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IN THE COURT OF COMMON PLEAS
LUCAS COUNTY, OHIO

CINDY DUPUIS, *et al.*,	)	CASE NO: CI2025-02488
	)	
Plaintiffs,	)	
	)	JUDGE LORI L. OLENDER
vs.	)	
	)	
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 2174- TOLEDO PUBLIC SCHOOL DISTRICT, *et al.*,	)	**PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT AFSCME, LOCAL 2174- TOLEDO PUBLIC SCHOOL DISTRICT'S MOTION TO DISMISS**
	)	
Defendants.	)	

I. Introduction

Plaintiffs respectfully oppose Defendant American Federation of State, County and Municipal Employees, Local 2174 - Toledo Public School District's ("Local 2174") Motion to Dismiss. Plaintiffs' Complaint seeks declaratory and injunctive relief relating to their membership agreements with their union, and contractual claims well within this Court's jurisdiction. The Complaint adequately pleads claims for declaratory and injunctive relief and Plaintiffs should not be penalized for proceeding with caution.

II. Factual and Procedural Background

The facts of this case are not in dispute. At its simplest, Plaintiffs are seeking a declaration that their membership contracts with their union—the contracts that permitted the union to continue to withdraw dues from their paychecks even after their union membership had ended—are invalid and impose an impermissible penalty under Ohio law. Plaintiffs' case now arrives in this Court because of decisions by federal courts, Ohio courts, and the State Employment Relations Board ("SERB").

In its 2018 decision in *Janus v. AFSCME*, the U.S. Supreme Court held that the First Amendment protects public-sector employees from being compelled "to subsidize private speech on matters of substantial public concern" without prior affirmative consent. *Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council,* 585 U.S. 878, 886 (2018). Following the *Janus* decision, public employees across the country, dissatisfied with their respective public unions and how their dues were being used, sought to "opt out" of their unions and the automatic payroll deduction by which dues were collected. These employees argued, as Mr. Janus had, that forced payment of money to public sector unions violated the First Amendment's protection against compelled speech.

Litigation thus ensued in the federal courts. The public unions, seeking to retain dues, responded by arguing that unlike Mr. Janus, who was not a union member when he sued to enjoin the deduction of agency fees, current union members seeking to opt out had entered into voluntary membership contracts with their unions, often spanning several years. *See Belgau v. Inslee*, 975 F.3d 940, 950 (9th Cir. 2020). While a number of litigants have appealed to the U.S. Supreme Court, the Court has not taken up the question, and a majority of federal appellate courts have adopted the unions' view that the *Janus* rule applies only to non-union members who either never joined or had opted out of union membership years earlier, but not to employees who had opted out of union membership but whose membership contract had not expired. In those cases, courts have held that an employee's ability to opt out of union membership after he has signed a contract with the union is governed solely by that contract and the applicable state contract law. *See Belgau* at 950 ("When 'legal obligations . . . are self-imposed,' state law, not the First Amendment, normally governs.").

Thus, while employees retained an absolute First Amendment right to resign from public

union membership at any time, *see, e.g., Knox v. SEIU, Local 1000*, 567 U.S. 298 (2012), in *Belgau*—and cases like it—employees who left the union before the contractual opt-out window were arguably contractually required to continue to pay dues to a union to which they no longer belonged. In essence, the federal courts have sent litigants back to state courts to hash out their contractual disputes there.

Following the federal courts' guidance, a handful of former union members who were required to pay dues after their membership ended sought relief in state court, alleging, as Plaintiffs do in their Complaint, that their individual contracts with their unions were invalid under Ohio contract law, or to the extent that they were valid, the provision requiring the continued payment of dues after they have left the union is an unenforceable penalty and not liquidated damages. *See Darling v. Am. Fedn. of State, Cnty., and Mun. Employees,* 2024-Ohio-2181 (10th Dist.), *appeal not allowed*, 2024-Ohio-4713.

The union[1] in *Darling* argued that the Franklin County Common Pleas Court lacked jurisdiction to hear the state contractual claims because they could be considered an unfair labor practice, over which SERB has exclusive jurisdiction. The plaintiffs in *Darling* pointed out that all their claims arose independently under well-established state contract law and not under the SERB statute (R.C. 4117.01, *et seq*.) or the collective bargaining agreement between the union and the public employers. Nevertheless, the trial court held, and the Tenth District affirmed, that the contractual rights asserted could constitute an unfair labor practice, and therefore, those claims were subject to the exclusive jurisdiction of SERB. Ultimately, the Ohio Supreme Court declined

[1] Although AFSCME was a named defendant in the *Darling* case, it was no longer a party when the case was dismissed.

jurisdiction on appeal.

Following the Tenth District's decision in *Darling,* another plaintiff, Necole Littlejohn, also seeking to stop dues deductions taken out of her pay after she had resigned from her union, filed an unfair labor practice charge with SERB, which alleged the contractual theories identical to those alleged in this case (and to those in *Darling*). SERB reviewed the charge and dismissed it, stating that based on federal court decisions[2], which it did not cite, the actions complained of were not an unfair labor practice. The SERB decision did not examine or even mention any of Ms. Littlejohn's contractual claims or defenses. *Id.* SERB's decision was not surprising, given that SERB's jurisdiction is limited to determining whether an unfair labor practice listed in R.C. 4117.11 occurred, and not determining common law contractual rights.[3]

Plaintiffs are thus left with contractual rights, but no forum in which to enforce them. The federal courts have held that an employee's membership contract with his or her union is a matter of state contract law. The *Darling* court has held that SERB has exclusive jurisdiction over the contractual claims set forth in Plaintiffs' complaint because they may be unfair labor practices. SERB, for its part, declined to act on Ms. Littlejohn's claims—identical to Plaintiffs' here—finding that they did not allege an unfair labor practice. Plaintiffs thus filed their complaint in this Court, seeking, among other things, a declaration regarding where they might pursue the state contract rights relating to their union membership contract that the federal courts have recognized.

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[2] SERB did not specifically cite to *Belgau* or any other case, but apparently relied on the *Belgau* line of cases, which address First Amendment issues, not unfair labor practices.

[3] Ms. Littlejohn subsequently filed her claims in common pleas court, which summarily granted the union's motion to dismiss. Her case is pending on appeal in the First District Court of Appeals.

III. Law and Argument

In deciding a motion to dismiss, the court presumes that the complaint's factual allegations are true and makes all reasonable inferences in the nonmoving party's favor. *State ex rel. Ohio Civ. Serv. Emps. Assn. v. State*, 2016-Ohio-478, ¶ 12, citing *Mitchell v. Lawson Milk Co.,* 40 Ohio St.3d 190, 192 (1988). To grant the motion, "it must appear beyond doubt that the plaintiff can prove no set of facts in support of the claim that would entitle the plaintiff to the relief sought." *Sherman v. Ohio Pub. Employees Retirement Sys.*, 2020-Ohio-4960, ¶ 17.

A. This Court has jurisdiction to hear this case, and the Ohio Constitution's Open Courts Clause requires the Court to exercise jurisdiction.

This is a contract case. Before the Court is a complaint for declaratory judgment and injunctive relief on a written agreement, matters that are well within its jurisdiction. Compl. at ¶¶ 122–28. In cases where the defendant has challenged the court's subject matter jurisdiction, the test is whether the complaint states *any* cause of action cognizable by the forum. *State ex rel. Bush v. Spurlock*, 42 Ohio St.3d 77, 80 (1989).

1. *Lakewood* supports this Court adjudicating the case.

The Ohio Supreme Court recently reiterated the distinction between common pleas courts' and SERB's jurisdiction with contract claims. The unanimous court reiterated that

> "[e]xclusive jurisdiction to resolve unfair labor practice charges is vested in SERB in two general areas: (1) where one of the parties filed charges with SERB alleging an unfair labor practice under R.C. 4117.11 and (2) where a complaint brought before the common pleas court alleges conduct that constitutes an unfair labor practice specifically enumerated in R.C. 4117.11."

Ohio Council 8, AFSCME, AFL-CIO v. Lakewood, Slip Opinion No. 2025-Ohio-2052, ¶ 13, quoting *State ex rel. Dept. of Mental Health v. Nadel*, 2003-Ohio-1632, ¶ 23. The court determined

that "[i]f a party asserts rights that are independent of R.C. Chapter 4117, the party's complaint may properly be heard in common pleas court." *Id.* at ¶ 17, quoting *Franklin Cty. Law Enforcement Assn.*, 59 Ohio St.3d 167 (1991), paragraph two of the syllabus.

In *Lakewood*, AFSCME's[4] local and regional unions acted as the exclusive representative for certain employees in the city of Lakewood's Department of Public Works, including Michael Satink. *Id.* at ¶ 3. As such, the union entered into a collective bargaining agreement with the city on behalf of the represented employees. *Id.* The CBA included a grievance procedure, which stated "that it is the 'exclusive method of reviewing and settling disputes' between the city and the union or employees and that in the event a grievance goes to arbitration, decisions of arbitrators are 'conclusive and binding.'" *Id.*

In 2020, the city terminated Satink. *Id.* at ¶ 4. Following a grievance filed by the union, the parties began arbitration proceedings. *Id.* However, before the arbitration hearing commenced, "the parties agreed to a last-chance agreement ('LCA'), under which Satink's employment was reinstated." *Id.* Under the LCA, "if Satink were to violate any city work rule or policy 'pertaining to professional, respectful, and workplace appropriate behavior,' he would be 'subject to immediate termination without recourse to the grievance or arbitration provisions of the [CBA].'" *Id.* In 2021, the city again terminated Satink's employment after he engaged in workplace misconduct. The union filed a grievance challenging Satink's second termination. However, the city informed the union that under the LCA, it had no obligation to respond to the grievance, hear or process the grievance, or submit to an arbitrator's jurisdiction regarding the grievance. Nevertheless, the union notified the city of its intent to arbitrate the grievance and filed an

[4] Plaintiffs' Union is also a local affiliate of AFSCME.

application and motion to compel arbitration under R.C. 2711.03 in the common pleas court. *Id.* at ¶ 5. "The city filed a motion to dismiss for lack of subject-matter jurisdiction, arguing that the union's claims were dependent on the CBA and rights created by R.C. Ch. 4117 and that SERB has exclusive jurisdiction over such claims." *Id.* at ¶ 6.

The Ohio Supreme Court rejected the city and the lower court's argument that "while the union was not explicitly seeking relief under R.C. Ch. 4117, it was substantively alleging that the city had interfered with Satink's collective-bargaining rights by refusing to arbitrate the grievance under the CBA." *See id.* ¶¶ 9, 13. The court noted, "[i]n its application and motion to compel arbitration, the union [did] not allege that the city engaged in an unfair labor practice or conduct that constitutes an unfair labor practice. Therefore, SERB does not have exclusive jurisdiction over [the] case." *Id.* at ¶ 13.

Additionally, the court rejected the argument that the claims arose from or were dependent on the collective bargaining rights created by R.C. Chapter 4117. *Id.* at ¶ 27. While the union "allege[d] a violation of the CBA by the city; it [did] not allege" a violation of R.C. Chapter 4117. *Id.* at ¶ 29. In this case, the Union is correct that R.C. 4117.09(B)(1) creates a statutory right to bring a claim in a common pleas court to compel an arbitration agreement. Mot. to Dismiss at 9. But that is not what *Lakewood* turned on. Rather, the court underscored that "even if R.C. Ch. 4117 did not exist, the parties would still have the right to include arbitration provisions in their collective-bargaining agreement . . . ." *Id.* That's because, as the court saw it, the union was bringing a contract claim, not an unfair labor practice. *Lakewood*, Slip Opinion No. 2025-Ohio-2052, ¶ 15. Thus, SERB did not have exclusive jurisdiction over *the alleged violation of the CBA*.

Like the claims in Lakewood, the Plaintiffs would still have the right to bring their claims "even if R.C. 4117 did not exist." *See id.* Indeed, , Plaintiffs' contract claims are even farther

removed from R.C. Chapter 4117 than the alleged violation of the CBA in *Lakewood.* Plaintiffs (1) *did not* file charges with SERB alleging an unfair labor practice under R.C. 4117.11; (2) *did not* allege that the union engaged in an unfair labor practice or conduct that constitutes an unfair labor practice; (3) *did* assert in the Complaint rights that are independent of R.C. Chapter 4117; and (4) *did not* allege a violation of the CBA. "Therefore, SERB does not have exclusive jurisdiction over this case…." *Id.* at ¶ 13. What's more, as SERB's determination in *Littlejohn* explains, the claims at issue here—which are substantively identical to those Ms. Littlejohn asked SERB to pursue—are categorically not unfair labor practices.

2. The Open Courts Clause requires that Plaintiffs have a forum.

Article IV, Section 4(B) of the Ohio Constitution provides that courts of common pleas "shall have such original jurisdiction over all justiciable matters . . . as may be provided by law." Ohio Const., art. IV, § 4. And by statute, common pleas courts have general original subject-matter jurisdiction over civil actions, including breach of contract actions. R.C. 2305.01; *State ex rel. Cleveland Elec. Illum. Co. v. Cuyahoga Cty. Court of Common Pleas*, 88 Ohio St.3d 447, 449 (2000). If that was not enough, the declaratory judgment law, R.C. 2721.01, *et seq*., expressly provides that courts have jurisdiction to hear this type of dispute. There is plainly a justiciable controversy between the parties regarding the validity and enforceability of the contracts between them and the post-membership dues that the union has refused to refund.

The union insists that SERB, not this Court, is the proper forum to resolve this dispute. *E.g.,* Local 2174 Mot. to Dismiss at 5–6. The union's argument fails for three reasons. First, the union's Motion demonstrates why declaratory judgment is needed. There is a clear disagreement about the proper forum to bring claims like the ones Plaintiffs brought. Previous cases show the confusion that clouds this area of law, and a declaratory judgment would clear the way forward.

Second, the union rightly points out that in a similar case, another plaintiff, Ms. Littlejohn, brought the same five contract claims before SERB. *E.g.,* Local 2174 Mot. to Dismiss at 11–12. SERB dismissed that charge, finding that the alleged conduct was not an unfair labor practice, so the charge lacked merit. *In re Ohio Council 8, AFSCME, AFL-CIO*, SERB No. 2023-ULP-12-0146 (June 20, 2024). But it is also clear from R.C. 4117.11 that SERB has exclusive jurisdiction only over unfair labor practice charges. *Franklin Cnty. Law Enf't Ass'n v. Fraternal Order of Police, Capital City Lodge No. 9*, 59 Ohio St.3d 167, 170 (1991). So, if the conduct alleged in Ms. Littlejohn's charge was not an unfair labor practice, then SERB did not have exclusive jurisdiction over claims relating to that conduct[5]. Likewise, SERB does not have exclusive jurisdiction here since, after all, Plaintiffs' claims are "nearly, if not identical," to Ms. Littlejohn's. Local 2174 Mot. to Dismiss at 11.

In cases like this, there is little distinction between SERB declining to prosecute an unfair labor practice charge for jurisdictional or merit-based reasons. SERB may exercise its statutory jurisdiction to investigate the charge without taking jurisdiction of the alleged charge. This is like a federal district court that exercises its jurisdiction to determine if it has subject matter jurisdiction over a case. The court can exercise a sort of provisional jurisdiction to determine if it has subject matter jurisdiction without violating the law.

Third, the Ohio Supreme Court has "expressly acknowledged . . . that a plaintiff may raise in the common pleas courts rights that exist independently of R.C. Chapter 4117, 'even though

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[5] While the Court is not asked to determine the issue here, SERB has indicated, and Ohio appellate courts have agreed that when the conduct alleged does not constitute an unfair labor practice, SERB lacks *any* jurisdiction to hear the dispute. *See State ex rel. Ohio Patrolmen's Benevolent Ass'n, v. State Employment Relations Bd.*, 2004-Ohio-6829, ¶¶ 17, 21 (10th Dist.)(Denying writ of mandamus compelling SERB to take jurisdiction where it had dismissed charge that did not allege unfair labor practice for lack of jurisdiction.)

they may touch on the collective bargaining relationships.'" *State ex rel. Ohio Civ. Serv. Emps. Assn. v. State*, 2016-Ohio-478, ¶ 54, citing *Franklin Cnty. Law Enf't Ass'n*, at 172. Here, Counts One through Five of the Complaint are common law contract claims. *See* Compl. at ¶¶ 1, 10–12. Those rights and claims exist independent of *any* statute, let alone R.C. 4117. And the Parties have the right to contract, or not contract, for membership regardless of what the collective bargaining agreement says. Thus, this Court remains an open forum for Plaintiffs.

What Plaintiffs ask this Court to do is not without precedent. In *Corder v. Ohio Edison Co.*, the plaintiffs sought a declaratory judgment on a public utility company's right under an easement to use herbicides to remove certain plants. 2020-Ohio-5220, ¶ 10. The Ohio Supreme Court determined that PUCO lacked authority to answer that question—a court of general jurisdiction was needed. *Id.* at ¶ 27. *Corder* turned on whether PUCO had exclusive jurisdiction to "decide the scope of an easement owned by a public utility." *Id.* Relying on the common law, the Court held that "such a determination requires an adjudication of competing property rights that may be made only by a court." *Id.* Contract law, like property law, is an area deeply rooted in and controlled by common law. Like the plaintiffs' property rights in *Corder*, Plaintiffs' contract rights would be severely harmed without judicial intervention here. Thus, this Court can make a similar determination on SERB's jurisdiction, and dismissal is inappropriate because this Court has jurisdiction to hear the case.

More fundamentally, though, the Ohio Constitution provides that "[a]ll courts shall be open, and every person, for an injury done him in her land, good, person, or reputation, shall have remedy by due course of law and shall have justice administered without denial or delay." Ohio Const., art. I, § 16. The Ohio Supreme Court confirmed this truism in *State ex rel. Cincinnati Enquirer v. Bloom,* 2024-Ohio-5029, ¶¶ 36–37. Although *Bloom* primarily addressed the public's

right to access judicial hearings, the Court affirmed that Section 16 mandates "that all persons shall have remedy for the redress of grievances." *Id.* at ¶ 37, quoting *E. W. Scripps Co. v. Fulton*, 100 Ohio App. 157, 171 (8th Dist. 1955) (Hurd, J., concurring). Dismissing this case will strip Plaintiffs of their constitutional right, as no other forum or court is available for them to seek redress. Since the federal courts have directed dissident union members to the state courts, and SERB has determined that their claims are not statutory unfair labor practices, this Court is the only forum in which Plaintiffs can seek relief for their contractual claims. Dismissing the well-pleaded complaint would deprive Plaintiffs of their right to have access to court to determine basic questions of contract law.

B. Plaintiffs' Complaint adequately states claims for declaratory relief that this court has jurisdiction over.

Ohio's declaratory judgment law provides that

> [s]ubject to division (B) of section 2721.02 of the Revised Code, any person interested under a . . . written contract, or other writing constituting a contract . . . may have determined any question of construction or validity arising under the instrument, constitutional provision, statute, rule, ordinance, resolution, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it.

R.C. 2721.03. The law further provides that common pleas courts have jurisdiction to "declare rights, status, and other legal relations whether or not further relief is or could be claimed" R.C. 2721.02(A). Here, the unions received dues from Plaintiffs while they were members of the union, and after they resigned from the unions based on the written agreement between Plaintiffs and their

unions. Plaintiffs are challenging "the validity and construction" of those agreements.

Specifically, Plaintiffs raise alternative claims for declaratory judgment, alleging that the parties mutually repudiated the contract, that the contract should be rescinded for mutual mistake, or that the continued imposition of dues constitutes an unenforceable penalty for Plaintiffs' breach of the contracts, and that the contracts—that do not disclose the price of the dues to be collected—are unconscionable.

Taking the claims one by one, the Complaint adequately pleads a declaratory judgment cause for each, an action squarely within this Court's jurisdiction. For example, Plaintiffs allege that they resigned from union membership, that the union acknowledged and accepted their resignations, and that the union expressly withheld any further benefits of membership to them. Compl. at ¶¶ 40–43. In other words, Plaintiffs have alleged that both parties have refused to perform under the contracts, and that they are therefore subject to rescission under Ohio law. *See, e.g.*, *Haman Ents., Inc. v. Sharper Impressions Painting Co.*, 2015-Ohio-4967, ¶ 19 (10th Dist.). The union has a different view and this controversy is sufficient to state a claim.

Next, Plaintiff DuPuis alleged that the contract should be rescinded (and her dues refunded) based on mutual mistake.[6] Plaintiff DuPuis and the union originally entered into the contract before the Supreme Court decided *Janus*. Compl. at ¶ 96. Although Plaintiff DuPuis had the option not to join the union in the first place, in the pre-*Janus* world, there were no economic incentive to not join since she would have been required to pay agency fees regardless of whether she was a member. Compl. at ¶ 59. "A mutual mistake of fact or law regarding a material term of a contract is grounds for rescission." *Quesinberry v. Quesinberry*, 2022-Ohio-635, ¶ 36 (2d Dist.), *appeal not*

[6] Plaintiff Binder does not join this claim because she did not join the Union until after the *Janus* decision.

accepted, 2022-Ohio-2490. Plaintiff DuPuis has adequately pled that she and the union were mistaken as to the law and enforceability of agency fees, which was material to her membership. Compl. at ¶¶ 91–98. Again, this invokes a legal question subject to this court's jurisdiction.

Both Plaintiffs next allege that the union's ability to keep receiving dues after they had resigned their memberships is an unenforceable contractual penalty. Compl. at ¶¶ 99–108. Ohio law permits liquidated damages only when they represent a reasonable measure of compensation for the contract's breach. *Boone Coleman Constr., Inc. v. Piketon,* 2016-Ohio-628, ¶¶ 17–19. Plaintiffs alleged—and the union does not dispute—that the union kept receiving dues from Plaintiffs after they resigned their memberships. These dues deductions for Plaintiff DuPuis continue today even though the union is no longer providing any services that it is not otherwise obligated to provide by statute as the exclusive bargaining unit representative under R.C. 4117. Compl. at ¶¶ 40, 43. The union stopped dues deductions for Plaintiff Binder when she left Toledo Public Schools. Compl. at ¶ 49. If the membership contracts between Plaintiffs and the union are valid—and the union seems to believe they are—then Plaintiffs' resignation from the union outside of their contractual windows was a repudiation of that contract.

Despite no longer providing services, the union continued to receive dues paid through forced paycheck deductions from Plaintiffs. Compl. at ¶¶ 40–44. Ohio courts have held that "[p]enalty provisions in contracts are held invalid on public policy grounds because a penalty attempts to coerce compliance." *Satterfield v. Adams Cnty./Ohio Valley School Dist*., 1996 WL 655789, *7 (4th Dist. Nov. 6, 1996), citing *Lake Ridge Academy v. Carney*, 66 Ohio St.3d 376, 381(1993). Plaintiffs thus adequately alleged that the continued withdrawal of dues subjected them to an unreasonable penalty. Construing the Complaint's factual allegations as true, this is more than enough to withstand a motion to dismiss on jurisdictional grounds.

Count Four of Plaintiffs' Complaint alleges that the membership contracts are contracts of adhesion. Compl. at ¶¶ 109–15. Plaintiffs' dues deduction cards—the contracts at issue—did not disclose the amount of dues they would be required to pay, Compl. at ¶ 111, and there was an "absence of a meaningful choice" considering that pre-*Janus*, Plaintiff DuPuis would have been required to pay agency fees, combined with "contract terms that are unreasonable favorable" to the unions. *See Sabo v. Hollister Water Assn.*, 2007-Ohio-7178, ¶ 34 (4th Dist.), citing *Collins v. Click Camera & Video, Inc.*, 86 Ohio App.3d 826, 834 (2d Dist. 1993). Plaintiffs may or may not ultimately prevail on this claim when the Court weighs evidence regarding the choices they had or whether those terms were unreasonably favorable to the unions. But the questions Plaintiffs present fall squarely within the Court's jurisdiction and thus they have sufficiently pled the claim to withstand a motion to dismiss.

Count Five is a standard unjust enrichment claim, pleaded in the alternative in case the Court determines that none of the parties ever validly formed contracts. Compl. at ¶¶ 116–21. Plaintiffs pled that they paid the union dues while they were not members, that the union was aware of their payments, that Plaintiffs received nothing in return, and that under those circumstances, it is unjust to allow the unions to retain the dues. *Id.* This satisfies the pleading requirement for an unjust enrichment claim, which this Court has jurisdiction over. *See Barger v. Elite Mgt. Services, Inc.*, 2018-Ohio-3755, ¶ 15 (1st Dist.). Count Six is a request under Ohio's Declaratory Judgment statute for a declaration of rights under a contract and has statutory basis independent of R.C. 4117. See R.C. 2721.03.

IV. Conclusion

For the above reasons, the Motion to Dismiss should be DENIED.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This will certify that a true and accurate copy of the above brief has been served by e-mail to counsel of record for Defendants on this 22nd day of September 2025.

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One of the Attorneys for Plaintiffs