

The Honorable John R. Hickman

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SUPERIOR COURT OF WASHINGTON IN AND FOR PIERCE COUNTY

KEVIN DOLAN and a class of similarly situated individuals,

Plaintiff,

v.

KING COUNTY, a political subdivision of the State of Washington,

Defendant.

No. 06-2-04611-6

STIPULATION AND AGREED ORDER ON PROCEDURE FOR CLASS MEMBERS TO RETIRE UNDER SETTLEMENT AGREEMENT ¶118 BEFORE EFFECTIVE DATE

I. STIPULATION

Settlement Agreement ¶118 provides a mechanism by which certain Class Members can retire before the Effective Date (as defined in Settlement Agreement ¶59). A number of Class Members have notified Class Counsel and King County that they wish to become Interim Retiring Class Members (as defined in Settlement Agreement ¶118) and Class Counsel expects that there will be additional Class Members who wish to be Interim Retiring Class Members.

Counsel for the Class, King County and the Department of Retirement Systems (“DRS”) have conferred regarding this issue and now jointly request that the Court enter the following order clarifying the process for handling these requests for retirement by the Interim Retiring Class Members.

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1 **II. AGREED ORDER**

2 This matter came before the Court on the stipulation and joint request of the Class, King
3 County and DRS for the entry of a supplemental order clarifying the procedures by which the
4 Interim Retiring Class Members may retire while DRS is appealing the order approving the
5 Settlement Agreement.

6 The Court has jurisdiction and authority to enter this order pursuant to CR 62, RAP 7.2,
7 and the Court's express reservation of jurisdiction over this matter for purposes of implementing
8 the Settlement Agreement.

9 **IT IS HEREBY ORDERED THAT:**

10 1. The Class Members listed on Exhibit A to this Agreed Order are eligible to be
11 Interim Retiring Class Members and have provided notice to Class Counsel and to King County
12 (as required by Settlement Agreement ¶118) that they wish to retire. This Agreed Order clarifies
13 the procedures to be followed for these Class Members and others who are eligible to become
14 Interim Retiring Class Members under the Settlement Agreement.

15 2. King County will provide DRS with the information specified in Settlement
16 Agreement ¶92 for the Interim Retiring Class Members. DRS shall accept the Interim Retiring
17 Class Members as PERS members with all the rights and privileges of other PERS members,
18 including the payment of retirement benefits that reflect the retroactive PERS service credit
19 established pursuant to the Settlement Agreement. Interim Retiring Class Members shall retire
20 as a member of the PERS Plan in which they are currently enrolled or, if the Interim Retiring
21 Class Member is not currently enrolled in a PERS Plan, that Interim Retiring Class Member shall
22 retire as a member of PERS Plan 2. Interim Retiring Class Members who retire pursuant to
23 Settlement Agreement ¶118 and this Order will not be provided with plan choice rights that may
24 be provided to other non-retired Class Members at a later date.

1 3. After sending to DRS the Settlement Agreement ¶92 information for the Interim
2 Retiring Class Members, King County will pay DRS the employer contributions attributable to
3 the retroactive PERS service credit of the Interim Retiring Class Members calculated and
4 established pursuant to the Settlement Agreement. King County shall pay to DRS only the
5 employer contribution amounts (without interest thereon), subject to verification by DRS. If
6 DRS believes King County has incorrectly calculated the employer contributions under the
7 Settlement Agreement, it shall notify King County and the parties shall confer to resolve the
8 issue. DRS is not waiving any right to seek additional payments and/or interest that might be
9 required by resolution of DRS's appeal.¹

10 4. DRS will start paying full retirement benefits to the Interim Retiring Class
11 Members promptly after King County pays the employer contributions attributable to the Interim
12 Retiring Class Members' retroactive PERS service credit.

13 5. While DRS' appeal or other proceedings regarding appellate review of the Final
14 Approval Order are pending, King County and the Interim Retiring Class Members will not be
15 required to pay to DRS any amount in connection with the Settlement Agreement in addition to
16 the employer contributions relating to the retroactive PERS service credit established under the
17 Settlement Agreement. Payment of amounts other than such employer contributions (e.g.,
18 employee contributions, interest or the Common Fund Fee award) shall be held in abeyance until
19 DRS' appeal and/or such other proceedings on the Final Approval Order are finally resolved.

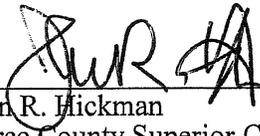
20 6. Class Counsel, counsel for King County and counsel for DRS shall meet and
21 confer in person and/or by telephone regarding any issues that arise in the implementation of the

22 _____
23 ¹ DRS has informed King County and Class Counsel that (1) its computer systems will
24 automatically issue an invoice to King County for the employer and employee contributions
25 attributable to the retroactive service credit of Interim Retiring Class Members established
26 pursuant to the Settlement Agreement and (2) there is no way to avoid issuance of this invoice.
The invoice will not include retroactive interest on either employer or employee contributions.
Pending resolution of its appeal in this matter, DRS will not attempt to collect from King County
or the Interim Retiring Class Members the employee contributions reflected on the invoice or
prospective interest on the employer or employee contributions reflected on the invoice.

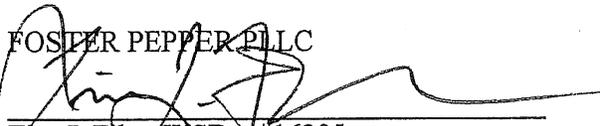
1 interim retirement provisions of the Settlement Agreement or this Agreed Order. If such issues
2 cannot be resolved through the meet and confer process, the unresolved issues shall be presented
3 to this Court for prompt determination.

4 7.. By entering into this Stipulation and Agreed Order, the Class, King County and
5 DRS do not waive or forego any of their own positions, contentions or arguments, including,
6 without limitation, their respective positions on DRS charging interest on PERS contributions
7 and how the Common Fund Attorney Fee Award will be paid, advanced, or reimbursed.
8 Likewise, the Class, King County and DRS do not concede or admit any positions, contentions
9 or arguments advanced by other parties by entering into this Stipulation and Agreed Order.

10 DATED this 17 day of ^{September}~~August~~, 2013.

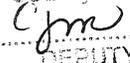
11
12 
13 John R. Hickman
Pierce County Superior Court Judge

14 Stipulation Approved; Order Presented By:

15 FOSTER PEPPER PLLC
16 
17 Tim J. Filer, WSBA #16285
Kathryn Carder McCoy, WSBA #38210
Attorneys for Defendant King County

18 Stipulation Approved; ^{Presented By}~~Notice of Presentation Waived:~~

19 BENDICH, STOBAUGH & STRONG, P.C.,
20 
21 David F. Stobaugh, WSBA #6376
Stephen K. Strong, WSBA # 6299
22 Stephen K. Festor, WSBA # 23147
Attorneys for Plaintiff Kevin Dolan

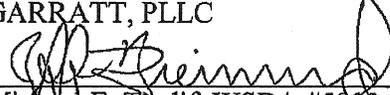
FILED
DEPT. 22
IN OPEN COURT
SEP 17 2013
Pierce County Clerk
By  DEPUTY

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1 Stipulation Approved; Notice of Presentation Waived:

2 FREIMUND JACKSON TARDIF & BENEDICT
3 GARRATT, PLLC

4 
5 Michael E. Tardif, WSBA #5833
6 Jeffrey A.O. Freimund, WSBA #17384
7 Attorneys for Washington State Department
8 of Retirement Systems
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EXHIBIT A

Last	First
Acosta	Fabian
Allman	Theresa
Bock	Robert
Cook	Mark
Corbley	Charlotte
Dalton	Thomas
Debruler	Charles
Ellerby	Carol
Figures	Wilma
Gales	William
Gill	Sharon
Good	Cherie
Gustavson	Lori
Haley	Juanita
Hardy	Willie
Jefferson	Gwen
Lamendola	Benoit
Marshall	Virginia
McCoy	Marvin
Meyer	Mirvia
Roosen-Runge	Kord
Trijillo	Lee
Werake	Mahinda
White	Sara