

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

DANIEL B. LOCKE, ET AL.)	
)	
Plaintiffs,)	
)	Civil Action No. 2:05-112-GZS
v.)	
)	
EDWARD A. KARASS, STATE)	
CONTROLLER, ET AL.,)	
)	
Defendants.)	

ANSWER OF MAINE STATE EMPLOYEES ASSOCIATION

FIRST DEFENSE

Maine State Employees Association (“MSEA”) answers Plaintiffs’ Verified Class Action Complaint as follows:

1. The first sentence of this paragraph does not state allegations as to which an answer is required. The remaining allegations in this paragraph are denied.
2. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied, except that defendant MSEA admits that plaintiffs seek to invoke the jurisdiction of this Court under 28 U.S.C. § 1331.
3. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied, except that defendant MSEA admits that plaintiffs seek to assert a claim under 42 U.S.C. § 1983, and to invoke the jurisdiction of this Court under 28 U.S.C. § 1343.

4. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

5. Defendant MSEA admits the allegations of this paragraph.

6. Defendant MSEA admits the allegations in this paragraph.

7. Defendant MSEA is without knowledge sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies those allegations, except that Defendant MSEA admits that Edward Karass is the Controller of the State of Maine, and that plaintiffs have sued him in his official capacity.

8. Defendant MSEA is without knowledge sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies those allegations, except that Defendant MSEA admits that Rebecca M. Wyke is Commissioner of the Department of Administrative and Financial Services of the State of Maine, and that plaintiffs have sued her in her official capacity.

9. Defendant MSEA is without knowledge sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies those allegations, except that Defendant MSEA admits that Kenneth A. Walo is the Director of the Bureau of Employment Relations of the Department of Administrative and Financial Services of the State of Maine, and that plaintiffs have sued him in his official capacity.

10. Defendant MSEA admits the allegations in this paragraph.

11. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

12. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, defendant MSEA states that approximately 2300

State of Maine employees employed in the bargaining units described in paragraph 11 of the Complaint are represented by MSEA for the purposes of collective bargaining, but are not members of MSEA. The remaining allegations in this paragraph are denied.

13. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

14. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

15. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

16. Defendant MSEA admits that plaintiffs' lead counsel is experienced in representing nonunion employees in litigation, including class actions, involving agency fee issues. Defendant MSEA is without knowledge sufficient to form a belief as to the truth of the remaining allegations in this paragraph, and therefore denies those allegations.

17. The allegations in this paragraph are denied.

18. The allegations in this paragraph are denied.

19. The allegations in this paragraph are denied.

20. Defendant MSEA admits that the State of Maine has recognized MSEA as the exclusive bargaining agent for the Plaintiffs and other state employees in the bargaining units identified in this paragraph, and denies the remaining allegations in this paragraph.

21. Defendant MSEA admits the allegations in the first sentence, denies the remaining allegations in this paragraph, and affirmatively states that new collective

bargaining agreements between the State of Maine and MSEA for the bargaining units identified in Paragraph 11 of the Complaint became effective July 1, 2005.

22. Defendant MSEA admits that the quoted language appears in certain collective bargaining agreements and that this language was negotiated by representatives of the State of Maine and MSEA, admit that Exhibits A and B are portions of true and correct copies of collective bargaining agreements, denies the remaining allegations in this paragraph, and affirmatively states that the agreements between the State of Maine and MSEA regarding the collection of fair share fees for the bargaining units identified in Paragraph 11 of the Complaint are not reflected in their entirety in the Exhibits A and B or in the language quoted in that paragraph.

23. Defendant MSEA admits that the language quoted in this paragraph appears in the currently effective collective bargaining agreements between the State of Maine and MSEA for the bargaining units identified in paragraph 11 of the Complaint, and denies the remaining allegations in this paragraph.

24. Defendant MSEA denies the allegations in this paragraph, except that it admits that the notice materials identified in this paragraph 24 of the Complaint were provided to all employees in the bargaining units identified in paragraph 11 of the Complaint who have not been members of MSEA since July 2, 2003, and were hired prior to July 2, 2003.

25. Defendant MSEA is without knowledge sufficient to form a belief as to the truth of the allegations in this paragraph, and therefore denies those allegations.

26. The allegations in this paragraph are denied.

27. The allegations in this paragraph are denied.

28. The allegations in this paragraph are denied.

29. The allegations in this paragraph are denied.

30. The allegations in this paragraph are denied.

31. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

32. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

33. Defendant MSEA denies the allegations in this paragraph, except that MSEA admits that the fair share fees sought to be paid by nonmembers in the bargaining units identified in Paragraph 11 of the Complaint are, for the period beginning after July 1, 2005, based on a calculation that treats as chargeable expenditures certain litigation in which the events that are the subject of the litigation did not involve the bargaining units identified in paragraph 11 of the Complaint.

34. The allegations in this paragraph are denied.

35. This paragraph does not state allegations as to which an answer is required. To the extent that an answer is required, the allegations are denied.

36. This paragraph states legal conclusions as to which no answer is required. To the extent that an answer is required, the allegations in this paragraph are denied.

37. The allegations in this paragraph are denied.

38. The allegations in this paragraph are denied.

39. The allegations in this paragraph are denied.

40. The allegations in this paragraph are denied.

41. The allegations in this paragraph are denied.

42. The allegations in this paragraph are denied.

43. The allegations in this paragraph are denied.

44. The allegations in this paragraph are denied.

Defendant MSEA further denies all allegations not specifically responded to, to the extent any response is required, and further denies that Plaintiffs are entitled to any relief on any claim or allegation in the Complaint.

SECOND DEFENSE

Plaintiffs' Complaint fails to state a claim upon which relief may be granted.

THIRD DEFENSE

Plaintiffs have not been injured by any action or inaction alleged in Complaint and lack standing to assert any claim against MSEA.

WHEREFORE, Defendant MSEA respectfully requests that the Complaint be dismissed and judgment entered for defendants, and that the Court award defendant MSEA its costs in this action, including reasonable attorneys' fees, and all other appropriate relief.

Respectfully submitted,

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