

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

COVER SHEET

<p>Plaintiff(s) LuAnn Zeigler</p> <p align="center">Vs</p> <p>Defendant(s) AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, COUNCIL 13;  AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, DISTRICT COUNCIL 84;  AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 1985.</p>	<p><b>CIVIL DIVISION</b></p>					
	<p>Case Number :</p> <table border="1"> <tr> <td align="center">GD</td> <td align="center">-</td> <td align="center">20</td> <td align="center">-</td> <td align="center">006764</td> </tr> </table>	GD	-	20	-	006764
	GD	-	20	-	006764	
	<p>Type of pleading :</p> <p>COMPLAINT</p>					
	<p>Code and Classification :</p>					
	<p>Filed on behalf of</p> <p>LuAnn Zeigler, Plaintiff</p> <p>Represented by out-of-county counsel only</p>					
	<p>(Name of the filing party)</p> <p><input checked="" type="checkbox"/> Counsel of Record <input type="checkbox"/> Individual, If Pro Se</p>					
	<p align="center">Required Information:</p> <p>Name: Nathan J. McGrath, Esq. (The Fairness Center) Address: 500 North Third Street, Floor 2 Harrisburg, PA 17101 Phone Number: 844.293.1001 Email Address: njmcgrath@fairnesscenter.org</p>					
<p>Attorney's State ID : 308845</p> <p>Attorney's Firm ID : n/a</p>						

**COURT OF COMMON PLEAS OF PENNSYLVANIA  
ALLEGHENY COUNTY**

LUANN ZEIGLER,

Plaintiff,

v.

AMERICAN FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES, COUNCIL 13; AMERICAN  
FEDERATION OF STATE, COUNTY AND MUNICIPAL  
EMPLOYEES, DISTRICT COUNCIL 84; AMERICAN  
FEDERATION OF STATE, COUNTY AND MUNICIPAL  
EMPLOYEES, LOCAL 1985,

Defendants.

**Case No. GD-20-006764**

Hon. \_\_\_\_\_

**NOTICE TO DEFEND**

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT  
HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW.**

**THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A  
LAWYER.**

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO  
PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER  
LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

Lawyer Referral Service  
Allegheny County Bar Association  
11th Floor Koppers Building  
436 Seventh Avenue  
Pittsburgh, PA 15219  
Telephone: (412) 261-5555

**COURT OF COMMON PLEAS OF PENNSYLVANIA  
ALLEGHENY COUNTY**

LUANN ZEIGLER,  
Plaintiff,

v.

AMERICAN FEDERATION OF STATE, COUNTY AND  
MUNICIPAL EMPLOYEES, COUNCIL 13; AMERICAN  
FEDERATION OF STATE, COUNTY AND MUNICIPAL  
EMPLOYEES, DISTRICT COUNCIL 84; AMERICAN  
FEDERATION OF STATE, COUNTY AND MUNICIPAL  
EMPLOYEES, LOCAL 1985,  
Defendants.

**Case No. GD-20-006764**

Hon. \_\_\_\_\_

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

AND NOW comes Plaintiff LuAnn Zeigler, by and through her undersigned counsel, and states the following claims for relief against Defendants American Federation of State, County and Municipal Employees, Council 13 (“Council 13”); American Federation of State, County and Municipal Employees, District Council 84 (“District Council 84”); and American Federation of State, County and Municipal Employees, Local 1985 (“Local 1985”) (collectively, “Defendants”) and avers as follows:

**SUMMARY OF THE CASE**

1. Plaintiff brings this civil action to address Defendants’ failure to fairly represent her as a member of the bargaining unit, their negligent misrepresentations, and their breach of their membership contract with her.

2. Because the “[u]nion has assumed the role of trustee for the rights of its members and other employees in the bargaining unit” and employees are “beneficiaries of fiduciary obligations owed by the [u]nion[,] . . . the [u]nion bears a heavy duty of fair representation to all

those within the shelter of its protection.” *Falsetti v. Local Union No. 2026, United Mine Workers of Am.*, 161 A.2d 882, 895 (Pa. 1960). Accordingly, unions must “act in good faith, in a reasonable manner and without fraud.” *Id.*

3. Defendants breached their duty of fair representation to Plaintiff by failing to “act in good faith, in a reasonable manner and without fraud.” *Id.*

4. Specifically, Defendants breached their duty of fair representation to Plaintiff by failing to offer her accurate information with respect to her decision to become a union member and by failing to ensure and protect her right to vote and to information needed to exercise that right, specifically on the ratification of the collective bargaining agreement governing the terms and conditions of her employment, which is a right guaranteed to members of Defendants in Defendants’ constitution. A true and correct copy of the AFSCME Constitution, including the Bill of Rights for Union Members, which begins on page 8, is attached hereto as “Exhibit A” and incorporated by reference herein.

5. Defendants made negligent misrepresentations to Plaintiff, which have caused her harm.

6. Defendants also breached their contract with Plaintiff, under which Plaintiff was entitled to the right to vote and information related to the exercise of that right, or breached their implied contract with Plaintiff, and/or are being unjustly enriched.

### **JURISDICTION AND VENUE**

7. “[B]reach of the duty of fair representation . . . is within the exclusive jurisdiction of the courts of common pleas.” *Dailey v. PLRB*, 148 A.3d 920, 924 (Pa. Cmwlth. 2016). Subject-matter jurisdiction for contract and tort actions and equitable actions occurring within the Commonwealth are within the jurisdiction of the courts of common pleas. *See* 42 Pa.C.S. § 931(a).

8. Venue is proper in Allegheny County, as it is where Defendants regularly conduct

business and where the cause of action arose and/or occurrences out of which the cause of action arose took place. *See* Pa. R. Civ. P. 2179(a)(1)–(4).

### **PARTIES**

9. Plaintiff LuAnn Zeigler is an adult individual residing in Allegheny County, Pennsylvania. Ms. Zeigler is an employee of the Pennsylvania Department of Revenue, in a bargaining unit represented by Defendants, and a “public employe” for purposes of the Public Employe Relations Act (“PERA”), 43 P.S. § 1101.301(2).

10. Defendant Council 13 is an “Employe organization,” 43 P.S. § 1101.301(3), and “Representative,” 43 P.S. § 1101.301(4), within the meaning of PERA. Pursuant to the collective bargaining agreement (“CBA”), Council 13 represents employees of the Pennsylvania Department of Revenue, including Ms. Zeigler, exclusively for purposes of collective bargaining with the Commonwealth. Council 13 maintains a place of business at 4031 Executive Park Drive, Harrisburg, Pennsylvania, and conducts its business and operations throughout the Commonwealth of Pennsylvania, including Allegheny County.

11. Defendant District Council 84 maintains a principal place of business at Foster Plaza 10, 680 Andersen Drive Suite 505, Pittsburgh, PA 15220. District Council 84 is an “Employe organization,” 43 P.S. § 1101.301(3), and “Representative,” 43 P.S. § 1101.301(4), within the meaning of PERA. District Council 84 is an affiliate of Council 13.

12. Upon information and belief, Defendant Local 1985 maintains a principal place of business at Foster Plaza 10, 680 Andersen Drive Suite 505, Pittsburgh, PA 15220. Local 1985 is an “Employe organization,” 43 P.S. § 1101.301(3), and “Representative,” 43 P.S. § 1101.301(4), within the meaning of PERA. Local 1985 is an affiliate of Council 13.

### **FACTUAL ALLEGATIONS**

13. Ms. Zeigler became a member of Defendants after signing a membership application

on July 25, 2018.

14. Representatives, agents, and/or officials of Defendants requested that Ms. Zeigler become a union member and told Ms. Zeigler that the primary reason to join the union was to be a voting member and to have the right to vote on CBAs, and that a vote on a new CBA would be occurring soon.

15. Defendants' constitution guarantees their members the right to vote on (ratify) CBAs that affect their terms and conditions of employment, and "to pertinent information needed for the exercise of this right." Ex. A.

16. On their website, Defendants make prominent representations that members have the right to vote and, on information and belief, Defendants also make frequent representations in other materials provided to members and potential members of the right of union members to vote on CBAs.

17. Based on Defendants' representations that she would have the right as a union member to vote on the new CBA, Ms. Zeigler filled out a membership application and ultimately agreed to associate with Defendants as a member in order to obtain the right to vote, including on CBAs.

18. As part of the membership application, Ms. Zeigler gave Defendants her contact information, including her home address and her cell phone number.

19. Ms. Zeigler's union membership application was accepted by Defendants, making Ms. Zeigler a member of Defendants at all times relevant to this matter.

20. Defendants' constitution and bylaws are a contract with its members, including Ms. Zeigler during the time when she was a member of Defendants.

21. Defendants had membership dues withheld from Ms. Zeigler's wages for the entirety of her time as a union member, and continuing until at least July 10, 2020.

### **Defendants Fail to Respond to Ms. Zeigler's Representation Needs**

22. From July 1, 2016, to June 30, 2019, a collective bargaining agreement (“the first CBA”) between the Commonwealth of Pennsylvania and Council 13 set forth the terms and conditions of employment for Ms. Zeigler and those employed in her bargaining unit, a true and correct copy of which is attached hereto as “Exhibit B” and incorporated by reference herein.

23. In approximately June or July 2019, before the first CBA expired, Ms. Zeigler and the other members of her office were informed that their job responsibilities would be changing and increasing dramatically.

24. Ms. Zeigler's office handles estate collections for the Department of Revenue. She and her colleagues had previously been responsible for handling estate collections for just seven counties near their office. But they ultimately learned that the changes to their responsibilities would involve expanding their responsibility for collections in all sixty-seven counties in the Commonwealth, with no increase in pay or title to account for the increased responsibilities.

25. Following this revelation of their soon-to-increase responsibilities, Ms. Zeigler and other members of her office repeatedly asked Defendants for more information about the expanded job responsibilities and for assistance in seeking pay or title changes to account for the new responsibilities, but often received no response for weeks or months at a time, and to this day, Defendants have not addressed Ms. Zeigler's concerns regarding the expanded job responsibilities.

### **Defendants Deny Ms. Zeigler Her Right to Vote on the New CBA**

26. AFSCME and the Commonwealth began negotiations over a successor agreement (the “new CBA”) governing the terms and conditions of Ms. Zeigler's employment, prior to the expiration of the first CBA on June 30, 2019.

27. In June 2019, after Ms. Zeigler realized that the first CBA was due to expire and that she had not been given information on any new CBA negotiations, she contacted a representative,

agent, and/or official of Defendants to ask about the vote.

28. On June 18, 2019, one of Defendants' representatives, agents, and/or officials, Carol Whiteside, emailed Ms. Zeigler and confirmed that the vote by members of Ms. Zeigler's local on the new CBA had already taken place, and that Ms. Zeigler, as well as some others in her office, "did not receive notice of the contract ratification" and were not given the opportunity to take part in the vote, and Ms. Whiteside stated that "[t]his was unfortunate."

29. Defendants knew that they did not have sufficient member contact information to contact members regarding the rights guaranteed to members in Defendants' constitution, or to provide members with pertinent information needed for members to exercise their rights.

30. Defendants also had Ms. Zeigler's cell phone number and mailing address from when she became a member in July 2018, which were still accurate methods of contacting her in June 2019.

31. Ms. Whiteside stated, in another June 18, 2019 email, that Ms. Zeigler would be given a printed copy of the contract to review when "available."

32. The new CBA between Council 13 and the Commonwealth is signed and dated August 28, 2019, with a term of July 1, 2019, to June 30, 2023, relevant excerpts of which are attached hereto as "Exhibit C" and incorporated by reference herein.

33. Ms. Zeigler never had the opportunity to vote on the new CBA, was never given pertinent information needed to exercise her right to vote on the new CBA, and has never been provided a copy of the new CBA by Defendants.

34. Her first opportunity to examine the new CBA occurred after it was fully ratified and posted publicly online on approximately September 19, 2019.

35. Had Ms. Zeigler known that she would not be given the opportunity to vote on the new CBA, she would not have become a member of Defendants.



36. Following the denial of her right to vote and the denial of representation regarding her increased job responsibilities, Ms. Zeigler sent a letter resigning her union membership in Defendants, in January 2020.

37. In response, AFSCME wrote a letter to Ms. Zeigler warning her that “only members have the right to participate in internal union matters, elect union leaders, and vote on the contract that sets wages and working conditions for your bargaining unit.” The response letter also stated that Defendants would continue withholding “an amount equal to dues” from Ms. Zeigler’s pay, despite her resignation. A true and correct copy of the response letter is attached hereto as “Exhibit D” and incorporated by reference herein.

38. Defendants continued the dues deductions from Ms. Zeigler’s wages after her resignation in January 2020, until at least July 10, 2020, ending them only after Ms. Zeigler filed a federal lawsuit related to the ongoing dues deductions.

**COUNT I**  
**Breach of Duty of Fair Representation**

39. The foregoing paragraphs are incorporated by reference as if set forth fully herein.

40. Because the “[u]nion has assumed the role of trustee for the rights of its members and other employees in the bargaining unit” and employees are “beneficiaries of fiduciary obligations owed by the [u]nion[,] . . . the [u]nion bears a heavy duty of fair representation to all those within the shelter of its protection.” *Falsetti v. Local Union No. 2026, United Mine Workers of Am.*, 161 A.2d 882, 895 (Pa. 1960). Accordingly, unions must “act in good faith, in a reasonable manner and without fraud.” *Id.*

41. Defendants failed to act in good faith, in a reasonable manner, and/or without fraud.

42. Defendants’ actions were arbitrary, discriminatory, and/or in bad faith.

43. Specifically, Defendants knew that their record keeping was insufficient and did not allow them to adequately communicate with members, and nevertheless failed to rectify their

practice of poor record keeping or otherwise ensure that the rights of members, including Ms. Zeigler and her right to vote on the CBA and to pertinent information related to the right to vote, were protected.

44. Defendants' conduct caused harm to Ms. Zeigler.

45. Defendants breached their duty of fair representation to Ms. Zeigler by violating their own constitution.

46. Defendants violated their constitution by failing to provide Ms. Zeigler with notice of, pertinent information related to, or an opportunity to vote on the ratification of the new CBA.

47. Defendants breached their duty of fair representation to Ms. Zeigler by providing misleading information in order to induce her to become a member but failing to provide her with the rights they promised to members.

48. As a result of the foregoing, Ms. Zeigler has suffered pecuniary injury in the form of membership dues paid to Defendants.

49. As a result of the foregoing, Ms. Zeigler has suffered and will continue to suffer a loss of confidence in the Defendants' ability to fairly represent her and her bargaining unit's interests.

## **COUNT II**

### **Negligent Misrepresentation**

50. Paragraphs 1 to 38 are incorporated by reference as if set forth fully herein.

51. Defendants, while soliciting Ms. Zeigler to become a member of the union, owed Ms. Zeigler a duty to give information with ordinary and reasonable care as to its accuracy.

52. Defendants, by and through their representatives, agents, and/or officials, made material representations that union members would participate in union decisions through voting on CBAs and on other internal union matters as a stated benefit of union membership.

53. Defendants made this material representation through the guarantee in their

constitution to members of the right to vote and to pertinent information needed for the exercise of that right, through representations made to members or potential members on Defendants' website and other materials, and through representations made personally to Ms. Zeigler.

54. Defendants' representatives, agents, and/or officials represented this right as a primary benefit of union membership to Ms. Zeigler with the goal of inducing her to become a union member.

55. Ms. Zeigler justifiably relied on the representation that she would have the opportunity to exercise her right to vote, including on the new CBA and future collective bargaining agreements, when deciding to become a union member.

56. After joining Defendants as a member, Ms. Zeigler was not given notice of, pertinent information related to, or the opportunity to participate in the vote on the new CBA.

57. After Ms. Zeigler was denied the opportunity to vote on the new CBA, Defendants' representative, agent, and/or official acknowledged that she was denied the right.

58. Upon information and belief, Defendants maintained a practice of poor recordkeeping that would cause the Defendants not to adequately provide members the pertinent information needed for the exercise of their rights under Defendants' constitution or to ensure members' right to vote.

59. Defendants knew or should have known that their representation that all members were guaranteed the right to vote was false because their poor recordkeeping would cause some union members to miss opportunities to exercise their right to vote and other rights guaranteed to members in Defendants' constitution.

60. Defendants knew or should have known about their poor recordkeeping, but still made the representation, in the form of a guarantee, to Ms. Zeigler that she would have the opportunity to vote if she joined the union.

61. Defendants, by and through their representatives, agents, and/or officials, made the misrepresentations to Ms. Zeigler with the intent of inducing Ms. Zeigler to become a dues-paying union member.

62. If Ms. Zeigler had known that Defendants' record keeping failed to ensure the rights guaranteed to members in Defendants' constitution, she would not have joined the union.

63. Ms. Zeigler has suffered damage in the form of being prevented from exercising her right not to join as a member of the union and not to financially support the union, as a result of her reliance on Defendants' misrepresentations.

64. As a result of the foregoing, Ms. Zeigler has suffered pecuniary injury in the form of union dues paid in reliance on Defendants' misrepresentations and dues deductions withheld from her wages through at least July 10, 2020, and has suffered and will continue to suffer a loss of confidence in the Defendants' ability to fairly represent her bargaining unit's interests.

**COUNT III**  
**Breach of Contract**

65. Paragraphs 1 to 38 are incorporated by reference as if set forth fully herein.

66. When Ms. Zeigler became a union member, she entered into an agreement with Defendants by which she agreed to associate with Defendants as a member and paid membership dues to Defendants in consideration for the benefits of membership in Defendants, as expressed in Defendants' constitution and bylaws.

67. Defendants' constitution and bylaws are a contract with the members of the Defendants, including Ms. Zeigler during the time she was a member of Defendants.

68. Defendants' constitution guarantees union members the right to vote on collective bargaining agreements and to pertinent information needed for the exercise of that right.

69. Ms. Zeigler paid membership dues to Defendants from the time of her joining union membership, and withholding of dues from Ms. Zeigler's wages continued even after her resignation

from union membership, until at least July 10, 2020.

70. Defendants failed to allow Ms. Zeigler to vote on the new CBA or to provide her pertinent information she needed to exercise her rights under the contract.

71. Defendants' agent has acknowledged that Ms. Zeigler was denied the right to vote on the new CBA.

72. Defendants' failure to allow Ms. Zeigler to vote on the new CBA or to provide her pertinent information needed to exercise the right to vote are a material breach of the agreement between the parties.

73. The breach has caused Ms. Zeigler injury in the form of union dues/fees paid and/or withheld in reliance on and as a result of the contract and/or in the loss of benefits expected as a result of her contract with Defendants.

**COUNT IV**  
**Breach of Implied Contract**  
**(alternative to Count III)**

In the event it is determined that no written contract existed between Ms. Zeigler and Defendants as alleged in Count III, Plaintiff alleges the following:

74. Paragraphs 1 to 38 are incorporated by reference as if set forth fully herein.

75. On or about July 2018, Defendants agreed to provide Ms. Zeigler certain rights, as provided in the AFSCME Constitution.

76. Beginning in July 2018, continuing through at least July 10, 2020, Ms. Zeigler provided payment in the form of union dues/fees to Defendants.

77. The facts, as set forth herein, establish an implied contract.

78. Defendants breached the implied contract when they failed to provide Ms. Zeigler with the opportunity to vote on the new CBA or pertinent information needed to exercise her right to vote.

79. Due to the existence and breach of the implied contract, Ms. Zeigler is entitled to restitution and compensation for the monies rendered to and benefits conferred on Defendants.

80. Plaintiff has been damaged by the refusal of Defendants to cease collecting dues until at least July 10, 2020, even after her resignation from membership, or to return the benefit she conferred on them in the form of dues/fees withheld from her wages.

**COUNT V**  
**Unjust Enrichment**  
**(alternative to Counts III and IV)**

81. Paragraphs 1 to 38 are incorporated by reference as if set forth fully herein.

82. Defendants accepted Ms. Zeigler's forced dues to their own benefit through the deduction of dues from the time Ms. Zeigler joined the union until at least July 10, 2020.

83. These benefits were conferred on Defendants by Ms. Zeigler, as Defendants accepted the dues from Ms. Zeigler's wages in the form of payroll deductions.

84. Defendants continue to retain all the union dues that were deducted from Ms. Zeigler's wages since she joined the union.

85. Defendants induced Ms. Zeigler to join the union and sign the membership card authorizing dues deductions with the representation that she would have the opportunity to vote on the new CBA and future collective bargaining agreements if she were a union member.

86. In fact, Ms. Zeigler was not given the opportunity to vote on the new CBA governing the terms and conditions of her employment, which was ratified in 2019.

87. Defendants accepted benefits from Ms. Zeigler in the form of payroll deductions despite the violation of their representations, in the AFSCME Constitution and elsewhere, that union members are entitled to vote on collective bargaining agreements, and despite the fact that Ms. Zeigler was not given the opportunity to vote on the new CBA, as Defendants' agent has acknowledged.

88. Under these circumstances, it would be inequitable to allow Defendants to retain Ms. Zeigler's wages.

89. Unless Defendants are ordered to return Ms. Zeigler's wages or otherwise pay restitution, they will be unjustly enriched.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests this Honorable Court to:

- a) Enter judgment against Defendants;
- b) Order Defendants to make restitution to Ms. Zeigler;
- c) Award damages; and
- d) Award interest, costs and fees, including reasonable attorneys' fees, and such other relief as the Court deems appropriate.

### **JURY DEMAND**

Plaintiff demands a trial by jury on all matters triable by jury pursuant to Pennsylvania Rule of Civil Procedure 1007.1.

Respectfully submitted,

THE FAIRNESS CENTER

Dated: August 5, 2020

/s/Nathan J. McGrath

**Nathan J. McGrath**

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THE FAIRNESS CENTER

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*Counsel for Plaintiff*

**VERIFICATION**

I, LuAnn Zeigler, hereby verify that I am the plaintiff in this action and subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities, hereby state that the facts set forth in the complaint are true and correct to the best of my knowledge, information and belief.

Date: 7/27/2020 By: 



## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing complaint and exhibits will be served this day via first class mail to Defendants as follows:

AFSCME, Council 13  
4031 Executive Park Drive,  
Harrisburg, Pennsylvania 17111

AFSCME, District Council 84  
Foster Plaza 10  
680 Andersen Drive Suite 505  
Pittsburgh, Pennsylvania 15220

AFSCME, Local 1985  
Foster Plaza 10  
680 Andersen Drive Suite 505  
Pittsburgh, Pennsylvania 15220

Dated: August 5, 2020

/s/Nathan J. McGrath

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