

**FILED**

**MAR 19 2015**

**IN THE SUPREME COURT OF THE STATE OF KANSAS**

HEATHER L. SMITH  
CLERK OF APPELLATE COURTS

**15-113267-S**

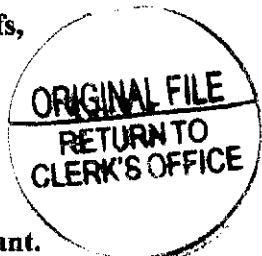
**LUKE GANNON,**  
By his next friends and guardians, *et al.*,

Appellees/Plaintiffs,

v.

STATE OF KANSAS,

Appellant/Defendant.



County Appealed From: Shawnee

District Court Case No.: 10-C-1569

**MOTION TO STRIKE STATE'S SUPPLEMENTAL DOCKETING STATEMENT**

Plaintiffs respectfully request that this Court strike the State's Supplemental Docketing Statement, filed with the Kansas Supreme Court on March 18, 2015, for the following reasons:

1. The State filed a Notice of Appeal with this Panel on January 28, 2015 with regard to the issue of adequacy. It then docketed that appeal on February 18, 2015. *See* March 5, 2015 Order by Kansas Supreme Court.

2. The Kansas Supreme Court remanded the appeal to the Panel for resolution of all pending post-trial motions, including the State's January 23, 2015 Motion to Alter and Amend the Panel's December 30 Order (with regard to adequacy) and the Plaintiff's January 27, 2015 Motion to Alter or Amend the Panel's December 30 Order (with regard to equity). *Id.* at p.2 ("This matter is remanded to the district court for resolution of all pending post-trial motions, including the State's January 23 motion . . . and the Plaintiffs' January 27 motion . . .").

3. On March 11, 2015, the Panel issued a Memorandum Decision and Order ("March 11 Order") denying the State's Motion to Alter or Amend the Panel's December 30 Order (with regard to adequacy). That Order is attached to the State's supplemental docketing statement.

4. In the Panel's March 11 Order, it did not resolve the Plaintiff's January 27, 2015 Motion to Alter or Amend the Panel's December 30 Order (with regard to equity).

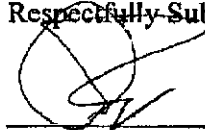
5. Instead, the Panel issued an Order regarding Plaintiff's January 27, 2015 Motion to Alter or Amend the Panel's December 30 Order on March 13, 2015 ("March 13 Order") (attached hereto as Exhibit A). In the March 13 Order, the Panel scheduled a hearing on Plaintiff's equity motion to take place on May 7, 2015. *Id.*

6. Because all pending post-trial motions have not been resolved, this matter should remain before the Panel for resolution, as set forth in the Kansas Supreme Court's March 5, 2015 Order.

WHEREFORE, Plaintiffs respectfully request the Panel strike the State's Supplemental Docketing Statement, filed with the Kansas Supreme Court on March 18, 2015.

Dated this 19th day of March, 2015.

Respectfully Submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 19th day of March, 2015, a true and correct copy of the above and foregoing was sent by first-class mail to the following:

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Stephen R. McAllister  
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*Attorneys for Defendant*

Additionally, the above and foregoing was sent by first-class mail to the following:

Honorable Franklin R. Theis  
Shawnee County District Court  
200 S.E. 7th Street, Room 324  
Topeka, KS 66603

Honorable Robert J. Fleming  
Labette County District Court  
201 South Central Street  
Parsons, KS 67357

Honorable Jack L. Burr  
Sherman County District Court  
813 Broadway, Room 201  
Goodland, KS 67735



Alan E. Rupe

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KS. DISTRICT COURT  
THIRD JUDICIAL DIST.  
TOPEKA, KS

2015 MAR 13 A 10:32

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS,  
IN THE MATTER OF PROCEEDINGS BEFORE THE  
THREE-JUDGE PANEL APPOINTED PURSUANT TO  
K.S.A. 72-64b03 *IN RE* SCHOOL FINANCE  
LITIGATION, to-wit:

LUKE GANNON, By his next	)	
friends and guardians, <i>et al</i> ,	)	
	)	Case No. 2010CV1569
Plaintiffs,	)	
vs.	)	
	)	
STATE OF KANSAS,	)	
	)	
Defendant.	)	
_____	)	

**ORDER**

The Plaintiffs' *Motion to Alter Judgment Regarding Panel's Previous Judgment Regarding Equity* is set for hearing beginning May 7, 2015, at 10:30 a.m.

If evidentiary matters are intended to be presented, either testimony, exhibits or both, they should be disclosed no later than April 1, 2015. The substance of any testimony shall be disclosed and the



purpose of any exhibit not otherwise clearly apparent shall be proffered. Limited discovery, if necessary, will be permitted and subject to the Court's control and oversight. Discovery response times and notices are reduced to ten days. All discovery will be initiated no later than April 3, 2015, and ended by May 1, 2015. Agreements and stipulations are encouraged. Unless otherwise ordered, all briefings shall be simultaneously due May 5, 2015. A pre-hearing conference may be conducted, as will subsequently be determined or set by the Court, based on the submissions. The Court reserves the power to restrict and limit the issues to be considered at the hearing as well as the form and extent of any evidence proffered to be heard or considered.

USD 512's motion to intervene is sustained presently only for the limited purpose of participation in the pre-hearing structure above noted. Otherwise, any response to USD 512's motion to intervene in the case forward shall be filed no later than March 20,

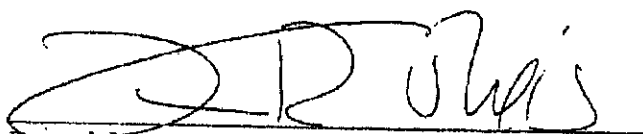
2015, with any reply within five days hence. Any further ruling on such motion will be by separate order.

Further, be advised that upon motion of the Plaintiffs or the State or upon the Court's own motion, with or without notice, the Court may agree or elect to impose such temporary orders to protect the status quo and to assure the availability of relief, if any, that might be accorded should the Court deem relief warranted.

Accordingly, to provide for such contingency or for the enforcement of any orders that might subsequently ensue after the hearing held, counsel for the Plaintiffs are directed to join and serve as additional Defendants the Kansas Director of Accounts and Reports, the Kansas Revisor of Statutes, the Kansas Secretary of State, and the Kansas State Treasurer as contingently necessary parties forthwith. Such joinder shall be accomplished in both their official capacity and

individually. No answer shall be required of such  
joined Defendants.

IT IS SO ORDERED, this 13<sup>th</sup> day of March, 2015.



Franklin R. Theis  
Judge of the District Court  
For the Panel

- cc: Alan Rupe
- Jessica L. Skladzien
- John S. Robb
- Arthur Chalmers
- Gaye B. Tibbets
- Jerry D. Hawkins
- Rachel E. Lomas
- Stephen R. McAllister
- Jeffrey A. Chanay
- M.J. Willoughby
- Derek Schmidt
- Zach Chaffee-McClure
- Tristan L. Duncan