

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

TEXAS TAXPAYER & STUDENT FAIRNESS COALITION, <i>ET AL.</i> ,	§	IN THE DISTRICT COURT
	§	
Plaintiffs,	§	
	§	
EDGEWOOD INDEPENDENT SCHOOL DISTRICT, <i>ET AL.</i> , (consolidated)	§	
	§	
Plaintiffs	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
MICHAEL WILLIAMS, in his official capacity as Commissioner of Education, <i>et al.</i> ,	§	
	§	
Defendants,	§	200TH JUDICIAL DISTRICT

**NOTICE OF FILING OF EXHIBITS 2 AND 3 TO  
ISD PLAINTIFFS' JOINT REPLY TO DEFENDANTS' SECOND  
AMENDED RESPONSE TO PLAINTIFFS' AND INTERVENORS'  
REQUESTS FOR ATTORNEYS' FEES AND OBJECTIONS TO  
DEFENDANTS' REQUEST FOR ATTORNEYS' FEES**

Plaintiffs Edgewood ISD, *et al.*, file David Hinojosa's Supplemental Affidavit, attached to this notice as Exhibit 2 and Affidavit of Roger L. Rice attached as Exhibit 3. These exhibits are referenced in *ISD Plaintiffs' Joint Reply to Defendants' Second Amended Response to Plaintiffs' and Intervenors' Requests for Attorneys' Fees and Objections to Defendants' Request for Attorneys' Fees.*

DATED: March 28, 2013

Respectfully Submitted,

MEXICAN AMERICAN LEGAL DEFENSE AND  
EDUCATIONAL FUND, INC.

David G. Hinojosa  
State Bar No. 24010689  
Marisa Bono  
State Bar No. 24052874

110 Broadway, Suite 300  
San Antonio, Texas 78205  
(210) 224-5476  
(210) 224-5382 Fax

By:        s/David G. Hinojosa  
David G. Hinojosa

Attorneys for Plaintiffs

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**CERTIFICATE OF SERVICE**

I also certify that on March 28, 2013, I served the foregoing document via electronic mail to the all parties listed below:

GREG ABBOTT  
Attorney General of Texas  
DANIEL T. HODGE  
First Assistant Attorney General  
DAVID C. MATTAX  
Deputy Attorney General for Defense Litigation  
ROBERT B. O'KEEFE  
Chief, General Litigation Division  
SHELLEY N. DAHLBERG  
Assistant Attorney General Texas  
Texas Attorney General's Office  
General Litigation Division  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711  
Fax: (512) 320-0667

Attorneys for Defendants

Mark R. Trachtenberg  
HAYNES AND BOONE, LLP  
1 Houston Center  
1221 McKinney St., Suite 2100  
Houston, Texas 77010  
Fax: (713) 547-2600

John W. Turner  
HAYES AND BOONE, LLP  
ISD  
2323 Victory Avenue, Suite 700  
Dallas, Texas 75219  
Fax: (214) 551-5940

Attorneys for Plaintiffs, Calhoun County ISD, et al.

Richard Gray  
Toni Hunter  
GRAY & BECKER, P.C.  
900 West Ave.  
Austin, Texas 78701  
Fax: (512) 482-0924

Randall B. Wood  
Doug W. Ray  
RAY & WOOD  
2700 Bee Caves Road #200  
Austin, Texas 78746  
Fax: (512) 328-1156

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

J. David Thompson, III  
Philip Fraissinet  
THOMPSON & HORTON, LLP  
Phoenix Tower, Suite 2000  
3200 Southwest Freeway  
Houston, Texas 77027  
Fax: (713) 583- 9668

Attorneys for Plaintiffs, Fort Bend

J. Christopher Diamond  
The Diamond Law Firm, P.C.  
17484 Northwest Freeway  
Ste. 150  
Houston, Texas 77040  
Fax: (832) 201-9262

Craig T. Enoch  
Melissa A. Lorber  
Enoch Kever PLLC  
600 Congress, Ste. 2800  
Austin, Texas 78701  
Fax: (512) 615-1198

Attorneys for Intervenors, Joyce Coleman, et al.

Robert A. Schulman  
Texas Bar No. 17834500  
Joseph E. Hoffer  
Texas Bar No. 24049462  
Ricardo R. Lopez  
Texas Bar No. 24013059  
517 Soledad Street  
San Antonio, Texas 78205-1508  
Telephone: (210) 538-5385  
Facsimile: (210) 538-5384

Attorneys for Plaintiffs Texas Charter Schools Association, et al.

By: s/David Hinojosa  
David Hinojos

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# Exhibit

# 2

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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

**SUPPLEMENTAL AFFIDAVIT OF DAVID G. HINOJOSA**

STATE OF TEXAS §  
§  
COUNTY OF BEXAR §

NOW COMES David G. Hinojosa of the Mexican American Legal Defense and Educational Fund, counsel for Plaintiffs Edgewood ISD, *et al.*, in the above entitled matter and hereby declares the following in this affidavit supplementing his Amended Affidavit:

1. My name is David G. Hinojosa. I am over the age of 18 and am fully competent to make this Affidavit. The facts stated in this Supplemental Affidavit are within my personal knowledge and are true.

2. MALDEF was retained by the Edgewood Plaintiffs in this case. There are very few non-profit civil rights legal organizations like MALDEF or private law firms that can be persuaded to represent the plaintiffs, who do not have the financial means to pay attorneys fees.
3. MALDEF is the only non-profit civil rights legal organization in Texas known to affiant that pursues these types of cases.
4. Because of MALDEF's nonprofit status, it operates with a smaller attorney staff. Due to the extensive discovery propounded by Defendants on the Edgewood Plaintiffs, the voluminous documents produced by Defendants in response to Plaintiffs' request, the multiple depositions set in one day and on consecutive days both before and during trial, the complex and numerous factual and legal issues presented by seven different parties-- among other reasons, it was necessary for MALDEF to seek assistance from other counsel.
5. MALDEF was able to retain two attorneys with the Multicultural, Education, Training and Advocacy ("META") as co-counsel to assist part-time with the case. I attempted to engage local counsel in Austin to assist with the case as pro bono counsel but I was unsuccessful due to enormity of the time commitment and the costs of the case. MALDEF did eventually receive part-time assistance from two lawyers employed by a New York-based law firm, Fried Frank, LLP.
6. Although myself, Marisa Bono and, in part, Rebecca Couto, litigated *Lobato v. State of Colorado*, the 2011 Colorado school finance referenced by Defendants in their Second Amended Response, that did not soften the complexity of the issues and facts in this case. A few examples of the differences between the two cases follow. First, Colorado has a school finance system that is entirely different, including the funding of facilities and special student populations such as English Language Learner and at-risk students. Second, the testing, curriculum, accountability and student expectations standards largely differ from those in this case. Third, there was no financial efficiency, or equity claim, allowed in the Colorado case. Fourth, the legal and evidentiary standards that govern Colorado school finance cases are different than those here in Texas. Fifth, there were only three parties in that case, compared to the seven in this case. There were no parties such as the Charter Plaintiffs and Intervenor in *Lobato* case from which the State Defendants could use to bolster their defenses. Sixth, only one witness who testified in *Lobato* for plaintiffs represented by MALDEF testified in this case, Dr. Steven Barnett. Dr. Clive Belfield co-drafted the expert report in *Lobato* with Dr. Henry Levin, but Dr. Belfield did not testify by deposition or in court.
7. The amount of trial time reflected in the attachments, often 7.5 hours for attorneys attending the full day of trial, more accurately reflects the 6.25 hours averred by Defendants on page 10 of their Second Amended Response to Plaintiffs' and Intervenor's Requests for Attorneys Fees. Oftentimes, counsel for Edgewood

Plaintiffs arrived 15-25 minutes early before trial and continued to work during that time in preparation for trial. In addition, we often continued to work during lunch, either on trial work or to prepare witnesses for the afternoon, and after the close of the day in court.

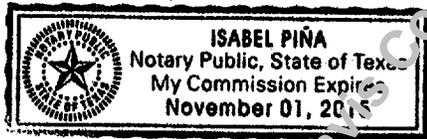
8. It was also necessary for more than one of the Edgewood Plaintiffs' attorneys to attend trial. Because of the complexity of the issues in the case and the number of witnesses presented on the compressed pre-trial schedule, I had to assign different attorneys to take the lead on different witnesses. Multiple witnesses were often presented in one day and, oftentimes, there was no way to tell when one witness would finish and another would begin. In addition, Edgewood Plaintiffs' did not have access to real-time transcripts and one attorney was often assigned to drafting notes in order to update the findings of fact as required by the Court, or to prepare for future witness testimony when it was anticipated that the two witnesses would have overlapping testimony. One attorney was also required oftentimes to operate the computer for the paperless trial and this attorney often collaborated with the attorney presenting or cross-examining the witnesses. In addition, our attorneys often collaborated during trial on cross-issues between witnesses presented by other parties. Furthermore, we often worked simultaneously during the day on other trial work, such as future cross-examinations. In addition, for many days throughout trial, we only had two attorneys present because other attorneys would be working outside the courtroom on legal matters. Because of MALDEF's limited resources and the volume of work required to try our claims in this case, I simply did not have the luxury during trial to allow attorneys in the courtroom merely to observe the proceedings.
9. I also witnessed numerous counsel for Defendants in the courtroom, often no less than three or four attorneys. This is not to say that they were merely bystanders because, like our counsel who often collaborated on strategy during the trial day, they too appeared to be collaborating on strategy in this complex and lengthy case.
10. The Edgewood Plaintiffs raised unique claims pertaining to the equitable and adequate availability of resources in property-poor school districts, particularly those with substantial numbers of ELL and low income students. It would have been irresponsible and unethical for Edgewood Plaintiffs' counsel to simply have ignored analyzing the implications of what the Charter School Plaintiffs, who on average also educate high percentages of those student groups, were presenting through their lengthy exhibits and testimony that might directly have had an impact on those claims.
11. In addition, Edgewood Plaintiffs were instrumental in defeating Intervenors' claims that resources were not the issue, but instead, other statutory reforms were needed to address the deficiencies in the system, such as eliminating the class size cap for grades K-4, teacher certification requirements, and bilingual education. As demonstrated by our experts and client testimony, these types of statutory requirements benefit low income and ELL students and eliminating them would only

harm the students. For these reasons, Edgewood Plaintiffs took the lead on many of the Charter and Intervenor witnesses and either helped eliminate them from the witness lists or limited their testimony so it would neither benefit adverse claims nor benefit the State's defenses, and, at times, used their testimony to bolster Edgewood Plaintiffs' claims.

Further Affiant sayeth not.

  
\_\_\_\_\_  
David Hinojosa

SWORN TO AND SUBSCRIBED by said David Hinojosa before me, the undersigned authority, on this 28th day of March, 2013.



  
\_\_\_\_\_  
Notary Public, State of Texas

# Exhibit

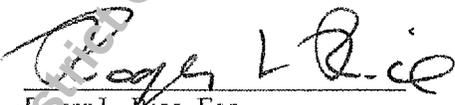
# 3

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times weekly on these and other case related matters for a year or more. As a reasonable billing judgment we did not claim for the great bulk of these compensable conferences nor did Attorney Hinojosa. The six conferences are justified as part of the normal flow of trial preparation involving counsel.

2. The Defendants have also objected to the travel time of Miguel Perez Vargas to attend depositions of our expert witnesses and present those witnesses at trial. I want to stress that the travel time claimed on September 16, October 16 and November 11 was half (50%) of Attorney Perez Vargas' travel time, i.e. we have claimed for one-way of the travel but not for the return portion.

  
Roger L. Rice, Esq.

March 27, 2013

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