

CAUSE NO. 2018-06752

FREE AND SOVEREIGN STATE OF § IN THE 127th DISTRICT COURT
VERACRUZ DE IGNACIO DE LA LLAVE §
§
vs. §
§ OF
JAIMÉ REVERTE, JMA REVERTE §
PROPERTIES LLC, AZULGRANA §
MANAGEMENT LLC, GIMAL REVERTE §
PROPERTIES LLC, AND REVERTE FAMILY §
LIVING TRUST AND JAVIER DUARTE DE §
OCHA § HARRIS COUNTY, TX

**DEFENDANTS JR&GA MANAGEMENT COMPANY, LLC AND ST. ANTIMO, LLC'S
MOTION TO TRANSFER VENUE AND ANSWER AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW, Defendants JR&GA Management Company, LLC and St. Antimo, LLC and file their Answer in the above styled and numbered lawsuit, respectfully showing the Court the following:

I. MOTION TO TRANSFER VENUE

1. In Section III of Plaintiff's First Amended petition, labeled "Venue and Jurisdiction" Plaintiff Veracruz, Mexico contends "Venue is proper in [Harris] County as at least one Defendant maintains a principal office here [in Harris County] and most of the properties involved are here [in Harris County]. Again, just as with its other allegations, Plaintiff Veracruz' venue allegations are false and wholly without basis in law or fact. None of the listed defendants has a Harris County principal office, and none of the listed properties are located in Harris County, Texas. Indeed, save and except for Javier Duarte (who Plaintiff contends is jailed in Veracruz, Mexico) and newly added defendants Jose Ruiz, Monica B. Canal, Terraventura Developments,

LLC and their Properties (who are collectively the subject of a pending Motion to Sever)¹ all of the remaining Defendants either reside in Montgomery County, have their principal office in Montgomery County, or have the trust situs in Montgomery County.²

2. Because Plaintiff's venue allegations (like the remainder of its other allegations) are wholly false, venue is not proper in Harris County. Instead, venue is mandatory in Montgomery County under Texas Civil Practice and Remedies Code § 15.011 (real property suit shall be brought where the property is located – Montgomery County). Further venue is permissive in Montgomery County for numerous other reasons – Texas Property Code § 115.002 (venue for trust where situs is located – Montgomery County); Texas Civil Practice and Remedies Code § 15.002(2) (venue for suit against a person is where that person's residence is – Montgomery County); and Texas Civil Practice and Remedies Code § 15.002(3) (venue for suit against LLCs is where the LLC's principal office is located – Montgomery County) – indeed each venue provision establishes that this lawsuit should have been brought in Montgomery County, Texas. Defendants JR&GA Management Company, LLC and St. Antimo, LLC hereby move to transfer venue to a district court in Montgomery County, Texas.

SUBJECT TO THE MOTION TO TRANSFER VENUE - ANSWER AND COUNTERCLAIM

I. GENERAL DENIAL

3. JR&GA Management Company, LLC and St. Antimo, LLC assert a general denial as authorized by TEX. R. CIV. P. 92, and respectfully request that Plaintiff be required to prove its

¹ Defendants JR&GA Management Company, LLC and St. Antimo, LLC join in the Reverte Defendants' Motion to Sever the claims pertaining to newly added defendants Jose Ruiz, Monica B. Canal, Terraventura Developments, LLC and their Properties (along with one Harris County property whose owner is not part of this lawsuit), and incorporate that motion herein as if fully restated in this pleading.

² In Plaintiff's latest pleading, Plaintiff also identified two properties in rem that are located in South Texas; however, the entities that own those properties are located in Montgomery County, Texas.

allegations by a preponderance of the evidence where applicable, or higher burden of proof where required by law.

II. ATTORNEYS' FEES CLAIM BY DEFENDANTS

4. In Section IV of its petition, Plaintiff brought claims labeled as "Theft Liability Act – All Defendants." As Plaintiff sued Defendants JR&GA Management Company, LLC and St. Antimo, LLC under the Theft Liability Act, Defendants therefore seek their costs of court and reasonable necessary attorneys' fees from Plaintiff under that Act, asking that the costs and fees be awarded when they prevail. The Texas Supreme Court, in *In re Corral-Lerma*, 451 S.W.3d 385, 386-87 (Tex. 2014), held that an award of attorneys' fees under the act are not compensatory damages, and are recoverable without an underlying damage recovery.

5. To defend themselves against this lawsuit, JR&GA Management Company, LLC and St. Antimo, LLC have been forced to retain counsel and incur expenses in the nature of reasonable attorneys' fees, expenses, and court costs. In connection therewith, they retained the law firm of Martin, Earl & Stilwell LLP, duly licensed Texas attorneys, as counsel to represent them and have agreed to pay reasonable attorneys' fees. JR&GA Management Company, LLC and St. Antimo, LLC seek recovery of their reasonable attorneys' fees pursuant to Texas Civil Practice and Remedies Code, Section 134.005(b) and *Arrow Marble, LLC v. Estate of Killion*, 441 S.W.3d 702, 706-07 (Tex.App.—Houston [1st Dist.] 2014, no pet)(requiring trial court to award prevailing Defendant its attorneys' fees for prevailing in a suit brought against it under the Texas Theft Liability Act). Accordingly, JR&GA Management Company, LLC and St. Antimo, LLC ask that Plaintiff be held liable for their reasonable and necessary attorneys' fees.

6. Pursuant to Rule 192.3 of the Texas Rules of Civil Procedure, JR&GA Management Company, LLC and St. Antimo, LLC hereby designate the undersigned attorney,

James H. Stilwell, as an expert to testify to the reasonable and necessary attorneys' fees incurred relative to this lawsuit (and any appeals thereof), and he may also testify as to any other party's fees. Mr. Stilwell will testify regarding not only the reasonableness and necessity of the fees, but also as to the factors related to the reasonableness and necessity. He is familiar with attorney's fees charged in Harris County, Texas and Montgomery County, Texas, and has knowledge of fees in real estate litigation. He has testified as an expert on attorneys' fees in multiple cases previously. With respect to the fees, Mr. Stilwell is expected to testify about the application of the factors outlined in Tex. Disc. R. Prof'l Conduct 1.04(b) and pertinent case law (including *Arthur Anderson & Co. v. Perry Equip. Corp.*, 945 S.W.2d 812 (Tex. 1997)). His bio/resume is available on his website, www.meslawfirm.com; however if any counsel cannot access same, a copy will be provided to them upon request. Mr. Stilwell reserves the right to provide an opinion at the time of trial as to the total fees and expenses incurred in the period leading up to and through trial, and the amounts estimated for various stages of appeal. A copy of Martin, Earl & Stilwell, LLP's redacted attorneys' fees invoices are available upon request.

7. JR&GA Management Company, LLC and St. Antimo, LLC respectfully request, in addition to an award of their attorneys' fees and costs, an award of post-judgment interest on all amounts awarded, if any.

IV. REQUEST FOR DISCLOSURE

8. JR&GA Management Company, LLC and St. Antimo, LLC request that, in compliance with Texas Rules of Civil Procedure, Rule 194, Plaintiff disclose the information described in Rule 194.2(a)-(1), on or before the expiration of 30 days after service of this request by disclosing the information in a response served on the undersigned counsel, James H. Stilwell.

WHEREFORE, premises considered, JR&GA Management Company, LLC and St. Antimo, LLC ask the Court to transfer venue to Montgomery County, and after venue is proper, upon trial of this matter, to find against the Plaintiff in all regards, to award them recovery of their reasonable and necessary attorneys' fees against Plaintiff, to award them costs and post-judgment interests on all sums awarded, and to grant them all such other relief to which they may be entitled at law and in equity.

Respectfully submitted,

MARTIN, EARL & STILWELL, L.L.P.



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ATTORNEY FOR JR&GA MANAGEMENT COMPANY,
LLC AND ST. ANTIMO, LLC

 **CERTIFICATE OF SERVICE**

2nd day of July
On the 4th day of May, 2018 this filing was served (by eservice) on all counsel of record in accord with the Texas Rules of Civil Procedure.



James H. Stilwell