ROBBINS SCHWARTZ
NICHOLAS LIFTON & TAYLOR, LTD.

In Brief

February 2011

APPELLATE COURT FINDS MUNICIPALITIES MUST PAY 100% OF INSURANCE PREMIUMS FOR INJURED PUBLIC SAFETY EMPLOYEES FROM DATE OF INJURY

In the recent Appellate Court decision of *Nowak v. City of Country Club Hills*, the First District Appellate Court, which has jurisdiction of Cook County and the Chicago collar counties, determined that municipalities must pay the entire insurance premium for a firefighter or police officer injured while on duty from the date of the officer's injury. This ruling differs from the practice of some municipalities which deducted the employee's portion of the insurance premium from the employee's PEDA (Public Employee Disability Act) benefits until the employee actually was awarded a disability pension.

This case stems from a situation in Country Club Hills were the plaintiff police officer was injured in the line of duty in August of 2005 while making an arrest. The officer immediately went on leave and began receiving PEDA benefits from the City. Prior to issuing the officer his paycheck, the City continued to withhold the officer's portion of the insurance premium as it had done prior to the officer's injury. After the officer's PEDA benefits expired in September 2006, and prior to him being awarded a disability pension from the Pension Board, the officer paid his premium contribution directly to the City. The officer was awarded a line-of-duty disability pension in October 2008, retroactive to September 2006. Once the Pension Board made its finding that the officer was entitled to a disability pension, the City began paying 100% of the officer's premium as required by the Public Safety Employees Benefits Act (PSEBA). The officer then requested that the City reimburse him for all premiums paid by him since his injury. The City refused arguing that PSEBA did not require it to pay 100% of his premiums until the finding of disability was made by the Pension Board.

The Appellate Court overturned the ruling of the circuit court who found in favor of the City stating that PSEBA does not authorize retroactive payment of health insurance benefits prior to the Pension Board's determination. Instead, the Appellate Court found that PSEBA was designed to guarantee health benefits of public safety employees who have suffered a career-ending injury and that this requirement is clear and unambiguous. While PEDA provides to a public safety employee his full salary for a period of one year, PSEBA provides that under certain circumstances that employee is entitled to the additional benefit of having his employer pay the entire premium for his health care plan. Nothing in the plain language of either statute precludes the employee from receiving both benefits at the same time. The Appellate Court acknowledged that its interpretation allows a very generous benefit to public safety employees disabled in the line of duty, but stated that nothing indicates that the legislature intended otherwise.

If you have any questions about PEBA or PSEBA benefits or how this case affects you, please feel free to contact your RSNLT attorney.

Susan W. Glover, of the firm's Joliet office, prepared this *In Brief*.

Robbins Schwartz Nicholas Lifton & Taylor, Ltd.
55 West Monroe Street | Suite 800 | Chicago, Illinois 60603 | 312-332-7760 | questions@rsnlt.com.