

Pension Litigation Update – Notes from Membership Meeting 1/27/2020

Presentation by Charles O. Monk, II – Saul Ewing Arnstein & Lehr LLP

Opt-Out Phase - Currently

- All Class Notices have been mailed and the Opt-Out Phase will end on February 28, 2020. Members are urged to remain in the lawsuit, rather than opting out, as there is a chance that the damages available to class members may be increased in the event that we prevail on appeal and there is no downside to remaining in the case. Members who remain in the case will still receive the 0/1/2 COLA payments provided in the current plan, unless the City adopts a new statutory change to the plan. The City has stated in Court that, in the event that there are members who are shown to have received an over-distribution (i.e., more under the 0/1/2 COLA than under the Variable Benefit), then the City will not seek repayment based on the Court's current rulings and damages formulation.
- Attorney Monk advised that it makes no sense to Opt-Out, as a decision by the appeals courts may allow for the damages formulation that we presented at trial, which would most likely result in more damages to members who remain in the class, even for those who might not be eligible for any damages under the City's calculations adopted by the trial court.
- There are many factors that will be used to determine individual damage amounts, including date of retirement, age at retirement, base salary at the time of retirement, among others.
- Damages will be paid in one lump sum, based on the calculated difference between the amount of post-retirement increases the class member would have received under the former statutory plan (Variable Benefit) and the amount of post-retirement increases the class member has received and will receive in the future under the current statutory plan (0/1/2 COLA) .
- There will be no adjustment to your annual benefit, going forward, except the annual increases that will be determined by the provisions of the current plan.
- Approximately 6,000 Class Notices have been sent and, to date, only about 100 people have decided to opt out of the lawsuit.
- Once the Opt-Out Phase ends, the trial court will enter a final judgment, which will likely include the damages, if any, awarded to each class member who remained in the class. The case will then proceed to the appeal phase. Both sides have indicated their intention to appeal. The appeals process can take anywhere from 1-3 years, though the longer time period is more probable.
- The next mailing will be a statement of damages sent to each class member – the numbers will represent calculations made according to the City's actuarial formulation that was adopted by Judge Rubin.

Appeals Phase

- Sometime during May/June, the case will continue with an appeal filing by both sides. It is anticipated that the appeals phase could take 1 – 3 years. There is no way to anticipate the time or the results. Appeal wins are never guaranteed, but our attorneys remain positive.
- Damages will be paid in one lump sum payment. There will be no adjustment of annual benefit going forward. Members will receive future adjustments based on the current plan provisions and the decisions on appeal.
- The appeal process can only go as far as the Court of Appeals of Maryland, which is the State's highest court. This is not a potential United States Supreme Court case.
- The City has set aside funds to pay for the damages that it believes is its liability in this case.

Members are advised that further questions can be answered by contacting Charlie Monk (charles.monk@saul.com) or Geoff Gamble (geoff.gamble@saul.com).