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## Chamber, individuals fire back against city

**By Jay Ermis**  
Managing Editor

The Huntsville-Walker County Chamber of Commerce and three individuals have filed a counterclaim lawsuit against the City of Huntsville, denying allegations the city made against the four in a lawsuit filed in September.

Attorney Levi McCathern of Dallas filed a Defendants' Original Answer, Special Exceptions and Request for Disclosure and Counterclaim in the district clerk's office on Friday afternoon.

McCathern filed the 13-page counterclaim in behalf of the Chamber, former Chamber president and CEO Dee Everett, former Chamber board chairman Stephen Everett and current board chairman Todd Armstrong in the 278th Judicial District Court.

City attorney Leonard Schneider filed the lawsuit in behalf of the city against the Chamber and the three individuals Sept. 17, seeking monetary damages in excess of \$100,000.

The city's lawsuit was based on a compliance and organizational assessment of the use of the Hotel Occupancy Tax funds and documents supplied by the Chamber.

The city's causes of action in the lawsuit includes:

- The Chamber's breach of contract by expending approximately in excess of \$174,000 for non-authorized purposes.
- Breach of fiduciary duty where the Chamber through its officers and directors had a statutorily imposed and contractually fiduciary duty to use the hotel tax funds for authorized purposes and the breach by the Chamber caused the loss of public funds and benefited the Chamber officer and members.
- Conversion — Defendant Dee Everett assumed and exercised dominion as president and secretary of the Chamber of hotel tax funds for personal use and that her acts manifested a clear repudiation of the city's rights.

"On behalf of the Chamber of Commerce and the individually named defendants, my law firm filed our initial responsive pleadings with the court on Oct. 16, vigorously denying the allegations that have been asserted against my clients by the city," McCathern said in a prepared statement.

"Unfortunately, many false out-of-court statements have already been made regarding the Chamber that appear to be politically motivated and intended to harm my clients," McCathern said. "We intend to dispel the rumors, expose the hearsay and straighten out the spin that has been made with regard to the Chamber, Dee and Steve Everett and Todd Armstrong.



"My clients are looking forward to the truth coming out in this lawsuit bit by bit over the months ahead to put an end to this false and misleading information being circulated by some folks in this community.

"We look forward to obtaining sworn deposition testimony from everyone involved in this contractual dispute to clarify the real facts and underlying issues present. As I have said before, the city's allegations are either greatly overstated or misstated.

"The evidence brought forth in this lawsuit will ultimately confirm to the public that the work of the Chamber, Dee, Steve and Todd was done with good intentions for the benefit of promoting tourism and the hotel industry and for the betterment of Huntsville, Walker County, Texas, its businesses and its citizens."

Most of the Chamber's lawsuit contains 11 special exceptions to the city's original petition, including breach of contract claim against the Chamber; damages under breach of contract claim against Chamber; breach of fiduciary duty claim against Chamber; breach of fiduciary duty claim against individual defendants; breach of fiduciary duty claim against individual defendants; conversion claim against defendant Stephen Rex Everett; conversion claim against defendant Todd Armstrong; conversion claim against defendant Dee Everett; and spoliation.

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The lawsuit's introduction covers the Tourism Agreement between the city and the Chamber that was executed in July 1994 and the agreement was amended a year later to include the Sam Houston statue and site.

"The Chamber continued to operate within its authority and with oversight by the city for many years without any significant issues or complaints," according to the introduction. "In recent years, tension developed between the city and the Chamber.

"The discord between the city and the Chamber came to a head on June 22, 2009, when City Manager Bill Baine showed up to the Chamber's office without notice and demanded that all keys and management under the contract be turned over to the city.

"While there can be legitimate disagreements about proper statutory uses of Hotel Occupancy Tax funds, there can be no disagreement with the fact that the city breached the contract with the Chamber by its unilateral actions on or about June 22, 2009."

The Chamber's counterclaim for breach of contract provides a section that "this agreement shall automatically renew for successive one year periods unless the city gives notice to the Chamber of its intent to amend or cancel this agreement six months prior to the end of any term."

The counterclaim says "the Chamber would show that the city failed to give the required notice to the Chamber of the city's intent to cancel the contract as is required by the terms of the contract."

The counterclaim goes on to say "rather than providing the required notice six months prior to the end of that term year, City Manager Bill Baine showed up to the Chamber's office on or about June 22, 2009, and demanded that all keys and management under the contract be turned over to the city.

"The contract was immediately terminated by the city without any notice and no further payments have been made by the city for the remainder of the term under the contract.

The suit claims "the city's breach of contract has caused injury to the Chamber, which resulted in damages for the amount of the payments remaining owed by the city under the contract as well as other damages."



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