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Attorney for Plaintiffs/Movants

UNITED STATES DISTRICT COURT

THE DISTRICT OF OREGON

SANDY L. HENDERSON, ANNA  
MARGARET WICKER, JANE GRAY, and  
CARMELLE L. HARTIN,

Plaintiffs,

v.

THE STATE OF OREGON BY AND  
THROUGH THE BUREAU OF LABOR  
AND THE BOARD OF HIGHER  
EDUCATION; NORMAN O. NILSEN,  
COMMISSIONER OF LABOR; DR. ROY  
LIEUALLEN, CHANCELLOR OF THE  
BOARD OF HIGHER EDUCATION; THE  
PUBLIC EMPLOYEES RETIREMENT  
SYSTEM; and JOSEPH J. ADAMS, HUGH  
McKINELY, CHALMERS L. JONES,  
ROGER S. MEIER and EDWIN H.  
ARMSTRONG, in their capacity as members  
of the PUBLIC EMPLOYEES RETIREMENT  
BOARD,

Defendants.

CV 74-538

MOVANTS' MOTION FOR  
SUMMARY JUDGMENT

(Oral Argument Requested)

Pursuant to Local Rule 7.1(a), counsel for movants conferred in good faith with counsel for the Public Employees Retirement Board, counsel for defendant State of Oregon and counsel for Intervenor in the above-captioned action regarding the filing of this motion and the matters contained therein, but was unable to resolve the dispute.

### **Motion**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, movants Eileen Shaffer, Tim Woolery, Richard Mullins, Jerry Trierweiller, Gina Santacroce, and Jacqueline Davais move the Court for an Order granting summary judgment in their favor, holding that the PERS Board members are in violation of the 1978 consent decree and injunction of this Court. Movants further request that the Court hold the PERS Board members in contempt of this Court unless and until the PERS Board implements refund annuity retirement allowance tables which comply with this Court's September 20, 1978 Stipulated Judgment and Permanent Injunction.

This Motion is supported by the Memorandum of Points and Authorities in Support of the Motion, the Affidavit of Attorney Gregory A. Hartman, and the exhibits attached thereto, and a Concise Statement of Material Facts submitted herewith.

Movants respectfully request oral argument.

Dated this 12th day of April, 2004.

/s/ Henry J. Kaplan

Gregory A. Hartman, OSB No. 74128

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(503) 227-4600

Attorney for Movants

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing MOVANTS' MOTION FOR SUMMARY JUDGMENT upon the following persons at the following addresses:

James Baker  
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by the following indicated method or methods:

- ± by **mailing** the original in a sealed, first-class postage-paid envelope, addressed to the attorney(s) listed above, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.
- ± by **hand delivering** a copy thereof to the attorney(s) listed above, on the date set forth below.
- ± by **faxing** a copy thereof to the attorney(s) at the fax number(s) shown above, on the date set forth below.
- X by service **electronically** pursuant to LR 100.13.

DATED: April 12, 2004

/s/ Henry J. Kaplan

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Henry J. Kaplan  
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Of Attorneys for Movants

CERTIFICATE OF SERVICE