

COPY

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

MICHAEL ARKEN, et al.

Plaintiffs,

v.

CITY OF PORTLAND, et al.

Defendants.

Case No. 0601-00536

MOTION PRAECIPE

RUTH ROBINSON, et al.

Petitioners,

v.

PUBLIC EMPLOYEES RETIREMENT
BOARD, STATE OF OREGON,

Respondent.

Case No. 0605-04584

Notice is hereby given that Townsend Hyatt, attorney for Defendant/Respondent Public Employees Retirement Board, has set a motion for hearing as follows:

Judge (or Pro Term): Henry Kantor

Date: August 16, 2007 Time: 9:00 a.m.

OR

On Call for in Room 208 at 9:00 a.m.

This is a XX first ___ subsequent setting.

☐ Moving party waives appearance

☐ Hearing by telephone is requested

☒ Reporting is requested (fee is required when motion is filed).

1 Length of time requested for this motion hearing: one half-hour

2 **TYPE OF MOTION:**

3 ☐ ORCP 21 ☐ Prima Facie Default ☐ Set Aside Default

4 ☐ Summary Judgment ☐ Compel Production ☐ Change Venue

5 ☒ Other: The Public Employees Retirement Board's Motion for Stay of Judgment

7 I certify that I served a copy of this praecipe as required by SLR 5.015 on the 25th day of
8 July, 2007 as follows: Greg Hartman/Aruna Masih, Bennett Hartman LLP, 111 S.W. Fifth
9 Avenue, Suite 1650, Portland, OR 97204-3627; Jim Coon, 820 SW Second Ave., Suite 200,
10 Portland OR 97204; Gene Mechanic, Service Employees International Union, 4600 Sheridan
11 Street, Suite 200, Hollywood, FL 33021; William F. Gary/Sharon Rudnick, Harrang Long
12 Gary et al, 360 E. 10th Avenue, Suite 300, Eugene, OR 97401; Amy Edwards/Jeremy Sacks,
13 Stoel Rives LLP, 900 SW 5th, Suite 2600, Portland, OR 97204

14 DATED: July 25, 2007

15
16 TOWNSEND HYATT, OSB 89439
17 thyatt@orrick.com, (503) 943-4820
18 JOSEPH M. MALKIN, *admitted pro hac vice*
19 jmalkin@orrick.com, (415) 773-5505

20 ORRICK, HERRINGTON & SUTCLIFFE LLP
21 405 Howard Street, San Francisco, CA 94105
22 1125 NW Couch St., Suite 800, Portland, OR 97209

23 

24 Townsend Hyatt
25 Attorney for Defendant/Respondent
26 Public Employees Retirement Board
27
28

1 COPY

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3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF MULTNOMAH
6

7 MICHAEL ARKEN, DALE CANNON,
8 ROBYN CARRICO, CAROL YOUNG,
9 JOHN HAWKINS, LESLIE HUNTER, RICK
MULLINS, S.M. RUONALA, PATRICIA
THOMPSON WESTOVER and MYRNA
WILLIAMS,

10 Plaintiffs,

11 v.

12 CITY OF PORTLAND, WESTERN
13 OREGON UNIVERSITY, PORTLAND
14 SCHOOL DISTRICT, CITY OF GRESHAM,
15 LINN COUNTY, UNIVERSITY OF
OREGON, PORTLAND COMMUNITY
16 COLLEGE, MULTNOMAH COUNTY,
CENTRAL SCHOOL DISTRICT 13J,
17 FOREST GROVE SCHOOL DISTRICT #15,
and the PUBLIC EMPLOYEES
RETIREMENT BOARD,

18 Defendants.

19 RUTH ROBINSON, GERALD BUTTON,
20 NORMAN FABIAN, BECKY HANSON,
RENE REULET, LINDA GRAY, LAREN
21 FERRELL, STUART GILLET, ROBERT
PEARSON, GARY REESE, BRUCE
22 JOHNSON on behalf of themselves and all
others similarly situated,

23 Petitioners,

24 v.

25 PUBLIC EMPLOYEES RETIREMENT
26 BOARD, STATE OF OREGON,

27 Respondent.
28

Case No. 0601-00536

**THE PUBLIC EMPLOYEES
RETIREMENT BOARD'S MOTION
FOR STAY OF ANY JUDGMENT
ENTERED HEREIN PENDING
NOTICE AND DISPOSITION OF
APPEAL**

Case No. 0605-04584

1 The Public Employees Retirement Board ("PERB") moves this Court for an order staying
2 any judgment to be entered herein pending notice and disposition of appeal. This Motion is based
3 on ORCP 72, the Memorandum in Support, and the Declaration of Townsend Hyatt submitted
4 herewith. PERB requests oral argument and official court reporting services. PERB estimates
5 that a hearing will take 30 minutes.

6
7 Dated: July 25, 2007

TOWNSEND HYATT, OSB 89439
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Townsend Hyatt
Attorneys for Defendant/Respondent
Public Employees Retirement Board

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

MICHAEL ARKEN, DALE CANNON,
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THOMPSON WESTOVER and MYRNA
WILLIAMS,

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v.

CITY OF PORTLAND, WESTERN
OREGON UNIVERSITY, PORTLAND
SCHOOL DISTRICT, CITY OF GRESHAM,
LINN COUNTY, UNIVERSITY OF
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COLLEGE, MULTNOMAH COUNTY,
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Defendants.

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v.

PUBLIC EMPLOYEES RETIREMENT
BOARD, STATE OF OREGON,

Respondent.

Case No. 0601-00536

**THE PUBLIC EMPLOYEES
RETIREMENT BOARD'S
MEMORANDUM IN SUPPORT OF
MOTION FOR STAY OF ANY
JUDGMENT ENTERED HEREIN
PENDING NOTICE AND
DISPOSITION OF APPEAL**

Case No. 0605-04584

1 I. INTRODUCTION

2 On June 20, 2007, this Court issued an opinion and order in *Arken v. City of*
3 *Portland*, Case No. 0601-00536, and *Robinson v. Public Employees Retirement Board*, Case
4 No. 0605-04584, that invalidated the Public Employees Retirement Board's January 27, 2006,
5 Order Adopting Repayment Methods. The Public Employees Retirement Board plans to file a
6 notice of appeal after judgment is entered in the two cases. Compliance with this Court's
7 orders will be a complex and expensive endeavor for the Public Employees Retirement
8 System, and reversal by the Supreme Court after compliance with this Court's order would
9 entail further expense to the System. The Public Employees Retirement Board therefore
10 respectfully requests that this Court stay any judgment entered in these cases pending notice
11 and disposition of appeal.

12 II. ARGUMENT

13 A. Factual Background

14 In *City of Eugene, et al. v. State of Oregon*, Case Nos. 99C-12794, 00C-16173,
15 99C-12838 and 99C-20235, the Marion County Circuit Court held that the Public Employees
16 Retirement Board ("PERB") had abused its discretion by crediting the accounts of Tier One
17 Public Employees Retirement System ("PERS") members with 20 percent interest for 1999.
18 *Strunk v. Public Employees Retirement Board*, 338 Or 145, 215 (2005). The Oregon
19 Legislature subsequently codified 11.33 percent as the correct earnings credit for 1999. *Id.* at
20 216; Or Laws 2003 ch. 67, secs. 9 and 10, *as amended by* Or Laws 2003, ch. 625, sec. 13.
21 The Public Employees Retirement Board then recalculated the member account balances for
22 the Tier One members who had not yet retired or withdrawn based on the 11.33 percent
23 figure. Affidavit of Paul Cleary ("Cleary Aff."), ¶ 2.

24 About 48,000 benefit recipients, including all Window Retirees,¹ still stood to
25 receive about \$800 million in past and future overpayments based on the 20 percent earnings
26 credit. Cleary Aff., ¶ 3. The legislature directed PERB to recoup the overpayments to

27
28 ¹ The Window Retirees are Tier One members who retired on or after April 1, 2000, and before April 1, 2004,
under the Money Match benefit calculation method. *Strunk*, 338 Or at 217.

1 Window Retirees by freezing COLA payments, Or Laws 2003, ch 67, sec 10(3), *as amended*
2 by Or Laws 2003, ch 625, sec 13. This method was invalidated by the Supreme Court in
3 *Strunk*. *Strunk*, 338 Or at 220.

4 PERB eventually adopted its January 27, 2006, Order Adopting Repayment
5 Methods ("Repayment Order") to recover the overpayments. Cleary Aff., ¶ 4. The
6 Repayment Order required Window Retirees, and all other benefit recipients who had
7 received payments based on 20% crediting to Tier One member regular accounts in 1999, to
8 return the overpayment. Those recipients still receiving monthly benefits could return the
9 overpayment by one of two ways: (1) paying the amount owed in a single lump-sum payment;
10 or (2) by actuarial reduction of their monthly payment under ORS 238.715(1)(b). Recipients
11 who were no longer receiving monthly payments could return the overpayment in a single
12 lump sum payment. *See* Repayment Order, Hyatt Decl., Exh. 1.

13 Plaintiffs in *Arken* and Petitioners in *Robinson*, both proposed classes of a
14 subset of retired PERS' members, seek to set aside the Repayment Order. On June 20, 2007,
15 this Court issued its opinion and order in *Arken* and *Robinson* ("June 20 Order"). The June 20
16 Order declared the Repayment Order invalid and unenforceable and enjoined PERB "from
17 seeking to enforce the [Repayment] Order in any way." June 20 Order at 17-18. It further
18 ordered PERB "to account for and restore any funds collected from or charged to retirees
19 pursuant to the Order as if they had never been collected or charged." *Id.* at 18.

20 Following issuance of the June 20 Order, PERB suspended affirmative efforts
21 to enforce the Repayment Order. Cleary Aff., ¶ 9. PERB is no longer pursuing collections
22 attempts against any benefit recipients, including Window Retirees, with outstanding invoices
23 for overpayments. Cleary Aff., ¶ 10. PERB also returned checks to those whose repayments
24 had not yet been processed when the June 20 Order was issued. Cleary Aff., ¶ 11. But, while
25 PERB has halted its affirmative attempts to enforce the Repayment Order, it has not yet
26 reversed already-processed repayments or monthly benefit recalculations.² Cleary Aff., ¶ 12.

27
28 ² As of June 1, 2007, almost 30% of the affected retired members or their beneficiaries have been adjusted to
reflect the 11.33% crediting instead of the 20% rate originally credited for 1999. Cleary Aff., ¶ 7.

1 PERB anticipates that a judgment will be entered in these cases shortly after
2 the August 16, 2007, status conference and motions hearing. PERB plans to file a notice of
3 appeal after entry of judgment.

4 **B. A Stay of Judgment is Warranted**

5 A judgment may be enforced as soon as it is entered. ORCP 72A. The court,
6 however, has discretion to stay enforcement of a judgment pending the filing of a notice of
7 appeal and disposition of the appeal. *Id.*; ORS 19.350.³ In determining whether to grant a
8 stay of judgment, the court should consider: “(a) [t]he likelihood of the appellant prevailing
9 on appeal[;] (b) [w]hether the appeal is taken in good faith and not for the purpose of delay[;]
10 (c) [w]hether there is any support in fact or in law for the appeal[; and] (d) [t]he nature of the
11 harm to the appellant, to other parties, to other persons and to the public that will likely result
12 from the grant or denial of a stay.” ORS 19.350. PERB respectfully urges this Court to
13 exercise its discretion here.

14 A stay of any judgment entered in these cases is appropriate given the
15 administrative complexity and expense of reversing the benefits recalculations and processed
16 repayments that were a result of the Repayment Order. While the actual calculation of a
17 benefit may seem relatively straight-forward, the scope of the project – about 48,000 benefit
18 recipients are affected – mandates thorough planning before the execution of any activity on
19 the affected population. The tasks associated with adjusting the accounts of the affected
20 benefit recipients include the following: loading the corrected payment into the system;
21 adjusting employer and benefit reserves to the new balances; reallocating the costs of the
22 benefit to the employers that are charged with funding it; and notifying the recipient of the
23 changes. *Cleary Aff.*, ¶ 6.

24 PERS has completed about 85 percent of the work necessary to adjust the
25 accounts for all PERS’ Tier One members to reflect an 11.33 percent earnings credit for 1999.
26 *Cleary Aff.*, ¶ 5. The original project to reverse the 1999 crediting took nine months just to

27
28 ³ The judgment to be entered in these cases likely will not fit within the provisions of ORS 19.335. PERB
therefore seeks a stay under the provisions of ORS 19.350.

1 re-calculate accounts for persons that had not yet retired; the effort to re-calculate benefit
2 recipients involves over 60 people working on an almost five-year project. Cleary Aff., ¶ 8.
3 Re-re-calculating monthly benefits for the 30% of benefit recipients already completely
4 adjusted would mean undoing the last two years of work, in addition to completing the 2½
5 years of work remaining. Cleary Aff., ¶ 9. In the mean time, the re-re-calculations will create
6 a great deal of temporary inequity between benefit recipients and those members who retire
7 during the appeal process. Moreover, if PERS must run these re-recalculations now, it runs
8 the risk of having to re-repeat the entire process if it prevails on appeal. Given the complexity
9 of the task and its expense, which will ultimately be borne by PERS members, this Court
10 should grant a stay of any judgment entered in these cases.

11 C. **PERB Should Not Be Required To Provide a Bond or Other Security for**
12 **the Judgment**

13 The Rules of Civil Procedure allow the court to grant a stay “on such
14 conditions for the security of the adverse party as are proper.” ORCP 72A. It is appropriate
15 here to excuse PERB from furnishing a bond or other security as a condition of the stay.
16 PERB is a state entity created and governed by the legislature. See ORS 238.630
17 (establishing PERB and setting forth governing rules). As such it is exempt from the
18 requirement of a bond under ORCP 72C. See ORCP 72C (providing that “the state, any of its
19 public corporations or commissions . . . or other similar public body shall not be required to
20 furnish any bond or other security when a stay is granted by authority of” ORCP 72A).

21 Even if ORCP did not exempt PERB from any bond requirement, this Court
22 should nevertheless decline to require a bond. PERB is the trustee of the PERS trust fund, see
23 ORS 238.660, whose beneficiaries (some of whom are plaintiffs and petitioners here) will
24 ultimately bear the cost of providing the security. This Court should therefore exercise its
25 discretion to not require a bond as a condition of staying the judgment. See ORS 19.340(1)
26 (the “trial court, in its discretion, may stay a judgment without requiring a supersedeas
27 undertaking . . . if the appellant is [a] trustee”).

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III. CONCLUSION

This Court has the authority to issue a stay under ORCP 72 pending notice and disposition of appeal and the circumstances here warrant such a stay. Moreover, in light of PERB's position as a state entity and the trustee of the PERS trust fund, no security should be required as a condition of the stay.

For the foregoing reasons, PERB requests that this Court stay any judgment entered herein pending notice and disposition of appeal.

DATED: July 25, 2007

TOWNSEND HYATT, OSB 89439
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JOSEPH M. MALKIN, *admitted pro hac vice*
jmalkin@orrick.com, (415) 773-5505

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1125 NW Couch St., Suite 800, Portland, OR 97209



Townsend Hyatt
Attorneys for Defendant/Respondent
Public Employees Retirement Board

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

MICHAEL ARKEN, DALE CANNON,
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Plaintiffs,

v.

CITY OF PORTLAND, WESTERN
OREGON UNIVERSITY, PORTLAND
SCHOOL DISTRICT, CITY OF GRESHAM,
LINN COUNTY, UNIVERSITY OF
OREGON, PORTLAND COMMUNITY
COLLEGE, MULTNOMAH COUNTY,
CENTRAL SCHOOL DISTRICT 13J,
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and the PUBLIC EMPLOYEES
RETIREMENT BOARD,

Defendants.

RUTH ROBINSON, GERALD BUTTON,
NORMAN FABIAN, BECKY HANSON,
RENE REULET, LINDA GRAY, LAREN
FERRELL, STUART GILLET, ROBERT
PEARSON, GARY REESE, BRUCE
JOHNSON on behalf of themselves and all
others similarly situated,

Petitioners,

v.

PUBLIC EMPLOYEES RETIREMENT
BOARD, STATE OF OREGON,

Respondent.

Case No. 0601-00536

**DECLARATION OF TOWNSEND
HYATT IN SUPPORT OF THE
PUBLIC EMPLOYEES
RETIREMENT BOARD'S MOTION
FOR STAY OF ANY JUDGMENT
ENTERED HEREIN PENDING
NOTICE AND DISPOSITION OF
APPEAL**

Case No. 0605-04584

1 I, Townsend Hyatt, state as follows:

2 1. I am one of the attorneys for Defendant/Respondent Public Employees Retirement
3 Board ("PERB"). I make this declaration in support of PERB's motion for stay of any judgment
4 entered herein pending notice and disposition of appeal.

5 2. Attached as **Exhibit 1** to this declaration is a true and correct copy of PERB's
6 January 27, 2006, Order Adopting Repayment Methods.

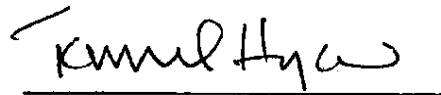
7

8 I hereby declare that the above statement is true to the best of my knowledge and belief, and that I
9 understand it is made for use as evidence in court and is subject to penalty for perjury.

10 Executed in Portland, Oregon, this 25th day of July, 2007.

11

12

A handwritten signature in cursive script, appearing to read "Townsend Hyatt", is written over a horizontal line.

13

Townsend Hyatt

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EXHIBIT 1

BEFORE THE PUBLIC EMPLOYEES RETIREMENT BOARD OF THE STATE OF OREGON

In the Matter of the Recovery of Overpayments)
under *Strunk* and *City Of Eugene*) Order Adopting Repayment Methods

This matter came before the Board at its regularly scheduled meeting on January 27, 2006. As a result of Oregon Supreme Court decisions in *Strunk v. PERB*, 338 Or 145, 108 P3d 1058 (2005), and *City of Eugene v. PERB*, 339 Or 113, 117 P3d 1001 (2005), and the settlement agreement between the parties in the latter case, the Board previously determined that the earnings on Tier One member regular accounts for 1999 should be reallocated at an earnings rate of 11.33 percent, instead of the 20 percent rate that originally was used. That reallocation, together with the effect of eliminating the so-called "COLA freeze" as required by *Strunk*, results in a recalculation of benefit payments made to persons who had Tier One member regular accounts that received earnings crediting for 1999. This recalculation will affect Tier One members who retired on or after April 1, 2000, and before April 1, 2004; other persons who received or are receiving benefits based on those 1999 Tier One account balances, and former members or beneficiaries who withdrew their accounts prior to the earnings reallocation (referred to collectively as "recipients" hereafter). These recipients have received benefits in excess of the amounts they were entitled to under ORS chapter 238.

ORS 238.715 requires the Board to collect amounts paid in excess of the benefit amounts recipient is entitled to under ORS chapter 238. ORS 238.715 provides several methods by which the Board may recover such overpayments, but does not require the Board to make all of the methods available in every case.

IT IS HEREBY ORDERED that each recipient who, based on the decisions in *Strunk* and *City of Eugene*, including the settlement agreement in the latter case, has received benefits in excess of amounts that the recipient is entitled to under ORS chapter 238, shall repay the amounts overpaid using one of the following methods:

1. Each recipient shall repay the amounts overpaid in a single lump sum unless the recipient is receiving monthly payments.
2. Any recipient receiving a monthly payment will repay the overpaid amounts by actuarial reduction of their monthly payment pursuant to ORS 238.715(1)(b), unless the recipient elects to ~~repay the overpaid amount in a lump sum by paying that amount within the time allowed in the~~ explanation to be provided to the recipient by PERS.
3. If a recipient is due a payment from PERS other than a monthly payment, the amount overpaid shall be deducted from the recipient's next payment and subsequent payments, if any, until the amount overpaid is recovered.

DATED this 27th day of January, 2006.

Exhibit No. 1
Page 1

COPY

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

MICHAEL ARKEN, DALE CANNON,
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v.

PUBLIC EMPLOYEES RETIREMENT
BOARD, STATE OF OREGON,

Respondent.

Case No. 0601-00536

AFFIDAVIT OF PAUL CLEARY

Case No. 0605-04584

1 I, Paul Cleary, declare as follows:

2
3 1. I am the Executive Director of the Public Employees Retirement System. I have
4 held this position for three years, since June 2004. I make this declaration based on personal
5 knowledge and, if called as a witness, I could and would testify competently to the matters set
6 forth herein.

7 2. After the Oregon Legislature codified 11.33 percent as the correct 1999 earnings
8 credit on Tier One PERS' members accounts, PERB recalculated the member account balances
9 for the Tier One members who had not yet retired or withdrawn based on that figure. The
10 accounts had originally been credited with 20 percent interest for 1999.

11 3. About 48,000 benefit recipients, including all Window Retirees (Tier One
12 members who retired on or after April 1, 2000, and before April 1, 2004, under the Money Match
13 benefit calculation method), still stood to receive about \$800 million in past and future
14 overpayments based on the 20 percent earnings credit.

15 4. PERB adopted its January 27, 2006, Order Adopting Repayment Methods
16 ("Repayment Order") to recover the overpayments from the Window Retirees and other affected
17 benefit recipients.

18 5. PERS has completed about 85 percent of the work necessary to adjust the accounts
19 for all PERS' Tier One members to reflect an 11.33 percent earnings credit for 1999.

20 6. The tasks associated with adjusting the accounts of the roughly 48,000 affected
21 benefit recipients include the following: loading the corrected payment into the system; adjusting
22 employer and benefit reserves to the new balances; reallocating the costs of the benefit to the
23 employers that are charged with funding it; and notifying the recipient of the changes.

24 7. As of June 1, 2007, almost 30% of the affected retired members or their
25 beneficiaries have been adjusted to reflect the 11.33% crediting instead of the 20% rate originally
26 credited for 1999.

1 8. The original project to reverse the 1999 crediting took nine months to re-calculate
2 accounts for persons that had not yet retired; the effort to re-calculate benefit recipients involves
3 over 60 people working on an almost five-year project.

4 9. Following issuance of this Court's Order of June 20, 2007, invalidating the
5 Repayment Order, PERB suspended affirmative efforts to enforce it.

6 10. PERB is no longer pursuing collections attempts against any benefit recipients,
7 including Window Retirees, with outstanding invoices for overpayments.

8 11. PERB returned checks to those whose repayments had not yet been processed
9 when the June 20 Order was issued.

10 12. PERB has not yet reversed already-processed repayments or monthly benefit
11 recalculations.

12 13. Re-re-calculating monthly benefits for the 30% of benefit recipients already
13 adjusted under the Repayment Order would mean unwinding the last two years of work, in
14 addition to completing the 2½ years of work left.

15
16 I hereby declare that the above statement is true to the best of my knowledge and
17 belief, and that I understand it is made for use as evidence in court and is subject to penalty for
18 perjury.

19 Executed this 24th day of July 2007 at Tigard, Oregon.

20
21 PAUL CLEARY

22 

23 Paul R. Cleary
24 Executive Director
25 Public Employees Retirement System
26
27
28

COPY

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

MICHAEL ARKEN, DALE CANNON,
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JOHNSON on behalf of themselves and all
others similarly situated,

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v.

PUBLIC EMPLOYEES RETIREMENT
BOARD, STATE OF OREGON,

Respondent.

Case No. 0601-00536

**[PROPOSED] ORDER GRANTING
MOTION FOR STAY OF ANY
JUDGMENT ENTERED HEREIN
PENDING NOTICE AND
DISPOSITION OF APPEAL**

Case No. 0605-04584

This matter came before the Honorable Henry Kantor on August 16, 2007. The Court finds that the enforcement and execution of any judgment entered herein shall be stayed pending the filing of notice of appeal and through disposition of the appeal. The Court also finds that the Public Employees Retirement Board should not be required to provide a bond or other security pending disposition of the appeal. Now, therefore, it is hereby

ORDERED that the enforcement and execution of any judgment entered herein shall be stayed, including any action to enforce or execute upon such judgment, through disposition of this matter on appeal.

Dated this _____ day of August, 2007.

Honorable Henry Kantor
Circuit Court Judge

1 COPY
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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON
6 FOR THE COUNTY OF MULTNOMAH

7 MICHAEL ARKEN, DALE CANNON,
8 ROBYN CARRICO, CAROL YOUNG,
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10 MULLINS, S.M. RUONALA, PATRICIA
THOMPSON WESTOVER and MYRNA
WILLIAMS,

11 Plaintiffs,

12 v.

13 CITY OF PORTLAND, WESTERN
14 OREGON UNIVERSITY, PORTLAND
15 SCHOOL DISTRICT, CITY OF GRESHAM,
16 LINN COUNTY, UNIVERSITY OF
17 OREGON, PORTLAND COMMUNITY
COLLEGE, MULTNOMAH COUNTY,
CENTRAL SCHOOL DISTRICT 13J,
FOREST GROVE SCHOOL DISTRICT #15,
and the PUBLIC EMPLOYEES
RETIREMENT BOARD,

18 Defendants.

19 RUTH ROBINSON, GERALD BUTTON,
20 NORMAN FABIAN, BECKY HANSON,
21 RENE REULET, LINDA GRAY, LAREN
22 FERRELL, STUART GILLET, ROBERT
PEARSON, GARY REESE, BRUCE
JOHNSON on behalf of themselves and all
others similarly situated,

23 Petitioners,

24 v.

25 PUBLIC EMPLOYEES RETIREMENT
26 BOARD, STATE OF OREGON,

27 Respondent.
28

Case No. 0601-00536

PROOF OF SERVICE

Case No. 0605-04584

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- MOTION PRAEICIPE
- THE PUBLIC EMPLOYEES RETIREMENT BOARD'S MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL
- THE PUBLIC EMPLOYEES RETIREMENT BOARD'S MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL
- DECLARATION OF TOWNSEND HYATT IN SUPPORT OF MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL
- AFFIDAVIT OF PAUL CLEARY
- [PROPOSED] ORDER GRANTING MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL

Gene Mechanic
Service Employees International Union
4600 Sheridan Street, Suite 200
Hollywood, FL 33021
Fax No: 954-989-4727

Executed on July 25, 2007, at Portland, Oregon.

PROOF OF SERVICE

COPY

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

MICHAEL ARKEN, DALE CANNON,
ROBYN CARRICO, CAROL YOUNG,
JOHN HAWKINS, LESLIE HUNTER, RICK
MULLINS, S.M. RUONALA, PATRICIA
THOMPSON WESTOVER and MYRNA
WILLIAMS,

Plaintiffs,

v.

CITY OF PORTLAND, WESTERN
OREGON UNIVERSITY, PORTLAND
SCHOOL DISTRICT, CITY OF GRESHAM,
LINN COUNTY, UNIVERSITY OF
OREGON, PORTLAND COMMUNITY
COLLEGE, MULTNOMAH COUNTY,
CENTRAL SCHOOL DISTRICT 13J,
FOREST GROVE SCHOOL DISTRICT #15,
and the PUBLIC EMPLOYEES
RETIREMENT BOARD,

Defendants.

RUTH ROBINSON, GERALD BUTTON,
NORMAN FABIAN, BECKY HANSON,
RENE REULET, LINDA GRAY, LAREN
FERRELL, STUART GILLET, ROBERT
PEARSON, GARY REESE, BRUCE
JOHNSON on behalf of themselves and all
others similarly situated,

Petitioners,

v.

PUBLIC EMPLOYEES RETIREMENT
BOARD, STATE OF OREGON,

Respondent.

Case No. 0601-00536

PROOF OF SERVICE

Case No. 0605-04584

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PROOF OF SERVICE BY HAND DELIVERY

I am over the age of eighteen years and not a party to the above-entitled cause. My place of employment and business address is _____,

On July ____, 2007, I personally served the foregoing:

- MOTION PRAECIPE
- THE PUBLIC EMPLOYEES RETIREMENT BOARD’S MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL
- THE PUBLIC EMPLOYEES RETIREMENT BOARD’S MEMORANDUM IN SUPPORT OF MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL
- DECLARATION OF TOWNSEND HYATT IN SUPPORT OF MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL
- AFFIDAVIT OF PAUL CLEARY
- [PROPOSED] ORDER GRANTING MOTION FOR STAY OF ANY JUDGMENT ENTERED HEREIN PENDING NOTICE AND DISPOSITION OF APPEAL

by hand delivering true copies thereof, addressed as follows:

William F. Gary/Sharon Rudnick/ Karla Alderman Harrang Long Gary Rudnick PC 360 East 10th Avenue, Suite 300 Eugene, OR 97401	Stephen S. Walters/Amy Edwards/Jeremy Sacks Stoel Rives LLP 900 SW 5th Avenue, Suite 2600 Portland, OR 97204
Gregory A. Hartman/Michael J. Morris/ Aruna Masih Bennett Hartman Morris & Kaplan LLP 111 SW 5th Avenue, Suite 1650 Portland, OR 97204-3627	Jim Coon 820 SW Second Avenue Suite 200, Portland OR 97204

Executed on July ____, 2007 in the City and County of Portland, State of Oregon. I declare under penalty of perjury under the laws of the State of Oregon that the foregoing is true and correct.

SIGNATURE

PRINT YOUR NAME