

Arkansas  
State Claims Commission  
APR 04 2016

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Please print in ink or type

RECEIVED

BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas

- Mr.
- Mrs.
- Ms.
- Miss

Fountain Lake School District #2602, Claimant  
 vs.  
 State of Arkansas, Respondent

Do Not Write in These Spaces		
Claim No.	_____	
Date Filed	(Month) _____	(Day) _____ (Year) _____
Amount of Claim \$	_____	
Fund	_____	

COMPLAINT

Fountain Lake School District, the above named Claimant, of 4207 Park Avenue, Hot Springs  
 (Name) (501) 623-5655 (Street or R.F.D. & No.) (City)  
Arkansas 71901 County of Garland represented by Christopher D. Brockett  
 (State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claimant)  
 of 401 W. Commercial Ozark AR 72949 (479) 667-3000 (479) 667-4188 says:  
 (Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)  
 State agency involved: Arkansas Department of Education Amount sought: \$180,677.12

Month, day, year and place of incident or service: January 2011 - July 31, 2013

Explanation: See the attached Complaint which seeks reimbursement of the attorneys' fees/costs incurred, resulting from a lawsuit having to be filed against the Arkansas Department of Education (ADE) because of illegal assessments of "excess" 25-mill ad valorem taxes against Fountain Lake School District of approximately \$2.0 million for the years 2010-2011 and 2011-2012, and categorical funding and 98% URT Guaranteed Rate of Adjustment funds (Ark. Code Ann. Section 6-20-2305(a)(4)). This lawsuit was initiated in the Pulaski County Circuit Court on May 10, 2011, and was styled McCleskey, et al v. Kimbrell, et al, 60CV2011-2321. An appeal was made to the Arkansas Supreme Court by the ADE and the school district filed a Cross Appeal (Kimbrell v. McCleskey, 2012 Ark. 443 (Ark. 2012)). The school district was the prevailing party in both courts and the ADE was found by the Arkansas Supreme Court to have committed acts that were illegal and thus not protected under sovereign immunity. The school district also incurred additional legal fees and costs in a "second" appeal to the Arkansas Supreme Court. Those legal fees and costs are NOT being claimed by Fountain Lake. The loss incurred in this second appeal by Fountain Lake in addition to legal fees was the 98% URT Guaranteed Rate of Adjustment Funds in the amount of \$391,551.00. Any additional relief deemed by the Commission above attorneys' fees/costs requested would be appreciated.

As part of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?  
 No; when? \_\_\_\_\_; to whom? \_\_\_\_\_ (Department)  
 (Yes or No) (Month) (Day) (Year)  
 and that the following action was taken thereon: \_\_\_\_\_  
 and that \$ \_\_\_\_\_ was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address  
 (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)  
 and that the nature thereof is as follows: \_\_\_\_\_ and was acquired on \_\_\_\_\_ in the following manner: \_\_\_\_\_

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verily believes that they are true.  
Fountain Lake School District/Christopher D. Brockett, Atty.  
 (Print Claimant/Representative Name) (Signature of Claimant/Representative)

SWORN TO and subscribed before me at Little Rock, Arkansas



on this 4th day of April, 2016  
 (Date) (Month) (Year)  
Kathie M. Brown  
 (Notary Public)  
 My Commission Expires: October 16, 2023  
 (Month) (Day) (Year)

SF1-R759

1

**BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas**

**FOUNTAIN LAKE SCHOOL DISTRICT**

**CLAIMANT**

v.

**ARKANSAS DEPARTMENT OF EDUCATION;**  
JOHNNY KEY, Commissioner of the Arkansas  
Department of Education; **MARK GOTCHER,**  
Deputy Commissioner of the Arkansas  
Department of Education; **GREG ROGERS,**  
Assistant Commissioner for Fiscal and  
Administrative Services of the Arkansas  
Department of Education

**RESPONDENTS**

**COMPLAINT FOR REIMBURSEMENT OF ATTORNEYS' FEES AND COSTS**

COMES NOW, the Claimant, Fountain Lake School District, by and through its undersigned counsel, Christopher D. Brockett of Hatfield, Sayre & Brockett, and does hereby bring this action pursuant to the provisions of the Arkansas Constitution, Title 19, Chapter 10 (Claims Against the State) and Ark. Code Ann. § 19-10-201 *et. seq.* This action before the State Claims Commission of the State of Arkansas seeks an Order awarding them reimbursement of attorneys' fees and costs in the amount of One Hundred Eighty Thousand Six Hundred Seventy-Seven Dollars and Twelve Cents (\$180,677.12), which the Claimant incurred in pursuing successful litigation against the Arkansas Department of Education ("ADE") and any other relief deemed appropriate by the Commission.

## **CLAIMANT**

1. Claimant Fountain Lake School District (hereinafter sometimes referred to as "Fountain Lake") is a political subdivision of the State of Arkansas that was properly created under the laws of the State of Arkansas.

2. Fountain Lake is geographically located in both Garland County and Saline County, Arkansas and it is a governmental entity that has all of the authority and duties of a "school district," as defined by Ark. Code Ann. § 6-20-2303(18).

## **RESPONDENTS**

3. The named Respondent, the Arkansas Department of Education (hereinafter generally referred to as "ADE"), is a Department of the State of Arkansas, which Department is charged with all responsibility for the administration of the statutory provisions regarding "public school education matters" for the State of Arkansas.

4. The ADE's principal offices and business headquarters are located within Pulaski County, Arkansas.

5. Respondent Johnny Key (hereinafter generally referred to as "Key" or "Commissioner") is the duly appointed and serving Commissioner of the Arkansas Department of Education. Key's principal office and place of business is located within Pulaski County, Arkansas.

6. Respondent Mark Gotcher (hereinafter generally referred to as "Gotcher" or "Deputy Commissioner") is the duly appointed and serving Deputy Commissioner of the Arkansas Department of Education. Gotcher's principal office and place of business is located within Pulaski County, Arkansas.

7. Respondent Greg Rogers (hereinafter generally referred to as "Rogers" or "Assistant Commissioner") is the duly appointed and serving Assistant Commissioner for Fiscal and Administrative Services of the Arkansas Department of Education. Roger's principal Office and place of business is located within Pulaski County, Arkansas.

#### **JURISDICTION AND VENUE**

8. The Arkansas Claims Commission has subject matter jurisdiction over the causes of action set forth in this Complaint, pursuant to the provisions of Ark. Code Ann. § 19-10-201, *et. seq.*

9. Venue for this action is appropriately with the Arkansas Claims Commission in Pulaski County, Arkansas, pursuant to the provisions of Ark. Code Ann. §§ 19-10-204(2)(A) and 19-10-206.

#### **PRELIMINARY STATEMENT**

10. This Petition filed by Fountain Lake seeks reimbursement for attorneys' fees and costs in the total amount of \$180,677.12, which amount was incurred by Fountain Lake during the successful pursuit of a civil lawsuit filed against the ADE during the period of January 5, 2011 through July 31, 2013. The civil suit was filed by Fountain Lake because the ADE illegally assessed what the ADE called "excess" 25-mill ad valorem taxes against Fountain Lake in the total amount of \$1,387,567 for the school year 2010 - 2011).<sup>1</sup>

11. Also at issue in the civil lawsuit was the erroneous determination by the ADE to withhold categorical funding from Fountain Lake that is commonly referred to by the General Assembly as a 98% URT Guaranteed Rate of Adjustment funds (Ark. Code Ann. §

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<sup>1</sup> The original lawsuit was filed by both Fountain Lake School District and Eureka Springs School District. Eureka Springs chose not to pursue a claim in the State Claims Commission and only the attorney fees incurred by Fountain Lake School District are at issue herein.

6-20-2305(a)(4)). The 98% URT was allocated to Fountain Lake (and all other school districts in the State of Arkansas) by the General Assembly. The underlying lawsuit was filed in the Pulaski County Circuit Court on May 10, 2011, and was styled *McCleskey, Et. Al. v. Kimbrell, Et. Al.*, 60CV2011-2321. The lawsuit was very "heated and highly political" from start to finish and received substantial publicity. Former Governor Mike Beebe became involved in this lawsuit and the lawsuit also resulted in the General Assembly passing new legislation as a result of the Arkansas Supreme Court mandate.

12. On February 1, 2013, Fountain Lake filed a Petition for Attorney fees, as it was the prevailing party with the Pulaski County Circuit Court, and on February 14, 2013, the ADE responded with an objection citing *Lake View School Dist. No. 25 v. Huckabee*, 359 Ark. 49, 194 S.W.3d 193 (2004) for the proposition that attorney fees cannot be awarded against the State based on sovereign immunity.

13. Fountain Lake then withdrew its request for attorneys' fees based on the plain language contained in the *Lake View School Dist. No. 25* case, *Supra*.

14. The ADE filed an appeal directly to the Arkansas Supreme Court and Fountain Lake filed a Cross Appeal (*Kimbrell v. McCleskey*, 2012 Ark. 443 (Ark. 2012)).

15. The reimbursement of attorneys' fees and necessary costs incurred by the Claimant, Fountain Lake, as the "prevailing party" in the above listed action is requested to be awarded to Fountain Lake by the State Claims Commission against the ADE, who was found by the Arkansas Supreme Court to have committed acts that were *ultra vires* and thus not protected under sovereign immunity.

16. In addition to the attorneys' fees, Fountain Lake (and Eureka Springs school district the joint plaintiff in the lawsuit) also sustained actual monetary damage due to a

breach of the legal obligation by the ADE in failing to pay Fountain Lake the 98% URT that Fountain Lake lawfully qualified for during the school years 2010 – 2011 and 2011 – 2012. This monetary loss amounted to \$391,551.00 in 98% URT funds (Ark. Code Ann. § 6-20-2305(a)(4)).

17. Fountain Lake also incurred additional legal fees and costs in a “second” appeal to the Arkansas Supreme Court. Those legal fees and costs are not being claimed by Fountain Lake.

### BACKGROUND

18. In January of 2011, four (4) school districts approached the now deceased, Eugene G. Sayre of Hatfield & Sayre, and had discussions regarding an illegal and unconstitutional attempt by the ADE to demand repayment of 25-mill Uniform Rate of Tax (URT) revenues that each school district received in excess of the ADE’s foundation-funding formula amount.

19. The ADE claimed that the 25-mill URT, which is mandated by Ark. Const. Amend. 74 of Article 14, § 3, was a State tax; therefore, the ADE claimed the funds generated by the 25-mill URT could be controlled by the State (i.e. ADE) and not exclusively by the counties where the school districts are located and the URT 25-mill tax was levied.

20. The ADE took the initiative to “modify a long standing policy,” and on November 18, 2010 the ADE sent a letter demanding payments in the amounts of \$1,387,567.00 from Fountain Lake (**Exhibit A**) and \$824,918 from the Eureka Springs School District (**Exhibit B**) for the school year 2010 – 2011.

21. On May 24, 2011, the ADE sent a second letter adjusting the amount of the “excess” URT requested by the ADE, which second letter allowed for the 98% URT Rate of Adjustment for each school district. See **Exhibit C** for Fountain Lake and **Exhibit D** for Eureka Springs.

22. Because the two (2) named school districts (Fountain Lake and Eureka Springs) refused to pay the amounts that were erroneously assessed against them by the ADE, the ADE declared their operating budgets deficient and denied the approval of their budgets. Further, the ADE illegally withheld payment of certain categorical funds and the payment of the 98% URT Guaranteed Rate of Adjustment funds appropriated by the General Assembly pursuant to Ark. Code Ann. § 6-20-2305(a)(4).

23. On May 10, 2011, Fountain Lake and Eureka Springs, who were both plaintiffs in the above referenced case *McCleskey Supra*, filed a Complaint for Declaratory Judgment and Injunctive Relief against the ADE. The other two school districts decided not to pursue legal action.

24. Fountain Lake and Eureka Springs claimed in the lawsuit that the 25-mill URT was a local ad valorem school tax that must be levied and collected and may only be used for the maintenance and operation of each school district from which it was derived. Furthermore, the school districts asserted that Amendment 47 to the Arkansas Constitution strictly prohibits the State of Arkansas from levying an ad valorem tax upon property by the State.

25. A hearing was held on September 12, 2011 and the Court issued its Findings of Facts and Conclusions of Law and Judgment on September 20, 2011 (See Exhibit E) finding, as follows:

- a. The defendants Thomas Kimbrell and the Arkansas Department of Education are enjoined from undertaking any action against the plaintiff school districts seeking repayment of any portion of the 25-mill URT tax revenues assessed and levied by Article 14, § 3(b)(1) of the Arkansas Constitution. Such injunction shall remain in force and effect unless and until such time as the Arkansas General Assembly passes legislation authorizing such defendants to undertake such action.
- b. The defendants Thomas Kimbrell and the Arkansas Department of Education are enjoined from levying, assessing, withholding, or setting off from or against any state or federal monies belonging to the plaintiff school districts for repayment of any portion of the 25-mill URT revenue required by Article 14, § 3(b)(1) of the Arkansas Constitution. Such injunction shall remain in force and effect unless and until such time as the Arkansas General Assembly passes legislation authorizing such defendants to undertake such action.
- c. The revenues generated from the 25-mill URT established by Article 14, § 3 of the Arkansas Constitution are state tax revenues not local tax revenues. See, *City of Fayetteville, v. Washington County*, 369 Ark. 455, 473 (2007).

26. The ADE appealed the Courts decision and the plaintiffs, Fountain Lake and Eureka Springs cross appealed (regarding the 25-mill URT being a State Tax) to the Arkansas Supreme Court.

27. The appeal by the ADE Defendants raised “an issue of first impression” on Arkansas’ school funding formula for the public education system.

28. On November 29, 2012, after the case was fully briefed and oral arguments were presented by the parties’ counsel, the Arkansas Supreme Court issued its Opinion in this case finding in the Plaintiffs’ favor on “all issues” and specifically finding that the revenues generated by the 25-mill URT was a “special school tax,” that was not a state tax and that the distribution of such special tax was not controlled by the State of Arkansas’ ADE.



29. The Arkansas Supreme Court further stated:

Because ADE wrongly determined that the school districts' budgets were deficient and, therefore, wrongfully withheld categorical funds to which the school districts were otherwise entitled, the circuit court did not err in directing ADE to release those funds to the school districts. They were legally entitled to those funds, and ADE wrongfully withheld them. **Any argument by ADE that the circuit court assessed money damages against it in contravention of sovereign immunity is untenable.**

\* \* \*

In the instant case, ADE considered the school districts' submitted budgets deficient in that they included within their budgeted revenue the URT revenue in excess of the foundation-funding amount, which the ADE believed did not belong to the school districts. ***As already set forth above, any belief by the ADE that those monies were not to be returned solely to the districts from which they were derived was mistaken.*** Accordingly, the school districts' budgets were not deficient in this manner, and any withholding of categorical funds by ADE from the school districts on this basis **was in error** .... There is simply no basis on which to find that the URT is a state ad valorem tax. Instead, it is a one-of-a kind tax, a school-district tax, approved by the voters of the State of Arkansas, and levied, assessed, and collected by the counties for the sole use of the school districts. Any conclusion by the circuit that the URT revenues were state revenues was simply erroneous. (Emphasis Added)

A copy of the Arkansas Supreme Court's Opinion and Mandate filed on November 29, 2012 is attached to this Petition as Exhibit F and incorporated herein.

27. Because of an unclear ruling regarding the 98% URT Guaranteed Rate of Adjustment funds by the Arkansas Supreme Court, a second appeal to the Arkansas Supreme Court was filed on October 10, 2013. This appeal was ongoing until April 9, 2015. The school districts were unsuccessful in the second appeal, **not because the money was not due the school districts according to law**, but because the Arkansas Supreme Court held that the school districts did not specifically appeal the issue of the 98% URT Guaranteed Rate of Adjustment funds.

28. The issue was not specifically appealed because the school districts understood the issue was already before the Court because of the Order written by the Circuit Judge and statements made by Circuit Judge Fox in a contempt hearing regarding the plaintiffs were successful and would get all requested relief. Nevertheless, the Arkansas Supreme Court ruled that the issue was not before the Court, and, therefore, they could not rule on the issue because of the law of the case. For that reason, no portion of the attorneys' fees relating to the second appeal is being claimed herein.

29. In addition to having the expense of attorneys' fees and costs incurred in the "second" appeal, the school districts never received the guaranteed 98% URT Guaranteed Rate of Adjustment funds they were legally due which amounted to \$391,551 for Fountain Lake for the school years 2010 – 2011 and 2011 – 2012. See Exhibit G, which is a chart showing the breakdown of the amount of 98% URT Guaranteed Rate of Adjustment funds earned by each respective school district and Exhibits H-1 and H-2 which are the Final State Aid Notices put out by the ADE for Fountain Lake for 2010 – 2011 and 2011 - 2012.

30. It is very unfortunate that Fountain Lake had to "give up" \$391,551.00 in the 98% URT Guaranteed Rate of Adjustment funds that they were depending upon, and were lawfully due, just because the ADE illegally and of their own initiative decided that they wanted to "change the law" because they felt that Fountain Lake did not deserve to have the funds, regardless of the school funding formula and the statutes passed by the General Assembly, therefore, the ADE offset the guaranteed 98% rate of adjustment funds and the categorical funds that Fountain Lake was entitled to receive without authority.

## ATTORNEYS' FEES AND COSTS INCURRED

31. The professional legal fees and costs incurred by Fountain Lake were only because of the illegal and unconstitutional actions of the ADE and due to no fault by Fountain Lake. The claim presented before the Arkansas Claims Commission involves attorney and paralegal fees for the following: (1) beginning legal research and evaluation of the Plaintiffs' causes of action (before the suit was filed); (2) during the hearing and argument stages (i.e., after suit was filed on May 10, 2011, and through the plenary hearing held by this Court on September 12, 2011); (3) in the successful "appeal, and cross appeal stages of this case to the Arkansas Supreme Court (between December 1, 2011 and January 17, 2013); and (4) during the post remand stage in this Circuit Court (beginning January 18, 2013 through July 31, 2013), as a result of the Clerk's receipt of the Mandate of the Arkansas Supreme Court.

32. As grounds for this Petition for Reimbursement of Attorneys' Fees and Costs, Fountain Lake respectfully shows this Commission, as follows:

- a. The Claimant herein seeks recovery from the ADE of attorney and paralegal fees in the amount of \$180,677.12, including necessary expenses and costs in the amount of \$2,486.69.
- b. This matter involved an issue of great importance to the taxpayers of the State of Arkansas and the decision by the Arkansas Supreme Court, on appeal, was an issue of first impression, which had not been previously addressed, by any court.

33. Claimant retained Eugene G. Sayre (now deceased) and Christopher D. Brockett to represent it in this politically charged and debated matter in the winter of 2011.

34. Mr. Sayre and Mr. Brockett performed the following legal services for the Plaintiffs. The following information is summarized from the Invoices for the period of May

5, 2011 through July 31, 2013, which are attached hereto as Exhibit I and incorporated herein.

- a. Between the period of January 5, 2011 through May 10, 2011, the professionals spent more than 150 hours meeting with the Plaintiffs and their representatives, the Governor's Office and the Arkansas Department of Education (ADE); preparing various and numerous correspondence, reviewing documents provided by the ADE in response to Freedom of Information Requests legal research involving constitutional, statutory and case law precedents involving public school funding system of the State of Arkansas; drafting, reviewing and redrafting of the Complaint for Declaratory Judgment and Injunction Relief that was filed on May 10, 2011. This period of time was completed on a flat fee basis as set forth in an initial cost fee arrangement (copies of checks attached) and invoices dated September 1, 2011.
- b. Conducted legal research on issues related to preliminary injunction, Draft Motion for Preliminary Injunction and a Brief in Support of the Motion, as the Defendants were attempting to withhold monies from the Plaintiffs that were entitled to under the State of Arkansas' school funding system. Prepare and revise various Affidavits for support to the Motion for Preliminary Injunction. Review the Defendants response to Motion and Brief for Preliminary Injunction.
- c. Review various letters and information from Plaintiffs including additional correspondence that ADE sent to Plaintiffs.
- d. Review Motion to Dismiss and Brief filed by the Defendants. Conduct legal research on issues regarding the Motion to Dismiss and Draft Response and Opposition and Brief in Support of the Response to the Defendant's Motion to Dismiss. Review the Defendant's Reply to the Plaintiff's Response to Defendants Motion to Dismiss. Draft supplement brief in support of Plaintiff's Response and Opposition to Defendants' Motion to Dismiss.
- e. Conduct additional legal research on URT issues and conference with representatives of other school districts in the State of Arkansas regarding their desire to join the pending litigation. Review various Legislative Audits completed by the ADE of their Funding Grants.
- f. Conference with Plaintiffs regarding their comments and suggestion to various motions to be filed with the Circuit Court of Pulaski County, Arkansas and held numerous planning meeting with Plaintiffs on this

unique issue.

- g. Legal Research and resolve a mileage roll back issue for Saline County and Garland County as it relates to the 25-mill URT.
- h. Prepare for and attend a hearing on September 12, 2011. Prepare and send Plaintiffs a summary of the hearing.
- i. Review the Judgment in this unique school funding challenge case. Conference with Plaintiffs and discuss the Findings of Facts and Conclusions of Law and Judgment and determine strategy regarding a possible appeal.
- j. Review Defendants' Notice of Appeal, draft explanation letter to Plaintiffs. Research legal issue and procedure on cross appeal, and draft Notice of Cross Appeal for Plaintiffs.
- k. Legal research issues with contempt motion and Draft Motion for Contempt against the Defendants as they refused to distribute monies to the Plaintiffs in accordance with the Judgment. Draft various affidavits in support of the Motion for Contempt and Brief in Support of the Motion for Contempt. Review Defendants' Response to Plaintiffs' Motion for Contempt and draft a Reply to the Defendants' Response. Draft various correspondences to the Defendants on separate acts of contempt after the Judgment was filed with the Circuit Clerk of Pulaski County.
- l. Review Defendants' Motion to Stay Judgment, legal research issues raised in the Motion to Stay, Draft a Response and Opposition to the Defendants' Motion to Stay.
- m. Prepare for and attend the Show Cause hearing held by this Court on January 17, 2012 regarding Plaintiffs Motion for Contempt filed against the Defendants. Draft proposed precedent. Draft Motion for Reconsideration on Contempt and alternative Motion to Add Additional Documents to Evidentiary Record. Review Defendants' Response to the Plaintiffs' Motion and draft a Reply to the Defendants' Response to Plaintiffs' Motion for Reconsideration.
- n. Legal research additional issues regarding Amendment 59 and Amendment 74 to the Arkansas Constitution and Arkansas Supreme Court opinion on Article 14, § 3 of the Arkansas Constitution and the 98% URT calculations.
- o. Review Defendants' Amended Notice of Appeal and Appellants'

Motion to Stay and Memorandum of Authorities in Support of Motion to Stay filed with the Arkansas Supreme Court. Conference with Plaintiffs/Appellees on strategy to response to Appellants' Motion to Stay and review additional precedent from this Court. Draft Appellees' Response and Opposition to Appellants' Motion to Stay and Brief in Support of the Motion. Review Arkansas Supreme Court Per Curiam Order granting Appellants' Motion to Stay.

- p. Review correspondence from Plaintiffs that were received directly from the ADE regarding the 2011 and 2012 budgets and conference with the Plaintiffs regarding same.
- q. Review Appellants' Abstract, Brief and Addendum. Interoffice conference with Plaintiffs to discuss various arguments of the Appellants set forth in the Brief and discussed different strategies to respond to the arguments. Legal research issues in Brief and various case law addressing Arkansas State school funding and FOIA materials of the URT budgeting issues. Review article from 2005 about Governor Beebe seeing property tax as school funding source and draft additional FOIA request on Defendants on supplemental URT funds letter.
- r. Draft and revise Appellees' Abstract, Brief and Addendum, review comments and suggestions from Plaintiffs/Appellees, filed Appellees' Abstract, Brief and Addendum. Review Reply Brief from Appellants and correspond with Plaintiffs/Appellees regarding additional issues addressed in Appellants' Reply Brief and issues that Appellees should respond.
- s. Legal research additional issues and Arkansas Supreme Court rules on large briefs and supplement briefs. Draft and revise Appellees' Reply Brief. Send letter to Sue Clayton, Deputy Clerk to request oral arguments before the Arkansas Supreme Court regarding the school funding case.
- t. Review Briefs of both parties filed in the Arkansas Supreme Court, legal research various issues address in the separate Briefs and review previous opinions of the Arkansas Supreme Court in school funding cases and Arkansas Attorney General Opinions about the URT matters. Prepare for and attend oral arguments before the Arkansas Supreme Court send Appellees' summary letter of the oral arguments.
- u. Review Adequacy Studies on school funding issued by the ADE. Legal research terms used by the ADE and those terms as used in

the Arkansas statutes. Review opinion of the Arkansas Supreme Court affirming the decision for Appellees and reversing findings that URT taxes was an Arkansas State Tax.

- v. Prepare Motion and Brief for Arkansas Supreme Court to take Judicial Notice of the ADE's school funding and Arkansas General Assembly's Adequacy Studies.
- w. Review and Response to Appellants' Motion for Reconsideration and Governor Beebe's Amicus Curiae Brief.
- x. Review Arkansas Supreme Court Decision; Legal research regarding reimbursement of attorneys' fees; and Prepare Post Remand Motion for Relief and Brief in Support and review responses by ADE.
- y. Prepare for and attending Post Remand Hearing before Judge Fox.

35. The Arkansas Supreme Court has emphasized that numerous factors must be examined to determine the reasonableness of a requested fee. *Love v. U.S. Fid. & Guar. Co.*, 263 Ark. 925, 568 S.W.2d 746 (1978). The Arkansas Rules of Professional Conduct, Rule 1.5, Fees list eight (8) objective elements and these have been approved in the case of *Chrisco v. Sun Industries, Inc.*, 304 Ark. 227, 800 S.W.2d 717 (1990). The eight (8) elements are as follows:

- a. **The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly:** Counsel jointly spent over 950 hours and associates and paralegals spent over 260 hours in handling this unique challenge to the AED's decision to withhold and reallocate the 25-mill URT monies from the Plaintiffs. The issues in this case were novel, as no case in Arkansas directly addressed whether the 25-mill URT was an Arkansas State tax and whether the ADE had the authority to allocate funds to different school districts. Mr. Sayre and Mr. Brockett are both tax attorneys that have experience in illegal exaction litigation, as well as Arkansas Rules of Civil Procedure, Arkansas Rules of Evidence, the Arkansas Rules of Appellate Procedure and the Arkansas Rules of the Supreme Court, all of which were necessary to perform the required tasks in challenging this tax as an Arkansas State tax and recovering funds for the plaintiffs, including Fountain Lake.

- b. **The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer:** Counsel had substantial other cases and clients and Mr. Sayre devoted a majority of his professional time working on this particular case. Mr. Brockett devoted approximately 50 hours to this matter, as Mr. Brockett was responsible for handling the majority of the other cases in the office that Mr. Sayre could not provide time and attention, as a direct result of the time necessary to handle this unique challenge.
- c. **The fee customarily charged in the locality for similar legal services:** An hourly fee of \$300.00 per hour for Mr. Sayre and \$225.00 per hour for Mr. Brockett are hourly fees that are customarily charged in Pulaski County, Arkansas for work for Federal and Arkansas State tax controversy and related litigation matters. Mr. Sayre, at the time of his death, was a well-respected tax attorney with 43 years of legal experience. Mr. Brockett has been practicing in tax law for approximately 10 years and has been recognized as one of the top tax attorneys in Arkansas by numerous magazines and organizations.
- d. **The amount involved and the results obtained:** The amount involved at the time this litigation was filed was over \$2.2 million, and the amount for the two school years involved was over \$4.6 million (over \$2.2 million in the 2010 - 2011 school year, and over \$2.4 million for the 2011 - 2012 school year). In theory the amount involved could have been substantially greater, as each year the Defendants could have continued to demand additional 25-mill URT funds from the Plaintiff school districts and it was already determined that additional school districts would begin to have part of the 25-mill URT funds withheld by the Defendants in future school years. Plaintiffs, upon the Mandate issued by the Arkansas Supreme Court, were entitled to payments by the Defendants in the amount of \$840,858.45. Plaintiffs recovered in the way of assurances that no future 25-mill URT funds would be requested or withheld from Plaintiffs school districts by the ADE. Also, the Arkansas Supreme Court's Opinion provides to the Plaintiffs that all state and/or federal funds that had been withheld or set off by the ADE were to be paid by the ADE to these two school districts. **Defendants did not prevail on a single claim or defense.**
- e. **The time limitations imposed by the client or by the circumstances:** The Defendants were demanding payment to the ADE of 25 mill URT funds which they considered excess URT funds



beginning with the 2010 - 2011 school year in the amount of over \$2.2 million; and the 2011 - 2012 school year in the amount of over \$2.4 million. In addition, the Defendants withheld and set-off state and federal funding amounts due the two school districts in the total amount of \$840,858.45 for these two school years.

- f. **The nature and length of the professional relationship with the client:** Neither, Mr. Sayre nor Mr. Brockett had represented the Plaintiffs prior to this case and neither had any previous professional relationship with the Plaintiffs. The Plaintiffs were referred to the counsel, because they have established the reputation of handling politically unpopular and unique, difficult and complex legal matters.
- g. **The experience, reputation, and ability of the lawyer or lawyers performing the services:** Mr. Sayre graduated from Southern Methodist University School of Law in May of 1968. He was admitted to the Bar of the Supreme Court of Texas in September of 1968. He was admitted a member of the Bar of the Supreme Court of Arkansas in December 2, 1975. Mr. Sayre was also a member of the respective Bars of the United States Tax Court; of the United States District Courts for the Eastern and Western Districts of Arkansas; of the United States Court of Appeals for the Eighth Circuit; of the United States' Claims Court and the Court of Appeals for the Federal Circuit; and of the United States Supreme Court.

Mr. Sayre was involved in the private practice of law at Little Rock, Arkansas, for approximately 43 years. Mr. Sayre's personal practice was primarily devoted to the representation of taxpayers in civil and criminal disputes with federal, state and local taxing authorities. In 1983, he served as Chairman of the Section of Taxation of the Arkansas Bar Association and he maintained active memberships in both the American and Arkansas Bar Associations and the Sections of Taxation of both of these Bar Associations. In 1978 and 1979, Mr. Sayre served as the Chairman of a Subcommittee of the Section of Taxation of the Arkansas Bar Association that drafted the legislation that the Arkansas General Assembly enacted as the Arkansas Tax Procedure Act, Act 401 of 1979. He also lectured at numerous professional meetings (both within and outside of the State of Arkansas) on subjects relating to tax procedure and tax litigation.

Mr. Sayre was familiar with the usual attorneys' fees charged by attorneys in this State in providing legal representation in both the federal and state courts, and has testified as an expert witness on attorneys' fee matters in cases in both federal and state courts in Arkansas, where attorneys' fees were awarded, including cases

sounding in contract.

In addition to his Juris Doctorate, Mr. Brockett obtained an LLM in tax from the University of Miami School Of Law in Miami, Florida. He obtained both his Juris Doctorate Degree and his LLM degree in three (3) years by becoming the first Non University of Miami student to be admitted to their joint JD/LLM degree program. Mr. Brockett has served since 2007, as an Adjunct Professor of Law at the University of Arkansas at Little Rock William H. Bowen School of Law, where he teaches the advanced tax courses of Income Tax and Partnership Taxation.

Mr. Brockett has recently been named as one of the top tax attorneys in Little Rock, Arkansas by Soirée Magazine for 2011, 2012, 2014 and 2015 calendar years. Mr. Brockett also speaks at numerous seminars on Federal and State Income Tax issues. Mr. Brockett has been named as a Rising Start in Tax Law by Mid-South Super Lawyers Magazine for the years of 2011- through 2015 and in 2015 he was named as one of the top of attorneys in North America by Who's Who Magazine.

Mr. Brockett is also currently a member of the respective Bars of the United States Tax Court; of the United States District Courts for the Eastern and Western Districts of Arkansas; of the United States Court of Appeals for the Eighth Circuit; of the United States' Claims Court and the Court of Appeals for the Federal Circuit; and of the United States Supreme Court. See, Affidavit of Christopher D. Brockett, attached hereto as Exhibit J.

- h. **Whether the fee is fixed or contingent:** The attorneys' fee was a fixed hourly rate that was based upon an agreed hourly rate payable by the Plaintiffs.

36. In addition to the above listed factors, the Court may also consider political implications, the complexity of litigation, the impact that fees would have on attorney's willingness to accept unpopular causes or clients, the degrees of success in the litigation, and the reasonableness of the time expended on the matter. See Ark. Law of Damages § 11:13, citing *Phi Kappa Tau Housing Corp. v. Wengert*, 350 Ark. 335, 86 S.W.3d 856 (Ark. 2002); *Powell v. Henry*, 267 Ark. 484, 592 S.W.2d 107 (Ark. 1980).

- a. **Political implications and complexity of litigation:** This matter received substantial coverage by Arkansas newspapers and magazines and the Arkansas General Assembly ultimately revised the school funding system in Arkansas. Former Governor Beebe sought and was granted the right to file an Amicus Curiae Brief in support of the Defendants appeal in the Arkansas Supreme Court, which Plaintiffs' counsel was required to devote additional time to file a response to the brief.

37. This litigation was appealed to the Arkansas Supreme Court and, as shown by Mr. Sayre's substantial time devoted to this matter, it was a complex and unique matter, and it was an issue of first impression. The litigation was necessary to overturn Arkansas Attorney General Opinions that were previously issued on the 25-mill URT matters, overturn ADE's erroneous decisions, and to clarify and address Arkansas law.

**ACTUAL DAMAGES SUSTAINED BY FOUNTAIN LAKE DUE  
TO THE ERRONEOUS DETERMINATION BY THE  
ARKANSAS DEPARTMENT OF EDUCATION**

38. The Arkansas Supreme Court ruled that the ADE performed an illegal action by withholding funds owed to the plaintiff school districts; therefore, the action by the ADE was not covered by sovereign immunity. Although the State is protected by sovereign immunity, there are "exceptions" to sovereign immunity if the agency is acting illegally and without constitutional authority. See, *Board of Trustees of the University of Arkansas v. Mike Burcham*, 2014 Ark. 61 and *Arkansas Lottery Comm'n v. Alpha Marketing*, 2013 Ark. 232, 428 S.W.3d 415 (Ark. 2013) which note these exceptions.

39. The ADE did not succeed in making the school district pay the 25-mill URT money in the amount of \$2,490,262.00 for the school years 2010 – 2011 and 2011 - 2012. Further the ADE was forced to finally release the categorical funds, which the ADE had erroneously withheld from Fountain Lake and Eureka Springs school districts.

40. The Final State Aid Notices for the 2011 – 2012 school year do not show the 98% URT Guaranteed Rate of Adjustment funds broken out (because the ADE had erroneously determined not to pay those funds), but the amount of funds due the school district for each year can be easily calculated by taking the “98% of URT X Assessment” minus the “Actual URT Collections.” A Supplemental Affidavit of Darin Beckwith, Superintendent of the Fountain Lake School District, is attached hereto as Exhibit K verifying this information.

41. The ADE was not required to pay over the total of \$391,551.00 in guaranteed 98% URT Guaranteed Rate of Adjustment funds (Ark. Code Ann. § 2305(a)(4) for the school years 2010 – 2011 and 2011 – 2012, to the plaintiff school districts only because of a “procedural error” by the school districts in failing to specifically appeal the 98% URT Guaranteed Rate of Adjustment funds (which was due to a misunderstanding by the school districts of the language contained in the Order issued by Judge Fox, in which they thought the issue was already before the Court).

42. The school districts were under the impression that after the “Contempt Hearing” Judge Fox was only denying to “hold the ADE in contempt” regarding the 98% URT funds, not denying the funds themselves. That belief was because both the Circuit Judge and the Supreme Court had said that any and all funds that were withheld, whether state or federal money, was to be paid to the school districts.

43. If the school districts had appealed the 98% URT Guaranteed Rate of Adjustment funds issue in the first appeal, the ADE would have been ordered to pay the guaranteed 98% URT funds that were legally due the school districts by Ark. Code Ann. § 6-20-2305(a)(4)(A), since the collections of both school districts were less than the

assessed 25-mill URT for the two school years.

44. Unfortunately, the school districts were never paid the 98% URT Guaranteed Rate of Adjustment funds, (which the ADE admitted they did not pay (See Exhibit L taken from the ADE's Abstract, Brief and Addendum filed with the Arkansas Supreme Court), due to the procedural error, and which would not have been an issue at all if the ADE had not taken the initiative to erroneously "change policies" without the legal authority to do so. This was money that the school districts had calculated in their budgets and were depending on for use in their respective districts to provide for their students.

45. After the Opinion by the Arkansas Supreme Court on November 29, 2012 against the ADE, the ADE, along with former Governor Beebe, began the process of lobbying to get Ark. Code Ann. § 6-20-2305(a)(4) revised, wherein the ADE would have sole discretion in paying the 98% URT Guaranteed Rate of Adjustment funds to a school district, and it was no longer calculated as the difference between the 25-mill assessment amount and the amount "actually collected" in a school district. See Act 557 of 2013, dated April 2, 2013, Exhibit M.

46. The school districts were presented by many political figures and by the press as "greedy" and trying to take money from other "needy" districts, when in reality, the plaintiff school districts were only trying to get money which was "lawfully" their share of the then funding formula. None of the funds in question had anything to do with "other" school districts. This fact was further proven because the ADE took immediate actions to "change" the law regarding the 98% URT Guaranteed Rate of Adjustment funds after the school districts filed a "second" appeal before the Arkansas Supreme Court.

47. Fountain Lake School District has exhausted all means and avenues to

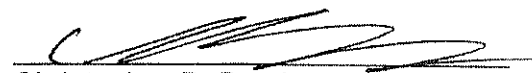
pursue the loss of the 98% URT Guaranteed Rate of Adjustment funds. Unfortunately, the school district lost a total of \$391,551.00 in funds that were lawfully due the school districts and also several thousands of dollars spent in additional attorneys' fees on the second appeal to the Arkansas Supreme Court.

**WHEREFORE**, the Claimant, Fountain Lake School District, prays that this Commission will:

- a. Find that the Claimant should be awarded the amount of their legal fees and costs incurred in the lawsuit before the Pulaski County Circuit Court and the Arkansas Supreme Court through the first appeal in the amount of \$180,677.12; and further
- b. Award the Claimant any and all other legal and equitable relief which this Commission may find that they are entitled.

Respectfully submitted,

By:



Christopher D. Brockett  
Ark. Sup. Ct. No. 2005192  
HATFIELD, SAYRE & BROCKETT  
401 West Commercial Street  
Ozark, Arkansas 72949  
Telephone: (479) 667-3000  
Facsimile: (479) 667-4188  
[cbrockett@bslawarkansas.com](mailto:cbrockett@bslawarkansas.com)

**ATTORNEY FOR CLAIMANTS**

VERIFICATION

STATE OF ARKANSAS )  
                                  )  
COUNTY OF PULASKI )

Christopher D. Brockett, being duly sworn, verifies and says that the statements contained in this Complaint for Reimbursement of Attorneys' Fees and Costs are true and correct as stated to the best of his knowledge and belief.

Subscribed and sworn to before me this 4th day of April 2016.



Kathie M. Brown  
Notary Public

My Commission Expires:  
10-16-23  
(SEAL)



# ARKANSAS DEPARTMENT OF EDUCATION

November 18, 2010

Dr. Tom W. Kimbrell  
Commissioner

State Board  
of Education

Dr. Naoceman Williams  
Springdale  
Chair

Dr. Ben Mays  
Clinton  
Vice Chair

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Sam Ledbetter  
Little Rock

Alice Mahony  
El Dorado

Toyoe Newton  
Crossett

Vicki Saviers  
Little Rock

Mr. Darin Beckwith, Superintendent  
Fountain Lake School District  
4207 Park Avenue  
Hot Springs, AR 71901

Dear Mr. Beckwith:

This letter is to provide a copy of the recently issued Attorney General's (AG) Opinion No. 2010-094 concerning the calculation and distribution of state foundation funding pursuant to Ark. Code Ann. § 6-20-2305 (a) and to request payment of the estimated overpayment of net revenues from the uniform rate of tax (URT).

Using the total district assessment, average daily membership (ADM), and miscellaneous funds data shown below, Fountain Lake School District's fiscal year 2010-2011 estimated local revenue per student is \$7,160.49, at the URT of 25 mills assuming a collection rate of 98%. Pursuant to Ark. Code Ann. § 6-20-2305 (a)(2)(B), for fiscal year 2010-2011, the foundation funding amount is equal to \$6,023 multiplied by the school district's ADM for the previous fiscal year. Based on this 98% collection rate, Fountain Lake School District is estimated to receive from miscellaneous funds plus the URT, \$1,387,567 above the foundation funding amount of \$6,023 multiplied by the school district's ADM for the previous fiscal year. Please remit the estimated overpayment of net revenues of \$1,387,567 to the Arkansas Department of Education on or before June 15, 2011.

Before the end of fiscal year 2010-2011, the Department will gather data showing the actual amount of net revenues collected by the district during calendar year 2010. If the collection rate is below 98%, the Department will disburse additional funding to bring Fountain Lake School District up to a 98% collection rate on the URT. If the collection rate exceeds 98%, the Department will recoup the additional local revenue in excess of the 98% collection rate on URT.

• 2009 total assessment	\$356,516,797.00
• Fiscal year 2009-2010 three-quarter average daily membership	1,219.85
• Five-year average of miscellaneous funds for fiscal years 2004-05 through 2008-09	\$62.00
• Per student foundation funding amount \$6,023 X ADM for previous fiscal year	\$7,347,157.00

Please remit the estimated overpayment of net revenues of \$1,387,567 by June 15, 2011, to the Arkansas Department of Education, Attention: Cindy Hollowell, Number Four Capitol Mall, Room 105-C, Little Rock, Arkansas 72201-1018. If you have questions regarding this letter or the attached AG Opinion, please contact Cindy Hollowell at 501 682-4484.

Sincerely,

Bill Goff  
Assistant Commissioner, Fiscal and Administrative Services

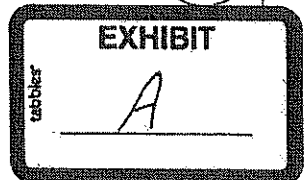
Enclosure

Cc: Tom W. Kimbrell, Ed. D., Commissioner of Education  
Tony Wood, Deputy Commissioner  
John Kunkel, Finance Division Manager  
Cindy Hollowell, Finance Coordinator

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# ARKANSAS DEPARTMENT OF EDUCATION

November 18, 2010

Dr. Tom W. Kimbrell  
Commissioner

Mr. Wayne Carr, Superintendent  
Eureka Springs School District  
147 Greenwood Hollow Road  
Eureka Springs, AR 72632

State Board  
of Education

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Melbourne

Brenda Gullett  
Fayetteville

Sam Ledbetter  
Little Rock

Alicia Mahany  
El Dorado

Toyo Newton  
Crossett

Vicki Savlers  
Little Rock

Dear Mr. Carr:

This letter is to provide a copy of the recently issued Attorney General's (AG) Opinion No. 2010-094 concerning the calculation and distribution of state foundation funding pursuant to Ark. Code Ann. § 6-20-2305 (a) and to request payment of the estimated overpayment of net revenues from the uniform rate of tax (URT).

Using the total district assessment, average daily membership (ADM), and miscellaneous funds data shown below, Eureka Springs School District's fiscal year 2010-2011 estimated local revenue per student is \$7,280.50, at the URT of 28 mills assuming a collection rate of 98%. Pursuant to Ark. Code Ann. § 6-20-2305 (a)(2)(B), for fiscal year 2010-2011, the foundation funding amount is equal to \$6,023 multiplied by the school district's ADM for the previous fiscal year. Based on this 98% collection rate, Eureka Springs School District is estimated to receive from miscellaneous funds plus the URT, \$824,918 above the foundation funding amount of \$6,023 multiplied by the school district's ADM for the previous fiscal year. Please remit the estimated overpayment of net revenues of \$824,918 to the Arkansas Department of Education on or before June 15, 2011.

Before the end of fiscal year 2010-2011, the Department will gather data showing the actual amount of net revenues collected by the district during calendar year 2010. If the collection rate is below 98%, the Department will disburse additional funding to bring Eureka Springs School District up to a 98% collection rate on the URT. If the collection rate exceeds 98%, the Department will recoup the additional local revenue in excess of the 98% collection rate on URT.

• 2009 total assessment	\$193,687,894.00
• Fiscal year 2009-2010 three-quarter average daily membership	660.82
• Five-year average of miscellaneous funds for fiscal years 2004-05 through 2008-09	\$2,386.00
• Per student foundation funding amount \$6,023 X ADM for previous fiscal year	\$3,618,888.00

Please remit the estimated overpayment of net revenues of \$824,918 by June 15, 2011, to the Arkansas Department of Education, Attention: Cindy Hollowell, Number Four Capitol Mall, Room 105-C, Little Rock, Arkansas 72201-1019. If you have questions regarding this letter or the attached AG Opinion, please contact Cindy Hollowell at 501 682-4484.

Sincerely,

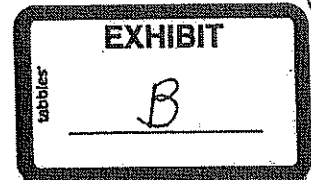
Bill Goff  
Assistant Commissioner, Fiscal and Administrative Services

Enclosure

CC: Tom W. Kimbrell, Ed. D., Commissioner of Education  
Tory Wood, Deputy Commissioner  
John Kunkel, Finance Division Manager  
Cindy Hollowell, Finance Coordinator

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# ARKANSAS DEPARTMENT OF EDUCATION

May 24, 2011

Dr. Tom W. Kimbrell  
Commissioner

Mr. Darin Beckwith, Superintendent  
Fountain Lake School District  
4207 Park Avenue  
Hot Springs, AR 71901

State Board  
of Education

Dear Mr. Beckwith:

Dr. Naccaman Williams  
Springdale  
Chair

Preliminary foundation funding for fiscal year 2010-2011 for Fountain Lake School District was based on the estimation of net revenues as ninety-eight percent (98%) of the uniform rate of tax (URT) multiplied by the property assessment of the school district plus miscellaneous funds as prescribed by Arkansas Code Ann. § 6-20-2305 (a) (1). Furthermore, Arkansas Code Ann. § 6-20-2305 (a) (4) (B) requires the Arkansas Department of Education (ADE) to recoup net revenues received by a school district in excess 98% of the URT. Attorney General's Opinions 2010-094 and 2011-029 state that total foundation funding received by each school district from all sources (net revenues, miscellaneous funds, state foundation funding aid) should equal the per student foundation funding amount. Due to these requirements, the ADE mailed the attached letter, dated November 18, 2010 requesting remittance of the overpayment of estimated revenues generated by the URT in the amount of \$1,387,567. This amount is based on an assumed URT disbursement rate of 98%.

Dr. Ben Meys  
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Little Rock

Alicia Mahony  
El Dorado

Toya Newton  
Crossett

Vicki Saviers  
Little Rock

In accordance with Arkansas Code Ann. § 6-20-2303 (17) (A), the Assessment Coordination Department (ACD) has compiled the actual revenues distributed from the county to the school district as reported by the official preparer of the tax books for each county. The ADE has multiplied these total revenues received by school districts by the ratio of the URT over the total millage rate of the school district to arrive at the total net revenues.

At this time, the ADE has revised its request for remittance from the district of the \$1,387,567 overpayment of estimated net revenues to reflect the overpayment of actual net revenues. The amount to be remitted is \$1,160,570. The difference in the amount due ADE from the district resulted because actual tax disbursements were less than the 98% of the URT used initially. Please see Commissioner's Memo #FIN-11-092 for calculation details.

Arkansas Code Ann. § 6-20-2305 (a) (4) provides that if an irregular distribution of excess commissions (more than one distribution in the same reporting period) causes a school district's property tax disbursement rate from the URT to exceed 98%, the ADE may adjust the URT to an amount not in excess of 98% and apply the excess distribution to the following school year. To make this adjustment, the ADE shall require each district affected by an excess distribution of commissions to certify the amount of excess commission payments made and reported on the 2010 ACD URT Reporting Template. The deadline to submit the certification is June 7, 2011. Once received, the ADE will recalculate the URT adjustment and notify your district of any changes.

Payment should be mailed to: Arkansas Department of Education, LBA State Funding Unit, Four Capitol Mall, Room 105-C, Little Rock, AR 72201-1013.

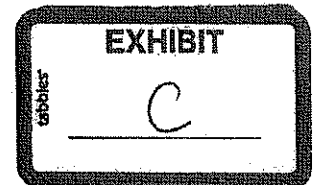
The repayment transaction should be coded as a reduction of Current Property Tax Revenue, Fund 2000, Revenue Account 11110. Please contact Amy Thomas at [Amy.Thomas@arkansas.gov](mailto:Amy.Thomas@arkansas.gov) or 501/682-4494 should you have questions. Thank you for your cooperation in this matter.

Sincerely,

  
John Kunkel  
Associate Director Finance

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Little Rock, AR  
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# ARKANSAS DEPARTMENT OF EDUCATION

May 24, 2011

Dr. Tom W. Kimbrell  
Commissioner

Mr. Wayne Carr, Superintendent  
Eureka Springs School District  
147 Greenwood Hollow Road  
Eureka Springs, AR 72632

State Board  
of Education

Dear Mr. Carr:

Dr. Naccaman Williams  
Springdale  
Chair

Preliminary foundation funding for fiscal year 2010-2011 for Eureka Springs School District was based on the estimation of net revenues as ninety-eight percent (98%) of the uniform rate of tax (URT) multiplied by the property assessment of the school district plus miscellaneous funds as prescribed by Arkansas Code Ann. § 6-20-2305 (a) (1). Furthermore, Arkansas Code Ann. § 6-20-2305 (a) (4) (B) requires the Arkansas Department of Education (ADE) to recoup net revenues received by a school district in excess 98% of the URT. Attorney General's Opinions 2010-094 and 2011-029 state that total foundation funding received by each school district from all sources (net revenues, miscellaneous funds, state foundation funding aid) should equal the per student foundation funding amount. Due to these requirements, the ADE mailed the attached letter, dated November 18, 2010 requesting remittance of the overpayment of estimated revenues generated by the URT in the amount of \$824,916. This amount is based on an assumed URT disbursement rate of 98%.

Dr. Ben Mays  
Clinton  
Vice Chair

Sherry Burrow  
Jonesboro

Jim Cooper  
Moberly

Debra Culham  
Fayetteville

Sam Ledbetter  
Little Rock

In accordance with Arkansas Code Ann. § 6-20-2305 (17) (A), the Assessment Coordination Department (ACD) has compiled the actual revenues distributed from the county to the school district as reported by the official preparer of the tax books for each county. The ADE has multiplied these total revenues received by school districts by the ratio of the URT over the total millage rate of the school district to arrive at the total net revenues.

Alice Mahony  
El Dorado

Toyce Newton  
Crossett

Vicki Baviars  
Little Rock

At this time, the ADE has revised its request for remittance from the district of the \$824,916 overpayment of estimated net revenues to reflect the overpayment of actual net revenues. The amount to be remitted is \$774,778. The difference in the amount due ADE from the district resulted because actual tax disbursements were less than the 98% of the URT used initially. Please see Commissioner's Memo #FIN-11-092 for calculation details.

Arkansas Code Ann. § 6-20-2305 (a) (4) provides that if an irregular distribution of excess commissions (more than one distribution in the same reporting period) causes a school district's property tax disbursement rate from the URT to exceed 98%, the ADE may adjust the URT to an amount not in excess of 98% and apply the excess distribution to the following school year. To make this adjustment, the ADE shall require each district affected by an excess distribution of commissions to certify the amount of excess commission payments made and reported on the 2010 ACD URT Reporting Template. The deadline to submit the certification is June 7, 2011. Once received, the ADE will recalculate the URT adjustment and notify your district of any changes.

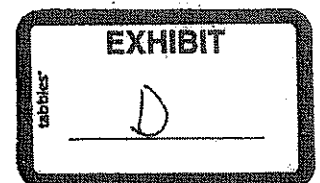
Payment should be mailed to: Arkansas Department of Education, LEA State Funding Unit, Four Capitol Mall, Room 105-C, Little Rock, AR 72201 1012.

The repayment transaction should be coded as a reduction of Current Property Tax Revenue, Fund 2000, Revenue Account 11110. Please contact Amy Thomas at [Amy.Thomas@arkansas.gov](mailto:Amy.Thomas@arkansas.gov) or 501/682-4494 should you have questions. Thank you for your cooperation in this matter.

Sincerely,  
  
John Kuyckel  
Associate Director Finance

Four Capitol Mall  
Little Rock, AR  
72201-1019  
(501) 682-4475  
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(27)

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
SIXTH DIVISION

BOB ALLEN MCCLESKEY, Individually and as a  
Representative of All Similarly Situated Taxpayers  
Who Pay Ad Valorem School Taxes for the Support  
of the Fountain Lake School District; THE FOUNTAIN  
LAKE SCHOOL DISTRICT; RUSTY WINDLE, Individually  
and as a Representative of All Similarly Situated Taxpayers  
Who Pay Ad Valorem School Taxes for the Support of the  
Eureka School District; and the EUREKA SPRINGS SCHOOL  
DISTRICT

PLAINTIFFS

FILED 09/20/11 15:17:07  
Larry Crane Pulaski Circuit Clerk  
MC

VS.

CASE NO. CV 2011-2321

THOMAS W. KIMBRELL, Commissioner of the Arkansas  
Department of Education; TONY WOOD, Deputy Commissioner  
of the Arkansas Department of Education; WILLIAM J. GOFF,  
Assistant Commissioner for Fiscal and Administrative Services  
of the Arkansas Department of Education; JOHN KUNKEL,  
Manager, Finance Division, Arkansas Department of Education;  
CINDY HEDRICK HOLLOWELL, Finance Coordinator of the  
Arkansas Department of Education (All of Which are Named as  
Defendants Only in Their Official Capacities); and MARTHA  
SHOFFNER, the Treasurer of the State of Arkansas (Only in Her  
Official Capacity)

DEFENDANTS

JUDGMENT

On the 22<sup>nd</sup> day of September 2011 came on for consideration the defendants' *Motion to Dismiss* filed on June 17, 2011 and the plaintiffs' *Motion for Preliminary Injunction* filed on June 30, 2011. The court notified the parties that as matters outside the scope of Rule 12 pleadings were submitted by the parties and considered by the court that pursuant to Rule 12(b) of the Arkansas Rules of Civil Procedure the parties' motions were being treated as motions for summary judgment under Rule 56. The parties were given reasonable opportunity to present all

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material made pertinent to such a motion by Rule 56 and indicated to the court that all materials necessary for resolution had been submitted to the court. From the pleadings filed herein, the arguments of counsel, and all other things and matters properly before the court the court doth find as follows:

1. The defendant Tony Wood is dismissed with prejudice as a party to this action.
2. The defendant William Goff is dismissed with prejudice as a party to this action.
3. The defendant John Kunkei is dismissed with prejudice as a party to this action.
4. The defendant Cindy Hedrick Hollowell is dismissed with prejudice as a party to this action.
5. The plaintiffs' claim for violation of the Fourteenth Amendment of the United States Constitution is dismissed with prejudice.
6. The plaintiffs' request for declaratory and injunctive relief against the Treasurer of the State of Arkansas is denied.
7. The defendants Thomas Kimbrell and the Arkansas Department of Education are enjoined from undertaking any action against the plaintiff school districts seeking repayment of any portion of the 25-mill URT tax revenues assessed and levied by Article 14, §3(b)(1) of the Arkansas Constitution. Such injunction shall remain in force and effect unless and until such time as the Arkansas General Assembly passes legislation authorizing such defendants to undertake such action.
8. The defendants Thomas Kimbrell and the Arkansas Department of Education are enjoined from levying, assessing, withholding, or setting off from or against any state or federal monies belonging to the plaintiff school districts for repayment of any portion of the 25-mill URT revenue required by Article 14, §3(b)(1) of the Arkansas Constitution. Such injunction

shall remain in force and effect unless and until such time as the Arkansas General Assembly passes legislation authorizing such defendants to undertake such action.

9. All other causes of action and claims for relief of the plaintiffs not specifically addressed herein are denied.

10. The court's *Findings of Fact and Conclusions of Law* issued on even date herewith are incorporated by reference into this *Judgment*.

IT IS SO ADJUDGED AND DECREED.

  
\_\_\_\_\_  
TIMOTHY DAVIS FOX  
CIRCUIT JUDGE

9/20/11  
DATE

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
SIXTH DIVISION

BOB ALLEN MCCLESKEY, Individually and as a  
Representative of All Similarly Situated Taxpayers  
Who Pay Ad Valorem School Taxes for the Support  
Of the Fountain Lake School District; THE FOUNTAIN  
LAKE SCHOOL DISTRICT; RUSTY WINDLE, Individually  
and as a Representative of All Similarly Situated Taxpayers  
Who Pay Ad Valorem School Taxes for the Support of the  
Eureka School District; and the EUREKA SPRINGS SCHOOL  
DISTRICT

PLAINTIFFS

FILED 09/20/11 15:17:26  
Larry Orana Pulaski Circuit Clerk  
PC

VS.

CASE NO. CV 2011-2321

THOMAS W. KIMBRELL, Commissioner of the Arkansas  
Department of Education; TONY WOOD, Deputy Commissioner  
of the Arkansas Department of Education; WILLIAM J. GOFF,  
Assistant Commissioner for Fiscal and Administrative Services  
of the Arkansas Department of Education; JOHN KUNKEL,  
Manager, Finance Division, Arkansas Department of Education;  
CINDY HEDRICK HOLLOWELL, Finance Coordinator of the  
Arkansas Department of Education (All of Which are Named as  
Defendants Only in Their Official Capacities); and MARTHA  
SHOFFNER, the Treasurer of the State of Arkansas (Only in Her  
Official Capacity)

DEFENDANTS

FINDINGS OF FACT AND CONCLUSIONS OF LAW

On the 22<sup>nd</sup> day of September 2011 came on for consideration the defendants' *Motion to Dismiss* filed on June 17, 2011 and the plaintiffs' *Motion for Preliminary Injunction* filed on June 30, 2011. The court notified the parties that as matters outside the scope of Rule 12 pleadings were submitted by the parties and considered by the court that pursuant to Rule 12(b) of the Arkansas Rules of Civil Procedure the parties' motions were being treated as motions for summary judgment. The parties were given reasonable opportunity to present all material made pertinent to such a motion by Rule 56. From the pleadings filed herein, the arguments of counsel, and all other things and matters properly before the court, the court doth find as follows:

*Findings of Fact*

1. The plaintiffs Fountain Lake School District and Eureka Springs School District are 2 of the 239 public school districts in the State of Arkansas.

2. The Arkansas General Assembly determines each biennium the per student amount to be expended by a school district to insure the provision of an adequate education for each student that complies with the requirements of the Arkansas Constitution. This amount is defined in A.C.A. § 6-20-2303(6) as "Foundation funding."

3. Foundation funding was set at \$6,023.00 per student for the 2010-2011 school year, \$6,144.00 for 2011-2012, and \$6,267.00 for 2012-2013. The legislation setting these amounts is codified in A.C.A. § 6-20-2305.

4. There are a number of other state educational funding amounts such as special needs isolated funding, additional educational funding, alternative learning environment funding, *et al* which are not relevant to the issues presented in this case.

5. Amendment 74 which amended Article 14 of the Arkansas Constitution was approved by the voters in 1996. Section 3 of Amendment 74 provided that, "Any provision of the Constitution of the State of Arkansas in conflict with this Amendment is repealed so far as it is in conflict with this Amendment."

6. Article 14, §3(b)(1) states:

There is established a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, and utility property in the state to be used solely for maintenance and operation of the schools.

7. Article 14, §3(b)(3) states:

The uniform rate of tax shall be assessed and collected in the same manner as other school property taxes, but the net revenues from the uniform rate of tax shall be remitted to the State Treasurer and distributed by the state to the school



districts as provided by law. No portion of the revenues from the uniform rate of tax shall be retained by the state. The revenues so distributed shall be used by the school districts solely for maintenance and operation of schools. (emphasis added)

8. The Arkansas Supreme Court held in *City of Fayetteville v. Washington County*, 369 Ark. 455, 473 (2007) that, "The 25 mills under Amendment 74 ... is a tax adopted by the collective voters of the state, who levied the uniform rate of 25 mills as a matter of constitutional law when they approved Amendment 74."

9. Pursuant to A.C.A. § 6-20-2305(a)(1)(A) the State provides "foundation funding aid" to the public school districts. Such section provides:

For each school year, each school district shall receive state foundation funding aid computed as the difference between the foundation funding amount pursuant to subdivision (a)(2) of this section and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district.

10. A.C.A. § 6-20-2306, enacted in 2003 states:

(a) If the Department of Education determines that an overpayment has been made to a school district under any appropriation authorized by this subsection, the department is authorized to:

- (1) Withhold the overpayment from subsequent state funding;
- (2) Transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was originally made; and
- (3) Request a refund from the school district in the amount of the overpayment.

(b) The school district shall comply as directed by the department.

11. A.C.A. § 26-80-101 is titled "Uniform rate of tax." (Such code provision contains the directives of the legislative branch of government concerning the collection and disbursement of the 25-mill URT. The section was enacted by the legislature in furtherance of the constitutional provision allowing remittance and distribution of the URT "as provided by law.")

12. A.C.A. § 26-80-101(b)(1)(A) states:

The uniform rate of tax shall be assessed and collected in the same manner as other school property taxes, but the net revenues from the uniform rate of tax shall

be remitted to the Treasurer of State and distributed by the state to the county treasurer of each county for distribution to the school districts in that county as provided by subsection (c) of this section. (emphasis added)

13. A.C.A. § 26-80-101(b)(1)(B) states:

No portion of the revenues from the uniform rate of tax shall be retained by the state but shall be distributed back to the school district from which the revenues were received or to other school districts pursuant to subsection (c) of this section. (emphasis added)

14. A.C.A. § 26-80-101(c) provides:

For each school year, each county treasurer shall remit the net revenues from the uniform rate of tax to each local school district from which the revenues were derived.

15. During the 2010-2011 school year the plaintiff school districts received monies from the 25-mill URT in excess of such school districts' aggregate foundation funding amount.

16. On November 18, 2010 the Arkansas Department of Education (ADE) made demand on the Fountain Lake School District for the repayment of \$1,387,567.00 for alleged foundation funding overpayment.

17. In November 18, 2010 the ADE made demand upon the Eureka Springs School District for the repayment of \$824,916.00 for alleged foundation funding overpayment.

18. On January 3, 2011 the ADE promulgated a Director's Memo that was disseminated to all school districts in the State of Arkansas. The memo advised the school districts of the Department's position with respect to any portion of the 25-mill URT collections that exceeded a district's aggregate foundation funding amount.

#### *Conclusions of Law*

19. The revenues generated from the 25-mill URT established by Article 14, Section 3 of the Arkansas Constitution are state tax revenues not local tax revenues. See, *City of Fayetteville v. Washington County*, 369 Ark. 455, 473 (2007).

20. The Arkansas General Assembly has the power to proclaim the law through statutory enactments, the courts have the authority and responsibility to interpret the legislative enactments, and the executive branch has the power and responsibility to enforce the laws as enacted and interpreted by the other two branches. See, *Weiss v. Maples*, 369 Ark. 282, 253 S.W.3d 907 (2007) and *Arkansas Department of Human Services v. Howard*, 367 Ark. 55, 238 S.W.3d 1 (2006).

21. The policy decision by the ADE is both well intentioned and well reasoned, but it is an unconstitutional encroachment by the executive branch of a power that belongs to the legislative branch.

22. In the present matter the ADE is prohibited by separation of powers from undertaking its present action. By specific statutory directive the General Assembly has occupied the field concerning the distribution of the 25-mill URT revenues. A.C.A. § 26-80-101(b)(1)(A) requires the Treasurer to remit the URT revenues to the "county treasurer of each county for distribution to the school districts in that county as provided by subsection (c) of this section." Subsection (c) unambiguously requires each county treasurer to "remit the revenues from the uniform rate of tax to each local school district from which the revenues were derived." The General Assembly has retained control of distribution of the 25-mill URT revenues.

23. The Legislature intentionally provided different definitions for "foundation funding" and the "uniform rate of taxation." See, A.C.A. § 6-20-2303(6) and (25). They are not synonymous terms.

24. In A.C.A. § 6-20-2306 the General Assembly delegated to the ADE the authority to seek recoupment of all kinds of overpayments but it did not delegate the authority to address the receipt and distribution of the URT revenues.

25. As stated above the court has determined that the URT revenues are state tax revenues and as long as the URT revenues are used for the "maintenance and operation of the public schools" the General Assembly can determine in the future whether the ADE's position should be the public policy of the State of Arkansas. From the facts produced in this matter it appears that this issue has recently arisen and that the Legislature simply hasn't yet had an opportunity to legislatively address the situation.

26. The defendant Treasurer has been receipting the 25-mill URT monies and disbursing such monies in accordance with Article 14, Section 13 of the Arkansas Constitution and A.C.A. § 26-80-101.

27. The payment by the Treasurer of the 25-mill URT revenues in accordance with the unambiguous directives of A.C.A. § 26-80-101 is not an overpayment of "any appropriation authorized by this subchapter" within the parameters of the ADE's authority under A.C.A. § 6-20-3606

IT IS SO ORDERED.



TIMOTHY DAVIS FOX  
CIRCUIT JUDGE

9/20/11  
DATE

Cite as 2012 Ark. 443

**SUPREME COURT OF ARKANSAS**

No. 11-1289

THOMAS W. KIMBRELL,  
COMMISSIONER OF THE ARKANSAS  
DEPARTMENT OF EDUCATION, IN  
HIS OFFICIAL CAPACITY ONLY; THE  
ARKANSAS DEPARTMENT OF  
EDUCATION; AND MARTHA  
SHOFFNER, TREASURER OF THE  
STATE OF ARKANSAS, IN HER  
OFFICIAL CAPACITY ONLY  
APPELLANTS

V.

BOB ALLEN MCCLESKEY,  
INDIVIDUALLY AND AS A  
REPRESENTATIVE OF ALL SIMILARLY  
SITUATED TAXPAYERS WHO PAY AD  
VALOREM SCHOOL TAXES FOR THE  
SUPPORT OF THE FOUNTAIN LAKE  
SCHOOL DISTRICT; THE FOUNTAIN  
LAKE SCHOOL DISTRICT; RUSTY  
WINDLE, INDIVIDUALLY AND AS A  
REPRESENTATIVE OF ALL SIMILARLY  
SITUATED TAXPAYERS WHO PAY AD  
VALOREM SCHOOL TAXES FOR THE  
SUPPORT OF THE EUREKA SPRINGS  
SCHOOL DISTRICT; AND THE  
EUREKA SPRINGS SCHOOL DISTRICT  
APPELLEES

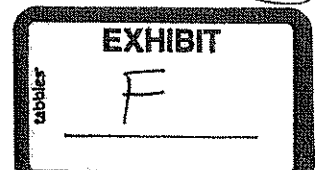
Opinion Delivered November 29, 2012

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
[NO. 60 CV-2011-2321]

HONORABLE TIMOTHY DAVIS  
FOX, JUDGE

AFFIRMED ON DIRECT APPEAL;  
REVERSED AND REMANDED ON  
CROSS-APPEAL.

PAUL E. DANIELSON, Justice



Appellants Thomas W. Kimbrell, Commissioner of the Arkansas Department of Education, in his official capacity only; the Arkansas Department of Education; and Martha Shoffner, the Treasurer of the State of Arkansas, in her official capacity only (hereinafter collectively, "ADE"), appeal from the circuit court's judgment enjoining ADE from seeking repayment of any portion of the twenty-five-mill uniform rate of tax (URT) revenues levied and assessed for purposes of school funding from appellees Bob Allen McCleskey, individually and as a representative of all similarly situated taxpayers who pay ad valorem school taxes for the support of the Fountain Lake School District; the Fountain Lake School District; Rusty Windle, individually and as a representative of all similarly situated taxpayers who pay ad valorem school taxes for the support of the Eureka Springs School District; and the Eureka Springs School District (hereinafter collectively, "the School Districts"). In addition, the order enjoined ADE from "levying, assessing, withholding, or setting off [monies belonging to the School Districts for the repayment of any portion of the twenty-five-mill URT revenues required for school funding] from or against any state or federal monies" owed to the districts and incorporated the circuit court's findings of fact and conclusions of law, which were entered that same day. ADE further appeals from the circuit court's order of January 20, 2012, in which the circuit court declined to hold ADE in contempt and clarified its prior judgment, stating that its injunction applied to any amounts that were currently being set off and withheld by ADE and ordering ADE to pay those amounts to the School Districts.

ADE asserts two points on appeal: (1) that the circuit court erred in its finding that ADE was not authorized by the legislature to recoup and redistribute any UTR revenues

received from the School Districts that were in excess of the foundation-funding amount; and (2) that the circuit court erred in finding that ADE lacked the authority to withhold monies from the School Districts where they had submitted deficient budgets that erroneously budgeted as ongoing revenue the amounts of URT revenue in excess of the foundation-funding amounts. The School Districts cross-appeal, urging that the circuit court erred in finding that the revenues generated by the URT were state-tax revenues. We affirm on direct appeal and reverse and remand on cross-appeal.

The instant appeal stems from issues involving the current school-funding system and the disbursement of URT revenues to Arkansas's public-school districts. On May 10, 2011, the School Districts filed their complaint for declaratory judgment and injunctive relief, in which they sought a declaration that any attempt by ADE to demand URT revenues in excess of the foundation-funding amount from the School Districts was illegal and unconstitutional. They contended that the twenty-five-mill URT, which is mandated by Ark. Const. amend. 74, is a special, local-ad valorem-school tax, rather than a state tax, in the amount of twenty-five mills that must be levied and collected and may only be used by these school districts for the maintenance and operation of each school district's schools. The School Districts further sought injunctive relief, enjoining ADE from making such demands for these funds or withholding other funds due to ADE's position that it was entitled to the excess funds.

ADE moved to dismiss the School Districts' complaint. In its motion, ADE asserted that the School Districts had received more revenue from the twenty-five-mill URT than necessary to fund the foundation-funding amount for the districts due to the strong tax base

in those districts. ADE claimed that it was unconstitutional for the State to allow the tax base of the districts to determine the amount of support they would receive, and therefore, ADE was required to take action to correct the increase in foundation funding that the districts received. For this reason, ADE maintained, its motion to dismiss the School Districts' complaint should be granted.

The School Districts subsequently filed a motion for preliminary injunction, wherein they requested an injunction directing ADE to cease and desist from any attempt to have the School Districts pay to ADE the monies they received in excess of the foundation-funding amount or any attempt to set off amounts otherwise due to the districts. ADE responded to the motion, stating that the School Districts' alleged monetary harm failed to demonstrate irreparable harm and that the School Districts did not demonstrate a likelihood of success on the merits.

In addition, the School Districts filed a response to ADE's motion to dismiss, asserting that "the 'special local ad valorem school taxes' (25 mill URT) levied, generated and collected locally for these two (2) School Districts have nothing to do with the amount of foundation funding, which was set statutorily by the General Assembly for the 2010 - 2011 school year, save and except that the amount of such foundation funding represents the 'minimum amount' of monies that the state must assure that all school districts in the State of Arkansas have available for the maintenance and operation of the respective schools." They denied receiving any overpayment and asserted that the "special local ad valorem school tax" was a local-ad valorem tax and not a state-ad valorem tax, which was constitutionally prohibited.



On September 12, 2011, the circuit court held a hearing on both motions, and on September 20, 2011, the circuit court entered its findings of fact and conclusions of law and its separate order of judgment. In its findings of fact and conclusions of law, the circuit court concluded that the revenues generated from the twenty-five-mill URT were state-tax revenues and not local-tax revenues. In addition, it found that the excess monies were not an overpayment and that there was no legislative authority for ADE to make demands on the School Districts. In its judgment, the circuit court treated the motions as ones for summary judgment and enjoined ADE from undertaking any action against the School Districts seeking repayment of the monies they had received as URT revenues. It further enjoined ADE from withholding or setting off those amounts received in excess of the foundation-funding amount from other monies to which the School Districts were entitled, and it rendered the injunctions in force and effect until the General Assembly passes legislation authorizing ADE to take such measures. Both ADE and the School Districts filed notices of appeal from the circuit court's orders.

On November 8, 2011, the School Districts moved to have the circuit court hold ADE in contempt of court for failing to send to the districts "all amounts of state or federal funds that have been 'withheld' or 'setoff'" by ADE. ADE filed a motion for stay of the circuit court's injunctions, and it responded to the contempt motion, asserting that the motion should be dismissed. The circuit court held a hearing on the motion for contempt on January 17, 2012. At the hearing, the circuit court denied ADE's motion for stay and declined to hold ADE in contempt. It then entered its order, in which it clarified its previous judgment,

stating that

by the language of paragraph 8 of the Judgment entered herein on September 20, 2011, that no categorical funding amounts would be withheld by the ADE defendants from these two school districts that should have been paid during the 2010-11 school years.

It further ordered ADE to pay and release to the School Districts the contested amounts by 12:00 p.m., January 20, 2012, unless ADE requested a stay from this court.<sup>1</sup> ADE filed an amended notice of appeal, and on February 6, 2012, the circuit court denied the School Districts' previously made motion for reconsideration of the circuit court's ruling on their motion for contempt. Both parties now appeal.

I. *Direct Appeal*

A. Authority of ADE to Recoup and Redistribute Excess Monies

For its first point on appeal, ADE argues that the circuit court erred in its finding that ADE was not authorized by the General Assembly to recoup and distribute to other school districts any UTR revenues from the School Districts that were in excess of the statutory foundation-funding amount. It urges that the URT is a state tax producing state revenue and that it is unconstitutional for the State to provide state revenue to a school district based solely on the property wealth of the district. Contending that the School Districts are receiving a bonus based solely on the value of the property in their districts when they receive the total amount of revenues, which exceeds the foundation-funding amount, ADE asserts that the bonuses are inequitable and therefore unconstitutional. ADE maintains that the state's

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<sup>1</sup>This court granted ADE's motion to stay on February 9, 2012.

education-funding statutes cannot be read to provide excess foundation funding to the School Districts based simply on their favorable local-property-tax collections. It avers that Ark. Code Ann. § 6-20-2306 (Supp. 2009) grants ADE the authority to determine that an overpayment has been made and provides it with remedies. In addition, ADE contends that Ark. Code Ann. § 26-80-101 (Supp. 2009) further provides that URT revenues collected may be distributed to other school districts and that this language cannot be ignored.

The School Districts respond that the circuit court was correct in its finding that ADE did not have statutory authority to act as it did regarding any monies in excess of the foundation-funding amount. They contend that the mere processing of the funds through the State Treasurer in no way renders the URT funds state taxes and that Ark. Code Ann. § 26-80-101(a), (b), and (c) statutorily direct that *all* URT funds be finally distributed to the school districts from which the funds were derived, not just those funds meeting the foundation-funding amount. The School Districts point to this court's recognition that variances in revenues may exist and may allow some school districts to enhance curricula, facilities, and equipment such that they are superior to what is deemed adequate by the State; therefore, they counter, ADE's assertion that excess funds run counter to this court's directives is without merit.

Here, ADE asserts that it was within its authority to recoup excess funds from the School Districts and to set off such amounts against other funds due to those districts. It is wholly mistaken. In *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002), this court held that the State has "an absolute duty under our constitution to provide

an adequate education to each school child” and declared that the school-funding system then in place was unconstitutional. 351 Ark. at 71, 91 S.W.3d at 495. Of particular concern to this court in *Lake View* were the four following matters:

(1) the Department of Education has not conducted an adequacy study; (2) despite this court’s holding in *DuPree v. Alma Sch. Dist. No. 30*, [279 Ark. 340, 651 S.W.2d 90 (1983)], that equal opportunity is the touchstone for a constitutional system and not merely equalized revenues, the State has only sought to make revenues equal; (3) despite Judge Imber’s 1994 order to the same effect, neither the Executive Branch nor the General Assembly have taken action to correct the imbalance in ultimate expenditures; and (4) the State, in the budgeting process, continues to treat education without the priority and the preference that the constitution demands.

*Id.*, 91 S.W.3d at 495. The General Assembly and Executive Branch were vigilant in their efforts to remedy the unconstitutional school-funding system and, five years later, this court held that the system of public-school financing was in constitutional compliance. See *Lake View Sch. Dist. No. 25 v. Huckabee*, 370 Ark. 139, 257 S.W.3d 879 (2007).

Serving as the basis of our school-funding system, article 14, § 3 of the Arkansas Constitution, which incorporates Amendment 74 to the constitution, provides, in pertinent part:

(a) The General Assembly shall provide for the support of common schools by general law. In order to provide quality education, it is the goal of this state to provide a fair system for the distribution of funds. It is recognized that, in providing such a system, some funding variations may be necessary. The primary reason for allowing such variations is to allow school districts, to the extent permissible, to raise additional funds to enhance the educational system within the school district. It is further recognized that funding variations or restrictions thereon may be necessary in order to comply with, or due to, other provisions of this Constitution, the United States Constitution, state or federal laws, or court orders.

(b)(1) There is established a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, and utility property in the state to be used solely for maintenance and operation of the schools.

(2) Except as provided in this subsection the uniform rate of tax shall not be an additional levy for maintenance and operation of the schools but shall replace a portion of the existing rate of tax levied by each school district available for maintenance and operation of schools in the school district. The rate of tax available for maintenance and operation levied by each school district on the effective date of this amendment shall be reduced to reflect the levy of the uniform rate of tax. If the rate of tax available for maintenance and operation levied by a school district on the effective date of this amendment exceeds the uniform rate of tax, the excess rate of tax shall continue to be levied by the school district until changed as provided in subsection (c)(1). If the rate of tax available for maintenance and operation levied by a school district on the effective date of this amendment is less than the uniform rate of tax, the uniform rate of tax shall nevertheless be levied in the district.

(3) The uniform rate of tax shall be assessed and collected in the same manner as other school property taxes, but the net revenues from the uniform rate of tax shall be remitted to the State Treasurer and distributed by the state to the school districts as provided by law. No portion of the revenues from the uniform rate of tax shall be retained by the state. The revenues so distributed shall be used by the school districts solely for maintenance and operation of schools.

Ark. Const. art. 14, § 3(a), (b)(1)-(3). In *Fort Smith School District v. Beebe*, 2009 Ark. 333, 322 S.W.3d 1, we explained that Amendment 74 established the uniform rate of taxation of twenty-five mills for each school district to be levied on the assessed value of property and to be used solely for the maintenance and operation of the schools; the revenues collected are sent to the State, and the State later distributes the total funds back to the school districts.

As article 14, § 3 states, after the URT net revenues are remitted to the State Treasurer, they shall be distributed by the State to the school districts *as provided by law*. See Ark. Const. art. 14, § 3(b)(3). This court must then construe both our constitutional provision and the school-funding statutory scheme to determine how URT revenues in excess of the foundation-funding amount may be distributed. On appeal, our task is to read the laws as they are written and interpret them in accordance with established principles of statutory and constitutional construction. See *Hodges v. Huckabee*, 338 Ark. 454, 995 S.W.2d

341 (1999). The fundamental rule is that the words of the constitution or statute should ordinarily be given their obvious and natural meaning. *See id.* We review issues of statutory construction de novo; it is for this court to decide what a statute means. *See id.* We are not bound by the decision of the circuit court; however, in the absence of a showing that the circuit court erred in its interpretation of the law, that interpretation will be accepted as correct on appeal. *See id.*

The structure of the school-funding system as set forth by the General Assembly in Ark. Code Ann. § 6-20-2305 (Supp. 2009), provides that for each school year,

each school district shall receive state foundation funding aid computed as the difference between the foundation funding amount pursuant to subdivision (a)(2) of this section and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district.

Ark. Code Ann. § 6-20-2305(a)(1)(A). For the 2010–2011 school year, “the foundation funding amount is equal to six thousand twenty-three dollars (\$6,023) multiplied by the school district’s average daily membership for the previous school year.” Ark. Code Ann. § 6-20-2305(a)(2)(B). This amount represents what the General Assembly has determined to be the amount expended by school districts “for the provision of an adequate education for each student.” Ark. Code Ann. § 6-20-2303(6) (Supp. 2009) (defining “foundation funding”). Pursuant to section 6-20-2305(a)(1)(A), the State typically makes up the difference between this amount and the revenue generated by the twenty-five-mill URT in any given school district; this difference is known as “foundation funding aid.” *See, e.g.,* Ark. Code Ann. § 6-20-2303(21); *Fort Smith Sch. Dist., supra.* We have observed that this very

procedure assures that basic per-student foundation funding is being met. *See Lake View*, 370 Ark. 139, 257 S.W.3d 879.

For the School Districts here, however, their URT revenues generated more than the foundation-funding amount, therefore the State was not required to provide any foundation-funding aid to them. It is the URT revenues of the School Districts in excess of \$6,023 that are at issue in the instant case. As required by article 14, § 3(b)(3), Ark. Code Ann. § 26-80-101 establishes the procedures to be followed by both the school districts and the State Treasurer for remitting and distributing URT revenues. Specifically, that section provides, in relevant part:

(b)(1)(A) The uniform rate of tax shall be assessed and collected in the same manner as other school property taxes, but the net revenues from the uniform rate of tax shall be remitted to the Treasurer of State and distributed by the state to the county treasurer of each county for distribution to the school districts in that county as provided by subsection (c) of this section.

Ark. Code Ann. § 26-80-101(b)(1)(A). While the State Treasurer obtains the funds from the school districts, the statute, in accord with art. 14, § 3, reiterates that the State (or ADE) is not permitted to retain any portion of the revenues but, instead, must distribute them back to the school districts. ADE claims that the statute permits it to redistribute excess monies to other school districts, rather than to the district from which the funds were derived; however, an examination of the statute's plain language reveals the fallacy of ADE's argument. Subsection (b)(1)(B) of the statute quite clearly provides:

(B) No portion of the revenues from the uniform rate of tax shall be retained by the state but shall be distributed back to the school district from which the revenues were received or to other school districts *pursuant to subsection (c) of this section.*

Ark. Code Ann. § 26-80-101(b)(1)(B) (emphasis added). Accordingly, subsection (c) controls the distribution of the funds and provides that “[f]or each school year, each county treasurer shall remit the net revenues from the uniform rate of tax to each local school district from which the revenues were derived.” Ark. Code Ann. § 26-80-101(c) (emphasis added). While subsection (b)(1)(B) may refer to distribution of the funds to other school districts, clearly lacking from subsection (c) is any authority by which such a distribution may be carried out by the county treasurer. Because there is no provision “by law” to actually distribute the funds to another school district than that from which the funds came, ADE’s argument that it is permitted to redistribute the funds to other school districts fails.

ADE argues that such an interpretation would violate the constraints of our decisions in the *Lake View* cases, but it is again mistaken. ADE claims that permitting the school districts from which the excess revenues came to retain those revenues would result in wealth-enhanced districts in violation of our *Lake View* decisions. But ADE sorely misconstrues our holdings in the *Lake View* line of cases.

At issue in *Lake View*, 351 Ark. 31, 91 S.W.3d 472, was the fact that the State was neglecting its duty to determine first and foremost what was necessary for an adequate and substantially equal education. The General Assembly’s subsequent adoption of the foundation-funding scheme and its determination of the appropriate foundation-funding amount remedied that problem. As our school-funding scheme currently provides, every district is entitled to those monies required for an adequate education, hence the provision of foundation funding. Of notable importance is the fact that those funds not raised by the



school districts will be supplemented by the State in the form of foundation-funding aid to ensure an adequate education for each student.

Indeed, allowing the School Districts to retain any URT revenues in excess of the foundation-funding amount will result in some variations, but variations were clearly contemplated and are explicitly permitted under the plain language of art. 14, § 3. Ark. Const. art. 14, § 3(a) (“It is recognized that, in providing such a system, some funding variations may be necessary. The primary reason for allowing such variations is to allow school districts, to the extent permissible, to raise additional funds to enhance the educational system within the school district.”). And further, contrary to ADE’s claims, this court has made it abundantly clear that it is not concerned solely with whether revenues are doled out equally to the districts:

It is clear to this court that in *DuPree [v. Alma School District Number 30]*, 279 Ark. 340, 651 S.W.2d 90 (1983)], we concentrated on expenditures made per pupil and whether that resulted in equal educational opportunity as the touchstone for constitutionality, not on whether the revenues doled out by the State to the school districts were equal. . . . We agree that the focus for deciding equality must be on the actual expenditures.

*Lake View*, 351 Ark. at 74–75, 91 S.W.3d at 497. We have further recognized that,

according to its plain language, amendment 74 “allows for variances in school district revenues above the base millage rate of 25 mills, which may lead to enhanced curricula, facilities, and equipment which are superior to what is deemed adequate by the State.”

*Fort Smith Sch. Dist.*, 2009 Ark. 333, at 11, 322 S.W.3d at 7 (quoting *Lake View Sch. Dist. No. 25 v. Huckabee*, 358 Ark. 137, 155, 189 S.W.3d 1, 13 (2004)). Most notably, we have stated, “This does not mean that if certain school districts provide *more than* an adequate education,

all school districts must provide *more than* an adequate education with identical curricula, facilities, and equipment.” *Lake View*, 358 Ark. at 155, 189 S.W.3d at 13.

In addition, ADE’s contention that Ark. Code Ann. § 6-20-2306, which permits ADE to adjust for overpayments, sanctions its actions must also fail. That statute provides certain remedies for ADE where an overpayment has been made to a school district under any appropriation authorized by the subchapter. While the term “overpayment” has not been defined by the General Assembly, it is patently clear that the URT revenues in excess of the foundation-funding amount at issue here were not overpayments in the traditional sense of the word. Section 26-80-101 simply provides that the “net revenues from the uniform rate of tax” shall be remitted to the State Treasurer and distributed by the State to the county treasurer of each county for distribution “pursuant to subsection (c).” Ark. Code Ann. § 26-80-101(b)(1)(A). It does not distinguish between revenues meeting the foundation-funding amount and excess revenues; instead, it simply dictates that “the” net URT revenues “shall” be remitted and distributed. In other words, *all* URT revenues shall be remitted and distributed. Because the statutory scheme in no way suggests a distinction between the URT revenues meeting the foundation-funding amount and those in excess thereof, it cannot be said that the excess funds constituted an overpayment, such that ADE could implement the remedies set forth in section 6-20-2306.

Admittedly, the School Districts here have not “voted in” the excess funds at issue”;<sup>2</sup>

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<sup>2</sup>Subsection (c)(1) of art. 14, § 3 permits a school district to levy, by a vote of its qualified electors, an annual ad valorem-property tax for the maintenance and operation of the schools and the retirement of indebtedness. Subsection (c)(3) specifically prohibits any tax

nonetheless, we consider it a distinction without a difference between excess monies earned as a result of property values in collecting the twenty-five mills and excess monies raised from an additional ad valorem-property tax enacted by a district. This is so because each and every school district in Arkansas has received, or will receive, funds in the amount that the General Assembly has determined appropriate to provide an adequate education, by virtue of their receipt of the foundation-funding amount.<sup>3</sup> And further, the statutory scheme for the disbursement of URT revenues has no provision establishing a procedure by which ADE might redistribute one district's excess funds to another district.

The dissenters' protestations to our decision today are positively confounding and have absolutely no basis in the law. While they so subtly suggest that the majority's decision is in violation of our decisions in *Dupree* and *Lake View*, nothing could be further from the truth. First, the dissenters have a fundamental misunderstanding of both the facts and the holding in *DuPree*. In that case, this court was faced with a school-funding system, which bore "no relationship to the educational needs of the individual districts," but was "determined *primarily* by the tax base of each district." *DuPree*, 279 Ark. at 345, 651 S.W.2d at 93 (emphasis added). It was a funding system based on district wealth, and we held that such a system of funding had "no rational bearing on the educational needs of the districts." *Id.* at 346, 651 S.W.2d at 93.

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so levied from being appropriated to any other district than that for which it was levied.

<sup>3</sup>Indeed, ADE conceded this in its response to the School Districts' motion for preliminary injunction, wherein it asserted that receipt of the foundation-funding amount equates to a district's receipt of a "constitutional level of revenue."

In complete contrast, the system in place today is based entirely on the need to provide an adequate and substantially equal education to every student—a system that this court, including two of the dissenters, upheld in *Lake View*, 370 Ark. 139, 257 S.W.3d 879. It is no longer reliant on the state treasury's prosperity, nor is it left to the ever-fluctuating wiles of our school districts' wealth. Instead, it is based on a determination, first and foremost, of what amount is required to provide the students of this state with an adequate and substantially equal education. Utterly absent from the dissenting opinions is any mention of the foundation-funding amount, which serves as the basis of the instant funding system. Because every school district receives this amount per student, each student is guaranteed an adequate education as demanded by our constitution and mandated by our decisions in the *Lake View* cases. Indeed, no one in the instant case alleges any inadequacy or inequality in the education being received by Arkansas students today, but for the dissenters' machinations.

The dissenters further profess that they are adhering to the General Assembly's intent. But again, nothing could be further from the truth. The very plain language of our constitution requires that the URT revenues be distributed "as provided by law." The General Assembly made clear its intent when it included subsection (c) in section 26-80-101(b)(1)(A), a subsection quite conveniently discounted or ignored by the dissenters. This subsection, in no uncertain terms, requires the return of the URT net revenues "to each local school district from which the revenues were derived."

Our General Assembly has painstakingly set forth the law, in accord with this court's decisions, and this majority recognizes that law and interprets it herein. While the dissenters

would have us ignore the General Assembly's efforts, we simply will not do so. Should the General Assembly wish to provide a mechanism or procedure by which excess funds may be distributed to other districts, it is certainly within *its* purview to do so—no time machine required.

In sum, pursuant to our constitution, URT revenues must be distributed as provided by law, and the General Assembly has seen fit to authorize and set forth a procedure that, at least currently, requires that those funds be returned to the sole district from which they were derived. Accordingly, we cannot say that the circuit court erred in so finding.

#### B. ADE's Authority over Budgets

For its second point on appeal, ADE argues that the circuit court erroneously found that it had wrongly withheld funds from the School Districts based on their failure to submit approved budgets. ADE urges that because the School Districts' budgets included as ongoing revenue the projected excess funds from the URT revenues, the budgets were deficient, and it was required to withhold state grants and aids, namely categorical funding, from the School Districts. ADE asserts that the funds were not withheld for repayment of the URT revenues in excess of the foundation-funding amount, but were withheld because the budgets were deficient in planning to expend revenues above and beyond the foundation-funding amount. ADE further claims that sovereign immunity barred the circuit court from ordering it to pay money damages

The School Districts respond that ADE "set off" amounts of categorical funding due to the School Districts merely because ADE subjectively determined that their budgets were

deficient, when in reality they were not. They aver that sovereign immunity has no bearing on the issue.

As a part of the Arkansas Educational Financial Accounting and Reporting Act of 2004, Ark. Code Ann. § 6-20-2202(a)(1) (Supp. 2009) requires that the board of directors of each school district in the state shall prepare a budget of expenditures and receipts that shall be filed with ADE each year. The budgets are to be reviewed by the auditors of ADE's financial accountability office to determine whether the requirements of state law and the rules of the State Board of Education regarding the use of school funds and expenditure requirements are being met. *See* Ark. Code Ann. § 6-20-2202(c)(1)(A). If the financial records are deficient, then the school district shall be notified and shall have thirty days to respond prior to suspension of grants and aids. *See* Ark. Code Ann. § 6-20-2202(c)(1)(B). If the auditors determine that the financial records of any school district

are not properly maintained or that the financial affairs of the school district . . . are not administered in accordance with state law or state board rules, grants and aids from the state to which the school district . . . may be entitled shall be withheld until it is determined that the fiscal records of the school district . . . are in order or that the financial affairs are being properly administered as established by statute or by rule promulgated by the state board, provided that the Department of Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives.

Ark. Code Ann. § 6-20-2202(d)(2).

In the instant case, ADE considered the School Districts' submitted budgets deficient in that they included within their budgeted revenue the URT revenues in excess of the foundation-funding amount that ADE believed did not belong to the School Districts. As already set forth above, any belief by ADE that those monies were not to be returned solely

to the districts from which they were derived was mistaken. Accordingly, the School Districts' budgets were not deficient in this manner, and any withholding of categorical funds by ADE from the School Districts on this basis was in error.

In its order of January 20, 2012, the circuit court ordered ADE to pay and release to the School Districts the sums of categorical funding that had been withheld or set off by ADE from the School Districts. According to the circuit court's order, ADE had previously given notice that it would be holding those funds in a separate escrow account. The circuit court found that its prior injunction issued September 20, 2011, applied to the categorical funding due the School Districts, and it directed that those monies be paid to the School Districts.

Because ADE wrongly determined that the School Districts' budgets were deficient and therefore wrongfully withheld the categorical funds to which the School Districts were otherwise entitled, the circuit court did not err in directing ADE to release those funds to the School Districts. They were legally entitled to those funds, and ADE wrongfully withheld them. Any argument by ADE that the circuit court assessed money damages against it in contravention of sovereign immunity is untenable.

For all the foregoing reasons, we affirm the circuit court's orders on direct appeal.

## II. *Cross-Appeal*

For their sole point on cross-appeal, the School Districts argue that the circuit court erred in its conclusion that URT revenues are state-tax revenues. They contend that Amendment 47 to the Arkansas Constitution prohibits any ad valorem tax levied upon property by the State and that Amendment 74 lacks any language therein suggesting that the

twenty-five-mill URT ad valorem-school-property tax constitutes a state tax. They aver that the twenty-five-mill URT was not levied by Amendment 74, but was simply established by the Amendment, as evidenced by its language of “to be levied.” They further assert that, merely because the revenues pass through the State Treasurer, the funds are in no way converted from local to state revenues.<sup>4</sup> ADE counters that the URT was passed and levied by a collective vote of the people, to be remitted to the State Treasurer, and distributed by the State; therefore, it claims, it is a state tax.

Amendment 47 quite clearly and succinctly provides that “[n]o ad-valorem tax shall be levied upon property by the State.” Ark. Const. amend. 47. An ad valorem is a tax on the value of property. See *Weiss v. McFadden*, 353 Ark. 868, 120 S.W.3d 545 (2003). Here, art. 14, § 3(b)(1), as amended by Amendment 74, provides, in relevant part, that “[t]here is established a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, and utility property in the state to be used solely for maintenance and operation of the schools.” The URT was deemed not to be an additional levy, but was to replace a portion of the existing rate of tax levied by each school district. See Ark. Const. art. 14, § 3(b)(2). Further, the URT is to be assessed and collected

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<sup>4</sup>In addition, the School Districts ask this court to remedy the language used in *City of Fayetteville v. Washington County*, 369 Ark. 455, 255 S.W.3d 844 (2007), which they claim suggests the twenty-five-mill URT is a state tax. We disagree that it does. The language is this:

The 25 mills under Amendment 74, as the circuit court correctly emphasized, is a tax adopted by the collective voters of the state, who levied the uniform rate of 25 mills as a matter of constitutional law when they approved Amendment 74.

369 Ark. at 473, 255 S.W.3d at 856–57. This language in no way holds that the URT or school-district taxes are state taxes.



in the same manner as other school-property taxes, but the net revenues are to be remitted to the State Treasurer and distributed to the school districts as provided by law. *See* Ark. Const. art. 14, § 3(b)(3). However, no portion of the revenues from the URT shall be retained by the State. *See id.*

In *Barker v. Frank*, 327 Ark. 589, 939 S.W.2d 837 (1997), this court rejected the notion that school-district taxes were county taxes. Instead, this court noted that “under the constitution school taxes and county taxes are treated differently.” 327 Ark. at 594, 939 S.W.2d at 839. This court then noted the distinction drawn by the General Assembly in that it had consistently treated school districts, counties, and municipalities as separate taxing units. *See id.* Such a distinction is evidenced by Ark. Code Ann. § 26-80-104 (Repl. 2008), wherein the General Assembly has directed that “[t]he school tax shall be collected in the same manner as county taxes are collected, at the same time and by the same person, and shall be paid into the county treasury.” Ark. Code Ann. § 26-80-104(b).

Clearly, the URT is not a county tax, but further absent is any suggestion whatsoever that it is a state tax. To the contrary, both the General Assembly and this court seem to have recognized school taxes as a breed of their own that are neither state nor local. As such, the URT is not converted to a state tax solely because the revenues are remitted to the State Treasurer and then back to the school districts. In *Arco Auto Carriers, Inc. v. State*, 232 Ark. 779, 341 S.W.2d 15 (1960), Arco challenged the validity of certain ad valorem taxes on trucks and equipment used to haul for hire into and through the state in interstate commerce. Arco argued, among other things, that Amendment 47 prohibited the levy of an ad-valorem tax by

the State; however, this court disagreed that the tax was a violation of Amendment 47:

Here the State has levied no ad valorem tax. An agency of the State has merely ascertained the value of the property. True, under the provisions of Act 168 of 1953 (Ark. Stats. § 84-614) the Commissioner of Revenues collects the tax, but the same act provides that the State Treasurer shall pay the amounts so collected to the County Aid Fund and in turn shall distribute same to the various counties on a proportionate basis as set out therein (Ark. Stats. § 84-615). It can readily be seen that this is a county tax merely administered by a State agency for the purpose of efficiency, and therefore is not in violation of Amendment 47.

232 Ark. at 783, 341 S.W.2d at 18.

Similarly, the instant tax was approved by the voters, is imposed or levied by local school districts, and is assessed and collected by local county treasurers. While the funds are remitted to the State Treasurer for a brief period,<sup>5</sup> they are then redistributed to the county treasurers for distribution to the school districts from which they came.

There simply is no basis on which to find that the URT is a state-ad valorem tax. Instead, it is a one-of-a-kind tax, a school-district tax, approved by the voters of the State of Arkansas, and levied, assessed, and collected by the counties for the sole use of the school districts. Any conclusion by the circuit court that the URT revenues were state revenues was simply erroneous. We therefore reverse this sole finding by the circuit court and remand on cross-appeal for entry of an order consistent with this opinion.

Affirmed on direct appeal; reversed and remanded on cross-appeal.

HANNAH, C.J., BROWN, J., and Special Justice GEORGE D. ELLIS dissent.

GUNTER, J., not participating.

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<sup>5</sup>The parties seem to agree that the funds are in the hands of the State Treasurer for no more than twenty-four hours at most.

JIM HANNAH, Chief Justice, dissenting. I respectfully dissent. The majority recreates an unconstitutional school funding system in interpreting Arkansas Code Annotated section 26-80-101 (Supp. 2009) to distribute state funding to school districts based upon their wealth. The amount of state funding a school district receives may not depend upon the wealth of the school district. See *Lake View School Dist. No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002); *DuPree v. Alma School Dist. No. 30*, 279 Ark. 340, 651 S.W.2d 90 (1983).

The General Assembly's school-funding system was approved by this court as constitutional. See *Lake View School Dist. No. 25 v. Huckabee*, 370 Ark. 139, 257 S.W.3d 879 (2007). Pursuant to Arkansas Constitution article 14, section 3, the General Assembly provides "for the support of common schools" through a uniform rate of ad valorem tax of twenty-five mills levied by the various school districts. See Ark. Const. art. 14, § 3(a)-(b); Ark. Code Ann. § 26-80-101(a)-(b) (Supp. 2009). The State is under an obligation to provide "a fair system for distribution of funds." See Ark. Const. art. 14, § 3(a). To that end, "the net revenues from the uniform rate of tax shall be remitted to the Treasurer of the State," see Ark. Code Ann. § 26-80-101(b)(1)(A), "to be distributed back to the school district from which the revenues were received or to other school districts." Ark. Code Ann. § 26-80-101(b)(1)(B).

The General Assembly sets a foundation-funding amount that is required to fund a school system that meets the constitutional requirement to provide "a general, suitable, and efficient system of free public schools." Ark. Const. art. 14, § 1. If the foundation-funding

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amount is \$6023 per student and school district uniform rate of tax (UTR) revenues provide only \$5000 per student, that school district will receive \$1300 per student from the State in additional funding. Conversely, if UTR revenues provide a school district \$9023 per student, \$3000 per student must be distributed back to the school districts where UTR revenues do not provide \$6023 per student. See Ark. Code Ann. § 26-80-101(b)(1)(A), (B).

Under the majority's decision, a school district retains all the UTR revenues collected in that district under the twenty-five-mill levy, whether that works out to, for example, school funding of \$9000 per student or \$900 per student. To the contrary, the UTR revenues collected under the twenty-five-mill levy are remitted to the State. The UTR revenues and the statutory scheme constitute the fund by which the General Assembly fulfills its constitutional obligation to a fair system of distribution of funds. See Ark. Const. art. 14, § 3(a); Ark. Code Ann. § 26-80-101. The General Assembly distributes this fund to provide the required foundation funding per student. Uniform-rate-of-tax revenues in excess of the amount required to provide the required foundation-funding for any given school district are used by the General Assembly to bring school-district funding to the required level in all districts. The majority decision deprives the General Assembly of a constitutional means of providing the less wealthy school districts with the required foundation funding.

Admittedly, the phrase "from which the revenues were derived" in Arkansas Code Annotated section 26-80-101(c) is less than clear. "This court, however, will not give statutes a literal interpretation if it leads to absurd consequences that are contrary to legislative intent." *McMillan v. Live Nation Entm't, Inc.*, 2012 Ark. 166, at 12, \_\_\_ S.W.3d \_\_\_, \_\_\_.

“If the statute is ambiguous, this court looks to the legislative history of the statute and other factors, such as the language used and the subject matter involved.” *Id.*, \_\_\_ S.W.3d at \_\_\_\_.

Clearly, the intent of the General Assembly was to provide a constitutional system of school funding and not to provide a system already declared unconstitutional by this court.

The majority errantly concludes that the retention of excess URT funds is recognized in article 14, section 3(a), where it is acknowledged that variation in funding will exist; but, the majority misreads the constitution. The reason a school district acquires funding per student that varies from the foundation-funding amount is that school districts are permitted to “raise additional funds to enhance the educational system within the school district.” See Ark. Const. art. 14, § 3(a). In other words, if a school district wishes to enhance its educational system beyond that permitted by the foundation-funding amount, it may raise funds in addition to the foundation funding received from the State. A school district may impose millage in addition to the twenty-five-mill URT and retain the revenues obtained. However, the law is clear that the entire amount of URT revenues produced in any given school district by the twenty-five-mill levy must be remitted to the State for distribution back to the school district from which the revenues were received or to other school districts.

Additionally, under the majority’s interpretation of section 26-80-101, the county treasurer remits to the State Treasurer the total URT revenues collected and then receives back precisely the same sum because all funds collected in a given school district must be returned to that same school district. If this were correct, there would be no reason to remit the revenues to the State Treasurer. It would be a vain and useless act. We have stated that

"[i]n construing statutes, we will not presume the legislature to have done a vain and useless thing." *Snowden v. JRE Invs., Inc.*, 2010 Ark. 276, at 15, 370 S.W.3d 215, 223 (citing *Phillips Petroleum Co. v. Heath*, 254 Ark. 847, 497 S.W.2d 30 (1973)). To the contrary, "we reconcile provisions to make them consistent, harmonious, and sensible." *Id.*, 370 S.W.3d at 223.

The majority nullifies ten years of difficult and painstaking work diligently undertaken by the General Assembly, the Department of Education, the Attorney General, and the Governor, to provide this state with a constitutional school-funding system. The state's carefully crafted constitutional system of state-funded public education is obliterated by the majority's decision. The twenty-five-mill tax levied pursuant to article 14, section 3 of the Arkansas Constitution for provision of common schools must now remain within each school district from which the tax was derived. The majority leaves us with a public-school-funding system dependent upon the wealth of the district, which this court has declared to be unconstitutional. "If possible, this court will construe a statute so that it is constitutional." *Summerville v. Thrower*, 369 Ark. 231, 236, 253 S.W.3d 415, 418 (2007). The majority can, and should, do so in this case. The majority decision is contrary to law and precedent. Therefore, I dissent.

BROWN, J., and Special Justice GEORGE D. ELLIS join this dissent.

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ROBERT L. BROWN, Justice, dissenting. Today's decision takes us back twenty-nine years to a time when a student's public education was based on the property wealth of that

student's school district. Under that system, students in wealthier school districts fared much better with respect to the educational opportunities available to them, because the property wealth of those districts generated more tax revenue for school operations. This court expressly held in a landmark decision in 1983 that a school-funding system based on property wealth was inherently discriminatory and violated the Arkansas Constitution. *DuPree v. Alma Sch. Dist. No. 30*, 279 Ark. 340, 651 S.W.2d 90 (1983). In the later *Lake View* cases, we endorsed and reiterated the *DuPree* position.<sup>1</sup> Those decisions were beacons in this state for the basic precepts of equality.

Now, a majority of this court has eroded this fundamental, constitutional principle premised on economic equality and returned this court to a pre-*DuPree* standard where property wealth can be used by the State of Arkansas to benefit some school districts more than others. I cannot countenance such a sea change in our constitutional law.

Under the majority's decision, the State, by state appropriation, may now allocate URT funds to two school districts in excess of the foundation-funding amounts, which are the state-funding limits established by the General Assembly for all school districts in the state. This overpayment in state funding for these two school districts is based solely on the property wealth of those districts, and the State in the form of the Arkansas Department of

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<sup>1</sup>*Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee (Lake View IV)*, 370 Ark. 139, 257 S.W.3d 879 (2007); *Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee (Lake View III)*, 364 Ark. 398, 220 S.W.3d 645 (2005); *Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee (Lake View II)*, 358 Ark. 137, 189 S.W.3d 1 (2004); *Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee (Lake View I)*, 351 Ark. 31, 91 S.W.3d 472 (2002); *Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee*, 340 Ark. 481, 10 S.W.3d 892 (2000); *Tucker v. Lake View Sch. Dist. No. 25 of Phillips Cnty.*, 323 Ark. 693, 917 S.W.2d 530 (1996).

Education (ADE), according to the majority, cannot recoup the overpayments. Not only is today's decision out of sync with *DuPree* and the *Lake View* cases, it etches in stone a discriminatory policy based on wealth that is directly at odds with amendment 74, state statutes, and this court's case law. Under the majority's reasoning, if URT funds resulted in education funding that was two or three times that paid to other school districts in the state because of property wealth, that would pass constitutional muster. That, of course, is manifestly wrong.

No matter how much the majority would like to believe it, URT funds that are sent to the State and then reallocated by the State Treasurer back to the school districts do not simply "pass through" the Treasurer's office. Those funds are returned to the school districts under the authority of a specific state appropriation, a fact the majority opinion never acknowledges.<sup>2</sup> Accordingly, this is vastly different from a situation where school districts levy more taxes for school operations by local ordinance above and beyond what the URT provides, as referenced in *Lake View II*. Why? Because the State is directly involved in the allocation of funds to the school districts and cannot discriminate against poorer school districts based on property wealth. A school district, on the other hand, has every right to levy a tax for additional revenue to benefit its school. Far from being a distinction without a difference, as the majority puts it, a state appropriation is simply not the same thing as a millage increase levied by a school district.

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<sup>2</sup>See Act of Feb. 12, 2009, No. 124, 2009 Ark. Acts 489 (appropriation for distribution of Amendment 74 funds for fiscal year 2009–2010).



There is no disagreement on this point by the ADE and the Attorney General. *See* Op. Ark. Att’y Gen. No. 094 (2010). Both agree that the School Districts in the instant case are woefully out of constitutional step in seeking to retain URT revenues that exceed the prescribed foundation-funding amounts. This court’s majority, however, has cast that aside and has decided that discriminatory payouts are now the new normal. This, without a doubt, opens a Pandora’s box of practices favoring the state’s wealthier school districts with excessive and disparate URT payouts.

The other rationales used to justify the majority’s decision are based on false reasoning. For example, the majority discounts the plain and simple language in the School District Taxes Code that provides:

(B) No portion of the revenues from the uniform rate of tax shall be retained by the State but shall be distributed back to the school district from which the revenues were received *or to other school districts* pursuant to subsection (c) of this section.

Ark. Code Ann. § 26-80-101(b)(1)(B) (Supp. 2009) (emphasis added). This corresponds with amendment 74, which also provides: “The net revenues from the uniform rate of tax shall be remitted to the State Treasurer and *distributed by the state to the school districts as provided by law.*” Ark. Const. art. 14, § 3 (emphasis added). Clearly, this language authorizes the State to distribute URT funds to “school districts” and does not limit distribution of overpayments to the originating school district.

I agree with the majority that the referenced “subsection c” in section 26-80-101(b)(1)(B) does not specifically address what is to be done with excess URT funds, but amendment 74 expressly says that URT funds must be distributed “as provided by law.” And

the law of Arkansas is clear that educational funding must not be distributed by the State on a discriminatory basis. See Ark. Const. art. 14, § 1 & art. 2, §§ 2, 3, 18; *Lake View II*, 358 Ark. at 137, 189 S.W.3d at 1; *Lake View I*, 351 Ark. at 31, 91 S.W.3d at 472; *DuPree*, 279 Ark. at 340, 651 S.W.2d at 90. The majority opinion either overlooks this or discounts the constitutional law on this point throughout the opinion.

Next, the majority misreads amendment 74 and concludes that it authorizes the State to discriminate in URT funding in favor of wealthier school districts. The plain language of this court's opinion in *Lake View II* and in amendment 74, however, make it abundantly clear that school districts may only raise additional funds above the URT *by local ordinance* to enhance their educational systems. Amendment 74 specifically reads, "*In addition to the uniform rate of tax . . . school districts are authorized to levy, by a vote of the qualified electors respectively thereof, an annual ad valorem property tax on the assessed value of taxable real, personal, and utility property for the maintenance and operation of schools.*" Ark. Const. art. 14, § 3(c)(1) (emphasis added). Hence, any variation for increased school funding above foundation-funding limits must be the result of a local tax levied in addition to the URT funds raised under amendment 74. Amendment 74 manifestly provides school districts with the flexibility to raise more money locally for the maintenance and operation of their schools, but this is done annually in local school elections—not through the URT.

The majority goes on to conclude that URT funds distributed by the State in excess of foundation funding for all other school districts is not an overpayment. Specifically, the opinion reads, "it cannot be said that the excess funds constituted an overpayment." I

disagree. Excess URT funds over and above what is owed to a school district in foundation funding is most certainly an overpayment. Moreover, there is authority for the ADE to withhold overpayments from subsequent state funding or request a refund from the school district for the overpayment. See Ark. Code Ann. § 6-20-2306 (Supp. 2011). The majority, nevertheless, maintains that section 6-20-2306 refers only to overpayments “under any appropriation authorized by this subchapter,” which, it contends, does not embrace URT overpayments. But that too is incorrect. The subchapter involved is the Public School Funding Act of 2003, codified at Ark. Code Ann. §§ 6-20-2301 to -2307, which specifically includes the URT in its formula for setting foundation-funding aid.

With respect to whether the URT is a state tax, the majority writes that the URT is not a state tax or a local tax but “a breed of [its] own” and “one of a kind.” This “neither fish nor fowl” description of the URT will be news to both the school districts and the ADE. And the conclusion flies in the face of both amendment 74 and our case law. When it reached its decision that the URT is a state tax, the circuit court relied on *City of Fayetteville v. Washington County*, in which this court said, “The 25 mills under Amendment 74 . . . is a tax adopted by the collective voters of the state, who levied the uniform rate of 25 mills as a matter of constitutional law when they approved Amendment 74.” 369 Ark. 455, 473, 255 S.W.3d 844, 856–57 (2007). Prior to *City of Fayetteville*, this court noted that the URT was established by, and levied under, amendment 74:

Adopted by the people of Arkansas at the 1996 general election, Amendment 74 of the Arkansas Constitution established the uniform rate of taxation of twenty-five mills for each school district to be levied on the assessed value of property and to be used solely for the maintenance and operation of the schools.

*Beebe v. Fountain Lake Sch. Dist.*, 365 Ark. 536, 545–46, 231 S.W.3d 628, 636 (2006) (relying on Ark. Const. art. 14, § 3(b)(1)).

Not only has this court squarely found that the URT is established and levied under amendment 74 as a uniform tax by the Arkansas people, but the language of amendment 74 supports this court's interpretation:

(b)(1) There is established a *uniform rate of ad valorem property tax* of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, and utility property in the state to be used solely for maintenance and operation of the schools.

.....

(4) The General Assembly may by law propose an increase or decrease in the uniform rate of tax and submit the question *to the electors of the state* at the next general election.

.....

(c)(1) *In addition to the uniform rate of tax provided in subsection (b)*, school districts are authorized to levy, by a vote of the qualified electors respectively thereof, an annual ad valorem property tax on the assessed value of taxable real, personal, and utility property for the maintenance and operation of schools and the retirement of indebtedness.

Ark. Const. art. 14, § 3(b)(1), (b)(2), (c)(1) (emphasis added). Added to this is the fact that when URT funds are returned to the school districts by the State Treasurer, this is done by state appropriation, as has already been noted.

As a result, for the General Assembly to propose an increase in the URT, it must be submitted "to the electors of the state," not to a local school district. Were the URT not a state tax, local school districts would have the power to increase the URT for their particular districts above the 25 mills established in amendment 74 as a uniform tax. That would shred

any notion of equality and strike at the very heart of uniformity.

The majority makes a passing reference to amendment 47, which forecloses a state ad valorem tax. Although this argument was not specifically addressed by the circuit court in its order, our law has been clear for more than eighty years that a subsequent amendment to the Arkansas Constitution like amendment 74 necessarily amends a previous provision like amendment 47. See *Chesshir v. Copeland*, 182 Ark. 425, 32 S.W.2d 301 (1930) (holding that where there is an inconsistency between an earlier amendment to the Arkansas Constitution and a later amendment, the last amendment, being the last expression of the sovereign will of the people, will prevail as an implied repeal of the former to the extent they conflict); *Lybrand v. Wafford*, 174 Ark. 298, 296 S.W. 729 (1927) (noting the well-founded principle that the last amendment to a constitution adopted by the people must control over earlier provisions or amendments to that constitution where there is irreconcilable conflict). In this case, amendment 74 carves out an exception to amendment 47 as “a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, and utility property in the state.” Ark. Const. art. 14, § 3.

By ruling as it has, a majority of this court has reentered a pre-*DuPree* world where the wealth of a school district determines how well a child will be educated, and the State allocates funding accordingly. Certainly, the *Lake View* cases dealt with adequacy in education, but *Lake View I* and *II* in particular underscored the constitutional mandate that funding be equal, harking back to the fundamental principles set forth in *DuPree*.

I have no disagreement with the majority’s statement that foundation funding sets a

benchmark for equality in education: Where the majority runs far afield, however, is in failing to recognize that unlimited URT funding above foundation-funding amounts that is appropriated by the state and based on a school district's property wealth violates the whole notion of equality. Without question, when our constitution requires that URT revenues be distributed "as provided by law," that embraces the state constitution and not merely statutory law.

To regress on the progress Arkansas has made in state education on the twin grounds of equality and adequacy—based on this court's decisions in *DuPree* and the *Lake View* cases—is disturbing and a sad commentary. A signal has now been sent that the constitutional principles fixed in those cases are not inviolate and, indeed, can be watered down and marginalized.

For all of these reasons, I respectfully dissent.

HANNAH, C.J., and Special Justice GEORGE D. ELLIS join this dissent.

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GEORGE D. ELLIS, Special Justice, dissenting. I join the dissent of the Chief Justice and Justice Brown. The majority opinion takes us back to the days before the *DuPree* and *Lakeview* decisions. It is as if the majority has entered a time machine. Under the majority opinion, we will again have a wealth-driven system of public education which was *precisely* the problem with our system in the first place.

The majority ignores the obvious. The Chief Justice quite accurately cites *Snowden v. JRE Inv., Inc.*, 2010 Ark. 276, at 15, 370 S.W. 3d 215, 223 (citing *Phillips Petroleum Co. v.*

*Heath*, 254 Ark. 847, 497 S.W. 2d 30 (1973): “[i]n construing statutes, we will not presume the legislature to have done a vain and useless thing.” But that is what the majority has done in its interpretation of Ark. Code Ann. § 26-8-101(b)(1)(B) (Supp. 2009), which provides that net URT revenues shall be remitted to the treasurer “to be distributed back to the school district from which the revenues were received *or to other school districts.*” The last phrase of the statute is simply ignored by the majority. The legislature did not do “a vain and useless thing.” The legislature meant what it said by including the language “*or to other school districts*” in the statute.

With the majority opinion we again have a closed-loop system of wealth-driven education in this state which is *precisely* what this Court outlawed.

I respectfully dissent.

HANNAH, C.J., and BROWN, J., join this dissent.

*Dustin McDaniel*, Att’y Gen., by: *Scott P. Richardson*, Ass’t Att’y Gen., for appellants.

*Hatfield & Sayre*, by: *Eugene G. Sayre*, for appellees.

**98% GUARANTEED URT SUPPLEMENT FUNDS DUE**

**FOUNTAIN LAKE SCHOOL DISTRICT**

**EUREKA SPRINGS SCHOOL DISTRICT**

2010 - 2011 School Year  
(Per Exhibit 9)

2010 - 2011 School Year  
(Per Exhibit 5)

\$8,734,662    Amount of URT Ad Valorem  
School Taxes Billed by District  
(Exhibit 9, Line 5) <sup>1</sup>

-\$8,507,665    Less Amount of URT Ad Valorem  
School taxes Collected (Exhibit 9,  
Line 6)

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\$ 226,997    Amount of "98% Guaranteed  
URT Supplemental Funds District  
Entitled to Receive From ADE  
(Exhibit 9, Line 45).

\$4,742,409    Amount of URT Ad Valorem  
School Taxes Billed by District  
(Exhibit 5, Line 5)

-\$4,692,271    Less Amount of URT Ad Valorem  
School taxes Collected (Exhibit 5,  
Line 6)

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\$ 50,138    Amount of "98% Guaranteed  
URT Supplemental Funds District  
Entitled to Receive From ADE  
(Exhibit 5, Line 45).

**FOUNTAIN LAKE SCHOOL DISTRICT**

**EUREKA SPRINGS SCHOOL DISTRICT**

2011 - 2012 School Year  
(Per Exhibit 10)

2011 - 2012 School Year  
(Per Exhibit 6)

\$8,977,260    Amount of URT Ad Valorem  
School Taxes Billed by District  
(Exhibit 10, Line 5)

-\$8,812,706    Less Amount of URT Ad Valorem  
School taxes Collected (Exhibit  
10, Line 6)

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\$ 164,554    Amount of "98% Guaranteed  
URT Supplemental Funds District  
Entitled to Receive From ADE  
(Difference of Lines 5 and 6 of  
Exhibit 10).

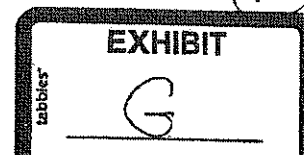
\$4,901,289    Amount of URT Ad Valorem  
School Taxes Billed by District  
(Exhibit 6, Line 5)

-\$4,828,539    Less Amount of URT Ad Valorem  
School taxes Collected (Exhibit 6,  
Line 6)

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\$ 173,750    Amount of "98% Guaranteed  
URT Supplemental Funds District  
Entitled to Receive From ADE  
(Difference of Lines 5 and 6 of  
Exhibit 6).

<sup>1</sup> See, Exhibits 5 and 6 and Exhibits 7 and 8 attached hereto. These four (4) Exhibits are copies of the ADE's compilation of data about these two (2) School Districts for the two (2) school years in question. All of this data is published by the ADE for all 239 School Districts in Arkansas on an annual basis, as the Final Notices of State Aid. See also, the chart on page 6, *infra*.





DATA

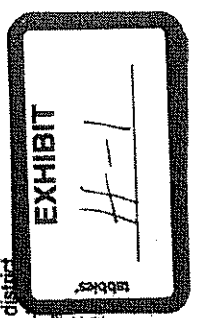
	Amount	Statutory Code/Act	Restricted	Rev. Code	SOF Code
1. 2009 Real Assessment	\$ 312,627,859	14. Per-Student Revenue	No	31101	000
2. 2009 Personal Assessment	\$ 37,088,067	15. Per-Student Foundation Funding Amount	Yes	32370	275
3. 2009 Utility Assessment	\$ 6,800,871	16. Per-Student State Foundation Funding Aid	Yes	32371	276
4. 2009 Total Assessment	\$ 356,516,797	17. PY ALE FTEs (Qtrs. 1-4)	Yes	32381	281
5. 98% of URT X Assessment	\$ 8,734,662	18. CY English Language Learner Students	Yes	32381	281
6. Net Revenues	\$ 8,507,665	19. PY NSL Students (Free and Reduced)	Yes	32381	281
7. Five-Year Avg. Misc. Funds <sup>1</sup>	\$ 62	20. Professional Development Funding Rate	Yes	32381	281
8. 2008-09 ADM (Qtrs. 1-3 Avg.)	\$ 1,200.82	21. Adjusted '11/05 Scheduled Debt Payment	Yes	32255	223
9. 2009-10 ADM (Qtrs. 1-3 Avg.)	\$ 1,219.85	22. Bonded Debt Assistance Funding Factor	Yes	32915	001
10. 2010-11 ADM for SGF (Qtr. 1)	\$ 1,208.12	23. State Wealth Index	No	32912	392
11. 2010-11 ADM for SGF (Qtr. 2)	\$ 1,216.73	24. ADM of Isolated School Area	Yes	31620	001
12. 2010-11 ADM for SGF (Qtr. 3)	\$ 1,227.56	25. Isolated Funding Amount	Yes	31500	212
13. 2010-11 ADM for SGF (Qtr. 4)	\$ 1,196.16		Yes	31500	212
			No	32249	2920
			Yes	32248	228
			No	31500	212
			No	31460	218
			No	31460	218
			No	31450	217
			No	31103	000

FUNDING

	Amount	Statutory Code/Act	Restricted	Rev. Code	SOF Code
26. State Foundation Funding Aid <sup>2</sup>	\$ -1,387,567	6-20-2303 & 2305	No	31101	000
27. Educational Excellence Trust <sup>3</sup> - R	\$ 0	6-5-301 et seq.	Yes	32370	275
28. Alternative Learning Environment - R	\$ 76,831	6-20-2305	Yes	32371	276
29. English Language Learners - R	\$ 11,134	6-20-2305	Yes	32381	281
30. NSL State Categorical Funding <sup>4</sup> - R	\$ 303,552	6-20-2305	Yes	32381	281
31. NSL Transitional Funding <sup>4</sup> - R	\$ 0	6-20-2305	Yes	32381	281
32. NSL Growth Funding <sup>4</sup> - R	\$ 6,944	6-20-2305	Yes	32381	281
33. Professional Development - R	\$ 50,463	6-20-2305	Yes	32255	223
34. Bonded Debt Assistance - R	\$ 0	6-20-2503	Yes	32915	001
35. State Financial Assistance - GFF - R	\$ 0	6-20-2503	No	32912	392
36. State Financial Assistance - SMIF - R	\$ 0	6-20-2503	No	31620	001
37. Isolated Funding	\$ 0	6-20-601 et seq.	Yes	31500	212
38. Special Needs Isolated Funding <sup>5</sup>	\$ 0	6-20-601 et seq.	Yes	31500	212
39. Special Needs Small District Funding <sup>6</sup>	\$ 0	6-20-601 et seq.	No	32249	2920
40. Special Needs Isolated Transportation	\$ 0	6-20-601 et seq.	Yes	32248	228
41. Special Needs Isolated Adequacy	\$ 0	6-20-2305	No	31500	212
42. Declining Enrollment Funding <sup>6</sup> - R	\$ 0	6-20-2305	No	31460	218
43. Declining Enrollment Adequacy	\$ 0	6-20-2305	No	31460	218
44. Student Growth-Qtrs. 1, 2, 3 & 4 - R	\$ 11,609	6-20-2303 & 2305	No	31450	217
45. 98% of URT X Assessment less Net Revenues <sup>2</sup>	\$ 226,997	6-20-2303 & 2305	No	31103	000

ACA-Kansas code annotated, ADM-average daily membership, Avg.-average, ALE-alternative learning environment, CY-current year, Est.-estimated, FTE-full-time equivalent, FY-fiscal year, GFF-general facilities funding, LEA-local education agency, M&O-maintenance & operation, Misc.-miscellaneous, NSL-national school lunch, PY-prior year, Qtr.-quarter, R-state board rule, Rev.-revenue, SGF-student growth funding, SMIF-supplemental millage incentive funding, SOF-source of fund, URT-uniform rate of tax

- Miscellaneous funds per ACA § 6-20-2303 (11) for categories of miscellaneous funds received in FY09 equal (average of FY05 through FY09) X (URT/total mills).
- Negative funding amounts shown for state foundation funding aid, and are restricted pursuant to ACA § 6-5-307.
- Educational excellence trust funds are included in state foundation funding aid, and are restricted pursuant to ACA § 6-5-307.
- Eligible school districts shall receive special needs isolated, small district, and transportation funding under ACA § 6-20-2305 (a) (3) (A) (i) and student growth funding under ACA § 6-20-2305 (a) (3) (A) (i) that No school district shall receive both declining enrollment funding under ACA § 6-20-604. The initial FY11 state aid notice provides declining enrollment funding. Subsequent FY11 state aid notices reflect declining enrollment funding under ACA § 6-20-604. The initial FY11 state aid notice provides declining enrollment funding. Subsequent FY11 state aid notices reflect declining enrollment funding under ACA § 6-20-2305 (c) (2) and/or special needs isolated, small district, and transportation funding. Districts with negative funding amounts will receive written notification that will include information on how to code the repayment transaction.



LEA: 2602  
 County: GARLAND  
 District: FOUNTAIN LAKE

Final  
 State Aid Notice 2011-12  
 August 31, 2012

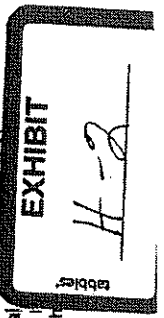
Refer to Commissioner's Memo Number  
 FIN-13-023 for additional information

	Amount	Statutory Code/Act	Restricted	Rev. Code	SOF Code
1. 2010 Real Assessment	\$ 320,876,736	14. Per-Student Revenue	No	31101	2001
2. 2010 Personal Assessment	\$ 38,212,556	15. Per-Student Foundation Funding Amount	Yes	32370	275
3. 2010 Utility Assessment	\$ 7,329,486	16. Per-Student State Foundation Funding Aid	Yes	32371	276
4. 2010 Total Assessment	\$ 366,418,778	17. PY ALE FTEs (Qtrs. 1-4)	Yes	32381	281
5. 98% of URT X Assessment	\$ 8,977,260	18. CY English Language Learner Students	Yes	32381	281
6. Net Revenues	\$ 8,812,706	19. PY NSL Students (Free and Reduced)	Yes	32381	281
7. Five-Year Avg. Misc. Funds <sup>1</sup>	\$ 71	20. Professional Development Funding Rate	Yes	32381	281
8. 2009-10 ADM (Qtrs. 1-3 Avg.)	\$ 1,219.85	21. Adjusted 1/1/05 Scheduled Debt Payment	Yes	32381	281
9. 2010-11 ADM (Qtrs. 1-3 Avg.)	\$ 1,217.95	22. Bonded Debt Assistance Funding Factor	Yes	32256	223
10. 2011-12 ADM for SGF (Qtr. 1)	\$ 1,239.43	23. State Wealth Index	Yes	32915	001
11. 2011-12 ADM for SGF (Qtr. 2)	\$ 1,229.31	24. ADM of Isolated School Area	No	32912	392
12. 2011-12 ADM for SGF (Qtr. 3)	\$ 1,233.17	25. Isolated Funding Amount	No	31620	001
13. 2011-12 ADM for SGF (Qtr. 4)	\$ 1,229.37		No	31500	212

Funding Category	Amount	Statutory Code/Act	Restricted	Rev. Code	SOF Code
26. State Foundation Funding Aid <sup>2</sup>	\$ -1,494,246	6-20-2303, 6-20-2305, Act 1039 of 2011	No	31101	2001
27. Educational Excellence Trust <sup>3</sup> - R	\$ 0	6-5-301 et seq.	Yes	32370	275
28. Alternative Learning Environment - R	\$ 51,315	6-20-2303, 6-20-2305, Acts 1039 & 1118 of 2011	Yes	32371	276
29. English Language Learners - R	\$ 10,465	6-20-2303, 6-20-2305, Act 1039 of 2011	Yes	32381	281
30. NSL State Categorical Funding <sup>4</sup> - R	\$ 306,636	6-20-2303, 6-20-2305, Act 1039 of 2011	Yes	32381	281
31. NSL Transitional Funding <sup>4</sup> - R	\$ 0	6-20-2305, Act 1039 of 2011	Yes	32381	281
32. NSL Growth Funding <sup>4</sup> - R	\$ 0	6-20-2305, Act 1039 of 2011	Yes	32381	281
33. Professional Development - R	\$ 51,617	6-20-2303, 6-20-2305, Act 1039 of 2011	Yes	32256	223
34. Bonded Debt Assistance - R	\$ 0	6-20-2503, Act 266 of 2011	Yes	32915	001
35. State Financial Assistance - GFF - R	\$ 0	6-20-2503, Act 266 of 2011	No	32912	392
36. State Financial Assistance - SMIF - R	\$ 0	6-20-2503	No	31620	001
37. Isolated Funding	\$ 0	6-20-2503	No	31500	212
38. Special Needs Isolated Funding <sup>5</sup>	\$ 0	6-20-601, 6-20-603, Acts 996 & 1131 of 2011	Yes	31500	212
39. Special Needs Small District Funding <sup>5</sup>	\$ 0	6-20-604 (c), (d) & (e), Acts 996 & 1131 of 2011	Yes	32249	2820
40. Special Needs Isolated Transportation <sup>5</sup>	\$ 0	6-20-604 (f), Acts 996 & 1131 of 2011	No	32248	228
41. Special Needs Isolated Adequacy	\$ 0	6-20-604 (h), Acts 996 & 1131 of 2011	Yes	32248	228
42. Declining Enrollment Funding <sup>6</sup> - R	\$ 0	6-20-2305	No	31500	212
43. Declining Enrollment Adequacy	\$ 0	6-20-2305	No	31460	218
44. Student Growth-Qtrs. 1, 2, 3, & 4 <sup>7</sup> - R	\$ 91,361	6-20-2305	No	31460	218
45. 98% of URT X Assessment less Net Revenues <sup>2</sup>	\$ -1,329,692	6-20-2303, 6-20-2305, Act 633 of 2011	No	31450	217
			No	31103	2001

ACA-Arkansas code annotated, ADM-average daily membership, Avg-average, ALE-alternative learning environment, CY-current year, Est-estimated, FTE-full-time equivalent, FY-fiscal year, GFF-general facilities funding, LEA-local education agency, M&O-maintenance & operation, Misc-miscellaneous, NSL-national school lunch, PY-prior year, Qtr-quarter, R-state board rule, Rev.-revenue, SGF-student growth funding, SMIF-supplemental millage incentive funding, SOF-source of fund, URT-uniform rate of tax

- Miscellaneous funds per ACA § 6-20-2303 (11) for categories of miscellaneous funds received equal (average of FY06 through FY10) X (URT/district total mills in effect as of January 1 of the prior FY).
- Negative funding amounts shown for state foundation funding aid and/or 98% of URT X assessment less net revenues indicate funds owed to the state. Districts that received net revenues in excess of 98% of URT X assessment received written notification that included information on how to code the repayment transaction.
- Educational excellence trust funds are included in state foundation funding aid and are restricted pursuant to ACA § 6-5-307.
- The combination of NSL state categorical, NSL transitional (plus or minus) and NSL growth funding equals the total net NSL state categorical funding received by a school district.
- Eligible school districts shall receive special needs isolated, small district, and transportation funding under ACA § 6-20-604 or declining enrollment funding under ACA § 6-20-2305 (c) (2) or special needs isolated, small district, and transportation funding under ACA § 6-20-2305 (e) (3) (A) (i) and student growth funding under ACA § 6-20-2305 (a) (3) (A) (i) that is not included in the student growth funding under ACA § 6-20-604. The initial FY12 state aid notice provides declining enrollment funding under ACA § 6-20-2305 (a) (3) (A) (i) that is not included in the student growth funding under ACA § 6-20-2305 (c) (2) and/or special needs isolated, small district, and transportation funding. Subsequent FY12 state aid notices reflect the student growth funding under ACA § 6-20-2305 (c) (2) and/or special needs isolated, small district, and transportation funding. Subsequent FY13 state aid notices reflect the student growth funding under ACA § 6-20-2305 (c) (2) and/or special needs isolated, small district, and transportation funding. Subsequent FY13 state aid notices reflect the student growth funding under ACA § 6-20-2305 (c) (2) and/or special needs isolated, small district, and transportation funding. Subsequent FY13 state aid notices reflect the student growth funding under ACA § 6-20-2305 (c) (2) and/or special needs isolated, small district, and transportation funding.
- The initial FY12 state aid notice provides declining enrollment funding under ACA § 6-20-2305 (a) (3) (A) (i) that is not included in the student growth funding under ACA § 6-20-604. The initial FY12 state aid notice provides declining enrollment funding under ACA § 6-20-2305 (a) (3) (A) (i) that is not included in the student growth funding under ACA § 6-20-604. The initial FY12 state aid notice provides declining enrollment funding under ACA § 6-20-2305 (a) (3) (A) (i) that is not included in the student growth funding under ACA § 6-20-604.
- The initial determination of FY12 student growth funding has been made in FY13 pursuant to ACA § 6-20-2305.



# Hatfield & Sayre

An Association of Professional Associations  
401 West Capitol Avenue, Suite 502  
Little Rock, Arkansas 72201

TAX EIN

0231.0001:

Fountain Lake and Eureka Springs School Districts

### Summary of Professional Legal Fees and Expenses and Costs Incurred through July 31, 2013

Date	Invoice No.	Fountain Lake School District	Eureka Springs School District	Costs
4/12/2011		\$250.00	\$250.00	\$294.45
9/1/2011	63	\$9,405.00		
9/1/2011	64		\$5,595.00	
11/30/2011	67	\$42,755.02		\$172.32
11/30/2011	68		\$25,434.80	
11/30/2011	69	\$1,974.00		
2/29/2012	76	\$16,422.80		\$302.66
2/29/2012	77		\$9,769.86	
6/14/2012	86	\$37,618.93		\$3,328.29
6/14/2012	86		\$22,379.37	
11/7/2012	100	\$12,382.33		\$151.77
11/7/2012	101		\$7,366.21	
1/15/2013	102	\$27,031.16		\$495.95
1/15/2013	103		\$16,080.74	
6/10/2013	109	\$23,476.84		\$151.56
6/10/2013	110		\$13,966.28	
8/20/2013	114	\$6,874.35		\$76.38
8/20/2013	115		\$4,089.53	
<b>Total Fees</b>		<b>\$178,190.43</b>	<b>\$104,931.79</b>	<b>\$4,973.38</b>
<b>Total Costs</b>		<b>\$2,486.69</b>	<b>\$2,486.69</b>	
<b>Overall Totals</b>		<b>\$180,677.12</b>	<b>\$107,418.48</b>	
<b>Combined Totals</b>		<b>\$288,095.60</b>		

(Filing Fee and Cost of Service)

75



# Hatfield & Sayre

*An Association of Professional Associations*  
401 West Capitol Avenue, Suite 502  
Little Rock, Arkansas 72201

## TAX EIN

FOUNTAIN LAKE SCHOOL DISTRICT  
C/O Mr. Darin Beckwith, Superintendent  
4207 Park Avenue  
Hot Springs, AR 71901

**0231.0001: Declaratory Judgment and Injunctive Relief Suit**

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### STATEMENT

Statement Date - September 1, 2011  
Invoice No. 00063

#### Professional Fees

#### Amount

Flat Fee for All Services Performed Between January 5, 2011 and May 10, 2011.

These professional legal services include conferences with representatives of client/school district, telephone conferences with representatives of client/school district, conferences with representatives of the Governor's Office and the Arkansas Department of Education; preparation of numerous pieces of correspondence; review documents provided by ADE in response to FOIA demands; legal research involving constitutional, statutory and case law precedents involving public school funding system of the State of Arkansas; Drafting, reviewing and redrafting of Complaint for Declaratory Judgment and Injunctive Relief, and all related actions and matters totaling the expenditure of more than 150 hours of professional legal time of Eugene G. Sayre and Christopher D. Brockett at agreed upon rates.

Amounts charge to Fountain Lake School District \$28,215.00

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Less Courtesy Discount -18,810.00

Total Amount Due for Professional Legal Fees: \$ 9,405.00

# Hatfield & Sayre

*An Association of Professional Associations*  
 401 West Capitol Avenue, Suite 502  
 Little Rock, Arkansas 72201

TAX EIN ..

Mr. Darin Beckwith, Superintendent  
 Fountain Lake School District  
 4207 Park Avenue  
 Hot Springs, AR 71901

0230.0001: Civil Litigation

## STATEMENT

Statement Date - November 30, 2011

Invoice No. 67

### Professional Fees

### Amount

Professional Legal Fees in the Declaratory Judgment and  
 Injunctive Relief Suit \*\*\*  
 (See attached itemized breakout)

Eugene G. Sayre - 211.3 hrs @ \$300.00 per hour	\$ 63,390.00
Christopher D. Brockett - 8.8 hrs @ \$225.00 per hour	\$1,980.00
John K. Helbling - 4.5 @ \$175.00 per hour	\$787.50
Kathie M. Brown - 18.6 hrs @ \$100.00 per hour (paralegal)	\$1,860.00

**Total Fees: \$ 68,017.50**

### Costs

**Total Costs: \$172.32**

**Subtotal Due: \$68,189.82**

Fountain Lake School District Fees Calculated at 62.7%  
 of Total Invoice

Minus 37.3% of Total Invoice (\$25,434.80)

**Total Balance Due: \$42,755.02**



# Hatfield & Sayre

*An Association of Professional Associations*

401 West Capitol Avenue, Suite 502

Little Rock, Arkansas 72201

## TAX EIN

Mr. Darin Beckwith, Superintendent  
Fountain Lake School District  
4207 Park Avenue  
Hot Springs, AR 71901

0230.0003: Millage Rollback Issue

### STATEMENT

Statement Date - November 30, 2011

Invoice No. 69

Professional Fees

Amount

Professional Legal Fees in the Millage Rollback Issue for  
Saline and Garland Counties \*\*\*  
(See attached itemized breakout)

Eugene G. Sayre - 9.4 hrs @ \$300.00 per hour \$ 2,820.00

**Total Fees:** \$ 2,820.00

*Minus 30% Courtesy Discount* (\$846.00)

**Total Balance Due:** \$1,974.00

# Hatfield & Sayre

*An Association of Professional Associations*  
 401 West Capitol Avenue, Suite 502  
 Little Rock, Arkansas 72201

TAX EIN

Mr. Darin Beckwith, Superintendent  
 Fountain Lake School District  
 4207 Park Avenue  
 Hot Springs, AR 71901

0230.0003: Millage Rollback Issue in Saline and Garland Counties

## STATEMENT

Statement Date - November 30, 2011  
 Invoice No. 00069

Professional Fees			Hours	Rate	Amount
5/13/2011	EGS	Review copy of revised rollback test for FLSD from Faye Hansburg to Honorable Tommy Thompson, Garland County Assessor ***	0.20	\$300.00	\$60.00
05/18/11	EGS	Review information from Rita Rollins to Darlene Westbrook regarding rollback in Fountain Lake School District; Review emails from Joy Ballard, Saline County Collector, to Bob McCleskey regarding millage rollback issue and Mr. McCleskey's response ***	0.50	\$300.00	\$150.00
5/19/2011	EGS	Review emails between Darlene Westbrook, Jonathan Greer and Rita Rollins regarding Saline County Rollback issue ***	0.20	\$300.00	\$60.00
06/22/11	EGS	Review Materials from Saline County on ACD ordered millage rollback; Review materials from Saline County Attorney on ACD ordered millage rollback; Telephone Mr. Beckwith; Receive email from Jonathan Greer with attachments regarding millage rollback issue; Review materials; Email to Jonathan Greer thanking him for attachments on millage rollback error ***	1.20	\$300.00	\$360.00
06/23/11	EGS	Email from Bob McCleskey regarding statutes related to millage rollback; Respond to Bob McCleskey; Review materials on rollback issue; Draft email to Jonathan Greer regarding draft of proposed Order incorporating language of A.C.A. Section 14-14-904; Review email from Bob McCleskey regarding millage rollback issue and whether ACD applied calculations properly or improperly ***	1.20	\$300.00	\$360.00

## 0230.0003: Millage Rollback Issue in Saline and Garland Counties

6/24/2011	EGS	Email to Bob McCleskey regarding ACD's position that it is not the ACD's duty to calculate the rollback figure; Email from Bob McCleskey regarding millage rollback issue; Email from Jonathan Greer with F. Burton Affidavit; Petition to correct millage and order to correct millage; Respond to Jonathan Greer; Forward drafts that Jonathan Greer sent to Scott Smith to review; Telephone Rebecca Talbert of Garland County regarding curing the "erroneous" millage rollback for the FLSC for the 2010 school year; Email to Rebecca Talbert with copies of Affidavit, Petition to Correct Millage and "proposed" Order that needs to get entered ASAP; Email from Scott Smith regarding next steps in process of getting millage corrected; Email from Jonathan Greer, Saline County will be entering order on June 25, 2011; CONT'D	1.90	\$300.00	\$570.00
6/24/2011	EGS	CONT'D --- Email from Rebecca Talbert regarding forwarding email to Judge's Assistant and Mr. Sayre's response; Mr. Sayre email to Jonathan Greer and Rebecca Talbert; Send letter from Tommy Thompson, Garland County Assessor, with letter he had received from ACD acknowledging the 2010 rollback ordered at FLSD was in error; Email from EGS to Bob McCleskey regarding ACD's position that it is not the agency's duty to calculate the rollback figure; Email from Bob McCleskey regarding rollback issue and ACD's response ***			
06/27/11	EGS	Email to Darin Beckwith with copy of emails on rollback issue ***	0.30	\$300.00	\$90.00
6/29/2011	EGS	Emails from Rebecca Talbert regarding Order ready to give to Judge and response to Ms. Talbert; Email from Jonathan Greer regarding documents filed in Saline County to correct Fountain Lake School District millage; Forward copies of Saline County documents to Messrs. Beckwith and McCleskey ***	0.40	\$300.00	\$120.00
07/02/11	EGS	Email from Bob McCleskey regarding discussion with Garland County Election Commissioner regarding rollback problem and plans to collect lost revenue ***	0.20	\$300.00	\$60.00
07/08/11	EGS	Email from Mr. McCleskey regarding Garland County millage rollback; Plan to pursue whoever made error and acknowledge; Email from Bob McCleskey regarding email from EGS to Bob McCleskey and Jonathan Greer regarding whether Saline County officials received notice from ACD regarding no rollback for 2010 ***	0.20	\$300.00	\$60.00
07/07/11	EGS	Email from Mary Culpepper of Garland County with copy of court Order; Forward documents on to Darin Beckwith and Bob McCleskey ***	0.30	\$300.00	\$90.00
07/09/11	EGS	Receive and review email from Bob McCleskey regarding pursuing \$37,000 because of rollback error by ACD ***	0.20	\$300.00	\$60.00
07/15/11	EGS	Email from Bob McCleskey regarding millage rollback issue ***	0.20	\$300.00	\$60.00



**0230.0003: Millage Rollback Issue in Saline and Garland Counties**

07/18/11	EGS	Receive response from Jonathan Greer to July 8, 2011 email regarding whether Saline County officials received notice from ACD and forward copy of email to Messrs. McCleskey and Beckwith ***	0.30	\$300.00	\$90.00
7/21/2011	EGS	Email from Jonathan Greer regarding rollback information from Saline County Clerk's Office from ACD regarding revised rollback calculation; Email from Scott Smith regarding FLSD ballot language; Respond to Darin Beckwith and Scott Smith ***	0.50	\$300.00	\$150.00
8/4/2011	EGS	Emails from Bob McCleskey regarding correspondence with Debbie Ashbury, Executive Director of ACD, regarding millage rollback issue ***	0.20	\$300.00	\$60.00
08/22/11	EGS	Review letter from Darin Beckwith, Superintendent of FLSD, to Judge Davis, Garland County Judge, regarding rollback being incorrect and request to resolve the incorrect billing based on erroneous millage rate ***	0.20	\$300.00	\$60.00
08/26/11	EGS	Review email from Bob McCleskey to Faye Talbert regarding millage rollback ***	0.20	\$300.00	\$60.00
9/24/2011	EGS	Review emails from Mr. McCleskey regarding Release and Settlement Agreement from Jonathan Greer regarding millage rollback ***	0.20	\$300.00	\$60.00
9/27/2011	EGS	Review Release and Settlement Agreement; Summarize pertinent parts and send to all ***	0.80	\$300.00	\$240.00
			9.40		
		Eugene G. Sayre - 9.40 hrs @ \$300.00 per hour			\$2,820.00
				Previous Balance:	\$0.00
		<i>Minus 30% Courtesy Discount</i>			<i>(\$846.00)</i>
				Total Balance Due:	\$1,974.00

# Hatfield & Sayre

*An Association of Professional Associations*  
 401 West Capitol Avenue, Suite 502  
 Little Rock, Arkansas 72201

## TAX EIN

Mr. Darin Beckwith, Superintendent  
 Fountain Lake School District  
 4207 Park Avenue  
 Hot Springs, AR 71901

0231.0001: School Funding Issue / Litigation

### STATEMENT

Statement Date - February 29, 2012

Invoice No. 00076

<u>Professional Fees</u>			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
12/1/2011	EGS	Review ADE's Response to Motion for Contempt and ADE's Motion to Stay; Review e-mail from Bob McCleskey regarding comments to the ADE's Response to Motion for Contempt; Review Tom Easterly's comments regarding ADE's Response to Motion for Contempt ***	1.20	\$300.00	\$360.00
12/03/11	EGS	Review e-mail from Bob McCleskey regarding Tom Easterly's comments and Arkansas Administrative Procedures Act ***	0.30	\$300.00	\$90.00
12/5/2011	EGS	Draft Plaintiffs' Notification of Substitution of Party Plaintiff; Deliver Notice to Circuit Clerk and file with Clerk along with a proposed Order for Judge Fox to consider; Draft letter to Judge Tim Fox providing him with a copy of the file stamped Notice of Substitution of Parties; Scan file stamped Notification of Substitution of Party and e-mail copy along with letter to Judge Fox to clients ***	2.40	\$300.00	\$720.00
12/07/11	EGS	Send e-mail to Bob McCleskey regarding status of Reply to ADE's Response to School Districts' Motion for Contempt ***	0.20	\$300.00	\$60.00
12/10/11	EGS	Review e-mail from Bob McCleskey and copy of article in paper regarding school districts suing the State of Texas; Review comments from Mr. Easterly regarding article in paper regarding school districts suing Texas; Review e-mail from Bob McCleskey to Bruce Westerman regarding School Transportation Funds ***	0.70	\$300.00	\$210.00

<b>0231.0001: School Funding Issue / Litigation</b>					
12/12/2011	EGS	Draft Reply to ADE Defendants' Response to School Districts Motion for Contempt ***	2.50	\$300.00	\$750.00
12/13/11	EGS	Draft Response to Motion to Stay by ADE Defendants; Revise and review Reply to ADE Defendants' Response to School Districts' Motion for Contempt; Send drafts of Reply Brief and School Districts' Response to Motion for Stay to clients to review and comment ***	4.30	\$300.00	\$1,290.00
12/14/2011	EGS	Review reply e-mail from Bob McCleskey regarding draft of Reply Brief and Response to Motion to Stay and suggestions ***	0.20	\$300.00	\$60.00
12/21/11	EGS	Review e-mail from Bob McCleskey regarding status of Reply Brief to be filed; Draft Notice of Filing of Cross Appeal; File Notice of Appeal with the Pulaski County Circuit Clerk; Deliver copy of Notice of Cross Appeal to Judge Fox ***	2.60	\$300.00	\$780.00
12/17/11	EGS	Review e-mails from Tom Easterly and Bob McCleskey regarding Amendment 59 ***	0.50	\$300.00	\$150.00
12/18/11	EGS	Review e-mail from Tom Easterly regarding excerpts from Findlaw on the <u>Lake View School District No. 25</u> case ***	0.20	\$300.00	\$60.00
12/22/11	EGS	Receive signed Order of Substitution signed by Judge Fox; Send copy of Order to Clients ***	0.10	\$300.00	\$30.00
01/02/12	EGS	Review e-mail from Tom Easterly regarding questions relating to Article 5 of Constitution ***	0.20	\$300.00	\$60.00
01/03/12	EGS	Telephone conference with Judge Fox's legal coordinator regarding date for Hearing to be set on Motion for Contempt; Second conversation with Judge Fox's office regarding hearing set before Judge Fox for January 17, 2012; E-mail from Bob McCleskey regarding status of case; E-mail from Tom Easterly regarding oral argument proceedings in Circuit Court ***	0.80	\$300.00	\$240.00
01/06/12	EGS	Receive and review Notice from Judge Fox regarding Hearing set for January 17, 2012 and forward to clients ***	0.20	\$300.00	\$60.00
01/10/12	EGS	Review information sent by Bob McCleskey related to Amendment 74 and URT taxes being returned to district from which they are collected; Contact ESSD regarding name of interim superintendent ***	0.50	\$300.00	\$150.00
01/11/12	EGS	Review Supreme Court Opinion sent by Mr. Easterly regarding Section 3.c.3 of Article 14 of the Arkansas Constitution ***	0.30	\$300.00	\$90.00

0231.0001:		School Funding Issue / Litigation			
01/12/12	EGS	Finalize Reply to Defendants' Response to Plaintiffs' Motion to Hold the ADE Defendants in Contempt of The Court's Lawful Orders; Finalize Plaintiffs' Response and Opposition to Defendants' Motion to Stay; Draft transmittal letters to the Pulaski County Clerk and to Judge Fox; File Reply Brief and School Districts' Response to Motion to Stay with the Pulaski County Circuit Clerk; Hand deliver copies of "file stamped" documents to Judge Fox's Office and Scott Richardson's Office; Draft letter to clients sending copies of Plaintiffs' Reply to Defendants' Response to Plaintiffs' Motion to Hold the ADE Defendants in Contempt of this Court's Lawful Orders and Plaintiffs' Response and Opposition to Defendants' Motion to Stay; Scan all documents and e-mail to clients ***	4.30	\$300.00	\$1,290.00
01/13/12	EGS	Draft letter to Scott Richardson, counsel for the ADE Defendants, regarding failure of ADE to approve the Annual Budgets of the FLSD and the ESSD will be considered a further "act of contempt" on the part of the ADE ADministrators; Send copies of Plaintiffs' Reply to Defendants' Response to Plaintiffs' Motion for Contempt to clients; Draft e-mail to John Lynch at Dem/Gaz and send him copy of Reply Brief; Review e-mail from Bob McCleskey regarding points to consider before hearing on Motion for Contempt in Circuit Court ***	2.40	\$300.00	\$720.00
01/14/12	EGS	Draft e-mail to Scott Smith sending latest filings and informing him of the upcoming show cause hearing ***	0.30	\$300.00	\$90.00
01/16/12	EGS	Draft letter to Scott Richardson, Assistant Attorney General, sending him the invoice that was mistakenly sent to us from the Pulaski County Clerk for the costs of preparing the "certified record" for appeal ***	0.30	\$300.00	\$90.00
01/17/12	EGS	Received and review e-mail from Darin Beckwith regarding the procedures regarding 98% URT calculations; Review e-mail from Bob McCleskey to Darin Beckwith regarding written confirmation of the URT Guaranteed funds; Prepare for Show Cause Hearing; Attend the Show Cause Hearing called by Judge Fox regarding the Plaintiffs Motion to Hold the ADE Defendants in Contempt; Prepare "proposed" Order for Judge Fox's review after the Show Cause Hearing; E-mails to Scott Richardson regarding "proposed" Order; Send copy of "proposed" Order to Alison Sider and Bill Simmons at the Arkansas Democrat Gazette; Review e-mail from Bob McCleskey regarding not being able to establish the validity of the 98% guaranteed URT funds at the Show Cause Hearing; E-mail Bob McCleskey regarding discussion of Show Cause Hearing ***	5.30	\$300.00	\$1,590.00
01/17/12	KMB	Attend Show Cause Hearing before Judge Fox ***	2.50	\$100.00	\$250.00

0231.0001: School Funding Issue / Litigation					
01/18/12	EGS	Revise draft of "proposed" Order for Judge Fox's consideration; Draft letter to Judge Fox explaining changes to the proposed Order; Review letter from Scott Richardson, Assistant Attorney General to Judge Fox regarding proposed Order; Scan letter from Scott Richardson and send to clients; Telephone conference with Bob McCleskey; Review e-mail from Bob McCleskey to Ms. Sider at the Arkansas Democrat Gazette; Review and revise draft of Plaintiffs' Motion for Reconsideration of the Court's Ruling on Their Claims for Guaranteed 98% URT Funds for the 2010 - 2011 School Year; Motion Requesting Reopening of Hearing on Plaintiffs' Motion to Hold ADE Defendants in Contempt of The Court's Lawful Orders; or, Alternatively, Motion to Add Additional Documents to Evidentiary Record; Review e-mail from Bob McCleskey regarding ADE Commissioner's Memo FIN 11-092 report and associated attachments; Review e-mail from Bob McCleskey regarding his thoughts after reading the Order entered by Judge Fox ***	6.90	\$300.00	\$2,070.00
01/19/12	EGS	Revise draft of Plaintiffs' Motion for Reconsideration of the Court's Ruling on Their Claims for Guaranteed 98% URT Funds for the 2010 - 2011 School Year; Motion Requesting Reopening of Hearing on Plaintiffs' Motion to Hold ADE Defendants in Contempt of The Court's Lawful Orders; or, Alternatively, Motion to Add Additional Documents to Evidentiary Record; File with the Clerk of Pulaski County Circuit Court; Draft letter to Judge Fox and deliver copy to Judge Fox's Office and Scott Richardson's Office; Scan file stamped copies and send to clients; Receive copy of revised Order and proposed changes by Scott Richardson, Attorney for ADE Defendants; Review e-mail from Scott Richardson regarding proposed Order; Draft second letter to Judge Timothy Fox regarding regarding guaranteed 98% URT, Motion for Reconsideration and "proposed" Order ***	7.60	\$300.00	\$2,280.00
01/20/12	EGS	Receive and review Defendants' Amended Notice of Appeal and Appellants' Motion to Stay and Memorandum of Authorities in Support of Motion to Stay filed in the Arkansas Supreme Court, along with transmittal letters; Review e-mail sent by Scott Richardson attaching a copy of these filings; Draft e-mail to clients regarding guaranteed 98% URT monies; Draft e-mail to clients and forward the ADE Defendants' Motion to Stay filed by the ADE before the Order was signed by Judge Fox ; Received signed Order from Judge Fox's Office; Scan copy of Order and send to clients ***	3.30	\$300.00	\$990.00

0231.0001:		School Funding Issue / Litigation			
01/21/12	EGS	Review e-mail from Tom Easterly regarding National School Lunch Program; Receive and review e-mail from Bruce Westerman regarding National School Lunch Program; Review Tom Easterly's e-mail to Bruce Westerman regarding National School Lunch Program ***	0.50	\$300.00	\$150.00
01/24/12	KMB	Scan and send copies of all filings by ADE to Clients ***	0.80	\$100.00	\$80.00
01/25/12	EGS	Receive by e-mail a copy of the Response of the ADE to the Plaintiffs' Motion to Reconsider and "proposed" Order and review; Draft e-mail to clients regarding same; Receive e-mail from Tom Easterly regarding missing page in Scott Richardson's Response to Motion for Reconsideration; Contact Scott Richardson and request him to resend document; Resend ADE's Response to clients after receiving from Mr. Richardson ***	1.10	\$300.00	\$330.00
01/26/12	EGS	E-mail from Scott Richardson with Response by ADE to Motion for Reconsideration; Review ADE's Response - page missing - notified Scott Richardson ***	0.30	\$300.00	\$90.00
01/27/12	EGS	E-mail Mr. Easterly regarding Motion for Reconsideration ( he is not getting emails); E-mail to clients regarding 7-day extension requested by Scott Richardson to file the Appellants' Abstract, Brief and Addendum in the Arkansas Supreme court***	0.30	\$300.00	\$90.00
01/28/12	EGS	E-mail from Bob McCleskey regarding status of the ADE Appellants' filing of the Abstract, Brief and Addendum in the Arkansas Supreme Court ***	0.20	\$300.00	\$60.00
1/30/2012	EGS	Respond to Bob McCleskey's e-mail regarding the procedure to be followed in the Supreme Court all the way through oral argument; Draft Appellees'/Cross Appellants' Motion for a One (1) Day Extension of Time to File Response and Opposition to Appellants'/Cross Appellees' Motion to Stay in the Supreme Court; Draft transmittal letter to Clerk of the Arkansas Supreme Court and deliver Motion for Extension to be filed with the Clerk of the Arkansas Supreme Court; Draft Appellees'/Cross Appellants' Response and Opposition to Appellants'/Cross Appellees' Motion to Stay and Brief in Support ***	7.20	\$300.00	\$2,160.00

0231.0001: School Funding Issue / Litigation					
1/31/2012	EGS	Review and revise Appellees'/Cross Appellants' Response and Opposition to Appellants'/Cross Appellees' Motion to Stay and Brief in Support; Prepare Exhibit N (transcript of Show Cause Hearing) to file along with Response and Opposition; Draft transmittal letter to Les Steen, Clerk, Arkansas Supreme Court, filing Appellees'/Cross Appellants' Response and Opposition to Appellants'/Cross Appellees' Motion to Stay and Brief in Support ***	6.80	\$300.00	\$2,040.00
02/01/12	EGS	Scan file stamped copies of the Appellees'/Cross Appellants' Response and Opposition to Appellants'/Cross Appellees' Motion to Stay and Brief in Support; Draft e-mail to clients and send copies of file stamped copies; Finalize revisions to Reply to ADE's Response to Plaintiffs' Motion for Reconsideration ***	4.60	\$300.00	\$1,380.00
02/02/12	EGS	E-mail Bob McCleskey and receive response regarding guaranteed 98% funds owed by the ADE for the 2010 - 2011 school year; Continue revisions to Reply Brief to the Response by the ADE to the Motion for Reconsideration; Draft letter to Judge Fox enclosing a copy of the Plaintiffs' Reply to the ADE Defendants' Response to the Plaintiffs' Motion for Reconsideration; Respond to e-mail from Bob McCleskey regarding procedure for filings in Arkansas Supreme Court; Scan and send clients a copy of the School Districts' Reply to the ADE's Response to the Motion for Reconsideration; E-mail clients regarding error discovered in Reply Brief (wrong amount); E-mail from Bob McCleskey regarding error ***	5.20	\$300.00	\$1,560.00
2/3/2012	EGS	Receive transmittal letter and second Motion for Extension of Time for Appellants to file their Abstract, Brief and Addendum with the Arkansas Supreme Court; Receive e-mail from Bob McCleskey regarding error in Reply Brief ***	0.30	\$300.00	\$90.00
2/6/2012	EGS	Receive e-mail from Tom Easterly regarding passages from various Supreme Court decisions and the fact that they did not consider the URT money as "state" money; Draft Motion in Response to ADE's Motion for Extension of Time to File Brief; File with the Supreme Court; Scan and send to Scott Richardson and to clients; Respond to Bob McCleskey's request for status on filing of ADE's Brief; ***	2.50	\$300.00	\$750.00
02/07/12	EGS	Review e-mail from Tom Easterly with Exerpts from the Opinion of Judge Kilgore in the <u>Lake View</u> case ***	0.30	\$300.00	\$90.00
02/08/12	EGS	Review e-mail from Tom Easterly regarding Amendment 74 documents ***	0.20	\$300.00	\$60.00

0231.0001: School Funding Issue / Litigation					
02/09/12	EGS	Receive Per Curiam Order granting the ADE's Motion to Stay from the Arkansas Supreme Court; Scan Order and send to clients with an explanation ***	0.60	\$300.00	\$180.00
02/10/12	EGS	Receive e-mail from Scott Richardson regarding permission for another extension to file the ADE's Abstract, Brief and Addendum; Forward copy of e-mail to clients ***	0.20	\$300.00	\$60.00
02/14/12	EGS	Receive and review copies of letters from the ADE that were sent to the FLSD and the ESSD regarding School Districts' 2011 - 2012 Annual Budgets; Telephone Messrs. Beckwith and Turner regarding letters on 2011 - 2012 budgets received from ADE Administrator ***	1.50	\$300.00	\$450.00
02/16/12	EGS	Review and respond to Scott Richardson's e-mail regarding his intention to file a Supplemental Certified Record and request that Appellees and Cross/Appellants stipulate to the Supplemental Record; Sign the Stipulation of Certified Record sent by Scott Richardson and return to him; Receive e-mails from FLSD and ESSD with copy of "second" letter received from the ADE on issue of "deficiencies" regarding School Districts' respective Annual Budgets for the 2011 - 2012 school year ***	1.40	\$300.00	\$420.00
02/17/12	EGS	Receive a CD from Scott Richardson containing a copy of the Supplemental Record; Received e-mail from FLSC with a copy of the e-mail and letter from South Side Bee Branch regarding approval of that School District's 2011 - 2012 budget ***	0.20	\$300.00	\$60.00
02/18/12	EGS	E-mail from Bob McCleskey regarding status of ADE's Abstract, Brief and Addendum ***	0.10	\$300.00	\$30.00
02/20/12	EGS	Draft letter to clients regarding ADE's counsel's filing Appellants' Abstract, Brief and Addendum and it being rejected by the Arkansas Supreme Court because of double spaced footnotes ***	0.60	\$300.00	\$180.00
02/21/12	EGS	Received ADE's Abstract, Brief and Addendum by hand delivery; Scan Brief portion and send to clients with e-mail ***	0.80	\$300.00	\$240.00
02/22/12	EGS	Receive and review e-mail from Darin Beckwith with copy of letter to Magnet Cove School District that was sent to several other school districts; Receive and review two emails from Bob McCleskey regarding letters that the ADE sent to several school districts in which they mentioned him and his thoughts and questions regarding the letter ***	0.70	\$300.00	\$210.00



<b>0231.0001: School Funding Issue / Litigation</b>					
02/24/12	EGS	Review e-mail from Bruce Westerman regarding Appropriation Bill and his thoughts on the letters that the ADE sent out; E-mail from Bob McCleskey regarding asking ADE for copies of letters sent to 23 school districts regarding the Millage Rollback Compensation Fund; E-mail from Tom Easterly regarding thoughts on state funding svstems ***	0.60	\$300.00	\$180.00
02/25/12	EGS	Review e-mail from Bob McCleskey to Bruce Westerman regarding Millage Rollback Compensation and copy of e-mail that Mr. McCleskey sent to Alison Sider ***	0.30	\$300.00	\$90.00
02/26/12	EGS	Review e-mail from Bob McCleskey to Bruce Westerman regarding Millage Rollback Compensation and copy of e-mail that Mr. McCleskey sent to Danita Hyrkas at the Arkansas Department of Education in August 2011 and the September 6, 2011 letter from Bill Goff to Mr. Beckwith at FLSD; Review e-mail from Bruce Westerman to Bob McCleskey with multiple attachments and the letter of January 20, 2012 that he send to Dr. Tom Kimbrell, Commissioner of the ADE, regarding Millage Rollback Compensation Fund ***	1.00	\$300.00	\$300.00
02/28/12	EGS	Receive and review e-mail from Bob McCleskey regarding Millage Rollback Compensation Fund ***	0.10	\$300.00	\$30.00
02/29/12	EGS				
			<b>88.50</b>		<b>\$25,890.00</b>
		Eugene G. Sayre - 85.2 hrs @ \$300.00 per hour			\$25,560.00
		Kathie M. Brown - 3.3 hrs @ \$100.00 per hour			\$330.00
		<b>Total Fees:</b>			<b>\$25,890.00</b>

**0231.0001: School Funding Issue / Litigation****Costs:**

December	Copier Charge	\$55.25
January	Copier Charge	\$136.75
February	Copier Charge	\$102.50
12/7/2011	Postage	\$5.52
1/13/2012	Postage	\$1.32
1/16/2012	Postage	\$1.32
	<b>Total Costs:</b>	<b>\$302.66</b>

<b>Total Balance Due</b>	<b>\$26,192.66</b>
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<i>Minus 37.3% of Balance for Eureka Springs</i>	<u>\$9,769.86</u>
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<b>Balance Owed by Fountain Lake School District</b>	<b>\$16,422.80</b>
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# Hatfield & Sayre

An Association of Professional Associations  
401 W. Capitol Ave., Suite 502  
Little Rock, AR 72201  
(501) 374-9010

TAX EIN

A/R

Fountain Lake School District  
c/o Darin Beckwith, Superintendent  
4207 Park Avenue  
Hot Springs, AR 71901

Statement Date: June 14, 2012

Page: 1

Invoice No.: 86

0231.0001 - School Funding Issue

## Fees

		Rate	Hours
03/01/2012	Legal research - Cases and records pertaining to Responses to ADE actions - i.e. <u>Deer - Mt. Judea v. Beebe</u> ***	300.00	2.50
03/03/2012	Review e-mail from Bob McCleskey regarding article projecting state revenue to be above projections - no mention of URT as state funds ***	300.00	0.50
03/06/2012	Review e-mail from Tom Easterly regarding URT taxes being local, not state ***	300.00	0.30
03/09/2012	Review email from Tom Easterly regarding court documents regarding URT being local taxes, not state taxes ***	300.00	0.50
03/10/2012	Review email from Tom Easterly regarding analysis of AG Opinion 2010-94 with notations; Review email from Bob McCleskey to Bruce Westerman regarding attending upcoming meeting and funding of appropriations by the General Assembly***	300.00	0.60
03/11/2012	Review email from Bob McCleskey regarding requesting meeting to discuss strategy and details of Cross Appeal, i.e. argument that URT does not produce state funds; Review of FOIA materials where Bill Goff suggests budgeting no more than \$6,023 per student ***	300.00	0.90
03/12/2012	Telephone conference with Bob McCleskey regarding upcoming meeting and general matters regarding "test" suit ; Review email from Bob McCleskey regarding meeting and ask Darin Beckwith and Bruce Westerman to participate***	300.00	0.40
03/14/2012	Review various emails and attachments sent by clients ***	225.00	0.80

## Fountain Lake School District

		Rate	Hours
03/14/2012	Receive and review email from Cari Scott confirming meeting on March 29 at 1:00 p.m. in Hot Springs; Draft Motion for Extension of Time to Prepare and File Appellees Brief and Cross Appellants' Abstract, Brief and Addendum *** Prepare and file the Appellees/Cross Appellants' Motion for Extension of Time to Prepare and File the Appellees' Brief and the Appellees' Cross Appellants' Abstract, Brief and Addendum *** Draft letter to Les Steen, Clerk of the Arkansas Supreme Court, filing Motion for Extension of Time to file Cross Appellants' Abstract, Brief and Addendum and Appellees Brief; Draft letter to clients regarding Extension of Time; Review designated record from the Pulaski County Circuit Court ***	300.00	3.90
03/15/2012	Telephone conference with Scott Smith regarding issues concerning general matters involving application of URT and its expansion in Arkansas and other school districts *** Review Arkansas Supreme Court Notice of Granting Appellees'/Cross Appellants' Motion for Extension of Time ***	300.00	0.70
03/16/2012	Review e-mail from Tom Easterly regarding A.C.A. Section 26-80-101 being in conflict with 26-80-102 ***	300.00	0.20
03/19/2012	Review message from Kathie Brown on extension and rescheduled date for filing Cross-Appellants' Brief ***	225.00	0.40
03/20/2012	Review email from Tom Easterly regarding proper method of format in Cross Appeal ***	300.00	0.40
03/25/2012	Review email from Bob McCleskey with chronology of Arkansas Statutes and comments regarding Response to ADE appeal ***	300.00	0.60
03/26/2012	Review additional comments from Bob McCleskey regarding procedures for URT to State Treasurer ***	300.00	0.30
03/27/2012	Receive and review email from Tom Easterly with copy of case law and comments ***	300.00	0.50
03/28/2012	Telephone conference with Bob McCleskey regarding return from vacation and plans for preparation of Cross-Appellants' Abstract, Brief and Addendum *** Review email from Bob McCleskey regarding editing of Point of View ***	300.00	0.80
03/29/2012	Travel to Fountain Lake School District headquarters in Hot Springs and meet with clients regarding strategy to use in Cross Appellants' Abstract, Brief and Addendum and Appellees' Brief *** Prepare Agenda for meeting with Clients ***	300.00	7.30
03/30/2012	Draft letter to Jeremy Lasiter, Attorney, Arkansas Department of Education, regarding FOIA Request; Scan copy of letter and send		

## Fountain Lake School District

		Rate	Hours
	to clients and to Scott Richardson; Review FOIA request made to ADE by Mr. Sayre ***	300.00	1.20
04/06/2012	Draft email to clients regarding filing of FOIA request and asking about 23 school districts that were warned they would not receive any more of the \$950,000 supplemental URT funds ***	300.00	0.60
04/07/2012	Review response from Bob McCleskey regarding draft of FOIA request to ADE ***	300.00	0.20
04/08/2012	Receive and review email from Tom Easterly regarding draft of FOIA request to ADE and his contact with Rep. Bruce Westerman regarding Bureau of Legislative Research; Review copy of <u>Arkansas Democrat Gazette</u> article from 2005 - Beebe seeing property tax as school funding source ***	300.00	0.50
04/09/2012	Burn CDs with FOIA materials to send school district clients; Review FOIA Responses by ADE on matters relating to Supplement to URT Funds for 23 school districts; Draft transmittal letters to clients***	300.00	2.10
04/11/2012	Review email from Bob McCleskey regarding his and Tom Easterly's plans to schedule appointment with Debbie Rogers, Deputy State Treasurer, regarding what documents the Treasurer's Office uses and maintains relative to URT taxes handled by the State Treasurer's Office ***	300.00	0.50
0 /2012	Review email from Bob McCleskey regarding meetings set up with Debbie Rogers, Deputy State Treasurer, Chris Villines, Executive Director Association of Arkansas Counties, the Saline County Treasurer and the Garland County Treasurer ***	300.00	0.30
04/14/2012	Review email from Tom Easterly regarding curriculum for schools ***	300.00	0.20
04/15/2012	Review emails between Tom Easterly and Bob McCleskey regarding definition of maintenance and operation, as used regarding URT funds ***	300.00	0.30
04/18/2012	Review email from Bob McCleskey regarding results of meeting with Debbie Rogers, Deputy State Treasurer, regarding procedures followed by State Treasurer's office regarding handling of URT funds from County Treasurers ***	300.00	0.30
04/20/2012	Review email from Bob McCleskey regarding process followed by County Treasurers and State Treasurer regarding handling of URT funds ***	300.00	0.40
04/21/2012	Begin to prepare Cross Appellants' Abstract for Cross-Appellant School Districts' Brief ***	100.00	5.00

## Fountain Lake School District

		Rate	Hours
04/21/2012	Draft and outline of Cross-Appellants Abstract, Brief and Addendum for Cross Appellants' Brief ***	300.00	4.50
04/22/2012	Legal research regarding issues raised in ADE' Appellant's Brief and continued preparation of Cross Appellant's Abstract, Brief and Addendum ***	300.00	9.80
04/23/2012	Review email from Bob McCleskey forwarding email from Debbie Rogers to Bob McCleskey regarding meeting in her office and sending answers to follow up questions *** Continue drafting Cross Appellants' Abstract, Brief and Addendum ***	300.00	5.80
04/24/2012	Legal research on issues asserted by ADE Appellants in their Opening Abstract, Brief and Addendum; Preparation of Appellees' Brief *** Legal research on matters relating to URT being local vs state taxes and revenues; Review evidentiary Exhibits in ADE's Addendum ***	100.00	12.20
04/24/2012	Semi-final preparations for Cross-Appellants' Abstract, Brief and Addendum combined with Appellees' Brief on behalf of school districts ***	300.00	14.60
04/25/2012	Re-assemble Cross-Appellants' Abstract, Brief and Addendum according to instructions of Supreme Court Rules ***	100.00	2.50
04/25/2012	Re-assemble Cross-Appellants' Abstract, Brief and Addendum according to instructions of Supreme Court Rules; Review email from Tom Easterly with analysis and suggestions for inclusion in Cross Appellants' Brief; Revise Cross-Appellants' Abstract, Brief and Addendum; Draft letter to Scott Richardson regarding seven (7) day extension by the Arkansas Supreme Court to revise Abstract, Brief and Addendum (without chart included); Draft letters to representatives of School District clients regarding seven (7) day extension granted by Supreme Court Clerk and transmission of "revised" draft of Cross-Appellants' Abstract, Brief and Addendum to review; Scan copies of Abstract, Brief and Addendum, and Appellees' Brief, send to clients for review *** Cross Appellants' Abstract, Brief and Addendum and Appellees' Brief tendered to Arkansas Supreme Court - received seven (7) days to correct the chart and resubmit *** Legal research - <u>Doe v Baum</u> case; Revisions to Cross-Appellants' Abstract, Brief and Addendum *** Revisions to Abstract, Brief and Addendum ***	300.00	31.50
04/26/2012	Make necessary changes to Cross-Appellants' Abstract, Brief and Addendum to comply with Arkansas Supreme Court's directives ***	100.00	3.10
04/26/2012	Review and revise Cross-Appellants' Abstract, Brief and		

## Fountain Lake School District

		Rate	Hours
	Addendum to make changes and revisions suggested by representatives of school district clients ***	300.00	5.20
04/27/2012	Review response from Bob McCleskey regarding ADE's appeal *** Revise Cross Appellants' Abstract, Brief and Addendum ***	300.00	7.40
04/29/2012	Further review and revisions to Cross-Appellants' Abstract, Brief and Addendum and Appellees' Brief in response to ADE Appellants' Abstract, Brief and Addendum ***	300.00	4.10
04/30/2012	Review comments from Scott Smith on Appellants' appeal and school district clients' cross appeal; Email Scott Smith's comments on semi-final drafts of school district Appellees' Brief and Cross-Appellants' Abstract, Brief and Addendum to Bob McCleskey; Email Bob McCleskey with attachments - Exhibits 7 and 9 of ADE in trial court; Review email response from Bob McCleskey regarding conference telephone call and suggestions to include in school districts' Appellees' Brief and Cross-Appellants' Abstract, Brief and Addendum ***	300.00	3.90
05/01/2012	Legal research on ultra vires issue when agency acts beyond its statutory authority; Review exhibits attached to ADE's Brief ***	100.00	6.20
05/01/2012	Review email from Tom Easterly regarding ballot title for Amendment 74; Review additional email from Tom Easterly regarding excerpts from court cases; Review email from Bob McCleskey regarding Statement of Case on Cross Appeal; Review email from Tom Easterly regarding <u>City of Fayetteville v Washington</u> and <u>Roberts v Priest</u> cases and why <u>Roberts v Priest</u> case not included in school districts' Briefs; Review email from Bob McCleskey with annotated version of Tom Easterly's notes; Review email from Bob McCleskey on possible use of the General Assembly's telephone discussion with Bob McCleskey regarding Tom Easterly and <u>Roberts v Priest</u> case and why is is not a case we can use in our Briefs; Explain the difference in proposed v referred Amendment to Constitution; Review and revise Cross Appellants' Abstract, Brief and Addendum and Appellees' Brief for school districts ***	300.00	8.60
05/02/2012	Revise Table of Contents and Informational pages to the Cross-Appellants' Abstract, Brief and Addendum and to the Appellees' Brief; Revise Argument section of Appellee school districts' Brief; Draft transmittal letter to the Clerk of the Arkansas Supreme Court to file Cross-Appellants' Abstract, Brief and Addendum and Appellees' Brief; Secure Cross-Appellants' Abstract, Brief and Addendum and Appellees' Brief from the printer; File "combined" Cross-Appellants' Abstract, Brief and Addendum and Appellee school districts Brief with the Clerk of the Arkansas Supreme Court; Scan "file stamped" copy of "combined" Cross-Appellants' Abstract, Brief and Addendum		

## Fountain Lake School District

		Rate	Hours
	and Appellee school districts' Brief and send to clients; Forward copy of Cross-Appellants' Abstract, Brief and Addendum and Appellee school districts' Brief to Scott Smith, Scott Richardson, and Rep. Bruce Westerman ***	300.00	11.80
05/03/2012	Legal research regarding statutory authority of Administrative agency, exceeding authority of administrative agency being ultra vires ***	100.00	3.10
05/03/2012	Review email from Bob McCleskey regarding ADE's filing of Brief; Review filed copy of ADE's Abstract, Brief and Addendum ***	300.00	1.40
05/07/2012	Draft letter to Bob McCleskey and Scott Smith regarding efforts, comments and suggestions for Reply Brief by Cross-Appellant school districts ***	300.00	0.70
05/10/2012	Legal research regarding Arkansas Department of Education and grant of statutory authority by the General Assembly ***	100.00	3.90
05/14/2012	Teleconference with Bob McCleskey regarding Amendment and Repeal of the Legislative Article in the Arkansas Constitution ***	300.00	0.60
05/15/2012	Review email from Tom Easterly and legal research regarding grant of authority to repeal constitutional Amendments under Amendment 74, Article 5 to the State Constitution; Legislative Article of Arkansas Constitution - Amendment and Repeal of Constitutional Amendments by authority of the General Assembly ***	300.00	1.70
05/17/2012	Meeting with Mr. McCleskey and Mr. Easterly to discuss Article 5 of Arkansas Constitution; Telephone conference with Clerk of Arkansas Supreme Court regarding ADE filing Motion for Extension to file Appellant's Reply Brief and Cross Appellee's Brief; ADE filed Appellant's Reply Brief and Cross Appellee's Brief; Review e-mail from Scott Richardson; Scan copies and send to clients; Review ADE Appellant's Reply Brief ***	225.00	2.50
05/17/2012	Legal research - Arkansas Supreme Court Rules ***	300.00	1.10
05/18/2012	Draft correspondence to clients regarding surprise at ADE's filing of Reply Brief on same day after getting seven (7) day extension to file the same Reply Brief ***	300.00	0.50
05/19/2012	Review email from Bob McCleskey regarding receiving ADE's Reply Brief - to be review and respond later ***	300.00	0.30
05/20/2012	Review notes from Tom Easterly regarding ADE's Reply Brief and points to which school districts should respond ***	300.00	0.40



## Fountain Lake School District

		Rate	Hours
05/21/2012	Review comments from Tom Easterly regarding Appellee Brief; Review legal research of Kathie Brown regarding Arkansas Supreme Court cases on agency's exceeding statutory authority to use in school districts' Reply Brief ***	300.00	2.60
05/22/2012	Review email from Bob McCleskey regarding notes on ADE's Cross-Appellees' Brief supporting the ADE's appeal and response to Cross Appeal; Review annotated copy of Brief with comments; Legal research cases cited in opposing counsel's Brief ***	300.00	4.20
05/23/2012	Review email from Tom Easterly regarding Cross-Appellees' Public School Funding and comments to consider for use in Cross-Appellants' Reply Brief to respond to Cross-Appellees' Brief and review of ADE's filed Briefs ***	300.00	1.40
05/27/2012	Review email from Bob McCleskey regarding comments regarding ADE's Cross-Appellees' Brief and suggestion on matters to include in Cross-Appellants' Reply Brief ***	300.00	0.50
05/29/2012	Review email from Tom Easterly revising list of items regarding response to ADE's Cross Appellee's Brief; Draft and outline Cross Appellants' Reply Brief ***	300.00	3.80
05/30/2012	Review comments from Bob McCleskey regarding Mr. Richardson's ADE Reply Brief; Review Comments from Tom Easterly regarding "highlighted" portions of, and comments on, Case of <u>City of Fayetteville v. Washington County</u> ; Review and revise Cross-Appellant school districts' Reply Brief ***	300.00	3.70
05/31/2012	Review email from Tom Easterly regarding error in draft of Cross-Appellants' Reply Brief; Review emails between Bob McCleskey, Tom Easterly and Kathie Brown regarding suggested corrections to Reply Brief; Review email from Bob McCleskey regarding Tom Easterly's comments on Fayetteville v. Washington County (2007); Further revisions to Cross-Appellant School Districts' Reply Brief ***	300.00	3.40
06/01/2012	Legal research on administrative agency's actions being held as ultra vires by exceeding statutory authority due to separation of powers, etc ... ***	100.00	8.60
06/01/2012	Telephone conversations with personnel in the Clerk's Office of the Arkansas Supreme Court regarding securing "Clerk's week" (7-day extension) within which to complete and file the Cross Appellants' Reply Brief; Draft letter to the Clerk of the Arkansas Supreme Court confirming the granting of a 7-day extension within which to file the Cross Appellants' Reply Brief; Continue revisions to Cross-Appellant school districts' Reply Brief; Draft		

Fountain Lake School District

		Rate	Hours	
	letter to clients regarding 7-day extension ***	300.00	3.30	
06/04/2012	Review email from Tom Easterly regarding possible citing of Arkansas Supreme Court decision in Roberts v Priest case; Make notes regarding referred amendment vs. petitioned amendment case from Georgia ***	300.00	0.20	
06/07/2012	Review draft of Cross-Appellants' Reply Brief; Send suggestions for few revisions ***	225.00	1.50	
06/07/2012	Draft e-mail to Bob McCleskey and Tom Easterly regarding <u>Roberts v. Priest</u> and why the case cannot be used as precedent in this "test" case ***	300.00	0.70	
06/08/2012	Draft transmittal letter to Les Steen, Clerk of the Arkansas Supreme Court, filing Cross-Appellants' Reply Brief; Draft letter to Les Steen, Clerk of the Arkansas Supreme Court, requesting Oral Argument in this case; Scan copies of letters and hold to send to clients after filing ***	100.00	0.70	
06/08/2012	Exchange emails with clients regarding possible revisions to Cross-Appellants' Reply Brief and clarification of revenue procedures; Comments on final version of Reply Brief; Telephone conversation with Bob McCleskey regarding corrections to Cross-Appellants' Reply Brief; Make final revisions to Cross-Appellants' Reply Brief; Deliver completed draft of Cross-Appellants' Reply Brief to the printer and pick up later; Deliver and file Cross-Appellants' Reply Brief with the Arkansas Supreme Court; Scan "file stamped" copy of Cross-Appellants' Reply Brief; Email scanned copies to clients, opposing counsel and Scott Smith ***	300.00	4.60	
06/09/2012	Review email from Bob McCleskey regarding final wording of Cross-Appellant School Districts' Reply Brief ***	300.00	0.20	
06/12/2012	Draft letter to Sue Clayton, Deputy Clerk of Arkansas Supreme Court, regarding request for schedule for oral argument, if granted by the Arkansas Supreme Court ***	300.00	0.40	
	For Current Services Rendered		220.40	56,670.00

Timekeeper	Recapitulation		
	Hours	Rate	Total
Christopher D. Brockett	5.20	\$225.00	\$1,170.00
Kathie M. Brown	45.30	100.00	4,530.00
Eugene G. Sayre	169.90	300.00	50,970.00

Fountain Lake School District

Expenses

01/16/2012	Charge for Meal - with Mr. Turner and wife ***	55.40
02/29/2012	Postage	3.85
03/14/2012	Postage	3.90
03/29/2012	Postage	0.45
03/29/2012	Charge for Gasoline - Eugene G. Sayre - Trip to Hot Springs for meeting at Fountain Lake School District ***	20.00
03/31/2012	Copier Charge ***	46.50
04/06/2012	Postage	16.50
04/06/2012	Charge for making copies of FOIA Request materials ***	134.25
04/09/2012	Postage	3.90
04/22/2012	Overtime for secretarial assistance on weekend in preparing Cross Appellants' Abstract, Brief and Addendum ***	480.00
04/22/2012	Secretarial Overtime Charge ***	500.00
04/23/2012	Secretarial Overtime Charge ***	100.00
04/24/2012	Secretarial Overtime Charge ***	300.00
04/25/2012	Postage	29.70
04/30/2012	Copier Charge ***	74.25
04/30/2012	Charge for FOIA materials from ADE ***	32.97
04/30/2012	Secretarial Overtime Charge ***	120.00
05/01/2012	Secretarial Overtime Charge ***	260.00
05/02/2012	Secretarial Overtime Charge ***	140.00
05/02/2012	Postage	29.60
05/07/2012	Postage	1.35
05/17/2012	Printer Charge for producing all copies of Cross Appellants' Abstract, Brief and Addendum and Appellee School Districts' Brief ***	553.12
06/01/2012	Copier Charge ***	76.50
06/01/2012	Postage	3.60
06/07/2012	Charge for meal for staff after hours ***	12.13
06/07/2012	Secretarial Overtime Charge ***	160.00
06/08/2012	Postage	13.30
06/12/2012	Postage	1.35
06/13/2012	Printer Charge - Invoice No. 106164 ***	86.42
06/15/2012	Copier Charge ***	69.25
	<b>Total Expenses</b>	<b>3,328.29</b>
	<b>Total Current Work</b>	<b>59,998.29</b>
	<b>Previous Balance</b>	<b>\$42,755.02</b>

Payments

03/15/2012	Payment - Thank you	-42,755.02
	<b>Balance Due</b>	<b><u>\$59,998.29</u></b>
	<b>Minus 37.3% of Balance for Eureka Springs School District</b>	<b><u>\$22,379.36</u></b>
	<b>Balance Owed by Fountain Lake School District</b>	<b>\$37,618.93</b>

**Hatfield & Sayre**  
*An Association of Professional Associations*  
 401 West Capitol Avenue, Suite 502  
 Little Rock, Arkansas 72201

TAX EIN

**Fountain Lake School District**  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

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STATEMENT  
 Statement Date - November 7, 2012  
 Invoice No. 000100

<u>Professional Fees</u>		<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
6/13/2012	EGS Draft letter to Sue Clayton, Deputy Clerk, Arkansas Supreme Court, regarding possible Oral Argument; Review email from Tom Easterly regarding where to find Acts in 1931, 1935 and 1939 ***	0.70	\$300.00	\$210.00
6/13/2012	KMB Research information that Tom Easterly wants regarding Acts from 1930's and where to find; Send information to Tom Easterly ***	0.50	\$100.00	\$50.00
6/14/2012	EGS Review email from Tom Easterly regarding Oral Argument and Legislation that Bruce Westermann is working on ***	0.20	\$300.00	\$60.00
6/14/2012	KMB Legal research on Acts, cases and other materials that quote language from those Acts; Print/scan and send to Tom Easterly ***	1.00	\$100.00	\$100.00
6/15/2012	EGS Respond to Tom Easterly regarding Arkansas Law Library and State Library - where he may be able to get information he is seeking ***	0.10	\$300.00	\$30.00
6/20/2012	EGS Receive notice from the Arkansas Supreme Court that Oral Argument has been granted ***	0.10	\$300.00	\$30.00
6/22/2012	CDB Review email from Kathie Brown on Oral Arguments ***	0.20	\$225.00	\$45.00
6/22/2012	EGS Receive and review email from Tom Easterly regarding questions regarding Oral Argument and comments regarding case ***	0.20	\$300.00	\$60.00
6/22/2012	KMB Draft email to Bob McCleskey regarding Oral Argument granted by Arkansas Supreme Court but no date set as yet ***	0.10	\$100.00	\$10.00

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Fountain Lake School District  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

Date	Category	Description	Hours	Rate	Total
6/26/2012	EGS	Review email from Bob McCleskey regarding contact information for the summer in Washington State and acknowledge such information ***	0.20	\$300.00	\$60.00
6/27/2012	EGS	Receive and review email from Tom Easterly regarding media coverage of lawsuit in the Hot Springs Sentinel Record ***	0.30	\$300.00	\$90.00
6/28/2012	EGS	Receive email from Tom Easterly regarding securing information he needed at the State Library; Receive and review copy of newspaper article in The Sentinel Record ***	0.40	\$300.00	\$120.00
7/11/2012	CDB	Review email about setting of Oral Argument before the Arkansas Supreme Court ***	0.20	\$225.00	\$45.00
7/11/2012	EGS	Receive notice from the Arkansas Supreme Court regarding Oral Argument being set for October 4, 2012; Notify clients of date set for Oral Argument ***	0.30	\$300.00	\$90.00
7/12/2012	CDB	Review notice from Arkansas Supreme Court on setting of Oral Arguments ***	0.20	\$225.00	\$45.00
7/12/2012	EGS	Send copy of confirmation of Oral Argument from Arkansas Supreme Court to clients; Forward copy to Bob McCleskey in Washington state ***	0.20	\$300.00	\$60.00
7/16/2012	EGS	Review email from Tom Easterly regarding Oral Argument ***	0.10	\$300.00	\$30.00
8/21/2012	EGS	Review Briefs filed by both parties in the Arkansas Supreme Court Appeal ***	2.90	\$300.00	\$870.00
8/23/2012	EGS	Review Briefs filed by both parties in the Arkansas Supreme Court Appeal; Review Abstracts of Trial Court proceeding ***	3.30	\$300.00	\$990.00
8/27/2012	EGS	Legal Research - Review Arkansas Supreme Court decisions in series of Lake View cases ***	4.60	\$300.00	\$1,380.00
8/28/2012	EGS	Legal Research - Review Arkansas Supreme Court decision in <u>Dupree v Alma</u> case ***	2.10	\$300.00	\$630.00
8/30/2012	EGS	Legal Research - Review decisions of Arkansas Supreme Court cited by Attorney General in briefs filed on behalf of ADE ***	3.20	\$300.00	\$960.00
9/4/2012	EGS	Legal Research - Review Attorney General opinions issued on URT matters ***	3.60	\$300.00	\$1,080.00
9/6/2012	EGS	Review documents attached to Complaint and various Motions composing "record" in appeal to Arkansas Supreme Court as set out in Abstract of Attorney General's Brief ***	2.40	\$300.00	\$720.00

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**Fountain Lake School District**  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

Date	Activity	Hours	Rate	Total
9/22/2012	EGS Review email from Bob McCleskey with updated status report and questions regarding Oral Argument ***	0.20	\$300.00	\$60.00
9/23/2012	EGS Receive and review email from Tom Easterly with comments to updated status report; Review Tom Easterley's and Bob McCleskey's thoughts regarding upcoming Oral Argument ***	0.50	\$300.00	\$150.00
9/24/2012	EGS Review final version of updated status and summary to release to the news media and interested parties by Bob McCleskey ***	0.20	\$300.00	\$60.00
9/26/2012	EGS Legal Research - Arkansas Supreme Court cases on URT issues ***	2.30	\$300.00	\$690.00
9/26/2012	EGS Review news release from Bob McCleskey regarding Hot Springs Village Voice and others ***	0.20	\$300.00	\$60.00
9/27/2012	EGS Review email from Tom Easterly with copy of email from Wayne Carr regarding Commissioner's email FIN 11-080 dated 4/1/11; Review email from Tom Easterly regarding articles on Eureka Springs school funding ***	0.40	\$300.00	\$120.00
9/28/2012	CDB Review message from Kathie Brown on Supreme Court meeting ***	0.20	\$225.00	\$45.00
9/28/2012	EGS Draft letter to clients regarding Oral Argument set for October 4, 2012 and arrange meeting to discuss beforehand ***	0.60	\$300.00	\$180.00
9/29/2012	EGS Review email from Bob McCleskey regarding discussions to include at meeting on oral argument matter ***	0.50	\$300.00	\$150.00
9/30/2012	EGS Review and respond to email from Rusty Windle regarding Supreme Court Oral Argument ***	0.30	\$300.00	\$90.00
10/1/2012	EGS Prepare Outline for oral argument before the Arkansas Supreme Court ***	2.60	\$300.00	\$780.00
10/1/2012	EGS Review email from Bob McCleskey regarding chronology of Arkansas statutes and recap of key issues; Telephone conference with Bob McCleskey regarding Oral Argument, etc ***	0.70	\$300.00	\$210.00
10/2/2012	EGS Prepare for Oral Argument before the Arkansas Supreme Court	3.20	\$300.00	\$960.00

**Fountain Lake School District**  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

Date	Employee	Description	Hours	Rate	Total
10/3/2012	EGS	Prepare for Oral Argument before the Arkansas Supreme Court; Conference with Messrs. Beckwith, Turner, McCleskey and Easterly regarding Oral Argument presentation on issues on appeal to the Arkansas Supreme Court ***	8.20	\$300.00	\$2,460.00
10/4/2012	EGS	Attend and participate in Oral Argument before Arkansas Supreme Court; Conference with clients regarding Oral Argument issues and questions by the Justices of the Arkansas Supreme Court ***	2.30	\$300.00	\$690.00
10/4/2012	KMB	Attend Oral Argument before the Arkansas Supreme Court ***	1.00	\$100.00	\$100.00
10/5/2012	CDB	Review email and letter to clients from Gene Sayre on Oral Argument before the Arkansas Supreme Court ***	0.30	\$225.00	\$67.50
10/5/2012	EGS	Review video of Oral Argument before the Arkansas Supreme Court; Draft letter to clients - evaluation of oral argument and questions by Justices of the Arkansas Supreme Court; Draft letter to clients regarding Oral Argument and feeling about the Oral Argument; Email a copy of the Arkansas Democrat Gazette newspaper article regarding argument; Review email from Tom Easterly regarding his thoughts regarding Oral Argument ***	3.20	\$300.00	\$960.00
10/9/2012	EGS	Review email from Bob McCleskey to Curtis Turner regarding Eureka Springs Independent and article in Hot Springs local paper, Hot Springs Village Voice ***	0.30	\$300.00	\$90.00
10/11/2012	EGS	Review email from Tom Easterly with 4-page summation of Special Master's Report ***	0.50	\$300.00	\$150.00
10/12/2012	EGS	Review email from Bob McCleskey regarding how long it takes for the Arkansas Supreme Court to make a decision; Respond to Mr. McCleskey ***	0.40	\$300.00	\$120.00
10/15/2012	KMB	Email Mr. McCleskey with website information for the Arkansas Supreme Court and how to print off opinions ***	0.10	\$100.00	\$10.00
10/16/2012	CDB	Review emails and Adequacy Report by Joint Committee on Education of Arkansas of Arkansas General Assembly ***	0.70	\$225.00	\$157.50

**Fountain Lake School District**  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

Date	Code	Description	Hours	Rate	Total
10/16/2012	EGS	Review newspaper article on meeting of Joint Education Committee on Adequacy study for 2011 - 2012 by the General Assembly; Review Adequacy Studies by General Assembly for the last two (2) biennials; Draft letter to clients - last two Adequacy Studies by General Assembly reveal funding equalized by lesser categorical funding for wealthier school districts and ADEs position of foundation funding in lawsuit costs Fountain Lake School District and Eureka Springs School District to lose \$1,000 in overall funding for each student ---- CONT'd	5.40	\$300.00	\$1,620.00
10/16/2012	EGS	CONT'd ---- Draft letter to clients regarding Arkansas Supreme Court having no opinions listed, article in Arkansas Democrat Gazette about the Joint Meeting of Senate and House Education Committee on the Adequacy Study; Request copy of Adequacy Study from the Arkansas Legislature; Receive and review "draft" copy of the Adequacy Study for 2012; Scan and send copy of "draft" of 2012 Adequacy Study to clients; Draft email to clients regarding statement in Adequacy Study on page 72 regarding District Review; This information could be used in future appeal if needed ***			
10/16/2012	KMB	Review last two (2) Adequacy Studies produced by the Arkansas General Assembly and compare what Arkansas General Assembly determined as "adequacy" (foundation funding and categorical funding) funding at approximately \$8,100 per student, not just the "foundation funding" amount ***	3.80	\$100.00	\$380.00
10/17/2012	EGS	Request copy of 2010 Adequacy Study; Review email from Bob McCleskey to Susan Culpepper regarding Adequacy Study and amount of categorical funds and NSL funds for FLSD and ESSD; Print and scan copy of the 2010 Adequacy Study; Send copy of the 2010 Adequacy Study to clients, noting page 59 regarding District Revenue; Review email from Bob McCleskey regarding Adequacy Study and ADE State Aid Notice and calculations of FLSD funds received compared to numbers in the Adequacy Study ***	1.50	\$300.00	\$450.00
10/18/2012	EGS	Review email from Tom Easterly regarding research and use of school bond funding ***	0.10	\$300.00	\$30.00
10/19/2012	EGS	Email clients regarding reason for no opinions by Arkansas Supreme Court due to Judicial Conference going on; Respond to Tom Easterly's request for the website for Adequacy Studies ***	0.20	\$300.00	\$60.00
10/21/2012	EGS	Review email from Bob McCleskey regarding email sent to Andrew DeMillo with the Hot Springs Sentinel Record regarding Interim Study on Educational Adequacy for 2012 ***	0.30	\$300.00	\$90.00



**Fountain Lake School District**  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

10/22/2012	EGS	Review email from Tom Easterly regarding Constitutional Amendment 1 and 2 and copy sent to Hot Springs Sentinel Record and Arkansas Democrat Gazette ***	0.30	\$300.00	\$90.00
10/23/2012	EGS	Review email from Bob McCleskey to Curtis Turner regarding ADE's Eureka Springs School District's state aid and calculations compared to Adequacy Study; Review email from Tom Easterly - send Constitutional Amendment Ballots 1 and 2 to press and others; Review email from Darin Beckwith regarding conference sponsored by Arkansas Public School Resource Center - Scott Smith requests Mr. Sayre to speak at the conference; Telephone conference with Scott Smith regarding speaking at the APSRC Conference in Hot Springs on October 30, 2012; Send email to Darin Beckwith and Bob McCleskey regarding same ***	0.80	\$300.00	\$240.00
10/25/2012	EGS	Receive and review email from Bob McCleskey regarding 2012 Adequacy Study news release ***	0.80	\$300.00	\$240.00
10/26/2012	EGS	Receive and review email from Bob McCleskey regarding minor corrections to 2012 Adequacy Study news release ***	0.10	\$300.00	\$30.00
11/1/2012	EGS	Review email from Bob McCleskey with Open Letter to Governor Beebe regarding educational funding and possible use in sending to various newspapers ***	0.30	\$300.00	\$90.00

69.60

**Professional Fees:**

Eugene G. Sayre - 61.3 hrs @ \$300.00 per hour	\$18,390.00
Christopher D. Brockett - 1.8 hrs @ \$225.00 per hour	\$405.00
Kathie M. Brown - 6.50 hrs @ \$100.00 per hour	\$650.00
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**Total Fees: \$19,445.00**

**Fountain Lake School District**  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

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Costs

6/13/2012	Postage	\$5.12
7/11/2012	Postage	\$0.45
9/28/2012	Postage	\$3.60
10/16/2012	Postage	\$2.60
July - October	Copier Charge	\$100.00
10/30/2012	Reimbursement for expenses in attending APSRC Conference in Hot Springs ***	\$40.00

**Total Costs: \$151.77**

**Subtotal Due: \$19,748.54**

**Total Balance Due: \$19,748.54**

*Minus 37.3% for Eureka Springs School District*

(\$7,366.21)

**Total Owed by Fountain Lake School District**

**\$12,382.33**

# Hatfield & Sayre

An Association of Professional Associations  
401 West Capitol Avenue, Suite 502  
Little Rock, Arkansas 72201

## TAX EIN

Fountain Lake School District  
c/o Darin Beckwith, Superintendent  
4207 Park Avenue  
Hot Springs, AR 71901

0231.0001: School Funding Issue

STATEMENT  
Statement Date - January 15, 2013  
Invoice No. 000102

<u>Professional Fees</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
11/8/2012 EGS Review and reply to e-mail from Bob McCleskey regarding time frame of Supreme Court to arrive at a decision after Oral Argument ***	0.10	\$300.00	\$30.00
11/23/2012 KMB Research definitions of terms used in statutes for EGS ***	1.00	\$100.00	\$100.00
11/26/2012 EGS Receive and review email from Ashley Tilley at ESSD regarding attorney confirmation request ***	0.10	\$300.00	\$30.00
11/29/2012 CDB Review Opinion by Arkansas Supreme Court; Discuss with Eugene G. Sayre and Bob McCleskey in conference call ***	0.50	\$225.00	\$112.50
11/29/2012 EGS Draft Memorandum to Sean Beherec, Arkansas Dem Gaz Reporter, regarding General Assembly's Report on Review of Adequacy Study of school funding; Email to Sean Beherec at Arkansas Democrat Gazette with memorandum, charts, etc...***	3.50	\$300.00	\$1,050.00
11/29/2012 EGS Review Opinion by Arkansas Supreme Court; Discuss with Christopher Brockett and Kathie Brown; Scan and send copy to clients and supporters; Send copies to news media; Telephone conference with clients and supporters regarding Arkansas Supreme Court decision affirming decision for school districts and reversing findings that URT taxes are state taxes; Telephone conference with representatives of Arkansas Democrat Gazette; Stephens News Service; and Associated Press regarding decision of Arkansas Supreme Court; Review Final State Aid Notices promulgated by ADE for 2006 - 2012 school years; Compute comparisons of funding per student for foundation funding and categorical funding; Review and revise Post Oral Argument Petition for the Supreme Court to Take Judicial Notice of Adjudicative Facts on per student, per district, school funding ***	7.10	\$300.00	\$2,130.00
11/29/2012 KMB Review Opinion by Arkansas Supreme Court; Discuss with Eugene G. Sayre ***	0.50	\$100.00	\$50.00
11/30/2012 EGS Review email from Bob McCleskey regarding comments and summary of findings in Arkansas Supreme Court Opinion ***	0.50	\$300.00	\$150.00

Fountain Lake School District  
 c/o Darin Beckwith, Superintendent  
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 Hot Springs, AR 71901

0231.0001:		School Funding Issue			
11/30/2012	EGS	Draft of charts showing foundation funding and categorical funding of several school districts for comparison purposes ***	3.80	\$300.00	\$1,140.00
11/30/2012	EGS	Review article in AR Dem Gaz regarding Millage Decision Favoring School Districts ***	0.30	\$300.00	\$90.00
12/1/2012	EGS	Review emails from Tom Easterly regarding research from various sources, citations to support school district's position and rebut dissenters views; Email from Tom Easterly regarding excerpts from the <u>City of Fayetteville v. Washington County</u> case ***	0.30	\$300.00	\$90.00
12/4/2012	EGS	Review and Revise Motion to Take Judicial Notice; Telephone Curtis Turner, Superintendent of Eureka Springs School District ***	4.10	\$300.00	\$1,230.00
12/4/2012	EGS	Review editorial in AR Dem Gaz - A Spot on Decision - regarding Arkansas Supreme Court's decision in school funding case ***	0.20	\$300.00	\$60.00
12/5/2012	EGS	Email from Bob McCleskey with letter to editor of the Arkansas Democrat Gazette as a "guest writer" in response to December 4, 2012 editorial - A Spot on Decision - in Arkansas Democrat Gazette; Email from Bob McCleskey with analysis of categorical funds from ADE website ***	0.40	\$300.00	\$120.00
12/5/2012	EGS	Outline and revise draft Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts on public school funding ***	3.10	\$300.00	\$930.00
12/5/2012	EGS	Review article in Arkansas Times - Split Supreme Court Alters School Funding; Research Rule 201 of the Arkansas Rules of Evidence regarding an appellate court taking judicial notice of adjudicative facts; Legal research of statutes on school funding ***	2.50	\$300.00	\$750.00
12/6/2012	EGS	Copy two articles in Arkansas Democrat Gazette and send to clients and supporters; Continue draft of Petition to Take Judicial Notice; Draft letter to clients and supporters regarding Rule 201 of the Arkansas Rules of Evidence and appellate court taking Judicial Notice and plan to ask the Arkansas Supreme Court to take "judicial notice of certain facts that were not available at time of oral argument," i.e. finding reported in 2012 Adequacy Study of Public Schools by student averaging \$8,215.84 per student; Send rough draft of the Petition to Take Judicial Notice to Clients and Supporters to review and comment; Begin draft of Brief in Support of Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts***	6.50	\$300.00	\$1,950.00
12/6/2012	KMB	Prepare charts with calculations taken from Final State Aid Notices; Email Bob McCleskey with questions regarding reading the Notices compiled by the ADE; Review reply from Bob McCleskey; Scan article in Arkansas Times and email to Bob McCleskey ***	2.25	\$100.00	\$225.00
12/7/2012	EGS	Review article in Sentinel Record - More About School Funding; Review email from Bob McCleskey with comments regarding Petition to Take Judicial Notice and information to use or not use; Review email from Tom Easterly regarding Petition to Take Judicial Notice and statutory language to implement Amendment 74 ***	0.90	\$300.00	\$270.00

Fountain Lake School District  
 c/o Darin Beckwith, Superintendent  
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0231.0001:		School Funding Issue			
12/8/2012	EGS	Review newspaper article - Schools Decision Still Irks Beebe; Review email from Bob McCleskey to Mike Wickline, AR Dem Gaz Reporter, in response to article in Arkansas Democrat Gazette; Review email from Bob McCleskey regarding notes on Petition to Take Judicial Notice ***	0.90	\$300.00	\$270.00
12/9/2012	EGS	Finalize Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts; Draft Brief in Support of Petition to Take Judicial Notice ***	5.20	\$300.00	\$1,560.00
12/10/2012	CDB	Review draft of Brief in Support of Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts and send comments to Mr. Sayre ***	0.60	\$225.00	\$135.00
12/10/2012	EGS	Review article by Guest writer, Bob McCleskey, School of Thought - Funding Decision Victory for Equity; Review email from Tom Easterly regarding rebuttal to dissenters' views; Finalize draft of Brief in Support of Petition to Take Judicial Notice; Email to clients and supporters sending final draft of Brief in Support of Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts for review and comment; Review email from Bob McCleskey regarding State Aid Notice for Mineral Springs; Review email from Tom Easterly regarding <u>City of Fayetteville v. Washington County</u> case; Review email from Tom Easterly regarding January 26, 2011 Legislative Report ***	5.40	\$300.00	\$1,620.00
12/10/2012	KMB	Legal research regarding "taking of judicial notice," under Rule 201 of the Arkansas Rules of Evidence ***	3.50	\$100.00	\$350.00
12/11/2012	EGS	Review Article in Arkansas Dem Gaz - State Foresees Way to Keep School Tax; Schools' Fund Use in Doubt; Final changes to Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts and Brief in Support; Take Petition and Brief to printer; Pick copies up from printer and file at the Arkansas Supreme Court; Review email from Wayne Carr; Email copy of Petition to Take Judicial Notice and Brief in Support to Clients and Supporters with written explanation ; Email copies of Petition and Brief to news media; Review email from Bob McCleskey to Frank Lockwood at Arkansas Democrat Gazette regarding Bob's letter to Reporter Sarah Wire ***	4.10	\$300.00	\$1,230.00
12/11/2012	KMB	Draft letter to Les Steen, Clerk of the Arkansas Supreme Court, to file Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts and Brief in Support; Scan file stamped copies, save to file and mail to opposing counsel ***	0.90	\$100.00	\$90.00
12/12/2012	EGS	Review information, per request by Bob McCleskey, that he plans to present at meeting he will be attending; Telephone call to Bob McCleskey - left message; Email Sarah Wire copies of Petition to Take Judicial Notice and Brief with a long explanation ***	1.50	\$300.00	\$450.00
12/13/2012	CDB	Review finalized Petition to Take Judicial Notice and Brief in Support ***	0.80	\$225.00	\$180.00

Fountain Lake School District  
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0231.0001:		School Funding Issue			
12/13/2012	EGS	Review email from Bob McCleskey with copy of the article in The Sentinel Record - Legislators Divided on School Funding; Email from Bob McCleskey regarding telephone call from Frank Lockwood; Telephone conference with Bob McCleskey; Telephone conference with Sue Clayton at the Arkansas Supreme Court regarding Petition and Brief being too long; Email clients regarding telephone conversation with Deputy Clerk Sue Clayton and request to shorten the Petition and Brief, and also file a Motion to File an Enlarged Brief; Review email from Tom Easterly regarding 1980 ACD Millage Report before equalization; Review ACD Millage Report for 2000; Revise Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts and Brief in Support; Draft Motion to File Enlarged Brief; Legal research Article 14 of Arkansas Constitution; Email clients regarding filing Enlarged Brief and possibility of filing Petition for Rehearing on 98% URT not being addressed in Arkansas Supreme Court decision on appeal ***	5.70	\$300.00	\$1,710.00
12/13/2012	KMB	Legal research different articles on school funding as well as Lake View cases; Research Acts and Statutes on school funding ***	5.10	\$100.00	\$510.00
12/14/2012	CDB	Review revised filings and briefs on behalf of school districts ***	1.50	\$225.00	\$337.50
12/14/2012	EGS	Review email from Bob McCleskey and telephone conference with Curtis Turner regarding requests not to file Petition for Rehearing on 98% guarantee issue; Review email from Tom Easterly regarding ACD 2009 excerpts from Millage Report; Review Arkansas Democrat Gazette article - More Pressing Problems; Legal research regarding "taking judicial notice"; Make final changes to Petition to Take Judicial Notice and Brief and Motion to File Enlarged Brief; Take all Motions and Briefs to the printer and get rebound; File Motions and Briefs on Rule 201 Request for Supreme Court to Take Judicial Notice of Adjudicative Facts (i.e. 2008, 2010 and 2012 Adequacy Study for General Assembly and ADE's compilation of Final Notices of State Funding of public schools from 2006 - 2012) with the Arkansas Supreme Court's Clerk; Contact news media regarding filings; Email copy of all filings to clients and supporters ***	5.40	\$300.00	\$1,620.00
12/14/2012	KMB	Draft letter to Les Steen, Clerk of the Arkansas Supreme Court, to file "revised" and "reprinted" Appellees'/Cross Appellants' Post Oral Argument Petition for the Court to Take Judicial Notice of Dispositive Adjudicative Facts and Brief in Support; as well as Appellees'/Cross Appellants' Motion for Permission to File Enlarged Brief in Support of Their Post Oral Argument Motion for the Court to Take Judicial Notice of Dispositive Adjudicative Facts; Scan file stamped copies; Send copies of Petition, Motion and Brief to Scott Richardson ***	1.20	\$100.00	\$120.00
12/15/2012	EGS	Review Arkansas Democrat Gazette article - Districts Dispute Facts on Funding; Review email from Bob McCleskey to Sarah Wire, Reporter for AR Dem Gaz, thanking her for article and correcting her misstatements; Review email from Bob McCleskey regarding his approval of Motion and Brief and questions regarding justices' impartiality ***	1.20	\$300.00	\$360.00

Fountain Lake School District  
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0231.0001:		School Funding Issue			
12/16/2012	EGS	Answer email from Bob McCleskey regarding questions about Arkansas Supreme Court Justices; Send copy of Foster v Jefferson case of 1995 to Bob McCleskey; Legal research regarding Petition for Rehearing ***	1.30	\$300.00	\$390.00
12/16/2012	KMB	Research regarding school funding in Arkansas - articles in Helena, Arkansas.com - School Funding Re-emerges as Issue ...Like Ultimate Horror Movie Monster by Andrew Demillo; Northjersey.com - Beebe still questions decision of Arkansas Supreme Court on school funding decision ***	1.10	\$100.00	\$110.00
12/17/2012	CDB	Review the ADE's Petition for Rehearing; Review Governor's Request for Permission to File Brief as Amicus Curiae and Governor's Amicus Curiae Brief ***	1.10	\$225.00	\$247.50
12/17/2012	EGS	Telephone conference with John Lyon at Stephen's News Services regarding Petition for Rehearing filed by the ADE; Telephone conference with Scott Richardson and request him to send copy of the Petition for Rehearing by email; Receive and review the ADE's Petition for Rehearing; Review Governor's Request for Permission to File Brief as Amicus Curiae and Governor's Amicus Curiae Brief; Scan copy of Petition for Rehearing and the Governor's Request and Brief and send to clients and supporters; Review email from Bob McCleskey regarding Foster v Jefferson case; Receive email from Tim Gauger sending copies of Governor Beebe's Request for Permission to File Brief as Amicus Curiae and Governor's Amicus Curiae Brief; CONT'D	3.90	\$300.00	\$1,170.00
12/17/2012	EGS	CONT'D **** Review email from Curtin Turner, Superintendent of ESSD, regarding time frame of court deciding whether to grant or deny the Petition for Rehearing; Send email to Curtis Turner regarding "no deadline for Supreme Court" to rule on ADE's Petition for Rehearing; Review email from Tom Easterly regarding information he researched of Justice Imber's findings; Review email from Bob McCleskey regarding first comments on ADE's Petition for Rehearing; Draft email to clients and supporters regarding being double teamed by Attorney General and Governor before the Arkansas Supreme Court ***	CONT'D		\$0.00
12/17/2012	KMB	Review the ADE's Petition for Rehearing; Review Governor's Request for Permission to File Brief as Amicus Curiae and Governor's Amicus Curiae Brief; Legal research regarding Amicus Curiae filings ***	5.20	\$100.00	\$520.00
12/18/2012	EGS	Review Arkansas Democrat Gazette article - Up in Air on Equal Education State Says; Review email from Tom Easterly regarding pages from Justice Imber's decision; Review email from Bob McCleskey regarding response to press regarding Governor Beebe's filings with Arkansas Supreme Court; Draft email to Sarah Wire regarding article in AR Dem Gaz; Send copies of several newspaper articles to clients and supporters; Review email from Bob McCleskey with copy of article to send to AR Dem Gaz as Guest Writer ***	1.60	\$300.00	\$480.00

Fountain Lake School District  
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0231.0001:		School Funding Issue			
12/18/2012	KMB	Legal research regarding "amicus curiae" filings, separation of powers doctrine, and "appearance of impropriety;" Research Attorney General Opinions and print and review; Respond to Bob McCleskey regarding his article as "guest writer" in Arkansas Democrat Gazette ***	4.50	\$100.00	\$450.00
12/19/2012	EGS	Review email from Tom Easterly to Bob McCleskey regarding Governor Beebe's participation in suit; Review Tom Easterly's request for copies of Attorney General Opinions ***	0.30	\$300.00	\$90.00
12/19/2012	KMB	Research Department of Education's website - Notices of Financial Aid and Yearly Financial Report sent to Governor; Continue research regarding amicus curiae and separation of powers ***	2.80	\$100.00	\$280.00
12/20/2012	EGS	Research regarding Motion Requesting Disqualification and Appellate Rules regarding Amicus Brief; Legal research regarding assignment of special judges; Print 11/29/12 Opinion from Lexis and mark up and notate ***	2.90	\$300.00	\$870.00
12/20/2012	KMB	Send Tom Easterly copy of Attorney General Opinions ***	0.20	\$100.00	\$20.00
12/21/2012	CDB	Review the ADE's Petition for Rehearing; Review Governor's Request for Permission to File Brief as Amicus Curiae and Governor's Amicus Curiae Brief ***	0.40	\$225.00	\$90.00
12/21/2012	EGS	Review article in Sentinel Record - FLSD Wants High Court to Uphold Ruling - sent by Bob McCleskey; Respond to Bob McCleskey and let him know that we will send the draft of five filings for him to review over the weekend; Review email from Bob McCleskey regarding filing of Response to Governor's Request to File Brief as Amicus Curiae; Review email from Tom Easterly to Bob McCleskey with copies of annotated statutes ***	0.80	\$300.00	\$240.00
12/21/2012	KMB	Research - vacancies of judicial offices, etc. - judicial conduct; Research Lake View decisions; Draft Response and Opposition to Governor Beebe's Request to File Brief as Amicus Curiae ***	8.10	\$100.00	\$810.00
12/23/2012	EGS	Review email from Tom Easterly regarding thoughts on filings and points to make ***	0.20	\$300.00	\$60.00
12/24/2012	EGS	Legal research regarding Separation of Powers and Amicus Curiae in preparation for filing briefs; Review email from Bob McCleskey with comments on filings we are working on; Draft Response and Opposition to Governor Beebe's Request to File Amicus Brief and Brief in Support; Draft Appellees'/Cross Appellants' Motion Requesting Special Justice Ellis and Appointed Justice Hoofman to Recuse and Disqualify Themselves From Participating, in Any Way, in Further Proceedings in This Appeal and Brief in Support ***	6.50	\$300.00	\$1,950.00
12/25/2012	EGS	Continue drafting Appellees'/Cross Appellants' Motion Requesting Special Justice Ellis and Appointed Justice Hoofman to Recuse and Disqualify Themselves From Participating, in Any Way, in Further Proceedings in This Appeal and Brief in Support; Legal research and review of draft opposition to filing Response and Opposition to Petition for Rehearing; Scan and e-mail to Bob McCleskey for comments; Draft Response and Opposition to Petition for Rehearing and send to Kathie at home to type ***	12.80	\$300.00	\$3,840.00



Fountain Lake School District  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

0231.0001:		School Funding Issue			
12/25/2012	KMB	Revisions to Appellees'/Cross Appellants' Motion Requesting Special Justice Ellis and Appointed Justice Hoofman to Recuse and Disqualify Themselves From Participating, in Any Way, in Further Proceedings in This Appeal and Brief in Support and Response and Opposition to Governor Beebe's Request to File Amicus Brief and Brief in Support and email to Mr. Sayre in final form ***	5.00	\$100.00	\$500.00
12/26/2012	CDB	Review proposed filings on behalf of school districts and send comments to Mr. Sayre ***	1.00	\$225.00	\$225.00
12/26/2012	EGS	Legal research statutes regarding foundation funding and state foundation funding aid; Go to Arkansas Supreme Court to see if open; Continue revisions to Motion to Disqualify and Brief in Support and Response and Opposition to Governor's Request to File Brief as Amicus Curiae and Response to Governor's Amicus Brief; Review email from Christopher Brockett regarding comments on filings ***	5.10	\$300.00	\$1,530.00
12/26/2012	KMB	Continue revisions to Motion to Disqualify and Brief in Support and Response and Opposition to Governor's Request to File Brief as Amicus Curiae and Response to Governor's Amicus Brief; Work on draft of Response and Opposition to Petition for Rehearing ***	8.00	\$100.00	\$800.00
12/27/2012	EGS	Check and ascertain Arkansas Supreme Court still closed because of blizzard; Review and revise Response and Opposition to ADE's Petition for Rehearing; Email documents to Ms. Brown for final revisions ***	6.80	\$300.00	\$2,040.00
12/27/2012	KMB	Revisions on Response and Opposition to Petition for Rehearing; Email copy of draft of Response and Opposition to Petition for Rehearing to Bob McCleskey to review and comment ***	5.00	\$100.00	\$500.00
12/28/2012	CDB	Review Mr. Sayre's email on status of filings ***	0.30	\$225.00	\$67.50
12/28/2012	EGS	Final revisions to Appellees'/Cross Appellants' Motion Requesting Special Justice Ellis and Appointed Justice Hoofman to Recuse and Disqualify Themselves From Participating, in Any Way, in Further Proceedings in This Appeal and Brief in Support; Final revisions to Appellees'/Cross Appellants' Response and Opposition to Governor Beebe's Request for Permission to File a Brief as Amicus Curiae in Support of Appellants' Petition for Rehearing; Final revisions to Response and Opposition to Governor Beebe's Amicus Curiae Brief;	6.20	\$300.00	\$1,860.00

CONT'D

Fountain Lake School District  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

0231.0001:

**School Funding Issue**

Date	Agency	Description	Rate	Amount	Total
12/28/2012	EGS	CONTD ----- Final revisions to Response and Opposition of school districts to ADE's Petition for Rehearing; Scan all documents; Take documents to the printer; Draft transmittal letter to Les Steen, Clerk of the Arkansas Supreme Court, listing five (5) documents to file; Pick up documents from printer and take to the Arkansas Supreme Court to file; Scan all documents with file stamp and send copy to clients, supporters and news media; Email copies of "file stamped" documents to Tim Gauger and Scott Richardson; Receive and review Appellants' Response to Motion to File Enlarged Brief to Take Judicial Notice; Review email from Tom Easterly with recap of actions in lawsuit; Send Sarah Wire, AR Dem Gaz reporter, copy of all five filings on behalf of school districts ***			
12/28/2012	KMB	Last minute revisions to five documents before taking to printer ***	4.00	\$100.00	\$400.00
12/29/2012	EGS	Review pleadings filed on December 28, 2012 with the Arkansas Supreme Court; Mail copies of pleadings filed on December 28, 2012 to school districts and to opposing counsel for the ADE and the Governor; Review Arkansas Democrat Gazette article - State's Millage Case a Rehash; Review email from Bob McCleskey regarding article in AR Dem Gaz; Review information from Bob McCleskey regarding information to prepare for conference with 8 school districts; Information regarding 23 school districts; Email Bob McCleskey regarding information sent to Sarah Wire; Review email from Wayne Carr regarding thanks for hard work on behalf of ESSD ***	2.80	\$300.00	\$840.00
12/30/2012	EGS	Review comments from Bob McCleskey regarding information sent to Sarah Wire and the articles in AR Dem Gaz and the Hot Springs Sentinel Record; Email clients regarding ADE's Response to school districts' Motion to Take Judicial Notice; Email Bob McCleskey regarding newspaper article regarding school districts' latest filings ***	0.90	\$300.00	\$270.00
12/31/2012	EGS	Telephone conference with Associated Press reporter regarding article about school districts' opposition to Governor's amicus curiae; Emails to and from Bob McCleskey regarding latest filings; Review email from Scott Richardson with copies of Responses to two motions filed on Friday by Attorney General on behalf of ADE; Review Petition to Take Judicial Notice and Motion to File Enlarged Brief ***	1.40	\$300.00	\$420.00
			180.85		

**Fountain Lake School District**  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

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<b>Fees:</b>			
	Eugene G. Sayre - 116.30 hrs @ \$300.00 per hour		\$34,890.00
	Christopher D. Brockett - 6.2 hrs @ \$225.00 per hour		\$1,395.00
	Kathie M. Brown - 58.35 hrs @ \$100.00 per hour		\$5,835.00
			<hr/>
		<b>Total Fees:</b>	<b>\$42,120.00</b>
 <b>Costs</b>			
			\$9.30
12/20/2012	Postage		\$10.50
12/29/2012	Postage		\$10.00
11/30/2012	Copier Charge		\$96.50
12/31/2012	Copier Charge		\$200.16
12/17/2012	Printer Charges		\$169.49
12/31/2012	Printer Charges		<hr/>
		<b>Total Costs:</b>	<b>\$495.95</b>
			<hr/>
		<b>Subtotal Due:</b>	<b>\$43,111.90</b>
		<b>Total Balance Due:</b>	<b>\$43,111.90</b>
			<hr/>
			<b>(\$16,080.74)</b>
	<i>Minus 37.3% for Eureka Springs School District</i>		<hr/>
	<b>Total Owed by Fountain Lake School District</b>		<b>\$27,031.16</b>

# Hatfield & Sayre

*An Association of Professional Associations*  
401 West Capitol Avenue, Suite 502  
Little Rock, Arkansas 72201

## TAX EIN

Fountain Lake School District  
c/o Darin Beckwith, Superintendent  
4207 Park Avenue  
Hot Springs, AR 71901

0231.0001: **School Funding Issue**

### STATEMENT

Statement Date - June 10, 2013

Invoice No. 00109

<u>Professional Fees</u>		<u>Hours</u>	<u>Rate</u>	<u>Amount</u>	
1/2/2013	EGS	Review email from Kathy at ESSD - Al Larson is new President of the ESSD School Board; Review email from Bob McCleskey to Max Brantley regarding articles about lawsuit and Mr. Brantley's reply; Email Cynthia Howell regarding article on DeQueen School District; Send article to Bob McCleskey and to all clients and supporters; Review email from Bob McCleskey regarding DeQueen School District article; Review Bob McCleskey's response back to Max Brantley; Review email from Cynthia Howell regarding article on DeQueen School District ***	1.80	\$300.00	\$540.00
1/3/2013	EGS	Review email from Bruce Westermann regarding Dequeen article; Review email from Scott Smith to Bruce Westermann regarding DeQueen School District article; Review email from Tom Easterly regarding article he intends to send to Editor of the Arkansas Times;	0.20	\$300.00	\$60.00
1/3/2013	EGS	Email to Darin Beckwith and Curtis Turner regarding need for itemized breakdown of amounts paid by ADE by direct deposits ***	0.20	\$300.00	\$60.00
1/3/2013	KMB	Receive call from Tom Easterly regarding article to send to Arkansas Times; Request Kathie to review and make any corrections; Make corrections, scan and send back to Tom Easterly ***	0.50	\$100.00	\$50.00
1/4/2013	EGS	Make revisions to Tom Easterly's letter to Editor and email to Mr. Easterly ***	0.30	\$300.00	\$90.00
1/8/2013	KMB	Look up Amendments 47 and 74 on Lexis Nexis; Print, scan and email to Curtis Turner per his request ***	0.50	\$100.00	\$50.00
1/10/2013	EGS	Copy and review Syllabus from the Arkansas Supreme Court showing that the Arkansas Supreme Court submitted Motions for Review; Draft letter to school districts sending copy of Syllabus ***	0.50	\$300.00	\$150.00
1/11/2013	EGS	Legal Research regarding Arkansas Claims Commission - rules and regulations; Review information from Tom Easterly regarding background data pertaining to lawsuit ***	1.30	\$300.00	\$390.00
1/12/2013	EGS	Receive and review emails from Tom Easterly ***	0.30	\$300.00	\$90.00

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0231.0001:		School Funding Issue			
1/15/2013	EGS	Draft answer to audit letter request from Larry Hunter, Department of Legislative Audit, regarding Eureka Springs School District's state audit ***	0.90	\$300.00	\$270.00
1/15/2013	KMB	Prepare audit response letter to Larry Hunter, Department of Legislative Audit, regarding Fountain Lake School District; Fax and mail audit response letters to Larry Hunter and to school districts ***	0.50	\$100.00	\$50.00
1/16/2013	KMB	Revise letter to Larry Hunter with correct number for FLSD; Send email to Cari Scott requesting address of Becky Furnas; Review letter from Bob McCleskey regarding question pertaining to audit letter; Telephone conference with Gene Sayre (out of town) regarding letter; Revise letter and send to Cari Scott explaining error. Fax letter to Larry Hunter ***	0.60	\$100.00	\$60.00
1/17/2013	EGS	Telephone conference with Darin Beckwith regarding ruling by Arkansas Supreme Court on challenge to ADE's position on URT tax; Telephone conferences with press representatives regarding ruling; Review email from Malcolm and Patty MacDonald regarding congratulations on win in school case ***	1.50	\$300.00	\$450.00
1/17/2013	KMB	Research regarding A.C.A. Sections 6-20-2305 and 26-80-101; Retrieve ruling of Arkansas Supreme Court from Judicial site; Email to Gene Sayre in New York the rulings of the Arkansas Supreme Court; Review email from Bob McCleskey regarding his writeup for the FLSD School Board and his questions regarding if he has stated everything correctly; Respond to Bob McCleskey's questions; Send email to both school districts regarding the ruling of the Supreme Court; Telephone conference with Jeane at Associated Press; Sean Beherec at <u>Arkansas Democrat Gazette</u> and James at <u>Associated Press</u> ; Send copies of information regarding Arkansas Supreme Court ruling; Contact Gene Sayre regarding returning calls to press representatives ***	3.50	\$100.00	\$350.00
1/18/2013	KMB	Research news reports regarding school funding and look for writeups regarding judicial decision; Review Judicial Review, LLC writeup regarding this case; Review email from Bob McCleskey regarding article in newspaper and his meeting with other school districts; Telephone conference with Darin Beckwith and Bob McCleskey ***	1.50	\$100.00	\$150.00
1/21/2013	EGS	Review email from Bob McCleskey regarding issues to be addressed and time schedule ***	0.20	\$300.00	\$60.00
1/22/2013	EGS	Telephone conference with Bob McCleskey regarding issues to be addressed after win in the Arkansas Supreme Court; Review second email from Bob McCleskey regarding issues to be addressed and his email to other school districts regarding issues to discuss with Legislators and others ***	0.50	\$300.00	\$150.00
1/23/2013	EGS	Attend meeting in North Little Rock with Bob McCleskey, Darin Beckwith, Curtis Turner, Tom Easterly and superintendents from other school districts generating URT ad valorem tax in excess of foundation funding amount regarding school funding issues ***	1.20	\$300.00	\$360.00

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 4207 Park Avenue  
 Hot Springs, AR 71901

**0231.0001: School Funding Issue**

Date	Employee	Description	Hours	Rate	Total
1/24/2013	EGS	Review email from Bob McCleskey regarding Judge Fox's Rulings in the two separate Orders ***	0.20	\$300.00	\$60.00
1/25/2013	EGS	Telephone conference with Sue Clayton, Arkansas Supreme Court, regarding why we have not received a Mandate from the Court; Receive copy of the Mandate from Sue Clayton; Begin draft of Post Remand Petition for Relief; Draft letter to clients regarding Post Remand Petition for Relief; Send rough draft of Post Remand Motion and ask for comments on the five (5) issues to be presented in Motion; Send copy of Mandate to all client representatives ***	3.80	\$300.00	\$1,140.00
1/27/2013	EGS	Review comments from Bob McCleskey and Tom Easterly on draft of Post Remand Motion for Relief; Draft Brief in Support of Post Remand Motion for Relief ***	3.90	\$300.00	\$1,170.00
1/28/2013	CDB	Legal research on Westlaw regarding attorney fee request ***	1.70	\$225.00	\$382.50
1/28/2013	KMB	Respond to Bob McCleskey on question regarding request for attorney fees ***	0.10	\$100.00	\$10.00
1/30/2013	KMB	Draft Affidavits for Curtis Turner and Darin Beckwith to attach to Post Remand Motion ***	1.20	\$100.00	\$120.00
1/31/2013	CDB	Draft Motion for Attorney Fees; Research law and review invoices; Review Affidavit of Christopher D. Brockett and sign ***	4.70	\$225.00	\$1,057.50
1/31/2013	EGS	Draft Post Remand Petition for Relief; Legal research and read cases pertaining to Post Remand Petition for Relief; Email Darin Beckwith and Curtis Turner regarding breakdown into categories of money received for categorical funds from ADE; Request Affidavits to be reviewed and signed; Receive signed Affidavits from Darin Beckwith and Curtis Turner; Review email from Bob McCleskey to Susan Culpepper regarding number used in draft of Post Remand Motion for Relief; Review and edit Affidavits of Eugene G. Sayre and Christopher D. Brockett; Email copy of Draft of Post Remand Motion for Relief to clients for review and comments ***	5.70	\$300.00	\$1,710.00
1/31/2013	KMB	Send copies of Affidavits to Darin Beckwith and Curtis Turner to review and sign; Draft Affidavits for Christopher D. Brockett and Eugene G. Sayre; Make chart of categorical funds for FLSD and ESSD for 2009 - 2010, 2010 - 2011, and 2011 - 2012 school years; Revise Affidavits for Gene Sayre and Christopher D. Brockett to attach to the Petition for Reimbursement of Attorney Fees and Litigating Costs ***	5.20	\$100.00	\$520.00
2/1/2013	CDB	Review Petition for Reimbursement of Attorneys Fees and Necessary Litigating Costs; Affidavits of school district superintendents ***	1.50	\$225.00	\$337.50
2/1/2013	EGS	Revise draft Post Remand Motion for Relief and Brief in Support; Edit and revise Petition for Reimbursement of Attorney Fees; Email from Susan Culpepper regarding numbers in Motion are correct ***	4.80	\$300.00	\$1,440.00

Fountain Lake School District  
 c/o Darin Beckwith, Superintendent  
 4207 Park Avenue  
 Hot Springs, AR 71901

0231.0001:		School Funding Issue			
2/1/2013	EGS	Review email from Bob McCleskey regarding time frame for Judge Fox to take action; Edit and revise Petition for Attorney Fees; Send draft of Petition for Attorney Fees to Bob McCleskey with exhibits; File Post Remand Motion for Relief and Brief in Support, as well as Petition for Reimbursement of Attorney Fees and Necessary Litigating Costs ***	4.10	\$300.00	\$1,230.00
2/1/2013	KMB	Continue preparation of Post Remand Motion for Relief; Brief in Support and Motion for Reimbursement of Attorney Fees; Email to Bob McCleskey and Susan Culpepper regarding correcting headings; Attach exhibits to Petition for Attorney Fees; Send revised Petition for Attorney's Fees to Christopher Brockett to review; Review and respond to Bob McCleskey's questions regarding totals on State Aid Notices; Review financial State Aid Notices to ascertain what Bob McCleskey is questioning; Scan, save and send copy of Post Remand Petition for Relief and Brief in Support and Petition for Reimbursement of Attorney Fees and Litigating Costs to Scott Richardson, Attorney for ADE, and John Lynch at the Arkansas Democrat Gazette; Mail copies to opposing counsel ***	12.50	\$100.00	\$1,250.00
2/4/2013	KMB	Draft letter to Judge Fox and send copy of "file stamped" Post Remand Motion for Relief and Brief in Support and Petition for Reimbursement of Attorney Fees and Necessary Litigating Costs to school district representatives ***	0.70	\$100.00	\$70.00
2/6/2013	EGS	Review information that Bob McCleskey wrote and sent to KARK after watching program on school funding ***	0.20	\$300.00	\$60.00
2/14/2013	CDB	Review Kathie Brown's email and attachments on Responses filed by the ADE ***	0.40	\$225.00	\$90.00
2/14/2013	EGS	Receive and review via email the ADE's Response to the Post Remand Motion for Relief and Petition for Attorney Fees and send copy to clients ***	1.10	\$300.00	\$330.00
2/15/2013	CDB	Conference with Kathie Brown to review comments from Bob McCleskey ***	0.40	\$225.00	\$90.00
2/15/2013	EGS	Receive and review email from Bob McCleskey regarding comments on Response from ADE regarding Petition for Relief and Petition for Attorney Fees ***	0.20	\$300.00	\$60.00
2/15/2013	KMB	Conference with Christopher Brockett regarding Petition for Attorney Fees and ADE's Response ***	0.40	\$100.00	\$40.00
2/16/2013	EGS	Review email from Tom Easterly regarding 98% guaranteed URT Supplement Legislative Proposal ***	0.20	\$300.00	\$60.00
2/17/2013	EGS	Review email from Tom Easterly regarding Amendment 59 and principles similar to 98% guaranteed URT Supplement Funds Legislative Proposal ***	0.10	\$300.00	\$30.00
2/18/2013	KMB	Legal research - attorney fee question - cases and law ***	3.20	\$100.00	\$320.00

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0231.0001:		School Funding Issue			
2/19/2013	KMB	Review the Response of the ADE to the Post Remand Petition for Relief; Perform legal research to prepare a Reply to the ADE's Response; Research includes issues of sovereign immunity - attorney fee reimbursement and review of Orders of Judge Fox and Decision of the Arkansas Supreme Court; Review <u>Lake View</u> decision in 2007; Review transcripts of hearings regarding testimony of Scott Richardson regarding the 98% guaranteed URT supplement funds; Review Appellees Brief regarding 98% guaranteed URT supplement funds ***	6.70	\$100.00	\$670.00
2/20/2013	EGS	Draft email to clients after reading the ADE Responses to Post Remand Petition for Relief and Petition for Attorney Fees ***	1.00	\$300.00	\$300.00
2/20/2013	KMB	Search AR Legislature regarding 98% guaranteed URT supplement funds and Legislative Proposal for changes in school funding ***	0.50	\$100.00	\$50.00
2/21/2013	EGS	Review email from Bob McCleskey Bruce Westerman regarding proposed new Legislative Bill on 98% guaranteed URT supplement funds ***	0.10	\$300.00	\$30.00
2/21/2013	KMB	Assemble and type all notes and research for Gene Sayre to use in the Reply to the ADE's Response to the Post Remand Petition for Relief ***	5.50	\$100.00	\$550.00
2/22/2013	KMB	Legal research cases regarding use of appropriated funds ***	2.80	\$100.00	\$280.00
2/25/2013	KMB	Legal Research of cases regarding sovereign immunity , illegal exaction, etc. ***	1.50	\$100.00	\$150.00
2/28/2013	EGS	Review emails from Tom Easterly to Bob McCleskey regarding loss of funds if ADE proposal is enacted into Law; Review emails between Bob McCleskey and Curtis Turner regarding 98% guaranteed URT supplement funds; Review Kathie's email to Bob regarding Mr. McCleskey wanting to know counsel's thoughts regarding proposed legislation; Review emails from Tom Easterly regarding his thoughts on attorney fee request and Judge Imber's prior decision ***	0.60	\$300.00	\$180.00
3/4/2013	KMB	Scan cases on sovereign immunity and save to computer ***	0.70	\$100.00	\$70.00
3/5/2013	KMB	Search State Legislature web page for activity regarding school funding ***	0.30	\$100.00	\$30.00
3/6/2013	EGS	Review email from Bob McCleskey to Bruce Westerman and other school district superintendents regarding effect of new Legislative Bill on 98% guaranteed URT funds and effect of proposed legislation on the eight (8) districts involved ***	0.20	\$300.00	\$60.00
3/11/2013	EGS	Review email from Tom Easterly and Bob McCleskey regarding status of Reply Brief ***	0.10	\$300.00	\$30.00
3/12/2013	CDB	Review and respond to Gene Sayre's email to Bob McCleskey ***	0.20	\$225.00	\$45.00
3/12/2013	EGS	Respond to Bob McCleskey and give update on status of Reply to ADE's Response to School Districts Post Remand Motion for Relief ***	0.20	\$300.00	\$60.00



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0231.0001:		School Funding Issue			
3/14/2013	KMB	Legal research regarding misappropriation of funds and illegal exaction suits ***	2.50	\$100.00	\$250.00
4/1/2013	EGS	Email from Bob McCleskey regarding update on Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Email from Darin Beckwith to Bob McCleskey saying that SB425 had passed ***	0.40	\$300.00	\$120.00
4/2/2013	KMB	Respond to email inquiries regarding status of Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	0.10	\$100.00	\$10.00
4/3/2013	KMB	Respond to clients regarding Bob McCleskey's inquiry regarding Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	0.20	\$100.00	\$20.00
4/18/2013	EGS	Review email from Bob McCleskey regarding article in the <u>Arkansas Democrat Gazette</u> and his response to the writer and her supervisor; Review email from Bob McCleskey to Darin Beckwith regarding filing of Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	0.50	\$300.00	\$150.00
4/23/2013	EGS	Draft Reply to ADE's Response to School Districts' Post Remand Motion for Relief and legal research pertaining to Reply; Draft email to clients regarding status of Reply Brief ***	5.10	\$300.00	\$1,530.00
4/24/2013	CDB	Review Gene Sayre's email on status of Reply to ADE's Response ***	0.20	\$225.00	\$45.00
4/26/2013	CDB	Review Reply by Gene Sayre to ADE's Response to School Districts' Post Remand Motion for Relief; Send suggested changes to Kathie Brown ***	1.60	\$225.00	\$360.00
4/26/2013	EGS	Legal research on sovereign immunity; Review and revise Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Send draft of Reply to ADE's Response to clients for comment ***	3.30	\$300.00	\$990.00
4/27/2013	CDB	Review comments on draft by Bob McCleskey ***	0.40	\$225.00	\$90.00
4/27/2013	EGS	Review comments from Bob McCleskey regarding draft of Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	0.20	\$300.00	\$60.00
4/30/2013	CDB	Review revised Petition for Attorney Fees ***	0.50	\$225.00	\$112.50
4/30/2013	EGS	Continue revising Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Send second draft of Reply to ADE's Response to School Districts' Post Remand Motion for Relief to clients to review ***	2.70	\$300.00	\$810.00
5/1/2013	CDB	Review Reply to ADE's Response to School Districts' Post Remand Motion for Relief with Bob McCleskey's changes incorporated and explanation email from Gene Sayre ***	0.80	\$225.00	\$180.00

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<b>0231.0001:</b>		<b>School Funding Issue</b>			
5/1/2013	EGS	Review email from Bob McCleskey with comments on second draft of Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Email to all concerned with copy of third draft of ADE's Response to School Districts' Post Remand Motion for Relief and addressing concerns of Bob McCleskey ***	3.80	\$300.00	\$1,140.00
5/1/2013	KMB	Legal research regarding amended statutes being prospective or retroactive ***	4.00	\$100.00	\$400.00
5/2/2013	EGS	Review email from Bob McCleskey regarding followup email from Mr. Sayre and comments regarding Petition for Award of Attorney Fees ***	0.20	\$300.00	\$60.00
5/2/2013	KMB	Continue research regarding amended statutes ***	1.70	\$100.00	\$170.00
5/2/2013	KMB	Legal research on sovereign immunity and drafting Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	7.00	\$100.00	\$700.00
5/3/2013	EGS	Continue revision of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief and send fourth draft of School Districts Reply to ADE's Response to School Districts' Post Remand Motion for Relief to all clients representatives concerned ***	3.20	\$300.00	\$960.00
5/4/2013	EGS	Review email from Bob McCleskey regarding fourth draft of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	0.20	\$300.00	\$60.00
5/5/2013	EGS	Review email from Tom Easterly regarding fourth draft of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	0.20	\$300.00	\$60.00
5/6/2013	EGS	Further revisions on Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Draft email to Bob McCleskey and Tom Easterly explaining attorney fee request and send copy of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief incorporating Messrs. McCleskey and Easterly's suggestions; Review emails from Mr. Easterly and Mr. McCleskey regarding attorney fee issue ***	3.20	\$300.00	\$960.00
5/8/2013	EGS	Continue Legal Research on sovereign immunity and make revisions to school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	3.00	\$300.00	\$900.00
5/8/2013	KMB	Review emails from Tom Easterly regarding attorney fees award in prior case; Review email from Tom Easterly with attachment he wants to send to the media and ask for review; Respond to Tom Easterly ***	0.30	\$100.00	\$30.00
5/9/2013	CDB	Review final draft of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	1.10	\$225.00	\$247.50
5/9/2013	EGS	Continue revision of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief and preparing attachments for same ***	4.00	\$300.00	\$1,200.00

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5/9/2013	KMB	Continue work on revision of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	4.00	\$100.00	\$400.00
5/10/2013	EGS	Receive email from Scott Richardson attaching ADE's Supplement to Response to school districts' Motion for Post Remand Motion for Relief ***	0.20	\$300.00	\$60.00
5/10/2013	KMB	Research regarding attorney fees question ***	1.50	\$100.00	\$150.00
5/12/2013	EGS	Corrections and changes to school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	2.20	\$300.00	\$660.00
5/13/2013	CDB	Review final draft of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	0.80	\$225.00	\$180.00
5/13/2013	EGS	Continue finalization of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief ***	2.90	\$300.00	\$870.00
5/13/2013	EGS	Send final draft of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief to Clients; Review Supplement to Response by the ADE to the Post Remand Motion for Relief; Send copy of ADE's Supplement to clients ***	1.80	\$300.00	\$540.00
5/13/2013	KMB	Legal research on prospective or retroactive effect of amending statute; Continue to prepare exhibits for attaching to school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief	5.10	\$100.00	\$510.00
5/14/2013	EGS	Review final version of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief before filing; Review email from Tom Easterly ***	1.50	\$300.00	\$450.00
5/14/2013	KMB	Finalize school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief, Table of Contents, Table of Authorities and file electronically ***	2.50	\$100.00	\$250.00
5/15/2013	EGS	Legal research on prospective or retroactive effect of amending statute ***	1.40	\$300.00	\$420.00
5/15/2013	KMB	Scan electronically file stamped copies of school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Draft letter to Judge Fox with copies of all filings in the Post Remand action to send to him; Prepare mailing to Judge Fox and Scott Richardson; Email to clients ***	3.50	\$100.00	\$350.00
5/17/2013	KMB	Telephone conferences with Trial Assistant in Judge Fox's Office to set hearing; Send emails to clients regarding possible times for hearing; Telephone conference with Christie in Judge Fox's Office regarding Gene being gone several days in July and dates that Scott Richardson will not be available ***	0.30	\$100.00	\$30.00
5/18/2013	EGS	Review email from Bob McCleskey regarding article in paper and his questions regarding request for attorney's fees ***	0.20	\$300.00	\$60.00
5/19/2013	EGS	Legal research Decr/Mt. Judea School District v. Mike Beebe, et al. - review case ***	0.50	\$300.00	\$150.00

Fountain Lake School District  
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0231.0001:		School Funding Issue			
5/21/2013	CDB	Review final "file stamped" school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief and Notice of Hearing ***	0.50	\$225.00	\$112.50
5/21/2013	EGS	Telephone conference with Brenda Bernet of <u>Arkansas Democrat Gazette</u> answer questions on status of school districts' case and agreed to send Post Remand documents for her to read ***	0.30	\$300.00	\$90.00
5/21/2013	EGS	Draft Motion for Permission to Withdraw Petition for Attorney Fees; Email to clients requesting permission to withdraw Petition for Award of Attorney Fees; Email clients and supporters with copy of five (5) cases regarding Petition for Attorney Fees; Send copy of Notice of Hearing ***	1.70	\$300.00	\$510.00
5/21/2013	EGS	Email clients and supporters with copy of five (5) cases that refute school districts' Petition for Award of Attorney Fees on grounds of sovereign immunity; Also send Notice of Hearing ***	0.40	\$300.00	\$120.00
5/21/2013	KMB	Send copies of all Post Remand documents to Brenda Bernet at the <u>Arkansas Dem Gaz</u> ***	0.50	\$100.00	\$50.00
5/21/2013	KMB	Prepare and mail file stamped copies of all Post Remand pleadings to Scott Smith and Becky Furnas ***	1.50	\$100.00	\$150.00
5/23/2013	EGS	Legal research regarding the exception to sovereign immunity; Review email from Bob McCleskey with case attached and questions regarding attorney fee request ***	2.10	\$300.00	\$630.00
5/28/2013	EGS	Draft and file Supplement to school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Draft letter to Judge Fox with copy of Supplement to school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Draft letter to clients regarding no receipt by counsel of response regarding request to withdraw Attorney Fee Petition; Send copy of file stamped Supplement to Reply Brief to clients and also copy of letter to Judge Fox ***	2.50	\$300.00	\$750.00
5/29/2013	EGS	Review email from Bob McCleskey regarding case that Mr. Sayre used in the Supplement to school districts' Reply to ADE's Response to School Districts' Post Remand Motion for Relief; Review email from Kathie Brown to Bob McCleskey regarding case Mr. McCleskey sent and the response from Bob McCleskey; Review email from Bob McCleskey regarding Withdrawal of Attorney Fee Request and issues to discuss at the board meeting; Telephone conference with Mr. Curtis Turner - request for authority by ESSD's Board to withdraw Petition for Award of Attorneys Fees ***	0.60	\$300.00	\$180.00
5/30/2013	EGS	Review email from Bob McCleskey to Sally Bennett regarding whether Armored School District was reimbursed for 98% guaranteed URT funds while suit was pending ***	0.10	\$300.00	\$30.00
5/31/2013	EGS	Review proposal of Bob McCleskey regarding filing Attorney Fee Claim on a contingency basis ***	0.20	\$300.00	\$60.00
5/31/2013	KMB	Assembly the file in the school case; Separate pleadings, etc. ***	3.00	\$100.00	\$300.00
			184.9		124

**Fountain Lake School District**  
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Eugene G. Sayre - 84 hrs @ \$300.00 per hour	\$25,200.00
Christopher D. Brockett - 14.8 hrs @ \$225.00 per hour	\$3,330.00
Kathie M. Brown -86.10 hrs @ \$100.00 per hour	<u>\$8,610.00</u>

Total Fees:	\$37,140.00
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Costs

1/2/2013	Postage	\$0.45
1/25/2013	Postage	\$0.65
5/28/2013	Postage	\$0.46
January - May 2013	Copier Charge	<u>\$150.00</u>

Total Costs:	\$151.56
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Subtotal Due:	<u>\$37,443.12</u>
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Total Balance Due:	\$37,443.12
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<i>Minus 37.3% for Eureka Springs School District</i>	<u>(\$13,966.28)</u>
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Total Owed by Fountain Lake School District	\$23,476.84
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A/R 1

# Hatfield & Sayre

An Association of Professional Associations

401 West Capitol Avenue, Suite 502

Little Rock, Arkansas 72201

TAX EIN

## Fountain Lake School District

c/o Darin Beckwith, Superintendent

4207 Park Avenue

Hot Springs, AR 71901

0231.0001: School Funding Issue

### STATEMENT

Statement Date - August 20, 2013

Invoice No. 00114

<u>Professional Fees</u>			<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
6/14/2013	EGS	Draft letter to school districts regarding proposed contingency fee arrangement; Review email from Bob McCleskey regarding board meeting and discussion of contingency fee arrangement and details regarding Duit Construction case ***	0.70	\$300.00	\$210.00
6/15/2013	EGS	Legal research cases surrounding <u>Duit Construction</u> case; Review <u>Fireman's Insurance</u> case; Article 16, Section 2 of State Constitution; A.C.A. Section 19-10-201 statutes relating to Arkansas Claims Commission ***Print and review Supreme Court Opinion; Review cases cited in Duit Construction case***	3.50	\$300.00	\$1,050.00
6/15/2013	KMB	Print Duit Construction case Opinion and print docket sheet along with some of the pertinent pleadings; Cite check and print cases used in <u>Duit Construction Company</u> pleadings; Prepare Table of Contents for attachment to Duit Construction pleadings ***	2.50	\$100.00	\$250.00
6/17/2013	CDB	Review email from Gene Sayre with analysis of <u>Duit Construction</u> case and <u>Fireman Insurance</u> case ***	1.60	\$225.00	\$360.00
6/17/2013	EGS	Draft letter to school districts regarding <u>Duit Construction Company</u> case with all school district officials and supporters attachments; Draft email to all sending packet of information on <u>Duit Construction Company</u> case; Review email from Bob McCleskey regarding minutes of FLSD Board Meeting and approval to withdraw Petition for Reimbursement of Attorney Fees in Circuit Court ***	1.10	\$300.00	\$330.00
6/28/2013	CDB	Review email and attached letters regarding withdrawing Petition for Attorney Fees in Circuit Court ***	0.30	\$225.00	\$67.50
7/3/2013	EGS	Prepare attachment to Subpoena Duces Tecum for Dr. Kimbrell and Mr. Kunkel at the ADE; Draft Withdrawal of Petition for Attorney's Fees; Draft email to clients and supporters regarding Withdrawal of Petition for Attorney's Fees ***	1.90	\$300.00	\$570.00

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7/3/2013	KMB	Draft transmittal letter to Judge Tim Fox regarding Plaintiff's Withdrawal of Petition for Attorney's Fees; File Withdrawal of Petition for Attorney's Fees; Email "file stamped" Notice to clients, supporters and opposing counsel; Mail copies of Notice of Withdrawal of Attorney's Fees to clients and opposing counsel; Fax and hand deliver Notice to Judge Fox's Office ***	1.30	\$100.00	\$130.00
7/3/2013	KMB	Complete Subpoenas for Dr. Kimbrell and Mr. Kunkel - mail Certified and take to post office to have stamped ***	0.70	\$100.00	\$70.00
7/8/2013	CDB	Review letter and Subpoenas on Hearing on July 29, 2013 ***	0.30	\$225.00	\$67.50
7/15/2013	KMB	Telephone conference with Al Larson - President of School Board in Eureka Springs regarding pending issues ***	0.20	\$100.00	\$20.00
7/19/2013	CDB	Exchange emails with Scott Richardson regarding John Kunkel no longer being at ADE and asking for new address; Conference with Kathie Brown regarding subpoena for John Kunkel and direct Ms. Brown to send revised Subpoena ***	1.20	\$225.00	\$270.00
7/19/2013	KMB	Redo Subpoena for John Kunkel - with home address and contact Process Server to serve Subpoena; Receive and review letter from Scott Richardson, Assistant Attorney General, to Judge Fox adding two cases that the ADE will rely upon during the hearing of the case on remand; Review email from Scott Richardson to Christopher D. Brockett regarding Mr. Kunkel no longer being employed at the ADE; Research home address for Mr. Kunkel; Review email from Scott Richardson regarding objecting to any evidence presentations at upcoming hearing, on remand; Research two cases that Scott Richardson submitted to Judge Fox and prepare a summary response ***	3.00	\$100.00	\$300.00
7/22/2013	KMB	Legal research regarding Rule 60 relief and preparation for letter to Circuit Court ***	5.50	\$100.00	\$550.00
7/23/2013	KMB	Begin legal research and drafting of letter to Judge Fox regarding followup to Scott Richardson's adding additional cases ***	3.50	\$100.00	\$350.00
7/24/2013	CDB	Conference with Kathie Brown; Review letter and case law ***	0.80	\$225.00	\$180.00
7/24/2013	EGS	Telephone conference with Scott Richardson regarding John Kunkel having death in family and will be out of state on the day of the hearing, asking permission to release him from Subpoena; Email from Scott Richardson confirming that John Kunkel will be released from Subpoena ***	0.30	\$300.00	\$90.00
7/24/2013	KMB	Conference with Christopher Brockett regarding research and response ***	0.40	\$100.00	\$40.00
7/25/2013	KMB	Review and respond to email from Tom Easterly regarding attending hearing on July 29, 2013; Draft letter to Judge Fox regarding Plaintiff's Second Supplement to Reply Brief ***	2.50	\$100.00	\$250.00
7/26/2013	CDB	Review letter from Gene Sayre to Judge Fox, Reply Brief and additional letter to clients ***	1.20	\$225.00	\$270.00
7/26/2013	EGS	Edit and finalize letter to Judge Fox before hearing ***	3.00	\$300.00	\$900.00

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0231.0001:		School Funding Issue			
7/26/2013	KMB	Revise letter to Judge Fox before hearing ***	15.00	\$100.00	\$1,500.00
7/27/2013	KMB	Review email from Bob McCleskey regarding State Aid Notices for ADE ***	0.10	\$100.00	\$10.00
7/28/2013	EGS	Draft letter to clients regarding upcoming hearing; Email and mail to all; Send copy of Engagement Letter to Eureka Springs School Superintendent with explanation; Prepare for hearing before Judge Fox on Remand ***	4.20	\$300.00	\$1,260.00
7/29/2013	CDB	Prepare for hearing and attend hearing; Conference with Gene Sayre and Kathie Brown; Review Appellate cross appeal brief ***	2.50	\$225.00	\$562.50
7/29/2013	EGS	Attend hearing before Judge Fox regarding Plaintiffs' Post Remand Motion for Release of 98% Guaranteed URT Supplemental Funds; Draft letter to Court Reporter for Judge Fox requesting transcript of the July 29, 2013 hearing before Judge Fox; Review Order by Judge Fox from July 29, 2013 hearing ***	2.50	\$300.00	\$750.00
7/29/2013	KMB	Attend hearing before Judge Fox on remand ***	2.00	\$100.00	\$200.00
7/30/2013	EGS	Review email and comments from Tom Easterly ***	0.10	\$300.00	\$30.00
7/31/2013	KMB	Legal research regarding Motion for Reconsideration, modifying order as law of the case, etc...	2.50	\$100.00	\$250.00
			64.4		
		Eugene G. Sayre - 17.3 hrs @ \$300.00 per hour			\$5,190.00
		Christopher D. Brockett - 7.9 hrs @ \$225.00 per hour			\$1,777.50
		Kathie M. Brown - 39.20 hrs @ \$100.00 per hour			\$3,920.00
					<u>\$10,887.50</u>
				<b>Total Fees:</b>	<b>\$10,887.50</b>
<u>Costs</u>					
June & July 2013		Copier Charge			\$40.00
6/14/2013		Postage			\$10.20
7/3/2013		Postage			\$13.94
7/29/2013		Postage			\$1.38
8/13/2013		Postage			\$10.86
					<u>\$76.38</u>
				<b>Total Costs:</b>	<b>\$76.38</b>
				<b>Subtotal Due:</b>	<b>\$10,963.88</b>
				<b>Balance:</b>	<b>\$10,963.88</b>
		<i>Minus 37.3% for Eureka Springs School District</i>			<u>(\$4,089.53)</u>
		<b>Total Owed by Fountain Lake School District</b>			<b>\$6,874.35</b>



FOUNTAIN LAKE SCHOOL DISTRICT  
4207 PARK AVENUE  
HOT SPRINGS, AR 71901

SIMMONS BANK  
HOT SPRINGS, ARKANSAS

1-182  
828

CHECK NO. 85984

AMOUNT

\$\*\*\*\*\*250.00\*

VOID AFTER ONE YEAR

DATE  
04/07/11

PAY THE SUM OF \*\*\*\*\*250\* DOLLARS AND \*NO\* CENTS

TO THE ORDER OF EUGENE G. SAYRE, PLLC  
401 WEST CAPITOL AVENUE  
SUITE 502  
LITTLE ROCK AR 72201

*Dani Baketh*  
AUTHORIZED SIGNATURE

*Jason C. Cripps*  
AUTHORIZED SIGNATURE

*Danny G. Gault*  
AUTHORIZED SIGNATURE

⑈085984⑈ ⑆082901907⑆ 108092⑈

EUREKA SPRINGS SCHOOL DISTRICT  
147 GREENWOOD HOLLOW ROAD  
EUREKA SPRINGS, AR 72632  
(479) 253-5999

CORNERSTONE BANK  
EUREKA SPRINGS, AR  
81-472629

CHECK NO. 80198

AMOUNT

\$\*\*\*\*\*250.00\*

DATE  
03/31/11

PAY THE SUM OF \*\*\*\*\*250\* DOLLARS AND \*NO\* CENTS

TO THE ORDER OF EUGENE G. SAYRE, PLLC  
401 WEST CAPITOL AVE  
SUITE 502  
LITTLE ROCK AR 72201

*Deborah O. Smith*  
*Wase Carr*

*Wanda Stanford*  
AUTHORIZED SIGNATURE

⑈080198⑈ ⑆082904726⑆ ⑆0006⑈591⑈2⑈

bank

COUNTER DEPOSIT

serving you

DATE 9-22-11

TO THE ACCOUNT OF gene G. Sayre, Ph.D.

FOR CASH RECEIVED

ACCOUNT NUMBER

\* 151802299256 \$

CASH >

CHECK

CHECK OR TOTAL FROM OTHER SIDE >

SUB TOTAL >

LESS CASH RECEIVED >

9405.00

9405.00

20087 (04/10)

2100391

LAKE SCHOOL DISTRICT

6020 E. 17TH AVENUE  
SPRINGFIELD, AR 71801

SIMMONS FIRST BANK  
HOT SPRINGS  
HOT SPRINGS, AR 71901

DATE  
09/14/11

84-199  
660

CHECK NO. 87501

AMOUNT

9,405.00

VOID AFTER ONE YEAR

LAKE SCHOOL DISTRICT  
LAKE SCHOOL DISTRICT

LAKE SCHOOL DISTRICT  
401 WEST CAPITOL AVENUE  
SUITE 602  
HOT SPRINGS, AR 71901

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

AUTHORIZED SIGNATURE

167501 082901907

1080921

130

SCHOOL DISTRICT - HOT SPRINGS, ARKANSAS 71901

CHECK NO. 88586

PURCHASE ORDER NUMBER	INVOICE NUMBER	AMOUNT	DESCRIPTION
163442 163445	INV #67 INV #69	42,755.02 1,974.00	5/11-11/30/11 ADE 98% 5/13-9/27 MILLAGE ROL

VENDOR NAME: HATFIELD & SAYRE

LAKE SCHOOL DISTRICT  
17 PARK AVENUE  
HOT SPRINGS, AR 71901

SIMMONS BANK  
HOT SPRINGS, ARKANSAS

\$1.99  
82¢

CHECK NO. 88586

AMOUNT  
\$44,729.02

DATE  
12/14/11

VOID AFTER ONE YEAR

US OF \$44,729.02 DOLLARS AND 02 CENTS

HATFIELD & SAYRE  
401 WEST CAPITOL AVENUE  
SUITE 502  
HOT SPRINGS, AR 71901

AUTHORIZED SIGNATURE

*Jason Culpepper*

AUTHORIZED SIGNATURE

*Jason Culpepper*

385861# 1:08 290 190 7:0

10809 211#

CHECK NO. 89324

FOUNTAIN LAKE SCHOOL DISTRICT - HOT SPRINGS, ARKANSAS 71901

ACCOUNT NUMBER	INVOICE NUMBER	AMOUNT	DESCRIPTION
200023110000000 63442	INV#000076	16,422 80	12/11-2/29/12

VENDOR NAME: HATFIELD & SAYRE

2899

FOUNTAIN LAKE SCHOOL DISTRICT  
 16422 DOLLARS AND 80 CENTS  
 HATFIELD & SAYRE  
 411 WEST CARTOL AVENUE  
 SUITE 502  
 LITTLE ROCK, AR 72201

DATE: 12/11/12  
 SIMMONS BANK  
 16422 DOLLARS AND 80 CENTS

CHECK NO. 89324  
 AMOUNT 16,422 80  
 VOID AFTER ONE YEAR

*Simon*  
 AUTHORIZED SIGNATURE  
 AUTHORIZED SIGNATURE

⑆089324⑆ ⑆082901907⑆ ⑆08092⑆

CHECK NO. 90459

OUNTAIN LAKE SCHOOL DISTRICT - HOT SPRINGS, ARKANSAS, 71901

ACCOUNT	INVOICE NUMBER	AMOUNT	DESCRIPTION
000231100000000 63442	INV #86	37,618.93	3/1-6/12/12

VENDOR NAME: HATFIELD & SAYRE

2999

FOUNTAIN LAKE SCHOOL DISTRICT  
 4207 PARK AVENUE  
 HOT SPRINGS, AR 71901

SIMMONS BANK  
 HOT SPRINGS, ARKANSAS

CHECK NO. 90459

AMOUNT  
 \$ 37,618.93\*

DATE 07/05/12

VOID AFTER ONE YEAR

PAY THE SUM OF \*\*\*\*\*37618\* DOLLARS AND \*93\* CENTS

TO THE HATFIELD & SAYRE  
 ORDER OF 401 WEST CAPITOL AVENUE  
 SUITE 502  
 LITTLE ROCK AR 72201

*Diana Bakista*  
 AUTHORIZED SIGNATURE  
*Sharon Culp*  
 AUTHORIZED SIGNATURE  
*Diana Bakista*  
 AUTHORIZED SIGNATURE

⑈090459⑈ ⑆082901907⑆

⑆08092⑈

FOUNTAIN LAKE SCHOOL DISTRICT - HOT SPRINGS, ARKANSAS 71901

CHECK NO. 91828

ACCOUNT	INVOICE NUMBER	AMOUNT	DESCRIPTION
200023110000000 63442	000100	12,382.33	6/13-11/1/12 SVC DATE

2999

VENDOR NAME: HATFIELD & SAYRE

FOUNTAIN LAKE SCHOOL DISTRICT  
4207 PARK AVENUE  
HOT SPRINGS, AR 71901

SIMMONS BANK  
HOT SPRINGS, ARKANSAS

81-180  
520

CHECK NO. 91828

AMOUNT

\$\*\*\*\*12,382.33\*

VOID AFTER ONE YEAR

DATE  
11/14/12

PAY THE SUM OF \*\*\*\*\*12382\* DOLLARS AND \*33\* CENTS

TO THE ORDER OF HATFIELD & SAYRE  
401 WEST CAPITOL AVENUE  
SUITE 502  
LITTLE ROCK AR 72201

*Don Bakieth*  
AUTHORIZED SIGNATURE

*Deborah C. Cappelletti*  
AUTHORIZED SIGNATURE

*Deborah C. Cappelletti*  
AUTHORIZED SIGNATURE

⑈091828⑈ ⑆082901907⑆

108092⑈

CHECK NO. 92415

FOUNTAIN LAKE SCHOOL DISTRICT - HOT SPRINGS, ARKANSAS 71901

ACCOUNT	INVOICE NUMBER	AMOUNT	DESCRIPTION
20002310000000 63442	080102	27,031.16	11/8-12/31/12 ADE LAW

VENDOR NAME: HATFIELD & SAYRE

2999

ACCOUNT	INVOICE NUMBER	AMOUNT	DESCRIPTION
2000231100000000 63442	00109	23,476.84	12-5-31-13 ADE SUIT

2999

VENDOR NAME: HATFIELD & SAYRE

**FOUNTAIN LAKE SCHOOL DISTRICT**  
 4207 PARK AVENUE  
 HOT SPRINGS, AR 71901

SIMMONS BANK  
 HOT SPRINGS, ARKANSAS

81-190  
820

CHECK NO. 93888

AMOUNT  
**\$\*\*\*\*23,476.84\***

DATE  
06/18/13

VOID AFTER ONE YEAR

PAY THE SUM OF \*\*\*\*\*23476\* DOLLARS AND \*84\* CENTS

TO THE HATFIELD & SAYRE  
 ORDER OF 401 WEST CAPITOL AVENUE  
 SUITE 502  
 LITTLE ROCK AR 72201

*Don Beckwith*  
 AUTHORIZED SIGNATURE  
*James Caspepp*  
 AUTHORIZED SIGNATURE  
*Dwight Crath*  
 AUTHORIZED SIGNATURE

⑈093888⑈ ⑆082901907⑆

⑆08092⑈



FOUNTAIN LAKE SCHOOL DISTRICT - HOT SPRINGS, ARKANSAS 71901

CHECK NO. 94381

ACCOUNT	PURCHASE ORDER NUMBER	INVOICE NUMBER	AMOUNT	DESCRIPTION
2000231100000000 63442		00114	6,874.35	6/14-6/31/13 ADE

2999

VENDOR NAME: HATFIELD & SAYRE

FOUNTAIN LAKE SCHOOL DISTRICT  
 4207 PARK AVENUE  
 HOT SPRINGS, AR 71901

SIMMONS BANK  
 HOT SPRINGS, ARKANSAS

81-190  
829

CHECK NO. 94381

AMOUNT  
 \$\*\*\*\*\*6,874.35\*

DATE  
 09/05/13

VOID AFTER ONE YEAR

PAY THE SUM OF \*\*\*\*\*6874\* DOLLARS AND \*35\* CENTS

TO THE ORDER OF HATFIELD & SAYRE  
 401 WEST CAPITOL AVENUE  
 SUITE 502  
 LITTLE ROCK AR 72201

*Don Baketh*  
 AUTHORIZED SIGNATURE

*Jason Culp*  
 AUTHORIZED SIGNATURE

*Dwight Pratt*  
 AUTHORIZED SIGNATURE

⑈094381⑈ ⑆082901907⑆

108092⑈

**BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas**

**FOUNTAIN LAKE SCHOOL DISTRICT**

**CLAIMANT**

v.

**ARKANSAS DEPARTMENT OF EDUCATION;**  
**JOHNNY KEY**, Commissioner of the Arkansas  
Department of Education; **MARK GOTCHER**,  
Deputy Commissioner of the Arkansas  
Department of Education; **GREG ROGERS**,  
Assistant Commissioner for Fiscal and  
Administrative Services of the Arkansas  
Department of Education

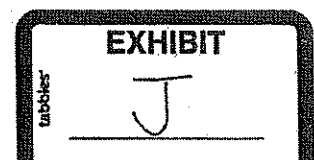
**RESPONDENT**

**AFFIDAVIT OF CHRISTOPHER D. BROCKETT**

Christopher D. Brockett, after having been duly sworn, hereby states under oath as follows:

1. My name is Christopher D. Brockett and I am over the age of eighteen (18) years. I am the sole shareholder of the Law Offices of Christopher D. Brockett, P.A., and practice under the trade names of Hatfield & Sayre, Sayre & Brockett and/or Hatfield, Sayre & Brockett. My home office is located in Ozark, Arkansas. I am competent to testify and have personal knowledge of the facts stated in this Affidavit. I served as co-counsel, along with Eugene G. Sayre (deceased) , for the Eureka Springs School District and the Fountain Lake School District in the lawsuit which was filed by these school districts against the Arkansas Department of Education on May 10, 2011. I give this Affidavit in support of the Fountain Lake School District's claim before the State Claims Commission of the State of Arkansas for reimbursement of attorneys' fees, costs and any other relief deemed appropriate by the Commission.

2. I earned a bachelor of science in Management/Marketing with a minor in Economics/Finance from Arkansas Tech University in Russellville, Arkansas in 2001. I received my law degree from the University of Arkansas at Little Rock and also earned a LLM in taxation from the University of Miami School of Law in 2005. I have practiced law in Arkansas since 2005 and I have served since 2007 as an adjunct professor at the University of Arkansas at Little Rock teaching the courses of Advanced Income Taxation



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and Partnership Taxation. In 2009 I joined Richard F. Hatfield, P.A. and Eugene G. Sayre, PLLC and began practicing under the trade name of Hatfield & Sayre. Throughout my career, I have focused my practice in tax and business law and I have accumulated significant experience in this area of practice.

3. Hatfield & Sayre was a boutique law firm that focused its practice areas in Federal and State tax controversies and planning, estate planning and business law and litigated extensively in each of these areas. Combined, the attorneys at Hatfield & Sayre had over ninety (90) years of legal experience. The hourly rates charged by the attorneys in this law firm were based on qualifications and experience and were commensurate with those charged by attorneys in Arkansas in the types of lawsuits that we were involved.

4. On June 1, 2014, Eugene G. Sayre and I moved from the law firm of Richard F. Hatfield, P.A. (Hatfield & Sayre) and began being associated as Sayre & Brockett. Mr. Sayre was very ill during this time and on March 18, 2015 he passed away. I began assuming Mr. Sayre's workload and became much more involved in the school districts lawsuit against the Arkansas Department of Education.


5. The time spent by the attorneys in our firm in this case was reasonable and necessary to successfully prosecute the Plaintiffs' causes of action in this litigation, in both the Pulaski County Court and before the Arkansas Supreme Court.

6. The total amount of professional fees charged by Hatfield & Sayre for professional legal services related to prosecuting this litigation on behalf of the Plaintiffs was a total of \$180,677.12 through July 31, 2013.

7. The total amount of 98% URT Guaranteed Rate of Adjustment funds that were NOT paid to the Fountain Lake School District (which the school district qualified for by statute) during the years of 2010 – 2011 and 2011 – 2012 were a total of \$391,551.00.

Further, Affiant saith not.

Executed this 4<sup>th</sup> day of April 2016.

  
Christopher D. Brockett

**ACKNOWLEDGMENT**

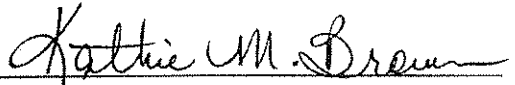
STATE OF ARKANSAS )  
                                  )  
COUNTY OF PULASKI )

SWORN TO AND SUBSCRIBED by Christopher D. Brockett, who appeared and stated that he has caused the foregoing Affidavit of Christopher D. Brockett to be prepared and that he has executed such Affidavit and that the statements of fact contained therein are true and correct to the best of his knowledge and belief.

Executed this 4<sup>th</sup> day of April 2016, to certify which witness my hand and seal of office.



(SEAL)

  
Notary Public, State of Arkansas

**11-1289**

**IN THE ARKANSAS SUPREME COURT**

**THOMAS W. KIMBRELL, et al.**

**APPELLANT**

**v.**

**Case No: 11-1289**

**BOB ALLEN McCLESKEY, et al.**

**APPELLEE**

---

**ON APPEAL FROM THE CIRCUIT COURT  
OF PULASKI COUNTY**

**THE HONORABLE TIMOTHY FOX, CIRCUIT JUDGE**

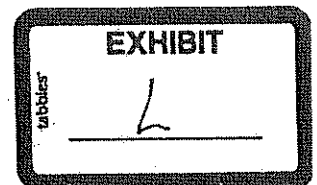
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**APPELLANTS' ABSTRACT, BRIEF, AND ADDENDUM  
VOLUME I**

---

**DUSTIN McDANIEL  
ARKANSAS ATTORNEY GENERAL**

**By: Scott P. Richardson, No. 01208  
Assistant Attorney General  
323 Center Street, Suite 200  
Little Rock, AR 72201-2610  
(501) 682-1019  
scott.richardson@arkansasag.gov**



school year, Eureka Springs School District received \$7,290.50 per student from the URT and Fountain Lake received \$7,160.49 per student from the URT.

The Arkansas Department of Education ("ADE") took three actions as a result of this situation: the ADE 1) required the districts to adjust their budgets so that this extra revenue would not be used as on-going revenue (Ark. Code Ann. § 6-20-2202); 2) requested that the Districts remit the amount of revenue they received beyond the Foundation Funding Amount to ADE; and 3) ADE did not distribute funds to the districts under the 98% collection rate adjustment (Ark. Code Ann. § 6-20-2305(a)(4)). The districts 1) refused to adjust their budgets and 2) refused to remit the URT revenue in excess of Foundation Funding. The Districts sued ADE alleging that ADE did not have authority to recoup URT revenue in excess of Foundation Funding. The Circuit Court agreed and issued an injunction prohibiting the ADE from taking any action to recoup URT revenue in excess of Foundation Funding. This appeal followed.

**IV. IS THE ONLY ISSUE ON APPEAL WHETHER THE EVIDENCE IS SUFFICIENT TO SUPPORT THE JUDGMENT?**

No

**V. EXTRAORDINARY ISSUES. (Check if applicable, and discuss in PARAGRAPH 2 of the Jurisdictional Statement.)**

appeal presents issue of first impression,

**BEFORE THE STATE CLAIMS COMMISSION  
Of the State of Arkansas**

**FOUNTAIN LAKE SCHOOL DISTRICT**

**CLAIMANT**

v.

**ARKANSAS DEPARTMENT OF EDUCATION**

**RESPONDENT**

**SUPPLEMENTAL AFFIDAVIT OF DARIN BECKWITH**

Comes now Darin Beckwith, and swears and deposes as follows:

1. My name is Darin Beckwith, I am more than 21 years of age and I make this Affidavit of my own personal knowledge.

2. I am presently employed as the Superintendent of the Fountain Lake School District and I have held that administrative position with the Fountain Lake School District since July 1, 2007.

3. During the 2010 – 2011 school year the Arkansas Department of Education (ADE) illegally assessed what the ADE called “excess” 25-mill ad valorem taxes against the school district in the total amount of \$1,387,567 for the 2010 – 2011 school year. The ADE also denied the budget for Fountain Lake, and thus withheld categorical funding and the General Assembly appropriated 98% URT Guaranteed Rate of Adjustment funds (Ark. Code Ann. § 6-20-2305(a)(4)).

4. On May 10, 2011, the Fountain Lake School District filed suit against the Arkansas Department of Education in the Pulaski County Circuit Court. This action was styled *McCleskey, et al v. Kimbrell, et al*, 60CV2011-2321. This action was won by the school district with the exception of the URT being State Funds. The Arkansas Department of Education filed a subsequent appeal to the Arkansas Supreme Court and the school district filed a Cross Appeal

143  
**EXHIBIT**

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to the Arkansas Supreme Court (*Kimbrell v. McCleskey*, 2012 Ark. 443 (Ark. 2012)). On November 29, 2012, the Arkansas Supreme Court issued an Opinion and the school district was the "prevailing party" on all points.

5. Fountain Lake School District paid \$180,677.12 in attorneys' fees and costs to Eugene G. Sayre and Christopher Brockett (Hatfield & Sayre and/or Sayre & Brockett) from January 5, 2011 to July 31, 2013 regarding this lawsuit against the Arkansas Department of Education.

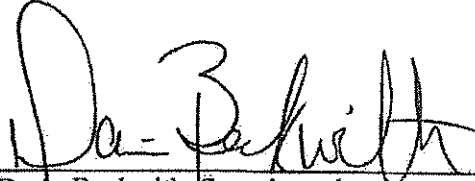
6. As the Superintendent of the Fountain Lake School District, I have personally ascertained that the Fountain Lake School District, though eligible, did not receive any 98% guaranteed funds from the ADE during either of the school years 2010 – 2011 or 2011 – 2012.

7. The Fountain Lake School District was entitled to receive during the 2010 – 2011 school year the amount of \$226,997.00 in 98% guaranteed URT monies (Ark. Code Ann. § 6-20-2305(a)(4)), which are funds from the State of Arkansas that are appropriated to make up the shortfall in URT generated collections by the Garland and Saline County Treasurers.

8. Likewise, in the 2011 - 2012 school year, Fountain Lake School District was entitled to receive the amount of \$164,554.00 in 98% guaranteed URT monies (Ark. Code Ann. § 6-20-2305(a)(4)).

9. Further Affiant saith not,

Executed this 31 day of March 2016.

  
Darin Beckwith, Superintendent



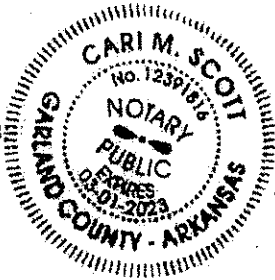
ACKNOWLEDGMENT

STATE OF ARKANSAS )  
                                  )  
COUNTY OF GARLAND )

SWORN TO AND SUBSCRIBED by Darin Beckwith, Superintendent of the Fountain Lake School District, who appeared and stated that he has caused the foregoing Supplemental Affidavit of Darin Beckwith to be prepared and that he has executed such Affidavit and that the statements of fact contained therein are true and correct to the best of his knowledge and belief.

Executed this 31<sup>st</sup> day of March 2016, to certify which witness my hand and seal of office.

My Commission Expires  
3/1/2023  
(SEAL)



Cari M. Scott  
Notary Public, State of Arkansas

Stricken language would be deleted from and underlined language would be added to present law.  
Act 557 of the Regular Session

1 State of Arkansas  
2 89th General Assembly  
3 Regular Session, 2013

# A Bill

SENATE BILL 425

4  
5 By: Senators D. Johnson, E. Cheatham, Elliott, J. Hendren, Holland, U. Lindsey, B. Pierce  
6 By: Representatives Dale, C. Armstrong, Catlett, Cozart, Deffenbaugh, J. Dickinson, Hobbs, Hopper, Jett,  
7 Lampkin, Lea, Lenderman, Lowery, McLean, Murdock, Perry, Ratliff, Talley, Wardlaw, Wren

## For An Act To Be Entitled

8  
9  
10 AN ACT TO AMEND THE DISTRIBUTION OF STATE FUNDING TO  
11 SCHOOL DISTRICTS BASED ON NINETY-EIGHT PERCENT (98%)  
12 OF THE SCHOOL DISTRICT ASSESSMENT FOR THE UNIFORM  
13 RATE OF TAX; AND FOR OTHER PURPOSES.

## Subtitle

14  
15  
16  
17 TO AMEND THE DISTRIBUTION OF STATE  
18 FUNDING TO SCHOOL DISTRICTS BASED ON 98%  
19 OF THE SCHOOL DISTRICT ASSESSMENT FOR THE  
20 UNIFORM RATE OF TAX.

21  
22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24  
25 SECTION 1. Arkansas Code § 6-20-2303(21), concerning the definition of  
26 "state foundation funding aid," is amended to read as follows:

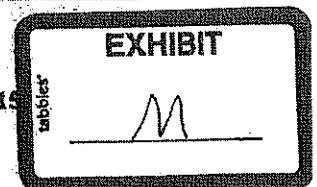
27 (21) "State foundation funding aid" means the amount of state  
28 financial aid provided to each a school district under § 6-20-2305(a)(4) and  
29 ~~computed as the difference between the foundation funding amount established~~  
30 ~~by the General Assembly and the sum of ninety eight percent (98%) of the~~  
31 ~~uniform rate of tax multiplied by the property assessment of the school~~  
32 ~~district plus the miscellaneous funds of the school district;~~

33  
34 SECTION 2. Arkansas Code § 6-20-2305(a)(4), concerning school funding,  
35 is amended to read as follows:

36 (4)(A)(1) By Except as provided in subdivisions (4)(C) and (D)



02-20-2013 15



1 of this section, by the end of each school fiscal year, for a school district  
 2 whose net revenues are less than the sum of ninety-eight percent (98%) of the  
 3 uniform rate of tax multiplied by the property assessment of the school  
 4 district, the Department of Education shall distribute to the school district  
 5 the difference between:

6 ~~(4)(a)~~ The net revenues distributed to the  
 7 school district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar  
 8 year immediately preceding the current school year; and

9 ~~(4)(b)~~ The sum of ninety-eight percent (98%)  
 10 of the uniform rate of tax multiplied by the property assessment of the  
 11 school district.

12 (ii) The Department of Education may distribute to  
 13 the school district a lesser amount than required under subdivisions  
 14 (a)(4)(A)(i)(a) and (b) if after the lesser amount is distributed the school  
 15 district will receive the foundation funding amount under § 6-20-2305(a).

16 (B) For a school district whose net revenues are more than  
 17 the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied  
 18 by the property assessment of the school district, the Department of  
 19 Education, under the authority of § 6-20-2306, shall recoup from the school  
 20 district an amount equal to the difference between:

21 (i) The net revenues of the school district; and

22 (ii) The sum of ninety-eight percent (98%) of the  
 23 uniform rate of tax multiplied by the property assessment of the school  
 24 district.

25 (C) The Department of Education shall not distribute to a  
 26 school district the funds under subdivision (a)(4)(A)(i) of this section if,  
 27 regardless of the school district's tax collection rate, the school  
 28 district's net revenues meet or exceed the foundation funding amount set  
 29 forth in § 6-20-2305(a).

30 ~~(C)(4)(D)(i)~~ Data A school district shall submit annually  
 31 to the Department of Education data to verify the timely receipt of revenues  
 32 applicable to the required ninety-eight percent (98%) of the uniform rate of  
 33 tax multiplied by the property assessment of the school district shall be  
 34 received annually by the Department of Education under § 26-80-  
 35 101(b)(4)(A)(ii).

36 (ii)(a) ~~Data may be appropriately adjusted by the~~

1 ~~Department of Education if it is determined~~ The Department of Education may  
 2 adjust data appropriately if it determines that irregular distributions by a  
 3 county treasurer of excess commissions cause a school district's property tax  
 4 collection rate from the uniform rate of tax to exceed ninety-eight percent  
 5 (98%).

6 (b) The Department of Education may adjust the  
 7 uniform rate of tax from an irregular distribution to an amount not in excess  
 8 of ninety-eight percent (98%) and apply the excess distribution amount the  
 9 following school year.

10 (11) Evidence of overlapping revenue reporting or  
 11 irregular distributions shall be provided in the form required by the  
 12 Department of Education.

13  
 14 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
 15 General Assembly of the State of Arkansas that the Arkansas Constitution  
 16 requires the State of Arkansas to provide a general, suitable, and efficient  
 17 system of public education that provides a substantially equal opportunity  
 18 for an adequate education to all public school students; that school  
 19 districts prepare their annual budgets based upon the distribution of funds  
 20 under § 6-20-2305(a)(4); and that, in order to ensure that a substantially  
 21 equal opportunity for an adequate education is provided, this act is  
 22 immediately necessary so that a school district may prepare its budgets for  
 23 the 2013-2014 school year based upon the new law. Therefore, an emergency is  
 24 declared to exist, and this act being immediately necessary for the  
 25 preservation of the public peace, health, and safety shall become effective  
 26 on:

27 (1) The date of its approval by the Governor;

28 (2) If the bill is neither approved nor vetoed by the Governor, the  
 29 expiration of the period of time during which the Governor may veto the bill;  
 30 or

31 (3) If the bill is vetoed by the Governor and the veto is overridden,  
 32 the date the last house overrides the veto.

33  
 34  
 35 APPROVED: 04/02/2013  
 36

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

FOUNTAIN LAKE SCHOOL DISTRICT

CLAIMANT

v.

Claim No. 16-0658-CC

ARKANSAS DEPARTMENT OF EDUCATION;  
JOHNNY KEY, Commissioner of the Arkansas  
Department of Education; MARK GOTCHER,  
Deputy Commissioner of the Arkansas Department  
of Education; GREG ROGERS, Assistant Commissioner  
for Fiscal and Administrative Services of the Arkansas  
Department of Education

Arkansas  
State Claims Commission

MAY 09 2016

RECEIVED

RESPONDENTS

RESPONDENTS' MOTION TO DISMISS

Come the Respondents, the Arkansas Department of Education, Commissioner Johnny Key, Deputy Commissioner Mark Gotcher, and Assistant Commissioner Greg Rogers and for their motion to dismiss state:

1. On April 6, 2016, Claimant, the Fountain Lake School District, filed the instant action seeking an order awarding it attorneys' fees and costs in the amount of \$180,677.12 incurred during the litigation of *McCleskey v. Kimbrell*, Pulaski County Circuit Court Case No. 60-CV-2011-2321. The Claimant appears to request additional relief in the form of over \$390,000 it claims is due for collection rate adjustments that were litigated in the *McCleskey* case.
2. The Respondents deny any liability and contest the current claim.
3. The Claim should be dismissed for lack of jurisdiction pursuant to Rule 12(b)(1) of the Arkansas Rules of Civil Procedure (as adopted by this Commission's rules) and pursuant to Rule 12(b)(6) for failure to state a claim.


4. Claimant does not have a right under Arkansas law to recover attorneys' fees because Arkansas law requires each party to bear its own attorneys' fees absent a statutory provision or agreement. There is no statutory or contractual right to attorneys' fees in this case.

5. Claimant's request for additional relief in the form of its collection rate adjustments for the 2010-2011 and 2011-2012 school years is barred by the doctrine of res judicata because the Pulaski County Circuit Court and Arkansas Supreme Court have already ruled in the Respondents' favor on this aspect of the Claim.

6. For the reasons stated herein and more particularly described in the accompanying supporting brief, the claim filed by the Fountain Lake School District should be dismissed.

WHEREFORE, the Respondents pray that the Commission dismiss Fountain Lakes' claim. Respectfully submitted,

LESLIE RUTLEDGE  
ATTORNEY GENERAL

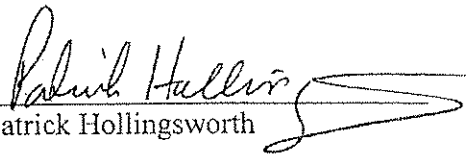
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Attorneys for the Respondents

CERTIFICATE OF SERVICE

I, Patrick Hollingsworth, hereby certify that on May 9, 2016, I caused the foregoing to be placed in the United States Mail, with sufficient postage prepaid, addressed to the following:

Christopher D. Brockett  
401 West Commercial  
Ozark, AR 72949

  
Patrick Hollingsworth

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

FOUNTAIN LAKE SCHOOL DISTRICT

CLAIMANT

v.

Claim No. 16-0658-CC

ARKANSAS DEPARTMENT OF EDUCATION;  
JOHNNY KEY, Commissioner of the Arkansas  
Department of Education; MARK GOTCHER,  
Deputy Commissioner of the Arkansas Department  
of Education; GREG ROGERS, Assistant Commissioner  
for Fiscal and Administrative services of the Arkansas  
Department of Education

Arkansas  
State Claims Commission

JUN 13 2016

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RESPONDENTS

REPLY TO REPOSENSE TO MOTION TO DISMISS

The Fountain Lake School District asks the State of Arkansas to pay nearly \$200,000 in attorneys' fees and "any additional monetary amount which this Commission might deem appropriate." The District has not, however, pointed to any legal principle that entitles it to payment.

**I. As a matter of law the Claimant is not entitled to attorneys' fees.**

The District's response to the Motion to Dismiss does not dispute the legal principle that controls this issue: there is no right to attorneys' fees unless specifically provided by statute or contract. *Damron v. University Estates*, 295 Ark. 533, 750 S.W.2d 402 (1988). The District does not contend that there is a contract or a statute that gives it a right to attorney's fees. Is the District entitled to attorneys' fees from the State when the substantive law provides no such right?

The District cites the case of *Walters v. Arkansas Department of Human Services*, apparently suggesting that the Claims Commission may award attorney's fees whenever there has been a judgment against the State. 83 Ark. App. 85, 118 S.W.3d 134 (2003). In *Walters*,



however, the Court, not the Claims Commission awarded fees. There was specific statutory authority for the fees awarded by the Court. The Court simply noted that the beneficiary of the fee award would need to come to the Commission for payment because there was no funded appropriation available. *Walters* does not say, or even imply, that the Claims Commission may award attorneys' fees where there is no statutory or contractual right to fees.

The District contends that this Commission must have jurisdiction over an attorney's fee claim in this case because, in its view, the Respondents were immune from a fee award in the Circuit Court. Whether jurisdiction over a fee award rests with the Circuit Court or this Commission is not decisive. If the Circuit Court did not have jurisdiction, the Commission may not award attorneys' fees because the law does not provide for fees in this case, and because the Commission may not make awards for claims that have no basis in law or fact. Ark. Code Ann. § 19-10-204(b)(3)(A). If the Circuit Court did have jurisdiction, and the District simply failed to get a ruling, the Commission has no jurisdiction. Ark. Code Ann. § 19-10-204(b)(2)(A). In either scenario, the Fountain Lake School District does not state a claim for attorneys' fees.

## **II. The Claimant is not entitled to an "additional monetary amount"**

The District has clarified that it is not asking for compensation for a so-called Collection Rate Adjustment that adjusts Foundation Funding for school districts that collect less than 98% of the Uniform Rate of Tax. The District *now* says it wants an unspecified "additional monetary amount which this Commission might deem appropriate in this circumstance." Neither the Claim nor the District's response to the motion to dismiss explain the facts or the law that might support any additional claim. This claim fails for two reasons.

First, the facts alleged in the District's claim all involve the circumstances at issue in the now concluded state court litigation. If the District had some further claim for damages, that

claim is barred by principles of *res judicata* because a party may not later make claims that could have been, but were not actually, litigated in the previous case. *Wells v. Arkansas Public Service Commission*, 272 Ark. 481, 483, 616 S.W.2d 718, 719 (1981). If the District had a claim for some other “monetary amount” it could and should have pursued that claim in circuit court. The District insists that the Respondents were not immune from suit. Cl. Resp. to Motion to Dismiss, pg. 4. If, as the District suggests, the Circuit Court had jurisdiction to require monetary recovery of other types, any claim that the District might have raised at that time was barred when the Circuit Court entered its final judgment.

The Claims Commission has no discretion to make an award where the law does not provide for liability; it must follow Arkansas law. The Claims Commission may make an award only when a court, absent immunity, would have made an order based on the facts and applicable law. Ark. Code Ann. § 19-10-204(b)(3)(A). Because any additional claim is barred by *res judicata*, the District states no claim for “additional monetary recovery.”

Moreover, the District claims that the conduct of the Respondents which supposedly led to damages was illegal or ultra vires action, and that this means the Respondents have no immunity. Assuming, for the sake of argument, that this is true, the District’s argument is self-defeating. If the conduct at issue was outside the scope of the State’s immunity, the Commission has no jurisdiction.

Finally, to state any claim a claimant must plead facts “showing that the pleader is entitled to relief.” Ark. R. Civ. P. 8(a), Claims Commission Rule 1.5(d). The District asserts it was treated unfairly by the Respondents, but does not explain what, if any, damages it incurred, or how those damages might have been caused by the Respondents. Nor does the District refer to any legal theory or precedent that would give it a right to recover money from the


Respondents. The Claim does not detail, either categorically or numerically, the “additional monetary amount sought.” It is impossible to identify from the Claim any action of the Respondents that caused other financial harm to the District. The only loss identified – the Collection Rate Adjustment sought but not awarded – was in part a result of errors by the Claimant in presenting its case and, as the Claimant concedes, is barred by *res judicata*.

The Claim should be dismissed for failure to state a claim because it states no facts which, under applicable law, entitle the Fountain Lake School District to either attorneys’ fees or unspecified additional damages.

Respectfully submitted,

LESLIE RUTLEDGE  
ATTORNEY GENERAL

By:

  
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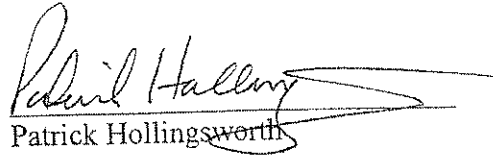
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[patrick.hollingsworth@arkansasag.gov](mailto:patrick.hollingsworth@arkansasag.gov)

Attorneys for the Respondents

**CERTIFICATE OF SERVICE**

I, Patrick Hollingsworth, hereby certify that on June 13, 2016, I caused the foregoing to be placed in the United States Mail, with sufficient postage prepaid, addressed to the following:

Christopher D. Brockett  
401 West Commercial  
Ozark, AR 72949

  
Patrick Hollingsworth

STATE CLAIMS COMMISSION DOCKET  
OPINION

Amount of Claim \$ 180,677.12 Claim No. 16-0658-CC

Fountain Lake School District Claimant Attorneys  
Christopher D. Brockett, Attorney Claimant

vs.

AR Dept. of Education Respondent Attorneys  
Patrick Hollingsworth, Attorney Respondent

State of Arkansas

Date Filed April 4, 2016 Type of Claim Other

FINDING OF FACTS

The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 3, 4, and 5 contained in the motion:

3. The Claim should be dismissed for lack of jurisdiction pursuant to Rule 12(b)(1) of the Arkansas Rules of Civil Procedure (as adopted by this Commission's rules) and pursuant to Rule 12(b)(6) for failure to state a claim.

4. Claimant does not have a right under Arkansas law to recover attorneys' fees because Arkansas law requires each party to bear its own attorneys' fees absent a statutory provision or agreement. There is no statutory or contractual right to attorneys' fees in this case.

5. Claimant's request for additional relief in the form of its collection rate adjustments for the 2010-2011 and 2011-2012 school years is barred by the doctrine of res judicata because the Pulaski County Circuit Court and Arkansas Supreme Court have already ruled in the Respondent's favor on this aspect of the Claim.

Therefore, this claim is hereby unanimously denied and dismissed.

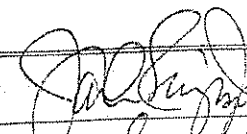
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CONCLUSION

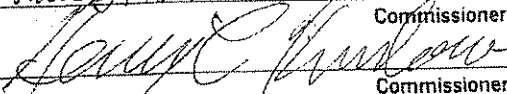
The Claims Commission hereby unanimously grants the Respondent's "Motion to Dismiss" for reasons set forth in paragraphs 3-5 contained in the motion. Therefore, this claim is hereby unanimously denied and dismissed.

Date of Hearing July 14, 2016

Date of Disposition August 23, 2016

  
Chairman

  
Commissioner

  
Commissioner

**ROBERTSON, BEASLEY & SHIPLEY, PLLC**

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*14-0658-cc*

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August 19, 2016  
**VIA HAND DELIVERY ONLY**

Ms. Brenda Wade, Director  
Arkansas Claims Commission  
101 East Capitol Avenue, Suite 410  
Little Rock, Arkansas 72201

**RE: Fountain Lake July 14, 2016 Decision Appeal**

Dear Ms. Wade:

As you are aware, the undersigned represents Fountain Lake School District and we are in receipt of the Arkansas Claims Commission decision dated July 14, 2016 dismissing Fountain Lake School District's Claim for reimbursement of attorney fees. Pursuant to Ark. Code Ann. 19-10-211(b)(1), Fountain Lake School District requests that this matter be designated for appeal to the Arkansas General Assembly.

Should you have any questions or need any additional information, please call.

Regards,

  
Christopher D. Brockett

cc: Mr. Michael Murphy,  
Fountain Lake School District

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LITTLE ROCK OFFICE  
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Please respond to this mailing address

**The Fountain Lake School District submits this document as its Appeal to Joint Budget Committee (Claims Review Subcommittee) Claim No. 16-0658-CC, hearing dated February 6, 2017.**

The Fountain Lake School District appeals the rejection of its request for reimbursement of attorney fees in the amount of \$180,677 based on the following.

Under A.C.A. § 19-10-204, The Arkansas Claims Commission has EXCLUSIVE jurisdiction over all claims against the State of Arkansas and its agencies, except as otherwise provided by law. In addition, this statute states that the Commission has jurisdiction only over those claims which are barred by the doctrine of sovereign immunity from being litigated in a court of general jurisdiction (Article 5 § 20). Further, the Commission shall make no award for any claim which, as a matter of law, would be dismissed from a court of law or equity for reasons other than sovereign immunity.

Because of the above statutes, the school district's attorney realized that only the Arkansas Claims Commission could provide relief against the actions of a state agency. Even then, the issue of sovereign immunity would have to be overcome in order to prevail. The school district submits that they overcame the issue of sovereign immunity by the favorable decision of the Arkansas Supreme Court in "*Kimbrell v. McCleskey, 2012 Ark. 443 (Ark. 2012) Docket #11-1289*".

The decision of the Arkansas Supreme Court was that the ADE was acting "ultra vires" (illegally) thus was NOT protected by sovereign immunity. The net-net is that in order to prevent the ADE from illegally extracting a significant amount of URT tax revenues, the FLSD was forced to incur significant costs (\$180,677) in attorney fee (plus other unclaimed internal expenses).

Even though there may not be a statute which specifically awards attorney fees as argued by ADE, neither is there a statute which permits a state agency to perform an "ultra vires" action with impunity. Which is exactly what the ADE did when it demanded a portion of the URT tax revenues from FLSD without legal authority as determined by both an Arkansas Circuit Court and affirmed by the AR Supreme Court.

Under the Rules and Regulations of this Commission (A.C.A. § 19-10-201 et. seq.), it is stated that **"In some instances, the Commission has ruled to award monetary damages when a deficiency is found within a state agency's operations, methods or procedures that can be attributable to the exclusive control of the agency."**

Monetary damages can include many different terms and awards of payment including full restitution, fines or punishment to act as a deterrent to others who might engage in similar misconduct. Whether or not the Commission/General Assembly wants to call it attorney fees, expenses, damages or fines, this is money that the school district had to take from their budget in order to defend against an illegal act of the **state agency** who had extensive control over them.

The Arkansas Claims Commission has funds appropriated for the 2016-2017 year in the amount of \$1,750,000 (Act 158) to make awards to aggrieved parties as they see fit. Fountain Lake School District submits that they are fully justified in anticipating reimbursement of \$180,677 of funds lost through no fault of their own, but only because of the illegal actions of the ADE.

Submitted by Dr. Michael Murphy, Superintendent, Fountain Lake School District