

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JOSHUA VASQUEZ, and)	
MIGUEL CARDONA,)	
)	
Plaintiffs,)	
)	No.
v.)	
)	Judge
ANITA ALVAREZ, in her official)	Magistrate Judge
capacity as the State’s Attorney of)	
Cook County, and the CITY OF CHICAGO,)	
a municipal corporation,)	
)	Jury Demand
Defendants.)	

**COMPLAINT FOR CIVIL RIGHTS VIOLATIONS,
DECLARATORY JUDGMENT AND OTHER INJUNCTIVE RELIEF**

Plaintiffs Joshua Vasquez and Miguel Cardona, through their undersigned counsel, complain against the Defendants, Cook County State’s Attorney Anita Alvarez and the City of Chicago as follows:

Nature of the Case

1. This is an action pursuant to 42 U.S.C. §1983 and 28 U.S.C. §2201 challenging the constitutionality of 720 ILCS 5/11-9.3(b-10), which makes it unlawful for an individual deemed a child sex offender under Illinois law “to knowingly reside within 500 feet of a playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age.” Plaintiffs challenge the constitutionality of this statute under the Ex Post

Facto Clause, the Fifth Amendment of the U.S. Constitution, and the Fourteenth Amendment of the U.S. Constitution.

2. Plaintiffs also challenge the City of Chicago's procedures for enforcing 720 ILCS 5/11-9.3(b-10). Specifically, Chicago police give people classified as child sex offenders 30 days to move from their residence any time a new playground, daycare facility, or a facility providing programs or services to minors opens within 500 feet of their residence. After 30 days, an individual who has not vacated his or her home can be arrested and charged with a felony. Plaintiffs challenge the City's enforcement procedures under the Fourteenth Amendment.

3. Chicago police have notified Plaintiffs Joshua Vasquez and Miguel Cardona that they must vacate their current residences because home daycare facilities have recently opened within 500 feet of their homes. Mr. Vasquez and been informed that he must move by no later than September 24, 2016, and Mr. Cardona has been informed that he must move by no later than September 16, 2016.

Jurisdiction and Venue

4. Jurisdiction is proper in this court pursuant to 28 U.S.C. §1331 because this action arises under federal law. Specifically, this case arises under 42 U.S.C. §1983 and alleges violations of Plaintiffs' rights under the United States Constitution.

5. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) as a substantial part of the events giving rise to Plaintiffs' claims occurred in the Northern District of Illinois.

6. Declaratory relief is authorized under 28 U.S.C. § 2201. A declaration of law is necessary and appropriate to determine the respective rights and duties of parties to this action.

The Parties

7. Plaintiff Joshua Vasquez is a resident of Chicago, Illinois. Vasquez is subject to the residency restrictions contained in 720 ILCS 5/11-9.3(b-10).

8. Plaintiff Miguel Cardona is a resident of Chicago, Illinois. Cardona is subject to the residency restrictions contained in 720 ILCS 5/11-9.3(b-10).

9. Defendant Anita Alvarez is sued in her official capacity as the Cook County States Attorney. In this capacity, she is charged with the enforcement of the criminal laws of the State of Illinois, including 720 ILCS 5/11-9.3(b-10). She is sued solely in her official capacity for purposes of declaratory and injunctive relief.

10. Defendant Alvarez has in the past initiated prosecutions for violation of 720 ILCS 5/11-9.3(b-10) and Plaintiffs Vasquez and Cardona fear that Defendant Alvarez will prosecute them in the future for violations of the statute.

11. Defendant City of Chicago is a municipal corporation, duly incorporated under the laws of the State of Illinois.

12. Chicago police officers have in the past made arrests and brought charges for violation of 720 ILCS 5/11-9.3(b-10). Plaintiffs reasonably fear that the City will arrest and/or charge them for violations of the statute in the future.

13. As described below, the City is liable for its enforcement policies pursuant to *Monell v. Department of Social Services of the City of New York*, 436 U.S. 658 (1978)

The Challenged Statute

14. The Illinois legislature enacted 720 ILCS 5/11-9.3(b-10) in 2000. When first enacted, the statute prohibited individuals classified as “child sex offenders” from living within 500 feet of a “playground or a facility providing programs or services exclusively directed toward persons under 18 years of age.”

15. The legislature amended the statute in 2006 to add a prohibition on individuals classified as “child sex offenders” from living within 500 feet of “a child care institution, day care center, or part day child care facility.”

16. The legislature amended the statute again in 2008 to add a prohibition on individuals classified as “child sex offenders” from living within 500 feet of “a day care home or group day care home.”

17. The statute applies retroactively to all individuals classified as child sex offenders whether their offense was committed before or after the effective date of the statute. The only exception is that an individual designated as a child sex offender who owns his or her home and purchased it prior to the effective date of the statute (and each amendment thereto) is not subject to the restrictions set forth in 720 ILCS 5/11-9.3(b-10).

18. An individual classified as a child sex offender who purchased his or her home after the effective date of the statute is subject to its restrictions and can

be forced to move if a prohibited location or facility opens within 500 feet of the home, even if the residence complied with the restrictions set forth in 720 ILCS 5/11-9.3(b-10) at the time he or she purchased the home.

19. An individual classified as a child sex offender who rents his or her residence can be forced to move if a prohibited location or facility opens within 500 feet of the residence, even if the residence complied with the restrictions set forth in 720 ILCS 5/11-9.3(b-10) at the time he or she rented the property.

20. People convicted of a qualifying offense and classified as child sex offenders are subject to 720 ILCS 5/11-9.3(b-10) for the rest of their lives, including after they are no longer required to register as sex offenders with the State.

21. Illinois residents classified as child sex offenders face the possibility of being repeatedly uprooted and forced to abandon homes in order to comply with the restrictions in 720 ILCS 5/11-9.3(b-10).

Factual Allegations

Joshua Vasquez

22. Plaintiff Joshua Vasquez was convicted of one count of possession of child pornography in 2001, making him a child sex offender as defined in 720 ILCS 5/11-9.3(d)(1). He is required to register with the State of Illinois as a sex offender for the rest of his life.

23. Vasquez has no other criminal convictions and has not re-offended since his 2001 conviction. He has been steadily employed at the same job since 2004.

24. Vasquez currently resides in the second-floor apartment at 4834 W. George Street in Chicago, Illinois, with his wife and their nine-year-old daughter. They have lived there for three years and currently have a one-year lease for this apartment that they recently renewed. The lease runs until August 19, 2017.

25. Vasquez's daughter attends a Chicago public school that is walking distance from their home. Mr. Vasquez and/or his wife walk their daughter to school every day.

26. When Vasquez and his family rented this residence, Chicago police confirmed that it was in compliance with the restrictions set forth in 720 ILCS 5/11-9.3(b-10).

27. On August 25, 2016, Vasquez went to Chicago police headquarters to complete his annual registration requirements.

28. After Vasquez completed his registration, Chicago Police Officer Scott Brownley handed him a form stating that his address is in violation of 720 ILCS 5/11-9.3(b-10) because of a home daycare that has opened at 4918 W. George Street, which is approximately 480 feet from Vasquez's residence. The form states that Vasquez must move by no later than September 24, 2016, and that if he fails to move to a compliant address by that date he can be arrested and prosecuted.

29. Vasquez has been looking for compliant housing since receiving this notice, but he has been unable to locate a suitable address where he can afford to live. If forced to vacate his home by September 24, he will be homeless and will be separated from his wife and daughter.

30. Vasquez has not received any hearing prior to being forced to vacate his home. No judge has made a determination that Vasquez poses a risk to the community or to children who may attend a daycare in his neighborhood.

31. Since Vasquez and his family have lived at 4834 W. George Street, there has been a home daycare center located at 4924 W. George Street—two doors west of the new daycare at 4918 W. George, and approximately 550 feet from Vasquez’s residence. There have been no problems posed by Vasquez’s family living in this proximity to a home daycare center.

32. This is the second time in five years that Vasquez and his family have been informed that they must move because of a home daycare facility opening in his neighborhood. In 2013, Mr. Vasquez’s family was forced to move because someone obtained a daycare license within 500 feet of their apartment.

33. When selecting their current apartment, Mr. Vasquez and his wife made efforts to remain in the same neighborhood so their child would not have to change elementary schools.

34. If Vasquez’s family has to move from their home, his daughter’s schooling will be disrupted if they cannot find a compliant address within the same school district.

Miguel Cardona

35. Plaintiff Miguel Cardona was convicted of indecent solicitation of a child in 2004, making him a child sex offender as defined in 720 ILCS 5/11-9.3(d)(1). He is required to register with the State of Illinois as a sex offender until 2017.

36. Cardona has not re-offended since his 2004 conviction. Since his release from custody, he completed cosmetology training and obtained a cosmetology license from the State of Illinois.

37. In addition to cutting hair, Cardona is the full-time caretaker for his mother, who has lung cancer and is currently undergoing chemotherapy.

38. Cardona resides with his mother at 3152 S. Karlov Street in Chicago, Illinois. Cardona has lived at this address for approximately 25 years. He has been the owner of the building since 2010.

39. From 2006 to 2015, each time that Cardona completed his annual sex offender registration, Chicago police have confirmed that the address is compliant with the restrictions set forth in 720 ILCS 5/11-9.3(b-10).

40. On August 17, 2016, Cardona went to Chicago police headquarters to complete his annual registration requirements.

41. After Cardona completed his registration, Chicago Police Officer Scott Brownley handed him a form stating that his address is in violation of 720 ILCS 5/11-9.3(b-10) because of a home daycare at 3123 S. Keeler Street, which is approximately 475 feet from Cardona's residence. The form states that Cardona must move by no later than September 16, 2016, and that if he fails to move to a compliant address by that date he can be arrested and prosecuted.

42. Cardona does not have the means to obtain new housing in such a short period of time. If forced to vacate his home by September 16, he will ask friends who live at a compliant address to take him in temporarily.

43. Cardona is the sole caretaker for his mother. Due to her illness and medical treatment, she needs substantial help with daily activities such as grocery shopping, preparing meals and going to doctor's appointments. If Cardona is forced to move, his mother will be left without her son's assistance.

44. Cardona has not received any hearing prior to being forced to vacate his home. No judge has made a determination that Cardona poses a risk to the community or to children who may attend a daycare in his neighborhood.

45. According to the website for the Illinois Department of Children and Family Services, there has been a group day care home at 3123 S. Keeler since 2014. Chicago police did not consider Cardona's property to be non-compliant until this year and there have been no problems with Cardona and his mother living in this proximity to a home daycare.

The Statute and the City's Enforcement Policies Deny Plaintiffs and Others Due Process

46. Plaintiffs have a protectable liberty interest in choosing where and with whom they live.

47. Plaintiffs have a fundamental constitutional right to arrange their family affairs as they see fit, including the choice to live with members of their families.

48. Plaintiff Vasquez has a fundamental constitutional right to maintain a custodial, caring, and nurturing parental relationship with his daughter.

49. These constitutional rights have been and will continue to be severely affected by the restrictions on where Plaintiffs can live imposed under 720 ILCS 5/11-9.3(b-10) and the City's enforcement policies.

50. Prior to applying the residency restrictions of 720 ILCS 5/11-9.3(b-10) or forcing an individual to move from his home, neither the City nor the state provides any hearing or other procedure to determine whether the individual affected poses a threat to the community. By failing to provide any pre-enforcement hearing, the Defendants arbitrarily restrict Plaintiffs' and others' fundamental right to familial consortium and their right to choose where and with whom they reside. The failure to provide any pre-enforcement hearing or evaluation creates a constitutionally intolerable risk of an erroneous deprivation of those liberty interests.

51. The procedural safeguard of a pre-enforcement hearing would provide Plaintiffs and others subject to the residency restrictions with notice, an opportunity to be heard, and knowledge of the factual basis upon which the official action was to be undertaken. Such a procedure would greatly reduce the risk of an erroneous deprivation of such liberty interests.

52. The Defendants have no legitimate governmental interest that outweighs the benefits of providing notice and an opportunity to be heard.

The Statute and the City's Enforcement Policies Bear No Reasonable Relationship to Legitimate Public Safety Concerns

53. The restrictions imposed under 720 ILCS 5/11-9.3(b-10) are arbitrary, oppressive, and unreasonable because they apply without any evaluation of what, if

any, risk a particular individual poses to the community and lack any rational relationship to their ostensible goal of public safety.

54. Whether an individual is subject to the residency restrictions imposed under 720 ILCS 5/11-9.3(b-10) is based solely on whether the individual was convicted of an enumerated offense under 720 ILCS 5/11-9.3(d)(1) and not on any individual assessment of the risk posed by a particular person.

55. The restrictions on where individuals classified as “child sex offenders” can live imposed under 720 ILCS 5/11-9.3(b-10) are premised on the assumption that all individuals convicted of sex offenses pose a great risk to public safety, which justifies lifelong restrictions on where they are allowed to reside.

56. Such an assumption is not based on sound evidence. The evidence shows that vast majority of sex offenses are committed not by past offenders, but by individuals without prior sex offense convictions. For example, one analysis showed that 95 percent of people arrested for sex offenses had no prior sexual offense conviction.¹

57. Likewise, data does not support the assumption that recidivism rates are particularly high among individuals convicted of sex offenses. The largest-ever study of sex offense recidivism, which was conducted for the U.S. Department of Justice Bureau of Justice Statistics in 2003, showed a 5.3 percent rate of sex offense recidivism among sex offenders within three years of their release from prison,

¹ Sandler, J. C., Freeman, N. J., & Socia, K. M. (2008). “Does a Watched Pot Boil? A time-series analysis of New York State's sex offender registration and notification law.” *Psychology, Public Policy and Law*, 14(4), 284-302.

² Langan, P., Schmitt, E., & Durose, M. (2003). “Recidivism of Sex Offenders Released

compared to a 17.1 percent re-arrest rate for violent offenders and 43 percent overall re-arrest rate for the same period.²

58. Moreover, current data and studies show that a previous conviction is not a good predictor of the risk of future offenses. Rather, recidivism rates vary based on the age of the offender and the time that the ex-offender has been living in the community offense-free. In particular, research shows that the risk for re-offending is reduced by half when a person has spent 5-10 years offense-free in the community and the risk continues to decline the more time the person spends offense-free in the community. The risk for recidivism also declines with age.³

59. The residency restrictions imposed under 720 ILCS 5/11-9.3(b-10) are also premised on the idea that keeping individuals deemed “child sex offenders” away from places where children gather is likely to prevent crimes against children.

60. However, research shows that proximity to schools, daycares and other places where children congregate has no effect on re-offense rates. A 2010 study compared the residential proximity of sex-crime recidivists and non-recidivists to schools and daycares in Florida. The study showed that those who lived within 1,000, 1,500, or 2,500 feet of schools or daycare centers did not reoffend more frequently than those who lived farther away and that there was no significant correlation between recidivism and the number of feet the offender lived from a

² Langan, P., Schmitt, E., & Durose, M. (2003). “Recidivism of Sex Offenders Released From Prison in 1994.” Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

³ Harris, A.J.R., Phenix, A., Hanson, R. K., & Thornton, D. (2003). Static-99 Coding Rules (available at: http://www.static99.org/pdfdocs/static-99-coding-rules_e.pdf).

school.⁴

61. In addition, by focusing on the danger posed to children by strangers, 720 ILCS 5/11-9.3(b-10) misidentifies the source of risk that children will be the victim of a sex crime. According to the Department of Justice Bureau of Justice Statistics, 93 percent of child victims of sexual abuse are victimized by a relative or trusted family acquaintance. About 40 percent of sexual assaults take place in the victim's own home, and 20 percent take place in the home of a friend, neighbor, or relative.⁵ Only 7 percent of child sex abusers are strangers to their victims.⁶

62. Current data shows that 720 ILCS 5/11-9.3(b-10) actually serves to undermine its ostensible public safety objectives because it deprives individuals classified as child sex offenders of stable homes and family relationships and hampers law enforcement efforts to monitor, supervise, and rehabilitate offenders.

63. As the Sixth Circuit recently observed, laws restricting where people can live “exacerbate risk factors for recidivism by making it hard for registrants to get and keep a job, find housing, and reintegrate into their communities.” *Does v. Snyder*, No. 15-1536 (6th Cir. Aug. 25, 2016). See also, *In Re Taylor*, 60 Cal. 4th 1019, 1038 (Cal., 2015) (a residency law that “imposed harsh and severe

⁴ Zandbergen, P. A., Levenson, J. S., & Hart, T. (2010). “Residential proximity to schools and daycares: An empirical analysis of sex offense recidivism.” *Criminal Justice and Behavior*, 37(5), 482-502.

⁵ Bureau of Justice Statistics. (1997). “Sex offenses and offenders: An analysis of Data on rape and sexual assault.” Washington, DC: U.S. Department of Justice.

⁶ Berliner, L., Schram, D., Miller, L., & Milloy, C. D. (1995). “A sentencing alternative for sex offenders: A study of decision-making and recidivism.” *Journal of Interpersonal Violence*, 10 (4), 487-502; Bureau of Justice Statistics. (2002). *Criminal Victimization*. Washington, DC: U.S. Department of Justice.

restrictions” on where parolees could live “while producing conditions that hamper, rather than foster, efforts to monitor, supervise, and rehabilitate these persons ... bears no rational relationship to advancing the state’s legitimate goal of protecting children from sexual predators.”)

720 ILCS 5/11-9.3(b-10) Imposes Ex Post Facto Punishment

64. The residency restrictions of 720 ILCS 5/11-9.3(b-10) apply to people whose dates of conviction precede the effective date of the statute.

65. As evidenced by its express terms, the purpose of 720 ILCS 5/11-9.3(b-10) is punitive. First, the statute is codified within the Illinois Criminal Code. Whether an individual is subjected to the residency restrictions depends on whether they have been convicted of a criminal offense, and the restrictions do not apply to individuals who have not been convicted of a criminal offense. A person who violates the statute can be charged with a felony and, if convicted, sentenced to imprisonment in the Illinois Department of Corrections.

66. Additionally, 720 ILCS 5/11-9.3(b-10) imposes affirmative disabilities and restraints on individuals classified as child sex offenders by severely limiting where in the state they can reside and placing them in constant fear that they can be ejected from their homes on short notice at any time. Under the terms of 720 ILCS 5/11-9.3(b-10), there is no place in Illinois where an individual classified as a child sex offender can live without being continually at risk of being forced to move.

67. The restraints on where individuals subject to the statute can live severely limit various liberty interests of individuals subject to the statute, which are conditions consistent with the intent to punish.

68. Additionally, the effects of the statute are overwhelmingly punitive. The statute applies only to those who have been convicted of a criminal offense, but governs conduct that is not criminal and which in the vast majority of cases is unrelated to the offense that gave rise to the conviction.

69. Finally, the statute is punitive in effect because, as set forth above, it bears no rational connection to a non-punitive purpose and imposes affirmative disabilities and restraints far in excess of whatever non-punitive purposes it is purportedly intended to serve.

70. Continued enforcement or threats of enforcement of the statute violates the rights of Plaintiffs and other individuals deemed “child sex offenders” under the Ex Post Facto Clause of the United States Constitution. Therefore, the statute is void, both facially and as applied, and should be enjoined.

71. The Sixth Circuit recently found a similar statutory scheme in Michigan violated the Ex Post Facto Clause, writing as follows: “[Michigan’s Sex Offender Registration Act] brands registrants as moral lepers solely on the basis of a prior conviction. It consigns them to years, if not a lifetime, of existence on the margins, not only of society, but often, as the record in this case makes painfully evident, from their own families, with whom, due to school zone restrictions, they may not even live.” *Does v. Snyder*, No. 15-1536 (6th Cir. Aug. 25, 2016).

The Statute and the City's Enforcement Policies Result in Takings of Plaintiffs' and Others' Property Without Just Compensation

72. A government regulation of private property that deprives the property owner of the property's beneficial economic use is a taking that is compensable under the Fifth Amendment.

73. Regulations that fall short of eliminating property's beneficial economic use may still effect a taking, depending upon the extent of the regulation's economic impact on the landowner, the extent to which it interferes with the owners' reasonable expectations, and the interests promoted by the government action.

74. Plaintiff Cardona has a protectable property interest in the home he owns and in which he resides with his mother.

75. The application of 720 ILCS 5/11-9.3(b-10) to prohibit Plaintiff Cardona from living in his house utterly impairs his use and enjoyment of this property and thus effects a taking.

76. The City's enforcement policy, whereby which Cardona must vacate the home he owns within 30 days, likewise impairs Cardona's use and enjoyment of this property and thus effects a taking.

77. Plaintiff Vasquez has a protectable property interest in his lease agreement for the apartment where he resides with his family.

78. The application of 720 ILCS 5/11-9.3(b-10) to prohibit Plaintiff Vasquez from living in the apartment he leases with his family effects a taking of Vasquez's property.

79. The City's enforcement policy, whereby which Vasquez must vacate the property that he leases within 30 days likewise impairs Vasquez's use and enjoyment of the property he leases and thus effects a taking.

COUNT I
42 U.S.C. § 1983: VIOLATION OF THE EX POST FACTO CLAUSE

80. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation above.

81. The retroactive application of 720 ILCS 5/11-9.3(b-10) violates the Ex Post Facto Clause of the U.S. Constitution, Art. I, § 10, cl. 1, because it makes more burdensome the punishment imposed for offenses committed prior to enactment of the law, and it applies retroactively.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

- (a) issue a preliminary and then permanent injunction prohibiting Defendants from enforcing 720 ILCS 5/11-9.3(b-10);
- (b) issue a declaratory judgment that 720 ILCS 5/11-9.3(b-10) is unconstitutional both on its face and as applied to Plaintiffs;
- (c) enter judgment for reasonable attorney's fees and costs incurred in bringing this action; and
- (d) grant Plaintiffs any other relief the Court deems appropriate.

COUNT II
42 U.S.C. § 1983: VIOLATION OF THE FOURTEENTH AMENDMENT
GUARANTEE OF PROCEDURAL DUE PROCESS

82. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation above.

83. The application of 720 ILCS 5/11-9.3(b-10) to Plaintiffs and others

deemed child sex offenders without any notice, hearing and/or determination of whether the individual affected poses a threat to the community violates the Fourth Amendment guarantee of procedural due process.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

- (a) issue a preliminary and then permanent injunction prohibiting Defendants from enforcing 720 ILCS 5/11-9.3(b-10);
- (b) issue a declaratory judgment that 720 ILCS 5/11-9.3(b-10) is unconstitutional both on its face and as applied to Plaintiffs;
- (c) enter judgment for reasonable attorney's fees and costs incurred in bringing this action; and
- (d) grant Plaintiffs any other relief the Court deems appropriate.

COUNT III
42 U.S.C § 1983: FIFTH AMENDMENT TAKINGS

84. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation above.

85. Depriving Plaintiffs and others deemed child sex offenders of the use and enjoyment of their property without just compensation violates the takings clause of the Fifth Amendment to the U.S. Constitution.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court:

- (a) issue a preliminary and then permanent injunction prohibiting Defendants from enforcing 720 ILCS 5/11-9.3(b-10);
- (b) issue a declaratory judgment that 720 ILCS 5/11-9.3(b-10) is unconstitutional both on its face and as applied to Plaintiffs;
- (c) enter judgment for reasonable attorney's fees and costs incurred in bringing this action; and

- (d) grant Plaintiffs any other relief the Court deems appropriate.

COUNT IV

**42 U.S.C. § 1983: FOURTEENTH AMENDMENT DUE PROCESS
(All Plaintiffs Against Defendant Alvarez)**

86. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation above.

87. The prohibitions set forth in 720 ILCS 5/11-9.3(b-10) are not rationally related to a legitimate state interest and thus fail rational basis review.

WHEREFORE, Plaintiffs respectfully request that this Court:

- (a) issue a preliminary and then permanent injunction prohibiting enforcement of 720 ILCS 5/11-9.3(b-10);
- (b) issue a declaratory judgment that 720 ILCS 5/11-9.3(b-10) is unconstitutional both on its face and as applied to Plaintiffs;
- (c) award Plaintiffs nominal and/or compensatory damages;
- (d) enter judgment for reasonable attorney's fees and costs incurred in bringing this action; and
- (e) grant Plaintiffs any other relief the Court deems appropriate.

Plaintiffs demand trial by jury.

Respectfully submitted,

/s/ Mark G. Weinberg

/s/ Adele D. Nicholas

/s/ Richard J. Dvorak

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