

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

DOUGLAS BECKER; BRIAN A. BOYD; GEORGE HEIDCAMP;
PAUL M. HETLAND; FLORENCE D. JOHNSON; PETER
KRUSZYNSKI, KIMBERLY PETRAMALE; HARRY B.
REEDER; SETH TURNER; NEW YORK STATE UNITED
TEACHERS, by its President, RICHARD C. IANNUZZI;
NEW YORK STATE SCHOOL BOARDS ASSOCIATION,
by its President, FLORENCE D. JOHNSON; SCHOOL
ADMINISTRATORS ASSOCIATION OF NEW YORK STATE,
by its President, PETER KRUSZYNSKI; and the NEW YORK
STATE COUNCIL OF SCHOOL SUPERINTENDENTS,

Albany County Clerk
Document Number 10635591
Rcvd 04/22/2010 12:27:34 PM



SUMMONS WITH
NOTICE

Plaintiffs,

Index No. 2637-10

- against -

Date Filed:
April 22, 2010

HONORABLE DAVID A. PATERSON, as Governor of
the State of New York; THE NEW YORK STATE
DIVISION OF THE BUDGET; ROBERT L. MEGNA,
as Budget Director for the New York State Division
of Budget; THE NEW YORK STATE OFFICE OF THE
STATE COMPTROLLER; and THOMAS P. DiNAPOLI,
as Comptroller of the State of New York,

Defendants.

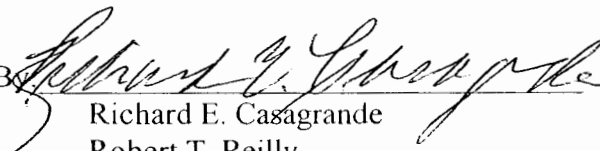
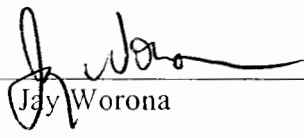
PLEASE TAKE NOTICE, that you are hereby summoned and required to serve upon plaintiffs' attorneys an answer to the complaint in this action within twenty days after the service of this summons, exclusive of the day of service, or within thirty days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the complaint; and

PLEASE TAKE FURTHER NOTICE, that Albany County is designated as the venue of the proceeding as it is the County in which Defendants have their principal place of business, and in which the defendants engaged in the acts giving rise to this complaint.

DATED: April 22, 2010
Latham, New York

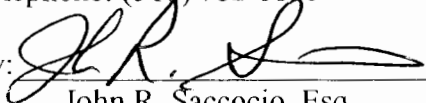
JAMES R. SANDNER, ESQ.
Attorney for Plaintiffs Becker, Boyd,
Petramale, Hetland, and NYSUT, by its
President Richard C. Iannuzzi
800 Troy-Schenectady Road
Latham, New York 12110-2455
Telephone: (518) 213-6000

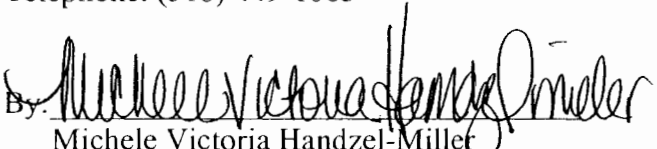
JAY WORONA, ESQ.
Attorney for Plaintiffs Heidcamp, Johnson,
Reeder, and NYSSBA, and its President
Florence D. Johnson
24 Century Hill Drive
Latham, New York 12110
Telephone: (518) 783-0200

By:  By: 
Richard E. Casagrande
Robert T. Reilly
Susan W. Fuller
Elizabeth R. Schuster
Jay Worona

ARTHUR SCHEUERMANN, ESQ.
Attorney for Plaintiffs SAANYS, and its
President Peter Kruszynski
8 Airport Park Blvd
Latham, New York 12110
Telephone: (518) 782-0600

MICHELE VICTORIA HANDZEL-
MILLER, ESQ.
Attorney for Plaintiffs New York
State Council of School Superintendents and
Seth Turner
7 Elk Street
Albany, New York 12207
Telephone: (518) 449-1063

By: 
John R. Saccocio, Esq.
Of Counsel

By: 
Michele Victoria Handzel-Miller

TO: GOVERNOR DAVID A. PATERSON
The Capitol
Albany, NY 12224

NEW YORK STATE DIVISION OF THE BUDGET
The Capitol
Albany, NY 12224

ROBERT L. MEGNA, BUDGET DIRECTOR
New York State Division of the Budget
The Capitol
Albany, NY 12224

NEW YORK STATE OFFICE OF
THE STATE COMPTROLLER
110 State Street
Albany, NY 12236

NEW YORK STATE COMPTROLLER HONORABLE THOMAS P. DiNAPOLI
Office of State Comptroller
110 State Street
Albany, NY 12236

HONORABLE ANDREW M. CUOMO
New York State Department of Law
The Capitol
Albany, NY 12224

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

DOUGLAS BECKER; BRIAN A. BOYD; GEORGE HEIDCAMP;
PAUL M. HETLAND; FLORENCE D. JOHNSON; PETER
KRUSZYNSKI, KIMBERLY PETRAMALE; HARRY B.
REEDER; SETH TURNER; NEW YORK STATE UNITED
TEACHERS, by its President, RICHARD C. IANNUZZI;
NEW YORK STATE SCHOOL BOARDS ASSOCIATION,
by its President, FLORENCE D. JOHNSON; SCHOOL
ADMINISTRATORS ASSOCIATION OF NEW YORK STATE,
by its President, PETER KRUSZYNSKI; and the NEW YORK
STATE COUNCIL OF SCHOOL SUPERINTENDENTS,

VERIFIED COMPLAINT

Plaintiffs,

- against -

HONORABLE DAVID A. PATERSON, as Governor of
the State of New York; THE NEW YORK STATE
DIVISION OF THE BUDGET; ROBERT L. MEGNA,
as Budget Director for the New York State Division
of Budget; THE NEW YORK STATE OFFICE OF THE
STATE COMPTROLLER; and THOMAS P. DiNAPOLI,
as Comptroller of the State of New York,

Defendants.

Albany County Clerk
Document Number 10635591
Rcvd 04/22/2010 12:27:34 PM


Plaintiffs, Douglas Becker, Brian A. Boyd, Paul M. Hetland, Kimberly Petramale, and New
York State United Teachers, by President Richard C. Iannuzzi, by their attorney, James R. Sandner,
Esq., (Richard E. Casagrande, Robert T. Reilly, Susan W. Fuller, and Elizabeth R. Schuster, Esqs.
of Counsel); and

Plaintiffs George Heidcamp, Harry Reeder, Florence D. Johnson, and New York State
School Boards Association, by its President, Florence E. Johnson, by their attorney, Jay Worona,

Esq.; and

Plaintiffs School Administrators Association of New York State and Peter Kruszynski, Individually and as President of the School Administrators Association of New York State, by their attorney, Arthur Scheuermann; Esq.; and

Plaintiffs Seth Turner and New York State Council of School Superintendents, by their attorney, Michele Victoria Handzel-Miller, Esq., respectfully allege:

I. PRELIMINARY STATEMENT

1. Plaintiffs commence this action for declaratory and injunctive relief to declare unconstitutional and illegal defendants' actions in ordering and effecting the impoundment and delay of \$2.069 billion in State funding for the general support of public schools (GSPS). This funding was appropriated by the New York Legislature in the 2009-2010 New York State Budget, and apportioned by the Commissioner of Education. Pursuant to Article 73 of the Education Law, this funding was due to be paid on or before March 31, 2010. Plaintiffs seek a declaration that defendants' actions were unconstitutional and otherwise illegal. Alternatively, if defendants could legally delay these payments past March 31, pursuant to Article 73 of the Education Law such payments would still have to be made no later than June 1, 2010. Accordingly, plaintiffs also seek to permanently enjoin defendants from any failure to timely pay this school aid by June 1, as required by law.

II. JURISDICTION

2. This Court has jurisdiction to issue a declaratory judgment pursuant to *CPLR* §3001

and §3017, and to grant injunctive relief pursuant to CPLR Article 63. This Court has additional jurisdiction to grant declaratory and equitable relief, including preliminary and permanent injunctive relief, pursuant to State Finance Law Article 7-A (§§123-123(j)).

III. VENUE

3. Venue is laid in the County of Albany, as it is the County where defendants have their principal place of business, and where the material events occurred.

4. No prior application for the relief requested in this complaint has been made in any forum, although a related action is pending concerning the defendants' failure to timely make the December 2009 aid and January 2010 STAR payments. (See paragraphs 68-70, below.)

IV. PLAINTIFFS

5. Plaintiff Becker is and was, at all relevant times, over twenty-one years of age. He resides at 698 Attridge Road, in the Town of Churchville, New York. Churchville is encompassed within the Churchville-Chili Central School District, where he is a homeowner and taxpayer. He is challenging defendants' action as a citizen-taxpayer.

6. Plaintiff Becker is also the parent of a tenth grade student who is currently attending the Churchville-Chili Senior High School, a public school within the Churchville-Chili Central School District.

7. Plaintiff Becker is employed by the Churchville-Chili School District, as a Math teacher. He also serves as the President of the Churchville-Chili Education Association, the local

union representing teachers in the district

8. Plaintiff Boyd is and was, at all relevant times, over twenty-one years of age. He resides at 245 Rumsey Road, in the City of Yonkers, New York, where he is a homeowner and taxpayer. He lives in the Yonkers City School District.

9. Plaintiff Boyd is employed by the Yonkers City School District as a Fourth Grade teacher.

10. Plaintiff Heidcamp is and was, at all relevant times, over twenty-one years of age. He resides at 2314 Route 32, in the Town of Saugerties, New York, where he is a homeowner and taxpayer. He lives in the Saugerties Central School District.

11. Plaintiff Heidcamp is also the President of the Saugerties Central School District Board of Education.

12. Plaintiff Hetland is and was, at all relevant times, over twenty-one years of age. He resides at 40 Alpine Street in the City of Rochester, New York where he is a homeowner and taxpayer. He lives in the Rochester City School District.

13. Plaintiff Hetland is employed by the Rochester City School District as a Social Studies teacher.

14. Plaintiff Johnson is and was, at all relevant times, over twenty-one years of age. She resides at 40 Pansey Place in the City of Buffalo, New York, where she is a homeowner and taxpayer. She lives in the Buffalo City School District.

15. Plaintiff Johnson also serves as a member of the Buffalo City School District Board of Education.

16. Plaintiff Johnson is also President of the Board of Directors of the New York State School Boards Association, as well as its President.

17. Plaintiff Kruszynski is and was, at all relevant times, over twenty-one years of age. He resides at 6485 Salt Road, in the Town of Clarence, New York, where he is a homeowner and taxpayer. He lives in the Lancaster Central School District.

18. Plaintiff Kruszynski is also Principal of the Lancaster Middle School and also has children attending public schools in New York State.

19. Plaintiff Kruszynski is also President of the School Administrators Association of New York State.

20. Plaintiff Petramale is and was, at all relevant times, over twenty-one years of age. She resides at 31 Woodland Falls Road, in the Town of Saugerties, New York, where she is a homeowner and taxpayer. She lives in the Saugerties Central School District.

21. Plaintiff Petramale is employed by the Saugerties Central School District, as a Math teacher, and is the parent of three children who are currently attending public schools within the Saugerties Central School District.

22. Plaintiff Reeder is and was, at all relevant times, over twenty-one years of age. He resides at 812 Jeffrey Street, in the Town of Herkimer, New York, where he is a homeowner and taxpayer. He lives in the Herkimer Central School District.

23. Plaintiff Reeder is on the School Board for the Herkimer Central School District, where he has served for 18 years.

24. Plaintiff Turner is and was, at all relevant times, over twenty-one years of age. He

resides at 32 Royal Oak Road, in the Village of Stone Ridge, New York, where he is a homeowner and taxpayer. He lives in the Rondout Valley Central School District.

25. Plaintiff New York State School Boards Association is a membership corporation whose membership consists of approximately ninety-three percent of the public school districts of New York State, includes boards of cooperative educational services which, *inter alia*, advocates on behalf of its members on issues of legal significance with statewide implications. Plaintiff Florence D. Johnson is its President.

26. Plaintiff New York State United Teachers is the state's largest union, representing approximately 600,000 teachers, school-related professionals, academic and professional faculty in higher education, professionals in education and health care and retirees. Plaintiff Richard C. Iannuzzi is its duly elected President.

27. Plaintiff School Administrators Association of New York State is a professional association representing principals, assistant principals, supervisors, directors and other professionals statewide who are responsible for the coordination of supervision of school programs, employees, or finance.

28. Each of the individual plaintiffs is specifically aggrieved by the actions of defendants in illegally withholding state aid from their school district. Each plaintiff also has standing, as a citizen who has paid or is paying state income or sales taxes, to bring this action for equitable and declaratory relief under Article 7-A of the State Finance Law.

V. DEFENDANTS

29. Defendant Honorable David A. Paterson is the Governor and Chief Executive Officer of the State pursuant to Article IV of the Constitution. His principal place of business is located at the Capitol in Albany, New York.

30. Defendant New York State Division of the Budget is a part of the Executive Branch and is responsible for advising the Governor regarding the State Budget pursuant to Executive Law §100 and State Finance Law, Article III and Article IV.

31. Defendant Robert L. Megna, is the duly appointed Budget Director for the Division of Budget. As such he is the Chief Executive Officer of the Division of the Budget pursuant to the Executive Law.

32. Defendant New York State Office of the State Comptroller is authorized, pursuant to the New York State Constitution, Article V, §1 and has such duties as are prescribed by the Constitution.

33. Defendant Honorable Thomas P. DiNapoli is the Comptroller of the State of New York, having such duties as provided in Article V of the Constitution.

VI. FACTS

Separation of Powers

34. The New York Constitution establishes that governmental powers are distributed among three co-equal branches of government. (New York Constitution, Art. III, §1; Art. IV, §1; Art. VI).

35. The legislative power of New York State is vested in the Senate and the Assembly. (New York Constitution, Art. III, §1).

36. The Governor is the Executive Officer of the State (New York Constitution, Art. IV.

37. The Legislature makes the critical policy choices and the Governor implements those policy choices.

The Budget Process

38. The Governor must submit a proposed New York State Budget to the Legislature, which includes revenue bills or other legislation necessary to balance the budget. (New York Constitution, Art. VII, §§ 2 & 3).

39. The New York State Legislature is empowered to review the budget and take action, depending on the nature of the appropriation. (New York Constitution, Art. VII, §4).

40. Every appropriation made by the Legislature must specify the object or purpose to which the appropriated sum shall be applied. (New York Constitution, Art. VII, §7).

41. The Governor is not obligated to maintain a balanced budget throughout the fiscal year. (New York Constitution, Art. VII, §2.)

The Appropriations in the Enacted State Budget

42. The Governor has the authority to object, or use a “line item veto” which permits the Governor to strike certain appropriations from the New York State Budget. (New York Constitution, Art. IV, §7).

43. If the Governor objects to one or more appropriations, the Governor must, at the time the bill is signed into law, append a statement of the items to which he or she objects, and the appropriation thereby does not take effect. (New York Constitution, Art. IV, §7).

44. New York Constitution Article XI § 1 mandates that the Legislature provide for the maintenance and support of a system of free common schools, wherein all the children of the State may be educated.

45. Pursuant to this Constitutional mandate, the Legislature appropriated money to support public education in the 2009-10 Budget in Appropriations Bill A.153c/S52c, as follows:

State's General Fund/Aid to Localities Local Assistance Account -001
(Includes "general support for public schools") Local Assistance
Account \$19,249,597,000 billion.

46. In its Appropriations Bill, the Legislature included appropriations for the General Fund/Aid to Localities Local Assistance Account 001, which contained moneys to be used for "general support for public schools" (GSPS).

47. On April 7, 2009, the Governor, without using his line item veto, approved Chapter 53 of the Laws of 2009, the appropriations bill for the education, labor and family assistance budget, and it became effective that day. Chapter 53 was one of several bills that comprised the overall State budget for 2009-2010.

The Extraordinary Session

48. The Governor called an extraordinary session of the Legislature on November 10, 2009 to address, among other things, the state Budget and appropriations.

49. During the extraordinary session, the Legislature voted and the Governor approved certain Article VII bills and appropriations bills.

50. On November 25, 2009, in an extraordinary session of the Legislature, defendant Governor Paterson submitted a bill to the Legislature that would have allowed him to authorize the Director of the Budget to reduce the payment of appropriations made by the Legislature.

51. That bill, Program Bill No. 211, S.66017/A.40017, was not enacted by the Legislature, but instead referred to a committee. This proposal has not been enacted into law.

52. The extraordinary session ended on December 2, 2009.

The Payment Schedule

53. Education Article 73 provides a comprehensive and detailed plan for how State aid to Education is apportioned and when it is to be paid to the State's public school districts.

54. Pursuant to Section 3601 of the Education Law, the Commissioner of Education apportions the amount annually appropriated by the Legislature for the support for public schools.

55. The Education Law also sets out a precise plan under which funds appropriated by the Legislature for the general support of public schools are apportioned and paid directly to school districts, according to a specific schedule.

56. These payments, made directly to school districts, guarantee that specified amounts of a school district's general aid apportionments, determined by statutory formulas, are made to and received by school districts at specific times.

57. Education Law § 3609-a(1)(a)(4) "prescribes" that school districts shall receive aid

payments made in the fall, or “fixed fall payments,” on or before October 15, on or before November 15, and on or before December 15.

58. Education Law §3609-a(1)(a)(5) provides that the remaining GSPS funds apportioned for the current year shall, after certain deductions are made, be payable pursuant to Section 3609-a(1)(b), to the extent reports due to the Commissioner of Education have been filed by the school districts. Under Education Law §3602(1)(a), “current year” is defined as the “school year” during which the apportionment is to be paid.

59. Education Law § 3609-a(1)(b) sets forth a detailed plan for how the remaining GSPS school aid is to be apportioned and paid to school districts, and establishes specific payment dates.

60. Education Law §§ 3609-a(1)(b)(1) and (2) set forth the methods by which the Commissioner of Education determines individual “District expenditure needs” in order to calculate each district’s individually apportioned share of remaining state aid, and provide a payment schedule under which such aid is to be paid in the months of January, February, March, April, May and June of the current school year (2009-2010).

61. Education Law § 3609-a(1)(b)(3)(i) provides that the January, February and March individualized payments shall be made on the first business day of such months.

62. Education Law § 3609-a(1)(b)(3)(ii) provides for “sustaining advance payments.”

63. These sustaining advance payments represent an advance of the funding due school districts in April, May and June of the current school year, and are designed to sustain advance payments made to school districts in previous school years.

64. Education Law § 3609-a(1)(b)(3)(iii) provides a “final” payment for the State fiscal

year, which ended on March 31, 2010.

65. Under this section, the Commissioner of Education is directed to determine what portion of the June State aid payment to school districts, pursuant to Education Law § 3609-a(1)(b)(2)(vi), would have to be advanced in order to use the remainder of State aid appropriations (GSPS) by the end of the State's fiscal year [March 31] or, alternatively, what portion of the March aid payment [Education Law § 3609-a(1)(b)(2)(iii)] would have to be reduced to ensure that the March payment does not exceed State fiscal year appropriations for GSPS.

66. Education Law § 3609-a(1)(b)(3) (iii) further provides:

The commissioner shall report amount of money *required* to be advanced or deferred and the percent it represents of the June or March amounts, as the case may be, to the director of the budget, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee. To the extent that moneys are advanced or deferred pursuant to this paragraph, *they shall be in the same proportion as each school district's share bears to the total of such June or March amount.* Upon approval of the director of the budget, the commissioner shall transmit the schedule of any such partial June prepayments or such reduced March payments to the state comptroller. Any portion of the March payment deferred shall be added to the June payment; *any portion of the June payment advanced shall be paid on or before March thirty-first.* [Emphasis supplied].

67. Upon information and belief, on or about March 23, 2010, the Commissioner of Education, pursuant to Education Law § 3609-a(1)(b)(3)(iii), reported to Budget Director Robert Megna, that \$2,062,857,324.79 of GSPS appropriations remained available for State fiscal year 2009-2010 and, after applying the statutory formula, that the prepayment amount for eligible districts should not exceed \$2,062,857,324.79.

The Illegal Withholdings

68. In a press release issued on Sunday, December 13, 2009, the Governor announced that he directed the Division of the Budget to withhold 10 %, or \$146 million, of the fixed fall payments due to be paid to school districts on or before December 15, 2009, and 19%, or \$436 million, in STAR aid to school districts due on or before the first business day of January, 2010.

69. The alleged illegality of the action of the Governor and Budget Director in withholding the December aid and January STAR payments beyond the statutory payment dates is the basis of pending litigation, initially filed on December 16, 2009: *Becker, et al., v. Paterson, et al.* (Albany Co. Index No. 10,491-09).

70. Upon information and belief, on or about January 14, 2010, the Governor announced that the impounded funding would be released. Such funding was, in fact, thereafter released and received by the affected school districts during the week of January 18, 2010.

71. Upon information and belief, on or about March 30, 2010, defendant Governor Paterson, without prior notice or formal notification to any public school district officials, announced that the final payment of school aid for the State 2009-10 fiscal year [Education Law §3609-a(1)(b)(3)(iii)], amounting to approximately \$2.1 billion dollars, and due to be paid on or before March 31, 2010, would not be paid until June 2010 "... assuming sufficient cash is available at that time."

72. Upon information and belief, on or about April 6, 2010, in discussing the delay of the March 31 payments with the press, Governor Paterson warned that it was likely that "...the State

will run out of cash again in the beginning of June.”

73. Upon information and belief, on or about April 1, 2010, Comptroller DiNapoli issued a press release in which he stated that the State General Fund ended the 2009-2010 fiscal year with a positive balance of \$2.3 billion; that the Tax Stabilization Reserve ended the year at \$1 billion and that the Rainy Day Reserve ended the year at \$175 million. The Comptroller noted that these positive balances were due to “payment delays and budget manipulations” and that these actions “may cause a serious cash shortfall in the first quarter of the new fiscal year.”

74. Upon information and belief, the defendants’ actions in withholding the final State fiscal year payment has denied the timely payment of nearly \$2.1 billion in Legislatively appropriated GSPS funding for the State’s 2009-2010 fiscal year to the State’s public school districts, including, but not limited to approximately:

- \$26.36 million to the Buffalo City School District;
- \$4.07 million to the Churchville-Chili Central School District;
- \$.85 million to the Herkimer Central School District;
- \$3.65 million to the Lancaster Central School District
- \$24.4 million to the Rochester City School District;
- \$2.6 million to the Saugerties Central School District; and
- \$22.7 million to the Yonkers City School District.

75. The defendants’ failure to make the final fiscal year payment under Education Law § 3609-a(1)(b)(3)(iii), and the uncertainty about whether the defendants will make the June payments, as required by Education Law § 3609-a(1)(b)(2)(vi), severely interferes with school

districts' ability to budget and to provide a sound basic education to the State's school children, as mandated by New York Constitution Article XI § 1.

76. The defendants' failure to comply with the statutory aid schedule, and the application of funds duly appropriated for public school aid to other purposes, including maintaining a positive general fund balance, constitutes a wrongful expenditure, misapplication or other illegal or unconstitutional disbursement of State funds within the meaning of State Finance Law § 123-b.

AS AND FOR A FIRST CAUSE OF ACTION

77. Under the New York Constitution, Article III, the legislative power of this State is vested in the New York State Legislature.

78. The separation of powers doctrine requires that the Executive Branch, which includes the Governor and the Division of the Budget, not impair the Legislature in the performance of its constitutional duties, or otherwise usurp the Legislature's constitutional powers.

79. The Governor and the Budget Director are duty bound to ensure that appropriations are faithfully executed in the manner directed by the Legislature.

80. The Executive Branch, which includes the Governor and the Division of the Budget, has no inherent, express or discretionary power to permanently or temporarily impound funds that have been appropriated by the Legislature, or to otherwise delay the payment of such funding beyond the payment dates set by the Legislature under Article 73 of the Education Law.

81. The actions of the Governor and the Budget Director in failing to timely disburse lawfully appropriated funding, and particularly the final State fiscal year payment, due on or before March 31, 2010, pursuant to Education Law § 3609-a(1)(b)(3)(iii), were an unconstitutional usurpation of the Legislature's authority in violation of the New York Constitution, Articles III and

IV.

AS AND FOR A SECOND CAUSE OF ACTION

82. The New York Constitution, Art. XI, §1, mandates that the Legislature provide for the maintenance and support of a system of free common schools, wherein all the children of the State may be educated.

83. This constitutional provision mandates that the Legislature provide adequate funding to school districts to ensure that the public schools can provide a sound basic education to the children of New York State.

84. The defendants' actions in impounding or otherwise delaying legislatively authorized public school funding violate Article XI § 1, and unconstitutionally interfere with the right of the children of New York State to receive a sound basic education, as well as with the Legislature's authority to comply with Article XI, § 1.

85. The defendants' actions violated the New York Constitution, Art. XI, §1.

AS AND FOR A THIRD CAUSE OF ACTION

86. The Governor signed the 2009-2010 New York State Budget, which contained the appropriations for aid to education that allocated funds to school districts statewide.

87. The Governor did not veto the appropriations that are set forth in Chapter 53 of the Laws of 2009, the education, labor and family assistance budget, which he approved and which became effective on April 7, 2009.

88. The Education Law sets forth a statutorily required formula for payments to school districts of State funds, including those payments mandated by Education Law § 3609-a(1)(b)(3)(iii) (final fiscal year payment) and § 3609-a(1)(b)(2)(vi) (June payment).

89. The defendants lack any legislative, statutory or constitutional basis upon which to refuse to disburse this statutorily required funding in accordance with the statutory schedule.

90. The defendants' actions in effecting the withholding of funds appropriated for aid to education in the New York State Budget and required to be paid to school districts on or before March 31, 2010, violate the Education Law and are illegal and *ultra vires*.

AS AND FOR A FOURTH CAUSE OF ACTION

91. Upon information and belief, from the public statements of defendant Governor Paterson and Comptroller DiNapoli, it appears that the defendants may withhold or delay the May or June aid payments, as was done with the December, January and March payments.

92. Any failure to make the May or June aid payments as required by Education Law §§3609-a(1)(b)(2)(v) and (vi) would violate the Education Law, would usurp the Legislature's constitutional authority, would severely harm school districts' ability to budget and to provide a sound basic education to the State's school children, and would constitute a misapplication or otherwise illegal disbursement of State funds within the meaning of State Finance Law § 123-b.

WHEREFORE, Plaintiffs respectfully request that an order and judgment be entered:

1. declaring that the defendants' actions were unconstitutional, as violative of the New York Constitution's doctrine of the separation of powers;
2. declaring that the defendants' actions in effecting an impoundment or delay of money allocated to education by the New York State Legislature in the 2009-2010 Budget is unconstitutional and otherwise contrary to law;
3. ordering the defendants not to impound or delay duly authorized education funding;
4. enjoining the Governor and the Budget Director from any future withholding or

delayed payment of monies that were allocated to fund education in the 2009-2010 New York State Budget;

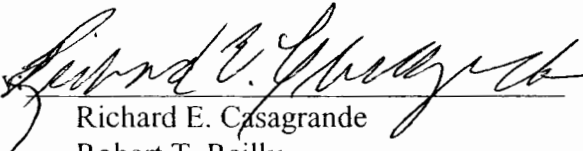
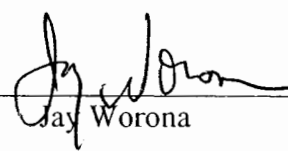
5. awarding attorneys' fees to plaintiffs; and
6. granting the plaintiffs such other, further and different relief as this Court may deem

just and proper, together with the costs and disbursements of this proceeding.

DATED: April 22, 2010
Latham, New York

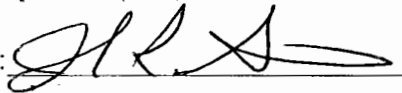
JAMES R. SANDNER, ESQ.
Attorney for Plaintiffs Becker, Boyd,
Petramale, Hetland, and NYSUT, by its
President Richard C. Iannuzzi
800 Troy-Schenectady Road
Latham, New York 12110-2455
Telephone: (518) 213-6000

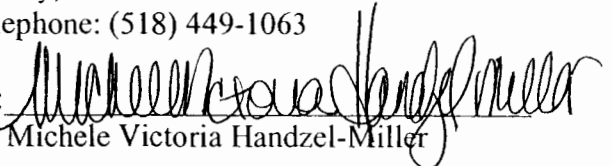
JAY WORONA, ESQ.
Attorney for Plaintiffs Heidcamp, Johnson,
Reeder, and NYSSBA, and its President
Florence D. Johnson
24 Century Hill Drive
Latham, New York 12110
Telephone: (518) 783-0200

By:  By: 
Richard E. Casagrande
Robert T. Reilly
Susan W. Fuller
Elizabeth R. Schuster
Jay Worona

ARTHUR SCHEUERMANN, ESQ.
Attorney for Plaintiffs SAANYS, and its
President Peter Kruszynski
8 Airport Park Blvd
Latham, New York 12110
Telephone: (518) 782-0600

MICHELE VICTORIA HANDZEL-
MILLER, ESQ.
Attorney for Plaintiffs New York
State Council of School Superintendents and
Seth Turner
7 Elk Street
Albany, New York 12207
Telephone: (518) 449-1063

By: 
John R. Saccocio, Esq.
Of Counsel

By: 
Michele Victoria Handzel-Miller

TO: GOVERNOR DAVID A. PATERSON
The Capitol
Albany, NY 12224

NEW YORK STATE DIVISION OF THE BUDGET
The Capitol
Albany, NY 12224

ROBERT L. MEGNA, BUDGET DIRECTOR
New York State Division of the Budget
The Capitol
Albany, NY 12224

NEW YORK STATE OFFICE OF
THE STATE COMPTROLLER
110 State Street
Albany, NY 12236

NEW YORK STATE COMPTROLLER HONORABLE THOMAS P. DiNAPOLI
Office of State Comptroller
110 State Street
Albany, NY 12236

HONORABLE ANDREW M. CUOMO
New York State Department of Law
The Capitol
Albany, NY 12224

86880/cwa1141

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

DOUGLAS BECKER; BRIAN A. BOYD; GEORGE HEIDCAMP;
PAUL M. HETLAND; FLORENCE D. JOHNSON; PETER
KRUSZYNSKI, KIMBERLY PETRAMALE; HARRY B.
REEDER; SETH TURNER; NEW YORK STATE UNITED
TEACHERS, by its President, RICHARD C. IANNUZZI;
NEW YORK STATE SCHOOL BOARDS ASSOCIATION,
by its President, FLORENCE D. JOHNSON; SCHOOL
ADMINISTRATORS ASSOCIATION OF NEW YORK STATE,
by its President, PETER KRUSZYNSKI; and the NEW YORK
STATE COUNCIL OF SCHOOL SUPERINTENDENTS,

VERIFICATION

Plaintiffs,

- against -

HONORABLE DAVID A. PATERSON, as Governor of
the State of New York; THE NEW YORK STATE
DIVISION OF THE BUDGET; ROBERT L. MEGNA,
as Budget Director for the New York State Division
of Budget; THE NEW YORK STATE OFFICE OF THE
STATE COMPTRROLLER; and THOMAS P. DiNAPOLI,
as Comptroller of the State of New York,

Defendants.

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

RICHARDE. CASAGRANDE, being duly sworn, deposes and says: that deponent is an attorney duly admitted to the practice of law in the courts of the State of New York and is associated with and is of counsel to James R. Sandner, Esq., attorney for Plaintiffs Becker, Boyd, Hetland, Petramale and NYSUT, by its President, Richard C. Iannuzzi. Deponent has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true. Deponent says that the reason this Verification is made by deponent and not by Plaintiffs is that Plaintiffs are not located within the County of Albany, the county in which deponent has his office. The grounds of deponent's belief as to all matters not stated upon deponent's own knowledge are as follows: review of documents and correspondence.


RICHARD E. CASAGRANDE

sworn to before me this
22nd day of April, 2010.


Notary Public

LEANNE GREERAN
Notary Public, State of New York
No. 01GR6057121
Qualified in Saratoga County
Commission Expires April 9, 2011

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

DOUGLAS BECKER; BRIAN A. BOYD; GEORGE HEIDCAMP;
PAUL M. HETLAND; FLORENCE D. JOHNSON; PETER
KRUSZYNSKI, KIMBERLY PETRAMALE; HARRY B.
REEDER; SETH TURNER; NEW YORK STATE UNITED
TEACHERS, by its President, RICHARD C. IANNUZZI;
NEW YORK STATE SCHOOL BOARDS ASSOCIATION,
by its President, FLORENCE D. JOHNSON; SCHOOL
ADMINISTRATORS ASSOCIATION OF NEW YORK STATE,
by its President, PETER KRUSZYNSKI; and the NEW YORK
STATE COUNCIL OF SCHOOL SUPERINTENDENTS,

VERIFICATION

Plaintiffs,

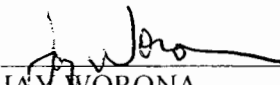
- against -

HONORABLE DAVID A. PATERSON, as Governor of
the State of New York; THE NEW YORK STATE
DIVISION OF THE BUDGET; ROBERT L. MEGNA,
as Budget Director for the New York State Division
of Budget; THE NEW YORK STATE OFFICE OF THE
STATE COMPTROLLER; and THOMAS P. DiNAPOLI,
as Comptroller of the State of New York,

Defendants.

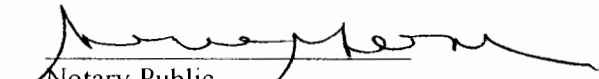
STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

JAY WORONA, being duly sworn, deposes and says: that deponent is an attorney duly admitted to the practice of law in the courts of the State of New York and is the attorney for Plaintiffs Heidcamp, Johnson, Reider and NYSSBA, and its President Florence D. Johnson. Deponent has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true. Deponent says that the reason this Verification is made by deponent and not by Plaintiffs is that Plaintiffs are not located within the County of Albany, the county in which deponent has his office. The grounds of deponent's belief as to all matters not stated upon deponent's own knowledge are as follows: review of documents and correspondence.



JAY WORONA

sworn to before me this
22nd day of April, 2010.



Notary Public

LEANNE GREERAN
Notary Public, State of New York
No. 01GR6057121
Qualified in Saratoga County
Commission Expires April 9, 2011

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

DOUGLAS BECKER; BRIAN A. BOYD; GEORGE HEIDCAMP;
PAUL M. HETLAND; FLORENCE D. JOHNSON; PETER
KRUSZYNSKI, KIMBERLY PETRAMALE; HARRY B.
REEDER; SETH TURNER; NEW YORK STATE UNITED
TEACHERS, by its President, RICHARD C. IANNUZZI;
NEW YORK STATE SCHOOL BOARDS ASSOCIATION,
by its President, FLORENCE D. JOHNSON; SCHOOL
ADMINISTRATORS ASSOCIATION OF NEW YORK STATE,
by its President, PETER KRUSZYNSKI; and the NEW YORK
STATE COUNCIL OF SCHOOL SUPERINTENDENTS,

VERIFICATION

Plaintiffs,

- against -

HONORABLE DAVID A. PATERSON, as Governor of
the State of New York; THE NEW YORK STATE
DIVISION OF THE BUDGET; ROBERT L. MEGNA,
as Budget Director for the New York State Division
of Budget; THE NEW YORK STATE OFFICE OF THE
STATE COMPTROLLER; and THOMAS P. DiNAPOLI,
as Comptroller of the State of New York,

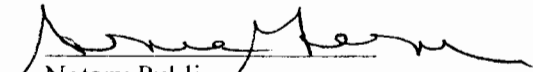
Defendants.

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

JOHN R. SACCOGIO, being duly sworn, deposes and says: that deponent is an attorney duly admitted to the practice of law in the courts of the State of New York and is associated with and is of counsel to Arthur Scheuermann, Esq., attorney for plaintiffs School Administrators Association of New York State and its President Kruszynski. Deponent has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true. Deponent says that the reason this Verification is made by deponent and not by Plaintiffs is that Plaintiffs are not located within the County of Albany, the county in which deponent has his office. The grounds of deponent's belief as to all matters not stated upon deponent's own knowledge are as follows: review of documents and correspondence.


JOHN R. SACCOGIO

Sworn to before me this
22nd day of April, 2010.


Notary Public

LEANNE GREERAN
Notary Public, State of New York
No. 01GR6057121
Qualified in Saratoga County
Commission Expires April 9, 2011

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ALBANY

DOUGLAS BECKER; BRIAN A. BOYD; GEORGE HEIDCAMP;
PAUL M. HETLAND; FLORENCE D. JOHNSON; PETER
KRUSZYNSKI, KIMBERLY PETRAMALE; HARRY B.
REEDER; SETH TURNER; NEW YORK STATE UNITED
TEACHERS, by its President, RICHARD C. IANNUZZI;
NEW YORK STATE SCHOOL BOARDS ASSOCIATION,
by its President, FLORENCE D. JOHNSON; SCHOOL
ADMINISTRATORS ASSOCIATION OF NEW YORK STATE,
by its President, PETER KRUSZYNSKI; and the NEW YORK
STATE COUNCIL OF SCHOOL SUPERINTENDENTS,

VERIFICATION

Plaintiffs,

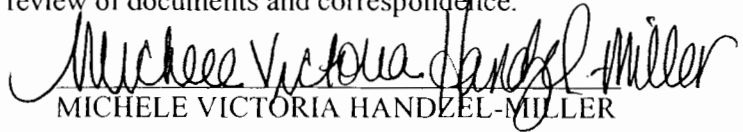
- against -

HONORABLE DAVID A. PATERSON, as Governor of
the State of New York; THE NEW YORK STATE
DIVISION OF THE BUDGET; ROBERT L. MEGNA,
as Budget Director for the New York State Division
of Budget; THE NEW YORK STATE OFFICE OF THE
STATE COMPTROLLER; and THOMAS P. DiNAPOLI,
as Comptroller of the State of New York,


Defendants.

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

MICHELE VICTORIA HANDZEL-MILLER, being duly sworn, deposes and says: that deponent is an attorney duly admitted to the practice of law in the courts of the State of New York and is the attorney for Plaintiffs New York State Council of School Superintendents and Seth Turner. Deponent has read the foregoing Verified Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true. Deponent says that the reason this Verification is made by deponent and not by Plaintiffs is that Plaintiffs are not located within the County of Albany, the county in which deponent has his office. The grounds of deponent's belief as to all matters not stated upon deponent's own knowledge are as follows: review of documents and correspondence.


MICHELE VICTORIA HANDZEL-MILLER

sworn to before me this
22nd day of April, 2010.


Notary Public
87143/ewal141

LEANNE GREERAN
Notary Public, State of New York
No. 01GR6057121
Qualified in Saratoga County