

**TEXAS HIGHER EDUCATION
COORDINATING BOARD; DR. WYNN
ROSSER, in his official capacity as
COMMISSIONER OF HIGHER
EDUCATION; STACY A. HOCK, in her offi-
cial capacity as the Board's CHAIR;
WELCOME W. WILSON, JR. in his official
capacity as the Board's VICE CHAIR; S.
JAVAID ANWAR in his official capacity as
SECRETARY of the Board; RICHARD L.
CLEMMER, in his official capacity as Board
MEMBER; EMMA C. NEVAREZ, in her offi-
cial capacity as Board MEMBER; JUAN J.
NEVAREZ, in his official capacity as Board
MEMBER; ASHLIE A. THOMAS, in her offi-
cial capacity as Board MEMBER; DANIEL O.
WONG, in his official capacity as Board
MEMBER; LISA D. CANTU, in her official
capacity as the Board's STUDENT
REPRESENTATIVE,
Defendants.**

§ IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

126TH, DISTRICT COURT

JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION &
APPLICATION FOR TEMPORARY INJUNCTION**

Plaintiff, Ken Paxton, in his official capacity as the Attorney General of Texas (“Attorney General”), files this original petition and application for temporary injunction (“Plaintiff’s Petition”) against the Texas Higher Education Coordinating Board (the “Board”); Dr. Wynn Rosser,

in his official capacity as Commissioner of Higher Education; Stacy A. Hock, in her official capacity as the Board's Chair; Welcome W. Wilson, Jr., in his official capacity as the Board's Vice Chair; S. Javaid Anwar, in his official capacity as Secretary of the Board; Richard L. Clemmer, in his official capacity as a Board Member; Emma C. Nevarez, in her official capacity as a Board Member; Juan J. Nevarez, in his official capacity as a Board Member; Ashlie A. Thomas, in her official capacity as a Board Member; Daniel O. Wong, in his official capacity as a Board Member; and Lisa D. Cantu, in her official capacity as the Board's Student Representative (collectively, the individual defendants, in their official capacities, are the "Board Members" or "Members").

I. INTRODUCTION

Under the Free Exercise and Establishment Clauses of the First Amendment and Article 1, Sections 6-7 of the Texas Constitution, Texas may neither exclude religious organizations from public benefits because of their faith, nor condition participation in state-funded programs on theological choices about worship, instruction, or proselytization. Nevertheless, the Board and the Board Members administer Texas programs prohibiting participants from engaging in sectarian activities, including sectarian courses of study, to be eligible to receive state benefits. *See* Tex. Educ. Code §§ 56.074(b)(1), 56.75(b)(2), 56.076(a)(1), 56.0855(b)(4); 19 Tex. Admin. Code § 400.5(b). In other words, these programs specifically exclude religious organizations and students with religious beliefs from receiving state-funded assistance and condition receipt of state benefits on nonreligious use. The Attorney General brings this action to protect Texans' rights to religious freedom by preventing the Board and Board Members from continuing to enforce these unconstitutional laws and rules.

II. DISCOVERY-CONTROL PLAN

1. The Attorney General intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3 and affirmatively pleads that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169 because he seeks injunctive relief.

III. CLAIM FOR RELIEF

2. The Attorney General seeks only nonmonetary relief. Tex. R. Civ. P. 47(c)(5).

IV. PARTIES

3. Plaintiff, Ken Paxton, is the Attorney General of Texas, and he brings this suit in his official capacity as Attorney General of Texas.

4. Defendant, Texas Higher Education Coordinating Board (the “Board”), is a state agency and may be served with process through Dr. Wynn Rosser, the Commissioner of Higher Education and CEO of Board, at the Board’s headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701.

5. Defendant, Dr. Wynn Rosser, is sued in his official capacity as the Commissioner of Higher Education. He may be served with process at the Board’s headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever he may be found.

6. Defendant, Stacy A. Hock, is sued in her official capacity as the Board’s Chair. She may be served with process at the Board’s headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever she may be found.

7. Defendant, Welcome W. Wilson, Jr., is sued in his official capacity as the Board’s Vice Chair. He may be served with process at the Board’s headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever he may be found.

8. Defendant, S. Javaid Anwar, is sued in his official capacity as Secretary of the Board. He may be served with process at the Board's headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever he may be found.

9. Defendant, Richard L. Clemmer, is sued in his official capacity as a Board Member. He may be served with process at the Board's headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever he may be found.

10. Defendant, Emma C. Nevarez, is sued in her official capacity as a Board Member. She may be served with process at the Board's headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever she may be found.

11. Defendant, Juan J. Nevarez, is sued in his official capacity as a Board Member. He may be served with process at the Board's headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever he may be found.

12. Defendant, Ashlie A. Thomas, is sued in her official capacity as a Board Member. She may be served with process at the Board's headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever she may be found.

13. Defendant, Daniel O. Wong, is sued in his official capacity as a Board Member. He may be served with process at the Board's headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever he may be found.

14. Defendant, Lisa D. Cantu, is sued in her official capacity as the Board's Student Representative. She may be served with process at the Board's headquarters: 1801 Congress Avenue, Suite 12.200, Austin, Texas 78701, or wherever she may be found.

V. JURISDICTION & VENUE

15. The Attorney General is asserting claims against the Board under the Uniform Declaratory Judgments Act (“UDJA”), Tex. Civ. Prac. & Rem. Code § 37.001, et seq., and Administrative Procedure Act (“APA”), Tex. Gov’t Code §2001. 038, and a claim against the Board Members under the UDJA for their *ultra vires* actions. The Attorney General seeks only prospective declaratory and injunctive relief under the UDJA and APA against Defendants to prevent them from enforcing laws declared invalid and unenforceable. This Court, therefore, has subject matter jurisdiction over all the Attorney General’s claims in this case—sovereign immunity is inapplicable. *See, e.g., Patel v. Tex. Dep’t of Licensing and Reg.*, 469 S.W.3d 69, 75–76 (Tex. 2015); *Tex. Dep’t of Ins. v. Reconveyance Servs., Inc.*, 306 S.W.3d 256, 259 (Tex. 2010); *City of El Paso v. Heinrich*, 284 S.W.3d 366, 368–69 (Tex. 2009); *City of Elsa v. M.A.L.*, 226 S.W.3d 390, 392 (Tex. 2007); *City of Beaumont v. Bouillion*, 896 S.W.2d 143, 149 (Tex. 1995); *Tex. Dep’t of Public Safety v. Salazar*, 304 S.W.3d 896, 903–04 (Tex. App.—Austin 2009, no pet.).

16. Venue is mandatory in Travis County, Texas, under Texas Government Code § 2001.38(b).

17. The Attorney General has an interest in defending and enforcing laws. *See* Tex. Const. Art. IV, § 22 (providing that the Attorney General “shall represent the State in all suits and pleas in the Supreme Court of the State ... and perform such other duties as may be required by law”). “The Attorney General is the State’s attorney; he is authorized to prosecute and defend all actions in which the state is interested.” *In re Fraser*, 75 F. Supp. 2d 572, 584 (E.D. Tex. 1999). The State of Texas has a *parens patriae* interest in the well-being of its citizens. *Alfred L. Snapp & Son, Inc. v. Puerto Rico ex rel. Barez*, 458 U.S. 592, 607 (1982) (“[A] State has a quasi-sovereign interest in the

health and well-being—both physical and economic—of its residents in general.”). This includes protecting the religious freedom of Texans. The Attorney General, therefore, has the authority and standing to bring this suit.

VI. FACTS

A. Laws prohibited by the First Amendment

18. The Free Exercise Clause of the First Amendment to the U.S. Constitution prohibits laws excluding religious organizations from public benefit programs on account of their religious character or religious use of funds.¹ The U.S. Supreme Court has consistently emphasized once a state makes a generally available public benefit accessible, it may not deny access because of religion. *See, e.g., Carson v. Makin*, 596 U.S. 767, 779–80 (2022) (holding that law prohibiting state tuition assistance from being used at “sectarian” schools was unconstitutional); *Espinoza v. Montana Department of Revenue*, 591 U.S. 464, 479–80 (2020) (holding that Montana violated the Free Exercise Clause by excluding religious schools from a scholarship program); *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 582 U.S. 449, 458–59, 462–63 (2017) (striking down Missouri law that denied a church state-funded assistance based solely on its status as a church).

19. The Establishment Clause of the First Amendment prohibits the government from sponsoring religion, endorsing one faith tradition over another, or entangling itself in theological

¹ *See also* Tex. Const. Art. I, §§ 6-7. The Court may assume that the state and federal free exercise and establishment guarantees are coextensive and can limit its analysis to the U.S. Constitution. *See, e.g., HEB Ministries, Inc. v. Tex. Higher Educ. Coordinating Bd.*, 235 S.W.3d 627, 643 (Tex. 2007) (“We have referred to [Art. 1, § 6]...as ‘Texas’ equivalent of the Establishment Clause.”) (citation omitted); *In re Commitment of Fisher*, 164 S.W.3d 637, 645 (Tex. 2005) (“[W]e limit our analysis to the United States Constitution and assume that its concerns are congruent with those of the Texas Constitution.”)

judgments. *See, e.g., Catholic Charities Bureau, Inc. v. Wisconsin Labor & Industry Review Commission*, 605 U.S. 238, 247–50 (2025) (holding that a state scheme conditioning benefits on whether organizations proselytized or served only co-religionists was unconstitutional, reasoning that denominational preferences of this kind necessarily involve theological judgments and amount to unconstitutional favoritism.). Under the Establishment Clause, exclusion of religious institutions based on theological or sectarian character amounts to impermissible discrimination. *Id.*

20. Together, the Free Exercise and Establishment Clauses converge on a single principle: the government must maintain neutrality. It cannot exclude religious organizations from public benefits because of their faith, nor may it condition participation on theological choices about worship, instruction, or proselytization. In other words, Texas cannot require religious groups to set aside their identity or mission to participate in its programs or condition access to public benefits on avoiding religious content or identity. Indeed, exclusions from government funds that require the activities funded to be “nonsectarian” are presumptively unconstitutional under the First Amendment.

B. Texas College Work-Study Program

21. The Texas College Work-Study Program (“Work-Study Program”) is intended to provide eligible financially needy students with jobs, funded in part by the State of Texas, to enable those students to attend eligible institutions of higher education in Texas. Tex. Educ. Code § 56.072. The Board, through its Members, administers the Work-Study Program, working with eligible institutions and employers to provide eligible students with part-time jobs funded in part by the State. *Id.* § 56.073. To participate in the Work-Study Program, however, an eligible institu-

tion or other employer must provide employment to an eligible student “in nonpartisan and non-sectarian activities.” *Id.* §§ 56.074(b)(1), 56.076(a)(1). These requirements effectively eliminate religious organizations with only sectarian employment opportunities from participating in the Work-Study Program and condition the receipt of State funds on nonsectarian use. The Work-Study Program also excludes students “enrolled in a seminary or other program leading to ordination or licensure to preach for a religious sect or to be a member of a religious order” from participating and receiving state funds. *Id.* § 56.75(b)(2). This amounts to a wholesale exclusion of certain people—no matter how needy—from state benefits under the program based solely on the religious character of their course of study.

C. Texas Working Off-Campus: Reinforcing Knowledge and Skills (WORKS) Internship Program

22. Like the Work-Study Program, the Texas WORKS Internship Program (“WORKS Program”), administered by the Board, through its Members, is designed to provide jobs funded in part by the State of Texas to enable students employed through the program to attend institutions of higher education. Tex. Educ. Code § 56.0853. And like the Work-Study Program—to be eligible to participate—employers in the WORKS Program must provide employment in nonsectarian activities to students in the program. *Id.* § 56.0855(b)(4).

D. The Texas Innovative Adult Career Education (ACE) Grant Program.

23. The Texas Innovative Adult Career Education (ACE) Grant Program (“ACE Grant Program”), established under Chapter 136 of the Texas Education Code, allows for State grants to nonprofit organizations in partnership with public junior colleges, public state colleges, and public technical institutes for use in job training, vocational education, and related workforce development for low-income students. *See* 19 Tex. Admin. Code §§ 400.3, 400.4. A rule established by

the Board, however, prohibits organizations receiving ACE Grant Program funds from using the funds for “religious activities, such as sectarian worship, instruction, or proselytization.” *Id.* § 400.5(b) (the “Use Restriction”).

E. The Nonsectarian Exclusions in the Work-Study Program and the WORKS Internship Program and the Use Restriction in the ACE Grant Program violate the First Amendment.

24. Taken together, the “Sectarian Exclusions” in the Work-Study Program (§§ 56.074(b)(1), 56.75(b)(2), 56.76(a)(1)) and the WORKS Internship Program (§ 56.0855(b)(4)) violate the First Amendment by excluding religious organizations and students receiving religious instruction from State funds and otherwise requiring State-funded activities to be “nonsectarian.” *See, e.g., Carson*, 596 U.S. 785–87, *Espinoza*, 591 U.S. at 479–80. Banning religious instruction, worship, and proselytization directly burdens religious expression and conditions the receipt of State benefits on nonreligious use. When a state program is otherwise generally available, use-based conditions like the Sectarian Exclusions and Use Restriction are impermissible under the First Amendment. *See Carson*, 596 U.S. 785–87, *Espinoza*, 591 U.S. at 479–80. Moreover, such laws targeting religious practice are not facially neutral and are, therefore, subject to strict scrutiny under the First Amendment. *See Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533–35, 547–49 (1993).

25. The Free Exercise Clause protects a religious group’s internal choices about ministry and outreach, making the Use Restriction especially problematic. *See Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171, 188–89 (2012). Furthermore, by burdening proselytization, the Use Restriction privileges denominations that do not evangelize while disfavoring

those that do, creating an impermissible denominational preference. *Larson v. Valente*, 456 U.S. 228, 246–47 (1982).

VII. COUNT 1

Declaratory Judgment under the Uniform Declaratory Judgments Act (“UDJA”) Tex. Civ. Prac. & Rem. Code §§ 37.001, et seq.

26. The Attorney General incorporates by reference all preceding paragraphs

27. The Attorney General asserts this Count 1 against the Board.

28. Under Texas Civil Practice and Remedies Code § 37.004(a), “[a] person...whose rights...are affected by a statute...may have determined any question...of validity arising under the...statute...and obtain a declaration of rights...or other legal relations thereunder.” Thus, the UDJA is the proper vehicle for determining the constitutionality of a Texas statute. *See Patel v. Tex. Dep’t of Licensing & Reg.*, 469 S.W.3d 69, 75–77 (Tex. 2015).

29. The Attorney General is a “person” under the UDJA and brings this suit on behalf of “persons.” Tex. Civ. Prac. & Rem. Code § 37.001.

30. The Sectarian Exclusions in the Work-Study Program (Tex. Educ. Code §§ 56.074(b)(1), 56.75(b)(2), 56.76(a)(1)) and the WORKS Internship Program (§ 56.0855(b)(4)) are “statute(s)” (together, the “Statutes”) under the UDJA. Tex. Civ. Prac. & Rem. Code § 37.004(a).

31. The Use Restriction in the ACE Grant Program, 19 Tex. Admin. Code § 400.5(b) (the “Rule”) is likewise a “statute” under the UDJA. Tex. Civ. Prac. & Rem. Code § 37.004(a).

32. The Board is responsible for administering and enforcing the Statutes and the Rule.

33. For the reasons discussed in ¶¶ 18-25, above, the Statutes and the Rule are unconstitutional, invalid, and unenforceable under the First Amendment to the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution.

34. The Attorney General, therefore, seeks a declaration from the Court under the UDJA stating that the Statutes and the Rule violate the First Amendment to the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution and are, therefore, invalid and unenforceable.

35. The Attorney General is entitled to recover reasonable and necessary attorney fees that are equitable and just under Texas Civil Practice and Remedies Code § 37.009 because this is a claim for declaratory relief under the UDJA.

VIII. COUNT 2

Declaratory Judgment under the Administrative Procedure Act (“APA”), Tex. Gov’t Code § 2001.038

36. The Attorney General incorporates by reference all preceding paragraphs.

37. The Attorney General asserts this Count 2 against the Board.

38. Under Texas Government Code § 2001.38(a), “[t]he validity...of a rule...may be determined in an action for declaratory judgment if it is alleged that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, a legal right or privilege of the plaintiff.”

39. The Board is a “state agency” under the APA, and, therefore, a proper Defendant under the APA. Tex. Gov’t Code §§ 2001.003(7), 2001.038(c).

40. The Rule, 19 Tex. Admin. Code § 400.5(b) (the “Rule”), is a “rule” under the APA

because it is a Board statement of general applicability that either implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of Board. Tex. Gov't Code § 2001.003(6)(A).

41. For the reasons discussed in ¶¶ 18-25, above, the Rule is unconstitutional, invalid, and unenforceable under the First Amendment to the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution and, therefore, the Rule interferes with and impairs or threatens to interfere with and impair Texas citizens' rights or privileges under the First Amendment to the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution. Tex. Gov't Code § 2001.038(a).

42. The Attorney General, therefore, seeks a declaration from the Court under the APA stating that the Rule violates the First Amendment to the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution and is, therefore, invalid and unenforceable

IX. COUNT 3

Declaratory Judgment under the UDJA for Board Members' *ultra vires* actions Tex. Civ. Prac. & Rem. Code §§ 37.001, et seq

43. The Attorney General incorporates by reference all preceding paragraphs

44. The Attorney General asserts this Count 3 against the Board Members.

45. In administering and enforcing the Statutes and adopting, administering, and enforcing the Rule, the Board acted through the Board Members' actions.

46. The Board Members do not have the legal authority to administer or enforce unconstitutional statutes or adopt, administer, or enforce unconstitutional rules under the APA.

47. The Board Members, therefore, have acted "*ultra vires*," in other words, without legal authority, in administering and enforcing the Statutes and adopting, administering, and enforcing the Rule because, as discussed in ¶¶ 18-25, above, the Statutes and the Rule are unconstitutional,

invalid, and unenforceable under the First Amendment to the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution

48. The Statutes and the Rule constitute an ongoing violation of the rights of Texas citizens because the Board Members administer and enforce the Statutes and the Rule on an ongoing basis

49. As stated above, the Statutes and the Rule are “statutes” under the UDJA. Tex. Civ. Prac. & Rem. Code § 37.004(a).

50. The Attorney General seeks a declaration from the Court under the UDJA stating that the Board Members have acted *ultra vires* in administering and enforcing the Statutes and in adopting, administering, and enforcing the Rule, and will continue to act *ultra vires* in continuing to administer and enforce the Statutes and the Rule because both the Statutes and the Rule violate the First Amendment to the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution.

51. The Attorney General is entitled to recover reasonable and necessary attorney fees that are equitable and just under Texas Civil Practice and Remedies Code § 37.009 because this is a claim for declaratory relief under the UDJA.

X. APPLICATION FOR TEMPORARY INJUNCTION

52. The Attorney General seeks temporary injunctive relief against all Defendants.

53. The Attorney General requests that the Court set his application for temporary injunction for a hearing, and, after the hearing, issue a temporary injunction enjoining Defendants from administering and enforcing the Statutes and the Rule pending a trial on the merits. *See* Tex. Civ. Prac. & Rem. Code § 65.011(1), (3).

54. As discussed above in ¶¶ 18-25, the Statutes and the Rule violate the First Amendment

of the U.S. Constitution and Article 1, Sections 6-7 of the Texas Constitution, and the Board Members acted *ultra vires* in administering and enforcing the Statutes and in adopting, administering, and enforcing the Rule, and will continue to act *ultra vires* in continuing to administer and enforce the Statutes and the Rule. It is, therefore, probable that the Attorney General will recover from Defendants on his UDJA, APA, and *ultra vires* claims after a trial on the merits.

55. If the Court does not grant the Attorney General's application, harm to Texas citizens is imminent. Defendants continue to administer the Work-Study, WORKS Internship, and ACE Grant Programs and enforce the unconstitutional Statutes and Rules; thus, the denial of Texas citizens' constitutional rights is ongoing.

56. It is well-settled that the denial of constitutional rights—especially those under the First Amendment—inflicts irreparable injury for which there is no adequate remedy at law. *See, e.g., Iranian Muslim Org. v. City of San Antonio*, 615 S.W.2d 202, 208 (Tex. 1981) (citing *Shamloo v. Miss. St. Bd. of Trustees of Insts. of Higher Learning*, 620 F.2d 516, 525 (5th Cir. 1980)); *Operation Rescue-Nat'l v. Planned Parenthood of Houston & Se. Tex., Inc.*, 937 S.W.2d 60, 77-78 (Tex. App.—Houston [14th Dist.] 1996), *aff'd as modified*, 975 S.W.2d 546 (Tex. 1998); *Dallas Cty. v. Sweitzer*, 881 S.W.2d 757, 769 (Tex. App.—Dallas 1994, writ denied).

57. Finally, the Attorney General is willing to post bond, if necessary.

XI. REQUEST FOR PERMANENT INJUNCTION

58. The Attorney General asks the Court to set his request for a permanent injunction for a full trial on the merits, and, after the trial, issue a permanent injunction permanently enjoining Defendants from administering and enforcing the Statutes and the Rule.

XII. CONDITIONS PRECEDENT

59. All conditions precedent to the Attorney General's claims for relief have been performed or have occurred.

XIII. PRAYER

60. For these reasons, Plaintiff, the Attorney General, asks that Defendants be cited to appear and answer and, on final trial, that the Attorney General be awarded a judgment against Defendants for the following:

- a. Declaratory relief as described in Plaintiff's Petition.
- b. Temporary injunction as described in Plaintiff's Petition.
- c. Permanent injunction as described in Plaintiff's Petition.
- d. Attorneys' fees and costs.
- e. All other relief to which the Attorney General is entitled.

Respectfully submitted,

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Attorney General of Texas

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**Counsel for Plaintiff, Ken Paxton
in his official capacity as
the Attorney General of Texas**

UNSWORN VERIFICATION
Texas Civil Practice & Remedies Code § 132.001

STATE OF TEXAS §
HARRIS COUNTY §

“I—Charles Lee Winkelman—am capable of making this verification. I have read Plaintiff’s Original Petition and Application for Temporary Injunction. The facts state in it are within my personal knowledge and are true and correct.”

“My name is Charles Lee Winkelman, and I am an employee of the Office of the Attorney General of Texas. I am executing this declaration as part of my assigned duties and responsibilities. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 12th day of November, 2025.

 /s/ C. Lee Winkelman
Charles Lee Winkelman, Declarant”

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Laura Hendrix on behalf of Lee Winkelman

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Filing Description: PLAINTIFF'S ORIGINAL PETITION & APPLICATION
FOR TEMPORARY INJUNCTION

Status as of 11/13/2025 4:43 PM CST

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