

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
TEACHERS4ACTION, :
On behalf of its Members :
And By Florian Lewenstein, :
Its Treasurer and Spokesperson, :
JOHN DOE & JANE DOE TEACHERS 1 - 50- : CIVIL ACTION
: :
PLAINTIFFS :
: :
- VS - :
: :
MICHAEL G. BLOOMBERG, :
JOEL KLEIN, :
NEW YORK CITY :
DEPARTMENT OF EDUCATION, : COMPLAINT
SUPERINTENDENTS 1 - 10; and : (JURY TRIAL DEMANDED)
PRINCIPALS 1 – 10; :
: :
DEFENDANTS :
-----X

INTRODUCTION

Upon information and belief, Plaintiffs’ allegations are that from 2000 until today, the New York City Board of Education has implemented a scheme that discriminates against its most qualified teachers. The goal is to reduce salaries by forcing teachers to quit or be fired. This goal is accomplished through “Temporary Reassignment Centers” (known as “Rubber Rooms”) to which the “targeted” teachers are sent. The plan involves Principals notifying “targeted” teachers that they are removed from classes, stripped of teaching responsibilities and reassigned to a Rubber Room, where they wait until (i) charges are brought or they are coerced into accepting deals that include fines and can lead to their terminations. Currently almost 1,000 teachers languish in Rubber Rooms in violation of their due process rights and the chance to clear their names and be restored to their classrooms. The Rubber Rooms constitute racist and discriminatory policies, are the functional equivalent of modern day “internment camps” where

“targeted” teachers are banished for months, or even years, before they can fight unfounded charges. The Rubber Rooms undermine sound education policies and deprive students of qualified competent teachers. The Rubbers Rooms constitutes a fraudulent plan, scheme and/or enterprise through which these Defendants came together to target a particular group of teachers in violation of, Federal laws, including among others, the 5th and 14th Amendments, 42 U.S.C. § 2000 e (“Title VII of the Civil Rights Act of 1964”), 29 U.S.C. § 621 (“Age Discrimination in Employment Act of 1967”), 42 U.S.C. § 1981 (“Civil Rights Act of 1991”), 18 U.S.C. § 1962 et seq. (“The RICO Statute”), 18 U.S.C. § 1341 (“Wire Fraud”) and 18 USC 1343 (“Mail Fraud”), relevant New York State laws including New York Consolidated Law, Chap. 40, Part Three, Title K, Art. 190 (“Schemes to Defraud”), New York Consolidated Law, Chap. 40, Part Four, Title X, Art. 460 (“Enterprise Corruption”), as well as NY and Federal laws related to misuse of public funds.

COMPLAINT

JURISDICTION

- 1) The Court has original jurisdiction over Plaintiffs’ claims based upon alleged violations of the 5th and 14th Amendments, 42 U.S.C. § 2000 e (“Title VII of the Civil Rights Act of 1964”), 29 U.S.C. § 621 (Age Discrimination in Employment Act of 1967), 42 U.S.C. § 1981 (“Civil Rights Act of 1991”), 18 U.S.C. § 1962 et seq. (“The RICO Statute”), 18 U.S.C. § 1341 (“Wire Fraud”) and 18 USC 1343 (“Mail Fraud”) and Federal laws related to misuse of public funds.
- 2) The Court has ancillary and/or supplemental jurisdiction of all Plaintiffs’ state law claims pursuant to 28 USC § 1367.
- 3) Each of the claims of the named Plaintiffs exceeds the statutory limit of this Court, exclusive of attorneys’ fees, costs and interest.

VENUE

- 4) Venue is proper in this Court because one or more of the Plaintiffs live in this judicial district, and one or more of the Defendants live and/or do business in this district, and/or the Defendants' unlawful acts occurred within this judicial district.

PARTIES

Plaintiffs

- 5) Plaintiff Teachers4Action¹ is an unincorporated association pursuant to Gen. Association Laws Art. 3.
- 6) Plaintiff Florian Lewenstein is the Treasurer and Spokesperson of Plaintiff Teachers4Action and is authorized and has standing to commence and prosecute this action, individually and on behalf of Plaintiff Teachers4Action.
- 7) Plaintiffs John Does and Jane Does 1 – 100² are teachers who fall into certain categories, including but not limited to (i) teachers who are presently re-assigned to Rubber Rooms; (ii) teachers in the midst of the administrative discipline process and against whom false charges have been brought; (ii) teachers who were forced, harassed, intimidated and/or coerced to accept onerous or unfair deals, (ii) teachers who suffer loss of property, loss of pay and other monetary losses; (iii) teachers who suffer physical or emotional injuries from being forced into Rubber Rooms; (iv) teachers who cannot get other jobs; and (v) teachers who are otherwise being targeted and victimized as part of the fraud, scheme and enterprise.

¹ Teachers4Action™® are in the process of obtaining formal approval by the New York State Department of Education as a Not-For-Profit Corporation and is seeking similar status under the IRS Code Section 501(c) (3).

² The names John Doe and Jane Doe are being used to maintain the teachers' identities because the teachers are fearful of further retaliation.

Defendants

- 8) Defendant Michael G. Bloomberg (“Bloomberg”) is the Mayor of New York City and in that capacity has direct control over the New York City Public Schools.
- 9) Defendant Joel Klein (“Klein”) is the Chancellor of the New York City Department of Education and together with Bloomberg has control over the New York City Public Schools.
- 10) Defendant New York City Department of Education (“DOE”) is Plaintiffs’ employer.
- 11) Superintendents 1 – 10 are persons who were involved with the targeting of teachers and the fraud, scheme and enterprise as noted below.
- 12) Principals 1 – 10 are persons who had direct contact with Plaintiffs in the schools to which they were assigned before they were targeted in the fraud, scheme and enterprise as noted below.

FACTS COMMON TO ALL CAUSES OF ACTION

- 13) Starting in or about 2002, the office of the Mayor of New York City assumed direct control over the New York City Public Schools.
- 14) In or about 2003, the DOE was completely reorganized under control of the Office of the Mayor.
- 15) Since 2000, the DOE has systematically implemented and carried out a plan that discriminates against Plaintiffs’ members, who are among the most qualified teachers in NYC and perhaps in the country.
- 16) The plan and scheme called for the Superintendents and Principals to help Bloomberg, Klein and the DOE reduce the budget for the various districts and schools.
- 17) The plan and scheme called for Plaintiff Teachers4Action members, and other teachers that fit a certain criteria, to be targeted for discrimination, harassment and intimidation.

- 18) This would be accomplished by the “targeted” teachers being accused of certain false charges, including but not limited to their (i) allegedly being insubordinate, (ii) their work allegedly being substandard, (iii) their allegedly being physically or emotionally abusive to students or (iv) any other allegedly improper conduct.
- 19) Once accused of the false charges the “targeted” teachers were to be immediately “re-assigned” to “Temporary Reassignment Centers” (more commonly known as “Rubber Rooms”).
- 20) The targeted teacher would be banished to the Rubber Rooms without just cause and without due process.³
- 21) The “targeted” teachers are/were (i) removed from classes, (ii) stripped of teaching responsibilities and (iii) reassigned to a Rubber Room.
- 22) The “targeted” teachers are/were (i) those who were over a certain minimum age, (ii) those who had achieved a high pay and benefits level and who had been employees of the DOE for more than a dozen years, (iii) those who dared to challenge and/or question DOE practices and / or the “Rubber Room” procedures, (iv) whistle blowers and (v) those who dared to demand their rights, including seniority transfers and/or due process rights.
- 23) The “targeted” teachers are/were forced to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms.
- 24) Another goal of the Rubber Room process is to coerce, harass, intimidate and terrorize the “targeted” teachers so that they will be fearful for their personal and professional well-being and will then retire or resign or be “forced” to accept deals involving ruinous fines or termination.

³ The Rubber Rooms are in part the result of agreements made between Plaintiffs’ union, the United Federation of Teachers and Defendants Bloomberg, Klein and the DOE; however the implementation of the Rubber Room practices and concept are discriminatory and violate the targeted teachers rights.

- 25) Once in the Rubber Rooms, the “targeted” teachers are forced to wait until charges are brought, or until they agree to deals that lead to fines, improper charges and/or records placed in their permanent files and can also include termination.
- 26) The Rubber Room practice involves knowing, intentional, careless, reckless, negligent and/or otherwise improper waste and abuse of public funds.
- 27) The Rubber Room and the practice of targeting teachers as described above, is/was part of the fraud, scheme and plan to harass and discriminate against certain teachers, hereinafter referred to as “The Fraudulent Scheme”.
- 28) At all times relevant hereto, Defendants Bloomberg and Klein, and/or persons acting in their name and with their authority, were ultimately responsible for the approval of The Fraudulent Scheme.
- 29) At all times relevant hereto, Defendant DOE and its officials and/or representatives, were charged with the implementation of The Fraudulent Scheme.
- 30) At all times relevant hereto, Defendant Superintendents were responsible to Defendants Bloomberg, Klein and the DOE to insure that The Fraudulent Scheme was carried out as per the instructions of Defendants Bloomberg, Klein and DOE.
- 31) At all times relevant hereto, Defendant Principals were responsible to Defendant Superintendents that The Fraudulent Scheme was carried out as per the instructions of Defendants Bloomberg, Klein and DOE.
- 32) At all times relevant hereto, and to insure that The Fraudulent Scheme was carried out according to the instructions of Defendants Bloomberg, Klein and DOE, the Defendants caused certain written handbooks and/or manuals to be created and distributed which Defendants Superintendents and Principals were ~~to~~ required and/or directed to follow.

- 33) At all times relevant hereto, the aforesaid written handbooks and/or manuals were mailed and/or electronically delivered to Defendants Superintendents and Principals as part of The Fraudulent Scheme.
- 34) At all times relevant hereto, in addition to the aforesaid written handbooks and/or manuals Defendants Bloomberg, Klein and DOE caused additional policies and/or guidelines to be created and distributed to Defendants Superintendents and Principals which they were in turn required and/or directed to follow as part of The Fraudulent Scheme.
- 35) As of early 2000, there were approximately 300 teachers reportedly accused of “misconduct” and/or “incompetence” who were banished to “Rubber Rooms” as part of The Fraudulent Scheme. *See Exhibit 1 – NY Times Article dated March 1, 2000.*
- 36) As teachers’ years of employment, experience and tenure increased so too was the need to banish more and more teachers to the Rubber Rooms, all of which was accomplished by an increasing number of teachers accused of “misconduct” and/or “incompetence” so that they could be banished to “Rubber Rooms”, as part of The Fraudulent Scheme.
- 37) Starting in or about 2004, Defendants Bloomberg, Klein and the DOE, determined that the number of teachers targeted had to be increased so that they could achieve the goal of the Fraudulent Scheme, reduce payroll at the expense of qualified teachers by subjecting them to The Fraudulent Scheme, targeting, harassment, intimidation, coercion and banishment to Rubber Rooms.
- 38) Upon information and belief, a “Confidential” revision to prior manuals was distributed, by mail and/or electronic transmission, with directions to Defendants Superintendents and Principals outlining and directing them as to what practices they were to follow as part of the Fraudulent Scheme.

- 39) Upon information and belief, additional instructions and directions were given directly to Defendants Superintendents and Principals outlining and directing them as to what practices they were to follow as part of the Fraudulent Scheme.
- 40) The additional instructions, directions and policies as set forth in the “Confidential” manual, were followed by the Defendants Superintendents and Principals and caused a dramatic increase in the reports of alleged “misconduct” and/or “incompetence” and new categories for discipline were included to, such as “insubordination”, all of which was designed to further the goal of The Fraudulent Scheme.
- 41) By ~~of~~ mid 2005, there were reportedly over four hundred teachers who had been banished to “Rubber Rooms” as part of The Fraudulent Scheme. *See Exhibit 2 – National Council of Teacher Equality Bulletin dated June 8, 2005.*
- 42) By mid 2006, there were reportedly approximately 600 “targeted” teachers who had been banished to “Rubber Rooms” as part of The Fraudulent Scheme. *See Exhibit 3 – April 24, 2007 Village Voice Article.*
- 43) As of 2006, Defendants were already on notice on the basis of reports issued by the Office of Special Commissioner of Investigations (“SCI”) that the charges against only half of the “targeted” teachers” were substantiated. *See Exhibit 3 – Village Voice Article.*
- 44) As of 2006, Defendants Bloomberg, Klein and the DOE, intentionally, maliciously, recklessly, carelessly and/or negligently, disregarded the findings of the SCI and actually directed and increased The Fraudulent Scheme so that more and more teachers were unlawfully “targeted”.
- 45) By the end of 2007, there were estimates ranging from “over 700” to “757” “targeted” teachers who had been banished to “Rubber Rooms” as part of The Fraudulent Scheme. *See*

Exhibits 4 & 5 – Oct. 15, 2007 New York Sun Article and Sept. 25, 2007 New York Post Article.

- 46) The primary purpose of The Fraudulent Scheme was/is to reduce the school budgets.
- 47) The Rubber Room practice is racist and discriminatory.
- 48) The Rubber Rooms are the modern day equivalent of “internment camps” where the “targeted” teachers are banished for months, or even years, before they can fight unfounded “charges.”
- 49) Many of the “targeted” teachers in the Rubber Rooms are paid in whole or part from New York State or Federally Funded programs.
- 50) While in the Rubber Rooms, the “targeted” teachers are still being paid and the “substitute” and/or replacement teachers are also being paid.

First Cause of Action – RICO Enterprise

- 51) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.
- 52) The Defendants associated with one another in an enterprise the activities of which affected, interstate as defined in 18 U.S.C. § 1962(c).
- 53) The Defendants conspired with one another to violate § 1962(c).
- 54) The Defendants’ conduct (hereinafter “The Fraudulent Scheme and/or Enterprise”) as relates specifically to this case of action included the conspiracy to “target” teachers who are/were:
 - a. those who were over a certain minimum age;
 - b. those had achieved a high pay and benefits level;
 - c. those who had been employees for more than a minimum number of years;
 - d. those who dared to challenge and/or question the “Rubber Room” procedures;

- e. those who acted as whistle blowers regarding DOE misconduct, and
- f. those who dared to demand or insist upon their due process rights.

55) The Fraudulent Scheme and/or Enterprise also included Defendants conspiring with one another to, among other things:

- a. force the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms
- b. coerce, harass, intimidate and terrorize the “targeted” teachers so that they will be fearful for their personal and professional well-being so that they would be “forced” to retire, resign or accept deals involving ruinous fines or termination.

56) To accomplish The Fraudulent Scheme and/or Enterprise, Defendants utilized the US mail and used electronic means including but not limited to telephone, faxes and emails.

57) Manuals, instructions, directions and confidential materials that were part of The Fraudulent Scheme were exchanged between Defendants Bloomberg, Klein, DOE, Superintendents and Principals during the period from 2000 to the present.

58) Also, Defendants sent notices and other documents that were part of The Fraudulent Scheme and/or Enterprise to Plaintiffs via the US mail.

59) Defendants use of mail and wire services in the furtherance of The Fraudulent Scheme and/or Enterprise constitutes and/or satisfied the predicate act of racketeering under federal mail fraud under 18 U.S.C. § 1341 or federal wire fraud under 18 U.S.C. § 1343.

60) As a direct and proximate result of The Fraudulent Scheme and/or Enterprise, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii)

exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys' fees, interest and costs of suit.

Second Cause of Action - Fraud

61) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

62) The Defendants associated with one another to defraud the Plaintiffs and other targeted teachers out of salaries and benefits.

63) The Defendants conspired with one another to defraud the "targeted" teachers:

- a. who were over a certain minimum age;
- b. who had achieved a high pay and benefits level;
- c. who had been employees for more than a minimum number of years;
- d. who dared to challenge and/or question the "Rubber Room" procedures;
- e. who acted as whistle blowers regarding DOE misconduct, and
- f. who dared to demand or insist upon their due process rights.

64) The Defendants conspired with one another to, among other things:

- a. force the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms
- b. coerce, harass, intimidate and terrorize the "targeted" teachers so that they will be fearful for their personal and professional well-being so that they would be "forced" to retire, resign or accept deals involving ruinous fines or termination.

65) The Defendants' conspiracy to defraud the targeted teachers included false allegations against Plaintiffs and targeted teachers by placing designations in their files and/or charging teachers (i) of alleged "misconduct", (ii) of allegedly being "incompetent", or (iii) of allegedly being "insubordinate".

- 66) At the time Defendants made the aforesaid charges against the targeted teachers, they knew the charges to be false and untrue.
- 67) The filing of the aforesaid charges is/was part of the fraud against the targeted teachers.
- 68) As a direct and proximate result of the aforesaid fraud, Plaintiffs suffered monetary and other damages.
- 69) As a direct and proximate result of aforesaid wrongful acts, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys' fees, interest and costs of suit.

Third Cause of Action - Discrimination

- 70) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.
- 71) The Fraudulent Scheme and/or Enterprise was designed to and did in fact target certain teachers for discrimination and harassment.
- 72) The Fraudulent Scheme and/or Enterprise discriminated against teachers:
- a. who were over a certain minimum age;
 - b. who had achieved a high pay and benefits level;
 - c. who had been employees for more than a minimum number of years;
 - d. who dared to challenge and/or question the "Rubber Room" procedures;
 - e. who acted as whistle blowers regarding DOE misconduct, and
 - f. who dared to demand or insist upon their due process rights.

73) As part of their discriminatory practices, among other things, Defendants:

- a. forced the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms
- b. coerced, harassed, intimidated and terrorized the “targeted” teachers so that they would be fearful for their personal and professional well-being so that they would be “forced” to retire, resign or accept deals involving ruinous fines or termination.

74) At the time Defendants discriminated against the targeted teachers, they knew their actions were discriminatory and unlawful.

75) As a direct and proximate result of the aforesaid discrimination, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys’ fees, interest and costs of suit.

Fourth Cause of Action - Harassment

76) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

77) The Fraudulent Scheme and/or Enterprise was designed to and did in fact target certain teachers for discrimination and harassment.

78) The Fraudulent Scheme and/or Enterprise harassed teachers:

- a. who were over a certain minimum age;
- b. who had achieved a high pay and benefits level;
- c. who had been employees for more than a minimum number of years;

- d. who dared to challenge and/or question the “Rubber Room” procedures;
- e. who acted as whistle blowers regarding DOE misconduct, and
- f. who dared to demand or insist upon their due process rights.

79) As part of the harassment, among other things, Defendants:

- a. forced the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms
- b. coerced, intimidated and terrorized the “targeted” teachers so that they would be fearful for their personal and professional well-being so that they would be “forced” to retire, resign or accept deals involving ruinous fines or termination.

80) At the time Defendants harassed the targeted teachers, they knew their actions were discriminatory and unlawful.

81) As a direct and proximate result of the aforesaid harassment, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys’ fees, interest and costs of suit.

Fifth Cause of Action
Violation of 5th Amendment Due Process, Equal Protection and Due Process Rights

82) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

83) The Fraudulent Scheme and/or Enterprise was designed to interfere with Plaintiffs and other target teachers “teachers licenses”, salaries and due process rights to have the unfounded allegations and charges expeditiously investigated and resolved.

- 84) The Fraudulent Scheme and/or Enterprise was designed to cause targeted teachers to be faced with “unsupported” or “false” or “fabricated” charges, which caused them to be placed in the Rubber Rooms, where they waited for months and years without a chance to clear their names and protect their salaries, licenses and property rights.
- 85) While in the Rubber Rooms, teachers were deprived of due process and/or the chance to clear their names and be restored to their classrooms
- 86) While in the Rubber Rooms, teachers were coerced, harassed, intimidated and terrorized so that they would be fearful for their personal and professional well-being so that they would be “forced” to retire, resign or accept deals involving ruinous fines or termination.
- 87) Defendants’ aforesaid acts, violate the 5th Amendment to the Constitution by depriving Plaintiffs of their due process rights and were otherwise unlawful.
- 88) As a direct and proximate result of the aforesaid violation of Plaintiffs’ due process rights, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys’ fees, interest and costs of suit.

Sixth Cause of Action
Violation of 14th Amendment –Enacting of Laws that Violate Due Process Rights

- 89) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

- 90) During the period from 2000 to the present, Defendants implemented and/or enforced laws, legislation, statutes and/or administrative procedures⁴ which were intended to interfere with Plaintiffs and other target teachers “teachers licenses”, salaries and due process rights.
- 91) During the period from 2000 to the present, Defendants implemented and/or enforced laws, legislation, statutes and/or administrative procedures designed to frustrate targeted teachers’ ability to expeditiously defend themselves against the “unsupported” or “false” or “fabricated” charges, which caused them to be placed in the Rubber Rooms, where they waited for months and years without a chance to clear their names and protect their salaries, licenses and property rights.
- 92) The laws, legislation, statutes and/or administrative procedures, implemented and/or enforced by Defendants, deprived Plaintiffs of due process and/or the chance to clear their names and be restored to their classrooms
- 93) As a direct and proximate result of the Defendants implemented and/or enforced laws, legislation, statutes and/or administrative procedures, in violation of Plaintiffs’ due process rights, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys’ fees, interest and costs of suit.

⁴ The laws, legislations, statutes and administrative regulations include and are not limited to those which regulate the “3020 a” hearings, which are the only means by which the targeted teachers can defend themselves, but which are little more than “Kangaroo Courts” where the teachers do not have a chance to be exonerated and must ultimately accept deals or administrative rulings that include ruinous fines or termination.

Seventh Cause of Action
Violation of 42 U.S.C. § 2000 e (“Title VII of the Civil Rights Act of 1964”)

- 94) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.
- 95) The Fraudulent Scheme and/or Enterprise was designed to and did in fact target certain teachers for discrimination and harassment.
- 96) The Fraudulent Scheme and/or Enterprise discriminated against teachers:
- a. who were over a certain minimum age;
 - b. who had achieved a high pay and benefits level;
 - c. who had been employees for more than a minimum number of years;
 - d. who dared to challenge and/or question the “Rubber Room” procedures;
 - e. who acted as whistle blowers regarding DOE misconduct, and
 - f. who dared to demand or insist upon their due process rights.
- 97) As part of their discriminatory practices, among other things, Defendants:
- a. forced the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms
 - b. coerced, harassed, intimidated and terrorized the “targeted” teachers so that they would be fearful for their personal and professional well-being so that they would be “forced” to retire, resign or accept deals involving ruinous fines or termination.
- 98) At the time Defendants discriminated against the targeted teachers, they knew their actions were discriminatory and unlawful.
- 99) Defendant aforesaid discrimination of the targeted teachers violate 42 U.S.C. § 2000 e (“Title VII of the Civil Rights Act of 1964”).
- 100) As a direct and proximate result of the aforesaid discrimination, Plaintiffs suffered monetary and other damages.

101) As a direct and proximate result of aforesaid wrongful acts, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys' fees, interest and costs of suit.

Eighth Cause of Action
Violation of 29 U.S.C. § 621 (“Age Discrimination in Employment Act of 1967”)

102) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

103) The Fraudulent Scheme and/or Enterprise was designed to and did in fact target certain teachers for discrimination and harassment.

104) The Fraudulent Scheme and/or Enterprise discriminated against teachers:

- a. who were over a certain minimum age;
- b. who had achieved a high pay and benefits level;
- c. who had been employees for more than a minimum number of years;
- d. who dared to challenge and/or question the “Rubber Room” procedures;
- e. those who acted as whistle blowers regarding DOE misconduct, and
- f. who dared to demand or insist upon their due process rights.

105) As part of their discriminatory practices, among other things, Defendants:

- a. forced the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms

- b. coerced, harassed, intimidated and terrorized the “targeted” teachers so that they would be fearful for their personal and professional well-being so that they would be “forced” to retire, resign or accept deals involving ruinous fines or termination.

106) At the time Defendants discriminated against the targeted teachers, they knew their actions were discriminatory and unlawful.

107) Defendant aforesaid discrimination of the targeted teachers violate 29 U.S.C. § 621 (“Age Discrimination in Employment Act of 1967”).

108) As a direct and proximate result of the aforesaid discrimination, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys’ fees, interest and costs of suit.

Ninth Cause of Action
Violation of 42 U.S.C. § 1981 (“Civil Rights Act of 1991”)

109) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

110) The Fraudulent Scheme and/or Enterprise was designed to and did in fact target certain teachers for discrimination and harassment.

111) The Fraudulent Scheme and/or Enterprise discriminated against teachers:

- a. who were over a certain minimum age;
- b. who had achieved a high pay and benefits level;
- c. who had been employees for more than a minimum number of years;
- d. who dared to challenge and/or question the “Rubber Room” procedures;

- e. who acted as whistle blowers regarding DOE misconduct, and
 - f. who dared to demand or insist upon their due process rights.
- 112) As part of their discriminatory practices, among other things, Defendants:
- a. forced the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms
 - b. coerced, harassed, intimidated and terrorized the “targeted” teachers so that they would be fearful for their personal and professional well-being so that they would be “forced” to retire, resign or accept deals involving ruinous fines or termination.
- 113) At the time Defendants discriminated against the targeted teachers, they knew their actions were discriminatory and unlawful.
- 114) Defendant aforesaid discrimination of the targeted teachers violate 42 U.S.C. § 1981 (“Civil Rights Act of 1991”).
- 115) As a direct and proximate result of aforesaid wrongful acts, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys’ fees, interest and costs of suit.

Tenth Cause of Action - Misuse of Public / Taxpayer Funds

- 116) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.
- 117) The Fraudulent Scheme and/or Enterprise involves the use of monies that are Federal, State and Municipal monies that are intended for specific educational purposes.

118) As a direct and proximate result of The Fraudulent Scheme and/or Enterprise, Defendants are causing excessive and/or wasteful payments to be made for educational purposes programs.

119) As a direct and proximate result of The Fraudulent Scheme and/or Enterprise, Defendants are paying “substitute” teachers for services that can, should and would be performed by the targeted teachers but for the fact that they are forced to sit in the Rubber Rooms.

120) The Fraudulent Scheme and/or Enterprise involves misuse and/or waste of public funds allocated for educational purposes, for which Defendants should account so that the monies can be refunded and then used for proper educational purposes.

WHEREFORE, Plaintiffs demand accounting by Defendants jointly severally and/or in the alternative for (i) the misuse and/or waste of public funds, and (ii) attorneys’ fees, interest and costs of suit.

Eleventh Cause of Action - Intentional / Negligent Infliction of Emotional Distress

121) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

a. The Fraudulent Scheme and/or Enterprise targeted certain teachers (i) who were over a certain minimum age; (ii) who had achieved a high pay and benefits level; (iii) who had been employees for more than a minimum number of years; (iv) who dared to challenge and/or question the “Rubber Room” procedures; (v) who acted as whistle blowers regarding DOE misconduct (vi) who dared to demand or insist upon their due process rights, (vii) by forcing the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms and (viii) by coercing, intimidating and terrorizing the “targeted” teachers so that they would

be fearful for their personal and professional well-being so that they would retire, resign or be “forced” to accept deals involving ruinous fines or termination.

122) The Defendants aforesaid acts were intentional, malicious, reckless, careless, negligent, unlawful and/or improper.

123) As a direct and proximate result of Defendants aforesaid acts, Plaintiffs suffered emotional injuries, trauma and other related damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys’ fees, interest and costs of suit.

Twelfth Cause of Action - Tortious Interference with Contract and Property Rights

124) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

a. The Fraudulent Scheme and/or Enterprise targeted certain teachers (i) who were over a certain minimum age; (ii) who had achieved a high pay and benefits level; (iii) who had been employees for more than a minimum number of years; (iv) who dared to challenge and/or question the “Rubber Room” procedures; (v) who acted as whistle blowers regarding DOE misconduct (vi) who dared to demand or insist upon their due process rights, (vii) by forcing the targeted teachers to wait in the Rubber Rooms without due process and the chance to clear their names and be restored to their classrooms and (viii) by coercing, intimidating and terrorizing the “targeted” teachers so that they would be fearful for their personal and professional well-being so that they would retire, resign or be “forced” to accept deals involving ruinous fines or termination.

125) The Defendants aforesaid acts were intentional, malicious, reckless, careless, negligent, unlawful and/or improper and were designed to interfere with Plaintiffs contracts, licenses and property rights.

126) As a direct and proximate result of Defendants aforesaid acts, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys' fees, interest and costs of suit.

Thirteenth Cause of Action - Libel, Slander & Defamation

127) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

128) The Defendants acts involved false charges being placed in the targeted teachers' files.

129) The false charges include allegations that the targeted teachers (i) were allegedly guilty of "misconduct", (ii) were allegedly guilty of "substandard" work, (iii) were allegedly guilty of "physically or emotionally abusing students" and/or (iv) were allegedly guilty of being "insubordinate".

130) The false charges placed or caused to be placed by Defendants in Plaintiffs files, constituted libel, slander and defamation.

131) At the time Defendants made and/or caused the charges to be made and/or placed in Plaintiffs files, Defendants knew them to be false.

132) The Defendants aforesaid libelous, slander and/or defamatory statements were intentional, malicious, reckless, careless, negligent, unlawful and/or improper and were designed to cause damage to Plaintiffs.

133) As a direct and proximate result of Defendants libelous, slander and/or defamatory statements, Plaintiffs suffered monetary and other damages.

WHEREFORE, Plaintiffs demand judgment against Defendants jointly severally and/or in the alternative for damages as follows (i) compensatory damages per Plaintiff, based on their individual circumstances, and in an amount in excess of the jurisdictional limit of the Court, (ii) exemplary, special and/or punitive damages in an amount to be determined by the ultimate trier of fact; and (iii) attorneys' fees, interest and costs of suit.

Fourteenth Cause of Action - Injunctive & Equitable Relief

134) Plaintiffs repeat and reallege each of the allegations as set forth above in ¶¶ 12 to 50 as if the same were repeated fully and at length herein.

135) Plaintiffs' confinement to the Rubber Rooms causes Plaintiffs to suffer immediate and irreparable harm and damages for which monetary damages are inadequate.

136) Defendants' placement of false charges in Plaintiffs' employment files, causes Plaintiffs to suffer immediate and irreparable harm and damages for which monetary damages are inadequate.

137) The Fraudulent Scheme and/or Enterprise which has Plaintiffs confined to the Rubber Rooms interferes with Plaintiffs' ability to quickly defend themselves against the false charges so that they can clear their names, have the false charges and all references thereto removed from their files and be restored to their class rooms and teaching responsibilities.

138) Every day that the Plaintiffs are confined to the Rubber Rooms, they suffer additional damages for which monetary relief is inadequate.

139) The ongoing 3020 a Hearings as implemented and/or enforced by Defendants violates Plaintiffs' due process rights.

140) The requirement that Plaintiffs participate in the 3020 a Hearings as Defendants are attempting to enforce them, as presently constituted and which are the functional equivalent of "Kangaroo Courts", causes Plaintiffs to suffer additional damages for which monetary relief is inadequate.

WHEREFORE, Plaintiffs demand judgment for the following injunctive and equitable relief (i) closing the Rubber Rooms, (ii) directing that the 3020a Hearings be immediately enjoined and Plaintiffs not be required to participate in the 3020a Hearings as Defendants are attempting to enforce them, (iii) enjoining Defendants from issuing any findings or judgments against Plaintiffs resulting from pending or concluded 3020a hearings, (iv) attempting to enforce any previously issued findings and/or judgments against Plaintiffs resulting from the 3020a Hearings dating back to 2000; (v) enjoining Defendants from disclosing to any third party the false charges that were placed in Plaintiffs' files; (vi) attorneys' fees, interest and costs of suit; and (vii) such other and further relief as is equitable.

Dated: January 21, 2007
New York, NY

Edward D. Fagan Esq.
5 Penn Plaza, 23rd Floor
New York, NY 10001
Tel. (646) 378-2225
Fax (646) 304-6446
Email: ed.fagan@global-litigation-partners.com