

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION**

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**STACY WHITE,  
Plaintiff,**

**v.**

**Case No. 18-CA-11749**

**HILLSBOROUGH COUNTY, FLORIDA, et al.,  
Defendants.**

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**DEFENDANT HILLSBOROUGH COUNTY’S MOTION FOR SUPPLEMENTAL  
RELIEF PROVIDING PROCEDURE FOR DISPOSITION OF SURTAX REVENUE**

Defendant, Hillsborough County (“County”), files this motion for supplemental relief pursuant to Fla. R. Civ. P. 1.190(d) and section 86.061, Florida Statutes, in Case No. 18-CAS-11749, following the Florida Supreme Court’s decision on appeal invalidating the 1% transportation sales surtax levied throughout Hillsborough County pursuant to Article 11 of the Hillsborough County Charter.<sup>1</sup> As further described below, the County requests that this court enter an order setting forth procedures and requirements for disposition of surtax revenues that were collected, but not yet expended, as of the time when the Department of Revenue is able to implement the cessation of collection of the surtax after the Florida Supreme Court’s decision became final.

The Florida Supreme Court’s opinion issued February 25, 2021, concluded that certain provisions of Article 11 were in conflict with section 212.055(1)(a), Florida Statutes, and that the conflicting provisions could not be severed from the remainder of Article 11. Accordingly, the

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<sup>1</sup> *White v. Hillsborough County, Florida, etc., et al.*, No. SC19-1343 (appeal from final judgment in White’s action for declaratory judgment under chapter 86, Florida Statutes), *Emerson v. Hillsborough County, Florida, etc., et al.*, No. SC19-1250 (Emerson’s appeal from final judgment in the County’s action to validate bonds under chapter 75, Florida Statutes).

Court reversed this court's final judgments and invalidated Article 11 in its entirety. The Court provided no direction or instruction regarding the disposition of surtax revenues that were collected but not expended as of the date Article 11 was invalidated. The Court issued its mandate on March 15, 2021. Therefore, its decision invalidating Article 11 became final as of that date.

Although the pleadings in the above-captioned actions did not specifically request as relief that the court provide procedures for the disposition of collected surtax revenues in the event the surtax was invalidated, such relief is necessary and appropriate and within this court's authority to grant in White's declaratory judgment action, Case No. 18-CA-11749, post-appeal.

The Declaratory Judgment Act specifically authorizes the court to grant "[f]urther relief based on a declaratory judgment" in section 86.061, Florida Statutes, which provides in full:

Further relief based on a declaratory judgment may be granted when necessary or proper. The application therefor shall be by motion to the court having jurisdiction to grant relief. If the application is sufficient, the court shall require any adverse party whose rights have been adjudicated by the declaratory judgment to show cause on reasonable notice, why further relief should not be granted forthwith.

Furthermore, Florida Rule of Civil Procedure 1.190(d), expressly authorizes supplemental relief to be requested and granted based on events arising following the pleadings:

Upon motion of a party the court may permit that party, upon reasonable notice and upon such terms as are just, to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. If the court deems it advisable that the adverse party plead thereto, it shall so order, specifying the time therefor.

Both section 86.061 and Rule 1.190(d) specifically authorize the court to grant additional relief that may be necessary in a declaratory judgment action, even though such relief was not requested by the parties in their pleadings. Both of these provisions specifically contemplate that such relief may be granted at any time the court has jurisdiction over the proceeding. Because the

Florida Supreme Court's mandate has issued, jurisdiction has been returned to this court. Because neither section 86.061 nor Rule 1.190(d) provide outer limits that would prohibit relief from being granted following appeal, the request made in this motion is within this court's authority.

All of the entities that received surtax revenues, excluding the City of Temple Terrace<sup>2</sup>, and the other governmental agencies necessary to effectuate the disposition of the surtax revenues - the Department of Revenue and the Clerk of the Court - are parties to this action.

Accordingly, the County requests that the court convene a case management conference to hear input from the Clerk, DOR and other affected parties to address a refund process. Ultimately, it is requested that this Court issue an order providing direction and guidance on the procedures to be followed regarding an appropriate refund process and disposition of surtax revenue that has been collected, but not disbursed. The request for relief is necessary and appropriate in this case to provide an orderly procedure for the handling of such surtax revenue, and to avoid disputes or litigation regarding the appropriate disposition of such tax proceeds. Accordingly, issuance of an order granting such relief in this proceeding will allow for prompt and efficient resolution of the matter.

Counsel for the County, in good faith, has conferred with counsel for all parties with regard to this motion. Counsel has advised that \_\_\_\_\_.

WHEREFORE, the County respectfully requests that this Honorable Court enter an order granting this motion; ordering a case management conference; specifying the procedures for an appropriate refund process and disposition of surtax revenue that has been collected, but not disbursed; and granting any further relief this Court deems just and proper.

Respectfully submitted on March 15, 2021.

s/

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<sup>2</sup> The City of Temple Terrace was originally a defendant in Case No. 18-CA-11749, but was voluntarily dismissed. If the City of Temple Terrace wishes to be heard on this motion, it could intervene into this matter.

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**CERTIFICATE OF SERVICE**

I CERTIFY that on March 15, 2021, a copy hereof has been filed electronically with the Clerk of Court via the Florida E-Filing Portal, which will provide an electronic copy to all parties on the Service List below:

*s/*  
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