

8-24-2007

## Order Denying Summary Judgment Concerning Legal Interpretation 07-2-02323-2-49

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**FILED**  
KING COUNTY WASHINGTON

AUG 24 2007

SUPERIOR COURT CLERK  
BARBARA WINTER  
DEPUTY

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

*Honorable Paris K. Kallas*

*Hearing Date:*  
*9:00 a.m., August 24, 2007*

No. 07-2-02323-2 SEA

*PKK*  
~~PROPOSED~~ DENYING *wgc* *FFA*  
ORDER GRANTING SUMMARY  
JUDGMENT CONCERNING  
LEGAL INTERPRETATION

*Clerk's Action Required*

MATHEW & STEPHANIE MCCLEARY, on their own  
behalf and on behalf of KELSEY & CARTER  
MCCLEARY, their two children in Washington's  
public schools; ROBERT & PATTY VENEMA, on their  
own behalf and on behalf of HALIE & ROBBIE  
VENEMA, their two children in Washington's public  
schools; and NETWORK FOR EXCELLENCE IN  
WASHINGTON SCHOOLS ("NEWS"), a state-wide  
coalition of community groups, public school  
districts, and education organizations,

Petitioners,

v.

STATE OF WASHINGTON,

Respondent.

THIS MATTER came before this Court on Petitioners' Motion For Summary Judgment Concerning Legal Interpretation, which was fully briefed by the parties and then argued on Friday, August 24, 2007. This Court has considered the pleadings and files in this case, including:

1. The Petitioners' Motion For Summary Judgment Concerning Legal Interpretation;
2. The May 4, 2007 Declaration Of Ramsey Ramerman Authenticating Documents and exhibits thereto;

ORDER GRANTING SUMMARY JUDGMENT CONCERNING LEGAL  
INTERPRETATION - 1

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1111 THIRD AVENUE, SUITE 3400  
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1           3.     The May 4, 2007 Declaration Of Edmund Robb Authenticating State's Cost  
2 Calculation Discovery Responses and exhibits thereto;

3           4.     Errata Sheet to the Declaration of Edmund Robb Authenticating State's Cost  
4 Calculation Discovery Responses;

5           5.     The Respondent's Opposition To Motion For Summary Judgment On Liability  
6 And Remedy (Corrected);

7           6.     The Respondent's Opposition To Motion For Summary Judgment On Liability  
8 And Remedy—Errata Page on Corrected Opposition Brief;

9           7.     The Declaration of William G. Clark In Opposition to Summary Judgment;

10          8.     The Supplemental Declaration of William G. Clark In Opposition to Summary  
11 Judgment Motion On CR 56(f) Grounds;

12          9.     The Declaration of Julie Salvi In Opposition To Motion For Summary Judgment;

13          10.    The Declaration of Eric A. Hanushek In Opposition To Motion For Summary  
14 Judgment;

15          11.    The Short Reply In Support Of Motion For Summary Judgment Concerning  
16 Legal Interpretation;

17          12.    The Reply Declaration Of Edmund Robb Regarding Documents To Which The  
18 State Has Objected;

19          13.    The Declaration Submitting All Excerpts From Bergeson Deposition Relied On  
20 By Any Party;

21          14.    The Reply Declaration Of Alice M. Ostdiek Authenticating Documents In Reply  
22 To State's Opposition;

23          15.    Respondent's Supplemental Opposition to Motion for Summary Judgment on  
24 Liability & Remedy;

25          16.    Third Declaration of William G. Clark in Opposition to Motion for Summary  
26 Judgment;

ORDER GRANTING SUMMARY JUDGMENT CONCERNING LEGAL  
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BEST AVAILABLE IMAGE POSSIBLE

- 1 17. Supplemental Declaration of Julie Salvi in Opposition to Motion for Summary  
2 Judgment;  
3 18. Declaration of Joseph Willhoft in Opposition to Motion for Summary Judgment;  
4 19. Petitioners' Closing Brief;  
5 20. Supplemental Declaration of Edmund W. Robb Authenticating Multi-Year State  
6 Data; and  
7 21. August 24, 2007 Hearing Documents.

8 Having reviewed the materials submitted by the parties; having heard from the parties,  
9 and the Court being fully informed,

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

11 1. Petitioners' Motion For Summary Judgment Concerning Legal Interpretation is  
12 ~~GRANTED.~~ DENIED.

13 ~~2. The words "paramount", "ample", and "all" in Article IX, §1 of the Washington  
14 State Constitution have their common English meaning.~~

15 (a) Given the plain English meaning of the word "paramount", Article IX, §1  
16 requires the Respondent State to make ample provision for the education of all  
17 Washington children its first and highest priority above all other programs and  
18 operations.

19 (b) Given the plain English meaning of the word "ample", Article IX, §1  
20 requires the amount of the Respondent State's funding to be more than merely  
21 adequate or sufficient to provide for the education of all Washington's children.  
22 Article IX, §1 requires the Respondent State's funding amount to be ample  
23 without needing supplementation or backfilling by local levies, PTA fundraisers,  
24 participation fees, private donations, or other non-State funds.

25 (c) Given the plain English meaning of the word "all", Article IX, §1  
26 requires the Respondent State's above education funding to amply provide for

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1 the education of every child residing within our State's borders – not just the  
2 convenient, popular, or advantaged subsets of our State's children.

3 3. The basic "education" mandated by Article IX, §1 is currently defined by the  
4 substantive content specified in the four numbered provisions of §.210 of the  
5 Basic Education Act (RCW 28A.150.210) and the State's corresponding  
6 Essential Academic Learning Requirements.

7 4. The Respondent State is not currently complying with its Constitutional duty  
8 under the above legal interpretation of Article IX, §1 of the Washington State  
9 Constitution.

10 5. To halt that lack of compliance, the Respondent State must promptly determine  
11 (1) the actual dollar cost of providing all children residing in our State with the  
12 education mandated by this Court's legal interpretation of Article IX, §1, and  
13 (2) how the State will fully fund that actual cost with stable and dependable State  
14 sources. The Respondent State must make those two determinations within one  
15 year of this Order's entry.

16 \* DONE IN OPEN COURT this 24 day of August, 2007.

18 *Paris K. Kallas*

19 The Honorable Paris K. Kallas  
20 Washington Superior Court Judge

21 Presented by:  
22 FOSTER PEPPER PLLC

23 *[Signature]*

24 Thomas F. Ahearne, WSBA No. 14844  
25 Ramsey Ramerman, WSBA No. 30423  
26 Alice M. Ostdiek, WSBA No. 31490  
Edmund W. Robb, WSBA No 35948  
Attorneys for the Petitioners

ORDER GRANTING SUMMARY JUDGMENT CONCERNING LEGAL  
INTERPRETATION - 4

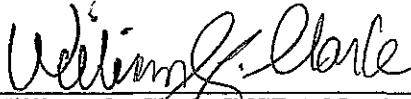
\* 2. State's motion to strike the newspaper articles is granted;  
3. Petitioners' motion to strike the legal conclusions in the state witnesses' declarations is granted  
4. All other motions to strike are denied.

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

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1 Approved as to form and for entry;  
Notice of presentation waived:  
2 OFFICE OF THE WASHINGTON ATTORNEY GENERAL  
ROBERT M. MCKENNA

3 

4 \_\_\_\_\_  
William G. Clark, WSBA No. 9234  
5 David S. Stoler, WSBA No. 24071  
Jon P. Ferguson, WSBA No. 5619  
6 Dierk Meierbachtol, WSBA No. 31010  
Attorneys for the Respondent State

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ORDER GRANTING SUMMARY JUDGMENT CONCERNING LEGAL  
INTERPRETATION - 5

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