

TWELFTH JUDICIAL DISTRICT COURT
COUNTY OF LINCOLN
STATE OF NEW MEXICO

FILED
DISTRICT COURT OF
LINCOLN COUNTY, N.M.

2010 AUG -5 PM 1:31

JAN PERRY
CLERK _____ BY _____

[Handwritten Signature]
BOOKETED

GABRIEL POLACO

Plaintiff,

Cause No. CV-2010-00075

vs.

HONDO MUNICIPAL SCHOOL DISTRICT,

Defendant.

STIPULATED MOTION TO AMEND COMPLAINT

COMES NOW Plaintiff, Gabriel Polaco, by and through counsel of record, J. ROBERT BEAUVAIS, P.A., by J. Robert Beauvais and for his motion states:

1. Defendant has answered and alleged Hondo Valley Schools is not a proper party and Plaintiff should have sued the Hondo Valley School Board.
2. Enclosed is a proposed form of amended complaint as required by the rules of civil procedure.
3. Concurrence of opposing counsel was sought and he does concur.
4. Argument

Amendment of pleadings are favored in the absence of a showing of prejudice. Rule 1-015 NMRA 2010; Amica Mutual Ins. Co. v. McRostie 2006 NMCA 046 cert denied, 2006 NMCERT 4.

5. Defendant cannot show prejudice as the complaint was adequate under

notice pleading; no scheduling order has been set and not trial set in this matter.

WHEREFORE Plaintiff prays the court for its order allowing amendment of his complaint and for such other and further relief as to the court appears just and proper.

Respectfully Submitted:



J. ROBERT BEAUVAIS, P.A.
J. Robert Beauvais
P.O. Box 2408
Ruidoso, New Mexico 88345
(575) 257-6321

Certificate of Mailing

I hereby certify a true and correct copy of the foregoing was mailed/faxed to Mr. Aaron J. Wolf, P.O. Box 4160, Santa Fe, New Mexico 87504-4160 this 5th day of August, 2010.



J. Robert Beauvais

TWELFTH JUDICIAL DISTRICT COURT
COUNTY OF LINCOLN
STATE OF NEW MEXICO

GABRIEL POLACO

Plaintiff,

Cause No. CV-2010-00075

vs.

HONDO MUNICIPAL SCHOOL DISTRICT,
BOARD OF EDUCATION;

Defendants.

**AMENDED COMPLAINT FOR VIOLATION OF INSPECTION OF
PUBLIC RECORDS ACT**

COMES NOW Plaintiff, Gabriel Polaco, by and through counsel of record,
J. ROBERT BEAUVAIS, P.A., by J. Robert Beauvais and for his complaint states:

1. This action is authorized by the New Mexico Inspection of Public Records Act, §14-2-1 et seq NMSA 1978.
2. Plaintiff is a resident of Lincoln County and subject to the personal jurisdiction of the court.
3. Defendant, Hondo Municipal School District Board of Education is a New Mexico public school district elected board with its place of business in Lincoln County, New Mexico. The Board has the capacity to be sued on behalf of the District.
4. On January 8, 2010 Plaintiff, through counsel, requested public documents



in order to determine the basis for Plaintiff's separation from employment. See letter attached hereto as *Exhibit "A"*.

5. Defendant did not respond or request additional time for response as required by law.
6. The failure to respond constitutes a denial as anticipated by the IPRA.
7. The court should order Defendant to produce the records in the manner required by law.
8. Plaintiff is entitled to his statutory damages, costs and attorney fees.

WHEREFORE Plaintiff prays the court for its order to produce the records requested under the IPRA; a finding Defendant violated the IPRA; award damages and statutory attorneys fees and costs of this action; and for such other and further relief as to the court appears just and proper.

RESPECTFULLY SUBMITTED:

J. ROBERT BEAUVAIS, P.A.
J. Robert Beauvais
P.O. Box 2408
Ruidoso, New Mexico 88345
(575) 257-6321

TWELFTH JUDICIAL DISTRICT COURT
COUNTY OF LINCOLN
STATE OF NEW MEXICO

GABRIEL POLACO

Plaintiff,

vs.

HONDO MUNICIPAL SCHOOL DISTRICT,

Defendant.

Cause No. CV-10-75

FILED IN OPEN COURT ON
March 29 2011
AT 9:31 a.m.
JERRY H. RITTER, JR.
DISTRICT JUDGE DIV. I
TWELFTH JUDICIAL DISTRICT

[Handwritten signature]

[Handwritten initials]
DOCKETED

JUDGMENT

THIS MATTER having come before the court for trial on the merits on March 9, 2011; Plaintiff appearing personally with counsel J. Robert Beauvais and Defendant Hondo School District appearing through its Superintendent, Andrea Nieto, and with counsel, Aaron Wolf; the court having taken testimony and heard arguments of counsel; the court announced its findings from the bench and those findings are incorporated by reference.

THE COURT FINDS the Hondo School District violated the New Mexico Inspection of Public Records Act by failing to respond to a request for public records made on behalf of Polaco from January 26, 2010 to March 11, 2010, a period of 45 days.

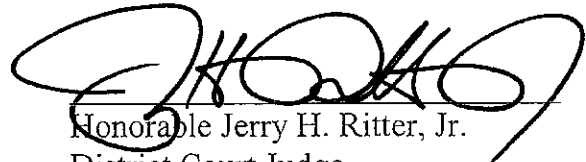
IT IS THE ORDER OF THE COURT Plaintiff is awarded statutory damages of twenty five \$25.00 dollars per day for the period in which Defendants was in violation of

the Inspection of Public Records Act for a total amount of one thousand one hundred twenty five \$1,125.00 dollars.

Plaintiff is awarded his reasonable attorney fees. Counsel for Plaintiff will prepare a certificate of attorney fees and submit to opposing counsel within five days. Thereafter, Defendant's counsel will have five days to file any objection. Plaintiff's attorney will have five additional days to respond to the objection.

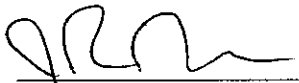
The Court will determine the proper amount of reasonable attorney's fees and will do so without further hearing unless requested by either party at the time the objection or response is filed.

Plaintiff is awarded his taxable costs.



Honorable Jerry H. Ritter, Jr.
District Court Judge

Submitted by:



J. Robert Beauvais
Attorney for Plaintiff

Approved as to Form:

/s/ Telephonically Approved
Aaron Wolf
Attorney for Defendants