

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, STATE OF FLORIDA**

FLORIDA EDUCATION ASSOCIATION,
BROWARD TEACHERS UNION, BREVARD
FEDERATION OF TEACHERS, POLK
EDUCATION ASSOCIATION, TEACHERS
ASSOCIATION OF LEE COUNTY,
CHARLOTTE FEA, HILLSBOROUGH
CLASSROOM TEACHERS ASSOCIATION,
WAKULLA CLASSROOM TEACHERS
ASSOCIATION, LEON CLASSROOM
TEACHERS ASSOCIATION, MANATEE
EDUCATION ASSOCIATION, ANNA FUSCO,
ANTHONY COLUCCI, MARIANNE
CAPOZIELLO, KEVIN DALY, BRYAN
BOUTON, ROB KRIETE, MELISSA RUDD,
SCOTT MAZUR, PAT BARBER, SUSAN
BISTRICAN, CHARLOTTE HOOVER, SHARI
GEWANTER, ZAC JOHNSON, DIANE
PHILLIPS, HEATHER KALTENBACH, and
ANDREW KALTENBACH,

Plaintiffs,

v.

Case No. 2018-CA-001446

DONNA MAGGERT POOLE, as Chair and
Commissioner of the Florida Public Employees
Relations Commission, JAMES BAX, as
Commissioner of the Florida Public Employees
Relations Commission, and CURT KISER, as
Commissioner of the Florida Public Employees
Relations Commission,

Defendants.

DEFENDANTS' ANSWER TO COMPLAINT AND DEFENSES

Defendants, DONNA MAGGERT POOLE, as Chair and Commissioner of the Florida Public Employees Relations Commission, JAMES BAX, as Commissioner of the Florida Public Employees Relations Commission, and CURT KISER, as Commissioner of the Florida Public Employees Relations Commission, answer the Complaint filed by the Plaintiffs as follows, with the paragraph numbers of the answers corresponding to the paragraph numbers of the Complaint:

RESPONSES TO PRELIMINARY PARAGRAPHS

1. Admitted that Plaintiffs seek declaratory and injunctive relief as stated. Any remaining allegations are denied.

2. Admitted that Plaintiffs seek the invalidation of Chapter 2018-6, Laws of Florida, on the grounds stated in the paragraph. Any remaining allegations are denied.

3. Admitted that the Florida Public Employees Relations Commission is responsible for implementing and administering certain provisions of Chapter 2018-6, Laws of Florida. Any remaining allegations are denied.

JURISDICTION AND VENUE

4. Admitted.

5. Admitted.

PLAINTIFFS

6. Defendants lack knowledge or information sufficient to form a belief

as to the truth of the allegations, and therefore deny them.

7. Admitted that the unions listed in the paragraph are certified bargaining agents for units of employees at their respective employers. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and therefore deny them.

8. Admitted as to the allegations in the first and third sentences. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations, and therefore deny them.

9. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore deny them.

10. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore deny them.

11. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore deny them.

DEFENDANTS

12. Admitted.

13. Admitted.

14. Admitted.

CHAPTER 2018-6, LAWS OF FLORIDA

15. Admitted.

16. Chapter 2018-6, Laws of Florida, speaks for itself. Any remaining allegations are denied.

17. Admitted that section 33 of Chapter 2018-6, Laws of Florida, relates to the substantive provisions of Chapter 447, Part II, Florida Statutes, but that the actual statutory language that is amended by section 33 is contained in section 1012.2315, Florida Statutes, which is part of the Education Code. Any remaining allegations are denied.

18. Section 33 of Chapter 2018-6, Laws of Florida, speaks for itself. Any remaining allegations are denied.

19. Admitted.

COUNT I – SINGLE SUBJECT

Defendants restate, adopt, and incorporate by reference their responses to the allegations of paragraphs 1 through 19 of the Complaint as though fully set forth herein.

20. Chapter 447, Part II, Florida Statutes, and Article I, section 6 of the Florida Constitution speak for themselves. Any remaining allegations are denied.

21. Article III, section 6 of the Florida Constitution speaks for itself. Any remaining allegations are denied.

22. Denied.

23. Admitted as to the allegations of the first sentence, and that no hearing

was held before the Florida Senate on House Bill 25. Any remaining allegations are denied.

24. Denied.

COUNT II – EQUAL PROTECTION

Defendants restate, adopt, and incorporate by reference their responses to the allegations of paragraphs 1 through 19 of the Complaint as though fully set forth herein.

25. Article 1, section 2 of the Florida Constitution speaks for itself. Any remaining allegations are denied.

26. Article 1, section 6 of the Florida Constitution speaks for itself. Any remaining allegations are denied.

27. Admitted as to the allegations of the first sentence. Section 1012.01(2), Florida Statutes, speaks for itself. Any remaining allegations are denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

COUNT III – RIGHT TO BARGAIN COLLECTIVELY

Defendants restate, adopt, and incorporate by reference their responses to the allegations of paragraphs 1 through 19 of the Complaint as though fully set forth

herein.

32. Admitted.

33. Article I, section 6 of the Florida Constitution speaks for itself. Any remaining allegations are denied.

34. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore deny them.

35. Denied.

36. The provisions of Chapter 447, Part II, Florida Statutes, Article I, section 6 of the Florida Constitution, and sections 447.307 and 447.308, Florida Statutes, speak for themselves. Any remaining allegations are denied.

37. Denied.

COUNT IV – RIGHT TO WORK

Defendants restate, adopt, and incorporate by reference their responses to the allegations of paragraphs 1 through 19 of the Complaint as though fully set forth herein.

38. Article I, section 6 of the Florida Constitution speaks for itself. Any remaining allegations are denied.

39. Article I, section 6 of the Florida Constitution speaks for itself. The nature and extent of rights arising under it, limitations on those rights, and applicability *vel non* of those rights and limitations to this action are legal

conclusions. Any remaining allegations are denied.

40. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations, and therefore deny them.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

PRAYER FOR RELIEF

Defendants deny Plaintiffs' entitlement to the relief sought in Counts I through IV.

DEFENSES

FIRST DEFENSE

Plaintiffs lack standing to assert the claims set forth in the Complaint.

SECOND DEFENSE

The Complaint fails to state a cause of action.

THIRD DEFENSE

No genuine actual dispute exists between the parties appropriate for declaratory relief.

FOURTH DEFENSE

Plaintiffs do not meet the requirements for entry of injunctive relief against

Defendants.

Defendants reserve the right to amend, alter, or supplement the defenses contained in this Answer as they deem appropriate in the course of the litigation of this action.

Respectfully Submitted,

PAMELA JO BONDI
ATTORNEY GENERAL

/s/ Blaine H. Winship

Blaine H. Winship

Special Counsel

Fla. Bar No.: 356913

Blaine.Winship@myfloridalegal.com

Office of the Attorney General

Civil Litigation

The Capitol - PL 01

Tallahassee, FL 32399-1050

Telephone: (850) 414-3300

Facsimile: (850) 488-4872

Attorneys for All Defendants

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that, on this 4th day of September, 2018, I caused a true and correct copy of the foregoing to be served on all counsel of record, shown below, by electronic filing via the Court's electronic filing system:

Ronald G. Meyer, Esq.
Thomas W. Brooks, Esq.
Anthony D. Demma, Esq.
Jennifer S. Blohm, Esq.
Lynn C. Hearn, Esq.
Major R. Thompson, Esq.
Meyer, Brooks, Demma and Blohm, P.A.
131 North Gadsden Street
Post Office Box 1547 (32302)
Tallahassee, FL 32301
rmeyer@meyerbrookslaw.com
tbrooks@meyerbrookslaw.com
tdemma@meyerbrookslaw.com
jblohm@meyerbrookslaw.com
lheard@meyerbrookslaw.com
mthompson@meyerbrookslaw.com

Martin F. Powell, Esq.
Ashley Davis, Esq.
Florida Education Association
213 South Adams Street
Tallahassee, FL 32301
ashley.davis@floridaea.org

Mark Richard, Esq.
Osnat K. Rind, Esq.
Phillips Richard & Rind, P A
9360 SW 72nd Street
Suite 283
Miami, FL 33173-3283
mrichard@phillipsrichard.com
orind@phillipsrichard.com

/s/ Blaine H. Winship
Blaine H. Winship