

IN THE SUPREME COURT OF MISSOURI

APPEAL NO. SC 92159

CITY OF ST. LOUIS, et al.

Respondents/Cross-Appellant/Plaintiffs

vs.

STATE OF MISSOURI

Appellant/Cross-Respondent/Defendant

**APPEAL FROM THE NINETEENTH JUDICIAL CIRCUIT COURT
DIVISION NO. 1, CIRCUIT COURT NO. 10AC-CC00434**

HONORABLE JON BEETEM

**BRIEF OF *AMICUS CURIAE*
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
LOCAL 73**

**STINSON MORRISON HECKER LLP
Michael R. Gibbons, #31986
Charles W. Hatfield, #40363
Nicholas G. Frey, #58299
230 W. McCarty Street
Jefferson City, MO 65101
Telephone: (573) 636-6263
Fax: (573) 636-6231
mgibbons@stinson.com
chatfield@stinson.com
nfrey@stinson.com**

TABLE OF CONTENTS

TABLE OF AUTHORITIES.....	iii
INTEREST OF <i>AMICUS CURIAE</i>	1
POINTS RELIED ON	2
STANDARD OF REVIEW.....	3
ARGUMENT.....	3
I. Introduction.....	3
II. The Residency Restriction and Senate Bill 739.....	4
III. Article VI, § 22 of the Missouri Constitution Allows for Prohibitions on Residency Restrictions for Municipal Employees.....	4
A. Residency Restrictions Are Not A Power, Duty, or Compensation of Any Individual Municipal Officer Or Employee	5
B. The Circuit Court's Judgment.....	8
C. Mo. Const. Art. VI, Sec. 22's Restrictions are Limited.....	8
IV. The Classification in Mo. Rev. Stat. §320.097 Does Not Violate Article I, § 2 of the Missouri Constitution Or The 14 th Amendment to The United States Constitution.....	9
A. Classification Based on Residency in Unaccredited Districts	11
B. Classification Based on Fire Department Employee with Seven Years Experience	12
C. Balancing of Policy Objectives	12
V. Conclusion	13

CERTIFICATE OF COMPLIANCE	15
CERTIFICATE OF SERVICE.....	16

TABLE OF AUTHORITIES

	Page(s)
 FEDERAL CASES	
 <i>Heller v. Doe,</i>	
509 U.S. 312 (1993)	10
 <i>Mass. Bd. of Retirement v. Morgia,</i>	
427 U.S. 307 (1976)	11
 <i>United Building & Construction Trades Council v. Mayor of Camden,</i>	
465 U.S. 208 (1984)	8
 STATE CASES	
 <i>Breitenfeld v. School District of Clayton,</i>	
12SL-CC00411	11
 <i>Cape Motor Lodge, Inc. v. City of Cape Girardeau,</i>	
706 S.W.2d 208 (Mo. 1986)	7
 <i>City of Kansas City v. Jordan,</i>	
174 S.W.3d 25 (Mo. 2005)	7
 <i>City of St. Louis v. Grimes,</i>	
630 S.W.2d 86 (Mo. 1982)	9
 <i>City of St. Louis v. Missouri Commission on Human Rights,</i>	
517 S.W.2d 65 (Mo. 1974)	5, 9
 <i>Cohen v. Poelker,</i>	
520 S.W.2d 50 (Mo. 1975)	9

<i>Goff v. Springfield,</i>	
918 S.W.2d 786 (Mo., 1996)	5, 9
<i>In re: Honorable Timothy J. Finnegan,</i>	
327 S.W.3d 524 (Mo., 2010)	5
<i>ITT Commercial Finance Corp. v. Mid-American Marine Supply Corp.,</i>	
854 S.W.2d 371 (Mo., 1993)	3
<i>Merchants' Exchange of St. Louis v. Knott,</i>	
111 S.W. 565 (Mo. 1908)	8
<i>PACARS v. Pemiscot County,</i>	
256 S.W.3d 98 (Mo. 2008)	3, 9
<i>State ex rel. Burke v. Cervantes,</i>	
423 S.W.2d 791 (Mo., 1968)	8
<i>State ex rel. King v. Walsh,</i>	
484 S.W.2d 641 (Mo. 1972)	6
<i>State ex rel. Sprague v. City of St. Joseph,</i>	
549 S.W.2d 873 (Mo. 1977)	8
<i>State ex rel. St. Louis Fire Fighters Ass'n Local No. 73, AFL-CIO v. Stemmler,</i>	
479 S.W.2d 456 (Mo., 1972)	5, 8
STATE STATUTES	
Mo. Rev. Stat. Chapter 85	12
Mo. Rev. Stat. Chapter 87	12
Mo. Rev. Stat. Chapter 320	12

Mo. Rev. Stat. § 105.255	7
Mo. Rev. Stat. § 105.270	7
Mo. Rev. Stat. § 130.026.2(3)	7
Mo. Rev. Stat. § 130.071.1	7
Mo. Rev. Stat. § 167.131	10, 11
Mo. Rev. Stat. § 320.097	9, 10, 12
Mo. Rev. Stat. § 320.097.2	4

CONSTITUTIONAL PROVISIONS

Mo. Const. Article I, § 2	9
Mo. Const. Article VI, § 22	passim
U. S. Const. 14 th Amendment	9

OTHER AUTHORITIES

City Code, § 17.02.230	7
City Code, § 17.06.010	6
City Code, § 17.14.010	7
St. Louis City Charter, Article , VIII, § 2	1, 3, 4
St. Louis City Charter, Article XVIII, § 4(a)	7
Merriam-Webster On-Line Dictionary, http://www.merriam-webster.com/dictionary/compensation	6
Merriam-Webster On-Line Dictionary, http://www.merriam-webster.com/dictionary/duty	6

Merriam-Webster On-Line Dictionary, http://www.merriam-webster.com/dictionary/power	6
St. Louis City Charter, Article VIII, § 2	1, 3, 4
St. Louis City Charter, Article XVIII, § 4(a)	7

INTEREST OF AMICUS CURIAE

Amicus Curiae International Association of Fire Fighters, Local 73 ("Local 73") is a labor organization and certified exclusive representative of all firefighters, fire captains, paramedics, emergency medical technicians ("EMTs"), and dispatchers of the St. Louis City Fire Department ("Fire Department"). The purpose of Local 73 is to improve the wages and working conditions of its members. The St. Louis City Charter requires all employees and officers of the City of St. Louis, including members of Local 73, to "maintain residence within the City of St. Louis during the entire tenure of their employment or their appointment as an officer." St. Louis City Charter, Article, VIII, § 2. ("Residency Restriction"). The Residency Restriction, as an employment qualification for members of Local 73, is of interest and concern to Local 73. One of the major initiatives of Local 73 over the past several years has been to repeal, revise, or ease the Residency Restriction for members of Local 73. Members of Local 73 desire to have the Residency Restriction eased because the St. Louis Public Schools are unaccredited and cannot provide their children with an adequate education. For example, certain members of Local 73 have children with special educational needs that cannot be met by the St. Louis Public Schools. However, because the Residency Restriction forces them to live in the City of St. Louis, their children are forced to receive an inadequate education. Members of Local 73 desire to live outside the City of St. Louis but cannot do so because of the Residency Restriction.

POINTS RELIED ON

I. The Trial Court erred in granting Plaintiffs' Motion for Summary Judgment on Count I because Senate Bill 739 is constitutional under Art. VI, § 22 of the Missouri Constitution in that Senate Bill 739's prohibition on residency restrictions for certain fire department employees does not create or fix the powers, duties, or compensation of municipal officers or employees.

II. The Trial Court erred in granting Plaintiffs' Motion for Summary Judgment on Count III because Senate Bill 739 is constitutional under the equal protection clauses of the Missouri and United States constitutions in that it makes a rational classification of fire department employees with seven years of experience residing in unaccredited school districts to advance the legitimate state purposes of public education and fire protection while still allowing charter cities to place residency restrictions on most municipal employees.

STANDARD OF REVIEW

When reviewing appeals from summary judgment, the appellate court reviews the record in the light most favorable to the party against whom judgment was entered. *ITT Commercial Finance Corp. v. Mid-American Marine Supply Corp.*, 854 S.W.2d 371, 376 (Mo., 1993). The appellate court review is de novo with no deference to the trial court. *Id.* All statutes are "presumed to be constitutional and will not be held unconstitutional unless [they] clearly and undoubtedly contravene[] the constitution." *PACARS v. Pemiscot County*, 256 S.W.3d 98, 102 (Mo. 2008). A statute must "plainly and palpably affront fundamental law embodied in the constitution" before it is found unconstitutional. *Id.* Doubts are resolved in favor of the constitutionality. *Id.*

ARGUMENT

I. Introduction

Senate Bill 739 (2010) prohibits the imposition of residency requirements on fire department employees with seven years of experience when the only school district within the geographical area of the fire department is unaccredited. The City of St. Louis ("City") has an unaccredited school district and it is the only school district available to employees of the St. Louis City Fire Department because the City requires all City employees to reside within the City. LF 69 – 70. St. Louis City Charter, Art. VIII, § 2. Mo. Const. Article VI, § 22 does not prohibit the Missouri General Assembly from enacting legislation embodied in Senate Bill 739. Further, Senate Bill 739 does not contain an unconstitutional classification. The decision to allow certain fire department employees, across the state of Missouri, to leave failed school districts without losing

their jobs was a rational classification based upon the state's police power authority, and public education and fire protection policy objectives.

II. The Residency Restriction and Senate Bill 739

The St. Louis City Charter, Article, VIII, § 2, requires all employees and officers of the City of St. Louis to "maintain residence with the City of St. Louis during the entire tenure of their employment or their appointment as an officer." ("Residency Restriction"). Senate Bill 739 prohibits fire departments from requiring any employee to reside within the geographic area of the fire department as a condition of employment if: 1) that employee has worked for such fire department for seven years; and 2) "the only public school district available to the employee within such fire department's geographic area is a public school district that is or has been unaccredited or provisionally accredited in the last five years of such employee's employment." Mo. Rev. Stat. §320.097.2. Any employee that moves outside of the fire district boundaries would have to live within one hour response time of the fire district. *Id.* As previously stated, the City's school district is unaccredited. Thus, Mo. Rev. Stat. §320.097.2 would apply to the City to carve out an exception to Article VIII, § 2 of the Charter.

III. Article VI, § 22 of the Missouri Constitution Allows for Prohibitions on Residency Restrictions for Municipal Employees

Article VI, § 22 of the Missouri Constitution states: "No law shall be enacted creating or fixing the powers, duties or compensation of any municipal office or employment, for any city framing or adopting its own charter under this or any previous constitution." This section "is limited to prohibiting the General Assembly from enacting

state law prescribing the individual offices of a charter city and the duties and compensation of the officers holding those offices." *Goff v. Springfield*, 918 S.W.2d 786, 789 (Mo., 1996). Mo. Const. Article VI, § 22 applies only to individual offices. *Id.* The provision does not implicate powers, duties or compensation for all municipal offices or employment. "The General Assembly may not tell the officers of a charter city what they must do; it may, however, limit the powers a charter city may exercise through its officers." *Id.* The only limitation on a charter city's legislative authority is that it is subject to the Missouri constitution and statutes of general interest and statewide concern. *State ex rel. St. Louis Fire Fighters Ass'n Local No. 73, AFL-CIO v. Stemmler*, 479 S.W.2d 456, 458 (Mo., 1972). Requiring compliance with a state-wide policy is not fixing the powers or duties of a municipal office. *City of St. Louis v. Missouri Commission on Human Rights*, 517 S.W.2d 65, 70 (Mo. 1974).

A. Residency Restrictions Are Not A Power, Duty, or Compensation of Any Individual Municipal Officer Or Employee

The plain language of Mo. Const. Article VI, § 22 allows for the type of legislation embodied in Senate Bill 739 as it does not implicate a power, a duty, or the compensation of a municipal office or employment. Courts must consider the plain and ordinary meaning of words when interpreting a constitutional provision. *In re: Honorable Timothy J. Finnegan*, 327 S.W.3d 524, 526 (Mo., 2010). A dictionary is used to determine the plain and ordinary meaning. *Id.*

A "power" is "ability to act or produce an effect...(or) legal or official authority, capacity, or right." Merriam-Webster On-Line Dictionary, <http://www.merriam-webster.com/dictionary/power>, last visited May 2, 2012. A "duty" is "obligatory tasks, conduct, service, or function that arises from one's position." Merriam-Webster On-Line Dictionary, <http://www.merriam-webster.com/dictionary/duty>. Last visited May 2, 2012. "Compensation" is a "payment." Merriam-Webster On-Line Dictionary, <http://www.merriam-webster.com/dictionary/compensation>. Last Visited May 2, 2012. Using the plain meaning of the terms of the Constitution, it is clear that a residency restriction is not a power, duty, or compensation of any particular municipal officer or employee. Instead, a residency requirement is a qualification applicable to all employees. See *State ex rel. King v. Walsh*, 484 S.W.2d 641 (Mo. 1972)(discussion of residency requirement as qualification to hold office). Indeed, it is Plaintiffs' position that the Residency Restriction is a job qualification. LF 67. And even the Circuit Court recognized the Residency Restriction as a job qualification. LF 671 – 672.

The powers and duties of a municipal officer or employee are those things which the officer or employee can or must do in relation to the particular office they hold. A power and duty is not a requirement placed on all city employees. Mo. Const. Art. VI § 22 is not implicated when a requirement applies to all municipal officers and employees.

The powers, duties, and compensation of City of St. Louis fire department employees are set forth in the City of St. Louis ordinances. For example, fire department employees are authorized to direct traffic or assist police in directing traffic. City Code,

§17.06.010. Firemen have the power to use emergency vehicles and display emergency lights. City Code, §17.02.230 & 17.14.010. The compensation of City of St. Louis firefighters is set by the City of St. Louis Board of Alderman. See St. Louis City Charter, Art. XVIII, § 4(a).

Mo. Const. Art. VI, § 22 allows the General Assembly to impose qualifications on municipal officers and employees. Such statutes are common. For example, Mo. Rev. Stat. § 130.026.2(3) requires candidates for municipal office in municipalities with over one hundred thousand inhabitants to file campaign finance reports with the Missouri Ethics Commission. Successful candidates that have not filed all such reports are prohibited from taking office. Mo. Rev. Stat. § 130.071.1. Mo. Rev. Stat. § 105.255 explicitly prohibits fire departments from using discriminatory prerequisites in its hiring practices based on education. Mo. Rev. Stat. § 105.270 prohibits discriminatory hiring by municipalities by reason of National Guard Service. An interpretation of Mo. Const. Art. VI, § 22 that allows the state some control over qualification of municipal employees is consistent with previous holdings regarding this section. See *infra*, Section III.C. This provision does not prohibit the General Assembly from setting qualifications for municipal employment on a statewide basis.

The State's retention of this authority is logical within the structure of the state-municipality relationship. A city has no inherent police power, only what is granted by the state through statutes and constitutions. *City of Kansas City v. Jordan*, 174 S.W.3d 25, 41 (Mo. 2005). With charter cities, the power arises from the constitution. *Cape Motor Lodge, Inc. v. City of Cape Girardeau*, 706 S.W.2d 208, 210 (Mo. 1986). Charter

cities, under Mo. Const. Art VI, § 22, have discretion on which municipal officers or employees exercise that power, under what conditions that power will be exercised and how much the municipality will pay the municipal officer or employee. However, the state retains authority over who generally is qualified to hold municipal office or employment. This retention of power makes particular sense as to residency. The state has a similar interest as the federal government has in preventing states from engaging in discriminatory employment practices against residents of another state. *United Building & Construction Trades Council v. Mayor of Camden*, 465 U.S. 208 (1984).

B. The Circuit Court's Judgment

The Circuit Court, acknowledging that the prohibition of residency requirements is not a "power, duty, or compensation," states that it was the "intent and purpose" to include "qualifications" within the constitutional provision. LF 671. In support of this contention, the Circuit Court cites *State ex rel. St. Louis Fire Fighters Ass'n Local No. 73 v. Stemmler*, 479 S.W.2d 456, 460 (Mo. 1972). However, that case was actually citing another case on an unrelated subject. See *Merchants' Exchange of St. Louis v. Knott*, 111 S.W. 565 (Mo. 1908). The issue in *Stemmler* was clearly a "compensation" issue. Thus, the Circuit Court did not have a basis to read the constitutional prohibition so broadly.

C. Mo. Const. Art. VI, Sec. 22's Restrictions are Limited

Only on rare occasion has Mo. Const. Art. VI § 22 been cited as the basis for striking down a statute. See *State ex rel. Burke v. Cervantes*, 423 S.W.2d 791 (Mo., 1968)(statute can't require Mayor to appoint arbitration panel to settle labor disputes) and *State ex rel. Sprague v. City of St. Joseph*, 549 S.W.2d 873 (Mo. 1977)(statute can't

create municipal licensing board). More often, statutes are upheld in the face of challenges made under this constitutional provision. *City of St. Louis v. Missouri Commission on Human Rights*, 517 S.W.2d 65 (Mo. 1974)(upholding statute creating statewide program of prohibiting racial discrimination as applicable to municipalities with charter forms of government); *Cohen v. Poelker*, 520 S.W.2d 50 (Mo. 1975)(upholding Sunshine Law's application to municipalities with charter forms of government); *City of St. Louis v. Grimes*, 630 S.W.2d 86 (Mo. 1982)(upholding application of workers compensation laws to municipalities with charter forms of government); and *City of Springfield v. Goff*, 918 S.W.2d 786 (Mo. 1996)(upholding zoning statutes as applicable to municipalities with charter forms of government).

IV. The Classification in Mo. Rev. Stat. §320.097 Does Not Violate Article I, § 2 of the Missouri Constitution Or The 14th Amendment to The United States Constitution

Statutes that do not operate to the disadvantage of a suspect class or impinge on a fundamental right must only bear some rational relationship to a legitimate state purpose. *PACERS v. Pemiscot County*, 256 S.W.3d 98, 102 (Mo., 2008). To prevail under the rational basis test, the plaintiff must show that the classification does not rest upon any reasonable basis and is purely arbitrary. *Id.* As always, the Court will not substitute its judgment for that of the legislature as to the wisdom, social desirability or economic policy underlying a statute. *Id.* The statute will be upheld if any set of facts can reasonably justify it. *Id.* at 102 – 103. The party defending a rational basis has no

obligation to produce evidence to sustain the rationality of a statutory classification. *Heller v. Doe*, 509 U.S. 312, 319 (1993).

Mo. Rev. Stat. §320.097's classification is employees of a fire department who have worked for seven years for such department and "if the only public school district available to the employee within such fire department's geographical area is a public school district that is or has been unaccredited or provisionally accredited in the last five years of such employee's employment." The State has argued that this classification is rationally related to the State's legitimate purpose of public education and fire protection.

City counters these two underlying policies are not rationally related to Mo. Rev. Stat. §320.097. The factual basis for this argument is two-fold. First, City argues that children in unaccredited school districts already have education options, citing Mo. Rev. Stat. §167.131 in support. Second, City argues that because the fire department has experienced low turnover in the past five years, there is no need for this legislation.

In accepting the City's arguments, the Circuit Court stated that the proffered bases do not bear any relation to the facts. LF 686. The Circuit Court, citing Mo. Rev. Stat. §167.131, noted that children that live in the City already have public school option. LF 687. The Circuit Court also rejected the State's rationalization that allowing students to live closer to schools improves the quality of the child's education because the State did not present any evidence to support that theory. LF 688. The Circuit Court likewise rejected the State's proffered fire protection rationalization because the evidence was that turnover in the City's fire department was nonexistent and employment in the City's fire department is highly competitive. LF 689.

A. Classification Based on Residency in Unaccredited Districts

On May 1, 2012, Judge Vincent of the St. Louis County Circuit Court held that Mo. Rev. Stat. §167.131 is unconstitutional in violation of the Hancock Amendment. *Breitenfeld v. School District of Clayton*, 12SL-CC00411, Findings of Fact and Conclusions of Law, Order and Judgment, dated May 1, 2012. Thus, the City's first basis for arguing that the State's classification is irrational no longer exists. Children of the City of St. Louis, and other unaccredited districts, no longer have the right to transfer to accredited districts.

Even if Mo. Rev. Stat. §167.131 was still valid, the classification would still be rational. A State is not limited to one attempt to advance a legitimate public purpose. *Mass. Bd. of Retirement v. Morgia*, 427 U.S. 307, 316 (1976)(state does not violate equal protection because classification is imperfect). Simply because the State addressed the issue in Mo. Rev. Stat. §167.131, doesn't mean it can't also address that purpose in Senate Bill 739.

Further, it was rational for the legislature to conclude that allowing children to live closer to their school will improve their educational opportunities. The State was not required to put on evidence of studies or expert testimony that, as a matter of scientific fact, allowing children to live closer to their school will improve the child's education opportunity. Courts do not judge the wisdom or effectiveness of legislation.

Thus, the classification of municipal employees based upon whether they reside in an unaccredited school district is rational.

B. Classification Based on Fire Department Employee with Seven Years Experience

The statute's classification of employees based upon their positions as fire department employees with seven years experience is also rational. Fire protection is an issue general interest and statewide concern. See Mo. Rev. Stat. Ch. 85 – City Police and Fire Departments Generally and Mo. Rev. Stat. Ch. 320 – Fire Protection. Thus, for the state to classify based upon those responsible for implementing this general interest is rational. See Mo. Rev. Stat. Ch. 87 – Firemen's Retirement and Relieve Systems.

The fact that the City's fire department has experienced low turnover in the past five is years is irrelevant to the consideration of whether the classifications made by Mo. Rev. Stat. §320.097 are rationally related to the underlying policy of providing educational opportunities to children in unaccredited districts. This is evidence of one city's experience. Other fire departments could have had much different experiences. The question isn't whether this legislation fixed a problem for the City, but whether it was irrational for legislature to determine that this legislation could have advanced the legitimate state interest of advancing public education and fire protection.

C. Balancing of Policy Objectives

Senate Bill 739 represents a balancing of the State's legitimate purposes of advancing education and fire protection. First, the General Assembly has expressed, through Senate Bill 739 and other legislative enactments, a desire to provide educational opportunities to children of unaccredited school districts. The General Assembly has also enacted laws to advance fire protection. In not wanting to completely override a charter

city's ability to impose some residency requirements on its city employees, the General Assembly only authorized some municipal employees, fire department employees with seven years experience, to leave the municipal boundaries in the case of an unaccredited school district. In classifying this group, the General Assembly was advancing both public education and fire protection while also continuing to allow charter cities to impose some residency requirements on municipal employees. Such a legislative determination is rational.

V. Conclusion

Senate Bill 739 does not clearly and undoubtedly contravene Mo. Const. Art. VI, § 22 or the equal protection clauses of the Missouri and United States constitutions. Senate Bill 739 regulates job qualifications of all fire department personnel across the state. The legislation does not create or fix the powers, duties or compensation of a particular municipal officer or employee. Further, Senate Bill 739 makes a rational classification based upon the State's legitimate interests in public education and fire protection while still allowing municipalities to utilize residency restrictions.

WHEREFORE, *Amicus* Local 73 respectfully requests this Court reverse the Judgment of the Circuit Court and remand with instructions to enter Judgment in favor of the State of Missouri on Counts I and III of the Amended Petition.

Respectfully submitted,

STINSON MORRISON HECKER LLP

By /s/ Nicholas G. Frey

Michael R. Gibbons, #31986

Charles W. Hatfield, #40363

Nicholas G. Frey, #58299

7700 Forsyth Blvd., Suite 1100

St. Louis, MO 63105

Tel: 314-863-0800

Fax: 314-863-9388

mgibbons@stinson.com

chatfield@stinson.com

nfrey@stinson.com

Attorneys for *Amicus Curiae*

International Association of

Fire Fighters Local 73

CERTIFICATE OF COMPLIANCE

The undersigned counsel hereby certifies that pursuant to Mo. S. Ct. Rule 84.06(c), this brief (1) contains the information required by Mo. S. Ct. Rule 55.03; (2) complies with the limitations in Mo. S. Ct. Rule 84.06(b) and Local Rule 360; and (3) contains 3,284 words, exclusive of the sections exempted by Mo. S. Ct. Rule 84.06(b) and Local Rule 360(c), determined using the word count program in Microsoft Word. The undersigned counsel further hereby gives notice that an electronic mail message has been filed in lieu of a floppy disk pursuant to Special Rule 363 and certifies that the file has been scanned for viruses and that it is virus free.

/s/ Nicholas G. Frey

Attorneys for *Amicus Curiae*
International Association of
Fire Fighters Local 73

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served via the Court's electronic notification system on May 3, 2012, upon the following party of record:

Michael Alan Garvin
City Counselor's Office
314 City Hall
St. Louis, MO 63103
Attorneys for Respondents/Cross-Appellant/Plaintiffs

Emily Ann Dodge
Assistant Attorney General
P.O. Box 899
Jefferson City, MO 65102
Attorney for Appellant/Cross-Respondent/Defendant

/s/ Nicholas G. Frey
Attorneys for *Amicus Curiae*
International Association of
Fire Fighters Local 73