

No. 14-0776

In the Supreme Court of Texas

MICHAEL WILLIAMS, COMMISSIONER OF EDUCATION,
IN HIS OFFICIAL CAPACITY; GLENN HEGAR, COMPTROLLER OF
PUBLIC ACCOUNTS OF THE STATE OF TEXAS, IN HIS OFFICIAL CAPACITY;
THE STATE BOARD OF EDUCATION; AND THE TEXAS EDUCATION AGENCY,
Appellants/Cross-Appellees,

v.

CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT, *ET AL.*,
Appellees/Cross-Appellants/Cross-Appellees,

v.

TEXAS CHARTER SCHOOLS ASSOCIATION, *ET AL.*; AND
JOYCE COLEMAN, *ET AL.*,
Appellees/Cross-Appellants,

v.

THE TEXAS TAXPAYER AND STUDENT FAIRNESS COALITION, *ET AL.*;
EDGEWOOD INDEPENDENT SCHOOL DISTRICT, *ET AL.*; AND
FORT BEND INDEPENDENT SCHOOL DISTRICT, *ET AL.*,
Appellees/Cross-Appellees.

On Direct Appeal from the 200th Judicial District Court, Travis County

STATEMENT OF JURISDICTION AND MOTION FOR BRIEFING SCHEDULE

KEN PAXTON Attorney General of Texas	RANCE CRAFT Assistant Solicitor General Texas Bar No. 24035655	SHELLEY N. DAHLBERG Deputy Chief General Litigation Division Texas Bar No. 24012491
CHARLES E. ROY First Assistant Attorney General	KRISTOFER S. MONSON Assistant Solicitor General Texas Bar No. 24037129	OFFICE OF THE ATTORNEY GENERAL P.O. Box 12548 (MC 059) Austin, Texas 78711-2548 [Tel.] (512) 936-2872 [Fax] (512) 474-2697 rance.craft@texasattorneygeneral.gov
JAMES E. DAVIS Deputy Attorney General for Civil Litigation	BETH KLUSMANN Assistant Solicitor General Texas Bar No. 24036918	
JONATHAN F. MITCHELL Solicitor General	EVAN S. GREENE Assistant Solicitor General Texas Bar No. 24068742	<i>Counsel for Appellants/Cross- Appellees Michael Williams, et al.</i>

IDENTITY OF PARTIES AND COUNSEL

Parties to the Trial Court's Judgment

Plaintiffs/Appellees/Cross-Appellees:

The Texas Taxpayer and Student Fairness Coalition; Alief ISD; Canutillo ISD; Elgin ISD; Greenville ISD; Hillsboro ISD; Hutto ISD; Lake Worth ISD; Little Elm ISD; Nacogdoches ISD; Paris ISD; Pflugerville ISD; Quinlan ISD; Stamford ISD; San Antonio ISD; Taylor ISD; Van ISD; Randy Pittenger; Chip Langston; Norman Baker; Brad King; and Shelby Davidson, individually and as next friend of XXXXXXXX XXXXXXXX, XXXXX XXXXXXXX, and XXXX XXXXXXXX

Edgewood ISD; Harlingen Consolidated ISD; La Feria ISD; McAllen ISD; San Benito Consolidated ISD; Yolanda Canales, individually and on behalf her minor children XX. XXXXXXXX and XX. XXXXXXXX; Arturo Robles, individually and on behalf of his minor child X. XXXXXXXX; Jessica Romero, individually and on behalf of her minor children X. XXXXXXXX and X. XXXXXXXX; and Araceli Vasquez, individually and on behalf of her minor children X.X. XXXXXXXX, XX. XXXXXXXX, and XX. XXXXXXXX

Fort Bend ISD; Abilene ISD; Albany ISD; Allen ISD; Amarillo ISD; Angleton ISD; Austin ISD; Balmorhea ISD; Beaumont ISD; Bluff Dale ISD; Brazosport ISD; Carthage ISD; Channelview ISD; Clear Creek ISD; Cleveland ISD; College Station ISD; Coppell ISD; Corsicana ISD; Crosby ISD; Cypress-Fairbanks ISD; Dallas ISD; Damon ISD; Decatur ISD; Deer Park ISD; Denton ISD; Dumas ISD; Duncanville ISD; East Central ISD; Ector County ISD; Edna ISD; Fort Worth ISD; Galena Park ISD; Goose Creek Consolidated ISD; Graford ISD; Hardin-Jefferson ISD; Hays Consolidated ISD; Hempstead ISD; Highland ISD; Houston ISD; Huffman ISD; Humble ISD; Katy ISD; Keller ISD; Kenedy ISD; Kerrville ISD; Kingsville ISD; Klein ISD; La Marque ISD; La Porte ISD; Lamar Consolidated ISD; Leggett ISD; Liberty ISD; McKinney ISD; Midland ISD; New Caney ISD; North East ISD; Northside ISD; Pampa ISD; Pasadena ISD; Pearland ISD; Perrin-Whitt Consolidated ISD; Pine Tree ISD; Pleasant Grove ISD; Rice Consolidated ISD; Rockdale ISD; Round Rock ISD; Royal ISD; Santa Fe ISD; Schertz-Cibolo-Universal City ISD; Sharyland ISD; Sheldon ISD; Splendora ISD; Spring Branch ISD;

Plaintiffs/Appellees/Cross-Appellees (continued):

Stafford Municipal School District; Sudan ISD; Sweeny ISD; Trent ISD; Troup ISD; Waco ISD; Weatherford ISD; West Orange-Cove Consolidated ISD; and Woodville ISD

Plaintiffs/Appellees/Cross-Appellants/Cross-Appellees:

Calhoun County ISD; Abernathy ISD; Aransas County ISD; Frisco ISD; Lewisville ISD; and Richardson ISD

Plaintiffs/Appellees/Cross-Appellants:

Texas Charter Schools Association; Mario Flores, individually and as parent and next friend of his minor child XXXXX XXXXXX; Christopher Baerga, individually and as parent and next friend of his minor child XXXX XXXXXX; Dana Allen, individually and as parent and next friend of her minor child XXXX XXXXXX XXXXX; Jason Christensen and Sarah Christensen, individually and as parents and next friends of their minor children XXXX XXXXXXXXXXXXX and XXXXX XXXXXXXXXXXXX; and Brooks Flemister, individually and as parent and next friend of his minor child XXXXX XXXXXXXXXXXXX

Intervenors/Appellees/Cross-Appellants:

Joyce Coleman, individually and as next friend of her minor children; Danessa Bolling, individually and as next friend of her minor child; Lee Beall and Allena Beall, individually and as next friends of their minor children; Joel Smedshammer and Andrea Smedshammer, individually and as next friends of their minor children; Darlene Menn, individually and as next friend of her minor child; Texans for Real Efficiency and Equity in Education; and Texas Association of Business

Defendants/Appellants/Cross-Appellees:

Michael Williams, Commissioner of Education, in his official capacity;* Glenn Hegar, Comptroller of Public Accounts of the State of Texas, in his official capacity;* the State Board of Education; and the Texas Education Agency

Trial and Appellate Counsel

***Counsel for Plaintiffs/Appellees/Cross-Appellees
The Texas Taxpayer and Student Fairness Coalition, et al.:***

Richard E. Gray, III (rick.gray@graybecker.com)

Texas Bar No. 08328300

Toni Hunter (toni.hunter@graybecker.com)

Texas Bar No. 10295900

Richard E. Gray, IV (richard.grayIV@graybecker.com)

Texas Bar No. 24074308

GRAY & BECKER, P.C.

900 West Avenue

Austin, Texas 78701

(512) 482-0061

(512) 482-0924 [fax]

Randall B. Wood (buckwood@raywoodlaw.com)

Texas Bar No. 21905000

Doug W. Ray (dray@raywoodlaw.com)

Texas Bar No. 16599200

RAY & WOOD

2700 Bee Caves Road #200

Austin, Texas 78746

(512) 328-8877

(512) 328-1156 [fax]

* These consolidated suits initially named Robert Scott, then Commissioner of Education, and Susan Combs, then Comptroller of Public Accounts, as defendants. Michael Williams succeeded Scott as Commissioner on September 1, 2012, and Glenn Hegar succeeded Combs as Comptroller on January 2, 2015. *See* TEX. R. APP. P. 7.2(a).

Counsel for Plaintiffs/Appellees/Cross-Appellees Edgewood ISD, et al.:

David G. Hinojosa (dhinojosa@maldef.org)

Texas Bar No. 24010689

Marisa Bono (mbono@maldef.org)

Texas Bar No. 24052874

MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND, INC.

110 Broadway, Suite 300

San Antonio, Texas 78205

(210) 224-5476

(210) 224-5382 [fax]

Roger L. Rice (rlr@shore.net)

admitted pro hac vice

MULTICULTURAL EDUCATION, TRAINING AND ADVOCACY, INC.

240A Elm Street, Suite 22

Somerville, Massachusetts 02144

(617) 628-2226

(617) 628-0322 [fax]

Rebecca Couto da Silva*

Texas Bar No. 24082473

P.O. Box 131996

Dallas, Texas 75313

(310) 975-9185

Maribel Hernández Rivera†

admitted pro hac vice

IMMIGRANT JUSTICE CORPS

(212) 844-4600

* Ms. Couto da Silva was associated with the Mexican American Legal Defense and Education Fund, Inc., when she appeared as counsel in the trial court. She is no longer counsel in this case. Her current contact information on file with the state bar is listed here.

† Ms. Hernández Rivera was associated with Fried, Frank, Harris, Shriver & Jacobson LLP when she appeared as counsel in the trial court. She is no longer counsel in this case. Her current contact information is listed here.

Counsel for Plaintiffs/Appellees/Cross-Appellees Fort Bend ISD, et al.:

J. David Thompson, III (dthompson@thompsonhorton.com)

Texas Bar No. 19950600

Philip Fraissinet (pfraissinet@thompsonhorton.com)

Texas Bar No. 00793749

THOMPSON & HORTON LLP

Phoenix Tower, Suite 2000

3200 Southwest Freeway

Houston, Texas 77027

(713) 554-6767

(713) 583-9668 [fax]

Holly G. McIntush (hmcintush@thompsonhorton.com)

Texas Bar No. 24065721

THOMPSON & HORTON LLP

400 West 15th Street, Suite 1430

Austin, Texas 78701

(512) 615-2350

(512) 682-8860 [fax]

***Counsel for Plaintiffs/Appellees/Cross-Appellants/Cross-Appellees
Calhoun County ISD, et al.:***

Mark R. Trachtenberg (mark.trachtenberg@haynesboone.com)

Texas Bar No. 24008169

HAYNES AND BOONE, LLP

1 Houston Center

1221 McKinney Street, Suite 2100

Houston, Texas 77010

(713) 547-2000

(713) 547-2600 [fax]

***Counsel for Plaintiffs/Appellees/Cross-Appellants/Cross-Appellees
Calhoun County ISD, et al. (continued):***

John W. Turner (john.turner@haynesboone.com)

Texas Bar No. 24028085

Micah E. Skidmore (micah.skidmore@haynesboone.com)

Texas Bar No. 24046856

Michelle Jacobs (michelle.jacobs@haynesboone.com)

Texas Bar No. 24069984

HAYNES AND BOONE, LLP

2323 Victory Avenue, Suite 2100

Dallas, Texas 75219

(214) 651-5000

(214) 651-5940 [fax]

Adam H. Sencenbaugh (adam.sencenbaugh@haynesboone.com)

Texas Bar No. 24060584

HAYNES AND BOONE, LLP

600 Congress Avenue, Suite 1300

Austin, Texas 78701

(512) 867-8489

(512) 867-8606 [fax]

Lacy Lawrence (llawrence@akingump.com)*

Texas Bar No. 24055913

AKIN GUMP STRAUSS HAUER & FELD LLP

1700 Pacific Avenue, Suite 4100

Dallas, Texas 75201

(214) 969-2894

(214) 969-4343 [fax]

* Ms. Lawrence was associated with Haynes and Boone, LLP, when she appeared as counsel in the trial court. She is no longer counsel in this case. Her current contact information on file with the state bar is listed here.

***Counsel for Plaintiffs/Appellees/Cross-Appellants
Texas Charter Schools Association, et al.:***

James C. Ho (jho@gibsondunn.com)

Texas Bar No. 24052766

GIBSON, DUNN & CRUTCHER LLP
2100 McKinney Avenue, Suite 1100

Dallas, Texas 75201-6912

(214) 698-3264

(214) 571-2917 [fax]

Robert A. Schulman (rschulman@slh-law.com)

Texas Bar No. 17834500

Ricardo R. Lopez (rlopez@slh-law.com)

Texas Bar No. 24013059

Joseph E. Hoffer (jhoffer@slh-law.com)

Texas Bar No. 24049462

Leonard J. Schwartz (lschwartz@slh-law.com)

Texas Bar No. 17867000

SCHULMAN, LOPEZ & HOFFER, L.L.P.

517 Soledad Street

San Antonio, Texas 78205-1508

(210) 538-5385

(210) 538-5384 [fax]

Betsy Hall Bender*

Texas Bar No. 08743800

P.O. Box 26715

Austin, Texas 78755-0715

(512) 346-7292

* Ms. Bender was associated with Schulman, Lopez & Hoffer, L.L.P., when she appeared as counsel in the trial court. She is no longer counsel in this case. Her current contact information on file with the state bar is listed here.

***Counsel for Intervenors/Appellees/Cross-Appellants
Joyce Coleman, et al.:***

Craig T. Enoch (cenoch@enochkever.com)

Texas Bar No. 00000026

Melissa A. Lorber (mlorber@enochkever.com)

Texas Bar No. 24032969

Shelby O'Brien (sobrien@enochkever.com)

Texas Bar No. 24037203

Amy Leila Saberian (asaberian@enochkever.com)

Texas Bar No. 24041842

ENOCH KEVER PLLC

600 Congress, Suite 2800

Austin, Texas 78701

(512) 615-1200

(512) 615-1198 [fax]

J. Christopher Diamond (christopherdiamond@yahoo.com)

Texas Bar No. 00792459

THE DIAMOND LAW FIRM, P.C.

17484 Northwest Freeway, Suite 150

Houston, Texas 77040

(713) 983-8990

(832) 201-9262 [fax]

***Counsel for Defendants/Appellants/Cross-Appellees
Michael Williams, et al.:***

Appellate Counsel

Rance Craft (rance.craft@texasattorneygeneral.gov)

Assistant Solicitor General

Texas Bar No. 24035655

Kristofer S. Monson (kristofer.monson@texasattorneygeneral.gov)

Assistant Solicitor General

Texas Bar No. 24037129

Beth Klusmann (beth.klusmann@texasattorneygeneral.gov)

Assistant Solicitor General

Texas Bar No. 24036918

Evan S. Greene (evan.greene@texasattorneygeneral.gov)

Assistant Solicitor General

Texas Bar No. 24068742

OFFICE OF THE ATTORNEY GENERAL

P.O. Box 12548 (MC 059)

Austin, Texas 78711-2548

(512) 936-2872

(512) 474-2697 [fax]

Trial and Appellate Counsel

Shelley N. Dahlberg (shelley.dahlberg@texasattorneygeneral.gov)

Deputy Chief, General Litigation Division

Texas Bar No. 24012491

OFFICE OF THE ATTORNEY GENERAL

P.O. Box 12548

Austin, Texas 78711-2548

(512) 463-2100

(512) 475-2994 [fax]

***Counsel for Defendants/Appellants/Cross-Appellees
Michael Williams, et al. (continued):***

Trial Counsel Only

Daniel T. Hodge (daniel.hodge@texasattorneygeneral.gov)
Texas Bar No. 16532400

David C. Mattax (david.mattax@texasattorneygeneral.gov)
Texas Bar No. 13201600

Robert B. O’Keefe (robert.okeefe@texasattorneygeneral.gov)
Chief, Financial Litigation, Tax, and Charitable Trusts Division
Texas Bar No. 15240950

James “Beau” Eccles (beau.eccles@texasattorneygeneral.gov)
Chief, General Litigation Division
Texas Bar No. 00793668

Angela Colmenero (angela.colmenero@texasattorneygeneral.gov)
Deputy Chief, Special Litigation Division
Texas Bar No. 24048399

Linda Halpern (linda.halpern@texasattorneygeneral.gov)
Assistant Attorney General
Texas Bar No. 24030166

William T. Deane (bill.deane@texasattorneygeneral.gov)
Assistant Attorney General
Texas Bar No. 05692500

Eric L. Vinson (eric.vinson@texasattorneygeneral.gov)
Assistant Attorney General
Texas Bar No. 24003115

Erika Kane (erika.kane@texasattorneygeneral.gov)
Assistant Attorney General
Texas Bar No. 24050850

Amy Penn (amy.penn@texasattorneygeneral.gov)
Assistant Attorney General
Texas Bar No. 24056117

Amanda J. Cochran-McCall
(amanda.cochran-mccall@texasattorneygeneral.gov)
Assistant Attorney General
Texas Bar No. 24069526

***Counsel for Defendants/Appellants/Cross-Appellees
Michael Williams, et al. (continued):***

Trial Counsel Only (continued)

Robin Sanders (robin.sanders@texasattorneygeneral.gov)

Assistant Attorney General

Texas Bar No. 09310900

OFFICE OF THE ATTORNEY GENERAL

P.O. Box 12548

Austin, Texas 78711-2548

(512) 463-2100

(512) 475-2994 [fax]

Nichole Bunker-Henderson (nichole.bunker-henderson@tea.state.tx.us)*

Deputy General Counsel

Texas Bar No. 24045580

TEXAS EDUCATION AGENCY

William B. Travis Building

1701 North Congress Avenue

Austin, Texas, 78701

(512) 463-9734

(512) 463-9838

Gunnar P. Seaquist (gseaquist@bickerstaff.com)*

Texas Bar No. 24043358

BICKERSTAFF HEATH DELGADO ACOSTA LLP

3711 South MoPac Expressway

Building 1, Suite 300

Austin, Texas 78746

(512) 472-8021

(512) 320-5638 [fax]

* Ms. Bunker-Henderson and Mr. Seaquist were Assistant Attorneys General in the Office of the Attorney General when they appeared as counsel in the trial court. They are no longer counsel in this case. Their current contact information on file with the state bar is listed here.

***Counsel for Defendants/Appellants/Cross-Appellees
Michael Williams, et al. (continued):***

Trial Counsel Only (continued)

Darren G. Gibson*
Texas Bar No. 24068846
O'HANLON MCCOLLOM & DEMERATH
808 West Avenue
Austin, Texas 78701
(512) 494-9949

Kay Taylor "Kaycee" Crisp*
Texas Bar No. 24057368
4700 Trail Crest Circle
Austin, Texas 78735

Chari L. Kelly*
Texas Bar No. 24057939
OFFICE OF THE CRIMINAL DISTRICT ATTORNEY FOR COMAL COUNTY
150 North Seguin Avenue, Suite 307
New Braunfels, Texas 78130
(830) 221-1300
(830) 608-2008 [fax]

Henry Carl Myers*
Staff Attorney
Texas Bar No. 24046502
53RD JUDICIAL DISTRICT COURT
Heman Marion Sweatt Travis County Courthouse
1000 Guadalupe Street, Room 327
Austin, Texas 78701
(512) 854-9366
(512) 854-9332 [fax]

* Mr. Gibson, Ms. Crisp, Ms. Kelly, and Mr. Myers were Assistant Attorneys General in the Office of the Attorney General when they appeared as counsel in the trial court. They are no longer counsel in this case. Their current contact information on file with the state bar is listed here.

TABLE OF CONTENTS

Identity of Parties and Counsel	i
Index of Authorities.....	xiv
Statement of the Case	xvi
Statement of Jurisdiction.....	2
I. The Court Has Appellate Jurisdiction Over The State Defendants’ Direct Appeal.	2
II. The Court Has Appellate Jurisdiction Over The Other Direct Appeals Of The Trial Court’s Final Judgment.....	4
Motion for Briefing Schedule	6
Prayer.....	11
Certificate of Conference.....	13
Certificate of Service	13
Appendix	

INDEX OF AUTHORITIES

Cases

<i>Carrollton-Farmers Branch ISD v. Edgewood ISD</i> , 826 S.W.2d 489 (Tex. 1992)	4
<i>Corona v. Garrison</i> , 154 Tex. 124, 274 S.W.2d 541 (1955)	4
<i>Edgewood ISD v. Meno</i> , 917 S.W.2d 717 (Tex. 1995)	4
<i>Episcopal Diocese of Fort Worth v. Episcopal Church</i> , 422 S.W.3d 646 (Tex. 2013)	2
<i>In re Long</i> , 984 S.W.2d 623 (Tex. 1999)	11
<i>Neeley v. W. Orange-Cove Consol. ISD</i> , 176 S.W.3d 746 (Tex. 2005)	4, 7, 8, 10
<i>Perry v. Del Rio</i> , 67 S.W.3d 85 (Tex. 2001)	6
<i>State v. Hodges</i> , 92 S.W.3d 489 (Tex. 2002)	6

Statutes

TEX. CIV. PRAC. & REM. CODE § 6.001	11
TEX. CIV. PRAC. & REM. CODE ch. 37	xvii
TEX. GOV'T CODE § 22.001(c)	2

Rules

TEX. R. APP. P. 7.2(a)	iii
------------------------------	-----

TEX. R. APP. P. 38.6(d) 6

TEX. R. APP. P. 57.4 6

Other Authorities

16A CHARLES ALAN WRIGHT, *ET AL.*, FEDERAL PRACTICE AND
PROCEDURE § 3950.7 (4th ed. 2008)..... 5

STATEMENT OF THE CASE

Nature of the Case: Five groups of plaintiffs and one group of intervenors—which together include school districts, parents, children, taxpayers, and associations—claim that Texas’s school-finance system violates various provisions of the Texas Constitution. *See* App’x 1-2.¹ They sued the Commissioner of Education, the Comptroller of Public Accounts, the State Board of Education, and the Texas Education Agency (collectively, “the state defendants”) under the Uniform Declaratory Judgments Act, TEX. CIV. PRAC. & REM. CODE ch. 37, seeking declaratory and injunctive relief. *Id.* at 2 n.7, 6.

Trial Court: 200th Judicial District Court, Travis County
The Honorable John K. Dietz (presiding)
The Honorable David Peeples (assigned)

Course of Proceedings: The court consolidated the five suits and conducted a bench trial on the merits. *Id.* at 1-2. Following trial, the 83rd Legislature passed bills relating to the school-finance system. *Id.* at 2. The court “granted a motion to reopen the evidence to consider the impact of the 2013 legislation” and held a second phase of trial. *Id.*

Trial Court Disposition: The court rendered a final judgment and issued findings of fact and conclusions of law. *Id.* at 1-2.

The court denied all pleas to the jurisdiction. *Id.* at 11.

¹ Citations of the trial court’s final judgment, which is attached as an appendix to this statement of jurisdiction, appear as “App’x [page number].”

The court declared that the school-finance system violates (1) article VIII, section 1-e's prohibition against a state property tax; and (2) article VII, section 1's "adequacy," "suitability," and "financial efficiency" requirements. *Id.* at 6-10.

The court further declared that the system does not violate article VIII, section 1(a)'s "equal and uniform taxation" requirement. *Id.* at 10-11.

The court denied the intervenors' claim that the system violates article VII, section 1 on "qualitative efficiency" grounds. *Id.* at 11.

The court denied the charter-school plaintiffs' claims that the system, as applied to charter schools, violates (1) article VII, section 1's "suitability" and "efficiency" requirements; and (2) article I, section 3's guaranty of "equal rights." *See id.*

The court enjoined the state defendants from funding public-school education in Texas "until the constitutional violations are remedied." *Id.* at 12. The court stayed its injunction until July 1, 2015, "to give the Legislature a reasonable opportunity to cure the constitutional deficiencies in the finance system." *Id.*

The court ordered that the four school-district plaintiff groups recover their attorneys' fees and costs from the state defendants. *Id.* at 13-21. The court denied the state defendants', charter-school plaintiffs', and intervenors' requests for attorneys' fees. *Id.* at 13.

The court, through an assigned judge, denied the state defendants' motion to recuse the presiding trial judge.

14-0776

In the Supreme Court of Texas

MICHAEL WILLIAMS, COMMISSIONER OF EDUCATION,
IN HIS OFFICIAL CAPACITY; GLENN HEGAR, COMPTROLLER OF
PUBLIC ACCOUNTS OF THE STATE OF TEXAS, IN HIS OFFICIAL CAPACITY;
THE STATE BOARD OF EDUCATION; AND THE TEXAS EDUCATION AGENCY,
Appellants/Cross-Appellees,

v.

CALHOUN COUNTY INDEPENDENT SCHOOL DISTRICT, *ET AL.*,
Appellees/Cross-Appellants/Cross-Appellees,

v.

TEXAS CHARTER SCHOOLS ASSOCIATION, *ET AL.*; AND
JOYCE COLEMAN, *ET AL.*,
Appellees/Cross-Appellants,

v.

THE TEXAS TAXPAYER AND STUDENT FAIRNESS COALITION, *ET AL.*;
EDGEWOOD INDEPENDENT SCHOOL DISTRICT, *ET AL.*; AND
FORT BEND INDEPENDENT SCHOOL DISTRICT, *ET AL.*,
Appellees/Cross-Appellees.

On Direct Appeal from the 200th Judicial District Court, Travis County

STATEMENT OF JURISDICTION AND MOTION FOR BRIEFING SCHEDULE

TO THE HONORABLE SUPREME COURT OF TEXAS:

Appellants Michael Williams, in his official capacity as Commissioner of Education; Glenn Hegar, in his official capacity as Comptroller of Public Accounts of the State of Texas; the State Board of Education; and the Texas Education Agency (collectively, “the state defendants”) have filed a direct

appeal to this Court from the trial court’s judgment, which enjoined the funding of public-school education in Texas on the ground that the statutes governing the school-finance system violate the Texas Constitution. The state defendants request that the Court note probable jurisdiction over this appeal and order the filing of appellate briefs in accordance with the parties’ proposed briefing schedule.

STATEMENT OF JURISDICTION

I. THE COURT HAS APPELLATE JURISDICTION OVER THE STATE DEFENDANTS’ DIRECT APPEAL.

A party may appeal a trial court’s judgment directly to this Court if the judgment grants or denies an injunction on the ground of the constitutionality of a Texas statute. TEX. GOV’T CODE § 22.001(c); *Episcopal Diocese of Fort Worth v. Episcopal Church*, 422 S.W.3d 646, 649 (Tex. 2013). The state defendants’ direct appeal satisfies these conditions.

First, the trial court’s final judgment grants an injunction against the state defendants. Specifically, the judgment “ENJOINS the State Defendants from giving any force and effect to the sections of the Education Code relating to the financing of public school education (Chapters 41 and 42 and Section 12.106 of the Education Code) and from distributing any money under the current Texas school financing system.” App’x 12.

Second, the final judgment grants that injunctive relief “on the ground of” the constitutionality of Texas statutes. The judgment uses the phrase “the school finance system” as shorthand for the Texas statutes that govern the financing of public-school education in this State. *E.g., id.* (referring interchangeably to “the sections of the Education Code relating to the financing of public school education (Chapters 41 and 42 and Section 12.106 of the Education Code),” “the current Texas school financing system,” and “the finance system”). The judgment declares that those statutes violate the Texas Constitution and then cites those declarations as the basis for granting injunctive relief. *Id.* at 2-3 (holding that “the school finance system” violates various constitutional provisions and, “[c]onsequently,” enjoining further funding under the system). Moreover, the court explicitly linked the injunction’s terms to the unconstitutionality of the Texas statutes regulating school finance in two ways: (1) the injunction’s duration extends “until the constitutional violations are remedied”; and (2) the trial court stayed the injunction’s effect until July 1, 2015 “in order to give the Legislature a reasonable opportunity to cure the constitutional deficiencies in the finance system.” *Id.* at 12. In granting its injunction, then, the trial court “pass[ed] upon the constitutionality of [a] statute” and thereby triggered this Court’s

direct-appeal jurisdiction. *See Corona v. Garrison*, 154 Tex. 124, 125, 274 S.W.2d 541, 541-42 (1955).

The Court's precedent supports the existence of appellate jurisdiction over this direct appeal. In previous cases, the Court has exercised jurisdiction over direct appeals of similar orders that either enjoined or declined to enjoin the school-finance system on constitutional grounds. *Neeley v. W. Orange-Cove Consol. ISD*, 176 S.W.3d 746, 771 (Tex. 2005) (*W. Orange-Cove II*); *Edgewood ISD v. Meno*, 917 S.W.2d 717, 727 (Tex. 1995); *Carrollton-Farmers Branch ISD v. Edgewood ISD*, 826 S.W.2d 489, 489 n.1, 493 n.3 (Tex. 1992). The Court likewise has jurisdiction over the state defendants' direct appeal in this case.

II. THE COURT HAS APPELLATE JURISDICTION OVER THE OTHER DIRECT APPEALS OF THE TRIAL COURT'S FINAL JUDGMENT.

After the state defendants filed their direct appeal, three other party groups filed direct appeals of the trial court's final judgment.

Like the state defendants, the Calhoun County ISD plaintiffs are also appealing Part IV of the final judgment, which grants judgment for the other school-district plaintiff groups on their claims that the school-finance system violates the "financial efficiency" requirement of article VII, section 1 of the Texas Constitution. App'x 9-10.

The charter-school plaintiffs (Texas Charter Schools Association, *et al.*) are cross-appealing the final judgment. Part VIII of the final judgment grants judgment for the state defendants on the charter-school plaintiffs’ constitutional challenges to the school-finance system, except for their “adequacy” claim. *Id.* at 11. Part X of the final judgment denies the charter-school plaintiffs’ request for attorneys’ fees. *Id.* at 13.

The intervenors (Joyce Coleman, *et al.*) are also cross-appealing the final judgment. Part VII of the final judgment grants judgment for the state defendants on the intervenors’ constitutional challenge to the school-finance system. *Id.* at 11. Part X of the final judgment denies the intervenors’ request for attorneys’ fees. *Id.* at 13.²

Although these additional appeals also appear to satisfy the direct-appeal statute’s prerequisites, they need not do so to fall within the Court’s appellate jurisdiction. Because the Court has jurisdiction over the state

² “In general parlance, a cross-appeal is one filed by the appellee against the first or only appellant. A separate appeal is an appeal filed by any party other than the first appellant or appellee.” 16A CHARLES ALAN WRIGHT, *ET AL.*, FEDERAL PRACTICE AND PROCEDURE § 3950.7 (4th ed. 2008). The charter-school plaintiffs’ and intervenors’ appeals are “cross-appeals” because they are “against the first appellant”—those parties are appealing judgments for the state defendants on their claims. But the Calhoun County ISD plaintiffs’ appeal should be re-designated as a “separate appeal,” rather than a cross-appeal, because their appeal is *not* against the first appellant; the Calhoun County ISD plaintiffs are aligned with the state defendants in appealing Part IV of the final judgment.

defendants’ direct appeal, *see supra* Part I, the Court acquires “extended jurisdiction” to consider “all the legal errors alleged in the various parties’ appeals,” *Perry v. Del Rio*, 67 S.W.3d 85, 89 (Tex. 2001), as well as any question of law raised as a cross-point by an appellee, *State v. Hodges*, 92 S.W.3d 489, 493 (Tex. 2002).

MOTION FOR BRIEFING SCHEDULE

When the Court notes probable jurisdiction over a direct appeal, “the parties must file briefs under Rule 38 as in any other case.” TEX. R. APP. P. 57.4. Rule 38 permits an appellate court, upon a proper motion, to “extend the time for filing a brief.” TEX. R. APP. P. 38.6(d). All parties to this case have conferred and agreed that extensions of the usual times for filing appellate briefs are warranted.

Toward that end, all parties to this case have agreed to the following proposed briefing schedule for the Court’s consideration:

Brief	Deadline
Appellants’ briefs (all appealing parties)	80 days after the Court notes probable jurisdiction
Appellees’ briefs (all parties defending any part of the final judgment)	80 days after the filing of the appellants’ briefs
Reply briefs (all appealing parties)	40 days after the filing of the appellees’ briefs

The state defendants believe that this extended schedule is necessary to afford all parties sufficient time to provide the Court with thorough and helpful briefing, for several reasons.³

First, the scale of this case far exceeds that of the typical appeal for which Rule 38's standard deadlines of 30 days/30 days/20 days are designed. Five different groups of plaintiffs and one group of intervenors—123 parties total—sued the state defendants to challenge the constitutionality of the school-finance system. This case was pending in the trial court for almost three years, from October 2011 through September 2014, including 55 trial days. The final judgment alone is 21 pages long. Along with that judgment, the trial court issued 1,506 findings of fact and 118 conclusions of law, prefaced by a 13-page executive summary—in total, a 364-page explanation of the judgment. The 309-volume reporter's record exceeds 230,000 pages. The clerk's record contains over 300 distinct filings and exceeds 9,000 pages.

Moreover, this case is unusually complex, even by the standards of school-finance litigation. In the last school-finance case in this Court, three groups of parties were challenging the system; this time, there are six. *Compare W. Orange-Cove II*, 176 S.W.3d at 751, *with* App'x 1. The *West*

³ In responding to this statement, the other parties may offer additional reasons in support of the proposed briefing schedule.

Orange Cove II trial lasted 26 days; this trial totaled 55 days. Compare *W. Orange-Cove II*, 176 S.W.3d at 753 (noting five-week trial), with App'x 2 (describing 45-day trial and 10-day evidentiary hearing). And not only does this case present all of the constitutional claims raised in *West Orange-Cove II*, compare *W. Orange-Cove II*, 176 S.W.3d at 751-53 (state property tax, financial efficiency, adequacy, suitability), with App'x 6-10 (same), but it also includes several new issues:

- One plaintiff group is attacking the system's constitutionality as applied to charter schools. See App'x 11.
- The intervenors are asserting a "qualitative efficiency" claim—a type of challenge that the *West Orange-Cove II* Court declined to address because no party had raised it. Compare *id.* at 11, with *W. Orange-Cove II*, 176 S.W.3d at 792-93.
- Unlike in *West Orange-Cove II*, the Legislature enacted new school-finance legislation during the course of this litigation—a development that the state defendants contend affects both the justiciability and merits of the plaintiffs' claims. Compare *W. Orange-Cove II*, 176 S.W.3d at 754 (describing legislative inaction), with App'x 2 (noting that, after the trial court's initial ruling, the Legislature "passed several bills that potentially affected the claims in this case").

Further complicating matters, the six party groups challenging the system are not adverse only to the state defendants; they are also adverse to each other on some claims. For example, the Calhoun County ISD plaintiffs are appealing the trial court's "financial efficiency" judgment in favor of the

other school-district plaintiff groups. The intervenors and school-district plaintiff groups oppose each other on their respective challenges under article VII, section 1.

This case's complexity falls particularly hard on the four party groups that will be both appealing and defending different parts of the trial court's judgment.⁴ Counsel for those parties will be filing three substantial briefs in succession in this appeal. Because those attorneys cannot defer their obligations in other matters for the duration of this appeal's entire briefing schedule, the deadlines for each brief should be extended so that counsel can fulfill their responsibilities in other cases while working on this one.⁵

⁴ Specifically, each party group appealing the final judgment is also a prevailing party as to part of the judgment, and each will be defending part of the judgment as appellees or cross-appellees: (1) the state defendants prevailed on the merits of the charter-school plaintiffs' claims (except adequacy) and the intervenors' claims; (2) the Calhoun County ISD plaintiffs prevailed on their affirmative claims and the state defendants' and intervenors' pleas to the jurisdiction; (3) the charter-school plaintiffs prevailed on their adequacy claim and the state defendants' pleas to the jurisdiction; and (4) the intervenors prevailed on the state defendants' plea to the jurisdiction.

⁵ Indeed, appellate counsel for the state defendants already face multiple deadlines in other cases that overlap with the time for preparing the first (and largest) brief in this appeal: Rance Craft [appellees' brief, *Graphic Packaging Corp. v. Hegar*, No. 03-14-00197-CV (Tex. App.—Austin) (due Jan. 20, 2015)]; Kristofer S. Monson [oral argument, *Life Partners Holdings, Inc. v. State*, No. 14-0226 (Tex.) (Jan. 15, 2015)]; petitioner's brief on the merits, *Tex. Dep't of State Health Servs. v. Balquinta*, No. 14-0270 (Tex.) (due Jan. 21, 2015); appellees' brief, *County of La Salle v. Weber*, No. 03-14-00501-CV (Tex. App.—Austin) (due Jan. 21, 2015); reply brief on the merits, *Tex. Dep't of State Health Servs. v. Balquinta*, No. 14-0270 (Tex.) (due Feb. 25, 2015)]; Beth Klusmann [reply brief on the merits, *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, No. 13-1371 (U.S.) (due Jan. 14, 2015)]; petitioner's brief on the merits, *Office of the Attorney Gen. v.*

Finally, the parties’ proposed briefing schedule will not unduly delay the resolution of this appeal. Again, a comparison to *West Orange-Cove II* is instructive. In that case, the appellate record was filed on January 20, 2005. After “expedited briefing and oral argument,”⁶ *id.* 176 S.W.3d at 771, this Court rendered its opinion on November 22, 2005—approximately ten months after the filing of the record, *id.* at 746. Accordingly, even if this case were a carbon copy of *West Orange-Cove II* (which it is not), and thus could be adequately briefed on the same expedited schedule (which it cannot), the Court likely would not be in a position to issue its opinion until November 2015 at the earliest—a point far too late for any legislative response to the opinion (should there be one) to affect the 2015-2016 school year. In other words, briefing deadlines at shorter intervals would not only be ill-suited for this more expansive and complex appeal, but they also would serve no

Weatherspoon, No. 14-0582 (Tex.) (due Jan. 20, 2015); assisting with oral argument, *Whole Woman’s Health v. Lakey*, No. 14-50928 (5th Cir.) (Jan. 7, 2015); assisting with oral argument, *DeLeon v. Perry*, No. 14-50196 (5th Cir.) (Jan. 9, 2015); assisting with oral argument, *Tex. Dep’t of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, No. 13-1371 (U.S.) (Jan. 21, 2015)]; Evan S. Greene [oral argument, *Hines v. Alldredge*, No. 14-40403 (5th Cir.) (Jan. 6, 2015); hearing, *In re: Tex. State Silica Prods. Liab. Litig.*, Master Docket No. 2004-70000 (333rd Dist. Ct.—Harris County) (Jan. 12, 2015); petitioner’s brief on the merits, *Walker v. Tex. Division, Sons of Confederate Veterans*, No. 14-144 (U.S.) (due Jan. 20, 2015); reply brief on the merits, *Walker v. Tex. Division, Sons of Confederate Veterans*, No. 14-144 (U.S.) (due Mar. 23, 2015)].

⁶ At the request of some parties, the Court set the deadlines in that case at 40 days for the appellants’ briefs; 40 days for the appellees’ briefs; and 20 days for the reply briefs.

practical purpose.⁷ The parties' proposed schedule should provide sufficient time to provide the Court with thorough and helpful briefing while moving the appeal forward.

PRAYER

The state defendants respectfully request that the Court note probable jurisdiction over this appeal and order the filing of appellate briefs in accordance with the parties' proposed briefing schedule.

⁷ The July 1, 2015 expiration of the trial court's order staying the injunction also imposes no time constraint on this appeal. The state defendants' appeal superseded the trial court's judgment, including the injunction. TEX. CIV. PRAC. & REM. CODE § 6.001; *In re Long*, 984 S.W.2d 623, 625 (Tex. 1999).

KEN PAXTON
Attorney General of Texas

CHARLES E. ROY
First Assistant Attorney
General

JAMES E. DAVIS
Deputy Attorney General for
Civil Litigation

JONATHAN F. MITCHELL
Solicitor General

Respectfully submitted.

/s/ Rance Craft
RANCE CRAFT
Assistant Solicitor General
Texas Bar No. 24035655

KRISTOFER S. MONSON
Assistant Solicitor General
Texas Bar No. 24037129

BETH KLUSMANN
Assistant Solicitor General
Texas Bar No. 24036918

EVAN S. GREENE
Assistant Solicitor General
Texas Bar No. 24068742

SHELLEY N. DAHLBERG
Deputy Chief
General Litigation Division
Texas Bar No. 24012491

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
[Tel.] (512) 936-2872
[Fax] (512) 474-2697
rance.craft@texasattorneygeneral.gov

*Counsel for Appellants/Cross-
Appellees Michael Williams, et al.*

CERTIFICATE OF CONFERENCE

On October 28, 2014, I conferred with counsel for all other parties regarding the motion for an extended briefing schedule included herein and they advised that their clients agree to the proposed schedule.

/s/ Rance Craft
Rance Craft

CERTIFICATE OF SERVICE

On January 6, 2015, the foregoing **Statement of Jurisdiction and Motion for Briefing Schedule** was served by File & Serve XPress and/or electronic mail on:

Mark R. Trachtenberg
HAYNES AND BOONE, LLP
1 Houston Center
1221 McKinney St., Ste. 2100
Houston, TX 77010
mark.trachtenberg@haynesboone.com

John W. Turner
HAYNES AND BOONE, LLP
2323 Victory Ave., Ste. 2100
Dallas, TX 75219
john.turner@haynesboone.com

Attorneys for Calhoun County ISD, et al.

Robert A. Schulman
Joseph E. Hoffer
Leonard J. Schwartz
SCHULMAN, LOPEZ & HOFFER, L.L.P.
517 Soledad St.
San Antonio, TX 78205-1508
rschulman@slh-law.com
jhoffer@slh-law.com
lschwartz@slh-law.com

James C. Ho
GIBSON, DUNN & CRUTCHER LLP
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201-6912
(214) 698-3264
(214) 571-2917 [fax]
jho@gibsondunn.com

Attorneys for Texas Charter Schools Association, et al.

Craig T. Enoch
Melissa A. Lorber
Shelby L. O'Brien
ENOCH KEVER PLLC
600 Congress, Ste. 2800
Austin, TX 78701
cenoch@enochkever.com
mlorber@enochkever.com
sobrien@enochkever.com

J. Christopher Diamond
THE DIAMOND LAW FIRM, P.C.
17484 Northwest Freeway, Ste. 150
Houston, TX 77040
christopherdiamond@yahoo.com

Attorneys for Joyce Coleman, et al.

Richard E. Gray, III
Toni Hunter
Richard E. Gray, IV
GRAY & BECKER, P.C.
900 West Ave.
Austin, TX 78701
rick.gray@graybecker.com
toni.hunter@graybecker.com
richard.grayIV@graybecker.com

Randall B. Wood
Doug W. Ray
RAY & WOOD
2700 Bee Caves Rd. #200
Austin, TX 78746
buckwood@raywoodlaw.com
dray@raywoodlaw.com

Attorneys for The Texas Taxpayer & Student Fairness Coalition, et al.

David G. Hinojosa
Marisa Bono
MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATION FUND, INC.
110 Broadway, Ste. 300
San Antonio, TX 78205
dhinojosa@maldef.org
mbono@maldef.org

Roger L. Rice
MULTICULTURAL EDUCATION,
TRAINING AND ADVOCACY, INC.
240A Elm St., Ste. 22
Somerville, MA 02144
rlr@shore.net

Attorneys for Edgewood ISD, et al.

J. David Thompson, III
Philip Fraissinet
THOMPSON & HORTON LLP
Phoenix Tower, Ste. 2000
3200 Southwest Freeway
Houston, TX 77027
dthompson@thompsonhorton.com
pfraissinet@thompsonhorton.com

Attorneys for Fort Bend ISD, et al.

Holly G. McIntush
THOMPSON & HORTON LLP
Wells Fargo Tower
400 W. 15th St., Ste. 1430
Austin, TX 78701
hmcintush@thompsonhorton.com

/s/ Rance Craft
Rance Craft
Assistant Solicitor General

*Counsel for Appellants/Cross-
Appellees Michael Williams, et al.*

APPENDIX

Filed in The District Court
of Travis County, Texas

EM AUG 28 2014

At 12:47 PM.
Amalia Rodriguez-Mendoza, Clerk

CAUSE NO. D-1-GN-11-003130

THE TEXAS TAXPAYER & STUDENT
FAIRNESS COALITION, et al;
CALHOUN COUNTY ISD, et al;
EDGEWOOD ISD, et al;
FORT BEND ISD, et al.;
TEXAS CHARTER SCHOOL
ASSOCIATION, et al.;

Plaintiffs

JOYCE COLEMAN, et al.;

Intervenors

vs.

MICHAEL WILLIAMS, COMMISSIONER
OF EDUCATION, IN HIS OFFICIAL
CAPACITY; SUSAN COMBS,
TEXAS COMPTROLLER OF PUBLIC
ACCOUNTS, IN HER OFFICIAL
CAPACITY; TEXAS STATE BOARD
OF EDUCATION,

Defendants

IN THE DISTRICT COURT

TRAVIS COUNTY, TEXAS

200th JUDICIAL DISTRICT

FINAL JUDGMENT

On October 22, 2012, this consolidated case was called for trial. All parties appeared and announced that they were ready for trial, including the Texas Taxpayer and Student Fairness Coalition Plaintiffs (the "TTSFC Plaintiffs"),¹ the Calhoun County ISD Plaintiffs,² the Fort Bend ISD Plaintiffs,³ the Edgewood ISD Plaintiffs,⁴ the Charter School Plaintiffs,⁵ the Intervenors,⁶

¹ The TTSFC Plaintiffs are those plaintiffs listed in paragraphs 2-8 of their Ninth Amended Petition filed with the Court on October 11, 2013.

² The Calhoun County ISD Plaintiffs are those districts listed in paragraphs 2-7 of their Third Amended Petition filed with the Court on October 11, 2013.

³ The Fort Bend ISD Plaintiffs are those districts listed in paragraphs 2-83 of their Seventh Amended Petition filed with the Court on October 11, 2013.

and the State Defendants.⁷ The case was tried to the Court over the course of forty-five trial days.

On the final day of trial, this Court orally announced its ruling on the plaintiffs' claims, finding the Texas school finance system unconstitutional in several respects. Before this Court entered its findings of fact and a final judgment, the 83rd Legislature passed several bills that potentially affected the claims in this case. On June 19, 2013, the Court granted a motion to reopen the evidence to consider the impact of the 2013 legislation, and held a ten-day evidentiary hearing beginning on January 21, 2014.

Based upon the competent evidence admitted at trial (both the main trial and upon the reopening of evidence), the arguments of counsel, and this Court's contemporaneously-entered Findings of Fact and Conclusions of Law (incorporated herein by reference),⁸ the Court finds that the Texas school finance system effectively imposes a state property tax in violation of Article VIII, Section 1-e of the Texas Constitution because school districts do not have meaningful discretion over the levy, assessment, and disbursement of local property taxes. The Court further finds that the Legislature has failed to meet its constitutional duty to suitably provide for Texas public schools because the school finance system is structured, operated, and funded so that it cannot provide a constitutionally adequate education for all Texas

⁴ The Edgewood ISD Plaintiffs are those plaintiffs listed in paragraphs 2-12 of their Third Amended Petition filed with the Court on August 7, 2013.

⁵ The Charter School Plaintiffs are those plaintiffs listed in paragraphs 2-7 of their Fifth Amended Original Petition and Request for Declaratory Judgment filed with the Court on November 21, 2013.

⁶ The Intervenor are those parties listed in paragraph 1 of their Third Amended Plea in Intervention filed with this Court on August 7, 2013.

⁷ The State Defendants are Michael Williams, in his official capacity as Texas Commissioner of Education; the Texas Education Agency; Susan Combs, in her official capacity as the Texas Comptroller of Public Accounts; and the Texas State Board of Education.

⁸ The Court incorporates its Findings of Fact and Conclusions of Law in support of this Final Judgment. The Declarations, herein, summarize or restate those found in the Findings of Fact and Conclusions of Law.

schoolchildren. Further, the school finance system is constitutionally inadequate because it cannot accomplish, and has not accomplished, a general diffusion of knowledge for all students due to insufficient funding. Finally, the school finance system is financially inefficient because all Texas students do not have substantially equal access to the educational funds necessary to accomplish a general diffusion of knowledge. Consequently, the Court enjoins further funding under the system until the constitutional infirmities are corrected.

THE CONSTITUTIONAL STANDARDS

State Property Tax Prohibition.

Because the TTSFC Plaintiffs, the Calhoun County ISD Plaintiffs, the Fort Bend ISD Plaintiffs, and the Edgewood ISD Plaintiffs (collectively, the “ISD Plaintiffs”) must tax at or near the maximum allowed tax rate to fund maintenance and operations for an adequate education, they contend that the State, through the school finance system, improperly controls local property taxation in violation of Article VIII, Section 1-e of the Texas Constitution: “No State ad valorem taxes shall be levied upon any property within this State.” TEX. CONST. art. VIII, § 1-e. “An ad valorem tax is a state tax when it is imposed directly by the State or when the State so completely controls the levy, assessment and disbursement of revenue, either directly or indirectly, that the authority employed is without meaningful discretion.” *West Orange-Cove Cons. I.S.D. v. Neeley*, 176 S.W.3d 746, 751 (Tex. 2005) [“*WOC II*”] (quoting *Carrollton-Farmers Branch I.S.D. v. Edgewood I.S.D.*, 826 S.W.2d 489, 502 (Tex. 1992)) [“*Edgewood III*”]. The evidence clearly establishes that local districts do not have meaningful discretion in the levy, assessment, and disbursement of property taxes; therefore, the Texas school finance system imposes an unconstitutional state property tax.

The Education Clause – Adequacy, Suitability, and Financial Efficiency.

Like the Texas Supreme Court, this Court measures the conduct of the Legislature by its constitutional duty:

A general diffusion of knowledge being essential to the preservation of liberties and rights of the people, **it shall be the duty of the Legislature** of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

TEX. CONST. art. VII, § 1 (emphasis added). As applied in this case and described by the Supreme Court, the Constitution first requires the Legislature to establish a public school system that is “adequate,” i.e., one that “achieve[s] ‘[a] **general diffusion of knowledge** . . . essential to the preservation of liberties and rights of the people.’” *WOC II*, 176 S.W.3d at 753 (quoting TEX. CONST. art. VII, § 1) (emphasis added). Second, the Legislature must make “suitable provision” to achieve the general diffusion of knowledge. That is, the Legislature must **structure, operate, and fund** the public school system “so that it can accomplish its purpose for all Texas children.” *Id.* (emphasis added). Third, in funding the public school system, the Legislature must be “financially efficient.” “Children who live in poor districts and children who live in rich districts must be afforded a **substantially equal opportunity to have access to educational funds.**” *Id.* (quoting *Edgewood I.S.D. v. Kirby*, 777 S.W.2d 391, 397 (Tex. 1989)) [*“Edgewood I”*] (emphasis added). In the context of a finance system that is heavily dependent upon property tax revenues and there exists a vast disparity in property values among the school districts, “[t]here must be a direct and close correlation between a district’s tax effort and the educational resources available to it. . . .” *Edgewood I.S.D. v. Meno*, 917 S.W.2d 717, 729 (Tex. 1995) [*“Edgewood IV”*], (quoting *Edgewood I*, 777 S.W.2d at 397). The Texas school finance system is constitutionally inadequate, unsuitable, and financially inefficient.

STANDARD OF REVIEW

This Court is mindful that its role differs from that of the Legislature.

[T]he Legislature has discretion under article VII, section 1 to determine how to structure and fund the public education system to achieve a general diffusion of knowledge. However . . . governmental discretion is circumscribed by the Constitution. Article VII, section 1 requires that public school finance be efficient and adequate [and suitable] to provide a general diffusion of knowledge.

WOC II, 176 S.W.3d at 775. The Legislature’s “affirmative duty to establish and provide for the public free schools” is accompanied by “express constitutional mandate” by which this Court must “measure the constitutionality of the Legislature’s actions.” *Id.* at 776. “That provision does not allow the Legislature to structure a public school system that is inadequate, inefficient, or unsuitable, **regardless of whether it has a rational basis or even a compelling reason to do so.**” *Id.* at 784 (emphasis added).

The Legislature is entitled to determine what public education is necessary for the constitutionally required ‘general diffusion of knowledge’, and then to determine the means for providing that education. But the Legislature does not have free rein at either level.

* * *

If the Legislature’s choices are informed by guiding rules and principles properly related to public education – that is, if the choices are not arbitrary – then the system does not violate the constitutional provision.

Id. at 784-85.

In assessing challenges to the public education system under article VII, section 1, courts must not on the one hand substitute their policy choices for the Legislature’s, however undesirable the latter may appear, but must on the other hand examine the Legislature’s choices carefully to determine whether those choices meet the requirements of the Constitution. By steering this course, the Judiciary can assure that the people’s guarantees under the Constitution are protected without straying into the prerogatives of the Legislature.

Id. at 785.

Though the Court recognizes the Legislature's discretion in crafting the public school system, "the final authority to determine adherence to the Constitution resides with the judiciary." *Id.* While the parameters are not clear, the constitutional limits are.

[A]rticle VII, section 1 dictates what the system *cannot* be: it cannot be so inadequate that it does not provide for a general diffusion of knowledge, or so inefficient that districts which must achieve this general diffusion of knowledge do not have substantially equal access to available revenues to perform their mission, or so unsuitable that it cannot because of its structure achieve its purpose.

Id. at 783. The Court finds the Legislature has failed to meet its constitutional mandate and has acted arbitrarily in structuring and funding the Texas school finance system.

Based upon the Court's Findings of Fact and Conclusions of Law, the Court GRANTS the ISD Plaintiffs' requests for declaratory and injunctive relief and makes the following declarations.

I. Declaratory relief relating to Article VIII, Section 1-e state property tax claims

This Court GRANTS FINAL JUDGMENT to the ISD Plaintiffs on their requests for declaratory relief in connection with their Article VIII, Section 1-e state property tax claims.

Accordingly, the Court makes the following declarations:

1. The ISD Plaintiffs have lost meaningful discretion to set their M&O tax rates, as their current rates effectively serve as a floor (because they cannot lower taxes without further compromising their ability to meet state standards and requirements) and a ceiling (because they are either legally or practically unable to raise rates further). Further, to the extent any of the ISD Plaintiff districts could raise their M&O tax rate to the statutory maximum rate of \$1.17 (and have not already done so), the districts would still remain unable to meaningfully use local tax dollars for local enrichment beyond the level required for a constitutionally adequate education, in violation of the prohibition on state ad valorem taxes. Thus, THIS COURT DECLARES that the ISD Plaintiffs have established an Article VIII, Section 1-e violation as to their districts.
2. Because the ISD Plaintiffs collectively have also established a systemic violation, THIS COURT DECLARES that the Texas school finance system is presently in violation of Article VIII, Section 1-e of the Texas Constitution.

II. Declaratory relief relating to Article VII, Section 1 suitability claims

This Court GRANTS FINAL JUDGMENT to the ISD Plaintiffs on their requests for declaratory relief in connection with their Article VII, Section 1 suitability claims. Accordingly, the Court makes the following declarations (which summarize or restate those made in the accompanying Findings of Fact and Conclusions of Law):

1. The ISD Plaintiffs have shown that the State has made no effort to determine the costs of meeting its own standards or of bridging the performance gaps. The ISD Plaintiffs have further shown that the costs of providing a general diffusion of knowledge exceed the funding provided through the current system, and that multiple defects in the current design of the school finance system – including inadequately funded weights for economically disadvantaged and English Language Learner students – cumulatively prevent districts from generating sufficient resources to accomplish a general diffusion of knowledge for all students, and particularly with respect to the State’s economically disadvantaged and English Language Learner students. Accordingly, THIS COURT DECLARES that the Texas school finance system violates the “make suitable provision” clause in Article VII, Section 1 of the Texas Constitution because the system is not “structured, operated, and funded so that it can accomplish its purpose [of providing a general diffusion of knowledge] for all Texas children.” *WOC II*, 176 S.W.3d at 753.
2. The Edgewood ISD Plaintiffs have further shown that the costs of providing a general diffusion of knowledge to economically disadvantaged and English Language Learner students exceed the funding provided through the current system, due to the arbitrarily designed and insufficient weights for those students. This defect coupled with the arbitrarily designed and insufficient Foundation School Program funding made available to districts like the Edgewood ISD Plaintiffs cumulatively prevent those districts from generating sufficient resources to accomplish a general diffusion of knowledge for the State’s economically disadvantaged and English Language Learner students. Accordingly, THIS COURT DECLARES that the Texas school finance system violates the “make suitable provision” clause in Article VII, Section 1 of the Texas Constitution because the system is not “structured, operated, and funded so that it can accomplish its purpose [of providing a general diffusion of knowledge] for [economically disadvantaged and English Language Learner] children.” *WOC II*, 176 S.W.3d at 753.
3. THIS COURT DECLARES the State’s school finance system fails to satisfy the “make suitable provision” requirement because Texas school children, particularly the economically disadvantaged and English language learners, are denied access to that education needed to participate fully in the social, economic, and educational opportunities available in Texas. Moreover, the failure of the Texas school finance system to fully pay the costs of a constitutionally adequate education, whether at the maximum tax rate available without a Tax Ratification Election [“TRE”], \$1.04, or at the maximum tax rate with voter approval, \$1.17, means that the structure, operation, and

funding make it impossible for Texas public schools to accomplish a general diffusion of knowledge.

4. The TTFSC Plaintiffs, the Fort Bend ISD Plaintiffs, and the Edgewood ISD Plaintiffs have shown that the Texas school finance system is structured, operated, and funded so that it cannot accomplish financial equity. Property wealthy districts are able to access substantially more funding at all levels of the system. Further, the use of two separate funding mechanisms for M&O, formula funding and target revenue, makes it impossible for the finance system to be equalized to accomplish financial efficiency. THIS COURT DECLARES that the Texas school finance system fails to satisfy the “make suitable provision” requirement because it is structured, operated, and funded so that it is impossible to achieve a general diffusion of knowledge in a financially efficient manner.

III. Declaratory relief relating to Article VII, Section 1 adequacy claims

This Court GRANTS FINAL JUDGMENT to the ISD Plaintiffs, as well as the Charter School Plaintiffs, on their requests for declaratory relief in connection with their Article VII, Section 1 adequacy claims. Accordingly, the Court makes the following declarations (which summarize or restate those made in the accompanying Findings of Fact and Conclusions of Law):

1. All performance measures considered at trial, including STAAR tests, EOC exams, SATs, the ACTs, performance gaps, graduation rates, and dropout rates among others, demonstrated that Texas public schools are not accomplishing a general diffusion of knowledge due to inadequate funding. Accordingly, THIS COURT DECLARES that the school finance system is constitutionally inadequate.
2. The ISD Plaintiffs have shown that the cost of meeting the constitutional mandate of adequacy (the “general diffusion of knowledge”) exceeds the maximum amount of funding that is available to them at the \$1.04 M&O tax rate (the highest rate accessible without a TRE). Accordingly, THIS COURT DECLARES the State’s school finance system fails to satisfy the Article VII, Section 1 adequacy requirement as to the ISD Plaintiffs districts. The ISD Plaintiffs also have shown that the cost of meeting the constitutional mandate of adequacy exceeds the amount of funding that is or would be available to them at the maximum \$1.17 M&O tax rate. Accordingly, THIS COURT DECLARES the State’s school finance system fails to satisfy the Article VII, Section 1 adequacy requirement as to the ISD Plaintiffs districts.
3. Because the ISD Plaintiffs collectively have also established a systemic/statewide “adequacy” violation, THIS COURT DECLARES that the Texas school finance system is presently in violation of Article VII, Section 1 of the Texas Constitution. Stated another way, this Court finds that the Legislature violated the “arbitrary” standard described in *West Orange Cove II* by “defin[ing] the goals for accomplishing the

constitutionally required general diffusion of knowledge,” and then providing “insufficient means for achieving those goals.” *WOC II*, 176 S.W.3d at 785. The current structure of the school finance system is such that districts cannot generate sufficient revenues to fund and provide an adequate education.

4. The Edgewood ISD Plaintiffs, the TTSFC Plaintiffs, and the Fort Bend ISD Plaintiffs have further shown that economically disadvantaged students and English Language Learner students are not achieving a general diffusion of knowledge and that the cost of providing a general diffusion of knowledge to these students exceeds the amount of funding made available for their education under the current school finance system. The Court concludes the funding for economically disadvantaged and English Language Learner students is inadequate and arbitrary. Accordingly, THIS COURT DECLARES the current public school finance system is inadequate for the provision of a general diffusion of knowledge for economically disadvantaged and English Language Learner students under Article VII, Section 1 of the Texas Constitution.
5. The ISD Plaintiffs have further shown that the current facilities funding is constitutionally inadequate to suitably provide sufficient support for districts to maintain, build, and renovate the classrooms necessary for an adequate education. This constitutional infirmity exacerbates the problems resulting from inadequate M&O funding because many districts are forced to use those scarce funds to make up for unfunded facilities needs. Accordingly, THIS COURT DECLARES that considered separately, and as part of the total school finance system, facilities funding is arbitrary and inadequate in providing Texas school children with the constitutional mandate of adequacy.
6. The ISD Plaintiffs have shown that the M&O and I&S funding available under the school finance system as a whole is insufficient to achieve a general diffusion of knowledge. Accordingly, THIS COURT DECLARES that the school finance system is arbitrary and inadequate in violation of Article VII, Section 1 of the Texas Constitution.
7. Because the school finance system for independent school districts under the statutory formulas is constitutionally inadequate and because charter schools are financed based on state averages of school district M&O funding levels, THIS COURT DECLARES that funding for open-enrollment charter schools also is inadequate.

IV. Declaratory relief relating to Article VII, Section 1 financial efficiency (equity) claims

This Court GRANTS FINAL JUDGMENT to the TTSFC Plaintiffs, the Fort Bend ISD Plaintiffs, and the Edgewood ISD Plaintiffs on their requests for declaratory relief in connection with their Article VII, Section 1 financial efficiency or equity claims. Accordingly, the Court makes the following declarations:

1. The TTSFC, Edgewood ISD, and Fort Bend ISD Plaintiffs have shown that, in the current system, there is not a direct and close correlation between a district's tax effort and the educational resources available to it, as required under Article VII, Section 1, and, as a result, there are large gaps in funding levels and tax effort between low property wealth and high property wealth districts. Plaintiffs have shown that these gaps disadvantage the students in their districts in acquiring a general diffusion of knowledge and are incompatible with a system that requires that "children who live in poor districts and children who live in rich districts . . . be afforded a substantially equal opportunity to have access to educational funds." *WOC II*, 176 S.W.3d at 753. Instead, the system arbitrarily funds districts at different levels below the constitutionally required level of a general diffusion of knowledge. Plaintiffs have further shown that the school finance system violates the "efficiency" provisions of Article VII, Section I of the Texas Constitution in that a) it fails to provide substantially equal access to M&O and I&S tax revenues necessary to provide a general diffusion of knowledge at similar tax effort, and b) it permits an amount of unequal local supplementation in the system that is so great as to destroy the efficiency of the system. Plaintiffs have also shown that insofar as the State Defendants continue to rely on disparate property values and accompanying property taxes to fund public schools, equalization provisions such as equalized wealth levels, guaranteed yields, recapture and caps on maximum tax rates, remain essential for a financially efficient and equitable public school system under Article VII, Section 1 of the Texas Constitution. The State's failure to make facilities funding a statutorily permanent part of the Texas school finance system and failure to update the equalized wealth level/guaranteed yield (coupled with the lack of recapture) mean that low property wealth and high property wealth districts have vastly different access to facilities funding contributing to the inefficiency of the system as a whole.
 2. THIS COURT DECLARES that the school finance system violates the "efficiency" provisions of Article VII, Section I of the Texas Constitution in that it fails to provide substantially equal access to revenues necessary to provide a general diffusion of knowledge at similar tax effort, and instead arbitrarily funds districts at different levels below the constitutionally required level of a general diffusion of knowledge
 3. Because the TTSFC Plaintiffs, the Edgewood ISD Plaintiffs, and the Fort Bend ISD Plaintiffs collectively have established a systemic/statewide violation, THIS COURT DECLARES that the Texas school finance system is presently in violation of Article VII, Section 1 of the Texas Constitution with respect to both maintenance and operations funding and facilities funding, separately and as complementary aspects of the school finance system.
- V. **This Court denies the TTSFC Plaintiffs' request for declaratory relief relating their Article VIII, Section 1(a) "taxpayer equity" claim.**

For the reasons set forth in its Findings of Fact and Conclusions of Law, this Court declines to grant the relief sought by the TTSFC Plaintiffs in connection with their Article VIII, Section 1(a) "taxpayer equity" claim. THIS COURT DECLARES that the Texas school finance

system does not violate Article VIII, Section 1(a) and GRANTS FINAL JUDGMENT to the State Defendants on this claim.

VI. This Court denies all pleas to the jurisdiction.

This Court finds that it has jurisdiction to rule on the merits of all claims in this case. Accordingly, THIS COURT DENIES all pending pleas to the jurisdiction.

VII. This Court denies the Intervenors' request for declaratory relief relating to their Article VII, Section 1 "qualitative efficiency" claim.

For the reasons set forth in its Findings of Fact and Conclusions of Law, this Court declines to grant the relief requested by the Intervenors on their Article VII, Section 1 "qualitative efficiency" claim. THIS COURT DECLARES that the Intervenors failed to establish a "qualitative efficiency" violation of Article VII, Section 1 and GRANTS FINAL JUDGMENT to the State Defendants on this claim.

VIII. This Court denies the Charter School Plaintiffs' request for declaratory relief relating to their claims (other than their adequacy claim).

As noted in Part I above, this Court GRANTS FINAL JUDGMENT to the Charter School Plaintiffs on their Article VII, Section 1 adequacy claim as derived from the Court's ruling on the ISD Plaintiffs' adequacy claims. For the reasons set forth in its Findings of Fact and Conclusions of Law, this Court DENIES the remaining relief requested by the Charter School Plaintiffs in connection with their other claims and GRANTS FINAL JUDGMENT to the State Defendants on these claims.

IX. Injunctive relief

This Court GRANTS FINAL JUDGMENT in favor of the TTSFC Plaintiffs, Calhoun County ISD Plaintiffs, Fort Bend ISD Plaintiffs, Edgewood ISD Plaintiffs, and the Charter School Plaintiffs on their claims for injunctive relief. Accordingly, this Court:

1. ENJOINS the State Defendants from giving any force and effect to the sections of the Education Code relating to the financing of public school education (Chapters 41 and 42 and Section 12.106 of the Education Code) and from distributing any money under the current Texas school financing system until the constitutional violations are remedied. The effect of this injunction shall be stayed until July 1, 2015, in order to give the Legislature a reasonable opportunity to cure the constitutional deficiencies in the finance system before the foregoing prohibitions take effect.
2. This injunction shall in no way be construed as enjoining the State Defendants, their agents, successors, employees, attorneys, and persons acting in concert with them or under their direction, from enforcing or otherwise implementing any other provisions of the Education Code.
3. This injunction shall not bar suits for collection of delinquent taxes, penalties, and interest.
4. This injunction does not impair any lawful obligation created by the issuance or execution of any lawful agreement or evidence of indebtedness before July 1, 2015, that matures after that date and that is payable from the levy and collection of ad valorem taxes, and a school district may, before, on, and after July 1, 2015, levy, assess, and collect ad valorem taxes, at the full rate and in the full amount authorized by law necessary to pay such obligations when due and payable. A school district that, before July 1, 2015, issues bonds, notes, public securities, or other evidences of indebtedness under Chapter 45 of Education Code, or other applicable law, or enters into a lease-purchase agreement under Subchapter A, Chapter 271 of the Local Government Code, may continue, before, on, and after July 1, 2015, to receive state assistance with respect to such payments to the same extent that the district would have been entitled to receive such assistance under Chapter 42 or 46 of the Education Code, notwithstanding this injunction.
5. This injunction does not limit, modify, or eliminate the authority of a school district to issue or execute bonds, notes, public securities, or other evidences of indebtedness under Chapter 45 of the Education Code, or other applicable law, before, on, or after July 1, 2015, or to levy, assess, and collect, before, on, or after July 1, 2015, ad valorem taxes at the full rate and in the full amount authorized by Section 45.002 of the Education Code or other applicable law, necessary to pay such bonds, notes, public securities, or other evidences of indebtedness when due and payable.

6. This injunction does not limit, modify, or eliminate the authority of the commissioner of education, before, on, or after July 1, 2015, to grant assistance to a school district under Chapter 42 or 46 of the Education Code, in connection with bonds, notes, public securities, lease-purchase agreements, or evidences of indebtedness, including those described by Subchapter A, Chapter 271 of the Local Government Code.

X. Attorneys' fees and costs

In response to an agreed motion by all parties, this Court bifurcated the issue of attorneys' fees from the trial on the merits of the plaintiffs' claims in an order dated August 29, 2012. The parties agreed to try the attorneys' fees issues by submissions of expert affidavits to this Court. This Court is of the opinion that the TTSFC Plaintiffs, Calhoun County ISD Plaintiffs, Fort Bend ISD Plaintiffs, and Edgewood ISD Plaintiffs are entitled to reasonable and necessary attorneys' fees as set forth below, and that such an award of fees would be equitable and just, subject to the Court's rulings on the State's objections. The Court finds that it is equitable and just to deny the attorneys' fees requests of the State, the Intervenors, and the Charter School Plaintiffs because they were predominantly non-prevailing parties and, while they contributed to the public debate on school finance law through this lawsuit, those contributions were not so significant as to warrant an award of fees.

Following the conclusion of the initial trial on the merits, the ISD Plaintiffs each submitted their initial fee requests and affidavits to the Court in late February and early March 2013. The State then filed objections to these fee requests. In a communication to counsel in September 2013, the Court informed the parties of its tentative rulings on these objections, reducing each of the ISD Plaintiffs' Initial Fee Requests by varying amounts. In summary, given the extensive number of parties, witnesses, exhibits, and preparation necessary for the trial, the Court declined the State's invitation to rule that only one attorney could effectively represent each Plaintiffs' group each day during trial. Likewise, the Court declined the State's invitation to rule that any attorneys' fees related to the Intervenors' or the Charter School Plaintiffs' claims

were unnecessary. The Court further declined to strike fees for expert witnesses who were subsequently withdrawn when that decision had not been made when the fees were incurred. In general, the Court adjusted the attorneys' fee awards for amounts the Court has deemed inequitable or unjust to recover, such as time directed at recruiting districts, public relations, or technology training or time that is insufficiently described. The Court noted favorably the ISD Plaintiffs' efforts to submit fee requests that have been stripped of extraneous time. As a result, the adjustments by the Court were *de minimis* in comparison to the overall attorneys' fees the Court found to be equitable and just.

After the reopening of the evidence and the completion of the second phase of the trial, the ISD Plaintiffs submitted updated fee requests and supporting affidavits for time incurred from March 2013 forward. The ISD Plaintiffs did not challenge this Court's prior rulings on the State's objections, and each plaintiff group reduced their fee requests (for the initial phase of trial) to correspond with the Court's rulings. The State filed a second set of objections to the requests for the fees incurred from March 2013 forward. After careful review of the State's objections and the evidence related to attorneys' fees, the Court favorably notes the ISD Plaintiffs' effort to adjust their fees in response to the Court's previous rulings and to eliminate time the Court found objectionable. The Court again declines the State's invitation to rule that only one attorney could effectively represent each Plaintiffs' group each day during trial and that billable time be limited to actual time during trial. The associated time entries clearly indicate that the ISD Plaintiffs' attorneys were engaged in trial preparation when not in court. With respect to non-trial time, the Court declines to rule that only one attorney could effectively represent each plaintiffs' group and respectfully notes that the State was aptly and appropriately represented by a team of attorneys in all proceedings before the Court. The complexity of this

matter necessarily required team representation, and the Court overrules the State's objections on that basis. Likewise, the Court again declines the State's invitation to rule that any attorneys' fees related to the Intervenors' or the Charter School Plaintiffs' claims were unnecessary. The Court further declines to strike fees related to expert witnesses who were subsequently withdrawn when that decision had not been made when the fees were incurred.

The State also generally objects to attorney charges for travel time. The Court overrules these objections. The litigation involves districts from across the state with different interests and perspectives. It is entirely predictable and necessary that plaintiffs' counsel would be drawn from around the state. The charged travel time was not excessive and was linked to travel for litigation matters.

A. TTSFC Plaintiffs' attorneys' fees

The Court SUSTAINS the State's objections to time billed on 3/23/13, 4/5/13, 7/23/13, 7/24/13, 7/25/13, 7/26/13, and 9/27/13. The identified time entries include references to legislative matters and conferences that do not appear directly related to the litigation. Accordingly, the Court reduces the charged time by 11.3 hours and an amount of \$1,977.50. Otherwise, the State's objections to TTSFC Plaintiffs' attorneys' fees are OVERRULED.

IT IS THEREFORE ORDERED that under Section 37.009 of the Texas Civil Practice and Remedies Code, the TTSFC Plaintiffs shall recover from the State Defendants attorneys' fees in the sum of \$1,888,705.91, an amount that this Court finds to be both reasonable and necessary and equitable and just.

IT IS FURTHER ORDERED that the sum awarded to the TTSFC Plaintiffs shall bear post-judgment interest at the rate of five percent (5%), compounded annually, from the date the judgment is signed until the judgment is paid in full.

IT IS FURTHER ORDERED that the TTSFC Plaintiffs shall recover from the State Defendants appellate attorneys' fees in the following amounts that the Court also finds to be reasonable and necessary and equitable and just:

- (A) \$325,000 if the State Defendants seek and obtain direct review in the Texas Supreme Court, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date the direct appeal is perfected in the Texas Supreme Court, with all such post-judgment interest to run until the judgment against the State Defendants is paid in full; or
- (B) (1) \$325,000 if the State Defendants perfect an appeal from this Final Judgment to the Court of Appeals, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date of the notice of appeal in the Court of Appeals; plus (2) \$100,000 if the State Defendants seek review in the Texas Supreme Court, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date a petition for review is filed with the Supreme Court of Texas; with all such post-judgment interest to run until the judgment against the State Defendants is paid in full.

IT IS FURTHER ORDERED that if, following an appeal, the TTSFC Plaintiffs do not prevail on one or more of their claims, the Court finds that this award of attorneys' fees would still be equitable and just under Section 37.009 of the Texas Civil Practice and Remedies Code, because they have made significant contributions to the public debate on school finance law through this lawsuit.

B. Calhoun County ISD Plaintiffs' attorneys' fees

The State's objections to Calhoun County ISD Plaintiffs' attorneys' fees are OVERRULED.

IT IS THEREFORE ORDERED that under Section 37.009 of the Texas Civil Practice and Remedies Code, the Calhoun County ISD Plaintiffs shall recover from the State Defendants attorneys' fees in the sum of \$2,609,642.57, an amount that this Court finds to be both reasonable and necessary and equitable and just.

IT IS FURTHER ORDERED that the sum awarded to the Calhoun County ISD Plaintiffs shall bear post-judgment interest at the rate of five percent (5%), compounded annually, from the date the judgment is signed until the judgment is paid in full.

IT IS FURTHER ORDERED that the Calhoun County ISD Plaintiffs shall recover from the State Defendants appellate attorneys' fees in the following amounts that the Court also finds to be reasonable and necessary and equitable and just:

- (A) \$500,000 if the State Defendants seek and obtain direct review in the Texas Supreme Court, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date the direct appeal is perfected in the Texas Supreme Court, with all such post-judgment interest to run until the judgment against the State Defendants is paid in full; or
- (B) (1) \$400,000 if the State Defendants perfect an appeal from this Final Judgment to the Court of Appeals, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date of the notice of appeal in the Court of Appeals; plus (2) \$325,000 if the State Defendants seek review in the Texas Supreme Court, with post-judgment interest

to accrue on said amount at the rate of five percent (5%), compounded annually, from the date a petition for review is filed with the Supreme Court of Texas; with all such post-judgment interest to run until the judgment against the State Defendants is paid in full.

IT IS FURTHER ORDERED that if, following an appeal, the Calhoun County ISD Plaintiffs do not prevail on one or both of their claims, the Court finds that this award of attorneys' fees would still be equitable and just under Section 37.009 of the Texas Civil Practice and Remedies Code, because they have made significant contributions to the public debate on school finance law through this lawsuit.

C. Fort Bend ISD Plaintiffs' attorneys' fees

The State's objections to Fort Bend ISD Plaintiffs' attorneys' fees are OVERRULED.

IT IS THEREFORE ORDERED that under Section 37.009 of the Texas Civil Practice and Remedies Code, the Fort Bend ISD Plaintiffs shall recover from the State Defendants attorneys' fees in the sum of \$1,733,676.75, an amount that this Court finds to be both reasonable and necessary and equitable and just.

IT IS FURTHER ORDERED that the sum awarded to the Fort Bend ISD Plaintiffs shall bear post-judgment interest at the rate of five percent (5%), compounded annually, from the date the judgment is signed until the judgment is paid in full.

IT IS FURTHER ORDERED that the Fort Bend ISD Plaintiffs shall recover from the State Defendants appellate attorneys' fees in the following amounts that the Court also finds to be reasonable and necessary and equitable and just:

- (A) \$400,000 if the State Defendants seek and obtain direct review in the Texas Supreme Court, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date the direct appeal is

perfected in the Texas Supreme Court, with all such post-judgment interest to run until the judgment against the State Defendants is paid in full; or

- (B) (1) \$300,000 if the State Defendants perfect an appeal from this Final Judgment to the Court of Appeals, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date of the notice of appeal in the Court of Appeals; plus (2) \$250,000 if the State Defendants seek review in the Texas Supreme Court, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date a petition for review is filed with the Supreme Court of Texas; with all such post-judgment interest to run until the judgment against the State Defendants is paid in full.

IT IS FURTHER ORDERED that if, following an appeal, the Fort Bend ISD Plaintiffs do not prevail on one or more of their claims, the Court finds that this award of attorneys' fees would still be equitable and just under Section 37.009 of the Texas Civil Practice and Remedies Code, because they have made significant contributions to the public debate on school finance law through this lawsuit.

D. Edgewood ISD Plaintiffs' attorneys' fees

The State's objections to Edgewood ISD Plaintiffs' attorneys' fees are OVERRULED.

IT IS THEREFORE ORDERED that under Section 37.009 of the Texas Civil Practice and Remedies Code, the Edgewood ISD Plaintiffs shall recover from the State Defendants attorneys' fees in the sum of \$2,194,027.92, an amount that this Court finds to be both reasonable and necessary and equitable and just.

IT IS FURTHER ORDERED that the sum awarded to the Edgewood ISD Plaintiffs shall bear post-judgment interest at the rate of five percent (5%), compounded annually, from the date the judgment is signed until the judgment is paid in full.

IT IS FURTHER ORDERED that the Edgewood ISD Plaintiffs shall recover from the State Defendants appellate attorneys' fees in the following amounts that the Court also finds to be reasonable and necessary and equitable and just:

- (A) \$325,000 if the State Defendants seek and obtain direct review in the Texas Supreme Court, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date the direct appeal is perfected in the Texas Supreme Court, with all such post-judgment interest to run until the judgment against the State Defendants is paid in full; or
- (B) (1) \$325,000 if the State Defendants perfect an appeal from this Final Judgment to the Court of Appeals, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date of the notice of appeal in the Court of Appeals; plus (2) \$100,000 if the State Defendants seek review in the Texas Supreme Court, with post-judgment interest to accrue on said amount at the rate of five percent (5%), compounded annually, from the date a petition for review is filed with the Supreme Court of Texas; with all such post-judgment interest to run until the judgment against the State Defendants is paid in full.

IT IS FURTHER ORDERED that if, following an appeal, the Edgewood ISD Plaintiffs do not prevail on one or more of their claims, the Court finds that this award of attorneys' fees would still be equitable and just under Section 37.009 of the Texas Civil Practice and Remedies

Code, because they have made significant contributions to the public debate on school finance law through this lawsuit.

XI. Continuing jurisdiction

This Court will retain continuing jurisdiction over this matter until the Court has determined that the State Defendants have fully and properly complied with its judgment and orders.

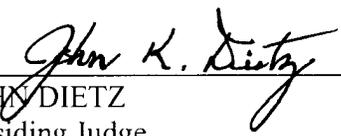
XII. Miscellaneous

IT IS FURTHER ORDERED that all costs of court expended or incurred in this cause by the TTSCF Plaintiffs, the Calhoun County ISD Plaintiffs, the Fort Bend ISD Plaintiffs, and the Edgewood ISD Plaintiffs are taxed against the State Defendants.

IT IS FURTHER ORDERED that all writs and processes for the enforcement and collection of this judgment or the costs of court may issue as necessary.

This Judgment finally disposes of all parties and all claims and is appealable. All other relief not expressly granted is denied.

SIGNED this 28th day of August, 2014.



JOHN DIETZ
Presiding Judge