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PROFESSIONAL STAFF CONGRESS,	:	Index No.
	:	
<i>Plaintiff,</i>	:	
	:	
<i>against</i>	:	<u>SUMMONS</u>
	:	
CITY UNIVERSITY OF NEW YORK,	:	Date Index No. Purchased:
	:	
<i>Defendant.</i>	:	
-----X	:	

*Attorneys for Plaintiff
Professional Staff Congress*

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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PROFESSIONAL STAFF CONGRESS,	:	
	:	Index No.
<i>Plaintiff,</i>	:	
	:	
v.	:	
	:	
CITY UNIVERSITY OF NEW YORK,	:	
	:	
<i>Defendant.</i>	:	
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COMPLAINT

Plaintiff Professional Staff Congress (“PSC”), for its complaint, alleges as follows:

INTRODUCTION

1. Like most people, the faculty and staff of Defendant City University of New York (“CUNY”) care deeply about their retirement security. As their employer, CUNY plays a critical role in the administration of their pension contributions. It is responsible for making sure that the eligible employees are enrolled in the pension system and that their required pension contributions are made in a timely fashion and in the correct amounts, so that, upon retirement, they receive the pensions they have earned. Specifically, CUNY has a legal obligation to deduct and remit the requisite employee contributions from employees’ paychecks each pay period and to submit those contributions, along with the requisite employer contributions, into the proper retirement fund. CUNY must also ensure that when it pays retroactive salary increases required by its collective bargaining agreements, it deducts the correct amount of employee contributions, and remits those monies to the proper retirement fund. And CUNY must properly maintain and update its records to accurately reflect its employees’ compensation and properly transmit those records to the retirement plans so that its

employees are credited with the correct amount of service time, because those records are used to calculate the amount of pension the employees receive once they retire.

2. Although these are simple ministerial tasks, CUNY has failed repeatedly to deduct and submit these employee and employer contributions in a timely manner and in the correct amount, repeatedly failed to deduct and remit contributions on retroactive salary increase payments, and repeatedly failed to maintain, update, and submit employee earnings records. Finally, in some instances, CUNY has failed the basic task of properly and on a timely basis enrolling its employees in the pension system. Through its failures to carry out these legal obligations, CUNY has violated the New York State Constitution, the New York State Education Law, and the New York City Administrative Code.

3. The affected employees are members of PSC. PSC is the union that represents faculty and professional staff at CUNY. PSC brings this action because CUNY's repeated failure to deduct and submit contributions, and to timely enroll employees in the retirement plans, and update employee payroll records in a timely manner and in the correct amount has caused and will cause PSC members frustration, stress, and measurable financial loss.

4. In some cases, CUNY's failures have caused PSC members, through no fault of their own, to have to make "deficit" employee contributions to the pension system. These employees have had to make the "deficit" contributions with their own post-tax dollars, as opposed to via pre-tax payroll deduction. CUNY's failures have also caused some PSC members to be slapped with interest charges by the pension system for contributions that CUNY should have deducted and remitted. And, by failing to update its employee compensation

records, CUNY has caused some retired PSC members to receive lower pensions than they are entitled to.

5. The financial losses that individual PSC members have suffered because of CUNY's violations, while meaningful to them, are generally not large enough to make it worthwhile for the individual member to hire a lawyer and sue CUNY.

6. Moreover, suits by individual PSC members could not adequately address the problem of CUNY's systemic and widespread failure to adequately perform its administrative duties.

7. In addition, because applicable collective bargaining law excludes pensions as a subject on which PSC may bargain, PSC cannot remedy CUNY's failures here at the bargaining table or through the contractual grievance process.

8. Because PSC acts as an advocate for all of its members on a wide range of issues, including retirement; because PSC cannot address these problems at the bargaining table or through the collective bargaining agreement's grievance and arbitration process; and because individual suits by members would be both cost-prohibitive and would fail to address the systemic problem, PSC, on behalf of its affected members, seeks redress from this Court.

9. On behalf of its affected members, PSC seeks a declaration of CUNY's violations, as well as an injunction both requiring CUNY to perform an audit to determine the scope of its past violations and implementing adequate measures to avoid future ones. The suit also seeks an order requiring CUNY to make the affected PSC members whole.

FACTUAL ALLEGATIONS

The Parties

10. CUNY is the public university of New York City. It consists of twenty-five institutions, including senior colleges, community colleges, and graduate and professional schools.

11. PSC is a labor union and membership association that represents approximately 30,000 CUNY faculty and professional staff.

12. In addition to representing employees in collective bargaining, PSC serves as an advocate for the interests of its members on a wide variety of work-related, career and professional issues, including retirement security. For example, it advises members on their rights under federal, state, and city antidiscrimination laws. PSC also advises members on issues related to unemployment insurance, and coordinates workshops for its members on unemployment matters. PSC helps members on issues related to health insurance, paid leave, workers' compensation, and food stamps. PSC also works with its members to provide them with benefits available through its statewide affiliate, the New York State United Teachers, including car, home, and life insurance, as well as emergency grants.

13. PSC lobbies the New York City and New York State governments on a wide range of issues of concern to its members, including public retirement plans and retiree health care issues. PSC also helps provide pre-retirement advice and runs a pre-retirement conference to advise members on a range of retirement issues.

14. PSC's bargaining relationship with CUNY is governed by New York's Public Employees' Fair Employment Act (the "Taylor Law"). Under Taylor Law section 2014(4), PSC does not have a right to bargain with CUNY about retirement benefits. Thus,

CUNY's failure to properly administer employee pension deductions and enrollment is not amenable to resolution at the bargaining table.

15. Because of this Taylor Law prohibition, the PSC-CUNY collective bargaining agreement ("CBA") does not govern CUNY's obligation to properly perform its functions in connection with employees' pensions. Accordingly, PSC cannot use the CBA's grievance and arbitration process to address the problems alleged in this action.

Teachers' Retirement System and TIAA – PSC Members' Retirement Options

16. Teachers' Retirement System of the City of New York ("TRS") is a New York City public pension system.

17. Under New York Education Law Sections 6214 and 6251, all full time CUNY instructional staff must be enrolled in TRS unless they opt to participate instead in the optional retirement plan administered by the Teachers Insurance and Annuity Association ("TIAA").

18. Part-time members of the CUNY instructional staff are not allowed to enroll in TIAA but may elect to enroll in TRS. Many part-time members of the instructional staff choose to enroll in and are members of TRS.

19. TRS provides participants with a "defined benefit" pension. TIAA provides members with a "defined contribution" pension.

20. TRS administers a qualified pension plan ("QPP") for TRS participants. QPP is a defined-benefit pension plan that guarantees payments for life to qualified retired participants. The amount of such retirement payments depends, among other things, on the participants' final average salary and years of service credit.

21. The fund maintained by TRS that holds employee contributions to the QPP is called the Annuity Savings Fund (“ASF”).

22. TRS participants must make employee contributions to the QPP from their CUNY earnings. The contribution rate for TRS participants depends on their pay level and the year they began employment. For example, employees appointed on or after April 1, 2012 are in Tier VI of TRS. Tier VI TRS participants with annual earnings from CUNY of \$45,000 or less make employee contributions equal to 3% of their earnings. Tier VI participants earning over \$100,000 contribute 6%. To qualify for retirement payments from the QPP, employees are not required to contribute more to TRS than these required percentages.

23. TRS participants make their employee contributions with pre-tax dollars, meaning the portion of their CUNY earnings used for their employee contributions are not subject to city, state, and federal income tax. By paying their employee contributions with pre-tax as opposed to post-tax dollars, TRS participants lower their gross taxable income and thus their income tax liability.

24. TRS participants do not themselves submit their employee contributions and employment records to TRS. Rather, their employer is required to deduct the requisite amount of employee contributions from their pay each payroll period and submit the contributions and employment records to TRS.

25. Employee contributions for TIAA participants, like those for TRS participants, are made with pre-tax dollars, meaning that they are not subject to city, state, and federal income tax. By having their employee contributions deducted with pre-tax as opposed to post-tax dollars, TIAA participants lower their gross taxable income and thus their income tax liability.

26. TIAA participants do not themselves submit their employee contributions to TIAA. Rather, their employer is required to deduct the requisite amount of employee contributions from their pay each payroll period and submit the contributions to TIAA.

27. CUNY has an obligation to deduct the required amount of employee contributions from the pay of those PSC members who are TRS participants and to submit those employee contributions, along with employment records, to TRS.

28. CUNY also has an obligation to deduct the required amount of employee contributions from the pay of those PSC members who are TIAA participants and to submit those employee contributions to TIAA.

29. TRS calculates a CUNY employee's pension based on earnings records maintained and provided by CUNY. Broadly, an employee's TRS pension amount is based on, among other things, the employee's final average salary. The higher an employee's earnings, the higher that employee's pension will be. Thus, it is important for CUNY to keep accurate record of its employees' earnings and provide TRS with accurate employee earnings records, so that, upon retirement, the employees will receive the pension they are entitled to based on all of their CUNY earnings.

30. TIAA provides post-retirement income based strictly on the sum of employee and employer contributions, along with market gains and interest and dividends paid by securities that the participant invests in. For this reason, it is critical that TIAA participants "be in the market" over the longest possible time, so that they can benefit from compounding and all of the dividends and interest that their investments provide.

CUNY's Failure to Deduct and Submit Employee Contributions

31. In recent years, CUNY has failed in many instances to deduct and submit employee contributions in a timely manner and in the correct amount.

32. Based on complaints it has received from its members, and not including CUNY's failure to properly deduct and remit employee contributions from payments of retroactive wages discussed in paragraphs 45 through 55 of this complaint, PSC is aware of approximately fifty instances of CUNY failing to properly deduct and remit employee TIAA and TRS pension contributions. These complaints do not come from a single CUNY campus. They come from CUNY campuses across the City. It is reasonably foreseeable that additional employees have suffered from CUNY's failure to properly deduct and submit employee contributions in a timely manner: in some instances, neither CUNY nor the employee has yet learned of the error, and in some instances, the employee likely did not advise PSC of the problem. And, unless CUNY is compelled to conduct an audit—relief we seek in this complaint -- no one will know the full extent of CUNY's failure to deduct and submit employee contributions in a timely manner, CUNY will be blind to such errors and thus be unable to rectify them, and some fraction of the PSC's hard working members—New Yorkers who devote their professional lives to serving CUNY's students—will suffer as a result of CUNY's failures.

33. As a result of CUNY's failures to properly and timely enroll employees in TRS and TIAA and deduct their TRS and TIAA employee contributions, TRS and TIAA have required some of those PSC members to make "deficit" employee contributions, to make up for unpaid employee contributions owed to the QPP, in the case of TRS participants, and to TIAA, in the case of TIAA participants.

34. The affected PSC members have had to make these "deficit" employee contributions out of their own savings in some cases, as opposed to making them through payroll

deductions. Accordingly, they have had to make the “deficit” employee contributions with post-tax dollars.

35. TRS participants are eligible to enroll in the TRS Tax Deferred Annuity (“TDA”).

36. The TDA is an additional retirement savings plan open to all TRS participants. It is a defined contribution plan established under Section 403(b) under the Internal Revenue Code. Like the 401(k) plans popular in the private sector, the TDA enables participants to invest money on a tax deferred basis.

37. For calendar year 2022, a TDA participant was allowed to contribute up to \$20,500 per year, participants aged 50 and older could made additional “catch up” contributions of \$6,500 and members with 15 years of qualifying employment could make an additional \$3,000 annual “catch up” contribution.

38. As a result of CUNY’s failure to properly and on a timely basis enroll PSC members in TRS, those PSC members who CUNY failed to properly and timely enroll in TRS were also denied the ability to contribute to the TDA, which has traditionally enjoyed a high rate of return and provides additional retirement income.

39. In addition, TRS and, on information and belief, TIAA have in some instances charged the affected PSC members interest on their “deficit” employee contributions. Because they are charged interest, the PSC members have had to pay more into TRS and TIAA than they would have had to pay if CUNY had deducted and submitted their employee contributions in a timely manner and in the correct amount.

40. Employees on whose behalf CUNY failed to make timely TIAA contributions also suffered because they were denied the opportunity to earn returns on those contributions.

CUNY's Failures Regarding Part-Time Employees

41. TRS calculates an employee's pension based on that employee's earnings and uses employer records to determine an employee's earnings.

42. CUNY has failed to properly update the earnings records of PSC members, causing those employees who retired with inaccurate earnings records to receive less in pension monies than they are entitled to receive. In addition, CUNY's failure creates the very real risk that those not yet retired will, upon retirement, receive less than they are entitled to receive. This is a particular problem for part-time employees, whose modest earnings make them the most financially vulnerable.

43. Many part-time members of the CUNY instructional staff work at multiple CUNY colleges, often doing so to piece together a living. Even though the individual CUNY colleges have no separate legal existence apart from CUNY, and even though CUNY – not the individual colleges – is the employer of all of its instructional staff, under CUNY's current system, members who enroll in TRS based on their working at one CUNY college must also enroll again at any other CUNY colleges where they work. CUNY has no system of making sure that a part-time employee who works at multiple CUNY colleges has proper employee contributions made for all of their CUNY earnings, no system for making sure that the proper CUNY contributions are made in connection with all of the part time employee's work, and no system of making sure that CUNY provides TRS with accurate records reflecting all of the part time employee's work at CUNY. CUNY also fails to consistently inform these employees that

they must enroll in TRS at each college where they work. The result is that CUNY frequently does not deduct contributions nor report service time at all colleges where these members work. Often, these PSC members end up owing TRS additional payments and interest to make their pensions whole.

44. Sometimes, part time instructional staff work multiple positions at a single CUNY college or full time staff will work an additional part-time position at a single CUNY college. In some cases, CUNY does not deduct TRS contributions even when the second position a member holds is at the same school. Again, in these cases, these part-time employees in some cases end up owing TRS additional payments and interest to make their pensions whole.

CUNY's Failure to Deduct Employee Contributions from Retroactive Wage Payments

45. On or about August 25, 2016, PSC and CUNY entered into a CBA effective from October 20, 2010 to November 30, 2017. Article 24.3 of the CBA provided for wage payments retroactive to April 20, 2012; April 20, 2013; April 20, 2014; April 20, 2015, and April 20, 2016. The CBA required CUNY to make these retroactive wage payments to PSC members who worked for CUNY at any period between April 20, 2012 and the date that CUNY implemented the salary increases called for in that CBA. In many instances, those retroactive wage payments were made after 2017.

46. TRS Tier IV members must contribute 3% of their earnings for their initial ten years of TRS Tier IV-covered employment. After they have completed those ten years, they have no further required TRS employee contributions.

47. Some PSC members who are in TRS Tier IV completed their initial ten years of 3% employee contributions during the term of the 2010-2017 PSC-CUNY CBA.

48. As to those PSC Tier IV members who had completed their initial ten years of employment at some point between 2010 and 2017, CUNY, in making the retroactive wage payments required by the CBA, did not take the 3% required TRS deductions from the retroactive payments for the years that preceded the completion of the member's initial 10 years. Because of CUNY's failure to deduct the 3% TRS contribution from those employees' retroactive payments, those PSC members were subsequently required to pay TRS "deficit" payments with interest, and had to make those payment using post-tax tax dollars, rather than the pre-tax dollars used to make properly deducted TRS employee contribution.

49. In addition, CUNY has failed to update fully the payroll records it submits to TRS on behalf of part-time employees to reflect the retroactive salary increases paid pursuant to the 2010-2017 CBA for such employees who retired between 2010-2017. Because those members' payroll records do not accurately reflect their earnings, they are receiving lower pensions than they are entitled to or will, upon retirement, receive lower pensions than they are entitled to.

50. CUNY's failure to update payroll records to reflect retroactive salary increases has affected at least 450 part-time instructional staff. Many of these individuals are retirees who are receiving a lower pension than they have earned and, due to the contingent nature of their employment, they are often the least able to afford it. Some are still employed, but, unless CUNY's failure is rectified, they will, due to CUNY's failure, receive lower pensions than they have earned.

51. More than five years after CUNY paid the retroactive pay due under the 2010-2017 CBA, and three years after CUNY began to update its records to reflect those

retroactive payments, CUNY has not finished the work of updating its employees' payroll records to accurately reflect those retroactive payments.

52. On October 21, 2019, CUNY and the PSC entered into a CBA effective from December 1, 2017 to February 28, 2023. This CBA required CUNY to make retroactive wage payments to all PSC members who worked at CUNY at any time after December 1, 2017.

53. CUNY has stated that it will not even begin working on correcting part-timers' payroll records to correctly reflect the retroactive salary increases in the 2017-2023 CBA until it has finished correcting the payroll records to properly reflect the retroactive payments due under the 2010-2017 CBA.

54. The current CBA expired on February 28, 2023 and the parties will negotiate a new CBA, which is likely to include retroactive salary increases to part time employees. But CUNY has not yet completed processing the retirement record for part-time employees who worked under the 2010-2017 CBA and has not begun to process the retirement records for part-time employees who worked under the 2017-2023 CBA.

55. CUNY has refused to invest in automating and centralizing the administration of part-time employees' payroll data, which would accelerate its ability to update payroll records. Instead, CUNY stubbornly clings to an antiquated process, painstakingly carried out by hand one campus at a time.

Despite The PSC's Efforts, CUNY Refuses To Fix The Problem

56. PSC representatives have advocated on behalf of PSC members who have been affected by CUNY's failures to properly administer its retirement-related functions. For example, PSC officers and staff have met multiple times with CUNY administration to try to persuade CUNY to address these problems. PSC staff and members have testified at CUNY

Board of Trustee meetings about this situation. However, to date, these problems persist because CUNY has not taken the necessary steps to fix them.

57. In meetings with CUNY labor relations personnel on April 6, 2021, May 25, 2021, and August 31, 2021, PSC raised the issues of late and inaccurate employee pension contributions and late employee enrollment in TRS. In an April 22, 2021 letter to CUNY Senior Vice-Chancellor for Labor Relations Pamela Silverblatt, PSC Executive Director Dean Hubbard specifically brought CUNY's attention to these problems. That same month, PSC sponsored a "Member Action Letter" to CUNY Chancellor Matos-Rodriguez on part time employee retiree issues, directly alerting the Chancellor to these problems. In meetings with the CUNY Chancellor and senior CUNY administration officials on March 18, 2022 and June 8, 2022, PSC leadership raised the issues of CUNY's failure to enroll, late enrollment and failure to accurately credit part time employees. In addition, PSC staff have repeatedly brought individual examples of these problems to the attention of CUNY administrators.

58. In short, CUNY knows full well about these problems because PSC has told CUNY administrators about them on numerous occasions over the course of several years.

59. PSC has repeatedly asked CUNY to rectify the problem and put into place some system to prevent the problem from reoccurring. CUNY has refused. It appears that, at the highest levels, CUNY simply does not care about this problem and is unwilling to try to fix it.

COUNT I

ARTICLE V, SECTION 7 OF THE NEW YORK STATE CONSTITUTION **(CAUSING PSC MEMBERS TO MAKE POST-TAX EMPLOYEE CONTRIBUTIONS)**

60. Article V, Section 7 of the New York State Constitution provides that “membership in any pension or retirement system of the state or a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired.”

61. A significant benefit of membership in TRS and TIAA is the opportunity for TRS and TIAA participants to make their employee contributions with pre-tax dollars, thus lowering their income tax liability.

62. By failing to deduct and submit employee contributions of PSC members in a timely manner and in the correct amount, CUNY has caused some PSC members to have to make “deficit” employee contributions on a post-tax basis, and will cause some PSC members in the future to have to make “deficit” employee contributions on a post-tax basis once TRS or TIAA uncovers CUNY’s failure to deduct and submit those employees’ contributions.

63. By causing PSC members to make employee contributions on a post-tax basis, CUNY has denied them the benefit of making those employee contributions with pre-tax dollars.

64. As a result, CUNY has diminished or impaired a benefit of membership in a pension or retirement system, in violation of Article V, Section 7 of the New York Constitution.

COUNT II:

ARTICLE V, SECTION 7 OF THE NEW YORK STATE CONSTITUTION
(CAUSING PSC MEMBERS TO PAY INTEREST)

65. Article V, Section 7 of the New York State Constitution provides that “membership in any pension or retirement system of the state or a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired.”

66. A significant benefit of membership in TRS is the opportunity for TRS participants to earn guaranteed lifetime retirement payments while paying into TRS only the required amount of employee contributions.

67. By failing to deduct and submit employee contributions of PSC members in a timely manner and in the correct amount, CUNY has caused PSC members to have to pay “deficit” employee contributions with interest and will cause some PSC members in the future to pay “deficit” employee contributions with interest when TRS uncovers CUNY’s failure to deduct and submit those employees’ contributions.

68. By causing PSC members to pay interest, CUNY has caused them to pay more into the TRS than the required percentage of their earnings. CUNY has thus deprived them of the benefit of earning guaranteed retirement payments through payment of no more than the required percentage.

69. As a result, CUNY has diminished or impaired a benefit of membership in a pension or retirement system, in violation of Article V, Section 7 of the New York Constitution.

COUNT III:

ARTICLE V, SECTION 7 OF THE NEW YORK STATE CONSTITUTION
(CAUSING PSC MEMBERS TO RECEIVE LOWER PENSIONS)

70. Article V, Section 7 of the New York State Constitution provides that “membership in any pension or retirement system of the state or a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired.”

71. A significant benefit of membership in TRS or TIAA is the opportunity to enjoy a certain level of retirement income earned through participation in the retirement system.

72. By failing to properly and in a timely fashion update and submit employee compensation records to TRS and TIAA, to ensure that eligible employees are enrolled in TRS or TIAA and to make timely contributions for them to TRS and TIAA in the correct amounts, CUNY has caused PSC members to receive retirement income lower than they are entitled to receive or otherwise would have received, and will cause PSC members who retire in the future to receive income lower than they are entitled to receive or otherwise would have received.

73. As a result, CUNY has diminished or impaired a benefit of membership in a pension or retirement system, in violation of Article V, Section 7 of the New York Constitution.

COUNT IV:

SECTION 13-521 OF THE NEW YORK CITY ADMINISTRATIVE CODE
AND NEW YORK EDUCATION LAW SECTION 6253
(FAILURE TO DEDUCT AND SUBMIT EMPLOYEE TRS CONTRIBUTIONS)

74. Section 13-521(3) of the New York City Administrative Code and Section 6253 of the New York Education Law obligate CUNY, every payroll period, to deduct TRS

participants' employee contributions in the required amount and to submit those employee contributions into the ASF.

75. By failing in many instances to deduct employee contributions in a timely manner and in the correct amount and to pay them into the ASF, and by having no administrative system for ensuring that required TRS contributions are being deducted, CUNY has violated Section 13-521(3) of the New York City Administrative Code and Section 6253 of the New York Education Law.

COUNT V:

SECTION 13-189 OF THE NEW YORK CITY ADMINISTRATIVE CODE AND NEW YORK STATE EDUCATION LAW SECTION 6253 (FAILURE TO DEDUCT AND SUBMIT EMPLOYEE TIAA CONTRIBUTIONS)

76. Pursuant to Section 13-189 of the New York City Administrative Code and Section 6124 the New York Education Law, CUNY full time instructional staff are, at their option, allowed to participate in an "optional retirement system." TIAA is that "optional retirement system."

77. Section 6253 of the New York Education Law obligates CUNY, every payroll period, to deduct TIAA participants' employee contributions in the required amount and to submit those employee contributions to TIAA.

78. By failing in many instances to deduct employee contributions in a timely manner and in the correct amount and to pay them to TIAA, and by having no administrative system for ensuring that required TIAA contributions are being deducted, CUNY has violated 13-189 of the New York City Administrative Code and Sections 6253 of the New York Education Law.

COUNT VI:

NEW YORK STATE EDUCATION LAW SECTION 6214
(FAILURE TO ENROLL EMPLOYEES IN TRS OR TIAA)

79. Pursuant to Section 6214 of the New York Education Law, CUNY full-time instructional staff “shall, upon appointment,” be enrolled in TRS, or, at their option, TIAA. Section 6214 thus obligates CUNY to enroll every full-time instructional staff member in TRS “upon appointment,” unless the instructional staff member chooses to enroll in TIAA instead.

80. By failing to timely enroll full-time instructional staff members in TRS or TIAA, and by having no administrative system for ensuring that full-time instructional staff members are, “upon appointment,” enrolled in TRS or TIAA, CUNY has violated its obligation under Education Law Section 6124 to enroll such employees “upon appointment.”

PRAYER FOR RELIEF

WHEREFORE, PSC respectfully requests that the Court issue a judgment:

1. Declaring that CUNY has violated Article V, Section 7 of the New York State Constitution, New York Education Law Sections 6214 and 6253, and Sections 13-521(3) and 13-189 of the New York City Administrative Code;
2. Ordering CUNY to
 - (a) audit its records to identify any PSC members who, in the last ten years, have been adversely affected by CUNY’s failures identified in this complaint, including but not limited to CUNY’s failures to enroll eligible employees in TRS or TIAA, to deduct and submit contributions on behalf of such employees in a timely fashion and in the correct amounts, and to keep and submit accurate records of employee earnings; and
 - (b) establish adequate centralized procedures to ensure that CUNY will not in the future continue to commit the administrative failures identified in this complaint; and
 - (c) make whole any PSC members adversely affected by CUNY’s failures identified in this complaint; and

3. Appointing an independent monitor, to be paid by CUNY, to monitor CUNY's compliance with its obligation to conduct an audit, and its ongoing obligation to properly administer its retirement-related obligations to PSC members; and

4. Providing such other and further relief as would be just and proper.

Dated: May 2, 2023
New York, NY

Respectfully submitted,

/s/ Hanan B. Kolko

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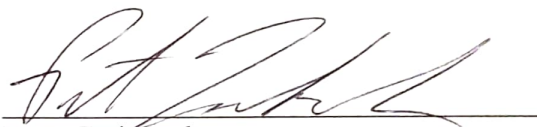
Attorneys for Plaintiff

Professional Staff Congress

VERIFICATION

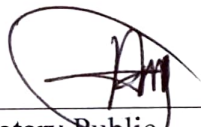
State of New York)
) ss:
County of New York)

I, Peter Zwiebach, being duly sworn, depose and state that I am the Director of Legal Affairs of the Plaintiff Professional Staff Congress, that I have read the foregoing Complaint and know the contents thereof to be true to my knowledge, except as to matters therein that are stated upon information and belief, and as to those matters, I believe them to be true.



Peter Zwiebach,
Director of Legal Affairs
Professional Staff Congress

Subscribed and sworn to before me
this 9 day of May 2023.



Notary Public

