

FILED

No. 113267-S

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IN THE SUPREME COURT OF THE STATE OF KANSAS

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HEATHER L. SMITH  
CLERK OF APPELLATE COURTS

LUKE GANNON,  
By His Next Friends and Guardians, *et al.*,

Plaintiffs-Appellees

vs.

STATE OF KANSAS;  
RON ESTES, IN HIS INDIVIDUAL CAPACITY AND IN HIS OFFICIAL CAPACITY AS  
KANSAS STATE TREASURER; AND  
JIM CLARK, IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE  
KANSAS DEPARTMENT OF ADMINISTRATION,  
Defendants-Appellants.

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**RESPONSE BRIEF OF APPELLANT, JIM CLARK  
EQUITY**

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Appeal from the District Court of Shawnee County, Kansas  
Three-Judge Panel, School Finance  
Honorable Franklin R. Theis, Judge  
Honorable Robert J. Fleming, Judge  
Honorable Jack L. Burr, Judge (Retired)

Case No. 10-CV-1569

Daniel J. Carroll (#09463)  
Kansas Department of Administration  
Office of Chief Counsel  
1000 SW Jackson, Suite 500  
Topeka, KS 66612  
Telephone: (785) 296-6003  
Facsimile: (785) 296-2702  
Dan.Carroll@da.ks.gov

ATTORNEY FOR APPELLANT JIM CLARK

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1000 SW Jackson, Suite 500  
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Telephone: (785) 296-6003  
Facsimile: (785) 296-2702  
Dan.Carroll@da.ks.gov

ATTORNEY FOR APPELLANT JIM CLARK

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## **I. NATURE OF THE CASE**

Pursuant to the Order of the Court issued July 24, 2015, Defendant Jim Clark, in his official capacity as Secretary of the Kansas Department of Administration, submits this Response Brief. (Note Jim Clark has retired and has been replaced by Sarah L. Shipman, Acting Secretary).

## **II. ISSUES ON APPEAL**

Defendant Clark (Shipman) generally concurs with the Appellants' statement of the major issue, is Kansas public education constitutionally funded. Related issues include whether the Three-Judge Panel erred when it ordered specific injunctive remedies and rewrote relevant statutes in its June 26, 2015 Order. Should the Judicial Branch's role have been limited to the issuance of a declaratory judgment, allowing the legislature to choose an appropriate solution, pursuant to the separation of powers doctrine.

Defendant Clark (Shipman) disagrees with the Appellees' issue concerning the award of attorneys fees. That issue is still pending before the Three-Judge Panel.

## **III. STATEMENT OF FACTS**

Defendant Clark's (Shipman's) position in this appeal is aligned with the Defendant State of Kansas. Defendant Clark (Shipman) thus adopts and incorporates the Statement of Facts of Defendant State of Kansas as his/her own in this appeal.

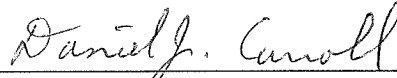
## **IV. ARGUMENTS AND AUTHORITIES**

Defendant Clark's (Shipman's) position in this appeal is aligned with the Defendant State of Kansas. Defendant Clark (Shipman) thus adopts and incorporates the Arguments and Authorities of Defendant State of Kansas as his/her own in this appeal.

V. CONCLUSION

For the reasons stated defendant Jim Clark respectfully requests the Court reverse the Memorandum Opinion and Order of the Panel dated June 26, 2015, regarding equity.

Respectfully submitted,



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Daniel J. Carroll (#09463) (Lead Attorney)  
Philip R. Michael (#26072)  
STATE OF KANSAS  
DEPARTMENT OF ADMINISTRATION  
OFFICE OF CHIEF COUNSEL  
1000 SW Jackson Street, Suite 500  
Topeka KS 66612  
Telephone: (785) 296-6003  
Facsimile: (785) 296-2702  
[Dan.Carroll@da.ks.gov](mailto:Dan.Carroll@da.ks.gov)  
[Philip.Michael@da.ks.gov](mailto:Philip.Michael@da.ks.gov)

Brant Laue (#16857)  
Tim Keck (#14993)  
Statehouse, Suite 267-W  
300 SW 10<sup>th</sup> Avenue  
Topeka KS 66612  
Telephone: (785) 296-8767  
Facsimile: (785) 368-8788  
[Brant.laue@ks.gov](mailto:Brant.laue@ks.gov)  
[Tim.keck@ks.gov](mailto:Tim.keck@ks.gov)

*ATTORNEYS FOR DEFENDANT,  
JIM CLARK, IN HIS OFFICIAL CAPACITY  
AS SECRETARY OF THE KANSAS  
DEPARTMENT OF ADMINISTRATION*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing has been served by U.S. Mail and electronic mail, upon:

Alan L. Rupe (#08914)  
Jessica L. Skladzien (#24178)  
Mark A. Kanaga (#25711)  
LEWIS BRISBOIS BISGAARD & SMITH  
1605 North Waterfront Parkway, Suite 150  
Wichita, Kansas 67206-6634  
Telephone: (316) 609-7900  
Facsimile: (316) 462-5746  
[Alan.Rupe@lewisbrisbois.com](mailto:Alan.Rupe@lewisbrisbois.com)  
[Jessica.Skladzien@lewisbrisbois.com](mailto:Jessica.Skladzien@lewisbrisbois.com)  
[Mark.Kanaga@lewisbrisbois.com](mailto:Mark.Kanaga@lewisbrisbois.com)

John S. Robb (#09844)  
SOMERS, ROBB & ROBB  
110 E. Broadway  
Newton, Kansas 67114  
Telephone: (316) 283-4560  
Facsimile: (316) 283-5049  
[JohnRobb@robblaw.com](mailto:JohnRobb@robblaw.com)

*Attorneys for Appellees*

Derek Schmidt (#17781)  
Jeffrey A. Chanay (#12056)  
Stephen R. McAllister (#15845)  
M.J. Willoughby (#14059)  
STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL  
Memorial Building, 2<sup>nd</sup> Floor  
120 SW 10<sup>th</sup> Avenue  
Topeka, KS 66612-1597  
Telephone: (785) 296-2215  
Facsimile: (785) 291-3767  
[jeffe.chanay@ag.ks.gov](mailto:jeffe.chanay@ag.ks.gov)  
[stevermac@fastmail.fm](mailto:stevermac@fastmail.fm)  
[mj.willoughby@ag.ks.gov](mailto:mj.willoughby@ag.ks.gov)

Arthur S. Chalmers (#11088)  
Gaye B. Tibbets (#13240)  
Jerry D. Hawkins (#18222)  
Rachel E. Lomas (#23767)  
HITE, FANNING & HONEYMAN, L.L.P.  
100 North Broadway, Suite 950  
Wichita, KS 67202-2209  
Telephone: (316) 265-7741  
Facsimile: (316) 267-7803  
[chalmers@hitefanning.com](mailto:chalmers@hitefanning.com)  
[tibbets@hitefanning.com](mailto:tibbets@hitefanning.com)  
[hawkins@hitefanning.com](mailto:hawkins@hitefanning.com)  
[lomas@hitefanning.com](mailto:lomas@hitefanning.com)

*Attorneys for Appellant, STATE OF KANSAS*

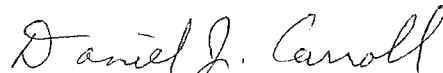
Stephen Phillips (#14130)  
Assistant Attorney General  
STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL  
Memorial Building, 2<sup>nd</sup> Floor  
120 SW 10<sup>th</sup> Avenue  
Topeka KS 66612-1597  
Telephone: (785) 296-2215  
Facsimile: (785) 291-3767  
[Steve.Phillips@ag.ks.gov](mailto:Steve.Phillips@ag.ks.gov)

*Attorney for Appellant, RON ESTES, in His Individual and Official Capacity as Kansas State Treasurer,*

Mark A. Ferguson (#14843)  
GATES, SHIELDS & FERGUSON, P.A.  
10990 Quivira, Suite 200  
Overland Park KS 66210-1284  
Telephone: (913) 661-0222  
Facsimile: (913) 491-6398  
[markferguson@GSFLegal.com](mailto:markferguson@GSFLegal.com)

*Attorney for Appellant, Kansas State Board of Education.*

this 2nd day of October, 2015.



---

Daniel J. Carroll (#09463)  
Philip R. Michael (#26072)  
Tim Keck (#14993)  
Brant Laue (#16857)

*ATTORNEYS FOR DEFENDANT,  
JIM CLARK, IN HIS OFFICIAL CAPACITY  
AS SECRETARY OF THE KANSAS  
DEPARTMENT OF ADMINISTRATION*