

State of Missouri)
)
City of St. Louis)

**STATE OF MISSOURI
CIRCUIT COURT OF THE CITY OF ST. LOUIS**

CASSIE OGLESBY, NANCY LYNN,)
SHEILA HOLT, by her parents and)
guardians, ROBERT HOLT and MAE)
HOLT, and DORIS WIDER, individually)
and as representatives of a class of persons)
similarly situated, and the MISSOURI)
COUNCIL OF THE BLIND, a Missouri)
nonprofit corporation,)

Plaintiffs,)

v.)

STEVEN ROLING, in his capacity)
as Director, Missouri Department of)
Social Services, and the MISSOURI)
DIVISION OF FAMILY SERVICES,)

Defendants.)

No. _____

PETITION FOR DECLARATORY JUDGMENT AND OTHER RELIEF

Now come Plaintiffs, by and through their attorneys, on behalf of themselves and as representatives of a class of persons eligible for a Blind Pension all of whom are similarly situated, and for their Petition for Declaratory Judgment and Other Relief state as follows:

COUNT I – DECLARATORY JUDGMENT, INJUNCTION, ACCOUNTING

Introduction

1. This is an action for declaratory judgment and other relief against Defendant Steven Roling, in his official capacity as Director of the Department of Social Services (“DSS”), and Defendant Missouri Division of Family Services (“DFS”)

[hereinafter sometimes referred to collectively as “Defendants”], arising in connection with Defendants’ administration of Missouri’s Blind Pension Fund and Defendants’ long-standing policies and practices. For the last ten years, or longer, Defendants have deprived needy blind residents of Missouri of the full amount of their Blind Pensions, and have done so in knowing violation of the law.

2. Missouri’s Constitution provides that, on an annual basis, tax revenues should be collected for the purpose of “pensioning of the deserving blind as provided by law.” Article III, §38(b), Missouri Constitution. [A full discussion of the Constitutional and statutory framework of the Blind Pension Fund, and the provisions pertaining to eligibility, the method for calculating the Blind Pension Fund and the annual and monthly payments due pensioners, as well as determining other expenditures that may be made from this Fund are more fully set forth in the section of this Complaint entitled Constitutional and Statutory Framework.]

3. Defendants have, for a number of years, unlawfully withheld monies from the Blind Pension Fund and/or otherwise unlawfully expended monies that should have been paid to Plaintiffs and other Blind Pensioners. By policy and practice, Defendants appropriated monies that belonged to Plaintiffs and other Blind Pensioners to pay various of their own expenses and to fund other programs.

4. Defendants made such withholdings or expenditures, thereby converting monies belonging to Plaintiffs and other Blind Pensioners in advance of appropriately calculating the year-to-year increase to the Blind Pension Fund.

5. Defendants’ policy and practice have violated and do violate Article III, §38(b) of the Missouri Constitution and Sections 209.040 and 209.130, RSMo. At all

times relevant hereto, and for a time period in excess of ten (10) years, Defendants were aware that their policy and practice violated the law and deprived needy blind pensioners, including the individual Plaintiffs identified below, and other members of the proposed Plaintiff class, of monies which belonged to them and to which they were entitled. Notwithstanding, Defendants have taken no steps to date to change and correct their policy and practice, so that they might conform with the laws relating to the Blind Pension Fund.

Jurisdiction and Venue

6. This Court has subject matter jurisdiction pursuant to Section 536.050, RSMo, which empowers the circuit court to render declaratory judgments respecting the validity of administrative rules or policies or their respective applications, without Plaintiffs having to first request that the relevant agency pass on such questions or issues.

7. Venue lies in this Court pursuant to Section 536.050.1, RSMo, which provides that “venue of such suits against agencies, shall, at the option of the plaintiff, be in the circuit court of Cole County, or in the county of the plaintiff’s residence. . . .” Plaintiffs herein are residents of the City of St. Louis, State of Missouri, and they elect to file their action in the Circuit Court of the City of St. Louis.

Parties

8. Plaintiff Missouri Council of the Blind, Inc. (“MCB”) is a lawfully existing Missouri not-for-profit corporation which is organized to promote the general welfare of blind residents of Missouri. Its principal offices are located at 5453 Chippewa, St. Louis, Missouri 63109. It serves members throughout the State of Missouri including the individual Plaintiffs identified below.

9. Plaintiff Nancy Lynn is a blind woman who resides at 310 S. Grand, Apt. 1002, St. Louis, Missouri 63103. She receives and, for some period of years, has received a Missouri Blind Pension and is a pensioner.

10. Plaintiff Cassie Oglesby is a blind woman who resides at 3003 Sidney, St. Louis, Missouri 63104. She receives and, for some period of years, has received a Missouri Blind Pension and is a pensioner.

11. Plaintiff Sheila Holt is a blind woman who resides at 6153 Emma, St. Louis, Missouri 63136. She receives and, for some period of years, has received a Missouri Blind Pension and is a pensioner. She brings this action by her parents and guardians, Robert and Mae Holt.

12. Plaintiff Doris Wider is a blind woman who resides at 3131 Iowa, Apt. 106, St. Louis, Missouri 63118. She receives and, for some period of years, has received a Missouri Blind Pension and is a pensioner.

13. Defendant Steven Roling is the Director of the Department of Social Services (“DSS”). He is sued in his official capacity.

14. Defendant DFS is a statutorily constituted division of DSS which administers public welfare programs for persons with disabilities. Defendant DFS, among other things, is the division of state government which administers Missouri’s Blind Pension Fund. Defendant DFS has the power to sue and be sued. Section 207.020.1(1), RSMo.

Class Action Allegations

15. This action is brought pursuant to Missouri Supreme Court Rule 52.08 by Plaintiffs, on behalf of themselves and, in the case of Plaintiffs Cassie Oglesby, Nancy

Lynn, Sheila Holt and Doris Wider (sometimes referred to as “individual Plaintiffs”), on behalf of all other persons in Missouri similarly situated, to wit: all pensioners—persons who were during the past ten (10) years eligible to receive a Blind Pension and/or who are presently eligible to receive a Blind Pension pursuant to Section 209.030, RSMo. The members of the proposed class are hereinafter sometimes referred to as “pensioners,” and that term includes the individual Plaintiffs when appropriate in the context.

16. Plaintiffs are informed and believe that the proposed class exceeds two thousand (2,000) individual pensioners and constitutes a class so numerous that joinder of all class members is impracticable.

17. Individual Plaintiffs Cassie Oglesby, Nancy Lynn, Sheila Holt and Doris Wider’s claims are typical of those of the proposed class. The individual Plaintiffs are adequate representatives of the proposed class: their interests do not conflict with the interests of the class, and they are represented by counsel skilled in class action and public benefits litigation who will fairly and adequately represent the Plaintiff class of pensioners.

18. The claims asserted by the Plaintiffs on their behalf and on behalf of the proposed class of pensioners present questions of law and fact common to the proposed Plaintiff class, including the following: how Missouri’s Blind Pension Fund is funded; how yearly increases in the Blind Pension Fund are determined and calculated by Defendants, and whether these determinations and calculations are lawful and correct; how annual and monthly pension payments are determined and calculated by Defendants, and whether these determinations and calculations are lawful and correct; whether Defendants have used the Blind Pension Fund to pay for expenses and programs

unrelated to the Blind Pension Fund and pensioners, and whether said expenditures are lawful and correct; whether the Defendants knowingly acted in contravention of law and continue to do so; whether individual Plaintiffs and other pensioners have been paid their full and correct pension payments or have been deprived of monies to which they were entitled; if the individual Plaintiffs and other petitioners have received less than the full amount due to them, what amounts should have been paid to them and for what periods of time; whether the Defendants are liable to the individual Plaintiffs and other pensioners for the difference in the amounts paid to them and the amounts due to them; whether the individual Plaintiffs and other pensioners are entitled to an accounting by the Defendants; whether the individual Plaintiffs and other pensioners are presently receiving the amount in annual and monthly pension payments to which they are entitled; and what remedies are available to the individual Plaintiffs and other pensioners to redress and remedy the harm done to them. Defendants in all actions brought by individuals seeking relief and recovery of pension funds properly payable from Missouri's Blind Pension Fund would be and are Defendant Roling, the Director of the DSS, and Defendant DFS, both having acted and/or having refused to act on grounds generally applicable to all members of the proposed class; the aforesaid Defendants have and/or would have similar defenses in all such actions. Therefore, that relief and recovery that an individual pensioner might obtain, including final injunctive relief or declaratory relief, would apply to the proposed class of pensioners as a whole.

19. The questions of law and fact common to the proposed Plaintiff class of pensioners predominate over questions affecting only individual class members. A class action provides the means for determining and adjudicating--fairly and efficiently-- the

facts, the laws, and the rights and remedies of 2000 or more similarly situated individuals, while minimizing the legal resources necessary to resolve the controversy. For these reasons, a class action is superior to individual, case-by-case, instance-by-instance litigation.

20. Furthermore, the prosecution of separate actions by individual members of the Plaintiff class creates a number of risks, including: a) the risk of inconsistent or varying adjudications with respect to individual members of the class; b) the risk of inconsistent findings of fact; c) the risk of inconsistent interpretations of law; d) the risk that, with respect to Defendants, inconsistent standards of conduct might be ordered or enjoined; and, e) the risk that the rights of non-parties--as well as their abilities to protect their interests--might be impaired.

Constitutional and Statutory Framework

21. Article III, §38(b) of the Missouri Constitution provides for a tax levy for a Blind Pension Fund. The source of this provision is the Constitution of 1875, and the Constitution as presently enacted provides:

“The general assembly shall provide an annual tax of not less than one-half of one cent nor more than three cents on the one hundred dollars valuation of all taxable property to be levied and collected as other taxes, for the purpose of providing a fund to be appropriated and used for the pensioning of the deserving blind as provided by law. Any balance remaining in the fund after the payment of the pensions may be appropriated for the adequate support of the commission for the blind, and any remaining balance shall be transferred to the distributive public school fund.”

22. Since 1939, there has existed a statutory framework for the administration of the Blind Pension Fund, to address eligibility issues, to provide the formula for the calculation of the Fund and individual pension benefits, to specify lawful expenditures from the Fund, and the like. For example, Section 209.010, RSMo, provides that the

DFS shall prepare and keep a complete register of blind persons within the state and generally provide services for blind persons. DFS maintains a “Blind Pension Roll” which contains relevant information for all Blind Pension recipients, pursuant to Section 209.100, RSMo.

23. Section 209.030, RSMo, sets forth the eligibility requirements for pensioners. Generally, Blind Pensions are available to persons 18 years of age and older, who have resided in Missouri for at least one year, who meet certain vision impairment standards, and whose resources total less than \$20,000.00. There is no income limit or test for eligible persons.

24. Section 209.040.1, RSMo, provides that eligible persons “shall be entitled to receive a monthly pension in an amount established by appropriations made by the general assembly for that purpose but not less than three hundred forty dollars.” Persons eligible for federal Supplemental Security Income (“SSI”) are not eligible to receive Blind Pensions.

25. Section 209.040.4, RSMo, provides the formula for calculating the annual increase to the Blind Pensions which are paid to eligible persons in equal monthly payments, like most entitlement programs. Essentially, the formula provides that the monthly annual increase is calculated by determining the difference between the preceding fiscal year’s real estate tax revenue for the Blind Pension Fund and the current year’s real estate tax revenue for the Blind Pension Fund, multiplying this figure by 75%, then dividing the resulting product by the number of pensioners, and, to arrive at the monthly increase to the base pension, dividing that quotient by 12.¹

¹ Section 209.040.4 RSMo provides: “The monthly pension provided in [Section 209.040.1] shall be increased by the general assembly by an appropriation bill by a monthly pension amount which equals one-

26. Section 209.110, RSMo, provides for appeal rights to aggrieved persons in the Blind Pension program “on the question of such person’s vision or as to his or her property or income, residential or moral qualifications to receive the benefits of [the Blind Pension],” but provides no appeal rights with respect to the amount that an individual is receiving or should be receiving as his/her pension, whether the increase in Blind Pensions is being correctly determined by Defendants, whether Defendants are making *ultra vires* payments from the Blind Pension Fund, or other matters.

27. Section 209.130, RSMo, provides that the rate of tax for the Blind Pension Fund shall be three cents on each one hundred dollars valuation of taxable property, collected at the same time as other state taxes, and paid into the state treasury “to the credit of the blind pension fund.” Balances in the Blind Pension Fund after payment of Blind Pensions “may be appropriated for the adequate support of the commission for the blind [now, Rehabilitation Services for the Blind (“RSB”)], and any balance remaining at the end of the biennium shall be transferred to the distributive school fund.” No other expenditures are authorized.

Statement of Facts (Common to all Counts)

28. The Blind Pension Fund has grown from \$12,370,350 in fiscal year 1993 to \$20,087,539 in fiscal year 2003. The Plaintiffs are informed and believe that the Blind Pension Fund will be \$22,637,891 in fiscal year 2004.

29. The amount of money in the Blind Pension Fund at the present time is unknown, but Plaintiffs are informed and believe that Defendants have: a) improperly retained unknown sums of money in this Fund instead of distributing some or all of these

twelfth of the quotient obtained by dividing seventy-five percent of the annual growth of funds in the blind pension fund for the preceding fiscal year by the number of persons eligible to receive the monthly pension provided in subsection 1 of this section.”

amounts to pensioners; and b) improperly transferred funds from the Fund to other accounts, such as the account for the Rehabilitation Services for the Blind, and retained unknown sums of money in these accounts instead of distributing some or all of these amounts to pensioners.

30. In fiscal year 1996, the total number of pensioners was 3,278. In fiscal year 2003, there were 3,639 pensioners. In fiscal year 2004, the Plaintiffs are informed and believe that the total number of pensioners will be 3,719.

31. The monthly amount of the Blind Pension has grown from \$322 per month in 1993 to the current amount of \$479 per month. In fiscal years 1996, 1997, and 1998, there was no increase in the Blind Pension payable to pensioners. In all other years, there has been an increase.

32. Plaintiff Cassie Oglesby is 75 years old, female, and widowed. She has resided in St. Louis City for more than 50 years. She is a member of the Missouri Council of the Blind. In years past, she was employed at the Lighthouse for the Blind in St. Louis, but retired in 1989. Plaintiff Oglesby currently receives a Blind Pension in the amount of \$479 per month. She also receives Veteran's Administration benefits in the amount of approximately \$350 per month and Social Security benefits in the amount of \$525.00 per month. She has no other income.

33. Plaintiff Nancy Lynn is 51 years old, female, and single. She has resided in St. Louis City since March 2002. She was formerly employed as a telephone relay operator but is now unemployed. She is currently active as a member of the United Workers for the Blind, a Chapter of the Missouri Council of the Blind. Plaintiff Lynn

receives a Blind Pension in the amount of \$479 per month. She also receives approximately \$558.00 in monthly Social Security benefits. She has no other income.

34. Plaintiff Sheila Holt is 39 years old, female, and single. She is described as severely mentally retarded, hearing impaired, nonverbal, and blind. She has resided with her parents in St. Louis City for her entire life. She receives a Blind Pension in the amount of \$479 per month. She also receives approximately \$605.00 in monthly Social Security benefits. She has no other income. Her parents, Robert and Mae Holt, are both retired. They have been her legal guardians since August 1986.

35. Plaintiff Doris Wider is 72 years old, female, and single. She has resided in the St. Louis metropolitan area for more than forty years, and most recently has lived in St. Louis City since 1995. She receives a Blind Pension of \$479 per month. She also receives approximately \$742 in Social Security benefits. She has no other income. Before her retirement, she was employed as a musician and singer.

36. Plaintiff Missouri Council of the Blind (“MCB”) is a Chapter of the American Council of the Blind. Plaintiff MCB has existed as a not-for-profit corporation in Missouri since at least 1957. Its headquarters are located at 5453 Chippewa, St. Louis, Missouri 63109. Plaintiff MCB has approximately 725 members statewide. Its board of directors is comprised of twenty persons from various communities throughout Missouri, and its president is Chip Hailey, 2940 W. 17th St., Joplin, Missouri 64801.

37. Plaintiff MCB has advocated on behalf of its members, including the individual Plaintiffs, for reform of the administration of the Blind Pension Fund for more than ten (10) years. It has considered this issue of paramount importance to its membership. Through the years, MCB members have met with the various Governors’

representatives and with the Defendants' staffs and representatives to complain about the wrongful withholding of Blind Pension Funds and illegal expenditures from the Fund.

MCB has sought redress, without success.

38. Approximately ten (10) years ago, the then-Director of the DSS adopted an unlawful policy of "front-loading" the Blind Pension Fund, which involves charging certain expenditures to the Blind Pension Fund *before* calculating the year-to-year increase in the Blind Pension. At all relevant times hereto, Defendants continue to follow the same illegal policy and practice under color of state law, as follows:

- a) Since at least fiscal year 1993, the Defendants have unlawfully made monthly grants to Supplemental Aid to the Blind ("SAB") recipients from the Blind Pension Fund. For example, in fiscal years 1999 and 2000, the Defendants made average payments of \$303 per month to approximately 758 SAB recipients from the Blind Pension Fund. In fiscal year 2001, the Defendants made average payments of \$305 per month to 780 SAB recipients. In fiscal year 2002, the Defendants made average payments of \$330 per month to 788 SAB recipients. In fiscal year 2003, the Defendants made average payments of \$350 per month to 804 SAB recipients. In fiscal year 2004, the Defendants projected average payments of \$377 per month to approximately 856 SAB recipients. No law authorizes payments to SAB recipients from the Blind Pension Fund.
- b) Since at least 1993, the Defendants have unlawfully paid for administrative expenses of the DSS and the DFS from the Blind Pension Fund. In fiscal year 1993, the Defendants paid \$70,359 for "Blind Administration" from the Blind Pension Fund. In fiscal year 1994, the Defendants paid \$221,288 for "Blind Administration." In fiscal year 1995, "Blind Administration" payments were increased to \$558,060. In fiscal year 1999, this amount increased to \$608,359. In fiscal year 2000, the Defendants paid \$629,788 for "Blind Administration." In fiscal year 2001, the Defendants paid \$661,720 for "Blind Administration" from the Blind Pension Fund. These expenditures are not permitted under the statutory framework and are illegal expenditures.
- c) Since at least 1993, the Defendants have unlawfully paid certain other DSS and DFS expenses from the Blind Pension Fund, including expenditures for leasing, fringe benefits, "state building cost allocation," "DFS administrative services," and services for the visually impaired. These clearly illegal expenditures were charged to the Blind Pension Fund

before the Defendants calculated the annual increase in the Blind Pension in violation of Section 209.040, RSMo.

- d) For some number of years, believed to be in excess of five years, Defendants have unlawfully paid Hancock Amendment refunds from the Blind Pension Fund, in violation of Section 209.040, RSMo. Once again, Defendants charged these expenditures illegally to the Blind Pension Fund *before* Defendants calculated the annual increase in the Blind Pension. [A summary of all expenditures from the Blind Pension Fund from FY 1993 to FY 2003 is attached hereto as Exhibit A and incorporated herein by reference.]
- e) In fiscal year 2004 *the entire state budget* of the Rehabilitation Services for the Blind, a total of \$1,625,968, was eliminated from the DSS appropriation and supplanted with an equivalent amount *from the Blind Pension Fund*. Once again, this expenditure was made in advance of the Defendants calculating the annual increase in the Blind Pension.

39. At all relevant times herein, individual Plaintiffs and all persons eligible for a Blind Pension as members of the proposed Plaintiff class were entitled to receive an increase in their monthly Blind Pensions pursuant to Section 209.040.4, RSMo; that is, they were, as pensioners, entitled to an amount equal to the difference between the current year's real estate tax revenue and the preceding year's tax revenue, multiplied by 75%, divided by the number of pensioners, and then again divided by 12.

40. Because of the Defendants' illegal policy, individual Plaintiffs and all members of the proposed Plaintiff class have received substantially reduced Blind Pensions for at least a decade.

41. Defendants' policy and practice of charging expenditures to the Blind Pension Fund in advance of calculating the annual increase in Blind Pension payments and/or retaining funds within the Blind Pension Fund which should have been distributed to the individual Plaintiffs and members of the proposed Plaintiff class as Blind Pensions was done knowingly, wrongfully, and in violation of Section 209.040 RSMo.

42. Each individual Plaintiff and each member of the proposed Plaintiff class has a right to a refund equal to his/her *pro rata* share of the monies which Defendants diverted from them and unlawfully spent or misappropriated.

43. The Plaintiffs and members of the Plaintiff class do not have an adequate remedy at law. For more than ten years, Defendants have acted in an illegal manner with total disregard for the rights of the individual Plaintiffs and the members of the proposed Plaintiff class. Their policy and practice is on-going. In order to correct Defendants' wrongful actions, Plaintiffs would be required to file suit time and time again to seek redress and to enforce their rights under the Missouri Constitution and Section 209.040, RSMo.

44. Unless Defendants are enjoined from violating the rights of the individual Plaintiffs and members of the proposed Plaintiff class, they will suffer irreparable harm and injury. The Blind Pension is a benefit intended for the relief of persons with significant disabilities. Pensioners have suffered and do suffer economic losses significant to them resulting in deprivations affecting their health, safety, and welfare.

45. Defendants have been entrusted with the duty to keep and maintain the Blind Pension Fund for the benefit of the individual Plaintiffs and members of the proposed Plaintiff class and to administer it in accordance with the law.

46. An accounting is necessary to show the amounts Defendants wrongfully expended from the Blind Pension Fund, the amounts wrongfully withheld by Defendants and remaining in the Blind Pension Fund, and the amounts due the individual Plaintiffs and members of the proposed Plaintiff class from the Defendants. Extensive discovery is anticipated. Upon such an accounting, there will be due the Plaintiffs and the proposed

Plaintiff class a substantial sum of money, possibly as much as one million dollars for fiscal year 2004, and possibly large amounts as yet undetermined for prior years.

WHEREFORE, Plaintiffs, on their own behalves and on behalf of all members of the proposed Plaintiff class, pray that this Court find, order, and adjudge as follows:

A. Declare that Defendants' policy described above of front-loading the Blind Pension Fund with unauthorized expenditures, in advance of calculating increases in Blind Pensions according to the requirements of Section 209.040, RSMo, violates Missouri law;

B. Order an accounting of all monies expended by Defendants from the Blind Pension Fund and determine those amounts due and owing to the individual Plaintiffs and to each member of the proposed Plaintiff class as and for Blind Pensions;

C. Enjoin and restrain Defendants from violating Section 209.040, RSMo by continuing their policy and practice of front-loading the Blind Pension Fund with illegal and/or unauthorized expenditures in advance of calculating increases in Blind Pensions;

D. Find that Defendants knowingly and intentionally violated the law and breached their fiduciary duties in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

E. Find that Defendants knowingly and intentionally violated the law and breached their duties in respect of administration of the Blind Pension Fund and the Blind Pensions;

F. Find that Defendants knowingly and intentionally violated the law and breached their duty of care in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

G. Find that Defendants violated the law and breached their fiduciary duties in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

H. Find that Defendants violated the law and breached their duties in respect of administration of the Blind Pension Fund and Blind Pensions;

I. Find that Defendants violated the law and breached their duty of care in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

J. Enter a judgment in favor of each Plaintiff and in favor of each member of the proposed Plaintiff class and against Defendants for the full amount of each Blind Pension due each Plaintiff;

K. Enter a judgment in favor of the Plaintiffs and the members of the proposed Plaintiff class and against Defendants for Plaintiffs' reasonable attorney's fees and costs;

L. Order payment of the Plaintiff's attorney's fees and costs from the amount recovered for the common benefit of the class;

M. Order such other and further relief as the Court deems just and proper under the circumstances.

**COUNT II - VIOLATION OF CONSTITUTIONAL
RIGHTS PURSUANT TO 42 U.S.C. §1983**

47. Plaintiffs restate and reallege Paragraphs 1 through 46 as if fully set forth herein.

48. The individual Plaintiffs and each member of the proposed Plaintiff class have a protected property interest in the Blind Pension pursuant to Section 209.010, *et seq.*, and Article III, §38(b) of the Missouri Constitution.

49. Defendants' actions in front-loading the Blind Pension Fund as described above constitutes a taking of the individual Plaintiffs' property (and the property of the members of the proposed Plaintiff class) without due process of law.

50. The individual Plaintiffs and each member of the proposed Plaintiff class have been damaged by the Defendants' policy and practice of taking of their property without due process of law.

WHEREFORE, Plaintiffs, on their own behalves and on behalf of all members of the proposed Plaintiff class, pray that this Court find, order, and adjudge as follows:

A. Declare that Defendants' policy of front-loading the Blind Pension Fund with unauthorized expenditures, in advance of calculating increases in Blind Pensions according to the requirements of Section 209.040, RSMo, violates Missouri law and the Due Process Clause of the Fourteenth Amendment of the U.S. Constitution;

B. Order an accounting of all monies expended by Defendants from the Blind Pension Fund and determine those amounts due and owing to the individual Plaintiffs and to each member of the proposed Plaintiff class as and for Blind Pensions;

C. Enjoin and restrain Defendants from violating Section 209.040, RSMo by continuing their policy and practice of front-loading the Blind Pension Fund with illegal and/or unauthorized expenditures in advance of calculating increases in Blind Pensions;

D. Find that Defendants acted knowingly and intentionally violated the law and breached their fiduciary duties in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

E. Find that Defendants acted knowingly and intentionally violated the law and breached their duties in respect of administration of the Blind Pension Fund and the Blind Pensions;

F. Find that Defendants acted knowingly and intentionally violated the law and breached their duty of care in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

G. Find that Defendants violated the law and breached their fiduciary duties in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

H. Find that Defendants violated the law and breached their duties in respect of administration of the Blind Pension Fund and Blind Pensions;

I. Find that Defendants violated the law and breached their duty of care in respect of the Plaintiffs and in respect of each member of the proposed Plaintiff class;

J. Enter a judgment in favor of each Plaintiff and in favor of each member of the proposed Plaintiff class and against Defendants for the full amount of each Blind Pension due each Plaintiff;

K. Enter a judgment in favor of the Plaintiffs and the members of the proposed Plaintiff class and against Defendants for Plaintiffs' reasonable attorney's fees and costs;

L. Order payment of the Plaintiff's attorney's fees and costs from the amount recovered for the common benefit of the class;

M. Order such other and further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

Law Offices of Thomas E. Kennedy, III, L.C.

Thomas E. Kennedy, III, #46617
Deborah S. Greider, #36503
2745 E. Broadway
Alton, IL 62002
(618) 474-5326

Debora L. Wagner #55618
John J. Ammann, #34308
Barbara Gilchrist, #27443
St. Louis University Law Clinic
321 N. Spring
St. Louis, MO 63108
(314) 977-2778

Attorneys for Plaintiffs