```
1
2
3
               IN THE CIRCUIT COURT OF THE STATE OF OREGON
                      FOR THE COUNTY OF MULTNOMAH
5
 URSULA WHITE, BRUCE N. REITER, and
                                            Case No. 0404-04118
  MARGARET RETZ.
7
                   Plaintiffs,
8
       ٧.
                                            AFFIDAVIT OF ARUNA A. MASIH
                                            IN SUPPORT OF PLAINTIFFS'
  PUBLIC EMPLOYEES RETIREMENT
                                            MOTION FOR ORDER STRIKING
10 BOARD,
                                            DECLARATIONS OF SHARON
                                            RUDNICK
                   Defendant.
11
12 and
13 STATE OF OREGON, LANE COUNTY, CITY
  OF EUGENE, MULTNOMAH COUNTY,
14 CITY OF PORTLAND, CITY OF ROSEBURG,
  CITY OF HUNTINGTON, CANBY UTILITY
15 BOARD, and ROGUE RIVER VALLEY
  IRRIGATION.
16
                   Intervenors.
17
  URSULA WHITE, BRUCE N. REITER, and
                                            Case No. 0411-11848
18 MARGARET RETZ,
19
                   Petitioners,
20
       v.
21 PUBLIC EMPLOYEES RETIREMENT
  BOARD.
22
                   Respondent,
23
  and
24
  STATE OF OREGON, LANE COUNTY, CITY
25 OF EUGENE, MULTNOMAH COUNTY,
  CITY OF PORTLAND, CITY OF ROSEBURG,
26 CITY OF HUNTINGTON, CANBY UTILITY
```

Page 1 -AFFIDAVIT OF ARUNA A. MASIH IN SUPPORT OF PLAINTIFFS' MOTION FOR ORDER STRIKING DECLARATIONS OF SHARON RUDNICK

	BOARD, and ROGUE RIVER VALLEY RRIGATION, Intervenors.	
3		
4 S	STATE OF OREGON)) ss.
5 C	County of Multnomah	
6	I, ARUNA A. MASIH, being first duly sv	vorn, depose and say:
7	1. I am one of the attorneys for plaintif	fs. I make this affidavit on personal
8 k	knowledge in support of plaintiffs' motion for or	der striking declarations of Sharon Rudnick.
9	2. On July 24, 2008, this office served	a formal request for production for a copy of
10 a	all attorney time and billing records and records of	of costs advanced or paid for City of Eugene v.
11 P	Public Employees Retirement Board, Marion Cou	unty Case Nos. 99C12794, 99C12838,
129	99C20235, and 00C16173, provided for review a	nd/or reviewed by James P. Baker. A copy of
13 tl	hat request for production is attached hereto as E	EXHIBIT 1.
14	Dated this Aday of Awy	, 2008.
15	0 ()	1 11
16	·	Som Som Phon
17		Aruna A. Masih
18	SUBSCRIBED AND SWORN TO before me by	y Aruna A. Masih this <u>8</u> day of
19	, <u>, , , , , , , , , , , , , , , , , , </u>	tai lous
20	OFFICIAL SEAL	Notary Public for Oregon My Commission Expires: 9 - 27-)
21	KAI JONES NOTARY PUBLIC-OREGON	
22	COMMISSION NO. 419740 MY COMMISSION EXPIRES SEPTEMBER 27, 2011	
23	·	
24		
25		

Page 2 -AFFIDAVIT OF ARUNA A. MASIH IN SUPPORT OF PLAINTIFFS' MOTION FOR ORDER STRIKING DECLARATIONS OF SHARON RUDNICK

26

1 2 IN THE CIRCUIT COURT OF THE STATE OF OREGON 5 FOR THE COUNTY OF MULTNOMAH URSULA WHITE, BRUCE N. REITER, and Case No. 0404-04118 MARGARET RETZ, Plaintiffs, 8 ٧. PLAINTIFFS' FIRST REOUEST FOR PUBLIC EMPLOYEES RETIREMENT PRODUCTION OF DOCUMENTS 10 BOARD, TO LOCAL GOVERNMENT INTERVENORS LANE COUNTY, Defendant, 11 CITY OF EUGENE, MULTNOMAH COUNTY, CITY OF PORTLAND, 12 and CITY OF ROSEBURG, CITY OF 13 STATE OF OREGON, LANE COUNTY, CITY HUNTINGTON, CANBY UTILITY OF EUGENE, MULTNOMAH COUNTY, BOARD, and ROGUE RIVER 14 CITY OF PORTLAND, CITY OF ROSEBURG, VALLEY IRRIGATION DISTRICT CITY OF HUNTINGTON, CANBY UTILITY 15 BOARD, and ROGUE RIVER VALLEY IRRIGATION DISTRICT, 16 Intervenors. URSULA WHITE, BRUCE N. REITER, and Case No. 0411-11848 18 MARGARET RETZ, Petitioners, 19 20 V. 21 PUBLIC EMPLOYEES RETIREMENT BOARD, 22 Respondent, 23 and STATE OF OREGON, LANE COUNTY, CITY 25 OF EUGENE, MULTNOMAH COUNTY, CITY OF PORTLAND, CITY OF ROSEBURG, 26 CITY OF HUNTINGTON, CANBY UTILITY

Page 1 - PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO LOCAL

GOVERNMENTS

BENNETT, HARTMAN, MORRIS & PROPERTY AT 15/252 White\Pleadings\Production Request 1 to Local Govs.wpd
Attorneys at Law
Studie 1650
111 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone (503) 227-4660 Fax (503) 248-6800

EXHIBIT

Masih Affidavit EXHIBIT 1, p. 1 of 7

1	BOARD, and ROGUE RIVER VALLEY) IRRIGATION,)
3	Intervenors.)
4	Plaintiffs request Local Government Intervenors Lane County, City of Eugene,
5	Multnomah County, City of Portland, City of Roseburg, City of Huntington, Canby Utility
6	Board, and Rogue River Valley Irrigation District to produce the documents described below
7	for inspection and copying in accordance with ORCP 43. Plaintiffs' request extends beyond all
8	documents and information within defendant's possession to include documents and
9	information within defendant's custody or control and may, therefore, require defendant or
10	defendant's attorneys to seek and obtain the specifically requested documents and information.
11	This request will be satisfied by making the original documents and information available by
12	August 5, 2008 at the offices of plaintiffs' attorney. Finally, plaintiffs' request is intended to be
13	perpetual throughout the pendency of this action so that any new documents or information
14	falling within the classifications below should be forwarded to plaintiffs' attorney within 10
15	days after any such document or information comes within defendant's possession, custody or
16	control.

INSTRUCTIONS

General Order. Produce all documents as they are kept in the usual course of 18 19 business and label them to correspond to the categories in this Request. Produce all 20 documents, or any parts or segments thereof, that are in your possession or subject to your 21 possession, custody, control or access.

17

- Sequence. Produce each document requested according to the defined request. 22 2. 23 Include the file folder and folder tabs associated with its file location.
- 24 Computerized Data. All electronic data including, but not limited to, word 25 processed documents, PowerPoint presentations, spreadsheets, email, and Internet files shall be 26 produced in electronically searchable PDF image format, with all metadata fields. Metadata

Page 2 - PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO LOCAL BENNETT, HARTMAN, MORRISTER (NE 6415\252 White\Pleadings\Production Request | to Local Govs.wpd
Attorneys at Law
Suits 1650
111 S.W. Filth Avenue
Portland, Oregon 97204
Telephone (503) 227-4600 Fax (503) 248-6800

EXHIDID **GOVERNMENTS**

Masih Affidavit EXHIBIT 1, p. 2 of 7

- 1 fields shall be labeled for identification and the relationship between metadata and the files
- 2 with which they are associated shall be preserved. Electronic data shall be produced on a
- 3 computer-readable disk.
- 4. Databases. All fields and records of relevant database files shall be exported to
- 5 off-the-shelf applications such as Access or Excel or a common export format such as a
- 6 Comma Delimited (CSV) file. Metadata fields shall be labeled for identification and the
- 7 relationship between metadata and the files with which they are associated shall be preserved.
- 8 Database data shall be produced on a computer-readable disk in an electronically searchable
- 9 format.
- 5. Voice Data. All voice mail messages in e-mail boxes shall be produced in .WAV,
- 11 MP3 or in other common sound formats, with all metadata fields. Metadata fields shall be
- 12 labeled for identification and the relationship between metadata and the files with which they
- 13 are associated shall be preserved. Voice data shall be produced on a computer-readable disk.
- 14 6. Instant Messaging. All Instant Messaging traffic shall be converted to plain text
- 15 and produced as an ASCII- or word processor-compatible files. Metadata fields shall be
- 16 labeled for identification and the relationship between metadata and the files with which they
- 17 are associated shall be preserved. Instant Messaging data shall be produced on a
- 18 computer-readable disk.
- 7. Paper Data. All data that exists only on paper shall be produced in print.
- 20 8. Privilege and Objections. If you contend that any information or document, or
- 21 part thereof, sought hereby is privileged in whole or in part, or otherwise object to any request,
- 22 or believe that any identified information, individual or document, or part thereof, would be
- 23 excusable from discovery regardless of its relevance, then: (a) identify with particularity each
- 24 such information, individual and/or document, or part thereof, for which you claim a privilege,
- 25 including the date and title of the document; (b) identify the portion of the document you
- 26 object to or seek to exclude from production; and c) identify all recipients of the document.

Page 3 - PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO LOCAL
GOVERNMENTS

BENNETT, HARTMAN, MORRIBING ME 6415V252 White/Pleadings/Production Request 1 to Local Govs.wpd

-	1 9	Continuing Request	This request is a continuing on	e. If after producing
	1 7.	Community Neguesi.	Tills teducer is a continuating on	o. It allot producing

- 2 documents, you obtain or become aware of any further documents responsive to this request,
- 3 then you are required to produce such additional documents.
- 4 DEFINITIONS
- 5 As used herein the following definitions will apply.
- 6 "Plaintiffs" refers to Ursula White, Bruce N. Reiter, and Margaret Retz, or any of them.
- 7 "Defendant" refers to Public Employees Retirement Board, and its officers, agents,
- 8 employees, assigns and attorneys, and all persons, firms, corporations and other entities acting
- 9 in concert with it directly or indirectly.
- "Local Government Intervenors" refers to Lane County, City of Eugene, Multnomah
- 11 County, City of Portland, City of Roseburg, City of Huntington, Canby Utility Board, and
- 12 Rogue River Valley Irrigation District.
- "Documents" means the original (or a copy when the original is not available) and shall
- 14 include, but not be limited to, all emails, writings, letters, telegraph, telex, contracts, bills,
- 15 stenographic or handwritten notes, reports, diaries, calendars, publications, drawings, charts,
- 16 photographs, phonograph records, memoranda, tape recordings, electromagnetic recordings,
- 17 videotapes, video cassettes, films, movies, computer printouts, as well as all altered or
- 18 non-identical copies of each of the foregoing, which is or ever was within defendants'
- 19 possession, custody, or control.
- 20 "Email" means online email residing in active files including, but not limited to, MS
- 21 Exchange, Lotus Notes, and Novell GroupWise files; email stored in online storage or direct
- 22 access storage devices attached to mainframe or mini-computers; email stored in active files on
- 23 local or external hard drives and network shares including, but not limited to, user workstation
- 24 hard drives and laptops; local e-mail files stored on networked file servers; email stored on
- 25 mobile devices such as PDA's smart phones, and Blackberry; email stored on home systems
- 26 with remote access to office networks; nearline email such as optical juke box devices and

Page 4 - PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO LOCAL

GOVERNMENTS

BENNETT, HARTMAN, MORRISINGNET ALSON NE ALSON White Pleadings Production Request 1 to Local Govs.wpd
Attorneys at Law

1	back ups of individual users' email folders; offline email stored on removable media including,
2	but not limited to, external hard drives, thumb drives, memory cards, Read/Read-Write CDs or
3	DVDs, floppies, and zip drives; email residing on remote servers including, but not limited to,
4	IMAP, POP, and HTTP servers; email forwarded to third-party systems including, but not
5	limited to, personal email accounts on Gmail, Yahoo, and Hotmail; email saved to other
6	formats including, but not limited to, .pdf, .tiff, .txt. and .eml files; archived email that is
7	auto-archived or saved under user-selected filenames; and emails printed to paper.
8	<u>DOCUMENTS</u>
9	1. A copy of all attorney time and billing records and records of costs advanced or
10	paid for City of Eugene v. Public Employees Retirement Board, Marion County Case Nos.
11	99C12794, 99C12838, 99C20235, and 00C16173, provided for review and/or reviewed by
12	James P. Baker.
13	Dated this Who of July, 2008.
14	
15	Gregory A. Hartman, OSB 74128
16	hartmang@bennetthartman.com Aruna A. Masih, OSB 97324
17	masiha@bennetthartman.com Of Attorneys for Plaintiffs
18	Of Audineys for Flamuns
19	
20	
21	
22	
23	
24	
25	
26	

Page 5 - PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO LOCAL **GOVERNMENTS**

BENNETT, HARTMAN, MORRISTRANDE 5415\252 White\Pleadings\Production Request | 10 Local Govs.wpd
Afterneys at Law
Suite 1650
111 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone (503) 227-4600 Fax (503) 248-6800
EXHIBIT 1,

Masih Affidavit EXHIBIT 1, p. 5 of 7 COMMUNICATION RESULT REPORT (JUL. 24, 2008 1:01PM) *

BENNETT HARTMAN FAX HEADER 1:

FAX HEADER 2:

TRANSMITTED/STORED : JUL. 24. 2008 12:53PM ADDRESS RESULT PAGE FILE MODE OPTION 1976 MEMORY TX :9-5032202480 OK :9-15416866564 G3 OK **G3** OHS

REASON FOR ERROR

E-1) HANG UP OR LINE FAIL
E-3) NO ANSWER
E-5) MAIL SIZE OVER

E-2) BUSY E-4) NO FACSIMILE CONNECTION

BENNETT, HARTMAN, MORRIS & KAPLAN, LLP

GREGORY A HARTMAN MICHAEL J. MORRIS HENRY J. KAPLANS NELSON B HALL THOMAS K. DOYLES ARUNA A. MASIMS HEIDI K. EROWN

ATTORNEYS AT LAW SUITE 1650 111 S.W. FIFTH AVENUE PORTLAND, OREGON 97204-3627 (503) 227-4600 FAX (503) 248-6800 www.bennetthartman.com

FACSIMILE TRANSMISSION

HOREAT A. BENNETT (METIRED)

- LINDA J. LARKIN"
- OF COUNSEL
 ARBEM OBLA
 ARBEMON OBLA
 ARBEMON OBLA
 ARBEMON WASH
 ARBEMON OBLA
 ARBEMON
 ARBE

Amy Edwards/Jeremy Sacks TO:

Bill Gary/Sharon Rudnick Joseph Malkin/Sarah Marriott FAX #: 503-220-2480 FAX#: 1-541-686-6564

FAX #: 1-415-773-5759

DATE: July 24, 2008

FROM: Aruna A. Masih

CLIENT/MATTER: White et al. v. PERB; Multnomah County Case No.0411-11848

OUR FILE NO: 5415-252

THE NUMBER OF PAGES, INCLUDING THIS SHEET IS: 6.

If you do not receive all the pages indicated, please call (503) 227-4600 and ask for Kai.

MESSAGE:

CONFIDENTIALITY NOTICE

The document(s) accompanying this fax contain confidential information which is legally privileged. The information is intended only for the use of the person specified above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on the contents of the telecopier information except its direct delivery to the intended recipient name above is strictly prohibited. If you have received this fax in error, please notify us immediately at (503) 227-4600 to arrange for return of the original document(s) to us.

26

CERTIFICATE OF SERVICE 1 I hereby certify that I served the foregoing AFFIDAVIT OF ARUNA A. 2 MASIH IN SUPPORT OF PLAINTIFFS' MOTION FOR ORDER STRIKING 4 DECLARATIONS OF SHARON RUDNICK upon the following persons at the following 5 addresses: Joseph M. Malkin William F. Gary 6 Sharon Rudnick Sarah Marriott Karla Alderman Orrick, Herrington & Sutcliffe LLP 7 Harrang Long Gary et al 405 Howard St. 360 E. 10th Avenue, Suite 300 San Francisco, CA 94105-2669 Eugene, OR 97401 Fax: (415) 773-5759 9 Of Attorneys for Defendants Fax: (541) 686-6564 Of Attorneys for Intervenor Local Employers 10 Steve Walters Jeremy Sacks 11 Amy Edwards Stoel Rives LLP 12 900 SW 5th, Suite 2600 Portland, OR 97204 13 Fax: (503) 220-2480 Of Attorneys for Intervenor State 14 15 by the following indicated method or methods: by mailing a copy thereof in a se by mailing a copy thereof in a sealed, first-class postage-paid envelope, addressed to the attorney(s) listed above, and deposited with the United States 16 Postal Service at Portland, Oregon, on the date set forth below. 17 by hand delivering a copy thereof to the attorney(s) listed above, on the date set forth below. 18 by sending via overnight courier a copy thereof in a sealed, postage-paid 19 envelope, addressed to the attorney(s) listed above, on the date set forth below. 20 by faxing a copy thereof to the attorney(s) at the fax number(s) shown above, on the date set forth below. 21 Dated this **M**day of 2008. 22 23 24 Gregory A. Hartman, OSB 74 Aruna A. Masih, OSB 97324 25

26

Of Attorneys for Plaintiffs