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Protective Order 07-2-02323-2-36

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FILED ✓
KING COUNTY WASHINGTON

JUL 09 2007

SUPERIOR COURT CLERK
BARBARA WINTER
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

MATHEW & STEPHANIE MCCLEARY, on their own
behalf and on behalf of KELSEY & CARTER
MCCLEARY; ROBERT & PATTY VENEMA, on their own
behalf and on behalf of HALIE & ROBBIE VENEMA;
and NETWORK FOR EXCELLENCE IN WASHINGTON
SCHOOLS ("NEWS"),

Petitioners,

v.

STATE OF WASHINGTON,

Respondent.

Honorable Paris K. Kallas

*Hearing Date (without oral
argument): July 3, 2007*

No. 07-2-02323-2 SEA

~~[Proposed]~~
PROTECTIVE ORDER

PKK

THIS MATTER came before this Court on Petitioners' Motion For A Protective Order. This Court has considered the pleadings and files in this case, including that Motion, the Certificate Of Compliance Concerning Discovery Conferences, the Respondent State's opposition papers, and the Petitioners' reply papers.

Having reviewed the above, this Court hereby ORDERS, ~~ADJUDGES, and DECREES~~ that Petitioners' Motion For A Protective Order is GRANTED as follows:

1. ~~The Civil Rules do not entitle the State to impose upon Petitioners the burden and expense of searching for, reviewing, and producing documents on an issue not material to the pending summary judgment motion that will (if granted) put an end to this trial court proceeding – in this instance, documents concerning the funding that the State should appropriate to comply with this Court's yet-to-be-issued interpretation of the scope of the education that Article IX, §1 requires the State to provide to all Washington children. [Alternative language:~~

[PROPOSED] PROTECTIVE ORDER - 1

FOSTER PEPPER PLLC
1111 THIRD AVENUE, SUITE 3400
SEATTLE, WASHINGTON 98101-3299 ♦ 206-447-4400

1 Discovery concerning the funding that the State should appropriate to comply
2 with this Court's interpretation of the scope of the education that Article IX, §1
3 requires the State to provide to all Washington children is stayed until after this
4 Court issues its legal ruling establishing the scope of the State's duty under
5 Article IX, §1 and the State determines the funding that the State believes will
6 comply with that duty. ★

- 7 2. ~~The Civil Rules do not entitle the State to discovery that reveals opposing~~
8 ~~counsel's work product, mental impressions, and theories about this case - e.g.,~~
9 ~~discovery that reveals which of the State's documents Petitioners' counsel does~~
10 ~~(and does not) select or compile into subsets as helpful to, harmful to, or~~
11 ~~otherwise relevant to counsel's litigation of this suit. As allowed by Rule 34(b),~~

12 Petitioners can (at the State's expense) provide a copy of the full set of the
13 State's documents as they were made available to the Petitioners by the State in
14 lieu of isolating specifically selected documents or subsets of those State
15 documents.

- 16 3. ~~The Civil Rules do not entitle the State to force Petitioners' attorneys to search~~
17 ~~through the periodicals, internet webpages & emails, articles, and other materials~~
18 ~~they routinely receive as part of their general legal practice to find materials that~~
19 ~~relate to the topics the State is interested in researching for this case. The~~
20 ~~Petitioners' attorneys accordingly do not have to search through those materials~~
21 ~~to find materials that relate to the topics about which the State has requested.~~

22 ~~DONE IN OPEN COURT~~ this 9 day of July, 2007.

Dated

Paris K Kallas

The Honorable Paris K. Kallas
Washington Superior Court Judge

1 Presented by:
2 FOSTER PEPPER PLLC

3 ~~_____

_____~~
4 Thomas F. Ahearn, WSBA No. 14844
5 Edmund W. Robb, WSBA No 35948
6 Attorneys for the Petitioners

7 Approved as to form and for entry;
8 Notice of presentation waived:
9 OFFICE OF THE WASHINGTON ATTORNEY GENERAL
10 ROBERT M. MCKENNA

11 _____
12 William G. Clark, WSBA No. 9234
13 David S. Stolier, WSBA No. 24071
14 Jon P. Ferguson, WSBA No. 5619
15 Dierk Meierbachtol, WSBA No. 31010
16 Attorneys for the Respondent State

17 * Following this court's Ruling on the
18 pending summary judgment motion,
19 the court will conduct a Rule 16
20 conference to address the case schedule,
21 until then, the existing case
22 schedule remains in place.

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