



## RPEA Year-End Report 2021

Hello!

I am writing to report on the status of RPEA's litigation efforts and other matters of interest to members of the Retired Public Employees of Alaska (RPEA) organization.

### **Update on the Pending Medical Diminishment Lawsuit**

As you know, the trial in the case was scheduled to begin at the end of January and was expected to last two weeks.

In November, the State of Alaska proposed mediation to the RPEA Executive Board. Although the Executive Board was initially skeptical of the State's proposal, the reality is that regardless of the outcome of the trial, an appeal to the Alaska Supreme Court would be very likely. That, in turn, would mean that a final decision in the case probably would not be issued for several years from now.

Because the Executive Board wants to get the best results possible in the case as soon as possible, it formed an *ad hoc* litigation committee in early December to review the State's proposal.

The committee consisted of two Board members (Stephanie Rhoades, who was the committee chair, and Wendy Woolf), and two RPEA member volunteers, attorney Scott Taylor and retired Superior Court Judge Peter Michalski. The committee considered the issues in the case, the time factors involved, and the possibilities of achieving a comprehensive settlement that would be favorable to all retired public employees of Alaska who, by their public service, earned vested retirement medical benefits under the State of Alaska's defined benefits plan.

After considering the report of the committee, the RPEA Executive Board voted to pursue mediation, jointly agreeing with the State to the postponement of the trial and to having retired Alaska Superior Court Judge Elaine Andrews serve as the mediator. The mediation is expected to occur in mid-February.

As a result, on December 23, 2021, Superior Court Judge Zeman signed an order postponing the trial date for the medical diminishment lawsuit to give the parties the opportunity to resolve the issues in the case by mediation. Meanwhile, a new trial date will be set soon in case the mediation does not result in a complete settlement of all the issues. In addition, the parties are going forward with motions that ask the court to decide certain issues in the case by summary judgment -- that is, without a trial.

### **Other Legal Cases of Interest**

As you know, the RPEA won the trial challenging the State's changes to the dental-visual-audio (DVA) part of the AlaskaCare Retiree Health Plan for those who elected those benefits. The State appealed the decision to the Alaska Supreme Court. The briefing is completed, oral argument was held last April, and we are expecting a decision soon.

Another case that is important to RPEA members, *Miller v. State*, concerns an effort by the Division of Retirement & Benefits to limit the statutory right of retirees to appeal denials of claims for benefits to the Alaska Office of Administrative Hearings. The appeal was argued before the AK Supreme Court in early November of this year. A decision in that case is expected next summer or early fall.

### **Other Matters of Interest**

Briefly, I also want to bring you up to date on some other key RPEA matters.

First, a bylaws committee has been formed and it will begin its work in January of 2022, with a goal of reporting out a complete rewrite of the RPEA's bylaws for membership consideration and vote later in the spring of 2022. The committee is chaired by the RPEA Secretary and has representation from the RPEA's Southeast Chapter (Mike Notar), the Northern Region Chapter (Karen Perdue), and the Southcentral Chapter (Cammy Taylor). As the RPEA President, I will serve as an ex officio member. Retired Judge Karen Hunt has agreed to provide the committee with technical assistance. Ms. Rhoades will post the schedule of meetings so all members are aware of the meeting dates and how they can participate or otherwise contribute their ideas and suggestions.

Second, the new year means work by a Nominations/Elections committee, which according to the RPEA bylaws, is appointed annually by the Executive Board at its January regular meeting. In 2022, at a minimum, the following officer and board positions are up for membership-wide election: the president, the secretary and both the medical information and membership directorships (both directorships are currently filled by interim appointments). In addition, both the Northern Region Chapter and the Southcentral Chapter Chairs and other officer positions are to be selected in chapter-wide elections in 2022. The Board will take up this matter at its upcoming January meeting.

The next regular meeting of the Executive Board will be held on Tuesday, January 18, 2022, beginning at 10:00 a.m.

On behalf of the entire RPEA Executive Board, I wish you all a bright and successful 2022! Happy New Year!

Randall

Randall Burns  
RPEA President  
December 29, 2021

**Thank you for being an RPEA member!**

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