

**IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT, CHANCERY DIVISION**

JOAQUIN E. MENDOZA)
)
Plaintiff,)
)
v.)
)
RETIREMENT BOARD OF THE)
POLICEMEN’S ANNUITY AND BENEFIT)
FUND OF CHICAGO)
)
Defendant.)

Case No. 2022 CH 03984
Calendar 1
Judge Thaddeus L. Wilson

PLAINTIFF’S BRIEF IN SUPPORT OF ADMINISTRATIVE

REVIEW

NOW COMES the Plaintiff, Joaquin E. Mendoza, by and through his attorney, Jerome F. Marconi, and herein submits his Brief in Support of Administrative Review:

I. INTRODUCTION

The Plaintiff, Joaquin E. Mendoza (“Mendoza”), is a Detective-Sergeant in the Chicago Police Department who suffered severe and incapacitating injuries after contracting COVID-19. Although the Pension Board concluded Mendoza most likely contracted COVID-19 at work and is “disabled”, it concluded Mendoza was not engaged in an “act of duty” at the time of his injury. Since there is no dispute Mendoza is disabled, this appeal will focus on whether Mendoza was performing an “act of duty” as defined in Article 5 of the Illinois Pension Code.

II. FACTS

Mendoza began his career in August 1998 as a patrol officer. (AR 213) Mendoza was eventually promoted to detective and then detective sergeant. Throughout his years, Mendoza primarily worked the midnight shift. (AR 214) When Mendoza became disabled, he was working at Area 5 headquarters as the midnight detective sergeant. (AR 215) Mendoza described his typical day as the midnight detective sergeant at Area 5. Upon arriving at work, Mendoza would walk into the 25th District police station, meet with the desk crew and various supervisors. Mendoza would check to determine if there were any detainees in police custody. Mendoza personally entered the interview rooms to check on the detainees and speak to them. (AR 217- 219) Most of the time the detainees were not wearing masks. Likewise, 25th District station and Area 5 personnel were not wearing masks. (AR 220) At the time, the Chicago Police Department (“CPD”) only issued one set of PPE for the employees which consisted of one set of gloves, one mask and a paper suit. (AR 220) There were no replacements provided to the employees.

Mendoza testified he would come in close contact with arrestees, detainees, witnesses, fellow officers and civilians. Most of these persons were not always wearing masks. (AR 222) At times, Mendoza left the station to go to various locations to meet with civilians and other police personnel. The persons Mendoza met with were not routinely wearing masks and Mendoza was not wearing a mask at all times. (AR 222) Mendoza explained that when he appeared at a crime scene, he interacted with other first responders as well as victims and witnesses. At the time, many civilians were not

wearing masks. Mendoza thought it was important to see the faces of persons he was communicating with as well as allow the civilians to see the faces of the officers. (AR 223) Mendoza became aware of several persons in Area 5 who tested positive for COVID-19 after the cleaning crew showed up to disinfect the area where the employee worked. (AR 224)

Just prior to becoming sick, Mendoza had worked 17 days straight. Since this was a busy time due to the presidential election, Mendoza explained he would wake up, go to work, finish his shift and then go straight home. Mendoza did not interact with anyone at home since he lived alone. (AR 225) On November 11, 2020, Mendoza recalled feeling very tired when he left work. Mendoza recalled the day because it was his birthday and his sister called him as he arrived home. (AR 226) Mendoza recalled going to bed but did not wake up until the morning of November 13. He called work to request time off and spoke to his day-shift colleague. Sensing something was very wrong, the day shift sergeant requested a welfare check. Subsequently, an ambulance was dispatched to Mendoza's home and he was transported to Northwestern Memorial Hospital. (AR 227-228)

Mendoza was admitted to Northwestern Memorial Hospital where he remained for the next 42 days. Mendoza was then transferred to the Shirley Ryan Ability Lab for in-patient treatment for the next month. Subsequently, Mendoza transitioned to out-patient treatment. Mendoza described his serious illness and physical struggles in the Affidavit he submitted as part of his Application for Disability Pension Benefits. (AR 6)

Captain Eric Winstrom testified he had been with CPD since 2000. (AR 181) In November 2020, Winstrom was the Commander of Area 5. Winstrom had known Mendoza since Mendoza was promoted to detective. (AR 183) Winstrom was in charge of recruiting officers for the detective division and Mendoza was one of the first officers Winstrom recruited to work at Area 5. (AR 184) Winstrom was familiar with Mendoza's work ethic and management skills. Winstrom testified, "from a management point of view, having worked with him and having followed his career since the time we worked together, he was one of these-he is one of these people that eats, breathes and sleeps the police department and I knew that he would be 100 percent dedicated, and to find a rock like that to work the midnight shift is very rare." (AR 185)

Winstrom explained that as the midnight detective sergeant, Mendoza would have been the highest-ranking person on shift. (AR 187) His duties would include checking with all the incoming shift to make sure they are dressed properly, properly equipped and ready to begin working. Mendoza would conduct the roll call and oversee training. (AR 187) When the shift begins, Mendoza would be responsible for managing the inflow of work. This would include going out into the field to supervise a crime scene to gather evidence and interview witnesses. (AR 188) Mendoza would interact with many different people including civilians, detainees and co-workers. Mendoza must physically perform a check of the prisoners in interview rooms. There were a total of six interview rooms Mendoza would physically check. (AR 190)

In addition to the numerous crime victims, witnesses and detainees, there was a "revolving door of officers" who were in the station. The 25th District is located downstairs from Area 5 so officers and members of the public were always coming in and out. Winstrom described Area 5 as the smallest Area of the five Areas in the City and "not that big of a space physically." (AR 191) Downstairs from Area 5 is the 25th District police station which is one of the larger districts in the city. The only way to get to Area 5 is walking through the 25th District. In addition to station work, Mendoza would have been out on the street about 50% of the time. (AR 195)

Winstrom recalled that on November 3rd or November 4th the presidential election was coming up so the CPD canceled just about everyone's days off. Detectives were deployed to ride in cars or on CTA buses to prevent civil unrest. During this time, it would have been impossible for the officers and detectives to practice social distancing since they were putting thirty to forty detectives on a bus. (AR 196) Also, there may have been fifty to seventy detectives throughout the area who would come into the office before being deployed. (AR 197) This process went on for weeks since the election process dragged on. (AR 195)

Winstrom explained the CPD monitored illness by use of the Unit 650 Medical and IOD Tracker. (AR 166) In a relatively short time period, from October 14, 2020 to November 19, 2020, it showed dozens of officers who tested positive for COVID-19. (AR 200)

A. Medical Evidence

Dr. Angelo Costas, Mendoza's primary care physician, testified he had been treating Mendoza for 10-15 years. (AR 254) Mendoza's sister contacted Dr. Costas to alert him of Mendoza's hospitalization. Dr. Costas monitored Mendoza's treatment through telephone calls and electronic records. (AR 256) Dr. Costas explained that after Mendoza tested positive for COVID-19, he became septic with Covid pneumonia, experienced renal failure requiring dialysis, infection of the blood stream and multiple emboli in his brain. (AR 257) Dr. Costas clarified that the multiple emboli are mini-strokes in the brain. (AR 259) Dr. Costas opined that the mini-strokes were probably caused by the COVID-19 infection. (AR 259, 263)

The Pension Board admitted the IME report of Dr. Susan Buchanan who it retained medical to perform an independent medical examination of Mendoza. Dr. Buchanan examined Mendoza on January 31, 2022. (AR 14) Dr. Buchanan thoroughly reviewed Mendoza's medical records and personally interviewed Mendoza to obtain a history of illness, details of his job duties and his exposure to COVID-19. (AR 14) In her report, Dr. Buchanan opined that Mendoza's "Current diagnosis is abnormal cognition as residual from micro-embolic strokes in the setting of COVID-19 infection. Additional diagnosis is weakness and imbalance status post COVID-19 infection: post-acute sequelae of SARS-CoV-2 infection (PASC)." (AR 17) Dr. Buchanan recommended a referral to a long-COVID clinic and additional neuropsychological testing. As far as causation, Dr. Buchanan opined:

"The claimant suffered a series of micro-embolic strokes during his infection with COVID-19 which he likely contracted at work... Therefore, it is more likely than not that his strokes resulted from his COVID-19 infection, which he likely acquired from work. It is impossible at this point to determine whether he definitely contracted COVID-19 during the course of his work. But from the description of his work conditions (many colleagues with COVID-19, no PPE, no physical distancing) plus the fact that he was living alone without hobbies or other activities like church attendance that would bring him in close contact with the public, it is more likely than not that he contracted COVID-19 at work." (AR 18-19)

B. Pension Board's Decision and Order

The Pension Board held a hearing on February 24, 2020 and subsequently issued a written Decision and Order. ("Decision") (AR 307) In the Findings of Fact section, the Pension Board summarized Mendoza's testimony regarding the amount of time he spent at the police station for the 17 straight days prior to getting sick. At the time Mendoza tested positive for COVID, the CPD was not performing contract tracing. (AR 310)

The Pension Board quoted Dr. Buchanan's opinion regarding the cause of Mendoza's disability. The Pension Board ultimately found Mendoza was "disabled from full and unrestricted duties as a police sergeant due to the embolic strokes

he suffered as a result of contracting COVID” and “[Mendoza] is disabled within the meaning of §5/5-113 and §5/154 of the Illinois Pension Code.” However, the Pension Board concluded “[Mendoza’s] physical and mental disability was not caused by performance of an act of duty, as required under §5/5-113 and §5/154 of the Illinois Pension Code.” (AR 314) Accordingly, it only granted Mendoza an ordinary disability pension pursuant to §5-155 of the Illinois Pension Code. (AR 314)

In the Analysis section, the Pension Board recognizes that “The purpose of laws for police officer’s pension is beneficial in nature and such statutes should be liberally construed in favor of the police officer to be benefits. *Peifer v. Board of Trustees*, 57 Ill.App.3d 102, 106 (1st Dist. 1978)” (AR 316) However, the Pension Board concluded “Claimant has not met his burden of establishing that his disability resulted from an ‘act of duty.’ While there may be a causal connection between Claimant’s medical disability resulting from COVID-19, the disability was not incurred as a result of an ‘act of duty.’” (AR 317) Specifically, the Pension Board concluded: “The Pension Board finds ordinary citizens in ordinary walks of life face the same risks during the COVID -19 pandemic on a daily basis. Exposure to the COVID-19 virus was not a unique act of police duty inherently involving special risk not assumed by ordinary citizens.” (AR 318)

The Board recognized that due to the fact the country was “ravaged” by a global COVID-19 pandemic, “City, State, and County officials implemented procedures to mitigate all citizens exposure to COVID, including but not limited to the closing of all non-essential businesses, school mask mandates, gubernatorial disaster declarations, social distancing, and eventually a push for vaccinations.” (AR 318) Further, “Claimant, as did all employees that were not allowed to work at home, faced all of the potential risks for exposure to COVID.” The Pension Board concedes that “From a medical perspective, the medical experts seem to believe that it was “likely” that Claimant contracted COVID at work. Unfortunately, that does not change the fact that Claimant has been unable to meet his burden of establishing he contracted COVID as a result of a specific ‘act of duty’ as required under §5-154 and the case law construing that provision.” (AR 319)

The Pension Board found Mendoza was not performing an “act of duty” since “simply engaging in an act involving ‘special risk’ is insufficient for award of line of duty disability benefits. The ‘act’ giving rise to disability must also be ‘mandatory.’ Claimant also fails to establish the ‘mandatory’ nature of the act he alleges led to disability.” (AR 320) The Pension Board concluded “[Mendoza] was not performing any task inherently involving ‘special risk’ not assumed by an ordinary citizen in everyday life.” (AR 322)

III. LAW

The review of an administrative agency’s decision extends to all questions of fact and law presented by the entire record. *Wade v. City of North Chicago Police Pension Board*, 226 Ill.2d 485, 504 (2007) An administrative agency’s decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill.2d 76, 88 (1992). While an administrative agency’s findings of fact are considered *prima facie* correct, they must still be based on the evidence, and the agency as fact finder cannot simply disregard the testimony of an unimpeached witness where the testimony is uncontradicted and is not inherently improbable. *Thigpen v. Retirement Board of Firemen’s Annuity & Benefit Fund of Chicago*, 317 Ill.App.3d 1010, 1021 (1st Dist. 2000).

The Illinois Supreme Court, in *Wade v. City of North Chicago Police Pension Board*, cautioned:

“We feel compelled at this juncture to remind Board members that, under the Pension Code, a pension board owes a fiduciary duty toward its participants and beneficiaries. See *Board of Trustees of the Barrington Police Pension Fund v. Village of Barrington Ethics Board*, 287 Ill. App. 3d 614, 616, 678 N.E.2d 671, 222 Ill. Dec. 799 (1997). Even under the manifest weight standard applicable in this instance, the deference we afford the administrative agency's decision is not boundless.” *Wade* at 507.

It is well established that the provisions governing police and firemen's pensions must be liberally construed in favor of the applicant. *Sullivan v. Retirement Board of Firemen's Annuity & Benefit Fund*, 267 Ill.App3d 965 (1st Dist. 1994); *Hahn v. Police Pension Fund of City of Woodstock*, 138 Ill.App.3d 206 (2nd Dist. 1985). A finding on a question of law by an administrative agency is not binding on a reviewing court. *MacDonald v. Board of Trustees of the Park Ridge Police Pension Fund*, 294 Ill.App.3d 379 (1st Dist. 1998) Although factual findings by an administrative agency are held to be *prima facie* true, a reviewing court may evaluate documentary evidence *de novo*. *Wilfert v. Retirement Board of Firemen's Annuity & Benefit Fund of Chicago*, 318 Ill.App.3d 507 (1st Dist. 2000). Reviewing courts may not rubber-stamp administrative decisions that are inconsistent with statutory mandates or that frustrate statutory policy. *MacDonald* at 382.

Here, the issue to be decided is whether Mendoza was performing an “act of duty” as defined by the Pension Code. A mixed question of law and fact occurs when a reviewing court is asked if facts satisfy statutory standard or if the rule of law as applied to the established facts is violated. *Sarkis v. City of Des Plaines*, 378 Ill. App. 3d 833, 836 (1st Dist. 2008) However, “In cases involving whether an officer's disability arose from an ‘act of duty,’ this court has held that, when the facts are undisputed, the interpretation of the term ‘act of duty’ in the Pension Code is an issue of statutory construction to be reviewed *de novo*.” *Id.*

III. ARGUMENT

The Pension Board concluded Mendoza failed to establish he was entitled to a line-of-duty pension under 40 ILCS 5/5-154. (AR 297) Although the Pension Board found Mendoza was disabled due to physical incapacity, the Pension Board concluded Mendoza was not performing an “act of duty.” Whether an officer was performing an “act of duty” at the time of his/her injury has been extensively litigated throughout the years. The leading Illinois Supreme Court case interpreting Section 5-113 is *Johnson v. Retirement Board of Policemen's Annuity & Benefit Fund*, 114 Ill. 2d 518, 521 (1986). In *Johnson*, a citizen called for assistance for a traffic accident. Officer Johnson, while crossing the intersection to respond, slipped and fell on wet pavement. As a result of the fall, Officer Johnson suffered permanent injuries. *Id.* at 520. After a hearing, the pension board concluded that Officer Johnson was not entitled to duty-disability benefits because the injury sustained was not the result of a special risk. Rather, the pension board concluded that the injury resulted from an act assumed by any citizen, “i.e. traversing a street”; therefore Officer Johnson was not injured in an act of duty as defined in the Illinois Pension Code. *Id.*

The Illinois Supreme Court, in affirming the appellate court's decision to reverse the pension board, recognized that “where construction of pension statutes is necessary, the rule is that pension acts must be liberally construed in favor of rights of the pensioner. . . . It must be noted that the pension fund in question was ‘created and maintained for the benefit of its policemen, their widows and children.’” *Johnson* at 521.

The supreme court recognized that police officers discharge their duties “by performing acts which are similar to

those involved in many civilian occupations. Driving an automobile, entering a building, walking up stairs, and even crossing the street are activities common to many occupations, be it policeman or plumber.” *Id.* at 522. However, the supreme court made clear that in analyzing whether the performance of an act is in the line of duty the “...the crux is the capacity in which the police officer is acting.” The supreme court concluded that Officer Johnson’s act of walking across the street to respond to the motorist was an “act of duty”.

A. Mendoza Was Performing An “Act of Duty”

In concluding that Mendoza failed to establish he was performing an “act of duty”, the Pension Board misapplies the law. The *Johnson* case has been cited numerous times in analyzing whether an officer was performing an “act of duty”. In *Sarkis v. City of Des Plaines*, a patrol officer was dispatched to a railroad crossing at which the gates were malfunctioning. As the officer lifted the gate, his foot slipped and the gate dropped onto his shoulder. The board concluded the officer’s injury did not occur in the performance of an “act of duty” since ordinary citizens frequently hold up railroad gates. *Id.* at 835. In affirming the trial court’s reversal of the board’s decision, the court recognized “the key consideration is the risks that are faced by an officer who is engaged in the duties of his job.” *Id.* at 840.

The *Sarkis* court relied, in part, upon *Alm v. Lincolnshire Police Pension Board*, 352 Ill. App. 3d 595. *Alm* involved a police officer who, while pedaling his bicycle, experienced significant pain and swelling in his right knee. The officer had not fallen or suffered any other sort of accident. Officer Alm was ultimately diagnosed with a tear in the medial meniscus of his right knee. The pension board concluded that the manner in which plaintiff was pedaling his bicycle when his knee began to hurt did not involve any special risk not shared by civilians.

The appellate court rejected the characterization of Officer Alm’s act as merely riding a bicycle. The *Alm* court noted that “the proper focus is on the capacity in which the officer is acting, not the precise act leading to injury.” *Alm*, 352 Ill. App. 3d at 602. Officer Alm established that he incurred a disabling injury in the course of pedaling his bicycle. The court, in holding that pedaling the bike was an act of duty, reasoned that while on patrol, the officer faced risks not ordinarily encountered by civilians. This particular duty has no clear counterpart in civilian life.

In *Merlo v. Orland Hills Police Pension Board*, 383 Ill.App.3d 97 (1st Dist. 2008), a patrol officer injured his back when attempting to remove parking blocks after responding to a call of juveniles stacking the blocks in a parking lot. The appellate court rejected the pension board’s contention that the officer’s act did not involve any special risks because the village public works department, a civilian office, had a duty to remove the parking blocks. *Id.* at 102–03. The court noted that the employees of the public works department, unlike the officer, “are not required to respond to a citizen’s call to confront mischievous juveniles or immediately eliminate the resulting safety hazards to the general public.” *Id.* at 103.

In *Mingus v. Board of Trustees of the Police Pension Fund*, 2011 IL App (3d) 110098, an officer was on patrol in his squad car when he encountered a vehicle that had gone off the road. The officer was injured while pushing the vehicle out of a snowbank by hand and back onto the roadway with the assistance of two civilians. *Id.* ¶ 6. The pension board awarded a nonduty disability pension, finding that the officer’s testimony was not credible regarding the safety hazard posed by the vehicle and the need for immediate action as opposed to, for example, calling a tow truck. *Id.* ¶ 7. The appellate court reversed the board’s ruling, concluding that, as opposed to an ordinary citizen, the police officer was “required to stop and

attend to the situation.” *Id.* ¶ 14.

Similarly, in *Ashmore v. Bd. Of Trs. Of the Bloomington Police Pension Fund*, 2018 Ill.App.4th 180196, a police officer responded to a call of an abandoned vehicle that was stuck in the snow and partially obstructing traffic. When the driver returned, the officer and another officer pushed the vehicle out of the snow. While doing so, the officer slipped on the ice and suffered injuries. In reversing the pension board, the appellate court addressed the “act of duty” issue. Citing *Mingus*, the court applied a *de novo* review in determining whether the officer was engaged in an “act of duty.” *Id.* at ¶59.

The following facts are not in dispute. Mendoza worked 17 days straight before being tested positive for COVID-19. The Pension Board agrees that the “medical experts” concluded it was likely Mendoza contracted COVID at work. (AR 299) The Pension Board recognized that during Mendoza’s 17-day duty assignment “...the City, the State, and the Country was ravaged by a global COVID-19 pandemic. As a result City, State, and County officials implemented procedures to mitigate all citizens exposure to COVID, including but not limited to the closing of all non-essential businesses, school mask mandates, gubernatorial disaster declarations, social distancing, and eventually a push for vaccinations.” (AR 298) The Pension Board further concluded “Claimant, as did all employees that were not allowed to work at home, faced all of the potential risks for exposure to COVID.” (AR 298)

The key finding here is that the Pension Board recognized the “closing of all non-essential businesses.” This finding concedes Mendoza worked an “essential” job which could not close like most businesses. Unlike the “non-essential” businesses, Mendoza did not have the option of working remotely. He was mandated to appear in a public building to perform his public safety duties. Moreover, Mendoza did not have the luxury of isolating himself at work or choosing who he would interact with. In fact, due to the timing of the presidential election, Mendoza was forced to work in an environment which was overcrowded and COVID infections were rampant. Mendoza was mandated to run a shift requiring him to interact with other detectives, police officers, witnesses, crime victims and members of the general public. There is no rational basis to conclude Mendoza was not working in an environment which involved “special risk not assumed by ordinary citizens.”

The Pension Board’s legal conclusion “That a police officer must identify one specific ‘act of duty’ to prove a line-of-duty disability is supported by the language of §5/1-113 of the Code” (AR 299) is patently wrong. In *Alm v. Lincolnshire Police Pension Board*, the court specifically concluded “The injury in the case before us is unlike those in the *Johnson, Morgan, Wagner, and White*, in that it was not the result of any specific, identifiable, physical trauma. Rather, the injury may have developed over the course of time.” *Alm* at 601. The court held that pedaling a bicycle (an act performed every day by ordinary citizens) was an “act of duty” because the “risks include falls and collisions as well as dangerous encounters with unsavory elements of society. This particular duty has no clear counterpart in civilian life.” *Id.* The court held that Officer Alm was “acting in a capacity that involved special risks.” *Id.* at 602.

Here, the proper legal focus should be on the capacity that Mendoza was working when he contracted COVID-19. As the Pension Board recognizes, Mendoza had no choice but to work in an environment which was “ravaged by a global COVID-19 pandemic.” As previously discussed, normal protective measures were not always possible, nor did Mendoza have any control over the witnesses, victims, detainees and arrestees who were brought into the police station and placed

in interview rooms. Mendoza had no idea whether these persons were infected with COVID since there was no testing or contact tracing at the time. Given the public nature of Mendoza's job, he did not have the luxury of avoiding those who may have been infected with COVID-19.

The Pension Board further concluded Mendoza was not engaged in an act involving a "special risk." (AR 300) Again, there is no legal support for the Pension Board's conclusion. Common sense would dictate that working in an environment "ravaged by a global COVID-19 pandemic" certainly carries more risk than riding a bicycle (*Alm*), walking across the street (*Johnson*), raising a railroad gate (*Sarkis*), pushing a car out of a snow bank (*Mingus, Ashmore*), moving cement blocks (*Merlo*) or driving a car (*Rose*). Again, case law is crystal clear that it is not the specific act the officer was performing, it is the capacity in which the officer was working.

It is perplexing, given the undisputed fact that Mendoza was mandated to work 17 days straight, that the Pension Board could conclude "Claimant also fails to establish the 'mandatory' nature of the act he alleges led to disability." (AR 300) Given the extreme risk of serious illness due to COVID-19, what rational human being would appear, day after day, in a confined area where known COVID-19 contamination exists. Just like numerous other officers who had to forfeit their days off, Mendoza had no choice but to appear at work and do his job.

The Pension Board cites several cases in its Decision which it claims involve "similar activities". (AR 300) The cases cited by the Pension Board are not remotely similar to this case. The *Morgan* case involved an officer who fell out of his chair while writing a police report. *Fedorski* involved an officer who was injured in a car accident while sitting in the back seat of an unmarked squad car. The officer in *Filskov* was injured when another officer ran over his foot while they were in the police parking lot. The officer in *Summers* was injured while in the process of delivering a box of supplies. The Pension Board quotes from *Swoboda v. Bd. Of Trustees of Vill. Of Sugar Grove Police Pension Fund* in recognizing "Thus, in prior cases where line-of-duty disability pensions have been awarded, the officers were injured while engaged in activities involving the protection of public safety." (AR 302) This is exactly what Mendoza was doing when he showed up every day as an "essential" worker in a location where the risk of contacting COVID-19 was extremely high.

The Pension Board also contradicts itself when it concludes: "However, as unpleasant and unfortunate as those risks were, those risks were not unique to police officers, those risks were present and faced by everyone, regardless of occupation or geographic location." (AR 303) Earlier in its Decision, the Pension Board recognized the reality of the "closing of all non-essential businesses." Therefore, the risks faced by Mendoza, an essential worker working in a high-risk location, were much higher than a citizen working a "non-essential" occupation in a non-high-risk location. This specific finding by the Pension Board is clearly against the manifest weight of the evidence because it has no basis in fact.

WHEREFORE, Mendoza requests this Honorable Court to reverse the decision of the Pension Board and enter an Order compelling the Pension Board to award Mendoza line-of-duty disability pension benefits effective to the date it originally awarded the ordinary disability.

Joaquin E. Mendoza, Plaintiff

By: s/ Jerome F. Marconi

One of his attorneys

Law Offices of Jerome F. Marconi
288 Shenstone Road
Riverside, Illinois 60546
(312) 930-5645
Atty. No. 34048
jerry@marconilawoffice.com