

133 F.3d 560  
United States Court of Appeals,  
Eighth Circuit.

Chinyere JENKINS, by her next friend, Joi JENKINS; Nicholas Paul Winchester–Rabelier, by his next friend, Paula Winchester; Margo Vaughn–Bey, by her next friend, Franklin Vaughn–Bey; Nicholas C. Light, by his next friend, Marian Light; Stephen D. Jackson, by his next friend, B.J. Jones; Travis N. Peter, by his next friend, Debora Chadd–Peter; Leland Guess; by his next friend, Sharon Guess, Plaintiff–Appellants,  
American Federation of Teachers, Local 691, Intervenor,

v.

STATE OF MISSOURI; Mel Carnahan, Governor of the State of Missouri; Bob Holden, Treasurer of the State of Missouri; Missouri State Board of Education; Peter Herschend, Member of the Missouri State Board of Education; Thomas R. Davis, Member of the Missouri State Board of Education; Robert E. Bartman, Commissioner of Education of the State of Missouri; Rice Pete Burns, Member of the Missouri State Board of Education; Sharon M. Williams, Member of the Missouri State Board of Education; Betty Preston, Member of the Missouri State Board of Education; Jacquelline Wellington, Member of the Missouri State Board of Education; Russell Thompson, Member of the Missouri State Board of Education; William Kahn, Member of the Missouri State Board of Education, Defendants–Appellees,  
School District of Kansas City; Terry M. Riley, Member of the Board of Directors; Lance Loewenstein, Member of the Board of Directors; Marilyn Simmons, Member of the Board of Directors; Sandy Aguire Mayer, Member of the Board of Directors; John A. Rios, Member of the Board of Directors; Dawrin Curls, Member of the Board of Directors; Patricia Kurtz, Member of the Board of Directors; Edward J. Newsome, Member of the Board of Directors; Henry D. Williams, Superintendent; John W. Still, Member of the Board of Directors, Defendants.

No. 97–2626.

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Dec. 1, 1997.

Before RICHARD S. ARNOLD, Chief Judge, HEANEY, McMILLIAN, JOHN R. GIBSON, FAGG, BOWMAN, WOLLMAN, BEAM, LOKEN, HANSEN, MORRIS SHEPPARD ARNOLD, and MURPHY, Circuit Judges, En Banc.

### **Opinion**

PER CURIAM.

On October 10, 1997, this Court entered its amended order granting rehearing en banc on the sole issue of the award of expert witness fees. In all other respects, the panel opinion was left in effect.

We have now been advised that the appellees have withdrawn their claim for the expert witness fees that had been in controversy. Accordingly, the remaining issue in this case, the issue with respect to which rehearing en banc was granted, has become moot.

This Court’s order granting rehearing en banc is hereby vacated. There will be no need for an oral argument or further en banc proceedings. The portion of the panel opinion \*561 dealing with the expert witness fees in question is vacated as moot.

It is so ordered.

### **All Citations**

133 F.3d 560 (Mem), 123 Ed. Law Rep. 476

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