

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MANUEL MUNGUIA and DOROTHY)
McGHEE, on behalf of themselves individually)
and on behalf of all others similarly situated,)

Plaintiffs,)

v.)

No. _____

STATE OF ILLINOIS; ILLINOIS)
DEPARTMENT OF TRANSPORTATION;)
GARY HANNIG, SECRETARY OF THE)
ILLINOIS DEPARTMENT OF)
TRANSPORTATION; JOE CLARY,)
DIRECTOR OF ILLINOIS DEPARTMENT OF)
TRANSPORTATION'S DIVISION OF PUBLIC)
AND INTERMODAL TRANSPORTATION;)
REGIONAL TRANSPORTATION)
AUTHORITY; and NORTHEAST ILLINOIS)
REGIONAL COMMUTER RAILROAD)
CORPORATION (d/b/a METRA),)

Class Action

Defendants.)

CLASS ACTION COMPLAINT

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Plaintiffs, Manuel Munguia and Dorothy McGhee, on behalf of themselves and on behalf of persons similarly situated, bring this civil rights action against Defendants State of Illinois; Illinois Department of Transportation (“IDOT”); Gary Hannig, in his official capacity as Secretary of IDOT; Joe Clary, in his official capacity as Director of IDOT’s Division of Public and International Transportation; the Regional Transportation Authority (the “RTA”); and Metra (collectively “Defendants”) for racial discrimination in the funding and provision of public transportation.

I. SUMMARY OF CASE

1. The plaintiffs are representatives of the 60% minority ridership of the Chicago Transit Authority (“CTA”) who, due to a continual shortage of funding for the CTA, are and have been the victims of racial discrimination in the provision of transit services.

2. Contrary to commonly held perceptions, CTA is one of the most efficient mass transit carriers in the nation. In fact, in a report submitted to the Illinois Legislature in 2007, the Illinois Auditor General noted that the CTA is one of, if not, the most efficiently run mass transit system in the United States.

3. The cause of CTA’s problems and the resultant discrimination against minorities in the provision of transit services is due to a funding scheme that has and continues to systematically underfund the CTA.

4. Starting in 1983, with the creation of a then new funding scheme and over the last 26 years, Defendants, the State of Illinois, IDOT, the RTA and Metra, through their allocation of operating and capital funding, have grossly and disparately favored white mass transit riders and disfavored minority mass transit riders within the RTA region by overfunding Metra, whose

ridership is approximately 70% white and underfunding the CTA, whose ridership is approximately 60% Latino and African American.

5. Since the 1983 adoption of the funding scheme, CTA operating funding has decreased from 71% of the RTA funding to 59% even though the CTA serves 82% of the RTA's daily riders. The percentages are even worse with regard to CTA's capital funding allocations.

6. In contrast, Metra serves 12% of the RTA region's riders but receives 27% of the operating subsidies and far more than its aliquot share of capital funding.

7. For example, operating and capital funding per rider for Metra has been disproportionately higher than for CTA. Thus, over the 2000-2008 period, Federal Transit Administration ("FTA") figures show that the CTA received operating funding of \$0.87 per passenger trip, while Metra received \$4.42 per passenger trip. Likewise, during the same time period FTA figures show that CTA received \$0.95 per passenger trip in capital funding while Metra received \$4.41.

8. As a result of the funding scheme, CTA has continually tottered on financial ruin - having to increase fares and having to cut back on services, both of which have had substantial impacts on African American and Hispanic residents in the CTA service area. Meanwhile Metra has thrived, and today provides its predominantly white riders mass transit luxury at a below market price.

9. For example, just from 1985-2005, CTA riders faced four times more fare increases than did Metra riders. The CTA was forced to increase the fares it charges its predominantly minority ridership 122% whereas over the same period Metra only increased its fares 30%. This does not even take into account the substantial fare hikes that CTA has been

forced to implement since 2005 - hikes that Metra has not had to implement because of the disparate funding scheme.

10. Likewise, because CTA has not received its appropriate share of capital funding allocations for 26 years, CTA has been unable to invest in building much-needed rail service extensions into predominantly minority communities. As a result, minority riders have been forced to rely heavily upon bus service as their primary means of transportation.

11. But because the disparate funding scheme has placed CTA in a continual state of financial crisis it has been forced to cut service. In particular, the CTA has been forced to cut bus services upon which minorities rely for their essential transportation needs.

12. Since 1985, CTA's service cuts have resulted in the loss of 184 million bus rides per year. Thus, minority riders, who have been forced to depend heavily on buses because capital funding disparities have prevented CTA from building rail services in their communities, have then been denied those much needed bus services.

13. Defendants have been fully aware of these facts.

14. Moreover, CTA's predominantly minority riders have also been required to pay a transit sales tax rate that was, for 25 years, four times that of Metra's predominately white riders.

15. Defendants have, intentionally and with knowledge, shortchanged the funding of the CTA, knowing full well that this in turn would shortchange the transportation needs of the bulk of the State's minority population and the bulk of the minority population within the RTA service area.

16. As a result, minorities suffered, and continue to suffer, racial discrimination in the provision of public transportation services, including but not limited to:

- paying disproportionately higher fares for public transportation as compared to their white counterparts;
- having less access to public transportation as compared to their white counterparts;
- suffering a diminishment in the quality of public transportation as compared to their white counterparts; and
- a loss of property values.

17. This action seeks to remedy the effects of this longstanding pattern and practice of race discrimination by Defendants in the funding and provision of public transit services in the Chicago, Illinois Metropolitan Area.

18. This action is brought under the Constitution and laws of the United States and the State of Illinois to redress the rights of African American and Hispanic citizens to be free from racial discrimination in the funding and provision of public transportation.

19. The harms alleged in this complaint are readily redressed. The current funding scheme should be declared discriminatory based upon race.

20. Defendants should be enjoined from allocating operating and capital funds in a discriminatory manner. Furthermore, Plaintiffs and the class they seek to represent should be awarded damages to be assessed against the RTA and Metra for the economic injuries they have suffered.

II. PARTIES

21. Plaintiff Manuel Munguia is Hispanic/Mexican, self-employed and lives in South Chicago. Mr. Munguia and his immediate family regularly rely upon the CTA to get to and from work and for other transportation needs.

22. Plaintiff Dorothy McGhee is African American and a resident of the Bronzeville neighborhood in Chicago, Illinois. She regularly uses CTA buses for a variety of purposes.

23. The named Plaintiffs are African American and Hispanic residents of the City of Chicago who have been and are continuing to be adversely impacted by the actions of the Defendants which are the subject of this Complaint.

24. Defendant State of Illinois (“State”) is the state governmental body which receives and allocates certain federal transit funding, and certain highway funding that can be utilized for transit purposes, to the RTA, and approves RTA plans that are necessary for the RTA for their transit services to receive federal transportation funds.” In 1983 it enacted an RTA funding scheme. In 2008, with discriminatory intent, it essentially re-enacted an RTA funding scheme that grossly discriminates against 67% of the State’s minorities and 75% of the minorities with the RTA region. The State is the recipient of federal public transit assistance funds.

25. Defendant Illinois Department of Transportation (“IDOT”) is the state agency responsible for supervising the RTA, its funding from the state, and the distribution of state and federal funds to the RTA’s three service boards. It has done so in a manner that grossly discriminates against minorities. IDOT is the recipient of federal funds for use in both road and public transit, including funds for mass transit in the RTA service region.

26. Defendant Gary Hannig is named as a defendant in his role as Secretary of the Illinois Department of Transportation and who, as such, is directly responsible for approving all of IDOT’s funding decisions regarding the RTA and its three service boards, the CTA, Metra and Pace. He is sued in his official capacity.

27. Defendant Joe Clary is named a defendant in his role as the Director of IDOT's Division of Public & Intermodal Transportation (as per IDOT's most recent 2008 Annual Report), the division directly responsible for making all IDOT funding decisions regarding the RTA and its three service boards. The division that he heads is responsible to ensure that RTA operating and capital funding is appropriately distributed throughout the RTA region. He is sued in his official capacity.

28. The State, IDOT, and Messrs. Hannig and Clary will be referred to as the "State of Illinois Defendants."

29. Defendant Regional Transportation Authority ("RTA") is a body politic and municipal corporation of the State of Illinois. It is responsible for implementing the State of Illinois' discriminatory transportation funding scheme including exercising discretion over the allocation of operating and capital funds among the three service boards. It has done so in a manner that grossly discriminates against minorities. The RTA is the recipient of federal public transit assistance monies.

30. Defendant Metra is the service name for the Northeast Illinois Regional Commuter Railroad Corporation ("NIRCRC"). Metra is a recipient, among other things, of federal public transit assistance monies. Defendant Metra is a public corporation established by the Illinois Legislature in 1980. According to Metra's 2010 annual budget, "Metra's primary customer base is suburban residents who work in downtown Chicago. According to Metra's 2006 Origin-Destination Survey, 77 percent of weekday morning riders board in the suburbs and alight in downtown Chicago. The same survey indicated that more than 90 percent of all Metra

trips are for business and work purposes.” As more fully set forth herein, Metra has engaged in a pattern and practice of discrimination against minorities.

III. JURISDICTION AND VENUE

31. This action arises pursuant to 42 U.S.C. Section 1983 for the deprivation of Plaintiffs’ rights under the Fourteenth Amendment to the Constitution of the United States; Title VI of the Civil Rights Act of 1967, 42 U.S.C. § 2000d, *et seq.*; the Equal Protection Clause of the Constitution of the State of Illinois; and the Illinois Civil Rights Act of 2003, 740 ILCS 23/5. This Court has jurisdiction to hear the claims under 28 U.S.C. Sec. 1331, 28 U.S.C. Sec. 1343(3), 28 U.S.C. Sec. 1367, and 28 U.S.C. Sec. 2201 and 2202.

32. Venue is proper in this district pursuant to 28 U.S.C. Sec. 1391(b)(1) and (2) in that a substantial part of the events giving rise to the claim took place in this district.

IV. CLASS ALLEGATIONS

33. As a group, Plaintiffs and the class they seek to represent are minority residents and minority property owners in the RTA and CTA service areas who are users of public transportation.

34. The Plaintiffs have been, are, and will be adversely affected by the actions of the Defendants, including but not limited to, the failure to provide public transportation free of discrimination.

35. The Plaintiffs bring this action on their own behalf, and on behalf of all former and current African American and Hispanic residents and property owners of the City of Chicago who were or could have been public transportation users who have suffered, or currently are

suffering, from the Defendant's discrimination in the funding and provision of public transportation.

36. The minority class (a) is so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to the class (there are approximately 3 million minority residents within the CTA service area, all of whom are affected in some manner by the lack of adequate mass transit funding of the CTA); (c) the claims of the representative parties are typical of the claims of the class; and (d) Plaintiffs have and will fairly and adequately represent the interests of the class and their counsel are experienced class action lawyers who have and will adequately represent the class. In addition, Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

37. There are questions of law and fact common to the class, and with regard to the Rule 23(b)(3) class sought here these questions predominate over individual questions. Such questions include:

- a. Whether the funding scheme for subsidies within the RTA region has a disparate impact upon the class;
- b. Whether less discriminatory alternatives exist;
- c. Whether the disparate impact violates 740 ICLS 23/5;
- d. Whether Defendants have purposefully discriminated against the class;
- e. Whether any purposeful discrimination violates the Equal Protection Clause of the Constitution;
- f. Whether any purposeful discrimination violates Title VI of the 1964 Civil Rights Act;

- g. Whether injunctive relief and other equitable remedies are warranted for the class;
- h. Whether plaintiffs and the class are entitled to damages;
- I. Whether there are common measures of damages applicable to plaintiffs' and the class' claims; and
- j. Whether there are mechanisms by which damages can be distributed to plaintiffs and the class including a fluid recovery mechanism.

38. The claims alleged by Plaintiffs are typical of the claims of the class.

39. Class certification is appropriate pursuant to Fed. R. Civ. P. 23 (b)(2) because Defendants have and continue to act and/or refuse to act on grounds generally applicable to the class, making declaratory and injunctive relief appropriate with respect to Plaintiffs and the class as a whole. The members of the class are entitled to declaratory and/or injunctive relief to end the Defendants' common, uniform, and unfair discriminatory policies and practices.

40. Class certification is appropriate pursuant to Fed. R. Civ. P. 23 (b)(3) with regard to Plaintiff and the Class' damage claims, because there are common questions of law and fact that predominate over any individual questions with regard to Plaintiffs and the Class' damage claims and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

V. BACKGROUND FACTS

A. The CTA

41. The CTA was created in 1945 pursuant to the Metropolitan Transportation Authority Act. This law established the CTA as an Illinois municipal corporation "separate and apart from all other government agencies" to consolidate Chicago's public and private

transportation carriers. The CTA commenced operations in 1947 and completed the consolidation of public transportation in 1952 upon purchasing the Chicago Motor Coach System.

42. The CTA is the second largest public transportation system in the United States and provides bus and heavy rail service to Chicago and 40 adjacent suburbs. The CTA Service Area is comprised of Chicago and the most densely populated portions of Suburban Cook County. The CTA is governed by a Board consisting of seven members appointed by the Mayor of Chicago and the Governor of Illinois.

43. Pursuant to statute the CTA is part of and dependent upon its funding from the RTA (the Regional Transportation Authority). As more fully described below, the RTA is responsible for, among other things, distributing and allocating both operating and capital state and federal funding to the three operating entities under its supervision: CTA, Metra and Pace. These three entities are responsible for the public transportation needs of the six county RTA service area including Cook County and the following “collar” counties: Lake, McHenry, DuPage, Kane and Will.

44. Throughout this complaint, where funding disparities are noted between the CTA and Metra, such funding disparities have correspondingly resulted in disparate treatment of minorities within the State and the RTA service area.

45. In order to understand how the discriminatory practices alleged in this complaint have occurred it is necessary to examine the history of the RTA and a 1983 amendment to the RTA Act.

B. Creation of the RTA

46. In 1974 the CTA and various private suburban bus and rail lines in and around the Chicago were collectively experiencing serious financial difficulties. Farebox revenues were not sufficient to meet their operating expenses and several either had gone out of business or were on the verge of insolvency.

47. It was clear that going forward, if Chicago and the collar counties were going to have a viable public transportation system, it was going to have to be funded, at least in part, by something other than farebox revenues.

48. In response, the RTA was established. Created in 1974 by the Illinois General Assembly with the concurrent approval by a referendum in the six-county northeastern Illinois region, the RTA was set up as a special purpose unit of local government and a municipal corporation of the State of Illinois.

49. Pursuant to the 1974 RTA act, the RTA was effectively controlled by the City of Chicago from 1974 to its amendment in 1983. This included the suburban train and bus operations, which RTA directly operated in those years.

50. Initially, the RTA provided financial assistance to the then existing public transit operators. Thereafter, the RTA's role expanded to include the acquisition and operation of public transportation carriers such as the suburban rail and bus carriers as well as contracting to provide service. With some taxing powers to provide financial support through grants to the CTA and suburban mass transit districts and the purchase of service agreements with the private bus and rail operators, it was hoped that the RTA would provide the solution to the region's mass transit funding problems.

51. This, however, did not provide the long-term solution required to ensure fiscal stability for the Chicago region's mass transit operations. These problems came to a head in 1983.

52. In the years leading up to 1983, the quality of suburban train service was poor and there was a surtax in effect that raised fares.

53. Many Illinois legislators, particularly those from the suburbs and downstate, believed that the RTA and CTA were corrupt.

54. As a result white suburban constituents and their white legislators were vocal in their criticism of the RTA and the CTA, and advocated intensely for changes in RTA control and operations.

C. Events Leading up to the Enactment of the 1983 Amendment

55. In April 1983, Harold Washington was elected Chicago's first African American mayor. The election took place in a racially charged atmosphere. There was racial bloc voting in both the primary and general elections, and Washington's Republican opponent conducted a racially divisive campaign.

56. Immediately after Washington's election, a group of white aldermen led by the Democratic County Chairman, consisting of a majority of the Chicago City Council, took control of the Council and its committees, and fought with Washington over the next three years.

57. As part of what came to be known as "Council Wars", the "Vrdolyak 29" ousted the Mayor's supporters from all offices and positions in the Council, and opposed the Mayor on virtually every issue, attempting to maintain control of the City's government. They also refused

to approve his appointments to many boards, commissions and other public entities such as the school and park boards.

58. The purpose was clear – to maintain white control of those public bodies and prevent Washington from making such appointments.

59. Paralleling the events in the Chicago City Council, the Illinois Legislature saw white Democrats in both houses line up against Washington, in combination with a Republican governor and unsympathetic downstate and suburban legislators, on transit concepts they had opposed two years earlier when Chicago had a white mayor.

60. Shortly after Harold Washington won the Democratic Primary in February 1983, the Republican Governor convened a transit summit to bring about changes in the RTA and CTA. The summit met frequently and in secret for four months.

61. The predominantly white suburban commuters felt that they had been overpaying for their train service and that they needed to get a much larger share of RTA funding.

62. A new RTA bill was presented to the Illinois House on June 30, 1983, on the last day of the Spring Legislative session fifteen minutes before the midnight end of the session. It was passed.

63. On July 2, 1983 the bill was debated and voted on in the Illinois Senate. Many minority legislators voiced strong criticisms about the bill and it was defeated.

64. The Illinois Senate ultimately adopted the bill without significant change on November 2, 1983 primarily because those representing the interests of the CTA had no choice – the CTA was in financial distress. The Chicago minority legislators who opposed the bill in July continued to vociferously oppose it for the same reasons, but were forced to vote for the bill

because the CTA was in danger of shutting down in mid-winter and this was the only source of funds to keep it open.

65. Thus, in 1983, even though the Democrats had a majority in both houses of the Illinois Legislature, legislation regarding the RTA and the CTA was passed that was skewed against the CTA in substantial and material respects. This legislation was the 1983 Amendment to the RTA act (the “1983 Amendment”).

66. White Democrats in both houses of the Illinois Legislature who had previously voted in a bloc to protect the interests of Chicago voted against Chicago on transit legislation that was not in Chicago’s best interest. Even the drafters of the legislation knew that the CTA budget could not be supported by the allocations set forth in the statute.

67. With a politically weakened mayor forced to fend off what appeared to be racially motivated defections from what had been a previously undivided Chicago Democratic Party front in the Illinois Legislature, CTA and its riders were forced into accepting a bill that the sponsors knew would be insufficient to fund the CTA, would result in significant operating deficits and that would have to be changed in a few years.

68. The bill as enacted contained several substantial changes that were extremely adverse to the CTA and its predominantly minority ridership.

69. Under prior funding measures, the CTA had received 70% of tax revenues obtained from Suburban Cook County [a figure that best reflected its service levels in this area] and Metra/Pace’s predecessors had received the remaining 30%.

70. The 1983 Amendment reversed these funding percentages, with the CTA receiving only 30% of the sales taxes collected in Suburban Cook County and Metra/Pace receiving 70%.

71. In fact, the sponsors stated and the legislature understood that the bill would immediately cause a substantial increase in Metra/Pace funding and a corresponding decrease in CTA funding.

72. The bill was intended to effect an immediate fare decrease for Metra/Pace riders and one that, in effect, would become an increase for CTA riders. For many CTA riders the 1983 Amendment resulted in a 25% - 50% fare increase. As a result, over the next four years, CTA lost a significant amount of riders. As more fully set forth throughout this complaint, this and other financial harms wrought by the 1983 Amendment have caused the CTA to be on the verge of financial ruin on an annual basis.

73. Because of the looming CTA shutdown in November 1983, and the fact that white Democrats from Chicago departed from their usual support for a Chicago Mayor it was presented as a take it or leave it deal to the new Mayor and his legislative allies and constituents.

74. The racially divisive atmosphere was even to be found in the legislative debates over the 1983 Amendment. For example, Senator Johns, from downstate Illinois, in a veiled reference to the Civil War, stated that his district would like “to secede from the State of Illinois” because “they hate Chicago with a passion” and in a not so veiled racial epithet stated that he equated giving money to the CTA as just like putting money in to public aid and DCFS in the city – “It is money down a rat hole.”

D. The 1983 Amendment

75. The 1983 Amendment to the RTA Act substantially changed the RTA's structure: (1) creating the Commuter Rail Division (now known as Metra) and the Suburban Bus Division (now known as Pace) as new service boards in addition to the CTA, and (2) adopting a new funding scheme to allocate operating and capital funds to these three service operations in the RTA region.

76. It also dramatically altered control of the RTA. From 1974 to 1983, the RTA had been controlled by a board that was more favorable to the CTA. The 1983 Amendment changed that – giving effective control of RTA and Metra to the white suburbs.

77. Pursuant to the 1983 Amendment, the RTA was entirely divested of operational responsibilities with those responsibilities being given to the three Service Boards – CTA, Metra and Pace. Instead, the RTA became responsible for reviewing and approving the operating budgets and capital plans and expenditures of the Service Boards, developing an annual budget and program as well as a five-year plan, and distributing newly created sales tax receipts and a State subsidy to the Service Boards along with allocating capital funding from the State and federal governments.

78. Thus, the 1983 Amendment, while placing operating and fare responsibilities in three "Service Boards" (the CTA, Metra and Pace), gave the RTA increased oversight and discretionary powers concerning their budgets, the subsidy amounts they would receive for operating expenses, capital funding and a responsibility to monitor the financial condition of the Service Boards.

79. To guide the RTA's financial oversight, the 1983 Amendment required the RTA Board of Directors to approve an Annual Budget and Two-Year Financial Plan. These were controlled by an RTA board that ultimately catered to the interests of the white suburbs over the next 26 years.

80. Additionally, the RTA Board of Directors were required annually to review and approve a Five-Year Capital Plan, which was to be a blueprint of the capital activities to be funded by the RTA and executed by the CTA, Metra and Pace. These too were controlled by an RTA board that ultimately catered to the interests of the white suburbs.

81. The 1983 Amendment also gave RTA complete discretion over the allocation of capital funds received from both the state and federal governments, which it has and continues to allocate pursuant to a rigid formula that has and continues to grossly shortchange the CTA and its minority ridership and continues to grossly overfund Metra and its predominantly white riders.

82. Furthermore, to add insult to injury, Metra, while being the recipient of grossly disproportionate capital funding allocations, has chosen to use those funds in a discriminatory fashion. While it has built new stations further and further out into less populated white collar county areas, it has neglected vast swaths of minority areas where its trains speed past without stopping.

E. The 1983 Funding Scheme

83. To supplement farebox revenues and create a state subsidy for the three service entities' operating expenses, the 1983 RTA Amendment provided for a 1% increase in the Cook County and Suburban Cook County sales tax and a 0.25% increase in the sales tax for the collar

counties. The State of Illinois also was to provide an additional 25% to the sales tax revenue generated each year.

84. The sales tax receipts generated by these new taxes created in 1983 were to be distributed as follows: (a) 100% of the sales tax collected in Chicago and 30% of the sales tax collected in Suburban Cook County were to be distributed to the CTA [after a 15% deduction from the total receipts was taken out for an RTA discretionary fund]; and (b) 70% of the Suburban Cook County sales tax receipts and 100% of the sales tax receipts from the remaining five-collar counties were to be distributed to Metra and Pace [after a 15% deduction from the total receipts was taken out for an RTA discretionary fund].

85. As more fully detailed in this Complaint, the funding scheme adopted in the 1983 amendment and as implemented by Defendants has had little to do with the actual or projected respective needs of the CTA, Metra and Pace, and instead has favored the funding needs of Metra. Furthermore, the scheme was expected to last only five years and was intended to be revisited. Yet even though it has been patently clear for at least 7 years if not longer that the CTA has been grossly underfunded, it has remained in place, essentially unchanged, for over 26 years.

F. Recovery Ratio

86. The 1983 Amendment required that, in combination, the three service boards under the control and supervision of the RTA Board had to produce – in the aggregate – 50% of their expenses from farebox and other revenues. This is commonly referred to as the “recovery ratio.”

87. In this regard, the 1983 Amendment provided the RTA with discretion to review and approve each service board's proposed annual budgets and discretion to set different annual recovery ratios for each service board. The 50% regional recovery ratio vested considerable discretion in the hands of the RTA. RTA had and still has the power to set what each service system's recovery ratio would be for each year.

G. Auditor General's Report

88. At the request of the Illinois General Assembly, the Illinois Auditor General prepared and submitted a report to Illinois House on the RTA, CTA, Metra and Pace in March 2007. Among the recommendations that the Auditor General suggested was the General Assembly consider statutory changes to the funding scheme.

89. In a comments section, provided to it by the Auditor General, the CTA set forth in plain terms in the report that if the CTA's situation worsened any more it could subject the RTA to "scrutiny under Title VI of the Federal Civil Rights Act." The CTA's situation has gotten significantly worse since then and was so as of January 2008.

90. The above plea, made by CTA, was contained in a document that was participated in and received by RTA and Metra. It was also prepared and presented to the General Assembly.

91. Thus, as of January 2008, when Defendants essentially caused the re-enactment and thereafter the implementation of the same disparate funding scheme, they did so knowing that the entity closest to the situation, the CTA, had stated that this would be a violation of Title VI. Thus, Defendants did so with discriminatory intent.

92. The fact that the current funding formula is inequitable and treats the CTA and its minority riders disparately in comparison to the predominantly white riders on Metra was also

reflected in the conclusions of the Auditor General. The Auditor General stated that “the CTA is in a precarious financial position”, and that it was forced to supplement its operating subsidies beyond that provided under the funding formula through one time measures such as deferring its pension contributions, obtaining a special one-time State appropriation of \$53.3 million in 2005 and redirecting Federal Transit Administration capital funds to pay for preventive maintenance and operating expense (\$26.8 million in 2005) (something that in turn has resulted in further deterioration of CTA service and infrastructure causing operating expenses to increase over time).

93. The report also stated that, “The CTA is minimally liquid; its current liabilities exceed its current assets.... Capital investment for replacement of plant and equipment is not keeping pace with the aging of the capital asset base.” The report concludes, “In short, CTA does not have the financial resources to sustain current operations. CTA expended more funds between 2001 and 2005 than were normally available to it and employed stop-gap measures to make up the difference....”

94. In contrast, the report concluded that “Metra is in a good financial position.... its current assets exceed its current liabilities by a 30 percent margin. Capital investment for replacement of plant and equipment is keeping pace with the aging of the capital asset base....”

95. The report also noted that “CTA’s unfunded needs to reach a state of good repair total \$5.82 billion,” and that they far exceeded the planned five-year capital allocation of \$2.2 billion that RTA had planned to allow it. No such adverse conclusions were made with regard to Metra’s capital program.

96. The Auditor General also made the following observations:

- Capital investments have been insufficient to keep pace with the aging of the CTA infrastructure and its vehicle fleet.
- Yet CTA compares favorably with its peers in terms of efficiency of fleet operators.

97. Finally, it is of interest to note that in opposing the Illinois Auditor General's recommendation to the Illinois Legislature in his 2007 report that Metra increase its fares, Metra stated, ". . . the effect of such increases will likely be disproportionately [sic] absorbed by our minority ridership who have traditionally suffered from lower income levels." This statement was contained in the report submitted to the General Assembly and participated in by RTA.

98. Apart from the fact that Metra's minority ridership is minuscule in comparison to CTA's and that even the Auditor General questioned Metra's contention that a Metra fare hike would have any credible impact on minorities, Metra's statement above reflects that it, like the other Defendants, were fully aware that fare hikes unduly impact minority riders and that the funding scheme it and the other Defendants have imposed upon CTA has unduly impacted minorities who have had to absorb CTA's fare hikes.

H. CTA and Metra Budget Reports Demonstrate That Defendants Knew of These Disparities for Years

99. The stark difference between the financial condition of the CTA versus Metra is directly connected to the gross disparity in the subsidies that Metra continues to receive and has received over the last 26 years in comparison to what the CTA receives and has received. Over time, this disparity has resulted in the CTA's equipment falling well below a state of good repair and has resulted in rate increases for its riders coupled with less services.

100. Defendants were well aware of these disparities from other sources as well. For example, it has been consistently reflected in the annual budget reports prepared by the CTA and Metra that were submitted to Defendants.

101. Every year, the CTA and Metra are statutorily required to prepare and submit annual budget reports. These contemporaneously prepared documents depict the deleterious effects that the RTA funding scheme has had on the CTA and the disparate adverse impact that it has had on the CTA's predominantly minority ridership. Reading and comparing what each report said on a yearly basis from 2004 to the present further illustrates that Defendants knew that this disparate funding was having deleterious effects and disparate impacts on the CTA and its minority ridership while favoring Metra's white ridership.

102. In 2008, Defendants knew of these facts but chose to disregard them. They effectively decided to continue the disparate and discriminatory practices that had been in place since 1983 despite the existence of less burdensome alternatives.

I. 2004 Budget Process – An Example of RTA's Intentional Disparate Treatment of CTA and Its Minority Ridership

103. Despite the fact that RTA knew that CTA was in horrible financial condition and Metra was flourishing, in 2004 RTA rolled back CTA's operating fund allocation for the next three years to 2002 levels while providing 3% yearly increases in Metra's subsidies.

104. As a result, in 2004, the CTA, projecting a \$55-million funding shortfall in its 2005 budget, called for a "long term funding solution," involving a change to the sales tax allocation formula.

105. In response, the Illinois General Assembly appropriated a one time \$54-million payment to cover the cost of CTA's paratransit service for 2005. An amendment to the RTA Act also made the RTA responsible for the funding, financial review and oversight of all ADA paratransit services, effective July 1, 2005, and transferred responsibility for operating or providing for the operation of paratransit service to Pace starting July 1, 2006, thereby relieving the CTA of that responsibility.

106. But no long-term solution was arrived at by Defendants.

J. 2005 Budget – CTA's Petition For a Change in the Funding Scheme Again Disregarded

107. As noted in the 2005 Budget that CTA submitted to Defendants:

- “CTA's funding has lagged nearly one full percentage point behind inflation for the past two decades. The resultant loss of purchasing power is the core of the financial crisis facing CTA today. If funding for operating CTA buses and trains had just kept even with inflation, the CTA would be receiving a projected \$100 million more in 2005 compared to 1985, or cumulatively \$1.5 billion. Without additional funds, CTA will continue to lose ground.”
- “The formula that funds transit operations in this region is fundamentally flawed.”
- “In 2004, the CTA raised based fares and cut 466 positions in order to eliminate an \$88 million deficit. This year, the CTA projects a shortfall of \$77 million and has limited options to bridge the gap. Without assistance from the General Assembly to correct the structural flaws in the current formula, the CTA will have to make significant changes to the way it operates, including substantial cuts in service.”
- “While the federal government reviews and modifies the federal funding program for transit every five to six years, no modifications have been made to the RTA Act in over 20 years, despite changes in funding sources and new obligations, growing congestion, regional ridership losses and worsening air pollution.

- **“The choice is clear and we appeal to the General Assembly to modify the RTA Act to provide the resources and incentives to meet the need for transit throughout the city and suburbs.”** (Emphasis added.)
- **“The CTA is seeking the assistance of the Illinois General Assembly to correct the structural flaws of the current formula so that transit is properly funded.”** (Emphasis added.)
- “The current funding situation is unsustainable. In 2005, CTA faced an operating shortfall of more than \$77 million. In 2004, CTA balanced its operating budget by raising base fares and eliminating 446 positions.
- “CTA is seeking a structural solution to regional transit funding, not a band-aid to plug next year’s deficit. No modifications have been made to the RTA Act in over 20 years, despite changes in funding sources and new obligations, growing congestion and worsening air pollution.”
- “Without additional funding, CTA will have to start the year with major service cuts. **If, however, the CTA is successful in its effort to have the Illinois General Assembly change the funding formula to a simpler, fairer and more equitable version, the CTA will not only be able to maintain its current level of service, but also improve service for customers.**” (Emphasis added.)
- “The 2004 public funding level recommended by RTA that has no growth in public funding for two years is symptomatic of an outdated funding formula created more than 20 years ago. **This funding structure needs to be reviewed by the legislature with a need for change to a fair funding structure that will preserve public transportation in the region, maintain the vitality of our region’s economy and protect the quality of our air.**” (Emphasis added.)
- **“The regional transit funding formula established in 1983 has over the last 20 years eroded CTA’s share of regional transit public funding and now threatens CTA’s ability to maintain current service levels to its customers.”** (Emphasis added.)
- **“Metra, however, has always received more funding than it needs for operations and has used the excess for capital expenditures.”** (Emphasis added.)

K. 2006 Budget Process – CTA is Promised Structural Change But None Occurs

108. The CTA President's letter attached to the 2006 CTA Annual Budget Report stated the following:

- “Because the General Assembly has recognized that there is a problem with the structure of transit funding and demonstrated its willingness to solve that problem, the CTA is committed to working as efficiently as possible to manage our way through anticipated budget shortfalls in 2006 and give the General Assembly the additional time it needs to devise a fair solution that meets the region's needs.”
- “We cannot afford to expand service at present, but I recommend that we avoid cuts and give the General Assembly the time it needs to resolve the region's funding issues.”
- “In order to avoid cuts, I reluctantly concur with the RTA's recommendation that the CTA transfer an additional \$29 million in capital funds to its operating budget, although I do so with the understanding that this purely a temporary measure to buy time for the region's funding issues to be resolved. As I have made very clear in the past, I think this practice is a bad public policy.... So in the spirit of regional cooperation, I recommend that the CTA compromise on this point and allow our RTA leadership the opportunity to work with CTA, Metra, Pace and the General Assembly on the complex long-term issues that are really critical to all our financial futures.”
- **“Last year, the CTA engaged AECOM Consult to perform a management and operations review of its business units.... The team found that the CTA is cost-effective relative to other major transit systems. In fact, utilizing the National Transit Database (NTD), AECOM found CTA's bus and rail system ranks first among the major U.S. transit agencies for service efficiency.”** (Emphasis added.)

109. Notwithstanding the CTA President's hopeful view that the legislature would correct these serious deficiencies and the resulting disparate impact that it had on the predominantly minority ridership of the CTA, no such long term help was forthcoming.

110. Things got worse in the following year, as reflected in the 2007 Proposed Annual Budget.

L. 2007 Budget Process – Lack of Structural Change Forces CTA into Financial Doomsday

111. The 2007 CTA Annual Budget Report stated the following:

- “Between 1985 and 2004, CTA’s public funding for mainline bus and rail operations trailed inflation by more than one percent every year. These reductions have added up. If funding had just kept even with inflation since 1985, CTA cumulatively would have received \$1.5 billion more to operate its buses and trains.”
- “CTA also faces a severe capital funding shortfall that threatens its ability to reach a state of good repair. In just the past two years, CTA’s capital budget has been slashed by over \$400 million.”
- “The Mass Transit Committee of the Illinois House, established two years ago, affirmed many of the points the CTA identified regarding inadequate funding levels and changing allocations over time.”
- “While we wait for a long-term solution, we have worked to preserve service.... To do so, CTA has had to take various short-term, unsustainable measures with their own consequences. For example, over the past two years, CTA has delayed key infrastructure improvements by diverting \$60 million from capital projects to fill operating budget gaps – on top of not receiving over \$350 in state capital funding after Illinois First Expired. CTA has also increased operating revenues by raising cash fares twice, from \$1.50 to \$1.75 and then to \$2.00, a 33-percent jump since 2003. While customers have remained with CTA so far, fare increases of this magnitude cannot continue indefinitely without driving people away from transit.”
- “Crafting an appropriate solution to the funding problem requires understanding its origins and consequences. In 1983, state law established how revenues from a sales tax of one percent in Cook County and quarter of a percent in the collar counties would be used in conjunction with supplementary state funds to support CTA, Metra and Pace Operations. It also introduced a recovery ratio requirement mandating that fares and other system-generated revenues cover at least 50 percent of total regional operating expenses.”

- **Although these key provisions of the law have not changed since 1983, they have made CTA look very different than two decades ago. Between 1985 and 1997, the declining purchasing power of CTA’s public operating funding contributed to a vicious cycle of fare hikes, service reductions, and ridership loses in the most transit-supportive part of the region. Several major cuts occurred between the late-1980s and mid-1990s. Between 1989 and 1991, fares increased 50 percent... in 1997... we began implementing cuts that removed 10 percent of service from an already-downsized system. With these cuts, CTA operated nearly 400 fewer rush hour buses compared to 1983.** (Emphasis added.)
- “... the underlying funding structure that helped fuel CTA’s steep decline in the first place has not changed. By not addressing this operating funding problem for so long, and by not renewing capital programs for transit, we risk reigniting another downward spiral. It is almost as if CTA is taken for granted - a system whose weekday ridership still exceeds the population of all but four U.S. cities.”
- “For the CTA, a 23-year-old funding structure problem hinders our ability to maintain existing service let alone expand to accommodate new customers.”
- “In 2006, to avoid service cuts, CTA raised cash fares by 25 cents at the beginning of the year. The increase was carefully designed to provide the maximum revenue gain with the minimum ridership loss. The range of CTA fare media – unlimited ride passes, Chicago Card and Chicago Card Plus – allowed the majority of customers to continue to travel on CTA for \$1.75.”
- “In 2006, CTA reluctantly transferred \$41.0 million of capital funds to support operating costs. However, the practice of diverting capital funds ultimately put the capital program at risk, escalating the future cost of capital programs and increasing operating costs in the long run.”
- “In addition to funding gaps, use of capital funds to offset the budget also creates a negative cycle of disrepair. In prior years, the financial plan diverted capital funds to preventative maintenance for operating use. The increased level of unfunded capital needs and higher operating funding gaps make additional capital diversions to support the operating budget imprudent since it would negatively impact the CTA’s goal to bring the system to a state of good repair and result in increased costs for operations and capital projects.”

- **“The regional recovery ratio of 50 percent has remained fixed since the RTA was last modified over thirty years ago. Despite significant ridership increases since 1997, the transit system is much smaller today than when the requirement was established – primarily due to bus service reductions, fares that have increased above the rate of inflation, and resulting ridership losses. The recovery ratio requirement tends to disproportionately impact bus services. Buses typically have higher operating costs (but lower capital costs) than rail: One operator of a fully-loaded 40-foot bus can transport 60 -70 people, while one operator of a fully-loaded 8-car train can transport 1,000 people.”** (Emphasis added).

M. 2007 Metra Budget Report Demonstrates That Defendants Were Fully Aware of the Stark Disparity Between Metra and CTA

112. Metra’s budgets for the years prior to 2007 are not available on their web site.

The first budget available is the 2007 Metra Budget. A comparison of the Metra 2007 Budget with the above 2007 CTA Budget excerpts paints a stark contrast as to how the disparity in funding of the two has resulted in a tremendous gain for the Metra’s predominantly white ridership at the expense of the CTA and its predominantly minority ridership.

113. Just the opening sentence of Metra’s 2007 report paints this contrast, “Early this year, Metra demonstrated its ability to put capital dollars to work for the benefit of our riders and the Northeastern Illinois region as a whole with the inauguration of service on three New Start projects. With the extensions of the SouthWest service to Manhattan, and the Union Pacific West Line to Elburn, as well as the expansion of the North Central Service, Metra saw years of planning, labor and collaboration come to fruition.” In other words, while CTA was using capital funding to pay for operating expenses, Metra was able to continue expanding its service.

114. While CTA anticipated a budget deficit of \$71 million and might have to divert capital funding to meet operating expenses as it had in 2006 (\$68 million), in 2007 Metra only anticipated cutting capital projects and not service as a result of its anticipated deficit.

115. Other points stated in Metra's 2007 Budget Report include:

- “January 2006 marked the largest` expansion of rail service in Illinois in decades with Metra's completion of three New Start Projects.”
- Even so in 2006 Metra had only 82.3 million passenger trips [compared to CTA's approximate 500 million].
- While Metra had increased fares five percent in 2006, the impending shortfall did not require it to propose fare increases for 2007. “Metra intends to hold the line on fares next year.”
- “Metra has imposed only five fare increases in the past two decades, generally raising fares in five percent increases.”
- “A primary reason that Metra has maintained a stable fare system and levels of increases is that it has been able to hold its base operating expenses to an increase of less than two percent.”

116. Of course this was far easier to do when, as was the case with Metra, it has been receiving disparate funding for operating expenses and capital funding and, as a result, has been able to upgrade equipment and avoid the additional expenses of an aging fleet.

117. In this context, the report notes that the reason for its high recovery ratio is due to efficiencies brought about from its capital funding:

- “The operating efficiencies created through our capital programs to renew and update aging equipment and infrastructure have been a major factor behind our ability to achieve such a high recovery ratio.”

118. This stands in stark contrast to the dilapidated condition of CTA equipment because of its need to repeatedly divert capital funds towards operating expenses and because it has been and continues to be shortchanged by the RTA in its allocation of capital funds.

119. In preparing its 2007 budget under the assumption of no additional funding, Metra stated, “Although we do plan to defer capital projects if we do not receive new funding, there are no current plans for service cuts or fare increases in 2007.” This is in contrast to the CTA which was forced to propose substantial and severe service cuts and fare increases.

120. Additional evidence of how differently 20 years under the funding scheme had impacted Metra versus CTA (years wherein CTA was barely able to survive) is contained in the following passage showing that Metra was able to completely revamp its entire infrastructure:

- “Since 1984, Metra has replaced more than one million rail ties throughout the system, and replaced bolted rail with continuous welded rail so that 93 percent of our system has a smoother ride. We’ve also replaced 80 of the system’s 132 interlockers and control points. We’ve completed work on 69 percent of the system’s crossings with signal work and spent more than \$45 million upgrading highway/rail crossing signal interconnects. ...”

N. 2008 Budget Process – CTA’s Financial Condition Worsens

121. In 2008 things only got worse for the CTA.

122. Facing unprecedented budget deficits due to years of insufficient and disparate state funding, CTA’s 2008 Annual Budget contained the following stark assessment:

- “The enclosed 2008 budget proposal lays out the current fiscal position of the CTA and the challenges associated with years of insufficient funding... For the past several years, the CTA has incurred severe funding shortfalls. The last time the CTA’s funding structure was altered was over 24 years ago. Since then, the public subsidy for the CTA has not kept up with the rate of inflation... The CTA is required by law to prepare a balanced budget. Unless a new funding solution is found before November 4, 2007, the CTA will be forced to implement a plan to increase fares between

\$0.25 and \$1.00, eliminating 39 bus routes, and lay off more than 600 CTA employees.”

- With regard to the proposed 2008 operating budget, in absence of no new transit funding in 2008, the CTA proposed additional budget cuts. Notably, all of the proposed service cuts involved bus routes, both for the November 2007 cuts (39 bus routes) and the proposed 2008 cuts (43), for a total of 82 total bus routes to be cut. As the report stated, “The 2008 proposed budget does not impact service on the rail system. Based on an in-depth analysis, it was determined that due to heavy infrastructure investment already made in the rail system, and rail’s greater capacity to transport customers with less overhead cost, cuts in rail service would not result in appreciable savings.”

123. While these cuts were not made, the above further demonstrates that when funding is low, as it has been over the last 20 years, buses are the service to be hit first and the hardest because of their greater per-passenger expense.

124. In contrast to CTA which was, had been and still is struggling to achieve a state of good repair, Metra touted the fact that it was in a state of good repair. “The system today remains, generally, in a state of good repair; however, one should never forget the condition of the system Metra inherited in 1984.”

O. History Leading Up to 2008 RTA Bill

125. The RTA approved 2007 Service Board budgets premised on the assumption that “a new funding source would be identified in 2007 to meet the funding requirements of [the] budget.” Nonetheless, the CTA budget recognized, “Without this new funding source, CTA will be forced to cut service.” With no legislative action by August, 2007, CTA and Pace announced proposals for service cuts, popularly known as “Doomsday Plans,” to be implemented September 16. The September plans were postponed when the Governor advanced 2008 state subsidies.

126. With a new Doomsday deadline of January 20, 2008 approaching, the Governor called on the legislature to pass some bill, and he would “improve it,” presumably using the amendatory veto.

127. The Legislature passed HB656 on January 10, 2008 to which the Governor affixed an amendatory veto allowing senior citizens to ride all transit systems in the state for free. The amendatory veto was accepted and the legislation passed on January 17, 2008.

128. The pertinent highlights of the 2008 amendments to the RTA Act include:

- a. The RTA sales tax was increased to 1.25% in Cook County, and 0.50% in the collar counties (from 1% and 0.25%, respectively).
- b. A distribution of revenues is prescribed, essentially leaving the distribution of the sales taxes collected at the old rates as is (by references to “85% of 80% of the receipts from those taxes collected within the City of Chicago” and the like) and then, after certain funds are set aside, the remainder is allocated 48% to CTA, 39% to Metra and 13% to Pace.

129. Thus, the legislature attempted to increase the overall sales tax revenue received by the RTA by increasing the sales tax collected in the Cook County area to 1.25% and increasing the sales tax collected outside of Cook County for transit purposes to .50%.

130. Yet the 2008 act kept the 1983 allocation formula intact and, in fact, worsened CTA’s overall allocation. It kept the old formula intact with regard to the original 1% and .25% amounts raised under the 1983 Amendment and with regard to the additional .25% throughout the region adopted a formula that gave CTA an even smaller percentage than it had been receiving under the 1983 formula.

131. CTA also was going to receive part of a newly created Chicago real estate transfer tax. This was primarily intended to help CTA fund its pension obligations which, because of its

financial distress, had gone unfunded for years. Apart from the fact that this tax was enacted in the midst of one of the worst real estate downturns in the country's history, this measure was an additional tax being imposed upon residents of the City of Chicago, where the vast majority of RTA's minority population resides and was being imposed on top of the \$0.25 increase in retail sales tax that was being imposed.

132. In short, the 2008 act actually costs the CTA service area's minorities more than before, with more of their sales tax dollars being siphoned off to support the predominantly white riders of Metra, while they have been and are continuing to receive less and less service.

133. In the period leading up to the 2008 act, the CTA, the Cook County Board, and various legislators individually and in combination petitioned to have the funding scheme changed because of its disparate impact. These petitions were intentionally disregarded.

134. The RTA knowingly disregarded the petitions of the CTA and others to change the funding formula and funding scheme, and by failing to seek and effect a change to the operating funding formula in 2008, breached its duty to the minority residents of the CTA service area. Combining this with the gross disparity in the manner in which the RTA has and continues to allocate capital funding in favor of white riders, and its failure to mitigate the operating funding disparities through the recovery ratio mechanism, it is clear that RTA has acted with discriminatory intent.

135. The State of Illinois Defendants, among other things, also ignored these petitions. In causing a clearly and patently discriminatory funding scheme to be re-enacted and in continuing to allow this scheme to be implemented, given the gross disparity in the treatment of minorities that this scheme has and continues to cause, the State of Illinois Defendants acted with

discriminatory intent in causing and continuing this grossly disparate treatment. Likewise, the State of Illinois Defendants in allowing RTA to disparately allocate operating and capital funds in the manner that it has and continues to, given the gross disparity in treatment of minorities that has and continues to result, acted with discriminatory intent in causing and continuing this grossly disparate treatment of minorities.

P. Aftermath of the “Bailout” Bill

136. Because the State did not deal with the gross disparity in funding between the CTA and Metra in the 2008 bailout bill, even as early as 2009 it was clear that the bill had done nothing more than provide a temporary patch and that nothing had been done to either remedy the effects of the past 26 years of disparate funding or correct it going forward.

137. This, again, was reflected in the CTA’s 2009 budget report. In his President’s Letter in the 2009 Budget, the CTA President noted that in order to balance the CTA budget, “I have made the difficult decision to recommend a fare increase to the CTA Board for 2009. I understand that the proposed fare increase will have a very real impact on you, and the decision to recommend a fare increase was difficult. The unfortunate reality of current fiscal picture requires us to act to ensure that we have the necessary funds to continue to safely provide service at current levels.”

138. The following are excerpts from the 2009 Budget Report that further highlight the effects of Defendants’ disparate funding scheme:

- “As a result of higher operating costs and revenue erosion, the CTA had to amend its budget in July 2008, an amendment that was approved by the RTA, the CTA’s oversight board. The amendments, coupled with spending cutbacks, will allow the CTA to meet its 2008 financial obligations.”

- With regard to increased material expenses, “The primary cost driver for this increase is from materials necessary to maintain and repair the aging rail car and bus fleet. This is a direct result of inadequate capital funding required to replace bus and rail cars that are beyond their useful life, and to overhaul vehicles at their quarter and mid-life intervals.”
- “The President’s 2009 proposed budget includes an across-the-board fare increase, to begin in January 2009. Under this proposal, cash fares would be raised by \$0.25 and pass will be raised by 20.0 percent.”

139. Reflecting that the funding scheme had not been improved by the 2008 act, the CTA still noted that the same funding problems existed in 2009. “The CTA provides over 80 percent (eight of out ten trips in taken in Northeastern Illinois) of all transit trips in the six-county region, including nearly half of suburban transit trips, but only receives 59 percent of regional public transit funding. In 1980, CTA received 71 percent of available transit funding. The current transit funding formula is designed around geographic boundaries and retail sales and does not reflect ridership, service levels and other performance-based criteria.”

Q. The 2010 CTA Budget

140. On October 6 and 7, 2009 the newly appointed President of the CTA announced that the CTA was projecting a \$300-million operating shortfall for 2010. The CTA President also publicly stated that another “doomsday” scenario was fast approaching for CTA riders starting in February 2010, that would involve fare hikes and including deep cuts.

141. On November 12, 2009 the Chicago Tribune carried the following headline, “CTA In For Quick State Fix.” The article details that the State and the CTA were expected to sign off on an agreement that purportedly required the CTA to delay any fare increases for two years in return for “limited state help that won’t be enough to avoid service cuts and major

layoffs.” Moreover, “Transit officials also warned that fare increases likely will be necessary after the freeze.”

142. As reported, the deal involved the RTA borrowing \$166 million over the next two years and funneling it to the CTA. The State will make the loan payments for two years at a total cost of \$15.3 million and then, according to a Sun-Times report, the CTA would be responsible for paying the \$10 million annual debt service for the next 28 years. The receipt of this money, in turn, will allow the CTA to, yet again, divert capital funds, over the short term, to meet its operating needs. As reported, the deal “still leaves the CTA with a \$100 million hole” in its current operating budget needs.

143. The Tribune article reported that opponents of the proposed “deal” said that it was “only pushing the money woes down the road.”

144. In other words, it is more of the same. A one time short term inadequate fix that avoids confronting the real problem, hopefully averting attention away from it for a while, and, at the same time resulting in a worsening of CTA’s financial condition.

145. On November 12, 2009 the CTA Board, forced into a corner, adopted and approved a 2010 budget that included the proposed service cuts.

146. If they do go into effect, the proposed service cuts will reduce bus service by 17.7% and rail service by 9.8% - staggering numbers when they are put into the context of 26 years of service cuts and fare hikes that the CTA and its predominantly minority ridership have had to endure. It is estimated that CTA riders’ average waiting time could at least double.

147. As more fully set forth in this complaint, regardless of what other short term fixes may or may not be arrived at to avoid the anticipated February 7, 2010 service cuts, the fact is

that since 1983 and continuing to this date, funding disparities have caused the CTA to be continuously living under the specter of financial ruin such that it has not and can no longer adequately serve its predominantly minority ridership. At the same time this funding scheme has disparately favored Metra and its predominately white ridership so that since 1983 Metra has thrived.

R. Metra 2010 Budget

148. Thus, in stark contrast to the financial crisis confronting CTA as a result of funding shortfalls, in its 2010 Budget Metra, again because of 26 years of disparate funding in its favor, is essentially unaffected by the anticipated funding shortfalls.

149. No service cuts are proposed and a very small fare increase is proposed.

150. Metra stated, “While, we are not calling for a general fare increase, some targeted fare actions will be implemented in 2010 to help maximize system generated revenues.” Thus, all that was proposed was a 6% increase in one-way fares, an increase that would not affect most Metra riders in the first instance since the overwhelming majority purchase monthly or 10-ride tickets.

151. Further, in contrast to CTA’s proposed service cuts, in its 2010 Budget Report, Metra boasted of its recent increases in services, including the addition of more weekday and weekend services.

152. In contrast to CTA which has been in much worse shape since the supposed 2008 bailout, the report notes, “Metra is certainly in better shape than it was in 2008 when it faced prospects of massive capital disinvestment, substantially higher fares, and significant service cuts.”

153. Defendants have been fully aware of the above budget reports, including all of the factual and financial data revealing the gross disparities between the funding of the CTA and Metra and the deleterious effects that it has had on the CTA and the service it provides to its predominantly minority population. As a result, Defendants were and have been fully aware that the funding disparities between the CTA and Metra have had disparate impact on minorities. Defendants also knew of, were presented with, and rejected less disparate alternatives all for the purpose of acquiescing in the demands of white constituents.

S. Defendants' Actions Have Resulted in Racial Discrimination

154. It has been known and understood by Defendants for at least the last seven years if not from its inception in 1983, that the funding scheme would and does not adequately fund the CTA. In fact, it was noted on the floor of the Senate debate in 1983 that CTA would be underfunded at least \$100 million per year and that this funding scheme would have to be revisited in a few years.

155. Yet, nothing was done in four, six or even twenty-five years. Moreover, what was done in 2008 was more of the same or worse.

156. Cutting the CTA's transit service and raising fares impose a particular burden on minorities, and Defendants have known this for decades. Yet, since 1983 the CTA and its predominantly minority ridership have been subject to continuous fare hikes and service reductions because of a capital and operating funding scheme adopted in that year and implemented to date that has favored whites over minorities.

157. Approximately sixty-seven percent (67%) of the entire state's minority population lives in the CTA service area. Approximately seventy-five percent (75%) of all the minorities

that live within the RTA region live within the CTA service area. Furthermore, racial concentrations of the actual ridership numbers are even more pronounced, with even more minorities dependent upon and using the CTA and more whites using Metra, than the population demographics reflect. Defendants are and have been fully aware of these demographic facts for at least the last decade.

158. Because of the funding disparities in both capital and operating funding, CTA and its predominantly minority ridership suffered and continue to suffer while Metra and its predominantly white ridership flourished and continue to flourish.

159. This disparity of treatment has been so apparent for years and involves such a substantial proportion of the state's minorities that in re-enacting, in 2008, essentially the same funding scheme or worse in spite of the obvious adverse effects of the funding scheme on the vast majority of the RTA region's minorities, Defendants have acted with discriminatory intent.

160. On numerous occasions since the funding scheme was adopted in 1983, and prior to 2008, Defendants were presented with numerous petitions requests and alternatives to change the funding scheme but with full awareness of the significant disparities that the operation of the funding scheme had wrought upon the CTA and its predominantly minority ridership – versus how it had favored Metra and its predominantly white ridership – Defendants essentially reenacted and then implemented the same funding scheme or, in fact, made it worse and more onerous for the CTA and its minority ridership.

161. In adopting, then re-adopting in 2008, the funding scheme, Defendants ignored the petitions, requests, and concerns of the minority community, while acquiescing to the demands of the white community. Further, Defendants ignored and rejected less burdensome alternatives.

T. Defendants Have Known That These Disparities Have Wrongfully Impacted Minorities

162. In adopting and implementing for 25 years and then re-adopting in 2008, the funding scheme, Defendants acted with racially discriminatory intent. They knew that the funding scheme disparately treated the CTA and thus knew that the funding scheme disparately treated its predominantly minority ridership while disparately favoring Metra's predominantly white ridership.

163. Because of decades of de jure and de facto segregation, making Chicago, at one time, one of the most segregated cities in the United States (a fact well known to each of the Defendants), areas on both the south and west sides of Chicago contain the majority of the CTA's minorities.

164. In fact the United States Census Bureau lists Chicago as one of the five most segregated metropolitan areas for African Americans and the sixth most segregated metropolitan areas for Latinos.

165. As the Illinois Attorney General recently stated in a pleading filed in Illinois State Court:

Chicago has racially segregated neighborhoods. African American and Latino neighborhoods in Chicago are very much segregated from White and other racial groups. African Americans are about 34% of Chicago's population of 3 million people and are largely concentrated on the City's South and West Sides, while Latinos are about 30% of Chicago's population and are largely concentrated on the Southwest and Northwest sides of the City.¹

¹State of Illinois v. Wells Fargo Company et al., Circuit Court of Cook County, Illinois, County Department, Chancery Division, 09CH26434, Complaint ¶ 68.

166. Each of the Defendants has been fully aware of these facts, at least as of 2000, when these Census figures were released.

167. Furthermore, each of the Defendants has been fully aware of the fact that the areas with the heaviest concentrations of minorities are also the areas within the RTA which suffered the most from Defendants' disparate funding scheme.

168. From a transportation equity standpoint and from basic mass transit planning principles these areas should have been the first areas in the RTA region to receive significant capital funding. Yet, with a few minor exceptions that have had little impact, no meaningful new capital projects have been designated or constructed in these areas to ameliorate the patent lack of rail service and to add insult to injury bus services have been significantly cut in these areas.

169. This has been due to the fact that (1) CTA has never received its adequate share of operating funding because of the disparate allocation of operating funds, and (2) the CTA has been forced to use its capital funds to fund operating expenses such that whatever capital funds are left are barely sufficient to keep the CTA's fleet (bus and rail) and tracks from becoming completely broken down.

170. Defendants' disparate funding allocation scheme has not only resulted in and continues to result in substantial cutbacks in service in these heavy minority areas due to improper allocation of operating funds, but the disparate allocation of capital funds has resulted in these minority areas being severely and grossly shortchanged in terms of mass transit infrastructure.

171. The lack of viable mass transit options in many minority areas has created greater economic disinvestment in these areas causing even greater economic harm to these areas. The

class represented by Plaintiffs include residents whose incomes typically fall below the region's area median income who are forced by inadequate public transportation to own more cars per household than would otherwise be necessary were higher quality transit facilities and services available to them.

172. The location of most jobs in Chicago has shifted away from these minority areas over the last few decades. The lack of adequate mass transportation for these minority areas has and continues to entrap the predominantly minority residents of these areas from having the ability to travel to where the jobs are.

173. Because Illinois' non-white population is economically poorer than Illinois' white population, it is more dependent upon public transportation to meet its transportation needs than the white population. Thus, the denial of adequate and equal public transportation, has a disproportionate economic impact upon the minority population within the CTA service area.

174. This not only causes loss of income for these residents but it also results lower property values.

175. In contrast, Metra has extended its rail lines further and further out into significantly less populated areas whose residents are almost exclusively white.

176. Based upon performance metrics alone, that CTA provides service to 82% of the RTA's ridership would mandate that CTA should have received more than the 59% of state operating subsidies and more than it has received in the available capital funds.

177. CTA provides service to 60% of all suburban Cook County transit riders, yet the funding scheme has and continues to only give 30% of the sales tax receipts collected in Suburban Cook County to CTA.

178. Furthermore, even if one considers just the dollars raised in the CTA service area, a recent study performed by the Urban Transit Center at the University of Illinois Chicago Campus at the request of and in partnership with The Illinois House Committee on Mass Transit suggests that as much as \$80 million dollars appears to be annually taken from the CTA service area to fund the collar counties' transportation needs.

179. This improper and discriminatory transfer of operating funds on a yearly basis has contributed to the inequalities that currently exist between the CTA and Metra and their respective riderships.

180. Substantial sales tax revenues that were and are still being generated in Cook County and which should have been and should be used for the transit needs of Cook County, including the predominantly minority CTA riders, have and continue to flow out to the predominately white collar counties.

181. From its inception in 1983, because it was known and understood that the funding scheme could not adequately fund the CTA, the RTA has given the CTA the bulk of the 15% discretionary fund. Even so, this could not mask the inadequacies of the funding scheme – the per-passenger trip subsidy has remained in excess of four to one in favor of Metra riders over CTA riders and CTA's financial condition has continuously worsened over the last 26 years.

182. Furthermore, from its inception in 1983, Cook County residents, in which the majority of the state and RTA region's minorities reside, have paid four times more in sales taxes than the predominantly white collar counties. This further evidences that this funding scheme has and continues to impose greater burdens on minorities than whites to fund the RTA Region's mass transit.

183. By way of example, as reported to the Illinois House of Representatives in a 2005 report commissioned by it prepared by the Urban Transportation Center at The University of Illinois Chicago Campus, as of 2003, 33.3% of the population of the RTA region lived in the collar counties served solely by Metra and Pace, but only 15.2% of the taxes raised by the RTA region were raised in the collar counties. In short, the collar counties have not contributed their fair share of revenue. They have been over funded and have received services beyond that which they were entitled.

184. The recovery ratio has been used as a punitive measure against the CTA. Because it is and has always been less costly per passenger in terms of operating cost to run heavy rail through corridors with a strong ridership base than buses, the recovery ratio was skewed in favor of the commuter rail service provided by Metra and against CTA's bus service.

185. In exercising its discretion over the last twenty-six years, the RTA has imposed recovery ratios upon the CTA that have caused it to pay more than 50% on a yearly basis and, given that the CTA's budget dwarfs those of the other services, has caused the CTA and its predominantly minority ridership undue financial hardship.

186. This is particularly so, in light of the fact that Metra can easily meet or exceed the 50% recovery ratio given that it only operates commuter rail trains and has been able, because of receiving more than its aliquot share of operating and capital funds, to keep its equipment in a good state of repair, thus lowering its operating expenses.

187. The CTA, on the other hand, must operate an enormous fleet of buses in order to meet the transportation needs of its predominantly minority ridership. This, in turn, increases its expenses, which, in turn, makes higher recovery ratio amounts far more onerous for it than

Metra. Likewise, because it has not received its aliquot share of operating and capital funding, its equipment has fallen out of a state of good repair, thus causing it to incur greater expenses to keep functioning. RTA has implicitly recognized this fact because the funding marks that it sets for Pace, a service that operates buses and no rails, have been consistently in the 40% range.

188. By increasing its recovery ratio over 50% the RTA has forced the CTA to accept less in subsidies. Thus, for example, if the CTA is required to raise from its fares 52% rather than 47% of its budget, and its budget is \$1 billion, this means that the CTA would lose \$50 million in subsidies that it would have received from the RTA.

189. The cumulative effect of these shortfalls over 26 years, when taken in conjunction with other substantial defects in the funding scheme, have resulted in a substantial disparate impact on the CTA's predominantly minority ridership and has correspondingly favored the Metra's predominantly white ridership.

190. The recovery ratios set by RTA have, over the last twenty-six years, forced the CTA to, among other things, make substantial service cuts in the CTA's bus services – services that are and have been primarily relied upon by minority residents – and in a disproportionately higher rate of fare increases for the CTA service area with its predominantly minority population than for Metra and its predominantly white ridership.

191. As a result, even if CTA, as it has contended, attempted to evenly cut bus service in absolute numbers between minority and non-minority areas, the impact was felt far greater upon the minority areas because these areas were and are heavily dependent upon bus service.

192. Defendants knew and have known that, among other things, forcing CTA to cut bus services has greatly impacted the CTA's minority riders due to the fact that Defendants knew

and have known that the primary mass transit option for minorities within the CTA service area has been bus services.

U. RTA and Metra Have Caused Grossly Disparate Allocations of Capital Funds

193. Because of the financial stresses imposed upon it by the funding scheme, CTA, in contrast to Metra, has not been able to expand its rail or bus services into the minority areas in any meaningful way over the last 26 years. In fact, the funding scheme disparity has caused CTA to constrict services in heavily minority areas. Defendants knew and intended that this would occur.

194. This has been further compounded by the fact that since 1983 and to the present, the RTA has not allocated sufficient capital funds for the mass transit needs of its minority residents. As previously noted, RTA has substantial if not complete discretion over the allocation of capital funds within the RTA region. Yet it has caused capital funds to be allocated in a fashion that has resulted in grossly disparate per rider capital funding allocations between the CTA and Metra.

195. Thus, since 1983 and continuing to the present, the RTA has exercised its discretion over allocation of capital funds in a manner that has patently and notoriously underserved large swaths of minority areas.

196. The largest concentrations of minorities – census tracts where 70 percent or more of the residents are minority are situated on the South and West sides of Chicago.

197. These areas have been in dire and desperate need of capital investment in heavy rail and bus services from 1983 to the present. RTA has known this and has known that within

these areas reside heavy concentrations of minorities and the majority of all minorities within the RTA region.

198. Yet, RTA has not required or caused such capital funds be expended to expand heavy rail and bus service to these large minority areas. Instead, it has at the demand of Metra and white suburban RTA board members, disproportionately given capital funds to Metra to expand further and further away from Chicago.

199. Moreover, in allocating these funds to Metra, RTA has not even required Metra to build new stations on the tracks that it currently runs through many of these minority areas. Instead, Metra's trains whiz past these communities as if they do not exist. They do so for a purely racial reason – they do not want their white suburban customers to have to mingle with poor minorities. Only recently Metra proposed possibly building one station in Chicago's South Side. Even if built, this would be too little and too late.

200. The disparity that exists between RTA's treatment of its white Metra riders versus its treatment of its minority riders is so gross and extreme that, on its own, it creates a strong inference that it is, at least in part, racially discriminatory in intent.

201. For the bulk of these 26 years, Metra was headed by a chairman who publicly stated his open hostility to the CTA – saying that it was his and thus Metra's mission to get as much money as possible and that he and Metra felt no mercy for the CTA and its riders.

202. Metra, as a public entity, in demanding and accepting the disparate amounts of operating and capital funding that it has and still receives from the RTA, knowing that it would disproportionately benefit primarily white transit riders at the expense of minority riders, when it had a public and legal duty to ensure that all riders within the RTA region, white and minority,

receive their allocable share of mass transit services, has acted with discriminatory intent. This is particularly so when one also considers that, although it has been the recipient of a inequitable and disproportionate amount of capital funding over the last 26 years, it has not invested these funds to build stations in the minority areas that its trains travel through.

V. Additional Disparate Impacts of the Funding Scheme

203. As a result of service cuts and fare increases that have been required as a result of this disparate funding, the CTA's predominantly minority riders have been forced to pay higher fares, have had to endure additional travel burdens, and in some instances find other means of transportation and forego using any public transportation because of these service cuts and fare increases. Their predominantly white counterparts who are serviced by Metra have seen no decrease in their services (in fact the services have increased) and only slight to modest increases in fares when compared to the CTA fare increases over the same period.

204. Minorities have also experienced stigmata as a result of this disparate funding.

205. In the case of most public transit operators, including the CTA, Metra and Pace, the fare paid by a passenger does not support the actual cost of the trip that the passenger takes. "Subsidy per passenger trip" is the most appropriate way to measure subsidization of public transit systems. Defendants, because of their control over the funding scheme, play the determinative role in the amount of subsidy per passenger trip received by the riders on each of the RTA region's three operators. The subsidy per passenger trip received by a transit operator has a determinative effect on the quantity and quality of service available to the riders of that operator.

206. If Defendants ceased their discriminatory practices, a further result would be to equalize the subsidy per passenger trip received by Plaintiffs and the Class versus the Metra riders. As it now stands, this unequal subsidy per passenger trip has and will continue to constitute an economic injury to Plaintiffs and the Class that can and will be measured and assessed through common and well accepted econometric measures.

207. Because Defendants have engaged, and continue to engage, in discriminatory funding and other decision making policies and practices, the CTA has been unable to implement projects and programs that would have improved transit opportunities for Plaintiffs and the Class, and CTA has been repeatedly forced to reduce services that had previously been available to Plaintiffs and the Class and implement fare increases that injure Plaintiffs and the Class.

208. Plaintiffs and many members of the class are non-discretionary transit riders with low incomes who have no alternative but to rely upon the CTA. Accordingly, Plaintiffs suffer significant economic injury when fares increase or service is cut back as a result of Defendants' discriminatory practices.

209. Defendants' discriminatory practices depart from and indeed undermine substantive transportation planning norms and standards. As a threshold matter, it is the norm and standard that any transportation funding plan must be reviewed and revised every five to six years. The RTA funding scheme has never been revised – even the 2008 amendments kept the same scheme in place and even further watered down CTA's percentage share of funds available.

210. It is a central guiding principle of long-range transportation planning that mass transit should provide the greatest benefits for the greatest number of people. The RTA funding scheme runs entirely contrary to this elementary transportation principle.

211. Historically, while Metra riders have enjoyed increasing services, Plaintiffs and the Class have suffered service cuts, including cuts to critical evening and night-time service which for many provides their only means for commuting to and from work and getting to and from other essential destinations. These service cuts were caused by Defendants' discriminatory funding scheme, which has had a determinative and coercive effect in forcing the CTA to discontinue service.

212. Furthermore, Defendants' refusal to extend equal treatment to Plaintiffs and the Class on the basis of their race constitute harms to Plaintiffs and the Class in themselves. Defendants' unequal treatment of the Plaintiffs and the Class on the basis of race sends the message that, in the eyes of the government, they are not equal and are worth less than their white counterparts on the Metra.

213. All of the facts presented above were known by Defendants at least by the time of the 2008 act.

214. Each of the Defendants exert substantial control over the capital and operating funding needs of each of the three service boards within the RTA region, determining the amount of money that flows to each transit operator as well as the purposes for which such funds may be used. In exercising this substantial control, Defendants have and continue to discriminate against the CTA and its predominantly minority ridership in favor of the Metra and its predominantly white ridership, on the basis of these riders' race and national origin.

215. Defendants RTA, IDOT and Metra exercise significant influence before the state government, regarding any changes in the RTA region's funding scheme. On numerous occasions when opportunities have presented themselves, including just recently in early 2008,

these Defendants have either been hostile to or refused to play any role in attempting to secure the necessary changes in the funding scheme that would eliminate its discriminatory impacts.

W. Additional Allegations Regarding Metra

216. In addition to the foregoing, Metra was also an active participant in making sure that the funding scheme was never changed – blocking CTA’s attempts to do so and making it a source of public pride that they were successful in doing so.

217. Metra did so, knowing full well, that by insisting on keeping the funding scheme the same, it was unfairly receiving funding for its predominantly white riders at the expense of CTA’s predominantly minority riders.

218. Thus, for example, in 2005 when CTA petitioned Defendants for a new formula, Metra responded by falsely stating that, if anything, the formula was skewed in CTA’s favor and CTA’s share should be reduced from 59% to 50%.

219. In short, over the last 26 years, Metra has sought to and has been successful in maintaining the current inequitable funding formula and, as such, has been unjustly enriched in excess of \$1 billion dollars. Monies from which the CTA and its predominantly minority riders should have benefitted.

220. As a result, one of the remedies that plaintiffs seek in this matter is that a future reapportionment of funding be made so that CTA and its predominantly minority riders are returned the funding that Metra and its predominantly white riders unjustly received. Not only will this serve to rectify the wrongs that RTA and Metra caused to CTA’s predominantly minority riders but it will also serve to rectify the financial destruction that this funding scheme, perpetuated in part due to Metra’s conduct, has and continues to wreak on the CTA.

COUNT I
(All Defendants Except State of Illinois and IDOT)
(Fourteenth Amendment and 42 U.S.C. §1983 - Equal Protection)

221. Plaintiffs incorporate paragraphs 1 to 220 by reference.

222. Defendants prior, current, and on-going policies, patterns, practices, procedures and/or customs of funding, advocacy and other decisionmaking in regard to transportation projects and services for CTA and Metra deprive Plaintiffs and Plaintiff Class members of their rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983 because they have the purpose of discriminating against transit riders on the basis of race and national origin.

223. As a direct and proximate result of Defendants unlawful conduct, Plaintiffs and Plaintiff Class members have suffered irreparable harm and this harm will continue absent injunctive relief.

COUNT II
(Title VI and 42 U.S.C. §1983 - Purposeful Discrimination Against All Defendants)

224. Plaintiffs incorporate paragraphs 1 to 223 by reference.

225. Defendants prior, current, and on-going policies, patterns, practices, procedures and/or customs of funding, advocacy and other decisionmaking in regard to transportation projects and services for CTA and Metra deprive Plaintiffs and Plaintiff Class Members of their rights under Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, *et seq.* and 42 U.S.C. §1983 because they have the purpose of discriminating against transit riders on the basis of race and national origin. Defendants receive federal funds for transit.

226. As a direct and proximate result of Defendants unlawful conduct, Plaintiffs and Plaintiff Class members have suffered irreparable harm and this harm will continue absent injunctive relief.

COUNT III
Violation of the Illinois Civil Rights Act of 2003
(740 ILCS 23/5)
(Against RTA and Metra)

227. Plaintiffs incorporate paragraphs 1 to 226 by reference.

228. The funding scheme and Defendants' practices and policies under it alleged above have a discriminatory disparate impact on African American and Hispanics.

229. The African American and Hispanics who reside within the CTA service area are members of a protected class under the laws of Illinois.

230. The substantial disparities in funding are produced by and are the result of Defendants' funding scheme and Defendants' practices and policies under it.

231. The receipt of disproportionately less the funding by the CTA which serves a substantial majority of African American and Hispanic residents within the RTA region impacts CTA's ability to deliver transit services to these minority residents.

232. Such impact is unjustified. Despite knowledge of the facts set forth in this Complaint, Dependants have re-enacted and implemented essentially the same inequitable funding scheme, without making the substantial modifications that are necessary to address the blatant inequities and the disproportionate impact those inequities have on African American and Hispanics living within the CTA service area.

233. Defendants have refused to take remedial steps, even though the detrimental impact of their failure to provide equitable levels of funding for African American and Hispanics living within the CTA service area is well-recognized and was reasonably foreseeable.

234. Defendants' conduct has the effect of subjecting African American and Hispanics with the CTA service area to discrimination because of their race. This amounts to a violation of the Illinois Civil Rights Act of 2003, 740 ILCS 23/5.

235. The funding disparities resulting from Defendants' conduct irreparably injure African Americans and Hispanics, by limiting their mass transit access which in turn affects, among other things, their ability to get to work and other essential transit functions. Plaintiffs and the Class are without an adequate remedy at law and will continue to suffer irreparable harm unless Defendants are preliminary and permanently restrained and enjoined by the Court from continuing the existing funding scheme and their discriminatory policies and practices under it.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs ask this Court:

A. to certify the case as a class action on behalf of the proposed Plaintiff Class and to designate Plaintiffs Manuel Munguia and Dorothy McGhee as representatives of the class and their counsel of records as Class Counsel;

B. to declare that Defendants have violated the Equal Protection Clause of the Fourteenth Amendment through their prior, current and on-going discriminatory policies, practices, procedures and/or customs of funding transportation projects and services for the CTA and Metra;

C. to declare that Defendants have violated Title VI of the Civil Rights Act through their prior, current and on-going discriminatory policies, practices, procedures and/or customs of funding transportation projects and services for the CTA and Metra;

D. to declare that Defendants have violated 740 ILCS 2315 through their prior, current and on-going discriminatory policies, practices, procedures and/or customs of funding transportation projects and services for the CTA and Metra;

E. to permanently enjoin Defendants from making any funding decision that has an unjustified disproportionately adverse impact on CTA riders of color;

F. to permanently enjoin Defendants from supporting the funding of or funding any improvement or expansion in service that detracts from the equitable funding of services that benefit CTA;

G. to declare that the Defendants' enactment, adoption and implementation of the RTA region funding scheme has the effect of subjecting African Americans and Hispanics to discrimination on account of their race or color;

H. to declare that Defendants' enactment, adoption and implementation of the existing funding scheme amounts to a violation of the Civil Rights Act of 2003;

I. preliminary and permanently enjoining Defendants from implementing the existing funding scheme for Calendar Year 2010 and any year thereafter until such time as Defendants can demonstrate that the funding scheme no longer has the effect of subjecting African Americans and Hispanics to discrimination because of their race or color;

J. to award Plaintiffs and the Class damages against all Defendants named under Counts 2 and 3 and against RTA and Metra under Count I arising out of the injuries that they have suffered as a result of Defendants' unlawful conduct;

K. to award Plaintiffs their reasonable attorneys' fees, costs, and expenses, pursuant to 42 U.S.C. §1988, 740 ILCS 2315 and other applicable law; and

L. to grant such other and further relief as this Court should find just and proper.

Respectfully submitted,

s/Stewart M. Weltman
One of Plaintiffs' Attorneys

s/Rafael A. Vargas
One of Plaintiffs' Attorneys

Date: January 6, 2010

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