

**Transcript of December 7, 2016 oral argument hearing -  
Ruling and order by Judge Aarseth on record**

**Judge:** I am granting the RPEA's motion for partial summary judgment. I'm denying the state's cross-motion for partial summary judgment. I think the language in *Duncan* is fairly straight-forward: the principal that everybody agreed with at the beginning of the arguments here is that the benefits -- the employees' rights to benefits in the retirement system -- vest on employment and enrollment in the system and then it gives ... rather than at the time when the employee becomes eligible to receive those benefits. That language in itself is inconsistent with the state's argument today in terms of that somehow there's not a benefit that is available to them until they can actually purchase that option. I used the -- it may not have been the best example -- but I used in terms of the value of an option to buy, an option to purchase, an option to lease, an option to explore -- options are something that have, are recognized in terms of having value -- having that choice some time in the future to be able exercise an option has value. And the language that we're talking about under Article VII (sic), Section 7, in the diminishment clause, when we talk about accrued benefits, *Duncan* said very clearly it is accrued benefits and there is no limitation to the definition of that. It is a very broad term.

And so, the state in the statutes that it has passed, and what the legislature has explained in terms of what the executive branch can do in terms of when they're purchasing things and making these choices, is that you don't have to offer DVA to the employees of the State of Alaska, but if you do, then the logical reading of this is that they are then going to have that right to take advantage of that and to purchase those as an option and a part of their employment. That's what we're talking about -- is that at the time that an employee starts their employment the state has the find (sic) in their exercise of (1) whether they're going to have a DVA (or) group life insurance policy in existence and, if there is one in existence, then that is what defines the terms of that option to purchase in the future.

So, for those reasons, I am agreeing with RPEA's interpretation of the legal issue before this court and, for the reasons I've just stated, granting their partial summary judgment motion.