

## **Retirement Newsletter Number 13**

**January 2, 2004**

**To: Oklahoma State University Faculty and Staff**

**From: Lionel M. Raff,**

**Regents Professor**

**Plaintiff Class Action Lawsuit**

**Vice-Chair of the General OSU Faculty**

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 first by the Halligan administration and now by the Schmidly administration. The first twelve newsletters can be found on the Faculty Council webpage. If you have trouble finding them, send an email message to either Lionel Raff (lionelraff@hotmail.com) or Carol Moder (clm1011@okstate.edu), and we will help you gain access to them.

Newsletter Number 12 informed you that on December 5, 2003, the Oklahoma State University Regents refused to negotiate with the faculty and staff over appropriate recompense for damages suffered by the forced change to the 7-11 program in 1993. Their attorney, Mr. Scott Boughton, has now filed a formal discovery request with the Court which we must answer. The Plaintiffs have thirty (30) to respond, but can request an extension of time if it is needed. The discovery document is a request that the Plaintiffs, Lionel M. Raff, Mark G. Rockley, and Charles K. Edgley, answer or respond to a set of interrogatories, requests for admission and requests for production. This action has been taken instead of pressing the Defendant's motion for Summary Judgment. Apparently, Mr. Boughton is seeking more information in hopes that the facts will bolster his case. We believe he will be disappointed.

All of you should be aware of the nature of some of the requests for admission advanced by Mr. Boughton. His first request for admission is

**REQUEST FOR ADMISSION NO. 1. Admit that the Plaintiffs do not have contracts of employment with OSU.**

Not only have the OSU Regents refused to negotiate with the faculty and staff over appropriate recompense for damages suffered by the forced change to the 7-11 program in 1993, they and their legal counsel are now contending that we do not even have contracts of employment with Oklahoma State University. Apparently, the Regents do not recognize tenure as being a permanent contract; they do not recognize that tenure-track, but non-tenured faculty, generally have a four-year appointment with the University. The Regents and their attorney apparently take the position that the Employment Action forms that are filed for all OSU employees every year do not constitute a contract for employment. In their view, we are all temporary employees with no contractual rights who can be dismissed with a wave of the hand. Needless to say, we take significant exception to this outrageous insult and will rebut the contention vigorously.

Another request for admission reads

REQUEST FOR ADMISSION NO. 16: Admit that OSU followed all required statutory requirements, and administrative rules and regulations when it enacted the "7-11" retirement contribution plan.

The Regents and Mr. Boughton seem to be unaware that the Campbell administration rejected the recommendation of the Task Force Committee they appointed that all present employees be given the option to be grandfathered in the TIAA-CREF retirement system. They then justified their rejection by claiming that IRS rules would not permit grandfathering. This was a blatant lie as clearly demonstrated by the fact that the University of Oklahoma, at the same moment of time, grandfathered its employees. When administrators lie, they are not following "all required statutory requirements, and administrative rules and regulations". In addition, they claimed that the change was being made with the approval of the OSU Faculty Council when the records clearly show that the Council conditioned their approval on the administration first removing OSU employees from the OTRS system, a condition which the administration failed to meet.

Request for admission No. 20 reads

REQUEST FOR ADMISSION NO. 20: Admit that OSU and OTRS never misrepresented your retirement benefits.

Apparently the Regents and Mr. Boughton have never bothered to read the literature published by the administering entity for OTRS over Tommy C. Beavers' name that the retirement benefits formula is

Yearly Benefits =  $(0.02)(\text{average of 3 highest years of contributory salary})(\text{years of service})$ .

This information was circulated every year by the OSU Personnel Office headed by Ms. Anne Matoy. Every employee at OSU knows the fraudulent nature of this formula. It is correct for faculty and staff at Oklahoma regional universities but not for employees at OU or OSU. Moreover, OTRS and the OSU Personnel Office knew it was fraudulent because both of those offices would provide, upon request, OSU employees with a calculation of their currently accrued OTRS benefits. In making these calculations, OTRS and the OSU Personnel Office used the correct formula, not the fraudulent one that was published yearly. Therefore, we know that the deception was deliberate. It was intended to lull OSU employees into a sense of retirement security, perhaps until the statute of limitations expired. Note that the deception succeeded in doing precisely this.

Mr. Boughton will not get his request for admission.

We now need some assistance from all OSU employees. The Regents and their legal counsel would like to keep this lawsuit as quiet as possible. It makes them all look terrible, as well it should. One of our objectives is make the lawsuit as visible as possible. The best way to defeat evil is public exposure. We have several initiatives planned that I will communicate to you at a later date. In the meantime, we need for each of you to assess your own current or potential retirement benefits. Were you injured? Were you deceived by the fraudulent formula? Are you outraged that you were not permitted to be grandfathered in the retirement program you were promised when you accepted employment at OSU? Do you think it fair treatment under the

law that it is possible for OSU faculty and staff to pay exactly the same OTRS premiums as paid by faculty and staff at regional universities but yet receive much lower retirement benefits? (If you doubt this, call me and I will show you why.) Are you outraged by the lies told to you by the Campbell administration when they said IRS regulations prohibited them from permitting you to be grandfathered in the OTRS system? What do you think of the Regent's legal counsel suggesting that you have no contractual rights, that you are just temporary employees like someone hired to mow the grass? If you are outraged by these things, please consider writing letters to the editor of the Tulsa World, the Daily Oklahoma, the Stillwater News Press, the Daily O'Collegian, and to each of the OSU Regents. If you do write, please inform either Carol Moder or Lionel Raff (our email addresses are at the start of this newsletter) that you have written. We need as many of you to write as possible. The relevant email addresses for the OSU Regents are given below:

### **Email Addresses for the OSU Regents:**

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### **Executive Secretary to the Regents:**

W. Douglas Wilson     wdw@okstate.edu

Thank you for your assistance. If we are to have the best possible chance to recover damages for the actions taken by the Campbell administration, OTRS, and others, we need each of you to help.

I shall continue to keep you informed of events as they transpire.

