Exhibit 1
Counsel,

Yesterday afternoon Ms. Perales sent an email seeking information related to Judge Brister’s affidavit and expert report. That email requested the following information, in addition to the extensive information and analysis already provided by Justice Brister on August 19th:

(iv) [..] a list of all publications authored in the previous 10 years;
(v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
(vi) a statement of the compensation to be paid for the study and testimony in the case.

It is the State’s position that it is not required to disclose the requested information under Rule 26(a)(2)(B). See generally Wright v. Blythe-Nelson, 2001 WL 804529, *6 (N.D. Tex. 2001) (“This court has typically treated the designation of attorney’s fee experts differently from other experts.”); Primrose Operating Co. v. Nat. Am. Ins. Co., 382 F.3d 546, 563-564 (5th Cir. 2004) (district court did not abuse its discretion by allowing an attorney’s fees expert to testify despite the fact that no written report was provided.); McCulloch v. Hartford Life and Accident Ins. Co., 223 F.R.D. 26, 29 (D. Conn. 2004) (attorneys testifying solely on the topic of attorney’s fees are not required to provide expert reports.). Rule 26(a)(2)(C) identifies disclosures that must be made if an expert is not required to provide a written report, which does not include the information sought in this request.

Nevertheless, in an effort to move this litigation forward and in view of tomorrow’s reply deadline, we are agreeing to provide respond to this request in this email.

Certainly if additional discovery is contemplated, the State has an interest of its own in conducting discovery related to the bills submitted and the multiple affidavits filed in this case utilized as support for the over six million dollars in attorney’s fees requested by the various Plaintiffs to this action. However, given the limited nature of this request and without waiving the State’s objection to providing the requested information, the State’s responds as follows:

(iv) [..] a list of all publications authored in the previous 10 years;

Articles:
Brister & Boyd, TEXAS PRETRIAL PRACTICE (James Publishing 2000)
Proving Attorneys Fees in Texas, 24 ST.MARY’S L.J. 313 (1993)
Justice Served by Merging Appeals Courts? HOUSTON CHRONICLE (March 30, 2003)
Speed Up Pace of Texas Justice, HOUSTON CHRONICLE (July 23, 1995)
(v) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and
LULAC v. City of Boerne, et al., No. SA-96-CV-808-XR, in the U.S. District Court for the Western District of Texas
Rx.com and Joe Rosson v. Haynes & Boone, LLP, et al., No. 2010-66863, in the 80th District Court of Harris County, Texas

(vi) a statement of the compensation to be paid for the study and testimony in the case.
Former Supreme Court Justice Brister’s contracted hourly fee is $575 per hour. The maximum contractual total for any hours billed by Justice Brister, or junior members of his firm at lower rates, is $70,000.

Please feel free to contact me should you wish to discuss.

Best Regards,

Patrick K. Sweeten
Office of the Texas Attorney General
(512)-936-1307