



Control Number: 51224



Item Number: 69

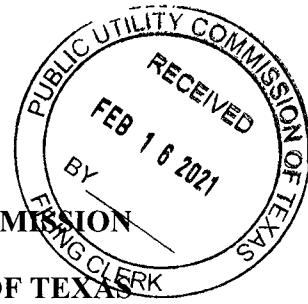
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DOCKET NO. 51224

COMPLAINT OF JOHN BLALOCK  
AGAINST MERCY WATER SUPPLY  
CORPORATION

§  
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PUBLIC UTILITY COMMISSION  
OF TEXAS



**MERCY WATER SUPPLY CORPORATION'S MOTION FOR SANCTIONS**

COMES NOW Mercy Water Supply Corporation (Mercy) and files this Motion for Sanctions. In support thereof, Mercy respectfully shows as follows:

**I. PROCEDURAL HISTORY**

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

On October 1, 2020, Commission Staff (Staff) filed a Statement of Position, recommending additional discovery and requesting an extension to file a Supplemental Statement of Position. On October 8, 2020, the Administrative Law Judge (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 January 7, 2021, Staff filed an unopposed request for extension to file a supplemental statement of position by February 8, 2021, which the ALJ granted on January 8, 2021 in Order No. 9.

On November 18, 2020, Mercy filed its First Request for Information to Complainant (First RFIs). On November 30, 2020, Mr. Blalock filed answers to Mercy's First RFI, and included itemized objections within those answers (Original Responses). On December 7, 2020, Mercy filed an amended motion to compel to address Mr. Blalock's specific objections. On December 11, 2020, the ALJ issued Order No. 8, compelling Mr. Blalock to respond to several of Mercy's requests in its First RFI. On December 28 and 29, 2020, Mr. Blalock filed incomplete responses to Mercy's Requests (Compelled Responses). Accordingly, on January 5, 2021, Mercy filed a second motion to compel, to which Mr. Blalock replied on January 6, 2021.

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On January 12, 2021 and January 20, 2021, the ALJ issued Orders No. 10 and 11, compelling Mr. Blalock to respond to Mercy's Requests 1-1, 1-4 and 1-9, but denying Mercy's request to again compel Mr. Blalock to respond to Requests 1-5 and 1-13. The ALJ did note that Mercy is free to seek sanctions against Mr. Blalock for his failure to comply with Order No. 8. To date, Mr. Blalock has provided inadequate responses to each of Mercy's Requests. No discovery is outstanding for this discovery period.

On January 21, 2021, Mr. Blalock also filed a number of other documents, including correspondence of his intent to file a motion to impeach and exclude Mercy witnesses, and two motions impeaching and requesting the exclusion of an employee and a contractor of Mercy. Mercy replied to Mr. Blalock's motions to impeach and exclude on January 26, 2021. That same day, Mr. Blalock filed a response to Mercy's reply, then withdrew his motion to exclude the two witnesses.

Section 22.161 does not require a motion for sanctions to be filed within a specified time. This pleading is timely filed.

## **II. MOTION FOR SANCTIONS**

Mercy requests the ALJ issue sanctions against Mr. Blalock, after notice and an opportunity for a hearing. Under 16 Texas Administrative Code (TAC) § 22.161(b), on the motion of a party, sanctions may be imposed against a party after notice and an opportunity for a hearing for:

- (1) filing a motion or pleading that was brought in bad faith, for the purpose of harassment, or for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;
- (2) abusing the discovery process in seeking, making or resisting discovery;
- (3) failing to obey an order of an administrative law judge or the commission.<sup>1</sup>

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<sup>1</sup> 16 Tex. Admin. Code § 22.161(b) (TAC).

Under the Commission Rules, there are many types of sanctions that may be issued, including:

- (1) disallowing further discovery of any kind or a particular kind by the disobedient party;
- (2) charging all or any part of the expenses of discovery against the offending party or its representative;
- (3) holding that designated facts be deemed admitted for purposes of the proceeding;
- (4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;
- (5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of such requests;
- (6) punishing the offending party or its representative for contempt to the same extent as a district court;
- (7) requiring the offending party or its representative to pay, at the time ordered by the administrative law judge, the reasonable expenses, including attorney's fees, incurred by other parties because of the sanctionable behavior; and
- (8) striking pleadings or testimony, or both, in whole or in part, or staying further proceedings until the order is obeyed.<sup>2</sup>

Specifically, on December 11, 2020, the ALJ issued Order No. 8, which compelled Mr. Blalock to respond to several of Mercy's requests in its First RFI.<sup>3</sup> Despite this, Mr. Blalock failed to respond fully in his Compelled Responses.<sup>4</sup> Additionally, Mr. Blalock has repeatedly behaved contrary to Commission Rule 22.2(a) in both filed documents and in correspondence with Parties.

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<sup>2</sup> *Id* § 22.161(c).

<sup>3</sup> See Order No. 8 - Granting in Part, and Denying in Part, Mercy's Motion to Compel; Denying Complainant's Motion to Compel; and Granting Motion to Quash (Dec. 11, 2020).

<sup>4</sup> See Complainant's Responses as Required by Order No. 8 (Dec. 28, 2020); Complainant's Responses to RFI 1-17 through 1-21 (Dec. 29, 2020).

Further, he has filed several repetitive filings and has filed other motions and pleadings that needlessly increased the cost of this proceeding. Mr. Blalock has also abused the discovery process by seeking discovery from Mercy after the agreed deadline to request written discovery had passed. Finally, Mr. Blalock has repeatedly failing to comply with ALJ Orders No. 7 and 8 by refusing to work in good faith to resolve discovery disputes and to provide full answers to Mercy's RFIs. Mercy has outlined the specific filings and communications in the chart below:

DATE	INTERCHANGE DESCRIPTION, AND SUMMARY OF CONTENTS AND ARGUMENTS
<b>October 7, 2020</b>	<p data-bbox="521 646 1383 719"><b>“Mr. Blalock’s Comments on the Formal Complaint in its Current State”</b></p> <ul data-bbox="570 740 1383 995" style="list-style-type: none"> <li data-bbox="570 740 1383 815">• This was a repetitive filing, as this document was filed the same day as his “Response to Mercy’s Reply to Staff’s Position.”<sup>5</sup></li> <li data-bbox="570 836 1383 932">• The arguments laid out within were unprompted and duplicative personal commentary that could have been or was filed in his other pleading on the same date.<sup>6</sup></li> <li data-bbox="570 953 1383 995">• This filing needlessly increased the cost of the proceeding.<sup>7</sup></li> </ul>
<b>November 24, 2020</b>	<p data-bbox="521 1059 1383 1155"><b>“The Agendas for Mercy’s Board meetings from August and September of 2020. As they were as of the 11th day of November 2020.”</b></p> <ul data-bbox="570 1176 1383 1406" style="list-style-type: none"> <li data-bbox="570 1176 1383 1283">• Mr. Blalock filed these agendas after receiving Mercy’s Responses to his First RFI because he believed that they should have been responsive under Complainant’s First RFIs.</li> <li data-bbox="570 1304 1383 1406">• In the email serving these documents to the Parties, Mr. Blalock insinuated that Mercy would attempt to destroy or alter these public records.<sup>8</sup> This accusation was a violation of Commission</li> </ul>

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<sup>5</sup> Complainant’s Rebuttal (Response) to Mercy’s Reply to the Staff’s Position (Oct. 7, 2020).

<sup>6</sup> For example, he argues that “if there was a problem with the fact that I have not filled out their Application and Agreement for Service or Transfer Membership, then they would not have allowed for me to continue to get service under my deceased mother’s membership/account for 5, almost 6 years, after her death with no complaints on it,” in both of his October 7, 2020 filings. Complainant’s Comments on the Formal Complaint in its Current State at 1 (Oct. 7, 2020). *See also* Complainant’s Response to Mercy’s Reply to Staff’s Position at 3 (Oct. 7, 2020).

<sup>7</sup> 16 TAC § 22.161(b)(1).

<sup>8</sup> *See* Email Correspondence from ‘allieblalock97@gmail.com’ Regarding Filing of August and September Meeting Agendas (Nov. 23, 2020) (Exhibit B).

Rule section 22.3(a)(1), which sets forth the standards of conduct for parties.<sup>9</sup>

**November 24, 2020 “RFI No. 2 for Mercy from John Blalock”**

- Mr. Blalock filed his Second RFIs six days after the agreed deadline to request written discovery.<sup>10</sup>
- This was a violation of Order No. 7, which clearly defined the procedural schedule for this Discovery period.<sup>11</sup>
- This request needlessly increased the cost of this proceeding because Mercy was forced to file a Motion to Quash and defend their position.<sup>12</sup>
- This request was an abuse of the discovery process by seeking discovery outside the discovery period.<sup>13</sup>

**November 24, 2020 Email Correspondence Regarding Complainant’s RFI No. 2**

- Mercy requested by email that Mr. Blalock withdraw his Second RFIs because they were untimely filed.<sup>14</sup>
- Mr. Blalock refused to withdraw the Second RFIs and accused Mercy of purposely delaying the responses to his First RFIs as a “strategy” to prevent discovery.<sup>15</sup> This was not the case, as Mercy filed its responses within 20 days after receipt of the request, in accordance with Commission Rule Section 22.144(c)(1).<sup>16</sup>

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<sup>9</sup> 16 TAC § 22.3(a)(1) (requiring “every person appearing in any proceeding shall comport himself or herself with dignity, courtesy, and respect for the commission, the presiding officer and all other persons participating in the proceeding.”).

<sup>10</sup> See Order No. 7 – Adopting Agreed Discovery Schedule and Imposing Limits on Discovery (Oct. 26, 2020) (Order No. 7); Agreed Proposed Discovery Schedule (Oct. 23, 2020).

<sup>11</sup> Order No. 7 at 1 (Oct. 26, 2020).

<sup>12</sup> Mercy’s Motion to Quash Complainant’s Second Requests for Information (Dec. 4, 2020).

<sup>13</sup> 16 TAC § 22.161(c)(2); Order No. 7 at 1 (Oct. 26, 2020) (establishing November 18, 2020 as the “deadline for serving written discovery requests.”).

<sup>14</sup> Email Correspondence from Mercy’s Counsel to ‘allieblalock97@gmail.com’ Regarding Complainant’s Second RFIs (Dec. 29, 2020) (Exhibit C).

<sup>15</sup> Email Correspondence from ‘allieblalock97@gmail.com’ Regarding Complainant’s 2<sup>nd</sup> RFIs (Dec. 29, 2020) (Exhibit D).

<sup>16</sup> 16 TAC § 22.144(c)(1)

- Mr. Blalock refused to negotiate diligently and in good faith as required by Commission Rule 22.144(d) and Order No. 7.<sup>17</sup>

**December 7, 2020      “Mr. Blalock’s Motion to Reclassify RFI 2 and compel a response from Mercy.”**

- Mr. Blalock requested to reclassify his Second RFI as a “continuation of the first RFI as they are just questions asked as clarification to the responses from Mercy.”<sup>18</sup>
- There was no legal justification for this request, as none of the requests in his Second RFI could reasonably be interpreted as directly relating to his First RFIs.<sup>19</sup> The Second RFIs sought completely new information not previously requested, in violation of Order No. 7’s discovery schedule.<sup>20</sup>
- This is a continued failure to confer and attempt in good faith to resolve this discovery dispute, in violation of Commission Rule Section 22.144(d) and Order No. 7.<sup>21</sup>
- This filing needlessly increased the cost of this proceeding because Mercy’s Counsel had prepared defenses to this motion.
- This filing also was an abuse of the discovery process by seeking discovery outside the agreed discovery period.<sup>22</sup>

**December 8, 2020      “Letter to all parties from Mr. Blalock.”**

- This was a repetitive filing, as this document was filed the same day as his Response to Mercy’s Amended Motion to Compel.<sup>23</sup>

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<sup>17</sup> *Id.* § 22.144(d) (requiring “[p]arties to negotiate diligently and in good faith concerning any discovery dispute prior to filing an objection.”); Order No. 7 at 1 (stating “The parties are expected to confer and attempt in good faith to resolve any discovery procedural dispute prior to seeking a ruling from the ALJ.”).

<sup>18</sup> Complainant’s Motion to Reclassify RFI 2 and Compel a Response from Mercy at 1 (Dec. 7, 2020).

<sup>19</sup> *Compare* Complainant’s Discovery Request for Mercy Water Supply Corporation to Produce Documents Relating to the Complaint (Nov. 2, 2020) *with* RFI No. 2 for Mercy from Complainant (Nov. 24, 2020).

<sup>20</sup> Order No. 7 at 1 (Oct. 26, 2020). *Compare* Complainant’s Discovery Request for Mercy Water Supply Corporation to Produce Documents Relating to the Complaint (Nov. 2, 2020) *with* RFI No. 2 for Mercy from Complainant (Nov. 24, 2020).

<sup>21</sup> 16 TAC § 22.144(d) (requiring “[p]arties to negotiate diligently and in good faith concerning any discovery dispute prior to filing an objection.”); Order No. 7 at 1 (stating “The parties are expected to confer and attempt in good faith to resolve any discovery procedural dispute prior to seeking a ruling from the ALJ.”).

<sup>22</sup> *See id.* § 22.161(b)(2)

<sup>23</sup> *See* Complainant’s Response to Mercy’s Amended Motion to Compel (Dec. 8, 2020).

- The arguments set forth in the letter were unprompted and duplicative personal commentary that could have been or was filed in his other pleadings.<sup>24</sup>
- Mr. Blalock expressly stated he did not file this with any expectation of a response.<sup>25</sup> Such unprompted and duplicative musings needlessly increased the cost of the proceeding because Mercy's Counsel is responsible for reviewing filings in the event a response is required.
- Mr. Blalock expressly stated he was "disgusted with the actions of both Mercy and their legal representation in this matter."<sup>26</sup> He also "call[ed] into question the credibility and integrity of all parties associated with the defense of Mercy."<sup>27</sup>
- This letter was a violation of Commission Rule section 22.3(a)(1), which sets forth the standards of conduct for parties and was filed in bad faith.<sup>28</sup>

#### **December 29, 2020      Email Correspondence with a Representative of Mr. Blalock**

- Mercy requested by email that Mr. Blalock fully respond to the best of Mr. Blalock's ability to Mercy's RFIs 1-1, 1-4, 1-5, 1-9, 1-13, 1-17, 1-18, 1-19, 1-20, and 1-21.<sup>29</sup>
- A representative for Mr. Blalock refused to provide complete responses to Mercy's RFIs 1-1, 1-4, 1-5, 1-9, and 1-13, despite already being compelled to fully respond by Order No. 8.<sup>30</sup>
- The representative further misstated the requirements of the ALJ's order requiring a complete response to RFI 1-13 to falsely support his refusal to fully respond.<sup>31</sup>

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<sup>24</sup> See, e.g., Complainant's Response to Mercy's Reply to Staff's Position (Oct. 7, 2020).

<sup>25</sup> Letter to All Parties from Complainant at 1, 6–7 (Dec. 8, 2020).

<sup>26</sup> *Id.* at 6.

<sup>27</sup> *Id.*

<sup>28</sup> 16 TAC § 22.3(a)(1) (requiring "every person appearing in any proceeding shall comport himself or herself with dignity, courtesy, and respect for the commission, the presiding officer and all other persons participating in the proceeding."); 16 TAC § 22.161(b)(1).

<sup>29</sup> Email Correspondence from Mercy's Counsel to 'allieblalock97@gmail.com' regarding Mr. Blalock's responses as required by Order No. 8 (Dec. 29, 2020) (Exhibit E).

<sup>30</sup> Email Correspondence from 'allieblalock97@gmail.com' regarding Mr. Blalock's responses as required by Order No. 8 (Dec. 29, 2020) (Exhibit F).

<sup>31</sup> *Id.*



- The representative continued to plead an untimely objection based upon spousal privilege.<sup>32</sup>
- This was a failure to negotiate diligently and in good faith as required by Commission Rule 22.144(d) and Order No. 7.<sup>33</sup>
- Mr. Blalock's refusal to comply with Orders No. 7 and 8 needlessly increased the cost of this proceeding because Mercy had to seek a second motion to compel.<sup>34</sup>
- Mr. Blalock's refusal was an abuse of the discovery process by resisting discovery he was already compelled to provide.<sup>35</sup>

January 6, 2021

**“Mr. Blalock’s response to and Motion to Quash Mercy’s Second Motion to Compel, and Motion for Special Counsel.”**

- Mr. Blalock claimed he answered Mercy’s RFIs to the best of his ability. This is false because after Order No. 10 was issued, he suddenly recalled the years of his residences.<sup>36</sup>
- He stated that the emailed response was 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*<sup>37</sup> *ignore the email.*”<sup>38</sup>
- This statement illustrated his continued failure to confer and attempt in good faith to resolve this discovery dispute, in violation of Commission Rule Section 22.144(d) and Order No. 7, which needlessly increased the cost of this proceeding, and was an abuse of the discovery process by resisting discovery he was already compelled to provide.<sup>39</sup>

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<sup>32</sup> *Id*

<sup>33</sup> See 16 TAC § 22.144(d) (requiring “[p]arties to negotiate diligently and in good faith concerning any discovery dispute prior to filing an objection.”); Order No. 7 at 1 (stating “The parties are expected to confer and attempt in good faith to resolve any discovery procedural dispute prior to seeking a ruling from the ALJ.”).

<sup>34</sup> See *id.* § 22.161(b)(1).

<sup>35</sup> See *id.* § 22.161(b)(3).

<sup>36</sup> Complainant’s Responses as Required by Order No. 9 at 1 (Jan. 13, 2021).

<sup>37</sup> Mercy presumes this is the same representative of Mr. Blalock who responded to the email correspondence in Exhibit F.

<sup>38</sup> Complainant’s Response to and Motion to Quash Mercy Water Supply Corporation’s Second Motion to Compel and Motion for Special Counsel to be Requested at 6 (Jan. 6, 2021).

<sup>39</sup> 16 TAC § 22.144(d) (requiring “[p]arties to negotiate diligently and in good faith concerning any discovery dispute prior to filing an objection.”); Order No. 7 at 1 (stating “The parties are expected to confer and attempt in good faith to resolve any discovery procedural dispute prior to seeking a ruling from the ALJ.”).

- Mr. Blalock argued: “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.”<sup>40</sup> This is untrue. In Mercy’s “Second Motion to Compel,” Mercy’s counsel specifically provided direct quotations from Mr. Blalock’s representative for each RFI he responded to.<sup>41</sup>
- These baseless claims were a violation of Commission Rule Section 22.3(a)(1), which sets forth the standards of conduct for parties.

**January 21, 2021      “Mr. Blalock’s letter of intent to motion to Impeach and Exclude witness(es)”**

- This was a repetitive filing, as this document being filed within two-and-one-half hours of his “Motions for Impeach and Exclude Witness(es).”
- This filing constituted a failure to confer and attempt in good faith to resolve a discovery dispute, in violation of Order No. 7, as he failed to first confer with Mercy about this discovery dispute and did not provide Mercy any opportunity to discuss it with him, as he filed the motions mere hours after this letter.<sup>42</sup>
- This filing needlessly increased the cost of this proceeding and was an abuse of the discovery process by attempting to resist discovery by restricting the Commission’s access to material witnesses.<sup>43</sup>

**January 21, 2021      “Motions for Impeach and Exclude Witness(es).”**

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<sup>40</sup> Complainant’s Response to and Motion to Quash Mercy Water Supply Corporation’s Second Motion to Compel and Motion for Special Counsel to be Requested at 6 (Jan. 6, 2021).

<sup>41</sup> Mercy’s Second Motion to Compel at 4, 7–8, 9, 10, 11–12 (Jan. 5, 2021).

<sup>42</sup> Order No. 7 at 1 (stating “The parties are expected to confer and attempt in good faith to resolve any discovery procedural dispute prior to seeking a ruling from the ALJ.”).

<sup>43</sup> See 16 TAC § 22.161(b)(1)–(2).

- This filing was filed in bad faith to resist discovery and attempts to restrict the Commission’s access to material witnesses.<sup>44</sup>
- This filing was frivolous, not properly researched,<sup>45</sup> and requested relief that was wholly unsupported by the Texas Rules of Evidence.<sup>46</sup>
- This filing constituted a failure to confer and attempt in good faith to resolve a discovery dispute, in violation of Order No. 7, as he failed to first confer with Mercy about his dispute regarding material witnesses.<sup>47</sup>
- This filing needlessly increased the cost of this proceeding as Mercy was required to reply to this motion or else risk waiving its objections.

**January 26, 2021      “Mr. Blalock’s response to Mercy’s reply to his Motions to Impeach and Exclude.”**

- This filing was filed in bad faith to resist discovery and attempts to restrict the Commission’s access to material witnesses.<sup>48</sup>
- This filing was repetitive, frivolous, not properly researched,<sup>49</sup> and requested relief that was wholly unsupported by the Texas Rules of Evidence.

**January 26, 2021      “Mr. Blalock’s withdraw of his motion to exclude.”**

- This is a repetitive filing, as this withdrawal was filed the same day as his “Response to Mercy’s reply to his Motions to Impeach and Exclude.” This filing could have been filed within

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<sup>44</sup> *Id.*

<sup>45</sup> Mr. Blalock admits this in his “withdraw of his motion to exclude,” filed on January 26, 2021. Complainant’s Motion to Withdraw Motion to Exclude at 1 (Jan. 26, 2021).

<sup>46</sup> *See, e.g.*, Order No. 12 Denying Motion to Impeach (Jan. 28, 2021).

<sup>47</sup> Order No. 7 at 1 (stating “The parties are expected to confer and attempt in good faith to resolve any discovery procedural dispute prior to seeking a ruling from the ALJ.”).

<sup>48</sup> *See* 16 TAC § 22.161(b)(2).

<sup>49</sup> Mr. Blalock filed this motion without performing any additional research after Mercy’s “Reply to his Motions to Impeach and Exclude Witness(es).” This is evident because a few hours later, he filed his “Motion to Withdraw Motion to Exclude,” which states that “under further research of the Rule in question [Rule 614] Mr. Blalock understand that his understanding of the Rule was incorrect.” Complainant’s Motion to Withdraw Motion to Exclude at 1 (Jan. 26, 2021).

his previous filing had he properly researched the rules under which he requested relief.

For these reasons, Mercy requests Mr. Blalock be sanctioned and ordered to pay Mercy's reasonable expenses, including attorney's fees, in an amount up to \$7,205.24 for the 50.1 hours of work expended since Mr. Blalock's inadequate Compelled Responses were filed. An affidavit outlining the costs and fees Mercy requests Mr. Blalock be ordered to pay is attached in **Exhibit A**. A summary of these costs by filing or work type is also shown in the chart below:

<b>Filing or Work Summary</b>	<b>Hours Spent</b>	<b>Billed Amount</b>
Related to Mercy's Second Motion to Compel	19.5	\$2,693.62
Related to Mercy's Request for Reconsideration of Order No. 10 in Part	7.4	\$762.00
Related to Mr. Blalock's Motions to Impeach and Exclude Witnesses	10.8	\$1,831.50
Related to Mercy's Motion for Sanctions	8.8	\$1,258.12
Related to Mercy's Review of Filed Documents, including Discovery	3.6	\$660.00
<b>Total</b>	<b>50.1</b>	<b>\$7,205.24</b>


### **III. CONCLUSION AND PRAYER**

In accordance with Commission Rule 22.161(b) and (c)(2), (7), Mercy respectfully requests Mr. Blalock be sanctioned and ordered to pay Mercy's reasonable attorney's fees since Mr. Blalock filed his Compelled Responses. Specifically, Mercy requests up to \$7,205.24 for the 50.1 hours of work Mercy's counsel has completed since Mr. Blalock filed his Compelled Responses because throughout this proceeding Mr. Blalock has:

- (1) repeatedly behaved contrary to Commission Rule 22.2(a) in filed documents and correspondence with Parties;

- (2) filed motions and pleadings that needlessly increased the cost of this proceeding;
- (3) abused the discovery process by seeking discovery outside the agreed discovery window;
- (4) abused the discovery process by resisting discovery after being ordered by the ALJ in Order No. 8 to fully answer many of Mercy's RFIs; and
- (5) repeatedly failed to comply with Commission Rules Section 22.144(d) and ALJ Orders No. 7 and 8.

Respectfully submitted,


By:   
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ATTORNEYS FOR MERCY WATER  
SUPPLY CORPORATION

### **CERTIFICATE OF SERVICE**

I hereby certify that I have served or will serve a true and correct copy of the foregoing document via hand delivery, facsimile, electronic mail, overnight mail, U.S. mail and/or Certified Mail Return Receipt Requested to all parties on this the 16<sup>th</sup> day of February, 2021.

  
Katelyn A. Hammes

# **Exhibit A**

**DOCKET NO. 51224**

**COMPLAINT OF JOHN BLALOCK  
AGAINST MERCY WATER SUPPLY  
CORPORATION**

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§  
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**PUBLIC UTILITY COMMISSION  
OF TEXAS**

**AFFIDAVIT OF JOHN CARLTON**

STATE OF TEXAS                   §  
                                          §  
COUNTY OF TRAVIS           §

BEFORE ME, the undersigned Notary Public, on this day personally appeared John Carlton, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1. “My name is John Carlton. I am over 18 years of age, of sound mind, and capable of making this affidavit. The facts stated herein are within my personal knowledge and are true and correct.
2. “I am an attorney licensed to practice in the State of Texas. I was licensed to practice in 1991 and have been a civil-litigation attorney practicing in administrative and local-government law since that time. I founded The Carlton Firm, P.L.L.C. in 2011.
3. “Mercy Water Supply Corporation (Mercy) retained The Carlton Law Firm, P.L.L.C. to represent it in this rate appeal. I have personal knowledge of this case and the legal work performed.
4. “It was necessary for Mercy to retain an attorney as well as have the assistance of other professionals and para-professionals to work on this case.
5. “I am the lawyer in charge of this case. I am the managing member of The Carlton Law Firm, P.L.L.C.
6. “I have associate attorneys who are also assigned to this case. Grayson McDaniel was licensed in 2011, and Katelyn Hammes was licensed in 2020.

7. "The paralegals and legal assistants assigned to this case (1) are qualified by education, experience, and training to perform the services required, (2) have knowledge of the legal system, principles, and procedures, (3) were supervised by an attorney, (4) performed tasks that are traditionally done by attorney, and (5) performed services that were reasonable and necessary.
8. "Mercy agreed to compensate me for my work based on an hourly fee of \$330, an hourly fee not to exceed \$250 per hour for our associate attorneys' work on this suit, and an hourly fee not to exceed \$175 per hour for our paralegal's services.
9. "The rates are our normal hourly billing rates charged for services to non-regulated entities and are equivalent to or less than fees customarily charged in this area for the same or similar services of a firm with The Carlton Law Firm, P.L.L.C.'s experience, reputation and ability. The rates are comparable to the hourly rates charged by other professionals for similar services provided to other Texas utilities.
10. "The attorneys, paralegals, and legal assistants to date have spent and billed 50.1 hours since Mr. Blalock's December 28, 2020 pleading entitled "Responses as Required by Order No. 8" (1) investigating claims, (2) drafting pleadings, questions, and responses, and (4) taking other necessary actions to perform the legal services properly. A description of the invoices billed to Mercy in this case is attached as **Exhibit A-1**.
11. "Based on the type of controversy, the time limitations imposed, the results obtained, and the nature and length of the Firm's relationship with Mercy, the fees are reasonable and necessary for the services performed.
12. "The attorney fees charged in this case were necessary, reasonable, and incurred in the prosecution of this suit.



13. "The fees charged in this case are customarily charged in this area for the same or similar services for an attorney with my experience, reputation, and ability, considering the type of controversy, the time limitations imposed, and the results obtained."

FURTHER, AFFIANT SAYETH NOT.

/s/ John J. Carlton

John Carlton, Managing Member,  
The Carlton Law Firm, P.L.L.C., Representing  
Mercy Special Utility District

SWORN TO AND SUBSCRIBED before me by John Carlton on this 16<sup>th</sup> day of February 2021.

/s/ Katy Hennings

Notary Public in and for the State of Texas

**Exhibit A-1**

Date	Hours	Description	Attorney	Rate (\$)	Billable (\$)
12/28/2020	0.6	Review Blalock discovery responses; work regarding motion to compel.	John Carlton	\$330.00	\$198.00
12/29/2020	2.7	Review J. Blalock's discovery response; email correspondence with J. Carlton regarding the responses; draft email correspondence to J. Blalock regarding his responses and Order No. 8's requirements.	Katelyn Hammes	\$165.00	\$445.50
12/29/2020	0.4	Review Blalock responses to discovery; review and revise correspondence to Blalock regarding same.	John Carlton	\$330.00	\$132.00
12/30/2020	4.4	Teleconference with J. Carlton regarding J. Blalock's compelled responses; Teleconference with J. Adkins regarding procedural deadline schedule; begin drafting 2nd Motion to Compel.	Katelyn Hammes	\$165.00	\$544.50
12/31/2020	3.5	Continue drafting 2nd Motion to Compel.	Katelyn Hammes	\$165.00	\$288.75
1/4/2021	2.5	Read and review J. Blalock's discovery response; continue drafting 2nd Motion to Compel.	Katelyn Hammes	\$165.00	\$309.37
1/5/2021	3.6	Finalize and file 2nd Motion to Compel J. Blalock's responses; email correspondence to K. Allbright regarding complaint status; email correspondence to J. Adkins regarding Motion to Compel.	Katelyn Hammes	\$165.00	\$445.50
1/6/2021	0.6	Review J. Blalock's response to 2nd Motion to Compel.	Katelyn Hammes	\$165.00	\$99.00
1/7/2021	0.9	Teleconference with K. Allbright regarding latest filings; teleconference with J. Adkins regarding J. Blalock's filings.	Katelyn Hammes	\$165.00	\$148.50
1/8/2021	0.1	Receive and read PUC Order No. 9.	Katelyn Hammes	\$165.00	\$16.50
1/12/2021	6	Begin drafting motion to administrative law judge regarding pleading privilege.	Katelyn Hammes	\$165.00	\$495.00
1/12/2021	0.2	Review order on 2nd Motion to Compel; work regarding response.	John Carlton	\$330.00	\$66.00
1/12/2021	0.3	Review issued Order No. 10 and brief office conference regarding same.	Katy Hennings	\$175.00	\$52.50
1/13/2021	0.9	Revise motion for reconsideration; Read Complainant's January 13, 2021 responses; file motion for reconsideration.	Katelyn Hammes	\$165.00	\$148.50
1/13/2021	0.2	Review Motion to Reconsider 2nd Motion to Compel in Part.	John Carlton	\$330.00	\$66.00
1/15/2021	0.1	Receive and review J. Blalock's January 15, 2021 amendment.	Katelyn Hammes	\$165.00	\$16.50
1/18/2021	2.1	Review discovery materials from J. Blalock; discuss discovery status with J. Carlton.	Katelyn Hammes	\$165.00	\$346.50
1/18/2021	0.3	Conference with K. Hammes regarding motion for sanctions and J. Blalock discovery responses.	John Carlton	\$330.00	\$99.00
1/19/2021	0.7	Teleconference with K. Allbright to discuss case status; email K. Allbright regarding the same; office status meeting regarding the same.	Katelyn Hammes	\$165.00	\$115.50
1/20/2021	0.3	Email correspondence from K. Allbright regarding motion for sanctions; review upcoming deadlines and recent filings.	Katelyn Hammes	\$165.00	\$49.50
1/21/2021	0.3	Read Order No. 11; review J. Blalock's January 21, 2021 filings with the Commission; email K. Allbright regarding the same.	Katelyn Hammes	\$165.00	\$49.50

**Exhibit A-1**

<b>Date</b>	<b>Hours</b>	<b>Description</b>	<b>Attorney</b>	<b>Rate (\$)</b>	<b>Billable (\$)</b>
1/22/2021	6.8	Teleconference with K. Allbright regarding J. Blalock's motions to impeach and exclude; research Texas Rules of Evidence 608, 613, and 604; begin drafting Mercy's reply to Complainant's Motions to Impeach and Exclude.	Katelyn Hammes	\$165.00	\$1,122.00
1/22/2021	0.4	Teleconference with P. Bechter regarding Blalock civil suit and PUC complaint.	John Carlton	\$330.00	\$132.00
1/25/2021	2.7	Revise Reply to J. Blalock's motion to impeach and exclude witnesses.	Katelyn Hammes	\$165.00	\$445.50
1/25/2021	0.3	Review and revise response to Motion to Exclude filed by J. Blalock.	John Carlton	\$330.00	\$99.00
1/26/2021	1	Finalize and file Reply to J. Blalock's motion to impeach and exclude witnesses; teleconference with J. Adkins regarding current status of case; office conference regarding the complaint.	Katelyn Hammes	\$165.00	\$165.00
1/26/2021	0.2	Participate in board meeting.	John Carlton	\$330.00	\$66.00
1/27/2021	3.7	Begin drafting motion for sanctions.	Katelyn Hammes	\$165.00	\$457.87
1/27/2021	0.2	Work regarding board meeting actions.	John Carlton	\$330.00	\$66.00
1/28/2021	3.8	Read Order No. 12; Email K. Allbright regarding the same; Continue drafting motion for sanctions.	Katelyn Hammes	\$165.00	\$470.25
1/29/2021	0.3	Prepare shell for affidavit for fees; office conference on the same.	Katelyn Hammes	\$165.00	\$49.50
<b>Total Hours</b>	<b>50.1</b>		<b>Total Billed:</b>		<b>\$7,205.24</b>

# **Exhibit B**

**Exhibit B**



**Katelyn Hammes <katelyn@carltonlawaustin.com>**

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**Docket: 51224**

**Allie Blalock <allieblalock97@gmail.com>**

**Mon, Nov 23, 2020 at 5:17 PM**

To: "Adkins, Justin" <justin.adkins@puc.texas.gov>, John Carlton <john@carltonlawaustin.com>, Katelyn Hammes <katelyn@carltonlawaustin.com>

The attached documents are the agendas for both August and September of 2020, which is the time period in which a meeting would have been held over the service account and membership of Reba Ivey, either terminating or transferring the membership/account. I am also submitting these documents to the PUC's interchange in the case that Mercy tries to change them following the next RFI.

---

**2 attachments**



**September\_2020\_ADGENDA.pdf**  
291K



**August\_2020\_ADGENDA (1).docx**  
277K

# **Exhibit C**

Exhibit C



Katelyn Hammes <katelyn@carltonlawaustin.com>

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**Docket: 51224**

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Katelyn Hammes <katelyn@carltonlawaustin.com>

Tue, Nov 24, 2020 at 5:59 PM

To: Allie Blalock <allieblalock97@gmail.com>

Cc: "Adkins, Justin" <justin.adkins@puc.texas.gov>, John Carlton <john@carltonlawaustin.com>

Good evening, Mr. Blalock,

According to Order No. 7, which adopted our Agreed Discovery Schedule and Limits, the deadline to serve written discovery requests was November 18, 2020. Would you please withdraw your request for discovery to comply with the Order?

Thank you.

Best Regards,

**Katelyn Hammes**



4301 Westbank Drive, Suite B-130  
Austin, Texas 78746

katelyn@carltonlawaustin.com

(512) 614-0901(o)

(512) 900-2855(f)

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# **Exhibit D**





## Exhibit D

Katelyn Hammes <katelyn@carltonlawaustin.com>

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### Docket: 51224

Allie Blalock <allieblalock97@gmail.com>  
To: Katelyn Hammes <katelyn@carltonlawaustin.com>

Tue, Nov 24, 2020 at 6:04 PM

Disregard that previous email. I will not withdraw it on the basis that the questions that arose from the documentation requested in the first RFI was not produced until after the date for written request had passed, which I am sure was the strategy from your law office.

On 11/24/20, Allie Blalock <allieblalock97@gmail.com> wrote:

> I will withdraw it as a request for a discovery request and reformat it as  
> questions about the documentation submitted.

>

> On Tue, Nov 24, 2020, 5:59 PM Katelyn Hammes <katelyn@carltonlawaustin.com>  
> wrote:

>

>> Good evening, Mr. Blalock,

>>

>> According to Order No. 7, which adopted our Agreed Discovery Schedule and  
>> Limits, the deadline to serve written discovery requests was November 18,  
>> 2020. Would you please withdraw your request for discovery to comply with  
>> the Order?

>>

>> Thank you.

>>

>> Best Regards,

>>

>> \*Katelyn Hammes\*

>>

>>

>>

>> \*4301 Westbank Drive, Suite B-130\*\*Austin, Texas 78746\*

>>

>> \*katelyn@carltonlawaustin.com <katelyn@carltonlawaustin.com>\*

>>

>> \*(512) 614-0901(o)\*

>> \*(512) 900-2855(f)\*

>>

>> \*CONFIDENTIALITY NOTICE: This e-mail transmission (and any attachments)  
>> may contain confidential information belonging to the sender that is  
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>> please contact the sender.\*

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# **Exhibit E**

## Exhibit E



Katelyn Hammes <katelyn@carltonlawaustin.com>

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### Docket: 51224

Katelyn Hammes <katelyn@carltonlawaustin.com>

Tue, Dec 29, 2020 at 1:05 PM

To: Allie Blalock <allieblalock97@gmail.com>

Cc: "Adkins, Justin" <justin.adkins@puc.texas.gov>, John Carlton <john@carltonlawaustin.com>

Mr. Blalock,

Thank you for your responses. I looked through them and noticed a number of responses were incomplete or omitted. As you know, the ALJ in Order No. 8 overruled many of your objections and ordered you to provide a complete response to most of our requests, including 1-1, 1-4, 1-5, 1-9, 1-13, 1-17, 1-18, 1-19, 1-20, and 1-21. As such, please provide complete responses to each of our requests.

Specifically, Requests 1-1 and 1-9 can be answered more completely. We requested the dates of residence during the applicable time period. Your responses fail to give any picture of when you moved into or out of any of the residences, or in what order you lived in them. To the best of your ability and as you were ordered, provide us a timeline with dates of those residences you describe in 1-1 and 1-9.

Please respond to Request 1-4 fully. You claim privilege for conversations with Kim Sanders. Your deadline to file objections to our these First RFIs, including for confidentiality, was November 30, 2020. You filed objections and failed to allege any facts demonstrating a privilege would exist. The ALJ specifically noted this fact in Order No. 8. For these reasons, you waived your claim of privilege. Respond to Request 1-4 fully, including a full description of any communication you had between you and Kim Sanders.

Please respond to Request 1-5 fully. We provided a definition of "documents" in our requests, which would include email correspondence, text messages, and other messaging services. Order No. 8 compelled you to produce all responsive documents.

The ALJ overruled your original response to Request 1-13, which failed to include an admit or deny. Accordingly, referencing your original response is insufficient. Please admit that there is no recorded easement for the water service line or deny and provide proof of the recorded easement.

Finally, you wholly omitted Requests 1-17 through 1-21. Order No. 8 requires that you provide these responses in full.

If you continue to fail to comply with Order No. 8, we will seek an additional order from the ALJ. Thank you.

Best Regards,

**Katelyn Hammes**



4301 Westbank Drive, Suite B-130  
Austin, Texas 78746

katelyn@carltonlawaustin.com

(512) 614-0901(o)

(512) 900-2855(f)

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# **Exhibit F**



## Exhibit F

Katelyn Hammes <katelyn@carltonlawaustin.com>

### Docket: 51224

Allie Blalock <allieblalock97@gmail.com>

Tue, Dec 29, 2020 at 3:06 PM

To: Katelyn Hammes <katelyn@carltonlawaustin.com>

Cc: "Adkins, Justin" <justin.adkins@puc.texas.gov>, John Carlton <john@carltonlawaustin.com>

Hi,

We will prepare the responses to RFI 1-17 through 1-21, which was an accidental overlook on our part and we will fix that as soon as possible. We had the responses prepared on a separate document and meant to copy them over

As far as the dates, if one cannot remember exact dates, then they cannot provide those exact dates. Asking for exact dates for times that happened decades ago down to years ago is being overzealous in wanting the responses.

In our original response to RFI 1-13, my father said there was an oral easement, which could also be inferred to exist based on the fact that Gloria Ann Meeks, Reba Ivey's sister signed an easement for the meter to go in. My Father also typed a witness statement which was filed with the original responses, just not under the RFI it went with. Pushing for us to answer in the way that you want us to is becoming argumentative as the ALJ just said that we had to respond (answer), but he did not order in which way that we had to respond, nor did he say that our original response was not adequate. And, as we never objected to the RFI there was no objection being overturned.

And, your law office is beginning to seem like you are treating us as hostile witnesses with the argumentative behavior, despite not having permission from the judge in order to treat us as hostile. My father has already answered the questions to the best of his ability, even with your definitions, which is all that is required.

As far as the conversations between my father and his current wife, that was not an objection, but a statement of fact and his response concerning those conversations. As the Texas Rules of Evidence deem conversations between spouses as protected, and does not differentiate between the different forms of marriage. And, in court, a witness can make a statement of fact when answering questions (e.g. pleading the 5th in the case where they may self incriminate, which is not an objection).

[Quoted text hidden]

> \*Katelyn Hammes\*

>

>

>

> \*4301 Westbank Drive, Suite B-130\*\*Austin, Texas 78746\*

>

> \*katelyn@carltonlawaustin.com <katelyn@carltonlawaustin.com>\*

>

> \*(512) 614-0901(o)\*

> \*(512) 900-2855(f)\*

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