

**CAUSE NO. 19355B**

**CITY OF INGRAM, TEXAS**

**v.**

**MARK B. HENSLEY, ET AL.**

§  
§  
§  
§  
§

**IN THE DISTRICT COURT**

**198<sup>TH</sup> JUDICIAL DISTRICT**

**IN KERR COUNTY, TEXAS**

---

**SUPPLEMENT TO CORRECT THE RECORD**

---

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff/Counter-Defendant the CITY OF INGRAM, TEXAS (“City”) and file this its Supplement to the Correct the Record and would respectfully show the Court as follows:

**I. Background**

On July 16, 2019, before the Hon. Judge Rex Emerson, a hearing was held on the City’s Plea to the Jurisdiction to Defendant/Counter-Plaintiff Twanda Brown’s (“Brown”) First Amended Counterclaim and other matters.

Although it had nothing to do with the Plea to the Jurisdiction and was not attached to any pleading, counsel for the City feels it is necessary to correct the record.

During oral argument, counsel for the City, Scott M. Tschirhart, presented to the Court as rebuttal evidence, the Affidavit of Ashli S. Badders, the Kerr County OSSF Program Supervisor for the County’s Environmental Health Department (“Affidavit”). Attached to the Affidavit were three (3) photographs labeled Exhibit “A” to which Ms. Badders stated that she had “personally took” at Brown’s property located at 114 Washington St., Ingram, Kerr County, Texas. Ms. Badders further stated that she took two of those photographs on March

31, 2015, showing the destruction of the septic tank and the third on April 6, 2015, reflecting the surface was backfilled over the septic tank.

On July 19, 2019 the Hon. Judge Emerson entered an *Order Granting Counter-Defendant City of Ingram, Texas' First Amended Plea to the Jurisdiction*.

On July 22, 2019, Brown's counsel indicated that Ms. Brown intends to appeal the Court's Order. Later that day, counsel for the City received a call from the County Attorney to inform him that some of the statements in the Affidavit of Ashli S. Badders were incorrect and that because the lots were not marked, Ms. Badders made a mistake as to the location of where she took the photographs attached to her Affidavit. The mistake by Ms. Badders was purely accidental.

The City respectfully requests that the Court allow it to correct the record on this error by withdrawing the Affidavit of Ashli S. Badders from the evidence in this cause.

## **II. Arguments & Authorities**

The undersigned has a duty to this Court and to the profession to correct testimony that he may later find out is false. The Affidavit was not relevant to the issue before the Court, the City's Plea to the Jurisdiction, but it was presented as part of a rebuttal argument to the extraneous arguments made by Brown's counsel. The undersigned believed the truth of the Affidavit at the time it was presented, and the County Attorney approved the Affidavit before it was executed. However, in light of the call from the County Attorney, the undersigned cannot allow the Affidavit he offered to stand without correcting the record.

The Court can correct the record by simply striking the Affidavit of Ashli S. Badders from the record and the City respectfully requests that the Court do so.

### III. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff the City of Ingram, Texas, respectfully requests that the Court correct the record by striking the Affidavit of Ashli S. Badders from the record of the hearing on the City's Plea to the Jurisdiction.

SIGNED on this the 23<sup>rd</sup> day of July 2019.

Respectfully submitted,

**Denton Navarro Rocha Bernal & Zech, P.C.**  
attorneys & counselors at law • rampagelaw.com

A Professional Corporation  
2500 W. William Cannon Drive, Suite 609  
Austin, Texas 78745  
512/279-6431  
512/279-6438 (Facsimile)  
[charles.zech@rampage-sa.com](mailto:charles.zech@rampage-sa.com)  
[scott.tschirhart@rampage-aus.com](mailto:scott.tschirhart@rampage-aus.com)

By:



---

CHARLES E. ZECH  
State Bar No. 50511785  
SCOTT M. TSCHIRHART  
State Bar No. 24013655

ILSE D. BAILEY  
State Bar No. 01523800  
834 Wiltshire Ave  
San Antonio, Texas 78209  
(210) 449-3669  
[ilsedbailey@gmail.com](mailto:ilsedbailey@gmail.com)

*Attorneys for Plaintiff/Counter-Defendant  
City of Ingram, Texas*

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify and attest that on this the 23<sup>rd</sup> day of July 2019, all parties in interest listed below have received a true and correct copy of the foregoing as indicated and/or by **electronic mail from the Clerk of the Court.**

Roger E. Gordon  
The Law Office of Roger Gordon  
901 South Mopac Expressway  
Austin, Texas 78746

via Electronic Notification

Calley D. Callahan  
Knolle, Holcomb, Callahan & Taylor  
13625 Ronald W. Reagan Blvd.  
Building ONE, Suite 100  
Cedar Park, Texas 78613

via Electronic Notification



---

CHARLES E. ZECH  
SCOTT M. TSCHIRHART