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December 5, 2023

The Honorable Judge Jessica Mangrum
200th District Court
P.O. Box 1748
Austin, TX 78767
c/o Grant Woodby, Staff Attorney
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Re: Cause No. D-1-GN-19-008617, *Acuna v. City of Austin*, in the 201st Judicial District Court of Travis County, Texas

Dear Judge Mangrum,

Plaintiffs submit this brief response to the City of Austin's letter submitted yesterday to the Court.

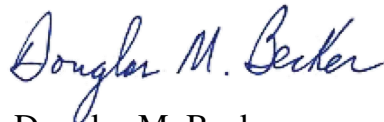
Plaintiffs in their proposed Order submitted November 20, 2023, deleted a provision from their proposed Order submitted November 17, 2023, that sanctions should run from the date of Judge Soifer's March 18, 2020, Final Judgment until the City Council repealed the void ordinances, and added one that ran the sanctions from the Final Judgment until the date of your Order. Plaintiffs did not plead for any specific amount of sanctions because they were content to abide by the exercise of your discretion as to the amount of sanctions, if any, to be awarded. They still are.

Defendants did not request a jury trial or pay the required jury fee prior to the September 26, 2023, hearing. As the City correctly states, the Supreme Court in *Ex Parte Griffin*, 682 S.W.2d 261 (Tex. 1984) wrote that waiver of the right to trial by jury cannot be presumed from a silent record in a serious case. The Court indicated in *Ex Parte Werblud*, 536 S.W.2d 542 (Tex. 1976), however, that the Court has some leeway in determining whether a case involves "serious" sanctions. Although the sanctions in Plaintiffs' proposed Order certainly seem serious, the Court can consider all the circumstances, including the fact that the City's 2023-2024 budget is \$ 5.5 billion, of which the Court can take judicial notice. The sanctions in Plaintiffs' proposed Order comprise a miniscule percentage of that budget.

Finally, any objection to a finding that the City violated the Final Judgment's provision to "affirmatively inform property owners and surrounding property owners of their protest rights" has been waived by the City's failure at the September 26, 2023, hearing to object during the rebuttal argument of Plaintiffs' counsel. The issue, therefore, was tried by consent.

Respectfully submitted,

GRAY & BECKER, PC



Douglas M. Becker

DMB/sej