IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

DEBRA FERY, an individual, Plaintiff, v. OREGON PUBLIC EMPLOYEE RETIREMENT BOARD, Defendant.	Case No. 24CV21161 GENERAL JUDGMENT

This matter came before the court on cross-motions for summary judgment on January 9, 2026, before Judge Courtland Geyer. Each party appeared. Each party then presented their arguments to the Judge. After reviewing the briefing and considering the argument of counsel at the January 9, 2026, hearing, Judge Geyer ruled from the bench in favor of Petitioner as shown by the Order attached as Exhibit 1 to this judgment.

Based on Judge Geyer's order, IT IS ADJUDGED that judgment be entered in favor of Debra Fery, Petitioner, against Oregon Public Employee Retirement Board, Respondent. Petitioner is the prevailing party. Petitioner is awarded her costs and disbursements pursuant to ORCP 68 B. To the extent authorized by statute or other applicable law, Petitioner is

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awarded her reasonable attorney fees, the amount of which shall be determined pursuant to ORCP 68 C.

3/12/2026 4:50:33 PM

Circuit Court Judge Courtland Geyer

Submitted by:

/s/ Caitlin J. Kauffman
Caitlin J. Kauffman, OSB No. 222213
MCKANNA BISHOP JOFFE, LLP
Attorney for Petitioner
DATED: March 12, 2026

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

DEBRA FERY, Petitioner, v. **PUBLIC EMPLOYEES RETIREMENT BOARD**, Respondent.	Case No.: 24CV21161 **ORDER RE: MOTIONS FOR SUMMARY JUDGMENT**

This matter came before the Court for a hearing on January 9, 2026, on the parties cross-motions for summary judgment on Petitioner's petition for judicial review of the February 29, 2024, Retirement Data Verification (final order) of the Public Employees Retirement Board ("PERB"), as supplemented by the July 15, 2025, Reissued Retirement Data Verification. Petitioner Debra Fery appeared at the hearing along with her counsel Charese Rohny and Caitlin Kauffman. Respondent PERB appeared through counsel Tracy Ickes White.

Having reviewed the briefing and considered the argument of counsel at the January 9, 2026, hearing, the Court GRANTS Petitioner's motion and DENIES Respondent's motion for the reasons stated on the record and below. The Court further REMANDS the case to Respondent solely for purposes of determination of Petitioner's creditable service consistent with this Order.

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SPECIAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judicial review of this matter is governed by ORS 183.484.

PERB based its February 29, 2024, and July 15, 2025, Retirement Data Verification determinations on *Eugene Water & Electric Board v. PERB*, 365 Or 59 (2019) (hereinafter "*EWEB*"). The Court finds that *EWEB* does not apply here. Therefore, PERB erroneously applied *EWEB* by concluding that the common-law employee test was inapplicable to Petitioner's service for a public employer while paid by a third-party staffing agency during the periods at issue. Because PERB erroneously applied *EWEB*, its final order was premised on an erroneous legal standard and must be set aside.

Where, as here, there is uncontroverted substantial evidence and the material facts are undisputed, application of the common-law right-to-control test is a question of law for the Court. Applying the common-law test to the undisputed record, the Court concludes that Petitioner was a common-law employee of the school districts during the periods she worked as a substitute teacher for the periods covered by the Determinations, notwithstanding that her paycheck was issued by a third-party staffing agency.

SCOPE OF REMAND

Because the Court has determined that Petitioner was a common-law employee during the period at issue, remand is limited solely to the determination of Petitioner's creditable service consistent with this Order.

ORDER

For the above reasons and those set forth by the Court at oral argument, the Court orders as follows:

1. PERB's February 29, 2024, and July 15, 2025, orders are SET ASIDE;
2. The Court FINDS that Petitioner Fery was a common-law employee of the school districts while working as a substitute teacher during the periods addressed in the

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Retirement Data Verifications, notwithstanding payment through a third-party staffing agency.

3. PERB's February 29, 2024, and July 15, 2025, orders are REMANDED solely for purposes of determination of Petitioner's creditable service consistent with this Order.

IT IS SO ORDERED.

General Judgment must be submitted within 30-days.

2/20/2026 8:39:07 AM



Circuit Court Judge Courtland Geyer

Submitted by:

/s/ Caitlin Kauffman
Caitlin Kauffman
McKanna Bishop Joffe, LLP
Attorney for Petitioner

/s/ Tracy Ickes White
Tracy Ickes White
Senior Assistant Attorney General
Trial Attorney
Attorney for Respondent

CERTIFICATE OF READINESS AND SERVICE

This proposed order is ready for judicial signature because:

1. [ ] Each party affected by this order or judgment has stipulated to the order or judgment, as shown by each party's signature on the document being submitted.

2. [X] Each party affected by this order or judgment has approved the order or judgment, as shown by each party's signature on the document being submitted or by written confirmation of approval sent to me.

3. [ ] I have served a copy of this order or judgment on each party entitled to service and:
   a. [ ] No objection has been served on me.
   b. [ ] I received objections that I could not resolve with a party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
   c. [ ] After conferring about objections, [role and name of objecting party] agreed to independently file any remaining objection.

4. [ ] Other: _____.

DATED February 12, 2026.

/s/ Caitlin Kauffman
Caitlin Kauffman, OSB No. 222213
Charese Rohny, OSB No. 953964
Attorneys for Petitioner

CERTIFICATE OF READINESS AND SERVICE

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4. [ ] Other: _____.

Dated: March 12, 2026.

MCKANNA BISHOP JOFFE, LLP

/s/ Caitlin J. Kauffman
Caitlin J. Kauffman, OSB No. 222213
Charese Rohny, OSB No. 953964
of Attorneys for Petitioner