

## PROGRESS REPORT IN THE YOUNG CASE

EFFECTIVE 6-5-02

### 1. Status of Claims

- Total Claims 1766
- Number of Claims Settled 1755
- Claims that remain outstanding 11
- Claims waiting to paid 32
- Two of claims involving District Attorneys, and one involving an OUS employee will not be paid until the appeals revolving around them are concluded.

### 2. Appeals

Oral Argument on the 16<sup>th</sup> of May went fairly well. The Court of Appeals carefully considering whether there is any way to rule against Plaintiffs on the issue of time and one half versus half time. A lot of time was spent arguing that issue, and supplemental briefs were filed concerning how various Federal Courts had handled it under the FLSA. However, the Plaintiffs' main argument remains that the Oregon statute is different from the FLSA, and Federal case law should not be considered to resolve the issue.

Much less time was spent discussing penalty pay and prejudgment interest. However, that time went well.

In many cases Oral Argument is not a good predictor of the Court's final decision, and this is such a case due to the complexity of the issues. It is normal to wait 6–9 months for an Appellate decision. In case of this complexity, we can easily wait over a year. I argued a case in the Court of Appeals with novel issue over a year ago and have yet to receive the Court's decision in it. When we do receive the decision we will notify you on the Web Site. I expect an appeal to be filed over the decision, so final resolution is easily two years away.

### 3. PERS

PERS has processed some Plaintiffs' retirement adjustments to their accounts. For one deceased Plaintiff, I received a copy of the PERS calculation.

However, one Plaintiff who is retired called to inform me that a PERS representative told him that virtually all PERS employees that were assigned to the adjustments for the Plaintiffs in this case were pulled off to other assignments. This already retired employee was told it would be in the indefinite future, if ever, before his PERS account would be adjusted.

I sent a notice to the Assistant Attorney General in charge of this case setting out this information and indicating that unless I receive positive assurances from PERS that adequate resources are being spent on an ongoing basis to adjust employees' retirement accounts that a class action lawsuit would be filed to ensure that PERS performs its statutory duty. I have yet to receive a response and will deal with this issue at the end of this month, if I have not received adequate assurances from PERS.