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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CRATON LIDDELL, et al,)	
Plaintiff,)	4: 72 CV 100 SNL
vs.)	St. Louis, Missouri
BOARD OF EDUCATION, et al,)	August 21, 2003
Defendant.)	

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TRANSCRIPT OF HEARING
BEFORE THE HONORABLE STEPHEN N. LIMBAUGH

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APPEARANCES:

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For Plaintiff Liddell:	Mr. William Douthitt Attorney at Law PO Box 6961 St. Louis, MO 63006.
For Plaintiff Caldwell/NAACP:	Ms. Veronica Johnson Attorney at Law 393 North Euclid Suite 220 St. Louis, MO 63108
	Mr. Michael Middleton Attorney at Law 1901 Fairview Road. Columbia, MO 65203
	Mr. William Taylor Attorney at Law 2000 M Street, NW Suite 400. Washington, D.C. 20036

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For Defendant City Board:	Mr. Kenneth Brostron Mr. Dirk DeYong Attorney at Law 714 Locust Street
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SCHOOLBO.TXT
St. Louis, MO 63011.

For Defendant US Mr. Jeremiah Glassman
Dept. of Justice: Attorney at Law
 US Department of Justice
 PO Box 65958
 Washington, DC 20035.

For Defendant Mr. Paul Maguffee
State of Missouri: Attorney at Law
 221 West High Street
 PO Box 899
 Jefferson City, MO 65102

Lynne Shrum
Official Court Reporter
Room 3.351
111 S. 10th Street
St. Louis, MO 63102

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1 AUGUST 21, 2003

2 THE COURT: Afternoon, counsel.

3 I hope you all, before we call this matter, will
4 excuse my ineptitude with some of the equipment
5 here.

6 In this matter, Paul Maguffee, representing the

7 State of Missouri, wanted to appear by telephone,
8 and I hope we can do this.

9 If you give me just a second.

10 Mr. Maguffee, this is Judge Limbaugh.

11 MR. MAGUFFEE: Good afternoon.

12 THE COURT: We're here in open court and,
13 fortunately, our equipment does work, so you are on
14 a speaker phone. I'll try to get the volume up.

15 I think everyone else that is here preferred to
16 be here in person, so we will consider that you are
17 present by telephone.

18 MR. MAGUFFEE: Yes, Your Honor. Thank you.
19 I appreciate you allowing me to appear by telephone.

20 THE COURT: I think you are coming in loud
21 and clear, so I believe everybody in the courtroom
22 can hear you.

23 If at any time you do not hear what we're saying
24 or are uncertain as to who is speaking, why,
25 interrupt us and we'll try to clarify it.

4

1 This is the case of Craton Liddell versus the
2 Board of Education of the City of St. Louis, number
3 72: CV 100.

4 On July 8th, 2003, the Court entered an order
5 with an accompanying memorandum opinion that denied
6 the request for a temporary restraining order.

7 However, the matter was set for a hearing July the
8 21st as to whether or not a preliminary or a
9 permanent injunction should or should not issue.

10 As we neared the date of July the 21st, the

11 Court received several telephone calls indicating
12 that the parties had been conferring in private in
13 an attempt either to resolve the matter or to set
14 out some kind of formula whereby we could have the
15 hearing in this matter.

16 A few days ago, I did receive a call from some
17 of the parties indicating that they would like to
18 have a hearing today and we are here in open court
19 on August the 21st, 2003, and the time is 1:45 p.m.,
20 central daylight saving time.

21 Now for the purpose of this hearing, let's get
22 appearances.

23 On behalf of the city board, who do we have?

24 Mr. Brostron?

25 MR. BROSTRON: And Mr. DeYong, Your Honor.

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1 THE COURT: And Mr. DeYong.

2 The State of Missouri.

3 Mr. Maguffee, you're here by telephone.

4 MR. MAGUFFEE: That's right, Your Honor.

5 THE COURT: The NAACP, Mr. Taylor is here.

6 MR. TAYLOR: Yes, and also --

7 THE COURT: And Miss Johnson.

8 Diane Piche is here.

9 MR. TAYLOR: No, that is --

10 MS. JOHNSON: Veronica Johnson.

11 MR. TAYLOR: And Michael Middleton.

12 THE COURT: Johnson, and Professor Michael
13 Middleton is also here.

14 On behalf of the Caldwell plaintiffs, Miss

15 Johnson, I think Mr. Howard was going to be here.
16 He's not here.

17 Okay. You are the principal representative.

18 MS. JOHNSON: I'm sorry, Your Honor. I
19 wasn't paying attention.

20 I'm sorry. I missed your question, I'm sorry.

21 THE COURT: No. At one time I thought Mr.
22 Howard was also going to be here for the Caldwell
23 plaintiffs.

24 MS. JOHNSON: No, Your Honor, he is not a
25 counsel for the NAACP. Although I am in association

6

1 with him, only I represent the Caldwell NAACP
2 plaintiffs.

3 THE COURT: Well, let me correct the
4 record.

5 You are here as one of the attorneys for the
6 NAACP, not for the Caldwell plaintiffs.

7 MS. JOHNSON: No. I'm sorry, Your Honor.
8 I am one of the counsel for the Caldwell and NAACP
9 plaintiffs. However, David Howard, who I am
10 associated with in the practice of law, is not
11 counsel appearing for the Caldwell NAACP plaintiffs.

12 THE COURT: All right. The Liddell
13 plaintiffs.

14 Mr. Douthit is here.

15 MR. DOUTHIT: Good afternoon.

16 THE COURT: And United States.

17 Mr. Glassman?

18 MR. GLASSMAN: Yes, Your Honor.

19 THE COURT: Are there any other attorneys
20 that are present?

21 All right. Counsel, I'll be glad to hear from
22 you to proceed with this informal conference.

23 While it is informal, we do have a court
24 reporter that is taking the proceedings.

25 MR. BROSTRON: Your Honor --

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1 THE COURT: Mr. Brostron, Mr. Maguffee.

2 MR. MAGUFFEE: Thank you.

3 MR. BROSTRON: Your Honor, on behalf of the
4 parties, we would like to present to the Court a
5 settlement agreement, a motion to enter this
6 agreement as a court order. We think it's important
7 that the Court consider this and parties have worked
8 diligently to resolve their differences and we
9 believe that this is an appropriate order for the
10 Court to consider.

11 THE COURT: All right. If you could give
12 it to the clerk.

13 Mr. Maguffee, have you seen what -- the paper
14 that's been given me entitled settlement agreement?
15 It contains actually six pages.

16 MR. MAGUFFEE: Yes, Your Honor, I have. I
17 was -- I received a final draft of the agreement
18 this morning and faxed my signature page to Mr.
19 Brostron's firm. I have the -- my original
20 signature page here that I am -- I'm prepared to
21 mail in to the parties.

22 THE COURT: All right. In the sixth page

23 apparently there are all personal signatures and
24 then there is also a facsimile, six pages, showing
25 your signature, Mr. Maguffee, so I'm assuming that's

8

1 what you were referring to.

2 MR. MAGUFFEE: Yes, Your Honor, it is.

3 THE COURT: So I can accept the facsimile
4 at least for the present purposes and then if you
5 will mail in an original of your page six as well so
6 I can attach it to the original of the agreement.

7 MR. MAGUFFEE: I certainly will.

8 Your Honor, I have it right here ready for
9 mailing.

10 THE COURT: I also have a two-page motion
11 to enter settlement agreement as a Court order and
12 it, too, is signed by everybody except you, Mr.
13 Maguffee, and I assume you want to join in the
14 motion as well.

15 MR. MAGUFFEE: Yes, Your Honor.

16 THE COURT: Counsel, I have not seen this.
17 I'm sorry to keep everybody, but could you give me a
18 moment to let me read it --

19 MR. BROSTRON: Sure.

20 THE COURT: -- or would you prefer to set
21 out orally the highlights before I read it, or --

22 MR. BROSTRON: Well, Your Honor, the
23 essential parts of the agreement are that the
24 parties agree that in light of the financial
25 condition of the district for this fiscal year only

1 there would be an allowance of borrowing up to an
2 amount which is stated in the agreement of 49 and a
3 half million dollars if needed by the Board of
4 Education to supplement its cash flow issues this
5 fiscal year and there's an agreed upon payment
6 schedule to ensure that the fund is repaid, the
7 terms of the agreement, and then there are certain
8 provisions that if the board receives additional
9 funds through some litigation that is going on in
10 the state courts that there would be an acceleration
11 of a payment and payment on the principal.

12 THE COURT: What's the nature of that
13 litigation?

14 MR. BROSTRON: Your Honor, that was -- that
15 is the lawsuit that the Board of Education and the
16 Voluntarily Interdistrict Corporation which was
17 created pursuant to the Court's order in 1999
18 approving the settlement of the Liddell case on the
19 manner and methodology of payment of foundation
20 formula monies to the Board of Education.

21 The board filed suit this year against the
22 state -- the board and the county districts filed
23 suit against the state, claiming a breach of
24 settlement agreement.

25 As the Court may recall, the settlement

1 agreement requires that or limits the remedies
2 available to the city board and the county districts
3 to cause of action in state court for a breach if

4 they believe the settlement agreement was not
5 followed. In this case, the circuit court --

6 THE COURT: That's a situation under the
7 settlement agreement that involves interstate
8 parties, so as I --

9 MR. BROSTRON: True.

10 THE COURT: -- as I -- I'm sorry,
11 intrastate, that this Court would have no
12 jurisdiction.

13 MR. BROSTRON: Correct, although the
14 Liddell/Caldwell plaintiffs could -- could have
15 brought a suit in federal court and, you know, go
16 down that way, but they are not in that lawsuit, but
17 anyway, that's on appeal now in the state court.

18 THE COURT: All right.

19 Does anyone take issue with the general synopsis
20 of the highlights?

21 Mr. DOUTHIT: No, Your Honor.

22 MR. MAGUFFEE: Your Honor, this is Paul
23 Maguffee.

24 No, I believe that's a accurate representation
25 of the status of that litigation.

11

1 THE COURT: Okay. Mr. Taylor wants to
2 comment as well.

3 MR. TAYLOR: Well, I don't take issue with
4 anything that has been said but there are other
5 provisions of the agreement that are of some
6 importance, including the provision sections nine
7 and ten which require the board to provide certain

8 information, fiscal information and related
9 information to the plaintiffs every year and call
10 for the scheduling of a meeting between the
11 superintendent and the plaintiffs to discuss the
12 financial status of the district as well as the
13 status of the desegregation agreement and it also
14 calls for a -- for public sessions to be held in
15 September or October in which the superintendent and
16 other officers will make themselves available for
17 questions by representatives of the plaintiffs
18 pursuant to the agreement and we think that that --
19 those are important provisions of the agreement and
20 deserve to be noted.

21 THE COURT: Well, I am going to take the
22 position that -- I'm assuming as Professor Middleton
23 would tell all of his students -- that the entire
24 portion of the agreement is relevant and obviously
25 important, so I will consider the entire agreement.

12

1 MR. BROSTRON: Yes, Your Honor.

2 If I might also add, and I think it should be
3 noted that this motion, this settlement agreement
4 does not change or alter in any way the settlement
5 agreement that was approved by the Court in 1999.

6 THE COURT: All right. I do want to take a
7 moment, and I don't want to keep everybody but I
8 need to read this, but I have noted and I assume
9 that it is accurate, the unfortunate demise of
10 Craton Liddell.

11 Do we need for the purpose of this hearing to

12 have any kind of change of the parties or
13 substitution in any way?

14 MR. BROSTRON: I --

15 THE COURT: I had thought about it and I
16 intended to express my consideration by letter to
17 everyone and I don't know whether it's necessary or
18 not.

19 I don't know whether we need a substitution.

20 MR. BROSTRON: My memory is that at some
21 point we did substitute Michael Liddell, but then
22 there was a reason why we kept Craton Liddell's name
23 on it and I think there may be an order of some kind
24 and I --

25 THE COURT: I should have searched the file

13

1 and my memory, but are you saying that Michael
2 Liddell was substituted as a party for --

3 MR. BROSTRON: Judge, many years ago, but
4 there was a reason.

5 THE COURT: Oh, long before his demise
6 even.

7 MR. BROSTRON: Long before Craton --

8 THE COURT: Oh, okay.

9 Well, I bring it to your attention. I'm
10 assuming it's not an issue, but all right.

11 Let me take just a moment, counsel, and go over
12 this, please.

13 In the modest amount of evidence that I had
14 before me when I entered the July 8th, 2003 order,
15 the finding of fact, whether it was accurate or not,

16 was that the July 1st, 2003 payment of 16,000 -- 16
17 and a half million dollars was made and that there
18 was approximately seven million dollars in the
19 capital account which would indicate that right
20 after July the 1st, 2003, there would have been a
21 total sum of 23 and a half million dollars in that
22 account.

23 Under the terms of your agreement, paragraph --
24 page two, paragraph 3-1, it stated the Board of
25 Education will not borrow in excess of 49 and a half

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1 million from the account during the fiscal year
2 2004.

3 Well, if you only had 23 and a half million
4 dollars, how could you even approach that
5 limitation?

6 MR. BROSTRON: Your Honor, the 23 and a
7 half million dollar number was the amount that was
8 estimated that the board was going to need to
9 borrow.

10 The fact is, and I apologize if there was some
11 miscommunication, there is approximately 50 to 60
12 million dollars in the desegregation capital fund.

13 THE COURT: I've -- I did totally
14 misunderstand that.

15 MR. BROSTRON: It was the 23 million
16 dollars the -- was the amount that we projected
17 would be needed during the summer for the cash flow.

18 There is another cash flow hit that occurs in
19 December to make the retirement board payment before

20 our local tax receipts are received that we need to
21 borrow from.

22 THE COURT: This obviously indicates the
23 fallacy of obtaining facts over the telephone which
24 I did in our conference before, and, frankly, I'm
25 glad to hear that because I was curious to whether

15

1 there was anything left other than the seven million
2 dollars of the prior payments beginning in 1999,
3 which were rather substantial.

4 But as you indicate, there was a much greater
5 amount in the fund than what I had set out in my
6 July order which obviously was in error then.

7 MR. TAYLOR: If I can clarify a little bit
8 more on that, Your Honor.

9 The agreement, Section 10, calls -- has a
10 payment schedule in it and it called for a payment
11 this year which brought the total payments up to 110
12 million dollars.

13 The school board as we understand it spent
14 somewhere in the neighborhood of 45 million dollars
15 on capital projects of one kind or another which
16 they say are -- in previous fiscal years which they
17 say are in accordance with the -- with Section 10.
18 That would have left about 65 million by our
19 calculations, so that is what was there when they
20 started taking money out in the new fiscal year.

21 THE COURT: Okay. Thank you very much.
22 This certainly clarifies my lack of understanding of
23 the facts.

24 Counsel, when everybody has really agreed to
25 this I can't find any error in there and I'm

16

1 hesitant to ask questions that I'm sure you've
2 discussed before.

3 It's not in the document, but I'm assuming
4 repayment does not consider any kind of interest?

5 MR. BROSTRON: That's correct, Your Honor.

6 THE COURT: And that was bargained for in
7 your discussions?

8 MR. TAYLOR: Yes. Yes.

9 THE COURT: At least it was considered.

10 MR. BROSTRON: It was considered. The
11 basic settlement agreement allows the board to use
12 the interest that it deems appropriate.

13 THE COURT: All right.

14 If you are successful in Board of Education v.
15 the State of Missouri in the Circuit Court in case
16 number 034-00284, do you have any estimate of what
17 that recovery might be in terms of dollars since you
18 are going to pay 40 percent of that if you recover
19 it?

20 MR. BROSTRON: Yes, Your Honor. The
21 approximate amount due under that order and judgment
22 that was entered by Judge Ohlmer is approximately 23
23 and a half million dollars and prospectively our
24 calculations would be that that would increase the
25 board's foundation for funds approximately 17

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1 million dollars a year for this current fiscal year
2 and years thereafter.

3 THE COURT: Thank you.

4 Mr. Taylor mentioned the reporting requirements
5 set out on page four of the document. Can you help
6 refresh my memory, Mr. Brostron, as to -- as to the
7 vocational school potential construction costs?

8 Is that pretty nebulous at this stage?

9 MR. BROSTRON: It's approximately 30
10 million dollar project, Your Honor, that's underway
11 right now. It's -- the school's intended to be open
12 in September of 2004.

13 THE COURT: All right. Thank you.

14 Mr. Brostron, you mentioned this and I want
15 to -- obviously it is a specific part of the
16 agreement, but I want to make certain everybody
17 understands.

18 Page five of the last sentence in paragraph 13
19 states, "This agreement does not modify the
20 desegregation settlement agreement and all parties
21 shall continue to comply with their obligations as
22 set forth in the settlement agreement."

23 This is obviously the correct statement as
24 everybody understands?

25 MR. BROSTRON: Yeah. Yes, Your Honor.

18

1 MR. DOUTHIT: Yes, Your Honor.

2 THE COURT: I'm assuming that this can
3 always happen, but -- I don't know.

4 Somebody can agree to something and then say I
5 was wrong at a later time, but I'll take counsel at
6 their word if they're willing to abide by this
7 provision of the document.

8 Paragraph 11 on page four I would like to
9 inquire about. It states, "This agreement shall be
10 terminated after the original principal has been
11 repaid in full and accounted for pursuant to the
12 terms of this agreement."

13 I don't want to invite new litigation, but five
14 years from now suppose you want to borrow again.
15 Are we back in the same position?

16 Let me put it this way. I assume that this
17 agreement does not consider any borrowing
18 proposition other than set out in the terms of the
19 agreement.

20 MR. BROSTRON: Your Honor, yes, paragraph
21 eight of the agreement, it does state that the
22 board -- the board can -- it's contemplated the
23 board can borrow funds within the fiscal year. The
24 issue is whether or not they can borrow funds
25 that -- repayment of which would go beyond the year

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1 in which the borrowing occurs and that paragraph
2 eight would apply.

3 THE COURT: Well, as I understand paragraph
4 eight then, and when we read it in connection with
5 paragraph 11, in future years apparently no one is
6 going to complain as long as you do not borrow --
7 I'm speaking of the Board of Education -- monies

8 from an account that is to be paid other than within
9 the fiscal year of the time the borrowing occurred.

10 MR. BROSTRON: Yes, Your Honor. That's --

11 MR. TAYLOR: I agree with that.

12 I just want to say, Your Honor, that -- I want
13 to say something about this whole general subject of
14 the future but after the Court has had a chance --

15 THE COURT: Okay. I'm sorry to keep
16 raising these questions but I think it is my duty to
17 do so in presiding over this matter, so give me just
18 a few moments to complete the reading of the
19 agreement.

20 All right. Counsel, I have completed the
21 examination of the agreement and anyone wishes to
22 have further comment, I'll be happy for you to.

23 Mr. Taylor?

24 MR. TAYLOR: Yes, sir.

25 THE COURT: You still there, Mr. Maguffee?

20

1 MR. MAGUFFEE: Yes, Your Honor.

2 THE COURT: Okay.

3 MR. TAYLOR: Well, this is the good news
4 now. I think there is some -- there's one matter
5 that this agreement does not address and that's the
6 matter of attorney's fees and reasonable costs of
7 the plaintiffs and the parties were unable to agree
8 upon that in our negotiations and so we are left
9 with the prospect of filing a motion for attorney's
10 fees and reasonable costs with this Court and I
11 wanted to the Court to know that in advance.

12 But I also wanted to say a little something
13 about this whole experience because I think it may
14 be instructive with respect to how we deal with
15 problems in the future.

16 The NAACP/Caldwell plaintiffs are -- believe
17 that this settlement agreement does -- is in the
18 interest of the class we represent and that we are
19 recommending it to the Court clearly for approval.
20 It's in the interest of the class, we think, because
21 the agreement assures, as far as one can do so with
22 words on paper, that the money that has been
23 borrowed or will be borrowed during this fiscal year
24 will be under -- from the Section 10 fund will be
25 repaid on a fixed schedule and further ensures that

21

1 after this fiscal year, any transfer of money out of
2 the Section 10 fund will be restored during the same
3 fiscal year.

4 Now I added that caveat about the assurance are
5 only words on paper because we've gotten burned in
6 this whole process.

7 The plaintiffs have come not to trust the
8 written assurances of the Board of Education. When
9 parties to an agreement solemnly pledge that they
10 are establishing a fund for a very specific purpose,
11 they clearly violate that pledge when they use the
12 funds for an entirely different purpose.

13 I know that this Court saw a loophole in state
14 law through which it thought the board might escape,
15 but the loophole had to do with general purpose

16 capital funds and general purpose operating funds,
17 not a specific purpose fund that was part of an
18 agreement entered this Court order which this one
19 is.

20 THE COURT: Well, Mr. Taylor, I'm glad to
21 hear you out on this thing, but it looks like we're
22 arguing the merits of your lawsuit.

23 MR. TAYLOR: Well, I --

24 THE COURT: Here we have the settlement,
25 but you still want to urge the merits of the case.

22

1 MR. TAYLOR: No, I am urging approval of
2 the settlement, but I think it's important to
3 provide some context then. I won't be very long on
4 this.

5 We think the board knew it was acting improperly
6 because it took the money in the middle of the
7 night, without telling anybody except the State of
8 Missouri, and we don't think that such transactions
9 between the board and the State of Missouri can
10 necessarily be assumed to be in the interest of the
11 school children of St. Louis and had it not been for
12 an enterprising journalist, the plaintiffs and the
13 people of the St. Louis might still be in the dark
14 about this board's actions.

15 I also want to note as I have that -- the
16 agreement as useful to the plaintiffs because of the
17 provisions in Section 9 and 10 which I've already
18 described which call for the furnishing of data,
19 meeting with the parties in a public meeting.

20 The -- these agreements, these provisions go to
21 another fundamental problem that we have and that's
22 the way the board has been acting and that has been
23 kind of a penchant for secrecy.

24 The settlement agreement provides that the city
25 board will meet with the -- will meet the state

23

1 standards with respect to -- to desirable standards
2 with respect to class size and CADA IV monitoring
3 report for this year says the board has not met
4 those standards.

5 We are going to want to know in September --
6 this is just one example -- how the dismissal of the
7 faculty has affected compliance with this provision.
8 They're out of compliances now. If they fire more
9 teachers, how are they going to get into compliance?
10 And I have to say we're not anxious to come back to
11 the court, but if there's still a violation of the
12 agreement, we probably will be back in court.

13 So we have some provisions here but it really
14 depends so much on how these provisions are
15 enforced, whether the board is going to be open with
16 the plaintiffs and with the community or whether
17 it's just going to treat this grudgingly and we're
18 still going to have the secrecy.

19 I realize this may not be specifically related
20 to the decision the Court has to make now, but I
21 believe since we report to the Court infrequently I
22 thought it would be useful to -- for Your Honor to
23 know where things stand and that while we've solved

24 this particular problem, we may not have solved the
25 problems of the future.

24

1 THE COURT: I never will forget when Ms.
2 Minnie Liddell testified at the fairness hearings,
3 very adroitly, having had a very difficult stroke
4 herself which was somewhat debilitating, when I
5 asked her whether she wanted me to approve the
6 settlement, I think she stated that -- and I'm
7 paraphrasing without having the benefit of the
8 transcript before me -- that she wasn't entirely
9 satisfied with it but that she thought that it was
10 better to approve it than not and then she said,
11 "I've suffered a debilitating stroke and there
12 have been four judges handling this case and two of
13 them are dead and I don't want to kill another
14 judge."

15 So, Mr. Taylor, I don't know whether you and I
16 are going to be here to see this case out or not,
17 but --

18 MR. TAYLOR: Well --

19 THE COURT: -- we'll see.

20 MR. TAYLOR: I appreciate that. Your
21 Honor. I think what our interest --

22 THE COURT: You are a far more younger man
23 than I am.

24 MR. TAYLOR: Yeah, yeah, yeah, yeah.

25 We won't get into that discussion if Your Honor

25

1 doesn't mind.

2 THE COURT: I think Mr. Brostron wanted to
3 respond.

4 MR. TAYLOR: I just wanted to say that
5 whenever we leave this case or this mortal coil we
6 want to feel that we have accomplished something for
7 the children and that's why I -- I have found it
8 increasingly necessary to say that the words on
9 paper have to be accompanied by something else if
10 we're going to get where we want to go.

11 MR. BROSTRON: Your Honor, I won't take up
12 a lot of the Court's time.

13 I disagree with a lot of the words Mr. Taylor
14 has stated, but I do want to correct the record.

15 The Board of Education has not fired one teacher
16 because of the current financial conditions. The
17 layoffs do not affect the number of teaching
18 positions authorized in the budget and it's
19 unfortunate that Mr. Taylor would stand up here and
20 incorrectly make statements unsupported by the facts
21 that are not a part of this lawsuit at this time,
22 but I just want to correct the record that the board
23 has -- in order to address a substantial budget
24 crisis that is in the tens of -- almost hundred
25 million dollars this year has been able to do so

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1 without reducing or laying off any teaching
2 positions.

3 Thank you.

4 THE COURT: Anyone else wish to make a

5 comment?

6 Mr. Douthit?

7 MR. DOUTHIT: Thank you, Your Honor. On
8 behalf of my clients the Liddell plaintiffs, I would
9 request the Court approve this settlement agreement.

10 It is, as Mrs. Liddell stated to me yesterday, a
11 matter of trust. That if we trust in parents to
12 elect city officials, parents must have some modicum
13 of trust in those elected officials, including the
14 school board, but to watch closely as to what they
15 do.

16 We are trusting that the board will abide by the
17 four corners of this settlement agreement with
18 regard to the capital needs funds and we will be
19 there to monitor and at whatever point should we
20 have to return, I'm certain that both you and Mr.
21 Taylor will be here to make sure that the
22 appropriate remedy does occur.

23 THE COURT: Very well.

24 Mr. Maguffee, do you wish to make a comment?

25 MR. MAGUFFEE: No, Your Honor.

27

1 THE COURT: Anyone else wish to comment?

2 Mr. Glassman?

3 MR. GLASSMAN: Very briefly, Your Honor.

4 We urge the Court to approve the settlement, and
5 one comment. Perhaps hindsight is always a
6 blessing, but disclosure early on about what was
7 going on might have obviated the need for all of
8 this.

9 THE COURT: Contrary to the legal
10 requirements for approving a settlement agreement
11 for the case in chief when it was at issue which
12 demanded a fairness hearing, I do not believe that
13 this agreement needs a fairness hearing.

14 All of the parties are here with counsel. They
15 have all stated their position in this matter, and
16 as everyone has executed the agreement and as I've
17 gone over it carefully and discussed the terms with
18 counsel, it is my opinion that the agreement should
19 be approved.

20 Accordingly, I will approve the settlement
21 agreement as presented to me this day and I will
22 assume that the matter that was raised with the
23 request for a temporary restraining order and
24 specific performance is now completed and disposed
25 of with the exception of the possibility of the

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1 attorney fee and cost issues.

2 Is that a correct statement, counsel, that there
3 is nothing else to be resolved --

4 MR. TAYLOR: We will file a motion on that,
5 Your Honor.

6 THE COURT: -- with the current litigation,
7 other than that issue.

8 MR. BROSTRON: Your Honor --

9 MR. DOUTHIT: That's correct.

10 MR. TAYLOR: If the Court wants to set a
11 schedule, we'll be happy to operate within it.

12 THE COURT: While we're thinking that, do

13 you think we can do that with paper, or do you feel
14 we should have a hearing? Once this is at issue --

15 MR. TAYLOR: Whatever -- we'll abide by
16 whatever process the Court wants to follow in this.
17 We'll start it with paper, obviously, with a claim
18 and then --

19 THE COURT: Incidentally, we are going to
20 electronic filing the middle of October so I'm
21 assuming probably all of the paper will come in on
22 this before then.

23 Anything else, Mr. Maguffee, you wish to add?

24 MR. MAGUFFEE: No, Your Honor.

25 THE COURT: All right. Thank you all very

29

1 much.

2 I want to commend everyone. I think your
3 efforts in this matter have produced good results
4 and I think education for the young people in the
5 City of St. Louis will benefit as a result of this
6 settlement agreement.

7 Accordingly, I will determine the matter is
8 closed with the approval of the agreement with the
9 exception of the attorney fee issue and after I
10 receive everybody -- well, first of all, the motion
11 for fees and costs and then the responses and a
12 reply, I will consult with counsel then as to
13 whether you wish a hearing or not.

14 MR. BROSTRON: Yes.

15 THE COURT: If you wish one, why, I
16 certainly will --

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17 MR. TAYLOR: Thank you, Your Honor.
18 THE COURT: -- give you that opportunity.
19 Thank you all very much.
20 Mr. Maguffee, we'll sign you off at this time.
21 Thanks so much.
22 MR. MAGUFFEE: Thank you, Your Honor.
23 THE COURT: Thanks everyone.
24 MR. BROSTRON: Thank you, Judge.
25 (Recess.)

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CERTIFICATE

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3 I, Lynne Shrum, do hereby certify that I am a
4 duly appointed official court reporter for the
5 United States District Court for the Eastern
6 District of Missouri.

7 I further certify the foregoing is a true and
8 accurate transcript of the proceedings held in the
9 above-entitled case as transcribed from my
10 stenographic notes and is certified as correct.

11 This reporter does not certify any transcript
12 nor takes any responsibility for missing or damaged
13 pages of this transcript when said transcript is
14 copied and delivered by any party other than this
15 reporter.

16
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18 11/25/03

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20 Date _____ /s/ Lynne Shrum

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