



The University of Texas System
 Nine Universities. Six Health Institutions. Unlimited Possibilities.

Paul L. Foster, Chairman
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November 11, 2013

- The University of Texas at Arlington
- The University of Texas at Austin
- The University of Texas at Brownsville
- The University of Texas at Dallas
- The University of Texas at El Paso
- The University of Texas - Pan American
- The University of Texas of the Permian Basin
- The University of Texas at San Antonio
- The University of Texas at Tyler

The Honorable Greg Abbott
 Attorney General of Texas
 Attn: Opinion Committee
 Post Office Box 12548
 Austin, Texas 78711-2548

FILE # ML-47450-13
I.D. # 47450

RQ-1163-GA

Dear General Abbott:

As authorized by the Board of Regents of The University of Texas System (U.T. System), I am requesting on behalf of the U.T. System an expedited opinion on the authority of a committee of the legislature, which is proceeding under Chapter 665 of the Government Code, to compel testimony protected by attorney-client privileges and hold those who decline to testify in contempt. I am also requesting an opinion on the authority of a committee of the legislature, which is proceeding under Chapter 665 of the Government Code, to subpoena attorney work product information and hold in contempt those who withhold responsive documents on the ground that the documents are protected by work product privileges.

I. QUESTIONS PRESENTED

1. Can a committee of the legislature investigating a contemplated impeachment under Section 665.001 hold or punish a person for contempt under Section 665.005 or any other law without violating Article 2, Section 1 or Article 3, Section 15 of the Texas Constitution?
2. Can a committee punish a person "to the same extent as a district court" without violating Article 2, Section 1 or Article 3, Section 15 of the Texas Constitution?
3. Is Section 665.005 the exclusive source of a committee's power to hold and punish persons for contempt when a committee is proceeding under Chapter 665, or may such a committee exercise powers and authority under Sections 301.026 and 301.027 of the Government Code?
4. If Section 665.005 is the sole and exclusive source of a committee's power to hold and punish for contempt, does the fact that Section 665.005(c) grants the committee power to punish contempt "to the same extent as a district court" mean that the committee's discretion to punish for contempt is limited by law to the same extent as a state district court's?

- The University of Texas Southwestern Medical Center
- The University of Texas Medical Branch at Galveston
- The University of Texas Health Science Center at Houston
- The University of Texas Health Science Center at San Antonio
- The University of Texas M. D. Anderson Cancer Center
- The University of Texas Health Science Center at Tyler

5. If a Committee proceeding under Chapter 665 can find an attorney in contempt and imposes punishment pursuant to Section 665.005(c), must the attorney, upon filing a proper motion, be released on his own recognizance and thereafter afforded a hearing on contempt pursuant to Section 21.002(d) of the Texas Government Code?

Attached to this letter is a briefing on these five questions from Mr. Philip Hilder of Hilder & Associates, P.C., outside counsel for the U.T. System and the Board of Regents.

Thank you for your prompt consideration of these important questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul L. Foster", written over a faint, illegible typed name.

Paul L. Foster
Chairman

PLF:ps

Attachment

c: Members, Board of Regents
Chancellor Francisco G. Cigarroa, M.D.