

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

RHODE ISLAND COUNCIL 94, AFSCME, AFL-CIO; :
NATIONAL EDUCATION ASSOCIATION RHODE ISLAND :
RHODE ISLAND FEDERATION OF TEACHERS AND :
HEALTH PROFESSIONALS; RHODE ISLAND :
BROTHERHOOD OF CORRECTIONAL OFFICERS; :
INTERNATIONAL FEDERATION OF PROFESSIONAL AND :
TECHNICAL ENGINEERS LOCAL 400; NATIONAL :
ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL 79; :
RHODE ISLAND EMPLOYMENT SECURITY ALLIANCE, :
LOCAL 401; and RHODE ISLAND ALLIANCE OF SOCIAL :
SERVICE EMPLOYEES, LOCAL 580, :
:

C.A. No. 10-2859

Plaintiffs, :
:

v. :
:

DONALD L. CARCIERI, in his capacity as Governor of the State :
of Rhode Island; FRANK T. CAPRIO, in his capacity as General :
Treasurer of the State of Rhode Island; and THE EMPLOYEES' :
RETIREMENT SYSTEM OF THE STATE OF RHODE :
ISLAND, by and through the RHODE ISLAND RETIREMENT :
BOARD, by and through FRANK T. CAPRIO, in his capacity as :
Chairman of the Retirement Board, and FRANK J. KARPINSKI, :
in his capacity as Secretary of the Retirement Board, :
:

Defendants. :
:

DEFENDANTS' ANSWER TO PLAINTIFFS' AMENDED COMPLAINT

Defendants hereby respond to Plaintiffs' Amended Complaint as follows:

Jurisdiction

1. Paragraph 1 sets forth introductory language as to which no responsive pleading is required.
2. Defendants admit that this Court has jurisdiction over this matter.

Plaintiffs

3. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 3.

4. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 4.

5. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 5.

6. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6.

7. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7.

8. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 8.

9. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 9.

10. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10.

11. Paragraph 11 sets forth a defined term as to which no responsive pleading is required.

Defendants

12. Defendants admit that Defendant Donald L. Carcieri is the Governor of the State of Rhode Island.

13. Defendants admit that Defendant Frank T. Caprio is the General Treasurer of the State of Rhode Island. The provisions of the Rhode Island General Laws referenced in Paragraph 13 speak for themselves. Defendants deny any characterization contained in Paragraph 13 that is inconsistent therewith.

14. Defendants admit that Defendant Frank J. Karpinski serves as Secretary of the Retirement Board. The provisions of the Rhode Island General Laws referenced in Paragraph 14 speak for themselves. Defendants deny any characterization contained in Paragraph 14 that is inconsistent therewith.

15. Paragraph 11 sets forth a defined term as to which no responsive pleading is required.

Statement of Facts

16. Defendants admit the allegations set forth in Paragraph 16.

17. The provisions of the Rhode Island General Laws referenced in Paragraph 17 speak for themselves. Defendants deny any characterization contained in Paragraph 17 that is inconsistent therewith.

18. The provisions of the Rhode Island General Laws referenced in Paragraph 18 speak for themselves. Defendants deny any characterization contained in Paragraph 18 that is inconsistent therewith.

19. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 19.

20. The Public Law referenced in Paragraph 20 speaks for itself. Defendants deny any characterization contained in Paragraph 20 that is inconsistent therewith. Defendants deny the remainder of the allegations set forth in Paragraph 20.

21. Defendants deny the allegations set forth in Paragraph 21.

22. Defendants deny the allegations set forth in Paragraph 22.

23. Defendants deny the allegations set forth in Paragraph 23.

24. Defendants deny the allegations set forth in Paragraph 24.

25. Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations set forth in Paragraph 25.

26. The Public Law referenced in Paragraph 26 speaks for itself. Defendants deny any characterization contained in Paragraph 26 that is inconsistent therewith. Defendants deny the remainder of the allegations set forth in Paragraph 26.

27. Defendants deny the allegations set forth in Paragraph 27.

28. Defendants deny the allegations set forth in Paragraph 28.

29. Defendants deny the allegations set forth in Paragraph 29.

30. Defendants deny the allegations set forth in Paragraph 30.

31. Defendants deny the allegations set forth in Paragraph 31.

Count I (Contract Clause of the Rhode Island Constitution, Art. I, Section 12)

32. Defendants incorporate their responses to Paragraphs 1-31 of Plaintiffs' Amended Complaint as though set forth fully herein.

33. Defendants deny the allegations set forth in Paragraph 33.

34. Defendants deny the allegations set forth in Paragraph 34.

Count II (Takings Clause of the Rhode Island Constitution, Art. I, Section 16)

35. Defendants incorporate their responses to Paragraphs 1-31 of Plaintiffs' Amended Complaint as though set forth fully herein.

36. Defendants deny the allegations set forth in Paragraph 36.

37. Defendants deny the allegations set forth in Paragraph 37.

First Defense

Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

Second Defense

Defendants have the benefit of the State's status as sovereign, together with all privileges and immunities to inure to sovereign status.

Third Defense

Defendants have the benefit of all expressed and implied exceptions to any waiver of sovereign immunity.

Fourth Defense

Defendants acted reasonably and in good faith and did not violate any clearly established law and, therefore, plead qualified immunity from suit.

Fifth Defense

At all times material to the matters alleged in the Complaint, the State, its officers, agents and employees, were in the exercise of due care and had in good faith duly fulfilled any and all duties owed to Plaintiffs if, in fact, any duties were owed.

Sixth Defense

The alleged acts or omissions of Defendants were not a conscious disregard of Plaintiffs' rights, were not intentional and willful and were not in violation of law.

Seventh Defense

Defendants plead the doctrine of laches.

Eighth Defense

Defendants plead the doctrine of estoppel.

Ninth Defense

Defendants plead the doctrine of waiver.

Tenth Defense

Plaintiffs are not entitled to monetary damages against Defendants under law.

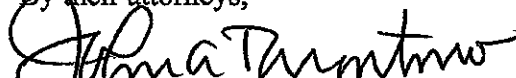
Eleventh Defense

Plaintiffs are not entitled to costs under law.

WHEREFORE, Defendants request that (a) Plaintiffs' Amended Complaint be dismissed with prejudice; (b) judgment enter in favor of Defendants and against Plaintiffs with respect to Plaintiffs' Amended Complaint; (c) Defendants be awarded costs to the extent permitted by law; and (d) Defendants be granted such other and further relief this Court deems just and proper.

DEFENDANTS

By their attorneys,



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Dated: September 15, 2010

Certificate of Service

I hereby certify that on the 15th day of September, 2010, I caused to be served a true copy of the within pleading via first class mail on the following counsel of record:

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