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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

PLAINTIFFS' REPLY REGARDING  
MOTION FOR ORDER STRIKING  
DECLARATIONS OF SHARON  
RUDNICK

Case No. 0411-11848

1 BOARD, and ROGUE RIVER VALLEY )  
IRRIGATION, )  
2 )  
Intervenors. )

3 Plaintiffs submit the following reply to Local Government intervenors' response to  
4 plaintiffs' motion to strike paragraphs 3 and 10 of the Rudnick declaration and paragraphs 2  
5 and 3 of the supplemental Rudnick declaration.

6 The court need only review the substance of paragraph 3 of the Rudnick declaration to  
7 determine that it is a statement of Ms. Rudnick's opinion as to what her clients were entitled to  
8 under the *City of Eugene* judgment. The interpretation to be given that judgment, however, is  
9 contested and is, therefore, a legal issue for the court's determination. An order striking that  
10 paragraph of the Rudnick declaration, therefore, is warranted under ORCP 47D.

11 In addition, it is also appropriate for the court to strike paragraph 10 of the initial  
12 declaration and paragraphs 2 and 3 of the supplemental declaration because they are clearly  
13 based upon Ms. Rudnick's review of documentation which Local Government intervenors  
14 have refused to produce for review by plaintiffs or the court. The information sought is clearly  
15 relevant to the reasonableness of the amount of attorney fees included in the settlement  
16 agreement and is not privileged as it was made available for review and reviewed by James  
17 Baker, counsel for PERB. (Baker Decl. ¶3). Local Government intervenors were apparently  
18 waiting for a formal request for production for such information but have not asserted that they  
19 would have produced the documents had they received such a request. A formal request was  
20 served on counsel for intervenors on July 24, 2008, and still, no documents have been  
21 produced. (Masih Aff., ¶2).

22 Dated this ~~23rd~~ day of July, 2008.

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Of Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing PLAINTIFFS' REPLY

REGARDING MOTION FOR ORDER STRIKING DECLARATIONS OF SHARON

RUDNICK upon the following persons at the following addresses:

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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 8<sup>th</sup> day of July, 2008.

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

CERTIFICATE OF SERVICE