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COMPLAINT OF  
JOHN BLALOCK  
AGAINST MERCY  
WATER SUPPLY  
CORPORATION

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**JOHN BLALOCK’S RESPONSE TO AND MOTION TO QUASH MERCY**

**WATER SUPPLY CORPORATION’S SECOND MOTION TO COMPEL**

**AND MOTION FOR SPECIAL COUNSEL TO BE REQUESTED**

COMES NOW John Blalock (hereinafter “Mr. Blalock”) and files this response to and Motion to Quash Mercy Water Supply Corporation’s (hereinafter “Mercy”) Second Motion to Compel.

**I.**

**PROCEDURAL BACKGROUND**

On August 27, 2020, Mr. Blalock filed a complaint against Mercy under 16 Texas Administrative Code (hereinafter “TAC”) Section 22.242 regarding water service.

On October 1, 2020, Commission Staff (hereinafter “Staff”) filed a Statement of Position, recommending additional discovery and an extension to file a Supplemental Statement of Position. Mercy replied to the Staff’s Statement of Position on October 6, 2020, recommending against additional discovery and an extension. On October 8, the Administrative Law Judge (hereinafter “ALJ”) issued Order No. 6, granting Staff’s extension and requiring the Parties to propose a

discovery schedule by October 23, 2020. On October 23, 2020, the Parties filed an Agreed Proposed Discovery Schedule and Limits, which the ALJ adopted on October 26, 2020 in Order No. 7. On November 18, 2020, Mercy filed its First Request for Information to Complainant (hereinafter “First RFIs”). On November 19, 2020, counsel for Mercy received an email that Mr. Blalock would not respond to every request made by Mercy, which Mercy treated as an objection. On November 30, 2020, Mr. Blalock filed answers to Mercy’s First RFI, and included his itemized objections within those answers (hereinafter “Original Response”). On December 1, 2020, Mercy filed a Motion to Compel, which did not include information about the itemized objections. On December 2, 2020, Mr. Blalock filed a reply and an amended reply to Mercy Water’s motion to compel. Mercy amended its motion to compel on December 7, 2020 to address Mr. Blalock’s specific objections. On December 11, 2020, the ALJ issued Order No. 8, granting in part, and denying in part, Mercy’s motion to compel; denying Mr. Blalock’s motion to compel; and granting Mercy’s motion to quash. Order No. 8 compelled Mr. Blalock to respond to a number of Mercy’s requests in its First RFI and established a response deadline of January 8, 2021. On December 28 and 29, 2020, Mr. Blalock filed responses as required by Order No. 8 (Compelled Responses). Five working days from receipt of Mr. Blalock’s responses is January 5, 2021. This pleading is timely filed.

## **II.**

### **COMPLAINANT'S ANSWERS**

#### **RFI 1-1 AND RFI 1-9**

It has been explained to Mercy's counsel that Mr. Blalock cannot remember the exact dates that they are requesting. Mr. Blalock, nor anyone acting on his behalf, did not refuse to answer, but stated that Mr. Blalock does not have the information that Mercy's counsel is requesting.

#### **RFI 1-4**

Mr. Blalock has never waived his privilege to the privilege of the protection awarded to conversations between spouses. The privilege was never made part of his original objections, and Mr. Blalock has never stated that he waived that right. And, the way Mr. Blalock made it as a statement of fact in a response, and not as an objection, to RFI 1-4 in the same manner as he would be able to make a statement of fact if this were a criminal proceeding and he invoked the 5<sup>th</sup> Amendment when asked a question that may or may not cause self-incrimination.

Mr. Blalock contends that the Texas Rules of Evidence are always present and can be invoked at any time. And, it should be automatically understood that the privilege to conversations between spouses would already exist. And, Mercy's counsel would know this.

As far as gathering the information for Ms. Hauke this shouldn't be an issue as she is a customer of Mercy. And, Mercy had no issue with Mr. Blalock putting in unknown in place of information when it came to the staff of Mercy. So, why would it be an issue for the people specified in the Motion to Compel. If Mr. Blalock does not have the information, then he cannot give it.

#### **RFI 1-5**

Mr. Blalock would like to enter a response of no responsive documentation exist. As all of the conversations in question, at the time of the First RFIs, were either in person or a voice call on his cell or home phone, which would not create a responsive document as they would neither be in text or be in an email.

Mr. Blalock's emails between himself and Commission Staff have not concerned Mercy's water service to the Northern and Southern Tracts as it would pertain to the complaint being investigated, and could not be consider evidence as they took place after the Formal Complaint was initiated. But, all emails between Mr. Blalock and Commission Staff concerning Mercy's Water Service to the Northern and Southern Tract were also sent to Ms. Hammes and Mr. Carlton at the Carlton Law Firm as they were also recipients. Other than those emails, Mr. Blalock has only contacted Commission Staff in reference to actions by Mercy, Mercy's counsel, and Mercy's staff.

## **RFI 1-13**

RFI 1-13 does not say “Admit or Deny there is no recorded easement”. RFI 1-13 says “Admit there is no recorded easement...” “If Deny, produce any documents relating to the water service line and easement”. While not implicitly stating “Deny” Mr. Blalock has implied it both in the Original Response and in the response following Order No. 8, and had submitted a witness statement from himself explaining how there was an oral easement granted, and that with his witness statement combined with the Easement granted by Gloria Meeks (hereinafter “Ms. Meeks”) to Mercy for the meter to be installed it is also implied that Ms. Meeks would have known about the piping and would have given her permission for the piping to be ran across the Southern Tract to the Northern Tract. In essence, Mr. Blalock has implied a response of deny, and provided the documentation requested or pointed to documents that have been previously supplied to the Public Utility Commission (hereinafter “PUC”). Mr. Blalock has responded to this RFI in good faith and to the best of his ability.

As far as the definition of recorded, Mercy’s counsel did not include a definition of recorded with the First RFIs. So, Mr. Blalock went with the dictionary definition of recorded, which would include written witness statements. And, even by the semi-definition or general understanding given by Mercy’s counsel in their Motion to Compel, written witness statements would fall under that definition.

### **III.**

#### **MERCY'S INTERPRETATION OF THE EMAIL**

This is not the first time Mercy's counsel has tried to misrepresent an email from Mr. Blalock or anyone acting on his behalf. Mr. Blalock received an email from Mercy's Counsel stating their issues with the responses Mr. Blalock gave following Order No. 8. Mr. Blalock then explained the reasoning for the lack of information in some of his responses (e.g. that he cannot remember exact dates or a statement of fact towards certain conversations being privileged under Texas Rules of Evidence). This is not a refusal to respond as Mercy is interpreting it, but an explanation. If Mr. Blalock was going to refuse, then he would have stated that or would have had his child ignore the email.

Mercy's counsel also forgets to highlight the fact that in the email, it is stated that Mr. Blalock answered the questions to the best of his ability.

### **IV.**

#### **ACTIONS OF MERCY'S COUNSEL AND MERCY'S STAFF**

##### **MERCY'S COUNSEL**

Mercy's counsel is pushing for answers in the specific way that they want (e.g. wanting Mr. Blalock to say/admit there is no recorded easement for the water

service line from the meter to the residence on the Northern Tract or asking for specific dates). This continued push is the very definition of argumentative, which with Mr. Blalock not just being his own legal representation (Pro-Se) but also a witness by any set of rules on ethics this would be considered badgering a witness as Mercy has not received approval from the ALJ to treat Mr. Blalock as a hostile witness.

Mercy's counsel has also continued to misrepresent the facts of this case, despite the records and the copies of the emails proving the statements made by Mercy's counsel and Mercy's staff to be incorrect.

Allowing their client to commit perjury, and being part of it, Mercy's counsel is in violation of both state and federal rules of ethics on Truthfulness of Statements:

1. Texas rules of Disciplinary Conduct Rule 4.01:

- a. In the course of representing a client a lawyer shall not knowingly:
  - i. (a) make a false statement of material fact or law to a third person; or
  - ii. (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid making the lawyer a party to a criminal act or knowingly assisting a fraudulent act perpetrated by a client.



2. American Bar Association Rule 4.1:

- a. In the course of representing a client a lawyer shall not knowingly:
  - i. (a) make a false statement of material fact or law to a third person; or
  - ii. (b) fail to disclose material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

**MERCY'S STAFF**

Both Randy Baker and Kelley Allbright have made statements that constitute Perjury, possibly Aggravated Perjury per Texas Law:

- 1. Texas Penal Code Title 8, Chapter 37 states:
  - i. Section 37.02 Perjury:
    - 1. (a) A person commits an offense if, with intention to deceive and with knowledge of the statements meaning:
      - a. (1) he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or

b. (2) he makes a false unsworn declaration under

Chapter 132, Civil Practice and Remedies Code.

2. (b) An offense under this section is a Class A

misdemeanor

2. Section 37.03 Aggravated Perjury

i. (a) a person commits an offense if he commits perjury as

defined in Section 37.02, and the false statement:

1. (1) is made during or in connection with an official

proceeding; and

2. (2) is material

ii. (b) An offense under this section is a felony of the third degree.

Mr. Blalock will be providing the statements that are false and with what evidence would show that statement to be false, which will be titled Exhibit A and included at the end of this document. Mr. Blalock also contends that the fact that the evidence cited being from records and evidence provided by Mercy will lend to the notion that it was intentional.

## **VI.**

## **CONCLUSION**

It seems to Mr. Blalock that Mercy's counsel is not liking the answers they are getting since they cannot be used to strengthen their own defense, as the evidence they have provided in response to the RFIs from both Mr. Blalock and Commission Staff does the opposite.

And, in their wording, Mercy's counsel is trying to treat Mr. Blalock as a hostile witness, despite Mr. Blalock answering their questions to the best of his ability and without permission to do so from the ALJ.

Mercy's counsel is also misrepresenting Mr. Blalock's correspondences with them, as well as the facts of the case in order to cause confusion within this formal complaint. These blatant misrepresentations by Mercy's counsel and being part of criminal acts of their clients, which are both violations of ethic set both by the State and Federal Bar Associations.

## **VI.**

### **REQUEST FOR RELIEF**

Mr. Blalock respectfully request:

1. Mercy's Second Motion to Compel to be denied as he has to the best of his ability answered the questions in truthful statements and in good faith.

2. The honorable Administrative Law Judge order for a special counsel/prosecutor to be requested from the Attorney General of Texas by Staff:
  - i. The Special counsel will be for the investigation and prosecution of perjury committed (see exhibit A for examples of said perjury),
  - ii. Staff is the only party to the complaint that can make the request.
  - iii. The statements that constitute Perjury were made in an official proceeding that is outside of the jurisdiction of Mr. Blalock's local District Attorney and law enforcement, which inhibits Mr. Blalock from pursuing the charges with his only local prosecutor's office.
  - iv. The Honorable ALJ has the ability to order this as there is no prosecutor involved with this official proceeding.
3. The Honorable ALJ to ask for input from Staff on if they believe the answers to be adequate before the issue at hand causes this formal complaint proceeding to exceed the January 8<sup>th</sup> deadline for the Staff's Position.

**Respectfully Submitted By,**

**/s/ John Preston Blalock**

# **EXHIBIT A**

## **STATEMENT 1**

**WHO MADE/SUPPORTED THE STATEMENT:** Kelly Allbright

**WHAT WAS THE STATED:** Mercy does not have enough information to answer this RFI. Mercy has no record of when the first page of the Partition Deed was provided. In Ms. Ivey's record, Mercy found a copy of only the first page of the Partition Deed, which identifies 154 Bowen Road, Cleveland, Texas as the property in question. This first page does not show how the property was to be divided, who received which tract, whether there was shared ownership, or which tract retained the 154 Bowen Road address. A copy of the Partition Deed in its entirety may be found in Exhibit D to Mercy's Response to Complaint. This full copy was obtained while preparing to respond to this Complaint.

**IN WHICH DOCUMENT IS THE STATEMENT:** The statement was made in Mercy's response to the RFIs from Commission Staff, under RFI 1-3.

**WHAT EVIDENCE PROVES THE STATEMENT FALSE:** The Partition Deed filed in Mercy's Response to the RFIs from the Complainant, as the entirety of the partition deed would have been filed as required by Mercy's Tariff (Exhibit A attached to Mercy's Response to Complaint) as they would need to know which property Reba Ivey had ownership of.

**HOW DOES THE EVIDENCE PROVE IT WRONG:** Mercy's Tariff requires proof of ownership to be filed when an "Application and Agreement for Service" is filed. The proof of ownership would have been the entire partition deed, as Mercy would need knowledge of which part of the property belonged to Reba Ivey.

### **IS IT PERJURY:**

1. The statement is a misrepresentation of the facts, which is a false statement.
2. The statement was made with the intention to deceive the parties involved to protect Mercy.
3. It was made under oath.

## **STATEMENT 2**

**WHO MADE/SPONSERED THE STATEMENT:** Randy Baker

**WHAT WAS STATED:** Deny. Mercy's Operator believed the service address to be the location at which Mercy installed the meter and was not aware the property had been partitioned.

**IN WHICH DOCUMENT IS THE STATEMENT:** Response to RFIs from Commission Staff, in response to RFI 1-4

**WHAT EVIDENCE PROVES THE STATEMENT FALSE:** The partition deed filed in Mercy's response to RFIs from the Complainant.

**HOW DOES THE EVIDENCE PROVE IT FALSE:** The information in the partition deed would have been used to determine the location of the meter. That information would have been relayed/given to the staff responsible for the installation of the meter.

**IS IT PERJURY:**

1. The statement is false, as Mercy and their staff had the partition deed at the time of the installation of the meter.
2. It was made with the intention to deceive the parties involved to protect Mercy.
3. The statement was made under oath.

**STATEMENT 3**

**WHO MADE THE STATEMENT:** Randy Baker

**WHAT WAS STATED:** It is Mercy's practice to place the meter at the location where the customer requests, unless that location is infeasible for safety or other legal reasons. See, e.g., Mercy Water Supply Corporation's Response to Complaint at 36, Exhibit A at 26 (Sept. 24, 2020) (Section E, Paragraph 20). Mercy would not have placed the meter at its current location on the Southern Tract unless the applicant specifically requested it to be placed there.

**IN WHICH DOCUMENT IS THE STATEMENT:** In Mercy's response to the RFIs from Staff, under RFI 1-5.

**WHAT EVIDENCE PROVES THE STATEMENT FALSE:** Mercy's Tariff (Exhibit A, Response to Complaint), 'Application and Agreement for Service' signed by Reba Ivey (in the records attached to Mercy's response to RFIs from the Complainant, 'Application and Agreement for Service' signed by Gloria



Meeks/Hales (in the records provided in response to RFI 1-16 in Mercy's Response to RFIs from Staff)

**HOW DOES THE EVIDENCE PROVE IT FALSE:** The evidence shows what Mercy's practices, as the 'Application and Agreement' for Service is a contract, and the Tariff is the rules that Mercy's Board of Directors chooses as the practices for Mercy as a corporation.

**IS IT PERJURY:**

1. The nature of this response depends on if Mr. Baker is admitting that Mercy is not following the rules they have set and breaching every contract (Application and Agreement for Service) that they have with their customers/members, or if Mr. Baker is stating this to cover up the fact that Mercy, through its staff, chose the location as it is stated in both the 'Application and Agreement for Service' and their Tariff.
2. If it is false, then it was made intentionally. If not, then it is a violation of the UCC, and state laws on contracts as written contracts cannot be changed in anyway by a verbal contract/agreement.
3. It was made under oath.

**STATEMENT 4**

**WHO MADE/SUPPORTED THE STATEMENT:** Randy Baker and Kelley Allbright

**WHAT WAS STATED:** Mercy does not have enough information to admit or deny this RFI. It is unclear based on the information Mercy has which of the partitioned tracts retained the 154 Bowen Road, Cleveland, Texas address and which became 159 Bowen Road, Cleveland, Texas. (A reiteration of this statement is made by both Randy Baker and Kelley Allbright in response to multiple RFIs)

**IN WHICH DOCUMENT IS THE STATEMENT:** Mercy's response to RFIs from Staff, as a response to RFI 1-6 and RFI 1-21.

**WHAT EVIDENCE PROVES THE STATEMENT FALSE:** The Partition Deed which would have been filed with Mercy in its entirety and Mercy's Records for both Gloria Meeks/Hales and Reba Ivey.

**HOW DOES THE EVIDENCE PROVE IT FALSE:** As both Reba Ivey and Gloria Meeks would have had to prove which property was their property when applying for service from Mercy. The records for Reba Ivey shows her address as

154 Bowen Road, changing to 1611 Bowen Loop. The records for Gloria Meeks/Hales has her address as 159 Bowen Road, changing to 1611 Bowen Road.

**IS IT PERJURY:**

1. The statement is a misrepresentation of the facts, which constitutes a false statement.
2. The statement was made with the intention to deceive the parties involved.
3. It was made under oath.