

**IN THE SUPREME COURT OF OHIO**

<b>DALE R. DEROLPH, et al.,</b>	:	
	:	<b>Case No. 99-0428</b>
	:	
<b>Plaintiffs,</b>	:	<b>Related Case No. 95-2066</b>
	:	
<b>v.</b>	:	<b>Appeal from the Common Pleas</b>
	:	<b>Court of Perry County, Ohio,</b>
<b>STATE OF OHIO, et al.</b>	:	<b>Case No. 22043 as Remanded By</b>
	:	<b>The Ohio Supreme Court,</b>
	:	<b>Case No. 95-2066</b>
<b>Defendants.</b>	:	

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**PLAINTIFFS' FIRST SET OF POST-*DEROLPH II*  
INTERROGATORIES TO DEFENDANTS-APPELLANTS**

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Nicholas A. Pittner (0023159)  
*Counsel of Record*  
John F. Birath, Jr. (0022024)  
Sue W. Yount (0034514)  
Quintin F. Lindsmith (0018327)  
Susan B. Greenberger (0010154)  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, OH 43215  
Telephone: (614) 227-2300  
Telefax: (614) 227-2390  
  
Counsel for Appellees

BETTY D. MONTGOMERY  
ATTORNEY GENERAL OF OHIO  
  
Mary Lynn Readey (0038591)  
*Counsel of Record*  
Roger F. Carroll (0023142)  
James G. Tassie (0065184)  
Assistant Attorneys General  
30 East Broad Street, 15th Floor  
Columbus, OH 43215-3428  
Telephone: (614) 644-7250  
Telefax: (614) 644-7634  
  
Counsel for Appellants

Plaintiffs, Dale R. DeRolph, et al., (“Plaintiffs”), pursuant to Civil Rule 33 propound the following Interrogatories upon Defendants, State of Ohio, et al. (“Defendants”), to be answered separately and fully in writing, under oath, within twenty-eight (28) days of the service hereof. It is requested that the responses be served upon counsel for Plaintiffs at the offices of Nicholas A. Pittner, Bricker & Eckler, LLP, 100 South Third Street, Columbus, Ohio 43215-4291.

### **DEFINITIONS**

1. The terms “you” and “your,” when used herein, refers to Defendants, and each respective party submitting answers to these discovery requests.
2. The term “person,” when used herein, means an individual, corporation, partnership or association, or any other business or governmental entity.
3. The term “document(s),” refers to all writings of any kind, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise, including, without limitation, correspondence, memoranda, notes or notations, diaries, statistics, letters, materials, invoices, orders, directives, interviews, telegrams, reports, studies, statements, transcripts, checks and canceled checks, summaries, pamphlets, books, interoffice and intraoffice communications, notations and minutes of telephone or any sort of conversations or conferences, or of directors’ meetings, or of committee meetings, or of other meetings, periodicals, requisitions, resolutions, certificates, opinions, analyses, projections, evaluations, contracts,

licenses, agreements, ledgers, books or records of account, desk calendars, appointment books, lists, tabulations, bulletins, printed matter, teletype, telefax, worksheets, and all drafts, alterations, modifications, changes and amendments of any of the foregoing, graphic or aural recording or representations of any kind, including, without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, records, motion pictures, and electronic, mechanical or electrical recordings or representations of any kind, including, without limitation, tapes, cassettes, cartridges, discs, chips and records.

4. The term “identify,” when used herein, has the following meanings:

A. When used in reference to an individual, it means to state the person’s (a) full name; (b) present business address, or, if unavailable, last known home address; and (c) business or governmental affiliation or job title or, if unavailable, the last known business or governmental affiliation and job description.

B. When used in reference to any person other than an individual, it means to state the person’s (a) full name and dba, if any; and (b) present address or, if unavailable, last known address;

C. When used in reference to corporate or other business entities, it means to state (a) the name of the corporation or business entity; (b) the date and place(s) of incorporation; (c) the principal place(s) of business; (d) all locations where it is licensed or authorized to do business; and (e) all of its present business addresses.

D. When used in reference to communications, it means to describe the statements and communications by (a) stating the date and place where they were made; (b) identifying each of the makers and recipients thereof, in addition to all persons present; and (c) indicating the medium of communication. Note: When identifying the date of an oral statement or communication, the precise date must be given. If only an approximate date is given, it will be presumed that you have no recall or specific knowledge as to the exact date.

E. When used in reference to a document or documentary evidence, it means to state the type of document (e.g., letter, memorandum, telegraph, chart), its author and originator, its date or dates, all addresses and recipients, its present location or custodian, the topics dealt with therein, with such reasonable particularity as is sufficient for a specific demand for production and any identifying marks, numerals, code words or letters distinguishing it from other similar documents. If any such document was but no longer is in your possession or subject to your custody or control, state what disposition was made of it. Documents to be identified shall include all those documents in your possession, custody or control and all of the documents of which you have knowledge, all documents available to you, and all documents that you could obtain from your employees, agents, representatives, sureties, or indemnitors.

5. The term “concerning” includes referring to, relating to, embodying, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, or constituting.

6. The term “including” means including, but not limited to.
7. The term “*DeRolph II*” means the decision of the Ohio Supreme Court issued May 11, 2000, in the case of *DeRolph v. State* (2000), 89 Ohio St.3d 1.
8. The term “Unfunded Mandates” means those unfunded mandates referenced and described in *DeRolph II* and as particularly referenced in paragraph (5) in the Conclusion of *DeRolph II* (*Id.* at 37) and in the discussion of unfunded mandates in *DeRolph II* (*Id.* at 31-35).
9. The “State” means the government of the State of Ohio and all of its departments, divisions, and agencies.
10. Terms in the plural include the singular and terms in the singular include the plural.
11. Except as otherwise noted, the period of time covered by each specification herein is to date.
12. The word “or” is not exclusive.
13. Terms referring to a gender include all genders.
14. The use of the past tense in any interrogatory shall include the present tense, and vice versa.
15. No statement or inference contained in any interrogatory herein shall constitute a representation or admission of any fact or condition.

### **INSTRUCTIONS**

1. The space for your answer following each interrogatory is furnished in compliance with Civil Rule 33 and is not intended to limit your response in any way

or to suggest the length of the answer that is desired. Full and complete answers are requested. If you require additional space to complete any answer, use continuation sheets and attach them at the end of these interrogatories and indicate on the continuation sheets the number of the interrogatory that you are answering.

2. If you refuse to answer any interrogatory, in whole or in part, describe the basis for your refusal to answer, including any claim of privilege, in sufficient detail so as to permit the court to adjudicate the validity of your refusal, and identify each document and oral communication for which privilege is claimed.

3. You are under a continuing duty to seasonably supplement your responses to these Interrogatories, pursuant to Civil Rule 33, including responses to any questions directly addressed to the identity and location of persons having knowledge of discoverable matters, the identity of each person, if any, expected to be called as a witness at trial, the identity of each person, if any, expected to be called as an expert witness at the trial and the subject matter on which he or she is expected to testify, and the substance of the expert's testimony, and the identity and location of documents relating to the subject matter of the instant lawsuit.

Furthermore, Plaintiff is under a similar duty to amend any prior responses immediately upon obtaining information that the original response was incorrect when made, or that the original response, though correct when made, is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

4. All responses and objections to discovery requests must be signed in accordance with Civil Rule 33.

[END OF INSTRUCTIONS]

**INTERROGATORIES**

1. Please identify all individuals who provided information used to form the responses to these interrogatories.

**ANSWER:**

2. Please identify all documents which in any way reveal or identify any efforts taken by the State to comply with the Ohio Supreme Court's order in *DeRolph II* that "the unfunded mandates in H.B. 412 and S.B. 55,..., must be addressed and immediately funded."

**ANSWER:**

3. Please describe in detail all efforts the State has undertaken to quantify the dollar amount of the Unfunded Mandates.

**ANSWER:**

4. In 1997, the Ohio Legislative Budget Office published a fiscal note and local impact statement concerning Senate Bill 55, marked in this lawsuit as Brunson Deposition Exhibit 5 (the “Senate Bill 55 Local Impact Statement”). Please describe any studies, analyses, or data gathering performed by the State after the issuance of the Senate Bill 55 Local Impact Statement that would identify or reveal any more accurate or more current conclusions as to the amount of funds the Unfunded Mandates of S.B. 55 have required Ohio school districts to expend in the fiscal years ending June 30, 1999, June 30, 2000, and June 30, 2001.

**ANSWER:**

5. In 1997, the Ohio Legislative Budget Office issued a fiscal note and local impact statement relating to House Bill 412, marked in this lawsuit as Brunson Deposition Exhibit 4 (the “House Bill 412 Local Impact Statement”). Please describe any studies, analyses, or data gathering performed by the State after the issuance of the House Bill 412 Local Impact Statement that would identify or reveal any more accurate or more current conclusions as to the amount of funds

the Unfunded Mandates of House Bill 412 have required Ohio school districts to expend in the fiscal years ending June 30, 1999, June 30, 2000, and June 30, 2001.

**ANSWER:**

6. Does the State intend to comply with the Court's order in *DeRolph II* that "The unfunded mandates in H.B. 412 and S.B. 55... must be... immediately funded."?

**ANSWER:**

(a) If so, please describe in detail how the State intends to comply with this order.

**ANSWER:**

(b) If so, please state the date by when the State intends to comply with this order.

**ANSWER:**

7. Has the State determined how many dollars Ohio's school districts are required to expend or set aside solely as a result of the enactment of Ohio Revised Code Section 3315.17(A) and as required by Ohio Administrative Code Section 117-2-23(A) (the "Textbook and Instructional Materials Set Aside")?

**ANSWER:**

- (a) If so, please describe in detail:
  - (i) when the most recent determination was made;
  - (ii) the methodology used to make such a determination;
  - (iii) the sources of information relied upon to make such a determination;
  - (iv) the determination of the total statewide amount required to be expended or set aside for the fiscal year ending June 30, 1999;
  - (v) the determination of the total statewide amount required to be expended or set aside for the fiscal year ending June 30, 2000;
  - (vi) the determination of the total statewide amount required to be expended or set aside for the fiscal year ending June 30, 2001.

**ANSWER:**

- (b) If so, please list each Ohio school district together with the State's determination of the amount required to be expended or set aside by each district for the Textbook and Instructional Materials Set Aside for the fiscal year ending June 30, 1999.

**ANSWER:**

- (c) If so, please list each Ohio school district together with the State's determination of the amount required to be expended or set aside by each district for the Textbook and Instructional Materials Set Aside for the fiscal year ending June 30, 2000.

**ANSWER:**

- (d) If so, please list each Ohio school district together with the State's determination of the amount required to be expended or set aside by each district for the Textbook and Instructional Materials Set Aside for the fiscal year ending June 30, 2001.

**ANSWER:**

- (e) If not, please describe in detail all efforts the State has undertaken to identify the amounts required to be expended by school districts to comply with the Textbook and Instructional Materials Set Aside.

**ANSWER:**

8. Has the State determined how many dollars Ohio's school districts are required to expend or set aside solely as a result of the enactment of Ohio Revised Code Section 3315.18(A) and as required by Ohio Administrative Code Section 117-2-23(B) (the "Capital Improvements and Maintenance Set Aside")?

**ANSWER:**

- (a) If so, please describe in detail:
  - (i) when the most recent determination was made;
  - (ii) the methodology used to make such a determination;
  - (iii) the sources of information relied upon to make such a determination;

- (iv) the determination of the total statewide amount required to be expended or set aside for the fiscal year ending June 30, 1999;
- (v) the determination of the total statewide amount required to be expended or set aside for the fiscal year ending June 30, 2000;
- (vi) the determination of the total statewide amount required to be expended or set aside for the fiscal year ending June 30, 2001.

**ANSWER:**

- (b) If so, please list each Ohio school district together with the State's determination of the amount required to be expended or set aside by each district for the Capital Improvements and Maintenance Set Aside for the fiscal year ending June 30, 1999.

**ANSWER:**

- (c) If so, please list each Ohio school district together with the State's determination of the amount required to be expended or set aside by each district for the Capital Improvements and Maintenance Set Aside for the fiscal year ending June 30, 2000.

**ANSWER:**

- (d) If so, please list each Ohio school district together with the State's determination of the amount required to be expended or set aside by each district for the Capital Improvements and Maintenance Set Aside for the fiscal year ending June 30, 2001.

**ANSWER:**

- (e) If not, please describe in detail all efforts the State has undertaken to determine the amounts required to be expended or set aside by school districts to comply with the Capital Improvements and Maintenance Set Aside.

**ANSWER:**

9. Has the State determined how many dollars Ohio's school districts are required to set aside as a result of the enactment of Ohio Revised Code Section 5705.29(H) and required by Ohio Administrative Code Section 117-2-24(B) (the "Budget Reserve Set Aside")?

**ANSWER:**

- (a) If so, please describe in detail:
- (i) when the most recent determination was made;

- (ii) the methodology used to make such a determination;
- (iii) the sources of information relied upon to make such a determination;
- (iv) the determination of the total statewide amount required to be set aside for the fiscal year ending June 30, 1998;
- (v) the determination of the total statewide amount required to be set aside for the fiscal year ending June 30, 1999;
- (vi) the determination of the total statewide amount required to be set aside for the fiscal year ending June 30, 2000;
- (vii) the determination of the total statewide amount required to be set aside for the fiscal year ending June 30, 2001.

**ANSWER:**

- (b) If so, please list each Ohio school district together with the State's determination of the amount required to be set aside by each district for the Budget Reserve Set Aside for the fiscal year ending June 30, 1998.

**ANSWER:**

- (c) If so, please list each Ohio school district together with the State's determination of the amount required to be set aside by each district

for the Budget Reserve Set Aside for the fiscal year ending June 30, 1999.

**ANSWER:**

- (d) If so, please list each Ohio school district together with the State's determination of the amount required to be set aside by each district for the Budget Reserve Set Aside for the fiscal year ending June 30, 2000.

**ANSWER:**

- (e) If so, please list each Ohio school district together with the State's determination of the amount required to be set aside by each district for the Budget Reserve Set Aside for the fiscal year ending June 30, 2001.

**ANSWER:**

- (f) If not, please describe in detail all efforts the State has undertaken to identify the amounts required to be set aside by school districts to comply with the Budget Reserve Set Aside.

**ANSWER:**

10. Has the State determined how many dollars Ohio's school districts are required to spend solely as a result of the enactment of Amended Substitute Senate Bill 55 ("S.B. 55" or the "Academic Mandates")?

**ANSWER:**

- (a) If so, please describe in detail:
  - (i) when the most recent determination was made;
  - (ii) the methodology used to make such a determination;
  - (iii) the sources of information relied upon to make such a determination;
  - (iv) the determination of the total statewide amount required to be expended for the fiscal year ending June 30, 1999;
  - (v) the determination of the total statewide amount required to be expended for the fiscal year ending June 30, 2000;
  - (vi) the determination of the total statewide amount required to be expended for the fiscal year ending June 30, 2001.

**ANSWER:**

- (b) If so, please list all Ohio school districts together with the State's determination of the dollars required to be expended by each district due to the enactment of the Academic Mandates for the fiscal year ending June 30, 1999.

**ANSWER:**

- (c) If so, please list all Ohio school districts together with the State's determination of the dollars required to be expended by each district due to the enactment of the Academic Mandates for the fiscal year ending June 30, 2000.

**ANSWER:**

- (d) If so, please list all Ohio school districts together with the State's determination of the dollars required to be expended by each district due to the enactment of the Academic Mandates for the fiscal year ending June 30, 2001.

**ANSWER:**

- (e) If not, please describe in detail all efforts the State has undertaken to identify the amounts required to be expended by school districts to comply with the Academic Mandates.

**ANSWER:**

11. List all Ohio school districts that have reported to the State in any manner an increase in expenditures as a result of the Unfunded Mandates, including, but not limited to, responses to surveys or filings of forecasts.

**ANSWER:**

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Nicholas A. Pittner (0023159)  
*Counsel of Record*  
John F. Birath, Jr. (0022024)  
Sue W. Yount (0034514)  
Quintin F. Lindsmith (0018327)  
Susan B. Greenberger (0010154)  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215  
(614) 227-2300  
Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

I do hereby certify that a true copy of the foregoing document was served upon the following counsel by hand-delivery this 24<sup>th</sup> day of July, 2000, addressed as follows:

Mary Lynn Readey  
Assistant Attorney General  
30 East Broad Street, 15th Floor  
Columbus, OH 43215-3428

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Quintin F. Lindsmith (0018327)