

**IN THE CIRCUIT COURT OF JACKSON COUNTY  
STATE OF MISSOURI**

Hickman Mills National Education Association,	)	
Carla Burdette-Walker, Rosie Davis,	)	
Kristine Dugan, Cynthia Forney, Merrit Forney,	)	
Steve Grant, Tonya Gresham, Cynthia Guilford,	)	
April Hale, Leta Hogge, Shirley Jones,	)	
Robert Kreiling, Anthony Lightfoot,	)	
Marilyn Miller, Marsha O'Connor, Shirley Playter,	)	
Charles Pohlman, Scott Preston, Paul Rice,	)	
Robin Roberts, Christopher Rupperecht,	)	
Valerie Sabino, Brent Wheeler, Barbara Yost,	)	
Teresa Ambler, Cynthia White, and Tangja Leach,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Cause No. 1516-CV13011
	)	
	)	Div. 15
Hickman Mills C-1 School District	)	
	)	
Defendant.	)	

**FIRST AMENDED PETITION**

COMES NOW Plaintiffs Hickman Mills National Education Association, Carla Burdette-Walker, Rosie Davis, Kristine Dugan, Cynthia Forney, Merrit Forney, Steve Grant, Tonya Gresham, Cynthia Guilford, April Hale, Leta Hogge, Shirley Jones, Robert Kreiling, Anthony Lightfoot, Marilyn Miller, Marsha O'Connor, Shirley Playter, Charles Pohlman, Scott Preston, Paul Rice, Robin Roberts, Christopher Rupperecht, Valerie Sabino, Brent Wheeler, Barbara Yost, Teresa Ambler, Cynthia White, and Tangja Leach, and for their Petition, state as follows:

**Parties**

1. The Hickman Mills National Education Association ("HMNEA") is an unincorporated association, the principal office of which is located in Kansas City, Missouri. The Association represents approximately 220 teachers who are employed by Defendant Hickman Mills C-1

School District. Among other things, the Association advocates for teachers' wages and benefits and seeks to protect their Constitutional, statutory, and contractual rights.

2. Defendant Hickman Mills C-1 School District (hereafter "District" or Defendant) is a seven director public school district organized under Missouri law and located in Jackson County Missouri.

3. Plaintiff Carla Burdette-Walker is a tenured teacher who has been employed by the District for 20 years and has a master's degree.

4. Plaintiff Rosie Davis is a tenured teacher who had been employed by the District for 22 years and had a bachelor's degree plus 16 hours of additional graduate credit prior to her retirement at the end of the 2014-15 school year.

5. Plaintiff Kristine Dugan is a tenured teacher who has been employed by the District for 16 years and has a master's degree.

6. Plaintiff Cynthia Forney is a tenured teacher who has been employed by the District for 20 years and has a bachelor's degree.

7. Plaintiff Merrit Forney is a tenured teacher who has been employed by the District for 20 years and has a bachelor's degree.

8. Plaintiff Steve Grant is a tenured teacher who has been employed by the District for 23 years and has a bachelor's degree plus 16 hours of additional graduate credit.

9. Plaintiff Tonya Gresham is a tenured teacher who has been employed by the District for 16 years and has a bachelor's degree plus 16 hours of additional graduate credit.

10. Plaintiff Cynthia Guilford is a tenured teacher who has been employed by the District for 24 years and has a master's degree plus 41 hours of additional credits.

11. Plaintiff April Hale is a tenured teacher who has been employed by the District for 12 years and has a master's degree.
12. Plaintiff Leta Hogge is a tenured teacher who has been employed by the District for 19 years and has a master's degree.
13. Plaintiff Shirley Jones is a tenured teacher who has been employed by the District for 11 years and has a master's degree.
14. Plaintiff Robert Kreiling is a tenured teacher who has been employed by the District for 24 years and has a master's degree plus 32 additional hours.
15. Plaintiff Anthony Lightfoot is a tenured teacher who had been employed by the District for 26.5 years and had a bachelor's degree plus 24 hours of additional graduate credit prior to his retirement on January 1, 2016.
16. Plaintiff Marilyn Miller is a tenured teacher who has been employed by the District for 19 years and has a bachelor's degree.
17. Plaintiff Marsha O'Connor is a tenured teacher who has been employed by the District for 24 years and has a bachelor's degree plus 3 hours of additional graduate credit.
18. Plaintiff Shirley Playter is a tenured teacher who had been employed by the District for 28 years and had an Ed. Specialist Degree prior to her retirement at the end of the 2014-15 school year.
19. Plaintiff Charles Pohlman is a tenured teacher who has been employed by the District for 25 years and has a master's degree plus 32 additional hours.
20. Plaintiff Scott Preston is a tenured teacher who had been employed by the District for 18 years and had a bachelor's degree prior to his retirement at the end of the 2014-15 school year.

21. Plaintiff Paul Rice is a tenured teacher who has been employed by the District for 14 years and has a master's degree plus 32 hours additional hours.
22. Plaintiff Robin Roberts is a tenured teacher who has been employed by the District for 17 years and has a bachelor's degree plus 16 hours of additional graduate credit.
23. Plaintiff Christopher Rupprecht is a tenured teacher who has been employed by the District for 21 years and has a master's degree plus 35 additional hours.
24. Plaintiff Valerie Sabino is a tenured teacher who has been employed by the District for 15 years and has a master's degree.
25. Plaintiff Brent Wheeler is a tenured teacher who has been employed by the District for 16 years and has a master's degree plus 32 additional hours.
26. Plaintiff Barbara Yost is a tenured teacher who has been employed by the District for 38 years and has a bachelor's degree plus 24 hours of additional graduate credit.
27. Plaintiff Teresa Ambler is a tenured teacher who has been employed by the District for 18 years and has a master's degree.
28. Plaintiff Cynthia White is a tenured teacher who had been employed by the District for 17 years and had a bachelor's degree at the time of her resignation at the end of the 2014-15 school year.
29. Plaintiff Tangja Leach is a tenured teacher who has been employed by the District for 16 years and has a master's degree.
30. All of the individual Plaintiffs are or were at all times relevant to this lawsuit members of the HMNEA.

### **Jurisdiction and Venue**

31. The Court has jurisdiction pursuant to Article V, §18 of the Missouri Constitution and §536.150, R.S. Mo.

32. Venue is proper in this Court pursuant to §508.010.2(1), R.S. Mo, in that Defendant District is located in Jackson County.

### **Facts Common to All Counts**

33. The salary of the District's teachers is determined by a salary schedule required by Section 168.110, R.S.Mo.

34. Throughout the individual Plaintiffs' employment with the District, the salary schedules have classified teacher salaries by educational levels (referred to as "Classes") and teaching experience (referred to as "Steps").

35. The District's Board of Education Policy GCBA concerning Professional Staff Salary Schedules (attached hereto as Exhibit A and incorporated herein by this reference), states:

An adequate salary schedule is necessary to secure new teachers who are personally competent and professionally well prepared, to encourage the professional growth of teachers while in service, and to retain the most competent teachers while in the school system. The Board of Education shall annually adopt a salary schedule having the following essential features:

A salary for those beginning in the system, which will be at or above the minimum salary established by state statute.

Annual increments shall be added for each school year of successful experience up to the limits provided by the schedule.

The superintendent of schools shall prepare salary schedules for approval of the Board of Education and implement the salary schedules adopted by the Board of Education. The superintendent may consult with staff members in preparing the salary schedules.

36. Throughout the individual Plaintiffs' employment, until the adoption of the 2015-16 school year salary schedule on March 26, 2015, the District's salary schedules have provided them annual salary increments consistent with the aforesaid Policy (Exhibit A), except when the salaries of all teachers have been frozen at the rate they were paid the previous school year.

37. Throughout the individual Plaintiffs' employment, until the adoption of the 2015-16 school year salary schedule on March 26, 2015, the District has never adopted a salary schedule that provided for actual reductions in salary for teachers based upon their experience and education.

38. Throughout the individual Plaintiffs' employment, until the adoption of the 2015-16 school year salary schedule on March 26, 2015, the District has never adopted a salary schedule that provided for actual reductions in salary for some groups of teachers while providing for increases in the salary of different groups of teachers.

39. The salary schedule adopted by the District's Board of Education for the 2014-15 school year is attached hereto as Exhibit B and incorporated herein by this reference. The 2014-15 salary schedule, Exhibit B, gave teachers salary increments based on an additional year of successful experience and their education consistent with the aforesaid Board policy.

40. The salary schedule adopted by the District's Board of Education on March 26, 2015 for the 2015-16 school year is attached hereto as Exhibit C and incorporated herein by this reference. Pursuant to Exhibit C, many District teachers received salary increments based on their education and years of experience. However, the individual Plaintiffs received salary decreases and lost credit previously given to them for their education and years of experience; instead they were classified for salary purposes with teachers who had fewer years of experience and in some cases, less education, who received increments in their salaries. Specifically,

- a. Plaintiff Carla Burdette-Walker, who during the 2014-15 school year was at the Longevity step of the MS Class and paid \$66,124.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$9,736.00.
- b. Plaintiff Rosie Davis, who during the 2014-15 school year was at the Longevity step of the BS16 Class and paid \$54,434.00, under the 2015-16 salary schedule, would have been reduced to Step 15 of the BS16 Class and paid \$48,347.00 and suffered a salary reduction of \$6,087.00, had she not retired.
- c. Plaintiff Kristine Dugan, who during the 2014-15 school year was at the Longevity step of the MS Class and paid \$66,124.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$9,736.00.
- d. Plaintiff Cynthia Forney, who during the 2014-15 school year was at Step 27 of the BS Class and paid \$48,342.00, under the 2015-16 salary schedule, was reduced to Step 10 of the BS Class and paid \$43,023.00 and suffered a salary reduction of \$5,319.00.
- e. Plaintiff Merrit Forney, who during the 2014-15 school year was at Step 25 of the BS Class and paid \$46,970.00, under the 2015-16 salary schedule, was reduced to Step 10 of the BS Class and paid \$43,023.00 and suffered a salary reduction of \$3,947.00.
- f. Plaintiff Steve Grant, who during the 2014-15 school year was at the Longevity Step of the BS16 Class and paid \$54,434.00, under the 2015-16 salary schedule, was reduced to Step 15 of the BS16 Class and paid \$48,347.00 and suffered a

salary reduction of \$6,087.00 prior to his retirement at the end of the 2015-16 school year.

- g. Plaintiff Tonya Gresham, who during the 2014-15 school year was at Step 27 of the BS16 Class and paid \$51,060.00, under the 2015-16 salary schedule, was reduced to Step 15 of the BS16 Class and paid \$48,347.00 and suffered a salary reduction of \$2,713.00.
- h. Plaintiff Cynthia Guilford, who during the 2014-15 school year was at the Longevity Step of the PhD/EdD Class and paid \$72,254.00, under the 2015-16 salary schedule, was reduced to Step 20 of the MS40/PhD Class and paid \$65,160.00 and suffered a salary reduction of \$7,094.00.
- i. Plaintiff April Hale, who during the 2014-15 school year was at Step 24 of the MS Class and paid \$57,848.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$1,460.00.
- j. Plaintiff Leta Hogge, who during the 2014-15 school year was at the Longevity Step of the MS Class and paid \$66,124.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$9,736.00.
- k. Plaintiff Shirley Jones, who during the 2014-15 school year was at Step 23 of the MS Class and paid \$56,714.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$326.00.



- l. Plaintiff Robert Kreiling, who during the 2014-15 school year was at the Longevity Step of the MS32 Class and paid \$72,254.00, under the 2015-16 salary schedule, was reduced to Step 18 of the MS16 Class and paid \$59,356.00 and suffered a salary reduction of \$12,898.00.
- m. Plaintiff Anthony Lightfoot, who during the 2014-15 school year was at the Longevity Step of the BS24 Class and paid \$58,057.00, under the 2015-16 salary schedule, was reduced to Step 15 of the BS16 Class and paid \$48,347.00, and suffered a salary reduction of \$9,710.00 for the school year, prior to his retirement on January 1, 2016.
- n. Plaintiff Marilyn Miller, who during the 2014-15 school year was at Step 25 of the BS Class and paid \$46,970.00, under the 2015-16 salary schedule, was reduced to Step 10 of the BS Class and paid \$43,023.00 and suffered a salary reduction of \$3,947.00.
- o. Plaintiff Marsha O'Connor, who during the 2014-15 school year was at Step 30 of the BS Class and paid \$50,475.00, under the 2015-16 salary schedule, was reduced to Step 10 of the BS Class and paid \$43,023.00 and suffered a salary reduction of \$7,452.00.
- p. Plaintiff Shirley Playter, who during the 2014-15 school year was at Step 28 of the PhD/EdD Class and paid \$74,618.00, under the 2015-16 salary schedule, would have been reduced to Step 20 of the MS40/PhD Class and paid \$65,160.00 and suffered a salary reduction of \$9,458.00, had she not retired.
- q. Plaintiff Charles Pohlman, who during the 2014-15 school year was at the Longevity Step of the MS32 Class and paid \$72,254.00, under the 2015-16 salary

schedule, was reduced to Step 18 of the MS16 Class and paid \$59,356.00 and suffered a salary reduction of \$12,898.00.

- r. Plaintiff Scott Preston, who during the 2014-15 school year was at Step 27 of the BS Class and paid \$48,342.00, under the 2015-16 salary schedule, would have been reduced to Step 10 of the BS Class and paid \$43,023.00 and suffered a salary reduction of \$5,319.00, had he not retired.
- s. Plaintiff Paul Rice, who during the 2014-15 school year was at the Longevity Step of the MS32 Class and paid \$72,254.00, under the 2015-16 salary schedule, was reduced to Step 18 of the MS16 and paid \$59,356.00 and suffered a salary reduction of \$12,898.00.
- t. Plaintiff Robin Roberts, who during the 2014-15 school year was at Step 26 of the BS16 Class and paid \$50,232.00, under the 2015-16 salary schedule, was reduced to Step 15 of the BS16 Class and paid \$48,347.00 and suffered a salary reduction of \$1,885.00.
- u. Plaintiff Christopher Rupprecht, who during the 2014-15 school year was at Step 25 of the MS16 Class and paid \$61,399.00, under the 2015-16 salary schedule, was reduced to Step 18 of the MS16 Class and paid \$59,356.00 and suffered a salary reduction of \$2,043.00.
- v. Plaintiff Valerie Sabino, who during the 2014-15 school year was at the Longevity step of the MS Class and paid \$66,124.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$9,736.00.

- w. Plaintiff Brent Wheeler, who during the 2014-15 school year was at Step 24 of the MS32 Class and paid \$62,289.00, under the 2015-16 salary schedule, was reduced to Step 18 of the MS16 Class and paid \$59,356.00 and suffered a salary reduction of \$2,933.00.
  - x. Plaintiff Barbara Yost, who during the 2014-15 school year was at the Longevity Step of the BS24 Class and paid \$58,057.00, under the 2015-16 salary schedule, was reduced to Step 15 of the BS16 Class and paid \$48,347.00 and suffered a salary reduction of \$9,710.00.
  - y. Plaintiff Teresa Ambler, who during the 2014-15 school year was at the Longevity step of the MS Class and paid \$66,124.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$9,736.00.
  - z. Plaintiff Cynthia White, who during the 2014-15 school year was at Step 25 of the BS Class and paid \$46,970.00, under the 2015-16 salary schedule, would have been reduced to Step 10 of the BS Class and paid \$43,023.00 and suffered a salary reduction of \$3,947.00, had she not resigned.
  - aa. Plaintiff Tangja Leach, who during the 2014-15 school year was at the Longevity step of the MS Class and paid \$66,124.00, under the 2015-16 salary schedule, was reduced to Step 17 of the MS Class and paid \$56,388.00 and suffered a salary reduction of \$9,736.00.
41. Before the adoption of the 2015-16 salary schedule, Plaintiffs Rosie Davis, Shirley Playter, Scott Preston, and Cynthia White had no intention of retiring or resigning at the end of

the 2014-15 school year; however, they were forced to retire or resign because of the unreasonable reduction of their salaries and demotions under the 2015-16 salary schedule.

42. Before the adoption of the 2015-16 salary schedule, Plaintiff Anthony Lightfoot had no intention of retiring on January 1, 2016, and Plaintiff Steve Grant had no intention of retiring at the end of the 2015-16 school year; however, they were forced to retire because of the unreasonable reduction of their salaries and demotions under the 2015-16 salary schedule.

43. The significant reductions in salaries and demotions of the plaintiffs were not based upon their performance or any other just cause.

44. The District did not give any of the plaintiffs a notice of charges or an opportunity for a hearing before reducing their salaries and demoting them.

45. Plaintiffs have no other judicial remedies for challenging their demotions, decreases in salaries, and forced retirements.

46. Plaintiffs will continue to suffer unreasonable salary reductions in future school years, as long as the District perpetuates the changes it made to the 2015-16 salary schedule.

**COUNT I: PETITION FOR REVIEW**  
**OF UNCONTESTED ADMINISTRATIVE DECISION**

47. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 46 and reassert said allegations as if fully set forth herein.

48. Section 168.110 of the Missouri Teacher Tenure Act as interpreted by the Missouri appellate courts, requires that all teachers be compensated according to a salary schedule that treats similarly situated teachers equally, based upon objective and reasonable criteria.

49. While a school board has the discretion to determine the compensation of teachers, it may not do so in an unreasonable, arbitrary or unlawful manner.

50. The District's 2015-16 Salary Schedule is contrary to Board of Education Policy, the Teacher Tenure Act, and the Due Process and Equal Protection guarantees of the Missouri Constitution, as well as arbitrary, capricious, and unreasonable because it does not provide the same compensation for similarly situated teachers, but rather reduces the salary of more experienced and in some cases, more highly educated teachers, to the level of less experienced teachers, and in some cases, teachers with less education, who are receiving a salary increment.

51. Defendant District's salary schedule policy (Exhibit A) requires annual salary increments based upon each school year of successful experience and does not permit reductions in salary for an entire classification of teachers under any circumstances.

52. The 2015-16 salary schedule is contrary to law because it violates the District's salary schedule policy by decreasing the salaries of teachers with more years of experience and in some cases, higher education to the same level as teachers with fewer years of experience and in some cases, less education who received salary increments.

53. The 2015-16 salary schedule is contrary to law because it decreases the salaries of the individual Plaintiffs without regard to their competence and successful experience in violation of the express purposes of the District's salary schedule policy.

54. Section 168.104 of the Missouri Teacher Tenure Act provides that a demotion of a teacher occurs when the teacher's salary is reduced or the teacher is transferred to a position carrying a lower salary except a change in salary applicable to all teachers or all teachers in a classification.

55. Under Sections 168.114, 168.116, and 168.118, R.S.Mo., a district may demote a tenured teacher only for just cause and after providing notice of charges and an opportunity for a hearing.

56. The District unlawfully demoted the plaintiffs by reducing their compensation without cause and without notice of charges or a hearing, to the same level as less experienced teachers who will receive a salary increment.

57. The Plaintiffs had a reasonable expectancy based on Section 168.110, R.S.Mo., the District's salary schedule policy, and/or past practices that their salaries would not be reduced unless they performed unsatisfactorily, and only then after notice and an opportunity to be heard.

58. The 2015-16 salary schedule unconstitutionally deprives the Plaintiffs of a property interest in receiving salary increments and being treated equally with respect to raises as similarly situated teachers, without due process.

59. The 2015-16 salary schedule violates the Equal Protection Clause of the Missouri Constitution by separating similarly-situated teachers into two classes – those with more years of service and those with less years of service – and arbitrarily burdening the former class by decreasing their salaries while rewarding the latter class with salary increases.

60. The District constructively and unlawfully discharged Plaintiffs Rosie Davis, Shirley Playter, Scott Preston, Cynthia White, Anthony Lightfoot, and Steve Grant by demoting them and reducing their salaries so substantially that they were forced to retire or resign instead.

WHEREFORE, Plaintiffs pray that this Court grant the following relief:

A. Declare that Defendant acted in an unlawful, unconstitutional, unreasonable, arbitrary, and capricious manner, and abused its discretion by adopting the 2015-16 salary schedule, thereby demoting and reducing the salaries of the Plaintiffs without just cause, notice of charges, or an opportunity for a hearing;

B. For the 2015-16 school year and (if applicable) each subsequent school year up to the time of trial, order Defendant to pay to Plaintiffs Burdette-Walker, Dugan, Cynthia Forney,

Meritt Forney, Grant, Gresham, Guilford, Hale, Hogge, Jones, Kreiling, Lightfoot, Miller, O'Connor, Pohlman, Rice, Roberts, Rupprecht, Sabino, Smith-Wisher, Wheeler, Yost, Ambler, and Leach a salary increment over their 2014-15 salary commensurate with their successful experience and education, or, at a minimum, at the salary they earned under the 2014-15 salary schedule, plus retirement contributions;

C. Order Defendant to pay to Plaintiffs Davis, Playter, Preston, Lightfoot, and Grant the difference between their salaries for the 2014-15 school year and their pension benefits under the Public School Retirement System, for so long as the Court determines they would have continued working for the District had it not adopted the 2015-16 salary schedule;

D. Order Defendant to pay to Plaintiff Cynthia White the difference between her salary for the 2014-15 school year and the salary she earns at her subsequent job, for so long as the Court determines she would have continued working for the District had it not adopted the 2015-16 salary schedule;

E. Award the Plaintiffs prejudgment interest; and

F. Award Plaintiffs such other and further relief as may be proper and just under the circumstances.

**COUNT II: DISPARATE TREATMENT BASED ON AGE,  
IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

61. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 60 and reassert said allegations as if fully set forth herein.

62. Defendant is an “employer” within the meaning of the Missouri Human Rights Act, §213.010(7) R.S. Mo.

63. Age was a contributing factor in Defendants' decision to adopt the 2015-16 salary schedule and reduce Plaintiffs' salaries.
64. By adopting the 2015-16 salary schedule and reducing Plaintiffs' salaries based on a contributing factor of age, Defendant violated the Missouri Human Rights Act.
65. Defendant constructively discharged Plaintiffs Davis, Playter, Preston, White, Lightfoot, and Grant by deliberately reducing their salaries so substantially as to render their continued employment for the District intolerable, and forcing them to retire or resign to seek higher income from other sources.
66. Defendant's conduct was intentional, with evil motive and with reckless indifference and disregard for Plaintiffs' rights.
67. As a consequence of Defendant's actions described herein, Plaintiffs have lost and continue to lose wages and other financial incidents and benefits of employment.
68. As a consequence of Defendants' conduct, Plaintiffs have suffered emotional distress, anxiety, humiliation and physical, as well as mental, pain and suffering.
69. On or about September 16, 2015, Plaintiffs timely filed a charge of discrimination with the Missouri Human Rights Commission (MHRC) claiming age discrimination.
70. On or about January 21, 2016, Plaintiffs amended their charge of age discrimination with the MHRC.
71. On April 29, 2016, the MHRC issued a Notice of Right to Sue to Plaintiffs, a copy of which is attached here and incorporated herein as Exhibit D.

WHEREFORE, Plaintiffs pray that this Court grant the following relief:

- A. Declare that Defendant violated the Missouri Human Rights Act by adopting the 2015-16 salary schedule and reducing Plaintiffs' salaries based on a contributing factor of age;



B. Declare that Defendant constructively discharged Plaintiffs Davis, Playter, Preston, White, Lightfoot, and Grant in violation of the Missouri Human Rights Act;

C. For the 2015-16 school year and (if applicable) each subsequent school year up to the time of trial, award Plaintiffs Burdette-Walker, Dugan, Cynthia Forney, Merrit Forney, Grant, Gresham, Guilford, Hale, Hogge, Jones, Kreiling, Lightfoot, Miller, O'Connor, Pohlman, Rice, Roberts, Rupprecht, Sabino, Smith-Wisher, Wheeler, Yost, Ambler, and Leach a salary increment over their 2014-15 salary commensurate with their successful experience and education, or, at a minimum, at the salary they earned under the 2014-15 salary schedule, plus retirement contributions;

D. Award Plaintiffs Burdette-Walker, Dugan, Cynthia Forney, Merrit Forney, Gresham, Guilford, Hale, Hogge, Jones, Kreiling, Miller, O'Connor, Pohlman, Rice, Roberts, Rupprecht, Sabino, Smith-Wisher, Wheeler, Yost, Ambler, and Leach an appropriate amount of front pay;

E. Award Plaintiffs Davis, Playter, Preston, Lightfoot, and Grant the difference between their salaries for the 2014-15 school year and their pension benefits under the Public School Retirement System, for so long as the Court determines they would have continued working for the District had it not adopted the 2015-16 salary schedule;

F. Award Plaintiff Cynthia White the difference between her salary for the 2014-15 school year and the salary she earns at her subsequent job, for so long as the Court determines she would have continued working for the District had it not adopted the 2015-16 salary schedule;

G. Award the Plaintiffs damages for emotional distress and mental suffering;

H. Award the Plaintiffs punitive damages in an amount as is fair and reasonable;

- I. Award the Plaintiffs their attorney's fees and costs and prejudgment interest; and
- J. Award Plaintiffs such other and further relief as may be proper and just under the circumstances.

**COUNT III: DISPARATE IMPACT BASED ON AGE,**  
**IN VIOLATION OF THE MISSOURI HUMAN RIGHTS ACT**

72. Plaintiffs incorporate by reference the allegations of paragraphs 1 through 71 and reassert said allegations as if fully set forth herein.

73. In addition or in the alternative, the District's 2015-16 salary schedule is a facially neutral employment practice which has a disparate impact on teachers over age 40.

74. By adopting the 2015-16 salary schedule which has a disparate, adverse, and discriminatory impact on teachers over age 40, the District violated the Missouri Human Rights Act.

75. Defendant constructively discharged Plaintiffs Davis, Playter, Preston, White, Lightfoot, and Grant by adopting a facially neutral salary schedule which had the effect of reducing their salaries so substantially as to render their continued employment for the District intolerable, and forcing them to retire or resign to seek higher income from other sources.

76. As a consequence of Defendant's actions described herein, Plaintiffs have lost and continue to lose wages and other financial incidents and benefits of employment.

77. As a consequence of Defendants' conduct, Plaintiffs have suffered emotional distress, anxiety, humiliation and physical, as well as mental, pain and suffering.

78. On or about September 16, 2015, Plaintiffs timely filed a charge of discrimination with the Missouri Human Rights Commission (MHRC) claiming age discrimination.

79. On or about January 21, 2016, Plaintiffs amended their charge of age discrimination with the MHRC.

80. On April 29, 2016, the MHRC issued a Notice of Right to Sue to Plaintiffs, a copy of which is attached here and incorporated herein as Exhibit D.

WHEREFORE, Plaintiffs pray that this Court grant the following relief:

A. Declare that Defendant violated the Missouri Human Rights Act by adopting a facially neutral salary schedule that has a disparate impact on teachers over 40 years of age;

B. Declare that by adopting a facially neutral salary schedule that has a disparate impact on teachers over 40 years of age, Defendant constructively discharged Plaintiffs Davis, Playter, Preston, White, Lightfoot, and Grant in violation of the Missouri Human Rights Act;

C. For the 2015-16 school year and (if applicable) each subsequent school year up to the time of trial, award Plaintiffs Burdette-Walker, Dugan, Cynthia Forney, Merrit Forney, Grant, Gresham, Guilford, Hale, Hogge, Jones, Kreiling, Lightfoot, Miller, O'Connor, Pohlman, Rice, Roberts, Rupprecht, Sabino, Smith-Wisher, Wheeler, Yost, Ambler, and Leach a salary increment over their 2014-15 salary commensurate with their successful experience and education, or, at a minimum, at the salary they earned under the 2014-15 salary schedule, plus retirement contributions;

D. Award Plaintiffs Burdette-Walker, Dugan, Cynthia Forney, Merrit Forney, Gresham, Guilford, Hale, Hogge, Jones, Kreiling, Miller, O'Connor, Pohlman, Rice, Roberts, Rupprecht, Sabino, Smith-Wisher, Wheeler, Yost, Ambler, and Leach an appropriate amount of front pay;

E. Award Plaintiffs Davis, Playter, Preston, Lightfoot, and Grant the difference between their salaries for the 2014-15 school year and their pension benefits under the Public School Retirement System, for so long as the Court determines they would have continued working for the District had it not adopted the 2015-16 salary schedule;

F. Award Plaintiff Cynthia White the difference between her salary for the 2014-15 school year and the salary she earns at her subsequent job, for so long as the Court determines she would have continued working for the District had it not adopted the 2015-16 salary schedule;

G. Award the Plaintiffs damages for emotional distress and mental suffering;

H. Award the Plaintiffs their attorney's fees and costs and prejudgment interest; and

I. Award Plaintiffs such other and further relief as may be proper and just under the circumstances.

Respectfully submitted,

SCHUCHAT, COOK & WERNER

/s/ Loretta K. Haggard  
Sally E. Barker (MBE # 26069)  
[seb@schuchatcw.com](mailto:seb@schuchatcw.com)  
Loretta K. Haggard (MBE# 38737)  
[lkh@schuchatcw.com](mailto:lkh@schuchatcw.com)  
1221 Locust Street, Second Floor  
St. Louis, MO 63103  
(314) 621-2626; Fax: (314) 621-2378

*Attorneys for Plaintiffs*

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of May, 2016, a copy of the foregoing was served via the Court's electronic filing system and sent by first-class mail, postage prepaid, to:

Christopher S. Gahagan  
Sarah E. Tankard  
McGONAGLE SPENCER GAHAGAN P.C.  
1533 Locust St.  
Kansas City, MO 64108  
[chris@mcgonaglespencer.com](mailto:chris@mcgonaglespencer.com)  
[sarah@mcgonaglespencer.com](mailto:sarah@mcgonaglespencer.com)

/s/ Loretta K. Haggard