

NO. 2010-54607

ROBERT GOERLITZ, AS
PRESIDENT, HARRIS COUNTY
DEPUTIES ORGANIZATION,
Relator

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IN THE DISTRICT COURT

V.

HARRIS COUNTY, TEXAS

SHERIFF ADRIAN GARCIA
Respondent

215th JUDICIAL DISTRICT

RESPONDENT SHERIFF ADRIAN GARCIA'S
ORIGINAL ANSWER TO
PETITION FOR WRIT OF MANDAMUS

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Harris County Sheriff Adrian Garcia, the named Respondent in the above entitled and numbered cause, and files this his Original Answer to Petition for Writ of Mandamus and would respectfully show the following:

I.

In accordance with Rule 92 of the Texas Rules of Civil Procedure, Respondent asserts a general denial.

II.

Respondent asserts the affirmative defenses of official or qualified immunity and/or governmental or sovereign immunity (both immunity from suit and immunity from liability), including barring the payment of any attorney's fees or interest because of official and governmental or sovereign immunity

III.

In the alternative, the Respondent asserts that it is entitled to all of the exemptions from, exceptions to, and limitations on liability contained in the Texas Tort Claims Act, Chapter 101, Tex. Civ. Prac. & Rem. Code.

IV.

Relator has failed to allege any valid legal cause of action that would confer jurisdiction on this Court, therefore there is no subject matter jurisdiction.

V.

This Respondent asserts that Relator does not have standing and/or capacity to prosecute the claims asserted within the Writ of Mandamus.

VI.

This Respondent specially denies that all conditions precedent to the maintaining of the above-entitled and numbered cause has either been performed or have occurred, including but not limited to formal notice of and presentment of any claim against Respondent to Harris County and/or Commissioner's Court as required by § 81.0041, Tex. Local Gov't Code. Respondent denies actual notice of any claim asserted against Respondent arising out of the alleged occurrence in question.

VII.

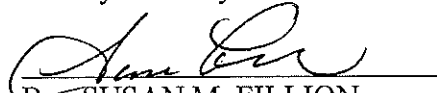
Respondent hereby requests trial by jury as authorized by Tex. R. Civ. P. 216 and would further show that he is exempt from the deposit of a jury fee pursuant to *Attorney General Opinion M-142*. See, also Tex. Civ. Prac. & Rem. Code § 6.001

WHEREFORE, PREMISES CONSIDERED, Respondent, Sheriff Adrian Garcia, requests this Court deny the issuance of a Writ of Mandamus in this cause, and that this

Respondent go hence without delay, and for such other and further relief, both general and special, at law and at equity, to which this Respondent may be justly entitled.

Respectfully submitted,

VINCE RYAN
County Attorney



By: SUSAN M. FILLION
Assistant County Attorney
SBN 00796544
1019 Congress, 15th Floor
Houston, Texas 77002
(713) 755-2569; Fax: (713) 755-8924

CERTIFICATE OF SERVICE

I hereby certify that on October 18, 2010 a true and correct copy of the above and foregoing Respondent's Original Answer was mailed by certified mail, return receipt requested, and/or facsimile transmission and/or hand delivery to all parties of record.


SUSAN M. FILLION



The Office of Vince Ryan
County Attorney

October 18, 2010

HAND DELIVERED:

Loren Jackson,
District Clerk
201 Caroline, 4th Floor
Houston, Texas 77002

Re: Cause No. 2010-54607; *Robert Goerlitz, as President, Harris County Deputies Organization v. Sheriff Adrian Garcia*; In the 215th Judicial District Court of Harris County, Texas. (CA#10TRL0109).

Dear Mr. Jackson:

Enclosed for filing in the above-referenced matter are:

DEFENDANT SHERIFF ADRIAN GARCIA'S ORIGINAL ANSWER.

By copy of this letter, all parties of record are being provided a copy of the enclosed documents.

Thank you for your usual courtesy in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Susan Fillion".

SUSAN FILLION
Assistant County Attorney

VR/SMF/fms
Enclosures

CERTIFIED MAIL
RETURN RECEIPT REQUESTED:

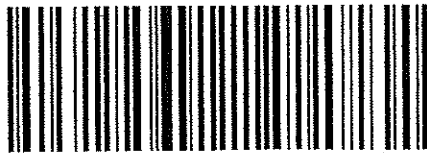
Kenneth "KIP" Garner
HARRIS COUNTY DEPUTIES ORGANIZATION
1730 Jefferson, Suite 217
Houston, Texas 77003



Office of
Vince Ryan
County Attorney

1019 Congress, 15th floor
Houston, Texas 77002

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