

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROSA RIVERA *et al*,  
  
*Plaintiffs*,  
  
vs.  
  
LEBANON SCHOOL DISTRICT,  
  
*Defendant*.

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: CASE NO. 1:11-CV-147  
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: (Chief Judge Yvette Kane)  
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**PLAINTIFFS’ STATEMENT OF UNCONTESTED MATERIAL FACTS**

1. This class action was filed by four parents of students or former students in the Lebanon School District (the “District”) who paid truancy fines in excess of \$300 on one or more individual citations. Magisterial District Courts 52-01-01 and 52-02-01 collected these fine payments and disbursed them to the District, which continues to retain them. Plaintiffs now seek a declaration that such fines are in excess of those permitted by 24 P.S. § 13-1333, as well as restitution from the District of the excessive fines paid, for themselves and a class of persons who also paid over \$300 in fines on one or more individual truancy citations. Complaint ¶ 37.

2. Plaintiff Madeline Echevarria, the mother of two former District students, has diligently paid at least \$2,500 in truancy fines to the District. Class Hearing (“CH”) Ex. P-1 (CD containing AOPC Records of truancy fines assessed

and payments dispersed to the School District of Lebanon). Ms. Echevarria has fully paid all fines owed. CH Ex. P-1, at Spreadsheet 632a. Making such payments has caused great stress for Ms. Echevarria, who lives on a fixed income from disability benefits while supporting her family and sister. Echevarria Dep. Mar. 23, 2012, attached as MSJ Ex. A, at 22-23.

3. Included in the fines paid by Ms. Echevarria are two in excess of \$300. Ms. Echevarria paid a \$900 fine on Docket No. MJ-52201-NT-0000852-2006, an amount three times the legal maximum. CH Ex. P-4 at 3. On Docket No. MJ-52201-NT-0000931-2006, she paid a total of \$1,768.59 (costs of \$232.19 and fines of \$1,536.40). Docket, *Commonwealth v. Madeline Echevarria 2006*, attached as MSJ Ex. B, at 3-4.

4. Plaintiff Lenora Hummel, also the mother of two former District students, has paid at least \$3,330.13 on twenty truancy fines. CH Ex. P-1. Ms. Hummel, a single mother and recipient of disability benefits, suffers from anxiety and depression and described the receipt of such fines as “unbearable.” Hummel Dep. Mar. 23, 2012, attached as MSJ Ex. C, at 12. Ms. Hummel continues to pay her fines regularly on a payment plan of \$25 per month, MSJ Ex. C at 22, and even continued to make payments while living for some time in Illinois, MSJ Ex. C at 19.

5. Ms. Hummel has paid over \$300 in fines on two individual citations. On Docket No. MJ-52101-NT-0000196-2007, Ms. Hummel has paid \$1000. CH Ex. P-5. On Docket No. MJ-52101-NT-0000248-2007, she has paid off her \$400 fine. CH Ex. P-6.

6. Plaintiff Omary Rodriguez Fuentes is the mother of one former and three current District students. In the last four years, Ms. Fuentes has received 37 truancy citations pursuant to 24 P.S. § 13-1333, and she has paid at least \$1,385.73 in fines. CH Ex. P-1. As of June 21, 2011, her fines totaled \$5,095. CH Ex. P-1, Spreadsheet 632a. Ms. Fuentes continues to pay these fines from her disability income, which is her family's sole source of financial support. Fuentes Dep. Mar. 23, 2012, attached as MSJ Ex. D, at 19.

7. Ms. Fuentes has paid at least \$393.45 on one of her fines. CH Ex. P-7 (Notice of Impending Bench Warrant) at 1.

8. The individual plaintiffs are joined by the Pennsylvania State Conference of NAACP Branches (PA-NAACP). PA-NAACP has members who have paid truancy fines in excess of \$300. For example, PA-NAACP member Monique Copeland paid \$600 on one fine. Dumas Interrogatory Responses, attached as MSJ Ex. E. at 9; CH Ex. P-1: Spreadsheet 549, Row 280, Column O. PA-NAACP has devoted both time and resources to assist parents subjected to

excess fines, at the expense of other PA-NAACP goals and programs. MSJ Ex. E at 16-18.

9. Although none of the named Plaintiffs filed appeals of their truancy fines, each Plaintiff was originally unaware that the fine imposed was illegally high. MSJ Ex. A at 20-21; MSJ Ex. C at 20, MSJ Ex. D at 10. For example, Ms. Echevarria stated that she did not appeal because she knew her children were absent from school and at the time she did not know that some of the fines were invalid. MSJ Ex. A at 20. She learned that fines over \$300 were invalid around September of 2010 and soon after filed the complaint in this matter in January of 2011. MSJ Ex. A at 21. Furthermore, the citations Plaintiffs received do not state that defendants who plead guilty can still appeal. CH Ex. P-5.

10. Over 10,000 truancy fines have been assessed since 2005 against parents and students of the District. CH Ex. P-1. Originally, there were 755 fines in excess of \$300. CH Ex. P-1: Spreadsheet 632a, Column J. Some of the fines were for as much as \$9,000. CH Ex. P-1: Spreadsheet 632a, Docket Nos. MJ-52201-NT-0001090-2008, MJ-52201-NT-0001098-2007, MJ-52201-NT-0001099-2007, MJ-52201-NT-0001100-2007. There are 248 individuals who, like each named Plaintiff, have paid fines in excess of \$300. Testimony of Lauren Hoff at Class Certification Hearing. These 248 individuals have made payments exceeding \$300 per citation on a total of 350 fines. The part of those fines in excess of \$300 totals

over \$108,000. Testimony of Lauren Hoff at Class Certification Hearing. Many class members were on payment plans, as evidenced by the many members who paid \$25 to \$50 on a fine at a time. CH Ex. P-1: Spreadsheet 632a, Column L.

11. Issuance of the citations for truancy is under the control of the District's truancy officers, who have been Robert Bowman since 2005 and Stephen Collins since approximately 2008. Bowman Dep. July 6, 2011, attached as MSJ Ex. F, at 5; Collins Dep., July 6, 2011, attached as MSJ Ex. G, at 7. The two truancy officers have packets of citation forms, which they and the District's attendance secretaries fill out on behalf of the District. MSJ Ex. F at 24, 37. The truancy officers then take these citations to the appropriate magisterial district court clerks. MSJ Ex. F at 24. The number of trancies identified on any single citation was under the control of the District until around 2009 or 2010, when the courts requested that the District put no more than 5 trancies on a citation. MSJ Ex. F at 96.

12. Although the evidence is contested as to the extent of the role of the District in recommending or setting the proposed fine shown on the citation, there is no dispute that hundreds of parents pleaded guilty and paid the amounts set forth on the citation. *See* CH Ex. P-1: Spreadsheet 632a, Column G (indicating whether each conviction was the result of a guilty plea or an adjudication).

13. Pursuant to 24 P.S. § 13-1333, fines for truancy are collected by the district courts and then distributed to the District.<sup>1</sup> Richards Dep. Jan. 17, 2012, attached as MSJ Ex. H, at 5. Since 2004, the District has received over \$930,000 dollars in truancy fine payments. CH Ex. P-1: Spreadsheet 632a, Assessed Tab, Column D. The District has retained this money and has not reimbursed any person for payment it has received in excess of \$300 per conviction. Bartley Dep. June 29, 2011, attached as MSJ Ex. I, at 84-85. The District maintains that it is not aware whether or not it is entitled to fines in excess of \$300 per citation and that it has never been advised by counsel or courts that such fines are unauthorized or invalid and that transfer of such funds to the District is improper. MSJ Ex. F at 98; MSJ Ex. I at 34-35. However, for all unpaid fines in excess of \$300, the magisterial district courts reduced the fine amounts to within the legal range of \$300 or less. CH Ex. P-1, Spreadsheet 632a. Records disclose that at least 398 fines were reduced by a total of more than \$270,000. CH Ex. P-1: Spreadsheet 632a, Column K; CH Ex. P-2; CH Ex. P-3; Testimony of Lauren Hoff at Class Certification Hearing.

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<sup>1</sup> Approximately once or twice a month, the District receives one check from the magisterial district courts containing all money the court has collected for the District. MSJ Ex. H, at 10-11. Other records show how much of the amount received is specifically from truancy fines. CH Ex. P-1.

14. Once the District receives truancy fine payments, it deposits them into the District's general fund. MSJ Ex. H at 16. The truancy fine payments received are not earmarked for any specific use and have not been used for any particular project, but they are simply deposited for general operational costs. MSJ Ex. H at 16-17. Because the District has continued to increase its reserves or decrease its negative reserves every year since 2006, the amount received from the magisterial district courts has in effect been contributed to the District's reserves every year. MSJ Ex. H at 16-17. Thus, these fine payments were not needed for school operations. MSJ Ex. H at 16-17. The revenue received from truancy fine payments is a small percentage of the District's total budget. For example, in 2010, the amount received in all truancy fines was less than a third of one percent of the total District revenue. MSJ Ex. H at 19.

Respectfully submitted,

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