

CAUSE NO. 2018-06752

FREE AND SOVEREIGN STATE OF §
VERACRUZ DE IGNACIO DE LA LLAVE, §

Plaintiff, §

v. §

JAIME REVERTE, JMA REVERTE §
PROPERTIES LLC, AZULGRANA §
MANAGEMENT, LLC, GIMAL REVERTE §
PROPERTIES, LLC, REVERTE FAMILY §
LIVING TRUST and JAVIER DUARTE DE §
OCHOA, §

Defendants. §

IN THE DISTRICT COURT OF

HARRIS COUNTY, TX

127TH JUDICIAL DISTRICT

**DEFENDANT TERRAVENTURA DEVELOPMENTS, LLC'S RESPONSE IN
OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION
FOR DISCOVERY PURSUANT TO THE TCPA**

Defendant Terraventura Developments, LLC ("Terraventura") files this Response in Opposition to Plaintiff's Emergency Motion for Discovery Pursuant to the TCPA filed July 19, 2018, and will respectfully show the Court:

First, Plaintiff's Motion further demonstrates its and its counsel's lack of good faith in naming Terraventura to this lawsuit without any evidence supporting its conclusory claim that Terraventura has purchased real property using funds "stolen" from the State of Veracruz.

Second, Plaintiff's Motion fails to show any good cause for why the Court should lift the automatic stay of discovery provided for in the TCPA (a/k/a Anti-SLAPP statute) and instead require Terraventura to undergo an early fishing expedition to see if Plaintiff can somehow justify naming Terraventura to its claims of a broad, undefined conspiracy with former Governor Duarte to steal money from the State of Veracruz.

Third, Plaintiff's Motion contradicts its counsel's written claims to Terraventura's counsel,

in a July 13, 2018 letter, that “We brought this case with *plenty of evidence* that you represent individuals and entities engaged in a conspiracy,” that “We are *well aware of the close relationship of the principals of your client and those who directly stole funds from the government,*” and going so far as to threaten (without *any* facts in support) that Terraventura’s legal counsel “may have been involved meaningfully in some of the transactions at issue, and we will explore that issue in due course” (Exhibit 11 (emphasis added)).

Fourth and finally, Plaintiff’s Motion wholly fails to identify any specified or limited discovery relevant to Terraventura’s Anti-SLAPP Motion that it feels it needs beyond to merely state it “would like to depose a corporate representative of Terraventura Developments, and send a limited amount of paper discovery related to the funds used to buy the real estate in question.” (Quoting Plaintiff’s Motion.)

For each of these reasons, Plaintiff’s Motion should be denied in its entirety.

1. Plaintiff’s Lack Of Good Faith In Naming Terraventura To This Suit.

A. Plaintiff’s forum shopping.

Plaintiff and its counsel have filed at least five other lawsuits in Harris County practically identical to this suit – alleging in conclusory fashion in each that various Hispanic property owners conspired with the State of Veracruz’s former Governor Duarte to steal public money to purchase real property in the greater Houston area.¹ As Terraventura’s co-defendants in this case have succinctly argued, “with its political grandstanding and rush to make a media splash with its numerous lawsuits, Plaintiff failed to check the facts first” and has levied false and wholly

¹ Including (1) Cause No. 2018-06480 in the 295th District Court in Harris County (filed 1/30/18); (2) Cause No. 2018-06526 in the 190th District Court in Harris County (filed 1/30/18); (3) Cause No. 2018-06750 in the 151st District Court in Harris County (filed 1/31/18); (4) Cause No. 2018-08341 in the 113th District Court in Harris County (filed 2/7/18; removed to federal court 3/16/18); and (5) Cause No. 2018-09526 in the 61st District Court in Harris County (filed 2/12/18).

unsupported allegations against the Defendants in these cases, including Terraventura. (Quoting July 9, 2018 Motion to Transfer Venue filed by the Antimo Defendants, p. 3, ¶ 11.) It is obvious Plaintiff added Terraventura (and some additional former and/or current property owners with property in Harris County) to this case through its First Amended Petition only after the earlier-named Defendants filed Motions to Transfer Venue –because Plaintiff wanted to rope some Harris County property owners into the case in an attempt to defeat the transfer Motions.² Terraventura is merely a pawn in Plaintiff’s scheme to forum shop and create venue in Harris County. Indeed, as explained further below, in its haste to name Terraventura as part of its effort to rebut other Defendants’ Motions to Transfer Venue to Montgomery County, Plaintiff even failed to check publicly available Appraisal District records to research whether Terraventura owns the real property it is alleged to own.

B. Public records show the falsity of Plaintiff’s allegations against Terraventura.

Plaintiff’s First Amended Petition includes no substantive factual allegations against Terraventura beyond to allege it is a “local limited liability company that owns property in Harris County,” identify its registered agent, contend it is the “record owner” of several property units located at 25219 Kuykendahl Road, Tomball, Texas, and that the “funds used to purchase [these] property[s] were stolen from Veracruz.” Terraventura denies any wrongdoing vis-à-vis the State of Veracruz.

In reality, Terraventura does not own any of the properties attributed to it in the First Amended Petition. Attached to Terraventura’s Anti-SLAPP Motion and to this Response as **Exhibits 1-7** are Harris County Appraisal District records showing it is not the record owner of

² In the sister Harris County suit of Cause No. 2018-06750, Plaintiff likewise added Harris County property owners as defendants in response to a challenge to venue in Harris County, and then, on the day of the hearing of the Motion to Transfer, Plaintiff nonsuited all of its claims in that case without prejudice.

seven of the properties attributed to it on pages 7-8 of Plaintiff's First Amended Petition. Also, as to Terraventura's (purported) ownership of a single unit of real estate identified in the Petition, that unit has been sold as well, although the County Appraisal records (inexplicably) do not reflect that fact. That the final unit has also been sold is evidence by the Harris County real property records. Attached as **Exhibits 8-9** to Terraventura's Anti-SLAPP Motion and this Response are, respectively, the Harris County Appraisal District record for this unit and the Special Warranty Deed, filed September 3, 2015, between Terraventura (as Grantor/seller) and Spazio, LLC (as Grantee/buyer) for this unit (the filing of which Deed is publicly accessible through the Harris County Texas Real Property Records website).

C. **This Motion further demonstrates the lack of good faith in naming Terraventura.**

Plaintiff and its counsel's failure to perform even a cursory review of public records to confirm (or deny) the allegations against Terraventura violates Chapters 9 and 10 of the Texas Civil Practice and Remedies Code and Texas Rule of Civil Procedure 13.³ Plaintiff's current Motion further demonstrates it and its counsel's lack of good faith in naming Terraventura to this lawsuit without any evidence that Terraventura has purchased real property using funds "stolen" from the State of Veracruz. Now they want the Court to lift the automatic stay of discovery provided by the Anti-SLAPP statute in a hasty attempt to scrap together some facts that could possibly support a claim against Terraventura – putting the proverbial cart before the horse. Even where the constitutional considerations of the Anti-SLAPP statute are not in play, it is improper for a plaintiff to launch a lawsuit wholly unsupported by facts or law, and then launch into discovery in the hopes

³ A person who signs a pleading, of course, represents that the pleading is not frivolous or groundless, and a party or attorney who files groundless or frivolous pleadings may be sanctioned under Chapters 9 and 10 of the Texas Civil Practice and Remedies Code and Texas Rule of Civil Procedure 13. TEX. R. CIV. P. 13; TEX. CIV. PRAC. & REM. CODE §§ 9.011 & 10.001.

of mining some evidence to support a cognizable claim. Especially here, where the constitutional considerations of the Anti-SLAPP statute are implicated (along with its automatic discovery stay), the Court should not condone such a shoot-first-and-ask-questions-later approach to filing a lawsuit.

2. Plaintiff Has Not, And Cannot, Show Good Cause To Lift The Discovery Stay.

The Anti-SLAPP statute explicitly describes as its “purpose” to “encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law and, at the same time, protect the rights of a person to file meritorious lawsuits for demonstrable injury.” TEX. CIV. PRAC. & REM. CODE § 27.002. The Act is to “be construed liberally to effectuate its purpose and intent fully.” TEX. CIV. PRAC. & REM. CODE § 27.011. It also establishes specific deadlines for the Court to set a hearing on and rule upon an Anti-SLAPP Motion to Dismiss. TEX. CIV. PRAC. & REM. CODE §§ 27.004-27.005. The Act also imposes an automatic stay on discovery until the Court has granted or denied the Motion. TEX. CIV. PRAC. & REM. CODE § 27.003(c).

While the statute recognizes there may be instances where a court may allow for “specified and limited discovery relevant to the motion,” the discovery stay may be lifted only “on a showing of good cause.” TEX. CIV. PRAC. & REM. CODE § 27.006(b). Here, Plaintiff’s one paragraph Motion is woefully inadequate to demonstrate any good cause. (And as discussed further below, Plaintiff also fails to identify any specific and limited discovery it contends it should be allowed to take as ostensibly relevant to Terraventura’s Anti-SLAPP Motion.)

3. Plaintiff Stridently Claimed In Writing On July 13 That It Has “Plenty Of Evidence” And Is “Well Aware” Of Facts (Purportedly) Supporting Its Claims.

On July 12, 2018, Terraventura’s counsel emailed Plaintiff’s counsel the letter that is attached to this Response as **Exhibit 10**, which enclosed the public records rebutting Plaintiff’s

allegations that Terraventura owns the properties attributed to it in the “*In Rem Parties*” Section of Plaintiff’s First Amended Petition. The following day, July 13, Plaintiff’s counsel emailed a responsive letter, attached as **Exhibit 11**, writing that Terraventura’s counsel’s letter was “**almost amusing**.”⁴ Significantly for this Motion, Plaintiff’s counsel also claimed to have “**plenty of evidence**” and to be “**well aware**” of facts that would ostensibly link Terraventura to the (self-described) “vast conspiracy that involved the stealing of more than \$1 billion dollars from the [Veracruz] government.” Exhibit 11 (emphasis added). Plaintiff’s counsel was also apparently “**well aware** of [Terraventura’s] current affiliation with those to whom the properties have now been transferred.” *Id.* (emphasis added). In the face of such confident and strident statements of evidence to support a prima facie case against Terraventura (and even suggesting Terraventura’s counsel is somehow implicated in the “vast conspiracy”), there is absolutely no basis for granting Plaintiff’s contradictory request to this Court that it now needs to engage in early, “Emergency” discovery to “meet its burden to demonstrate a prima facie case of theft.” (Quoting Plaintiff’s Motion.)

4. Plaintiff Fails To Identify Any Specific, Limited Discovery Requests Relevant To The Anti-SLAPP Motion.

Fourth and finally, Plaintiff’s Motion does not request “specified and limited” discovery relevant to Terraventura’s Anti-SLAPP Motion (TEX. CIV. PRAC. & REM. CODE § 27.006(b)), but instead broadly asks for a deposition of “a corporate representative of Terraventura Developments, and [to] send a limited amount of paper discovery related to the funds used to buy the real estate in question” (quoting Plaintiff’s Motion).

In *In re Elliott*, 504 S.W.3d 455 (Tex. App.—Austin 2016) the court of appeals held a district

⁴ Plaintiff’s counsel further chided Terraventura’s counsel with the “aside” that, “I’m proud that you can read the rules; perhaps you should now work on understanding what those rules mean.” (Exhibit 11.)

court's order allowing for a pre-suit deposition "was not the 'specified and limited discovery relevant to the [TCPA] motion [to dismiss]' that the Act contemplates," and that the district court "had no discretion to order a deposition." *Id.* at 465 (quoting TEX. CIV. PRAC. & REM. CODE § 27.006(b); bracketed alterations in original; emphasis added). The majority of the court further emphasized in discussing a concurring opinion that a deposition proceeding itself is a "use of litigation" that the Anti-SLAPP Act's "plain and broad language" was intended to cover to "prevent the use of litigation, including depositions..., to discourage public participation through the exercise of [constitutionally] protected rights like free speech." *Id.* at 467. Thus, to the extent *any* deposition is ever allowed under the Anti-SLAPP statute, it must be significantly constricted both on the specific issues sought to be deposed and time allotted for questioning, and any document discovery must also be specifically stated and limited. *See also In re Spex Group US LLC*, 2018 Tex. App. LEXIS 1884, * (Tex. App.—Dallas, Mar. 14, 2018) (holding trial court abused its discretion in not properly limiting discovery when the movant included deposition Notices listing specific issues for inquiry and broadly stated Requests for Production).

Here, Plaintiff fails to describe or otherwise limit the discovery it seeks beyond to state generally that it wants to depose a corporate representative on unstated topics and engage in a "limited amount of paper discovery" – whatever that entails – "related to the funds used to buy the real estate in question." (Quoting Plaintiff's Motion.) Even assuming, *for the sake of argument*, that Plaintiff had demonstrated *any* good cause for lifting the Act's discovery stay (despite its representations it has "plenty of evidence" and is "well aware" of facts needed to assert a prima facie case against Terraventura and despite its obvious lack of good faith in naming Terraventura to this case), Plaintiff wholly fails to specify or appropriately limit the discovery it requests, as required by the TCPA.

5. **Conclusion.**

For these reasons, Terraventura respectfully submits that Plaintiff's Emergency Motion for Discovery Pursuant to the TCPA should be denied in its entirety.

Respectfully submitted,

THE STRONG FIRM P.C.

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of July 2018, a true and correct copy of the foregoing instrument was served upon the following counsel of record in accordance with the Texas Rules of Civil Procedure.

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And

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ST. ANTIMO, LLC**

And

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Laura F. Dumas

Unofficial Copy Office of Chris Darnold District Clerk

FREE AND SOVEREIGN STATE OF §
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127TH JUDICIAL DISTRICT

Defendants.

AFFIDAVIT OF LAURA F. DUMAS

BEFORE ME, the undersigned authority, on this day personally appeared Laura F. Dumas, the affiant, a person whose identity is known to me. After I administered an oath to affiant, affiant testified:

1. “My name is Laura F. Dumas. I am over 18 years of age, of sound mind, and fully competent to make this Affidavit. I have personal knowledge of the facts stated herein and they are all true and correct.
2. I am an attorney licensed to practice in the State of California (since 2006) and Texas (since 2017) and an Of Counsel at The Strong Firm P.C., located in The Woodlands.
3. Defendant Terraventura Developments, LLC (“Terraventura”) retained me to represent it in this suit. I have personal knowledge of this case and the work performed. I have experience in this area of law.
4. Attached as Exhibits 1-7 are true and correct copies of Harris County Appraisal District

Real Property Account Information reports (obtained from the Harris County Texas Appraisal District's website) for seven properties that Plaintiff alleges Terraventura as the "record owner" (Plaintiff's First Amended Petition, pp. 7-8), but these reports show various entities (not Terraventura) as the record owners (including Creekside Suite Holdings LLC; Suma Realty LLC; Mestalla LLC; and Thomas Platz LLC).

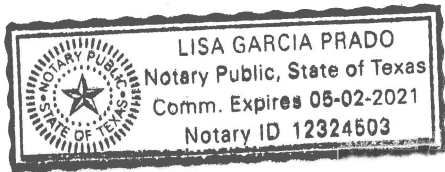
5. Attached as **Exhibit 8** is a true and correct copy of the Harris County Appraisal District Real Property Account Information report (obtained from the Harris County Texas Appraisal District's website) for the single unit of real estate identified in the Petition that Terraventura purportedly owns according to the County Appraisal office's records. However, this unit was previously sold by Terraventura. Attached as **Exhibit 9** is a true and correct copy of a Special Warranty Deed, filed on September 3, 2015, between Terraventura (as Grantor) and Spazio, LLC (as Grantee) regarding Unit # G150 located at 25219 Kuykendahl Road, Tomball, Texas 77375, obtained from Harris County Texas Real Property Records website.
6. Attached as **Exhibit 10** is a true and correct copy of a letter my firm emailed to Plaintiff's counsel on July 12, 2018.
7. Attached as **Exhibit 11** is a true and correct copy of a responsive letter Plaintiff's counsel emailed my firm on July 13, 2018.

FURTHER AFFIANT SAYETH NOT."



Laura F. Dumas

SUBSCRIBED AND SWORN TO BEFORE ME this the 20th day of July, 2018.



Lisa Garcia Prado
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS
My Commission Expires: *May 2, 2021*

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