

STATE OF NEW HAMPSHIRE
Superior Court
Rockingham, ss.
Case No. 215-2022-CV-00167

Steven Rand, et al.,

Plaintiffs,

v.

The State of New Hampshire,

Defendant.

**OBJECTION TO STATE’S MOTION TO QUASH TRIAL SUBPOENAS TO APEX
WITNESSES**

NOW COME Plaintiffs, by and through their undersigned counsel, and respectfully object to Defendant The State of New Hampshire’s (the “State” or “Defendant”) Motion to Quash Trial Subpoenas to Apex Witnesses (the “Motion”). Plaintiffs object because the Commissioners who are subject of the trial subpoenas provide information made necessary by the State’s refusal to admit to the accuracy and reliability of its own data, data submitted by subordinate school districts, under penalty of perjury, and representations made by the Department of Education (“DOE”) and the Department of Revenue Administration (“DRA”) about the accuracy of their own data.

Further, although Plaintiffs have offered former DRA Commissioner, Kevin Clougherty, to testify via affidavit as to published DRA data and its accuracy, the State has demanded the right to cross examine him at trial. The State refuses to disclose the grounds on which Commissioner Clougherty will be cross examined. Thus, Plaintiffs must reserve the right to call current Commissioner Stepp to refute any testimony asserted during cross examination.

This objection is filed with an accompanying memorandum of law further setting forth the grounds herein.

WHEREFORE, for the foregoing reasons, and the reasons stated in Plaintiffs' memorandum of law, Plaintiffs respectfully request that this Honorable Court:

- A. Deny the Motion; and
- B. Grant such other and further relief as justice may require.

Dated: September 23, 2024

Respectfully submitted,

/s/ John E. Tobin, Jr.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Objection has been served via the court's electronic filing system to all parties of record on this 23rd day of September 2024.

/s/ John E. Tobin, Jr.
John E. Tobin, Jr.