

cf

CAUSE NO. 2018528740

DOLCEFINO COMMUNICATIONS, LLC DBA DOLCEFINO CONSULTING, Plaintiff	§ § § § § § § § §	IN THE DISTRICT COURT OF LUBBOCK COUNTY, TEXAS 99 th JUDICIAL DISTRICT
vs.	§	
TEXAS TECH UNIVERSITY, Defendant	§ §	

**DEFENDANT'S NOTICE OF ACCELERATED APPEAL;
NOTICE TO THE CLERK THAT DEFENDANT IS NOT REQUIRED
TO FILE A BOND FOR COURT COSTS;
NOTICE TO THE CLERK TO FILE CLERK'S RECORD; AND NOTICE OF
AUTOMATIC STAY PENDING APPEAL**

TO THE HONORABLE JUDGE WILLIAM C. SOWDER:

Defendant, Texas Tech University (hereafter "Defendant" or "TTU"), hereby gives notice of appeal from the Order signed by the Judge of this Court, William C. Sowder on June 4, 2018, which denied in part Defendant's Second Amended Plea to the Jurisdiction. Defendant is entitled to an interlocutory appeal pursuant to TEX. CIV. PRAC. & REM. CODE §51.014(a)(8) which allows an appeal from a district court's interlocutory order which denies a plea to the jurisdiction by a governmental unit.

Additionally, TTU is entitled to an automatic stay of the trial pursuant to TEX. PRAC. & REM. CODE § 51.014(c)(2). TTU is a governmental unit as defined under TEX. PRAC. & REM. CODE § 101.001.¹ Under § 51.014(c)(2), the denial of a plea to

¹ See TEX. EDU. CODE §§ 61, 95, and 96.

the jurisdiction is subject to an automatic stay if the plea to the jurisdiction is filed and requested for submission or hearing before the trial court not later than the 180th day after the date the defendant files the original answer. *Id.* On February 2, 2018, TTU filed its answer. On April 30, 2018, TTU filed their second amended plea to the jurisdiction. The Defendant's Second Amended Plea to the Jurisdiction was heard on May 3, 2018. These facts and evidence support an automatic stay of the trial court pending the appeal under TEX. PRAC. & REM. CODE § 51.014(c)(2).

Defendant appeals to the Seventh Court of Appeals, Amarillo, Texas.

Pursuant to Texas Rules of Appellate Procedure 25.1(d)(6). TTU states that this is an accelerated appeal and does not concern a parental termination or child protection case, as provided for in rule 28.4 of the Texas Rules of Appellate Procedure.

DEFENDANT IS NOT REQUIRED TO FILE A COST BOND

Notice is further given pursuant to TEX. CIV. PRAC. & REM. CODE §6.001 that, as a governmental entity, Defendant is not required to file a bond for court costs.

CLERK REQUIRED TO FILE THE CLERK'S RECORD

Pursuant to Texas Rule of Appellate Procedure 35.3, Defendant/Appellant respectfully requests that the District Clerk of Lubbock County, Texas, file the Clerk's Record in the above-referenced cause or submit a record in compliance with TRAP 28.3 if so requested by the Appellate Court.

Respectfully submitted,

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER

First Assistant Attorney General

BRANTLEY STARR

Deputy First Assistant Attorney General

JAMES E. DAVIS

Deputy Attorney General for Civil Litigation

ANGELA COLMENERO

General Litigation, Division Chief

/s/ Enrique M. Varela

ENRIQUE M. VARELA

Texas Bar No. 24043971

Assistant Attorney General

Office of the Attorney General

General Litigation Division

P.O. Box 12548, Capitol Station

Austin, TX 78711-2548

Enrique.Varela@oag.texas.gov

(512) 463-2120 PHONE

(512) 320-0667 FAX

JOSHUA R. GODBEY

Division Chief

Financial Litigation and Charitable Trusts

Division

ANN HARTLEY

Assistant Attorney General

State Bar No. 09157700

Financial Litigation and Charitable Trusts

Division

P.O. Box 12548

Austin, Texas 78711-2548

Phone: (512) 936-1313

ann.hartley@oag.texas.gov

ATTORNEYS FOR TEXAS TECH
UNIVERSITY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been sent via E-service by File & Serve Texas on this the 5th day of June, 2018, to:

Michael K. Hurst
LYNN PINKER COX & HURST LLP
2100 Ross Avenue, Suite 2700
Dallas, TX 75201
mhurst@lynllp.com

Julie Pettit
THE PETTIT LAW FIRM
3710 Rawlins, Suite 1050
Dallas, TX 75219
jpettit@pettitfirm.com

Attorneys for Plaintiff

/s/ Enrique M. Varela
ENRIQUE M. VARELA
ASSISTANT ATTORNEY GENERAL