

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

TOWNSHIP TRUSTEES OF SCHOOLS  
TOWNSHIP 38 NORTH, RANGE 12  
EAST,

Plaintiff,

vs.

LYONS TOWNSHIP HIGH SCHOOL  
DISTRICT NO. 204

Defendants

2015 JAN -9 PM 1:49

CIRCUIT COURT OF COOK  
COUNTY, ILLINOIS  
CHANCERY DIV.

No. 13 CH 23386  
DOROTHY BROWN CLERK

Judge Sophia H. Hall  
Calendar 14

**NOTICE OF FILING**

**TO:** Charles A. LeMoine  
Rosa M. Tumialán  
Stephen M. Mahieu  
Dykema Gossett PLLC  
10 S. Wacker Drive, Suite 2300  
Chicago, IL 60606

PLEASE TAKE NOTICE that on January 9, 2015, I have filed with the Clerk of the Circuit Court of Cook County, Illinois, the following: **Plaintiff's Reply to Defendant's Affirmative Defenses**, a copy of which is hereby attached and served on you.

Respectfully submitted,

TOWNSHIP TRUSTEES OF SCHOOLS  
TOWNSHIP 38 NORTH, RANGE 12 EAST

By: \_\_\_\_\_

One of its attorneys.

Gerald E. Kubasiak  
Barry P. Kaltenbach  
Gretchen M. Kubasiak  
KUBASIAK, FYLSTRA, THORPE & ROTUNNO, P.C.  
20 South Clark Street, 29<sup>th</sup> Floor  
Chicago, Illinois 60603  
(312) 630-9600 (Phone)  
(312) 630-7939 (Fax)  
Firm No. 48237

**PROOF OF SERVICE**

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CIRCUIT COURT OF COOK  
COUNTY ILLINOIS  
CHANCERY DIV.  
STEPHEN BROWN - CLERK

The undersigned, an attorney, certifies that copies of the following documents:

**Plaintiff's Reply to Defendant's Affirmative Defenses**

has been served upon:

Charles A. LeMoine  
[clemoine@dykema.com](mailto:clemoine@dykema.com)  
Rosa A. Tumialán  
[rtumialan@dykema.com](mailto:rtumialan@dykema.com)  
Stephen M. Mahieu  
[smahieu@dykema.com](mailto:smahieu@dykema.com)  
Dykema Gossett PLLC  
10 S. Wacker Drive, Suite 2300  
Chicago, IL 60606

as follows:

- ☐ by personal service on January 9, 2015 before 4:00 p.m.
- ☒ by U.S. mail, by placing the same in an envelope addressed to them at the above address with proper postage prepaid and depositing the same in the U.S. Postal Service collection box at 20 S. Clark Street, Chicago, Illinois, on January 9, 2015 before 4:00 p.m.
- ☐ by facsimile transmission from 20 S. Clark Street, Suite 2900, Chicago, Illinois to the [above stated fax number/their respective fax numbers] from my facsimile number (312) 630-7939, consisting of \_\_\_\_ pages on January 9, 2015 before 4:00 p.m., the served [party/parties] having consented to such service.
- ☐ by Federal Express or other similar commercial carrier by depositing the same in the carrier's pick-up box or drop off with the carrier's designated contractor on January 9, 2015 before the pickup/drop-off deadline for next-day delivery, enclosed in a package, plainly addressed to the above identified individual[s] at [his/her/their] above-stated address[es], with the delivery charge fully prepaid.
- ☐ by \_\_\_\_\_, on January 9, 2015 before 4:00 p.m., the served [party/parties] having consented to such service.

  
\_\_\_\_\_  
Gerald E. Kubasiak, attorney

2015 JAN -9 PM 1:49

CLERK  
COURT OF COOK  
COUNTY, ILLINOIS  
CHANCERY DIV.  
No. 13-CH-23386  
DOROTHY BROWN

) Judge Sophia H. Hall  
) Calendar 14

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3. Township Trustees provide certain required, financial-related services to a limited number of school districts in Township 38 North, Range 12 East, including District 204.

**Response:** Township Trustees admits that it provides services required by statute, which include financial-related services, to school and other educational districts within Township 38 North, Range 12 East, including District 204, as more fully alleged in its Verified Amended Complaint for Declaratory Relief. Township Trustees does not understand if District 204 alleges otherwise by pleading that Township Trustees provides such services to a “limited number of school districts,” and on that basis denies any remaining allegations within paragraph 3.

4. District 204 and Township Trustees entered into an agreement in or around 1999 whereby District 204 agreed to perform certain financial-related services Township Trustees otherwise would have been obligated to perform on District 204’s behalf.

**Response:** Township Trustees denies the allegations of paragraph 4.

5. By virtue of District 204 performing certain financial-related services Township Trustees was otherwise obligated to perform on District 204’s behalf, Township Trustees saved millions of dollars in expenses it otherwise would have been obligated to incur in performing said services.

**Response:** Township Trustees denies the allegations of paragraph 5.

6. Through District 204 and Township Trustees’ course of dealing, Township Trustees would first submit an invoice to District 204 setting forth District 204’s purported *pro rata* share of Township Trustee’s treasurer’s expenses. District 204 would then provide Township Trustees with an invoice detailing the services District 204 performed that Township Trustees otherwise would have been obligated to perform on District 204’s behalf.



**Response:** Township Trustees admits that it submitted invoices to District 204 for District 204's *pro rata* share of the Treasurer's expenses. Township Trustees admits that District 204 sent certain invoices to Township Trustees that purported to be for services that District 204 performed. Township Trustees denies any remaining allegations within paragraph 6.

7. During the parties' course of dealing from fiscal years 1999 through 2012, Township Trustees agreed that District 204 could properly offset the expenses it undertook in performing services Township Trustees otherwise would have been obligated to perform on District 204's behalf against any amount it owed to Township Trustees for District 204's purported *pro rata* share of annual expenses.

**Responses:** Township Trustees denies the allegations of paragraph 7.

8. During the fiscal years of 1999 through 2012, the value of the services District 204 performed that Township Trustees otherwise would have been obligated to perform on District 204's behalf exceeded the value of District 204's purported *pro rata* share of annual expenses by over \$285,000.00.

**Responses:** Township Trustees denies the allegations of paragraph 8.

9. During the fiscal years of 1993 to 2012, it was necessary for an auditor to examine District 204's books and records relating to financial services it was performing that Township Trustees otherwise would have been obligated to perform on District 204's behalf. As such, Township Trustees agreed to cover the expenses of those audits.

**Responses:** Township Trustees denies the allegations of paragraph 9.

10. Any auditing expense payment Township Trustees made on behalf of District 204 involved the release of funds to a third-party auditing firm. Township Trustees does not hold those funds in trust.

**Responses:** Township Trustees admits that to the extent it made payments to auditors performing services for District 204, it necessarily paid those funds to such auditors. Township Trustees deny any remaining allegations within paragraph 10 and more particularly adopts paragraphs 48 through 60 of its Verified Amended Complaint for Declaratory Relief.

11. In addition, on information and belief, for the fiscal years of 1999 through 2012, Township Trustees included all such auditing expenses in its invoices to District 204 and to other school district members for their purported *pro rata* shares of the Township Trustees' annual expenses.

**Response:** Township Trustees cannot admit or deny this request with respect to District 204 because the invoices issued to District 204 did not include all amounts allocable to District 204. Township Trustees deny any remaining allegations within paragraph 11.

12. During the fiscal years of 1995 to present, Township Trustees has been obligated to pay member school districts, including District 204, their share of pooled investment interest income. Notwithstanding that obligation, Township Trustees has substantially underpaid District 204 the interest it is owed on hundreds of millions of dollars in investments.

**Response:** Township Trustees states that paragraph 12 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 12.

13. Any interest payments Township Trustees made to member school districts, including District 204, involved the release of those funds by Township Trustees to each member school district for its discretionary use. Such funds did not remain in Township Trustees' custody.

**Response:** Township Trustees denies the allegations of paragraph 13.

14. Neither District 204, nor any other member district, had any control over Township Trustees' calculation and allocation of annual investment interest.

**Response:** Township Trustees admits the allegations of paragraph 14.

15. On information and belief, Township Trustees allocated interest payments to member school districts without regard for the amounts actually owed, resulting in overpayments to certain district and underpayments to other districts.

**Response:** Township Trustees admits, as more particularly alleged in its Verified Amended Answer for Declaratory Relief, that it over-allocated interest to District 204, necessarily resulting in the under-allocation of interest to other districts. Township Trustees deny any remaining allegations within paragraph 15.

16. On information and belief, Township Trustees made interest payment allocations to members school districts [*sic*] other than District 204 based on political concerns and not any proper mathematical formula.

**Response:** Township Trustees denies the allegations of paragraph 16.

17. Township Trustees has, to date, refused to provide District 204 and other member districts with documents and information necessary to examine Township Trustees' financial activities generally and its interest payments to member school districts specifically.

**Response:** Township Trustees denies the allegations of paragraph 17.

18. Township Trustees were statutorily obligated to oversee the Township Trustees' treasurer's office, including by receiving reports and examining financial books and records. Notwithstanding that obligation, Township Trustees failed to oversee its treasurer's office, and instead permitted its former treasurer to steal or improperly spend nearly one million dollars in member school districts' funds.

**Response:** Township Trustees states that paragraph 18 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of the second sentence of paragraph 18.

19. The funds Township Trustees collected, or attempted to collect, from member school districts, including District 204, to fund the expenses of Township Trustees' treasurer's office were not public funds. Such expenses did not involve any general public interest.

**Response:** Township Trustees denies the allegations of paragraph 19.

20. On information and belief, Township Trustees have recovered substantial insurance proceeds based on its former treasurer's misconduct. Township Trustees have refused to disclose the amount of those proceeds, and has further failed to distribute the proceeds to member school districts, including District 204.

**Response:** Township Trustees admits the allegations of the first sentence of paragraph 20. Township Trustees states that its efforts to recovery additional sums remain ongoing. Township Trustees denies that it has refused to disclose the amount of those proceeds. Township Trustees admits that it has not "distributed" the proceeds it has recovered, but denies that it is required to "distribute" such proceeds under Illinois law. Township Trustees denies any remaining allegations within paragraph 20.

21. Township Trustees has also frivolously expended, or attempted to expend, significant funds owned by member school districts on unnecessary public relations firm services, duplicate and wasteful financial advisor services, and unnecessary and hugely expensive computer software. On information and belief, Township Trustees' actions in this regard are consistent with its practices of billing member school districts for their "*pro rata* share" of Township Trustees' excessive and improper expenses that were not permitted by law.



**Response:** Township Trustees denies the allegations of paragraph 21.

**FIRST AFFIRMATIVE DEFENSES – LACHES**

22. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 22 of its First Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

23. Township Trustees was aware of, and repeatedly consented to, the foregoing facts for more than a decade.

**Response:** Township Trustees states that no response should be required to this paragraph because District 204 does not specify the “foregoing facts” to which it refers. To the extent a response is required, based upon its interpretation of the allegations of paragraph 23, Township Trustees denies the allegations of paragraph 23.

24. Township Trustees showed a complete lack of diligence by affirmatively deciding not to challenge any payment owed by, made by, or made to District 204 until filing suit in this action in October 2013.

**Response:** Township Trustees denies the allegations of paragraph 24.

25. During that same time period, District 204 has passed annual budgets affecting thousands of students, hundreds of staff members, and many thousands of community members.

**Response:** Township Trustees lack sufficient knowledge to specifically admit the allegations of paragraph 25, but Township Trustees does not dispute that District 204 passed annual budgets affecting students, staff members and members of the community.

26. Township Trustees' inexplicable delay in bringing any claim has caused District 204 to suffer severe prejudice.

**Response:** Township Trustees denies the allegations of paragraph 26.

27. Had Township Trustees raised any challenge or objection to the parties' course of action described above, District 204 would have taken action to adjust its annual budgets and to shift directly to Township Trustees all services Township Trustees otherwise would have been obligated to perform on District 204's behalf, or District 204 would have pursued a separation from Township Trustees at that time.

**Response:** Township Trustees lacks sufficient knowledge to either admit or deny the specific actions that District 204 would have taken had it hypothetically been aware, or been unaware, of certain, unspecified information. Township Trustees denies any implicit allegation that District 204 was not fully aware of all relevant facts and otherwise denies any remaining allegations within paragraph 27.

28. Due to Township Trustees' lack of diligence, the students, staff, and community of District 204 face potentially devastating budget cuts and a corresponding loss of staff, extracurricular activities, and other vital services.

**Response:** Township Trustees denies the allegations of paragraph 28.

29. Laches may be imputed upon a governmental entity serving one public constituency that is suing another governmental entity serving a different public constituency.

**Response:** Township Trustees states that paragraph 29 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies that laches is a valid affirmative defense under the facts presented in this case.

30. Applying laches to Township Trustees' claims is proper and bars Township Trustees from obtaining any relief against District 204.

**Response:** Township Trustees states that paragraph 30 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 30.

### **SECOND AFFIRMATIVE DEFENSE – STATUTE OF LIMITATIONS**

31. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above, and paragraphs 22 through 30 of its First Affirmative Defense, as this paragraph 31 of its Second Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 30 as though fully set forth herein.

32. All of Township Trustees' claims against District 204 are subject to the five-year catchall statute of limitations set forth in 735 ILCS 5/13-205.

**Response:** Township Trustees states that paragraph 32 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 32.

33. Township Trustees failed to bring its claims against District 204 within the applicable limitations period. Applying the statute of limitations is proper and bars Township Trustees from obtaining any relief against District 204.

**Response:** Township Trustees states that paragraph 33 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 33.

### **THIRD AFFIRMATIVE DEFENSE – ACCORD AND SATISFACTION**

34. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 34 of its Third Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

35. Township Trustees and District 204 entered into a valid agreement in or around 1999 that supplanted any prior course of dealing.

**Response:** Township Trustees denies the allegations of paragraph 35.

36. Township Trustees accepted payments or setoffs from District 204 in accordance with the parties' agreement for more than a decade.

**Response:** Township Trustees denies the allegations of paragraph 36.

37. Township Trustees is legally barred from enforcing any right that is inconsistent with the parties' agreement.

**Response:** Township Trustees states that paragraph 37 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 37.

38. Accord and satisfaction applies and bars Township Trustees from obtaining any relief against District 204.

**Response:** Township Trustees states that paragraph 38 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 38.

#### **FOURTH AFFIRMATIVE DEFENSE – RATIFICATION**

39. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 39 of its Fourth Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

40. Township Trustees had complete knowledge of all material facts surrounding the agreement with District 204 described above.

**Response:** Township Trustees states that District 204 has failed to allege any of the material facts surrounding the purported agreement described above, and that District 204 has failed to actually describe the purported agreement in anything beyond conclusory fashion. Township Trustees denies that it entered into any valid agreement with District 204 and, on the basis of the foregoing, denies any remaining allegations within paragraph 40.

41. Armed with that knowledge, Township Trustees engaged in a course of conduct over a period of more than a decade by which Township Trustees repeatedly demonstrated it had ratified the agreement with District 204. That ratification bars Township Trustees from obtaining any relief against District 204.

**Response:** Township Trustees denies that it entered into any valid agreement with District 204 and denies that it engaged in a course of conduct that demonstrated its ratification of the non-existent agreement. Township Trustees denies any remaining allegations within paragraph 41. Township Trustees states that the second sentence of paragraph 41 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 41.



### **FIFTH AFFIRMATIVE DEFENSE – PROMISSORY ESTOPPEL**

42. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 42 of its Fifth Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

43. By entering into the agreement with District 204 described above, Township Trustees made an unequivocal promise by its words and actions to proceed in accordance with the parties' agreement.

**Response:** Township Trustees denies it entered into a valid agreement with District 204 and otherwise denies the allegations of paragraph 43.

44. District 204 materially changed its position to its detriment as a result of Township Trustees' promise, including by modifying its annual budgets to reflect the parties' agreement. Those budgets affected thousands of students, hundreds of staff members, and many thousands of community members.

**Response:** Township Trustees states that District 204 does not allege the substance of the purported promise, but based upon its interpretation of the allegations of paragraph 44, Township Trustees denies that it made any promise to District 204 and otherwise denies the allegations of paragraph 43, except to state that it lacks sufficient knowledge to either admit or deny the particular numbers of students, staff or community members effected by District 204's budgets.

45. Had Township Trustees raised any challenge or objection to the parties' course of action described above, District 204 would have taken action to adjust its annual budgets and to

shift directly to Township Trustees all services Township Trustees otherwise would have been obligated to perform on District 204's behalf, of District 204 would have pursued a separation from Township Trustees at that time.

**Response:** Township Trustees lacks sufficient knowledge to either admit or deny the specific actions that District 204 would have taken had it hypothetically been aware, or been unaware, of certain, unspecified information. Township Trustees denies any implicit allegation that District 204 was not fully aware of all relevant facts and otherwise denies any remaining allegations within paragraph 45.

46. Not requiring Township Trustees to abide by the parties' agreement would result in severe inequity and prejudice to District 204.

**Response:** Township Trustees denies that it entered into any valid agreement with District and otherwise denies the allegations of paragraph 46.

47. Promissory estoppel applies to bar Township Trustees from obtaining any relief against District 204.

**Response:** Township Trustees states that paragraph 47 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 47.

#### **SIXTH AFFIRMATIVE DEFENSE – EQUITABLE ESTOPPEL**

48. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 48 of its Sixth Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

49. Township Trustees, through its words and actions, represented to District 204 that Township Trustees would abide by the terms of the parties' agreement discussed above.

**Response:** Township Trustees denies that it entered into a valid agreement with District 204 and otherwise denies the allegations of paragraph 49.

50. Township Trustees was aware of all material facts surrounding the parties' agreement at the time the parties entered into the agreement.

**Response:** Township Trustees states that District 204 has failed to allege any of the material facts surrounding the purported agreement described above, and that District 204 has failed to actually describe the purported agreement in anything beyond conclusory fashion. Township Trustees denies that it entered into any valid agreement with District 204 and, on the basis of the foregoing, denies any remaining allegations within paragraph 50.

51. Township Trustees concealed from District 204 the fact that Township Trustees intended to accept the value of District 204's services for more than a decade and later to attempt to bar District 204 from offsetting the value of its services against its purported share of Township Trustees' *pro rata* expenses and the auditing expenses discussed above.

**Response:** Township Trustees denies the allegations of paragraph 50.

52. Township Trustees also concealed from District 204 the fact that Township Trustees was knowingly making incorrect interest payments to member districts, including District 204.

**Response:** Township Trustees denies the allegations of paragraph 52.

53. Township Trustees acted intentionally and with the expectation that District 204 would act upon Township Trustees' representations.

**Response:** Township Trustees states that District 204 does not specify what purported conduct of Township Trustees was intentional or what purported representations Township Trustees made. Based upon its interpretation of the allegations of paragraph 53, however, Township Trustees denies the allegations of paragraph 53.

54. District 204 acted upon Township Trustees' representations to District 204's detriment, including by modifying its annual budget to reflect the parties' agreement.

**Response:** Township Trustees states that District 204 does not specify or what purported representations Township Trustees made. Based upon its interpretation of the allegations of paragraph 53, however, Township Trustees denies the allegations of paragraph 53.

55. Equitable estoppel applies to bar Township Trustees from obtaining any relief against District 204.

**Response:** Township Trustees states that paragraph 55 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 55.

#### **SEVENTH AFFIRMATIVE DEFENSE – WAIVER**

56. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 56 of its Seventh Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

57. Township Trustees and District 204 had equal bargaining power.

**Response:** Township Trustees lack sufficient knowledge to either admit or deny the allegations of paragraph 57.

58. By entering into the agreement with District 204 described above, and through the parties' course of conduct of more than a decade, Township Trustees knowingly and voluntarily relinquished its known rights to recovery against District 204.

**Response:** Township Trustees denies that it entered into any valid agreement with District 204 and denies that it knowingly and voluntarily relinquished any of its rights. Township Trustees deny any remaining allegations within paragraph 58.

59. Waiver applies to bar Township Trustees from obtaining any relief against District 204.

**Response:** Township Trustees states that paragraph 59 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 59.

#### **EIGHTH AFFIRMATIVE DEFENSE – UNCLEAN HANDS**

60. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 60 of its Eighth Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

61. Township Trustees prays in part for equitable relief in this action.

**Response:** Township Trustees admits the allegations of paragraph 61.

62. Township Trustees, through its actions described above, is guilty of misconduct and bad faith towards District 204.

**Response:** Township Trustees denies the allegations of paragraph 62.



63. Township Trustees' misconduct and bad faith relates to the parties' disputes in this action.

**Response:** Township Trustees denies that it has engaged in misconduct and bad faith and on that basis denies the allegations of paragraph 63.

64. Township Trustees' unclean hands bar it from receiving any equitable relief against District 204.

**Response:** Township Trustees states that paragraph 64 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 64.

#### **NINTH AFFIRMATIVE DEFENSE – SETOFF**

65. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 66 of its Ninth Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

66. District 204 is entitled to a setoff against any judgment entered in this action in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

**Response:** Township Trustees states that paragraph 66 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 66.

67. District 204 is also entitled to a setoff against any judgment entered in this action in the amount of Township Trustees' underpayment of investment interest to District 204.

District 204 is also entitled to a judgment against Township Trustees for the value of the services District 204 provided that exceeded its share of *pro rata* expenses.

**Response:** Township Trustees states that paragraph 67 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 67.

#### **TENTH AFFIRMATIVE DEFENSE – UNJUST ENRICHMENT**

68. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 68 of its Tenth Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

69. Township Trustees' retention of the services District 204 provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf is not legally justifiable.

**Response:** Township Trustees denies the implicit factual allegations within paragraph 69 and otherwise states that paragraph 69 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 69.

70. District 204 reasonably expected to receive compensation for the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

**Response:** Township Trustees denies the allegations of paragraph 69.

71. Township Trustees had complete knowledge of the benefits District 204 was conferring on Township Trustees in the form of services District 204 provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

**Response:** Township Trustees deny that District 204 performed services for the benefit of Township Trustees and otherwise deny the allegations of paragraph 71.

72. Township Trustees would be unjustly enriched to District 204's detriment if Township Trustees were permitted accept [sic] District 204's services without providing any compensation or offset.

**Response:** Township Trustees states that paragraph 72 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 72.

73. Equity and good conscience require Township Trustees to make restitution to District 204 in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

**Response:** Township Trustees states that paragraph 73 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 73.

#### **ELEVENTH AFFIRMATIVE DEFENSE – QUANTUM MERUIT**

74. District 204 adopts and incorporates by reference paragraph 1 through 21 of its Facts Common to All Affirmative Defenses above as this paragraph 74 of its Eleventh Affirmative Defense as though fully set forth herein.

**Response:** Township Trustees adopts and incorporates its responses to paragraphs 1 through 21 as though fully set forth herein.

75. In the alternative, should Township Trustees contend the parties did not enter into an express contract or agreement as discussed above, Township Trustees made an implied promise to District 204 that it would compensate District 204 in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

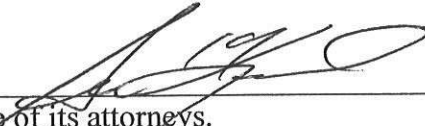
**Response:** Township Trustees states that it does consent that it and District 204 did not enter into an express contract or agreement "as discussed above" (although District 204 does not allege the specifics of such purported contract or agreement). Township Trustees denies any remaining allegations within paragraph 75.

76. Township Trustees is legally obligated to reimburse District 204 in the amount of the value of the services it provided that Township Trustees otherwise would have been obligated to perform on District 204's behalf.

**Response:** Township Trustees states that paragraph 76 contains allegations of laws to which no response is required. To the extent a response is required, Township Trustees denies the allegations of paragraph 76.

Respectfully,

TOWNSHIP TRUSTEES OF SCHOOLS  
TOWNSHIP 38 NORTH, RANGE 12 EAST

By:   
One of its attorneys.


Gerald E. Kubasiak  
Barry P. Kaltenbach  
Gretchen M. Kubasiak  
KUBASIAK, FYLSTRA, THORPE & ROTUNNO, P.C.  
20 South Clark Street, 29th Floor  
Chicago, Illinois 60603  
(312) 630-9600 (Phone)  
(312) 630-7939 (Fax)  
No. 48237



VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in the attached instrument are true and correct, except as to those matters stated to be on information and belief, and as to such matters the undersigned verily believes the same to be true. The undersigned further certifies that all statements as to lack of knowledge are true and correct.

Dated: 1-7-15

  
\_\_\_\_\_  
Michael Thiessen, on behalf of Plaintiff