

Retirement Newsletter Number 5

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To: Oklahoma State University Faculty and Staff

From: Lionel M. Raff,

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Plaintiff Class Action Lawsuit

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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 and third in July, and the fourth in late August. In the interests of brevity, I will not summarize the contents of these four newsletters here. If you wish to receive a copy of any of them, 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.

On Friday, September 6, the Executive Committee of the Faculty Council, Professors Mark Rockley and Lionel Raff, and our legal counsel, Mr. Larry Derryberry and Ms. Gladys Cherry, met with Regent Doug Burns at his request. At the beginning of the meeting, we were informed by Mr. Burns that the retirement issue has been removed from the hands of the OSU administration and that this matter would be handled directly by the OSU Regents. We were further informed that the purpose of the meeting was "informational" only. Regent Burns suggested to us that he and the other regents know very little about the OSU retirement program, its history, the impact of the change of statutes for OTRS contributions on our retirement benefits, and the background of the elimination of the vested, 22-year old TIAA-CREF retirement program by the OSU administration in 1993. He asked us to provide "information" so he could make an effective report for the benefit of his colleagues on the OSU Board of Regents.

The retirement issues were discussed by all present for approximately two hours. During this time, we covered various points related to the change of statutes related to OTRS that were made without providing any opportunity for vested members of OTRS to elect grandfathering under the previous system. We emphasized the publication of the bogus retirement benefits formula by the administration of OTRS in their official publication "Trends" and provided Regent Burns with a copy. We also provided copies of the OTRS informational sheets distributed by the OSU Benefits Office each year that contained this bogus retirement benefits formula without any warning or suggestion of any kind that the formula was a total misrepresentation of the actual manner in which OTRS computes benefits. In addition, we provided Mr. Burns with detailed quantitative estimates of the damages inflicted upon OSU employees by the 1993 change to the 7-11 program. Our estimates now exceed \$40 million without counting damages due to the change in the OTRS program made by the State in 1995-1997. These calculations debunk the contention that the change was income neutral. We provided evidence that raises at OSU have averaged 3.94% since 1995, but the total raise received by OSU employees in 1993 and 1994 combined was less than 1%. We not only

suffered the loss of our retirement benefits, we also saw the Campbell administration eliminate 85% to 90% of our anticipated raises in 1993 and 1994 and retain the money in their budgets.

Throughout the exchange, Mr. Burns frequently interrupted the discussion to request additional clarification on various points, which we provided. He repeatedly stated that his questions were not meant to be "confrontational", but they seemed so to me. Regent Burns is a very successful attorney who has brought many class action lawsuits in behalf of various clients. He has now been a defendant in such a lawsuit for almost a full year. He is a member of the Board that approved the change to the 7-11 program in 1993. Under these conditions, his contention that he knows very little about the OSU retirement program and is merely "seeking information" seems disingenuous to me. However, perhaps everything is as it seems on the surface. We shall know more when we see what actions the Regents take now that they are handling the matter.

At the end of the meeting, Regent Burns told us that the Board will take no action of any kind until Judge Morris and his assistant, Ms. Kristin Oliver, have submitted their report. For those of you who may be unaware of the charge given Judge Morris by the Regents, you should consult the previous newsletters in this series.

During the second week of September, Professor Edgley, Rockley, and Raff met separately with Judge Morris at his request to provide additional information. Judge Morris is now being assisted by Ms. Kristin Oliver, a Harvard Law School graduate five years ago. These meetings lasted approximately two hours each. It is my view that Judge Morris and Ms. Oliver asked precisely the correct questions. They both demonstrated a broad knowledge of the retirement system, its history, and the salient facts surrounding the changes that we allege were breach of contract by the State and by the OSU University administration. They have read extensively and their questions probed even more deeply into the essential points of the case. I left the meeting with the view that OSU employees are receiving a full and impartial hearing by Judge Morris and Ms. Oliver. I later asked Professor Rockley for a summary of his meeting. He had virtually the same view of his discussions with Judge Morris as I had about mine.

Judge Morris provided no information about when he would submit his report to the Regents nor did he say anything that allows me to surmise what recommendations his report might contain. I did not ask questions along this line as it would not have been appropriate for him to comment at this point.

Professor Edgley has recently reported to the Faculty Council the status of our class certification effort. His remarks follow: "Our attorneys have placed on the docket a petition to have the class certified in the lawsuit. The hearing is scheduled for Oct 3 in Judge Coat's chambers in Oklahoma City. This is an important step, because once that happens, should we later win a court judgment, it will be easy to apply it to others who might also have suffered damages as a result of the 1993 decision."

I will keep you informed of events as they transpire.

