

1 IN THE SUPREME COURT OF THE STATE OF OREGON

2 DANIEL EVANS, WAYNE DYKES,
3 CHARLES FRENCH, JIM BOTWINIS,
4 GARY HARKINS, and JAMES
5 MICHAUD,

6 Plaintiffs,

7 and

8 CITY OF GRANTS PASS, JOSEPHINE
9 COUNTY, MULTNOMAH COUNTY,
10 CITY OF EUGENE, and THE STATE OF
11 OREGON,

12 Defendants.

Supreme Court No. S50656

**NON-STATE DEFENDANTS' FIRST
REQUEST FOR PRODUCTION OF
DOCUMENTS TO PLAINTIFFS**

13 To: John E. Hoag
14 The Law Offices of John Hoag, P.C.
15 PO Box 42021
16 Eugene, OR 97404

17 Pursuant to the provisions of Rules 36 and 43 of the Oregon Rules
18 of Civil Procedure, Defendants City of Grants Pass, Josephine County, Multnomah County,
19 and City of Eugene (collectively "Non-State Defendants") request that each plaintiff produce
20 for Non-State Defendants' inspection and copying at the law offices of HARRANG LONG
21 GARY RUDNICK P.C., 360 East 10th Avenue, Suite 300, Eugene, Oregon 97401, on or
22 before 21 days from the date of service of this request, the following described documents
23 and records:

NOTICE:

24 This request for production of documents is a continuing request through the time of
25 trial, and plaintiffs are requested to update their responses to this request for production as
26 additional documents become available.

In the event these requests and continuing requests for documents are not complied
with, Non-State Defendants reserve the right to exclude testimony germane to or based upon
information otherwise contained in or relevant to such documents at the time of the

HARRANG
LONG GARY
RUDNICK PC
360 E 10TH AVE
SUITE 300
EUGENE, OR 97401
Phone (541) 485-0220
Fax (541) 686-6564

1 evidentiary hearing, and to request postponement or continuance of the evidentiary hearing
2 until such documents are delivered.

3 **DEFINITIONS AND INSTRUCTIONS**

4 1. "Correspondence" means any letter, telegram, telephone memorandum,
5 intra-corporate or intra-office memorandum, e-mail, or other writing or document reflecting
6 or constituting a communication.

7 2. "Document" means all written or graphic material, however produced or
8 reproduced, of every kind, in the actual or constructive possession, custody or control of the
9 plaintiff, pertaining to the designated subject matter. Without limiting the scope of this
10 definition, examples of documents include, but are not limited to, books, pamphlets,
11 memoranda, diaries, files, notes, statements, bills, change orders, invoices, policies,
12 summaries, receipts, reports, schedules, manuals, agreements, contracts, studies, handwritten
13 notes, maps, drawings, working papers, charges, graphs, papers, indices, tapes, tape
14 recordings, data sheets, data processing cards, e-mail, computer stored data, reports,
15 photographs, checks, instruments, etc. This definition includes copies when the original is
16 unavailable.

17 3. "Plaintiff" includes all plaintiffs named in this case, plaintiff's attorney and
18 any agent acting on behalf of any plaintiff.

19 4. Each of these requests extends to any documents in the possession, custody
20 or control of the plaintiff. The document is deemed to be in the possession, custody or
21 control of the plaintiff if it is in the physical custody of the plaintiff, or it is in the physical
22 custody of any other person and the plaintiff (a) owns such documents in whole or in part;
23 (b) has a right to use, inspect, examine or copy such document on any terms; (c) has any
24 understanding, express or implied, that the plaintiff may use, inspect, examine or copy such
25 document on any terms; or (d) has, as a practical matter, been able to use, inspect, examine
26 or copy such document.

1 plaintiff's account in the PERS Fund or each plaintiff's actual or estimated benefits under
2 PERS. This includes, but is not limited to, statements of the balances in each plaintiff's
3 regular and variable accounts, estimates of benefits, application packets and forms, and
4 worksheets.

5 **RESPONSE:**

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7 **REQUEST NO. 4.:** All documents, newsletters and correspondence that each
8 plaintiff received from any union or other employee organization describing or related to the
9 PERS system or other retirement benefits. This includes, but is not limited to, documents
10 related to PERS legislation, litigation about PERS issues, PERS proposed or final
11 administrative rules, or PERS benefits.

12 **RESPONSE:**

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14 **REQUEST NO. 5.:** All documents and correspondence relating to any collective
15 bargaining agreement or other employment contract covering each plaintiff that is or has
16 been in force during employment with any participating PERS employer.

17 **RESPONSE:**

18
19 **REQUEST NO. 6.:** All documents and correspondence relating to each plaintiff's
20 expected PERS benefits at or after retirement.

21 **RESPONSE:**

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23 **REQUEST NO. 7.:** A copy of each plaintiff's personnel file, including position
24 titles and complete salary and payroll history, from every employer, whether a PERS
25 participating employer or otherwise.

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RESPONSE:

REQUEST NO. 8.: A copy of records held by PERS concerning each plaintiff, including but not limited to account history, contributions, salary levels and categories, benefits paid, and other information related to the determination of PERS benefits, in whatever form; or, in the alternative, a signed release form allowing PERS to provide those records directly to Non-State Defendants. A release form is attached.

RESPONSE:

REQUEST NO. 9.: All documents and correspondence relating to each plaintiff's estimated Social Security benefits, and including each plaintiff's Social Security number.

RESPONSE:

REQUEST NO. 10.: All documents and correspondence, including but not limited to, articles, newsletters, and letters to the editor, that each plaintiff has written, contributed to, or endorsed concerning PERS, PERS benefits, the challenged legislation, or the actions of the PERS Board, state legislators, courts, other state officials, or PERS staff, from 1995 to the present.

RESPONSE:

REQUEST NO. 11.: All documents or records containing information about disability benefits or other distributions paid from PERS to each plaintiff, if any.

RESPONSE:

REQUEST NO. 12.: For each plaintiff who has retired, all documents showing the date and amount of each payment of a retirement allowance from PERS; the date of

1 retirement; any adjustment to the allowance; any return to service following retirement; the
2 method used in calculating the allowance; the form of benefit selected; the amount and terms
3 of any optional form of benefit not selected; the birth date and gender of any beneficiary
4 named in a Joint and Survivor option; the final average salary used to calculate the
5 allowance; and the amount of any unused sick leave or vacation time used in calculating the
6 allowance.

7 **RESPONSE:**

8
9 DATED this 11th day of November, 2003.

10 **HARRANG LONG GARY RUDNICK P.C.**

11 

12 _____
13 William F. Gary, OSB #77032
14 Sharon A. Rudnick, OSB #83083
15 Jeffery J. Matthews, OSB #97328
16 Jerome Lidz, OSB #77263
17 Karla Alderman, OSB #99207
18 Ross M. Williamson, OSB #01454
19 Attorneys for City of Grants Pass, Josephine
20 County, Multnomah County, and City of
21 Eugene

18 00064228.WPD

CERTIFICATE OF SERVICE

I certify that on November 11, 2003, I caused to be served true and correct copies of **NON-STATE DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFFS** on the parties listed below, by electronic transmission, and by placing copies in the U.S. Mail, in a sealed envelope, properly addressed and with sufficient postage, addressed to:

John Hoag, OSB #75171
THE LAW OFFICE OF JOHN HOAG, P.C.
PO Box 42021
Eugene, OR 97404
loojh@bossig.com

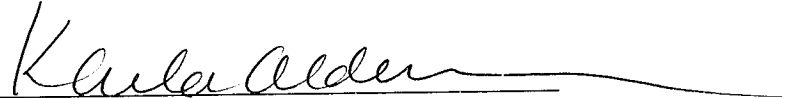
Stephen S. Walters, OSB #80120
Barnes H. Ellis, OSB #64032
Charles F. Hinkle, OSB #71083
Jeremy D. Sacks, OSB #99426
STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
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& MAKLER
638 NE 5th Street
McMinnville, OR 97128
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Of Attorneys for State of Oregon

Attorneys for Plaintiffs

HARRANG LONG GARY RUDNICK P.C.



William F. Gary, OSB #77032
Sharon A. Rudnick, OSB #83083
Jeffery J. Matthews, OSB #97328
Jerome Lidz, OSB #77263
Karla Alderman, OSB #99207
Ross M. Williamson, OSB #01454
Attorneys for City of Grants Pass, Josephine
County, Multnomah County, and City of
Eugene

PERS FILE RELEASE

Name: _____

Address: _____

Telephone Number: _____

Social Security No. _____

Information Requested

I request the release of my complete PERS member file, except for records concerning medical and psychological records (OAR 459-060-0020(1)(e)) and divorce decrees and related records (OAR 459-060-0020(1)(f)). Information to be released should include copies of the following PERS member records as provided under OAR 459-060-0020:

- ▶ Complete salary history
- ▶ Complete account balance and investment options history
- ▶ Complete employment history
- ▶ Other financial information including:
 - ▶ Complete contribution history
 - ▶ Complete distribution history
 - ▶ Any purchases or restorations of credit
 - ▶ Any rollovers

For retired members:

- ▶ Date of retirement
- ▶ Level of benefits
- ▶ Benefit category (full formula, pension plus annuity, or money match)
- ▶ Optional form of benefit selected
- ▶ Sick leave and vacation credits used in calculating benefit
- ▶ Actuarial factors applied in calculating benefit
- ▶ Beneficiary designation, including birth date and gender of beneficiary, if form of benefit includes survivorship benefits
- ▶ Any return to service following retirement

The above information should be sent to: HARRANG LONG GARY RUDNICK PC
Attn: Alison Farver
360 East 10th Avenue, Suite 300
Eugene, OR 97401

Pursuant to OAR 459-060-0010 and 459-060-0020, I hereby authorize PERS to release the above information to Harrang Long Gary Rudnick, PC.

SIGNATURE

DATE

PRINT NAME