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VANOVERBEKE  
MICHAUD &  
TIMMONY, P.C.

ATTORNEYS AND COUNSELORS

MICHAEL J. VANOVERBEKE  
THOMAS C. MICHAUD  
JACK TIMMONY  
MICHAEL E. MOCO  
KARI L. TAURIAINEN

79 ALFRED STREET  
DETROIT, MICHIGAN 48201  
TEL: 313-578-1200  
FAX: 313-578-1201  
MPERSLAW@AOL.COM

**M. A. P. E. R. S.**

**SPRING 2002 CONFERENCE**

**RECENT LEGAL ISSUES AND DECISIONS**

The following summary is presented to provide trustees and plan fiduciaries with a general reference to recent legal decisions regarding Michigan public employees retirement systems:

**Black v State Employees Retirement Board**

*Court of Appeals - Decided: November 16, 2001*

Where the circuit court concluded that there was competent, substantial and material evidence on the record to support the retirement board's decision to deny plaintiff's disability benefits for her psychiatric disability, there was no error.

**Lucido v Macomb County Employees Retirement System**

*Court of Appeals - Decided: July 20, 2001*

Where a county retirement system denied plaintiff's application for duty disability benefits because it concluded that her disability was not permanent, this decision was supported by competent, material and substantial evidence on the record.

**Ronan v Michigan Public School Employee Retirement System**

*Court of Appeals - Decided: May 8, 2001*

While the public school retirement board allows service credit for time periods for which weekly workers' compensation payments are made, the retirement board correctly concluded that it lacked the authority to extend service credit to a retired school teacher who sought the credit for time she was away from work and which resulted in a workers' compensation redemption order, but without provision of any weekly workers' compensation payments.

**Todd v Saginaw Police Officers and Fire Fighters Retirement Systems**

*Court of Appeals - Decided: November 9, 2001*

Where a pension benefit option under a municipal ordinance provided that to obtain survivor pension benefits, the survivor had to be the employee's spouse on the date the employee elected the option and on the date of retirement, and further provided that there could be no post-retirement elections, the ordinance does not violate public policy.

**Walsh v Walsh**

*Court of Appeals - Decided: July 31, 2001*

The Eligible Domestic Relations Order Act's (EDRO) distinction between ex-spouses of participants who are divorced before or after the participant's retirement does not violate the Equal Protection Clause of the Michigan Constitution.

**Thomas v City of Detroit**

*Court of Appeals - Decided: May 21, 2001*

Where a judgement of divorce states that a member is to retain his pension benefits "free and clear of any claim by the other," the former spouse is not eligible to receive benefits, even though she remained as the named beneficiary.

**Detroit News v County of Wayne**

*Court of Appeals - Decided: March 15, 2002*

The Court of Appeals found that the names, job titles, wages, longevity pay, annual/accumulated leave pay, sick pay, and car expenses for County officials and employees was not exempt from disclosure under the Freedom of Information Act.

**Attorney General Opinion No. 7083**

*Dated: June 18, 2001*

The Freedom of Information Act permits a public body to charge a fee for the actual incremental cost of duplicating or publishing a record, including labor directly attributable to those tasks, even when the labor is performed by a public employee during business hours and does not add extra cost to the public body's normal budget.

**Attorney General Opinion No. 7087**

*Dated: August 27, 2001*

The Board of Trustees of a retirement system established and administered by a home rule city charter is a "public body" subject to the Open Meetings Act and the Freedom of Information Act.

**Attorney General Opinion No. 7095**

*Dated: December 17, 2001*

Under the Freedom of Information Act, a public body may not impose a more restrictive schedule for access to its public records for certain persons than it does for the public generally, based solely upon the purposes for which the records are sought.

THE FOREGOING SUMMARIES ARE PRESENTED FOR GENERAL INFORMATION PURPOSES ONLY AND ARE NOT TO BE CONSIDERED LEGAL ADVICE. PLEASE REFER TO THE TEXT OF THE FULL OPINION OR CONTACT VANOVERBEKE, MICHAUD & TIMMONY, P.C., AT THE ABOVE ADDRESS IF YOU HAVE ANY QUESTIONS OR COMMENTS CONCERNING THIS MATERIAL.