

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
IN AND FOR PINELLAS COUNTY, FLORIDA**

**JASON FRANCIS,**

Plaintiff,

**CASE NO.: 19-005598-CI-19**

vs.

**CITY OF ST PETERSBURG, FLORIDA,**

Defendant.

---

**ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

THIS CAUSE came before the Court on December 9, 2019, on the Plaintiff's, Jason Francis, Motion for Summary Judgment. Attorneys for both parties appeared. The Court having considered the motion, having heard arguments of counsel, and being otherwise advised in the premises,

**FINDS and ORDERS** the following:

1. The Court has subject matter jurisdiction and personal jurisdiction over the parties.
2. The attorneys for each party stipulated at the hearing that there are no genuine issues as to any material fact. Thus, in order to prevail on his Motion for Summary Judgment, the Plaintiff must establish that he is entitled to a judgment as a matter of law.
3. The attorneys also stipulated that the only relevant law for the Court to consider in this matter is Section 112.1816, Florida Statutes, which became effective on July 1, 2019 (the "Statute"). Further, the attorneys represented that this case is one of first impression under the Statute in the State of Florida, with no known prior rulings regarding same.
4. The Plaintiff, a firefighter with the City of St. Petersburg, was diagnosed with thyroid cancer on or about January 9, 2019, (the "Diagnosis"). He submitted a written request to the Defendant for benefits under the Statute on July 18, 2019. The Plaintiff's request was denied by the Defendant.
5. As framed by the arguments of counsel for the parties, the sole issue for this Court to decide is whether the Plaintiff is entitled to the relief provided for under the Statute. More specifically, the issue is whether the fact that the Plaintiff was diagnosed with thyroid

**Francis v. City of St. Petersburg**  
**Case No. 19-5598CI**  
**Order on Summary Judgment**

cancer prior to effective date of the Statute precludes him from recovering any of the benefits afforded by the Statute. The Defendant disputes that the Plaintiff qualifies for relief under the provisions of the Statute because his Diagnosis occurred prior to the effective date of the Statute. The Plaintiff argues that the Statute does not provide for any time frame for a diagnosis to occur, and only provides that a firefighter may seek relief under the Statute “upon a diagnosis of cancer”.

6. The only reference to “diagnosis” in the Statute appears in the following provisions (underscore added), to wit:

(2) Upon a diagnosis of cancer, a firefighter is entitled to the following benefits, as an alternative to pursuing workers’ compensation benefits under chapter 440, if the firefighter has been employed by his or her employer for at least 5 continuous years, has not used tobacco products for at least the preceding 5 years, and has not been employed in any other position in the preceding 5 years which is proven to create a higher risk for any cancer:

(a) Cancer treatment covered within an employer-sponsored health plan or through a group health insurance trust fund. The employer must timely reimburse the firefighter for any out-of-pocket deductible, copayment, or coinsurance costs incurred due to the treatment of cancer.

(b) A one-time cash payout of \$25,000, upon the firefighter’s initial diagnosis of cancer.

7. The Court, in making a determination of statutory interpretation, is bound to a plain-reading of the Statute. The Court may not add any language to the Statute, and may not ignore the expressed language of the Statute. The Court may also not infer what the Florida legislature intended beyond the plain meaning of each word expressed in the Statute.

8. The Statute does not state that its provisions are to be applied retroactively from its effective date of July 1, 2019. In the absence of such language in the Statute, it is presumed that the Statute is to be applied prospectively. *Arrow Air, Inc. v. Walsh*, 645 So. 2d 422 (Fla. 1994). Likewise, the Statute does not state that a diagnosis of cancer shall have occurred subsequent to the effective date of the Statute, and the Statute does not expressly prohibit application of a diagnosis that occurred prior to such effective date. In addition to

**Francis v. City of St. Petersburg**  
**Case No. 19-5598CI**  
**Order on Summary Judgment**

- an applicable diagnosis, Section 112.1816(2) requires compliance with 3 other conditions, which, according to a plain reading of the Statute, are measured from the time of the diagnosis. The Defendant stipulated that the Plaintiff complies with the 3 other conditions.
9. Section 112.1816(2) also states that the benefits described therein are “an alternative to pursuing workers’ compensation benefits under chapter 440”.
  10. Generally accepted rules of statutory construction dictate “where possible, it is the duty of the courts to adopt that construction of the statutory provision which harmonizes and reconciles it to other provisions in the same act.” *Knowles, supra, citing Woodgate Dev. Corp. v. Hamilton Investment Trust*, 351 So. 2d 14, 16 (Fla. 1977). Thus, the retroactivity restraints recognized by the Court in *Arrow Air* do not prohibit this Court from harmonizing and reconciling other provisions in the same act. In harmonizing and reconciling an alternative claim to workers’ compensation, this Court finds that the provisions of Section 112.1816 are remedial in nature.
  11. When statutory provisions are ambiguous, the Court may look to express legislative intent for guidance. In this case, neither party provided evidence of clear, express legislative intent to support their position or refute the opposing party’s position.
  12. This Court finds that the Statute does not restrict benefits based upon a diagnosis of cancer that occurred prior to the effective date thereof. Accordingly, the Court finds that the Plaintiff is entitled to judgment as a matter of law. Therefore, the Plaintiff’s Motion for Summary Judgment is hereby GRANTED.

**DONE AND ORDERED** in Chambers at St. Petersburg, Pinellas County, Florida on December \_\_\_\_\_, 2019.

Electronically Conformed 12/17/2019

---

**THOMAS RAMSBERGER**  
**Circuit Judge**

Copies furnished via JAWS to:  
Robert F. McKee, Counsel for Plaintiff  
1718 East Seventh Avenue, Suite 301  
Tampa, Florida 33675

Joseph P. Patner, Counsel for Defendant  
P.O. Box 2842  
St. Petersburg, FL 33731