



May 25 2011
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<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202</p>	<p style="text-align: center;">COURT USE ONLY</p>
<p>Plaintiffs: Anthony Lobato, et al.</p> <p>Plaintiff-Intervenors: Armandina Ortega, et al.</p> <p>vs.</p> <p>Defendants: The State of Colorado, et al.</p>	
<p>Alexander Halpern, #7704 ALEXANDER HALPERN LLC 1426 Pearl Street, Ste. 420 Boulder, CO 80302 Phone: 303.449.6180 ahalpern@halpernllc.com Kathleen J. Gebhardt, #12800 Jennifer Weiser Bezoza, #40662 KATHLEEN J. GEBHARDT LLC 1900 Stony Hill Road Boulder, CO 80305 Phone: 303.499.8859 gebhardt@indra.com; jennifer@bezoza.com <i>Attorneys for Anthony Lobato, et al.</i></p> <p>Kenzo Kawanabe, #28697 Terry R. Miller, #389007 Geoffrey C. Klingsporn, #38997 Daniel P. Spivey, #41504 Rebecca J. Dunaway, #41538 DAVIS GRAHAM & STUBBS LLP 1550 17th Street, Ste. 500 Denver, CO 80202 Phone: 303.892.9400 kenzo.kawanabe@dgsllaw.com; terry.miller@dgsllaw.com; geoff.klingsporn@dgsllaw.com; daniel.spivey@dgsllaw.com; rebecca.dunaway@dgsllaw.com <i>Attorneys for Plaintiffs Anthony and Denise Lobato, Taylor Lobato, Alexa Lobato, Aurora Joint School District No. 28, Jefferson County School District No. R-1, Colorado Springs School District No. 11, Alamosa School District No. RE-11J and Monte Vista School District No. C-8</i></p>	<p>Case Number: 05 CV 4794</p> <p>Div: 9</p>
<p style="text-align: center;">PLAINTIFFS' THIRD SET OF DISCOVERY REQUESTS TO DEFENDANTS</p>	

Pursuant to C.R.C.P. 33, 34, and 36, Plaintiffs submit their Third Set of Discovery Requests to Defendants. Responses and documents are due within 30 days of service at the offices of Alexander Halpern LLC, 1426 Pearl Street, Ste. 420, Boulder, CO 80302

DEFINITIONS

1. “You” or “your” shall mean each Defendant, any of its attorneys, agents, or representatives, and anyone acting for or on its behalf.
2. “Plaintiffs” shall mean each Plaintiff, any of its attorneys, agents, or representatives, and anyone acting for or on its behalf.
3. “Document” or “Documents” shall have the broadest meaning permitted under the Colorado Rules of Civil Procedure, and includes, without limitation, all originals, copies, non-identical copies (whether different from the original because of underlining, editing marks, notes made on or attached to such copy, or otherwise) and drafts of the following items, in each case, whether printed or recorded through a sound, video or other electronic, magnetic or digital recording system, or reproduced by hand: letters, correspondence, telegrams, telexes, memoranda, records, summaries of personal conversations or interviews, minutes or records or notes of meetings or conferences, agendas, note pads, notebooks, postcards, “Post-It” notes, stenographic notes, notes, notebooks, opinions or reports of financial advisors or consultants, opinions or reports of experts, projections, financial or statistical statements or compilations, contracts, agreements, appraisals, analyses, purchase orders, confirmations, publications, articles, books, pamphlets, circulars, microfilm, microfiche, reports, studies, logs, surveys, diaries, calendars, appointment books, maps, charts, graphs, bulletins, photostats, speeches, data sheets, pictures, photographs, illustrations, blueprints, films, drawings, plans, tape recordings, videotapes, disks, diskettes, data tapes or readable computer-produced interpretations, or transcriptions thereof, electronically transmitted messages (“email”), voice-mail messages, interoffice communications, advertising, packaging and promotional materials and any other writings, papers, and tangible things of whatever description whatsoever, including, but not limited to, any information contained in any computer or other electronic storage device, even if not yet printed in paper form, in each case, within your possession, custody, or control. “Documents” and “Document” shall also include any and all data compilations from which information can be obtained.
4. “Communication” or “Communications” shall mean any manner or means of disclosure, transfer, or exchange, and every disclosure, transfer or exchange of information, whether orally or by Document (including, but not limited to, by electronic means), and whether face-to-face, in person, by telephone, telecopy, mail, delivery service, personal delivery, email, or otherwise, and includes correspondence, memoranda, reports and records of telephone calls, reports of meetings, and all accounts or summaries of oral conversations.
5. The terms “refer,” “relate,” “concern,” “referring,” “relating,” or “concerning” shall 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 (including representations, requests, demands, studies, analyses, and the like) referred to in these requests; or (3) information which discusses, mentions or refers, whether directly or indirectly, to the subject matter of the request.

6. “And” and “or” shall be construed conjunctively and disjunctively so as to acquire the broadest meaning possible.

7. The terms “any” and “all” shall be considered to include “each and every.”

8. The term “Defendants’ Rule 26(a)(2)(B)(I) expert witnesses” means those expert witnesses retained as described in Colo. R. Civ. P. 26(a)(2)(B)(I) and disclosed in Defendants’ initial expert disclosures and any supplements thereto.

9. The term “Defendants’ Rule 26(a)(2)(B)(II) expert witnesses” means those expert witnesses retained as described in Colo. R. Civ. P. 26(a)(2)(B)(II) and disclosed in Defendants’ initial expert disclosures and any supplements thereto.

INSTRUCTIONS

1. When a document, data, knowledge, or information within your possession, custody, or control is requested, such request includes all documents, data, knowledge, or information of, or in the possession or custody of you, whether in a personal or professional capacity, your attorneys, accountants, agents, representatives, and experts, and any professional employed or retained by you, whether in your personal or professional capacity.

2. A complete, legible, and accurate copy of any document requested may be produced in lieu of producing the original document itself.

3. The documents responsive to this request shall be produced in such a manner so as to indicate clearly the identity of the file from which they were produced.

4. If any of the documents to be produced cannot be produced in full, produce each document to the extent possible, specifying the reason for the inability to produce the remainder of any document.

5. To the fullest extent permitted by the Colorado Rules of Civil Procedure, this request shall be deemed continuing so as to require further supplemental production in the event that you, or any attorney, agent, representative, or professional employed by you, obtains or discovers additional documents between the time of initial production and the conclusion of this proceeding.

6. If you object to any of the requests herein, whether in whole or in part, on the grounds that information sought therein is subject to a claim of attorney-client privilege, work product immunity, or any other privilege or immunity, you shall produce as much of the document concerned as to which no claim of privilege or immunity is made. With respect to documents or portions of documents for which a claim of privilege or immunity is made, state the following:

- a. the type and nature of the document or communication;
- b. the date of the document;
- c. the person(s) in receipt of the document or the person(s) present during the communication;

- d. the person(s) who authored or created the document or the person(s) who made the communication;
- e. the person(s) to whom such document or communication was made;
- f. the general subject matter of the document or communication in a manner sufficient to support the privilege or immunity claimed;
- g. the nature of the privilege or immunity asserted and/or the specific reason why the document is not being produced; and
- h. the same information referenced in a-g above for each enclosure to each listed document if the enclosure also is withheld from production.

7. An objection or claim of privilege or immunity directed to part of a request does not constitute an excuse for failure to respond to the parts of a request for which no objection or claim of privilege or immunity is made.

8. If any document responsive to any request for production has been lost, destroyed, or otherwise disposed of, such document is to be identified as completely as possible, including the following information: contents; author(s); recipient(s); sender(s); copied recipients (indicated or blind); date prepared or received; date of disposal; manner of disposition; person(s) currently in possession of the document; and person(s) disposing of the document.

9. If any document responsive to any request for production has been lost, destroyed, or otherwise disposed of, identify any and all persons who participated in, or were involved in, the decision to destroy or dispose of such document, any document retention or destruction policy under which such document was destroyed or disposed of, and any and all persons who participated in, or were involved in, the formulation of any such policy, the reason for the destruction or disposition of such document, and the date (approximate, if precise date is not known) of the destruction or disposition of such document.

10. "Identify," when applied to a person, requires that you give the person's full name, residence address, residence telephone, business or occupation, job title or description, employer, business address and business telephone. If you do not have current information on the person being identified, then give their last known residence address, residence telephone, etc.

11. "Identify," when referring to a business, organization, or other entity means to give the legal name of the entity, a description of its nature (e.g., corporation, partnership, joint venture, etc.), any business or assumed name under which it does business, its principal place of business and the address of the office(s).

12. "Identify," when used in reference to a document, requires that you (regardless of whether you may assert a privilege or other objection to its disclosure) describe the document (i.e., whether it is a letter, memorandum, contract, etc.) and state its date, the name of the person or persons whose signatures are affixed or for whom signature lines were prepared if the document was unsigned, the person who prepared it,

the person to whom it was addressed and/or prepared for, a short synopsis of the document's contents, and to otherwise describe it with sufficient detail to meet the requirements for its inclusion in a Colo. R. Civ. P. 34 request for production, and also requires that you identify all persons known to you to have control or possession of such documents or copies thereof.

13. In response to these discovery requests, please restate the text of each discovery request before the corresponding response.

NON-PATTERN INTERROGATORIES

NON-PATTERN INTERROGATORY NO. 31: For each of Defendants' Rule 26(a)(2)(B)(I) and Rule 26(a)(2)(B)(II) expert witnesses, identify:

- a. All documents and tangible things, including reports, models, or data compilations, which have been provided to, reviewed by, or prepared by or for the expert witness in this case;
- b. All communications (including but not limited to e-mails, letters, text messages, and voicemails) by and between you and the expert witness related to the expert witness's testimony, opinions, or other work on this case;
- c. All reports or summaries of testimony prepared by the expert witness in any case for which the expert witness has testified or been retained to testify in the preceding four years;
- d. All deposition or trial testimony given by the expert witness in any case for which the expert witness has testified or been retained to testify in the preceding four years;
- e. All contracts or agreements entered into between you and the expert witness;
- f. All drafts of the expert witness's reports or summaries of testimony in this case.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 37: For each of Defendants' Rule 26(a)(2)(B)(I) and Rule 26(a)(2)(B)(II) expert witnesses, produce:

- a. All documents and tangible things, including reports, models, or data compilations, which have been provided to, reviewed by, or prepared by or for the expert witness in this case;
- b. The expert witness's most current resume or *curriculum vitae*;

- c. All communications (including but not limited to e-mails, letters, text messages, and voicemails) by and between you and the expert witness related to the expert witness's testimony, opinions, or other work on this case;
- d. Copies of all reports or summaries of testimony prepared by the expert witness in any case for which the expert witness has testified or been retained to testify in the preceding four years;
- e. Copies of all deposition or trial testimony given by the expert witness in any case for which the expert witness has testified or been retained to testify in the preceding four years;
- f. Copies of all contracts or agreements entered into between you and the expert witness;
- g. All drafts of the expert witness's reports or summaries of testimony in this case.

Dated: May 25, 2011

/s/ Kenzo Kawanabe

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CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of May, 2011, a true and correct copy of the foregoing **PLAINTIFFS' THIRD SET OF DISCOVERY REQUESTS TO DEFENDANTS** was served via **LexisNexis**, as follows:

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/s/ Fern O. Spangler
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[The original, executed document is on file at the offices of Davis Graham & Stubbs LLP.]