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9 MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS & CLARK COUNTY
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11 **COLUMBIA FALLS** Elem. School Dist.)
No. 6 and H.S. Dist. No. 6,)
12 **EAST HELENA** Elem. Dist. No. 9,)
HELENA Elem. Dist. No. 1 and H.S.)
13 Dist. No. 1,)
BILLINGS Elem. Dist. No. 2 and H.S.)
14 Dist. No. 2,)
WHITE SULPHUR SPRINGS Elem. Dist. No. 8)
15 and H.S. Dist. No. 8,)
TROY Elem. Dist. No. 1 and H.S.)
16 Dist. No. 1,)
MEA-MFT,)
17 **MONTANA SCHOOL BOARDS ASSOCIATION**)
MONTANA RURAL EDUCATION ASSOCIATION,)
18 **SCHOOL ADMINISTRATORS OF MONTANA,**)
ALAN & NANCY NICHOLSON,)
19 **PETER & CHERYL MARCHI,**)
MICHAEL & SUSAN NICOSIA, for themselves)
20 and as parents of their minor children,)

21)
22 Plaintiffs)

23 v.)

24 **THE STATE OF MONTANA,**)
25)

26 Defendant)

No. **BDV-2002-528**

**MEMORANDUM IN
SUPPORT OF
PLAINTIFFS' RENEWED
MOTION FOR
SUPPLEMENTAL RELIEF
AND AN ORDER
TO SHOW CAUSE**

1 Plaintiffs respectfully submit this brief Memorandum in support of their Renewed Motion
2 for Supplemental Relief and an Order to Show Cause, dated February 5, 2008. In doing so,
3 Plaintiffs incorporate by reference:

- 4 - *Plaintiffs' Memorandum In Support of Motion for Supplemental Relief and an*
5 *Order to Show Cause*, dated June 13, 2006, and the affidavits and materials filed
6 with that Memorandum; and
- 7 - *Plaintiffs' Reply Memorandum In Support of Motion for Supplemental Relief and*
8 *an Order to Show Cause*, dated July 13, 2006.

9 The arguments and authorities set forth in these previously filed briefs and supporting materials
10 remain applicable to Plaintiffs' current, Renewed Motion.

11 As alleged in Plaintiffs' Renewed Motion, due to inadequate funding increases provided
12 by the State for Fiscal Year 2009 (school year 2008-09), school districts throughout Montana
13 again are forced to cut budgets and/or seek increased local property tax levies. This situation is a
14 symptom of, and demonstrates the ongoing, fundamental problem with the school funding system:
15 it is not based on a determination of the costs necessary to provide the programs and services
16 identified in the statutory definition of the "basic system of free quality public elementary and
17 secondary schools."

18 The Montana Legislature recognized its constitutional obligation to develop a funding
19 system that is based on the costs of providing quality schools by enacting Senate Bill 152 in 2005,
20 now codified at MCA § 20-9-309 (2007). Indeed, the Legislature gave itself until July 1, 2007 to
21 accomplish that constitutional obligation. It failed to do so. Partly as a consequence of that
22 failure, school districts are now facing the same kinds of budgeting decisions that precipitated this
23 constitutional challenge – a mere three years after the Montana Supreme Court's decision
24 affirming this Court's declaration that the school funding system is unconstitutional.

25 Without the kind of long-term, structural reforms that the Legislature mandated itself to
26

1 enact, the cuts facing districts for FY 09 are but a harbinger of what will inevitably occur when
2 the State's revenues are not increasing like they have been in recent years. The State has defined
3 the basic system of free quality public elementary and secondary schools, as it was
4 constitutionally obligated to do. The State has statutorily mandated itself to enact a funding
5 system that reflects the costs of providing the programs and services required by that definition,
6 again consistent with its constitutional obligations. It has failed, however, to accomplish that
7 necessary task by the statutory deadline of July 1, 2007 (a deadline nearly two years after the
8 October 1, 2005 compliance deadline set by this Court and affirmed by the Supreme Court). .

9 This Court should set this matter for a Hearing, at which the State should be required to
10 show cause why further relief should not be granted. That further relief is "necessary [and]
11 proper" in order to protect the rights of students in Montana's public schools by enforcing the
12 State's constitutional obligations as construed by the Montana Supreme Court and this Court.
13 MCA § 27-8-313 (2007).

14 RESPECTFULLY SUBMITTED this 13th day of February, 2008.

15 GOETZ, GALLIK & BALDWIN, P.C.

16 MOLLOY LAW FIRM

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18 BY: 

19 JAMES P. MOLLOY
20 Attorneys for Plaintiffs
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