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ANSWER TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

1. This statement is a conclusion of law; however, Defendant agrees that there are no genuine issues of material fact in dispute that preclude the entry of summary judgment or require a trial on the merits.

2. It is admitted that this matter is ripe for summary judgment. However, the averment that Ms. Ladley and Mr. Meier are entitled to judgment as a matter of law, in addition to being a legal conclusion not requiring an answer, is denied. To the contrary, as set forth fully in PSEA's Cross Motion for Summary Judgment filed herewith, PSEA is entitled to judgment as a matter of law. All of Plaintiff's State and Federal Constitutional Claims have been rejected by prior Orders of this Court. *See*, Opinion and Order of Judge Cullen, dated June 30, 2015, at pages 9-11 (Appendix A, *Cullen I*) and Opinion and Order of Judge Cullen, dated April 20, 2016, at 9-12 and pages 14-15 and 17 (Appendix B, *Cullen II*). The only undecided issue is whether PSEA is acting unreasonably in an attempt to reach agreement with Plaintiffs on the identity of an appropriate charity to receive the fair share fees collected from Plaintiffs and currently held in escrow.

3. It is admitted that Ms. Ladley and Mr. Meier seek declaratory relief. By way of further answer, a petition under the Declaratory Judgments Act is addressed to the sound discretion of the Court. Prior Orders of this Court have previously sustained Preliminary Objections filed by Defendant dismissing all of

Plaintiffs' federal constitutional claims, federal statutory claims, state constitutional claims, and injunctive claims set forth in the Original Complaint and the First Amended Complaint. Although those claims are repeated once again in the Second Amended Complaint, and advanced more fully here, they were properly dismissed twice and cannot form the basis for summary judgment now. Only Plaintiffs' action challenging the reasonableness of Defendant's application of the religious objector charitable diversion created by 71 P.S. §575 (h), pursuant to the Declaratory Judgments Act, survives. The only issue that remains is the reasonableness of Defendant's actions under the statute. PSEA denies any violation of the rights of either Ms. Ladley or Mr. Meier, whatever the source.

Ms. Ladley

4– 33. Paragraphs 4 through 33 of Plaintiffs Motion for Summary Judgment (with the exception of para. 26, which is a pure conclusion of law) set forth essentially undisputed facts regarding Plaintiff Ladley's obligation to pay fair share fees, her notification that she objected to paying those fees on religious grounds, the Defendant's acceptance of her status as a religious objector to the payment of fair share fees, and the communications between Plaintiff Ladley and Defendant regarding of several organizations she selected charities to receive those fees that were not agreed to by the Defendant (as required by the statute) and Defendant's promulgation of new procedures to address those situations where

there is not initial agreement between the feepayer and the union over the identity of an acceptable charity. Defendant has addressed the substance of all factual allegations in its Answer with New Matter; those averments are incorporated herein by reference. [Note that Defendant has never “recognized that COOL is a “charity” as averred in paragraph 21.]

Mr. Meier

34 – 54. Paragraphs 34 through 54 of Plaintiffs Motion for Summary Judgment set forth essentially undisputed facts regarding Plaintiff Meier’s obligation to pay fair share fees, his notification that he objected to paying those fees on religious grounds, the Defendant’s acceptance of his status as a religious objector to the payment of fair share fees, and the communications between Plaintiff Meier and Defendant regarding his insistence that the National Right to Work Legal Defense Fund receive the fair share fees that would otherwise have been paid to the union, and Defendant’s promulgation of new procedures to address those situations where there is not initial agreement between the feepayer and the union over the identity of an acceptable charity. Defendant has addressed the substance of all factual allegations in its Answer with New Matter and those averments are incorporated herein by reference. [Note that Defendant has never “recognized that NRTWLDF is a “charity” as averred in paragraph 41.]

PSEA

55– 81. Paragraphs 55 through 81 (with exceptions noted below) of Plaintiffs Motion for Summary Judgment set forth essentially undisputed facts regarding Defendant PSEA and its application of the religious objector provisions of the Fair Share Fee Law to Plaintiffs and others, including the procedures currently in place to address those situations when there is not initial agreement between the feepayer and the union over the selection of an agreeable charity. Defendant has addressed the substance of all factual allegations in its Answer with New Matter and those averments are incorporated herein by reference.

75 – 78. (Exceptions) These paragraphs imply that Defendant has not followed its own procedures – an allegation that is denied. The fact that a number of charities acceptable to Defendant (such as the American Cancer Society, the March of Dimes and the American Red Cross) spend some of their total revenue on lobbying or other legislative activities consistent with and in support of their charitable purpose and mission is not, in and of itself, determinative of whether Defendant will agree to have fair share fees go to those charities and does not make them “partisan” or “political” organizations as claimed by Plaintiffs.

**Plaintiffs Ladley and Meier are not entitled to summary judgment
as a matter of law.**

82– 117. Paragraphs 82 through 117 of Plaintiffs’ Motion for Summary Judgment set forth Plaintiffs’ legal theories and conclusions advanced in support of their motion. Defendant’s response to all of Plaintiffs’ legal arguments are set forth fully in the Defendant’s Cross Motion for Summary Judgment that follows, and the Brief filed in support of Defendant’s Cross Motion.

WHEREFORE, PSEA requests that this Honorable Court deny Plaintiff’s motion for summary judgment.

DEFENDANT’S CROSS-MOTION FOR SUMMARY JUDGMENT

AND NOW the Defendant, PSEA, moves this Honorable Court to enter summary judgment in its favor, and in support thereof sets forth the following:

118. The averments of paragraphs 1 – 117 are incorporated herein by reference.

119. For the reasons set forth in the accompanying brief, Defendant is entitled to summary judgment on Counts I and II of Plaintiffs’ Second Amended Complaint (due process under the First and Fourteenth Amendments to the Federal Constitution) because this court has already correctly ruled that no federal

constitutional issues are present in this case and Defendant has not violated any of Plaintiff's federal constitutional rights.

120. Alternatively, even if Plaintiffs have rights protected by constitutional due process standards, the procedures put in place by Defendant have supplied all the process Plaintiffs are due.

121. For the reasons set forth in the accompanying brief, Defendant is entitled to summary judgment on Counts III and IV of Plaintiffs' Second Amended Complaint (due process under Article I, sections 1, 9, and 11 of the Constitution of the Commonwealth of Pennsylvania) because this court has already correctly ruled that no state constitutional issues are present in this case and Defendant has not violated any of Plaintiff's constitutional rights.

122. For the reasons set forth in the accompanying brief, Defendant is entitled to summary judgment on Counts V and VI of Plaintiffs' Second Amended Complaint (rights of speech, association and expression under the First Amendments to the Federal Constitution) because this court has already correctly ruled that no federal constitutional issues are present in this case and Defendant has not violated any of Plaintiff's constitutional rights.

123. Alternatively, even if Plaintiffs have speech, association and expression rights protected by the constitution, the procedures put in place by Defendant have protected those rights.

124. For the reasons set forth in the accompanying brief, Defendant is entitled to summary judgment on Counts VII and VIII of Plaintiffs' Second Amended Complaint (rights of speech, association and expression (rights of speech, association and expression under Article I, sections 1, 7 and 26 of the Constitution of the Commonwealth of Pennsylvania) because this court has already correctly ruled that no state constitutional issues are present in this case and Defendant has not violated any of Plaintiffs' state constitutional rights.

125. For the reasons set forth in the accompanying brief, Defendant is entitled to summary judgment on Counts IX and X of Plaintiffs' Second Amended Complaint because Defendant has not applied the religious objector provisions of 71 P.S. 575(h) to Plaintiffs in an arbitrary, capricious, and unreasonable way. To the contrary, it is the Plaintiffs who have grossly misstated the plain language of the applicable provisions of 71 P.S. §575(h) by claiming the section is "clear and unambiguous in conferring upon a public employee the right to choose a nonreligious charity of his or her choice to receive funds otherwise owed to a union." In fact, the applicable language clearly states that "the challenging nonmember shall pay the equivalent of the fair share fee to a nonreligious charity *agreed upon by the nonmember and the exclusive representative*. (Emphasis supplied) 71 P.S. §575(h)

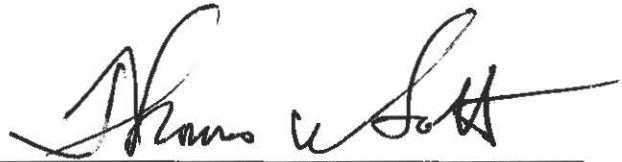
126. Defendant is also entitled to summary judgment on Counts IX and X of the Second Amended Complaint because this Court has already correctly ruled that PSEA is a proper entity (as opposed to the local education associations) to administer the fair share provisions of the law and contracts.

127. For the reasons set forth in the accompanying brief, Defendant is entitled to summary judgment on Counts XI and XII of Plaintiffs' Second Amended Complaint of Plaintiffs' Second Amended Complaint (violation of Plaintiffs' civil rights under 42 U.S.C. §1983) by providing arbitration as a remedy for unresolved disputes between the union and the feepayer over the selection of an appropriate charity to receive the fees.

128. For the reasons set forth in the accompanying brief, Defendant is entitled to summary judgment on Count XIII of Plaintiffs' Second Amended Complaint (Injunctive relief) because this court has already correctly ruled that Plaintiffs have not established any irreparable harm that cannot be compensated by an award of damages.

WHEREFORE, Defendant PSEA requests this Honorable Court to enter an Order GRANTING Defendant's Cross Motion for Summary Judgment and dismissing Plaintiffs' Second Amended Complaint with prejudice, each party to bear its own costs.

Respectfully submitted,



Date: July 31, 2017

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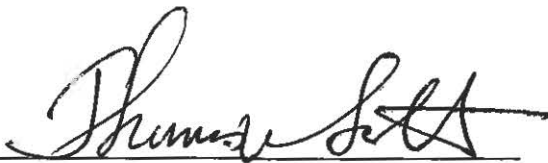
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Answer of PSEA to Plaintiffs' Motion for Summary Judgment has on this date been served on the individuals listed below as addressed, and in the manner indicated:

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