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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

MICHAEL ARKEN, DALE CANNON,
ROBYN CARRICO, CAROL YOUNG, JOHN
HAWKINS, LESLIE HUNTER, RICK
MULLINS, S.M. RUONALA, PATRICIA
THOMPSON WESTOVER, and MYRNA
WILLIAMS,

Case No. 0601-00536

Plaintiffs,

v.

**AFFIDAVIT OF RICK MULLINS
IN OPPOSITION TO
DEFENDANTS' CROSS-MOTION
FOR SUMMARY JUDGMENT**

CITY OF PORTLAND, WESTERN OREGON
UNIVERSITY, PORTLAND SCHOOL
DISTRICT, CITY OF GRESHAM, LINN
COUNTY, UNIVERSITY OF OREGON,
PORTLAND COMMUNITY COLLEGE,
MULTNOMAH COUNTY, CENTRAL
SCHOOL DISTRICT 13J, FOREST GROVE
SCHOOL DISTRICT #15, and the PUBLIC
EMPLOYEES RETIREMENT BOARD,

Defendants.

STATE OF OREGON)
COUNTY OF MULTNOMAH)ss

I, Rick Mullins, being first duly sworn, depose and say that:

1. I am a plaintiff in this action and make this affidavit in opposition to
defendants' cross-motion for summary judgment.

2. During the course of my employment, PERB made representations to me that
my pension benefits would be calculated under three, separate alternative formulas (Full
Formula, Money Match, and Pension Plus Annuity) and I would receive benefits based on the

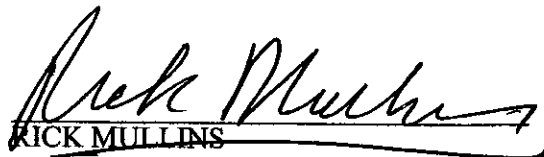
1 formula that produced the highest benefit amount at retirement. PERB also represented that I
2 would be entitled to an annual Cost of Living Adjustment (COLA) of up to 2 percent per year
3 after retirement.

4 3. At the time I was pursuing retirement, PERB also made representations to me
5 that I would receive pension benefits based upon the value of my PERS account at my date of
6 retirement.

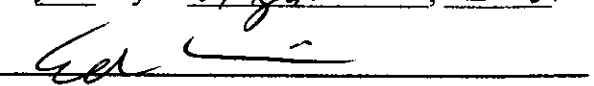
7 4. At my date of retirement, the value of my PERS account included 20 percent
8 earnings for the calendar year 1999. Attached as EXHIBIT 1 to this affidavit and
9 incorporated herein is a true and exact copy of my Statement of Entitlement from PERS
10 including the value of my PERS account at retirement.

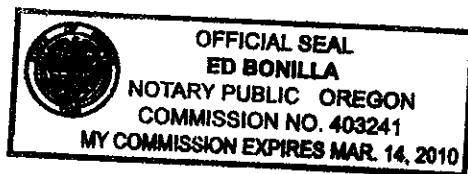
11 5. In making my decision to retire from Portland Community College, I relied
12 upon the representations made by PERB. Had I known that my retirement allowance would
13 not include 20 percent earnings for the calendar year 1999, I would have continued my PERS
14 covered employment.

15 Dated this ___ day of August, 2006.

16
17 
18 RICK MULLINS

19
20 SUBSCRIBED AND SWORN TO before me this 21 day of August, 2006.

21 
22 Notary Public for Oregon
23 My Commission Expires: 3-14-2010





11410 SW 68th Parkway, Tigard OR 97223
 Mailing Address - PO Box 23700, Tigard OR 97281-3700
 Phone - 503-598-7377 toll-free 888-320-7377
 Fax - 503-598-0561 Web site - www.pers.state.or.us



2171

Notice Of Entitlement

RICHARD T MULLINS
 8037 SW 9TH AVE
 PORTLAND OR 97219

Social Security number:

PERS number: 353513
Date: 6/10/2004

We have calculated your retirement benefit, and your first check(s) will be sent on 6/10/2004. If you decide to change your option, we must receive your written request in a PERS office within 60 days of the issue date of your first benefit check(s). If you write or telephone our office, please refer to your Social Security number and PERS number.

BENEFIT OPTION: Option 1		GROSS AMOUNTS UNDER ALL OPTIONS	
Monthly benefit gross amount:	\$4,150.53	Option 1:	\$ 4,150.53
Federal tax withholding:	395.48	Option 2:	-
State tax withholding:	244.74	Option 2A:	-
Net amount:	\$3,510.31	Option 3:	-
Effective retirement date:	March 1, 2004	Option 3A:	-
Best calculation method:	Money Match	Refund Annuity:	4,110.41
		15 Year Certain:	4,027.49
		Option 1 and Lump sum:	2,075.27
		Option 2 and Lump sum:	-
		Option 2A and Lump sum:	-
		Option 3 and Lump sum:	-
		Option 3A and Lump sum:	-
Employee contribution summary (for tax purposes)			
Total employee contributions:	\$47.28		
Monthly excluded amount:	\$0.15		

The next page shows the information we used to calculate your benefit amount. You have the right to contest this information. If you choose to do so, you must submit a signed letter detailing the specific item(s) you are contesting. PERS must receive your signed letter within 240 days after the date of this notice.

Your benefit has been calculated using the values as of June 30, 2003, and the values at retirement. The values at retirement produced your highest retirement allowance.

Please include your telephone and Social Security number when writing to PERS.



11410 SW 68th Parkway, Tigard OR 97223
 Mailing Address - PO Box 23700, Tigard OR 97281-3700
 Phone - 503-598-7377 toll-free 888-320-7377
 Fax - 503-598-0361 Web site - www.pers.wafo.or.us



2171

RICHARD T MULLINS

Social Security number

INFORMATION USED AT RETIREMENT:

Current service: 22 yr(s) 11 mth(s)	Account balance:	\$255,837.54
Prior service: 0 yr(s)		
Sick leave hours: 1445	High three years salaries:	
	2003	\$69,952.64
	2002	\$66,758.80
	2001	\$64,016.38
Beneficiary:		
Beneficiary date of birth:		
Member date of birth: 12/13/1946	Last 36 months salary:	\$195,698.86

INFORMATION USED AS OF JUNE 30, 2003:

Current service: 22 yr(s) 3 mth(s)	Account balance:	\$241,006.88
Prior service:		
Sick Leave Hours:	High 3 years salaries:	
	2002	\$66,758.80
	2001	\$64,016.38
	2000	\$60,750.04
Beneficiary:		
Beneficiary date of birth:		
Member date of birth: 12/13/1946	Last 36 months salary:	\$203,891.43

1 CERTIFICATE OF SERVICE

2 I hereby certify that I served the foregoing **AFFIDAVIT OF RICK MULLINS**

3 **IN OPPOSITION TO DEFENDANTS' CROSS-MOTION FOR SUMMARY**

4 **JUDGMENT** upon the following persons at the following addresses:

5 Joseph M. Malkin/Emily R. Epstein
6 Orrick, Herrington & Sutcliffe LLP
7 Old Reserve Bank Bldg, 405 Howard St.
8 San Francisco, CA 94105-2669
9 FAX: 1 (415) 773-5759
10 E-Mail: jmalkin@orrick.com
11 Of Attorneys for Defendant Public
12 Employees Retirement Board


William F. Gary
Harrang Long Gary et al
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
FAX: 1 (541) 686-6564
Email: william.f.gary@harrang.com
Of Attorneys for Local Jurisdiction
Defendants

9 Steve Walters
10 Stoel Rives LLP
11 900 SW 5th, Suite 2600
12 Portland, OR 97204
13 FAX: 1 (503) 220-2480
14 E-Mail: sswalters@stoel.com
15 Of Attorneys for State Defendants
16 Western Oregon University and
17 University of Oregon

14 by the following indicated method or methods:

- 15 by **mailing** a copy thereof in a sealed, first-class postage-paid envelope,
16 addressed to the attorney(s) listed above, and deposited with the United States
17 Postal Service at Portland, Oregon, on the date set forth below.
- 18 by **hand delivering** a copy thereof to the attorney(s) listed above, on the date
19 set forth below.
- 20 by **sending via overnight courier** a copy thereof in a sealed, postage-paid
21 envelope, addressed to the attorney(s) listed above, on the date set forth below.
- 22 by **faxing** a copy thereof to the attorney(s) at the fax number(s) shown above,
23 on the date set forth below.

21 Dated this 6th day of September, 2006.

22 
 23 _____
 24 Gregory A. Hartman, OSB 74128
 25 hartmang@bennetthartman.com
 26 Aruna A. Masih, OSB 97324
 masiha@bennetthartman.com
 Of Attorneys for Plaintiffs