

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
IN AND FOR MIAMI DADE COUNTY FLORIDA**

---

CASE No.

---

**PLAINTIFFS,**

**CLASS REPRESENTATIVES FOR POLICE OFFICER CLASS:**

**Lieutenant Jorge Castro;** individually, and on behalf of all others similarly situated  
**Sergeant Nestor Garcia;** individually, and on behalf of all others similarly situated  
**Officer Francisco Casanovas;** individually, and on behalf of all others similarly situated  
**Lieutenant David Patino;** individually, and on behalf of all others similarly situated,  
and

**POLICE OFFICER PARTY PLAINTIFFS**

ALBERT GARDINER  
ALBERTO ALBERTO JR.  
ALBERTO BAZAN  
ALBERTO BORGES  
ALBERTO PACHECO  
ALEJANDRO MACIAS  
ALEJANDRO MENDEZ  
ALEXIEEN STEVENS  
ANA AGULAR  
ARMANDO ROJAS  
BENJAMIN PAYEN  
BENJAMIN YOUNG  
BRENDAN MONROE  
CARLOS SUAREZ  
CHRIS GRIFFIN  
CHRISTOPHER FRANCIS  
CURTIS HOOSIER  
DANIEL R. RICHARDS  
DAVID ANDERSON  
DAVID PATTON  
DEBORAH GRANT  
DEXTER MCGAHEE  
NICHOLSON  
DORETHA HALL  
EMILIO LOPEZ  
ERVINS FORD

FERNANDO BOSCH  
FREDERICA BURDEN  
GLORIA DOUTHETT  
HORACE MORGAN  
JACOB NICOLI  
JACKIE JASURUM  
JACQUELINE FOLGUEIRA  
JAMES H. MARSHALL  
JOEL GONZALES  
JOHN LLODRA  
JORGE MARITN  
JOSE ALFONSO  
JOSE GONZALES  
JOSE HENRIQUEZ  
JOSE MERCEDES  
JOSEPH BELIKES  
JUAN VERA  
JULIO PINO  
JULIUS NELSON  
KEITH CUNNINGHAM  
KEVIN MCNAIR  
LARRY RILEY  
LAZARO FERRO  
LUIS CABRERA  
LUIS TABORDA  
MANUEL CABRERA

MANUEL GONZALEZ  
MARCOS PEREZ  
MARGARITA MCFIELD  
MARIO MEDINA  
MARIO RODRIGUEZ  
MICHAEL BRADY  
MILTON MONTES DE OCA  
MOISES VELASQUEZ  
ORLANDO BORGES  
ORLANDO VILLAVERDE  
OSVALDO MAZZIERI  
PAUL GOURRIER  
PETER REYNOLDS  
RAFAEL J. FUENTES  
RAMON HERNANDEZ  
RAYNARD GILBERT  
RICARDO HERNANDEZ  
RICHARD GENTRY  
ROBIN STARKS  
RONALD LUQUISE  
RONALD RAHMING  
SANDRA GREEN  
SHAWN MAHON  
THOMAS VISNEY  
THOMAS VOKATY  
VICTOR PALACIOS

VICTOR RAMOS  
VINCENT LARICCI

WILFREDO PEREZ  
WILLIE B. SMITH

AND

**CLASS REPRESENTATIVES FOR FIREFIGHTER CLASS:**

**Firefighter Carlos Noguera;** individually and on behalf of all others similarly situated  
**Captain David Mora;** individually, and on behalf of all others similarly situated;  
**Inspector Elmore Johnson;** individually, and on behalf of all others similarly situated,  
and

**FIREFIGHTER PARTY PLAINTIFFS:**

GERARDO ESCOBEDO  
MARIA PELLINI  
NELSON RIVERA  
RONALD MCCRAY  
ROBERT BAREA

*Versus*

**DEFENDANTS:**

CITY OF MIAMI (HEREIN “**CITY**”)  
CITY OF MIAMI FIREFIGHTERS’ AND POLICE OFFICERS’ RETIREMENT TRUST & PLAN (“**TRUST**” AND/OR  
“**PLAN**”)  
THE BOARD OF TRUSTEES OF THE CITY OF MIAMI FIREFIGHTERS’ AND POLICE OFFICERS’  
RETIREMENT TRUST (“**BOARD**”)  
CARLOS MIGOYA, FORMER MIAMI CITY MANAGER (“**MIGOYA**”)  
ROBERT NAGLE, BOARD PLAN ADMINISTRATOR (“**NAGLE**”)  
DANIA L. ORTA, ASSISTANT PLAN ADMINISTRATOR, (“**ORTA**”)

Page 2 of 155

---

**CLASS ACTION COMPLAINT**

---

For the Class Representatives, Class, and Party-Plaintiffs:

Dale J. Morgado, Esq.  
R. Edward Rosenberg, Esq.  
Armando A. Ortiz, Esq.  
FELDMAN MORGADO PA  
100 N. Biscayne Blvd.  
29<sup>th</sup> Floor, Suite 2902  
Miami, Florida 33132  
Telephone: (305) 222-7850  
Facsimile: (305) 384-4676  
E: dmorgado@ffmlawgroup.com

**CLASS ACTION REPRESENTATION**

## Prelude

The City of Miami and its Pension Board were told on September 16, 2010 by the Pension Board attorneys *Cypen & Cypen* that the Ordinance bearing file number 10-01091, being considered in August of 2010, which proposed to heavily strip pension benefits away, was unlawful and “*clearly,*” at least in part, “*contrary to law.*”<sup>1</sup> The City passed it anyway; the City, Board, and Plan Administrators put it into effect.

The Defendants<sup>2</sup> together then led over 100 of the City’s highest ranking police officers and firefighters to believe that if they did *not* retire before September 30, 2010 (when the ordinance became effective), they would lose valuable pension benefits. This was also wrong and contrary to law. This is because Florida law, as *Cypen & Cypen* told the City and the Board’s, *does not* allow for a reduction in vested pension benefits under a retirement system once a public employee becomes eligible for retirement. All the Plaintiffs and Class members here were vested, and were eligible for retirement on or before September 30, 2010.

The Defendants’ actions and inaction have therefore harmed the Police Officers and Firefighters in this case to the tune of millions of dollars. Simply stated, the Police Officers and Firefighters in this class action have been effectively deprived of millions in benefits under the Pension Plan, which in good conscience should belong to them, and the Defendants have been unjustly enriched by being able to retain such benefits.



---

<sup>1</sup> See Exhibit 1 - September 16, 2010 letter to the City of Miami Fire Fighters and Police Officers Retirement Trust and its Trustees. w/ enclosures.

<sup>2</sup> “Defendants” shall refer to the City, the Trust, the Board, Migoya, Nagle, and Orta collectively.

## I. Summary

1. Eighty six Police Officers and eight Fire Fighters<sup>3</sup> sue the City of Miami, the Trust, the Board, the Plan Administrators, and a former City Manager seeking pension benefits, and other relief.
2. Plaintiffs claim the Defendants have swindled over 100 of this City's highest ranking police officers and fire fighters<sup>4</sup> out of \$50 plus million in pension benefits by lying about what their retirement options were leading up to a City imposed deadline (to retire or lose their earned benefits) on or before September 30, 2010.
3. The Plaintiffs claim the Defendants collectively omitted material information they needed to know in order to make the right choice about when to retire or enter the DROP.
4. Simply said, the Police Officers and Firefighters claim the City and the other named Defendants misled them (through action and inaction), and thus breached their fiduciary duties by inducing them, and others, to enter into retirement early via an existing Deferred Retirement Option Plan ("DROP").
5. According to the 2013 plan summary, the DROP "is a program where a member, upon retiring, can elect to defer his/her monthly benefit into a DROP account and continue to work for the City receiving his normal compensation."
6. As explained in more detail below, the Defendants, citing financial instability, promoted that entering into the DROP was the only and best thing Police Officers and Firefighters could do

---

<sup>3</sup> Herein, the Police Officers and Firefighters are referred to herein as "Plaintiffs." However, for ease of reference, the Police Officer Subclass shall be referred to as the "Police Officers" or the "Police Officer Class." The Firefighter Subclass shall be referred to as the "Firefighters" or the "Firefighter Class."

in the months leading to the October 1, 2010 deadline to enter the DROP to preserve their benefits.

7. As explained in more detail below, the Defendants promoted and represented that if the Plaintiffs did not enter the DROP when they did, they would lose vested pension benefits.
8. The Plaintiffs and Classes' claim that they should have been told their past benefits are vested, they may earn future benefits in the same Plan at the same rates, and they need not enter the DROP to preserve and earn said benefits.
9. But instead the Defendants promoted the opposite contrary to law, which led the Plaintiffs and Classes to believe that by remaining in the pension plan after September 30, 2010, they could not hope to receive any better benefits, and instead they were going to lose valuable pension benefits already earned.
10. Indeed, Plaintiffs and Class members claim that the Defendants knowingly stripped them (and others police officers and firefighters) of vested pension benefits, without due process and by material omissions.
11. In fact, it is well settled that Florida law does not allow for a reduction in vested pension benefits under a retirement system once a public employee becomes eligible for retirement. All Plaintiffs had vested benefits, and were eligible for retirement.
12. What is worse is that the distinguished law firm of Cypen & Cypen told the City and the Board that this Ordinance was illegal and that they should not proceed. The City and Board proceeded with the Ordinance anyway.

13. Indeed, prior to the resolution becoming effective, the law firm of Cypen & Cypen, who has represented the Board and City in various benefit issues since at least 1988,<sup>5</sup> advised its client, the Board, via letter on *September 16, 2010*, that “[c]learly, certain provisions of the Ordinance are contrary to law.” (herein the “Cypen Letter”)
14. The firm’s reasoning was correct; it informed the Board of the illegalities - just as the Board should have carried out its fiduciary responsibilities by informing the Plan Participants considering entering the DROP as to the illegalities, contrary opinion, and competing law.
15. The Plaintiffs further claim that the Defendants’ inaction and failure to advise them, after Cypen & Cypen told the City and the Board its plan was unlawful is a breach of fiduciary duties.
16. The Defendants, acting with reckless disregard, wanton and willfulness, chose not to follow this legal counsel.
17. However, a few select individuals were told the truth. These individual were told what the Police Officers and Firefighters here should have been told – mainly that they do not need to retire on or before September 30, 2010 in order to preserve their accrued and earned vested pension benefits.
18. By urging retirement via the DROP, not telling the high ranking Police Officers and Firefighters the truth, and not presenting a truthful and complete picture of their retirement

---

<sup>5</sup> See e.g., Cypen & Cypen representing the Board in the cases of *Hampton v. Miami City Employees Retirement System*, 528 So. 2d 103 (Fla. Dist. Ct. App. 3d Dist. 1988) and *Bd. of Trs. of Miami Fire Fighters' & Police Officers' Ret. Trust v. Fernandez*, 675 So. 2d 638 (Fla. Dist. Ct. App. 3d Dist. 1996)

- options in the months leading to October 1, 2010 DROP deadline, the Defendants swindled hundreds of police officers and firefighters out of far greater and valuable pension benefits.
19. Had the Police Officers and Firefighters been told the truth, and presented all of their retirement and pension plan options, they would have automatically received the far greater pension benefits under the pension plan they were already in.
20. What is worse is the Defendants' legal duties both by ordinance and common law require them to act "solely in the in interest of the members ... of the retirement system."
21. The Police Officers and Firefighters here claim the Defendants did the opposite.
22. The Plaintiff-Police Officers and Firefighters now sue for relief to undo the vast damages caused by Defendants' actions and inactions.

## II. Jurisdiction & Venue

23. This Court has subject matter jurisdiction because this action entails more than \$15,000.00 in damages, specifically, more than \$5 million is in controversy, exclusive of interest, attorneys' fees, and costs.
24. This Court has personal jurisdiction over the Defendants because they all operate or reside in the State of Florida.
25. Venue is proper in this case because the harm to the Plaintiffs occurred in this District; specifically Miami.
26. All conditions precedent to this action have been satisfied and the requested relief is not premature.

### III. Defendants As to Both Classes' Claims

#### *[City of Miami]*

27. The City of Miami is Municipal Corporation organized and existing under the laws of the State of Florida.<sup>6</sup>

28. The City has the powers granted to it by general and special law and including Laws of Florida, ch. 10847 (1925), as amended.

29. Indeed, the City has the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services and may exercise any power for municipal purposes, except when expressly prohibited by law.<sup>7</sup>

30. The City, through its actors, provides for a retirement system, including promulgating law and policy, managing, investing, and otherwise administering the Plan which is at issue in the lawsuit.

#### *[The City Commission]*

31. One agent of the City, is the City Commission. Here, the Commission, along with the Mayor (who appoints the City Manager), form Miami's principal pieces that operate much of the municipal government.

32. The system of government the City utilizes is generally called a "mayor-commissioner."

33. The City Commission is charged with establishing a fund or funds for the relief or pension of persons in the classified and unclassified service of the city.

---

<sup>6</sup> Herein "the City."

<sup>7</sup> Miami, Florida Code of Ordinances Sec. 3

34. The City Commission, on behalf of the City, may make contributions of public money to the pension funds.

35. The City Commission is charged with making the *rules* and regulations for the *management, investment, and administration* of such pension fund or funds.<sup>8</sup>

***[City Manager]***

36. Carlos Migoya, was the City Manager from February 2010 to December 2010.

37. At all relevant times he lived in Miami, Florida.

38. As the City Manager, Defendant Migoya, was the head of the administrative branch of the City government and was “responsible for the administration of all units of the city government under the city manager’s jurisdiction...”<sup>9</sup>

39. The Departments of Finance, Public Safety and Law are administrative departments established by the City Charter.<sup>10</sup>

***[The Retirement Board of Trustees]***

40. The Board of Trustees for the City of Miami Firefighters’ and Police Officers’ Retirement Trust (herein “**Board**”) is a governing body that is part of the Retirement System.

41. The Defendant Trust is under the administration and management of the Board for the purpose of providing retirement benefits.

42. The Defendant Board is a named fiduciary to the Retirement System.

---

<sup>8</sup> Miami, Florida Code of Ordinances Sec. 37 and See also Miami, Florida Code of Ordinances Sec. 1, Subpart B – Special Acts

<sup>9</sup> Miami, Florida Code of Ordinances Sec. 15

<sup>10</sup> Miami, Florida Code of Ordinances Sec. 18

43. Indeed, Defendant, Board of Trustees, is required to: “*discharge their duties and responsibilities solely in the in interest of the members and beneficiaries of the retirement system.*”<sup>11</sup>

44. The Board is required to carry out their duties “*exclusive purpose of providing benefits to members and beneficiaries...*”<sup>12</sup>

45. Interestingly, the Board through its website [www.miamifipo.com](http://www.miamifipo.com) omits its legally defined mission, goal and objectives, or at best under defines them as:

#### **MISSION**

To administer the retirement benefit plan for the Fire Fighters and Police Officers of the City of Miami.

#### **GOALS and OBJECTIVES**

To provide effective services to all active and retired members.

To accumulate, manage and disburse the retirement fund assets in accordance with fiduciary standards, actuarial soundness and all applicable statutes, ordinances and regulations.

To maximize investment returns while exercising a prudent investment policy.

---

<sup>11</sup> § Sec. 40-193

<sup>12</sup> § Sec. 40-193

46. Further the law requires the Board to carry out its duties, in part, by “defraying reasonable expenses of administering the retirement system.”<sup>13</sup>

47. When carrying out their duties, the Board must do so with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.”<sup>14</sup>

48. Indeed, the “general administration and responsibility for the operation of the Retirement Trust rests in the ... Board.”<sup>15</sup>

49. The Board Trustees are to be knowledgeable about employee pensions or similar fringe benefits.

50. The Board Trustees are required to have at least five years of experience within the last five years before starting their term where they gain knowledge and experience in employee pensions or similar fringe benefits.

51. One Trustee is appointed by the City Manager.

52. A quorum of at least five Trustees is needed in order to conduct Board business.

53. In addition to being named as the Retirement System fiduciary, the Board is the Systems “Plan Administrator.”<sup>16</sup>

54. As part of the Board’s Plan Administrator duties, it is charged with:

- a. maintaining pension records;

---

<sup>13</sup> § Sec. 40-193

<sup>14</sup> § Sec. 40-193

<sup>15</sup> Page. 3 Benefit Plan Summary for Fire & Police Pension

<sup>16</sup> Sec. 40-194

- b. “[t]o maintain such records as are necessary for financial accounting and reporting of retirement system funds;”
- c. “to maintain such records as are necessary for actuarial evaluation of the retirement system...;”
- d. “to compile such other administrative or investment information as is necessary for the management of the retirement system;”
- e. to process, certify and/or respond to all correspondence, bills and statements received by the retirement system, as well as all applications submitted to the board for retirement system benefits;
- f. to establish and maintain communication with city departments and other local, state and federal governmental units as is necessary for the management of the retirement system, including preparing, filing, and distributing such reports and information as are required by law to be prepared, filed or distributed on behalf of the retirement system;
- g. To establish and maintain such other functions as are necessary to administer, manage and operate the retirement system, or as otherwise required by law.
- h. The Board shall submit the following information annually to the commission no later than July 1 of each year: (a) a report showing the fiscal transactions of the retirement system for the year ending on the preceding September 30 as well as the amount of accumulated cash, securities, and other property of the retirement system on that date and (b) the current actuarial valuation of the assets and liabilities of the system. The actuarial value of assets

held by the retirement system shall be designated as the lower of moving market value average (three years) or statement value. The board may approve other methods of determining the actuarial value of retirement system assets if such other methods are recommended by the actuary retained by the board and found by the Florida bureau of local retirement systems, division of retirement, department of administration, or its successor, to be in compliance with state law. Prior to the first meeting of the board to consider a change in the method of determining the actuarial value of retirement system assets, the board shall give timely, written notice to the city of the proposed change.

i. At least once in each three-year period, the board shall cause an actuarial investigation to be made into the mortality, service and compensation experience of the members and beneficiaries of the retirement system. Taking into account the result of this investigation, the board shall adopt for the retirement system such mortality, service and other tables as are necessary and proper. On the basis of these tables, an annual actuarial valuation of the assets and liabilities of the funds of the retirement system shall be made. Actuarial assumptions based on three-year experience analyses may be modified by the board at such times as it deems appropriate. When a change in actuarial assumptions is considered by the board, 60 days' notice shall be given to the city prior to the first meeting of the board to consider any such change or any proposal or recommendation related thereto. Thereafter, reasonable notice shall be given to the city of any and all subsequent meetings at which the issue of a change in actuarial assumptions or a related proposal or recommendation is to be considered.

j. The Board shall keep a record of all of its proceedings which shall be maintained and open to public inspection in accordance with F.S. ch. 286. Such records shall reflect a complete and comprehensive account of the discussions and actions taken by the board.

k. The Board shall provide the city manager with copies of all documents relating to the retirement system contemporaneously with the making or receipt of such documents by the board or immediately thereafter. The city manager shall provide the pension administrator of the board with copies of all documents relating to the retirement system contemporaneously upon the making or receipt of such documents by the city or immediately thereafter. All written communications relating to the retirement system from the board to the city shall be made directly to the city manager. All written communications to the board from the city shall be made directly to the board, with copies to the pension administrator of the board.

55. Among its other duties, the Board shall have a continuing duty to observe and evaluate the performance of any pension administrator employed by the board.

56. The Board may retain its own legal counsel, accountants, actuaries, and other professional advisors to assist the board in the performance of its administrative duties.

57. The Board may act without independent investigation, only if upon the professional advice of advisors so retained.

58. When a hearing before or consideration by the commission is required for retirement system business, such business shall be placed on the agenda of the commission and heard at its next

regularly scheduled meeting; provided, that any request for hearing or consideration of retirement system business complies with the city's requirements or guidelines as to timeliness and adequacy of information.

59. *Rules and regulations.* Subject to any limitation contained in this division, the Board may from time to time establish such rules and regulations as are necessary for efficient administration and management of the retirement system.

60. The Board is required to issue a service certificate to each employee which sets forth the length of service rendered to the city.

61. The Retirement Board is required to issue to members a certificate of service when eligible to retire.

***[The Pension Administrators]***

62. Additionally, the Board is responsible for employing a pension administrator and assistant pension administrator (as necessary) to assist the Board in the performance of its administrative duties.

63. The pension administrators may, subject to the approval of the Board, employ such staff as is necessary for the proper administration of the retirement system.

64. The pension administrator selected by the Board shall have at least the following qualifications:

- b. have an accounting or pension administration background;
- c. have managerial experience;
- d. have sufficient knowledge or experience to supervise data processing operations;

- NOT AN OFFICIAL COPY - PUBLIC ACCESS
- e. have experience with filing government forms (including those related to federal and state compliance requirements) and have the initiative to obtain resource data when specific information is not readily available;
  - f. be capable of using benefit formulas to calculate and pay benefits;
  - g. be capable of prudent financial management and obeying guidelines established by the board;
  - h. be capable of developing cash flow projections;
  - i. be capable of preparing financial reports reflecting the activity of the trust and financial trends;
  - j. be capable of maintaining an investment schedule;
  - k. be capable of maintaining minutes of meetings of the board of trustees;
  - l. be capable of preparing correspondence, issuing forms, receiving and processing benefit claims, and expressing ideas in writing;
  - m. be able to insist upon, and actively pursue delivery of, all reports and other documents required for efficient operation of the retirement system;
  - n. be efficient, practical and committed to responsible and effective operation of the retirement system, its finances and expenses; and
  - o. be able to remain neutral on decisions to be made by the board and serve all board members in an impartial and arms-length fashion, giving due recognition to the ultimate fiduciary obligation to members and beneficiaries of the retirement system.

***[Plan Administrator, Robert H. Nagle]***

65. At all relevant times to this action, Defendant, Robert H. Nagle was the Plan Administrator of the Plan and Trust working with and for the Board.

66. He is a named fiduciary in the Plan and applicable legal provisions governing the Plan.

***[Assistant Plan Administrator Dania Orta]***

67. At all relevant times to this action, Dania Orta was Assistant Plan Administrator of the Plan and Trust working with and for the Board.<sup>17</sup>

68. She is a named fiduciary in the Plan and applicable legal provisions governing the Plan.

69. Defendant, Orta began working for the Board in 1989.

70. Defendant Orta spoke with each of the Plaintiffs named in the Complaint prior to their entering into the DROP concerning their retirement options.

71. Indeed, the Benefit Summary Plan for Fire and Police says if you want to retire “you must make an appointment to complete the retirement application with the Pension Office.”<sup>18</sup>

***[The Trust & the Plan]***

72. Defendant, City of Miami Firefighters’ and Police Officers’ Retirement Trust (“**Trust**”), is a trust which separately holds and funds the police and firefighters pensions from any other pension the City provides.

73. The name of the trust fund is: City of Miami Firefighters’ and Police Officers’ Retirement Trust

74. It is an irrevocable trust.

75. The Board is the successor trustee.

76. Members of the Board *are the named fiduciaries* of the Trust.

77. The Board is required to hold, manage, control and safeguard the fund solely in the interest of members and beneficiaries of the retirement system.

---

<sup>17</sup> Nagle and Orta shall be referred to collectively as “Plan Administrators.”

<sup>18</sup> Benefit Plan Summary pg. 4, 2013

78. The Board is required to make prudent investments.

79. The Defendant “**Plan**,” sometimes referred to here and by those participating in it as the “**Retirement System**,” or “**Pension Plan**”, is the system which provides monthly income for eligible employees when they retire from the City.

80. Ordinance No. 10002,<sup>19</sup> created the current Retirement System and the Trust. The effective date of the Plan and Trust are June 13, 1985. *See* § Sec. 40-192 and Ord. No. 10002.

81. The Plan covers all firefighters and police officers presently employed by the City as a firefighters or police officer.

82. In its most basic form, the Plan works by having Plan Participants contribute funds, as does the City; those funds are invested for the benefit of the members; and upon earning a vested benefit (10 or more years of creditable service), a Participant will receive a certain sum of money every month (in pension terms a “defined benefit”) which is greater than his or her contributions and pursuant to the governing law and plan documents.

83. The Police Officers and Firefighters here contributed 7% of pre-tax earnable compensation while participating in the Plan.

84. The Plan’s current origin can be traced back to Ordinance No. 2230, (passed on December 6, 1939), whereby the City called for and provided a retirement system pensions for its employees, along with allowances and death benefits.<sup>20</sup>

---

<sup>19</sup> Ord. No. 10002, § 1, adopted June 13, 1985, repealed art. IV, the substance of which consisted of div. 2, §§ 40-200-40-219, the "Miami City Employees' Retirement System," established pursuant to Ord. No. 2230, adopted Dec. 6, 1939; and div. 3, §§ 40-225-40-243, the "Miami City General Employees' Retirement Plan," established pursuant to Ord. No. 5624, adopted May 2, 1956. Both Ord. Nos. 2230 and 5624 were specifically repealed by § 5 of Ord. No. 10002.

<sup>20</sup> Some believe it can be traced back to 1931 via Chapter 15338.

85. The ordinance classifies all the employees of the City of Miami into five separate and distinct groups, *videlicet*: (1) General men employees, exclusive of uniformed members of police and fire departments; (2) General women employees; (3) General police and firemen; (4) Special women employees; (5) Special policemen and firemen.
86. Members of the police and fire departments are eligible to membership in either Group 3 or Group 5 enumerated in the ordinance.
87. The retirement allowance and death benefit system provided for by the ordinance is financed by contributions deducted from the salaries or wages of the members assigned to groups 1, 2, 3, 4 and 5, and moneys raised by taxation on real and personal property within the city of Miami not to exceed two mills on the dollar, and from gifts, devises and bequests of money or property for the benefit of the respective funds enumerated in the ordinance.
88. A levy was made for the benefit of all the employees of the City of Miami under Chapter 18689, Special Acts of 1937, Laws of Florida, against the real and personal property of the City of Miami.<sup>21</sup>
89. Any employee of the City of Miami may obtain membership in the retirement allowance and death benefits provided for by the ordinance.
90. A participant in the Plan may earn a vested retirement benefit.
91. Benefits become vested when a police officer has worked for at least 10 years of creditable service.

---

<sup>21</sup> The fund for police and fire employees' was originally established by Chapter 15338 in 1931, but later in 1937, Chapter 18689 was created, nullifying Chapter 15338, once the City Commission enacted Ordinance No. 2230 under the provisions of Chapter 18689; as a result - Chapter 15338 has been repealed and is null and void.

92. "Minimum Vesting" is defined by law as ten years of creditable membership as set forth in Article IV, Div. 2, Sec. 40-191.

93. *Minimum Vesting*, as set forth in *Article IV, Div. 2, Sec. 40-191*, means once earned, the member is entitled to a retirement benefit (except accidental disability retirement, service incurred disability retirement, and ordinary death benefits) which is immediate or ferred benefit, and to which a member has gained a nonforfeitable right to.

94. Those who have earned a vested benefit may retire and receive among other options, a 40% Joint and Survivor benefit or a standard single benefit.

95. If a participant chooses to receive a 40% Joint and Survivor Benefit, instead of the standard benefit option, there is no reduction in the monthly amount they would otherwise receive.

96. In other words, whether an officer choose the standard benefit option or the 40% Joint and Survivor option, their monthly payment, whatever it is, will be the same.

97. A participant in the Plan becomes vested according to creditable service, not his or her age.

98. An individual participants vests is when they are eligible for retirement.

#### **IV. The Police Officer Plaintiffs**

99. Plaintiff, Albert Gardner, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the

DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

100. Plaintiff, Alberto Alberto, Jr., lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010;

approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

101. Plaintiff Alberto Bazan, lives in Miami, Florida and was an officer for the City of Miami. He earned vested pension benefits and entered the DROP at the rank of Officer. Until

entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was his best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits

102. Plaintiff, Alberto Borges, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff

reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 25, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

103. Plaintiff, Alberto Pacheco, lives in Pembroke Pines, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody

ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

104. Plaintiff Alejandro Macias, lives in Miami-Dade County, Florida and was an officer for the City of Miami. He earned vested pension benefits and entered the DROP at the rank of Officer. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was his best and only option.

Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

105. Plaintiff, Alejandro Mendez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant

Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

106. Plaintiff, Alexien Stevens, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 26 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff

was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

107. Plaintiff, Ana Aguilar, lives in Pembroke Pines, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 16 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss

would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

108. Plaintiff, Armando Rojas, lives in Pembroke Pines, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead

promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

109. Plaintiff, Benjamin Payen, lives in Pembroke Pines, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have

wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

110. Plaintiff, Benjamin Young, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Detective. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that

failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

111. Plaintiff, Brendan Monroe, lives in Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned

under the old Plan. Plaintiff's inquiries confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

112. Plaintiff, Carlos Suarez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told

Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

113. Plaintiff, Chris Griffin, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating

in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

114. Plaintiff, Christopher P. Francis, lives in Lauderdale Lakes, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 14 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before

October 1, 2010; approximately April 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

115. Plaintiff, Curtis Hoosier, lives in Pembroke Pines, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10

years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

116. Plaintiff, Daniel Richards, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not

entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

117. Plaintiff, David Anderson, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant

Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

118. Plaintiff, David Patino, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 25 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Commander. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for

retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

119. Plaintiff, David Patton, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately October 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss

would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

120. Plaintiff, Debra Grant, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by

the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true.

In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

121. Plaintiff, Dexter McGahee, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 18 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately February 19, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative

*do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

122. Plaintiff, Donovan Nicholson, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 17 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have

wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

123. Plaintiff, Doretha Hall, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that

failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

124. Plaintiff, Emilio Lopez, lives in Homestead, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep

the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

125. Plaintiff, Ervins Ford, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an

active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

126. Plaintiff, Fernando Bosch, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in

it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

127. Plaintiff, Francisco Casanovas, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Detective. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 16, 2010. Until entering into the DROP, and at all relevant

times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

128. Plaintiff, Frederica Burden, lives in Pembroke Pines, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time

Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

129. Plaintiff, Gloria Douthett, lives in Miami Gardens, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody

ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

130. Plaintiff, Horace Morgan, lives in Miami Gardens, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best

for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

131. Plaintiff, Jacob Nicoli, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and

scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

132. Plaintiff Jackie Jasurum, lives in Miami, Florida and was an officer for the City of Miami. She earned vested pension benefits and entered the DROP at the rank of Officer. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario

to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

133. Plaintiff, Jacqueline Folgueira, lives in Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff

was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

134. Plaintiff, James H. Marshall, lives in Hollywood, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 28 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately February 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010,

NOT AN OFFICIAL COPY - PUBLIC ACCESS

deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

135. Plaintiff, Joel Gonzalez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative

*do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

136. Plaintiff, Jorge Castro, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 26 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of NET Commander. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have

wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

137. Plaintiff John Llodra, lives in Miami, Florida and was an officer for the City of Miami. He earned vested pension benefits and entered the DROP at the rank of Lieutenant. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true.

Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was his best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

138. Plaintiff, Jorge Martin, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Major. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned

pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

139. Plaintiff, Jose Alfonso, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's

inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

140. Plaintiff, Jose Gonzales, lives in Pembroke Pines, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the

Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

141. Plaintiff, Jose Henriquez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire

by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

142. Plaintiff, Jose Mercedes, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Detective. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 29, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating

in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

143. Plaintiff, Joseph Belikes, lives in Bal Harbor, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 20 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Corporal. Plaintiff retired and entered the DROP plan before October 1,

2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

144. Plaintiff Juan Vera lives in Miami, Florida and was an officer for the City of Miami. He earned vested pension benefits and entered the DROP at the rank of Officer. Until entering

into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was his best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

145. Plaintiff Julio Pino lives in Miami, Florida and was an officer for the City of Miami. He earned vested pension benefits and entered the DROP at the rank of Sergeant. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan.

Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was his best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

146. Plaintiff, Julius Nelson, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 28 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1,

2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

147. Plaintiff, Keith Cunningham, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years;

approximately 24 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Commander. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 25, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

148. Plaintiff, Kevin McNair, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not

entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

149. Plaintiff, Larry Riley, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant

Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

150. Plaintiff, Lazaro Ferro, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 18 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 30, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff

was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

151. Plaintiff, Luis Cabrera, lives in Coral Gables, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Deputy Chief. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010,

NOT AN OFFICIAL COPY - PUBLIC ACCESS

deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

152. Plaintiff, Luis Taborda, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 17 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative

*do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

153. Plaintiff, Manuel Cabrera, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was

led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

154. Plaintiff, Manuel Diaz, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not

mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

155. Plaintiff, Manuel Gonzalez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 11, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's

inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

156. Plaintiff, Marcos Perez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 18 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told

Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

157. Plaintiff, Margarita McField, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 18 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating

in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

158. Plaintiff, Mario Medina, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1,

2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

159. Plaintiff, Mario Rodriguez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years;

approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately October 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

160. Plaintiff, Michael Braddy, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not

entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

161. Plaintiff, Milton Montes de Oca, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 24 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best

for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

162. Plaintiff, Moises Velasquez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not

advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

163. Plaintiff, Nestor Garcia, lives in Doral, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss

would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

164. Plaintiff, Orlando Borges, is a Florida resident. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class,

was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

165. Plaintiff, Orlando Villaverde, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had

Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

166. Plaintiff, Osvaldo Mazziari, lives in Hollywood, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 17 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Detective. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 11, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of

accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

167. Plaintiff Peter Reynolds lives in Miami, Florida and was an officer for the City of Miami. He earned vested pension benefits and entered the DROP at the rank of Detective. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information

the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was his best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

168. Plaintiff, Rafael Fuentes, lives in Davie, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately May 23, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that

failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

169. Plaintiff, Ramon Hernandez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep

the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

170. Plaintiff, Raynard Gilbert, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Detective. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an

active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

171. Plaintiff, Ricardo Hernandez, lives in Cutler Bay, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately August 2010. Until entering into the DROP, and at all

relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

172. Plaintiff, Richard Gentry, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff

reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

173. Plaintiff, Robin Starks, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody

ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

174. Plaintiff, Ronald Luquise, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately October 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant

Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

175. Plaintiff, Ronald Rahming, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 28, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff

was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

176. Plaintiff, Sandra Green, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public

employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

177. Plaintiff, Shawn Mahon, lives in Miramar, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 28 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss

would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

178. Plaintiff, Thomas Visney, is a Florida resident. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class,

was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

179. Plaintiff, Thomas Vokaty, is a Florida resident. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead

promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

180. Plaintiff, Victor Palacios, lives in Miami Beach, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 19 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Sergeant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 27, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have

wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

181. Plaintiff, Victor Ramos, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that

failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

182. Plaintiff, Vincent Laricci, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 22 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately September 26, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep

the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

183. Plaintiff, Viola Brown-Williams, is a Florida resident. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by

entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

184. Plaintiff, Wilfredo Perez, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Corporal. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately July 18, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the

NOT AN OFFICIAL COPY - PUBLIC ACCESS - NOT AN OFFICIAL COPY - PUBLIC ACCESS

DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

185. Plaintiff, Willie B. Smith, lives in Miami, Florida. Plaintiff is a retired police officer for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 23 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Officer. Plaintiff retired and entered the DROP plan before October 1,

2010; approximately May 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active police officer and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

## **V. The Firefighter Plaintiffs**

186. Plaintiff, Carlos Noguera, lives in West Palm Beach, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Fire Fighter, Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active fire fighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option.

Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

187. Plaintiff, David Mora, lives in Palm Beach County, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 37 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Captain. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active fire fighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan

Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

188. Plaintiff, Elmore Johnson, lives in Miami, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 37 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Fire Inspector. Plaintiff retired and entered the DROP plan before October 1, 2010; approximately March 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active firefighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for

retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

189. Plaintiff, Gerardo Escobedo, lives in Miami Springs, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 21 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active fire fighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur.

NOT AN OFFICIAL COPY - PUBLIC ACCESS

This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

190. Plaintiff, Maria Pellini, lives in Miami, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 24 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Fire Inspector. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active fire fighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquiries confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die*

scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

191. Plaintiff, Nelson Rivera, lives in Miami, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years; approximately 25 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Fire Inspector. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active fire fighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the

opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

192. Plaintiff, Ronald McCray, lives in Miami, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Fire Inspector. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active fire fighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not

mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

193. Plaintiff, Robert Barea, lives in Miramar, Florida. Plaintiff is a retired fire fighter for the City of Miami. Before retiring, Plaintiff served the City for more than 10 years, and had earned vested pension benefits. During that time Plaintiff reached the rank of Lieutenant. Plaintiff retired and entered the DROP plan before October 1, 2010. Until entering into the DROP, and at all relevant times to this action, Plaintiff was a participant in the Plan. Plaintiff is currently participating in the DROP plan or participated in it after 2010. Plaintiff wanted to continue working as an active fire fighter and not retire by entering the DROP plan; however the Defendants told Plaintiff there was no choice, Plaintiff had to retire before October 1, 2010 in order to keep the vested retirement benefits Plaintiff had already earned under the old Plan. Plaintiff's inquires confirmed this. Simply said, Plaintiff was never told

the truth, in particular, that failure to enter into the DROP prior to October 1, 2010 did not mean a loss of accrued earned pension benefits. This is information the Plaintiff would have wanted. Rather, Plaintiff was led to believe the opposite was true. Plaintiff would have never entered into the DROP had Plaintiff been advised of this fact. But the Defendants instead promoted a misrepresentative *do-or-die* scenario where Plaintiff, like the rest of the Class, was led to believe that by not entering into the DROP by the arbitrary October 1, 2010, deadline that only financial loss would occur. This is not true. In fact, the law does not allow for vested pension benefits to be reduced once the public employee becomes eligible for retirement. Even more, Plaintiff was not advised of all of the retirement options and scenarios making for a reasonable prudent person in a similar scenario to select what is best for them. Plaintiff asked Assistant Plan Administrator, Dania Orta, whether this was true. Orta confirmed this and promoted that it was her best and only option. Indeed, nobody ever told the Plaintiff that by simply not entering into the DROP plan, there would be no loss of benefits of accrued earned pension benefits.

## VI. General Allegations Common to All Counts

### *The Trusts' Assets v. Liabilities Were Fine in 2009*

194. In 2008, the Police & Firefighters Annual Report reported the “assets exceeded liabilities” by \$1.3 million.<sup>22</sup>
195. In 2009, the Police & Firefighters Annual Report reported the “assets exceeded liabilities” by \$1.2 million.
196. Yet strangely, in 2010, the City actuary, Michael Tierney, informed the City its pension contribution costs would increase by \$24 million for the following year and that pension costs were allegedly rising at a rate of 40-50% while revenues were declining.
197. City Manager Migoya believed that in 2011 the City would payout \$106 million in pension distributions.
198. On August 31, 2010, the City proposed a resolution modifying the pension benefits for police officers and firefighters.
199. City Manager Migoya believed these measures would save about \$41 million in pension payouts.
200. Plan Administrators, based off numbers supplied to City Commission, believed it could save as much as \$80 million.
201. Despite the 2009’s reporting that the Trust has sufficient assets, and the large difference in pension payout forecasts, the City Commission decided to slash future and current benefits for police officers and firefighters.

---

<sup>22</sup> 2009 Annual Report for the Police & Fire Pension Trust Fund, pg. 7

202. The proposed regulation passed on first reading and the Plan was to be modified effective September 30, 2010.

203. The modification was applied to the 2010-2011 fiscal year.

204. The modification affects Chapter 40, Article IV, Division 2 of the Code of the City of Miami, and bears a file number of 10-01091.

***One Problem: It is Illegal to Reduced Vested Pension Benefits – Cypen & Cypen Even Told the City and the Board’s this Well Settled Point of Law***

205. It is well settled that Florida law does not allow for a public employee’s right to vested retirement benefits once the public employee become eligible for retirement.

206. All the Plaintiffs’ benefits were vested, and they were eligible for retirement, pursuant to the law, making the Ordinance in question unlawful.

207. In other words, a public employer, here the City, cannot impair, reduce, infringe, or otherwise lesson an employee’s right to benefits by amending the retirement plan.<sup>23</sup>

208. The Defendants did so anyway. The City adopted and passed this unlawful Ordinance. The City, the Board, the City Manager, and the Plan Administrators then put this unlawful ordinance into practice – i.e. – convinced Plaintiffs they needed to enter the DROP prior to October 1, 2010 in order to avoid financial loss on their already earned and vested pension benefits.

209. Said differently, in order to avoid the illegality of this Ordinance coming to the surface, the Defendants collectively convinced the Plaintiffs through action and inaction that they

---

<sup>23</sup> See *State ex. Rel. Stringer v. Lee*, 2 So. 2d 127, 132-3 (Fla. 1941).

would lose their benefits if they did not enter the DROP in the months leading up to the September 30, 2010 DROP deadline. These actions included, but were not limited to:

- a. The City actively spreading a “do or die” (i.e. – enter the DROP or suffer financial loss) scenario contrary to law in the months leading to the October 1, 2010 DROP deadline;
- b. The City actively spreading misinformation and lack of information with regards to the Ordinance’s effects on those police officers and firefighters with vested benefits;
- c. The City, the Board, Migoya, the City Commissioners, and the Plan Administrators knowing that the ordinance was contrary to law, not informing Plaintiffs of this fact, and spreading the City’s “do or die” message;
- d. The Board knowing that the ordinance was contrary to law but not informing Plaintiffs of this fact.
- e. The Plan Administrators not providing full and adequate information to the Plaintiffs, both as a whole and in each of their meetings.

210. As a result of Defendants’ actions, Plaintiffs entered the DROP prior on or before September 30, 2010.

211. This taking of the Plaintiff’s vested pension benefits, without due process, is unconstitutional and an abuse of power.

212. Defendants as a whole had knowledge of the Ordinance’s illegality with sufficient time to adequately inform Plaintiffs.

213. Prior to the Ordinance becoming effective, the law firm of *Cypen & Cypen*, a well-respected firm based in Miami Beach, who has represented the Board and City in various benefit issues since at least 1988,<sup>24</sup> advised its client, the Board, *via* letter on *September 16, 2010*, that “[c]learly, certain provisions of the Ordinance are contrary to law.”<sup>25</sup>

---

<sup>24</sup> See e.g., *Cypen & Cypen* representing the Board in the cases of *Hampton v. Miami City Employees Retirement System*, 528 So. 2d 103 (Fla. Dist. Ct. App. 3d Dist. 1988) and *Bd. of Trs. of Miami Fire Fighters' & Police Officers' Ret. Trust v. Fernandez*, 675 So. 2d 638 (Fla. Dist. Ct. App. 3d Dist. 1996)

<sup>25</sup> Exhibit 1, pg. 2, of the September 16, 2010 letter to the City of Miami Fire Fighters and Police Officers Retirement Trust and its Trustees. w/ enclosures (emphasis added).

214. The firm's reasoning was correct, and it informed the Board of the illegalities, just as the Board should have carried out its fiduciary responsibilities by informing the Plan Participants considering entering the DROP as to the illegalities, contrary opinion, and competing law.

LAW OFFICES  
**CYPEN & CYPEN**  
777 ARTHUR GODFREY ROAD  
P.O. BOX 402099  
MIAMI BEACH, FLORIDA 33140-0099  
www.cypen.com

ENTERED  
E-FILED

TEL: 305.639.3290  
FAX: 305.639.3299

FACSIMILE: 305.639.0080  
E-MAIL: info@cypen.com

VIA EMAIL and REGULAR US MAIL

September 16, 2010

Board of Trustees  
City of Miami Fire Fighters' and Police Officers'  
Retirement Trust  
1895 S.W. 3<sup>rd</sup> Avenue  
Miami, Florida 33129

Re: Application of September 14, 2010, Proposed Ordinance  
Amending the Fire Fighters' and Police Officers' Retirement  
Trust ("Plan")

Dear Trustees:

As you are aware, on September 14, 2010, the City Commission passed, on first reading, an ordinance purporting to amend certain provisions of the Plan ("Ordinance"). The Ordinance would reduce the benefits payable to active employees who retire on or after October 1, 2010.

The purpose of this letter is to advise the Board of the current state of the law as it applies to actions by public employers attempting to adversely affect pension benefits.

In Florida, it is well-established that a public employee's rights to benefits under a retirement system cannot be reduced once the public employee becomes eligible for retirement. The public employer cannot impair the employee's right to receive benefits by amending the requirement system to reduce benefits. An employee is not required to retire in order to protect his rights. The employee is only required to be eligible for retirement. State ex. Rel. Stringer v. Lee, 2 So. 2d 127, 132-3 (Fla. 1941); O'Connell v. State of Florida, Dept. of Admin., Div. of Retirement, 557 So. 2d 609 (Fla. 3d DCA 1990).

215. As noted in Exhibit 1, the Board should have listened to its lawyers at the *Cypen* law firm when it said:

Board of Trustees  
September 16, 2010  
Page 2

In addition to the cases above, the Fourth District Court of Appeal recently affirmed a lower court's decision that active employees who were eligible for retirement on the date a municipality repealed certain benefits were not bound by the repeal. City of Fort Lauderdale v. City of Fort Lauderdale Police and Firefighter Retirement System, Case No. CACE 04-3578 (Fla. 17<sup>th</sup> Cir. Ct. 2007) *per curiam affirmed* 983 So. 2d 592 (Fla. 4<sup>th</sup> DCA 2008). Also, Sarabeth Snuggs, the State Retirement Director for the Division of Retirement, wrote to the Chairman of the San Carlos Fire Control District, on September 1, 2010 and advised:

... When a member has reached normal retirement, entered DROP or is retired, his benefits may not be reduced. For active members who are not eligible for normal retirement or are not participating under a DROP option, the employer may prospectively change the plan. No such change may adversely affect the value of the benefits already earned by an active or terminated vested member.

Attached are copies of the letter and the Circuit Court's order.

The Ordinance currently under consideration by the City Commission attempts to reduce retirement benefits for all employees who retire on or after October 1, 2010. Clearly, certain provisions of the Ordinance are contrary to law. Accordingly, the Ordinance's benefit reductions cannot be applied to an active member's retirement benefit if the member was eligible for normal retirement prior to the Ordinance's enactment date or the Ordinance's effective date, whichever is later.

Should you have any questions, please do not hesitate to call.

Very truly yours,



Alison S. Bieler  
For the firm

ASB/arc  
Enclosures

216. At a  
minimum,  
participants,

like the Plaintiffs and Class here, should have been made aware of the information immediately after it came to light in September, 2010, or earlier upon any knowledge by the

Defendants. Said simply, Plaintiffs should have been given an opportunity to ask more questions about what the Board's legal counsel said is "*clearly*" contrary to law.

217. It is not like the Board did not have enough time to get the word out, they were advising the City on how it might save \$80 million dollars by passing the ordinance in August, 2010.

218. Then City Manager Migoya also knew about the *Cypen* letter. He did not inform Plaintiffs of its contents. As a result, the City knew about the *Cypen* letter, and did not inform Plaintiffs of its contents.

219. The City Commissioners were aware of the *Cypen* letter. They did not inform Plaintiffs of its contents.

220. The Police Officers and Firefighters in this case would have liked to have known this about the letter and information but nobody told them.

221. Instead, the Board, Migoya, the City, and the Plan Administrators were silent on the issue.

222. This is a breach of their fiduciary duties.

223. It is not like there was zero opportunity to inform them; Dania Orta or another Plan representative met with **all the Class Members and the Plaintiffs** in 2010 prior to the DROP deadline.

224. These meetings were held because the Plan required them. As the Benefit Summary Plan for Fire and Police says if you want to retire: "you must make an appointment to complete the retirement application with the Pension Office."

225. Orta or another Plan representative should have told them during their meetings or when they dropped of their paperwork in the months prior to the September 30, 2010 DROP deadline.
226. However, Orta was away, out of the country, on a vacation during this time.
227. In fact, Orta was summering on a cruise during this time.
228. Orta's email responded with an away message telling participants who emailed her she was away in the last week of September.
229. Orta's vacation interfered with her ability to communicate important information to the Plaintiffs and Class, *videlicet*:
- a. you need not enter the DROP to preserve your vested benefits;
  - b. Board counsel has questioned the legality of the Ordinance; and
  - c. Meetings were being organized for select firefighters to learn more about these issues.
230. The Plan Administrators should have provided large scale notice of the *Cypen* letter, and notice that the Ordinance, as applicable to Plaintiffs, was contrary to law. They did not.
231. The silence, and failure to get the word out, caused the Plaintiff Police Officers and Firefighters and each respective Class to enter the DROP under false pretenses on or before September 30, 2010.
232. The *Cypen* legal opinion, however, **was** given to select members of the fire department, who quickly acted upon the information and sent out an email to a group of high ranking firefighters considering whether to enter the DROP. See Sept 23, 2010 Email to Firefighters at Ex. 3.

UNSUBSCRIBE from this email list? You are receiving this email because you opted in during registration.



Local 587 will be conducting a DROP Seminar tomorrow, Friday Sept 24) at 10am at your Benevolent Hall. Any Firefighter who is contemplating DROPPing tomorrow should make it a priority to attend. Local 587 will be providing legal advice and answering questions on site to help you in making any last minute decisions. The pension board attorney Steve Cypen will be to present to give his advice. To RSVP please call your Union Office 305-633-3442. We are still awaiting a response from the City in regards to Steve Cypen's legal opinion. We expect to have our own legal "second opinion" available tomorrow as well. Any member may attend, but this event is particularly aimed at those individuals who are contemplating whether to DROP effective tomorrow afternoon or to "pull their papers". We are preparing FAQs (frequently asked questions) with answers based on inquiries we have received over the past week. Those answers may be distributed as early as this afternoon.

Robert Suarez

Click here to automatically UNSUBSCRIBE from this mailing list.  
You are receiving this email because you opted in during registration.

Powered by  
UnionCentrics

233. As a result approximately 29 firefighters did not enter the DROP and did not suffer the financial loss Plaintiffs did as a direct and proximate result from entering the DROP.

234. Those firefighters include, but are not limited to:

<u>LAST</u>	<u>FIRST NAME</u>	<u>RULE 64</u>
KEMP JR.	ULYSEE	12/14/04
UGARTE	CARLOS	06/23/05
GOMEZ	PEDRO	09/20/05
RADELMA	CRAIG	10/14/05
EDGE	SETH	01/02/06
SAVOY	WILLIAM	11/05/07
SOLIS	OCTAVIO	11/30/07
ALVAREZ	YOLANDA	01/06/08
PONTIGAS	GEORGE	01/11/08

PAREDES	MIGUEL	02/28/08
BARRETO	ROY	05/31/08
GARCIA	ELOY	08/03/08
PAMPIN	RAMON	08/03/08
BAHR	FOREST	08/18/08
ECHAGAR	JOSE	09/20/08
MOORE	MARK	10/10/08
AGUILAR	MANUEL	11/08/08
SANCHEZ	EMILIO	01/16/09
DAVIS	TERRENCE	02/08/09
DUENAS	DAVID	05/05/09

235. Those firefighters named did not lose their vested benefits.

236. The City, through its “Citizens’ Bill of Rights,” promises to treat all persons fair and equitable,” to in part, “make government more accountable” and proclaims “full and accurate information” is to be available to ensure this goal.<sup>26</sup>

237. It provides a causes of action and for relief should the City violate this guaranteed right.<sup>27</sup>

238. The Defendants are not treating those listed above the same as the Plaintiffs and Class here.

## VII. Class Action Allegations

239. This case is well suited for class action representation.

---

<sup>26</sup> Miami, Florida Code of Ordinances Sec. 52

<sup>27</sup> Miami, Florida Code of Ordinances Sec. 52

240. Plaintiffs bring this action individually, and on behalf of a class of persons under Rule 1.220(a) and 1.220(b)(1), (2), and (3) of the Florida Rules of Civil Procedure.

241. Indeed, a common question and set of facts exist, the adjudication of which will settle the class claims in their entirety.

242. This is why **Lieutenant Jorge Castro, Sergeant Nestor Garcia, Detective Francisco Casanovas, Lieutenant David Patino** (Police Officer Class Representatives) and **Carlos Noguera, Captain David Mora, and Fire Inspector Elmore Johnson** (Firefighters Class Representatives)<sup>28</sup> have stepped forward to lead the Classes.

243. There are questions of law and fact common to the Classes that predominate over any questions affecting only individuals, including the common facts that:

- a. Each Plaintiff and purported Class member earned a pension while working as a police officer or a firefighter for the City.
- b. The Plaintiffs and Classes, have all (at least at one time), served as police officers or firefighters protecting the City of Miami by putting their life on the line.
- c. All of the Plaintiffs and Class members have entered the Deferred Retirement Option Plan (better known as the “DROP” or “DROP Plan”).
- d. More specifically, all of the Plaintiffs and the Class members here entered the DROP on or before September 30, 2010.
- e. The Plaintiffs and Class Members have all earned vested pension benefits under law.

---

<sup>28</sup> These individuals are collectively referred to as the “Class Representatives.”

- f. As the *Cypen* Letter explains, this is because they had become “*eligible for retirement*” on or before September 30, 2010.

244. There are numerous common legal questions that predominate over any legal issues affecting individual members, including the Plaintiffs’ legal position:

- a. That the Plaintiffs and Class were eligible for retirement and thus vested in their benefits;
- b. All Plaintiffs and the Class here have earned a “*vested benefit*” as set out in Article IV – Pension and Retirement Plan – Division 2., City of Miami Firefighters’ and Police Officers’ Retirement Trust, Sec. 40-191 (Definitions).<sup>29</sup>
- c. All Plaintiffs and the Class have ten years of creditable membership; thereby providing them at least the “*minimum vesting*” as set forth in Article IV, Div. 2, Sec. 40-191.<sup>30</sup>

245. Additional common legal questions that predominate include:

- a. Whether the Defendants’ silence in not explaining the retirement options and vested benefits was a breach of their fiduciary duties;
- b. Whether the Defendants’ silence or lack of affirmative action to not advise the Plaintiffs and Class as to the existence of the *Cypen* Letter was a breach of fiduciary duties;

---

<sup>29</sup> Which means an immediate or deferred benefit to which a member has gained a nonforfeitable right under the provisions of this division.

<sup>30</sup> which means ten years of creditable membership before the member is entitled to retirement benefits except accidental disability retirement, service incurred disability retirement, and ordinary death benefits

- c. Whether the Defendants' misrepresentations about the financial struggles of the City and cuts in pension was a breach of fiduciary duties;
- d. Whether the Defendants' wilfully and intentionally put forth misinformation to Plaintiffs in order for them to enter the DROP;
- e. When did the Plaintiffs' and Classes' pension benefits became vested;
- f. Whether the loss of pension benefits caused by Defendants' actions or inactions without notice or adequate notice violates the Plaintiffs' procedural due process rights to a government earned property interest.
- g. Whether the Defendants breached their fiduciary duties to the Plaintiffs by misrepresenting the benefits a City employee would be entitled to by working and becoming a City employee.

246. The Class Representatives' interests and facts are common to those of the Class. Indeed, they too were misled by the Defendants, actions and inactions, and were led to believe that entering the DROP was the only way to preserve their earned vested benefits. All of the Representatives have more than ten years of service and retired before September 30, 2010. Accordingly, they will adequately represent the interest of the Class.

247. Class Representatives and Plaintiffs have retained counsel who is experienced in the prosecution of class action litigation and who has experience with benefit law having participated in the prosecution of class actions that have netted approximately \$100 million dollars in recovery to past classes.

248. Defendants have acted, and refused to act, on grounds generally applicable to the Class, thereby making class action treatment particularly appropriate. For example, each Plaintiff was required to meet with the assistant Plan Administrator Orta, or another Plan

representative, prior to entering the DROP. Thus, a class action is superior to the other available methods for the fair and efficient adjudication of this controversy because joinder of all members is impracticable.

249. A class action is also superior because the expense and burden of individual litigation makes it impractical for the members of the Class to pursue individual litigation to vindicate their rights. Indeed, the Class is predominately made up of modest income or fixed income earning individuals. These individuals, at least for ten years, worked in public service and thus were not paid compensation able to be earned in the private sector, thereby making litigation and its high costs nearly impossible but for a class action.

250. Class Certification is also appropriate under Rule 1.220(b)(2) because the Board and Plan Administrators have acted or refused to act on grounds generally applicable to the Class, as described below, making final injunctive or declaratory relief appropriate.

251. Plaintiffs are not aware of any problems that would militate against maintenance of this action as a class action.

252. All the Plaintiffs have been damaged by the Defendants, namely a causing loss of pension benefits under the Plan and early entrance into the DROP.

253. Additionally, once a Class Member enters into the DROP they cannot participate in it for more than 7 years. This means, they will lose even more benefits and be damaged further after the seven year mark.

254. Being in the DROP is also less desirable because, "Upon commencement of participation in the DROP, the participant's contribution and the City's contribution to

the Trust for that participant **cease** as the participant will not earn further creditable service for pension purposes.”

255. The Plaintiffs should have been told their past benefits are vested, they may earn future benefits in the same Plan, and they need not enter the DROP.

256. Lastly, this case is appropriate for class action treatment under Rule 1.220(b)(1)(A) because without it, there is a risk of inconsistent adjudications.

257. The Class is numerous and exceeds 100 class members, and is believed to affect all or the majority of the following individuals in Exhibit 2.

#### **VIII. Class Definitions**

258. Plaintiffs reserve the right to amend the definition of the Classes following discovery.

259. Subclass A: Police Officers

***All those who worked for the City of Miami, as a police officer, earning at least ten (10) years of creditable service in the Police & Fire Retirement System, were eligible to retire on or before September 30, 2010, and retired via entering the DROP on or before September 30, 2010.***

260. Subclass B: Firefighters

***All those who worked for the City of Miami, as a firefighter, earning at least ten (10) years of creditable service in the Police & Fire Retirement System, were eligible to retire on or before September 30, 2010, and retired via entering the DROP on or before September 30, 2010.***

**IX. Counts as to Both Classes**

**Count 1 – Breach of Fiduciary Duties**

(As to All Defendants)

261. Plaintiffs reassert the allegations in Paragraphs 1 through 260 as if set forth in this count.

262. As the Florida’s Second DCA said in *Jacobs v. Vaillancourt*, 634 So.2d 667, 670: “the term fiduciary or confidential relation, is a very broad one. It has been said that it exists, and that relief is granted, in all cases which influence has been acquired and abused—in which confidence has been reposed and betrayed. ... The rule embraces both technical fiduciary relations and those inform relations which exist wherever one man trusts in and relies upon another.”

263. A fiduciary duty existed between the Plaintiffs and the City and the City Commission. A fiduciary duty existed between the Plaintiffs and the Board. A fiduciary duty existed between the Plaintiffs and the Plan. A fiduciary duty existed between the Plaintiffs and Migoya. A fiduciary duty existed between the Plaintiffs and the Plan Administrators.

264. Here the Plaintiffs trusted and relied upon the Defendants, including the City, the Retirement Board, the City Manager, the City Commission, Board of Trustees, the Pension Plan Administrator and Assistant Administrator, to, carry out their fiduciary duties, and among other things, relied and trusted the Defendants would:

- a. always act in their best interests when it comes to matters of their pension;
- b. provide them with all the benefits earned;
- c. provide them with all the advice and information (both explicit and implied) a reasonable prudent person would need when making pension and benefit decisions;

- d. carryout their affirmative and fiduciary duty to inform them that silence or failure to warn and guide may be harmful;
- e. convey complete and accurate information material to the circumstances of the participants and beneficiaries;

265. Part of the Defendants' fiduciary duties was a duty to inform the Plaintiffs of the Ordinance's illegality. As explained by the 1<sup>st</sup> DCA, a duty to inform "logically follows" the Defendants' duty to act in good faith and in the Plaintiffs' best interests.<sup>31</sup> This duty to inform arises even where no request is made by a beneficiary.

266. The Defendants breached their fiduciary duties to the Class and Plaintiffs' by, in relevant part:

- a. The City allowing an unlawful Ordinance stand in the light of legal advice to the contrary;
- b. The Defendants failing to communicate that the Ordinance was contrary to law as explained in the *Cypen* letter;
- c. intentionally, recklessly, or negligently omitting key facts the Plaintiffs and each respective Class member would want to know about entering the DROP;
- d. failing to timely disclose to the Plaintiffs and each respective Class that they did not need to enter into the DROP Plan prior to October 1, 2010 in order to preserve their earned and accrued pension benefits;
- e. failing to timely disclose to the Plaintiffs and each respective Class that the City had a financial incentive tied to their entering the DROP plan before the deadline;

---

<sup>31</sup> See *Rehab. Advisors v. Floyd*, 601 So.2d 1286, 1287 (5th DCA, 1992).

- NOT AN OFFICIAL COPY - PUBLIC ACCESS
- f. failing to disclose that at least 29 people did not enter into the DROP and did not lose their accrued and earned pension benefits; and
  - g. failing to disclose that *Cypen & Cypen* had informed the City and Board of the illegal nature of the planned benefit cuts and representations;
  - h. failing to explain the existence of any “wear-away” effect the Ordinance would have on their benefits due to the \$100,000 cap;<sup>32</sup>
  - i. failing to explain the difference between vested and non-vested benefits, and whether each Plaintiff had vested or non-vested benefits

267. It is the Defendants’ failures to act, warn, and the act of keeping silent that constitutes the Defendants’ breaches of their fiduciary duties. The Defendants’ silence betrayed the Plaintiffs, and this betrayal caused Plaintiffs to embark into a ruinous course of dealing that would have been prevented if Defendants’ followed their fiduciary duties.

268. Said differently, and by Florida’s First DCA in 2001, in *First Union Nat. Bank v. Turney*, 824, So.2d 172, 189: the mere silence by one under such a fiduciary duty to disclose is a breach of their fiduciary duties.

269. The culmination of these facts and events allowed the Defendants to use their influence, their superior bargaining power, and the confidence entrusted to each of them to the detriment of the Plaintiffs. In other words, their use of the fiduciary duties they held allowed them to swindle the Plaintiffs out of millions in pension benefits.

---

<sup>32</sup> The “wear-away” affect refers to a situation where a plan participant can accrue and otherwise get credited for pay under a new plan, that depending one’s current standing in an old plan, additional years would not increase their pensionable payout.

270. The Plaintiffs and each respective Class (as any prudent person in a similar situation would do), relied upon the Defendants and the information they provided in making their decision to enter the DROP and retire.

271. However, that information contained significant omissions that deprived the Plaintiffs and each member of the respective Classes from being adequately informed.

272. The Defendants' breaches have therefore harmed the Plaintiffs. *Inter alia*, they have been effectively deprived of benefits under the Plans which in good conscience should belong to them, and Defendants have been unjustly enriched by being able to retain such benefits.

273. Indeed, these breaches of fiduciary duties are the direct and proximate cause of the Plaintiffs' and each Classes' damages.

274. Plaintiffs have suffered special damages due to Defendant's fiduciary duty breaches. Specifically, Plaintiffs have lost the pension benefits they would have continued to accumulate and ultimately receive but for Defendants' fiduciary duties breaches that directly and proximately caused them to enter into the DROP when they did. These damages were foreseeable at the time of Defendants' breaches, and flow from these breaches.

### **Count 2 – Claim for Plan Benefits**

(As to the Plan, the Board, Nagle, and Orta)

275. Plaintiffs reassert the allegations in Paragraphs 1 through 260 as if set forth in this count.

276. The Plan mandates a duty to Defendants the Board, Nagle, and Orta to administer the Plan fairly and in good faith in the interest of the members and beneficiaries of the retirement system, **and in compliance with law.**

277. Defendants the Board, Nagle, and Orta breached their duties under the terms of the Plan. Specifically, by misleading the Plaintiffs and failing to adequately disclose to participants (including Plaintiffs and Class) the changes in Plan benefits in the months prior to the 2010 DROP deadline when those participants were deciding whether to remain with the City or enter the DROP and retire.

278. The Board, Nagle, and Orta mislead the Plaintiffs by failing to adequately disclose to the participants already eligible for retirement who had vested benefits that their benefits could not be retroactively affected. They failed to disclose this well-settled principle of law in each of the Plaintiffs' meetings. They also failed to adequately advise each Plaintiff of the "wear-away" effect, and the difference between vested and non-vested benefits in each of their meetings.

279. Their breaches have harmed the Plaintiffs and each respective Class. *Inter alia*, they have been effectively deprived of benefits under the Plan which, but for the misrepresentations alleged here would, and in good conscience should belong to the Plaintiffs, and they have otherwise been harmed, while the City and Plan have been unjustly enriched by being able to retain such benefits.

280. Plaintiffs have suffered special damages due to Defendant's breach of the Plan duties. Specifically, Plaintiffs have lost the vested pension benefits they would have continued to accumulate and ultimately receive but for Defendants' breaches of the Plan that directly and proximately caused them to enter into the DROP when they did. These damages were foreseeable at the time of Defendants' breaches, and flow from these breaches.

**Count 3 – Claim for Plan Benefits as a Result of Misrepresentation**

(As to the Plan, the Board, Nagle, and Orta)

281. Plaintiffs reassert the allegations in Paragraphs 1 through 260 as if set forth in this count.
282. At all relevant times, in exchange for the Plaintiffs' labor, the Board, Nagle, and Orta agreed to assume a confidential relationship of trust or otherwise assumed and enjoyed such a relationship with respect to explanations of employee benefits offered by them under the Plan, such that they had an affirmative duty of loyalty, honesty and completeness concerning the disclosure and explanation of the benefits under the Plan.
283. Defendants the Board, Nagle, and Orta breached the Plan terms through misrepresentation by committing acts such as, but not limited to:
- p. Intentionally, recklessly or negligently misleading the Plaintiffs by failing to adequately inform them about the options and benefits available to them related to the vesting, retirement, and/or entrance into the DROP in the months leading up to the October 1, 2010 DROP deadline in each of their individual meetings, such as the necessity to enter the DROP to save their current level of benefits and that the Ordinance can retroactively affect their already vested benefits;
  - q. Failing to timely disclose to the Plaintiffs the existence and terms under which those 29 or so firefighters (some of which are named in the preceding paragraphs) chose not to enter the DROP; along with the Cypen letter setting for the a contrary opinion from what the Defendants had previously promoted and represented, and the fact that each Plaintiff and member of the Classes would be entitled to their vested benefits without having to enter into the DROP and further substantial benefits by remaining into the Plan and could then later enter the DROP when they were ready;

- NOT AN OFFICIAL COPY - PUBLIC ACCESS - NOT AN OFFICIAL COPY - PUBLIC ACCESS
- r. Failing to timely disclose to the Plaintiffs and Class the *Cypen* letter and its enclosures, and legal authority it relied upon, both via a widespread communication and especially in each of their individual meetings; and
  - s. Failing to disclose to the Plaintiffs and the respective Classes that the City had a financial incentive for employees to enter the DROP;
  - t. Failing to explain the “wear-away” effect;
  - u. Failing to explain the differences between vested and non-vested benefits.

284. Defendants the Board, Nagle, and Orta made these material omissions despite having knowledge of their materiality and existence. In other words, they knew they should have disclosed these omissions, but acted recklessly, intentionally, and/or negligently in their omissions. .

285. The Plaintiffs and each respective Class reasonably relied on the information given to them by the Defendants in making their decision to enter the DROP and retire from the City. That information contained material omissions depriving the Plaintiffs and each respective Class of the opportunity to make an adequately informed decision in that regard.

286. The breaches of the Board, Nagle, and Orta have harmed the Plaintiffs each respective Class. *Inter alia*, they have been effectively deprived of benefits and City contributions under the Plan, which in good conscience should belong to them, their DROP restriction of only seven year should never have begun to run, and the City and the Plan have been unjustly enriched by being able to retain such benefits.

287. Plaintiffs have suffered special damages due to Defendant’s breach of the Plan duties. Specifically, Plaintiffs have lost the vested pension benefits they would have continued to

accumulate and ultimately receive but for Defendants' breaches of the Plan that directly and proximately caused them to enter into the DROP when they did. These damages were foreseeable at the time of Defendants' breaches, and flow from these breaches.

#### **Count 4 – Negligent Misrepresentations**

(As to All Defendants)

288. Plaintiffs reassert the allegations in Paragraphs 1 through 260 as if set forth in this count.
289. At all relevant times, in exchange for the Plaintiffs' labor, the Defendants agreed to assume a confidential relationship of trust or otherwise assumed and enjoyed such a relationship with respect to explanations of employee benefits offered by them under the Plan and Trust, such that the Defendants had an affirmative duty of loyalty, honesty and completeness concerning the disclosure and explanation of the benefits under the Plan.
290. Defendants committed negligent misrepresentation by committing actions such as, but not limited to:
- v. The City, Migoya, and Board recklessly and/or negligently omitting the material fact that they did not have to enter the DROP to save their vested benefits in the months leading to the October 1, 2010 DROP deadline, failing to explain the "wear-away" effect, and failing to adequately explain vested versus non-vested benefits;
  - w. The Plan Administrators recklessly and/or negligently omitting the material fact that they did not have to enter the DROP to save their vested benefits in the months leading to the October 1, 2010 DROP deadline, failing to explain the "wear-away" effect, and failing to adequately explain vested versus non-vested benefits in each of the Plaintiffs' individual or group meetings.

- NOT AN OFFICIAL COPY - PUBLIC ACCESS - NOT AN OFFICIAL COPY - PUBLIC ACCESS
- x. All Defendants failing to timely disclose to the Plaintiffs the existence and terms under which those 29 or so firefighters (some of which are named in the preceding paragraphs) chose not to enter the DROP; along with the *Cypen* letter setting for the a contrary opinion from what the Defendants had previously promoted and represented, and the fact that each Plaintiff and the Class members would be entitled to their vested benefits without having to enter into the DROP and further substantial benefits by remaining into the Plan and could then later enter the DROP when they were ready;
  - y. All Defendants failing to timely disclose to the Plaintiffs and each respective Class the *Cypen* letter and its enclosures, and legal authority it relied upon; and
  - z. All Defendants failing to disclose to the Plaintiffs and each respective Class that the City had a financial incentive for employees to enter the DROP.

291. The Defendants acted recklessly and/or negligently in making their many material omissions.

292. The Plaintiffs and Class reasonably relied on the information given to them by the Defendants in making their decision to enter the DROP and retire from the City. Said differently, they entered the DROP due to the Defendants' representations. That information contained material omissions, which deprived the Plaintiffs and each respective Class of the opportunity to make an adequately informed decision in that regard.

293. Defendants' breaches have harmed the Plaintiffs and each respective Class. *Inter alia*, they have been effectively deprived of benefits and City contributions under the Plan, which in good conscience should belong to them, their DROP restriction of only seven year should never have begun to run, and the City and the Plan have been unjustly enriched by being able to retain such benefits.

294. Plaintiffs and each respective Class have suffered special damages due to Defendant's misrepresentations. Specifically, Plaintiffs have lost the vested pension benefits they would have continued to accumulate and ultimately receive but for Defendants' breaches of the Plan that directly and proximately caused them to enter into the DROP when they did. These damages were foreseeable at the time of Defendants' breaches, and flow from these breaches.

**Count 5 – Violation of the Citizen's Bill of Rights**

(As to all Defendants)

295. Plaintiffs reassert the allegations in Paragraphs 1 through 260 as if set forth in this count.

296. The *Cypen* legal opinion was given to select members of the fire department, who quickly acted upon the information and sent out an email to a group of high ranking firefighters considering whether to enter the DROP. *See*, Sept 23, 2010 Email to Firefighters at Exhibit 2.

297. As a result approximately 29 firefighters did not enter the DROP.

298. Those firefighters include, but are not limited to:

<u>LAST</u>	<u>FIRST NAME</u>	<u>RULE 64</u>
KEMP JR.	ULYSEE	12/14/04
UGARTE	CARLOS	06/23/05
GOMEZ	PEDRO	09/20/05
RADELMA	CRAIG	10/14/05
EDGE	SETH	01/02/06
SAVOY	WILLIAM	11/05/07
SOLIS	OCTAVIO	11/30/07
ALVAREZ	YOLANDA	01/06/08
PONTIGAS	GEORGE	01/11/08

PAREDES	MIGUEL	02/28/08
BARRETO	ROY	05/31/08
GARCIA	ELOY	08/03/08
PAMPIN	RAMON	08/03/08
BAHR	FOREST	08/18/08
ECHAGAR	JOSE	09/20/08
MOORE	MARK	10/10/08
AGUILAR	MANUEL	11/08/08
SANCHEZ	EMILIO	01/16/09
DAVIS	TERRENCE	02/08/09
DUENAS	DAVID	05/05/09

299. Those firefighters named did not lose their vested benefits.

300. Those firefighters were not forced to make a decision to enter the DROP under the material omissions that affected Plaintiffs and each respective Class.

301. The Miami-Dade County “Citizens’ Bill of Rights” establishes that county and municipal officials and employees promise to treat all persons fair and equitable, to, in part, “make government more accountable” and proclaims “full and accurate information” is to be available to ensure this goal.<sup>33</sup> Indeed, it also promises that “[n]o County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.”

---

<sup>33</sup> Miami, Florida Code of Ordinances Sec. 52

302. The Citizen Bill of Rights provides a causes of action and for relief should the City violate this guaranteed right.<sup>34</sup>

303. Defendants fell short of complying with the Citizen Bill of Rights as to the Plaintiffs and Class. Specifically, Defendants, as a municipality and through its municipal officials and municipal employees, knew its Ordinance was unlawful through the *Cypen* legal opinion. Nonetheless, they collectively misrepresented and abused their confidential relationships with Plaintiffs and each respective Class to force them to enter the DROP under the guise of saving their benefits.

304. However, these benefits were vested, and entering the DROP was not necessary. Said plainly, Defendants knowingly provided false information and knowingly omitted the significant facts when giving information regarding entering the DROP at issue herein.

305. Defendants have not and are not treating the Plaintiffs and each respective Class the same as those select firefighters named above who were told the truth.

306. The Plaintiffs and Class have been discriminated against and damaged. Plaintiffs have suffered special damages due to Defendant's breach of the Citizen's Bill of Rights in that they have lost the vested pension benefits they would have continued to accumulate and ultimately receive but for Defendants' breaches of the Plan that directly and proximately caused them to enter into the DROP when they did. These damages were foreseeable at the time of Defendants' breaches, and flow from these breaches.

---

<sup>34</sup> Miami, Florida Code of Ordinances Sec. 52

**Count 6 – Action for a Declaratory Judgment**

(As to all Defendants)

307. Plaintiffs reassert the allegations in Paragraphs 1 through 260 as if set forth in this count.
308. This count is for declaratory judgment pursuant to Fla. Stat. § 86.011 *et seq.*
309. The Plaintiffs seek to clarify their respective rights under the City’s pension Plan to provide them with vested benefits, at the time they are eligible to retire, as outlined in detail above, and that they may participate in the Plan without losing their vested benefits, earn further benefits under the Plan, and later enter the DROP.
310. This is an actual live controversy because Defendants presently are reaping the benefits of their wrongful actions and the damages to Plaintiffs is still ongoing.
311. It is necessary to secure a judicial declaration of rights, status and other equitable remedies as may be available in order to clarify and/or settle the legal relationships at issue and whether declaration will terminate and/or afford relief from uncertainty giving rise to this proceeding.

**Count 7 – Impairment of Contract in Violation of the Florida Constitution**

**Fla. Const. Art. I, § 10**

(As to All Defendants)

312. Plaintiffs reassert the allegations in Paragraphs 1 through 260 as if set forth in this count.
313. The benefits at issue were an integral part of the total compensation received by Plaintiffs and each respective Class, in exchange for the performance of their services as employees of the City. Plaintiffs and each respective Class have performed their duties under their contracts with the City.

314. Public employment that provides for employment and post-employment benefits gives rise to certain legal obligations on the part of the public employer, which are subject to the Contract Clause of the Florida Constitution. The promised employment and post-employment benefits are an integral part of the compensation of Defendants' employees, and constitute vested benefits that are earned compensation.
315. Defendants acted as a municipality and agents of a municipality because the decision to unlawfully reduce vested pension benefits was an officially executed policy by the City's lawmakers and/or representatives arising from the passed Ordinance. The Defendants and actors had the authority to bind the municipality and in fact did bind the municipality with their promises, representations, and actions.
316. Defendants are legally bound to provide those vested benefits to Plaintiff and each respective Class.
317. By revoking and/or altering the Plan, misrepresenting the loss of vested pension benefits, and by passing and applying an Ordinance contrary to law, the Defendants substantially impaired and breached their contracts with Plaintiffs and each respective Class.
318. Plaintiffs and each respective Class, have been, and will increasingly continue to be, damaged monetarily. Defendants' breach is the actual and proximate cause of the damages of the Plaintiffs and each respective Class.
319. Defendants' actions were neither reasonable nor necessary to fulfilling an important public purpose, and were not a legitimate exercise of the City's police power. Defendants' actions unlawfully impair a contractual obligation, in violation of Article I, § 10 of the Florida Constitution.

## X. Prayer for Relief

**WHEREFORE**, the Plaintiffs and each respective Class seek:

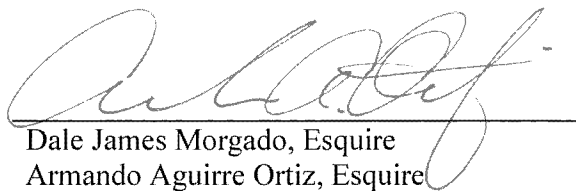
320. An Order certifying this matter as a Class Action under Rule 1.220 on behalf of all Plaintiffs and Class members
321. A judgment for restitution from the Plan for all the damages sustained to the Plaintiffs and Classes in the form of a common fund;
322. A judgment for restitution from the Plan fiduciaries for all the damages sustained to the Plaintiffs and Classes in the form of a common fund;
323. A judgment directing Defendants and the Plan to grant each Plaintiff and the members of each Class their vested pension benefits in the same manner and to the same extent as it granted those 29 firefighters;
324. A judgment directing Defendants to permit each Plaintiff and member of each Class to elect whether they wish to be in the DROP, or in the Plan, and if the Plaintiff or Class Member chooses the Plan, direct the Defendants to amend the Plan as necessary to accomplish this goal, and to contribute those amounts the electing Plaintiff or Class member would have earned had they stayed in the Plan.
325. A judgment entered for all available damages under the law, including general damages, special damages, nominal damages, compensatory damages, and punitive damages, in amount demonstrated at trial;
326. Equitable relief in whatever form (including a surcharge) necessary to make Plaintiffs and Class whole for all damages sustained as result;

327. Attorneys' fees, interest and costs under 42 USC § 1983 and § 1988, and Fla. Stat. §448.08,<sup>35</sup> along with the Court's inherent power and any other applicable basis;
328. For interest at the legal rate;
329. For costs of litigation;
330. For a Class Representative Incentive Award for the extra hours invested by the Class Representatives for bringing justice to so many;
331. For declaratory judgment decreeing the Plaintiffs and the members of the Classes are entitled to vested pension benefits at the time they are eligible to retire, and they need not enter the DROP to gain such, and further that the Defendants' actions and omissions concerning the same, as explained in detail above, caused damages and Defendants' are to pay plaintiffs damages, together with interest and whatever other awards necessary for justice to prevail; and
332. For such other relief as the Court deems necessary or proper.

---

<sup>35</sup> As these vested benefits were an integral part of the total compensation received by Plaintiffs, they are considered wages and attorneys' fees and costs are appropriate under Fla. Stat. §448.08. *See Short v. Bryn Alan Studios, Inc.*, 2008 U.S. Dist. LEXIS 42308, at \*9-\*11 (M.D. Fla. May 28, 2008) (Florida Law broadly construes ages to include all compensation paid by employer to employee for the performance of the employee's services).

Dated this 26<sup>th</sup> day of March, 2014, and respectfully submitted by:



Dale James Morgado, Esquire  
Armando Aguirre Ortiz, Esquire  
FBN: 0102778  
R. Edward Rosenberg, Esquire  
FELDMAN MORGADO, PA  
100 North Biscayne Boulevard  
29<sup>th</sup> Floor, Suite 2902  
Miami, Florida 33132  
305-222-7850 Telephone  
305-384-4676 Facsimile  
E: dmorgado@fmlawgroup.us  
E: erosenberg@fmlawgroup.us  
E: aortiz@fmlawgroup.us

*Attorneys for the Plaintiffs*

LAW OFFICES  
**CYPEN & CYPEN**  
777 ARTHUR GODFREY ROAD  
P.O. BOX 402099  
MIAMI BEACH, FLORIDA 33140-0099  
www.cypen.com

ENTERED  
EOST/AD

MIAMI: 305.532.3200  
BROWARD: 954.522.3200

FACSIMILE: 305.835.0050  
E-MAIL: info@cypen.com

VIA EMAIL and REGULAR US MAIL

September 16, 2010

Board of Trustees  
City of Miami Fire Fighters' and Police Officers'  
Retirement Trust  
1895 S.W. 3<sup>rd</sup> Avenue  
Miami, Florida 33129

Re: Application of September 14, 2010, Proposed Ordinance  
Amending the Fire Fighters' and Police Officers' Retirement  
Trust ("Plan")

Dear Trustees:

As you are aware, on September 14, 2010, the City Commission passed, on first reading, an ordinance purporting to amend certain provisions of the Plan ("Ordinance"). The Ordinance would reduce the benefits payable to active employees who retire on or after October 1, 2010.

The purpose of this letter is to advise the Board of the current state of the law as it applies to actions by public employers attempting to adversely affect pension benefits.

In Florida, it is well-established that a public employee's rights to benefits under a retirement system cannot be reduced once the public employee becomes eligible for retirement. The public employer cannot impair the employee's right to receive benefits by amending the requirement system to reduce benefits. An employee is not required to retire in order to protect his rights. The employee is only required to be eligible for retirement. State ex. Rel. Stringer v. Lee, 2 So. 2d 127, 132-3 (Fla. 1941); O'Connell v. State of Florida, Dept. of Admin., Div. of Retirement, 557 So. 2d 609 (Fla. 3d DCA 1990).

EXHIBIT

1

Board of Trustees  
September 16, 2010  
Page 2

In addition to the cases above, the Fourth District Court of Appeal recently affirmed a lower court's decision that active employees who were eligible for retirement on the date a municipality repealed certain benefits were not bound by the repeal. City of Fort Lauderdale v. City of Fort Lauderdale Police and Firefighter Retirement System, Case No. CACE 04-3578 (Fla. 17<sup>th</sup> Cir. Ct. 2007) *per curiam affirmed* 983 So. 2d 592 (Fla. 4<sup>th</sup> DCA 2008). Also, Sarabeth Snuggs, the State Retirement Director for the Division of Retirement, wrote to the Chairman of the San Carlos Fire Control District, on September 1, 2010, and advised:

... When a member has reached normal retirement, entered DROP or is retired, his benefits may not be reduced. For active members who are not eligible for normal retirement or are not participating under a DROP option, the employer may prospectively change the plan. No such change may adversely affect the value of the benefits already earned by an active or terminated vested member.

Attached are copies of the letter and the Circuit Court's order.

The Ordinance currently under consideration by the City Commission attempts to reduce retirement benefits for all employees who retire on or after October 1, 2010. Clearly, certain provisions of the Ordinance are contrary to law. Accordingly, the Ordinance's benefit reductions cannot be applied to an active member's retirement benefit if the member was eligible for normal retirement prior to the Ordinance's enactment date or the Ordinance's effective date, whichever is later.

Should you have any questions, please do not hesitate to call.

Very truly yours,



Alison S. Bieler  
For the firm

ASB/arc  
Enclosures



Division of Retirement  
Municipal Police Officers' & Firefighters'  
Retirement Trust Funds' Office  
PO Box 3010  
Tallahassee, Florida 32315-3010  
Toll Free: 877.738.6737  
Tel: 850.922.0667  
Fax: 850.921.2161  
www.dms.MyFlorida.com

Governor Charlie Crist

Secretary Linda H. South

September 1, 2010

Honorable Mary Lou Garofalo  
Chair, Board of Fire Commissioners  
San Carlos Fire Control District  
19591 Ben Hill Griffin Parkway  
Fort Myers, Florida 33913

ENTERED

Dear Commissioner Garofalo:

The Division has been asked to provide guidance on the requirements with regard to a "Stop & Restat" proposal which includes a retroactive reduction in benefits and a subsequent reinstatement of benefits.

Article 1, Section 10 of the Florida Constitution states that, "No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed." Pension benefits are contracts that are protected under this constitutional provision.

Once a benefit is earned, it can not be retroactively reduced. When a member has reached normal retirement, has entered DROP or is retired, his benefits may not be reduced. For active members who are not eligible for normal retirement or are not participating under a DROP option, the employer may prospectively change the plan. No such change may adversely affect the value of the benefits already earned by an active or terminated vested member.

Pursuant to s. 175.361 and 185.37, Florida Statutes, if an employer terminates a plan, the rights of all employees to benefits accrued to the date of such termination and the amounts credited to the employees' accounts are nonforfeitable. The employer shall be responsible for making the necessary contributions to cover the cost of the nonforfeitable benefits.

Based on the Constitutional and statutory provisions, pension benefits can not be retroactively reduced.

This notification constitutes a final agency action, and provides a point of entry for an appeal. If you disagree with our decision. If you wish to appeal this matter, it is necessary for you to file a petition for hearing. You may request that the hearing be delayed in order to gather necessary information for your appeal.

A copy of Rule 28-106.201, Florida Administrative Code (F.A.C.), which sets forth the requirements for a petition, is enclosed. Your completed petition, if you decide to appeal, should be returned to this office, after which you will be notified by the Division or the Administrative Law Judge of all future proceedings and hearings.

We serve those who serve Florida.

Honorable Mary Lou Garofalo  
September 1, 2010  
Page Two

Your petition should be filed at the following location:

DIVISION OF RETIREMENT  
P.O. Box 3010  
TALLAHASSEE, FLORIDA 32315-3010

In the event that you do not file an appeal within 21 days, Rule 28-106.111, F.A.C., a copy of which is also enclosed, provides that you have waived your rights to an administrative hearing or mediation on this matter.

Sincerely,

*Sarabeth Snuggs*

Sarabeth Snuggs  
State Retirement Director

SS:pts

Enclosures

cc: James W. Linn, Attorney, Lewis Longman & Walker  
Sven Anderson, Chair, San Carlos Park Fire Pension Plan  
Dustin Heintz, Director Retirement Services, FLC  
Chuck Carr, Actuary, Southern Actuarial Services  
Keith E. Brinkman, Bureau Chief, Local Retirement Systems  
Patricia F. Shoemaker, Benefits Administrator, Police & Fire Pension Office  
Tommy Wright, Attorney, Department of Management Services

## PART II HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT

### 28-106.201 Initiation of Proceedings.

(1) Unless otherwise provided by statute, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8 1/2 by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.

(2) All petitions filed under these rules shall contain:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

(3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

*Specific Authority 120.54(3), (5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History--New 4-1-97, Amended 9-17-98, 1-15-07.*

### 28-106.111 Point of Entry into Proceedings and Mediation.

(1) The notice of agency decision shall contain the information required by Section 120.569(1), F.S. The notice shall also advise whether mediation under Section 120.573, F.S., is available, and if available, that pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

(2) Unless otherwise provided by law, persons seeking a hearing on an agency decision which does or may determine their substantial interests shall file a petition for hearing with the agency within 21 days of receipt of written notice of the decision.

(3) An agency may, for good cause shown, grant a request for an extension of time for filing an initial pleading. Requests for extension of time must be filed with the agency prior to the applicable deadline. Such requests for extensions of time shall contain a certificate that the moving party has consulted with all other parties, if any, concerning the extension and that the agency and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

(4) Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days waives the right to request a hearing on such matters. This provision does not eliminate the availability of equitable tolling as a defense.

(5) The agency may publish, and any person who has timely requested mediation may, at the person's own expense, cause the agency to publish, a notice of the existence of the mediation proceeding in the *Florida Administrative Weekly* or in a newspaper of general circulation in the affected area. The mediation notice can be included in the notice of intended agency action.

(a) The notice of the mediation proceeding shall include:

1. A statement that the mediation could result in a settlement adopted by final agency action;
2. A statement that the final action arising from mediation may be different from the intended action set forth in the notice which resulted in a timely request for mediation;
3. A statement that any person whose substantial interests may be affected by the outcome of the mediation shall within 21 days of the notice of mediation proceeding file a request with the agency to participate in the mediation; and
4. An explanation of the procedures for filing such a request.

(b) The notice shall also advise that in the absence of a timely request to participate in the mediation, any person whose substantial interests are or may be affected by the result of the mediation waives any right to participate in the mediation.

*Specific Authority 120.54(3) FS. Law Implemented 120.569, 120.57, 120.573 FS. History--New 4-1-97, Amended 3-18-98, 1-15-07.*

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
BROWARD COUNTY, FLORIDA

CASE NO. CACE 04-3578 (13)

CITY OF FORT LAUDERDALE, FLORIDA,  
a municipal corporation,

Plaintiff,

CITY OF FORT LAUDERDALE POLICE  
AND FIREFIGHTERS' RETIREMENT  
SYSTEM, et al.

Defendants.

ENTERED

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

This cause came before the Court on February 12, 2007 on each of the parties' respective Motions for Summary Judgment. The parties agreed upon and submitted a stipulated set of facts to this Court and requested that this Court determine, based upon those stipulated facts, which party was entitled to relief as a matter of law.

The essential question before this Court was whether a class of City of Fort Lauderdale Police Officers and Firefighters who were eligible to retire, but who remained actively employed on the effective date of amendments to their respective retirement plans, was entitled to the pre-amendment benefits or whether that class would be bound by the plan, as amended, in effect on their actual date of retirement. Specifically, the amendment at issue repeals the "additional benefits clause" which has been part of each respective plan since its inception.

This Court has previously determined in a predecessor case, that an attempt to

CASE NO. CACE 04-3578 (13)

retroactively apply the amendment to police officers and firefighters who had already retired on the effective date of the repeal, would not be permitted. The Court found that those retirees were vested in those benefits. Based upon the stipulated facts and careful review of the law, this Court determines that those employees eligible for retirement on the effective date of the repeal of the "additional benefits clause" were also vested in their rights as they existed on the date of eligibility for retirement, regardless of the actual date of retirement. See State ex rel. Stringer v. Lee, 2 So.2d 127 (Fla. 1941). Where rights under a retirement plan have become vested upon one becoming eligible for retirement, those rights cannot be impaired by subsequent legislation. Id. at 132. It is not necessary that retirement actually occur for one to be vested in the entitlement to benefits, only that one be eligible for retirement. O'Connell v. State of Florida, Department of Administration, Division of Retirement, 557 So.2d 609 (Fla. 3d DCA 1990). The Court further concludes that because the benefits to be conferred under the plan(s) in effect on the date of eligibility for retirement were vested as of the date of eligibility, the benefits to be awarded upon actual retirement do not constitute prohibited extra compensation under §215.425, Florida Statutes.

WHEREFORE, it is hereby ORDERED AND ADJUDGED that Defendants' Motions for Summary Judgment are Granted and Plaintiff's Motion for Summary Judgment is denied. This

CASE NO. CACE 04-3578 (13)

Court hereby reserves jurisdiction for consideration of Defendants' Attorneys' Fees and Costs.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida this

\_\_\_\_\_ day of \_\_\_\_\_, 2007.

DAVID B. MANKUTA

APR 10 2007

\_\_\_\_\_  
CIRCUIT COURT JUDGE

Copies to:  
Gordon D. Rodgers, Esq.  
Brett J. Schneider, Esq.  
George T. Tucker, Esq.  
Sandra J. Babey, Esq.  
Matthew J. Mierzwa, Jr., Esq.  
Alan Eichenbaum, Esq.  
Stephen H. Cypen, Esq.  
David B. Mankuta, Esq.

NOT AN OFFICIAL COPY - PUBLIC ACCESS - NOT AN OFFICIAL COPY - PUBLIC ACCESS

RUBIO, Lorraine	9/27/2009	09/26/16
SANCHEZ, Ruben	9/27/2009	09/26/16
VELAZQUEZ, Ricardo	9/27/2009	09/26/16
BELTRAN, Pedro	10/11/2009	10/10/16
COOPER, Eunice	10/11/2009	10/10/16
GONZALEZ, Confesor	10/11/2009	10/10/16
GRASS, Omar	10/11/2009	10/10/16
LLANES, Rodolfo	10/11/2009	10/10/16
TRIANA, Jose	10/11/2009	10/10/16
MAURA, Glen	10/25/2009	10/24/16
CARBANA, Martha	11/8/2009	11/07/16
OLIVA, Alejandro	11/8/2009	11/07/16
SMITH, Willie	11/8/2009	11/07/16
FERNANDEZ, Fernando	11/22/2009	11/21/16
PATRICK, Carl	12/22/2009	12/21/16
VALDES, Carlos	1/3/2010	01/02/17
BARFIELD, Sharon	1/17/2010	01/16/17
BERGNES, Hector	1/17/2010	01/16/17
NAZUR, Richard	1/17/2010	01/16/17
PELHAM, Gregory	1/17/2010	01/16/17
RAMRAS, David	1/17/2010	01/16/17
TORRES, Francisco	1/17/2010	01/16/17
MACIAS, Alejandro	1/31/2010	01/30/17
HERNANDEZ, Suberto	2/14/2010	02/13/17
POLK, Sandra	2/28/2010	02/17/17
D'AGOSTINO, Freddy	2/28/2010	02/27/17
LIRANZO, Francisco	4/11/2010	04/10/17
MENDEZ, Juan	4/11/2010	04/10/17
VISNEY, Thomas	4/11/2010	04/10/17
PINO, Julio	4/25/2010	04/24/17
FUENTES, Rafael	5/23/2010	05/22/17
ABRAHAM, Jerome	6/20/2010	06/19/17
FRAZIER-MARTIN, Cheryl	6/20/2010	06/19/17
JOHNSON, Perchell	6/20/2010	06/19/17
MERRITT, Daphne	6/20/2010	06/19/17
MORIN-FERNANDEZ, Mayree	7/4/2010	07/03/17
PEREZ, Wilfredo	7/18/2010	07/17/17
MONROE, Brendan	8/1/2010	07/31/17
CABRERA, Manuel	8/15/2010	08/14/17
CASANOVAS, Francisco	8/15/2010	08/14/17
CRUZ, Wilfred	8/15/2010	08/14/17
MORGAN, Horace	8/15/2010	08/14/17
SMITH, Ryan	8/15/2010	08/14/17
SOLOMON, Godard	8/15/2010	08/14/17
BRADDY, Michael	8/29/2010	08/28/17
GARDNER, Albert	8/29/2010	08/28/17
HERNANDEZ, Ramon	8/29/2010	08/28/17
HERNANDEZ, Ricardo	8/29/2010	08/28/17
JESURUM, Jackie	8/29/2010	08/28/17
MERCEDES, Jose	8/29/2010	08/28/17
MONTES DE OCA, Milton	8/29/2010	08/28/17

EXHIBIT

2

NOT AN OFFICIAL COPY - PUBLIC ACCESS - NOT AN OFFICIAL COPY

GUTIERREZ, Jesus	9/26/2010	09/25/17
HALL, Doretha	9/26/2010	09/25/17
HAMILTON, Lloyd	9/26/2010	09/25/17
HERNANDEZ, Jorge	9/26/2010	09/25/17
HERNANDEZ, Jose	9/26/2010	09/25/17
HOOSIER, Curtis	9/26/2010	09/25/17
KNOWLES, Kelvin	9/26/2010	09/25/17
LARICCI, Vincent	9/26/2010	09/25/17
LLODRA, John	9/26/2010	09/25/17
LOPEZ, Emilio	9/26/2010	09/25/17
LUQUIS, Ronald	9/26/2010	09/25/17
MAHON, Shawn	9/26/2010	09/25/17
MARTIN, Jorge	9/26/2010	09/25/17
MCFIELD, Margarita	9/26/2010	09/25/17
MCNAIR, Kevin	9/26/2010	09/25/17
MEDINA, Mario	9/26/2010	09/25/17
MENDEZ, Alejandro	9/26/2010	09/25/17
MENDEZ, Wanda	9/26/2010	09/25/17
MILLS, Debbie	9/26/2010	09/25/17
NELSON, Julius	9/26/2010	09/25/17
NICHOLSON, Donovan	9/26/2010	09/25/17
NICOLI, Jacob	9/26/2010	09/25/17
ORDONEZ, Serafin	9/26/2010	09/25/17
PACHECO, Albert	9/26/2010	09/25/17
PALACIOS, Victor	9/26/2010	09/25/17
PATINO, David	9/26/2010	09/25/17
PATTON, David	9/26/2010	09/25/17
PAYEN, Benjamin	9/26/2010	09/25/17
PAZ, Jose	9/26/2010	09/25/17
PEREZ, Marcos	9/26/2010	09/25/17
RAHMING, Ronald	9/26/2010	09/25/17
REYNOLDS, Peter	9/26/2010	09/25/17
RODRIGUEZ, Jose	9/26/2010	09/25/17
ROJAS, Armando	9/26/2010	09/25/17
ROMAN, Sandra	9/26/2010	09/25/17
SANDERS, Marvin	9/26/2010	09/25/17
SMITH, Willie B.	9/26/2010	09/25/17
SOTOAGUILAR, Bertha	9/26/2010	09/25/17
STARKS, Robin	9/26/2010	09/25/17
STEVENS, Allixen	9/26/2010	09/25/17
SUAREZ, Carlos	9/26/2010	09/25/17
TABORDA, Luis	9/26/2010	09/25/17
VELAZQUEZ, Moises	9/26/2010	09/25/17
VERA, Juan	9/26/2010	09/25/17
VILLAVERDE, Orlando	9/26/2010	09/25/17
VOKATY, Thomas	9/26/2010	09/25/17
WILKINS, Lisa	9/26/2010	09/25/17
WILLIAMS, Calvin	9/26/2010	09/25/17
WILSON, Sardia	9/26/2010	09/25/17
LOUIS, Roma	10/1/2010	09/30/17
DIAZ, Manuel	11/7/2010	11/06/17

From: "email@iaff587.org" <email@iaff587.org>

Subject: **DROP Seminar**

Date: September 23, 2010 10:37:52 AM EDT

To: R Suarez <IMCEAEX- O=MASTER+20EXCHANGE+20SERVER OU=FIRST+20ADMINISTRATIVE@IAFF587.ORG>

UNSUBSCRIBE from this email list? You are receiving this email because you opted in during registration.

# MIAMI ASSOCIATION OF FIRE FIGHTERS

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, IAFF LOCAL 587



Local 587 will be conducting a DROP Seminar tomorrow, Friday Sept 24) at 10am at your Benevolent Hall. Any Firefighter who is contemplating DRIPPING tomorrow should make it a priority to attend. Local 587 will be providing legal advice and answering questions on site to help you in making any last minute decisions. The pension board attorney Steve Cypen will be to present to give his advice. To RSVP please call your Union Office 305-633-3442. We are still awaiting a response from the City in regards to Steve Cypen's legal opinion. We expect to have our own legal "second opinion" available tomorrow as well. Any member may attend, but this event is particularly aimed at those individuals who are contemplating whether to DROP effective tomorrow afternoon or to "pull their papers". We are preparing FAQs (frequently asked questions) with answers based on inquiries we have received over the past week. Those answers may be distributed as early as this afternoon.

Robert Suarez

EXHIBIT

3

You are receiving this email because you opted in during registration.

Union Center