

Public Affairs Counsel

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Sent: Thursday, June 21, 2007 10:39 AM

Subject: Arken Decision; Our File 5415-260

The purpose of this memo is to clarify some significant misconceptions about Judge Kantor's decision in the Arken and Robinson cases. Unfortunately both the Oregonian and to a lesser extent the Statesman Journal significantly misstate Judge Kantor's decision. The issue before Judge Kantor is whether it was appropriate for the PERS board to collect alleged overpayments to retirees arising out of the redistribution of 1999 income. Judge Kantor ruled clearly and unequivocally that it was not appropriate for the PERS board to make those collections and ordered that they cease and that the monies that were improperly collected be returned to the retirees.

The issue of whether it is appropriate for the PERS board to now charge active members or whether there may be some other source for those payments was not before Judge Kantor. Both the Oregonian and the Statesman Journal are incorrect when they state or imply that Judge Kantor approved charging those expenses to active employees. In fact during the argument of the case PERS made the point that in their opinion it would be improper and a breach of their fiduciary obligation to attempt to collect those payments from active employees. As you know from our previous discussions if the PERS board decides to collect from active employees through charging the amounts to administrative expenses, that action will be vigorously contested.

We will keep you posted on developments but I wanted to reassure you that the public portrayal of this case by the newspapers is substantially incorrect. Let me know if you have any questions.

06/25/2007