

D-1-GN-06-002156

EDD HENDEE, Individually and as  
Executive Director of C.L.O.U.T.,  
*Plaintiff,*

v.

DAVID DEWHURST, TOM CRADDICK,  
CAROLE KEETON STRAYHORN, STATE OF  
TEXAS, and the TEXAS LEGISLATIVE  
BUDGET BOARD,  
*Defendants.*

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In the District Court of

Travis County, Texas

345th Judicial District

Filed in The District Court  
of Travis County, Texas JC

JUL 19 2006

At 4:16P

M.  
Amalia Rodriguez-Mendoza, Clerk

**ORIGINAL ANSWER AND STATEMENT OF REALIGNMENT  
OF DEFENDANT CAROLE KEETON STRAYHORN** *AM*

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant CAROLE KEETON STRAYHORN, in her Official Capacity as Comptroller of Public Accounts for the State of Texas (hereinafter "Defendant"), files this Original Answer and Statement of Realignment, and would show the Court as follows:

**ORIGINAL ANSWER**

**I.**

Defendant denies that, as Texas Comptroller, Defendant has any authority to certify that appropriations are within the expenditure limitations imposed by Article VIII, §22(a), Texas Constitution.

And, Defendant denies that, as Texas Comptroller, Defendant had, or at any time has had, any authority to enact the appropriations about which Plaintiffs complain, or to sign them into law. Those are the functions of the Legislature, under the leadership of two of the other defendants, and Governor Perry, not made a party to this cause.

*-1 AM*

And, Defendant denies that, as Texas Comptroller, Defendant had any involvement in enactment or signing into law of TEX. GOV'T CODE §316.001 et. seq., the general law authorized by Article VIII, §22(a), Texas Constitution, establishing the procedure for adoption of the rate of growth of the State's economy, which procedure Plaintiff contends is unconstitutional.

## II.

Defendant would show this Honorable Court that Defendant has heretofore expressed her serious concern about the amount of appropriations in House Bill 1, enacted by the 79<sup>th</sup> Legislature, Third Called Session, and signed into law by Governor Perry, which Plaintiff contends exceeds the limitation on the rate of growth of state spending imposed by Article VIII, §22(a), Texas Constitution.

Defendant would further show that Defendant fulfilled her constitutional responsibility under Article III, §49a, Texas Constitution, and certified House Bill 1, only because of the \$8.2 billion surplus of the State then existent, and did so only through Fiscal Year 2007. While Defendant certified that House Bill 1 through Fiscal Year 2007 was within the pay-as-you-go, no deficit spending mandate of Article III, §49a, the growth rate limitation imposed by Article VIII, §22(a) does not authorize any certification by the Comptroller that spending is within its limitations.

Because Article VIII, §22(a) does not subject legislative spending decisions to a certification process, Defendant welcomes and urges this Honorable Court's careful review of the issues presented to ensure that House Bill 1 and appropriations legislation enacted hereafter is in compliance with Article VIII, §22(a), and to ensure the constitutionality and lawfulness of the rate of growth determination process, to the extent such review is permitted by law.

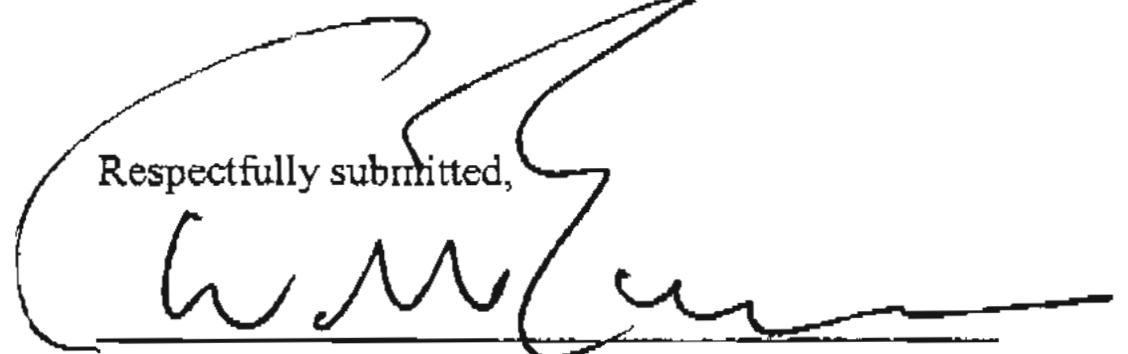
**STATEMENT OF REALIGNMENT****III.**

Defendant reserves for future pleadings a full statement of her positions on the merits, but Defendant realigns with Plaintiffs in contending that meaningful control of, and effective limitations on, state spending was intended by the voters in adopting Article VIII, §22(a), and that the same should be enforced by appropriate judgments of this Court, to the extent authorized by law.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED,** Defendant respectfully prays that this Honorable Court enter such judgments as may be shown to be appropriate, just, required and authorized by law.

Respectfully submitted,



**TIMOTHY MASHBURN**

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