

CAUSE NO. 2018528740

tb

DOLCEFINO COMMUNICATIONS, LLC DBA
DOLCEFINO CONSULTING,

PLAINTIFF,

vs.

TEXAS TECH UNIVERSITY AND DR. LAWRENCE
SCHOVANEC, IN HIS OFFICIAL CAPACITY AS THE
PRESIDENT OF TEXAS TECH UNIVERSITY

DEFENDANT.

IN THE DISTRICT COURT

99TH JUDICIAL DISTRICT

LUBBOCK COUNTY, TEXAS

**PLAINTIFF'S OBJECTIONS AND MOTION TO STRIKE
DEFENDANT'S EXHIBITS IN SUPPORT OF DEFENDANT'S
FIRST AMENDED PLEA TO THE JURISDICTION**

Comes Now, Dolcefino Communications, LLC dba Dolcefino Consulting, Plaintiff herein, and files these Objections and Motion to Strike Defendant's Exhibits in Support of Defendants' First Amended Plea to the Jurisdiction, and in support thereof, would respectfully show the Court the following:

I. Objections to Exhibit "I"

Plaintiff hereby objects and moves to strike Defendant's Exhibit I, which is ostensibly an email from Defendant's agent Ronny Wall (identified as Texas Tech's Associate General Counsel) on October 23, 2017. This exhibit should be stricken because:

- Exhibit I is hearsay. Under Texas Rule of Evidence 801, "hearsay" means an out of court statement offered "to prove the truth of the matter asserted in the statement." Here, Defendant is attempting to bolster its position by using its own prior out of court statement to prove that it, in fact, "does not have any

documents.” Therefore, Exhibit I is inadmissible hearsay, and it must be stricken.

II. Objections to Exhibit “M”

Plaintiff hereby objects and moves to strike Defendant’s Exhibit M, which is ostensibly an email from Defendant’s agent Ronny Wall (identified as Texas Tech’s Associate General Counsel) on November 10, 2017. This exhibit should be stricken because:

- Exhibit M is hearsay. Defendant contends that Exhibit M supports its position that it “is not refusing to produce public information” (First Amended Plea to the Jurisdiction at 10), which requires accepting the statements in Exhibit M to, in fact, be true. Therefore, Exhibit M is inadmissible hearsay, and it must be stricken.

III. Objections to Exhibit “QQ”

Plaintiff hereby objects and moves to strike Defendant’s Exhibit QQ, which is ostensibly an email from Defendant’s agent Ronny Wall (identified as Texas Tech’s Associate General Counsel) on December 14, 2017. This exhibit should be stricken for at least three reasons:

- Exhibit QQ is unauthenticated. Under Texas Rule of Evidence 901, evidence must be authenticated or identified “as a condition precedent to admissibility.” Here Defendant has not offered evidentiary support to show “the matter in question is what [Defendant] claims.” Cf. Rule 901(a). Defendant’s sole affidavit (Exhibit SS) states that “Exhibits A through PP . . . , are true and correct copies,” but fails to authenticate Exhibit QQ. Therefore, Exhibit QQ is not admissible evidence and should be stricken.
- Exhibit QQ is hearsay. Defendant is attempting to bolster its position by using its own prior out of court statement to prove that it, in fact, “does not have any documents responsive to this request.” Therefore, Exhibit QQ is inadmissible hearsay, and it must be stricken.

- Exhibit QQ is conclusory.

IV. Conclusion & Prayer

For the foregoing reasons, the Court should strike Defendant's Exhibits I, M, and QQ submitted in Support of Defendant's First Amended Plea to the Jurisdiction. Plaintiff prays for all such further relief that it may be justly entitled to.

Respectfully Submitted,

THE PETTIT LAW FIRM

By: /s/ Julie Pettit

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon the following *via Email* on April 26, 2018:

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