

IN THE SUPREME COURT OF FLORIDA

Case No. SC12-520

RICK SCOTT, et al.,

Appellants,

**L.T. Case Nos.: 2011 CA 1584,
1D12-1269**

vs.

GEORGE WILLIAMS, et al.,

Appellees.

_____ /

AMENDED NOTICE OF SUPPLEMENTAL AUTHORITY

COMES NOW the appellee, Rodney Durbin, by and through his undersigned attorney and files this amended notice of supplemental authority, the August 30, 2012 recommended order of a Public Employees Relations Commission Hearing Officer in *The Florida State Fire Association Local S-20 v. State of Florida*, Case No. CA 2011-109, upholding the unfair labor practice charge regarding the FRS changes; and for grounds would state:

1. This amended notice is filed pursuant to Fla. R. App. P. 9.225.
2. This amended notice of supplemental authority is significant to the issue presented in the Appellants' reply brief, page 19, which states:

B. Plaintiffs Fail to Identify Any Collective Bargaining Agreement the Plan Amendment Violates

The only plaintiff who even contends that the Plan Amendment violates a specific collective bargaining agreement ("CBA") is Rodney Durbin, who claims that the Plan Amendment violates the CBA between the State and the Florida State Fire Service Association (the "FSFSA") (Durbin br. at 4-5). But even this assertion is wrong. During the 2011 legislative session, the Legislature resolved an impasse between the State and the FSFSA by adopting the State's last offer. Ch. 2011-48, § 1(1), at 734, Laws of Fla. That offer removed the "no cost" language and instead provided that the State would administer the FRS in accordance with any applicable provision or Act (R14.2566). The Legislature's adoption of the State's last offer was codified at Chapter 2011-48, Laws of Florida, which also took effect on July 1, 2011. Ch. 2011-48, § 2, at 736, Laws of Fla. Therefore, when Chapter 2011-68 took effect, Durbin's CBA no longer provided participation in FRS at no cost. The Plan Amendment is therefore entirely consistent with Durbin's CBA. 8

8 Durbin's CBA contemplates the possibility that a provision can "be rendered or declared invalid...or not enforceable by reason of ...subsequently enacted legislation" (R12.2251).

Following what the appellees describe as ". . . the Legislature resolved an impasse between the State and the FSFSA by adopting the State's last offer." (Appellees' Reply Brief 13), Durbin's union, the Florida State Fire Service Association (FSFSA), filed an unfair labor practice (ULP) against the State of Florida on August 22, 2011, with the Florida Public Employee Relations Commission (PERC) concerning the FRS changes and

others. The case is *The Florida State Fire Association Local S-20 v. State of Florida*, Case No. CA 2011-109. On August 30, 2012, Jerry W. Chatham, the PERC hearing officer, entered his recommended order upholding the unfair labor practice charge. (Attached).

Respectfully submitted,

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Certificate of Service

I certify that a copy of the foregoing has been furnished by mail this _____ day of September, 2012, to: **Ronald G. Meyer**, Esquire, **Jennifer S. Blohm**, Esquire, and **Lynn C. Hearn**, Esquire, Meyer, Brooks, Demma and Blohm, P.A., 131 North Gadsden St., Tallahassee, FL 32301; **Pamela L. Cooper**, Esquire, Florida Education Association, 300 East Park Ave.,

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