



## Legal Opinion

The Illinois Appellate Court ruled Friday in the Matthews v. CTA case. Both sides won and both sides lost. The Appellate Court ruled that the Circuit Court decision in 2012 was correct on almost every issue but the Appellate Court did find that the Matthews' complaint should be sent back down to the Circuit Court for a trial on what level of retiree health benefits are "vested" and for which retirees.

As far as the Retirement Plan's liability is concerned, only retirees who retired after 1980 or so and before January 1, 2007 (and the retiree had to be working for CTA before September 5, 2001) are covered by the case when it goes back to Circuit Court for a trial. All retiree insurance coverage and premiums for retirees must still be set in accordance with the Illinois law that the RHCT Trustees must follow. The Appellate Court's decision does not mean that the RHCT Trustees can lower the premiums or increase coverage.

All other retirees will continue to have the same program of insurance because the overall retiree insurance program was upheld.

The Appellate Court agreed with the Circuit Court that CTA employees hired after September 5, 2001, cannot be a part of the Matthews' class action case. So, every employee hired after 9/5/01 must still participate in the RHCT and the RP. The 3% contribution is still due to the RHCT from all employees.

The Appellate Court also agreed with the Circuit Court that the CTA does not have an obligation to provide any retiree health care and that the CTA is not contractually obligated to pay for the retiree health care costs that are not covered by the Retirement Plan. This most likely means that all retiree health insurance costs will have to come from retirees, surviving spouses, dependents, the Retirement Plan or the RHCT.

As mentioned above, the Appellate Court disagreed with the Circuit Court and found that certain retirees--those who retired after 1980 and before 2007-- have a "vested" right to health insurance coverage from the Retirement Plan, at least at some level. The Court did not rule that the retirees are entitled to any specific level of coverage or even that each retiree's coverage is free so there will have to be a trial on those issues. On the "vesting" issue, the Appellate Court

relied heavily on another Illinois state court decision out of Joliet taking away certain retiree health insurance benefits for police officers and a case from Wisconsin. The Appellate Court agreed that there is another Illinois state court case based on federal law that says that retiree health insurance is not “vested”. The “vesting” issue will have to be decided on appeal after the trial on what is actually “vested”.

The Appellate Court also said that the Illinois Supreme Court is currently hearing a case about retiree health insurance for State of Illinois retirees and that the Illinois Supreme Court decision is expected soon. It is pretty obvious that the Appellate Court did not want to decide the Illinois Constitutional issue about “vesting” when the Supreme Court is going to rule soon. The Supreme Court will be deciding whether retiree health insurance is a vested benefit under the Illinois Constitution. We will just have to wait and see what the Illinois Supreme Court decides.

The Appellate Court also wrote that “it seems that Section 20.12 [of the old Pension Plan] caps the level of payments to the premium costs”, so it looks like there will need to be a trial on just what the retirees should have to pay for their coverage from the Plan. Plaintiffs had argued that retirees had received free coverage for years and coverage identical to what CTA active employees received. However, the trial may show that the 1980-2007 retirees have to pay a portion of their own coverage and for 100% of family coverage or that identical coverage with active employees was not actually “vested”.

The Appellate Court also agreed with the Circuit Court that the Trustees of the Retirement Plan and the RHCT did not breach their fiduciary duties to retirees. The Court found that “given the precarious state of the funding of the Retirement Plan”, there was no possible claim that the Trustees “were not acting in the best interests of the beneficiaries and participants of the Retirement Plan as a whole and therefore there was no breach of fiduciary duties.” Plaintiffs can appeal this portion of the ruling someday, just as the Trustees and the CTA can appeal the rulings they disagree with.

The Appellate Court also agreed with the Circuit Court that there was no case against the Retirement Plan for “promissory estoppel”, although the Court said that plaintiffs have a right to try and prove that the CTA had promised them certain benefits and that they relied on those promises when retiring. Retirees before 1980 may be able to establish that the CTA owes them insurance coverage.

These are complicated issues and no court decision is ever final until the Illinois Supreme Court rules on the merits of the case or decides not to review the final decision of a lower court. This case will most likely require a trial and could easily take years to resolve. But there will be no change in the retiree health insurance program for retirees or for active employees for quite some time, if ever. Every employee must also continue to pay the 3% to the RHCT. The Local will keep everyone posted on any developments.

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