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Potlatch Educ. Ass'n v. Potlatch School Dist. No.
285 Appellant's Brief Dckt. 35606

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BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

POTLATCH EDUCATION)
ASSOCIATION and DOUG RICHARDS,)

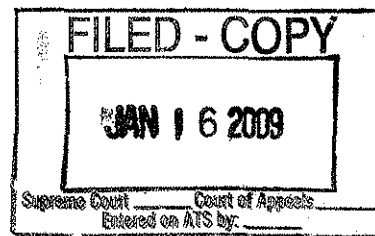
Plaintiffs/Appellants,)

vs.)

POTLATCH SCHOOL DISTRICT NO.)
285, and BOARD OF TRUSTEES,)
POTLATCH SCHOOL DISTRICT NO.)
285,)

Defendants/Respondents.)

Supreme Court Docket No. 35606
Latah DC Docket No. CV2007-1151



APPELLANTS' OPENING BRIEF

Appeal from the District Court of the Second Judicial District
State of Idaho, County of Latah

Honorable John R. Stegner, presiding

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I. STATEMENT OF THE CASE

A. Nature of the Case.

This case involves a district court's failure to properly apply well-settled principles of contract interpretation to undisputed facts. Specifically, the district court's legal error occurred in the context of Defendants-Respondents Potlatch School District No. 285 and Board of Trustees, Potlatch School District No. 285's (collectively "School District") refusal to allow Plaintiff-Appellant Doug Richards to use a professional leave day under the terms of the Plaintiff-Appellant Potlatch Education Association ("PEA")-School District Master Agreement and Richards' individual employment contract to defend his final project for his Master's Degree in Education from the University of Idaho.

B. Course of the Proceedings Below.

On December 20, 2007, the PEA and Richards filed their Complaint for Declaratory and Injunctive Relief against the School District. (R., pp. 4-8). In their Complaint, the PEA and Richards alleged that the School District breached the Professional Leave provision of the PEA-School District Master Agreement and, in turn, breached Richards' individual employment contract by classifying leave taken by Richards to defend his final project for his Master's Degree in Education from the University of Idaho on May 3, 2007 as a personal leave day, as opposed to a professional leave day, and by refusing to reclassify such day as a professional leave day. (*Id.*). The PEA and Richards sought (1) a declaratory order from the district court declaring that the School District breached the Professional Leave provisions of the Master Agreement and Richards' employment contract by failing to classify Richards' May 3, 2007 leave day as professional leave, rather than personal leave, and (2) equitable orders requiring the School District to reclassify Richards' May 3, 2007 leave day from personal leave to

professional leave and prohibiting the School District from classifying similar leave taken by School District professional employees as personal, rather than professional, leave in the future. (R., pp. 4-8). On January 30, 2008, the School District filed its Answer to Complaint and Demand for Jury Trial, admitting and denying the allegations in the PEA and Richards' Complaint and alleging a number of affirmative defenses. (*Id.*, pp. 15-20).

On May 12, 2008, the PEA and Richards filed a motion for summary judgment and supporting papers, requesting entry of Judgment in their favor on the claims alleged and the relief sought in their Complaint. (*Id.*, pp. 48-115). On that same day, the PEA and Richards filed a Motion to Strike Defendants' Demand for Trial by Jury and a supporting memorandum. (*Id.*, pp. 41-47).

On June 18, 2008, the School District filed its Response to Plaintiffs' Motion for Summary Judgment and Non-Opposition to Plaintiffs' Motion to Strike Demand for Jury Trial and additional papers supporting its Response. (*Id.*, Vol. I, pp. 124-143; Vol. II, pp. 144-229). On June 24, 2008, the PEA and Richards filed their Memorandum in Reply to Defendants' Response to Plaintiffs' Motion for Summary Judgment and supporting reply affidavits. (*Id.*, pp. 230-275). On June 27, 2008, the School District filed a motion to strike and/or objections to the PEA and Richards' Reply affidavits. (*Id.* at 276-285).

A hearing on all pending matters was conducted before District Judge John Stegner on June 30, 2008. (*Id.*, p. 288-289; Transcript ("Tr.") pp. 2-37). The district court initially took up the School District's motion to strike evidence. (Tr., pp. 4-5). The School District, however, after listening to the court's thoughts on the matter, withdrew its Motion to Strike. (*Id.*). After hearing argument from both the PEA and Richards and from the School District on the merits and after both sides agreed that the matter could be treated as presenting cross-motions for

summary judgment to the court sitting in equity, the court issued its ruling from the bench. (Tr., pp. 30-36). The court, in ruling on whether Richards' defense of his final project for his Master's Degree in Education qualified as professional development, initially stated that, ". . . I thought before when I read th[e] agreement, I thought that the Education Association and Mr. Richards would win." (*Id.*, p. 33). However, upon further reviewing the matter, the district court granted summary judgment in the School District's favor, stating its reasons on the record. (*Id.*, pp. 33-37).

On July 11, 2008, the district court memorialized its ruling from the bench by issuing an Order Re: Summary Judgment and Other Motions, as well as a Judgment. (R., pp. 290-295). In its Order, the district court, among other things, (1) granted the PEA and Richards' Motion to Strike Demand for Jury Trial, based on the School District's non-opposition, (2) noted that the School District had withdrawn its motion to strike evidence, (3) treated the matter as if both parties had filed (cross-) motions for summary judgment, in light of the parties' briefing and consent of counsel, and (4) granted summary judgment in favor of the School District. (*Id.*, pp. 290-291). In its Judgment, the district court concluded that the School District was entitled to judgment as a matter of law and dismissed the PEA and Richards' Complaint for Declaratory and Injunctive Relief for the reasons stated by the Court at the June 30, 2008 hearing. (*Id.*, pp. 293-294).

On August 5, 2008, the PEA and Richards timely filed their Notice of Appeal. (*Id.*, pp. 296-299).

C. Statement of Facts.

Doug Richards is a long-time teacher in the School District. (*Id.*, pp. 67-68). The PEA is a local education association which, since approximately June 2003, has been the sole and

exclusive bargaining representative for certificated professional employees, including teachers, in the School District. (R., pp. 82 and 89-107).

During the 2003-2004 school year, the PEA and the School Board negotiated their first Master Agreement. (*Id.*, pp 82 and 86-93). As part of those negotiations, the PEA proposed that the parties enter into an agreement regarding professional leave. (*Id.*, pp. 82 and 86). The initial Professional Leave language proposed by the PEA provided as follows:

Professional Leave

Attendance at educational meetings or visiting other schools is permitted at full pay if such absence is approved by the Principal. If any supervisor, principal, teacher, or other employee wishes to be absent from duty for a brief period to attend a professional meeting, to visit schools, or for any personal reason which is not an unavoidable reason, a written request for approval of such absence should be signed by the principal and filed in the superintendent's office at least two (2) days prior to the first day of anticipated absence.

(*Id.*).

The School District refused to agree to the PEA's Professional Leave proposal and, instead, proposed a Professional Leave provision of its own. (*Id.*) The PEA and the School District eventually agreed to the School District's Professional Leave proposal. (*Id.* at 82 and 88). That provision, which was included in the 2003-2004 and 2004-2005 school year Master Agreements and has remained unchanged as Article X, paragraph 10.5 in the Master Agreement for the 2006-2007 and 2007-2008 school years, provides as follows:

Professional Leave

Attendance at educational meetings or visiting other schools is permitted at full pay if such absence is approved by the Principal. If any certificated personnel wishes to be absent from duty for a brief period to attend a professional meeting, to visit schools, or otherwise pursue professional development, a written request for approval of such absence should be signed by the Principal and filed in the Superintendent's office at least two (2) days prior to the first day of anticipated absence. Professional leave is not to exceed two (2) days per year and is non-cumulative. The Principal may make exceptions on the number of days allowed

when necessary.

(R., pp. 82 and 86-107).

The PEA-School Board Master Agreement has at all times contained provisions concerning salary, as well as a Salary Schedule. (*Id.*, pp. 92-93 and 104-107). Thus, from the 2003-2004 and 2004-2005 school year Master Agreement to the 2006-2007 and 2007-2008 school year Master Agreement, Article XV, Salary, paragraph 15.1, has provided as follows:

1. The Board and the Association shall establish a salary schedule for the several professional positions in the school district that will:

* * *

- C. Stimulate professional growth while in service.

* * *

7. Advancement on the Salary Schedule by New Employees. Only those credits earned after the date of certification or award of a Bachelor Degree in Education will be acceptable for salary advancement.
8. The salary schedule shall be in effect as set forth in Appendix A.

(*Id.*, pp. 92, 104 and 106) (*emphasis in original*).

The Salary Schedule agreed to by the School Board and PEA for the relevant school years compensates School District teachers and other certificated professionals on the basis of (1) their years of experience and (2) their post-Bachelor degrees, including Master's degrees and doctorate, and post-Bachelor's credits. (*Id.*, pp. 93 and 107). The PEA-School Board Master Agreement for the 2006-2007 and 2007-2008 school years also contain a non-binding grievance procedure for resolving disputes concerning the misinterpretation or misapplication of any provision of the Master Agreement. (*Id.*, pp. 96-101).

In late-April, 2007, Richards requested professional leave and, on May 3, 2007, did, in fact, travel to Coeur d'Alene to defend his final project for his Master's Degree in Education

from the University of Idaho. (R., pp. 68). The School District allowed Richards to take the leave, but classified the leave as a personal leave day, rather than a professional leave day. (*Id.*, pp. 68 and 72). During the 2006-2007 school year, Richards requested a total of two (2) professional leave days for absences that he believed qualified for professional leave purposes, one of which was to defend his Master's final project. (*Id.*, p. 68). And, although Richards was absent from school or his classroom during that same school year on other occasions and for other reasons such as illness, bereavement or attendance at music events with his students (for rehearsals, Christmas programs or music programs outside of Potlatch), those absences were either covered by sick, personal or bereavement leave provisions or involved the performance of Richards' job duties, including supervising students. (*Id.*).

On or about June 8, 2007, the PEA and Richards filed a grievance with the School District, requesting that the School District reclassify Richards' May 3, 2007 leave day as professional, rather than personal, leave. (*Id.*, pp. 83 and 108). The School District denied the PEA and Richards' grievance both at the initial step and each subsequent step of the grievance process. (*Id.*, pp. 83 and 108-110 and 112). The School District's sole reason for denying Richards professional leave and/or refusing to reclassify the personal leave to professional leave was based on its belief that Richards' defense of his Master's final project did not constitute professional leave under the terms of the Master Agreement. (*Id.*, pp. 83 and 108, 110 and 112; pp. 75 and 78). In reaching its conclusion, the School Board rejected -- and, indeed, did not even address -- the PEA's argument that, because Richards' leave to defend his Master's final project furthered his professional development and would be beneficial to the School District, the Board should reclassify Richards' leave from personal leave to professional leave under the Master Agreement. (*Id.*, pp. 83 and 110-112).

On October 11, 2007, the PEA and Richards, through their representatives, informed the School District that the PEA and Richards intended to pursue litigation concerning the grievance, but would forego doing so if the School District agreed to resolve the matter through binding arbitration. (R., pp. 83 and 113). By letter, dated October 12, 2007, the School District declined the PEA and Richards' invitation to resolve the matter through such alternative dispute resolution mechanism. (*Id.*, p. 113).

During negotiations over the Master Agreement for the 2008-2009 school year, the School District proposed language (not adopted by the PEA) which would have limited professional development activities to a professional educator's current area of practice and would define professional development activities based on the provisions of the federal No Child Left Behind Act. (*Id.*, pp. 83-84 and 114-115).

II. QUESTION PRESENTED FOR REVIEW

Did the district court err in determining that the School District did not breach the Professional Leave provisions of the Master Agreement entered into between the School Board and the PEA and, in turn, did not breach Richards' employment contract with the School District by refusing to allow Richards to use a professional leave day to defend his final project submitted to complete the requirements for his Master's Degree in Education from the University of Idaho where

- (a) the Professional Leave provision broadly allows teachers to “pursue professional development” and does not limit the definition of that term;**
- (b) the School District provided the “pursue professional development” language in the Master Agreement;**
- (c) an analogous term – “professional growth” in the Salary Schedule provisions of the Master Agreement – refers to activities, such as obtaining advanced degrees, that will allow a teacher to advance on the Salary Schedule; and**
- (d) no legitimate reason existed for not allowing Richards to take a professional leave day to defend his final Master's project?**

III. ARGUMENT

A. Under the Free/DeNovo Standard of Review Governing this Case, this Court Should Reverse the District Court's Judgment in Favor of the School District and Direct the District Court to Enter Summary Judgment in Favor of the PEA and Richards.

When this Court reviews a district court's ruling on cross-motions for summary judgment, it employs the same standard as the district court when ruling on such motions. *Bauchman-Kingston Partnership, LP v. Haroldsen*, 08.25 ISCR 1194, 1194, 2008 W.L. 51337568, * 2 (2008); *Sorensen v. St. Alphonsus Regional Medical Center, Inc.*, 141 Idaho 754, 758, 118 P.3d 86, 90 (2005). Thus, summary judgment is proper when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law, I.R.C.P. 56(c); *Sorensen, Id.*

When an action will be tried before the court without a jury, the trial court as the trier of fact is entitled to arrive at the most probable inferences based upon the undisputed evidence before it and grant summary judgment despite the possibility of conflicting inferences. *Bauchman-Kingston Partnership, LP*, 08.25 ISCR at 1194, 2008 W.L. 51337568 at *2; *P.O. Ventures, Inc. v. Loucks Family Irrevocable Trust*, 144 Idaho 233, 237, 159 P.3d 870, 874 (2007). This Court exercises free review of the entire record that was before the district to determine whether either side was entitled to judgment as a matter of law and reviews the inferences drawn by the district court to determine whether the record reasonably supports those inferences. *Id.* Applying the foregoing standard in contract interpretation cases, this Court has not hesitated to reverse grants of summary judgment in favor of one party and effectively award summary judgment in favor of the other party. *See, e.g., Sorensen*, 141 Idaho at 759-760, 118 P.3d at 91-92 (2005); *Shawver v. Huckleberry Estates, L.L.C.*, 140 Idaho 354, 93 P.3d 685

(2004); *Pinehaven Planning Board v. Brooks*, 138 Idaho 826, 70 P.3d 664 (2003); *Brown v. Perkins*, 129 Idaho 189, 923 P.2d 434 (1996) .

As discussed above, the School District did not oppose the PEA and Richards' motion to strike the School District's jury demand, and based on that non-opposition, the district court granted the motion. In addition, the parties agreed the district court should treat the PEA's motion for summary judgment and the School District's response as cross-motions for summary judgment and resolve the issues before it as a court who would be sitting as the trier of fact without a jury. More important, as discussed more fully below, the district judge erred when he went against his initial inclination, failed to properly apply well-settled principles of contract interpretation, and failed to grant summary judgment in favor of the PEA and Richards. This Court should so hold.

B. The PEA and Richards, and not the School District, were and are Entitled to Summary Judgment on their First Claim for Relief for Breach of the Master Agreement.

- 1. Under well-settled rules of contract interpretation, Richards was entitled to use a professional leave day, and should not have been forced to use a personal leave day, to travel to and defend his final project for his Master's Degree in Education.**

The Professional Leave provision agreed to by the PEA and the School District in their first Master Agreement and agreed to without change for their Master Agreement for the 2006-2007 and 2007-2008 school years was quoted above and bears repeating here:

Professional Leave

Attendance at educational meetings or visiting other schools is permitted at full pay if such absence is approved by the Principal. If any certificated personnel wishes to be absent from duty for a brief period to attend a professional meeting, to visit schools, or otherwise pursue professional development, a written request for approval of such absence should be signed by the Principal and filed in the Superintendent's office at least two (2) days prior to the first day of anticipated absence. Professional leave is not to exceed two (2) days per year and is non-cumulative. The Principal may make exceptions on the number of days allowed

when necessary.

As the Court is well aware, contract interpretation is governed by a number of well-settled principles. The primary responsibility of a court in determining the requirements of a contract is to ascertain the contracting parties' intent. *Straub v. Smith*, 145 Idaho 65, 69, 175 P.3d 754, 758 (2007); *Boel v. Stewart Title Guaranty Co.*, 137 Idaho 9, 13, 43 P.3d 768, 772 (2002). Where the terms of the contract are clear and unambiguous, the court should determine their meaning and legal effect from the words of the document viewed as a whole. *Clear Lake Trout Co., Inc. v. Clear Springs Foods, Inc.*, 141 Idaho 117, 120, 106 P.3d 443, 446 (2005); *Opportunity, L.L.C. v. Ossewarde*, 136 Idaho 602, 607, 38 P.3d 1258, 1263 (2002). Specifically, "where nothing in the context indicates otherwise, words used in one sense in one part of the contract are deemed to have been used in the same sense in another part of the same instrument." *Bair v. Barron*, 97 Idaho 26, 30, 539 P.2d 578, 582 (1975). Where, however, a contract is ambiguous, "[t]he determination of the parties' intent is to be determined by looking at the contract as a whole, the language used in the document, the circumstances under which it was made, the objective and purpose of the particular provision, and any construction placed upon it by the contracting parties as shown by their conduct or dealings." *J.R. Simplot Co. v. Bosen*, 144 Idaho 611, 614, 167 P.3d 748, 751 (2006); *International Engineering Co., Inc. v. Daum Industries, Inc.*, 102 Idaho 363, 365, 630 P.2d 155, 157 (1981).¹

Whether a contract term is ambiguous must be determined by giving the words or phrase used their common or ordinary meaning, *Swanson v. Beco Construction Co., Inc.*, 145 Idaho 59, 63, 175 P.3d 748, 752 (2007), ambiguity does not arise merely because a term is not defined in the contract in which it is used, *Shawver*, 140 Idaho at 363-364, 93, P.3d at 694-695, and a

¹ This Court has adopted and applied these same principles concerning ascertaining intent when interpreting collective bargaining agreements. *See, e.g., Western Const., Inc. v. Oregon-Southern Idaho and Wyoming District Council, etc.*, 101 Idaho 145, 148, 609 P.2d 1136, 1139 (1980).

number of courts have relied on dictionary definitions of contract terms to determine their meaning. See, e.g., *Swanson*, 145 Idaho at 62, 175 P.3d at 751 (2007); *National Union Fire Ins. Co. of Pittsburgh, P.A. v. Dixon*, 141 Idaho 537, 540, 112 P.3d 825, 828 (2005). Also, in determining the meaning of an ambiguous contractual provision, “[t]he rule is clear, that a contract should be construed most strongly against the party preparing it or employing the words concerning which doubt arises’ . . . and that ‘where there is doubtful language in the contract, it will be interpreted most strongly against the party who provided that language.’” *J.R. Simplot Co.*, 144 Idaho at 616, 176 P.3d at 753, quoting *Big Butte Ranch, Inc. v. Grasmick*, 91 Idaho 6, 9, 415 P.2d 48, 51 (1966) and *Werry v. Phillips Petroleum Co.*, 97 Idaho 130, 136, 540 P.2d 792, 798 (1975). Lastly, whether or not a contract is ambiguous, this Court has frequently admonished trial courts for attempting to rewrite contractual provisions: thus, this Court has stated that “courts cannot revise [a] contract in order to change or make a better agreement for the parties,” *McKay v. Boise Project Board of Control*, 141 Idaho 463, 471, 111 P.3d 148, 156 (2005), quoting *Bondy v. Levy*, 121 Idaho 993, 997, 829 P.2d 1342, 1345 (1992), and, even more to the point, “[c]ourts cannot make for the parties better agreements than they themselves have been satisfied to make, and by process of interpretation, relieve one of the parties from the terms which he voluntarily consented to; nor can courts interpret an agreement to mean something the contract does not itself contain.” *J.R. Simplot v. Chambers*, 82 Idaho 104, 110, 350 P.2d 211, 214 (1960).

Richards' defense of his final project for his Master's Degree in Education from the University of Idaho clearly constituted pursuit of professional development under the unambiguous language of the Professional Leave provisions in the Master Agreement. In this regard, “professional development” is a broad term and is nowhere defined or otherwise limited

to specific professional development activities in the Master Agreement. Moreover, in common usage, the word “professional” has been defined to mean “an occupation or vocation requiring training in the liberal arts or the sciences and advanced study in a specialized field,” Webster’s II New Riverside University Dictionary (1984) at 939, and “develop” means “[t]o realize the potentialities of” or “[t]o aid in the growth of.” Webster’s II New Riverside University Dictionary (1984) at 370. Under these definitions, Richards’ defense of his final project for his Master’s Degree in Education clearly aided in his growth as an educator through advanced training. As such, Richards’ activities constituted “professional development” under the Professional Leave provision of the Master Agreement.

A review of the Master Agreement as a whole leads to the same conclusion. In addition to using the term “professional development” in the Professional Leave provision, the Master Agreement uses the term “professional growth” in its Salary provisions. In that latter provision, the Master Agreement provides that the Salary Schedule appended to the Master Agreement “will . . . [s]timulate professional growth while in service,” (R., pp. 92, 104 and 106) and further establishes a Salary Schedule which keys increases in compensation for School District professional employees to their having earned advanced degrees, including Master’s degrees, and obtaining post-Bachelor degree academic credit. (*Id.*). Thus, given that the PEA and School Board are presumed to ascribe the same meaning to similar terms used throughout the Master Agreement, and given that the term “professional growth” is used in the Salary Schedule provisions to mean the acquisition of post-Bachelor degrees, including Master’s Degrees and doctorates, the term “professional development,” when used in the Professional Leave provisions of the Master Agreement, clearly encompasses Richards’ defense of his Master’s Degree final project as the last step toward earning an advanced degree. For all of these reasons, the

Professional Leave provisions of the Master Agreement unambiguously required the School District to approve Richards' request to use a professional leave day on May 3, 2007 to travel to Coeur d'Alene to defend his final project.

Moreover, even if the Professional Leave provision is ambiguous (and it is not), the result would be no different. In this regard, requiring the School District to grant Richards professional leave under these circumstances would further the purposes of both the Professional Leave and salary provisions of the Master Agreement, *i.e.*, to (1) encourage professional development of teachers through continued education by removing barriers, such as loss of personal leave days or loss of compensation, when undertaking such activities, and (2) provide incentives for professional growth by rewarding teachers with increased compensation for post-Bachelor's degree acquisition. Also, the PEA and School Board's bargaining history reveals that the School Board proposed the version of the Professional Leave provision that ultimately ended up in the Master Agreement. In so doing, and by obtaining the PEA's agreement to allow professional leave for certificated personnel who "otherwise pursue professional development," the School Board avoided the PEA's proposed broader language, which would have allowed use of professional leave for "any personal reason which is not an unavoidable emergency . . ." Under these circumstances, the district court erred in failing to construe the Professional Leave language strongly against the School District, *i.e.*, the party who provided the language in the first instance.²

For all of these reasons, Richards' use of a professional leave day to travel to the University of Idaho -- Coeur d'Alene Center to defend his Master's Degree final project fell well

² Under Idaho statutory law, the state allocation matrix grants school districts additional funding for teachers who obtain advanced degrees. *See* Idaho Code § 33-1004A. Thus, Richards' obtaining his Master's Degree inured to not only his and his students' educational benefit, but to the financial benefit of the School District as well.

within the meaning of the term “professional development” under the Professional Leave provisions of the Master Agreement. As such, the district court erred by rewriting the Professional Leave provision to include a limitation to which neither the School Board nor the PEA agreed.³

2. The School District breached the Master Agreement by failing to allow Richards to use a professional day to defend his final project for his Master’s Degree.

This Court has held that a breach of contract occurs where a party, without legal excuse, fails to perform a promise that makes up the whole or part of a contract. *Independence Lead Mines v. Hecla Mining Co.*, 143 Idaho 22, 28, 137 P.3d 409, 415 (2006); *Fox v. Mountain West Elec., Inc.*, 137 Idaho 703, 710, 52 P.3d 848, 855 (2002) .

As discussed above, Richards was entitled to use a Professional Leave day to travel to and defend his final project for his Master’s Degree in Education under the terms of the Master Agreement. Moreover, it is undisputed that the School District refused to allow Richards to do so. The School District, rather than breaching the Master Agreement, should have honored the Master Agreement and done then what it did a short time later, *i.e.*, attempt to negotiate a change in the Professional Leave language with the PEA. For these reasons, the PEA and Richards, and not the School District, were and are entitled to summary judgment on their First Claim for Relief for breach of the PEA-School Board Master Agreement.

C. Richards, and not the School District, was and is Entitled to Summary Judgment on his Second Claim for Relief for Breach of his Individual Employment Contract. .

Paragraph 8 of Richards’ employment contract with the School District for the 2006-

³ This conclusion comports with the recognition or assumption by numerous courts and educational institutions that post-graduate study and scholarly activities, as well as obtaining advanced degrees contributes to the professional development or growth of teachers and other professional educators. *See, e.g., Ohio University of Ohio Civil Rights Commission*, 2008 W.L. 625565, *6 (Ohio App. 2008); *Hancock ex rel. Hancock v. Driscoll*, 2004 W.L. 877984, *7 (Mass. Super. 2004); *Tippecanoe Ed. Ass’n v. Board of School Trustees of Tippecanoe School Corp.*, 429 N.E.2d 967, 968 (Ind. App. 1982); *Weightman v. C.I.R.*, 1982 W.L. 10967 (1982) .

2007 school year provided in pertinent part as follows:

The terms of this Contract shall be subject to amendment and adjustment to conform to applicable terms of the Negotiated Master Contract subsequently executed by the Board of Trustees and the Representative Organization for the ensuing year.

(R., pp. 68 and 71). This Court has likewise held that collective bargaining agreements entered into between local education associations and school boards modify and become part of teachers' individual employment contracts. *Farner v. Idaho Falls School Dist. No. 91*, 135 Idaho 337, 341, 17 P.3d 281, 285 (2000); *Buhl Ed. Ass'n v. Joint School Dist. No. 412*, 101 Idaho 16, 22-23, 607 P.2d 1070, 1076-1077 (1980).

As discussed above, the district court erred in failing to find and conclude that the School District and School Board breached the Professional Leave provision of the Master Agreement by refusing to allow Richards to use a professional leave day to defend his final project for his Master's Degree. Because the Master Agreement modified and became part of Richards' individual employment contract with the School District, the School District and School Board's breach of the Master Agreement constituted a breach of Richards' individual employment contract as well.

D. This Court, Upon Reversing the District Court's Decision, Should Direct the District Court to Issue the Declaratory and Equitable Relief Sought in the Prayer for Relief in the PEA and Richards' Complaint. .

1. The PEA and Richards are entitled to declaratory relief.

Idaho Code § 10-1201 authorizes courts to issue declaratory judgments, providing as follows:

Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations, whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may

be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.

Specifically, Sections 10-1202 and 10-1203 provide for a declaratory judgment concerning a person's rights or obligations under a contract, providing in pertinent part as follows:

Any person interested under a . . . written contract . . . or whose rights, status or other legal relations are affected by a . . . contract may have determined any question of construction or validity arising under the . . . contract . . . and obtain a declaration of rights, status or other legal relations thereunder.

[and]

A contract may be construed either before or after there has been a breach thereof.

Both this Court and the Court of Appeals have made clear that the foregoing statutes authorize the entry of a declaratory judgment to settle disputes regarding the rights and status of persons affected by contracts. *Utah Power & Light Co. v. Idaho Public Utilities Com'n.*, 112 Idaho 10, 12, 730 P.2d 930, 932 (1986); *Student Loan Fund of Idaho, Inc. v. Payette County*, 125 Idaho 824, 825, 875 P.2d 236, 237 (Ct. App. 1994) .

Applying the above-discussed statutory authority, the PEA and Richards were and are entitled to declaratory orders stating that the School District breached the Master Agreement and Richards' individual employment contract by refusing Richards' request to use a professional leave day to defend his Master's final project and declaring Richards' right to equitable relief.

2. The PEA and Richards are entitled to equitable relief.

Courts of equity will enforce contracts, absent a compelling reason to do otherwise. *Williams v. Continental Life & Accident Co.*, 100 Idaho 71, 74, 593 P.2d 708, 711 (1979);

Quayle v. Mackert, 92 Idaho 563, 569-570, 447 P.2d 679, 685-686 (1968). Thus, this Court has stated that, “[w]here a court of equity is asked to enforce a covenant by ordering specific performance and granting an injunction to prevent a breach of it, equitable principles will prevail and the rules of fair dealing and good conscience must be applied.” *Smith v. Shinn*, 82 Idaho 141, 148, 350 P.2d 348, 351 (1960), quoted in *Drong v. Coulthard*, 87 Idaho 486, 496, 394 P.2d 283, 289 (1964).

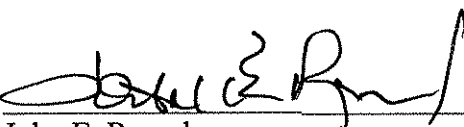
As alluded to above, the PEA and Richards were and are entitled to equitable relief (1) ordering the School District to reclassify the personal leave day granted to Richards to defend his Master’s final project as a professional leave day and restore a personal leave day to Richards’ account and (2) enjoining the School District from denying professional leave to teachers under similar circumstances in the future.

IV. CONCLUSION

For all of the reasons stated above, the PEA and Richards respectfully request that the Court reverse the district court’s grant of summary judgment in favor of the School District and grant summary judgment in their (the PEA and Richards’) favor. The PEA and Richards further request that the Court direct the district to grant them declaratory and equitable relief consistent with the relief sought by the PEA and Richards in their Complaint.

Respectfully submitted this 15th day of January, 2009.

IDAHO EDUCATION ASSOCIATION

By: 
John E. Rumel
Attorney for Plaintiffs/Appellants Potlatch
Education Association and Doug Richards

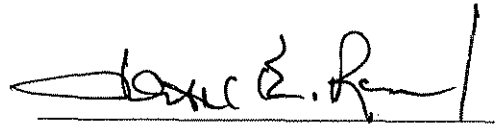
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of January, 2009, I caused two true and correct copies of the foregoing to be served on the following by the method indicated:

 X U.S. Mail
 Facsimile Transmission
 Hand Delivered

to:

Brian K. Julian, Esq.
Anderson, Julian & Hull, LLP
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John E. Rumel