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

URSULA WHITE, BRUCE N. REITER, and
MARGARET RETZ,

Plaintiffs,

v.

PUBLIC EMPLOYEES RETIREMENT
BOARD,

Defendant,

and

STATE OF OREGON, LANE COUNTY, CITY
OF EUGENE, MULTNOMAH COUNTY,
CITY OF PORTLAND, CITY OF ROSEBURG,
CITY OF HUNTINGTON, CANBY UTILITY
BOARD, and ROGUE RIVER VALLEY
IRRIGATION,

Intervenors.

URSULA WHITE, BRUCE N. REITER, and
MARGARET RETZ,

Petitioners,

v.

PUBLIC EMPLOYEES RETIREMENT
BOARD,

Respondent,

and

STATE OF OREGON, LANE COUNTY, CITY
OF EUGENE, MULTNOMAH COUNTY,
CITY OF PORTLAND, CITY OF ROSEBURG,
CITY OF HUNTINGTON, CANBY UTILITY

Case No. 0404-04118

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

Case No. 0411-11848

1 BOARD, and ROGUE RIVER VALLEY
2 IRRIGATION,

3 Intervenor.

4 STATE OF OREGON

5 County of Multnomah

) ss.

6 I, ARUNA A. MASIH, being first duly sworn, depose and say:

7 1. I am one of the attorneys for plaintiffs. I make this affidavit on personal
8 knowledge in support of plaintiffs' motion for order striking declarations of Sharon Rudnick.

9 2. On July 24, 2008, this office served a formal request for production for a copy of
10 all attorney time and billing records and records of costs advanced or paid for *City of Eugene v.*
11 *Public Employees Retirement Board*, Marion County Case Nos. 99C12794, 99C12838,
12 99C20235, and 00C16173, provided for review and/or reviewed by James P. Baker. A copy of
13 that request for production is attached hereto as EXHIBIT 1.

14 Dated this 24 day of July, 2008.

15
16 Aruna A. Masih
17

18 SUBSCRIBED AND SWORN TO before me by Aruna A. Masih this 28 day of
19 July, 2008.

20
21 Kai Jones
22 Notary Public for Oregon
23 My Commission Expires: 9-27-11
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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH

6 URSULA WHITE, BRUCE N. REITER, and
7 MARGARET RETZ,

8 Plaintiffs,

9 v.

10 PUBLIC EMPLOYEES RETIREMENT
11 BOARD,

12 Defendant,

13 and

14 STATE OF OREGON, LANE COUNTY, CITY
15 OF EUGENE, MULTNOMAH COUNTY,
16 CITY OF PORTLAND, CITY OF ROSEBURG,
17 CITY OF HUNTINGTON, CANBY UTILITY
18 BOARD, and ROGUE RIVER VALLEY
19 IRRIGATION DISTRICT,

20 Intervenor.

21 URSULA WHITE, BRUCE N. REITER, and
22 MARGARET RETZ,

23 Petitioners,

24 v.

25 PUBLIC EMPLOYEES RETIREMENT
26 BOARD,

Respondent,

and

STATE OF OREGON, LANE COUNTY, CITY
OF EUGENE, MULTNOMAH COUNTY,
CITY OF PORTLAND, CITY OF ROSEBURG,
CITY OF HUNTINGTON, CANBY UTILITY

Case No. 0404-04118

PLAINTIFFS' FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS
TO LOCAL GOVERNMENT
INTERVENORS LANE COUNTY,
CITY OF EUGENE, MULTNOMAH
COUNTY, CITY OF PORTLAND,
CITY OF ROSEBURG, CITY OF
HUNTINGTON, CANBY UTILITY
BOARD, and ROGUE RIVER
VALLEY IRRIGATION DISTRICT

Case No. 0411-11848

1 BOARD, and ROGUE RIVER VALLEY)
 2 IRRIGATION,)
 3 Intervenor.)

4 Plaintiffs request Local Government Intervenor 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.

17 INSTRUCTIONS

- 18 1. General Order. Produce all documents as they are kept in the usual course of
 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.
- 22 2. Sequence. Produce each document requested according to the defined request.
 23 Include the file folder and folder tabs associated with its file location.
- 24 3. 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

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 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.

10 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.

19 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.

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 DOCUMENTS

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 27th day of July, 2008.

14
15 
16 Gregory A. Hartman, OSB 74128
17 hartmang@bennetthartman.com
18 Aruna A. Masih, OSB 97324
19 masiha@bennetthartman.com
20 Of Attorneys for Plaintiffs
21
22
23
24
25
26

* * * COMMUNICATION RESULT REPORT (JUL. 24. 2008 1:01PM) * * *

FAX HEADER 1: BENNETT HARTMAN
FAX HEADER 2:TRANSMITTED/STORED : JUL. 24. 2008 12:53PM
FILE MODE OPTION

FILE MODE	OPTION	ADDRESS	RESULT	PAGE
1976 MEMORY TX		G3 : 9-5032202480	OK	7/7
		G3 : 9-15416866564	OK	7/7
		G3 : OHS	OK	7/7

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. KAPLAN
 NELSON R. HALL
 THOMAS K. DOYLE
 ARUNA A. MASIH
 HEDI K. BROWN
 SHARON MAYNARD
 CHRISTINE N. MOORE

ATTORNEYS AT LAW
 SUITE 1650
 111 S.W. FIFTH AVENUE
 PORTLAND, OREGON 97204-3827
 (503) 227-4600
 FAX (503) 248-6800
 www.bennethartman.com

ROBERT A. BENNETT (RETIRED)
 LINDA J. LARKIN
 * OF COUNSEL
 * ALSO MEMBER
 WASHINGTON BAR
 * ALSO MEMBER
 NEW YORK BAR
 * ALSO MEMBER
 NEVADA BAR

FACSIMILE TRANSMISSION

TO: Amy Edwards/Jeremy Sacks
 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:

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Masih Affidavit
 EXHIBIT 1, p. 6 of 7

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO LOCAL GOVERNMENT INTERVENORS LANE COUNTY, CITY OF EUGENE, MULTNOMAH COUNTY, CITY OF PORTLAND, CITY OF ROSEBURG, CITY OF HUNTINGTON, CANBY UTILITY BOARD, and ROGUE RIVER VALLEY IRRIGATION DISTRICT** upon the following persons at the following addresses:

Joseph M. Malkin
Sarah Marriott
Orrick, Herrington & Sutcliffe LLP
405 Howard St.
San Francisco, CA 94105-2669
Fax: (415) 773-5759
Of Attorneys for Defendants


William F. Gary
Sharon Rudnick
Karla Alderman
Harrang Long Gary et al
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Fax: (541) 686-6564
Of Attorneys for Intervenor Local Employers

Jeremy Sacks
Amy Edwards
Stoel Rives LLP
900 SW 5th, Suite 2600
Portland, OR 97204
Fax: (503) 220-2480
Of Attorneys for Intervenor State

by the following indicated method or methods:

- ☐ 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 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 **sending via overnight courier** a copy thereof in a sealed, postage-paid envelope, addressed 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.

Dated this 24th day of July, 2008.


Gregory A. Hartman, OSB 74128
Aruna A. Masih, OSB 97324
Of Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

BENNETT, HARTMAN, MORRIS & KAPLAN, LLP
Attorneys at Law
Suite 1650
111 S.W. Fifth Avenue
Portland, Oregon 97204
Telephone (503) 227-4600 Fax (503) 248-6800

Masih Affidavit
EXHIBIT 1, p. 7 of 7

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing AFFIDAVIT OF ARUNA A.

MASIH IN SUPPORT OF PLAINTIFFS' MOTION FOR ORDER STRIKING

DECLARATIONS OF SHARON RUDNICK upon the following persons at the following addresses:

Joseph M. Malkin
Sarah Marriott
Orrick, Herrington & Sutcliffe LLP
405 Howard St.
San Francisco, CA 94105-2669
Fax: (415) 773-5759
Of Attorneys for Defendants


William F. Gary
Sharon Rudnick
Karla Alderman
Harrang Long Gary et al
360 E. 10th Avenue, Suite 300
Eugene, OR 97401
Fax: (541) 686-6564
Of Attorneys for Intervenor Local
Employers

Steve Walters
Jeremy Sacks
Amy Edwards
Stoel Rives LLP
900 SW 5th, Suite 2600
Portland, OR 97204
Fax: (503) 220-2480
Of Attorneys for Intervenor State

by the following indicated method or methods:

- ☒ 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 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 **sending via overnight courier** a copy thereof in a sealed, postage-paid envelope, addressed 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.

Dated this 28th day of July, 2008.


Gregory A. Hartman, OSB 74128
Aruna A. Masih, OSB 97324
Of Attorneys for Plaintiffs

CERTIFICATE OF SERVICE