

KLAUSNER, KAUFMAN, JENSEN & LEVINSON

19TH ANNUAL CLIENT CONFERENCE

**HYATT PIER 66
FORT LAUDERDALE, FLORIDA**

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WHAT WERE THEY THINKING?



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1. A number of current and retired police officers sued the pension fund alleging

that certain recent plan amendments violated the pension clause of the State Constitution. Specifically, the amendments called for the reduction of the future interest rate on DROP accounts for participants currently in the Plan, including those members already in DROP or whose accounts remained on deposit after separating from service. After a bench trial, the trial court determined that the plan amendments did not violate the State Constitution. The case was appealed. Did the Appellate Court affirm or reverse the decision?

2. Four police officers employed by a municipality, as a result of their age, were eligible to enter DROP but wished to defer entry to maximize their monthly retirement benefit. Before entry, in an effort to improve financial problems, the municipality passed an ordinance that imposed a deadline for entry into the program. The police officers brought a declaratory judgment action against the municipality challenging the constitutionality of the ordinance imposing the DROP entry deadline. After a bench trial, the trial court ruled in favor of the officers. The case was appealed. How did the Appellate Court rule?
3. A City, faced with a burgeoning debt, challenged the constitutionality of a statute creating one of its retirement systems. The City contended that delegating management to the board of trustees to, among other things, hire the actuary and adopt contribution rates and actuarial assumptions was unconstitutional. The City contended that delegating powers to the Board of Trustees violated the separation of powers doctrine in the State Constitution because it was an improper delegation to a non-legislative entity. The trial court granted the retirement systems' motion for summary judgment. On appeal, how did the Court rule?
4. A group of employees who are participants in a municipal retirement system sued the municipality after it passed an ordinance that repealed the opportunity to cash in unused vacation days before retirement. The ordinance was passed in an effort to curb pension spiking. The employees were not yet ready to retire but didn't want to lose out on the opportunity to cash in their unused vacation time. They filed suit against the City claiming that the ordinance violated the state pension protection and contract clauses. The trial court ruled on behalf of the City and the employees appealed. How did the

Appellate Court rule?

5. A Judge retired with over 38 years of service, including military time. Subsequent to his retirement, the Judge was asked and agreed to serve as a Senior Magisterial District Judge. The Judge was assigned to traffic court. While in Court, a Court Clerk asked the judge if he knew anyone that could assist her with her son's traffic citation. The judge sent the citation and a note reading "please advise" to the Director of Courtroom Operations. The Director informed the judge that the citation would be cancelled and that the Clerk's son did not have to appear because "it was dismissed." Thereafter, the U.S. Attorney's Office filed a Criminal Information against the judge charging him with one count of mail fraud and aiding and abetting. The Information alleged that the judge had exerted extrajudicial influence over the handling of the traffic citation. The judge pled guilty to one count of voter fraud and thereafter received a letter from the State Employees Retirement System notifying him that his pension would be forfeited and he would receive a refund of his contributions. The judge appealed the Board's decision and a hearing was held. The hearing officer denied the appeal and affirmed the forfeiture. The order was adopted by the Board and a further appeal followed. How did the Appellate Court rule?

6. A Board of Trustees determined that a detective and hostage negotiator was not entitled to accidental disability retirement benefits after witnessing the fatal shooting and display of the corpse of a suspect with whom the disability applicant had negotiated with for 12 hours during a crisis situation. The Board concluded that the incident was not "undesigned and unexpected" for someone trained to handle hostage situations. At the member's request, a hearing was held before an Administrative Law Judge ("ALJ") who recommended accidental disability benefits based upon the testimony of Martinez's expert witness. The witness had experienced over 3,500 hostage incidents and explained how a reasonable person would suffer a disabling mental condition as a result of this incident. The Board rejected the ALJ's recommendation, and this appeal followed. How did the Court rule on appeal?

7. A village filed a petition to intervene in a Pension Board's disability application

proceeding for a police officer plan member. The officer was injured while responding to a call of a home invasion in progress. The officer injured his left knee and back and subsequently underwent surgery to repair both. After his injuries, he never returned to full duty. After he submitted his application for a line-of-duty disability pension, the Village petitioned to intervene as they had a “significant financial interest” in the outcome. The officer voiced his concerns that interference from the Village could affect a fair application process. The Board denied the Village’s petition to intervene. After sending the member to three independent medical examinations (2 IME’s found that the officer was disabled, and one IME found that the officer was not disabled), and hearing his testimony, the Board concluded that the injuries to his left knee and back caused the officer to become totally and permanently disabled. The Village filed an action seeking a review of the Board’s decision. How did the Court rule on both the intervention issue and the underlying disability?

IF YOU HAVE ANY QUESTIONS OR COMMENTS CONCERNING THIS PRESENTATION, CONTACT KLAUSNER, KAUFMAN, JENSEN & LEVINSON, 7080 NW 4th STREET, PLANTATION, FLORIDA 33317, (954) 916-1202, FAX (954) 916-1232, WEBSITE, www.robertdklausner.com.