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**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA**

**Evan Caruso, Carol DeLong, Sandra Ellen,
Manuel Levine, Annette Levine, Steven
Silberberg, Daniel Hepworth and Greg Launel**

Case No.

Plaintiffs.

vs.

**The School District of Palm Beach County,
(a/k/a The Palm Beach County School Board)**

Defendant

_____ /

**COMPLAINT FOR VIOLATION OF FLORIDA CONSTITUTION: PUBLIC SCHOOLS
MUST BE REOPENED SAFELY FOR ON-SITE INSTRUCTIONAL OPERATIONS**

Plaintiffs sue Defendant the School District of Palm Beach County, a/k/a Palm Beach County School Board, (hereinafter the District”) and allege as follows:

1. Palm Beach County, and the entire state of Florida, is one of many epicenters of the lethal pandemic which has devastated our nation, the coronavirus. The virus has no boundaries—and is particularly pernicious and contagious in indoor settings where large numbers of people congregate, such as our county’s public schools, a centerpiece of our society and democracy. The Florida Constitution clearly requires that public school on-site instruction and operations must be opened safely. The Florida Constitution mandates “[a]dequate provision shall be made by law for a uniform, efficient, **safe, secure**, and high quality system of free public schools.” Fla. Const. Art. IX, § 1. (emphasis added). The Defendant’s unconstitutional handling of their duties violates this mandate and requires the courts to issue necessary and appropriate relief. Florida students, parents, teachers, and the public deserve and are constitutionally entitled to the protections needed to assure a lawful and safe learning environment.

2. Plaintiffs bring this suit to safeguard the health and welfare of Florida public school students, educators, staff, parents, and the public, including residents of Palm Beach County, following the failure to take the necessary steps to mitigate community spread of the Coronavirus Disease 2019 (COVID-19), as set forth in the Centers for Disease Control (“CDC”) guidelines. The CDC guidelines provide the most authoritative criteria for the safe reopening of a broad range of facilities, operations, and activities, including schools. With no rational basis for ignoring the CDC guidelines, the Defendant is requiring thousands of public school employees to physically return to brick and mortar schools on September 21, 2020 in the middle of a raging pandemic that is still in full force in Florida and COVID-19 cases will increase dramatically if our public schools reopen without appropriate safeguards. Defendant’s arbitrary, dangerous, and unconstitutional actions in the midst of the pandemic create an imminent threat to the public health, safety and welfare.

3. An actual controversy currently exists between the Plaintiffs and the Defendants.

4. Absent the requested relief, schools across the county will continue their current planning and actions to unsafely reopen face-to-face operations on September 21 to the injury and detriment of Floridians and all Americans. Emergency relief is needed from this Court to protect the community from Defendant’s arbitrary and unconstitutional actions and omissions.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to Fla. Stat. §§ 26.012(2)(c) and § 86.011.

6. Venue is proper in Palm Beach County, Florida, as causes of action accrued in Palm Beach County. Fla. Stat. §§ 47.011 and 47.021.

PARTIES

7. Plaintiff Evan Caruso has been a teacher at Boynton Beach High School for 12 years. He entered his school on September 17 to find the desks two feet apart in his classroom. He was given a smart board in his class but a not so smart board on Forest Hill Blvd. which has failed to prepare the teachers for how to survive teaching during a pandemic.

8. Plaintiff Greg Launel has been teaching for nine years at Jupiter Middle School. He has created, taught, inspired and delighted his student with his enthusiasm and love for others. He has taught his students many recipes, but the most important one is the recipe for a happy, and fulfilling life which is based on helping others and building friendships and relationships and working with charities. Due to a heart condition he is a high risk candidate for succumbing to COVID-19 and thus his teaching career is now at risk due to the actions of the Defendant.

9. Plaintiff Carol DeLong has worked for the Defendant for 34 years. She was rated category 2 by the Defendant, which indicates high risk of contracting and dying from the coronavirus. The Defendant is now ordering her to return to the brick and mortar school, which is tantamount to a death sentence by their own admission. She will have to retire early, let down her students, suffer financial and emotional harm, or risk her life to continue teaching.

10. Plaintiff Sandra Ellen has been teaching for 35 years and her husband is at high risk of contracting and dying from the coronavirus. Because it took her two days to get a doctor's note verifying her husband's status as high risk, they closed her application for exemption. She was told to come in to school, take a leave of absence or resign.

11. Plaintiff Manuel Levine has taught for 40 years at JC Mitchell Elementary School in Boca Raton. Due to his age and health challenges, he was led to believe he would teach remotely. Now he must report to school and is at high risk for contracting and dying from COVID-19.

12. Plaintiff Annette Levine has worked in education for nearly 40 years. Due to her age, she is at high risk of contracting and dying from the coronavirus.

13. Plaintiff Steven Silberberg has worked for the District for 40 years and has twice been named teacher of the year. He is presently 68 years old and is not in good health. Those over 65 are at high risk of contracting and dying from COVID-19 and all teachers in the District were advised that if they are over 65 years old, they would be exempt from returning to a brick and mortar school. However, Plaintiff has now been ordered by the Defendant to return to work in the building on September 21 in violation of the CDC guidelines and at great risk to his health and the health of others. His request for an exemption was denied. Upon information and belief, all requests for exemption at his school, Glades Central High School have been denied. The school is located in Belle Glade where the largely minority population is at far greater risk to contract and die from the coronavirus.

14. Plaintiff Daniel Hepworth is married to a teacher at Barton Elementary School in Lake Worth which is a COVID hot spot. She was approved as priority 2 by the Defendant, indicating great risk to health. Her request to teach online rather than in the school was subsequently denied by her principal with the explanation “no remote positions are available at this time.”

15. Defendant, the District is the administrative agency responsible for implementing the education policies and programs promulgated by the State of Florida. *See* Fla. Stat. § 20.15, in Palm Beach County. The Defendant is an agent and/or subdivision of the State of Florida and is therefore responsible for implementing the provisions and assuring the rights regarding our public school system as guaranteed in Fla. Const. Art. IX, § 1; Fla. Stat. § 20.15(1).

FACTUAL ALLEGATIONS

16. Florida is facing an unprecedented surge of COVID-19, a severe acute respiratory illness caused by SARS-CoV-2, (a/k/a the coronavirus) that can spread among humans through respiratory transmission and spreads easily from person to person, even when an infected person shows no symptoms of the virus. People of all ages with chronic medical conditions like heart disease, lung disease and diabetes, and adults who are 65 years old and older, are at higher risk of developing severe illness resulting in death. However, this virus has resulted in serious illness and death to people of all ages, including those without underlying medical conditions and children.

17. According to the Centers for Disease Control and Prevention (“CDC”), the virus spreads from person-to-person “between people who are in close contact with one another (within about 6 feet) through respiratory droplets produced when an infected person coughs, sneezes or talks.” It is understood that the virus can be spread by human contact with surfaces contaminated with droplets containing the virus.

18. The threat of COVID-19 is well-documented. Over 6 million people are known to be infected and approximately 200,000 have died that we know of from this deadly disease. Florida is among the states hardest hit by the coronavirus and experts predict that if schools reopen, the number of fatalities will soar. Contrary to initial reports, children are not immune from death and many children will experience symptoms if they contract the coronavirus and some of these symptoms may be permanent or lethal.

19. The Court may take judicial notice of the serious danger of the coronavirus and how it has ravaged our nation. The Defendant has also conceded this point many times. The full extent of the harm posed by COVID-19 is unknown due to the fact that the Governor of Florida has greatly politicized this issue and has acted unconscionably to hide the truth. Local health

officials who have cautioned against reopening the schools amid the resurgence of COVID-19 have seemingly been silenced. The Palm Beach County Health Director who cautioned about the risk to children got a call from the surgeon general of the State of Florida that told her to keep her mouth shut and not speak about it as reported in the press. Not only did she get the call, but other health directors from around the state got the same call that they should not get involved with the school districts' decisions on whether or not to reopen schools. Silencing medical experts who seek to impart the findings of science in order to protect children and teachers is morally repugnant, yet the Defendant has failed to alert the public to this distortion of the truth and bases some of its decisions on these erroneous assertions.

20. Reopening schools in the middle of the COVID-19 pandemic with no end in sight without the proper plan, resources, and safety precautions will inevitably exacerbate the spread of the virus, jeopardize public health, and ultimately cause longer closures.

21. There is no rational basis for ignoring science and evidence-based data. Health experts have rejected Governor DeSantis' claims that the risk for students is "incredibly low." Further, they caution that the long-term health effects for children who contract the virus are largely unknown, and that even asymptomatic children have experienced lung damage from the virus. Nevertheless, the Defendant is following the lead of the Governor of Florida, who is leading our community down a path of death and suffering, rather than towards healing.

22. At a July 14, 2020 Palm Beach Board of County Commissioner meeting, before she was told to "keep her mouth shut" the Palm Beach County Health Department Director, Alina Alonso, testified "when you take X-rays of their lungs . . . they are seeing that there is damage to the lungs in these asymptomatic children. That is very important, we don't know how that is going to manifest a year from now. This is not the virus that you bring everyone together to make sure

you catch and get it over with. This is something serious and we are learning new information about this virus every day. . . this is real, and the kids can get sick and they can die.”

23. Numerous teachers and other public school employees across Florida are at increased risk for severe illness if they contract COVID-19, due to various medical conditions like heart conditions, diabetes, obesity, and weakened immune systems. Adults 65 or older, like numerous public-school employees, are also at higher-risk. Indeed, the White House has urged older Americans and citizens with underlying health conditions to stay home and to avoid other people.

24. When students and employees return to the school site, they will be indoors with each other for 7 hours a day in derogation of CDC guidelines and executive orders issued across the state. They will be sharing common areas including buses, hallways, classrooms, clinics, locker rooms, and bathrooms. They will be touching door handles and sharing equipment along with potentially hundreds of other people. These thousands of individuals will return to their families and to the community to continue to accelerate the spread of COVID-19.

25. Due to an abysmal failure to prepare for the return to the brick and mortar education on September 21, the entire school district is in a shocking state of disarray, confusion and frustration which has resulted in pandemic pandemonium. The teachers and principals still do not know which teachers are exempt and which must return to school and thus they still do not even know who they will be teaching and where they will be teaching from one day before the scheduled reopening.

26. As a result of trying to comply with the orders of the Governor who is following orders from above which deny science and concern for the health of our citizenry and a school board which has delegated all responsibility for implementing regulations for reopening to others, and

the complete dereliction of duty of these “others” to follow through on this impossible task, the ultimate decision of who is exempt and who is not exempt has fallen upon the principals to make life and death decisions in days without any guidance whatsoever.

27. As a result of this chaotic situation, it appears that many principals have simply denied all requests, which will expose the plaintiffs and thousands of others to serious risk of illness and death, and also places the entire state, our health and our economy at great risk of illness, death and economic ruin.

28. Due to the great harm that teachers face due to school shootings, many teachers have left the profession because they were not safe. There are rumors of massive walk-outs by bus drivers and others in this pandemic pandemonium that the Defendant has caused. Defendant’s decision to recklessly reopen with no regard for the health of teachers and their families will cause further exodus of many extremely talented, dedicated and inspiring teachers which will cause irreparable harm to the plaintiffs as well as to our public education if the requested relief is not granted

LEGAL PRECEDENT

29. In a similar case filed in Leon County challenging an order to reopen the schools based on the same constitutional provision as the case at bar, after an extensive review of all the evidence presented over several days, the Honorable Circuit Judge Charles Dodson ruled on August 24, 2020 in favor of the teachers, finding that it would be dangerous to open the schools at this time. So insistent was he in the urgency of his ruling, that when the State appealed and was granted an automatic stay, Judge Dodson vacated the stay, opining that it was of great importance to the health of the plaintiffs as well as the people of Florida that schools not open at this time.

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30. He further opined that “The education of children is a fundamental value of the people of

the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high-quality system of free public schools that allows students to obtain a high-quality education ...Accordingly, our Florida Constitution requires the State to ensure our schools operate safely.”

31. Judge Dodson found that the Defendants had no adequate remedy in law and demonstrated that they and the public would suffer irreparable harm if their requested relief was not granted.

32. The Plaintiffs in this case have a substantial likelihood of success on the merits, will suffer irreparable harm if the requested relief is not granted, have no adequate remedy at law, and a ruling in their favor would serve and definitely not harm the public interest. In the similar case cited above, Judge Dodson found all these requirements for declaratory judgment and injunctive relief were met by the teachers and opined “Plaintiffs have also shown that a temporary injunction will serve the public interest. An injunction in this case will allow local school boards to make safety determinations for the reopening of schools without financial penalty. This is what the local school boards were elected to do. Every witness testified that any decision to reopen schools should be based on local conditions. Reasoned and data-driven decisions based on local conditions will minimize further community spread of CO VID-19, severe illness, and possible death of children, teachers and school staff, their families, and the community at large. Such local decisions unequivocally serve the public interest.”

COUNT I:

DECLARATORY JUDGMENT FOR VIOLATION OF FLORIDA CONSTITUTION

FOR UNSAFE OPENING OF BRICK AND MORTAR SCHOOLS

33. The allegations in paragraphs 1 through 32 are incorporated herein by reference.

34. Fla. Stat. § 86.011 gives circuit courts of this state jurisdiction and power “to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed.”

35. Article IX, Section 1(a) of the Florida Constitution provides:

Section 1. Public education.--

(a) The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. **Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education . . .** (Emphasis added.)

36 The Florida Constitution requires that state entities and public officials, who are charged with overseeing the funding and operations of public education, ensure that our schools operate safely. Protecting the health and safety of each person connected with the state’s education system is undisputedly a matter of paramount importance. Defendants cannot legally deny students, public school staff, their family members, and the public with whom they come in contact within the public-school system their basic human needs for health and safety.

37. Plaintiffs seek a declaratory judgment determining that the Defendant has failed to abide by the requirements of the Florida Constitution by directing teachers and students to return to brick and mortar schools in this district when it is unsafe under any circumstances, but is especially unsafe at this time when the implementation of these life or death regulations are in disarray and will inevitably lead to the loss of life. Plaintiffs and others with serious health conditions are not exempted and their requests are summarily denied without any consideration whatsoever

38. The Defendant is the agent, subdivision and enforcement arm of the state and is bound by the provisions of the Florida Constitution. Thus, the back to school order as written and applied

violates the Defendant's duty to "operate, control and supervise all free public schools within the school district." Fla. Const. Art. IX, § 4(b).

39. Further, the Defendant has failed to ensure that the proper safety protocols are in place. As a result of a complete absence of proper planning or a coherent strategy to keep teachers and students safe, Plaintiffs now find themselves forced to crowd thousands of students into schools where physical distancing, although critical, becomes virtually impossible. In a few days, schools will reopen without nearly enough time to develop and implement safety protocols that comply with CDC guidelines that are intended to contain the virus and keep our communities safe.

40. An actual controversy currently exists between the Plaintiffs and the Defendant. Absent the requested relief, schools across the county will unsafely reopen on-site instruction on September 21 to the injury and detriment of all Florida citizens. A declaration is needed from this Court to protect the community from this back to school order.

WHEREFORE, the Plaintiffs seek a declaration from this Court that the Defendant's back to school order and related actions or threatened actions to enforce it, violate the Florida Constitution and any additional relief the Court deems just and proper.

COUNT II

DECLARATORY JUDGMENT DETERMINING THAT REQUIRING PLAINTIFFS TO RETURN TO BRICK AND MORTAR INSTRUCTION UNDERMINES SCHOOL SAFETY AND THREATENS THE LIFE AND LIBERTY OF THE PLAINTIFFS AND THE PUBLIC IN VIOLATION OF THE FLORIDA CONSTITUTION

41. The allegations in paragraphs 1 through 40 are incorporated herein by reference.

42. Fla. Stat. § 86.011 gives circuit courts of this state jurisdiction and the power "to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed."

43. Article I, Section 9 of the Florida Constitution provides that “[n]o person shall be deprived of life, liberty or property without due process of law[.]” If a statute or government order is arbitrary and capricious, it violates due process rights guaranteed by the Florida Constitution. *See State v. Saiez*, 489 So. 2d 1125, 1128 (Fla. 4th DCA 1986).

44. Plaintiffs seek a declaration that the chaotic, rushed, capricious and lethal back to school order of the Defendant in which the principals must make life or death decisions under intense pressure, no guidance and political coercion rather than health considerations is arbitrary and capricious.

45. The back to school Order is unreasonable, inconsistent, arbitrary and capricious. It is confusing and ambiguous, and its implementation is unpredictable. This is creating fear and anxiety among Plaintiffs and all other teachers, parents and the public in matters that affect life and death. The return to brick and mortar schools is one business day away and mass confusion and panic exists among the plaintiffs and all who attend school and their families, in what can best be described as pandemic pandemonium in every school in Palm Beach County.

46. The back to school order fails to provide the constitutional and clear logical guidance that Floridians so desperately need during this state of emergency, especially when it relates to their children’s safety and education.

47. Moreover, Plaintiffs are being denied the right to rely on their locally elected school board officials because the Defendant claims it has no authority to delay the opening of the brick and mortar schools despite the language of the State Order they are relying upon which states the opposite and places all responsibility on the Defendant: See Emergency Order No. 2020-EO-06 which states that “[a]bsent these directives, the day-to-day decision to open or close a school **must always** rest locally with the board or executive most closely associated with a school[.]” (Emphasis added.) Thus, the Defendant has let down the students it is supposed to serve as well as the dedicated

teachers who are the backbone of our public schools by shirking their responsibilities and pretending that they have no authority to act, when in fact, they are the only ones who can do so and thus they have created anarchy in our schools which threaten the lives of the Plaintiffs and our community.

48. The Defendant is usurping its constitutional function. Parents and public-school employees have a right to rely on their elected officials to make decisions safeguarding their health and the health and safety of their families.

49. An actual controversy currently exists between the Plaintiffs and the Defendants. The Defendants' mandate wrongfully assumes that state authorities can better determine the local health risks and educational needs of students and teachers than the local officials that were elected for that purpose. This is arbitrary and capricious government action and violates due process.

50. The decisions as to how and when to safely reopen schools are subject to the school boards and should be based on current and accurate information and in cooperation with each counties' public health authorities. Defendant has failed to fulfill its duties and obligations.

WHEREFORE, the Plaintiffs seek a declaration from this Court that the Defendant's order requiring teachers to return to school on September 21, 2020 is arbitrary and capricious and thus violates the Florida Constitution and any additional relief the Court deems just and proper.

COUNT III

INJUNCTIVE RELIEF AGAINST THE DEFENDANT

51. The allegations in paragraphs 1 through 50 are incorporated herein by reference.

52. Fla. Stat. § 26.012(3) gives circuit courts jurisdiction and the power to issue injunctions.

53. Plaintiffs have a clear legal right to be free from significant threats to public health, including outbreaks of infectious diseases.

54. The Plaintiffs seek an injunction to prohibit all named Defendants from taking actions to unconstitutionally force Plaintiffs and thousands of other employees of the District to report to brick and mortar schools that should remain closed during the pandemic of COVID-19 which still rages in the State of Florida taking thousands of precious lives.

55. The procedures are so chaotic that many teachers still do not know if their request for an exemption has been granted and it is impossible for a teacher to prepare for classes without knowing whether they will teach the class on-line or in person at the school.

56. These procedures are not only incomprehensible, capricious and arbitrary they are lethal due to the impossibility of remaining 6 feet apart, requiring teachers to be in the same room as students while they eat lunch without a mask and other concerns raised above that ignore the safety guidelines and protocols of the CDC, and the overwhelming opinion of medical and epidemiological experts. It is particularly arbitrary and harmful when reasonable alternatives exist under these extraordinary circumstances for remote online instruction allowing for the protection of children, teachers and other education professionals, family members, and the community generally, but the defendant chooses not to avail itself of these life-saving procedures.

57. In-person instruction requires prolonged close indoor contact between students and school employees. There is currently no ability to provide for adequate physical distancing, PPE use, hygiene practices, contact tracing, and other safety measures required by the federal, state, county, and CDC guidelines to prevent the transmission of COVID-19.

58. While widespread testing with instant results is possible, the Defendant has chosen not to require such testing which further endangers the plaintiffs and others.

59. The spread of COVID-19 that will result from the unsafe reopening of schools during the surge is not limited to students, teachers, school administrators, or school staff and will undoubtedly spread to their families and communities.

60. Instead of controlling the community spread, as they have a legal duty to do, Defendant's have allowed politics to be placed over the lives of those they have a duty to protect and their planned reopening on September 21 will increase positivity rates, hospitalizations, and deaths and will put tremendous stress on teachers due to their necessity to work and their desire to keep themselves and their loved ones alive.

61. Defendant's actions would unreasonably interfere with Floridians' right to public health and safety, and will cause special harm and endangerment to Plaintiffs and their families as they will be directly exposed to the virus on a daily basis if they return to brick and mortar schools.

62.. Absent an injunction from this Court, the mandated physical reopening of schools in a one business day will create an unsafe and unsecure environment for students, employees, and the community at large. The community spread that will inevitably result from the premature reopening of schools will yield unfortunate and avoidable increases in disease, long-term health complications, and deaths across Palm Beach County and beyond.

63. Palm Beach County students, teachers, and other school employees and their families are at a particularly high risk if schools reopen as south Florida continues to be among the world's epicenters of the coronavirus pandemic and cases every day.

64. The Defendant is tasked with setting this county's school standards for opening and operating procedures and maintaining the safety and welfare of Palm Beach County residents and like all government agencies, taking effective steps to minimize community spread. It has the responsibility to warn the plaintiffs and the public when, like now, it is unsafe and

irresponsible to reopen on-site operations at schools. Defendant has a duty to take all the necessary steps to prevent a premature reopening and ensure that a genuinely safe reopening can happen as soon as possible, rather than doing nothing in this regard, or falsely claiming it cannot do anything in this regard.

65. The Defendant has lost precious time in its failure to enact policies and procedures to keep plaintiffs and others safe in school and therefore they should be required to ensure the safety of Plaintiffs and all others before requiring anyone to return to an unsafe environment.

66. Plaintiffs have a substantial likelihood of success on the merits. Without an injunction, Plaintiffs and thousands of students, teachers, District employees and others will be placed at an unnecessarily increased risk of physical injury, illness, and potential death from the COVID-19 virus. Employees and students should not have to risk injury or death by being required to report to school. The Florida Constitution guarantees their safety and condemns needless harm.

67. If Defendants are not enjoined from their actions and omissions, including mandating the physical reopening of schools and the return of thousands of teachers and other District employees, the Plaintiffs face irreparable harm in the form of unquantifiable emotional and physical injuries. The virus will continue to spread and result in severe illness, long-term and unpredictable health complications, and, in some cases, death.

68. The threatened injury to the lives of Plaintiffs and to Florida residents outweighs any possible harm to Defendant. The status quo has been working so far and is far preferable to the chaos and loss of life which awaits if this Court does not enjoin the Defendant and if Plaintiffs and others are required to return to school on Monday, September 21, 2020. There is no rational or compelling reason to make a decision that endangers lives and flies in the face of recent precedent decided under very similar circumstances, in which the court declared it reckless,

dangerous and unconstitutional to require teachers to return to brick and mortar schools at this time.

69. The Plaintiff's injuries cannot be compensated adequately by damages or remedied at law. No one can put a price on human life, the loss to a society when excellent and devoted teachers flee from a dysfunctional educational system, the stress of being forced to return to an incubus of death or give up the noble profession of teaching, working under dangerous conditions, and none can put a price on the sadness in the heart of a kindergarten student who got to know his or her teacher, and then one day finds the teacher not there and left to feel that perhaps the teacher doesn't care about them anymore.

70. The actions of the Defendant constitute a violation of the Florida Constitution Article IX, Section 1, which requires the Defendant to provide Plaintiffs and all Floridians with "uniform, efficient, **safe, secure**, and high quality system of free public schools." None of these requirements are met with this broken, chaotic system of return to the schools. The Defendant's actions described herein also violate the due process clause of the Florida Constitution provided in Article I, Section 9, which protect life and civil rights and guarantee due process of the law. Life, health and the wellbeing of our State hang in the balance in this case.

WHEREFORE, the Plaintiffs seek an emergency and immediate temporary injunction as well as a permanent injunction granting the following relief:

- (a) Entering an order maintaining the status quo and permitting all teachers to continue teaching as they have been since the beginning of this semester.
- (b) An order enjoining the Defendant from unnecessarily and unconstitutionally forcing Plaintiffs and thousands of others to return to brick and mortar schools at this time and postponing their return until it is safe to do so.

(c) An order enjoining the Defendant from requiring the Plaintiffs or anyone else to return to school until competent, independent health officials say it is safe to do so.

d) An order requiring Defendant to design and implement proper policies and procedures to ensure that our schools are safe and the guidelines of the CDC and other health care professionals are being followed prior to their requiring Plaintiffs or anyone else to return to the schools.

(e) An order requiring that, before the physical reopening of brick and mortar schools, each school must have adequate personal protective equipment and other necessary supplies for all employees and students; reduce class sizes to comply with physical distancing requirements; install sufficient hand-sanitizing stations; and take all necessary measures to protect students and staff and minimize COVID-19 transmission.

(f) Should plaintiff prevail on the due process claim an award of attorney's fees and costs pursuant to 42 U.S.C. 1988 based on the vindication of Plaintiff's constitutional rights.

(g) Any additional relief this Court deems just and proper.

Dated: September 18, 2020

Respectfully submitted,

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By: /s/ Barry Silver