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May 14, 2021

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Brian Dirner
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Marco Gomez
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David Oberg
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Wayne Passailaigue
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Matthew Paniagua
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Chris Pina
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Re: **Request for Waiver of Conflict of Interest and Consent to Representation**

Dear Malea:

The purpose of this correspondence is to advise Williamson County, Texas of potential conflicts of interest between the County and other clients of Lewis Brisbois Bisgaard & Smith LLP (the "Firm"), Brian Dirner, Marco Gomez, David Oberg, Wayne Passailaigue, Matthew Paniagua, and Chris Pina (the "Officers"), and to request waiver of the conflict and consent to the Firm's representation of the Officers.

The Firm previously represented Williamson County in defending against alleged excessive force cases, which we believe are unrelated to the *Thornburg* case. The Firm has now been asked to

represent the Officers as defense counsel with respect to a civil action pending in the United States District Court, Western District of Texas, Austin Division titled *Charles William Thornburg v. Williamson County, et al.*, Civil Action No. 1:21-CV-00172-LY (the “*Thornburg case*”). The Firm understands that both Williamson County and the Officers are parties in the *Thornburg case*. Because of our prior representation of Williamson County in other matters, the Firm would be prevented by the applicable ethical rules from representing the Officers in connection with the *Thornburg case* unless Williamson County and the Officers waive the potential conflict of interest posed by the Firm’s involvement in the *Thornburg case* and consent to the Firm’s representation of the Officers in the *Thornburg case*.

The Firm and its attorneys are governed by the Texas Rules of Professional Conduct in this matter, which include rules regarding conflicts of interest including those between multiple clients of a law firm (“the Conflicts Rules”). Texas Rule 1.06(b) states: In other situations and except to the extent permitted by paragraph (c), a lawyer shall not represent a person if the representation of that person: (1) involves a substantially related matter in which that person's interests are materially and directly adverse to the interests of another client of the lawyer or the lawyer's firm ...”. Texas Rule 1.06(c) allows an actual or potential conflict to be waived, thereby permitting the representation, as long as the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client, the representation is not prohibited by law, and the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal. Texas Rule 1.06(f) imputes most conflicts to an attorney’s entire law firm.

We reasonably believe that the Firm will be able to provide competent and diligent representation to the Officers in the *Thornburg Matter* based on Williamson County’s consent for us to represent the Officers and thoroughly pursue their defense even if the Officers’ interests deviate or conflict with those of Williamson County at any point during the case. The Firm’s representation of the Officers is not prohibited by law, nor does the representation involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation.

Williamson County and the Officers have the right to seek advice from another attorney of your choice about this request for a conflict waiver and consent. If you seeks such advice, we are available to provide information to any such attorney who is retained to assist you and to discuss the matter with the attorney and answer any questions about the conflict waiver and consent.

By signing below, Williamson County and the Officers understand, acknowledges and agrees as follows:


1. The Firm has been asked to represent the Officers in the *Thornburg case* where Williamson County is also a party to the litigation which creates a potential conflict of interest.

2. In order to represent the Officers in the *Thornburg* case, while at the same time representing the Officers, both affected clients will be required to waive the conflict of interest and consent to the Firm's representation in each.
3. Williamson County and the Officers have had an opportunity to ask questions of the Firm about the requested waiver and consent, and any such questions have been answered to their satisfaction.
4. Williamson County and the Officers have been advised of their right to seek advice from separate counsel about the requested waiver and consent and have either exercised that right, or have elected not to seek outside advice.
5. Williamson County and the Officers understand that by signing below, they waive the described conflict of interest and consent to the Firm's representation of the Officers in the *Thornburg* case.
6. Williamson County and the Officers understand and agree that by signing this waiver and consent, Williamson County permanently and irrevocably relinquishes the right to seek the Firm's disqualification as counsel for the Officers in the *Thornburg* case.

Please do not to sign this waiver and consent if you have any unanswered questions or unaddressed concerns. If you agree to waive the conflict of interest discussed in this letter and consent to the Firm's representation of the Officers in the *Thornburg* case, please return a signed copy of this letter to me. The waivers and consents described herein will not become effective until Williamson County and the Officers have agreed in writing to these terms.

Thank you for your attention to this matter. Please do not hesitate to call if you have questions or wish to discuss.

Very truly yours,



Christopher White

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I understand, acknowledge and agree with the contents of this letter, including items numbered 1-11 above.

DATED: May 18, 2021

By: Bill Gravell Jr.
~~Maica Schmitt~~ County Judge
~~Risk and Safety Coordinator~~
Williamson County, Texas

By: _____
Brian Dirner

By: _____
Marco Gomez

By: _____
David Oberg

By: _____
Wayne Passailaigue

By: _____
Matthew Paniagua

By: _____
Chris Pina