

CAUSE NO. 15-2442-CV

RONALD F. AVERY,

IN THE DISTRICT COURT OF

Plaintiff,

v.

GUADALUPE COUNTY, TEXAS

**GUADALUPE COUNTY
APPRAISAL DISTRICT,**

Defendant.

25TH JUDICIAL DISTRICT

**DEFENDANT'S REQUESTS FOR DISCLOSURE,
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS,
REQUESTS FOR ADMISSIONS, AND
REQUEST FOR INSPECTION TO PLAINTIFF**

TO: *Plaintiff Pro Se*, Mr. Ronald F. Avery, 1933 Montclair Dr., Seguin, Texas 78155.

REQUESTS FOR DISCLOSURE

Pursuant Texas Rules of Civil Procedure 194, you are requested to disclose, within thirty (30) days of service of this request, the information or material described in Rule 194.2(a)-(f), and (i) of the Texas Rules of Civil Procedure:

- a) the correct names of the parties to the lawsuit;
- b) the name, address, and telephone number of any potential parties;
- c) the legal theories and, in general, the factual bases of your claims or defenses;
- d) the amount and any method of calculating the tax, interest and/or penalty in issue;
- e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;
- f) for any testifying expert:
 - 1) the expert's name, address, and telephone number;
 - 2) the subject matter on which the expert will testify;
 - 3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed

by, or otherwise subject to your control, documents reflecting such information;

4) if the expert is retained by, employed by, or otherwise subject to your control:

A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony;

B) the expert's current resume and bibliography;

i) any discoverable witness statements.

Your responses must be in writing, served on the Defendant, by and through its counsel of record, Christopher S. Jackson of PERDUE, BRANDON, FIELDER, COLLINS & MOTT, L.L.P., 3301 Northland Drive, Suite 505, Austin, Texas, 78731.

Pursuant to Rule 194.4 of the Texas Rules of Civil Procedure, you ordinarily must serve copies of documents produced with the written responses to Defendant's attorney or by producing such items for inspection, examination, and copying at 3301 Northland Drive, Suite 505, Austin, Texas, 78731. However, if the responsive documents are voluminous, the response must state a reasonable time and place for the production of documents, and a reasonable opportunity must be provided to the Defendant to inspect them.

Finally, unless otherwise ordered by the Court or Texas law, a party must furnish information requested under Texas Rule of Civil Procedure 194.2(f) by the dates set forth in Texas Rule of Civil Procedure 195.2. Your duty to amend or supplement your responses is governed by Texas Rule of Civil Procedure 193.5.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Texas Rule of Civil Procedure 196, the Defendant requests that the Plaintiffs respond to its Requests for Production of Documents. Said documents are relevant to the subject matter involved in the pending action or are reasonably calculated to lead to the discovery of relevant evidence admissible at the trial of this case.

Pursuant to the Texas Rules of Civil Procedure, you ordinarily must serve copies of documents produced with the written response to the Defendant's attorney or by producing such items for inspection, examination, and copying at 3301 Northland Drive, Suite 505, Austin, Texas, 78731, within thirty (30) days after service of these requests. *See* Tex. R. Civ. P. 196.1(a), (b); 196.2(a); 196.3(a). However, if the responsive documents are voluminous, the response must state a reasonable time and place for the production of documents, and a reasonable opportunity must be provided to the Defendant to inspect them. *See* Tex. R. Civ. P. 196.3(a).

INSTRUCTIONS FOR REQUESTS FOR PRODUCTION OF DOCUMENTS

Answer each Request for Production and any subparts separately.

If you do not produce the requested documents, as they are kept in the ordinary course of business, you are to organize and label the documents to correspond to the categories in these requests. In either case, the selection of documents from files and other sources shall be performed in such a manner as to insure that the file or other source from which a document is obtained may be identified.

You may produce copies in lieu of the original documents requested.

You are to produce all requested documents that are in your possession, custody, or control. If you do not have immediate physical possession of a document, that document is still considered to be in your possession, custody, or control if you have right to possession of the document that is equal to or superior to the person who has physical possession.

Documents attached to other documents or materials shall not be separated unless sufficient records are kept to permit reconstruction of the grouping.

For a document that no longer exists or that cannot be located, please identify the document; state how and when it passed out of existence, or when it could no longer be located, and the reasons for its loss or destruction. Also, identify each person having knowledge about the disposition or loss of the document, and identify any other document evidencing the lost or destroyed document's existence or any facts about the lost or destroyed document.

If data or information that would be responsive to a category of documents requested in a Request for Production is stored in electronic or magnetic form, you are to provide such electronic or magnetic data in printed form, in accordance with Texas Rule of Civil Procedure 196.4.

Finally, your duty to amend or supplement your responses is governed by Texas Rule of Civil Procedure 193.5.

DEFINITIONS

The following definitions shall have the following meanings, unless the context requires otherwise:

1. "Calendar Year" means the 365 days in a given year – January 1 through December 31.
2. "Communicate" or "communication" means any manner or means of disclosure, transfer, or exchange of information whether oral, written, in-person, telephonic, electronic, mailed, or otherwise.
3. "Control" means, without limitation, that a document shall be deemed to be in your control if you have the right to secure the document or a copy thereof from another person, or a public or private entity, having actual possession thereof.
4. "Copy" means the original or any Xerox, photostat, duplicate, or other reproduction of any document whether identical or non-identical.
5. "Date" means the exact day, month, and year, if ascertainable, or, if not, the best available approximation.
6. "Document" means letters, words or numbers or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic or electronic impulse, mechanical or electronic recording, or other form of data compilation. *See* Tex. R. Evid. 1001(a).
 - a) A document is deemed to be in your control if you have a right to secure or compel the document, or a copy of it, from another person or public or private entity having actual possession thereof.
 - b) Copies may be identical to the original or not identical because of notes or alterations of any kind.
 - c) Pursuant to Tex. R. Civ. P. 196.4, the terms "document" and "documents" shall include all information that exists in electronic or magnetic form. All responsive information that exists in electronic or magnetic form shall be produced in printed form.

7. "Evidencing," "evidence," "relating to" "consisting" means proving indicating, or probative of the existence or nature of, embodying pertaining to, concerning, constituting, comprising, reflecting, discussing, referring to, or having any logical or factual connection whatsoever with the subject in question.
8. "File" means any collection or group of documents maintained, held, stored, or used together, including, without limitation, all collections or documents maintained, held, or stored in folders, notebooks, or other devices for separating or organizing documents.
9. "Identify" or "state the identity of" requires you to state:
 - a) as to a person: the full name, current or last known business and residence addresses, telephone numbers, occupation, job title, and dates so employed;
 - b) as to an entity: the name, the type of entity and the current or last known address and telephone number of its principal place of business;
 - c) as to a document: the type of document, the identity of the author or originator, the date authored or originated, the identity of each person to whom the original or copy was addressed or delivered, the identity of each person known or reasonably believed by you to have present possession, custody, or control thereof and a brief description of the subject matter of the document;
 - d) as to a communication: the date of the communication, the type of communication (telephone conversation, letter, meeting, etc.), the place where the communication took place, the identity of the persons who made and received the communication and the substance of the communication; and
 - e) as to an agreement or contract: the identities of the parties to the agreement, the substance of the terms and conditions of the agreement, whether the agreement is oral or written, and, if written, the identity of the document which embodies the agreement.
10. "Market value" in these discovery requests means the definition of "market value" as stated in Tex. Tax Code Ann. § 1.04(7)(A)-(C) (West 2013).
11. "Neighborhood" means a group of complementary land uses.
12. "Person" means any natural person, public or private agency, association, corporation, partnership, joint venture, firm, receivership, proprietorship, board, authority, commission, or other legal business entity, organization association, governmental agency, or department. It also includes any unit or subdivisions of such entity and all predecessors or successors in interest, as well as its agents, representatives, or employees.
13. "Possession, Custody or Control" means as used herein, the phrase, "possession, custody, or control," refers to documents actually within Plaintiffs' possession, custody, or control

(including, without limitation, documents within the possession, custody, or control of Plaintiffs' attorneys or accountants); documents that Plaintiffs have a legal right to obtain; documents that Plaintiffs have a right to copy or has access to; and documents that Plaintiffs have placed in the temporary possession, custody, or control of any third party.

14. "Property" or "Subject Property" means the following **Guadalupe Appraisal District Property Identification Numbers: 50610, 50612, and 59576**

It may also include any and all other property that is the subject of this litigation which is described more fully in the Plaintiffs' Original Petition or in any supplemental or amended petitions that are filed thereafter.

15. "Tax Year" or "Tax Year at Issue" or "Period at Issue" means the January 1 or appraisal date and corresponding calendar year contested in this lawsuit. It also refers to all years inclusively in cases in which more than one year's appraisal is at issue in this litigation.
16. "You" means and "your" refers to the Plaintiffs named in the style of this cause. It may also include its divisions, subsidiaries, partners, officers, agents, employees, heirs, consultants, assigns, and any other person acting on behalf of the Plaintiffs. This term does not include the Plaintiffs' attorneys or non-testifying consulting-only expert witnesses.
17. The singular includes the plural number, and vice versa.
18. Pronouns of any gender indicate any other gender.
19. The present tense indicates the past and vice versa.
20. "Or" shall be construed either conjunctively or disjunctively to bring within the scope of these Interrogatories and Requests for Production of documents any information that might otherwise be construed to be outside their scope.
21. "Any" and "all" also include "each" and "every," and vice versa. **It presumes that the item(s) are in your possession, care, custody, or control.**
22. "And" shall mean "and / or."

PRODUCTION

Request for Production No. 1:

Please produce copies of all appraisals of the Subject Property with any effective (valuation) date between January 1, 2015 and January 1, 2012. This Request does not include appraisals conducted by the Defendant, Plaintiffs' attorney-work product, Plaintiffs' attorney-client privileged information, information related to consulting-only expert witnesses or work product of Plaintiffs' third-party valuation expert witness, whose report and opinions will later be tendered pursuant to Defendant's Requests for Disclosure subpart (f) or at deposition for purposes of this de novo proceeding.

Request for Production No. 2:

Please produce a copy of the warranty deed for the Subject Property that was in effect as of January 1 of the tax year at issue.

Request for Production No. 3:

Please produce a copy of the deed of trust the Subject Property that was in effect as of January 1 of the tax year at issue.

DEFENDANT'S
FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF

Pursuant to Texas Rule of Civil Procedure 198, the Defendant requests that the Plaintiff respond to its Requests for Admissions. These Requests are relevant to the subject matter involved in the pending action or are reasonably calculated to lead to the discovery of evidence admissible at trial of this case. Please serve your responses to the Defendant's attorney at 3301 Northland Dr., Suite 505, Austin, Texas 78731, within thirty (30) days after service of these requests.

INSTRUCTIONS FOR REQUESTS FOR ADMISSIONS

A party served with a request for admission must admit the statement if it is true. If a statement is partially true, a party must admit so much of it as is true and qualify or deny the remainder, pursuant to Texas Rule of Civil Procedure 198.2(b). A denial must be specific and must fairly meet the substance of the requested admission.

A party cannot refuse to admit or deny on the grounds that it lacks information or knowledge to admit or deny unless the party also states: (1) it has made a reasonable inquiry; and (2) the information is not known or easily obtained by the party and is insufficient to enable the party to admit or deny the request. Further, once a party has information that would allow it to admit or deny the request, the party should supplement or amend the answer.

Requests may relate to statements or opinions of facts, or to the application of law to fact, or to mixed questions of law and fact. Further, a request may relate to documents, although such documents may not be admissible at trial, if the information appears reasonably calculated to lead to discovery of admissible evidence, that information is discoverable. Finally, a request may present a genuine issue for the trial, and a party may not object solely on that basis.

DEFINITIONS

The following definitions above shall have their same meanings and apply to the Requests for Admissions below.

ADMISSIONS

Request for Admission No. 1:

Admit on January 1, 2015 you were an architect licensed by the State of Texas.

Request for Admission No. 2:

Admit on January 1, 2015 you were a resident of Guadalupe County, Texas.

Request for Admission No. 3:

Admit Guadalupe Appraisal District Property ID 50610 consists of 3.74 acres in the Moses Baker Survey, Abstract #4, in Guadalupe County, Texas.

Request for Admission No. 4:

Admit Guadalupe Appraisal District Property ID 50610 consisted of land and improvements on January 1, 2015.

Request for Admission No. 5:

Admit the improvement located on Guadalupe Appraisal District Property ID 50610 is known as the Silver Eagle Taphouse.

Request for Admission No. 6:

Admit you owned 3.74 acres in the Moses Baker Survey, Abstract #4, in Guadalupe County, Texas on January 1, 2015.

Request for Admission No. 7:

Admit you were the owner of Guadalupe Appraisal District Property ID 50610 on January 1, 2015.

Request for Admission No. 8:

Admit Guadalupe Appraisal District Property ID 50610 is located at 9301 FM 725, McQueeney, Guadalupe County, Texas, 78123.

Request for Admission No. 9:

Admit Guadalupe Appraisal District Property ID 50612 consists of 1.6 acres in the Moses Baker Survey, Abstract #4, in Guadalupe County, Texas.

Request for Admission No. 10:

Admit Guadalupe Appraisal District Property ID 50612 consisted only of land on January 1, 2015.

Request for Admission No. 11:

Admit no improvements existed on Guadalupe Appraisal District Property ID 50612 as of January 1, 2015.

Request for Admission No. 12:

Admit you owned 1.6 acres in the Moses Baker Survey, Abstract #4, in Guadalupe County, Texas on January 1, 2015.

Request for Admission No. 13:

Admit you were the owner of Guadalupe Appraisal District Property ID 50612 on January 1, 2015.

Request for Admission No. 14:

Admit Guadalupe Appraisal District Property ID 59576 consists of 2.6580 acres in the John Sowell Survey, Abstract #35, in Guadalupe County, Texas.

Request for Admission No. 15:

Admit Guadalupe Appraisal District Property ID 59576 consisted only of land on January 1, 2015.

Request for Admission No. 16:

Admit no improvements existed on Guadalupe Appraisal District Property ID 59576 as of January 1, 2015.

Request for Admission No. 17:

Admit the Ronald F. Avery and Cynthia G. Avery Revocable Living Trust was the owner of Guadalupe Appraisal District Property ID 59576 on January 1, 2015.

Request for Admission No. 18:

Admit you were a trustee of the Ronald F. Avery and Cynthia G. Avery Revocable Living Trust on January 1, 2015.

Request for Admission No. 19:

Admit Guadalupe Appraisal District Property ID 59576 is located at 2315 Tiemann Rd., Seguin, Guadalupe County, Texas, 78155.

Request for Admission No. 20:

Admit the Ronald F. Avery and Cynthia G. Avery Revocable Living Trust owned 2.6580 acres in the John Sowell Survey, Abstract #35, in Guadalupe County, Texas on January 1, 2015.

Request for Admission No. 21:

Admit on May 22, 2015 you protested the value is over market for Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 22:

Admit on May 22, 2015 you protested the value is over market for Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 23:

Admit on May 22, 2015 you protested the value is over market for Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 24:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest that the value is over market for Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 25:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest that the value is over market for Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 26:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest that the value is over market for Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 27:

Admit on May 22, 2015 you protested the value is unequally appraised for Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 28:

Admit on May 22, 2015 you protested the value is unequally appraised for Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 29:

Admit on May 22, 2015 you protested the value is unequally appraised for Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 30:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest that the value is unequally appraised for Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 31:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest that the value is unequally appraised for Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 32:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest that the value is unequally appraised for Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 33:

Admit on May 22, 2015 you protested Texas Constitution Article VIII, Sect. 1(a) Taxation Shall Be Equal and Uniform and Texas Constitution Article VIII, Sect. 1-e No State as valorem taxes shall be levied upon any property within this State for Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 34:

Admit on May 22, 2015 you protested Texas Constitution Article VIII, Sect. 1(a) Taxation Shall Be Equal and Uniform and Texas Constitution Article VIII, Sect. 1-e No State as valorem taxes shall be levied upon any property within this State for Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 35:

Admit on May 22, 2015 you protested Texas Constitution Article VIII, Sect. 1(a) Taxation Shall Be Equal and Uniform and Texas Constitution Article VIII, Sect. 1-e No State as valorem taxes shall be levied upon any property within this State for Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 36:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest regarding Texas Constitution Article VIII, Sect. 1(a) Taxation Shall Be Equal and Uniform and Texas Constitution Article VIII, Sect. 1-e No State as valorem taxes shall be levied upon any property within this State for Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 37:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest regarding Texas Constitution Article VIII, Sect. 1(a) Taxation Shall Be Equal and Uniform and Texas

Constitution Article VIII, Sect. 1-e No State as valorem taxes shall be levied upon any property within this State for Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 38:

Admit on July 21, 2015 the Guadalupe Appraisal Review Board heard your protest regarding Texas Constitution Article VIII, Sect. 1(a) Taxation Shall Be Equal and Uniform and Texas Constitution Article VIII, Sect. 1-e No State as valorem taxes shall be levied upon any property within this State for Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 39:

Admit on July 24, 2015 you received the Orders Determining Protests on the issues that were heard by the Guadalupe Appraisal Review Board on July 21, 2015.

Request for Admission No. 40:

Admit the situs of Guadalupe Appraisal District Property ID 50610 was within Guadalupe County's area as of January 1, 2015.

Request for Admission No. 41:

Admit the situs of Guadalupe Appraisal District Property ID 50610 was within Seguin ISD's area as of January 1, 2015.

Request for Admission No. 42:

Admit the situs of Guadalupe Appraisal District Property ID 50610 was within Lateral Road's area as of January 1, 2015.

Request for Admission No. 43:

Admit that Guadalupe County levied a tax in the amount of \$993.15 on Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 44:

Admit that Lateral Roads levied a tax in the amount of \$161.98 on Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 45:

Admit that Seguin Independent School District levied a tax in the amount of \$4,229.38 on Guadalupe Appraisal District Property ID 50610 for the 2015 tax year.

Request for Admission No. 46:

Admit the situs of Guadalupe Appraisal District Property ID 50612 was within Guadalupe County's area as of January 1, 2015.

Request for Admission No. 47:

Admit the situs of Guadalupe Appraisal District Property ID 50612 was within Seguin ISD's area as of January 1, 2015.

Request for Admission No. 48:

Admit the situs of Guadalupe Appraisal District Property ID 50612 was within Lateral Road's area as of January 1, 2015.

Request for Admission No. 49:

Admit that Guadalupe County levied a tax in the amount of \$206.32 on Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 50:

Admit that Lateral Roads levied a tax in the amount of \$33.65 on Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 51:

Admit that Seguin Independent School District levied a tax in the amount of \$878.65 on Guadalupe Appraisal District Property ID 50612 for the 2015 tax year.

Request for Admission No. 52:

Admit the situs of Guadalupe Appraisal District Property ID 59565 was within Guadalupe County's area as of January 1, 2015.

Request for Admission No. 53:

Admit the situs of Guadalupe Appraisal District Property ID 59565 was within Seguin ISD's area as of January 1, 2015.

Request for Admission No. 54:

Admit the situs of Guadalupe Appraisal District Property ID 59565 was within Lateral Road's area as of January 1, 2015.

Request for Admission No. 55:

Admit that Guadalupe County levied a tax in the amount of \$1.32 on Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 56:

Admit that Lateral Roads levied a tax in the amount of \$0.21 on Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 57:

Admit that Seguin Independent School District levied a tax in the amount of \$5.61 on Guadalupe Appraisal District Property ID 59565 for the 2015 tax year.

Request for Admission No. 58:

Admit that you filed your lawsuit appealing the Orders issued by the Guadalupe Appraisal Review Board regarding the Subject Property for the 2015 tax year on December 14, 2015.

DEFENDANT'S REQUEST FOR INSPECTION

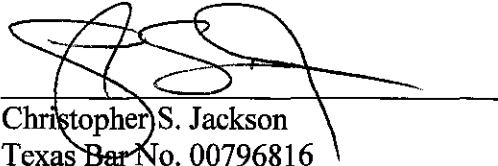
I.

Pursuant to Rule 196.7, Texas Rules of Civil Procedure, Defendant requests an opportunity to inspect the subject property for the purposes of inspecting, measuring, photographing, and/or videotaping the subject property. Persons attending the inspection may include representatives from the Guadalupe Appraisal District, independent appraisers, and Defendant's counsel. The Defendant will require access to and will inspect all interior and exterior areas if the property has improvements.

II.

Defendant requests the inspection at a time mutually agreeable to the parties.

Respectfully submitted,



Christopher S. Jackson
Texas Bar No. 00796816
cjackson@pbfc.com

Sandra Griffin
Texas Bar No. 00791280
Carol Barton
Texas Bar No. 00783610
A. Dylan Wood
Texas Bar No. 00797689

**Perdue, Brandon, Fielder, Collins
& Mott, L.L.P.**

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Austin, Texas 78731
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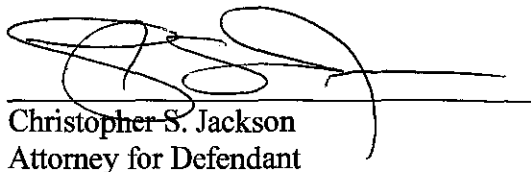
ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of April, 2016 a true and correct copy of the foregoing was served via electronic service and/or United States certified mail, return receipt requested, on Plaintiff at the address below:

Mr. Ronald F. Avery
1933 Montclair Drive
Seguin, Texas 78155

Email: taphouse@sbcglobal.net



Christopher S. Jackson
Attorney for Defendant