

RHODE ISLAND COUNCIL 94, AFSCME, AFL-CIO; NATIONAL EDUCATION ASSOCIATION RHODE ISLAND; RHODE ISLAND FEDERATION OF TEACHERS AND HEALTH PROFESSIONALS; RHODE ISLAND BROTHERHOOD OF CORRECTIONAL OFFICERS; INTERNATIONAL FEDERATION OF PROFESSIONAL AND TECHNICAL ENGINEERS LOCAL 400; NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL 79; RHODE ISLAND EMPLOYMENT SECURITY ALLIANCE, LOCAL 401; and RHODE ISLAND ALLIANCE OF SOCIAL SERVICE EMPLOYEES, LOCAL 580

v.

DONALD CARCIERI, in his capacity as Governor of the State of Rhode Island; FRANK T. CAPRIO, 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 FRANK T. CAPRIO, in his capacity as Chairman of the Retirement Board, and FRANK J. KARPINSKI, in his capacity as Secretary of the Retirement Board

S.U. 11-330
(P.C.C.A. No. 10-2859)

**OBJECTION OF PLAINTIFF-RESPONDENTS
TO DEFENDANT-PETITIONERS' MOTION FOR EXPEDITED REVIEW**

Respondents Rhode Island Council 94, AFSCME, AFL-CIO; National Education Association Rhode Island; Rhode Island Federation of Teachers and Health Professionals; Rhode Island Brotherhood of Correctional Officers; International Federation of Professional and Technical Engineers Local 400; National Association of Government Employees, Local 79; Rhode Island Employment Security Alliance, Local 401; and Rhode Island Alliance of Social Service Employees, Local 580, Plaintiffs below, by their undersigned counsel, hereby object to the Motion of the Defendant-Petitioners for Expedited Review of their Petition for Certiorari.

Defendant-Petitioners seek not only expedited review of their Petition for Certiorari, but

also an expedited briefing schedule and advanced hearing by the Court. Plaintiff-Respondents respectfully object on the ground that expedited consideration is neither necessary nor appropriate to consider or resolve the issues presented by the Petition. In the Superior Court, the parties agreed to a schedule which has permitted them to address issues in an appropriate order which has minimized the expenditure of resources while issues are addressed. Defendant-Petitioners do not, for example face a pending order of the Superior Court to take irreversible action, such as disclosure of allegedly privileged documents or confidential communications, or to submit to voluminous discovery demands or to commence trial, while the Court is considering their Petition.

To the contrary, the request for expedited consideration, as Defendant-Petitioners concede, has nothing to do with conditions presented by the matter at bar. It is instead sought on the asserted basis that it will provide guidance to the legislative and executive branches in considering as-yet unwritten and unfiled legislation concerning modifications to the current pension structure. The request for expedited consideration is based on a reason which is neither directly related to the underlying proceedings nor likely to accomplish the goal for which expedited consideration is sought, since resolution of the matter at bar will not be likely to resolve issues in the political arena. Moreover, to the extent that Defendant-Petitioners believe that a resolution of points relating to anticipated legislation are critical to their actions, they have a direct route to seek concrete and responsive action by this Court in the form of a request for an Advisory Opinion directly relating to the specifics of such legislation. On the other hand, announcement of expedited consideration, briefing and decision on this matter may promote the appearance of an unseemly rush to decision and thereby undermine confidence in these proceedings, and will deny the parties and this Court the full opportunity to carefully consider

the substantial and important issues raised by this litigation. In addition, the Court's signaling of a willingness to expedite consideration of this matter and, if the petition is granted, all consequent proceedings, may have the unintended and unfortunate effect of disrupting and actually delaying the ordinary and regular processes of the other two independent branches of government, causing them to delay in moving forward with their own processes while awaiting the outcome of a decision which will not address current issues, because the current issues lie outside the scope of the issues presented by this Petition.

The issues raised below and the issue raised by the Petition are extraordinarily important issues not previously resolved by this Court. Plaintiff-Respondents do not believe that a writ of certiorari should issue at this time, as they will address in the opposition to the Petition itself. The issues raised below, and the decision whether or not to grant certiorari, deserve careful and deliberate briefing and consideration by the parties and by the Court. There are no proceedings below which will be embarrassed or impaired by deliberate action as the parties have taken care to account for orderly proceeding in *this* matter. Defendant-Petitioners seek expedited consideration not because of proceedings below, but because of external considerations which will not, and should not, be addressed, let alone resolved, by their Petition.

Accordingly, Plaintiff-Respondents respectfully object to the Motion for Expedited Review. A Memorandum of Fact and Law in support of their objection is submitted herewith.

By their attorneys,

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Certification

I hereby certify that on this the _____ day of _____, 2011, a true copy of the within document was mailed, postage prepaid, and sent by e-mail to John Tarantino (jtarantino@apslaw.com), Patricia K. Rocha (procha@apslaw.com), and Nicole J. Benjamin (nbenjamin@apslaw.com), each of Adler Pollock & Sheehan P.C., One Citizens Plaza, 8th Floor, Providence, RI 02903.
