

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	EFILED Document CO Denver County District Court 2nd JD Filing Date: Jul 11 2011 4:07PM MDT Filing ID: 38623907 Review Clerk: Rafaelita M Almazan
Plaintiffs: ANTHONY LOBATO, et al., and Plaintiff-Intervenors: ARMANDINA ORTEGA, et al. v. Defendants: THE STATE OF COLORADO, et al.	▲ COURT USE ONLY ▲ Case No.: 05CV4794 Courtroom: 424
COURT ORDER	

THIS MATTER is before the Court pursuant to Plaintiffs’ Motion to Compel. The Court has reviewed the Motion, Response, Reply, case file and applicable statutory and case law. In consideration thereof, the Court makes the following findings and orders:

ISSUE PRESENTED

Plaintiffs motion the Court for an order compelling Defendants, to respond to Requests for Admission Nos. 10-12, Pattern Interrogatory No. 17.1 and Non-Pattern Interrogatories No. 1, 18-21 and 30 from Plaintiffs’ First and Second Sets of Discovery Requests served July 15, 2010 and March 28, 2011 respectively or, in the alternative, precluding Defendants from presenting factual evidence, contentions or opinions in support of their case at trial that were not provided in Defendants’ discovery responses.

REQUEST FOR ADMISSION NO. 10

The Court finds that Request for Admission No. 10 impermissibly seeks admission of the truth of multiple legal conclusions. Specifically, whether total program funding levels were based on a “rational assessment” seeks admission of the legal conclusion of whether the public school finance system satisfies the rational basis test, which is a core legal issue in this case.

REQUEST FOR ADMISSION NO. 11

The Court finds that Request for Admission No. 11 impermissibly seeks admission of the truth of multiple legal conclusions. Specifically, whether total program funding levels were based on a “rational assessment” seeks admission of the legal conclusion of whether the public school finance system satisfies the rational basis test, which is a core legal issue in this case.

REQUEST FOR ADMISSION NO. 12

The Court finds that Request for Admission No. 12 impermissibly seeks admission of the truth of multiple legal conclusions. Specifically, whether total program funding levels were based on a

“rational assessment” seeks admission of the legal conclusion of whether the public school finance system satisfies the rational basis test, which is a core legal issue in this case.

PATTERN INTERROGATORY NO. 17.1

Defendants object to Pattern Interrogatory No. 17.1 on the ground that such an interrogatory is premature and need not be more fully answered until fact and expert discovery is complete. The Court finds that such an interrogatory is no longer premature and orders Defendants to answer Pattern Interrogatory No. 17.1.

NON-PATTERN INTERROGATORY NO. 1

The Court finds that Non-Pattern Interrogatory No. 1 asks a pure question of law and therefore calls for a legal conclusion that exceeds the scope of C.R.C.P. 33. Specifically, the request to describe how the Public School Finance Act and other elements of the public school finance system are “rationally related to the mandate of the Education Clause” is a core legal issue in this case. Further, the phrase “mandate of the Education Clause” is vague and undefined.

NON-PATTERN INTERROGATORY NO. 18

The Court finds that Non-Pattern Interrogatory No. 18 seeks significant information over a 10-year time period, is overly broad and unduly burdensome and the information is equally available to Plaintiffs. Additionally, the Court finds that Non-Pattern Interrogatory No. 18 asks a pure question of law and therefore calls for a legal conclusion that exceeds the scope of C.R.C.P. 33. Specifically, the request to describe what is “required by the Education Clause” is a core legal issue in this case. Further, the phrases “programs (or other items)” and “required by the Education Clause” are vague and undefined.

NON-PATTERN INTERROGATORY NO. 19

The Court finds that Non-Pattern Interrogatory No. 19 seeks significant information over a 10-year time period and is overly broad and unduly burdensome. Additionally, the Court finds that Non-Pattern Interrogatory No. 19 asks a pure question of law and therefore calls for a legal conclusion that exceeds the scope of C.R.C.P. 33. Specifically, the request to describe what, if anything, is “required to fulfill the mandate of the Education Clause” is a core legal issue in this case. Further, the phrases “education programs” and “required to fulfill the mandate of the Education Clause” are vague and undefined.

NON-PATTERN INTERROGATORY NO. 20

The Court finds that Non-Pattern Interrogatory No. 20 seeks significant information over a 10-year time period and is overly broad and unduly burdensome. Additionally, the Court finds that Non-Pattern Interrogatory No. 20 asks a pure question of law and therefore calls for a legal conclusion that exceeds the scope of C.R.C.P. 33. Specifically, the request to describe what, if anything, is “required to fulfill the mandate of the Education Clause” is a core legal issue in this case. Further, the phrases “education programs” and “required to fulfill the mandate of the Education Clause” are vague and undefined.

NON-PATTERN INTERROGATORY NO. 21

The Court finds that Non-Pattern Interrogatory No. 21 seeks significant information over a 10-year time period and is overly broad and unduly burdensome. Additionally, the Court finds that Non-Pattern Interrogatory No. 21 asks a pure question of law and therefore calls for a legal conclusion that exceeds the scope of C.R.C.P. 33. Specifically, the request to describe what, if anything, is “required to fulfill the mandate of the Education Clause” is a core legal issue in this case. Further, the phrase “required to fulfill the mandate of the Education Clause” is vague and undefined.

NON-PATTERN INTERROGATORY NO. 30

The Court finds that Non-Pattern Interrogatory No. 30 seeks to obtain discovery regarding the General Assembly, an entity that is not a party to this lawsuit and that the Office of the Attorney General does not represent as a matter of law. C.R.S. § 24-31-101. It is the General Assembly, not any of the Defendants, that makes determination of whether and what programs to fund, subject to constitutional constraints. *Colo. Gen. Assembly v. Owens*, 136 P.3d 262, 266 (Colo. 2006) (“The General Assembly maintains the exclusive authority to enact legislation, including appropriations. The legislature’s power over appropriations is plenary, subject only to constitutional limits... .”)

CONCLUSION

The Court grants Plaintiffs’ Motion to Compel as to Pattern Interrogatory No. 17.1 and denies Plaintiffs’ Motion to Compel as to Requests for Admission Nos. 10-12 and Non-Pattern Interrogatories Nos. 1, 18-21 and 30. Further, the Court denies the request, in the alternative, to preclude Defendants from presenting factual evidence, contentions or opinions in support of their case at trial that were not provided in Defendants’ discovery responses and denies any requests for attorney’s fees.

SO ORDERED this 11th day of July, 2011.

BY THE COURT



Sheila A. Rappaport
District Court Judge