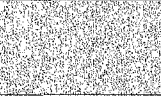


Exhibit F



**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**DAVID SCHIED,
Plaintiff,**

vs.

**Case No. 2008-CV-10005
Hon. Paul D. Borman
Mag. Steven R. Whalen**

**THOMAS A. DAVIS, JR., in his Official Capacity as Director of Texas Department
of Public Safety,
JENNIFER GRANHOLM, in her Official Capacity as Chairperson of the State of
Michigan Administrative Board,
LEONARD REZMIERSKI, in his Official Capacity as Northville Public Schools
Superintendent,
SANDRA HARRIS, in her Official Capacity as former Lincoln Consolidated Public
Schools Superintendent, and,
FRED J. WILLIAMS, in his Official Capacity as Lincoln Consolidated Public
Schools Superintendent,**

Defendants.

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**PLAINTIFF'S RESPONSE
TO DEFENDANTS HARRIS AND WILLIAMS'
SUMMARY JUDGMENT MOTION**

ARGUMENT

I. The claims in plaintiff's Complaint are not barred by the doctrine of res judicata.

Defendants are basing their Summary Judgment Motion upon the presumption that since the underlying "events" are similar in the Schied State Court cases that this present case is barred by the legal doctrine of res judicata.

However, the *Sewell v Clean Cut Mgt., Inc.*, 463 Mich. 569, 575; 621 NW2d 222 (2001) case lists three criteria to invoke res judicata and bar a subsequent action. The third listed criteria is what plaintiff believes distinguishes this Federal Court Complaint from the pervious lawsuits and clarifies that res judicata does not apply to the facts, allegations, requested injunctive relief, damages and law presented by plaintiff's Complaint in this case.

Specifically, the *Sewell* third factor is, "and (3) the matter in the second case was, or could have been, resolved in the first." Plaintiff's continuing frustration, and the problem facing all these parties, is that due to on-going circumstances there is no way of accurately predicting or anticipating a set of circumstances that could be resolved in any particular case since the circumstances keep changing. ~~The difficulty with this situation is that until plaintiff obtains the requested injunctive relief that a~~

brand new set of circumstances, people and events will continue to crop up.

Perhaps plaintiff's frustration may be better appreciated by the following analogy:

We have a horse, a saddle and a burr under the saddle. Each time a rider sits on the saddle the burr injures the horse. Sometimes it is the same rider. Sometimes it is a different rider but each injury to the horse is different and is on a different day. This scenario will continue adinfinitum until the burr is removed.

In this Federal lawsuit it is easy to picture plaintiff as the horse, the burr as the untrue and inaccurate information contained in the defendant's records, and shifting riders over shifting times.

New injuries will occur over and over at different times and from the same or different riders until the burr is removed.

So far, despite all of plaintiff's reasoned and reasonable efforts to "remove the burr" new incidents, new dates of injury and new and renewed riders find new ways to sit on the saddle.

The horse, the saddle and the burr remain the same so we have the same underlying "events" much like in this Federal lawsuit, but what changes matters - what differentiates this case from the previous State Court cases - is the new injury; the new injury dates; the new "riders" or the renewed riders (*i.e.* former riders who have refused to remove the burr even when confronted with new information and now - as a result of this case - certified proof that the burr should be removed) and new damages occasioned by that refusal.

More specifically, the Washtenaw County Circuit Court case of *Schied v Lincoln Consolidated Schools* pertained to plaintiff's claim (as pursued by his MEA union attorney) that plaintiff had been wrongfully terminated by Lincoln Consolidated Schools since his Texas felony guilty plea had been set-aside and plaintiff had been granted a full pardon by the