

**IN THE CIRCUIT COURT OF ST. LOUIS CITY
STATE OF MISSOURI**

JAMES CRAWFORD,)	
Plaintiff,)	
)	
v.)	Case No. 2122-CC00751
)	
POLICE RETIREMENT)	
SYSTEM OF CITY OF ST. LOUIS,)	
et al.,)	
Defendants.)	

ANSWER OF DEFENDANT STATE OF MISSOURI

Defendant, the State of Missouri, by and through its attorneys, for its answer to Plaintiff’s Amended Petition states as follows:

Defendant denies each and every allegation in Plaintiffs’ First Amended Petition, unless expressly admitted, and then only to the extent of the referenced response. Any factual averment admitted is limited to the fact itself and does not extend to any conclusions, characterizations, implications, or speculation contained therein or in the First Amended Petition as a whole.

“ALLEGATIONS COMMON TO ALL COUNTS”

“Parties”

1. Plaintiff Charles A. Lane dismissed his claims in this action on May 20, 2021. Paragraph 1 of the Amended Petition contains a legal conclusion that the State is not required to admit or deny. To the extent a further response is required, the State is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations

contained in Paragraph 1 of the Amended Petition and therefore denies the same.

2. The State is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2 of the Amended Petition and therefore denies the same.

3. Paragraph 3 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. The Police Retirement System of the City of St. Louis (the “Retirement System”) is defined in §§86.200 through 86.364, RSMo. Section 86.200(20), RSMo. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 3 of the Amended Petition.

4. Paragraph 4 of the Amended Petition contains legal conclusions and a characterization of that pleading that the State is not required to admit or deny. The State admits that the City of St. Louis is a constitutional charter city.

5. The State admits the allegations contained in Paragraph 5 of the Amended Petition.

“Venue and Jurisdiction”

6. Paragraph 6 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. The State

admits that the Circuit Court of St. Louis City is an appropriate venue for this action.

7. The State admits that this Court has jurisdiction over this case in that Missouri's circuit courts have jurisdiction over all civil cases and matters.

“Factual Allegations”

“Count I”

“Declaratory and Injunctive Relief”

8. As to Paragraph 8 of the Amended Petition, the State admits and denies Paragraphs 1 through 7 of the Amended Petition in accordance with the State's answers as if set forth herein.

9. Paragraph 9 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. The State admits that the Hancock Amendment, Mo. Const. art. X, sections 16 to 22, became effective on November 4, 1980. Article X, sec. 21 speaks for itself and the State denies all allegations not in conformance with art. X, sec. 21. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 9 of the Amended Petition.

10. Paragraph 10 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. The State admits that the Retirement System is administered by a board of trustees. To

the extent a further response is required, the State denies the remaining allegations contained in Paragraph 10 of the Amended Petition.

11. This answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 11 of the Amended Petition and therefore denies the same.

12. Section 86.344, RSMo speaks for itself and the State denies all allegations not in conformance with the statute.

13. Paragraph 13 of the Amended Petition contains legal conclusions that the State is not required to admit or deny. This answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in Paragraph 13 of the Amended Petition and therefore denies the same.

14. Paragraph 14 of the Amended Petition contains a legal conclusion that the State is not required to admit or deny. This answering Defendant admits the factual allegations contained in Paragraph 14 of the Amended Petition upon information and belief.

15. Paragraph 15 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. Sections 86.200, 86.251, 86.253, and 86.320, RSMo, speak for themselves, and the State denies all allegations not in conformance with the statutes. To the extent a

further response is required, the State denies the remaining allegations contained in Paragraph 15 of the Amended Petition.

16. Paragraph 16 of the Amended Petition contains legal characterizations that the State denies and legal conclusions and arguments that the State is not required to admit or deny. This answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in Paragraph 16 of the Amended Petition and therefore denies the same.

17. Paragraph 17 of the Amended Petition contains legal characterizations that the State denies and legal conclusions and arguments that the State is not required to admit or deny. This answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in Paragraph 17 of the Amended Petition and therefore denies the same.

18. Paragraph 18 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. To the extent a response is required, this answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in Paragraph 18 of the Amended Petition and therefore denies the same.

19. Paragraph 19 of the Amended Petition contains legal characterizations that the State denies and legal conclusions and arguments that the State is not required to admit or deny. The State admits that it did not appropriate funding to the City of St. Louis for the purpose of offsetting the City's cost of complying with §86.350. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 19 of the Amended Petition.

20. Paragraph 20 of the Amended Petition consists of legal conclusions and arguments that the State is not required to admit or deny. To the extent a response is required, the State denies the allegations contained in Paragraph 20 of the Amended Petition.

21. Paragraph 21 of the Amended Petition consists of legal characterizations that the State denies and legal conclusions and arguments that the State is not required to admit or deny. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 21 of the Amended Petition.

22. Paragraph 22 of the Amended Petition consists of legal characterizations that the State denies and legal conclusions and arguments that the State is not required to admit or deny. To the extent a further

response is required, the State denies the remaining allegations contained in Paragraph 22 of the Amended Petition.

23. Paragraph 23 of the Amended Petition contains legal characterizations that the State denies and legal conclusions and arguments that the State is not required to admit or deny. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 23 of the Amended Petition.

24. Paragraph 24 of the Amended Petition consists of legal conclusions and arguments that the State is not required to admit or deny. To the extent a response is required, the State denies the allegations contained in Paragraph 24 of the Amended Petition.

“Count II”
“Declaratory Judgment and Injunctive Relief”

25. As to Paragraph 25 of the Amended Petition, the State admits and denies Paragraphs 1 through 24 of the Amended Petition in accordance with the State’s answers as if set forth herein.

26. Paragraph 26 of the Amended Petition contains legal characterizations that the State denies, Plaintiff’s speculation concerning legal

arguments that the State may make in the defense of this lawsuit, and legal conclusions and arguments that the State is not required to admit or deny. Sections 86.364 and 86.810, RSMo, speak for themselves and the State denies all allegations not in conformance with the statutes. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 26 of the Amended Petition.

27. Paragraph 27 of the Amended Petition contains legal characterizations that the State denies and legal conclusions and arguments that the State is not required to admit or deny. The State admits that Plaintiff Crawford is not a Retirement System trustee, “board, or political subdivision.” Section 86.810, RSMo, speaks for itself and the State denies all allegations not in conformance with the statute. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 27 of the Amended Petition.

28. Paragraph 28 of the Amended Petition mischaracterizes Section 86.364, RSMo, and presents isolated wording of that statute out of context. Section 86.364 speaks for itself and the State denies all allegations not in conformance with the statute. Paragraph 28 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or

deny. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 28 of the Amended Petition.

29. Paragraph 29 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. Paragraph 29(4) contains a legal characterization that the State denies. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 29 of the Amended Petition.

“Count III”
“Declaratory Judgment As To Plaintiffs’ Right To Pursue
Taxpayer Derivative Claim”

30. As to Paragraph 30 of the Amended Petition, the State admits and denies Paragraphs 1 through 29 of the Amended Petition in accordance with the State’s answers as if set forth herein.

31. Paragraph 31 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. The factual allegations contained in Paragraph 31 of the Amended Petition do not appear to be directed to this answering Defendant. To the extent that a response is required of this answering Defendant, this answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the factual allegations contained in Paragraph 31 of the Amended Petition and therefore denies the same. The third sentence of Paragraph 31 of the Amended

Petition contains Plaintiffs' characterization of Count III of their Amended Petition, requiring no response from this answering Defendant. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 31 of the Amended Petition.

32. The allegations contained in Paragraph 32 of the Amended Petition do not appear to be directed to this answering Defendant. To the extent that a response is required of this answering Defendant, Paragraph 32 of the Amended Petition consists of legal conclusions and arguments that the State is not required to admit or deny. To the extent a response is required of this answering Defendant, this answering Defendant denies the remaining allegations contained in Paragraph 32 of the Amended Petition.

33. Paragraph 33 of the Amended Petition contains legal conclusions and arguments that the State is not required to admit or deny. Section 1.010, RSMo, speaks for itself and the State denies all allegations not in conformance with the statute. To the extent a further response is required, the State denies the remaining allegations contained in Paragraph 33 of the Amended Petition.

34. Paragraph 34 of the Amended Petition consists of legal conclusions and arguments and Plaintiff's speculation concerning legal arguments that the State may make in the defense of this lawsuit, which the State is not required

to admit or deny. To the extent a response is required, the State denies the remaining allegations contained in Paragraph 34 of the Amended Petition.

“Count IV”
“Taxpayer Derivative Claim For Restitution Against Defendant State”

35. As to Paragraph 35 of the Amended Petition, the State admits and denies Paragraphs 1 through 32 of the Amended Petition in accordance with the State’s answers as if set forth herein.

36. Paragraph 36 of the Amended Petition consists of legal conclusions and arguments that the State is not required to admit or deny. To the extent a response is required, the State denies the allegations contained in Paragraph 36 of the Amended Petition.

37. Paragraph 37 of the Amended Petition consists of a legal conclusion and argument that the State is not required to admit or deny. To the extent a response is required, the State denies the allegations contained in Paragraph 37 of the Amended Petition.

38. Paragraph 38 of the Amended Petition consists of legal conclusions and arguments that the State is not required to admit or deny, and Plaintiff’s characterization of Count IV of the Amended Petition, to which the State is not required to respond. To the extent a response is required, the State denies the allegations contained in Paragraph 38 of the Amended Petition.

39. The State denies each and every allegation of the Amended Petition not herein specifically admitted.

40. The State denies that Plaintiff is entitled to any of the relief requested.

Affirmative and Other Defenses

41. Plaintiff's claims are barred by laches for reasons including Plaintiff's unreasonable or unjustifiable delay in challenging amendments to statutes governing Retirement System benefits that were enacted during the 1990s, or, in the case of the amendment to the statute referenced in Paragraph 15(E) of the Amended Petition, in 2001. The statutory amendments referenced in Paragraph 15 of the Amended Petition were accessible to the public. The Retirement System, the State, and others, acted in reliance upon or expended considerable resources based on the statutory provisions governing benefits provided by the Retirement System, including the challenged statutory provisions. Plaintiff's delay in asserting his claims has prejudiced or operated to the detriment of the Retirement System, the State, and current and retired members of the Retirement System, as well as all who receive benefits through the Retirement System, including surviving spouses and dependent or disabled children who rely upon those benefits. It would be inequitable to grant the

relief Plaintiff seeks because that would impose a hardship upon innocent persons receiving benefits from the Retirement System.

42. Even if a claim raised by Plaintiff in Count I or Count II were meritorious, Plaintiff would not be entitled to injunctive relief because “ [t]he limited nature of the declaratory, or interpretive, remedy’ ” for a Hancock Amendment violation “ ‘does not authorize a court to enter a judgment for damages or injunctive relief.’ ” *Zweig v. Metropolitan St. Louis Sewer Dist.*, 412 S.W.3d 223, 245 (Mo. banc 2013), quoting *Taylor v. State*, 247 S.W.3d 546, 548 (Mo. banc 2008).

43. Plaintiff’s claims, including Plaintiff’s declaratory judgment claims, are barred by the applicable statute of limitation, §516.110(3), “[a]ctions for relief, not herein otherwise provided for,” §§516.100, 516.110(3), RSMo, because the challenged amendments to the statutes referenced in Paragraph 15 of the Amended Petition were enacted during the 1990s or, in the case of the statute referenced in Paragraph 15(E) of the Amended Petition, in 2001, and (a) any allegedly illegal increase in the level of service was sustained and ascertainable no later than 2002, or was ascertainable more than 10 years before the Petition was filed in this action, and (b) if the City’s costs to provide the benefits granted under the statutes applicable to the Retirement System benefits in compliance with §86.350 increased because of

the challenged amendments to the statutes referenced in Paragraph 15 of the Amended Petition, that was sustained and ascertainable more than ten years before Plaintiff filed this action.

44. Count IV fails to state a claim for restitution for which relief can be granted because the State did not receive or appreciate a benefit based on the challenged amendments to Chapter 86, referenced in Paragraph 15 of the Amended Petition. Before the Hancock Amendment was enacted, and before the challenged amendments to the statutes referenced in Paragraph 15 of the Amended Petition were enacted, §86.350 required the City of St. Louis to pay the cost of all benefits granted under the statutes governing the Retirement System, and also required the City to maintain benefit reserves and to create and maintain reserves in its general fund as required by the statutes governing the Retirement System.

45. The State has not consented to suit for claims for restitution, therefore Plaintiff's restitution claim is barred by sovereign immunity.

46. The limited waiver of sovereign immunity in art. X, sec. 23 of the Missouri Constitution does not authorize courts to order the remedy of restitution. *See Zweig v. Metropolitan St. Louis Sewer Dist.*, 412 S.W.3d 223, 244-45 (Mo. banc 2013). Further, such a remedy would be in the nature of a refund, and art. X, sec. 23, does not authorize this Court to order that a refund

be paid to the City of St. Louis in the event that one of Plaintiff's Hancock Amendment claims were meritorious. *Id.* at 244-46, 248-49.

47. Plaintiff has no common law right to pursue the State for the City of St. Louis's allegedly "Unfunded Costs," and, at common law, legislation requiring the City of St. Louis to pay the cost of all retirement benefits granted to its police officers would not be illegal, therefore, Count III of the Amended Petition fails to state a claim for which relief may be granted.

48. Upon information and belief, the amount of the City's annual payment varied from year to year due to factors other than the statutory amendments referenced in Paragraph 15 of the Amended Petition, e.g., the City's funding choices following the General Assembly's amendment of §86.350 via 2000 House Bill 1808.

49. Upon information and belief, the amount of the City's annual payment varied from year to year due to factors other than the statutory amendments referenced in Paragraph 15 of the Amended Petition, including, but not limited to, demographic factors, prevailing interest rates, the years of service and ages of employees who are members of the Retirement System, how many members' employment with the St. Louis Metropolitan Police Department ended before they reached retirement age, the number of Retirement System members, how many Retirement System members were

married, how many surviving spouses were eligible for Retirement System benefits, and how many unmarried dependent children or totally and permanently disabled children were eligible for retirement system benefits.

WHEREFORE, having fully answered, the State of Missouri prays that the Court dismiss Plaintiff's Amended Petition, for the State's costs herein expended, and for such other and further relief as the Court may deem just and proper in the premises.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT
STATE OF MISSOURI

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of June, 2021, I electronically filed the foregoing with the Clerk of Court via Case.net, which sent notification to counsel of record.

/s/ Emily A. Dodge
Emily A. Dodge
Assistant Attorney General