



COMMISSIONERS COURT
COMMUNICATION

COURT ORDER NUMBER _____

PAGE 1 OF 7

DATE: 11/5/2024

SUBJECT: CONSIDERATION OF AN ATTORNEY EMPLOYMENT AGREEMENT ENGAGING THE FIRM OF PHAM HARRISON, LLP AS OUTSIDE COUNSEL FOR THE DEFENSE OF TARRANT COUNTY EMPLOYEES DAVID PITCOCK AND ROBERT RUSS IN A LAWSUIT ENTITLED ANTHONY R. JOHNSON, SR., ET AL. V. TARRANT COUNTY, TEXAS, ET AL., ACTION NO. 4:24-CV-686-O

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court consider an Attorney Employment Agreement engaging the firm of Pham Harrison, LLP as outside counsel for the defense of Tarrant County employees David Pitcock and Robert Russ in a lawsuit entitled Anthony R. Johnson, Sr., et al. v. Tarrant County, Texas, et al., Action No. 4:24-cv-686-O.

BACKGROUND

Tarrant County employees David Pitcock and Robert Russ have been sued in an inmate civil rights case. Pursuant to Local Government Code Section 157.901, it is necessary for outside counsel to be employed to represent these individuals in the lawsuit entitled Anthony R. Johnson, Sr., et al. v. Tarrant County, Texas, et al., Civil Action No. 4:24-cv-686-O in the United States District Court for the Northern District of Texas, Fort Worth Division.

With approval, Tarrant County employees David Pitcock and Robert Russ will have representation in this federal suit.

FISCAL IMPACT

The fiscal impact associated with this action is unknown at this time, however, the law firm is to use all reasonable means to resolve this matter at a total cost of no more than \$30,000.00 per individual, subject to further court approval. Funding is available in account 61500-2025 Self-Insurance Fund 191200000 Self Insurance /585071 Litigation Expense.

SUBMITTED BY	Criminal District Attorney	PREPARED BY:	Polly Maxwell
		APPROVED BY:	Mark Kratovil

October 18, 2024

Commissioners Court
Administration Building
100 E. Weatherford, Room 502-A
Fort Worth, Texas 76196-0609

Re: **ATTORNEY EMPLOYMENT AGREEMENT – RE: DAVID PITCOCK AND ROBERT RUSS**
Anthony R. Johnson, Sr., et al. v. Tarrant County, Texas, et al., Civil Action No. 4:24-cv-686-
O, in the United States District Court for the Northern District of Texas, Fort Worth Division

Dear Judge O'Hare:

Thank you for considering me and my law firm to serve as outside conflicts counsel in this matter. Specifically, I am writing to confirm that Pham Harrison, LLP (the "Law Firm") and Tarrant County, Texas (the "County") agree that the Law Firm will, upon approval by the Tarrant County Commissioners, represent Tarrant County detention officers David Pitcock and Robert Russ (collectively, the "Clients" and individually a "Client") in their individual capacities, assuming that the Clients agree to joint representation by the Law Firm and to waive potential conflicts of interest in the joint representation as set forth below.

Scope of Engagement: The Law Firm is authorized to represent the Clients in this matter and to appear on the Clients' behalf before courts, arbitration panels, or similar authorities as may be required to represent the Clients. Except as may be limited by the attorney-client privilege, the Law Firm agrees to keep the County apprised of the status of the case as the case progresses.

Joint Representation: The Clients understand that the Firm will collectively represent both Clients in the above-referenced lawsuit.

Based on the information we presently have, we are not aware of any conflict of interest that would preclude us from representing both Clients simultaneously. It is our understanding that the Clients are presently unaware of any conflict of interest in relation to the Firm's joint representation of the Clients in the above-referenced matter.

Both Clients have the right to retain separate counsel. However, it has been agreed that joint representation by the Firm is currently the most appropriate option for the Clients. In that regard, both Clients acknowledge that they understand and accept the following considerations and risks associated with a joint representation. Each Client should discuss the following considerations and risks, and any other questions or concerns that each may have, with each Client's own separate legal counsel, to make sure that each Client is comfortable with participating in this joint representation.

October 18, 2024

Confidentiality and Privilege. In a joint representation, each of the participating Client is entitled to know what any of the other Client has told the Firm, as well as what the Firm has learned from third parties in connection with the representation. As among the jointly represented Clients, there is no privileged or confidential information concerning matters within the scope of the representation. Each Client's communication to the Firm in the course of the joint representation will generally be privileged as to third parties. But while we are bound to protect the confidences of each Client from disclosure to third parties, such protection does not apply *vis-à-vis* the other jointly represented Client. In a joint representation such as this, all confidences are shared confidences, because the Firm owes a duty to keep each Client informed throughout the course of the representation. In addition, as a general matter, each jointly represented Client is obliged to protect the confidences of the other jointly represented Client from disclosure to third parties. However, if a dispute were to arise between any of the jointly represented Clients, information communicated in the course of the joint representation would not be privileged or confidential in a proceeding to resolve the dispute.

Conflicts and Possible Withdrawal by the Firm or Clients. Joint representation requires that all participating Clients take common positions as to all issues. As counsel to jointly represented Clients, the Firm cannot take inconsistent positions for each Client. There is always the potential that the individual interests of one Client may not be the same as the interests of the other Client. This could result in the need for one or all of the Clients to retain new counsel.

If a divergence or conflict of interest occurs, both Clients agree that they will not seek to disqualify, or object to the Firm from continuing to represent one of the Clients. **Both Clients further agree that if they become aware of any potential divergence or conflict, Pham Harrison LLP may withdraw from representing one Client but continue to represent the other in relation to the above-referenced lawsuit.** Both Clients agree to notify the Firm immediately if they become aware of an actual or potential divergence of interest or conflict.

Services and Rates: The legal services to be provided by the Law Firm include, but are not limited to, conferences (both in person and by telephone), correspondence, research, analysis, investigation, preparation of legal documents, meetings with parties, witnesses, and other necessary persons, negotiations, written discovery and depositions, trial and hearing preparation, appearances in court and in mediation, and all related work required to represent the Clients properly in this matter.

The rates for legal services provided by the Law Firm are as follows:

\$300.00 per hour for attorney services rendered by Law Firm. Additional expenses as may be required to represent the Clients may be charged to the County, including but not limited to court costs, filing fees, postage and copy charges, courier fees, costs to create exhibits, expert and consultant fees, and other reasonably necessary items. **The Law Firm, however, will not hire outside experts or consultants, will not incur travel expenses, and will not incur any other substantial expense without the County's prior approval.** The Law Firm will work with counsel for the County in this lawsuit pursuant to joint defense and common interest privileges to the extent ethically possible in order to avoid duplication of efforts and to reduce costs. The County understands that the Law Firm's ethical duty of loyalty is solely to the Clients.

October 18, 2024

The Law Firm agrees to keep track of time and to submit redacted bills on a periodic basis for payment. Time will be billed in 1/10th increments. In order to meet existing deadlines and in order to preserve and protect the Clients' interests, the Law Firm may have needed to perform certain necessary services prior to formal approval of this contract and may bill for such services.

The Law Firm shall use all reasonable means, including the utilization of dispositive pretrial motions as appropriate, to resolve this matter as quickly and inexpensively as reasonably and ethically possible. The Law Firm cannot guarantee specific outcomes nor guarantee the amount of time that will ultimately be needed to adequately represent the Clients as much depends on actions taken by the opposing party, the Court, and other matters beyond my control, nor have I yet had an opportunity to fully review all relevant materials or formulate any sort of a reliable budget. The Law Firm will endeavor, however, to complete this assignment for less than \$30,000.00 if at all possible. In the event the billing reaches \$30,000.00, the Law Firm shall brief the Tarrant County Commissioners Court on the budget and request an additional reasonable amount to complete the matter.

NOTICE TO CLIENTS: The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar's Office of Chief Disciplinary Counsel will provide you with information about how to file a complaint. Please call 1-800-932-1900 toll-free for more information.

Sincerely,

Lu Pham

AGREED: _____

David Pitcock

AGREED: _____

Robert Russ

October 18, 2024

The Law Firm agrees to keep track of time and to submit redacted bills on a periodic basis for payment. Time will be billed in 1/10th increments. In order to meet existing deadlines and in order to preserve and protect the Clients' interests, the Law Firm may have needed to perform certain necessary services prior to formal approval of this contract and may bill for such services.

The Law Firm shall use all reasonable means, including the utilization of dispositive pretrial motions as appropriate, to resolve this matter as quickly and inexpensively as reasonably and ethically possible. The Law Firm cannot guarantee specific outcomes nor guarantee the amount of time that will ultimately be needed to adequately represent the Clients as much depends on actions taken by the opposing party, the Court, and other matters beyond my control, nor have I yet had an opportunity to fully review all relevant materials or formulate any sort of a reliable budget. The Law Firm will endeavor, however, to complete this assignment for less than \$30,000.00 if at all possible. In the event the billing reaches \$30,000.00, the Law Firm shall brief the Tarrant County Commissioners Court on the budget and request an additional reasonable amount to complete the matter.

NOTICE TO CLIENTS: The State Bar of Texas investigates and prosecutes professional misconduct committed by Texas attorneys. Although not every complaint against or dispute with a lawyer involves professional misconduct, the State Bar's Office of Chief Disciplinary Counsel will provide you with information about how to file a complaint. Please call 1-800-932-1900 toll-free for more information.

Sincerely,

Lu Pham



AGREED:

David Pitcock

AGREED:

Robert Russ

October 18, 2024

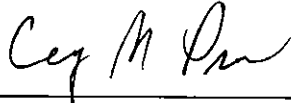
SIGNED AND EXECUTED this ____ day of _____, 2024.

**COUNTY OF TARRANT
STATE OF TEXAS**

Tim O'Hare
County Judge

APPROVED AS TO FORM:

**CERTIFICATION OF
AVAILABLE FUNDS: \$ _____**



Criminal District Attorney's Office*

Tarrant County Auditor

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.