

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

PLAINTIFFS' RESPONSE TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

Plaintiffs in this class action suit respond to the Defendants' Motion for Summary Judgment as follows:

1. Plaintiffs admit there are no genuine issues of material fact at issue in this case.
2. Plaintiffs deny that the Trustees are not "persons" amendable to sue under § 1983.
3. Plaintiffs deny that their claims against the system and the Trustees are barred by sovereign immunity.
4. Plaintiffs have established in their suit and Motion for Summary Judgment that the constitutional provisions prohibiting impairment of an obligation of a contract apply to the Defendants.

5. Plaintiffs deny that any statute of limitations serves as bar to their complaint.

6. Plaintiffs deny that the Deferred Retirement Option Plan of the State Police Retirement System is a non-contributory plan and further deny that whether the plan is contributory or non-contributory is irrelevant under the laws applicable to this case.

7. Plaintiffs' suit and their Motion for Summary Judgment have established the constitutionally protected property interest in the right to earn a certain rate of interest on DROP funds.

8. Plaintiffs' suit and their Motion for Summary Judgment has established that the Defendants' vote to reduce the interest rate on DROP funds, pursuant to Act 404 of 2007 was due to error under A.C.A. § 24-6-205 and under the holding *Weiss v. McLemore*, 371 Ark. 538, 268 S.W. 2d 897 (2007).

9. Plaintiffs' suit and their Motion for Summary Judgment has established that the Trustees violated their fiduciary duty in ignoring the Plaintiffs' requests to reestablish the interest rates and in initially lowering interest rates.

10. Plaintiffs deny that claims for attorney's fees and costs are barred by sovereign immunity.

11. Plaintiffs deny that the class is not entitled to attorney's fees and costs pursuant to 42 U.S. § 1988.

12. Plaintiffs have established through their Motion for Summary Judgment the essential elements of their various claims and are entitled to relief as set forth in their complaints and in their Motion for Summary Judgment. Reasonable jurors could not differ in the Plaintiffs' position as stated in their brief and the Plaintiffs are entitled to judgment on their claims as a

matter of law. Therefore, there remaining no issues for trial, the Plaintiffs are entitled to summary judgment pursuant to Rule 56 (c) of the Arkansas Rules of Civil Procedure. For these same reasons the Defendants' Motion for Summary Judgment should be denied.

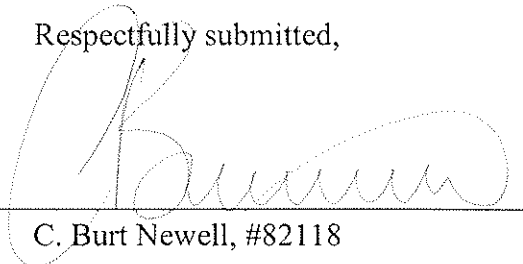
13. The following exhibit is attached hereto in support of this response and its brief in support: Exhibit A – Minutes of the Regular Meeting of the Board of Trustees of the Arkansas Public Employees Retirement System, May 21, 2014.

14. This response is supported by a brief in support which more fully sets forth the grounds for this response.

WHEREFORE, Plaintiffs pray that their Motion for Summary Judgment be granted, that the Defendants' Motion for Summary Judgment be denied and for all other such just and proper relief to which they may be entitled.

Respectfully submitted,

By: _____

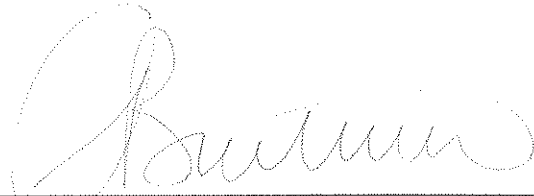


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CERTIFICATE OF SERVICE

I, the undersigned attorney, do hereby certify that a copy of the above and foregoing pleading was this 28th day of October, 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