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**IN THE COURT OF COMMON PLEAS
OF LANCASTER COUNTY, PENNSYLVANIA**

JANE LADLEY and	:	
CHRISTOPHER MEIER,	:	
Plaintiffs,	:	
v.	:	Case No.: 14-08552
	:	Judge Leonard G. Brown, III
PENNSYLVANIA STATE EDUCATION	:	
ASSOCIATION,	:	
Defendant.	:	

**DEFENDANT PENNSYLVANIA STATE EDUCATION ASSOCIATION'S
MOTION FOR SUMMARY JUDGMENT BASED ON MOOTNESS**

AND NOW COMES the Defendant, the Pennsylvania State Education Association ("PSEA" or "Association"), and moves this Honorable Court to enter summary judgment in its favor on all counts of Plaintiffs' Second Amended Complaint. Irrespective of any initial merits they may have had, all of Plaintiffs' claims and causes have been rendered moot by the decision of the United States Supreme Court in *Janus v. AFSCME Council 31*, 138 S. Ct. 2448 (June 27, 2018). In support of this motion, Defendant sets forth the following:

1. As filed on April 25, 2017, and as presently pending before the Court, Plaintiffs' Second Amended Complaint challenges PSEA's implementation of the religious objector provisions of the Pennsylvania Fair Share Fee Law, 71 P.S. § 575 (h). The law authorized the collection of fair share fees from religious objectors, including Plaintiffs, and provided that the fair share fees of religious objectors were to be distributed to "a nonreligious charity agreed upon by the nonmember and the exclusive representative."

2. Plaintiffs' suit is filed only in their individual capacities (not as a class action) and claims Plaintiffs "have suffered in the past, and will continue to suffer in the future, non-monetary damages including violations of their constitutional and statutory rights and the inability to donate to a 'non-religious charity' in accordance with section 575(h)" of the Fair Share Fee Law. (Second Amended Complaint, ¶ 13)

3. Plaintiffs do not seek monetary damages.

4. Plaintiffs seek only declaratory and injunctive relief, all associated with their challenge to PSEA's implementation of the provisions of the Fair Share Fee Law related to the selection of a non-religious charity to receive Plaintiffs' religious objector fair share fees.

5. Plaintiffs' challenge to PSEA's charity selection process for religious objectors presented an actual case, raising a real controversy, when the Second

Amended Complaint was filed. PSEA had collected fair share fees pursuant to the statute from the Plaintiffs; PSEA was holding Plaintiffs' funds in an interest-bearing escrow account until a suitable charity could be agreed upon. PSEA had a procedure for resolving disputes over charity selection; Plaintiffs disagreed with that procedure and challenged it in this litigation.

6. However, on June 27, 2018, the United States Supreme Court handed down its decision in *Janus v. AFSCME Council 31*, 138 S. Ct. 2448. The Court reversed 40 years of precedent previously established in *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977), and declared the entire practice of collecting fair share fees from non-union members unconstitutional.

7. The Court's decision in *Janus* is fully applicable to Pennsylvania's Fair Share Fee Law, rendering the practice unconstitutional and the statute unenforceable.

8. Upon receipt of the *Janus* decision PSEA immediately stopped collection of all fair share fees – from all non-members -- including religious objectors and Plaintiff Meier. As set forth in the Declaration of Joseph Howlett (attached as Appendix 1) "On June 27, the day the *Janus* decision was announced, PSEA contacted each affected employer by express mail, email, and telephone call, informing them of the decision and asking them to 'immediately cease payroll

deductions of fair share fees from fee payers in bargaining units represented by PSEA local associations.” (Howlett Declaration ¶ 5 a)

9. PSEA and its affiliates acknowledge that, as the Supreme Court has ruled in *Janus*, fair share requirements in public sector employment are now unconstitutional. PSEA and its affiliates will fully comply with the Court's decision, and they understand that any provisions of state law or of collective bargaining agreements that purport to authorize such fair share fees in the public sector are no longer enforceable. Accordingly, PSEA and its affiliates will no longer collect or attempt to collect such fair share fees. (Howlett Declaration ¶ 8)

10. Dr. Michael Lechlitter is the Superintendent of the Penn Manor School District, the employer of Plaintiff Christopher Meier. As set forth in his Declaration (attached as Appendix 2) the Penn Manor School District also acknowledges that the Supreme Court decision in *Janus v. AFSCME Council 31* made the deduction of fair share fees in the public sector unconstitutional and thereby rendered 71 P.S. § 575 unenforceable. Further, as of June 27, 2018, the District is no longer deducting fair share fees from *any* employees, nor transmitting them to the Association. Finally, the District will not deduct or transmit fair share fees in the future. (Lechlitter Declaration ¶ 3, 4, 5)(emphasis supplied).

11. Because Plaintiff Christopher Meier was a religious objector, and no agreement was ever reached on the charity to receive funds paid over to PSEA on

his account, PSEA held all fair share fees deducted from Plaintiff Christopher Meier in an interest-bearing escrow account at Mid Penn Bank. As a result of the *Janus* decision, on August 16, 2018, PSEA refunded all of Plaintiff Meier's fair share fees, plus interest, to Plaintiff Meier, *via* Mid Penn bank check number 5004969, in the amount of \$2,718.28. No more fair share fees will be collected from Plaintiff Meier. (Howlett Declaration ¶ 6)

12. Because Plaintiff Jane Ladley was a religious objector, and no agreement was ever reached on the charity to receive funds paid over to PSEA on her account, PSEA held all fair share fees deducted from Plaintiff Ladley in an interest-bearing escrow account at Mid Penn Bank. As a result of the *Janus* decision, on August 16, 2018, PSEA refunded all of Plaintiff Ladley's fair share fees, plus interest, to Plaintiff Ladley, *via* Mid Penn bank check number 5004970, in the amount of \$437.52. Plaintiff Ladley is retired and no more fair share fees will be collected from Plaintiff Ladley. (Howlett Declaration ¶ 7)

13. There is no longer any actual case or legal controversy extant between the parties.

14. Any disagreement between the parties about what occurred prior to the *Janus* decision is now hypothetical, and does not affect any party in a concrete manner so as to provide the factual predicate for a reasoned adjudication.

15. Since PSEA has stopped collecting fair share fees from all non-members, including Plaintiff Meier and all other religious objectors, and since PSEA has returned all previously collected fair share fees to the Plaintiffs, Plaintiffs no longer have a "personal stake in the outcome" of the lawsuit.

16. Plaintiffs' sole request is for a declaration regarding how the religious objector provisions of the Fair Share Fee law should be applied in the future. Even if the Court were to rule in favor of Plaintiffs on all counts (something Defendant PSEA believes would be in error for multiple reasons) no effect could be given to the judgment or decree of the Court because the law is unconstitutional and neither Defendant PSEA or Plaintiff Meier's employer are now or will in the future be collecting fair share fees.

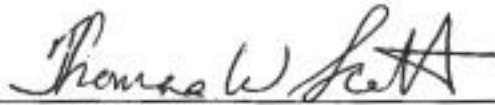
17. Although the litigants clearly had one or more justiciable matters at the outset of the litigation, changes in the law have occurred after the suit was underway that deprive the litigants of the necessary stake in the outcome to permit it to continue.

18. The legal justification for this motion is more fully set forth in the accompanying Brief in Support of Defendant's Motion for Summary Judgment Based on Mootness and in Appendixes 1 and 2 attached hereto.

For these reasons, Defendant Pennsylvania State Education Association respectfully requests that this Court grant this Motion for Summary Judgment and Dismiss Plaintiffs' Second Amended Complaint in its entirety.

Respectfully submitted,

Date: August 29, 2018



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Defendant's Motion for Summary Judgment Based on Mootness has on this date been served on the individuals listed below as addressed, and in the manner indicated:

Via Email & First Class Mail, Postage Prepaid:

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