

CAUSE NO. 2018-06752

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

Plaintiff, §

v. §

JAIMÉ 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
MOTION FOR A PROTECTIVE ORDER AND
MOTION TO QUASH DEPOSITIONS NOTICED BY PLAINTIFF**

Defendant Terraventura Developments, LLC (“Terraventura” or “Defendant”) files this Motion for a Protective Order and Motion to Quash¹ the depositions Plaintiff, the Free and Sovereign State of Veracruz De Ignacio De La Llave (“Veracruz” or “Plaintiff”), noticed on July 20 for the depositions of (a) Defendant Monica Babayan on August 14, (b) Alejandro Ortiz Caprinteyro on August 15 at 10:00 a.m., (c) the corporate representative of Defendant Terraventura Developments, LLC also on August 15 at 10:00 a.m., and (d) Defendant Jose Bandin on August 17, and would respectfully show the Court:

¹ Pursuant to Texas Rules of Civil Procedure 199.4 and 192.6, a party may object to the time, place, manner of proceeding, or scope of a deposition by filing a Motion to Quash the deposition and/or Motion for Protective Order. TEX. R. CIV. PROC. § 199.4 (“A party or witness may object to the time and place designated for an oral deposition by motion for protective order or by motion to quash the notice of deposition. If the motion is filed by the third business day after service of the notice of deposition, an objection to the time and place of a deposition stays the oral deposition until the motion can be determined.”) & § 192.6 (“A person from whom discovery is sought, and any other person affected by the discovery request, may move within the time permitted in response to the discovery request for an order protecting that person from the discovery sought....”).

1. The discovery Plaintiff seeks is barred by the automatic stay of discovery that took effect upon the Anti-SLAPP Motions filed by the Bandin Defendants on July 11 and Terraventura on July 20, which Motions are both set for hearing on August 28 (i.e., after the noticed dates for the depositions). TEX. CIV. PRAC. & REM. CODE § 27.003(c) (“Except as provided by Section 27.006(b), on the filing of a motion under this section, all discovery in the legal action is suspended until the court has ruled on the motion to dismiss.”).

2. Though Plaintiff filed (on July 19)² a Motion to lift that automatic stay, as set forth further in Terraventura’s Response in Opposition to that Motion (filed July 20), Plaintiff’s request for discovery before ruling on Terraventura’s Anti-SLAPP Motion should be denied in its entirety for several reasons, including:

- a. Because Plaintiff’s Motion for Discovery contradicts its counsel’s written claims to Terraventura’s counsel, in a July 13 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 that “We are **well aware** of [Terraventura’s] **current affiliation** with those to whom the properties have now been transferred.” Exhibit 1, Plaintiff’s July 13 Letter (emphasis added).
- b. Because Plaintiff’s Motion for Discovery—consisting of a single paragraph—wholly fails to show any good cause for why the Court should lift the automatic stay of discovery and instead require Terraventura to undergo an early fishing expedition to see if Plaintiff can somehow justify naming Terraventura to its

² Plaintiff has not noticed its Motion for Discovery for hearing or submission.

claims of a broad, undefined conspiracy with former Governor Duarte to steal money from the State of Veracruz.

- c. Because Plaintiff's Motion for Discovery 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 July 19 Motion for Discovery.)
- d. And because Plaintiff's Motion for Discovery only further demonstrates its and its counsel's complete 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.
- e. Terraventura incorporates by reference the additional points and authorities set forth in its Response in Opposition to Plaintiff's Motion for Discovery (filed July 20), showing that no discovery should be permitted before ruling on its Anti-SLAPP Motion.

3. Plaintiff's deposition notices even go beyond the discovery requested by Plaintiff's Motion for Discovery in setting the deposition of Alejandro Ortiz Caprinteyro in his personal capacity, as Mr. Ortiz is not a party to this case nor is any desire to depose him personally mentioned in Plaintiff's Motion for Discovery. *See* Plaintiff's First Amended Petition & Plaintiff's Motion for Discovery.

4. Likewise, Plaintiff's deposition notices go beyond the discovery requested by Plaintiff's Motion for Discovery in setting the depositions of Jose Bandin and Monica Bandin within

the context of the above-styled lawsuit, because, to date, Plaintiff has not filed any Motion to seek discovery from these co-defendants within this lawsuit.

5. Plaintiff's deposition notice for the corporate representative of Terraventura fails to comply with Texas Rule of Civil Procedure 199.2(b)'s requirement that a notice for a corporate organization "must describe with reasonable particularity the matters on which examination is requested." TEX. R. CIV. P. § 199.2(b); *see* Exhibit 2 (Terraventura corporate rep deposition notice).

6. Finally, Terraventura further objects to the time and place Plaintiff unilaterally set for the depositions. First, Plaintiff has set both the deposition of Mr. Ortiz and Terraventura's corporate rep deposition to occur simultaneously (specifically, beginning at 10:00 a.m. on August 15), and Terraventura will send its same attorney (and lead trial counsel) to each of those two depositions (to the extent they are allowed to proceed). Also, both Mr. Ortiz and Terraventura's lead trial counsel are unavailable on August 15. Mr. Ortiz is currently out of the country, with his return to the Houston area scheduled after the 10:00 a.m. August 15 setting, and Terraventura's lead trial counsel is unavailable on that date because she has a mediation scheduled in another case. Exhibit 3, Laura Dumas Affidavit, ¶¶ 5-7. Terraventura will offer alternative dates for these depositions at an appropriate time following ruling on either Plaintiff's Motion for Discovery or ruling on its Anti-SLAPP Motion. *Id.* at ¶ 8. Further, Terraventura objects that Plaintiff has set the depositions of Mr. Ortiz and Terraventura's corporate rep to occur in the office of its co-Defendants' counsel (namely, the Fogler, Brar, Ford, O'Neil & Gray, LLP firm), rather than in Terraventura's counsel's office (The Strong Firm, P.C.). *Id.* at ¶ 9.

For each of these reasons, Plaintiff's notices for the depositions of (a) Defendant Monica Babayan on August 14, (b) Alejandro Ortiz Caprinteyro on August 15 at 10:00 a.m., (c) the corporate representative of Defendant Terraventura Developments, LLC also on August 15 at 10:00

a.m., and (d) Defendant Jose Bandin on August 17, should each be Quashed and a Protective Order should issue prohibiting Plaintiff from serving any further discovery in this matter until ruling on Terraventura's (and the Bandin Defendants') Motions to Dismiss filed under the Texas Citizens' Participation Act.

Respectfully submitted,

THE STRONG FIRM, P.C.

By: _____

Bret L. Strong

Texas Bar No. 00795671

bstrong@thefirm.com

Laura F. Dumas

Texas Bar No. 24103763

ldumas@thefirm.com

Kristen Bates

Texas Bar No. 24073881

kbates@thefirm.com

1790 Hughes Landing Blvd, Ste. 200

The Woodlands, TX 77380

Tel. (281) 367-1222

Fax (281) 210-1361

ATTORNEYS FOR DEFENDANT,

TERRAVENTURA DEVELOPMENTS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 24th 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.

Anthony G. Buzbee
Christopher J. Leavitt
THE BUZBEE LAW FIRM
JP Morgan Chase Tower
600 Travis, Suite 6850
Houston, Texas 77002
tbuzbee@txattorneys.com
**ATTORNEYS FOR PLAINTIFF,
FREE AND SOVEREIGN STATE OF VERACRUZ
DE IGNACIO DE LA LLAVE**

James H. Stilwell
MARTIN, EARL & STILWELL, LLP
1400 Woodloch Forest Drive, Suite 590
The Woodlands, Texas 77380
james@meslawfirm.com
**ATTORNEYS FOR DEFENDANTS,
JAIME REVERTE, JMA REVERTE PROPERTIES, LLC,
AZULGRANA MANAGEMENT, LLC, GIMAL REVERTE
PROPERTIES, LLC AND REVERTE FAMILY LIVING TRUST**

And

**ATTORNEYS FOR DEFENDANTS,
JR&GA MANAGEMENT COMPANY, LLC AND
ST. ANTIMO, LLC**

And

**ATTORNEYS FOR DEFENDANTS,
JULIO ANTIMO, DENMARK PROPERTIES LLC,
LEQUATRI PROPERTIES LLC, AND THE ANTIMO
FAMILY LIVING TRUST**

Murray Fogler
Jas Brar
FOGLER, BRAR, FORD, O'NEIL & GRAY, LLP
909 Fannin Street, Suite 1640
Houston, Texas 77010
mfogler@fbfog.com
jbrar@fbfog.com
**ATTORNEYS FOR DEFENDANTS,
JOSE ANTONIO BANDIN RUIZ
(INCORRECTLY NAMED JOSE RUIZ) AND
MONICA BABAYAN CANAL
(INCORRECTLY NAMED MONICA B. CANAL)**



Laura F. Dumas

Unofficial Copy Office of Chris Daniels District Clerk