

at 1801 Congress Ave., Austin, Texas 78701 or wherever he may be found. Citation is requested at this time.

III. VENUE AND JURISDICTION

4. The subject matter in controversy is in excess of the minimum jurisdictional limits of this Court.

5. Discovery will be conducted under Level 3 of Rule 190.3 of the Texas Rules of Civil Procedure.

6. Pursuant to the Texas Government Code and Texas Local Government Code, Defendant is subject to personal jurisdiction in this Court because he is sued in his official capacity as the executive director of the Commission which is located in and has its principal office within Travis County, Texas.

7. Plaintiff seeks only non-monetary relief. *See* TEX. R. CIV. P. 47.

8. All conditions precedent to Plaintiff's claim for relief either have been performed or have occurred.

9. Venue in Travis County is proper in this cause under Section 15.002 of the Texas Civil Practice and Remedies Code because Travis County is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred. Venue is also proper and mandatory in Travis County under Section 15.014 of the Texas Civil Practice and Remedies Code because this is an action for mandamus against the head of the Texas Lottery Commission, a department of state government.

10. Sergio Rey is not entitled to sovereign immunity because a suit against a government official can proceed even in the absence of a waiver of immunity if the official's actions are *ultra vires*. *See Matzen v. McLane*, 659 S.W.3d 381, 388 (Tex. 2021) (“[I]f the

[government] official is engaging in ultra vires conduct,” then “a claim may proceed against a government official in his official capacity[.]”).

IV. BACKGROUND

11. In Texas, a deal is a deal, unless you are the Texas Lottery.

12. The professed core values of the Texas Lottery are Integrity and Responsibility. Every Texan knows what that should mean when it comes to the lottery – if you win, you should get paid. When you win, the Lottery should pay you - not stall, not waffle, not hem, not haw, not try and change the rules and not try to back out of the deal. Lotteries with integrity pay the winners. Responsible lotteries pay the winners. Anything short of that destroys the integrity of the lottery and shatters the confidence of those who play it. It shouldn’t take a lawsuit to get paid when you win the lottery. But that’s exactly what has happened here. Because the Texas Lottery has not acted with integrity, has not acted with responsibility, and has not paid Ms. Doe as the rightful and undisputed winner, she had to bring this lawsuit to get paid as as the undisputed winner of the \$83,500,000.00 Texas Lottery jackpot and to compel the Acting Deputy Executive Director of the Texas Lottery Commission (“the Commission”) to follow the law and pay the Plaintiff her winnings. Plaintiff—caught up in a maelstrom of Texas political theater—turns to this Court for justice and to obtain the lottery winnings that rightly and justly belong to her.

13. On February 17, 2025, at 7:56 p.m. CST, Plaintiff purchased a lottery ticket in the “Lotto Texas” lottery game facilitated by the Texas Lottery Commission. The Rules for the “Lotto Texas” game are found in Texas Administrative Code § 401.305. Plaintiff utilized a well-known lottery courier service provider to buy her lottery ticket through a mobile application, Jackpocket.com (“Jackpocket”), which she and thousands of other Texans have used for years to lawfully purchase Texas lottery tickets.

14. In October of 2018 in response to inquiries from Jackpocket, the Commission wrote to Jackpocket on official Commission letterhead and advised Jackpocket that it did not require Jackpocket to “obtain a license or other authorization from the Commission” to perform lottery ticket courier services. Jackpocket, in reliance on the Commission’s “all-clear” letter, performed lottery courier services in Texas without issue until February of 2025.

15. After Plaintiff purchased her lottery ticket on the evening of February 17th, Jackpocket obtained a valid lottery ticket on Plaintiff’s behalf from a licensed Texas lottery ticket retailer called Winners Corner, located at 7817 Rockwood Lane, Suite 101, Austin, Texas 78757. On the Commission’s website, the Commission represented to all Texans that Winners Corner was a licensed and authorized lottery ticket retailer.¹ Ultimately, Plaintiff purchased a lottery ticket bearing the numbers “19-21-25-45-47-52” from Winners Corner. Plaintiff paid good and valuable consideration for the lottery ticket in the Lotto Texas game and purchased her ticket from Winners Corner, LLC, a licensed Lottery ticket retailer doing business in Austin, Travis County, Texas.

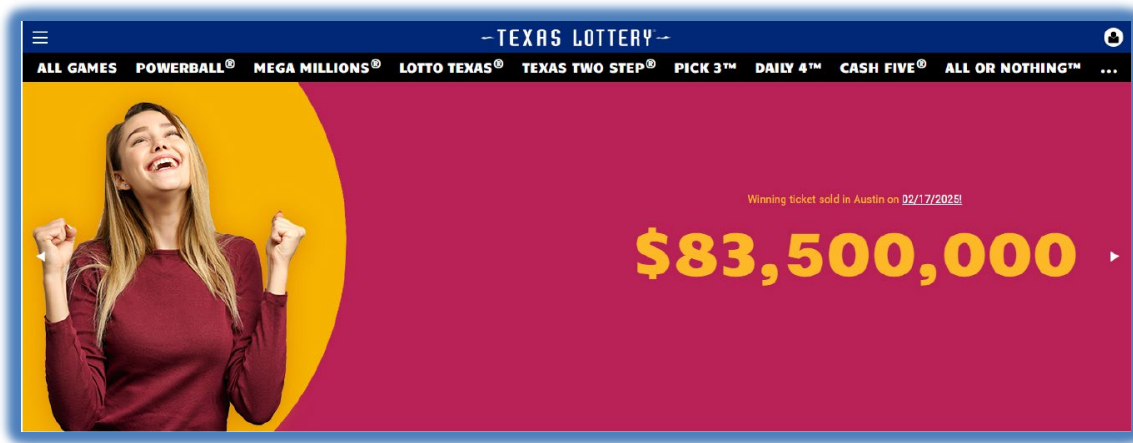
16. At 10:12 p.m. CST on February 17, 2025, a drawing occurred in connection with the Lotto Texas game and the drawing resulted in the numbers “19-21-25-45-47-52.” Because these numbers exactly matched the numbers on Plaintiff’s lottery ticket, Plaintiff had the winning numbers, held the lottery ticket bearing the winning numbers in the Lotto Texas game, and had won the jackpot prize amounting to \$83,500,000.00. Plaintiff’s lottery ticket was and will be referred to here as “the winning ticket.”

17. On March 18, 2025, Plaintiff presented the winning ticket to the Texas Lottery Commission in compliance with all applicable rules and regulations. The Commission determined that Plaintiff was the lawful bearer of the winning ticket in the Lotto Texas drawing that occurred

¹ https://www.texaslottery.com/opencms/Games/Scratch_Offs/Retailer_Locator.jsp

on February 17, 2025, and determined that Plaintiff was therefore the “prize winner” under Texas Government Code § 466.4001. The Commission further determined that Plaintiff had won the “first prize” or “jackpot prize” under Texas Administrative Code § 401.305(f)(1)(A). In summary, the Commission conducted its ticket validation procedures and determined that Plaintiff was the lawful bearer of the winning ticket.

18. At no time has Sergio Rey or the Commission or anyone purporting to act on the Commission’s behalf advised Plaintiff that the winning ticket is invalid, inauthentic, obtained by fraud, has an illicit chain of custody, or that any other unlawful conduct was involved in Plaintiff’s procurement of the winning ticket. Just the opposite, Sergio Rey and the Commission continue to represent to the public on the Commission’s website that Plaintiff won the \$83,500,000 jackpot prize on February 17th.



19. Despite the Commission’s validation of the winning ticket held by Plaintiff, Sergio Rey and the Commission have refused to comply with the law and pay the Plaintiff the \$83,500,000 jackpot prize—as required by Texas Administrative Code § 401.305.(f)(1)(D)²—apparently at the behest of one or more elected office holders. On February 24th, one week after Plaintiff won the

² TEX. ADMIN. CODE § 401.305.(f)(1)(D) (“The first installment payment *shall be made* upon the completion of commission validation procedures.”) (emphasis added).

lottery, the Commission's then Executive Director Ryan Mindell announced that lottery ticket courier services are not allowed under Texas law and that the Commission would move forward with proposed rule amendments prohibiting such services in the future. We all know the Commission is not allowed to change the rules after the drawing. But the Commission has apparently tried to do so and relied—at least in part—on this *ex post facto* announcement to continue to refuse to pay Plaintiff her lottery winnings simply because she utilized a lottery ticket courier service to buy the winning ticket.

20. Mr. Rey and the Commission have refused to respond to Plaintiff's written inquiries regarding the present status of the \$83,500,000 jackpot prize and whether such funds are being preserved and protected and whether the funds will be paid to Plaintiff as required by law. They are simply stonewalling the winner, stalling and not being responsible or acting with any integrity. In fact, what they are doing is illegal.

21. Plaintiff now brings this lawsuit seeking judgment from this Court declaring that Plaintiff is the winner of the \$83,500,000 jackpot prize in the Lotto Texas game and requiring Sergio Rey to follow the law and pay Plaintiff the \$83,500,000 jackpot prize as required by the "Lotto Texas" Draw Game Rules codified in Texas Administrative Code §§ 401.305(f)(1)(A) and 401.305(c)(6) and 401.305.(f)(1)(D).

V. CAUSES OF ACTION

A. *Count One: Declaratory Judgment Pursuant to Chapter 37 of the Texas Civil Practice & Remedies Code*

22. Plaintiff realleges and incorporates by reference the preceding paragraphs for all purposes, the same as if set forth herein verbatim.

23. Plaintiff seeks the declarations listed in the following paragraphs of this section in connection with the ultra vires conduct of the Commission's executive director—formerly Mindell, now Sergio Rey.

24. Mr. Rey serves as the Commission's Acting Deputy Executive Director, making him a government official. "[A] suit against a state official can proceed even in the absence of a waiver of immunity if the official's actions are ultra vires." *Hall v. McRaven*, 508 S.W.3d 232, 238 (Tex. 2017).

25. Mr. Rey refuses to cause the Commission to pay the Jackpot prize to Plaintiff in violation of Texas Administrative Code §§ 401.305(f)(1)(A) and 401.305(c)(6) and 401.305.(f)(1)(D).

26. Mr. Rey and his predecessor acted outside the scope of their authority and Mr. Rey continues to act outside the scope of his authority by withholding the jackpot prize from Plaintiff. "An officer acts without legal authority if he *exceeds the bounds of his granted authority* or if his acts conflict with the law itself." *Matzen v. McLane*, 659 S.W.3d 381, 388 (Tex. 2021) (internal quotations omitted) (emphasis added). Therefore, Mr. Rey's predecessor acted and Mr. Rey continues to act in conflict with the law and performed/are performing ultra vires acts by refusing to cause the jackpot prize to be paid to Plaintiff.

27. "[A] plaintiff bringing an ultra vires claim must affirmatively allege facts to support a finding that he or she faces an ongoing violation of their rights." *Id.*

28. Therefore, the Court should issue a declaratory judgment that Mr. Rey and his predecessor Executive Director performed and continue to perform ultra vires acts by refusing to pay Plaintiff the jackpot prize, and such ultra vires acts continue while the jackpot prize is withheld from Plaintiff.

29. Plaintiff has no other avenue to obtain a remedy for this unlawful conduct because, outside the context of an ultra vires claim, the Mr. Rey is immune from suit due to governmental immunity.

30. Plaintiff requests that the Court enter a judgment declaring that (i) Mr. Rey, as acting executive director of the Commission, is without legal authority and in violation of the Texas Government Code and Administrative Code by refusing to pay Plaintiff the jackpot prize she won on February 17, 2025, and (ii) ordering Mr. Rey to cause the \$83,500,000 to be paid to Plaintiff as required by Texas Administrative Code §§ 401.305(f)(1)(A) and 401.305(c)(6) and 401.305.(f)(1)(D).

B. Count Two: Application for Temporary Injunction and Permanent Injunctive Relief

31. Plaintiff realleges and incorporates by reference the preceding paragraphs for all purposes, the same as if set forth herein verbatim.

32. Plaintiff seeks injunctive relief pursuant to Section 65.011(5) of the Texas Civil Practice and Remedies Code because Mr. Rey's official affirmative actions pose a threat of imminent and irreparable harm to Plaintiff.

33. If Mr. Rey is not restrained and enjoined from disbursing or diminishing the Plaintiff's jackpot prize winnings, Plaintiff will suffer damages that will be incapable of being measured by any certain pecuniary standard before notice is given and a hearing is held on Plaintiff's Application for Temporary Injunction. To the extent that Plaintiff could be adequately compensated (which she disputes) it would be exceedingly difficult, if not impossible, to estimate the amount of damages caused by Mr. Rey's affirmative actions in disbursing, wasting or otherwise diminishing Plaintiff's jackpot prize winnings.

34. The harm to Plaintiff is imminent because the Texas Lottery game drawings routinely continue to occur and Mr. Rey and the Commission may be using funds from Plaintiff's \$83,500,000 jackpot prize to pay to other lottery winners of Texas Lottery games or such funds may be being reallocated and redirected to other Commission liabilities or purposes. If Mr. Rey is not immediately enjoined from disbursing the \$83,500,000 jackpot prize to persons or entities other than Plaintiff, enjoined from wasting the \$83,500,000 jackpot prize, or otherwise diminishing the \$83,500,000 jackpot prize, then Plaintiff will suffer irreparable harm.

35. As set forth above and herein, Plaintiff is likely to succeed on her claim that Mr. Rey is acting outside the scope of his authority by refusing to cause the Commission to pay the Plaintiff the \$83,500,000 jackpot prize in violation of Texas Administrative Code §§ 401.305(f)(1)(A) and 401.305(c)(6) and 401.305.(f)(1)(D).

36. Plaintiff stands ready, willing, and able to post a bond as contemplated by the Texas Rules of Civil Procedure if deemed necessary by this Court. Plaintiff would further show that, given that Mr. Rey and the Commission have hereto refused to pay the jackpot prize to Plaintiff and refused to respond to Plaintiff's written requests and inquiries regarding the preservation of the jackpot prize, a bond in an amount not more than \$1,000 will be sufficient to protect Defendant.

37. Plaintiff has alleged causes of action against the Defendant, as indicated in this Petition, and has demonstrated a probable right of recovery and likelihood of success on the merits. Plaintiff requests that the Court issue a temporary restraining order, a temporary injunction, and a permanent injunction enjoining Mr. Rey in his official capacity from:

- a. Disbursing the \$83,500,000 jackpot prize won on February 17, 2025, to any person or entity other than Plaintiff;
- b. Wasting the \$83,500,000 jackpot prize won on February 17, 2025; and
- c. Diminishing the \$83,500,000 jackpot prize won on February 17, 2025.

VI. ATTORNEYS' FEES

38. Plaintiff is entitled to recover attorneys' fees and costs for this action pursuant to Texas Civil Practice & Remedies Code § 37.009.

VII. PRAYER

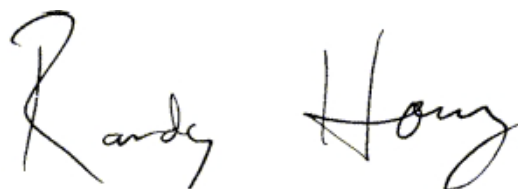
WHEREFORE, PREMISES CONSIDERED, Plaintiff Jane Doe prays that Defendant be cited to appear and answer, and that she have judgment against Defendant for:

- a. Declaratory and injunctive relief as set forth herein;
- b. Attorneys' fees and costs; and
- c. All other relief that law and equity may require.

Dated: May 19, 2025

Respectfully submitted,

HOWRY BREEN & HERMAN, L.L.P.



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