

<p>COURT OF APPEALS, STATE OF COLORADO  101 W. Colfax Avenue, Suite 800  Denver, CO 80203</p>	
<p>Appeal From:  DISTRICT COURT, CITY AND COUNTY OF  DENVER COUNTY, COLORADO  Honorable Judge Robert S. Hyatt  Case Number: 2010CV1589</p>	
<p><b>PLAINTIFFS-APPELLANTS:</b>  GARY R. JUSTUS, KATHLEEN HOPKINS, EUGENE  HALAAS, JR., and ROBERT P. LAIRD, JR., on behalf  of themselves and those similarly situated</p> <p style="text-align: center;">v.</p> <p><b>DEFENDANTS-APPELLEES:</b>  STATE OF COLORADO; PUBLIC EMPLOYEES’  RETIREMENT ASSOCIATION OF COLORADO;  GOVERNOR JOHN HICKENLOOPER, CAROLE  WRIGHT and MARYANN MOTZA, in their official  capacities only.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><b>Attorneys for Defendants-Appellees</b>  Colorado Public Employees’ Retirement Association,  Carole Wright and Maryann Motza:</p> <p>Daniel M. Reilly, #11468; <a href="mailto:dreilly@rplaw.com">dreilly@rplaw.com</a>  Eric Fisher, # 27275; <a href="mailto:efisher@rplaw.com">efisher@rplaw.com</a>  Lindsay A. Unruh, # 35890; <a href="mailto:lunruh@rplaw.com">lunruh@rplaw.com</a>  Caleb Durling, # 39253; <a href="mailto:cdurling@rplaw.com">cdurling@rplaw.com</a>  REILLY POZNER LLP  1900 Sixteenth Street, Suite 1700  Denver, CO 80202  Telephone: 303-893-6100; Facsimile: 303-893-6110</p>	<p>CASE NO: 2011CA1507</p>

**Attorneys for Defendants- Appellees**  
State of Colorado and Governor John Hickenlooper

JOHN W. SUTHERS, Attorney General  
Maurice G. Knaizer, #5624, First Assistant Attorney  
General\*, [maurie.knaizer@state.co.us](mailto:maurie.knaizer@state.co.us)  
William V. Allen, #26386, Senior Assistant Attorney  
General\*, [will.allen@state.co.us](mailto:will.allen@state.co.us)  
Megan Paris Rundlet, #27474, Assistant Attorney  
General\*, [megan.rundlet@state.co.us](mailto:megan.rundlet@state.co.us)  
Attorney General's Office  
State of Colorado  
1525 Sherman St. 7th Floor  
Denver, CO 80203  
Telephone: 303-866-5235; Facsimile: 303-866-5671  
\* Counsel of Record

**PERA AND STATE DEFENDANTS' UNOPPOSED MOTION FOR  
EXTENSION OF TIME TO FILE ANSWER BRIEFS**

Defendants-Appellees, State of Colorado and Governor John Hickenlooper (“State Defendants”), Public Employees’ Retirement Association of Colorado, Carole Wright, and Maryann Motza, in their official capacities only (collectively “PERA Defendants”), file their unopposed motion for a 30-day extension of time from the date the Court rules on Defendants’ pending unopposed motion to supplement the record to file their Answer Briefs.

1. PERA and State Defendants’ Answer Briefs are currently due on February 22, 2012.

2. However, Defendants are unable to submit their briefs on that date because the Court has yet to rule on Defendants’ Unopposed Motion to Complete the Record, filed on January 27, 2012. This motion was required because an important portion of the record was not sent from the trial court as originally designated by Plaintiffs and ordered by this Court.

3. This missing portion of the record is Appendices A through C, filed in conjunction with PERA’s Motion for Summary Judgment and PERA’s Opposition to Plaintiffs’ Motion for Partial Summary Judgment. These Appendices contained the legislative record of Senate Bill 10-001 and the historical Colorado Revised Statutes and Denver Public Schools Retirement System Plan which are at issue in this case. PERA Defendants, with the trial court’s permission, delivered a hard

copy and a CD containing these appendices to the trial court on March 17, 2011. Copies were also delivered at that time to the respective counsel for Plaintiffs and State Defendants. These Appendices were delivered in hard copy, as opposed to being filed in Lexis, because they were several thousand pages long and would have taken multiple hours in order to be filed electronically.

4. These Appendices were a vital portion of the record below and were relied upon by the trial court in its order granting PERA and the State Defendants' Motions for Summary Judgment. PERA and State Defendants intend to rely on them in their Answer Briefs. Although nearly all the documents included exist in the public record, having them organized and in the appellate record will assist the Court's review of this constitutional challenge to a statute.

5. Due to the current incomplete status of the record and the pending motion before this Court to resolve that situation, PERA and State Defendants request an additional 30 days from the date of this Court's order on the motion to complete the record in order to ensure that they can properly cite to the entire record in their answer briefs.<sup>1</sup> It is the understanding of Defendants' counsel that

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<sup>1</sup> In conversations which PERA Defendants' counsel has had with the Court of Appeals' clerks, it appears that the pending status of the motion to supplement the record means that the deadline for Defendants' Answer Briefs has been stayed until the Court rules on that motion. However, in an abundance of caution,

30 days is the customary amount requested in this situation in order to allow time for the trial court to comply with the order to supplement the record. It is Defendants' intent to file their Answer Briefs as promptly as possible following receipt by this Court of the entire record.

6. Undersigned counsel has conferred with counsel for Plaintiffs concerning the relief sought by this motion. Plaintiffs do not oppose PERA and State Defendants' request.

WHEREFORE, PERA and State Defendants respectfully request a 30-day extension of time from the date the Court rules on Defendants' pending unopposed motion to supplement the record to file their Answer Briefs.

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Defendants file this motion to confirm that the Answer Briefs are not yet due and establish the future due date of their Answer Briefs.

DATED this 17th day of February, 2012

*s/ Eric Fisher*

Daniel M. Reilly  
Eric Fisher  
Lindsay A. Unruh  
Caleb Durling  
REILLY POZNER LLP  
1900 16th Street, Suite 1700  
Denver, CO 80202

ATTORNEYS FOR APPELLEES  
COLORADO PUBLIC  
EMPLOYEES' RETIREMENT  
ASSOCIATION and  
CAROLE WRIGHT and MARYANN  
MOTZA

*s/William V. Allen*

John W. Suthers  
Maurice G. Knaizer  
William V. Allen  
Megan Paris Rundlet  
State of Colorado  
Attorney General's Office  
1525 Sherman St. 7<sup>th</sup> Floor  
Denver, CO 80203  
[maurie.knaizer@state.co.us](mailto:maurie.knaizer@state.co.us)  
[will.allen@state.co.us](mailto:will.allen@state.co.us)  
[megan.rundlet@state.co.us](mailto:megan.rundlet@state.co.us)

ATTORNEYS FOR DEFENDANTS  
STATE OF COLORADO,  
GOVERNOR JOHN  
HICKENLOOPER

## CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of February, 2012, a true and accurate copy of the foregoing PERA and State Defendants' Unopposed Motion for Extension of Time to File Answer Briefs was served via Lexis-Nexis File & Serve on the following individuals:

Richard Rosenblatt  
Richard Rosenblatt & Associates, LLC  
8085 E. Prentice Ave.  
Greenwood Village, CO 80111  
[rosenblatt@cwa-union.org](mailto:rosenblatt@cwa-union.org)

Clerk's Office  
Denver District Court  
1437 Bannock St.  
Denver, CO 80202

William T. Payne  
Stephen M. Pincus  
John Stember  
Stember Feinstein Doyle & Payne,  
LLC  
Allegheny Building, 17<sup>th</sup> Floor  
Pittsburgh, PA 15219  
[wpayne@stemberfeinstein.com](mailto:wpayne@stemberfeinstein.com)  
[spincus@stemberfeinstein.com](mailto:spincus@stemberfeinstein.com)  
[jstember@stemberfeinstein.com](mailto:jstember@stemberfeinstein.com)

*s/ Janie Cohen*

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