

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON
 2 FOR THE COUNTY OF MULTNOMAH
 3
 4 URSULA WHITE, BRUCE N. REITER, and
 5 MARGARET RETZ, Plaintiffs,
 6 v. PUBLIC EMPLOYEES RETIREMENT BOARD,
 7 Defendant,
 8 and
 9 STATE OF OREGON, LANE COUNTY, CITY
 10 OF EUGENE, MULTNOMAH COUNTY,
 11 CITY OF PORTLAND, CITY OF ROSEBURG,
 12 CITY OF HUNTINGTON, CANBY UTILITY
 13 BOARD, and ROGUE RIVER VALLEY
 14 IRRIGATION, Interveners.
 15
 16 URSULA WHITE, BRUCE N. REITER, and
 17 MARGARET RETZ, Petitioners,
 18 v. PUBLIC EMPLOYEES RETIREMENT BOARD,
 19 Respondent,
 20 and
 21 STATE OF OREGON, LANE COUNTY, CITY
 22 OF EUGENE, MULTNOMAH COUNTY,
 23 CITY OF PORTLAND, CITY OF ROSEBURG,
 24 CITY OF HUNTINGTON, CANBY UTILITY
 25 BOARD, and ROGUE RIVER VALLEY
 IRRIGATION, Interveners.

Case No.
0404-04118

DEPOSITION OF DALE S. ORR
 Taken in Behalf of the Plaintiffs
 Wednesday, April 16, 2008

1 BE IT REMEMBERED that, the testimony of DALE
 2 S. ORR was taken before Peggy J. Hughson, a professional
 3 shorthand reporter certified by the State of Oregon; that
 4 pursuant to Oregon Revised Statute 44.320 said reporter is
 5 empowered to administer oaths to witnesses, that the
 6 above-named witness was put under oath on Wednesday,
 7 April 16, 2008, at the hour of 8:30 a.m., in the law offices
 8 of Bennett, Hartman, Morris, 111 Southwest Fifth Avenue,
 9 Sulte 1650, in the City of Portland, County of Multnomah,
 10 State of Oregon.
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 14 **APPEARANCES**
 15
 16 Bennett, Hartman, Morris & Kaplan
 17 Attorneys at Law
 18 By Mr. Gregory A. Hartman
 19 Appearing in behalf of the Plaintiffs,
 20
 21 Orrlck, Herrington & Sutcliffe
 22 Attorneys at Law
 23 By Ms. Sarah C. Marriott
 24 Appearing in behalf of the Defendant,
 25
 26 Harrang, Long, Gary, Rudnick
 27 Attorneys at Law
 28 By Mr. Josh Stone
 29 Appearing in behalf of the Interveners.
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1 pending question before consulting with counsel, with one
2 exception. If you feel that you need to discuss an
3 attorney/client privilege issue, then you can ask to take a
4 break, discuss that, and then come back and answer the
5 question. But otherwise, if there's no attorney/client
6 privilege issue, please answer the question and then you can
7 take a break.

8 **A. Okay.**

9 **Q.** All right. I'd like to start, for the record, just
10 getting a little bit of background information. First of
11 all, when did you begin employment with PERS?

12 **A. It was January of 1992.**

13 (Interruption in Proceedings)

14 **Q.** Starting with that date and going backwards, can you
15 tell me the kinds of professional experiences you've had
16 prior to joining the PERS system.

17 **A. Okay, I've been in primarily three positions since then.**
18 **I'm currently in charge of actuarial services, the Actuarial**
19 **Services Sections Manager. And I have been in this position**
20 **since approximately August -- officially August of 2004. And**
21 **what I'm responsible for is coordinating actuarial services**
22 **with our PERS actuary mercer, and also providing statistical**
23 **information on behalf of the agency, and working with**
24 **employers regarding employer rates and their employer**
25 **liabilities.**

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1 **somewhat limited as to how much you can cover. I also looked**
2 **at things like payroll as well.**

3 **Q.** Um-hum. Prior to coming to PERS can you tell me what
4 you -- again, just working backwards, tell me what
5 professional positions you had prior to joining PERS.

6 **A. Prior to being at PERS I was with Vocational**
7 **Rehabilitation Division, which is a division of Department of**
8 **Human Services now. All the names have changed since then.**

9 **Q.** Um-hum.

10 **A. And I was -- I served in that role since 1987. I was**
11 **the Internal Auditor for that agency as well.**

12 **Prior to that I served with the Banking Division as a**
13 **Bank Examiner from 1984 to 1987. I was responsible for**
14 **looking at internal controls of the state chartered banks**
15 **related to their computer systems, was my primary focus, but**
16 **I did other types of operational reviews as well.**

17 **And, let's see, prior to that I worked for the Oregon**
18 **Bank as a Corporate Auditor from 1982 to 1984, and did the**
19 **usual review of financial statements, we did branch audits as**
20 **well with some of the responsibilities, and then prior to**
21 **that I worked for First State Bank of Oregon. I held two**
22 **positions there. The first one was an Internal Auditor from**
23 **1986 to -- to about 19 -- 1976. Oh, this is getting painful.**
24 **1976 to about 1978, and then from '78 to '82 I was Operations**
25 **Manager at several branches for First State Bank.**

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1 **Prior to that I was Chief Financial Officer, Fiscal**
2 **Services Division Administrator was my official title, and I**
3 **was in that position since March of 1996. And my**
4 **responsibilities there were pretty much most of the back**
5 **office business functions with the exception of anything**
6 **related to IT, which would include of course financial**
7 **reporting, actuarial services procurement, and accounting**
8 **fiscal operations, payroll, that sort of thing.**

9 **Prior to that I was the Internal Auditor for Oregon**
10 **PERS, and started up the internal audit function there. I**
11 **served as the only Internal Auditor until 1996.**

12 **Q.** Can you explain for the record what the Internal Auditor
13 was auditing?

14 **A. We looked at a range of -- I looked at a range of**
15 **things. I shouldn't say we, I was the only Internal Auditor**
16 **at that time. The main thing was looking at the internal**
17 **controls of the agency, and the internal controls that**
18 **focused mainly in the big dollar area, so it was the high**
19 **risk areas such as how we employ -- do employee benefits,**
20 **tracking of member accounts, and how we pay those member**
21 **accounts, the controls related to that, segregation of duties**
22 **as far as setting up payments and to ensure that -- ensure**
23 **that no one person really had any control of the entire**
24 **activity stream. That was really the main focus.**

25 **When you're the only Internal Auditor there's -- you're**

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1 **Q.** And does that conclude, working backwards, your
2 professional positions?

3 **A. Right.**

4 **Q.** Okay. Let me jump right into the topic we're going to
5 be discussing today.

6 **Why don't we mark this as Exhb. Number 12.**

7 (6-23-03 Memo, EXB. 12 Marked)

8 **Q.** I'm going to hand you what we've marked as Exhb.
9 Number 12, which is a June 23rd, 2003 memo. I assume you've
10 seen that memo before?

11 **A. I could have.**

12 **Q.** Okay. I'm not going to have a lot of questions about
13 the substance of the memo, but why don't you take just a
14 moment or two to look at it to familiarize yourself with
15 generally the topics that it's covering.

16 **A. (Complied). Okay.**

17 **Q.** The memo deals in very general terms with the topic of
18 implementing Judge Lipscomb's ruling. I assume that in the
19 summer of '03 you were generally familiar with the fact the
20 agency was addressing this topic?

21 **A. Yes.**

22 **Q.** Were there a group of staff members put together to
23 review and analyze and work through the process of
24 implementing Judge Lipscomb's ruling?

25 **A. I don't recall that there was, say, like a team of**

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Hartman Affidavit
Exhibit 27, p. 2 of 4

1 of Eugene Plaintiffs. I assume you've seen that document
2 before?

3 **A. Yes, I have.**

4 **Q.** Okay. What I'd like to focus on is what role, if any,
5 you played in going from an agreement in principal to the
6 settlement agreement. Were you asked to participate in any
7 of the discussions which went from agreement in principal to
8 the finalization of the agreement that we see in front of us,
9 Exhb. 7?

10 **A. I guess I don't understand your question.**

11 **Q.** Okay, let me try it again. The parties, or at least the
12 PERS Board, announced in January that they had -- and I'm
13 just using the term an agreement in principal which, as it's
14 stated in that document, and of course this is often the
15 case, an agreement in principal has to be turned into an
16 agreement, the written document which establishes the terms
17 and the conditions of the settlement. And we have in front
18 of us Exhb. 7, which is the document which we all know was
19 the settlement document with the City of Eugene Plaintiffs.

20 And my question is a very general one at first, were you
21 involved in any way in the process of going from Exhb. 5,
22 agreement in principal, to Exhb. 7?

23 **A. No.**

24 **Q.** Okay. So you're speeding this deposition right along.
25 Let me hand you Exhb. 9, again from a prior deposition.

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1 **A. Well, I can say yes, there is, but I cannot recall**
2 **anything specific --**

3 **Q.** Okay.

4 **A. -- about that.**

5 **Q.** Was Mr. Rodeman involved?

6 **A. I don't recall specifically.**

7 **Q.** One way or the other?

8 **A. I don't -- I just don't know.**

9 **Q.** Okay. Do you recall having meetings with Mr. Johnson to
10 discuss this topic of how to implement this part of the
11 agreement?

12 **A. No, I really don't.**

13 **Q.** Okay. Let me back away from the agreement for a minute
14 because I do want to ask you about some issues that hopefully
15 your -- I believe you'd be familiar with.

16 If you look at again Mr. Johnson's memo, same page, he
17 begins the discussion of actuarial equivalency factors.
18 You're familiar with the term actuarial equivalency factors
19 as it's used in PERS?

20 **A. Oh, yes, I am.**

21 **Q.** I assumed you would be. When calculating member
22 benefits what role do actuarial equivalency factors have in
23 making those calculations?

24 **A. Well, there's several roles --**

25 **Q.** Okay.

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1 And that's actually a couple of memos and you see they have
2 your name on it this time and I am going to have questions
3 about these. So if you want to spend a few moments and
4 review them, certainly feel free to do so.

5 **A. Okay. (Complied).**

6 **Okay. Do I need to look at the attachment as well?**

7 **Q.** Yeah, actually the page you just put your hand on is the
8 page that I'm going to ask most of the questions about, so
9 probably a good idea.

10 **A. (Reading). Okay.**

11 **Q.** I take it since your name's on the memo that you did
12 have some role in the -- at least this aspect of the
13 implementation of the settlement agreement?

14 **A. Yes.**

15 **Q.** And you were working with Mark Johnson, who was at that
16 time the PERS actuary?

17 **A. Yes.**

18 **Q.** Now if you take a look at this page, it's page 2 of the
19 August 13th memo, Mr. Johnson recites that based on
20 discussions with PERS counsel and PERS staff he did certain
21 things, then he lays out what he did. Were there other
22 members of PERS staff who participated with Mr. Johnson in
23 developing these documents?

24 **A. His document?**

25 **Q.** Yes, the document which we've marked as Exhb. 9.

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1 **A. -- that it plays. The first one is if there is a --**
2 **it's a money match calculation, we use these factors in order**
3 **to annuitize the monthly benefit, to determine the monthly**
4 **benefit based upon the member's age and the earnings rate.**

5 **The other usage of this is when there is a beneficiary**
6 **involved in the benefit and actuarial equivalency factors are**
7 **used to adjust the member's benefit based upon the**
8 **beneficiary's age.**

9 **Q.** Okay.

10 **A. So those are the two primary uses of the actuarial**
11 **equivalency factors.**

12 **Q.** Did the 2003 legislature pass a statute mandating the
13 use of certain actuarial factors by the PERS system?

14 **A. Yes.**

15 **Q.** Okay. And did Judge Lipscomb, in his opinion, state
16 that he felt that it was improper for the Board to use
17 updated actuarial factors?

18 **A. Yes.**

19 **Q.** Let me focus you for just a moment on the calculation of
20 the Money Match Benefit. At that time, back in 2003, was
21 that the predominate form of benefit for people who were then
22 retiring from the system?

23 **A. Yes, it was.**

24 **Q.** Okay. To the extent that the older actuarial
25 assumptions were used, the ones that Judge Lipscomb was

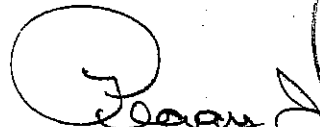
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Hartman Affidavit
Exhibit 27, p. 3 of 4

C E R T I F I C A T E

1
2
3 I, Peggy J. Hughson, a Certified Shorthand Reporter
4 for Oregon, hereby certify that Dale S. Orr personally
5 appeared before me at the time and place set forth in the
6 caption hereof; that at said time and place I reported in
7 stenotype all testimony adduced and other oral proceedings
8 had in the foregoing matter; that thereafter my notes were
9 reduced to typewriting under my direction, and that the
10 foregoing transcript, pages 1 to 38, both inclusive,
11 constitutes a full, true, and accurate record of such
12 testimony adduced, and oral proceedings had, and of the whole
13 thereof.

14 Witness my hand at Portland, Oregon, this 30th day
15 of April, 2008.

16
17
18 
19 Peggy J. Hughson J. HUGHSON
20 Certified Shorthand Reporter
21 CSR No. 90-0024



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