

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA**

ESCAMBIA COUNTY,

Petitioner,

v.

Case No. 2022-CA-0141

**PAM CHILDERS, Clerk of the Circuit Court
and Comptroller for Escambia County,**

Respondent.

**ORDER DENYING RESPONDENT’S AMENDED MOTION FOR PARTIAL
SUMMARY JUDGMENT DETERMINING THAT RETIREMENT BENEFITS ARE
PART OF A COUNTY COMMISSIONER’S COMPENSATION**

THIS CAUSE is before the Court on “[Respondent’s] Amended Motion for Partial Summary Judgment Determining that Retirement Benefits are Part of a County Commissioner’s ‘Compensation,’ and Supporting Memorandum of Law” (Amended Motion), filed on September 28, 2022, pursuant to Florida Rule of Civil Procedure 1.510. Also before the Court are “The County’s Opposition to the Clerk’s Motion for Partial Summary Judgment Regarding ‘Compensation,’” filed by Petitioner on November 11, 2022, Respondent’s “*Amended Reply to the County’s Opposition to the Defendant’s Motion for Partial Summary Judgment Regarding ‘Compensation,’*” filed on December 27, 2022, Respondent’s “Additional Briefing of Issue # 1” and “Additional Briefing of Issue #2,” filed on March 31, 2023, and “The County’s Additional Briefing Regarding the Clerk’s Motion for Partial Summary Judgment Regarding ‘Compensation,’” filed by Petitioner on March 31, 2023. Having considered the Amended Motion and the other filings of the parties, record, and applicable law, the Court finds as follows:

Amended Motion

Respondent requests the Court to enter a partial summary judgment “determining that retirement contributions made by a county on behalf of one of its county commissioners are part of that commissioner’s ‘compensation’ as that term is contemplated in Section 5(c), Art. II, Florida Constitution, and Section 145.131(2), Florida Statutes.” Respondent asserts that the word “compensation,” which is not defined in the Florida Constitution or Chapter 145 of the Florida Statutes, should be construed in its “plain and ordinary sense.”

Legal Authority

Florida Rule of Civil Procedure 1.510(a) provides for a party to move for summary judgment or partial summary judgment. “The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fla. R. Civ. P. 1.510(a). “Genuine disputes are those in which the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Ibarra v. Ross Dress for Less, Inc., 350 So. 3d 465, 467 (Fla. 3d DCA 2022) (quotations omitted). “A factual dispute is ‘material’ when it may affect the outcome of the case under the applicable substantive law.” Star Cas. Ins. Co. v. Gables Ins. Recovery, Inc., 346 So. 3d 1244, 1246 (Fla. 3d DCA 2022). “[S]ummary judgment must be denied if the evidence on an issue of material fact is disputed.” Clampitt v. Wick, 320 So. 3d 826, 833 (Fla. 2d DCA 2021).

Discussion

Article II, Section 5(c) of the Florida Constitution, provides as follows: “The powers, duties, compensation and method of payment of state and county officers shall be fixed by law.” Section 145.131(2), Florida Statutes, states that “[t]he compensation of any official whose salary is fixed by this chapter shall be the subject of general law only, except that the compensation of

certain school superintendents may be set by school boards in accordance with the provisions of s. 1001.47.”

If Respondent were merely requesting this Court to grant partial summary judgment based on the text of the cited authorities that include the word “compensation,” there might be no genuine dispute as to any material fact. However, Respondent is asking this Court to determine that there is no genuine dispute as to any material fact as to the *interplay* between the use of the word “compensation” in the Florida Constitution and Florida Statutes at issue in this case. In other words, Respondent is asking this Court to make a determination of the meaning of the word “compensation” and determine *how* that meaning functions in regard to the local retirement plan at issue in this case. The parties clearly dispute what “compensation” means and how it should be interpreted in this context. This Court finds that the factual issues presented preclude granting partial summary judgment.

Ruling

Therefore, it is **ORDERED AND ADJUDGED** that Respondent’s Amended Motion is **DENIED**.

DONE AND ORDERED in Chambers, Fort Walton Beach, Okaloosa County, Florida.



eSigned by CIRCUIT JUDGE WILLIAM STONE
on 08/23/2023 15:53:27 FzXQkw6J

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