EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAWN PAULING, next friend of J.P.; ALIYA MOORE, next friend of the minor children C.J. and T.M.; TAMIKA BILLS, next friend of the minor D.B.; DOROTHEA NICHOLSON next friend of the minors D.W. and A.W.; SHERRY LAWRENCE, next friend of the minor S.L.; LOUISE HAMM, next friend of the minor N.H.;EILEENE GORDON-KING, next friend of the minor A. G-T.; ELENA HERRADA, next friend of the minors M.G. and F. G.; DAVON HARRELL; The PUBLICLY-ELECTED DETROIT PUBLIC SCHOOLS BOARD, and DR. JOHN TELFORD, all on behalf of the designated minor Children and as REPRESENTATIVES of the CLASS of ALL CHILDREN OF THE DETROIT PUBLIC SCHOOLS FROM 2011 TO THE PRESENT

CLASS ACTION

Case No.
Hon.
Magistrate

Plaintiffs,

v.

RICK SNYDER, individually, and in his Official Capacity as Governor of the State of Michigan, PHILLIP PAVLOV, individually, and in his Official Capacity as a Senator in the Michigan Senate, AL PSCHOLKA, individually, and in his Official Capacity as a Representative in the Michigan House of Representatives, ROY S. ROBERTS, individually and in his respective Official Capacity as an Emergency Manager of the Detroit Public Schools, JACK MARTIN, individually and in his respective Official Capacity as an Emergency Manager of the Detroit Public Schools,

DARNELL EARLEY, individually and in his
respective Official Capacity as an
Emergency Manager of the Detroit
Public Schools, BARBARA BIRD-BENNETT,
individually, and in her Official
Capacity in the Detroit Public Schools,
NORMAN SHY, individually and as
owner of ALLSTATE SALES, ALLSTATE
SALES, a Michigan Corporation, CLARA
FLOWERS, individually, and in her
Official Capacity in the Detroit
Public Schools, TANYA BOWMAN
individually, and in her Official
Capacity in the Detroit Public
Schools, RONALD ALEXANDER
individually and in his Official
Capacity in the Detroit Public Schools,
JOSETTE BUENDIA individually and
in her Official Capacity in the
Detroit Public Schools, BEVERLY
CAMPBELL individually and in her
Official Capacity in the Detroit
Public Schools, NINA GRAVES-HICKS
individually and in her Official
Capacity in the Detroit Public
Schools, JAMES HEARN individually
and in his Official Capacity in
the Detroit Public Schools, GERIMA
JOHNSON individually and in her
Official Capacity in the Detroit
Public Schools, STANLEY JOHNSON
individually and in his Official
Capacity in the Detroit Public
Schools, TIA'VON MOORE-PATTON
individually and in her Official
Capacity in the Detroit Public Schools,
WILLYE PEARSALL individually and
in his Official Capacity in the
Detroit Public Schools, RONNIE SIMS
individually and in her Official
Capacity in the Detroit Public
Schools, CLARA SMITH individually
and in her Official Capacity in
the Detroit Public Schools,
KENYETTA WILBOURN SNAPP individually
and in her Official Capacity in

the EAA, GLYNIS THORNTON individually
and as the owner of MAKING A
DIFFERENCE EVERYDAY, MAKING A DIFFERENCE
EVERYDAY, a Michigan Corporation, and
PAULETTE HORTON,

Jointly and Severally.

Defendants

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CLASS ACTION COMPLAINT AND DEMAND FOR TRIAL BY JURY

NOW COME the Plaintiffs, on their own behalf and on behalf of all others similarly situated, by and through their pro bono counsel, Thomas H. Bleakley, and complain of the Defendants as follows:

NATURE OF THE CASE

1. This is a class action suit brought, in part, under the Equal Protection and Substantive Due Process Clauses of the Fourteenth Amendment (42 U.S.C. Sec. 1983, U.S. Const. Amend. XIV), section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], and the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

2. Class members are the 58,000 children, more or less, students of the Detroit Public Schools (DPS) (including those enrolled in EAA schools) who from 2011 to the present have experienced and will continue to experience serious and

permanent damage caused by Defendants' willful and wanton callous indifference to their educational needs. Class member have been and are presently subjected to the unconstitutional effects[1] and/or application of Michigan's Local Financial Stability and Choice Act; Public Acts of 2012; MCL Sections 141.1541, et. seq. ("Public Act 436") and its predecessor statute Public Act 4.

3. This action seeks compensatory damages for the the entire class of DPS children who have been subjected to constitutional violations arising from the defendants' callous indifference in the creation of and practices resulting from Public Act 436 and Public Act 4. These acts provide that when a state municipality or school district experiences a certain level of financial hardship, the state appoints an un-elected Emergency Manager to "rule by decree" over said jurisdiction, assuming all of the powers and duties of locally-elected legislative and executive officers. Emergency Managers have been appointed under P. A. 436, or its predecessor statute, P.A. 4, over the Detroit Public Schools by defendant Snyder continuously since 2011 to the present.

4. These sweeping Michigan Emergency Manager powers and duties include, but are not limited to, acting "[f]or and in the place and stead of the governing body, . . . [ruling] by decree over cities and villages through powers that permit the emergency manager to contravene and thereby implicitly repeal local laws such as city and village charters and ordinances, . . . explicitly repeal, amend, and enact local laws such as city and village ordinances, . . . [and] sell, lease, convey, assign, or otherwise use or transfer the assets, liabilities, functions, or

[1] The constitutional status of P.A. 436 is currently on appeal before the Sixth Circuit Court of Appeals (No. 15-2394, Phillips, et al v. Snyder, et al) from a ruling by the Hon. George C Steeh, 2:13-cv-11370.

responsibilities of the local government. . ." (See, MCL 141.1549(9)(2); MCL 141.1549; MCL 141.1552; MCL 141.1552(12)(1)(r), emphasis added.

5. The defendant Emergency Managers charged with financial reform did not have, nor were they supported by, the necessary expertise to manage non-financial aspects of municipal government, including public school districts.

6. Michigan's Emergency Manager Law and related practices were used to compromise and damage the quality of education received by all DPS students with life-long consequences in the name of financial urgency.

7. The Emergency Manager Law is predicated on the concept that a local financial crisis is due to the inability of local officials to address the problem. In fact, beginning in 1999 the State took over the management of the DPS which was functioning financially 'in the black' and with its student body performing at a level on average with the school districts of the entire state of Michigan and, in the seventeen years since, have turned the district into a virtual financial hell-hole. The EM is supposed to be able to better handle the situation, make better and faster decisions, and resolve the financial crisis, but has done nothing but drive the district downward. The EM law states "[t]hat the fiscal stability of local governments is necessary to the health, safety, and welfare of the citizens of this state and it is a valid public purpose for this state to assist a local government in a condition of financial emergency."

8. The Emergency Manager is deemed necessary not only to resolve the fiscal problem but also to protect the public health and safety. Yet in the case of of the Detroit Public Schools, while other state and local officials were involved,

Emergency Managers undertook and/or established decision-making processes that compromised and damaged the quality of education DPS children received, a critical reason being the loss of accountability and the system of checks and balances that are provided by representative government.

9. The Emergency Manager statutes both in principle and in practice have had a callously disparate impact on DPS children, most particularly children of color. A majority, 50.4%, of the state's 1,413,320 African American residents are now ruled by unelected Emergency Managers including the Detroit Public Schools and its current proportionality of 87% African American and 7% Hispanic students. Both Public Act 4 and Public Act 436 have been applied in a discriminatory manner. The state has imposed Emergency Managers on cities with majority or near majority African- American populations, even though there were non-African-American cities with the same or worse "Fiscal Health Score," as defined by Defendant State Treasurer. In Oakland County, the state imposed an Emergency Manager on the City of Pontiac, which has an African American population of 52.1%, but the state did not impose an Emergency Manager in the Oakland County cities of Hazel Park (9.8% African American population), and Troy (4.0% African American population), even though each of these cities had an identical Fiscal Health Score of "6." This discriminatory pattern in Oakland County was repeated in other counties throughout the state in violation of the Equal Protection and Substantive Due Process Clauses of the Fourteenth Amendment. (42 U.S.C. Sec. 1983, U.S. Const. Amend. XIV).

10. Further, the Michigan Constitution grants to its citizens the right to vote, on equal

terms, to all qualified electors in local, state and Federal elections, (Const. 1963, Art. II, § 1), and proscribes an equal framework for local self-governance (Const. 1963, Art. VII, Sec. 22); and it is axiomatic that once the state grants "[t]he right to vote on equal terms, the State may not by later arbitrary and disparate treatment, value one person's vote over that of another." League of Women Voters v. Brunner, 548 F. 3d 616 (6th Cir. Ohio 2008)(citing headnote 4, Bush v. Gore, 531 U.S. 98 (2000)).

11. Emergency Managers have unconstitutionally exercised powers and duties exclusively reserved for locally-elected branches of Michigan government including the Detroit Public Schools, thereby degrading the electorate's right to vote, in Emergency Manager jurisdictions where their elected officials only have advisory authority, as compared to the electorate in non-Emergency Manager jurisdictions, where their officials exercise their full powers and duties. Accordingly, the ballots cast by citizens in non-Emergency Manager jurisdictions are of a higher value than the ballots cast by citizens ruled by Emergency Managers. The voters in the Detroit Public Schools, under emergency managership, lost the right to hold their elected officials accountable, but were instead placed under the control of de facto dictators. These differing standards, which are the direct and proximate result of Public Act 436 and Public Act 4, value one person's vote over that of another, which violates the Fourteenth Amendment's Equal Protection Clause. (42 U.S.C. Sec. 1983, U.S. Const., Amend. XIV; Bush v. Gore, 531 U.S. 98 (2000), supra). Plaintiffs contend, concurrently and alternatively, that P.A. 436

also violates the Equal Protection Clause by debasing and diluting residents' right of vote, Plaintiffs, however, also assert a separate and distinct substantive due process claim.[2]

12. Moreover, in its haste to approve Public Act 436 during the legislature's 2012 lame duck session, the State, upon information and belief, failed to apply for and obtain either the approval of the Attorney General of the United States, or a declaratory judgment of a panel of the United States District Court for the District of Columbia, "[p]rior to the enactment of any new voting qualification or perquisite to voting, or standard or practice" of voting, such as Public Act 436, which Michigan is required to do since Buena Vista Township and Clyde Township were covered jurisdictions within the State, subject to the preclearance requirements under Section 5 of the 1965 Voting Rights Act. (42 U.S.C. 1973c, and 42 U.S.C. 1973b(a)).

13. There has been a long-standing and contentious relationship between the State of Michigan and the DPS. It is of more than historical interest that the seed for the instant litigation was planted more than forty years ago when the U.S. Supreme Court in Milliken v Bradley, 418 US 717 (1974), declined to expand the boundaries of the school district to set aside the separate and inherently unequal educational opportunities afforded DPS children. At that time. Justice Thurgood

[2] This issue is also part of the appeal in Phillips, et al v. Snyder, et al as set forth in footnote 1 supra.

Marshall predicted the long-term impact of the Court's decision on future children of the Detroit Public Schools in his dissent. "[T]he Court today takes a giant step backwards. Notwithstanding a record showing widespread and pervasive racial segregation in the educational system provided by the State of Michigan for children in Detroit, this Court holds that the District Court was powerless to require the State to remedy its constitutional violation in any meaningful fashion. Ironically purporting to base its result on the principle that the scope of the remedy in a desegregation case should be determined by the nature and the extent of the constitutional violation, the Court's answer is to provide no remedy at all for the violation proved in this case, thereby guaranteeing that Negro children in Detroit will receive the same separate and inherently unequal education in the future as they have been unconstitutionally afforded in the past." (Id at 782)

14. To paraphrase Justice Marshall, since 2011 the unconstitutional acts or omissions of the defendants in creating and/or carrying out the dictates of Public Act 4 and Public Act 436 complained of herein have moved the educational status of DPS children another "giant step backward." by egregiously aggravating and compounding the long-standing existing inherently unequal educational status of DPS children that has resulted in lifelong consequences to the children.

15. The Michigan Constitution specifically notes the importance of education to a well-ordered society: "Religion, morality and knowledge being

necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." MICH CONST (1963), art I, §1. As such, "The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin." MICH CONST (1963), art I, §2.

16. The importance of education to a democratic society has also been addressed by the U.S. Supreme Court: [N]either is [education] merely some governmental "benefit" indistinguishable from other forms of social welfare legislation. Both the importance of education in maintaining our basic institutions, and the lasting impact of its deprivation on the life of the child, mark the distinction. The "American people have always regarded education and [the] acquisition of knowledge as matters of supreme importance. We have recognized "the public schools as a most vital civic institution for the preservation of a democratic system of government," and as the primary vehicle for transmitting "the values on which our society rests." "[A]s . . . pointed out early in our history, . . . some degree of education is necessary to prepare citizens to participate effectively and intelligently in our open political system if we are to preserve freedom and independence. And these historic "perceptions of the public schools as inculcating fundamental values necessary to the maintenance of a political

system manager have been confirmed by the observations of social scientists." In addition, education provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum, education has a fundamental fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests. In addition to the pivotal role of education in sustaining our political and cultural heritage, denial of education to some isolated group of children poses an affront to one of the goals of the Equal Protection Clause: the abolition of governmental barriers presenting unreasonable obstacles to advancement on the basis of individual merit. Plyer v. Doe, 457 U.S. 202, 221 (1982) (citations and quotations omitted).

17. The Due Process Clause of the U.S. Constitution guarantees that an individual will not be deprived of life, liberty, or property without due process of law. US CONST amend V. Furthermore, under the Fourteenth Amendment, no one may be "deprived of life, liberty or property without due process of law" nor be denied equal protection of the laws. US CONST amend. XIV, § 1.

18. Similarly, the Michigan Constitution ensures: No person shall . . . be deprived of life, liberty or property, without due process of law. Mich. Const (1963), art I, §17. 997).

19. These constitutional provisions serve to protect citizens, including

poverty-stricken DPS children, from the deprivation of fundamental rights—those rights specifically identified in the Constitution or principles of justice so rooted in the tradition and conscience of our people as to be ranked as fundamental and therefore implicit in the concept of ordered liberty. See e.g., Washington v. Glucksberg, 521 U.S. 702, 721. For the first time in our nation's history, Michigan through P.A. 4 and P.A. 436 has revoked elections for local legislative officers in favor of political appointees, who possess the full scope of local legislative power. Michigan's experiment infringes a fundamental right and violates substantive due process because it is not narrowly tailored to a compelling state interest and because it establishes a system that is fundamentally unfair.

20. In their treatment of the educational needs of the children of DPS, defendants have created, by passage of P.A. 436 and its predecessor statutes P.A. 4. and/or pursued a pattern of acts or failures to act in depraved and callous indifference to the constitutionally protected rights of DPS children.

21. Defendants' pattern of depraved and callous indifference with regard to the educational needs of DPS children were and are intentional and/or grossly negligent in a manner that has grievously harmed the children of the DPS with lifelong consequences. Furthermore, the defendants have intentionally and/or with wanton and reckless disregard for the constitutional rights of DPS children inflicted emotional distress on the children.

JURISDICTION and VENUE

22. This Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§1331 and 1343(3) in that the controversy arises under the United States Constitution and federal statutes 42 U.S.C. §1983 and 28 U.S.C. §§2201 and 2202. Plaintiff further invokes the supplemental jurisdiction of this Court under 28 U.S.C. §1367(a) to hear and adjudicate state law claims. All acts or omissions alleged herein were done by defendants individually or in their representative capacities on behalf of the State of Michigan, or their officers, agents, and employees, acting under color and pretense of the statutes, ordinances, regulations, customs and usages of the State of Michigan and the United States.

23. Venue is proper in this district under 28 U.S.C. §1391(b) because a substantial part of the events giving rise to the claims in this action occurred in this district and all plaintiffs are residents of the city of Detroit County of Wayne, State of Michigan.

PARTIES

Plaintiffs

24. Plaintiff DETROIT PUBLIC SCHOOLS BOARD is the duly publicly-elected entity entrusted by the citizens of the City of Detroit to act with accountability, subject to the checks and balances of a free society, in the best interests of the children of the Detroit Public Schools and DOCTOR JOHN

TELFORD was duly appointed by the BOARD to act with accountability, subject to the checks and balances of a free society, in the best interests of the children of the Detroit Public Schools as Superintendent of the school district, in the City of Detroit, County of Wayne, State of Michigan. These Plaintiffs bring this lawsuit together with the named parent next friends on behalf of the designated representative minor children and all children enrolled in the Detroit Public Schools from 2011 to the present time who were subjected to the callous indifference of their constitutional rights by one or more of the named defendants herein, acting jointly and severally as individuals, and/or in their representative capacities under color of state law.

25. ALIYA MOORE is the natural parent and next friend of TW, a child in the first grade, and CJ, a child in the eighth grade at Paul Robinson/Malcolm X elementary school and brings this lawsuit on said children's behalf, individually, and on behalf of the class of plaintiffs herein identified as children enrolled in the Detroit Pubic Schools from 2011 to the present time.

26. TAMIKA BILLS is the natural parent and next friend of DB, a student in the tenth grade at Communication/Media Arts and bring this lawsuit on said child's behalf individually, and on behalf the class of plaintiffs herein identified as children enrolled in the Detroit Pubic Schools from 2011 to the present time.

27. Additional named plaintiffs are DPS 4th grader DW[3], by her next friend DOROTHEA NICHOLSON, DPS 5th grader SL, by her next friend SHERRY LAWRENCE, Special Education student JASON PAULING by his next friend DAWN PAULING, Special Education student AG-T by his next friend EILEENE GORDON-KING, Special Education 8th grade students MG and FG at Golightly by their next friend ELENA HERRADA, student NH by his next friend LOUISE HAMM, and former DPS non-graduate student DAVON HARREL all individually and on behalf of the class of plaintiffs herein identified as children enrolled in the Detroit Pubic Schools from 2011 to the present time.

28. All plaintiff-parents are residents of the City of Detroit, County of Wayne, State of Michigan.

Class Action Requisites

29. The class of DPS children is so numerous that joinder of all class members is impracticable. There are currently 47,000 children, more or less, enrolled in the Detroit Public Schools and approximately 11,000 children more or less, former DPS students, now in the EAA. Thousands of other children have left the DPS since 2011 either through graduation, dropping out and/or transferring to other non-DPS schools.

[3]The names of the designated next friend parents' minor children are redacted per local court rule to protect the identities of said children.

30. There are questions of law and fact common to the class of DPS children in that they have all been subjected to the same policies and procedures of callous and depraved indifference foisted upon them by the defendants herein.

31. The class representatives will fairly and adequately protect the interests of the class as Plaintiffs School Board and Telford, by virtue of their past accountability, adherence to the systems of checks and balances of a free society, and continuing dedication to DPS children, are especially well-qualified and dedicated as residents of Detroit to act in a manner beneficial to the interests of the class members. Plaintiff parents as next friends on behalf of their minor children will also fairly and adequately protect the interests of the class as their claims are typical of each member of the class. Plaintiffs' Counsel is unaware of any conflicts of interest between the class representatives and absent class members with respect to the matters at issue in this litigation. The class representatives will vigorously prosecute the suit on behalf of the Class, and the Class representatives are represented by experienced counsel who has substantial experience and expertise in complex litigation involving personal and property damage.

32. The number of class members is sufficiently numerous to make class action status the most practical method for Plaintiffs to secure redress for injuries sustained.

33. There are questions of law and fact common to the class of DPS and

EAA children in that each of the 58,000 children, more or less, in the DPS and EAA have been subjected to the same callous indifferent policies and procedures foisted upon them by the defendants acting under color of state law.

34. The claims of the class representatives are typical of and common to all members of the class in the following ways;

a. The designated minor plaintiffs and all other members of the class are and/or were students in the DPS or EAA during the time period when control of the educational policies and practices were under the control of the defendant emergency managers acting under color of state law. Typical students in Detroit:

1. Attend a school where classrooms are overcrowded,
2. Are exposed to non certified teachers during their K-12 experience,
3. Do not have access to instructional technology on a daily basis in their classroom,
4. Are not college or career ready at graduation,
5. Do not read at grade level at any point in their K-12 experience,
6. Do not learn basic numeracy,
7. Are seriously undereducated (miseducated) at graduation (if they do graduate),
8. Are mainly African-American or Hispanic,
9. Are at higher risk to drop out of School,

10. Are at higher risk to never qualify to attend post secondary education,

11. Are at higher risk to become incarcerated,

12. Are more likely to remain in poverty or underperform economically,

13. Attend an economically or racially segregated school, and

14. Are more likely to have teachers not certified or trained in critical areas like math.

b. Attributes of Commonality among this class of children include:

1. Emergency Manager control of academics, loss of public accountability and systems of checks and balances,

2. Diversion of Title 1 and other federal funds away from classroom resources (computers, textbooks, tutoring, etc.),

3. Inadequate resources (instructional technology, textbooks, tutoring, etc.),

4. Inadequate support for resources that expand access to curriculum,

5. Academic decisions not data driven,

6. Academic Leadership by non-academic managers

35. Based on generally accepted scientific methodology, the designated representative minor plaintiffs, together with all members of the class, have experienced a predominant statistically significant decrease in educational performance during this time period as measured by mandatory statewide

testing.

36. Common question of law and fact susceptible to class-wide resolution exist with respect to every member of the class, including class representatives, such as whether the conduct of defendants as enumerated herein in this complaint was the proximate cause of the predominant statistically significant decrease in educational performance, and whether the constitutional rights of each member of the class, including the representative minor children, were violated by the defendants.

37. Each child in the class, including the named representative minor plaintiffs, could rely on the demonstrated statistical significance of decreased educational performance levels if she or he brought an individual action.

38. Prosecution of separate actions risks inconsistent adjudications that would establish incompatible standards of conduct for the defendants. Further, this court would be incapable of processing the thousands of individual claims of the DPS children.

Defendants

39. Defendant RICK SNYDER is the Governor of the State of Michigan and this lawsuit is brought against him, individually, and in his official capacity. Defendant Snyder is a resident of the city of Ann Arbor, County of Washtenaw, State of Michigan.

40. Defendant PHILLIP PAVLOV is a Senator in the Michigan Senate and the

sponsor of Senate Bill 0865 that became Public Act 436 of 2012. This lawsuit is brought against him, individually, and in his official capacity. Defendant Pavlov is a resident of St. Clair Township, County of St. Clair, State of Michigan.

41. Defendant AL PSCHOLKA is a Representative in the Michigan legislature and the sponsor of Public Act 4 (2011) and of House Bill 4214 that became Public Act 436 of 2012. This lawsuit is brought against defendant Pascholka, individually, and in his official capacity. Defendant Pscholka is a resident of Lincoln Township, County of Berrien, State of Michigan.

42. Defendant ROY S. ROBERTS was an emergency manager of the Detroit Public Schools from 2011 through April 13, 2013 and this lawsuit is brought against him individually and in his official capacity. Defendant Roberts is a resident of the City of Bloomfield Hills, County of Oakland, State of Michigan.

43. Defendant JACK MARTIN was an emergency manager of the Detroit Public Schools from April 13, 2013 until 2015 and this lawsuit is brought against him individually and in his official capacity. Defendant Martin is a resident of the City of Birmingham, County of Oakland, State of Michigan.

44. Defendant DARNELL EARLEY was an emergency manager of the Detroit Public Schools from 2015 to March 1, 2016. Defendant Earley was the most recent Emergency Manager appointed by defendant Snyder for Detroit Public

Schools under the authority granted by MCL §141.1541 et seq. He came to Detroit after leaving the City of Flint a disaster area where he also acted as an Emergency Manager. Defendant Earley is a resident of the Charter Township of Delta, County of Eaton, State of Michigan.

45. Defendant BARBARA BYRD-BENNETT is a former Detroit Public School official who is a resident of the City of Solon, County of Cuyahoga, State of Ohio.

46. Defendant NORMAN SHY was the owner of Defendant ALLSTATE SALES, a company that was included on DPS' approved vendor list. Defendants SHY and ALLSTATE SALES both conducted business in the City of Detroit, County of Wayne, State of Michigan. Defendant Shy is a resident of the City of Franklin, County of Oakland, State of Michigan.[4]

47. Defendant CLARA FLOWERS was an employee and agent of DPS employed from 2011 to 2014 as Principal of Henderson Academy and then employed as Assistant Superintendent of DPS's Office of Specialized Students Services under the supervision of Defendants Roberts, Martin and/or Earley.

48. Defendant TANYA BOWMAN was an employee and agent of DPS employed as Principal of Osborn Collegiate Academy of Mathematics, Science and

[4] Defendants Norman Shy, Clara Flowers, Tanya Bowman, Ronald Alexander, Josette Buendia, Beverly Campbell, Nina Graves-Hicks, James Hearn, Gerima Johnson, Stanley Johnson, Tia'Von Moore-Patton, Willye Pearsall, Ronnie Sims, and Clara Smith were all recently indicted for illegally paying or accepting kickbacks for issuing/or use of of fraudulent vouchers . Each defendant's case was assigned to a separate Eastern District Judge.

Technology from 2010 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

49. Defendant RONALD ALEXANDER was an employee and agent employed as a Principal of Spain Elementary-Middle School from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

50. Defendant JOSETTE BUENDIA was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

51. Defendant BEVERLY CAMPBELL was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

52. Defendant NINA GRAVES-HICKS was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

53. Defendant JAMES HEARN was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

54. Defendant GERIMA JOHNSON was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

55. Defendant STANLEY JOHNSON was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

56. Defendant TIA'VON MOORE-PATTON was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

57. Defendant WILLYE PEARSALL was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

58. Defendant RONNIE SIMS was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

59. Defendant CLARA SMITH was an employee and agent employed as a Principal of a DPS school from 2011 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

60. Defendant KENYETTA WILBOURN SNAPP was an employee and agent employed as a Principal of an EAA school from 2013 through 2014 under the supervision of Defendants Roberts, Martin and/or Earley.

61. Defendant GLYNIS THORNTON was the owner of Defendant MAKING A DIFFERENCE EVERYDAY, a DPS vendor offering purported

tutoring services to children of the DPS/EAA in the City of Detroit, County of Wayne, State of Michigan.

62. Defendant PAULETTE HORTON was an 'independent contractor' operating between defendants SNAPP and THORTON and/or on behalf of defendant MAKING A DIFFERENCE EVERYDAY to make bribery payments to SNAPP from THORTON in the City of Detroit, county of Wayne, State of Michigan.

63. Defendant MAKING A DIFFERENCE EVERYDAY was a vendor offering purported tutoring services to children of the DPS/EAA that were funded by local, state and federal taxpayer monies.

FACTUAL ALLEGATIONS

Plaintiffs re-allege and re-plead all the allegations of the preceding paragraphs of this Complaint and incorporate them herein by reference.

64. All defendants as individuals and in their official capacities at all times pertinent to this litigation were purporting to be operating under color of state law. Each and all of the acts or omissions alleged herein were done by defendants, or their officers, agents, and emergency managers, under color and pretense of the statutes, ordinances, regulations, customs and usages of the State of Michigan.

65. After the Bradley decision in 1974 until 1999, the DPS operated under the direction of an elected Board that took "small, often difficult steps" in attempts

to rise above and move past the inherited separate and inherently unequal educational status afforded to the district by Milliken. The elected Board of DPS operated satisfactorily within that framework with these inherent limitations until the initial takeover by the State in 1999.

66. In 1994, the voters of Detroit approved a $1.5 billion Bond for school repairs and new buildings. The number of children enrolled in the DPS in 1994 was 167,551 and rising.

67. In 1999 DPS had an enrollment of 173,848 students. In 1999, the DPS enjoyed a ninety-three million dollar surplus, 1.2 billion dollars in bond money remaining from a 1.5 billion dollar bond for school repairs and new buildings that was approved by voters in 1994. Students of DPS were testing at levels equivalent to other students in the State of Michigan.

68. In 1999 the State of Michigan took over control of the running of the Detroit Public Schools (DPS) and aside from a brief three-year period (2007-2009) the state has controlled the DPS to the present time.

69. In 1999 David Adamany, the first Reforms CEO reported to the Michigan Legislature that the DPS was the number one performing school district in the nation with a population above 100,000 students where the majority were receiving free and reduced-cost lunches. The DPS had 40 schools where over 80% of its students tested at or above national levels. Detroit had more

nationally certified teachers than any other school district in the State and teaching professionals from around the nation came to Detroit to learn what and how to teach.

70. Under state control by 2005 the district had a $48.7 million deficit and enrollment had declined to 141,185 students.

71. When the district was returned to the Board of Education (2007), the district had a $1.1 million deficit and student enrollment had declined to 113,394, the enrollment loss alone creating a $400 million loss of revenue. After nearly seven years of state control, the schoolchildren had regressed in test scores at all grade levels.

Legislative History of the State Takeover of the Detroit Public Schools

72. In 1988, the state enacted Public Act 101 of 1988 (PA 101). Public Act 101 allowed the state to intervene when local municipalities were found to be in financial distress. The statute allowed the state to appoint emergency financial managers over cities experiencing a financial emergency.

73. In 1990, the legislature passed the Local Government Fiscal Responsibility Act, Act No. 72, Public Acts of 1990 (PA 72). Public Act 72 authorized state officials to intervene when local governments face a financial emergency.

74. Pursuant to P.A. 72, Michigan's local financial emergency review board could appoint an emergency financial manager (EFM) only after the Governor

declared a financial emergency within the local government.

75. Under P.A .72, local elected officials were not removed from office and the EFM's powers only extended to matters of finance. Their powers did not extend to purely administrative or policy matters. Furthermore, EFMs had the power to renegotiate, but not unilaterally break contracts. By legislative edict, the only background required of an EFM was five years of business experience.

76. Following elections in November of 2010 and the turnover of state offices in January 2011, the Michigan legislature introduced House Bill 4214 (2011) sponsored by Defendant Pscholka on February 9, 2011. The bill was a response to a court ruling finding that the Detroit Public Schools' School Board, and not the EFM, possessed the power under P.A. 72 to determine what curriculum would be taught and which texts would be used in the city's public schools. Wayne County Circuit Court Judge Wendy Baxter had determined that the EFM had irreparably damaged the DPS as a result of interference in matters well beyond the scope of his statutory powers. The decision provoked defendant Pscholka and the state legislature to seek greater control over the content of the curriculum taught in Detroit's schools by legislative edict.

Michigan Voters Directly Rejected Emergency Manager Governance

77. The Michigan legislature passed and the defendant Snyder signed into law Public Act 4 which became effective immediately upon passage on March 16, 2011. Public Act 4 allowed the Defendant Dillon as state treasurer to conduct a

financial review of a local government or school district if in his sole discretion he finds facts or circumstances indicative of financial stress

78. Public Act 4 allowed non-elected emergency managers to preside over local jurisdictions and to assume the powers and duties of elected officials, upon a finding of financial distress. (Public Act 4, supra). At all times relevant to this litigation the 'financial distress,' in part, was being caused by the funneling of local, state and federal taxpayer monies away from educational use by the bribery schemes being perpetrated by the defendant principles of DPS/EAA and defendant vendors.

79. Michigan's Emergency Manager law (Public Act 4), was repealed by Michigan voters in the November 6, 2012 general election. The question squarely on the ballot was whether to repeal Public Act 4, the Local Government and School District Fiscal Accountability Act ("Public Act 4"), the emergency manager law which preceded Public Act 436. Public Act 4 was preceded by Public Act 72, the Local Government Fiscal Responsibility Act, Act No. 72, Public Acts of 1990 ("Public Act 72"). Both Public Acts 4 and 72 were forms of governance by Emergency Manager which diminished the authority of local officials upon a state determination of municipal financial distress.

80. In Michigan, the emergency manager issue was not some obscure ballot question in the November 6, 2012 general election. The issue was highly publicized by

the Michigan and national press, and well-known to the state's voters because of the fierce political and legal battle that had been waged in courts of law and in the court of public opinion. The ballot question committee known as Stand Up for Democracy coordinated the circulation of petitions, collecting 226,339 petition signatures and filing same in 50 boxes with the Michigan Secretary of State's Office.

81. The State Board of Canvassers, the body charged with reviewing the petitions, did not accept the petitions, having deadlocked by a vote of 2-2, along a straight party-lines, with the two Republican appointees to the tribunal voting to defy its own staff report, its own expert witness from Michigan State University, and sworn testimony and a printer's affidavit from one of the state's most respected printers, and in defiance of their own eyes, erroneously concluding that the type size of the petition heading was not 14-point bold type as required by statute.

82. Stand Up for Democracy filed an appeal of the Board of Canvassers' decision via a Writ of Mandamus in the Michigan Court of Appeals. The Court of Appeals heard oral argument on May 17, 2012. On June 8, 2012 the Court issued a per curiam ruling in this matter stating that "Plaintiff does not have an alternate legal remedy. The elements of mandamus thus have been met and we direct the Board [of Canvassers] to certify plaintiff's petition for the ballot." Stand Up for Democracy v. Board of State Canvassers, MI Crt. App, No. 310047 (6/6/12,

Opinion, at 18).

83. Challenger Citizens for Fiscal Responsibility filed for leave to appeal to the Michigan Supreme Court. Leave was granted. Defendant Snyder and the State's Attorney General filed amici briefs in support of the challengers' position.

84. After having heard oral argument, the Michigan Supreme Court, on August 3, 2012, in a 4 to 3 ruling, rejected the challengers' position, and held that the petitions were in actual compliance with state law and the issue was ordered on the ballot. The Court held, "The Board of State Canvassers shall certify the petition as sufficient because a majority of the Court concludes that plaintiff either actually complied with the law or that the Court of Appeals' original writ of mandamus was not erroneous." Stand Up for Democracy v. Secretary of State, Mich. S. Ct. No. 145387, at 28 (Aug. 3, 2012).

85. The Board of Canvassers thereafter unanimously (4-0) approved the petitions as ordered by the Supreme Court, and its staff developed language, in consultation with both parties, to be presented to the voters. The agreed-upon language for the state-wide ballot on whether or not to repeal Public Act 4 was as follows:

"PROPOSAL 12-1
A REFERENDUM ON PUBLIC ACT 4 OF 2011 – THE
EMERGENCY MANAGER LAW

Public Act 4 of 2011 would:

- Establish criteria to assess the financial condition of local government units, including school districts. Authorize Governor to appoint an emergency manager (EM) upon state finding of a financial emergency, and allow the EM to act in place of local government officials.

- Require EM to develop financial and operating plans, which may include modification or termination of contracts, reorganization of government, and determination of expenditures, services, and use of assets until the emergency is resolved.

- Alternatively, authorize state-appointed review team to enter into a local government approved consent decree.

Should this law be approved?

YES_ NO____"

86. Press coverage of the legal battle over the petitions ("Fontgate") and the Supreme Court's ultimate ruling to allow voters access to the ballot on the Emergency Manager question was intensive. The voters well understood the issue.

87. Michigan law provides that measures certified for referendum are suspended until the outcome of the election. MCL Sec. 168.477(2). The State Attorney General issued an Opinion that while Public Act 4 was suspended pending the results of the election, Public Act 72 would take its place, even though, under Michigan law, Public Act 4 had expressly repealed Public Act 72. (Mich. Att'y Gen'l., Opinion No. 7267, August 6, 2012

88. Proposal 12-1, the referendum on the emergency manager law, was decisively

defeated at the polls by the Michigan electorate, by a margin of 53% (No) to 47% (Yes), with a total of 2,370,601 ballots cast in opposition. Michiganders made it plain, having been well- informed, and during a Presidential election year, when voter attentiveness and voter turnout were at their highest, that they did not want an emergency manager law.

State Legislature Overrides Vote of Electorate

89. In utter contempt, brazen arrogance, and callous disregard for the will of the Michigan voters who had just rejected Public Act 4, defendant Al Pscholka, acting individually and in his representative capacity, submitted a House Bill and defendant Phillip Pavlov, acting individually and in his representative capacity, submitted Senate Bill 4214. By December 12, 2012 the bills submitted by defendants Pavlov and Pscholka, culminated in PA 436 which was passed during a lame duck session in the State Legislature. Both defendants acted with callous indifference to the constitutional rights of Michigan citizens, including the children of the Detroit Public Schools. As a result, the Michigan Legislature enacted, and defendant Snyder, acting with callous indifference to the rights of, among other, the children of the DPS, signed, Public Act 436 on December 26, 2012, only fifty days after Michigan voters had soundly rejected P. A. 4.

90. Public Act 436 largely reenacted the provisions of Public Act 4, the law that Michigan citizens had just revoked to expressly eliminate emergency managers

in the State of Michigan.

91. In enacting Public Act 436, defendants Pavlov, Pscholka and the Michigan Legislature included a minor appropriation provision, obviously to stop and prevent Michigan voters from putting Public Act 436 to a referendum. Further, an amendment to allow freedom of information access to these actions was rejected by the legislature.

92. The new law, Public Act 436, took effect on March 28, 2013.

93. Public Act 436 provides, in pertinent part, as follows:

> "[Emergency Managers are] selected and appointed solely at the discretion of the Governor."
> MCL 141.1549
>
> "Upon appointment, an emergency manager shall act for and in the place and stead of the governing body and the office of chief administrative officer of the local government. . . Following appointment of an emergency manager and during the pendency of receivership, the governing body and the chief administrative officer of the local government shall not exercise any of the powers of those offices except as may be specifically authorized in writing by the emergency manager or as otherwise provided by this act and are subject to any conditions required by the emergency manager." MCL 141.1549(9)(2)"Explicitly repeal, amend, and enact local laws such as city and village ordinances."
> MCL 141.1549 and 141.1552.
>
> "Rule by decree over cities and villages through powers that permit the emergency manager to contravene and thereby implicitly repeal local laws such as city and village charters and ordinances."
> MCL 141.1552
>
> "Subject to section 19, if provided in the financial and operating plan, or otherwise with the prior written approval of the governor or his or

> her designee, sell, lease, convey, assign, or otherwise use or transfer the assets, liabilities, functions, or responsibilities of the local government. . ."
> MCL 141.1552(12)(1)(r).
>
> "For municipal governments, with approval of the governor, disincorporate or dissolve the municipal government and assign its assets, debts, and liabilities as provided by law. The disincorporation or dissolution of the local government is subject to a vote of the electors of that local government if required by law."
> MCL 141.1552(12)(cc).
>
> "Exercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions of the local government . . ."
> MCL 141.1552(12)(dd).

94. Like Public Act 4 before it, Michigan's Public Act 436, is stunning in its evisceration of voting rights.

95. Public Act 436 again changed the title of existing P.A. 4 "emergency financial managers" to "emergency managers" and again expanded the scope of their powers to cover all the conduct of local government. Once again, the requirements of the emergency required no academic or educational qualification, but just five years of business or financial experience. The Act specifically stated "Sec. 9(a) The emergency manager shall have a minimum of 5 years' experience and demonstrable expertise in business, financial, or local or state budgetary matters. In other words, if an emergency manager was appointed to run a school

district with such minimal qualifications, such a person would be totally unqualified and/or incompetent to deal with educational issues.

96. The PA 436 emergency manager's dictator-like powers were substantially identical to the powers that had been rejected by the electorate in PA 4. Just five weeks earlier. Public Act 436 emergency managers were empowered to fully act "for and in the place of" the municipality's governing body. The grant of powers again includes a general grant of legislative power to emergency managers, i.e., the type of power exercised by dictators in non-democratic areas of the world. The 24 dictatorships of the world are listed below. Some of the countries listed, like the State of Michigan, are ruled by more than one form of government. This is especially true of countries that have different ruling bodies in various regions. Although the country may not be ruled completely by a dictatorship, some of the states or specific regions are. Countries ruled by dictators have a long history of instability and poor social control. As defendant Snyder's own Task Force on the Flint Water crisis noted, with an emergency manager in place, the absence of the democratic requirements of public accountability and checks and balances was a major factor in causing the crisis. The callously indifferent disregard of minor plaintiffs' constitutional rights by

defendants Snyder and his appointed emergency managers allows Michigan to lead the list;

- The State of Michigan
- Belarus
- Cameroon
- Chad
- China
- Cuba
- Egypt
- Equatorial Guinea
- Eritrea
- Ethiopia
- Iran
- Kazakhstan
- Libya
- Madagascar
- Myanmar
- North Korea
- Rwanda
- Sudan
- Syria
- Tunisia
- Turkmenistan
- Uzbekistan
- Vietnam
- Zimbabwe

97. Along with the general grant of legislative power to emergency managers, Public Act 436 exempted the EM from following existing city charters and local ordinances, i.e., the type of power exercised by dictators in non-democratic areas of the world.

98. PA 436 did not provide any process that emergency managers must follow in

the adoption or repeal of local laws, but rather permitted the emergency manager to do so by private orders, not subject to open meetings requirements. As mentioned above, an attempt to amend the language off PA 436 to permit access to records under the Freedom of Information was rejected by the State Legislature.

99. Public Act 436 also stated that an emergency appointed under PA 4 and an emergency financial manager appointed under PA 72 shall be considered an emergency manager under PA 436 when the new law took effect.

100. Under PA 436, the DPS EM would serve at the pleasure of defendant Snyder and would continue to serve until removed by the Governor or until the Governor finds that the financial emergency has been rectified.

101. Under Public Act 72 Governor Jennifer Granholm had appointed Robert Bobb as Emergency Financial Manager (EFM) over the DPS in January 2009. Bobb, in defiance of his limited statutory role as to financial matters, attempted to exert complete control over the DPS. Wayne County Circuit Court Judge Wendy Baxter issued a ruling finding that the Detroit Public Schools' School Board, and not the EFM, possessed the power under state law to determine what curriculum would be taught and which texts would be used in the city's public schools. The court had determined that the EFM had irreparably damaged the school district.

102. Defendant Byrd-Bennett worked in that time frame to "steer" a $40 million contract to one of the country's biggest educational publishers while she worked for the Detroit schools, according to records obtained by the Chicago Sun-Times which reported that "The court documents obtained Monday also show federal law-enforcement authorities suspected two aides who later worked for CPS helped Byrd-Bennett to rig the bidding process in Detroit in favor of Boston-based Houghton Mifflin Harcourt. In a sealed affidavit from 2013, FBI Special Agent Joseph Richard Jensen told a judge that he believed Byrd-Bennett and her two assistants had collaborated with HMH executive John Winkler to ensure that $40 million in federal stimulus funds would be directed to HMH for the purchase of textbooks for DPS, circumventing the bidding process. Before her tenure at DPS, Bennett-Byrd had worked at HMH as a "superintendent in residency," earning an annual salary of $155,000. According to the FBI, after Byrd-Bennett left DPS, she was re-hired by HMH to work 21 hours per week for $182,000 a year. In his affidavit, Jensen claims that Byrd-Bennett's emails indicate that she and her assistants rigged the request for the proposal process months in advance to favor of HMH. The [federal agent] told the judge an 'unusual financial transaction' took place about three weeks before the contracting process for the Detroit deal began. Records show the FBI's 'analysis of a bank account belonging to Barbara Byrd-Bennett shows a deposit

into her Money Market account on July 20, 2009 in the amount of $26,530.26 from 'Houghton Mifflin Harcourt.'"

103. Upon taking office Defendant Snyder replaced Bobb and appointed defendant Roy Roberts as emergency financial manager of the DPS under PA 72.

104. When the state legislature repealed PA 72 by passage of PA 4, Defendant Snyder appointed defendant Roberts, as emergency manager of the DPS.

105. Once passed, both Public Act 4 and Public Act 436 have been applied in a discriminatory manner demonstrating callous indifference to those who had their various constitutional rights removed, including DPS children. Defendant Snyder had also imposed emergency managers on cities with majority or near majority African-American populations, even though there were non-African-American cities with the same or worse "Fiscal Health Score," as defined by defendant State Treasurer Dillon. In Oakland County, defendant Snyder imposed an emergency manager on the City of Pontiac, which has an African American population of 52.1%, but defendant Snyder did not impose an emergency manager in the Oakland County cities of Hazel Park (9.8% African American population), and Troy (4.0% African American population), even though each of these cities had an identical Fiscal Health Score of "6." (http://quickfacts.census.gov; Department of State Treasurer, Fiscal Indicator Scoring Table). This discriminatory pattern in Oakland County was repeated in

other counties and school districts throughout the state.

106. The Detroit Public Schools is a district comprised of 87% African American and 7% Hispanics students and has, as set forth supra, a long standing history of being a predominantly minority school district. Fifty-nine per cent of DPS children live in homes that are characterized as poverty-stricken according to guidelines established by federal and state standards.

107. By acts of placing DPS under the control of emergency managers, Defendants Pavlov, Pscholka, and Snyder not only consciously and intentionally violated the rights of the children of DPS, but consciously and deliberately with callous disregard thwarted the will of the majority of Michigan citizens who voted to abolish the position of emergency manager.

108. Since being taken over by the State under P.A. 72, P.A. 4 and P.A. 436, appointed defendant emergency managers, individually and in their respective official capacities, have acted with recklessness and manifest depraved indifference to the plight of DPS children and the tax-paying citizens of Detroit in matters concerning the educational, financial and physical accommodations of the Detroit Public Schools. As an example, Defendant BYRD-BENNETT, individually, and in her official capacity as a duly appointed DPS official brokered a forty-million dollar deal for a so-called 'Learning Village Project' that never materialized. Defendant Byrd-Bennett served as the academic and

accountability officer for the DPS. In 2012, federal agents also began investigating defendant Byrd-Bennett's role in the $40 million textbook contract mentioned in paragraph 102, supra that was awarded while she worked in Detroit.

109. Defendants SNAPP, SMITH, SIMS, PEARSALL, MOORE-PATTON, FLOWERS, BOWMAN, ALEXANDER, BUENDIA, CAMPBELL, GRAVES-HICKS, HEARN, GERIMA JOHNSON, and STANLEY JOHNSON acted at all times pertinent to this litigation as agents of the DPS and under the supervision of defendants ROBERTS, MARTIN AND/OR EARLEY in securing kickbacks for their own personal use from vendors of the DPS in an amount totaling nearly one million dollars.

110. Defendants ROBERTS, MARTIN AND EARLEY failed to adequately monitor or supervise these co-defendants in securing bribes from DPS vendors, or in the alternative, failed to establish practices and procedures of accountability for the use of Detroit and Michigan taxpayers' money and federal funds to prevent such theft from occurring.

111. When PA 436 took effect on March 28, 2013, an emergency manager, defendant Roy Roberts, was already in place over the Detroit Public Schools and his title was continued as emergency manager with all the powers granted by the new act.

112. Under PA 436, Defendant Snyder has appointed three emergency managers over the Detroit Public Schools, defendant Roy Roberts from March 28, 2013 to July 15, 2013, defendant Jack Martin from July 15, 2013 to January 13, 2015 and defendant Darnell Early from January 13, 2015 until the date of his resignation on March 1, 2016. None of these defendants had sufficient professional education or training such that they were qualified to oversee the educational requirements of the largest school district in Michigan.

113. Under PA 436, elected officials of the DPS were displaced and/or divested of governing and law-making authority and replaced by emergency managers.

114. Under PA 436, Detroit citizens effectively lost their right to vote for the Plaintiff DPS Board.

115. Local elected DPS officials were effectively removed from office under PA 436 and this removal occurred without any showing of malfeasance or misfeasance causing or contributing to the financial circumstances faced by the DPS. In so doing, the Act implicitly assumed that these local officials were guilty of corruption or gross incompetence that caused or contributed to the financial circumstances of the DPS. Public Act 436 makes this assumption of guilt and removed DPS elected officials without any finding of fault and without any form of due process. Nowhere in this pattern of selection insofar as the DPS is concerned, was there any mention or acknowledgment that the State of

Michigan, by and through the callous indifference of all defendants, was solely responsible for the financial and educational disasters brought onto the children of the DPS from 1999 to the present.

116. Two successive State takeovers has moved the Detroit Public Schools away from academic growth and enrollment stability into a profound downward spiral of decreasing test scores, massive enrollment loss, decrepit unhealthy, unsafe school conditions, and impending fiscal catastrophe, all directly and proximately as a result of the callous indifference by all defendants to the rights of the DPS children to obtain a meaningful education.

Emergency Managers' Acts of Depraved and Callous Indifference to the Educational Needs of Children of the DPS.

117. All defendants caused permanent injury to Detroit's children by creating and pursuing policies that drove down academic performances such that the children are permanently damaged in their abilities to pursue a successful adulthood. DPS students lag woefully behind the state proficiency averages for reading, math and science. In fact, based on <u>2015 national tests</u>, it's arguably the worst performing school district in the entire nation, registering the worst scores of the 21 largest urban school systems in the country.

High School Graduation Rates

118. A peer-reviewed national study shows that students who do not read

proficiently by third grade are four times more likely to leave high school without a diploma than proficient readers. Poverty compounds the problem: Students who have lived in poverty are three times more likely to drop out or fail to graduate on time than their more affluent peers. The study found that one in six children who are not reading proficiently in third grade do not graduate from high school on time, a rate four times greater than that for proficient readers. The rates are highest for the low, below-basic readers: 23 percent of these children drop out or fail to finish high school on time, compared to 9 percent of children with basic reading skills and 4 percent of proficient readers. Overall, 22 percent of children who have lived in poverty do not graduate from high school, compared to 6 percent of those who have never been poor. This rises to 32 percent for students spending more than half of the survey time in poverty. For children who were poor for at least a year and were not reading proficiently in third grade, the proportion of those who don't finish school rose to 26 percent. The rate was highest for poor black and Hispanic students, at 31 and 33 percent respectively. Even among poor children who were proficient readers in third grade, 11 percent still didn't finish high school. That compares to 9 percent of subpar third graders who were never poor. Among children who never lived in poverty, all but 2 percent of the best

third-grade readers graduated from high school on time. The longitudinal study was conducted by Donald J. Hernandez, a professor of sociology at Hunter College and the Graduate Center at the City University of New York, and a senior advisor to the Foundation for Child Development. It was commissioned by the Annie E. Casey Foundation. The study confirms the link between third grade scores and high school graduation and broke down the likelihood of graduation by different reading skill and poverty levels.

119. The state Center for Educational Performance and Information released graduation rate data for the 2013-14 school year that shows the state's rate, including DPS, was 78.58% while the Detroit Public Schools, alone, had a graduation rate of only 71% for 2013-14. Three (3) out of every 10 students in the DPS do not make it to graduation.

The direct relationship between dropping out of high school and imprisonment.

120. On any given day, about one in every 10 young male high school dropouts is in jail or juvenile detention, compared with one in 35 young male high school graduates, according to a study of the effects of dropping out of school in an America where demand for low-skill workers is plunging. The picture is even bleaker for African-Americans, with nearly one in four young black male dropouts incarcerated or otherwise institutionalized on an average day, the study said. That compares with about one in 14 young,

male, white, Asian or Hispanic dropouts. Researchers at Northeastern University used census and other government data to carry out the study, which tracks the employment, workplace, parenting and criminal justice experiences of young high school dropouts. "We're trying to show what it means to be a dropout in the 21st century United States," said Andrew Sum, director of the Center for Labor Market Studies at Northeastern, who headed a team of researchers that prepared the report. "It's one of the country's costliest problems. The unemployment, the incarceration rates — it's scary."

121. The DPS Board became embroiled in a battle over academic control with defendant Roberts. The Board had become increasingly alarmed at the precipitous drop in DPS academic performance, particularly 3rd Grade reading levels. The board voted to pilot a "Race to the Top" research project based at Wayne State University Research Park. The QWK2LRN project developed a rapid turnaround system for low performing schools based on using "large effect size interventions" and instructional technology. QWK2LRN had notable successes at Highland Park and in one of nations lowest performing schools in South Carolina. QWK2LRN presented strong evidence that using large effect size interventions and instructional technology could move Detroit's Priority schools out of

Priority status in one school year. The pilot approach was approved by former E.F.M. Robert Bobb, but was aggressively opposed when defendant Roberts took control of the district.

122. This plan to increase the level of education of Detroit schoolchildren was blocked by defendant Roberts who had no other plan to address the needs of Detroit's lowest performing schools as would be predicted and known by defendant Snyder who chose defendant Roberts to run DPS's educational efforts with full knowledge of defendant Robert's lack of educational background and awareness. Defendant Robert's vociferous opposition to education initiatives by the board was public and documented. Mr. Roberts became infamous for mocking the board by saying. " If a school district tells you that they moved 10% you should call the F.B.I."

123. The testing of levels of achievement has dropped precipitously in the past four years by this do nothing attitude of all defendant emergency managers manifesting a callous indifference to the needs of the children of DPS. All the while, defendants SHY and ALLSTATE SALES were paying kickbacks to the thirteen-named defendant-principals in the approximate amount of $908,518 for the provision of millions of dollars of certified and submitted fraudulent invoices to DPS for payment to SHY for goods that were not delivered. All these transactions occurred during, and ass a result

of, lax policies and procedures condoned and/or ignored by defendant emergency managers

124. The available statistics clearly demonstrate the precipitous falloff in student performance under defendant emergency managers; A recent analysis of the reading and math levels of DPS and EAA students reveals how damaged the DPS children are:

DPS Total Reading

88% DPS 3rd grade are not proficient readers
88% DPS 4th grade are not proficient readers
87% DPS 5th grade are not proficient readers
84% DPS 6th grade are not proficient readers
84% DPS 7th grade are not proficient readers
83% DPS 8th grade are not proficient readers
75% DPS 11th grade are not proficient readers

i. Math:

DPS Total Math

0% DPS students are advanced in math
89% DPS 3rd grade are not proficient in Math
92% DPS 4th grade are not proficient in Math
100% DPS 5th grade are not proficient in Math
100% DPS 6th grade are not proficient in Math
100% DPS 7th grade are not proficient in Math
100% DPS 8th Grade are not proficient in Math
88% DPS 11th grade are not proficient in Math

ii. Education Achievement Authority Reading:

EAA Total Reading

100% EAA 3rd grade are not proficient readers
100% EAA 4th grade are not proficient readers
95% EAA 5th grade are not proficient readers
100% EAA 6th grade are not proficient readers
90% EAA 7th grade are not proficient readers
92% EAA 8th grade are not proficient readers
94% EAA 11th grade are not proficient readers
0% EAA students are advanced readers

iii. Education Achievement Authority Math:

EAA Total Math

100% EAA 3rd grade are not proficient in Math
100% EAA 4th grade are not proficient in Math
100% EAA 5th grade are not proficient in Math
100% EAA 6th grade are not proficient in Math
100% EAA 7th grade are not proficient in Math
100% EAA 8th grade are not proficient in Math
100% EAA 11th grade are not proficient in Math
0% EAA students are advanced in Math

iv. College and Career Readiness:

97% of Detroit's High School students do not meet the state minimum for college and career readiness.

125. The defendants harmed Detroit children by establishing procedures and policies of intentional and/ or callously indifferent neglect that increased the likelihood that they would not be college ready at graduation or that they will become dropouts.

126. Instead, defendant emergency managers permitted untried and untested experiments on children of the DPS.

Pugh's "Mentoring" Program permitted by the emergency manager

127. In a federal district court case charging sexual harassment brought on behalf of a minor DPS child, Judge David M. Lawson[5] ruled that a Title IX violation could proceed to trial in the following language; "The record here establishes, at a minimum, that defendant Roy Roberts had actual knowledge of Pugh's inclination to engage in inappropriate relationships with school-age boys, and the DPS defendants have not offered any evidence that either Roberts or any of the school officials under his authority took any action to terminate Pugh's access to the students at the Douglass Academy. Moreover, it appears that, contrary to the district's policies regarding the volunteer program, Pugh and the members of his mentorship team never were subjected to any background checks, and school officials present at the time of the forum meetings made, at best, no more than token efforts to attend those meetings or to observe Pugh's behavior toward the students. Roberts's failure to take any action either to detect or to prevent Pugh's harassment of the plaintiff plainly was unreasonable in light of his actual knowledge of Pugh's inclinations. That

5 K.S. v. Roy Roberts, et al, Case no. 14-12214 before the Honorable David M. Lawson, now closed, dealt, in part, with the issue of Roy Robert's conduct as emergency manager and plaintiff's Title IX claim.

evidence is sufficient to create a question of fact on the plaintiff's Title IX claim that warrants jury resolution."

The disastrous EAA Plan: A Failed Experiment at the Expense of DPS Children at the Cost of Millions of Dollars.

128. The Education Achievement Authority (EAA) was a controversial plan created by defendant Snyder in 2012 to reform Michigan's lowest-performing schools; a partnership between the state, Detroit Public Schools and Eastern Michigan University (EMU) to administer a number of schools that were taken by the state, removed from DPS, and put into the EAA, which is overseen by the state, with a majority of the board members appointed by the governor and the EM of the DPS, the superintendent of the EAA. The EAA oversees 15 schools — nine charter elementary/middle schools, and six high schools. Once put in place, the EAA's graduation rate for 2013-14 was 61.55%, up from 61.17% in 2012-13, i.e. ten per cent lower than the DPS.

129. There has been much controversy surrounding the EAA, which has been criticized for poor academic performance and declining enrollment. There also has been an FBI investigation into the EAA for alleged kickback schemes involving vendors.

130. Some local school districts have refused to accept student teachers from EMU because of the university's affiliation with the EAA. EMU Student