

PARTIES

2. Plaintiff Gary Mattos is a correctional dietary officer employed by the Maryland Department of Public Safety and Correctional Services, and he resides in Washington County, Maryland.

3. Plaintiff Doris Beegle is a correctional dietary officer employed by the Maryland Department of Public Safety and Correctional Services, and she resides in Berkeley County, West Virginia.

4. Plaintiff Vickie Boggs is a drinking and driving monitor employed by the State of Maryland's Drinking and Driving Probation Program, and she resides in Cecil County, Maryland.

5. Plaintiff Bradley French is a corrections officer employed by the Maryland Department of Public Safety and Correctional Services, and he resides in Allegany County, Maryland.

6. Plaintiff Carla Gurganus is a family services caseworker employed by the State of Maryland's Department of Human Resources, and she resides in Calvert County, Maryland.

7. Plaintiff Kimberly Griffith is a correctional supply officer employed by the Maryland Department of Public Safety and Correctional Services, and she resides in Washington County, Maryland.

8. Plaintiff Steven Hale is a social worker employed by the Baltimore County Department of Social Services, and he resides in Baltimore County, Maryland.

9. Plaintiff John Hill is a correctional officer employment by the Maryland Department of Public Safety and Correctional Services, and he resides in Allegany County, Maryland.

10. Plaintiff Benjamin Ickes is a corrections officer employed by the Maryland Department of Public Safety and Correctional Services, and he resides in Allegany County, Maryland.

11. Plaintiff Michelle Lambert is a corrections officer employed by the Maryland Department of Public Safety and Correctional Services, and she resides in Allegany County, Maryland.

12. Plaintiff Jessica Merritt is an office services clerk employed by the State of Maryland for the Department of Assessments and Taxation, and she resides in Queen Anne's County, Maryland.

13. Plaintiff John A. Meyers is an IT functional analyst employed by the State Highway Administration transportation unit under the Maryland Department of Transportation, and he resides in Baltimore City, Maryland.

14. Plaintiff Carole Miller is a social worker employed by the State of Maryland, and she resides in Howard County, Maryland.

15. Plaintiff Melissa Potter is an office services clerk employed by the Cecil County Health Department, and she resides in Cecil County, Maryland.

16. Plaintiff James Rieman is a corrections maintenance officer employed by the Maryland Department of Public Safety and Correctional Services, and he resides in Charles County, Maryland.

17. Plaintiff Laurie Rubin is a parole and probation officer employed by the Maryland Department of Public Safety and Correctional Services, and she resides in Baltimore County, Maryland.

18. Plaintiff Joyce Stoner is a recently retired administrative specialist formerly

employed by the Maryland Department of Natural Resources, and she resides in Garrett County, Maryland.

19. Plaintiff Russell Stott is a corrections officer employed by the Maryland Department of Public Safety and Correctional Services, and he resides in Allegany County, Maryland.

20. Plaintiff Larry Teets is a correctional officer employed by the Maryland Department of Public Safety and Correctional Services, and he resides in Garrett County, Maryland.

21. AFSCME is a labor union representing public sector employees across Maryland, headquartered at 190 W Ostend St # 101, Baltimore, MD 21230 in Baltimore City, Maryland.

JURISDICTION AND VENUE

22. This case raises claims under the First and Fourteenth Amendments of the United States Constitution and 42 U.S.C. § 1983. The Court has subject-matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

23. Venue is appropriate under 28 U.S.C. § 1391(b) because AFSCME has its headquarters in the District of Maryland.

FACTUAL ALLEGATIONS

24. Under Maryland's state labor regime, "Collective bargaining may include negotiations relating to the right of an employee organization to receive service fees from nonmembers." Md. Code Ann., State Pers. & Pens. § 3-502.

25. AFSCME is the exclusive representative for numerous bargaining units

throughout Maryland state government, including the Department of Social Services, the Department of Transportation, the various state correctional institutions, and the University of Maryland.

26. In 2009, the State of Maryland repealed its ban on “service” or “agency” fees, allowing unions to place new provisions in collective bargaining agreements requiring nonmembers to fund union activities. *See* SB 264, 2009 Md. laws 187.

27. Pursuant to this change in the law, AFSCME negotiated for the collection of agency fees from nonmembers such as Plaintiffs beginning in July 2011. Article 4, Section 14.A of the current Memorandum of Understanding (“MOU”) between AFSCME and the state provides that:

All employees who are covered by this MOU but who are not members of AFSCME shall as a condition of employment pay to AFSCME a “service fee.” Non-members must begin and currently pay the service fee assessed upon the latter of: (i) July 1, 2011 or (ii) thirty (30) calendar days of employment in the AFSCME unit.

28. Article 4, Section 14.H of the MOU further provides that “AFSCME shall indemnify and save the State harmless and shall provide a defense of any and all claims” related to the agency fee provision, and “AFSCME assumes full responsibility for the disposition of the funds deducted under this section as soon as they have been remitted by the State to AFSCME.”

29. Pursuant to this agreement, prior to June 27, 2018, all employees in the bargaining units represented by AFSCME who were not union members, including the Plaintiffs, were forced to pay agency fees to AFSCME as a condition of their employment.

30. Prior to June 27, 2018, state employers covered by the collective bargaining agreement deducted agency fees from Plaintiffs’ and other nonmembers’ wages without their

consent and, upon information and belief, transferred those funds to AFSCME, which collected those funds.

31. After the Supreme Court's decisions in *Knox v. SEIU, Local 1000*, 567 U.S. 298 (2012) and *Harris v. Quinn*, 134 S. Ct. 2618 (2014), AFSCME should have known that its seizure of agency fees from non-consenting employees violated the First Amendment.

CLASS ACTION ALLEGATIONS

32. This case is brought as a class action under Federal Rule of Civil Procedure 23(b)(3) by Plaintiffs on behalf of themselves and for all others similarly situated. The class consists of all current and former employees from whom AFSCME collected agency fees pursuant to its collective bargaining agreement with the State of Maryland within the applicable statute of limitations.

33. The number of persons in the class is so numerous that joinder is impractical. AFSCME represents more than 21,000 employees, a substantial percentage of whom are not AFSCME members. *See* Julie Bykowicz "Thousands of state workers forced to pay union fees," THE BALTIMORE SUN, July 4, 2011, <https://www.baltimoresun.com/maryland/bs-md-union-fees-expand-20110704-story.html> ("AFSCME Maryland represents 21,000 workers in collective bargaining with the state, but only 8,000 are dues-paying members"). Therefore, upon information and belief, the class includes thousands of public-sector workers who were agency fee payers prior to June 27, 2018.

34. There are questions of law and fact common to all class members, including Plaintiffs. The constitutional violations perpetrated by AFSCME against all nonmembers were taken according to the same statutes and collective bargaining agreement. Legally, AFSCME's

fee seizures violated all class members' rights under the First Amendment.

35. Plaintiffs' claims are typical of class members' claims because each member of the class has not affirmatively consented to financially support AFSCME and its affiliates yet has been forced by state law and contractual provisions to pay agency fees. All claims concern whether AFSCME must refund agency fees to class members, from whom it unconstitutionally seized agency fees.

36. Plaintiffs will adequately represent the class and have no conflict with other class members.

37. The class can be maintained under Federal Rule of Civil Procedure 23(b)(3) because the important and controlling question of law or fact is common to the members of the class and predominates over any questions affecting only individual members. A class action is superior to other available methods for the fair and efficient adjudication of the controversy because the individual class members are deprived of the same rights by AFSCME's actions, and they differ only in the amount of money deducted. These amounts are known to AFSCME and easily calculated from its business records. The limited amount of money involved in each individual class member's claim would make it burdensome for each respective class member to maintain a separate action.

CAUSE OF ACTION: FIRST AMENDMENT VIOLATION

38. The allegations contained in all preceding paragraphs are incorporated herein by reference.

39. AFSCME acted under color of state law and in concert with the State of Maryland when it compelled Plaintiffs and class members to pay agency fees, caused the government to

deduct agency fees from Plaintiffs and class members, and collected agency fees seized from Plaintiffs and class members.

40. AFSCME violated Plaintiffs' and class members' First Amendment rights to free speech and association, as secured against state infringement by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983, by requiring the payment of agency fees as a condition of employment and by collecting such fees.

PRAYER FOR RELIEF

Plaintiff respectfully requests that this Court:

- a. Certify the Class;
- b. Enter a judgment, pursuant to 28 U.S.C. § 2201(a), declaring that AFSCME violated Plaintiffs' and class members' constitutional rights by compelling them to pay agency fees as a condition of their employment and by collecting agency fees from them without consent;
- c. Award Plaintiffs and class members actual damages or restitution in the full amount of agency fees and assessments seized from their wages, plus interest, for violations of their First Amendment Rights;
- d. Award the Plaintiffs their costs and attorneys' fees under 42 U.S.C. § 1988; and
- e. Award any further relief to which Plaintiff and class members may be entitled.

Dated: September 3, 2019

Respectfully Submitted,

/s/ Reilly Stephens
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