

19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NUMBER 633758 DIVISION " **D** "

KEVIN COPE AND ROGER LAINE

VERSUS

BOARD OF SUPERVISORS OF LOUISIANA STATE
UNIVERSITY AND A&M COLLEGE,
TEACHERS RETIREMENT SYSTEM OF LOUISIANA

PETITION FOR DECLARATORY JUDGMENT

The Petition of Kevin Cope and Roger Laine, residents of the full age of majority of East
Baton Rouge Parish, Louisiana, respectfully represents:

1.

Made defendants herein are:

- 1. Board of Supervisors of Louisiana State University and A&M College (hereinafter "LSU"), an entity domiciled in East Baton Rouge Parish, Louisiana;
- 2. Teachers Retirement System of Louisiana (hereinafter "TRSL"), an entity domiciled in East Baton Rouge Parish, Louisiana.

2.

Petitioners are long time employees of LSU. Petitioner Cope was originally employed by LSU on August 8, 1983. Petitioner Laine was originally employed by LSU on July 1, 1983. Both began participating in the Optional Retirement Program in 1989.

3.

In approximately 1989, the Louisiana Legislature adopted a retirement program known as the Optional Retirement Program, "ORP", which, at the time, was touted as an alternative to State retirement benefits offered under TRSL and/or LASERS and was established as a defined contribution plan affording its participants limited flexibility in terms of choosing which investment vehicles their contributions and the State-mandated employer matches from LSU were available.

4.

As State employees and as a matter of law, Petitioners were thus excluded from

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participation in benefits from the Social Security Administration. In order for LSU and Petitioners to remain exempt from otherwise mandatory Social Security withholdings and payments, Petitioners were to receive greater employer contributions from LSU to TRSL than the legally mandated minimum Social Security withholdings. Thus, as a result, Petitioners could not participate in any benefits afforded by the Social Security Administration.

5.

At all times, the ORP was administered by, governed by, and both employer and employee contributions were paid to TRSL. In fact, ORP participants have no representative on the TRSL Board and are not considered to be "members" of TRSL.

6.

In 2010, TRSL declared an item known as Unfunded Accrued Liability, "UAL", from which it would "deduct" a certain percentage of the employer contributions to allocate toward what TRSL declared as the UAL for the TRSL System. In general terms, the UAL was designed to take from present employer contributions a self-defined percentage to pay for present benefits being paid to TRSL retirees.

7.

However, it is critical to note that the TRSL Plan, as opposed to ORP which is only administered by TRSL, is a defined benefit plan unlike ORP which is a defined contribution plan.

In other words, ORP, as a defined contribution plan, could never have a UAL because the ORP plan was designed to only serve as a pass through of funds and Petitioners' retirement entitlements would be defined only in terms of their contributions with those matched in the fund by LSU. Contrarily, the TRSL plan, as a defined benefit plan, pays benefits in a specific amount to retirees defined by State law based solely on their years of service and not the contributions paid by either the retiree or LSU.

8.

Hence, as a result of TRSL's self-declared UAL, TRSL began siphoning off a large percentage of LSU's contributions in the ORP plan to pay for losses incurred by TRSL in its management of the TRSL plan - not the ORP plan.

9.

Therefore, the ORP participants, such as Petitioners, began receiving far less of a percentage of LSU contributions to their retirement than the minimum established by the Social

Security Administration.

10.

In 2010, the Social Security Administration minimum employer contribution for the purposes of exempting LSU from paying/contributing to Social Security for Petitioners was 6.2%. Yet, in 2010, Petitioners received only 5.7% LSU contributions to ORP, meaning that LSU was then required to withhold and pay the requisite Social Security contributions which LSU failed and/or refused to do.

11.

In 2011, the Social Security Administration minimum employer contribution for the purposes of exempting LSU from paying/contributing to Social Security for Petitioners was 6.2%. Yet, in 2011, Petitioners received only 5.97% LSU contributions to ORP, meaning that LSU was then required to withhold and pay the requisite Social Security contributions which LSU failed and/or refused to do.

12.

In 2012, the Social Security Administration minimum employer contribution for the purposes of exempting LSU from paying/contributing to Social Security for Petitioners was 6.2%. Yet, in 2012, Petitioners received only 5.645% LSU contributions to ORP, meaning that LSU was then required to withhold and pay the requisite Social Security contributions which LSU failed and/or refused to do.

13.

In 2013, the Social Security Administration minimum employer contribution for the purposes of exempting LSU from paying/contributing to Social Security for Petitioners was 6.2%. Yet, in 2013, Petitioners received only 5.2% LSU contributions to ORP, meaning that LSU was then required to withhold and pay the requisite Social Security contributions which LSU failed and/or refused to do.

14.

As a result, TRSL, through application of UAL to ORP participants, including Petitioners, has caused and continues to cause LSU to fail in its obligations to withhold and pay, on behalf of Petitioners, the requisite Social Security contributions and has further caused Petitioners to receive the actual employer contributions credited to their ORP retirement accounts received by TRSL from LSU.

Petitioners are entitled to and desire issuance of a Declaratory Judgment herein declaring that LSU must pay and withhold from Petitioners' earnings the requisite Social Security contributions for the years of 2010, 2011, 2012, 2013, and into the future until such time as Petitioners receive from LSU the Social Security minimum contributions necessary in order for LSU to claim exemption from Social Security.

16.

Petitioners are further entitled to and desire issuance of a Declaratory Judgment herein declaring that TRSL has no right and had no right to impose UAL expenses upon Petitioners or any member of ORP, a defined contribution plan. TRSL's continued imposition of UAL upon Petitioners and the members of ORP violates State law and the funds which TRSL has acquired in connection therewith were funneled by TRSL for the sole and exclusive use and benefit of TRSL beneficiaries to the exclusion of ORP beneficiaries and were used solely and exclusively to fund the retirements of TRSL participants to the exclusion of ORP participants.

17.

Petitioners further request all such other relief to which they are entitled at law or in equity.

WHEREFORE, Petitioners, Kevin Cope and Roger Laine, pray after due proceedings are had that a Declaratory Judgment issue herein declaring the relative rights and responsibilities between Petitioners, as ORP participants, LSU, and TRSL, and awarding all such other relief to which Petitioners are entitled at law or in equity.

Respectfully submitted,

By: _____
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Attorney at Law, LLC
Crystal Lafleur Bounds #27490
Michael Laborde #35508
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Baton Rouge, Louisiana 70802
(225) 663-2612

PLEASE SERVE:

Board of Supervisors of Louisiana State University
and A&M College,
through the Chairman of the Board,
Ann Davis Duplessis
3810 W. Lakeshore Drive
Baton Rouge, Louisiana 70808

Louisiana Attorney General,
James "Buddy" Caldwell
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70802-5159

Louisiana Office of Risk Management,
through its agent,
Bud Thompson, Director
Claiborne Building 1201 N. Third St., Suite G-192
Baton Rouge, LA 70802

Teachers Retirement System of Louisiana,
through its Executive Director,
Maureen Westgard
8401 United Plaza Boulevard, 3rd floor
Baton Rouge, Louisiana 70809

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NUMBER _____ DIVISION “ ___ ”

KEVIN COPE AND ROGER LAINE

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BOARD OF SUPERVISORS OF LOUISIANA STATE UNIVERSITY AND A&M
COLLEGE, TEACHERS RETIREMENT SYSTEM OF LOUISIANA

VERIFICATION


STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared:

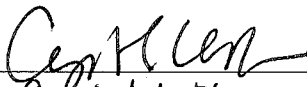
ROGER LAINE

a resident of full age of majority of East Baton Rouge Parish, Louisiana who upon being duly sworn did depose and state that he is the Petitioner in the above and foregoing Petition, that he has read same and all facts and allegations contained therein are true and correct.



2014

SWORN TO AND SUBSCRIBED before me, Notary Public, this 19 day of September



Crystal LaPlante,
Bar Roll 27490

19th JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

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VERIFICATION

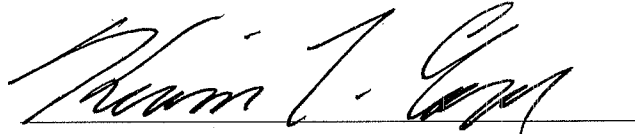
STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, personally came and appeared:

KEVIN COPE

a resident of full age of majority of East Baton Rouge Parish, Louisiana who upon being
duly sworn did depose and state that he is the Petitioner in the above and foregoing Petition,
that he has read same and all facts and allegations contained therein are true and correct.



SWORN TO AND SUBSCRIBED before me, Notary Public, this 23 day of September

2014

