

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS

LT. GLENN SLIGH, CAPT. MYRON HALL,
CORP. RICKY BRIGGS, CAPT. LOYD FRANKLIN,
SGT. MACK THOMPSON, MAJOR CLEVE BARFIELD
AND OTHERS SIMILARLY SITUATED
PLAINTIFFS

VS.

NO. 60cv-2012-344

ARKANSAS STATE POLICE
RETIREMENT SYSTEM, KIRK BRADSHAW,
JOHN W. ALLISON, BRANT TOSH, BLAKE WILSON,
DONNIE UNDERWOOD, JOE MILES, DR. JOHN SHELNUTT,
IN THEIR OFFICIAL CAPACITY AS MEMBERS OF THE
BOARD OF TRUSTEES OF THE ARKANSAS
STATE POLICE RETIREMENT SYSTEM

DEFENDANTS

MOTION FOR SUMMARY JUDGMENT

The Plaintiff Class, by and through counsel, moves the Court for Summary Judgment pursuant to Ark. R. Civ. P. 56, and in support thereof states:

1. In this case there are no material facts in dispute, and only questions of law remain.
2. The questions of law which remain for this court's decision include:
 - a) Whether this court has subject matter jurisdiction;
 - b) Whether the Administrative Procedures Act serves as a bar to the participation in the class action by Lt. Glenn Sligh or any other class member;
 - c) Whether any statute of limitations is applicable;
 - d) Whether the doctrine of laches bar the court's subject matter jurisdiction;
 - e) Whether the doctrine of sovereign immunity bars the claims of the class
 - f) Whether A.C.A. § 24-6-205 allowing for correction of errors in retirement calculations by the ASPRS Board of Trustees waiver any claim of sovereign immunity;

- g) Whether Act 404 of 2007 is unconstitutional as applied by the Trustees in this case;
- h) Whether the Defendants in this case breached a fiduciary duty which they owed to members of the plaintiff class;
- i) Whether the Defendants' actions, if unconstitutional, violate 42 U.S.C. § 1983;
- j) Whether attorney's fees on the part of the plaintiff class can be recovered from the ASPRS Trust Fund assuming Defendants have violated 42 U.S.C. § 1983.

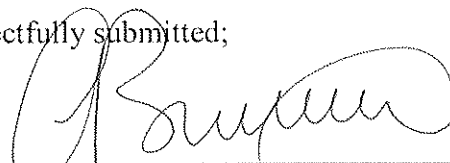
3. Based upon the undisputed material facts and the law applicable to those facts as set forth in the Brief in Support of this Motion, filed simultaneously herewith, the Plaintiff Class is entitled to a judgment for the relief sought in the complaint and as further defined in the accompanying brief. This motion and a brief are supported by the following exhibits:

- 1) Gail Stone deposition excerpts;
- 2) Trustees minutes of November 17, 2011;
- 3) Trustees Answers to Second Set of Interrogatories and Request for Production of Documents;
- 4) Trustees minutes of May 12, 2009;
- 5) Trustees minutes of February 18, 2010;
- 6) Trustees minutes of May 20, 2010;
- 7) Trustees minutes of August 19, 2010;
- 8) Trustees minutes of November 18, 2010;
- 9) Trustees minutes of May 19, 2011;
- 10) ASPRS annual report 2006, excerpt;
- 11) ASPRS annual report 2007, excerpt;
- 12) ASPRS annual report 2008, excerpt;
- 13) ASPRS annual report 2009, excerpt;
- 14) ASPRS annual report 2010, excerpt;
- 15) ASPRS annual report 2011, excerpt;
- 16) ASPRS annual report 2012, excerpt;
- 17) ASPRS annual report 2013, excerpt;
- 18) Trustees minutes of May 22, 2014;
- 19) Trustees Minutes of August 19, 2011;
- 20) Arkansas Attorney General Opinion 2002-324;
- 21) Richard Weiss's deposition excerpts;
- 22) Arkansas Attorney General Opinion 2009-044;
- 23) Arkansas Attorney General Opinion 2010-022;
- 24) Trustee Underwood's deposition excerpt; and,
- 25) Trustee Tosh's deposition excerpt.

WHEREFORE, the Plaintiffs pray that the Court enter judgment in their favor in accordance with Ark. R. Civ. P. 56, and for all other just and proper relief to which they may be entitled.

Respectfully submitted;

By:

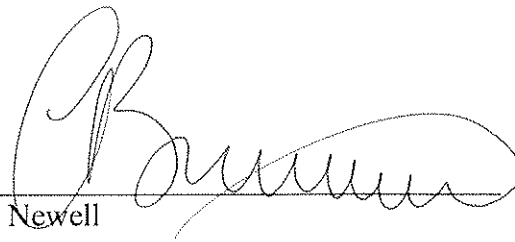


C. Burt Newell, #82118
211 Hobson Avenue
P. O. Box 1620
Hot Springs, Arkansas 71902-1620
(501) 321-2222
Fax: (501) 624-0533
E-mail: burt@hotspringslaw.net

CERTIFICATE OF SERVICE

I, the undersigned attorney, do hereby certify that a copy of the above and foregoing pleading was this 11 day of Aug, 2014, served by U.S. Mail, postage paid to:

Ms. Patricia Van Ausdall Bell
Assistant Attorney General
323 Center Street, Suite 1100
Little Rock, AR 72201



C. Burt Newell

EXHIBITS

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- 21) Richard Weiss' deposition excerpts;
- 22) Arkansas Attorney General Opinion 2009-049;

23) Arkansas Attorney General Opinion 2010-022;

24) Trustee Underwood's deposition excerpt; and,

25) Trustee Tosh's deposition excerpt.