

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO

EASTERN DIVISION

JAMES I. PRATER, et al.

Plaintiffs,

vs.

OHIO EDUCATION ASSOCIATION

Defendant.

Case No. 2:04-CV-1077

Judge Sargus

Magistrate Judge King

Declaration of Robert Barkley, Jr.  
In Opposition to OEA Motion for  
Summary Judgment

\* \* \* \*

Robert Barkley, Jr., having been duly cautioned and advised, declares as follows:

1. I am Robert Barkley, Jr. My declaration set forth below is true and accurate to the best of my knowledge, recollection, and belief, and I would so testify under oath in court if called as a witness in this matter.

2. I began my career at the Ohio Education Association in 1966. By the time of my retirement from OEA in 1986, I had held a number of positions in the field and as a manager. In the early 1970's I served as a Field Coordinator, but was considered "professional staff". While in this position, I participated in contract negotiations on behalf of what later became the "Professional Staff Union", or "PSU."

3. I helped establish and was an early officer in what became the "National Staff Organization," a national organization intended to coordinate and provide resources and assistance to the staff unions of state affiliates of the National Education Association (the "NEA").

4. In 1979 I became Assistant Director of Field Services. I remained part of the professional staff and was covered by the PSU collective bargaining agreement.

5. In 1980 I moved to an interim position in the research department. Later I took over as head of membership recruitment, where I helped lead OEA to achieving considerable success. In 1982 I became Director of Professional Development & Membership, became a manager, and no longer served as a member of the unionized professional staff.

6. I served in that position until I retired from OEA in 1986 when I reached 20 years of service with the organization. Because I retired as a member of OEA management, I was entitled to the benefits under the PSU contract as per my employment agreement with OEA.

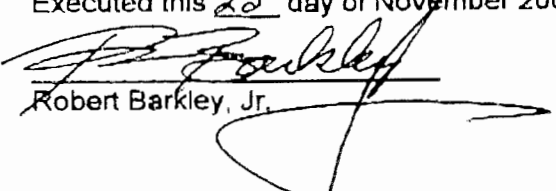
12. The most recent contract bargaining culminated in the only change made to the pre-existing commitment to full post retirement healthcare coverage. These contractual changes affected only staff retirees who were hired after August 31, 2000 in regard to PSU and only future retirees in regard to OASU; they did not change the existing obligation of OEA to provide post-retirement healthcare to existing staff retirees as previously agreed. This was a major concession on the part of the unions and was fully recognized as such by all of OEA management and governance. The context for that change occurred only because I was able to help lead OEA in dealing with these issues by obtaining an increase in dues from OEA members; changing the level of local service expectation; and, by re-negotiating these terms in the contracts with the staff unions. These contract revisions removed the former lifetime post-retirement healthcare guarantee, and replaced it with a negotiated defined contribution form of plan, where OEA credits each new staff employee with a fixed dollar amount per month of service. At retirement, that amount is converted by OEA actuaries into an individualized level of post-retirement healthcare based upon the age of the retiree and the credit they have earned.

13. Absent this significant revision, had the language of the staff contracts remained the same as it had been for several years, the OEA would have continued to be obligated to provide lifetime, guaranteed post-retirement healthcare to all its staff retirees. In essence, this change would have actually increased the OEA liability rather than reduced it had not the guaranteed post-retirement healthcare provision already been in place and well-established to start with. Such a result – that of increasing rather than reducing OEA liability – was without question neither the intent nor the opinion of anyone involved in or close to the bargaining. It is my considered opinion that all those involved in these negotiations knew and accepted this premise.

14. The review and revision process encompassed the Summary Plan Descriptions ("SPDs") put out by OEA to describe the benefits plans for all covered participants. I served as a member of the Pension Committee during some of this time, and was made fully aware of the changes made to the existing SPDs – a process which had started before my return. The changes to the SPDs concerning the reservation of rights to modify or amend benefits were made to clarify that the benefits were creatures of the staff contracts, and could not be changed or terminated unilaterally by OEA. Prior SPDs had reserved this right to the Plan Administrator, an OEA employee, who was required to act in accordance with the existing contracts. To my knowledge, no SPD prior to the 1997 SPDs ever reserved solely to OEA the right to terminate or modify the post-retirement benefit plan. And, the revisions to the SPDs reflected the actual practice and interpretation universally recognized by the parties as to the intent and operation of the contract language on retirees healthcare.

The foregoing is true and correct to the best of my recollection, ability and belief.

Executed this 25<sup>th</sup> day of November 2005 in Cummin, GA.

  
Robert Barkley, Jr.