

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

JOANNE McCALL; SENATOR GERALDINE THOMPSON; BOB JONES;
RABBI MERRILL SHAPIRO; REV. HARRY PARROTT, JR.; REV. DR. HAROLD BROCKUS;
FLORIDA EDUCATION ASSOCIATION; FLORIDA SCHOOL BOARDS ASSOCIATION, INC.;
FLORIDA CONGRESS OF PARENTS AND TEACHERS, INC.; FLORIDA ASSOCIATION OF SCHOOL ADMINISTRATORS, INC.; LEAGUE OF WOMEN VOTERS OF FLORIDA, INC.; and FLORIDA STATE CONFERENCE OF BRANCHES OF NAACP,

Plaintiffs,

v.

Case No. _____

RICK SCOTT, Governor of Florida, in his official capacity as head of the Florida Department of Revenue;
PAM BONDI, Attorney General of Florida, in her official capacity as a member of the Cabinet and head of the Florida Department of Revenue; JEFF ATWATER, Chief Financial Officer, in his official capacity as a member of the Cabinet and head of the Florida Department of Revenue; ADAM PUTNAM, Commissioner of Agriculture, in his official capacity as a member of the Cabinet and head of the Florida Department of Revenue;
PAM STEWART, Commissioner of Education, in her official capacity as Commissioner of the Florida Department of Education; FLORIDA DEPARTMENT OF REVENUE; and FLORIDA DEPARTMENT OF EDUCATION,

Defendants.

COMPLAINT

1. Plaintiffs in this action ask the Court to declare unconstitutional and enjoin further operation of the Florida Tax Credit Scholarship Program (“Scholarship Program” or “Program”), § 1002.395, Florida Statutes, which violates both Article IX, § 1, and Article I, § 3, of the Florida Constitution.

2. The Scholarship Program is one of multiple recent attempts by the Legislature to establish a state program to pay for the education of Florida children in private schools, diverting for that purpose funds that otherwise would support those children’s education in the system of free public schools required by Article IX, § 1.

3. Previously, the Florida courts struck down the Opportunity Scholarship Program (“OSP”), a similar program that provided publicly funded vouchers to pay private-school tuition. Enacted by the Legislature in 1999, the OSP was held unconstitutional by the Florida Supreme Court in 2006 under Article IX, § 1. The Supreme Court also left undisturbed the opinion of the First District Court of Appeal, sitting *en banc*, which held that the OSP also violated Article I, § 3.

4. Like the OSP, the Scholarship Program at issue here – initially enacted while the OSP was under legal challenge and expanded repeatedly after the OSP was struck down – is a program through which the State provides for the education of Florida children in private schools at public expense. Although the Scholarship Program relies on a different mechanism for channeling taxpayer funds to private schools, the use of “tax expenditures” rather than direct appropriations to accomplish the same goal of funding private education cannot save the Scholarship Program from the constitutional flaws that doomed the OSP. As was the case with the OSP, the Scholarship Program violates the constitutional mandate that a system of free public

schools is to be the means by which the Legislature provides for the education of Florida children, as well as the constitutional prohibition against using public funds in aid of sectarian institutions.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to Article V, § 20(c)(3) of the Florida Constitution and § 26.012(2)(c), (3), Florida Statutes.

6. Venue lies in this Court because defendants maintain their principal places of business in Leon County.

PARTIES

7. Plaintiff Joanne McCall, a resident of Leon County, is a Florida citizen and taxpayer. McCall is Vice President of the Florida Education Association, and is the parent of a child who attends public school in Leon County.

8. Plaintiff Senator Geraldine Thompson, a resident of Orange County, is a Florida citizen and taxpayer. She is the duly elected Florida Senator representing Senate District 12. Senator Thompson is a strong supporter of Florida's public education system and an opponent of diverting public resources to private and religious schools which are not required to abide by the requirements imposed upon traditional public schools in Florida.

9. Plaintiff Bob Jones, a resident of Okaloosa County, is a Florida citizen and taxpayer. Jones is a public school principal and immediate Past President of the Florida Association of School Administrators, Inc.

10. Plaintiff Rabbi Merrill Shapiro, a resident of Palm Coast, is a Florida citizen and taxpayer. He is the Rabbi of Temple Shalom in Deltona, Florida. Rabbi Shapiro is President of the national Board of Trustees of Americans United for Separation of Church and State and

President of the Flagler County Chapter of Americans United for Separation of Church and State. Rabbi Shapiro objects to the diversion of tax funds to support religious instruction in faiths to which he does not subscribe. He also believes that use of tax funds to support any religious faith, whether another's or his own, corrodes and debases religion.

11. Plaintiff Reverend Harry Parrott, Jr., a resident of Penney Farms, is a Florida citizen and taxpayer. He is an ordained Baptist minister, now retired after 38 years of service, and is President of the Clay County Chapter of Americans United for Separation of Church and State. As a Baptist who understands the history of his denomination, Rev. Parrott believes what traditional Baptists have long taught, namely, that all congregations and schools that teach religious doctrine should be supported by their own members, without any government funding whatever. He therefore objects to the diversion of tax funds to support not only schools that teach religious tenets to which he does not subscribe, but also to support schools that teach his own religious views, for the use of tax funds to support religious instruction demeans and corrupts religion.

12. Plaintiff Reverend Dr. Harold Brockus, a resident of St. Petersburg, is a Florida citizen and taxpayer. He retired after 32 years of service as the pastor of Good Samaritan Church in Pinellas Park, a congregation affiliated with both the Presbyterian Church USA and the United Church of Christ. Rev. Dr. Brockus is a member of Americans United for Separation of Church and State and served for eight years as President of its South Pinellas County Chapter. He objects to the use of tax funds to support religious instruction, because that corrupts both religion and the State. He believes that tax-funded religious schools must be held accountable to the standards to which public schools are held.

13. Plaintiff Florida Education Association (“FEA”) is a statewide membership organization with approximately 140,000 members who are employed in public schools in Florida’s 67 school districts. FEA represents its members, *inter alia*, in matters that relate to support of public schools and assuring that children being educated in such schools receive the high quality education that is constitutionally guaranteed to them. FEA brings this lawsuit on behalf of its members, who are Florida citizens and taxpayers.

14. Plaintiff Florida School Boards Association, Inc. (“FSBA”) is a nonprofit corporation representing the school board members who are duly elected constitutional officers charged with supervising, operating and controlling public schools, and determining the rate of school district taxes, in Florida’s 67 school districts. FSBA has been the collective voice of Florida school districts since 1930 and is closely allied with other educational and community agencies to work toward improvement of public education in this State. FSBA’s ultimate mission is to support and assist school boards in shaping and improving Florida public education. FSBA brings this lawsuit on behalf of its members, who are Florida citizens and taxpayers.

15. Plaintiff Florida Congress of Parents and Teachers, Inc. (“PTA”) is made up of hundreds of thousands of families, students, teachers, administrators, and business and community leaders devoted to improving the lives of children and youth in the State of Florida. The PTA is the oldest and largest child advocacy association in this State. It is a registered 501(c)(3) non-profit association that prides itself on being a powerful voice for all children. The PTA was a plaintiff in the previous challenge to school vouchers in *Bush v. Holmes*. The PTA brings this lawsuit on behalf of its members, most of whom are Florida citizens and taxpayers.

16. Plaintiff Florida Association of School Administrators, Inc. (“FASA”) is a statewide membership organization consisting of school administrative personnel employed in

public schools in Florida's 67 school districts. FASA, and the members it represents, have a strong interest in the support of public schools and assuring that children educated at public expense receive a high quality education as guaranteed by the Florida Constitution. FASA brings this lawsuit on behalf of its members, who are Florida citizens and taxpayers.

17. Plaintiff League of Women Voters of Florida, Inc. ("League") is a nonpartisan organization that encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. League members are ardent supporters of a high quality public education system. The League was a plaintiff in the previous challenge to school vouchers in *Bush v. Holmes*. The League brings this lawsuit on behalf of its members, most of whom are Florida citizens and taxpayers.

18. Plaintiff Florida State Conference of Branches of NAACP ("Florida NAACP") is an organization that is committed to the preservation and improvement of Florida's system of public education. The Florida NAACP was a plaintiff in the previous challenge to school vouchers in *Bush v. Holmes*. The Florida NAACP brings this lawsuit on behalf of its members, most of whom are Florida citizens and taxpayers.

19. As Florida citizens and taxpayers, and organizations whose members are Florida citizens and taxpayers, plaintiffs have been and will continue to be injured by the unconstitutional expenditure of public revenues under the Scholarship Program. In addition, many of the plaintiffs (and members of the plaintiff organizations) whose children attend public schools, or who are teachers or administrators in the public schools, have been and will continue to be injured by the Scholarship Program's diversion of resources from the public schools.

20. Defendant Rick Scott is Governor of Florida. As Governor, he and the Cabinet are the head of the Department of Revenue. Governor Scott is sued in his official capacity.

21. Defendant Pam Bondi is Attorney General of Florida. As Attorney General, defendant Bondi is a member of the Cabinet, which together with the Governor is the head of the Department of Revenue. Attorney General Bondi is sued in her official capacity.

22. Defendant Jeff Atwater is Florida's Chief Financial Officer. As Chief Financial Officer, defendant Atwater is a member of the Cabinet, which together with the Governor is the head of the Department of Revenue. Chief Financial Officer Atwater is sued in his official capacity.

23. Defendant Adam Putnam is Commissioner of Agriculture. As Commissioner of Agriculture, defendant Putnam is a member of the Cabinet, which together with the Governor is the head of the Department of Revenue. Commissioner Putnam is sued in his official capacity.

24. Defendant Pam Stewart is Commissioner of Education, and in that capacity she serves as Executive Director of the Department of Education. In addition to directing the operation of the Department of Education, the Commissioner is also responsible under the Scholarship Program for denying, suspending, or revoking a private school's participation in the Program if it fails to comply with the statutory provisions governing the Program.

Commissioner Stewart is sued in her official capacity.

25. Defendant Florida Department of Revenue ("DOR") is the administrative agency of Florida government that is charged, *inter alia*, with administering the collection of state taxes. Under the Scholarship Program, DOR is responsible in particular for approving applications for the tax credits through which the private-school vouchers are funded, and for adopting rules establishing application forms, procedures governing the approval of tax credits and carry-

forward tax credits, and procedures to be followed by taxpayers when claiming tax credits on their returns.

26. Defendant Florida Department of Education (“DOE”) is the administrative agency of Florida government that is generally responsible for implementing Florida’s education policies and programs, including the Scholarship Program. In particular, DOE is charged with verifying the eligibility of scholarship funding organizations and private schools that wish to participate in the Program, providing information to parents and private schools about the Program, and determining the compliance of participating private schools with the Program’s rules and requirements.

FACTS

The Opportunity Scholarship Program Held Unconstitutional

27. In 1999 the Legislature enacted the State’s first voucher program, the Opportunity Scholarship Program (“OSP”), under which some Florida children would attend private schools at public expense rather than receiving their constitutionally guaranteed free education in the public schools. Under the OSP, children attending public schools designated by the State as “failing” for two years of a four-year period were entitled to receive vouchers from the State that would instead pay for their children to attend private schools. The vouchers were paid for with funds withdrawn from the funding otherwise appropriated to the student’s public school. Payments were in the form of warrants sent to the private schools but made payable to the parent, who was then required by law to restrictively endorse the warrant to the private school. The statute specifically permitted OSP vouchers to be used to pay for attendance at sectarian schools; in fact over 90% of the program’s participants before it was struck down attended sectarian

schools. The statute imposed no conditions on the purposes for which private schools receiving public funds through the OSP could use this money.

28. The OSP was challenged in court as violating, *inter alia*, Article I, § 3, and Article IX, § 1, of the Florida Constitution. An initial ruling of the Leon County Circuit Court struck down the OSP under Article IX, § 1. After that judgment was reversed on appeal and the case remanded, a different judge of the same court held the OSP unconstitutional under Article I, § 3. The First District Court of Appeal, sitting *en banc*, affirmed that judgment, holding that – because most of the program funds went to pay for religious education in sectarian schools – the OSP violated the “no aid” clause of Article I, § 3, which prohibits taking revenue “from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.” *Bush v. Holmes*, 886 So. 2d 340 (Fla. 1st DCA 2004) (*en banc*).

29. A five-judge concurring opinion in the First District Court of Appeal also found the OSP unconstitutional on the additional ground that it violated Article IX, § 1. On direct appeal, the Florida Supreme Court relied solely on this latter ground in affirming the lower courts’ judgment that the OSP was unconstitutional. Without either approving or disapproving the First District’s holding with respect to Article I, § 3, the Supreme Court held that the OSP was “in direct conflict with the mandate in article IX, section 1(a) that it is the state’s ‘paramount duty’ to make adequate provision for education and that the manner in which this mandate must be carried out is ‘by law for a uniform, efficient, safe, secure, and high quality system of free public schools.’” *Bush v. Holmes*, 919 So. 2d 392, 405 (Fla. 2006).

30. After the OSP was struck down as unconstitutional, several attempts to amend the Florida Constitution to permit private-school vouchers were made but were unsuccessful. In

particular, in November 2012 the Florida electorate soundly rejected a proposed constitutional amendment that would have repealed the “no aid” clause of Article I, § 3.

Enactment and Expansion of the Tax Credit Scholarship Program

31. In 2001, while the OSP was under challenge in the courts, the Legislature enacted the initial version of the Scholarship Program. Funded by allowing corporations to redirect some of their corporate income tax liability to the voucher program, the “Corporate Tax Credit Scholarship Program” provided private-school vouchers of \$3,500 per student, up to an aggregate expenditure cap of \$50 million annually.

32. Since its original enactment, the Scholarship Program has been expanded on multiple occasions, with increases in the amount of the per-voucher and the aggregate annual expenditure caps, expansion of the eligibility criteria for obtaining a voucher, and the inclusion of additional funding sources. In particular, after the OSP was struck down, the Legislature in 2008 raised the voucher amount to \$3,950 and increased the aggregate cap to \$118 million, with the goal of providing vouchers to 25,000 students. The next year the program was renamed the Florida Tax Credit Scholarship Program and expanded to allow tax credits for insurance premium tax liability in addition to the corporate income tax liability. A 2010 amendment allowed the voucher amount to increase annually within certain limits; additional funding sources were added by allowing tax credits against liability for the alcoholic beverage excise, direct-pay sales and use, and oil and gas severance taxes; and the maximum amount of tax credits that could be awarded to fund the vouchers was allowed to increase by 25% annually.

33. Since the 2005-06 school year, during which the OSP was held unconstitutional by the Florida Supreme Court, the Scholarship Program has expanded from 15,123 to 59,674 participating students in 2013-14. During that same period, the maximum amount of tax

revenues that can be used to pay for private-school tuition under the Program increased from \$88 million to more than \$286 million – and for the 2014-15 fiscal year this aggregate expenditure cap will reach in excess of \$357 million.

34. On June 20, 2014, Governor Scott signed into law an omnibus education bill that included yet another significant expansion of the Scholarship Program. In addition to further increasing the dollar amount of the voucher, the 2014 amendment expands the Program by making vouchers available to children in grades 6-12 who were already attending private schools, and (beginning in 2016-17) by raising the family income level at which a child is eligible for an initial voucher.

The Tax Credit Scholarship Program

35. As most recently amended, the Scholarship Program makes available private-school vouchers to children from low- and middle-income families. Through the 2015-16 school year, eligibility is generally limited to children from families with annual incomes below 185% of the federal poverty level (\$44,122 for a family of four); thereafter, families with incomes up to 260% of the federal poverty level (\$62,010 for a family of four) will be eligible. Children in foster care are also eligible, regardless of income.

36. Vouchers are disbursed by private intermediaries, called Scholarship Funding Organizations (“SFOs”), on a first-come, first-served basis (except that students already receiving vouchers, and applicants with family incomes under 185% of the poverty level, are entitled to priority).

37. For 2013-14, the voucher amount was set at 72% of the unweighted Florida Educational Finance Program (“FEFP”) full-time equivalent funding amount, or \$4,880 (but not to exceed the tuition and fees actually charged by the private school). For 2014-15, the voucher

amount will be \$5,272. The voucher amount increases annually as a percentage of FEFP until it reaches 82% of the FEFP funding amount. Children from families with annual incomes between 185% and 260% of the federal poverty level will be, as of 2016-17, eligible for smaller payments ranging between 88% and 50% of the otherwise applicable voucher amount.

38. These voucher amounts are paid by the SFOs to the participating private school, on a quarterly or more frequent basis, through warrants made out in the name of the parent of the participating student but delivered directly to the private school. The parent is required by law to restrictively endorse the warrant to the private school, for deposit into the account of the private school. By law, therefore, the parent cannot access or use the voucher funds for any purpose other than paying those funds over to the private school in which his or her child is enrolled.

39. Although §§ 1002.421 and 1002.395(8), Florida Statutes, prescribe certain eligibility criteria for participating private schools with respect to fiscal, academic, and other issues, under the Scholarship Program each participating private school “retains the authority to determine its own standards and curriculum.” § 1002.395(1)(c). Standards and curricula of participating private schools thus need not be uniform.

40. The Scholarship Program does not require that the private school a student attends with a voucher offer a higher quality education than the public school the student would otherwise have attended. Indeed, participating private schools are not subject to the student assessment system prescribed in § 1008.22, Florida Statutes, or the school grading system prescribed in § 1008.34, or any other state school grading system.

41. Any eligible private school, as defined in § 1002.421, Florida Statutes, may receive vouchers awarded under the Scholarship Program. The statute specifically includes

“sectarian” schools among those eligible to participate in the Program. § 1002.395(8), Florida Statutes.

42. The overwhelming majority of all Florida private schools are sectarian schools. Of the 1,414 private schools participating in the Scholarship Program during the 2013-14 school year, approximately 71% were sectarian schools, and 82% of all students receiving vouchers attended sectarian schools.

43. At most or all of these sectarian schools that Florida children attend with vouchers provided through the Scholarship Program, the school is operated as part of the religious ministry of the church or other religious organization with which it is affiliated. Religious proselytization is an integral part of the school’s educational program, and the secular aspects of the education provided by these schools are intertwined with religious exercise and religious education.

44. Private schools, including sectarian schools, that receive public funding through Scholarship Program vouchers are free to use these funds for any purpose, including the teaching of religion.

45. Although participating private schools are prohibited from discriminating on the basis of race, color, or national origin, they are free to discriminate among applicants for admission, or in employing faculty and staff, on the basis of religion. For example, a participating private school that receives taxpayer funds under the Scholarship Program may require its students to adhere to particular religious beliefs.

46. Participating schools may also require Scholarship Program students to take part in worship, prayer, and other religious exercises, and to take mandatory classes that teach the

religious beliefs of the church or other religious organization that operates or sponsors the school.

47. Public school districts are required, under the terms of the Scholarship Program, to assist the SFOs in publicizing to parents of children in the public schools their right under the Program to withdraw from public school and obtain a voucher to attend a private school instead.

48. As students withdraw from public schools and enroll in private schools with vouchers provided by the Scholarship Program, their public school district's funding under the FEFP is proportionally reduced. Accordingly, the Scholarship Program results in the transfer of public funds from the system of public schools specified under Article IX, § 1 of the Constitution to private schools, to pay for the education of Florida children in these schools.

Funding the Scholarship Program Through Tax Credits

49. Under the OSP struck down by the courts, the vouchers that paid for Florida children to attend private schools were provided through warrants written by the state Comptroller, from funds withdrawn from the appropriations that otherwise would be paid to the student's public school district. The Scholarship Program provides a different method for redirecting funds from the public schools to private schools, apparently in an attempt to evade the constitutional restrictions under which the OSP was struck down.

50. Instead of paying moneys already within the state treasury to private schools, the Scholarship Program provides for the public funding of private education through "tax expenditures" – by establishing a process through which taxpayer funds that otherwise would be paid into the public fisc are redirected to the SFO intermediaries for transmission in the form of warrants to participating private schools.

51. The Scholarship Program provides that entities that are required to pay corporate income tax, insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax (by direct-pay permit holders), or alcoholic beverage excise taxes, may claim a 100% tax credit for contributions made to an eligible SFO. §§ 211.0251, 212.1831, 220.1875, 561.1211, 624.51055, 1002.395(5)(b), Florida Statutes. The taxpayer is allowed, in this manner, to earmark for the Scholarship Program up to 50% of its total liability for oil and gas severance tax, up to 90% of its liability for alcoholic beverage excise taxes, and 100% of its corporate income tax, insurance premium tax, and direct-pay sales tax liability.

52. An eligible SFO is a tax-exempt charitable organization under § 501(c)(3) of the Internal Revenue Code, which is required to transmit the contributions it receives (except a 3% administrative fee and the *de minimis* amounts discussed in the following paragraph) as voucher payments to private schools under rules established by the Scholarship Program. An SFO has no function under the statute other than to serve as an intermediary that collects payments from taxpayers and transmits these payments as vouchers to pay for private-school tuition of students eligible under the Scholarship Program.

53. Although the statute creating the Scholarship Program also contains a provision allowing an SFO to make payments of up to \$500 for transportation costs of children attending out-of-district public schools, funds disbursed for this purpose are *de minimis*, amounting to only \$5,500 – or less than two-thousandths of one percent of total taxpayer funds paid to SFOs – in 2013-14.

54. The aggregate amount of tax credits that can be taken under the Scholarship Program each year is subject to a cap. The Department of Revenue is to approve applications for tax credits on a first-come, first-served basis each year until the cap amount is reached. The cap

amount will be \$357.8 million for the 2014-15 fiscal year, and it will increase annually by 25% whenever at least 90% of the available cap amount is used in the prior fiscal year.

55. The legislation creating the Scholarship Program recites that its purpose is to “[e]nable taxpayers to make private, voluntary contributions to nonprofit scholarship-funding organizations in order to promote the general welfare.” § 1002.395(1)(b)(1). Taxpayers were and are, however, fully able to make voluntary contributions to support private education without such legislation. What the Scholarship Program enables is instead a scheme under which taxpayers make no “contributions” at all, as the entire amount of the funds they transmit to the SFO intermediaries is in fact paid by the State, in the form of reduced tax collections, while the taxpayers pay no more than they otherwise would have paid in taxes. As the Step Up for Students SFO explains in its promotional materials for potential donors:

It costs you NO extra dollars – the legislature has made it possible for your company to earmark up to 100 percent of its state corporate income tax payment to fund low-income student scholarships.

Thus, the Scholarship Program amounts to a system through which tax payments are “earmarked,” or redirected, for the specific purpose of funding vouchers for Florida children to attend private schools.

56. During the 2013-14 school year, some 59,674 children attended private schools at public expense with vouchers provided under the Scholarship Program, funded by tax credits totaling \$286.25 million.

**FIRST CAUSE OF ACTION
(Article IX, Section 1, Florida Constitution)**

57. The allegations of Paragraphs 1-56 are realleged and incorporated herein by reference.

58. Article IX, § 1(a) of the Florida Constitution provides in pertinent part that it is “a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools”

59. In *Bush v. Holmes*, 919 So. 2d 392 (Fla. 2006), the Florida Supreme Court held that the OSP violated Article IX, § 1 because it “devot[ed] the state’s resources to the education of children within our state through means other than a system of free public schools.” *Id.* at 407. The court further held that because the curricula and standards of private schools that Florida children attended under the OSP could vary greatly, “the alternative system of private schools funded by the OSP cannot be deemed uniform in accordance with the mandate in article IX, section 1(a).” *Id.* at 410.

60. Like the OSP, the Scholarship Program is unconstitutional because through it the State has established a governmental program providing for private-school vouchers, funded by redirecting taxpayer funds, that educates Florida children in a manner other than through the system of free public schools mandated by Article IX, § 1.

61. In addition, the Scholarship Program is – as was the case with the OSP – unconstitutional because it funds the education of Florida children in a system of schools that is not “uniform,” as required by Article IX, § 1.

SECOND CAUSE OF ACTION
(Article I, Section 3, Florida Constitution)

62. The allegations of Paragraphs 1-56 are realleged and incorporated herein by reference.

63. Article I, § 3 of the Florida Constitution provides in pertinent part that “[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the

public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”

64. In *Bush v. Holmes*, 886 So. 2d 340 (Fla. 1st DCA 2004), the First District Court of Appeal held that, because the vast majority of the funding provided through OSP vouchers went to provide a religious education in sectarian schools, this use of state revenues was in aid of sectarian institutions, in violation of the “no aid” clause of Article I, § 3.

65. Similarly, the Scholarship Program unconstitutionally redirects funds from the public treasury and channels them predominantly to sectarian schools, in violation of Article I, § 3.

66. The Scholarship Program was enacted by the Legislature as a means for the State to provide funding to educate Florida children in private schools, most of which are sectarian. It is constitutionally immaterial that the Program accomplishes that objective by redirecting funding from taxpayers to private schools before the funds are paid into the state treasury. Without the State tax system, and without the Legislature’s enactment of comprehensive legislation through which the State (a) establishes and regulates a program of private-school vouchers, and (b) channels money from the tax system to fund that program, the Scholarship Program would not exist.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court:

(1) Declare the Florida Tax Credit Scholarship Program unconstitutional under Article IX, § 1, and Article I, § 3, of the Florida Constitution;

(2) Enjoin defendants, and all persons and entities acting under their direction or in concert with them, from taking any further measures to implement the Scholarship Program;

(3) Award to plaintiffs their attorneys' fees, expenses, and costs incurred in prosecuting this lawsuit; and

(4) Order such other and further relief as this Court may deem appropriate.

Respectfully submitted,

s/ Ronald G. Meyer
RONALD G. MEYER

On Behalf of:

RONALD G. MEYER
Florida Bar No. 0148248
rmeyer@meyerbrookslaw.com
JENNIFER S. BLOHM
Florida Bar No. 0106290
jblohm@meyerbrookslaw.com
LYNN C. HEARN
Florida Bar. No. 0123633
lhearn@meyerbrookslaw.com
Meyer, Brooks, Demma and Blohm, P.A.
131 North Gadsden Street
Post Office Box 1547 (32302)
Tallahassee, FL 32301
(850) 878-5212
(850) 656-6750 – facsimile

JOHN M. WEST
Pro Hac Vice Motion Pending
jwest@bredhoff.com
RAMYA RAVINDRAN
Pro Hac Vice Motion Pending
rravindran@bredhoff.com
Bredhoff & Kaiser, P.L.L.C.
805 Fifteenth Street, N.W.
Suite 1000
Washington, DC 20005
(202) 842-2600
(202) 842-1888 – facsimile

ALICE O'BRIEN
Pro Hac Vice Motion Pending
aobrien@nea.org
National Education Association
1201 Sixteenth Street, N.W.
Washington, DC 20036-3290
(202) 822-7043
(202) 822-7033 – facsimile

DAVID STROM
Pro Hac Vice Motion Pending
dstrom@aft.org
American Federation of Teachers
555 New Jersey Avenue, N.W.
Washington, DC 20001
(202) 879-4400
(202) 393-6385 – facsimile

PAMELA L. COOPER
Florida Bar No. 0302546
pam.cooper@floridaea.org
WILLIAM A. SPILLIAS
Florida Bar No. 0909769
will.spillias@floridaea.org
Florida Education Association
213 South Adams Street
Tallahassee, FL 32301
(850) 201-2800
(850) 224-0447 – facsimile

AYESHA N. KHAN
Pro Hac Vice Motion Pending
khan@au.org
ALEX J. LUCHENITSER
Pro Hac Vice Motion Pending
luchenitser@au.org
Americans United for Separation
of Church and State
1301 K Street, N.W.
Suite 850, East Tower
Washington, DC 20005
(202) 466-3234
(202) 898-0955 – facsimile

Counsel for Plaintiffs