

TY CLEVENGER

Attorney at Law  
1095 Meadow Hill Drive  
Lavon, Texas 75166

telephone: 979.985.5289  
facsimile: 979.530.9523

tyclevenger@yahoo.com  
Texas Bar No. 24034380

October 30, 2013

The Hon. H.D. Black, Jr., Visiting Judge  
c/o Robertson County District Clerk  
P. O. Box 250  
Franklin, Texas 77856

Re: *Calvert Historical Foundation v. John C. Paschall*,  
Cause No. 11-09-18,927-CV (82<sup>nd</sup> District Court)

Dear Judge Black:

As you know, at the October 18, 2013 hearing I orally moved to compel the Attorney General to enter an appearance and file an answer in the case listed above. I believe the Attorney General's recently-filed waiver is a dereliction of duty since "it is the certain duty of the Attorney General to invoke the powers inherent in our courts to prevent an abuse of a charitable trust..." *Lokey v. Texas Methodist Foundation*, 479 S.W.2d 260, 265 (Tex. 1972). Nonetheless, I have since concluded that a district court lacks jurisdiction to compel the Attorney General to act, even where the Attorney General's duties are unequivocal.

In particular, it appears that only the Texas Supreme Court may compel the Attorney General to act:

Only the supreme court has the authority to issue a writ of mandamus or injunction, or any other mandatory or compulsory writ or process, against any of the officers of the executive departments of the government of this state to order or compel the performance of a judicial, ministerial, or discretionary act or duty that, by state law, the officer or officers are authorized to perform.

Tex. Gov't Code § 22.002(c); *see also A & T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 672 (Tex. 1995). It is my hope that the Attorney General will decide to perform his duties on his own initiative, or that someone else copied on this letter will be able to persuade him to do so, without the necessity of the Plaintiff resorting to mandamus in the Supreme Court. Regardless, I see no grounds for my motion, therefore I request permission to withdraw that motion, and I further request cancellation of the December 16, 2013 hearing on that motion.

Thank you for your consideration of these matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: The Hon. Greg Abbott, Attorney General  
The Hon. Ingrid Ellerbee, Asst. Attorney General  
Senator Charles Schwertner  
The Hon. Coty Siegert, District Attorney  
Mr. Bryan F. Russ, Jr.  
Ms. Marsha Rekieta, Court Coordinator