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IN THE THIRD JUDICIAL DISTRICT
DISTRICT COURT OF SHAWNEE COUNTY KANSAS
CIVIL DEPARTMENT

LUKE GANNON,
By his next friends and guardians, *et al.*,

Plaintiffs,

v.

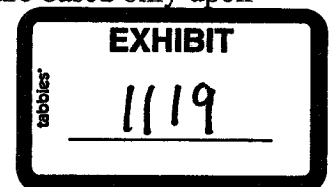
STATE OF KANSAS,

Defendant.

Case No.: 10-C-1569

**PLAINTIFFS' RESPONSE TO
DEFENDANT'S FIRST INTERROGATORIES TO STUDENT PLAINTIFFS**

COME NOW Student Plaintiffs, by and through their attorneys of record, and respond as follows to Defendant's First Interrogatories to Student Plaintiffs. Student Plaintiffs will respond and object to Defendant's discovery without regard to the introductory section to the extent Defendant attempts to expand the scope and meaning of the Federal Rules of Civil Procedure. It should be noted that these responding parties have not fully completed their investigation of the facts relating to this case, have not fully completed their discovery in this action, and have not completed their preparation for trial. All of the objections contained herein are based only upon



such information and documents as are presently available and specifically known to these responding parties, and disclose only those contentions which presently occur to such responding parties.

It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in and variations from the contentions herein set forth. The following objections are given without prejudice to Student Plaintiffs' right to produce evidence and any subsequently discovered fact or facts which Student Plaintiffs' may later recall. Student Plaintiffs' accordingly reserve the right to change any and all objections herein as additional facts are ascertained, additional analyses are made, legal research is completed and contentions are made. The objections and/or responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known, which should in no way be to the prejudice of responding parties in relation to further discovery, research and/or analysis.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The responses contained herein are made solely for the purpose of the above-referenced action. Such responses are made subject to all general stated and specific objections, and Student Plaintiffs specifically reserve the right to reassert the same on motion or at time of trial.

2. Student Plaintiffs have not fully completed their investigation of the facts relating to this case, have not fully completed discovery in this action and have not fully completed their preparation for trial. Discovery is continuing. Accordingly, all objections are made in light of

discovery completed to date. Student Plaintiffs specifically reserve the right to supplement, amend or modify any and all responses herein as additional facts are ascertained, as additional documents are obtained, as additional contentions are formulated, and as additional discovery, analysis or research may reveal.

3. Nothing contained herein is intended to be, nor may it be construed to be a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

4. This response is made by Student Plaintiffs subject to and without waiving, and Student Plaintiffs specifically reserve their right to object to other discovery procedures relating to the subjects of this discovery.

5. The fact that Student Plaintiffs have provided the information below is not an admission that they accept or admit the relevance or admissibility of this information at trial.

6. Student Plaintiffs object to each and every interrogatory to the extent it seeks to impose on Student Plaintiffs obligations inconsistent with and/or more extensive than those imposed by the Federal Rules of Civil Procedure.

7. Student Plaintiffs object to each and every interrogatory to the extent it seeks information which is more properly held in the possession of Defendant or third parties. The ability to obtain such information and the burden of obtaining such information is equally on Defendant as it is on Student Plaintiffs. Therefore, Defendant should be required to obtain the information.

8. Student Plaintiffs object to each and every interrogatory to the extent it contains or is predicated upon legal or factual assumptions which are not correct or contain language that is vague or ambiguous.

9. Student Plaintiffs further object to the interrogatories on grounds that they are overbroad, unduly burdensome, oppressive, and propounded for purposes of harassment; they are vague and ambiguous; they seek information which is neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence; they are unreasonably cumulative and duplicative; they seek information that is either already in the possession of Defendant, or readily available to Defendant; and they seek information which is protected by the attorney-client privilege and/or the attorney work product doctrine.

10. Student Plaintiffs object to each and every interrogatory to the extent that the burden of deriving and ascertaining the answer to all or any of the interrogatories from documents produced or to be produced is substantially the same for Defendant as it is for Student Plaintiffs.

11. Any statement that non-privileged, responsive documents will be produced should not be construed as an admission that any responsive documents exist.

12. This preliminary statement and each of the foregoing general objections applies to each individual interrogatory and is hereby incorporated into Student Plaintiffs' specific responses and objections to each individual request.

13. Without waiver of its general objections, Student Plaintiffs respond as follows:

INTERROGATORY NO. 1: Identify [each Student Plaintiff's name] by his/her full name, any aliases used, date of birth, current address and social security number.

ANSWER:

Objection. This discovery request is irrelevant to the subject matter of this litigation and not reasonably calculated to lead to the discovery of admissible evidence. The current addresses and social security numbers of the Student Plaintiffs are irrelevant to this litigation and likewise have no relevance to any claim or defense.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of students of Plaintiff USD 259. The following information is deemed confidential and is disclosed pursuant to the Protective Order, agreed to by the parties and signed by Judge Theis on May 18, 2011 in this case:

- Levi Cain
Date of Birth: 4/28/2000
- Jeremy Cox
Alias: Jeremy R. Cox
Date of Birth: 1/26/1996
- Alec Eldredge
Alias: Alec John Eldredge
Date of Birth: 12/21/2002
- Joseph Holmes
Alias: Joseph D. Holmes
Date of Birth: 3/18/1996
- Lily Newton
Alias: Lily Alysse Newton
Date of Birth: 8/15/2002
- Alexander Owen
Alias: Alexander B. Owen
Date of Birth: 12/25/1995

- Mike Rank
Alias: Mike William Rank
Date of Birth: 9/26/1999
- Quantez Walker
Alias: Quantez Leshaud Walker
Date of Birth: 10/1/2002
- Marixsa Alvarez
Date of Birth: 3/9/1995
- Priscilla Del Real
Alias: Priscilla Del Real Montoya
Date of Birth: 2/22/1999
- Valeria Del Real
Alias: Valeria Del Real Montoya
Date of Birth: 7/13/2000
- Tonatiah Figueroa
Date of Birth: 12/27/2001
- Dulce Herrera
Alias: Dulce Guadalupe Herrera
Date of Birth: 6/12/2000
- Gisella Herrera
Date of Birth: 9/16/1995
- Karol Herrera
Alias: Karol Maria Herrera
Date of Birth: 8/19/2005
- Miquela Shotgun
Alias: Miquela Rashee Fralick
Date of Birth: 1/7/2000
- Alexi Treto
Alias: Alexi Gariela Treto
Date of Birth: 8/25/1997
- Ted Bynum
Alias: Theodore Bynum
Date of Birth: 10/16/1998
- Breianna Crosby
Alias: Bricanna Hawthorne-Crosby
Date of Birth: 11/26/1997

- George Mendez
Date of Birth: 12/16/2001
- Amalia Murguia
Date of Birth: 10/01/1998
- Natalie Walton
Date of Birth: 2/27/1996

INTERROGATORY NO. 2: Separately, for each Student Plaintiff, identify each school the student attended from kindergarten to present and for each such school state the grades and attendance dates, (e.g., [student's name], Adams Elementary School, 1002 N. Oliver Wichita, Kansas 67208, (316) 973-2650, kindergarten, 2010-11).

ANSWER:

Objection. This interrogatory is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably tailored to lead to the discovery of admissible evidence. To the extent one or all of the Student Plaintiffs did not attend school in one of the Plaintiff School Districts prior to the initiation of the lawsuit, such information is not relevant. The breadth of this interrogatory is further objectionable because it includes no temporal limitation.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of students of Plaintiff USD 259. The following information is deemed confidential and is disclosed pursuant to the Protective Order, agreed to by the parties and signed by Judge Theis on May 18, 2011 in this case:

- Levi Cain

School: Graber Elementary
Grades: Pre-K to Fifth
Attendance Dates: 8/2004-5/2011

- Jeremy Cox

School: Wiley Elementary
Grades: First to Sixth
Attendance Dates: 8/2002-5/2008

School: Hutchinson Middle School
Grades: Seventh to Ninth
Attendance Dates: 8/2008-5/2011

- Alec Eldredge

School: Faris Elementary
Grades: Second
Attendance Dates: 8/2010-5/2001

School: Wiley Elementary
Grades: First
Attendance Dates: 8/2009-5/2010

- Joseph Holmes

School: Wiley Elementary
Grades: First to Sixth
Attendance Dates: 8/2002-5/2008

School: Hutchinson Middle School
Grades: Seventh to Ninth
Attendance Dates: 8/2008-5/2011

- Lily Newton

School: Faris Elementary School
Grades: Kindergarten to Second
Attendance Dates: 8/2008-5/2011

- Alexander Owen

School: Hutchinson High School
Grades: Ninth
Attendance Dates: 8/2010-5/2011

School: Hutchinson Middle School
Grades: Seventh to Eighth
Attendance Dates: 8/2008-5/2010

School: McCandless Elementary School
Grades: Sixth
Attendance Dates: 3/2008-5/2008

- Mike Rank
 School: McCandless Elementary School
 Grades: Pre-K to Fifth
 Attendance Dates: 8/2005-5/2011

- Quantez Walker

 School: McCandless Elementary School
 Grades: Pre-K to Second
 Attendance Dates: 8/2007-5/2011

- Marixsa Alvarez

 School: Miller Elementary School
 Grades: Pre-K to First
 Attendance Dates: 1/4/1998 to 5/25/2003

 School: Sunnyside Elementary School
 Grades: Second to Third
 Attendance Dates: 8/15/2003 to 5/25/2005

 School: Heartspring
 Grades: Fourth to Ninth
 Attendance Dates: 8/15/2005 to Present

- Priscilla Del Real

 School: Bright Beginnings Early Childhood Center
 Grades: Pre-K
 Attendance Dates: 8/14/2003 to 5/27/2004

 School: Linn Elementary School
 Grades: Kindergarten to Fourth
 Attendance Dates: 8/18/2004 to 5/21/2009

 School: Soule Intermediate Center
 Grades: Fifth to Sixth
 Attendance Dates: 8/18/2009 to Present

- Valeria Del Real

 School: Bright Beginnings Early Childhood Center
 Grades: Pre-K
 Attendance Dates: 8/14/2003 to 5/26/2005

School: Linn Elementary School
Grades: Kindergarten to Fourth
Attendance Dates: 8/17/2005 to 5/25/2010

School: Comanche Intermediate Center
Grades: Fifth
Attendance Dates: 8/10/2010 to Present

- Tonatiuh Figueroa

School: Sacred Heart Cathedral School
Grades: Kindergarten
Attendance Dates: 8/14/2007 to 9/11/2007

School: Linn Elementary School
Grades: Kindergarten to Third
Attendance Dates: 9/13/2007 to 1/28/2011

School: Ross Elementary School
Grades: Third
Attendance Dates: 1/31/2011 to Present

- Dulce Herrera

School: Linn Elementary School
Grades: First to Fourth
Attendance Dates: 8/16/2006 to Present

- Gisella Herrera

School: Comanche Intermediate Center
Grades: Sixth
Attendance Dates: 8/16/2006 to 5/24/2007

School: Dodge City Middle School
Grades: Seventh to Tenth
Attendance Dates: 8/16/2007 to Present

- Karol Herrera

School: Bright Beginnings Early Childhood Center
Grades: Pre-K
Attendance Dates: 9/14/2009 to 5/25/2010

School: Linn Elementary School
Grades: Kindergarten
Attendance Dates: 8/19/2010 to Present

- Miquela Shotgunn

School: Linn Elementary School

Grades: Second and Fourth

Attendance Dates: 8/14/2007 to 5/22/2008; 10/21/2009 to 5/26/2010

School: Ross Elementary School

Grades: Third

Attendance Dates: 8/14/2008 to 5/21/2009

School: Soule Intermediate Center

Grades: Fifth

Attendance Dates: 8/10/2010 to Present

- Alexi Treto

School: Northwest Elementary School

Grades: Kindergarten to Fourth

Attendance Dates: 8/14/2003 to 5/22/2008

School: Soule Intermediate Center

Grades: Fifth to Sixth

Attendance Dates: 8/12/2008 to 5/25/2010

School: Dodge City Middle School

Grades: Seventh

Attendance Dates: 8/19/2010 to Present

- Ted Bynum

School: White Church Elementary School

Grades: Pre-K to Fifth

Attendance Dates: 8/2003-5/2010

School: D.D. Eisenhower Middle School

Grades: Sixth

Attendance Dates: 8/2010

School: Arrowhead Middle School

Grades: Sixth

Attendance Dates: 8/2010-5/2011

- Breianna Crosby

School: Morse Early Childhood

Grades: Pre-Kindergarten

Attendance Dates: 8/2002-5/2003

School: Frank Rushton Elementary School
Grades: Kindergarten to Fifth
Attendance Dates: 8/2003-5/2009

School: West Middle School
Grades: Sixth
Attendance Dates: 8/2009

School: D.D. Eisenhower Middle School
Grades: Sixth to Seventh
Attendance Dates: 8/2009-5/2011

- George Mendez

School: Morse Early Childhood
Grades: Pre-K
Attendance Dates: 11/2004-5/2007

School: Frank Rushton Elementary School
Grades: Kindergarten to Third
Attendance Dates: 8/2007-5/2001

- Amalia Murguia

School: Emerson Elementary School
Grades: Kindergarten to Fifth
Attendance Dates: 8/2004-5/2010

School: Argentine Middle School
Grades: Sixth
Attendance Dates: 8/2010-5/2011

- Natalie Walton

School: Bertram Caruthers Sr. Elementary School
Grades: Kindergarten to Fifth
Attendance Dates: 8/2001-5/2007

School: Northwest Middle School
Grades: Sixth
Attendance Dates: 8/2007

School: Central Middle School
Grades: Sixth to Eighth
Attendance Dates: 8/2007-5/2009

School: Wyandotte High School
Grades: Ninth
Attendance Dates: 8/2010-5/2011

INTERROGATORY NO. 3: For each Student Plaintiff, is or has he/she been part of the following categories: "pre-school at-risk pupil," "preschool aged exceptional children," "at-risk pupil," "nonproficient student," student in "approved vocational education program," student in "program of bilingual education," "special education" student, "military pupil," student in education program receiving "program weighting"? If so, separately for each such Student Plaintiff list the category or categories which apply to the student and the corresponding dates the student was part of the category or categories.

ANSWER:

Objection. This discovery request is overly broad, irrelevant to the subject matter of this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of students of Plaintiff USD 259. The following information is deemed confidential and is disclosed pursuant to the Protective Order, agreed to by the parties and signed by Judge Theis on May 18, 2011 in this case:

- Levi Cain
At-Risk: 2005-11
Non-Proficient Student: 2008-09, 2010-11
- Jeremy Cox
Special Education: 2002-2011
At-Risk: 2002-2011
Non-Proficient Student: 2004-2006, 2009-2010
- Alec Eldredge
Special Education: 2009-2011
At-Risk: 2009-2011

- Joseph Holmes
Special Education: 2002-2011
At-Risk: 2002-2011
Non-Proficient Student: 2004-08, 2009-10
- Lily Newton
Special Education: 2008-2011
At-Risk: 2008-2011
- Alexander Owen
Special Education: 2008-2009
- Mike Rank
Special Education: 2007-11
Non-Proficient Student: 2009-11
- Quantez Walker
Pre-School At-Risk: 8/2007-5-2008
- Marixsa Alvarez
Pre-School At-Risk: 1/4/1998-5/25/2001
Pre-School Special Education: 1/4/1998-Present
Special Education: 1/4/1998-Present
- Priscilla Del Real
Pre-School At-Risk: 8/14/2003-5/27-2004
At-Risk Pupil: 7/30/2007-Present
Non-Proficient Student: 2007-Present
Bilingual Education: 8/14/2003-5/27/2004
- Valeria Del Real
Pre-School At-Risk: 8/14/2003-5/26/2005
At-Risk Pupil: 7/30/2007-Present
Non-Proficient Student: 2009-Present
Bilingual Education: 8/21/06-Present
- Tonatiuh Figueroa
Bilingual Education: 9/13/2007-Present
Special Education: 11/7/2006-Present
- Dulce Herrera
At-Risk Pupil: 8/2/2007-Present
Non-Proficient Student: 2009-10
Bilingual Education: 8/21/2006-Present

- Gisella Herrera
At-Risk Pupil: 8/2/2007-Present
Non-Proficient Student: 2006-Present
Bilingual Education: 8/16/2006-4/29/2008
- Karol Herrera
Pre-School At-Risk: 9/14/2009-5/25/2010
At-Risk Pupil: 9/15/2009-Present
Bilingual Education: 9/16/2009-Present
- Miquela Shotgun
At-Risk Pupil: 9/15/2009-Present
Non-Proficient Student: 2010
Special Education: 9/18/2006-Present
- Alexi Treto
At-Risk Pupil: 8/8/2007-Present
Non-Proficient Student: 2009-Present
Bilingual Education: 8/28/2003-Present
Special Education: 10/6/2005-Present

INTERROGATORY NO. 4:

Separately for each Student Plaintiff, if you denied the request for admission contemporaneously served with these interrogatories,

- a. List each weighting factor that you contend violates such student's rights under the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. *See*

Interrogatory No. 1 in Defendant's First Interrogatories to All Plaintiffs and Plaintiffs' response to same. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 5:

For each Student Plaintiff, if the student or his/her representatives contend components of the State's current funding formula independently or in combination with under-appropriation of money to fund the formula has or will deny such student's right to equal protection under the Fourteenth Amendment of the United State Constitution (See Petition, ¶ 98),

- a. Describe the material facts that support your position, including but not limited to the invidious classifications created by the State;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded. See Interrogatory No. 2 in Defendant's First Interrogatories to All Plaintiffs. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 6:

For each Student Plaintiff, if the student or his/her representatives contend the State's current funding formula or appropriations for Kansas K-12 public education have or will disparately impact him/her so as to deny such student's right to equal protection under the Fourteenth Amendment of the United State Constitution (See Petition, ¶ 98),

- a. State the category of person(s) discriminated against of which the student is a member;
- b. Describe the material facts, if any, that support the differing treatment of person(s) in the category stated in your answer to subpart "a" was the predominant, motivating factor in State's funding formula or appropriations;

- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. See Interrogatory No. 2 in Defendant's First Interrogatories to All Plaintiffs and Plaintiffs' response to same. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 7:

For each Student Plaintiff, if the student or his/her representatives contend such student is or was a victim of or is negatively impacted by an achievement gap between white students and other students (See Petition, ¶¶ 71a-f),

- a. State the category of person of which the student is a member;

- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. See Interrogatory Nos. 13 and 14 in Defendant's First Interrogatories to All Plaintiffs and Plaintiffs' response to same. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 8:

Separately for each Student Plaintiff,

- a. Describe each program, policy, practice, service or benefit applicable of a Plaintiff School District that applied or was provided to such student which was cut,

discontinued, reduced or otherwise negatively impacted by lack in funding for the fiscal years 2009-10, 2010-11, 2011-12;

- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

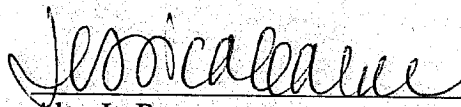
ANSWER:

Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. *See* Interrogatory No. 4 in Defendant's First Interrogatories to All Plaintiffs and Plaintiffs' response to same. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase "program, policy, practice, service or benefit."

Dated this 16th day of June, 2011.

Respectfully Submitted,



Alan L. Rupe #08914
Ashley J. Shaneyfelt #22641
Jessica L. Garner #24178
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2011, a true and correct copy of the above and foregoing was sent by first class mail to the following:

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CIVIL DEPARTMENT

LUKE GANNON,
By his next friends and guardians, *et al.*,

Plaintiffs,

v.

STATE OF KANSAS,

Defendant.

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**PLAINTIFFS' FIRST SUPPLEMENTAL RESPONSE TO
DEFENDANT'S FIRST INTERROGATORIES TO STUDENT PLAINTIFFS**

COME NOW Student Plaintiffs, by and through their attorneys of record, and supplements its responses to Defendant's First Interrogatories to Student Plaintiffs as follows: Student Plaintiffs will respond and object to Defendant's discovery without regard to the introductory section to the extent Defendant attempts to expand the scope and meaning of the Federal Rules of Civil Procedure. It should be noted that these responding parties have not fully completed their investigation of the facts relating to this case, have not fully completed their discovery in this action, and have not completed their preparation for trial. All of the objections contained herein are based only upon such information and documents as are presently available

and specifically known to these responding parties, and disclose only those contentions which presently occur to such responding parties.

It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in and variations from the contentions herein set forth. The following objections are given without prejudice to Student Plaintiffs' right to produce evidence and any subsequently discovered fact or facts which Student Plaintiffs' may later recall. Student Plaintiffs' accordingly reserve the right to change any and all objections herein as additional facts are ascertained, additional analyses are made, legal research is completed and contentions are made. The objections and/or responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known, which should in no way be to the prejudice of responding parties in relation to further discovery, research and/or analysis.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The responses contained herein are made solely for the purpose of the above-referenced action. Such responses are made subject to all general stated and specific objections, and Student Plaintiffs specifically reserve the right to reassert the same on motion or at time of trial.

2. Student Plaintiffs have not fully completed their investigation of the facts relating to this case, have not fully completed discovery in this action and have not fully completed their preparation for trial. Discovery is continuing. Accordingly, all objections are made in light of discovery completed to date. Student Plaintiffs specifically reserve the right to supplement,

amend or modify any and all responses herein as additional facts are ascertained, as additional documents are obtained, as additional contentions are formulated, and as additional discovery, analysis or research may reveal.

3. Nothing contained herein is intended to be, nor may it be construed to be a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

4. This response is made by Student Plaintiffs subject to and without waiving, and Student Plaintiffs specifically reserve their right to object to other discovery procedures relating to the subjects of this discovery.

5. The fact that Student Plaintiffs have provided the information below is not an admission that they accept or admit the relevance or admissibility of this information at trial.

6. Student Plaintiffs object to each and every interrogatory to the extent it seeks to impose on Student Plaintiffs obligations inconsistent with and/or more extensive than those imposed by the Federal Rules of Civil Procedure.

7. Student Plaintiffs object to each and every interrogatory to the extent it seeks information which is more properly held in the possession of Defendant or third parties. The ability to obtain such information and the burden of obtaining such information is equally on Defendant as it is on Student Plaintiffs. Therefore, Defendant should be required to obtain the information.

8. Student Plaintiffs object to each and every interrogatory to the extent it contains or is predicated upon legal or factual assumptions which are not correct or contain language that is vague or ambiguous.

9. Student Plaintiffs further object to the interrogatories on grounds that they are overbroad, unduly burdensome, oppressive, and propounded for purposes of harassment; they are vague and ambiguous; they seek information which is neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence; they are unreasonably cumulative and duplicative; they seek information that is either already in the possession of Defendant, or readily available to Defendant; and they seek information which is protected by the attorney-client privilege and/or the attorney work product doctrine.

10. Student Plaintiffs object to each and every interrogatory to the extent that the burden of deriving and ascertaining the answer to all or any of the interrogatories from documents produced or to be produced is substantially the same for Defendant as it is for Student Plaintiffs.

11. Any statement that non-privileged, responsive documents will be produced should not be construed as an admission that any responsive documents exist.

12. This preliminary statement and each of the foregoing general objections applies to each individual interrogatory and is hereby incorporated into Student Plaintiffs' specific responses and objections to each individual request.

13. Without waiver of its general objections, Student Plaintiffs respond as follows:

SUPPLEMENTAL RESPONSES

INTERROGATORY NO. 1: Identify [each Student Plaintiff's name] by his/her full name, any aliases used, date of birth, current address and social security number.

ANSWER:

Objection. This discovery request is irrelevant to the subject matter of this litigation and not reasonably calculated to lead to the discovery of admissible evidence. The current addresses and social security numbers of the Student Plaintiffs are irrelevant to this litigation and likewise have no relevance to any claim or defense.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of students of Plaintiff USD 259. The following information is deemed confidential and is disclosed pursuant to the Protective Order, agreed to by the parties and signed by Judge Theis on May 18, 2011 in this case:

- Levi Cain
Date of Birth: 4/28/2000
- Jeremy Cox
Alias: Jeremy R. Cox
Date of Birth: 1/26/1996
- Alec Eldredge
Alias: Alec John Eldredge
Date of Birth: 12/21/2002
- Joseph Holmes
Alias: Joseph D. Holmes
Date of Birth: 3/18/1996
- Lily Newton
Alias: Lily Alysse Newton
Date of Birth: 8/15/2002

- Alexander Owen
Alias: Alexander B. Owen
Date of Birth: 12/25/1995
- Mike Rank
Alias: Mike William Rank
Date of Birth: 9/26/1999
- Quantez Walker
Alias: Quantez Leshaud Walker
Date of Birth: 10/1/2002
- Marixsa Alvarez
Date of Birth: 3/9/1995
- Priscilla Del Real
Alias: Priscilla Del Real Montoya
Date of Birth: 2/22/1999
- Valeria Del Real
Alias: Valeria Del Real Montoya
Date of Birth: 7/13/2000
- Tonatiuh Figueroa
Date of Birth: 12/27/2001
- Dulce Herrera
Alias: Dulce Guadalupe Herrera
Date of Birth: 6/12/2000
- Gisella Herrera
Date of Birth: 9/16/1995
- Karol Herrera
Alias: Karol Maria Herrera
Date of Birth: 8/19/2005
- Miquela Shotgun
Alias: Miquela Rashee Fralick
Date of Birth: 1/7/2000
- Alexi Treto
Alias: Alexi Gariela Treto
Date of Birth: 8/25/1997
- Ted Bynum
Alias: Theodore Bynum
Date of Birth: 10/16/1998

- Breianna Crosby
Alias: Brieanna Hawthorne-Crosby
Date of Birth: 11/26/1997
- George Mendez
Date of Birth: 12/16/2001
- Amalia Murguia
Date of Birth: 10/01/1998
- Natalie Walton
Date of Birth: 2/27/1996

SUPPLEMENTAL ANSWER:

- Colten Oakman
Alias: Colten Wayne Oakman
Date of Birth: 11/5/1995
- Jett Burgess
Alias: Jett Immanuel Burgess
Date of Birth: 12/15/2003
- Jada Burgess
Alias: Jada Noel Burgess
Date of Birth: 9/25/2001
- Brady Seeber
Alias: Brady Dean Seeber
Date of Birth: 11/5/2003
- Alexis Seeber
Alias: Alexis Jeannine Seeber
Date of Birth: 7/22/2000
- Olivia Kennedy
Alias: Olivia Marie Kennedy
Date of Birth: 9/16/2002
- Luke Gannon
Alias: Luke H. Gannon
Date of Birth: 5/29/1997
- Colten Andrew Gannon
Alias: Andrew J. Gannon
Date of Birth: 3/4/1993

- Grace Gannon
Alias: Grace E. Gannon
Date of Birth: 9/13/1999
- Cameron Pint
Alias: Cameron Ethan Pint
Date of Birth: 3/7/2000

INTERROGATORY NO. 2: Separately, for each Student Plaintiff, identify each school the student attended from kindergarten to present and for each such school state the grades and attendance dates, (e.g., [student's name], Adams Elementary School, 1002 N. Oliver Wichita, Kansas 67208, (316) 973-2650, kindergarten, 2010-11).

ANSWER:

Objection. This interrogatory is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably tailored to lead to the discovery of admissible evidence. To the extent one or all of the Student Plaintiffs did not attend school in one of the Plaintiff School Districts prior to the initiation of the lawsuit, such information is not relevant. The breadth of this interrogatory is further objectionable because it includes no temporal limitation.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of students of Plaintiff USD 259. The following information is deemed confidential and is disclosed pursuant to the Protective Order, agreed to by the parties and signed by Judge Theis on May 18, 2011 in this case:

- Levi Cain

School: Graber Elementary
Grades: Pre-K to Fifth
Attendance Dates: 8/2004-5/2011

- Jeremy Cox

School: Wiley Elementary
Grades: First to Sixth
Attendance Dates: 8/2002-5/2008

School: Hutchinson Middle School
Grades: Seventh to Ninth
Attendance Dates: 8/2008-5/2011

- Alec Eldredge

School: Faris Elementary
Grades: Second
Attendance Dates: 8/2010-5/2001

School: Wiley Elementary
Grades: First
Attendance Dates: 8/2009-5/2010

- Joseph Holmes

School: Wiley Elementary
Grades: First to Sixth
Attendance Dates: 8/2002-5/2008

School: Hutchinson Middle School
Grades: Seventh to Ninth
Attendance Dates: 8/2008-5/2011

- Lily Newton

School: Faris Elementary School
Grades: Kindergarten to Second
Attendance Dates: 8/2008-5/2011

- Alexander Owen

School: Hutchinson High School
Grades: Ninth
Attendance Dates: 8/2010-5/2011

School: Hutchinson Middle School
Grades: Seventh to Eighth
Attendance Dates: 8/2008-5/2010

School: McCandless Elementary School
Grades: Sixth
Attendance Dates: 3/2008-5/2008

- Mike Rank
 School: McCandless Elementary School
 Grades: Pre-K to Fifth
 Attendance Dates: 8/2005-5/2011

- Quantez Walker

 School: McCandless Elementary School
 Grades: Pre-K to Second
 Attendance Dates: 8/2007-5/2011

- Marixsa Alvarez

 School: Miller Elementary School
 Grades: Pre-K to First
 Attendance Dates: 1/4/1998 to 5/25/2003

 School: Sunnyside Elementary School
 Grades: Second to Third
 Attendance Dates: 8/15/2003 to 5/25/2005

 School: Heartspring
 Grades: Fourth to Ninth
 Attendance Dates: 8/15/2005 to Present

- Priscilla Del Real

 School: Bright Beginnings Early Childhood Center
 Grades: Pre-K
 Attendance Dates: 8/14/2003 to 5/27/2004

 School: Linn Elementary School
 Grades: Kindergarten to Fourth
 Attendance Dates: 8/18/2004 to 5/21/2009

 School: Soule Intermediate Center
 Grades: Fifth to Sixth
 Attendance Dates: 8/18/2009 to Present

- Valeria Del Real

 School: Bright Beginnings Early Childhood Center
 Grades: Pre-K
 Attendance Dates: 8/14/2003 to 5/26/2005

School: Linn Elementary School
Grades: Kindergarten to Fourth
Attendance Dates: 8/17/2005 to 5/25/2010

School: Comanche Intermediate Center
Grades: Fifth
Attendance Dates: 8/10/2010 to Present

- Tonatiuh Figueroa

School: Sacred Heart Cathedral School
Grades: Kindergarten
Attendance Dates: 8/14/2007 to 9/11/2007

School: Linn Elementary School
Grades: Kindergarten to Third
Attendance Dates: 9/13/2007 to 1/28/2011

School: Ross Elementary School
Grades: Third
Attendance Dates: 1/31/2011 to Present

- Dulce Herrera

School: Linn Elementary School
Grades: First to Fourth
Attendance Dates: 8/16/2006 to Present

- Gisella Herrera

School: Comanche Intermediate Center
Grades: Sixth
Attendance Dates: 8/16/2006 to 5/24/2007

School: Dodge City Middle School
Grades: Seventh to Tenth
Attendance Dates: 8/16/2007 to Present

- Karol Herrera

School: Bright Beginnings Early Childhood Center
Grades: Pre-K
Attendance Dates: 9/14/2009 to 5/25/2010

School: Linn Elementary School
Grades: Kindergarten
Attendance Dates: 8/19/2010 to Present

- Miquela Shotgunn

School: Linn Elementary School

Grades: Second and Fourth

Attendance Dates: 8/14/2007 to 5/22/2008; 10/21/2009 to 5/26/2010

School: Ross Elementary School

Grades: Third

Attendance Dates: 8/14/2008 to 5/21/2009

School: Soule Intermediate Center

Grades: Fifth

Attendance Dates: 8/10/2010 to Present

- Alexi Treto

School: Northwest Elementary School

Grades: Kindergarten to Fourth

Attendance Dates: 8/14/2003 to 5/22/2008

School: Soule Intermediate Center

Grades: Fifth to Sixth

Attendance Dates: 8/12/2008 to 5/25/2010

School: Dodge City Middle School

Grades: Seventh

Attendance Dates: 8/19/2010 to Present

- Ted Bynum

School: White Church Elementary School

Grades: Pre-K to Fifth

Attendance Dates: 8/2003-5/2010

School: D.D. Eisenhower Middle School

Grades: Sixth

Attendance Dates: 8/2010

School: Arrowhead Middle School

Grades: Sixth

Attendance Dates: 8/2010-5/2011

- Breianna Crosby

School: Morse Early Childhood

Grades: Pre-Kindergarten

Attendance Dates: 8/2002-5/2003

School: Frank Rushton Elementary School
Grades: Kindergarten to Fifth
Attendance Dates: 8/2003-5/2009

School: West Middle School
Grades: Sixth
Attendance Dates: 8/2009

School: D.D. Eisenhower Middle School
Grades: Sixth to Seventh
Attendance Dates: 8/2009-5/2011

- George Mendez

School: Morse Early Childhood
Grades: Pre-K
Attendance Dates: 11/2004-5/2007

School: Frank Rushton Elementary School
Grades: Kindergarten to Third
Attendance Dates: 8/2007-5/2001

- Amalia Murguia

School: Emerson Elementary School
Grades: Kindergarten to Fifth
Attendance Dates: 8/2004-5/2010

School: Argentine Middle School
Grades: Sixth
Attendance Dates: 8/2010-5/2011

- Natalie Walton

School: Bertram Caruthers Sr. Elementary School
Grades: Kindergarten to Fifth
Attendance Dates: 8/2001-5/2007

School: Northwest Middle School
Grades: Sixth
Attendance Dates: 8/2007

School: Central Middle School
Grades: Sixth to Eighth
Attendance Dates: 8/2007-5/2009

School: Wyandotte High School
Grades: Ninth
Attendance Dates: 8/2010-5/2011

SUPPLEMENTAL ANSWER:

- Colten Oakman

School: Gardiner Elementary School
Grades: Kindergarten to First
Attendance Dates: 8/2001-2002

School: Hyde Elementary Magnet
Grades: First to Third
Attendance Dates: 2002-5/2005

School: Woodman Elementary School
Grades: Fourth to Fifth
Attendance Dates: 8/2005-5/2007

School: Truesdall Middle School
Grades: Sixth to Eighth
Attendance Dates: 8/2007-5/2010

School: South High School
Grades: Ninth
Attendance Dates: 8/2010-5/2011

- Jett Burgess

School: Benton Elementary School
Grades: Kindergarten to First
Attendance Dates: 8/2009-5/2011

- Jada Burgess

School: Benton Elementary School
Grades: Kindergarten to Fourth
Attendance Dates: 8/2007-5/2011

- Brady Seeber

School: Enterprise Elementary School
Grades: Kindergarten to First
Attendance Dates: 8/2009-5/2011

- Alexis Seeber

School: Enterprise Elementary School
 Grades: Kindergarten to Fifth
 Attendance Dates: 8/2005-5/2011
- Olivia Kennedy

School: Cessna Elementary School
 Grades: Kindergarten to Second
 Attendance Dates: 8/2008-5/2011
- Luke Gannon

School: Gammon Elementary School
 Grades: Kindergarten to Fifth
 Attendance Dates: 8/2002-5/2008

School: Stucky Middle School
 Grades: Sixth to Eighth
 Attendance Dates: 8/2008-5/2011
- Andrew Gannon

School: Gammon Elementary School
 Grades: Kindergarten to Fifth
 Attendance Dates: 8/1998-5/2004

School: Stucky Middle School
 Grades: Sixth to Eighth
 Attendance Dates: 8/2004-5/2007

School: Heights High School
 Grades: Ninth to Twelfth
 Attendance Dates: 8/2007-5/2011
- Grace Gannon

School: Gammon Elementary School
 Grades: Kindergarten to Second
 Attendance Dates: 8/2005-5/2008

School: Enterprise Elementary
 Grades: Third to Fifth
 Attendance Dates: 8/2008-5/2011

- Cameron Pint

School: Woodman Elementary School
Grades: Kindergarten to Fifth
Attendance Dates: 8/2005-5/2011

INTERROGATORY NO. 3: For each Student Plaintiff, is or has he/she been part of the following categories: “pre-school at-risk pupil,” “preschool aged exceptional children”, “at-risk pupil,” “nonproficient student,” student in “approved vocational education program,” student in “program of bilingual education,” “special education” student, “military pupil,” student in education program receiving “program weighting”? If so, separately for each such Student Plaintiff list the category or categories which apply to the student and the corresponding dates the student was part of the category or categories.

ANSWER:

Objection. This discovery request is overly broad, irrelevant to the subject matter of this litigation, and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of students of Plaintiff USD 259. The following information is deemed confidential and is disclosed pursuant to the Protective Order, agreed to by the parties and signed by Judge Theis on May 18, 2011 in this case:

- Levi Cain
At-Risk: 2005-11
Non-Proficient Student: 2008-09, 2010-11
- Jeremy Cox
Special Education: 2002-2011
At-Risk: 2002-2011
Non-Proficient Student: 2004-2006, 2009-2010
- Alec Eldredge
Special Education: 2009-2011

At-Risk: 2009-2011

- Joseph Holmes
Special Education: 2002-2011
At-Risk: 2002-2011
Non-Proficient Student: 2004-08, 2009-10
- Lily Newton
Special Education: 2008-2011
At-Risk: 2008-2011
- Alexander Owen
Special Education: 2008-2009
- Mike Rank
Special Education: 2007-11
Non-Proficient Student: 2009-11
- Quantez Walker
Pre-School At-Risk: 8/2007-5-2008
- Marixsa Alvarez
Pre-School At-Risk: 1/4/1998-5/25/2001
Pre-School Special Education: 1/4/1998-Present
Special Education: 1/4/1998-Present
- Priscilla Del Real
Pre-School At-Risk: 8/14/2003-5/27-2004
At-Risk Pupil: 7/30/2007-Present
Non-Proficient Student: 2007-Present
Bilingual Education: 8/14/2003-5/27/2004
- Valeria Del Real
Pre-School At-Risk: 8/14/2003-5/26/2005
At-Risk Pupil: 7/30/2007-Present
Non-Proficient Student: 2009-Present
Bilingual Education: 8/21/06-Present
- Tonatiuh Figueroa
Bilingual Education: 9/13/2007-Present
Special Education: 11/7/2006-Present
- Dulce Herrera
At-Risk Pupil: 8/2/2007-Present
Non-Proficient Student: 2009-10
Bilingual Education: 8/21/2006-Present

- Gisella Herrera
At-Risk Pupil: 8/2/2007-Present
Non-Proficient Student: 2006-Present
Bilingual Education: 8/16/2006-4/29/2008
- Karol Herrera
Pre-School At-Risk: 9/14/2009-5/25/2010
At-Risk Pupil: 9/15/2009-Present
Bilingual Education: 9/16/2009-Present
- Miquela Shotgun
At-Risk Pupil: 9/15/2009-Present
Non-Proficient Student: 2010
Special Education: 9/18/2006-Present
- Alexi Treto
At-Risk Pupil: 8/8/2007-Present
Non-Proficient Student: 2009-Present
Bilingual Education: 8/28/2003-Present
Special Education: 10/6/2005-Present

SUPPLEMENTAL ANSWER:

- Colten Oakman
Pre-School At Risk Pupil: 8/2000-5/2001
- Brady Seeber
Pre-School At Risk Pupil: 8/2008-5/2009
At Risk Pupil

INTERROGATORY NO. 4:

Separately for each Student Plaintiff, if you denied the request for admission contemporaneously served with these interrogatories,

- a. List each weighting factor that you contend violates such student's rights under the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. See Interrogatory No. 1 in Defendant's First Interrogatories to All Plaintiffs and Plaintiffs' response to same. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 5:

For each Student Plaintiff, if the student or his/her representatives contend components of the State's current funding formula independently or in combination with under-appropriation of money to fund the formula has or will deny such student's right to equal protection under the Fourteenth Amendment of the United State Constitution (See Petition, ¶ 98),

- a. Describe the material facts that support your position, including but not limited to the invidious classifications created by the State;
- b. Identify the person or persons who have personal knowledge of such facts; and

c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded. *See* Interrogatory No. 2 in Defendant's First Interrogatories to All Plaintiffs. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 6:

For each Student Plaintiff, if the student or his/her representatives contend the State's current funding formula or appropriations for Kansas K-12 public education have or will disparately impact him/her so as to deny such student's right to equal protection under the Fourteenth Amendment of the United State Constitution (See Petition, ¶ 98),

a. State the category of person(s) discriminated against of which the student is a member;

b. Describe the material facts, if any, that support the differing treatment of person(s) in the category stated in your answer to subpart “a” was the predominant, motivating factor in State’s funding formula or appropriations;

c. Identify the person or persons who have personal knowledge of such facts; and

d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. *See* Interrogatory No. 2 in Defendant’s First Interrogatories to All Plaintiffs and Plaintiffs’ response to same. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 7:

For each Student Plaintiff, if the student or his/her representatives contend such student is or was a victim of or is negatively impacted by an achievement gap between white students and other students (See Petition, ¶¶ 71 a-f),

- a. State the category of person of which the student is a member;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. *See* Interrogatory Nos. 13 and 14 in Defendant's First Interrogatories to All Plaintiffs and Plaintiffs' response to same. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations

omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 8:

Separately for each Student Plaintiff,

a. Describe each program, policy, practice, service or benefit applicable of a Plaintiff School District that applied or was provided to such student which was cut, discontinued, reduced or otherwise negatively impacted by lack in funding for the fiscal years 2009-10, 2010-11, 2011-12;

b. Describe the material facts that support your position;

c. Identify the person or persons who have personal knowledge of such facts; and

d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

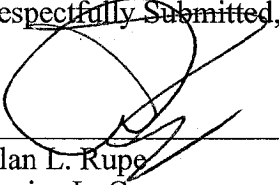
Objection. This discovery request has been previously propounded and, subject to and without waiving their objections to both interrogatories, Plaintiffs have already complied with their duty to provide the material and principal facts supporting their contentions. *See* Interrogatory No. 4 in Defendant's First Interrogatories to All Plaintiffs and Plaintiffs' response to same. Continuous discovery into the same matter constitutes oppression, and Plaintiffs further object on that ground. Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal

facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase "program, policy, practice, service or benefit."

Dated this 9th day of September, 2011.

Respectfully Submitted,



Alan L. Rupe #08914
Jessica L. Garner #24178
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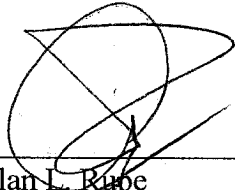
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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September, 2011, a true and correct copy of the above and foregoing was sent by first class mail and facsimile to the following:

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