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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

S.C. SUPREME COURT

William M. Luce, on behalf of himself and
all similarly situated natural persons,)

Case No. 3:22-cv-03898-MGL

Plaintiff,)

vs.)

**DEFENDANTS', LEXINGTON
COUNTY HEALTH SERVICES
DISTRICT, INC., BRIAN D. SMITH,
AND LYNN COGGINS, ANSWER TO
AMENDED COMPLAINT**

Lexington County Health Services District,
Inc., Brian D. Smith in both his official and
individual capacity, Lynn Coggins in both
her official and individual capacity, and
Peggy G. Boykin, in her official capacity for
the South Carolina Public Employee Benefit
Authority and South Carolina Retirement
System,)

Defendants.)

COME NOW Defendants, Lexington County Health Services District, Inc. (“Defendant LCHSD”), Brian D. Smith in both his official and individual capacity (“Defendant Smith”), and Lynn Coggins in both her official and individual capacity (“Defendant Coggins”) (collectively, “LCHSD Defendants”), by and through their undersigned counsel, and hereby respond to the allegations in Plaintiff’s, William M. Luce (“Plaintiff”), Amended Complaint. LCHSD Defendants acknowledge that Plaintiff purports to bring his claims asserted in the Amended Complaint on behalf of a putative class of similarly situated employees of Defendant LCHSD, and to recover all remedies available in law or equity under 42 U.S.C. § 1983, S.C. Code Ann. § 41-10-80, and 28 U.S.C. § 2201. LCHSD Defendants deny all liability to Plaintiff and the putative class, and further deny that class treatment is appropriate in this case.

LCHSD Defendants acknowledge that Plaintiff filed his Amended Complaint pursuant to the Court’s Memorandum Opinion and Order dated July 25, 2023, and that Plaintiff objects to the

Court's ruling that the South Carolina Retirement System ("SCRS") and the South Carolina Public Employee Benefit Authority ("PEBA") are necessary parties to his Complaint. LCHSD Defendants continue to maintain that SCRS and PEBA are necessary and indispensable parties to this action, pursuant to Federal Rule of Civil Procedure 19 and expressly reserve the right to renew their motion to dismiss Plaintiff's Amended Complaint, pursuant to the Court's Memorandum Opinion and Order dated July 25, 2023 (Doc. 23).

LCHSD Defendants acknowledge that Plaintiff states his intent to further amend his Complaint pursuant to Federal Rules of Civil Procedure 15 and 21 following discovery in this action, to potentially add additional defendants. If Plaintiff attempts to further amend his Complaint, his motion will be subject to the requirements of Federal Rule of Civil Procedure 15. LCHSD Defendants deny that any officers or managers, including Defendant Smith and Defendant Coggins, have directed or enforced any unlawful policies, practices or customs, as alleged by Plaintiff.

LCHSD Defendants further respond to Plaintiff's Amended Complaint as follows:

GENERAL DENIAL

Each and every allegation of the Amended Complaint is expressly denied unless specifically admitted, qualified, or explained herein.

FOR A FIRST DEFENSE

As to Jurisdiction and Venue

1. Responding to Paragraph 1, LCHSD Defendants admit that Defendant LCHSD is a regional health services district with its principal office located in West Columbia, South Carolina, and that Plaintiff previously worked for Defendant LCHSD. LCHSD Defendants deny

that this action is subject to class treatment and further deny any remaining allegations of Paragraph 1.

2. Responding to Paragraph 2, LCHSD Defendants admit that Defendant Coggins is a citizen of South Carolina and works for Defendant LCHSD as an Accounting Manager. The remaining allegations of Paragraph 2 state legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the remaining allegations of Paragraph 2.

3. Responding to Paragraph 3, LCHSD Defendants admit that Defendant Smith is a citizen of South Carolina and works for Defendant LCHSD as Vice President of Human Resources. The remaining allegations of Paragraph 3 state legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the remaining allegations of Paragraph 3.

4. LCHSD Defendants admit, upon information and belief, the allegations of Paragraph 4.

5. Paragraph 5 states a legal conclusion to which no response is required and any allegations are denied.

6. Paragraph 6 states a legal conclusion to which no response is required and any allegations are denied.

As to The Putative Class

7. Responding to Paragraph 7, LCHSD Defendants admit that Plaintiff purports to bring this action on behalf of a putative class of Defendant LCHSD's employees. LCHSD Defendants deny that class certification is appropriate in this matter. The remaining allegations of

Paragraph 7 state legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the remaining allegations of Paragraph 7.

8. Paragraph 8 states a legal conclusion to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegation in Paragraph 8.

As to Common Factual Allegations

As to Section A. The South Carolina Retirement System

9. Responding to Paragraph 9, LCHSD Defendants admit, upon information and belief, that Defendant Peggy Boykin is the Executive Director of PEBA. The remaining allegations of Paragraph 9 purport to restate a public law. To the extent a response is required, the law speaks for itself and any allegations are denied.

10. The allegations of Paragraph 10 purport to restate a public law. To the extent a response is required, the law speaks for itself and any allegations are denied.

11. The allegations of Paragraph 11 purport to restate a public law. To the extent a response is required, the law speaks for itself and any allegations are denied.

12. Responding to Paragraph 12, LCHSD Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations of the number of active members, inactive members, retirees, and beneficiaries of the SCRS or its reported assets and, therefore, deny the same. To the extent the allegations of Paragraph 12 purport to rely on a public record, the public record speaks for itself and any allegations are denied.

13. Paragraph 13 states legal conclusions to which no response is required and any allegations are denied.

14. The allegations of Paragraph 14 purport to restate a public law. To the extent a response is required, the law speaks for itself and any allegations are denied.

15. The allegations of Paragraph 15 purport to restate a public record. To the extent a response is required, the public record speaks for itself and any allegations are denied.

16. The allegations of Paragraph 16 purport to restate a public law. To the extent a response is required, the law speaks for itself and any allegations are denied.

As to Section B. Luce's earnings of Excluded Wages

17. Responding to Paragraph 17, LCHSD Defendants admit, upon information and belief, that Plaintiff was a licensed Certified Registered Nurse Anesthetist who worked as an at-will employee of Defendant LCHSD at the time of the filing of his initial Complaint through June 24, 2023. LCHSD Defendants deny all remaining allegations of Paragraph 17.

18. Responding to Paragraph 18, LCHSD Defendants admit that Plaintiff participated in and contributed to the SCRS through the wages he earned as an employee of Defendant LCHSD, that Defendant LCHSD paid Plaintiff on a biweekly basis, and that Defendant LCHSD provided Plaintiff paystubs during Plaintiff's employment with Defendant LCHSD. LCHSD Defendants deny all remaining allegations of Paragraph 18.

19. Responding to Paragraph 19, LCHSD Defendants admit that Plaintiff received payments described on his pay stubs as "regular base pay" equal to \$4,159.50 per week from November 2019 through on or about May 14, 2022, and \$4,240.00 per week beginning on or about May 15, 2022, through the end of Plaintiff's employment on June 24, 2023. LCHSD Defendants deny all remaining allegations of Paragraph 19.

20. Responding to Paragraph 20, including subparts (a) through (h), LCHSD Defendants admit that Defendant LCHSD's human resource and accounting officers and managers have received training applicable to their respective job responsibilities and comply with all

applicable state and federal laws and regulations, including applicable instruction and guidance from SCRS and PEBA.

21. The allegations of Paragraph 21 state a legal conclusion to which no response is required. To the extent a response is required, LCHSD Defendants admit that Plaintiff was classified as an exempt employee for overtime purposes under the Fair Labor Standards Act.

22. The allegations of Paragraph 22 state a legal conclusion to which no response is required. To the extent a response is required, LCHSD Defendants admit that Plaintiff was classified as an exempt employee for overtime purposes under the Fair Labor Standards Act. LCHSD Defendants deny the remaining allegations of Paragraph 22.

23. Responding to Paragraph 23, LCHSD Defendants admit that during his employment with Defendant LCHSD, Plaintiff worked shifts on weekends, holidays, night shifts, 24-hour shifts, and on-call work and was paid at a rate corresponding to said work. LCHSD Defendants deny the remaining allegations of Paragraph 23.

24. Paragraph 24 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 24, and further deny that class treatment is appropriate in this matter.

25. Paragraph 25 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 25, and further deny that class treatment is appropriate in this matter.

As to Section C. The LMC Defendants' improper withholdings and diversion of Luce and the Putative Class's Excluded Wages to PEBA for use by SCRS

26. Responding to Paragraph 26, LCHSD Defendants deny Plaintiff's characterization of withheld wages as "Excluded Wages," as defined by Plaintiff in Paragraph 24. LCHSD Defendants are without information or knowledge sufficient to form a belief as to the truth of the

allegation regarding the timing of Plaintiff's realization that Defendant LCHSD withheld a portion of his wages for use by SCRS, and therefore, deny the same.

27. Paragraph 27 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 27.

28. Responding to Paragraph 28, LCHSD Defendants admit that in or around April 2022, Plaintiff communicated with employees of Defendant LCHSD regarding his wages. LCHSD Defendants deny any allegation that any withholdings from Plaintiff's wages were unlawful and deny the remaining allegations of Paragraph 28.

29. Responding to Paragraph 29, LCHSD Defendants admit that Plaintiff communicated with other employees of Defendant LCHSD regarding his wages. LCHSD Defendants deny the remaining allegations of Paragraph 29.

30. Responding to Paragraph 30, LCHSD Defendants admit that Defendant LCHSD's employee Tyajuana Mealing ("Mealing") communicated, upon information and belief, with a PEBA representative named George Hazin ("Hazin") regarding withholdings for overtime pay. LCHSD Defendants deny the remaining allegations of Paragraph 30.

31. LCHSD Defendants deny the allegations of Paragraph 31.

32. Responding to Paragraph 32, LCHSD Defendants admit that McFarland forwarded Mealing's e-mail to an email distribution group including Defendant Coggins, McFarland, Keri Lovett ("Lovett"), Lori Mcewen ("Mcewen"), and Lisa McPherson ("McPherson"). LCHSD Defendants deny the remaining allegations of Paragraph 32.

33. Responding to Paragraph 33, LCHSD Defendants admit that on or about April 25, 2022, Defendant Coggins sent an email to McFarland, Mcewen, and McPherson, copying Lovett

and Mealing, stating “[a]ll overtime is considered mandatory at LMC so that is how we report it.” LCHSD Defendants deny the remaining allegation of Paragraph 33.

34. Paragraph 34 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 34.

35. Responding to Paragraph 35, LCHSD Defendants admit that Plaintiff continued to communicate with Defendant Coggins about his wages in or around May 2022. LCHSD Defendants deny the remaining allegations of Paragraph 35.

36. Responding to Paragraph 36, LCHSD Defendants admit that on or around May 13, 2022, Defendant Coggins sent Plaintiff an email stating that she spoke with Denise A.J. Rodriguez and Charlotte “Charlie” Robertson at PEBA regarding “the Premium Pay differential.” LCHSD Defendants deny the remaining allegations of Paragraph 36.

37. LCHSD Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 37, and therefore, deny the same.

38. LCHSD Defendants deny the allegations of Paragraph 38.

39. LCHSD Defendants deny the allegations of Paragraph 39.

40. Responding to Paragraph 40, LCHSD Defendants admit that in or around August 2022, Plaintiff emailed Defendant LCHSD’s Vice President, Operations, Jay Hamm (“Hamm”), regarding his wages and that Plaintiff requested to speak with the “hospital attorney.” LCHSD Defendants deny the remaining allegations of Paragraph 40.

41. Responding to Paragraph 41, LCHSD Defendants admit that on or around August 10, 2022, Hamm forwarded Plaintiff’s email to Defendant Smith. LCHSD Defendants deny the remaining allegation in Paragraph 41.

42. Responding to Paragraph 42, LCHSD Defendants admit that Plaintiff communicated with Defendant Smith by phone about his pay in or around August and September 2022. LCHSD Defendants deny the remaining allegations of Paragraph 42.

43. Responding to Paragraph 43, LCHSD Defendants admit that Defendant Smith discussed a third-party review with Plaintiff. LCHSD Defendants deny the remaining allegations of Paragraph 43.

44. LCHSD Defendants deny the allegations of Paragraph 44.

45. LCHSD Defendants deny the allegations of Paragraph 45.

46. LCHSD Defendants deny the allegations of Paragraph 46.

47. LCHSD Defendants deny the allegations of Paragraph 47.

As to Additional Class Allegations

48. Paragraph 48 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 48.

49. Paragraph 49 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 49.

50. Paragraph 50 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 50.

51. Paragraph 51, including subparts (a) through (i), states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 51, including subparts (a) through (i).

52. Paragraph 52 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 52.

53. Paragraph 53 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 53.

54. Paragraph 54 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 54.

55. LCHSD Defendants are without information or knowledge sufficient to form a belief as to the truth of the allegations of Paragraph 55, and therefore, deny the same. LCHSD Defendants deny that class treatment is appropriate in this matter.

56. Paragraph 56, including subparts (a) through (d), states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 56, including subparts (a) through (d).

57. Paragraph 57 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 57.

As to Plaintiff's FIRST CAUSE OF ACTION AS TO ALL DEFENDANTS
(28 U.S.C. § 2201 – Claim for Declaratory Judgment)

58. Responding to Paragraph 58, LCHSD Defendants incorporate their responses to Paragraphs 1 through 57 as if fully set forth herein.

59. Paragraph 59 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 59.

60. Paragraph 60 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 60.

61. LCHSD Defendants deny the allegations of Paragraph 61, including subparts (a) through (e), and further deny that Plaintiff is entitled to any of the relief requested in Paragraph 61, including subparts (a) through (e), or any relief whatsoever.

62. LCHSD Defendants deny the allegation contained in Paragraph 62.

63. Responding to Paragraph 63, LCHSD Defendants deny that Defendant LCHSD's policies are unlawful or violate any federal rights of Plaintiff or the Putative Class. Further responding, LCHSD Defendants assert that their actions complied at all times with the directives issued by SCRS and PEBA and that SCRS and PEBA will continue to require LCHSD Defendants to comply with such directives. No further response is required to address the procedural information contained in Paragraph 63 as the Court's Order dated July 25, 2023 speaks for itself and any allegations are denied.

As to Plaintiff's SECOND CAUSE OF ACTION AS TO ALL DEFENDANTS
(Claim for Injunctive Relief)

64. Responding to Paragraph 64, LCHSD Defendants incorporate their responses to Paragraphs 1 through 63 as if fully set forth herein.

65. LCHSD Defendants deny the allegations contained in Paragraph 65.

66. LCHSD Defendants deny the allegations contained in Paragraph 66.

67. Paragraph 67 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny that they have infringed upon Plaintiff's or the Putative Class's constitutional rights and further deny that they have unlawfully withheld or diverted their earned wages.

68. LCHSD Defendants deny the allegations contained in Paragraph 68.

69. LCHSD Defendants deny the allegations contained in Paragraph 69.

70. Paragraph 70 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 70. Further responding, Plaintiff and the Putative Class have an adequate remedy to correct any alleged unlawful conduct under the Claims Procedure Act, S.C. Code Ann. § 9-21-30.

71. Paragraph 71 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 71.

72. LCHSD Defendants deny the allegation contained in Paragraph 72.

73. Responding to Paragraph 73, LCHSD Defendants deny that Defendant LCHSD's policies are unlawful or violate any federal rights of Plaintiff or the Putative Class. Further responding, LCHSD Defendants assert that their actions complied at all times with the directives issued by SCRS and PEBA and that SCRS and PEBA will continue to require LCHSD Defendants to comply with such directives. No further response is required to address the procedural information contained in Paragraph 73 as the Court's Order dated July 25, 2023 speaks for itself and any allegations are denied.

As to Plaintiff's THIRD CAUSE OF ACTION AS TO THE LMC DEFENDANTS ONLY
(42 U.S.C. § 1983 – Claim for Monetary Awards)

74. Responding to Paragraph 74, LCHSD Defendants incorporate their responses to Paragraphs 1 through 73 as if fully set forth herein.

75. Paragraph 75 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 75.

76. LCHSD Defendants deny the allegations of Paragraph 76.

77. LCHSD Defendants deny the allegations of Paragraph 77.

78. LCHSD Defendants deny the allegations of Paragraph 78.

79. Paragraph 79 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 79.

80. Paragraph 80 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 80.

81. LCHSD Defendants deny the allegations of Paragraph 81.

82. LCHSD Defendants deny the allegations of Paragraph 82.

As to Plaintiff's FOURTH CAUSE OF ACTION AS TO THE LMC DEFENDANTS ONLY
(South Carolina Payment of Wages Act – Claim for Monetary Awards)

83. Responding to Paragraph 83, LCHSD Defendants incorporate their responses to Paragraphs 1 through 82 as if fully set forth herein.

84. Paragraph 87 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 84.

85. LCHSD Defendants deny the allegations of Paragraph 85.

86. LCHSD Defendants deny the allegations of Paragraph 86.

87. Paragraph 87 states legal conclusions to which no response is required. To the extent a response is required, LCHSD Defendants deny the allegations of Paragraph 87.

88. LCHSD Defendants deny that class certification is appropriate for this matter and further deny that Plaintiff is entitled to any of the relief requested in Plaintiff's Prayer for Relief in subparts (1) through (6) immediately following Paragraph 87.

As to Prayer for Relief

89. Responding to the unnumbered paragraph setting forth Plaintiff's Prayer for Relief, LCHSD Defendants deny that Plaintiff is entitled to a trial by jury on his First or Second Causes of Action for declaratory and injunctive relief. LCHSD Defendants admit that Plaintiff is entitled to a trial by jury with respect to the Third and Fourth Causes of Action, to the extent that such claims have not already been dismissed pursuant to any motion by LCHSD Defendants. LCHSD Defendants deny that Plaintiff is entitled to the requested relief set forth in sub-sections (1) through (6), or to any relief whatsoever in this case.

FOR A SECOND DEFENSE

90. Plaintiff's Amended Complaint fails to state a claim against LCHSD Defendants upon which relief may be granted under Rule 12(b)(6) of the Federal Rules of Civil Procedure.

FOR A THIRD DEFENSE

91. Subject to the anticipated assertion of Eleventh Amendment immunity by SCRS and PEBA, LCHSD Defendants reserve the right to renew their motion to dismiss Plaintiff's Amended Complaint pursuant to Rule 12(b)(7) of the Federal Rules of Civil Procedure for failure to join necessary and indispensable parties under Federal Rule of Civil Procedure 19.

FOR A FOURTH DEFENSE

92. Plaintiff is barred from relief to the extent that Plaintiff lacks standing to bring some or all of the alleged causes of action against LCHSD Defendants, either individually or as a representative of the proposed class.

FOR A FIFTH DEFENSE

93. Plaintiff fails to state a claim under 42 U.S.C. § 1983 against LCHSD Defendants because Defendant LCHSD and Defendants Smith and Coggins in their official capacities are not "persons" within the meaning of Section 1983.

FOR A SIXTH DEFENSE

94. Plaintiff fails to state a claim against Defendant LCHSD for declaratory judgment, injunctive relief, and damages under Section 1983 because Defendant LCHSD is an arm of the State of South Carolina, and therefore, is entitled to sovereign immunity.

FOR A SEVENTH DEFENSE

95. Plaintiff fails to state a claim against Defendants Coggins and Smith under Section 1983 because Defendants Coggins and Smith, in their official capacities, are entitled to sovereign immunity.

FOR AN EIGHTH DEFENSE

96. Plaintiff fails to state a claim upon which relief can be granted against Defendants Coggins and Smith in their individual capacities because Defendants Coggins and Smith are entitled to qualified immunity.

FOR A NINTH DEFENSE

97. All actions taken by LCHSD Defendants with respect to Plaintiff were justified, reasonable, and in good faith, without any improper motive, purpose, or means.

FOR A TENTH DEFENSE

98. LCHSD Defendants have, at all times, had reasonable grounds for believing their practices complied with applicable law, regulations, and guidance from SCRS and PEBA.

FOR AN ELEVENTH DEFENSE

99. Plaintiff's claims are barred by the doctrines of laches, estoppel, waiver and/or unclean hands.

FOR A TWELFTH DEFENSE

100. Plaintiff's claims are barred to the extent they exceed the applicable statute of limitations.

FOR A THIRTEENTH DEFENSE

101. LCHSD Defendants submit that any award of punitive damages would violate their equal protection and due process rights as guaranteed by the United States and South Carolina Constitutions. Any award of punitive damages is limited by S.C. Code Ann. § 15-32-530.

FOR A FOURTEENTH DEFENSE

102. LCHSD Defendants have engaged attorneys to represent them in defense of Plaintiff's claims, and LCHSD Defendants are thereby entitled to an award of reasonable attorneys' fees and costs.

FOR A FIFTEENTH DEFENSE

103. Any award of damages should be barred or limited to the extent that the relief demanded by Plaintiff is improper, inappropriate, exceeds the scope of permissible damages and remedies, and/or otherwise is not available under the laws upon which Plaintiff's claims rest.

FOR A SIXTEENTH DEFENSE

104. Plaintiff's class allegations are barred as a matter of law because Plaintiff cannot satisfy the prerequisites for class certification.

FOR A SEVENTEENTH DEFENSE

105. The allegations set forth by the Plaintiff on behalf of himself and the alleged class, the existence of which is expressly denied, involve matters for which individual questions predominate, and therefore, are not appropriate claims for class treatment.

FOR AN EIGHTEENTH DEFENSE

106. Plaintiff is an inadequate representative of any alleged class of persons he purports to represent, the existence of which is expressly denied.

FOR A NINETEENTH DEFENSE

107. Plaintiff's Amended Complaint, and each and every cause of action alleged therein, is barred to the extent that Plaintiff or any putative class members have executed a legally enforceable release of any claims asserted in this lawsuit.

FOR A TWENTIETH DEFENSE

108. Certification of a class, as applied to the facts and circumstances of this case, would constitute a denial of LCHSD Defendants' procedural rights and right to trial by jury and to substantive and procedural due process, in violation of the Fourteenth Amendment of United States Constitution.

FOR A TWENTY-FIRST DEFENSE

109. This suit may not be properly maintained as a Rule 23 class action because: (1) Plaintiff's proposed class definition is improper; (2) Plaintiff has failed to plead and cannot establish, the necessary procedural elements for class treatment; (3) a class action is not an appropriate method for the fair and efficient adjudication of the claims described in the Complaint; (4) common issues of fact or law do not predominate and to the contrary, individual issues predominate; (5) Plaintiff's claims are not representative or typical of the claims of the putative class; (6) Plaintiff is not a proper class representative; (7) Plaintiff and his counsel of record are not adequate representatives for the alleged putative class; (8) Plaintiff cannot satisfy the requirements for the class action treatment, and class action treatment is neither appropriate nor constitutional; (9) there is not a well-defined community of interest in the questions of law or fact affecting Plaintiff and the members of the alleged putative class; and (10) the alleged putative class is not ascertainable, nor are its members identifiable.

FOR A TWENTY-SECOND DEFENSE

110. Plaintiff's claims and those of any putative class members, the existence of which is expressly denied, are barred by the doctrine of *res judicata* and/or collateral estoppel to the extent that Plaintiff or any member of the putative class, or any other putative beneficiary of this action has asserted in any prior legal or administrative proceeding that he or she was entitled to any additional payment to which Plaintiff claims that he, or members of the putative collective action, are entitled.

FOR A TWENTY-THIRD DEFENSE

111. To the extent that Plaintiff may bring claims against LCHSD Defendants for declaratory judgment and/or injunctive relief, which LCHSD Defendants deny, Plaintiff is not entitled to a jury trial as to any equitable issue raised in the Amended Complaint.

FOR A TWENTY-FOURTH DEFENSE

112. LCHSD Defendants reserve the right to supplement their affirmative defenses to include any applicable defense, both legal and factual.

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WHEREFORE, having fully answered the Amended Complaint, LCHSD Defendants respectfully request that the Court:

- (a) Dismiss Plaintiff's claims against LCHSD Defendants in their entirety, with prejudice;
- (b) Enter judgment in favor of LCHSD Defendants and against Plaintiff on all claims; and
- (c) Award LCHSD Defendants their costs and attorneys' fees and such other further relief as the Court may deem just and appropriate.

Respectfully submitted,

By: s/ J. Hagood Tighe

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August 29, 2023