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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT - CHANCERY DIVISION**

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MICHAEL W. UNDERWOOD, *et al.*,

Plaintiffs

-vs-

CITY OF CHICAGO,  
a Municipal Corporation,

and

TRUSTEES OF THE POLICEMEN'S  
ANNUITY AND BENEFIT FUND OF  
CHICAGO, *et al.*,

Defendants.

2013 CH 17450

Honorable Neil H. Cohen

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**TRUSTEES OF THE POLICEMEN'S ANNUITY AND BENEFIT FUND OF CHICAGO  
RESPONSE TO PLAINTIFFS' MOTION TO COMPEL THE FUNDS TO PROVIDE A  
RETIREE HEALTHCARE PLAN FOR ITS ANNUITANTS**

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Defendant, TRUSTEES OF THE POLICEMEN'S ANNUITY AND BENEFIT FUND OF CHICAGO (the "PABF"), having addressed in a prior reply the issue of whether the City of Chicago (the "City") or the PABF is responsible for the payment of the healthcare premium subsidies, does now address the Plaintiffs' Motion to Compel on the sole issue of whether the PABF is obligated under the provisions of the 1983 statute to "contract for" healthcare insurance for its annuitants.

On June 29, 2017, the Appellate Court in *Underwood v. City of Chicago*, 2017 IL App (1st) 162356, opined in part that the 1983 statutory healthcare subsidies were not time barred, and when later provisions dealing with the subsidies ended in December 31, 2016, the subsidies provided for in the 1983 legislation was a contractually provided benefit to which certain annuitants were

entitled. The Appellate Court then remanded the case back to this Court for one purpose only, and that was “to find a workable solution to address how the subsidy will be funded...” *Id.* at ¶ 64.

The Appellate Court, in reviewing what is protected by the only non-expiring healthcare legislation, the 1983 (and 1985) legislation, provided the sole benefit protected under the Pension Protection Clause of the Illinois Constitution is limited to the annuitants’ right to receive a monthly fixed-rate subsidy, **paid by the City**, further finding the participants in the respective funds do not have an abstract legal right to healthcare coverage.

Under the 1983 amendment, **the City is obligated** to pay towards its retirees’ healthcare \$55 per month for non-Medicare-eligible retirees and \$21 per month for Medicare-eligible retirees). Ill. Rev. Stat. 1983, Ch. 108-1/2, par. 8-167.5 (eff. Jan. 12, 1983). Under the 1985 amendment, **the City is obligated** to pay \$25 per month for its municipal employees and laborers and retirement board employees. Ill. Rev. Stat. 1985, Ch. 108-1/2, par. 11-160.1 (eff. Aug. 16, 1985). The retirees contend that the pension protection clause should be considered to protect their abstract right to “healthcare coverage.” But that is not what the Illinois Constitution provides.

*Id.* at ¶ 40 (emphasis added).

The Appellate Court language and findings are unambiguous to everyone other than Plaintiffs’ counsel who repeatedly raises the same arguments and asserts the same position that the PABF is compelled by the 1983 legislation to contract for insurance no matter how many times he is denied. Plaintiffs, by their own admission in numerous filings, specifically their Petition for Rehearing to the Appellate Court and in both their Petition and Reply in Support of their Petition for Leave to Appeal to the Illinois Supreme Court, recognize the issue of whether annuitants’ have a protected right/benefit to participate in a group healthcare plan, and that such plan shall be provided by the PABF, has been resolved. The Appellate Court and Illinois Supreme Court, in considering Plaintiffs’ subsequent filings and rejecting their continued plea for reconsideration and appeal, have sent a clear and unambiguous message to all parties that this matter has been

resolved with the Appellate Court's June 29, 2017, opinion.

**CONCLUSION**

In reading Plaintiffs' Motion to Compel and their 69-page (without exhibits) Fourth Amended Complaint, it is apparent the Plaintiffs have elected, as they have repeatedly done in the past, ignore the opinion of the Appellate Court. The Appellate Court, in its June 29, 2017, opinion: (1) defined the class; (2) found the 1983/1983 provisions relating to annuitants' rights to fixed-rate subsidies was the only non-expiring legislation; (3) held the subsidies provided for in 1983/1985 was a protected benefit under the Pension Protection Clause of the Illinois Constitution; (4) found the language "contracted for" in so far as requiring the PABF to provide a group healthcare plan to certain annuitants was not a protected benefit; and (5) remanded this case back to this Court for one purpose only, not to change any court ruling, but to find a "workable solution" as to how the subsidies would be funded by the City. All other issues in this matter were considered resolved, and had the Appellate Court considered certain annuitants also had a protected right/benefit to participate in a group healthcare plan provided by the PABF and the other named pension funds, the Appellate Court could, and certain would have, expanded their remand to address this contracting for insurance issue. They did not.

Respectfully submitted,

TRUSTEES OF THE POLICEMEN'S ANNUITY  
AND BENEFIT FUND OF CHICAGO

/s/ David R. Kugler  
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