

**STATE PERSONNEL BOARD, STATE OF COLORADO**  
Case No. 2017B053

**ORDER OF THE STATE PERSONNEL BOARD**

**RICHARD DALE HELMICK**  
Complainant,

vs.

**DEPARTMENT OF TRANSPORTATION**  
Respondent.

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This matter is before the Colorado State Personnel Board ("Board") at its regularly scheduled meeting held on July 17, 2018. During this public session, the Board considered the record on appeal, including but not limited to:

1. Initial Decision of the Administrative Law Judge;
2. Complainant's Opening Brief;
3. Respondent's Answer Brief;
4. Complainant's Reply Brief.

Based upon the Board's review and consideration,

IT IS HEREBY ORDERED that the findings of fact and conclusions of law in the Initial Decision of the Administrative Law Judge are **ADOPTED** and made an Order of the Board, with the exception of the following modification to the Administrative Law Judge's Order:

The Board **MODIFIES** the order of the Administrative Law Judge regarding attorney fees:

1. The Board adopts the Administrative Law Judge's conclusion that Complainant has established grounds for an award of his reasonable attorney fees and costs as to the claims for wrongful termination and violation of Board Rule 6-10.
2. The Board rejects the Administrative Law Judge's conclusion that Complainant is not entitled to his reasonable attorney fees related to his claims of failure to accommodate and harassment, on which Complainant did not prevail. The Board finds that all of the claims involve a common core of facts and related legal theories; thus a reduction in the attorney fee award for attorney fees for unsuccessful claims is inappropriate. The attorney fee award is **MODIFIED** to award reasonable attorney fees for all claims

The Board **FURTHER ORDERS** that the matter be remanded to the Administrative Law Judge for the purpose of determining the amount of back pay and reasonable attorney fees to be awarded.

Dated this 18<sup>th</sup> day  
Of July, 2018.



Michelle Palmquist, Vice Chair  
State Personnel Board  
1525 Sherman Street, 4<sup>th</sup> Floor  
Denver, CO 80203

### NOTICE OF APPEAL

1. To abide by the decision of the State Personnel Board; or
2. To appeal this decision to the Colorado Court of Appeals within 49 days pursuant to Section 24-50-125.4(3), C.R.S., in the method described at Section 24-4-106(11), C.R.S., and in accordance with applicable Colorado Appellate Rules.

In the event this decision is appealed, the party filing the appeal with the Court of Appeals must name in the appeal and serve such appeal upon the State Personnel Board and all other parties who have appeared as parties to this action. See Section 24-4-106(11)(d), C.R.S. The State Personnel Board can be served at: 1525 Sherman Street, 4<sup>th</sup> Floor, Denver, Colorado 80203.

### CERTIFICATE OF MAILING

This is to certify that on the 18<sup>th</sup> day of July, 2018, I electronically served a true copy of the foregoing **ORDER OF THE STATE PERSONNEL BOARD** as follows:

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