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September 17, 2013

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Re: Cause No. D-1-GN-13-001557; *Harlingen Family Dentistry v. Dr. Kyle Janek, et al*; In the 353rd Judicial District, Travis County, Texas.

Dear Counsel:

After carefully considering the Petition for Mandamus, Respondents' Plea to the Jurisdiction, the response, the reply, the evidence, the pleadings and arguments of counsel, the Court rules as follows:

Petition for Mandamus is granted; and

Respondents' Plea to the Jurisdiction is denied.

In order to give meaning to the statute itself, this is the only viable result. This Court follows the analysis put forward by the Texas Supreme Court and the Third Court of Appeals in statutory interpretation. This Court presumes that "the entire statute is intended to be effective" and that "a just and reasonable result is intended," *See Shook v. Walden*, 304 S.W.3d 910, 917 (Tex. App.—Austin 2010, no pet.) (citing Tex. Gov't Code Ann. § 311.021(2), (3) (West 2005)).

Petitioner Harlingen Family Dentistry exercised its statutorily-created right to have a *prima facie* hearing regarding the Medicaid payment hold exercised by Respondents. Texas Human Resources Code section 32.091(c) creates a statutory framework for this hearing to occur: that "the department shall discontinue the hold unless the department makes a *prima facie* showing at the hearing that the evidence relied on by the department in imposing the hold is relevant, credible and material to the issue of fraud or willful misrepresentation."

Respondents failed to make a *prima facie* showing yet they are still withholding the funds. For the Legislature to create this hearing, yet it have no viable effect, would render the statute meaningless – this cannot be the just and reasonable result. Therefore, Petitioner is entitled to recover its improperly sequestered funds and this is proper grounds for mandamus.

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Mr. Ray, please prepare the order, provide it to counsel for approval as to form and submit it for the Court's signature. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Clark Meachum', written over a horizontal line.

Amy Clark Meachum
Judge, 201st District Court
Travis County, Texas

Original: Amalia Rodriguez-Mendoza, District Clerk