

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 11-cv-1350-WJM-BNB

ANDY KERR, et al.,

Plaintiffs,

v.

JOHN HICKENLOOPER, GOVERNOR OF COLORADO, in  
his official capacity,

Defendant.

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**PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE SECOND AMENDED  
SUBSTITUTE COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

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Plaintiffs respectfully request that the Court grant them leave to file a Second Amended Substitute Complaint for Injunctive and Declaratory Relief (the "Second Amended Complaint"), in the form submitted herewith. The purposes of the amendments are to amend the case caption and update the status of elective offices of certain Plaintiffs. In support of this Motion, Plaintiffs state the following:

**D.C.COLO.LCivR 7.1.A CERTIFICATION**

Undersigned counsel certifies compliance with D.C.COLO.L.CivR 7.1.A regarding reasonable good faith efforts to confer and resolve this matter. The undersigned counsel affirmatively represent that counsel for Defendant, John Hickenlooper, Governor of Colorado, in his official capacity, does not object to the relief requested in this Motion.

**ARGUMENT**

1. Plaintiffs have contemporaneously filed their proposed Second Amended Complaint together with this Motion. The Second Amended Complaint differs from the First Amended Substitute Complaint for Injunctive and Declaratory Relief in that the current elective status of certain Plaintiffs has changed. Specifically, The Second Amended Complaint reflects the following changes in the case caption and the list of parties in this action:

- A. The Plaintiff Jane M. Barnes remains a Plaintiff in this action, but no longer serves as a member of the Jefferson County Board of Education;
- B. The Plaintiff Bruce W. Broderius remains a Plaintiff in this action, but no longer serves as a Member of the Weld County District 6 Board of Education;
- C. The Plaintiff John C. Buechner, Ph.D. remains a Plaintiff in this action, but no longer serves as a Lafayette City Councilman;
- D. The Plaintiff Robin Crossman remains a Plaintiff in this case and continues to serve as a Member of the Steamboat Springs RE 2 Board of Education, but no longer serves as Board President;
- E. The Plaintiff Ben Pearlman remains a Plaintiff in this case, but no longer serves as a Boulder County Commissioner.
- F. The Plaintiff Frank Weddig remains a Plaintiff in this case, but no longer serves as an Arapahoe County Commissioner.

2. No party to this case would be prejudiced by updating the current elective status of certain Plaintiffs.

WHEREFORE, Plaintiffs request leave to file the Second Amended Complaint, in the form submitted herewith, to update the current elective status of certain Plaintiffs

Respectfully submitted this 28th day of March, 2012

/s/ Lino S. Lipinsky de Orlov

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ATTORNEYS FOR PLAINTIFFS

**CERTIFICATE OF SERVICE**

I hereby certify that on the 28th day of March, 2012, a true and correct copy of the foregoing **PLAINTIFFS' UNOPPOSED MOTION FOR LEAVE TO FILE SECOND AMENDED SUBSTITUTE COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** was electronically filed with the clerk of the court using the CM/ECF system, which will send notification of such filing to the following:

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