IN THE CIRCUIT COURT OF COOK COUNTY
CHANCERY DIVISION

HARRISON CHANCY, individually and as representative of the class of "C-number" prisoners, Plaintiff, v. ILLINOIS PRISONER REVIEW BOARD, ADAM MONREAL, Chairman of the Illinois Prisoner Review Board, ILLINOIS DEPARTMENT OF CORRECTIONS, Salvador Godinez, Director of the Illinois Department of Corrections, Defendants.	)))))))))))))))))	No. 2015CH01456 CALENDAR/ROOM 10 TIME 00:00 Class Action

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COMPLAINT

Plaintiff Harrison Chancy, by his undersigned attorneys, issues this complaint against the Illinois Prisoner Review Board; its Chairman, Adam Monreal; the Illinois Department of Corrections; and its Director, Salvador Godinez, individually and as a representative of the class of C-number prisoners. Plaintiff alleges as follows:

INTRODUCTION

1. Plaintiff Harrison Chancy is one of the over 170 prisoners in the Illinois Department of Corrections ("IDOC") who are categorized as "C-numbers."

2. "C-numbers"—the putative class in this case—are individuals who were given sentences of indeterminate duration under the statutory sentencing scheme that existed prior to

1978 and who remain incarcerated today in the custody of the Illinois Department of Corrections.

3. This group of C-number inmates is by law entitled to periodic parole eligibility hearings conducted by the Illinois Prisoner Review Board ("PRB"). To be granted parole, an inmate must receive a majority of the votes from the sitting PRB members.

4. In May 2009, the Illinois legislature passed the Illinois Crime Reduction Act of 2009 (the "Act"), 730 ILCS 190/5 *et seq*. Section 15 of the Act requires that the Illinois Department of Corrections ("IDOC") and the PRB utilize, beginning no later than January 1, 2013, a risk assessment instrument for the evaluation of prisoners during parole proceedings.

5. Defendants have flouted their clear statutory obligation to utilize such a risk assessment instrument. As a result, C-number prisoners have been deprived—and continue to be deprived—of their statutory right to have their suitability for parole evaluated with the benefit of such a risk assessment. Plaintiff brings this suit to force the Defendants to comply with the law.

JURISDICTION AND VENUE

6. This Court has jurisdiction as this action is brought to redress the deprivation of the rights of Plaintiff and the Plaintiff class under Illinois state law.

7. Venue is proper in Cook County, as (upon information and belief) one of the defendants, Adam Monreal, lives in Cook County, the transaction at issue occurred in part in Cook County, as Plaintiff was tried and convicted in Cook County, and Cook County has the most substantial interest in the outcome of this case because Plaintiff intends to return to and reside in Cook County when he is released from prison.

DEFENDANTS

8. Defendant Illinois Prisoner Review Board is a statutorily-created body that makes decisions concerning adult and juvenile prison inmate matters, including as the sole adjudicator of whether C-number inmates should be released on parole. The PRB is headed by a Chairman and at any time includes a maximum of fifteen voting members. At all times relevant to the complaint, Defendant Adam Monreal was and is the Chairman of the Illinois PRB. Upon information and belief, Adam Monreal lives in Cook County.

9. Defendant Illinois Department of Corrections is the agency in charge of the incarceration and management of prisoners within the custody of Illinois prisons. At all times relevant to this complaint, Defendant Salvador Godinez was and is the Director of IDOC.

CLASS REPRESENTATIVE: HARRISON CHANCY

10. Plaintiff Harrison Chancy is a resident of the State of Illinois and is currently an inmate in the Illinois Department of Corrections, Illinois River Correctional Center, 1300 W. Locust Street, Canton, IL 61520.

11. On February 9, 1979, a Cook County jury convicted Plaintiff of murder, armed robbery, armed violence, and burglary. Because the crime took place in May 1977, Plaintiff was given indeterminate sentences: 100-300 years for murder, 25-50 years for armed robbery, and 5-15 years for burglary. *People v. Chancy,* 91 Ill. App. 3d 817 (1st Dist. 1980).

12. Plaintiff was 19 years old when the crimes occurred; he maintains his innocence of these offenses.

13. Plaintiff has served decades longer in prison than others who were convicted of murder under the pre-1978 indeterminate sentencing statute.

14. Plaintiff first became parole eligible, and having annual hearings, in either 1988 or 1991. From 1991-1997, he was unanimously denied parole each year.

15. In 1998, Plaintiff was again denied parole unanimously. He was given a three-year set, meaning that he would not be considered for parole until 2001. At each of his subsequent hearings in 2001, 2004, 2007, and 2010, Defendant PRB denied Plaintiff parole unanimously and gave him a three-year set.

16. In 2013, Plaintiff was represented by counsel at his parole proceeding. Mr. Chancy presented a detailed petition and parole plan which highlighted his very positive institutional record for the last two decades, that he was excelling at a very sought after job as a Clerk with the Inner Movement Perimeter Office at Illinois River Correctional Center, and that Defendant IDOC had recently awarded him almost eight years of "good-time credit."

17. Plaintiff also presented a detailed and comprehensive parole plan, including his acceptance St. Leonard's house, a halfway home in Chicago where he would be able to support himself and get job training. He provided the PRB with a multitude of letters of support from family and friends who were all committed to help him upon his release from prison.

18. Plaintiff's parole petition was also supported by a Report authored by the Social Work Supervisor at the Bluhm Legal Clinic at Northwestern University School of Law that detailed how the Clinic would help ensure Plaintiff's successful re-entry.

19. At the 2013 hearing, the PRB (which at the time was comprised of 13 members) denied Plaintiff parole by a vote of 7-6. Furthermore, Plaintiff was not only put back on a one-year review schedule, but not a single member of the PRB even moved or voted for a multi-year set. During the *en banc* hearing, Defendant Chairman Monreal remarked, prior to voting against parole, that it was a "close case."

20. Over the next year, Plaintiff's behavior remained impeccable. He did not receive a single disciplinary report and he continued to excel in his employment. Indeed, throughout the 2014 parole hearing process, neither the PRB, IDOC, nor the Cook County State's Attorney's Office could point to a single individual act occurring over the last year that negatively reflected on Plaintiff.

21. When the PRB reviewed Plaintiff for parole in 2014, his parole plan was identical to the previous year and he maintained the same familial and institutional support for his re-entry. Additionally, in the intervening year: (1) Plaintiff had been granted eight more years of "good time" credit from IDOC; (2) he had received several certificates commending his work and endorsing his ability to find gainful employment upon release; and (3) retired Navy SEAL Lt. Dale Massey, a 25-year veteran of IDOC who had served as Plaintiff's direct supervisor at work for the last two-and-a-half years, wrote a letter encouraging the PRB to parole Plaintiff. This was the first letter Lt. Massey had ever written in support of an inmate, and he wrote that he not only believed Plaintiff should be released, but that if he "had a new neighbor move[] in my town that was a parole[d] inmate, I would hope it would be a[n] inmate like Chancy."

22. On March 27, 2014, without the benefit of any standardized risk assessment tool, Plaintiff was denied parole by the now 15-member PRB by a vote of 10-4. (Board Member Jesse Madison, who voted for Plaintiff the previous year, was ill and could not attend the *en banc* hearing.) Furthermore, by the identical 10-4 vote, Plaintiff was placed on a three-year-set. Defendant Chairman Monreal – despite indicating the previous year that it was a "close case" – and two other Board Members – despite voting *for* Plaintiff's parole in 2013 – voted both to deny parole and to put Plaintiff on a three-year set. Accordingly, Plaintiff's next hearing was continued until February 2017.

23. On April 8, 2014, through counsel, Plaintiff moved the Board to reconsider the three-year-set and rehear his case pursuant to 20 Ill. Adm. Code §1610.100, noting the "arbitrary and unjustified" vast departure from the 2013 hearing where he came one vote shy of parole. On April 17, 2014, the PRB denied Plaintiff's request.

24. IDOC did not assess Plaintiff with any risk assessment tool, nor did the PRB utilize any risk assessment tool, when it voted to deny Plaintiff parole in 2013 and 2014.

CLEAR VIOLATION OF STATUTORY DUTY

25. In May 2009, the Illinois legislature passed the Illinois Crime Reduction Act of 2009 (the "Act"), 730 ILCS 190/5 *et seq*. Section 15 of the Act provides, in pertinent part:

> (a) Purpose. In order to determine appropriate punishment or services which will protect public safety, it is necessary for the State and local jurisdictions to adopt a common assessment tool. Supervision and correctional programs are most effective at reducing future crime when they accurately assess offender risks, assets, and needs, and use these assessment results to assign supervision levels and target programs to criminogenic needs.
>
> **(b) After review of the plan issued by the Task Force described in subsection (c), the Department of Corrections, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that within 3 years of the effective date of this Act result in the adoption, validation, and utilization of a statewide, standardized risk assessment tool across the Illinois criminal justice system.**
>
> (c) The Governor's Office shall convene a Risks, Assets, and Needs Assessment Task Force to develop plans for the adoption, validation, and utilization of such an assessment tool. The Task Force shall include, but not be limited to, designees from the Department of Corrections who are responsible for parole services, a designee from the Cook County Adult Probation; a representative from a county probation office, a designee from DuPage County Adult Probation, a designee from Sangamon County Adult Probation; and designees from the Attorney General's Office, the Prisoner Review Board, the Illinois Criminal Justice Information Authority, the Sentencing Policy Advisory Council, the Cook County State's Attorney, a State's Attorney selected by the President of the Illinois State's Attorneys Association, the Cook County Public Defender, and the State Appellate Defender.

730 Ill. Comp. Stat. Ann. 190/15 (emphasis added).

26. When the Governor signed the law on August 25, 2009, it became effective January 1, 2010.The Defendants therefore were required to implement and begin using a standardized risk assessment tool no later than January 1, 2013.

27. The Governor's Office has discharged its obligation to convene a Task Force, which has executed its statutory obligations.

28. The sole remaining obligation under the statute rests with IDOC and the PRB, which must "adopt policies, rules, and regulations that within 3 years of the effective date of this Act result in the adoption, validation, and utilization of a statewide, standardized risk assessment tool across the Illinois criminal justice system."

29. On January 1, 2013, neither the Department of Corrections nor the Prisoner Review Board had begun to utilize a statewide, standardized risk assessment tool.

30. Nonetheless, the Defendants continued to hold parole hearings for C-number prisoners without using the risk assessment instrument, in clear violation of the statute.

31. As of the date of the filing of this complaint – two years after the date Defendants were required to implement the terms of the Act – Defendants are still failing to utilize a statewide, standardized risk assessment tool. Defendants, therefore, are in clear violation of their duties mandated under the statute.

32. IDOC has purchased a risk assessment tool known as the Service Planning Instrument ("SPIn"), an actuarial risk assessment tool intended to assess risk for offending and to identify service needs of male offenders. However, SPIn has neither been utilized by IDOC to evaluate C-number inmates nor by the PRB in its adjudications of C-number inmates' parole hearings.

33. To this date, Plaintiff has not been evaluated with the SPIn instrument nor were the results of any evaluation used during his 2013 or 2014 parole hearings.

34. The Defendants have violated Illinois law and the Act by failing to assess Plaintiff with a standardized risk assessment tool and/or utilize the results of the risk assessment during Plaintiff's most recent parole hearing.

35. Plaintiff brings this lawsuit to force Defendants to comply with the clear and unequivocal letter of the law. In so doing, Plaintiff also asks the Court to vacate his unlawfully-imposed multi-year set and to require Defendant PRB to conduct a parole re-hearing for him using the results of the risk assessment evaluation.

CLASS ACTION ALLEGATIONS

36. Plaintiff brings this complaint on his own behalf and as the representative, pursuant to 735 ILCS 5/2-801, of the class of persons who are "C-number prisoners," *i.e.*, individuals who were given sentences of indeterminate duration under the statutory sentencing scheme that existed prior to 1978 and who remain incarcerated today in the custody of the Illinois Department of Corrections.

37. The class of persons described in the preceding paragraph is so numerous that joinder of all members is impracticable. In addition to the class representative, the class includes over 170 other individuals.

38. There are questions of law or fact common to the class that predominate over any questions affecting only individual members. The central issue in this litigation is whether Defendants have violated 730 ILCS 190/15 through their failure to implement and utilize in parole hearings for C-number inmates a standardized risk assessment tool.

39. Plaintiff will fairly and adequately protect the interest of the class. Plaintiff had two parole hearings after January 1, 2013 without the benefit of having his suitability for parole evaluated with any standardized risk assessment tool. Plaintiff has never had his suitability for parole evaluated with any standardized risk assessment tool. Thus, Plaintiff's allegations are identical to the claims of the other members of the class.

40. The counsel acting on behalf of the class will advocate aggressively and tenaciously on behalf of all class members in this case. These counsel have been committed for many years to representing individuals both in criminal proceedings and in injunctive class action proceedings challenging policies and procedures used in the criminal justice system:

a. David Shapiro joined the MacArthur Justice Center at Northwestern University in October 2012 after working as a staff attorney for the ACLU's National Prison Project. The Roderick and Solange MacArthur Justice Center is a public interest law firm founded in 1985 by the family of J. Roderick MacArthur to advocate for human rights and social justice through litigation. The MacArthur Justice Center became part of Northwestern University School of Law's Bluhm Legal Clinic in 2006. Mr. Shapiro obtained what is believed to be the largest settlement ever in a case involving censorship by a prison or jail and led the first major challenge to Communication Management Units, a new type of federal prison unit designed to radically limit the communications of federal prisoners suspected of links to terrorism. In 2012, he was part of a trial team nominated for the Public Justice "Trial Lawyer of the Year" Award for litigation challenging the segregation of prisoners with HIV in Alabama in a statewide injunctive class action case. Shapiro clerked for

the late Hon. Edward R. Becker, Third Circuit Court of Appeals and received his JD from Yale Law School.

b. Joshua Tepfer has been working on criminal justice issues in the state of Illinois for over ten years. From 2004-2008, he was an attorney with the First District Office of the Illinois State Appellate Defender, and since 2008 he has been Project Co-Director and Assistant Clinical Professor with the Center on Wrongful Convictions of Youth at Northwestern University School of Law. He has litigated a variety of criminal matters in Illinois state circuit courts and matters involving the Illinois Prisoner Review Board and Department of Corrections. He has been Plaintiff Harrison Chancy's attorney for more than five years, litigating both his parole case and post-conviction matters in the Circuit Court of Cook County.

c. Alan Mills is the Executive Director of the Uptown People's Law Center in Chicago, Illinois. He has litigated dozens of civil rights actions brought by prisoners in both federal and state courts, including both individual cases and class actions. Mr. Mills was appointed lead class counsel for the plaintiff class in *Westefer v. Snyder*, a case alleging that prisoners transferred to Tamms Correctional Center were not provided with a hearing which complied with the minimum requirements of due process. He has also participated as counsel in two class action suits (in addition to this case) challenging parole revocation procedures in the State of Illinois. *See King v. Walker*, No. 06cv204 (N.D. Ill) and *Morales v. Monreal*, No. 13cv7572 (N.D. Ill.). Additionally, Mr. Mills is one of the counsel appointed to represent the plaintiff class in the following cases, both of which remain pending: *Rasho v. Walker*, 07-CV-1298, pending in the United States District Court for the Central District of Illinois,

the Honorable Judge Mihm presiding (alleging mental health care provided to prisoners statewide by the Illinois Department of Corrections violates the Eighth Amendment) (class certification for settlement purposes entered May 6, 2011); and *Boyd v. Godinez*, 12-cv-704, currently pending in the United States District Court for the Southern District of Illinois, the Honorable Judge Gilbert presiding (alleging conditions at Vienna Correctional Center violate the Eighth Amendment) (class certification for settlement purposes entered September 16, 2013). The individual prisoner civil rights cases Mr. Mills had litigated which resulted in reported appellate decisions include: *Nelson v. Miller*, 570 F.3d 868 (7th Cir. 2009) (RLUIPA claim regarding denial of religious diet to prisoner at Tamms); *Pearson v. Welborn*, 471 F.3d 732 (7th Cir. 2006) (retaliation claim brought by prisoner at Tamms); *Dole v. Chandler*, 438 F.3d 804 (7th Cir. 2006) (reversal of summary judgment entered against prisoner plaintiff for failure to exhaust, in a case arising out of Menard); *Harper v. Albert*, 400 F.3d 1052 (7th Cir. 2005) (affirming judgment against plaintiff in an excessive use of force case arising from Menard); *Filmore v. Page*, 358 F.3d 496 (7th Cir. 2004) (reversing, in part, judgment against prisoner in an excessive use of force case arising from Menard); *Thomas v. Ramos*, 130 F.3d 754 (7th Cir. 1997) (affirming summary judgment in a due process case).

d. Laura Kleinman is an associate in the Chicago office of Schiff Hardin, LLP. She represents individuals and organizations at the trial and appellate levels in a variety of complex commercial litigation matters, including shareholder disputes, class actions, government investigations and civil rights. She conducts oral arguments in federal district and appellate courts and carries out discovery, trial preparation,

settlement negotiations and mediations. Ms. Kleinman graduated from Harvard Law School (J.D., 2010), where she was the membership director of the Harvard Legal Aid Bureau, and Washington University in St. Louis (B.A. Philosophy, 2007). Prior to joining Schiff Hardin, she was an associate at Robinson, Curley & Clayton, a complex commercial litigation boutique in Chicago.

41. The class action is an appropriate method for the fair and efficient adjudication of this controversy. Use of the class action mechanism in this proceeding will reduce the strain on the Circuit Court that would occur if all "C-number" prisoners litigated their cases separately.

DEMAND

42. On December 19, 2014, Plaintiff, through counsel, made a written demand on all Defendants, requesting that Defendants: (1) immediately implement a risk assessment instrument; (2) immediately begin holding parole hearings utilizing the risk assessments prepared; and (3) vacate the multi-year sets for all prisoners who had parole hearings subsequent to January 1, 2013 in which no risk assessment instrument was utilized and who received multi-year sets. A copy of the demand is attached hereto as Exhibit A.

43. Plaintiff requested a response to their letter by January 12, 2015.

44. Defendants did not respond to Plaintiff's demand letter.

COUNT I

(Mandamus – Failure to Comply with the Illinois Crime Reduction Act)

45. Plaintiff repeats and re-alleges the preceding paragraphs as if fully set forth herein.

46. Plaintiff has a clear right to have a requested non-discretionary act performed. Specifically, Pursuant to the Illinois Crime Reduction Act of 2009, 730 ILCS 190/15(b),

Defendant IDOC and Director Godinez have a non-discretionary duty to implement a risk assessment instrument and to assess Plaintiff's suitability for parole with that instrument; Defendant PRB and Chairman Monreal have a non-discretionary duty to utilize the results of the assessment in parole hearings for the Plaintiff and the Plaintiff Class.

47. All Defendants violated Plaintiff's clear right to have non-discretionary act performed when they held parole hearings and failed to utilize any risk assessment tool subsequent to January 1, 2013—the deadline imposed by the statute for implementation and use of a risk assessment tool.

48. Defendants have the power and authority to act by implementing a risk assessment tool and by holding parole hearings for Plaintiff and the Plaintiff Class in which they use the risk assessment tool.

49. There are no dispositive facts that can be disputed, and Plaintiff has shown all facts necessary to their clear right to a writ of mandamus.

50. Demand was made upon all Defendants prior to the commencement of litigation.

51. Plaintiff has complied with all statutes and legal provisions pertinent to this action.

COUNT II

(Declaratory Judgment – Failure to Comply with the Illinois Crime Reduction Act)

52. Plaintiff repeats and re-alleges the preceding paragraphs as if fully set forth herein.

53. Plaintiff has a tangible legal interest in Defendants' compliance with 730 ILCS 190/15 insofar as the use of a risk assessment instrument at a parole hearing could result in his being granted parole.

54. Defendants' conduct, as alleged herein, is opposed to Plaintiff's legal interest in the use of a risk assessment instrument at parole hearings; Plaintiff is an interested party in this controversy and has sustained a direct injury as a result of Defendants' non-compliance with 730 ILCS 190/15; and this controversy between Plaintiff and the Defendants, which is ongoing, can be addressed by court action.

PRAYER FOR RELIEF

Plaintiff prays that this Court award the following relief:

A. Entry of an Order pursuant to 735 ILCS 5/2-801 certifying this case as a class action.

B. Entry of a writ of mandamus (1) directing the Defendants to immediately implement and utilize a risk assessment instrument during parole hearings for C-number prisoners, (2) vacating Plaintiff's multi-year set and directing Defendants to conduct a re-hearing for him that includes the results of their risk assessment evaluations; (3) ordering Defendants to hold immediate parole hearings, using a standardized risk assessment instrument, for all other members of the plaintiff class who had parole hearings, subsequent to January 1, 2013, without the benefit of such an instrument.

C. Entry of a declaratory judgment declaring that Defendants are in violation of the Illinois Crime Reduction Act of 2009 (the "Act"), 730 ILCS 190/15.

D. Grant an award of court costs and attorneys' fees.

E. Provide all further and additional relief as this Court deems just and proper.

Respectfully submitted,

HARRISON CHANCY

By: /s/ David M. Shapiro
One of his attorneys

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Adam Monreal, Chairman
Illinois Prisoner Review Board

Springfield, Illinois

Salvador Godinez, Director
Illinois Department of Corrections

Springfield, Illinois

Re: Parole hearings held in violation of the Illinois Crime Reduction Act of 2009

Dear Chairman Monreal and Director Godinez:

We are writing to inform you of our intent to file a mandamus complaint on behalf of Harrison Chancy and a putative class of C-number inmates. The complaint relates to the failure of the Illinois Department of Corrections ("**IDOC**") and the Prisoner Review Board ("**PRB**") to comply with the Illinois Crime Reduction Act of 2009 (the "**Act**"), 730 ILCS 190/5. *et seq*, effective January 1, 2010.

The Act provides, in pertinent part:

> [T]he Department of Corrections, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that within 3 years of the effective date of this Act result in the adoption, validation, and utilization of a statewide, standardized risk assessment tool across the Illinois criminal justice system.
>
> 730 ILCS 190/15

As stated in the Act, "[s]upervision and correctional programs are most effective at reducing future crime when they accurately assess offender risks, assets, and needs, and use these assessment results to assign supervision levels and target programs to criminogenic needs." 730 ILCS 190/15(a). The Act thus requires that the Department prepare an assessment of all prisoners considered for parole, and that the Board use that assessment in determining whether a prisoner should be granted parole. While the legislation provided for a phased rollout, the legislature mandated full implementation of this system no later than January 1, 2013.

Despite this legislative mandate, the Department has not provided the required evidence-based assessment for any "C-number" prisoner to the Board, and the Board did not use such assessments to determine eligibility for (nor the conditions of) parole for any of the scores of prisoners it reviewed between January 1, 2013 and the present. Both bodies are therefore in violation of their non-discretionary duties under the Act.

Some of the changes required by the Act, none of which the Department nor the Board have implemented, are:

- Create a computerized method and design to allow each of the State and local agencies and branches of government which are part of the criminal justice system to share the results of the assessment (730 ILCS 190/15(d)(1));

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EXHIBIT A

- Select a common validated tool to be used across the system (730 ILCS 190/15(d)(2));
- Establish an implementation plan, which must include training of the people who will use the tool (including the members of the Prisoner Review Board (730 ILCS 190/15(d)(3-4)); and
- Determine how often people subject to the jurisdiction of the Department and the Board will be reassessed.

We understand that the State of Illinois has purchased a risk assessment tool known as the Service Planning Instrument ("SPIn"). SPIn is an actuarial risk assessment tool intended to assess risk for offending and to identify service needs of male offenders. However, as of today's date, SPIn has not been put to use by either the Board nor the Department.

The legislatively mandated evidence-based tools must be put into place so that everyone coming before the Board will have a parole hearing held in compliance with the Act. Further, those people whose parole was considered by the Board since January 1, 2013 without an evidence- based assessment in violation of the Act, are entitled to have their cases reheard at a hearing which is held in compliance with the Act.

We are prepared to file suit to enforce the Act. However, before doing so, we wanted to give you the opportunity to rectify the situation without resorting to expensive and time-consuming litigation. To that end, we are asking you to (1) immediately implement a risk assessment instrument; (2) immediately begin holding parole hearings utilizing the risk assessments prepared; (3) vacate the multi-year sets for all prisoners who had parole hearings subsequent to January 1, 2013 in which no risk assessment instrument was utilized and who received multi-year sets.

We welcome the opportunity to speak with you about the issues raised in this letter in order to determine whether we can find common ground. If we do not receive a response from you by January 12, 2015, we will assume you have no interest in resolving this and will have no choice but to file suit.

Sincerely,

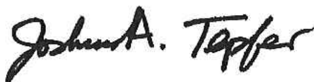

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EXHIBIT A