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Open Letter to the People of Mississippi Regarding Initiative 42 and the Courts

The undersigned law professors and lawyers have studied the issues and believe that certain legal arguments regarding Initiative 42 ("42") are unsound and exaggerated misstatements about how the legal process actually works. In particular, we are very concerned by the principal argument that 42 gives "a single judge in Hinds County" sole decision-making authority and control over education spending, policy and implementation. This is false and misleading.

First, the authority to regulate the Legislature and the State is in the Mississippi people, not in the courts. If 42 passes, it will be the people themselves who are regulating the Legislature and State. The people have a clear right to control their government through constitutional amendment and have done so before.

If the people vote to approve 42, and if a suit were brought alleging that the Legislature had failed to meet the people's mandate, then that would be brought to a judge. But that is what happens in every lawsuit. Likewise, either side could appeal the judge's decision. Again, this is nothing new since there is always a right to appeal this type of decision. The Supreme Court of our state would hear that appeal and would have full power to correct whatever error or mistake the judge might have made. The Supreme Court itself exists at the will of the people, the people elect its members, and it is accountable to the people of the State. Again, this is why we have a Supreme Court and the reason we trust it to make difficult decisions in lawsuits of every kind, every single day.

So the cries of alarm about Initiative 42 putting all education decisions in the hands of one Hinds County judge are legally incorrect and unfairly mislead the public. If we were grading this legal argument, it would fail. Whether or not you think the people of Mississippi should decide that their children have a right to adequate public schools, don't let this legally unsound and dishonest argument about how the court system works affect your vote.

Signed by:

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