

**ATTACHMENT A**

**RESPONDENT'S PETITION FOR RECONSIDERATION**

Dwain Moore

January 21, 2022

Cheree Swendensky, Assistant to the Board  
Executive Office  
CalPERS Retirement System  
P. O. Box 942701  
Sacramento, CA 94229-2701

Reference Number 2021-0255

## Title: Petition for Reconsideration

Dear CalPERS Board Members:

I am receipt of your proposed decision respecting the above referenced case. It is my contention that **the decision is wrong on the facts and the law**. The stated basis of the decision is that CalPERS received a valid power of attorney document which it was required by law to accept. My contention is that this is an error of the facts and the law. The ERISA and PERS statutes were passed in order to ensure special protection for retirement plans. CalPERS requirement that transactions requests using a power of attorney form had to be on a CalPERS' power of attorney was done in conformity with the requirement of sufficient protection of the employee's interests. The only stated exception was that an alternative power of attorney document must conform with the substances of the CalPERS document by **specifically referencing CalPERS in the body of such a document**. **The document used to liquidate my retirement account did not meet this exception.**

In statement number 18 of the proposed decision it is stated that Ms. Julie Watson approved this substituted power of attorney document after examining one containing an original notary seal, as if such an act cured the defect. **The only thing which would have made the submitted power of attorney valid would be that it included specific language stating that the matters to which it legitimately be applies was a CalPERS retirement account, which it did not.**

Dwain Moore

With respect to the law cited in support of the proposed decision, Probate Code 4406, there is nothing in this particular statute which sanctions the use of a generic power of attorney document in matters relating to a CalPERS retirement account. The relevant subdivision of this section states:

“(d) Notwithstanding subdivision (c), a third person’s refusal to accept an agent’s authority under a statutory form power of attorney under this part shall be deemed unreasonable if the only reason for the refusal is that the power of attorney is not on a form prescribe by the third person to whom the power of attorney is presented.”

**In this particular case, it was not the form that was defected, it was the contents.** The required CalPERS form contained specific language referencing matters pertaining to CalPERS. This is evident from an examination of the form. The form that Dathan Moore submitted when requesting liquidation of my retirement **did not contain any mentioning of CalPERS. It is because of these omissions that rendered it invalid.**

Since it appears that the basis of the proposed denial of my claims of restitution and compensation was the CalPERS accepted a valid power of attorney is countered by the facts and the law, I request that my original request be granted without me having to pursue other legal means.

Sincerely,

*Dwain Moore*  
Dwain Moore

Copy:

Matthew G. Jacobs, General Counsel  
Facsimile 916-795-3659

# FAX

01/21/2022 12:10 PM  
(GMT+-5)

## SENDER

**From:** Dwain Moore

**Contacts:** 

## MESSAGE

Petition for  
Reconsideration



Location: Griffin Imaging, Llc  
Patient Name: Dwain Moore  
DOB: [REDACTED]  
ACCESSION NO: [REDACTED]  
Ordering MD: Gerald Bohn MD  
Exam Date: 10/12/2021

*T=*  
*CHART*

Exam Performed: MRLSP2 MRI L-SPINE WO CONTRAST

*needs appoint to discuss*

EXAM: L-SPINE^CLINICAL LIBRARIES

CLINICAL INDICATION: Low back pain. Right hip pain since old injury 30 years ago. Tailbone pain.

COMPARISON: No relevant studies for comparison

TECHNIQUE: Sagittal T1, T2, stir and axial T1 T2-weighted images of the lumbar spine are obtained.

FINDINGS: There is normal alignment of lumbar spine. The vertebral body show increased signal T1-T2 compatible with type 2 Modic reactive changes L2-L3 L3-L4 L4-5. There is disc desiccation at same levels.

L1-L2 is unremarkable.

L2-L3 shows disc bulge.

L3-L4 shows disc bulge which in combination with the moderate ligamentum flavum hypertrophy is causing moderate canal and bilateral lateral recess narrowing.

L4-5 shows disc bulge osteophyte complex which in combination with the moderate ligamentum flavum hypertrophy is causing mild-to-moderate canal and bilateral lateral recess narrowing.

L5-S1 shows moderate right facet hypertrophy.

Conus shows normal contour normal signal. Cauda equina nerve roots show normal contour normal signal and distribution

IMPRESSION: Lumbar spondylosis with moderate canal and bilateral lateral recess narrowing L3-L4 and mild to moderate canal and bilateral lateral recess narrowing L4-5  
Griffin Imaging, LLC 270 Rock Street Griffin, GA 30224 (770) 229-4660 Fax (770) 229-4632  
www.griffinimagingradiology.com

*01/24/2022*

# FAX

01/24/2022 11:13 AM  
(GMT+-5)

## SENDER

**From:** Dwain Moore

**Contacts:** 

## MESSAGE

I've suffered chronic permanent back pain for over 35 years from my two injuries when I worked as a correctional counselor for the State of California.  
24/7 pain