

IN UNITED STATES DISTRICT COURT

ANSWER OF DEFENDANTS TO AMENDED COMPLAINT AS  
AMENDED IN PARAGRAPH 8 THEREOF—Filed June 7, 1951

1. Defendants admit the allegations stated in paragraphs 4 and 6 of the Amended Complaint, except that defendants allege that the City of Topeka is one school district, as hereinafter set forth. Defendants deny all the allegations stated in Amendments to paragraph 8 of the Amended Complaint, and further deny all the allegations stated in paragraphs 9, 10 and 11 of the Amended Complaint.

2. Defendants admit the allegations stated in paragraph 1 (a) of the Amended Complaint, except defendants deny that the amount in controversy, exclusive of interest and costs, exceeds \$3,000.00.

3. Defendants admit the allegations stated in paragraph 2, except defendants deny that infant plaintiffs are denied rights and privileges of enrolling in, attending and receiving instruction in public schools within the district in which they live; and deny that they have denied infant plaintiffs educational opportunities equal to those afforded white children.

4. Defendants allege that the City of Topeka, Kansas, is in and of itself one school district; that acting pursuant to authority vested in it, defendants have designated and defined 22 separate territories within the City of Topeka and in each of said territories have established and maintain a public elementary school, and white children are required to attend the elementary school located in the territory in which they live; that defendants have also established and maintain four separate elementary schools for colored children within said district, and only colored children in the City of Topeka may attend said four schools. [fol. 14] Defendants further allege that the colored school

children, including infant plaintiffs, may attend any one of these four schools.

5. Defendants allege that said separate schools are established and maintained pursuant to the laws of the State of Kansas, G. S. 1949, 72-1724, and separate schools are provided only for elementary school children, to-wit, the first six grades.

6. Defendants allege that they have established and maintain junior high schools throughout the City of Topeka and have designated and defined territories for each of said schools; that both colored and white children may attend these schools and are required to attend the junior high school located within the territory in which they live.

7. Defendants allege that transportation facilities are provided for colored school children attending the four colored schools mentioned in paragraph 4 hereof, and said transportation facilities are furnished any colored school child attending elementary schools, upon request; that no transportation is furnished white children by the defendants.

8. Defendants admit the allegations stated in paragraph 3 (b) that adult plaintiffs are citizens of the United States, the State of Kansas, Shawnee County and the City of Topeka, Kansas, and deny the remainder of said paragraph. Defendants further deny that adult plaintiffs are compelled to send their children to schools outside the district wherein they live.

9. Defendants admit the allegations stated in paragraph 3 (a) that infant plaintiffs are citizens of the United States, State of Kansas, Shawnee County and the City of Topeka, Kansas, and that they are among those classified as negroes. [fol. 15] Defendants allege that infant plaintiffs have presented themselves for enrollment and registration in elementary schools for white children but were denied the right to enroll therein. Defendants allege that infant plaintiffs, because of race and color, do not satisfy the requirements for admission to schools for white children and by reason thereof they were denied admission. Defendants deny the remainder of paragraph 3 (a).

10. Defendants allege that they are without knowledge or information sufficient to form a belief as to the truth of the allegations stated in paragraph 3 (c) of the Amended

Complaint, or that adult plaintiffs are taxpayers of Shawnee County, the State of Kansas, and the United States, as stated in paragraph 3 (b).

11. Defendants admit the allegations stated in paragraph 5 of the Amended Complaint, but deny that they are governed by General Statutes 1935, and supplements thereto, section 72-1809, for the reason that said statute applies to public schools in cities of the second class and not to public schools in cities of the first class to which class the City of Topeka belongs.

12. Defendants deny the allegations stated in paragraph 7 of the Amended Complaint, and allege that white school children of elementary school age in the City of Topeka are required to go to the elementary schools within the designated boundaries of the territory in which they live, and that these schools are within the school district of the City of Topeka; that infant plaintiffs go to elementary schools within the district in which they live, namely, the school district of the City of Topeka, Kansas, and they may attend any of the colored elementary schools within the City of Topeka, as set forth in paragraph 4 hereof. Defendants further allege that the distance traveled by colored children [fol. 16] in reaching the schools they attend is not on the average greater than the distance white children are required to travel.

Wherefore, Defendants pray that plaintiffs take naught; and that defendants have judgment and costs.

Lester M. Goodell, George M. Brewster, Topeka,  
Kansas, Attorneys for Defendants.

*Duly sworn to by Lester M. Goodell. Jurat omitted in printing.*