

NO. 2018528740

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

**DEFENDANT’S MOTION TO QUASH THE DEPOSITION NOTICE OF
THIRD PARTY, WARREN KENNETH PAXTON, JR.
AND MOTION FOR PROTECTIVE ORDER**

Defendant, Texas Tech University (hereafter “Defendant” or “TTU”), by and through its attorney of record, files this Defendant’s Motion to Quash the Deposition Notice of Third Party, Warren Kenneth Paxton, Jr., and Motion for Protective Order. In support, TTU offers the following for consideration by the Court:

I.
INTRODUCTION

On October 7, 2019, Plaintiff served TTU with a copy of a subpoena and notice of oral deposition directed at a third party—Warren Kenneth Paxton, Jr. (“Paxton”)—for a deposition to be held on November 4, 2019. *See Ex. A.*

Neither TTU nor the undersigned attorney represent Paxton. TTU brings this motion to quash the deposition notice and motion for protective order on its own behalf because it objects to the date and time of the deposition and the deposition seeks discovery which is irrelevant to the issues in this case and so is improper and causes TTU unnecessary expense, harassment, and annoyance.

II. **ARGUMENTS AND AUTHORITIES**

Generally, a party is entitled to discovery that is not privileged and is relevant to the subject matter of a claim or defense, and which appears reasonably calculated to lead to the discovery of admissible evidence. *See* Tex. R. Civ. P. 192.3(a). However, in the interest of justice, a court may issue a protective order preventing or limiting the discovery sought. Tex. R. Civ. P. 192.6; *see also In re Nat'l Lloyds Ins. Co.*, 449 S.W.3d 486, 488 (Tex. 2014) (Discovery rules have limits including that “[o]verbroad requests for irrelevant information are improper whether they are burdensome or not.”) Pursuant to Texas Rules of Civil Procedure 192.4 and 192.6(b), Defendant objects to the deposition of third-party Paxton and moves this Court for a protective order prohibiting any further attempts by Dolcefino to seek discovery from Paxton in this case. Rule 192.6(a) allows a party affected by a deposition request to file a protective order and the rule provides that a court may enter a protective order forbidding the discovery if it is necessary to protect the movant from undue burden, unnecessary expense, harassment, annoyance, or invasion of personal, constitutional, or property rights. *See In re Mem'l Hermann Hosp. Sys.*, 464 S.W.3d 686, 707 (Tex. 2015).

A. Objection to time and place of deposition

TTU objects to the currently noticed date of November 4, 2019 because TTU has substantive objections to the discovery sought and seeks the Court’s protection, but, as confirmed by a call to the Court’s court administrator on October 9, 2019, due to the Court’s busy schedule, no hearing date is available prior to November 4, 2019.

B. The Court should grant protection against the sought discovery because it is irrelevant, not calculated to lead to the discovery of admissible evidence, overbroad, harassing, would cause an undue burden and unnecessary expense to TTU, and to the extent it seeks discovery of information that is privileged and includes attorney-client communications, improper.

The Requests for Production indicate that Plaintiff seeks information and documents related to:

- (1) Any and all documents and communications regarding Plaintiff and/or its open records requests;
- (2) Any and all documents and communications reference or regarding Wayne Dolcefino or his open records requests that form the basis of this litigation (Cause No. 2018528940 pending in Lubbock County, Texas);
- (3) Any and all documents and communications referencing or regarding Michael Charles Leach; and
- (4) Any and all documents and communications referencing or regarding Michael Charles Leach that refer or relate to any open records requests that form the basis of this litigation (Cause No. 2018528740 pending in Lubbock County, Texas).

As to the first request, Plaintiff has already been provided with all communications between TTU and the Attorney General's Open Records division for the requests at issue in this lawsuit except for the actual documents at issue in this case or which describe the actual documents at issue in this case, for which TTU has a pending motion for protective order.¹ Plaintiff now seeks any and all documents and communications regarding Plaintiff and/or its open records requests—whether or not related to this lawsuit. This would include documents related to open records requests and governmental entities that are not a part of this—including actual documents at issue in other lawsuits or other pending PIA requests. These requested

¹ TTU's motion for protective order is set for a hearing before this Court on November 14, 2019.

documents and information related to the same are not relevant to any issues in this case, would not lead to the discovery of admissible evidence, and would require the production of information protected by privilege or other laws.

Even the second request, which is limited to the documents and communications referencing or regarding Plaintiff and/or its open records requests as to this lawsuit (some of which have already been provided, *see supra*), the request still seeks irrelevant information that would not lead to the discovery of admissible evidence and is information that is privileged or otherwise protected by law. This request is broad enough to encompass the undersigned's litigation file of this very case as the name Dolcefino would appear in most documents or communications related to this case. The litigation file of TTU's attorney is not a proper subject for discovery and is certainly privileged. Likewise, to the extent that this request is seeking the documents and communications that are related to open records requests or Dolcefino held by other divisions of the Attorney General's office, they would implicate privileged information.

But more basically, such information, documents, and communications are not relevant to the issues in this lawsuit. The issue in this lawsuit is whether the specific exceptions claimed by TTU for withholding the documents at issue in this case apply to those documents. These are questions of law determined by the trial court after a review of the applicable law, and if needed, an in-camera review of the documents at issue. *See City of Garland v. Dallas Morning News*, 22 S.W.3d 351, 357 (Tex. 2000) ("Specifically, whether information is subject to the [Public Information Act] and whether an exception to disclosure applies to the information are questions of law.")

Tex. Gov't Code § 552.3221(a). Thus the only legal issue in this lawsuit is whether the legal exceptions that TTU asserted for withholding the documents are applicable or not. If TTU's exceptions from disclosure are applicable, then TTU may withhold the documents; if they are not applicable, then TTU must release the documents. TTU has raised the following bases for withholding the information:

Request 27: Texas Government Code §§ 552.107(1) (attorney-client privilege and attorney-work product); 552.111(Deliberative process privilege); 552.117 (Personal information of government employee made confidential under 552.024); and 552.1235 (Identity of private donor to institute of higher education)

Request 28: Texas Government Code §§ 552.107(1) (attorney-client privilege and attorney-work product); 552.111(Deliberative process privilege); 552.117 (Personal information of government employee made confidential under 552.024); and 552.1235 (Identity of private donor to institute of higher education)

Request 30: Texas Government Code § 552.111(Deliberative process privilege)

Request 33: Texas Government Code § 552.103 (Litigation exception)

Request 35: Texas Government Code §§ 552.021 (not public information); 552.103 (litigation exception for information not subject to 552.022); 552.104 (Competition and Bidding)

Request 36: Texas Government Code §§ 552.021 (not public information); 552.103 (litigation exception for information not subject to 552.022); 552.104 (Competition and Bidding)

Request 37: Texas Government Code §§ 552.103 (litigation exception 552.022); and 552.107(1) (attorney-client privilege and attorney-work product); 552.111(Deliberative process privilege); 552.117 (Personal information of government employee made confidential under 552.024); and 552.1235 (Identity of private donor to institute of higher education)

Request 40: Texas Government Code §§ 552.103 (litigation exception) and 552.104 (Competition and Bidding)

Request 41: Texas Government Code §§ 552.103 (litigation exception) and 552.104 (Competition and Bidding)

Request 42: Texas Government Code §§ 552.101 (Confidential information (related to 51.971(c)(1) of the Education Code); 552.107 (Attorney Client privilege and attorney work product)

Request 43: Texas Government Code §§ 552.101 (Confidential information (related to 51.971(c)(1) of the Education Code); 552.107 (Attorney Client privilege and attorney work product)

Request 44: Texas Government Code §§ 552.021 (not public information); 552.103 (litigation exception for information not subject to 552.022); 552.104 (Competition and Bidding)

Request 45: Texas Government Code §§ 552.021 (not public information); 552.103 (litigation exception); and 552.104 (competition and bidding)

The trial court makes such determination de novo and is not bound by the Attorney General's rulings but independently determines the applicability of the claimed exceptions. *Kallinen v. City of Houston*, 462 S.W3d 25, 28 (Tex. 2015). Communications or documents referencing or regarding Plaintiff and/or its open records requests, or information about the same, even as to the requests at issue in this case are not relevant to whether a particular exception under the Public Information Act applies to a particular withheld document at issue.

Plaintiff's third request is as broad as the first—seeking all documents and communications regarding Michael Charles Leach, untethered to any of the requests at issue in this lawsuit. The fourth request asks for all documents and communications regarding Michael Charles Leach related to the open records requests in this lawsuit.

The third request would capture all litigation documents and communications regarding the prior lawsuit that Michael Charles Leach lost against TTU as well as all open records requests that mention his name, and the fourth would capture all

litigation files in this very case that mention his name. Not only do those specifically seek attorney-client privileged documents and information which is improper and privileged by law, they also seek information that is not relevant to the issues in this lawsuit. Such documents or any testimony related to the same are not relevant to whether a particular exception under the Public Information Act applies to a particular withheld document at issue—which is an issue of law for the Court to determine.

The only issues in this lawsuit are whether the documents at issue are public information that fall within the exceptions claimed for each one, including:

- (1) Attorney-client privilege;
- (2) Attorney-work product privilege;
- (3) Deliberative process privilege;
- (4) Identifying a private donor to an institution of higher education exception;
- (5) Identifying private information exception such as a home address or social security number;
- (6) Litigation exception;
- (7) Competition and bidding exception; and
- (8) FERPA and other federal laws making educational information confidential.

Thus if TTU is alleging a portion of a document must be withheld because it contains a social security number which is protected by the personal information privilege, the Court must examine the document to see if the withheld portion actually includes a social security number so that such exception applies. Likewise, if TTU is alleging that the document must be withheld because it consists of legal

advice falling under the attorney-client privilege, the court must determine whether TTU has provided sufficient evidence to demonstrate that that document falls within the attorney-client privilege. TTU must prove the applicability of each exception to the Court. *See Hilburn v. City of Houston*, No. 07-15-00158-CV, 2016 WL 269164, at *2 (Tex. App.—Amarillo, Jan. 21, 2015, pet. denied) (governmental body seeking to withhold information bears burden of establishing that requested information falls within exception).

The information and documents that Plaintiff seeks in this subpoena duces tecum are not relevant nor lead to admissible evidence for this Court to determine the sole issue in this case—the legal question of whether the exceptions that TTU asserted for withholding the documents are applicable or not.

Dolcefino's noticed deposition of Paxton and the sought documents to be produced is a misuse of the discovery process to conduct an improper fishing expedition on matters not relevant to the sole issue in this lawsuit and for which it cannot receive any relief. Because this deposition seeks discovery that is irrelevant to the issue in this lawsuit, will not lead to the discovery of any admissible evidence, and is harassing, the Court should quash this deposition and enter a protective order prohibiting any future discovery from Paxton.

IV. CONCLUSION AND PRAYER

Defendant TTU respectfully requests that the Court quash the deposition notice for Paxton issued by Plaintiff on October 7, 2019 and enter a protective order that no discovery may be sought in this lawsuit from Paxton.

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

DARREN L. MCCARTY
Deputy Attorney General for Civil Litigation

JOSHUA R. GODBEY
Division Chief
Financial Litigation and Charitable Trusts Division

/s/ Cynthia A. Morales

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Office of the Attorney General
P.O. Box 12548/ MC017
Austin, Texas 78711-2548
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*Counsel representing Defendant Texas Tech
University*

CERTIFICATE OF CONFERENCE

I hereby certify that I attempted to confer with counsel for Plaintiff via phone on Thursday, October 10, 2019, but counsel was unavailable.

/s/ Cynthia A. Morales
CYNTHIA A. MORALES
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2019, the foregoing *Defendant's Motion to Quash the Deposition Notice of Third Party, Warren Kenneth Paxton, Jr., and Motion for Protective Order* has been filed with the Clerk of the Court and served on all parties of record via EFileTexas.gov e filing service.

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Attorneys representing Plaintiff

/s/ Cynthia A. Morales
CYNTHIA A. MORALES
Assistant Attorney General

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,

DEFENDANTS.

IN THE DISTRICT COURT

99TH JUDICIAL DISTRICT

LUBBOCK COUNTY, TEXAS

**SUBPOENA FOR THE DEPOSITION OF WARREN KENNETH PAXTON, JR. WITH
DUCES TECUM**

TO: Any sheriff or constable of the State of Texas or other person authorized to serve
and execute subpoenas as provided in Texas Rule 176.5.

YOU ARE COMMANDED to summon:

Deponent:	Warren Kenneth Paxton, Jr.
Address:	Office of the Attorney General 300 West 15th St. Austin, Texas 78701 Or wherever he may be found

TO APPEAR AT:

Location:	Omni Austin Hotel Downtown 700 San Jacinto at 8th Street Austin, Texas 78701
Date:	November 4, 2019
Time:	9:00 AM



The above-named Deponent is hereby commanded to appear at the time, date, and place set forth above and give testimony in the above captioned case at a deposition, and to remain in attendance from day to day until lawfully discharged. The deposition will be taken by video and stenographic means. Any and all such video and stenographic testimonies may be offered into evidence at trial of the above-entitled and numbered cause.

The Deponent is further commanded to produce and permit inspection and copying of those categories of documents listed in Exhibit A contained in the Notice of Deposition attached to this subpoena as Exhibit 1, on the date, time, and place of the deposition.

DUTIES OF PERSON SERVED WITH SUBPOENA: You are advised that under Texas Rule of Civil Procedure 176, a person served with a discovery subpoena has certain rights and obligations. Rule 176.6 provides:

- (a) *Compliance required.* Except as provided in this subdivision, a person served with a subpoena must comply with the command stated therein unless discharged by the court or by the party summoning such witness. A person commanded to appear and give testimony must remain at the place of deposition, hearing, or trial from day to day until discharged by the court or by the party summoning the witness.
- (b) *Protective orders.* A person commanded to appear at a deposition, hearing, or trial, or to produce and permit inspection and copying of designated documents and things may move for a protective order under Rule 192.6(b)--before the time specified for compliance--either in the court in which the action is pending or in a district court in the county where the subpoena was served. The person must serve the motion on all parties in accordance with Rule 21a. A person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to do so by the court. The party requesting the subpoena may seek such an order at any time after the motion for protection is filed.

Warning: Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served, and may be punished by fine or confinement, or both.

This subpoena is issued at the request of Plaintiff, whose attorney of record is Julie Pettit.

Date of Issuance: October 7, 2019

SUBPOENA ISSUED BY:

THE PETTIT LAW FIRM

By: /s/ Julie Pettit

Julie Pettit
State Bar No. 24065971
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David B. Urteago
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Attorneys for Plaintiff

RETURN OF SUBPOENA

Came on hand on the ____ day of _____, 2019 and executed by delivering a copy of this Subpoena, together with a fee of \$11, to _____, at his/her home/place of business, _____.

Fees - Summoning witness \$ _____

_____ [signature]
_____ [typed name]
_____ [title]

EXHIBIT 1

CAUSE NO. 2018528740

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,

DEFENDANTS.

IN THE DISTRICT COURT

99TH JUDICIAL DISTRICT

LUBBOCK COUNTY, TEXAS

**PLAINTIFF'S NOTICE OF INTENT TO TAKE THE ORAL AND VIDEOTAPED
DEPOSITION OF WARREN KENNETH PAXTON, JR. WITH DOCUMENT
REQUESTS**

TO: Warren Kenneth Paxton, Jr., Texas Attorney General, Office of the Attorney
General, 300 West 15th St, Austin, Texas 78701.

Please take notice that pursuant to Rule 199.2 of the Texas Rules of Civil Procedure,
Dolcefino Communications, LLC, Plaintiff in the above-entitled and numbered cause, by
and through its attorneys of record, will take the oral and videotaped deposition of
Warren Kenneth Paxton, Jr. (the "Deponent"), commencing on **November 4, 2019 at 9:0
AM** at Omni Austin Hotel Downtown, 700 San Jacinto at 8th Street, Austin, Texas 78701.

The Deponent is commanded to produce and permit inspection and copying of those documents set forth in Exhibit A attached hereto. The deposition will take place before a certified court reporter and will be recorded by stenographic means and by videotape. The deposition will continue from day to day until completed.

Respectfully Submitted,

THE PETTIT LAW FIRM

By: /s/ Julie Pettit

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served upon all counsel of record via E-Service on October 7, 2019:

/s/ Julie Pettit

Julie Pettit

EXHIBIT A

I. Instructions & Definitions

You are instructed that documents provided in response to these Discovery Requests shall be produced as they are kept in the ordinary course of business or shall be organized and labeled to correspond with the categories in these Discovery Requests.

If you object to the production of any document on the basis of privilege, please state whether you have withheld information or material responsive to the Request and the specific privilege(s) claimed. If any document requested is objected to or withheld, in whole or in part, pursuant to a claim of privilege, provide the following information with respect to each such document:

- (a) date;
- (b) author(s), and their title or position;
- (c) addressee(s), and their title or position;
- (d) person(s) receiving a copy and their title or position;
- (e) general description of subject matter (e.g., opinion of counsel on merits of claims);
- (f) the nature of the privilege claimed (e.g., attorney/client, work product, etc.);
- (g) the factual and legal basis for the claim of such privilege (e.g., communication between attorney for corporation and outside counsel relating to acquisition of legal advice);
- (h) the identity of each person who was present when the documents were prepared and who has seen the documents; and
- (i) the identity of every other document that refers to or describes the contents of such document.

Pursuant to Rule 196.4 of the Texas Rules of Civil Procedure, Plaintiff hereby specifically requests the production of electronic or magnetic data responsive to these Discovery Requests. Plaintiff requests information in both a printed hard copy form and

via electronic or magnetic media so that the information may be obtained or manipulated through its native applications.

Unless specifically noted otherwise, Plaintiff requests that you produce electronic or magnetic data as electronically Bates-numbered single-page TIFF images with corresponding metadata and respective load files. The following metadata fields, to the extent applicable to the electronic or magnetic data produced, shall be included in a searchable fielded data file:

- Beginning/Ending document numbers,
- Beginning/Ending Attachment ranges,
- Document Type,
- Sent Date/Time,
- Author,
- Recipient,
- CC,
- BCC,
- Subject/Title,
- Custodian,
- Attachment Count,
- File Name,
- Native File Path,
- Last Accessed Date/Time,
- Last Modified Date/Time, and
- Full Text.

Attachments, enclosures, and/or exhibits to any parent documents should also be produced and proximately linked to the respective parent documents containing the attachments, enclosures, and/or exhibits.

All spreadsheets should be produced in their native format and in the order that they were stored in the ordinary course of business, i.e., emails that attach spreadsheets should not be separated from each other and should be linked using the Attachment

Range fields above. The file name should match the Bates number assigned to the file. The extractable metadata and text should be produced in the same manner as other documents that originated in electronic form. The parties agree to work out a future protocol governing the use and format of documents produced pursuant to this paragraph at trial, depositions, or hearings (such as converting to TIFF images in accordance with the above protocol).

These Discovery Requests should be responded to in accordance with the following definitions:

1. "Communication" means all oral, written, or electronic statements, representations, utterances, or other means of conveying information to another.
2. "Concerning" means in any way constituting, reflecting, concerning, containing, pertaining to, referring to, relating to, indicating, showing, describing, evidencing, discussing, mentioning, embodying, or computing.
3. "Cost Estimates" means, collectively, all the cost estimates created by Texas Tech University in connection to any of the ORRs.
4. "Defendant," "Texas Tech," and "TTU" refer to Texas Tech University, including without limitation any assumed name under which it does business, and all of its predecessors, successors, wholly or partially owned subsidiaries, parents, affiliates, and all past or present agents, representatives, members, managers, partners, employees, officers, consultants, attorneys, entities acting in joint-venture or partnership relations with it and any other person acting or purporting to act on its behalf.

5. "Document" shall be synonymous in meaning and equal in scope to the usage of the term "documents and tangible things" in Rule 192.3(b) of the Texas Rules of Civil Procedure. "Document" also includes, without limitation, all printed matter, electronic mail, materials stored on computer hard drives, diskettes, tapes, any other computer media, and any other information stored in any magnetic or electronic format.

6. "ESI" stands for electronically stored information and means data or information that exists in electronic or magnetic form.

7. "Evidence" or "evidencing" means constituting or having some bearing on an indicated subject or mentioning the subject, even if only in passing, including but not limited to, any document or communication that constitutes, contains, embodies, comprises, reflects, identifies, states, refers to, deal with, comments on, responds to, describes, involves, or is in any way pertinent to that subject.

8. "Identify" or "Identification":

a. When used in reference to a person, "identify" or "identification" means to state his or her full name, present or last known residence address, present or last known business address, and telephone number.

b. When used in reference to a public or private corporation, governmental entity, partnership, or association, "identify" or "identification" means to state its full name, present or last known business address or operating address, the name of its Chief Executive Officer, and telephone number.

- c. When used in reference to a document, “identify” or “identification” shall include statement of the following:
- i. the title, heading, or caption, if any, of such document;
 - ii. the identifying number(s), letter(s), or combination thereof, if any; and the significance or meaning of such number(s), letter(s), or combination thereof, if necessary to an understanding of the document and evaluation of any claim of protection from discovery;
 - iii. the date appearing on such document; if no date appears thereon, the answer shall so state and shall give the date or approximate date on which such document was prepared;
 - iv. the number of pages and the general nature or description of such document (i.e., whether it is a letter, memorandum, minutes of a meeting, etc.), with sufficient particularity so as to enable such document to be precisely identified;
 - v. the name and capacity of the person who signed such document; if it was not signed, the answer shall so state and shall give the name of the person or persons who prepared it;
 - vi. the name and capacity of the person to whom such document was addressed and the name and capacity of such person, other than such addressee, to whom such document, or a copy thereof, was sent; and

vii. the physical location of the document and the name of its custodian or custodians.

9. "Lawsuit" means the action styled *Dolcefino Communications, LLC dba Dolcefino Consulting v. Texas Tech University*, Cause No. 2018528740, pending in the 99th Judicial District Court of Lubbock County, Texas.

10. "ORRs" means, collectively, the requests for records served pursuant to the Texas Public Information Act by Dolcefino Communications, LLC on Texas Tech University that are now the subject of the Lawsuit.

11. "Person" means and includes the plural and the singular and includes natural persons, corporations, firms, associations, partnerships, joint ventures, any other form of legal business entity, or any governmental agency, department, units, or any subdivision thereof.

12. "Plaintiff" means Dolcefino Communications, LLC.

13. "TPIA" means the Texas Public Information Act.

14. The use of a verb in any context shall be construed as the verb in all tenses. The plural shall include the singular and the singular shall include the plural.

15. The word "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the deposition topic inclusive rather than exclusive.

16. Whenever the singular is used herein it also includes the plural, and vice versa. Whenever the conjunctive is used herein it also includes the disjunctive, and vice versa.

II. Requests for Production

1. Any and all documents and communications referencing or regarding Plaintiff and/or its open records requests.
2. Any and all documents and communications referencing or regarding Wayne Dolcefino or his open records requests that form the basis of this litigation (Cause No. 2018528740 pending in Lubbock County, Texas).
3. Any and all documents and communications referencing or regarding Michael Charles Leach.
4. Any and all documents and communications referencing or regarding Michael Charles Leach that refer or relate to any open records requests that form the basis of this litigation (Cause No. 2018528740 pending in Lubbock County, Texas).