

DATE: 3/25/20

TO: City Clerk

FROM: Mayor Margo

ADDRESS: 300 N Campbell TELEPHONE 915-212-1051

Please place the following item on the (Check one): CONSENT X REGULAR _____

Agenda for the Council Meeting of 3/31/2020

Item should read as follows: Appointment of Mark Walker to the Ad Hoc Charter Advisory Committee

BOARD COMMITTEE/COMMISSION APPOINTMENT/REAPPOINTMENT FORM

NAME OF BOARD/COMMITTEE/COMMISSION: Ad Hoc Charter Advisory Committee

NOMINATED BY: Dee Margo DISTRICT: Mayor

NAME OF APPOINTEE Mark Walker
(Please verify correct spelling of name)

E-MAIL ADDRESS: N/A

BUSINESS ADDRESS: N/A

CITY: _____ ST: _____ ZIP: _____ PHONE: _____

HOME ADDRESS: _____

CITY: _____ ST: _____ ZIP: _____ PHONE: _____

DOES THE PROPOSED APPOINTEE HAVE A RELATIVE WORKING FOR THE CITY? YES: _____ NO X

IF SO, PLEASE PROVIDE HIS OR HER NAME, CITY POSITION AND RELATIONSHIP TO THE PROPOSED APPOINTEE: N/A

HAS APPOINTEE BEEN A MEMBER OF OTHER CITY BOARDS/COMMISSIONS/COMMITTEES? IF SO, PLEASE PROVIDE NAMES AND DATES: ETHICS REVIEW COMMISSION MAY 2020-FEB 2021

LIST ALL REAL ESTATE OWNED BY APPOINTEE IN EL PASO COUNTY (BY ADDRESS):
N/A

WHO WAS THE LAST PERSON TO HAVE HELD THIS POSITION BEFORE IT BECAME VACANT?

NAME OF INCUMBENT: N/A

EXPIRATION DATE OF INCUMBENT: N/A

REASON PERSON IS NO LONGER IN OFFICE (CHECK ONE): TERM EXPIRED: N/A
RESIGNED _____
REMOVED _____

DATE OF APPOINTMENT: 3/31/2020

TERM BEGINS ON : 3/31/2020

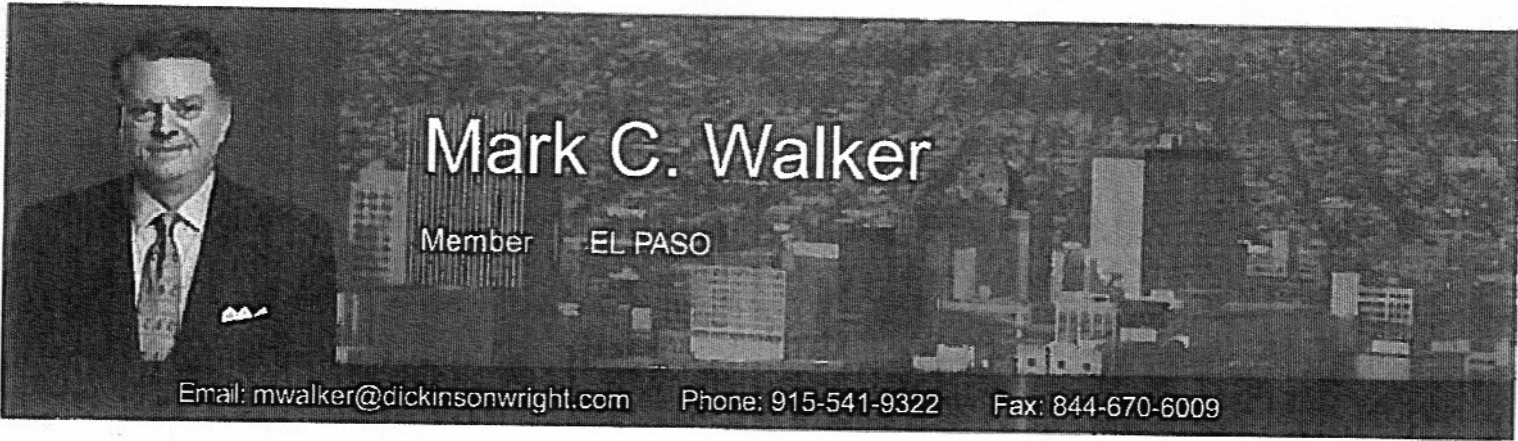
EXPIRATION DATE OF NEW APPOINTEE: Through board
dissolution

PLEASE CHECK ONE OF THE FOLLOWING:

1st TERM: X

2nd TERM: _____

UNEXPIRED TERM: _____



Mark Walker is a Member at the Dickinson Wright El Paso Office. As a trial and appellate lawyer for over 30 years, Mark has more than 75 verdicts and 30 appeals to his credit, which demonstrate his commitment to bring tenacity and creativity to the resolution of difficult cases. Mark counsels clients to assume that every case will go to trial, in order to put them in the best position to make informed decisions on the best resolution of a broad array of business, commercial, product liability, administrative, regulatory, and tort and negligence matters. He also counsels clients on election and campaign finance law issues. He has been Board Certified in Personal Injury Trial Law since 1990, was on the examination commission of the Texas Board of Legal Specialization, and is a frequent speaker on litigation issues at state and national conferences.

Prominent Assignments

Election and Campaign Finance Law/Ethics

- Successfully defended El Paso mayor against recall election by groups violating Texas campaign finance laws, which allowed City Council to move forward on over \$500 million in quality of life issues. *Cook v. Tom Brown Ministries, et al.*, 385 S.W.3d 592 (Tex. App. – El Paso 2012, pet. denied)
- Successfully defended El Paso City Council incumbent against ethics and criminal complaints by opponent in re-election campaign
- Formation and representation of political committees
- Representation of municipal, county and state candidates on campaign finance and election law compliance
- Prepare corporate campaign finance law compliance policies
- Provide advice to businesses on government agency ethics compliance

Commercial, Business and Construction

WWW.DICKINSONWRIGHT.COM

ARIZONA CALIFORNIA FLORIDA KENTUCKY MICHIGAN NEVADA OHIO TENNESSEE TEXAS WASHINGTON DC TORONTO

- Representation of town for damages and remediation for new sewage system failure and collapse with ground subsidence
- Representation of Mexican billionaire in child abduction case under Hague Convention
- Representation of hotel owners in shareholder derivative suits
- Represented commercial property ownership groups in recovery of conversion by property manager
- Representation of product sellers and manufacturers in disputes with suppliers and buyers
- Representation of contractors in disputes with owners and other contractors
- Representation of school district in ad valorem tax cases. See *The El Paso Independent School District v. Sharp*, 923 S.W.2d 844 (Tex. App.—Austin 1996, writ denied)
- Representation of securities and insurance brokers in licensure disputes
- Appealed for national company in age discrimination case. *Jackson v. Host International*, 2011 U.S. App. LEXIS 2077 (5th Cir. 2011)
- Payment and performance bond disputes. See, e.g., *Nat'l Amer. Ins. Co. v. Innovative PBX Serv.*, 2003 U.S. Dist. 4613 (W. D. Tex. 2003)
- Representation of smelter in arsenic exposure cases
- Successfully defended entertainer Damon Wayans in defamation and business disparagement suit. *Reed v. Wayans*, 2007 U.S. Dist. LEXIS 80996 (W.D. Tex. 2007)
- Representation of insurers in tortious interference matters
- Representation of physician groups in tortious interference and disparagement matters
- Defense of companies in malicious prosecution and defamation cases
- Representation of professional group dissolutions in litigation, shareholder disputes

Intellectual Property

- Obtained largest copyright and service mark violation judgment for entertainer. *Michael Buffer v. GRM Communications, et al.*, No. EP-09-CV-421-DB (W.D. Tex. 2010)
- Representation of custom boot maker prosecuting copyright infringement, and obtaining boot copyrights
- Representation of companies in copyright and trademark infringement cases
- Representation of patent applicants

Healthcare

- Successful defense of TPA in dispute over medical payment coverage. *Contreras v. Clint I.S.D. and Access Administrators*, 342 S.W.3d 413 (Tex. App. – El Paso 2011, no pet.)
- Representation of physician against hospital group on credentialing and defamation disputes
- Representation of medical groups and physicians in business dissolution and disputes
- Representation of physicians and medical groups in defense of professional complaints
- Representation of physicians before Texas Medical Board Representation of hospitals in Medicare reimbursement litigation
- Representation of hospitals in accreditation disputes
- Representation of clinic in discrimination cases
- Defense of medical facilities against employee injury claims. See *Torres v. TransHealth Management*, 509 F.Supp.2d 628 (W.D. Tex. 2006)
- Defense of employers in employment discrimination and retaliation cases.

Financial Services

- Representation of national, regional, and community banks and credit unions on wrongful foreclosure, wrongful dishonor, and other lender liability cases. *Villarreal v. First Presidio Bank*, 2018 WL 3618686 (5th Cir. July 27, 2018) (reversing and rendering judgment for bank)
- Representation of regional bank in dispute with another bank over significant takeout loan for defaulted contractor. *City Bank v. Compass Bank*, 2010 U.S. Dist. LEXIS 34181 (W.D. Tex. 2010)
- Representation of lenders and commercial paper buyers in unfair debt collection practices cases, including class actions
- Representation of community banks and credit unions on commercial disputes with borrowers and depositors

Product Liability

- Established framework for seller indemnification from manufacturers under Texas law. *Fitzgerald v. Advanced Spine Fixation System, Inc.*, 996 S.W.2d 864 (Tex. 1999)
- Lead co-liaison counsel for Texas seller defendants in consolidated Ford/Firestone Tire/Explorer litigation
- Representation of multiple auto sellers in variety of automotive product liability litigation, including tread separations, rollovers, crashworthiness, restrain systems, sudden acceleration and other defects, and indemnification claims. See *Dick Poe Motors, Inc. v. DaimlerChrysler Corp.*, 169 S.W.3d 478 (Tex. App.—El Paso 2005, no pet.) (reversing trial court dismissal of case); *Dick Poe Motors, Inc. v. DaimlerChrysler Corp.*, 169 S.W.3d 507

(Tex. App.—El Paso 2005, no pet.)(reversing trial court dismissal of case)

- Defense of auto and recreational home manufacturers and component parts manufacturers. See *Hernandez v. Nissan Motor Corp.*, 740 S.W.2d 894 (Tex. App.—El Paso 1987, writ denied) (affirming directed verdict in sudden acceleration case)
- Representation of manufacturers and sellers in deceptive trade/misrepresentation matters

Insurance Coverage and Bad Faith

- Litigation over coverage for casualty, property, life and other insurers. See, e.g., *State Farm County Mutual Ins. Co. v. Ollis*, 768 S.W.2d 722 (Tex. 1989) (per curiam decision on no duty to offer greater uninsured motorist coverage); *Oklahoma Surety Co. v. Williams, et al.*, 483 F. Supp. 541 (W.D. Tex. 2006) (affirming no uninsured motorist coverage for survivors of deceased employee)
- Provide coverage opinions
- Defense of insurers in bad faith and first-party contract cases, including UM/UIM, life, health

Premises Liability, Personal Injury, and Toxic Torts

- Represented multiple retailers over years in all types of premises liability litigation. See *Furr's Supermarkets, Inc., v. Bethune*, 53 S.W.3d 375 (Tex. 2001) (reversing trial court judgment on taxation of costs, costs must be taxed for successful party); *Diaz De Leon v. Furr's Supermarkets, Inc.*, 31 S.W.3d 297, 2000 (Tex. App.—El Paso 2000, no pet.)(nonsubscriber negligence case); *Ortiz v. Furr's Supermarkets, Inc.*, 26 S.W.3d 646 (Tex. App.—El Paso 2000, no pet.) (reversing judgment for plaintiff in case involving injury to contractor employee); *Hernandez v. Furr's Supermarkets, Inc.*, 924 S.W.2d 193 (Tex. App.—El Paso 1996, writ denied) (summary judgment on misidentification/ misnomer); *Wyatt v. Furr's Supermarkets, Inc.*, 908 S.W.2d 266 (El Paso 1995, writ denied) (affirming premises liability summary judgment); *Balandran v. Furr's, Inc.*, 833 S.W.2d 648 (Tex. App.—El Paso 1992, no writ) (affirming judgment for premises owner)
- Defense of premises security cases. See, e.g., *Garcia v. El Paso Limited Partnership, d/b/a Sonic Drive-In No. 9*, 203 S. W.3d 432 (Tex. App.—El Paso 2006, no pet.) (affirming a summary judgment for restaurant in a wrongful death premises security case); *Duran v. Furr's Supermarkets, Inc.*, 921 S.W.2d 778 (Tex. App.—El Paso 1996, writ denied) (assault by offduty security officer)
- Representation of multiple entities on compliance and enforcement actions with Texas Alcoholic Beverage Commission Defense of companies and employers in worksite injury cases. See, e.g., *Romero v. CMA, Inc.*, 808 S.W.2d 157 (Tex. App.—El Paso 1991, writ denied) (affirming defense judgment in severe electrical burn case)
- Defense of transportation companies in investigation and defense of death and catastrophic injury cases

- Representation of pipeline company and roofing company in asbestos cases

Representative Clients

- Clinical Pathology Laboratories
- Big Bend Banks
- RioCan America Management
- Town of Clint

Areas Of Practice

- Appellate
- Commercial & Business Litigation
- Product Liability & Personal Injury

Education & Credentials

Education

The University of Texas at Austin

B.A., 1981

- *magna cum laude*

The University of Texas School of Law

J.D., 1985

Bar Admission

Texas

New Mexico

Colorado

Spoken Languages

- Spanish

Acknowledgements

- Martindale-Hubbell® AV® Preeminent™ Peer Review Rating
- Recognized in *The Best Lawyers in America*® for Personal Injury Litigation, 2011-Present.
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- Recognized in *Texas Super Lawyers*® for Civil Litigation Defense, 2006-Present
- "Texas Super Lawyer," in Civil Litigation: Defense Law, Texas Monthly, 2014

Professional Involvement

- El Paso Bar Association, Chair, Ethics Committee, 2005, 2013-2014
- Texas Association of Defense Counsel, Board of Directors, 2009-2016; Vice President of Publications, 2012-2014
- Texas Board of Legal Specialization, Personal Injury Trial Law Exam Commission, Member, 2007-2012
- American Board of Trial Advocates, El Paso Chapter President, 2019
- American Bar Association
- Defense Research Institute
- Antitrust and Business Litigation Council, State Bar of Texas

Community Involvement

- Mental Health of America, Board of Directors, 2016-Present
- Texas Suicide Prevention Council, Member, 2016-2018
- Greater El Paso Chamber of Commerce, Governing Board, 2008-Present; Legal Counsel, 2011
- El Paso County Historical Society, Board of Directors, 2013-2016
- Ex-Students Association of the University of Texas, National Council, 2013-Present
 - El Paso President, 1994-1996
- El Paso Art Museum Advisory Board, Chairman, 2007-2008
- International Federation of Fly Fishers, Texas Council, Board of Directors, 2013

Court Admissions

- U.S. District Courts, Northern, Southern, Western and Eastern Districts of Texas
- U.S. District Court, District of Colorado
- U.S. District Court, District of New Mexico
- U.S. Court of Appeals, Fifth Circuit
- U.S. Supreme Court

Publications/Presentations

Presentations

- "Texas Anti-SLAPP Law: Essential Navigation Tools," 42nd Annual Page Keeton Civil Litigation Conference, November 8, 2018
- "Anti-SLAPP v. Pro-SLAPP: Who Wins?," 41st Annual Advanced Civil Trial Course, State Bar of Texas, Houston, October 25, 2018
- "Anti-SLAPP v. Pro-SLAPP: Who Wins?," 41st Annual Advanced Civil Trial Course, State Bar of Texas, San Antonio, July 19, 2018
- "The Texas Anti-SLAPP Law: Essential Navigation Tips," San Antonio Bar Association, May 17, 2018
- "The Texas Anti-SLAPP Law and the Texas Defamation Mitigation Act," University of Texas Annual Page Keeton Civil Litigation Conference, November 2, 2017
- "Threshold Dispositive Motions – The Texas Anti-SLAPP Law," State Bar of Texas Advanced Civil Trial Course October 25, 2017
- "Anti-SLAPP," 9th Annual Texas State Bar Business Disputes Course, Texas Bar CLE, September 8, 2017
- *The Texas Anti-SLAPP Law*, State Bar of Texas Soaking in Some CLE Conference, Padre Island, Texas, May 18, 2017
- *Texas Anti-SLAPP Law Update*, State Bar of Texas 9th Annual Damages in Civil Litigation Course, Houston, Texas, February 16, 2017
- *Anti-SLAPP: What is Left of Reputational Torts So Long As This Statute is on the Books?*, University of Texas School of Law 40th Annual Page Keeton Civil Litigation Course, October 27, 2016
- *The Texas Anti-SLAPP Statute*, State Bar of Texas 8th Annual Business Disputes Course, Houston, Texas, September 23, 2016

- *Damages in Civil Litigation*, Course Director, Texas State Bar, Dallas, Texas, February 4-5, 2016
- *The Texas Anti-SLAPP Law: An Update*, State Bar of Texas Litigation Update Institute, Austin, Texas, January 2016
- *Texas Anti-SLAPP Law*, Speaker and Course Director, State Bar of Texas Business Disputes Course, Dallas, Texas, September 10-11, 2015
- *Texas Anti-SLAPP Law*, Speaker, TADC 2015 Annual Meeting, New York, New York, September 16 - 20, 2015
- *Anti-SLAPP Law*, Speaker, Texas Bar College 17th Annual Summer School Seminar, Galveston, Texas, July 17, 2015
- *Defamation, Business Disparagement, and Anti-SLAPP Statute Damages*, State Bar of Texas 7th Annual Damages in Civil, Litigation Seminar, Houston, February 26, 2015
- "Texas Anti-SLAPP Statute," speaker Mark C. Walker, El Paso Bar Association's 19th Annual Civil Trial Practice Seminar, Las Vegas, February 13, 2015
- "Navigating the Texas Anti-SLAPP LAW: How to Pursue Meritorious Claims and Dismiss Frivolous Lawsuits," Speaker, State Bar of Texas CLE Webcast, November 18, 2014
- "Anti-SLAPP Statute," Speaker, SBOT – Advanced Civil Trial Course, Houston, October 30, 2014
- "Update of Texas Anti-SLAPP Law," Speaker, UT Law School – 38th Annual Page Keeton Civil Litigation Conference, Austin, October 24, 2014
- "The U.S. Constitution & Corporations: Limits and Expansion of Corporate Constitutional Rights," Speaker, SBOT – Business Disputes Course, Houston, September 11, 2014
- "Anti-SLAPP Statute," Speaker, SBOT – Advanced Civil Trial Course, Dallas, August 21, 2014
- "Anti-SLAPP Statute," Speaker, SBOT – Advanced Civil Trial Course, San Antonio, July 17, 2014
- "Saving the Seventh Amendment," Speaker, Federal Bar Association, El Paso Chapter, February 25, 2014
- "Motion to Dismiss: Anti-SLAPP," Speaker, The Ultimate Motions Practice Seminar, State Bar of Texas, Austin, September 20, 2013
- *Defamation, Business Disparagement, and Anti-SLAPP*, Presenter, State Bar of Texas Business Disputes Conference, Dallas, Texas, September 12, 2013 "Accident Investigations," Speaker, National Retail Company's Annual Meeting, Denver, Colorado, July 30, 2013
- "Protecting the Professional Reputation: Remedies and Unintended Consequences," Speaker, Texas Society for Medical Staff Services- Sun City Chapter Meeting, June 14, 2013
- *Automotive Product Liability Conference*, Sponsored by the American Conference Institute,

Moderator, June 6, 2013

- "The Texas Anti-SLAPP Statute: Issues for Business Tort Litigation," 7th Annual Bill of Rights Course: Litigating the Constitution, May 31, 2013
- "The Texas Anti-SLAPP Statute: Issues for Business Tort Litigation," *Texas Paralegal Journal*, Winter 2013 Vol. 18 No. 3, January 22, 2013
- "The Texas Anti-SLAPP Statute: Issues for Business Tort Litigation," by Mark C. Walker and David M. Mirazo, edited for the 36th Annual Page Keeton Civil Litigation Conference, October 25 & 26, 2012, October 25, 2012
- "The Texas Anti-SLAPP Statute: Issues for Business Tort Litigation," Business Torts Institute, State Bar of Texas, September 11, 2012
- "The Texas Anti-SLAPP Statute: Issues for Business Tort Litigation," presented to The Texas Association of Defense, Counsel's 2012 West Texas Seminar, August 11, 2012
- *The Texas Anti-SLAPP Statute: Issues for Business Tort Litigation*, State Bar of Texas Webinar, May 22, 2012
- The El Paso New Car Dealers Association – 6th Annual Golf Tournament, May 14, 2012

Publications

- El Paso Inc. Announcements, Sept 2-8, 2012, September 2, 2012
- "El Paso Mayor John Cook Wins Recall Appeal," by Marty Schladen, *El Paso Times*, February 17, 2012
- "Court of Appeals Hears Recall Case" by Marty Schladen, *El Paso Times*, January 25, 2012
- "El Paso City Council recall hearing postponed until Nov. 14" by Marty Schladen, *El Paso Times*, October 27, 2011
- "Recall case likely to extend beyond El Paso," by Marty Schladen, *El Paso Times*, October 2, 2011
- "Judge OKs recall process; clerk to get petitions today," by Marty Schladen, *El Paso Times*, September 15, 2011
- El Paso City Council race gets dirty: Candidates challenge claims made in campaign literature, by Cindy Ramirez, *El Paso Times*, June 7, 2011