

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

TEXAS TAXPAYER & STUDENT
FAIRNESS COALITION, *et al.*,

Plaintiffs,

VS.

MICHAEL WILLIAMS, TEXAS
COMMISSIONER OF EDUCATION, *et al.*,

Defendants

Consolidated Case:

EDGEWOOD INDEPENDENT SCHOOL
DISTRICT, *et al.*,

Plaintiffs,

VS.

MICHAEL WILLIAMS, TEXAS
COMMISSIONER OF EDUCATION, *et al.*,

Defendants.

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

200TH JUDICIAL DISTRICT

**EDGEWOOD ISD PLAINTIFFS' REPLY TO STATE DEFENDANTS'
SUPPLEMENTAL RESPONSE TO EDGEWOOD PLAINTIFFS'
APPLICATION FOR ATTORNEYS' FEES**

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Travis Co. District Clerk Velda L. Price

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiffs Edgewood ISD, *et al.* (“Edgewood Plaintiffs”), file this Reply to State Defendants’ Response to Plaintiffs’ and Intervenors’ Application for Attorneys’ Fees and respectfully request that the Court award the full amount of attorneys’ fees requested by the Edgewood Plaintiffs. The Edgewood Plaintiffs previously filed their ISD Plaintiffs’ Joint Reply to State Defendants’ Supplemental Response to Plaintiffs’ and Intervenors’ Request for Attorneys’ Fees on May 12, 2014. This reply supplements the joint reply and addresses the specific objections made to the Edgewood Plaintiffs’ request for attorneys’ fees and costs.

I. Travel Time is Reasonable.

The Edgewood Plaintiffs’ requests for attorneys’ fees for travel time are reasonable because they reduced the rates for travel time by one-half. *See* Supplemental Affidavit of David G. Hinojosa ¶ 12(f). Courts commonly award attorneys’ fees for travel time at one-half the rate for legal work. *See, e.g., Wilkerson v. Atascosa Wildlife Supply*, 307 S.W.3d 357, 360 (Tex. App.—San Antonio 2009, pet. denied); *in re Babcock & Wilcox Co.*, 526 F.3d 824, 829 (5th Cir. 2008). In *Wilkerson* for example, the court affirmed the trial court’s award of attorneys’ fees for one-half of the time spent traveling, holding that it was not unreasonable or arbitrary. 307 S.W.3d. at 360. Moreover, Defendants agree that courts may award attorneys’ fees for travel time at a reduced rate. *See* Defendants’ Response to Plaintiffs’ and Intervenors’ Requests for Attorneys’ Fees at 9. Defendants offer no sound basis for their objections to the Edgewood Plaintiffs’ requests for attorneys’ fees for travel time, and the Edgewood Plaintiffs respectfully request that the Court overrule the objections.

II. Insufficient Specific Objections

Defendants' objections to the Edgewood Plaintiffs' requests for attorneys' fees are not sufficiently specific. Objections to evidence must be specific to enable the Court to understand the precise grounds for the objection and make an informed ruling. *See Sciarrilla v. Osborne*, 946 S.W.2d 919, 924 (Tex. App.—Beaumont 1997, pet. denied); *McKinney v. Nat'l Union Fire Ins. Co. of Pittsburgh, Pennsylvania*, 772 S.W.2d 72, 74 (Tex. 1989); *see also Kyle v. Countrywide Home Loans, Inc.*, 232 S.W.3d 355 (Tex. App.—Dallas 2007, pet. denied) (finding that failure to identify “which specific language [was] objectionable on which basis” in summary judgment evidence defeated objections to the same). Where the specific grounds of an objection are not stated, “a general objection amounts to no objection at all.” *Murphy v. Waldrip*, 692 S.W.2d 584, 591 (Tex. App.—Fort Worth 1985, writ ref'd n.r.e.). Defendants' objections to the Edgewood Plaintiffs' requests for attorneys' fees are not sufficiently specific for two reasons.

First, the cover page of Exhibit A to State Defendants' Supplemental Response to Plaintiffs' and Intervenors' Application for Attorneys' Fees displays a list of “Defendants' General Objections to Time Entries.” This list contains general categories of activities performed by plaintiffs' attorneys and brief, general objections to those categories. However, it does not indicate which objections correspond to which specific time entries. Therefore, the cover page does not allow the Court to understand the precise grounds for objection to each time entry and does not provide the Edgewood Plaintiffs an opportunity to respond.

Second, the rest of Exhibit A contains a list of the time entries to which Defendants object, but it does not identify the specific reasons for the objections to the time entries. The list marks many of the time entries as “Not Billable,” but this is not a sufficiently specific reason for objection. For example, the list marks time entries for “Draft/edit response to motion to strike

Zamora” and “Draft FOFs to incorporate Zamora trial testimony and exhibits” as “Not Billable,” but these are clear examples of legitimate legal work. *See Morrell Masonry Supply, Inc. v. Lupe's Shenandoah Reserve, LLC*, 363 S.W.3d 901, 910 (Tex. App.—Beaumont 2012, no pet.) (affirming award of attorneys’ fees for preparation of pleadings, motions, responses, and discovery). In *Stewart v. Sanmina Texas L.P.*, 156 S.W.3d 198 (Tex. App.—Dallas 2005, no pet.), the defendant objected to affidavits by “simply quoting one or more sentences from particular paragraphs” and briefly stating the objection. *Id.* at 207. The defendant did not describe “the particular basis for the objection,” and the court held that those objections were not sufficiently specific. *Id.* Likewise, Exhibit A quotes the time entries to which Defendants object and marks them as “Not Billable,” but it does not describe the particular basis for the objections. Remarkably, these objections refer to entries detailing communications with the expert for the Edgewood ISD Plaintiffs, and preparing the expert for deposition and trial, but they do not explain how or why the entries are not billable. Because Exhibit A does not identify which time entries are objectionable on which basis or why the time entries should not be included in an award of attorneys’ fees, Defendants’ objections are not sufficiently specific and should be overruled.

CONCLUSION

For the foregoing reasons, the Edgewood Plaintiffs respectfully request that the Court grant the full amount of attorneys’ fees requested by the Edgewood Plaintiffs.

Respectfully submitted,

MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATION FUND, INC.

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CERTIFICATE OF SERVICE

By my signature below, I certify that on June 30, 2014, I served the foregoing document

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