

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 FIRST AMENDED ORIGINAL ANSWER,
PLEA TO THE JURISDICTION AND SPECIFIC DENIAL OF CONDITION
PRECEDENT

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes the Defendant, Guadalupe Appraisal District, and files this, its First Amended Original Answer, Plea to the Jurisdiction, and Specific Denial of Condition Precedent, and would respectfully show the Court as follows:

I. GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, the Defendant denies each and every allegation, both all and singular, made and contained in the Plaintiff's Original Petition and demands strict proof thereof.

**II. PLEA TO THE JURISDICTION AND
SPECIFIC DENIAL OF CONDITION PRECEDENT**

The Defendant asserts that the Court lacks jurisdiction over three of the six claims made in the Plaintiff's Original Petition and First Amended Original Petition. The Plaintiff failed to timely file an appeal of the Appraisal Review Board's Order of Determination in the District Court within 60 days after the Plaintiff received the notice of the Order, on three claims as required by Texas Tax Code § 42.21(a).

The Plaintiff, Ronald F. Avery, for himself and as trustee on one property, filed protests on Account Numbers 59576, 50612 and 50610 for the 2015 tax year on May 22, 2015. The Plaintiff's protests had six grounds: 1) his property was over market value (excessively appraised); 2) his property was unequal compared to other properties (unequal appraisal); 3) his property should not be taxed in the jurisdiction of Texas; 4) his property should not be taxed in the Guadalupe Appraisal District or in one or more taxing units; 5) the property should not be taxed based on the Texas Constitution, including Article VIII, §§ 1(a), 1-e and other provisions of it and other laws; 6) principles of unlawfulness of ad valorem property taxes (the feudal system in America).

On June 16, 2015 the Guadalupe Appraisal Review Board sent the Plaintiff notices of hearing on his protests. The hearings were set for July 21, 2015 at 9:20 a.m. at the Guadalupe Appraisal District's building in Seguin.

On July 21, 2015, the Guadalupe Appraisal Review Board heard the Plaintiff's administrative protest on three of the six grounds at issue. Those three grounds were excessive appraisal, unequal appraisal, and the property should not be taxed based on the Texas Constitution. On July 22, 2015, the Guadalupe Appraisal Review Board issued Orders on those three grounds. On July 24, 2015, the Plaintiff received the Board's Orders on those three grounds.

On August 13, 2015 the Plaintiff wrote to the District and asserted that the Appraisal Review Board's Orders did not address his other three claims: 1) the property should not be taxed in Texas; 2) the Property should not be taxed in the Guadalupe Appraisal District or taxing units; 3) the unlawfulness of the ad valorem property tax in America.

On August 26, 2015, the Guadalupe Appraisal Review Board sent the Plaintiff a notice of hearing for October 14, 2015 at 3:00 p.m. on his remaining three issues. A second hearing was

held on October 14, 2015, by the Guadalupe Appraisal Review Board on the remaining three grounds. On October 16, 2015, the Guadalupe Appraisal Review Board issued Orders on those three grounds. The Plaintiff received the Board's Orders on the three grounds in the second hearing on October 22, 2015.

Sixty days after July 24, 2015 is September 22, 2015. Sixty days after October 22, 2015 is December 21, 2015. On December 14, 2015 the Plaintiff filed suit appealing the decisions of the Guadalupe Appraisal Review Board on the six grounds.

It is settled that the failure to file a petition for review timely deprives the trial court of jurisdiction over the claim. Tex. Tax Code Ann. § 42.21(a) (West, Westlaw through 2015 Reg. Sess.); *Appraisal Rev. Bd. v. Int'l Church of Foursquare Gospel*, 719 S.W.2d 160, 160 (Tex. 1986) (per curiam); *Hurst v. Guadalupe Cty. Appraisal Dist.*, 752 S.W.2d 231, 233 (Tex. App.—San Antonio 1988, no writ); *Gregg Cnty. Appraisal Dist. v. Laidlaw Waste Sys., Inc.*, 907 S.W.2d 12, 16 (Tex. App.—Tyler 1995, writ denied).

The Defendant specifically denies that the Plaintiff met all conditions precedent on the three claims referenced above because the Plaintiff did not file this suit within the statutory deadline.

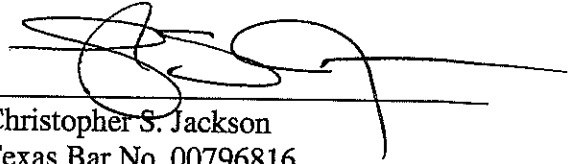
III. ATTORNEY'S FEES

The Defendant specifically pleads limitations on attorney's fees in accordance with Texas Tax Code § 42.29.

IV. CONCLUSION & PRAYER

WHEREFORE, PREMISES CONSIDERED, the Defendant requests that the Plaintiff takes nothing by his suit and that the Defendant be discharged from all liability and costs.

Respectfully submitted,



Christopher S. Jackson
Texas Bar No. 00796816
cjackson@pbfcm.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.**
3301 Northland Dr., Ste. 505
Austin, Texas 78731
Telephone: (512) 302-0190
Facsimile: (512) 323-6963

ATTORNEYS FOR DEFENDANT


VERIFICATION

STATE OF TEXAS

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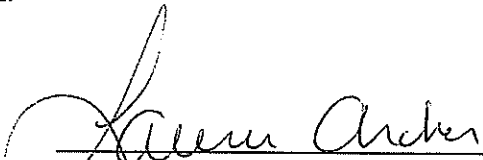
COUNTY OF TRAVIS

BEFORE ME, the undersigned Notary Public, on this day personally appeared Christopher S. Jackson, a person whose identity is known to me. After I administered an oath to him and upon being by me duly sworn on his oath said he is counsel for the Defendant, and duly qualified and authorized in all respects to make this affidavit; that he has read the above and foregoing Defendant's First Amended Original Answer, Plea to the Jurisdiction and the Specific Denial of Condition Precedent contained therein; and that every statement contained therein is within his personal knowledge, and is true and correct.



Christopher S. Jackson

SUBSCRIBED AND SWORN TO ME, on the 9th day of June 2016, to certify which, witness my hand and official seal.



NOTARY PUBLIC, in and for the
State of Texas

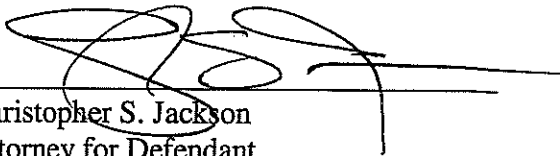


CERTIFICATE OF SERVICE

I hereby certify pursuant to Tex. R. Civ. P. 21a, that on the 9th day of June, 2016 a true and correct copy of the foregoing was served via email, electronic service and/or First Class 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