



on February 13, 2015. Compl. ¶ 4. Ms. Wallace submitted medical reports with her application to support her position that she was totally disabled as a result of an accident sustained in performance of her job. *Id.* ¶ 6. On May 25, 2018, ERSRI issued a decision denying Ms. Wallace's accidental disability retirement benefits. *Id.* ¶ 7. On June 21, 2018, Ms. Wallace filed this action appealing ERSRI's decision of May 25, 2018.

## **B**

### **Incident and Application for Accidental Disability Retirement**

On February 13, 2015, Ms. Wallace filed an injury report form to report an injury that occurred while she was working at the hospital. ERSRI 0022. Ms. Wallace indicated that she was picking up paper from the floor and banged her head on a fire extinguisher when she stood up. *Id.* She indicated that she was suffering from a bad headache and dizziness. *Id.*

On January 11, 2017, Ms. Wallace applied for an accidental disability retirement. *Id.* at 0018. Ms. Wallace's application was based on: "loss of memory, depression, anxiety, unable to be around large crowds or loud noises. Forgetfulness." *Id.* Ms. Wallace described the accident and stated she was "picking up paper on floor stood up banged head on fire ext." *Id.* Ms. Wallace claimed she was permanently disabled because of her forgetfulness, she is not able to handle many tasks at one time and has trouble with confusion and performance. *Id.*

## **C**

### **Applicant's Physician's Statement**

Ms. Wallace's physician, Dr. Albert J. Marano, MD, completed the Applicant's Physician's Statement for Accidental Disability and indicated that the disability is a result of the reported accident sustained in the performance of Ms. Wallace's job and not the result of age or length of service. He concluded Ms. Wallace is permanently and totally disabled from service in

her current employment and from any employment. *Id.* at 00156. Dr. Marano further indicated that based on his examination of the Ms. Wallace, she has reached maximum medical improvement (MMI). *Id.*

Dr. Marano referred Ms. Wallace for a neuropsychological evaluation that was completed on August 13, 2015 by Thomas Guilmette, Ph.D. *Id.* at 00189. Overall, the evaluation concluded, among other things, that Ms. Wallace's two more recent head injuries were on the mild end of the concussion spectrum although she is vulnerable to longer periods of recovery and greater deficits from injuries given her severe head trauma in the early 1990s. *Id.* at 00193. Finally, it was the impression of the clinical neuropsychologist that Ms. Wallace's cognitive symptoms would improve over time. *Id.*

Dr. Marano assessed Ms. Wallace again on January 16, 2017 and concluded that she had persistent post-concussion syndrome. Further he stated, "the pre-existent severe TBI is the predisposition that led to the poorer outcome in the setting of this less severe injury. Severe anxiety and depression are part of her current problems . . . she has not improved further and we are at almost two years and therefore one can suggest she has reached maximum medical improvement." *Id.* at 00159-00160.

## **D**

### **Medical Records in Support of Application**

Ms. Wallace submitted medical records from Landmark Medical Center, Joseph V. Centofanti, M.D., and WellOne Primary Medical and Dental Care with Clifford Gordon, Ed. D. in support of her application for Accidental Disability Retirement Benefits.

i. *Landmark Medical Center (2/13/2015)*

Ms. Wallace went to the Landmark Medical Center Emergency Department on February 13, 2015, the date of the accident. *Id.* at 0084. Her chief complaints were that she hit her head on a fire extinguisher at work, that she was dizzy, that she had a history of head injury, and that she was experiencing pain. *Id.* She was discharged to home with head injury precautions, post-concussive syndrome precautions, and a suggestion to follow up with neurology for further management and care. *Id.* at 0089. The head CT performed found “the posterior fossa structures are unremarkable. There is evidence of chronic encephalomalacia involving the left frontal lobe due to old trauma or ischemic event. Impression: chronic changes as described no acute intracranial process.” *Id.* at 0090.

ii. *Joseph V. Centofanti, M.D. (2/18/2015)*

Ms. Wallace was seen by Dr. Joseph V. Centofanti on February 18, 2015. *Id.* at 0066-0098. *Id.* at 0066. Dr. Centofanti assessed Ms. Wallace for a minor head injury she suffered while at work, changed her medications and ordered a neuropsychological assessment. Ms. Wallace’s long-term EEG was abnormal and Dr. Centofanti recommended off-work status until a follow up four weeks later. *Id.*

Ms. Wallace returned to Dr. Centofanti on March 19, 2015. *Id.* at 0097. Dr. Centofanti instructed Ms. Wallace to undergo a formal neuropsychological assessment. *Id.* Ms. Wallace’s long-term EEG was abnormal, and Dr. Centofanti recommended that she remain off work until further information becomes available and she should return for a follow-up after the neuropsych test is completed. *Id.* at 0097-0098.

iii. *WellOne Primary Medical and Dental Care Clifford Gordon, Ed.D.*

Ms. Wallace was treated by Dr. Clifford Gordon from WellOne since 2015 for therapy. *Id.* at 00338. Ms. Wallace reported that Dr. Gordon was her therapist, and he would provide support and would encourage Ms. Wallace to go places like the flea market. *Id.* at 00339. Her initial visit took place on February 9, 2015, when Ms. Wallace was examined for depression and anxiety in the context of her 19-year-old son receiving a diagnosis of psychotic depression. *Id.* at 00130, 00342. At this time, she was diagnosed with “major depressive disorder moderate without psychosis and anxiety.” *Id.* at 00342.

## **E**

### **Past Medical Records**

On September 16, 2014, Ms. Wallace visited University Foot & Ankle Center with a chief complaint of bilateral heel pain that had been ongoing for five months. *Id.* at 00198. Ms. Wallace was treated at Asthma & Allergy Associates of Rhode Island from March 19, 2014 to April 15, 2014. *Id.* at 00199-00207. She was also treated at OPTX for eye issues from October 28, 2014 to July 22, 2015. *Id.* at 00302-00307.

Ms. Wallace was treated at Comprehensive Community Action Program (CCAP) various times for various issues like depression; updates to her medications and preventative exams; flu-like symptoms, a cough and cold symptoms; allergies and asthma; and arm pain. *Id.* at 00209-00251. On June 17, 2014, she was treated at CCAP for headaches after she stood up and banged her head on the corner of the metal cabinet. *Id.* at 00236-00239. On February 19, 2015, Ms. Wallace was treated at CCAP for depression. *Id.* at 00246-00251.

## F

### Independent Medical Examiners (IMEs)

Ms. Wallace was examined by three independent medical examiners: (1) Thomas F. Morgan, M.D. on July 11, 2017; (2) Naureen Attiullah, M.D. on July 17, 2017; and (3) David DiSanto, M.D. on July 26, 2017.

*i. Thomas F. Morgan, M.D.*

Dr. Thomas Morgan examined Ms. Wallace on July 11, 2017 and concluded that her disability is not a result of the reported accident sustained in the performance of her job and that she is not permanently and totally disabled from current and any employment. *Id.* at 00460. Dr. Morgan also opined that Ms. Wallace had reached MMI. *Id.* at 00461. Dr. Morgan referenced Ms. Wallace's work injury of February 13, 2015 as "minor and unassociated with brain concussion or post-concussion syndrome." *Id.* at 00467. It was Dr. Morgan's opinion that Ms. Wallace has "well established preexistent traumatic brain injury with findings of frontal lobe and temporal lobe damage that explains her chronic neurological behavioral state." *Id.* at 00468. Additionally, "she has well established psychiatric disease including major depressive disorder and anxiety that explains her current condition." *Id.* "These preexistent conditions were being actively treated and did not interfere with her ability to work or contribute to work disability." *Id.* Ultimately, it was Dr. Morgan's opinion that Ms. Wallace's "preexistent condition of post traumatic brain injury from the 1990's and her depression, anxiety are the major contributing cause to her current psychological complaints" and "[t]hese psychiatric conditions were not caused or aggravated by her work injury incident" because "[t]hese psychiatric conditions were preexistent and ongoing." *Id.* Finally, Dr. Morgan concluded that "these current psychological complaints would not be

caused by her minor work injury incident . . . and would not limit her ability to return to work.”  
*Id.*

On July 24, 2017, Dr. Morgan confirmed his previous determination and opinion that Ms. Wallace’s chronic preexistent anxiety was not work related and did not qualify for accidental disability. *Id.* at 00459.

On August 22, 2017, Dr. Morgan sent a correspondence indicating that he reviewed records from Comprehensive Community Action Program from Cranston Family Health Services, including mental and behavioral evaluations from January 2016 through August 2017. *Id.* at 00457. According to Dr. Morgan, the review of these records reveals a longstanding mood disorder related to Ms. Wallace’s prior traumatic brain injuries and social anxiety disorder. *Id.* These conditions were preexistent to her injury of February 13, 2015. *Id.* These medical records did not change Dr. Morgan’s opinion expressed in his original evaluation that her work injury incident did not cause or worsen her preexistent traumatic brain injury or post traumatic seizure disorder. *Id.*

*ii. Naureen Attiullah, M.D.*

Dr. Naureen Attiullah examined Ms. Wallace on July 17, 2017 and concluded that the disability was not a result of the reported accident sustained in the performance of her job and that she was not permanently and totally disabled from current and any employment. *Id.* at 00333. Dr. Attiullah also opined that Ms. Wallace had not reached MMI. *Id.* at 00334. Dr. Attiullah summarized that “there is ample evidence that [her anxiety and depression] existed prior to the accident.” *Id.* at 00344. Dr. Attiullah did not find Ms. Wallace disabled from her psychiatric condition and did not find that the anxiety and depression were caused by the accident. *Id.* Dr. Attiullah did not believe Ms. Wallace was disabled from her psychiatric issues and her cognition

was found to be mostly normal upon objective neuropsychological exam on July 28, 2015. *Id.* at 00345. Dr. Attiullah concluded that Ms. Wallace had not reached MMI because she had not engaged in systematic desensitization nor had she exhausted medication trials. *Id.* Ultimately, Dr. Attiullah stated that “[i]t is much more likely that Ms. Wallace’s anxiety and depression stem from the past. In either case I do not feel that she is disabled from doing her job.” *Id.* at 00346.

*iii. David DiSanto, M.D.*

Dr. David DiSanto examined Ms. Wallace on July 26, 2017 and concluded that the disability was a result of the reported accident sustained in the performance of her job and that she was permanently and totally disabled from current and any employment. *Id.* at 00324. Dr. DiSanto also opined that based on his examination of Ms. Wallace, it was his opinion that she had reached MMI. *Id.* at 00325. Dr. DiSanto indicated that the diagnosis of Ms. Wallace would be “bitemporal seizure disorder associated with traumatic brain injury and postconcussion syndrome.” *Id.* at 00327. He further explained that the serious accident that happened thirty years ago contributed to her disability and the CAT scan findings revealed extensive brain injury. *Id.* He indicated that “falling backwards and causing traumatic frontal brain injury would be the precipitating factor and the secondary factor would be the injury sustained after hitting her head against the fire extinguisher, causing bilateral occipital neuralgias.” *Id.* at 00327-00328. Dr. DiSanto reviewed additional information in September of 2017, and his opinion remained the same. *Id.* at 00326.

## G

### **Decision on Ms. Wallace’s Application**

On October 6, 2017, ERSRI’s Disability Subcommittee (Subcommittee) considered Ms. Wallace’s application and recommended the denial of her application. *Id.* at 00474. The

Subcommittee concluded that Ms. Wallace is not physically or mentally incapacitated from the performance of service as a natural and proximate result of an accident occurring while in the performance of duty. *Id.* at 00476. The Subcommittee was unable to conclude that Ms. Wallace's current condition is a proximate result of the cited accident. *Id.* The Subcommittee was persuaded by the thorough and comprehensive opinions of Drs. Morgan and Attiullah, neither of whom could conclude that Ms. Wallace's current condition was a proximate result of the February 2015 incident. *Id.* at 00477. The Subcommittee also concluded that Dr. DiSanto did not address Ms. Wallace's pre-existing therapy and treatment or the June 2014 incident where she also hit her head. *Id.* Therefore, the Subcommittee did not find a causal relationship between Ms. Wallace's present condition and the February 2015 incident. *Id.*

On November 8, 2017, the Subcommittee's recommendation to deny Ms. Wallace's application was affirmed by the full Retirement Board. *Id.* at 00472. On December 5, 2017, Ms. Wallace sent a request to appeal the denial to the Retirement Board. *Id.* at 00486.

On December 11, 2017, Ms. Wallace's reconsideration hearing was scheduled for March 9, 2018 before the Subcommittee. *Id.* at 00488. At the March 9, 2018 meeting, Ms. Wallace's counsel contended the prior denial was based on the conclusion that although Ms. Wallace suffered an injury 30 years ago, Ms. Wallace had made a complete recovery from that incident. *Id.* at 00517. Ms. Wallace testified about the conditions she was experiencing that were the basis of the disability claim, including forgetfulness, nervousness around groups, tiredness, and severe headaches. *Id.* Ms. Wallace's counsel then stated that the disability was caused by the February 13, 2015 incident and she had made a full recovery from the incident that occurred 30 years ago. *Id.* at 00519.

On March 9, 2018, after reviewing the evidence, including the additional materials presented prior to Ms. Wallace’s reconsideration hearing, and giving due consideration to Ms. Wallace’s testimony and arguments presented, the Subcommittee continued to conclude that Ms. Wallace is not physically or mentally incapacitated from the performance of service as a natural and proximate result of an accident while in the performance of duty. *Id.* at 00530. The Subcommittee remained unable to conclude that Ms. Wallace’s current condition is the proximate result of the cited accident, in light of her history of a severe traumatic brain injury 30 years ago, and her treatment for psychiatric issues pre-dating the February 2015 incident. *Id.*

On May 11, 2018, the full Retirement Board affirmed and adopted the findings of fact and recommendation of the Disability Subcommittee to deny Ms. Wallace’s application for an accidental disability pension. *Id.* at 00525. By certified letter dated May 25, 2018, Ms. Wallace was notified of the Retirement Board’s final decision and her right to seek judicial review. ERSRI 00525. Ms. Wallace commenced this action on June 21, 2018. *See Compl.*

## II

### Standard of Review

Pursuant to § 42-35-15 of the Rhode Island Administrative Procedures Act (APA), “[a]ny person, . . . who has exhausted all administrative remedies available to him or her within [an] agency, and who is aggrieved by a final order in a contested case is entitled to judicial review” by this Court. Section 42-35-15. This Court “may affirm the decision of the agency or remand the case for further proceedings,” and may reverse or modify an agency’s decision if:

“[S]ubstantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

“(1) In violation of constitutional or statutory provisions;

“(2) In excess of the statutory authority of the agency;

“(3) Made upon unlawful procedure;

“(4) Affected by other error or law;  
“(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or  
“(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Section 42-35-15(g).

This Court must not “substitute its judgment for that of the agency as to the weight of the evidence on questions of fact,” and will defer to an agency’s factual determinations as long as they are supported by legally competent evidence on the record. Section 42-35-15(g); *Town of Burrillville v. Rhode Island State Labor Relations Board*, 921 A.2d 113, 118 (R.I. 2007). Legally competent evidence is defined as “such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance.” *Rhode Island Temps, Inc. v. Department of Labor and Training, Board of Review*, 749 A.2d 1121, 1125 (R.I. 2000) (quoting *Center for Behavioral Health, Rhode Island, Inc. v. Barros*, 710 A.2d 680, 684 (R.I. 1998)). “[I]f ‘competent evidence exists in the record, the Superior Court is required to uphold the agency’s conclusions.” *Auto Body Association of Rhode Island v. State Department of Business Regulation*, 996 A.2d 91, 95 (R.I. 2010) (quoting *Rhode Island Public Telecommunications Authority v. Rhode Island State Labor Relations Board*, 650 A.2d 479, 485 (R.I. 1994)).

In contrast to an agency’s findings of fact, an agency’s determinations of law, including issues of statutory interpretation, “are not binding on the reviewing court.” *Pawtucket Transfer Operations, LLC v. City of Pawtucket*, 944 A.2d 855, 859 (R.I. 2008). Instead, this Court reviews the record *de novo* in order “to determine what the law is and its applicability to the facts.” *Id.*

### III

#### Analysis

On appeal, Ms. Wallace requests that this Court reverse the decision of the ERSRI and grant her disability pension pursuant to G.L. 1956 § 36-10-14 on the basis that the Retirement Board ignored Ms. Wallace's physician's statement, and his opinion should be given greater weight and consideration than the Retirement Board's physician. Pl.'s Mem. at 3. Furthermore, Ms. Wallace asserts that the Retirement Board based its decision on her accident that occurred thirty years ago. *Id.* The ERSRI asserts that Ms. Wallace failed to meet the standard set forth in § 36-10-14, and the Retirement Board expressly found that Ms. Wallace was not physically or mentally incapacitated from the performance of service as a natural and proximate result of an accident while in the performance of duty, which was supported by competent evidence in the record. Def.'s Mem. at 7. Therefore, for these reasons, the ERSRI requests this Court deny and dismiss Ms. Wallace's complaint and affirm the decision of the ERSRI. *Id.* at 14.

An employee of the State of Rhode Island who has yet to attain the age of sixty-five may apply for and receive an accidental disability pension pursuant to § 36-10-14. The criteria that an applicant must meet to qualify for an Accidental Disability Pension is set forth in § 36-10-14. Pursuant to § 36-10-14:

“(a) Medical examination of an active member for accidental disability and investigation of all statements and certificates by him or her or in his or her behalf in connection therewith shall be made upon the application of the head of the department in which the member is employed or upon application of the member, or of a person acting in his or her behalf, stating that the member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident while in the performance of duty, and certify the definite time, place, and conditions of the duty performed by the member resulting in the alleged disability, and that the alleged disability is not the result of willful negligence or misconduct on the part of the member, and is

not the result of age or length of service, and that the member should, therefore, be retired.

“(b) The application shall be made within five (5) years of the alleged accident from which the injury has resulted in the members present disability and shall be accompanied by an accident report and a physicians report certifying to the disability; provided that if the member was able to return to his or her employment and subsequently reinjures or aggravates the same injury, the application shall be made within the later of five (5) years of the alleged accident or three (3) years of the reinjury or aggravation. The application may also state the member is permanently and totally disabled from any employment.

“(c) If a medical examination conducted by three (3) physicians engaged by the retirement board and such investigation as the retirement board may desire to make shall show that the member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident, while in the performance of duty, and that the disability is not the result of willful negligence or misconduct on the part of the member, and is not the result of age or length of service, and that the member has not attained the age of sixty-five (65), and that the member should be retired, the physicians who conducted the examination shall so certify to the retirement board stating the time, place, and conditions of service performed by the member resulting in the disability and the retirement board may grant the member an accidental disability benefit.

“(d) The retirement board shall establish uniform eligibility requirements, standards, and criteria for accidental disability which shall apply to all members who make application for accidental disability benefits.” Section 36-10-14.

Section 36-10-14(a) requires the employee to state that he or she is “physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident while in the performance of duty, and certify the definite time, place, and conditions of the duty performed by the [employee] resulting in the alleged disability. Section 36-10-14(a). Additionally, § 36-10-14(b) requires that the application for accidental disability benefits “be accompanied by an accident report and a physicians report certifying to the disability.” Section 36-10-14(b). Finally, § 36-10-14(c) requires ERSRI to engage three independent physicians to determine whether the employee is “physically or mentally incapacitated for the performance of

service as a natural and proximate result of an accident, while in the performance of duty.” Section 36-10-14(c).

The Rhode Island Supreme Court has interpreted the meaning of a phrase similar to § 36-10-14 regarding the natural and proximate result of an accident. The Supreme Court has determined that proximate cause “requires a factual finding that the ‘harm would not have occurred but for the [accident] and that the harm [was a] natural and probable consequence of the [accident].”” *Pierce v. Providence Retirement Board*, 15 A.3d 957, 964 (R.I. 2011) (quoting *DiPetrillo v. Dow Chemical Co.*, 729 A.2d 677, 692 (R.I. 1999)).

The accidental disability statute makes clear that an applicant must include in their application for accidental disability their own statement regarding their disability as well as a statement by their physician, and the applicant must be evaluated by three independent physicians. Section 36-10-14. The language of the statute does not preclude the Retirement Board from placing greater weight on the IME reports, but the Board must consider all of the evidence before it on the record in making its determination of eligibility. *Borrelli v. Retirement Board of Employees’ Retirement System of Rhode Island (ERSRI)*, No. PC-2016-2817, 2018 WL 3933931, at \*12 (R.I. Super. Aug. 09, 2018) (citing *Sanderson v. Continental Casualty Corp.*, 279 F. Supp. 2d 466, 480 (D. Del. 2003) (holding that the issue on appeal was not whether the ERISA plan “should have given the treating physician’s opinions ‘substantial weight,’ but instead, why Continental decided to give multiple other forms of evidence no consideration at all, or conflicting consideration.”)). Furthermore, there is no requirement referenced in either the statutory framework or the regulations promulgated by ERSRI that requires the Court to give controlling weight to the applicant’s treating physician opinion over a consulting physician’s opinion, unlike applications for federal Social Security Disability Income where deference is given to the treating

physician's opinion. *Acciardo v. Employees' Retirement System of Rhode Island (ERSRI)*, No. PC-10-2822, 2012 WL 3757796 (R.I. Super. Aug. 24, 2012) (Trial Order).

Here, the Retirement Board found that Ms. Wallace is not physically or mentally incapacitated from the performance of service as a natural and proximate result of an accident while in the performance of duty as required by § 36-10-14. ERSRI 00530. In other words, the Subcommittee and full Retirement Board found that Ms. Wallace's current condition is not the proximate result of the cited accident, in light of her history of suffering from a severe traumatic brain injury thirty years ago and her treatment for psychiatric issues pre-dating the February 2015 incident. *Id.* at 00530.

The Retirement Board and Disability Subcommittee's denial of benefits was based on Ms. Wallace's evaluation by Dr. David DiSanto, Dr. Thomas Morgan, and Dr. Naureen Attiullah, as well as the statement by Ms. Wallace's physician, Dr. Albert Marano; the Board did consider all of the evidence before them. *Id.* at 00527-00528. The Subcommittee and the Retirement Board were persuaded by Dr. Morgan and Dr. Attiullah's opinions that Ms. Wallace is not permanently and totally disabled from current and any employment. *Id.* at 00530. These opinions were based on Ms. Wallace's normal neurological exam of February 13, 2015 and Ms. Wallace's mood and social anxiety disorder, which predated the incident that is the basis for Ms. Wallace's application. *Id.* Ms. Wallace was also treated by Dr. Clifford Gordon on February 9, 2015 to address stress and depression, which was prior to the cited accident. *Id.*

The Board also specifically noted that it placed less weight on the examination and report by Dr. David DiSanto because the Subcommittee determined that Dr. DiSanto's finding that Ms. Wallace's current condition is causally related to the February 2015 incident was not justified, in light of his acknowledgement that her serious head trauma 30 years earlier also contributed to her

condition. *Id.* The Subcommittee also took issue with the fact that Dr. DiSanto did not address Ms. Wallace's pre-existing therapy and treatment. *Id.*

Contrary to Ms. Wallace's assertion that the Retirement Board's decision is contrary to the law and facts because the Board based its decision on the accident that occurred 30 years ago rather than the most current accident, the Board and the doctors did take all of Ms. Wallace's medical history into account to come to their decision. Importantly, the Board's decision was based on the determination that Ms. Wallace's condition, which is the basis of her application for retirement benefits, pre-existed the 2015 accident.

Ms. Wallace also asserts that the Board ignored Dr. Marano's statement that Ms. Wallace was permanently and totally disabled as a result of the 2015 accident and further asserts that Dr. Marano's opinion should be given greater weight than independent medical examiners because of his status as Ms. Wallace's treating physician. However, § 36-10-14(c) states that the retirement board may grant accidental disability benefits if a medical examination conducted by three physicians engaged by the retirement board determine that the member is physically or mentally incapacitated for the performance of service as a natural and proximate result of an accident. Section 36-10-14(c). In other words, the statute requires the Retirement Board to consider these three medical examinations and does not require the board to consider the opinion of the applicant's physician. As the ERSRI points out, the policy for having independent medical examinations is that these examinations have greater impartiality and fairness compared to an applicant's physician. Therefore, the Retirement Board properly considered the independent medical examinations, placing less reliance upon the opinion of Ms. Wallace's physician regarding her disability status.

For these reasons, the Court is satisfied that the Retirement Board's factual determinations are supported by legally competent evidence on the record and the Court will defer to the Board's factual determinations. Because the Court should not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact and because this Court finds that the Retirement Board's decision was not clearly erroneous in view of the evidence on the whole record, the Retirement Board's decision is affirmed.

#### **IV**

#### **Conclusion**

This Court holds that the Retirement Board's decision is supported by legally competent evidence on the record and, therefore, the Retirement Board's decision is affirmed, and Ms. Wallace's application is denied.



**RHODE ISLAND SUPERIOR COURT**

*Decision Addendum Sheet*

**TITLE OF CASE:** Kellie Wallace v. Employees' Retirement System of Rhode Island

**CASE NO:** C.A. No. KC-2018-0677

**COURT:** Kent County Superior Court

**DATE DECISION FILED:** April 8, 2021

**JUSTICE/MAGISTRATE:** Lanphear, J.

**ATTORNEYS:**

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For Defendant: Michael P. Robinson, Esq.