

Oregon Supreme Court decisions (2005-2011)

What is the *Strunk* case?

The *Strunk* case was a challenge to various provision of the 2003 PERS Reform legislation. The Oregon Supreme Court ruled on March 8, 2005 that the cost-of-living-adjustment (COLA) freeze enacted by the 2003 legislature to recover overpayments from earnings crediting in 1999 was invalid.

The court also determined that PERS must annually credit the assumed rate, currently 8 percent, to Tier One member regular accounts. PERS credited 0 (zero) percent to Tier One regular accounts in 2003 based on legislation passed that year.

What is the *City of Eugene* case?

Several employers and members sued to challenge PERS policies on actuarial factors, variable match, and earnings crediting. Marion County Circuit Court Judge Paul Lipscomb remanded the PERS Board's orders allocating 1999 earnings and setting employer rates for the petitioning employers. The Board was directed to reissue these orders in light of the judge's final 2003 ruling on many PERS practices, such as actuarial factors, variable account calculations, and reserving.

The Oregon Supreme Court issued its decision in the *City of Eugene vs. PERS* case August 11, 2005. The Court ruled that the Settlement Agreement and 2003 PERS Reform legislation resolved the issues in the case. The PERS Board and the original plaintiffs in the case entered into the Settlement Agreement.

The Settlement Agreement required PERS to reallocate 1999 earnings to Tier One benefit recipient accounts at 11.33 percent instead of 20 percent.

What are the *Arken/Robinson* cases?

These two related cases challenged an order issued by the PERS Board that established repayment methods that PERB intended to use to recover overpayments to "window retirees" (Tier One PERS members who retired under the Money Match retirement allowance formula and who retired with an effective retirement date on or after April 1, 2000, and before April 1, 2004).

In a unanimous decision issued October 6, 2011, the Oregon Supreme Court held that the PERS Board's Order Adopting Repayment Methods is within the statutory authority of the agency and that the Board properly can recoup the overpayments made to the Window Retirees under ORS 238.715."

What is the *White* case?

The *White* case challenged the terms on which PERS settled the *City of Eugene* litigation in April 2004. Among other actions, the settlement agreement in the *City of Eugene* case required PERS to reallocate 1999 earnings to Tier One members from the original 20 percent to 11.33 percent, consistent with the PERS Reform and Stabilization Act of 2003.

On December 30, 2011, the Oregon Supreme Court ruled that the PERS Board) did not breach its fiduciary duty by entering into the settlement agreement to resolve the *City of Eugene* case.

The Court remanded to the circuit court the question of whether transferring \$61 million (or some other amount) from the Contingency Reserve to certain Employer Reserves (as a remedy for excessive payments made by those employers) was a breach of the PERS Board's fiduciary duty.