

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION

BEVERLY TERP,

Plaintiff,

CASE NO.: 09-CA-017101

v.

DIVISION: D

CITY OF TAMPA and THE PENSION BOARD  
OF THE GENERAL EMPLOYEES RETIREMENT  
PLAN FOR THE CITY OF TAMPA,

Defendants.

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OCT 30 2009

MOTION FOR SUMMARY JUDGMENT

COMES NOW the Defendants, CITY OF TAMPA, acting through its undersigned attorney, and moves this Court pursuant to Rule 1.510 of the Florida Rules of Civil Procedure, to grant in final summary judgment on the claim of the Plaintiff, BEVERLY TERP, on the following grounds:

1. The Plaintiff is listed in this action as Beverly Terp, but it is the understanding of the Defendant that her current name is "Harris."
2. The Plaintiff is the widow of Donald J. Terp, who was employed by the City of Tampa for approximately 21 years. He passed away, as alleged in the complaint, on or about December 5, 1983.
3. After the death of Mr. Terp, the Plaintiff, as his widow, received monthly pension benefits as the surviving spouse, until her remarriage on July 31, 1987.
4. At the time of the death of Mr. Terp and the remarriage of the Plaintiff, the City of Tampa Pension Plan provided that upon remarriage of a surviving spouse of a deceased City of Tampa employee, any pension benefits to the surviving spouse would terminate.

5. In 2001, as alleged in the Plaintiff's complaint, a special act was passed by the Florida Legislature, which would continue those surviving spouse benefits, at a reduced rate upon the remarriage of the surviving spouse. The said provision of this legislature does not indicate that it was retroactive in any manner.
6. General principal of statutory construction of the statute is the prospective only, unless it clearly and unambiguously indicates that it will be applied retroactively.
7. In light of the fact that there is no evidence whatsoever that the statutory amendment to the City of Tampa Pension Plan, enacted by the Florida Legislature, was intended to be retroactive, then it must be construed as being prospective only. In that case, it would not act to reinstate pension benefits to the Plaintiff in this action.


WHEREFORE, the City of Tampa respectfully requests this Court to enter final summary judgment in its favor.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been forwarded via U.S. Mail to **Richard J. McIntyre, Esq.**, *McINTYRE, PANZARELLA, THANASIDES, ELEFF & HOFFMAN, P.L.*, 6943 E. Fowler Avenue, Temple Terrace, Florida 33617, this 29<sup>th</sup> day of July, 2009.

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CHARLES R. FLETCHER,  
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