

CAUSE DC-20-09713

MOHAMMAD SOHAIL,

Plaintiff,

v.

**ANWAR KAZI, ZAMEER
 SACHEDINA, ROHIT SHARMA, and
 WISEMAN INNOVATIONS, LLC,**

Defendants.

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IN THE DISTRICT COURT

101ST JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

**DEFENDANTS’ MOTION TO DISMISS UNDER TEXAS CITIZEN’S PARTICIPATION
 ACT AND REQUEST FOR COSTS AND SANCTIONS**

TO THE HONORABLE JUDGE STACI WILLIAMS:

COMES NOW Defendants Wiseman Innovations, LLC (“Wiseman”), Anwar Kazi (“Kazi”), Zameer Sachedina (“Sachedina”), and Rohit Sharma (“Sharma”) (collectively, “Defendants”), and files this Motion to Dismiss Under Texas Citizen’s Participation Act and Request for Costs and Sanctions (the “Motion to Dismiss”), as codified in TEX. CIV. PRAC. & REM. CODE ANN. § 27.001, *et seq.* (the “TCPA”), and would respectfully show the Court the following:

INTRODUCTION

1. The TCPA’s purpose is to summarily dispose of unmeritorious claims designed to chill the First Amendment rights of free speech, association, and petition. Plaintiff Mohammad Sohail’s filing of his Verified Application for Temporary Restraining Order and Temporary Injunction on May 10, 2021 (the “Application”) is a legal action intended to chill Defendants’ First Amendment rights to free speech and to freely-associate with whomever they so choose, and this

legal action by Plaintiff is a classic Strategic Lawsuit Against Public Participation, subject to immediate dismissal and sanctions under the TCPA.

2. Here, Defendants discovered significant compliance risks that demanded investigation. Accounting irregularities alerted Defendants to the possibility of foreign transactions from Wiseman’s LLC’s wholly-owned subsidiary in Pakistan, to unknown recipients for unknown purposes. Pakistan is a country subject to the Financial Action Task Force (“FATF”) watchlist for money laundering, terrorist financing, and proliferation funding. Defendants further became aware of possible HIPAA violations and the possibility that personal health information had been compromised. Defendants had not only an interest in—but a duty to—undertake an investigation of these compliance concerns and report facts to appropriate law enforcement and regulatory authorities in the United States and abroad. As such, the investigation into financial wrongdoing has been going since mid-March 2020. Plaintiff has relied on allegations and unreliably obtained third-party hearsay to reimagine Defendants’ appropriate and necessary investigation into something it is not: some sort of effort to retaliate-by-proxy against Mr. Sohail. But in bringing his Application, Plaintiff has stifled Defendants’ efforts to conduct an effective compliance investigation or to report relevant facts to law enforcement and regulatory agencies: the very heart of free speech, free association, and public participation activities that the TCPA safeguards.

BACKGROUND FACTS

3. On July 16, 2020, Plaintiff brought this lawsuit claiming fraud, fraudulent inducement, and declaratory judgment against Defendants, who answered on July 29, 2020.

4. On May 10, 2021, Plaintiff Mohammad Sohail filed his second *Verified Application for Temporary Restraining Order and Temporary Injunction* alleging that Defendants have “threatened” and “intimidated” witnesses into “perjuring themselves” and that Defendants’ alleged

“obstructionist non-participation in discovery” and “manufacturing evidence” to bring what Plaintiff deems to be “false” criminal charges against witnesses. Defendants emphatically and categorically deny Plaintiff’s allegations, Plaintiff grounds these inflammatory allegations in two *ex parte* depositions taken by Zoom that are contradicted by other evidence showing that no such intimidation took place. Further, these accounts were recorded without notice to Defendants, and with no opportunity afforded to Defendants to examine the speakers, to object, or otherwise to participate in the *ex parte* proceedings.

5. With its Application, Plaintiff requests that the Court grant various forms of broad injunctive relief, all aimed at chilling Defendants’ free speech rights: (1) investigate serious compliance risks involving foreign transactions to unknown destinations, for unknown reasons, and (2) report facts to law enforcement and regulatory authorities, domestically and abroad. In particular, Plaintiff requests that the Court issue injunctive relief:

- a. Mandating that Defendant Wiseman Innovations, LLC, through its board of directors, immediately provide notice to all current and former employees and contractors (including the employees and contractors of any Wiseman Innovations subsidiary) of the substance of the injunctive relief ordered by this Court, including a statement in bold type stating, “We have learned that some Wiseman employees have felt threatened as a result of inquiries made by Mr. Zameer Sachedina, Mr. Rohit Sharma, and others concerning matters currently in litigation in the United States. We regret this and encourage everyone to be truthful. If you have been threatened, please immediately report that threat to the board through the company’s general counsel, Erik Pahl, at the following email address: Erik.Pahl@premier summus.com. All reports submitted will be provided to the court in the United States.”
- b. Mandating that the Enjoined Parties disclose to this Court any reports received in response to the mandated notice within three business days of receiving such a report.
- c. Mandating that the Enjoined Parties must not file any criminal charges or create any statements or reports of any kind intended to be made to law enforcement regarding any potential witness in this matter without first disclosing their intention to do so to this Court and therein showing that such action is unconnected to any potential testimony and not otherwise an improper attempt to intimidate, harass, or influence a witness.

- d. Prohibiting the Enjoined Parties from taking any adverse employment action or other action directed at any potential witness in this matter, involving the witness's employment, travel, or immigration status without first disclosing their intention to do so to this Court and therein showing that such action is unconnected to any potential testimony and not otherwise an improper attempt to intimidate, harass, or influence a witness.
 - e. Prohibiting the Enjoined Parties from instigating, joining, or pursuing any civil action against any potential witness in this matter without first disclosing their intention to do so to this Court and therein showing that such action is unconnected to any potential testimony and not otherwise an improper attempt to intimidate, harass, or influence a witness.
 - f. Prohibiting Defendant Zameer Sachedina and Defendant Rohit Sharma from communicating with any potential witness in this matter.
 - g. Prohibiting Defendants from using in this action or any related action involving Mohammad Sohail for any purpose, testimony from, or documents authored by witnesses who have not been timely disclosed under Rule 194.2 of the Texas Rules of Civil Procedure, without first seeking leave to serve or amend their disclosures out of time and therein showing that the witnesses and the witnesses' documents are untainted by any threat, intimidation, or deception.
6. Defendants move to dismiss Plaintiff's Verified Application for Temporary Restraining Order and Temporary Injunction, as well as obtain mandatory attorneys' fees and expenses and sanctions, pursuant to Texas anti-SLAPP statute, the TCPA

ARGUMENTS AND AUTHORITIES

7. The Texas Legislature enacted the TCPA to encourage and safeguard the constitutional rights of a defendant to speak freely, petition, associate freely, and otherwise participate in government to the maximum extent provided by law. TEX. CIV. PRAC. & REM. CODE ANN. § 27.002.

8. In order to safeguard these constitutional rights by cost-effective means, the TCPA provides defendants the power to resolve at an early stage whether a legal action impinging upon such rights has merit by filing a motion to dismiss (commonly referred to as an "anti-SLAPP motion" or a motion to dismiss a "Strategic Lawsuit Against Public Participation"). *See id.* § 27.003(a), (b).

Once the motion is filed, all discovery is stayed in the legal action until the court rules on the motion, which must occur within sixty (60) days after the motion is served. *See id.* §§ 27.003(c), 27.004, 27.005.

9. If the defendant is successful in dismissing the legal action, the defendant is entitled to court costs, attorney’s fees, and other expenses incurred in defending against the action as justice and equity may require. *Id.* § 27.009(a)(1). The court must also impose sanctions sufficient to deter the plaintiff from bringing a similar action in the future. *Id.* §§ 27.007(a), 27.009(a)(2).

10. To prevail on a motion to dismiss under the TCPA, the defendants must show by a preponderance of the evidence that the plaintiff’s legal action is based on or in response to the defendant’s exercise of: (1) the right of free speech; (2) the right to petition; or, (3) the right of association. *See id.* § 27.005(b).

11. “If a legal action is based on, relates to, or is in response to a party’s exercise of the right of free speech, right to petition, or right of association, that party may file a motion to dismiss the legal action.” *Id.* § 27.003. The TCPA defines “[e]xercise of the right of free speech [as] communication made in connection with a matter of public concern.” *Id.* § 27.001(3). “‘Matter of public concern’ includes an issue related to: (A) health or safety; [or] (B) environmental, economic, or community well-being. . . .,” or “a good, product, or service in the marketplace.” *Id.* § 27.001(7). The “[e]xercise of the right of association” is defined as “to join together to collectively express, promote, pursue, or defend common interests relating to a governmental proceeding or a matter of public concern.” *Id.* § 27.001(2). And the “[e]xercise of the right to petition” as:

(A) a communication in or pertaining to:

- (i) a judicial proceeding;
- (ii) an official proceeding, other than a judicial proceeding, to administer the law;

- (iii) an executive or other proceeding before a department of the state or federal government or a subdivision of the state or federal government;
- (iv) a legislative proceeding, including a proceeding of a legislative committee;
- (v) a proceeding before an entity that requires by rule that public notice be given before proceedings of that entity;
- (vi) a proceeding in or before a managing board of an educational or eleemosynary institution supported directly or indirectly from public revenue;
- (vii) a proceeding of the governing body of any political subdivision of this state;
- (viii) a report of or debate and statements made in a proceeding described by Subparagraph (iii), (iv), (v), (vi), or (vii); or
- (ix) a public meeting dealing with a public purpose, including statements and discussions at the meeting or other matters of public concern occurring at the meeting;

(B) a communication in connection with an issue under consideration or review by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;

(C) a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;

(D) a communication reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding; and

(E) any other communication that falls within the protection of the right to petition government under the Constitution of the United States or the constitution of this state.

Id. § 27.001(4).

12. If Defendants meet their burden, the court must dismiss the plaintiff's action unless the plaintiff can either: (1) establish that the challenged claim is exempt from the TCPA; or, (2) establish by clear and specific evidence a *prima facie* case for each essential element of the challenged claim. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 27.005(c). In evaluating a motion to

dismiss, the court must construe the TCPA liberally to fully effectuate its purpose and intent to encourage and safeguard a defendant's constitutional rights. *See id.* §§ 27.002, 27.011.

13. Even if the non-movant succeeds by establishing a *prima facie* case, the court must still dismiss the claim if the movant further establishes by a preponderance of the evidence each essential element of a valid defense. *Id.* § 27.005(d). In determining whether a legal action should be dismissed under this chapter, the court shall consider the pleadings and supporting and opposing affidavits stating the facts on which the liability or defense is based. *Id.* § 27.006(a).

I. PLAINTIFF'S LEGAL ACTION IMPINGES UPON DEFENDANTS' CONSTITUTIONAL RIGHTS UNDER TCPA.

A. Plaintiff's legal action impinges upon Defendants' rights of free speech.

14. Plaintiff's Application should be dismissed because such claims and requests for relief are based upon, related to, or in response to Defendants' exercise of their right to free speech, right to free association, and right to petition.

15. Under the TCPA, a defendant exercises its right of free speech when it makes a communication in connection with a matter of public concern. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 27.001(3); *Lippincott v. Whisenhunt*, 462 S.W.3d 507, 509 (Tex. 2015). A communication includes the making or submitting of a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic, regardless of whether the communication is made or submitted publicly or privately. *See Lippincott*, 462 S.W.3d at 509; *and* TEX. CIV. PRAC. & REM. CODE ANN. § 27.001(1). A matter of public concern includes any issue related to: (1) health or safety; (2) environmental, economic, or community well-being; (3) the government; (4) a public official or public figure; or, (5) a good, product, or service in the marketplace. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 27.001(7).

16. The Application that Plaintiffs filed on May 10, 2021 is based on or is in response to the Defendants' exercise of the right to free speech. Indeed, Plaintiff brings this action hoping to prevent the Defendants from reporting violations to the appropriate authorities as is required of them to protect the company from any criminal or civil penalties. Attached hereto as Exhibit A and incorporated herein by reference as the Declaration of Rohit Sharma, an employee and representative of Wiseman. *See* Declaration of Rohit Sharma, Ex. A, at ¶ 5.

17. Plaintiff now seeks to prevent Defendants, through injunctive relief, from investigating the fraud, embezzlement, and other crimes Plaintiff orchestrated while working at Wiseman Innovations,¹ from reporting any criminal issues to the appropriate authorities discovered through an investigation,² and from taking any action to hold parties liable for misconduct whether it be criminally or civilly, through an adverse employment action or immigration status.³ Based on the deposition of witnesses that Defendants were not afforded the opportunity to cross-examine, Plaintiff's Application allege a history of "threatening and intimidating witnesses into perjuring themselves." Nevertheless, the two residents of Pakistan at the heart of these allegations do not themselves verify the Application. Rather, the only verification comes from Plaintiff's counsel, who claims that the fact alleged in the Application are somehow within *his* personal knowledge. Plaintiff seeks injunctive relief which includes banning Defendants from further investigating legitimate compliance risks, including potential HIPPA violations, PHI breaches, and foreign transactions to unknown recipients for unknown purposes, by prohibiting all communications with "potential witnesses." Additionally, Plaintiff seeks to prevent Defendants from reporting facts to law enforcement and regulatory agencies on these matters of public concern. Mr. Rohit Sharma explains

¹ *See* Application at 5-6, Item No. 6.

² *See id.*, Item No. 3.

³ *See id.*, Item Nos. 4 and 5.

in his sworn Declaration that the investigations the Defendants are conducting include, among other things, compliance concerns related to unknown recipients of foreign bank transactions, possible PHI breaches, and possible HIPAA violations. *See* Declaration of Rohit Sharma, Ex. A, at ¶¶ 2-5.

18. The aforementioned actions all necessarily involve the making or submitting by Defendants of “a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic, regardless of whether the communication is made or submitted publicly or privately,” as Defendants communicated orally and in writing with current and past employees and plan to continue to do so, without harassment or intimidation, and for legitimate purposes. Additionally, any investigative report that Defendants may prepare to provide relevant information to law enforcement and regulatory agencies, or any report made to those authorities orally would also undoubtedly constitute a “statement” or “document” pursuant to the TCPA.

19. Furthermore, the Defendants’ investigation involves both potential criminal and civil violations that are undoubtedly a “matter of public concern” as defined in the TCPA, because the investigation at issue touches and concerns multiple economic and community issues of well-being and import to the United States and Pakistan and concerns goods, products, or services in the marketplace in the form of medical data and technology. And, inevitably, reporting to any United States federal authorities or Pakistani authorities concerns the filing of statements.

20. The record is clear that Plaintiff’s legal action—filing the Application for injunctive relief—is expressly designed to chill Defendants’ rights of free speech, and should therefore be immediately dismissed under the TCPA.

B. Plaintiff’s legal action impinges upon Defendants’ exercise of their right to petition.

21. Plaintiff’s Application for injunctive relief should be dismissed because it is in response to Defendants’ right to petition and impinges upon that right. *See* TEX. CIV. PRAC. & REM.

CODE ANN. § 27.005(b). “Exercise of the right to petition” is broadly defined under the TCPA and includes “communication in or pertaining to: . . . [a] proceeding before a department of the state or federal government or a subdivision of the state or federal government.” *Id.* at § 27.001(4)(A)(iii). It also includes “communication in connection with an issue under consideration or review by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding” and “communication that is likely to encourage consideration or review of an issue by [a governmental body].” *Id.* at § 27.001(B)-(C). “When a person interacts with the police to report perceived wrongdoing, that person is exercising their right to petition, as that right is defined in the TCPA.” *Buckingham Senior Living Cmty., Inc. v. Washington*, 605 S.W.3d 800, 807 (Tex. App.—Houston [1st Dist.] 2020, no pet.); *see also Ford v. Bland*, No. 14-15-00828-CV, 2016 WL 7323309, at *1-2 (Tex. App.—Houston [14th Dist.] Dec. 15, 2016, no pet.) (mem. op.); *Murphy USA, Inc. v. Rose*, No. 12-15-00197-CV, 2016 WL 5800263, at *3 (Tex. App.—Tyler Oct. 5, 2016, no pet.) (mem. op.).

22. Plaintiff filed his Application in an attempt to retaliate against the Defendants and their business for their complaints to Pakistani law enforcement that have resulted in criminal charges in Pakistan, and the potential for additional reporting to United States authorities and agencies. Thus, Defendants’ investigations and resulting reports qualify as communications pertaining to a proceeding before a subdivision of the state government or communication that is likely to encourage review of an issue by a governmental body. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 27.001(4); *In re Lipsky*, 411 S.W.3d 530, 542 (Tex. App.—Fort Worth 2013, no pet.), *mand. denied*, 460 S.W.3d 579 (Tex. 2015) (TCPA applies to claims based on statements made to encourage EPA review). Similarly, to the extent the Application is also in retaliation for participation in the investigation of the potential fraud, embezzlement, money laundering, PHI breaches, and

HIPAA violations, Plaintiff also interferes with protected participation in a government proceeding. TEX. CIV. PRAC. & REM. CODE ANN. § 27.002 (“The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to . . . participate in government”; *cf. E. R. R. Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127, 139 (1961) (expressing concern that the government would be deprived of a valuable source of information if people were disqualified from taking a position on matters in which they are financially interested); *Bayou Fleet, Inc. v. Alexander*, 234 F.3d 852, 861 (5th Cir. 2000) (“The Supreme Court has clearly stated that efforts to influence public officials will not subject individuals liability[.]”). The Application should be dismissed because it is in response to Defendant’s protected complaints to the government regarding Plaintiff’s illegal conduct and crimes.

C. Plaintiff’s legal action impinges upon Defendants’ rights of association.

23. Plaintiffs’ request for injunctive relief should be dismissed because such requests for relief are based upon, related to, or in response to Defendants’ exercise of their rights of association.

24. The “exercise of the right of association” encompasses business activities, as it is defined to include not just constitutionally protected conduct, but also any “communication between individuals who join together to collectively express, promote, pursue, or defend common interests.” TEX. CIV. PRAC. & REM. CODE ANN. § 27.001(2); *ExxonMobil Pipeline Co. v. Coleman*, 512 S.W.3d 895, 899 (Tex. 2017) (holding that the TCPA applies so long as the legal action falls within the “plain language” of the statute regardless of whether it would also be protected by the constitution). A communication includes the making or submitting of a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic, regardless of whether the communication is made or submitted publicly or privately. *Id.* § 27.001(1). In contrast to the right

of free speech under the TCPA, the free association that the TCPA movant seeks to defend against a SLAPP does not need to relate to a matter of “public concern.”

25. Plaintiff’s Application seeks injunctive relief that would bar Defendants from communicating with “potential witnesses.” This overly broad and undefined group undoubtedly includes employees of the Defendants; the relief sought in the Application blocks Defendants’ rights to associate with their own employees. Additionally, the Application seeks to restrict Defendants’ ability to communicate potential crimes and violation to law enforcement and applicable government agencies. Although proving that a legal action impinges upon the right to association does not require it relate to a matter of public concern, the legal action here involves multiple issues of public concern.

26. All of the actions above involve communications by Defendants with third-parties, all of which were made to collectively express, promote, pursue, or defend common interests in protecting Wiseman’s business integrity and in protecting the general public from fraud, PHI breaches, HIPAA violations, and the consequences of unresolved compliance deficiencies. As a matter of law, Defendants’ investigations into its business and interviews of its own employee represent a form of free association, with that association taking the form of an employer employee relationship.

27. Plaintiff’s Application to obtain injunctive relief preventing Defendants from further investigating the compliance risks outlines above is, by definition, a Strategic Lawsuit Against Public Participation. Plaintiff has filed suit trying to prohibit Defendants from “associating” with parties with potential information and with government agencies with whom they have fiduciary, compliance, and regulatory obligations to report legal and regulatory violations.

28. Because Plaintiff’s Application for injunctive relief impinges upon Defendants’ rights of association, it should be immediately dismissed under the TCPA.

II. PLAINTIFF'S CANNOT ESTABLISH A *PRIMA FACIE* CASE FOR EACH ELEMENT OF ITS REQUEST FOR INJUNCTIVE RELIEF.

29. Because Defendants have established by a preponderance of the evidence that Plaintiff's legal action is based upon, related to, or in response to Defendants' protected rights of free speech, free association and/or right to petition under the TCPA, the burden shifts to Plaintiff to establish by "clear and specific" evidence a *prima facie* case for each essential element of his request for injunctive relief. He cannot do so.

30. To satisfy his burden and prove its request for injunctive relief by clear and specific evidence, Plaintiff must demonstrate: (1) a probable right to the relief it seeks on a final hearing; (2) the suffering of a probable, imminent, and irreparable injury; and, (3) the lack of adequate remedy at law. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). Further, Plaintiff must offer a factual basis for his application for injunctive relief with adequate verification or affidavits. *See* TEX. R. CIV. P. 680.

31. Plaintiff however cannot demonstrate by clear and specific evidence any of the following elements necessary for its request for injunctive relief:

- A probable right to the relief on any claim filed by Plaintiff against Defendants on a final hearing.
- The suffering of a probable, imminent, and irreparable injury by Plaintiff.
- That Plaintiff lacks an adequate remedy at law.
- That Plaintiff has a verified application or an application supported by affidavits.

Consequently, Plaintiff's Application for injunctive relief must be dismissed in its entirety.

III. DEFENDANTS ARE ENTITLED TO AN AWARD OF ITS COSTS, INCLUDING ATTORNEY'S FEES AND EXPENSES, AND SANCTIONS INCURRED IN DEFENDING AGAINST PLAINTIFF'S SLAPP LEGAL ACTION.

32. The TCPA requires the Court to award the successfully moving party its attorney's fees, costs, sanctions, and other expenses. *See* TEX. CIV. PRAC. & REM. CODE ANN. §§ 27.009(a)(1), (a)(2); *see also Sullivan v. Abraham*, 488 S.W.3d 294, 295 (Tex. 2016).

33. Upon the granting of this Motion to Dismiss, Defendants, therefore, respectfully request the opportunity to submit evidence of, and for the Court to award, court costs, reasonable attorney's fees, and other expenses incurred in defending against Plaintiff's lawsuit. *See Schimmel v. McGregor*, 438 S.W.3d 847,863 (Tex. App.—Houston [1st Dist.] 2014, pet. denied) (issue of attorney's fees can be severed and tried separately from TCPA dismissal).

34. In addition, Defendants respectfully request that the Court impose any additional and appropriate sanctions against Plaintiff to deter Plaintiff from bringing similar actions against Defendants or others in the future.

CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully request that the Court grant this Motion to Dismiss in its entirety, dismiss Plaintiff's request for injunctive relief, order Plaintiff to pay Defendants' costs, including attorney's fees and costs, and sanction Plaintiff in a manner so as to prevent similar conduct by Plaintiff in the future, and grant Defendants all other relief to which they may be legally or equitably be entitled.

Respectfully submitted,

DYKEMA GOSSETT PLLC

/s/ Jason M. Ross

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COUNSEL FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served in accordance with the TEXAS RULES OF CIVIL PROCEDURE upon all parties on this the 21st of May, 2021.

/s/ Jason M. Ross

ATTORNEY FOR DEFENDANT

EXHIBIT A

CAUSE DC-20-09713

MOHAMMAD SOHAIL,

Plaintiff,

v.

**ANWAR KAZI, ZAMEER
SACHEDINA, ROHIT SHARMA,
and WISEMAN INNOVATIONS,
LLC,**

Defendants.

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IN THE DISTRICT COURT

101ST JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

DECLARATION OF ROHIT SHARMA

BEFORE ME, the undersigned notary, on this day appeared **ROHIT SHARMA**, the “Declarant,” and a person whose identity is known to me. After being duly sworn, the Declarant did state, as follows:

1. My name is Rohit Sharma. My date of birth is March 14, 1973, I am over 21 years of age, am under no civil disabilities and in all respects, competent to make this declaration. My business address is 4100 Midway Road, Suite 2105, Carrollton, Texas 75005. Each of the statements in this declaration is made from my personal knowledge, and in my capacity as the Engineering & Innovation Lead and corporate representative of Wiseman Innovations, LLC (“Wiseman”), and is true and correct. In this capacity, I am familiar with and have personal knowledge of the business of Wiseman and the factual allegations made in Defendant’s Motion to Dismiss under Texas Citizen’s Participation Act and Request for Costs and Sanctions (the “Motion

to Dismiss”). Thus, under penalty of perjury, I state the following on behalf of Wiseman as its designated corporate representative:

2. In or around March 2020, Wiseman became aware of significant compliance risks that demanded investigation. Accounting irregularities alerted Wiseman to the possibility of foreign transactions to unknown recipients for unknown purposes.

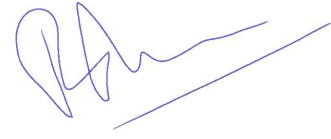
3. As Wiseman undertook an investigation and action that resulted in the separation of its former CEO, the Plaintiff in this lawsuit.

4. Wiseman also became aware of possible HIPAA violations and the possibility that personal health information had been compromised.

5. In bringing his lawsuit and his Application for Temporary Restraining Order and Temporary Injunction, which was filed in May 2021, Plaintiff has blocked the Defendants’ ability to conduct an effective compliance investigation or to report relevant facts to law enforcement and regulatory agencies. Plaintiff has also blocked the Defendants’ ability to associate with Wiseman employees and business contacts and to conduct routine business operations.

6. In connection with Defendant’s Motion to Dismiss, Defendants have incurred attorneys’ fees and costs. In the event this Court determines that Defendants are entitled to recovery of their attorney’s fees and costs, Defendants would request that the Court permit them to submit evidence of their attorney’s fees and costs at a subsequent date for its approval.

Executed this 20th day of May, 2021 in Dallas County, Texas.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

ROHIT SHARMA

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

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Jervonne Newsome		jnewsome@lynnllp.com	5/21/2021 10:41:22 AM	SENT