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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 GREGORY A.
HARTMAN IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
MOTIONS FOR SUMMARY
JUDGMENT

Case No. 0411-11848

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

4 STATE OF OREGON)
5 County of Multnomah) ss.

6 I, GREGORY A. HARTMAN, being first duly sworn, depose and say that:

7 1. I am trial counsel for plaintiffs Ursula White, Bruce N. Reiter, and
8 Margaret Retz in this action and make this affidavit based on personal knowledge in support of
9 Plaintiffs' Response to Defendants and Intervenors' Motions for Summary Judgment.

10 2. I also served as trial counsel for Intervenors Karen Jenkins, Diane
11 Davidson, Arlyn Stepper, Gary Gillespie, Ann Montague, Judith Ann Sugnet, Gary Nauta, and
12 Roger Garver in the consolidated *City of Eugene* case (Marion County Case Nos. 99C-20235
13 and 99C-12794) (Supreme Court Case No. S50617). Attached as follows to this affidavit are
14 true copies of the following documents from that case:

15 **EXHIBIT 1**—PERB's Memorandum in Support of and in Opposition to
16 Summary Judgment, Table of Contents summarizing arguments and
17 Petitioners' Prayer for Relief in its Third Amended Petition;

18 **EXHIBIT 2**—Motion & Order dismissing the Eugene Water & Electric
19 Board (EWEB) from that case;

20 **EXHIBIT 3**—Stipulated Order Postponing ORCP 68 Filing and Service of
21 Statement of Attorney Fees, Costs, and Disbursements;

22 **EXHIBIT 4**—Judgment, signed April 23, 2003;

23 **EXHIBIT 5**—Excerpt from the Intervenors-Appellants' Opening Brief;

24 **EXHIBIT 6**—Petitioner-Respondents' Motion to Dismiss Appeal;

25 **EXHIBIT 7**—Public Employees Retirement Board's Joinder in Petitioner-
26 Respondents' Motion to Dismiss Appeal;

1 **EXHIBIT 8**–Intervenors-Appellants’ Petition for Reconsideration/
2 Motion to Vacate; and

3 **EXHIBIT 8A**–Excerpts of PERB’s Answering Brief on the Merits.

4 3. I also served as trial counsel for petitioners Richard Strunk, Donald Reed,
5 Carol Booker, Larry Blumenstein, Alan Lively, Merlene Martin, William Smee, Denise
6 Jacobsen, and Susanne Rhodes in the *Strunk* case (Supreme Court Case No. S50593).

7 Attached as follows to this affidavit are true copies of the following documents from that case:

8 **EXHIBIT 9**–E-mail correspondence between counsel in that case, dated
9 February 20, 2004, concerning status conference with Special Master,
10 Hon. David Brewer, to compel production of the draft settlement
11 agreement of the *City of Eugene* case;

12 **EXHIBIT 10**–Protective Order, signed February 20, 2004, requiring
13 production of the draft settlement agreement of the *City of Eugene* case but
14 forbidding disclosure of the terms of the settlement agreement to anyone
15 other than counsel of record to the proceeding; and

16 **EXHIBIT 11**–Order, signed February 24, 2004, lifting the protective
17 order of February 20, 2004 and allowing disclosure of the terms of the
18 settlement agreement of the *City of Eugene* case.

19 4. I also serve as counsel for a group of public sector labor unions referred to
20 as the PERS Coalition. As counsel for the PERS Coalition, I also regularly attend PERS Board
21 meetings. I attended the PERS Board meeting held on May 11, 2004. Attached to this
22 affidavit as **EXHIBIT 12** are the agenda and minutes from that meeting verifying that the
23 minutes from the January 26, 2004 meeting were not adopted by the PERS Board until the
24 May 11, 2004 meeting.

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1 5. As a general practice, PERS does not post the packet of materials to be
2 considered by the PERS Board at any meeting on its website until approximately one week
3 before that meeting.

4 6. Attached as **EXHIBIT 13** to this affidavit is a copy of the tort claims
5 notice issued on behalf of plaintiffs in this action.

6 7. As counsel for the PERS Coalition, I have also been involved in the
7 legislative process concerning amendments to the PERS statutes, including the amendments
8 made in 2001 to ORS 238.601 and ORS 238.670 and the 2003 PERS legislation. Attached as
9 exhibits to this affidavit are the following legislative history records:

10 **EXHIBIT 14** documents submitted to the Senate Committee on Business,
11 Labor and Economic Development, on April 2, 2001 and April 18, 2001,
12 by PERB staff in relation to the 2001 amendments.

13 **EXHIBIT 15** are pertinent portions of the legislative history of the 2003
14 PERS Legislation.

15 8. Attached to this affidavit as **EXHIBIT 16** are the minutes from the
16 following PERB meetings: September 9, 2003, October 12, 2003, January 9, 2004, January
17 26, 2004, April 12, 2004, and October 12, 2004.

18 9. Attached to this affidavit as **EXHIBIT 17** is a copy of the contract
19 between PERB and the law firm of Orrick, Herrington & Sutcliffe LLP.

20 10. Attached to this affidavit as **EXHIBIT 18** is a copy of a letter from
21 William F. Gary, counsel local governments, to James Baker, counsel for PERB, dated
22 November 19, 2003.

23 11. Attached to this affidavit as **EXHIBIT 19** is a copy of the memoranda
24 prepared by PERB staff and the PERS actuary regarding adoption of employer rate adjustments
25 for the *City of Eugene* petitioners.

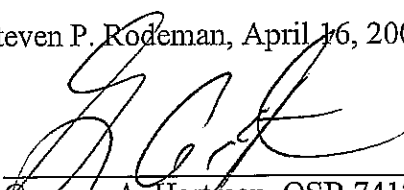
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1 12. Attached to this affidavit as **EXHIBIT 20** is a copy of the analysis of the
2 impact of the *City of Eugene* settlement prepared by the PERS actuary and presented to PERB
3 at the September 23, 2005 meeting.

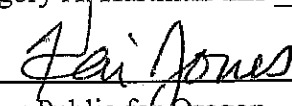
4 13. As counsel for plaintiffs in this case, I took the depositions of several
5 individuals. Attached as exhibits to this affidavit are the following deposition excerpts:

- 6 **EXHIBIT 21** - Deposition of Eva Kripalani, August 24, 2007;
7 **EXHIBIT 22** - Deposition of Thomas Grimsley, November 30, 2007;
8 **EXHIBIT 23** - Deposition of Brenda Rocklin, November 30, 2007;
9 **EXHIBIT 24** - Deposition of Mark Johnson, December 3, 2007;
10 **EXHIBIT 25** - Deposition of James Dalton, December 3, 2007;
11 **EXHIBIT 26** - Deposition of Michael J. Pittman, December 4, 2007;
12 **EXHIBIT 27**- Deposition of Dale S. Orr, April 16, 2008;
13 **EXHIBIT 28** - Deposition of Steven P. Rodeman, April 16, 2008.

14 Dated : July 7, 2008

15 
16 _____
17 Gregory A. Hartman, OSB 74128
18 hartmang@bennethartman.com

17 SUBSCRIBED AND SWORN TO before me by Gregory A. Hartman this 7 day of
18 July, 2008.

19 
20 _____
21 Notary Public for Oregon
22 My Commission Expires: 9-27-11

