COPY

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPREME COURT

SUPREME COURT CLERK'S OFFICE
15 MAR -2 AM 9:00

BOYS & GIRLS TRAINING SCHOOL, LOCAL 314, AFSCME, COUNCIL 94, AFL-CIO,
Petitioner

v.

GINA RAIMONDO, in her capacity as Governor of the State of Rhode Island; SETH MAGAZINER, in his capacity as General Treasurer of the State of Rhode Island; and THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND, by and through the RHODE ISLAND RETIREMENT BOARD, by and through Seth Magaziner, in his capacity as Chairman of the Retirement Board, and Frank J. Karpinski, in his capacity as Secretary of the Retirement Board
Respondents

MP-2015-
(PC-2012-3168)

MOTION TO STAY ENFORCEMENT OF TRIAL COURT DECISION

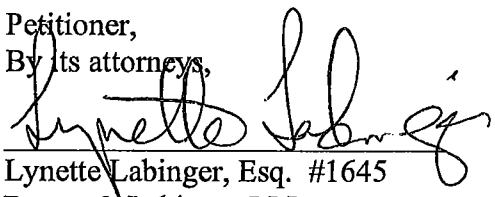
Now comes Petitioner BOYS & GIRLS TRAINING SCHOOL, LOCAL 314, AFSCME, COUNCIL 94, AFL-CIO (hereinafter referred to as "Plaintiff"), a Plaintiff below,[1] and hereby moves to stay the enforcement of the trial court's decision of February 27, 2015, pursuant to Sup. Ct. R. App. P. 8, pending review by this Court. Plaintiff sought a stay of the trial court's decision in the Superior Court and said stay was denied on February 27, 2015. In support of this motion, Plaintiff relies on the Petition for

[1] Plaintiff BOYS & GIRLS TRAINING SCHOOL, LOCAL 314, AFSCME, COUNCIL 94, AFL-CIO, is one of more than seventy-five labor organizations representing state employees and public school teachers with ten or more years of service as of the effective date of the Rhode Island Retirement Income Security Act ("RIRSA"), Public Law 2011, chapters 408 and 409 and/or June 30, 2012, whose constitutionality is challenged.

Writ of Certiorari submitted herewith and the arguments developed in the Plaintiffs' Consolidated Motion for Continuance and to Vacate the Trial Date.

Wherefore, Plaintiff respectfully requests that this Motion be granted.

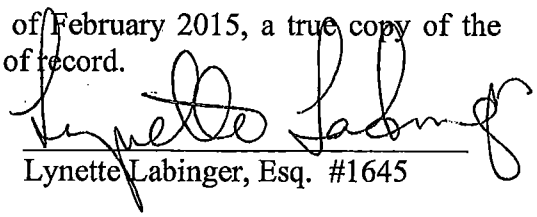
Petitioner,
By its attorneys,



Lynette Labinger, Esq. #1645
Roney & Labinger LLP
344 Wickenden Street
Providence, RI 02903
(401) 421-9794 -tel
(401) 421-0132 -fax
labinger@roney-labinger.com

CERTIFICATION

I hereby certify that on this the 27th day of February 2015, a true copy of the within document was sent by e-mail to all counsel of record.



Lynette Labinger, Esq. #1645

COPY

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

SUPREME COURT

BOYS & GIRLS TRAINING SCHOOL, LOCAL 314, AFSCME, COUNCIL 94, AFL-CIO, Petitioner v. GINA RAIMONDO, in her capacity as Governor of the State of Rhode Island; SETH MAGAZINER, in his capacity as General Treasurer of the State of Rhode Island; and THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF RHODE ISLAND, by and through the RHODE ISLAND RETIREMENT BOARD, by and through Seth Magaziner, in his capacity as Chairman of the Retirement Board, and Frank J. Karpinski, in his capacity as Secretary of the Retirement Board Respondents	**MP-2015-** (PC-2012-3168)

SUPREME COURT CLERK'S OFFICE
15 MAR -2 AM 8:00

PETITION FOR ISSUANCE OF THE WRIT OF CERTIORARI

Now comes Petitioner BOYS & GIRLS TRAINING SCHOOL, LOCAL 314, AFSCME, COUNCIL 94, AFL-CIO (hereinafter referred to as "Plaintiff"), a Plaintiff below,[1] and pursuant to Sup. Ct. R. App. P. 13(a), and hereby requests that this Court issue a writ of certiorari to review the bench decision of the Superior Court issued February 27, 2015, which denied Plaintiffs' Consolidated Motion for a Continuance and to Vacate Trial Date. *See* Exhibit A.[2]

---

[1] Plaintiff BOYS & GIRLS TRAINING SCHOOL, LOCAL 314, AFSCME, COUNCIL 94, AFL-CIO, is one of more than seventy-five labor organizations representing state employees and public school teachers with ten or more years of service as of the effective date of the Rhode Island Retirement Income Security Act ("RIRSA"), Public Law 2011, chapters 408 and 409 and/or June 30, 2012, whose constitutionality is challenged.

[2] Defendants filed a Motion for a Continuance as well.

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

HEARING DATE: FEBRUARY 27, 2015

STATE OF RHODE ISLAND
PROVIDENCE COUNTY, SC.

SUPERIOR COURT

In re: PENSION CASES

P.C.C.A. Nos. 10-2859, 12-3166, 12-3167, 12-3168, 12-3169, 12-3579

PLAINTIFFS' CONSOLIDATED MOTION FOR A CONTINUANCE AND TO VACATE TRIAL DATE AND RESPONSE TO THE STATE AND MUNICIPAL DEFENDANTS' MOTIONS FOR A CONTINUANCE

Plaintiffs in the above-captioned actions, by their undersigned counsel, file the within Consolidated Motion for a Continuance of the trial date and to establish a new schedule for pretrial and trial proceedings and Consolidated Response to the Motions of the State Defendants'[1] and Certain Municipal Defendants[2] for a Continuance.

Plaintiffs support the Motions of the State and Certain Municipal Defendants for a Continuance of Trial. Plaintiffs independently seek a Continuance of the Trial and the establishment of a new schedule for pretrial and trial proceedings. In support of the within Motion and within Response, Plaintiffs submit a supporting memorandum of fact and law.

Plaintiffs respectfully pray that the Court grant the Motions for a Continuance. Plaintiffs

[1] The State Defendants are Defendants Gina Raimondo, in her capacity as Governor, Seth Magaziner, in his capacity as General Treasurer, the Employees Retirement System of Rhode Island by and through the Retirement Board, and Frank J. Karpinski in his capacity as Secretary of the Board.

[2] The Municipal Defendants are approximately thirty-five municipal entities listed in the Municipal Entities' Motion for a Continuance, represented by Attorneys DeSisto and Petros. Because the Municipal Defendants' Motion relates only to those cases in which the Municipal Defendants are parties, this Response is submitted on behalf of Plaintiffs in PC 12-3166, PC 12-3167, PC 12-3169 and PC 12-3579.

EXHIBIT A

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

further pray that that the current trial date be set-aside and that a status conference be held during the week of April 6, 2015 and for the establishment of a new schedule for pretrial and trial proceedings.

For Plaintiffs in PCCA 12-3166:

/s/ Carly Beauvais Iafrate
Carly Beauvais Iafrate, #6343
129 Dyer Street
Providence, RI 02903
(401) 421-0065
ciafrate@verizon.net

/s/ Jay Sushelsky
Jay Sushelsky, Esq.
AARP Foundation Litigation
601 E. Street NW
Washington, DC 20049
(202) 434-2151
jsushelsky@aarp.org
Admitted Pro Hac Vice

For Plaintiffs in PCCA 12-3167:

/s/ Thomas R. Landry
Thomas R. Landry, #6148
Krakow & Souris, LLC
225 Friend Street
Boston, MA 02114
(617) 723-8440
tlandry@krakowsouris.com

For Plaintiffs in PCCA 12-3168 and 10-285:

/s/ Lynette Labinger
Lynette Labinger, #1645
Roney & Labinger, LLP
344 Wickenden Street
Providence, RI 02903
(401) 421-9794
labinger@roney-labinger.com

For all Plaintiffs in PCCA 12-3169, except City of Cranston Police Officers, IBPO Local 301

/s/ Gary Gentile
Gary Gentile, #4993
Int'l Brotherhood of Police Officers
15 Messenger Drive, Suite 2
Warwick, RI 028888
(401) 467-2830
(401) 467-2212
ggentile@nage.org

For Plaintiffs in PCCA 12-3579

/s/ Douglas L. Steele
Douglas L. Steele, Esq.
Woodley & McGillivary
1101 Vermont Ave, NW, Suite 1000
Washington, DC 20814
(202) 833-8855
dls@wmlaborlaw.com
Admitted Pro Hac Vice

/s/ Joseph F. Penza, Jr.
Joseph F. Penza, Jr. #0607
Olenn & Penza LLP
530 Greenwich Ave.
Warwick, RI 02886
(401) 737-3700
jfp@olenn-penza.com

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

CERTIFICATION OF SERVICE

I hereby certify that, on the 19th day of February, 2015:

_X__ I filed and served this document through the electronic filing system on counsel of record in the above-captioned action. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

_X__ I hereby certify that a copy of this document was also sent by e-mail to the following counsel of record in In re Pension Cases listed below

/s/ Thomas R. Landry

Thomas R. Landry
Krakow & Souris LLC
225 Friend Street
Boston, MA 02114
(617) 723-8440
(617) 723-8443 (fax)
tlandry@krakowsouris.com

Lynette Labinger, Esq.
Roney & Labinger, LLP
344 Wickenden Street
Providence, RI 02903
(401) 421-9794
(401) 421-0132 (fax)
labinger@roney-labinger.com

Carly Beauvais Iafrate, Esq.
129 Dyer Street
Providence, RI 02903
(401) 421-0065
(401) 421-0964 (fax)
ciafrate@verizon.net

Gary Gentile, Esq.
Int'l Brotherhood of Police Officers
15 Messenger Drive, Suite 2
Warwick, RI 028888
(401) 467-2830
(401) 467-2212
ggentile@nage.org

Jay Sushelsky, Esq.
AARP Foundation Litigation
601 E. Street NW
Washington, DC 20049
(202) 434-2151
(202) 434-6424 (fax)
jsushelsky@aarp.org
Admitted Pro Hac Vice

Douglas L. Steele, Esq.
Sara Conrath, Esq.
Woodley & McGillivary
1101 Vermont Ave, NW, Suite 1000
Washington, DC 20005
(202) 833-8855
(202) 452-1090 (fax)
dls@wmlaborlaw.com
sac@wmlaborlaw.com

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

Joseph F. Penza, Jr., Esq.
Olenn & Penza LLP
530 Greenwich Ave.
Warwick, RI 02886
(401) 737-3700
(401) 737-5499 (fax)
jfp@olenn-penza.com

John A. Tarantino, Esq.
Patricia K. Rocha, Esq.
Nicole J. Benjamin, Esq.
Joseph Avanzato (#4774)
Adler, Pollock & Sheehan, PC
One Citizens Plaza, 8th Fl.
Providence, RI 02903
(401) 274-7200
(401) 351-4607 (fax)
jtarantino@apslaw.com
procha@apslaw.com
nbenjamin@apslaw.com
javanzato@apslaw.com

Rebecca T. Partington, Esq.
Kelly McElroy, Esq.
R.I. Department of the Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400
(401) 222-3016 (fax)
rpartington@riag.ri.gov
kmcelroy@riag.ri.gov

David Boies, Esq.
Boies, Schiller & Flexner, LLP
333 Main Street
Armonk, NY 10504
dboies@bsfllp.com

Julia Hamilton, Esq.
Boies, Schiller & Flexner, LLP
575 Lexington Avenue, 7th Fl.
New York, NY 10022
jchamilton@bsfllp.com

Marc Gursky, Esq.
Elizabeth Wiens, Esq.
Gursky Law Associates
420 Scrabbletown Road, Suite C
N. Kingstown, RI 02852
(401) 294-4700
(401) 294-4702 (fax)
mgursky@rilaborlaw.com
ewiens@rilaborlaw.com

Sean O'Leary, Esq.
4060 Post Road
Warwick, RI 02886
(401) 615-8584
(401) 884-5302 (fax)
sto@oleary-law.net

Marc DeSisto, Esq.
DeSisto Law
211 Angell Street
Providence, RI 02906
marc@desistolaw.com

Steven B. Merolla, Esq
Merolla & Accetturo
469 Centerville Rd., Suite 206
Warwick, RI 02886
smerolla@merollalaw.com

Matthew Jerzyk
Law Office of Matthew Jerzyk
260 West Exchange Street Suite 102A
Providence, RI 02903
matt@jerzyklaw.com

Vincent F. Ragosta, Jr.
Center Place
50 Park Row West
Providence, Rhode Island 02903
Tel: 401-274-2100
Fax: 401-272-6803
v.ragosta@vfr-law.com

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

Matthew T. Oliverio
mto@om-rilaw.com
Raymond Marcaccio, Esq.
ram@om-rilaw.com
Samuel Zurier, Esq.
sdz@om-rilaw.com
Peter F. Spencer, Esquire (#8669)
pfs@om-rilaw.com
Oliverio & Marcaccio LLP
55 Dorrance Street, Suite 400
Providence, RI 02903

Andrew Henneous
Michael J. Polak
Brennan, Recupero, Cascione,
Scungio & McAllister, LLP
362 Broadway
Providence, RI 02909
ahenneous@brcsm.com
mpolak@brcsm.com

Jon Anderson, Esq. #3946
janderson@lockelord.com
Mackenzie Mango (#9048)
mmango@lockelord.com
Locke Lord, LLP
2800 Financial Plaza
Providence, RI 02903

Stephen M. Robinson, #2103
Vicki Bejma, #6498
srobinson@smrobinsonlaw.com
vbejma@smrobinsonlaw.com
Robinson & Clapham
123 Dyer St., Suite 135
(401) 331-6565
(401) 331-7888 (fax)

Albert West, Esq.
Amy J. Manning, #4935
alwest@lawfirmdocs.com
17 Ashton Pkwy, Suite 102
Cumberland, RI 02864
(401) 658-4300

William J. Conley, Jr. #2149
Law Office of William J. Conley, Jr.
123 Dyer Street, Unit 2B
Providence, RI 02903
PHONE: (401) 415-9835
FAX: (401) 415-9834
wconley@wjclaw.com

Brian LaPlante, Esq./#5861
Erica S. Pistorino, Esq./#9029
LaPlante Sowa Goldman
272 West Exchange Street
Providence, RI 02903
TEL: (401) 273-0200
FAX: (401) 273-0250
Email: *blaplante@lsglaw.com*
epistorino@lsglaw.com

William M. Dolan III (#4524)
Nicholas Nybo (#9038)
William K. Wray, Jr. (#9022)
DONOGHUE BARRETT & SINGAL,
P.C.
155 South Main Street, Suite 102
Providence, RI 02903
(401) 454-0400
(401) 454-0404 Fax
wdolan@dbslawfirm.com
nnybo@dbslawfirm.com
wwray@dbslawfirm.com

Gregory P. Piccirilli, Esq.
SCIACCA & PICCIRILLI
121 Phenix Avenue
Cranston, RI 02920
Phone: (401) 946-4900
Fax: (401) 944-3250
E-mail: gregory@splawri.com

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

Sara A. Rapport
srapport@whelankindersiket.com
Timothy C. Cavazza
tcavazza@whelankindersiket.com
Whelan, Kinder & Siket, LLP
30 Kennedy Plaza, Suite 402
Providence, RI 02903

Peter D. Ruggiero (#5733)
RUGGIERO BROCHU
20 Centerville Road
Warwick, Rhode Island 02886
Tel: 401-737-8700
Fax: 401-737-0735
Email: Peter@Rubroc.com

David R. Petrarca, Jr. (#8140)
RUGGIERO BROCHU
20 Centerville Road
Warwick, Rhode Island 02886
Tel: 401-737-8700
Fax: 401-737-0735
Email: David@Rubroc.com

Diana E. Pearson #3061
Assistant City Solicitor
PO Box 178
East Greenwich, RI 02818
401-886-1114 V
401-886-1118 F
Diana@dpearsonlaw.com

David M. D'Agostino, Esq.
GORHAM & GORHAM, INC.
25 Danielson Pike
P.O. Box 46
North Scituate, RI 02857
(401) 647-1400 Telephone
(401) 647-1446 Facsimile
daviddagostino@gorhamlaw.com

Andrew A. Thomas, Esq. #2595
David P. Martland, Esq. #5796
SILVA, THOMAS, MARTLAND &
OFFENBERG, LTD.
1100 Aquidneck Avenue
Middletown, RI 02842
Phone: (401) 849-6200
Fax: (401 849-1820
athomas@silvalawgroup.com
dmartland@silvalawgroup.com

Stephen Adams, Esq. (#5577)
Barton Gilman
10 Dorrance Street, Suite 800
Providence, RI 02903
(401) 273-7171
(401) 273-2904 (fax)
sadams@bartongilman.com

Gerald J. Petros (#2931)
gpetros@hinckleyallen.com
Andrew S. Tugan (#9117)
atugan@hinckleyallen.com
HINCKLEY ALLEN & SNYDER LLP
50 Kennedy Plaza, Suite 1500
Providence, RI .02903
Phone: 401-274-2000
Fax: 401-277-9600

Arthur G. Capaldi
1035 Main Street
Coventry, RI 02816
acapaldi111@verizon.net

D. PETER DESIMONE, ESQ. (5224)
18 Wooded Grove Circle
West Kingston, Rhode Island 02892
(401) 284-2389 Telephone
(401) 284-2740 Facsimile
dpdlaw@cox.net

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

HEARING DATE: FEBRUARY 27, 2015 – NEWPORT COUNTY

STATE OF RHODE ISLAND **SUPERIOR COURT**
PROVIDENCE COUNTY, SC.

In re: PENSION CASES

P.C.C.A. Nos. 10-2859, 12-3166, 12-3167, 12-3168, 12-3169, 12-3579

PLAINTIFFS' CONSOLIDATED MEMORANDUM IN SUPPORT OF (1) PLAINTIFFS' CONSOLIDATED MOTION FOR A CONTINUANCE AND (2) IN RESPONSE TO THE STATE AND MUNICIPAL DEFENDANTS' MOTIONS FOR A CONTINUANCE

Plaintiffs in the above-captioned actions, by their undersigned counsel, file the within Memorandum in support of their Consolidated Motion for a Continuance of the trial date and to establish a new schedule for pretrial and trial proceedings and in support of their Consolidated Response to the Motions of the State Defendants[1] and Certain Municipal Defendants[2] for a Continuance.

Plaintiffs support the Motions of the State Defendants and the Municipal Defendants for a Continuance. Plaintiffs independently move for a continuance of the trial date and for establishment of a new schedule for pretrial and trial proceedings.

[1] The State Defendants are Defendants Gina Raimondo, in her capacity as Governor, Seth Magaziner, in his capacity as General Treasurer, the Employees Retirement System of Rhode Island by and through the Retirement Board, and Frank J. Karpinski in his capacity as Secretary of the Board.

[2] The Municipal Defendants are approximately thirty-five municipal entities listed in the Municipal Entities' Motion for a Continuance, represented by Attorneys DeSisto and Petros. Because the Municipal Defendants' Motion relates only to those cases in which the Municipal Defendants are parties, this Response is submitted on behalf of Plaintiffs in PC 12-3166, PC 12-3167, PC 12-3169 and PC 12-3579.

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

I. PROCEDURAL HISTORY AND BACKGROUND

Plaintiffs agree with the description of the sequence of events and proceedings in these matters as described by the State Defendants. At no step of the way have Plaintiffs or their counsel neglected these cases or given less than full priority to the development of the cases for resolution.

The Plaintiffs filing the within Motion to Continue are colloquially known as the "Group A" Plaintiffs. As the Court is well aware, the Group A Plaintiffs and their counsel were intensely engaged in efforts to settle these cases through mediation. From the time that the Court initially directed the parties to participate in mediation in December 2012, until the declaration of its failure in mid-April 2014, the Plaintiffs and their counsel focused exclusively on efforts to settle these matters. As the Court is aware, the settlement process was long, laborious, and at times contentious. Once the settlement terms were reached, Plaintiffs and their counsel were engaged in conducting presentations to the "voting" groups, developing and implementing the structure for the voting process, and preparing for transformation of the actions to class actions for settlement purposes. Even when the vote failed, the Court directed the parties to make another effort at mediation.

Coincident with the failure of the settlement, the parties identified a number of significant pretrial issues, including consolidation, jury or non-jury, and necessary parties. While all of these issues were identified in the abstract as issues to be resolved by the start of the summer of 2014, their import and complexity required extensive briefing by the parties and decisions of the Court. The Court's decisions on necessary parties transformed many of the cases, with the addition of many municipal entities in the last several months. The Court's decision that each of these matters would be tried to a jury was issued in December 2014. The parties are not in agreement as to how or whether any of the cases should be consolidated for trial, with argument scheduled for February

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

20, 2015.

The parties have proceeded diligently in discovery. The Group A Plaintiffs, in consultation with their experts, propounded Requests for Production upon the State at the beginning of September 2014. Plaintiffs have also responded to discovery by the State. However, substantial portions require the assistance of Plaintiffs' experts, who are in the process of analyzing materials provided by the State, as well as public sources, to assist in formulating their opinions.

Notwithstanding the parties' cooperative efforts, the process of obtaining production from the State has proven a substantial challenge. The Court has previously been advised of the State's efforts to identify and secure the requested documents. In October 2014, counsel for the State advised the Court and counsel for Plaintiffs of the protocols being followed to collect the requested material, estimating that the process would be completed in December. Plaintiffs received a first batch of production, including over 6000 pages of documents, on November 19, 2014, and promptly shared them with their experts.

When production did not arrive in December as estimated, Plaintiffs reached out to counsel for the State defendants in January 2015, identifying those areas of production as to which Plaintiffs' experts identified a critical priority. Another partial production was provided in January, 2015, which Plaintiffs promptly shared with their experts.

Last week, undersigned counsel were advised of the State's difficulties in collecting and analyzing a mass of information maintained over different computer platforms and the anticipated time frame to provide them to Plaintiffs. As set forth in the State Defendants' Memorandum and proposed schedule (Exhibit 1 thereto), the State anticipates completion of the collection, term search, de-duplication and ultimate production to Plaintiffs in four to six weeks, with "rolling" production in the interim. Aside from this good-faith estimate, Plaintiffs have no firm idea as to

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

when the process will actually be completed or the size of the anticipated production. Indeed, the State has represented that its document management experts will be reviewing over six million documents. Even using a 5% response rate,[3] that would translate to 300,000 documents—which is twenty-five times as many as have been produced so far.

II. ARGUMENT

Rule 40(b) of the Superior Court Rules of Civil Procedure provides, in relevant part, that "continuances shall be granted only upon motion and for good cause shown and upon such terms and conditions as the court shall determine." The discretion contained within Rule 40(b) is only augmented by the Rhode Island Supreme Court's recognition that the Court's role in managing the trial calendar "is among the most difficult of all judicial assignments[,] ... [entitling the court to] the widest discretion ... in carrying out this enormously difficult function." *Bergeron v. Roszkowksi*, 866 A.2d 1230, 1235 (R.I. 2005) (quoting *Mills v. State Sales, Inc.*, 824 A.2d 461, 469 (R.I. 2003). Here, Plaintiffs submit that "good cause" exists for a continuance in these cases. As the State Defendants have argued, "'Continuances should be liberally granted, especially when the continuance is sought because of a claim of insufficient time to conduct discovery.' *Liberty Mut. Ins. Co. v. Northeast Concrete Products, LLC*, 756 N.W.2d 93, 105 (Minn. Ct. App. 2008); *see Bahl v. Bank of Am.*, 107 Cal. Rptr. 2d 270, 276 (Cal. Ct. App. 2001) ('Continuances are to be liberally granted.'); *Polk v. Polk*, No. 2006-T-0048, 2007 WL 1241342, at *3 (Ohio Ct. App. 2007) ('Continuances should be granted liberally, when . . . necessary to maintain a fair proceeding.') (internal citation omitted); *McGhee v. Moore,* 537 S.W.2d 697, 699 (Tenn. 1976) (trial courts should liberally grant continuances)."

[3] Plaintiffs have been advised by the State that 15-25% is a more typical response rate.

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

As the Court is well aware, these cases present factual and legal issues which are extraordinarily difficult, complex, and of great importance to the parties, the individuals whose interests they represent, and to the public. Through the pretrial proceedings closely managed by the Court, the parties have worked diligently and intensely to prepare these matters for trial.

Despite the diligent efforts of the parties (in conjunction with the assistance and direction of the Court), adherence to the existing trial date is simply not achievable. Over a relatively brief period of time, the parties have engaged in substantial motion practice and are well underway with discovery that will likely yield tens or hundreds of thousands of pages of documents to review. However, despite the continuing efforts of all involved, it is simply not possible to complete the discovery process and conduct meaningful depositions before the current discovery close of March 15, 2015. Moreover, the current timelines do not allow for sufficient time to obtain expert reports and expert testimony for trial, which is set to commence April 20, 2015. The current dates – which were established by the Court before the true extent of the State's document production became clear – would unfairly prejudice Plaintiffs by, among other things, cutting-off discovery based on the limited production Plaintiffs have received to date. Respectfully, while none of the parties are at fault in this process, a premature termination of discovery would likely be more harmful to the Plaintiffs than to the Defendants in developing and preparing their case.

Although Plaintiffs support the Motions of the State Defendants and the Municipal Defendants for a Continuance, Plaintiffs note that the State and Municipal Defendants' proposed timeline, set forth in Exhibit 1 attached to each Memorandum, is premised upon successful completion of the document collection and production process by March 31, 2015 (which is based on the State's vendor's estimate of four to six weeks to complete the project). The State and Municipal Defendants then propose that Plaintiffs' expert witness disclosures would be produced

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

four months later, before the close of fact discovery.

While Plaintiffs are concerned about the requirement to provide expert disclosures before discovery is closed (with expert discovery to follow), and while this may be a workable schedule, Plaintiffs submit that it is difficult to formulate a response to the proposed schedule without knowing if the estimated date for completion of document collection is realistic and how many documents (at least a ballpark number) will be produced. For this reason, Plaintiffs would respectfully request that the current trial date be set-aside and that a status conference be held during the week of April 6, 2015 to ascertain whether all of the documents have been produced as well as the actual number of documents involved. The Court and parties would then be in a better position to determine if the timeline proposed by the State and Municipal Defendants as set forth in Defendants' Exhibit 1 is realistic or should be modified.

III. CONCLUSION

For the foregoing reasons, the Plaintiffs respectfully pray that the Court grant the Motions for a Continuance.

Respectfully submitted,

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

For Plaintiffs in PCCA 12-3166:

/s/ Carly Beauvais Iafrate
Carly Beauvais Iafrate, #6343
129 Dyer Street
Providence, RI 02903
(401) 421-0065
ciafrate@verizon.net

/s/ Jay Sushelsky
Jay Sushelsky, Esq.
AARP Foundation Litigation
601 E. Street NW
Washington, DC 20049
(202) 434-2151
jsushelsky@aarp.org
Admitted Pro Hac Vice

For Plaintiffs in PCCA 12-3167:

/s/ Thomas R. Landry
Thomas R. Landry, #6148
Krakow & Souris, LLC
225 Friend Street
Boston, MA 02114
(617) 723-8440
tlandry@krakowsouris.com

For Plaintiffs in PCCA 12-3168 and 10-285:

/s/ Lynette Labinger
Lynette Labinger, #1645
Roney & Labinger, LLP
344 Wickenden Street
Providence, RI 02903
(401) 421-9794
(401) 421-0132 (fax)
labinger@roney-labinger.com

For all Plaintiffs in PCCA 12-3169, except City of Cranston Police Officers, IBPO Local 301

/s/ Gary Gentile
Gary Gentile, #4993
Int'l Brotherhood of Police Officers
15 Messenger Drive, Suite 2
Warwick, RI 028888
(401) 467-2830
ggentile@nage.org

For Plaintiffs in PCCA 12-3579

/s/ Douglas L. Steele
Douglas L. Steele, Esq.
Woodley & McGillivary
1101 Vermont Ave, NW, Suite 1000
Washington, DC 20814
(202) 833-8855
dls@wmlaborlaw.com
Admitted Pro Hac Vice

/s/ Joseph F. Penza, Jr.
Joseph F. Penza, Jr. #0607
Olenn & Penza LLP
530 Greenwich Ave.
Warwick, RI 02886
(401) 737-3700
jfp@olenn-penza.com

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

CERTIFICATION OF SERVICE

I hereby certify that, on the 19th day of February, 2015:

_X__ I filed and served this document through the electronic filing system on counsel of record in the above-captioned action. The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

_X__ I hereby certify that a copy of this document was also sent by e-mail to the following counsel of record in In re Pension Cases listed below

/s/ Thomas R. Landry

Thomas R. Landry
Krakow & Souris LLC
225 Friend Street
Boston, MA 02114
(617) 723-8440
tlandry@krakowsouris.com

Carly Beauvais Iafrate, Esq.
129 Dyer Street
Providence, RI 02903
(401) 421-0065
ciafrate@verizon.net

Jay Sushelsky, Esq.
AARP Foundation Litigation
601 E. Street NW
Washington, DC 20049
(202) 434-2151
jsushelsky@aarp.org
Admitted Pro Hac Vice

Lynette Labinger, Esq.
Roney & Labinger, LLP
344 Wickenden Street
Providence, RI 02903
(401) 421-9794
labinger@roney-labinger.com

Gary Gentile, Esq.
Int'l Brotherhood of Police Officers
15 Messenger Drive, Suite 2
Warwick, RI 028888
(401) 467-2830
ggentile@nage.org

Douglas L. Steele, Esq.
Sara Conrath, Esq.
Woodley & McGillivary
1101 Vermont Ave, NW, Suite 1000
Washington, DC 20005
(202) 833-8855
dls@wmlaborlaw.com
sac@wmlaborlaw.com

Joseph F. Penza, Jr., Esq.
Olenn & Penza LLP
530 Greenwich Ave.
Warwick, RI 02886
(401) 737-3700
jfp@olenn-penza.com

John A. Tarantino, Esq.

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

Patricia K. Rocha, Esq.
Nicole J. Benjamin, Esq.
Joseph Avanzato (#4774)
Adler, Pollock & Sheehan, PC
One Citizens Plaza, 8th Fl.
Providence, RI 02903
(401) 274-7200
(401) 351-4607 (fax)
jtarantino@apslaw.com
procha@apslaw.com
nbenjamin@apslaw.com
javanzato@apslaw.com

Rebecca T. Partington, Esq.
Kelly McElroy, Esq.
R.I. Department of the Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400
(401) 222-3016 (fax)
rpartington@riag.ri.gov
kmcelroy@riag.ri.gov

David Boies, Esq.
Boies, Schiller & Flexner, LLP
333 Main Street
Armonk, NY 10504
dboies@bsfllp.com

Julia Hamilton, Esq.
Boies, Schiller & Flexner, LLP
575 Lexington Avenue, 7th Fl.
New York, NY 10022
jchamilton@bsfllp.com

Marc Gursky, Esq.
Elizabeth Wiens, Esq.
Gursky Law Associates
420 Scrabbletown Road, Suite C
N. Kingstown, RI 02852
(401) 294-4700
(401) 294-4702 (fax)
mgursky@rilaborlaw.com
ewiens@rilaborlaw.com
Sean O'Leary, Esq.
4060 Post Road
Warwick, RI 02886
(401) 615-8584
(401) 884-5302 (fax)
sto@oleary-law.net

Marc DeSisto, Esq.
DeSisto Law
211 Angell Street
Providence, RI 02906
marc@desistolaw.com

Steven B. Merolla, Esq
Merolla & Accetturo
469 Centerville Rd., Suite 206
Warwick, RI 02886
smerolla@merollalaw.com

Matthew Jerzyk
Law Office of Matthew Jerzyk
260 West Exchange Street Suite 102A
Providence, RI 02903
matt@jerzyklaw.com

Vincent F. Ragosta, Jr.
Center Place
50 Park Row West
Providence, Rhode Island 02903
Tel: 401-274-2100
Fax: 401-272-6803
v.ragosta@vfr-law.com

Matthew T. Oliverio
mto@om-rilaw.com
Raymond Marcaccio, Esq.
ram@om-rilaw.com
Samuel Zurier, Esq.
sdz@om-rilaw.com
Peter F. Spencer, Esquire (#8669)
pfs@om-rilaw.com
Oliverio & Marcaccio LLP
55 Dorrance Street, Suite 400
Providence, RI 02903

Andrew Henneous
Michael J. Polak
Brennan, Recupero, Cascione,
Scungio & McAllister, LLP
362 Broadway
Providence, RI 02909
ahenneous@brcsm.com
mpolak@brcsm.com

Jon Anderson, Esq. #3946
janderson@lockelord.com
Mackenzie Mango (#9048)
mmango@lockelord.com
Locke Lord, LLP
2800 Financial Plaza
Providence, RI 02903

Stephen M. Robinson, #2103
Vicki Bejma, #6498
srobinson@smrobinsonlaw.com
vbejma@smrobinsonlaw.com
Robinson & Clapham
123 Dyer St., Suite 135
(401) 331-6565
(401) 331-7888 (fax)

Albert West, Esq.
Amy J. Manning, #4935
alwest@lawfirmdocs.com
17 Ashton Pkwy, Suite 102
Cumberland, RI 02864
(401) 658-4300
(401) 658-1270

William J. Conley, Jr. #2149
Law Office of William J. Conley, Jr.
123 Dyer Street, Unit 2B
Providence, RI 02903
PHONE: (401) 415-9835
FAX: (401) 415-9834
wconley@wjclaw.com

Brian LaPlante, Esq./#5861
Erica S. Pistorino, Esq./#9029
LaPlante Sowa Goldman
272 West Exchange Street
Providence, RI 02903
TEL: (401) 273-0200
FAX: (401) 273-0250
Email: *blaplante@lsglaw.com*
epistorino@lsglaw.com

William M. Dolan III (#4524)
Nicholas Nybo (#9038)
William K. Wray, Jr. (#9022)
DONOGHUE BARRETT & SINGAL,
P.C.
155 South Main Street, Suite 102
Providence, RI 02903
(401) 454-0400
(401) 454-0404 Fax
wdolan@dbslawfirm.com
nnybo@dbslawfirm.com
wwray@dbslawfirm.com

Gregory P. Piccirilli, Esq.
SCIACCA & PICCIRILLI
121 Phenix Avenue
Cranston, RI 02920
Phone: (401) 946-4900
Fax: (401) 944-3250
E-mail: gregory@splawri.com

Sara A. Rapport
srapport@whelankindersiket.com
Timothy C. Cavazza
tcavazza@whelankindersiket.com
Whelan, Kinder & Siket, LLP
30 Kennedy Plaza, Suite 402
Providence, RI 02903

Case Number: PC-2012-3168
Filed in Newport County Superior Court
Submitted: 2/19/2015 7:06:52 PM
Envelope: 94207
Reviewer: Patricia DelBrocco

Peter D. Ruggiero (#5733)
RUGGIERO BROCHU
20 Centerville Road
Warwick, Rhode Island 02886
Tel: 401-737-8700
Fax: 401-737-0735
Email: Peter@Rubroc.com

David R. Petrarca, Jr. (#8140)
RUGGIERO BROCHU
20 Centerville Road
Warwick, Rhode Island 02886
Tel: 401-737-8700
Fax: 401-737-0735
Email: David@Rubroc.com

Diana E. Pearson #3061
Assistant City Solicitor
PO Box 178
East Greenwich, RI 02818
401-886-1114 V
401-886-1118 F
Diana@dpearsonlaw.com

David M. D'Agostino, Esq.
GORHAM & GORHAM, INC.
25 Danielson Pike
P.O. Box 46
North Scituate, RI 02857
(401) 647-1400 Telephone
(401) 647-1446 Facsimile
daviddagostino@gorhamlaw.com

Andrew A. Thomas, Esq. #2595
David P. Martland, Esq. #5796
SILVA, THOMAS, MARTLAND &
OFFENBERG, LTD.
1100 Aquidneck Avenue
Middletown, RI 02842
Phone: (401) 849-6200
Fax: (401 849-1820
athomas@silvalawgroup.com
dmartland@silvalawgroup.com

Stephen Adams, Esq. (#5577)
Barton Gilman
10 Dorrance Street, Suite 800
Providence, RI 02903
(401) 273-7171
(401) 273-2904 (fax)
sadams@bartongilman.com

Gerald J. Petros (#2931)
gpetros@hinckleyallen.com
Andrew S. Tugan (#9117)
atugan@hinckleyallen.com
HINCKLEY ALLEN & SNYDER LLP
50 Kennedy Plaza, Suite 1500
Providence, RI .02903
Phone: 401-274-2000
Fax: 401-277-9600

Arthur G. Capaldi
1035 Main Street
Coventry, RI 02816
acapaldi111@verizon.net

D. PETER DESIMONE, ESQ. (5224)
Attorney at Law
18 Wooded Grove Circle
West Kingston, Rhode Island 02892
(401) 284-2389 Telephone
(401) 284-2740 Facsimile
dpdlaw@cox.net