

**IN THE COURT OF COMMON PLEAS  
FULTON COUNTY, OHIO**

KATRINA VANDERVEER  
13848 State Route 108  
Wauseon, Ohio 43567

Plaintiff,

vs.

OHIO ASSOCIATION OF PUBLIC  
SCHOOL EMPLOYEES/AMERICAN  
FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES, LOCAL 660-  
PIKE-DELTA-YORK LOCAL SCHOOL  
DISTRICT, c/o Dana Meiring, President, c/o  
PIKE-DELTA-YORK LOCAL SCHOOL  
DISTRICT  
5480 County Road F  
Delta, Ohio 43515

and

OHIO ASSOCIATION OF PUBLIC  
SCHOOL EMPLOYEES/AMERICAN  
FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES  
6805 Oak Creek Drive, Columbus, Ohio  
43229-1591

And

STATE EMPLOYMENT RELATIONS  
BOARD  
65 East State Street, Suite 1200  
Columbus, OH 43215

Defendants.

CASE NO:

JUDGE:

COMPLAINT FOR DECLARATORY  
JUDGMENT AND INJUNCTIVE  
RELIEF

JURY DEMAND ENDORSED  
HEREON

Plaintiff hereby states as follows:

## INTRODUCTION

1. This is an action for declaratory and injunctive relief on a contract.

2. It is also an action seeking a declaration regarding the Plaintiff's right under the Ohio Constitution to bring Plaintiff's claims and the forum in which those claims can be brought. Specifically, this action asks the Court to declare whether this Court or the State Employment Relations Board has jurisdiction to hear the contract claims asserted in this Complaint.

3. In its 2018 decision in *Janus v. AFSCME*, the U.S Supreme Court held that the First Amendment protects public-sector employees from being compelled "to subsidize private speech on matters of substantial public concern" without prior affirmative consent. *Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 885–86 (2018).

4. The Court rejected the requirement that forced government employees either to pay monthly dues or agency fees, used to support union policies and union lawyers, even when employees objected to those policies and actions. Non-payment would trigger employment termination.

5. But "[c]ompelling individuals to mouth support for views they find objectionable violates [a] cardinal constitutional command, and in most contexts, any such effort would be universally condemned." *Id.* at 892. *Janus* made clear that unions and governments cannot continue to compel "free and independent individuals to endorse ideas they find objectionable." *Id.* at 893.

6. Based on *Janus*, Plaintiff terminated Plaintiff's ostensible membership in Defendant, the Ohio Association of Public Employees/American Federation of State, County and Municipal Employees, Local 660 ("the Union") and the Defendant Union accepted that

termination. Plaintiff has demanded, on multiple occasions, that the Union Defendants and Plaintiff's employer, Pike-Delta-York Local Schools, stop the automatic deduction of membership dues from Plaintiff's paychecks and refund any union membership dues taken after Plaintiff's membership termination. Defendant has continued deducting union membership dues from Plaintiffs' wages, which the Union justified based upon the terms of the alleged agreements set forth in the deduction card Plaintiff had signed.

7. Such ostensible agreements have been vitiated through mutual rescission.

8. Even if such agreements have validity, any union claims to continued membership dues from non-members would be an unenforceable penalty and/or provide the Union unjust enrichment.

9. Moreover, any ostensible agreements requiring Plaintiff to continue to pay union membership dues when Plaintiff is not—in fact—a union member, is invalid because it is an unconscionable contract of adhesion that does not include the amount of the membership dues, was not subject to negotiation, and is unreasonably favorable to the unions.

10. In a similar case brought before the State Employment Relations Board ("SERB"), SERB asserted that the types of allegations averred in this case did not constitute unfair labor practices and were outside of its jurisdiction. However, in another case the Court determined that Ohio courts have no jurisdiction over these types of allegations because SERB had exclusive jurisdiction over such claims. Plaintiff asserts that common pleas courts have jurisdiction over the contract claims brought herein.

11. Plaintiff therefore asks this Court, pursuant to Ohio contract law, to stop these practices and to require the Union to reimburse Plaintiff for its improper membership dues collection.

## **PARTIES**

12. Plaintiff Katrina Vanderveer is employed by the Pike-Delta-York Local School District, as a paraprofessional. Plaintiff was previously a member of the Union. Plaintiff resigned from any such union membership on June 27, 2024, but remains a member of the bargaining unit represented by the Union.

13. Defendant Union is a public sector labor union with its principal place of business in Franklin County, Ohio.

14. Defendant SERB is an agency of the government of the State of Ohio which administers the Ohio Public Employees' Collective Bargaining Act through a three-member Board.

15. SERB is named as a defendant to assert whether SERB claims or disclaims jurisdiction over breach of contract claims as to contracts setting forth the contractual relationship between a union member and the union Defendants.

## **VENUE**

16. Venue is proper in this county pursuant Ohio Civil Rules 3(C)(3), (5), and (6) because (a) Plaintiff signed her membership card there and (b) the dues were deducted from Plaintiff's paycheck there.

17. Venue is also proper in this county pursuant to Rule 3(C)(1) because the local Union 660 is located in Fulton County and, upon information and belief, its president resides there.

## **FACTS**

18. Plaintiff seeks to enforce Plaintiff's common law contractual rights of and defenses relating to a contract for union membership and the continued forced deduction of union dues from Plaintiff's paycheck after Plaintiff had left the union.

19. Plaintiff is a former union member who resigned from union membership.

20. Plaintiff's union membership was evidenced by a membership and dues-deduction authorization card ("Deduction Card"), which Plaintiff signed on or about October 14<sup>th</sup>, 2022. (A copy of the Deduction Card is attached as Exhibit A).

21. Upon information and belief, no one from the Union signed the Deduction Card.

22. The term "dues" means "the official payments you make to an organization that you belong to." Cambridge Dictionary, *dues*, <https://tinyurl.com/CambridgeDues> (accessed Dec. 12, 2024); Collins, *dues*, <https://tinyurl.com/CollinsDues> (accessed Dec. 12, 2024) ("charges, as for membership of a club or organization").

23. The Deduction Card constitutes Plaintiff's membership contract with the Union.

24. Through it, Plaintiff authorizes the deduction of dues from Plaintiff's salary in exchange for the benefits of Union membership.

25. Upon information and belief, the Deduction Card used by the Union does not contain any information on the amount of the union membership dues deductions.

26. Upon information and belief, the Plaintiff's employer is only authorized to deduct union membership dues based upon, and after receipt of, the signed Deduction Cards for a specific employee.

27. Upon information and belief, none of the collective bargaining agreements (or any other documents) which are binding on the Plaintiff allows the Union to charge non-union members for membership dues.

28. Pursuant to its Collective Bargaining Agreement with the Union, which is the exclusive bargaining representative under R.C. 4117.04, *et seq.*, Pike-Delta-York Local School District deducted union membership dues from Plaintiff's paychecks.

29. The Union received those union membership dues out of the Plaintiff's pay both before and after Plaintiff's resignation from the union and continues to do so.

30. Plaintiff is entitled to relief based on Ohio contract law principles, including rescission and unconscionable contract of adhesion as set forth herein.

31. Assuming *arguendo* the validity of the Union's claim of a contractual right to continue to take union membership dues, such payments are not valid as consequential damages and are not liquidated damages under Ohio law because liquidated damages must reflect the reasonable compensation for damages incurred; instead, the assessed union membership dues are an unenforceable penalty. *See Boone Coleman Constr., Inc. v. Piketon*, 2016-Ohio-628, ¶ 17–19.

32. Plaintiff seeks damages and declaratory and injunctive relief under Ohio's declaratory judgment statute establishing that the union membership contract unconscionably and unreasonably penalizes Plaintiff.

33. In so doing, Plaintiff asserts Plaintiff's rights under Article I, Section 16 of the Ohio Constitution, which guarantees that "[a]ll courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay."

#### **Ohio Currently Lacks a Clear Forum in Which to Bring Contractual Claims Relating to Union Membership**

34. Part of the relief sought in this action is a declaration regarding the proper forum for contractual claims relating to public union membership.

35. Federal courts have declined to apply the *Janus* ruling to mandate that union members who terminate their union membership and seek a refund of their union membership dues receive a refund.

36. Specifically, in suits that followed *Janus*, public unions, seeking to retain dues, argued that unlike Mr. Janus, who was not a union member when he sued to enjoin the deduction of agency fees, current union members seeking to opt-out and obtain a refund of their membership dues based on a First Amendment claim had waived that claim because they had entered into voluntary membership contracts with their unions, often spanning several years. *See Belgau v. Inslee*, 975 F.3d 940, 950 (9th Cir. 2020).

37. A majority of federal appellate courts have adopted the unions' view that the *Janus* rule applies only to non-union members who either never joined or had opted-out of union membership years earlier, but not to employees who had opted out of union membership but whose membership contract had not expired. In those cases, courts have held that an employee's ability to opt-out of union membership after she has signed a contract with the unions is governed solely by that contract and the applicable state contract law. *See Belgau*, 975 F.3d at 950 (9th Cir. 2020) ("When 'legal obligations ... are self-imposed,' state law, not the First Amendment, normally governs.").

38. Thus, while public employees have an absolute First Amendment right to resign from public union membership at any time, *see, e.g., Knox v. SEIU, Local 1000*, 567 U.S. 298 (2012), in *Belgau*—and cases like it—the federal courts have held that employees who left the union before the contractual opt-out window were required by state contract law to continue to pay dues to a union to which they no longer belonged until they successfully opted-out during an approved opt-out window.

39. In essence, the federal courts have sent litigants back to state courts to hash out their contractual disputes there.

40. In *Darling v. AFSCME*, the court held, however, that because such contractual claims might be cast as unfair labor practices under R.C. 4117.11, those charges must be brought in the SERB. *Darling v. Am. Fedn. of State, Cnty., and Mun. Employees*, 2024-Ohio-2181, *appeal not allowed sub nom. Darling v. Am. Fedn. of State, Cty. & Mun. Emps.*, 243 N.E.3d 89 (Ohio 2024).

41. The *Darling* plaintiffs sought a jurisdictional appeal at the Ohio Supreme Court, which declined to take the case. *Id.*

42. Pursuant to the *Darling* court's direction, other plaintiffs have sought to raise their contractual issues before SERB.

43. In *Littlejohn v. AFSCME*, Case No. 24-03410 (Hamilton Cty. 2024), a claimant, expressly without waiving Plaintiff's right to seek redress in court, filed an unfair labor practices charge with SERB, including the various contractual theories for which the Plaintiff seeks relief here.

44. SERB reviewed the charge and dismissed it, stating that based on federal court decisions, which it did not cite, the actions complained of were not an unfair labor practice.

45. SERB did not examine or even mention any of Ms. Littlejohn's contractual claims or defenses.

46. SERB's jurisdiction is limited to determining whether an unfair labor practice listed in R.C. 4117.11 occurred, and not determining common law contractual rights.

47. Ohio courts have held that a SERB order dismissing a charge because the actions alleged in it are not unfair labor practices are not appealable. *See, e.g., Bunce v. City of Lorain, Ohio*, 2004-Ohio-4948.



48. Union members like Plaintiff who wish to assert legal claims challenging the validity or enforcement of their contracts with unions are potentially without a forum—federal, state, or administrative—in which to seek relief.

### **FACTUAL BACKGROUND**

49. Plaintiff is a public employee who was, at one time, a member of the Union.

50. When Plaintiff joined the Union, Plaintiff signed a “Checkoff Agreement” or “Deduction Card” that served as Plaintiff’s membership contract and authorized Plaintiff’s employer to deduct union dues from Plaintiff’s paycheck and pay them to directly to the Union. (Exhibit A).

51. On several occasions, most recently on December 9, 2024, Plaintiff notified the Union that Plaintiff was resigning Plaintiff’s membership and instructed both the Union and Plaintiff’s employer to stop deducting Union dues from Plaintiff’s paycheck. (Copies of the Letters Plaintiff sent and retained copies of are attached as Exhibit B.).

52. After receiving Plaintiff’s notice, the Union acknowledged that Plaintiff was no longer a member of the Union.

53. Union 660, however, refused to honor Plaintiff’s request to stop deducting dues from Plaintiff’s paycheck.

54. The mechanism for this continued extraction of dues from non-members is the public employers’ automatic deduction of union membership dues from their employees’ paychecks.

55. Once a person is no longer a member of an organization, she or Plaintiff cannot—as a basic definitional matter—owe membership “dues.”

56. In fact, in the letter acknowledging Plaintiff's termination of union membership, the Unions urged Plaintiff to reconsider and rejoin the union. (Copies of the Letters are attached as Exhibit C.).

57. The letters touted benefits available only to members, most notably the ability to vote in union elections. *Id.*

58. Upon the termination of Plaintiff's union membership, the Union also terminated the "membership only" benefits for Plaintiff. *Id.*

59. Upon information and belief, the Union did not provide Plaintiff with any information on the amount of union membership dues to be charged.

60. The Union has refused to permanently cease withdrawing dues as of the date of resignation, stating that Plaintiff continues to be bound by Plaintiff's alleged contract with the union, and that that contract allowed employees to opt-out of continued union membership dues payments only during certain times ("Opt-out Windows") during the life of the contract. (Exhibit C).

61. For Plaintiff, this meant waiting months for the expiration of the alleged contract before the union would stop withholding union membership dues.

62. Upon information and belief, when Plaintiff sought to opt-out in summer of 2024, a Union representative informed her she would have to wait for her opt-out window, which began October 4<sup>th</sup>.

63. In accordance with the information she received, Plaintiff sent one of her resignation letters to the Union on October 4<sup>th</sup>. (Exhibit B).

64. Still, the Union refused to stop taking dues. (Exhibit C).

## OHIO'S COLLECTIVE BARGAINING LAW

65. R.C. Chapter 4117 sets forth Ohio's collective bargaining law for public employees.

66. R.C. 4117.04 requires that public employers recognize and bargain with an exclusive representative of the bargaining unit:

(A) Public employers shall extend to an exclusive representative designated under section 4117.05 of the Revised Code, the right to represent exclusively the employees in the appropriate bargaining unit and the right to unchallenged and exclusive representation for a period of not less than twelve months following the date of certification and thereafter, if the public employer and the employee organization enter into an agreement, for a period of not more than three years from the date of signing the agreement. For the purposes of this section, extensions of agreements shall not be construed to affect the expiration date of the original agreement.

(B) A public employer shall bargain collectively with an exclusive representative designated under section 4117.05 of the Revised Code for purposes of Chapter 4117 of the Revised Code.

R.C. 4117.04.

67. R.C. 4117.03 allows public employees to “refrain from [] joining an employee organization.”

68. The State Employment Relations Board “shall decide in each case the unit appropriate for the purposes of collective bargaining. The determination is final and not appealable to any court.” R.C. 4117.06(A).

69. Ohio law mandates that the employee may only bargain with the relevant employer through the designated union. *See Thompson v. Marietta Educ. Ass'n*, 972 F.3d 809, 812 (6th Cir. 2020), *cert. denied*, \_\_\_ U.S. \_\_\_, 141 S.Ct. 2721, (2021).

70. Thus, while a public employee may refrain from joining a union or choose to leave a union, they are not free to opt-out of the bargaining unit that is represented by that union.

71. Likewise, unions that are chosen as the bargaining unit representative are required to represent all members of the bargaining unit fairly, whether those bargaining unit members are union members or not.

72. The Union is Plaintiff's exclusive representative for purposes of collective bargaining and grievances as set forth in R.C. 4117.05.

73. In other words, while Plaintiff may choose not to join the union that is recognized as the exclusive representative of Plaintiff's bargaining unit, Plaintiff may not opt-out of the bargaining unit. Likewise, the Union that has been designated as the exclusive representative for a bargaining unit cannot refuse to represent the members of that bargaining unit.

74. Ohio's declaratory judgment statute provides that,

[s]ubject to division (B) of section 2721.02 of the Revised Code, any person interested under a . . . written contract, or other writing constituting a contract . . . may have determined any question of construction or validity arising under the instrument, constitutional provision, statute, rule, ordinance, resolution, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it.

R.C. 2721.03.

75. Before the Supreme Court's ruling in *Janus*, Plaintiff was required to either join the Union and pay full union membership dues or pay "fair-share fees" to the Union. *See* R.C. 4117.09(C).

76. The collective bargaining agreement between the Union and Pike-Delta-York Local School District was statutorily required to contain a provision authorizing the public employer to deduct periodic dues of union members (but not non-members fair share fees) "upon presentation of a written deduction authorization by the employee." R.C. 4117.09(B)(2).

77. Plaintiff opposed and continues to oppose paying union membership dues because Plaintiff is no longer a member of the Union and because Plaintiff disagrees with the Union's

political advocacy and collective-bargaining activities. Like the plaintiff in *Janus*, Plaintiff has been compelled by law and by her public employers' continued deduction of union membership dues from her paychecks to provide monetary support for speech with which she disagrees.

78. Plaintiff demanded a cessation of union membership dues withdrawals and demanded refunds retroactively to the date of Plaintiff's resignation.

79. The Union, however, through automatic union membership dues withdrawal and a refusal to recognize Plaintiff's rights under *Janus*, continued to compel Plaintiff to subsidize its speech, even after Plaintiff was no longer a member.

80. Under the U.S. Supreme Court's holding in *Janus*, an employee must "clearly and affirmatively consent before any money is taken." *Janus*, 585 U.S. at 930.

81. Here, to the extent that Plaintiff ever consented to the withdrawal of union membership dues from Plaintiff's paychecks, that consent was clearly revoked by Plaintiff's resignation. The Union's Collective Bargaining Agreement ("CBA") does not allow for the continued deduction of union membership dues from non-members as described below. (The Collective Bargaining Agreement is voluminous, and therefore not attached to this pleading. It is, however, publicly available at [<https://tinyurl.com/4bnppb6t>]).

82. For example, the CBA between the Union and Pike-Delta-York Local School District permits the employer to "deduct Association dues" from employee wages only with signed written authorizations.

83. There is thus a live dispute between the Parties regarding the Defendants' obligations under the contract between the unions and Plaintiff that can be properly resolved through a declaratory judgment action.

84. Plaintiff is therefore entitled to a declaration that the Union's practice of continuing

to collect union membership dues from Plaintiff after Plaintiff resigned from the union is unlawful, and a refund of the money that was forcibly taken from them in violation of Plaintiff's constitutional and contractual rights.

85. By refusing to return the Plaintiff's union membership dues even though the Plaintiff has terminated Plaintiff's membership in the Union, the Union has acted in bad faith, vexatiously, wantonly, obdurately, or for oppressive reasons.

**COUNT ONE:**  
**THE COURT SHOULD DECLARE THAT THE CONTRACT BETWEEN THE PLAINTIFF AND THE UNION IS RESCINDED BASED ON MUTUAL REPUDIATION**

86. Plaintiff restates the foregoing allegations and incorporates them here as if fully rewritten.

87. To the extent that the Union claims that any contract or assignment of wages (via the Deduction Cards)—and specifically the Opt-out Windows contained therein remain in force even after the Plaintiff resigned from the Union, the Plaintiff seeks a declaration that Plaintiff's contract with the Union was effectively rescinded and an order returning Plaintiff to her financial situation as it existed at the time of the registration based on mutual repudiation.

88. Plaintiff has unambiguously rescinded any contract with the Union and any assignment of wages.

89. The Union has, in turn, recognized and acknowledged that Plaintiff is no longer a union member and has refused to provide any benefits or other consideration to Plaintiff beyond the exclusive representation that they are required by law to provide to members and non-members alike.

90. When both parties repudiate or otherwise refuse to perform under a contract, Ohio courts treat the contract as rescinded. *See e.g., Haman Ents., Inc. v. Sharper Impressions Painting*

Co., 2015-Ohio-4967, ¶ 19 (10th Dist.).

91. A party's assent to rescission can be inferred from the party's actions. *Id.*

92. In this case, by acknowledging that the Plaintiff is no longer a Union member and withholding any purported benefits of union membership from Plaintiff, Union has effectively rescinded any alleged contract with Plaintiff.

93. The CBA does not provide for the deduction of union membership dues from nonmembers.

94. Despite this rescission and the Union's termination of union member benefits to the Plaintiff, the Union still claims the right to seize union membership dues from Plaintiff.

95. There is therefore a dispute over the validity or interpretation of the contract between the Plaintiff and the Union.

96. The Plaintiff is entitled to a declaration that any contract she may have had with the unions or any assignment of wages have been rescinded as of the date of the Plaintiff's resignation and termination of membership, a permanent injunction enjoining any further withdrawal of union membership dues pursuant to the purported contract, and an order that the Defendant Union restore the Plaintiff to Plaintiff's financial positions as of the date of her resignation by refunding all union membership dues collected after the date of the resignation.

**COUNT TWO:  
THE COURT SHOULD DECLARE THAT THE CONTRACT BETWEEN THE  
PLAINTIFF AND THE UNION IMPOSES AN UNENFORCEABLE PENALTY**

97. Plaintiff restates the foregoing allegations and incorporate them here as if fully rewritten.

98. In the alternative, to the extent that Plaintiff's resignation from the Union and termination of any signed Deduction Card constitutes a breach of contract, the Union's continued

withdrawal of union membership dues constitutes an unreasonable and unenforceable penalty for such breach of contract.

99. Ohio law permits liquidated damages only when they represent a reasonable measure of compensation for the contract's breach. *Boone*, 2016-Ohio-628, at ¶ 17–19.

100. Conversely, Ohio law defines a penalty as:

a sum inserted in a contract, not as the measure of compensation for its breach, but rather as a punishment for default, or by way of security for actual damages which may be sustained by reason of nonperformance, and it involves the idea of punishment. A penalty is an agreement to pay a stipulated sum on breach of contract, irrespective of the damage sustained. Its essence is a payment of money stipulated as in terrorem of the offending party, *while the essence of liquidated damages is a genuine covenanted pre-estimate of damages*. The amount is fixed and is not subject to change; however, if the stipulated sum is deemed to be a penalty, it is not enforceable, and the non-defaulting party is left to the recovery of such actual damages as he can prove.

*Id.*, quoting *Piper v. Stewart & Inlow*, 5th Dist. Licking No. CA-2530, 1978 WL 217430, \*1 (June 14, 1978).

101. In this case, the continued payment of union membership dues in an amount never specified in the Deduction Card—presumably subject to increase by unilateral determination by the Union—and imposed upon the union members without advance knowledge, is not related to any additional cost or damages sustained by the Union.

102. The Union stopped providing those services to Plaintiff that it was not otherwise required by law to provide to members and non-members alike on or about the date of the Plaintiff's resignation.

103. The Union was therefore immediately relieved of those costs associated with servicing additional union members and thus—assuming that Plaintiff's resignation constituted a breach of Plaintiff's contract with the Union—suffered no damages from those breaches.



104. The additional union membership dues that the Union received from the Plaintiff after their respective resignations are thus unenforceable penalties.

105. The continued union membership dues payments are not consequential damages because a contracting party “is not, however, liable in the event of breach for loss that he did not at the time of contracting have reason to foresee as a probable result of such a breach.” *Williams v. Gray Guy Grp., L.L.C.*, 2016-Ohio-8499, ¶ 33 (10th Dist.). Since the Deduction Card does not specify the amount to be deducted, Plaintiff could not have foreseen what might be the probable result of a breach at the time of signing the Deduction Card.

106. The Plaintiff is entitled to a declaration that the Union’s continued withdrawal of union membership dues from her paychecks is an unenforceable penalty, a refund of all post-resignation union membership dues collected, and a permanent injunction enjoining any further union membership dues deductions.

**COUNT THREE:  
THE COURT SHOULD DECLARE THE PLAINTIFF’S CONTRACT WITH THE  
UNION TO BE AN UNCONSCIONABLE CONTRACT OF ADHESION**

107. Plaintiff restates the foregoing allegations and incorporates them by reference here as if fully rewritten.

108. Any contract, assignment of wages, or Deduction Card signed by Plaintiff is substantively unconscionable because not including any amounts and requiring monthly membership dues deduction for a full year without possible termination upon leaving the union is “unfair and commercially unreasonable.” *Porpora v. Gatliff Bldg. Co.*, 2005-Ohio-2410, ¶ 8 (9th Dist.).

109. Upon information and belief, Plaintiff’s deduction card requires Plaintiff to abide by the OAPSE’s by-laws and constitution, which imprecisely set out the dues scheme. Upon

information and belief, Plaintiff did not have access to OAPSE's bylaws or constitution when she signed her deduction card and therefore could not know the amount of dues she would owe.

110. Additionally, any such contract, assignment of wages, or Deduction Card is unconscionable because the Plaintiff—by virtue of the Ohio Revised Code, the collective bargaining agreements in place, and the mandatory recognition of only one bargaining unit—created “the absence of meaningful choice on the part of [Plaintiff]” which was “combined with contract terms that are unreasonably favorable to the [Union].” *Sabo v. Hollister Water Assn.*, 2007-Ohio-7178, ¶ 34 (4th Dist.) (citing *Collins v. Click Camera & Video, Inc.*, 86 Ohio App.3d 826, 834 (2d Dist. 1993)).

111. Further, “price is an essential element of a contract that must be proven for the contract to be enforceable.” *Ross v. Belden Park Co.*, No. 1996CA00429, 1998 WL 347064, \*3 (5th Dist. June 1, 1998) (internal quotation marks omitted). Any alleged contract between the Plaintiff and Defendants had no stated amount—or price—to be deducted as union membership dues.

112. Accordingly, any such contract, assignment of wages, or Deduction Card is invalid, and unconscionable.

113. Plaintiff is entitled to a declaration that any contract Plaintiff may have had with the Union or any assignment of wages is an unenforceable contract of adhesion, a permanent injunction enjoining any further withdrawal of union membership dues pursuant to the purported contract and ordering that the Defendant Union restore the Plaintiff to the financial situation as it existed at the time of Plaintiff's resignation by refunding all union membership dues collected after the date of the resignation.

114. The Union could have made the contract fair and enforceable and can do so prospectively through execution of a fair and enforceable Deduction Card, by providing the “price” element, notifying the other party of the option of direct payment to the union rather than automatic dues deductions, allowing dues deductions to be cancelled at any time, and correcting any other practices which the court determines to be unfair or improper.

**COUNT FOUR:  
UNJUST ENRICHMENT**

115. Plaintiff restates the foregoing allegations and incorporate them here as if fully rewritten.

116. Any contract, agreement or assignment of wages between Plaintiff and the Union has been rescinded or otherwise terminated.

117. By continuing to deduct union membership dues from the Plaintiff’s paychecks after Plaintiff resigned from union membership, the Union has been unjustly enriched.

118. Specifically, the Union continued to deduct union membership dues while at the same time not providing services beyond those service the law requires to all members of the bargaining unit, regardless of their membership status.

119. Plaintiff has demanded the refund of Plaintiff’s union membership dues after Plaintiff terminated Plaintiff’s membership, but the Union has refused.

120. The Union has thus retained a benefit under circumstances where it is inequitable to do so.

121. Accordingly, Plaintiff is entitled to damages in the form of a refund of Plaintiff’s union membership dues, plus interest.

**COUNT FIVE:  
DECLARATORY RELIEF REGARDING JURISDICTION OF SERB**

122. Plaintiff restates the foregoing allegations and incorporate them here as if fully re-written.

123. R.C. 4117.02 creates the SERB and grants it jurisdiction to hear and determine claims of unfair labor practices set forth in R.C. 4117.11.

124. SERB has determined in another case that contractual claims and defenses are not unfair labor practices as described by R.C. 4117.11. *See Littlejohn v. AFSCME*, Case No. 24-03410 (Hamilton Cty. 2024).

125. Article I, Section 16 of the Ohio Constitution provides that “[a]ll courts shall be open, and every person, for an injury done him in his land, good, person, or reputation, shall have remedy by due course of law and shall have justice administered without denial or delay.” Similarly, Article IV, Section 4(B) of the Ohio Constitution provides that the courts of common pleas “shall have such original jurisdiction over all justiciable matters . . . as may be provided by law.” Section 4, Article IV, Ohio Constitution. And by statute, common pleas courts have general original subject-matter jurisdiction over civil actions, including breach-of-contract actions. R.C. 2305.01; *State ex rel. Cleveland Elec. Illum. Co. v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 447, 449 (2000).

126. Nevertheless, as alleged herein, the *Darling* court held that contract claims such as those averred herein are within the exclusive jurisdiction of SERB.

127. Ohio’s declaratory judgment statute provides that “[s]ubject to division (B) of section 2721.02 of the Revised Code, any person interested under a . . . written contract, or other writing constituting a contract . . . may have determined any question of construction or validity arising under the instrument, constitutional provision, statute, rule, ordinance, resolution, contract,

or franchise and obtain a declaration of rights, status, or other legal relations under it.” R.C. 2721.03. The statute further provides that common pleas courts have jurisdiction to “declare rights, status, and other legal relations whether or not further relief is or could be claimed” R.C. 2721.02(A).

128. Pursuant to Ohio Civil Rule 8(E)(2), Plaintiff pleads the following in the alternative.

#### ALTERNATIVE I

129. Plaintiff avers that SERB does not have jurisdiction to resolve the contractual claims set forth in Count I of this Complaint.

130. Plaintiff avers that SERB does not have jurisdiction to resolve the contractual claims set forth in Count II of this Complaint.

131. Plaintiff avers that SERB does not have jurisdiction to resolve the contractual claims set forth in Count III of this Complaint.

132. Plaintiff avers that SERB does not have jurisdiction to resolve the contractual claims set forth in Count IV of this Complaint.

#### ALTERNATIVE II

133. Plaintiff avers that SERB has jurisdiction to resolve the contractual claims set forth in Count I of this Complaint.

134. Plaintiff avers that SERB has jurisdiction to resolve the contractual claims set forth in Count II of this Complaint.

135. Plaintiff avers that SERB has jurisdiction to resolve the contractual claims set forth in Count III of this Complaint.

136. Plaintiff avers that SERB has jurisdiction to resolve the contractual claims set forth in Count IV of this Complaint.

RELIEF REQUESTED UNDER COUNT FIVE UNDER EITHER ALTERNATIVE I OR II

137. Plaintiff asks this Court to declare whether, pursuant to R.C. 4117.02, *et seq.*, and the Ohio Constitution's open courts and jurisdictional provision, this Court and/or SERB has jurisdiction to grant relief relating to contractual disputes set forth in this Complaint.

WHEREFORE, Plaintiff prays for the following relief:

- A. A Declaration that the Defendant Unions' continued withdrawal of union membership dues from Plaintiff's paychecks is unlawful;
- B. A Declaration that the Plaintiff's contract with her union was rescinded or terminated upon the Plaintiff's resignation or are otherwise invalid;
- C. A refund of all union membership dues improperly withheld;
- D. Because the Union has acted in bad faith, vexatiously, wantonly, obdurately, or for oppressive reasons, an award of Plaintiff's costs and attorneys' fees;
- E. A declaration stating whether this Court or SERB has jurisdiction to grant relief relating to contractual disputes set forth in this Complaint; and
- F. Any further relief the Court deems just and equitable.

Plaintiff demands a jury on all issues so triable.

Respectfully submitted,

/s/ Jay R. Carson

Jay R. Carson (0068526)

David C. Tryon (0028954)

Alex M. Certo (0102790)

J. Simon Peter Mizner (0105077)

The Buckeye Institute

88 East Broad Street, Suite 1300

Columbus, Ohio 43215

(614) 224-4422

Email: j.carson@buckeyeinstitute.org  
d.tryon@buckeyeinstitute.org  
a.certo@buckeyeinstitute.org  
mizner@buckeyeinstitute.org

*Attorneys for Plaintiff*

# **EXHIBIT A**



OAPSE/AFSCME LOCAL 4 MEMBERSHIP APPLICATION/  
DUES CHECK-OFF AUTHORIZATION

(Please PRINT CLEARLY AND BRIEFLY)

Employee: Pike Delta York

Last Name Vanderveer

First Name Katrina

558

0.08

Address 12946 STATE ROUTE 109,

City Wausau

State OH zip 43567

Home Phone

Cell Phone ( )

County of Residence Fullerton

Personal Email

Job Classification PARA

[illegible]

Signature Antonia V. Gaudin

Date 10/14/22

## AFSCME PEOPLE PAYROLL DEDUCTION FORM

Circle Jacket Size: XS S M L XL 2X 3X 4X 5X

☐ Journal received at night      ☐ No. DATE of Office sent by parcel  
the name and address listed above

YES, I want to contribute the following amount to AFSCME PEOPLE through PAYROLL DEDUCTION. The amount authorized is to be deducted annually in equal installments

### Champion Levels of Participation

□ 2014/4/23

**Figure 1**

3549 JAVP-3m-96 107

TSI 2001076, Corp.

1. 2000. 6

[illegible]

Signature \_\_\_\_\_

2.2.2. *Experiments*

## Recruiter

123456

# **EXHIBIT B**

December 9, 2024

Joseph P. Rugola  
Union State Treasurer  
OAPSE/AFSCME LOCAL 4  
6805 OAK CREEK DRIVE  
COLUMBUS, OH 43229-1591

Dear Joseph P. Rugola, Union State Treasurer:

It is with respect that I hereby notify you that I am immediately withdrawing my union membership as is my right under the First Amendment as expressed by the U.S. Supreme Court ruling in *Janus v. AFSCME*. Consequently, since I am no longer a union member, I will not pay union membership dues or other agency fees.

I do not consent to any further payment or withholding of dues, fees, or political contributions to the union or any of its affiliates. If you believe I have given consent in the past, that consent is revoked, effective immediately, notwithstanding any opt-out period. This has been a twenty-four-week process as of today. That's \$44.00 each pay period being taken against my wishes.

I understand that has arranged to be the sole provider of workplace representation services for all employees in my bargaining unit. I understand further that, in exchange for the privilege of acting as the exclusive bargaining representative, OAPSE must continue to represent me fairly and without discrimination in dealings with my employer. Please advise me if you have a different understanding.

I ask that you notify me immediately in writing if you are not willing to honor my rights, provide me with the legal reasons for your refusal, and outline the specific steps I need to undertake to withdraw my membership.

Respectfully,

Katrina Vanderveer



Pike Delta York School District  
Paraprofessional  
Fulltime Employee

To Whom It May Concern:

November 12, 2024

Hello, my name is Katrina Vanderveer and I work at Pike Delta York Highschool as a paraprofessional. I joined the union when I was hired in, I thought I had to! After the last three years being a member, I've decided it's not a good fit for myself. I would like to opt out at this time.

I filled out the opt out letter back in the summer knowing then it's not a good fit for myself. The very day we needed to vote; I mailed the letter into Columbus. I found the needed letter online because nobody was able to "help" me. I followed all the guidelines I found online at OAPSE. I was sent a letter back a few weeks later stating that I had to wait until the October window to open and I could then send my letter in at that time.

October came around and I again filled out the opt out letter. Mailed the letter on October 4, 2024. I received a letter back the week of October 20, 2024 that my request was denied. I've been attempting to reach out as to a reason why I'm being denied with no luck. I called the number on the letter and the lady in Columbus said I had to call Toledo. I called Toledo on Halloween left a voicemail, November 6 left a message with the lady who answered because "I can only talk to Rachel Morrow", November 8<sup>th</sup> another message in Toledo. I personally have sent several emails to directors at OAPSE with absolutely no response. I even reached out to our "president" Dana Meiring who said she cannot help me. "She received the same letter as I did" that was all the "help" she "offered"! She didn't try to help me at all!

To say this is a disappointment is a huge understatement. You want people to stay in the union to rally as a team but I cannot even get a response to a phone call or email. But you are still taking my money every pay day. This is one of the many reasons I don't want to be a part of this union. I'm a stand by my word type of person. I'm wondering if this is all being drawn out to miss the opt out window. If so, that's even a bigger red flag. I'd appreciate a response as soon as possible as I've been trying to get a solution since the summer and now over a month in October – November.

Very Disappointed,  
Katrina Vanderveer

A handwritten signature in black ink that reads "Katrina Vanderveer". The script is cursive and fluid, with the first name "Katrina" being more prominent than the last name "Vanderveer".

Ohio Association of Public School Employees, AFSCME local 4  
6805 Oak Creek Drive  
Columbus, OH 43229-1591

OAPSE Executive Director:

Effective immediately, I resign membership in all levels of Ohio Association of Public School Employees, AFSCME local 4.

I do not consent to any payment or withholding of dues, fees, or political contributions to the union or its affiliates. If you believe I have given consent in the past, that consent is revoked, effective immediately.

The right to be free from forced union payments is guaranteed under the First Amendment of the Federal Constitution as recognized by *Janus v. AFSCME*. I insist that you immediately cease deducting any and all union dues or fees from my paycheck or account, as is my constitutional right. This notification is permanent and continuing in nature, until I sign indicating otherwise.

Further exaction of union dues or fees against my will violates my constitutional rights. If you refuse to process such cessation of payment, I request that you:

- promptly provide me with a copy of any dues deduction authorization — written, electronic, or oral — the union has on file for me; and
- promptly inform me, in writing, of exactly what steps I must take to effectuate my constitutional rights and stop the deduction of dues/fees.

I understand that OAPSE has arranged to be the sole provider of workplace representation services for all employees in my bargaining unit. I understand further that, in exchange for the privilege of acting as the exclusive bargaining representative, OAPSE must continue to represent me fairly and without discrimination in dealings with my employer and cannot, under any circumstances, deny me any wages, benefits, or protections provided under the collective bargaining agreement with my employer.

I trust that you will act promptly to properly observe my constitutional rights.

KATRINA VANDERVEER



Pike Delta York School District  
Paraprofessional

Signature and Date:

*Katrina M Vanderver* 10/4/24

☒ Do not contact me with any future membership solicitations or union materials.

Ohio Association of Public School Employees, AFSCME local 4  
6805 Oak Creek Drive  
Columbus, OH 43229-1591

OAPSE Executive Director:

Effective immediately, I resign membership in all levels of Ohio Association of Public School Employees, AFSCME local 4.

I do not consent to any payment or withholding of dues, fees, or political contributions to the union or its affiliates. If you believe I have given consent in the past, that consent is revoked, effective immediately.

The right to be free from forced union payments is guaranteed under the First Amendment of the Federal Constitution as recognized by *Janus v. AFSCME*. I insist that you immediately cease deducting any and all union dues or fees from my paycheck or account, as is my constitutional right. This notification is permanent and continuing in nature, until I sign indicating otherwise.

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- promptly provide me with a copy of any dues deduction authorization — written, electronic, or oral — the union has on file for me; and
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I understand that OAPSE has arranged to be the sole provider of workplace representation services for all employees in my bargaining unit. I understand further that, in exchange for the privilege of acting as the exclusive bargaining representative, OAPSE must continue to represent me fairly and without discrimination in dealings with my employer and cannot, under any circumstances, deny me any wages, benefits, or protections provided under the collective bargaining agreement with my employer.

I trust that you will act promptly to properly observe my constitutional rights.

KATRINA VANDERVEER

Pike Delta York School District  
Paraprofessional

Signature and Date: Katrina M. Vanderveer 6/27/24

☒ Do not contact me with any future membership solicitations or union materials.

# **EXHIBIT C**



# Ohio Association of Public School Employees

*American Federation of State, County and Municipal Employees, AFL-CIO*

OAPSE/AFSCME Local 4/AFL-CIO, 6805 Oak Creek Drive, Columbus, Ohio 43229-1591  
(614)890-4770 • (800)786-2773 • (614)890-3540 FAX  
[www.oapse.org](http://www.oapse.org)

October 16, 2024

Katrina Vanderveer

Joseph P. Rugola  
Executive Director

Lois Carson  
State President

Michael Lang  
State Vice President

Sheila Dawkins-Flinn  
State Secretary

Dear Katrina,

We are in receipt of a recent notice from you indicating that you wish to withdraw from membership in our Union and to stop your dues deduction authorization.

While we acknowledge your withdrawal from membership, we hope that you will consider the fact that OAPSE members in Ohio make thousands of dollars more each year than those doing exactly the same jobs without our union's representation. We only stay strong when those who benefit from OAPSE do their part to support that work. Additionally, OAPSE members and their families enjoy many other benefits from membership, including low-cost education courses, access to home mortgages, credit cards and discounts to major Ohio theme parks. Also, you must be a union member to vote on a contract with your employer, attend meetings and vote in local union elections or run for office. For better wages, benefits, job security, and a decent retirement income, remain part of our union and carry your share of the load. You should also be aware that your request to have dues deduction authorization cancelled does not satisfy the requirements set forth on the membership application you signed.

If you have any questions, please contact us at (614) 890-4770 or (800) 786-2773.

Thank you.

Very truly yours,

*Kelly McKinniss*

Kelly McKinniss  
Administrative Assistant - Accounting

cc: Dana Meiring, Local 660 President  
Janet Jacob, Local 660 Treasurer  
Steve Myers, OAPSE Regional Director  
Rachel Morrow, OAPSE Field Representative

11/6 called  
11/7 called

11/8 - emailed several oapse

Cleveland/Canton Field Office, 9555 Vista Way, Suite 230, Garfield Heights, Ohio 44125 • (330)659-7335 / (855)607-6554  
Dayton Field Office, 1299 Lyons Road, Dayton, OH 45458 • (614)890-4770 / (800)786-2773  
Toledo Field Office, 2340 Detroit Ave; Garden Floor, Maumee, Ohio 43537 • (419)887-5758 / (800)265-1810



called 10/31  
left v.m.

11/7 emailed





## Ohio Association of Public School Employees

*American Federation of State, County and Municipal Employees, AFL-CIO*

OAPSE/AFSCME Local 4/AFL-CIO, 6805 Oak Creek Drive, Columbus, Ohio 43229-1591  
(614)890-4770 • (800)786-2773 • (614)890-3540 FAX  
[www.oapse.org](http://www.oapse.org)

December 2, 2024

Katrina Vanderveer

Joseph P. Rugola  
*Executive Director*

Lois Carson  
*State President*

Michael Lang  
*State Vice President*

Sheila Dawkins-Flinn  
*State Secretary*

Dear Katrina,

We are in receipt of a recent notice from you indicating that you wish to withdraw from membership in our Union and to stop your dues deduction authorization.

While we acknowledge your withdrawal from membership, we hope that you will consider the fact that OAPSE members in Ohio make thousands of dollars more each year than those doing exactly the same jobs without our union's representation. We only stay strong when those who benefit from OAPSE do their part to support that work. Additionally, OAPSE members and their families enjoy many other benefits from membership, including low-cost education courses, access to home mortgages, credit cards and discounts to major Ohio theme parks. Also, you must be a union member to vote on a contract with your employer, attend meetings and vote in local union elections or run for office. For better wages, benefits, job security, and a decent retirement income, remain part of our union and carry your share of the load. You should also be aware that your request to have dues deduction authorization cancelled does not satisfy the requirements set forth on the membership application you signed.

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Thank you.

Very truly yours,

Kelly McKinniss  
Administrative Assistant - Accounting

cc: Dana Meiring, Local 660 President  
Janet Jacob, Local 660 Treasurer  
Steve Myers, OAPSE Regional Director  
Rachel Morrow, OAPSE Field Representative