

CAUSE NO. 2018-06480

|                             |   |                                     |
|-----------------------------|---|-------------------------------------|
| FREE AND SOVERIEGN STATE OF | § | IN THE DISTRICT COURT OF            |
| VERACRUZ DE IGNACIO DE LA   | § |                                     |
| LLAVE                       | § |                                     |
|                             | § |                                     |
| Plaintiff,                  | § |                                     |
|                             | § | HARRIS COUNTY, TEXAS                |
| v.                          | § |                                     |
|                             | § |                                     |
| 83 WEST JAGGED RIDGE, LLC,  | § |                                     |
| ET AL.                      | § |                                     |
|                             | § |                                     |
| Defendants.                 | § | 295 <sup>th</sup> JUDICIAL DISTRICT |

**THE BANDIN DEFENDANTS' MOTION TO CONSOLIDATE**

The Bandin Defendants, namely Jose Antonio Bandin Ruiz and Monica Babayan Canal and the entities they own or control, seek to consolidate this case with the several others that deal with the same subject matter. This is the first-filed, and therefore the oldest, of all these cases. Pursuant to Harris County District Court Local Rule 3.2.3(a), a motion to consolidate must be heard in the court where the first filed case is pending.

The Plaintiff in each of these cases is the Free and Sovereign State of Veracruz. The current cases brought by this Plaintiff in which the Bandin Defendants are defendants are:

1. This case.
2. No. 2018-06745, *Free and Sovereign State of Veracruz v. Javier Duarte, et al*, in the 334<sup>th</sup> District Court of Harris County, Texas.

3. No. 2018-06752, *Free and Sovereign State of Veracruz v. Jaime Reverte, et al*, in the 127<sup>th</sup> District Court of Harris County, Texas.

4. No. 2018-08341, *Free and Sovereign State of Veracruz v. CW Operating Company, Inc., et al*, in the 113<sup>th</sup> District Court of Harris County, Texas.

This case was removed to federal court, but a motion to remand it is pending in that court. The Bandin Defendants seek an order that in the event this case is remanded, it, too, will be consolidated.

The petitions in each of these cases are virtually identical (copies of each petition are attached as Exhibits A, B, and C to this motion). The Plaintiff alleges in each case that the defendants had a relationship with the former governor of Veracruz, Javier Duarte, and participated in a conspiracy with Duarte to steal money belonging to the State of Veracruz for their own personal use.

This Court need not take our word for the similarity of these cases. The Plaintiff has described it like this in a recent pleading:

The Defendants in this case, including Mr. Duarte, orchestrated, coordinated, and accomplished this theft as an ongoing and collective conspiracy with the Defendants in this case. Each of these Defendants, through Javier Duarte's leadership, worked to pull off what amounts to one of the largest thefts in Mexican history. ***There was only one conspiracy.*** There was only one ring leader and mastermind. ***There is shared liability amongst all the defendants.*** There is only a single pot of missing money. ***There are only a single shared set of claims.***

See, Plaintiff's Response to Defendants Motion to Sever in No. 2018-06752, attached as Exhibit D (emphasis added). No doubt for these very reasons, the

Plaintiff in that same pleading advised the Court that it “is in the process of consolidating all Plaintiff’s cases involving this conspiracy.” *Id.* at p. 6, n. 1. So far, however, Plaintiff has not taken a step to consolidate these cases, and, curiously, it reversed course by announcing when this motion was being filed that it now opposes consolidation.

Besides Plaintiff’s own earlier acknowledgment that consolidation is proper, common sense and judicial economy require it. There is already risk of inconsistent rulings, piecemeal discovery efforts, and inefficiencies resulting from having the same parties litigate the same issues in different courts. Moreover, at least as to the Bandin Defendants, there are motions to dismiss filed under Chapter 27 of the Texas Civil Practice & Remedies Code (anti-SLAPP), which ought to be (and easily can be) consolidated for purposes of the inevitable interlocutory appeal. The issues, legal arguments, and evidence in each case for these motions to dismiss are the same.

Therefore, the Bandin Defendants request that this Court order the consolidation of the three cases currently pending in Harris County District Court (this case, together with No. 2018-06745 and No. 2018-06752) and the conditional consolidation of No. 2018-08341 (if remanded from federal court), and for such other and further relief to which they may be justly entitled.

Respectfully submitted,

**FOGLER, BRAR, FORD, O'NEIL & GRAY, LLP**

/s/ Murray Fogler

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**COUNSEL FOR THE BANDIN  
DEFENDANTS**

**CERTIFICATE OF CONFERENCE**

I certify that I have conferred with counsel for the Plaintiff, as well as counsel for the Reverte Defendants and Antimo Defendants and Terraventura in the cases sought to be consolidated. The Plaintiffs now oppose consolidation. The Reverte/Antimo defendants, who may wish to provide additional explanation, also oppose consolidation. Terraventura is unable to provide a position on this motion at this time and will supplement with its position at the time of the hearing.

/s/ Murray Fogler

**MURRAY FOGLER**

**CERTIFICATE OF SERVICE**

I hereby certify that on July 23, 2018, a true and correct copy of the forgoing document has been served on all counsel of record, listed below, by the Electronic Service Provider, if registered, otherwise by email and/or fax.

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Unofficial Copy of Chris Daniel District Clerk