

(STATUS: Introduced 02/20/20; original bill language replaced in full on 04/22/20. Passed out of the Senate and ordered to the Assembly on 06/26/20. Read first time in Assembly. Referred to Committee on INS. on 06/29/20. July 29 hearing postponed by committee on 07/27/20. Amended in Assembly on 08/04/20. Urgency clause adopted. Assembly amendments concurred in. Ordered to engrossing and enrolling on 08/31/20. Enrolled and presented to the Governor on 09/08/20. Signed by the Governor on 09/17/20.)

SB 1297 (Moorlach) – DEAD BILL
This bill would revise the provision of pension and other benefits to members of all state or local public retirement systems. The bill would apply its provisions prospectively to any member of a state or local public retirement system who is employed upon the date of its enactment and to any person who may be employed and become a member thereafter.

The bill would:

- void any limit on a pension that prohibits the pension from exceeding a percentage of final compensation, as specified;
- prohibit a local entity from establishing a deferred retirement option program, as described, and if a local entity has established a deferred retirement option program, whether or not the program is closed to new participants, it would be required to disenroll any participating employees and close the program;
- with regard to any member of a state or local public retirement system, the bill would require that final annual compensation used for purposes of ascertaining any pension or benefit be calculated as an average of the member’s three highest earning years;
- prohibit, for any method of calculating a pension that is based on fractional percentage of final compensation multiplied by years of service with respect to a particular age at retirement, that fractional percentage from exceeding 2.7%;
- include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities;
- require that an agency participating in PERS that increases the compensation of a member who was previously employed by a different agency to bear all actuarial liability for the action, if it results in an increased actuarial liability beyond what would have been reasonably expected for the member;
- require that the increased actuarial liability be in addition to reasonable compensation growth that is anticipated for a member who works for an employer or multiple employers over an extended time;
require, if multiple employers cause increased liability, that the liability be apportioned equitably among them; and
apply to an increase in actuarial liability, as specified, due to increased compensation paid to an employee on and after January 1, 2021.

(STATUS: Introduced on 02/21/20. To Committee on RLS for assignment on 02/21/20. Read first time on 02/24/20. Referred to Committee on L., P.E. & R. on 03/05/20.)
Memorandum

DATE:  October 19, 2020
TO:  Members of the Board of Retirement
FROM:  Tracy Bowman, Director of Finance
SUBJECT:  THIRD QUARTER 2020 TRAVEL AND TRAINING EXPENSE REPORT

Written Report

Background/Discussion
In accordance with OCERS’ Travel Policy, the Chief Executive Officer is required to submit a quarterly report to the Board of Retirement on conference attendance and related expenditures incurred by OCERS’ Board Members and staff. Attached is the Third Quarter 2020 Travel and Training Expense Report that includes all expenses submitted through September 30, 2020. Due to COVID-19, no travel related expenses were incurred in the third quarter. The Third Quarter 2020 Travel and Training Expense Report remains unchanged from the prior quarter.

Submitted by:

Tracy Bowman
Director of Finance
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Footnotes:
* Prior year totals only presented for 2020 active staff & Board members.
** Excludes expenses for non-travel related training conferences including: meals, lunches, meetings, mileage, strategic planning, and tuition reimbursement.
1 Trip cancelled and a credit has been placed on the airlines account which will be applied towards a future trip.
2 Trip cancelled. Expenses do not qualify for full refund due to cancellation outside policy.
DATE: October 16, 2020
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: THE EVOLUTION OF THE OCERS UAAL (2020 EDITION)

This memo serves as a placement holder for Agenda Item: I-8 THE EVOLUTION OF THE OCERS UAAL (2020 EDITION).

Materials will be uploaded soon.

Submitted by:

S.D. – APPROVED
Steve Delaney
Chief Executive Officer
DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Jeff Lamberson, Member Services Director
SUBJECT: MEMBER SERVICES PROGRESS ON PROCESSING COUNTY OF ORANGE VOLUNTARY INCENTIVE PROGRAM RETIREMENTS

Written Report

Background/Discussion

Since the County Board of Supervisors approval of the Voluntary Incentive Program in early July, Member Service representatives have assisted over 500 members with their requests to retire. During the month of August, with OCERS Board approval, Member Services filled 2 Extra Help positions to assist members on the phones as well as providing help to get our team ready for processing our largest payroll of the year. Our October 1 payroll of roughly 290 retirements will exceed our largest 2020 payroll that was processed in June with approximately 200 retirements. With these extra help positions and our dedicated team working extra hours, we fully expect to finish the full and complete processing of the October payroll on time. On top of that, while processing this payroll, our team is also making the necessary changes to these member accounts affected by the Alameda decision to ensure we are not including any questionable pay items in their Final Average Salary to prevent us from over paying any benefits. We continue to receive retirement requests and currently have an additional 180 retirement applications to process for November and December. We are very proud of our Member Services team’s hard work and dedication to our members by getting this challenging job done. We would also like to thank the Board for their support during these challenging times.

Submitted by:
Jeff Lamberson
Member Services Director

JL - Approved
DATE: September 30, 2020  
TO: Members of the Board of Retirement  
FROM: Brenda Shott, Assistant CEO Finance and Internal Operations  
SUBJECT: PERSONNEL COMMITTEE MEETING OUTCOMES – AUGUST 19, 2020

Written Report

Background/Discussion
The Personnel Committee met on August 19, 2020 to discuss the 2020 OCERS Direct Performance Management Program. Staff was seeking direction from the Committee on the following two items:

1. Select and approve the 2020 Performance Management Program provision related to merit based salary adjustments for OCERS Direct employees to be recommended to the Board of Retirement for approval as part of the OCERS 2021 Budget.

2. Approve and recommend that the Board of Retirement approve an adjustment to the OCERS Direct salary schedule, increasing each position’s published salary range by the CPI as published by the U.S. Bureau of Labor Statistics for the Los Angeles-Long Beach-Anaheim area for the previous twelve months.

After discussing item one above, the Committee recommended the Program remain consistent with the terms used for merit based salary adjustments in the prior two years, with the exception of considering two options as it relates to the value of a merit increase. The options that were approved to move on for the Board’s consideration are below:

Option 1:

This option includes the same terms as has been used in OCERS Direct Performance Management Program for the past two years. The terms are that employees who receive a performance rating of “meets expectations” or better will be awarded a salary increase based on inflation for the previous twelve months. The actual percentage increase to be awarded would be based on the published data available at the time the Budget is developed (it is anticipated that data through September would be publically available). CPI that is applicable to the Orange County area for the twelve months ended August 2020 is 2.0%

In addition to the inflation based increase, award a merit adjustment (2.75%) for employees who are rated “Exceed Expectations” and award two (2) merit adjustments (2.75% + 2.75% = 5.5%) for employees who are rated “Exceptional”.

Option 2:

The alternative option to what was used in the past two years also includes awarding an increase based on inflation for the previous twelve months for all employees who receive a performance rating of “meets expectations” or better. The actual amount to be awarded would be updated based on the published data...
available at the time the Budget is developed (it is anticipated that data through September would be
publically available). CPI that is applicable to the Orange County area for the twelve months ended August
2020 is 2.0%

In addition to the inflation based increase, OCERS would award a merit adjustment that is reduced from
prior years (1.75%) for employees who are rated “Exceed Expectations” and award two (2) merit
adjustments (1.75% + 1.75% = 3.5%) for employees who are rated “Exceptional”.

The Board will make the final decision on the terms of the 2020 OCERS Direct Performance Management Program
when they approve the 2021 Budget in November. The Committee directed staff to proceed with developing the
budgeting based Option 1 but to be prepared to adjust the budget should Option 2 be approved by the Board.

The other item that the Committee discussed was the adjustment to the OCERS Direct salary schedule. The
committee unanimously recommends that the Board of Retirement approve an adjustment to the OCERS Direct
salary schedule, increasing each position’s published salary range by the CPI as published by the U.S. Bureau of
Labor Statistics for the Los Angeles-Long Beach-Anaheim area for the previous twelve months. The Board will take
action on this recommendation concurrently with the 2021 Budget in November.

Prepared by:  

Approved by:

___ ___________________________ ______ ___
Memorandum

DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
Suzanne Jenike, Assistant CEO External Operations

SUBJECT: UPDATE ON STAFF’S PROGRESS IN RESPONSE TO THE ALAMEDA COUNTY DECISION IN Alameda County Deputy Sheriff’s Assoc. et al., v. Alameda County Employees’ Retirement Assn., et al

Background/Discussion
The California Supreme Court issued an opinion on July 30, 2020 in what is known as the “Alameda” case (Alameda County Deputy Sheriffs Association et al v. Alameda County Employees Retirement Association and Board of Retirement of ACERA (S247095).

The issues in the Alameda case date back to changes in the definition of pay items that must be excluded from Final Average Salary as provided in the Public Employees’ Pension Reform Act (PEPRA) effective January 1, 2013. Specifically, the Supreme Court decision said that PEPRA amounted to a change in the law with respect to the pay items that may be included in the calculation of retirement benefits on and after January 1, 2013; and further, that retirement systems like OCERS have no authority or discretion to calculate pension benefits in a manner inconsistent with the CERL, as amended by PEPRA.

OCERS has long identified members’ pay items as pensionable or non-pensionable, depending on how employers report them to OCERS through pay codes. OCERS’ preliminary review indicates that only a few pay items may have been affected by PEPRA and are requiring further analysis. These pay items are generally denominated “on-call pay”, “stand by pay”, “canine pay” and any others that are for work performed outside of normal working hours.

In light of the decision in Alameda, all these questionable pay items need to be put through the now clarified PEPRA test that applies to work performed outside normal working hours. The PEPRA test is set forth below, with the questions that staff will use to determine whether the pay and services in question meet the PEPRA test.

PEPRA TEST: Compensation for services rendered outside of normal working hours is not “compensation earnable”.

We will address the issue by answering the following questions:

(i) are the hours worked required to be worked as part of the employee’s regular duties;

(ii) are the hours worked ordinarily worked by all other members in the same grade/class/rate of pay as the employee; and
(iii) can the hours be voluntarily worked by the employee.

NOTE:

- Normal working hours must be identified in a Memorandum of Understanding (MOU), employment agreement, compensation resolution/ordinance or other official document of the employer.

On August 17, 2020 staff informed the Board of two administrative actions that were implemented immediately:

1. Employee and Employer contributions would no longer be applied to these pay items effective the first full pay period after August 31, 2020. For most employers pay period 20 which started on September 11, 2020 was the pay period in which the change was made.
2. OCERS Team would exclude these pay items from all new benefit set ups beginning on October 1, 2020.

It is critical to note that no action was taken to change benefit allowances that were in place prior to October 1, 2020.

Subsequent to August 17, 2020 OCERS staff has sent informational emails to all employers and major labor groups. We queried the pension administration system database and identified the specific members who would be impacted and mailed these members a letter indicating that we are in the process of evaluating the pay items. We have had meetings with Union Representatives and will continue these discussions while the review is being performed. And finally we are compiling information on the impact to benefit payments in the event that the items are determined to be excluded from compensation earnable. This information, along with Staff’s initial determinations on the pensionable status of these pay items will be presented to the Board at a future meeting.

OTHER CERL SYSTEMS

OCERS staff have participated in a number of conference calls, as well as e-mail exchanges with other county systems to learn what actions they are presently taking. Not surprisingly, as with most issues involving the CERL, the impact varies from system to system. A number of systems have no changes to be made. Marin, Sonoma and Tulare in particular have indicated that they had not previously allowed any of the pay items now in question, so they have no actions required due to the ALAMEDA decision.

Some systems have indicated they are making changes now, reducing benefits. It is not clear yet what those systems will do as to retroactive corrections in benefit payments and whether there will be a charge to the member to repay overpaid benefits.

A number of the county systems are like OCERS, trying to better understand the practices of their employer and labor groups before making any changes to current benefit payments. One system reports they are obtaining clarifying documentation from their employers that would suggest certain pay items in question meet the PEPRA test and can continue to be included in Final Average Salary.

Another system interestingly has been applying the PEPRA test for some years to every member at retirement, and has also found certain scenarios where the pay items in question can be included. The OCERS staff is
arranging for an upcoming conference call with the Contra Costa team to learn more about the specifics of those members they have found who meet the test standard.

Alameda is taking no specific action at this time as they have some special issues that will need to be resolved coming out of the case that carries their name.

We will continue to keep you informed of how others are dealing with this difficult adjustment for so many of our members.

Submitted by:

SD-Approved
Steve Delaney
Chief Executive Officer

Submitted by:

SJ-Approved
Suzanne Jenike
Assistant Chief Executive Officer, External Operations
DATE: October 19, 2020
TO: Members of the Board of Retirement
FROM: Steve Delaney, Chief Executive Officer
SUBJECT: COVID-19 UPDATE

Presentation

The OCERS staff continues to do a great job meeting the COVID-19 challenge and ensuring that our members receive the services they expect as we fulfill this agency’s mission. Rather than provide you with a written report of the agency status prior to the Monday, October 19th meeting of the OCERS Board of Retirement, I will instead provide a verbal update of plan status and challenges at that time. This recognizes the fact that issues impacted by COVID-19 seem to change daily.

Submitted by:
Steve Delaney
Chief Executive Officer

SD - Approved