



May 23 2011
6:08PM

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

PLAINTIFFS: **Anthony Lobato**, as an individual and as parent and natural guardian of **Taylor Lobato** and **Alexa Lobato**; **Denise Lobato**, as an individual and as parent and natural guardian of **Taylor Lobato** and **Alexa Lobato**; **Janet L. Kuntz and Jack Kuntz**, as individuals and as parents and natural guardians of **Daniel Kuntz** and **Stacey Kuntz**; **Miguel Cendejas and Yuri Cendejas**, individually and as parents and natural guardians of **Natalia Cendejas** and **Selma Cendejas**, **Pantaleon Villagomez** and **Maria Villagomez**, as individuals and as parents and natural guardians of **Chris Villagomez**, **Monique Villagomez** and **Angel Villagomez**; **Linda Warsh and David Warsh**, as individuals and as parents and natural guardians of **Adam Warsh**, **Karen Warsh** and **Ashley Warsh**; **Herbert Conboy** and **Victoria Conboy**, as individuals and as parents and natural guardians of **Tabitha Conboy**, **Timothy Conboy** and **Keila Barish**; **Terry Hart**, as an individual and as parent and natural guardian of **Katherine Hart**; **Larry Howe-Kerr** and **Kathy Howe-Kerr**, as individuals and as parents and natural guardians of **Lauren Howe-Kerr** and **Luke Howe-Kerr**; **John T. Lane**, as an individual; **Jennifer Pate**, as an individual and as parent and natural guardian of **Ethan Pate**, **Evelyn Pate** and **Adeline Pate**; **Robert L. Podio** and **Blanche J. Podio**, as individuals and as parents and natural guardians of **Robert Podio** and **Samantha Podio**; **Tim Hunt** and **Sabrina Hunt**, as individuals and as parents and natural guardians of **Shannon Moore-Hiner**, **Eris Moore**, **Darean Hunt** and **Jeffrey Hunt**; **Doug Vondy** and **Denise Vondy**, as individuals and as parents and natural guardians of **Hannah Vondy** and **Kyle Leaf**; **Brad Weisensee** and **Traci Weisensee**, as individuals and as parents and natural guardians of **Joseph Weisensee**, **Anna Weisensee**, **Amy Weisensee** and **Elijah Weisensee**; **Stephen Topping**, as an individual and as parent and natural guardian of **Michael Topping**; **David Maes**, as an individual and as parent and natural guardian of

▲ COURT USE ONLY ▲

Cherie Maes and Jessie Silva III; Debbie Gould, as an individual and as parent and natural guardian of **Hannah Gould, Ben Gould and Daniel Gould; Lillian Leroux**, as an individual and natural guardian of **Ari Leroux, Lillian Leroux, Ashley Leroux, Alexandria Leroux and Amber Leroux; Theresa Wrangham**, as an individual and natural guardian of **Rachel Wrangham and Deanna Wrangham; Lisa Calderon**, as an individual and natural guardian of **Savannah Smith and Tahj Taylor; Jessica Spangler**, as an individual and natural guardian of **Rider Donovan Spangler**

and

Jefferson County School District No. R-1; Colorado Springs, School District No. 11, in the County of El Paso; Bethune School District No. R-5; Alamosa School District, No. RE-11J; Centennial School District No. R-1; Center Consolidated School District No. 26 JT, of the Counties of Saguache and Rio Grande and Alamosa; Creede Consolidated School District No. 1 in the County of Mineral and State of Colorado; Del Norte Consolidated School District No. C-7; Moffat, School District No. 2, in the County of Saguache and State of Colorado; Monte Vista School District No. C-8; Mountain Valley School District No. RE 1; North Conejos School District No. RE1J; Sanford, School District No. 6, in the County of Conejos and State of Colorado; Sangre de Cristo School District, No. RE-22J; Sargent School District No. RE-33J; Sierra Grande School District No. R-30; and South Conejos School District No. RE10.

vs.

DEFENDANTS: The State of Colorado; the Colorado State Board of Education; Dwight D. Jones, in his official capacity as Commissioner of Education of the State of Colorado; and **Bill Ritter**, in his official capacity as Governor of the State of Colorado.

<p>Attorneys for Plaintiff Jefferson County School District No. R-1:</p> <p>Name: Alyssa K. Yatsko, #37805 Address: HOLLAND & HART LLP 555 Seventeenth Street, Suite 3200 Post Office Box 8749 Denver, Colorado 80201-8749 Phone Number: (303) 295-8138 Fax Number: (303) 291-9136 Email: akyatsko@hollandhart.com</p>	<p>Case Number: 05 CV 4794 Div.: 9</p>
<p>PLAINTIFF JEFFERSON COUNTY SCHOOL DISTRICT NO. R-1'S RESPONSE TO DEFENDANTS' SECOND SET OF INTERROGATORIES TO SCHOOL DISTRICT PLAINTIFFS</p>	

Plaintiff Jefferson County School District No. R-1 ("JeffCo"), by and through its counsel, Holland & Hart LLP, respectfully responds to Defendants' Second Set of Interrogatories to School Plaintiffs, as follows:

GENERAL OBJECTIONS

1. JeffCo objects to the Defendants' Second Set of Interrogatories (the "Interrogatories") to School District Plaintiffs (including but not limited to the "Definitions and Instructions" section) to the extent they may be construed to impose obligations and requirements that are inconsistent with those imposed by the Colorado Rules of Civil Procedure. JeffCo will respond under the applicable provisions of the Colorado Rules of Civil Procedure and will disregard any purported instructions, definitions, requirements, or requests to the contrary.

2. Where in an answer or response JeffCo objects to providing further information in response to an interrogatory or request, it means that its response is subject to and without waiver of objections and that a reasonable effort will be made to understand and respond to the request by providing relevant information without producing or disclosing information which is privileged or which is subject to some other objection. JeffCo's response to any of these Interrogatories does not constitute a waiver of its right to object to any future, additional, or supplemental Interrogatories covering the same or similar subject matter.

3. JeffCo objects to the Interrogatories to the extent that they exceed the number to which the Parties agreed in C.R.C.P. 16. JeffCo objects to Defendant's Interrogatories on the ground that some requests contain several discrete subparts that should be counted separately. Any decision to respond to any subpart is not to be construed as a waiver of its right to object to the same or any future discovery request.

4. JeffCo objects to the Interrogatories to the extent that they seek information that is protected by the attorney-client privilege or attorney work-product doctrine. To the extent possible, JeffCo will construe each Interrogatory as requesting only information not subject to any applicable privilege or immunity. Where the Interrogatory calls for the identification or production of privileged documents or materials protected by the work-product doctrine or protective order, and identification or production is withheld on the ground of privilege or work-product or protective order, JeffCo will, within a reasonable time, provide Defendants with a list of such documents.

5. The answers and responses set forth below represent JeffCo's present knowledge based on discovery, investigation, and trial preparations to date. Because JeffCo's efforts in this case are continuing, the answers and responses set forth below are preliminary in nature. They are not exhaustive compilations of all facts and documents that may support JeffCo's position or upon which JeffCo may ultimately rely. Consistent with the Colorado Rules of Civil Procedure, JeffCo reserves the right to supplement or modify the responses set forth below and rely upon further information or documents obtained through discovery, investigation, and trial preparation efforts.

6. This Response to the Discovery is made to the best of JeffCo's present knowledge, information and belief. This Response is at all times subject to such additional or different information that discovery or further investigation may disclose and is subject to additional knowledge of facts, as may result from its further discovery or investigation. Plaintiffs reserve the right to supplement this Response in accordance with C.R.C.P. 26(e).

7. JeffCo reserves the right to make any use of, or to introduce at any hearing and/or at trial, documents or other information responsive to the Discovery Request but discovered by Plaintiffs subsequent to the date of this Response to Discovery.

8. JeffCo reserves all objections as to the competency, relevance, materiality, privilege and/or admissibility as evidence in any subsequent proceeding and/or trial of this or any other action for any purpose whatsoever of any documents, information or things produced in this Response to the Discovery.

9. JeffCo objects to all definitions, instructions, interrogatories, and document requests in the Discovery Request in which the phrases "describe," "relate to" or "relating to," "every" and "all" appear. The terms "describe," "relate to," "relating to," "every" and "all" are overly broad, vague, ambiguous and unintelligible, require subjective judgment on the part of Plaintiffs and their attorneys.

10. JeffCo objects to the Discovery Request to the extent that it requests information generated prior to 2005. Given the broad scope of the Discovery Requests and the nature and evolution of education reform and education finance, any potential relevance of that information is substantially outweighed by the burden to collect, review, analyze, and produce that information in a responsive format. The requests for information generated prior to 2005 are therefore unduly burdensome, and such information will not be produced.

11. This Response to the Discovery is made subject to the Confidentiality Order entered in this action. Any confidential information produced without being marked "Confidential" is unintentional and inadvertent, and Plaintiffs reserve the right to require that such information be marked and treated confidential or returned to Plaintiffs.

12. JeffCo objects to the Discovery Requests to the extent they request information already in the possession of Defendants. Much of this information has been previously submitted to Defendants by Plaintiffs. It would be unduly burdensome, oppressive, and unreasonably duplicative to again provide such information to Defendants. Further, JeffCo objects to the Discovery Requests to the extent the burden of deriving or ascertaining responses to the requests is substantially the same or less for Defendants than for Plaintiffs. JeffCo also objects to the Discovery Requests to the extent they seek information obtainable from some other source that is more convenient, less burdensome, or less expensive.

13. JeffCo objects to producing documents that are not within its possession, custody, or control.

14. The scope of documents that fall within the ambit of JeffCo's obligations under C.R.C.P. 26(a)(1)(B) and the Discovery Request does not include e-mails stored on e-mail servers. Specifically, e-mails stored on e-mail servers are not relevant to disputed facts alleged with particularity in the pleadings and are not responsive to the Discovery Request. And, to the extent such e-mails are arguably relevant, the burden and expense of collecting, reviewing, and producing such documents substantially outweighs any likely benefit of producing these documents in light of the needs of Defendants, the parties' resources, and the importance of the e-mails to this lawsuit. Where e-mails have been produced, such e-mails were stored on non-e-mail servers that stored responsive documents, and those produced e-mails had a particular relevance not shared by e-mails simply stored on e-mail servers. Moreover, Defendants have not produced e-mails stored on e-mail servers pursuant to Rule 26(a)(1) or Plaintiff's Request for Production. Accordingly, e-mails stored on e-mail servers will not be produced.

15. The foregoing objections are incorporated by reference into each separate response below as though set forth in full.

16. Documents to which these responses refer will be available for inspection at the offices of the undersigned counsel upon reasonable notice.

ANSWERS TO INTERROGATORIES

Interrogatory No. 38:

For each year from 2005 to the present, identify the number of teachers dismissed or non-renewed. As used in this interrogatory, dismissal or non-renewal does not include teachers who voluntarily resigned their positions or voluntarily retired, but does include teachers who resigned or retired after being informed by the District that they would be dismissed or non-renewed. Plaintiffs need not disclose specific identities of any teacher or teachers in responding to this interrogatory.

Answer to Interrogatory No. 38:

In addition to the General Objections, JeffCo objects to Interrogatory No. 38 on the grounds that it calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence and that the response to the interrogatory places an undue burden and expense on JeffCo, especially in light of the negligible probative value of the information sought. JeffCo also objects to Interrogatory No. 38 because the terms “dismissed” or “non-renewed” are vague, and further because the limited definition provided for these terms is circular, unintelligible, and improperly seeks to impose an undue burden on JeffCo to distinguish “teachers who voluntarily resigned their positions or voluntarily retired” from “teachers who resigned or retired after being informed by the District that they would be dismissed or nonrenewed.” Finally, it is not possible for JeffCo to identify those who were dismissed or non-renewed from 2005-2007 because it has no centralized records of such dismissals or non-renewals.

Subject to and without waiving the foregoing and General Objections, JeffCo provides the following response:

2008-09: 7

2009-10: 11

2010-11: 9

In addition, the following number of temporary teachers were non-renewed:

2005: 561

2006: 674

2007: 717

2008: 689

2009: 559

2010: 489

Interrogatory No. 39:

For each year from 2005 to the present, identify the number of teachers who were dismissed or non-renewed for being “ineffective.” As used in this interrogatory, “ineffective” means dismissal or non-renewal for reasons relating to a teacher’s performance in the classroom or for failing to meet the district’s standards or expectations in the classroom. “Ineffective” does not mean termination for any violations of state law.

Answer to Interrogatory No. 39:

In addition to the General Objections, JeffCo objects to Interrogatory No. 39 on the grounds that it calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence and that the response to the interrogatory places an undue burden and expense on JeffCo, especially in light of the negligible probative value of the information sought. JeffCo also objects to Interrogatory No. 39 because the terms “dismissed” or “non-renewed” are vague, and the definition of “ineffective” is not consistent with current or

prior law concerning the dismissal of teachers. Finally, it is not possible for JeffCo to identify those who were dismissed or non-renewed from 2005-2008 because it has no centralized records of such dismissals or non-renewals.

Subject to and without waiving the foregoing and General Objections, JeffCo provides the following response:

2009-2010: 2

2010-2011: 4

Interrogatory No. 40:

Identify the cost to a District taxpayer of one mill per \$100,000 of assessed residential property value.

Answer to Interrogatory No. 40:

In addition to the General Objections, JeffCo objects to Interrogatory No. 40 on the ground that Defendants have access to the requested information and, as a result, the interrogatory places an undue burden and expense on JeffCo to respond to the interrogatory.

Subject to and without waiving the foregoing and General Objections, the cost of one mill per \$100,000 of assessed residential property value is \$100.00 ($\$100,000 * .001$).

Interrogatory No. 41:

Identify the aggregate dollar amount that is generated for the District for every one mill levied.

Answer to Interrogatory No. 41:

In addition to the General Objections, JeffCo objects to Interrogatory No. 41 on the ground that Defendants have access to the requested information and, as a result, the interrogatory places an undue burden and expense on JeffCo to respond to the interrogatory.

Subject to and without waiving the foregoing and General Objections, JeffCo responds as follows: Utilizing the assessed valuation for Jeffco as provided by the Colorado Department of Education of \$6,908,595,543, every mill levied generates approximately \$6,908,595 ($.001 * \$6,908,595,543$).

Dated: May 23, 2011.

Respectfully submitted,

s/ Alyssa K. Yatsko
HOLLAND & HART LLP
555 Seventeenth Street, Suite 3200
Post Office Box 8749
Denver, Colorado 80201-8749
Phone: (303) 295-8138
Fax: (303) 291-9136
akyatsko@hollandhart.com

ATTORNEYS FOR PLAINTIFF
JEFFERSON COUNTY SCHOOL DISTRICT NO. R-1

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2011, I have caused to be electronically filed the foregoing with the Clerk of Court using CM/ECF system which will send notification of such filing to the following e-mail addresses:

<p>OFFICE OF THE ATTORNEY GENERAL John W. Suthers, Attorney General Antony B. Dyl Carey Taylor Markel Erica Weston Nicholas P. Heinke Jonathan P. Fero Nancy Wahl 1525 Sherman Street, 7th Floor Denver, CO 80203</p>	<p>David G. Hinojosa Nina Perales Carmen Leija Marisa Bono MALDEF 110 Broadway, Suite 300 San Antonio, TX 78205</p>
<p>Henry Solano DEWEY & LE BOEUF 4121 Bryant Street Denver, CO 80211</p>	<p>Kyle C. Velte Ryann B. MacDonald REILLY POZNER LLP 511 Sixteenth Street, Suite 700 Denver, CO 80202</p>
<p>Jess A. Dance PERKINS COIE LLP 1899 Wynkoop Street, Suite 700 Denver, CO 80202-1043</p>	<p>David W. Stark Joseph C. Daniels Sera Chong FAEGRE & BENSON LLP 3200 Wells Fargo Center 1700 Lincoln Street Denver, CO 90203</p>
<p>Kimberley D. Neilio Jennifer Harvey Weddle GREENBERG TRAUERIG, LLP 1200 Seventeenth Street, Suite 2400 Denver, CO 90202</p>	<p>Alexander Halpern ALEXANDER HALPERN LLC Kathleen J. Gebhardt Jennifer Weiser Bezoza KATHLEEN J. GEBHARDT LLC 1426 Pearl Street, Suite 402 Boulder, CO 80302</p>

Kenzo Kawanabe Terry R. Miller Geoffrey C. Klingsporn Daniel P. Spivey Rebecca J. Dunaway DAVIS GRAHAM & STUBBS LLP 1550 Seventeenth Street, Suite 500 Denver, CO 90202	
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

s/ Santa M. Patafio

5109271_1.DOCX

VERIFICATION

I hereby certify that I have read and reviewed the foregoing **PLAINTIFF JEFFERSON COUNTY SCHOOL DISTRICT NO. R-1'S RESPONSE TO DEFENDANTS' SECOND SET OF INTERROGATORIES TO SCHOOL DISTRICT PLAINTIFFS** and know the contents thereof. I am informed, and on the basis of such information and belief allege, that the foregoing responses are true and correct, although many of the facts stated therein are not within my personal knowledge. I am authorized by Jefferson County School District R-1 to verify these responses on its behalf.

ALLEN TAGGART



Name: ALLEN TAGGART

Title: Legal Counsel/Executive
Director Employee Relations

STATE OF COLORADO

COUNTY OF Jefferson

s.

The foregoing instrument was subscribed and sworn to before me this 20th day of May 2011.

Witness my hand and official seal.

My commission expires: 12-21-2011

Diane L. Padilla
Notary Public

(S E A L)

