

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
BOARD OF TRUSTEES**

In the Matter of the PERA Salary
Determinations Affecting Retired
and Active Employees of the City
of Duluth

OAH Docket Number: 4-3600-20809-2

**NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT**

Allen Johnson, et al., Petitioners

TO: Jon K. Murphy, Attorney for Public Employees Retirement Association; Elizabeth A. Storaasli, Attorney for Paul T. Ostman, Mark Behning, Terry Purcell, John Edwards, Doug Michog and Doug Belanger; William Johnson, Anne L. Peterson, Pamela Lee Wutz, Helene Abbott, Lawrence F. Elwell, Bryan F. Brown, Bruce Esse, Richard LeDoux, William D. Lindgren, Alva Rankin, Thomas Ehle, Allen Johnson, Warren Lehet, Wallace Newquist, John Anderson, John Fairbanks, James Orleskie, Ronald Schlichting, Loudella Swanfeld, Kyle Tuominen, James Webb, Arthur Zylka, James Charbonneau, Cheryl Jonason, Peter Lind, Carolyn Luxon, John Frestedt, Richard Kienzle, Robert Mills, Thomas Pirkola, John Ray, Jay Sparks, Chris Martinson, Donald Hoffman, Robert Opheim, Leonard Robinson, William Todorovich, David Wedin, James Irving, Robert Brasel, Charles Erickson, James Rose, Mark Wick, John Christensen, Jeffrey A. Johnson, Joel Lane, Erik Simonson, John Hall, James Sweeney, Roger Waller, James Wright, Loren McLeod, Dennis Johnson, Loren Johnson, Terry Lund, Mitchell Peterson, Gerald Geisert, Jeffery Grams, Larry Jeneson.

YOU WILL PLEASE TAKE NOTICE that Dean Cooke, David Hanson, Jeffrey N. Johnson, Matthew Ketola, Richard Mattson, Darrell Youngblom and Lee Youngblom (hereinafter "Movants") are moving the Honorable Bruce H. Johnson, Assistant Chief Administrative Law Judge, to make an Order as follows pursuant to Minnesota Administrative Rules 1400.5500(K) and 1400.6600 as follows:

That PERA treat all amounts of compensation to the above-named Movants for unused personal leave as salary under the laws governing the Retirement Plan and that therefore no adjustment in their salary based upon amounts paid to them for unused personal leave shall be made.

In addition to the filing of this Notice of Motion and Motion for Summary Judgment Movants have filed in support of said Motion the following documents:

- 1) Affidavit of Erik Simonson;
- 2) Affidavit of Thomas F. Andrew;
- 3) Memorandum in Support of Motion for Summary Judgment;
- 4) Movants' Proposed Order on Motion for Summary Judgment; and
- 5) Affidavit of Service.

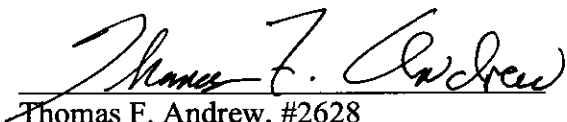
All of these documents have been posted on webpage: <http://www.oah.state.mn.us/cases/360020809-PERA-Duluth/index.html> for review by all parties.

All parties are hereby advised that should they wish to contest this motion they must file a written response with the above-named Law Judge and serve copies on all parties, within fourteen (14) working days after receipt of this Motion. The above-listed parties who have brought this Motion do not desire an oral hearing on their Motion and any other party desiring an oral hearing on this Motion must make a request for an oral hearing at the time of the submission of their response to this motion.

Dated: Nov. 4, 2009

Respectfully submitted,

ANDREW & BRANSKY, P.A.



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