

DISTRICT COURT, CITY AND COUNTY OF
DENVER, COLORADO
1437 Bannock Street
Denver, Colorado 80202

PLAINTIFFS: Anthony Lobato, *et al.*

and

PLAINTIFFS-INTERVENORS: Armandina
Ortega, *et al.*

v.

DEFENDANTS: The State of Colorado, *et al.*

▲ COURT USE ONLY ▲

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Case Number: **2005 CV 4794**

Div: 9

**DEFENDANTS' RESPONSES
TO PLAINTIFFS' THIRD SET OF DISCOVERY REQUESTS**

Defendants, by and through their counsel, hereby submit their Responses to Plaintiffs' Third Set of Discovery Requests ("Responses") pursuant to C.R.C.P. 33, 34, and 36.

Defendants' Responses are based on Defendants' current knowledge and a good faith investigation into the discovery requests. That investigation is ongoing and Defendants reserve the right to further supplement or amend these Responses if and when additional information becomes known.

The following General Objections apply to Plaintiffs' discovery requests and are incorporated by reference into the answers contained herein. The assertion of the same, similar or additional objections, or the provision of partial answers in response to Plaintiffs' discovery requests, does not waive Defendants' General Objections as set forth below.

GENERAL OBJECTIONS

1. Defendants object to the discovery requests to the extent the requests seek information that is protected from disclosure under the attorney-client privilege, the work product doctrine, the joint-defense doctrine, the common-interest doctrine, the governmental deliberative process privilege, or any other applicable privilege, law, rule or immunity.
2. Defendants object to the discovery requests to the extent the requests seek confidential information, the disclosure of which could negatively impact Defendants' obligation to maintain the confidentiality of such information.
3. Defendants object to the discovery requests to the extent the requests seek information that is not relevant to the subject matter of this litigation and not reasonably expected to yield information relevant to the allegations of the complaint, the proposed relief, or the defenses.
4. Defendants object to the discovery requests to the extent the requests are overbroad, unduly burdensome, or require unreasonable efforts or expense on behalf of Defendants.
5. Defendants object to the discovery requests to the extent the requests seek information over a ten-year time period or longer on the ground that such requests are overbroad, unduly burdensome, and require unreasonable efforts or expense on behalf of Defendants. Unless otherwise indicated, Defendants will produce relevant information from the prior five years.
6. Defendants object to the discovery requests to the extent the requests are vague or ambiguous.
7. Defendants object to the discovery requests to the extent the requests require answers greater than, beyond the requirements of, or at variance with the Colorado Rules of Civil Procedure.
8. Defendants object to the discovery requests to the extent the requests seek the premature disclosure of expert testimony. Defendants will submit expert reports and make their experts available for deposition pursuant to the Modified Case Management Order.

9. Defendants object to the Discovery requests to the extent the requests seek to impose an obligation on Defendants to provide information for or on behalf of any person or entity other than the Defendants named in the complaint, or seek information that is not in Defendants' possession, custody, or control. Defendants expressly object to the discovery requests to the extent the requests seek to obtain discovery responses from Defendants on behalf of state or governmental entities not named in the complaint.

10. Defendants object to the discovery requests to the extent the discovery sought is cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive.

11. Defendants object to Plaintiffs' definition of the terms "refer," "relate," "concern," "referring," "relating," or "concerning," to the extent these terms are to be "construed in the broadest sense to mean information (1) referring to, describing, evidencing, constituting, embodying or otherwise discussing in any way the subject matter identified in a request; (2) which contains or comprises any communication . . . referred to in these requests; or (3) information which discusses, mentions or refers, whether directly or indirectly, to the subject matter of the request," as this definition renders the requests overly broad and unduly burdensome on their face.

12. Defendants object to the discovery requests to the extent the requests do not adequately define terms used in them.

13. Defendants object to the discovery requests to the extent the burden of deriving or ascertaining responses to the requests is substantially the same for Plaintiffs as for Defendants.

14. Defendants object to the discovery requests to the extent the requests exceed the number provided for in the Modified Case Management Order.

Subject to and without waving these General Objections, or any other objections or claim of privilege, Defendants hereby answer and object to Plaintiffs' discovery requests as follows:

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 37: Produce the following described documents or documents that include the following information for the years 1980 to the present (unless otherwise stated):

GENERAL RESPONSE: Defendants object to this Request on the ground that it is compound, requesting documents related to 14 sweeping, unrelated topics. This Request, therefore, will be counted as 14 Requests for Production.

1. The most current Colorado Amendment 23 Report developed by the Pacey Economics Group and updated annually by the Office of Legislative Council

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that it seeks information from a third party (the Office of Legislative Council) that is equally available to Plaintiffs.

2. Gross annual Colorado State General Fund Revenues

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Gross annual Colorado State General Fund Revenues” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party that is equally available to Plaintiffs.

3. Total Colorado real property market value

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Total Colorado real property market value” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party that is equally available to Plaintiffs.

4. Colorado residential real property market value

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case

Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Colorado residential real property market value” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party that is equally available to Plaintiffs.

5. Colorado non-residential real property market value

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Colorado non-residential real property market value” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party that is equally available to Plaintiffs.

6. Total Colorado real property assessed value

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Total Colorado real property assessed value” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party that is equally available to Plaintiffs.

7. Colorado residential real property assessed value

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for

production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Colorado residential real property assessed value” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party that is equally available to Plaintiffs.

8. Colorado non-residential real property assessed value

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Colorado non-residential real property assessed value” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party that is equally available to Plaintiffs.

9. Total Colorado public school per-pupil funding from 1988 to the present

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Total Colorado public school per-pupil funding” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party (the General Assembly staff or Joint Budget Committee staff) that is equally available to Plaintiffs. Defendants further object to this request on the ground that, to the extent Plaintiffs are seeking data that is publicly available from the CDE website, particularly the Office of Public School Finance page, such data has been previously identified and disclosed.

10. Base public school per-pupil funding from 1988 to the present

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case

Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Base public school per-pupil funding” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party (the General Assembly staff or Joint Budget Committee staff) that is equally available to Plaintiffs. Defendants further object to this request on the ground that, to the extent Plaintiffs are seeking data that is publicly available from the CDE website, particularly the Office of Public School Finance page, such data has been previously identified and disclosed.

11. Total public school categorical funding from 1988 to the present

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Total public school categorical funding” is vague and undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party (the General Assembly staff or Joint Budget Committee staff) that is equally available to Plaintiffs. Defendants further object to this request on the ground that, to the extent Plaintiffs are seeking data that is publicly available from the CDE website, particularly the Office of Public School Finance page, such data has been previously identified and disclosed.

12. Total state share of the school finance act formula funding from 1988 to the present (with the source of funds, *e.g.*, general fund, state education fund, FML)

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Total state share of the school finance act formula funding from 1988 to the present (with the

source of funds, *e.g.*, general fund, state education fund, FML)” is undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party (the General Assembly staff or Joint Budget Committee staff) that is equally available to Plaintiffs. Defendants further object to this request on the ground that, to the extent Plaintiffs are seeking data that is publicly available from the CDE website, particularly the Office of Public School Finance page, such data has been previously identified and disclosed.

13. Total local share of the school finance act formula funding from 1988 to the present

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Total local share of the school finance act formula funding” is undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party (the General Assembly staff or Joint Budget Committee staff) that is equally available to Plaintiffs. Defendants further object to this request on the ground that, to the extent Plaintiffs are seeking data that is publicly available from the CDE website, particularly the Office of Public School Finance page, such data has been previously identified and disclosed.

14. Statewide average and district-by-district school finance mill levy rate and override rate from 1988 to the present

RESPONSE: Defendants object to this Request on the ground that it exceeds the permissible number of Requests for Production provided by the Modified Case Management Order, entered by the Court on September 10, 2010. More specifically, Requests 1-27, including all discrete subparts, total 40 requests for production, the number permitted by the Modified Case Management Order. To preserve all objections, however, Defendants further respond as follows.

Defendants object to this Request on the ground that the phrase “Statewide average and district-by-district school finance mill levy rate and override rate” is undefined. Defendants further object to this Request on the ground that it appears to seek public information from a third party (the General Assembly staff or Joint Budget Committee staff) that is equally available to Plaintiffs. Defendants further object to this request on the ground that, to the extent Plaintiffs are seeking data

that is publicly available from the CDE website, particularly the Office of Public School Finance page, such data has been previously identified and disclosed.

Dated: May 19, 2011

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **DEFENDANTS' RESPONSES TO PLAINTIFF THIRD OF DISCOVERY REQUESTS** upon all parties herein electronically through LexisNexis File & Serve or U.S. Mail this 19th day of May, 2011, addressed as follows:

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