Retirement Newsletter Number 3
July 25, 2002
To: Oklahoma State University Faculty and Staff
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The purpose of this and other newsletters to follow is to keep all of you informed about current developments in our class action lawsuit aimed at recovering our retirement benefits confiscated by the Campbell administration and retained by the Halligan administration. The first newsletter was mailed in late June, the second in early July. If you wish to receive a copy of either or both of these newsletters, send an email message to either Lionel Raff (lionelraff@hotmail.com) or Ed Lawry (elawry@okstate.edu), and we will transmit them to you via return email.

As you were informed in the first two Newsletters, the Administration and OTRS (Oklahoma Teachers Retirement System) acting through their attorneys filed a motion in district court requesting that our lawsuit be summarily dismissed. Our legal counsel, Ms. Gladys Cherry and Mr. Larry Derryberry, prepared a response asking the Court to deny the motion for summary judgment filed by the Defendants. The Court held oral arguments on the case June 28th. The Court delayed making a decision on both motions to give the parties the opportunity to try to settle the case. We were instructed to report back to the Court after the July 22nd meeting with the administration.

In this newsletter, I shall inform of the principal events that transpired at the July 22nd meeting and also provide you with additional information concerning the assessment of financial damages that have occurred due the University's shift to the 7-11 program in 1993 without faculty consent and without giving participants in the TIAA-CREF retirement program the opportunity to be grandfathered in that system.

As instructed by the Court, the Executive Committee of the Faculty Council along with Professors Lionel Raff and Mark Rockley and our legal counsel(Ms. Gladys Cherry and Mr. Larry Derryberry) met with members of the Administration that included President Jim Halligan, Dr. David Bosserman, who is now the interim Vice-President for Business and Finance, Mr. Joseph Weaver (Director Budget Planning), Ms. Anne Matoy (Director of Personnel Services) and some members of her staff, and the legal counsel for the administration, Mr. Scott Boughton. It should be noted that Mr. Harry Birdwell, who is now the OSU Athletic Director, was not present. He will take no further part in discussions related to the retirement problem. All discussions at the July 22nd meeting dealt with the "stop the bleeding" portion of the case. This portion involves negotiations on actions the University might take that would ensure that there are no further financial damages to class members in the lawsuit (individuals who were here prior to the changes made in the retirement program by the Campbell administration in 1993). If this can be accomplished, the only remaining question involves an evaluation of financial damages suffered between 1993 to 2002 and providing the appropriate financial redress.

It was the charge of the Court that the two sides in this case make legitimate efforts to reach a negotiated settlement of the issues. Consequently, both legal counsels advised the participants at the meeting that the rules of settlement discussions should prevail. These rules prohibit citing or publishing comments of specific individuals made during the discussions. They also prohibit any comment made during the discussions from being used as evidence in a subsequent court hearing on the issues. The purpose of these rules to encourage open and frank discussion that might lead to an acceptable negotiated settlement. The rules do not, however, prohibit reporting the general results of the discussions to concerned parties. It was agreed by all parties present that we would follow these rules both in letter and spirit. Consequently, this newsletter will do no more than simply outline the general results of the 2.5 hour meeting.

Overall, I felt that the results of the meeting represent a positive step in the right direction. There were extended discussions by all participants related to what programs need to be implemented to "stop the bleeding". It was generally agreed that to make further progress toward a settlement, specific offers need to be laid on the table for discussion and negotiation. Since the Faculty/Staff side had already prepared specific offers, it was agreed that we would present these offers to the Administration for their consideration after which they would either accept one of our offers or counter with one of their own for our consideration. Following the exchange of these formal settlement offers, a second meeting will be scheduled to continue the negotiations. The timetable for the next meeting is not yet set but dates around the middle of August were discussed.

We will transmit our proposal to the University by August 2nd. It will probably contain two options for the Administration's consideration. I think it would be premature to discuss the specifics of these proposals at this point. Hopefully, I shall be able to report an agreement on the "stop the bleeding" portion of the settlement in the next newsletter.

The OSU Board of Regents has already begun the investigation of possible financial damages to the OSU Faculty and Staff due to the change to the 7-11 program in 1993. To obtain an unbiased, outside evaluation of these possible damages, they have retained Judge Joseph Morris who is a former Dean of the College of Law at Tulsa University, a former member of the Oklahoma State Regents for Higher Education, and a member of the National Panel of Distinguished Neutrals of the Legal Program of the CPR Institute for Dispute Resolution, to investigate the issue. We have already provided the Judge with a 12-page document that presents our calculations of the overall financial damages accruing between 1993 to 2002. There are some assumptions present that involve the average rate of return on TIAA-CREF investments during this period and the average attrition rate of class members due to retirement, resignation, death or nonreappointment. As a result, our estimates of damages range from a low of $27,770,000 to a high of $32,197,000. If we include the loss of about 75% of our raise program in 1993 these estimates rise to $34 million for a low and $39 million for a high.

The Executive Committee of the Faculty Council, Professor Mark Rockey and I will meet with Judge Morris over lunch on Monday, July 29th to discuss the issue. At that time, we hope to use Mark Rockley's web site to acquaint the Judge with another method for assessment of financial damages. If you have comments you would like to share with him concerning your own financial losses, his address is 1100 Oneok Plaza, 100 West Fifth Street, Tulsa, OK 74103.

I will keep you informed of events as they transpire.