



## CANTEY HANGER LLP

A T T O R N E Y S

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HAR131-107956

December 16, 2019

***Via CMRRR: 7018 3090 0002 1646 6227  
and Via E-Mail***

Andrew Lucas, Esq.,  
Somervell County Attorney  
P.O. Box 1335  
Glen Rose, Texas 76043  
[andrew.lucas@co.somervell.tx.us](mailto:andrew.lucas@co.somervell.tx.us)

RE: Notice of Lawsuit Against Somervell County

Dear Mr. Lucas:

As you are aware, I represent Paul Harper in Cause No.: C10369, *The State of Texas ex rel. George Darrell Best v. Paul Reed Harper*, in the 249<sup>th</sup> Judicial District Court, Somervell County, Texas.

The trial court signed the final judgment in that case on September 10, 2019. A copy of the final judgment is enclosed. The final judgment awarded court costs, sanctions and reasonable attorneys' fees to Harper in the amount of \$268,723.00 plus interest.

Although the case was prosecuted in the name of the State of Texas, as required by statute, the State of Texas was not involved in any aspect of the lawsuit. Instead, the lawsuit was directed, funded, and prosecuted by Somervell County. As such, Somervell County is responsible for payment of the final judgment. *See* the enclosed November 7, 2019 letter from the office of the Attorney General of Texas.

You have advised me that the County has declined Mr. Harper's offer to resolve this matter.

In light of the County's refusal to negotiate, Mr. Harper hereby demands payment of the judgment, including post-judgment interest, within 30 days of receipt of this letter. If payment is not made, Mr. Harper has authorized me to file a lawsuit against Somervell

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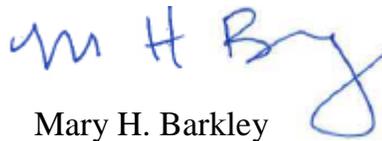
December 16, 2019

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County for the County's breach of the statutory indemnification requirement of Chapter 87 of the Texas Local Government Code and a declaratory judgment for the same. Mr. Harper will seek from Somervell County all remedies afforded to him under the law, including costs and reasonable and necessary attorneys' fees associated with the lawsuit against the County.

Please contact me to make arrangements to pay the judgment. If I do not hear from you regarding arrangements for payment, a lawsuit will be filed.

Sincerely,

A handwritten signature in blue ink that reads "Mary H. Barkley". The signature is written in a cursive style with a large, looping "y" at the end.

Mary H. Barkley

CC: Christopher A. Brown, Firm

December 16, 2019

Page 2

BCC: Paul Harper

[paul@glenrose.net](mailto:paul@glenrose.net)

SEP 10 2019

*Mullen Raper*  
COUNTY AND DISTRICT CLERK  
SOMERVELL COUNTY, TEXAS  
By            Deputy

CAUSE NO. C10369

|                                                                                                                             |                                                    |                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| <p>THE STATE OF TEXAS EX REL.<br/>GEORGE DARRELL BEST,<br/>Plaintiff,</p> <p>V.</p> <p>PAUL REED HARPER,<br/>Defendant.</p> | <p>§<br/>§<br/>§<br/>§<br/>§<br/>§<br/>§<br/>§</p> | <p>IN THE DISTRICT COURT OF</p> <p>SOMERVELL COUNTY, TEXAS</p> <p>249<sup>TH</sup> JUDICIAL DISTRICT</p> |
|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|----------------------------------------------------------------------------------------------------------|

**FINAL JUDGMENT**

On August 20, 2019, this case was called for trial before the Court. The State of Texas (the "State") appeared through its counsel and through its representative and announced ready for trial. George Darrell Best ("Best") received timely and proper notice of the trial date and did not appear. Defendant Paul Reed Harper appeared through his counsel and in person and announced ready for trial.

All matters in controversy, legal, equitable, and factual, remaining on this remand, were submitted to the Court for its determination and the Court heard the evidence and arguments of counsel.

The Court orally RENDERED judgment for Defendant, Paul Reed Harper, on Friday August 23, 2019. This written judgment memorializes that rendition. Accordingly, the Court RENDERS judgment for Defendant, Paul Reed Harper, as follows:

The Court GRANTS Harper's Anti-SLAPP Motion to Dismiss ("Motion to Dismiss") the removal proceedings, in part; Harper's Motion to Dismiss the State's removal petition with respect to the State's allegations based on the Open Meetings Act is DENIED.

The Court finds that the State's petition to remove Harper based on violations of the Texas Open Meetings Act is moot.

The State's immunity from liability defense, which the Court finds the State asserted in the trial court for the first time after the Supreme Court of Texas remanded this case, is OVERRULED and DENIED in all respects.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that under § 27.009(a)(1) of the Texas Citizens Participation Act, Defendant's request for court costs, reasonable attorney's fees, and other expenses incurred in defending against the legal action is GRANTED against the State and Best, jointly and severally, and Defendant is awarded against the State and Best, jointly and severally, the following amounts of court costs, reasonable attorney's fees, and other expenses which the Court finds are reasonable and justice and equity requires:

1. \$227,083.00 in attorney's fees incurred to date, which the Court finds are reasonable.
2. \$6,640.00 in court costs and expenses, which the Court finds are reasonable.
3. Reasonable, conditional appellate fees as follows:
  - \$50,000.00 in the event the State or Best appeals this matter to the Waco Court of Appeals and Harper prevails;
  - \$12,000.00 in the event the State or Best seeks a petition for review from the Supreme Court of Texas and a response is requested and Harper prevails;
  - \$50,000.00 in the event the Supreme Court of Texas seeks briefing on the merits from Harper and Harper prevails;
  - \$15,000.00 in the event the Supreme Court of Texas grants oral argument and Harper prevails; and
  - \$10,000.00 in the event Harper must respond to a motion for rehearing at the Supreme Court of Texas by the State or Best and Harper prevails.

The foregoing conditional appellate attorney's fees represent the anticipated reasonable and necessary attorney's fees that would be incurred by Harper in defending an appeal from this Final Judgment.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that under § 27.009(a)(2) of the Texas Citizens Participation Act, Harper is awarded \$35,000.00 in sanctions against the State and Best, jointly and severally, and the Court finds that both the State and Best brought the legal action against Harper. The Court finds that \$35,000.00 sanctions is sufficient to deter the State and Best from bringing similar actions in the future.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Harper is entitled to recover from the State and Best post judgment interest on all of the above at a rate of five and one-quarter percent (5.25%), compounded annually, from the date this judgment is rendered until all amounts are paid in full.

This Judgment finally disposes of all claims and all parties and is final and appealable.

The Court orders execution to issue for this judgment as allowed by law.

Signed on this 10 day of September, 2019.

  
JUDGE PRESIDING



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 7, 2019

C. Alfred Mackenzie  
P.O. Box 2003  
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AMackenzie@Texas-Appeals.com

Andrew Lucas  
County Attorney, Somervell County  
c/o  
C. Alfred Mackenzie  
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CC:  
Mary H. Barkley  
Cantey Hanger LLP  
600 West 6<sup>th</sup> Street, Suite 300  
Fort Worth, Texas 76102-3685  
mbarkley@canteyhanger.com

**Re: Responsibility for Final Judgment in *State of Texas ex rel. Best v. Harper*, No. C10369 (249th Dist. Ct., Somervell County, Tex. Sept. 10, 2019)**

Mr. Mackenzie:

It is our understanding that the local trial court signed a final judgment in *State of Texas ex rel. Best v. Harper*, No. C10369 (249th Dist. Ct., Somervell County, Tex. Sept. 10, 2019), awarding sanctions and attorneys' fees to an individual based upon a case prosecuted by Somervell County's County Attorney on behalf of the County government.

The parties in this case reached out to our office regarding *collection* of the final judgment, however, Somervell County and/or Somervell County's District Attorney are responsible for judgments for attorneys' fees and sanctions. *See, e.g.*, Tex. Local Gov't Code § 87.017(c) (requiring the county to pay expenses related to a prosecution under that code, thus waiving the county's immunity for those costs). As the parties are aware, Somervell County and its County

November 7, 2019

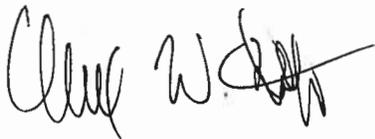
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Attorney prosecuted the underlying legal action at its own discretion and without any involvement of our office.

No law authorizes or requires our office to request the Comptroller to disburse General Revenue funds on the basis of discretionary decisions by local governments which result in them being sanctioned by a court. There is no waiver of immunity that would create liability for judgments of fees and sanctions in cases prosecuted by local governments. *See, e.g., Tex. Local Gov't Code § 87.001 et seq.*

Accordingly, the parties may wish to collaborate regarding collection of this judgment from Somervell County and its County Attorney rather than from our office or from any other arm of the state government.

Sincerely,

A handwritten signature in black ink, appearing to read "Cleve W. Doty", with a stylized flourish at the end.

Cleve W. Doty  
Assistant Attorney General  
Administrative Law Division  
Office of the Texas Attorney General  
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Austin, Texas 78711-2548  
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