

PEGGY VENABLE,
JANICE BRAUNER, and
JUDY MORRIS

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IN THE DISTRICT COURT

OF WILLIAMSON COUNTY, TEXAS

vs.

WILLIAMSON COUNTY and
TEXAS ASSOCIATION OF COUNTIES.

227th JUDICIAL DISTRICT

**PLAINTIFFS’ SECOND AMENDED ORIGINAL PETITION; PLAINTIFF’S REQUEST FOR
ADMISSIONS, DISCLOSURES, AND PRODUCTION OF DOCUMENTS**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, PEGGY VENABLE (“Venable”), JANICE BRAUNER (“Brauner”), and
JUDY MORRIS (“Morris”), (collectively referred to as “Plaintiffs”), complaining of
WILLIAMSON COUNTY (the “County”) and the TEXAS ASSOCIATION OF COUNTIES
 (“TAC”) (collectively referred to herein as “Defendants”), and for cause of action would show
unto the Court as follows:

**I.
DISCOVERY CONTROL PLAN**

1. Discovery is intended to be conducted under Level 2 of TEXAS RULE OF CIVIL
PROCEDURE 190.

**II.
RULE 194 REQUEST FOR DISCLOSURES**

2. Pursuant to Texas Rule of Civil Procedure 194, plaintiffs request that, within thirty days of the service of this document, defendants disclose the information and material described in Rule 194.2(a), 194.2 (b), 194.2 (c), 194.2(e), 194.2(f), and 194.2(i).

III.
RULE 196 REQUEST FOR PRODUCTION

3. Pursuant to Texas Rule of Civil Procedure 196, plaintiffs request that, within thirty days of the service of this document, defendants produce for inspection and copying all records showing, indicating, or tending to show or indicate that the Texas Association of Counties has directly or indirectly influenced or attempted to influence the outcome of legislation pending before the legislature, including but not limited to any mail, email, publications, advertising or other communications from or regarding the Texas Association of Counties or its agents delivered at any time to Williamson County or its agents. To the extent that any of the documents exist only in electronic or magnetic form, plaintiffs request that the documents be produced in paper form, or, if that is impossible, that they be produced on disc in a form that is accessible using Microsoft Entourage mail software.

4. Further pursuant to Texas Rule of Civil Procedure 196, plaintiffs request that, within thirty days of the service of this document, defendants produce copies of any press releases from the Texas Association of Counties regarding HB 1006 or any amendments thereto. To the extent that any of the documents exist only in electronic or magnetic form, plaintiffs request that the documents be produced in paper form, or, if that is impossible, that they be produced on disc in a form that is accessible using Microsoft Entourage mail software.

5. Further pursuant to Texas Rule of Civil Procedure 196, plaintiffs request that, within thirty days of the service of this document, defendants produce copies of any letter or

emails from the Texas Association of Counties, its agents or employees, urging Williamson County, Williamson County Officials, including but not limited to, County Judges or County Commissioners, or any members of TAC to contact legislators in order to secure the defeat, amendment or passage of any specific legislation. To the extent that any of the documents exist only in electronic or magnetic form, plaintiffs request that the documents be produced in paper form, or, if that is impossible, that they be produced on disc in a form that is accessible using Microsoft Entourage mail software.

6. Further pursuant to Texas Rule of Civil Procedure 196, plaintiffs request that, within thirty days of the service of this document, defendants produce copies of any written and oral requests from any legislator or legislative committee that TAC provide information to committees and members of the legislature on issues of interest to Texas counties. To the extent that any of the documents exist only in electronic or magnetic form, plaintiffs request that the documents be produced in paper form, or, if that is impossible, that they be produced on disc in a form that is accessible using Microsoft Entourage mail software.

IV.
RULE 198 REQUEST FOR ADMISSIONS

7. Pursuant to Texas Rule of Civil Procedure 198, Plaintiffs request that Defendants admit or deny the following:

8. The Texas Association of Counties is an association or organization supported wholly or partly by payments of tax receipts from political subdivision, including but not limited to, membership fees or dues.

9. The Texas Association of Counties has directly or indirectly influenced or attempted to influence the outcome of legislation pending before the Texas Legislature.

10. The Texas Association of Counties indirectly influenced or attempted to influence the outcome of HB 1006 (the Texas “Truth in Taxation” bill) pending before the Texas Legislature in its regular session in 2005.

11. The Texas Association of Counties employs at least nine paid lobbyists for the purpose of directly or indirectly influencing or attempted to influence the outcome of legislation pending before the Texas Legislature.

12. That the article written by the President of the Texas Association of Counties, County Judge Mickey West, in the May/June 2005 issue of “County Magazine,” in which West details numerous attempts by TAC to directly or indirectly influence or attempt to influence the outcome of legislation pending before the 2005 legislature is a substantially true and accurate account.

13. That the actions taken by the Texas Association of Counties, itself, or through its agents or employees, directly or indirectly influencing or attempted to influence the outcome of legislation pending before the 2005 legislature, constitute a violation of Texas Local Govt. Code §89.002(a).

14. That there was and is a duty arising under Texas Local Government Code §89.002 that the Texas Association of Counties not influence or attempt to influence legislation pending before the legislature as long as it receives membership fees or dues from Williamson County or any other County of the State of Texas.

**V.
PARTIES**

15. Plaintiff, PEGGY VENABLE, is a taxpayer of the political subdivision known as Williamson County, Texas.

16. Plaintiff, JANICE BRAUNER, is a former taxpayer of the political subdivision known as Williamson County, Texas, forced to sell her Williamson County home because of rapidly increasing property taxes, now a resident of the political subdivision known as Travis County, Texas.

17. Plaintiff, JUDY MORRIS, is a taxpayer of the political subdivision known as Williamson County, Texas.

18. Defendant, WILLIAMSON COUNTY, having previously been served and answered in this lawsuit, is a political subdivision of the state of Texas.

19. Defendant, TEXAS ASSOCIATION OF COUNTY OFFICIALS, INC., d/b/a TEXAS ASSOCIATION OF COUNTIES, is a Texas corporation and is an association or organization supported wholly or partly by payments of tax receipts from political subdivisions, and may be served through its registered agent, Sam D. Seale, at 1204 San Antonio, Suite 300, Austin, Texas, 78701.

VI. VENUE

20. Venue is proper in this case in Williamson County, Texas, pursuant to TEX. CIV. PRAC. & REM. CODE §§ 15.002 (a)(1) and 15.002(a)(3) and venue is mandatory under § 15.015 (Vernon Supp. 1995).

VII. BACKGROUND INFORMATION

21. Williamson County pays dues or membership fees to the Texas Association of Counties out of the Williamson County general fund, has paid those dues in the year 2005, and has paid those dues for a number of years past and will pay those dues in the future. A true and

correct copy of the bills for dues for the Texas Association of Counties for the years 2003, 2004, and 2005 are attached as Exhibit A. A true and correct copy of Williamson County Supplier Paid Invoice History indicating payment of those dues is attached as Exhibit B.

22. The Texas Association of Counties has directly or indirectly influenced or attempted to influence the outcome of legislation pending before the legislature in ways other than providing information for a member of the legislature or appearing before the legislature at the request of a committee or a member of the legislature. Specifically, TAC has attempted to influence the outcome of legislation by issuing one or more press releases opposing property tax caps and an amendment by Representative Robby Cook (D-Eagle Lake) to a H.B. 1006, the “Truth in Taxation” bill sponsored by Rep. Carl Issett (R-Lubbock). In one such press release, the Texas Association of Counties alleged that if Representative Cook’s amendment were to be passed “an entire county, its services and 99 percent of its population could be held hostage by an extreme minority.” A true and correct copy of the Quorum Report story based on the TAC press release, including “Top 10 Reasons Revenue Caps Are a Bad Idea,” is attached as Exhibit C.

Additional evidence of TAC’s continuing direct or indirect influence or attempts to influence the outcome of legislation pending before the legislature include emails urging members of TAC to contact legislators in order to secure the defeat of specific legislation. A true and correct copy of two such emails is attached as Exhibit E. TAC also employs at least nine registered lobbyists to directly or indirectly influence or attempted to influence the outcome of legislation pending before the legislature. A true and correct copy of the Texas Ethics Commission Report on Registered Lobbyists for 2005, obtained from the Texas Ethics

Commission website, and including the names of nine different registered lobbyists for the Texas Association of Counties is attached as Exhibit F. Further evidence of TAC's continuing direct or indirect influence or attempts to influence the outcome of legislation pending before the legislature is shown in an article written by the President of the Texas Association of Counties, County Judge Mickey West, in the May/June 2005 issue of "County Magazine," in which West details numerous attempts by TAC to directly or indirectly influence or attempt to influence the outcome of legislation pending before the 2005 legislature. A true and correct copy of the County Magazine article is attached as Exhibit G.

VIII. CAUSES OF ACTION

STATUTORY VIOLATION OF TEXAS LOCAL GOVT. CODE § 89.002(a)

23. The above-listed acts and omissions on the part of Defendants constitute statutory violations of Texas Local Govt. Code §89.002(a), as those terms are defined and understood under the laws and statutes of the State of Texas. Specifically, § 89.002(a) authorizes the county commissioners court to spend, in the name of the county, money from the general fund for membership fees and dues of nonprofit state associations of counties if and only if "neither the association nor an employee of the association directly or indirectly influences or attempts to influence the outcome of any legislation pending before the legislature," and the association defendants did in fact influence or attempt to influence the outcome of legislation pending before the legislature. A true and correct copy of Texas Local Government Code §89.002 is attached as Exhibit D.

24. Texas Local Govt. Code §89.002(b) specifically authorizes suit for appropriate injunctive relief by a taxpayer of a political subdivision that pays dues to the association or

organization, in order to prevent further prohibited activity. The prohibited activities include influencing or attempting to influence legislation pending before the legislature and the payment of fees or dues. See Exhibit D.

IX.
PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that upon final trial that the court declare that there was and is a duty arising under Texas Local Government Code §89.002 by Williamson County not to pay membership fees or dues to the Texas Association of Counties unless or until the Texas Association of Counties ceases to influence or attempting to influence legislation pending before the legislature; that Williamson County be enjoined from making any payments of membership fees or dues to the Texas Association of Counties until such time as the Texas Association of Counties ceases to influence or attempt to influence legislation pending before the legislature; that the Texas Association of Counties be enjoined from influencing or attempting to influence legislation pending before the Legislature; and that Plaintiffs have judgment against Defendants for their attorneys' fees and costs of court, prejudgment and post-judgment interest at the legal rate, and for such other and further relief to which Plaintiffs may be entitled under the facts and circumstances set forth herein.

Respectfully submitted,

TEXAS LEGAL FOUNDATION

By: _____

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**ATTORNEYS FOR PLAINTIFFS
CERTIFICATE OF SERVICE**

I hereby certify that on this the 1st day of November, 2005, a true and correct copy of the foregoing was served on the listed below defendants' counsel of record by certified mail, return receipt requested, on this 16th day of November, 2005.

CM/RR#: _____
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