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Order on Defendants' Motion for Summary Judgment (CONSORTIUM FOR ADEQUATE SCHOOL FUNDING IN GEORGIA, INC.)

Elizabeth E. Long
Superior Court of Fulton County

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DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GA

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

CONSORTIUM FOR ADEQUATE SCHOOL FUNDING IN GEORGIA, INC., et al., Plaintiffs	*	Civil Action No. 2004CV91004
v.	*	
STATE OF GEORGIA, et al., Defendants.	*	

ORDER ON DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

On July 22, 2008, counsel appeared before the Court to present oral argument on Defendants' Motion for Summary Judgment. After reviewing the record of the case, the briefs submitted on the motion, and the arguments of counsel, the Court finds as follows:

In November, 2004, Plaintiffs brought this action challenging the constitutionality of Georgia's system of public school finance based on two arguments: the first alleging that the system failed to provide students with an "adequate education;" [1] and the second alleging that the funding system violated the equal protection clause.

On October 28, 2005, in response to Defendants' motion to dismiss, the Court entered an Order dismissing Plaintiffs' equal protection claims and allowed Plaintiffs' adequate education claims. The Supreme Court of Georgia denied the parties' joint request for an interlocutory appeal. Subsequently, after the submission of briefs and oral arguments by counsel for the parties, this Court entered an Order on November 21, 2006, establishing standards by which the Court would evaluate the adequate education claims. Both Plaintiffs and Defendants have

1. The provision of an adequate public education for the citizens shall be a primary obligation of the State of Georgia. Public education for the citizens prior to the college or postsecondary level shall be free and shall be provided by taxation.
Ga. Const. Art. VIII, Para. 1, § 1.

designated focus school districts to help demonstrate whether or not there are educational deficiencies in Georgia.

Defendants' motion for summary judgment should be granted under O.C.G.A. § 9-11-56 only if they demonstrate that no genuine issue of material fact remains to be tried and that the undisputed facts, viewed in the light most favorable to Plaintiffs, warrant summary judgment as a matter of law. Lau's Corp., Inc. v. Haskins, 261 Ga. 491, 491 (1991). In cases where the judge will serve as the trier of fact, Georgia's Supreme Court has suggested that the need for a fully developed evidentiary record at trial may warrant the court's denial of summary judgment. In Beaulieu of America, Inc. v. L.T. Dennard & Co., Inc., 253 Ga. 21 (1984), the Supreme Court reversed a grant of summary judgment and discouraged the "bench and bar" from disposing of cases at the summary judgment stage where the issue would otherwise be resolved by a bench trial with findings of fact. See also, Georgia Canoeing Assoc. v. Henry, 263 Ga. 77 (1993) (discouraging the use of summary judgment pleadings to dispose of issues which will be tried non-jury).

Defendants point out that McDaniel v. Thomas, 248 Ga. 632, 644 (1981), an earlier school funding case, was decided on a motion for summary judgment. In McDaniel, the Georgia Supreme Court found that there was an absence of any evidence to show that existing State funding for education deprived any students of basic educational opportunities.

Here, Plaintiffs have raised factual issues concerning the State's funding of QBE,[2] as well as a lack of adjustments to the QBE formula. In addition, to demonstrate the lack of an adequate education, Plaintiffs point to Georgia's low high school graduation rates and low scores on national tests, as well as to poor student results on the State's own academic performance tests. According to Plaintiffs, school classifications under the No Child Left Behind Act also raise

2. The Quality Basic Education Act, §§ 20-2-130 et seq.

questions concerning the basic educational opportunities provided by the State. Plaintiffs' experts contend there is a lack of educational opportunities in Georgia. In addition, school superintendents in Plaintiffs' focus districts state that their students are not being provided with basic educational opportunities.

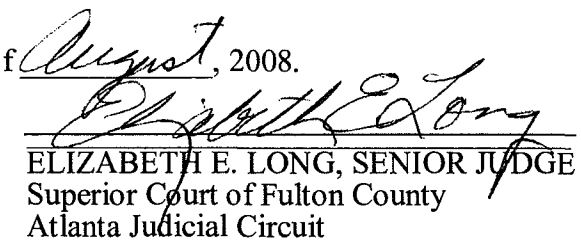
While Defendants contest these conclusions and contest the lack of a causal link between State funding and student performance, these are factual disputes. Unlike the plaintiffs in McDaniel, Plaintiffs in this case have presented sufficient evidence to survive Defendants' motion for summary judgment.

Whether the basic educational opportunities offered to Georgia's students actually provide an adequate education and whether, if there is a lack of an adequate education, the responsibility is the State's or some other factor not in control of the State remains to be determined based upon the evidence to be presented at trial.

This Court is mindful of the expense involved in a trial of this magnitude, as well as the uncomfortable position of the judge in such a bench trial. But it is not the role of the Court to tailor its ruling to avoid awkward situations or to let expediency and cost savings dictate legal outcomes, especially on issues of such importance.

Therefore, the Court hereby **DENIES** Defendants' Motion for Summary Judgment.

SO ORDERED this 11th day of August, 2008.



ELIZABETH E. LONG, SENIOR JUDGE
Superior Court of Fulton County
Atlanta Judicial Circuit