

1 IN THE SUPREME COURT OF THE STATE OF OREGON

2 SAMUEL J. PETRILLO,

3 Plaintiff,

4 v.

5 PUBLIC EMPLOYEES RETIREMENT
6 BOARD, STATE OF OREGON, PUBLIC
7 UTILITY COMMISSION OF OREGON,
and SALEM-KEIZER SCHOOL
DISTRICT,

8 Defendants.

Supreme Court No. S50687

**SALEM-KEIZER SCHOOL DISTRICT'S
FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS TO PLAINTIFF**

9 To: Stephen C. Thompson
10 Bricker Zakovics Querin Thompson & Ritchey, P.C.
11 101 SW Main
Suite 915
Portland, OR 97204

12 Pursuant to the provisions of Rules 36 and 43 of the Oregon Rules
13 of Civil Procedure, Defendant Salem-Keizer School District requests that plaintiff produce
14 for Defendant Salem-Keizer School District's inspection and copying at the law offices of
15 HARRANG LONG GARY RUDNICK P.C., 360 East 10th Avenue, Suite 300, Eugene,
16 Oregon 97401, on or before 21 days from the date of service of this request, the following
17 described documents and records:

18 **NOTICE:**

19 This request for production of documents is a continuing request through the time of
20 trial, and plaintiff is requested to update his responses to this request for production as
21 additional documents become available.

22 In the event these requests and continuing requests for documents are not complied
23 with, Defendant Salem-Keizer School District reserves the right to exclude testimony
24 germane to or based upon information otherwise contained in or relevant to such documents
25 at the time of the evidentiary hearing, and to request postponement or continuance of the
26 evidentiary hearing until such documents are delivered.

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

1 **DEFINITIONS AND INSTRUCTIONS**

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

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

15 3. "Plaintiff" includes plaintiff's attorney and any agent acting on behalf of the
16 plaintiff.

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

25 5. As to any document which the plaintiff fails to produce, state the location
26 where such document can be found, the name of the possessor, when such documents left

1 the plaintiff's possession or control and the reasons why the plaintiff cannot produce such
2 document.

3 6. If any document is withheld under claim of privilege, the plaintiff is required
4 to identify its author, addressee, recipient and content to allow the matter to be brought
5 before the special master, as well as the nature of the privilege asserted and the factual basis
6 for the claim.

7 7. This request for production is a continuing request and includes documents
8 and correspondence generated or received after this request.

9 REQUESTS FOR PRODUCTION

10 REQUEST NO. 1.: All documents and correspondence received by either the
11 plaintiff or plaintiff's deceased spouse, Susan W. Converse, from PERS, whether directly or
12 indirectly, describing the retirement plan, including but not limited to, member handbooks,
13 newsletters, informational brochures, and retirement planning information.

14 **RESPONSE:**

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16 REQUEST NO. 2.: All documents and correspondence that plaintiff or Ms.
17 Converse received from any participating PERS employer concerning PERS or retirement
18 benefits generally. This includes, but is not limited to, written offers of employment, notices
19 of change in benefits, personnel policies, and personnel manuals.

20 **RESPONSE:**

21
22 REQUEST NO. 3.: All documents and correspondence from PERS concerning
23 plaintiff's or Ms. Converse's account in the PERS Fund or plaintiff's or Ms. Converse's
24 actual or estimated benefits under PERS. This includes, but is not limited to, statements of
25 the balances in plaintiff's or Ms. Converse's regular and variable accounts, estimates of
26 benefits, application packets and forms, and worksheets.

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RESPONSE:

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

RESPONSE:

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

RESPONSE:

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

RESPONSE:

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

RESPONSE:

REQUEST NO. 8.: A copy of records held by PERS concerning plaintiff or Ms. Converse, including but not limited to account history, contributions, salary levels and categories, benefits paid, and other information related to the determination of PERS

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benefits, in whatever form; or, in the alternative, a signed release form allowing PERS to provide those records directly to Defendant Salem-Keizer School District. A release form is attached.

RESPONSE:

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

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

RESPONSE:

DATED this 11th day of November, 2003.

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
Of Attorneys for Defendant Salem-Keizer
School District

00064294.WPD

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

CERTIFICATE OF SERVICE

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

Stephen C. Thompson, OSB #76359
Samuel J. Petrillo, OSB #76229
BRICKER ZAKOVICS QUERIN THOMPSON &
RITCHEY PC
101 SW Main
Suite 915
Portland, OR 97204
sct@bzqlaw.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
Portland, OR 97204
sswalters@stoel.com

Of Attorneys for Plaintiff

Of Attorneys for Defendants
Public Employees Retirement
Board, State of Oregon, and Public
Utility Commission of Oregon

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
(541) 485-0220
Of Attorneys for Defendant Salem-Keizer
School District

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