Professional Misconduct Grievance Against Llano City Attorney Carey Bovey
Submitted to State Bar of Texas

Contents

Summary

I assert that, during 3rd Court of Appeals case 03-13-00580-CV and Llano District Court Cause 18504, Mr. Bovey demonstrated unethical behavior as defined by Texas Disciplinary Rules of Professional Conduct (TDRofPC) and Texas Lawyer's Creed (TLC) as summarized here with details following:

1. **Knowingly Making False Statements of Fact in Newspaper Article –** On 3/26/14, Llano City Attorney Carey Bovey published an extrajudicial article in the Llano News, regarding an ongoing case, with the intent of manipulating public opinion and impugning the character, credibility, and reputation of the pro se opponent. This is socially unethical and a violation of TDRofPC Rules 3.07(a), 3.07(b)(1), 3.07(c)(2), 4.01, 4.01(a), 4.01(b), 4.04,1.05(d), 3.01.
2. **Ex Parte Contacts –** Mr. Bovey had ex parte communication with District Court Judge Allan Garrett causing Judge Garrett to violate Judicial Conduct Rule 3A(4). This is a violation of TDRofPC Rules 3.03(a)(1),3.05(a), 3.05(b), 8.04(a)(6).
3. **Facilitating and Committing Perjury -** Mr. Bovey authenticated, signed, and submitted a perjurious affidavit to the Texas Third Court of Appeals. When exposed, he justified the perjury with spurious arguments and obfuscation instead of withdrawing or correcting the document. This is a violation of TDRofPC Rules 3.03(a)(1), 3.01 Comment ¶3, 3.03(a)(5), 3.03(b), 3.03 Comment ¶2, 1.02(c), 1.02 comment ¶8, 1.15(a)(1), 8.04, 4.01, 4.01(a), 4.01(b), 4.04, 1.05(d), 4.01 Comment ¶3, 8.04(a)(1), 8.04(a)(2), 8.04(a)(3), and TLC §IV (6)
4. **Knowingly Misrepresent, Mischaracterize, Misquote and Miscite Facts –** In numerous statements and arguments in his filings with the 3rd Court of Appeals, District Court Hearing, and in an article in the newspaper, Mr. Bovey knowingly misrepresented and mischaracterized the facts and the law and knowingly misquoted and miscited facts and the law. This constitutes dishonesty toward the tribunal. This is a violation of TDRofPC Rules. 3.03(a)(1), 3.03(a)(5), 4.01, 4.01(a), 4.01(b), 4.04, 8.04(a)(3) and TLC §IV (6).
5. **Took a Position that maximized costs and unreasonably delayed resolution** - Mr. Bovey's strategy during the entire judicial review process was to delay and avoid actually answering the judicial review. Had this been done voluntarily, the City would not have incurred any legal fees. At the onset, Mr. Bovey knew the City had violated zoning laws. The simple, ethical, and best solution for the City and citizens would have been to simply answer the judicial review complaint. This is a violation of TDRofPC Rule 3.02.

6. **Unconscionable Fees & Frivolous Filings –** Mr. Bovey charged the City of Llano ~$18,000, to-date, for an appeal where the City was not involved in the issues of the appeal and the City had nothing at all to lose or gain. Had the City been properly informed, they would not have agreed to pursue the action. These fees were unreasonable, excessive, and unnecessary. Mr. Bovey had the opportunity to correct the legal violations prior to any legal action having occurred. This can also be considered frivolous. This is a violation of TDRofPC Rules 3.01, 3.01 Comment ¶3, 3.02.
7. **Conflict of Interest –** In the interest of some of his clients, Mr. Bovey declined dismissal of other clients. This is a violation of TDRofPC Rule 1.06(b).
8. **Public embarrassment of the profession and disrespect to the court –** Mr. Bovey's bad behavior is highly visible in Llano and Burnet County through numerous articles in the local newspapers and through the LlanoWatch.org website where the entire episode is chronicled[1]. This is a violation of the basic objectives of the TDRofPC §VIII and the TLC.

[1] This complaint contains links to actual documents instead of including them in this PDF. Should that not be acceptable, I will gladly recreate this PDF with the documents included.

Facts:

1. **Knowingly Making False Statements of Fact in Newspaper Article –** On 3/26/14, Llano City Attorney Carey Bovey published an extrajudicial article in the Llano News[2], regarding an ongoing case, with the intent of manipulating public opinion and impugning the character, credibility, and reputation of the pro se opponent.

   In that article, Mr. Bovey misrepresented facts and the law and used inflammatory language with the sole intent to embarrass the pro se opponent, make the City look innocent, make the opponent look responsible for legal fees, and sway public opinion. This was not to educate and not in the public interest.

   Mr. Bovey being a lawyer, using the written word, demonstrates willful and malicious intention.

   The analysis of that article in Appendix A[3] shows proof that Mr. Bovey:

   a. misrepresented facts and the law and used inflammatory language 26 times in his 7 paragraphs – every paragraph in his article.
   b. used my name, Sewell, 22 times in 7 paragraphs purely to intimidate, embarrass, and sway public opinion against me and my cause.
   c. did not try to present the actual reason for the appeal – that Judge Garrett erred in his denial of my petition. His intent was not to inform. Instead he used the article to intimidate, humiliate, and leave the reader with the impression that all of my complaints, including zoning violations which were not part of the appeal, were frivolous and unfounded in fact or law.
   d. did not mention the original complaint in my judicial review petition yet he managed to disparage those violations and leave the impression that the 3rd Court of Appeals ruled against them.

2. **Ex Parte Contact with Judge Garrett** - During Llano District Court Cause 18504, Mr. Bovey had ex parte discussions with Judge Allan Garrett, in order to establish an approach to prevent a judicial review of obvious zoning violations by the City of Llano. His actions to-date and court transcript verify

[2] Appendix B – Bovey Article in Llano News on page 15
[3] Appendix A – Analysis of Extrajudicial Article in the Llano News on page 11

that the approach was conceived and executed. The proof is documented in Attachment 1. Judge Allan Garrett Judicial Misconduct Complaint which was submitted to the Texas State Commission on Judicial Conduct on 1/12/15.

3. **Knowingly Making False Statements of Fact in Court Record** - Texas Disciplinary Rules of Professional Conduct (TDRofPC) Rule 3.03(a)(1)[4] says a lawyer should not "make a false statement of material fact or law." Rule 3.01 Comment ¶3[3] says "A filing or contention is frivolous if it contains knowingly false statements of fact." Rule 3.03 Comment ¶2 Factual Representations by Lawyer[3] states that a lawyer is responsible for affidavits which may only be presented when the lawyer knows the assertion is true.

   Mr Bovey violated these rules and was frivolous by twice submitting a perjurious affidavit to the 3rd Court of Appeals- on the central legal issue of the original judicial review complaint and not relevant to the appeal. This affidavit knowingly misrepresents the facts 6 times in order to prejudice the tribunal. This shows intent to deceive and sway the Court. See Motion for Sanctions for Aggravated Perjury, Bovey Response, and Sewell Response to Bovey Response for details.

   Mr. Bovey also misrepresents the 3rd Court of Appeals opinion in a hearing in the Llano District Court when he states[5] that Court *agreed* with him regarding the issue of Board of Adjustment. They did not "*agree*. ' It was not the opinion. It was a footnote in the opinion that said the "We *observe*." Besides, my argument that §211.011(g) specifies that City Council is synonymous with Board of Adjustment in Llano as described in my Motion for Rehearing and is properly addressed by the District Court.

   In the Llano District Court Status Hearing[4], Mr. Bovey states that my case reference, Tellez[6], *stands for* is a completely false statement. Tellez[7] actually agrees with my position that jurisdiction exists when the party files the petition, that Planning & Zoning Commission is an acceptable case style, and that judicial review is unique.

4. **Fail to Disclose** - TDRofPC Rule 3.03(a)(2) [3] states "a lawyer shall not knowingly fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act" [i.e. perjury].

[4] Appendix 3 – Texas Rules of Professional Conduct
[5] Appendix 4 - Status hearing transcript page 13 lines 10-16
[6] Appendix 4 - Status hearing transcript page 18 lines 2-6
[7] *Tellez v. City of Socorro, 226 S.W.3d 413 (2007)* in Appendix U in Appellee's Reply to Appellant's Response to Appellee's Motion for Damages

The Motion for Sanctions for Aggravated Perjury in the 3rd Court of Appeals shows that Mr Bovey presented a perjurous statement 6 times regarding one of the laws questioned in my judicial review complaint. He should have retracted or amended the subject affidavit to remove the perjurous statements. Instead, his response to the motion ignored the entire subject. Had he believed that it was not perjury, he could have answered the simple, central question to my Motion for Sanctions for Aggravated Perjury: "usage changes are text changes and not regulation changes because_____".

5. **Disclosure of the True Facts** – TDRofPC Rule 3.03(b) "If a lawyer has offered material evidence and comes to know of its falsity … the lawyer shall take reasonable remedial measures, including disclosure of the true facts." After my repeated assertions regarding zoning law *text changes*, Mr. Bovey never took any remedial measures but rather continued to support the knowingly false statement.

6. **Misleading Legal Argument** – TDRofPC Rule 3.03 Comment P3 "Legal argument based on a knowingly false representation of law constitutes dishonesty." Examples of that dishonesty are:
    a. **Minimum Standards** - Mr Bovey claims that there are "minimum standards for damages under Texas Rule of Appellate Procedure 45"[8] documented in his Appellee's Motion for Damages. This is simply incorrect. Neither his motion nor his Reply to my Reply contain a set of "minimum standards" for indicating frivolous. Neither does the Texas Rule of Appellate Procedure 45 as he represents. Nor do the three transgressions he espouses in his final statement[9]constitute "minimum standards." In fact, in his citations, these transgressions are secondary indicators. This is a dishonest representation of law.
    b. **Clearly** - Mr Bovey has said "clearly has no jurisdiction" several times in his Motion for Damages, replies, and other documents. It is not only not clear but not true. I have shown that the Third Court of Appeals has jurisdiction[10] by a direct quote from the court's paper on Jurisdiction which also states that jurisdiction is a "crazy quilt" of "more exceptions than rules" and "far more complex than might be immediately apparent." Even in one of Mr. Bovey's own citations, he says that I had jurisdiction: "*jurisdiction* exists "[o]nce a

[8] Page 2 ¶2 of Appellee's Reply to Appellant's Response to Appellee's Motion for Damages
[9] Mr. Bovey's final summary in ¶6 on page 14 of Appellees' Reply to Appellants' Response to Appellees' Motion for Damages
[10] Bovey #5 on page 5 of Sewell Response to Motion for Damages

party files a petition[11]". This is what I said, although not so succinctly.

My point here is that characterizing jurisdiction as "*clear*" is dishonest. It is not *clear* and should be resolved by the district court. He often uses "*clearly*" in his arguments to cover up a false statement as in the Llano News article[12].

c. **Will Address but Never Does** – On the central legal question of the judicial review, Mr. Bovey states that "the City Manager and City Attorney contend, based on the following, that they did not violate § 10.001."[13] He promises to show that they did not commit perjury but never delivers. This is because the central question "usage changes are text changes and not regulation changes because _____" cannot be answered without admitting perjury and violating zoning laws. This attempt to deceive the court is knowingly dishonest and disrespectful.

d. **Perjury Allowable Argument** – In Mr. Bovey's Response to my Motion for Sanctions for Aggravated Perjury he used spurious arguments to justify the perjury but never denied it. See Sewell Response to Bovey Response for details.

e. **Extrajudicial article in the Llano News** – As shown in Fact #1 above and the analysis of that article in Appendix A, Mr. Bovey habitually and knowingly misrepresents facts and the law.

7. **Fallacy of Incomplete Evidence** – Mr. Bovey uses a tactic of picking subordinate clauses or words from a statute or case reference while ignoring their essence in order to invalidly make a statement of law. This is a dishonest tactic and a violation of Texas Creed IV P 6. Misrepresent, mischaracterize authorities[14].

a. **Decision** – Mr. Bovey's last attack[15] on jurisdiction is based on the word *decision*. By extracting several uses of *decision,* he then used twisted logic to define the term "decision" as "means the board of adjustment's minutes reflecting a vote on a particular question and the records related to that decision filed in the board's office." Thus, only

[11] **Error! Reference source not found.** on page 20 in Sewell Response to Bovey response to Sewell Response to Bovey Motion for Damages
[12] #11, #12,and #22 Appendix A – Analysis of Extrajudicial Article in the Llano News on page 11
[13] page 6 ¶5 Appellee Reply to Sewell Motion for Sanctions for Aggravated Perjury
[14] From The Texas Lawyer's Creed -- A Mandate For Professionalism § IV #6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage
[15] Bovey Response to Sewell Response to Bovey Motion for Damages page 3 #3

filed decisions in the board office are real decisions. He goes on to say that §211.011(g)[16] demonstrates lack of jurisdiction based on the word *decision*. Huh? I have read this numerous times and it doesn't make sense. Actually, §211.011(g) is about treating a Board of Adjustment and City Council as equal when the members are the same. Thus, the "decision" was filed in the shared City Secretary's office but that is irrelevant to jurisdiction.

Besides, Mr. Bovey's citation actually says the opposite - that "the statute does NOT define *decision*." Since the statute doesn't define the word "decision" it is reasonable to use the Merriam Webster definition of "a determination arrived at after consideration" which would include decisions by a municipal body to amend an ordinance.

b. **Board of adjustment** - From §211.011(a), Mr. Bovey keys on the phrase "of the board of adjustment" to assert jurisdiction, ignoring the qualifying statute 211.011(g). He also ignores the more essential aspect of that section and ignores the true meaning of one of his own citations, *Tellez v City of Socorro,* which describes when jurisdiction exists.

8. **Ignoring Central Issues –** The Texas Lawyer's Creed[17] requires that Mr. Bovey gives "the issues in controversy deliberate, impartial and studied analysis and consideration." Mr. Bovey's violation of his creed is particularly egregious since the central issues were completely ignored:

   a. **Judicial Review** – The central issue requested for review was that of "usage changes are text changes and not regulation changes because _____." In 1 ½+ years of this dispute, there was never an attempt by Mr. Bovey to address this issue which was also the central issue in my Motion for Sanctions for Aggravated Perjury. No mention of or rebuttal to the 4 statutes I used in that motion; no citations; no *deliberate, impartial and studied analysis and consideration*. Just ignored completely.

   b. **Appeal** – The only issue requested of the Third Court of Appeals in my Appeal Brief was to determine if proper process and law was followed by the district court – based on zoning law procedure, was it proper to require notification. Mr Bovey did not directly address this singular issue. Nor did he give *deliberate, impartial and studied analysis and consideration*. Just ignored completely.

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[16] **Error! Reference source not found.** on page 19 in Sewell Response to Bovey response to Sewell Response to Bovey Motion for Damages

[17] From The Texas Lawyer's Creed -- §IV #8: "I will give the issues in controversy deliberate, impartial and studied analysis and consideration."

9. **Conflict of Interest** - TDRofPC Rule 1.06(b) was violated when Mr. Bovey rejected my Motion to Fix Case Style. That motion was simply to fix the case style by removing some of his clients from the court record, erroneously placed there by Judge Garrett and propagated by the appeals court clerk. This removal obviously benefited some of his clients but eliminated Mr. Bovey's false personal jurisdiction argument. Mr Bovey objected to this motion and thus, in the interest of some of his clients, he exposed the remainder of his clients to the perpetual web documentation of being a litigant in a legal action in the appeals court. My case style[18] didn't contain any personal defendants but Mr. Bovey used the Court mistake to further his cause.
10. **Unconscionable Fees –** Mr. Bovey charged the City of Llano ~$18,000, to-date, for an appeal where the City was not involved in the issues of the appeal and the City had nothing at all to lose or gain from any decision by the Court as is shown by the result – he claims he won but I achieved what I wanted. Had the City been properly informed, they would not have agreed to an $18,000 participation in an inconsequential appeal. These fees were unreasonable, excessive, and unnecessary. Had Mr. Bovey not participated in the appeal, all arguments he presented could have been done at the district court level in far less time and money. In effect, Mr. Bovey was only defending Judge Garrett at taxpayer expense.

    Mr. Bovey had the opportunity to correct the legal violations prior to any legal action having occurred – prior to the illegal acts themselves, prior to the judicial review petition, and prior to the appeal. This can also be considered frivolous as well as irresponsible and not in the best interest of the City or citizens. This is a violation of TDRofPC Rules 3.01, 3.01 Comment ¶3, 3.02.
11. **Public embarrassment of the profession and disrespect to the court –** City Attorney Bovey's bad behavior is highly visible in Llano and Burnet County through numerous articles in the local newspapers[19] and through the LlanoWatch.org website where the entire episode is chronicled.

    The issue will repeat itself in 2015 when the City of Llano will violate the same laws as the judicial review reports, by a complete overhaul of the zoning ordinance – thus affecting not just the 79 property owners violated here but ALL of the property owners in Llano. At this scale, it will get more widespread exposure.

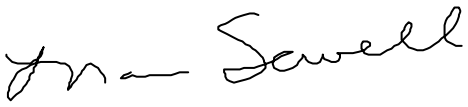
[18] Appendix C - Judicial Review Petition Cover w/Case Style on page 18
[19] See "non-court Papers and Documents" at http://llanowatch.org/llanowatch/zoningviolation.aspx as well as numerous articles at LlanoWatch.org.

Conclusion

I respectfully request sanctions for Mr. Bovey's misconduct and reimbursement of all costs paid by the City of Llano.

Mr. Bovey's body of work during 3rd Court of Appeals case 03-13-00580-CV and Llano District Court Cause 18504 demonstrates unethical behavior as defined by Texas Disciplinary Rules of Professional Conduct and Texas Lawyer's Creed.

City Attorney Bovey had the opportunity to avoid all legal action and expense with proper advice given to the City Manager. Failing that, he had the opportunity to advise a simple answer to a judicial review petition. Failing that, he could have avoided $18,000 in legal fees by not participating in an appeal whose result had no consequence to the City of Llano. Failing that, he could have presented arguments without misrepresentation of fact or law and without impugning the character, credibility, and reputation of the pro se opponent.



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Marc Sewell
108 Summit
Llano, TX 78643

Appendix A – Analysis of Extrajudicial Article in the Llano News

This analysis of the Bovey article in the Llano News[20] shows proof that Mr. Bovey:

a. misrepresented facts and the law and used inflammatory language 26 times in his 7 paragraphs – every paragraph in his article.
b. used of my name, Sewell, 22 times in 7 paragraphs purely to intimidate, embarrass, and sway public opinion against me and my cause.
c. did not try to present the actual reason for the appeal –that Judge Garrett erred in his denial of my petition. His intent was not to inform. Instead he used the article to intimidate… and to leave the reader with the impression that all of my complaints, including zoning violations which were not part of the appeal, were frivolous and unfounded in fact or law.
d. did not mention the original complaint in my judicial review petition yet he managed to disparage those violations and leave the impression that the 3rd Court of Appeals ruled against them.

Analysis of Llano City Attorney Bovey's 3/26/14 Llano News Article		
Sewell Analysis	**Bovey Statement**	**Reference**
1. Misrepresentation of fact & law – Notification (*properly serve*) is the central issue I have with Judge Garrett and the reason for the appeal. My petition for judicial review was filed under §211.011 which specifically does not require notification and Bovey knows this argument. See Appellant Brief and Judicial Misconduct Complaint for details. 2. Inflammatory Language – Word *properly* used unnecessarily to denigrate me and my cause by suggesting I did something *improper* which I did not.	Sewell did not **properly** serve any defendants	¶2 line 2
3. Misrepresentation of fact – I did not name any defendants as shown in petition cover[21]. It was Judge Garrett who wrongly changed my case style in his Order. I included this error in my Appellant Brief and even filed a Motion to Fix Case Style to fix the court record. It is my contention, as articulated in Judicial Misconduct Complaint, that this insistence on naming defendants was collusion with Judge Garrett with the intent to deny a judicial review and avoid admitting the illegal acts claimed in my petition. 4. Inflammatory Language – Enumerating the non-defendants was solely used to engender public opinion against me with all the friends of those listed. This is also unnecessarily embarrassing for those listed as defendants in the 3rd Court of Appeals. There was no other reason to name these Llano citizens.	Mr. Sewell then filed an appeal of the District Court's order to the Third Court of Appeals in Austin **naming** the City of Llano, Mikel Virdell, Brenton Lewis, Dianne Firestone, Letitia McCasland, Marcy Methvin, Todd Keller, Jeanne Puryear and Toni Milam **as defendants**.	¶3 line 1
5. Misrepresentation of fact –This statement is the antithesis of the truth. After my Appellant Brief, I was finished presenting my appeal and Bovey needn't have done	**A review of the case information and pleadings** on file with the	¶3 line 2

[20] Appendix A – on page 7
[21] Appendix B

anything. Every document I filed with the 3rd Court of Appeals was in response to a Bovey filing. My Appellant Brief was all that was necessary for my appeal. My appeal was purely to address errors by Judge Garrett in denying a writ of certiorari based upon the need to notify participants. This was a procedural disagreement with Judge Garrett and no action was required by Bovey. Any arguments he had with my complaints in the Judicial Review petition could have been made at the District Court level and saved the citizens of Llano $18,000. Please see the Appeal section of the Document Index to see all the filings in context. This complete distortion is the crux of the article whose intent was to show that I was responsible for the $18,000 in his legal fees. 6. Inflammatory Language – Bovey uses the credibility of the 3rd Court of Appeal's *reveals* to validate his next, false, statement. Another cheap deception trick stating a falsehood at the beginning of a paragraph, "**every document filed**" and then putting exceptions obscured at the end, knowing most readers will skip the end of a long paragraph.	Third Court of Appeals **reveals that every document filed by the City defendants** (referred to as "Appellees" by the Third Court of Appeals) **was filed in response to an action taken by Mr. Sewell. …** except Motion to Dismiss and Motion for Damages	¶3 line 3
7. Misrepresentation of fact – The 3rd Court of Appeals dismissed Motion for Damages, as shown in the Court Notice, in which Bovey claimed frivolous. This notice was published by the court before Bovey wrote the article so he knew that it was NOT frivolous. The appeal was successful in that Judge Garrett had refused any hearings on his disposal prior to the appeal and then the Court said he hadn't properly disposed - thus Garrett had to have a hearing, which is what I wanted from the appeal. 8. Inflammatory Language – The word frivolous in a non-legal context has a different meaning to ordinary citizens - trivial and not having any serious purpose. My complaint said that three laws were broken and 79 people had lost their rights. In the 1½ years this has been going on, Bovey and the City have not addressed the three broken laws – because they are guilty. The City continues to break some of these laws. This is hardly trivial and is very serious.	his **frivolous** appeal	¶3 line 3
9. Misrepresentation of fact – The response brief was optional and not *forced* by me. The issues in the appeal were purely procedural error by the judge prior to any action required by the City. It surely didn't call for $18,000 worth of effort. Lack of jurisdiction due to improper disposing would have been found by the Judges without Bovey's $18,000 worth of assistance. 10. Inflammatory Language – The word *forcing* says that I, alone, am responsible for the City spending $18,000 on legal fees when the truth is Bovey didn't have to do anything.	**forcing** the City to prepare and file a response brief.	¶4 line 1

11. Misrepresentation of fact – I never, ever said that "the City should never respond to his arguments" and yet Bovey says that position is "clearly documented." To the contrary, a judicial review is a request to the City to answer my arguments. Bovey avoided that for 1½ years. 12. Inflammatory Language – The word *clearly* is used to make the citizens believe that his false statement is irrefutable and since no citizen will read the filings, the false statement stands. Bovey uses the credibility of the *3rd Court of Appeals* to give validation to his false statement.	Mr. Sewell's **position**, as **clearly documented** by his numerous filings with the Third Court of Appeals, was that he should be allowed to sue the City and **the City should never respond to his arguments**,	¶5 line 1
13. Misrepresentation of fact – It was Bovey who brought in irrelevant issues from the start. My Appellant's Brief was the only document I intended to file. That document ONLY describes the issues of Judge Garrett's procedural errors and nothing else. I did not mention any of the legal violations in my judicial review complaint. The irrelevant first line in his Bovey's Appelle's Brief brings in the arguments from my petition and argues that "proper notice was given." I had to respond to that and all his other irrelevant issues. 14. Inflammatory Language – Saying my arguments were *irrelevant* leaves the laymen readers with the assertion that I went off on a tangent and wasted Bovey's time and taxpayer funds.	Mr. Sewell's arguments were **irrelevant to the issue appealed**	¶6 line 1
15. Misrepresentation of fact – This statement is completely false. All of my arguments were based on fact and most were based on law. Even my assertion that Judge Garrett completely disposed of my judicial review was based in fact, had legal references, and was a reasonable conclusion based on Judge Garrett's actions. It was Judge Garrett who erred. 16. Inflammatory Language - This statement will leave the reader with the impression that all my statements are *unfounded* and I did not base any argument in law, which is not true. Readers will also think that my original petition complaints were unfounded when they were not even the subject of the appeal.	Mr. Sewell's **arguments were unfounded and had no basis in law**	¶6 line 1
17. Misrepresentation of fact – I argued positions with legal and factual statements, as he did. This is normal and expected. The judges decide who is correct. This statement says that is abnormal and I should not have done that. 18. Inflammatory Language - This statement, using *fought each* and *despite* will leave the reader with the impression that all my statements were wrong *despite* Bovey's case references. Readers will also think that my original petition complaints were wrong and properly contested by Bovey's case references, when they were not even the subject of the appeal and not addressed at all.	Mr. Sewell **fought each** of these positions **despite** numerous Texas cases cited by the City supporting its arguments.	¶6 line 2
19. Misrepresentation of fact – The Court did not "held" or	The Court **held** "that	¶7 line 3

hold. That was not their judgment. That was not their ruling. That was not their opinion. That was not their decision. That was not their mandate. That was a footnote in the opinion that said the "We observe." Besides, my argument that §211.011(g) specifies that City Council is synonymous with Board of Adjustment in Llano as described in my Motion for Rehearing and is properly addressed by the District Court. 20. Inflammatory Language – This statement, again, tries to use the credibility of the Court to substantiate his incorrect and misleading statement.	because Sewell has not challenged actions taken by a board of adjustment, his claims are not governed by Texas Local Government Code section 211.011."	
21. Misrepresentation of fact – This is the most prejudicial and misleading statement of all. The Court found that Judge Garrett did not properly dispose of my judicial review. That was my position, albeit for different reasons. The Court's judgment forced Judge Garrett to have the hearing that I requested in my appeal Prayer. Hardly a desperate battle since I got what I wanted. 22. Inflammatory Language – The statement *clear holding agreeing with the City's position* would lead readers to believe that the Court agreed with the City's position on illegal zoning changes since that is what the citizens know and care about. Bovey's phrase *desperate battle* is pejorative, makes it seem like I am doing something wrong, and makes it seem like the City is the victim.	Despite the Third Court of Appeal's **clear holding agreeing with the City's position**, Mr. Sewell continues to fight a **desperate battle**	¶8 line 1
23. Misrepresentation of fact –I filed a Motion for Rehearing and a Motion for En Banc Reconsideration which are normal rebuttals to an opinion and are supported by the rules. Those motions asked for clarification. I did not **accuse** the Court of anything. I questioned, which is a normal activity. I actually think my arguments were sound and based in law. But they were at least reasonable and not accusatory. 24. Inflammatory Language – Bovey's phraseology of ***accusing*** *the Third Court of Appeals* is highly prejudicial and makes me and my efforts seem trivial, petty, and ludicrous.	Mr. Sewell is now **accusing** the Third Court of Appeals rather than the City, of misinterpreting the Texas Local Government Code and misunderstanding the Texas judicial process in general	¶8 line 2
25. Misrepresentation of fact – Again, the City is not being forced to do anything. This was a procedural dispute with Judge Garrett which would have had the same outcome without Bovey's $18,000 worth of insight and had nothing to do with the illegal acts of the City. 26. Inflammatory Language – Bovey's phrase *forced to incur additional legal costs* make the reader believe that I controlled the $18,000 in legal fees.	therefore the City has fortunately not been **forced to incur additional legal costs** in defending its position in this case	¶8 line 3

Appendix B – Bovey Article in Llano News

City Responds to Questions Regarding Appeal

Wednesday, March 26, 2014

Carey Bovey, Attorney for the City of Llano, submitted this response regarding the appeal filed by Marc Sewell, which was detailed in the March 19 edition, in the article "Court Petition Has city Doling Out Big Bucks in Legal Fees".

Marc Sewell filed a Petition for Judicial Review in the 33rd/424th Judicial District Court of Llano County, Texas, on June 25, 2013, asking the District Court to rescind amendments to the City of Llano's zoning regulations that were enacted by Ordinance No. 1247 and also for "misdemeanor offense charges and fines" against certain named City of Llano officials and employees. Mr. Sewell did not properly serve any defendants at the District Court level and therefore the City did not appear or file a response. On July 23, 2013, the District Court issued an order denying Mr. Sewell's Petition.

Mr. Sewell then filed an appeal of the District Court's order to the Third Court of Appeals in Austin naming the City of Llano, Mikel Virdell, Brenton Lewis, Dianne Firestone, Letitia McCasland, Marcy Methvin, Todd Keller, Jeanne Puryear and Toni Milam as defendants. A review of the case information and pleadings on file with the Third Court of Appeals reveals that every document filed by the City defendants (referred to as "Appellees" by the Third Court of Appeals) was filed in response to an action taken by Mr. Sewell. The only exceptions to this are: 1) a letter to correct the City Attorney's address; 2) Appellees' Motion to Dismiss for lack of jurisdiction filed on October 11, 2013, which was filed by the City in an attempt to dispose of the case at an early stage and save the City the expense of filing a response brief; and 3) Appellees' Motion for Damages, which was filed to seek reimbursement from Mr. Sewell for the expenses the City incurred defending against his frivolous appeal.

Before filing the Motion to Dismiss, in accordance with the Texas Rules of Appellate Procedure, the City Attorney had a telephone conference call with Mr. Sewell detailing why the Third Court of Appeals did not have jurisdiction in this case. Mr. Sewell chose to oppose the Motion to Dismiss, forcing the City to prepare and file a response brief. It was Mr. Sewell's decision to appeal, it was his decision to oppose the City's Motion to Dismiss, and it was his decision to continue to file additional motions and documents with the Third Court of Appeals which required responses from the City.

Mr. Sewell's position, as clearly documented by his numerous filings with the Third Court of Appeals, was that he should be allowed to sue the City and the City should never respond to his arguments, despite the inaccuracies of both the factual and legal conclusions made therein.

Throughout the entirety of Mr. Sewell's efforts in appealing the case, the City consistently maintained that the Third Court of Appeals did not have jurisdiction; that Mr. Sewell's arguments were irrelevant to the issue appealed; and that Mr. Sewell's arguments were unfounded and had no basis in law or the facts contained in the appellate record. Mr. Sewell fought each of these positions despite numerous Texas cases cited by the City supporting its arguments.

On January 29, 2014, the Third Court of Appeals issued a Memorandum Opinion agreeing with the City's position, granting the City's Motion to Dismiss and holding the Court did not have jurisdiction to hear the appeal. The Third Court of Appeals also agreed with the City's position that there was no action taken by the City of Llano Board of Adjustment and therefore Mr. Sewell erroneously tried to use Texas Local Government Code section 211.011 to support his appeal. The Court held "that because Sewell has not

challenged actions taken by a board of adjustment, his claims are not governed by Texas Local Government Code section 211.011….Sewell's petition invokes a statute inapplicable to his claim…."

Despite the Third Court of Appeal's clear holding agreeing with the City's position, Mr. Sewell continues to fight a desperate battle, filing a Motion for Rehearing, which was overruled by the Court on February 19, 2014, and a Motion for En Banc Reconsideration which has not been ruled on as of March 19, 2014. With the latest filings, Mr. Sewell is now accusing the Third Court of Appeals, rather than the City, of misinterpreting the Texas Local Government Code and misunderstanding the Texas judicial process in general. The City is not required by the Texas Rules of Appellate Procedure to respond to these filings unless requested by the Third Court of Appeals, who has not requested a response, and therefore the City has fortunately not been forced to incur additional legal costs in defending its position in this case.

Appendix C - Judicial Review Petition Cover w/Case Style

STATE OF Texas) IN THE County COURT
) SS:
COUNTY OF Llano) CASE NUMBER: _____ (created by County)

IN RE: PETITION to County Court for Judicial Review of Board Decision)

VERIFIED PETITION UNDER Local Government Code Sec 211

Comes now the Petitioner Marc T. Sewell and pursuant to Texas Local Government Code Section 211.011 petitions the Court for a Judicial Review of Llano City Planning and Zoning Commission and Llano City Council. Petition is attached in laymen's terms and format since Texas Local Government Code Section 211.011 says that a taxpayer may present the petition.

VERIFICATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

(signed) M-Sewell

Marc T. Sewell
Print your name

108 Summit
Mailing Address

Llano, TX 78643
Town, State and Zip Code

325-247-2508
Telephone number, with area code

Sworn to and subscribed
before me
this 20th day of June, 2013

Pattie Bradfield (Seal)
Notary Public

PATTIE BRADFIELD
MY COMMISSION EXPIRES
July 21, 2015

Appendix D – Attachments

The following attachments are links to the official documents. Should this not be appropriate, I will gladly incorporate them in this PDF.

Attachment 1. **Judge Allan Garrett Judicial Misconduct Complaint**
Attachment 2. **Bovey Article in Llano News**
Attachment 3. **Texas Rules of Professional Conduct**
Attachment 4. **Llano District Court Status Hearing Transcript**