

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS,
FORT WORTH DIVISION

EMPACADORA DE CARNES DE,
FRESNILLO, S.A. DE C.V.,
BELTEX CORPORATION,
and DALLAS CROWN, INC.,

PLAINTIFFS,

VS.

Civil No. 4-02CV0804-A

TIM CURRY, District Attorney, Tarrant
County, Texas, and BILL CONRADT,
District Attorney, Kaufman County, Texas,

and

UNITED STATES DEPARTMENT OF
AGRICULTURE, Party Needed For Just
Adjudication.

DEFENDANTS.

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RESPONSE OF ED WALTON,
KAUFMAN COUNTY DISTRICT ATTORNEY,
TO PLAINTIFFS' MOTION
FOR LEAVE TO FILE AMENDED COMPLAINT

COMES NOW, Ed Walton, newly elected Criminal District Attorney for Kaufman County,
Texas, in his official capacity, by and through his undersigned attorneys and respectfully files this
Response to Plaintiffs' Motion for Leave to Amend their Complaint.

I.

DISCUSSION

As the Court is aware, prior to the time this case was filed and after litigation commenced,
the State of Texas was in an election cycle. The predecessor, Criminal District Attorney Louis Wm.

Conradt, was not a candidate for re-election in November 2002. Thus, on his behalf, counsel advised the Court of their inability to take a definitive position on substantive issues in the litigation. Now that Ed Walton has assumed office, a definitive position statement is possible.

Attached to this Response and incorporated by reference is Ed Walton's affidavit. Mr. Walton states, *inter alia*, that his office has "no present intention of prosecuting" the Plaintiffs or any of their agents.

In January 2003, counsel for Defendant Conradt advised counsel for Plaintiffs that there was no objection to the filing of an Amended Complaint. Since leave to amend shall be "freely given" pursuant to Fed. R. Civ. P. 15, the Court may determine to grant leave in this instance. However, given the newly distinct position assumed by the District Attorney in Kaufman County, wherein Plaintiff Beltex Corporation operates, it is clear that no controversy exists vis-à-vis prospective Defendant Walton and the only Plaintiff which might be affected by his prosecutorial decisions.

Respectfully submitted,

By: 

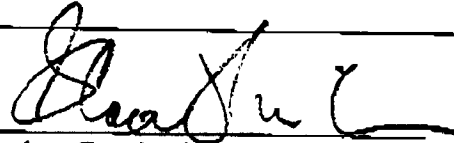
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ATTORNEYS FOR DEFENDANTS
KAUFMAN COUNTY AND ED WALTON,
DISTRICT ATTORNEY

CERTIFICATE OF SERVICE

This is to certify that the above and foregoing Response of Ed Walton, Kaufman County District Attorney, to Plaintiffs' Motion for Leave to File Amended Complaint was mailed via certified mail and/or sent via facsimile to the following counsel of record on this the 7th day of February 2003.

David Broiles 1619 Pennsylvania Avenue Ft. Worth, TX 76104	Ann Diamond Assistant District Attorney 401 West Belknap Street Ft. Worth, Texas 76102-3673
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Stephen Cass Weiland

AFFIDAVIT

STATE OF TEXAS

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COUNTY OF KAUFMAN

BEFORE ME, the undersigned authority, on this day personally appeared Ed Walton, who being by me duly sworn deposed as follows:

"My name is Ed Walton. I am over the age of eighteen (18) and of sound mind and am competent to make this affidavit, and am personally acquainted with the facts herein stated. I have never been convicted of a felony or misdemeanor involving moral turpitude.

"I am the elected Criminal District Attorney for Kaufman County, Texas. I have thoroughly reviewed the criminal cases pending in Kaufman County. There are no pending cases filed involving alleged violations of Chapter 149 (hereafter referred to as "Chapter 149") of the Texas Agricultural Code against any person or entity. Further, my office has received no complaints regarding alleged violations of Chapter 149 from any person or entity.

"The Kaufman County Criminal District Attorney's office has no present intention of prosecuting any person or entity for alleged violations of Chapter 149. More specifically, my office has no present intention of prosecuting either Empacadora De Carnes De Fresnillo, S.A. De C.V., Beltex Corporation, or Dallas Crown, Inc. including any "agent" or "high managerial agent," of these organizations as defined by §7.21 of the Texas Penal Code.

"I further state that I have read the above and foregoing affidavit, and that every statement contained therein is within my personal knowledge and is true and correct."

Signed this 6th day of February, 2003.

Ed Walton
Ed Walton

STATE OF TEXAS

COUNTY OF KAUFMAN

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This instrument was acknowledged before me this 6th day of February, 2003 by Ed Walton.

Gail Noel
Notary Public, State of Texas

