

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

COALITION TO RESTORE HOPE TO
DETROIT PUBLIC SCHOOLS (DPS);

Plaintiffs

-vs-

ROBERT C. BOBB, EMERGENCY FINANCIAL
MANAGER, FOR DETROIT PUBLIC SCHOOLS

Defendant.

COALITION TO RESTORE HOPE TO DPS
Hon. John H. Gillis, Jr. 04/08/2011



11-004226-AW

By: SHAWNDRICA N. SIMMONS (P70608)
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**COMPLAINT FOR DECLARATORY JUDGMENT, WRIT OF MANDAMUS,
INJUNCTIVE RELIEF AND OTHER RELIEF**

NOW COMES, the Plaintiffs, the COALITION TO RESTORE HOPE TO DPS (the Coalition), by and through their attorney SHAWNDRICA N. SIMMONS, in support of their complaint against ROBERT C. BOBB, Emergency Financial Manager for Detroit Public Schools, state as follows:

JURISDICTION AND VENUE

1. Unless a particular rule or statute specifically provides otherwise, an original action may not be commenced in the Supreme Court or the Court of Appeals if the Circuit Court would have jurisdiction of an action seeking that relief. MCR 3.301(A)(1)
2. Pursuant to the Michigan Court Rules governing civil procedure, the Circuit Court has jurisdiction to hear this action for a writ of mandamus and other related ancillary relief. MCR 3.301(B); MCR 3.305(A)(1),(2)

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3. Third Judicial Circuit Court is a proper venue for this action as all events and omissions giving rise to this action occurred in Wayne County, Detroit, Michigan. MCR 3.305(B)(1),(2)

STANDING

4. The Coalition is made up of Detroit Public School parents, guardians, and caretakers.
5. The Coalition is a voluntary incorporated association having their office, principal place of business, and homes in the County of Wayne, Detroit, Michigan.
6. The Coalition is made up of residents of Wayne County, who are registered voters and taxpaying citizens of Michigan; particularly the Chair of the Coalition is one Christopher White, a resident of Detroit and parent of two children in the Detroit Public Schools.

PARTIES

7. The Coalition to Restore Hope to DPS (the Coalition) is an organization made up of Detroit Public School parents, guardians, and caretakers that want to ensure that public officials entrusted with the responsibility of educating DPS children are doing so with high ethical and professional standards and are in compliance with applicable laws and regulations. Their goal is to ensure that public funds designated to educating DPS children are used efficiently, effectively, economically, and in a manner above reproach.
8. Robert C. Bobb is the Emergency Financial Manager appointed on March 2, 2009 by the State of Michigan over the Detroit Public Schools. His contract was renewed on March 2, 2010 and again on March 2, 2011. He is charged with statutory duties granted to him pursuant to PA 72 of 1990 (amended). His primary responsibilities [under PA 72 of 1990] are fiscal matters as it relates to balancing the budget of the school district to which he has

been appointed. [Per legislation enacted March 16, 2011 repealing PA 72 of 1990 (amended), the name and responsibilities of an emergency financial manager have changed.]

LEGAL STANDARD

9. That in accordance with Michigan Court Rule 2.605, an actual controversy exists between the parties.
10. A writ of mandamus may be issued if the plaintiff [petitioner] proves that he has a clear legal right to the performance of the specific duty sought to be compelled and that the defendant [respondent] has a clear legal duty to perform the act. *Casco Township v Secretary of State*, 472 Mich 566; 701 NW2d 102 (2005), reh den 473 Mich 1205; 699 NW2d 697 (2005).
11. Mandamus is an extraordinary remedy and is properly granted only when there is no other remedy which might achieve the same result. *Genesis Center, PLC v Commissioner of Financial & Insurance Services*, 246 Mich App 531; 633 NW2d 834 (2001).
12. A writ of mandamus and other related ancillary relief, such as declaratory judgments and injunctions may be granted by the Circuit Court. MCR 3.301(B); MCR 3.305(A)(1),(2)

STATEMENT OF FACTS

13. Plaintiffs hereby incorporate by reference and repeat as if fully set forth herein paragraphs 1-12.
14. On March 2, 2009 the State of Michigan appointed Robert C. Bobb as the Emergency Financial Manager (EFM) over the Detroit Public Schools. (*See Exhibit 1*)
15. On December 15, 2009 PA 181 of 2009 went into effect and amended PA 72 of 1990. (*See Exhibit 2*)
16. PA 181 of 2009 became MCL 141.1241a and it required EFM's to post reports on the website of the school district. (*Exhibit 3*)

17. Pursuant to his March 2009 appointment and the subsequent December 2009 legislative amendment, Mr. Bobb had a statutory duty to post a report on or around June 15, 2010 on DPS's website at www.detroitk12.org, but he did not.
18. On March 2, 2010 the State of Michigan renewed his contract for another year. *(See Exhibit 4)*
19. On or around December 15, 2010 a report as required under MCL 141.1241a should have been posted on DPS's website at www.detroitk12.org, but was not.
20. On October 14, 2010 Mr. Bobb finally posted a report on DPS's website at www.detroitk12.org/admin/finance/manager. *(See Exhibit 5)*
21. The October 14, 2010 report *(See Exhibit 6)* failed to comply with MCL 141.1241a, because it failed to list:
- a. Related cost savings of eliminated positions/layoffs *(Exhibit 6, p.94-95)*;
 - b. Related cost of new positions *(Exhibit 6, p.87-90)*;
 - c. Related cost of unfilled vacancies *(Exhibit 6, p.90-93)*;
 - d. Value of all contracts awarded or approved *(Exhibit 6, p.81-85)*;
 - e. Source of funding (grant, bonds, taxes, etc).
22. That on March 16, 2011 legislation was enacted that repealed PA 72 of 1990 (amended), the act governing emergency managers is now known as PA 4 of 2011; HB 4214(2011). *(See Exhibit 7)*
23. That PA 4 of 2011 still requires that the emergency manager of a school district post the report on the internet website. *(Exhibit 7, page 12)*

24. That PA 4 of 2011 now requires the emergency manager to submit the report every three (3) months, beginning six (6) months after the emergency manager's appointment. (*Exhibit 7, page 12*)
25. That PA 4 of 2011 now requires the emergency manager to submit the report on expenditures valued over \$5000 whereas PA 72 of 1990 (amended) had a threshold of \$10,000. (*Exhibit 7, page 12*)
26. That although PA 72 of 1990 (amended) is repealed as of March 16, 2011, the provisions of PA 72 of 1990 (amended) still govern the actions of Mr. Bobb, the current EFM. (*Exhibit 7, page 14*)
27. That as of this writing Mr. Bobb has been the EFM for over two (2) years and has only posted one (1) report to www.detroitk12.org as required under MCL 141.1241a, the law in effect under both of his contracts. (*See Exhibit 6*)
28. That the public has no other remedy to get Mr. Bobb and his successors to comply with the law and post the reports on the district's website.

COUNT I: FAILURE TO COMPLY WITH THE LAW

29. Plaintiffs hereby incorporate by reference and repeat as if fully set forth herein paragraphs 1-28.
30. Plaintiff alleges that Mr. Bobb has failed to comply with MCL 141.1241a when in his capacity as EFM of DPS he posted only one report (October 2010) to its website and at least two reports were required.
31. The October 14, 2010 report failed to comply with MCL 141.1241a, because it failed to list:
- a. Related cost savings of eliminated positions/layoffs (*Exhibit 6, p.94-95*);
 - b. Related cost of new positions (*Exhibit 6, p.87-90*);

- c. Related cost of unfilled vacancies (*Exhibit 6, p.90-93*);
- d. Value of all contracts awarded or approved (*Exhibit 6, p.81-85*);
- e. Source of funding (grant, bonds, taxes, etc).

32. That the October 2010 report was insufficient and not in compliance with statutory language.
(Exhibit 6)

WHEREFORE, Plaintiffs seek a declaratory judgment stating that Robert C. Bobb in his capacity as the Emergency Financial Manager (EFM) of Detroit Public Schools violated the law when he failed to post reports on the internet on the website of Detroit Public Schools (DPS) in accordance with MCL 141.1241a; failed to comply with the statutory requirement of what should have been posted in the report; and that the trier of fact find Plaintiffs to be entitled to such a judgment, plus court costs, attorney's fees and all injunctive and equitable relief deemed appropriate.

COUNT II: FAILURE TO REPORT

33. Plaintiffs hereby incorporate by reference and repeat as if fully set forth herein paragraphs 1-32.

34. Plaintiffs allege that pursuant to his March 2009 appointment and the subsequent December 2009 legislative amendment, Mr. Bobb had a statutory duty to post a report on or around June 15, 2010 on DPS's website at www.detroitk12.org, but he did not.

35. Plaintiffs allege that on or around December 15, 2010 Mr. Bobb should have posted a report as required under MCL 141.1241a on DPS's website at www.detroitk12.org, but he did not.

36. That Mr. Bobb in his capacity as the EFM of DPS failed to comply with Public Act 72 of 1990 as amended by Public Act 181 of 2009 when he specifically failed to adhere to MCL

141.1241a (*Exhibit 3*) and post on the website of DPS every six (6) months a report containing the following:

- a. A description of each expenditure made, approved, or disapproved during the reporting period that has a cumulative value of \$10,000.00 or more and the source of the funds.
 - b. A list of each contract that the emergency financial manager awarded or approved with a cumulative value of \$10,000.00 or more, the purpose of the contract, and the identity of the contractor.
 - c. A description of each loan sought, approved, or disapproved during the reporting period that has a cumulative value of \$10,000.00 or more and the proposed use of the funds.
 - d. A description of any new position created or any vacancy in a permanent position filled by the appointing authority.
 - e. A description of any position that has been eliminated or from which an employee has been laid off.
37. In failing to follow the law as outlined, Mr. Bobb has breached a clear legal duty to post the required information in a report so that the public can view, comment, question, and/or challenge his expenditures and decisions as it relates to use of taxpayer funds for Detroit Public Schools.
38. That the public has been harmed as a result of Mr. Bobb failure's to be transparent, as he is now attempting to close a majority of DPS school buildings due to financial reasons. However, the public has no idea how Mr. Bobb handled the money prior to deciding that so many schools have to be closed.

39. The reports should be posted retroactively to the period of time they were initially required because Mr. Bobb was derelict in his duties and the public has a right to know how DPS finances were managed.

WHEREFORE, Plaintiffs seek a writ of mandamus directing Robert C. Bobb in his capacity as the EFM of DPS to comply with Public Act 72 of 1990 as amended by Public Act 181 of 2009 and post all required reports and that said reports contain the required information required by the statutes in effect at the time that Mr. Bobb was derelict in his duties; and that the trier of fact find Plaintiffs to be entitled to such a writ, plus court costs, attorney's fees and all injunctive and equitable relief deemed appropriate.

COUNT III: FAILURE TO UPHOLD DUTIES

40. Plaintiffs hereby incorporate by reference and repeat as if fully set forth herein paragraphs 1-39.

41. Plaintiffs allege that Mr. Bobb has breached a clear legal duty to post the required information in a report.

42. The Emergency Financial Manager of DPS has a clear and legal duty to adhere to the letter law and post a report every six (6) months on DPS's website stating the following:

- a. A description of each expenditure made, approved, or disapproved during the reporting period that has a cumulative value of \$10,000.00 or more and the source of the funds.
- b. A list of each contract that the emergency financial manager awarded or approved with a cumulative value of \$10,000.00 or more, the purpose of the contract, and the identity of the contractor.

- c. A description of each loan sought, approved, or disapproved during the reporting period that has a cumulative value of \$10,000.00 or more and the proposed use of the funds.
 - d. A description of any new position created or any vacancy in a permanent position filled by the appointing authority.
 - e. A description of any position that has been eliminated or from which an employee has been laid off.
43. The public has a right to view, comment, question, and/or challenge the expenditures and decisions of the appointed EFM, as it relates to use of taxpayer funds for Detroit Public Schools.
44. The public has not been able to do so because Mr. Bobb has failed to post the required reports in the timeframe outlined in the law.
45. This Court has jurisdiction to issue a declaratory judgment finding Mr. Bobb in violation of the law for his failure to post the reports as required by the statutes.
46. This Court has jurisdiction to issue a writ to make Mr. Bobb and/or his successor(s) comply with the law and post the reports as required by the law.
47. This Court has jurisdiction to issue an injunction enjoining Mr. Bobb and his successor(s) from further noncompliance with the law governing the duties and responsibilities of emergency managers as it relates to reporting requirements to the public.
48. It serves the best interest of the public to have such reports posted timely and readily available for viewing to allow for checks and balances as it relates to the expenditures and decisions/changes to DPS.

WHEREFORE, Plaintiffs seek an injunction enjoining Mr. Bobb and his successor(s) from further noncompliance with the law governing the duties and responsibilities of emergency managers as it relates to reporting requirements to the public.

PRAYER FOR RELIEF

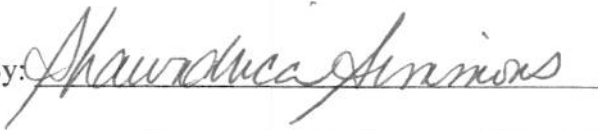
WHEREFORE, the Plaintiffs, the Coalition to Restore Hope to DPS, request that this honorable Court:

- A. Issue a declaratory judgment stating that Robert C. Bobb in his capacity as the Emergency Financial Manager (EFM) of Detroit Public Schools violated the law when he failed to post reports on the website of Detroit Public Schools (DPS) in accordance with MCL 141.1241a and that the only posted report is noncompliant;
- B. Issue a writ of mandamus directing Robert C. Bobb in his capacity as the EFM of DPS to comply with Public Act 72 of 1990 (amended) because he has specifically failed to adhere to MCL 141.1241a and post on the website of DPS every six (6) months a report containing information regarding expenditures and decisions (retroactively) and henceforth every three (3) months as required by PA 4 of 2011;
- C. Issue an injunction enjoining Robert C. Bobb and his successor(s) from further noncompliance with the law governing the duties and responsibilities of emergency managers as it relates to reporting requirements to the public;
- D. Award court costs and legal fees associated with having to file this complaint; and
- E. Any other relief deemed equitable and reasonable.

I DECLARE THAT THE ABOVE IS TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE AND BELIEF.

SIMMONS LEGAL SERVICES, PLLC

Dated: April 8, 2011

By: 

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