



**ATTORNEY GENERAL OF TEXAS**  
**GREG ABBOTT**

July 1, 2004

Mr. Columbus A. Alexander, III  
CFOpros  
P.O. Box 1260  
Addison, Texas 75001-1260

CM RRR # 7000 1670 0005 4944 9048

Re: Cause No. GN301225; *Dallas Police & Fire Pension System v. Greg Abbott, Attorney General of Texas*, In the 353<sup>rd</sup> Judicial District Court of Travis County, Texas

Dear Mr. Alexander:

The above-styled lawsuit involves the request for information that you made to the plaintiff on January 22, 2003. The System and the Attorney General have reached a settlement in this case by which they have agreed that the System may withhold some of the information you requested under the attorney-client communication privilege and the work product privilege. Tex. Gov't Code § 552.325(c) requires the Attorney General to notify you of this settlement. Section 552.325 also provides that you, as the requestor, have the right to intervene to contest the withholding. The court is required to give you a reasonable period of time to intervene after this notice is given before dismissing the lawsuit. A copy of § 552.325 is attached. Also enclosed is the parties' joint motion for entry of an agreed final judgment and a proposed judgment, which have been filed in conjunction with the parties' settlement. The motion and judgment will be presented to the court on July 29, 2004, on the 8:30 a.m. Uncontested Docket, Travis County Courthouse, 1000 Guadalupe, Austin, Texas. If you intend to intervene, you should do so before this date. It would be appreciated if you would notify me, in writing, if you intend to intervene.

Sincerely,

BRENDA LOUDERMILK  
Chief, Open Records Litigation Section  
Administrative Law Division  
(512) 475-4292  
(512) 474-1062/320-0167 FAX  
ATTORNEY FOR DEFENDANT

enc.

cc: Gary B. Lawson (without enc.)

CM RRR # 7000 1670 0005 4944 9024

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is made by and between the Dallas Police and Fire Pension System (System) and Greg Abbott, Attorney General of Texas. This Agreement is made on the terms set forth below:

WHEREAS, on January 22, 2003, the System received a written request for information under the Public Information Act (PIA), from Columbus A. Alexander, III, for fee bills from the System's attorneys, Lawson & Fields, P.C. and Lawson, Field, McCue, Lee & Campbell, for the period of January 1, 2002 through December 31, 2002;

WHEREAS, the System refused to provide the fee bills and instead, on January 31, 2003, asked for an open records ruling from the Attorney General of Texas, pursuant to the PIA, Tex. Gov't Code § 552.301, asserting that some of the descriptions, or parts thereof, of services rendered in the fee bills were excepted from disclosure under the PIA, as privileged attorney-client information or attorney work product under sections 552.107(1) and 552.111 of the PIA and under Rule 503 of the Rules of Evidence and Rule 192.5 of the Rules of Civil Procedure;

WHEREAS, the Attorney General issued Letter Ruling OR2003-2325, in response to the System's request, concluding that some of the information in the fee bills, as marked by the Office of the Attorney General (OAG), was excepted from disclosure, while the remaining information in the fee bills had to be released;

WHEREAS, the System disagreed with the ruling in OR2003-2325 with respect to some of the descriptions not marked by the OAG and filed a lawsuit, styled Cause No. GN301225, *Dallas Police and Fire Pension Sys. v. Greg Abbott, Attorney General of Texas*, in the 353<sup>rd</sup> Judicial District Court of Travis County, Texas (this lawsuit), to preserve its rights under the PIA;

WHEREAS, the System subsequently provided additional information establishing the

elements of the attorney-client or attorney work product privileges as to specific descriptions in the legal bills and waived its claims as to other descriptions;

WHEREAS, Tex. Gov't Code § 552.325(c) allows the Attorney General to enter into settlement under which the information at issue in this lawsuit may be withheld, the parties acknowledge that a bona fide dispute exists with regard to whether the information at issue is excepted from disclosure under the PIA, and the parties wish to resolve this matter without further litigation;

NOW THEREFORE, for good and sufficient consideration, the receipt of which is acknowledged, the parties to this Agreement stipulate that:

1. The information at issue, specifically, the descriptions, or parts thereof, as marked by the Office of the Attorney General, of services rendered, in the System's legal bills for the period of January 1, 2002 through December 31, 2002, which are identified by check numbers 3373, 3372, 6339, 6189, 6115, 6269, 6075, 3494, 3603, 3718, 5197, 5198, 5016, and 5095, is excepted from disclosure by Tex. R. Evid. 503 or Tex. R. Civ. P. 192.5.

2. The System may redact the descriptions, or parts thereof, in the legal bills as enumerated in ¶ 1 of this Agreement, along with any other information in the legal bills that the Attorney General determined was excepted from disclosure in OR2003-2325.

3. If it has not already done so, the System shall release the legal bills, with only the information described in ¶¶ 1 and 2 redacted, to the requestor.

4. The System and the Attorney General agree to the entry of an agreed final judgment in the form attached to this Agreement as Exhibit A. Immediately upon the effective date of this Agreement, the parties will file an agreed motion for entry of an agreed final judgment, in the form attached to this Agreement as Exhibit B. The motion and judgment will be presented to the court

for approval, on the uncontested docket, with at least 15 days prior notice to the requestor.

5. The Attorney General agrees that he will also notify the requestor, as required by Tex. Gov't Code § 552.325(c), of the proposed settlement and his right to intervene to contest the withholding.

6. Each party to this Agreement will bear its own costs, including attorney fees, relating to this litigation.

7. The terms of this Agreement are contractual and not mere recitals, and the agreements contained herein and the mutual consideration transferred is to compromise disputed claims fully, and nothing in this Agreement shall be construed as an admission of fault or liability, all fault and liability being expressly denied by all parties to this Agreement;

8. The System warrants that its undersigned representative is duly authorized to execute this Agreement on its behalf and that its representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the System has against the Attorney General arising out of the matters described in this Agreement.

9. The Attorney General warrants that his undersigned representative is duly authorized to execute this Agreement on behalf of the Attorney General and his representative has read this Agreement and fully understands it to be a compromise and settlement and release of all claims that the Attorney General has against the System arising out of the matters described in this Agreement.

10. This Agreement shall become effective, and be deemed to have been executed, on the date on which the last of the undersigned parties signs this Agreement before a notary public.

DALLAS POLICE AND FIRE PENSION  
SYSTEM

By: Everard Davenport  
name: EVERARD DAVENPORT  
title: GENERAL COUNSEL

Date: June 8, 2004

GREG ABBOTT  
ATTORNEY GENERAL OF TEXAS

By: Brenda Loderwick  
name: Brenda Loderwick  
title: Chief, OR Lit Section

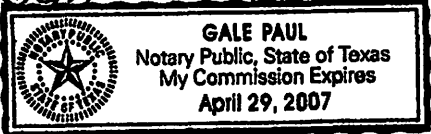
Date: 7/1/04

THE STATE OF TEXAS  
COUNTY OF DALLAS

§  
§

Before me, the undersigned authority, on this date, personally appeared, Everard Davenport, known to me [or proved to me on the oath of \_\_\_\_\_, or through \_\_\_\_\_ (insert description of identity card or other document)] to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same, on behalf of the Dallas Police and Fire Pension System, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 8TH day of June, 2004.

 Gale Paul  
Notary Public, In and For  
The State of Texas

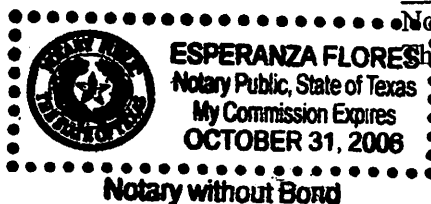
THE STATE OF TEXAS  
COUNTY OF TRAVIS

§  
§

Before me, the undersigned authority, on this date, personally appeared, Brenda Loderwick, known to me [or proved to me on the oath of \_\_\_\_\_, or through \_\_\_\_\_ (insert description of identity card or other document)] to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he/she executed the same, on behalf of Greg Abbott, Attorney General of Texas, for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 1ST day of July, 2004.

Esperanza Flores  
Notary Public, In and For  
The State of Texas



CAUSE NO. GN301225

DALLAS POLICE AND FIRE PENSION SYSTEM,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
V.	§	TRAVIS COUNTY, TEXAS
	§	
GREG ABBOTT, ATTORNEY GENERAL OF TEXAS,	§	
Defendant.	§	353 <sup>RD</sup> JUDICIAL DISTRICT

**AGREED FINAL JUDGMENT**

On this date, the Court heard the parties' motion for entry of an agreed final judgment. Plaintiff, Dallas Police and Fire Pension System, and Defendant, Greg Abbott, Attorney General of Texas, appeared by and through their respective attorneys and announced to the Court that all matters of fact and things in controversy between them had been fully and finally compromised and settled. This cause is an action under the Public Information Act (PIA), Tex. Gov't Code ch. 552. The parties represent to the Court that, in compliance with Tex. Gov't Code § 552.325(c), the requestor, Columbus A. Alexander, III, was sent reasonable notice of this setting and of the parties' agreement that Dallas Police and Fire Pension System may withhold some of the information at issue; that the requestor was also informed of his right to intervene in the suit to contest the withholding of this information; and that the requestor has not informed the parties of his intention to intervene. Neither has the requestor filed a motion to intervene or appeared today. After considering the agreement of the parties and the law, the Court is of the opinion that entry of an agreed final judgment is appropriate, disposing of all claims between these parties.

IT IS THEREFORE ADJUDGED, ORDERED AND DECLARED that:

1. The information at issue, specifically, the descriptions, or parts thereof, as marked by the Office of the Attorney General, of services rendered, in the Dallas Police and Fire Pension

EXHIBIT A

System's legal bills for the period of January 1, 2002 through December 31, 2002, which are identified by check numbers 3373, 3372, 6339, 6189, 6115, 6269, 6075, 3494, 3603, 3718, 5197, 5198, 5016, and 5095, is excepted from disclosure by Tex. R. Evid. 503 or Tex. R. Civ. P. 192.5;

2. The Dallas Police and Fire Pension System may redact only the descriptions, or parts thereof, in the legal bills as enumerated in ¶ 1 of this judgment, along with any other information in the legal bills that the Attorney General determined was excepted from disclosure in OR2003-2325;

3. If it has not already done so, the Dallas Police and Fire Pension System shall release the legal bills, with only the information described in ¶¶ 1 and 2 of this judgment redacted, to the requestor;

4. All costs of court are taxed against the parties incurring the same;

5. All relief not expressly granted is denied; and

6. This Agreed Final Judgment finally disposes of all claims between Plaintiff and Defendant and is a final judgment.

SIGNED this the \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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PRESIDING JUDGE

APPROVED:



GARY B. LAWSON  
Lawson, Fields, & Calhoun, P.C.  
14135 Midway Road, Suite 250  
Addison, Texas 75001  
Telephone: (972) 490-0808  
Fax: (972) 490-9545  
State Bar No. 12058490  
Attorney for Plaintiff

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BRENDA LOUDERMILK  
Chief, Open Records Litigation Section  
Administrative Law Division  
P. O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Telephone: 475-4300  
Fax: 474/1062/320-0167  
Bar No. 12585600  
Attorney for Defendant

CAUSE NO. GN301225

DALLAS POLICE AND FIRE PENSION SYSTEM,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
	§	
V.	§	TRAVIS COUNTY, TEXAS
	§	
GREG ABBOTT, ATTORNEY GENERAL OF TEXAS,	§	
Defendant.	§	353 <sup>RD</sup> JUDICIAL DISTRICT

**MOTION FOR ENTRY OF AN AGREED FINAL JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiff Dallas Police and Fire Pension System (System) and Defendant Greg Abbott, Attorney General of Texas, and move the Court to enter an agreed final judgment on the settlement agreement executed by the parties in the above-numbered and styled case. In support of this motion, movants would show:

1. The System filed an action against the Attorney General pursuant to the Public Information Act (PIA), Tex. Gov't Code ch. 552 (West 1994 & Supp. 2002), seeking to withhold certain information from public disclosure.

2. All matters in controversy between the System and the Attorney General have been resolved, and they have agreed to the filing of this motion and the entry of an order as sought by this motion. See Exhibit 1, Settlement Agreement.

3. In settlement of this dispute, the System and the Attorney General have agreed that in accordance with the PIA and under the facts presented, that some of the information at issue, specifically, the descriptions, or parts thereof, as marked by the Office of the Attorney General, of services rendered, in the System's legal bills for the period of January 1, 2002 through December

EXHIBIT B

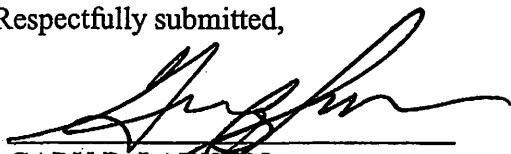


31, 2002, which are identified by check numbers 3373, 3372, 6339, 6189, 6115, 6269, 6075, 3494, 3603, 3718, 5197, 5198, 5016, and 5095, is excepted from disclosure by Tex. R. Evid. 503 or Tex. R. Civ. P. 192.5; that the System may redact these descriptions, or parts thereof, in the legal bills, along with any other information in the legal bills that the Attorney General determined was excepted from disclosure in OR2003-2325. The parties have further agreed that if it has not already done so, the System shall release the legal bills with only the information so described redacted, to the requestor.

4. Tex. Gov't Code § 552.325(d) requires the Court to allow a requestor a reasonable period to intervene after notice is attempted by the Attorney General. The Attorney General sent Columbus A. Alexander, III, on \_\_\_\_\_, 2004, notice as required by § 552.325(c) and notice of the setting of this matter on the uncontested docket, which has been scheduled for at least 15 days after the filing of this motion.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Dallas Police and Fire Pension System and Defendant Greg Abbott, Attorney General of Texas, respectfully move that this Court enter an agreed final judgment on the settlement agreement.

Respectfully submitted,



GARY B. LAWSON  
Lawson, Fields, & Calhoun, P.C.  
14135 Midway Road, Suite 250  
Addison, Texas 75001  
Telephone: (972) 490-0808  
Fax: (972) 490-9545  
State Bar No. 12058490  
ATTORNEY FOR PLAINTIFF  
DALLAS POLICE AND FIRE PENSION  
SYSTEM

BRENDA LOUDERMILK  
Chief, Open Records Litigation Section  
Administrative Law Division  
P.O. Box 12548  
Austin, TX. 78711-2548  
Telephone: 475-4292  
Fax: 474-1062/320-0167  
State Bar Card No. 12585600

BARRY R. MCBEE  
First Assistant Attorney General

EDWARD D. BURBACH  
Deputy Attorney General for Litigation

BARBARA B. DEANE  
Chief, Administrative Law Division

ATTORNEYS FOR DEFENDANT  
GREG ABBOTT, ATTORNEY GENERAL  
OF TEXAS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Motion for Entry of an Agreed Final Judgment and Agreed Final Judgment has been served, on \_\_\_\_\_, 2004, by certified mail, return receipt requested, to the following attorney-in-charge:

GARY B. LAWSON  
Lawson, Fields, & Calhoun, P.C.  
14135 Midway Road, Suite 250  
Addison, Texas 75001  
Telephone: (972) 490-0808  
Fax: (972) 490-9545  
State Bar No. 12058490  
ATTORNEY FOR PLAINTIFF

\_\_\_\_\_  
BRENDA LOUDERMILK

**VERNON'S TEXAS STATUTES AND CODES ANNOTATED**  
**GOVERNMENT CODE**  
**TITLE 5. OPEN GOVERNMENT; ETHICS**  
**SUBTITLE A. OPEN GOVERNMENT**  
**CHAPTER 552. PUBLIC INFORMATION**  
**SUBCHAPTER H. CIVIL ENFORCEMENT**

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Current through end of 2003 Second Called Session

**§ 552.325. Parties to Suit Seeking to Withhold Information**

(a) A governmental body, officer for public information, or other person or entity that files a suit seeking to withhold information from a requestor may not file suit against the person requesting the information. The requestor is entitled to intervene in the suit.

(b) The governmental body, officer for public information, or other person or entity that files the suit shall demonstrate to the court that the governmental body, officer for public information, or other person or entity made a timely good faith effort to inform the requestor, by certified mail or by another written method of notice that requires the return of a receipt, of:

(1) the existence of the suit, including the subject matter and cause number of the suit and the court in which the suit is filed;

(2) the requestor's right to intervene in the suit or to choose to not participate in the suit;

(3) the fact that the suit is against the attorney general; and

(4) the address and phone number of the office of the attorney general.

(c) If the attorney general enters into a proposed settlement that all or part of the information that is the subject of the suit should be withheld, the attorney general shall notify the requestor of that decision and, if the requestor has not intervened in the suit, of the requestor's right to intervene to contest the withholding. The attorney general shall notify the requestor:

(1) in the manner required by the Texas Rules of Civil Procedure, if the requestor has intervened in the suit; or

(2) by certified mail or by another written method of notice that requires the return of a receipt, if the requestor has not intervened in the suit.

(d) The court shall allow the requestor a reasonable period to intervene after the attorney general attempts to give notice under Subsection (c)(2).

CREDIT(S)