

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON 101015290

2 FOR THE COUNTY OF MULTNOMAH

3

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

5 v.  
PUBLIC EMPLOYEES RETIREMENT BOARD, Defendant,

6 and

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

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

13 v.  
PUBLIC EMPLOYEES RETIREMENT BOARD,  
14 Respondent,

15 and

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

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21 DEPOSITION OF STEVEN P. RODEMAN

22 Taken in Behalf of the Plaintiffs

23 Wednesday, April 16, 2008

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25

1 BE IT REMEMBERED that, the testimony of STEVEN

2 P. RODEMAN 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 10:05 a.m., in the law offices

8 of Bennett, Hartman, Morris, 111 Southwest Fifth Avenue,

9 Suite 1650, in the City of Portland, County of Multnomah,

10 State of Oregon.

11

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14 **APPEARANCES**

15

16 Bennett, Hartman, Morris & Kaplan  
Attorneys at Law  
By Mr. Gregory A. Hartman  
Appearing in behalf of the Plaintiffs,

17

18 Orrick, Herrington & Sutcliffe  
Attorneys at Law  
By Ms. Sarah C. Marriott  
Appearing in behalf of the Defendant,

19

20 Harrang, Long, Gary, Rudnick  
Attorneys at Law  
By Mr. Josh Stone  
Appearing in behalf of the Interveners.

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3 EXAMINATION BY: Page/line

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1 STEVEN P. RODEMAN 4

2 was thereupon produced as a witness in behalf of the

3 Plaintiffs, and was examined and testified as follows:

4

5 **EXAMINATION BY-MR. HARTMAN:**

6 Q. Mr. Rodeman, as we discussed briefly off the record I

7 don't think I have taken your deposition before, but,

8 nonetheless, I assume you are familiar with the process in

9 general?

10 A. Yes, I am.

11 Q. So I won't go through the usual kinds of reminders that

12 I do with people who are not familiar with the process but I

13 do want to remind you how important it is that we communicate

14 clearly. So if at any time I ask you a question you don't

15 feel you fully understand, ask me to repeat it, rephrase it,

16 do whatever I need to do to make sure we're communicating

17 well. Can you do that?

18 A. I can.

19 Q. Second thing is you have to be very certain to answer

20 audibly because otherwise the court reporter may not know

21 whether you've nodded your head or shaken your head, so,

22 please, every question audibly.

23 A. Thank you.

24 Q. A couple of just background questions. When did you

25 join PERS?

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Hartman Affidavit  
Exhibit 28, p. 1 of 5

- 1 **A. In November of 2001.**  
 2 Q. What was your position when you joined PERS?  
 3 **A. I was manager of what was then our Policy Planning and**  
 4 **Legislative Analysis Group, PPLAG as it was called.**  
 5 Q. And how long did you hold that position?  
 6 **A. I was manager of that group until January of '05.**  
 7 Q. And did your position change at that time?  
 8 **A. I was promoted to Administrator of what then was PPLAD,**  
 9 **same acronym but a division now.**  
 10 Q. And do you continue to hold that position today?  
 11 **A. I do.**  
 12 Q. Okay. And have you assumed any other responsibilities  
 13 on behalf of PERS up to this time?  
 14 **A. No, those are the two positions that I've held.**  
 15 Q. All right. Can you tell me in general terms, and I mean  
 16 very general terms, what the PPLAG did.  
 17 **A. The division that I'm in deals with the policy analysis,**  
 18 **legislative analysis, and management of our legal services.**  
 19 **So what we principally do is interact with the Board on**  
 20 **administrative rules and other policy issues that are**  
 21 **presented to the Board as well as legislative development and**  
 22 **implementation with State and Federal legislation.**  
 23 Q. Now, Mr. Rodeman, you're an active member of the Oregon  
 24 State Bar?  
 25 **A. I am.**

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- 1 Q. Okay. But this is not a legal position as such, is it?  
 2 **A. I do not provide legal services to the agency, correct.**  
 3 Q. All right. So even though you remain an active member  
 4 of the Bar, you're not functioning as a legal counselor or  
 5 legal counsel for the system in this position?  
 6 **A. That's correct.**  
 7 Q. All right, which leads me into just asking a few  
 8 questions. Can you kind of work backwards from November of  
 9 2001 and tell us about the other professional positions that  
 10 you've held?  
 11 **A. My immediate prior position to that was as Vice**  
 12 **President and General Counsel with a credit union, it's now**  
 13 **called Rivermark Credit Union, it was at the time called**  
 14 **Safeway Credit Union. And I had worked there for three**  
 15 **years, and then prior to that I was also a Vice President and**  
 16 **General Counsel with the Oregon Credit Union League, which is**  
 17 **now called the Credit Union Association of Oregon. They**  
 18 **change names after I leave for some reason, I think it's**  
 19 **anonymity. But I was there for ten years at that time, and**  
 20 **then prior to my work with the Credit Union Association I**  
 21 **worked in private practice principally with Hershner, Hunter**  
 22 **down in Eugene, and that was the first job I had after law**  
 23 **school.**  
 24 Q. Okay. Let me jump right into the topic at issue here.  
 25 Let me hand you a document we've marked as Exhb. Number 12.

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- 1 As you can see it's a June 23rd, 2003 memo over your  
 2 signature. I guess that's what you call it. Do you recall  
 3 that document?  
 4 **A. Yes, generally.**  
 5 Q. Okay. At that time was the PERS Board working towards  
 6 implementation of the opinion by Judge Lipscomb in the City  
 7 of Eugene case?  
 8 **A. Yes.**  
 9 Q. By that time, June of 2003, the 2003 legislature had  
 10 also acted by passing some statutes which had an impact on  
 11 PERS; is that correct?  
 12 **A. Yes.**  
 13 Q. And so was this memo addressed to how to implement that  
 14 package of kind of two different things going on and what was  
 15 the best or correct way to implement all those things?  
 16 **A. Now as I look at the memo my recollection from --**  
 17 **refreshed from looking at it is that this memo just dealt**  
 18 **with Judge Lipscomb's ruling and it didn't incorporate the**  
 19 **legislation that was in process or had passed at that time.**  
 20 Q. Okay. Even though the legislation is not incorporated  
 21 in the memo was it nonetheless being implemented by PERS at  
 22 this time?  
 23 **A. I don't specifically recall the development because, as**  
 24 **you know, it was very close to this time that the package of**  
 25 **reform legislation was being finalized. So I don't really**

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- 1 **remember the sequence exactly.**  
 2 Q. Okay. From the point wherein the package was finalized,  
 3 as you put it, did PERS immediately undertake the process of  
 4 implementing the 2003 legislation according to whatever its  
 5 terms were?  
 6 **A. I'm not sure what you mean by immediately implement.**  
 7 Q. Well, let me back up and let me ask it a different way.  
 8 The 2000 legislature passed some statutes which had an impact  
 9 on PERS.  
 10 **A. 2000?**  
 11 Q. I'm sorry, 2003.  
 12 **A. Okay.**  
 13 Q. Correct?  
 14 **A. Yes.**  
 15 Q. And there was never any question about whether PERS  
 16 would implement those statutes? In other words, once passed  
 17 PERS was going to implement them; is that correct?  
 18 MS. MARRIOTT: I'm just going to object here, that's  
 19 vague as to there was never any question, what you mean by  
 20 that.  
 21 (By-Mr. Hartman)  
 22 Q. You can answer the question if you understand it or I'm  
 23 happy to repeat it if you'd like me to repeat it.  
 24 **A. I'm not sure what you mean by not being any question of**  
 25 **implementing legislation.**

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 Exhibit 28, p. 2 of 5

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- 1 Q. All right, okay, let me try it this way: Again, the  
2 legislature passed certain legislation?  
3 A. Correct.  
4 Q. Okay. Even prior to the legislative session  
5 Judge Lipscomb had ruled in the City of Eugene case on a  
6 variety of issues?  
7 A. Correct.  
8 Q. Okay. And there was some overlap between Judge  
9 Lipscomb's ruling and some of the things that were dealt with  
10 in the legislature?  
11 A. Correct.  
12 Q. Okay. And so this memo, again Exhb. 12, was directed at  
13 beginning the process of implementing the Judge Lipscomb part  
14 of the equation?  
15 A. Correct.  
16 Q. Okay. The memo is over your name but were there other  
17 staff members involved in putting together the memo and  
18 generally giving advice to the PERS Board on how to commence  
19 this implementation?  
20 A. Yes.  
21 Q. Okay. Were those staff members who worked in your  
22 division which at that point was called PP something or  
23 other, whatever the --  
24 A. PPLAG.  
25 Q. PPLAG, um-hum.

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- 1 Q. Okay. And let me hand you Exhb. 13, a July '03 memo,  
2 again over your signature, and again on the same topic, was  
3 this just a continuation of the ongoing conversation on how  
4 to implement Judge Lipscomb's order?  
5 A. Yes, it was.  
6 Q. I don't think there's any dispute that the new Board  
7 came onboard in September of '03 and would have been the  
8 Board at the time of this September meeting. Did  
9 implementation discussions continue with the new Board?  
10 A. Yes.  
11 Q. Okay. Do you recall whether there were similar  
12 documents to this produced which, you know, analyzes issues  
13 and asks for Board input in one way or another after this  
14 Exhb. 13?  
15 A. I don't recall any such documents being produced.  
16 Q. Okay. At the time that these documents were produced,  
17 Exhbs. 12 and 13, was the possibility of settling the  
18 Lipscomb case under discussion?  
19 MS. MARRIOTT: I'm going to object about there's a  
20 vagueness as to who was involved in the discussion.  
21 (By-Mr. Hartman)  
22 Q. Were you involved in any discussions?  
23 A. None that I recall.  
24 Q. Okay. Let me hand you what we've marked as Exhb. 5, and  
25 those are the Board minutes from a January 26, 2004 Board

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- 1 A. Yes, some were. The people I'm thinking about  
2 principally are Steve Delaney, who was the administrator of  
3 this group at the time, and our Executive Director at the  
4 time, Jim Voytko.  
5 Q. Okay.  
6 A. Principally other people were involved as well in  
7 analyzing different components of it.  
8 Q. Okay. So yourself, Mr. Delaney, Mr. Voytko, members of  
9 your staff. Was Mr. Orr involved in this process in any  
10 significant way?  
11 A. I'm not sure what you mean by significant way. In  
12 analyzing -- in analyzing how we were going to implement  
13 Lipscomb, the elements here of things like the Variable Match  
14 calculation, the actuarial factors, and the Employer Variable  
15 affected a number of divisions in PERS. So trying to  
16 understand how that implementation would occur in each of  
17 those divisions did engage many of those people. So Mr. Orr  
18 would have been engaged in the relevant part of that  
19 analysis.  
20 Q. Okay. So would those communications along the line of  
21 if we did it this way, what impact would it have on your  
22 operation?  
23 A. No, more -- as I recall, the conversation more was along  
24 the lines of what was the Judge trying to have us do,  
25 because -- that was more along the lines of the conversation.

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- 1 meeting, and if you drop down to the bottom of the page  
2 you'll see there's discussion of motions and so forth  
3 relating to resolution of the Lipscomb case. Feel free to  
4 review as much of those as you care to.  
5 A. (Reading).  
6 Q. Prior to January 26th, 2004, when did you first find out  
7 that the Board was considering settling the Lipscomb case?  
8 A. My recollection is that this news release that's  
9 attached to the memo was something that was discussed the day  
10 before this Board meeting. And that's just a vague  
11 recollection of how those events occurred, but that's my  
12 first knowledge of the settlement agreement.  
13 Q. Okay. Were you the author of the press release?  
14 A. No, I don't think so.  
15 Q. Okay. So when you first learned about the potential for  
16 settlement, were you asked to give any input, advice,  
17 anything of that nature about the terms and conditions of any  
18 proposed settlement?  
19 A. Not that I recall.  
20 Q. Okay. To the best of your knowledge were any other  
21 staff members asked to provide input, advice, analysis, on  
22 this topic of the potential settlement of the Lipscomb  
23 litigation?  
24 A. I don't -- I don't know of any, no.  
25 Q. Just quickly let me hand you Exhb. 2, which is I believe

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1 a letter from Bill Gary, and my first question will simply be  
2 have you ever seen that letter before.

3 **A. (Reading).**

4 MS. MARRIOTT: Greg, I'm not sure if this is -- we might  
5 have had problems with this exhibit before. I'm not sure if  
6 it includes the whole set.

7 MR. HARTMAN: Oh, I'm sorry, you're correct. I'm going  
8 to withdraw that exhibit and hand you Exhb. 11 which you'll  
9 see has the signature page.

10 MS. MARRIOTT: Right.

11 MR. HARTMAN: Thank you.

12 MS. MARRIOTT: It struck something I remembered.

13 MR. HARTMAN: I don't think it changes the substance but  
14 now it is a complete document.

15 Q. And the same question: Do you recall ever seeing that  
16 before today?

17 **A. No, I don't.**

18 Q. Okay. Let me hand you Exhb. 3. Again same question:  
19 Do you recall ever seeing that exhibit before today?

20 **A. No, I don't.**

21 Q. Exhb. 4?

22 **A. No, I don't.**

23 Q. Exhb. 6? It's going to be a quick deposition.

24 **A. Without going into the substance of the agreement, this  
25 does appear to be in the form of the Settlement Agreement as**

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1 it came out just as far as organizational structure, but the  
2 January 30, 2004 letter in the front is not something I  
3 recall seeing previously.

4 Q. Okay. Taking you back to Exhb. 5 for the moment, which  
5 is just the minutes that recite the agreement in principal,  
6 did you attend the executive session which apparently, as  
7 indicated there, took place that day?

8 **A. I don't recall being there.**

9 Q. Okay. Would you customarily attend executive sessions  
10 of the Board?

11 **A. Not at this time.**

12 Q. Okay. You mentioned that Mr. Voytko and Mr. Delaney  
13 were involved in the process of constructing the earlier  
14 memos we looked at. Do you know whether either of them  
15 attended the executive session which would have taken place  
16 on January 26th?

17 **A. I don't know.**

18 Q. One way or the other?

19 **A. One way or the other.**

20 Q. Okay. Let me hand you Exhb. 7, and we've previously  
21 identified that as the Settlement Agreement. And general  
22 question: Were you involved in the process of going from  
23 settlement in principal to the actual Settlement Agreement?

24 **A. I'm not sure what that distinction is.**

25 Q. Well, in other words, the January 26th minutes indicate

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1 that the Board has approved a -- what I call a settlement in  
2 principal, but with the expectation that that's going to be  
3 turned into a formal settlement document, and, matter of  
4 fact, we know historically it was because we have Exhb. 7.  
5 And I'm asking just the broad question, were you involved at  
6 all in the process of going from the agreement in principal  
7 to the drafting and final execution of the Settlement  
8 Agreement?

9 **A. I'm trying to recall. And I don't recall any particular  
10 involvement prior to the time that the Settlement Agreement  
11 was finalized. What I'm struggling with trying to recall is  
12 whether there were any changes to the agreement just to  
13 clarify things that we would then try to implement from it,  
14 and I don't know if that occurred prior or after execution  
15 started, because, as you know, it was kind of executed in a  
16 series. So I don't know if the terms actually changed or if  
17 we just received clarification from our counsel as to how it  
18 should be implemented.**

19 Q. Okay, let me just make sure I understand your answer.

20 My focus at this point, and I will get the implementation,  
21 that's the next step in this process, but my focus at this  
22 point is merely the drafting, if you will, the process of  
23 going from here's the concept, here's the piece of paper with  
24 many pages of attorney language we're all familiar with. And  
25 I'm just trying to understand whether you had any role in

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1 that process.

2 **A. I don't recall any specific role in that, but that's why  
3 I'm equivocating, I don't remember if our input, to what  
4 degree we had it, occurred where in that process. I don't  
5 specifically recall where that question might have been asked  
6 of us as staff.**

7 Q. Okay. Well, let me ask you to look at something a  
8 little more carefully then, perhaps that will help jog your  
9 memory.

10 Let's start with Exhb. Number 6, and it's a letter from  
11 Bill Gary to Jim Baker which contains, as you noted, a  
12 proposed Settlement Agreement which at least structurally  
13 appears to be similar to what was finally resolved, and let  
14 me ask you to look at Paragraph 1.5, if you would, please,  
15 and then Paragraph 1.5 in the final document, Exhb. 7. And  
16 again the question I'm going to have for you is did you have  
17 any input into the change in language which appears to have  
18 taken place there.

19 MS. MARRIOTT: Greg, can you point out where --

20 MR. HARTMAN: Sure, I'd be happy to. As far as I can  
21 tell, but feel free to read the whole thing, it's really the  
22 last sentence of Paragraph 1.5 that changed.

23 **A. I don't recall having any input into that change.**

24 Q. Okay. Okay, now let's move from drafting documents to  
25 implementing, and let me ask you to take a look at Exhb.

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C E R T I F I C A T E

I, Peggy J. Hughson, a Certified Shorthand Reporter for Oregon, hereby certify that STEVEN P. RODEMAN personally appeared before me at the time and place set forth in the caption hereof; that at said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were reduced to typewriting under my direction, and that the foregoing transcript, pages 1 to 19, both inclusive, constitutes a full, true, and accurate record of such testimony adduced, and oral proceedings had, and of the whole thereof.

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

*Peggy J. Hughson*  
 Peggy J. Hughson  
 Certified Shorthand Reporter  
 CSR No. 90-0024



**ORIGINAL**

CERTIFICATE OF SERVICE

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

HARTMAN IN SUPPORT OF PLAINTIFFS' RESPONSE TO DEFENDANT AND

INTERVENORS' MOTIONS FOR SUMMARY JUDGMENT upon the following persons at

the following addresses:

Joseph M. Malkin  
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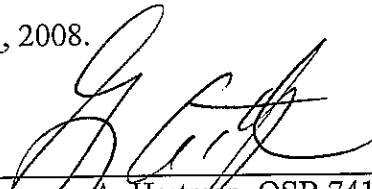
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by the following indicated method or methods:

- 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 7 day of July, 2008.

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

CERTIFICATE OF SERVICE