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1/17/2025 10:25 AM
CYNTHIA A. GRANT
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No. 131039

IN THE SUPREME COURT OF ILLINOIS

CHRISTOPHER BITNER and JOHN BROOKS, individually and on behalf of all others similarly situated,	)	Appeal from the Appellate Court of Illinois, Fourth District, No. 4-23-0718
Plaintiffs-Appellants,	)	There heard on appeal from the Circuit Court of the Tenth Judicial Circuit, Tazewell County, IL, No. 2018-L-120
v.	)	
CITY OF PEKIN, ILLINOIS,	)	
Defendant-Appellee.	)	Honorable Paul E. Bauer, Judge Presiding

SUPPLEMENTAL BRIEF AND ARGUMENT FOR PLAINTIFFS-APPELLANTS

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ORAL ARGUMENT REQUESTED

POINTS AND AUTHORITIES

I. NATURE OF THE CASE

On September 4, 2020, Plaintiffs, CHRISTOPHER BITNER and JOHN BROOKS, filed their Second Amended Complaint against Defendant, CITY OF PEKIN, ILLINOIS, in the Circuit Court of the Tenth Judicial Circuit, Tazewell County, Illinois. The Second Amended Complaint sought a declaratory judgment that Defendant unlawfully withheld employment taxes, as well as sick, vacation, and compensatory time, from Plaintiffs' disability benefits pursuant to the Illinois Public Employee Disability Act, 5 ILCS 345/1, *et seq*. (hereinafter "PEDA benefits"). Ultimately, the Parties filed cross-motions for Summary Judgment. On July 20, 2023, the Honorable Paul E. Bauer, Judge Presiding, issued an Order on Motions for Summary Judgment that granted Plaintiffs' Motion for Summary Judgment and denied Defendant's Motion for Summary Judgment.

Defendant appealed to the Appellate Court of Illinois, Fourth Judicial District. On August 5, 2024, the Appellate Court issued an opinion reversing and remanding this matter to the Circuit Court of Tazewell County, Illinois. *Bitner v. City of Pekin*, 2024 IL App (4th) 230718. No petition for rehearing was filed.

On September 9, 2024, Plaintiff's filed their Petition for Leave to Appeal to the Supreme Court of Illinois under Illinois Supreme Court Rule 315. On November 27, 2024, the Supreme Court of Illinois allowed the same. No question is raised on the pleadings.

II. ISSUES PRESENTED FOR REVIEW

1. Whether the Circuit Court reached the correct result by granting Plaintiffs' Motion for Summary Judgment and denying Defendant's Motion for Summary Judgment.

2. Whether the Illinois Public Employee Disability Act, 5 ILCS 345/1, *et seq*. (hereinafter "PEDA") prohibits an injured employee's public employer from withholding

nonexistent employment taxes from the injured employee's PEDA benefits.

III. STANDARD FOR REVIEW

"When parties file cross-motions for summary judgment, they mutually agree that there are no genuine issues of material fact and that only a question of law is involved." *Int'l Ass'n of Fire Fighters, Loc. 50 v. City of Peoria*, 2022 IL 127040 ¶ 11 (quoting *Jones v. Municipal Employees' Annuity & Benefit Fund*, 2016 IL 119618 ¶ 26). Accordingly, the Court's review of a case decided on summary judgment is *de novo*. *Id.* Here, "*[d]e novo* review is also appropriate, as [the Court] must construe" PEDA. *Id.* (citing *Western Illinois University v. Illinois Educational Labor Relations Board*, 2021 IL 126082 ¶ 32, which notes "[a]n issue of statutory interpretation presents a question of law subject to *de novo* review.").

Under *de novo* review, the reviewing court performs the same analysis as the trial court and may affirm on any basis in the record, regardless of the circuit court's reasoning or whether the reasoning was correct. *In re County Collector v. Pappas, et al.*, 2023 IL App 210523 ¶ 18. Given this matter was decided by the Circuit Court on summary judgment, the trial court analysis is whether "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Schweihs v. Chase Home Finance, LLC*, 2015 IL App (1st) 140683 ¶ 26 (quoting 735 ILCS 5/2-1005(c)).

IV. ARGUMENT

The Circuit Court properly found section 1(b) of PEDA prohibits an injured employee's public employer from withholding nonexistent employment taxes from the

injured employee's PEDA benefits. It is undisputed that Defendant withheld nonexistent employment taxes from Plaintiffs' PEDA benefits. *Bitner v. City of Pekin*, 2024 IL App (4th) 230718 ¶ 5 (noting "Defendant admitted it withheld employment taxes from [PEDA benefits]"). Accordingly, the Circuit Court correctly granted Plaintiffs' Motion for Summary Judgment and correctly denied Defendant's Motion for Summary Judgment, as Plaintiffs are entitled to a judgment as a matter of law. The Appellate Court errored by reversing the Circuit Court and holding to the contrary.

The language at issue, section 1(b) of PEDA, notes:

> Whenever an eligible employee suffers any injury in the line of duty which causes him to be unable to perform his duties, ***he shall continue to be paid by the employing public entity on the same basis as he was paid before the injury***, with no deduction from his sick leave credits, compensatory time for overtime accumulations or vacation, or service credits in a public employee pension fund during the time his is unable to perform his duties due to the result of the injury, but not longer than one year in relation to the same injury. 5 ILCS 345/1(b) (emphasis added).

First, the Supreme Court should find this language is ambiguous regarding whether PEDA prohibits an injured employee's public employer from withholding employment taxes from the injured employee's PEDA benefits. Second, the Supreme Court should turn to the relevant aids of statutory construction—namely, the related statutes cannon (also referred to as the maxim of *in pari materia*) and the absurdity doctrine. These aids reveal the only reasonable interpretation of the ambiguous language is that PEDA prohibits an injured employee's public employer from withholding nonexistent employment taxes from the injured employee's PEDA benefits.

A. PEDA's plain language is ambiguous.

"The fundamental rule of statutory interpretation is to ascertain and give effect to the legislature's intent, and the best indicator of that intent is the statutory language, given

its plain and ordinary meaning." *Int'l Ass'n of Fire Fighters, Loc. 50 v. City of Peoria*, 2022 IL 127040 ¶ 12. See also *Gibbs v. Madison Cnty. Sherriff's Dep't*, 326 Ill. App. 3d 473, 476 (2021). "However, where the statutory language is ambiguous, a reviewing court may look beyond the language and resort to further aids of statutory construction." *People v. Fort*, 2017 IL 118966 ¶ 20. Statutory language is ambiguous when its plain language lends itself to at least two possible interpretations. *Gibbs*, 326 Ill. App. 3d at 476.

The plain language of PEDA clearly and expressly prohibits "deduction from [the injured employee's] sick leave credits, compensatory time for overtime accumulations or vacation, or service credits in a public employee pension fund." 5 ILCS 345/1(b). However, the Supreme Court should find PEDA is ambiguous regarding whether PEDA prohibits an injured employee's public employer from withholding employment taxes from the injured employee's PEDA benefits. The Supreme Court should reject Defendant and the Appellate Court's arguments to the contrary.

i. The Supreme Court should adopt Plaintiffs' analysis.

The operative language of PEDA is that the injured employee "shall continue to be paid by the employing public entity on the same basis as he was paid before the injury." *Id*. This means PEDA benefits provide the injured employee his "full pay." *Gibbs*, 326 Ill. App. 3d at 477. "Full pay" has multiple possible interpretations, as the plain language supports that legislature referred to either gross pay, gross pay less required deductions, or net pay.

Gross pay is full pay because it is the employee's pay before anything is deducted. Under the gross pay interpretation, a public employer violates PEDA (by paying a benefit

less than the amount required by PEDA) if it deducts any amount from the employee's gross pay.

Plaintiffs believe the legislature referred to gross pay less required deductions. Allowing required deductions recognizes, in some instances, federal law, state law (e.g., employee contributions to a pension fund), or some other binding obligation (e.g., labor dues pursuant to a collective bargaining agreement) entitles a third party to a portion of an employee's gross pay. Therefore, the gross pay less required deductions interpretation provides the injured employee his full pay by providing him the full amount he is entitled to. Under this interpretation, a public employer violates PEDA (by paying a benefit less than the amount required by PEDA) if it deducts any amount above the injured employee's required deductions.

Defendant argues the legislature referred to net pay. According to Defendant, net pay is full pay because the injured employee would take home the same amount as before his injury. Under this interpretation, a public employer violates PEDA (by paying a benefit less than the amount required by PEDA) if it pays a benefit that deducts more than it deducted from the injured employee's paycheck before the injury.

Neither "paid . . . on the same basis as . . . before the injury" nor any other language in the statute can resolve this issue. As previously shown, the phrase "the same basis," which means "full pay," holds the foregoing interpretations. As a result, the statute is ambiguous, so the analysis must move outside the plain language of the statute. *Gibbs*, 326 Ill. App. 3d at 476.

ii. The Supreme Court should reject Defendant and the Appellate Court's arguments to the contrary.

Defendant and the Appellate Court argue that PEDA cannot be ambiguous regarding whether PEDA prohibits an injured employee's public employer from withholding nonexistent employment taxes from the injured employee's PEDA benefits. According to Defendant and the Appellate Court, the meaning of PEDA's plain language clearly allows the same. Additionally, PEDA never expressly mentions taxes, which Defendant and the Appellate Court conclude must mean PEDA allows employment taxes to be deducted from PEDA benefits. The Supreme Court should reject these arguments.

a. PEDA's plain language is not clear.

First, PEDA's plain language does not clearly allow an employer to withhold nonexistent employment taxes. The Appellate Court found that PEDA unambiguously means "an eligible employee must be paid as if he was still working his normal hours, either part- or full-time, without having to use any sick leave credits, compensatory or vacation time, or service credits." *Bitner v. City of Pekin*, 2024 IL App (4th) 230718 ¶ 18. However, the phrase "paid as if he was still working his normal hours" could refer to any of the aforementioned interpretations, all three are classifications of pay the employee earns when working. As a result, the Appellate Court's definition retains the ambiguity at hand.

b. Defendant and the Appellate Court misapply the negative implication cannon.

Second, Defendant and the Appellate Court point out that PEDA "contains no mention of taxes or anything comparable to taxes," but expressly prohibits "deduction from [the injured employee's] sick leave credits, compensatory time for overtime accumulations or vacation, or service credits in a public employee pension fund." *Bitner v. City of Pekin*,

2024 IL App (4th) 230718 ¶ 19; 5 ILCS 345/1(b). As a result, though not explicitly stated, they turn to the negative implication cannon to conclude that the legislature must have intended to allow an employer to withhold nonexistent employment taxes. However, this is a misapplication of the negative implication clause.

Under the negative implication cannon, also referred to as *expressio unius est exclusio alterius*, a drafter's expression of one item of an associated group excludes all the unmentioned items from the group. See, e.g., *NLRB v. SW General, Inc.*, 137 S.Ct. 929, 933 (2017). This inference is only valid for "all that shares in the grant or prohibition involved." ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS (2012) at 107; *SW General, Inc.*, 137 S.Ct. at 933 (noting "the interpretive cannon applies, however, only when 'circumstances support [ ] a sensible inference that the term left out must have been meant to be excluded.'"). This means the Court can only assume the legislature intended to leave out items that are not listed anywhere in the statute ***if those items belong to the same category as what is listed***.[1]

Here, the Appellate Court correctly and expressly found the listed prohibited deductions are not comparable to withholding employment taxes. *Bitner*, 2024 IL App (4th)

[1] For example, consider a sign that says, "no shoes, no shirt, no service." SCALIA & GARNER at 108. The sign lists wardrobe absences common at the beach that will result in a denial of service. *Id*. at 108. The sign means you will be allowed service, even if you are not wearing socks. *Id*. Socks are part of the category "wardrobe absences common at the beach," but the drafter did not list socks. *Id*. Accordingly, it is appropriate for the Court to apply the negative implication cannon to conclude that the drafter must have intended to allow service to people without socks. *Id.* However, the Court would error if it applied the negative implication cannon to conclude the drafter must have intended to allow service to people without shorts. *Id*. Shorts are not part of the category "wardrobe absences common at the beach." *Id.* Accordingly, the drafter's failure to include shorts in the list does not speak to whether the drafter intended to allow service to people without shorts. *Id*.

230718 ¶ 19. Given that employment taxes are in a different category than what was listed, the negative implication cannon does not lead to any inference regarding whether the legislature intended to prohibit withholding employment taxes. In other words, that the legislature took the time to consider and ban things from an unrelated category cannot mean the legislature must have considered, then rejected, a prohibition on withholding employment taxes. As a result, the negative implication cannon cannot resolve the ambiguity. The Appellate Court's conclusion to the contrary was error.

Due to the foregoing, the negative implication does not help resolve the ambiguity. Even if the negative implication cannon pointed toward one interpretation over the others, the Court errored by viewing the negative implication cannon is an end all, be all. *People v. Rose*, 268 Ill. App. 3d 174, 179 (1994) (noting the negative implication cannon "is not a rule of law, but merely an aid," so "it may be overcome by a strong indication of contrary legislative intent"). Therefore, the analysis must move outside the plain language of the statute. *Gibbs v. Madison Cnty. Sherriff's Dep't*, 326 Ill. App. 3d 473, 476 (2021).

B. The relevant aids of statutory construction reveal the gross income less required deductions interpretation is the only reasonable interpretation of the ambiguous language.

The relevant aids of statutory construction—namely, the related statutes cannon (also referred to as the maxim of *in pari materia*) and the absurdity doctrine—reveal that the gross income less required deductions interpretation is the only reasonable interpretation of the ambiguous language.

i. The related statutes cannon reveals the gross income less required deductions interpretation is the only reasonable interpretation of the ambiguous language.

Aids of statutory construction include the related statutes cannon (also referred to as the maxim of *in pari materia*). It provides that "[c]ourts may look to similar statutes as an aid to construction because it is presumed that statutes relating to the same subject are governed by a single spirit and policy." *Skaperdas v. Country Cas. Ins. Co.*, 2015 IL 117021 ¶ 28. Similarly, "[i]t is presumed that the legislature, in enacting various statutes, acts rationally and with full knowledge of all previous enactments." *Id.* ¶ 30. See also *People v. Johnson*, 2019 IL 123318 ¶ 42 (noting the Court is presumed "to act with full knowledge of all existing and prior statutory and case law"). This is because "[c]ourts presume that the legislature envisions a consistent body of law when it enacts new legislation." *People v. Molina*, 2024 IL 129237 ¶ 49. See also *People v. Rinehart*, 2012 IL 111719 ¶ 26 (noting aids of statutory construction "include the maxim of *in pari materia*, under which two statutes, or two parts of one statute, concerning the same subject must be considered together in order to produce a 'harmonious whole.'"). The Supreme Court's responsibility to assure the body of law creates a harmonious whole is of the utmost importance because, "[a]fter [the Illinois Supreme Court] has construed a statute, 'that construction becomes, in effect, a part of the statute.'" *State ex rel. Raoul v. Elite Staffing, Inc.*, 2024 IL 128763 ¶ 56.

Related statutes reveal that PEDA benefits are exempt from employment taxes. See, e.g., 26 U.S.C. § 104(a)(1) (noting amounts received under workmen's compensation acts are exempt from deductions); 26 C.F.R. § 1.104-1(a)–(b) (clarifying the aforementioned statute includes acts "in the nature of a workmen's compensation act"); 26

C.F.R. § 31.3121(a)(2)-1(a) (exempting payments under a worker's compensation act from the definition of wages for tax purposes); 26 C.F.R. § 31.3121(a)(2)-1(d)(1) (clarifying the aforementioned exemption include acts "in the nature of a workmen's compensation act"); INTERNAL REVENUE SERV., PUBLICATION 15-A ¶ 6.3 (2017) (noting "[s]tate and local government employees, such as police officers and firefighters, sometime receive payments due to an injury in the line of duty under a statute that isn't the general workers' compensation law of a state. If the statute limits benefits to work-related injuries or sickness and doesn't base payments on the employee's age, length of service, or prior contributions, the statute is 'in the nature of' a workers' compensation law," which "aren't subject to employment taxes"); ILL. INCOME TAX GEN. INFO. LETTER 17-002-GIL at 3–4 (noting whether PEDA benefits are subject to income tax withholding in Illinois corresponds with whether they are subject to federal income tax withholding). Additionally, a review of all statutes impacting an employer's payment of an employee reveals there are situations where an employer must provide a portion of an employee's income to a third party. See, e.g., 40 ILCS 5/13-502 (requiring employee contributions to a pension fund be deducted from each payment).

If the legislature intended for PEDA benefits to be in the amount of the injured employee's gross income less required deductions, the body of law is harmonious. Under this interpretation, the injured employee receives his income before any employment tax withholdings, which is in accordance with employment tax law. Still, it recognizes the reality that there are scenarios where deductions must be made. In contrast, the body of law is not harmonious under the net income or gross pay interpretations. Under the net income interpretation, the injured employee would lose out on an amount equivalent to the

employment tax withholdings, despite PEDA benefits exempt status. Under the gross income interpretation, PEDA would disrupt any law that requires deductions. As a result, the gross income less required deductions interpretation is the only harmonious interpretation of PEDA's language.

Defendant and the Appellate Court argue that the foregoing is incorrect because Plaintiffs look beyond PEDA to federal guidance. *Bitner v. City of Pekin*, 2024 IL App (4th) 230718 ¶ 19. However, related statute cannon is not limited to related state statutes.

First, state courts have an obligation to enforce federal law. See *Italia Foods, Inc. v. Sun Tours, Inc*., 2011 IL 110350 ¶ 22 (noting "Federal law is enforceable in state courts . . . because the Constitution and laws passed pursuant to it are as much laws in the States as laws passed by the state legislature"). Accordingly, a state court's obligation to assure a harmonious body of law includes federal law.

Second, caselaw displays that state courts look to federal law to interpret similar state laws. For example, consider *Off. of State Fire Marshal v. Illinois Pollution Control Bd.*, 2022 IL App (1st) 210507. There, the Court was tasked with interpreting the Illinois Environmental Protection Act, 415 ILCS 5, to determine "whether the Board correctly determined that the releases of gasoline under these circumstances qualified Reliable to receive reimbursement from the [Underground Storage Tank (hereinafter "UST")] Fund." *Off. of State Fire Marshal v. Illinois Pollution Control Bd.*, 2022 IL App (1st) 210507 ¶ 3. In determining the definition of UST in the Illinois statute, the Court looked to the Illinois Administrative Code. *Id.* ¶ 36. However, it also looked to the Code of Federal Regulations and the United States Environmental Protection Agency. *Id.* As another example, Illinois courts utilize federal law to interpret the Illinois Public Labor Relations Act, 5 ILCS 315/1

et seq. (hereinafter "IPLRA"). See *Illinois Fraternal Ord. of Police Lab. Council v. Illinois Loc. Lab. Rels. Bd.*, 319 Ill. App. 3d 729, 737 (2001) (noting "[d]ecisions of the NLRB and the Federal courts guide Illinois courts in interpreting the IPLRA").

Third, consider the Illinois Workers' Compensation Act, 820 ILCS 305/1, *et seq*. As previously discussed, PEDA is "in the nature of a workmen's compensation act," so the Illinois Workers' Compensation Act is related to PEDA. See INTERNAL REVENUE SERV., PUBLICATION 15-A ¶ 6.3 (2017). The Illinois Workers' Compensation Act does not expressly mention that workers' compensation is not subject to employment tax withholdings. However, due to the exact exemptions that apply to PEDA, it is common knowledge that employment tax withholdings are not taken from workers' compensation. See, e.g., INTERNAL REVENUE SERV., PUBLICATION 525 at 20 (2023) ("Amounts you receive as workers' compensation for an occupational sickness or injury are fully exempt from tax if they're paid under a workers' compensation act or a statute in the nature of a workers' compensation act."); ILL. WORKERS' COMP. COMM'N, HANDBOOK ON WORKERS' COMP. & OCCUPATIONAL DISEASES at 5 ("Workers' compensation benefits are not taxable under state or federal law and need not be reported as income on tax returns."). As a result, it is not surprising that, when crafting a statute in the nature of a workmen's compensation act, the legislature did not expressly state the benefits are tax exempt but, due to the legislature's knowledge of existing tax law, intended for the benefits to be exempt from withholdings.

Ultimately, related law displays that, for the body of law to be harmonious and rational, PEDA must bar a pubic employer from withholding nonexistent employment taxes from the injured employee's PEDA benefits but be flexible enough to allow required deductions. Accordingly, PEDA's phrase on "the same basis" must refer to gross pay less

required deductions, as Plaintiffs allege. See also *United Sav. Ass'n of Texas v. Timbers of Inwood Forest*, 484 U.S. 365, 371 (1988) ("A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme . . . because only one of the permissible meanings produces a substantive effect that is compatible with the rest of the law").

ii. The absurdity doctrine reveals the gross income interpretation is the only reasonable interpretation of the ambiguous language.

Aids of statutory construction also include the absurdity doctrine, which provides that "when the language of a statute lends itself to two possible interpretations, it should be given the interpretation that is reasonable and that will not produce an absurd, unjust, or unreasonable result." *Gibbs v. Madison Cnty. Sherriff's Dep't*, 326 Ill. App. 3d 473, 476 (2021). See also *In re D.F.*, 208 Ill.2d 223, 230 (2003) ("A court, however, is not bound by the literal language of a statute that produces a result inconsistent with clearly expressed legislative intent, or that yields absurd or unjust consequences not contemplated by the legislature."); *Trapp v. City of Burbank Firefighters' Pension Fund*, 2024 IL App (1st) 231311 ¶ 16 ("[I]n essence, [the court] must employ a 'practical and common-sense construction.'").

Here, the only reasonable interpretation of PEDA's phrase on "the same basis" is that it refers to gross pay less required deductions. PEDA "was intended to provide for a continuation of full pay for law enforcement officers, corrections officers, firefighters, and state employees who suffer disabling injuries in the line of duty." *Gibbs*, 326 Ill. App. 3d at 477. Thus, PEDA is essentially enhanced workers' compensation, as it is intended to provide the injured employee his full pay, instead of the 66.67 percent he would otherwise be entitled to under the Illinois Workers' Compensation Act. Given this purpose, the only

reasonable interpretation is that the legislature intended to provide the injured employee 100 percent of the pay he is intitled to, instead of 66.67 percent. Practically speaking, if the legislature intended less than 100 percent of the pay the injured employee is entitled to, it would have stated the percent, as it did in the Illinois Workers' Compensation Act. Instead, it provided full pay. Plaintiffs' interpretation provides the injured employee with 100 percent of the pay he is entitled to. In contrast, Defendant and the Appellate Court's net pay interpretation would provide the injured employee far less than 100 percent, while a gross pay interpretation would risk the employee receive more than he is entitled to violation of some other body of law. As a result, Plaintiffs' interpretation is the only reasonable interpretation.

When viewed in the reverse, it would be absurd, unjust, and unreasonable for the Court to adopt an interpretation of a benefit statute intended to provide full pay in a way that provides the injured employee with more or less than 100 percent of the pay he is entitled to. Plaintiffs' interpretation is the only interpretation that avoids that absurd, unjust, and unreasonable result.

Additionally, given the legislature's purpose was to create a benefit that provides full pay, the legislature could not have intended to allow a public employer to withhold a portion of the benefits from an injured employee without reason. Plaintiffs' interpretation prevents deductions without reason, while Defendant and the Appellate Court's net pay interpretation would allow the same. In contrast to the gross pay interpretation, Plaintiffs' interpretation is flexible enough deductions with valid reason.

When viewed in the reverse, it would be absurd, unjust, and unreasonable for the Court to adopt an interpretation of a benefit statute that allows an employer to withhold

part of those benefits from the recipient for no reason. Plaintiffs' interpretation avoids this absurd, unjust, and unreasonable result, while Defendant and the Appellate Court's interpretation would allow the same.

Finally, practically speaking, there is little reason for the legislature to expend the time necessary adopt PEDA if full pay under PEDA merely means net pay. As previously mentioned, PEDA is essentially enhanced workers' compensation, as it is intended to provide the injured employee his full pay, instead of the 66.67 percent he would be intitled to under the Illinois Workers' Compensation Act. If full pay under PEDA means net pay, this increased amount is marginal. For example, consider Plaintiff Bitner's August 21, 2011 to September 3, 2011 pay period. (C528–29). During this pay period, Plaintiff Bitner earned a gross wages of $2,396.00. Defendant withheld $367.42 in employment taxes (calculated as $231.04 for federal income tax, $33.28 for Plaintiff Bitner's portion of the Medicare, and $103.10 for state income tax). Accordingly, if full pay under PEDA means net pay, Plaintiff Bitner's PEDA benefits—had he been injured during the entire period—are equal to 84.67 percent (calculated as 1 minus [$367.42 in employment taxes, divided by $2,396.00 in gross wages]). It is absurd to believe the legislature would implement an entire statute to merely increase the benefit 18 percent. However, it would be reasonable for the legislature to enact an entire statute to increase the benefit over 33 percent.

V. CONCLUSION

For the foregoing reasons, PEDA's phrase on "the same basis" requires public employers to pay PEDA benefits in the amount equivalent to the injured employee's gross pay less required deductions. It is undisputed that Defendant provided Plaintiffs less than this amount, in violation of PEDA. As a result, Petitioners respectfully request that this

Honorable Court issue an Order affirming the Circuit Court's grant of Plaintiffs' Motion for Summary Judgment, affirming the Circuit Court's denial of Defendant's Motion for Summary Judgment, and overturning the Appellate Court.

Respectfully submitted,

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ILL. S. CT. R. 341(c) CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 16 pages or 4,501 words. The margins of the brief are 1-inch, except that the left margin is 1.5-inches.

Dated: January 17, 2024

/s/ Julie L. Galassi

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Appellants,	) Circuit Court of the Tenth) Judicial Circuit, Tazewell
v.	) County, IL, No. 2018-L-120
CITY OF PEKIN, ILLINOIS	) Honorable Paul E. Bauer,) Judge Presiding
Appellees.	)

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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies on January 17, 2025, she caused a copy of the attached ***Supplemental Brief and Argument for Plaintiffs-Appellants*** to be served upon opposing counsel via electronic mail, addressed as follows:

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