IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ROSA RIVERA *et al*,	:	
	:	
Plaintiffs,	:	
	:	CASE NO. 1:11-CV-147
vs.	:	
	:	(Chief Judge Yvette Kane)
LEBANON SCHOOL DISTRICT,	:	
	:	
Defendant.	:	

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT ON COUNT II

I. INTRODUCTION

This case was filed by four mothers of students or former students in the Lebanon School District (the "District") who have paid truancy fines in excess of statutory limits set forth in 24 P.S. § 13-1333. The District received these invalid, excess payments from two Magisterial District Courts and continues to retain them, despite the Magisterial Courts having reduced all excessive unpaid fines.[1]

This case was filed on January 20, 2011 as a class action on behalf of all persons in the Lebanon School District who since January 2005 have been assessed

[1] The individual plaintiffs are joined by the Pennsylvania State Conference of NAACP Branches (PA-NAACP). The PA-NAACP has devoted substantial time and energy to assisting parents, including some who are PA-NAACP members, struggling to cope with paying the excessive fines now retained by the District.

truancy fines in an amount greater than $300 on a single citation. In Count I of the Complaint, Plaintiffs seek redress for violations of the Equal Protection and Due Process Clauses of the United States Constitution and the Civil Rights Act of 1871, 42 U.S.C. § 1983. Complaint ("Compl."), ¶¶ 32-34. In Count II, Plaintiffs seek restitution under Pennsylvania law for the District's unjust enrichment in its retention of payments on fines in excess of the statutory maximum of $300 per citation. Compl. ¶¶ 35-39; *see also* 24 P.S. § 13-1333. On June 28, 2012, the Court granted Plaintiffs' motion for certification of a class of persons "…against whom the Magisterial District Court[s] … imposed fines exceeding $300 per citation for truancy violations in the Lebanon School District who have paid an amount exceeding $300 plus costs on any single citation." ECF No. 43.[2]

Plaintiffs now move for summary judgment on Count II of the Complaint, seeking a declaration that fines in excess of $300 are invalid and restitution of such invalid payments retained by the District. There are no genuine disputes of material fact on this claim.[3] The Court has jurisdiction over Count II, Plaintiffs' Pennsylvania-law claim, pursuant to 28 U.S.C. § 1367. Federal courts exercising supplemental jurisdiction routinely grant a plaintiff's motion for partial summary judgment solely on state-law grounds, even in the event that they simultaneously

[2] The two Magisterial District Courts involved are 52-01-01 and 52-02-01.

[3] Summary judgment would not be appropriate on Count I, as Plaintiffs' § 1983 claims involve material facts about which there are genuine disputes.

dismiss all federal-question claims. *E.g.*, *Bayshore Ford Truck Sales, Inc. v. Ford Motor Co.*, No. 99-cv-741, 2006 U.S. Dist. LEXIS 64264, at *2-3 (D.N.J. Sept. 7, 2006); *Siner v. Am. Gen. Fin., Inc.*, No. 03-cv-6247, 2004 U.S. Dist. LEXIS 22196 (E.D. Pa. Oct. 28, 2004); *Rivkin v. Cnty. of Montgomery*, 838 F. Supp. 1009, 1015 (E.D. Pa. 1993).

Plaintiffs are entitled to summary judgment on their restitution claim, as it is plain from the undisputed facts that the District has been unjustly enriched by its acceptance and retention of the invalid fine payments and restitution will merely leave the District in the same position it was in previously. After granting Plaintiffs' motion, the Court should direct the parties to submit a plan for determining the class members entitled to restitution, in what amounts, and the process of payment. *See* Compl. at 18.

II. QUESTION PRESENTED

This motion presents the following question: Is the District entitled to retain funds from payments of excessive fines to which it has never had any entitlement?

Suggested answer: No.

III. LEGAL ARGUMENT

A. Plaintiffs Have Sustained Their Burden for Obtaining Summary Judgment.

Rule 56 of the Federal Rules of Civil Procedure provides that:

> The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.

Fed. R. Civ. P. 56(a); *see also Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A fact is "material" if it could affect the outcome of the case. *Roth v. Norfalco LLC*, 651 F.3d 367, 373 (3d Cir. 2011). Summary judgment must be granted "against any party who fails to make a showing sufficient to establish an element essential to that party's case, and on which that party will bear the burden of proof at trial." *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986).

Once the moving party demonstrates that no genuine issue exists and that, as a matter of law, it is entitled to judgment, the burden shifts to the non-moving party. The non-movant's burden is to "do more than simply show that there is some metaphysical doubt as to material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). In meeting its burden, the non-moving party cannot rest on the mere allegations or denials in its pleadings or by presenting bare assertions, conclusory allegations, or suspicions. *Celotex*, 477 U.S. at 324. To the contrary, the non-moving party must come forward with specific facts, supported by admissible evidence, that contradict the facts averred by the movant and indicate that there is a genuine issue for trial. *Lujan v. Nat'l Wildlife Fed'n*, 497 U.S. 871, 884 (1990).

Unless the party opposing the motion produces evidence from which a reasonable factfinder could return a verdict in its favor, the Court must grant summary judgment. *Lawrence v. Nat'l Westminster Bank N.J.*, 98 F.3d 61, 65 (3d Cir. 1996). Here the undisputed facts establish that the Lebanon School District has been unjustly enriched by the retention of invalid truancy fines that are irregular on their face, at the expense of Plaintiffs.

B. The Lebanon School District is Not Entitled to Receive Truancy Fines in Excess of $300 Per Citation.

Plaintiffs are entitled to a declaratory judgment that the District is not authorized to receive or retain truancy fines that are greater than $300 plus costs. The District's entitlement to truancy fines is governed by the Pennsylvania School Code, which provides:

> (a)(1) Every parent, guardian, or person in parental relation, having control or charge of any child or children of compulsory school age, who shall fail to comply with the provisions of this act regarding compulsory attendance, shall on summary conviction thereof, be sentenced to pay a fine, for the benefit of the school district in which such offending person resides, not exceeding three hundred dollars ($300) and to pay court costs . . . .
>
> (b)(1) If the parent, guardian or person in parental relation is not convicted of a summary offense because he or she took every reasonable step to insure attendance of the child at school, a child of compulsory school age who has attained the age of thirteen (13) years and fails to comply with the provisions of this act regarding compulsory attendance or who is habitually truant from school without justification commits a summary offense and except as provided in clause (4) shall, upon conviction, be sentenced to pay a fine not exceeding three hundred dollars ($ 300) ***for each offense*** for

> the benefit of the school district in which such offending child resides . . . .
>
> (b)(5) The following words, when used in this subsection, shall have the following meaning, except where the context clearly indicates or requires a different meaning:
>
> . . .
>
> "Offense" shall mean each citation which goes before a district justice or court of common pleas.

24 P.S. § 13-1333 (emphasis added).

This statute limits the authority of a magisterial district court to issuing fines of $300 *per citation*, not *per truancy*. A conviction is for the offense in a citation. If there were any doubt as to that meaning, the parallel offense against students in (b)(1) is explicitly per offense, which is defined as "each citation" in the statute. Even were there any ambiguity, penal statutes must be strictly construed in favor of defendants. *Commonwealth v. Glover*, 156 A.2d 114, 116 (Pa. 1959).

Issuance of the citations for truancy convictions is under the control of the District's truancy officers. (Plaintiffs' Statement of Undisputed Material Facts ("PSUMF"), ¶ 11.) The number of truancies identified on any citation is under the control of the District except that the courts requested the District put no more than five truancies on a citation starting around 2009 or 2010. (PSUMF ¶ 11.) Although the District frequently aggregated truancy offenses of a student into a single citation against the parent or student, whether because of a belief that the truancies

should be treated together or simply for convenience, the statute unambiguously limits the size of the fine that can be imposed to $300 for any single conviction.

The evidence is uncontested that, nonetheless, at least 755 fines were issued that exceeded the statutory limit. (PSUMF ¶ 10.) According to the records, some of the fines were for as much as $9,000 on a single citation. (PSUMF ¶ 10.) Although the evidence is contested as to the role of the District in recommending or setting the proposed fine shown on the citation (Count I), there is no dispute that hundreds of parents pleaded guilty and paid the amounts set forth on the citation. (PSUMF ¶ 12.)

Pursuant to the statute that states fines are "for the benefit of the school district," payments on truancy fines are collected by the magisterial district courts and then distributed to the District. 24 P.S. § 13-1333(a)(1). The District admits receiving truancy fines from the courts (although it maintains no records of who paid the fines), and the records of the AOPC detail the checks sent to the District and the truancy convictions that accounted for each of those disbursements. (PSUMF ¶ 13.)

Records of the Pennsylvania court system disclose that the courts have adjusted all of the outstanding fines in excess of $300. (PSUMF ¶ 13.) Yet the District maintains that it is not aware of whether or not it is entitled to fines in excess of $300 per citation and that it has never been advised by counsel or courts

that such fines are unlawful and transfer of such funds to the District are improper. (PSUMF ¶ 13.) A declaratory judgment that future truancy fines must be capped at $300 per citation—no matter how many truancies are the basis for the citation—is necessary so that the District will understand the limitations imposed by state law on its rights to receive truancy fines. Additionally, this declaratory judgment is necessary so that the parents and students subjected to the District's citations will have a clear statement of the maximum fine that may be imposed on them in light of the extensive violations that have taken place.

C. The Lebanon School District Was Unjustly Enriched by the Receipt of Over $108,000 in Excessive Truancy Fines Mistakenly Paid.

The District has been unjustly enriched by the retention of each truancy payment in excess of $300 per fine because the District is not legally entitled to those funds, the funds were given to the District by mistake, and the District has retained the funds at the expense of class members. To be unjustly enriched, one must (1) have received a benefit from the plaintiff, (2) appreciate that benefit, and (3) accept and retain the benefit under circumstances in which such retention is inequitable. *Styer v. Hugo*, 619 A.2d 347, 350 (Pa. Super. Ct. 1993). Whether the doctrine of unjust enrichment is applicable depends on the specific facts of the case. *AmeriPro Search, Inc. v. Fleming Steel Co.*, 787 A.2d 988, 991 (Pa. Super. Ct. 2001).

Here, all three unjust-enrichment elements are satisfied. First, the District received a benefit in the form of class members' excess monetary payments. (PSUMF ¶ 13.) The District appreciated this benefit by depositing the money into its general fund, making it available for school operational expenses. (PSUMF ¶ 14.) Finally, the District retained these funds without reimbursing the families, who struggled to pay these fines. (PSUMF ¶ 13.) Such retention is inequitable because the District does not have and never has had a legal right to these funds pursuant to 24 P.S. § 13-1333. *See Skepton v. Borough of Wilson*, 755 A.2d 1267, 1272 (Pa. 2000) ("[T]he Borough should not be rewarded for the collection of revenues to which it was not entitled."). The law is clear that restitution does not require the District to have engaged in any wrongdoing in connection with the receipt of the funds. *See infra* Part 2.

1. The District received and appreciated a benefit from Plaintiffs' payments of excessive truancy fines.

The District received a benefit when the courts disbursed to it excessive truancy fine payments paid by class members. The benefit required in a claim of unjust enrichment is any form of advantage, including money. *See, e.g.*, *Schenck v. K.E. David, Ltd.*, 666 A.2d 327, 329 (Pa. Super. Ct. 1995); *Zvonik v. Zvonik*, 435 A.2d 1236, 1241 (Pa. Super. Ct. 1981) (citing Restatement (First) of Restitution § 1 cmt. b (1937)). In *Schenck*, the court found that an attorney who paid his clients' $32,000 settlement debt to the Commonwealth bestowed a benefit on his

clients and that the clients appreciated this benefit. 666 A.2d at 329. The attorney's payment allowed the clients to retain extra money that they should have given to the Commonwealth. In the same way here, the District's receipt of an excess of $108,000 from truancy fines benefited it by providing it with surplus money to which it had no entitlement. Since 2005, the District has received almost $1,000,000 in total on account of truancy fines, and over $108,000 of that amount was from payments in excess of $300 per citation. (PSUMF ¶ 10,13.) These payments, as set forth *supra*, were not authorized by statute, were beyond what the courts could validly impose, and therefore were wrongfully collected and transferred to the District. 24 P.S. § 13-1333. As in *Schenck*, the $108,000 in excess payments represents a benefit that the District has appreciated, because the District's failure to reimburse class members has left it with a larger surplus to spend on general school operating costs. (PSUMF ¶ 13,14.)

2. The District's retention of the fines paid in excess of $300 is inequitable because the District has no legal or equitable entitlement to fines paid in excess of $300.

Unjust enrichment does not apply simply because a benefit has been conferred on the District; the retention of the benefit must be unjust such that it is inequitable for the District to retain it. *AmeriPro Search, Inc.*, 787 A.2d at 991. Indeed, whether the enrichment is unjust is the most important element. *Styer*, 619 A.2d at 350. The District's enrichment through the receipt of the excessive truancy

payments was unjust because the District is not, and never was, entitled to payments of over $300 per citation. *See Skepton*, 755 A.2d at 1272. The class members are therefore seeking restitution only for the excessive portion of their payments.

The District's failure to reimburse payers of excessive fines is inequitable because the District received the moneys as a result of the mistaken, invalid, and *ultra vires* actions of the magisterial district courts. If the courts had acted within their authority, the District would not have received this sum. The District had no legal expectation to receive the excess $108,000. In *Torchia on Behalf of Torchia v. Torchia*, as part of a written settlement between an ex-husband and ex-wife, the ex-husband promised to list his children as beneficiaries on his insurance policies. 499 A.2d 581, 582 (Pa. Super. Ct. 1985). However, he subsequently remarried and changed the primary beneficiary to his second wife. *Id.* The second wife was paid $44,000 on the policies after her husband's death, and the children's mother sued to recover this payment. *Id.* The court found that the second wife's rights were subordinate to the children's, and that even though she was a "passive and innocent party . . . . [i]t would have been unjust to allow her to retain the proceeds of the policy in preference to the children." *Id.* at 584. Similarly here, because some of the fine payments disbursed to the District were in excess of the statutory maximum, the District's rights to the moneys are subordinate to the rights of class

members. Like the innocent widow, regardless of whether the District intended to obtain money from illegal fines, it is required to make restitution because it has been unjustly enriched by a benefit to which Plaintiffs have a better legal right. *Id.*; *see also Crossgates Realty, Inc. v. Moore*, 420 A.2d 1125, 1128 (Pa. Super. Ct. 1980) ("[A] showing of knowledge or wrongful intent on the part of the benefited party is not necessary in order to show unjust enrichment. Rather, the focus is on the resultant unjust enrichment; not on the party's intention."); *cf. Samuel v. Univ. of Pittsburgh*, 538 F.2d 991, 993-94 (3d Cir. 1976) (Clark, J.) (holding that a residency rule requiring for tuition purposes that a wife's domicile to be that of her husband was illegal, and thus that defendant universities were unjustly enriched by plaintiffs' excessive tuition payments).

A finding of unjust enrichment is further supported by the Restatement (Third) of Restitution and Unjust Enrichment § 48 (2011), which states: "If a third person makes a payment to the defendant to which (as between claimant and defendant) the claimant has a better legal or equitable right, the claimant is entitled to restitution from the defendant as necessary to prevent unjust enrichment." In addition to Plaintiffs' having a better legal right to the excess money paid, they also have a better equitable right. In *Zvonik*, the court found that an innocent third party was unjustly enriched by the retention of a benefit at the expense of the plaintiff. 435 A.2d at 1241. George Zvonik promised to repair and make

improvements to, as well as to pay utilities and property taxes on, his mother's home. *Id.* at 1238. In return, his mother promised to convey the property to him before she died, but instead conveyed it to her daughter-in-law. *Id.* The court held that Zvonik was entitled to restitution for his labor and expenses from the innocent daughter-in-law, as to deprive him of the money expended and the value of his labor would be unjust. *Id.* at 1239-41. The retention of the excess money by the District in the instant case would also be unjust and at the expense of the Plaintiffs, especially given that Plaintiffs, like many other class members, struggle to pay their fines. (PSUMF ¶¶ 2,4,6,10.) Because the District is not legally entitled to this money, and because allowing the District to retain it would harm class members, such retention would unjustly enrich the District.

3. The District was also unjustly enriched by the retention of the excess fines because these fines were paid to the District by mistake.

Because class members paid fines under the mistaken belief that fines in excess of $300 were legal, class members are entitled to restitution. Under Pennsylvania law, those who make mistaken payments based on mistakes of fact are entitled to restitution. *Lucey v. Workmen's Comp. Appeal Bd. (vy-Cal Plastics)*, 732 A.2d 1201, 1204 (Pa. 1999). Although historically there has been a general rule barring recovery for payments made because of mistakes of law, in *First National Bank v. Rockefeller*, 5 A.2d 205, 207 (Pa. 1939), the court granted

equitable relief "upon the fundamental principle that no one shall be allowed to enrich himself unjustly at the expense of another by reason of an innocent mistake of law." Additionally, the new Restatement no longer recognizes the distinction between restitution for mistakes of fact and law, finding unjust enrichment in both cases. Restatement (Third) of Restitution & Unjust Enrichment § 5 cmt. g (2011) ("[N]either the unjustified enrichment of the recipient nor the unintentional dispossession of the transferor is affected by a determination that the mistake was one of fact, one of law, or an amalgam of the two."). *See generally Lucey*, 732 A.2d at 1204 ("This Court has previously looked to the Restatement of Restitution as a source of authority in determining whether the retention of a particular benefit would be unjust."). Because the District has been unjustly enriched through the retention of illegal fines, the law imposes a quasi-contract, requiring the District to make restitution to the Plaintiffs in the value of the conferred benefit. *See AmeriPro Search, Inc.*, 787 A.2d at 991.

Plaintiffs were unaware that the amounts were illegal, and if they pleaded guilty they were not informed of their right to appeal. (PSUMF ¶ 9.) Thus, where Plaintiffs paid excessive fines due to two mistakes of law, the District has been unjustly enriched by the retention of the mistaken payments.

Equitable considerations require restitution because Plaintiffs' mistakes of law fit all three exceptions for when restitution can be given for mistakes of law.

First, Pennsylvania courts have permitted recovery when, as here, restitution would restore the parties to the status quo ante. *See, e.g.*, *In re Com. Trust Co. of Pittsburgh*, 54 A.2d 649, 653 (Pa. 1947) (Maxey, C.J., concurring). The District has not acted in reliance on Plaintiffs' excessive payments and has not changed its commitments because of them. Returning approximately one-third of one percent of the District's budget to class members would not meaningfully harm the District. (PSUMF ¶ 14.) Even if the District had spent the money, repayment would still be warranted. *See Donner v. Sackett*, 97 A. 89, 90 (Pa. 1916). Thus, because Plaintiffs' mistakes in paying these excess fines can easily be rectified, and would merely restore all parties to the status quo ante, restitution should be given.

Pennsylvania courts have also allowed restitution for mistakes of law when there was mutual mistake and not giving restitution would cause a great hardship. *Sanner v. Unique Lodge No. 3, Knights of Pythias of Rockwood*, 33 A.2d 518 (Pa. Super. Ct. 1943), *aff'd*, 37 A.2d 576 (Pa. 1944). Here, the mistake was mutual; both the District and Plaintiffs relied on the magisterial district courts, which made the same mistake as the parties about the legality of the fine amounts above $300. The courts' adjustments of all unpaid fines to bring them into compliance with the statute is an admission that the previous fine amounts were imposed due to a mistake of law. (PSUMF ¶ 13.)

Finally, courts allow restitution when equitable circumstances simply warrant recovery. *First Nat'l Bank*, 5 A.2d at 207. In *First National Bank*, the Pennsylvania Supreme Court found that granting restitution would merely restore parties to their previous positions and to hold otherwise would allow the defendants to retain an undue advantage. *Id.* at 207-08. As discussed *supra*, restitution in the present case would restore the parties to their previous positions.

Although *First National Bank* recognized that the general mistake-of-law rule was in place to protect the finality of litigation, the court still found the equitable considerations strong enough to overcome the interest in finality. *Id.* Not only do the equitable considerations similarly warrant restitution here, but finality is less at risk where the magisterial district courts that issued the fines have already modified the amounts of all excessive unpaid fines. (PSUMF ¶ 13.) Specifically, the courts have reduced all known unpaid excessive fines to $300 or less, modifying the fines on nearly 400 convictions. (PSUMF ¶ 13.) By those adjustments, the courts have acknowledged that the excess fines were invalid. It is now necessary for the District to finish the task by returning the excessive fines that have already been paid. It would be highly inequitable to leave the invalid fines applying only to persons who have paid them, particularly when the District has not changed its position because of those payments and would suffer no hardship from returning the monies.

The Restatement (Second) of Judgments further supports restitution, as relief from a judgment can be given in changed circumstances. Restatement (Second) of Judgments § 73 (1982). ("Subject to the limitations stated in § 74, a judgment may be set aside or modified if . . . [t]here has been such a substantial change in the circumstances that giving continued effect to the judgment is unjust."). The wholesale modification of all other invalid fines is just such a "substantial change in the circumstances."

Pennsylvania courts themselves have granted relief from invalid orders, even when the orders appeared valid at the time of issuance. *E.g.*, *Dauphin Cnty. Soc. Servs. v. R.J.L.*, 821 A.2d 632 (Pa. Super. Ct. 2003). In *Wilkinsburg Borough v. School District*, the Pennsylvania Supreme Court struck down a judgment for taxes assessed against a school district. 148 A. 77, 81 (Pa. 1929). There, the court held that a prior judgment on behalf of the Borough for taxes was not a defense when the Borough was unauthorized to assert the assessment and as such, the judgment was baseless on its face. *Id.* There can be no dispute that like the tax in *Wilkinsburg*, the fines received by the Lebanon School District in excess of $300 were "without express legislative authority." *Id.* The fact that they are held by a third party has no legal effect. *See Dauphin Cnty*, 821 A.2d at 634-35. As a result, there is no defense that the payments were received in accordance with an order that appeared valid at the time when such orders are in fact, contrary to statutory

authority.

4. No affirmative defense is available to the District.

Although Plaintiffs did not appeal, the doctrine of unclean hands is inapplicable because their failure is attributable merely to a lack of knowledge, not willful misconduct. (PSUMF ¶ 9.) To trigger the unclean-hands doctrine, there must be evidence of fraud or deceit as to the matter. *In re Adoption of S.A.J. (In re S.S.)*, 838 A.2d 616, 625-26 (Pa. 2003). In *Adoption of S.A.J.*, the court found that even though a mother had made inconsistent statements about the paternity of her child, and did not ask the consent of one potential father in her husband's petition for adoption, there was no evidence of fraud or deceit, and thus that the unclean-hands doctrine did not apply. *Id.* There is no evidence of fraud or deceit here. Thus, the doctrine of unclean hands is inapplicable and does not bar Plaintiffs' unjust-enrichment claim.

The doctrine of laches is also inapplicable, because not only were Plaintiffs not informed that they could appeal if they pleaded guilty, but the District has suffered no harm by the delay in Plaintiffs' action. Laches requires both that the Plaintiffs showed a lack of due diligence in bringing their claim, and that the delay prejudices the other party. *In re Gen. Election for Dist. Justice*, 670 A.2d 629, 636 (Pa. 1996). In *Hansel v. Hansel*, the Superior Court found that laches did not apply when a plaintiff was unaware of any wrongdoing until years after the wrongdoing

had occurred. 446 A.2d 1294, 1299 (Pa. Super. Ct. 1982). There was no failure of due diligence there, because the plaintiff quickly took action after he became aware of the wrongdoing. *Id.* Plaintiffs here were unaware that the fines were invalid or that they could appeal even if they pleaded guilty. (PSUMF ¶ 9.) As a result, the first requirement of laches is not met because the Plaintiffs' failure to appeal sooner does not owe to a lack of due diligence.

Most importantly, the District was not prejudiced by any delay, as the excess funds it obtained are simply a surplus and were not even used for the operating costs of the school. (PSUMF ¶ 14.) If there is a lack of due diligence, such a failure must cause injury to the defendants to sustain the defense of laches. *Brodt v. Brown*, 172 A.2d 152, 154 (Pa. 1961). Evidence of such prejudice from delay can include witnesses who have become unavailable, records that have been lost or destroyed, or evidence that the defendant changed his position. *Commonwealth ex rel. Baldwin v. Richard*, 751 A.2d 647, 651 (Pa. 2000). None of these circumstances obtain here. Thus, because the District has sustained no injury by the delay, laches does not bar this action.

IV. CONCLUSION

For all of the foregoing reasons, the Court should declare that truancy fines in excess of $300 per citation are invalid and find that the District was unjustly enriched by retention of the excess fines above the statutory maximum. The

District has received a benefit from the excess monetary payments it was not entitled to receive. The District has not entered into any commitments or changed its position based on these payments. The retention of the payments in such circumstances is inequitable. Because the District was unjustly enriched by these excess payments, it must make restitution to Plaintiffs.

Respectfully submitted,

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CERTIFICATE OF WORD COUNT

I hereby certify that the word count of the foregoing memorandum of law, excluding this page, as determined by the Microsoft Word software with which it was produced, is 4,819 words.

s/ Benjamin D. Geffen
Benjamin D. Geffen (Pa. Bar No. 310134)

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