

CAUSE NO. DC-26-02582

STATE OF TEXAS, <i>et al.</i> ,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	160th JUDICIAL DISTRICT
	§	
CITY OF DALLAS, <i>et al.</i> ,	§	
	§	
<i>Defendants.</i>	§	DALLAS COUNTY, TEXAS

DEFENDANTS’ PLEA TO THE JURISDICTION, SPECIAL EXCEPTIONS, AND ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Defendants City of Dallas (the “City”), Kimberly Bizer Tolbert (“Ms. Tolbert”), and Jack Ireland, Jr. (“Mr. Ireland”) (collectively, “Defendants”), in response to the State of Texas, Jeff Hauschild, and Matt Trammell’s (“Plaintiffs”) original petition, and file this plea to the jurisdiction, special exceptions, original answer, and affirmative defenses in the above-styled and numbered cause, and in support thereof would respectfully show the Court:

I. PLEA TO THE JURISDICTION

The foundational rule in all cases is that “[a] party suing the governmental unit bears the burden of affirmatively showing waiver of immunity.” *City of San Antonio v. Maspero*, 640 S.W.3d 523, 528 (Tex. 2022) (citing *Univ. of Tex. M.D. Anderson Cancer Ctr. v. McKenzie*, 578 S.W.3d 506, 512 (Tex. 2019)). There is “a presumption against any waiver until the plaintiff establishes otherwise.” *Ratray v. City of Brownsville*, 662 S.W.3d 860, 866 (Tex. 2023). As a political subdivision of the state, the City is “immune from suit unless [its] immunity is waived by state law.” *Maspero*, 640 S.W.3d at 528. A plaintiff suing a governmental unit must overcome the governmental unit’s governmental immunity and survives a plea to the jurisdiction only by

showing that a statute “clearly and affirmatively waive[s] immunity” and by also “negating any provisions that create exceptions to, and thus withdraw, that waiver.” *Maspero*, 640 S.W.3d at 867.

The supreme court recently reiterated the proper analysis for courts to utilize when ruling on a plea to the jurisdiction in *City of Austin v. Powell*, 704 S.W.3d 437, 446-48 (Tex. 2024) (discussing *Tex. Dep’t of Parks & Wildlife v. Miranda*, 133 S.W.3d 217, 226-28 (Tex. 2004)). In short, jurisdictional pleas are divided “into two broad categories”: those that challenge jurisdiction on the basis of the pleadings, and those that challenge the existence of jurisdictional facts. *Id.* at 447.

When a plea challenges jurisdiction on the basis of the pleadings, courts review the allegations in the plaintiff’s petition to determine whether she alleged sufficient facts to “affirmatively demonstrate a trial court’s subject matter jurisdiction.” *Id.* (quoting *Miranda*, 133 S.W.3d at 226). Generally, where a plaintiff’s petition fails to adequately allege facts establishing jurisdiction, the plaintiff should be afforded an opportunity to amend. *Id.* (citing *Miranda*, 133 S.W.3d at 226-27). If, however, the plaintiff’s allegations negate jurisdiction, the court should grant the plea without affording an opportunity to amend. *Id.* “This type of plea is thus similar—though not identical—to a motion to dismiss under Rule 91a in that it asserts that the plaintiff’s allegations, taken as true, do not show a waiver of immunity.” *Id.* (citing TEX. R. CIV. P. 91a).

When a plea challenges the existence of jurisdictional facts, courts are “to ‘consider relevant evidence submitted by the parties when necessary to resolve the jurisdictional issues raised.’” *Id.* (quoting *Miranda*, 133 S.W.3d at 227). Courts’ analysis of the merits of the plea should mirror the analysis for a motion for summary judgment under Texas Rule of Civil Procedure 166a, be it a traditional, no evidence, or hybrid motion. *Id.* at 447-48. Where a plaintiff

is unable to create a genuine issue of material fact as to an essential jurisdictional fact, courts must grant the defendant's plea. *Id.* at 448.

Here, for reasons it will detail in a brief in support of its plea, the City maintains that Chapter 25 of the Dallas City Charter has not effectively waived the City's immunity from suit.

Further, all three Plaintiffs do not have standing to bring these claims. None can show that Chapter 25 has conferred standing because, *inter alia*, Texas law does not provide municipalities with the power to create standing. Also, because none of the Plaintiffs can show that they have suffered a particularized injury, they cannot maintain standing against the City for what are generalized grievances. Lastly, while the Attorney General may bring suit against a municipality for violating *state* laws, the Legislature has not empowered the Attorney General to sue a municipality for allegedly violating its *own* laws. Therefore, this Court does not have jurisdiction over this dispute.

II. SPECIAL EXCEPTIONS

Special exceptions challenge the sufficiency of a pleading. *Gatten v. McCarley*, 391 S.W.3d 669, 673 (Tex. App.—Dallas 2013, no pet.). The purpose of these challenges is to compel clarification of pleadings when the pleadings are not sufficiently precise or fail to plead a cause of action. *Id.* The City specially excepts to Plaintiffs' original petition as follows:

1. A plaintiff lacks capacity when, as pertinent here, he "is not entitled to recover in the capacity in which he sues." TEX. R. CIV. P. 93(2); *see also Austin Nursing Ctr., Inc. v. Lovato*, 171 S.W.3d 845, 848 (Tex. 2005) (explaining that capacity "is conceived of as a procedural issue dealing with the personal qualifications of a party to litigate" (quoting 6A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Wright, Miller & Kane, Federal Practice and Procedure: Civil 2d § 1559, at 441 (2d ed. 1990))). It is

unclear from the original petition whether the Attorney General has the authority to bring this lawsuit. At present, the petition states that “the State of Texas, through Ken Paxton, the Attorney General of Texas, which seeks to stop Defendants from violating caselaw of this state.” Pet. ¶ 2. The State of Texas pleads no facts as to how it is entitled to the relief it seeks. The City requests that this Court require the State of Texas to replead. If the State of Texas does not properly amend the petition, the Court should dismiss their causes of action.

III. ANSWER

Subject to and without waiving the above, the Defendants answer as follows:

A. General Denial

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, the Defendants deny each and every, all and singular, the material allegations contained in Plaintiffs’ original petition and demand strict proof thereof by a preponderance of all the credible evidence.

B. Affirmative Defenses

1. Plaintiffs fail to state a single claim against the City.
2. Plaintiffs lack standing to bring these claims.
3. Texas state law preempts section 15(a) and 15(d) of the Dallas City Charter.
4. To the extent further answer is necessary, the City asserts the defense of waiver and/or estoppel.
5. The City asserts that the Plaintiffs’ claims are barred by governmental immunity, including immunity from suit and immunity from liability.
6. Plaintiffs have no evidence of one or more elements on which they have the burden of proof on their request for a declaratory judgment action.

7. The City asserts that to the extent that Plaintiffs seek to recover damages, interest, and/or attorney's fees, such relief is not authorized by law, statute, or contract and is barred by immunity from liability.

8. In the alternative, the City asserts the Plaintiffs failed to satisfy all conditions precedent to pursuing their claims.

IV. PRAYER

WHEREFORE, the Defendants request that this Court dismiss this claim, award the City its costs, and all other relief to which it is justly entitled.

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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2026, a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court using the eFile Texas system, which will send notification of such filing to all parties and counsel appearing in this cause in accordance with the provisions of Rules 21 and 21a of the Texas Rules of Civil Procedure.

Dated: March 26, 2026.

/s/ J. Cheves Ligon _____
J. Cheves Ligon

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Susana Lopez on behalf of John Ligon

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Filing Description: PLEA TO THE JURISDICTION, AND SPECIAL EXCEPTIONS

Status as of 3/26/2026 4:05 PM CST

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