

3. Attorney Valorie Davenport has provided her signature to the pleadings in this matter drafted by Mr. Lincoln. She claims to have ~~read~~^{edited} the pleadings and has in open court and on the record adopted and ratified the pleadings.
4. Attorney Francis Wayne Williams Montenegro has provided his signature to the pleadings in this matter drafted by Mr. Lincoln. He has signed on behalf of Davenport with her permission and authority.
5. Charles Edward Lincoln III also has appeared pro se in this litigation by signing and filing pro se pleadings with the District Clerk's office in this case.
6. On or about October 23, 2003, after several failed mandamus actions, the Austin Third Court of Appeals ordered Charles Edward Lincoln III and his attorney, Francis Montenegro, to "refrain from filing subsequent groundless, frivolous motions, briefs, and pleadings in connection with the underlying child custody litigation either in this court, or in the district courts below". Charles Edward Lincoln III and attorney Francis Montenegro were also ordered to pay Laurie Nowlin and J. Randall Grimes attorneys fees as sanctions by the Third Court of Appeals. They have failed to pay the sanctions and they have failed to submit written proof to the Third Court of Appeals as ordered.
7. The Third Court of Appeals has stated that Charles Edward Lincoln III and Francis Montenegro's claims brought before them were frivolous, brought in bad faith and vexatious. The claims brought by Plaintiff in the writs of mandamus filed in the Third Court of Appeals involve the same claims and nucleus of operative facts as those raised in the federal lawsuits, federal appeals, and in this lawsuit. Lincoln and his lawyers have filed a new lawsuit in the district court in Travis County challenging the decision of the Third Court of Appeals. Lincoln and his attorneys did not appeal the decision of the Third Court of Appeals.
8. Charles Edward Lincoln III ~~and attorneys Davenport and Montenegro have~~^{JE} continued ^{F has}



to file frivolous pleadings on Lincoln's behalf in connection with the civil rights litigation in this District Court. Charles Edward Lincoln III ~~and attorneys Davenport and Montenegro have~~ ^{has} harassed Judge Jergins by having him served at night at his home and in front of his children. ~~They have~~ ^{Lincoln has} harassed J. Randall Grimes by serving him federal pleadings as he left the hearing before the Third Court of Appeals the day Lincoln and Montenegro were sanctioned by that Court. ~~They have~~ ^{Lincoln has} harassed J. Randal Grimes by serving him at home and in front of his children. Charles Edward Lincoln III has failed to attend proceedings before this court as requested, and on January 12, 2006, failed to appear despite having been served with a subpoena to appear. He was attached and forced to appear before the Court.

9. Charles Edward Lincoln III and attorney Montenegro filed two lawsuits in The United States District Court for the Western District of Texas raising these same issues without success. Davenport attempted to represent Lincoln in that lawsuit but was denied admission *pro hac vice* by the Court. Charles Edward Lincoln III and attorneys unsuccessfully appealed the dismissal of those lawsuits to the United States Court of Appeals for the Fifth Circuit without success and sought a rehearing *en banc* for that Court and an extension of time to file a Petition for Writ of Certiorari from the United States Supreme Court after filing this lawsuit. Undeterred by prior losses and orders on January 17, 2006, Lincoln and his attorneys then filed a new lawsuit in Cause Number *D-1-GN-06-0163, Charles Edward Lincoln and Francis Williams Montenegro v. Laurie Nowlin and Elena Lincoln, 98th Judicial District Court, Travis County, Texas*, allegedly attacking the judgment of the Third Court of Appeals.
10. This case numbered 05-973-C395 is litigation that is in connection with the underlying action being brought by Charles Edward Lincoln III involving his son, Charles Edward Andrew Lincoln IV in cause number 02-1490-F395. This lawsuit was filed while the cases were still pending in the federal courts. Lincoln and his lawyers



failed to verify the petition and follow the other mandates of the Texas Civil Practice and Remedies Code when they filed the lawsuit against Judge Jergins in the family law case.

11. Charles Edward Lincoln III on August 4, 2005, filed an application for an ex parte order in Travis County while this litigation was pending in Williamson County in an attempt to circumvent the Williamson County courts. Lincoln and Davenport failed to notify the ad litem and the attorney representing the mother they were filing the application for ex parte order.
12. Charles Edward Lincoln III claims representation by attorneys Davenport and Montenegro while at the same time filing *pro se* pleadings if, and when, it suits his strategy.
13. There is no reasonable probability of Charles Edward Lincoln III ~~and attorneys Davenport and Montenegro~~ ^{the} succeeding at trial in this litigation. Plaintiff Charles Edward Lincoln III and attorneys Davenport and Montenegro have filed allegations of alleged civil rights violations by the Judge presiding over the custody case, the lawyer representing his ex-wife, the ad litem appointed by the court, the lawyer representing the lawyer for Plaintiff's ex-wife, and all the other judges in Williamson County, Texas, as well as the County itself. ^{Some of} The allegations and writings of Plaintiff's ^{pleadings} ~~petition~~ were clearly in the first person, scurrilous, defamatory and without any basis in law or fact. By way of illustration and without limiting the vile nature of other scurrilous allegations the Court find the pleadings contained references to the firm or Grimes and Copenhagen as "Grimes and Gropengrabber". These pleadings and allegations were filed in bad faith without reasonable inquiry into the validity of the allegations or the law.
14. Plaintiff and his counsel have testified that they are aware that an attorney cannot be liable for simply representing a client. Plaintiff and his counsel admitted that Mike



Davis was not involved in the family law litigation and first appeared when he simply represented J. Randall Grimes in the Federal Court matter.

15. Plaintiff and his counsel have failed to properly investigate the law or the facts supporting the alleged claims. Lincoln's petition asserts claims against Defendants under 42 U.S.C. §1983 and Texas law based solely on rulings by Judge Jergins in this cause. The Austin Court of Appeals expressly referred Lincoln and Montenegro to *TEX. CIV. PRAC. & REM. CODE* §30.017(a)(2), which it paraphrased as requiring that "claims against [a] judge filed in [the] underlying lawsuit may not be based on rulings [the] judge made in [the] pending cause." *In re Lincoln*, 114 S.W.3d at 727 n.2. As pointed out in separately filed special exceptions, Lincoln failed to comply with any of the requirements of §30.017 - the petition was based solely on rulings in the family law pending case, it was not under oath, and Lincoln did not pay the filing fees or obtain a separate cause number
16. District Judges do not make policies for the county in which they serve. Specifically, the Honorable Michael Jergins does not make policy for Williamson County. Any actions taken, or not taken, by the Honorable Michael Jergins are not attributable to Williamson County. County's do not have solicitor generals as alleged by Plaintiff and his attorneys. Mike Davis is not an employee of Williamson County, Texas but merely serves as outside counsel in litigation for the county.
17. Lincoln had a caller id in his home that said "kill judge jergins". Lincoln is a disbarred attorney. Lincoln has admitted to sending emails flaunting his service of lawsuits on Judge Jergins and J. Randall Grimes at their homes. Plaintiff sent Defendants and this court a 168 page fax at approximately 10:00 p.m. at night, the day before the deadline, to respond to matters for the November 10, 2005, hearing.
- ~~18. Lincoln and his attorneys base his frivolous filings on blatant misrepresentations and misapplications of law. Lincoln, Davenport, and Montenegro believe that by~~



~~disrupting legitimate processes, instilling fear and fatigue, and bleeding [their] foci] to bankruptcy, they can win illegally what they are unable to achieve lawfully. They seek to disrupt the legitimate family law functions of the 395th District Court in this case, force private parties and counsel to personally incur high litigation costs, and make everyone so weary of having to deal with them that they will accede to his unjustified demands. Having no legal viability, the value of [Lincoln's] cause of action rests solely upon its power to intimidate and coerce.~~

19. Lincoln asserts that Laurie Nowlin is not entitled to derived judicial immunity based upon her status as court-appointed guardian ad litem for Charlie Lincoln IV. He has asserted this claim not only as to the "civil rights" claims, but also as to the legal malpractice/breach of fiduciary duty claims specifically against Ms. Nowlin. Under the doctrine of "derived judicial immunity", settled law in the State of Texas, a court appointed officer of the court receives the same immunity as a judge acting in his or her official capacity - absolute immunity from liability for judicial acts performed within the scope of his or her jurisdiction. As such, Lincoln's claims against Ms. Nowlin are, in their entirety, groundless in that they have no basis in law (TRCP Rule 13) and are unwarranted by existing law (CPRC 10.001(2)).
20. In numerous pleadings in this litigation, Mr. Lincoln has asserted claims on behalf of his minor son against Ms. Nowlin for, inter alia., legal malpractice and breach of fiduciary duty. However, the Final Decree in Lincoln's divorce from his former wife Elena Lincoln, provides that Elena Lincoln has the exclusive right to represent the child in legal action. In sum, Lincoln lacked authority, at all relevant times, to assert claims against Ms. Nowlin (among others) on behalf of his minor son. As such, Lincoln's claims against Ms. Nowlin asserted on behalf of his minor son are groundless in that they have no basis in law (TRCP Rule 13) and are unwarranted by existing law (CPRC § 10.001(2)).



21. Lincoln alleges that Nowlin "agreed to represent the best interests of both Plaintiffs father and son and generally alleges that he had attorney-client relationship with Ms. Nowlin. These allegations are factually groundless and they form the basis for an alleged breach of a promise that, if made, was illegal and unenforceable as against public policy; i.e. an alleged promise to act as Lincoln's attorney while simultaneously serving as ad litem for Lincoln's son. Moreover, these allegations of an attorney-client relationship between Mr. Lincoln and Ms. Nowlin form the basis for the legal malpractice and breach of fiduciary duty claims Lincoln asserted on his own behalf. These claims are groundless both legally and factually.
22. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law, including claims against Judge Michael Jergins that were precluded by judicial immunity, without a good faith argument for the extension, modification, or reversal of existing law.
23. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law, including claims for prospective relief against Judge Michael Jergins even after it became moot when he no longer presided over Lincoln's family law case.
24. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law, including claims for prospective injunctive relief against all the other Judges of Williamson County without a reasonable basis to believe that any had inflicted, or was likely to inflict a legally cognizable injury.
25. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry



would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law, including claims against Judge Jergins asserted in the family law case over which all the allegations pertain to or were inextricably bound up with his rulings in that case.

26. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law, including claims of prior restraint of First Amendment-protected speech in an order Lincoln agreed to on the record in open court, imposing restrictions similar to those sought by Lincoln himself in the divorce action, after acquiescing in the Court of Appeals' refusal to mandamus Judge Jergins on the same allegations of free speech deprivation.
27. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law, including claims against Defendants Grimes and Davis for conduct which Lincoln admitted all occurred in the course of, and was indistinguishable from, their representation of their respective clients against Lincoln.
28. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law, including claims wherein Lincoln purports to represent an assert claims on behalf of Charles Edward Andrew Lincoln IV, and although Elena Lincoln has the exclusive right under the final divorce decree, which has not been superseded, to represent and act as next friend for the child in litigation.
29. Plaintiff and his counsel have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a



good faith argument for the revision or extension of current law, including claims brought against Williamson County for alleged violations of 42 U.S.C. §1983.

30. Plaintiff's pleadings were not filed in good faith.
31. Counsel for Defendants have expended extensive financial resources and time in defending the litigation brought by Charles Edward Lincoln III and attorneys Davenport and Montenegro.
32. Plaintiff and his attorneys have made arguments and/or pleadings that were intended to harass Defendants. Counsel for Defendants have proven inconvenience, harassment, and expenses associated with defending the claims brought by Charles Edward Lincoln III and attorneys Davenport and Montenegro.
33. This Court has the inherent power to assess sanctions. The Court also has the power to assess sanction under the Texas Rules of Civil Procedure and the Texas of the Civil Practice and Remedies Code.

Conclusions of Law:

1. A pleading is sanctionable under Texas Rule of Civil Procedure 13, or Chapters 9 and/or 10 of the Civil Practice and Remedies Code if it is groundless and was brought in bad faith or for the purpose of harassment.
2. A groundless pleading is one that has no basis in law or fact and is not warranted by a good faith argument for the extension, modification, or reversal of existing law.
3. Charles Edward Lincoln III did not make a reasonable inquiry into the legal and factual basis of the claims he presented in his pleadings drafted for Ms. Davenport and/or Mr. Montenegro's signature.
4. Attorney Valorie Davenport did not make a reasonable inquiry into the legal and factual basis of the claims that were presented in Plaintiff's pleadings to which Ms. Davenport certified by her signature upon same under Texas Rule of Civil Procedure Rule 13, and Chapters 9 and/or 10 of the Civil Practice and Remedies Code.



5. Attorney Francis Wayne Williams Montenegro did not make a reasonable inquiry into the legal and factual basis of the claims that were presented in Plaintiff's pleadings to which Mr. Montenegro certified by his signature upon same under Texas Rule of Civil Procedure Rule 13, or Chapters 9 and/or 10 of the Civil Practice and Remedies Code.
6. Plaintiff's pleadings were signed in violation of Rule 13, Texas Rules of Civil Procedure and Chapters 9 and/or 10 of the Civil Practice and Remedies Code, by attorney Valorie Davenport because they contain groundless claims brought in bad faith and for the purposes of harassment.
7. Plaintiff's pleadings were signed in violation of Rule 13, Texas Rules of Civil Procedure and Chapters 9 and/or 10 of the Civil Practice and Remedies Code, by attorney Francis Wayne Williams Montenegro because they contain groundless claims brought in bad faith and for the purposes of harassment.
8. Charles Edward Lincoln III did not make a reasonable inquiry into the legal and factual basis of the claims he presented in his pleadings he drafted as a pro se litigant.
9. Plaintiff's pro se pleadings were signed in violation of Rule 13, Texas Rules of Civil Procedure and Chapters 9 and/or 10 of the Civil Practice and Remedies Code, by pro se litigant Charles Edward Lincoln III because it contains groundless claims brought in bad faith and for the purposes of harassment.
10. Charles Edward Lincoln III, Valorie Davenport and Francis Montenegro were aware that there existed no good faith cause of action against Williamson County, Texas, Mike Davis, or Randall Grimes.
11. Plaintiff has no cause of action under 42 USC 1983 against Mike Davis for representing J. Randall Grimes nor against J. Randall Grimes for representing Ms. Lincoln.
12. The litigation in the above-referenced cause number, 05-973-C395, was brought against Williamson County, Texas, Mike Davis and Randall Grimes in bad faith by



Plaintiff Charles Edward Lincoln III, Valorie Davenport and Francis Montenegro. Such actions by Charles Edward Lincoln III, Valorie Davenport and Francis Montenegro are sanctionable conduct.

13. Plaintiff's pleadings that were signed by attorneys Davenport and Montenegro and filed with the District Clerk were filed to needlessly prolong litigation and create unnecessary expense.
14. Plaintiff's pro se pleading that was signed by Charles Edward Lincoln III and filed with the District Clerk was filed to needlessly prolong litigation and create unnecessary expense.
15. There is no reasonable probability of Plaintiff succeeding at trial.
16. Plaintiff's pleadings in this cause of action (specifically Plaintiff's Motion to Modify, Petition and amendments or supplements thereto) were signed and filed in violation of Texas Rules of Civil Procedure Rule 13, and Chapters 9 and/or 10 of the Civil Practice and Remedies Code. Apart from chapters 9-10 and Rule 13, under *Tex. Const. Art. 2 §1 and Art. 5, §8*, the court has the inherent authority to sanction parties for bad-faith abuses if it finds that to do so will aid in the exercise of its jurisdiction, in the administration of justice, and in the preservation of its independence and integrity. Sanctions may be imposed against the party, his attorney, or both. *Roadway Express, Inc. v. Piper*, 447 U.S. 752 (1980); *King v. First Nat. Bank of Baird*, 161 S.W.3d 661, 663 (Tex.App. - Eastland 2005, no pet.his.). Liability for sanctions is joint and several. *Kugle v. Daimlerchrysler Corp.*, 88 S.W.3d 355, 364 (Tex.App. - San Antonio 2002, no pet.) (en banc).
17. Plaintiff's pleadings in this numbered action 05-973-C395 are frivolous, groundless, without merit and brought in bad faith for the purposes of harassment of Defendants.
18. Charles Edward Lincoln III and his counsel Valorie Davenport and Francis Williams Montenegro have violated Texas Civil Practice and Remedies Code Chapter 9 and/or 10 and Texas Rule of Civil Procedure Rule 13 by signing pleadings and motions that were groundless, in bad faith, and submitted for the purposes of harassment and delay.



19. Plaintiff and his counsel, Davenport and Montenegro, have asserted groundless claims that reasonable inquiry would have shown them were without merit, precluded by settled law, and without a good faith argument for the revision or extension of current law.
20. Plaintiff and his counsel, Davenport and Montenegro, have made allegations or other factual contentions in a pleading or motion that lacked evidentiary support or, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.
21. The imposition of sanctions in this case is made appropriate and is justified by the circumstances and evidence presented before this Honorable Court. The Court finds that the sanctions imposed herein are the minimum sanction sufficient to deter the conduct by Charles Edward Lincoln III, Valorie Davenport and Francis Montenegro, or comparable conduct by others similarly situated.
22. The Court further finds that it is within this Honorable Court's inherent power as provided by Texas Government Code, § 21.001, to sanction Plaintiff and his attorneys Valorie Davenport and Francis Wayne Williams Montenegro.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED at Defendants' Motion for Sanctions is hereby GRANTED. The Court imposes the following monetary sanctions against Charles Edward Lincoln III, and against Valorie Davenport, and Francis Williams Montenegro, attorneys for Charles Edward Lincoln III:

This Court hereby **FURTHER ORDERS** that Charles Edward Lincoln III pay monetary sanctions in the amount of \$50,000.00 to Michael P. Davis, The Texas Attorney General and Michael Johnson, counsel for Defendants Williamson County, The Honorable Judge Jergins, the Honorable Burt Carnes, the Honorable Billy Ray Stubblefield, the Honorable Ken Anderson, the Honorable Suzanne Brooks, the Honorable Tim Wright and the Honorable Don Higginbotham, Mike Davis, J. Randall Grimes, and Laurie Nowlin for the filing of this frivolous lawsuit, and to deter him from further filings.



This Court hereby **FURTHER ORDERS** that Valorie Davenport pay monetary sanctions in the amount of \$25,000.00 to Michael P. Davis, The Texas Attorney General and Michael Johnson, counsel for Defendants Williamson County, The Honorable Judge Jergins, J. Randall Grimes, the Honorable Burt Carnes, the Honorable Billy Ray Stubblefield, the Honorable Ken Anderson, the Honorable Suzanne Brooks, the Honorable Tim Wright and the Honorable Don Higginbotham, Mike Davis, and Laurie Nowlin for the filing of this frivolous lawsuit, and to deter her from further filings.

This Court hereby **FURTHER ORDERS** that Francis Williams Montenegro pay monetary sanctions in the amount of \$25,000.00 to Michael P. Davis, The Texas Attorney General and Michael Johnson, counsel for Defendants Williamson County, The Honorable Judge Jergins, the Honorable Burt Carnes, the Honorable Billy Ray Stubblefield, the Honorable Ken Anderson, the Honorable Suzanne Brooks, the Honorable Tim Wright and the Honorable Don Higginbotham, Mike Davis, J. Randall Grimes, and Laurie Nowlin for the filing of this frivolous lawsuit, and to deter him from further filings.

This Court **FURTHER ORDERS** that Charles Edward Lincoln III is specifically prohibited from filing lawsuits, or other legal actions, in courts of the State of Texas without first obtaining permission from the Presiding Judge of the region ^{or his designee} in which he proposes to bring the action. This requirement would be in effect until Charles Edward Lincoln III has satisfied the following obligations in full:

1. Payment of the foregoing monetary sanctions against Charles Edward Lincoln III;
2. Payment of the sanctions awarded by the Texas Court of Appeals for the Third Circuit in *In Re Charles Edward Lincoln III; Cause No. 03-03-00459-CV*. Sanctions were awarded in the amount of \$2,000.00 to J. Randall Grimes and \$1,000.00 to Laurie J. Nowlin.
3. Payment of the \$7,500.00 awarded to Laurie J. Nowlin in the family law case styled and numbered 02-1490-F395; *In the Interest of Charles Edward Andrew Lincoln, A Child* entered by the Court in that case on October 21, 2003.

IT IS FURTHER ORDERED THAT the sanctions imposed as to Valorie Davenport and/or Francis Williams Montenegro in Defendants' Motion for Sanctions shall be suspended as long as



^{JFE} The prohibition on assisting Lincoln will end when Lincoln pays the sanctions stated above.

Valorie Davenport and/or Francis Williams Montenegro do not aid, abet, or otherwise participate in new litigation as counsel for Charles Edward Lincoln III, ^{JFE} or allow him to utilize their law licenses in ~~furthrance of his own claims.~~ ^{JFE} The terms of this order do not prohibit Valorie Davenport and/or Francis Williams Montenegro from assisting Charles Edward Lincoln in the appeal of this case styled *Charles Edward Lincoln III, Individually and as Next Friend of Charles Edward Andrew Lincoln IV v. Williamson County et al.*, and numbered 05-973-C395, to the Third Court of Appeals for the State of Texas, or any other proper appellate court.

IT IS FURTHER ORDERED that the District Clerk of Williamson County shall provide a copy of this Order to the District and County Clerks of the Region so that said clerks may be made aware of this Order so that they may enforce same.

The terms of this Order shall have no effect upon Plaintiff's right to appeal this case styled *Charles Edward Lincoln III, Individually and as Next Friend of Charles Edward Andrew Lincoln IV v. Williamson County et al.*, and numbered 05-973-C395, to the Third Court of Appeals for the State of Texas, or any other proper appellate court. Further, the terms of this Order shall have no effect upon Plaintiff's right to maintain litigation in the family law cause of action styled and numbered 02-1490-F395, or the appeal of same to the Third Court of Appeals for the State of Texas, or any other proper appellate court.

~~IT IS FURTHER ORDERED THAT, a copy of the order shall be sent to the State Bar of Texas.~~

IT IS FURTHER ORDERED THAT the litigation in this cause of action numbered 05-973-C395 and styled *Charles Edward Lincoln III, Individually and as Next Friend of Charles Edward Andrew Lincoln IV v. Williamson County et al.* is hereby concluded with this Order. This Order of the Court is a final and appealable judgment.

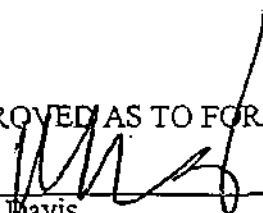
IT IS FURTHER ORDERED THAT, Defendants are entitled to issuance of all writs necessary to execute this judgment.

SIGNED on Jan 30, 2006.

[Handwritten Signature]
 JUDGE PRESIDING



APPROVED AS TO FORM:



Mike Davis
Attorney for Defendant Williamson County
and J. Randall Grimes

Mike Johnson
Attorney for Laurie J. Nowlin

Jim Todd
Attorney for the Honorable Michael Jergins



JUDGE PRESIDING

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Jimm Todd
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Attorney for Defendant Williamson County
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Mike Johnson
Attorney for Laurie J. Nowlin

Jim Todd
Attorney for the Honorable Michael Jergins

STATE OF TEXAS
COUNTY OF WILLIAMSON
CERTIFIED TO BE A TRUE AND CORRECT COPY
OF THE ORIGINAL IN MY CUSTODY.
GIVEN UNDER MY HAND AND SEAL OF OFFICE
DATE JANUARY 30 AD. 2006



BONNIE J. WOLBRUECK
DISTRICT CLERK OF WILLIAMSON COUNTY

BY Lexi Anderson DEPUTY

THIS STAMP IS PRINTED IN RED