

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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.

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.

**AFFIDAVIT OF PATRICIA
THOMPSON WESTOVER IN
OPPOSITION TO DEFENDANTS'
CROSS-MOTION FOR SUMMARY
JUDGMENT**

STATE OF OREGON)
)ss
COUNTY OF POLK)

I, Patricia Thompson Westover, 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

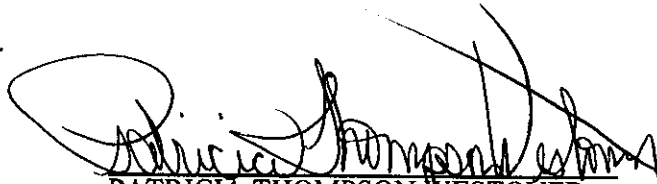
1 formula that produced the highest benefit amount at retirement. PERB also represented that I
2 would be entitled to an annual Cost of Living Adjustment (COLA) of up to 2 percent per year
3 after retirement.

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.

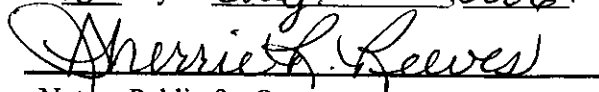
7 4. At my date of retirement, the value of my PERS account included 20 percent
8 earnings for the calendar year 1999. Attached as **EXHIBIT 1** to this affidavit and
9 incorporated herein is a true and exact copy of my Statement of Entitlement from PERS
10 including the value of my PERS account at retirement.

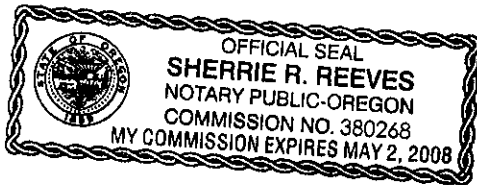
11 5. In making my decision to retire from Central School District 13-J, I relied upon
12 the representations made by PERB. Had I known that my retirement allowance would not
13 include 20 percent earnings for the calendar year 1999, I would have continued my PERS
14 covered employment.

15 Dated this 18 day of August, 2006.

16
17 
18 PATRICIA THOMPSON WESTOVER

19
20 SUBSCRIBED AND SWORN TO before me this 18 day of Aug., 2006.

21 
22 Notary Public for Oregon
23 My Commission Expires: 5/02/08





NOTICE OF ENTITLEMENT

THOMPSON-WESTOVER PATRICI
 998 SE ACADEMY ST
 DALLAS OR 97338-0000

Date: 07/13/2000
 Soc. Sec. No.:
 PERS No.: 209517

Your retirement benefit has been calculated and your first check(s) will be sent on **AUG 01, 2000**
 If you decide to change your option, your written request must be received in a PERS office within 60 days after the date of your first benefit check(s). Please refer to your Soc. Sec. No. and PERS Benefit No. if you write or telephone our office.

YOUR BENEFIT OPTION: OPTION 2A ANNTY		GROSS AMOUNTS UNDER ALL OPTIONS	
Gross Amount:	\$3,265.44	Refund Annuity:	\$3,481.09
OREGON TAX W/H:	\$216.66	Option 1 (non-refund):	\$3,511.24
Federal Tax Withholding:	\$337.02	15 Year Certain:	\$3,404.55
Net Amount:	\$2,711.76	Option 2:	\$3,300.56
Employee Contributions (for tax purposes):	\$5,742.52	Option 2A:	\$3,265.44
NON-TAXABLE:	\$14.01	Option 3:	\$3,405.90
		Option 3A:	\$3,370.78
Effective Retirement Date:	07/01/2000	Lump Sum Option 1:	\$1,755.62
Best Calculation Method:	MONEY MATCH	Lump Sum Option 2:	\$1,650.28
		Lump Sum Option 2A:	\$1,632.72
		Lump Sum Option 3:	\$1,702.95
		Lump Sum Option 3A:	\$1,685.39

INFORMATION USED	
If you purchased additional service credit, it is included in the information listed below.	
Current Service: 30 years 0 months	Account Balance: \$216,734.58
Prior Service: 0 years	
Sick Leave Hours: 0	High 3 years salaries:
	Year: 1999 Amount: \$52,533.66
	1998 \$48,721.86
	1997 \$48,472.62
Beneficiary: DELWIN R WESTOVER	Last 36 months salary: \$159,936.04
Birthdates: Member: 06/26/1948	
Beneficiary: 06/07/1947	

You have the right to contest the information used to calculate your retirement benefits. If you choose to do so, you must submit a signed letter detailing the specific item(s) you are contesting. Your signed letter must be received by PERS within 240 days after the date of this notice.

1 CERTIFICATE OF SERVICE

2 I hereby certify that I served the foregoing **AFFIDAVIT OF PATRICIA**

3 **THOMPSON WESTOVER IN OPPOSITION TO DEFENDANTS' CROSS-MOTION**

4 **FOR SUMMARY 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

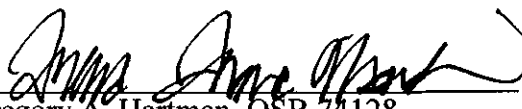
William F. Gary
Harrang Long Gary et al
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
FAX: 1 (541) 686-6564
Email: william.f.gary@harrang.com
Of Attorneys for Local Jurisdiction
Defendants

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@bennethartman.com
26 Aruna A. Masih, OSB 97324
masiha@bennethartman.com
Of Attorneys for Plaintiffs