

1 IN THE SUPREME COURT OF THE STATE OF OREGON

2 MICHAEL O. WHITTY, DENNIS  
3 ULSTED, and H. THOMAS ANDERSEN,

Supreme Court No. S50685

4 Petitioners,

5 v.

6 PUBLIC EMPLOYEES RETIREMENT  
7 BOARD, and SAIF CORPORATION,

**INTERVENORS' FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS TO  
DEFENDANT PUBLIC EMPLOYEES  
RETIREMENT BOARD**

8 Defendants,

9 and

10 LEAGUE OF OREGON CITIES and  
11 OREGON SCHOOL BOARDS  
ASSOCIATION,

Intervenors.

12 To: Stephen S. Walters  
13 STOEL RIVES LLP  
14 900 SW Fifth Avenue, Suite 2600  
Portland, OR 97204

15 Pursuant to the provisions of Rules 36 and 43 of the Oregon Rules of Civil  
16 Procedure, Intervenors request that Defendant Public Employees Retirement Board  
17 (hereinafter "the Board") produce for Intervenors' inspection and copying at the law offices  
18 of HARRANG LONG GARY RUDNICK P.C., 360 East 10<sup>th</sup> Avenue, Suite 300, Eugene,  
19 Oregon 97401, on or before 21 days from the date of service of this request, or at such other  
20 time and place as the parties may mutually agree, the following described documents:

21 **NOTICE:**

22 This request for production of documents is a continuing request through the time of  
23 the evidentiary hearing, and the Board is requested to update its responses to this request for  
24 production as additional documents become available to the Board.

25 In the event these requests and continuing requests for documents are not complied  
26 with, Intervenors reserve the right to exclude testimony germane to or based upon

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

1 information otherwise contained in or relevant to such documents at the time of the  
2 evidentiary hearing, and to request postponement or continuance of the evidentiary hearing  
3 until such documents are delivered.

4 **I. INSTRUCTIONS AND DEFINITIONS**

5 A. Each of these requests extends to any documents in the possession, custody  
6 or control of the Board. The document is deemed to be in the possession, custody or control  
7 of the Board if it is in the physical custody of the Board, or it is in the physical custody of any  
8 other person and the Board (a) owns such documents in whole or in part; (b) has a right to  
9 use, inspect, examine or copy such document on any terms; (c) has any understanding,  
10 express or implied, that the Board may use, inspect, examine or copy such document on any  
11 terms; or (d) has, as a practical matter, been able to use, inspect, examine or copy such  
12 document.

13 B. "The Board" includes not only the Public Employees Retirement Board, but  
14 also its employee(s), staff, attorney(s), actuary(ies) and any other agent(s) whether directly  
15 or indirectly employed or retained. When used in these requests, "the Board" means any  
16 Board member or any combination of Board members or any one or combination of the  
17 Board's employee(s), staff, attorney(s), and any other agent(s).

18 C. "PERS" means the Oregon Public Employees Retirement System.

19 D. "Document" as used in this request, refers to any record or communication  
20 that would be a "writing," "recording," or "photograph," including the originals and  
21 nonidentical copies, whether different from the original by reason of any notation made upon  
22 such copy or otherwise, including, without limitation, correspondence, memoranda, notes,  
23 diaries, statistics, letters, telegrams, minutes, transcripts, contracts, reports, studies, checks,  
24 statements, questionnaires, receipts, returns, summaries, pamphlets, books, interoffice and  
25 intraoffice communications, bulletins, printed matter, invoices, worksheets, photographs,  
26 charts, test results, microfilm and electronic recordings.

1 E. As to any document which you fail to produce, state the location where such  
2 document can be found, the name of the possessor, when such documents left your  
3 possession or control and the reasons why you cannot produce such document.

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

## 8 **II. REQUESTS**

9 **REQUEST NO. 1:** All documents or records containing information related to the  
10 PERS covered employment of each of the persons listed in Exhibit A. This request includes,  
11 but is not limited to, documents or records showing: each person's coverage category (e.g.,  
12 Tier 1, general); each person's compensation, including their most recently determined Final  
13 Average Salary; each person's years and months of PERS creditable service; the month-by-  
14 month history of each person's employee contributions, whether made by the person or the  
15 person's employer; the history of each person's regular and variable annuity accounts,  
16 including interest credits and prior service credits purchased or restored, if any; any other  
17 information relevant to the determination of the benefits each person is receiving or may  
18 become eligible to receive; any projected benefits or retirement allowances; and the relevant  
19 demographic information for any beneficiaries designated by each person. This request does  
20 not include records concerning medical and psychological records (OAR 459-060-  
21 0020(1)(e)) or divorce decrees and related records (OAR 459-060-0020(1)(f)).

### 22 **RESPONSE:**

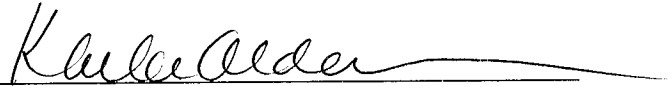
23  
24 **REQUEST NO. 2:** For each of the persons in Exhibit A who have received or are  
25 receiving a retirement allowance from PERS, all documents showing the date and amount  
26 of each payment made; the date of retirement; any adjustment to the allowance; any return

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

6 **RESPONSE:**

7  
8 DATED this 11<sup>th</sup> day of November, 2003.

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

10 

11 William F. Gary, OSB #77032  
12 Sharon A. Rudnick, OSB #83083  
13 Jeffery J. Matthews, OSB #97328  
14 Jerome Lidz, OSB #77263  
15 Karla Alderman, OSB #99207  
16 Ross M. Williamson, OSB #01454  
17 Of Attorneys for Intervenors League of Oregon  
18 Cities and Oregon School Boards Association

16 00064356.WPD

1 CERTIFICATE OF SERVICE

2 I certify that on November 11, 2003, I caused to be served true and correct copies of  
3 **INTERVENORS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT**  
4 **PUBLIC EMPLOYEES RETIREMENT BOARD** 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:

5 Michael O. Whitty, OSB #68176  
6 Dennis Ulsted, OSB #78410  
7 H. Thomas Andersen, OSB #79145  
8 3220 Crescent Avenue #90  
9 Eugene, OR 97408  
10 mikwhi@saif.com

11 *Attorneys Pro Se*

Stephen S. Walters, OSB #80120  
Barnes H. Ellis, OSB #64032  
Charles F. Hinkle, OSB #71083  
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Portland, OR 97204  
sswalters@stoel.com

12 Of Attorneys for State Defendants

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

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15 William F. Gary, OSB #77032  
16 Sharon A. Rudnick, OSB #83083  
17 Jeffery J. Matthews, OSB #97328  
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19 Karla Alderman, OSB #99207  
20 Ross M. Williamson, OSB #01454  
21 Of Attorneys for Intervenors League of Oregon  
22 Cities and Oregon School Boards Association

**EXHIBIT A**

<b>Name</b>	<b>Employer</b>
Anderson, H. Thomas	SAIF Corporation
Ulsted, Dennis	SAIF Corporation
Whitty, Michael O.	SAIF Corporation

00064322.WPD