

DISTRICT COURT, DENVER COUNTY, COLORADO

Denver City and County Building  
1437 Bannock St.  
Denver, Colorado 80202

**Plaintiffs:** ANTHONY LOBATO, et al.

and

**Plaintiff-Intervenors:** ARMANDINA ORTEGA, et al.

v.

**Defendants:** THE STATE OF COLORADO, et al.

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and Monte Vista School District No. C-8*

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Case No. 2005CV4794

Div. 9

**PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO  
FILE RESPONSE TO DEFENDANTS' RULE 56(h) MOTION**

Pursuant to Colorado Rules of Civil Procedure 6(b), Plaintiffs Anthony Lobato, *et al.* (“Plaintiffs”) hereby request an extension of time, to and including Monday, May 16, 2011, to file their Response in Opposition to Defendants’ Motion for Determination of Questions of Law Pursuant to C.R.C.P. 56(h). In support thereof, Plaintiffs state as follows:

1. **C.R.C.P. 121 § 1-15 Certification:** Undersigned counsel has in good faith conferred with counsel for Plaintiff-Intervenors and counsel for Defendants. Plaintiff-Intervenors are seeking a similar extension of time, and their counsel does not oppose this request. Defendants’ counsel stated that, although Defendants believe that an extension is unnecessary given that the Rule 56(h) motion raises pure issues of law and thus no further fact discovery is needed, Defendants do not oppose the extension.

2. Defendants filed their Motion for Determination of Questions of Law Pursuant to C.R.C.P. 56(h) (“Motion”) on February 28, 2011.

3. Plaintiffs’ response brief is currently due March 15, 2011. Many of Defendants’ proposed questions of law are not pure questions of law, but rather, mixed questions of law and fact. For example, Defendants request a ruling from this Court as to “public services” but do not specify the exact nature of such public services. Additionally, many of Defendants’ requests seek assessments of reasonableness or rationality that necessarily require a factual context.

4. Plaintiffs require additional time to prepare their response brief due to conflicting obligations of Plaintiffs’ counsel, including extensive discovery obligations and deadlines in this action. The parties are currently cooperating to complete over 70 depositions of witnesses by the May 3, 2011 fact discovery cut-off. Such discovery relates to Defendants’ motion.

5. Further, Plaintiffs have requested that Defendants supplement their prior discovery responses, including responses that directly relate to the asserted questions of law presented by Defendants.

6. The requested extension of time will allow the Plaintiffs adequate time to prepare their response while not prejudicing any party or materially delaying this action.

WHEREFORE, Plaintiffs request that the Court grant Plaintiffs’ request for an extension of time and order that Plaintiffs have to and including May 16, 2011, to file their Response in Opposition to Defendants’ Motion for Determination of Questions of Law Pursuant to C.R.C.P. 56(h).

Dated: March 7, 2011.

DAVIS GRAHAM & STUBBS LLP

*/s/ Terry R. Miller*

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***The original, executed document is on file at the offices of Davis Graham & Stubbs LLP.***

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 7<sup>th</sup> day of March, 2011, a true and correct copy of the foregoing **PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE RESPONSE TO DEFENDANTS' RULE 56(h) MOTION** was filed and served, via LexisNexis<sup>®</sup> File & Serve, addressed to the following:

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